

MILWAUKEE COUNTY ETHICS BOARD

2004- ANNUAL ACTIVITIES REPORT

GENERAL INFORMATION

ETHICS BOARD MEMBERSHIP

TERM

Mr. John Carter, Chairman	(February 2000 to February 2006)
Mrs. Maria Monreal Cameron, Vice Chairwoman	(February 2003 to February 2009)
Mr. Jeremiah Hegarty	(February 1999 to February 2005)
Ms. Hannah Dugan	(May 2002 to February 2007)
Mr. Daniel P. Hanley Jr.	(March 2002 to February 2008)
Ms. Mary Glass	(May 2002 to February 2004)
Rev. Trinette Vernell McCray	(February 2004 to February 2010)

EXECUTIVE DIRECTOR

Ms. Susan C. Shields

MAILING ADDRESS

Milwaukee County Courthouse
Room 212
901 North 9th Street
Milwaukee, Wisconsin 53233

TELEPHONE

(414) 278-5332

STAFF

Executive Director serving the equivalent of 25% of a full-time position.
Administrative Assistant serving the equivalent of 25% of a full-time position.

2004 BUDGET

\$45,173 in the 2004 adopted budget.

STATUTORY REFERENCE

Chapter 9, Milwaukee County General Ordinances, and S. 19.59, Wis. Stats.

HISTORY AND APPLICATION OF THE CODE

The Ethics Board and the Ethics Code it administers were created in February 1975. The County Board has amended the Code 23 times since its inception. The Code sets forth standards of ethical conduct for all county officials elected or appointed, employees and members of boards and commissions. The Code requires all elected officials of the county, and certain employees whose duties and responsibilities include the awarding and execution of contracts for the purchase of supplies, services, materials, and equipment for or on behalf of Milwaukee County, for the construction of public works or for the sale or leasing of real estate, to identify publicly information about their personal financial interests. These same county officials and employees are also required to file annually a sworn affidavit that they have complied with the provisions of Chapter 9 during each year. It is the intent of the Code that: government decisions and policy be made in the best interests of the people, the community, and the government; public office not be used for personal gain; and the public have confidence in the integrity of the government.

ORGANIZATION

The Board consists of six members appointed by the County Executive and confirmed by the Milwaukee County Board of Supervisors for staggered six-year terms. An action by the Ethics Board requires an affirmative vote of four members. While serving on the Board, and for one year prior to his/her appointment, no member may have been a member of a political party or a partisan political organization, or have been a candidate for partisan office. The County Executive appoints, subject to confirmation by County Board, an Executive Director who performs such duties as the Board assigns, including the duties of overseeing the daily administration of the office.

BOARD RESPONSIBILITIES

The Ethics Board administers the Code of Ethics written for county officials, employees and members of county boards and commissions, and has three major responsibilities. The Board directs persons specified pursuant to the Code, to file with the Board Statements of Economic Interests. These Statements are retained by the Board for public inspection. Secondly, the Board, upon request, advises any county official or employee or those who do business with county employees on the propriety of matters to which they may become a part, pursuant to the Code. Third, the Board accepts verified complaints against county officials, employees, or members of county boards and commissions. The Board may, by its own motion, make complaints that such persons have violated the Code of Ethics and then conduct a preliminary investigation of such complaints, and make a determination of probable cause of a violation of the Code. If the Ethics Board determines charges should be brought against a county elected official, the Board files such charges with the Personnel Review Board which then acts as the Independent Fact Finder. If the Ethics Board determines charges should be brought against a county employee the matter shall be referred to the County Executive who is to appoint a retired judge to act as the Independent Fact Finder. If a violation of the Code is found by the Independent Fact Finder, the Ethics Board may issue orders which may include a forfeiture up to \$1,000, and/or refer the matter with other recommendations to: the Governor in the case of the County Executive, Sheriff, or Register of Deeds; the Chief Judge to the First Judicial Administrative District of the State of Wisconsin in the case of the Clerk of Circuit Courts; or the County Board in the case of the County Clerk, County Treasurer, or County Supervisor.

The Ethics Board has adopted and last amended, on March 25, 1976, its own By-Laws, containing a Preamble which sets forth the Board's own interpretations governing its assigned purpose. The By-Laws also contain a series of Articles outlining the Board's administrative make-up and the manner of conducting its assigned business.

The Ethics Board has adopted and last amended, on October 18, 1990, its Rules Of Procedures In Complaints And Investigations addressing the manner in which it handles these matters so that all concerned parties may be served better by being clearly and adequately informed in a timely fashion. With the benefit of ongoing experience, the Board regularly reviews its Rules Of Procedure. On December 6, 1990, the Ethics Board distributed a copy of the revised Rules Of Procedure attached to the salary checks of all county officials and employees.

INTERAGENCY RELATIONSHIPS

The Board works with the **Executive Branch**, the **Legislative Branch**, the **offices of the constitutionally-elected officials** of county government, and with **all the departments of Milwaukee County government** in receiving financial disclosure statements, the filing of sworn Affidavits of Code compliance, and in enforcing specified standards of conduct, pursuant to the Code of Ethics. **Members of boards and commissions**, while governed by the Code's standards of conduct, are not initially required to file Statements of Economic Interests nor sworn Affidavits of Code compliance unless in a specific instance a board or commission member is required to do so as a result of a finding of probable cause resulting from an investigation by the Ethics Board. The filed Statements of Economic Interests by **candidates to elected offices** are initially filed with the Election Commission and subsequently are submitted to the Ethics Board for permanent filing. On December 11, 1975, the Honorable County Board of Supervisors adopted a Resolution that copies of proposed amendments to the Code of Ethics be submitted to the Ethics Board at the time any such referrals are made to the **Judiciary Committee** by the Board of Supervisors and, further, that the Ethics Board be given an opportunity to be heard by the Judiciary Committee when the matter appears on the agenda of that committee. The Ethics Board has responded to requests for reviews, comments, and guidelines relating to potential conflicts of interest of specific practices relating to matters under consideration before the **Purchasing Standardization Committee**, the **Audit Committee**, and **other committees of the County Board**. For legal opinions, the Board generally seeks the services of **Corporation Counsel**. However, in instances where a conflict of interest may develop or exist, the Ethics Board has in its budget an allowance to obtain outside legal counsel for specific situations at the discretion of the Board. Corporation Counsel's legal opinions address whether the law applies to a set of facts, that is, whether or not the law is controlling to a specific set of facts. It remains the province of the Ethics Board to determine whether or not specific facts constitute probable cause of a violation of the Ethics Code. At the invitation of the Ethics Board, a staff attorney of the Corporation Counsel attends all regular meetings of the Board. In conducting an investigation, the Board has sought the assistance of the **Department of Audit** and the **Detective Division of the Sheriff's Department** and has consulted with the **District Attorney's office** on charges relating to the violation of other related statutes. After a determination by the Independent Fact Finder that a violation of the Code exists the Ethics Board may contact the county employee **appointing authority** or, in the case of various elected officials of the county, the **Governor**, the **Chief Judge**, or the **County Board of Supervisors**, pursuant to s. 9.13, County General Ordinances. Annually, along with all other funded departments in the county, the Ethics Board presents its operating budget to the **County Executive** and appears before the **Finance Committee** of the County Board seeking County Board appropriations for its operation.

BOARD OPERATIONS

During the 12 months covered by this report (calendar year 2004), the Ethics Board met nine times in response to the call of its chairman for the purpose of carrying out the Board's assigned duties and responsibilities. The meeting was preceded by public announcements of the time, place and matters to be discussed. Although requests for written advice and investigations must, as a matter of ordinance, be held in closed session, the Board gives public notice of the time, place, and general subject of its closed sessions in conformance with the State Open Meeting law. All other items of the meeting agenda are held in public session.

SELECTED STATISTICS

<u>Statements of Economic Interests</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>
Persons required to file Statement.....	375	336	288
Delinquent filing of Statements	0	0	0
Requests for review of Statements by public, auditors, or press	68	102	73
<u>Requests for Advice by Persons Subject to the Code</u>			
Oral requests with oral responses	55	39	41
Formal requests with written responses	5	1	9
<u>Complaints and Investigations</u>			
All complaints (oral and written) received by Ethics Board..5	34	4	
Formal verified complaints	0	0	2
Complaints giving rise to formal investigations	0	33	3
Referrals for a hearing	0	0	0

FINANCIAL DISCLOSURE

One of the Board's principal duties is to administer the financial disclosure provisions of the Code of Ethics. In this reporting period, the Board has received and maintains 288 Statements on file. This number includes the County Executive, members of the Board of Supervisors, all elected constitutional officers, employees whose job description includes considerable responsibility in the process of purchasing on behalf of the county, and candidates who ran for county elected offices. Required disclosures on the Statements include:

1. OFFICES AND DIRECTORSHIPS. The identity of any organization in which the person who is required to file is an officer, director, or holds a position. Reporting exceptions are positions held in charitable, religious, and educational organizations not doing business with Milwaukee County.
2. SECURITIES. The identity of any business organization, municipal or other corporation in which the person required to file owns securities having a value of \$5,000 or more or an interest of 10% or more in such business.
3. CREDITORS. The identity of any creditor to whom the person required to file owes \$5,000 or more, and the amount owed.
4. REAL PROPERTY. The identity of any real property located in Milwaukee County or a contiguous county in which the person required to file holds an interest valued at \$5,000 or more. Exceptions for reporting are one's own principal residence and any property in which the

pro rata share held by the person reporting is less than 10% of the outstanding shares on the real property.

5. TRANSFERS. The identity of the type and amount of any securities or real property valued in excess of \$5,000, or 10% of the business or property which the person required to file has transferred his/her ownership to any member of his/her immediate family within two calendar years.

All persons required to file in the year 2004 did so in a timely fashion.

On December 18, 1996, the Ethics Board adopted a policy regarding the standard determining "real estate value" which is: "Value" shall be defined as the last assessment for real estate property tax purposes which has been issued by the public official responsible to assess property valuation for real estate tax purposes. The tax assessment shall be conclusive evidence of the "value" of said real estate unless a challenge to said assessment has been filed by the declarant at the time of the submission of the Statement of Economic Interests.

EXAMINATION OF STATEMENTS OF ECONOMIC INTERESTS

Every Statement submitted is reviewed by a member of the staff and again by members of the Ethics Board. These reviews identified 19 Statements for further attention. Whenever inconsistencies are identified during the review process, additional information may be required from the declarant to bring the Statement into conformity with the law.

All filed Statements are open to public inspection at the Board's office during regular business hours. In this reporting period, 73 requests were made to examine filed Statements. Following a policy of the Ethics Board, requests to examine are made in writing, and persons whose Statements are examined are so notified with the identity of the person requesting inspection.

ANNUAL AFFIDAVIT

Every person required to file a Statement of Economic Interests is also required to file annually a sworn affidavit attesting that the Code has been read and understood, and to their compliance with the provisions of the county's Ethics Code. The statement of the Affidavit is Appendix A of the Code.

STANDARDS OF CONDUCT

The Code of Ethics for county officials and employees provides:

- A. **PRIVATE BENEFIT.** Except as otherwise provided or approved by the County Board, no county public official or employee may use his/her public position or office to obtain financial gain or anything of substantial value for the private benefit of himself/herself or his/her immediate family, or for an organization with which he/she is associated. 9.05(2)(a)
- B. **INFLUENCE ACTION.** No person may offer to give to any public elected official or employee, directly or indirectly, and no public elected official or employee may solicit or accept from any person, directly or indirectly, anything of value if it could reasonably be expected to influence the public official's or employee's vote, official actions or judgment, or could reasonably be considered as a reward for any official action or inaction on the part of the public official or employee. 9.05(2)(b)
- C. **CONFLICT OF INTEREST.** No elected official, appointed official or employee may:
 - 1. **Take any official action** substantially affecting a matter in which the public official, employee, a member of his/her immediate family, or an organization with which the public official or employee is associated has a substantial financial interest. 9.05(2)(c)1
 - 2. **Use of his/her office or position** in a way that produces or assists in the production of a substantial benefit, directly or indirectly, for the public official, employee, one (1) or more members of the official's immediate family either separately or together, or an organization with which the public official or employee is associated. (9.05(2)(c)
- D. **CONFIDENTIAL INFORMATION.** No county elected official, appointed official or employee may use or disclose privileged information gained in the course of, or by reason of, his/her position or activities which in any way could result in financial gain for himself/herself or for any other person. 9.05(2)(d)
- E. **UNLAWFUL BENEFIT.** No county elected official, appointed official or employee may use or attempt to use his/her public position to influence or gain unlawful benefits, advantages, or privileges for himself/herself or others. 9.05(2)(e)
- F. **BETWEEN COUNTY ELECTED OFFICIALS AND DEPARTMENT EMPLOYEES.** No county elected or appointed official may offer to give a member or employee of a department,

while that member or employee is associated with the department, and no member or employee of a department may solicit or accept from any such person, anything of value.9.05(2)(f)

- G. **PUBLIC CONTRACTS.** No county elected official, appointed official or employee and no business with which he/she has a significant fiduciary relationship may enter into any contract with the county unless that contract has been awarded through a process of public notice and competitive bidding under s. 59.08, Wis. Stats., or chapter 32 of the Code. 9.05(2)(g)
- H. **LEASE OF REAL PROPERTY.** No county elected official, appointed official or employee and no business in which that county public official or employee has a ten (10) percent or greater interest may enter into a lease of real property with the county, except that the county board upon request may waive this subsection when it is in the best interests of the county. 9.05(2)(h)
- I. **CAMPAIGN SOLICITATION OF AT-WILL EMPLOYEES PROHIBITED.** No elected county official may knowingly solicit a campaign contribution from any "at will employee" defined as an employee who is not under contract, who is hired for an indefinite term or who can be discharged for any non-discriminatory reason. 9.05 (2)(k)
- J. **CAMPAIGN CONTRIBUTIONS BY CONTRACTORS RESTRICTED.** No person(s) with a personal financial interest in the approval or denial of a contract being considered by a County department or with an agency funded and regulated by a County department may make a campaign contribution to any candidate for an elected office that has final authority during its consideration. Contract consideration shall begin when a contract is submitted directly to a County department or to an agency until the contract has reached final disposition, including adoption, county executive action, proceedings on veto (if necessary) or departmental approval. This provision does not apply to those items covered by Section 9.15 unless an acceptance by a candidate would conflict with this section. 9.05(2)(l)

The above prohibitions are selected portions of Section 9.05 and are not to be construed to prohibit a County Board Supervisor from making inquiries for information on behalf of or representing a person before any county board, commission, or department in discharge of his/her official duties.

- K. **ACTION UPON CONFLICT.** 9.06(1) If any county elected official, appointed official or employee, in the discharge of his/her official duties, is required to take action which is prohibited by this chapter such county elected official or employee:
 - a. Shall not take such action; and

- b. Shall prepare a written statement describing the matter requiring action or decision, and the nature of the possible violation with respect to such action or decision; and
- c. Shall deliver copies of such statement to the ethics board and to his/her immediate superior, if any; and
- d. In the case of a County Board Supervisor, may deliver a copy of such statement to the chairperson of the County Board, who shall cause such statement to be printed in the proceedings and, upon request, shall excuse a supervisor from votes, deliberations and other actions on the matter which a possible conflict exists.

REQUESTS FOR ADVICE

Anyone subject to this Ethics Code may request of the Board written advice regarding the propriety of any matter to which he or she is or may become a party. All formal requests are confidential unless the privilege of confidentiality is expressly waived by the requestor. In 2004, 41 oral requests for advice were made by county officials and employees, which requests were satisfied simply by an explanation of the language in the written Code.

The Ethics Board, directly or through its executive director, received and responded to a number of inquiries from other government units, the press and citizens, regarding the applicability, contents and procedures relating to the Ethics Code.

COMPLAINTS AND INVESTIGATIONS

Pursuant to the Code, the Board accepts verified complaints of alleged violations of the Ethics Code. During this reporting period, the Board reviewed four reports of alleged violations of the Ethics Code by a County official or employee. Complaints are resolved in an informal investigation conducted by the Board. The Board did not find probable cause of a violation of the Ethics Code and did not proceed further.

COMMENTS AND INTERPRETATIONS ON SELECTED SECTIONS OF THE ETHICS CODE

THE PROPRIETY OF OUTSIDE EMPLOYMENT

Section 9.05(1), County General Ordinances, does not preclude any county elected official or employee from accepting other employment or following another pursuit which in no way interferes with the full and faithful discharge of their duties to the County. The Ethics Board reiterated that all County officials and employees should conduct themselves in a manner and exercise their judgment to reinforce the principle that the appearance of impropriety sometimes may be worse than the impropriety itself. The use of County salaried time and other County

resources, such as facilities, supplies, and services, for personal or private gain, not available to all citizens, is prohibited.

COUNTY EMPLOYEES REQUIRED TO FILE A FINANCIAL DISCLOSURE

Section 9.03(1), County General Ordinances, applies to all County employees whose job duties include the responsibility of writing specifications and/or contain any decision-making capacity relating to the amending or execution of purchase contracts on behalf of the County. (Corporation Counsel opinion of January 30, 1981) Each department head is required to indicate annually to the Ethics Board which subordinates they believe perform assignments within the above purchasing description. The Board has determined that these designations by the department head are not controlling. After a review of these lists, the Board sends a directive to all employees who are required to file their annual Statement of Economic Interests and their accompanying Affidavit of compliance to the Code. The Ethics Board is ultimately responsible to determine who should file. Failure to file after being directed to do so by the Ethics Board could subject that employee to the sanctions of s. 9.03(4), which provides in part: "...no person...may receive his/her salary..." after failing to file.

IMPACT OF WISCONSIN UNIFORM MARITAL PROPERTY ACT

The Ethics Board has adopted the following language expressed in an April 19, 1988 legal opinion of Corporation Counsel as applicable to the filing of Statements of Economic Interests:

"A reading of the Wisconsin Uniform Marital Property Act together with the Code of Ethics requires a county official or employee who must file a Statement Of Economic Interests to identify those assets and liabilities of his or her spouse that are classified as marital property if the threshold amounts as listed in s. 9.04 of the Ethics Code are met."

There is a presumption that all property of a spouse is a marital property unless it is classified differently pursuant to Chapter 766 Wisconsin Statutes.

DUAL BOARD MEMBERSHIP ON BOARDS AND COMMISSIONS

On December 18, 1996, the Ethics Board adopted the State of Wisconsin Ethics Board interpretation of the words "associated" and "organization relative to dual membership on boards and commissions.

The State Ethics Board stated in an opinion that a county official who was appointed pursuant to a state statute or a county ordinance or resolution, was representing the county's interests on that board and, therefore, was not "associated" with the organization. The elected official serves in a representative capacity, not an individual one, and protects the county's interests, and is not simply serving the organization.

The State Ethics Board opinion re-affirmed the County Ethics Board's earlier position of February 19, 1996, that, unless otherwise specified by law, a county official may not simultaneously be an officer or director of a private organization (in a capacity other than as a representative of the county's interests) and a) take official action substantially affecting the organization or b) use his or her public office to produce a substantial benefit for the organization.

CAMPAIGN SOLICITATION OF AT- WILL EMPLOYEES PROHIBITED

On December 18, 2003 the County Board of supervisors adopted File No. 03-591 an ordinance amendment to Chapter 9 which prohibits elected County officials from soliciting campaign contributions from "at-will" County employees.

CAMPAIGN CONTRIBUTIONS BY CONTRACTORS RESTRICTED

On March 18, 2004 the County Board of Supervisors adopted File No. 03-593, an ordinance amendment to Chapter 9 which prohibits a person(s) with a personal financial interest in the approval or denial of a contract being considered by a County department or with an agency funded and regulated by a County department from making a campaign contribution to any elected County official who has approval authority during the contract's consideration.

ETHICS CODE OMNIBUS AMENDMENTS

On December 16, 2004 the County Board of Supervisors adopted File No. 04-191, an ordinance amendment to Chapter 9 which updated the code; provided a new designation of "appointed official;" required Pension Board members to file quarterly and elected officials to file semi-annually, and Ethics Board and Election Commission members to file reports; provided penalties for failure to report receipt of honorariums; placed a limitation on lobbying by former county officials and employees; and more clearly identified the process for the appointment of an independent fact finder.

- END -