Office of Development, Testing, and Dissemination
National Institute of Law Enforcement
and Criminal Justice
Law Enforcement Assistance Administration
United States Department of Justice

INVESTIGATIVE INTERVIEWS

PARTICIPANT MANUAL

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For use in the

NATIONAL CRIMINAL JUSTICE EXECUTIVE TRAINING PROGRAM

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MAINTAINING MUNICIPAL INTEGRITY

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NATIONAL CRIMINAL JUSTICE

EXECUTIVE TRAINING PROGRAM

Through the Executive Training Program, new criminal justice programs and methods created and tested under the sponsorship of the National Institute of Law Enforcement and Criminal Justice have been introduced to thousands of local officials. Many of these officials have subsequently used this new knowledge to enhance the efficiency and effectiveness of criminal justice activities in their localities.

The Institute's Office of Development, Testing, and Dissemination is carrying forward another year of the Executive Training Program to give local criminal justice decision-makers additional new techniques emerging from Institute-sponsored research. We look forward to the program's continued success, not only in improving the effectiveness of the criminal justice system, but also in helping local governments to provide services in the face of shrinking budgets.

Blair G. Ewing, Acting Director
National Institute of Law
Enforcement and Criminal Justice

NATIONAL CRIMINAL JUSTICE EXECUTIVE TRAINING PROGRAM

Introduction

The National Criminal Justice Executive Training Program is a nationwide training effort that offers officials of state and local jurisdictions the opportunity to learn about improved criminal justice practices and programs. The National Criminal Justice Executive Training Program is operated by the National Institute of Law Enforcement and Criminal Justice (NILECJ), the research center of the Law Enforcement Assistance Administration (LEAA), U.S. Department of Justice.

The National Institute supports wide-ranging research on the many legal, sociological, psychological, and technological areas related to law enforcement and criminal justice. It also follows through with the essential steps of evaluating research and action projects and disseminating information on successful efforts to encourage early and widespread adoption.

As LEAA's research, evaluation, and training arm, the Institute works to devise improved methods to control crime and strengthen the criminal justice system and to train law enforcement and criminal justice personnel as well as legislators, mayors, and researchers to use these more promising approaches.

The National Criminal Justice Executive Training Program is a major vehicle for transferring research results to actual application in police departments, courts, correctional institutions, and related agencies across the country. In this program, senior criminal justice administrators and other decision-making officials of courts, corrections, and police agencies in each state are selected to participate in workshops and other training activities held across the country to learn about new procedures.

Goals

The primary goal of the National Criminal Justice Executive Training Program is to enable criminal justice executives and policymakers to bring about adoption of improved courts, corrections, and police practices. These improved practices are derived from National Institute research findings, or designed and validated by the Institute's Office of Development, Testing, and Dissemination through its Program Models publication series and Exemplary Projects program. They are the embodiment of the Institute's policy of sharing knowledge and proven practices to enable local agencies to be self-directing and self-reliant to the maximum extent possible.

To introduce the new practices throughout the nation, the Institute's Executive Training Program:

- Informs influential policymakers in the larger agencies about new practices and their potential for improving the criminal justice system

- Gives them the knowledge and skills needed to apply these methods in their jurisdictions.

Strategies that have been tested or that promise improved effectiveness of efficiency are presented in Regional Training Workshops, Field Test Training, Local Training, and Special Topical Workshops.

The training topics are selected from among the most promising concepts developed under OJARS auspices. These include models derived from:

- Research Results--Improved criminal justice practices identified through research findings

- Exemplary Projects--Projects that have demonstrated success in controlling specific crimes or that have demonstrated measurable improvement in criminal justice performance

- Program Models--Syntheses of the most advanced strategies, including operational guidelines, that can be followed in locales throughout the country.

The Integrated Criminal Justice Executive Training Program assembles a team of nationally recognized experts for each training subject. Extensive support services are also provided including multi-media development, editing and publication of training materials, comprehensive evaluation, training methodology, and logistical support.

Program Activities

Several major activities are being carried out to encourage local jurisdictions' use of improved criminal justice practices derived from research and evaluation.

Regional Training Workshops

Eight workshop series were presented across the country between late 1976 and early 1978, and four new topics are being presented in the third year of the program. Each three-day workshop is devoted to one topic and attended by 50 to 70 top criminal justice policymakers of the larger agencies from throughout the multi-state regions of workshop presentations. In the 1976-77 cycle, participants learned how to manage successfully the change processes in:

- Managing Criminal Investigations

  Application of systemwide management techniques to increase the successful solution and prosecution of major crimes with reduced resources.

- Inmate Care and Management

  Procedures that improve the efficiency of inmate selection, usage, and retention with significant cost savings.

- Prison Grievance Mechanisms

  Strategies essential to achieving prompt and equitable resolution of problems and grievances, with benefits for both prison staff and inmates.

- Race and the Courts

  Understanding of and skill in the delivery of services in these systems through nationwide coordination of agencies and programs.

In the 1970-71 cycle of the project, workshops were presented across the nation on:

- Managing Patrol Operations

  Improved management skills in matching police resources and workload demands, and facilitating citizen participation to increase police patrol effectiveness in the face of diminishing resources.

- Developing Sentencing Guidelines

  The development of articulated sentencing policies to guide structured judicial discretion toward reducing sentencing disparity among similar offenders and types of crimes to increase equity in the administration of justice.

- Health Care in Correctional Institutions

  Improving health care of inmates in prisons and jails by assessing needs and problems, developing improved methods and procedures, and identifying required resources based on legal and medical standards.

- Victim/Witness Services

  Identification of victim/witness services requiring initiation, improvement, coordination, and/or further study; training in implementation skills and plans for improving the interaction and relationships between the criminal justice system and victims and witnesses.

In Cycle III, beginning in September 1983, workshops are being presented on:

- Community Crime Prevention

  Representatives of police organizations, city administrations, and community-based organizations from similar communities will learn about community crime prevention program models and skills needed to assess, design, and implement appropriate programs in their communities.

- Maintaining Municipal Integrity

  This workshop series will focus on local government and the training emphasis will be on practical indicators of corruption, which officials can use to diagnose the extent of their problem, will be applied to real and case study governments, and prescriptions for prevention will stress accountability through special management methods that can be used by mayors or county executives, city and county managers, and police chiefs.

- Operating a Defender Office

  In the six years since the U.S. Supreme Court ruled in Argersinger v. Hamlin, states and local jurisdictions have established a growing number of publicly financed defender offices to ensure the provision of counsel for persons unable to pay for it. To equip managers of these offices with the needed skills, training will focus on four topics: case management, budgeting, personnel administration, and external office relationships.

- Improved Probation Strategies

  This topic focuses on improving management techniques in probation offices in a time of fiscal and program crisis. Thus, overall management areas such as planning, resource allocation, budgeting, and effective use of support services will be stressed. Improved program strategies, such as special intensive probation, community resource

[illegible], and techniques of [illegible] investigative reporting, will be used to give many examples of ways to improve programs.

Participants in all the workshops receive [illegible] typical program planning guides, self-instructional materials, handouts, and manuals. Certificates acknowledging attendance are awarded at the conclusion of training.

Technical and Regional Training Workshops, up to six days of follow-on training (also called Local Training) are available in each region to assist local agencies in the direct application of skills learned in the workshops' exercises and [illegible].

Training packages are developed and furnished to any requesting agency that is interested in implementation. Included are outlines, training aids, and other related resource documents.

Field Test Training

Field tests ensure the new procedures in a real-world setting and evaluate their effectiveness and transferability to other jurisdictions throughout the country.

The representatives from the test sites discuss Field Test Training designed to:

- Develop test site staff to operate or implement pilot tests
- Identify applicable tools for local training
- Determine the most effective format for training materials to the local sites
- Acquaint the sites in evaluation research implication [illegible] to familiarize their evaluators [illegible] stated with their experiences.

During 1978, field test sites were selected to implement projects in Managing Criminal Investigations and Juror Usage and Management. Five police agencies were involved in the field test phase in Managing Criminal Investigations:

- Birmingham, Alabama
- Montgomery County, Maryland
- Rochester, New York
- Santa Monica, California
- St. Paul, Minnesota.

Eighteen courts were involved in the Field Test program in Juror Usage and Management:

- Connecticut State Courts
- Middlesex County (New Brunswick), New Jersey

- Delaware County (Muncie), Indiana
- Jefferson County (Beaumont), Texas
- Spokane County, Washington, Idaho
- Gallo County (Dallas), Texas
- St. Louis County (Duluth), Minnesota
- Salt Lake City, Utah
- Multnomah County (Portland), Oregon
- Hamilton County (Cincinnati), Ohio
- Suffolk County (Boston), Massachusetts
- New York, New York
- Dade County (Miami), Florida
- Bexar County (San Antonio), Texas
- East Baton Rouge Parish (Baton Rouge), Louisiana
- Polk County (Des Moines), Iowa
- Hennepin County (Minneapolis), Minnesota
- Ada County (Boise), Idaho

In 1971, the Executive Committee proposed [illegible] Corrections Service Center Evaluation Sites in Atlanta, [illegible] of the [illegible]. A Neighborhood Justice Center is a [illegible] program that [illegible] a community [illegible] and more [illegible] out-of-court, [illegible] resolved by [illegible] and by [illegible]. The Centers permit and [illegible] people to [illegible] the [illegible] of [illegible] and deliberation to disputes. The Executive Committee [illegible] to [illegible] to prepare [illegible] applications, [illegible] and [illegible] for the project costs of the [illegible] [illegible] by local [illegible] [illegible] to the Center [illegible] and [illegible] of [illegible] [illegible].

Beginning Cycle III, [illegible] will be the [illegible] of Field-Test Training [illegible] Probation Officers, [illegible] Patrol Officers, [illegible] and Improved Correctional Field Services.

Three jurisdictions will be involved in Field Test Training in Pre-Sentence Services: New Orleans, Philadelphia and Prince George's County, Maryland. These "test sites" will use implementing procedures similar to those developed for a [illegible] Center in Montgomery County, Maryland, which pilot has been [illegible] project. The purpose of the testing is to determine if a correctional [illegible] program can reasonably [illegible] the [illegible] behavior and [illegible] adjustment of selected jail and prison inmates.

Two of the Cycle III Field Test Improved Patrol Operations Training Sites--Dallas and Cincinnati--involve training in the implementation strategies and techniques initiated at Cycle II Original Training Sites for Improved Patrol Operations; training will be conducted in Albuquerque, Charlotte and Sarasota. Training sites for Developing Sentencing Guidelines will be designated in [illegible] time.

Field Test Training in Improved Correctional Field Services also will be conducted at three test sites. These sites--Yuba County, Illinois; Albany, New York; and Jacksonville, Florida--are involved in an effort to test the effectiveness of probation risk screening procedures as they are used in combination with different levels of supervision.

Special National Workshops

Special National Workshops are the third part of the National Criminal Justice Executive Training Program. They are single events held for selected criminal justice policymakers and researchers on significant topics chosen by the National Institute. Recommendations for problem-solving are provided by criminal justice experts and practitioners who have dealt with these problems as well as theoretical and analytical contributions can be helpful in the implementation effort.

The workshops fall into three general categories:

1. Transferred research to the community of practitioners--The functions here are to address differences in perception between research and operational perspectives, to test the validity of research findings in light of operational experience, to assess practitioners' needs for additional knowledge, and to disseminate new information to the operational community.

2. Collaboration among researchers--The functions here are to advance the state-of-the-art in a given topic area, particularly in areas where "real world" changes are affecting the criminal justice system, to share new findings, and to clarify directions for future research.

3. Special target audiences--Here the effort is to reach groups such as elected officials, planners, or evaluators and to inform them of current research and validated information on advanced practices.

The Special National Workshops presented during the first year of the Executive Training Program were:

- Appropriate v. Mandatory--This presentation focused on the problems associated with the provision of legal counsel to all indigent defendants facing incarceration, based on the 1972 Supreme Court decision.

- Update '77--Mayors and county chairpersons from across the nation gathered in Washington, D.C., to discuss the role of local elected executives in planning and developing programs in law enforcement and criminal justice. Research findings by NILECJ and other agencies were reviewed as potential solutions to major problems.

- Determinate Sentencing--This workshop provided an in-depth analysis of this contemporary trend and its effect on police, prosecutors, judicial systems, and correctional systems at the national and state levels, including current legislation and laws in California and Indiana and current bills.

During Cycle III, Special National Workshops focused on:

- Forensic Science Services and the Administration of Justice--This workshop's goal was to integrate perspectives, among and between police executives, prosecutors, judges, defenders, criminal justice educators, and forensic scientists to promote an interdisciplinary exchange of views that could lead to fuller use of scientific resources in criminal justice.

- Pretrial Release--This workshop brought together judges who represented each of the 50 states as well as 15 judges from federal district courts who are involved in a demonstration project to examine the process, issues, and alternatives in the pretrial release of defendants.

- Stochastic Modeling--Among the more promising techniques of crime analysis, stochastic modeling was discussed at this workshop by executives and crime analysts seeking insights into the kinds of analysis possible with this technique.

- Update '78--Following the success of Update '77, this workshop provided an opportunity for additional mayors, county executives, and other local officials to examine their role in criminal justice decision-making, gain new perspectives on what is being done in other jurisdictions, explore current criminal justice research, and raise issues and concerns from the local point of view.

- Plea Bargaining--This workshop was designed to clarify the issues surrounding plea bargaining and to provide a means for reporting on the results of important research projects. A number of papers commissioned for the workshop received widespread dissemination through subsequent publication in Law and Society Review.

- Mental Health Services in Jails--This workshop focused on effective models for mental health service delivery to jail inmates, including analyzing the existing situation within a correctional institution, coping with the stress-related problems of incarceration, diagnosing acute mental illness, treatment and diversion, and using available community mental health services for inmate populations.

Prospective Special National Workshops topics for Cycle III include a National Evaluation Workshop, Research Utilization for State Planning Agencies, and Collective Disorders.

As part of the Special National Workshops, the National Criminal Justice Executive Training Program staff also provides support to meetings of the NIMCJ Advisory Committee.

Results

An impact evaluation conducted three months after the last workshop in Cycle I indicates the effects of the Executive Training Program: Officials from more than half the agencies represented said they are implementing one or more of the specific aspects of the knowledge gained through research and information-sharing presented at the workshops:

- Three-fourths of the police officials reported making changes in some aspect of their management of criminal investigations--the initial investigation, case screening, and the continuing investigation.

- Over half the representatives from court systems reported making changes in their juror usage and management programs--summons procedures, record-keeping, and monitoring/evaluation.

- Correctional officials reported implementing changes in their systems, although in slightly fewer numbers than either the police or court representatives. They focused on changes in their prison grievance mechanisms, encouraging such innovations as inmate/staff participation, written responses, and monitoring and evaluation.

- More than three-fourths of the participants at the Rape and Its Victims Workshops reported an increase in cooperation among community agencies to improve services to rape victims.

Similar concrete results are anticipated for Cycles II and III of the National Criminal Justice Executive Training Program. Not only is the program apparently equipping criminal justice executives and other policymakers with the knowledge and skills to improve the delivery of criminal justice services in their communities and create a safer environment, but it also is giving participants a personal benefit--the chance to enhance their own skills and career potential.

About the Office of Development, Testing, and Dissemination

The Office of Development, Testing, and Dissemination is responsible for distilling research, transforming the theoretical into the practical, and identifying programs with measurable records of success that deserve widespread application. As part of its program, ODTD also provides financial and

professional assistance in adaptation and tests of selected practices in several communities, and offers training for criminal justice executives nationwide. The result is that criminal justice professionals are given ready access to some of the best field test programs and experimental approaches that exhibit good potential.

OMTD has developed a structured, organized system to bridge: (1) the operational gap between theory and practice, and (2) the communication gap between researchers and criminal justice personnel scattered across the country. OMTD's comprehensive program provides:

- Practical guidelines for model criminal justice programs
- Training workshops for criminal justice executives in selected model programs and other promising research
- Field tests of important new approaches in different environments
- On-site training visits for criminal justice executives to agencies operating successful innovative programs
- International criminal justice clearinghouse and reference services for the entire criminal justice community.

HOW THIS WORKSHOP SERIES WAS DEVELOPED

Correction of corruption in government has been a source of serious concern to the U.S. Department of Justice for some time. In a recent address, U.S. Attorney General Griffin Bell listed corruption control as one of the Department's highest priorities and said:

> I believe that, in the wake of Watergate, this administration has no task more important than restoring trust in our public offices. I have expanded the Public Integrity Section of the Department's Criminal Division and made it clear that they will receive my full support in pursuing corruption cases wherever they may lead--no matter how highly placed or influential the perpetrators may be.
>
> On long and difficult cases where extra help is needed by a United States Attorney, a prosecutor from the Public Integrity Section is sent to the field to provide multidistrict coordination or to lend expertise. We are also working to increase the efforts of United States Attorneys, many of which have special corruption units in their offices. We also help train investigators and guide their efforts to ferret out public corruption.

Ferreting out public corruption is only one side of the department's attack. To carry out its legal mandate to assist state and local governments in their work, the Justice Department's National Institute of Law Enforcement and Criminal Justice decided that providing training for municipal officials in measures to prevent corruption was the most effective strategy.

Decision Memorandum

In a Decision Memorandum issued in January 1978, which selected Municipal Corruption Prevention as a topic for training, NILECJ described the problem in these words:

> Until recently, little documentary information as to the extent of corruption in the day-to-day dealings of municipal regulatory and criminal justice agencies was available, and the lack of this data was probably a major cause of the pervasiveness of the problem. Currently, a survey of federal court records found that federal prosecutions of public officials for corruption reached an all-time high of 337 in 1976 and that the rate of convictions was a high of some 75 percent. Federal indictments of municipal officials for bribery and extortion have been rising steadily, especially in the last decade.

less is known about the arrest and prosecution of municipal officials by local authorities. One survey has indicated, however, that at least 50 percent of reported municipal corruption cases concerned themselves with either bidding and contracting or land-use regulation. In real estate, so much profit is at stake that bribes mount into seven figures. In New York City, over half of the building inspectors in Manhattan were arrested in one investigation.

Though little hard information is available on the extent of municipal corruption, there can be little doubt that no one section of the country has a monopoly on corruption in public affairs. There have been indictments in all sections of the country. Also, the visible level of such corruption is probably only the "tip of the iceberg" because none of the persons involved in such crimes is likely to volunteer to report them.

An analysis of the available literature does clearly indicate, however, that there are few systemic approaches to the problem. Most prosecutions have resulted as a reaction from an excess of misfeasance or malfeasance. Investigations have been on a case-by-case basis and usually have been after the fact. There is little evidence that there has been any effort to focus upon common factors within municipalities which tend to facilitate the growth of corrupt practices in public affairs. Though indicators and diagnostic tools of the extent of corruption are available, they have not been employed to any extent around the country. Though preventive tactics have been developed within some local agencies, they have not been incorporated to any significant extent in most municipalities.

However, there are sufficient effective systematic approaches in NILECJ research and other literature for diagnosis and prevention of municipal corruption to prepare a meaningful and effective executive training program on this crime problem.

Literature Review

The first step in development of training for this subject was an extensive review of the literature. Bibliographies and abstracts furnished by the National Criminal Justice Reference Service were searched, as well as references furnished by other sources.

The literature, as acknowledged in NILECJ's Decision Memorandum, focuses primarily on police corruption. Further, the extant literature seems to concentrate on corruption cases on the Eastern Seaboard, particularly New York City, and is generally devoted to comprehensive and sociological treatment of corruption, rather than measures to prevent it.

One academic with a long history of study of the problem put it succinctly, "There is beaucoup writing about corruption, but zilch on what to do about it."

One major study funded by NILECJ, "Corruption in Land-Use and Building Regulation," provided the broadest perspective of local-government corruption, even though it acknowledged the paucity of accurate information about the problem.

Training Questions

Review of the available research on corruption raised a number of questions for development of a training strategy.

The first question: "What is the subject?" was generated from the very enormity of the topic. Corruption is as wide ranging in its scope as in its cost. It could include organized crime, white collar or economic crime, political corruption, police corruption, abuse of authority, bribery, fraud, conflict of interest, graft, political campaign financing, contracts, land use, zoning, building, procurement, misfeasance, malfeasance, nonfeasance, and so on.

Another question was: "What should be the content for training?" The Decision Memorandum had spoken of a prevention strategy, using diagnostic tools and proactive correction measures. The literature provided some indicators of conditions of corruption, but very little in the way of specific proactive measures for correction and even less empirical data on systematic approaches.

"What should be the goal for training?" required a choice between a consciousness-raising, general-awareness design for training, or one with a goal of transferring specific, applicable, how-to kinds of information.

The question: "Who should be training?" issued from the other questions. For maximum impact in preventing corruption, who needs, and could put into action, the content of training?

A further--and sticky--question was: "Will they come to a workshop?" Prior to selection of corruption as a topic for training, police chiefs and patrol chiefs attending two other NILECJ workshops were questioned about their interest in a possible workshop on corruption. Their responses were almost unanimously negative, for a variety of reasons.

Preplanning Meetings

For answers to these and other questions, a series of preplanning meetings were conducted among NILECJ specialists, staff on University Research Corporation, the training contractor, staff members of SRI International, which had done the two-year study of corruption and was preparing a program model, and other researchers and practitioners with significant experience.

One preplanning session in July brought together these people:

- Lawrence Sherman, professor at State University of New York, Albany, who has published several works on police corruption;
- Graham Watt, president of the National Training and Development Service for State and Local Government, Washington, D.C., who is former city manager and deputy mayor;

- John Gardiner, professor at the University of Illinois, Chicago Circle, Illinois, who has taught and written about corruption;

- Victor I. Cizauskas, chief of police of Stamford, Connecticut, who is dealing with severe municipal corruption;

- David T. Austern, Washington, D.C., attorney who has served with the New York City Rackets Squad and with the U.S. Department of Justice.

The meeting of these persons addressed the training questions and provided enough guidance toward resolution to permit drawing up a proposed training strategy paper which could be the subject of discussion of a planning conference.

Planning Conference

The 15 persons who attended the planning conference on August 10, 1978, included those who had participated in the preplanning sessions; municipal officers, such as city and county managers and police chiefs; representatives of national organizations--International City Management Association and National Association of Counties--and staff of NILECJ and LEC.

The planning conference resolved a number of the training questions. The content was narrowed by the conclusion to focus primarily on prevention of corruption, as opposed to enforcement. Stress was to be put on measures which help create an ethical environment in municipal government. This, and the concern over whether potential participants would attend a workshop with the label "corruption" in its title, led to changing the title to Maintaining Municipal Integrity.

The planning conference adopted a goal for the workshop which included attention to the problem of corruption and its cost and consequences, with emphasis on proactive measures which can be implemented by municipal officials to ensure and support integrity in government.

Needs Assessment

Concurrent with planning for development of the workshop, a needs assessment instrument was designed and mailed to officers in 100 municipal jurisdictions. In addition, telephone interviews were conducted with a small number of officials.

Compilation of responses to the needs assessment disclosed some ironies in the approaches of public officials. Although they listed a number of factors as important in maintaining integrity in government, most listed responses having to do with "open government."

About half of the respondents described their governments as using many of a list of measures to protect integrity, and most felt their employees were aware of policies and procedures which prohibit unethical behavior. They also felt a special program to preserve integrity would be accepted favorably by government employees, the community, the media, and council members or commissioners.

In general, responses tended to suggest that officials were satisfied with practices and policies now in use to maintain integrity in their jurisdictions. A few indicated that corruption was no problem for them.

But in answer to a question on whether they would be interested in attending a workshop on maintaining integrity and in bringing other public officials with them, about three-fourths of them said they would like to participate in the workshop.

Trainer Selection

Once the strategy for the workshop was defined, a national search for members of the training team was conducted. Planning conference participants, national organizations, NILECJ officers, and practitioners were consulted for recommendations. From a list of 36 trainer prospects, a training team was chosen.

Detailed development of the workshop content and methodology was then carried on by the training team, working with CRC training specialists and NILECJ officials.

MUNICIPAL CORRUPTION PREVENTION
PLANNING MEETING
CHEVY CHASE, MD
AUGUST 10, 1978

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MAINTAINING MUNICIPAL INTEGRITY

Content Questionnaire

NAME _____ TITLE _____

CITY/COUNTY/STATE _____

TELEPHONE NUMBER _____

* * * * *

1. How long have you held your present position? _____
2. What do you believe are the most important factors in maintaining the integrity of government? _____

_____

_____

_____

_____

3. Which of the below listed measures does your jurisdiction or department now use to protect the integrity of government?
   - Officially Adopted Code of Ethics _____
   - Training for new and old employees on ethical standards _____
   - Financial disclosure statement required of 1. all employees _____; 2. some employees _____ (Category?) _____
   - Conflict of interest restrictions spelled out in legislation _____
   - Policies or legislation requiring open meetings and records _____
   - Internal audit controls over payroll, time and attendance, inventory _____
   - Financial transactions audited by external auditor _____
   - Internal affairs investigation unit _____
   - Unit for handling citizen complaints, such as ombudsman _____

- Deregulation of cumbersome procedures, such as few regulations? ____
- Laws requiring reporting of campaign contributions _____
- Provision for open and recorded decisions by regulatory agencies _____
- Community "watchdog" group which monitors government ____
- Laws which define and regulate procurement practices ____
- Personnel policies which define ethical behavior _____
- Other, please specify _____

_____

_____

4. Does your government have definite policies or procedures so that employees know what is expected of them on the matter of:

Accepting tips ____ Accepting gifts ____ Accepting free meals ____

Fixing tickets ____ Using government vehicles ____ Moonlighting ____

5. If you were to undertake a special program to preserve integrity and prevent corruption, what do you think the reaction would be:

- by government employees? Positive ____ Negative ____ Why? _____

_____

_____

- by the community? Positive ____ Negative ____ Why? _____

_____

_____

- by the media? Positive ____ Negative ____ Why? _____
- by councilmen or commissioners? Positive ____ Negative? ____ Why? ____

_____

_____

_____

6. If the 2-1/2 day workshop covered: diagnostic tools by which you could assess the integrity of your government or department; moral codes, policies and laws which help promote integrity; management practices which serve to prevent corruption, and ways to use community resources to maintain integrity, would you attend the workshop?

Yes____ No_____ Why Not?_____

7. Would you be willing to have other officials of your government attend with you?

Yes____ No_____ Who? (by title)_____

8. If you were to attend such a workshop, what would be most useful to you to have covered in the curriculum?_____

TRAINING TEAM

David T. Austern

Mr. Austern, the team leader, is a practicing attorney and partner in a Washington, D.C., law firm.

He is also an adjunct professor of law at the Georgetown University Law Center, Washington, D.C., a lecturer for the American Academy of Judicial Education, and a member of the faculty of the U.S. Department of Justice Trial Advocacy Institute.

Mr. Austern's legal career has included considerable experience in criminal justice and corruption cases. For three years, he was an assistant district attorney in New York City. He was assigned to the Rackets Bureau to carry out investigations and prosecute cases of corruption resulting from major investigations of city and state departments and agencies.

Mr. [illegible] has been an assistant U.S. Attorney with the U.S. Department of Justice conducting trial work in felony prosecutions and fraud investigations, and was an attorney-advisor to the Organized Crime Program Division of the Law Enforcement Assistance Administration. This post included conducting conferences for state and local officials on how to combat organized crime and corruption.

As director of the Office of Criminal Justice Plans and Analysis (the State Planning Agency for the District of Columbia), he was adviser to the Mayor and criminal justice agencies of Washington, D.C.

Mr. Austern is a graduate of the University of Pennsylvania and Yale Law School. His publications have included articles on street law and legal services for indigents.

John H. Ball

Mr. Ball is presently Chief of Police of Charleston County, South Carolina. In 1975, in the wake of the federal criminal conviction of the Chairman and Vice Chairman of the Charleston County Council and the indictment of the former Chief of Police, Mr. Ball was selected as a reform chief. After a nationwide search and given a mandate to eliminate police corruption, clean up vice, and reorganize the County Police Department.

Subsequently, through joint local-federal investigative efforts, the former police chief, three police command officers, a state alcoholic beverage control commissioner and a citizen were convicted and sentenced on federal charges stemming from a series of payoffs in organized vice activities. Chief Ball also planned and implemented an anti-corruption and integrity program to restore public confidence in the County Police Department.

Chief Ball served previously as Chief of Police in Jamestown, New York, from 1972 to 1975. From 1970 to 1972, he was assistant professor of criminal justice at the State University of New York at Buffalo. He has been involved in criminal justice training and operations at local, state, and federal levels for 17 years.

Currently, Chief Ball is chairman of the board of directors of the American Academy for Professional Law Enforcement, a member of the board of directors of the Police Executive Research Forum, and a member of the Organized Crime Committee of the International Association of Chiefs of Police.

He graduated from Canisius College, Buffalo, New York, with a bachelor's degree in accounting, and received a master of public administration degree from the State University of New York.

Walter J. Chanaman

Mr. Chanaman was appointed Chief of Police of Stamford, Connecticut, in May 1977, after a newspaper exposed widespread corruption in the city's government. Since his appointment, a three-year federal grand jury has been convened and a one-man state grand jury has been authorized. Several city officials and contractors have been arrested; one has been convicted, and others are awaiting trial.

Mr. Chanaman served as Chief of Police of Menlo Park, California, from 1969 to 1977.

He has written about 30 publications on police and social problems. He is the coauthor of Modern Police Management and Innovations, published by Charles Ball in 1977. He has served as a consultant to the Law Enforcement Assistance Administration, the Ford Foundation, and several municipalities throughout the country. He was a member of the California Criminal Justice Council from 1975 to 1977.

Mr. Chanaman is a graduate of Contra Costa College, Belmont, California, and holds degrees in sociology and police science from the College of San Mateo. He is also a credentialed California teacher.

Thomas W. Fletcher

Mr. Fletcher is associate director and senior urban management specialist of the Center for Urban and Regional Policy of SRI International, Menlo Park, California.

He is one of the principal authors of SRI's six-volume study of corruption in land-use and building regulation and the Program Model used for this workshop, Prevention, Detection, and Correction of Corruption in Local Government.

Mr. Fletcher was formerly city manager of San Jose and San Diego in California and was deputy mayor of Washington, D.C. He also served as deputy assistant secretary for public housing of the U.S. Department of Housing and Urban Development. He has been associate professor in the Graduate School for

Public Administration, Golden Gate University, San Francisco, and was a founder and first president of the National Training and Development Service for State and Local Government, Washington, D.C.

He is the author of numerous articles on public administration and was editor of a symposium on continuing education for public administration for Public Administration Review in 1973.

He is a graduate in business administration and has done graduate work in public administration at the University of California at Berkeley and is a doctoral candidate at the University of Southern California.

Among his assignments at SRI International have been research in state and local government needs, productivity assessment, technology assistance, and the role of the private sector in the District of Columbia.

Theodore R. Lyman

Mr. Lyman is senior policy analyst of the Center for Urban and Regional Policy, SRI International, Menlo Park, California.

He is also one of the principal authors of the SRI six-volume study of corruption in land-use and building regulation and of the Program Model for this workshop.

He also has written several articles on criminal justice and public administration, with a special concern for systems analysis.

Among his assignments have been serving as project leader for human services planning, preparing an organization study for the Office of the Mayor of Los Angeles, leadership of projects to design automated information systems for four counties in California, and preparing a study for a council of governments of political implications of governmental consolidation.

He is a graduate in business administration with a master's in public administration from California State University, Hayward.

Ora A. Spaid

Mr. Spaid is a URC training specialist who was assigned to the development and design, training of trainers, and production of film segments for this workshop. He has served as training design consultant for workshops on Jury Usage and Management, Rape and Its Victims, Developing Sentencing Guidelines, Pretrial Release, Urban Crisis Management, and Forensic Sciences.

He was a newspaperman for 15 years, with extensive experience covering the criminal justice system and government. His work has received four national awards and is cited in five reporting textbooks.

After leaving journalism, he worked in educational television and then became director of a community action agency in North Carolina. Later, he organized a national training organization to train community development professionals.

He spent 10 years as an independent consultant on assignments involving intercultural relations, personnel administration, grantsmanship, training, program design, management, urban affairs, and special studies.

He is the author of numerous manuals, reports, and articles in a wide variety of publications and subjects.

He is a graduate in social psychology of Northwestern University and holds a master's degree in journalism.

John W. Danner

Mr. Danner is police program manager for the Office of Development, Testing, and Dissemination of the National Institute of Law Enforcement and Criminal Justice, LEAA, U.S. Department of Justice. He monitored the development and delivery of this workshop.

Mr. Danner is a retired deputy inspector for the New York City Police Department. During his 21 years on the force there, he served in a wide range of assignments from patrol to criminal investigation to planning. As a precinct commander, he organized a "satellite program," under which police officers took college courses, leading to undergraduate and graduate degrees, which were conducted at the precinct station house. The program was later extended to 20 precincts.

After his retirement, he served as a police specialist for two years with the New York State Criminal Justice Planning Agency. He joined the staff of NILECJ two years ago.

He holds a baccalaureate degree and a master's degree cum laude from John Jay College.

MAINTAINING MUNICIPAL INTEGRITY

Workshop Schedule

DAY I

	REGISTRATION	11:00 a.m. - 1:00 p.m.
Session 1	Introduction	1:00 p.m. - 1:10 p.m.
Session 2	The Problem and Practice of Maintaining Municipal Integrity	1:10 p.m. - 2:35 p.m.
	BREAK	2:35 p.m. - 2:50 p.m.
Session 3	Ethical Basis of Public Service	2:50 p.m. - 4:45 p.m.
Session 4	Integrity Checklist	4:45 p.m. - 5:10 p.m.
	SOCIAL HOUR	5:10 p.m. - 6:30 p.m.

DAY I

SESSION 1

1:00 - 1:30 p.m.

INTRODUCTION

Rationale

Persons attending this workshop represent various governmental jurisdictions in the area and occupy a variety of positions in their governments. They may be unfamiliar with each other and with the sponsors of the workshop and they have only limited knowledge of the purpose and structure of this workshop.

Goal

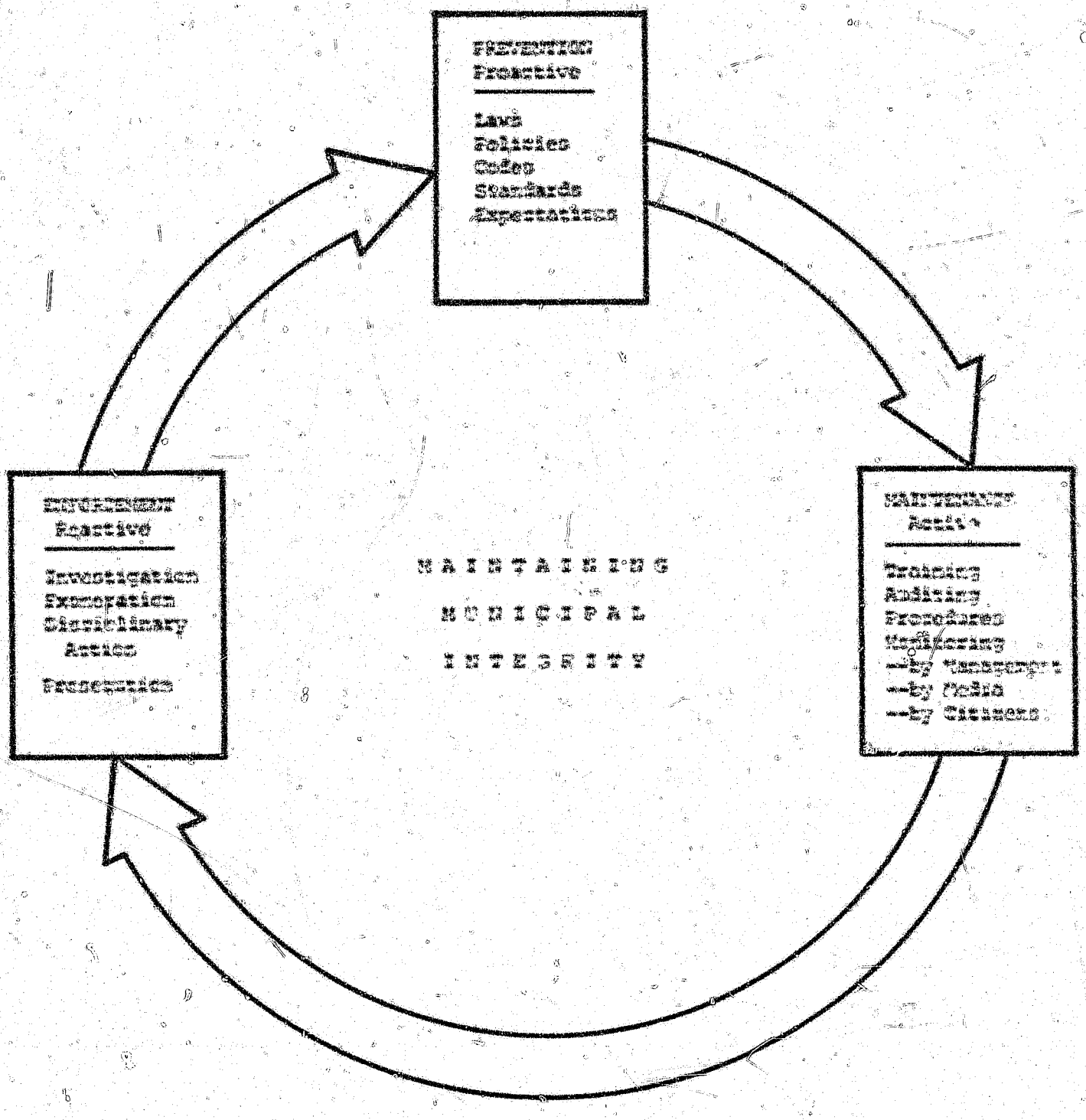
In this opening session, participants will be introduced to each other and to members of the training team. The selection of Maintaining Municipal Integrity as a training topic and the development and plans for this workshop series will be described.

The goal and structure of the workshop will be explained along with the unique role which participants will play during the workshop.

OVERALL GOAL

The goal of the Workshop on Maintaining Municipal Integrity is:

- To affirm the importance of integrity in government,
- To describe the cost and consequences of corruption,
- To provide public officials with methods to assess the condition of their government's integrity, and
- To inform them about preventive measures they can implement to support government integrity.


PREVENTION
Proactive
Laws
Policies
Codes
Standards
Expectations
ENFORCEMENT
Reactive
Investigation
Exemplation
Disciplinary
Action
Prosecution
MAINTENANCE
Auditing
Procedures
--by Transport
--by Media
--by Citizens
MAINTAINING
MUNICIPAL
INTEGRITY

DAY I

SESSION 2

1:10 - 2:35 p.m.

PROBLEM AND PRACTICE OF MAINTAINING MUNICIPAL INTEGRITY

Rationale

Citizens have a right to expect that government will function in a manner deserving of the public's trust. That expectation does not guarantee the reality of integrity in government. Specific, proactive measures must be taken to assure that public officials and employees perform in a manner which maintains integrity. To carry out such a performance requires addressing the problem of maintaining integrity.

Goal

In this session, participants will view a film which depicts an extreme example of a corruption-ridden city. They will hear a presentation which describes the range, cost, and consequences of corruption; some indicators of the potential for corruption; evidence that the problem is not beyond control; and measures in laws and policies, management, and administration (and through assistance, from outside government) to control corruption and maintain government integrity.

THE PROBLEM AND PRACTICE OF MAINTAINING MORAL INTEGRITY

1. Definition of Corruption
2. Extent of Corruption
3. Cost of Corruption
4. Anatomy of Corruption
5. How to Detect Corruption

Table 1

CITIZENS' ESTIMATES OF THE EXTENT OF BRIBERY
AND OTHER ILLEGAL ACTIVITIES IN CITY GOVERNMENT

A. Percentages of Responses*

City	"Great Deal"	"Some"	"A Little"	"Almost None"	"Other"
Albuquerque	11%	37%	20%	14%	18%
Atlanta	25	43	16	4	12
Baltimore	15	30	22	3	10
Boston	34	36	12	4	14
Denver	8	40	20	11	21
Kansas City, KS	16	24	18	20	32
Kansas City, MO	17	40	14	9	20
Milwaukee	7	35	22	19	17
Pueblo	22	37	21	6	14
San Diego	9	38	21	15	17
Averages	19%	37%	18%	9%	17%

*Data were collected as part of the Urban Observatory Program funded by the Department of Housing and Urban Development. The question asked was "In some cities, officials are paid to take bribes and make money in other ways that are illegal. In other cities, such things almost never happen. How much of that sort of thing do you think goes on in (this city)?"

Source: Caputo, 1975, p. 65

GEOGRAPHICAL DISTRIBUTION OF CASEFINDING

Census Regions and Divisions	Percent of 1970 U.S. Population	All Cases of Corruption Number	All Cases of Corruption Percent	Corruption in Land Use and Building Regulation Number	Corruption in Land Use and Building Regulation Percent
New England	5.7	16	4.1	1	3.6
Middle Atlantic	17.5	81	21.8	14	18.2
Northeast	23.2	97	26.1	17	21.8
East North Central	19.2	121	32.3	12	15.6
West North Central	7.8	10	2.7	1	1.3
North Central	27.0	130	34.9	13	16.9
South Atlantic	15.5	58	15.6	17	22.1
East South Central	6.4	12	3.2	2	2.6
West South Central	9.8	32	8.6	3	3.9
South	32.0	102	27.4	22	28.6
Mountain	4.5	8	2.2	2	2.6
Pacific	13.3	37	9.9	9	11.7
West	17.8	45	12.1	11	14.3
Total	100.0	372	100.0	83	100.0

Table 3

DISTRIBUTION OF OBSERVED TYPES AMONG TYPES OF TRANSPORT

Type of Transport	All Evacuation Cases		Land Use Cases	
	Number	Percent	Number	Percent
Personal car	196	52.7	13	47.1
Bus or telephone car	43	11.6	11	39.3
Ferry	123	33.0	3	10.7
Unknown	12	3.2	—	—
Total	372	100.0	28	100.0

Table 4

The Cost of a Bribe

Example A - City purchasing agent specified Westport Bolmite Gravel, produced by one company, when it had no advantage.

Cost to city
- Excess cost of gravel
+ Loss of city credibility in letting contracts
+ Increased likelihood of future "rigged" contracts

Cost to supplier
- Amount of bribe
+ Likelihood that future contracts will require bribes
+ Uncertainty about size of future bribes
+ Possibility of prosecution

Cost to competitors
- Cost of future bribes they will have to pay to obtain city business

Cost to taxpayers
+ Inflation in the cost of public works

Table 5

THE COST OF A BRIBE

Example: - Speeder pays patrol officer $10 to forget violation.

Cost to city
- Loss of fine
- Loss of city credibility in traffic enforcement
- Damage to police credibility

Cost to driver
- Amount of future bribes
- Increased likelihood that he will be collected for bribes in situations other than speeding
- Possibility of being prosecuted

Cost to other drivers
- Increased likelihood that they will be stopped in marginal situations in the hope that they will pay a bribe

Cost to taxpayer
- Tax burden of law enforcement costs increased by
- Loss of revenue from fines
- Loss of some control over traffic because size of bribe is so much less than insurance premium increase for speeding ticket it no longer acts as an incentive to drive within the limits

Table 6

SCENARIOS WITH DIFFERENT ELEMENTS

Great opportunity, large incentive, low risk;

Great opportunity, small incentive, low risk;

Some opportunity, small incentive, high risk;

Slight opportunity, large incentive, high risk;

Great opportunity, small incentive, high risk.

THE ELEMENTS OF AIMS

MANAGEMENT ENVIRONMENT

MANAGEMENT CONTROL

POINT OF MANAGEMENT

INVESTIGATION

TRAINING

MANAGEMENT TEAM

DAY I

SESSION 3

2:50 - 4:45 p.m.

ETHICAL BASIS OF PUBLIC SERVICE

Rationale

Government integrity ultimately roots upon the personal integrity of public servants. Before undertaking measures to regulate the ethical behavior of others, public officials should consider the ethical basis of public service and experience the dilemmas which are encountered in setting their own standards of ethical behavior.

Goal

This session will include a presentation of ethics theory, covering the mandate for ethical behavior in public law and the expectations of citizens, factors which motivate persons to high standards of ethical conduct, and the responsibility of leadership.

Participants will be given an opportunity to examine their own ethical standards through a questionnaire on ethical dilemmas. They will share their conclusions and observations with others in small groups. Answer sheets are to be turned in to permit a compilation of results and a feedback report which will allow participants to compare their answers with those of others.

II. THE ETHICAL BASIS OF PUBLIC SERVICE

"There is no form of Government but what may be a blessing to the people if well administered...this [government] is likely to be well administered for a course of years, and can only end in Despotism as other forms have done before it, when the people shall become so corrupted as to need despotic Government, being incapable of any other."

Benjamin Franklin, 1787

There can be no possibility of corruption where there is not an idea of integrity, just as there is no possibility of immoral or unethical conduct without some idea of what is moral or ethical. Paula Gordon has developed a map that clearly delineates the parameters of what can be understood by "corrupt practice" and by "ethical conduct" on the part of those who serve in government. She has identified three basic types of conduct:

- Conduct based on no ethics--conduct totally divorced from any perspective reflecting ethical or moral commitment.

- Value-neutral conduct--conduct that maintains a neutrality with respect to values, ethically based goals, and purposes.

- Value-based ethics--conduct that reflects basic values and principles which should be seen as being intrinsic to every level of government in a free society. These basic values would include the values of life itself, of health, and of individual and societal freedom. Principles would include those of integrity, fair play, and justice. The preservation and enhancement of the public good, of the public interest is the goal of value-based ethical conduct within the context of government in a free society.

Gordon, 1977

The concept of the public good, of government that aims at serving the public interest is fundamental to ethical conduct in government. Similarly, conduct based on an absence of ethics or "value-neutral" conduct is not compatible with serving the public good or the public interest in a free society. Depending on the circumstances, "value-neutral" conduct can be just as damaging as conduct based on an absence of ethics. Value-based ethics can result in conduct that is mistaken, but never in conduct that is corrupt.

To illustrate, let us draw a profile for a person representing each of the three situations, and call them Profile of a Scoundrel, Profile of a Gray Functionary, and Profile of a Public Servant. The scoundrel represents the absence of ethics, the gray functionary represents "value-neutral" ethics, and the public servant represents value-based ethics.

Profile of a Scoundrel

- Commits illegal acts or delegates others to commit them, or covers up illegal acts.
- Engages in wrongdoing, delegates others to engage in it, or covers up wrongdoing.
- Makes use of the weaknesses, mistakes, or frailties of others to promote his/her own gain ("Winning ain't everything, it's the only thing") or to build his/her empire.
- Makes life difficult (and promotion impossible) for those who do their work properly ("make the others look bad") or who expose the wrongdoing of others.
- Withholds or distorts information, whether to circumvent the law (or the intent of the law), to prevent knowledge of wrongdoing, or simply to exercise power.
- Conducts business, delivers services, and addresses societal problems from the point of view of personal power and personal gain, regardless of waste, inefficiency, or injustice.
- Considers expressions of the needs and desires of the public as irrelevant, if not funny.

Profile of a Gray Functionary

- Doesn't commit illegal acts or delegate others to do so, and doesn't cover up, but doesn't blow the whistle either.
- Doesn't engage in wrongdoing or delegate others to do so, but feels no need to expose wrongdoing unless great advantage is to be gained.
- More interested in doing exactly what is expected of him/her than in doing what's needed ("that's not in my job description"); more interested in keeping things going smoothly than in righting wrongs ("I don't want any trouble").
- Not concerned with integrity, whether individual or organizational, but solely with organizational or personal survival--willing to sacrifice the whistle-blower (or watch someone else do it) "for the good of the department" or to remove the employee who is critical of the way things are done ("just a troublemaker").

- Gives information only grudgingly, and then only as much as is asked for, and then only in the form that shows the organization in the best possible light.

- Conducts business, delivers services, addresses societal problems wholly in terms of cost/effectiveness ratios, units produced or completed (number of forms filled out or number of garbage cans emptied per hour) rather than in terms of the real needs of the public; appears insensitive to human needs either of employees or of the public.

- Pays so much attention to process that the public interest is disserved ("Sorry, sir, it just says we have to fill out this blank--it doesn't say anywhere that it has to make sense").

Profile of the Public Servant

- Does not commit or delegate the commission of illegal acts or other wrongdoing, nor condone or excuse the behavior of those who do.

- Wants to do the best possible job, and to have his/her employees do the best possible job; to have advancement based on merit.

- Sees to it that those who do their jobs well do not lose their jobs, that whistleblowers are not punished, and that valid employee criticisms result in improvements rather than retaliation.

- Withholds information only when legally or ethically necessary, and maintains honest and open communication.

- Conducts business, delivers services, and addresses societal problems in a way that responds to real public needs, is sensitive to human values and dignity, and conserves resources (human, fiscal, and material).

- Makes sure that purpose and service take precedence over process, and that his/her work serves the public interest and maximizes the values of life, health and individual and societal freedom.

Given the above profiles, let us explore how each of these types would approach a particular situation--in this case, having an official car to use for business only and having a golf date:

- The Scoundrel drives the car to the country club, plays golf, drives his golf partners to the next state where gambling is legal, drives back the next day, has the city mechanic set the odometer back somewhat, puts in expense claims for a trip to the state capital, declares his gambling losses on his income tax, and deducts the whole trip as a business expense.

- The Gray Functionary wants to drive his car to the country club but doesn't because somebody might see him, and keeps quiet about seeing the Scoundrel's car there, because he doesn't want trouble.

- The Public Servant arranges for someone to sit in for him while he is gone, takes his own car to the country club, phones in a report about having seen an official car there (with the number of the car), and on his return writes a memo about it to the city attorney.

This example highlights the difficulty of imposing such an ethical basis on popular culture. Obviously, it is far better, under ordinary circumstances, to be the Gray Functionary in such a case. The situation becomes even more disagreeable if it is assumed that the Scoundrel is the department head and both the Gray Functionary and the Public Servant are department employees. The Public Servant would then have to be not only a sanctimonious prig but also incredibly foolish.

However, the hopeless situation just presented can be modified somewhat. Suppose, in addition to the factors noted above, we add these:

- Management control--Every trip in a city car outside the city limits must be accounted for by a log that indicates who was visited, what was discussed, and what hour the car was returned. The city garage must log mileage as the car enters the garage and again as the car leaves it, and the logs are not available to the mechanics.

- Audit control--On a random basis, mileage logs of official cars are checked against the trip logs of the officials those cars are assigned to. Also on a random basis, any expense claim for any out-of-city trip is audited to the extent of checking by phone with persons cited in the log as being visited. On a routine basis, gasoline purchases are totalled by computer according to the car and official using the gasoline, and any above-average amounts are checked out with both the mileage log and the trip log.

- Investigation--An investigative unit checks out, immediately, any report of a possible impropriety--as much to clear wrongful imputations as to verify wrongdoing.

- Training--The city's policy in regard to the use of official cars is clearly spelled out in training sessions that all officials must attend when they are assigned official cars. The reason for the policy--not only to prevent impropriety but to conserve public resources--is made clear, as are the controls and the penalties. It is made clear that the system is not rigid--that prior statements of intent to use an official car for a particular circumstance can be filed, and

in emergencies a notice of exception can be filed immediately after the incident (for example, if an official car is commandeered by the police for hot pursuit that leads out of the city).

Clearly, in this modified situation, where the wrongdoing is much more likely to come to public notice even if no report is made, far less penalty is attached to "ratting on one of our own," since an immediate report could forestall a far more serious offense. Of course, the offence is far less likely to occur in this modified situation than in the situation where officials are simply issued cars as a prerogative of the office, and neither management nor audit control is required.

At the same time, neither management control, audit control, investigation, training, or a management team is likely to function or exist unless a very clear ethical basis has been established for public service in the city. The Appendix gives a map of the range of concerns encompassed by Paula Gordon's "Ethics and the Public Service--Recommendations for the Training of Public Servants" (Gordon, 1977). A bibliography of writings on ethical conduct for public servants can be found in a report of O.P. Dwivedi, University of Guelph, Guelph, Ontario, Canada (Dwivedi, 1977).

Taken from An Anticorruption Strategy for Local Governments, by Thomas Fletcher, Paula Gordon, and Shirley Hentzell, September 1978, National Institute of Law Enforcement and Criminal Justice, Washington, D.C.

MAP OF THE FORCES OF CONCERNS ENCOMPASSED BY "ETHICS AND THE PUBLIC SERVICE"

No Ethics	Value Neutral or Relative Ethics-Indifference to Value-Based Ethics	Value-Based Ethics
Committing or delegating the commission of illegal acts	Not committing or delegating the commission of illegal acts because they are illegal, not because they are wrong	Not committing or delegating the commission of illegal acts
Engaging in or delegating the engagement in other forms of wrongdoing	Not engaging in or delegating the engagement in other forms of wrongdoing because it is inexpedient to do so	Not engaging in or delegating the engagement in other forms of wrongdoing
Failing to report or failing to take action concerning wrongdoing	Selectively reporting or taking action concerning wrongdoing when it is expedient to do so	Reporting wrongdoing or taking action concerning wrongdoing
Covering up wrongdoing	Selectively dealing with wrongdoing	Uncovering wrongdoing
Lying or giving a false impression of the truth	Being truthful selectively	Being truthful
Engaging in conning	Giving false impressions when it is expedient to do so	Not giving false impressions wittingly
Engaging in practices or in games for bureaucratic or personal gain	Being motivated by prevailing non-humanistically oriented values of business and science	Not being motivated by bureaucratic or personal gain
Engaging in "quid pro quo-ism"	Doing what is right when it is expedient, acting on the basis of situational ethics	Doing what is right and honorable regardless of the consequences

No Ethics	Value Neutral or Relative Ethics...	Value-Based Ethics
Engaging in self-aggrandizement	Being motivated by prevailing values of business and science	Being motivated by fundamental concern for the public good: the preservation and enhancement of individual and societal health
Allowing blinding ambition or compulsion to get in the way of serving the public good, of addressing the public interest	Being blinded by an overwhelming reliance on the rational and empirical	Not being blinded by ambition or compulsion
Abusing perquisites of station	Taking advantage of perquisites as the situation dictates	Not abusing perquisites of station
Playing games with procedures	Elevating the sophistication with which the game played	~~Not playing games with~~ procedures
Bromulcating or dealending good people or people who are a threat or make waves	Treating people as functionaires, means to process-oriented ends with humanistic overtones which may be of a short-term or superficial character	Treating people fairly and equitably and humanely and going out of one's way to encourage and support responsible work and ethical conduct
Making life difficult and career advancement impossible for those who perform their duties well or expose wrongdoing	Not really being fundamentally concerned with or attentive to individual or organizational integrity, putting organizational survival before individual survival	Seeing to it that those who do their jobs do not lose their jobs; seeing to it that those who are critical do not lose their jobs
Keeping worthy persons out of responsible positions; not allowing persons with understanding and commitment to play an appropriate role, to assume appropriate responsibility	Tending to keep worthy persons out of responsible positions because of their inimical value-based orientation to the role of the public servant and the purpose of government	Seeking out worthy persons for responsible positions; providing persons with understanding and commitment an opportunity to play an appropriate role, to assume appropriate responsibility

No Ethics	Value Neutral or Relative Ethics...	Value Based Ethics
Providing disincentives for truthful and open communication and self-expression leading to the withholding of information or advice likely to prove unpopular or bring disfavor	Focusing on fact, reason, empirically valid "truths," while tending to divorce any concern for honesty and openness from larger societal purposes	Fostering truthful and open communication and self-expression through example, through the setting of a tone, and in other appropriate ways
Providing disincentives for good work	Basing incentive system on a very narrow definition of what constitutes good work	Not providing disincentives for good work
Constraining the development and contributions of others	Effectively constraining the development and contributions of others	Fostering the development and contributions of others
Not seeing to it that those who fail to serve in the public interest are removed from the public service if they do not change their ways	Failing to subscribe to a public good concept of the public interest and failing to see any valid way of establishing value based criteria to determine what is and is not in the public interest	Seeing to it that those who fail to serve in the public interest are removed from the public service if they do not change their ways
Using power in authoritarian, coercive, or Machiavellian ways	Seeing power in terms of equity, equalizing power relationships, being more concerned with the fairness of the process than with the human and social purpose served by the process	Seeing power as a creative, self-generating force to be used in constructive ways and to be spread, used, and nurtured using educational, normative strategies
Failing to resolve or try to resolve personal value conflicts ethically and legally	Focusing on process and law in the resolution of conflicts, possible reliance on situational ethics	Trying to resolve personal value conflicts ethically and legally and doing so without sacrificing integrity
Being guided by primary mentality assumptions of coercion, compromise, and cutthroat competition	Guided by an imperfect mesh of primary and secondary mentality assumptions	Being guided by secondary mentality assumptions of consensus-seeking, cooperation, collaboration

No Ethics	Value Neutral or Relative Ethics...	Value-Based Ethics
Playing games with information or withholding or distorting information to circumvent the law, or the intent of legislation; keeping needed information from others in government; keeping information from the public or anyone with a rightful claim to it	Adopting different approaches according to what the traffic will bear	Maintaining honesty and openness in the communication of information and withholding information only when legally or ethically necessary
Being disinterested in knowing what is really happening or in developing a real understanding of what needs to be done to protect or serve the public interest	Having no commitment to serving the public interest in the public good sense of the concept; interested in that knowledge and understanding which will assist in maximizing prevailing business values and values of science or of process itself	Being committed to serving the public interest; acting in such a way as to maximize the values of life, health, and individual and societal freedom
Flaunting or disregarding judicial decisions, constitutional rights, human rights, human values	Being effectively indifferent to constitutional and human rights	Acting in accordance with the law and with constitutional and human rights
Acting in such a way as to negate, neglect, or minimize the values of life, health, and freedom	Effectively acting in such a way as to negate, neglect, or minimize the values of life, health, and freedom	Acting in accordance with the public interest; acting in such a way as to maximize the values of life, health, and individual and societal freedom
Disregarding or devaluing freedom	Effectively disregarding or devaluing and undermining freedom	Basing action in a firm regard for individual and societal freedom

No Ethics	Value Neutral or Relative Ethics...	Value-Based Ethics
Conducting business, delivering services, addressing societal problems poorly, inhumanly, in a value-neutral scientistic way, ineffectively, in such a way as to be wasteful of human, natural and/or fiscal and material resources; in such a way that science and technology disserve human aims and are seen as aims in themselves	Conducting business, delivering services, addressing societal problems as if guided by prevailing business values of productivity and humanism in the service of productivity	Conducting business, delivering services, addressing societal problems well; humanly, in a humanhearted way, responsively, effectively, in such a way as to conserve valued human, natural, and/or fiscal and material resources; in such a way that science and technology serve human aims and are employed in human ways
Allowing organizational efforts to become characterized by bureaupathology--where process becomes more important than purpose; authority more important than service; form more important than reality; precedence more important than adaptability	Seeing to it that organizational efforts focus on process and not purpose, being more concerned with maximizing the prevailing values in business than in serving the public interest	Seeing to it that organizational efforts are characterized by organizational or bureaucratic health where purpose, service, reality, and adaptability are more important than process, authority, form and precedence
Focus on procedures in such a way as to evade responsibilities or to thwart the purpose of the procedure	Focus more on process than on purpose; focus more on the process of attaining the public good than on the public good itself	Focus on purpose, service, reality, and adaptability and on serving the public good
Allowing organizational jurisdictions, efforts at policymaking, implementation, and problem solving, and regulation to become so confused and overlapping as to make the proper conduct of government impossible and the solving of complex problems and the meeting of human and societal needs impossible	Allowing concern for process and structure to stand in the way of purposeful action and the resolution or amelioration of complex societal problems	Organizing in such a way that the business of government can be carried out well, responsively, and effectively

No Ethics	Value Neutral or Relative Ethics...	Value-Based Ethics
Being unconcerned with purpose and service, failing to emphasize the responsibility and obligations of public servants to serve in the public interest	Paying too much attention to process, so much attention that process can become an end in itself; focusing on participation or decentralization in such a way that they become ends in themselves and lead toward "double-democratization," furthering some of the processes integral to a representative democracy, but thwarting others--failing to take into account the problem of accountability and the necessary vesting of responsibility for governmental actions in public servants; focusing on processes thought to insure accountability rather on the ascent of responsibility and public service in the public interest	Making sure that purpose and service take precedence over process; emphasizing the responsibility and obligations of public servants to serve in the public interest and providing ways of securing accountability
Encouraging or taking part in bureaucratic gameplaying for individual or bureaucratic gain	Refining the rules of the game along scientistically oriented lines, orientism being defined as the divorcing of science, rationalism, and empiricism from human values and concerns	Discouraging or not taking part in bureaucratic gameplaying for individual or bureaucratic gain
Failing to seek solutions to problems affecting the public interest	Assuming an aggregationist or process-oriented approach to the public interest, not a public good approach	Seeking solutions to problems affecting the public interest, assuming a public good approach, being concerned for the preservation and enhancement of individual and societal health
Not seeking solutions because of the possible or expected unpopularity or unwanted consequences of such solutions	Problems addressed when it becomes pragmatically and politically feasible to do so; allowing values of effectiveness and efficiency to dominate in the selection of problems to be addressed	Being guided by integrity and a sense of what is right in seeking solutions to and implementing solutions to problems

No Ethics	Value Neutral or Relative Ethics...	Value-Based Ethics
Conducting government in such a way that government fails to be responsive to the public good or it disserves or is indifferent to the public good and emphasizes preapolitical concerns--self or narrow group interests, or it is value neutral or nihilistic (without value, purpose, or meaning)	Conducting government in such a way that government fails to be responsive to the public good in that it is not fundamentally concerned with the public good	Conducting government in such a way as to make government be responsive to public needs and to the public interest, and so that government serves the public interest by acting to maximize the values of life, health, and individual and societal freedom while striving to make the best use of resources in accomplishing these aims. The political is emphasized, the addressing of human needs and problems, and humanistic and democratic values essential to a free society and freedom in the world prevail
Failing to act on available information, understanding, and knowledge to avert loss of life, threats to health and freedom; failing to act when the solution to convexing societal problem is at hand	Failing to protect and preserve and enhance the public interest through a selective indifference to all of the kinds of information, understanding, and knowledge which bear on the preservation of human values and the solution of human problems	Acting to protect and preserve and enhance the public interest
Failing to assume an attitude of stewardship and responsibility for the protection, preservation, and enhancement of human and natural resources	Assuming an attitude of pragmatic expediency or indifference	Assuming an attitude of stewardship and responsibility for the protection, preservation, and enhancement of human and natural resources
Absence of the capacity to meet crises or to anticipate them and prevent them before they arise and failure to develop such a capacity	Paying far more attention to matters of process and structure than to matters of purpose and substance	Development of the capacity to meet crises and to anticipate and prevent them before they arise

No Ethics	Value Neutral or Relative Ethics...	Value-Based Ethics
Contributing to a "dog eat dog" mode of existence, contributing to the worsening of problems and the weakening of the social fabric	Implicitly directionless, nihilistic, without long range goals, generally embracing a disjointed incrementalism unconcerned with any overall developmental goals	Conducive to a government oriented toward healthy change and development with there government serving as change agents and solvers of societal problems
Failing to be responsive to public criteria that government is not serving in the public interest	Focusing on the process of being responsive, but failing to be committed to serving the public interest in the public good sense of the concept	Being responsive to those in and outside government who feel that the public interest is being disserved

Taken From Corruption in Land Use and Building Regulation, Vol. III, An Anticorruption Strategy for Local Governments, January, 1978, SRI International, Menlo Park, California.

ETHICAL DILEMMAS

Questionnaire

Please read each of the questions that follow and mark your answers next to the questions. Then, transfer your answers to the answer sheet, which is the last page. This way, we can collect everyone's responses, compile them, and get a picture of the way others in the workshop group responded to compare with your own answers, on the questionnaire proper, which you should keep.

Try to answer every question "Yes" or "No." And briefly state your reason for answering the way you did. If you absolutely cannot answer "Yes" or "No," give your reasons why you cannot.

Do not sign your name on the answer sheet.

* * * * * * * *

(__) (__)
Yes No

Reason:

1. The Board of Directors of the Chamber of Commerce has an annual weekend outing at a resort some miles from your city. During the weekend there is golf, tennis, swimming, card games, dinner dances with entertainment, and numerous cocktail parties. During the day, there are sessions at which the Chamber Board reviews progress for the past year and discusses plans for the coming year.

For several years, the City has contributed $100,000 annually for the support of the Chamber.

You are invited to the Chamber's weekend outing with all expenses paid by the Chamber. Do you accept the invitation and go for the weekend?

(__) (__)
Yes No

Reason:

2. You have been asked to speak to a Sunday-brunch meeting of the Board of Aldermen of a smaller city across the river, which is the state line, from the city of which you are chief administrative officer. They want you to tell them about your budget-reduction program, in anticipation of a Proposition 13 kind of measure that is pending in the legislature of their state.

At the conclusion of your appearance, the chairman hands you an envelope containing an honorarium check for $250 and explains that "This is in appreciation of you giving up your Sunday morning." Would you accept the honorarium?

(___) (___)
Yes No

Reason:

3. For many years, you and Frank Jordan have been close friends. You went to high school together and were college classmates. You were best man at each other's weddings. Your wives are good friends. For the past 10 years, Frank and his wife have taken you and your wife to dinner on your birthday. It is just something he insists upon doing and it has become something of a tradition. He can well afford it; Frank owns the largest plumbing supply business in the state and does more than $500,000 in business each year with the city.

You have been an insurance agent all your professional life. Last year, you ran for a seat on the City Council and you were elected. You have been named chairman of the Council committee which oversees procurement contracts, including plumbing supplies.

Your birthday is coming up in a couple weeks. Frank has called you to remind you that he and Mrs. Jordan have a special treat for your birthday dinner this year. He has made reservations at a fancy new restaurant that everyone is talking about. Do you accept?

(___) (___)
Yes No

Reason:

4. For some time, police officers on three adjacent beats have met each day for a coffee break at a restaurant near a point where the three beats intersect. They usually have coffee and danish, and occasionally a piece of pie.

You are newly assigned to one of the beats. When you go for the coffee break the first day, and you walk up to pay the check, the proprietor says, "No charge. I am glad to have you officers around." The others leave without paying. Do you pay your check?

(___) (___)
Yes No

Reason:

5. Henry Settles is a man who has worked in your department for a long time. He is conscientious, in fact, maybe too conscientious, in the view of many of his fellow workers. He is always at work on time, always puts in all his hours, and works hard. But he expects others to do the same and frequently complains about others who are tardy or who take long lunch hours or call in sick when almost everyone knows they are not sick.

Recently, Henry reported to you that some employees were using City automobiles to drive to pro football games in a city about 100 miles away. You put a stop to that, but Henry has been persona non grata with many of the employees of the department since. Henry is a probable candidate for a new position, one that would mean a promotion for him. Do you promote Henry?

( ) Yes ( ) No

Reason:

6. A new Civic Plaza is in the plans to restore the downtown area of your city. The bond issue for development that was passed three years ago is already too little to assure completion of the project, because of inflation. A developer who wants to erect a high-rise office building and mall near the Civic Plaza offers to buy a large tract of undeveloped land in the Plaza area and donate it to the city, in exchange for permission to build his proposed building higher than the present zoning restrictions will permit.

He has made this offer to you and it is up to you to decide whether to communicate the offer to the City Council. Do you pass on the offer to the Council?

( ) Yes ( ) No

Reason:

7. A few days before Christmas, a package arrived at your office. Inside is a card from the vice-president and general manager of a large corporation in your city. The company has never done any business with the City. The card says, "You are doing a great job for our city and we just wanted you to know that we appreciate it. We hope you will accept this token of our gratitude."

You open the package and find a beautiful crystal vase which you estimate to be worth $75 to $100. Do you accept the vase?

( ) Yes ( ) No

Reason:

8. Your favorite brand of Scotch is Chivas Regal, but you don't buy it too often because it is so expensive. You have told this to the liquor dealer from whom you buy your booze. It's a kind of a joke. "Think rich and drink cheap," you sometimes remark when you buy a less expensive brand.

The liquor dealer gets in trouble for making book and his license is in jeopardy. You have nothing to do with the hearing on suspension of his license, but the next time you go to buy liquor, you discover when you get home that the case containing your liquor includes a fifth of Chivas Regal which you didn't order or pay for. Do you return the Scotch?

( ) Yes ( ) No

Reason:

9. A physician friend [illegible] you asks if you would be interested in investing in a Doctors Building which a group of physicians are planning to erect in the city of which you are mayor. No decisions involving your job are expected as part of the investment; the doctors are simply selling shares in their venture. It will be next to a shopping center in a rapidly growing part of town.

You stand to more than quadruple the $25,000 cost of a share in a short time; maybe make even more than that. You have the money. Would you invest in the Doctors Building?

( ) Yes ( ) No

Reason:

10. Hazel Stevens is a valued employee. She has worked for you for years and she is the kind of worker you can depend upon to put in extra time and effort when it is needed. She is always there in a crisis and several times she has handled situations that would have been uncomfortable for you. You really owe her a lot.

Recently, Hazel came to you and admitted that for some time, she has been "borrowing" money from the petty cash fund, writing false receipts to cover it. It was never much; usually $10 or $15, and she always repaid it. But her conscience has bothered her so much that she had to confess.

Under your personnel policies, her action is clearly a cause for dismissal. Do you fire her?

---

11. In the space for this item on the answer sheet, could you briefly describe an ethical dilemma which you have encountered in your experience? It may be some situation which caused you considerable distress in making a decision or it may be something which has happened with some regularity. Tell us what the dilemma was, what you did about it, and what resulted from your decision--on the answer sheet.

ETHICAL DILEMMAS

Answer Sheet

Check the appropriate "Yes" or "No" box for each question and in the space indicated briefly set out the reason for your answer.

1. ( ) Yes ( ) No Reason:	6. ( ) Yes ( ) No Reason:
2. ( ) Yes ( ) No Reason:	7. ( ) Yes ( ) No Reason:
3. ( ) Yes ( ) No Reason	8. ( ) Yes ( ) No Reason:
4. ( ) Yes ( ) No Reason:	9. ( ) Yes ( ) No Reason:
5. ( ) Yes ( ) No Reason:	10. ( ) Yes ( ) No Reason:

11. Your Ethical Dilemma:

DAY I

SESSION 4

4:45 - 5:30 p.m.

INTEGRITY CHECKLIST

Rationale

To determine the need for implementing measures to preserve integrity, participants should systematically examine their own government structure and operations for corruption risks.

Goal

Diagnostic questionnaires based upon indicators of corruption risks will be distributed so that participants can conduct an assessment of the integrity-maintenance and corruption-risk condition of their own government. From this assessment should come an awareness of the areas in which their government is most vulnerable and in which preventive measures are most needed.

INTEGRITY CHECKLIST

DIAGNOSTIC INDICATORS

A. OFFICIAL POLICY TOWARD CORRUPTION

	YES	NO	DON'T KNOW
In your jurisdiction, do statutes and ordinances clearly forbid (and clearly define) bribery, extortion, and other forms of official misconduct?	___	___	___
Does your jurisdiction have an official code of ethics specifying what conduct is officially desired and what is officially prohibited?	___	___	___
Do these rules cover all elected officials, appointed commission members, department heads, and lower ranking employees whose duties may offer opportunities for corrupt acts?	___	___	___
In addition to prohibiting such payments, do rules prohibit the acceptance of meals, gratuities, discounts, and favors from any individual or firm doing business with the city or county or subject to regulation by the city or county?	___	___	___
Do rules forbid engaging in private business on city/county time or using city/county materials or equipment for private purposes?	___	___	___
Is outside employment that conflicts with official duties forbidden?	___	___	___
Are officials forbidden to represent private interests in dealing with city agencies or take positions with firms they have previously regulated?	___	___	___
Do campaign finance laws set limits on contributions from individuals or firms doing business with the city/county?	___	___	___

For those questions which you answered "yes," additional factors to consider are:

Are all personnel covered by the statutes, ordinances, and rules regularly informed of what is required of them in the conduct of their job?	___	___	___

	YES	NO	DON'T KNOW
Are there mechanisms for detecting and dealing with violations?	___	___	___
Does every detected violation result in an appropriate disciplinary action or in prosecution?	___	___	___

A "no" answer to any question in this subsection indicates a deficiency: the jurisdiction does not have all of the tools needed to combat corruption.

B. DETECTION TOOLS

Are there laws or does the city/county have ordinances or codes that require officials and employees to disclose conflict of interest?	___	___	___
Are officials and employees required to disclose special knowledge of or contacts with firms or individuals subject to their authority?	___	___	___
Are officials required to disclose their assets, debts, and outside employment?	___	___	___
Are employees required to disclose any outside employment?	___	___	___
Is information provided by officials available for inspection by the public and the news media?	___	___	___
Are records kept of all actions and decisions that might be vulnerable to corruption?	___	___	___

A "no" answer to any of these questions indicates a deficiency: your jurisdiction may not have the tools needed to detect corruption.

If the answer to any of these questions is "yes":

Does the city/county have "sunshine" laws that open all meetings to public participation and observation?	___	___	___
Does the city/county have "freedom of information" laws that guarantee public access to official records and reports?	___	___	___
Does the city/county have an established mechanism to take complaints from the public and investigate them?	___	___	___

	YES	NO	DON'T KNOW
If so, are the complainants informed of the results of the investigation?	___	___	___

A "no" answer to any of these questions indicates that your jurisdiction may not have the tools needed to make detecting corruption easy.

C. MANAGEMENT PRACTICES	YES	NO	SOME
In recruiting candidates for positions that offer an opportunity for corruption, is information gathered about the candidates' backgrounds, and is that information verified?	___	___	___
Do training programs for new employees cover integrity expectations and the penalties for abuse?	___	___	___
Are these policies reinforced in subsequent retraining programs or review programs for those in service?	___	___	___
Does the city/county have a disciplinary code that specifies policies, penalties, and enforcement procedures for all employees?	___	___	___
If so, is the code enforced?	___	___	___
Are employees charged with ethics violations immediately suspended until the investigation is completed, or can they transfer or retire and keep their pension rights?	___	___	___
Are the actions of employees regularly reviewed by supervisors, and are the actions of supervisors, department heads, and managers regularly reviewed by the chief elected or appointed official and the board or council?	___	___	___
Are all employees with decisionmaking powers required to record their decisions in writing, with their name attached, and to justify any deviation from existing policy?	___	___	___
Do rules provide penalties for failure to provide information on demand when it is a matter of public record, or failure to respond to questions or inquiries about decisions?	___	___	___

	YES	NO	SOME
Do rules provide for failure to report a corrupt act observed or failure to deal with an instance of corruption by a subordinate?	___	___	___

D. ELECTED AND APPOINTED OFFICIALS

In considering candidates for appointed positions, is information gathered about the background of the candidate, and is that information verified?	___	___	___
Is there an orientation/training program for new elected and appointed officials that sets forth what is expected of them in terms of integrity and what the penalties are for abuse?	___	___	___
Do officials encourage public participation in, or inquiry about, official decisions?	___	___	___
Are officials required to respond to questions from other officials, from the media, and from the public?	___	___	___
Are official activities regularly monitored by news media and by citizen organizations?	___	___	___
If so, are questionable activities reported to the public?	___	___	___
When a questionable activity is reported, is the official immediately suspended by the chief executive pending the outcome of the investigation, or is he or she allowed to resign?	___	___	___
Do local and state prosecutors investigate all allegations of official corruption?	___	___	___
Are formal charges brought against officials when improprieties are found?	___	___	___
When elected or appointed officials are convicted of corruption, are penalties imposed that are substantial?	___	___	___

A SIMPLE, INFORMAL ASSESSMENT OF CORRUPTION

To get a sense of the presence and extent of corruption in your community, talk to:

- Taxi drivers
- Newspaper reporters
- Chamber of Commerce
- Lawyers
- Clergy
- Bar owners and bartenders
- Law enforcement officers, local, state, and federal
- Hotel help
- Homeowners associations
- Contractors

Ask them:

Can I fix a ticket?

Where can I place a bet?

Who is the best zoning attorney?

How do I get a civil service position?

How strict is the housing code enforcement?

Can I get a girl for my room?

Who runs the gambling?

Who really controls this city?

Is this a good place to live?

How extensive is the drug problem?

What are the politics of this city?

How do I get a liquor license?

Is it difficult to open a business?

What do I do if I want to bid on a city contract?

How good is the Police Department?

MAINTAINING MUNICIPAL INTEGRITY

Workshop Schedule

DAY II

Session 5	Maintaining Municipal Integrity Through Laws and Policies	9:00 a.m. - 10:15 a.m.
	BREAK	10:15 a.m. - 10:30 a.m.
Session 6	Maintaining Municipal Integrity Through Management	10:30 a.m. - 12:00 noon
	LUNCH	12:00 p.m. - 1:15 p.m.
	Maintaining Municipal Integrity Through Management - (Continued)	1:15 p.m. - 5:00 p.m.

DAY II

SESSION 5

9:00 - 10:15 a.m.

MAINTAINING MUNICIPAL INTEGRITY THROUGH LAWS AND POLICIES

Rationale

Persons who become involved in breaches of integrity or acts of corruption sometimes complain that they "didn't know it was wrong." Many small acts of unethical behavior continue and grow into more serious infractions of law because no standards or norms for proper behavior are operative. Therefore, the foundation of the maintenance of public integrity is the writing, adoption, and implementation of laws or policies which declare standards and expectations for acceptable performance and practices.

Goal

This session will provide participants with a survey of laws and policies which serve to maintain integrity in government, covering codes of ethics, conflict of interest, financial disclosure, declaration of interest, open meetings and records, campaign financing, personnel policies and procedures, procurement, and deregulation.

The relative effectiveness of the measures will be discussed and some attention will be given to the process of adoption. Models of certain laws and policies will be provided.

VILLAGE OF ARLINGTON HEIGHTS

STATEMENT OF ECONOMIC DISCLOSURE

1. NAME (Last, First, Middle Initial)	2. POSITION TITLE
3. APPOINTMENT DATE	4. BOARD/COMMISSION/DEPARTMENT

General Directions

Chapter 1, Article VII of the Municipal Code of Arlington Heights requires that all elected and appointed officials and members of the boards and commissions of the Village of Arlington Heights, the Village Manager, department heads and other employees earning in excess of $20,000 per year shall file this Statement of Economic Disclosure with the Village Clerk prior to the 1st of each calendar year.

Section 1-7B1 Ownership of Real Estate

Do you or your spouse or children have any interest in real property located within the corporate limits of the Village of Arlington Heights or in the unincorporated area within one-half (½) mile of the corporate limits of the Village of Arlington Heights? (The ownership of a beneficial interest in real estate held in trust or real property held by a corporation in which the person filing shall own more than five percent (5%) of the outstanding stock, shall be considered real estate. The property on which the person resides shall be exempt from the provisions of this section.) Please check one. Yes____ No____. If answer is in the affirmative, state the following:

Formerly Known Address of Real Property	Nature of Interest in Such Real Property (Owner, Joint Owner, Tenant, Beneficiary, Trustee, etc.)	Permanent Real Estate Tax Identification No.

Section 1-7B2 Disclosure of Gifts, Loans and Services

Have you, or your spouse or children received a gift or service in excess of Fifty Dollars ($50.00) from any person, firm or corporation doing business or having any contractual relationship with the Village or engaged in an activity having substantial potential of doing business with the Village? Please check one. Yes____ No____. If answer is in the affirmative, state the following:

Name of Person, Firm or Corporation Giving gift or service	Nature and Monetary Value of Gift or Service Received

Have you or your spouse or children been released from any indebtedness exceeding in its principal amount One Hundred Dollars ($100.00) during the year, without paying the total balance due to such indebtedness or giving adequate consideration? Please check one. Yes____ No____. If answer is in the affirmative state the following:

Name of the Creditor	Nature & Amount of Indebtedness Released	Description of Circumstances of Release

Ownership of Business Interests Conducting Business with the Village

Section 1-725

Do you or your spouse or children have a direct or indirect ownership interest in any business, firm or corporation which has entered into contract with the Village or received any remuneration from the Village during the past year in which the interest will exceed 1%? Please check one. Yes____ No____. If answer is in the affirmative, state the following:

Name of Business Entity	Nature of your Relationship to Business Identity	Extent of Ownership of Business Entity

Disclosure of Other Employment

Section 1-726

List the names of all corporations, companies, firms, or other business enterprises, partnerships, corporate organizations, and educational, or other institutions with which you are interested as an employee, officer, owner, director, member, trustee, partner, adviser, or consultant. In the case of persons employed as attorneys at law, insurance agents or brokers, or real estate brokers or salespersons, you need include only the firm or professional corporation or other entity by which the person is employed, and clients of such persons or employers if such persons are in business with the Village of Arlington Heights.

Name & Kind of Organization	Address	Position in Organization	Working Hours	Nature of Service Rendered

Certification

I declare that this Statement of Economic Disclosure including any accompanying statements has been examined by me and to the best of my knowledge and belief is a true, correct and complete statement of my economic interests as required by Chapter 2, Article VII of the Municipal Code of the Village of Arlington Heights. I understand that the penalty for willfully filing a false or incomplete statement or violating the provisions of Chapter 2, Article VII of the Municipal Code of the Village of Arlington Heights is a fine not to exceed Five Hundred Dollars ($500.00) for each such offense.

Dated:

_____
Signature of person making the statement Date

Subscribed to before me, this _____ day of _____ A.D., 19__ ____

MAINTAINING MUNICIPAL INTEGRITY LAWS, RULES AND REGULATIONS

The appendix to this book contains model legislation in a number of areas which may assist a unit of local government in maintaining municipal integrity. We include this model legislation as a guide to what meaningful and effective laws should be.

Many jurisdictions have statutes with the same title as the statutes in the appendix--i.e., sunshine laws, conflict of interest laws, financial disclosure laws, etc.--but we urge you to compare your jurisdiction's statutes in these areas to the model legislation in the appendix; sometimes, the title of the statute does not accurately describe or fulfill the objective of the law. Some conflict of interest statutes prohibit very little; some financial disclosure laws fail to require the revelation of debts. There is no useful purpose served by having a law the title of which fails to describe the conduct affected and, due to such blame, becomes counter-productive.

Laws and statutes are not self executing. The most brilliantly conceived and written law will not enforce itself. Every jurisdiction must have an effective mechanism to insure the integrity of the statutes presented in the appendix.

1. Open Governments. Secrecy is an effective method for preventing the public from discovering a lack of integrity on the part of some municipal or county council or body. If residents of a unit of government are to have confidence in governmental decisions, they must be allowed to observe the process by which decisions are made. Public bodies that make decisions behind closed doors and by secret votes breed the often well-founded suspicion that private interests are being served. Appearance is as important as actuality: if decisions are made in secret and private interests are not being served and public interests are being served, the appearance of the private interests being served remains and public confidence flourishes.

The use of legislation which ensures open meetings is to convince the public that decisions made by public boards and commissions will not be made in secret. Increasingly land is regulated, in the public interest, by entities like zoning boards, boards of trustees, regulatory agencies and, of course, the city and county councils. The public has a right to know the facts which are utilized in the exercise of official discretion. Legislation has been passed in 47 states and by the Congress which curtail the practice of operating the business of government in the public eye. These laws vary widely with respect to coverage, although the trend is toward laws with broad coverage.

11. Conflict of Interest Laws. These laws generally take a number of different forms. Among the types of legislation in this area are Lobbying Executive Orders, Lobbying Disclosure Rules, and Disclosure of Financial Interests. Sometimes, codes in public contracting and ethics generally work as an adjunct to these statutes.

Although a number of states have conflict of interest legislation, research reflects that almost every state could benefit by bringing all of its sometimes fragmentary conflicts legislation under the framework of a central comprehensive act. (The model legislation in the appendix presents such a scheme.) The net practical effect of creating a unified conflicts statute is to establish a clear, comprehensive ethical reference guide. Fourteen states have no substantive laws in the area of conflict of interest of public officials.

The states that have substantive conflict of interest legislation present a broad spectrum of coverage. For instance, in some states, only state officials are included in the definition of public officials who must adhere to the law. In other states, the law is applicable to city and county employees. In some states the conflict of interest legislation covers only elected officials; in other states all employees are included. The model conflict of interest legislation in the appendix includes very broad coverage:

> ...'public official' means any elected or appointed official or employee of the state, including the executive branch and the judicial branch, any official or employee of a county, municipality, or other political subdivision, any legislator, and any legislative employee.

Public disclosure of financial interests by public officials is a topic about which generally one sees an ambivalence: some people are for it and some people are against it and those who are informed on the issues find it almost impossible to be sentimental.

Thirty-seven states now require at least some public officials to file personal financial statements. The laws vary widely with respect to the interests officials are required to disclose, the thoroughness of disclosure, who screens the reports, and the penalties for noncompliance. It is interesting to note that over 20 jurisdictions have promulgated financial disclosure statements since 1971, the year in which the National Advisory Committee on Judicial Justice Standards and Goals recommended that states adopt such provisions.

In addition to the states noted in the preceding paragraph, six states have what might fairly be described as very narrow financial disclosure laws. The phrase "very narrow" is used in the context that a complete law, an effective law, requires the same information the official must disclose be disclosed by members of the official's immediate family. The appendix of this book contains a model conflict of interest act requiring very broad disclosure. The model act has been drafted to meet current Constitutional standards: the disclosure is limited, not all assets or liabilities must be disclosed, interests under certain dollar values need not be disclosed, disclosure may be by category of value rather than by precise dollar amount, and only certain officials (an important decision-making position) must file statements. We recognize that even the most carefully drafted proposals will result in some officials finding certain of the disclosures irrelevant to their duties.

The United States Supreme Court has upheld the financial disclosure requirements of the Federal Corrupt Practices Act, the disclosure requirements of the Federal Regulation of the Lobbying Act, and has refused to review decisions

by states' Supreme Courts which upheld extensive financial disclosure requirements.* Those who argue against financial disclosure laws on Constitutional grounds generally point to United States Supreme Court decisions prohibiting state regulations that unnecessarily invade a person's right to privacy.

A second major argument against disclosure is that it will deter good people from seeking public office. The opponents of disclosure argue that massive resignations will (would) result from disclosure requirements. Experience has shown such fears to be unfounded.

Washington State passed a very strong financial disclosure law in 1972. Of 275 elected state officials to whom the law applied, one resignation was attributed to the passage of the law; of 378 county officials to whom the law applied, only 2 resigned because of the passage of the law. California enacted a financial disclosure law in 1973. That law, which covered 7,500 public officials, led to very few resignations. A survey of the state by United Press International conducted in early 1974 found that only 50 public officials out of 7,500 have resigned in response to the new law.

III. Ethics in Public Contracting. The appendix to this book also contains a model Ethics in Public Contracting Law. The model act includes many of the provisions of the conflict of interest legislation described above. The law states the general standard that any effort to realize personal gain through public employment is inconsistent with the responsible discharge of public employment. There are seven specific standards of ethical conduct which must be met by employees. It should be noted that it is a violation of the model act for an employee to benefit from a contract with a business in which the employee knows or should have known that such contract would be of benefit to the employee or a member of the employee's family.

Unlike and dissimilar to many existing state rules, the model act also applies to contractors.

Finally, the model act places certain restrictions on the contemporaneous employment of employees who are involved in the purchasing process. It also places permanent and temporary disqualifications on the employment of former employees.

* * *

The model legislation in the appendix to this book is based on model legislation prepared by Common Cause, the American Bar Association, and the Constitutional Rights Foundation. We are grateful to these groups for permitting us to use and even to re-write their material.

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*Corrupt Practices Act, Burroughs and Cannon v. United States, 290 U.S. 534; Federal Regulation of the Lobbying Act, United States v. Harriss, 347 U.S. 612; State Appeals, Stein v. Howlett, 412 U.S. 925 (Illinois) and Fritz v. Gorton, 417 U.S. 902.

DAY II

SESSION 6

10:30 a.m. - 12:00 noon

VANDERBILT MUNICIPAL TWENTY TURNED MANAGEMENT

Rationale

Adopting laws and policies which set forth standards and expectations and providing exemplary leadership in the maintenance of integrity are not enough. Also necessary is the communication, implementation, and enforcement of these maintenance measures through systematic management practices which are specifically aimed at holding public employees accountable.

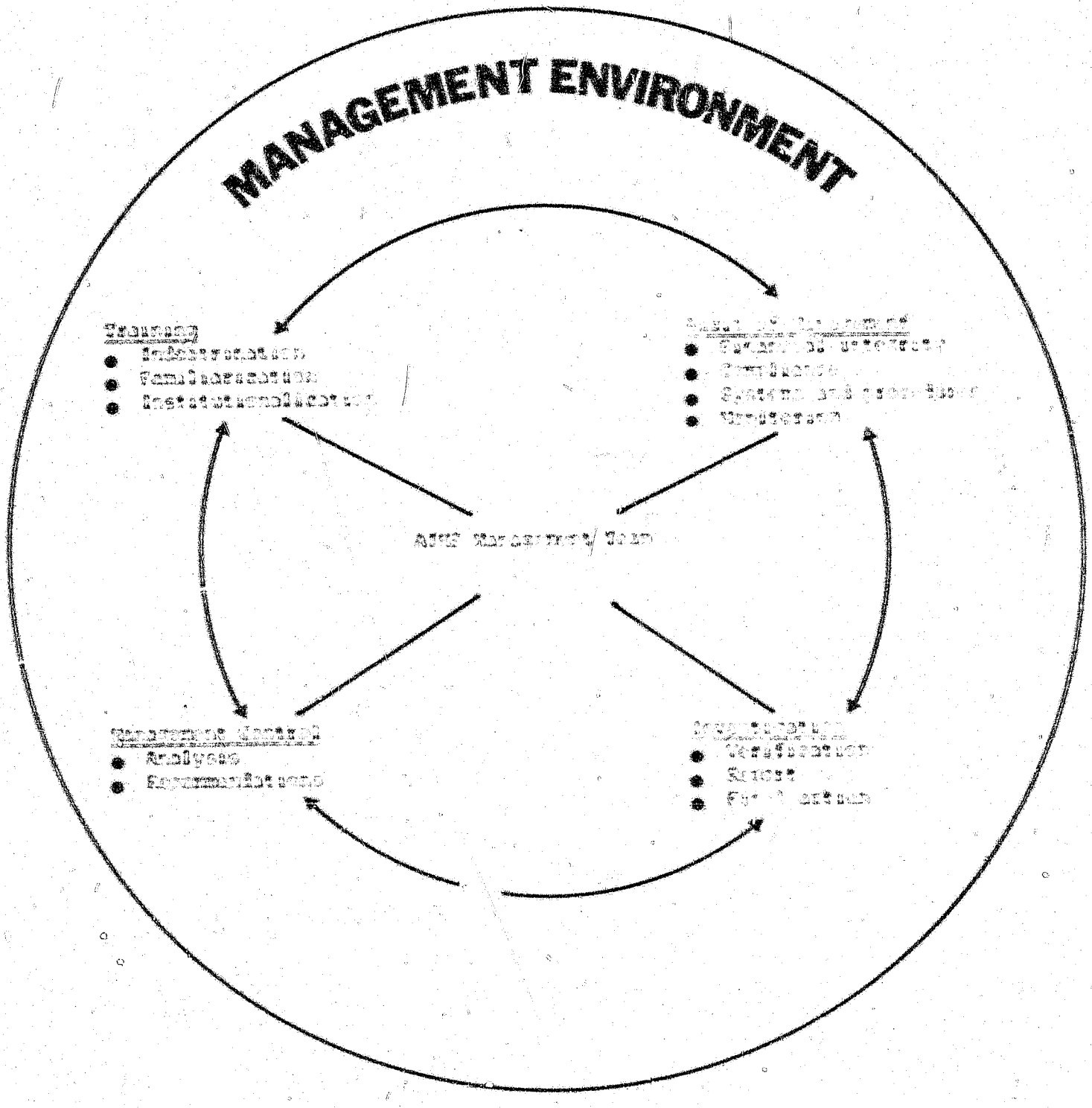
Goal

This session will present a tested, six-part approach to management which has the objective of creating an administrative environment that encourages accountability and preserves employee integrity. The six parts are: management control, management environment, audit of management, investigation, training, and the management team.

Requirements, advantages, and disadvantages of each part will be examined.

Models of the six parts will be provided, and some examples of governments which have employed some of the steps will be described.

ACCOUNTABILITY AND INTEGRITY MAINTENANCE SYSTEM



DEVELOPING MMS MODELS

Instructions for Groups

The purpose of this group activity is to develop a model for two of the six elements of the MMS system. The design should be based on the description of each element in your handbook, plus your own personal experience and the group interaction.

Group 1 will deal with Management Environment and Management Control. Group 2 will deal with Audit of Management and Investigation. Group 3 will deal with Training and the Management Team.

The first step will be to read the description of your assigned elements from the participant handbook.

The group should then proceed to develop their models using the following guidelines (see next page). A reporter should be selected to record your results. There will be a 15-minute report period for each group at the end of this exercise.

OUTLINE FOR ABSS GROUP PROCESS

Element:

Purpose:

Process:

Potential Problems:

HOW TO USE THE OUTLINE

See the following pages for a description of the elements.

Purpose:	What is the purpose of this element? What is the expected result if this element is used, or not used?
Process:	What are the key ingredients or parts to this element? How should it be implemented and administered? Who should be responsible for its administration? What form of feedback system should be used so that it will remain viable? What reporting system should be used so that it achieves the highest effectiveness? How do you keep it efficient (cost effective) as well as effective?
Problems:	What are the potential problems this element may produce when implemented? What are the potential negative side effects? How can you avoid these problems?

DESCRIPTIONS OF ELEMENTS OF THE ACCOUNTABILITY AND INTEGRITY MAINTENANCE SYSTEM

Excerpts from:

[illegible]

[illegible] MODELS

PREVENTION, DETECTION, AND CONTROL OF CORRUPTION IN LOCAL GOVERNMENT: A PRESENTATION OF POTENTIAL MODELS

December 1[illegible]

Office of Development, Testing, and Dissemination
National Institute of Law Enforcement and Criminal Justice
Law Enforcement Assistance Administration
United States Department of Justice

B. Management Environment

Management techniques are ineffective and even futile without managerial responsibility, interest, and leadership. Corruption can start from the top of an organization if management either sets a poor example or creates an atmosphere of lack of interest or concern. Consider the following scenarios:

> The City Manager has called the Chief of Police in. After asking about the Chief's new grandchildren, he turns serious and says: "Look here, John, we've got to do some work in the department. I'm still getting reports about cops accepting free coffee and free meals, and even worse, I'm still getting complaints. Now, I already had a long argument, you're going to give me hell, and I'm sorry but I just don't have time to go through all that today — I'm taking my grandson to the ballgame, and we want to get to the VIP box before the anthem." The Chief starts to argue that there's not much difference between using free tickets provided to the ballpark as a thank you for a favorable rental rate at the city stadium and free coffee or a meal except that "I'm obligated to be the City Manager wherever I go, and it's bigger than—"

> The city's finance director has come to the City Manager's office to plead for better controls on employee expense accounts. The City Manager says: "Wait, I've got a meeting coming up to see me this afternoon. I've got to meet with the lawyers about a lawsuit, and we have to make a decision on the tire deals, and I don't have time to get details. Anyway, what's going to do to cut back when our police officers and our firemen don't even get a decent meal when they're out on a call?" We're spending more money chasing crooks than we could save in a few fiscal years.

In the first scenario, the city manager is giving the police chief two messages that contradict each other. The police chief could conclude that one message is a phony, that the city manager is just putting the heat on because of some complaints — in which case he would be likely to pass down the message to skip the coffee and meals for a while — or he could conclude that the city manager intends a totally different message — only if we're down in the ranks do we really have to toe the line. In the second scenario, the city manager is giving two very clear messages: that trying to prevent petty corruption is not something he's interested in, and that enforcing honesty is acceptable only where very large amounts of money are concerned. In neither case is there a message that corruption is wrong and should have no don't stand for it.

In the next scenario, a different message is given and received, and it's also very clear:

> The City Manager turned quite red when he learned that a young programmer in the Finance Department was using the city's computer to run his business, and that it had become quite popular among the secretaries. He called in the head of the Finance Department and said: "Fred, I'm assuming you didn't know anything about this, and frankly I think that's not a very flattering assumption. But this is the city's computer, paid for by the taxpayers, and running it costs them money. I want that young man expelled for however long it takes at his school to make up for the money he wasted. Furthermore, I want you to figure out how much every one of those businesses cost the city, and send me a list of who got every single one, because I'm going to send them a bill. Look, man, I don't even use the office Xerox for personal stuff — it's not right."

Although the message in this scenario is unambiguous, it has its own problems and dangers. First, unless it has already been clearly established by a code of ethics or a clearly articulated policy that the use of government property for private purposes is wrong, the city manager's action is going to be perceived as arbitrary and unfair. Even

with prior warning, it may seem excessive. Second, if that city manager ever — for any reason — uses the office copier for personal purposes, even if just to make a copy of a canceled check to show that he did pay a bill, he will seriously compromise his credibility.

The personal example of the chief executive — whether of a department or agency or of the whole city/county government — is itself a very clear message to all those subordinate to him/her. That message can contradict and tend to nullify any formalized guidelines the government puts out, or it can reinforce them.

In addition, the atmosphere created by the chief executive can either enhance or diminish:

- The desire to be respected by the public, so that being a politician or civil servant can be considered an honorable career, and election, appointment, or employment in government can be considered evidence of high personal standards of conduct.
- Recognition that corruption has a high social as well as monetary cost, and that even though the public may not seem to care in situations where corruption exists, and may continue to vote-in administrations that are either dirty or too stupid to be believed, the social cost is still being paid. When corruption and the costs of corruption finally become unacceptable, the result is likely to be personal as well as civic peril.
- The awareness that there are standards of ethical conduct that can be agreed on, and principles of ethical action that can be applied, so that an employee or official can have confidence that he/she is acting ethically and need not be at the mercy of a superior's whim or an investigative reporter's slow news day.

The most important ingredient of a management environment that is hostile to corruption is a strong and principled leadership. Without that, formalized guidelines for ethical behavior will be of little use. The next ingredient is credibility, which rests not only on sending clear messages that reinforce one another but also on keeping it all open and public. For example, in the horoscope scenario, a report to the City Council of what happened and what was being done about it would have made it clear that the City Manager was serious, and that the offense was not being covered up — justice could be seen to be done.

Therefore, creating a management environment that is hostile to corruption has the following characteristics:

Requirements

- A strong and principled leadership
- Credibility
- Visibility

Advantages

- Enhances all anticorruption strategies
- By itself — even in the absence of formal or legal guidelines — increases the risk that attends corruption, decreases the incentive, and reduces the opportunity.

- Provides a signal to potential "whistle blowers" that their concerns are in concert with management concerns and that something will be done.

Disadvantages

- To the extent that the leadership is provided by a single person, high ethical standards may be discounted as an unrealistic personal freak of character.
- To the extent that leadership is assumed and personal example considered important, the demoralizing influence of any personal lapse within the leadership is magnified.
- Establishing a policy of ethical behavior, formal standards of ethical behavior, and an enforcement mechanism, and then carrying out all of these in the public view is likely to be seized on by political opponents and hostile groups of all types as evidence that corruption has been a problem (the "where-there's-smoke-there's-fire" syndrome). Therefore, any such effort may produce unfavorable publicity.
- By itself, establishing a management environment hostile to corruption is not enough.

CONTINUED

1 OF 3

C. Management Control

Lack of management control can, all by itself, provide opportunities for corruption. In addition, it can magnify existing opportunities and minimize the risks that attend them. Paradoxically, too much control can have the same effect as too little. For example:

> The Building Department processed plans very slowly; the department head knew there were some serious inefficiencies, but was spending most of his time trying to get the job of building inspector upgraded and a test of competence built into the hiring procedure. He was horrified to find that the inefficiency had resulted in developers — who had to pay extra interest on construction loans for every day of delay — paying bribes to get important, expensive jobs through the department with a minimum of delay.
>
> As a result, he overhauled procedures in the entire department, introduced several new forms that had to be filled out to indicate who was working on every permit application every day, requiring verification by a supervisor, and accounting for time down to 10-minute intervals. The forms were unwieldy, time-consuming, and unrealistic; the result was that under the new procedures, the Building Department processed plans even more slowly. He was again horrified to find that developers were still paying bribes to get important, expensive jobs through the department with a minimum of delay.

The purpose of establishing management control is to ensure that the functions and purposes of the organization are being carried out in an efficient, effective, and ethical manner. By failing to provide adequate guidance as to what level of performance is desired and exactly what responsibilities are involved, management leaves it to each employee to decide for himself. If guidance has been given but management fails to monitor performance or to exercise close supervision — for whatever reason — then the employee must decide for himself whether or not he is performing as he should.

Management control entails establishing accountability, monitoring performance, and providing feedback. Attempts at control aimed at precluding any opportunity for impropriety are likely to succeed only in quashing individual initiative and hindering decision-making. It is more realistic to set up mandated reporting, disclosure, and evaluation procedures that will allow detection and correction of any improprieties than to try to prevent every conceivable one. For example, the exercise of discretion often provides ample opportunity for corruption, but preventing the exercise of discretion may well succeed in stopping the activity altogether, or making it more inefficient or ineffective than it already is. Making controls excessive may do no more than make it necessary to evade the controls to get any work done at all.

Management controls should aim not only at stopping corruption, but at stopping the inefficiency and ineffectiveness that provide much of the incentive for corruption. If the developer knows that it will take two weeks to process his plans and provide the building permit and that bribery will not speed things up, he has little incentive for bribery.

The ingredients of an effective management control system include such things as establishing budgeted productivity schedules that relate work produced to manpower assigned, establishing an effective reporting system, and clear communication not only about what is expected but about how the employee performance matches those expectations (Table 12). A prerequisite for an effective management control system is a detailed knowledge of the activities to be controlled, which implies that the system should not be

Table 12

INSTALLING MANAGEMENT CONTROLS

1. Examine the existing system from the point of view of the public served to identify areas of inefficiency. Examples: Street crew waiting for asphalt truck, developer waiting weeks (or months) for permit, health inspector having to phone the office to get a decision on whether a condition is a violation.
2. Examine the system from the point of view of similar systems in other jurisdictions, looking for measures of productivity or improvements that might be adaptable.
3. Examine the system from the point of view of those who make it work, asking for ways in which they think it could be improved.
4. Draw up realistic expectations for getting the work done (e.g., building inspector should be able to get through x inspections per week; three-man park maintenance crews including one man on a riding mower and two helpers should be able to perform all routine grounds work on x acres of park but an extra clean-up man will be needed for heavy-use areas on Sunday and Monday mornings; health inspectors should log about x miles per week and use y gallons of gasoline).
5. Devise the minimum level of reporting that will say whether or not the work got done as expected and who did it, and will pass a warning upward when it didn't.
6. Budget for the expected workload using the performance expectations to develop manning schedules.
7. Monitor the report and spot check the actual performance to see that the system works, and where it needs to go. It is important to be able to find out who was responsible for deficiencies.
8. Evaluate performance as in steps 1-3 and, to the degree possible, recognize good work as well as deficiencies.

Cautions: **Every form you add cuts down the time available for other work.**

Outside factors may limit your remedies: if a supervisor's pay grade depends solely on the number of people supervised, greater efficiency may not have top priority.

installed without input from those who will have to work with it managers often wrongly assume that because they walk about among the troops, they know what the different jobs consist of. An internal control system for a Buildings Department is discussed in Appendix F.

An effective management control system has the following characteristics:

Requirements

- Does not inhibit the useful exercise of discretion or make people afraid to take the responsibility for a decision.
- Provides standards for performance that are realistic and feedback as to whether or not those standards are met.

- Uses modern techniques (e.g., performance budgeting and management by exception) to keep it from being so cumbersome as to encourage evasion or so costly as to be an unjustifiably large drain on resources.
- Is evaluated at regular intervals to make sure that it is still working, and that needed modifications are made to take account of change.

Advantages

- A management control system will not by itself eradicate corruption, but when used with other anticorruption strategies it enhances the possibility of having a corruption-free government.
- Management control that extends to inefficiency and ineffectiveness will tend to prevent the development of corruption by removing some of the incentives.

Disadvantages

- An obsolete, unworkable, or cumbersome management control system will enhance the incentives for corruption. If the controls are too restrictive, both employee and client have an incentive to beat the system.
- The costs of a management control system that depends on heavy documentation can take a significant portion of available resources. Every report form not only has to be filled out but read, and whether or not action is taken, every form is usually retained for some period and may be filed and stored as well.

D. Audit Control

The failure to audit functions and processes thoroughly for management accountability as well as fiduciary accountability allows corruption and abuses to remain concealed. For example, audit control would have prevented this:

> A new employee in the parks department wrote a letter to the City Manager's office complaining that the park supervisor he was working for was keeping too high a percentage of the money paid the crew for work on private property.
>
> Metropolis City hired a planning consultant to study ways to improve the central business district's traffic and parking system. His report indicates that the average income from parking meters was far below that of other cities with as many vehicles in circulation, similar parking space turnover, and the same meter rates. The report sparked a police investigation, during which it was discovered that the City Treasurer, who was responsible for both collection and accounting of parking meter funds, had been skimming thousands of dollars over the previous 10 years.

The audit procedure is geared primarily toward ensuring the financial integrity of operations, and their conformance with Federal, state, and local statutes. However, audit control should not be assigned to the auditors until the responsibilities of the audit team have been differentiated from those of management control, and decisions have been made as to who will determine the scope of the audits, who will be responsible for collecting the audit data, who will review the internal control systems developed, and how the audit schedule will be determined.

The purpose of audit control is twofold: to make sure that things are done correctly, and to make sure that they are done as well as possible. Audit control goes beyond merely checking financial or fiduciary transactions to make sure that they are accurate, legal, and free of improprieties; it serves the same purposes as quality control in manufacturing. The purpose is not to reveal dramatic illegalities, but to discover any error or wrong-doing (or area of difficulty) so that correction can be made, and similarly to provide confirmation that the system is working well. In the case of parking meter scandal, auditing also showed that in the Treasurer's case cash collection was not separated from accounting, which it should have been. A performance audit of the park department would not have shown that they were working on private property (unless the records were included with city work records), but it would have shown discrepancies in equipment use and in hours worked and acres mowed. These would have revealed the existence of some problem. A discussion of internal performance audits in a Buildings Department is given in Appendix G.

In view of the Comptroller General of the United States,

> *A fundamental tenet of democratic society holds that governments and agencies entrusted with public resources and the authority for applying them have a responsibility to render a full accounting of their activities. This accountability is inherent in governmental processes and is not always specifically identified by legislative provisions. That governmental accountability should identify not only the objects for which the public resources have been devoted but also the manner and effect of their application.*
>
> (GAO, 1973, p. iv)

However, this refers to only one aspect of auditing; the other aspect is suggested by the words of Herbert Simon:

> *The phenomena we call "corruption," "cronyism," and "inefficiency" in large-scale organizations are the symptoms of the inadequacies of the control process.*
>
> (Simon, 1973)

The announcement of new audit controls should clearly indicate the goals and objectives of the audit control system, the scope of the system, and how it will work. If the system is to work at all, it is essential that the purpose be to find out what happened, not to hang anyone. The scope of an effective audit control system is shown in Table 13.

It may be possible to scrutinize all actions of one type if that type occurs rarely or is of overwhelming importance (for example, the granting of zoning variances), but it will certainly not be possible in all cases. If all actions of one type cannot be scrutinized, then it is necessary to determine how the ones to be scrutinized will be selected, and how many should be scrutinized to provide assurance that audit control is being exercised.

Advantages

- Provides an independent check on management.
- Early warning of difficulties can aid prevention, as well as detection.

Disadvantages

- Can cause turf problems with management.
- Can result in a significant expenditure of resources to obtain information that is of no value because it is not used.

Table 12

AN EFFECTIVE AUDIT-CONTROL SYSTEM

1. Any audit should include financial record-keeping and accounting, including conformance with the law in keeping separate funds separate, and in making expenditures, compliance with good practice in accounting methods, and compliance with budgeted allocations.
2. Verify that any monies received are being accounted for and looked after properly. Spot checks are usually made at unannounced times to verify that cash on hand matches records of receipt.
3. Check pay scales — are personnel being paid according to proper pay scales? How do pay scales conform with average for similar jobs in other government organizations and in private industry?
4. Check staffing — is everyone on the payroll actually working or otherwise properly accounted for? Are promotions, transfers, and dismissals properly documented?
5. Check actual time worked with payroll records, and verify (spot check) that worktime is being used for public service.
6. Check benefits — are benefits being used correctly? Recorded correctly?
7. Check inventory — are pieces of equipment where the records say they should be? Where supplies are used, does the amount on hand (of gasoline, or bullets, or copier paper) conform to the inventory records? Is all of the office equipment where it should be, including any typewriter, tape recorder or dictation equipment that may be checked out for use at home?
8. Check computer use — if your computer is being used to play Star Wars, to cast horoscopes, or for other non-work-related uses, then it may be vulnerable to misuse of worse types (computer crime is a growing field)
9. Check the efficiency and effectiveness of units, using measures of input (allocation, staff, equipment, time) and measures of actual performance (not only number of transactions, but how well the transactions are carried out — are the streets clean? are complaints dealt with promptly?).
10. Check transactions with other governments or other organizations within the government — are mandated reports being provided on time, legal restrictions on grants management being met? complaints being resolved swiftly?
11. Check "perks" — are official cars, or club memberships, or travel funds, or expense accounts, or other position-related privileges being used properly?

E. Training

The purpose of training is to make sure that everyone — officials as well as employees — in the organization understands not only the special nature of public services, but the obligations imposed by the responsibility to maintain the public trust. Many improprieties result from ignorance — perhaps ignorance that the act was wrong, perhaps not knowing that the organization cared whether improprieties were committed or not. For example:

> The police department in Metropolis City has its own auto repair shop, well equipped. When it was discovered that the mechanics were using the shop equipment to repair their own cars, the mechanics claimed there had never been any rule against it, and cited the fact that the shop supervisor did not only repair his own car but his wife's.

> The burglary squad in Metropolis City, which routinely checks out all salvage dealers and scrap metal dealers for stolen merchandise, discovered that new brass fittings were being sold by a City water crew. The police established that the supervisor, although he had not profited from the thefts and sales, had known about them. He explained that the fittings were the wrong size and had been "just lying around" for several years, and he didn't see that much harm in it. Besides, if he turned any of his crew in, "the others wouldn't have much respect for me, would they?"

Training efforts should be designed at least in part to overcome specific problems identified in management controls, audits and investigations as well as to address (and prevent) more general practices and behaviors that are inefficient, ineffective, or potentially corrupt. A strong training strategy can be a very effective means of getting across the ideas of accountability and integrity, their importance, and how to assure that they are present.

The purpose of training is not to give every employee every answer to every problem that could conceivably occur. Even if that could be done, it would provide no guidance for new situations. However, one purpose should be to communicate to all public servants the laws, executive orders, regulations, conditions of employment, and so on to which they must conform, and to provide them with a set of ethical principles and standards they can apply to determine whether any action is in the public interest.

Training is an important part of preventing corruption. If you have not provided employees with the proper and relevant training, you cannot claim reasonably that an errant employee "should have known better." In addition, job training and retraining can produce the understanding and competence that will tend to reduce the incidence of corruption.

In the two scenarios, training supervisors as well as employees on what was expected of them would have been of value. After incidents of this type are discovered, training programs can be introduced to prevent continuing problems. There is an advantage in designing a specific training program on the special nature of public service, the requirements for high ethical standards, and the requirements for accountability and integrity that can be given to all — elected and appointed officials, new and present employees. In this way, everyone — to the extent possible — has the same information. Provision should be made for refresher training on a regular basis.

In designing an ethics and integrity training program one city adopted the following criteria for program content:

All public servants need to know:

* The framework of statutes, ordinances, formal codes of ethics, regulations, and rules within which they must operate, and the penalties for not observing them.
* The management philosophy and rules of the organization, how they are enforced, what safeguards there are against groundless accusations or unfairness, how disciplinary codes are enforced, and the procedures for appeal.
* What constitute high ethical standards, and in particular, what kinds of behavior are unethical. This would include, at a minimum, the following:
  - Conflict of interest — A person to whom some private benefit may come as a result of some public action should not be a participant in that action.
  - Outside employment — Full-time staff members owe their loyalty, energy, and powers of mind to the service of their organization.
  - Gifts and favors — Favors or advantages must not be accepted by those who hold an office of public responsibility, even though they may be offered, even though the office-holder has no intention of violating his/her trust as a result of the gift or favor, and even though "nobody else would know."
  - Information — The public has a right to know all but that information that must be withheld for legal or ethical reasons, but information that is legally or ethically confidential must be protected from any disclosure. (For example, bids received must not be revealed before the date when bids are officially opened.)

In addition to training new hires, and routine refresher training, when establishing, analyzing or changing a city's control system, the training needs should also be assessed relative to that control system. Finally, whenever inappropriate or potentially dangerous practices have been uncovered through a control system, training is usually revised to correct the system.

Training to support control systems has the following characteristics:

Needs met

* The installation of a control system creates training needs. For example, management control measures to ensure accountability and integrity need to be understood before they can be applied. Audit control measures need to be clearly understood. The separation of audit from management control needs to be made clear. Investigative powers, safeguards, and responsibilities need to be made clear.
* Other areas in which training is needed are areas in which difficulties or problems have been noted, either in the analysis and review component of management control, or in audit control, or from investigation.
* Training is particularly needed for new kinds of services. As one example, the abuse of computers and the rise of computer crime come about in part because computers are such a new addition to government and government organizations that the ethical standards governing their use are only beginning to be recognized.
* Training of supervisors is particularly important because of their personal responsibility for controlling accountability and integrity for the employees under their supervision.

Advantages

- Unless employees understand the purpose of the techniques they are expected to use, it is difficult to hold them accountable.
- Training can frequently overcome employee resistance to change.

Disadvantages

- Unless good training methods are used, training will be counterproductive no matter how much it costs.
- Training can take a significant share of resources not only for the use of trainers but also for the time off the job by the employees.

G. Investigation

Management monitoring of performance may be inadequate to identify all instances of inefficiency, ineffectiveness, or corruption. Furthermore, when a complaint or allegation is made, management is necessarily implicated, even if it is not the agency head, department head, or section head who is named in the complaint or allegation. Therefore, it may be necessary to set up a unit (permanent or temporary) to investigate allegations that arise either from inside or from outside the organization.

The management team needs to determine what powers the investigative unit has, how it can be set up so that employees can make complaints or allegations directly to the unit rather than going through channels, what kind of complaints, allegations, and charges are the proper province of the investigative unit.

> The City Manager received an anonymous letter reporting that city employees were receiving kickbacks from contractors in the city's urban renewal projects. The letter was turned over to the police department for any necessary action, but the matter was viewed as low priority and no investigation was conducted. A few months later a major scandal broke out which ultimately resulted in indictments of city employees, and a new city council and City Manager were returned.
>
> After receiving a complaint about improper activities in the City building department the Mayor sent a copy of the complaint to the department heads asking for a report. After investigation the department head called the Mayor to tell him that he had taken care of it but didn't want to write a report because of potential bad press. When the press ultimately found out about the case (from the original source), headlines appeared charging corruption, coupled with coverup.

When an allegation is received, an initial check should be made to determine if an investigation is indeed warranted. If it is, then the investigation team should have representatives from police, management, and attorney's office and should be directly responsible to the chief city administrator. The independence of the unit is as important as the skills represented.

An investigation team approach is important because it brings together the talents necessary to perform a thorough investigation and to provide for follow up and corrective action. It is also essential that top management be directly involved in the process (Table 14).

The results of any investigation must be made a matter of public record and made available to the public. Furthermore, investigation must not operate in secrecy, except in those few instances where any indication that an investigation is going on would result in possible harm to potential witnesses or probable complainants or in destruction of evidence. In general, secrecy about the nature of the investigation will do more harm than good. Broad understanding of the reason for the investigation, along with assurance that it will be impartial, is not politically motivated, and will be honest will tend to open more doors than it will close.

Corruption tends to grow in the dark and to spread when management does not show any interest in the warning signs that informed citizens or employees are sending. However, the reverse is true also: when corruption or wrongdoing is exposed to the

Table 14

THE SEQUENCE OF AN INVESTIGATION

1. The complaint is received and evaluated.
   - Can the complaint be disposed of by checking and/or evidence?
   - Is the complaint specific enough or clear enough to investigate?
   - Is the offense alleged or complained of one that is within the proper scope of the investigation unit?
2. The complaint and the decision made about it are posted.
3. If it is decided that the complaint is investigatable, and is a proper subject for investigation, then
   - A log is opened.
   - A determination is made as to what kind of evidence is needed to prove or disprove the allegation — with the preference going to hard evidence in the public record — and the determination is entered in the log.
   - The managers of the units that may be involved are visited and the nature of the complaint or allegation is explained, and the nature of the investigation that will be made is explained that the purpose of the investigation is at least as much to clear the innocent as to identify the guilty. Each visit is recorded in the log.
4. The investigation is carried out to the point where it is possible to either prove or disprove the allegation or complaint.
5. The results of the investigation are examined to determine what action should be taken. If the offense has been disproved and the allegation shown to be untrue, then a case is made to the management that a change may be needed in procedures so that innocence can be demonstrated at once, without incurring the cost of an investigation. If the offense has been verified, and it appears that a crime has been committed, the investigation unit swears out a complaint and turns the evidence over to the criminal justice system for prosecution. If the offense has been verified but the wrongdoing does not constitute a crime, the investigation unit keeps the evidence, shows it to the managers involved and to the chief administrative or executive officer, and requests that disciplinary action and corrective procedures be undertaken.

light, and it becomes apparent that management is serious about ending it and about having things done properly, corruption tends to wither and those who "went along" or complained only in private, shift sides, often with surprising suddenness.

When one City Manager established an investigation unit he prepared a public report to the City Council with copies to all city employees. The report gave the reason for the investigative unit, the powers it had (and did not have), what kinds of things were likely to happen, how complaints were to be received, what safeguards there were for those submitting complaints or making allegations, and for those who were the subject of complaints or allegations, and what would be done with the results. A series of reports on programs, results and actions taken were also used.

The characteristics of this anticorruption tool are these:

Advantages

- Discovery and corrective action can be taken only if good investigatory procedures are used.
- When the public and city employees are aware that corrective action is going to be taken, their awareness may have the double benefit of producing more information as well as reducing corrupt actions.

Disadvantages

- If not done professionally it may become simply harassment.
- It can produce negative public reaction.

II. The Management Team

To create conditions that encourage accountability and integrity on the part of employees, five management functions are needed: environment, management control, audit, training, and investigation. Without a central coordinating unit that can develop and apply these elements in an integrated fashion, it may be very difficult for those who are responsible for operating the individual tools to address the complex of incentives and opportunities that lead to corrupt behavior or abuses of position.

> The new mayor and city council said "clean it up" and left it to the City Manager to figure out how. He assigned the middle managers to write a code of ethics, got the training officer to put together an ethics unit, had the department heads institute management controls, brought in an auditing firm, and put together an investigative unit. He also had to handle a very difficult contract negotiation with two unions and cope with a freeway extension controversy. The first he knew that it wasn't working out was when the head of Public Works came in shouting with rage, with the figures in his hand — how's not to training, hours lost answering the questions of the audit staff, and now "that damned audit is makin' out like I don't know how to run my department, and I got some police cop takes more time a'an' questions." The City Manager tried to pull it all back together, and managed to do it for two departments, but at the end of the year, the cost far outweighed the results.

A management team should consist of the chief administrator or his/her principal deputy, the finance director, the budget or management officer, the training officer or personnel director, and the head of the investigation unit if one exists. In order to implement a program designed to reduce the opportunities and incentives to corrupt behavior, the management team must define the goals and objectives of each unit of the organization, specify indicators of ongoing goal or objective attainment activity, and specify standards of performance against which performance and behavior can be compared. Then, using indicators and standards (or approximations) as guidelines for the development of intervention strategies, the management team can plan and supervise an overall approach for implementation and monitoring feedback. Planning is not just an initial step or a one time activity. It is, given the learning process that would occur during the first implementation period, incremental and continuous. Adaptation and improvement are inevitable if management is to maintain sufficient flexibility.

The ongoing audits and reviews of operations should be monitored in order to determine which corrective actions might be necessary. The role of the training officer in identifying interventions during this process may be very important to improving conditions. The management team may also assume the function of supervised and review the various policies, rules, regulations and guidelines of the organization. This activity should be an ongoing process.

The coordination of participants and processes in the system is essential. The management team should consider the needs and response of each group who will be implementing and monitoring management controls, and the problems associated with an intensive effort on a given problem, such as bribery in building inspections, or decision-selling by officials.

Development and inculcation of a code of ethics for all employees should underlie the entire concept. Having ascertained the credibility and reasonableness of the code well in advance of implementation, the team should go to extraordinary lengths to ensure that all employees are familiar with it and understand its implications, particularly the consequences of violation.

The characteristics of a management team are these:

Requirements

- Coordinate the anticorruption strategies so that each reinforces the others.
- Provide continuity of effort, and feedback.

Advantages

- More viewpoints on the problem — prevents an anticorruption program from turning into a one-man band.
- Multiplies the number of problems that can be dealt with.

Disadvantages

- Takes time.

MAINTAINING MUNICIPAL INTEGRITY

Workshop Schedule

DAY III

Session 7	Ethical Basis of Public Service: Feedback Report	9:00 a.m. - 9:15 a.m.
Session 8	Maintaining Municipal Integrity With Help From Outside Government	9:15 a.m. - 10:30 a.m.
	BREAK	10:30 a.m. - 10:45 a.m.
Session 9	Implementation and Consequences	10:45 a.m. - 11:30 a.m.
Session 10	Action Plan	11:30 a.m. - 12:30 p.m.
Session 11	Evaluation and Conclusion	12:30 p.m. - 1:00 p.m.

DAY III

SESSION V

9:07 - 9:15 a.m.

ETHICAL BASIS OF PUBLIC SERVICE: FEEDBACK REPORT

Rationale

In an earlier session, participants were given an opportunity to complete a questionnaire on ethical dilemmas. They will be interested in how their responses compared to those of other participants in this workshop.

Goal

Answers to the questions on the questionnaire on ethical dilemmas and reasons for the answers from participants in this workshop will have been compiled. Results will be reported in this session.

DAY III

SESSION 8

9:15 - 10:30 a.m.

MAINTAINING MUNICIPAL INTEGRITY WITH HELP FROM OUTSIDE GOVERNMENT

Rationale

The question of "who watches the watchers?" often suggests sources outside government--the media, citizen watchdog groups, whistleblowers, and public-interest groups. But the equally important question of "where do you look for support?" for positive efforts to maintain the integrity of government also can find responses from outside government. The media, the corporate community, clergy, and certain citizen groups can give valuable support to the public official who takes a stand for government integrity.

Goal

This session will cover maintaining integrity with assistance from outside government under two categories--community resources and the media.

Community resources will include citizen watchdog groups, community organizations, clergy and church groups, business firms, and individual citizens. How these groups can provide support, information, and services will be covered.

The relation of government and the media and ways in which the media can contribute to government's program to maintain integrity will be discussed. The session will include a filmed interview with a press ombudsman.

GOVERNMENT INTEGRITY AND THE MEDIA

By

John H. Hall

Introduction:

Desirability of open lines of communication

It is generally felt that the objective of governmental agencies is to have open lines of communication with all media representatives to foster and maximize positive media relationships. Media can be a strong supportive source of help in terms of anti-corruption efforts. In instances where corruption is uncovered, joint efforts may be possible to uproot it.

Freedom of the press and the public right to know

Democracy is based on citizens and communities which are well informed and can act intelligently through elected representatives on the basis of information made available by the press. Such a flow of information is essential to the continued existence and maintenance of a free society. Government officials need to bear in mind that media thrives on news. If administrators demonstrate that they are reliable information sources, they will have media support.

1. Media Oversight of Governmental Operations

   A. Background

   Sensitivity in relationships between governmental agencies and the press seems to have grown out of revelations by Lincoln Steffens in his book entitled The Shame of the Cities. Steffens alleged that numerous forms of corruption existed in many municipal agencies of government. He postulated that the incidence of municipal corruption would run high unless the press, in recognizing its responsibilities, undertook the obligation of government agency oversight. Various forms of media have since assumed responsibility for watching government operations and activities as their solemn duty in the public interest. However, to keep perspective, we are reminded that media is a "for profit" enterprise--not a public service.

   B. Media Perspectives vis-a-vis Governmental Operations

   Governmental corruption is big news and always commands priority media attention.

Investigative reporting is growing in popularity, with persons so assigned having much more time in which to probe into situations and compose a story with considerable depth.

Even though we as public administrators feel that some stories relating to governmental wrongdoing are erroneous, biased, self-serving, and often leave the wrong impression, the great majority of stories are favorable to governmental administration.

Administrators must recognize the variations in story approach which may be taken by local press, wire services, local and national magazines, television, and radio. The same story may well be reported in very different ways. Print media obviously can cover stories in greater depth; magazines seek story background and human interest highlights along with peripheral issues.

If the news media forms the conclusion that the administrator is correct in the assessment and proposed handling of a corruption problem, they can be a very strong source of vitally needed support. However, should the media not be convinced that a problem exists, but consider that the public administrator is overstating the case or has some other kind of hidden agenda, they can totally neutralize an anti-corruption program.

In the International City Management Association (ICMA) Text, "Local Government Police Management," former New York City Police Commissioner Patrick V. Murphy commented about media support, or the lack of it, during police anti-corruption efforts. He made the following observations about media apathy:

> ...in a community where corruption has existed for years, where it has become a fact of life, some editors may not find corruption among the police particularly outrageous.
>
> It may be more than a matter of simply overcoming the media's apathy, however. Like politicians and much of the public, the media may be tolerant of police corruption for a reason. In a community where vice is common there may be a tacit understanding not to disturb the status quo because many people profit from it. Editors may avoid "rocking the boat" at almost any cost. Like some businessmen and politicians, they may feel that an "open town" is good for business.

C. <u>Role of the Media in the Exercise of Continuing Oversight</u>

Studies indicate that:

> major long-term efforts to combat corruption have <u>almost always</u> required an outside motivating force, frequently electronic/print media which has served as a catalyst for change.

Media representatives feel corruption in any form has a devastating impact on the effectiveness of local government operations and activities.

The theory about "a few rotten apples" in the barrel has not usually received general acceptance by reporters. They seemed to be oriented and more concerned about the barrel itself as opposed to rotten apples. In fact, many seem to reject the concept outright.

In addition, evasiveness or failure to cooperate (or what may be construed as a failure to cooperate, even though it's really a breakdown in communication) on the part of an administrator or agency may exacerbate a situation, sometimes irrevocably.

It must be remembered that:

Media representatives have the right to ask about activities of the agency, even though it may be at the discretion of the agency as to how much or what kind of information may be disclosed.

Media representatives have the right to print or air opinions with regard to public officials and how they are conducting themselves as long as they are not defamatory.

2. <u>Working Relationships With Media in Corruption/Integrity Matters</u>

A. <u>Objectives in Media Relations</u>

The administrator's object in dealing with the press is to present his or her case as favorably as possible, with all foreseeable contingency questions covered. This is definitely not to signify evasiveness or cover-up, but just plain "good business."

The administrator must often anticipate questions and have ready answers and often suggest and even volunteer information because most reports are subject to deadlines, and a reporter may overlook an aspect of the case or not thoroughly interview a news source.

B. <u>Criteria for Good Working Relationships</u>

The approach to working relationships with the media cannot be taken for granted.

A well-established working relationship with media representatives covering governmental activities, which is based on mutual respect and is wholly impartial, can provide needed media insight into an administrative atmosphere that is intolerant of integrity issues. Such a relationship also fosters a climate in which there is greater likelihood for accurate reporting of facts.

No matter how well-intentioned the administrator may be, case information must be clearly, concisely, and candidly presented--but without compromise to an ongoing investigation, e.g., acknowledgement of problem, that leads are available, are under active investigation and that such leads "will be followed wherever they may take us."

C. Strong Assurance of Proper Action

Recommendations from studies suggest:

- Articulate a strong, unwavering stance against corruption--never attempt to cover up or bury the problem.
- Develop self-awareness of image projected through voice, facial expression, body language--particularly important for t.v. interviews and radio interviews.
- Be aware of reporting and technical differences between electronic and print media.
- If an agency spokesman is to be used, the person chosen should be a good speaker, knowledgeable and trustworthy, with no possible association with the problem area under investigation.
- As soon as possible, develop and publicize a program for long-term effort about what is being done to make certain that the same situation does not happen again.

All questions asked by reporters should be thoroughly answered. What may appear to represent a questionable or minor detail of the story may reflect the slant which a particular article may have in print.

D. Communicating a Proactive Posture on Integrity

a. In instances where corruption has been uncovered, research indicates that it is particularly important to:

- Establish a special relationship with media representatives.
- Examine closely the expertise of media representatives you are dealing with.
- After determining the integrity of the particular media representatives and their editors/news directors, the key to successful interaction is to be candid and forthright.

- If your confidence is subsequently violated, that particular media representative must be cut off; and his editor/news director told why.

b. To engender support for long-range integrity programs, studies indicate that it is desirable to:

- Use every possible opportunity to publicize integrity programs through press conferences, service club speeches, community meetings, etc.

- Consider requesting permission for key jurisdictional officials to attend press editorial conferences.

- Solicit media participation in the development of new programs through citizen advisory councils.

- Suggest media research on the cost-effectiveness of integrity. (Refer to source material for further details.)

- In cases of police integrity policy, media representatives may be invited to "ride along unannounced," with appropriate understandings.

3. Responsiveness to the Media in Corruption Matters

A. The Corruption Issue Itself--Issue Confrontation

Research indicates that the issue must be faced straightforwardly, without any attempt at deception or evasiveness. This presupposes a working familiarity with the case prior to media interview. Lack of familiarity with sufficient detail with resultant information gaps in response to questions posed may reflect adversely on the administrator.

DAY III

SESSION 9

10:30 - 11:15 a.m.

IMPLEMENTATION AND CONSEQUENCES

Rationale

Implementing measures to preserve governmental integrity produces certain consequences, both positive and negative. Anticipating some of these consequences permits both the setting of realistic expectations and the action which can minimize the effects of negative consequences and maximize the positive consequences.

Goal

Some of the consequences of implementing measures to maintain municipal integrity will be discussed in this session.

Four important steps to be taken before implementing any effort will be covered. One of these deals with the inevitable personal price which a public official must pay in taking a stand and poses the question: "Is it worth it?"

The dynamics of change and some tactics for overcoming resistance will be considered.

DAY III

SESSION 10

11:15 a.m. - 12:15 p.m.

ACTION PLAN

Rationale

The ultimate evaluation of the effectiveness of this workshop will be the action taken by the participants who attended. Reducing to writing the specific intentions for action by each participant or group also serves to focus and facilitate action.

Goal

Participants will be asked to consider what action they might undertake as a result of attending this workshop and to describe that action and the steps involved on a worksheet. Certain resources that may be helpful in deciding on these steps will be presented.

Action plan worksheets will be collected at the end of the session, so that a record of action plans can be kept. Copies will be made and mailed back to the participants.

ACTION PLAN

Workshop

Based on your assessment of your jurisdiction's vulnerability to corruption and acceptability of preventive measures to support government integrity presented in this workshop, what action-improvements, corrections, changes, new measures do you plan to take? List below.

What steps do you plan to take to implement this action? List below and on the back of this page, with an estimate of the times when you will take these steps.

STEPS	BY WHEN

STOPS **BY WEEK**

So that we can know what you plan to do, we request that you turn in this plan at the end of this session. We will make copies and return one to you with your travel expense check. Please identify yourself by name and jurisdiction.

Name Jurisdiction

DAY III

SESSION 11

12:15 - 1:00 p.m.

EVALUATION AND CONCLUSION

Rationale

Evaluation of the approach and content of this workshop series by those who have participated in it is central in determining the adjustments needed to make future workshops more effective.

Participants who have given time and attention to the subject of this workshop deserve some tangible expression of appreciation.

Goal

Forms for evaluation of the workshop will be distributed to participants and completed in this session.

The session will also include awarding certificates to those who have completed the workshop and taking care of any final housekeeping matters, such as submission of expense vouchers.

TRAINING WORKSHOP FOLLOW-ON TRAINING

The National Criminal Justice Executive Training Program has a limited capability to provide up to six days of follow-on training in LEAA Regions to:

1. Replicate the training workshop within a state or contiguous states to expand the technology transfer opportunity for more law enforcement and criminal justice executives; or

2. Provide specific onsite follow-on training to implement specific technology related to the training workshop content.

3. Requests must be received within 30 days following the regional training.

Local and/or state agencies represented at each training workshop may request such assistance by contacting in writing the appropriate NILECJ/CDTD Program Manager identified by the topic Team Leader within 45 days following the workshop. The CDTD Program Manager then shares the request with the SPA concerned and the NCJETP Team Leader. They review all requests within a geographical area and rank them in priority order. Agencies concerned will be notified about the decision within three weeks of the receipt of the request. (Please note that in previous training cycles we received many more requests than we could honor).

If the request is approved, the agency and SPA concerned will be notified in writing by the Team Leader who will negotiate dates for follow-on assistance.

All participant travel and related expenses, logistics arrangements, communications to participants, and related matters are the responsibility of the participants and/or the agency requesting follow-on assistance.

The Training Team will be responsible for its own travel expenses and for replicating the training or providing other onsite follow-on training assistance. If training materials are not yet available from the NILECJ for follow-on training assistance, the agency requesting the assistance can duplicate the materials onsite or reimburse the National Criminal Justice Executive Training Program for costs incurred.

The outline on the next page is suggested as a guide to use in requesting follow-on training assistance.

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* Please note NMI Training Workshop Schedule on page 110 to avoid requesting conflicting dates.

FOLLOW-ON TRAINING REQUEST

MAINTAINING MUNICIPAL INTEGRITY

Name of Contact Person _____

Telephone Number _____

Agency/Jurisdiction _____

_____

Street Address _____

City _____ State _____ Zip Code _____

Requests: John Berner
Program Manager
Maintaining Municipal Integrity
Office of Development, Testing, and Dissemination
National Institute of Law Enforcement and Criminal Justice
Washington, D.C. 20531

Reserve Follow-On Training time to provide (check one):

A replication on the MMI Workshop _____

Onsite Consultative Assistance _____

Complete this Section IF you checked "Replication on the MMI Workshop."

_____ is the date we request the training to be conducted.

_____ is an alternate date we could consider.

_____ is the number of participants we would expect to invite from the following executive categories (i.e., specify by job title):

Executive Categories:

_____

_____

_____

_____

We understand that all expenses (except trainer expenses), logistical arrangements, and material duplication for the training workshop will be the responsibility of our office and that the trainers will be in charge of conducting the workshop within a mutually acceptable agenda.

Complete this Section IF you checked "Onsite Consultative Assistance"

_____, is the date we request the onsite consultative assistance.

_____ is an alternate date we could consider.

Please comment on the nature of the consultative assistance expected, categories of persons to be involved, problems anticipated, etc.:

We recognize that our request will be reviewed and ranked in priority order. We would expect to be notified of our request's disposition about

_____.
(three weeks from initiating request)

Respectfully submitted,

_____ _____
Signature of Initiating Executive Date Submitted

TRAINING WORKSHOP SCHEDULE

MAINTAINING MUNICIPAL INTEGRITY

STATES	DATE/SITE	STATES	DATE/SITE
REGION I Maine New Hampshire Vermont Massachusetts Rhode Island Connecticut	May 9-11, 1979 Boston, MA	REGION VI New Mexico Texas Oklahoma Arkansas Louisiana	April 11-13,1979 Fort Worth, TX
REGION II New York New Jersey Puerto Rico	January 3-5, 1979 New York, NY	REGION VII Nebraska Iowa Kansas Missouri	March 7-9, 1979 St. Louis, MO
REGION III Pennsylvania Delaware Maryland Virginia West Virginia District of Columbia	April 25-27, 1979 Alexandria, VA	REGION VIII Montana North Dakota South Dakota Wyoming Utah Colorado	March 28-30, 1979 Denver, CO
REGION IV Kentucky Tennessee North Carolina South Carolina Georgia Alabama Mississippi Florida	January 31- February 2, 1979 Atlanta, GA	REGION IX California Nevada Arizona Hawaii	December 13-15, 1978 Sacramento, CA
REGION V Minnesota Wisconsin Michigan Illinois Indiana Ohio	February 14-16, 1979 Chicago, IL	REGION X Washington Oregon Idaho Alaska	May 23-25, 1979 Portland, OR

APPENDIX A

IMPLEMENTING INNOVATION

IMPLEMENTING INNOVATION

by Ora A. Spaid

Summary

Innovation is bringing something into new use, as contrasted to invention, which is bringing something new into being. The diffusion and adoption of innovation can be difficult, but certain practices and actions in implementing innovation have been empirically shown to be more effective than others. Importantly involved are the characteristics of the actors who bring the innovation and those who will participate in its implementation, the norms and conditions of the organization or system that is offered the innovation, and the preceptions of the innovation. The process of adoption follows a fairly predictable evolution through stages. Responses by actors also are open to reasonable categorizing. Resistances to change can be identified and specific actions taken to overcome resistances. Innovation, or social change, has received considerable research attention by social scientists. This article reviews some of the generalizations about innovation from the literature on social change.

A simple innovation in the way hospitals admit patients has produced a system that could save billions of dollars a year in hospital costs.

In a dozen demonstration hospitals, the system has not only cut costs, but has increased the hospitals' occupancy rates, reduced their waiting lists, and improved the quality of patient care.

Although development of the Admissions Scheduling and Control System by the University of Michigan's Bureau of Hospital Administration involved simulation by computer, the innovation is based on a simple idea. By scheduling short-stay elective-surgery and medical-workup patients at times when the hospital is least crowded, such as on weekends, fuller and more efficient use can be made of the hospital's beds, facilities and personnel.

One hospital, which invested $17,000 to have the system developed for its use, estimates that it will save about $750,000 a year, about $6 a day per patient. This hospital had sought permission to expand, to accommodate staff demands for beds at peak operating times, at the same time that the hospital's overall occupancy rate was 88 percent. Permission to expand was denied, but adoption of the new admissions system increased the occupancy rate to 91 percent.

An official of HEW's National Center for Health Services Research, which funded Michigan's work on the new system, said the "vast majority" of American hospitals would use the system and "billions" could be saved annually.

Although hospital administrators are pleased with the innovation, they encountered early resistance from medical staff. One administrator's strategy for dealing with that opposition was simply to begin using the system. "We just did it and afterwards told everybody how wonderful it was," he said. "And by then it was."[1]

Definition and Characteristics of Innovation

The example of the hospital admissions system fits the definition of an innovation as bringing something into new use, as contrasted to invention, which is bringing something new into being.[2]

Generally, an innovation may be described as any idea perceived as new by an individual or organization--a novel idea or practice, a new way of doing things.[3] Implied is a new use or rearrangement of present resources or practices. The hospitals in the above example merely rearranged existing admission practices.

Innovations may be only momentary, or they may have long-range effect.

One winter shortly after the 747 airplane was introduced for passenger travel, a blizzard swept through the Midwest, closing airports and stranding passengers. When the storm lifted somewhat, one airline deployed a 747 to gather up waiting passengers at several upper Midwest cities and fly them to Chicago. After deplaning at Chicago's O'Hare International Airport, the passengers were held up an inordinate time waiting for their baggage to arrive on two small delivery carrousels, the normal number assigned to each plane. More than 300 passengers vied for a chance at finding their bags, effectively shutting each other out. After long minutes of delay, one passenger suggested to the airline officials, simply "Why don't you use more than two carrousels?" It was an innovation, because it was contrary to the airline's customary practice. But the idea was adopted, and while passengers bumped and scurried from one to the other of ten additional carrousels put into use, their frustration was broken by the activity and soon all had retrieved their bags.

Once institutionalized, innovations lose their definition as being novel. The field of athletics has seen numerous innovations of the kind which began as unusual variations. The so-called "jump shot" in basketball--during which a player merely jumps as high as he can and releases the ball at the top of his leap--was a revolutionary alteration of the common "set shot" of many years back when a player seldom left his feet when shooting the ball at the basket. An innovation in track and field by a high jumper by the name of Fosberry introduced the "flop," a way of jumping over the bar backwards. It gained him greater heights, even though it was not as graceful a maneuver as the standard style. Today, most world-class jumpers use the flop. In a years-ago football game with Army, Coach Knute Rockne of Notre Dame pulled victory from defeat by employing a device which, while permitted under the rules, had never been tried--the forward pass.

Some innovations come from novel uses of new inventions. Television was introduced as a sight medium for public communication, an improvement on radio--but very soon found novel use in closed circuit systems which update airline schedules for airport travelers, allow medical students to observe surgical techniques in operating theatres, permit students who have missed a class to catch up by viewing video tape, and enable engineers to inspect sewers for leaks. The range of innovative uses of computers keeps broadening, reaching into the lives of citizens like a commercial relative, who totes up your bills and plays chess with you. Supermarkets in some cities now employ computers to scan and count up the cost of customers' groceries at check-out counters.

Probably because of the striving to increase productivity in order to increase profit, business and industry have taken a forerunner role in innovation. Examining the work processes of production employees, such as in time and motion studies, has permitted the adoption of new practices of increased efficiency and output. The growth of industry and the increasing complexity and breadth of its operations gave rise to a new way of examining processes--systems analysis.

While applied in an ever expanding scope, systems analysis is essentially a new look at old practices. Only in recent decades has systems analysis turned attention to the practices of public and social institutions--moving from the so-called "hardware" of industrial technology to the "software" of human services delivery.

The innovations which can result from such a disciplined, systematic scrutiny of traditional practices range from changing the color of the familiar "blackboard" to green (necessitating a change in name to "chalkboard"), improving its visibility for students, to experiments in "flextime" hours under which employees are required to be in their places of work for four to five set hours of the day and may fill in the additional work hours at their own convenience. This innovation makes it possible for individuals to adjust their commuting schedules to avoid the rush hours of traffic.

Such a new look at old practices in search of better technology for the criminal justice system has been the mission of research and demonstration projects of LEAA's National Institute of Law Enforcement and Criminal Justice. Once research has been fruitful in discovering potentially effective new practices, an endeavor is made by the Institute's Office of Development, Testing, and Dissemination to introduce them across the country.

An example of such a new technology is the improved usage and management of juries. Systematic analysis of the present practices of courts showed that far fewer jurors are needed than are presently being called. Studies to show the average and peak needs for jurors, the effect of staggering the starts of voir dire and trial procedures, and the results of improved methods of notifying and selecting jurors came from the research. The transfer of this technology to courts throughout the nation has resulted in saving hundreds of thousands of dollars in juror fees.

Technology in human-service organizations has been defined as "a series of complex sets of techniques used to alter objects in an appropriate manner." The term "objects," could involve both human behavior and work processes.

To satisfy this definition, technology should meet these criteria:

1. Knowledge of random cause-effect relationship

2. Feedback such that the consequences of acts can be assessed objectively

3. Possibility of repeated demonstrations of efficacy

4. Proportion of successes that can be estimated

5. Techniques communicated easily and performed under acceptable limits of tolerance.[4]

Resistance to Change

Resistance to change is normal. All that contributes to stability in personality or social systems can be regarded as resisting change. Culture, values, and institutions are preserved by resisting unwarranted change.

Nor is resistance to change rightly perceived as simple inertia in human nature. Most human beings are eager for some changes--better health, more money, more freedom, more work satisfaction.[5]

The human tendencies to preserve what is present and to return to equilibrium when what is present is disturbed have corresponding behavior in social systems or organizations sometimes described as norms, the customary and expected ways of behaving. Norms make it possible for people to work together, to know what to expect of each other. When norms are shared by many individuals in an organization, they cannot easily be changed.

Resistance comes in many forms and from a variety of motivations. Following are some generalizations on resistance to change which appear with some regularity in the literature:

- Change is resisted by force of habit.

  Humans are creatures of habit. The time we get up, the way we dress, the route we take to work, where we carry our money, the place we sit in meetings or at home--all are habitual behavior. Changing any of these habits makes us uncomfortable. Routine seems safe, known. If by demand or circumstances, we are forced from habit, anxiety results.

- Change disturbs what is regarded as normal.

  What is customary, what is old (the "good old days," the "old-fashioned way") are assumed to be "normal" while change is deemed "abnormal." The status quo is protected because it represents a known norm with which we can deal. Organizational norms are accepted as "the way we do things here" and are interpreted as tried and true simply because of their existence.

- Change is contrary to first-learned patterns.

Our primary experiences carry throughout life. The familiar music we first heard and learned to love, the foods we were "brought up on," the "way we were taught" was proper to dress or behave--these form an impervious pattern. Patterns in organizations often continue, in the absence of effective challenge, largely because "that's the way we have always done it."

- Some norms or values become sacrosanct.

Values or norms which have attributes of moral or religious significance are protected tenaciously from change. Organizational or professional codes of ethics, formal or informal, become "sacred cows." Negative patterns take on the form of a taboo, as practices which "just aren't done" because they were prohibited in early experience. Persons who first learned to read the King James Version of the Bible view it as the only authorized version. Liturgical changes in church are fiercely resisted.

- Change may be perceived as an admission of failure or the judgment of inadequacy.

A new procedure which could save money can be resisted because making the change would appear to be an admission that money is now being wasted. Training is resisted because acceptance seems to be an acknowledgement of ignorance. The advocacy of change takes on the weight of an indictment that "something is wrong."

- The reasons for change may be unclear, or misunderstood or conflict with personal goals.

Motivation for change may be suspected. An assumption can be made that the advocate of change would benefit inordinately from the change. Some changes which might be given superficial or "professional" acceptance are resisted because they conflict with personal attitudes or goals. The police officer may resent some service duties as being "social work." A change may interfere with an opponent's desire to press for some other change.

- Change can be resisted for its ripple effect.

When the full implications of change are not known or acknowledged by proponents, changes can be resisted because of the interrelationships or consequences involved. Change at one level may require changes at other levels--increased budget, more personnel, training, approval by authority figures, new policies or procedures, amended legislation.

- Change can represent a challenge to authority.

  Change sometimes is perceived as an invasion of "turf," which could mean loss of control by an authority figure. Change initiated from outside may infer to a minister that "someone is trying to tell me how to do my job." The "good guy" privileges of a leader may be diminished by change, robbing him or her of the opportunity to dispense rewards.

- Anything "not invented here" may be resisted.

  Local pride resents suggestions from an "outside agitator" or the "interference" of "the feds" or others not part of the local or organizational structure. Ideas which originate in other communities, especially competitive cities or those which carry a stereotyped antipathy, such as New York, are resisted by the contention that "it won't work here." Opposition to change is often justified by the uniqueness of the existing community, because it is smaller, more rural or different in some way.

- Change may increase or decrease workloads.

  Fear that a changed practice will require more work is expected, but sometimes change is resisted from fear that less work will result. Trade unions resist automation and computerized operations for the possible reduction in need for labor. Professional associations may resist new technology out of concern for a reduction in fees.

- People may feel powerless to make changes.

  Traditional and bureaucratic organizations are perceived as immovable and hope for change as useless. A sense of impotence comes when accountability for change rests upon vague, faceless forces--"They ought to do something about it." The anonymous community, public, or "society" is held responsible for lack of change, such as in the view that "People get the kind of government they deserve." These statements represent a sense of powerlessness. Describing problems or causes in all-encompassing terms such as "racism," "sexism," "the bureaucracy" or stating solutions in unmanageable terms like "public education" or "interagency cooperation" are subtle resistances to change which render change agents powerless.

The Process of Implementing Innovation

The way an innovation is implemented has been described by some writers as the change process. Several different kinds of change processes have been defined, based upon the characteristics of the persons involved, their participation in the process and the distribution of power among them, and the setting for the change and the change itself.[6]

- Planned change

  In this kind of process, change is derived through mutual goal setting and equal distribution of power and deliberateness among all persons involved. An example would be a task group in which all members hold equal responsibility and authority for solving a problem by determining the change action necessary and participating in implementation of the change.

- Indoctrination

  Goals are assumed to be mutually accepted but power and deliberateness are unbalanced. A new recruit in a military service could be said to accept the goals of the service and thereby submits to indoctrination deliberately done by superiors.

- Coercive change

  Goals are not mutually set, power is unbalanced and deliberateness is one-sided. The ideological problem of brainwashing is an example, or any change which is forced.

- Technocratic change

  In this process, change comes from the superiority of data, new and expert information which prevails over any other considerations. An airline which adopts computerized procedures for passenger reservations would rely on computer experts in making the changes necessary.

- Interactional change

  Mutual goals, fairly equal power, but no deliberateness among persons involved. A married couple change by virtue of their interaction with each other or a professional changes approach or practices through interaction with peers.

- Socialization change

  In this process, change comes through kinship with hierarchical controls, as in the socialization of a child. Relations with parent or teacher result in change.

- Emulative change

  The subordinate employee who identifies with and seeks to emulate a superior changes behavior or practices through emulation. Power figures and role models determine this kind of change, either positively or negatively.

- Natural change

  No goals are set, no deliberateness to change is present. In this process, change results through or idents, quirks of fate, acts of God, so the process is spontaneous.

Theorists who deal with innovation generally agree that the implementation of innovation occurs in a staged process.

Kurt Lewin has had substantial influence on change theory with his force field concept. This holds that an organizational structure or situation is not static, but dynamic--an equilibrium which is maintained by a balanced field of forces working against each other. When an innovation is introduced, its proponents and opponents and conditions which support them array themselves into driving forces (seeking the innovation) and restraining forces (opposing the innovation). The implementation of innovation calls for change agents to increase the strength of the driving forces or to reduce the strength of the restraining forces, or both.[7]

Lewin postulated a process of change much like that of Carl Rogers, the famous formulator of nondirective therapy. Change begins with a period of "unfreezing," during which defenses and resistances are eliminated and a climate of openness is sought. Change can then occur. Once change has been adopted, a "refreezing" takes place, to consolidate the change.

The process in behavioral change moves from an external motivation for the change to an internalized motivation.

Psychologist Norman Maier has stressed the interdependence between the innovator and those who must implement the innovation in his concept of synergistic decisionmaking. Effective decisions (or implementations) are the product of quality thinking (ideas) multiplied by acceptance of the decision by the people who must carry it out.

Maier cast his concept in a mathematical formula: Effective Decisions equals Quality Thinking times Acceptance. The thinking behind a particular decision (the idea or innovation) may be highly rational and extremely creative (Q equals 10). However, if the people who have to implement the decision do not accept it (A equals 0), the decision will suffer in its implementation (10 times 0 equals 0).

Irrational or unimaginative thinking (Q equals 0) may lead to an inappropriate decision that is very acceptable to the people (A equals 10) who proceed to implement it. In that instance, a poor decision is effectively executed (0 times 10 equals 0).

The ideal combination, of course, is high quality thinking (a fine idea) (Q equals 10) which is very acceptable to those who must implement it (A equals 10). This produces the synergistic effect (10 times 10 equals 100) which leads to results beyond what could be expected from the total of the separate entities.

Zaltman's concept of the interdependence between change bringers and change implementers has been offered as a caution against the view that authority figures can bring about effective change by direct order. Those required to implement the ordered change who do not accept it can damage or sabotage it.

One of the most influential thinkers on the subject of innovation is Everett Rogers, whose book, Diffusion of Innovations, is generally considered a classic in its field.[8]

Rogers' formulations have been diagrammed in a paradigm (Figure 9.1) and generalizations from a review of the literature on social change have been presented as they interpret Rogers' constructs by Jack Rothman.[9]

Antecedents

Adoption of an innovation by an individual is contingent upon two primary antecedents--the actor's identity and his or her perceptions of the situation.

Factors which influence the actor's (or group of actor's) reception of innovation include his or her present security-anxiety state, values, mental ability and conceptual skill, social status, cosmopolitaness (interest in, association with and openness to information and influences outside his or her own group, organization or community) and readiness to be influenced by opinion leaders.

> Generalization: The innovativeness (tendency to adopt innovations) of an individual is directly related to his or her level of social participation. Persons who are active in formal organizations are more innovative than persons who are not.

Perceptions of the situation into which an innovation is introduced are vitally influenced by the membership of the actor in a social system, organization or economic condition. That which affects the system to which he or she belongs marks the actor's perceptions.

> Generalization: The innovativeness of a system is inversely related to the extent to which that system adheres to traditional norms. Systems with more modern orientation are more innovative. Generally, indices of receptivity to innovation include:
>
> 1. An urban character or orientation
> 2. A nuclear family structure
> 3. A high level use of mass media
> 4. A high level of residential mobility
> 5. A more heterogeneous population
> 6. A high level of scientific knowledge
>
> Generalization: The innovativeness of a system is directly related to its socioeconomic status. High socioeconomic systems are more innovative.

Generalization: The innovativeness of a system is directly related to previous experience with innovation. Systems that have previously experienced successful innovations are more innovative than those which are not.

Generalization: The innovativeness of a system is directly related to the extent to which it feels a need for change. Discontented systems generally are more innovative than contented ones.

Generalization: The innovativeness of a system is directly related to its supportive value orientations. Conservative, fatalistic and authoritarian systems are less innovative.

Adoption Process

The adoption process is affected by the perceived characteristics of the innovations themselves and by the sources from which the actor receives information about the innovations.

Characteristics of the innovation which are important to the actor are relative advantage, compatability, complexity, divisibility and communicability.

Generalization: The rate of adoption of an innovation is related to people's perception of its advantages relative to other innovations or to the status quo. A crisis situation may emphasize the relative advantage of an innovation. The adoption rate will be higher during or shortly after a crisis period.

Generalization: Adoption of an innovation is related to the degree to which it is seen as compatible with the existing values of the system. More compatible innovations will have a high adoption rate. Compatibility is a judgment made by the system, by standards such as cultural values, previously accepted practices and professional standards of conduct.

Generalization: Innovations which can be explained or demonstrated with ease will have a higher adoption rate than those which are difficult to explain or demonstrate. Oral transmission of technical information about innovations may result in distortion. Oral communication should be supplemented by visual aids or experiential exposure, or with feedback interactions. Generally, the closer the communication to the system's language or vernacular, the better.

Generalization: The rate of adoption of an innovation is inversely related to its degree of perceived complexity. Less complex innovations will have a higher adoption rate.

Rogers characterized the manner in which information about an innovation is communicated in the diffusion process. Factors of importance in this process are whether the communication is personal or impersonal; that is, face-to-face communication or by media, and whether communication originates within the system or from an external source.

> Generalization: Innovation adoption is directly related to the extent to which it is diffused in a manner that is compatible with the system's norms, values, and customs. Innovations diffused in a compatible manner have a higher adoption rate. Innovations communicated with the cooperation of the system's power structure generally have a higher rate of adoption. In some systems, informal and personal exchange of information is traditional. The rate of adoption of innovation in such a system is related to the use of the informal, personal mode of communication.

> Generalization: The adoption rate is related to the extent to which innovations are supported by the peers of a system. The adoption rate is also related to the amount of discussion of the innovation and informed discussion prompts a higher innovation-adoption rate.

> Generalization: The innovation-adoption rate is directly related to the extent to which opinion leaders, persons from whom others seek advice, promote the innovation. Opinion leaders are not necessarily innovators themselves.

> Generalization: Generally, innovations communicated with a clear and unambiguous message are more likely to be adopted than those subject to unclear and confusing interpretations.

Rogers lists five stages in the adoption process--awareness, interest, evaluation, trial, and adoption. Behavior associated with each of these stages: exposure to innovation, increased interest and information gathering, decision whether to try innovation, trial for the innovation, and decision as to further continuation.

Actors involved in the process are categorized by Rogers as falling into five groups: innovators, early adopters, early majority, late majority, and laggards. Innovators are the first to adopt innovations and laggards are the last.

Results

The adopted innovation may be altered. An adopted innovation may be continued after some experience with it or discontinued. An innovation which was rejected may later be adopted.

Axioms for Action

The implementation of an innovation is a creative, dynamic, and practical process. Many successful innovators are not informed by the literature of social change, but move intuitively to achieve results. From the experience, certain commonly accepted empirical guidelines emerge, which are presented here as axioms for action.

- Gather complete, precise information.

  A carefully thought-through statement of the problem which the innovation seeks to resolve is necessary, one which is fully documented, describes the situation in all its ramifications, the results expected and the possible impact of the innovation, as a rationale for action. More bluntly: Know exactly what you are talking about.

  Caution: Information alone will not bring change. A report or study, differed or not, needs active support. Information is, however, the beginning of an innovation. People with the same information tend to move in the same direction.

- Know exactly what innovation is sought.

  The innovation you want adopted should be stated in the language of goals and objectives--clear, simple, and concise. Ambiguity and complexity should be avoided at all costs. Reducing your goal to a simple statement is a useful discipline and prepares your description of the innovation to stand up in interactive discussion.

- Enlist the support of power figures.

  Authority persons usually cannot produce change simply by ordering it, but innovations are rarely accepted without their approval. While change can occur in spite of resistance from power figures, implementation of innovation is more rapid and smooth with their support, particularly when that support is observable to others.

- Inform and involve all concerned.

  While this activity may be time consuming, the involvement of all who might conceivably be concerned is ultimately the shortest route to innovation. Keeping everyone up to date, touching base with both advocates and opponents will prevent the entrapping of resistance which comes from misinformation or not being informed.

  Try to give everyone--even those of lesser concern--the same information. Informed people tend to assume responsibility for action simply because they were "let in on what is going on."

- Know your opposition.

  Analyze the resistance the innovation is apt to encounter. Identify the actors--who must be convinced if the innovation is to succeed and what their response to it is likely to be, whether they are part of the driving or restraining forces, as Lewin's force-field analysis terms them. Put most emphasis on reducing the restraining forces; that is, minimizing the opposition.

- Focus on the local level.

  Innovation should be justified as valid and needed in the home community, where the benefits will accrue. How another city made use of an innovation may stir resentment. Appeal to local pride.

- Let others take the credit.

  Nothing impedes the progress of change more than concern over who gets the credit. The copybook rule that there is no limit to what can be accomplished if a person does not care who gets the credit is a prescription for successful innovation.

- Provide feedback on both success and setbacks.

  Frequent progress reports, intended to convey "how we are doing" should not only update progress, but describe delays, setbacks, and rejections as well. Negative news has value. By sharing reverses, all become aware of problems encountered and obtain the idea that all are in the process together. Help can come on setbacks from those least expected to give it if they are informed.

- Listen to the resistors.

  Respect those who oppose the innovation and take their views seriously. Listen hard to what they are saying. Paying close attention may disclose openings for you to reduce their resistance. Obstacles may not be as severe as you suspect. Resistance is uneven; sort that which is hard from that which is soft. Work on the soft spots in your opposition.

- Remember that piecemeal changes are more easily accepted.

  Small parts of the innovation may not meet your goal, but they form a breakthrough. Change begets change. Be willing to accept a partial adoption of innovation now, because it is possible, in the hopes of gaining more later.

- Be mindful that people seldom change immediately under pressure, but they seldom change without pressure.

  Intensive striving to have an innovation adopted, applying pressure, increases tension and resistance. Withdraw pressure after the innovation has been introduced. Allow time for defenses to drop and for the innovation to germinate. When "saving face" is no longer a factor, acceptance of a new idea has come in more abundant form than first expected.

- Do not expect adoption to come in the form or at the time you anticipated.

  Because the process of adoption of innovation has a dynamic of its own, the equilibrium of the process will evolve differently as time goes on. When new factors arise, they may signal change occurring. Be ready to modify your timetable and your expectations. The innovation may not be adopted in the manner or form in which it was first presented. Learning to recognize success requires the ability to change perceptions.

- Acknowledge that adoption of innovation will occur at the pace of the person or organization.

  Some people or organizations are more open to change and move more rapidly toward adoption than others. Adjust the expectations of the rate of adoption to those concerned. Do not expect all to move at the same pace. Pushing for implementation too rapidly may generate additional resistance.

- When you confront a stalemate, look for higher ground.

  If forces for and against an innovation become locked in immovable position, seek some new action or objective which rises above the frozen situation and offers something more for each side. An enlarged goal which "sweetens the kitty" for each set of forces can sometimes break the inertia. Try to move from a win-lose condition to a win-win proposition.

The Change Agent

The impetus for innovation--particularly the kind of innovation that is undertaken--usually comes from a source outside an organization or system. The conditions or climate of receptivity to innovation, however, generally require a combination of internal dissatisfaction and an external stimulation.

Customary practices may fail to produce acceptable results and this failure may be noticeable to both those within the organization and persons or forces outside the organization to whom there is some accountability. Fear of criticism

or demands for improvements may prompt a search for innovation. An organizational crisis or even a noncritical but continuing history of problems may open the way to consideration of new practices. Unfavorable coverage by the news media, disenchantment among citizens, and, in the case of business organizations, a falloff in profits can create a climate for change. Sometimes, innovation is mandated from the outside. In the criminal justice system, organizational practices are changed by court decisions or the passage of new legislation.

Whatever the stimulus for innovation, the role of change agent is vital, although the role is not always sought; it sometimes falls accidentally on some unsuspecting member of an organization. When an organization is under some compulsion to improve, the charge to seek out new ideas may be assigned to persons whose prior role has been to protect and maintain present procedures. Or, simple exposure to an innovative concept may be enough to drop the mantle of change agent upon a person. So or she may learn of a new idea by attending a conference, reading a periodical, or visiting a comparable organization in another city.

The change agent role has been given multiple definitions in the literature. Enabler, demonstrator, stimulator-innovator, broker, advocate, activist, analyst, planner, organizer, initiator, and transmitter are some of the titles attributed to change agents. Most titles describe a function or role set that is carried out by the change agent. Social scientists seem to be moving away from this characterization of the change agent by function, however, toward an interpretation that the role requires a repertoire of many functions. In recent years, for instance, the once popular description of the change agent as primarily an enabler has been regarded as too limiting.[10]

Performance of the role varies in time, place and circumstances and sometimes requires a mix of overlapping functions.

The change-agent role is beset with limitations. One study of consultants who served as change agents disclosed that the approach or focus orientation of the consultant was a major determinant in his or her diagnosis of problems in an organization. The organization-development-oriented consultant saw problems in the norms and practices of the organization, while the people-change-oriented consultant could detect problems in the way individuals functioned. Out of different perceptions, the different consultants advised diverse solutions for the same organization.[11]

Perhaps the most stereotypical perception of the change agent's role involves his or her standing as a power figure. The assumption is often made that authority figures or "decision-makers" have the power to almost automatically implement innovation, purely by virtue of that power. The assumption follows that persons with less or no authority do not have the power to require change. While this is traditionally described as the top-down or the bottom-up flow of influence, most change-agent functions by persons not in positions of authority are a lateral influence of peers, a side-to-side activity.

Earlier, discussion of Maier's concept of synergistic decision-making was cited as a concept which illustrates the dependency of power figures who seek to make changes on the subordinate persons who must implement the changes.

The notion that authority figures are able to order change is based upon a limited definition of power and its effect. Yet power, or influence upon others, derives from a variety of bases with different degrees of effect.

French and Raven have defined six sets of power bases which grow from the interaction of persons and groups and their belief systems.[12]

- Referent power

  Two individuals in constant reference to each other through friendship, love, respect or worship may be regarded as having almost inadvertent power over each other. One may act as he or she thinks the other wishes, without overt attempt at influence. The power or influence he or she exerts over the other is not perceived negatively, if at all. It grows from the unity of their reference to each other. Referent power generally is confined to individuals.

- Legitimate power

  Power is legitimately attached to certain persons by virtue of the office or position they occupy. This vested authority, when accepted by others, becomes legitimate power as individuals and groups get out of an obligation to be influenced. The authority figure is regarded as having the "right" to have influence. Acceptance of this power by those who are influenced is what makes it legitimate.

- Expert power

  The strength or superiority of special knowledge of expertise gives persons who possess such expertise a power over others. Expert power can be attributed to groups and organizations, as well as individuals. It is dependent upon the recognition of superiority in expertise.

- Reward power

  The capacity of persons or groups to reward others carries power. Behavior can be influenced by the promise of reward, if the rewards are those which are valued. Reward power must be exercised to be effective.

- Coercive power

  The capacity to punish is a power often used as a corrolary to reward power. The strength of coercive power depends upon the subordinate's fear of punishment if he or she does not conform. Coercive power is also limited to the behavior which the individual believes is observable to the power figure. An individual's past experiences with punishment and circumstances away from the influence of power figures--such as independent support--also limit the strength of coercive power.

- Information power

  The concept that "information is power" is legitimate, particularly in situations where information is vital to effective functioning. The withholding of information, as well as its sharing, is a base of power.

The important implication to be drawn from the delineation of different bases of power is that more activity is required of the authority figure than implementing innovation decree. Rewards, expertise, information, and recognition of legitimacy are necessary for the full power of the authority figure to be effective. Coercive or punishment power is seldom sufficient to generate change.

Probably the most human, yet dysfunctional temptation of the change agent is to expect all change to come from others. An essential for the effective innovator is the willingness to change himself or herself.

Change itself can evoke change in others through interaction. The skilled innovator views change as a sharing in which each side moves toward the other in the process of changing. The proponent of innovation who refuses to change is modeling a behavior of no-change, which is contrary to his or her purpose.

Ignoring Innovation

Jean-Henri Fabre, the noted French naturalist, conducted some experiments with processionary caterpillars which have significance for attitudes about innovation.

Processionary caterpillars are called so because of their habit of moving through trees in a long procession, feeding upon pine needles. One leads and the others follow, each with eyes half closed and head snugly fitted against the rear extremities of his predecessor.

Fabre put a large group of processionary caterpillars in a flower pot and enticed them to the rim of the pot. With great patience, he put the first one connected to the last one, so that all the caterpillars formed a circle, moving around the rim of the flower pot in an unending chain.

He placed a supply of food close at hand and visible just outside the range of the circle and expected that after a time the caterpillars would break out, start off in some new direction.

Not so. Through sheer force of habit, the creeping circle kept moving relentlessly around and around the rim of the pot, for seven days and seven nights. Ultimately, the caterpillars died of starvation or exhaustion.

FOOTNOTES

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APPENDIX B

ARTICLE 12--ETHICS IN PUBLIC CONTRACTING: STATUTORY PROVISIONS

ARTICLE 12 - ETHICS IN PUBLIC CONTRACTING
STATUTORY PROVISIONS

Part A - Definitions

Definitions of Terms Used in this Article.

(1) "Conspicuously" means written in such special or distinctive format, print, or manner that a reasonable person against whom it is to operate ought to have noticed it.

(2) "Confidential Information" means any information which is available to an employee not only because of his status as an employee of this [State] and is not a matter of public knowledge or available to the public on request.

(3) "Debarment" means the disqualification of a person to receive Invitations for Bids or Requests for Proposals, or the award of a contract by the [State], or any governmental body thereof, for a specified period of time.

(4) "Financial Interest" means

(a) ownership of any interest or involvement in any relationship from which, or as a result of which, a person has, within the past three years, received or is presently or in the future entitled to receive more than [$] per year, or its equivalent, or

(b) ownership of more than a [%] interest in any business, or

(c) holding a position in a business such as an officer, director, trustee, partner, employee, or the like, or holding any position of management.

(5) "Gratuity" means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.

(6) "Immediate Family" means a spouse, children, grandchildren, parents, brothers and sisters, and such other relatives as designated by the Ethics Commission.

(7) "Official Responsibility" means direct administrative or operating authority, whether intermediate or final, either exercisable alone or with others, either personally or through subordinates, to approve, disapprove, or otherwise direct [State] action.

(8) "Suspension" means the disqualification of any person to receive Invitations for Bids or Requests for Proposals, or to be awarded a contract by the [State], or any governmental body thereof, for a temporary period pending the completion of an investigation, and any legal proceedings that may ensue.

Part B - Standards of Conduct

Statement of Public Policy.

Public employment is a public trust.

It is the policy and purpose of this Article to promote and balance the object of protecting government integrity and of facilitating the recruitment and retention of personnel needed by the [State] by prescribing essential restrictions against conflict of interest without creating unnecessary barriers to public service and by facilitating development of fair and competitive access to [State] purchasing by responsible contractors.

Employees must discharge their duties and responsibilities fairly and impartially. They should also maintain a standard of conduct that will inspire public confidence in the integrity of the government of this [State].

General Standards of Ethical Conduct.

(1) General Standards of Ethical Conduct for Employees. Any attempt to realize personal gain through public employment, inconsistent with the responsible discharge of that public employment, is a breach of a public trust.

In order to fulfill this general prescribed standard, employees must also meet the specific standards set forth in: Section 12-203 (Conflict of Interest); Section 12-204 (Employees with Financial Interest--Disclosure Requirements); Section 12-205 (Gratuities and Kickbacks); Section 12-206 (Contingent Fees); Section 12-207 (Restrictions on Employment of Present and Former Employees); Section 12-208 (Use of Confidential Information); and Section 12-209 (Public Access to Purchasing Information and Records).

(2) General Standards of Ethical Conduct for Non-Employees. Any effort to influence any public employee to breach the standards of ethical conduct set forth in this Section and Section 12-203 through Section 12-209 of this Article is also a breach of ethical standards.

Conflict of Interest.

(1) Conflict of Interest. It shall be a breach of ethical standards for any employee to participate directly or indirectly in any proceeding or application, request for ruling or other determination, claim or controversy, or other particular matter pertaining to any contract, or subcontract, and any solicitation or proposal therefor, in which to his knowledge:

(a) he, or any member of his immediate family has a financial interest therein; or

(b) a business or organization in which he or any member of his immediate family has a financial interest as any officer, director, trustee, partner or employee, is a party; or

(c) any other person, business or organization with whom he or any member of his immediate family is negotiating or has an arrangement concerning prospective employment is a party.

Direct or indirect participation shall include but not be limited to involvement through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or purchase standard, rendering of advice, investigation, auditing, or in any other advisory capacity.

(2) Notice. Notice of this prohibition shall be conspicuously set forth in every [State] contract, and solicitation therefor.

Employees with Financial Interest-Disclosure Requirements.

(1) Disclosure of Benefits Received From Contracts. Any employee who has or obtains any benefit from any [State] contract with a business in which the employee has a financial interest, shall report such benefits to the [insert appropriate agency], provided, however, this provision shall not apply to a contract with a business where the employee's interest in the business has been placed in an independently managed trust.

Any employee who knows or should have known of such benefit, and fails to report such benefit to [insert appropriate agency], is in breach of the ethical standards of this Section.

(2) Notice. Notice of this requirement shall be conspicuously set forth in every contract or solicitation therefor.

Gratuities and Kickbacks.

(1) Gratuities. It is a breach of ethical standards for any person to offer, give, or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment, in connection with any decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or purchase standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling or other determination, claim or controversy, or other particular matter, pertaining to any contract or subcontract and any solicitation or proposal therefor.

(2) Kickbacks. It is a breach of ethical standards for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

(3) Notice. The prohibition against gratuities and kickbacks shall be conspicuously set forth in every contract and solicitation therefor.

Contingent Fees.

(1) Contingent Fees. It shall be a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a [State] contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by the contractor for the purpose of securing business.

(2) Representation of Contractor. Every person, before being awarded a contract in excess of [$] with this [State], shall represent, in writing, that he has not retained a person in violation of Subsection (1) of this Section. Failure to do so constitutes a breach of ethical standards.

(3) Notice. The representation prescribed in Subsection (2) shall be conspicuously set forth in all contracts and solicitations therefor.

Restrictions on Employment of Present and Former Employees.

(1) Contemporaneous Employment Prohibited. It shall be a breach of ethical standards for any employee who is involved in purchasing to bargain or be, while such an employee, the employee of any party contracting with the particular governmental body by which the employee is employed. Notice of this provision shall be conspicuously set forth in every contract and solicitation therefor.

(2) Restrictions on Former Employees in Matters Connected with Their Former Duties.

(a) Permanent Disqualification of Personally Involved Former Employees Regarding a Particular Matter. It shall be a breach of ethical standards for any employee to knowingly act as a principal or as an agent for anyone other than the [State] in connection with any:

(i) judicial or other proceeding, application, request for a ruling, or other determination;

(ii) contract;

(iii) claim; or

(iv) charge or controversy

in which the employee participated personally and substantially through decision, approval, disapproval, recommendation, rendering of advice, investigation, or otherwise while an employee, where the [State] is a party or has a direct and substantial interest.

[ALTERNATIVE A]

(b) One Year Representation Restriction Regarding Matters for Which a Former Employee Was Officially Responsible. It shall be a breach of ethical standards for any former employee, within one year after his employment has ceased, to knowingly act as a principal or as an agent for anyone other than the [State] in connection with any:

(i) judicial or other proceeding, application, request for a ruling, or other determination;

(ii) contract;

(iii) claim; or

(iv) charge or controversy

which was under the employee's official responsibility within one year prior to the termination of such responsibility, where the [State] is a party or has a direct or substantial interest.

[END OF ALTERNATIVE A]

[ALTERNATIVE B]

(b) One Year Employment Disqualification of Former Employees. It shall be a breach of ethical standards for any former employee, within one year after his employment has ceased, to accept employment with, or act as a consultant to, any person who was a [State] contractor, if the employee personally and substantially dealt with such contractor or had official responsibility concerning a contract with such contractor.

[END OF ALTERNATIVE B]

(Disqualification of Partners).

(c) When Partner Is a [State] Employee. It shall be a breach of ethical standards for a person who is a partner of an employee knowingly to act as a principal or as an agent for anyone other than the [State], in connection with any:

(i) judicial or other proceeding, application, request for a ruling, or other determination;

(ii) contract;

(iii) claim; or

(iv) charge or controversy

in which the employee either participates personally and substantially through decision, approval, disapproval, recommendation, rendering of advice, investigation, or otherwise, or which the subject of his official responsibility, where the [State] is a party or has a direct and substantial interest.

(b) When Partner is a Former State Employee. It shall be a breach of ethical standards for a partner of a former employee knowingly to act as a principal or agent for anyone other than the [State] where such former employee is barred under Section 12-207(2) (Restrictions on Former Employees in Matters Connected with Their Former Duties).

(c) Selling to [State] After Termination of Employment is Prohibited. It shall be a breach of ethical standards for any former employee, unless his last annual salary did not exceed [$] to engage in selling or attempting to sell, supplies, service, or construction to the [State] for one year following the date his employment ceased.

The term "sell" as used herein, means signing a bid, proposal, contract; negotiation, a contract; contacting any employee for the purpose of obtaining or negotiating or discussing changes in specifications, price, cost allowances, or other terms of a contract; settling disputes concerning performance of a contract; or any other liaison activity with a view toward the ultimate consummation of a sale although the actual contract therefor is subsequently negotiated by another person, provided, however, that this Section is not intended to preclude a former employee from accepting employment with private industry solely because his employer is a contractor with this [State].

Use of Confidential Information. It shall be a breach of ethical standards for any employee or former employee knowingly to use confidential information for his actual or anticipated personal gain, or the actual or anticipated personal gain of any other person.

Public Access to Purchasing Information and Records.

The ethical standards of this Article include providing public access to purchasing information and records as required by [cite the appropriate statute].

Part C - Remedies and Penalties

Civil Administrative Remedies Against Employees Who Breach Ethical Standards.

(1) Existing Remedies Not Impaired. Civil and administrative remedies against employees which are in existence on the effective date of this Code shall not be impaired.

(2) Supplemental Remedies. In addition to existing remedies for breach of the ethical standards of this Article, [insert appropriate agency] may impose any one or more of the following:

(a) oral or written warnings or reprimands;

(b) forfeiture of pay without suspension;

(c) suspension with or without pay for specified periods of time; and

(d) termination of employment.

(3) Right to Recover from Employee Value Received in Breach of Ethical Standards. The value of anything received by an employee in breach of the ethical standards of this Article or Regulations or rules issued thereunder shall be recoverable by the [State] as provided in Section 12-303 (Recovery of Value Transferred or Received in Breach of Ethical Standards).

(4) Due Process. All procedures under this Section shall be in accord with due process requirements and existing State law. In addition, notice and an opportunity for a hearing shall be provided prior to imposition of any suspension or termination of employment.

Civil and Administrative Remedies Against Non-Employees Who Breach Ethical Standards.

(1) Existing Remedies Not Impaired. Civil and administrative remedies against non-employees which are in existence on the effective date of this Article shall not be impaired.

(2) Supplemental Remedies. In addition to existing remedies for breach of the ethical standards of this Article or Regulations or rules issued thereunder, [insert appropriate agency] may impose any one or more of the following:

(a) oral or written warnings or reprimands;

(b) cancellation of transactions; and

(c) suspension or debarment from being a contractor or subcontractor under [State] contracts.

(3) Right to Recover from Non-Employee Value Transferred in Breach of Ethical Standards. The value of anything transferred in breach of the ethical standards of this Article or Regulations or rules issued thereunder, by a person, other than an employee, shall be recoverable by the [State] from such person as provided in Section 12-303 (Recovery of Value Transferred or Received in Violation of Ethical Standards).

(4) Right of [State] to Suspend or Debar. Suspension may be imposed during an investigation of charges of a serious and compelling nature based on adequate evidence indicating breach of ethical standards under this Article or other irregularities of a serious and compelling nature which, if true, would affect the person's integrity as a contractor.

Debarment may be imposed by reason of a finding of any breach under this Article, or for a finding of other irregularities of a serious and compelling nature affecting the person's integrity as a contractor.

(5) Due Process. All procedures under this Section shall be in accord with due process requirements, including, but not limited to, a right to notice and an opportunity for a hearing prior to imposition of any cancellation, suspension, or debarment from being a contractor or subcontractor under a [State] contract.

Recovery of Value Transferred or Received in Breach of Ethical Standards.

(1) General Provisions. The value of anything transferred or received in breach of the ethical standards of this Article or Regulations or rules issued thereunder by an employee or a non-employee may be recovered from both the employee and the non-employee.

(2) Recovery of Kickbacks by the [State]. Upon a showing that a subcontractor made a kickback to a prime contractor or a higher tier subcontractor in connection with the award of a subcontractor or order thereunder, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract or order and ultimately borne by the [State] and will be recoverable hereunder from the recipient. In addition, said value may also be recovered from the subcontractor making such kickbacks. Recovery from one offending party shall not preclude recovery against other offending parties.

Criminal Penalties for Violations.

(1) Existing Penalties Not Impaired. Criminal penalties for violations of the laws which are in existence on the effective date of this Article shall not be impaired.

(2) Supplemental Penalties. Any person who knowingly violates or solicits the violation of any of the provisions of Sections 12-203 (Conflict of Interest), 12-204 (Employees With Financial Interest--Disclosure Requirements), 12-205 (Gratuities and Kickbacks), 12-206 (Contingent Fees), 12-207 (Restrictions on Employment of Present and Former Employees), and 12-208 (Use of Confidential Information), shall be deemed guilty of a misdemeanor and shall, on conviction thereof, be punished by a fine of not more than $5,000 or by imprisonment for not more than one year, or both. In addition, if the convicted person be a non-elected employee, appropriate proceedings for his dismissal shall be commenced by the [Governor], acting through the head of the employing agency.

Part D - Ethics Commission

Ethics Commission. [Insert other appropriate agency if applicable].

(1) Rules and Regulations. The Ethics Commission shall promulgate rules and Regulations to implement this Article.

(2) Advisory Opinions. On written request of employees or contractors, the Ethics Commission [insert other appropriate agency if applicable] may render written advisory opinions regarding the appropriateness of the course of conduct to be followed in proposed transactions. Such requests and advisory opinions must be duly published in the manner in which rules and Regulations of this [State] are published. Compliance with requirements of a duly promulgated

advisory opinion of the Ethics Commission [insert other appropriate agency if applicable] shall be deemed to constitute compliance with the ethical standards of this Article.

Part E - Financial Disclosure.

Financial Disclosure.

[Reserved]

APPENDIX C

MODEL LOGGING EXECUTIVE ORDER

MODEL LOBBYING EXECUTIVE ORDER

WHEREAS, the maintenance of public confidence in government requires that the operations of executive agencies be conducted in an open and candid manner with full opportunity for citizens to petition their government for the redress of grievances and to freely express their opinions on pending matters and current issues; and

WHEREAS, the protection and furtherance of the public interest requires that public officials and public employees be free at all times of undue influence exerted by outside interests; and

WHEREAS, full and prompt disclosure of lobbying activities and other contacts between executive branch officials or employees and individuals or organizations that attempt to influence executive policy actions is essential to furthering these goals;

THEREFORE by virtue of the authority vested in me as Governor of the State of _____, I, _____, do hereby order that:

Section 1. DEFINITIONS. As used in this order:

(a) "Executive agency" shall mean a commission, board, agency, or other body or official in the executive branch of the state government and any independent body of the state government that is not a part of the legislative or judicial branch.

(b) "Chief executive officer" shall mean the principal supervisory person of an executive agency, or the Secretary of State in cases where there is no supervisory person.

(c) "Official communication" shall mean any meeting, telephone conversation, or written communication between an official or employee of an executive agency and a lobbyist acting in their respective professional capacities.

(d) "Official" shall mean any appointed or elected officer of an executive agency.

(e) "Written communication" shall mean any document, letter, report, note, or memorandum in its original form.

(f) "Lobbyist" shall mean any person who communicates with an official or employee of an executive agency in order to influence any official decision or action on any rule, order, adjudication, license, contract, or other substantive, non-ministerial matter proposed or pending before the agency or on any matter within the jurisdiction of the agency, but does not include--

(1) a person who makes a communication by means of an appearance before or submission of a written statement to any executive agency at the request of such agency;

(2) an official or employee of an executive agency acting in his official capacity;

(3) a person who makes a communication to an official or employee, under an assurance of confidentiality, for use in a civil or criminal enforcement proceeding;

(4) a person who makes a communication with an official or employee solely for the purpose of obtaining information, and who makes no attempt to influence the action of the official or employee;

(5) a publisher or working member of the press, radio, or television who in the ordinary course of business disseminates news or editorial comment to the general public, provided that the communications by the person do not seek to influence matters that would directly and specifically benefit the economic, business, or professional interests of the person or his or her employer.

(g) "Gift or gratuity" shall mean any sum of money, goods, services, or other things of value, cash as meals, refreshments, transportation, accommodations, or entertainment, donated or furnished free of charge or for less than fair market value.

Section 2. LOGGING. All officials and employees of the executive branch in grades _____ or above or who are designated by their chief executive officer as being responsible for making or recommending decisions or actions on any rule, order, adjudication, license, contract, or other substantive, non-ministerial matter shall file with the chief executive officer of their agency, on or before the 15th day of each month, a report containing the following information regarding any official communication made during the preceding calendar month:

(a) the name and position of the official or employee receiving the communication;

(b) the date upon which the communication was made and the place;

(c) an identification of the lobbyist making the communication and of the person on whose behalf the communication was made;

(d) a brief summary of the subject matter of the communication and the specific policy or activity the lobbyist seeks to influence, including docket numbers, if known;

(e) a brief description of any action taken by the official or employee in response to the communication; and

(f) a complete list of every gift or gratuity of $10 or more given or provided to an executive agency, or an official or employee thereof, by a lobbyist during the preceding calendar month, directly or through an intermediary, including, with respect to each such gift or gratuity:

(1) the date of presentation;

(2) a complete description;

(3) the value; and

(4) the names of the donor and of the recipient.

Section 3. RECORDS.

(a) The chief executive officer of every executive agency shall cause all records filed pursuant to Section 2 to be placed, within five working days of the date when such record was filed, in the case file of the rule-making, adjudication, or other matter to which the communication related. If the communication related to matters for which there was no case file, the records of the communication shall be placed in a public file which shall be maintained in the same location as the case files.

(b) The chief executive officer of every executive agency shall cause copies of all records filed pursuant to Section 2 to be made available for public inspection in a single convenient location within the agency. A comprehensive index of the records by the public official or employee required to file a report pursuant to Section 2 by subject matter and, when applicable, docket numbers shall be maintained and made available for public inspection at the location.

Section 4. DISCIPLINARY ACTION: Any person knowingly violating any provision of this order shall be subject to disciplinary action, including discharge.

Section 5. EFFECTIVE DATE. This order shall take effect _____.

MODEL LOBBYING DISCLOSURE ACT

Section 1. PURPOSE. The legislature hereby declares that the operation of a responsible democratic government requires that the fullest opportunity be afforded to the people to petition their government for the redress of grievances and to express freely to any officials of the executive or legislative branch their opinions on legislation, on pending executive actions, and on current issues; and that, to preserve and maintain the integrity of the governmental decision-making process in the state, it is necessary that the identity, expenditures, and activities of certain persons who engage in efforts to influence any official of the legislative or executive branch or matters within their official jurisdictions, either by direct communication to such official, or by solicitation of others to engage in such efforts, be publicly and regularly disclosed.

Section 2. DEFINITIONS. As used in this act, unless the context requires otherwise:

(a) "Administrative action" means any decision on, or proposal, consideration, enactment, defeat, or taking of any rule, regulation, or other official non-ministerial action or non-action by any executive agency, or any matter which is within the official jurisdiction of an executive agency.

(b) "Candidate for public office" means any person who has filed a declaration of candidacy or a petition to appear on the ballot for election as a public official, or who has raised or expended money in pursuit of public office, and any person who has been nominated for appointment by a public official or governmental body to serve as a public official.

(c) "Commission" means the state ethics commission established in Section 8 of this act.

(d) "Compensation" means any salary received or to be received from a person by one acting as a lobbyist, whether in the form of a fee, salary, forbearance, forgiveness, or any other form of recompense, and any combination thereof. Where compensation is to be reported by or for a person whose lobbying is incidental to his regular employment it shall be sufficient to report a prorated amount based on the value of the time devoted to lobbying.

(e) "Executive agency" means a commission, board, agency, or other body or official in the executive branch of the state government and any independent body of the state government that is not a part of the legislative or judicial branch.

(f) "Expenditure" means any advance, conveyance, deposit, distribution, transfer of funds, loan, payment, pledge, or subscription of money or anything of value, except the payment of a membership fee otherwise reported pursuant to Section 6 of this act, and any contract, agreement, promise, or other obligation, whether or not legally enforceable, to make expenditure.

(g) "Gift" means a payment, subscription, advance, forebearance, rendering or deposit of money, services or anything of value, unless consideration of equal or greater value is received. "Gift" shall not include a political contribution otherwise reported as required by law, a commercially reasonable loan made in the ordinary course of business, or a gift received from a member of the person's immediate family or from a relative within the third degree of consanguinity of the person or of the person's spouse, or from the spouse of any such relative.

(h) "Immediate family" means a spouse residing in the person's household and dependent children.

(i) "Legislative action" means introduction, sponsorship, consideration, debate, amendment, passage, defeat, approval, veto, or any other official action or non-action on any bill, resolution, amendment, nomination, appointment, report, or any other matter pending or proposed in a committee or in either house of the legislature, or any matter which is within the official jurisdiction of the legislature.

(j) "Lobbying" means communicating directly or soliciting others to communicate with any official in the legislative or executive branch with the purpose of influencing any legislative or administrative action

(k) "Lobbyist" means any person who engages in lobbying.

(l) "Ministerial action" means an action that a person performs in a given state of facts in a prescribed manner in obedience to the mandate of legal authority, without regard to, or the exercise of, his own judgment upon the propriety of the action being taken.

(m) "Official in the Executive branch" means any candidate for public office in the executive branch or any member or employee of an executive agency.

(n) "Official in the Legislative branch" means any candidate for the legislature in a primary, special, or general election, any member or member-elect of the legislature, any member of a commission established by and responsible to the legislature or either House thereof, and any staff person, assistant, or employee of same, whether or not he receives compensation from the state.

(o) "Person" means a business, individual, corporation, union, association, firm, partnership, committee, club, or other organization or group of persons.

(p) "Political contribution" means any advance, conveyance, deposit, distribution, transfer of funds, loan, payment, pledge, purchase of a ticket to a testimonial or similar fundraising affair, or subscription of money or anything of value, in connection with a political campaign and any contract, agreement, promise, or other obligation, whether or not legally enforceable, to make a political contribution; provided that "political contribution" shall not mean volunteer services.

(q) "Public official" means any official in the executive, judicial, or legislative branch of the state government or a political subdivision thereof.

(r) "Registrant" means a person who is required to register pursuant to Section 3 of this Act.

(s) "Reimbursement" means any money or thing of value received or to be received in the form of payment for expenses by one acting as a lobbyist, not including compensation.

(t) "Substantial economic interest" means holding stock worth $10,000 or more at, or 3% or more ownership of, any business, corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, or other legal entity.

Section 3. PERSONS REQUIRED TO REGISTER. A person must register with the commission pursuant to Section 5 if he:

(a) receives compensation of $100 or more in a calendar quarter for lobbying, whether that compensation is solely for lobbying or the lobbying is incidental to that person's regular employment; or

(b) receives reimbursement of $100 or more in a calendar quarter for lobbying; or

(c) expends $100 or more in a calendar quarter for lobbying.

Section 4. EXEMPTIONS. A person need not register with the commission pursuant to Section 5 if he is:

(a) a public or federal official acting in his official capacity;

(b) a publisher or working member of the press, radio, or television who in the ordinary course of business disseminates news or editorial comment to the general public, provided that such person engages in no lobbying that would directly and specifically benefit the economic, business, or professional interests of such person or his employer.

Section 5. REGISTRATION.

(a) Each registrant shall file annually with the commission a registration form signed under penalty of perjury on or before January 15 or not later than two days after becoming a lobbyist. If the registrant is not an individual, an authorized officer or agent of the registrant shall sign the form. A registrant must file a separate registration form for each person from whom he receives compensation or reimbursement. Such registration shall be on a form prescribed by the commission and shall include:

(1) the registrant's name, permanent address, and temporary address while lobbying;

(2) the name and address of each person who will lobby on the registrant's behalf;

(3) the name, address, and nature of business of any person who compensates or reimburses the registrant and the terms of the compensation or reimbursement; and

(4) the identification, by formal designation if known, of matters on which the registrant expects to lobby, the registrant's position on each such matter, and a description of the methods by which the registrant formulates positions on such matters.

(b) Each registrant shall file a notice of termination within 30 days after he ceases the activity that required his registration; however, this will not relieve him of the reporting requirement of Section 6 for that reporting period.

Section 6. ACTIVITY REPORTS.

(a) Each registrant shall file with the commission between the first and tenth day of April, July, October, and January a report signed under penalty of perjury concerning his lobbying activities during the previous calendar quarter. If the registrant is not an individual, an authorized officer or agent of the registrant shall sign the form. In addition, each registrant who attempts to influence legislative action shall file with the commission between the first and tenth day of each month subsequent to each month that the legislature is in session, a report concerning such lobbying activities during the previous month. A registrant must file a separate activity report for each person from whom he receives compensation or reimbursement. Such report shall be on a form prescribed by the commission and shall include:

(1) a complete and current statement of the information required to be supplied pursuant to Section 5 of this act;

(2) total expenditures on lobbying broken down into the following categories; provided that each expenditure of $100 or more shall be itemized by the date, name and address of the recipient, amount, and purpose:

(a) office expenses;

(b) advertising and publications;

(c) compensation to others;

(d) reimbursement to others;

(e) personal sustenance, lodging, and travel, if reimbursed; and

(f) other expenses.

(3) each expenditure, gift, honorarium, or political contribution of $10 or more made by the registrant or anyone acting on behalf of the registrant to benefit an official in the legislative or executive branch, or member of his staff or immediate family, or a campaign or testimonial committee established for the benefit of the official shall be itemized by date, beneficiary, amount, and circumstances of the transaction; also, the aggregate of all such expenditures that are less than $10;

(4) each contribution or membership fee of $100 or more in the aggregate during the preceding 12 months paid to the registrant, regardless of whether it was paid solely for the purpose of lobbying, shall be itemized by date, the name and address of the payer, amount, and the issue area for which such contribution was earmarked, if any; also, the aggregate of all such contributions that are less than $100;

(5) each business entity, other than one authorized by law as a sole provider, in which the registrant knows or should know that an official in the executive or legislative branch is a proprietor, partner, director, officer, manager, employer, employee, or has a substantial economic interest and with which the registrant has engaged in an exchange of money, goods, services, or anything of value if the total of such exchanges is $500 or more in a calendar quarter shall be identified by its name and address, the official, the date, amount, and nature of each such exchange; and

(6) each official in the executive or legislative branch and any member of such official's staff or immediate family who is employed by the registrant shall be identified by name and nature of employment;

(b) Each registrant shall obtain and preserve all accounts, bills, receipts, books, papers, and documents necessary to substantiate the activity reports required to be made pursuant to this section for five years from the date of filing of the report containing such items. These materials shall be made available for inspection upon request by the commission after reasonable notice.

(c) Each person about whose activities a registrant is required to report by subsection (a) of this section shall provide a full account of such activities to the registrant at least 5 days before such registrant's report is due to be filed.

Section 7. RESTRICTED ACTIVITIES.

(a) No registrant or anyone acting on behalf of a registrant shall give to an official in the legislative or executive branch or a member of his staff or immediate family gifts that exceed $100 in value in the aggregate in any calendar year.

(b) No official in the legislative or executive branch or a member of his staff or immediate family shall solicit or accept anything of value in violation of subsection (a) of this section.

(c) No person shall knowingly or willfully make any false or misleading statement or misrepresentation of the facts to any official in the legislative or executive branch, or knowing a document to contain a false statement, cause a copy of such document to be received by an official in the legislative or executive branch without notifying such official in writing of the truth.

(d) No person shall be employed as a lobbyist for compensation contingent in any manner upon the outcome of any administrative or legislative action.

(e) No information copied from registration forms and activity reports required by this act or from lists compiled from such forms and reports shall be sold or utilized by any person for the purpose of soliciting campaign contributions or selling tickets to a testimonial or similar fundraising affair or for any commercial purpose.

(f) No official in the executive or legislative branch shall receive compensation or reimbursement other than from the state for personally engaging in lobbying.

(g) No person shall receive compensation or reimbursement for personally engaging in lobbying for one year after terminating activities as an official in the executive or legislative branch.

Section 8. STATE ETHICS COMMISSION.

(a) There is established a state ethics commission composed of seven members appointed by the governor. The majority leader of the senate, the minority leader of the senate, the speaker of the house, and the minority leader of the house shall each submit to the governor a list of names of at least three individuals. The governor shall appoint one individual from each of the four lists. Of the other three members at no time shall more than two be from the same political party.

(b) Members of the commission shall serve for terms of five years, except that, of the members first appointed:

(1) the two individuals appointed from the lists submitted by the majority and minority leaders of the senate shall serve for four years;

(2) the two individuals appointed from the lists submitted by the speaker and the minority leader of the house shall serve for two years; and

(3) of the other three members, one shall serve for one year, one shall serve for three years, and one shall serve for five years.

(c) No individuals shall be appointed to more than one full five year term on the commission.

(d) No individual, while a member or employee of the commission, shall:

(1) hold or campaign for any other public office;

(2) hold office in any political party or political committee;

(3) participate in or contribute to any political campaign; or

(4) directly or indirectly attempt to influence any decision by a governmental body, other than as a representative of the commission on a matter within the jurisdiction of the commission.

(c) The governor shall declare vacant the position on the commission of any member who takes part in activities prohibited by subsection (d) of this section. An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed for the unexpired term of the member he succeeds, and is eligible for appointment to one full five year term thereafter. Any vacancy occurring on the commission shall be filled within thirty days in the manner in which that position was originally filled.

(f) The commission shall elect a chairman and a vice-chairman. The vice-chairman shall act as chairman in the absence of the chairman or in the event of a vacancy in that position.

(g) Four members of the commission shall constitute a quorum and the votes of a majority of the members present is required for any action or recommendation of the commission. The chairman or any four members of the commission may call a meeting provided that advance written notice is mailed to each member and to any person who requests notice of such meetings.

(h) Members of the commission shall be compensated at a rate of $50 per day and shall receive reimbursement for their actual and necessary expenses while performing the business of the commission.

(i) The commission shall employ an executive director, a general counsel, and such other staff as are necessary to carry out its duties pursuant to this act. The executive director and general counsel serve at the pleasure of the commission. The executive director shall be responsible for the administrative operations of the commission and shall perform such other duties as may be delegated or assigned to him by the commission, except that the commission shall not delegate the making of regulations to the executive director. The general counsel shall be the chief legal officer of the commission. The commission may obtain the services of experts and consultants as necessary to carry out its duties pursuant to this act. The comptroller and the attorney general shall make available to the commission such personnel, facilities, and other assistance as the commission may request.

Section 9. DUTIES OF THE COMMISSION. In addition to other duties prescribed by law, the commission shall:

(a) Prescribe and publish, after notice and opportunity for public comment, rules and regulations to carry out the provisions of this act;

(b) Prescribe forms for statements and reports required to be filed by this act and furnish such forms to persons required to file such statements and reports;

(c) Prepare and publish a manual setting forth recommended uniform methods of accounting and reporting for use by persons required to file statements and reports by this act;

(d) Accept and file any information voluntarily supplied that exceeds the requirements of this act;

(e) Make statements and reports filed with the commission available for public inspection and copying during regular office hours and make copying facilities available free of charge or at a charge not to exceed actual cost;

(f) Compile and maintain an index of all reports and statements filed with the commission to facilitate public access to such reports and statements;

(g) Prepare and publish monthly, quarterly, and annual summaries of statements and reports filed with the commission;

(h) Audit, as required by law, statements and reports filed with the commission;

(i) Preserve statements and reports filed with the commission for a period of five years from date of receipt;

(j) Issue, upon request, and publish advisory opinions on the requirements of this act; any opinion rendered by the commission until amended or revoked, shall be binding on the commission in any subsequent charges concerning the person who requested the opinion and who acted in reliance on it in good faith, unless material facts were omitted or misstated by the person in the request for the opinion;

(k) Act as the primary civil and criminal enforcement agency for violations of the provisions of this act;

(l) Prepare and public special reports and technical studies to further the purposes of this act; and

(m) Prepare and publish, prior to June 1 of each year, an annual report summarizing the activities of the commission.

Section 10. INVESTIGATIONS BY THE COMMISSION.

(a) Upon a complaint signed under penalty of perjury by any person or upon its own motion, the commission shall investigate any alleged violation of this act. All commission proceedings and records relating to an investigation shall be confidential until a final determination is made by the commission. The executive director shall notify any person under investigation by the commission of the investigation and of the nature of the alleged violation within five days of the commencement of the investigation. Within fifteen days of the filing of a sworn complaint by a person alleging a violation, and every thirty days thereafter until the matter is terminated, the executive director shall notify the complainant of the action taken to date by the commission together with the reasons for such action or non-action.

(b) If a preliminary investigation fails to indicate probable cause for belief that this act has been violated, the commission shall terminate the investigation and so notify the complainant and the person who had been under investigation.

(c) If a preliminary investigation indicates probable cause for belief that this act has been violated, the commission shall initiate appropriate proceedings to determine whether there has been a violation of this act. All proceedings of the commission pursuant to this subsection shall be by closed session attended

only by those persons necessary to the investigation of the alleged violation, unless the person alleged to be in violation of this act requests an open session. The commission shall have the powers possessed by the courts of this state to issue subpoenas and cause them to be served and enforced. All testimony shall be under oath which shall be administered by a member of the commission. Any person who appears before the commission shall have all of the due process rights, privileges, and responsibilities of a witness appearing before the courts of this state. All witnesses summoned before the commission shall receive reimbursement as paid in like circumstances in the courts of this state. Any person whose name is mentioned during a proceeding of the commission and who may be adversely affected thereby, may appear personally before the commission on his own behalf or file a written statement for incorporation into the record of the proceeding. The commission shall cause a record to be made of all proceedings pursuant to this subsection. At the conclusion of proceedings concerning an alleged violation, the commission shall immediately begin deliberations on the evidence and then proceed to determine by majority vote of the members present whether there has been a violation of this act. The findings of the commission concerning a violation and the record of the proceedings shall be made public by the commission as soon as practicable after the determination has been made.

Section 11. ENFORCEMENT

(a) The commission, upon a finding pursuant to Section 10 of this act that there has been a violation of this act, shall begin a criminal prosecution for the imposition of criminal penalties provided by this act or shall issue an order that may require the violator to:

(1) cease and desist violation of this act;

(2) file any report, statement, or other information as required by this act; or

(3) pay a civil penalty of not more than $1,000 for each violation of this act;

(b) Any person who believes that a violation of this act has occurred may bring suit in the name of the state on any of the actions authorized under this act. The court may in its discretion remand the proceedings to the commission for such further action as it may direct. The court may order payment of reasonable attorney fees and court costs to a successful plaintiff in a suit brought pursuant to this subsection. If the court finds that an action brought pursuant to this subsection was brought without reasonable cause, the court may order the plaintiff to pay reasonable attorney fees and court costs incurred by the defendant.

Section 12. JUDICIAL REVIEW. Any action by the commission made pursuant to this act shall be subject to review in a court of competent jurisdiction upon the petition of any interested person filed within thirty days after the action for which review is sought. The court shall enter a judgment enforcing, modifying, or setting aside the order of the commission or it may remand the proceedings to the commission for such further action as it may direct.

Section 13. PENALTIES.

(a) Any registrant who files an activity report after the time provided in Section 6 shall be fined by the commission $5 for each day that it is late; provided, however, that the commission may reduce or waive any fine upon a finding of just cause.

(b) Any person who violates the provisions of Sections 5, 6, or 7 of this act is guilty of a misdemeanor and shall be fined not more than $1,000 if an individual, and not more than $10,000 if a person other than an individual, or imprisoned for not more than one year, or be both fined and imprisoned. No person convicted of a misdemeanor under this act shall act as a lobbyist while disqualified under this subsection is guilty of a felony and shall be fined not more than $5,000 or imprisoned for not more than five years, or be both fined and imprisoned.

(c) Any registrant who fails to file a registration form or an activity report as required by this act shall, in addition to any other penalty provided by law, pay to the state an amount up to three times the compensation or reimbursement received or expenditure made while lobbying during that report period.

(d) Any person who violates the confidentiality of a commission proceeding pursuant to Section 10 of this act is guilty of a misdemeanor and shall be fined not more than $1,000 or imprisoned for not more than one year, or be both fined and imprisoned. Any person who willfully affirms or swears falsely in regard to any material matter before a commission proceeding pursuant to Section 10 of this act is guilty of a felony and shall be fined not more than $5,000 or imprisoned for not more than five years, or be both fined and imprisoned.

APPENDIX D

MI ACT REQUIRING OPEN MEETINGS OF PUBLIC BODIES

AN ACT REQUIRING OPEN MEETINGS OF PUBLIC BODIES

Section 1. PUBLIC POLICY. It is essential to the maintenance of a democratic society that public business be performed in an open and public manner and that the citizens be advised of and aware of the performance of public officials and the deliberations and decisions that go into the making of public policy. Toward this end, this act shall be construed liberally.

Section 2. DEFINITIONS. As used in this act:

(a) "Meeting" means the convening of a quorum of the constituent membership of a public body, whether corporal or by means of electronic equipment, to discuss or act upon a matter over which the public body has supervision, control, jurisdiction, or advisory power.

(b) "Public Body" means any administrative, advisory, executive, or legislative body of the state or local political subdivision of the state, or any other entity created by law, that expends or disburses or is supported in whole or in part by tax revenue or that advises or makes recommendations to any entity that expends or disburses or is supported in whole or in part by tax revenue, including but not limited to any board, commission, committee, subcommittee, or other subsidiary thereof.

(c) "Quorum," unless otherwise defined by applicable law, means a simple majority of the constituent membership of a public body.

Section 3. OPEN MEETINGS. Every meeting of all public bodies shall be open to the public unless closed pursuant to Sections 4 and 5 of this act.

Section 4. CLOSED MEETINGS. A public body may hold a meeting closed to the public upon an affirmative vote, taken at an open meeting for which notice has been given pursuant to Section 6 of this act, of two-thirds of its constituent members. A meeting closed to the public shall be limited to matters allowed to be exempted from discussion at open meetings by Section 5 of this act. The vote of each member on the question of holding a meeting, by citation to a subsection of Section 5 of this act, shall be recorded and entered into the minutes of the meeting. Nothing in this section or Section 5 of this act shall be construed to require that any meeting be closed to the public.

Section 5. EXCEPTIONS. (a) A public body may hold a meeting closed to the public pursuant to Section 4 of this act for one or more of the following purposes:

(1) discussion of the character, as opposed to the professional competence, or physical or mental health of a single individual provided that such individual may require that such discussion be held at an open meeting; and provided that

nothing in this subsection shall permit a meeting closed to the public for discussion of the appointment of a person to a public body;

(2) strategy sessions with respect to collective bargaining or litigation, when an open meeting would have a detrimental effect on the bargaining or litigating position of the public body;

(3) discussion regarding the deployment of security personnel or devices; and

(4) investigative proceedings regarding allegations of criminal misconduct.

(b) This act shall not apply to any chance meeting, or a social meeting at which matters relating to official business are not discussed. No chance meeting, social meeting, or electronic communication shall be used in circumvention of the spirit or requirements of this act to discuss or act upon a matter over which the public body has supervision, control, jurisdiction, or advisory power.

(c) This act shall not apply to judicial proceedings, but shall apply to a court or other judicial body while exercising rule-making authority or while deliberating or deciding upon the issuance of administrative orders.

(d) This act shall not prohibit the removal of any person or persons who willfully disrupt a meeting to the extent that orderly conduct of the meeting is seriously compromised.

Section 6. NOTICE. (a) All public bodies shall give written public notice of their regular meetings at the beginning of each calendar year. The notice shall include the dates, times, and places of such meetings. (b) All public bodies shall give supplemental written public notice of any regular, special or rescheduled meeting no later than 72 hours before the meeting. The notice shall include the agenda, date, time, and place of the meeting. (c) Written public notice shall include, but need not be limited to:

(1) posting a copy of the notice at the principal office of the public body holding the meeting, or if no such office exists, at the building in which the meeting is to be held, and in at least three other prominent places within the governmental unit; and

(2) mailing a copy of the notice to any person who requests notice of such meetings; any such person shall be given notice of all specific or rescheduled meetings in the same manner as is given to members of the public body.

Section 7. MINUTES. (a) All public bodies shall keep written minutes of all of their meetings. Such meetings shall include, but need not be limited to:

(1) the date, time and place of the meeting;

(2) the members of the public body recorded as either present or absent;

(3) the substance of all matters proposed, discussed, or decided, and, at the request of any member, a record, by individual member, of any votes taken; and

(4) any other information that any member of the public body requests be included or reflected in the minutes.

(b) The minutes shall be public records and shall be available within a reasonable time after the meeting except where such disclosure would be inconsistent with Sections 4 and 5 of this act.

(c) All or any part of a meeting of a public body may be recorded by any person in attendance by means of a tape recorder or any other means of sonic reproduction except when a meeting is closed pursuant to Sections 4 and 5 of this act; provided that in no recording there is no active interference with the conduct of the meeting.

Section 8. VOIDABILITY. Any final action taken in violation of Sections 3 and 6 of this act shall be voidable by a court of competent jurisdiction. A suit to void any final action must be commenced within 90 days of the action.

Section 9. ENFORCEMENT. (a) The Attorney General and the public prosecutors of competent jurisdiction shall enforce the provisions of this act.

(b) Any person denied the rights conferred by this act may commence a suit in a court of competent jurisdiction for the county or city in which the public body ordinarily meets or in which the plaintiff resides for the purpose of requiring compliance with or preventing violations of this act or to determine the applicability of this act to discussions or decisions of the public body. The court may order payment of reasonable attorney fees and court costs to a successful plaintiff in a suit brought under this section.

Section 10. PENALTIES. Any person knowingly violating any provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $500 or imprisoned not more than six months, or be both fined and imprisoned.

Section 11. CONFLICT OF LAW. If the provisions of this act conflict with any other statute, ordinance, regulation, or rule, the provisions of this act shall control.

Section 12. SEVERABILITY. If any provision of this act, or the application of this act to any particular meeting or type of meeting is held invalid or unconstitutional, such decision shall not affect the validity of the remaining provisions or the other applications of this act.

Section 13. EFFECTIVE DATE. This act shall take effect 30 days after enactment into law.

APPENDIX B

MODEL CONFLICT OF INTEREST ACT

MODEL CONFLICT OF INTEREST ACT

Section 1. PURPOSE.

The legislature hereby declares that public office is a public trust and that any effort to realize personal financial gain through public office other than compensation provided by law is a violation of that trust. In order to strengthen the faith and confidence of the people of the state in their government, the legislature further declares that the people have a right to be assured that the financial interests of holders of or candidates for public office present neither a conflict nor the appearance of a conflict with the public trust. Because public confidence in government can be best sustained by assuring the people of the impartiality and honesty of public officials, this act shall be liberally construed to promote complete disclosure.

Section 2. DEFINITIONS.

As used in this act, unless the context requires otherwise:

(a) "Business" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, or any legal entity organized for profit;

(b) "Business with which he is associated" means any business in which the person or a member of the person's immediate family is a director, officer, owner, employee, or holder of stock worth $1,000 or more at fair market value, or any business that is a client of the person;

(c) "Candidate for public office" means any person who has filed a declaration of candidacy or a petition to appear on the ballot for election as a public official, or who has raised or expended money in pursuit of public office, and any person who has been nominated by a public official or governmental body for appointment to serve as a public official;

(d) "Commission" means the state ethics commission established in Section 8 of this act;

"Gift" means a payment, subscription, advance, forbearance, rendering or deposit of money, services or anything of value, unless consideration of equal or greater value is received. "Gift" shall not include a political contribution otherwise reported as required by law, a commercially reasonable loan made in the ordinary course of business, or a gift received from a member of the person's immediate family or from a relative within the third degree of consanguinity of the person or of the person's spouse or from the spouse of any such relative;

(f) "Governmental body" means any department, commission, committee, council, board, bureau, division, service, office, officer, administration, legislative body, or other establishment in the executive, legislative, or judicial branch of the state or a political subdivision thereof;

(g) "Immediate family" means a spouse residing in the person's household and dependent children;

(h) "Income" means any money or thing of value received, or to be received as a claim on future services, whether in the form of a fee, salary, expense, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of recompense or any combination thereof.

(i) "Ministerial action" means an action that a person performs in a given state of facts in a prescribed manner in obedience to the mandate of legal authority, without regard to, or the exercise of, the person's own judgment upon the propriety of the action being taken;

(j) "Person" means a business, individual, corporation, union, association, firm, partnership, committee, club, or other organization or group of persons;

(k) "Political contribution" means any advance, conveyance, deposit, distribution, transfer of funds, loan, payment, pledge, purchase of a ticket to a testimonial or similar fundraising affair, or subscription of money or anything of value, except volunteer services, in connection with a political campaign, and any contract, agreement, promise, or other obligation, whether or not legally enforceable, to make a political contribution;

(l) "Public employee" means any individual who receives compensation at an annual rate of $20,000 or more from the state or any political subdivision thereof or who is responsible for taking or recommending official action of a non-ministerial nature with regard to:

(1) contracting or procurement;

(2) administering or monitoring grants or subsidies;

(3) planning or zoning;

(4) inspecting, licensing, regulating, or auditing any person, or;

(5) any other activity where the official action has an economic impact of greater than a de minimis nature on the interests of any person.

"Public employee" shall not include individuals who are employed by the state or any political subdivision thereof, provided that it shall not include members of advisory boards that have no authority to expend public funds other than reimbursement for personal expense, or to otherwise exercise the power of the state or any political subdivision thereof.

(m) "Public official" means any elected or appointed official in the executive, legislative, or judicial branch of the state or any political subdivision thereof, provided that it shall not include members of advisory boards that have no

authority to expend public funds other than reimbursement for personal expense, or to otherwise exercise the power of the state or any political subdivision thereof.

Section 3. RESTRICTED ACTIVITIES.

(a) No public official or public employee shall use his public office or any confidential information received through his holding public office to obtain financial gain other than compensation provided by law for himself, a member of his immediate family, or a business with which he is associated.

(b) No person shall offer or give to a public official or public employee or candidate for public office or a member of his immediate family or a business with which he is associated, and no public official or public employee or candidate for public office shall solicit or accept, anything of value, including a gift, loan, political contribution, reward, or promise of future employment based on any understanding that the vote, official action, or judgment of the public official or public employee or candidate for public office would be influenced thereby.

(c) No person shall offer or give to a public official or public employee or a member of his immediate family or a business with which he is associated, and no public official or public employee shall solicit or accept from any one person, gifts, that exceed $100 in value in the aggregate in any twelve month reporting period.

(d) No public official or public employee or a member of his immediate family or a business with which he is associated shall enter any contract valued at $500 or more with a governmental body unless the contract has been awarded through an open and public process, including prior public notice and subsequent public disclosure of all proposals considered and contracts awarded. Any contract made in violation of this subsection shall be voidable by a court of competent jurisdiction if the suit is commenced within 90 days of making of the contract.

(e) No public official or employee shall represent a person or act as an expert witness for compensation before a governmental body where the action or non-action of the governmental body is of a non-ministerial nature, except in a matter of public record in a court of law; provided that this shall not apply to a public official or public employee acting in an official capacity;

(f) Nor former official or public employee shall represent a person, with or without compensation, on any matter before the governmental body with which he has been associated for one year after he leaves that body, or at any time on any matter with which he was involved while a public official or public employee.

(g) No person shall use for any commercial purpose information copies from statements of financial interests required by this act or from lists compiled from such statements.

Section 4. MEMBERSHIP OF GOVERNMENTAL BODIES.

The majority of the members of a non-elective governmental body, or of a committee or subcommittee of a governmental body, whether that body is elective or not, shall not have a financial interest, either personal or through a member of their immediate family or a business with which they are associated, other than an interest of a de minimis nature or an interest that is not distinct from that of the general public, in matters subject to the jurisdiction of the body or committee or subcommittee.

Section 5. PROCEDURES RELATING TO CONFLICT SITUATIONS.

A public official shall:

(a) Prepare a written statement signed under penalty of perjury describing the matter requiring action and the nature of the potential conflict; if he is a member of a legislative or quasi-legislative body and he will not request that he be excused from voting, deliberating, or taking action on the matter, the statement shall state why, despite the potential conflict, he is able to vote and otherwise participate fairly, objectively, and in the public interest; and

(b) Deliver a copy of the statement to the commission and

(1) if he is a member of a legislative or quasi-legislative body, he shall deliver a copy of the statement to the presiding officer of the body, who shall cause the statement to be recorded in the journal of minutes of the body and, upon request of the member, shall excuse the member from votes, deliberations, or any other action on the matter on which a potential conflict exists; or

(2) if he is not a member of a legislative or quasi-legislative body, he shall deliver a copy of the statement to his immediate superior, if any, who shall assign the matter to another employee, or if he has no immediate supervisor, he shall take such steps as the commission shall prescribe or advise to remove himself from influence over actions and decisions on the matter.

Section 6. STATEMENT OF FINANCIAL INTERESTS REQUIRED TO BE FILED.

(a) Each public official and public employee shall file a statement of financial interests for the preceding calendar year with the commission on or before May 1 of each year that he holds such a position and of the year after he leaves such a position.

(b) Each candidate for elective public office shall file a statement of financial interests for the preceding calendar year with the commission and with the same official and at the same time as he files his legal declaration of candidacy or petition to appear on the ballot for election as a public official; provided that this subsection shall not apply to a person who has already filed a statement in that calendar year pursuant to subsection (a). A legal declaration of candidacy or petition to appear on the ballot shall not be accepted by an election official unless a statement of financial interests is filed with him in proper form.

(c) If the candidate files his legal declaration of candidacy or petition to appear on the ballot for election prior to January 1 of the year in which the election is held, the candidate shall file a supplementary statement on or before May 1 of the year in which the election is held covering the preceding calendar year; and if the candidate fails to do so, after written notice of his obligation, given on or before April 1 of that year, he shall be deemed to have withdrawn his candidacy.

(d) Each candidate for public office nominated by a public official or governmental body and subject to confirmation by a public official or governmental body shall file a statement of financial interests for the preceding calendar year with the commission and with the official or body that is vested with the power of confirmation at least ten days before the official or body shall approve or reject the nomination.

(e) No public official shall be allowed to take the oath of office or enter or continue upon his duties, nor shall he receive compensation from public funds, unless he has filed a statement of financial interests with the commission as required by this act.

(f) Any public official or candidate for public office filing a statement with the commission pursuant to this act shall file a copy of that statement with the clerk of the court in the local jurisdiction in which he retains his primary residence. Any public employee filing a statement with the commission pursuant to this act shall file a copy of that statement with the clerk of the court in the local jurisdiction in which he is employed. The clerks of the court shall make such statements available for public inspection and copying during regular office hours and make copying facilities available free of charge or at a cost not to exceed actual cost.

Section 7. STATEMENT OF FINANCIAL INTERESTS.

(a) The statement of financial interests filed pursuant to this act shall be on a form prescribed by the commission and shall be signed under penalty of perjury by the person required to file the statement.

(b) The statement shall include the following information for the preceding calendar year with regard to the person required to file the statement, the members of his immediate family, and any business entity in which he or members of his immediate family, individually or together, held a 10% or greater equity interest at any time during the calendar year for which the statement is required:

(1) the name, address, nature of association, and amount of interest in any business with which he was associated and in any entity in which a position as trustee was held; and, if the business or entity has done business with or been regulated by the state or any political subdivision thereof, the date and nature of such business or regulation;

(2) the name, address, and nature of business of any person from whom income in the value of $1,000 or more was received, the nature of services rendered, the amount, and, if the person has done business with or been regulated by the state or any political subdivision thereof, the date and nature of such business or regulation; provided that the source of any income received for mental health services need not be included;

(3) the legal description of all real property in the state, the fair market value of which exceeds $2,500, in which a direct or indirect financial interest was held, and, if the property was transferred during the preceding calendar year, a statement of the amount and nature of the consideration received or paid in exchange for such interest, and the name and address of the person furnishing or receiving such consideration;

(4) the name and address of each creditor to whom the value of $1,000 or more was owed and the original amount, the amount outstanding, the terms of repayment, and the security given for each such debt; provided that debts arising out of retail installment transactions need not be included;

(5) the nature and amount of any interest of $1,000 or more in a time or demand deposit in a financial institution or in an insurance or endowment policy or annuity contract;

(6) the name and address of any person from whom a gift or gifts valued in the aggregate at $25 or more were received; and the value and the circumstances of each gift; and

(7) such other information as the person required to file the statement or the commission deems necessary to carry out the purposes of this act.

(c) Where an amount is required to be reported pursuant to subsection (b) (4) through (5) of this section, it shall be sufficient to report whether the amount is: less than $2,000; $2,500 - $5,000; $5,000 - $10,000; $10,000 - $25,000; $25,000 - $50,000; or more than $50,000.

Section 6. STATE ETHICS COMMISSION.

(a) There is established a state ethics commission composed of seven members appointed by the governor. The Majority leader of the Senate, the Minority leader of the Senate, the Speaker of the House, and the Minority leader of the House shall each submit to the governor a list of names of at least three individuals. The governor shall appoint one individual from each of the four lists. If the other three members, at no time shall more than two be from the same political party.

(b) Members of the commission shall serve for terms of five years, except that, of the members first appointed:

(1) the two individuals appointed from the lists submitted by the Majority and Minority leaders of the Senate shall serve for four years;

(2) the two individuals appointed from the lists submitted by the speaker and the Minority leader of the House shall serve for two years; and

(3) of the other three members, one shall serve for one year, one shall serve for three years, and one shall serve for five years.

(c) No individual shall be appointed to more than one full five year term on the commission.

(d) No individual, while a member or employee of the commission, shall:

(1) hold or campaign for any other public office;

(2) hold office in any political party or political committee;

(3) participate in or contribute to any political campaign; or

(4) directly or indirectly attempt to influence any decision by a governmental body, other than as a representative of the commission on a matter within the jurisdiction of the commission.

(e) The governor shall declare vacant the position on the commission of any member who takes part in activities prohibited by subsection (d) of this section. An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed for the unexpired term of the member he succeeds, and is eligible for appointment to one full five year term thereafter. Any vacancy occurring on the commission shall be filled within thirty days in the manner in which that position was originally filled.

(f) The commission shall elect a chairman and a vice-chairman. The vice-chairman shall act as chairman in the absence of the chairman or in the event of a vacancy in that position.

(g) Four members of the commission shall constitute a quorum and the votes of a majority of the members present is required for any action or recommendation of the commission. The chairman or any four members of the commission may call a meeting provided that advance written notice is mailed to each member and to any person who requests notice of such meetings.

(h) Members of the commission shall be compensated at a rate of $50 per day and shall receive reimbursement for their actual and necessary expenses while performing the business of the commission.

(i) The commission shall employ an executive director, a general counsel, and such other staff as are necessary to carry out its duties pursuant to this act. The executive director shall be responsible for the administrative operations of the commission and shall perform such other duties as may be delegated or assigned to him by the commission, except that the commission shall not delegate the making of regulations to the executive director. The general counsel shall be the chief legal officer of the commission. The commission may obtain the services of experts and consultants as necessary to carry out its duties pursuant to this act. The comptroller and the attorney general shall make available to the commission such personnel, facilities, and other assistance as the commission may request.

Section 9. DUTIES OF THE COMMISSION.

In addition to other duties prescribed by law, the commission shall:

(a) Prescribe and publish, after notice and opportunity for public comment, rules and regulations to carry out the provisions of this act;

(b) Prescribe forms for statements and reports required to be filed by this act and furnish such forms to persons required to file such statements and reports;

(c) Prepare and publish a manual setting forth recommended uniform methods of accounting and reporting for use by persons required to file statements and reports by this act;

(d) Accept and file any information voluntarily supplied that exceeds the requirements of this act;

(e) Make statements and reports filed with the commission available for public inspection and copying during regular office hours and make copying facilities available free of charge or at a charge not to exceed actual cost;

(f) Compile and maintain an index of all reports and statements filed with the commission to facilitate public access to such reports and statements;

(g) Prepare and publish monthly, quarterly, and annual summaries of statements and reports filed with the commission;

(h) Review all statements and reports filed with the commission in order to ascertain whether any person has failed to file a required statement or has filed a delinquent statement;

(i) Preserve statements and reports filed with the commission for a period of five years from date of receipt;

(j) Issue, upon request, and publish advisory opinions on the requirements of this act; any opinion rendered by the commission, until amended or revoked, shall be binding on the commission in any subsequent charges concerning the person who requested the opinion and who acted in reliance on it in good faith, unless material facts were omitted or misstated by the person in the request for the opinion;

(k) Act as the primary civil and criminal enforcement agency for violations of the provisions of this act;

(l) Prepare and publish special reports and technical studies to further the purpose of this act; and

(m) Prepare and publish, prior to June 1 of each year, an annual report summarizing the activities of the commission.

Section 10. INVESTIGATIONS BY THE COMMISSION.

(a) Upon a complaint signed under penalty of perjury by any person or upon its own motion, the commission shall investigate any alleged violation of this act. All commission proceedings and records relating to an investigation shall be confidential until a final determination is made by the commission. The executive director shall notify any person under investigation by the commission of the investigation and of the nature of the alleged violation within five days of the commencement of the investigation. Within fifteen days of the filing of a sworn complaint by a person alleging a violation, and every thirty days thereafter until the matter is terminated, the executive director shall notify the complainant of the action taken to date by the commission together with the reasons for such action or non-action.

(b) If a preliminary investigation fails to indicate probable cause for belief that this act has been violated, the commission shall terminate the investigation and so notify the complainant and the person who had been under investigation.

(c) If a preliminary investigation indicates probable cause for belief that this act has been violated, the commission shall initiate appropriate proceedings to determine whether there has been a violation of this act. All proceedings of the commission pursuant to this subsection shall be by closed session attended only by those persons necessary to the investigation of the alleged violation, unless the person alleged to be in violation of this act requests an open session. The commission shall have the powers possessed by the courts of this state to issue subpoenas and cause them to be served and enforced. All testimony shall be under oath which shall be administered by a member of the commission. Any person who appears before the commission shall have all of the due process rights, privileges, and responsibilities of a witness appearing before the courts of this state. All witnesses summoned before the commission shall receive reimbursement as paid in like circumstances in the courts of this state. Any person whose name is mentioned during a proceeding of the commission and who may be adversely affected thereby, may appear personally before the commission on his own behalf or file a written statement for incorporation into the record of the proceeding. The commission shall cause a record to be made of all proceedings pursuant to this subsection. At the conclusion of proceedings concerning an alleged violation, the commission shall immediately begin deliberations on the evidence and then proceed to determine by majority vote of the members present whether there has been a violation of this act. The findings of the commission concerning a violation and the record of the proceedings shall be made public by the commission as soon as practicable after the determination has been made.

Section 11. ENFORCEMENT.

(a) The commission by order may suspend or modify any of the reporting requirements of this act in a particular case if it finds that literal application of this act works a manifestly unreasonable hardship and if it also finds that such suspension or modification will not frustrate the purposes of the act. Any such suspension or modification shall be only to the extent necessary to substantially relieve the hardship. The commission shall act to suspend or modify any reporting requirements only if it determines that facts exist that are clear and convincing proof of the findings required hereunder.

(b) The commission, upon a finding pursuant to Section 10 of this act that there has been a violation of this act, shall begin a criminal prosecution for the imposition of criminal penalties provided by this act or shall issue an order that may require the violator to:

(1) cease and desist violation of this act;

(2) file any report, statement, or other information as required by this act; or

(3) pay a civil penalty of not more than $1,000 for each violation of this act.

(c) Any person who believes that a violation of this act has occurred may bring in the name of the state any of the actions authorized under this act. The court may in its discretion remand the proceedings to the commission for such further action as it may direct. The court may order payment of reasonable attorney fees and court costs to a successful plaintiff in a suit brought pursuant

to this subsection. If the court finds that an action brought pursuant to this subsection was brought without reasonable cause, the court may order the plaintiff to pay reasonable attorney fees and court costs incurred by the defendant.

Section 12. JUDICIAL REVIEW.

Any action by the commission made pursuant to this act shall be subject to review in a court of competent jurisdiction upon the petition of any interested person filed within thirty days after the action for which review is sought. The court shall enter a judgment enforcing, modifying, or setting aside the order of the commission or it may remand the proceedings to the commission for such further action as it may direct.

Section 13. PENALTIES.

(a) Any person who violates the provisions of subsections (a) and (b) of Section 3 of this act is guilty of a felony and shall be fined not more than $10,000 or imprisoned for not more than five years, or be both fined and imprisoned.

(b) Any person who violates the provisions of subsections (c) through (g) of Section 3 or Sections 5, 6, or 7 of this act is guilty of a misdemeanor and shall be fined not more than $1,000 or imprisoned for not more than one year, or be both fined and imprisoned.

(c) Any person who obtains financial gain from violating any provision of this act, in addition to any other penalty provided by law, shall pay into the treasury of the state a sum of money equal to three times the financial gain resulting from such violation.

(d) The penalties prescribed in this act do not limit the power of either house of the legislature to discipline its own members or impeach a public official, and do not limit the power of agencies or commissions to discipline officials or employees.

(e) Any person who violates the confidentiality of a commission proceeding pursuant to Section 10 of this act is guilty of a misdemeanor and shall be fined not more than $1,000 or imprisoned for not more than one year, or be both fined and imprisoned. Any person who willfully affirms or swears falsely in regard to any material matter before a commission proceeding pursuant to Section 10 of this act is guilty of a felony and shall be fined not more than $5,000 or imprisoned for not more than five years, or be both fined and imprisoned.

Section 14. SUPPLEMENTAL PROVISIONS.

Any governmental body may adopt requirements to supplement this act, provided that no such requirement shall in any way be less restrictive than the act.

Section 15. CONFLICT OF LAW.

If the provisions of this act conflict with any other statute, ordinance, regulation, or rule, the provisions of this act shall control.

Section 16. SEVERABILITY.

If any provision of this act, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of this act and the application of such provisions to other persons and circumstances shall not be affected thereby.

Section 17. EFFECTIVE DATE.

This act shall take effect 30 days after enactment into law.

Conflict of Interest Act
As Approved by Committee on Proposed State Legislation

Proposed Legislation

(Title, enacting clause, etc.)

Section 1. [Short Title.] This act may be cited as the [State] Conflict of Interest Act.

Section 2. [Definitions.] As used in this act:

(1) "Business" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, or any legal entity through which business is conducted for profit.

(2) "Business with which he is associated" means any business in which the person or a member of the person's immediate family is a director, officer, owner, or employee.

(3) "Candidate for public office" means any person who has filed a declaration of candidacy or a petition to appear on the ballot for election as a public official and any person who has been nominated by a public official or governmental body for appointment to serve as a public employee.

(4) "Commission" means the state ethics commission.

(5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or anything of value, unless consideration of equal or greater value is received.

(6) "Governmental body" means any department, commission, council, board, bureau, committee, legislative body, agency, or other establishment of the executive or legislative branch of the State or political subdivision thereof.

(7) "Immediate family" means a spouse residing in the person's household and dependent children.

(8) "Income" means any money or thing of value received, or to be received as a claim on future services, whether in the form of a fee, salary, expense, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any form of recompense or any combination thereof.

(9) "Ministerial action" means an action that a person performs in a given state of facts in a prescribed manner in obedience to the mandate of legal authority, without regard to, or the exercise of, the person's own judgment upon the propriety of the action being taken.

(10) "Person" means a business, individual, corporation, union, association, firm, partnership, committee, club, or other organization or group of persons.

(11) "Public employee" means any individual who receives compensation at an annual rate of [$] or more from the State or any political subdivision thereof or who is responsible for taking or recommending official action of a non-ministerial nature with regard to:

CONTINUED

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(i) contracting or procurement;
(ii) administering or monitoring grants or subsidies;
(iii) planning or zoning;
(iv) inspecting, licensing, regulating or auditing any person; or
(v) any other activity where the official action has an economic impact of greater than a de minimis nature on the interests of any person.

(12) "Public official" means an elected official in the executive, legislative, or judicial branch of the State or any political subdivision thereof, provided that it shall not include members of advisory boards that have no authority to expend public funds other than reimbursement for personal expenses, or to otherwise exercise the power of the State or any political subdivision thereof.

Section 3. [Statement of Financial Interest Required to be Filed.]

(a) Each public official and public employee shall file a statement of financial interests for the preceding calendar year with the commission on or before 1 of each year that he holds such a position.

(b) Each candidate for elective public office shall file a statement of financial interests for the preceding calendar year with the commission within 10 days of filing his legal declaration of candidacy or petition to appear on the ballot for election as a public official; provided that this subsection shall not apply to a person who has filed a statement pursuant to subsection (a). A declaration of candidacy or petition to appear on the ballot shall not be considered legal unless a statement of financial interests is timely filed in proper form, and the name shall not appear on the ballot.

(c) If the candidate files his legal declaration of candidacy or petition to appear on the ballot for election prior to January 1 of the year in which the election is held, the candidate shall also file a statement for the year preceding the year in which the election is held.

(d) Each candidate for public office nominated by a public official or governmental body and subject to confirmation by a public official or governmental body shall file a statement of financial interests for the preceding calendar year with the commission and with the official or body that is vested with the power of confirmation at least 10 days before the official or body shall approve or reject the nomination.

(e) No public employee shall be allowed to take the oath of office or enter or continue upon his duties unless he has filed a statement of financial interests with the commission as required by this act. Any public official, public employee, or candidate for public office who fails to file or falsely files a statement is guilty of a misdemeanor.

(f) Any public official filing a statement with the commission pursuant to this act shall file a copy of that statement with the clerk of the court in the local jurisdiction in which he retains his primary residence. The clerk of the court shall make such statements available for public inspection and copying during regular office hours and make copying facilities available free of charge or at a cost not to exceed actual cost.

(g) The statement of financial interests shall be filed on a form prescribed by the commission and shall be signed under penalty of perjury by the person required to file the statement.

(b) Statement shall include the following information for the preceding calendar year in regard to the person required to file the statement and the members of his immediate family:

(1) The names of all business with which he is associated.

(2) The category or type and amount of all sources of income in excess of $1,000. It shall be sufficient to report whether the amount is: less than $1,500; $1,500 - $5,000; $5,000 - $10,000; $10,000 - $25,000; more than $25,000.

(3) The class and the amount of stock in excess of $1,000 at fair market value held in a business by the person.

(4) The legal description of all real property in the State, excluding the person's primary residence, the fair market value of which exceeds $2,500, in which a financial interest was held, and a statement of the amount and nature of the consideration received or paid in exchange for such interest, and the name and address of the person furnishing or receiving such consideration.

(5) The name, address, and type of security given to each creditor to whom the value of $5,000 or more was owed and still outstanding; provided that debts arising out of consumer credit transactions need not be included.

Section 4. [Restricted Activities.]

(a) No public official, or public employee, shall represent a person other than the State or political subdivision thereof for compensation before any governmental body where the matter before the governmental body is of a non-ministerial nature. This section shall not be construed to prohibit the performance of ministerial functions including, but not limited to, the filing or amendment of tax returns, applications for permits and licenses, incorporation papers and other documents.

Comment: States may wish to allow public officials to represent clients before bodies such as Workmen's Compensation Commissions or other similar bodies where proceedings are adversary in nature and before agencies at other levels of government. States may wish to insert a specific list of such boards, agencies or commissions.

(b) No person shall offer or give to a public official or public employee or a member of his immediate family and no public official or public employee shall solicit a gift to influence him in his official duties.

(c) No public official or public employee shall accept any benefit or compensation in addition to that received in his official capacity for having exercised his official powers or performed his official duties.

(d) No public official or public employee shall use or disclose confidential information gained in the course of or by reason of his official position or activities to further his own financial interests or those of anyone else.

(e) Any public official who has a substantial personal financial interest distinct from that of the general public in any governmental decision shall disqualify himself from voting on that decision.

Comment: In States where constitutional majorities are required, this provision may be troublesome. Such States may wish to change this clause to a statement of intent or to exempt it from the penalty provisions in Section 8.

(f) The majority of the members of a non-elective governmental body, or of a standing committee of a governmental body shall not have a substantial financial interest, distinct from that of the general public, in matters subject to the jurisdiction of the body or committee.

Section 5. [State Ethics Commission.]

(a) There is created a state ethics commission consisting of [ ] members and including public officials, public employees, and other citizens. Appointments to the commission shall be made by [ ]. No more than [ ] of the members of the commission shall be members of the same political party. Any vacancy occurring on the commission shall be filled within 30 days in the manner in which that position was originally filled.

(b) Members of the commission shall serve for [ ] year-staggered terms.

(c) The commission shall elect a chairman and vice-chairman. In the absence of the chairman or in the event of a vacancy in that position, the vice-chairman shall serve as chairman.

(d) The commission shall have the authority to appoint an executive director and such additional personnel as it requires to perform its duties. The executive director shall serve at the pleasure of the commission.

(e) Any action by the commission shall require the affirmative vote of [ ] of its members and [ ] members shall constitute a quorum.

(f) The chairman or any [ ] members of the commission may call a meeting provided that adequate advance notice of the meeting is given.

(g) Members of the commission shall be compensated at a rate of [$] per day and shall receive reimbursement for their actual and necessary expenses.

Section 6. [Duties of the Commission.] The commission shall:

(1) Prescribe and publish after notice and opportunity for public comment, rules, and regulations to carry out the provisions of this act.

(2) Prescribe forms for statements required by this act, and furnish such forms to persons required to file such statements.

(3) Prepare and publish a manual or guidelines setting forth recommended uniform methods of reporting for use by persons required to file under this act.

(4) Accept and file any information voluntarily supplied that exceeds the requirements of this act.

(5) Preserve the statements filed with it for six years from the date of receipt.

(6) Make statements and reports filed with the commission available for public inspection and copying for a reasonable cost during regular office hours.

(7) Compile and maintain a current list and summary of all statements filed.

(8) Prepare and publish reports as it may deem appropriate.

(9) Audit statements and reports filed with the commission.

(10) On its own initiative or upon request, issue and publish advisory opinions on the requirements of this act for those who wish to use the opinion to guide their own conduct.

(11) Prepare an annual report to the Legislature, the Governor and public summarizing the activities of the commission and recommending any changes in the act.

Section 7. [Investigations by the Commission.]

(a) Upon a complaint signed under penalty of perjury by any person or upon its own motion, the commission shall investigate any alleged violation of this act. All commission proceedings and records relating to an investigation shall be confidential until a final determination is made by the commission. The

executive director shall notify any person under investigation by the commission of the investigation and of the nature of the alleged violation and shall continue to provide information to the complainant and the person under investigation concerning action taken by the commission together with the reasons for such action or non-action.

(b) If after investigation, the commission finds that probable cause exists for believing the allegations of the complaint, after adequate notice to the accused, it shall conduct a hearing on the matter. Such hearings shall be at closed session unless the accused petitions for a public hearing.

(c) The commission shall have the same power to compel the attendance of witnesses and to issue subpoenas as is granted legislative committees.

(d) Any person whose activities are under investigation shall be entitled to be represented by counsel of his own choosing and shall have an opportunity to examine all records to be used at the hearing.

(e) The commission shall keep a record of its investigations, inquiries, and proceedings; all records and transcripts of any investigations or inquiries under this section shall be confidential until a final determination is made by the commission.

(f) The commission shall report any finding of misconduct along with such information and documents as it deems appropriate to the appropriate law enforcement authorities.

Section 8. [Penalties.]

(a) Any person who violates the provisions of this act is guilty of a misdemeanor and shall be fined not more than [$] or imprisoned for not more than [ ] or both.

(b) The penalties prescribed in this act do not limit the power of either house of the Legislature to discipline its own members, and do not limit the powers of agencies or commissions to discipline officials or employees.

Section 9. [Severability.] [Insert severability clause.]

Section 10. [Repeal.] [Insert repealer clause.]

Section 11. [Effective Date.] [Insert effective date.]

APPENDIX F

REFERENCES OF CONCEPTION

QUESTIONNAIRE ON CORRUPTION

The following questions are offered to assist citizens in determining whether official corruption or an atmosphere that is conducive to official corruption might exist in their State or city government.

Each question is so worded that an affirmative answer tends to indicate the presence of corruption or an atmosphere that is conducive to corruption. It should be emphasized and clearly understood that one or even a few affirmative answers do not constitute a conclusive showing of corruption, however. Further inquiry into laws and regulations would be necessary for that. And only official investigation and prosecution could establish the existence of criminal activity.

But this list of questions gives the citizen a good start in determining the possible integrity of local government.

Questions

1. Do respected and well-qualified companies refuse to do business with the city or State? Yes___ No___

2. Are municipal contracts let to a narrow group of firms? Yes___ No___

3. Is competitive bidding required? Yes___ No___ On contracts above what dollar amount? Amount_____

4. Are there numerous instances that justify the letting of contracts without competitive bidding? Yes___ No___ For example, are there frequent "emergency contracts" for which bids are not solicited? Yes___ No___

5. Have there been disclosures of companies that have submitted low bids but were disqualified for certain unspecified technical reasons? Yes___ No___

6. Do turnpike or port authorities or governmental departments operate with almost total autocracy, accountable only to themselves and not to the public or other government officials? Yes___ No___

7. Does the mayor or Governor have inadequate statutory authority and control over the various departments of the executive branch? Yes___ No___

8. Are certain government employees frozen into their jobs by an act of the city council or State legislature? Yes___ No___

9. Is there not an effective independent investigation agency to which citizens can direct complaints regarding official misconduct? Yes___ No___

10. Are kickbacks and reciprocity regarded by the business community as just another cost of doing business? Yes___ No___

11. Is it customary for citizens to tip sanitation workers, letter carriers, and other groups of government employees at Christmas time? Yes___ No___

12. Is double parking permitted in front of some restaurants or taverns but not in front of others? Yes___ No___

13. Do some contractors keep the street and sidewalks reasonably free from materials, debris, etc., while others show little concern about such matters despite ordinances prohibiting litter? Yes___ No___

14. Is it common knowledge that politicians add a sum to their fees to cover "research" at the city's planning and building department? Yes___ No___

15. Is illegal gambling conducted without much interference from authorities? Yes___ No___

16. Do investigations of police corruption generally result in merely a few officers being transferred from one precinct to another? Yes___ No___

17. Is there no special State unit charged with investigating organized crime and the conduct of public employees? Yes___ No___

18. Does one encounter long delays when applying for a driver's license, for the issuance of a building permit, or for payment in connection with services rendered the city or State? Yes___ No___

19. Are government procedures so complicated that a middleman is often required to unravel the matters and get through to the right people? Yes___ No___

20. With each new administration, does the police department undergo an upheaval—the former chief now walking a beat, and a former patrolman now chief, etc.? Yes___ No___

21. Are racing variances granted that are generally considered detrimental to the community? Yes___ No___

22. Is there a wide gap between what the law declares illegal and the popular morality? Yes___ No___

23. Are officeholders spending more of their personal funds campaigning for political positions than the cumulative salary they would receive at retirement during their term of office? Yes___ No___

24. Do city or State officials have significant interests in firms doing business with the government? Yes___ No___

25. Would officials benefit financially from projects planned or under way? Yes___ No___

26. Is there a lack of qualified government personnel to supervise and inspect public works projects? Yes___ No___

27. Is there no merit system incorporated into civil service procedures? Yes___ No___

28. Are patronage appointments extensive? Yes___ No___

29. Do government salaries fail to approximate what could be earned in comparable private sector positions? Yes___ No___

30. Are vice operations in certain sections of the city more or less tolerated by authorities? Yes___ No___

31. Is moonlighting by government personnel not regulated? Yes___ No___

32. Is it common knowledge that jury duty can be evaded or a ticket fixed? Yes___ No___

33. Have public officials accepted high posts with companies having government contracts? Yes___ No___

34. Has a legislator or councilman introduced legislation by which he would benefit financially? Yes___ No___

35. Is there no effective lobby control that em-

brances all government personnel, not just department heads? Yes___ No___

36. Do officials use government equipment or material for personal projects? Yes___ No___

37. Do the media fail to report the existence of organized crime within the community or State? Yes___ No___

38. Is there a high turnover rate within municipal departments? Yes___ No___

39. Do the police discourage citizens from making complaints or press charges? Yes___ No___

40. Have certain persons been known to receive special favors while in jail? Yes___ No___

41. Does the police department have no internal investigation unit? Yes___ No___

42. Are State police with statewide investigative authority not authorized to operate in municipalities if there is reasonable suspicion of corruption there? Yes___ No___

43. Are an extraordinary small percentage of arrested organized crime figures convicted, and of those convicted, are sentences insignificant in relation to the crime and criminal? Yes___ No___

44. Are complainants in judicial proceedings frequently not notified of the date they are supposed to appear in court? Yes___ No___

45. Are court fines regarded as a source of revenue for the municipality? Yes___ No___

46. Are there part-time prosecutors? Yes___ No___

47. Are key public officials not required to disclose sources of income and the nature of their investments? Yes___ No___

48. Is the presence of organized crime repeatedly denied, even though no one has really looked for it? Yes___ No___

49. Are records of official government agencies closed to public inspection? Yes___ No___

50. Are archaic laws still on the books? Yes___ No___

51. Are public employees not required to answer, under penalty of removal from office if they decline, questions pertaining to their official conduct? Yes___ No___

52. Are records of disciplinary action against government employees closed to inspection? Yes___ No___

53. Is it common knowledge that if the press printed embarrassing, though truthful, stories about the police, delivery trucks are tolerated and sources of information for reporters within the department dry up? Yes___ No___

54. Is it common knowledge that candidates for judgeships and for police positions of lieutenant and above must be accepted by ward committeemen? Yes___ No___

55. Is morale among public servants low? Yes___ No___

56. Are citizens barred from public meetings and from access to what should be public records? Yes___ No___

57. Do laws protect from public scrutiny information that should be public, such as ownership of real estate? Yes___ No___

58. Do projects for which money has been authorized fail to materialize or remain only partially completed? Yes___ No___

59. Can any employee represent private interests before any boards? Yes___ No___

60. Do State workers have to contribute a percentage of their wages to the party's campaign chest? Yes___ No___

61. Are machine politics an inherent part of the system? Yes___ No___

62. Are bribegivers, as well as bribetakers, arrested and prosecuted? Yes___ No___

63. Do public officials attend conventions at the expense of private sector groups? Yes___ No___

64. Do civil service regulations continually impair the hiring, discipline, and firing latitude of public officials? Yes___ No___

65. Do large campaign contributions follow favorable government rulings? Yes___ No___

66. Are ethical codes not institutionalized to any significant degree? Yes___ No___

67. Are those arrested for narcotics and gambling violations primarily bottom rung peddlers (street pushers and numbers runners vs. wholesaler and numbers banker)? Yes___ No___

68. Do bad businesses flourish within the community? Yes___ No___

69. Are public positions filled when there is no need for such jobs, such as the post of swimming instructor at a location where there is no pool? Yes___ No___

70. Do business establishments give certain public employees free meals, passes, discounts, and the like? Yes___ No___

71. Are sheriffs permitted to pocket the difference between the sum they are authorized to spend on food for jail inmates and what they actually spend for that purpose? Yes___ No___

72. Is it well known that delinquent police personnel do not reach assignment to vice or plainclothes units? Yes___ No___

73. Is there no mechanism to monitor court testimony of building inspectors, liquor inspectors, and other enforcement personnel to determine whether their court testimony differs from their original reports to the extent that defendants are thereby freed? Yes___ No___

74. Can public employees who walk off future receive their pensions despite pending charges of misconduct? Yes___ No___

Prepared by the National Advisory Commission on Criminal Justice Standards and Goals for its Report on Community Crime Prevention.

APPENDIX G

PROTECTION FOR MERIT SYSTEM EMPLOYEES AGAINST RETALIATION OR COERCION

PROTECTION FOR MERIT SYSTEM EMPLOYEES AGAINST RETALIATION OR COERCION: REFUSAL TO OBEY ILLEGAL OR IMPROPER INSTRUCTIONS; DISCLOSURE OF GOVERNMENTAL WASTE, ABUSE AND CORRUPTION; PENALTIES AND PROCEDURES

(a) It shall be unlawful for any person to coerce any merit system employee into taking an illegal, unethical, or improper act or take any retaliatory action against any merit system employee because of that employee's disclosure of information relating to county government mismanagement, corruption, misuse or gross waste of funds, abuse of authority, substantial and specific danger to public health or safety, or other wrong-doing in violation of law.

(b) Any merit system employee who refuses to obey an illegal instruction or who discloses information concerning county government mismanagement, corruption, misuse or gross waste of funds, abuse of authority, substantial and specific danger to public health or safety, or other wrong-doing in violation of law with a reasonable, good-faith belief that such disclosures are true and accurate shall be protected from any retaliatory or coercive personnel action. This provision does not extend any protection to merit system employees from otherwise proper personnel actions taken for disciplinary reasons and not for retaliatory purposes prohibited by this section. A "personnel action" shall mean any administrative act or omission which has a significant adverse impact upon the employee or a change in the employee's duties or responsibilities inconsistent with the employee's grade and salary.

(c) Employees are encouraged and directed to report to appropriate government agencies or officials instances of possible county government mismanagement, corruption, misuse or gross waste of funds, abuse of authority, substantial and specific danger to public health or safety, or other wrong-doings in violation of law. If such a report is filed with a county official or agency, including the personnel board, the ethics commission or the council office of legislative oversight, the identity of the employee filing the report shall be kept confidential unless this right is waived in writing by the employee. The report shall be referred to the head of the county agency receiving the report who shall cause an inquiry to be conducted into the allegation or immediately refer the report to another appropriate governmental official or agency. All inquiries conducted by county agencies shall be prompt and the results provided to the county executive, county council and the personnel board.

(d) The board is hereby authorized and directed to establish procedures in the personnel regulations to process complaints claiming a violation of this section. Any person may file a complaint with the board charging a violation of this section. The board shall also have authority, with or without a complaint, to initiate an inquiry of any county official or employee suspected of taking retaliatory or coercive personnel action against an employee as prohibited by this section.

(c) The board shall have the following authority: To prescribe any personnel regulation standards for the imposition of a civil penalty up to $1,000 upon any county merit system employee found in violation of this section; to revoke or modify any personnel action found to be taken in violation of this section and to direct the appointing authority to reduce in grade, suspend, or remove any county merit system employee found in violation of this section; recommend to the appointing authority appropriate sanctions concerning any appointed county official or employee who is not a merit system employee and who is found in violation of this section; to report, in the case of an elected official, its findings to the appropriate state or local agency having jurisdiction over the conduct involved and to release the report to the public; and to temporarily suspend any personnel action pending a full inquiry by the board into charges of violation of this section.

END