

# **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**