



TO: Dr. E. McMullen

FROM: Dean Curtis Ricker *CCR*

DATE: 12/05/2014

SUBJECT: Allegations of Constitutional and Ethical Violations in the Classroom

As you are aware, the University recently received a letter alleging that you have committed Constitutional and ethical violations by attempting to convert students to your religious faith during classroom sessions. The purpose of this memo is to explain the results of the University's investigation into this matter and to give you directives intended "to avoid both Establishment Clause violations and undue pressure upon students," while simultaneously avoiding unnecessary restrictions on your academic freedom.¹

First and foremost, the University respects, honors and values the academic freedom of our faculty. As stated by the Eleventh Circuit Court of Appeals, the University acknowledges "the strong predilection for academic freedom as an adjunct of the free speech rights of the First Amendment" and agrees that "quality faculty members will be hard to attract and retain if they are to be shackled in much of what they do."² However, the "classroom is not an open forum" and "the University as an employer and educator can direct [faculty] to refrain from expression of religious viewpoints in the classroom and like settings."³ "The University can restrict speech that falls short of an establishment violation" and "even the appearance of proselytizing by a professor should be a real concern to the University."⁴ As a public institution and an instrumentality of the State of Georgia, the University also must restrict speech that amounts to a violation of the Establishment Clause during school-sponsored activities.

After receiving the above-mentioned complaint, the University undertook to investigate whether problematic speech and/or conduct was, in fact, occurring in your classroom. This inquiry included review of ten (10) course syllabi, fifty-two (52) examinations, sixteen (16) extra-credit opportunities, and thirty-seven (37) course evaluations, all dated between 2008 and 2014. The review revealed the following issues:

- In each examination given between Fall 2012 and Fall 2014, there was an extra credit question asking students to identify one of the Ten Commandments. You have provided an article as your rationale for asking this question. The article

¹ See Bishop v. Aronov, 926 F.2d 1066, 1069 (11th Cir. 1991).

² *Id.* at 1075.

³ *Id.* at 1071, 1077.

⁴ *Id.* at 1077 (emphasis added).

cites a study wherein students who were asked to recall the Ten Commandments prior to a test did not engage in cheating. However, the same article also states, “[w]e reran the experiment, reminding students of their schools’ honor codes instead of the Ten Commandments, and we got the same result.”⁵ Thus, the question does not seem to be related to the subject matter of the course, but related to the integrity of the students taking the examination. In addition, the article you cite for your rationale provides a non-religious method of achieving the same desired result. “The University’s chief concern is that its courses be taught without personal religious bias.”⁶ To that end, you are directed to avoid asking religion-based questions on examinations where such questions are not related to the curriculum of the course.

- In Spring 2014, you assigned as optional extra credit the opportunity to see the movie entitled, “Is God Dead” and “write a two-page report on the movie, concentrating on the arguments given in class” (emphasis added). The “arguments given in class” are not in the record, and therefore no conclusion can be made as to whether this assignment crossed Constitutional boundaries. However, to the extent that any of those arguments constituted “an interjection of religious beliefs and/or preferences during instructional time periods,” they would be inappropriate for the classroom.⁷ To that end, you are directed to cease any such interjection of your personal beliefs into classroom discussions.
- A review of your student course evaluations showed that an overwhelming majority of students indicated that you are an interesting teacher, often providing stories from your own travels corresponding to the class discussions. However, there were several problematic comments:
 - “had a Christian agenda”
 - “preaches the Bible”
 - “does not give students the option to develop their own opinion”
 - “pushed Christianity”
 - “stands up for faith and against evolution and atheism”
 - “pounded into our heads that ‘evolution is a lie;’ ‘accept Jesus’”
 - “a Christian conservative bias”
 - “referenced his faith”

“The University’s interest [in restricting speech] is most obvious when student complaints suggest apparent coercion – even when not intended by the professor.”⁸ Considering “the coercive effect upon students that a professor’s speech inherently possesses,”⁹ it is inappropriate for you to interject your personal religious beliefs into classroom and class-related discussions with students, and you are accordingly directed to stop doing so immediately.

⁵ DON ARIELY, WHY WE LIE (see copy attached)

⁶ *Bishop*, 926 F.2d at 1076.

⁷ *See id.* at 1069.

⁸ *Id.* at 1074.

⁹ *Id.*

It is important to note that this memo addresses only course-related and in-class remarks and “seeks only to prevent [you] from making assertions about [your] religious beliefs vis-à-vis the subject matter of [your] courses.”¹⁰ Specifically, “if a student asks about [your] religious views, [you] may fairly answer the question.”¹¹ The “University [is] not suggest[ing] that [you] cannot hold [your] particular views; express them, on [your] own time, far and wide and to whomever will listen; or write and publish, no doubt authoritatively, on them.”¹² However, we are directing that you “not discuss your religious beliefs or opinions under the guise of University courses.”¹³

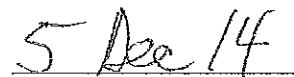
It is incumbent upon all University employees to uphold the Constitutional provisions to which our public institution is subject. By the majority of student reviews, your teaching in your subject area is well-received. I believe that following the directives in this memo to cease religious discussion unrelated to the subject matter of your curriculum will remedy the issues discovered during the investigation.

Please review this memo closely and make certain to comply with the restrictions contained therein. Failure to do so will place the University at risk of violating the Establishment Clause and will result in undue pressure on the students in your courses to conform to your personal religious views. Because of those risks, failure to comply with the directives herein may also subject you to personnel action, up to and including efforts to terminate your employment with the University. Please inform me immediately should you have any questions concerning this matter.

By signing below, you acknowledge that you have received this memo on the following date:



Dr. E. McMullen



Date

¹⁰ *Id.* at 1076

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

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THE SATURDAY ESSAY

Why We Lie

We like to believe that a few bad apples spoil the virtuous bunch. But research shows that everyone cheats a little—right up to the point where they lose their sense of integrity.

By DAN ARIELY

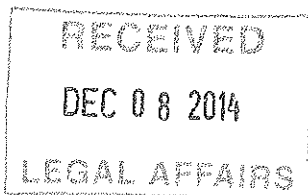
Updated May 26, 2012 10:54 a.m. ET

This Explains Extra Credit
Questions on the 10 Commandments

Research shows that nearly everyone cheats a little if given the opportunity. Dan Ariely, author of the new book, "The (Honest) Truth About Dishonesty," explains why. (Photo courtesy Shutterstock)

Not too long ago, one of my students, named Peter, told me a story that captures rather nicely our society's misguided efforts to deal with dishonesty. One day, Peter locked himself out of his house. After a spell, the locksmith pulled up in his truck and picked the lock in about a minute.

"I was amazed at how quickly and easily this guy was able to open the door," Peter said. The locksmith told him that locks are on doors only to keep honest people honest. One percent of people will always be honest and never steal. Another 1% will always be dishonest and always try to pick your lock and steal your television; locks won't do much to protect you from the hardened thieves, who can get into your house if they really want to. The purpose of locks, the locksmith said, is to protect you from the 98% of mostly honest people who might be tempted to try your door if it had no lock.



We tend to think that people are either honest or dishonest. In the age of Bernie Madoff and Mark McGwire, James Frey and John Edwards, we like to believe that most people are

We are all cheaters, but we don't do it rationally, according to Duke University's Dan Ariely. In a Big Interview with WSJ's Rolfe Winkler he explains the psychology that makes us willing to cheat more or less depending on the circumstances and what we can do to resist temptation.

virtuous, but a few bad apples spoil the bunch. If this were true, society might easily remedy its problems with cheating and dishonesty. Human-resources departments could screen for cheaters when hiring. Dishonest financial advisers or building contractors could be flagged quickly and shunned. Cheaters in sports and other arenas would be easy to spot before they rose to the tops of their professions.

But that is not how dishonesty works. Over the past decade or so, my colleagues and I have taken a close look at why people cheat, using a variety of experiments and looking at a panoply of unique data sets—from insurance claims to employment histories to the treatment records of doctors and dentists. What we have found, in a nutshell: Everybody has the capacity to be dishonest, and almost everybody cheats—just by a little. Except for a few outliers at the top and bottom, the behavior of almost everyone is driven by two opposing motivations. On the one hand, we want to benefit from cheating and get as much money and glory as possible; on the other hand, we want to view ourselves as honest, honorable people. Sadly, it is this kind of small-scale mass cheating, not the high-profile cases, that is most corrosive to society.

1.69	1.82	2.91
4.67	4.81	3.05
5.82	5.06	4.28
6.36	5.19	4.57

Which two numbers in this matrix add up to 10? Asked to solve a batch of these problems, most people cheated (claiming to have solved more of them than they had) when given the chance.

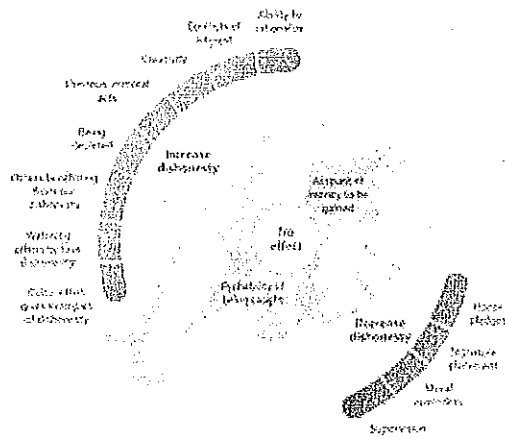
Much of what we have learned about the causes of dishonesty comes from a simple little experiment that we call the "matrix task," which we have been using in many variations. It has shown rather conclusively that cheating does not correspond to the traditional, rational model of human behavior—that is, the idea that people simply weigh the benefits (say, money) against the costs (the possibility of getting caught and punished) and act accordingly.

The basic matrix task goes as follows: Test subjects (usually college students) are given a sheet of paper containing a series of 20 different matrices (structured like the example you can see above) and are told to find in each of the matrices two numbers that add up to 10. They have five minutes to solve as many of the matrices as possible, and they get paid based on how many they solve correctly. When we want to make it possible for subjects to cheat on the matrix task, we introduce what we call the "shredder condition." The subjects are told to count their correct answers on their own and then put their work sheets through a paper shredder at the back of the room. They then tell us how many matrices they solved correctly and get paid accordingly.

The Forces That Shape Dishonesty

What happens when we put people through the control condition and the shredder condition and then compare their scores? In the control condition, it turns out that most people can solve about four matrices in five minutes. But in the shredder condition, something funny happens: Everyone suddenly and miraculously gets a little smarter. Participants in the shredder condition claim to solve an average of six matrices—two more than in the control condition. This overall increase results not from a few individuals who claim to solve a lot more matrices but from lots of people who cheat just by a little.

Would putting more money on the line make people cheat more? We tried varying the amount that we paid for a solved matrix, from 50 cents to \$10, but more money did not lead to more cheating. In fact, the amount of cheating was slightly lower when we promised our participants the highest amount for each



correct answer. (Why? I suspect that at \$10 per solved matrix, it was harder for participants to cheat and still feel good about their own sense of integrity.)

Would a higher probability of getting caught cause people to cheat less? We tried conditions for the experiment in which people shredded only half their answer sheet, in which they paid themselves money from a bowl in the hallway, even one in which a noticeably blind research assistant administered the experiment. Once again, lots of people cheated, though just by a bit. But the level of cheating was unaffected by the probability of getting caught.

Journal Community

Knowing that most people cheat—but just by a little—the next logical question is what makes us cheat more or less.

One thing that increased cheating in our experiments was making the prospect of a monetary payoff more "distant," in psychological terms. In one variation of the matrix task, we tempted students to cheat for tokens (which would immediately be traded in for cash). Subjects in this token condition cheated twice as much as those lying directly for money.

The Saturday Essay

What the Chinese Want (5/19/2012)

Under Attack (5/12/12)

Renting Prosperity (5/5/12)

The Trust Molecule (4/28/12)

Rethinking the War on Drugs (4/21/12)

Why Airport Security is Broken—And How To Fix It (4/14/12)

How I Stopped Drowning in Drink (3/17/12)

Another thing that boosted cheating: Having another student in the room who was clearly cheating. In this version of the matrix task, we had an acting student named David get up about a minute into the experiment (the participants in the study didn't know he was an actor) and implausibly claim that he had solved all the matrices. Watching this mini-Madoff clearly cheat—and waltz away with a wad of cash—the remaining students claimed they had solved double the number of matrices as the control group. Cheating, it seems, is infectious.

Other factors that increased the dishonesty of our test subjects included knowingly wearing knockoff fashions, being drained from the demands of a mentally difficult task and thinking that "teammates" would benefit from one's cheating in a group version of the matrix task. These factors have little to do with cost-benefit analysis and everything to do with the balancing act that we are constantly performing in our heads. If I am already wearing fake Gucci sunglasses, then maybe I am more comfortable pushing some other ethical limits (we call this the "What the hell" effect). If I am mentally depleted from sticking to a tough diet, how can you expect me to be scrupulously honest? (It's a lot of effort!) If it is my teammates who benefit from my fudging the numbers, surely that makes me a virtuous person!

The results of these experiments should leave you wondering about the ways that we currently try to keep people honest. Does the prospect of heavy fines or increased enforcement really make someone less likely to cheat on their taxes, to fill out a fraudulent insurance claim, to recommend a bum investment or to steal from his or her company? It may have a small effect on our behavior, but it is probably going to be of little

consequence when it comes up against the brute psychological force of "I'm only fudging a little" or "Everyone does it" or "It's for a greater good."

What, then—if anything—pushes people toward greater honesty?

More from Review

What Workers Lose By Staying Put

A Dive Into the Digital Deep

Human Evolution Isn't What It Used to Be

There's a joke about a man who loses his bike outside his synagogue and goes to his rabbi for advice. "Next week come to services, sit in the front row," the rabbi tells the man, "and when we recite the Ten Commandments, turn around and look at the people behind you. When we get to

'Thou shalt not steal,' see who can't look you in the eyes. That's your guy." After the next service, the rabbi is curious to learn whether his advice panned out. "So, did it work?" he asks the man. "Like a charm," the man answers. "The moment we got to 'Thou shalt not commit adultery,' I remembered where I left my bike."

What this little joke suggests is that simply being reminded of moral codes has a significant effect on how we view our own behavior.

→ Inspired by the thought, my colleagues and I ran an experiment at the University of California, Los Angeles. We took a group of 450 participants, split them into two groups and set them loose on our usual matrix task. We asked half of them to recall the Ten Commandments and the other half to recall 10 books that they had read in high school. Among the group who recalled the 10 books, we saw the typical widespread but moderate cheating. But in the group that was asked to recall the Ten Commandments, we observed no cheating whatsoever. We reran the experiment, reminding students of their schools' honor codes instead of the Ten Commandments, and we got the same result. We even reran the experiment on a group of self-declared atheists, asking them to swear on a Bible, and got the same no-cheating results yet again.

This experiment has obvious implications for the real world. While ethics lectures and training seem to have little to no effect on people, reminders of morality—right at the point where people are making a decision—appear to have an outsize effect on behavior.

Another set of our experiments, conducted with mock tax forms, convinced us that it would be better to have people put their signature at the top of the forms (before they filled in false information) rather than at the bottom (after the lying was done). Unable to get the IRS to give our theory a go in the real world, we tested it out with automobile-insurance forms. An insurance company gave us 20,000 forms with which to play. For half of them, we kept the usual arrangement, with the signature line at the bottom of the page along with the statement: "I promise that the information I am providing is true." For the other half, we moved the statement and signature line to the top. We mailed the forms to 20,000 customers, and when we got the forms back, we compared the amount of driving reported on the two types of forms.

People filling out such forms have an incentive to underreport how many miles they drive, so as to be charged a lower premium. What did we find? Those who signed the form at the top said, on average, that they had driven 26,100 miles, while those who signed at the bottom said, on average, that they had driven 23,700 miles—a difference of about 2,400 miles. We don't know, of course, how much those who signed at the top really drove, so we don't know if they were perfectly honest—but we do know that they cheated a

good deal less than our control group.

Such tricks aren't going to save us from the next big Ponzi scheme or doping athlete or thieving politician. But they could rein in the vast majority of people who cheat "just by a little." Across all of our experiments, we have tested thousands of people, and from time to time, we did see aggressive cheaters who kept as much money as possible. In the matrix experiments, for example, we have never seen anyone claim to solve 18 or 19 out of the 20 matrices. But once in a while, a participant claimed to have solved all 20. Fortunately, we did not encounter many of these people, and because they seemed to be the exception and not the rule, we lost only a few hundred dollars to these big cheaters. At the same time, we had thousands and thousands of participants who cheated by "just" a few matrices, but because there were so many of them, we lost thousands and thousands of dollars to them.

In short, very few people steal to a maximal degree, but many good people cheat just a little here and there. We fib to round up our billable hours, claim higher losses on our insurance claims, recommend unnecessary treatments and so on.

Companies also find many ways to game the system just a little. Think about credit-card companies that raise interest rates ever so slightly for no apparent reason and invent all kinds of hidden fees and penalties (which are often referred to, within companies, as "revenue enhancements"). Think about banks that slow down check processing so that they can hold on to our money for an extra day or two or charge exorbitant fees for overdraft protection and for using ATMs.

All of this means that, although it is obviously important to pay attention to flagrant misbehaviors, it is probably even more important to discourage the small and more ubiquitous forms of dishonesty—the misbehavior that affects all of us, as both perpetrators and victims. This is especially true given what we know about the contagious nature of cheating and the way that small transgressions can grease the psychological skids to larger ones.

We want to install locks to stop the next Bernie Madoff, the next Enron, the next steroid-enhanced all-star, the next serial plagiarist, the next self-dealing political miscreant. But locking our doors against the dishonest monsters will not keep them out; they will always cheat their way in. It is the woman down the hallway—the sweet one who could not even carry away your flat-screen TV if she wanted to—who needs to be reminded constantly that, even if the door is open, she cannot just walk in and "borrow" a cup of sugar without asking.

—Mr. Ariely is the James B. Duke Professor of Behavior Economics at Duke University. This piece is adapted from his forthcoming book, "The (Honest) Truth About Dishonesty: How We Lie to Everyone—Especially Ourselves," to be published by HarperCollins on June 5.

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