CHAPTER NINE

APPLYING THE DESIGN APPROACH TO PUBLIC ADMINISTRATION ETHICS

I began this book with an argument for adopting a design approach to public administration ethics and outlined the specific elements included in Whitbeck's 1996 treatment of that perspective. Now I wish to restate the design approach in terms appropriate for the public administrative role, indicate its general relevance to significant ethical problems, and apply it to a concrete case.

The Design Approach to Public Administration Ethics

Whitbeck's design approach rests on some inherent characteristics of engineering design practice that are relevant in solving ethical problems. As in design, Whitbeck (1996) argues that a ''uniquely correct solution or response'' (p. 11) to the problem rarely presents itself. In fact problems can have any number of responses, not some predetermined solution. After one identifies the possible solutions, some will be more acceptable than others, and some problems have several acceptable solutions. The challenge is to find a solution that will ''achieve the desired performance or end,'' ''conform to given specifications or explicit criteria,'' ''be reasonably secure against accidents,'' and ''be consistent with existing background constraints'' (p. 12). Applying this design approach to ethical problems in public administration involves more than the kind of analysis I discussed in laying out the ethical, normative, prescriptive decision-making

model in Chapter Two. Although the decision-making model I offered is useful, designing an effective response to an ethical problem of any significance also requires consideration of the social and organizational contexts in which the ethical problem emerges, which Whitbeck's design approach includes. I discussed the social and organizational contexts in Chapters Three and Six through Eight, and they are crucial factors in responsible administration.

In this section I highlight the important steps of the design approach and then apply them to examples of ethical dilemmas. For our purposes, a design approach has these main elements:

1. *Begin with an assumption of uncertainty, and acknowledge the ambiguities.* In any ethical situation, what appears to be unethical conduct may or may not be. Before rushing to judgment, it is important to gather information from as many of those directly involved as possible, observe behavior over some period of time—unless the situation involves life-or-death urgency—and try to understand the facts of the situation from all sides. Unfounded confidence about our perceptions and interpretations of misconduct can be damaging to relationships, reputations, careers, and organizations. As well, a rush to judgment can raise suspicions about our motives and call into question our judgment.

One of the participants in a training session I conducted presented a case in which he was walking down a long hallway to his supervisor's office and began hearing strange sounds emanating from the open door of the office that seemed to indicate sexual activity. He immediately feared the worst, turned on his heel, and returned to his own office, not wanting to catch the boss in a compromising situation. He was not sure what to do with his suspicions of unethical conduct by the supervisor, so he decided to keep his own counsel and see what might happen next. A few days later, he overheard the same sounds as he approached the supervisor's office and decided to brazen it out and walk right into the office. When he did so, he discovered that the boss was alone in his office, doing abdominal crunches on the floor. The worker felt enormous relief that his suspicions had been ill founded and that he had not acted precipitously based on his impressions of what was taking place. Had he acted on his gut reaction and reported the suspected illicit behavior, he might have done irreparable harm to his supervisor, himself, and his agency. A knee-jerk reaction and accusation would have ruined his credibility and could have caused ill will between him and his supervisor. Instead of jumping to an unfounded conclusion, he initially kept his suspicions to himself. Even so, when he was faced a second time with the possibility of illicit behavior, he rushed to judgment and walked into the office intending to confront the supervisor, rather than trying to ascertain the facts before confronting him.

2. *Defining the problem narrowly, simply, or statically may not address the fundamental factors involved in misconduct*. A problem must first be defined before a solution can be thoughtfully discovered. This definition may require obtaining additional information. Moreover a hierarchy of ethical problems may exist in what we perceive to be a case of individual unethical behavior. It is important to understand actions and decisions by others that may have contributed to the specific act that captures your immediate attention. For example, the individual we have perceived to be acting unethically might have a superior who is pressuring this person to act unethically, and this may be a pattern of pressure. Is the individual who seems to be acting unethically actually a member of a subunit of an organization that has isolated itself from the larger organization and gradually evolved its norms toward encouraging unethical ways of getting the job done? Is there a general reluctance in the organization to perceive and deal with ethical problems because the emphasis is on getting the work done on time at the least cost?

As well, ethical problems are dynamic; they may change as we attempt to deal with them. What started out as an ethical problem may turn out to be a legal one also. What seemed to concern the actions of one or a few individuals may be discovered to involve many at all levels of an organization. For example, in a federally funded research laboratory, the executive director and chief financial officer were constantly badgering program directors to use all their federal contract funds—even if they were able to conduct their work under budget—so that the laboratory would not lose any funds. In the case of one program the director spent nearly $20,000 on frivolous and unrelated books and resource materials just to spend the budgeted amount. In this case a gut reaction might be to punish or even fire the program director. However, that solution, based on a narrow definition of the problem, would serve only a small and incomplete purpose because the motivations and pressures of the executives need to be addressed as well.

3. *Resolving ethical problems always must be done within certain constraints of time and may require pursuing multiple solutions at once*. Working administrators do not have the luxury of unlimited time to analyze and act on a situation, as if they were in a classroom or training exercise. Although I have discouraged precipitous action, at some point action must be taken to deal with an ethical problem, or it will likely be resolved by inaction. Inaction becomes a form of action when events move on under their own momentum. The range of alternatives is always limited to some extent by the nature of the organization, the actions of others, the risk to oneself, possible harm to innocent bystanders, and potential damage to the organization from certain alternative courses of action. This may suggest the value of a contingency approach to ethical problems. Instead of assuming

that we must choose only one among a range of alternatives for resolving the problem, we might consider a sequence of steps that begin with actions that are less drastic, risky, and potentially damaging to the organization and then progress as required toward the ultimate course of action. For example, if I recognize what I subsequently confirm to be a situation in which my supervisor is accepting bribes, blowing the whistle by going to the press might be the ultimate course of action but certainly not the first one. Confronting the superior might be the first step, followed by reporting the conduct to my superior's boss.

Another important consideration concerning limits is that sometimes we may not be able to undertake the most ethical course of action we can imagine because it would sacrifice other important values. Compromise in order to balance these values may well be chosen. When this occurs, acknowledging that one has chosen less than the best is a way to preserve ethical autonomy. Taking refuge in the oft-repeated excuse ''I had no other choice'' is tantamount to abandoning ethical autonomy. There are always choices, and it is extremely important to own up to the fact that we sometimes choose less than the most ethical course of action because we cannot tolerate the consequences of the alternatives. We live and act out our ethical commitments in a world of constraints. Ethical perfection always eludes us. In other words, ethical dilemmas and the solutions to them can be messy and uncomfortable.

4. *Ethical problems in public administration almost always take place in an organizational setting that either encourages or impedes ethical conduct, or does both.* And the ethical problem at hand will certainly give rise to other implications. To focus only on ethical decision making and courses of action without considering the organizational structure and culture within which an ethical problem is embedded is to invite failure in dealing with that problem. The design of a response to a particular ethical problem requires examining and engaging the structure and culture of the organizational context of that problem. If the organization's structure and culture are not supportive of the chosen ethical resolution of a problem, then that resolution will not likely be successful in implementation. This is the point at which ethicists and organizational development specialists need to work together. When ethical problems are identified by managers, some aspect of the organization will likely need to be changed to resolve them. Of course the proactive preventive approach would be to regularly conduct an ethics audit or assessment of the structure and culture of the organization. Do members of the organization feel free to discuss the ethical dimensions of their work? Is there a commitment to serious and regular ethics training? Do people working in the organization feel *ethics stress* in trying to conduct themselves appropriately? Do the stories people tell in the organization and the cartoons on the bulletin boards reflect professional ethical values? Is there some kind of dissent channel in the

organization, through which people can express their conscience when superiors will not listen and respond? Do the members of the organization have any kind of recourse to the chain of command, such as an inspector general or ombudsman? Have people in the organization experienced retribution for calling attention to misconduct? Have they been rewarded for doing so? Recall the case of the program director who spent $20,000 in taxpayer money on frivolous materials for the research lab. Dealing only with that specific ethical problem would have meant missing the fact that the culture and leadership of the organization promoted and condoned, however indirectly, such spending. Failure to address the superiors and the culture they created would have meant repeated instances of program directors' misusing taxpayer funds because of the undue pressure they felt to use all monies budgeted.

General Application

One can easily see how the elements of the design approach discussed here could apply to high-profile cases like the abuse of prisoners in the Abu Ghraib prison during the American occupation of Iraq or the NASA space shuttle catastrophes resulting in the deaths of the crews on *Challenger* and *Columbia*.

In the case of Abu Ghraib, prisoners were regularly mistreated. This was not simply because an individual made a wrong ethical decision but because a whole series of decisions had created interrogation guidelines (formal and informal) that were ethically questionable and in some cases illegal, and the leadership had created an environment that failed to stop or report such abuse. Practices rooted in the informal norms of the culture of Abu Ghraib prison encouraged abusive conduct that went even beyond the guidelines.

As an armed forces officer in charge of the prison who was troubled by the way prisoners were treated, one might begin with an analysis of alternatives and consequences of the unethical action, followed by finding a fit among various key considerations as recommended in Chapter Two. That would be a useful beginning but not adequate to deal with the problem over the long haul. Any astute reader of the *Final Report of the Independent Panel to Review DOD Detention Operations* (Schlesinger, 2004) would see that any full analysis would need to identify patterns of conduct that included many groups who worked in the prison and would need to trace the roots of these patterns to other places, such as the prison at Guantanamo Bay, Cuba, where alleged terrorists were interned. One might investigate where the rules of interrogation and abusive prisoner treatment originated and reflect on what part of this problem involves illegal

conduct and what part involves unethical conduct. One also might recommend an examination of the culture and structure of the Abu Ghraib prison. What were the informal norms that led to humiliating prisoners by stripping them naked and forcing physical contact with others of the same sex or intimidating them with vicious guard dogs? One might need to consider the prison's organizational structure and whether there were any effective accountability mechanisms and processes for maintaining conduct consistent with official military codes of conduct and international war conventions. Was an inspector general or ombudsman available, someone to whom people working in the prison could turn for assistance? Were there formal dissent channels that could be used by anyone who felt the abuse of the prisoners was wrong? In short, one would need to try to assess the extent of the problem, how organizational structure and culture contributed to it, and what kind of management interventions would be required to create the conditions that would establish and maintain ethical conduct.

Similarly, with respect to NASA's two major tragedies of the explosion of the shuttle *Challenger* in 1986 shortly after launch and the destruction of *Columbia* during reentry into the Earth's atmosphere in 2003, the ethical problems that were identified could not be fixed without significant redesigning of the organizational structure and culture. The clearest and most visible case was that involving Roger Boisjoly, a NASA engineer and member of the *Challenger* team (as discussed in Chapter Eight; also see Boisjoly, 1993). Boisjoly had no difficulty reasoning his way to an ethical course of action. He was confident that *Challenger* should not have been launched with the temperatures so low and ice hanging on the launch equipment. However, the culture of NASA at that time had become so oriented toward pleasing President Reagan and demonstrating the commercial viability of the space shuttles that engineering safety standards were overridden by managers. Boisjoly had no dissent channels through which to express his conscience and maintain his engineering integrity. The structure was so hierarchical that Boisjoly was finally told to take off his engineer's hat, put on his manager's hat, and proceed with the launch.

In the case of *Columbia*, seventeen years later, the report on the accident that destroyed that space shuttle did reveal technical causes for the disintegration of the shuttle during reentry, but the more fundamental reasons had to do with NASA's organizational structure, culture, and management. A large piece of foam plastic insulation had broken loose due to intense dynamic forces during launch and slammed into the leading edge of one wing. The result was a gash that allowed super-hot gases to enter the wing, causing the destruction of the shuttle and the death of seven astronauts. The possibility of this problem had been long identified by the engineers and played down by management. Even on that fateful launch day and during the days that followed, the technical people

involved were concerned about possible risk to the *Columbia* and its crew as a result of the impact of the foam insulation on the wing. However, management chose to move ahead with reentry with no further investigation. The report identifies the numerous times damage to the shuttle from fragments of the foam insulation had been reported by the engineers but passed over on the way to the next launch. The executive summary of the official report says:

> Cultural traits and organizational practices detrimental to safety were allowed to develop, including: reliance on past successes as a substitute for sound engineering practices (such as testing to understand why systems were not performing in accordance with requirements); organizational barriers that prevented effective communication or critical safety information and stifled professional differences of opinion; lack of integrated management across program elements; and the evolution of an informal chain of command and decision-making processes that operated outside the organization's rules [Columbia Accident Investigation Board, 2003].

Although no specific dissenting individuals, people similar to Roger Boisjoly, were identified in reports about this catastrophe, one can discern in this official report that there had indeed been blocking of critical safety information and stifling of professional differences of opinion. Any manager who identified the problem with the foam faced enormous barriers to being heard by those above who had the authority to delay the launch or take emergency measures before reentry. The organization and its structure and culture presented essentially the same obstacles to the exercise of conscience as had existed seventeen years before. Apparently some people tried to do the right thing but were prevented from doing so by organizational factors and launch urgency. A design approach to this situation by anyone committed to avoiding future disasters of this kind would necessitate changes in the structure, culture, and role definitions of the key management personnel. This would amount to organizational development in order to create a more ethical organization.

Another and more recent important example might be drawn from the corruption uncovered in the City of Bell, California, a small municipality of 37,000 and one of the poorest cities in Los Angeles County. In a series of newspaper articles published during the summer of 2010, collectively titled ''Breach of Faith,'' reporters Jeff Gottlieb, Ruben Vives, and their colleagues revealed extensive blatant corruption at the top elected and appointed levels of the city government (Gottlieb, 2010; Gottlieb and Vives, 2010a, 2010b; Gottlieb, Vives, and Leonard, 2010; Gottlieb, Vives, and Winton, 2010; Vives and Gottlieb, 2010). The city manager, the highest-ranking professional public administrator

in the city, was found to have manipulated an election that permitted removing the state limits on the pay of the city staff and the part-time, elected city council members. Gottlieb and Vives reported that the city manager, Robert Rizzo, was paying himself $800,000 annually, the police chief $457,000 annually, and the part-time city council members more than $100,000 each annually. In addition there were numerous illegal payments, loans, and exorbitant pension plans.

Making defensible ethical decisions in the government of the City of Bell would have been extremely difficult because both the structure and culture of the organization were oriented toward squelching any decisions or conduct that impeded the continuation of the corrupt practices. This case is a vivid example of why the design approach is important and sometimes essential. Following the scandal the city government was restructured, new staff members were recruited, and new city officials were elected. Bell is redesigning itself to encourage and support ethical decision making and conduct rather than impeding it.

A Specific Application

Most of the readers of this book will likely be thinking that their professional lives are not as dramatic and fraught with serious consequences as these high-profile cases, two of which involved life and death situations and major violations of human dignity. So let us look at the implications of the design approach for a situation that might be closer to the experience of the readers of this book.

''The Favorite Contractor''

You are a senior manager of a subunit of the program office of a governmental agency. Your counterpart in another subunit of the program office is Harold Foster. You both work under the general manager of the agency, Jack Cairn. Annually, your agency contracts out significant amounts of work to private sector firms. Three qualified contractors are available to the office for this work: Alpha Services, Bravo Services, and Charlie Services. Charlie Services has had difficulty delivering on time, but the other two have performed about equally well. Bravo Services is a minority-owned firm that has been a qualified contractor for five years but has never received more than the small contracts with Foster's and your subunits. The two of you have worked with both Alpha Services and Bravo Services on many of the smaller contracts specific to your units and found them to be fully competent to do the work. However, in the past three years only Alpha Services has received the large contracts that transcend your separate

units. Cairn controls selection of the major contracts, whereas you and Foster are in charge of selection for the smaller ones for your own subunits.

Although you and Foster have encouraged Cairn to spread the work between these two contractors to create some beneficial competition and distribute the work equitably, he has consistently refused to do so, insisting that Alpha Services has done fine work and there is no need to change. He regularly espouses his favorite moral rules: ''Don't mess with success'' and ''If it ain't broke don't fix it.'' When pressed for a more principled response, he talks about continuity and proven performance, but ultimately he defends his actions on the grounds that stability serves the good of the department by reducing transaction costs and thereby increasing efficiency.

You and Foster have argued for including Bravo Services in the major contracts, not only because it does good work but because it is a minority-owned firm that needs government contracts to get well established. You have argued your case based on fairness, maintaining that equals should be treated equally and unequals differently. Both Alpha Services and Bravo Services produce equally well and should receive equal shares of the large contracts. Also, the fact that Bravo Services is minority owned makes it different in that respect from Alpha. You argue that a combination of equally excellent performance and compensatory justice for minority-owned firms that are struggling to compete make Bravo even more deserving of a share of the big contracts if the firms are to be treated fairly in the contracting process.

The boss does not appear to agree because he goes ahead with awarding big contracts solely to Alpha Services. Finally, at the end of one meeting, Foster says to Cairn, ''You seem to be ignoring our recommendations for the inclusion of Bravo Services. It appears you have already decided to contract only with Alpha Services.'' Cairn shrugs off that accusation with, ''No, just trying to do what's best for my department.''

You and Foster discuss the possibility that Cairn may be racially biased in consistently rejecting Bravo Services out of hand for the bigger contracts. The two of you try to find an alternative explanation for Cairn's conduct, but it is difficult not to interpret his actions as racially motivated. Bravo is fully qualified and has done high-quality work for the two subunits. Whatever the reason for Cairn's resistance to contracting with Bravo for the larger, agency-wide projects, it seems to be unfair treatment of that firm.

As you and Foster begin to design an approach for addressing this serious problem of apparent inequity and perhaps racial bias, you remind yourselves that this is not just an isolated incident; it represents a pattern of practice with potentially serious consequences for the agency and the contractors and

implications for the cultural norms of the agency. You decide to proceed through the following steps:

1. *You define carefully and systematically the ethical problem you are facing*. Is it racial bias or unfair treatment for some other reason? Because the act of simply confronting the boss with a charge of racial discrimination is not likely to elicit an honest response if he is biased in that way, you will need to examine other evidence of racism in his conduct. Has he willingly hired, encouraged, and promoted people of minority races and ethnicities? Is there any other evidence of bias in the stories he tells or the way he favors people in the agency? If there is no other evidence of racial bias, you may have no reason to believe it exists in this case.

If there are no good reasons to believe racism is at work in the selection of contractors, you will need to try to determine why he is consistently favoring Alpha Services. Is he receiving kickbacks from Alpha? Does he have an old friend or relative who is in a key position in that firm? Or is it something else? Does he just feel comfortable staying with a firm he knows and trusts? In order to determine what is influencing Cairn's actions, you may need to talk discreetly with others in the office who have been in the agency for a long time about his relationship to Alpha Services. You may need to carefully talk with people you know at Alpha and Bravo about this by raising indirect questions. Eventually you may need to confront the boss with your concerns and ask him why he does not see the equity problem in excluding Bravo Services from the large contracts that he controls. You should always be open to the possibility that he really believes what he espouses: that continuity and stability best serve the good of the organization.

2. *With a better focus on the nature of the ethical problem, you work through the decision-making model in Chapter Two to identify what you think is the best course of action to address the problem*. Recall from Chapter Two that after you have perceived an ethical problem, the first task is a descriptive one in which you describe the situation and then define the ethical issues. In this case, the facts show that Cairn repeatedly grants agency-wide contracts to Alpha and refuses to consider using Bravo Services, even though it performs well on smaller contracts. The principle at stake is equity and the possibility of Cairn's being racially biased in his administrative decisions. The next step is to identify alternatives. Is there a mechanism within your agency to report your concerns? Is there a proper chain of events for documenting and reporting such things? Is your first step to confront Cairn directly? For each possible solution, you must identify the

probable consequences—both negative and positive. Ideally, the positive result would be for some of the larger contracts to be awarded to Bravo. However, you must also consider an end result that is negative. For example, you may be labeled as disloyal or insubordinate if you report on Cairn's actions. Or your relationship with Cairn may suffer, impeding your ability to do well in your job and succeed in your agency. The next step is to find the most fitting alternative, knowing that you will likely have to defend your actions and perhaps take some blows to your self-image or your reputation among your coworkers. Once this is done, you can select your alternative.

3. *With a course of action identified that provides a fit among the items in the circle near the end of the decision-making model in Figure 2.1, you turn to a consideration of the organizational factors that may encourage or impede what you are proposing to do*. Is the organization so hierarchical that it is difficult to deal with unethical decisions made above your level? Does the culture of the organization support arguing with the boss when that seems to be required? Can one go around the boss to the next person up the chain of command without destroying one's career? Are there dissent channels, either formally established to deal with problems of professional conscience or set up with other purposes, that can be used to express concerns about perceived misconduct (for example, a human resource department that might function as such a channel)?

4. *Having developed an analysis of the organizational structure and culture, the next step in the design approach to administrative ethics is to consider intervention strategies you might employ to make the organization more supportive of the kind of conduct you have decided is consistent with the ethics of the public administrative role*. Much depends on how you have defined the ethical problem. If it is a matter of racism, you might try to get racial sensitivity training sessions established in which the boss would participate. If it is not something that blatant, you might consider pushing for the creation of a contract review committee within the agency to periodically look at all the contracts awarded during a given period, examine the criteria, and assess the fairness of the distribution of awards. Or you might decide the best way to handle problems of equity in contracting is to avoid having any single person in charge of approvals and instead to rely on collective decision making among top management. Beyond measures of this kind, you might decide to recommend a thorough organizational development project to restructure the organization, clarify its values, institute dissent channels, and create accountability arrangements designed to check favoritism or tendencies to just do the same old thing because it is comfortable to do so.

Conclusion

This chapter offers a general sketch of what the design approach entails. It carries our thinking about ethics well beyond analyzing an ethical problem and deciding on the most ethical course of action. It pushes our thinking to the entire organizational environment, including its structure and culture. It calls on us to think creatively and to give due consideration to the larger context in which an ethical problem may occur. It does not allow us to think about ethics in some idealized world or some isolated instance, but focuses our attention on the constraints of the real world in which ethical problems occur. It requires of us prudent judgment that is rooted in both our ethical reasoning and our character. Not every situation will lend itself to this design approach; however, the responsible administrator will use this approach whenever possible. But be forewarned: addressing an ethical problem can be problematic even at a basic level. The kind of work involved in applying the design approach will be even more complex and difficult. And if agency-wide problems are identified, one might suffer repercussions from coworkers or superiors. Still, the administrative role requires tough decisions and a balancing of one's role and one's commitment to ethical behavior. Administrative responsibility is not an easy task, but it is critical to the work of the practicing administrator.

CHAPTER TEN

CONCLUSION

Responsible Administration

Applying Whitbeck's design approach to responsible administration essentially means that focusing only on the analysis of ethical problems and making ethical decisions is inadequate for the work of public administration in the real world. Ethical analysis and decision making do not take place in a vacuum. The situation of the administrator also must be considered, and the resolution of ethical problems must take into account the key elements of the administrator's work environment. To focus more specifically on the administrative role, I suggest that some additional considerations are needed in the process of designing a solution to an ethical problem. These considerations are drawn from the components of responsible conduct I outlined in Chapter Seven (see Figure 7.1):

1. *The ethical solution must take into account the organizational setting in which the problem emerges and in which the administrator works.* As I have noted throughout this book, organizations can encourage or impede ethical decision making and conduct. Any course of action to address an administrative ethical problem must assess how the organization will support a course of action or try to stop it. That is not to suggest that one should do something about an ethical problem only if the organization is likely to be supportive. Rather, it means a solution must be designed to address resistance and optimize support. It also implies that those in the higher management and executive levels need to take responsibility for organizational development intended to create greater support for ethical conduct.