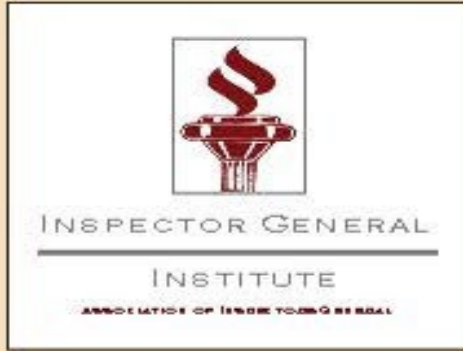


Certified Inspector General Auditor Course



INSPECTOR GENERAL INSTITUTE
TRAINING AND CERTIFICATION FOR INSPECTION
AND OVERSIGHT PROFESSIONALS

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

Presented by:

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



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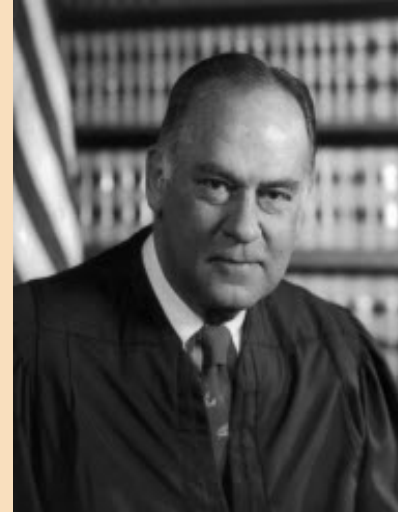
Course Objectives

- ❑ Describe basic principles of ethics
- ❑ 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 means a set ideas, customs, values, or attitudes affiliated with a group or society.
- ▶ Merriam–Webster: “Ethics”
 - the discipline of 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.”**

Ethical behavior is
doing the right thing
when no one else is
watching- even when
doing the wrong thing
is legal.

Aldo Leopold



What is “ethics”?





What is “ethics”?



**“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 establish what is acceptable behavior and to govern their decision-making process, e.g., codes of business ethics, codes of conduct for employees, and codes of professional practice.
- 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
- ❑ Professional Standards
- ❑ Rules and Regulations
- ❑ Organization Codes of Ethics
- ❑ Policies
- ❑ Other





Sources of Ethical Standards

Examples of Laws (Federal/State/Local)

- 18 U.S.C. § 201 – Bribery of public officials and witnesses
- 18 U.S.C. § 207. Restrictions on former officers, employees, and elected officials of the executive and legislative branches
- Federal Ethics in Government Act of 1978
- Part III of Chapter 112, Florida Statutes
- Palm Beach County Code of Ethics



Sources of Ethical Standards

Ethics Concepts in Law (Federal/State/Local)

- Conflicts of Interest
- Receiving something of value, gifts, and gratuities
- Misuse of office or abuse of public position
- Nepotism
- Secondary Employment



Sources of Ethical Standards

Ethics Concepts in Law (Federal/State/Local)

- **Nepotism**

Generally defined as the bestowal of patronage by public officers in appointing others to positions by reason of blood or marital relationship.

Several states restrict nepotism by expressly prohibiting public officials from hiring relatives. In states where the practice is not explicitly prohibited, conflict-of-interest laws may still address facts relating to nepotism.

Key differences between anti-nepotism laws tend to involve the a) types of relationships that qualify, b) penalties for violations, c) types of public officials or employees prohibited from hiring relatives, and d) role of the public official or employee in hiring or overseeing the relative.



Sources of Ethical Standards

Ethics Concepts in Law (Federal/State/Local)

- Conflicts of Interest

§112.311, F.S. Legislative intent and declaration of policy.—

(1) It is essential to the proper conduct and operation of government that public officials be independent and impartial and that public office not be used for private gain other than the remuneration provided by law. The public interest, therefore, requires that the law protect against any conflict of interest and establish standards for the conduct of elected officials and government employees in situations where conflicts may exist.



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 (ACFE)
- The Florida Bar's Rules of Professional Conduct



Professional Ethics

American Institute of Certified Public Accountants (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.



Personal 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

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





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.

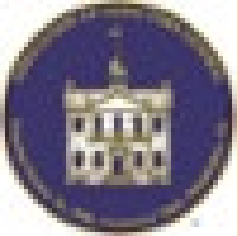


The Good Samaritan Experiment

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?).



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 congressman: Representative Mark Foley (2005) and Tim Mahoney (2008).
- ▶ 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, an ethics code, and a commission on ethics.





OIGs and Ethics

Ethical Myths:

1. It is easy to be ethical.
2. Unethical behavior is committed by “a few bad apples.”
3. Ethical behavior can be accomplished through formal ethical codes.
4. Ethical leadership is about leader integrity.
5. People are less ethical than they use to be.



OIGs and Ethics

An ethical work environment is best promoted by:

- a. Management's communication that ethics is a core value.
Communicate that ethical behavior is expected, and every employee is responsible and held accountable for ethical conduct in the workplace.
- b. Set the tone at the top– Model ethical behavior.
- c. Develop a comprehensive set of ethics laws, rules, codes, procedure and policies, with penalties for violations.
- d. Continuous Ethics Training.

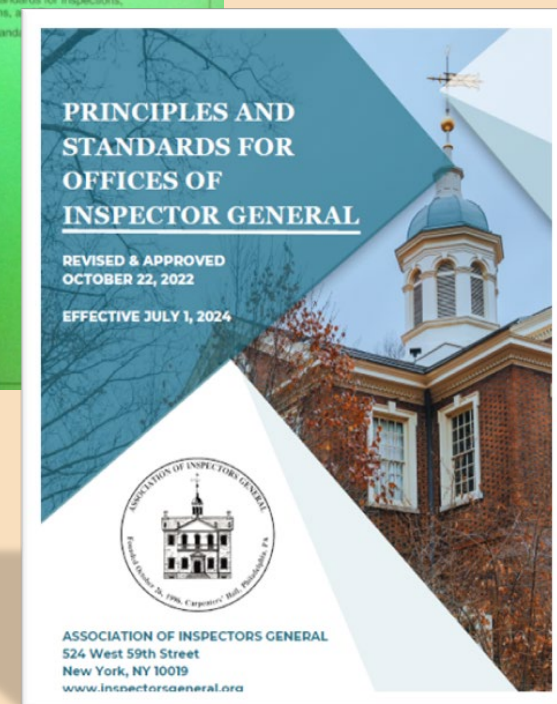
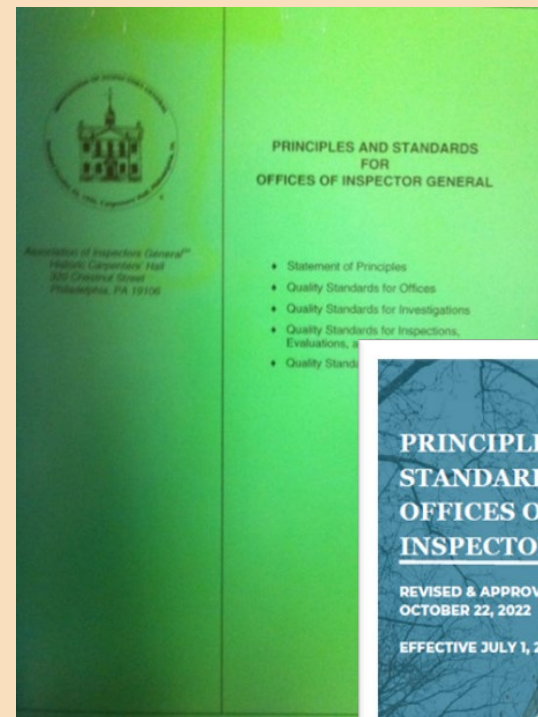




OIGs and Ethics

General Standards for Investigations, Inspections, Evaluations, and Reviews:

- ▶ Independence
- ▶ Due Professional Care





OIGs and Ethics

Greenbook: Quality Standards for Offices of Inspector General

INDEPENDENCE

The Inspector General and OIG staff involved in performing or supervising any assignment should be free from personal or external impairments to independence and should constantly maintain an independent attitude and appearance.



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Greenbook: Quality Standards for Offices of Inspector General

INDEPENDENCE (cont.)

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 and allow the work to continue without them.



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Greenbook: Quality Standards for Offices of Inspector General

INDEPENDENCE (cont.)

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.



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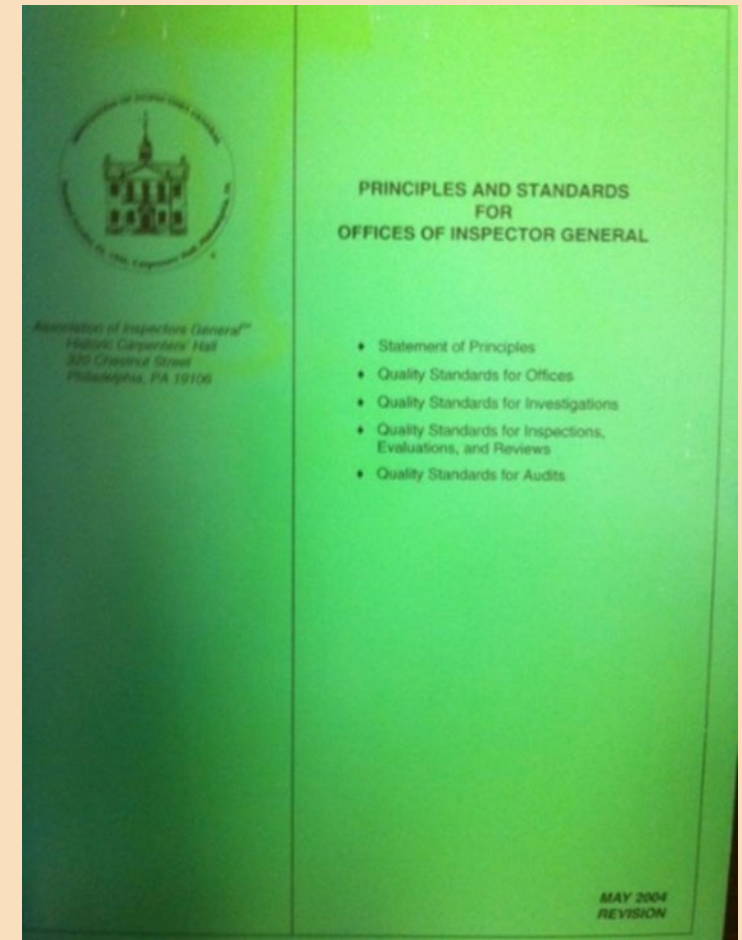


OIGs and Ethics

Due professional care includes:

Objectivity – Evidence should be gathered and reported in a fair, unbiased manner in an effort to determine the validity of alleged improprieties or evaluate the likelihood of violations of statutes, rules, or regulations.

Ethics – At all times the actions of the OIG investigators should conform with the high standards expected of OIG staff.





OIGs and Ethics

Greenbook: STATEMENT OF PRINCIPLES FOR OFFICES OF INSPECTOR GENERAL

“The public expects OIGs to hold government officials accountable This public expectation is best served by inspectors general when they follow the basic principles of integrity, objectivity, independence, confidentiality, professionalism, competence, courage, trust, honesty, fairness, forthrightness, public accountability and respect for others and themselves.”



OIGs and Ethics

- ▶ 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.



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OIGs and Ethics

State's top investigator resigns over conflict of interest

January 26, 2023

Longtime Florida Fish and Wildlife Conservation Commission Inspector General resigned following allegations that he shared confidential information about a criminal investigation with a complainant with whom he shared an inappropriate relationship and who was the wife of the subject of the investigation.

Investigators found that he did not recuse himself nor disclose a conflict of interest in a matter. No disciplinary action was recommended by the Office of the Chief Inspector General.

He told the Orlando Sentinel, "The appearance was not good, and I would never intentionally violate the law."



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OIGs and Ethics

Report reveals troublesome whistleblower complaints against Jacksonville's Inspector General

December 17, 2021

JACKSONVILLE, Fla. — A newly released report by Jacksonville's Office of General Counsel details nine different allegations against Inspector General Lisa Green. The report shows all the allegations were proven to be true.

Now, the committee that appointed Green must decide whether to remove her from office. Whistleblowers said Green made unwelcome sexual comments to employees at work, including an incident where Green allegedly proposed a threesome with one employee.

Weeks later: Inspector General Lisa Green resigned amid allegations of aggression and sexual harrassment from her assistant.

In a letter to the Inspector General Committee, Green denies all allegations against her, calling the investigation a "sham."



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OIGs and Ethics

*United States Senate
Subcommittee on Financial and Contracting Oversight
Committee on Homeland Security and Governmental Affairs*

*Claire McCaskill, Chairman
Ron Johnson, Ranking Member*

Investigation into Allegations of Misconduct by the Former Acting and Deputy Inspector General of the Department of Homeland Security

STAFF REPORT



After receiving numerous whistleblower allegations of misconduct by the Acting Inspector General and Deputy Inspector General of the Department of Homeland Security, the Senate Subcommittee on Financial and Contracting Oversight staff initiated an investigation into these allegations in June 2013.

The Subcommittee found that the Acting IG jeopardized the independence of the OIG. They concluded he had an inadequate understanding of the importance of OIG independence. He had frequent communications and personal friendships with senior DHS officials. He did not obtain independent legal advice and directed reports to be altered or delayed to accommodate senior DHS officials. Additionally, he did not recuse himself from audits and inspections that had a conflict of interest related to his wife's employment.



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-protegee 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*, 271 So.3d 889 (Fla. 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: 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”?



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 (bias)?



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

Can ethics be an issue when writing OIG reports?

Three examples of new articles on the same topic.



Professional Ethics: Rose by any other name

■ <https://www.fox4news.com/news/woman-removes-confederate-flag-in-front-of-sc-statehouse>

Woman Removes Confederate Flag in Front of SC Statehouse

“COLUMBIA, S.C. (AP) -- The Confederate flag was temporarily removed from the front of the South Carolina Statehouse on Saturday when a woman climbed the flagpole and -- despite calls by police to get down -- removed the banner.

Bree Newsome, 30, of Charlotte, North Carolina, was about halfway up the more than 30-foot steel flagpole just after dawn Saturday when officers of the South Carolina Bureau of Protective Services told her to get down. Instead, she continued climbing to the top and removed the banner.

She and a man who had climbed over a four-foot wrought-iron fence to get to the flag were arrested.

The flag, which is protected by state law, was raised about 45 minutes later. Flag supporters planned a rally at the monument later on Saturday.....

About the time of her arrest, Newsome released an email statement to the media.

"We removed the flag today because we can't wait any longer. We can't continue like this another day," it said. "It's time for a new chapter where we are sincere about dismantling white supremacy and building toward true racial justice and equality."



Professional Ethics: Rose by any other name

- ▶ <https://www.theguardian.com/us-news/2015/jun/27/woman-removes-confederate-flag-south-carolina-statehouse>

Activist pulls down Confederate flag in front of South Carolina statehouse

An activist in South Carolina climbed a flagpole in Columbia early on Saturday morning and removed the Confederate flag flying in front of the capitol building. The woman's action came a day after President Barack Obama gave the eulogy for a black pastor who was murdered by an apparent white supremacist along with eight other people in a Charleston church last week.

A woman identified by a protest organizer as Bree Newsome, a 30-year-old youth organizer from Charlotte, North Carolina, climbed the flagpole before 6am and took down the controversial emblem of the antebellum, slaveholding south, with the assistance of another activist. Newsome was halfway up the 30ft pole when police demanded that she climb back down, but she continued upward and removed the flag.

Activist Mervyn Marcano told the Guardian that when Newsome returned to the ground she and James Ian Dyson were arrested by capitol police and taken to a detention center.....



Professional Ethics: Rose by any other name

<https://splinternews.com/why-bree-newsome-is-a-true-american-patriot-1793848824>

Why Bree Newsome is a True American Patriot

On June 27th, activist Bree Newsome scaled a South Carolina Statehouse flagpole and yanked down the Confederate battle flag. As police officers shouted for her to come down, Newsome declared into the early morning light: "You come against me with hatred, oppression, and violence. I come against you in the name of God. This flag comes down today."

Predictably, debates ensued in comments sections and on Twitter about whether Newsome should have worked through the political system instead of taking matters into her own hands. But Newsome's actions demonstrate a masterful understanding of the founding principles of this nation, marking her as a crusader devoted to upholding the constitutional rights of people still struggling to be free.

This is particularly significant considering the founders of the United States were white landowners and slaveholders whose ideas about liberty were meant to apply only to that class of people. Newsome's resistance lies in enforcing the principles of a document that was never meant to apply to her.

By pointedly (and flawlessly) exercising her constitutional rights, Newsome has emerged as the true definition of a patriot – a person willing to risk her own freedom to ensure that the United States lives up to the ideals we promise in our pledge of allegiance: Liberty and justice for all....



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?



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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):

- 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 lawful but awful?
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?



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Final Thought on Ethics: Leadership's Impact

Nothing is more powerful for employees than seeing their managers behave according to their expressed values and standards: nothing is more devastating to the development of an ethical environment than a manager who violates the organization's ethical standards.

Dan Rice and Craig Dreilinger

Authors, *Rights and Wrongs of Ethics*



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Questions or Comments