

Are Politicians Entitled?: Notes From Law Enforcement

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Is It That Bad?

New Jersey: We're Special!

- Lots of Government = Lots of Opportunity
- Corruption: Not just a job for law enforcement
- Our Goal: To demonstrate how government officials, especially those involved in the purchasing or auditing process, are vital to what we do

Before We Begin...

Some Vocabulary:

- Public Officials- including all elected and non-elected government employees, as well as non-government employees who perform a regulatory or enforcement function at the municipal, county and state level
- Corruption- any violation of duties of office for personal gain (e.g., Bribery, Official Misconduct, Unlawful Gifts)

More Vocabulary

- Contract Fraud- ANY false claim for payment on a public contract OR material misrepresentation in the negotiation, award OR performance of a government contract
- Material Misrepresentation- a knowingly false representation that is relevant (not trivial or meaningless) to the governmental body awarding the contract

More Vocabulary

- Conflict of Interest- acting on an official matter where there is an undisclosed personal interest.
- Nonpublic Information- information that is not available to the general public, given to the public official by virtue of his/her position with the intent that he/she keep it secret

Who We Are

New Jersey Division of Criminal Justice

- Office of the Attorney General
- Born 1970 with the New Jersey Criminal Justice Act
- Our Mission: To detect, enforce and prosecute the criminal activity of the State
- Coordinate efforts and resources with local, county and state level law enforcement

Who We Are

New Jersey State Police

- Born 1921

- Committed to protect, preserve, and safeguard the constitutional and civil rights of all citizens through impartial and courteous law enforcement with integrity and professionalism.

- Honor, Duty, Fidelity

Combining Forces

- Corruption Bureaus in Trenton, North Jersey and South Jersey
- We work together – Division of Criminal Justice Corruption Bureau and New Jersey State Police Official Corruption Bureau
- Strength in numbers and areas of experience leads to higher detection
- Detectives teamed with Deputy Attorneys General from the onset of the investigation leads to strong cases

What We Do

- Sources of initial allegations
- Following the evidence wherever it leads
- Perfection doesn't happen overnight – we stay in for the long haul
- Ethical v. Criminal: A Higher Standard.....

Official Misconduct 2C:30-2

- Elements
 - Public Servant
 - Purpose to receive a benefit or inflict harm
 - What are benefits?
 - Benefit can be for self or another
 - Commit an act or refrain from committing an act related to public office
 - Act is unauthorized and actor knows it is unauthorized



Official Misconduct Penalties

- Crime of the 2nd degree if benefit obtained/ sought is \$200 and over; 3rd degree if under \$200
- March 2007- Enhanced penalty of mandatory minimum of 5 years state prison, up to \$150,000 fine for 2nd degree conviction; minimum 2 years for 3rd degree conviction

Penalties Continued

- Both 2nd and 3rd degree convictions carry automatic forfeiture of entire pension
- Forfeiture of public employment and lifetime ban on future public employment

Other Related Statutes...

- Theft (2C:20-3) or Misapplication of Entrusted/Govt. Property (2C:21-15)
- Bribery (2C:27-2)
- Tampering with Public Records or Information (2C:28-7)
- Falsifying or Tampering with Records (2C:21-4)
- Acceptance/Offer of Unlawful Benefit to Public Servant for Official Behavior (2C:27-10 and 2C:27-11)

Government Contract Fraud 2C:21-34

- Knowingly submit a false claim for payment in performance of government contract OR
- Knowingly make a material misrepresentation in the negotiation, award or performance of the contract
- Crime of 2nd degree if the false claim or contract is over \$25,000

Government Contract Fraud Penalties

- State Prison – 2nd degree crime – 5 to 10 years
- Debarment – 10 years for second degree crime; 5 years for 3rd degree crime
- Anticorruption Profiteering Penalty – Up to \$500,000

Are Public Officials Entitled - Danger Signs

- "They owe me" attitude
- A desire to use public position to profit
- A desire to use public position to help family and friends
- A desire to use public position to gain political financial support through the award of contracts

Issues We Face

- Mitigation by the public and witnesses
- Impact of appearances on reality
- Cooperation...or lack of

Who Gets Served in Public Service?

- Motivation: We're going to be rich!!
- Belief in fairness and adherence to the rules
- Experience: Is it good or bad?
- Knowledge + Lack of Supervision=Potential for Problems

Case Study #1

Catherine Gangaware

- Chief Financial Officer
- Control of payroll, including her own
- Unauthorized benefits
- Multiple municipalities
- Breakdown of supervision
- Guilty plea – 3rd degree Theft
- 364 day jail sentence, lifetime ban on public employment, restitution

Case Study #2

Knowlton Board of Education - Kevin Mulligan

- Business Administrator, Knowlton Bd. Of Ed.
- Submitted and paid false invoices, then kept the money – over \$70,000
- Used the money to fund his own drug use, as well as personal expenses, including vacations
- Lack of supervision, lack of internal controls
- Guilty plea – second degree Official Misconduct
- 3 year state prison sentence, forfeiture of pension, lifetime ban on public employment + restitution

Case Study #3

Pension Fraud – John Marion

- Former Waldwick Police Officer
- Claimed disability and retired on disability pension, then immediately started work as a Sheriff Officer in Georgia
- Paid over \$321,000 in disability pension benefits
- Guilty plea – third degree Theft By Deception
- Sentenced to one year in county jail and full restitution

Case Study #4

State v. Joseph Vas

- Mayor, Perth Amboy
- Numerous schemes, including
 - (1) theft of a house to city employee through rigged HUD lottery
 - (2) use of city vendors to do free work at his house
 - (3) Use of city vendor to inflate bills to pay for a reception at the newly completed City Hall
 - (4) use of public funds to pay personal expenses such as eyeglasses, sports camps for family, etc.

State v. Joseph Vas (cont.)

- Guilty plea to multiple indictments
- Aggregate sentence – 8 years state prison with 5 years parole ineligibility
- Cooperation of the local public officials was key to making this case

Case Study #5

Time/Overtime Theft – Alkesh Desai and Harish Bhandari

- NJ Dept. of Transportation engineers
- Overtime abuse and theft of time – falsification of time records
- “Emergency” overtime = joyriding around the state
- Guilty pleas – third degree Theft By Deception
- Each sentenced to one year in county jail, lifetime ban on public employment, restitution

Case Study #6

Bribery - Logan Holt

- Atlantic City Mercantile inspector
- Bribery of various people being inspected
- Captured \$800 bribe on video
- Guilty plea – second degree Official Misconduct
- Five year State Prison sentence with two years parole ineligibility, lifetime ban on public employment, restitution

Case Study #7

Theft of Entrusted Funds – Seaville Volunteer Fire Department

- Chief of Fire Department – Eugene Spiegel
- Theft of over \$44,000 in fire department funds
- Involvement of son and additional theft by treasurer of fire department
- Guilty plea – second degree Conspiracy
- Five year state prison sentence, restitution, lifetime ban on public employment

YOU Are A Line of Defense

- Parallel duties of local officials and law enforcement
- Well-versed in regulations and the adherence to them
- Attention to detail is the key
- How things happened v. how they were supposed to happen
- Eyes and ears of the governmental entity or agency
- This was invaluable in the Vas and Gangaware cases

We Assemble the Puzzle,
You Provide the Pieces

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