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The Delicate Question of Enforcement in the Case of Repeated Food Service Violations: Power in Scores

Abstract

Food service inspectors often encounter the dilemma of a continuing violation that, by itself, is minor in nature and will not entail punitive consequences for the food establishment. The health risk to the public, however, clearly exists. What measures are available to enforcement agencies within the parameters of existing procedures? Or, as an alternative, what possibilities are there for structural change? If change is necessary, what would the optimal strategies be for enhancing the dual functions of environmental health agencies—education and enforcement—in a socially and politically sensitive environment? Borrowing from the field of motivational psychology, the author reasons that a reorientation of the reporting system to a positive ranking, as opposed to a demerit system, has the potential to induce better voluntary compliance.

Introduction

It is no newsflash that many food establishment inspectors find the frequency of visits they can pay to a given restaurant or other food establishment is not as great as they feel would be appropriate. Because of increases in workloads and budgetary limitations, less and less time is available for attention to individual inspections. These trends are likely to continue, and they are being felt in many private and public sectors of our economy.

What can be done to increase the effectiveness of inspections when many months pass between them and deficiencies continue from inspection to inspection? Within the

existing inspection structure, an exponential weighting system can address repeated deficiencies so that, in just a few successive inspections, a threshold is reached at which punitive measures take effect. As an example, if three demerits are given for a certain deficiency on the first occurrence, the second occurrence would have a weight of nine demerits, and the third 27.

If the same deficiency is observed on, say, two or three successive inspections, a mandatory follow-up inspection could be made within a specific period, perhaps three months. Especially if combined with increased weighting of the problem, this

approach will have the tendency to prompt corrective action.

Of course, the inspector is concerned about results, and in most cases how the proprietor complies or what products are used to solve the problem is of less concern. Inspectors can, however, provide useful suggestions when asked for input. Resourceful inspectors often have a few selected copies of ads, articles, or informational brochures that may help the proprietor with appropriate needs. Vendor information, publications from nonprofit organizations, and informational fliers or booklets from public agencies should be collected in a small library area back at the office. Copies can be sent or faxed to proprietors as suggestions, as long as the inspector maintains objectivity by making no endorsement of specific products or sources.

The inspector cannot and must not relieve the establishment manager of the responsibility for solving the problem. Nevertheless, a constructive attitude will work with most people, most of the time. When an inspector makes suggestions regarding repeat violations, even relatively minor violations, the message is that the inspector expects action on the manager's part—this emphasis will have the necessary psychological effect


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are particularly likely to benefit, because instead of waiting two weeks for a culture to grow in a lab, they can get results on site in less than an hour. They can even conduct the test while performing regular maintenance on a cooling tower.

Legionella is ubiquitous in the environment. It occurs naturally in rivers and streams throughout the globe. The organism has been found in homes, swimming pools, cooling towers, spas and whirlpools, humidifiers, decorative fountains, vegetable misters in supermarkets, portable cooling units, faucets and showerheads, ice-making machines, sinks, dental-unit systems, boilers, and numerous other nonsuspicious locations such as garden soils. When water contaminated with the bacteria is aerosolized and people inhale the droplets, the risk that they will contract the disease increases exponentially, especially among members of high-

risk groups such as smokers, diabetics, immunocompromised individuals, individuals with other pulmonary ailments, alcoholics, and those with end-stage renal disease.

The Equate test is quick and simple. A sample of the water to be tested is filtered, then the swabbed filter residue is combined with reagents in a tube. After half an hour, a color developer is added to indicate any antibody-antigen reactions, and five minutes later a stop solution is added to arrest further coloration. The results in the tube are then read with a handheld photometer. Smaller than a Palm™ organizer, the photometer is a one-time purchase that can be used in almost any environment. Test kits, minus the photometer, can be ordered in quantity for added cost-effectiveness. 

Circle #29 on Reader Service Card

Guest Commentary

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A further point concerns the method of documenting the inspection. Procedures vary from jurisdiction to jurisdiction, but the signature of the manager acknowledging the inspection, the results, and an opportunity to ask questions should be part of the inspection process. A simple statement to this effect, above the manager's signature, should be present on the form. On the rare occasion when a proprietor declines to sign, separate, weighty consequences should be routine.

Strategies for Change

If the inspection system relies on demerits, it can perhaps be rendered more effective by change to a more positively oriented, zero-base system. A zero-base system awards points for evidence of conditions as they should be—rather than assigning demerits based on deficiencies discovered. The salient features of a positive system lie in its psychological effects. Furthermore, it may be possible to implement such a system without regulatory changes.

Motivational psychology is a field that uses what is known about individual values and goals to help determine what conditions will produce attitudinal and behavioral


changes. In the case of a continued failure to correct less-severe deficiencies found during food service inspections, a change of attitude is needed. The establishment manager must be motivated to correct rather than ignore deficiencies below a threshold that will produce a punitive score. In zero-base systems, each item has a maximum possible score relative to its value in the inspection as a whole, and if the condition is as it should be, the establishment receives the full score. For an example, five temperature samples might be assigned a maximum of 20 points on a 100-point inspection. Each temperature sample would receive four points for the optimum temperature, three points for a less-than-optimum temperature, and perhaps zero for an unacceptable measurement.

The psychology is that most people want to achieve as high a score as possible. A score of 90 out of a possible 100, showing a loss of 10 points, has more potential to motivate improvement than the combination of a three-point demerit and seven-point demerit, which also shows a loss of 10 points. Most people are naturally interested in what can produce a better score. A positive score system uses this power to help food service inspectors achieve greater compliance levels.

Many jurisdictions have a visual inspection card system that requires a food service

establishment to display the card, usually so that it can be seen from the outside front area where customers enter. Rarely do regulations require that a restaurant display the number of demerits received. In the more routine demerit system, a small number of demerits, as would result from the minor deficiencies being discussed here, would not count in the overall rating earned and thus would escape display.

Positive inspection systems are a more natural way of motivating an establishment to get as close to the maximum score as possible. Even if local regulations do not require display of inspection results, a positive system might be instituted on a volunteer basis—allowing competition between establishments to make proprietors *want* to display a card or decal showing the inspector's highest rating.

The author invites comments from inspectors who have found positive systems—or systems with other designs—to be workable and motivational. 

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