

TOUGH CHOICES

FACING FLORIDA'S GOVERNMENTS



TOUGH CHOICES: FLORIDA COUNTIES BRIDGE THE ETHICS POLICY GAP

EXECUTIVE SUMMARY

Florida has long been ethically challenged. Supporting data confirm that the state has had a large number of federal public corruption convictions and recently received a failing grade on a report card from the State Integrity Investigation for ethics enforcement of state-level laws — laws that have not been revisited since Reubin O'D. Askew was governor in the 1970s.

While the bad news is that Florida's state-level ethics laws and enforcement are essentially frozen in time, outdated and ineffective, the good news is that local governments in the state are not waiting for the legislature to address the state's public corruption problems. Counties across the state are acting as ethics reform laboratories, addressing their unique experience with public corruption through innovative ethics reform solutions.

This report from the LeRoy Collins Institute at Florida State University and Integrity Florida outlines what counties have done in areas dealing with ethics policy, ethics enforcement, lobbying, campaign financing and procurement. It also contains brief case studies of the exemplary policies in place in several Florida counties, including: Broward, Duval, Leon, Miami-Dade, Orange, Palm Beach and Sarasota. The data in this report are based on a survey of counties conducted in the fall of 2012; 45 of Florida's 67 counties are included in the analysis.



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INSTITUTE

November 2012

In short, the results show that a majority of the counties surveyed provide ethics training for elected county officials, have adopted local ordinances regulating procurement practices, and have put in place restrictions on gifts from lobbyists to county officials. Further, close to half of the 45 counties have designated a point person for ethics issues.

Other areas of ethics are not as widely adopted. Only 12 counties have adopted an ethics code that is more stringent than the state code (Chapter 112, Florida Statutes) and only 10 require lobbyists and their principals to register. Only a handful of counties have adopted local ordinances regarding voting conflicts for elected officials, have their own ethics commission, have local ordinances regulating the financing of county campaigns, or require lobbyists to report their compensation.

As might be expected, some of the counties that are leaders in local-level ethics reforms are those that have already experienced their own ethical meltdowns. Palm Beach County, named the “Capital of Florida Corruption” by *Time* magazine in 2009, is a case in point. After three county commissioners resigned following felony convictions related to their time in office, business leaders and citizen activists led an effort to adopt major reforms that now serve as a model for other counties in Florida, and across the country.

As more counties consider working proactively to curb ethical issues by putting in place government ethics programs that promote integrity and address potential public corruption, this report can serve as a roadmap to local ethics reform success.

BACKGROUND

Florida has a well-documented problem with public corruption at every level of government. In fact, according to U.S. Department of Justice data, the state led the country in federal public corruption convictions from 2000 to 2010. While there have been some convictions of state-level public officials, many of Florida’s convictions are of local-level officials, often public servants in county or city governments.

The State Integrity Investigation’s Corruption Risk Report Card gave Florida an overall C-minus grade for corruption risk. In the report, Florida received its only F grade for ethics enforcement agencies, primarily because of weaknesses in state ethics laws and the structure of the state ethics commission. A major contributor to the failing grade is the fact that the state ethics commission cannot initiate an investigation into a possible ethics violation until a complaint has been filed by a member of the public.

Even as recently as this year, Florida public corruption continues to make headlines. While ranking America’s most miserable cities, *Forbes* magazine placed three Florida cities in the top ten: No. 1 Miami, No. 4 West Palm Beach and No. 7 Fort Lauderdale. While the rankings were based on several factors, public corruption was a key component of the criteria.

The Florida Legislature has done very little to revisit and update the basic statewide ethics reforms that were adopted in the 1970s under former Governor Askew. Those initial reforms made Florida a national ethics leader and earned the reputation as the “Sunshine State” for open government. Since that time, an increase in exemptions to Florida’s open records laws, and the unwillingness of lawmakers to continue ethics reform, have caused the state to fall behind the nation in the areas of ethics enforcement and government transparency.

According to the Florida Commission on Ethics, the primary code of ethics for all state and local public officers and employees was adopted by the Legislature as *Part III of Chapter 112, Florida Statutes*. It contains standards of ethics conduct and disclosures applicable to all public officers, employees, candidates, lobbyists, and others in Florida state and local government, with the exception of judges. (The ethical standards for members of Florida’s judicial branch are contained in the Code of Judicial Conduct, adopted by the *Florida Supreme Court*.)

This report provides a snapshot of ethics laws in 45 of the state's 67 counties. The information is based on responses to a survey sent electronically to all county administrators and county attorneys in the fall of 2012. The 45 responses reflect both small and large counties, urban and rural counties and those from the various regions of the state. (See Methodology section for a map showing the location of the counties responding to the survey.)

The next section summarizes the results in three areas: ethics policy and enforcement; lobbying and campaign finance; and procurement. Case studies of seven counties that have adopted exemplary ethics provisions follow. An appendix, including links to the codes of responding counties, is available electronically on the [LeRoy Collins Institute](#) and [Integrity Florida](#) websites.

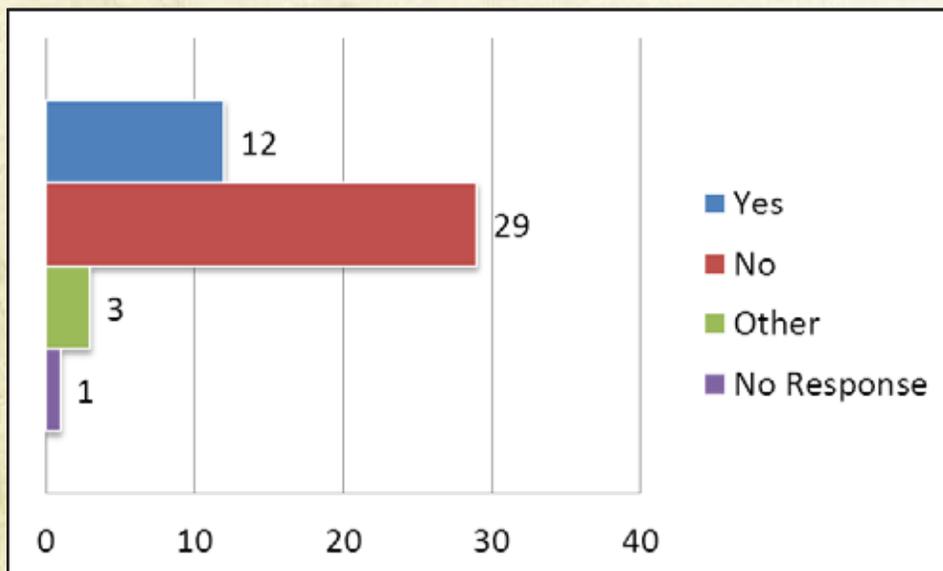
ANALYSIS

■ Ethics Policy and Enforcement

Six elements make up the category of ethics policy and enforcement: having an ethics code, limiting voting conflicts, establishing an ethics commission, offering ethics training, and having an inspector general or other point person responsible for implementing ethics provisions.

According to Figure 1, 12 counties report having an ethics code that contains local regulations in addition to state requirements. Local governments are not allowed to utilize ethics policies that are weaker than [Part III of Chapter 112, Florida Statutes](#), but they can adopt provisions that are tougher than the state law. The additional requirements generally deal with more stringent practices for voting conflicts, gifts and financial disclosure.

Figure 1: Has your county adopted an ethics code that is different from the state ethics code contained in Chapter 112 of state law?



Yes Counties: Broward, Clay, Duval, Escambia, Indian River, Lake, Miami-Dade, Orange, Palm Beach, Sarasota, Seminole and St. Johns

Figure 1

While Chapter 112 contains state laws regarding voting conflicts for local and state officials, five counties have adopted even stronger local ordinances regarding voting conflicts (See Figure 2).

Figure 2: Has your county adopted an ordinance regarding voting conflicts for elected officials?

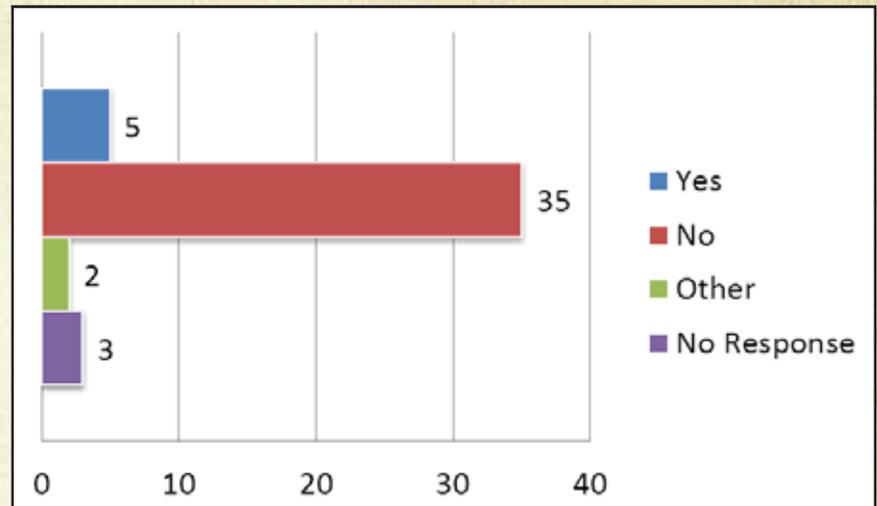


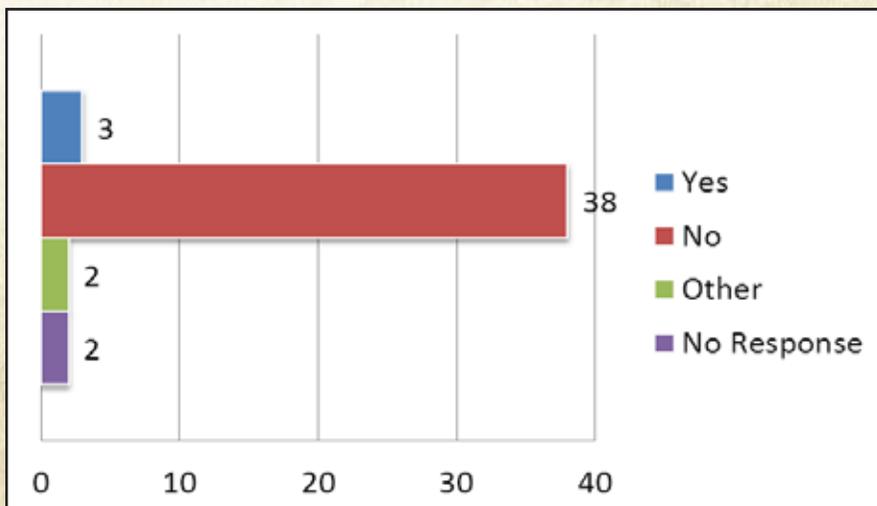
Figure 2

Yes Counties: Hillsborough, Liberty, Miami-Dade, Orange and Seminole

Miami-Dade and Orange Counties have the most comprehensive county-level voting conflicts policy. In Miami-Dade County, the “Miami-Dade County Conflict of Interest and Code of Ethics Ordinance” in Sec. 2-11.1 contains a prohibition on transacting business within the county that applies to "commissioners," "autonomous personnel," "quasi-judicial personnel," "advisory panel," "department personnel" and "employees." According to the Ordinance, individuals in these categories shall not enter into any contract or transact any business, with limited exceptions, in which he or she or a member of his or her immediate family has a financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County. The burden to seek a conflict of interest opinion from the Miami-Dade County Commission on Ethics and Public Trust is on the individual with the potential conflict and must be sought prior to submitting a bid, response or application of any type of contract with the county. (See Orange County case study for a detailed explanation of that county’s conflict of interest policy).

The counties of Miami-Dade, Palm Beach and Duval (consolidated government with City of Jacksonville) have established their own local ethics enforcement agencies (See Figure 3) with added responsibilities beyond the Florida Commission on Ethics.

Figure 3: Does your county have its own Ethics Commission?

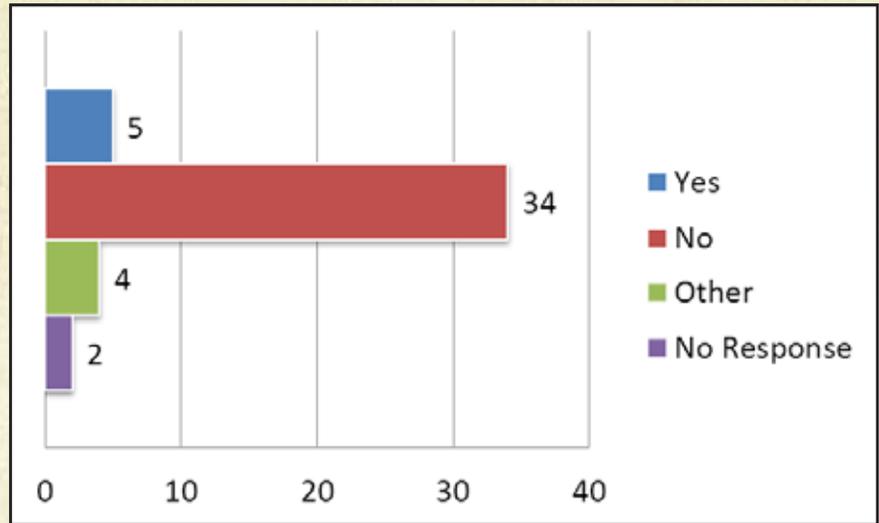


Yes Counties: Duval, Miami-Dade and Palm Beach

Figure 3

Five counties have put in place independent inspector generals as internal government watchdogs to investigate wasteful spending and public corruption (See Figure 4).

Figure 4: Does your county have its own independent inspector general?



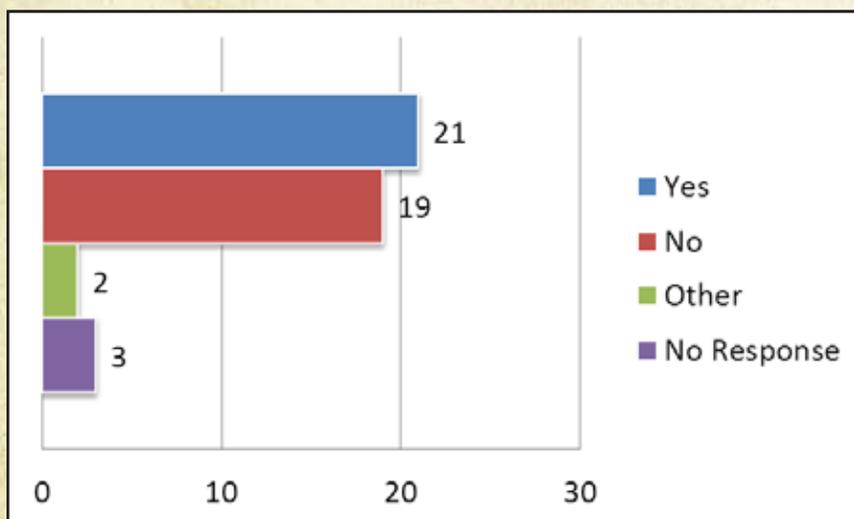
Yes Counties: Broward, Miami-Dade, Palm Beach, Pinellas and St. Johns

Figure 4

In Hillsborough County, the charter puts in place an internal performance auditor to serve in a similar capacity as an inspector general. Manatee County's Clerk of the Circuit Court's Internal Audit Department acts, in part, as an independent inspector general. The audit director regularly investigates, on an independent basis, allegations of corruption or other ethical or illegal conduct by county staff or officials. Sarasota County's ethics and compliance officer and Duval County's ethics officer both serve in dual roles with functions similar to an inspector general. In Sarasota, the Clerk of Court is responsible for internal audits. In addition, several counties have whistleblower ordinance or hotlines.

County attorneys are the most frequently utilized point person for ethical issues (See Figure 5). Full-time ethics officers are on staff in Duval, Sarasota and Miami-Dade Counties.

Figure 5: Does your county have a designated point person for ethics issues?



Yes Counties: Broward, Charlotte, DeSoto, Duval, Escambia, Hardee, Hendry, Hillsborough, Leon, Manatee, Marion, Miami-Dade, Okaloosa, Okeechobee, Orange, Pinellas, Sarasota, Seminole, St. Johns, St. Lucie and Sumter

Figure 5

Ethics training, a critical component of creating an ethical culture in government, was the most common county government ethics program component cited by survey takers, though no counties stated that it was mandatory. Sixty percent of the counties surveyed offered ethics training for elected county officials (See Figure 6).

Figure 6: Does your county offer ethics training for elected county officials?

Yes Counties: Bay, Bradford, Broward, Charlotte, Duval, Escambia, Hendry, Lake, Leon, Levy, Manatee, Marion, Martin, Miami-Dade, Monroe, Okaloosa, Okeechobee, Orange, Palm Beach, Pinellas, Polk, Putnam, Sarasota, Seminole, St. Johns, St. Lucie and Sumter

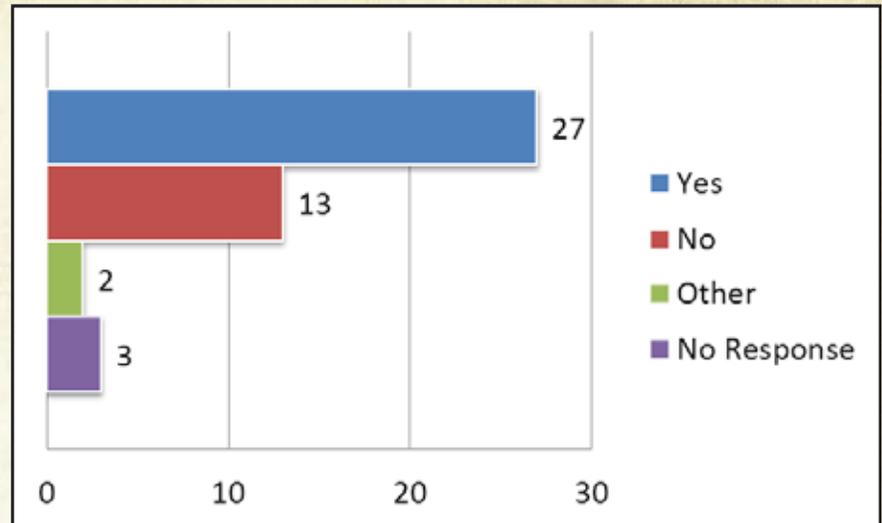


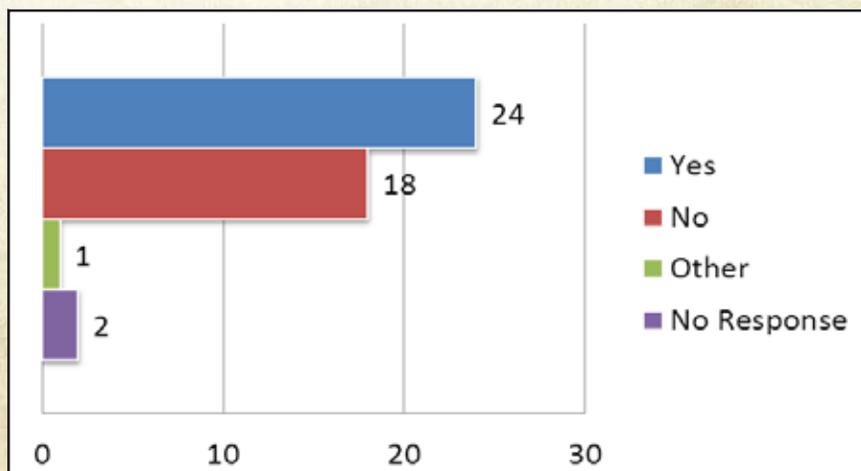
Figure 6

Ethics training programs, offered through the Florida Association of Counties and administered by county attorneys, were the most common types of ethics training cited. The focus of the training curriculum is primarily on Chapter 112, Florida Statutes, Code of Ethics provisions. Training on Florida’s Sunshine Laws for public meetings and public records are often combined with ethics training at the county level. The Florida Commission on Ethics and the Florida Institute of Government at Florida State University also provide ethics programs for county governments.

■ **Lobbying Disclosure and Campaign Finance**

The third most cited local government policy topic in the survey responses was restrictions on lobbyist gifts to county officials. More than half of the responding counties (24) had such restrictions (See Figure 7).

Figure 7: Has your county adopted restrictions on gifts from lobbyists to county commissioners and county employees?



Yes Counties: Bradford, Brevard, Broward, Clay, Duval, Hardee, Hendry, Hernando, Hillsborough, Indian River, Lake, Manatee, Marion, Martin, Okaloosa, Orange, Palm Beach, Pinellas, Polk, Sarasota, Seminole, St. Johns, St. Lucie and Taylor

Figure 7

Some 10 counties out of the 45 surveyed require lobbyist registration (See Figure 8).

Figure 8: Does your county require lobbyists and their principals to register?

Yes Counties: Broward, Duval, Hillsborough, Lake, Leon, Miami-Dade, Orange, Palm Beach, Pinellas and St. Lucie

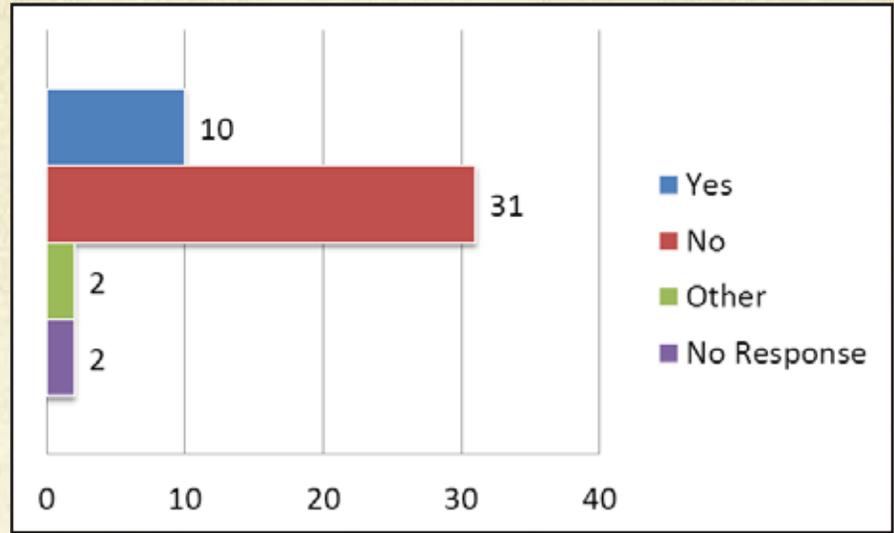
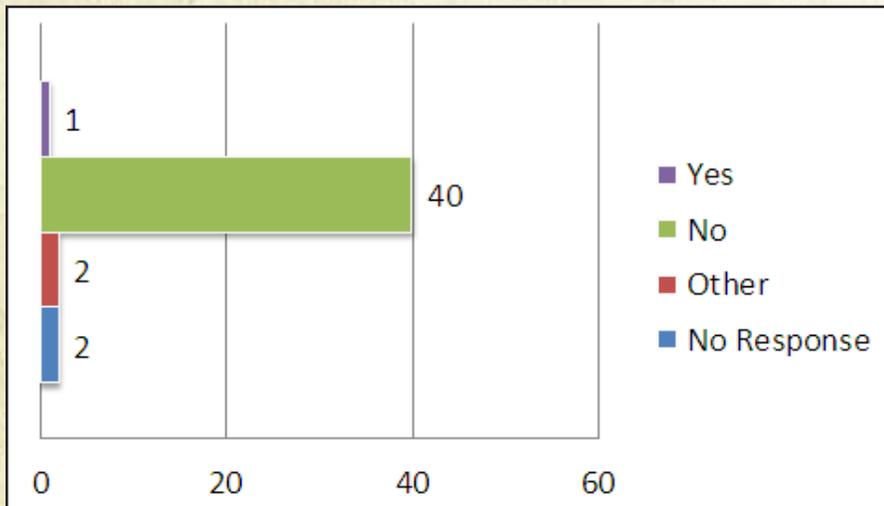


Figure 8

Only Leon County requires lobbyists to report compensation (See Figure 9).

Figure 9: Does your county require lobbyists to report their compensation?



Yes Counties: Leon

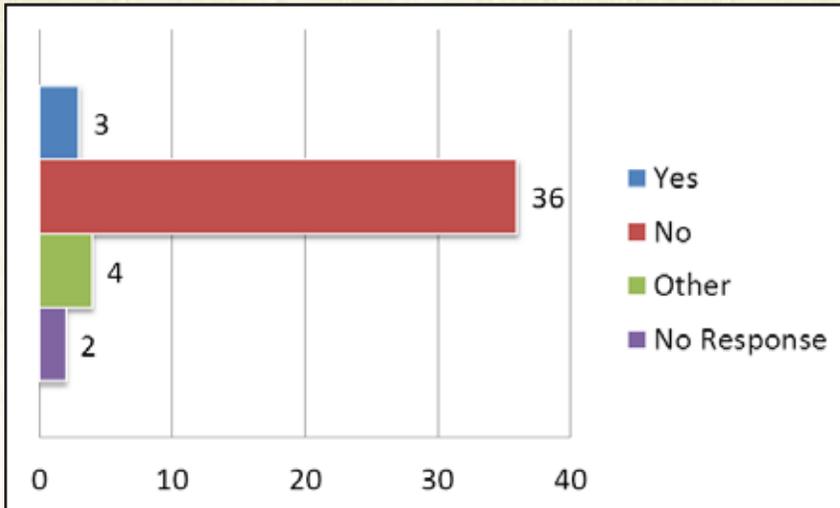
Figure 9

Local campaign finance regulations (See Figure 10) are in place in three counties: Broward, Miami-Dade and Sarasota. Leon County responded “other” to the survey question, but indicated that a charter amendment was adopted in 2010 reducing the amount that can be contributed to county commissioner campaigns per election to \$250.

Sarasota County has the most extensive county-level limits on campaign finance in the state. In 1990, Sarasota County voters approved a measure that prohibits county candidates from accepting more than \$200 from individual contributors and limits total campaign contributions to \$40,000.

Sarasota’s contribution limitations for county campaigns are set in their charter. According to the charter, no candidate for any County office for which compensation is paid shall accept any contribution from any contributor, including a political committee, as defined by state law, in cash or in kind, in an amount in excess of \$200 (Amended Nov. 7, 2000).

Figure 10: Has your county adopted any ordinance regulating the financing of county campaigns?



Yes Counties: Broward, Miami-Dade and Sarasota

Figure 10

■ **Procurement**

The final frequently cited policy component at the county government level, according to the survey, was local ordinances regulating procurement practices (See Figure 11).

Figure 11: Has your county adopted any ordinance regulating procurement practices such as a "cone of silence" during bidding?

Yes Counties: Bay, Bradford, Broward, Charlotte, Clay, DeSoto, Dixie, Escambia, Hillsborough, Indian River, Leon, Manatee, Marion, Martin, Miami-Dade, Okaloosa, Orange, Palm Beach, Pinellas, Polk, Sarasota, Seminole, St. Johns, Sumter and Walton

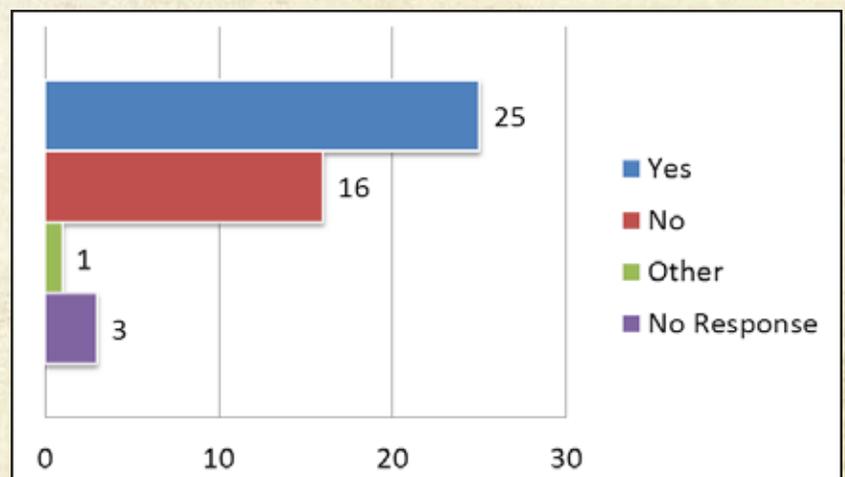


Figure 11

Fifty-six percent of county governments have adopted procurement practices that go beyond state law. “Cone of silence” policies that limit communications between prospective government contract bidders and local governments were mentioned regularly in the survey responses. Some counties practice a “cone of silence” or implement a “no contact” period for vendors and lobbyists during procurement processes, though some do not have these practices mandated in an ordinance or code. Indian River County requires

competitive bidding on all vendor contracts above \$25,000 and mandates disclosure of any vendor relationships with county commissioners or staff. Some counties added that they have local preference ordinances designed to support local vendors.

In 2009, at the state level, former Chief Financial Officer Alex Sink launched the Sunshine Spending website to allow citizens to track which companies were receiving state tax dollars. The website was designed to enable Floridians to hold officials accountable for spending. Florida’s current Chief Financial Officer, Jeff Atwater, has expanded online procurement tracking initiatives with *Transparency Florida* and the *Florida Accountability Contract Tracking System*. While not specifically covered in this study, some local governments in Florida are also beginning to deploy similar websites for procurement tracking.

CASE STUDIES

While tabulations of county actions are an important part of understanding the local ethics law landscape, it is also helpful to look deeper into the instances of exemplary county efforts. This section examines the ethics reform efforts of Broward, Duval/Jacksonville, Leon, Miami-Dade, Orange, Palm Beach and Sarasota Counties. In each of these counties, the reform efforts were initiated by ethical charges or violations, but in each case the counties stepped up to deal with the problems. The public’s role in these reforms is also key. The case studies cover a 15-year time frame, ranging from Miami-Dade’s efforts in 1996 through Leon County’s 2010 reforms.

Figure 12 provides a summary of the breadth of the actions the seven counties have undertaken. None of the counties enacted all 11 of the ethics provisions we identified, although each of the provisions was in place in at least one of the counties in the study. The case studies follow in alphabetical order as shown in Figure 12.

Figure 12: Summary of survey responses from case study counties

County	1. Ethics Code	2. Voting Conflicts Policy	3. Ethics Commission	4. Inspector General	5. Ethics Point Person	6. Training	7. Gifts	8. Lobbyist Registry	9. Lobbyist Comp. Report	10. Campaign Finance	11. Procurement
Broward	Yes	No	No	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes
Duval	Yes	No	Yes	Other	Yes	Yes	Yes	Yes	No	No	Other
Leon	No	No	No	No	Yes	Yes	No	Yes	Yes	Other	Yes
Miami-Dade	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	No	Yes	Yes
Orange	Yes	Yes	No	No	Yes	Yes	Yes	Yes	Other	Other	Yes
Palm Beach	Yes	No	Yes	Yes	No	Yes	Yes	Yes	No	No	Yes
Sarasota	Yes	No	Other	Other	Yes	Yes	Yes	No	No	Yes	Yes

Figure 12

■ Broward County

Broward County, perhaps most notably in its *Sheriff’s Department*, has had its share of public corruption, but it also has a history of taking action to remedy it. In 1996, the Office of Professional Standards was created to investigate complaints filed under the County’s Whistleblower Program and to assist in ethics and conflict of interest training of county employees.

In 2009 and 2010, Broward County citizens saw a parade of government officials indicted for corruption, including their sheriff, Ken Jenne, who was sentenced to a year and a day in federal prison for tax evasion and mail fraud conspiracy. Of the 14 criminal cases filed against former Broward public officials and their spouses, there have been six *convictions*. Six other cases have yet to be resolved.

After this wave of scandal and public corruption, county officials and Broward County voters demanded new ethics reforms. Broward County created its own Ethics Commission, that has since been disbanded, with a charge to write a new ethics code. Voters approved the new *ethics code* in 2010, and it became effective in January 2012. The ethics code contains a strict ban on gifts to board members from lobbyists, vendors and contractors. It also prohibits county commissioners and their family members from lobbying municipal governments within the county. The ethics code requires registered lobbyists in Broward County to complete a contact log listing each elected official the lobbyist or their principle meets with or intends to meet or communicate with. The disclosure must be made prior to any vote being taken on any matter that was the subject of the lobbying activity. The code also places strict disclosure requirements on campaign contribution fundraising, as well as charitable contribution fundraising by elected officials.

The code also goes further than the state in the area of financial disclosure. The Broward County ethics code mandates that officials post financial disclosure forms – which are required by state law – to an online, searchable database for the public to see. This online component is an extra step that is not required by the state ethics commission.

And finally, the ethics code specifies that all elected officials will undergo ethics training and education when they are first elected to office and then continuing on an annual basis. The training is focused on the topics of the Sunshine Law, public records and public service ethics. Elected officials are required to have eight hours of training and education each year and must acknowledge that they have completed the training by filing a form. After accomplishing its purpose, the Broward County Ethics Commission is now listed as “inactive.”

Of the urban counties in Florida that have recognized a need to go beyond the enforcement of ethics laws provided by the state ethics commission, Broward County has taken a unique approach. Broward County voters chose to create the *Office of Inspector General* with the authority to “investigate allegations of misconduct, gross mismanagement and violations of local, state and federal law.”

After a public *hiring process*, John Scott was selected in 2011 as the first inspector general of Broward County. *The Office of Inspector General* has subpoena and investigative powers over all county commissioners, every city official in Broward, all government employees and all vendors who do business with Broward's city and county governments. The county charter requires the Office to function as an independent agency and the Broward County Commission is required to provide sufficient funds for the office to carry out its duties.

The Office of Inspector General issues frequent *reports* on its investigations into misconduct and efforts to enforce ethics laws. Most recently, the Office released its first *annual report* which describes the establishment of the office as Broward's independent government watchdog and its efforts to investigate fraud, corruption and mismanagement. In the report, it states the Office found 121 elected officials in Broward County failed to comply with the requirement that their financial disclosure statements be posted online. It was *reported* that Office staff worked with county and municipal officials to address the lack of compliance and, as of Sept. 28, 2012, 100 percent of the elected officials were in compliance with the posting requirement.

■ Duval County/City of Jacksonville

The evolution of ethics reform in the consolidated government of the City of Jacksonville and Duval County is primarily due to the efforts of *Carla Miller*, the head of the City's *Office of Ethics, Compliance and Oversight*. Miller is a former federal prosecutor who began prosecuting “white collar” crime when she was fresh out of law school at the University of Florida. Miller helped draft the City's ethics code that was adopted in 1999 and served as the City's volunteer ethics officer for eight years. After a wave of public corruption in 2006, then Mayor John Payton hired her as the City's ethics officer in 2007.

Like its east coast neighbors, Duval County has a long history of public corruption. In fact, it was corruption in the 1930s, and the resulting 75 indictments, that prompted the Florida Legislature to amend the constitution to give Jacksonville and Duval County the ability to consolidate their governments.

Even though it had the ability to consolidate, it wasn't until 1968 that consolidation actually took place - after yet another wave of public corruption. Four City Council members were indicted, along with other public officials, for a total of 142 counts of bribery and larceny. On Aug. 8, 1967, Duval County voters approved the consolidation referendum by an overwhelming margin creating a "strong mayor" who is elected at-large but is term-limited to two four-year terms. The new government also included a 19-member City Council with five at-large seats and the rest from districts.

While Jacksonville had an ethics code in its charter when the consolidated government was created, it was removed in the 1970s to avoid potential conflicts with state ethics provisions that were being enacted at the time. Jacksonville adopted another *code of ethics* in ordinance that went beyond Chapter 112, Florida Statutes in 1999.

In 2006 and 2007, there were new allegations of public corruption in Jacksonville. A grand jury was investigating violations of state open meetings laws and the F.B.I. was looking into allegations of cronyism and influence-peddling at the Jacksonville Port Authority. Then Mayor John Peyton was also caught up in scandal after it was revealed that two close friends had received lucrative city contracts without going through proper bidding procedures.

The mayor publicly apologized for the ethical lapses and proposed several reforms designed to restore the public's trust. The reforms included the hiring of a paid ethics officer and establishing a hotline for the reporting of ethics violations. Mayor Peyton hired Miller as the City's ethics officer and gave her a number of new responsibilities. In addition to providing ethics training to government officials and employees, monitoring the ethics hotline, ensuring compliance with gift reporting and lobby registration, Peyton also asked Miller to watchdog the City's procurement and bidding process.

While these reforms were a step forward, problems remained. Miller was a part-time employee with no full-time support staff and many responsibilities. Her position also lacked the independence that is critical to be an effective watchdog as she was required to report to the mayor and city council president.

Miller and others continued to push for new reforms that would create a strong culture of ethics in city government. Miller also continued her work as the president of *City Ethics*, an organization she founded in 2001, that is devoted to the establishment of government ethics programs across the U.S., Europe and Australia.

In 2010, the Jacksonville Charter Revision Commission made a number of *recommendations* for ethics reform including reinserting language into the charter providing for an ethics code and an independent ethics commission. In June 2011, Miller, the Jacksonville Ethics Commission and community groups, including the League of Women Voters and the tea party, were successful in their efforts to convince the City Council to give the commission and the ethics officer the independence they need to do their job effectively.

The City Council followed the Charter Commission's recommendation and inserted language in the charter that included a revised *ethics code*. It also included a more independent ethics commission and provided that the ethics officer be appointed by the ethics commission subject to approval by the City Council. The ethics code also has stronger provisions than state law relating to gifts, as well as a requirement that lobbyists and their principals register with the city.

Miller deserves much of the credit for creating a culture of ethics in Jacksonville government. It should be noted, however, that with the exception of the passage of the original consolidation referendum,

Jacksonville's ethics reforms were not driven by ballot referendum. To its credit, the City Council has shown a willingness to proactively address its public corruption problems by passing meaningful ethics reform.

■ Leon County

Most notable among Leon County's ethics provisions are those relating to lobbyists and elections. The county requires registration of lobbyists and reporting of compensation they receive on a quarterly basis. A 2010 vote amended the county charter to limit campaign contributions to county commissioners to \$250 per election. The spending limit was overwhelmingly approved by 65.5 percent of the voters.

In 2004, the County Commission adopted a policy requiring lobbyists to register and pay an annual fee of \$25. In 2007, with encouragement from the League of Women Voters of Tallahassee and Common Cause, the county revisited the ethics policy. The policy was enhanced and began requiring lobbyists to pay \$25 for each principal annually, and to file compensation reports each quarter giving the name of each principal and the compensation provided that quarter. In that year, the board decided against a policy that would have required every commissioner to keep a written log documenting each oral lobbying communication or meeting with lobbyists.

There are more than 125 registered lobbyists listed on the Clerk of Court website, but this includes many who paid in previous years but are not current. Only 12 lobbyists were considered "active," meaning they have paid through Sep. 30, 2012 (site checked Oct. 17, 2012).

The 2007 provision was promoted by the County Commission Chair, Ed DePuy, who had been criticized for his own lobbying activities. DePuy cast the deciding vote to approve a comprehensive plan amendment that allowed a controversial development to be built near Lake Jackson. DePuy started working for a lobbying firm, SCG Governmental Affairs, representing the developer of that project on Mar. 1. The county commission vote was on May 8. DePuy claimed that the firm had stopped lobbying on the county level on Feb. 28 and that he did not have to disclose the information, nor recuse himself. Opponents of the plan disagreed and a complaint was filed against DePuy before the Florida Commission on Ethics concerning his vote. While the Commission dismissed the complaint with a finding of no probable cause, the Commission did find that DePuy violated requirements of the Florida Constitution by failing to disclose certain income on his disclosure forms for 2007, and he was fined \$1,000 in 2011. Commissioner DePuy was defeated in his reelection bid in Nov. 2008.

The 2010 provision reducing the amount county commissioners can receive in contributions was one of six amendments to the home rule charter proposed by a 2009-2010 Citizens Charter Revision Committee. County Commissioner Cliff Thael strongly urged the charter committee to adopt this provision arguing that it would force candidates out into the community to meet more people and hear more diverse concerns. Unfortunately, Commissioner Thael had ethics problems of his own. In Dec. 2010 he agreed to pay a \$2,500 fine after settling with the Florida Commission on Ethics for failing to report income and votes on a development in the county. Thael lost his bid for reelection in 2010.

■ Miami-Dade County

Miami-Dade is another southeast Florida county with a decades-long history of public corruption. From its early reputation as a haven for gangsters like Al Capone, to the public corruption that resulted in a 1965 *grand jury report*, to the cocaine-fueled crime epidemic that swept Miami in the 1970s and the 1980s, to "*Operation Greenpalm*" that ensnared a number of public officials in the 1990s, Miami has seen plenty of high profile corruption cases.

The county also has a long history of addressing its public corruption problem, starting with a conflict of interest law that was adopted in 1972 and subsequently revised in 1986. In 1996, after a wave of

public corruption, the citizens of Miami-Dade voted to create the *Commission on Ethics and Public Trust*, and became the first county in Florida to create its own ethics commission. The structure, charge and jurisdiction of the Commission are established by an *ordinance*.

In 1996, as a result of a citizen vote to amend the home rule charter, the Miami-Dade County's Commission on Ethics and Public Trust was created. It is the oldest local ethics commission in the state and is empowered to subpoena and investigate the facts and persons related to any complaint it chooses to investigate. A complaint must be filed before the Commission can begin to investigate, although the commission's advocate can file a complaint based on an anonymous tip. Miami-Dade also has an independent inspector general charged with rooting out fraud, waste and abuse of power in government programs and contracts.

The Commission is an independent agency with advisory and quasi-judicial powers. It is composed of five volunteer members who serve staggered, four-year terms. Its current executive director, *Joseph M. Centorino*, took over for the original executive director, Robert Meyers, in 2011. The Commission's jurisdiction extends to the municipalities of Miami-Dade County as long as the subject involves one of the four ordinances under its authority. Those ordinances include the *conflict of interest and code of ethics ordinance*, *the citizen's bill of rights*, *the ethical campaign practices ordinance* and the *election campaign financing trust fund ordinance*.

The process to initiate an investigation into a possible ethics violation is complaint-driven. Complaints can be filed by members of the public with "personal knowledge" of a violation and must be signed under oath or affirmation by the complainant. Complaints can also be filed by the county inspector general, the state attorney or the commission's advocate. The Commission also offers ethics training to elected officials and the Executive Director of the Commission is the designated ethics point-person for Miami-Dade County.

After the creation of the Commission on Ethics and Public Trust, the County Commissioners continued to address the county's public corruption problems when they established the *Office of the Inspector General* (OIG) in 1998. The OIG is authorized to detect, investigate and prevent fraud, waste mismanagement and abuse of power. The *ordinance* creating the OIG provides it will be "sufficiently independent to assure that no interference or influence external to the Office adversely affects the independence and objectivity of the Inspector General." The Office operates a fraud reporting hotline that accepts anonymous complaints and is one of a few OIG's in the country that has jurisdiction to investigate officials at any level, including elected officials.

In its most recent *2011 report*, the current inspector general, Christopher Mazella, notes that since 1998 "the OIG has identified over \$143.6 million in questionable costs, losses, damages, and lost revenues and achieved over \$44 million in future savings, prevented losses, and restitution." It also notes that its investigations have resulted in the arrests of 212 individuals and the indictment of 12 companies.

In Miami-Dade, these two county-level ethics enforcement agencies receive help in criminal corruption cases from other law enforcement. The Miami-Dade Police Department has a Public Corruption Investigations Bureau and Miami-Dade State Attorney Katherine Rundle maintains a public corruption unit in her office.

Miami-Dade has also made other unique attempts through the years to address corruption. The county has adopted a *Conflict of Interest and Code of Ethics Ordinance* that goes beyond what is provided in *Chapter 112*, Florida Statutes. Within that ordinance is a requirement that lobbyists register with the county within five days of being retained, and complete an ethics training course provided by the Commission on Ethics and Public Trust within 60 days of registering. Miami-Dade does not require lobbyists to report their compensation, as some other counties do, instead lobbyists are required to report any lobby expenditure over \$25.

The Conflict of Interest and Code of Ethics Ordinance also addresses bidding and procurement practices. Most notably, the ordinance provides for a “cone of silence” that begins at the time a proposed bid is advertised. The “cone of silence” prohibits oral communication in all directions, between and among bidders, lobbyists, elected officials and county staff. The “cone of silence” remains in place until the city or county manager makes a recommendation to the County Commissioners or City Council. The purpose of the “cone of silence” is to insulate county officials and employees from pressure that bidders and their lobbyists try to exert on decision-makers to win county and city contracts.

In the area of campaign financing reform, Miami-Dade has also gone further than any other Florida county. In 2000, Miami-Dade voters approved a ballot initiative that created the *Election Campaign Finance Trust Fund*. In 2001, the Fund was established along with a system of public campaign financing. The ordinance requires candidates who hope to receive public funding to raise a specific number of \$100 to \$500 contributions. They also must agree to limit their campaign spending. The public campaign financing option was popular among candidates initially, but because of instances where fraudulent candidates received public funding, a number of amendments have been adopted in recent years. Now, it is rare that candidates choose the option of public campaign financing.

The abundance of reforms that Miami-Dade County adopted has not completely eliminated its public corruption problem or the desire of its citizens for an ethical government. In January 2012, *Forbes magazine* named Miami one of America’s most “miserable cities,” based in part on the number of public officials who are convicted of crimes. In April 2012, it was *reported* that Miami Beach residents protested public corruption in front of the city hall following the arrest of seven city employees for taking bribes and kickbacks from local businesses.

■ Orange County

On June 14, 2012, Orange County Mayor Teresa Jacobs sent a letter to Robert J. Sniffen, Chair of the Florida Commission on Ethics, outlining “significant loopholes in the State Code of Ethics for Officers and Employees.” According to Mayor Jacobs’ letter, in 2008 the Board of County Commissioners addressed some of them by passing an ordinance that resulted in additional transparency and local disclosure requirements at the county level.

The County's Charter Review Commission also put a measure on the 2008 ballot that solidified local disclosure and reporting requirements in the county charter. Voters passed the measure by 87 percent. In June 2011, the Board of County Commissioners unanimously passed tighter disclosure rules and whistle blower protections.

According to Mayor Jacobs, state law prohibits local elected officials from voting on matters benefitting themselves or their business associates. Jacobs states that this language is ineffective because state law does not clearly define when a business relationship begins or ends, thus creating an easy loophole for elected officials who wish to circumvent the intent of the law. For example, a local elected official can vote on an issue and shortly thereafter enter into a business relationship with the benefactor of that vote without violating the state's voting conflict law. Likewise, a local elected official can enter into a business relationship, make a sizable profit, but then sever the relationship prior to a vote in order to avoid a voting conflict. According to Jacobs, such actions deceive the public and should not be legal.

In Orange County, the Board of County Commissioners closed voting conflict loopholes by requiring board members to declare previous business relationships prior to casting a vote that will benefit a recent business partner. In the county's code, an elected official must disclose, prior to a vote, any business relationship that existed within the previous two-year period. Furthermore, any member of the board who enters into a business relationship with anyone for whom they have cast a beneficial vote within the previous 12-month period must publically disclose that relationship.

According to Jacobs, no such timeframes or disclosure requirements exist in state law. For this reason, Jacobs recommends that Chapter 112, Florida Statutes be amended to eliminate the perception, and sometimes the reality, that an elected official may be offered a future stake in a business or real estate venture contingent on the outcome of his or her vote.

Orange County addressed some shortfalls in the state law through enhanced quarterly financial disclosure. This disclosure must be filed within 30 days of the close of each calendar quarter and requires the following to be disclosed by elected officials:

- Disclosure of all business associates;
- Disclosure of all business entities in which the disclosing party has a significant interest, including any LLC and all subsidiary entities of such business entity;
- Disclosure of all assets and liabilities held anytime during the quarter, not merely a snapshot of the assets and liabilities on a particular date chosen by the filing party;
- Disclosure of all sources of income.

Supplemental disclosures of subsequent business associates, which occur during any quarterly period, are required to be disclosed within seven days of the association.

■ Palm Beach County

With the infamous 2009 branding by *Time* magazine as the “Capital of Florida Corruption,” Palm Beach County has continuously tried to improve its tarnished image. The county’s reputation tumbled in 2007 when a domino effect propelled the resignation of several county officials and their subsequent prison stints:

- County Commissioner Tony Masilotti was charged with profiting off land deals. Masilotti plead guilty and was sentenced in 2007.
- Palm Beach County City Commissioner Jim Exline was sentenced in June 2007 for failing to report a \$50,000 land deal in which he hid the earnings from the IRS.
- Warren Newell, who served as a county commissioner from 1992-2007, profited by nearly \$500,000 from schemes in which his business partners profited from his votes. Newell pled guilty and was sentenced in 2007, but received a reduced sentence when he helped prosecutors convict yet another county commissioner.
- County Commissioner Mary McCarty was charged with receiving kick-backs, such as free resort stays from a company she helped win a county construction contract. She pled guilty in 2009 and was later sentenced to three and a half years in federal prison.

Understandably, the string of corruption cases enraged the public. In 2009, a grand jury recommended reforms to the county and called for an independent watchdog agency to supervise activities of county and city commissioners. The jury examined the series of convictions and accordingly recommended the creation of an inspector general’s office. That summer, with three former County Commissioners in federal prison, the county commission accepted the recommendations and created an ethics commission, adopted a new code of ethics and established a new Office of the Inspector General.

The county’s Commission on Ethics was established in May 2010. The ethics commission receives and investigates complaints and is charged with enforcement of the Palm Beach County Code of Ethics, lobbyist registration and post-employment ordinance. The post-employment ordinance states: no former county commissioner shall knowingly represent anyone other than the county or another public entity in connection with any matter for a period of two years after ending his or her term of office. The commission is composed of five volunteer members who were appointed by various non-political civil, educational and professional organizations representing police, the Hispanic Bar, CPAs, the Palm Beach League of Cities and Florida Atlantic University. The members serve terms of four years each.

In June 2011, Palm Beach County adopted a more detailed Code of Ethics. The code reads in part:

“Officials and employees in the public service shall be conscious that public service is a public trust, shall be impartial and devoted to the best interests of the people of Palm Beach County, and shall act and conduct themselves so as not to give occasion for distrust of their impartiality.” The purpose of the code of ethics is to provide further and more rigid ethics standards as authorized by 112.326, Florida Statute.

The Code of Ethics requires ethics training for county officials and employees. In 2011, the Commission on Ethics conducted 92 in-person trainings and provided more than 150 training DVDs to county municipalities. Also part of the Code of Ethics, the county adopted a lobbyist registration ordinance that requires all lobbyists to register and report their expenditures annually.

Finally, the Code of Ethics established an independent inspector general to promote efficiency and prevent and detect fraud and abuse in the county. In June 2010, the doors of the Palm Beach County Inspector General's Office opened. The office consists of three services: investigations, audits, and contract oversight. The inspector general has the authority to make investigations of county or municipal matters and publish the results.

The inspector general may also obtain sworn statements of all individuals who may be under investigation as well as witnesses. He or she is also allowed to prepare reports and recommendations to the Commission on Ethics. Sheryl Steckler, Palm Beach County's current inspector general, was previously the inspector general for the State of Florida, Department of Children and Families.

In 2011, in recognition of its extensive ethics reform measures, Palm Beach County received an Achievement Award from the National Association of Counties. This annual, prestigious award program was launched in 1970 to honor innovative county government programs. Palm Beach County has transformed its role in the monitoring of county officials, and since its notable transformation no charges have been filed against an elected official.

■ Sarasota County

Sarasota County does not have an ethics commission but does employ a full-time ethics officer who reviews and monitors ethical practices for Sarasota County, provides staff training in ethical standards and operations, and investigates allegations of ethical violations for the county. All Sarasota County employees, including the Board of County Commissioners, receive ethics training from the ethics and compliance officer with a focus in situational awareness and fraud detection. The training outlines employees' duties to report suspected violations and instructs them on how to anonymously report if necessary.

Sarasota County has a hotline, managed by an independent reporting company, set up for citizens to anonymously report fraud, waste, and abuse such as the following:

- Deliberate misrepresentation of financial matters
- Embezzlement
- Falsification of contracts, reports or records
- Misuse of assets or services
- Theft
- Corruption: conflict of interest, bribery

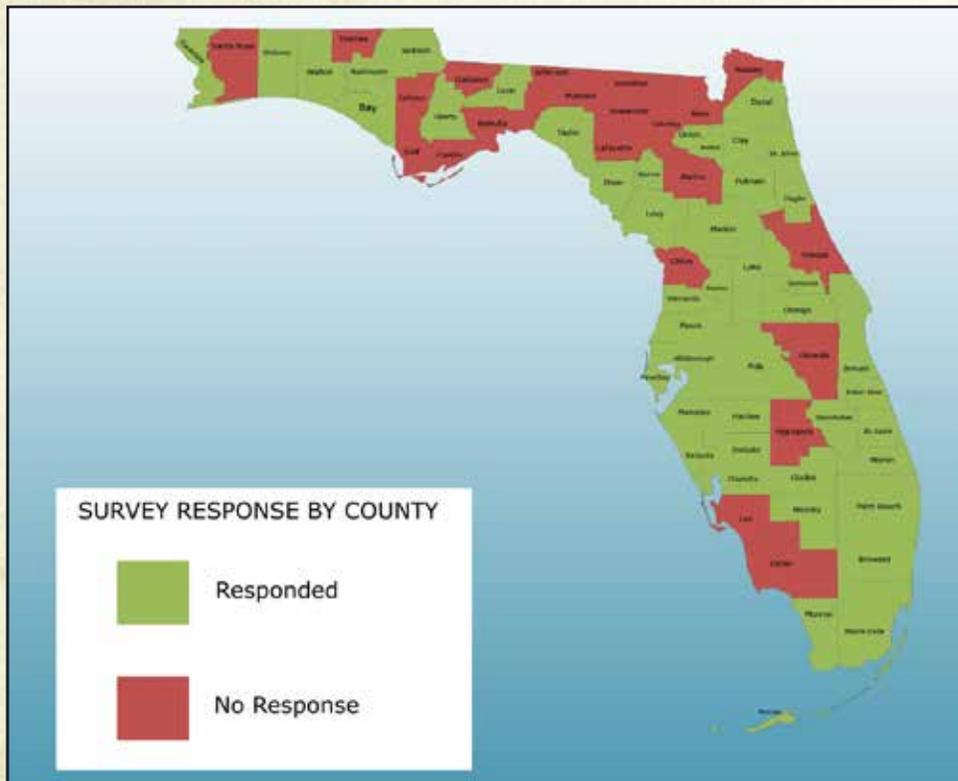
Information provided regarding an allegation may be considered a public record unless confidential pursuant to Section 112.3188, Florida Statutes, or other applicable law. Calls do not constitute a disclosure pursuant to the Florida Whistleblower's Act. Those who prefer not to use the hotline may also report suspected fraud, waste, and abuse directly to the Sarasota County Clerk of the Circuit Court and County Comptroller.

CONCLUSION

A window of opportunity may be opening for ethics reform in the 2013 Florida Legislature as new leaders place it high on their priority list for action. This study finds that, in addition to legislative interest in revisiting the state's 1970s-era law, localities are also recognizing the importance of ethics—and not simply in response to embarrassing scandals. A few of the jurisdictions beginning to discuss ethics reform at the time of publication of this report include Charlotte, Okaloosa and Pinellas Counties. This report will help those localities and others that wish to enhance and strengthen their ethics laws. It highlights both the scope of counties' ethics laws and the breadth of these programs in a few counties with exemplary programs. It serves as recognition of ethics activity and a challenge of the possibilities for other counties and the state. Florida need not be ethically challenged in the future, but rather has the opportunity to serve as an example for the rest of the nation.

METHODOLOGY

The LeRoy Collins Institute, in partnership with Integrity Florida, emailed the 11-question survey at least twice to county administrators and county attorneys in all of Florida's 67 counties in the fall of 2012. Follow up phone calls were made to the county administrator offices of the counties that did not respond via email. An online appendix is available containing the complete set of survey questions, responses and comments that often include website links to specific ordinances and codes on the LeRoy Collins Institute website, collinsinstitute.fsu.edu, and the Integrity Florida website, integrityflorida.org.



Tough Choices: A research series focused on state and local government relationships from the LeRoy Collins Institute.

Established in 1988, the LeRoy Collins Institute is an independent, nonpartisan, non-profit organization which studies and promotes creative solutions to key private and public issues facing the people of Florida and the nation. The Institute, located in Tallahassee at Florida State University, is affiliated and works in collaboration with the State University System of Florida.

Named in honor of Florida Governor LeRoy Collins, the Institute is governed by a distinguished board of directors, chaired by Allison DeFoor, D.Min. Other board members include executives, local elected officials, and senior professionals from throughout the state.

Beginning in 2005, the Institute produced several reports in a series called *Tough Choices: Shaping Florida's Future*. These publications provided an in-depth analysis of Florida tax and spending policy and concluded that Florida's pattern of low spending and low taxes conflicted with the growing demands of the state's residents, predicting trouble might be ahead.

Recent work in this series has examined local retirement benefits, including both pensions and other post-employment benefits, including health benefits. The most recent report, *Years in the Making: Florida's Underfunded Municipal Pension Plans*, traced trends in Florida's municipal pensions, finding that the problems were long-standing and not likely to be quickly resolved.

This report, *Tough Choices: Florida Counties Bridge the Ethics Policy Gap*, is the latest effort to gauge state-local relationships in the state. It relies on a survey of Florida counties, supplemented with seven case studies, and points out that a number of Florida counties have taken the lead in ethics policy in the absence of state law. The report was a collaboration of the LeRoy Collins Institute and Integrity Florida. Contributors include Dan Krassner, Ben Wilcox and Carol Weissert. Stephanie Carlton, an FSU student, provided assistance in gathering data and writing the Palm Beach case study. Lindsay Potvin and Stacie Linley contributed to the editing, proofing and production of the report.

The *Tough Choices* research series is funded by the Jessie Ball duPont Fund. Future reports in the series will examine local health benefits, state intergovernmental aid, and best practices in local pension administration.

All publications from the Institute can be found on the Institute's website: <http://CollinsInstitute.fsu.edu>.

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