

# PALMER & DODGE

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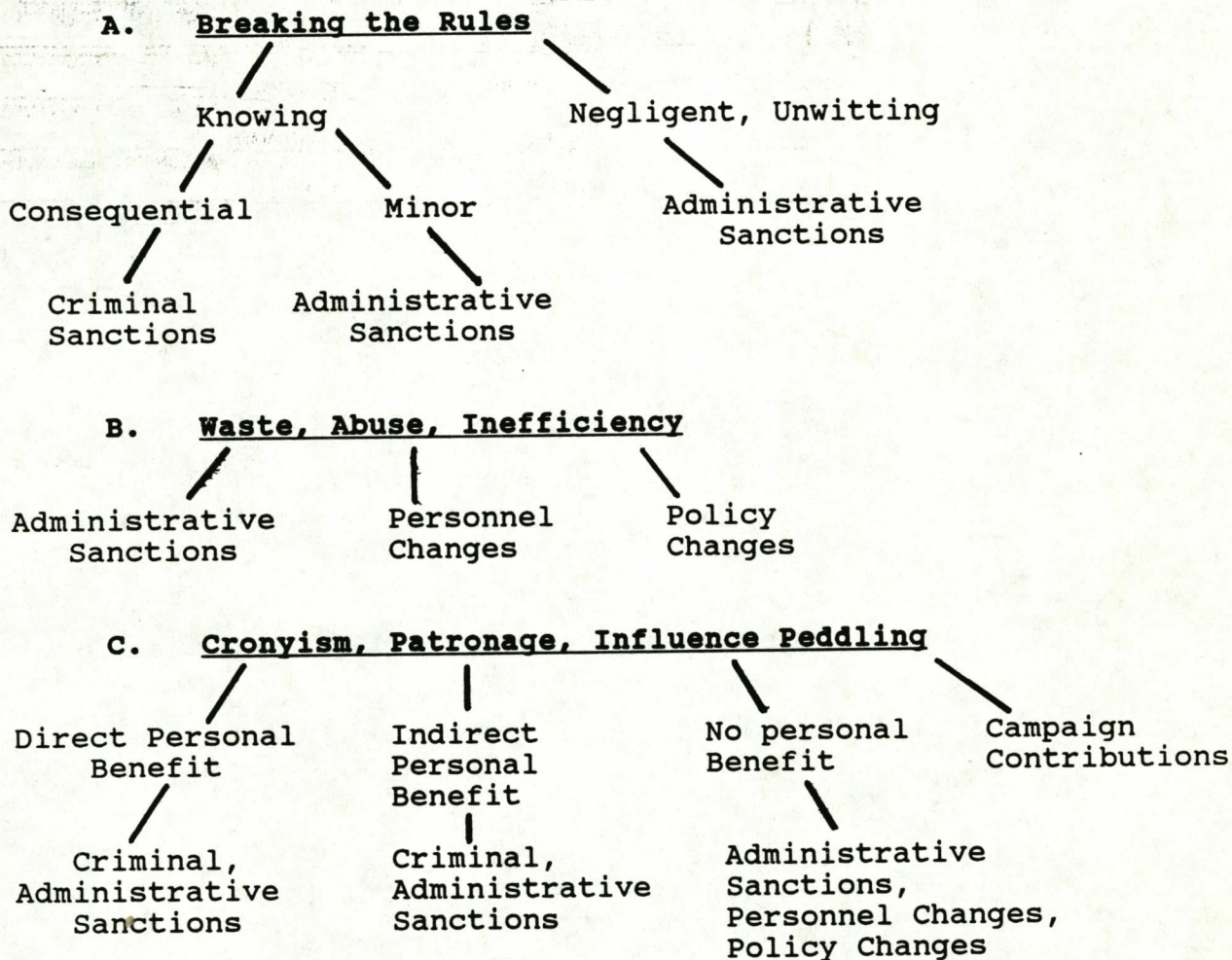
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## SEMINAR FOR AFRICAN NATIONAL CONGRESS (ANC) MEMBERS

### ETHICS IN GOVERNMENT

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#### I. WHAT IS CORRUPTION?



## II. STRUCTURAL SAFEGUARDS AGAINST CORRUPTION

### A. Investigators/Prosecutors

1. Independent from those being investigated
  - a. Special Prosecutors vs. Quasi-independent units of Department of Justice
  - b. Non-political in approach
2. Esprit
  - a. pride in incorruptibility
  - b. reputation of incorruptibility
  - c. experienced, capable
  - d. capable of preserving confidences
  - e. well compensated within civil service levels

### B. Hierarchies of Investigation

1. Criminal
2. Inspector General
3. Internal Discipline

### C. Protection of Sources of Information

1. Whistle-blower protection against retaliation
2. Confidentiality
3. Reward structure

### D. Freedom of Information Act/Press Muckraking

### E. Independent Auditors/Periodic Inspections

### F. Procedural Internal Safeguards

1. Multiple decision-makers
2. Rotating decision-makers
3. Objective criteria for decisions, e.g. low bid
4. Technical fixes (e.g. sealed bids, secret ballot)

III. Establishing Ethical Standards

A. General Legal Prohibitions

1. Bribery, taking of gratuities
2. Prohibition of related outside compensation
3. Financial conflicts of interest
  - a. while still government employee
  - b. subsequent to government employment
    - i. subject matter limitations
    - ii. per se time limitations

B. Special Workplace Rules (By Regulations, Executive Order, Internal Mandate)

C. Disclosure and Certification Obligations

- a. false statement penalties
- b. state of mind, intent to defraud
- c. preventive function

D. Fiduciary Obligations

IV. LIMITATIONS ON ETHICAL STANDARDS

A. Campaign Contributions

1. Giving of gratuity or political speech?
2. Limitations on: amount of contributions  
nature of contributor
3. Disclosure obligations

B. Part-time Government Employees

1. Likelihood of financial conflicts of interest

C. Influence Peddling

1. Friendships, loyalties
2. Political patronage
3. Lobbyists

- a. access to information
  - b. access to decisionmakers
4. puffing

V. HARD CHOICES

- A. Private funding vs. government funding
- B. Integrity vs. efficiency, vigor
- C. Political speech vs. moneyed influence
- D. Purity vs. ability
- E. Dishonesty vs. political hardball
- F. Ethics vs. access: who shall govern?
- G. Federalism considerations: who shall guard the state and local guardians?