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### **Ethics in Public Service: An Idea Whose Time Has Come**

**The Honorable Stephen D. Potts  
Director  
U.S. Office of Government Ethics**

#### **Introduction: a New Awareness.**

The great French novelist, Victor Hugo, once wrote that "greater than the tread of mighty armies is an idea whose time has come"<sup>1</sup>. As we approach the beginning of both a new century and a new millennium, there are increasing signs that ethics in public service is an idea whose time has come. We now stand at a point where the environmental movement stood some 30 years ago - on the threshold of a heightened public awareness. In this case, the new awareness is that ethics in public service is crucial to the success of democratic institutions. And this awareness has taken root around the world.

#### **The High Cost of Corruption.**

We are moving toward a global recognition of the devastating effects of public corruption. Most countries of the world now acknowledge the tremendous economic, social and political cost of corruption. In economic terms, corruption misdirects resources and discourages investment by the private sector. A recent study by the International Monetary Fund concluded that high rates of investment by the private sector are linked to low levels of corruption. More recently a study by the World Bank confirmed that conclusion. And in an increasingly competitive global economy, countries can no longer afford the cost of corruption. It simply makes them noncompetitive in world markets. Another study funded by the World Bank indicated that the cost of creating even a small business can be made incredibly high in markets that are infected by corruption. One experiment conducted in Peru demonstrated the enormous costs in terms of illegal payoffs that were incurred to set up a local dry cleaning and laundry business.

Corruption also has significant social costs. Corruption creates a culture of poverty and crime and deprives the neediest element of society of the benefits of government resources. In the late 1960s and 1970s, some social scientists thought that corruption might actually serve a positive function. They argued that certain practices regarded as corrupt might nevertheless allow the lowest stratum of society to gain a foothold in the economy. These theories have been all but completely disproved or discredited. The truth is that the poor suffer the most when government is corrupt. Goods intended for them are siphoned off for illicit purposes. Funds needed for programs to provide for transportation, schools and medical care are misdirected to less socially beneficial ends. Corruption makes it virtually impossible for the poor to lift themselves out of poverty.

Furthermore, the political costs of corruption can be ruinous. Vibrant democratic institutions depend upon the consent and support of the governed. Public confidence is necessary for democratic institutions to be healthy and flourish. Corruption destroys the confidence of people in their government and undermines the very legitimacy of political institutions. In its most pervasive and entrenched forms, corruption can be a source of political instability.

#### **Preventive Systems.**

One way that governments can respond to the presence of corruption is by finding out who the perpetrators are, prosecuting them, and seeing that they are punished. Another governmental response is to prevent misconduct from occurring in the first place by putting systems in place that ensure the integrity of government operations and programs.

In practice, both prevention and prosecution are necessary in order to keep the threat of corruption in check. Without the presence of an effective enforcement system, preventive measures such as codes of conduct may become little more than pious statements. On the other hand, enforcement systems may be overwhelmed if there are no effective preventive measures in place to reduce the burden on investigators and prosecutors.

Strong preventive systems also have the great benefit of avoiding corruption before it occurs. Codes of behavior not only set high standards for public officials. They also reduce the need to invoke the more drastic measures of prosecution, administrative discipline and punishment.

The basic components of any effective prevention program are likely to include 6 elements:

1. a fair and reasonable code of conduct that establishes uniform standards that public officials will be held accountable for;
2. a carefully crafted system of disclosure of financial interests that avoids conflicts and introduces transparency into an official's decision making;
3. an imaginative education program that makes government employees aware of their responsibilities;
4. a regular monitoring system to assure that the quality of these preventive systems is maintained;
5. open channels of communication within government to provide assistance and address deficiencies; and
6. an effective procurement system that emphasizes integrity and fairness.

### **The U.S. Experience.**

Both the preventive and the prosecutorial sides of government ethics have expanded dramatically in the United States since the 1970's. Much of the reform legislation of the last quarter century was spawned by the scandals of the Watergate era. One landmark piece of ethics legislation, the Ethics in Government Act of 1978, created the U.S. Office of Government Ethics to provide overall leadership and policy direction for the ethics program in the Executive Branch.<sup>2</sup> This same law also for the first time established a system of public financial disclosure for senior officials in all three branches of the Federal Government, a system that is a cornerstone of the ethics program today.

The 1978 Act also contained provisions that put in place a procedure for the appointment of an independent prosecutor whenever there is an allegation of misconduct at the highest levels of government. And also in 1978, another law established statutory Inspectors General in the major departments and agencies to provide for an independent investigating office within agencies to deal with misconduct, mismanagement, fraud, waste and abuse.<sup>3</sup>

In 1989, Congress enacted the Ethics Reform Act of 1989.<sup>4</sup> The 1989 Reform Act expanded coverage of the post-employment conflict of interest law so that it applied to Members of Congress and top Congressional staff. This law also expressly authorized all three branches of government to implement a system of confidential financial disclosure.

The legislative and the judicial branches of the Federal Government in the United States have their own ethics programs. In the Congress, each house is responsible for administering its own ethics program. In the Senate, this responsibility resides in the Select Committee on Ethics. In the House of Representatives, it is the responsibility of the Committee on Official Standards of Conduct. Just last year both the Senate and the House amended their respective rules to establish tighter restrictions on the acceptance of gifts.<sup>5</sup> The Congress also passed the Lobbying Disclosure Act of 1995, the first complete overhaul of the lobbying law in nearly 50 years.<sup>6</sup> In the federal judiciary, the Judicial Conference of the United States is responsible for the administration of the financial disclosure system for federal judges and their staffs.

At the level of State government in the United States there are 45 State ethics commissions or committees. These State agencies have a wide range of responsibilities. In addition to administering standards of conduct and financial disclosure, many state agencies also deal with campaign finance and lobbying disclosure. At the local level, at least 12 cities have their own ethics commissions.

### **International Initiatives.**

The current phenomenal growth of government ethics is taking place on a worldwide scale. The consensus on the means of preventing corruption is becoming global in nature. This was certainly reflected in the International Conference on Ethics in Government that was hosted by the U.S. Office of Government Ethics and the United States Information Agency in November 1994. The International Conference was a gathering of 140 delegates from 52 countries, all searching for practical ways of making preventive government ethics programs more effective. There was general recognition among the participants that codes of conduct, financial disclosure and ethics education were keys to effective prevention.

There have been other extremely significant developments that have heralded a new era in government ethics. One of the most notable recent events grew out of the Miami Summit of the Americas in 1994 that was given momentum by the November 1994 Washington International Conference on Government Ethics. This development was the signing of the "Inter-American Convention Against Corruption." This treaty is perhaps one of the least heralded but most vital and important international developments in government ethics. The treaty was signed in Caracas, Venezuela on March 29, 1996 by 21 countries. In June 1996, five more countries, including the United States, signed the treaty.

As we all well know, the difficult work of implementation must now begin. The treaty reflects the virtual unanimity among the

countries of the Western Hemisphere that corruption must be controlled. Some might have thought that such an historic agreement would never be reached because corruption was too entrenched in the Americas. But the treaty has come into being. Moreover, the treaty has teeth. It provides for extradition of persons charged with corruption. It makes transnational bribery illegal. It mandates preventive measures including: standards of conduct, ethics education, an obligation to report corrupt acts, protection for whistle-blowers, public financial disclosure systems, open and equitable systems of government hiring and procurement, and denial of tax benefits for corrupt payments. Finally, the signatory countries agreed to provide mutual assistance to implement the actions required by the treaty.

We, in the Americas, are not alone. There are other significant international developments which include the development of a code of conduct for public officials by the United Nations and the support for and encouragement of uniform ethics rules by the organization of Economic Cooperation and Development (OECD).

There are also a number of significant private sector initiatives to curb corruption both in the United States and internationally including Transparency International, the Ethics Officer Association, the Conference Board and the Defense Industries Initiative.

The Office of Government Ethics has supported this global trend by providing technical assistance in a number of countries. Currently, in South Africa OGE is assisting in the drafting and implementation of a new legislative code of conduct. We have provided training and briefings in Cairo to the Egyptian Administrative Control Authority. We have also visited Ukraine and the Baltic countries of Estonia, Latvia and Lithuania to provide briefings for public officials. We have also briefed visiting delegations from dozens of countries including Korea, Japan and Taiwan.

Finally, gatherings such as the Fifth International Conference on Ethics in Public Service held in Brisbane, Australia in August of 1996 are testimony to the growing dialogue on ethics in the public sector. Conferences on public service, ethics education, values, accountability, and transparency provide the analytical framework and practical experience to assure the progress of this global movement.

### **Conclusion: Future Challenges.**

These developments are certainly reason enough to be cautiously optimistic about the future of government ethics. But they should not lead anyone to believe that the task that lies ahead will be easy. We must do a better job of implementing, not simply writing ethics laws and codes. A key part of an implementation strategy must be to create ethics systems which go beyond mere obedience to rules.

Our ethics systems must not only establish minimal standards of conduct, but also set forth high aspirational goals for public employees. Of course, governments must tell their employees what not to do. But they must also tell employees what they should do. The real challenge is to give not only guidance as to what will not be tolerated but also inspiration as to the values that should guide public service.

There should be no mistake about it. We must be ever vigilant against the threat of corruption. There will never be a day when all temptation will be removed. Nor will there ever come a time when there will be no corrupt acts by public officials. To paraphrase the playwright Bertolt Brecht, do not applaud too soon. The womb is fertile still from where corruption crawled. Corruption is like a cancer on the body politic. Prevention and early detection are the best ways to deal with this disease. Just as it is much better for individuals to take preventive measures in order to maintain good health and avoid more drastic measures such as surgery, so it is better to maintain sound preventive ethics programs in order to minimize the need for more drastic forms of treatment such as criminal prosecution and administrative discipline.

I believe we are ready to make the commitment and have the will to take the actions necessary to curb this insidious disease. The expansion of democracy will be stopped dead in its tracks if we fail in the battle against corruption. Conferences such as this one are the means to renew our resolve to fight corruption and to begin the implementation of preventive programs. It is a task of high importance. The efforts that we make today are a gift to our posterity.

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### **Notes and References:**

[1] Victor Hugo, French author, 1852, *The Book of Political Quotes*, p. 166.

[2] Ethics in Government Act of 1978, Pub. L. No. 95-521, October 26, 1978.

[3] Inspector General Act of 1978, Pub. L. No. 95-452, October 12, 1978.

[4] Ethics Reform Act of 1989, Pub. L. No. 101-194, November 30, 1989.

[5] Senate Resolution 158, Congressional Record S10897, July 28, 1995; House Resolution 250, Congressional Record H13078, November 16, 1995.

[6] Lobbying Disclosure Act of 1995, Pub. L. No. 104-65, December 19, 1995.

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