

Offenses Against Public Administration

**The Roles of the Auditor and
Prosecutor**

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1. Prosecutor

- Independent Judicial State Official (Est. by Art 7, Sec. 16 of the IN Constitution)
- Receives authority to act from the legislature. *Mounts v. State*, 496 N.E.2d 37 (1986 IN).
- Greatest Power is “*Discretion*”
- Chief Law Enforcement Officer – Only one who can *charge*

1. Prosecutor

- ***Mind of a Prosecutor?***
 - *Cynical – faces the worst versions of people daily!*
 - *Is the (your) case important, a priority?*
 - *Is the investigator/auditor prepared?*
 - ***Make an appointment & be ready to do more!***
 - ***Statements, reports, statutes, proof analysis.***
 - *What resources are required to prosecute?*
 - ***How much time will the case take?***
 - ***What costs are involved?***

2. Field Examiner (Auditor)

ISBA v. Consolidated Health Group, Inc. 700 N.E.2d 247 (Ind. App. 1998)

Purpose of SBA (Auditor) is to discover wrongdoing by a public officer to whom public funds are entrusted & to recover funds for which the officer is liable by reason of his failure to discharge his duties.

2. Field Examiner (Auditor)

- You may issue subpoenas, administer oaths, take statements - courts will enforce. IC 5-11-1-9(g)
- Whistleblower protection. IC 5-11-1-9.5
- Official must cooperate. Sanction civil infraction plus removal from office. IC 5-11-1-10
- No notice examinations. Improper disclosure a misdemeanor. IC 5-11-1-18
- Broad investigative authority.

3. Original Criminal Code

Seven (7) Deadly Sins have been used since early Christian times to define human vice or evil thought.

The Seven are: *LUST, GLUTTONY, GREED, SLOTH, WRATH, ENVY, & PRIDE.*

All criminal behavior can be placed within the 7.

3. Original Criminal Code

LUST: Intense desire of money, food, fame, power or sex.



3. Original Criminal Code

GLUTTONY: Over-indulgence and over-consumption of anything to the point of waste. Selfishness, placing one's own interests above the well-being or interests of others.



3. Original Criminal Code

GREED: Inordinate desire to acquire or possess more than one needs, especially with respect to material wealth.



3. Original Criminal Code

SLOTH: Physical laziness, failure to do things that one should do.
Evil exists when good men fail to act.



3. Original Criminal Code

WRATH: Inordinate or uncontrolled feelings of hatred and anger. A “love of justice perverted to revenge and spite” - *Dante*



3. Original Criminal Code

ENVY: The envious desire and coveting of another's traits, status, abilities or rewards.



3. Original Criminal Code

PRIDE: Often considered the most serious sin. Believing you are better than others, failing to recognize others & excessive admiration of self.



4. Offenses against General Public Administration

Indiana Code - Title 35, Article 44.1, Chapter 1

- *Section 1. Official Misconduct. While in office, commits an offense, accepts a benefit, insider trades, or fails to turn over records to a successor. Level 6 felony*
- *Section 2. Bribery. “Quid pro Quo” This for that. Level 5 felony*
- *Section 3. Ghost Employment. Pay without work. Level 6 felony*

4. Offenses against General Public Administration

Indiana Code - Title 35, Article 44.1, Chapter 1

- *Section 4. Conflict of Interest. Favoring self, family, friends, etc., with contracts or purchasing. 7 exceptions. Level 6 felony.*
- *Section 5. Profiteering. Cannot hire self as a consultant within one year of retirement or departure from public office. Some exceptions apply. Level 6 felony*

4. Offenses against General Public Administration

Penalties

IC 35-50-2-6 A level 5 felony carries a penalty of 1 to 6 years with an advisory sentence of 3 years. Serve 75% of time. Maximum fine is \$10,000.00

IC 35-50-2-7 A level 6 felony carries a penalty of 6 months to 2 ½ years with and advisory sentence of 1 year. Serve 50% of time. Maximum fine is \$10,000.00.

IC 35-50-5-1-1. 10 year bar from public office for official misconduct conviction.

5. Integrity & Ethics

What is wrong with people/society?

Author Matthew Kelly claims 3 attitudes negatively affect society.

1. HEDONISM – *IF IT FEELS GOOD DO IT!*
2. MINIMALISM – *WHAT IS THE LEAST I CAN DO AND GET BY?*
3. INDIVIDUALISM – *WHAT IS IN IT FOR ME?*

HE HAS A POINT!!!! And we are all Guilty

5. Integrity & Ethics

HOW DO WE RESPOND – FIX THIS?

1. *SELF-DENIAL* IS A RESPONSE TO HEDONISM
2. *DISCIPLINE* IS A RESPONSE TO MINIMALISM
3. *SERVICE TO OTHERS* IS A RESPONSE TO INDIVIDUALISM

5. Integrity & Ethics

- **ARE WE THE BEST VERSION OF OURSELVES?**
 - Do you see a better version?
 - Have you given up?
- **IS YOUR TEAM/FAMILY/OFFICE THE BEST VERSION OF ITSELF?**
- **SURROUND YOURSELF WITH PEOPLE WHO MAKE YOU A BETTER VERSION OF YOU!**
- **DOES YOUR PRESENCE LEAD OTHERS TO BECOME BETTER VERSIONS OF THEMSELVES?**
- **A LIFELONG PRACTICE / CHALLENGE**

6. Final Thoughts - Leadership

- Leadership is a process by which a person influences others to accomplish an objective & directs a group in a way that makes it more cohesive and coherent.
- Are you the boss or a leader? Power does not make a leader. Leaders motivate followers to *want* to achieve high goals.
- People want to be guided by leaders they respect and who have a clear sense of direction and vision for the future.

(Concepts of Leadership - www.nwlink.com)

6. Final Thoughts - Leadership

- Leaders must be *ethical* to be respected.
- Followers do not think about your attributes; rather, they observe what you do to know who you really are.
- They want to know if you are an honorable and trusted leader or a self-serving person who misuses authority to look good and get ahead.
- Pursue the best version of you!
- Good luck

(Concepts of Leadership - www.nwlink.com)