

Managing Rule Violations

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Introduction

Do we ever break the rules, or do our employees ever take short cuts? Yes, of course we all do.

We have all seen airplane passengers unfasten their seatbelt before the light went out while stopped at the gate. But on a recent flight, the person sitting next to me unfastened his seat belt just moments before we landed. Perhaps he wanted to be sure he could get out the airplane in case we crashed. Many of us drive faster than the posted speed limit (and many of us have documented proof!). Sometimes we break the rules when no one is looking. Sometimes we break the rules for unintentional reasons. But there is no doubt that humans have a preference for breaking the rules, whether we fail to understand the importance of the rules, or we justify our behavior in breaking the rule, the law, or a policy.

The question is just how pervasive are short-cuts and rule-breaking in your organization – and the underlying reasons for rule-breaking. There are several different categories of rule-breaking, so it is critical to understand the “why” behind rule-breaking before you can attempt to make inroads on changing behaviors.

Just how pervasive is rule-breaking in our organizations and our society?

A survey conducted by Kimberley-Clark Professional at the 2008 National Safety Council Congress showed that 89 percent of the respondents reported having observed failure by workers to wear their personal protective equipment (PPE) at work, in areas where the equipment was required. And that number had increased 2% per year from the previous three years.

A third of the respondents said that failure to comply with safety procedures was one of the biggest safety issues in their organization. Followed by lack of resources and adequate management support; then under-reporting injuries.

Another study conducted by Purdue University found, after talking with nearly 1,000 people, that when people are exceeding the speed limit, they are not worried about their safety; they are worried about getting a ticket. And interestingly they found the faster people think they can go before getting a ticket, the less likely they believe their safety is compromised. And that

people who habitually speed are not deterred by receiving a ticket. Only those who are more conservative are likely to change their behaviors after receiving a ticket.

So why do we break the rules?

Cris Burgess (Burgess, 2002) posits there two types of rules – ‘moral’ rules’ which exist to protect our own welfare along with the welfare and rights of others; and ‘social-conventional’ rules, which exist to maintain order in our system with minimal conflict. Breaking a moral rule impedes on the rights of others; and may include such violations as assault, theft, verbal insults, or marital infidelity. These violations can trigger a ‘moral emotion,’ such as guilt, shame, remorse or empathy.

Social-conventional violations are usually considered less serious and may include such transgressions such as failing to file a tax return, downloading an illegal copy of a song or movie from the internet, or talking loudly on a cell phone.

Since all rules are (generally or at least should be) carefully designed and well-thought-out to make a system run smoothly, rule-breaking will reduce the safety margin and increase the likelihood of an incident or accident. But frequently rule-breaking is not the result of a deliberate act, but often occurs without intent.

To some degree, behaviors may be driven by attitudes, but some research (Howarth, 1998) shows that might be a very low correlation. Burgess points out that an attitude is ‘how we would like to behave’ if asked. But there are many reasons why we don’t behave as we say we would like to behave. A much stronger predictor of behaviors is past behaviors, and more specifically our habits.

That is the reason why behavioral-based interviewing is far more effective than other forms of interviewing. Rather than asking an applicant what they think they would do in a certain circumstance, the applicant is asked to describe a situation (“tell me about a time when . . .”) where they have to explain their actions, not what they would do in a hypothetical situation. A far more valid predictor of rule-breaking would be to ask a potential (or incumbent) worker “when have you had to break a rule,” rather than asking “would you ever break a rule.”

Our habits are extremely powerful, and we build habit strength quickly. For example, if we exceed the speed limit without getting caught, we may tend to speed again. If we speed hundreds of times without getting caught, we tend to dismiss the risks of both injury and/or consequences (a ticket). By its very definition, this becomes complacency. After time, a job may be perceived as low risk, when in fact the risks have remained the same, but increased skill or repetition have changed the risk perception.

Organizations and co-workers also influence worker by creating a culture where rules are always (or usually followed) or by creating a culture of routine rule-violations. Or worse yet, a culture that rewards rule violations by rewarding the results of rule-breaking (e.g. meeting production quotas). Organizations also have varying degrees of accountability and integrity.

Paradoxically, in organizations with fewer rules, but high levels of personal accountability, workers can actually be encouraged to perform at a safer level (teamwork, sense of survival, brother's keeper), than in "high rule" cultures where there is a rule and procedure for every element of work – but those are somewhat situational. In the military, it is desirable to have a rule for every conceivable situation to foster consistency. However, in other situations, it may not be as desirable.

A further complication is that not all rule-breaking is inherently a bad thing. When studying exemplars (those who function at the highest levels in an organization), several key findings emerge – top performers:

- Do away with unnecessary steps
- Perform an extra needed (but undocumented) step
- Possess information and documentation that others do not have
- Made a self-created job aid others do not have
- Use information others do not have
- Have a different motive for performing
- Receive different guidance and feedback
- Obtain different incentives

Probably most rules and procedures are changed as a result of people finding better ways to do things. Obviously these needs to be controlled, but according to Michael Anteby, (Anteby, 2008) there is a 'moral gray zone' that exists within most organizations. This gray zone allows workers and supervisors to engage in officially forbidden, yet tolerated work practices. Some of these practices, such as when mail carriers finish their route early, but stay "on the clock" to finish a shift are done with the tacit, if not explicit, approval of management. Another example he cites are the heroic efforts of a paramedic in the field who saves a life using techniques they are not officially allowed to perform, yet when a life is saved, their physician sponsor remains silent.

Some organizations have fully embraced this concept, such as well-known examples in manufacturing where engineers are allowed to work on their own projects for a segment of the workweek, or in software companies where programmers are not only allowed, but encouraged to spend a large portion of their time on "non-assigned" projects and developing code.

Before we can address rule violations in our organizations, we must accurately understand the types of rule violations that are occurring and their root causes.

There may be even more types of rule violations, but here are the most common:

1. *Never Learned*

There can be a number of reasons for unintentional violations. Perhaps the rule or procedure was never explained or taught; or forgotten or never learned; or perhaps there was a language barrier to learning; or some other disconnect, so the person never knew about the rule. In other cases the rule was taught, but it is so confusing, it cannot be applied. Another case is where people know about a rule, but don't really understand how to apply it. Or there is a new rule or procedure, but it is not communicated and people follow the old rule.

2. *Learned, but never applied*
People learned the rule or procedure (in training or during orientation), but upon arrival at the jobsite, the rule is never applied and never used. Or in some cases, the rule is only applied selectively. A variation of this is where we see others breaking the rule (monkey see, monkey do).
3. *It is learned, but the boss never does it*
There is a double standard in place where certain people have to follow the rules (e.g. workers), while others don't (e.g. supervisors or managers).
4. *Breaking the rule results in a reward*
We have to, in order to meet production quotas or provide service. There were several famous cases such as the fatality caused by the Domino's pizza delivery driver, as well as Fed Ex guy tearing up the box to get the package delivered. These can also be altruistic violations. Most people come to work wanting to do a good job, and in order to do a good job as it has been defined by company leadership, sometimes certain rules have to be broken. Or in some cases, breaking the rule will result in increased (whatever – fill in the blank) which results in a reward.
5. *Not paying attention*
Not deliberate rule breaking, but we are distracted by something (e.g. personal life or an event). This is simply eyes and or mind not on task. This can also be caused by complacency.
6. *Balanced risk/reward*
It is a deliberate violation, and we choose to violate because the perceived punishment is lesser than the burden of following the rule. For example, many people exceed the speed limit, either to arrive earlier or because they simply enjoy driving faster. Despite the (very uncertain) possible negative consequences, such as a ticket or raised insurance rates, the reward of going faster is seen as more positive. Or the hassle of putting on PPE just to walk through an area with low perceived risk or hazard.
7. *Situational compliance*
The rule is in place and followed in some circumstances, but not others. For instance, there is a 100% hard hat rule on the property, but no one wears one from the gate to the work area on the walkway. Or 100% hearing protection, but workers do not wear hearing protection where they know there is not a high noise level. Or traffic rules – a person might never jaywalk on a busy street during the day, but would jaywalk at night on a street with no traffic.
8. *For fun (or spite)*
Sometimes people break rules simply for the fun of “getting away with it,” or sometimes to deliberately spite someone (such as a boss or parent).
9. *The rule does not work or make sense*
The rule is in place, but it is the wrong rule or it does not make sense. Or sometimes the rules or procedures are outdated and/or incorrect. In some cases this is merely a perception by some workers, and the rule, while not perfect (or perhaps perfectly

explained) is still valid. For instance, some people may feel that wearing hearing protection may affect their ability to hear an alarm (flawed thinking). In other cases, the rule is broken. The rule might be outdated or the procedure has changed, but the documentation has not. Another aspect of this is a rule that is so overprotective that it trivializes the hazard. For example a site may require all workers to be trained in fall protection, so they put office staff through the training just to be sure everyone attended. And some rules are put into place to try to change the behaviors of a very few people (e.g. personal use of a cell phone at work) to the detriment of the vast majority who do not take advantage of the situation.

10. *There is no rule*

Rules or procedures have not been developed (or widely communicated), so workers are left to “figure it out on their own.” Where there is no guidance, people are left to discover the best way based on their experiences and judgment.

There are probably even more types of rule-violations and ways to define why people break the rule, but it is important to understand the underlying reasons and motivations. Clearly one size does not fit all.

Handling Rule Violations

Before we can map out a strategy to address rule violations, we must follow a systematic process. In the well-written Mager/Pipe Performance Analysis Tool, the first question to ask is “Is this worth doing anything about?” Yes, there may be rule violations, but are they serious enough to warrant a full investigation and developing interventions? Because people are so “change weary” (and actually they are not so weary of change, which occurs far less frequently than failed change attempts), organizations need to be sure their change efforts will achieve real and useful performance results.

The next step begins is to identify what kind of rule violation has occurred. If the rules are broken due to system violations, it makes no sense to continue trying to get employees to change their behaviors, the system must be changed. Or if supervisors are explicitly (or even tacitly) allowing violations, a new sense of accountability must be instilled. Determining the type of rule violation is part of the step, but it also calls for a bit of latent cause investigation as well. In latent cause investigation, we must ask “what are workers thinking when they violating the rules?” as well as “what are the supervisors, managers and senior leaders thinking that allows workers to violate the rules?” In other words, we usually cannot just focus on the worker and the violation; rather we must look holistically at the organization and the underlying culture.

Getting to these root causes, especially latent causes, requires amnesty. In order for people to be free about what states and errors they have committed, in order for people to freely describe their motivations and actions, they must feel they will not be punished for their actions. This does not mean they are not held accountable for their actions, rather during the course of investigation of underlying causes people have to be honest and open, or the true root causes and latent conditions will never be revealed.

Honest and open group discussions with workers are a good way to get at root causes, but there must be an atmosphere of trust for this to happen. Involving the entire team has a lot of

benefits. Getting their buy-in from the very beginning to help understand their perspective and using them to develop solutions is perhaps the most powerful approach.

As in most problem-solving situations, accurate diagnosing the real problem and underlying root causes is about 90% of the battle. Once we truly understand the gaps, we can develop effective strategies to create change. In fact once we can clearly articulate the issues, the solutions become very self-evident.

Since most rule violations are rarely single occurrences; rather they have happened multiple times, or there is an underlying cultural issue, it makes the most sense to address most violations with a complete set of interventions, including organizational approaches.

Just several of the myriad approaches that may be useful when addressing rule violations include the following strategies – presented in no particular order:

Correct System Deficiencies

In many cases the rule or procedure needs to be rewritten, or organizational barriers (such as incentives for rule-breaking) may need to be addressed. Addressing human behaviors without addressing underlying system deficiencies is almost always a recipe for “no change.” Using various risk assessment tools can be very effective to help with rules and procedures; such as a greater use of task hazard assessments (pre-job or pre-task discussions or checklists to identify hazards and controls) and job safety analysis (a methodical approach to determining best practices and procedures).

Many rules and procedures are simply too arcane, too obtuse or too verbose to be effective. Some organizations have “blood rules,” which are a knee-jerk reaction to an incident, often promulgated without a deep understand of the root causes. These blood rules might be somewhat similar to so-called “blue laws” enacted by states to enforce prohibition in that the reasons for the rules might be very distant and no longer relevant to the current context of operating procedures.

Other procedures or rules have morphed over time (sometimes by design, sometimes by default) to become unworkable. Several organizations write rules by “salvo,” only adding rules or policies to react to a problem, never as a strategy or considering how they interact with other rules or procedures. Some rules or procedures fail to consider human factors, making adherence very difficult for users. This results in a worker response such as “what were they thinking?” or “clearly whoever wrote this has never done this job.” Complex procedures should have job aids or checklists created to simplify adherence with the procedure. And other rules or procedures are simply wrong, or the process has changed and the procedure has never been updated. An audit of the procedure where someone observes that everyone does the procedure a certain way, but it is incorrectly documented should be an easy fix.

Improve Leadership Skills

Leadership and management are not the same. Leadership is about setting and describing a vision, addressing the fears and concerns of followers to achieve the vision, then displaying the strength and resolve to accomplish the vision. It is imperative that leaders set realistic and obtainable goals. And set (and model) the values and conditions under which those goals will be achieved. In organizations where shortcuts that result in greater performance are rewarded, the leaders are

getting exactly what they have designed. Leaders also model the behaviors and values they want their followers to espouse. There is no greater killer of behaviors than for followers to hear one thing, yet see another.

Improve Management Skills

The science and art of management is to accomplish results using the talents of others. Managers are not measured on their own output; they are measured on the team output. Therefore managers need to have good skills around setting performance expectations, coaching, feedback, communication, removing barriers, providing resources and team building.

Another issue in many organizations is that many first-line supervisors are promoted because of their technical skills, rather than their managerial skills. And because they have good technical skills, the underlying assumption is that they must have good people skills, good communication skills, good coaching skills and have a thorough understanding of setting and measuring performance targets. Sadly, many of these newly promoted supervisors never receive adequate (or in many cases – any) training to help them become better supervisors. This is often a key finding when there are rampant rule violations.

And many newly promoted supervisors find it difficult to hold their former peers accountable for their actions, especially if the new supervisor had rule-breaking behaviors in the old group. To create this change requires a very disciplined and conscious effort.

Accountability, Recognition, Feedback, and Consequences

Certainly a large part of managing rule violations is to establish and foster a culture of personal accountability. In high-trust organizations, most workers hold themselves accountable for a specific set of actions and behaviors. In lower-trust organizations, management relies more on external consequences. But if personal accountability is missing, this must be clearly stated as an expectation, and then followed through with consequences.

Another key of accountability is that everyone must be held to the same standards – this includes managers and supervisors.

Regardless of the culture, however, we must understand the miracle of positive recognition. If we want someone to behave a certain way, we are far more likely to achieve those results with positive recognition, opposed to discipline. Certainly discipline is a last resort (and must be there if all other methods fail), but positive coaching and reinforcement is a much faster way to compliance – despite what the old-timers believe. The skillset around delivering positive feedback and recognition is pretty self-evident, but sadly very rare. When asked when the last time they received positive feedback for performance, most workers say it was more than a month ago (ideally at least weekly, if not more often). But when asked when they received positive feedback for safety performance, most workers cannot ever recall having received positive feedback. There are so many opportunities to catch worker's doing something right, yet many supervisors fail to recognize those situations.

Human Error, Discipline and Justice

Organizations need to carefully evaluate and thoughtfully create disciplinary policies for safety violations in order to support (opposed to thwart) safety system efforts. The old axiom of “be careful for what you wish for,” can often come true where there is retaliation or punishment for

reporting errors or rule violations. Without balance, workers will simply stop reporting violations, or give less than honest accounts of the circumstances.

Several considerations when developing policy include:

- Do we want to punish people for making mistakes to prevent them from recurring; or will the use of punishment deter workers from reporting mistakes or near misses in the future?
- Will we gain more impact through consequences and punishments; or will we encourage workers to self-report and self-correct?
- Does the threat of discipline increase worker awareness of risk; or are there alternatives?
- Will we apply uniform levels of punishments for outcomes; or will we consider varying degrees of culpability and the severity of the violation?
- Do we “shoot the messenger”; or do we want to foster a culture where workers are not only free to talk about mistakes and errors, but there is robust dialogue around latent causes, underlying states (such as rushing, frustration, fatigue and complacency) and critical errors (mind not on task, eyes not on task)?

The concept of accountability versus culpability is often described as Just Culture (Reason, 1997). Reason’s decision tree offers a road map of testing culpability for a violation in five stages. The event/behavior/outcome is measured against the five stages by determining the responses for each of the stages:

1. Intended act: The first question in the decision-tree relates to intention, and if both actions and consequences were intended, then it is possibly criminal behavior which is likely to be dealt with outside of the company (such as sabotage or malevolent damage).
2. Under the influence of alcohol or drugs known to impair performance at the time that the error was committed. A distinction is made between substance abuse with and without ‘reasonable purpose (or mitigation), which although is still reprehensible, is not as blameworthy as taking drugs for recreational purposes.
3. Deliberate violation of the rules and did the system promote the violation or discourage the violation; had the behavior become automatic or part of the “local working practices.”?
4. Substitution test: could a different person (well-motivated, equally competent, and comparably qualified) have made the same error under similar circumstances (determined by their peers). If “yes” the person who made the error is probably blameless, if “no”, were there system-induced reasons (such as insufficient training, selection, experience)? If not, then negligent behavior should be considered.
5. Repetitive errors: The final question asks whether the person has committed unsafe acts in the past. This does not necessarily presume culpability, but it may imply that additional training or counseling is required.

Then the spectrum of consequences is based on the degree of culpability - the extent to which the behaviors were erroneous or intentional (or system induced). Consequences may include: coaching, counseling, correcting underlying system deficiencies, warnings, training, termination, or others.

High performing organizations want to use mistakes and errors as a way to improve. This requires open and honest communication around latent causes. While bad news may not always be celebrated, the bearer of bad news is not shot. Since human error will never be eliminated (nor the underlying states) it is imperative that workers are willing to self-identify their errors, and organizations continue to address system issues and barriers.

Teaching and Using CERTs

Another strategy to help reduce errors is to teach workers a set of advanced safety skills or critical error reduction techniques (CERTs). Using CERTs in real-time has been proven to dramatically reduce errors:

1. Self-Triggering on the State Before Errors Get Made

The first skill is the ability to recognize that we've passed into a state (rushing, frustration, fatigue or complacency) that causes risky behavior before something bad happens to us. Most people already do this to some extent. For example, if someone is late driving to the airport, they may realize they are speeding and weaving in and out of traffic. In other words, they trigger on rushing. They might slow down, or at least recognize the state and use it to keep eyes and mind on task, and look carefully for line of fire potential (other drivers).

This CERT is helpful for the first three states (rushing, frustration, fatigue), but does not work well for complacency, which by its very definition we are unaware of. The following three CERTs are used to fight complacency.

2. Learning from Close Calls and Small Errors to Prevent Big Ones

Everyone has had close calls, near misses and errors. Even though they are unintentional, we still make mistakes. Often, however, we quickly look around to see if anyone was watching. The last thing we think about is learning from it. But this is an opportunity to look at the state to error pattern we were in at the time to prevent making a bigger error in the future.

3. Observing Others for the State to Error Pattern

This technique has three beneficial effects that prevent accidents. First, watching others enables us to detect individuals in the state to error pattern so we can avoid them. We want to steer clear of these individuals like we would a reckless driver on the highway. Next, watching others in the state to error pattern makes us less likely to engage in the same behaviors as the observed individual -- and thus helps us avoid complacency. And finally, watching others helps us protect the individuals we observe. That's because we'll probably recognize that persons are in the state to error pattern before they see it in themselves. This gives us a chance to help the person before an injury occurs.

4. Working on Habits

Habits are those behaviors we do without thinking (opposed to decision-making which is a more conscious effort). Unfortunately, many safety habits have evolved over time to include

shortcuts and other behaviors taken on a routine basis because the tolerance for risk is decreased. Identifying potential habits to change and working on them is one of the best ways to fight complacency.

Team-based Problem Solving

Using the entire team to analyze and change rules and procedures is an excellent strategy that helps to get the best possible procedures – while getting crucial buy-in and commitment for the changes.

Begin with determining which rule(s) and/or procedure(s) are causing the problems or most frequently violated. Then assemble the right players on the team. Include those who are most involved with the process or procedure. Be sure to have a cross strata of wage roll, supervisors, managers, safety professionals and any other involved stakeholders. The group should be facilitated by someone with good group process skills who can make sure that all voices are equally represented and heard. The session(s) should well documented by a scribe to ensure good documentation and communication of any findings/changes.

Conduct a survey or discussion around how often the rule is violated and why (using the all of the potential reasons why the rule might be violated). Ask the question “is this worth doing something about?” Discuss the underlying assumptions for the rule; are the conditions the same as when the rule/procedure was promulgated? Should we keep this procedure or rule? What are the risks and hazards? What risk assessment and hazard controls are in place? Do we need to re-write the procedure or rule? If the rule or procedure is still valid and required, do we need to train/inform workers? What methods of compliance may work best (such as personal accountability, supervisory accountability, rewards, feedback, coaching, or consequences)?

Addressing these issues might be as simple as a single meeting, or might require a more extensive effort.

Change Management Plan

Whenever a rule or procedure is updated, a critical strategy is a robust change management plan. This plan needs to address several key elements:

- **Change angst.** People generally abhor change. Understanding and overcoming resistance to change is important if different outcomes are desired. Simply changing a procedure and not addressing the resistance can result in no change. For example, an organization has a long-standing rule that has been in place, but never enforced. After meeting and discussing the issue, the team (or perhaps just management unilaterally) decides to start enforcing the rule. Knowing there will be resistance, the plant develops a phase-in approach. During the first month, they will tell everyone about the change, offering a chance for people to talk about it (but the decision has been made). During the second month, supervisors (or peers) will offer “courtesy warnings,” which are reminders with no consequences. During the third month, the full spectrum of discipline is installed, with the expectation of 100% compliance. Of course this is simply an example, but the underlying causes of resistance must be identified and addressed.
- **Management of Change (MOC) issues.** Another element of the plan should include a review of any elements of the new process or procedure that may cause a conflict with

other procedures, have unintended consequences or impact operations. Additionally, documentation must be completed for myriad reasons.

- **Communication.** Communication is a critical component of any organizational change, especially regarding rule or procedure changes. Develop strategies that explain to workers what the changes are, the reasons behind them, the consequences and expectations, the required behaviors, etc. When it comes to change, it is difficult to over-communicate. Let them know what is going to happen. Tell them it is happening. Remind them.

Managing rule violations and changing culture is never as simple or easy as it first appears. But good results can be accomplished by using a holistic approach, using good investigative techniques to discover true root and latent causes, involving all stakeholders, and developing a comprehensive strategy.

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