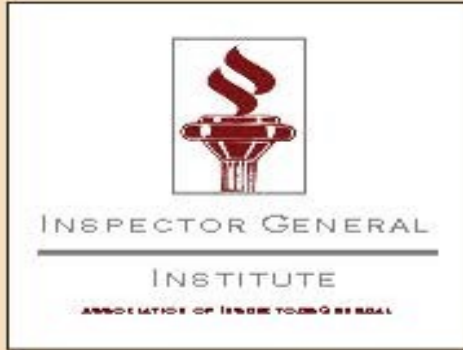


Certified Inspector General Auditor Course



INSPECTOR GENERAL INSTITUTE
TRAINING AND CERTIFICATION FOR INSPECTION
AND OVERSIGHT PROFESSIONALS

Ethics for Inspector General Auditors, Investigators, and Inspectors/Evaluators

Presented by:

Kalinthia Dillard, Esq.
General Counsel/Deputy Inspector General
Palm Beach County Office of Inspector General



ASSOCIATION
OF
INSPECTORS
GENERAL





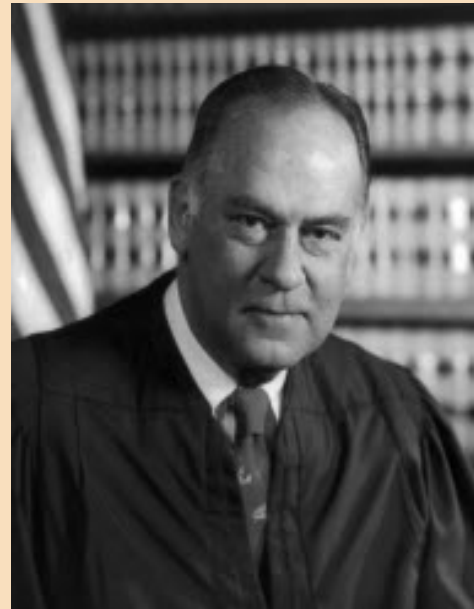
Course Objectives

- ❑ Describe basic principles of ethics
- ❑ Understand how people make decisions
- ❑ Identify sources of ethics standards
- ❑ Identify AIG principles related to ethics
- ❑ Be able to apply ethics standards to your work



What is “ethics”?

- ▶ The term “ethics” is derived from the Greek word “ethos” which can mean custom, habit, character, or disposition.
- ▶ Merriam–Webster:
 - the discipline dealing with what is good and bad and with moral duty and obligation
 - a set of moral principles: a theory or system of moral values
 - a consciousness of moral importance



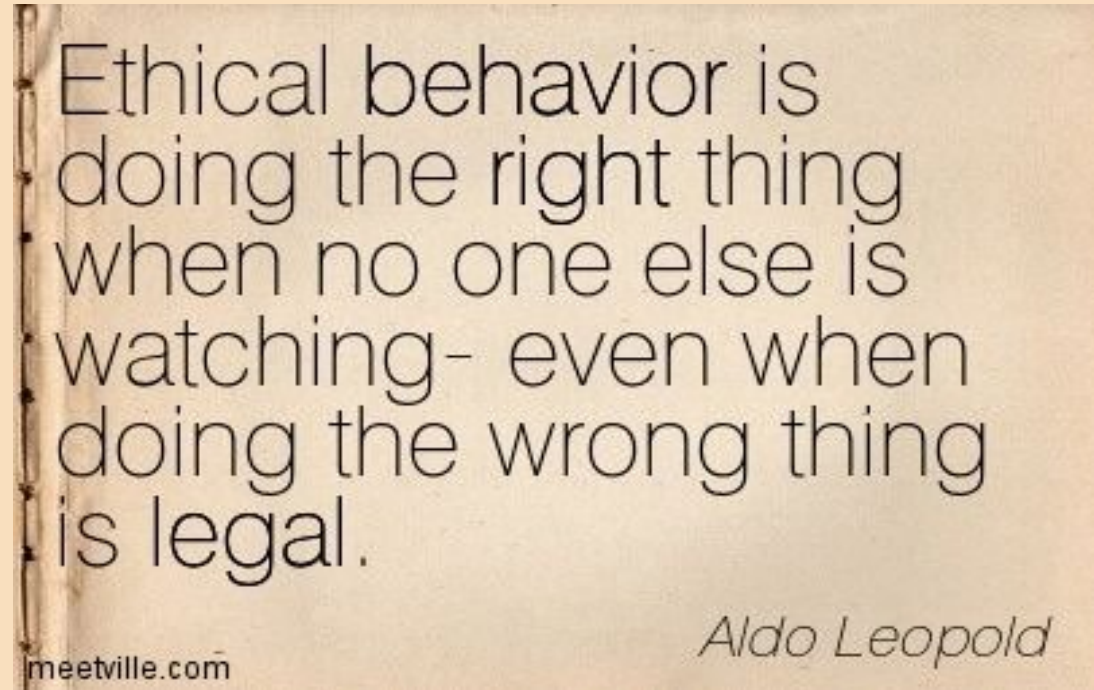
**Former Supreme Ct. Associate
Justice Potter Stewart**

**“Ethics is knowing the
difference between what you
have a right to do and what
is right to do.”**



What is “ethics”?

- ▶ Human beings have the freedom to choose between alternative possible actions/decisions.
- ▶ Rushworth Kidder, in his book How Good People Make Tough Choices: Resolving the Dilemmas of Ethical Living, suggests that ethical decision making can involve right v. wrong, as well as, right v. right.





What is “ethics”?

- ▶ How do you decide the better option?



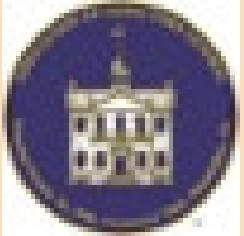


Are “Ethics” Black, White, or 50 Shades of Gray?

How do you decide the better option [ethical decision-making]?

- ❑ Societal goals and objectives?
- ❑ Most popular alternative?
- ❑ Personal goals and objectives?
- ❑ Cost-benefit analysis?
- ❑ Most lucrative alternative?
- ❑ Is it legal?
- ❑ Is it moral?
- ❑ Public perception?





Are “Ethics” Black, White, or 50 Shades of Gray?

- ❑ What would you think if someone else made the same choice?
- ❑ How would you feel if someone found out you made this choice/ no one will ever know the choice you made?
- ❑ Does your approval or disapproval of another person’s action/choice depend upon your feelings about that person?
- ❑ Is ethics conduct impacted by time, culture, or industry?



Are “Ethics” Black, White, or 50 Shades of Gray?

Ethics and I had crossed paths recently, and I’m not sure that I fell on the right side of the morality line.

S.C. Stephens



**“We need to draw the line on unethical behavior.
But let’s draw it with an Etch-a-Sketch and
don’t be afraid to shake it a little.”**



Basic Ethics Principles

- A code of ethics is a set of principles and values used by individuals and organizations to govern their decision-making process.
- Codes of ethics may be unique to individuals or organizations, but they generally reflect an overall idea of what the general population considers appropriate behavior.
- Although there are several sources of ethics standards, there are certain principles which you can find repeated across multiple sources.





Sources of Ethical Standards

- ❑ Laws
- ❑ Rules and Regulations
- ❑ Organization Codes of Ethics
- ❑ Policies
- ❑ Professional Standards
- ❑ Other





Sources of Ethical Standards

- ▶ Examples of Professional Standards
 - Code of Professional Conduct, American Institute of Certified Public Accountants (AICPA)
 - Code of Ethics, The Institute of Internal Auditors (IIA)
 - Certified Fraud Examiner Code of Professional Standards – Association of Certified Fraud Examiners (ACFE)
 - The Florida Bar's Rules of Professional Conduct



Sources of Ethical Standards

- ▶ Examples of Other Standards
 - Personal ethical standards
 - God & religion
 - Human conscience & intuition





Professional Ethics

AICPA Code of Professional Conduct

A few of these governing ethics include:

- **Responsibilities principle** – In carrying out their responsibilities as professionals, members should exercise sensitive professional and moral judgments in all their activities.
- **The public interest principle** – Members should accept the obligation to act in a way that will serve the public interest, honor the public trust, and demonstrate a commitment to professionalism.
- **Integrity principle** – To maintain and broaden public confidence, members should perform all professional responsibilities with the highest sense of integrity.



Professional Ethics

Code of Ethics, The Institute of Internal Auditors (IIA)

A few of these governing ethics include:

- **Integrity**– The integrity of internal auditors establishes trust and thus provides the basis for reliance on their judgment.
- **Objectivity** – Internal auditors exhibit the highest level of professional objectivity in gathering, evaluating, and communicating information about the activity or process being examined.
- **Confidentiality**– Internal auditors do not disclose information without appropriate authority unless there is a legal or professional obligation to do so.
- **Competency**– Internal auditors apply the knowledge, skills, and experience needed in the performance of internal audit services.



Professional Ethics

The Legal Profession

Lawyers, paralegals and other employees of the legal profession are bound to a general code of ethics. A few of these governing ethics include:

- **Confidentiality** – Lawyers must maintain their clients' confidence at all times.
- **Competence** – Legal professionals must represent their clients with a high level of competence.
- **Professional Courtesy** – Lawyers must treat their colleagues with fairness and courtesy.
- **Communication** – Lawyers shall inform clients of status of representation



Professional Ethics

The Medical Profession

The American Medical Association imposes a code of ethics on physicians. It addresses everything from interpersonal relationships with other staff members to information on patient care. For instance:

- **Competency**– A physician shall be dedicated to providing competent medical care, with compassion and respect for human dignity and rights.
- **Honesty**– A physician shall be honest in all professional interactions.
- **Privacy** – Doctors cannot share the details of their patients' medical treatments or histories without permission.



Professional Ethics

Teachers and Education

The National Education Association publishes a code of ethics. Some code of ethics examples in education include:

- **Consideration** – Teachers shall not unreasonably deny the student's access to varying points of view.
- **Confidentiality** – Teachers shall not disclose information about students obtained in the course of professional service unless disclosure serves a compelling professional purpose or is required by law.
- **Avoid Conflicts** – Teachers shall not use professional relationships with students for private advantage.



Professional Ethics

Henrietta Lacks & Medical Industry

Henrietta's cells (more commonly known as HeLa cells), were taken without her **informed consent** when she was being treated for cervical cancer. She died in 1951. She was never told why her cells were taken and never gave permission for them to be used.

Unlike most other cells, her cells lived and grew continuously in culture.



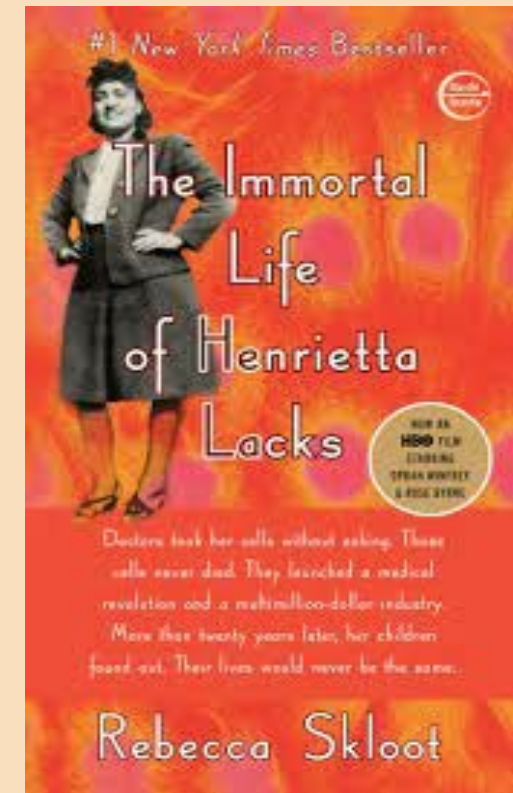


Professional Ethics

Henrietta Lacks & Medical Industry

The cells revolutionized the medical field – helping develop the polio vaccine, the cancer drug tamoxifen, chemotherapy, gene mapping, in vitro fertilization, and treatments for influenza, leukemia and Parkinson's disease.

- **ethical decisions** in scientific community in pursuit of the common good
- **breach of privacy**—information from Henrietta's medical records was published and the sequenced genome of her cells was posted on the Internet





Professional Ethics

- ▶ Journalism

Michelle Kosinski

https://www.youtube.com/watch?v=cgm3_jzcNm4



Professional Ethics

Society at large assumes that certain ethics and values can be expected regardless of religion, geographic location, or nationality. The classic example is the Golden Rule: "Do unto others as you would have them do unto you."

- **Respect** – Respect another's property and lives.
- **Loyalty** – To friends, family, coworkers, and country.
- **Honesty** – Tell the Truth.



Personal Ethics

The Wallet Experiment

Cohn, Alain, “Civic honesty around the globe”

Procedure

Researchers put together a team that dropped off more than 17,000 "lost" wallets in 40 countries over the course of more than two years. All the wallets were about the same — a small clear case holding a few business cards, a grocery list in the local language, and a key. Some contained no money and some money.



The Wallet Experiment

Conclusion

People were more likely to return a wallet when it contained a higher amount of money. In 38 out of 40 countries, people were more likely to report receiving wallets with money than those without. And in the other two, the decrease in reporting rates for the wallets with money were not statistically significant.

While only 10 or 15 percent of wallet recipients came clean in China, Peru, and Morocco, the numbers jumped close to 70 percent in Switzerland, Denmark, and several Nordic countries. In the United States, citizens landed in the absolute middle of the pack, contacting the researchers about 50 percent of the time.



Personal Ethics

The Good Samaritan Experiment

Darley, J. M., and Batson, C.D., "From Jerusalem to Jericho": A study of Situational and Dispositional Variables in Helping Behavior".

Procedure

They recruited **seminary students** for a study on religious education. They began experimental procedures in one building and then told to go to another building to continue. On the way they encountered a man slumped in an alleyway (the victim's condition is unknown -- hurt, or drunk?).



Personal Ethics

The Good Samaritan Experiment

Conclusions

Overall 40% offered some help to the victim. In low hurry situations, 63% helped, medium hurry 45%, and high hurry 10%. The results seem to show that thinking about norms does not imply that one will act on them. The circumstances mattered more. A person in a hurry is less likely to help people, even if he is going to speak on the parable of the Good Samaritan. (Some literally stepped over the victim on their way to the next building!). "Ethics become a luxury as the speed of our daily lives increases."



The Wild, Wild West (Palm Beach)

- ▶ Sexual scandals of two consecutive congressmen: Representative Mark Foley (2005) and Tim Mahoney (2008).
- ▶ Palm Beach was the winter home of Ponzi scheme leader Bernard Madoff.
- ▶ County Commissioner Warren Newell (2007) admitted taking votes that benefitted him, including one that resulted in the county helping to pay for a study on whether a rock quarry could be used as public reservoir. He didn't disclose that his engineering firm would collect a \$2.4 million "success fee." He pleaded guilty to honest services fraud.

The Palm Beach Post

REAL NEWS STARTS HERE

Palm Beach County politics'
history of corruption



McCarthy, Newell, Masilotti



The Wild, Wild West (Palm Beach)

- ▶ County Commissioner Mary McCarty was accused of directing bond underwriting contracts from governments to her husband's offices at investment banks and of receiving at least \$10,000 in hotel discounts from owner Ocean Properties Ltd., which was chosen by the county commission to build a downtown West Palm Beach hotel. (2009)
- ▶ County Commissioner Jeff Koons (2010) pleaded guilty to extortion and perjury.

Palm Beach County's reputation



09/29/11

Caldwell Pacetti Edwards Schoech
& Viator LLP, Attorneys at Law

3



The Wild, Wild West (Palm Beach)

- ▶ West Palm Beach commissioner Ray Liberti admitted in 2006 to taking \$66,000 plus a \$2,000 watch from a businessman who wanted to force a massage parlor operator to sell low. Liberti used code enforcement violations to get it done.
- ▶ West Palm Beach Commissioner Jim Exline was accused of pocketing \$50,000 to help a developer subdivide a property, then not reporting the earnings on his tax return (2007).
- ▶ In 2007, Palm Beach County Commissioner Tony Masilotti was sentenced to five years in prison for a series of Palm Beach County Commission votes related to land deals in which he had secret interests.



The Wild, Wild West (Palm Beach)

- ▶ In 2009, following federal investigations and a series of reports in The Palm Beach Post, then-State Attorney Michael McAuliffe convened a special grand jury charged with investigating public governance and corruption.
- ▶ The grand jury's key recommendation was one with staying power: The county needed a strong inspector general with real authority.





OIGs and Ethics

OIGs are tasked with ferreting out corruption in government. Thus, OIGs should engage in the highest ethical decision-making when performance of its duties in order to instill public confidence in OIG investigations, audits, and evaluations.

An ethical work environment is best promoted by:

- ▶ a. Management's communication that ethics is a core value.
- ▶ b. An understanding that ethical behavior is expected, and every employee is responsible and held accountable for ethical conduct in the workplace.
- ▶ c. A comprehensive set of ethics laws, rules, codes, procedure and policies.



Professional Ethics: A Friend In Need Is A Friend Indeed

What's the test for friendship/when does friendship require recusal?

What should IG staff consider?



Professional Ethics: A Friend In Need Is A Friend Indeed

ABA Formal Opinion 488 – Judicial Disqualification or Disclosure

The ABA Ethics Committee identified three categories of relationships between judges and lawyers: acquaintanceships; friendships; and close personal relationships.





Professional Ethics: A Friend In Need Is A Friend Indeed

- ▶ The Committee concluded that judges are not required to disqualify themselves or make disclosure when they are merely **acquainted** with a lawyer — for instance through being members of the same worship-place, gym or civic organization, or even having been co-counsel on a case before the judge took the bench.
- ▶ **Friends** may be **casual** (periodically meeting for a meal, staying in touch through calls or correspondence) or **closer** (routinely spending time together, vacationing together, sharing a mentor-protégé relationship developed while colleagues). Not all friendships require disqualification, but there may be situations “in which the judge’s friendship with a lawyer or party is so tight” that there might be reasonable questions about the judge’s impartiality.
- ▶ “Other intimate or close personal relationships with a lawyer or party” at least require disclosure “even if the judge believes that he or she can be impartial,” and could require disqualification — it depends on the circumstances.
- ▶ Existing or desired romantic relationships require disqualification.



Professional Ethics: A Friend In Need Is A Friend Indeed

- ▶ The ABA opinion does not discuss social media “friendship.”
- ▶ *Law Offices of Herssein & Herssein, P.A. v. United Servs. Auto. Ass’n*, Case No. SC17-1848, 2018 Fla. LEXIS 2209 (Fla. Nov. 15, 2018)– The Florida Supreme Court ruled in a divided opinion that there is no basis to single out social media “friendships” between judges and lawyers for a per se rule of judicial disqualification.
- ▶ Facebook ‘friendships’ regularly involve strangers. The mere existence of a Facebook ‘friendship’ between a judge and an attorney appearing before the judge, without more, does not reasonably convey to others the impression of an inherently close or intimate relationship. No reasonably prudent person would fear that she could not receive a fair and impartial trial based solely on the fact that a judge and an attorney appearing before the judge are Facebook ‘friends’ with a relationship of an indeterminate nature.”
- ▶ Arizona, Kentucky, Maryland, Missouri, New Mexico, New York, Ohio, South Carolina, and Utah agree. **Other state courts have disagreed.**



Professional Ethics: A Friend In Need Is A Friend Indeed

Greenbook: Quality Standards for Offices of Inspector General

INDEPENDENCE

B. Background

The inspector general is responsible for establishing and maintaining independence so that OIG opinions, conclusions, judgments, and recommendations will be impartial and viewed by others as impartial. The inspector general and OIG staff should consider not only whether they are independent and whether their own attitudes and beliefs permit them to be independent, but also whether there is anything about their situation which might lead others to question their independence. All situations deserve consideration since it is important that the OIG be as independent as possible and impartial in fact and in appearance.



ASSOCIATION
OF
INSPECTORS
GENERAL





Professional Ethics: A Friend In Need Is A Friend Indeed

Greenbook: Quality Standards for Offices of Inspector General

INDEPENDENCE

C. Personal Impairments

There are circumstances in which the Inspector General and OIG staff cannot be impartial because their personal situations may create actual or perceived conflicts of interest. In such situations, the OIG staff who are affected by these circumstances should disqualify themselves from an OIG review and allow the work to continue without them. Personal impairments may include, but are not limited to, the following:

- ❑ Official, professional, personal, or financial relationships that might appear to lead the OIG to limit the extent of the work, to limit disclosure, or to alter the outcome of the work.
- ❑ Preconceived ideas toward activities, individuals, groups, organizations, objectives, or particular programs that could bias the outcome of the work.



ASSOCIATION
OF
INSPECTORS
GENERAL





Professional Ethics: A Friend In Need Is A Friend Indeed

- ▶ Even when no actual conflict of interest exists, IGs must always try to avoid any suggestion that some personal interest interfered with their decision-making process.
- ▶ All decisions must be fact-based and in the public interest. Facts that could be interpreted to suggest a conflict of interest need to be explained/considered.



ASSOCIATION
OF
INSPECTORS
GENERAL





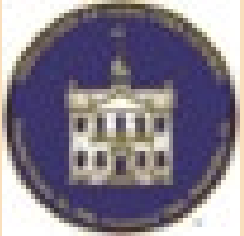
Professional Ethics: The Smell Test

Do OIG ethical standards require/permit the OIG to produce a report pointing out “awful but lawful” conduct?

If yes, how “awful” must the conduct be?

What is the standard/test for “awful but lawful”?

Does the impact on the employee matter?



Professional Ethics: The Smell Test

Palm Beach County OIG 2014-0009 WB – Tanya McConnell

PBC OIG received anonymous complaint that the County Engineering and Public Works Department Chair of the Engineering Short List Committee improperly voted for firms with whom she maintained close personal relationships and improperly influenced the votes of other committee members.



Professional Ethics: Rose by any other name

Is it ever appropriate for the OIG to actively use truthful statements to influence the reader's (public, media, management) beliefs/views on a subject?

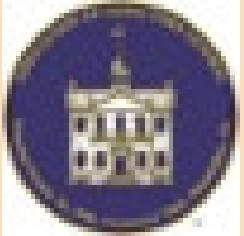
Can you unethically tell the truth?



Professional Ethics: Rose by any other name

Words are never created equal. Even synonyms vary as far as connotation. Thus, it is important to consider word choices and ask:

- ❑ What information am I presenting?
- ❑ Is this the best possible word choice? Your word choices affect the attitudes your readers have toward you, your subject matter, and the witnesses/subject.
- ❑ Do your word choices convey bias or insinuate something that you do not wish to communicate?
- ❑ Active language is preferred; can passive language be appropriate? Misleading?



Professional Ethics: Rose by any other name

Grand Jury Report– *“Individual Unethical Behavior within the City of West Palm Beach Ethics Committee”*– January 31, 2007

“....City of West Palm Beach Mayor Lois Frankel announced the formation of an Ethics Committee. She appointed all members including her friend State Representative Mary Brandenburg....

In July 2006, after her appointment to the Ethics Committee, Mary Brandenburg met with members of the Northwood Renaissance, a non-profit community development corporation in the north end of the city of West Palm Beach.... Northwood Renaissance members expected Rep. Brandenburg to address these ethical issues as part of the Ethics Commission’s work and create some type of code of conduct of acceptable behavior.

Mary Brandenburg dismissed that discussion and immediately addressed her own agenda, a lesson on how to get things done in the City of West Palm Beach....”



Professional Ethics: Rose by any other name

Weigand, et al. v. Royal Caribbean Cruises Ltd. (1:19-cv-25100 (S.D. Fla. 2019))—suit filed by the family of an 18-month-old girl who died after her grandfather lost his grip on her and she fell through a cruise ship window.

Judge says court documents resemble Jerry Springer script, orders lawyers to rewrite 'inflammatory' filings:

The plaintiffs accused Royal Caribbean Cruises of

1. engaging in “corporate misconduct [which] ... appears to know no bounds....”
2. engaging in “merciless efforts to frame an innocent man, intentionally destroy evidence, and mislead this honorable court (and the U.S. Coast Guard and the Puerto Rican authorities)....”
3. lying when they wrote about “the disingenuously evolving nature of defendant’s false narratives” and the cruise line’s “ever-changing stories.”

Royal Caribbean Cruises called a motion by the plaintiffs “beyond disingenuous” and “a salacious, unfounded and libelous hit piece.”



Professional Ethics: Rose by any other name

- ▶ Bill Gates could oust Melinda French Gates from their foundation in 2023. – CNN, 7/7/21
- ▶ Bill Gates Can Remove Melinda French Gates From Foundation in Two Years. – New York Times, 7/7/21
- ▶ Melinda French Gates will resign if she and Bill Gates can't work together at their foundation. – CNBC, 7/7/21



ASSOCIATION
OF
INSPECTORS
GENERAL





Professional Ethics: Have a Coke and a Smile

When is a gift not a gift? When is accepting a gift permitted?

How does the theory of reciprocity impact OIGs?



ASSOCIATION
OF
INSPECTORS
GENERAL





Professional Ethics: Have a Coke and a Smile

- ▶ Florida: Unauthorized Compensation
S. 112.313(4), F.S.
- ▶ Prohibits an official, his spouse, or his minor child from accepting anything of value when the official knows, or under the circumstances should know, that it was given to influence a vote or other official action.





Professional Ethics: Have a Coke and a Smile

Florida: Section 112.3148, F.S.

Applies to “**reporting individuals**” (state and local); and to “**procurement employees**” (who exist only at the state level): RIPLEs.

- X Solicit gifts from lobbyists, principals, vendors
- X Accept gifts worth **more than \$100** from lobbyists, principals, vendors
- Must report gifts worth **more than \$100** received from others
- May accept gifts of any value from relatives.



Professional Ethics: Have a Coke and a Smile

The "Coca-cola" experiment

- ▶ The "Coca-cola" experiment is probably the most well known study on reciprocity. It was published in 1971 by Dennis Regan.
- ▶ When we receive a gift, the regions of the brain associated with emotion and decision-making light up. Studies show that receiving a gift triggers a cognitive desire to give something in return of equal or greater value. In psychology this is known as the theory of reciprocity or social reciprocity.





Professional Ethics: Have a Coke and a Smile

The Christmas Card Experiment

- ▶ In 1974, Phillip Kunz and his family got a record number of Christmas cards.
- ▶ Kunz didn't know any of them.
- ▶ Kunz was a sociologist at Brigham Young University. Earlier that year he'd decided to do an experiment to see what would happen if he sent Christmas cards to 600 total strangers.
- ▶ Kunz got more than 200 replies--number of letters that were written, some of them three, four pages long.



Professional Ethics: Have a Coke and a Smile

1. Can gift-giving be awful but lawful?
2. Should OIG employees accept water, mints, or bagels when attending meetings with those being audited, evaluated, or investigated?
3. Should OIG employees give water, mints, or bagels to accreditation agency or peer review volunteers?



ASSOCIATION
OF
INSPECTORS
GENERAL





Professional Ethics: When The IG Speaks, People Listen

Should IGs comment to the media on the subject's response to the Report?



Professional Ethics: When The IG Speaks, People Listen

Palm Beach County OIG– City of Delray Beach – Grants Program Investigative Report – 2019-0004

“Once at the purported “interview,” it became clear to Stewart’s counsel that the OIG was not conducting an interview, but rather executing an interrogation. Stewart’s counsel....based his conclusion on the method of questioning, the phrasing of questions and the obvious “gotcha” techniques being employed.”

“...the OIG in effect was attempting to sandbag Stewart.....”

“A legitimate investigation would have prioritized review of ____’s employment records and inquired into ____’s well documented history of petty and false accusations....”



Other Considerations for OIGs

Can Prioritizing projects trigger ethical considerations?

Is full disclosure/honesty always the best policy? Should an employee/subject's be named in a report when the allegation is not substantiated?

Is there a bridge too far when building report with witnesses or subjects during interviews?



Questions or Comments