

2011 Annual Report

Palm Beach County Commission on Ethics

"Honesty, Integrity, Character"

2011 ANNUAL REPORT

PALM BEACH COUNTY COMMISSION ON ETHICS



2633 VISTA PARKWAY
WEST PALM BEACH,
FLORIDA 33411



Palm Beach County Commission on Ethics

Commissioners

Edward Rodgers, Chair
Manuel Farach, Vice Chair
Robin N. Fiore
Ronald E. Harbison
Bruce E. Reinhart

Executive Director

Alan S. Johnson

March 1, 2012

Chairman Edward Rodgers
Palm Beach County Commission on Ethics
2633 Vista Parkway
West Palm Beach, FL 33411

Dear Chairman Rodgers,

The first full calendar year of operation has been a productive one for the Commission on Ethics. Established in May, 2010, the COE has been delegated the authority to review, interpret, render advisory opinions and enforce the Countywide Code of Ethics, County Post-employment and Lobbyist Registration Ordinances. In June, 2011, the jurisdiction of the COE expanded by referendum to all 38 municipalities within the county. The expansion of services more than doubles the number of public employees and volunteer officials within our jurisdiction and increases the number of elected officials from seven to over 200. Our corresponding workload and efficiency has increased as is reflected by the number of advisory opinions, complaints, inquiries, community outreach and training programs.

With these increased duties and mandates in mind I am pleased to present the 2011 annual report to the Palm Beach County Commission on Ethics.

In 2011, COE staff processed 123 advisory opinions, 27 sworn complaints, 4 self-initiated complaints, and 29 Inquiries based on anonymous or attributed unsworn “tips” and other information provided by the citizens of Palm Beach County. Since June 1st, the office hot-line received 542 calls and visits to the COE website exceeded 300,000 for the year. In order to accommodate the workload increase, our office added a staff attorney and investigator during the year. We are now fully staffed with five full-time and one part-time employee.

As in our first partial year of service, community collaborations, training and outreach were critical components of our mission. In 2011, staff participated in 92 training sessions for public employees and officials and 29 community presentations, forums, workshops and other events before civic and social organizations, non-profits and professional associations.

The Palm Beach County Board of County Commissioners proclaimed November 18, 2011 *Ethics Awareness Day*. In addition to offering outreach programs throughout the month of November, the COE presented several public events to celebrate ethics within our community. Programs were scheduled at the Governmental Center, Palm Beach Atlantic University and Florida Atlantic University’s Honors College and included panel discussions, public Q & A, an ethics bowl team demonstration and the release of the COE interactive ethics quiz, available on our website http://www.palmbeachcountyethics.com/ethics_quiz.htm

Maintaining a vibrant and viable web presence continues to be of paramount importance. In addition to providing training modules for public officials, employees and vendors, we maintain a public database for annual and quarterly gift reports, conflict of interest disclosures and outside employment waivers. We also maintain links to Palm Beach County maintained databases, including vendors, registered lobbyists and annual lobbyist expenditure reports. Our website is fully searchable and includes all processed complaints and advisory opinions.

We continued our efforts to save taxpayer dollars by utilizing cost saving initiatives such as the volunteer advocate program in conjunction with the Legal Aid Society of Palm Beach County. Former prosecutors and public defenders, now in private practice, continue to volunteer their time to process complaints before the ethics commission on a pro bono basis. In addition, by continuing our careful stewardship in regards to staff, operational and procurement costs, the COE continued to come in under budget generating a 14% operating reserve for fiscal year 2010-2011.

We have invited Independent and Special Taxing Authorities to voluntarily submit to the jurisdiction of the COE and Code of Ethics through memoranda of understanding. In 2011, the Lake Worth Community Redevelopment Agency and the Boca Raton Airport Authority contracted for the services of the COE.

On the legislative front, a drafting committee was convened as established by the 2010 Ethics Initiative Charter Amendment to revise the existing Code of Ethics and Commission on Ethics Ordinances and extend the jurisdiction of the COE to all municipalities within Palm Beach County. These ordinances became effective on June 1, 2011. In addition, effective April, 2011, a revised Lobbyist Registration Ordinance will become effective countywide. This ordinance regulates certain lobbying activities, sets forth registration requirements for lobbyists and establishes rules and guidelines for mandatory lobbying expenditure reporting. Central registration and expenditure databases, maintained by Palm Beach County Administration, will be established and accessible to the public.

Our first full year of operation has been both challenging and rewarding. Office protocols are fully established to insure an efficient, effective and fiscally prudent operation. In going forward our goal is to continue the process of training, outreach and enforcement of county ethics rules to increase awareness and compliance throughout the entire county.

As always, I appreciate your support of our operations and your ongoing efforts to promote the highest standard of public service within Palm Beach County.

Sincerely,



Alan S. Johnson
Executive Director

ASJ/gal

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TABLE OF CONTENTS

Mission Statement.....	6
History	6
An Independent Ethics Institution	7
About the Commission	8
The Commission on Ethics.....	9
Education	11
Ethics Awareness Day.....	12
Website	13
Fiscal Report	14
Advisory Opinions: Ask First, Act Later.....	15
Summaries of Notable Advisory Opinions..	16
The Complaint Process	20
Complaints	21
Legislative Activities and Initiatives	23
Commission Staff.....	23

MISSION STATEMENT

The mission of the Palm Beach County Commission on Ethics is to foster integrity in public service, to promote the public's trust and confidence in that service, and to prevent conflicts between private interests and public duties.

We strive to accomplish this mission by conducting ongoing educational programs, community outreach, providing clear and timely advice, and fairly and impartially interpreting and enforcing the conflict of interest and financial disclosure laws. In doing so, the commission is guided by principles of fairness, clarity, and common sense. We encourage you to spend time learning about our efforts by going to our website at www.palmbeachcountyethics.com and to contact our office with any questions or comments.

HISTORY

Ethics is knowing the difference between what you have the right to do and what is the right thing to do.
- Justice Potter Stewart

Now in its second year, the Commission on Ethics was established as an independent organization that administers and enforces the Palm Beach County Code of Ethics. The Code of Ethics is designed to help ensure that public officials and employees perform their public responsibilities impartially, do not use their public positions for private gain, and to foster public confidence in the integrity of local government. While the commission has statutory license to punish offenders, commission staff strives to educate public employees, public officials, vendors, and lobbyists on how the new rules will affect governance and implementation of policy throughout the county.

Palm Beach County has a current population of 1.3 million residents and has grown significantly in the past decade in terms of size and diversity. The county has over 6,000 full and part-time employees and approximately 1,000 volunteer officials staffing 95 committees and boards. There are 38 municipalities within Palm Beach County who are served by over 9,000 full and part time employees, 258 municipal boards and committees with more than 1,800 volunteer advisory board members, and 198 elected officials.

On June 1, 2011 the Palm Beach Commission on Ethics began the process of incorporating, monitoring and enforcing the code of ethics in 38 municipalities within the county's borders. As recommended by a 2010 grand jury convened to monitor the progress of the new ethics measures, a county-wide referendum was included on the November 2010 ballot. Three municipalities, Lantana, Lake Worth and Boynton Beach adopted the code prior to the ballot measure. Voters overwhelmingly supported the measure to place the Commission on Ethics provisions into the county charter, expanding the jurisdiction of the ethics commission to all local municipal governments. Commission staff stands ready to inform citizen groups, county and municipal governments alike about the services and benefits of the Commission on Ethics and Code of Ethics initiatives.

AN INDEPENDENT ETHICS INSTITUTION

In framing a government which is to be administered by men over men the great difficulty lies in this: you must first enable government to control the governed, and in the next place, oblige it to control itself.

- *Federalist #51*

The Ethics Commission oversees, administers and enforces local governmental ethics laws; receives and investigates complaints; provides formal advice to persons who fall within the jurisdiction of the Commission; conducts training sessions for the community, municipal and county employees, and vendors; and proposes governmental ethics law reform.

Governmental ethics laws include the Ethics Ordinance, the Lobbyist Registration Ordinance, and the Post Employment Ordinance. The Ethics Commission accepts sworn complaints regarding alleged violations of these laws and protects individuals from retaliation for reporting violations.

Persons who fall within the jurisdiction of the Ethics Commission include:

- County and Municipal Elected Officials
- County and Municipal Advisory Board Members and other non-elected officials
- County and Municipal staff and contract employees
- Lobbyists
- Vendors

Our specific statutory authority is derived from Palm Beach County Code §2-254. This ordinance grants the Ethics Commission the power to review, interpret, enforce and render opinions regarding the above-mentioned County ordinances.

The key to our ethics commission is independence. In fact, by definition the Commission on Ethics is an independent office. Ethics commissioners cannot be removed or otherwise influenced by the County Commission and are appointed by various non-political civic, educational and professional organizations. The position of commissioner is nonpartisan and nonpolitical. Appointees may not participate in or contribute to a candidate for state or local office or allow his or her name to be used in support of or against a candidate or ballot issue. Appointees may not participate in or contribute to political action committees, campaign for office or referenda, and may not hold office in a political party or committee.

ABOUT THE COMMISSION

The Commission on Ethics is composed of five volunteer members who serve staggered terms of four years each. Each member of the commission on ethics must also have an outstanding reputation for integrity, responsibility, and commitment to serving the community. Moreover, as representatives of Palm Beach County, appointments are made with an eye towards the racial, gender and ethnic make-up of the community.

Members are appointed by the following individuals or institutions:

- **President of the Palm Beach County Association of Chiefs of Police**- one appointment with the following qualifications: A former law enforcement official with experience in investigating white collar crime or public corruption.
- **President of the Hispanic Bar Association of Palm Beach County, the President of the F. Malcolm Cunningham, Sr. Bar Association, and the President of the Palm Beach County Bar Association** – one shared appointment with the following qualifications: An attorney with experience in ethics regulation of public officials and employees.
- **President of Florida Atlantic University (FAU)** - one appointment with the following qualifications: A faculty member who teaches at an institution of higher education with a campus located in the county and who has taught a course in professional legal ethics or has published or performed services in the field of professional legal ethics.
- **President of the Palm Beach Chapter of the Florida Institute of Certified Public Accountants (CPA)** – one appointment with the following qualifications: A member with at least five (5) years experience as a CPA with forensic audit experience.
- **Palm Beach County League of Cities** - one appointment with the following qualifications: A person who has served as a former elected official for a governmental entity in the county.

THE COMMISSION ON ETHICS

Judge Edward Rodgers (Ret), Chair

Judge Rodgers served as a Judge in Palm Beach County for 22 years in the Civil, Criminal and Probate Courts. His judicial tenure includes roles as Chief Judge for the Fifteenth Judicial Circuit and Administrative Judge in County and Circuit Court. Judge Rodgers has lectured extensively on many topics before lawyers and judges. He has received over fifty public awards and tributes, including the prestigious Jefferson Award in honor of the weekend drug court that he established.



Since retiring from the law in 1995, Judge Rodgers has received other awards and served on special commissions. In Riviera Beach, where he lived and served as city councilman, the U.S. Post Office was renamed for Edward Rodgers in 2004.

Judge Rodgers graduated from Howard University with a Bachelor of Arts, and subsequently obtained his Juris Doctorate from Florida A&M University College of Law.

Manuel Farach, Esq. Vice-Chair

Mr. Farach is a real estate and business lawyer practicing in West Palm Beach. Mr. Farach counsels businesses and individuals in complex transactions as part of his practice, and his experience advising businesses includes time spent as outside general counsel for a savings and loan association; he is Board Certified by The Florida Bar in both Real Estate Law and Business Litigation. Mr. Farach has served as an arbitrator for the American Arbitration Association for over twenty years and has significant FINRA (formerly the NASD) arbitration experience.



Mr. Farach has also served in different capacities regarding the ethical practice of law, including Chair of the Fourth District Court of Appeal Judicial Nominating Commission, President of the Craig S. Barnard Inn of Court, President of the Palm Beach County Bar Association, and as an expert witness for The Florida Bar in lawyer disciplinary matters.

Mr. Farach graduated the Florida State University College of Law *cum laude*. He graduated from Stetson University in 1981 with a dual major in English and Business.

Robin N. Fiore, Ph.D.

Dr. Fiore joined the University of Miami Ethics Program at the University Of Miami Miller School Of Medicine in 2010. Previously, she served as the Adelaide R. Snyder Professor of Ethics at Florida Atlantic University. Dr. Fiore specializes in biomedical ethics and professional ethics. She has served as an ethics consultant or ethics advisory committee member for a number of governmental agencies, including the Florida Public Service Commission, Florida Department of Health, Florida Department of Corrections Bioethics Committee, Florida Department of Children and Families and Florida Developmental Disabilities Council.



Dr. Fiore earned her Doctorate in Philosophy from Georgetown University in Washington, DC, after post-baccalaureate studies in religion and ethics at Drew University Graduate and Theological School in Madison, New Jersey. From 1977 through 1990, she enjoyed a corporate career in employee benefits consulting.

Ronald E. Harbison, CPA

Mr. Harbison is the founder of Valuation Analysts, LLC; a business valuation and financial forensics firm, focusing on estate and gift, commercial litigation and family law. In addition, Mr. Harbison has provided forensic accounting services, been a consultant on mergers and acquisitions, and has served as an Agent for the United States Internal Revenue Service, where he conducted tax examinations of corporations, partnerships and high net worth individuals. He has also served as an Adjunct Professor of Accounting for Palm Beach Atlantic University and is currently the Chairman of the Ethics and Disciplinary Committee of the Institute of Business Appraisers.



Mr. Harbison graduated from Florida State University with a Bachelor of Arts in Government/Pre-Law, and earned a Master of Science in Management/Accounting from Rollins College

Bruce Reinhart, Esq.

Mr. Reinhart is an attorney in private practice in West Palm Beach. He also has 20 years of experience in the federal criminal justice system. He served as an Assistant United States Attorney in West Palm Beach, investigating and prosecuting public corruption, tax evasion and financial fraud. He was a Senior Policy Advisor to the Under Secretary of the Treasury for Enforcement, developing and implementing law enforcement policies for the Bureau of Alcohol, Tobacco and Firearms; U.S. Customs; Secret Service and IRS. He also served in the Department of Justice's Criminal Division, Public Integrity Section.



Mr. Reinhart holds a B.S.E. in Civil Engineering, with honors, from Princeton University and a J.D. from the University of Pennsylvania Law School.

EDUCATION

One of the Commission's critical responsibilities is to inform county and municipal employees, officials, persons with or seeking government contracts, lobbyists and the public about the ethical standards expected by the Code of Ethics.

Employee and Official training

Ethics training is required for all county and municipal elected officials, employees, contract employees and advisory board members. The Commission and its staff seek at all times to be proactive in its outreach efforts and its relationship with the community in order to increase citizen understanding and participation in government accountability efforts. In 2011, COE staff conducted 92 in-person trainings and provided over 150 training DVD's to County departments and municipalities.

Other Training

Staff designed and conducted other ethics training seminars or presentations for both government and non-government personnel, such as vendors, lobbyists, and local civic organizations upon request. This past year, these included:

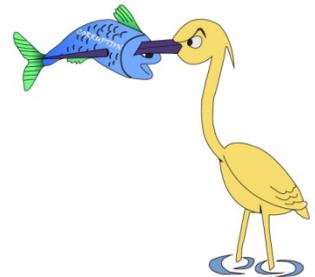
- Rotary Clubs of Boca Raton and Palm Beach
- Leadership Palm Beach Forum
- Cypress Lakes Democratic Club
- Florida Institute of Certified Public Accountants
- Palm Beach County Bar Association
- Tourist Development Council
- Palm Beach County Builders Association
- American Bar Association
- American Legion
- West Palm Beach Kiwanis Club

Web-Based Training

In addition to the employee and official training programs provided by Commission staff, an interactive online quiz is also available. The 2011 Ethics Quiz addresses fifteen of the most frequently asked questions on the Code of Ethics.

Internships

This year the Commission on Ethics was pleased to partner with the Palm Beach State College internship program. As part of PBSC's rigorous two year graphic design curriculum, students have the opportunity to intern for credit with local government agencies and businesses. PBSC interns designed posters, pamphlets, and signs for Ethics Awareness Day that were featured county-wide on Palm Tran buses and in county and municipal buildings. Furthermore, our interns developed our interactive online quiz and designed graphics for use in future outreach campaigns including "**Edgar the Ethigret**".



ETHICS AWARENESS DAY

This past year, Palm Beach County received an Achievement Award from the National Association of Counties (NACo) recognizing the Palm Beach County Ethics Initiative as an outstanding and innovative program contributing to the enhancement of ethics and transparency in local government. Public outreach and involvement is perhaps the most crucial aspect when measuring the success of an ethics program, both in perception and reality.

In accordance with these goals the Palm Beach County Board of County Commissioners proclaimed November 18, 2011, "Ethics Awareness Day." To commemorate this event, the Commission on Ethics held three events, including panel discussions, a college ethics bowl competition, as well as an interactive ethics quiz and keynote address. In addition, the Palm Beach County School District, in partnership with Palm Beach State College, adopted extended ethics awareness programs for the week of November 14-18.

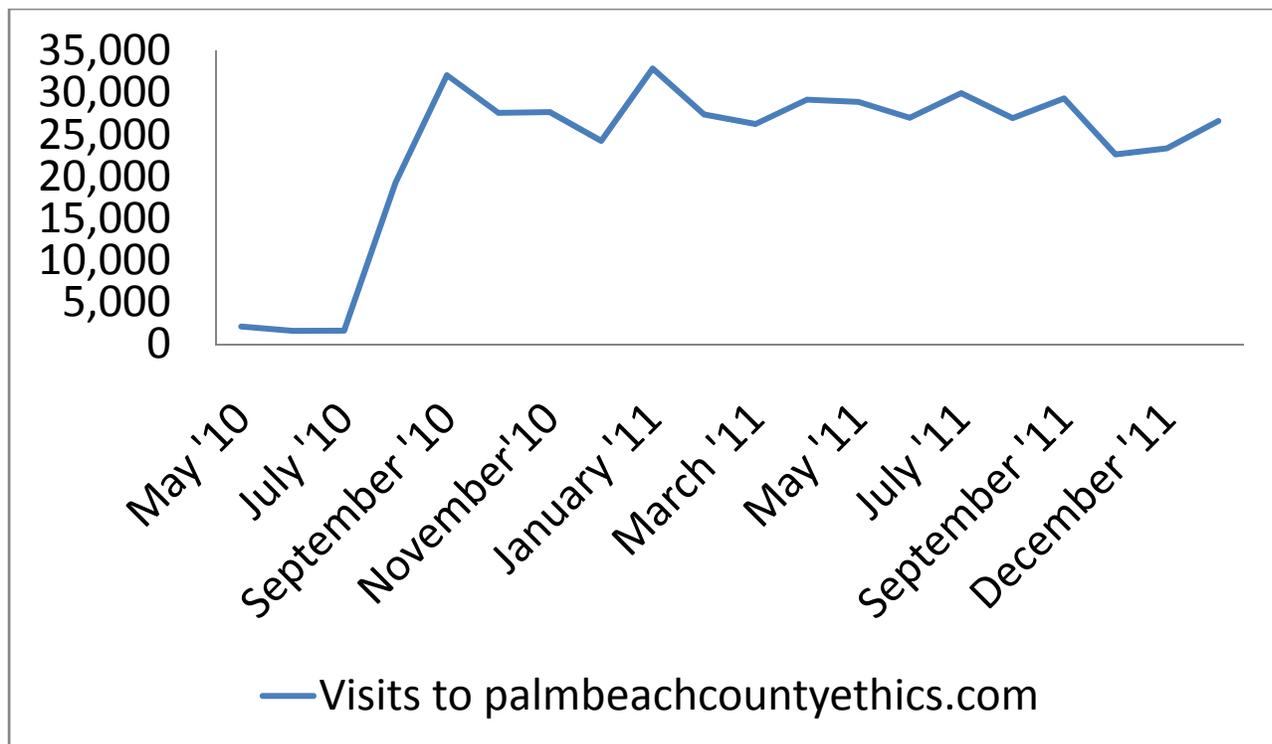
The first of three programs, a keynote address by Ethics Commissioner Robin N. Fiore was broadcast via channel 20 from the BCC chambers. Dr. Fiore addressed how we are compelled by involuntary social reflexes in gift giving and exchanging favors. Her example that when one receives a birthday or holiday card from a friend, one may unconsciously be compelled to reciprocate the social gesture prompted much discussion and conversation among attendees. Dr. Fiore's lecture was followed by a panel discussion covering transparency and accountability in local government. Panel members Jonathan Low, Leonard Berger, Marty Rogol and Mo Thornton represented local business interests, the county attorney's office, the grassroots ethics movement and municipal government.

In the afternoon, the Commission partnered with the Ethics department at Palm Beach Atlantic University in hosting an Ethics Bowl debate. Members of the PBAU ethics bowl team demonstrated their debating skills before heading to the state ethics bowl competition in December. Discussing grade inflation in graduate programs the students exhibited their significant skills and greatly impressed those in attendance. Commissioner Manual Farach joined David Baker of Leadership Palm Beach and Dr. Craig Hanson of PBAU in the afternoon's panel discussion: "What is Ethics", moderated by former executive director of the Miami Dade Commission on Ethics and Public Trust, Robert Meyers.

Finally, the Commission on Ethics and Inspector General's office offered a public forum at FAU Honors College Lifelong Learning Center. Inspector General Sheryl Steckler and COE Executive Director Alan Johnson gave overview presentations on their offices, while Commissioner Ron Harbison provided a historical perspective on the ethics movement in Palm Beach County.

WEBSITE

In 2010, Commission staff launched the COE website. With over 300,000 visits to the website in 2011, the site is designed to enhance transparency, outreach efforts and provide public access to all relevant forms, documents, databases, advisory opinions and investigations.



Multimedia

Video of commission meetings, drafting committee meetings and channel 20 programming can be found under the Multimedia tab.

Training

Commission staff provides both in-person and video trainings. In addition to the 92 in-person trainings provided to municipal and county employees and officials by COE staff and the over 150 DVD's distributed to the county and 38 municipalities, employees and officials can complete their training requirement by streaming training videos at home or at work. Under our training tab you will find a full text copy of the code of ethics and plain language guides for public employees and advisory board members. These trainings and guides are available not only to officials and employees, but also to members of the public who are interested in learning more about the code of ethics and its real world application. Employees, officials and advisory board members can always access their training acknowledgement forms via our website.

Searchable Databases

The commission website currently maintains gift reporting, outside employment and voting conflicts databases. This feature allows the public to view employee and official filings with the COE. Moreover, as of December 2011, advisory opinions are now searchable through the google toolbar available at the top of your screen.

Other Information

Serving as a gateway to information on ethics both locally and nationwide, the COE website provides users with access and links to the inspector general, the state attorney’s office, the Palm Beach County lobbyist registration database and county vendor database. We hope in the near future to be able to provide a searchable list of vendors by municipality. The public, employees, and officials will always be able to access up to date information on the code of ethics, applicable forms and other resources on our site, including frequently asked questions.

FISCAL REPORT

In 2010, the COE expended sixty-two percent of budgeted expenditures. In fiscal year 2011, the COE expended eighty-two percent of budgeted expenditures, a savings of three percent over projected savings. In line with the office’s goals to insure an efficient, effective and fiscally prudent operation, the COE has retained \$66,400 in reserves. In fiscal year 2012, the COE has spent 16.47% of its budget at a rate of .5% per month, putting the department on track to spend 65.9% of its 2012 budget.

PALM BEACH COUNTY COMMISSION ON ETHICS
STATEMENT OF REVENUES, EXPENDITURES,
AND CHANGES IN FUND BALANCES

Budget and Actual- General Revenue Funds
November 1, 2010 to September 30, 2011

REVENUES:

	<u>Budget</u>	<u>Actual</u>	<u>Variance- Favorable</u> <u>(Unfavorable)</u>
Ad Valorem Funding	475,626	475,626	0
Fines	<u>0</u>	<u>0</u>	
Total Revenues	\$475,626	\$475,626	0

EXPENDITURES:

	<u>Budget</u>	<u>Actual</u>	<u>Variance-Favorable</u>
Personal Services	378,833.00	365,283.57	13,549.43
Operating Expenses	90,293.00	24,576.61	65,716.39
Capital	<u>6,500.00</u>	<u>2,148.18</u>	<u>4,351.82</u>
Total Expenditures	\$475,626.00	\$392,008.36	\$83,617.64

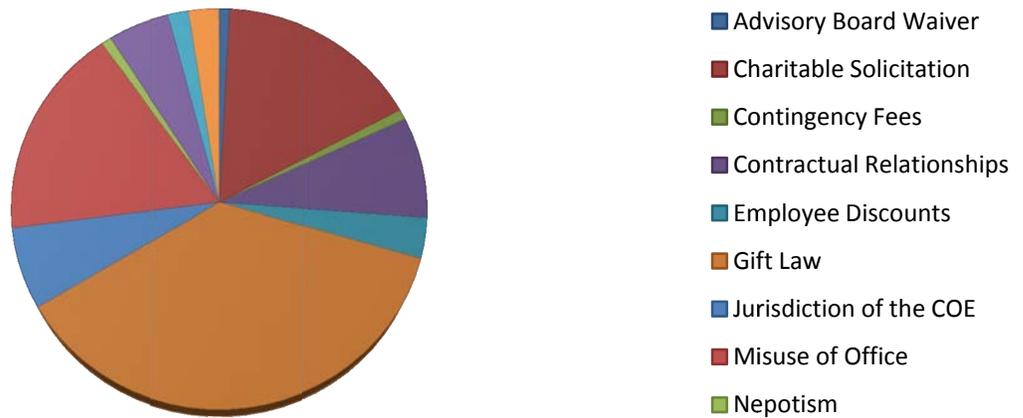
BALANCES BROUGHT FORWARD :

	<u>Actual</u>	<u>Variance-Favorable</u>
Balance Brought Forward 2010	70,770	70,770
Balance Brought Forward 2011	<u>90,112</u>	<u>90,112</u>
Cumulative department reserves	\$160,882	\$160,882

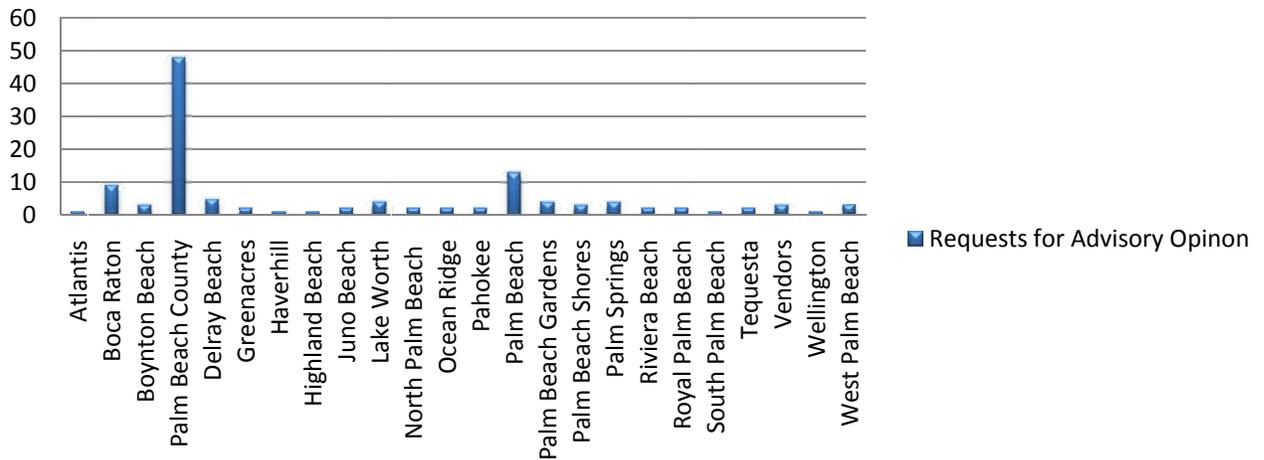
ADVISORY OPINIONS: ASK FIRST, ACT LATER

In 2011, the Commission on Ethics issued 123 advisory opinions. Advisory opinions are designed to assist employees, officials and advisory board members and any other persons or entities subject to the Code of Ethics or related ordinances in understanding their obligations under the codes. When in doubt about the applicability or interpretation of the ethics codes, employees, officials and advisory board members may submit the facts of their particular situation to the Commission on Ethics in writing and request an advisory opinion. As long as the facts submitted to the Commission are complete and accurate, the requesting party may rely on the Commission's response. Advisory opinions concern only the application of the Palm Beach County Code of Ethics and do not analyze other rules or laws that may apply. For example, inquiries regarding possible conflicts under state law should be directed to the State of Florida Commission on Ethics. Copies of every advisory opinion issued since the Commission's establishment are available in PDF format on the COE website. They are indexed by subject matter and are searchable by clicking on the Google search bar available at the top of each page.

Advisory Opinions By Subject Matter



Breakdown of Requests for Advisory Opinion by Entity



SUMMARIES OF NOTABLE 2011 ADVISORY OPINIONS

The Code of Ethics is an 11 page document that does not account for every possible scenario or situation but provides overall guidance to employees and officials. Accordingly, the COE must interpret the words of the code and offer common sense advice to those subject to its jurisdiction. The following summaries are based upon actual advice given in the form of advisory opinions issued by the Commission during 2011. They are included here for educational purposes only. Summaries are not intended as legal advice.¹ If you have a question, please ask commission staff to prepare an advisory opinion as each opinion is based upon the specific facts and circumstances associated with that opinion.

Misuse of Office

The Code of Ethics prohibits employees, officials and advisory board members from using their position to give a special financial benefit, not shared with similarly situated members of the general public, to 1) themselves; 2) a household member, spouse or domestic partner or their outside business or employer; 3) relatives or their outside business or employer; 4) their outside employer or business or someone who they know works for that business; 5) a customer or client of their outside employer or business; 6) a debtor or creditor of an employee or official (at least \$10,000, not including financial institutions); 7) a non-profit organization where the employee or official serves as an officer or director. Simply put, a financial benefit is anything of value. Similarly situated means that everyone that is affected by a decision benefits in the same way.

Question: A county commissioner asked what “reasonable care” and “special financial benefit” mean within the context of an elected official’s public duty under the code. *RQO 11-101*

Answer: There is no bright line definition of *reasonable care* or *special financial benefit*. Reasonableness necessarily depends on the facts and circumstances presented. However, in the absence of constructive or direct knowledge on an official or employee’s part indicating a special financial benefit to a prohibited entity, a violation is unlikely.

Determining what constitutes a *special financial benefit, not shared by similarly situated members of the general public*, depends upon the size of the class affected by the public vote or action, and whether the benefit is shared equally among that class of persons or entities.

Gifts

The Code of Ethics prohibits employees, officials and advisory board members from accepting anything of value in exchange for the past, present, or future performance of their job. This includes thank you gifts or tips for an official public action or legal duty performed, withheld, or violated. Employees and officials are prohibited from soliciting gifts of any value from someone they know to be a vendor, lobbyist or principal or employer of a lobbyist who sells, leases or lobbies their governmental entity for their personal financial benefit, the benefit of a relative or household member, or another employee. Over the course of the calendar year, employees and officials may not solicit or accept gifts worth more than \$100 in the aggregate from a person they know or reasonably should know to be a vendor or lobbyist of their public employer. Gifts in excess of \$100 that are not prohibited are reportable unless one of several exceptions applies.

¹ To the extent that these summaries differ from the language of the original advisory opinion or ordinance, the language in the ordinance and opinion controls.

Question: A town manager asked whether town employees may accept discounted food from local establishments that may be Town vendors. **RQO 11-054**

Answer: Town employees are not prohibited from accepting discounted food at local restaurants, provided that the discount is not based on preferred official treatment of the vendor by the employee, the discount applies equally to all similarly situated government employees or officials, and it is not otherwise offered as a quid pro quo or to convey a special financial benefit in violation of the misuse of office sections of the code.

Question: A state reporting individual asked how to report items that are not required by state reporting guidelines but are required to be reported under the palm beach county code of ethics. **RQO 11-089**

Answer: Local officials and advisory board members who are state reporting individuals are required to report gifts quarterly, in accordance with state law, and are therefore not subject to the annual gift reporting requirements under §2-444(f)(2)b. of the Palm Beach County Code of Ethics.

Voting Conflicts

Section 2-443(c), voting conflicts, addresses the scenario where by voting an elected official would violate the misuse of office section of the code, by giving a special benefit to one of the prohibited persons or entities listed under §2-443(a). In such a scenario officials and advisory board members must 1) disclose the nature of his or her conflict before their board discusses the issue; 2) abstain from any discussion or vote or otherwise participate in the matter; and 3) file a state voting conflict form (8B), submitting a copy to the recording clerk and the Palm Beach County COE.

Question: A municipal advisory board member asked whether a member of his outside business may appear before his advisory board, so long as the advisory board member abstains from voting and does not participate in any part of the decision-making process. **RQO 11-067**

Answer: Yes. The financial misuse and voting conflicts sections of the Code of Ethics do not prohibit a member of an advisory board member's outside business from representing a customer or client of that business provided that the advisory board member *publically discloses the nature of the conflict*, files the required state disclosure form, refrains from voting and does not participate in, or influence the process. In this context, "participate" means that a board member may not present their customer or client's project to their board or take part in any presentation or discussion regarding their client's project with their fellow board members. An advisory board member is not prohibited from working with city staff in his or her professional capacity up and until a matter comes before their board. Once a matter is before their board, the board member may no longer work with city staff, even in a professional capacity. However, another member of their firm or outside business may continue to do so on behalf of the client. Neither the advisory board member, nor an associate on their behalf, may use his or her official position to specially financially benefit themselves, their client or business.

Contractual Relationships

The contractual relationships provisions control contracts that a public employee or official may have in their private capacity that could conflict with their public duties. Generally, the code of ethics prohibits an employee or official from entering into any contract or other transaction to provide goods or services to the public entity they serve. This includes any contract between a municipality or the county and an employee or official, the outside business or employer of an employee or official or any business an employee or an official may own (minimum 5 percent of the business' assets). There are several exceptions that may apply.

Question: A department director asked whether an income-eligible County employee may receive a purchase assistance mortgage or rehabilitation mortgage from the Palm Beach County Housing and Community Development Department, a program that is funded by the United States Department of Housing and Urban Development (HUD).
RQO 11-058

Answer: Public employees may not enter into contracts for goods or services with the County unless the facts and circumstances of the transactions come within an exception to section 2-443(d) *Contractual relationships*. In this case, County employees are receiving and contracting for the same benefit as eligible members of the general public, an exception to section 2-442(d). Accordingly, a County employee is not prohibited from obtaining a Palm Beach County funded HUD loan where they are approved for the loan on the same terms as any other Palm Beach County resident.

Question: A municipal employee asked whether his spouse was prohibited from bidding on and entering into a contract with his municipal employer.
RQO 11-090

Answer: Public employees may not enter into contracts for goods or services with the County unless the facts and circumstances of the transactions come within an exception to section 2-443(d) *Contractual relationships*. The code provides an exemption for contracts entered into under a process of sealed, competitive bidding, where the employer's business is the lowest bidder, provided that the employee has not participated in the bid specifications or determination of the lowest bidder, has not used their position in any way to influence their colleagues, and has disclosed the nature of their interest in the business submitting the bid.

Charitable Solicitation

The code prohibits an official from using their official position to give a special financial benefit to a non-profit organization if they are an officer or director of that organization. Therefore, solicitation of charitable donations made on behalf of a non-profit organization by an officer or director in one's official capacity, for example Commissioner or Police Chief, is *per se* a violation of section 2-443(a)(7), *misuse of office*, of the Palm Beach County Code of Ethics. In order for an official to use their official title to solicit donations on behalf of the non-profit they serve, they must resign their position with the charity. Public officials and employees may not solicit or accept anything of value because of the performance of an official act, or the past, present or future performance or violation of a legal duty. Nor may they solicit a gift of *any value* from a vendor, lobbyist, principal or employer or a lobbyist who sells, leases or lobbies the municipality they serve for their own personal benefit, the benefit of their relatives or household members or the benefit of another employee. If soliciting on behalf of a charitable organization recognized under the Internal Revenue Code, the official or employee must maintain a log of the solicitations of vendors, lobbyists, principals or employers of lobbyists

and submit it to the Palm Beach County Commission on Ethics within 30 days of the event, or if no event within 30 days of the solicitation.

Question: A City Commissioner asked whether she could solicit in her official capacity on behalf of a nonprofit where she is an officer of that nonprofit.

RQO 11-029

Answer: Officials are prohibited from using their official position to give a special financial benefit, not shared with similarly situated charitable organizations in the community, to a non-profit organization of which they are an officer or director. Lending one's name and official title to a fundraising effort would per se constitute using his or her official position financially benefit that nonprofit. Therefore, in order for an official to use their official title to solicit donations on behalf of the non-profit they serve, they must resign their position with the charity. In the alternative, should an official wish to remain as an officer or director, any solicitation would need to be in their name without any reference to their public title, including on the organization's solicitation letterhead. Insofar as the gift law is concerned, an elected official is not prohibited from soliciting or accepting donations on behalf of a charity. However, if the charity solicits donations in excess of \$100 from a vendor, lobbyist, or principal or employer of a lobbyist of the county or municipality the official serves, the official or the non-profit must maintain a record of the solicitations from the county/municipal vendors, lobbyists, principals or employers of lobbyists, and submit a log to the Palm Beach County Commission on Ethics within 30 days of the event, or if no event, within 30 days of the solicitation.

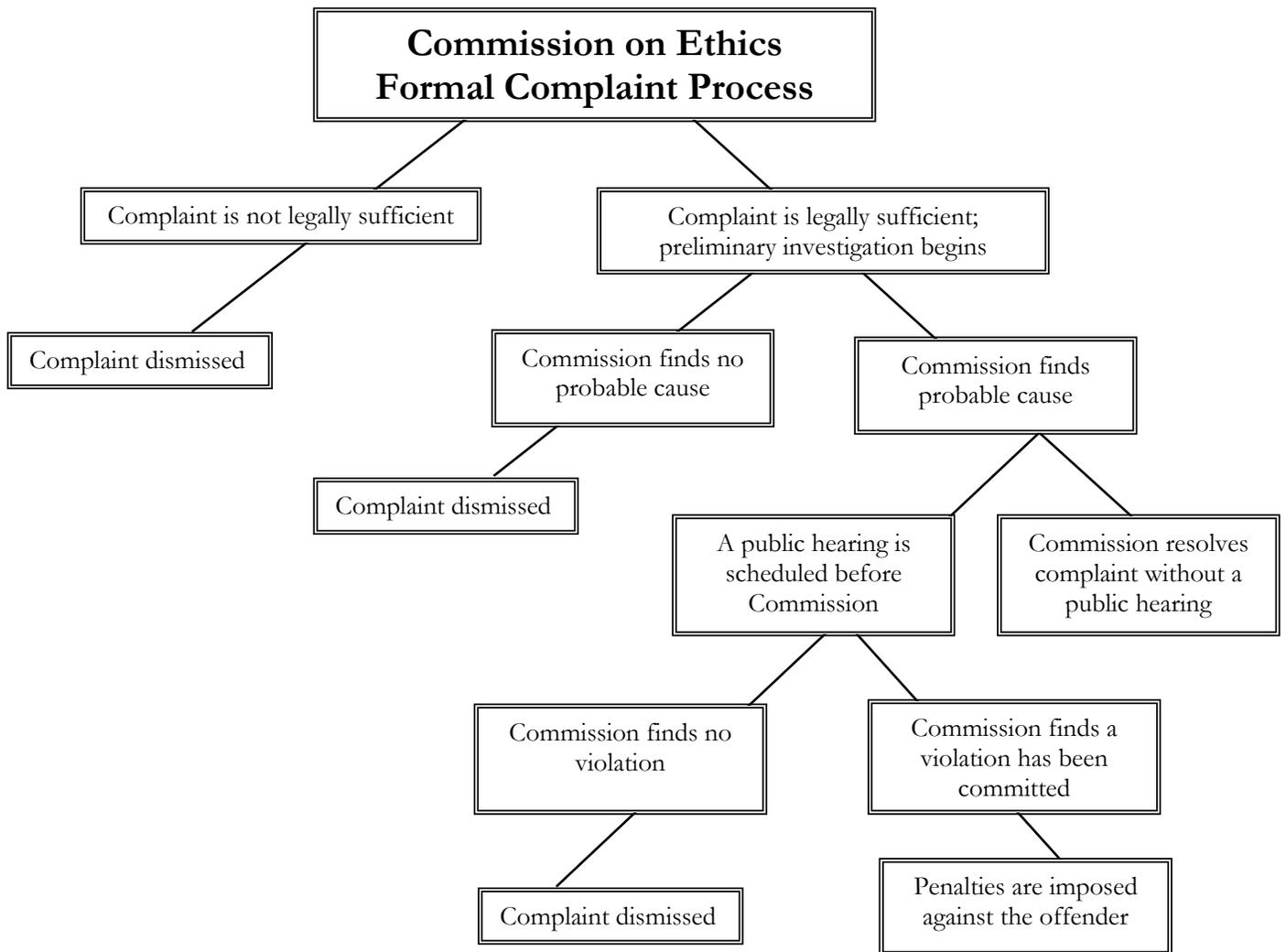
Question: A Town Manager asked whether Town police, fire-rescue and paramedics personnel may participate in fundraising events on behalf of several scholarship programs where their children may be eligible to receive scholarship dollars from those funds. **RQO 11-081**

Answer: Town employees are not prohibited from soliciting or accepting donations for scholarship programs from persons and entities who *are not vendors, lobbyists, principals or employers of lobbyists of the Town*, so long as there is no quid pro quo or other benefit given for an official act or the past, present or future performance of a public duty, and so long as they do not use their official position or title if their children are eligible for or receiving grant benefits. Town employees may not solicit anything of value from a vendor, lobbyist, principal or employer of a lobbyist, even if logged if the benefit will inure to a family member or fellow employee.

THE COMPLAINT PROCESS

Any person can file a complaint with the Commission on Ethics by submitting a written notarized complaint executed on an approved form available by mail or on our website (www.palmbeachcountyethics.com). The complaint must allege a violation of the code of ethics, lobbyist registration or post-employment ordinance, be based substantially upon personal knowledge and be signed under oath or affirmation by the complaining person. The commission maintains a searchable library of public reports and final orders regarding the disposition of all legally sufficient filed complaints. You may request a copy of a complaint form or visit our website.

In addition, citizens can leave information and tips anonymously on the Commission on Ethics hotline at 877-766-5920. If you chose to remain anonymous, you must be sure to provide specific, detailed information that will allow investigators to determine the identity of persons may have personal knowledge of the alleged violation, as well as any available documentary evidence of a violation, or where such documents may be located.

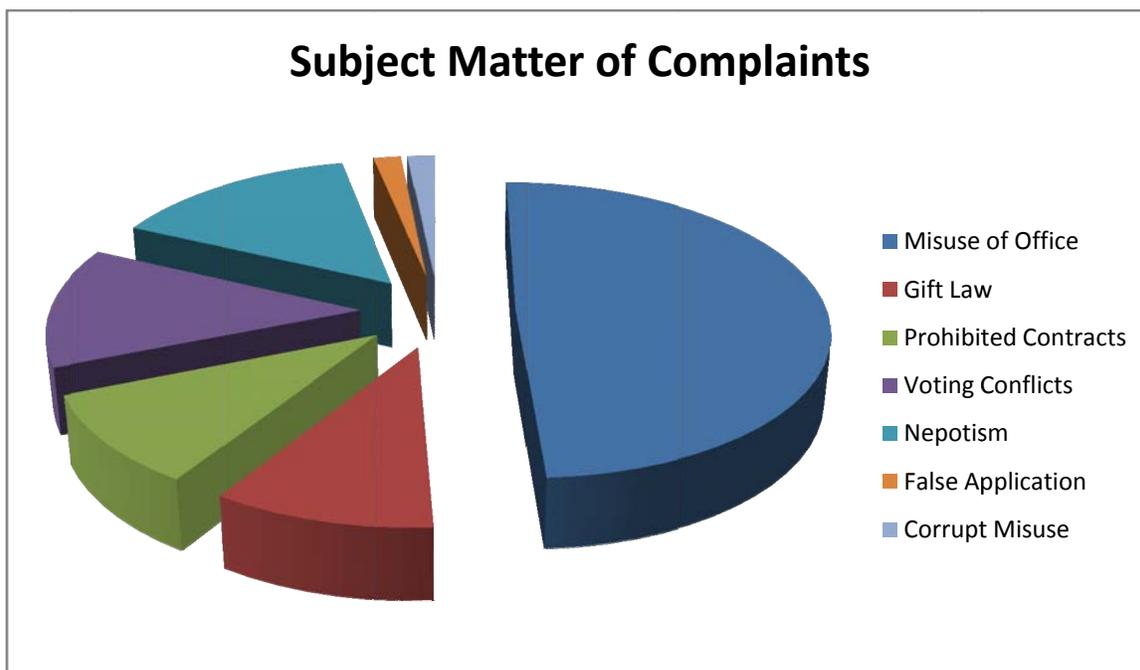


COMPLAINTS

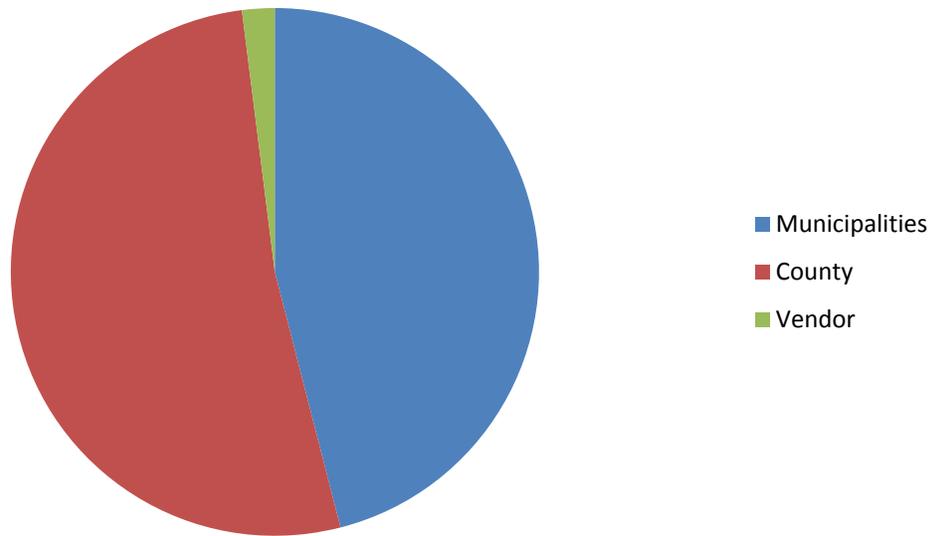
STATISTICAL SUMMARY OF COMPLAINTS FILED JANUARY 1, 2011 THROUGH DECEMBER 31, 2011

The COE received 27 sworn complaints, 29 anonymous complaints and self-initiated 4 complaints in 2011. 20 sworn complaints were dismissed for lack of legal sufficiency, 2 cases are pending and 6 complaints were found to be legally sufficient. Of the 6 cases found to be legally sufficient, three were dismissed at probable cause hearings. The COE found probable cause in two cases which resulted in settlement agreements and one case is pending.

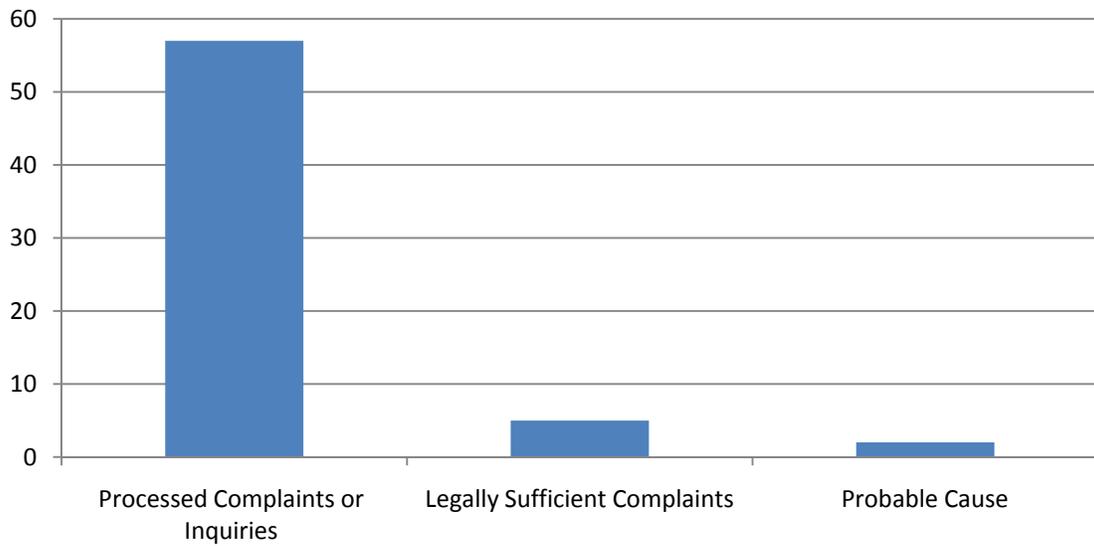
In addition to handling the 27 complaints received in 2010-2011, staff began inquiries into 29 matters based upon information received other than by formal complaint. Of these inquiries, 25 were closed as not legally sufficient and 4 became the basis for a self-initiated complaint.



Complaint and Inquiry Origination



Complaint and Inquiry Disposition



LEGISLATIVE ACTIVITIES AND INITIATIVES

The Commission on Ethics is charged with reviewing statutes and ordinances relating to ethics in government and making policy recommendations to the Board of County Commissioners. After the 2010 referendum, a drafting committee was established to review and revise the Commission on Ethics and Code of Ethics Ordinances. The Commission, through the Executive Director, was actively involved in developing and revising the code of ethics to include municipal governments. The revised code of ethics contains a number of substantive changes and took effect on June 1, 2011. For example, and perhaps most notably, the revised code includes vendors in those sections dealing with prohibited gifts.

Employees and officials may not accept a gift over \$100 annually in the aggregate from a vendor, lobbyist, principal or employer of a lobbyist. Similarly, vendors and lobbyists have a duty under the revised code not to offer a prohibited gift to someone they know or reasonably should know is a public employee or official who is employed by or serves a government the vendor or lobbyist vends, leases or lobbies. Holding vendors responsible for knowing violations of the gift law sends a strong message to the business community that the giving of prohibited gifts is actionable under the law. Provisions such as these make the Palm Beach County Code of Ethics among the most proactive in the United States.

Also, the Commission has worked with the Palm Beach County League of Cities and Palm Beach County administration to establish a county-wide lobbyist registration ordinance and streamline the lobbyist registration process. Beginning April 2, 2012, lobbyists in all 38 municipalities and the county will need to register, provide yearly expenditure reports and sign contact logs maintained by the public entity they lobby. In addition, vendors and lobbyists are subject to a “cone of silence” contact prohibition when bids and proposals are pending.

COMMISSION STAFF

Alan S. Johnson, Executive Director

Prior to his selection as Executive Director, Mr. Johnson was a 17 year state prosecutor for the 15th Judicial Circuit in Palm Beach County. As an Assistant State Attorney Mr. Johnson has tried numerous high profile felony cases and in 2001 became Chief of the Felony Division. In 2005 Mr. Johnson took over the role of Chief Assistant State Attorney until 2009 when he became Senior Counsel for a newly established State Attorney Public Integrity Unit. Mr. Johnson has also served in various capacities as a member and chairman of the Florida Bar Grievance Committee and the Unlicensed Practice of Law Committee as well as regularly serving as a volunteer youth court judge. Since 2000, Mr. Johnson has been a frequent instructor for the Florida Prosecuting Attorneys Association in areas including ethics for prosecutors, victim rights, homicide prosecution, evidence and jury selection.



Mr. Johnson graduated from Columbia University in 1973 and obtained his law degree from Georgetown University Law Center in 1976.

Gina Levesque, Executive Assistant

Ms. Levesque is a former certified law enforcement officer and worked at the Broward County Sheriff's Office for 4 years. In addition to her law enforcement experience, Ms. Levesque served as a legal secretary in the Office of the State Attorney, 15th Judicial Circuit from 1999-2010. Her duties included victim/witness coordination, expungement processing, attorney/witness travel facilitation, case file management and maintaining trial statistics.

Ms. Levesque graduated with a degree in education from Southern Illinois University at Edwardsville in 1988.



Mark Bannon, Senior Investigator

A U.S Army veteran, Mr. Bannon spent nearly 25 years serving as a deputy sheriff, supervisor and Commander with the Palm Beach County Sheriff's Office where he worked in patrol, investigative and community support assignments before retiring from policing in 2005.

He is a graduate of Florida Atlantic University, and holds a Master of Public Administration degree from Nova Southeastern University. Mr. Bannon attended law school at the University of Miami, and was admitted to the Florida Bar in 2005. He is also a former Assistant State Attorney who prosecuted criminal cases in the 15th Judicial Circuit before entering private law practice.

Mr. Bannon authored a book on criminal procedure for law enforcement officers, which was published in 2003 and has taught criminal justice courses to both police officers and undergraduate students. He brings a unique blend of law enforcement and legal education and experience to the Commission.



Megan Rogers, Staff Counsel

Megan Rogers joins the Commission on Ethics from AARP Foundation in Washington, D.C. where she worked on age-discrimination matters. During law school, she served as the Training Editor of the Denver Journal of International Law and Policy and interned with the Colorado Office of the Attorney General and the Colorado Division of Civil Rights. In these positions, she worked on cases involving federal and state discrimination statutes. Upon graduation, Ms. Rogers clerked for the Honorable William Robbins of the Colorado District Court.

Ms. Rogers graduated from Trinity University in 2005 with degrees in political science and history and obtained her law degree in 2008 from the University Of Denver-Sturm College Of Law. Ms. Rogers is admitted to practice in Florida, Colorado and the District of Columbia.



James Poag, Investigator

As the latest addition to the Commission on Ethics, James joined the office 16 months after inception. Mr. Poag has over 15 years of progressive experience in supervising and conducting criminal and civil investigations. As the Broward County Director of the Office of Professional Standards he was responsible for the oversight of 7000 government employees, including the Airport, Seaport, and Visitors and Convention Bureau to ensure compliance with all Federal, State and Local rules, regulations, and ordinances. In addition he also served as the Interim Director of the Broward County Office of Equal Opportunity where he was responsible for the oversight of Broward County's Small Business Development Division, Civil Right Division, Disability Affairs Section, and Equal Opportunity Section.



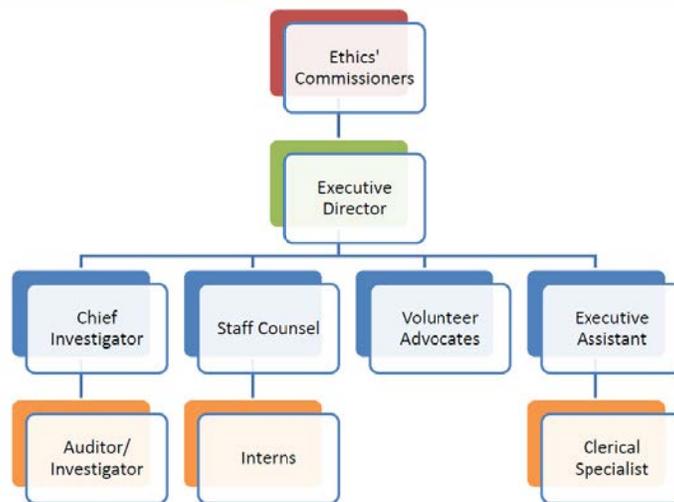
Mr. Poag is a certified law enforcement/correctional officer; in addition he possesses a Masters Degree in Justice Administration and a Graduate Certificate in Public Management from St. Thomas University, and a Bachelors Degree in Criminal Justice from Florida A&M University.

Benjamin Evans, Clerical Specialist

Mr. Evans is a lifelong resident of Palm Beach County. He is a graduate of Cardinal Newman High School in West Palm Beach and the University of Florida where he received a B.A. degree in history in December, 2009.



Commission on Ethics Organizational Chart



PalmBeachCountyEthics.com

HOTLINE: (877) 766-5920