

NUMBERS DON'T LIE; PEOPLE DO - ETHICS

New Mexico's challenges are shaped by the 3 E's: Economy, Education, & Ethics. We will take a look at ethics requirements, best practices, and ethical dilemmas we all typically face in government service.

JAG

JARAMILLO ACCOUNTING GROUP

CLARITY FROM COMPLEXITY

AUDIT, TAX, FRAUD, CONSULTING

www.JAGnm.com



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Audrey is passionate about public service and served eight years as a Board Member in the Moriarty-Edgewood School District and represented NM state-wide and Nationally as President & Master Board Member of NMSBA. This year, she has turned her focus to JAG in order to serve more clients, expanding the firm's fraud and consulting services.

Professionally, she leads in the AICPA's Taskforces on training Young CPAs and Scholarships, has spoken on various topics for the AICPA, NM AGA, NM ASBO, NM GFOA, NMSBA, NM State Auditor, and other organizations.

SPEAKER BIO



Scott Eliason, CPA has been serving NM Governments for almost 25 years and joined Jaramillo Accounting Group LLC (**JAG**) as Partner in 2014. Formerly as Partner at a regional firm and throughout his career in public accounting, Scott has specialized in the audits of Governments across the Southwestern United States. Scott delivers high quality, timely, friendly audit and consulting services to a variety of governmental entities throughout NM. He is an expert in analysis of financial data and fraud discovery.

Scott has trained on various governmental, accounting and auditing topics throughout the Southwest such as: GASB requirements, Leadership training, AICPA Clarity standards, Resolution of findings, A-133/UGG and State Compliance testing, Preparation of Financial Statements, and State Law, Grants, and Budgetary Compliance.

SPEAKER BIO



Disclaimer

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CONTENT

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SUCCESSSES / FAILURES
2. NM REQUIREMENTS / PENALTIES
3. *ETHICS SKIT (AUDITOR / AUDITEE)*
4. SYSTEM CONTROLS
5. PERSONAL DECISION-MAKING

1. INTRO - THE “WHY” *SUCCESSSES / FAILURES*

ACFE FRAUD REPORT TO THE NATIONS ON OCCUPATIONAL FRAUD AND ABUSE

Lack of Anti-Fraud Controls = Higher Losses

Proactive Data
Monitoring/Analysis

\$92,000 with controls vs.

\$200,000 without

Management Review

\$100,000 with review vs.

\$200,000 without

Hotline

\$100,000 with a hotline vs.

\$200,000 without

Fraud (includes
Corruption) in a
Typical Organization

Typical Organization loses 5%
of Annual Revenues to Fraud

The Median Loss from a Single
Case of Occupational Fraud
was \$150,000

But...More than 24% of cases
resulted in losses ≥ \$1m

Governmental Entities

Account for 18.7% of the Victim
Organizations

Local Government 32.3%; State
Government 31.3%; Federal 30.1%;
and Other level 6.3%

Schemes of Highest Risk to
Governments: Corruption 38.4%;
Billing 25.3%; Expense
Reimbursements 15.7%; Non-Cash
14.8%; Skimming 14.0%; Payroll
13.5%

ACFE FRAUD REPORT TO THE NATIONS HOW OCCUPATIONAL FRAUD IS COMMITTED

CORRUPTION

- Conflicts of Interest
- Bribery
- Illegal Gratuities
- Economic Extortion

ASSET MISAPPROPRIATION

- Theft of Cash on hand
- Theft of Cash Receipts
- Fraudulent Disbursements
- Misuse of Inventory and All Other Assets
- Larceny of Inventory and All Other Assets

FINANCIAL STMT FRAUD

- Net Worth / Net Income Overstatements
- Net Worth / Net Income Understatements
- Falsifying Audits
- Non-Disclosure

NM ETHICS 2015 REPORT CARD*

GRADE: **D-** (61%) RANK: 34TH

“ETHICALLY CHALLENGED ON A VARIETY OF FRONTS”

<u>Category</u>	<u>Grade</u>	<u>Rank</u>	<u>Category</u>	<u>Grade</u>	<u>Rank</u>
• Public Access to Info	F	19	• State Civil Service Mgmt	D	14
• Political Financing	F	36	• Procurement	D	38
• Electoral Oversight	D-	33	• Internal Auditing**	B-	17
• Executive Accountability	F	41	• Lobbying Disclosure	F	43
• Legislative Accountability	F	39	• Ethics Enforcement Agencies	F	45
• Judicial Accountability	F	39	• State Pension Fund Mgmt	C-	17
• State Budget Process	C	2			

** NM State Auditor's Office

* The Center for Public Integrity , State Integrity Investigation 2015

TO LEGISLATE OR NOT TO LEGISLATE: MORALS OR ETHICS?*

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“The issue here is ethical conduct,” [former House Speaker Ben Lujan] said of [a] proposed [ethics] commission. “You’re never going to be able to legislate morals.”

“You can’t legislate ethics,” Senator Ingle said. “You either have ethics or you don’t.”

Is this true? **Laws are often passed in the name of “ethics reform”.**

* Excerpts from Erin McSherry, NMDOH General Counsel’s excellent article: **“The Proposed State Ethics Commission Act: Reform for New Mexico’s “WILD WEST” Politics, or Simply a Mirage?”**. (Critiqued a particular bill/proposal made in 2010)

TO LEGISLATE OR NOT TO LEGISLATE: THE DEFINITION* OF ETHICS IS.....

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“1 . . . : the discipline dealing with what is good and bad and with moral duty and obligation

2 A : a set of moral principles: a theory or system of moral values . . .

B : the **principles of conduct governing an individual or a group**

<professional> C : a guiding philosophy D : a consciousness of moral importance . . .

3 : a set of moral issues or aspects (as rightness) . . .”

*Merriam-Webster's Collegiate Dictionary 429 (11th ed. 2003)

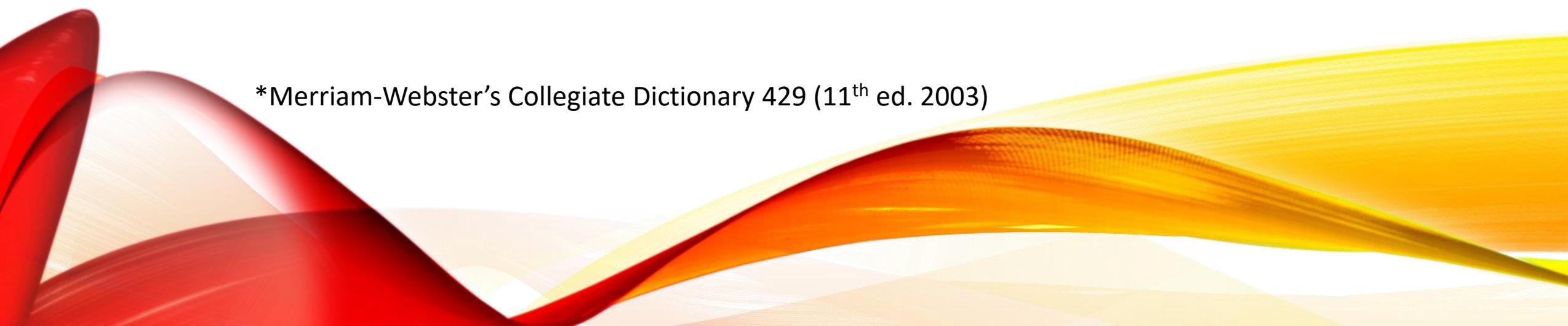
TO LEGISLATE OR NOT TO LEGISLATE: THE DEFINITION* OF ETHICAL IS.....

“1 : of or relating to ethics <theories>

2 : involving or expressing moral approval or disapproval
<judgments>

3 : **conforming to accepted professional standards of conduct**
<behavior> ”

*Merriam-Webster's Collegiate Dictionary 429 (11th ed. 2003)



TO LEGISLATE OR NOT TO LEGISLATE: MORALS OR ETHICS?

- ❑ It is possible to codify the principles of appropriate conduct of a particular group
- ❑ Government ethics legislation is the codification of professional conduct for government officials or public employees
- ❑ Morals* often describe one's particular values concerning what is right and wrong. Usually connotes an element of **subjective preference**.
- ❑ Ethics* can refer broadly to moral principles, one often sees it applied to questions of correct behavior within a relatively narrow area of activity, such as compliance with the law. Tends to suggest aspects of **universal fairness** and whether or not an action is responsible.

*Merriam-Webster's Collegiate Dictionary 429 (11th ed. 2003)

NEW MEXICO'S 3 E'S: ECONOMY, EDUCATION, ETHICS*

“There is a perception in some quarters that this is a state where who you know can trump what you know and how well you do it,” Steinborn said. “And that in itself can be a disincentive to invest in our state.” – Senator Jeff Steinborn

“[An independent political ethics commission] is something that the public has been screaming for to try rebuild their trust in the political system.” – Heather Ferguson, Legislative Director for Common Cause New Mexico.

New Mexico is 1 of only 8 states without an independent ethics body.

We are the only state that doesn't pay lawmakers, so many have other jobs, creating conflicts of interest.

* State Representative Matthew McQueen

NEW MEXICO'S 3 E'S: ECONOMY,¹⁵ EDUCATION, ETHICS

“There are lots of good people in government. Many are working to avoid conflicts. Republican state Rep. Jim Dines doesn't take money from political committees or lobbyists. Dines and Democratic Rep. Bill McCamley reject most gifts from lobbyists.

But our government has a plague. **Corruption hurts economic development and creates other problems.** I have no doubt it contributes to New Mexico being ranked 49th in child well-being.

We've been prosecuting public officials for a decade. We've approved piddly, incremental reforms. We're still plagued by corruption.

Some policymakers want real change but as a whole state government still resists it.

We need to push our government to embrace widespread, systemic reform. Among proposals worth considering are paying legislators and enacting term limits, along with better accountability and transparency laws and beefed-up penalties for wrongdoing.

If we advocate for change, officials who resist are part of the problem and should be replaced. **For the sake of our children, we must end our culture of corruption.”**

- Heath Hassamen, NMPolitics.net; September 9, 2015

NM AGENCIES WITH CODES OF CONDUCT*

* Filed with the New Mexico Secretary of State as of February 6, 2009

- Attorney General's Office
- State Auditor's Office
- Boards of: Respiratory Care Practitioners, Examiners for Architects, Landscape Architects, Optometry, Podiatry, Environmental Improvement, Nutrition and Dietetics Practice, Personnel, Public Accountancy, Nursing Home Administrators, Psychologist Examiners, Thanatopractice
- Border Authority
- CYFD
- Civil Legal Services Commission
- DOT
- EMNRD
- Environmental Improvement Board
- GSD
- Governor & Lieutenant Governor
- HSD
- Labor Department
- LCS
- Massage Therapy Board
- NM Public Utility Commission
- NM School for the Deaf
- State Corporation Commission
- SLO
- STO
- Transportation Authority

CERTAIN NM PROPOSED 2017 LEGISLATION ON ETHICS*

- 2017 Regular Session – HB 501 – Public Corruption Act (*Died in Committee*)
 - Penalties = Forfeit all PERA service credit accrued
 - *McQueen*
- 2017 Regular Session – HB 10 – Public Accountability Act (*Died in Committee*)
 - Creating Public Accountability Board
 - Address complaints
 - Develop a Proposed Code of Public Accountability
 - Require Publication of Certain Reports
 - *Ely, Ivey-Soto, Brown, Montoya*
- 2017 Regular Session – HB 149 – Crime of Audit Obstruction (*Died in Committee*)
 - Intent to deceive, mislead or interfere in audit, special audit, examination, or investigation
 - Records (destroying, concealing, altering), Making or Causing False or Misleading Reports, Impeding OSA or IPAs
 - Penalty = Guilty of a fourth degree felony
 - *Thomson*

NM PROPOSED LEGISLATION AND CONSTITUTIONAL AMENDMENT*

- Joint Resolution Proposing Amend Article 5 of the NM Constitution (*To Voters Gen Elect*)
 - Establish a State Ethics Commission
 - Dines, Steinborn, Small, McCamley, Ely
 - Investigate, adjudicate, and issue advisory opinions
 - Civil violations of law, Governing Ethics, Standards of Conduct and Reporting Requirements
 - 7 Commissioners by Appointment:
 - Governor (1), President Pro tempore Senate (1), Minority Floor Leader Senate (1), Speaker of the House (1), Minority Floor Leader House (1), The 4 Legislatively appointed Commissioners (2, may not be in same party)
 - State officers and employees of the executive and legislative branches of government, candidates or other participants in elections, lobbyists or government contractors or seekers of government contracts

“The way of fools seems right to them, but
the wise listen to advice.” Prov 11:29 NIV

“Extortion turns a wise person into a fool, and
a bribe corrupts the heart.” Eccl 7:7

NEW MEXICO'S CORRUPTION SCANDALS

Former Senator Phil Griego*

- Facing fraud and bribery charges linked to his private commission on the sale of a state-owned building. He maintains his innocence.

Former Secretary of State Dianna Duran*

- Resigned and pled guilty in 2015 to spending campaign funds on a gambling spree.
- In addition to felony and misdemeanor embezzlement and money-laundering charges, Ms. Duran faced counts of tampering with public records, conspiracy and violating the Governmental Conduct Act.

* The Associated Press; March 16, 2017

NEW MEXICO'S CORRUPTION SCANDALS

Former NM TRD Cabinet Secretary, Demesia Padilla*

- Resigned as State Taxation and Revenue Secretary in December after prosecutors raided her agency's offices and seized her personal tax filings amid allegations she gave preferential treatment to a former business client. She has not been charged.

* The Associated Press; March 16, 2017

Former NM State Treasurers, Robert Vigil & Michael Montoya**

- On September 13, 2005 were indicted for extortion and racketeering.
- A jury convicted Vigil for attempted extortion in violation of the Hobbs Act, and sentenced him to 37 months in prison followed by three years supervised release.
- Under a plea, Montoya pled guilty to one count of extortion, and admitted he took bribes "almost since he took office."

** Albuquerque Journal, November 8, 2005

NEW MEXICO'S CORRUPTION SCANDALS

Bernalillo County Metro Courthouse in Albuquerque*

- Former Senate *Pro Tempore* Manny Aragon, former Albuquerque Mayor Ken Schultz, former metropolitan court administrator Toby Martinez, Martinez's wife Sandra Mata Martinez, and metropolitan court project engineer Raul Parra, were accused with collectively skimming \$4,200,000 in public funds off of the \$83,000,000 that financed the construction of the metropolitan court.
- Plea agreements from former Mayor Schultz, courthouse architect Marc Schiff, and courthouse contractor Manual Guara, became public the same day as the indictments.

* Albuquerque Journal, March 30, 2007

Former NM Deputy Insurance Superintendent Joe Ruiz

- Indicted for thirty counts of fraud and corruption.
- Indictments alleged that Ruiz proposed “win-win” options to insurance companies faced with state fines: if an insurance company accepted Ruiz's offer, New Mexico Insurance Department fines would be lowered in exchange for donations to a nonprofit organization that published Ruiz's books

** Albuquerque Journal, August 25, 2007

NEW MEXICO'S CORRUPTION SCANDALS

Former Director NM Region III Housing Authority, Vincent “Smiley” Gallegos*

- NM State Investment Council-purchased bonds were misspent.
- The Council filed a lawsuit against Gallegos.

GRIP (Governor Richardson’s Investment Project)**

- An investigation into the Richardson administration inquired whether the selection of certain financial advisors for GRIP, who had also donated funds to Richardson-founded political action committees, “Moving America Forward” and “Si Se Puede!” was in accordance with applicable procurement laws.

* Albuquerque Journal, January 15, 2009

** Heath Haussamen, NM Indep. January 9, 2009

NEW MEXICO'S CORRUPTION SCANDALS

Former NM PRC Commissioner, Jerome Block, Jr.*

- Indicted for criminal violations of the New Mexico Election Code and Campaign Act, tampering with evidence, and embezzlement.
- His father (a former public regulation commission commissioner) was also indicted for violations of the election code and tampering with evidence.

* State v. Block, No. D101CR200900138, April 8, 2009

Former Jemez Mt School District Business Manager, Kathy Borrego**

- Special audit reveals over \$3.3m embezzled from the District from January 2002 through June 2009.
- 538 checks were removed from blank check stock and made payable to the her and other persons. Signatures were forged.
- Facing 41 ½ years in prison and a fine of up to \$54k, she took her own life.

** OSA release Aug 14, 2009 / Abq Journal May 8, 2010

NEW MEXICO'S CORRUPTION SCANDALS

Former Santa Fe County Sheriff, Greg Solano*

- Special audit identified an estimated \$73k of County assets sold on EBay, including 114 stolen bullet proof vests.
- “For the rest of my life I’ll keep saying I’m sorry because I don’t know what else to do,” Solano said, often weeping before the judge.
- “As long as public corruption outweighs the consequences of that corruption, it will never stop,” Matt Chandler, Special Prosecutor

* OSA release July 8, 2011 / Abq Journal Sept 10, 2011

Municipalities’ Utility Billings – Alamogordo, Moriarty, Jal**

- Special audits were required
- Lack of internal controls
- Accusations of unfair practices and favoritism in billing.
- Additional concerns regarding the tampering of meters and possible fraudulent billings.

** OSA releases: June 12, 2015 / Nov 4, 2015 / Mar 3, 2017

NEW MEXICO'S CURRENT SCANDALS

Former NMCD Deputy Cabinet Secretary, Alex Sanchez*

- Apparent conflict of interest for Sanchez waiving at least \$20k in fees owed by Lucky 8 TV, LLC to the Corrections Dept in June 2016 after having left the company's employ just three months earlier.
- GCA Section 10-16-1 through 10-16-18, the Department's Code of Conduct, and the Anti-Donation Clause Article IX Section 14 NM Constitution were referenced

Office of the Superintendent of Insurance**

- Audit released shows many internal control weaknesses.
- Audit issued a Disclaimer opinion.
- \$200m was not collected from insurers between 2010 and 2015.
- Special audit of the tax revenue collection at OSI is still ongoing.

* Audit Finding 2016-005 NMCD OSA website

** Audit of OSI OSA website/ NM Policial Report Feb 22, 2017

“Government must continue to do a better job accounting for programs that are supposed to assist the most vulnerable citizens of our state.”

--Current NM Attorney General, Hector Balderas when NM State Auditor

NUMBERS DON'T LIE; PEOPLE DO – ETHICS

2. NM REQUIREMENTS / PENALTIES

WHAT IS REQUIRED?

- NMAC / NMSA
- Associations' Codes of Ethics (AICPA, AGA, ACFE, etc.)
- Industry Codes/Licenses
- Regulations (Oversight agencies)
- Policies and Procedures
- Confidentiality vs. IPRA
- Contracts/Agreements
- Compliance with laws regulations, grants, agreements

NM GOVERNOR'S CODE OF CONDUCT

- April 25, 2011 Governor Susana Martinez issued a Code of Conduct applicable to all employees within the executive service.
- Roles as public servants of the citizens of the State of New Mexico
- Requirements of
 - NM Governmental Conduct Act (Ch 10, Article 16 NMSA 1978)
 - Financial Disclosure Act (Ch 10, Article 16A NMSA 1978)
 - Gift Act (Ch 10, Article 16B NMSA 1978)
 - Lobbyist Regulation Act (Ch 2, Article 11 NMSA 1978)
 - Procurement Code (Ch 13, Article 1 NMSA 1978)
- Upon hire and in January of each year, Classified Employees acknowledge receipt, review and understanding by signing the form.
- This form is required to be retained within each employee's personnel file within each department.

NM GOVERNMENTAL CONDUCT ACT³¹

The Governmental Conduct Act NMSA 1978 Section 10-16-2(I): “Public employees” include employees of local governmental agencies, officers, elected or appointed officials, and those eligible to receive per diem or mileage.

Public officers and employees shall not:

Section 10-6-3(A,B,C): Public employment or office is a public TRUST. **Officers and employees must maintain integrity and high ethical standards.** They may not use their position to advance personal or private interests, and must disclose real or potential conflicts of interest.

Section 10-16-2(I): May not offer, request or receive any money or thing of value in exchange for performance of an official act, or take official act which primarily enhances personal financial interest. Imposes 4th degree felony penalties, Sections 10-16-3D and 10-16-4A.

Section 10-16-3.1C Use or allow use of governmental property for unauthorized purposes.

Section 10-16-4B,C Engage in an official act directly affecting personal financial interest (unless greater benefit accrues to the public) or acquire financial interest which will be affected by the officer’s or employee’s official action.

NM GCA VIOLATION CONSEQUENCES³²

Possible Governmental Conduct Violations include consequences such as:

1. Other than those prohibitions which carry felony sanctions, violation of the Act constitutes a Criminal misdemeanor (max \$1,000 or Imprisonment of up to 1 year or Both)
2. Discipline, Dismissal, Demotion, or Suspension
3. Attorney General may enforce Civil penalties (\$250 per violation up to \$5,000)
4. Basis for Recall efforts of board members from alleged violations
5. Section 10-16-3.1 Official Acts for personal financial interest – Knowing and willful violation is a 4th degree felony

OUTSIDE SOURCES OF INCOME

SB 432 – 2011 NM Legislature – 7/1/2011 Governmental Conduct Act Amendments, Disclosure of Outside Employment, Section 10-16-4.2 states: “All public officers or employees must disclose in writing to the employer all employment engaged in by the officer or employee, other than the employment with or service to the Public Employer.”

Per NMSA 1978 Section 13-1-57 Procurement Code Restrictions Employees: “Financial interest” means officer, director, trustee, partner, or management position or more than 5% or more ownership interest.

Per NMSA 1978 Section 10-16-4.1, public officers and employees shall not “receive payment or honoraria exceeding \$100, exclusive of per diem, mileage and lodging, for speeches or services related to performance of official duties.”

AUDITS EXTEND PROCEDURES TO ABUSE

NM State Audit Rule 2.2.2.10 K Possible violations of criminal statutes: GAGAS 2011 Revision, paragraphs 4.06 to 4.08 – audits extend procedures to abuse – behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable/necessary business practice. Abuse can also be the misuse of authority or position for personal financial interests or those of a close family member or business associate.

FRAUD

NMSA 1978

30-16-6

Consists of the intentional misappropriation or taking of anything of value which belongs to another by means of fraudulent conduct, practices or representations.

LARCENY

NMSA 1978

30-16-1

Consists of:

- A) Stealing of anything of value that belongs to another.
- B) Whoever commits larceny when the value of the property stolen is two hundred fifty dollars (\$250) or less is guilty of a petty misdemeanor.
- C) Whoever commits larceny when the value of the property stolen is over two hundred fifty dollars (\$250) but not more than five hundred dollars (\$500) is guilty of a misdemeanor.
- D) Whoever commits larceny when the value of the property stolen is over five hundred dollars (\$500) but not more than two thousand five hundred dollars (\$2,500) is guilty of a fourth degree felony.
- E) Whoever commits larceny when the value of the property stolen is over two thousand five hundred dollars (\$2,500) but not more than twenty thousand dollars (\$20,000) is guilty of a third degree felony.
- F) Whoever commits larceny when the value of the property stolen is over twenty thousand dollars (\$20,000) is guilty of a second degree felony.

EMBEZZLEMENT

NMSA 1978

30-16-8

Consists of the embezzling or converting to his or her own use of anything of value with which he or she has been entrusted, with fraudulent intent to deprive the owner thereof.

FORGERY

NMSA 1978

30-16-10

Consists of:

- A) falsely making or altering any signature to, or any part of, any writing purporting to have any legal efficacy with intent to injure or defraud; or
- B) knowingly issuing or transferring a forged writing with intent to injure or defraud. “Legal efficacy” is a writing which could be made the foundation of liability, that would apparently operate to the legal prejudice of another. We usually think of forgery as altering a document for financial gain but it can also be “any document required by law to be filed...or necessary...to the discharge of a public official’s duties.”

FALSE PUBLIC VOUCHER

NMSA 1978

30-23-3

Consists of:

Making or permitting false public voucher consists of knowingly, intentionally or willfully making, causing to be made or permitting to be made, a false material statement or forged signature upon any public voucher, or invoice supporting a public voucher, with intent that the voucher or invoice shall be relied upon for the expenditure of public money.

Whoever commits making or permitting false public voucher is guilty of a fourth degree felony.

INTERFERING WITH PUBLIC RECORDS

NMSA 1978
30-26-1

Consists of:

- A) knowingly altering any public record without lawful authority;
- B) any public officer or public employee knowingly filing or recording any written instrument, judicial order, judgment or decree in a form other than as the original thereof in fact appeared;
- C) any public officer or public employee knowingly falsifying or falsely making any record or file, authorized or required by law to be kept;
- D) any public officer or public employee knowingly issuing or causing to be issued, any false or untrue certified copy of a public record; or
- E) knowingly destroying, concealing, mutilating or removing without lawful authority any public record or public document belonging to or received or kept by any public authority for information, record or pursuant to law.

Whoever commits tampering with public records is guilty of a fourth degree felony.

BRIBERY

NMSA 1978

30-24-1

Consists of:

- A) Giving or offering to give, directly or indirectly, anything of value to any public officer or public employee, with intent to influence such public officer or public employee's decisions, opinions, votes, duties, favor, etc.
- B) Demanding or receiving bribe by public officer or public employee consists of any public officer or public employee soliciting or accepting, directly or indirectly, anything of value, with intent to have his decision or action on any question, matter, cause, proceeding or appointment influenced thereby, and which by law is pending or might be brought before him in his official capacity;

Whoever commits bribery is guilty of a third degree felony and upon conviction thereof such public officer or public employee shall forfeit the office then held by him..

INTIMIDATING A WITNESS

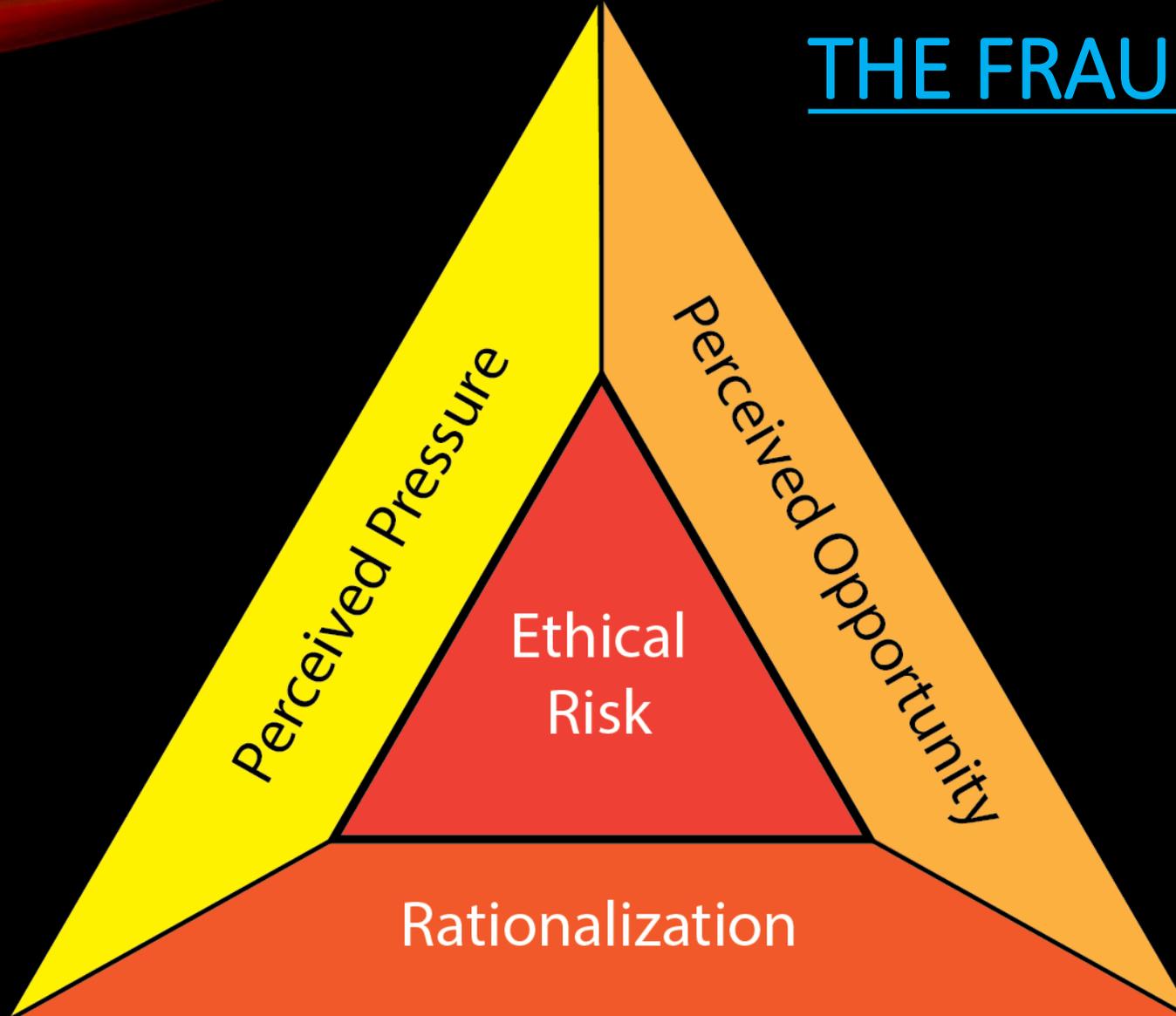
NMSA 1978
30-24-3

Consists of:

- A) intimidating or threatening any witness or person likely to become a witness in any judicial, administrative, legislative or other official cause or proceeding for the purpose of preventing such individual from testifying to any fact, to abstain from testifying or to testify falsely; or
- B) intimidating or threatening any person or giving or offering to give anything of value to any person with the intent to keep the person from truthfully reporting to a law enforcement officer or any agency of government that is responsible for enforcing criminal laws information relating to the commission or possible commission of a felony offense or a violation of conditions of probation, parole or release pending judicial proceedings.

Whoever commits bribery or intimidation of a witness is guilty of a third degree felony.

THE FRAUD TRIANGLE



NUMBERS DON'T LIE; PEOPLE DO – ETHICS

3. ETHICS SKIT (AUDITOR / AUDITEE)

ETHICS SKIT

THE CAST

- Narrator
- Auditee HR Director– “Political Paula”
- Auditee Superintendent – “Fraudster Frank”
- Auditee Business Manager – “Goody 2 Shoes George”
 - Auditee Accountant – “Lazy Lisa”
 - Audit Partner – “Protective Pedro”
- Staff Auditor – “Same As Last Year - SALY”

ANY SIMILARITY TO ACTUAL PERSONS OR EVENTS IS MOSTLY COINCIDENTAL.

ETHICS SKIT (AUDIT)

QUESTIONS

1. What Ethical dilemmas did the characters face?
2. What Statutes, Laws, Regulations, Policies & Procedures were broken?
3. What Governmental or Other Audit and Accounting Standards were broken?

NUMBERS DON'T LIE; PEOPLE DO – ETHICS

4. SYSTEM CONTROLS



SAFEGUARDS FOR ETHICAL DECISIONS

Transparency vs. Hiding

Ethical Decisions Flow Chart

Training

Don't Covet / Follow Self-Interests

Run it Up the Chain

Have an Audit Committee Charter & Be Active

SLOW-DOWN

Seek wise counsel

SAFEGUARDS FOR ETHICAL DECISIONS

COSO FRAMEWORK

Monitoring

Control Activities

Risk Assessment

Control Environment

Information & Communication



SAFEGUARDS FOR ETHICAL DECISIONS

INTERNAL CONTROLS

PREVENTATIVE

DETECTIVE

CORRECTIVE



SAFEGUARDS FOR ETHICAL DECISIONS

INTERNAL CONTROLS

ACCESS; NOT JUST DUTIES

TRUST BUT VERIFY

SEGREGATION OF DUTIES

DUAL / IT / COMPENSATING CONTROLS



SAFEGUARDS FOR ETHICAL DECISIONS

TONE FROM THE TOP

CODE OF ETHICS

SELF-AWARE LEADERS

TRANSPARENCY

REPORTING SYSTEM/HOTLINE

JOB EVALUATIONS

ACCOUNTABILITY



SAFEGUARDS FOR ETHICAL DECISIONS

INTERNAL AUDIT POSITIONS

- Protect Assets
- Improve Efficiency/Effectiveness
- Increase Financial Reliability/Integrity
 - Ensure Compliance
 - Establish Monitoring
 - Independent Reviews
- Fraud Prevention/Detection
 - Pay for Themselves



NUMBERS DON'T LIE; PEOPLE DO – ETHICS

5. PERSONAL DECISION-MAKING

NUMBERS DON'T LIE; PEOPLE DO – ETHICS

"Even the most rational approach to ethics is defenseless if there isn't the will to do what is right."

--Alexander Solzhenitsyn

"Whoever is careless with the truth in small matters cannot be trusted with important matters."

--Albert Einstein

PERSONAL DECISION-MAKING



DON'T PROTECT

We are family but we cannot over-protect.

All actions have consequences.
We shouldn't take away other's opportunities to learn/grow.



DON'T COVET

This leads to jealousy, envy, bitterness, greed, and other character flaws.

Practice contentment and gratefulness.

Practice being happy for others.



DON'T LIVE ON FAVOR SYSTEM (DEBITS/CREDITS)

Law of Reciprocation does exist fine.

Just watch to not cross the line of ethics.

PERSONAL DECISION-MAKING



DON'T IGNORE / BELIEVE EXCUSES

Classic warning signs are excuses.

Don't ignore your gut / instincts. You are likely right.



DON'T TAKE A "BRIBE"

Bribes can be anything.

Even avoiding conflict or negative consequences for yourself.



DON'T GIVE UP YOUR OWN VALUES/MORALS/ETHICS

Do not give into another person's views without carefully thinking this through and seeking wise counsel.

"The only thing necessary for the triumph of evil is for good men to do nothing." – Edmund Burke

PERSONAL DECISION-MAKING



DON'T STAY ADDICTED

Get help for anything you cannot stop doing after having tried unsuccessfully or may need to address in your life or in your family's life.



DON'T RATIONALIZE

WARNING – if you find yourself finding reasons to justify something you know to be wrong, STOP.

Keep your conscience sensitive.



DON'T GIVE INTO PRESSURE

Keep your Emotions in check. Wait before making any decisions.

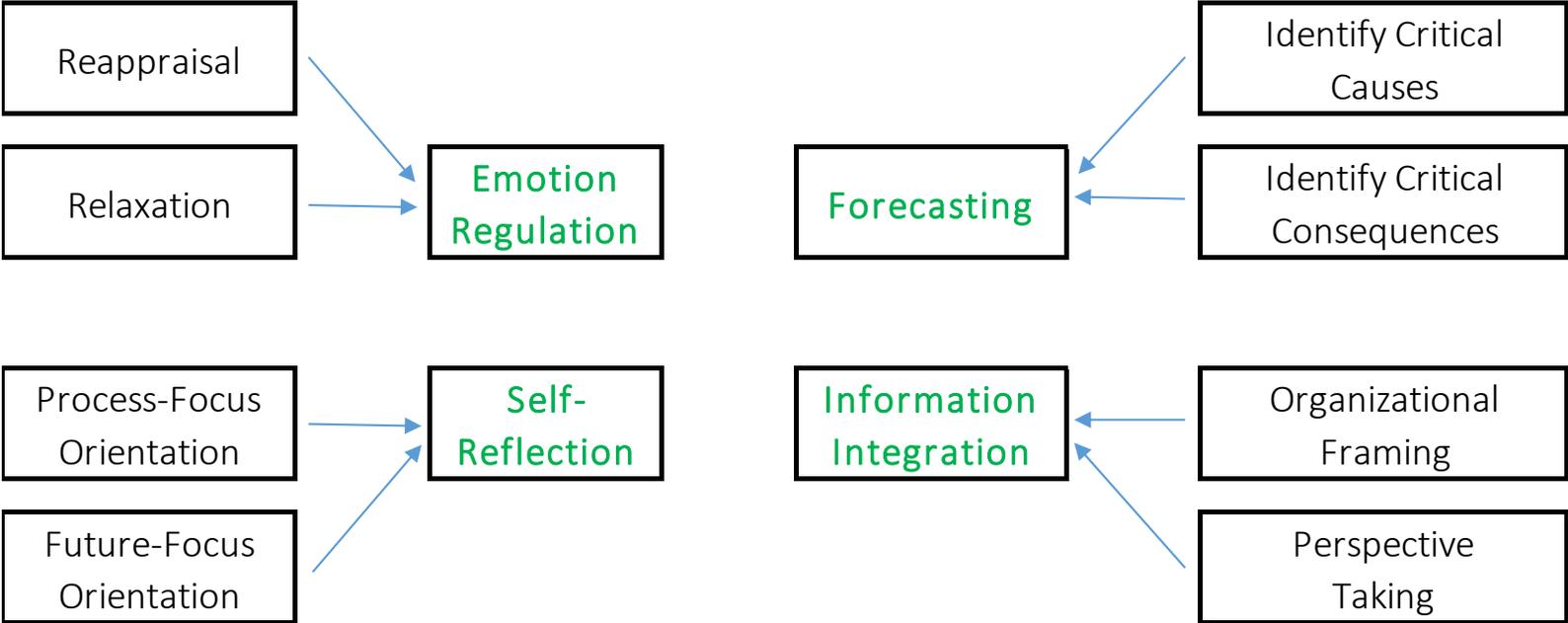
Relax, take your time!

The problem and solution can wait.

ETHICAL DECISION MAKING MODEL

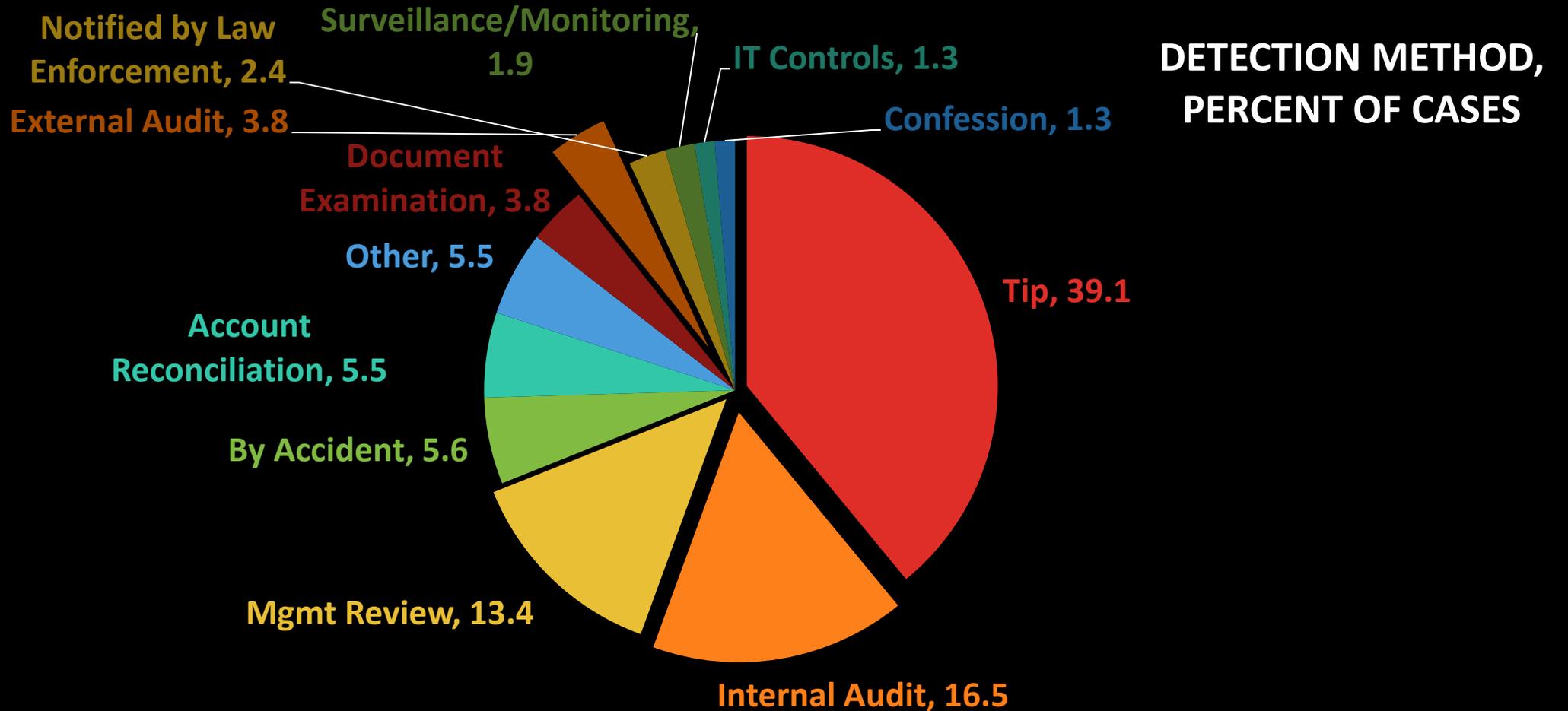


LEADER SENSMAKING STRATEGIES



ACFE FRAUD REPORT TO THE NATIONS

DETECTION OF FRAUD SCHEMES (2016)



NM WHISTLEBLOWER PROTECTION ACT (HJC/HB 165)

- Public Employees
- Prohibits Public Employer Retaliatory Action
- Creates a Right to Civil Action for Damages (within 2 years)
- Reinstatement w/same Seniority
- 2X Back Pay with Interest and Compensation for any Special Damage
- ER must pay EE's litigation costs and attorney fees
- ER Defense: EE misconduct, poor job performance, RIF, or other legit purpose
- E. "unlawful or improper act" means a practice, procedure, action or failure to act on the part of a public employer that: (1) violates a federal law, a federal regulation, a state law, a state administrative rule or a law of any political subdivision of the state; (2) constitutes malfeasance in public office; or (3) constitutes gross mismanagement, a waste of funds, an abuse of authority or a substantial and specific danger to the public.



NM ATTORNEY GENERAL'S OFFICE

Complaints may be made through the OAG website by clicking a link online here: <http://www.nmag.gov/file-a-complaint.aspx>

Or by calling 505-717-6500 (govn. corruption or fraud)

Or by speaking to an advocate at 1-505-717-3500



NM STATE AUDITOR'S OFFICE SPECIAL AUDITS & INVESTIGATIONS

Reports may be made anonymously through the OSA Hotline by clicking the link online here:

https://www.saonm.org/special_audits_investigations

Or by calling 1-866-OSA FRAUD (1-866-672-3728)

Or by speaking to an investigator at 1-505-476-3800



"Keeping a light shined on ethics is critical to making sure the public can count on its own government. The 'tone at the top' sets up what kind of accountability you'll find throughout an agency. With ethical leadership, you'll find government serving its mission to the taxpayers. Without ethical leadership, you might find fraud, waste and abuse that must be rooted out, even at the very top."

Tim Keller, New Mexico State Auditor



COWBOY ETHICS

LIVE EACH DAY WITH COURAGE

TAKE PRIDE IN YOUR WORK

ALWAYS FINISH WHAT YOU START

DO WHAT HAS TO BE DONE

BE TOUGH, BUT FAIR

WHEN YOU MAKE A PROMISE, KEEP IT

TALK LESS & SAY MORE

REMEMBER THAT SOME THINGS ARE NOT FOR SALE

KNOW WHERE TO DRAW THE LINE

RIDE FOR THE BRAND

--Governor Garrey Curruthers

CONCLUSIONS

- *It is HARD to do the right thing sometimes, but EASIER in the long run.*
 - *Be COURAGEOUS and tenacious.*
 - *The decision to not make a decision is making a decision.*
- *“Do to others as you would have them do to you.” Luke 6:31 NIV*
 - *Numbers are amoral.*
- *Remember, there are CONSEQUENCES to all actions, all paths.*
 - *The Three E’s: Economy, Education, Ethics!*
 - *We want New Mexico to grow and thrive.*