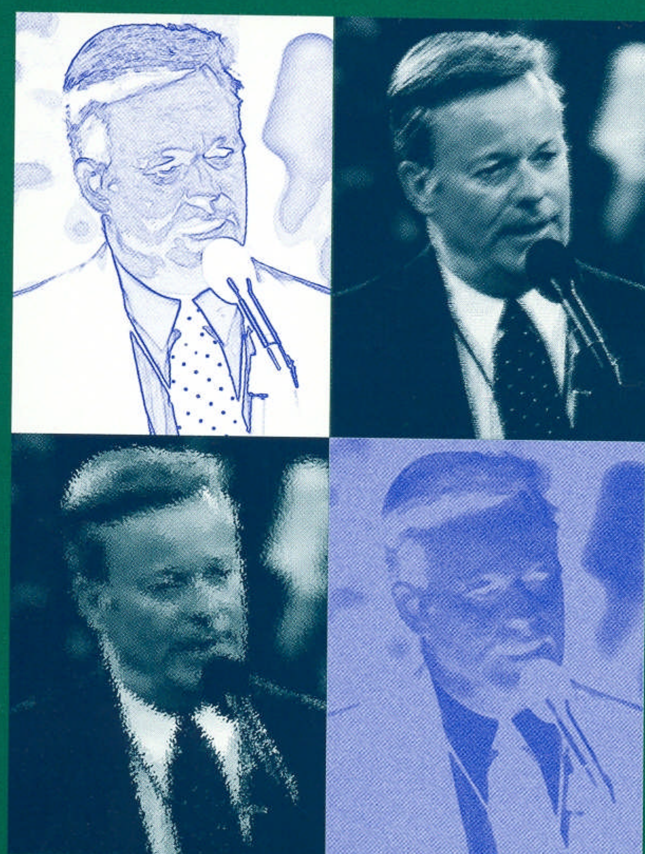
Keeping the Public Trust

The Value of Values in Government



Wallace O. Keene & Raymon R. Bruce, Ph.D.

Keeping the Public Trust

The Value of Values in Government

Wallace 0. Keene & Raymon R. Bruce, Ph.D.

- In the Memory of Wallace O. Keene -

Published and Printed in the United States of America

Cover design by Kathleen Myers
Cover photograph by Focused Images Photography, Inc. Reston, Virginia

---

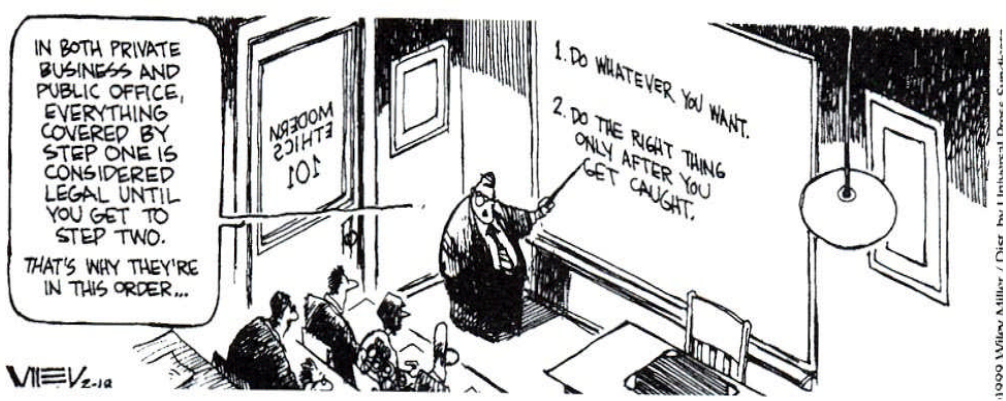
For information and copies:

Keene Ideas, inc.
7238 Wapello Drive,
Derwood, Maryland 20855-2717 Phone: (301) 340-9096

Email: wokeene@keeneidea.com

The authors are indebted to the corps of federal Inspectors General, which provided the source news clippings for this booklet. We are also indebted to the several reviewers who commented on the document, including former federal executives Christine Carrico and Larry Slagle.

A very special thanks to Wiley Miller and Universal Press Syndicate, for their permission to use the cartoons from the comic strip NON SEQUITUR©. It is not so much that we agree with the message that is conveyed, rather it is that the cartoons give evidence to very clear public perceptions that can not be ignored.



NON SEQUITUR © Wiley Miller. Dist. by UNIVERSAL PRESS SYNDICATE.
Reprinted with permission. All rights reserved.

Table of Contents

Preface

"It is curious that physical courage should be so common in the world and moral courage so rare." —Mark Twain

Welcome to public office in the Executive Branch of the Federal Government! As a successful appointee to the Executive Branch, you have become a special guardian of the *public trust.* This entrustment comes from (1) the public that elected those who appointed you, (2) the officials responsible for selecting you to public office, and (3) the government employees who work with you to accomplish your agency's mission. The purpose of this booklet is to aid you in protecting this *public trust* as you serve the citizens of this nation.

Many successful appointees before you have already received valuable instruction on the special nature of public service ethics. Nevertheless, some of them—regardless of political affiliation—inadvertently took actions that jeopardized the *public trust.* They simply *didn't get it.* When this happens, the costs can be enormous, to the individual, to the President's overall program, and to the citizen's trust in government in general.

In many cases, perhaps most, the *penalty* often seems inordinately excessive as compared to the *misstep.* However, the venue for most of what we will discuss here is not in a court of law, but rather on the battlefield of public opinion. These inadvertent missteps—or *subtle ethical pitfalls—can* be avoided if you are alerted to them and understand how easy they are to make.

We believe that *public trust* is an important part of the social fabric of any nation—one of its most precious national resources. Uncaring public officials can tear away at this social fabric, and there is a threshold of *public trust,* below which a regime can no longer be effective and is brought down of its own weight. History is strewn with the wreckage of regimes that have ignored this fact, Yugoslavia being one of the most recent examples.

This booklet draws from the files of *The Washington Post, The Washington Times, San Diego Union Tribune, The Los Angles Times, The Richmond Times-Dispatch, The Houston Post, The Wall Journal, The New York Times, The Denver Post, The Times-Picayune, The Chicago Tribune, The Arizona Republic,* information provided by federal Inspectors General, and other sources.

The situation can often be that "you don't know what you don't know." For example, one senior political official got into substantial difficulty simply because he did what he was accustomed to doing as a membe r of the U.S. Congress. Life in the Executive Branch is different! It has its own laws and rules of ethics regarding the keeping of the *public trust.* It should not come as a surprise that Congress has been tougher on others than itself in the design of such legislation. As one former agency head was quoted in *The Washington Post* after much embarrassment:

"There are 'very different rules here' [with] some of the technical stuff that goes on, and I guess for good reasons...I know I didn't understand [every technical guideline] I wasn't naive, but I didn't understand it. [But] I do now."[1]

This booklet is about *people doing people things* and inadvertently breaching the public trust.

Sometimes this occurs because of habits learned in the private sector and at other times simply without concern for the uniqueness of holding public office. Regardless of the underlying cause, we believe the problems—and the resulting negative effects—are avoidable, and we hope you will find this booklet instructive in your new life.

This booklet does not discuss examples where appointees were fully aware of the violation of the public trust that their actions would engender and, through criminal intent, engaged in anyway—the *public trust* be damned!

The journey begins... *Keeping the Public Trust*

The Public Trust At Stake!

"With public sentiment nothing can fail; without it, nothing can succeed. Consequently, he who molds public sentiment goes deeper than he who enacts statues or pronounces decisions."
—Abraham Lincoln, Lincoln-Douglas debate, July 31, 1858[2]

Hypothetical situation. An individual from the private sector receives a political appointment to a position in the Executive Branch in a new administration. Over the course of the next year, the official takes an unethical action, which when recounted in *The Washington Post,* causes embarrassment to the President. Shortly thereafter the individual resigns and moves back to the private sector. What are the losses? Among the more obvious answers are that there has been:

- A loss of the valuable abilities of the appointed official to serve the interests of the nation,
- Damage to the prestige of both the President and her/his administration, and to the individual,
- Financial losses to the government and the individual who disrupted her/his family's life to take a position in Washington.

The *potential for damage,* however, extends far beyond the individual, and includes:

- An increased risk aversion on the part of the official's remaining program participants and others affected by the situation,
- A critical loss of program momentum,
- The loss of support for the program on the part of the public, the Congress, and the administration, and
- A further diminution in the public's trust that their government will do right by them *all or most of the time.*

Let's take a brief look at each of these seven areas of damage in turn.

A loss of the valuable abilities of the appointed official. In almost all cases, the individual selected for public service brings with her/him a rich set of experiences. A quick scan through the resumes of one-time Under Secretaries will reveal former heads of universities, corporate chairpersons, and former state and local political officials. This invaluable base of knowledge, skills, and abilities is needed at the federal level to better serve all Americans.

Damage to the prestige of both the administration and the political appointee. Getting a second chance is rare for those holding public office. Once faith is broken, there may be little or no opportunity to repair the damage done. The risk management strategy for the stakeholders involved quickly becomes one of replacing the damaged goods.

Financial losses to the government and the individual. In most cases, the political appointee will have to relocate to assume public office. While relocation costs are reimbursed by the government, there are often numerous costs that will not be recovered. Not only does the appointee lose, but additional relocation funds will now be required for a new appointee, which might have been spent alternatively on biomedical research or some other meritorious project. Everyone loses.

Headline: "Probing Agency Chief, Use of Aides for Personal Chores Questioned Following Reimbursement for Other Expenses," *The Washington, Post*

Increased risk aversion. Not only is the loss of the individual felt in the ways discussed above, but there is an ongoing legacy. It is only human nature that once participants and other stakeholders see what happened to the leader, they will consider a broader range of implications and become more cautious at the expense of making progress.

A critical loss of program momentum. Becoming risk averse is not unrelated to the loss of program momentum. Momentum is critical to efforts in both the private and public sectors. The General Accounting Office, Congress' watchdog, has found the loss of momentum to be a key element as to why agencies tend to get bogged down.[3] Momentum is lost not only while waiting for a new appointee to take office, but there may be substantial difficulty in getting the team energized once again to take on the impossible.

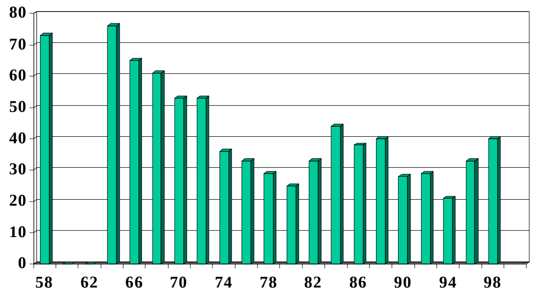
Headline: : "TRAVEL: NASA officials' trips cost taxpayers nearly $6 million." *The Houston Post*

Loss of support. In the private sector, if you have a great idea that needs financing, you go find a venture capitalist, float a bond issue, sell stock, or any number of other means. It's a little different in government. Federal programs must compete against each other for scarce funds.

Increasingly, legislators must choose between competing programs, and that is very difficult because of the diverse constituencies involved. Consequently, when a program's integrity is damaged by poor management, legislators are presented with a very acceptable rationale for shifting resources away from that program to another program. Don't you be the casualty!

A further diminution in the public's trust. Think of the old saying "for want of a nail the shoe was lost, for want of a shoe the horse was lost, for want of a horse the battle was lost..." Sure, one incident might not bring down democracy, but it is unclear where we are on the scale and this is not a gamble worth taking. As shown by the University of Michigan data illustrated below, 1998 is about one half of the level found in 1964, even though we appear to have begun to move in the right direction.[4]

Trust in Government Index, 1958-1998



Source: American National Election Studies, University of Michigan

But have we? The Council for Excellence in Government reported in 1999, that the level of trust had gone down nine percentage points between 1997 and 1999!

"In 1999, 29 percent of respondents say they trust the government in Washington to do the right thing, compared with 38 percent in 1997 and 21 percent in 1994."[5]

Many have raised concern about the level of public trust. In 1999, for example, former Federal Reserve Chairman, Paul Volcker, led a panel of the National Academy of Public Administration in developing the report *A Government to Trust and Respect* that expressed concern.[6] The report does not pretend to solve the problem, but instead focuses on two key elements: improving trust in public officials and improving government performance.

The root causes go beyond these two however, and the Partnership for Trust in Government, for one, has expressed its concern, particularly with the image conveyed by the media.

How important is trust? Speaking at the November 29, 1999 Whitehead Forum sponsored by the Council for Excellence in Government, former 17-term Indiana Congressman and now Director of the Woodrow Wilson International Center for Scholars, Lee Hamilton, stated:

"Skepticism is healthy; too much skepticism is unhealthy ...cynicism is the great enemy of democracy. It is exceedingly dcult for public officials to govern when their character, values and motives are always suspect."

What's at stake? As a people, Americans will unquestionably continue to face tough choices. Their representatives both in the Congress and elsewhere in government will also unquestionably continue to do their best to represent their interests. When the decisions are conveyed back to the American public, will Americans believe their representatives and respond appropriately? Will the level of trust be sufficient?

Even beyond what might seem to be common sense, trust is seen as an asset—a form of *social capital*, with specific economic implications such that:

"...people who do not trust one another will end up cooperating only under a system of formal rules and regulations, which have to be negotiated, agreed to, litigated, and enforced, sometimes by coercive means."[7]

In the private sector, an incredible amount of business is done over meals, golf, and other sorts of activities. It will be clear from the Ethics briefings that your agency will give you that you won't be taking meals, trips, etc., at the expense of the private sector once you enter public life.

Such common place private sector occurrences can often become very complicated in public life. In one example, a public official who did not have lunch with a trade association official was called before a U.S. Senate subcommittee to account for his actions in having lunch. Two forces were at work here. First, the Senate was intent on investigating the trade association and subpoenaed its records as a means of finding out about their relationships with public officials and others. The second factor was that the trade association official routinely filled out an expense report using the data from his calendar.

The lunch shown on the calendar had actually not taken place, and we'll assume that if it had, the public official would have paid his own way. As a consequence, no harm came to the public official, but a lot of very valuable time was wasted on the part of the Congress, the Secretary of the agency involved, and the trade association.

Life as a public official is different than anywhere else. And, it's different even if you served in the Congress. Do you remember the Cabinet Secretary who got himself into some difficulty simply by doing what he was accustomed to doing when he was a Congressman? You need to remember that the Executive Branch operates under different statutes than the Congress, and if this is where you are coming from, be alert to the difference.

Those Who Got It Wrong

"Empowerment. Creativity. Disruptive innovation.
In search for the new thing, seasoned managers are turning to one of
their oldest assets—trust—for ensuring high performance."
—Harvard Management Update, September 2000

This section of the booklet helps you—as a new appointee to public office—to avoid inadvertent *missteps* in keeping the public trust. It is not a lesson plan on governmental ethics. Indeed, there are abundant resources to inform you about the rules and laws that apply to ethical conduct in public office. Nevertheless, in every administration some officials find *pitfalls* to trip themselves by not taking enough care to keep the public trust.

What does it mean to keep the public trust? How do some public officials make missteps and get it wrong? The *Washington Post* cited the core issue in its editorial page quoting the view of the Commissioner of the Food and Drug Administration. "Some people in government are supposed to be cleaner that Caesar's wife, and all the rest of it, but one has to live." The *Washington Post* editorial went on to point out that the Commissioner, "...has it all wrong. It's not *some* people in government who are supposed to be above suspicion. It's *all of them."*[8] [Emphasis added.]

Being above suspicion includes taking the necessary care required to avoid inadvertent missteps when dealing with the public interests and trust. This includes not only the public property and monies, but also the influence that goes along with the appointee's public office.

How did others get it wrong? With the help of the federal Inspectors General, we researched well over a hundred articles selected from a wide variety of newspapers. We then selected the most informative examples and organized them into the following ten categories:

1. Taking and giving gifts and gratuities,
2. Travel expense reimbursements and perquisites,
3. Preferential treatment for relatives or friends,
4. A back door for former employers or business associates,
5. A revolving door to future employers,
6. Questionable honorariums and earned fees,
7. Use of government staff or property for personal matters,
8. Misuse of government information or records,
9. Business, stock dealings, and financial disclosure problems, and
10. Veracity—telling the truth all the time.

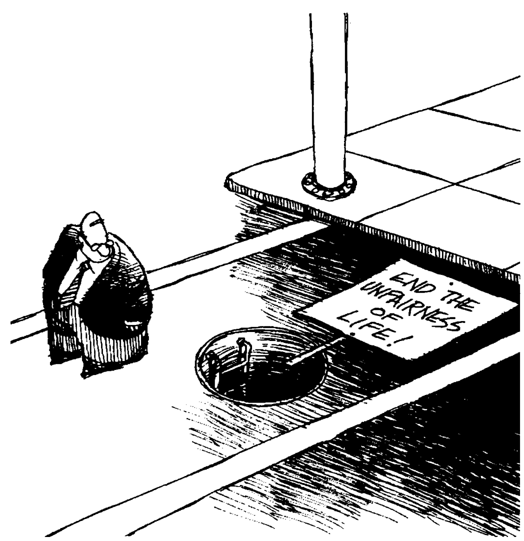
Rather than refer to specific rules and laws for which numerous sources already exist in each Executive Branch agency, this booklet provides several examples of public officials in the current and in past administrations who inadvertently "got it wrong."[9] The examples in each category point out the nature of the misstep and then describe the losses—to the public official, to her/his agency, and to the *public trust.*

1. Taking and Giving Gifts and Gratuities

A gift or gratuity is anything of monetary value, such as money, meals, tickets to events, trips, or services The basic rule is $20/$50. That is, you can accept a gift or gratuity if its value is $20 or less and repeat gifts from the same person or organization during a year's time cannot exceed the total value of $50. There are exceptions, but the basic idea is that there are no free lunches. Gifts of higher value create the suspicion that something can be expected in return for the gift or gratuity.

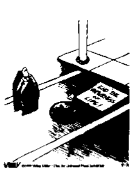
The $20/$50 rule applies to gifts to you as well as to gifts you may want your agency to give others in *and* out of government. Remember that you are spending monies that the Congress and the Executive Branch have intended for specific government missions and initiatives. Therefore, you are spending tax dollars for gifts other than for the purposes of that mission or initiative.

While the intentions of the offerer of the gift may not be for future influence, the *suspicion* of expected influence is always there. At what point do repeated gifts become expected gifts? At what point does "favored access" become "expected results?" Of course, the recipient of a gift can never know the full intentions or hopes of the giver. However, when exchanges of value are made with intent (or hope) to influence the recipient, in accepting a gift the recipient starts down that slippery slope towards bribery and kickbacks. The $20/$50 rule was enacted to help public officials set a boundary, and it was enacted after many incidents. Inadvertent transgressions in accepting gifts of greater value than $20/$50 are usually handled internally within the agency and often do not make the media press. However, from time to time they do make the press, and here are some examples of those that did.



WILEY©1999 Wiley Miller / Dist. by Universal Press Syndicate

WILEY©1999 Wiley Miller / Dist. by Universal Press Syndicate



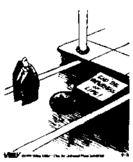
Example A: Cufflinks Sink An Admiral. A former executive from a Fortune 500 Company, revealed that his company had given the Admiral gifts, and that some of them were expensive. The Admiral acknowledged that the company gave him lots of little plaques and that he even got a small diamond. But the question that he should be asked—the Admiral insisted—was whether he (the Admiral) gave the company favored treatment?'°

When asked how an American citizen can know whether the gifts influenced him or not, the Admiral answered that he didn't think about the views of the American citizen; he was governed only by his own thoughts. He was forced into retirement.

Misstep: This appears to be a case of *hubris.* The Admiral was well known as someone his current Executive Branch administration wanted to retire. However, he had earned so much support in Congress that they had passed a law to allow him to serve past the mandatory retirement age. The Admiral was a stickler for optimizing safety and cost/benefits of the Navy's nuclear submarine force. He saved the nation funds of several magnitudes greater than the value of the gifts he received from vendors, and he was mentor to an enormous number of superb naval officers. He was a legend in his own time.

However, he admitted to a lack of care for the public trust and therefore a lack of care for the trust on the part of his supporters in Congress who must always stand for re-election by that public. This lack of concern for keeping the public trust set him up for his demise as a public servant.

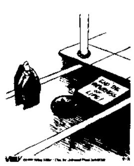
Losses: The Admiral's inadvertent gift receiving gave an unfriendly administration the leverage it needed to force his retirement. His supporters in Congress were politically embarrassed, and the public earned the right to become cynical about even the most valuable public servant's care of keeping the public trust.



Example B: Chief's Distaff Gets the Fur (Vicuna < Coat) Treatment. A former President's Chief of Staff was accused of corruption for accepting gifts from a businessman who had problems with the Internal Revenue Service. The President reluctantly asked for his resignation.

Misstep: The Chief of Staff was unaware that gifts to his wife from people doing business or having problems with the government over which he would have some influence constituted an unethical gift. He did so soon afterwards, and the President was forced to ask him to resign.'

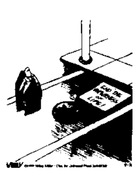
Losses: During his second term, the President was under great pressure for his domestic policy. The Chief of Staff was the President's "stick." The Chief of Staff's inadvertent acceptance of a gift on the part of his wife gave the President's adversaries an opening to effect the removal of the President's "stick'.



Example C: The Secretary's Free Lunch. This Cabinet Secretary allegedly received upwards of $35,000 in gifts, including football tickets, lunches, and assorted other items, from individuals and companies that his agency regulated. He was later acquitted of these charges after a long trial process.

Misstep: The Secretary was just doing what he was used to doing as a Congressman, where the rules about gifts are different. In Congress, when the citizens' trust gets too low, the citizens can elect not to return their representative to office. However, with an appointed Cabinet Secretary, the citizens do not have this direct recourse. This is an excellent example of how appointed public officials make themselves vulnerable by accepting gifts or gratuities even if they can be victorious over a Special Prosecutor.

Losses: Without going into the legalities of the Special Prosecutor's lost case, we can be confident that the Secretary (and the administration that appointed him) would gladly have it that he had not received the $35,000 in gifts and avoided all the trouble that followed. The Secretary said the four-year prosecution cost him a lot. "Its been tough, but I knew from day one that I would stand here today before you completely exonerated."[12] The real message we should take from the Secretary's four-year ordeal is that when it comes to expensive gifts and gratuities, "it's better not to give or receive!"



Example D: Free Ashtrays for a "Smoke Free Conference**.**" Unless there is specific statutory authority, the general rule is that appropriated funds), A may not be used for personal gifts. The Small Business Administration (SBA) asked the General

Accounting Office (GAO) to rule on the propriety of an expenditure for decorative ashtrays at a conference they were sponsoring." The purpose of the ashtrays was to generate conversation concerning the conference. GAO found that the justification was insufficient because the recipients of the ashtrays were federal officials who were already charged by law to cooperate with the objectives of the SBA. Thus, there was no necessity for the ashtrays—they were considered personal gifts.

Other examples held by GAO to be improper under federal appropriations law include:

- Hats to enhance esprit de corps,
- Photographs given as mementos at an official opening of a National Park,
- "Sun Day" buttons to promote GSA energy saving policies, and
- Cufflinks and bracelets to promote tourism.

Misstep: No missteps occurred. These public officials cared enough about the public trust, that appointed them, that they got expert advice before purchasing and passing out the gifts. If you find that you are tempted to make exceptions, then be forewarned that you can be setting yourself up. You can become vulnerable to attacks by anyone or any organization the wants you removed, wants to humiliate the administration that appointed you, and/or wants to get at our government in general. Therefore, always check with your agency Ethics Counselor first. If you decide that you want to accept the gift, you must pay for it out of your own pocket. Keep the *public trust!*

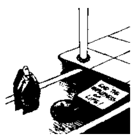
Avoidance Strategy

The best strategy is to adopt the $20/$50 limit as a mantra during your term of appointment as a public official, period! Simply resolve that taking expensive gifts is not a perk you will have while acting as an official of the government. If you are pressured you need only explain that while you appreciate the giver's kindness, you are a public official and you have an obligation to the public not to accept such gifts. Otherwise, you must pay a fair price for them and document it well.

2. Travel Expense Reimbursements and Perquisites

Whenever appropriated federal funds are involved, you can expect close scrutiny to assure that the funds are applied to the missions and initiatives for which they were appropriated by Congress. Funding decisions are two-sided. Not only did the Congress make a decision to give you the funds, but they also made a decision to not give the funds to someone else. Often, you may find yourself in the position of having to decide for yourself, the legitimacy of the travel taken, expenses incurred, and perks assumed.

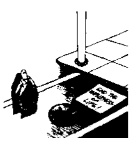
Public officials can become very creative about this category of ethical missteps. However, like the gifts and gratuities category of missteps, integrating travel, expense reimbursement, and perks into your own personal needs is also a slippery slope to suspicion by the public that you are feeding too heavily at the public trough. When availing oneself of travel, expenses, and perks, it is often difficult to identify the critical threshold between those that are due to the official's position *work needs* and those due to the official's *personal needs.* Therefore, the public's *perception* should rule in terms of keeping the public trust.



Example A: For the Administrator Whose Wife Doesn't Like To Cook. This Regional Administrator for the Department of Housing and Urban Development put in for expenses for some meals during 32 weekend visits to his home some several hundred miles away. The reason he gave was that his wife didn't like to cook. He also put in for expenses for time at the Disneyland Hotel where he was attending a political fund-raiser. He paid the money back—over $6,000—and resigned."

Misstep: This is a good example of a top administrator going wrong because he did not check with a staff expert on travel expenses before submitting his expense form. Anyone on his staff with any degree of knowledge about government travel expenses could easily have helped him avoid this inadvertent misstep.

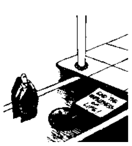
Losses: First off, since this case even made *The Washington Post* the public's evaluation of "top government officials" has to be very negative. In fact, former Harvard University President Derek Bok once stated "If one thing has become clear about the federal government, it is that Americans have little regard for its performance."[15] The people that were responsible for appointing this administrator consequently took credibility losses, and the federal agency's regional mission and initiatives were stalled while the change of administrators was accomplished. Finally, the career employees, whose travel expense requests are very closely scrutinized, have cause to be very disappointed in this administrator that was leading them. Bad marks all around.



Example B: Commissioner as Big Double Dipper. The Commissioner of the Food and Drug Administration went on an official government paid for speaking trip from the D.C. area to Los Angeles, Seattle, and Las Vegas.[16] While in Seattle he gave a private, after dinner talk at a research Center. He later wrote the research center asking for the equivalent of a first class round trip air fair from his home in the D.C. area to Seattle. The Commissioner claimed that he used the additional fare to upgrade his government-sponsored airfare to first class, and that he hadn't done anything wrong. "If I have," he continued, "it has been absolutely inadvertent. Or because I didn't know some regulation."

Misstep: If we take the Commissioner's statement at face value, then we can assume that had he been made aware of the regulations about augmenting travel expenses for official business trips, he would have documented the actions. Unfortunately, it looked like he was billing both the government and the research center for the same trip. Thus, the government could have avoided the appearance in the news media from Seattle to Washington, D.C., that this government official was double charging expenses for his own personal benefit.

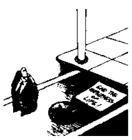
Losses: Although the Commissioner may be able to prove that he was within the letter of the law to upgrade his airfare, to the ordinary tax payer it appears to be cheating. It is a classic case of putting self-interest ahead of keeping the public trust.



Example C: Acting Assistant Secretary Fans Football. During confirmation hearings for this Acting Assistant Secretary an unusual pattern of her official "site visits" came to light. It seems that they all coincided with her son's football game schedule." [17] During the process of investigating the "officialness" of the business that the official had at those site visits, the official turned down the nomination for the Assistant Secretary's job.

Misstep: Clearly, the Acting Assistant Secretary had put her own personal interests first, at the cost to her trust as a public official. Ginning up "official" business to transact in specific sites and times when her son was playing football might be legal, but if she had asked anyone on her staff, or the agency's ethics officer, they would have disabused her of such a suspicion-generating plan.

Losses: Apart from the public official's promising career being cut off so abruptly, the entire Executive Branch's credibility is reduced along with its ability to move forward with its initiatives in that department. Meanwhile, the department itself must wait until the Acting Assistant Secretary is replaced by a more successful nominee



Example D: NASA Airlines - The Wrong Stuff or The Fear of Commercial Flying. Several top administrative officials used the agency's fleet of jet airplanes to travel around the country giving speeches when commercial flights were easily available for less money—for $5.8 million less money. Ironically the speeches they were giving were to find ways to slash the agency's budget.

Misstep: These public officials are, "Like far too many in public life, [they] just don't get it," *The Houston Post* reported. [18] "Calls by opponents of NASA for cuts far deeper than the $5 billion (the President) has requested are bound to increase because of the antics of these administrative officials." One of the issues in being appointed a top administrator in a federal department is that your peers in the private sector often enjoy perks and material support such as corporate jets, that you can not easily justify as a public official. But that is the territory of public service. You have chosen and have been selected to keep that trust for the duration of your service. Keeping the public trust is one of the main things that can assure us—and our children—that our democratic republic will not only survive but will thrive.

Losses: $5.8 million is not exactly "chump" change. However, the publicity that NASA subsequently received supported the general argument that the agency was running amok through bad management. The result was a threatened cut in the agency's budget far exceeding the $5.8 million of their excess spending. Again, the public's trust in government takes a major hit. "NASA officials have also given people one more reason to be cynical about public officials...Nothing much rankles the public more than government officials who act as though they're royalty," concluded *The Houston Post.*

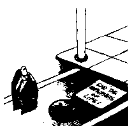
Avoidance Strategy

The American people should not be made to question whether, through gifts, favors, or reimbursements for expenses, the public official is taking care in keeping the public interest. The best avoidance strategy is to have someone on your staff that is expert in expense reimbursements advise you. There are many murky areas of expense reimbursement, and you cannot hope to master them all during your period of political appointment. However, knowledgeable advice can certainly help to assure that you serve a full term.

3. Preferential Treatment for Relatives or Friends

It is a conflict of interest to work on an official matter in which you have a personal private interest, otherwise the public can suspect that you may be less than objective. People have the right to expect their government to treat everyone equally and fairly. Keeping the *public trust* means impartiality in performing your official duties.

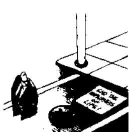
Preferential treatment occurs when appointed public officials appear to be giving special treatment to specific people or firms the public official may know on a personal private basis. Just as there can be many pressures from relatives and friends (including business associates) in offering you expensive gifts, there can be many pressures from relatives and friends for special treatment and consideration in regards to government services over which you may be able to exert influence. The misstep here stems from the fact that your relatives and friends, by definition, have special access to you as a private person. This can easily slip into special access to you as a public official.



Example A: An Out-law for an In-law. A Deputy Secretary of Commerce referred a letter to the Deputy of Veterans Affairs on behalf of his father-in-law and followed up with a phone call. As a result of his actions, the company received the modification it sought more rapidly.[19]

Misstep: This is a clear case of special treatment for a relative. The public official should simply have referred his father-in-law to the Department of Veteran Affairs without interceding for him

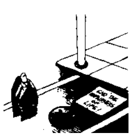
Losses: Beyond the $5,000 fine rises the specter of special favors, cronyism, and nepotism that haunts all governments. Our government has a long history of laws enacted to control this insidious misstep in administering governmental services. The health of our democracy is dependant on a nation's vigilance in this regard.



Example B: Anti-Pork-Barreler Gets Porked. The head of the Economic Development Administration arranged for a longtime acquaintance to get a grant that enrolled him in a $25,000 computer course at no cost and entitled him to a free computer.

Misstep: What was this person thinking?

Losses: Beyond the $5,000 fine, the person resigned his position. His agency—where all people should expect fair and compassionate treatment—loses credibility. Also, the person claimed that certain members of Congress wanted his ouster because he had opposed their pork-barrel projects. Therefore, this major loss was experienced because he gave his political enemies a way to get rid of him through his own inadvertent misstep.



Example C: Soliciting Special Treatment for "No Special Treatment" The Deputy Director of the Office of Management and Budget called a senior official at the Department of Energy about a major enforcement case against a company in which he owned more than $250,000 in stock. Energy delayed the case for more than two years. The OMB Deputy Director claimed that he had sought no special treatment.

Misstep: OK, since ultimately the Department of Energy's case was completed properly, the OMB Deputy Director gets away with it. But the Office of Management and Budget itself does not. They are the watchdogs of the public purse while their Deputy Director was looking after his $250,000 stock investment.

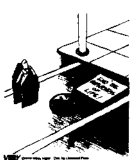
Losses: This public official does not fool the public. Nor does he fool all the public agency executives and managers that have to come to the Office of Management and Budget's exacting scrutiny for their resources.

Avoidance Strategy

The best position is for the public official to view a person's status as a citizen deserving of your services, as far more important than their status as a relative or friend. Any friend that insists on preferential treatment is not acting like your friend. The public trusts you not to pay off old personal service debts with public office influence.

4. A Back Door For Former Employers or Business Associates

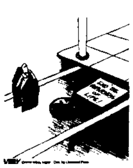
If you use your public office to make things favorable to your former employer or business associates, the public can be expected to assume that you are using your public office to repay old personal debts or favors previously given to you by that employer or business associate. It all comes down to you using the public resources entrusted to you (e.g., your official time, influence or decision-making powers) for your own personal benefit.



Example A: An Unsafe Safety Net. The head of the Occupational Safety and Health Administration resigned after being criticized for participating in decisions affecting companies in which he owned over **$1** million in stock. Later, a federal review found that the Labor Secretary had granted him a wavier of conflict-of-interest.

Misstep: Since a number of firms were involved, the question becomes how much stock ownership creates a conflict of interest? However, once the press got hold of the situation it became too hot for the public official to stay for further scrutiny.

Losses: The Administrator resigned his position. Assuming that the public official's decisions were made in the public's interest, the losses occur in the public trust. How do you assure the public that you were being objective when you influence a decision for a corporation that may advance the value of your own stock holding? Quite simply, you can't.



Example B: Forecasting Model Recasts. An Under Secretary of the Treasury helped arrange a contract for an economic forecasting model that he had help develop and partly owned. Since he was selling his interest in the model, an Inspector General's investigation found that at most, he had committed a technical violation of the federal rules.

Misstep: Here is a case where a public official needed in his work, the very model that he had help to develop. His part ownership (and subsequent sale of his ownership) of the model complicated the situation. Nevertheless, the contract went to his former employer.

Losses: When this situation was viewed in the press the public's view of this sweetheart deal is not exactly trust building. The public could easily see this Under Secretary claiming, "Oh, only my model will do, and I just forgot that I owned $60,000 of it. Oh, yes, I'm just getting rid of that now. I guess ya got me on a technicality."

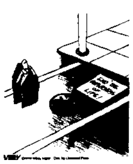
Avoidance Strategy

This is a very murky area. Why get involved in such potential conflict-of-interest decisions in the first place? At what point should you recuse yourself to avoid the appearance of conflict-of-interest? When in doubt, recuse.

5. A Revolving Door To Future Employers

6.

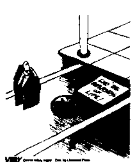
The basic thrust of rules against seeking a job while still a public official is to avoid any conflict-of-interest with the prospective employer. You cannot participate in any matter that might involve a financial interest of any employer with which you are seeking employment. Also you cannot seek employment using government property or on government time.



Example A: Job Miss-Communications. A Deputy Secretary of Commerce held discussions with a communications corporation about a possible job while he was in charge of a proposed sale of U. S. weather satellites to the firm. The Deputy Secretary resigned after the job talks were disclosed. The Justice Department declined to bring charges.

Misstep: This is a classic 'Revolving Door' misstep.

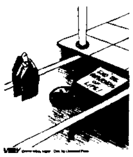
Losses: The Deputy Secretary resigned his position and his reputation was damaged. Since he was leaving anyway, the department did not incur a personnel loss that it would not have otherwise experienced. However, the bad press did not enhance the department's image. *Public trust* was the main loss.



Example B: Me First—Public Trust Last A political –‹ appointee in the Depai tment of Justice applied for a position with a private non-profit firm that had a contract pending before the Department of Justice. She was to recuse herself from working on any matters concerning the organization. Instead, she took some steps to facilitate the approval of a grant to the organization.

Misstep: In this case the political appointee deliberately ignored the rule. Therefore, it is not exactly an example of an inadvertent misstep. However, it is a good example of how people in public service can be tempted to put their own personal interest ahead of the public interest in not keeping the public trust.

Losses: The public official had already accepted the job to leave the government. Therefore, there was no loss there. She pled guilty to a misdemeanor and was gone. It is difficult to determine how much public cynicism was increased by this person's actions, but we can assume it was not diminished.



Example C: Postmaster Not Deliverable—Return Postage Due. A Postmaster General participated in postal rate deliberations while he negotiated for a job with a mass-mailing group whose members would be affected by the rate change. Nine days before retiring from his position he appointed the wife of a retiring postal official who was a close friend to a $31,000 postmaster's position in a town where the retiring couple had bought a home.

Misstep: Clearly, the Postmaster General should have recused himself from the deliberations and in making the appointment.

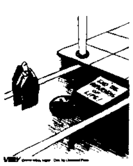
Losses: Such flagrant disregard for the public trust probably does not qualify this action as an inadvertent and therefore avoidable misstep. The impacts of these kinds of abuses against the public trust are the most damaging.

Avoidance Strategy

It is not difficult to avoid this misstep. You need only to be aware and to recuse yourself when there is any chance of the appearance of a conflict-of-interest. All that is required is a little vigilance and a conscious care for keeping the public trust.

6. Questionable Honorariums and Earned Fees

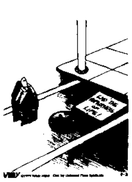
A conflict-of-interest occurs when a public official gets paid by another organization or person for performing services by another organization or person that are either in line with their expected duties as a public official, or are on government paid travel assignments.



Example A: Just doing His Jobs. A National Science Foundation (NSF) executive received several honoraria payments for speaking to institutions that receive NSF funding. In addition, his talks related in substantial part to his duties as a NSF employee.

Misstep: In essence, the NSF executive was doing his job and getting paid twice for it. Since it was within the scope of his duties to talk to institutions that have prospects to receive NSF funding, it is unseemly for him to accept payments from them. For those hoping to receive funding themselves, it could be considered a bribe. For those who have already received funding, it could be considered a kick-back payment.

Losses: Double dipping activities of this sort—even when bribe or kick-back elements are absent—give the appearance of a government rife with special payments for special services involving the public's money and resources.

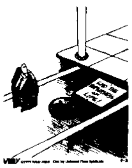


Example B: Was this trip necessary? A Commissioner of the Food and Drug Administration was charged with overlapping expenses to the government and a private group he addressed while on official trips. He received $4,300 in

Honoraria for private speaking engagements while on trips paid for by the Food and Drug Administration.

Misstep: What's wrong with this picture? Since the government was paying his travel expenses, his speaking engagements were not exactly "on his own time."

Losses: The Commissioner resigned after the Justice Department declined to bring charges. The public can well ask whether this public official was arranging his official trips in order to take advantage of his prospective speaking engagements. Was this a case of the tail wagging the dog?



Example C: Deputy Under Secretary Gets Booked. A Deputy Under Secretary for the Department of Housing and Urban Development (HUD) earned $80,000 speaking and writing for a group that sells books and tapes on how to sell real estate. He lectured for the group while on trips paid for by HUD.

Misstep: There is a question as to whether HUD executives should be active in the real estate markets. However, getting the government to pay for your travel expenses to do it is just a bit "over the top."

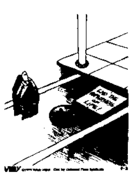
Losses: The Deputy Under Secretary resigned during a review by the Inspector General. When such actions appear in the news media, the biggest losses are in the trust that the reading public has in their government. They must think, "Too many public officials end up there with both front feet in the public hog trough."

Avoidance Strategy

Any time there is the possibility of mixing official duties and expenses with monies received for personal activities—don't mix them. The minute you do, the public can have reasonable suspicions that your are taking advantage of your public position for your own personal gain. It's not worth it.

7. Use of Government Staff or Property for Personal Matters

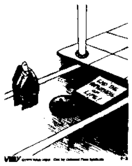
One of the most common missteps appointed public officials make is using their staff or government property for their own personal benefit because these are often accepted perks for executives in many private organizations. However, in government it is a big "no-no."



Example A: Little Slips Sinks Chief The Administrator of the General Services Administration (GSA) was investigated for using his executive secretary to draft memorandums to his personal -104111 business contacts and to oversee furniture delivery and plumbing work done on his home. The investigation included his using a government driver and limousine for personal purposes. The investigation also included his mixing personal and official business trips.

Misstep: This is a classic example of how a top executive that makes unpopular moves—such as downsizing his organization by 20 percent and switching political parties—becomes vulnerable to being charged by his "enemies" with any missteps in this area. GSA officials said that their Administrator's problems were due to a lack of understanding about government rules as opposed to those he was used to in the private sector.

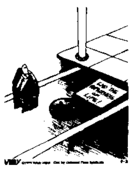
Losses: The Administrator voluntarily repaid $1,062, and resigned. He was later exonerated for the most part after a three year investigation. Nevertheless, the Executive Branch lost an effective administrator and the public lost trust in government.



Example B: Booking "Your Time is My Time." An official in the Department of Health and Human Services had people on his staff help write and edit a college textbook he published privately. Two former employees admitted that they had helped edit the book on government time.

Misstep: The official claimed that the charges were made against him because he was forced to lay off people, deny promotions, and other unpopular steps. This official was hoisted on his own petard.

Losses: The public might wonder why he didn't lay off more people if they had time to write and edit his book for him on government time.



Example C: One Step Too Many. A top official at the federal Environment Protection Agency had more than $70,000 in renovations made to part of a dormitory at the agency training center in Maryland, including a $11,000 stove, microwave, wet bar, fireplace, and cherry cabinets. He was also accused of using a security guard for personal errands.

Misstep: Using the security guard brought him down, but the public reading this in the newspapers will wonder *what was up* with that fancy dormitory penthouse arrangement.

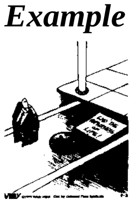
Avoidance Strategy

The main rule of thumb is to avoid mixing government and private activities. Because many of these types of missteps may not be considered as such in the private sector, it would be prudent to have someone on your staff brief you on the accepted practices in your department or agency.

8. Misuse of Government Information or Records

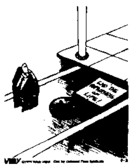
One of the most important government resources is the information it has. This information is the property of the public. As such it can easily be misused against citizens or for private gain by public officials. This is especially true now with the Internet and with the development of nationwide databases on everything from health and credit, to the Internal Revenue Service. It is one area that generates some of the greatest public mistrust of government.

Example A: Hidden Treasures and Investigations. Treasury officials allegedly conveyed confidential information to White House officials regarding the Office of Inspector General's criminal investigation of the Madison Guaranty Savings and Loan Association. While the Office of Government Ethics found some 40 contacts between the Department of the Treasury and the White House troubling, they determined that the employees had not actually violated ethical standards.



Misstep: Once a criminal investigation is undertaken, the leaking of information about it to others does not help the investigation get to the truth and it is not in the public interests. The investigation is hampered and justice—vis-d-vis the citizen public—gets short changed.

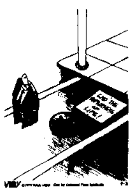
Losses: The Deputy Secretary of the Treasury and the General Counsel to the White House resigned. The President lost key advisors. Reading the account in the newspapers and seeing it unfold on Network TV does not give one warm feelings about trust in government.



Example B: Federal Home Loan Official Seeks Home Loan. The Chief of Staff of the Federal Home Loan Bank Board sought a $500,000 home loan using the Board's mailgrams and signed it with her official title. She blamed it as a inadvertent error on the part of her secretary.

Misstep: What was her secretary doing sending out personal requests for her boss's personal home loan in the first place? However, the misstep here is in using an official letterhead or form for a personal purpose.

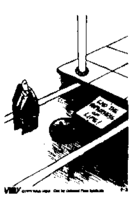
Losses: Again, here the story is in the news media. The public sees it as big public officials getting an advantage from their official position by using official documents for private gain. And, when they get found out, they blame it on their underlings!



Example C: Inspecting the Inspector General The Office of Special Investigations for the General Services Administration investigated allegations that the NASA Inspector General had alerted certain NASA officials that they were being investigated. For example, the NASA Inspector General advised one target of the investigation that he could defuse the problem by writing a personal check to the government.

Misstep: Sharing privileged information about impending investigations is contrary to the purpose of investigations. That an Inspector General would do this is a blow against judicial fairness in government. He ought not to have done it.

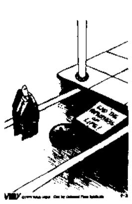
Losses: Although the Inspector General later resigned for personal reasons and therefore suffered no real losses, he did comment that the investigation was an attack on his integrity, which did hurt. However, the appearance of his leaking investigation information to selected colleagues probably hurt the public trust even more. Most citizens would believe that should they be the target of an investigation for similar infractions, they could not expect an Inspector General to befriend them with such pre-investigation information and advice.



Example D: Take the Records and Run. A former Department of Commerce employee subsequently employed by the Small Business Administration took classified records from the Department of Commerce with him and was storing them in a Small Business Administration safe.

Misstep: This employee must have thought that the records were government property, and as long as he was in the government it was all right to take them with him

Losses: Even though some of the records he took were classified, he did have the proper security clearance with the Department of Commerce. He apparently gave no thought about what the Department of Commerce would do without the records. Surely, some of the effects of its service to the public could be diminished without them. The employee's security clearance status was immediately downgraded, and he subsequently resigned.



Example E: CIA Director Sneaks Home Secret Records. Now here is one for the books. The retiring head of the Central Intelligence Agency (CIA) downloads top secret information into his own computer at home. In light of the treatment the government gave an employee for doing the same at the Department of Energy's Livermore Labs in California, the former director got off light.

Misstep: The misstep here is clear. You just don't download top secret information onto your computer at home where it can be more easily violated. Even worse, the CIA soft-pedaled the investigation of their former director's deed.

Losses: Assuming the former director successfully protected the files from access by unauthorized persons, the major loss is the lack of keeping the public trust by the one person who best should have known better—a former director of the CIA.

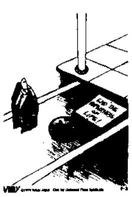
Avoidance Strategy

Government information, whether in document, digital, or privileged and unrecorded should be treated with the security we reserve for money (or as required by statute). By the same token, the public's right to know must be equally regarded and provided upon request.

9. Business, Stock Dealings, and Financial Disclosure Problems

Anytime a public official can influence government actions that will benefit a business, affect stock values, or otherwise bring benefits to the official's assets, the specter of a conflict-of-interest arises. However, many people appointed to public office have very complex financial interests. They are often difficult to sort out relative to the influence the particular official may have in office.

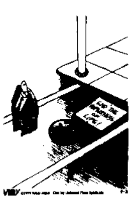
To address this situation, the *Ethics in Government Act of 1978* subjected senior executives and other high-ranking officials to financial disclosure as part of the post-Watergate ethics reforms. That Act was later amended to include some General Schedule employees as well. In order to avoid conflict-of-interest situations for public officials, the disclosure of financial interests documents those assets. In this manner the government—as well as the appointed official—have a clear playing field to determine how to help the official avoid an inadvertent conflict-of-interest situation.



Example A: Unfair Public Affairs. The Director of Public Affairs for the Department of Housing and Urban Development failed to disclose more than $350,000 in debts that were incurred when she and two business partners defaulted on more than $1 million in Federal and New York State loans.

Misstep: Perhaps the Director was ashamed of her past failure in business. However, she augmented that with her failure to disclose the debts on her Financial Disclosure Form.

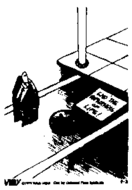
Losses: Since the undisclosed debt did not create any conflict-of-interest situation, the discovery rectified the situation by being a *de facto* disclosure. The public, upon reading of the situation and its resolution, may wonder why the rule was made in the first place. As a result, the whole effect of the rule to promote the *public trust* gets thwarted!



Example B: Energy Gain For a Loss. A special assistant to the Secretary of Energy failed to report on his financial disclosure form that he had received $32,370 in consulting fees from a major contractor to the Department of Energy.

Misstep: Due to the fact that the undisclosed fee was from a contractor with the special assistant's department, a definite conflict-of-interest was evident, and the reason for his nondisclosure is apparent.

Losses: The special assistant resigned. The Secretary of Energy not only lost a special assistant, but would now have to find a new one that will be, perhaps, a little less special. The public may well wonder how the special assistant got selected in the first place.



Example C: Stock—Your Option or Mine? The head of the General Services Administration disclosed receiving certain stock options from his employer upon quitting for his appointment with the government. However, he did not disclose that his former employer granted him an additional three months to exercise his stock options after termination. Nor did he disclose that he took vacation time rather than pay to delay his termination date. The result was that he was able to exercise his stock options while in government service at the later date. His increase over what would have been expected by his financial disclosure statement was nearly $500,000.

Misstep: The Administrator's financial disclosure was disingenuous. While it may not have been well spelled out in the Financial Disclosure Form, he should have realized that any significant changes from the filed disclosure should be reported in order for the disclosure to be accurate. However, he did recuse himself regarding any departmental actions affecting his former employer, and therefore avoided a conflict of interest.

Losses: This public official's administration had a very successful record in supporting of the Executive Branch goals in reducing government and making it better. His failure to mind precisely the customs of public life repeatedly ensnared him on his financial disclosure form, in his penchant for the perks of corporate life, and in his efforts to shake up one of the government's most divided and inbred agencies. Clearly, he gave rise to a large following of detractors that constantly informed on his many ethical missteps in the other categories cited above that ultimately led to his resignation.

Avoidance Strategy

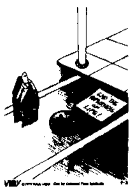
Disclose fully and keep the disclosure current.

10. Veracity—Telling the Truth All the Time

Taking Thomas Dye's definition of public policy as, "Whatever the government chooses to do or not to do," as a guide, then whatever public officials do or not do is part of public policy.[20] This means that whatever a public official says is said within the public trust that goes with that office. When a public official does not speak the truth on governmental matters the lie is not only theirs; the lie is the citizens' as well. Public officials are obliged to tell the truth on government matters all the time.

Clearly there are situations where information must be kept from disclosure, e.g., national security, ongoing investigations, and personal information about citizens. Interestingly, recent rulings by the U. S. Supreme Court found that *false denials* of wrongdoing in public office are not protected by the Fifth Amendment, which protects a person's right against self- incrimination. That is, you have the right to remain silent, but not the right to lie. Even so, in a non-criminal investigation involving employee misconduct, remaining silent may be taken into consideration when meting out penalties for inadvertent missteps.

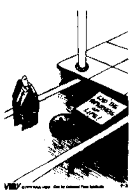
In the end, government employee's information about governmental affairs—or mis-affairs—is something entrusted to you by virtue of the public office you hold. Therefore, it is not unreasonable to expect you to furnish the information when requested by another appropriate government body. In short, such information is not your private property, it belongs to the public.



Example A: Getting the Dirt on Soil Scientists. Two soil scientists for the Department of the Interior were accused of building a fish pond in their supervisor's back yard on government time. This occurred prior to the 1998 Supreme Court decision and there was no penalty for lying. Consequently, they were both able to give false information, and they received only a letter of reprimand rather than 30-day suspensions.

<u>Misstep:</u> Clearly, the major misstep in this case was the building of the supervisor's fish pond on government time. We won't go into the supervisor's role here. That misstep aside, had the soil scientists not lied or remained silent the reduced punishments might still be in order. But lying to investigating government officials is in itself a misstep.

<u>Losses:</u> The problem of government officials lying or refusing to provide information to other government officials investigating missteps regarding the administration of the public's goods is, in itself, a misstep in keeping the public trust. With the new U.S. Supreme Court ruling, the 30-day suspensions can be reinstated because the two soil scientists lied to the investigators.



Example B: Illogic in the Defense Logistics Agency. An official was found to have misused a government credit card. Because of the false information she gave, she was not fired but given a 45-day suspension.

<u>Misstep:</u> Again, the primary misstep was the misuse of the government credit card, for which she could have been fired. However, giving false information to protect herself, she demonstrated complete disregard for the keeping the public trust. Falsifying one's official actions as a public official to avoid more severe penalties is an act of personal interest at the expense of the public's interest.

<u>Losses:</u> The public becomes cynical when public officials can get themselves reduced penalties by lying to protect themselves. Where it is human nature to do so, the losses are greater to the public trust. For the public official, the duty is to provide full information of their public actions. Human beings make inadvertent mistakes, and the public—as human beings themselves—can understand this. Therefore, when a public official makes a mistake, it is best for her/him to admit it and try to recover the public trust through paying the costs and penalties. Otherwise the misstep comes under the rubric of pre-planned errors.

Avoidance Strategy

By now, everyone is familiar with this truth telling dilemma at the Presidential level. There also has been plenty of recent media coverage where top public officials have not spoken the truth to the public's governmental investigators to the point that it has truly become a political issue. You are obligated to tell the truth all the time.

Conclusion

Being above suspicion includes taking care to avoid inadvertent missteps when dealing with the public's property and trust. This includes not only the public's property and monies, but also in how the appointee spends her/his service time and the influence that goes along with the appointee's Office in the Executive Branch of government. This booklet helps the appointee to public office avoid such inadvertent missteps.

You will find that there are abundant resources to inform and train the appointee about the rules and laws that apply to ethical conduct in public office, including:

- Agency level ethics counselors, Chief Financial Officers, Budget Officers, General Counsels, Inspectors General, Procurement Executives, Chief Information Officers, and others,
- Agencies that have special authorities such as the Departments of the Treasury, Justice, and Defense,
- Central agencies (i.e., the Office of Personnel Management, the Office of Management and Budget, the General Services Administration, and the Office of Government Ethics), and
- Organizations outside of the Executive Branch, such as the General Accounting Office, the judiciary, and the legislature.

And, you should listen to all of them!

Those Who Got It Right

"But does mistrust matter?...The honest answer is that we are uncomfortable with uncertainty about something that matters so much—the health of our institutions of democratic governance as we enter a new century."

—Joseph Nye and Philip Zelikow[2I]

You've now seen some examples of those who got it wrong. Would you like to see some examples of those who got it right? Columnist Jeffrey Seglin credits former Lockheed Martin CEO Norman Augustine with offering the following four criteria to apply when considering the *right* course of action:

1. Is it legal?
2. If someone else did it to you would you think it was fair?
3. Would you be content if it appeared on the front page of your hometown newspaper?
4. Would you like your mother to see you do it?[22]

One of the most successful efforts undertaken by government in recent years was known simply as "Y2K." By some estimates, the world collectively spent $600 billion on the topic, and January 1, 2000, rolled into reality with hardly a blip on the computer screen. Operating with a staff of four to as many as ten, President Clinton's Y2K coordinator, John Koskinen, reached out to 25 working groups across the U.S. and 173 nations worldwide.[23] How Koskinen and his teammates accomplished their task is pretty complex, but it helps to have an unmovable deadline, access to anyone in government at any level, and a personal philosophy that favors *telling everyone the truth as you know it, all the time.*[24] Not only did Koskinen "get it right," but he also established a leadership model for the 21' century.

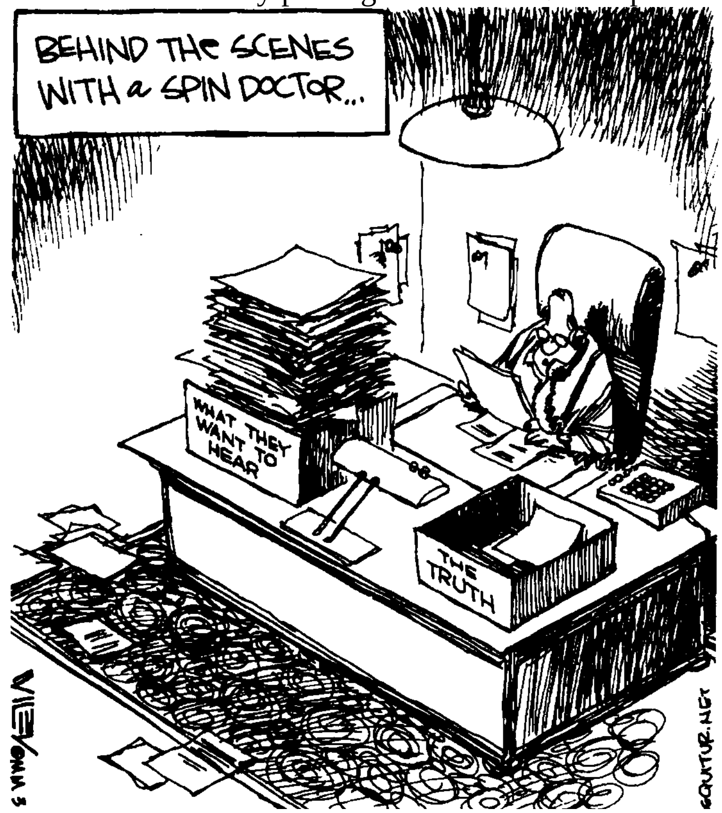
Interior Secretary Bruce Babbitt's agency had won lots of awards, but he didn't get one for dealing with the lease of mineral rights on federal lands! Under the provisions of the antiquated *Hard Rock Mining Act,* which the Administration was trying to change, Secretary Babbitt was informed that he was required to lease gold rights on federal lands to private interests. A change in the law would have brought hundreds of millions of dollars in tax revenue, but Secretary Babbitt was being asked to sign the lease for only $9,000!

Senator Dale Bumpers has referred to this as "Capitol Hill's Longest-Running Outrage."[25] Babbitt "got it right" when he disputed the interpretation of the law and refused to sign the lease. The private sector leaser took the issue to court, which clarified the requirements of the law, and Secretary Babbitt later signed the lease with lots of publicity to highlight the need for changing the law to preclude a reoccurrence of this situation.

Agency heads are confronted with such decision moments all the time, but with little fanfare. Take the case of former astronaut and NASA Administrator Richard Truly. Several years ago, the Johnson Space Center issued a Request for Proposals for computer mainframes. Potential bidders were all well informed of the due date and the need for strictly adhering to the procurement rules. One of the bidders was 15 minutes late in turning in their proposal and was told that it would not be accepted.

Despite the fact that some see government as imponderable, expansive, and almost unknowable, within 48 hours there was a letter sitting on Truly's desk signed by the Chairman of the House Government Operations Committee requesting that the bid be allowed because it would provide more competition. Despite the fact that Truly needed Congressional support for its Space Station initiative, Truly "got it right" when he decided to reject the bid and preserve the integrity of NASA's procurement process.

More recently on Dan Goldin's watch as NASA Administrator, the headline read "Engineers' Lapse Led to Loss of Mars Spacecraft." This was an unsettling headline in the October 1, 1999 *Washington Post.* The media is often blamed for only printing the bad news. Perhaps it's only *just* the news and it's up to us to make what we can of it. Can you imagine, for example, in what other nation in the world the government would own up to such situations? Do you have any idea of what the "lapse" might have cost taxpayers? And for the Jet Propulsion Lab to say no one will lose his or her job, well, this just seems like a prescription for continued forthrightness—for continued *public trust!*



NON SEQUITUR © Wiley Miller. Dist. by UNIVERSAL PRESS SYNDICATE.

The report of the Volcker panel--A *Government to Trust and Respect,* highlighted six suggestions taken from Members of Congress, Presidential Appointees, and Senior Civil Service. Across all three groups of individuals, the No. 1 suggestion was for "better communications/more dialogue."[26]

One of the most often asked questions of federal employees is "what happens if and when we get into trouble—who is going to bail us out?" When confronted by accusations and an investigation by an Inspector General, federal employees are on their own to finance their legal representation no matter how the case turns out. To make moral judgments can put you at some professional and financial peril. But, this is where leadership can make a difference.[27]

The final two stories are of a type that would get little if any visibility, and there are lots of reasons why those who make such choices hope they never do. After all, they achieved the outcomes they wanted, and added visibility could only bring them some grief. Nonetheless, the stories are gutsy and reflect real leadership!

Several years ago, the National Cancer Institute (NCI) made a decision to issue a sole source contract to a firm for the purchase of its first supercomputer. This decision was not accepted by the Department of Health and Human Services' Assistant Secretary who was responsible for issuing the agency a delegation of procurement authority to proceed, and NCI was told to undertake a competitive procurement.

Within days of this notice, the head of the NCI Advisory Board—a nationally prominent CEO of a major international corporation and major contributor to political campaign funds— was on the phone to the White House; calls were also made to the Assistant Secretary by several Congressional Committees. Their thrust was simple: a competitive procurement would be lengthy; time was of the essence; and HHS bureaucrats should not hold up cancer research in the United States and should get out of NCI's hair. The

Assistant Secretary "got it right" when he gave all callers the same story—he would take down their names and refer them to the Federal Bureau of Investigation for trying to influence a public official in the performance of his duty.

A sole source procurement could have been allowed, and it is doubtful that anyone would have said anything because of the power and influence of the NCI and its Advisory Board. But, it was the wrong thing to do. History reflects that the award was made competitively, NCI saved $1 million dollars over what they were prepared to spend, and they got a higher level of technology then they would have otherwise. All of this was accomplished with only a two-month delay in the procurement schedule. More importantly, the effort saved NCI $1 million dollars that they could then spend on biomedical research.

As a result of the 1995 Murrah Building bombing in Oklahoma City, the General Services Administration's printing facilities were damaged and another federal agency volunteered to provide printing services to GSA's customers in the area. Upon hearing of this, the Congressional Joint Committee on Printing

(JCP) reportedly notified the agency to cease and desist providing interim assistance.

Calls made to both the Government Printing Office and the JCP by a National Performance Review staffer were of no avail and assistance and leadership were sought from a senior political official in the agency Secretary's office. She "got it right" by gaining the immediate redirection of the needed interim printing support for the federal agencies in Oklahoma City.

Even though it was a crisis, the needs of the other agencies in Oklahoma City could have been ignored by the volunteer agency—it was not their job to provide the printing services. And, everyone in the printing business across government is aware of the power and influence of the JCP and its history of undertaking investigations of printing operations not managed by the Government Printing Office. However, it was the right thing to do, and the agency senior official had the courage to see it through.

As a footnote, we add here that this is also a case where conflicting laws and regulations continue to create ambiguity. Title 44 of the U.S. Code, has served as the basis for JCP actions to remove funding from agency printing operations. In its *INS v. Chada* ruling, however, the Supreme Court of the United States, found this to be unconstitutional, since a committee of the Congress cannot take away funds granted by the full Congress.

We've discussed several cases of situations that worked out well for almost everyone, but contrary examples exist. Who can forget, for example, the resignation of Elliott Richardson as Attorney General of the United States in October 1993? It would have been easy for Richardson to fire the special Watergate prosecutor as directed by the President. But Richardson "got it right" and refused to do so. Richardson's legacy of service included Secretary of Defense, Secretary of Health and Human Service, and Secretary of Commerce. In 1998 he received the Presidential Medal of Freedom.[28]

To many, we seem to be at a time of leadership crisis across government. Those in government who would be entrepreneurs, however, continue to ask who will support them if and when they get in trouble? Part of the answer, of course, depends on what kind of trouble they get into. But, some help is available in the form of examples of the courage of public officials who "got it right" and whose example is worthy of emulation by others.

We'll assume you have the "right stuff' or you wouldn't have been appointed to the trusted position you've assumed. Now go do the right thing—and do it all the time!

Strategy Checklist for Getting It Right!

1. Misstep: Taking and giving gifts and gratuities.
Avoidance Strategy: Adopt the $20/$50 limit as a mantra during your term of appointment as a public official, period! Simply resolve that taking expensive gifts is not a perk you will have while acting as an official of the government. If you are pressured you need only explain that while you appreciate the giver's kindness, you are a public official and you have an obligation to the public not to accept such gifts. Otherwise, you must pay a fair price for them and document it well.

2. Misstep: Travel expense reimbursements and perquisites.
Avoidance Strategy: Have someone on your staff that is expert in expense reimbursements advise you. There are many murky areas of expense reimbursement and you cannot hope to master them all during your period of political appointment. However, knowledgeable advice can certainly help to assure that your serve a full term.

3. Misstep: Preferential treatment for relatives or friends.
Avoidance Strategy: View a person's status as a citizen deserving of your services, as far more important than their status as a relative or friend. Any friend that insists on preferential treatment is not acting like your friend. The public trusts you not to pay off old personal service debts with public office influence.

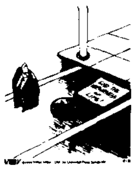
4. Misstep: A back door for former employers or business associates.
Avoidance Strategy: When in doubt, recuse.

5. Misstep: A revolving door to future employers.
Avoidance Strategy: Recuse yourself when there is any chance of the appearance of conflict-of-interest. All that is required is a little vigilance and a conscious care for keeping the public trust.

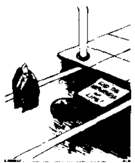
6. Misstep: Questionable honorariums and earned fees.
Avoidance Strategy: Any time there is the possibility of mixing official duties and expenses with monies received for personal activities—don't mix them.

7. Misstep: Use of government staff or property for personal matters.

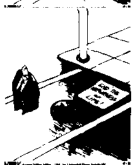
Avoidance Strategy: Avoid mixing government and private activities. Because many of these types of missteps may not be considered as such in the private sector, it would be prudent to have someone on your staff brief you on the accepted practices in your department or agency.



8. Misstep: Misuse of government information or records.
Avoidance Strategy: Government information, whether in document, digital, or privileged and unrecorded should be treated with the security we reserve for money (or as required by statute). By the same token, the public's right to know must be equally regarded and provided upon request.



9. Misstep: Business, stock dealings, and financial disclosure problems.
Avoidance Strategy: Disclose fully and keep the disclosure current.



10. Misstep: Veracity—telling the truth all the time.
Avoidance Strategy: Tell the truth; tell it all the time.

Endnotes

' Citation withheld to protect the privacy of the individual involved.

[2] Nye, Joseph S., Jr., Phillip D. Zelikow, and David C. King, *Why People Don't Trust Government* (Boston: Harvard University Press, 1997), p. 77.

[3] See "BPR Breakdown," *Government Executive*, December 1997.

[4] Taken from Table 5A.1 of NES Guide to Public Opinion and Electoral Behavior. This is a composite of two series: those who trust government 'just about always' and 'most of the time.' Data for 2000 are not expected to be available until March 2001.

[5] The Council indicates that this drop may be a reaction to the impeachment hearings. Further survey work was planned for the year 2000. News Release, "As Year 2000 Elections Near, Americans—Particularly Young Americans—Feel Disconnected From Government, New Poll Finds," Council for Excellence in Government, Washington, D.C., July 12, 1999.

[6] Volcker, Paul A., Chairman, Panel on Civic Trust and Citizen Responsibility, *A Government to Trust and Respect: Rebuilding Citizen-Government Relations for the 21[5'] Century* (Washington, D.C.: National Academy of Public Administration, June 1999).

[7] Fukuyama, Francis, *Trust: The Social Virtues and the Creation of Prosperity* (New York: The Free Press, 1995), pp. 27-28.

[8] *The Washington Post*, March 9, 1963.

[9] Again, we are indebted to the federal Inspectors General who provided us with the news citations from jurisdictions across the nation.
Keeping the Public Trust

[10] See www.analytictech.com/mb021/.*

[11] Michael J. Birkner, "A Coat Cloaks (*) in Scandal; Friendship With Shady Player Brings downfall," *The Concord Online Monitor*, January 11, 1999; www.cmonitor.corril top100_.*

[12] See www.capitoltimes.com/vol2/numl/nation2.cfm.

[13] "The Prohibition on the Use of Appropriated Funds on Gifts," http://www.hq.nasa.gov/office/org/hq/gifts.html.

[14] Kurtz, Howard, "Ethics in Washington," *The Washington Post*, April 27, 1986.

[15] Nye et al, *Why People Don't Trust Government*, p. 55.

[16] Kurz, Howard, "Probe of Trip by FDA Chief Will Continue," *The Washington Post,* March 27, 1983.

[17] Spenser Rich, "(*) Turns Down Nomination for HHS Job," *The Washington Post,* July 11, 1987.

[18] Feldstein, Dan, "NASA Boss—Did He Fly Wrong Stuff?," *The Houston Post,* April 9, 1995.

[19] "Selected Government Ethics Cases," from a Briefing Book for FDIC Chairman, Section 6, 1993, p. 15.

[20] Thomas R. Dye, *Understanding Public Policy, Ninth Edition* (Upper Saddle River, New Jersey: Prentice Hall, 1998), p. 2.

21 Nye et al, *Why People Don't Trust Government,* pp.277-278.

[22] Seglin, Jeffrey, "How to Make Tough Ethical Calls," *Harvard Management Update,* February 2000, p. 10.

23 See *The Many Silver Linings of the Year 2000 Challeng es* (Washington, D.C.: U.S. General Services Administration, 2000).

[24] See Keene, Wallace 0., "Raising the Bar on Public-Private Partnerships," *The Public Manager,* Spring 2000.

[25] Senator Dale Bumpers, "Capitol Hill's Longest-Running Outrage," *The Washington Monthly,* January/February 1998.

[26] The other six were: Improvements in Performance/Process; Political Reforms; Decreased Role/scope of Government; Policy Reform; and Better Media Coverage.

27
Kotter, John, *Leading Change* (Boston: Harvard Business School Press, 1996).

[28] "Council Establishing Richardson Prize for Excellence, Integrity, Creativity in Public Service," Council for Excellence in Government's *E News,* March/April 2000.

- Full citation withheld to protect the privacy of the individual involved.

Authors

Wallace 0. Keene is a Principal with the Council for Excellence in Government and Managing Partner of Keene Ideas, Inc. He has 10 years of private sector consulting and 28 years of federal service, most recently as the Finance Team Leader of the National Performance Review (NPR, 1993-1995). Before joining the NPR, Mr. Keene served as director of information resources management first at the Department of Health and Human Services (1982-1988) and then at the National Aeronautics and Space Administration (1988-1993). Mr. Keene was a contributing author to *Enterprise Government* (Chatelaine Press, 1996) and a co-author with several others of *Positive Outcomes: Raising the Bar on Government Reinvention* (Chatelaine Press, 1999). He teaches courses on reinvention and reengineering for the U.S. Office of Personnel Management, the USDA Graduate School, the GWU Center for Excellence in Municipal Management, and the Institute for Public Private Partnerships (IPPP). He has also published articles in several journals and news media, including *The Public Manager,* where he is currently an Associate Editor. Mr. Keene received his MBA from The American University, where he was also an Adjunct Professor teaching graduate courses for almost a decade in systems/information engineering.

Raymon R. Bruce, Ph.D., an Organization Development (OD) consultant, is an Adjunct Professor with the University of Texas at Arlington working with their Partner Universities in Ukraine, Serbia, and Montenegro. Dr. Bruce is also an adjunct professor with Embry-Riddle Aeronautical University. Dr. Bruce has been an OD consultant to various city, county, state, national and international organizations. He was Special Assistant to the President of the Republic of Palau, during the transition from a U.N. Trust Territory to become a new nation. He was the process historian for the Presidential Transition Team of 1992-93 and served on the **NPR** Franchise Planning Committee. He and his wife Sharon conducted Action Research workshops in the Baltic Countries for the U.S. Baltic Foundation, Inc. in 1994. He was a contributing author to *Enterprise Government* (Chatelaine Press, 1996). Dr. Bruce was a coauthor with Ted Gaebler, Wallace Keene and several others of *Positive Outcomes: Raising the Bar on Government Reinvention* (Chatelaine Press, 1999), co-author with Sherman Wyman of *Changing Organizations: Practicing Action Training and Research* (SAGE Publications, Inc., 1998). He has also published articles and chapters in several journals and books here and abroad. Dr. Bruce received his **Ph.D.** from Virginia Polytechnic Institute and State University in 1992. He received a Master of Science degree in Organization Development from Pepperdine University in 1980. He was a Senior Fulbright Scholar in Lithuania in 1995-96 and a Fulbright Senior Specialist in China 2005, and Sri Lanka, 2006.

WELCOME TO PUBLIC SERVICE. IT CAN BE A DEEPLY GRATIFYING EXPERIENCE, BUT TRICKY! THE RULES OF ENGAGEMENT ARE DIFFERENT THAN ANY YOU'VE EVER SEEN.

Keeping the Public Trust was developed from over 100 newspaper articles from across the country. It identifies 10 of the most common missteps with over 30 specific examples of officials who got themselves into trouble—often just doing what they were accustomed to doing in the private sector or even the Congress—at enormous costs to themselves, their agency, and the administration that appointed them. Also provided are examples of individuals who got it "right." Much is at stake in making the transition into public life. Don't you be a casualty!

"Sticky 'Revolving Door' At Bankrupt Health Plan"
—*The Washington Post*

"U.S. aide's use of staff probed"
—*The Richmond-Times Dispatch*

"Watchdog needs to be watched, lawmaker says"
—*The Times-Picayune*

"RTC nominee violated ethics rules to aid friend"
—*The Washington Times*

Keene Ideas, Inc.
Derwood, Maryland