

BAIL ENFORCEMENT/FUGITIVE RECOVERY TRAINING COURSES

Ethics in Fugitive Recovery

The Bail Enforcement/Fugitive Recovery Training Series is comprised of four courses, which will build upon each other.

Ethics in fugitive recovery discusses the following key elements:

- Ethics defined
- Major areas of ethics
- Teaching ethics to bail personnel
- Legal Responsibilities
- Ethics through education
- Six pillars of character
- The Josephson Model – Seven Steps to Better Decisions
- Rationalizations
- Case studies

Ethics Defined

Ethics are a basic set of rules that humans utilize to distinguish between right and wrong, good or bad. Ethics encompass theories of what individual's "ought" to or not to do. Individuals employ their values, judgments, experience and may seek the advice of others to make an informed decision of whether or not to act.

There is an inherent difference between what is legal and what is ethical. There are instances of events that may not be illegal to behave a certain way but is it ethical? People grapple with this conflict every day.

Ethics as defined:

Moral principles that govern a person's behavior or the conducting of an activity and the branch of knowledge that deals with moral principles.

As defined by Merriam Webster:

- A set of moral principles: a theory or system of moral values the present-day materialistic ethic an old-fashioned work ethic
- Ethics plural in form but singular or plural in construction: the principles of conduct governing an individual or a group professional ethics
- A guiding philosophy
- A consciousness of moral importance forge a conservation ethic

There are several theories of how ethics are developed and utilized. In the business of bail, ethics are used every day. Think about how many decisions are made and judgments used to determine whether or not to post a bail bond. Is the client telling the truth? Is the co-signer telling the truth? Most all of the decisions made in a day concern weighing the possible outcomes, the process, the effects on others and the effects on businesses.

PBUS™ has a comprehensive code of ethics on its [website](#). The document contains four sections and 19 articles. The four major sections include: Relations with the Client, Relations with the General Public, Relations with the Government Sector and Relations with Fellow Bail Agents. This particular course will provide a basic set of standards that each bail agent, bail enforcement agent and similar personnel should employ.

The Articles of the Code of Ethics are combined to guarantee high integrity and dignified professionalism from those who adhere to the principles of business and moral conduct. No inducement of profit and no instructions from clients or outside parties can ever justify departure from these principles or from the injunction of a Code of Ethics.

Three Major Areas of Ethics

Metaethics: “Metaethics is the attempt to understand the metaphysical, epistemological, semantic and psychological, presuppositions and commitments of moral thought, talk and practice. As such, it counts within its domain a broad range of questions and puzzles, including: Is morality more a matter of taste than truth? Are moral standards culturally relative? Are there moral facts? If there are moral facts, what is their origin? How is it that they set an appropriate standard for our behavior? How might moral facts be related to other facts (about psychology, happiness, human conventions...)? And how do we learn about the moral facts, if there are any? These questions lead naturally to puzzles about the meaning of moral claims as well as about moral truth and the justification of our moral commitments. Metaethics explores as well the connection between values, reasons for action, and human motivation, asking how it is that moral standards might provide us with reasons to do or refrain from doing as it demands, and it addresses many of the issues commonly bound up with the nature of freedom and its significance (or not) for moral responsibility.”

Normative Ethics: “Normative ethics is the study of ethical action. It is the branch of ethics that investigates the set of questions that arise when considering how one ought to act, morally speaking. Normative ethics is distinct from Metaethics because normative ethics examines standards for the rightness and wrongness of actions, while Metaethics studies the meaning of moral language and the metaphysics of moral facts.”

Applied Ethics: “Moral philosophers have traditionally aspired to normative theories of what is right or wrong that are set out in the most general terms. But a practical price is paid for generality in ethical theory: It is often unclear whether and, if so, how theory is to be applied in specific cases and contexts. The terms applied ethics and practical ethics came in vogue in the 1970’s, when philosophical ethics began to address issues in professional ethics as well as social problems such as capital punishment, abortion, environmental responsibility, and affirmative action.

Philosophers interested in applying their training to such problems share with persons from numerous other fields the conviction that decision making in these areas is fundamentally moral and of the highest social importance.”

Teaching Ethics to Bail Personnel

A simplified definition of ethics is a set of values that are typically **aligned** with what society considers correct and positive behavior within legal boundaries. Ethics is also the **balancing** of an individual’s good with the good of the whole. Balancing the good of the one with the good of the whole is not as easy anymore. The whole that we have to consider is everybody, not just a competing agent down the street or in the next town.

Survival is important, but not at any cost. True survival requires long-term, successful relationships with clients and companies, as well as co-workers and competitors. When people do not understand their role in the “whole” and are completely self-and-survival oriented, it throws the known ethical system out of whack.

How can one stay on track? Most important is to know one’s personal core values and the values that one’s company or agency stands for and then live and work congruently and consistently with those values. People will see a person of integrity and with integrity comes trust. Respect for privacy would be honored and remembered.

Shades of Gray

One of the problems with ethics today is that there are so many different mores of values that guide society. The values that guide each individual and/or company can vary tremendously, therefore an individual or company may be ethical according to their values and not to someone else’s. With several major shifts in right or wrong standards, it means that individuals are faced into more and more grey areas in personal and professional lives.

Moral and Market Values

The American economy depends on ethical standards upheld by responsible business leaders. Unfortunately, this unwritten rule has been violated in many ethics’ scandals occurring in corporate boardrooms across the country. Respected companies then lose credibility and innocent investors lose millions in monetary and/or personal arenas. Cheating can become rampant when it is the norm and is no longer seen as wrong.

Moral Compass

During times of fundamental change, values that were previously taken for granted may be strongly questioned. These are the times when the attention to business ethics is critical. Leaders, workers and agents must sensitize their actions maintain a strong moral compass.

When nothing is stable or dependable, one can lose sense of moral direction. When it happens, rules can be made up, corners cut and over time, unethical behavior can be acceptable. Having integrity can help prevent losing a moral direction and retaining a sense of right.

Kim Cameron, Professor of Organizational Behavior at the University of Michigan, says that it is not enough to simply encourage ethical behavior, honesty and integrity, because these concepts in themselves imply an **absence of harm**. A **strong moral compass** means that one strives for **virtuousness** where actions rise to doing good, honoring others, taking a positive stance etc., or “**behaving in ways where self-interest is not the driving motivation.**”

Moral Distress

Many times, people make bad decisions because of dissatisfaction with work or having to reach impossible objectives. When either of these situations occur, there can be a growing pressure to engage in unethical behavior and/or take shortcuts that will lead to bad decisions.

To avoid these pitfalls, experts suggest that one adopt a long-term stakeholder mentality and to be fair to all stakeholders. behavior and/or take shortcuts that will lead to bad decisions. To avoid these pitfalls, experts suggest that one adopt a long-term stakeholder mentality and to be fair to all stakeholders.

A stakeholder is anybody that can be affected by one's actions. A bail client is a stakeholder in that he/she depends on reputable bail services to protect their wellbeing. The surety is a stakeholder in that a bail agent must represent their product fairly and legally. The shareholders who have invested in the surety are stakeholders as well. The bail enforcement agent is also a stakeholder in that clients pay commissions and fees for services and surety insurers provide the opportunity to make a living.

Pace Yourself

Another way to reduce moral distress is to operate at a reasonable pace. When corners are cut, unethical practices can occur. Being genuine and ethical means making a choice to do what is right. Taking the time to avoid major financial havoc to all involved will help to lower overall moral distress.

Legal Responsibilities

It is important to know basic legal responsibilities as a bail enforcement agent. Read all agency agreements and understand all liability concerns. Complying with license requirements is paramount to refrain from any suspensions or revocations. Learn from other agent mistakes. Study the areas that went wrong and the areas that went right.

Be aware of and avoid industry conflicts that could develop into problems, such as illegal discounting, illegal solicitation or hiring non-certified bail enforcement agents. Maintain a strong code of ethics, be honest and responsible. Adopt procedures and create an operation's manual so that client situations are treated correctly each time. Having standard operating procedures and following them will help avoid any legal issues down the road.

Knowing and understanding trade practice and consumer protection rules are also important for all bail enforcement agents. The violation of "unfair practice rules" can land one in a legal mess, particularly if such rules are outside the standards of other bail enforcement agents.

Accurately and truthfully represent. Use simple language (plain talk) whenever possible as well as client disclosures. There is nothing more convincing than a client's own signature witnessing his/her knowledge of the circumstances of a situation. Information provided in a client application is critically important and it should be completed thoroughly. Including disclaimers for a client's signature, such as, "I have read everything in the application" and "all answers are true," can help avoid nasty legal issues.

Be organized in filing and maintaining client information, ensuring information can be readily accessible yet secure while protecting the privacy of all clients. Having an organized filing system, electronically or in an office, can affect the outcome of a potential claim or avoiding one at the outset.

Ethics Through Education

A client can't understand what a bail agent or bail enforcement agent can't explain. A client who understands a product or service is much less vulnerable to deceptive selling. Ongoing training and education on systems and procedures for all personnel will help avoid costly mistakes. For example, translating of "legalese" in bail contracts, applications, advertising or brochures into easily understandable language will help clients and staff understand their responsibilities.

Misuse of Position

What one does can influence others in an unfair or abusive manner, such as representing oneself as a bail expert and giving inaccurate information or claiming to have special knowledge on a subject without such knowledge. Clients can be deceived, and their decision influenced, when someone doesn't represent the true facts of a situation. It is certainly unethical and, in some cases, illegal. It is important to protect the confidential relationship with clients and place genuine interests first. Avoid making negative remarks about competitors in the industry to clients.

Notify and Cooperate

Bail agents and bail enforcement agents should promptly and formally notify indemnitors of the possible liability or penalties in the event of a non-appearance or surrender to custody of a defendant. Cooperate fully with judiciary, law enforcement and public prosecution agencies. This will go a long way to remain ethical as well as reaching amiable solutions to potential issues.

Ethics Are Not Laws

Many people believe that ethics and the law are one and the same. Ethics are not laws but can be guided by laws, while at the same time, someone can be unethical yet still operate within the limits of the law. Courts attempt to legislate protections from those without values or those with values in opposition to what most would consider right and wrong. In a litigious society, the trend is to make someone else pay. Knowing and obeying local, state and federal laws will keep one ethical and out of court.

Qualifications

Each state's Department of Insurance can suspend or revoke a bail agent's or bail enforcement agent's license if it is determined the individual is not properly qualified to perform the duties of said license. Qualification may be interpreted as meeting minimum licensing qualifications (age, exam scores, etc.) or beyond.

Lack of Business Skills or Reputation

Licenses can also be revoked when a bail agent or bail enforcement agent has not demonstrated a good business reputation, has shown incompetency or untrustworthiness or has exposed others to danger or loss. For example, in [Goldberg v. Barger](#) (1974), an application for an insurance license was denied by one state on the basis of reports and allegations in other states involving the applicant's violation of laws, misdealing, mismanagement and missing property concerning a "non-insurance" company.

Licenses have been revoked or suspended for activities where the licensee:

- Did not actively and in good faith carry on as a business and the transactions permitted by law;
- Avoided or prevented the operation or enforcement of insurance laws';
- Knowingly misrepresented any terms or the effect of a policy or contract; and
- Failed to perform a duty or act expressly required by the insurance code

Agent Dishonesty

Agents have lost their license due to engaging in fraudulent practices or conducting a business in a dishonest manner. A licensee can also be subject to disciplinary action if convicted of a public offense involving a fraudulent act or an act of dishonesty in acceptance of money or property or aiding or abetting another to do so. In addition to these specific violations, most states establish that an agent's responsibilities must not violate the "public interest," such as conducting mail fraud, securities violations, RICO (criminal) violations, etc.

The Six Pillars of Character®

The Six Pillars of Character are the core ethical values of CHARACTER COUNTS. These values were identified by a nonpartisan, nonsectarian (secular) group of youth development experts in 1992 as “core ethical values that transcend cultural, religious and socioeconomic differences.”

The Six Pillars of Character are: Trustworthiness, Respect, Responsibility, Fairness, Caring and Citizenship. The traits should be reviewed by anyone in business as they layout the tenants of how to treat others and oneself.

The Josephson Model – Seven Steps to Better Decisions

The Josephson model lays out a seven-step path to making better decisions and apply to all professions:

- Stop and think;
- Clarify goals;
- Determine facts;
- Develop options;
- Consider consequences;
- Choose; and
- Monitor and modify.

Rationalizations

Rationalizing actions is a human condition; below is a list of common rationalizations used to keep the image of integrity intact:

- Little white lies – often uttered believing that it is for the benefit of another;
- Everyone does it – minimizing the actual impact of the action by using this diversion tactic;
- I’m not judging – the truth is, everyone judges and measures behavior with a personal yardstick;
- It’s not my job – called the “bystander effect” where individuals in a crowd are less likely to help a victim than if they were alone;
- The end justifies the means – has more to do with ego than with the actual end; and
- Rules are stupid – minimizes actions by deciding which laws and rules should or shouldn’t be followed

Case Studies

There are many experiments that have been conducted and documented for case studies to explain or theorize human behavior. Many such studies wouldn’t be conducted or condoned today given their processes and the heightened awareness of ethics:

- False Consensus Effect Study
- Robbers Cave Study
- Learned Helplessness Study
- Halo Effect
- Hawthorne Effect
- Asch Conformity Study

A few studies are detailed in this course to highlight the strategies and purpose of studying human behavior.

Kitty Genovese Case

In March 1964 in Queens, New York, thirty-eight witnesses watched as Kitty Genovese was stabbed to death outside an apartment building. The incident prompted the incident to be known as the “bystander effect” or the “Genovese syndrome.”

The theory is that the presence of many others will discourage an individual from intervening. Witnesses will be more likely to intervene if there are no other witnesses. People are socially influenced by the actions of others in a group setting and determine their actions (or inactions) based on the group response.

However, in this case there were flaws to the theory. Police interviews revealed that witnesses either attempted to call the police or were otherwise afraid to intervene. A 2007 article in the [*American Psychologist*](#) found “no evidence for the presence of 38 witnesses, or that witnesses observed the murder, or that witnesses remained inactive.”

Stanford Prison Experiment

The Stanford prison experiment was a social psychology experiment conducted in 1971 that attempted to investigate the psychological effects of perceived power, focusing on the struggle between prisoners and prison officers. It was conducted at Stanford University and led by psychology professor Philip Zimbardo using college students.

Volunteers were assigned to be either guards or prisoners in a mock prison with Zimbardo serving as the superintendent. The experiment lasted six days with reports claiming students embraced their assigned roles with some “guards” enforcing authoritarian measures and subjecting “prisoners” to psychological torture. Reports are that many prisoners passively accepted psychological abuse and by the officers’ request, actively harassed other prisoners who tried to stop it.

The [U.S. Office of Naval Research](#) funded the experiment as an investigation into the causes of difficulties between guards and prisoners in the [United States Navy](#) and [United States Marine Corps](#). Certain portions of it were filmed, and excerpts of footage are publicly available. While the experiment purported to show that prison guards instinctively embraced sadistic and authoritarian personalities, Zimbardo actually instructed the “guards” to exert psychological control over the “prisoners.”

Palo Alto Police assisted in the research by actually arresting the “volunteer prisoners” and charging them with armed robbery. Volunteer prisoners were then booked, made to wear ill-fitting prison garb, shackle on leg and have their names replaced with a number. The guards were instructed to create an atmosphere of total control with no privacy or individuality, which would lead to a sense of powerlessness. Guards were provided wooden batons and realistic guard uniforms. Thirty-six hours into the study the “prisoners” were observed “acting crazy.” The study lasted six days and is used to illustrate the power of authority and the effects it has on those that perceive authority.

Stanley Milgram Experiment

The Milgram experiment on obedience to authority figures was conducted in 1961 by Yale University psychologist Stanley Milgram. The study measured the willingness of participants, men from a diverse range of occupations with varying levels of education, to obey an authority figure who instructed them to perform acts conflicting with their personal conscience.

Participants were led to believe that they were assisting with an experiment studying memory, in which they had to administer electric shocks to a “learner” who answered a question incorrectly. Memory test takers were actors who acted as though a shock had been delivered. The fake electric shocks gradually increased to levels that would have been fatal had they been real. The participants, labeled “teachers,” continued to deliver the shocks on every wrong answer despite their objections. The experiments began in July 1961 three months after the start of the trial of German Nazi war criminal Adolf Eichmann. Milgram devised his psychological study to answer the popular contemporary question: "Could it be that Eichmann and his million accomplices in the Holocaust were following orders? Could we all be accomplices?"

The Marshmallow Experiment

The Marshmallow Experiment was a study on delayed gratification conducted in 1972 and led by psychologist Walter Mischel, a professor at Stanford University. There were 32 children who were used as participants in this experiment, 16 boys and 16 girls. The participants attended the Bing Nursery School of Stanford University. The children ranged in age from three years and six months, to five years and eight months. The median age was four years and six months.

In this study, a child was offered a choice between one small but immediate reward, or two small rewards if they waited for a period of time. During this time, the researcher left the room for about 15 minutes and then returned. The reward was either a marshmallow or a pretzel stick. Researchers found that children who were able to wait longer for the preferred rewards tended to have better life outcomes, as measured by SAT scores, educational attainment, body mass index and other life measures. A replication attempt with a more diverse sample population, over 10 times larger than the original study, showed only half the effect of the original study. The replication suggested that economic background, rather than willpower, explained the other half.