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PubPol 580: Reading Notes for Class 23-25 (December 1-8, 2009)

On Tuesday we'll talk about the ethics of program evaluation. The readings consist of an article by Jan Blustein and responses to her article, published in the *Journal of Policy Analysis and Management*, an article in *JAMA* published by Matt Davis (of the Med School and the Ford School) and a colleague, and some newspaper articles about particular cases.

The field of public administration may be too broad to have a code that applies across the field and has bite. So on Tuesday we'll look at a small part of the field—program evaluation—and see whether it's easier to wrestle with these issues in this arena.

Earlier this term we read about the standards that apply to medical research involving human subjects. Now we turn to social programs that involve human "subjects" and ask what standards should apply to them and to the evaluations of them. This topic is pretty close to the center of what the Ford School trains you to think about and to do, so more than most of the topics we've talked about this is something you could encounter in your jobs on a regular basis.

Blustein begins her discussion with the Belmont Report.

We probably need some code of ethics for this kind of work (which often involves human subjects—or people who could be viewed in these terms). Is borrowing the medical research model the best approach? Remember that many of you had problems with it when we talked about it earlier this term. What are the relevant moral differences between the kinds of medical research we talked about and program evaluations that are structured as experiments? How should they affect ethical practice?

The reading includes an up-to-date example—Atul Gawande's article from the *NYT* about a program that got halted on ethical grounds—a decision Gawande says is bizarre and dangerous. What's your take? What ethical standards should a program like this have to meet?

There are also readings about Opportunity NYC and an immunization study in Georgia.

If you have time, take a look at the *Guiding Principles of the American Evaluation Association* for class and or the *IRB Initiative*.

I think it will be useful if the presenters on Tuesday focus on some examples, drawn from the reading or from elsewhere.

This Thursday

On Thursday we'll start a discussion of the ways in which public managers and analysts use the discretion that comes with their jobs. Analysts and managers are selected

because of their expertise, experience, and judgment. Good bureaucracies rely on their employees to exercise their expertise and judgment to make policy better than it would be if employees simply implemented rigid rules. The discretion this involves permits employees to pursue the public interest as they understand it. Sometimes their understanding of the public interest diverges from the understanding of their bosses or of Congress.

The question for Thursday is how a professional civil servant appropriately uses this discretion, particularly in cases where this conflict arises. The O'Leary book provides lots of examples of guerilla bureaucrats.

The Etheridge reading focuses on bureaucratic politics, emphasizing the roles that individual bureaucrats occupy, the obligations that come with these roles, and the "game" of bureaucratic politics that they are embedded in. Etheridge's paper, it is important to remember, was not written as normative account of behavior in the policy world, but as a descriptive account of what he'd observed (way back in the Ford administration). Assuming it's not a bad descriptive account, the question is what difference it makes when it comes to arriving at a normative account of the obligations attendant on someone in the kind of position he's talking about and how s/he uses bureaucratic discretion. If you take a job in the federal bureaucracy, are you implicitly agreeing to take these kinds of rules seriously? Which ones seem most objectionable from a normative point of view? If this is the way the game is played, how does that affect the rationale (or the rationalization) of guerilla activities?

Mark Moore's chapter focuses on the bureaucrat as entrepreneur. His approach emphasizes an individual's own sense of the public interest much more than does a traditional approach to public administration, in which the legislative branch defines goals and programs and bureaucrats "simply" implement them. Of course, legislation seldom provides clear directions, so those who implement it must fill in details where necessary. Many observers think this is a problem; Moore regards it as an opportunity.

There is another dimension to the issue of guerilla government—managing public organizations that may contain guerilla bureaucrats. It won't be long before most of you are managing offices and you may have to face this with your own staff. It is also a problem facing the President as he tries to ensure that the federal bureaucracy will pursue his policies. A while ago Mark Kleiman's blog (<http://www.samefacts.com/>) featured an interesting discussion of this problem. It's posed as a principal-agent problem: how does the President go about getting his appointees (and their appointees) to pursue the President's policy desires when there may be a lot of civil servants in the executive agencies who disagree with these policies. One solution: appoint heavily ideological people to these positions. The discussion starts by citing someone who criticizes the Bush administration for appointing a bunch of ideologues to key policy positions. The author then talks about why that might be a plausible way to address the principal-agent problem. But maybe not. One of the counter-reactions such appointments may generate is even more guerilla activity, as bureaucrats feel resistance/sabotage is even more justified because policy at the top is being driven by

ideology rather than knowledge and commitment to the public interest. If a presidential election brings a new party into the White House, then as it thinks about its appointments the outgoing party may be engaging in a counterstrategy. Here are a couple of links to stories in the Washington Post about “burrowing,” which refers to political appointees of an outgoing administration shifting into civil service positions where they can make it difficult for the new administration to change policies:

- http://www.washingtonpost.com/wp-dyn/content/article/2008/11/17/AR2008111703537_pf.html
- http://www.washingtonpost.com/wp-dyn/content/blog/2008/11/18/BL2008111801832_pf.html

If the outgoing party engages in burrowing, then that would seem to justify the incoming party paying even more attention to getting appointees who will stick to the President’s agenda, which will in turn leave the burrowers feeling justified in their behavior because they can see it as establishing some balance in the definition and pursuit of the public interest. It’s not clear where this logic ultimately takes us, since each step in the process seems to give others a reason to expand their use of their discretion to “restore” balance.

For the discussion on Thursday, I suggest that the discussion leaders pick a few cases they think are challenging and focus on them, referring to the general readings as appropriate. This topic works best with some context to make clearer what’s at stake for the actors.

And if the presenters pick cases early, they might email everyone and let them know what they’ll be focusing on. I recognize that you may have more to do than you have time to do it this time of year, so some guidance about the cases we’ll talk about would probably be helpful to the rest of the group.

For one more set of thoughts on this problem, I recommend “Being Pressured to do the Wrong Thing in the Workplace: Some Advice” from Business Ethics Blog (<http://www.businessethics.ca/blog/>), April 6, 2009.

The following Tuesday

There are six cases in the readings for the final Tuesday. I’d like you to spend time thinking about “if you were in the shoes of the individual in this situation, and you wanted to be a responsible professional, what would you do and why?” The presenters might each take one or two of these and work through their answer to this question and then let the rest of the group chime in. An answer will need to include what it means to be a responsible professional is you live in these shoes.

In all of these cases, think about what options were open to the individual. Were there options that could have both furthered the goal and been less ethically dubious?

1. Analyst Muffles Uncertainty (Ethical Problems in Public Careers: Case #1): analyst/consultant deliberately understates the uncertainties about a project and instead presents his most optimistic estimate of its costs and benefits as if they were based on “hard” data.
2. Miller and Furloughs (Ethical Problems in Public Careers: Case #5): can a bureaucrat justify this kind of lie to protect a program s/he believes in?
3. Legal Aid in Rural California (Applbaum): legal aid official provides legal advice to the United Farm Workers in violation of US government policy. This one is good on the gray area between what’s within/without the letter of the law and what’s within/without the spirit of the law.
4. Covert Military Aid for the Nicaraguan Contras (Applbaum): This involves a White House dodge to get around a Congressional prohibition on US support for the Contras. The decision maker in this one is a little less clear, since someone set Oliver North up in business. So for the sake of argument, assume it’s the national security adviser who faces the choice.
5. FDA and Plan B: This one involves public resignations protesting the politicization of the FDA approval process. How should a professional think about when to resign in protest? Is this about personal integrity or about moving the policy argument to a different venue? Or both?
6. Richard Foster and the Medicare prescription drug bill: Here, a political appointee tells the chief actuary for HHS, Richard Foster, to bury his report, which estimates that the cost of the bill will be several hundred billion dollars greater than the estimate being used by Congress as it debates the bill. The official threatens to fire Foster if he does not do so. The bill (w/o Foster’s numbers) passed the House by one vote and would almost certainly have failed if his number had been known by members. An interesting wrinkle: congressional rules require that cost estimates from CBO be used as the official numbers (a practice that limits wildly inflated or deflated numbers put forth by partisans on both sides of an issue). I had in mind your thinking about Foster’s dilemma, but you might also think about Scully’s position (which will return you to our earlier talk about the ethics of elected officials (and their inner circles)).