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# Florida State Association of Supervisors of Elections

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**Mid-Winter Conference 2015**



# Culture of Ethical Responsibility



- Objective, subjective, amoral
- Trust in government (federal level – 75 to 25)
- Florida history (1970s) reforms – transient, frontier state
- Ethical issues & maintaining ethical standards – key challenges for public managers
- Ethical issue can arise any moment with any employee - wide range of situations – records, financial, personnel, vendor, etc.
- Leaders are responsible for creating & sustaining the organizational culture – an ethical environment – all employees understand & internalize the right mission and values – can identify issues deserving of ethical analysis and conduct the correct analysis & arrive at the right decision

# Culture of Ethical Responsibility

- Leaders communicate the culture & propagate it throughout the organization – *by their words & decisions, they make it real for employees* - Leaders are responsible for the organizational culture (Bacharach, 2014)
- ***You are the message!*** (Ailes, 1989) Champion & lead carrier of culture
- You live the culture – exemplify - **hold yourself accountable to the culture you create**
- **All organizations will have a culture – either you create it or it gets created for you - create & maintain a culture of ethical responsibility or get a default culture**
- **Pro-active not reactive – office sets the standard – be the model**



# Culture of Ethical Responsibility



## ***What is organizational culture?***

- ***“Refers to the values, norms, beliefs, and practices that govern how an institution functions.*** At the most basic level, organizational culture defines the assumptions that employees make as they carry out their work.”  
– (CAIB,2003; Sumwalt)
- ***“It is the way we do business here”*** (Saviak, 2014)
- ***“Culture is the organization’s immune system.”*** (Watkins, 2013)
- ***“It’s risky for new leaders to ignore subcultures.”*** (Winkler, 2013)
- **People have personalities. Organizations have cultures. It is the personality of the organization. (Oden, 1997)**
- ***“Organizational culture explains why certain behaviors occur.”*** (Trice & Beyer, 1993; Campbell & Gortiz, 2013)
- ***“If you get the culture right, most of the other stuff will just take care of itself”*** (Hseih)

# Culture of Ethical Responsibility



## *What is organizational culture?*

- **The dominant value system of a workplace** - a strong & well defined organizational culture makes communication easier, can boost productivity, facilitates decision-making, & can create increased cooperation & commitment
- **If successful, everyone should both understand and live the organization's mission, values, & objectives**
- **Employees have internalized the mission and values – it is inscribed upon their hearts**
- **You know when you are in an organization with a distinct organizational culture (shared set of values) – for example, you know when you are in a Ritz Carlton or the right Publix as there is a clear culture of customer service – you know when you are around a group of members of Florida's National Guard or the U.S. Marines – their culture defines them**
- ***Culture explains performance!***

# Culture of Ethical Responsibility

- Organizational cultures can either be **healthy, positive, & productive** or unhealthy and dysfunctional
- You can have a single consistent culture across the entire organization or very different cultures within different departments – the goal is a single healthy positive productive culture across the entire organization!
- *Make sure that your organizational culture is a **positive & productive** one – **healthy & functional** not **unhealthy & dysfunctional***
- ***The right culture facilitates attainment of goals** rather than undermines positive results*
- ***You want to avoid allowing subcultures to exist which run counter to the overall organizational culture (e.g. LAPD Ramparts scandal)***



# Culture of Ethical Responsibility



## Tools to create the right organizational culture include:

- ✓ **Selection** - recruit those who share our values – you hire culture (Rosenberg & Schmidt, 2014)
- ✓ **Strong policies coupled with solid supervision**
- ✓ Establish **training** programs on proper conduct
- ✓ **Effective supervision** – you hired the right folks and trained them to policy – now what? review actions of employees & reward/punish in way that clearly communicates expected conduct - avoid mixed or muddled messages
- ✓ **Promptly & vigorously investigate customer complaints/any allegations of misconduct to protect the integrity of the organization & defend the right organizational culture (immune system)** - have an effective & well respected professional standards office – assures the complaining customer that a good process is in place, can often vindicate the employee, can ensure an employee receives more training/supervision to improve performance (diagnose to treat), can rightfully remove a wrongdoer

# Culture of Ethical Responsibility



## Tools to create the right organizational culture include:

- ✓ **Culture is continuously & effectively communicated through all available channels** – it is written down (Welch) - mission & values statement, workplace vocabulary/language (Google) & visual symbols, all agency communication tools (means of employee and customer communications), modeled by executives (Bacharach, 2014), training/professional development, employee evaluations & promotions, organizational events like the awards ceremony, change champions/culture carriers/leverage influencers (Bacharach, 2014) – the memo from on high never works (Kotter) – even the physical design/layout of the office (accessibility)
- ✓ **Reward and recognize**
- ✓ **Detect and defeat cultural drift (Bacharach, 2014) or subcultures (LAPD Ramparts scandal – The Shield)**
- ✓ **Identify/utilize teachable moments** in the life of the organization to communicate & reinforce organizational values
- ✓ **Measure – we cannot manage what we do not measure!** (e.g. appropriate metrics - are professional standards complaints up or down, misuse of sick leave, employee & customer surveys)



# Culture of Ethical Responsibility

*What are the major values which comprise the culture of ethical responsibility?*

- **Responsiveness**
- **Fairness**
- **Flexibility**
- **Honesty/Trust/Transparency**
- **Accountability**
- **Competence**



# Culture of Ethical Responsibility



## Responsiveness

- *Is government responding to the needs & concerns of citizens in a prompt & professional manner – in a way which delivers value as they define it & makes them feel valued?*
  - ***There should not be a government standard of service***
  - ***Need to measure (Baker – 2 ½ years to fix a sidewalk)***
  - ***Need to design systems & have culture/personnel to optimize responsiveness – evaluate/reward employees on responsiveness***
  - ***Be pro-active - do market research – identify opportunities & customer interest in change*** 1) survey research 2) focus groups 3) town hall meetings
  - ***Embrace the idea of public participation*** – citizens get a vote on policy & administrative decisions too – not that they always decide the outcome of policy or administrative decisions but that they are asked so that administrators can learn what they think
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- ***Foster a culture of customer service – use all tools to create & sustain***

# Culture of Ethical Responsibility



## Fairness

- **To citizens & employees**
- 5<sup>th</sup> Amendment guarantee of due process – ***the idea is to protect citizens from arbitrary actions by government*** – Founding Fathers (Declaration of Independence/U.S. Constitution) - prevent government from trampling your rights without giving you any process to defend yourself or any protection from their actions
- **Procedural due process** – did the citizen receive notice, fair hearing, permitted to bring counsel, & have avenue for appeal? Did agency set forth findings of fact & points of law to explain its decision?
- **Substantive due process** – did government meet its burden to justify taking this action (i.e. pass the applicable test – rational relationship, substantial relationship, strict scrutiny)?
- With **procedural DP**, the court is going to look at the process – did government afford you the process it owes you if it is going to affect your rights?
- With **substantive DP**, the courts are going to examine the substance of the law – does the government have a good reason for doing this?
- **Govt. must adhere to fundamental notions of fairness**

# Culture of Ethical Responsibility



## Flexibility

- **Operate under mandates but we can avoid unnecessary bureaucratic inflexibility**
- Agencies have significant **discretion** – the ability to choose between competing alternatives (license or don't license, issue fine or not)
- Too much discretion can lead to **arbitrariness** – major goal of admin law is to prevent arbitrary decision-making – treat everyone equally and fairly
- Too little discretion can mean **inflexibility** – unable to consider individual circumstances – **need discretion to ensure fairness** (Howard, 2001)
- Relationship between discretion & number of rules – **too few rules and too many rules both produce the same outcome which is too much discretion in the hands of public officials - too little discretion and too much discretion generate the same outcome which is too little fairness** (Howard, 2001)
- Flexibility also means factoring in **local concerns, situational differences, regional considerations** into administrative & policy decisions – **spatially responsive policies**
- ***The key is to strike the balance between one size fits all & individualizing everything for everyone***

# Culture of Ethical Responsibility



## Honesty/Trust/Transparency

- **Low trust societies pay a huge hidden tax** (Fukuyama) – require external measures to confirm the integrity of statements made between parties since no guarantee of shared ethical norms (little trust between parties) – a much less efficient culture in which to conduct the business of the private & public sector
  - **Wilson – internal controls in a society always superior to reliance on external controls**
  - **Why do public officials deceive?** 1) **conceal poor performance** (i.e. falsified DCF reports) 2) **arrogance** 3) **rationalization** – the public can't handle the truth (i.e. sure to create a culture of lying & easy for public officials to try to disguise a personal motive by cloaking it in the public interest – inherent conflict of interest)
  - **A lack of transparency/judgment can carry very large consequences** – for example, had the Clinton White House released Whitewater land deal documents in 1993, probably no big deal but they refused so special prosecutor Ken Starr is appointed & President Clinton is eventually impeached by the U.S. House for lying in 1998 over Lewinsky affair uncovered by Starr's investigation – a major self-inflicted injury which was probably preventable by transparency & good judgment on the front end
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- **Public records/open meetings/pro-active public education efforts**

# Culture of Ethical Responsibility



## Accountability

**Accountability is “answerability”** – someone will be held responsible for a violation of law, policy, rules, or rights

**This is what is killing public trust today! (Congressional hearing - IRS)**

Systems, policies, procedures, culture, employees, & leaders in place who ensure accountability!

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# Culture of Ethical Responsibility



## Competence

- Is the public manager adhering to all appropriate standards for knowledge, skill, & professionalism governing the successful execution of his or her public duties?
- ***Competence goes to performance***
- Some would contend that various values within the public sector can compete or conflict with performance-oriented government
- Enhancing performance might conflict with other values – **getting results might conflict with other values of the public sector**
- **Early 20<sup>th</sup> century – stop corruption, waste, mismanagement – control – rules, policies, professionalization, civil service**
- **Early 21<sup>st</sup> century – prevent those problems AND optimize performance – redesign government to maximize productivity, efficiency, speed, agility, innovation, & pro-active problem solving**

# Culture of Ethical Responsibility



## Competence

### ➤ High-performance government:

1) Govt. should provide high quality services valued by citizens

2) Increase autonomy of public managers

3) Evaluate managers & agencies on their ability to produce results/outcomes

4) Ensure managers have the technological & human resources needed to perform

5) Managers should avoid the “govt. must do it all” mindset & remain open to solving public problems/delivering public services with non-public partners

➤ Could the public trust be compromised as a price for getting results? – what about the rules? the rules are there for a reason

➤ Can't run govt. like a business but does govt. automatically have to be lethargic, less customer-centered, & highly inefficient (VA model)? – can you import the entrepreneurial model into the public sector?

➤ *While recognizing the two sectors are different in some key ways, could we import some of the strengths of the private sector to the public sector - innovation, reward performance/results, efficiency, culture of customer service? YES*



# Culture of Ethical Responsibility

## Acts of Public Misconduct

- **Malfeasance** – actions by public officials which are constitutionally, legally, or morally prohibited – never acceptable (e.g. taking a bribe)
- **Misfeasance** – improper performance of lawful duties - the activity is within the legal scope of the agency's administrative duties but the specific act violates constitutional standards or the public interest (e.g. you use a search warrant authorized for Apartment A to also search Apartment B instead of going back to the judge for the 2<sup>nd</sup> warrant)
- **Nonfeasance** – complete failure to perform legally required duties – don't do a mandated job (e.g. agency fails to follow up on a report of a company violating health/safety regulations – doesn't even bother to investigate)



# Culture of Ethical Responsibility



## Ethical Analysis

*Why should public managers have the ability to conduct ethical analysis of the decisions they are asked to make?*

- 1) **speed** of decision making – understanding what the right thing to do can help us arrive at decisions more quickly
  - 2) increase **consistency** in our decision making
  - 3) help us identify when decisions which might appear to be “value-free” are really **value-laden**
  - 4) we will be **better able to defend our decisions** when questioned in public by doing a solid analysis of all ethical/value concerns involved
  - 5) **it’s a big part of the public manager’s job to deal with ethical issues** – think of all the ethical questions which can arise in public administration each & every day
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# Culture of Ethical Responsibility

## Steps of Ethical Analysis

- **Issue Identification** – recognize & define the issue correctly!
- **Research/Resources** – 1) get all the **facts!** 2) identify **alternatives/options** 3) access **sources of ethical guidance** - constitution, statutory law, policy, case-law, AG/FEC opinion, legal counsel & professional standards office, professional ethical code, professional association (BPs/LLs)
- **Analysis** – honestly & objectively evaluate all competing arguments/relevant criteria on the issues involved & specific alternatives – apply compelling logic to sound evidence – assess ethical values involved - don't make these decisions alone
- **Decision**
- **Final Check** – solid ground – how would this look in the newspaper?
- **Decide, explain, implement, & evaluate/measure**

**Avoid “decision first and rationale second” type decision-making (post hoc rationalization)**

**Good process more likely to produce good decisions**



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# Culture of Ethical Responsibility

## Video Case Studies – Ethics

- Ken Blanchard – It's Always The Leader (3:21)
- General Colin Powell – The Essence of Leadership (2:42)

***Questions?***

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