

**REPORT TO  
HARRIS COUNTY JUDGE ED EMMETT**

**By  
CITIZENS' ETHICS REFORM TASK FORCE**

## **ADVANCING ETHICAL BEHAVIOR IN HARRIS COUNTY**

Earlier this year, the Harris County Judge formed a citizens' task force to review the County's ethics practices and make recommendations for improvements. The five-person task force, which is composed of Harris County residents who represent a range of professional backgrounds and experiences and who are independent of ties to the County, has carried out this assignment over the last three months, holding eight formal meetings and numerous individual discussions. The task force obtained information from a dozen other county and city jurisdictions that were of broadly comparable size and characteristics to Harris County and that had recently undergone assessments of practices associated with ethics. For these jurisdictions, we studied their current practices and changes they had made, as well as talked with representatives who could provide information on the reasons and the results of the changes. We also considered the ethics programs and results of selected private sector organizations and drew on studies that have been done on private sector ethics, such as the National Business Ethics Survey, Ethics Resource Center (<http://www.ethics.org/>). Finally, we sought the views of several individuals who could provide perspective on legal and political issues governing state/county relationships and drew on the very capable team of County staff members who supported various aspects of our work.

Four parameters framed the work of the task force. First, we worked independently of the County Judge, the Commissioner's Court, and other County personnel, except for the staff mentioned above. We only met with the County Judge prior to our first meeting and to review our final recommendations. Second, we made no direct assessments of historical or current ethics behavior in Harris County, nor did we study management processes associated with county ethics. Thus, we made our review "from the outside looking in." Third, we did not constrain our recommendations by what was currently possible under existing legislation. In other words, we were free to make recommendations that would require changes in existing laws and practices. Fourth, we tried to represent the broad views of Harris County citizens, that is, what the public expects with respect to ethical behavior, as we considered objectives for ethical behavior within County government.

As the task force worked together, sharing individual prior experience and discussing information about other jurisdictions, three strong beliefs emerged that guided the conclusions and recommendations of our work:

1. Strong ethical cultures have a positive "bottom-line" impact on the results of an organization. We are convinced that private and public sector institutions that pay attention to ethics have an advantage in recruiting and retaining the best talent, enjoy higher morale and productivity, and have better chances of avoiding the lasting reputational damage caused by ethical missteps. Thus, efforts to promote and improve ethics are likely to have a positive payback.

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2. Education is at least as important as legislation in achieving ethical behavior. In fact, studies in the private sector show that “companies that couple a strong ethical culture with a well-implemented ethics and compliance program experience the greatest reduction in ethics risk” (<http://www.ethics.org/>). All members of an organization frequently confront choices that have ethical implications for themselves and other people who work with them. Very few of these rise to the level of breaking the law, but rather involve difficult tradeoffs and judgments—areas of grey rather than black and white. The importance of ethics education is that it can help people identify when an ethics issue exists, understand the implications of particular choices, and know how to get help to resolve them.
3. Transparency is important to promoting ethical behavior. Examples of policies and procedures in city and county government that foster transparency are requirements to disclose relevant information about personal finances, public forums to discuss important issues, and clear accountabilities to the public interest. Transparency discourages activity that would not stand up to public scrutiny, provides information that adds clarity to the understanding of a situation, encourages confidence in government, and enables voters to make more intelligent, informed decisions pertaining to government.

These three core beliefs are at the heart of the conclusions and recommendations that follow. We will discuss them in two parts: (1) defining the ethics policy and (2) implementing the ethics policy.

## **DEFINING THE ETHICS POLICY**

The task force recommends that the County strengthen its traditional code of ethics to include features that are commonly included in other jurisdictions and are consistent with high principles of ethical behavior. We also recommend that the County adopt a more comprehensive code that models best practice among government and private sector entities. This new code would incorporate all aspects of the traditional code.

### **Strengthening Traditional Code**

The 1994 Harris County Code of Ethics, a compilation of all State statutes having a bearing on the subject of ethics in effect at the time of the code’s adoption, outlines the legal framework governing today’s County ethics. This code plays an important role as a foundation or backstop for ethical behavior; however, we recommend that Harris County regularly review and revise this code to ensure that it is an accurate reflection of **current** legal requirements (for example, updating ethics standards with changes in state laws

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regulating campaign financing), practices in other relevant jurisdictions, and interests of citizens. We also recommend that the County consider supporting legislation from time to time that would strengthen and extend the legal foundation for important ethical issues.

A comparison of the 1994 code with those other city and county jurisdictions that we studied reveals that it addresses most of the areas covered by the others (e.g., conflicts of interest, the need for impartiality, gift limitations). In some of these areas, the Harris County code is slightly more restrictive, in others slightly less. In our judgment, these differences are of minor importance. What is of importance are the three areas largely uncovered in the County's code but addressed in all the jurisdictions we reviewed:

1. Identifying and monitoring lobbyist activities to enhance transparency of relationships and activities and to discourage undue influence;
2. Restricting post-employment activities of County personnel to eliminate the perception or reality that they are benefitting from their position with the County; and
3. Ensuring financial stewardship of County resources by governing how personnel use their time and County assets.

Attachment 1 describes the features we believe are important in these new requirements and some of the options that the County might consider.

**Adopting a More Contemporary Code**

While we believe that making these three additions is important, we would observe that simply moving from 13 legally-based rules (the number in the existing 1994 code) to a new total of 16 is unlikely to make a difference in how people perceive the County's ethical performance. More importantly, there is a limit to how much a legally-based code of however many rules can promote ethical behavior. Good ethical behavior has to be more than just avoiding breaking the law.

We recommend that the County move toward a more contemporary code, one that is found in the best practices of private and public sector entities, including recent examples in city and county government. This new code, which would include all of the rules of the traditional code, would have three features:

1. It would seek to engage all the personnel in County government, from the Commissioners Court to employees in general. Instead of the "legalese" of the current code, it would be written in "plain English" and would describe desirable

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ethical behavior in a way that is accessible and understandable to personnel at all levels.

2. The new code would seek to motivate personnel. The code would emphasize the principles of ethics and the end-results that ethical behavior seeks to achieve. The code would be characterized by positive language and examples instead of the emphasis on violations and sanctions that characterize the current code.
3. The new code would seek to raise the bar for ethical behavior. Instead of focusing on the “trip-wires” that would get someone in trouble, the new approach would deal with higher-level expectations (for example, ensuring that an individual is careful about the perception of impropriety as well as the reality).

Attachment 2 provides an illustration of our recommendation to adopt a more contemporary code of ethics. It should serve as a starting point for the document that the County’s leaders and personnel would craft and endorse. It would be a living document, embellished over time by the conclusions drawn from real situations. It would serve as the basis for training and education in ethics that would take place in the County (as described in the next section). Done well, it could make Harris County a leader among city and county governments.

**IMPLEMENTING THE ETHICS POLICY**

The County’s goal in implementing the ethics policies described above should be to create a culture of ethics throughout the whole of County operations – that is, to bring ethics into the daily conversation of the County and to enable and encourage all County personnel to employ ethics explicitly to guide their day-to-day decisions and behaviors.

To engender such a culture of ethics, the task force recommends that the County strongly emphasize ethics education for County personnel and establish a supporting infrastructure for ethics to include a County Ethics Board, a Director for Ethics Advancement, an internal Ethics Committee, and explicit partnerships with relevant legal offices of the State and County. The task force also recommends that the County expand disclosure requirements for County personnel and increase the transparency of those disclosures to the public.

**Engaging Personnel through Ethics Education**

All County personnel should participate in regular ethics training that is designed to help them understand why ethics is important, build skills at identifying ethics issues, and develop better instincts and behavioral responses when ethics issues do arise. Other

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jurisdictions that the task force studied see this focus on education as a critical component for a successful ethics program. The task force recommends that the training be highly engaging and experiential so that all personnel can relate the training immediately to their unique department and role within the County. The training should include, at a minimum, review of relevant ethics law, discussion of the County's ethics principles, and the exploration of "real case" scenarios that can interpret, supplement, and amplify the ethics policies for the personnel.

**Establishing the Harris County Ethics Board**

The task force was impressed with the number of jurisdictions around the country that have established ethics boards composed of community leaders to assist in the execution of ethics policies. While these boards are relatively new, those involved report that the early experience has been positive. We strongly believe that a newly-formed Ethics Board would fill an important need in Harris County's ethics program.

From the number of available models for formulating the board, the task force recommends that the Harris County Ethics Board be composed of nine residents of Harris County serving on a volunteer (unpaid) basis. Commissioners would nominate four, the County Judge would nominate one, and leaders of several specified civic and professional organizations would each nominate one. Example nominating organizations could include the following:

- Harris County Bar Association
- League of Women Voters
- Local colleges and universities
- Others TBD

All nominees would require approval of Commissioners Court before assuming office. The County Judge would work to encourage diversity and an appropriate mix of skills. Board members would serve staggered three-year terms, with term limits. The Board would elect a chair and vice chair to serve pre-determined terms. It would hold four regularly scheduled meetings annually (one per quarter). The Board would also establish its rules of order, procedures, etc.

The Board would play four important roles:

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1. It would ensure that effective and timely ethics training takes place within the organization. The Board would work with Commissioners Court to set an appropriate budget for ethics training and monitor its execution.
2. Acting as a voice for public opinion and working closely with the Commissioners Court, the Board would participate in the investigation and resolution of major ethics cases. In this role, the Board would rely on a close association with the County Attorney's office in investigating facts and providing advice to County personnel about appropriate behaviors in the context of real case scenarios. In cases involving potential criminal activity, the Board would also work closely and ensure alignment with the efforts of the District Attorney's office.
3. The Board would report annually to the public on performance and progress with respect to County ethics.
4. Perhaps every two years, the Board would assess the need to modify the Code of Ethics and make associated recommendations to the Commissioners Court.

In cases involving Employees, the Board would make recommendations on disciplinary action, including dismissal, to the appropriate County agent. In situations involving elected officials and appointees, the Board would make recommendations to the Commissioners Court or other relevant authority (for example, District Attorney's office).

**Creating the Position of Director for Ethics Advancement**

For the Board to function effectively (as a volunteer body that meets only periodically), the County will also need to hire a full-time professional dedicated to shepherding the County's ethics program. The Director would have three main roles:

1. He or she would provide staff support to the Ethics Board. In this capacity, the Director of Ethics Advancement would coordinate cases to be reviewed by the Ethics Board or otherwise addressed by County leaders, including:
  - a. Creating methods for identifying and raising cases (for example, public hotline, requests for ruling),
  - b. Investigating, coordinating, fact gathering,
  - c. Routing the cases to the appropriate body (cases of insufficient importance would be directed away from the Ethics Board to Department Head, County Attorney, etc.), and,

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- d. Ensuring publication of the case scenarios and advice according to established policies.
2. The Director would be directly involved in designing and carrying out ethics training for County personnel, obtaining the support and participation of County leaders and accessing outside assistance as necessary.
3. The Director would participate as a member of the Ethics Committee (see description below).

**Establishing an Internal Ethics Committee**

The Internal Ethics Committee would be composed of four or five well-respected and accessible County Personnel plus the Director of Ethics Advancement. The sole responsibility of this committee would be to provide advice and council on an informal and confidential basis to County personnel who have ethics-related concerns (for example, a difficult decision that involves ethical tradeoffs, an observation of a possible violation by others). The person requesting help would typically meet with an individual committee member. That person would either offer advice or seek collective judgment from other committee members. Members of this committee would continue their current role within the organization (that is, membership in this committee would be part-time).

**Coordinating with Members of Relevant Legal Offices**

The investigative authorities and capacities of the ethics board are necessarily and practically limited. Therefore, it will be important for this body to coordinate with the County Attorney and District Attorney on major ethics cases (for example, the County Attorney might dedicate a specific individual to support the investigation and resolution of ethics cases before the Board). In our brief discussions with representatives of these two offices, they acknowledged a willingness to “partner” in an effort to promote ethical behavior.

**Considering an Expansion of Disclosure Requirements and Transparency**

Other jurisdictions appear to go further on disclosure requirements than Harris County, and, in our judgment, disclosure is one of the main mechanisms that the County has at its disposal to promote the execution of good ethical behavior. In some cases, disclosure is itself the requirement for ethical behavior. In those and other cases, disclosure (and transparency of that disclosure) can directly affect the public’s perception and scrutiny of behaviors and, therefore, has the potential to increase the public trust.



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Finally, under certain circumstances, disclosure requirements can incorporate “penalty of perjury” and “penalty for failure to file” laws. Thus, expansion of the disclosure requirements can expand the jurisdiction of the State (for example, through the District Attorney) to take action in ethics cases. This power of prosecution could add greater weight and authority to Harris County’s ethics policies.

Enhanced disclosure would extend current requirements to a larger population of people and also add items that must be disclosed. Disclosure is an issue that the Ethics Board should consider periodically as part of its work in reviewing the need to change ethics policies. The County should establish methods for electronic posting of disclosure filings as well as publication of ethics cases in a move toward greater transparency.

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**ATTACHMENT 1 - STRENGTHENING THE 1994 CODE**

We have identified three areas where Harris County's ethics policies need to be strengthened (primarily topics that are excluded from the 1994 Code but frequently included by other counties and cities). These areas include: 1) lobbyists registration and disclosure, 2) post-employment conduct, and 3) proper use of the County's time and properties. We recommend updating the 1994 Code to include each of these.

**Lobbyist Registration and Disclosure**

While the State of Texas and other Texas jurisdictions require registration and disclosure of lobbying activities, Harris County does not. We recommend adopting lobbyist registration and disclosure legislation that includes three requirements:

1. Any person or entity that expends or receives compensation of \$200 or more for lobbying activities must register in advance with Harris County.
2. Registered lobbyists must file quarterly disclosure of their clients and specific lobbying topics and issues.
3. Registered lobbyists must identify themselves and the client they represent when addressing official bodies or making oral or written contact with officials

Currently, unregistered lobbyists may communicate with and influence decision makers in Harris County without public knowledge of their lobbying activities or the client(s) they represent. This absence of disclosure may result in a perceived lack of transparency in the process and/or undue lobbyist influence on policy work. Adopting legislation similar to other Texas jurisdictions will improve transparency and help restore public confidence.

**Post-employment Conduct**

Other Texas jurisdictions create limits and set boundaries for when former employees can seek to influence or contract with their former employers. We recommend adopting new legislation that clearly articulates acceptable conduct for former County personnel, including the following provisions:

- Former personnel must wait one year before working as a lobbyist on county business, making appearances before judicial proceedings, or taking a financial interest in a contract that a county action authorized or funded.

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- Personnel must disclose offers of future employment with anyone doing business with the county.

Under existing laws and policies, County personnel are permitted to leave employment and immediately return to lobby or contract with the County or accept employment with firms that contract or seek to contract with the County. These actions may lead to a public perception that former Personnel are seeking personal gain from their employment with the County. Adopting legislation similar to other Texas jurisdictions will improve transparency and help restore public confidence.

**Proper use of County’s Time and Properties**

Existing Harris County personnel regulations (effective July 1, 2006) articulate acceptable and unacceptable usages of Harris County electronic equipment, media, and services (section 21). The Code of Ethics should be updated to include the existing personnel regulations and to include more explicitly proper use of non-electronic assets and Employee time. Three specific recommendations that would strengthen the Code and improve compliance:

1. Update the Code of Ethics to include existing provisions in section 21 of the personnel regulations:
  - a. The use of electronic assets is presumed to be work-related, and, with department head’s discretion, for incidental or de minimis personal matters.
  - b. Unacceptable uses of electronic assets include use for any personal profit; use for purposes not directly related to the duties or responsibilities of the County department before, after, or during normal business hours, etc.
2. Include in both the Code and in personnel regulations new provisions for acceptable and unacceptable use of non-electronic assets and employee time.
3. Improve communication and visibility of these regulations, placing a greater emphasis on the acceptable use and setting a higher standard of ethical behavior.

Existing personnel regulations provide clear guidelines for certain types of County assets, but are silent on others. Clarifying the areas of acceptable use of non-electronic assets and employee time is an important step that should be accompanied by communication, including peer-to-peer communication and public dialogue. Through communication and

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dialogue, the County will raise awareness on topics that are important to the County, its Employees, and the public.

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ILLUSTRATIVE

## **ATTACHMENT 2 - HARRIS COUNTY ETHICAL PRINCIPLES**

It is essential to the proper government and administration of Harris County and its related entities that its elected officials and employees are independent, impartial, and responsible to the people; that decisions and policy are made in the best interests of the people, the community and the government; that public office not be used for personal gain; and that the public has confidence in the integrity of its government. Therefore, public interest requires that Harris County establish and enforce clear and appropriate ethical principles and standards of conduct.

### **Coverage**

These principles and standards of conduct apply to all County Officers and Employees (collectively, "Personnel") unless otherwise specified.

### **Principles**

Certain broad principles apply to the standards of conduct that we expect from Harris County Personnel. Because all standards of conduct and behavior cannot be specified in advance, we have listed these principles as guidance for Personnel in the execution of their positions as public servants.

Specifically, we believe the following:

- The public has entrusted us, as stewards of County time and resources, to exercise our public duties without the influence or appearance of influence of our private interests
- All citizens are to be treated equitably and fairly. We will not grant special consideration, treatment or advantage beyond that which is available to every other citizen
- We will be careful to ensure that the administration of our County government is free from political and partisan influence
- We will treat one another with mutual respect and support the highest standards of ethics

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As a practical matter, the principles described above may not provide sufficiently specific guidance for County Personnel. To provide Personnel with greater guidance as they execute their positions, we have compiled an illustrative list of standards of conduct that we believe are consistent with the principles above.

**HARRIS COUNTY STATEMENT OF ETHICAL STANDARDS**

**I. Upholding the Public Trust**

*The public has entrusted us to exercise our public duties without the influence or appearance of influence of our private interests. Personnel will avoid even the appearance that a conflict of interest exists and will communicate through their conduct that their decisions cannot be improperly influenced.*

**A. Personal and Financial Interests**

1. We will disclose potential conflicts of interests and remove ourselves from the decision-making process if a reasonable person could conclude that objectivity is compromised.
2. We will not solicit or accept work in an organization that is adverse to or incompatible with the proper discharge of official duties.
3. We will be good stewards of County resources. Such resources (including e-mail, computers, phones, property, and Employee time) will be dedicated to official County business.
4. County officers (elected and appointed) and all other Personnel who have broad authority (including individuals whose responsibilities include awarding and execution of contracts, and leasing and sale of property) will provide detailed annual financial disclosure of sources of income and investments.

**B. Receiving Gifts**

1. We will not accept gifts or sponsorship of events valued at over \$50 from lobbyists or parties seeking official action, seeking to do business with the County, or having interests that may be affected by the duties of the Employee.
2. We will disclose offers of future employment with anyone doing business with the County.

**C. Employment after Leaving County Employment**

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- A. Former Personnel will wait one year before engaging in activities that might give the appearance of a conflict of interest, including but not limited to
  - a. Working as a lobbyist on County business.
  - b. Making appearances before judicial proceedings.
  - c. Taking a financial interest in a contract that was authorized or funded by a County action.

**II. Treating all Citizens Equitably**

*All citizens will be treated equitably and fairly. We will not grant special consideration, treatment or advantage beyond that which is available to every other citizen.*

- A. We will deal only with lobbyists who have duly registered with the County.
- B. We will disclose personal, family, and lobbyist relationships that may lead to a conflict of interest and remove ourselves from personnel decisions (for example, hiring, firing, supervision, appointments, promotions) involving members of our family, and from the decision-making process in which a family member, friend, or related organization could receive financial gain.
- C. We will not attempt to influence inappropriately the decisions of other Personnel involved in procurement, policy-making, contracting, or other transactions.
- D. We will treat confidential information with the highest sensitivity. Confidential information will not be disclosed or used by any Employee outside of official responsibilities.
- E. We will not represent others before any County courts or decision making bodies except in the regular discharge of our official duties.

**III. Ensuring a Non-partisan Administration**

*We will be careful to ensure that the administration of the County government is free from political and partisan influence.*

- A. Elected officials will not solicit nor knowingly accept political contributions that are designed to influence official decision-making, including contributions made during or just prior to a contract award period.
- B. County property will not be used to engage in political campaign activities, nor will Personnel influence subordinates to participate or contribute to political campaigns.
- C. Similarly, we will avoid the use of campaign funds to conduct county business and operations where such use could create either a conflict of interest or the appearance of a conflict of interest.
- D. We will ensure that County operations receive appropriate attention continually throughout the election cycle, with careful attention to the use of vacation and comp-time by county personnel.

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**IV. Showing Mutual Respect for Co-workers**

*We will treat one another with mutual respect and support the highest standards of ethics.*

- A. E-mails and other communication from and among Personnel will uphold the dignity and respect of individuals and groups. Harassment or disparagement will not be tolerated.
- B. County Personnel will not give gifts to other Personnel nor solicit or accept such gifts where the gifts are intended to influence behaviors or decisions improperly.
- C. Personnel will support other Personnel's rights to report in good faith violations of the law and these ethics principles and standards.

**Compliance with Relevant Laws**

The statements above only reflect broad ethical principles and standards of conduct that have been agreed upon by the Commissioner's Court. County Personnel are expected to be aware of and conform to all relevant laws regulating their behavior.