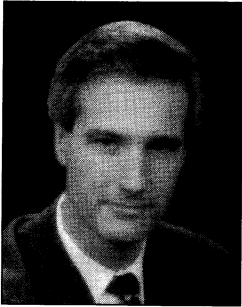


# A Question of Ethics

*Peter C. Kiefer*



When Tom Ralston asked me to write a regular column about ethics for *The Court Manager*, I decided not to pontificate personally on ethical issues, but rather simply spark debate. My plan: solicit real-life scenarios from friends and readers, scenarios with which many of us have had to deal; “sanitize” these scenarios, assuring the actual court’s anonymity; and finally, recount the scenarios to professionals in our field and ask for their opinions.

I gleaned this first scenario from a recent edition of a weekly newspaper and called upon court administrators Jim Murchison, from Salem, Oregon, Norm Meyer, in Tucson, Arizona, and Andra Motyka, in Erie, Pennsylvania, for their opinions.

## Scenario

Bob is the court administrator of a moderate-sized metropolitan court. Every year his state’s court management association holds its conference at a very nice resort. The state’s administrative office of the courts (AOC) routinely presents an excellent education program at this conference, which is attended by both court administrators and staff.

The resort is high class, complete with swimming pools, jacuzzis, spas, and an 18-hole golf course. (Bob particularly likes the ocean-view golf course.) Many court employees bring their families, stay an extra week, and make a vacation of it.

Bob has been president of the association and was instrumental in negotiating an excellent deal for the conferences that does not exceed the state’s per diem.

One of the two newspapers in Bob’s city is a weekly that concentrates on muckraking. The weekly is thoroughly disliked by both big-business people and government officials. Although the weekly has indeed broken several legitimate stories about government corruption, it has also smeared officials by giving a seedy slant to stories even when there was no specific evidence of wrongdoing.

A reporter for the weekly calls Bob for an interview about government expenditure abuse. During the interview, the reporter demands to see the travel vouchers and expense receipts for all court employees during the last two years. The reporter cites the state’s public records laws, which, even Bob admits privately, support the reporter’s demand.

Suspecting a potential hatchet job on the annual conference, Bob stalls. He tells the reporter it will take weeks to assemble the information because the travel vouchers are filed both chronologically and mixed in with all other expense vouchers. What Bob says about the filing system is true, but he does not tell the reporter that the travel expense data can be easily called up, by employee, on the state’s financial computer system. Bob eventually does have travel vouchers pulled for an eight-month period between the last two conferences. The vouchers and supporting documents consist mainly of judges’ pro tem travel to other trial courts. Eventually, the reporter tires and moves on to another story. Bob gives a great sigh of relief.

**Was What Bob Did Unethical?** A significant problem with this scenario is that Bob succeeds. Many even might praise Bob for being “astute with the media.” But is Bob’s astuteness ethical?

Jim, Norm, and Andra all said Bob’s actions were unethical. Bob should not have stalled but should have responded to the reporter’s demand as soon as court staff could have reasonably

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## Question of Ethics, *continued*

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put the material together. Norm thought Bob had lied by intentionally giving the reporter an incomplete response and that Bob had probably violated that state's public records laws.

### ***Did Bob Violate the NACM Code of Ethics?***

Again, all three thought that by evading the reporter's demand, Bob had violated Article IV, Section F, which deals with members' upholding all laws and not being a party to a law's evasion, and Section H, which deals with members avoiding activity that would reflect adversely upon the court. Andra also thought Bob may have violated Article IV, Section E, which deals with members' upholding the public's interest.

***What Would You Have Done if You Were Bob?*** Andra and Jim both said that the fact that Bob's strategy worked made this a difficult question for them to answer. All three, though, would have given up the material as soon as reasonably possible. Jim would have required the demand in writing and then referred the question to legal counsel before responding. Jim said that even if the question appeared clear, checking with counsel was a prudent course. However, barring a "significant flaw," Jim would have given the material to the reporter. Norm would have immediately informed his presiding judge, the state association, and the AOC to give them time to prepare a response. The state association could possibly present to the reporter items such as agendas of

seminar topics presented and attendance rosters of specific seminars. Norm would also have contacted the city's other newspaper to see if he could get a positive article out countering the weekly's potential negative effect.

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I am interested in problems you may have experienced involving ethics in your court. If you have any items please send them to me at Judicial Department, Supreme Court Building, 1163 State St., Salem, OR 97310.

**CM**

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## Comparative Justice, *continued*

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ethno-cultural communities. The flexibility of the project is demonstrated in the variety of materials that have been developed by each community.

- The key to flexibility lies in the project's methodology, which relies on community input at every point. In particular, the methodology demonstrates a commitment to the advisory committees' responses to the research findings to determine the priorities for materials and program development and implementation. The outcome is tailor-made public legal education that fits the needs of distinct communities.
- This methodology can be used to identify and address the needs of a number of diverse communities, or of a single community. It can be applied in large urban settings or smaller rural settings. The bottom line is, if you have the community, then you have what you need for research, development, and implementation. While the project's implementation is greatly enhanced by the availability of ongoing support from the society's regional offices, the project's

methodology could be adapted for use within a more centralized model of service delivery, with emphasis upon "training the trainers" to implement programming at local levels.

System personnel are better prepared to handle culturally diverse clientele. Members of the cultural communities are empowered to interact with the system and to understand what is taking place when they come in contact with it.

There is a potential high cost of failing to educate newcomers about the system—violence may go unreported, potential witnesses may not participate, and people may be afraid to exercise their rights and assume their responsibilities.

The Law Courts Education Society, through its cultural programming, will continue to develop partnerships with other agencies, will continue to work with community groups and with ESL students, and will continue to provide diversity education to court services staff. The result of these activities will be a justice system that is more effective in bridging the gap between itself and the community. **CM**