

Public Integrity and Coal: Introduction and Overview

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Overview

- Why Integrity Matters
- The Playing Field
- Challenges
- Practice

Public Integrity: Why It Matters

- “Greed is Good” => “Follow the Money”
- Context of finance, Public Integrity should matter to:
 - Ratepayers
 - Bondholders
 - Regulators
 - Elected officials
 - Public
- Non-Responsibility, Unclean Hands and Witness Impeachment
- Risk and Trust

Public Integrity: Why It Matters

- Politics by Other Means
 - Ginsberg & Shefter: Revelation, Investigation and Prosecution
 - “whether or not the GOP was ultimately able to destroy Clinton through a tactic of RIP, a sustained political attack left the administration unable to focus on policy issues.”
 - 1990s investigation of sexual harassment in the military by Democrats = a process to “stigmatize and delegitimize an institution that has become an important Republican bastion.”

Public Integrity: Why It Matters

- “[T]he point of manufacturing a Solyndra investigation in the first place — is to embarrass the president. That’s how Washington works...the party out of power gins up phony scandals aimed at hurting the party in power.”
- The Case of Mayor Adrian Fenty
 - Elected in 2006, winning every precinct
 - Washington Post Poll:
 - 67% “brought necessary change”
 - 64% “accomplished a great deal”
 - 59% “moving in the right direction”
 - 39% - 46% “honest and trustworthy”

Public Integrity: The Playing Field

- Federal, State and Local Agencies...and the Private Bar and Investigative Journalists
- Legislative Oversight – Leadership and Lone Wolf
- Auditors – GAO, Elected Auditors and Comptrollers
- Inspectors General – More Prevalent at Federal Level
- Regulators – PSC, but also SEC and FERC and others
- Civil and Criminal Enforcement – U.S. Attorneys, Attorneys General, Local Prosecutors

Public Integrity: The Playing Field

- Opportunity for Civil Action
 - Derivative actions
 - Qui Tam and Federal, State and Local False Claims Act
- Investigative Journalism
 - National and Local Reporters
 - New Media and the Blogosphere

Public Integrity: The Playing Field

- Extraordinary opportunities to develop information to promote a public integrity case: “citizens can now play a much greater role in holding institutions accountable. “
- Information and data that are on-line that would have required years of FOIL requests and research
 - SEC and other Corporate filings
 - Public meeting minutes
 - Court and property records
 - Lobbying, financial and campaign contribution disclosures
 - Internet: Web pages, address and telephone information, Facebook

Public Integrity: Challenges

- Fierce competition for limited resources and outlets
- Limited Resources for Government Oversight
 - Federal IGs: 13,600 FTEs and \$2.2 billion budget to oversee \$3 trillion budget and 2.1 million FTEs
 - Only ten states have IGs with enterprise-wide jurisdiction:
- Decline of investigative reporting, especially newspapers and especially at the local level
 - “It’s going to be a great time to be a corrupt politician.”

Public Integrity: Challenges

- “Shot selection” becomes incredibly important
- Despite improvements in access, nothing is easy or cost-free
 - Limits of FOIL and the need for patience – Investigation of Russell Harding
 - Labor intensive and time consuming – \$200,000 for three part newspaper investigation

Practice

- **Lisa Hamilton, Prairie State Energy**
- **Kerwin Olson, Edwardsport**
- **Robert Ukeiley, EKPC – JK Smith Plant**
- **Larry Shapiro, Cobb EMC**