Lecture goals: Discuss Kernaghan’s complimentary approaches to managing ethics at the individual level, and then revisit Cooper’s design approach to analysing complex ethical issues.

More on managing ethics

Range of ethical problems. Early in the paper (pp. 133-4) Kernaghan offers an informal list of types of ‘ethical problems’:
- Conflicts of interest
- Confidentiality
- Political partisanship
- Recommending highly to another organization a poor performer in your own organization
- Intentionally assigning expenditures to the wrong categories
- Appointing and advancing friends and relatives
- When to lie to the public
- What constitutes fairness in the appointment and promotion of historically disadvantaged persons
- What level of risk employees should take with the health and safety of the public and their own employees?

Three complimentary approaches. And I’ll add a few whackadoodle ones…

1. Rules
2. Education
3. Leadership
4. Complimentary approaches (all of the above)
5. Personality testing
6. Blood testing
7. Background checks
Depends on the goals. Kernaghan argues that the relative efficacy of each depends on the goals being sought:

1) “…to promote public trust and confidence in the ethical performance of government and business;
2) “to legitimize the imposition of sanctions for unethical behavior;
3) “to decrease and, if possible, to eliminate, unethical practices by discouraging and punishing them;
4) “to sensitize both current and prospective employees to the ethical and value dimensions of their decisions;
5) “to reduce uncertainty as to what constitutes ethical and unethical behavior;
6) “to develop skills in the analysis of ethical and value issues;
7) “to assist employees to resolve ethical and value dilemmas; and

1. Rules.
   - **Clarification is good.** For all the limitations of rules, they can help to clarify what is and what is not acceptable ethical behavior (p. 141).
     - **Fighting ethical entrepreneurs.** An issue not addressed in our readings is what I think of as ethical entrepreneurs, or perhaps ethical arbitragers. By this I mean people who pay attention to the letter of the rule/law, and look for loopholes that they can take advantage of. To the extent that rules are well written and comprehensive, this can be minimized.

   - **Challenges**
     1. Broad codes can be difficult to apply in specific situations.
     2. Codes of ethics can be hard to enforce, often lack enforcement mechanisms.
     3. It can be hard to draft a code that is relevant to all units in a diverse, complex organization.
     4. Codes can violate privacy rights of otherwise honest workers.
     5. Assessing risk not amenable to codes of ethics.
     6. Codes of ethics will not, by definition, constrain the willfully corrupt (and so unethical).

   - **Content**
     - What to include

   - **Form**
     - The *Ten Commandments* (broad), v.
       - The *Justinian Code* (specific).
     - Legislative, v.
       - Administrative measures.

   - **Administration**
     - Buy-in (among employees and the public) is important, and so…
     - process may be as important as outcome, to the extent that an inclusive, well-publicized process informs both citizens and public employees regarding the commitment to, and expectations of, ethical behavior by public servants.

   - **Thin ice!** An especially evocative metaphor for a Canadian, where about 50 people a year die from falling through ice, some of whom are even sober (see the [Canadian Red Cross](https://www.canredcross.org), pages 21-2). Kernaghan notes that:
“Both the advocates and opponents of codes of ethics are, empirically speaking, on thin ice because of the scarcity of hard data on the efficacy of ethical rules as well as on the comparative efficacy of other approaches to promoting ethical behavior.” (p. 140)

2. Ethics Education.
- **Skeptics.** Quoting Michael Jackson (not the one of _Thriller_ fame):
  “No one learns to be moral in a training course or by a rule-book. Codes of ethics and training courses studying moral dimensions in the search for rules are a waste of everyone’s time. We learn to be moral by habit formed through noble stories, like that of Thomas More, and by doing moral acts, like Aristotle described … It is precisely because moral judgments are inconsistent and inconclusive that we must reason about them persistently, not turn to a code of rules nor wait for a training course.” (p. 141)
- **Sensitizing.** Still, Kernaghan argues that ethics training can ‘sensitize’ even the most recalcitrant dunderhead to “the ethical and value dimensions of their recommendations and decisions” (p. 142).
- **Keeping jobs.** Equally important for the ethically vacuous dunderhead: some ethics training might help employees realize what they can’t get away with, and so reduce job turnover.
- **Education!** A researcher (probably not in his 20s or 30s) argues that adult young whipper-snappers (in their 20s and 30s) are still developing “in the basic problem-solving strategies used by the person in dealing with ethical issues” (quoting Rest, p. 142). So education can help.

3. Ethical leadership.
- **Almost as good as nothing!** Cooper cites data that shows that federal public service workers in the US are almost as likely to consult their bosses about ethical dilemmas as they are no one, both of which are less likely to be consulted than are spouses (p. 144). As a result, “the influence of hierarchical superiors…is extremely important in promoting ethical behavior” (p. 144).
- **Leadership gnarly.** Leadership is also not something one can just adopt, like a code of ethics.
  - **Whoa, dude…** This is actually pretty deep. Someone in a ‘leadership’ position may not actually be a leader; while an unethical organization can still adopt a code of ethics.
  - **Think about it.** Think about it.

4. Complementary approaches. Note that Kernaghan’s article includes the phrase “complementary approaches”, so a fourth option for managing ethics is to adopt elements of all three, as appropriate, and depending on the goals of the agency (discussed above, and on pages 135-5).

What of other approaches? Let’s think outside the box…

5. Personality testing of applicants. Given the importance of personal traits in much of what we’ve read in this course, it seems that it would be important to get a public service with lots of other-regarding folks, and fewer ego-centrists. Personality trait tests might help with this: for instance, the **Myers-Briggs tests.** I’d think we’d be looking for extroverted, sensing, thinking and perceiving folks.
6. **Blood testing of applicants.** Years ago, in an article I since have not been able to find, *The Economist* newsmagazine ran an article that reported on the genetic determinant of altruistic, other-regarding (i.e. public service) behavior. So give all applicants a blood test, if they’ve got the right genetic marker: hire ‘em!

- However G.O. Ogle, my research assistant, did dig up this article in *The Economist*.

7. **Background checks.** Look for evidence of other-regarding behavior in a Google search, their Facebook pages, etc.

**Restating the design approach: our lecture two**

In Cooper’s chapter nine he seeks to “restate” his “design approach” (p. 269) to public administrative ethics. Given this we can restate lecture 2, in order to remind ourselves what constitutes Cooper’s design approach to administrative ethics.

The logic of the design approach, it seemed to me, focused on the second last of Cooper’s ‘big questions’ from his 2004 *Public Administration Review* article.

…the underlying assumption of this book: *ethical public administration requires a theoretical perspective on the role of the public administrator*. Moreover, this theoretical perspective must be developed by practicing administrators through a combination of professional experience, contemplation, study, and deliberation with colleagues, whether in a structured course or through self-motivated inquiry.

...Administrators must also develop skill in thinking about ethical problems, toward the end of creating a working professional ethic of their own. (p. 14)

**Ethical problems.** It’s complicated! Much of his point is that ethics are not simple, and one often needs to think about how to balance the myriad ethical obligations one has.

**Ethics as an active process.** A point that Cooper has returned to repeatedly is the distinction between what we have since learned to see as

- external controls: values, principles, codes of conduct and the like; and
- internal controls: an “operational ethic…the substance of one’s professional character over time” (p. 18). Perhaps more helpfully, “ethics as an active process of design, an ongoing process that occurs whenever circumstances force us to deal with conflict, tension, uncertainty, and risk” (pp. 18-9).

**Levels of ethical reflection.** A framework!

- The expressive level: venting frustration over perceived injustice. By the way, a lot of folks have argued that *a moral sense is part of our genetic make-up*, more so in some than others, no doubt!
  - The expressive level is, for Cooper, largely the realm of emotion.
- The level of moral rules: Cooper identifies these as coming from “our families, religious affiliations, education, and professional experiences” (p. 21). These are simple, often glib rules of thumb that we take for granted.
  - This level is largely reflective of our socialization.
• The level of ethical analysis. When things become too complicated for simple rules, especially when some of these conflict (as we will see next week).
  o The level of rational reflection. This, for Cooper, is the critical level (p. 28).
• The postethical level. ‘Why should I be moral’? My answer, generally, is that I prefer not to be part of the problem. Others:
  o Fear of getting caught. Ethics becomes a cost-benefit game, with benefits up front and tangible, but the costs including a large dollop of risk. It is also worth adding that trying to act ethically in a world that is often unfair can itself have costs.
  o Religious conviction.
  o Evolution: something deep within you nags at you when injustice occurs.

Cooper’s decision-making model.

Restating the design approach: Cooper’s chapter nine

The engineering analogy. He opens with an analogy comparing public administration ethics to engineering.
• !!!!!!
• His point, though, is that even in engineering, there is more than one way to solve a problem.
• Tire swing. As a humorous illustration of this, consider the classic tire swing cartoon.
• Crossing a river. Think, too, of the large number of options one could generate to overcome the problem of a river impeding overland traffic: fording, ferrying, bridging. Then among the bridging options, there are myriad types of designs.
• The decision… often comes about as a result of some sort of cost-benefit: how do we get the most efficiency (ease of movement), with the least risk (a bridge made of sticks will be cost-effective until it collapses), at the least cost.
• The same can be applied to applying ethics in a public service context, for Cooper: multiple options often present, and one has to have some sort of systematic structure for making a decision.

• Policy analysis analogy. I’ll also add that Cooper’s model has parallels with classic policy analytical models. Patton and Sawicki, for instance, offer the following six steps in policy analysis, which I’ll contrast against Cooper’s design approach to ethics:

<p>| Table 1 |
| Coopér’s ethical design model, v. Patton &amp; Sawicki’s steps in policy analysis |</p>
<table>
<thead>
<tr>
<th>Patton &amp; Sawicki</th>
<th>Cooper</th>
</tr>
</thead>
<tbody>
<tr>
<td>Perception of an ethical problem</td>
<td>[Most policy analysis models include this]</td>
</tr>
<tr>
<td>Defining the situation and ethical issue</td>
<td>1 Verify, define, and detail the problem</td>
</tr>
<tr>
<td>[presumably this is always ‘be ethical’]</td>
<td>Establish evaluation criteria</td>
</tr>
<tr>
<td>Identifying alternatives</td>
<td>3 Identify alternative policies</td>
</tr>
<tr>
<td>Projecting possible consequences</td>
<td>4 Evaluation alternative policies</td>
</tr>
<tr>
<td>Selecting an alternative</td>
<td>5 Display and distinguish among alternative policies</td>
</tr>
<tr>
<td>[Cooper‘s model is a bit naïve here ↓]</td>
<td>6 Monitor the implemented policy</td>
</tr>
<tr>
<td>A state of resolution</td>
<td>[P&amp;S’s model is a more realistic, here ↑]</td>
</tr>
<tr>
<td>Sources: Cooper, p. 31; and Patton and Sawicki 1993, p. 53.</td>
<td></td>
</tr>
</tbody>
</table>

Three important steps, for Cooper.

1. “Begin with an assumption of uncertainty, and acknowledge the ambiguities.”
   This may be the single thing we Americans are worst at, in the current political climate. Consider two perennial hot button issues which, to my mind, are inherently complicated, yet dogmatists on both sides see simplicity and certainty:
   • Abortion/choice:
     • The ‘life’ forces have finally come around to a logically consistent position that all life begins at conception, and that ‘aborting’ a zygote is murder and so prohibited.
     • This, presumably, means that a victim of rape has to endure the cost and pain of pregnancy and childbirth.
     • On the other hand, for the ‘pro choice’ folks, if a zygote is not a person, at what point can you draw a clear line between life and dependency? When contractions start, is it still okay for the pregnant woman to have the child ‘aborted’?
   • Capital punishment:
     • Capital punishment is cruel…
     • …but is it any more humane to keep someone in a cage for the rest of their lives?
2. “Defining the problem too narrowly, simply, or statically may not address the fundamental factors involved in misconduct.”
3. “Resolving ethical problems always must be done within certain constraints of time and may require pursuing multiple solutions at once.”
4. “Ethical problems in public administration almost always take place in an organizational setting that either encourages or impedes ethical conduct, or both. And the ethical problem at hand will certainly give rise to other complications.”

References
