ETHICAL THEORY FOR FRAUD EXAMINERS
IV. MORALITY, ETHICS, AND LEGALITY

The concepts of morality, ethics, and legality are related, but they each represent different things. To illustrate, consider the following question: Is it acceptable to lie to catch a crook? The answer is not immediately clear, and it depends on a number of factors, including moral, ethical, and legal concerns. For further illustration, consider the following scenario.

Management at Megacorp, Inc., suspected that its stockroom employees were stealing electronic parts from inventory and hired Abel, a fraud examiner, to discover if and how the thefts were occurring. Abel went undercover to investigate, and only to the president of Megacorp knew his identity. Abel applied for a job at Megacorp, and his application was processed through the personnel department in the normal manner. Ultimately, Abel was hired as a stockroom clerk. While working in the stockroom, Abel preserved his false identity, infiltrated the group responsible for the thefts, and gathered sufficient evidence to prove their misconduct. Consequently, the culpable employees were indicated and charged with theft by state prosecutors.

This scenario illustrates the moral, ethical, and legal issues facing fraud examiners. Morality refers to the underlying codes of right and wrong. But the difficulty with morality is that it is relative and not absolute. For example, although lying generally is wrong, Abel would argue that his deceptive acts are morally justified under the circumstances.

In contrast to morality, ethics refers to the appropriateness of a decision in light of morality. That is, ethics stress standards or codes of behavior expected by the group to which the individual belongs. To illustrate the difference between morals and ethics, consider the criminal defense lawyer hired to represent the stockroom employees charged with theft. Though the lawyer's personal moral code likely finds theft immoral, ethics demand that the accused be defended, even though the lawyer knows the individuals are guilty. Accordingly, the legal ethics must override the lawyer's morals.

Legality refers to lawfulness by conformity to a legal statute. The concepts of ethics and legality must be distinguished. Although there might be overlap between ethics and the law, they are not always in line with each other. For instance, consider speeding while driving. Although speeding is illegal, it is not always unethical. For example, speeding may be ethical if done in an emergency. Also, the law may permit people to do unethical things. In the above scenario, Abel uses deception to conduct a covert operation, but such conduct has
been deemed acceptable in a court of law. Thus, even if Abel’s conduct is considered unethical, it is legal.

The High Road

People generally exhort themselves and others to observe the highest principles of moral behavior. That is, they urge each other to take the high road, but that is often easier said than done.

The high road is the realm of moral philosophy where philosophical principles guide the process of thinking about problems and distinguishing right from wrong. Such principles are necessary in everyday life. We will explore three of the basic principles of moral philosophy later in this course.

Moral Philosophy

Moral philosophy is the branch of philosophy that involves systematizing, championing, and advocating concepts of right and wrong. It exists at a global level, permeating all facets distinguishing between right from wrong. Moral philosophy is a field that deals with human judgments based on standards that identify good and evil.

There are two aspects of moral philosophy that fraud examiners should consider:
- The human judgment process that deals with ways people analyze (i.e., think about) problems
- The standards or values—such as honesty, faithfulness, and unselfishness—that people can use to make moral principles useful

Ethics can be distinguished from moral philosophy by considering the role that each concept has in society. People are usually more comfortable talking about ethics than moral philosophy because ethics seem practical while moral philosophy seems theoretical and impractical. Ethics generally refers to a specific setting—a society, culture, nation, profession, or small group. In this context, ethics refers to behavior that conforms to some societal norms or to a written code of ethics, such as the Certified Fraud Examiner Code of Professional Ethics.
Assess in Terms of Legality

When faced with an ethical problem, it is appropriate to begin analyzing the issue by asking: “Is it legal?” This is analysis at the most practical level. The law deals with actions that are permitted and actions that are prohibited, but the law is the lowest reference level for moral decisions.

Again, ethics and the law are not always in line with each other. For example, the law might permit an action that is prohibited by an individual’s professional code of ethics. Additionally, an individual’s professional code of ethics might permit actions that a moral philosopher would deem immoral. Likewise, the law might prohibit actions that are moral.

In other words, the relationship between the law and ethics is not always black and white. Laws, rules, and regulations function as standards by which to judge whether an action is acceptable or illegal; however, from an ethical perspective, the legality of a certain behavior does not necessarily make that behavior right. For instance, if you have promised an individual that you will honor a contract, you are ethically bound to do so, regardless of your legal responsibility, and under these facts, keeping your word is the right thing to do, no matter what the law says.

The Complete Picture

All three areas—morality, ethics, and legality—are important for everyday decisions. When faced with an ethical decision, fraud examiners should consider whether a contemplated action is legal, is permitted by the written code of ethics, and is moral. Thus, it is important to know the distinctions between morality, ethics, and legality.

It is important to note that this course observes one important limitation—it confines its consideration of ethics for fraud examiners to matters of moral philosophy, rules of ethics, and general values. It does not deal with detailed matters of the law or with questions about the legality or illegality of actions a fraud examiner might take. By taking this approach, this course does not state that the law is unimportant, only that the law is beyond the scope of this course.