can only put a damper on press monitoring of government activities.

Another device that seems to intimidate the press and public from scrutinizing government properly is the consultant report. Government agencies produce mountains of complex, bulky documents that justify questionable and expensive projects. The reports go unread, unchallenged. . . .

**Rural Parish Wrongdoing**

In the last two years, a number of rural parish governments in Louisiana have made the headlines with scandals involving illegal or questionable practices that have existed for a long time. For the most part, the disclosures are the result of investigations by federal officials or reporters from outside the rural parishes.

The abuses were easy to find. One reason was that many rural parishes have no press, at least in the sense of the press as a check on and watchdog over government. The local weeklies are understaffed, able to report only those things that are relatively newsworthy as these cases developed.

Similarly, officials or reporters from outside the parish government have had relatively easy time of documenting the abuses that the FBI and the U.S. Attorney's Office in New Orleans turned into convictions for five former St. Charles police jurors on extortion charges. . . .

But things won't be so easy in the future. Officials will be more careful at covering up any illegal activities, and reporters will be challenged to look harder and deeper. . . .

In fact, one reason why the urban press in Louisiana has concentrated "investigative" efforts in outlying parishes recently may be that finding wrongdoing by more sophisticated, experienced officials in city and state government is often discouragingly difficult. Officials at this level are accustomed to dealing with reporters, to parrying questions (the ability to say "no comment" is a simple device not yet completely adopted by country politicians, who often have provided incriminating information about themselves), and to keeping embarrassing facts out of accessible documents.

**Louisiana Discourages Investigation**

In a variety of ways, Louisiana officially discourages investigation.

There is evidence that simultaneous investigation by the press of a corrupt situation under examination by law enforcement agencies actually produces more results: People see in the press what the authorities are barred from discussing publicly and come forward with information both for the press and public interest. There is evidence that press interest in an investigation can keep it alive and act as a political pressure on officials.

**Unscrupulous Businessmen**

The bulk of government corruption would not exist without businessmen who stand to profit by favorable action by officials. Most bribes and kickbacks come from businessmen who need something from government. But the press nationally, and particularly in Louisiana, is disturbingly weak in its understanding of business. On most newspapers, the business writer is the one who handles press releases from companies about promotions and profits (but rarely of the bad news). . . .

There is ample evidence of corporate corruption in Louisiana, not just among the fly-by-night hustlers and confidence men. Some of the most respected and largest companies in the state have been implicated in questionable or illegal activities. . . .

**Public Tolerance of Political Venality**

The sad fact is that public officials in Louisiana could not get away with this attitude for very long were it not for such a broad tolerance among the public at large of political venality and corruption. The bulk of governmental corruption may not set Louisiana apart from its sister states, but as historian and States.Item columnist Pie Dufour has observed only too accurately: "Where Louisiana has few peers and no superiors is in the cavalier spirit with which it meets political corruption face to face, and passes by with an amiable, almost sympathetic nod."
"Keystones for a More Ethical Government"

ROLE OF THE PUBLIC OFFICIAL

by

Joseph N. Traigle

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I think you would agree that on almost anyone’s list, the quality of the public official ... is one of the primary keystones for a more ethical government.

The General Public and the Media

Before you talk about the official who fills the position, I think it is necessary first to take a look at those who make the decision on which individual becomes a public official, ... "the people," "the voters," "they."

The general public can be further subdivided into two categories:

1. The true general public, the individuals who vote once or twice a year, maybe. The ones who do not spend a great deal of time following public events, but several weeks before the election will generally begin to formulate in their minds their choices for a particular position.

2. The category which comprises a relatively small and select group, "the media," which is seen as the day-to-day, on-site representative of the larger group that we just referred to, "the public." The media act as the conduit and the communicator on a day-to-day basis between the officials and the group that placed them in their positions.

Appointed Public Official

Public officials generally fall into two categories: the elected official and the appointed official. Generally, an appointed official ... comes to that position by virtue of an appointment from one individual who is in a higher position, such as the governor, or from an appointing authority, such as a police jury or an airport commission.

... Many of the things that I will suggest are simply my personal opinions on ways to improve the quality of ethics among officials. For appointed officials, one of the most critical questions that should be answered before an appointment is made at any level is: "What is the definition of the job?"

Is there an adequate definition of the task to be performed by the appointed official? It is very easy to say ... that there are many things to be done; there are many problems to be looked at; and that the job offers many challenges. All of the cliches can be applied to a prospective assignment in an appointed position. What I am suggesting is that those cliches should be satisfied, and that before the appointment is made, ample time and effort should be spent in obtaining a definition of an exactly what will be expected of the official who fills that position, a definition which clearly states what the problems are and the priority of their existence.

... When we talk about definition of a job, I feel some of the major headings are these: Who will determine policy for the agency? Will it be the appointed official or will it be the appointing authority?

It is critical that this question be resolved before the appointment is made; the boundaries be established as to how much policy can be decided by the individual; that it be determined what the day-to-day working relationship is going to be on policy matters; whether or not the official has the authority to work with the media in regard to activities of the agency and policy matters, or if they should be cleared with the governing authority before statements are made.

Experience as Collector of Revenue

... During my four years as collector of revenue, there was never any question as to what the boundaries were in that area as far as my authority was concerned. By the same token, there was never any question in the appointing authority’s area (in this case the Governor’s area) in terms of what we had agreed on. If I had to pick one factor that was the key ingredient in the success that we had in the revenue department, it was because Edwin Edwards kept his commitment of noninvolvement in revenue department affairs.

A second major consideration is a policy on legislative proposals ... that is, a definition of whether or not the official or the appointing authority will have the responsibility for initiating the proposal. The main thing is that definition of responsibility needs to be made clear and understood in advance. The definition should include a tying in of the legislative proposals to the list of problems that are included in the assignment.

What we did before taking office was to define the problem further and assign the responsibility for the development of legislation to correct it, and that responsibility was given to me. It was then agreed that I would review with the Governor’s Office the proposed legislation and the impact that it would have upon the state; that if the proposed legislation which we developed were satisfactory from the standpoint of the Governor personally feeling that he could support it, then we would go with the piece of legislation. It would be my responsibility to present it to the Legislature, to answer all the questions, to make the presentation, and, in general, to carry the ball; and it would be carried with the Governor’s endorsement.

The arrangement worked extremely well. ... When you speak of ethical problems in the appointed official’s area, there is but one place to look ... the appointing officials and the appointing authorities. If the appointed official selected turns out to be engaging in unethical conduct, then the burden of that responsibility has to rest with the appointing authority.

Elected Public Official

Now let’s move on to the elected official. ... When you speak about ethics and the elected public official, I feel you do not speak only about matters that relate to questionable, ethical conduct. I think you talk about the broader concept: accuracy of one’s presentation during a campaign compared to one’s performance in office. Is it at a high or low ethical level? Have you broken faith with what you promised during the campaign by virtue of your performance in office?

One of the biggest needs in this area is, again, definition of what the candidate’s position is; specifically, a definition in writing of a candidate’s platform, relating it to the specific office that he seeks.

While campaigning for the secretary of state’s office, I was appalled at how easy it is to evade the question of a platform and how easy (and how
strong the temptation) to conduct a campaign predicated upon silver-tongued platitudes and grand and glorious good-government oration, avoiding the specific definition of promised performance to solve a defined problem in the office or in the responsibility which one seeks. This is where the media comes into strong play. This is where they need to ask for and demand written specifics on issues and the publishing and comparing of these written specific plans of the various candidates to better inform and better educate the public who will ultimately make the decision. Very easily said, very easily spoken to you today, but a most difficult task to accomplish. . . .

We will never be perfect in this matter nor in most matters in human existence. Nonetheless, we should set the highest standards for public officials, the media, the voters and the general public in making these decisions: Which officials will determine our destiny?

Weakest Link: Campaign Financing

Now we get to what I call “the weakest link” in the chain of our governmental system, the financing of political campaigns. I was appalled at the lack of understanding, particularly by the media, concerning financing of political campaigns. As I spoke with many of the publishers and editors of our papers, we would have excellent conversations about government in general and my plans as a candidate in particular. Then I was surprised to find many of them leaning over and in a somewhat hushed tone say to me, “Where are you going to get the money?” as if the question of financing the campaign was something that should not be discussed openly and candidly, and certainly should not be discussed journalistically or editorially.

If I were to ask you the cost of running for various offices . . . we would most probably get an enormous variety of answers. One of the reasons has been a tendency not to take campaign financing seriously. We know it exists, we know it has to happen, yet we tend to act sometimes as though we don’t want to know how it happens. We want it to mystically take place without our active involvement; then, after it is over, we want piously and righteously to stand up and demand “good government.” . . .

If you were to trace back questions of unethical activity by public officials, 90-plus-% of them could be traced to weaknesses in the campaign financing system. . . . If we are to be successful in our political environment in Louisiana, we must be able to raise substantial amounts of money.

There are only two ways by which that can happen: (1) you can be independently wealthy and finance the campaign primarily out of your own pocket, or (2) you can be of modest means and then go out and raise large sums of money.

The overwhelming majority of people who contribute to you when you raise large sums of money are honest, well-intentioned people who have no ulterior motives at all, but sincerely want to help the candidate because they believe he is the right candidate and will do the best job. But there are others, in the minority, who contribute sizable sums of money to candidates, and then extract promises or commitments that the candidate must deliver after taking office which sometimes involve questionable ethical activities.

. . . Some would say that this is the wrong approach to improving ethics of the public official, . . . that you should start at the other end, from the position that when the public official is in office, he should report his sources of income, his financial ties. Those steps have merit and a place in the equation of bringing about ethics, but I think when you reduce it down to the basic root of the problem, . . . I don’t believe history shows that the world has applied ethical and moral principles as absolutes. The world needs morality and ethics, absolutely applied, but the world has practiced much of the time “situational ethics.” This concept says that the situation governs human conduct and makes flexibility the rule, not some immutable moral law.

Instances of “Situational Ethics”

Think of just a few instances where the situation in which action was taken has enabled people to rationalize their conduct and overcome moral and ethical principles:

—The sanctification of wars, which we have reconciled with the commandment “Thou shall not kill . . . .”

—The acceptance of a “super race” concept, by many of the people of an entire country, which was used to justify the holocaust in which six million Jews died.

—Our own long-accepted “situation” which caused deprivation of the rights of blacks and Indians.

—The high level direction that justified breaking and entering, lying and cheating, in the name of our national security.

—And, as a final example, the illegal payoffs by American companies rationalized by calling it “generally accepted practice.”

When I was exposed to Philosophy I at LSU, the teaching was that “morals are mores” which meant that one should understand that ethic and moral principles are not the same in all parts of the world and that they change with the passage of time. Thus, behavior is not to be based on immutable laws or principles; one behaves in accordance with the mores—the customs—of a people, at a given period of time.

In this country we have tried to keep our moral and ethical values embodied in our system of laws. I will not suggest to others how they should be good; I will simply try to tell you what my company, Control Data Corporation, is trying to do in light of the recent emphasis on morality in business.

Experience of One Company

My company is in both the computer and financial services business. We have 41,000 employees and do business in 36 countries. Our computer business functions through many distinct organizations and we are in financial services through our wholly-owned subsidiary, Commercial Credit Company.

Early in 1976, a preliminary investigation conducted by corporation management found that a few executives in our computer business overseas had made questionable payments in order to do business in certain
foreign countries. Our board of directors promptly appointed a special committee composed of outside directors to conduct a thorough investigation. The committee expanded its investigation to include domestic as well as foreign operations and to cover more than a 10-year period. The work of the committee, which was diligent, intensive and independent, revealed a pattern of questionable payments in certain foreign countries during the period covered by the investigation. There was no evidence of such payments or any other unethical conduct in the United States. The facts, as the committee found them, were thoroughly reported to the board, our stockholders and the public, but the committee and management did not stop there. Under the guidance of the board committee, management developed a "policy on ethics" which "reaffirms the company's commitment to a high standard of business ethics and integrity, to compliance with local laws and regulations and to accurate and timely accounting for all transactions."

At this point, you might say, "So what? Written codes of conduct and ethics exist in many companies, but they are usually too abstract and too high flown . . . ."

We have more than just a code of conduct. We now have a management system specifically directed at preventing recurring problems. Here is what we did:

- We established administrative procedures to assure that only ethical arrangements are made, in writing, between Control Data and consultants, agents or any other individuals or companies which might act in our behalf wherever we do business. A detailed statement of work is required, including estimated charges for the work, and the transaction must be approved by corporate officers.

- . . . we revised our accounting procedures to eliminate practices under which payments for services might be recorded loosely or imprecisely, false documents might be used to cover a transaction, or payments might be amortized over long periods to cover such transactions.

- . . . we specified that management personnel of the company "are required annually to certify that they have read and understand the policy and have no knowledge of any violation of it."

Will this eliminate the problem? Not necessarily, any more than the documentation of any procedure in any company can forever fix a problem. But, when coupled with the diligence and determination of our management, it should go a long way toward guiding our conduct along wholly acceptable lines . . . .

U. S. Cannot Export Morality

The signs are not good in the international world of business. The U. S. effort to export its campaign against bribery abroad is not finding many buyers overseas. A proposed treaty with 17 other nations, which the administration says is necessary for the effective enforcement of a U. S. law against foreign payoffs, is facing a cynical and reluctant audience among representatives of other countries. It is more than resentment of our attempt to export our morality. The question is: Are business practices that we consider objectionable so institutionalized in the commerce of some countries that they have become mores of their business systems? Another question is: In the complex, interactive markets of the world, can we be unilaterally moralistic? A final and even blunter question: If all this does not change, is the U. S. really going to give away all that business to foreign firms?

American business, in its own environment, can and must live by the ethical standards that are embodied in our laws. We in business can only hope that others join us. The belief of the American public, based on demonstrated actions, that American business behavior is principled will fortify not only their belief in our government of laws, but also their trust in private enterprise.

Justice Brandeis once said: "Sunlight makes the best disinfectant." What we can do for those who believe in our system is to try to bring the light of day regularly to business transactions involving ethical practices—and hope that others do the same.

THE ROLE OF THE PUBLIC PROSECUTOR

by Walter L. Smith, Jr.
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Difficulties in Prosecuting White Collar Crime

... I'm just not willing to concede that a great majority, or even a great number, of public officials are crooked . . . in comparison to the great number of public officials who give of their time, talents and service to the people; the ones who are guilty of these wrongdoings are minute . . . .

But they get all the publicity . . . .

I feel very strongly . . . that my duty as a prosecutor is just as strong to protect the good name and reputation of the innocent as it is to prosecute the wrongdoer.

I want to touch briefly on prosecution, investigation, the attitude of the populace and the role of the media—because I think all of these facets touch on the problems of prosecution of white collar crimes involving public officials. . . . These types of crimes are so complex, so difficult to approach, difficult to even initiate, to investigate and to obtain legally competent evidence, that they absolutely defy compartmentalization . . . .

I'm going to talk about the prosecutor's role first and his task in prosecuting what, in Section 7 of our Criminal Code, is euphemistically called "offenses against organized government." . . .

You ask, "Why is it more difficult for a prosecutor to prosecute these cases than any other?" And the answer is somewhat more complicated than the question. For example, in a street crime prosecution . . . the prosecutor usually has a great deal of evidence to work with . . . good physical evidence to present to the jury. Additionally, you have the added factor of public abhorrence of these types of crimes. There's a human cry—get these people off the streets, apprehend them, catch them, try them, do away with them, put them away . . . .

When you have the eyes and ears of the community, added to the investigators', you have a formidable tool . . . .

And, of course, when the prosecutor presents these facts to the jury, they understand and accept this type of evidence. It's just not so in public corruption-type cases. In those cases, the prosecutor is dealing with a different type individual, different types of evidence, and in many cases public apathy. Who really got hurt? Somebody wanted to give somebody some money, so they gave it to them . . . .
"Typical" Public Bribery Case

Now let me give you a typical public bribery case that a local prosecutor could expect to get. There's a businessman, contractor, Mr. "A," who gives a public official $5,000, $10,000, whatever, to insure that he gets a particular contract or a particular favor. This is not a crime that's reported. Usually there are two people involved in wrongdoing—the giver or the acceptor and the briber or the bribee. One's just as wrong as the other, and there's no report made of this. But usually the media will get a report stirred up, an investigation is made, usually by a local official who has neither the manpower nor the time to devote to a proper investigation. So it comes to the prosecutor's desk, and he's got to do something with it. This is usually the type of evidence he winds up with.

First, he is not dealing with a violent criminal—he is dealing with a public official who has been through the crucible of an election campaign, gotten a majority of the votes in his ward, city, parish or district, and enjoys the power and prestige of his office as well as the confidence of his constituents.

The other party to this little drama is usually a fairly affluent businessmen, probably without too many scruples, but nonetheless pretty powerful in his own right as far as prestige in the community.

This is what the prosecutor starts with; what kind of evidence does he have? Usually the testimony of the bribee or the briber, and why does he get this testimony? Because some investigators put enough pressure on one of them, usually the bribe giver.

You've got this individual saying, "Yes, I gave Mr. Public Official B $10,000 for this contract." . . .

First, you get Mr. A on the stand—he'll say, "Yes sir, I did give Mr. B $10,000 for this contract and I did get it." Introduce the contract to corroborate this testimony. Well, most contracts are legal. It's corroborative to some extent. Perhaps if he's lucky, the prosecutor may have Mr. A, the man who's going to testify against Mr. B, present his bank records to show that on or about the date that this alleged bribe took place, Mr. A drew $10,000 out of the bank and Mr. A said he gave it to Mr. B . . .

The defense to this little hypothesis is very simple and very effective. The defense attorney puts his defendant on the stand to deny in his best political oratory that any of these allegations, in fact, occurred. So what does the jury have when the case is closed? A one-on-one situation. "A" saying I bribed him and "B" saying he didn't, the contract which really doesn't mean a whole lot, and some bank records . . .

You couple that type of evidence with a natural reluctance on the part of the people—and people comprise juries—to render the verdict that may be guilty of the crime, while another man whom they believe to be just as guilty goes free, and you compound your problem as a prosecutor. Add that to the fact that jurors, by and large, come off the streets to serve on a jury. And almost without exception, they are conscientious and devoted to their duty, and they are going to require the state, as they should, to prove the guilt of the accused to their satisfaction beyond a reasonable doubt and to a moral certainty—as they should do.

So the typical public bribery case that comes across the desk of the prosecutor is very, very difficult to prosecute.

How an Actual Case was Handled

. . . What's the answer? Better investigation, with all it implies, a more concerned public, a public that won't close its eyes, that will come forward with information, a more aware media, and more and better trained investigators in this area are necessary if we are going to effectively deal with this particular problem. And I can best illustrate this by giving you another example of a well-investigated case of public bribery involving a public official.

This case was initiated by two sources. Questions were raised as to the propriety of certain actions of a state agency by both the legislative auditor and the media. May I add at this point that the media is one of the best watchdogs of the public fisc. . . . They serve to focus attention on suspicious transactions, and more importantly, the media makes the public aware and concerned about the government and its actions.

After we were asked by the legislative auditor to investigate this particular agency, immediately we informed the local district attorney and the sheriff's office and began investigation. After a joint investigation of some three or four weeks, we had determined that, in fact, crimes had been and were being committed by at least two people. But we had the typical situation that I just described to you, except in that case we didn't even have the bribee or the briber. We had an honest citizen who came forth and said, "I went down there to do something and they told me I'd have to give them some money." He had been approached to pay a bribe.

. . . We did determine that we had a viable case, but it certainly was not a triable case. We assigned 10 investigators to this case, and we used criminal investigators since the tentacles of this particular case crossed jurisdictional lines all over the state. At all times we had at least eight investigators working full-time on this case, which lasted in excess of one year . . .

These eight investigators, with the aid of some of the legislative auditor's people and local people in the various parishes, interviewed over 500 individuals—I don't mean they just talked to them—I'm talking about total interviews with interview sheets, some of which were recorded, and some persons were interviewed several times. The investigation covered 16 parishes of this state and several counties in Mississippi. The directors of the agency were subpoenaed, and every invoice for a period of three years was checked against equipment, and the questionable ones correlated with interviews which sometimes necessitated three interview views.

Records and invoices of some 16 parishes were checked. Illegally obtained equipment was located and photographed; bank records of certain individuals were subpoenaed and checked against invoices and correlated with certain invoices. When these cases were ready to go to the jury, we were ready to overwhelm them with good, competent evidence . . .

The result of this investigation was that some 14 people, including the agency head and the assistant agency head, were convicted.

I could give you other illustrations where this same technique was and is now being used, but I think you can see that to effectively prosecute cases of this type, you have to have an effective and thorough investigation, and . . . it costs a lot of money to do it. You either have to be willing to pay the price to do that or you have to go with half-investigated cases because it does take time. But it is necessary, as far as I am concerned, not only to prove the guilt of those