

Mayor's New Task Force Tackles Municipal Corruption

It's been more than five years since Philadelphia Police officers conducting a routine security sweep found an FBI bug hidden in the office of then-Mayor John Street. In the ensuing months, federal prosecutors handed down indictments for City Treasurer Corey Kemp, attorney Ron White, and ten other individuals for their involvement in a brazen pay-to-play scheme that tarnished the legacy of the Street administration and reopened old wounds in a city long plagued by nepotism and quid-pro-quo politics.

Though Street was never implicated in the scheme, Kemp was subsequently convicted on 27 charges and is currently serving out a ten-year sentence in federal prison. Within months of his July 2005 sentencing, former seventh-district Councilman Rick Mariano would follow the treasurer to the federal dock and be found guilty of taking some \$30,000 in bribes from local businessmen in exchange for political favors.

For all the embarrassment they caused, the scandals served as the springboard to an aggressive ethics reform movement led largely by then-city councilman, now Mayor, Michael Nutter.

Today, with the city wallowing in a budget crisis, that reform program continues to trudge along quietly; but with a recent flurry of high-profile official misconduct, the subject of government corruption has been launched back into the headlines, imbuing the ethics reform campaign with a new sense of urgency.

Since 2005 Philadelphia has seen the establishment of an independent board of ethics, the passage of comprehensive campaign finance legislation and, under Mayor Nutter, the appointment of a former federal prosecutor as the city's first Chief Integrity Officer. Yet not everyone is satisfied with the pace of the reforms.

"While the Nutter Administration has absolutely set a clear ethical standard for government employees, to date, there has been very little progress on new initiatives to improve the overall ethical framework of our government," said Brett Mandel, who recently resigned as executive director of reform group Philadelphia Forward to pursue a run for city controller. "A task force is working to come up with recommendations that, hopefully, will lead to some new developments, but until it is finished its work, we can only wait."

Mandel is referring to the Mayor's new Task Force on Ethics and Campaign Finance Reform, which was inaugurated last fall to review the city's new campaign finance law, and other ethics measures, and provide recommendations on how things can be done better. Nutter had promised to establish such a review board during his campaign for mayor.

To lead the review, the Mayor appointed Michael Schwartz – the former head of the Corruption, Civil Rights, Labor and Tax Fraud Unit of the U.S. Attorney’s Office for the Eastern District of Pennsylvania. In that role Schwartz helped prosecute both Kemp and Mariano.

Schwartz says that despite the city’s past reputation for pay-to-play, since the institution of reforms at the end of the Street administration and the beginning of Mayor Nutter’s tenure, Philadelphia has come to be seen as something of a model of how a municipality should go about ethics reform. That said, he acknowledges there are areas that can use some work.

“What the Mayor said in establishing us, and what we believe, is you can always improve things,” he said. But what’s most important now, he added, is that the Task Force take the time to get it done right. “This is not death by committee. We’re not trying to do an academic study in that we produce a hundred-page document that’s going to sit on a shelf,” Schwartz said. “What we hope to do is really give deliberate consideration to all of these issues, and to make real recommendations.”

The mayor set a deadline of February 1 for the Task Force to deliver its initial report. On January 30 Schwartz sent a four-page letter to Nutter and City Council President Anna Verna requesting an extension until May 1. In the letter Schwartz outlines five main categories for review: campaign finance, restrictions on political activity, conflicts of interest rules – including possible anti-nepotism regulations, outside employment and lobbying disclosure.

Reformers say that last item is essential to ensuring good government. Philadelphia’s city government is one of just a handful that don’t require lobbyists to register and disclose their clients. Pennsylvania enacted its own lobbying disclosure law on January 1, 2007.

“We are one of the only cities that has no lobbyist disclosure and registration requirement,” said Ellen Kaplan, vice president of the watchdog group Committee of Seventy. “So lobbyists don’t have to disclose their clients, don’t have to disclose the money they’re making; and that’s a breeding ground for the types of pay-to-play scandals that have happened.”

One person who’s hoping the Task Force succeeds is Shane Creamer, executive director of the city’s independent Board of Ethics.

“From an enforcement perspective I would rather have clear rules under the ethics code so that everybody knows where the boundaries are and I think that will make it easier for us to do our job of telling people what the rules are and educating them about them, and then enforcing the rules when there are transgressions,” said Creamer.

The Philadelphia Board of Ethics was established by voter referendum at the end of the Street administration. Unlike its predecessor, which served only an advisory function, the new five-member Board of Ethics is charged with both investigating and enforcing ethics violations. Creamer says under current ethics law, that job can sometimes be a challenge.

“You have to understand, the ethics code was adopted in 1962 and the substantive provisions of that code have not been changed since then; so it’s a 47-year old set of rules,” said Creamer. “Some of the provisions are poorly worded and I think we can do a better job by taking a fresh look at those rules.”

He says since 2006 the Board has completed around a dozen enforcement actions – all of them pursued through the Court of Common Pleas; and it is currently involved in several he cannot discuss. Thus far, with the exception of one case, all of the board’s enforcement actions have been in the area of campaign finance, a reflection of recent elections as well as the city’s new campaign finance law, which was passed prior to the 2007 municipal elections.

The ordinance places restrictions on how much money candidates can take in and how much they can spend, and it requires full disclosure of contributors. Creamer says ensuring compliance with the law requires constant vigilance.

“There’s just more volume there,” he explained. “We have hundreds of committees filing with us electronically; we had something like 74 candidates for office in 2007. It just generates more work for us than any other category.”

But others say the preponderance of enforcement actions surrounding campaign finance is an indication that the new law isn’t working as well as it could.

“The campaign finance ordinance had its first test in 2007 and I think the Board of Ethics has really done a great job in trying to enforce the ordinance; that said it’s a mammoth job,” said Committee of Seventy’s Kaplan. “There are still some holes in the campaign finance law.”

The Committee of Seventy has called the law “at odds with common sense.” One glaring problem, it says, is the narrow definition of a candidate under the ordinance, which limits the law’s applicability to individuals that have formally declared their candidacy.

For instance, early in the 2007 mayoral race, “John Dougherty, Chaka Fattah, and Dwight Evans – were all obviously running for mayor,” the Committee notes, “...yet in the eyes of the city, they were not yet candidates and therefore not subject to the campaign finance rules. Because Dougherty, Fattah, and Evans had not uttered the words ‘I am a candidate’ in public, they were able plausibly to claim that they were not yet subject to the Philadelphia ordinance.”

Changes to the campaign finance law is one of a number of recommendations the Committee of Seventy makes in a new report, “A Roadmap to Reform,” which it delivered to Schwartz at the Task Force’s first public hearing in January.

The 80-page report contains 28 specific recommendations designed to strengthen Philadelphia’s campaign finance law, and to enact tough ethical controls extending across city government. Most of the Committee issues parallel the topics outlined in the interim Task Force report.

Kaplan oversaw the preparation of the report, and while she commends Nutter for pushing through a number of ethics initiatives, she believes finishing the job may be more of a challenge.

“I think [the Mayor] will readily say, it’s one thing to be a maverick on City Council, it’s another thing to be the mayor of Philadelphia that has to look to Council to help pass not only ethics reforms but many other things...clearly there are things on our ethics reform list that aren’t going to go over well with City Council,” she said.

One person who’s found that out firsthand is Councilman Frank Rizzo. In September 2008, Rizzo proposed six new ethics bills covering lobbyist registration, gifts, outside employment and fundraising. This is the second straight year he introduced an ethics reform package, and in both instances he has met resistance from others in Council. One particularly sensitive issue is a bill that would ban council members from holding outside jobs with company's that seek city contracts.

“Anytime there’s change, someone’s ox gets gored,” explained Rizzo, via e-mail. “Some government officials are doing pretty well by the practices that my ethics bills seek to address. Naturally, they don’t want to see an end to those practices—which benefit their selfish interests. If my ethics bills fail to pass, it will be because of those selfish interests.”

Rizzo added that he remains confident the Mayor’s Task Force will complete its report in a reasonable timeframe, and that the administration will take the recommendations seriously.

Council President Anna Verna did not respond to a request for comment for this article.

Despite regional variations and modern reforms, the fundamentals of official corruption have remained consistent. What it seems to come down to almost universally is a simple blend of greed – for money or power – and opportunity.

“When I talk corruption, almost all corruption in my mind means having a concealed financial interest – either direct or indirect,” said Schwartz. “I think there’s not that much that separates what makes a public official abuse his or her trust with what happens in a fraud case on the private level. I don’t know that there are huge sociological differences between a Bernie Madoff and a Corey Kemp.”

As a result, both Creamer and Schwartz say it’s virtually impossible to completely eradicate public corruption, which only supports the need for strong rules that send a clear message to both government officials and the public.

“When you’re talking about misconduct among officials that involves money you really have to look to human nature and greed and avarice, elements of human nature that are never going to go away,” said Creamer. “If you have bad rules or rules that are not enforced, that invites the kind of mischief you see from time to time; but if you’re on top of things and you have good rules I think you limit the opportunity. It doesn’t prevent it absolutely but I think the public can be confident that somebody’s watching.”

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