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## **Ethical Issues in Competitive Intelligence Practice: Consensus, Conflicts, and Challenges**

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### **EXECUTIVE SUMMARY**

This overview of the state of ethics in competitive intelligence practice is based on interviews the authors conducted with a diverse group of CI professionals. They found that while some organizations are addressing CI ethics quite seriously, most CI practitioners feel left on their own, relying on personal background and intuition to make tough ethical decisions. Current ethical guidance is too vague to be truly helpful. Moreover, support from employers, industry groups and the CI profession is needed to counteract pressures and incentives to overstep ethical boundaries. The author's analysis identifies a number of ambiguous issues and conflicting expectations for which there is currently no consensus within the profession, such as misrepresentation that occurs by omission (rather than commission). Another area of concern involves consultants and the potential for conflicts of interest in their work. Finally, the authors offer a number of recommendations for supporting ethical CI practice.

In 1994, the Society for Competitive Intelligence Professionals (SCIP) asked us to study ethics in competitive intelligence practice. During 1994 and 1995, we interviewed CI practitioners – asking them about the tough, ethical issues they face in their work, how they think about these issues, and how they deal with them. The results provide new insights into the current state of ethics in the CI profession – the ambiguities practitioners face and the challenges the profession must address in the future.

Why should SCIP and its members care about ethics? One important reason is the profession's public image. Ethical concerns in CI periodically receive attention from the business press, particularly when unethical practices overlap with clearly illegal behavior. For example, *Business Ethics Magazine* (Western, 1995) reported these examples:

- An employee steals blueprint designs and sells them to a competing firm.
- A firm removes 10,000 pages of documents from a dumpster on their competitors' property.

When the general media discuss competitive intelligence work, they frequently use terms like "snoop," "corporate spooks," "James Bond tactics," and "spies/spying," implying illegality or at least questions about the legitimacy of the field (Dumaine, 1988). Therefore, those who care about the profession and its reputation should be concerned about ethics. Even if most CI practices and practitioners are ethical, a few incidents of real or even perceived ethical failure can damage the profession's credibility.

It would be easy to say that CI should simply clean up its act so that the scandal-hungry media would be motivated to look elsewhere. However, some of the ethical issues facing CI practitioners are sufficiently ambiguous or debatable that they are not likely to go away unless CI practitioners can agree about what is and is not appropriate. For example, a 1988 *Fortune* magazine article outlined Marriott's practice of using headhunters to interview regional managers from each of five competitors' economy hotel chains when it was investigating that market. Marriott was able to obtain information regarding salaries, training, and managerial expectations. Some people may view such tactics as unethical. Marriott maintained that they were ethically acceptable because job candidates were told no jobs were currently available, but might be available in the future, and because several of the interviewees were later hired (Dumaine, 1988).

Given the potential for disagreement about what is ethical in this and other real-world situations, it is in the profession's interest to surface the important ethical issues and attempt to arrive at consensus about what is and is not appropriate. At the least, CI professionals should be prepared to explain or justify their practices in cases like Marriott's to observers of CI from the press, business, or government.

## **Professional Standards**

One of the requirements of the designation "professional" is that the professional community develops agreed-upon standards and guidelines. These standards and guidelines contribute to the

legitimacy of the profession's work in the eyes of external stakeholders, and provide a common set of assumptions and standards that are taught to new members and expected of current practitioners. Competitive intelligence practice is relatively young and ethical guidelines are not yet well specified, as was noted in a recent review of CI literature (Collins and Schultz: 1986). In contrast, ethical guidance has been formalized in more established areas of business practice (e.g., accounting, with its highly detailed standards) and other professions (e.g., medicine, with its Hippocratic oath). Even legal issues are not always clear-cut in CI. Yet, ethical issues clearly exist concerning the kind of information sought and the methods used to gather it.

**Table 1.**

**Why Care About Ethics?**

- Ethical failures diminish reputation.
- Articulating ethical standards now makes it easier to respond to criticism later.
- Adoption of ethical standards is a hallmark of a profession.

CI practitioners are beginning to develop more explicit standards. For example, the SCIP Code of Ethics (printed at the front of every issue of *CIR*) exhorts members to maintain the highest degree of professionalism and to avoid unethical practices; to comply with all applicable laws; to adhere to their own companies' practices, objectives, and guidelines; to identify themselves and their organization prior to interviews; and to respect requests for confidentiality. However, these guidelines are somewhat general and don't provide a beginning practitioner with the specific guidance needed to make decisions in ethically ambiguous situations. For example, what should a SCIP member do when the law provides insufficient guidance or when his or her company seems to encourage unethical conduct? As the profession continues to grow, its challenge will be to develop consensus about acceptable and unacceptable CI practice.

Some CI practitioners have made progress along these lines. For example, Leonard Fuld (1995), a consultant and author of books on CI, offers "ten commandments of legal and ethical intelligence gathering" including (a) Thou shalt not lie when representing thyself, (b) Thou shalt

not bribe, (c) Thou shalt not plant eavesdropping devices, (d) Thou shalt not deliberately mislead anyone in an interview (e) Thou shalt not steal a trade secret (or steal employees away in hopes of learning a trade secret), and (f) Thou shalt not knowingly press someone for information if it may jeopardize that person's job or reputation (Fuld, 1995).

Similarly, in its materials, the Futures Group (a large consultancy) states that its intelligence collection is "always legal and ethical." They specify that they will not: use illegal methods, misrepresent themselves, misuse consultants or agents, compromise customer proprietary information, conduct false job interviews, or exploit new employees for proprietary information. These statements, similar to Fuld's commandments and more specific than the SCIP code, raise further questions. For example, exactly what is misrepresentation? What constitutes misuse of a consultant? Exactly how is proprietary information defined? What constitutes exploitation of a new employee? Is it exploitation only if there is a *quid pro quo* or is any attempt to extract information from a new employee exploitation? What makes a false job interview false? Would Marriott's practice, described above, qualify?

The Futures Group does provide more explicit detail on each of these areas. For example, their policy on false interviews says, "Company employees may not conduct 'false' job interviews of competitors' employees for the purpose of collecting intelligence information" (Herring, DeGenaro, Harleroad, p.124). Would Marriott's practice be acceptable according to this principle? One can presume that if Marriott's primary goal were to collect intelligence information (the *Fortune* article implied it was) then the practice would be considered to be unethical according to the guideline. But, what if the goal was to gather information on competitors and to develop a file for possible future openings? Or, what if the goal was simply to be prepared for future position vacancies, and the interview process just happened to turn up competitively useful information? CI practice is full of situations like this with multiple interpretations. Where does one draw an ethical line?

This SCIP-supported study aimed to contribute to the further development of agreed-upon standards of conduct for CI by asking current practitioners to identify the types of pressures and ethical issues that arise in their work, where they look for guidance, and the standards they use for decision making. We interviewed a diverse set of 25 competitive intelligence practitioners, 20 men and five women representing a variety of backgrounds (degrees in technical areas,

information science, business), experience (in libraries, law enforcement, military or government intelligence, business, and consulting) tenure in the field (from a beginner to more than 30 years in a single large firm), types of CI work (primary vs. secondary-source research, intelligence vs. counter-intelligence), types of organizations (17 corporations, four small and four large consultancies), and national cultures (primarily North America, plus two from Europe, one from the Mideast, and one from Japan).

Most interviewees were drawn from the Mid-Atlantic region near where the researchers are located (New York, New Jersey, Pennsylvania, Delaware, Maryland). However, the researchers also traveled to SCIP's Annual Conference to interview a number of international members and members from other parts of the U.S. Most of the interviews were audiotaped (with permission); otherwise notes were taken. The tapes were transcribed and transcripts and notes were analyzed by the researchers. As a result of our analysis, we learned how practitioners think about the ethical issues they face. In this article, we focus on areas of consensus, as well as the gray areas, ambiguities, and unanswered questions currently facing the profession.

## **Ethical Issues Facing CI Practitioners**

A review of the competitive intelligence literature led Paine (1993) to propose that questionable intelligence gathering falls into four categories:

1. Misrepresentation.
2. Attempts to influence the judgments of those entrusted with confidential information (e.g., bribery).
3. Covert surveillance.
4. Theft.

Our interviewees identified these areas as well. In fact, misrepresentation (discussed further below) was the most frequently mentioned category. But most interviewees dismissed the other three categories rather quickly—not because they're not important, but because they were considered to be clearly unethical and often illegal, and our interviews focused more on ethically ambiguous issues

## Misrepresentation of Identity and Intent

Paine (1993) included the following practices under misrepresentation:

- Posing as a student.
- Posing as a private research firm.
- Phony job interviews.
- Posing as a potential joint venturer, supplier, or customer.

What all of these examples share is deception—falsely representing one's identity with the intent of gathering information that the other party would not willingly share if one's true identity were known.

### Omission versus Commission

As suggested above, misrepresentation was the most frequently-discussed category in our study, in part because it is replete with ambiguities about what constitutes misrepresentation. One example of a gray area involves the difference between omission and commission. Most people would agree that lying about one's identity is unethical (e.g., falsely representing oneself as a college student). But what if relevant information is omitted? For example, one interviewee, an independent consultant, believed that acts of omission were appropriate, while acts of commission were not.

Frankly, a lot of times they assume that my client is a \_\_\_ company as opposed to a \_\_\_ company. I haven't told them that, and if they assume that, that's fine by me. It's not an act of commission, it's an act of omission.

For another example of omission, suppose you're pursuing an MBA part-time while working in the strategic planning department of a firm? Your professor gives you a competitive analysis problem and expects you to make telephone calls to gather information from one of your firm's competitors. Is it misrepresentation to withhold the information that you're also a strategic planner at ABC Company? There's no act of lying here, but you've omitted relevant information; if the person on the other end of the telephone knew your full identity (strategic planner *and* graduate student), the information would certainly not be shared. The most clearly ethical solution to such a problem would be to choose an industry different from your own for the

assignment or to identify yourself as both a student and an associate of your particular firm when making the telephone calls. Neither of these solutions involves deception of any kind.

Other examples of omission from our interviews involve situations in which individuals overhear the conversations of their competitors' employees and fail to identify themselves. Some interviewees evaluated this as acceptable:

Certainly if you have a bar room conversation with somebody and somebody divulges something that maybe they shouldn't have, well that's their problem ... It's up to them to control what they say. ... It's up to them to control what they say. ... We won't drug somebody and then ask him questions. ... [But] if they provide information that I'm very interested in, I will make sure that it comes back here and it gets appropriately disseminated.

However, commission clearly enters these examples when one goes out of one's way to put oneself in that position, raising questions about the propriety of the action:

People will visit a site and they'll go into the local bar to see what they can overhear and talk to people. That I think is a gray area. That's misrepresenting yourself. ... They might be talking about confidential information. You're sitting there taking it all down.

These examples raise the following question. Is it misrepresentation (and therefore inappropriate) to fail to identify yourself in a public place when others around you are talking openly about a competitor's proprietary information? Some interviewees, as suggested above, argued that this was the talker's problem. If the talker wasn't tricked into sharing the information (e.g., plied with drinks, lied to about one's identity), it was their problem if they talked too much. The underlying criterion here seems to be intent. It is considered to be wrong if you intend to deceive the other party in order to obtain information. But, if you just happen to be in the right place at the right time, some would argue that the information is then "out there" in the public domain and you should feel free to use it.

Other interviewees saw this kind of case as misrepresentation by an act of omission. In this view, the individual on the receiving end of the information is obliged to identify him- or herself along with any relevant information about affiliation. However, the issue became grayer if the individual spouting the proprietary information doesn't then stop –perhaps s/he had had a

few too many drinks. What then? Some argued that the individual should then leave the area to avoid the ethical issue. An exception might be when you're in an assigned seat on an airplane, the people behind you are busily talking about your competitor's strategic plan. You turn around and identify yourself, "Excuse me, I work for your competitor. I can hear everything you say," and they continue their conversation despite your warnings. At that point, one interviewee said that your ethical obligation had been fulfilled.

### **Misrepresenting Intent**

Another type of misrepresentation involves misrepresenting one's intent rather than one's identity. If one's intent is to "mislead, disarm, or render [someone] less defensive," that's unethical, according to one interviewee. For example, a consultant hired to gather information about a client's competitor may tell that competitor that the information is being sought for a more general industry analysis. A number of consultants conduct industry analyses, so the statement is plausible, if misleading.

We never say we're representing Company A. We always identify ourselves ...accurately as to who we are. ...Then a second level is, why do you want to know? This is where the industry advantage comes into play because in all honesty, as an industry specialist I want to know more about your industry. ... I can ask them in all honesty, "I want to know about your service."

Some callers may find this type of data-gathering perfectly acceptable. However, some of our interviewees had been the target of this type of information-gathering technique, and they rejected it as improper and claimed to be able to see through it. Moreover, these experiences left them wary and distrustful of all callers, ethical or not.

We had a consulting firm come in and all they do is market research. They do it by calling and saying, 'we're doing a survey on the industry and we want to get this information.' They're not. They're hired by XYZ company to find out something about you. Three-quarters of the way through these surveys they always get to the nuts and bolt questions. The ones they really want to know.

Another example might involve collecting small bits of information from a variety of sources, often targeting lower-level firm employees who might be less guarded or who might



enjoy talking about their work. The goal is to put the seemingly innocuous pieces together to answer a broader CI question, but those offering the separate pieces are not aware of the broader intent. The question is, if they knew it, would they share the piece of information they are offering? And, if not, is the practice ethical?

CI practitioners seem to agree that misrepresenting one's identity is unethical (e.g., saying that you're a student when you're not, or saying that you're a customer when you're not). Many interviewees felt comfortable with their stance on misrepresentation because they always identified themselves accurately. However, agreement was less clear about misrepresenting one's intent (e.g., saying that you are conducting an industry analysis when your intent is to gather information about a particular company or product, or saying that you need a single piece of information when your intent is to gather multiple pieces of information from different individuals in the same firm). Our interviews suggested that both should raise ethical concerns, and that the most clearly ethical approach is to honestly identify one's identity and intent to the information-gathering target.

## **Obligations and Responsibilities of CI Practitioners**

To a large degree, ethics is about obligations and responsibilities and the conflicts between them. Our interviewees suggested that, in some competitive intelligence situations, the obligations and responsibilities are unclear, particularly in the client/consultant relationship, or when a consultant represents multiple clients within the same industry.

### **Conflicting Obligations to Clients and Sources**

Some of the toughest ethical issues are those that involve conflicts between obligations. A number of interviewees raised this type of issue, particularly within the context of the relationship among corporations, external CI consultants, and information sources. For example, consultants consistently cited their obligation to respect their clients' requests for confidentiality and corporate representatives cited their expectation that consultants would not reveal the company's identity.

Obviously one reason why we hire someone to do it is because they don't reveal who they're doing it for.

They have an ethical responsibility to the guy who hired them not to tell who hired them.

But there are various ways of not revealing a client's identity, and company representatives sometimes questioned the ethical propriety of that stance, particularly when they were the target of such inquiries.

We know that they're going to be asking for information on our behalf. But that...is a little bit of a gray area. You're using a third party to ask a question because you don't feel you can ask it yourself.

Given the discussion above about misrepresentation, ethical concerns arise if the consultant does not say that s/he is representing a client, but says instead that the information is being collected for an industry analysis or for some other purpose. To many of our interviewees, that is a case of misrepresentation of intent.

By contrast, if the consultant identifies him- or herself and honestly represents the reason for the inquiry, the target has the option of declining to offer any information and the ethical concern disappears. Our interviewees' observations highlight a clear conflict of obligations in this situation. The consultant has an obligation to the client. But, the consultant also has an obligation to accurately represent his or her identity and intent to the target of the inquiry. The CI profession needs to find the right balance between these obligations to clients and sources.

### **The Client/Consultant Relationship**

Our interviews also revealed ambiguity about who is responsible for the consultant's ethics in the client/consultant relationship. A few company representatives, generally from large, visible corporations, were adamant about the care they take in selecting consultants who are viewed as an extension of the firm and its valuable public image. They expressed concern about the possibility that the firm's reputation could be sullied by an over-aggressive consultant's behavior.

They conduct lengthy interviews with consultants, check references, evaluate written proposals, and require adherence to laws and to the company's own ethical codes.

We require that they [consultants] adhere to the company's code of business ethics...and then we require that the critical paragraph or two be incorporated word for word in any contract we sign with them. We also insist on a hold-harmless clause...which says that if they do anything that is illegal or unethical, that reflects either financially or image-wise on the company, that they will pay all of the costs and penalties involved. They will hold us harmless. ... There are some that will not sign that contract and they don't get our business, obviously.

When I bring in outside firms, they [management] want to know to the nth degree what the methodology is, how it will be represented, because they seem to have a very deep concern that just by virtue of having engaged that firm, it's their reputation. ... I think corporations know today that 'not knowing' is no excuse at all.

However, consultants suggested that the corporate behavior suggested by the above quotes was the exception rather than the rule. They noted that clients (even large, visible companies) rarely ask about their methods or their ethics, and they acknowledged the potential advantages, at least in the short term, of leaving such parameters unspecified.

By and large most people [clients] are trying to establish some type of ethical or legal working procedures. But a lot of times, it never comes up. ... It's the exception to the rule when somebody says, here's what we don't want you to do. Most of the time it's here's what we want. We're hiring you because you know how to get it. So, they're sort of in denial. ... You know, I don't think once has anybody ever asked me, "Do you have a code of ethics?" ...

... Never have we been asked to go by a client's ethics statement. ... I think people assume we follow some code of ethics. ... I think there's also a little bit of cognitive dissonance. ... They don't want to prevent something else being done that would cause a successful project. ... We've also been asked to do things that we won't do...wiretapping... stealing business plans.

Our analysis of the interviews suggests hesitancy among some consultants and

their corporate clients to discuss the ethics issue in much detail. They seemed content to live with some ambiguity in this aspect of the relationship and to take their chances with the outcome. Yet, the only way a corporate client can be sure that a consultant is using ethical collection methods is to make the corporation's expectations and standards explicit, discuss them during negotiations, and make them a part of the contractual relationship. If client firms do not do this, they are putting themselves at risk, and putting consultants in a difficult ethical bind. They are saying, in effect, "be ethical (without specifying what that means), but get the information we've hired you to get." Consultants who are committed to using only ethical means should be pleased to discuss these with their clients and to make high ethical standards a part of the ongoing relationship. Further, consultants shouldn't wait for their clients to raise these issues. Their ethics are their own responsibility and should be made clear to their clients. In the end, our analysis suggests that agreement on explicit ethical standards and expectations should be a part of every client/consultant relationship and the responsibility of both parties.

### **Conflicts of Interest for Consultants**

Many consultants develop expertise in a particular industry. That makes sense, but it also increases the likelihood that the consultant will be asked to work for competing companies within the same industry. Some of the consultants referred to this as "working a vertical" and they had developed several ways of dealing with these situations, including building "Chinese walls" within the consulting firm, turning down work, and essentially redoing work that's been done before. Some large corporations require that their consultants agree not to work for their competitors. But, in this case, the corporation must have an ongoing relationship and must enter into a long-term contract (a retainer) with the consultant. More typically, the relationship leads to situations, questions, and solutions such as the following:

What responsibilities do we have, or don't we have, if we're working for clients in the same industry? ... Should we tell the first client that we're working for the second? Should we avoid doing work for the second?

You're not allowed to give [a competitor] documents you've generated. If you did a literature search, for example, it wouldn't be fair game to take that and give it to somebody else. ... You may run the same database search three times using the same key words and paying for that output. ... Where it gets gray is, each time you do an assignment, you learn new things, you get smarter. What things can you share and not share?

The ethics burden is on the consultant in these situations because generally the clients have no way of knowing about the conflict. But one consultant suggested that there are currently few disincentives to keep consultants from stepping over the ethical/unethical line in situations like these.

The only disincentive is that you'll never have that company as a client again. But, I don't know that they'll ever be found out.

Consultants should think carefully about these types of situations and decide, in advance, how they will be handled to avoid conflicts of interest. The obligations and responsibilities inherent in the client/consulting relationship need to be specified. Some large corporations that are particularly concerned about their public image, as well as some consulting firms, have made progress dealing with these issues. Others could learn from what they have done.

<b>Table 2.</b>	
<b>Ethical Issues in CI: Consensus versus Open Questions</b>	
<b>Consensus</b>	<b>Open Questions</b>
Misrepresentation of identity	Misrepresentation of intent
Sins of commission	Sins of omission
Manipulation to get information (e.g., plying with liquor)	Taking advantage of others' mistakes (e.g., eavesdropping)
Responsibilities to clients	Responsibilities to sources
Conflicts of interest (giving client A info about client B) client B)	Conflicts of interest (reusing work done for client A for client B)

## **What Makes a Difference? The Industry and the Organization**

In addition to identifying ethical ambiguities and conflicts, we also wanted to learn about the pressures (to be ethical or unethical) that exist in the current CI environment. Any attempt to more specifically address ethical issues in CI will need to be realistic about the constraints and pressures under which CI professionals work. We learned a great deal about the corporate and industry environments and how those affect CI practitioners' thinking about ethics.

## **Competitive Environment in Industry**

CI practitioners and their organizations exist in qualitatively different environments with regard to CI ethics, whether defined in terms of industry or market, legal or regulatory environments, or national culture. Each of these environments has its own formal structures and informal norms that can influence how people see ethical issues and what people are willing to do to gain a competitive edge. For example, competition is viewed differently in different market segments, ranging from competition as "war" to more cooperative norms within the context of a "game."

### **The War Metaphor**

The war metaphor was reflected in some interviews. When business is viewed as "war," the goal is to harm or defeat one's "enemy." Translated to the CI context, this means putting the competition out of business. If this is the language and the goal, then harm to a competitor, no matter how large, may not be considered an ethical issue at all. In warfare, killing the enemy is not considered to be unethical. As one interviewee claimed,

Business is basically warfare. In warfare, no self-respecting company would think of going to war without a G-2 operation. And how can you engage in warfare where you really don't have a good picture of your competition.

### **The Game Metaphor**

Another view sees competition in business as an exciting game in which each competitor strives to achieve excellence, satisfy customers, and succeed as a result (Paine, 1993). The motive in this type of game is not to drive out the competition, but to work hard, play by the rules of the

game, and do one's best in order to succeed.

In our interviews, we found a number of individuals who described a kind of industry-wide "gentlemen's agreement" aimed at balancing competition with a concern for not intentionally hurting other firms. In particular, individuals who worked in organizations/industries with a public image to protect were more likely to see harm to competitors as ultimately harming the industry as a whole (including their own firm) and therefore unacceptable. By contrast, interviewees suggested that smaller firms, subject to less public scrutiny, are under less pressure to be careful about their ethics.

People have tried to sell us information on our competitors (ex-employees, consultants). We're not interested. It doesn't look good for the whole industry. If [one pharmaceutical company] has a problem, it doesn't do us any good. ... The public's trust in medication is diminished. ... If someone is selling information they don't come to the big pharmaceutical companies. Small companies may be different.

If a disgruntled employee goes to a competitor and says, "Gee, you know I have this, this, and this," most American companies will just go, "Nope, we don't want any part of you." And a lot of times within the industry, they'll call you up and say, "Hey, just to let you know, Joe Blow contacted us."

I've heard of someone stealing a lab notebook and mailing it to another company and the other company just puts it in an envelope and returns it.

Our corporate interviewees generally represented larger firms, many of which were quite concerned about their public image, perhaps because their size makes them more vulnerable to public criticism. A number of them mentioned that smaller firms and firms in less regulated environments might be willing to take more chances. Our interviews suggest that larger firms in more highly regulated environments are more likely to engage in "ethical best practices" that could be emulated by others. The important lesson here is that particular industries and firms have their own norms which reflect their circumstances. CI practitioners who work within corporations need to be aware of industry norms and metaphors and how these can affect their own judgments and actions.

## **The Organization's Ethical Culture**

A number of our interviewees, especially those in corporate settings, cited the organizational context as an important influence on their decision making regarding ethical issues. The organization can either exert pressure to be unethical or it can provide guidance toward and support ethical conduct. The pressure to be unethical generally comes from managers within the organization who are themselves under pressure to meet tough goals. Most of our interviewees acknowledged the intense pressure that exists in today's highly competitive business environment.

I would be lying if I said that people don't want you to be a little underhanded, because they do. They want the information. They don't care how you get it.

One of the dilemmas I constantly get is when somebody comes and asks for information about a company or a market or whatever. They want perfect information. They want to know it all.

The company's general ethical culture influences how CI practitioners react to these sorts of pressures. In companies with a strong ethical culture that stresses correct behavior, CI practitioners receive clear messages from top management, and training and guidance regarding appropriate and inappropriate practices.

[ABC Co.] is an above board company. If they have any question whatsoever they put out a bulletin that says, "Don't do this." ... The image starts at the top and goes all the way [down]. ... You don't get ahead in this place by being underhanded. The company is very competitive...but it is also scrupulously honest.

...the CEO and the senior staff has sort of set the tone, and you know it's drilled into them. ... In the big companies, completely different people, completely different product lines, but you'll see you're following the same procedure. ... It's almost as if they have a checklist of what they have to do. I think it's through training and awareness-building within the company.



People in organizations like those described above feel supported by management in saying no to the pressures to be unethical, and they're sure they won't be punished.

I would say a good bit of it is knowing that people will not be punished in our [CI] group if we don't deliver that. ... Knowing that we have credibility with the upper executives...that whenever we turn one down and say, "No," everybody feels supported internally. ... We really feel like there's an infrastructure of support for making the right decision about what we ought to have and what we can't have.

Because of the intense pressures that can exist, however, it is important to consider the organizational status of people who are assigned CI tasks. For example, one interviewee suggested that novices should not be given responsibility for CI within a firm. At the very least, a more senior, experienced person who will be more able to resist pressure to cross the unethical line should be available to run interference for them.

The young person that gets that kind of pressure ought to have an older, more experienced person to go to, to say, "Hey so and so is really putting the thumb screws on me. What'll I do?" And then it seems to me that at that point, the supervisor says, "Don't worry, I'll take care of it."

Industry norms and corporate support for ethical CI conduct were important to our interviewees. Those who work for companies that explicitly address ethics issues clearly took pride in their company's approach and were comfortable with the guidance they were receiving. CI ethics, in particular, were more likely to be addressed in companies that had a group devoted primarily to CI work. However, in many corporate settings, CI practitioners received little explicit guidance about ethical issues and felt that they were left to rely upon their own inner compasses (discussed in more detail below). Their companies either didn't have the expertise or the inclination to address CI ethics. These findings suggest that the profession can play an important role in defining the ethical issues and providing decision-making guidance for CI practitioners.

**Table 3.**

**What Makes a Difference?: Handling Ethical Pressures**

- Industry and organizational norms, language, and metaphors (is competition viewed as war? as a game?).
- Exposure to public scrutiny, which increases concern with ethics.
- Organizational culture, which can encourage or discourage ethics.
- Status in the organization, which can help you resist pressure.
- A larger CI group, which can provide support and a sounding board.

### **How They Decide**

When we asked our interviewees to tell us how they knew they were facing an ethically problematic issue and how they decided what to do about it, they frequently began by identifying ethically unambiguous situations that can be easily dismissed. For example, if one's work relies primarily on gathering public domain information from secondary sources (e.g., databases), few ethical issues arise, with the exception perhaps of copyright concerns. Similarly, anything that was against the law was considered to be relatively straightforward and one can rely on the firm's legal counsel for advice. However, in ethically ambiguous situations, interviewees reported that they rely on simple methods including the "public disclosure" test and the time-honored "gut check."

### **The Public Disclosure Test**

The most frequently mentioned basis for decision making among both corporate and consultant interviewees was the "disclosure rule" which asks, how would you feel if your action were publicly disclosed to your relevant community (via the *New York Times*, *Wall Street Journal*, or television news magazines)? Consultants generally considered themselves an extension of the company in these cases. If they did something unethical in the client's interest, it would reflect badly on both of them.

A pretty good way of determining what's ethical and what's not, if you were to wake up tomorrow morning and not mind seeing what you did on the front page of the newspaper, then do it.

This public disclosure rule is particularly useful because it encourages you to step outside yourself, your company, and even your industry, to consider how the community at large would react to a particular action.

### **The "Gut Check"**

Because most companies didn't provide a strong ethical culture that offered the interviewees lots of guidance about ethics, most felt that they were essentially left on their own to figure out what was right and wrong in many ethically ambiguous situations. They relied on their upbringing, education, and their professional background for guidance. Sometimes, their only guide was what one of our interviewees called "the rotten-smell detector," that is, an almost automatic or instinctive revulsion to certain kinds of behavior.

I think for every person it's different, but...you get that gut and you know when something strikes you as being trouble. A little bell goes off and then. ... That's not very scientific, but that's how it works.

The rotten-smell detector comes from us. ... It's really a gut-level thing...and it has been things that make you feel as if you want to go and immediately take a shower.

However, because of the wide variety of educational and professional backgrounds individuals bring to their CI work, one individual's rotten-smell detector may pick up something quite different from another's. As one interviewee put it, "I guess that internal gyroscope is different on different people." For example, someone with a journalism background may be more attuned to concerns about the confidentiality of sources while someone with a background in library science may pay more attention to copyright concerns. This provides another reason why members of the profession need to come to consensus about ethical issues in CI practice.

**Table 4.**  
**Common Ethics Tests**

- Public Disclosure Test
- Gut Feeling/Rotten-Smell Test

### **Implications for Competitive Intelligence Practice**

As the CI profession grows, it will become more and more crucial that members can identify the issues of concern and reach consensus about what is and is not appropriate. With growth, concerns about reputation become more important. One individual's or organization's unethical activity can bring negative media attention to an entire profession.

Our interviews with 25 CI professionals suggested that some organizations are addressing CI ethics quite seriously – working hard to draw clear lines between ethical and unethical activities, and backing up CI practitioners who "walk the ethical talk." However, the overwhelming message was that many (if not most) CI practitioners feel very much on their own, relying on personal background and intuition to make tough ethical decisions. Many of the available guidelines are too general to be truly helpful; their existence may even generate a false sense of security, suggesting that ethical issues have been dealt with when in fact many conflicts and ambiguities remain. Also, today's competitive business environment creates many pressures and incentives that can counteract the effect of vague ethics guidelines. Finally, although guidelines are important, our interviews indicate that they alone will not be enough to satisfy CI practitioners' needs. Equally important is support from employing organizations, industries and the CI profession. Industry-level agreements about ethics may be most useful, given that they create a level playing field for all competitors.

Our analysis identified a number of ambiguous issues and conflicting expectations. For example, practitioners agree that misrepresentation of identity is wrong, but ambiguity remains about misrepresentation that occurs by omission (rather than commission) and about misrepresentation of intent. The profession should address these issues explicitly but, until then,

CI groups within organizations should attempt to come to agreement amongst themselves about what is and is not appropriate.

A second area of concern involves consultants and how they balance complex obligations and responsibilities to clients and targets. Consultants should not feel that they have resolved all ethical issues simply because they can say that they identify themselves accurately or that they protect client confidentiality. The ethical issues consultants face are more complex than that. For example, the ethical obligation to protect client confidentiality needs to be balanced with the obligation not to deceive information targets. The consultant, the client, and target of information-gathering should all be working under the same assumptions. Similarly, consultancies should explicitly address the potential for conflicts of interest within their work. Solutions are likely to be more effective if these potential conflicts are discussed and decisions are made in advance about how they will be handled. Finally, companies and their consultants should explicitly address the ethical guidelines that govern the relationship.

Within corporations, ethical CI practice can be supported in a number of ways. For example, the organization's ethics code should address information-gathering and information-sharing issues, CI practitioners should receive training regarding antitrust and other legal and ethical issues, and they should be encouraged to discuss ethical issues that arise in their work. Further, the organization's ethical culture should reward—not punish—ethical conduct. Novices should not be left to fend for themselves, but should be supported by strong managers who can help them resist pressures to bend the rules.

Obviously, SCIP can and should play an important role in bringing the competitive intelligence community together in forums to address the remaining ambiguous issues and by offering guidelines for effective ethical decision making. As a professional society, SCIP can act to legitimize its members' concern with ethical issues, concerns which often are left unspoken because of perceived or real pressure from other organizations (e.g., employers, clients). It can also help to provide a level playing field by defining standards for CI practice and holding its members to them. The payoff will be growing public approval for the profession, and trust among practitioners and between practitioners and other stakeholders.

**Table 5.**

**Task for the CI Profession**

- Hold consensus-building conversations on the open questions.
- Clarify guidelines to create a “level playing field.”
- Encourage clients and employers of CI practitioners and practitioners themselves to support good ethics for the good of the profession.

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