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COUNCIL ON GOVERNMENTAL ETHICS LAWS (COGEL)

Ethical Leadership: Practical Lessons from the Boardroom and the Battlefield

By Frederick M. Herrmann, Ph.D., Executive Director, New Jersey Election Law Enforcement Commission

He has the power to render us happy or unhappy; to make our services light or burdensome; a pleasure or a toil. Say that his power lies in words and looks; in things so slight and insignificant that it is impossible to add and count 'em up: what then? The happiness he gives, is quite as great as if it cost a fortune.

- Charles Dickens, *A Christmas Carol*

Do governmental ethics agency administrators need to be concerned about organizational leadership? While we are heavily involved with policy and legal matters, most of us have little time to think about leading. Mastering the issues and the law is one thing, but running an organization ethically, efficiently, effectively, honestly, and happily is quite another. This article will present some basic and useful managerial concepts gleaned from two different worlds—the corporate and the military. It will be shown that a good manager is an ethical leader who inspires, sets high goals, shares

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Success of COGEL's 25th Annual Conference as Big as Texas

Texas may be the Lone Star State, but there was more than one star on the program of COGEL's 25th annual conference, held September 21-24 in Austin. The conference, hosted by the Texas Ethics Commission, featured an impressive array of plenary speakers, including Jim Hightower, who is often referred to as "America's # 1 populist." He entertained the audience with his thought-provoking and sometimes



Success

in Texas!

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"Who is to guard the Guardians?" - Juvenal

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COGEL is a professional organization for agencies and individuals with responsibilities in governmental ethics, elections, campaign finance, freedom of information and lobbying law regulation. Its membership is drawn from federal, state, provincial, and local governments as well as from other interested parties.

COGEL provides a medium for exchanging useful information and significant developments in all of its representative disciplines through its publications and annual conferences.

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Send in your submissions for The Guardian via email in WordPerfect, Microsoft Word, or straight text form to info@COGEL.org.

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COGEL Awards Bestowed

President Jimmy Carter is the winner of this year's COGEL Award, which is the highest form of recognition conferred by COGEL. It is awarded to persons who have made a significant, demonstrable, and positive contribution to the fields of campaign finance, elections, ethics, freedom of information, or lobbying. Recent COGEL Award recipients include Senators John McCain and Russ Feingold (2002), Senator Carl Levin (2001), and Lawrence M. Noble (2000).

President Carter is being recognized for his work with The Carter Center, which he founded in 1982 with his wife



Rosalynn. In partnership with Emory University, the not-for-profit Carter Center works to prevent and resolve conflicts, enhance freedom and democracy, and improve health. The Carter Center collaborates with other organizations to carry out this mission. The Center has observed more than 40 elections on four continents. President Carter serves

as chairman of the Center's Board of Trustees and has taken an active role in monitoring elections around the world.

Nicole Gordon, executive director of the New York City Campaign Finance Board, is this year's recipient of the Outstanding Service Award, which recognizes outstanding service to COGEL by one of its members. Award recipients have gone beyond the call of duty in assisting the organization with its mission. In addition to serving for three years on COGEL's Steering Committee, and as president in 1996, Nicole has continued to support the organization by serving on its Program Committee and through presentations she has given



Bonnie Williams (left) presents award to Nicole Gordon

at its annual conference. At one of these presentations, she shared stories about her agency's heroic work in carrying on with its responsibilities in connection with the 2001 New York City primary election, which was originally

scheduled for September 11, 2001. With its offices located only three blocks from the World Trade Center, the board was able – without access to its offices, and with staff dispersed – to regroup and proceed with the business of citywide elections in a short period of time, despite the tragic events of that day.

Ron Gould, former Assistant Chief Electoral Officer of Elections Canada, is the recipient of this year's



COGEL Honorary Membership Award, in recognition of his exceptional support of the organization. Ron is a former member of the Steering Committee, and served as COGEL's president in 1992. He also was instrumental in the

success of the 2002 COGEL conference, held in Ottawa. Since retiring from Elections Canada in 2001, Ron has continued his international electoral work as a private consultant with Gouchi Holdings Inc.

The COGEL awards were presented on September 23rd at the annual COGEL conference in Austin, Texas. The awards ceremony was held at the Bob Bullock Texas State History Museum.

President Carter's acceptance letter appears on the following page of the *Guardian*. ■



Bob Bullock Texas State History Museum

President Carter's COGEL Award Acceptance Letter



JIMMY CARTER

September 23, 2003

To Marilyn Hughes and Members of the Council on Government Ethics Laws

I am grateful to you and to all those responsible for honoring me with this prestigious 2003 COGEL award. Although I regret that I cannot be with you today, I am deeply touched and inspired by your recognition of the contribution that my colleagues and I make to the fields of ethics, elections, campaign finance, and freedom of information.

Promoting ethics and preventing corruption have been cornerstones of my work in public office and at The Carter Center, as we seek to support the continuing emergence and consolidation of democracy around the world. Democracies, however, are not perfect. They are often slow acting because they require compromise, and democratically elected leaders have not always embraced transparent practices. In many countries, including my own, the result has been a low level of trust and confidence in political parties, the political process, and our leaders. Encouraging government regimes that are founded on ethics and transparency is our best way forward.

With this in mind, more than 20 years ago I signed into law the Foreign Corrupt Practices Act. This law, which remains in effect, holds U.S. businesses to a high standard of honesty, making it illegal for corporations and their representatives to bribe foreign officials, and stiffly penalizes violators including mandatory sentences under the federal sentencing guidelines. The Carter Center has continued this tradition of emphasizing the need for ethics and transparency, most recently with our Access to Information and Campaign Finance projects. This work seeks to advance the passage of legitimate laws, as well as effective implementation and enforcement. Much of our work is modeled on the professionalism and integrity exhibited by public servants like you.

The Council on Government Ethics Laws provides an outstanding forum for government officials to share innovative ideas that, when realized, contribute to the betterment of our global society and to our democratic traditions. As we have evolved our transparency and election initiatives, The Carter Center has been privileged to count on the experience and knowledge of many COGEL members. We appreciate these collaborations and look forward to seeking additional avenues for partnership.

With my personal thanks for this award, congratulations to the other honorees, and best wishes to all,

Sincerely,

Marilyn Hughes
President
Council on Governmental Ethics Laws
Post Office Box 417
Locust Grove, Virginia 22508

CFI Task Force Recommends Revamping Public Financing of Presidential Primaries

With the Republican President and two major Democratic presidential candidates rejecting, or thinking of rejecting, public financing for their primary campaigns, the post-Watergate system of financing presidential nominations is in grave jeopardy. But after a year of study, a blue ribbon Campaign Finance Institute Task Force has concluded that the system should be saved and improved.

The system is failing, the task force found, because current spending limits have become too risky for candidates while public funding has become less valuable. Moreover, the public funding account faces insolvency by 2008.

“A collapse of the system would be a real loss for democracy,” the task force report said, “Competition will be reduced and the range of viable candidates in each party will be truncated.” To respond, the task force proposed revamping the system for a new political environment while “dramatically improving the participation and engagement of small donors.” Its innovative proposals and research are sure to become the subject of debate among presidential candidates, legislators and the public before, during and after the 2004 election.

The task force included prominent major and minor party veterans of past presidential campaigns, officials with experience in public financing issues, scholars, and others with a wealth of knowledge of politics and campaign finance.

According to CFI Executive Director Michael Malbin, “The findings and recommendations were based on a wealth of new research.”

For example, Malbin said, “we discovered that there were only 774,000 donors to all candidates combined during the presidential primaries of 2000. That was less than four-tenths of one percent of the voting age population. The vast majority of those donors – 568,000 of them – gave \$100 or less. But the small donors accounted for less than 20 percent of the money from individuals, while the ones who gave \$1000 – fewer than one in seven of the contributors – supplied more than 60 percent of the top candidates’

contributions from individuals. These findings became the basis for the task force’s recommendations.”

The 121-page task force report also includes extensive data and cost-estimates for other approaches, in an effort to further public debate. “Congress and the President need to address this situation shortly after the 2004 election if they are to enact a new system in time for the presidential season of 2007-2008,” the task force report said. “For that to happen, the time to begin working is now.”

Recommendations

The task force’s main recommendations – to go into effect for 2008 unless noted otherwise – include:

1. Higher, More Flexible Spending limits:

- Double the spending limit for participating candidates to the same amount as the general election, which is currently \$75 million.
- Permit a participating candidate to spend as much as the highest nonparticipating opponent in his or her own party.
- Allow parties to spend an additional \$15 million in coordination with their candidates, to support competition between the primaries and convention.

2. Three-for-one Matching Funds:

Change the public match of private funds to 3-for-1 for the first \$100 of each individual contribution (instead of the current 1-for-1 for the first \$250) to bolster the incentives for politicians to pay attention to these donors and for the donors to feel their participation will make a difference.

With this recommendation, small donors – instead of having large donors outgun them by 333 percent –

Continued on page 6

would be worth almost as much as the \$1000-plus donors under the Bipartisan Campaign Reform Act.

“This would be a very big change,” the task force report said, but “is not a far-fetched scenario. It can be done and it should be done. What is more, it can be done at a very reasonable cost.”

Replenish the Public Fund:

- Increase the voluntary check off on income tax returns from \$3 to \$5 for individuals (and \$6 to \$10 for joint filers). The estimated \$122.6 million generated would be more than enough to pay for all of the task force’s recommendations.
- Institute new educational and other programs aimed at tax preparation services and software providers, as well as at taxpayers.

Other Issues:

Minor Parties – Allow minor party and independent candidates to establish separate, fully disclosed ballot access funds – based on individual contributions not subject to contribution limits. A candidate achieving ballot access in states with a majority of electoral votes should be eligible for matching public funds during the general election.

Conventions – Require party convention expenses to be paid not with corporate and other soft money but with the existing federal grant, other state and local government sources, and “hard money” raised by the national party within federal contribution limits. Law enforcement and security needs in an age of terrorism should be supported by grants from the Department of Homeland Security. Civic host committees should continue to be able to use corporate and other private contributions for non-convention expenses, such as promoting the city as a convention site and facilitating commerce during the convention.

Tax credits – The task force also considered and presented new research about the potential effects of an

income-limited 100 percent tax credit for small contributions to candidates participating in public funding. While the report does not recommend this option now, the research aims to place it on the table for future consideration.

For more information, please contact Michael Malbin or Steve Weissman at (202) 969-8890 or at mmalbin@cfist.org; sweissman@cfinst.org. Online copies of this report are available at: <http://www.cfinst.org/presidential/report>. ■

The Campaign Finance Institute is a non-partisan, non-profit institute affiliated with the George Washington University that conducts objective research and education, empanels task forces and makes recommendations for policy change in the field of campaign finance. The Task Force was supported by generous grants from The Joyce Foundation, The Pew Charitable Trusts, Open Society Institute and Smith Richardson Foundation. Conclusions of the task force are not necessarily those of the supporting foundations or Trustees of the Campaign Finance Institute.

New Report from Elections Canada

Elections Canada recently released the publication, “Political Parties’ Financial Transactions Returns – 2002.” The publication includes details of contributions received, a statement of assets and liabilities, and a statement of revenues and expenses. It is accompanied by an auditor’s report for the fiscal period ending December 31, 2002.

Information from the publication is also available on the Elections Canada website (www.elections.ca) in a searchable electronic format. If you would like to receive a complimentary copy of the report, please contact Elections Canada at (800) 463-6868.

The State of State Legislative Ethics

By the National Conference of State Legislatures; Denver, 2002; 164 pages.

Reviewed by Maris McCrory, Deputy General Counsel, Louisiana Ethics Administration

The State of State Legislative Ethics, published through the National Conference of State Legislatures' Center for Ethics, attempts a comprehensive overview of the ethics laws applicable to legislators in the 50 states. The bold undertaking largely succeeds, using numerous charts and narrative summaries.

A subjective review of the "ethical climate" in the states constitutes the first chapter. Based upon surveys completed by ethics officials in 30 of the 50 states, the publication concludes that 98 percent of state legislators are ethical, but the public has a negative and skewed sense of the ethical climate within the states. A sampling of quotations from survey respondents is used to bolster the conclusions.

The next task of the publication is to describe the types of bodies enforcing ethical standards. Using the confusingly similar terms "committees" and "commissions," it tries to explain the overall functions of peer review versus independent, external enforcement bodies. Given that the mechanisms in the 50 states vary wildly, this chapter is necessarily general in its descriptions.

Philosophical definitions of "ethics" are then explored. Comparing the strict definition of ethics as a statement of shared, basic values, and the rule-based nature of most governmental ethics codes, the necessity of lists of "do's and don'ts" is recognized. A detailed look is then provided in the following categories: ethics training, revolving doors, nepotism, honorariums, gifts, campaign finance, conflict of interest, and enforcement and penalties.

Significant discussion is devoted to various types of ethics training. The merits of technical versus principle-based training are explored. Examples of training provided in various states are listed, along with resources for innovative online training and interactive game formats. A chart indicates the authority for training and whether or not training is mandatory or optional in each state.

In the discussion of revolving doors, nepotism, honorarium, and gift restrictions, the pros and cons of regulating the described conduct are discussed. Charts summarizing the laws of the states and providing statutory references follow each discussion. Brief mention is made of campaign finance laws, citing the notable trends of contribution limits, electronic filing, and public financing.

"Conflict of interest" is the vague term used by the authors to describe voting restrictions, prohibitions on contracts, and dual officeholding. Whether or not part-time legislatures lead to conflicts is the subject of a page's worth of analysis.

Under the heading of enforcement and penalties, six elements of a fair disciplinary process are enumerated. Anecdotal discussions of the 21 legislative bodies censuring a member prior to 1996 are given.

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Book Review: *The State of State Legislative Ethics**(Continued from page 7)*

A separate chapter is devoted to ethics laws for legislative staff, beginning with the premise that legislative staffers are presented with ethical dilemmas distinct from those faced by other public employees. Case studies and the basis for a model code are presented.

The final chapter of the book is devoted to ethics laws for lobbyists, providing essays on the need for regulations, a model code, and overview of the states' regulations.

With twelve detailed tables and numerous maps and illustrations, this publication serves as an excellent starting point to research ethical standards for legislators and their staffs. Be warned that some of the citations are incorrect and descriptions of restrictions inaccurate. A further flaw is the obvious bias in the narrative that legislators are indeed an ethical group hampered by the stricture of too many rules. That being said, *The State of State Legislative Ethics* provides a thoroughly researched compilation of ethical rules in the legislative branch. ■

The 2001 New Jersey Election

By Ingrid W. Reed, Century Foundation; New York, 2002, 45 pages.

Reviewed by Frank Daley, Executive Director, Nebraska Accountability and Disclosure Commission.

In November of 2001, the State of New Jersey was mourning the loss of 800 of its citizens in the World Trade Center attack and dealing with the closure of post offices thought to be the source of anthrax mailings. At the same time, it was conducting a gubernatorial election. A report published by the Century Foundation describes problems in New Jersey's election system and proposes solutions. The report is entitled The 2001 New Jersey Election and is written by Ingrid W. Reed.

This report recounts incidents occurring during the 2001 election of the type that would cause any election administrator to pull out his or her hair. There was the discovery by one county clerk on the Thursday before the election that ballots printed in Spanish were not correctly translated. Voters were instructed to place their mark "abajo" (below) their preferred candidate, rather than being correctly instructed to place their mark "sobre" (above). There was the consternation of a number of election officials upon discovering that an unknown number of absentee ballots were part of the half-million pieces of mail in New Jersey being held by postal authorities because of possible anthrax exposure. Finally, Hispanic voters in one county received an official looking postcard in the mail that was intended to discourage voting.

The foregoing problems were incidents. However, the report noted more fundamental issues that arose in connection with the campaign.

Many of the issues arising in the 2001 New Jersey gubernatorial election mirrored the problems of the 2000 presidential election. There were problems with vote counts, voting machines, accessibility for the disabled, poll workers, provisional ballots, assistance to minority language voters, recounts, and absentee ballots.

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Book Review: *The 2001 NJ Election*

(Continued from page 8)

According to the report, the root of many of these difficulties is New Jersey's decentralized election system. Each of the 21 New Jersey counties essentially runs and pays for its own election. Among the election details left to the counties are: the appointment and training of poll workers, the selection of polling places, the handling of absentee ballots, the selection and purchase of voting machines or voting systems, the maintenance of voting machines, the counting and recounting of ballots, and the certification of elections. There are few state standards for any of these activities.

The report states that "the current system leaves open the possibility that voters in New Jersey are not assured of equal treatment, that their opportunity to vote may depend on where they live, and that their votes may be counted differently depending on where they are cast." The report suggests a variety of specific solutions. The following are among the recommendations made:

- Define a leadership role for the State Division of Elections in the administration of elections and the resolution of disputes.
- Establish state standards for election administration including the training of poll workers and the promotion of registration and orientation to voting machines.
- Prescribe by state law the resolution of problems associated with absentee ballots, including who can vote absentee and how absentee ballots are counted.
- Establish state standards for voting equipment and plan for the systematic upgrade and replacement of electronic systems.

The key solution, however, is stated in the very last paragraph of the report: "Overall, election administration and election promotion must be changed from a neglected, passive function of state government to an active, state-led comprehensive management effort providing standards and oversight for county and local election administration."

Why read this report or worry about these issues? According to the report's author, Ingrid Reed, "the revelations serve as a humbling experience for those who think the vote is secure without eternal vigilance in a state that ranks at the top in wealth and level of education." ■

Call for Book Reviews

If you have read a book or report you believe COGEL members would be interested in learning about, or if you have suggestions or requests for future book reviews, please contact Fred Herrmann. Dr. Herrmann is the Book Review Editor and is always open to ideas and comments.

He can be reached by phone at (609) 292-8700, by fax at (609) 777-1457, and by email at frederick.herrmann@elec.state.nj.us.





Jim Hightower

controversial commentary on the state of politics in America. His newsletter, "The Hightower Lowdown," is the fastest growing political publication in America, and his most recent book – "Thieves in High Places: They've Stolen Our Country and It's Time to Take It Back" – is currently number eight on *The New York Times* Bestseller List of nonfiction books.

The conference's other plenary speakers included:

- Stu Gilman, President of the Ethics Resource Center, who spoke on the topic: "What Does It Mean to Have a Good Ethics Program?"
- Juan Hernandez, Senior Advisor to Mexican President Vicente Fox, who addressed the topic: "The Impact of Remittances from Mexicans Living Abroad on State and Federal Elections."



Stu Gilman



Juan Hernandez

- Andrew Puddephat, Executive Director of Article 19, a nongovernmental organization based in the United Kingdom, who spoke on his organization's worldwide efforts to combat censorship by promoting freedom of expression and access to official information.
- Ronnie Earle, Travis County, Texas District Attorney, who spoke of his experience with enforcing ethics laws involving Texas legislators.

In addition to the plenary sessions, the conference also featured over two dozen concurrent sessions that covered topics related to governmental ethics, elections, campaign finance, lobby laws, and freedom of information.

With this being a special anniversary for the COGEL conference, the awards banquet included a presentation by Frank Reiche, one of COGEL's founders, who provided the audience with a glimpse back at the formation of the organization.



Andrew Puddephat



Ronnie Earle

COGEL wishes to thank the many people whose efforts made this meeting a resounding success. This includes the members of the Program Committee, the speakers and moderators who took the time to share their insights at the conference, and the staff of the Texas Ethics Commission, especially Karen Lundquist and Tom Harrison.

COGEL's next conference will be held December 2-5, 2004 in San Francisco. In planning for that conference, we would appreciate any topic or speaker ideas that you could share with us. Please email us at info@cogel.org or use the suggestion form at the back of this issue of the *Guardian*. ■

STAFF NOTES



Geoffrey S. Connor Appointed as Texas' Secretary of State

Texas Governor Rick Perry has announced the appointment of Geoffrey S. Connor as Texas' 104th Secretary of State and Luis Saenz as assistant secretary of state. Connor has served as assistant secretary of state since 2001 and Saenz most recently served as a senior advisor for community affairs to the governor. The appointments were announced on August 26.

As secretary of state, Connor serves as the state's chief elections officer. The Office of Secretary of State is also the official repository for official and business records, publishes government rules and regulations, and attests to the governor's signature on official documents. In addition, the Secretary of State serves as liaison for the governor on border and Mexican affairs.

Connor previously worked as senior counsel in the energy section of Akin, Gump, Strauss, Hauer & Feld. He also has served as general counsel for the former Texas Natural Resource Conservation Commission, now known as the Texas Commission on Environmental Quality. He also worked as assistant commissioner and general counsel for the Texas Department of Agriculture, and deputy general counsel for former Governor Bill Clements.

Assistant Secretary of State Luis Saenz, while serving as the governor's senior advisor for community affairs, had been the governor's liaison to local elected officials, community groups and business and trade groups across the state. He previously served as political director for the governor's successful election bid in November of 2002. ■

Dr. Price Spratlen Reappointed Chair of King County Board of Ethics

King County Executive Ron Sims has reappointed Lois Price Spratlen, Ph.D., to a fourth, three-year term on the King County Board of Ethics (Seattle, Washington). Dr. Price Spratlen also will serve her third term as board chair after being nominated for the post by the other four sitting members. Dr. Spratlen is the ombudsman at the University of Washington and a professor of nursing.

In January, Sims appointed Jerry Saltzman as the fifth member on the board. Saltzman is a Seattle teacher and psychotherapist in private practice. He also serves as co-chair of the African American/Jewish Coalition for Justice and is an advisor to the Seattle Family and Teen Center.

Other members of the board include Margaret T. Gordon, Ph.D., dean emeritus and professor of the Evans School of Public Administration; Roland Carlson, former Washington State legislator and former Boeing executive; and Rev. Paul Pruitt, former Washington State legislator and legislative ethics board member. ■

Indiana's Public Access Counselor Resigns

Anne O'Connor, Indiana's first and only public access counselor, has resigned from her position to become deputy commissioner and chief legal counsel of the Indiana Department of Transportation. Sandra Bowman is serving as the acting public access counselor until a permanent public access counselor is appointed.

Indiana Governor Frank O'Bannon created the public access counselor's position in June 1998 by executive order and appointed O'Connor, then a chief counsel in the Indiana attorney general's office, to the job. ■

San Diego Ethics Chief Resigns

Charlie Walker, the first executive director of the San Diego Ethics Commission, resigned from his position on September 25. Walker said that he plans to work with the non-profit International Justice Mission, an organization whose mission is to help correct social injustices in foreign countries.

The commission was created in May 2001, and Walker was hired in December of that year. The commission drafted the city's ethics ordinance, enforcement and campaign-audit procedures, an ethics education and training program, and election reform package. "In short, we've built a solid foundation together and I always thought that was my role," Walker said.

Before joining the commission, Walker spent 30 years with the FBI, for whom he primarily investigated organized crime. ■

Norm Ostrau Retires

Norm Ostrau, assistant county attorney for Broward County (Fla.) since 1992, retired on July 31, 2003.

Mr. Ostrau previously served as a member of the Florida House of Representatives from 1986-1992. As chairman of the House Ethics and Elections Committee from 1988-1990, he made his mark by shepherding measures that banned legislators from fundraising while in session, from lobbying for two years after leaving office, and from holding small, closed-door meetings. Mr. Ostrau also served one term on the Florida Elections Commission.

Mr. Ostrau has been an active member of COGEL, and served for two years on its Steering Committee, until his resignation in October. ■

AGENCY NEWS



CGS Files Amicus Brief in *McConnell v. FEC*

The Center for Governmental Studies (CGS) has filed an amicus curiae (“friend of the court”) brief with the Supreme Court of the United States in support of the defendants in *McConnell v. FEC*, the lawsuit challenging the constitutionality of the federal Bipartisan Campaign Reform Act of 2002 (“BCRA” or “McCain-Feingold Law”).

The CGS brief supports BCRA’s “electioneering communications” provisions, which seek to distinguish “campaign ads” subject to regulation under federal campaign finance laws from “issue ads” that are not. CGS argues that BCRA’s “electioneering communications” provisions are both constitutional and necessary.

CGS contends that the resolution of this issue is extraordinarily important. The Court’s decision will affect “nothing less than the ability of all levels of government to enforce effective campaign finance laws (1) requiring disclosure of the identity of political actors engaging in election-related activities and the amounts and sources of money for those activities and (2) regulating the mechanics of corporate and union involvement in the political process.” A decision by the Court to strike down these provisions will weaken disclosure laws and undermine state and local public campaign financing laws.

The Bipartisan Campaign Reform Act is the most sweeping overhaul of federal campaign finance laws since the Federal Election Campaign Act of 1974. The Supreme Court’s decision in this case will be the most significant campaign finance decision since the Court’s 1976 ruling in *Buckley v. Valeo*.

The CGS amicus brief was written by Professor Richard L. Hasen of Loyola Law School, in consultation with CGS attorneys Bob Stern, Tracy Westen, and Paul Ryan. ■

King County Board of Ethics Prompts Change to Post Employment Provisions

The King County Board of Ethics (Seattle, Washington), following a systematic review of the ethics code, guided an amendment regarding post employment provisions into law this July. The new provisions are based on the county’s policy of maintaining public confidence by ensuring the highest level of ethical conduct in all county transactions.

Under the new law, former employees may not, for one year after leaving county employment, return as a consultant or sub-consultant to work on matters in which they participated or had responsibilities while a county employee. Nor may they have, for one year, a financial or beneficial interest in a contract or grant in which they participated or had responsibilities. In addition, the former employee may not use proprietary information and must disclose to the county for one year his or her former employment with the county.

“This code revision is the result of a proposal by the board and ethics administrator, a lengthy public comment period, and support of the executive office and Metropolitan King County Council,” stated Dr. Price Spratlen, chair of the board. “It will serve as a guide to behavior for employees that will improve the quality of services rendered to the residents of King County. As citizen volunteers, our work promotes public trust and increases confidence in county governance.”

Created by ordinance in 1972, the King County Board of Ethics is a five-member citizen advisory, administrative, and quasi-judicial board. Authorized by K.C.C. 3.04, the board’s purpose is to ensure proper implementation of the code of ethics, to interpret the code through advisory opinions, and to manage a disclosure program of financial and other interests for employees and elected officials. For more information, contact Catherine Clemens at the King County Board of Ethics at (206) 296-1586, or visit their website at <http://www.metrokc.gov/ethics>. ■

Massachusetts State Ethics Commission Resolves Five Enforcement Matters

The Massachusetts State Ethics Commission imposed fines and forfeitures totaling \$16,000 in four enforcement actions concluded recently. Three of the matters involved section 23(b)(2) of G.L. c. 268A, the state's conflict of interest law which prohibits a state employee from using or attempting to use his position to obtain for himself or others an unwarranted privilege of substantial value.

The most significant fine, \$10,000, was made up of a \$5,000 civil penalty and a \$5,000 civil forfeiture. The general counsel of the Massachusetts Board of Bar Overseers, Michael Fredrickson, paid that fine for writing two mystery novels on state time using state employees and state resources. The Board of Bar Overseers is an independent administrative body that investigates and evaluates complaints against lawyers. According to a Disposition Agreement, Fredrickson published two mystery novels: *A Cinderella Affidavit* in May 1999 and *Witness for the Dead* in May 2001. He spent substantial time during his regular BBO office hours writing and preparing his novels. He also asked his administrative assistants to perform novel-related tasks for him, including making photocopies, addressing correspondence, faxing documents, making phone calls and mailing items.

In two other cases, public employees each paid \$2,000 fines for violating the same section of the law:

- Rutland Selectman Louis Cornacchioli was fined for threatening to use his selectman's position to retaliate against the police department if traffic citations against his son were not dismissed. According to a Disposition Agreement, Cornacchioli's son appealed four traffic citations issued by a Rutland police officer in September 2002. When the police officer who issued the citations was unable to attend an appeal hearing, the police chief notified the court and the judge

rescheduled the hearing. After the hearing was rescheduled, Cornacchioli contacted the Rutland police chief on a recorded line. He was extremely upset and angry that his son's hearing was rescheduled instead of dismissed, according to the Disposition Agreement. He made it clear that he would "allow his personal dissatisfaction with the police department to factor into his decision-making." He also made it clear that he wanted the officer not to show up at the hearing. In addition, Cornacchioli contacted the officer's father-in-law and requested he ask the officer not to show up for the hearing.

- MassHighway Highway Safety Team Director Robert DeMarco was fined for using his position to obtain donations for organizations he created to race a dragster competitively. According to a Disposition Agreement, in spring 2000, DeMarco purchased a dragster and created Crew Chief Racing, a sole proprietorship. In association with Crew Chief Racing, he developed the SMART safe-driving program to provide highway safety education to teenagers in high schools throughout the state. The state was not involved in Crew Chief Racing or the SMART program. DeMarco solicited businesses for donations in the amount of \$1,000 or more and in-kind donations. During the solicitations, he gave solicitees his state business card, provided written materials citing his position as Director of the Highway Safety Team, mentioned his state position in conversations and/or drove to the solicitations in his state automobile, which has state government license plates. "Based on these actions by DeMarco, many solicitees believed that the state was involved in the SMART program and Crew Chief Racing," the Disposition Agreement stated. DeMarco has not raced the dragster competitively and the SMART program has been presented in only two high schools. DeMarco has offered to reimburse any individual or company that made a donation based on the impression that the state was involved.

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Massachusetts State Ethics Commission Resolves Five Enforcement Matters

(Continued from page 14)

The Commission also fined James Barnes of Dorchester \$2,000 for violating G.L. c. 268A, §3(a), the state's conflict of interest law, by leaving \$100 for a state Division of Occupational Safety (DOS) employee who proctored an exam Barnes was taking to get licensed to perform deleading work. Section 3(a), the gratuity statute, prohibits anyone from offering to a public employee anything of substantial value, which is given for or because of an official act performed, or to be performed by the public employee. In July 2003, the Commission alleged that Barnes and Canton resident David Rivera violated G.L. c. 268A by leaving the money for the DOS employee. The Commission dismissed the case involving Rivera and issued a Disposition Agreement in which Barnes admitted violating § 3(a) of the conflict of interest law which prohibits anyone from offering a state employee anything of substantial value for or because of any official act to be performed by such state employee. According to the Disposition Agreement, after completing a required \$500 preparatory course, on December 4, 2002, Barnes took the deleading licensing test at the DOS office in Westborough. Barnes and Rivera were the only ones who took the exam at that time. Test-takers are given three chances to pass the exam with a score of at least 70 percent before they have to retake the \$500 preparatory course. Barnes scored less than 70 percent the first time he completed the test and asked DOS Field Supervisor Brian Wong if he could take it again. Rivera also scored less than 70 percent the first time and retook the test. Barnes finished his second exam with a score of 65 percent. Wong offered to review Barnes' incorrect responses by hand and to let him know the results at a later date. Rivera scored a 66 percent and Wong offered to review his answers by hand. While Wong stepped away from the counter to use the copy machine, Barnes reached over the counter and placed \$100 in cash on a shelf beneath the counter. According to the Disposition Agreement, "Barnes gave the money to Wong to thank him for his kindness in offering to review the incorrect answers by hand and to ensure that Wong would follow through on his offer." After Rivera and Barnes left the office, Wong discovered the money; he reported the incident and turned the money over to his superiors.

In a fifth matter, the Commission found, in a Decision and Order issued after an adjudicatory hearing that Wareham resident Donald P. Besso did not violate M.G.L. c. 268A, §3(a), by offering a \$100 restaurant gift certificate to Wareham Zoning Board of Appeals member David Boucher. In 2001, Besso offered Boucher a \$100 restaurant gift certificate following a ZBA hearing on a Cumberland Farms application for a special permit to replace a store on property abutting Besso's property with a larger convenience store offering gasoline sales. In the Decision and Order, the Commission stated that the Enforcement Division had not proved that Besso's motivation for offering the gift certificate was substantially, or in large part, to reward Boucher for an "official act." The Commission instead found that Besso offered the gift certificate because Boucher was courteous, allowed Besso to interrupt his personal time and provided him general information about the process. ■

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New Legislation in NYC Curbs Wasteful Spending of Public Funds in Noncompetitive Races

A little-noticed provision in recent revisions to the New York City Campaign Finance Law will curb wasteful spending of public matching funds in races in which there is little competition. The revisions went into effect in July.

The New York City Campaign Finance Board (CFB) does not pay matching funds to a candidate unless the candidate has an opponent on the ballot. However, the law did not previously address situations in which a well-established candidate could collect and spend the maximum amount in public funds available while running against a relative unknown who was on the ballot but had not qualified for matching funds.

The new provision says that candidates participating in the Campaign Finance Program are not entitled to more than 25 percent of the maximum amount in public funds available to their campaigns unless they satisfy one or more of the following requirements:

1. The candidates are opposed by a candidate participating in the Campaign Finance Program who has qualified for public funds;
2. The candidates are opposed by a candidate, whether or not participating in the Campaign Finance Program, who has spent or has received in contributions an amount greater than one-fifth of the expenditure limit for that office; or
3. The candidate submits to CFB a signed statement, which details the reasons he or she needs additional public funds.

While CFB does not evaluate “Statements of Need” by candidates, the statements make candidates accountable to the public for using public dollars in what might be uncompetitive races. Candidates are required to file the “Statements of Need” for both the Primary Election and the General Election. The statements also are posted on CFB’s website (www.nycfb.info/public_disclosure/statement_of_need/stnp_03.htm), as required by law. ■

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What’s new with your agency? Are you aware of any developments or trends in the fields of ethics, elections, campaign finance, lobbying regulations, or FOI? Please send your submissions to The Guardian via email in WordPerfect, Microsoft Word, or straight text form to info@COGEL.org. The deadline for submitting articles for the Winter 2004 edition is December 31.

Canada's Lobbyists Registration Act to be Amended

By Diane Champagne-Paul, Registrar, Lobbyists Registration Branch, Office of the Ethics Counsellor

Bill C-15, *An Act to Amend the Lobbyists Registration Act*, received Royal Assent on June 11, 2003. The Act is expected to be proclaimed into force this fall, in order to allow our office to make the required amendments to the *Lobbyists Registration Regulations* and required updates to the electronic registration scheme.

The amendments to the Act address the principal issues of compliance and enforcement, and enhancement of transparency.

Compliance and Enforcement

The amendments strengthen the enforcement of the Act by eliminating the requirement that lobbying activities must be “in an attempt to influence.” With the elimination of this phrase, the emphasis will now be on “communications” with federal public office holders. Accordingly, all communications with a federal official in respect of the development of a legislative proposal, the introduction of a bill, the amendment or making of a regulation, a policy or program, the awarding of a grant, contribution or other financial benefit and in the case of a consultant lobbyist the award of a contract will require the filing of a return.

There remain exceptions where a communication is connected to a submission made to a Senate or House of Commons committee, or a submission relating to the enforcement, interpretation or application of an Act or regulation or where the communication is restricted to a request for information.

It should be noted that the previous exemption for government-initiated communications has been eliminated as it was considered to be a potential loophole.

The amendments also have introduced a new requirement on the Ethics Counsellor where, in the conduct of a Lobbyists' Code of Conduct investigation, he becomes apprised of the commission of an offence, he must advise the appropriate police authorities.

Transparency

Currently, the Act imposes different registration requirements dependant upon the type of lobbyist.

The Act requires consultant lobbyists to register within 10 days from entering into an undertaking with a client and to advise the Registrar within 30 days from the termination or completion of the undertaking.

In-house lobbyists (Corporations) must register within two months from the day they begin lobbying as a significant part of their duties, and thereafter must renew their registrations annually.

In-house lobbyists (Organizations), the senior officer must register on behalf of the organization within two months from the day the sum total of time spent by paid employees of the organization equals to the significant part of duties of one person's time.

The amendments to the Act will now require all lobbyists without any distinction to file semi-annual returns. This will ensure that the public register is accurate and up-to-date.

The changes also adopt the single filing approach, which exists for in-house lobbyists (Organizations) to in-house lobbyists (Corporations). Accordingly, rather than having the responsibility for filing returns resting on individual employees of a corporation, it will now be the most senior officer's responsibility to file on behalf of the corporation. In the filing, the senior officer responsible for filing will provide the names of all senior officers, which the Act now defines as including a chief executive officer, a chief operating officer or president of a corporation and any other officer who reports directly to these individuals, who do some lobbying, as well as the names of all employees who spend a significant part of their time lobbying (interpreted as 20 percent).

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This approach will alleviate the administrative burden by eliminating the need for multiple filings for a given corporation as is currently the case as well as underlining the reality that the responsibility for lobbying rests at the highest corporate level.

Another change that has been made with the amendments is the addition of a disclosure requirement for all lobbyists who are former public officeholders. Lobbyists who previously held a position within the federal government will now be required to provide a description of the positions held.

Conclusion

As mentioned, the amendments received Royal Assent on June 11, 2003. We are currently working on amending the *Lobbyists Registration Regulations* and the *Lobbyists Registration and Service Fees* as well as updating the Lobbyist Remote Registration System. We expect the Act to be proclaimed into force in the fall.

Ms. Diane Champagne-Paul can be reached at the Office of the Ethics Counsellor by calling (613) 957-2761 or sending an email to champaign-paul.Diane@ic.gc.ca. ■

Introducing ... COGEL's 2003-2004 Steering Committee

Carol Carson of the Massachusetts Ethics Commission is the new president of COGEL's Steering Committee, which features five new members for 2003-2004. Carol had previously served both as COGEL secretary and as chair of the Publications Committee.

The new members of the Steering Committee are Joel Gustafson (Florida Commission on Ethics), Carol A. Laham (Wiley Rein & Fielding LLP), Karen Lundquist (Texas Ethics Commission), Carla Miller (City of Jacksonville, Florida), and Eric V. Turner (Connecticut Freedom of Information Commission).

Tom Harrison, the former executive director of the Texas Ethics Commission, has resigned from the Steering Committee. Karen Lundquist, who replaced Tom at the Texas Ethics Commission, has been appointed to serve the final year of Tom's three-year term on the Steering Committee.

In addition to Carol Carson, the other members who will continue their service on the Steering Committee are Francine Barry (Le directeur général des élections du Québec), Barbara A. Hansen (Wisconsin State Elections Board), Robin M. Hittie (Pennsylvania State Ethics Commission), and Ki P. Hong (Skadden, Arps, Slate, Meagher & Flom). Frank Daley (Nebraska Accountability & Disclosure Commission), who had completed his term, has been appointed to serve for another year, as a replacement for Norm Ostrau (Broward County, Florida Attorney's Office), who recently resigned from the committee.

For 2003-2004, COGEL's officers are Robin Hittie as president-elect, Frank Daley as treasurer, and Francine Barry as secretary.

COGEL wishes to thank Marilyn Hughes, Pam Gavin, Tom Harrison, Norm Ostrau and LeeAnn Pelham for their contributions while serving on the Steering Committee. ■

Canada Elections Act and the Income Tax Act to be Amended

Bill C-24, an act to amend the *Canada Elections Act* and the *Income Tax Act*, received royal assent on June 19, 2003. Except for certain provisions, including those concerning quarterly reports from registered political parties, Bill C-24 will come into force on January 1, 2004.

This bill will amend the *Canada Elections Act* to extend disclosure and registration requirements for political entities, to introduce new limits on political contributions and to impose a ban on contributions from unions and corporations to political parties and leadership contestants. This bill also will provide for payment of a quarterly allowance to registered political parties, based on the percentage of votes obtained in the previous general election. This bill also will amend the *Income Tax Act* to increase the maximum tax credit for a political contribution from \$500 to \$650 and to allow electoral district associations to issue tax receipts.

The major changes that Bill C-24 will introduce are summarized below. Except for certain provisions, including those concerning quarterly reports from registered political parties, the changes will come into force on January 1, 2004.

Contribution limits:

1. Individuals (citizens or permanent residents) will be allowed to contribute:
 - up to \$5,000 per year to each registered party and their affiliated entities: registered electoral district associations, candidates and nomination contestants (persons seeking endorsement as a registered party's candidate in an electoral district)
 - up to \$5,000 per leadership contest in aggregate to the contestants in a leadership contest of a registered party
 - up to \$5,000 per election to a candidate who is not endorsed by a registered party
2. Corporations that carry on business in Canada, trade unions that hold bargaining rights for employees in Canada and unincorporated associations will be allowed to contribute:

- up to \$1,000 per year in aggregate to the candidates, nomination contestants and registered electoral district associations of each registered party
- up to \$1,000 per election to a candidate who is not endorsed by a registered party

3. In addition, where there is a second election in a particular electoral district in a calendar year, a corporation, union or unincorporated association that has made a contribution to the registered electoral district association, nomination contestant, or candidate of a particular registered party, will be allowed to make a contribution of an additional \$1,000 to the candidate, nomination contestant or registered electoral district association of that same party.

4. Where a corporation, union or unincorporated association has made a contribution to a nomination contestant in a nomination contest that is held in that year, the donor will be allowed to make an additional contribution of up to \$1,000 to the endorsed candidate after he or she is endorsed.

Public funding:

1. Registered political parties that receive at least two percent of the number of valid votes cast nationally, or five percent of the number of valid votes cast in the electoral districts in which the registered party endorsed a candidate, will be eligible for a quarterly allowance which, on the basis of a full year, will amount to \$1.75 per valid vote received by the party in the previous general election.
2. The percentage of registered political parties' election expenses eligible for reimbursement will be increased from 22.5 percent to 50 percent (60 percent for the first general election after the coming into force of the bill).

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3. The threshold for reimbursement of candidates' election expenses will be lowered from 15 percent to 10 percent of the valid votes obtained, while the percentage of their election expenses eligible for reimbursement will be increased from 50 percent to 60 percent.

Spending limits:

1. The bill will set a spending limit for nomination contestants fixed at 20 percent of the limit allowed for a candidate's election expenses in that electoral district during the immediately preceding general election.

2. The amount used to calculate the election expenses limit for parties will be increased from \$0.62 to \$0.70 per elector.

3. The definition of election expenses will be broadened to include spending in relation to the conduct of election surveys or other surveys or research during an election.

Disclosure:

1. Reporting requirements for expenses and revenues will be extended to registered electoral district associations and to leadership contestants and nomination contestants of registered parties.

2. Registered parties that receive quarterly allowances will be required to submit a quarterly report on contributions and transfers into the party that will be due 30 days after the end of the quarter. This reporting requirement will come into force on January 1, 2005.

3. Leadership contestants will have to submit weekly interim reports of their contributions during the last four weeks of the leadership contest.

4. Nomination contestants will only have to produce a financial report if they have accepted contributions of at least \$1,000 or have incurred nomination campaign expenses of at least \$1,000. ■

Publius.org Founder Vince Keenan Receives Award

Vincent Keenan, President and CTO of Publius.org, has been named one of the "25 Who Are Changing the World of Internet and Politics" by PoliticsOnline and the 4th World Forum on e-Democracy. The honor, announced at a ceremony held on September 30 in Issy-les-Moulineaux, France, recognizes the top 25 individuals and organizations in the world having the greatest impact on the way the Internet is changing politics.

Keenan was a panelist on the "Web as a Cost-Effective Communication Tool" session at COGEL's 2003 conference, which was held in Austin, Texas in September. His organization, Publius.org, is a non-partisan, non-profit organization founded to explore the Internet's potential to educate voters and promote civic engagement. Publius.org created Michigan's official online voter education website www.sospublius.org. The award called the site "a one-stop shop for politics on every level from city- to state-wide elections." All candidate information for every election in every county, city and township in Michigan was provided to the six million registered voters in Michigan through the site. ■

information, chooses the best subordinates, delegates, motivates, simplifies, plans, takes risks, and cares.

While many of us would think immediately at looking to the Harvard Business School for managerial help, far fewer would look to the United States Military Academy. Yet, as will be shown, the battlefield yields as many useful tips as the boardroom. It is fascinating that David W. Ewing's study of the "B School" and Harold Geneen's years of experience in running a major corporation provide similar insights to those found in Dwight D. Eisenhower's narrative of the Second World War in Europe, Alan Axelrod's study of Eisenhower's able subordinate George S. Patton, and Ed Ruggero's book about the institution in which both of these generals were trained – West Point. Perhaps more remarkable, are that the same lessons also appear in the work of an ancient Chinese military philosopher, Sun Tzu, and Roland Huntsford's study of the Norwegian Roald Amundsen's besting of English naval officer Robert Falcon Scott in their 1911 race to the South Pole.

Inspirational Leadership

According to Ruggero, "there are almost no limits to what can be achieved by leaders who inspire people." His definition of "inspirational leadership" is getting people "to do what the leader wants because they, the followers want to do it" too (2002, pp. 6, 102). It is essential to establish "high, challenging goals" supported by equally "high standards of performance." Staff members should be led to believe that "we are the best" not only in what we do but also in how we do it (Geneen, 1984, pp. 134, 283 and Axelrod, 1999, p. 190).

"Moral strength" is a crucial component of effective leadership. It is a substantial part of a leader's authority and is critical in keeping a group together. "The leader has got to engender a feeling of trust in his subordinates. . . . It comes from the confidence [they] have in the competence and character of the leader, in his ethics, in his integrity" (Huntsford, 1999, p. 152 and Ruggero, 2002, p. 218). Ethical considerations are an integral responsibility of good management. "By their personal example as well as by policies and regulations, managers can influence the tone and standards of employee behavior" (Ewing, 1990, p. 249). Clearly, establishing an elevated "standard for fairness and decency . . . will create a work environment of trust and support" (Axelrod, 1999, p. 259).

Egotism, writes Geneen, is "the worst disease which can afflict business executives" (1984, p. 173). Keeping one's ego under control is essential. It must be subordinated to collective goals. On the other hand, "generosity is a quality of leadership." Successful managers are always eager to credit subordinates for what is accomplished. The focus must always be on the people being managed. (Ewing, 1990, p. 47 and Axelrod, 1999, pp. 200, 242).

The best leaders then are unselfish. One of Amundsen's crew wrote about him that "he used 'we' and 'ours.' . . . It was not his expedition but 'ours' – we were all companions and had the same common goal" (Huntsford, 1999, p. 287). Or, as Geneen expresses the same sentiment about a leader, "people are really not working for him; they are working with him" (1984, p. 152). Eisenhower argued that subordinates must "believe that their commanders are concerned first and always with the welfare of the troops" (1948, p. 210).

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Goal Setting and Information Sharing

“The first obligation of any chief executive is to set the goals” (Geneen, 1984, p. 136). His or her “emphasis [should be] on the whole enterprise not on [its] individual pieces” (Ewing, 1990, p. 79). Moreover, the higher the goals are in terms of achievement and integrity the better an organization is going to perform. Very importantly, “all statements of mission . . . should be simple” (Geneen, 1984, p. 279 and Axelrod, 1999, p. 73). Complicated objectives are always a disadvantage (Eisenhower, 1948, p. 163). An old army acronym emphasizes this point. “KISS” is derived from “Keep It Simple Stupid.”

It is critical for the person-in-charge to share information. The most important factor in motivating a staff is to impart to its members “knowledge of goals, objectives, [and] purpose” (Ruggero, 2002, p. 99 and Axelrod, 1999, p. 92). Every employee should be “taken into the leader’s confidence and . . . made to understand his role.” Knowing the overall plan, each staff member can “see himself in relation to the whole” (Huntsford, 1999, pp. 290, 321). A leader should provide every subordinate with the sense that “every little job is essential” to the entire scheme giving each of them a personal stake in the success of the enterprise (Axelrod, 1999, pp. 7, 241). As General Von Steuben expressed it in a letter to a friend during the American Revolution, “in Europe you tell a soldier to do this, and he does it; . . . in America it is necessary also to tell him why he does it” (Eisenhower, 1948, p. 60).

Working With The Group

General Patton believed that “picking the right [subordinates] is the most important task” of every leader (Axelrod, 1999, p. 35). His superior, General Eisenhower, knew that “every commander is always careful to select only the best officers he can find for key staff positions in his headquarters” (1948, p. 134). “A sovereign who obtains the right person prospers,” according to Sun Tzu, and “one who fails to do so will be ruined.” Moreover, the Chinese philosopher warned against charging “people to do what they cannot do – . . . give them responsibilities commensurate with their abilities” (Griffith, 1963, pp. 81, 94). Roald Amundsen knew that in the Antarctic “the wrong companion was infinitely more dangerous than the worst blizzard” (Huntsford, 1999, p. 248).

“In management,” Ewing argues, “. . . the group has it over individuals” (1990, p. 275). “Effective leadership is consultative” (Axelrod, 1990, p. 80). Employees should be encouraged to speak out and protected when they do. A staff must feel free to tell the boss he is wrong. Criticism needs to be welcome. Active listening is axiomatic (Ewing, 1990, pp. 34, 111 and Geneen, 1984, pp. 139, 150).

It should always be remembered that “the best authority on how to get a job done [is] the person who [has] to do the job” (Axelrod, 1999, p. 161). General Eisenhower found among his subordinates “a great amount of ingenuity and initiative. . . . The products of their resourcefulness [should be] available to all” (1948, p. 314). Harvard Business School students learn that “ideas and possible solutions come from everywhere.” No single individual, not even the boss, can think of everything (Ewing, 1990, p. 25). In the end, “no one is thinking if everyone is thinking alike” (Axelrod, 1999, p. 81).

Delegation is a major ingredient of leadership. General Eisenhower believed that his commanders “should delegate tactical responsibility and avoid interference in the authority of . . . selected subordinates” (1948, p. 213). According to

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Sun Tzu, “he whose generals are able and not interfered with by the sovereign will be victorious” (Griffith, 1963, p. 83). It is essential to train “a person to do his or her job and then [get] out of the way” (Axelrod, 1999, p. 26 and Ruggero, 2002, p. 21). A leader should provide “creative space” to his or her staff never telling them how to do things but simply telling them what to do. “If subordinate leaders are to grow, their superiors must let them take risks . . . [and] be willing to underwrite their inevitable mistakes” (Axelrod, 1999, p. 165; Ruggero, 2002, pp. 94-95, 218; and Eisenhower, 1948, p. 40).

General Patton recognized that “leadership is 95 percent follow-through” (Axelrod, 1999, p. 139). A good officer makes sure that his or her orders are being carried out properly. The main tool for getting such information is simply to ask questions. Harold Geneen emphasizes the importance to strong management of an “intense probing for answers” (1984, p. 9). Such tools as monthly meetings and operational reports are necessary to achieving organizational goals through information gathering. Success comes from broadly supervised decision-making and action at the lower levels. As Ewing summarizes, accomplished managers need to be “facilitators” not “controllers” (1990, p. 107 and Ruggero, 2002, p. 93).

Motivation

“Morale,” General Eisenhower asserted, “is the greatest single factor in successful war” (1948, p. 210). All leaders know that their most valuable assets are their people. First and foremost, good managers are “in the people business.” No organization is better than its staff members. The people in a company are what make it work. The number one job of a solid manager is to “keep them motivated” (Axelrod, 1999, pp. 143, 148, 184 and Ewing, 1990, p. 265).

Sun Tzu wrote that “when one treats people with benevolence, justice, and righteousness, and reposes confidence in them, the army will be united in mind and all will be happy to serve their leaders” (Griffith, 1963, p. 64). General Eisenhower knew that “morale . . . had always to be carefully watched.” Soldiers, he felt, must “believe they are getting a square deal, that their commanders are looking out for them, and that their own accomplishments are understood and appreciated” (1948, p. 315). Or, as Ruggero simply puts it – “take care of your people” (2002, p. 91).

A leader does not depend on his or her rank for authority. More importantly, he or she should not confuse “firmness and strength with bad manners and deliberate discourtesy.” Indeed, General Eisenhower measured his commanders by their “ability to . . . persuade” (Huntsford, 1999, p. 177 and 1948, pp. 35, 75). Staff members should not be ordered but convinced. “Power doesn’t depend on edict” and being “demanding does not mean [being] demeaning” (Ewing, 1990, p. 108 and Ruggero, 2002, p. 219).

Smart managers assure their subordinates that they are “something special.” They know that “praise is more valuable than blame.” General Patton realized that “no management tool is more powerful than sincere personal praise delivered publicly and in a timely manner” (Ruggero, 2002, p. 94 and Axelrod, 1999, pp. 196, 205). To Geneen, “the best way to inspire people . . . is . . . by . . . supporting them.” A leader supports his or her staff by giving them full credit for success and taking for himself or herself the blame for failure (1984, p. 149 and Axelrod, 1999, p. 170). Good management spends its time highlighting what people are doing right, not what they are doing wrong.

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The head of an organization “should not be invisible. He or she should take time to talk to people on the staff and “learn about what interests and concerns them” (Axelrod, 1999, pp. 102, 211). For General Eisenhower, the key was to maintain contact with his troops through frequent visits. Such activity was “necessary and highly valuable.” A visit was “evidence of the commander’s concern” (1948, pp. 213-214, 238). Moreover, General Patton felt further that a good commander should “cultivate a feel for appropriate celebration and ceremony . . . [to] create feelings of pride and group solidarity” (Axelrod, 1999, pp. 194, 209). Stopping by staff member offices to chat and attending holiday parties is not only enjoyable but a prime tool of leadership.

Making Things Easier

One of the great flaws in Commander Scott’s leadership style was his attachment to the English romantic notion equating “suffering with achievement.” For Scott, “there was a virtue in doing things the hard way.” He drove his crew to exhaustion not believing “that a day’s work had been done unless there was visible distress” (Huntsford, 1999, pp. 131, 412). However, effective managers “don’t make things harder than they have to be” (Axelrod, 1999, p. 150).

Sun Tzu taught that “when the general lays on unnecessary projects, everyone is fatigued” (Griffith, 1963, p. 121). Wise commanders avoid “Activity for its own sake”. They eliminate nonessential demands and “weed out anything that . . . smacks of ‘make work.’” Such leaders also “never push [staff members] beyond their capabilities.” They know what a staff “can reasonably be asked to do” and always provide adequate supplies to get the job done. “Stinginess costs far more than it saves” (Huntsford, 1999, p. 385 and Axelrod, 1999, pp. xxii, 11, 177, 210, 234).

Planning

“Success,” Ruggero states flatly, “is not an Accident; it’s a Planned Event” (2002, p. 149). It was axiomatic to Sun Tzu that “the enlightened deliberate.” He tells us that “with many calculations, one can win; with few one cannot” (Griffith, 1963, pp. 71, 113). General Patton was aware that “it behooves any leader to know the history of his or her discipline and to read all the experts in the field, particularly experts whose knowledge is based on actual experience” (Axelrod, 1999, p. 78). His superior, General Eisenhower, told the story about how Patton, speaking of a stalled German offensive, remarked that the enemy “should have read about [Robert E.] Lee’s attack at Fort Stedman” during the Civil War (1948, p. 144). Thorough preparation is encouraged at West Point with the phrase “the more you sweat in peace, the less you bleed in war” (Ruggero, 2002, p. 148).

All planning should be done with the assumption that the most terrible conditions will be encountered. Amundsen’s voyage to the Antarctic was based on the premise that his ship “would meet the worst conceivable weather.” Consequently, “generous margins of safety” should be built into any plan” and attention should be paid to detail and training. (Huntsford, 1999, pp. 147, 294, 318, 340). And, as General Patton would stress, “always have a plan B” (Axelrod, 1999, p. 82).

Spontaneity and Risk-Taking

“Leadership calls for a delicate combination of preparation and spontaneity.” A good manager needs to be steadfast in strategy but flexible in tactics. There is a fine balance “between planning and improvisation” (Axelrod, 1999, pp. 57,

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126, 138). According to Huntsford, “it is dangerous to bind with rigid instructions. [Blind] obedience . . . may spell disaster. It is best to be able to adapt to circumstances and carry out ultimate intentions.” Within general guidelines, staff should be given “complete freedom of action” (1999, p. 520).

Sun Tzu counseled that commanders should instruct their troops that “when you see the correct course, act; do not wait for orders” (Griffith, 1963, p. 112). “Literal obedience to orders” is no substitute for “judgment and initiative” (Huntsford, 1999, p. 520). D-Day provided “a clear lesson on the importance of pushing authority down.” The battle on the beaches was won because small unit commanders “took charge of their own little part of the war.” These men “were used to being in charge, because they had been taught that leaders make decisions” (Ruggero, 2002, p. 95).

Finally, “managers are likely to be more successful if they aren’t afraid of trying new things and risking failure” (Ewing, 1990, p. 187). A good one has “to be able to fail and learn from it” (Ruggero, 2002, p. 200). An important point is that “it is much harder to learn from success than from failure” (Huntsford, 1999, p. 244). As one West Pointer found, “in failing, I learned my own limitations and thus became more understanding of other people, critical lessons that I could never have learned in the classroom.” If a manager does not create an environment in which mistakes can be made, how is anyone in the organization supposed to grow (Ruggero, 2002, pp. 249, 254)?

Conclusion

Harvard’s John P. Katten once commented “most American institutions are . . . over managed and under-led.” As this article has attempted to demonstrate, superior management is rooted in leadership. To be successful governmental ethics agency managers, we must focus as much on the principles of leading as we do on the everyday work product of our organizations. We have to set the highest ethical standards for organizational and personal behavior as well as plan, be spontaneous, and surround ourselves “with good people.” Then, we should “delegate authority, give credit and try to stay out of the way” (Ruggero, 2002, pp. 2, 234). Of one ideal manager it was said, “he never gave orders – only expressed wishes – and more was not needed.” All of us would be wise to aspire to be that kind of leader – one who runs “a happy ship” (Huntsford, 1999, pp. 84, 536). ■

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