



Toward a Cost-Effectiveness Assessment of State Ethics Commissions

An Analysis of Enforcement Outputs

MARK D. BRADBURY

Abstract

This article provides an exploratory analysis of the outputs of state government ethics enforcement. Despite the burgeoning interest in the ethical dimensions of public administration among researchers and practitioners alike, there have been few systematic examinations of the actions and outputs of state ethics commissions and boards. Such data are critical to assessing the cost-effectiveness of the subnational ethics edifice. A review of the characteristics of state ethics commissions reveals substantial variation, suggesting that cost-effectiveness is best analyzed state by state. This research relies on data from the Pennsylvania State Ethics Commission to examine the outputs of ethics enforcement. The examination of formal orders reveals that all types of officials (elected, appointed, and career) run afoul of ethics laws in myriad ways, with varied levels of severity and consequence. This unique analysis of the outputs of state ethics enforcement is an essential component to understanding the nature, and effectiveness, of ethics in practice.

The public administration literature abounds with discussions, analysis, and research focused on the significance of public sector ethics to individuals, teams, agencies, and networks.¹ In an analysis of recent ethics-related empirical literature, Menzel (2005; see also Menzel with Carson 1999) categorized the research along five foci: ethical decision-making, ethics laws and regulatory agencies, organizational performance and ethics, ethics management, and community and the ethical environment.

He reported that in all five of these categories, despite a noticeable increase in the number of articles that use empirical methodologies, the literature continues to be dominated by works with a normative or conceptual focus. Of particular interest for the present discussion is the implication that there are but a handful of empirical studies that address the primary institutions for ethics enforcement: state government ethics boards and commissions.

This article provides an analysis of output data on state ethics enforcement as part of a larger effort to measure the cost-effectiveness assessment of subnational ethics regulation. It focuses on formal orders, an output issued by an ethics commission upon the completion of a formal investigation and reflecting its factual findings and legal conclusions in regard to an alleged ethics violation. More than 140 orders from

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the Pennsylvania State Ethics Commission were examined in order to ascertain what types of officials commit ethical infractions, and the nature and severity of the violations. The case study of Pennsylvania spotlights the myriad ways that public officials run afoul of ethics laws. This examination of the practical pitfalls of public administrators is a necessary component of a robust appreciation of the role of state ethics commissions. Consequently,

this article enhances the literature on state ethics commissions and is a first step toward a cost-effectiveness analysis of these street-level enforcers of ethics.

Analytical Impetuses

This project was conceived through a consideration of the work of three scholars who have made important contributions to the literature on ethics regulation, enforcement, and effectiveness. Mackenzie (2002) conducted a systematic and wide-ranging analysis of the costs and effects of ethics regulation in the federal government (see also Anechiarico and Jacobs 1998; Garment 1991). As he demonstrates, the modern era of ethics regulation began in earnest during the Kennedy administration, and each subsequent presidential administration added new rules and limitations. The implicit assumption was that more ethics regulation makes for better ethics. The problem, as Mackenzie saw it, is that few attempts have been made to take the measure of this ethics edifice to ascertain its costs, benefits, and effects. He examined the full range of devices designed to make the federal government “scandal-proof,” including public financial disclosure, training, and background checks, and concluded that “we can find little evidence that government integrity is greater today than it was when this movement to expand federal ethics policy began more than four decades ago” (2002, 154).

The question of the effectiveness of ethics regulation is no less important at the state level. As Freel (2004, 283) rightly observed, however, meaningful, generalized comparisons of state ethics regulations are “challenging” and “particularly hard,” and in fact this is a common lament related to cross-state policy comparisons of all kinds. Freel outlined a number of specific factors that complicate comparisons of ethics agencies: “how states define ‘ethics,’ the breadth of those governed, the extent of authority granted oversight agencies, and the nature and composition of those

governing ethical conduct” (2005, 366). Despite these challenges, other researchers have catalogued selected similarities and differences among state ethics enforcement agencies (see Lewis and Gilman 2005; Van Wart 1996).

Finally, the present research is influenced by Smith’s (2003) in-depth examination of the ethics enforcement agencies in Connecticut, New York, and Florida. He conducted more than a dozen anonymous interviews with officials and stakeholders in each of these three states and identified a number of roles and contributions made by state ethics commissions. One important point is that ethics commissions, despite their legalistic orientation (294), are not immune to political pressure and influence. As such, they tend to be reactive in nature. Furthermore, a primary contribution and responsibility of ethics commissions is to “help build the ethical capacity of the individual administrator in government” (294).

Taken together, these works lead to important questions from a practical public-administration perspective and to the central research questions considered in this article. First, which type of official—elected, appointed, or career—violates state ethics laws, and how severe are the infractions? More specifically, how often do career employees commit ethics infractions, and what types of infractions are they likely to commit? Output data from the Pennsylvania State Ethics Commission provide a unique opportunity to explore such questions later in this article related to subnational ethics enforcement in practice and, in doing so, expands upon previous research on state ethics commissions.

State Ethics Commissions

Nearly every state regulates the ethical conduct of government officials, but there have been few systematic examinations of the range and scope of the powers of state ethics commissions. One important line of research addresses laws covering the ethical behavior of state legislators. A notable contribution to this body of research was made by Goodman, Holp, and Ludwig (1996). They constructed several measures of the relative strength of ethics regulation in forty-three states. In their view, the observed differences in strength could be explained with reference to the political culture and professionalization of the state legislatures.

Additional important research by Rosenson (2003a, 2003b, 2005) traced the history of state legislative ethics commissions. She identified the factors that explain why legislators enact rules that run counter to their “apparent self-interest” by restricting their behavior and perks. Very often legislators do so because of public outrage at governmental scandals of various kinds. Rosenson concluded that such self-imposed limitations often include loopholes that take account of such concerns as “institutional maintenance, privacy, economic well-being, and political power” (149).

A second body of research on ethics commissions expands the focus to include all types of governmental actors, including career employees. Research of this kind typically relies on the “Blue Book,” an annual compendium of state ethics laws and agencies published by the Council on Governmental Ethics Laws (COGEL). Freel (2004) used the Blue Book for a thorough state-by-state comparison of the types of officials covered, indicating whether each state’s ethics agency had jurisdiction over executive branch employees, judges, judicial employees, legislative employees, legislators, lobbyists, state and local appointed officials, local elected

officials, private sector/vendors, state colleges and universities, and state and local employees (292–293).² He found that some states divide ethics jurisdiction along the lines of the separation of powers, whereas others charge one agency with oversight of officials in all three branches (284). Overall, Freel identified “40 different state boards, committees, commissions, and/or individual commissioners that govern ethical conflicts of interests, standards of conduct and disclosure” (2005, 366; see also Menzel 2007).

Lewis’s (1991) work constitutes the most thorough examination of state ethics provisions and practices. She identified and catalogued common types of jurisdictional authority and organizational characteristics, including the nature of the governing board or authority, the types of officials covered, and enforcement and investigatory powers. Lewis (1993) counted the number of states that prohibit various types of activities and conflicts of interest (138). Lewis and Gilman (2005) observed, overall, that “*Diversity* best describes the overall pattern of state ethics laws and practices” (196). This conclusion applies to virtually all important characteristics of such agencies, including the types of officials covered and their enforcement powers. However, the thrust of the discussion focused on prohibited activities, such as the appearance of impropriety, whistleblowing, bribery, and conflict of interest (197–202).³

Collectively the authors discussed above clearly demonstrate that ethics commissions vary widely in structure and enforcement capabilities. Their conclusions are supported by detailed tabular compilations of descriptive characteristics (see COGEL 2002; Freel 2004). None of these authors, however, sought to analyze the correlation between the descriptive characteristics they compiled and the policy outputs of state ethics commissions. This correlation is essential to the development of cost-effective measures of subnational ethics regulation in the mold of Mackenzie’s analysis (2002) of the federal ethics edifice. The research presented herein adds to the descriptive literature by taking an exploratory first step toward understanding how ethics enforcement by a state ethics commission manifests as policy outputs.

Ethics Enforcement

There is no shortage of discussion and analysis of governmental corruption in the popular press and the academic literature. Similarly, there is no shortage of laws and regulations designed to punish those who, wittingly or not, take personal advantage of their trusted public positions. Scandals and corruption can result from any number of behaviors and activities, such as bribery, improper political activity, nepotism, the revolving door, and insider information. Studies of ethics regulations applying to state legislators suggest that the frequency and notoriety of scandals explain, in part, the enactment of stricter ethics laws (Goodman, Holp, and Ludwig 1996; Rosenson 2005).

Mackenzie (2002) identified two concurrent trends in regard to scandals affecting the federal government. First, the amount and types of resources dedicated to the pursuit of corruption have vastly increased. In addition to the establishment of the offices of the inspector general and the independent counsel, standing agencies such as the FBI and U.S. attorneys’ offices have grown in terms of budget and staff size (105). The second observed trend is an increase in the number of federal officials indicted and convicted. An important caveat is in order, however. The definition of

corruption was changed in 1983, and as a result now includes a broader range of activities and behaviors (104). It is hardly surprising that more resources and an expanded definition have resulted in an upward trend in documented criminal behavior. Mackenzie concludes that the sensational appeal of charges of unethical behavior so outweighs the actual instances of wrongdoing that “worry about the ethics of public officials greatly exceeds formal evidence of ethical violations” (98).

Maass (1987) identified another problem with the prosecution of public officials by federal attorneys. He argued that federal prosecutions of state and local officials violate the principle of federalism and constitute “the most serious and politically disabling federal intrusion of recent years into the independent political status of state and local governments” (196). In his view, “cleaning up political corruption in state and local governments is not enumerated or implied as a power of the federal government in the Constitution” (227). One implication is that states must bear the burden of ethics enforcement in their own jurisdictions.

The two most common enforcement techniques used by state ethics commissions are advisory opinions and formal investigations leading to citations. No research could be found in the public administration literature that systematically examines either of these enforcement outputs. Such an examination is a critical component of a robust cost-effectiveness analysis of state ethics commissions.

Advisory Opinions

Ethics commissions in all but three states are authorized to “issue advisory opinions, declaratory rulings, or interpretive statements” (Lewis and Gilman 2005, 196–197). Typically, an official approaches the commission with a before-the-fact request for ethical guidance or a legal interpretation. Some states allow the requester and the official in the agency who provides the advice or interpretation to remain anonymous. Formal opinions are usually issued by the commission, but staff members or in-house counsel are often authorized to provide informal advice (COGEL 2002). Formal opinions typically constitute an official ruling on the question at hand and can provide a defense against enforcement actions by the state commission.

At least thirty-four state commissions and the U.S. Office of Government Ethics have the authority to issue advisory opinions (*see Table 1*). The level of formality varies, however. Twenty states issue only informal, nonbinding opinions. The other fourteen issue formal, binding opinions, and perhaps informal opinions. This variation affects the average number of opinions issued each year as reported in Table 1, because the data do not distinguish between formal and informal opinions (Freel 2004).

The Pennsylvania State Ethics Commission has the authority to issue opinions and advices, but these are not binding on the requester (*see Table 1*). A review of twenty-four opinions issued by the Pennsylvania State Ethics Commission in 2002 and 2003 found that all related, in part, to the question of whether the requesting official was covered by the state ethics law. Seven requesters asked for deletions and changes in the opinion in order to protect confidentiality. A clear majority of the requesters, seventeen out of twenty-four, waived the option of confidentiality, thus revealing their name, the nature of their position, the agency where employed, the level of government, and their ethical query. Additional research is sorely needed to more fully understand these opinions, including why some requesters chose to waive confidentiality, because these before-the-fact requests for guidance and

TABLE 1
Issuance of Formal Advisory Opinions Across States

	<i>Authority to issue</i>	<i>Binding on requester</i>	<i>Average no. per year</i>
U.S. Office of Government Ethics	Y	Y	
Alabama Ethics Commission	Y		52
Alaska Public Offices Commission	Y	Y	5–25
Arkansas Ethics Commission	Y		15
California Fair Political Practices Commission	Y	Y	200–300
Connecticut State Ethics Commission	Y	Y	30
Delaware Public Integrity Commission	Y		60
Florida Commission on Ethics	Y	Y	23
Georgia State Ethics Commission	Y		1
Hawaii State Ethics Commission	Y	Y	1–5
Indiana State Ethics Commission	Y		5
Iowa Ethics and Campaign Disclosure Board	Y		8
Kansas Governmental Ethics Commission	Y	Y	40– 45
Kentucky Executive Branch Ethics Commission	Y	Y	70
Louisiana Ethics Administration	Y		348
Maine Commission on Government Ethics and Election Practices	Y	Y	5
Maryland State Ethics Commission	Y	Y	10
Massachusetts Ethics Commission	Y	Y	2
Michigan State Board of Ethics	Y		2
Minnesota Campaign Finance and Public Disclosure Board	Y		15
Montana Commissioner of Political Practices	Y		50
Nebraska Accountability and Disclosure Commission	Y		9
Nevada Commission on Ethics	Y	Y	20
New Jersey Executive Commission on Ethical Standards	Y		20
New York State Ethics Commission	Y	Y	5–10
North Carolina Board of Ethics	Y		10–15
Ohio Ethics Commission	Y		137
Oklahoma Ethics Commission	Y		5–7
Oregon Government Standards and Practices Commission	Y	Y	40–50
Pennsylvania State Ethics Commission	Y		125–200
Rhode Island Ethics Commission	Y		120

	<i>Authority to issue</i>	<i>Binding on requester</i>	<i>Average no. per year</i>
Texas Ethics Commission	Y	Y	10
Washington State Executive Ethics Board	Y		10
West Virginia Ethics Commission	Y		35–40
Wisconsin State Ethics Board	Y		25

Source: COGEL (2002) and Freel (2004).

Key: Y = Yes

advice offer a rare perspective into the practical ethical dilemmas faced by public administrators.⁴

Regrettably, many public officials, for reasons unknown, do not take advantage of the opportunity presented by advices and opinions and in consequence engage in behavior and decision-making that violates ethics laws. The descriptive literature on state ethics commissions does not examine the link between ethics laws and powers and the use of these powers when laws are violated (see Freel 2004 and 2005; Lewis 1991 and 1993; Lewis and Gilman 2005). The second common technique of ethics enforcement, formal investigations and citations of ethics violations, represents such a linkage, and it is to these data that this research now turns.

Investigations

Most state ethics commissions have the authority to investigate alleged violations of the state's ethics laws (Lewis 1993). There are substantial differences, however, in the scope and nature of their investigatory authority and the range of punitive measures that can be levied. Comparison of enforcement powers across state commissions is complicated, however, by "the type of ethics statutes or regulations themselves—whether civil, criminal, and/or administrative in remedy, or some combination thereof—and other differences in their authority" (Freel 2004, 284).

For states with ethics regulations, as Smith notes, "investigations are real, as are the penalties imposed" (2003, 290). The ethics agencies in Connecticut and New York, for example, have the authority to impose fines and recommend civil or criminal penalties, whereas the Florida commission "can only make recommendations to the appropriate jurisdiction" (287). Such variations show the need for in-depth analysis of the enforcement powers of other state ethics commissions.

At least thirty-four state ethics agencies and the U.S. Office of Government Ethics have the authority to conduct some form of investigation of alleged violations of ethics law (see Table 2). Freel (2004) identifies four types of investigatory authority: investigate on their own initiative, respond to a complaint, examine reimbursements, and assess the merits of an anonymous complaint (294–296). The first two types of investigatory authority are represented state-by-state in Table 2. Two of the state commissions are only authorized to investigate on their own initiative, and another three can only respond to a complaint.⁵ Most of the states, twenty-nine out of thirty-

TABLE 2
Investigatory Power of State Ethics Commissions

	<i>Authority on own initiative</i>	<i>Respond to complaint</i>	<i>Average no. per year</i>
U.S. Office of Government Ethics	Y	Y	
Alabama Ethics Commission	Y	Y	329
Alaska Public Offices Commission	Y	Y	5–10
Arkansas Ethics Commission	Y	Y	112
California Fair Political Practices Commission	Y	Y	160
Connecticut State Ethics Commission	Y	Y	
Delaware Public Integrity Commission	Y	Y	3–7
Florida Commission on Ethics		Y	117
Georgia State Ethics Commission	Y	Y	125
Hawaii State Ethics Commission	Y	Y	10–20
Indiana State Ethics Commission	Y	Y	50
Iowa Ethics and Campaign Disclosure Board	Y		5
Kansas Governmental Ethics Commission	Y	Y	3–5
Kentucky Executive Branch Ethics Commission	Y	Y	20
Louisiana Ethics Administration	Y	Y	113
Maine Commission on Government Ethics and Election Practices	Y	Y	9
Maryland State Ethics Commission	Y	Y	
Massachusetts Ethics Commission	Y	Y	114
Michigan State Board of Ethics	Y	Y	
Minnesota Campaign Finance and Public Disclosure Board	Y	Y	2
Montana Commissioner of Political Practices		Y	15–20
Nebraska Accountability and Disclosure Commission	Y	Y	40
Nevada Commission on Ethics	Y	Y	50
New Jersey Executive Commission on Ethical Standards	Y	Y	35
New York State Ethics Commission	Y	Y	40
North Carolina Board of Ethics	Y	Y	5–10
Ohio Ethics Commission	Y	Y	56
Oklahoma Ethics Commission	Y		10
Oregon Government Standards and Practices Commission	Y	Y	100–150
Pennsylvania State Ethics Commission	Y	Y	100

	Authority on own initiative	Respond to complaint	Average no. per year
Rhode Island Ethics Commission	Y	Y	30
Texas Ethics Commission	Y	Y	76
Washington State Executive Ethics Board	Y	Y	100
West Virginia Ethics Commission		Y	12–15
Wisconsin State Ethics Board	Y	Y	10

Source: COGEL (2002) and Freel (2004).

four, authorize their commissions to commence investigations on their own initiative and in response to complaints.

Pennsylvania Ethics Orders. Whether initiating an investigation on its own initiative or responding to a complaint, the Pennsylvania State Ethics Commission issues a formal order containing findings of fact and conclusions of law (*see Exhibit 1*). Much like the orders issued by the agencies in Connecticut and New York (Smith 2003), these carry potential penalties of fines and/or imprisonment. Under Pennsylvania law, violations of the public financial-disclosure policy, accepting an honorarium or severance payment, entering into an inappropriate contract, violating the revolving-door policy, and certain other infractions are misdemeanors that can be punished by a fine of up to \$1,000 and a year in prison. A conflict-of-interest infringement, seeking or accepting improper influence, and violating the confidentiality of investigatory proceedings, on the other hand, are classified as felonies and can result in a fine up to \$10,000 and five years in prison.

For the purposes of the present research, 148 orders issued by the Pennsylvania commission between 2000 and 2003 were examined.⁶ The research variables included the type of employee (elected, appointed, or career),⁷ the nature of the violation, and the classification of the violation. This analysis was the first known use of enforcement data drawn from ethics orders. While the use of official orders admittedly reflects a legalistic conception of ethics, the data allow for a unique accounting of the number and nature of ethical violations by elected, appointed, and career employees.⁸ Consequently, orders can provide a direct test of Smith's (2003, 291) observation that commissions "focus not so much on the big players in government, but on the rank-and-file employees."

All Officials. The data in Table 3 show a relatively even dispersion of orders across elected, appointed, and career officials in Pennsylvania. Elected officials accounted for 39 percent of the orders, and 32 percent were for appointed officials. The remaining 28 percent of the orders were for career employees of state and local government. In light of the fact that the number of career employees naturally exceeds the number of elected and appointed officials, this finding does not support the evidence analyzed by Smith (2003). Such conflicting conclusions underscore the importance of widening the collective investigation of output data to include additional states.

For all officials in Pennsylvania, the total number of misdemeanor offenses, 126 (52%), was roughly the same as the number of felony offenses (115, or 48%). Within misdemeanor offenses, 75 percent were for violations of the state's financial-

Exhibit 1

Jurisdiction of Pennsylvania State Ethics Commission

The Pennsylvania State Ethics Commission is an independent agency charged with administering and enforcing the state ethics law, first enacted in 1978 (Annual Report 2003). The commission has seven members: one each appointed by the president pro tempore of the Senate, the minority leader of the Senate, the speaker of the House, and the minority leader of the House, and three appointed by the governor. The commission has a budget appropriation of \$1.76 million and is served by more than twenty staff members organized into functional and regional divisions. Such resources are necessary, though perhaps not sufficient, to ensure the uniform application of the ethics law to all public officials in state, county, and local government, except for teachers at all levels.

The commission is responsible for three areas of ethics-related jurisdiction: financial disclosure, advice/opinions, and orders. All candidates, nominees, elected officials, appointed officials, and public employees are required to disclose sources of income, gifts, creditors, and related expenses to the commission for review and inspection. The Pennsylvania law is notable in that all state and local employees are required to file. This accounts for a large portion of the approximately 150,000 reports filed per year in the state (COGEL 2002).

All officials under the commission's jurisdiction can request a prospective interpretation of the ethics law regarding their duties and the applicability of the ethics law. Upon receipt of such a before-the-fact request, the chief counsel decides whether the issue requires a formal review by the commission or an informal review by the chief counsel. A review by the commission results in a formal opinion, while an advice presents a less formal option where the chief counsel provides the interpretation. Advices can serve as a defense against subsequent criminal or civil actions, albeit with a reduced level of protection vis-à-vis opinions.

Finally, the commission is expected to investigate sworn complaints and initiate investigations on its own. The commission retains seven full-time investigators to respond to the nearly 300 complaints received each year. Upon completion of an investigation, the commission may issue a formal statement of the findings of fact and conclusions of law called an order. Such orders can be appealed to the state court system. All financial disclosures, advices, opinions, and orders are public record and are posted on the agency's Web page. This online library "shines light" on the commission's regulation of ethics, and facilitated the collection of output data for this article.

disclosure law. These ran the gamut from failure to file a statement outlining one's sources of income, major real estate interests, gifts received, and other investments, to the omission of specific related information, such as the amount of the item or contact information for parties associated with an item. Compared to other states, Pennsylvania requires a wide range and large number of officials to submit annual financial-disclosure statements, and the state's ethics commission is ultimately charged with processing and verifying all of the disclosure filings (*see Exhibit 1*). Thus, it is hardly surprising that a sizable proportion of the misdemeanor offenses relate to disclosure forms. Also notable is that 21 percent of the misdemeanor orders were for entering into illegal contracts. State law places restrictions on contracts valued at \$500 or more where a public official or employee has a personal or familial interest.

Turning to felony offenses, conflicts of interest accounted for 97 percent of the felony orders across all types of officials. State law holds that "No public official

TABLE 3
Ethical Violations by Type of Official and Violation

Orders by Pennsylvania State Ethics Commission, 2000–2003 (n = 148)

<i>Official</i>	<i>Level of offense</i>	<i>No. of orders</i>	<i>% of type of order</i>
Elected <i>n</i> = 58	<i>Misdemeanors</i>	54	100
	Financial disclosure	39	72
	Illegal contract	15	28
	<i>Felonies</i>	47	100
	Conflict of interest	45	96
	Confidentiality	2	4
Appointed <i>n</i> = 48	<i>Misdemeanors</i>	34	100
	Financial disclosure	22	65
	Illegal contract	9	26
	Illegal representation	2	6
	Voting conflict	1	3
	<i>Felonies</i>	34	100
Career <i>n</i> = 42	Conflict of interest	34	100
	<i>Misdemeanors</i>	38	100
	Financial disclosure	34	89
	Illegal contract	2	5
	Illegal representation	2	5
	<i>Felonies</i>	34	100
	Conflict of interest	33	97
	Improper influence	1	3

or public employee shall engage in conduct that constitutes a conflict of interest.” Violations of this prohibition are inherently idiosyncratic to the type of official in question, making generalized conclusions difficult.

Career Employees. The data from Pennsylvania shed considerable light on ethics violations by career employees—that is to say, public administrators. In terms of misdemeanor violations, most of the offenses, 89 percent, were for deficient or delinquent filings of financial disclosure. Pennsylvania is unusual among the states in requiring its career employees to disclose their finances. In fact, the approximately 150,000 financial filings per year far exceed the total for any other state (COGEL 2002). A positive correlation between the larger number of filings and numerous violations would thus be expected.

In terms of felony infractions by career employees, 97 percent were for conflicts of interest (see Table 3). The conflict-of-interest orders show that career employees run afoul of state ethics laws in several ways (see Table 4). For instance, two employees used their official positions to obtain employment opportunities for family members, two others accepted inappropriate gifts from private parties, and nine entered into inappropriate contractual arrangements with private parties while in their official capacity. More than half of the career employees cited for felony viola-

TABLE 4
Felony Conflict-of-Interest Orders for Career Public Administrators

<i>Type of felony order</i>	<i>No. of orders</i>	<i>% of type of order</i>
Nepotism	2	6
Pay, benefits, and/or reimbursement	7	21
Gifts	2	6
Illegal contract	9	27
Personal use	13	39
Total	33	100

tions either abused policies related to pay, benefits, or reimbursement for expenses incurred while conducting official business or used public property, resources, or equipment for private gain.

From a certain perspective, the situation may not be quite as bad as it seems from the foregoing observations. Sometimes officials may be unsure whether a particular behavior, decision, or relationship is prohibited because of generalized or vague statutory language. The law defining the felonies identified in Table 4 states that “No public official or public employee shall engage in conduct that constitutes a conflict of interest,” but this language is hardly self-explanatory. On the other hand, Pennsylvania’s ethics agency allows employees to submit anonymous requests for before-the-fact opinions and advice. This opportunity would seem to trump any defense of ignorance or confusion related to the meaning of the ethics law. Overall, these violations plainly show that the edifice of public service ethics enforcement has very practical relevance to public administrators, who would do well to heed the lessons these formal orders tell.

Findings

A descriptive review of the organizational characteristics, mandates, and jurisdictions of state ethics commissions reveals meaningful diversity, suggesting that cost-effectiveness is best analyzed state by state. Focusing on the Pennsylvania State Ethics Commission, this research provided a unique analysis of enforcement outputs, including opinions and formal orders. The preliminary review of two dozen opinions revealed notable variations in the nature of the request and the relative desire for confidentiality by the requester, strongly suggesting that additional in-depth exploration is warranted across the states.

With regard to formal orders, a substantial majority at the misdemeanor level related to missing, incomplete, or improper filings of financial disclosure. Pennsylvania stands out among the states by requiring an unusually large number of officials to disclose their finances. Since approximately 150,000 reports are filed each year, it is hardly surprising that a large proportion of the commission’s orders relate to financial disclosure. Consistent with Mackenzie’s assessment of federal ethics laws (2002), a wide ethics net will catch more violators. Decision-makers in the state must decide whether the resources needed to process and verify such a large number of filings, not to speak of the time and effort expended by so many

officials in completing their disclosures, is justified by the fewer than 100 misdemeanor violations over a four-year period.

Most of the remaining misdemeanor violations, and many of the felony orders for career employees, relate to the illegal negotiation or authorization of contracts with private companies or nonprofit organizations. Given the momentum of the privatization movement, these three dozen or so violations are practical illustrations of the pitfalls of this relatively new phenomenon in state and local government. Given the increasing number of contractual relationships, and the often sizable dollar amounts associated with contracting-out, a larger number of violations in this area should probably be expected. Subsequent studies should focus on the trend-line of illegal contract orders to see whether they present evidence of an emerging negative consequence of privatization.

At the felony level, the Pennsylvania data show that violations of conflict-of-interest laws account for most of the orders. The violations committed by career employees included the inappropriate personal use of government property, nepotism, the illegal acceptance of gifts, and abuses of policies concerning pay, benefits, and reimbursement. While this comment is not meant to suggest empathy for the offending employees, one is struck by the banality of the back-stories of many of these violations. The orders are telling illustrations of the practical ethical pitfalls facing all administrators.

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Conclusion

The research discussed in this paper lends credence to the difficulty of drawing national generalizations about state ethics commissions (Freel 2004) and the importance of state-specific analysis of structures and outputs. The data represent an exploratory first step, building on the research of Smith (2003) and Lewis and Gilman (2005), toward systematic and comprehensive analysis of state-level ethics enforcement.

The analysis of Pennsylvania Ethics Commissions orders focused overdue attention on the types of violations committed by officials of all types. A thorough investigation of the outputs associated with state ethics enforcement is notably lacking in the literature. And while financial-disclosure requirements, for example, do not apply to most public administrators across the country (COGEL 2002), this research shows that the laws addressing nepotism, contracts, conflicts of interest, and the like are often violated by otherwise upstanding and dedicated employees. For this reason if no other, the violations examined herein have resonance for all public officials.

Although these data were drawn from only one state, this research underscores the relevance of ethics commissions to the study and practice of public administration. The focus on the outputs of state ethics enforcement, in the spirit of Mackenzie's (2002) discussion of federal ethics rules, is a necessary component for a cost-effectiveness analysis of state ethics regulation. Although the question of how much ethics enforcement is enough can be addressed from a philosophical or a theoretical perspective, the discussion of governmental ethics could benefit greatly at this point from additional empirically based studies.

NOTES

1. A previous version of this paper was presented at the 2006 American Political Science Association Conference. The author would like to thank the three anonymous reviewers for their thoughtful and supportive guidance in the revisions of this article, as well as Jennifer Spear for her research assistance and Dr. Robert Smith for his generous and thorough comments on this research. Finally, to my son William, who, had he been born by his due date, would have greatly delayed the writing and revision of this article.

2. Government employees are defined here as public officials who were neither elected nor appointed through a political process and do not work directly on the staff of an elected official or judge.

3. The Better Government Association compiled an Integrity Index (2002) that ranked the fifty states based on the transparency, accountability, and limits of their ethics laws. The subjective selection of laws for inclusion in the index, combined with methodological concerns related to the scoring and analysis of the laws, has raised questions about the reliability of the study. As a result, the BGA index cannot be relied upon as background in this article.

4. The next stage in this line of research to develop a cost-effectiveness model for state ethics commissions would be a content and context analysis of formal opinions and informal advices in numerous states.

5. See Menzel (1996) for a thorough analysis of ethics complaints in Florida.

6. Only orders that confirm the occurrence of a violation were included in this study. Since no variation was observed in year-by-year analysis between 2000 and 2003, the 148 cases were grouped for analysis.

7. Within the dataset, elected and appointed include officials in both the legislative and executive branches, and in special districts; the vast majority worked in local and county government.

8. Given the centrality of ethics in public administration curricula, this analysis of outputs has great import for the teaching of public service ethics. Academics have produced numerous volumes and resources to help bring applied public service ethics into the classroom. One stream highlights exemplary, although largely unsung, public servants (see especially Cooper and Wright, 1992; Riccucci, 1995). Alternatively, Adams and Balfour (2004) focused attention on the perils of the administrative state and the bureaucratic condition in *Unmasking Administrative Evil*.

Many of the orders of the Pennsylvania Ethics Commission (Annual Report 2003), however, told the story of an average, everyday street-level bureaucrat gone astray, and few of the misdeeds rose to a macro-level of ethics failure. The sequence of events leading to the ethics-related citation could be used to show students (and instructors, for that matter) the relative ease with which otherwise honest public servants can take one ill-advised step and thereby damage their standing and reputation. The pedagogical value of the orders is underscored by their ability to show, in this way, the great practical value of discussions of conflicts of interest, contracting rules, and the like.

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ABOUT THE AUTHOR

Mark D. Bradbury is an assistant professor in the Department of Political Science/Criminal Justice at Appalachian State University and teaches in its Master of Public Administration program. He has a Ph.D. in public administration from the University of Georgia. His work has appeared in the *Review of Public Personnel Administration*, *State and Local Government Review*, *Georgia Law Review*, and *Public Integrity*.