Legal Compliance and Window Dressings do not make it Ethical

Jaap Vos
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Jaap Vos, Ph.D.
Associate Professor and Director
Department of Community and Regional Planning
Boise State University
Ethical Program:

- Summary of last year
- Update from Florida
- Update from ethics session at APA in Atlanta
- Update from Amazon
- Update from Jaap’s e-mail
- Update from Harvard
- Update from an obscure meeting room somewhere in Atlanta
- Update from a professor
- An unexpected answer
- Confirmation from the armed forces
A little less than a year ago

IMAGINE YOURSELF IN THIS VERY SAME ROOM
Ethics, ethics rules and professional behavior

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Maintain your AICP ‘Ethics Hours”

• Introduction to the Ethics Code
• Test your retention of the code
• Practice the application of the code
Choose a category. You will be given the answer. You must give the correct question.

Click to begin.
Learning the AICP Code

Is sitting through a one and a half hour lecture about the Code (every two years) going to keep you ethical?
How many allegations of violation?

- 35 total cases
- 22 dismissed
- 1 withdrawn
- 5 settled
- 3 memberships lapsed
- 1 respondent resigned
- 1 respondent died
- 2 cases pending
Ethics according to Jaap:

- Good intended “stupidity”
- Blatant corruption
- The slippery slope
- The colleague that you do not want to work with
Wally, is there any difference between trust and stupidity?

Hold that thought. I'll be right back.

Oh.
Good intentions, good results but what were they thinking?

COOPER CITY, FLORIDA
The stuff that would make J.R. Ewing blush

SOUTH FLORIDA’S CONGA LINE OF CORRUPTION
Corrupt Palm Beach County officials want names cleared

Is the law on their side?

By Jane Musgrave
Palm Beach Post Staff Writer

Six years after former Palm Beach County Commissioner Tony Maslotti led what became a conga line of county officials to federal prison on corruption charges, the majority of those who pleaded guilty and served their time are back in court, protesting their innocence.

One-time influential land-use attorney Bill Boose and Kevin McCarty, husband of disgraced County Commissioner Mary McCarty and a political powerhouse in his own right, are the latest to ask federal judges to throw out their convictions. Former Commissioner Warren Newell has been waiting for nearly two years to find out whether his November 2007 conviction for honest services fraud will be overturned.

Maslotti, who was the first to plead guilty in January 2007 in what became a series of unrelated transgressions by fellow commissioners and others, has repeatedly been thwarted in his quest to have his conviction reversed so he can get his hands on an estimated $10 million worth of land he forfeited as part of his plea deal. In November, the 11th Circuit Court of Appeals in Atlanta denied his request. His ex-wife, Susan, and brother Paul are still trying to persuade the appeals court they shouldn’t have been forced to give up “ill-gotten” cash for Maslotti’s misdeeds.

The Miami-Dade Police Department, assistance of the United States Department of Housing & Urban Development, Office of Inspector General and the Miami-Dade State Attorney’s Office announce the arrest of two individuals on the following charges.
Ken Jenne’s transition from well respected civil servant, to leader in the community, to jail

THE SLIPPERY SLOPE OF ETHICS
Broward Sheriff Ken Jenne agrees to resign, accept plea deal

FORT LAUDERDALE — Broward County Sheriff Ken Jenne resigned after agreeing to plead guilty to federal tax evasion and mail fraud charges after a corruption investigation uncovered crimes in his outside business dealings, federal prosecutors said.

The plea deal came as Jenne faced a possible grand jury indictment on more serious money-laundering charges, and it likely will mean at least a year in prison for the longtime force in state Democratic politics.

Under the agreement, Jenne will plead guilty to three counts of tax evasion and one count of mail fraud conspiracy, U.S. Attorney R. Alexander Acosta said. “Ken Jenne has been a staple of South Florida government for decades. For many years, he served Broward County well,” Acosta said. “But he stayed too long, and in the end, he lost sight of what it means to serve the public.” The total involved in the wrongdoing amounted to more than $80,000, including payments made from sheriff's office vendors to Jenne's secretaries, who arranged for the money to go to his personal accounts. Jenne made his resignation official Tuesday morning in an e-mail to his employees and in a letter to Gov. Charlie Crist.
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Ethics, ethics rules and professional behavior

Ethics training should allow you to reflect on how you behave as a professional planner and if you still do what it takes to serve the public.
My thoughts:

• Ethics are determined by place.
• Ethics are much easier on paper.
• Ethics violations involve innocent bystanders.
Reverend William D. Cooper, Jr.’s thoughts:

Why do good people do bad things? Because they want to. It’s what motivates you. It’s what offers come along. It is where life finds you at the time of the opportunity.

So your personal challenge is take a look at yourself. The challenge for public ethics is in whatever mirror you’re looking that you can honestly say “I can hold the public trust.” That’s where it begins. Looking at yourself in the mirror and being able to answer honestly. If you cannot pass that test, you have to reevaluate what you stand for.
Reverend William D. Cooper, Jr.’s thoughts:

Many of us work in jobs where our jobs are mundane. Many people that we work with, they don’t even know our names.....and we move paper back and forth, and very rarely is your opinion even valued or offered, or in most instances you spend your life work making other people look good. And if you can’t have a level of reward and contentment in serving in that capacity, that makes you vulnerable to be corrupted.
Go back a week, April 24, 2014

IMAGINE YOURSELF IN SOUTH FLORIDA
Partly sunny
83°
RealFeel® 90°

Today
Apr 24
Mostly sunny
Hi 85°
RealFeel 90°

Tonight
Apr 24
Clear to partly cloudy
Lo 73°
RealFeel 72°

Tomorrow
Apr 25
Partly sunny with a shower
Hi 86°
RealFeel 94°

Pleasant Saturday
Robaina’s wife: We didn’t cheat IRS

Raiza Robaina, wife of the former Hialeah mayor, testified that the couple made mistakes on their tax returns but didn’t break the law.

BY JAY WEAVER jweaver@MiamiHerald.com

The wife of former Hialeah Mayor Julio Robaina stood by her man Wednesday, taking the witness stand in the couple’s federal tax-evasion trial to say they did not cheat on their tax returns by hiding $2 million in income from the U.S. government.

Raiza Robaina, 40, said she was responsible for her family’s household finances and tax returns, including interacting with a certified public accountant who did their joint tax returns. She said that she and her husband relied on their accountant, Pelayo Vigil, for filing correct and accurate returns from 2005 to 2010 — the period covered in the couple’s conspiracy indictment.

The Robainas’ defense attorney, David Garvin, asked her whether there were mistakes on the couple’s tax returns.

“Yes, but they were just that — mistakes,” she testified.

Who made the mistakes? Garvin asked.

“The accountant that we trusted to give us the correct information,” she responded.

She then blurted out that the whole ordeal has been “upsetting” because when others make mistakes, nothing happens. “But when we make mistakes, we get indicted.”

Raiza Robaina was called to the witness stand as a crucial witness to her and her husband’s defense. It remains to be seen whether the former Hialeah mayor will follow her as a witness. Both are charged with conspiring to evade paying taxes on unreported income totaling $2 million and filing false tax returns in 2006 and 2007.

The Robainas are also charged with lying to federal authorities about the husband’s involvement in the wife’s two loan businesses, which charged high interest rates to a Hialeah jeweler who was eventually convicted of running a Ponzi scheme. Julio Robaina is also charged with lying to authorities about receiving cash payments from the schemer, Luis Felipe Perez, who is serving a 10-year prison sentence.

On Wednesday, Raiza Robaina portrayed herself as knowing little about taxes back in 2005, the year that her husband was elected mayor of Hialeah. She said that the next year, the couple decided to let her run their loan businesses so her husband could avoid any conflict of interest as mayor.

Raiza Robaina testified that she and her husband did not submit “false or fraudulent” tax returns in 2006 and 2007, and that neither of them lied to Internal Revenue Service agents and federal prosecutors about his involvement in her two loan companies, MR Holdings and RVR Holdings.

Those companies loaned $750,000 to Perez at a 36 percent interest, according to prosecutors. Perez, who hopes to get a sentence reduction, testified last week that he negotiated the terms of the loans with Julio Robaina: 18 percent to be paid in checks, and 18 percent to be paid in cash.

In total, Perez said he paid $600,000 in interest to Julio Robaina, including delivering cash payments to the home of a Hialeah power broker, Rolando Blanco, so the mayor could pick up the money. Blanco’s son, Roberto, also testified about the cash pick-ups, and said he handed some payments to Robaina.

Before trial, prosecutors claimed that the mayor kept the cash payments secret from his wife because he wanted to use that money to spend on a mistress. But no evidence of the alleged mistress has surfaced during the couple’s trial, which began two weeks ago.

At trial, the Robainas’ accountant, Vigil, testified that the Robainas kept him in the dark about loan and real estate transactions that should have been included in their tax returns.
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Ex-Delray official charged in ethics probe

By Jon O’Neill Staff writer

Angeleta Gray, the former Delray Beach commissioner who lost her seat in the March elections, has been charged with two misdemeanors in connection with an ethics probe, the Palm Beach County state attorney said Wednesday.

Gray, 49, was charged with one count of violating the state’s gift law and one count of conspiracy, according to the criminal complaint.

Also charged with an ethics law violation and conspiracy was Gray’s longtime friend and former campaign manager Alberta McCarthy.

The charges stem from a December vote in which Gray and other Delray Beach commissioners voted to hire International Enterprise Contractor to do work for the city. Gray did not disclose her relationship with McCarthy, who worked for International Enterprise as a training director and stood to get a $1,000 a month raise if the company won the Delray contract, according to the complaint.

Investigators also learned that McCarthy had helped pay down a loan Gray had for her business, Top Notch Beauty Spa. The complaint says McCarthy paid $1,201.92 toward the loan’s outstanding balance of $2,439.88, and that Gray never discussed repaying McCarthy. The gift happened before the International Enterprise contract came before the commission.

In addition to her job at International Enterprise, McCarthy also earned $500 a month acting as manager for Gray’s failed re-election bid.

Investigators say that Gray never reported McCarty’s gift, as the law requires, nor did she disclose her relationship with McCarty when the International Enterprise contract came up. Instead, Gray voted to approve the deal.
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Investigators say that Gray never reported McCarthy’s gift, as the law requires, nor did she disclose her relationship with Mc-Carthy when the International Enterprise contract came up. Instead, Gray voted to approve the deal.
Ex-Delray official charged in ethics probe

By Jon O’Neill Staff writer

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Gray, 49, was charged with one count of violating the state’s gift law and one count of conspiracy, according to the criminal complaint.

Also charged with an ethics law violation and conspiracy was Gray’s longtime friend and former campaign manager Alberta McCarthy.

The charges stem from a December vote in which Gray and other Delray Beach commissioners voted to hire International Enterprise Contractor to do work for the city. Gray did not disclose her relationship with McCarthy, who worked for International Enterprise as a training director and stood to get a $1,000 a month raise if the company won the Del-ray contract, according to the complaint.

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Ethics law declared too strict
Elected officials seek to loosen gift ban, other rules in law demanded by voters

By Brittany Wallman Staff writer

Nearly four years after a landmark ethics code became law in Broward County, some commissioners say it’s too strict and needs a rewrite.

The Broward County Code of Ethics, demanded by voters after a series of public corruption scandals, bans elected officials and their family members from accepting freebies from lobbyists or government contractors. But since its inception, the all-out gift ban drew discomfort from elected officials.

"Broward’s seems to be the strictest in the nation," complained Commissioner Lois Wexler. “I don’t know if zero tolerance is anything other than a real trap for elected officials.”

"It’s kind of this concept that every little thing you do, you could be exposed to an ethics violation," said Commissioner Tim Ryan. “I mean, come on.”

Since county officials were forced to self-impose the strict ban, a lonely bottle of water has come to symbolize all they believe is wrong with it. Officials repeatedly complain that the law is so strict, they can’t even accept a free bottle of water.

The county inspector general has not prosecuted any cases involving bottles of water or any other small food or drink item, but elected officials Tuesday said the ban is overkill.

Mayor Barbara Sharief said she’s spent about $15,000 paying her own way to events because of the ethics code. Commissioner Stacy Ritter said she can’t accept a hostess gift of a bottle of wine from dinner guests if they fall under the code, and had to refuse a bottle of water at a Coral Springs 9/11 remembrance event.

Only Commissioner Marty Kiar voiced explicit support for the gift ban.

“If there’s a water, I should buy the water. If there’s a Diet Coke, I should buy my own Diet Coke,” Kiar said. “I wouldn’t want to see that changed.”
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The other side of ethics

IMAGINE YOURSELF IN ATLANTA
Why Ethics?

- Elevate government
- Private sector integrity
- AICP requirements
- APA Ethical Principles in Planning
- Develop skills to apply to everyday situations
  - Not memorizing rules
AICP Code of Ethics and Professional Conduct

- Codes, rulings, and procedures
  - Assist planners in navigating ethical and moral dilemmas
- Sets standards for the profession
- Embodies values of the profession
- Four sections to the Code
  - Principles to Which We Aspire
  - Our Rules of Conduct
  - Our Code Procedures
  - Planners Convicted of Serious Crimes
The Two Sides

**Principles to Which We Aspire**

- **Ideals** to which we are committed
- Not the typical focus of ethics sessions
- Failing to achieve cannot be the basis of misconduct charge
- No disciplinary action

**Rules of Conduct**

- Rules to which we are held accountable
- Generally the focus of ethics sessions
- Violation can lead to charge of misconduct
- Sanctions if found blameworthy – including loss of certification

Source: AICP Code of Ethics and Professional Conduct
The Strength of the Principles

- Espouse a culture of values
  - Rather than individual responses to individual situations

- Shift in Approach
  - Move from
    - “Don’t you dare screw up and put the planning profession at risk, or you’ll suffer the consequences.”
  - Move to
    - “Knowing who we are and what we stand for, what’s the best way to handle this situation?”

Source: Jill Geisler, Work Happiness Education
NOW IMAGINE YOURSELF GOING ON-LINE TO CHECK OUT ETHICS
Making Everything Easier™

Ethics
FOR
DUMMIES

Learn to:
- Demystify the ethical writings of Aristotle, Confucius, and other famous philosophers
- Examine controversial aspects of ethical thought
- Tackle and understand today’s important questions and dilemmas

Christopher Panza, PhD
Associate Professor of Philosophy at Drury University

Adam Potthast, PhD
Assistant Professor of Philosophy at Missouri University of Science and Technology
NOW IMAGINE YOURSELF SITTING SORTING THROUGH YOUR E-MAIL

Wading through the tons of spam you find a little gem
Frank Schnidman <schnidmanf@earthlink.net>
to Bernard, Jeffrey, Kim, Samuel, Diane, Charles, Jeremy, Catherine, Gary, Christopher, David, Pieter, Jorge, DJ, Paul, Kevin, Vivian, me, S

Dear Friends;
This article is worth the time to read and the Harvard site is worth a bookmark.

Frank
CARLA MILLER

HARVARD UNIVERSITY, EDMOND J. SAFRA CENTER FOR ETHICS BLOG

THE EMPEROR'S NEW CLOTHES: A VIEW INTO THE CURRENT STATE OF MUNICIPAL ETHICS
What people get is what happens in their own local governments, the things that affect their lives directly:

• Like lobbyists influencing council members so that a mega-store gets built near a residential area.
• Like the head of a city department using influence to “win” their spouse a million dollar no-bid contract.
• Like taxes going up to pay for out of control pension programs negotiated between unions and politicians.
Turtle approach:
Pull your head in and pretend no problems exist. It’s enough if we comply with the law, and besides, we’ve always done it this way.
Hammer approach:

Characterized by a 40-slide PowerPoint presentation that goes over all of the conflict of interest laws in detail. Copies of the laws are distributed and people sign acknowledgement forms so you can prove “they were told.”
Maintain your AICP ‘Ethics Hours’

- Have somebody talk about the AICP Ethics Code for 1.5 hours
- Practice the application of the code
- Provide proof that you sat through the entire ordeal
- And make sure to add a disclaimer
Addressing Ethics Concerns

- Communicate directly with APA
  - Letter or phone – no email
  - APA Chief Executive Officer as Ethics Officer
- This session is general guidance
  - Not advice on specific situations
This session has been created to provide general education regarding the AICP Code of Ethics. Though examples, sample problems, and question and answer sessions are an important part of illustrating application of the code’s provisions, all certified planners should be aware that “Only the Ethics Officer [Chief Executive Officer of APA/AICP] is authorized to give formal advice on the propriety of a planner’s proposed conduct.” (AICP Code of Ethics, Section C3). If you have a specific question regarding a situation arising in your practice, you are encouraged to seek the opinion of the Ethics Officer.
Jacobus Vos,

Welcome to Boise State University! We are happy that you are a part of our campus community.

Boise State University wants to ensure that new employees receive policy and training information essential to a safe and productive place for students, faculty and staff.

As a new Boise State employee, there are specific documents, policies, procedures, and training that you are required to read, and understand, to help you be successful in your career at the University. In addition, we encourage you to work with your supervisor to become familiar with department policies and procedures specific to your job. The University requires that you complete these tasks within 30 days.

To begin the certification process:
1. Click on the following Compliance Training link (or cut and paste it into your web browser) that will take you to a web page with the policies and training you need to complete: http://hrs.boisestate.edu/td/compliance.shtml
2. Follow the instructions on the page to review the policies and procedures, and complete the mandatory training. It may take an hour or longer to go through all of the sections, so you may stop and later return to the web page, using the same link shown above.
3. After you have read the policies and completed the training, please click on the link located on the web page to go to Bronco Web where you will confirm your compliance certification.

If you are having difficulty accessing this information or completing the process, please contact your supervisor or Noreen Camacho in Human Resource Services at 426-1638 for assistance.

Please complete these tasks within thirty (30) days of initial employment.

Thank you,

Human Resource Services at Boise State
Values approach:

Bring in experts to run seminars on basic ethics concepts. More advanced than just training on the law but ........

it confuses the concept of personal integrity with the institution’s integrity
Reverend William D. Cooper, Jr.’s thoughts:

Can the people trust their government? Well, you are the government. The government is not some big box that rides down on a tractor trailer. The government is made up of people, human beings. Are you trustworthy? Are you a man or woman of your word? It may sound simple. It may sound cliché, but that’s what it boils down to.
Decision-Making Labyrinth approach:

Involves conversations about the law, the stakeholders, and the process used to arrive at a decision. Can involve outlines of how you should make a decision that fill an entire blackboard. But....

Who makes decisions like that? The more complicated a process becomes, the more it can be manipulated by those with special interests.
Window-Dressing Exercise approach:

Roll out an ethics code and appoint local VIPs to a blue ribbon commission, typically connected with a big press release. After a few months, they create an “Ethics Document” with a few rules.
Miller argues that we need a transformational approach based on research about:

• The structures that are best suited to deal with ethics,
• The educational tools that are most effective,
• Who to train, when to train, how often and in what sequence?
A bunch of academics and practitioners sitting in a meeting room about a mile from the conference determining what future planners should know

IMAGINE YOURSELF BACK IN ATLANTA AT THE PAB MEETING
There is some discomfort in the room:

• Old input based curriculum approach versus new accountability based approach
• Strict quality control versus flexible quality improvement
A.3. **Values and ethics**: Values inform ethical and normative principles used to guide planning in a democratic society. The program shall appropriately incorporate issues of diversity and social justice into all required courses of the curriculum, including:

- **Professional Ethics and Responsibility**: appreciation of key issues of planning ethics and related questions of the ethics of public decision-making, research, and client representation (including principles of the AICP Code of Ethics).

- **Governance and Participation**: appreciation of the roles of officials, stakeholders, and community members in planned change.

- **Sustainability and Environmental Quality**: appreciation of natural resource and pollution control factors in planning, and understanding of how to create sustainable futures.

- **Growth and Development**: appreciation of economic, social, and cultural factors in urban and regional growth and change.

- **Social Justice**: appreciation of equity concerns in planning.
The answer was right in front of me for the last year

NOW IMAGINE YOURSELF BEING A PROFESSOR PREPARING
What does it mean to be a graduate student?

It is not just another 48 credits of the same
Perry’s stages in learning:

• **Dualism**
  - There are right and wrong answer to every problem, a student learns the right answers

• **Multiplicity**
  - Diversity of opinion and values are legitimate

• **Contextual relativism**
  - Diversity of opinions, values and judgment are derived from coherent sources, evidence, logic, systems, and patterns allowing for analysis and comparison

• **Commitment**
  - Students take responsibility, draw on significant experience coupled with reflective thought
So the question is why would people be committed to being ethical?

And is it actually about people or are we confusing people with organizations?
The unexpected answer from one of our own

IMAGINE YOURSELF GOING BACK TO THE UNIVERSITY LIBRARY
Systems of Survival

A dialogue on the Moral Foundation of Commerce and Politics
Jane Jacobs explores the morals and values that underpin viable working life. She argues that morals and values are not so much virtues but necessary rules of engagement without which society would not be able to function.
According to Jacobs

Universal Values and Virtues

The commercial moral syndrome

The guardian moral syndrome
But the reasons are surprisingly similar

SUPPORT FOR JACOBS IN AN UNEXPECTED PLACE
The US Military's Ethics Crisis

BY JAMES JOYNER

Soldiers stand at parade rest during the deployment ceremony for the 154th Military Police Company. (Photo: US Air Force/Justin Connaher/Public Domain)

Article originally appeared on The National Interest

Military officers behaving badly have been making headlines. But, rather than a sign of widespread corruption, the fact that they’re being caught and disciplined is an indication of how seriously the profession takes its ethical responsibilities.

From massive cheating scandals with Air Force and Navy nuclear officers and Army National Guard recruiters to generals and admirals abusing the perks of their office or sending wildly inappropriate emails detailing the things they’d like to do with female Members of Congress, the string of reports have many seeing an ethical crisis in the American armed forces.
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Press Secretary: Ethical Lapses Have Hagel’s Full Attention

By Jim Garamone
American Forces Press Service

WASHINGTON, Feb. 5, 2014 – Cheating on proficiency tests at an Air Force missile base and at the Navy’s nuclear propulsion school have Defense Secretary Chuck Hagel concerned that systemic issues may be threatening the health of the force and they have his full attention, Pentagon Press Secretary Rear Adm. John Kirby said today
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**Ethics from a guardian syndrome perspective**
Surveys have shown that the military is among the most respected professions in the United States, and these ethical lapses work against that perception. In his weekly meeting with the service secretaries and service chiefs, the secretary told them that ethical behavior will be on the agenda for these meetings from now on, Kirby said. The secretary believes military and Defense Department leaders must take a step back and put renewed emphasis on developing moral character and courage in the force, he added.
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**Ethics from a guardian syndrome perspective**
Kirby gave reporters a shorthand definition for what moral courage and moral character mean in the military. "That's doing the right thing when nobody is looking," he said. "That's treating people the right way even when they can't do anything for you. It's about the basic ideas of strapping on this uniform every day. And it's what, frankly, keeps a lot of us in."
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Universal values and virtues
Ethics, ethics rules and professional behavior

Some summarizing thoughts
Ethics, ethics rules and professional behavior

Ethical behavior means that you never lose sight of what it means to serve the public.
Ethics, ethics rules and professional behavior

Ethical behavior does not mean that you acted within the AICP code, it means that your colleagues respect you and want to work with you
Ethics, ethics rules and professional behavior

Ethical behavior means that you treat residents with respect, which could lead to a violation of the Broward ethics code.
Ethics, ethics rules and professional behavior

Ethics training should allow you to reflect on how you behave as a professional planner and if you still do what it takes to serve the public and the profession.
Thank you!

Jaap Vos, Ph.D.
Associate Professor and Director
Department of Community and Regional Planning
jaapvos@boisestate.edu
Who represents you?

When a city or county attorney's office does not represent the ethics commission, should that office play any role in an ethics proceeding? I don't believe it should.

But that is what happened recently in Cobb County, GA, according to an article last week in the Marietta Daily Journal. After an ethics complaint was filed against four of the five county commissioners, the county attorney quickly filed a response "asking the ethics board to dismiss the complaint, which she called unfounded and based on non-legal claims."

A city or county attorney's office should not represent officials in ethics proceedings. These are not civil proceedings against the local government that include individual officials as defendants. They are citizen oversight proceedings against individual officials for the alleged breaching of personal fiduciary duties. A city or county attorney's office should tell officials that they must seek private attorneys to represent them. And it should leave the determination of allegations to the ethics commission and its counsel. The city or county attorney's opinion can only harm the ethics process, because the opinion will be seen as biased toward the respondents. If the ethics commission agrees, it will look as if it too is biased toward the county commissioners.
• Thomas Jefferson said that: "When a man assumes a public trust, he should consider himself a public property."