Chapter 16: among other things, a story of how external and internal controls failed, for decades.

**Lecture goals:** Having discussed various ethical conundra (spell check doesn’t like this plural form of conundrum, but I don’t care: it looks cool) over the past few weeks, we now turn to systems of control. This is often seen as composed of two options: internal and external. By internal is meant either the moral autonomy (to use Jos’s term from week nine) of the administrator, or rules internal to the agency. By external we mean rules imposed on the agency by legislation. **Week four**, again, introduced this apparent dichotomy:

“Kernaghan elaborates on this in a practical sense, in terms of a famous debate between Friedrich and Finer regarding the importance of external (relying on objective responsibility) versus internal (relying on subjective responsibility) controls:

- “Finer placed primary faith in controls and sanctions exercised over officials by the legislature, the judiciary, and the administrative hierarchy…” (1973, p. 575).
  - He later identifies, as an example of how this might work, Lowi’s call for a requirement that legislation be “accompanied by clear standards of implementation” (p. 579), in an effort to reduce the scope for discretion.
- “Friedrich relied more heavily on the propensity of public officials to be self-directing and self-regulating in their responsiveness to the dual standard of technical knowledge and popular sentiment” (1973, p. 575).

Kernaghan then sums up the debate later in his article:

“The strength of Finer’s approach lay in his recognition of the continuing need for political controls over the bureaucracy. Its primary weakness lay in his failure to anticipate the inadequacy of these controls to ensure administrative responsibility in a period of ever-accelerating political and social change. The strength of Friedrich’s argument rested on his
awareness of the deficiency of solely political controls. Its major weakness lay in the
difficulty of reconciling conflicts between the two criteria of technical knowledge and
popular sentiment” (Kernaghan 1973, p. 577).

Cooper’s take on it:

• External controls: “The typical American response to the discovery of breaches of ethical
conduct is to adopt new legislation, make new rules, or issue new regulations. And
perhaps the second common recourse is to rearrange the organizational structure or create
new organizations to establish more careful monitoring” (p. 149).

• Internal controls: “Still, we sometimes, although less often, witness a different response
to ethics scandals: an attempt to cultivate and strengthen the professional values and
standards of people in public service through training and professional socialization” (p.
150).

Finally, despite the dichotomous nature of the discussion so far, note Cooper’s comments on
page 151: the question isn’t a smack down between two competing and contradictory approaches
to managing ethics. Instead, the question is how much of the one, and how much of the other to
rely on. Well duh!

*Manager’s perspective. Cooper’s chapter six takes the manager’s focus, asking how the manager
of a public agency can “maintain the responsible conduct of the public’s business by
subordinates faced with the array of possible conflicts discussed in the previous chapter” (p.
147)? In what may be an example of ethnocentrism (U!S!A! U!S!A! U!S!A!), he identifies a
1981 book chapter by James Bowman (an FSU professor) as the first example of the idea of
“managing” ethics, yet the 1973 Kernaghan article that we have read discusses the exercise of
power to control bureaucrats, which seems much the same thing.

System! My whining aside, Cooper especially notes that:
Conflicts of responsibility…should not be resolved in an idiosyncratic fashion. If public
administrators are to be responsive to the wishes of a democratic citizenry, their general
course of conduct toward serving the public interest must be guided by established
policies that should enforce and reinforce prescribed public service values. (p. 148)

In short: be systematic, this is too important to ‘wing it’.

Accountability! He then goes on to undercut some of his previous arguments that public servants
should represent we the people (from pages 148-9, I’ll chop up the paragraph to isolate different
components worth discussing on their own):

• “There must be limits to loyalty and conformity to particular organizational hierarchies…”
• “…it seems reasonable to expect someone who accepts employment in a fiduciary role to act
generally in accordance with the values of the citizenry, as expressed through a political
system and direct citizen participation. Otherwise, democratic government would be
subverted by an aggregation of individuals employed by the public but functioning only
according to their personal individual values.”
  o This is Bresser Pereira’s concern with his concept of the Republican State. As presented
in week 7, he describes Republican rights as:
The rights all citizens have to the *res publica* or the public patrimony – whether the historical, the environmental, or the economic patrimony – if essentially public, that is, of everybody and for everybody. (p. 145) To clarify, his concern was especially with preventing capture of that public patrimony by private interests.

The republican state is a state strong enough to protect itself from private capture, defending the public patrimony against rent-seeking; it is a participatory state in which citizens organized in civil society take part in defining new policies and institutions and in exercising social accountability; it is a state that relies on government officers who, although self-interested, are also concerned with the public interest… (2004, p. 115)

- The ‘deep state’! This is a term that has gotten a lot of traction lately. An article in *The Nation* identifies at least three common definitions of this (in about the 11th paragraph):
  - Military-industrial complex -- a term that originated with Dwight Eisenhower (source). Here the reference is to arms manufacturers and, presumably, ‘hawks’ (folks who generally favor war as an instrument of international relations).
  - Global rule conspirators -- some sort of hidden movement within government that subverts democratic ends in favor of, well, global forces. As one source puts it, these dark, shadowy forces include: “the Freemasons, the Jewish people, the Bilderberg Group or the ‘globalists’ that are often invoked in rightwing media outlets like Alex Jones and Breitbart News. President Trump himself mentions ‘globalists’ and invokes fighting against insidious ‘elites’ as a battle cry for his base” (source). See also the Russian government misinformation perspective (link).
  - Democratic civil servants – again, another source, *Foreign Affairs*, puts it better: “The White House is correct to perceive widespread resistance inside the government to many of its endeavors. But the same way the administration’s media problems come not from “fake news” but simply from news, so its bureaucratic problems come not from an insidious, undemocratic “deep state” but simply from the state—the large, complex hive of people and procedures that constitute the U.S. federal government” (link). This is what Cooper and Bresser Pereira are referring to here.

- Continuing with the Cooper quote: “In a democracy, the public has a right to expect some consistency and predictability in the actions of its employees. It is entitled to public service that can be held accountable for carrying out the designated mission. It should be able to expect its administrative corps to conduct itself in accordance with the explicit and implicit obligations of a position.” When an administration acts contrary to those obligations, especially if the new administration’s mandate is a bit mushy¹, then there may be pushback.

**External controls**

*Finer (1936).* Cooper bases his discussion of external controls on the 1936 Herman Finer article referred to above, and which I’ve linked below. If you get crazy and access this article directly,

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¹ This is all clearly being discussed in the context of the Trump administration. By ‘mushy’ mandate I am referring not just to his Electoral College majority (which conferred the Presidency on him) with a popular vote minority, but also to the vagueness of his platform. This is perhaps most evident in health policy, as candidate Trump’s goals regarding ‘repeal and replace’ (every word presumably) of Obamacare have not been reflected in policy (source).
focus on pages 580-7, especially 580-2. Here he directly responds to Freidrich’s case for internal controls. Key points:

- **External responsibility.** “Responsibility necessarily requires the existence of a relationship of obedience on the part of the person acting to an external controlling authority. It is in this externality of reference that the essential nature of responsibility consists, and it is obvious what significance this has for the public service in a democratic state” (p. 580).
  - For Finer’s taste, Friedrich introduces complications in the form of subjective ethics: “the feeling of responsibility, that is to say the self-imposed obligation…” (p. 581).

- **Appropriate roles for each** (from page 582, again broken up into chunks for discussion):
  - “It is most important clearly to distinguish a ‘sense of duty’ or ‘a sense of responsibility’ from the fact of responsibility, that is, effective answerability.”
  - “I am anxious to emphasize once again that the notion of subjective responsibility…, whether as intellectual integrity or general loyalty to the spirit and purpose of one’s function, is of very great importance in maintaining the level of efficiency…:
  - “But we must first of all be perfectly clear about its nature in order that we may not burke\(^2\) the question of whether or not such responsibility is sufficient to keep a civil service wholesome and zealous, and how far, in its own nature, it is likely to break down, so that political responsibility must be introduced as the adamant monitor of the public services.”
  - “For the first commandment is, Subservience!”

- **Political responsibility.** “…though judicial and quasi-judicial procedure and standards provide some guarantees of fair and beneficial administration, and though the codes of ethics, interior discipline, and all the arrangements to make these effective, offer guarantees of inventiveness, agility and fruitful administration, nothing is more important in our own day than the fundamentality of political control, or political responsibility” (pp. 582-3).
  - **Market comparison.** Like many thinkers on the role of government, he makes the point that government responsibility is a challenge by comparing it to the major accountability mechanism of markets:
    - “In private administration or business management the mainspring of the price-mechanism, with all its ramifications, ensures that business is fairly efficient within its own particular sphere of production… Price, the reward obtained in fairly free competition, embodies the consumers’ control of private producers and acts almost automatically. As someone has said, it constitutes a daily referendum on the quantity, quality and appropriateness of the time of production and delivery of goods and services” (p. 583).
  - **Limits of markets.** “Now many of the noblest of human ideals cannot be realized by a price-controlled system, because such a system caters only for demand which is effective, which is supported by the ability to pay, and not for demand which is virtuous but impecunious. At this point public administration is created to fill the lacunae in the system of private enterprise” (p. 583).

- **Political neutrality.** Going beyond the topic at hand: he also comments on the importance of political neutrality.

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\(^2\) An archaic word! For definition, see [link](#).
Expertise. Given the special technical expertise in the area of governance that public administrators have, and given the amateurish nature of most elected officials, the latter must have full faith in the political neutrality of the former.

Tell that to the above-mentioned ‘deep state’ conspiracists!

Independence. Finer’s view seems consistent with the ‘moral autonomy’ that Jos emphasized. Political neutrality does not mean that “the civil servant is to be no more than a moveable piece of office furniture” (Finer 1936, p. 586), and is encouraged to challenge the politician who seems intent on pursuing a simplistic (and so likely failing) response to complex problems.3

Integrity. But the advice given must be justified in technical terms, and be void of the administrator’s subjective preferences.

Education and training. I’ll also add Finer’s views on the education and training of the public administrator. Keep in mind that this is the 1930s. Rather than summarize Finer’s views, I’ll quote two others from broadly the same era:

“The abilities which enable a [person] to stand out in governmental administration and to exercise influence on policy matters, either at a low or a high grade, are difficult to define precisely. They include such things as initiative and resourcefulness; exercise of good judgment; the ability to grasp a problem and suggest a workable approach to its solution; the ability to read discriminately and to write well; an appreciation of the limitations on administrative action in a democracy; an understanding of the present role of government (including administration) in society in terms both of historical evolution and of a realistic approach to political action.” – Robert Walker, American Political Science Review 39/5 (1945). JSTOR link.

“It seems clear to the present writer that there is a growing consensus in the United Kingdom and the United States, as well as in Canada, that public authorities should not be looking for administrative ‘expertise’ in their graduate entrants, but should expect them to have obtained the foundations of a liberal education and to be or become knowledgeable and thoughtful regarding the governance of man...” – D. J. Heasman, Canadian Public Administration 2/4 (1959).

Ethics legislation. Returning to Cooper: he returns to this (pp. 159-63).

E.g.: Ethics Reform Act of 1989.

Codes of ethics. He discusses this on pages 163-8. These are not necessarily agency-based. As Cooper has made clear throughout (and as Waldo emphasized), professional associations can impose a code of ethics on members. For instance, the Code of Ethics of the American Society for Public Administration. Here in Jacksonville, the city has an Ethics Office, including a dead link to ‘the city’s new Charter amendment on ethics’.

Kernaghan on codes of ethics. He sums this up well in his concluding comments:

“There is a need for sustained attention to the state of public-service ethics; what is needed is ethics by choice rather than by chance. A choice made now to pay continuous and systematic attention to public-service ethics is likely to make a long-term difference to public servants’ trust in one another and to public confidence in government.” (1997, p. 52).

3 See, again, the reference in footnote #1 to current health insurance reform proposals.
Dimensions.

- **The public interest.** We’ve discussed this before. Cooper and others find this a difficult to conceptualize issue, while others think it is somewhat less so. I do think it is worth remembering the mission statement of the United States:
  
  “We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.”

Or that of the State of Florida, for that matter:

  “We, the people of the State of Florida, being grateful to Almighty God for our constitutional liberty, in order to secure its benefits, perfect our government, insure domestic tranquility, maintain public order, and guarantee equal civil and political rights to all, do ordain and establish this constitution.”

These seem reasonably actionable to me.

- **Political (or ideological) neutrality.** Kernaghan makes this point indirectly, in raising questions about over-reliance on ‘the public interest’, especially given its vagueness:
  
  “There is concern… that urging public servants to pursue the public interest may induce some of them to inject unduly their personal values into the decision-making process. In a democratic system, public servants need to be reminded that it is elected politicians, not appointed public servants, whose values determine what is in the public interest” (1997, p. 42).

- **Loyalty.** “Thus, loyalty to the current government is a primary ethical duty for public servants” (p. 42).

- **Moral autonomy.** Here he repeats the point we discussed above, about independence in terms of challenging the government’s conception of the public interest, and/or how best to pursue this, if the administrator’s technical expertise tells him/her that the government’s plans will not succeed.
  
  - The protection of ‘whistle-blowers’ is relevant here (p. 46).

- **Values.** Specifically:
  
  - **Ethical values.** What is right and wrong.
  
  - **Democratic values.** “…commitment to the public interest, loyalty to the government of the day, respect for the law, and democratic accountability” (p. 43-4).
  
  - **Professional values.** “…for example, excellence, professionalism and effectiveness” (p. 44).

  - Also relevant here would be Kernaghan’s reference to “the sphere of human-resource management… such matters as a lack of integrity in the selection and deployment processes and about unfairness in performance appraisals” (p. 46).

  - His discussion of ‘New Public Management’ reforms apply here. As Kernaghan points out, the ‘NPM’ has been a vague movement, with my understanding of it being that it includes at least two dimensions: 1) the application of practices more common in the business world (echoing Woodrow Wilson’s admonition to “to straighten the paths of government, to make its business less unbusinesslike;” and 2) the use of 4 Though not absolute!
markets for decision-making, rather than administration. Kernaghan focuses on the former issue, in a discussion that seems more focused on reducing “red tape”.

- **Components of codes of conducts.** “Values inherent in the concept of public service” (p. 50).

In addition:

1. The evaluation of ethical performance as a basis for appointing and promoting all members of the public service but especially its leadership.
2. A statement of values, including ethical values, either as part of a strategic plan or as a separate document.
3. A code of ethics (or conduct), linked to a value statement (if one exists) that sets our general principles of ethical conduct.
4. Elaboration on the code, usually as commentary under each principle, that explains more fully the meaning of the principle and/or provides illustration of violations of the principle.
5. Reference to the existence of ethics rules (statutes, regulations, etc.) related to the problem areas covered in the code and/or to problem areas covered elsewhere.
6. Elaboration on the code, either following each principle or in a separate part, that adapts the code’s principles to the particular needs of individual organizations.
7. Provisions for administering the code, including publicity, penalties for violations and provisions for grievance.
8. An ethics counselor to perform advisory and administrative functions for senior public servants across the government.
9. An ethics counselor ombudsman or committee to provide advice on ethics rules and ethics issues within a single department or agency.
10. Ethics education/training for public servants, beginning with the most senior echelons and new employees.
11. An ethics audit to evaluate the organization’s policies and procedures for preserving and nurturing ethical behaviour.
12. The raising of ethical considerations in a deliberate and regular way at meetings and through such other means of communication as newsletters.
13. The provision of a confidential hotline that public servants can use to discuss concerns about their personal ethical behavior or that of others.
14. The inclusions of exit interviews (i.e., interviews with employees leaving the organization) to ask questions about the employee’s view of the ethical culture of the organization.

Kernaghan 1973, p. 50-1)

**Performance accounting.** Another dimension of the issue often ignored is simple performance accounting, or measuring outputs. The other three readings for this week provide a city, state and federal example of each. The ‘excellence’ and ‘effectiveness’ raised by Kernaghan above need to be assessed, after all.

**Internal controls**

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5 But note my usual admonition about this: if regulation is tape, the problem is that not all regulation is bad, or red. It can be difficult to determine which tape is red (not needed) and which is important (potentially life-saving rules).
As indicated above, Finer’s article above was a response to Friedrich’s assertion of the importance of internal controls, as in internal to the individual administrator. Finer did not disregard internal controls (values, ethics) altogether, but emphasized instead the primacy of external controls (rules, laws). Tragically, while Finer’s views are readily available to us electronically (albeit password protected on JSTOR), the internet lets us down in terms of Freidrich. Yes, while the internet makes available such obscure stuff as Jorge Ben singing Umbabarauma, cats barfing up hairballs, even discussions of concrete in Tonga, it has no link to Carl Friedrich’s seminal articles on the importance of subjective responsibility in administrative responsibility.

As presented by Cooper, this internal responsibility involves a number of elements:

- **Peer review.** This Friedrich appears to see as an informal process, in that the specialized expertise required of the modern administrator (even in the mid 20th century) meant that only others who share similar specialized knowledge could assess whether the administrators is acting responsibly.
- **Internal ethics.** With this at least in part something that can be developed in the administrator.
- **Public sentiment.** “Administrators will be required by the public to be responsive to their preferences and demands” (Cooper 2006, p. 175).
- **Traditional political responsibility.** Just as Finer didn’t wholly rule out the importance of these subjective, internal accountability mechanisms, Friedrich didn’t rule out the importance of traditional political responsibility.

The ‘new public administration’. This short-lived paradigm of public administration was sort of a public-administration-meets-the-1960s. Outside of American academic public administration the phrase itself means nothing (especially given the existence of its anti-thesis, the new public management), and it is often mistranslated in Portuguese. For what it’s worth, I’ve argued that although the New Public Administration has all but died as a part of even academic public administration, the movement that it was a part of (i.e. the social ferment of the 1960s), did have a noticeable, lasting impact on public administration scholarship (Candler 2008, pp. 301-2) and, no doubt, the practice of public administration, as well.

**Assumptions about human nature.** Cooper closes this chapter with a brief reference to this. For me, perhaps the most intriguing aspect of this debate, concerns the evolutionary tension between self-interest and group interest.

- In any society, individual self-interest will enhance one's chance to reproduce, so self-interest will tend to be a genetically strong disposition.
- On the other hand, a society of egoists (an oxymoron) will always lose out to a society of, well, 'social'-ists: the socialists will cooperate, cover each other's backs. As The Economist puts it: "Trust, and the detection and punishment of injustice, lie at the heart of human society" (remember the John Locke, Thomas Hobbes and Jean Jacques Rousseau reasons for government in week one?). As a result, the cooperativists will beat hell out of the egoists.
  - Yet within the conquering cooperative society, egoists will tend to do better on an individual level, taking advantage of the collective work of others while also promoting their own interests.
• But to the extent that these self-centred genes tend to get passed on, the society becomes less cooperative, reducing its ability to resist competitors that work more closely together.

References