

Ethics: Challenges Unique to City Attorneys

When the Mayor Lies



Earl Warren

*In civilized life,
law floats in a sea of ethics.
Each is indispensable to civilization.
Without law,
we should be at the mercy of the least scrupulous;
without ethics,
law could not exist.*

2 Sources of Challenges

- Public Nature of our Services
- Numerous Client Representatives

Enrique “Kike” Martin

*If we’re being elected to look good,
I’d rather not be there.*

- Former San Antonio Councilman

Attorney-Client Privilege

- Encourages Loyalty
- Encourages Full & Frank Disclosures
- Tension between Privilege & Transparency

Open Records

- Email
- Litigation/Attorney-Related Information
- Factual Data from Attorney
- Attorney Fee Bills

Open Records

- Attorney in “Non-Legal” Capacity
- Agency Memoranda
- Selective Disclosure
- Council Access to Data

Jean Giraudoux

*No poet ever interpreted nature as freely
as a lawyer interprets truth.*

Open Meetings

- Action Without Meetings
- Lobbyists & Agents
- Consultation with Attorneys
- Long Distance Consultations
- Practical Pointers

Daniel Webster

*An eminent lawyer cannot be a dishonest man.
Tell me a man is dishonest,
and I will answer he is no lawyer.
He cannot be,
because he is careless and reckless of justice;
the law is not in his heart [and]...
is not the standard and rule of his conduct.*

Professional Ethics

- Legislative Immunity
- Rules of Professional Conduct
- Representing Private Clients
- Communicating with a Represented Party
- Organization as Client

Professional Ethics

- Representing Entity
- Representing Parties in Negotiation
- Clarify Your Role
- “Legal” Doesn’t Make It Right

Professional Ethics

- Successive Government Employment
- Confidentiality of Information
- Advising Citizen Advisory Boards
- Media Relations
- Keep Client Informed

Will Rogers

*Just addressed the California State Legislature
and helped them pass a bill
to form a lawyer' association to regulate their conduct.
Personally, I don't think you can make a lawyer honest
by an act of the Legislature.
You've got to work on his conscience.
And his lack of conscience is what makes him a lawyer.*

When the Mayor Lies

- Mayor Backs Challenger

- Close Election Contest

- Mayor:
 - Passed privileged information
 - Withheld information
 - Solicited witnesses
 - Lied

When the Mayor Lies

- Rule 1.03(a): Must Keep Client Informed

- Rule 1.12(a): Client is the Organization

- Rule 1.12(b): Must Take Remedial Action

Cadwallader Colden

*“All associations are dangerous to good Government
...and associations of Lawyers the most dangerous of any
next to the Military.”*

Vaya Con Dios!

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