

AT THE REGULATORY FRONT LINES:

Building Inspectors and New Public Management

by

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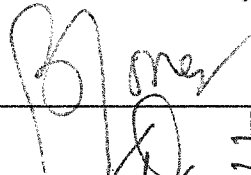


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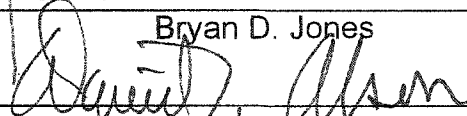
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Abstract

At the Regulatory Front Lines: Building Inspectors and New Public Management

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Those individuals at the front lines of service delivery are once again prominent figures in studies of policy implementation. Recent scholarship addressing regulatory enforcement, public management, bureaucratic control, and public administration have all focused on the importance of these street-level bureaucrats and the unique role they play in shaping public policy.

The idea that street-level bureaucrats create policy through their discretionary behavior is well established, but there is still considerable debate over whether street-level discretion enhances or diminishes public service delivery. Much of this debate between New Public Management and traditional public administration scholars has centered on whether these workers should be constrained or empowered in order to improve government performance.

A key element concerns the motivations for bureaucratic behavior. If street-level bureaucrats exercise their discretion in ways that are inconsistent with the policy preferences of their principals, why do they do so? How much of their motivation is from a need to manage the demands of an unreasonable

workload, how much from desires to sabotage policy or maximize leisure, and how much is aimed at improving service?

In addressing these questions, this study examines a number of contrasting assumptions between New Public Management and traditional public administration about building inspectors as street-level bureaucrats. Blending qualitative and quantitative techniques, the analyses examine the influence of context, discretion, and supervision on the behavior of inspectors. The findings lend support to New Public Management arguments that front-line workers are both willing and able to assume increased responsibilities. But they also support traditional arguments that to preserve accountability empowerment measures must be accompanied by increased training, professionalization, and enhanced supervision.

This study contributes to scholarly literature in a number of important ways. It adds to debates on bureaucratic discretion in public administration with empirical findings about the motivations of bureaucrats. It fills a prominent gap in the regulatory enforcement literature by clarifying the role and importance of inspectors in the regulatory enforcement process. And it expands the street-level bureaucracy literature by extending the study of individual bureaucratic behavior to a regulatory setting.

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for Haley Morgan

Introduction: The New Public Dilemma

“Administrative action in any political system, but especially in a democracy, must somehow realize two objectives simultaneously. It is necessary to construct and maintain administrative capacity, and it is equally necessary to control it in order to ensure the responsiveness of the public bureaucracy to higher authority” (Garvey 1995, p.87).

In 1993, Vice President Al Gore and a team of more than 200 experts spent six months conducting the National Performance Review (NPR), a comprehensive assessment of the administrative capacity of the federal government. In their final 168-page report they attributed most of the problems of government to an outdated bureaucratic paradigm that punished innovation and rewarded strict obedience to rules and procedures. They offered over 800 recommendations for reducing waste and restoring the performance of the government that they concluded was broken (NPR 1993, p6). In place of the bureaucratic paradigm they proposed a ‘reinvented’ public service based on private sector management ideas that tied both performance and accountability to customer service.

The cluster of ideas and practices they adopted, known collectively as New Public Management, are optimistic about the potential for improving governmental performance. In less than fifteen years these ideas have literally swept the world, from reforms that preceded those of the U. S. in the United Kingdom, New Zealand, and Australia, to the national reinvention effort in the United States that spread to scores of state and local governments. The

specifics of the reforms differ from nation to nation, but all share a common philosophy of adapting private-sector market mechanisms and management techniques to improve efficiency of the public sector. Some call the ideas revolutionary, predicting that traditional organizations and systems are increasingly obsolete and will be swept away by the new paradigm (see Denhardt and Denhardt 2000; Kettl 1994; Lane 2000). Others are more critical of the movement, arguing that there is nothing new in New Public Management (Savoie 1995; Riccucci 2001), or that it promotes performance at the expense of fairness and democratic accountability.

The New Public Management may indeed be a revolution, if only in the sense that the turning of a wheel is a revolution. The rhetoric may be new and the techniques may be innovative, but the fundamental challenge of administration – that of balancing the twin objectives of performance and accountability – has not changed in more than 200 years. Values change; technologies change; politics change; even ideas about what is possible and what is acceptable change. But the basic need to balance administrative capacity with appropriate mechanisms of control is as old as the republic itself.

Almost exactly a century earlier, the nation faced a similar crisis of administration – the one that produced what is now considered the traditional bureaucratic paradigm. Though the nature of the imbalance was different, the basic challenge the progressives faced was little different from today. Woodrow Wilson's famous essay "The Study of Administration" (1887) was written in an

environment where democratic accountability had been sacrificed to the performance goals of the time. Politicians were acutely aware of the needs of their constituency and routinely used the political favors at their disposal to reward supporters, but elections were the only mechanism for administrative accountability and services were heavily dependent on political exchanges. The patronage system was also effective at furthering the personal interests of administrative officials. Relatively minor political officials often became wealthy in the regular performance of their duties. Wilson and other progressives offered a new intellectual vision that promised to improve both the efficiency and accountability of the system through politically neutral, competent administration by a permanent civil service. They proposed centralized bureaucratic organizations with hierarchical chains of authority and standardized procedures and tasks. Policy decisions would be made by legislatures; administrators were responsible only for the efficient implementation of those decisions.

The simple truth of course is that performance and accountability both matter, as much in 2003 as in 1887. The emphasis on procedural accountability in the last century has diminished the threat of corruption but has also produced bureaucratic systems that tend to be rule-bound, inefficient, and ponderously slow. Mired in gridlock, unable to perform the simplest tasks efficiently, the new perspective argues that the system itself has become the problem. They argue that part of the solution is to decentralize decisions, to give front line workers the authority and discretion to make decisions based on their knowledge, expertise,

and the unique context of each situation. Traditionalists counter that while this may improve performance, it runs the risk of making the opposite mistake, dismantling the very mechanisms of accountability that deposed the patronage system and made our bureaucracy the least corrupt in the world. Democratic accountability, they argue, is not optional.

THE PERFORMANCE PROBLEM

The performance problems of modern governments are not imaginary. Massive advances in information technology over the last twenty years have produced profound changes in all facets of human life, including administrative capacity and citizen expectations about acceptable government performance. In the 1980s, as private corporations streamlined their organizations to increase flexibility and respond more quickly to changes in market conditions, the gap between government and private sector performance became increasingly obvious. Not surprisingly, the successes of the private sector have prompted calls for the adaptation of their techniques to the public sector. According to the National Performance Review, the main problem is that:

“Washington is filled with organizations designed for an environment that no longer exists. From the 1930s to the 1960s, we built large, top-down, centralized bureaucracies to do the public’s business. They were patterned after the corporate structures of the age: hierarchical bureaucracies in which tasks were broken into simple parts, each the responsibility of a different layer of employees, each defined by specific rules and regulations. With their rigid preoccupation with standard operating procedure, their vertical chains of command, and their standardized services, these bureaucracies were steady – but slow and cumbersome. And in today’s world of rapid change, lightning-quick information technologies, tough global competition, and demanding customers, large, top-down bureaucracies – public or private – don’t work very well. Saturn isn’t run the way General Motors was. Intel isn’t run the way IBM was” (NPR 1993 p.3).

In the past, information was costly to both obtain and share with others. Centralized bureaucracies were organized to transmit information from the periphery to the center, where decisions could be made most efficiently with more complete information. The decisions that were based on that information were then transmitted to the periphery for implementation. The system was efficient because actors at the periphery recognized that those at the center had superior information and trusted their decisions.

The technological changes of the last twenty years have forever altered this equation. As the flow of information has increased, the pressure on centralized organizations has also increased. Obtaining information is no longer costly, in fact for many organizations the overflow of information has itself become the problem. Processing is now the bottleneck of the decision process, and those with the greatest processing power are usually in the best position to make decisions. If this were the only aspect of the performance problem, agencies could adapt by simply expanding their processing power at the center. In preventing terrorism for example, law enforcement agents at the periphery are often unable to connect the information they have with related information gathered elsewhere. The Department of Homeland Security was created in part to combat the poor decisions that can result when the flow of information exceeds processing capacity.

But the quantity of information is only part of the problem. Most of the work government workers do is routine, and rarely requires the centralized

processing of such widely scattered information. For most regulatory enforcement and service delivery situations, the balance of processing capacity between center and periphery is reversed. Hundreds of rules and procedures might apply to a given situation but only a few are relevant to the circumstances at hand. Front line workers are in the best position to process the unique information from each situation and combine it with the objectives and procedures of their training in order to deliver the best response. While this is nothing new, the accelerating pace of the last two decades has placed enormous pressure on bureaucracies with elaborate authorization structures. Alvin Toffler writes:

“It’s the computer – but it’s not *just* the computer. It’s the biological revolution, but it’s not *just* the biological revolution. It’s the shift in energy forms. It’s the new geopolitical balance in the world. It’s the revolt against the patriarchy. It’s credit cards plus video games plus stereo plus Walkman units. It’s localism plus globalism. It’s smart typewriters and information workers and electronic banking. It’s the push for decentralization. At one end, it’s the space shuttle – at the other, it’s the search for individual identity. It’s flex-time and robots and the rising militancy of black and brown and yellow people on the planet. It’s the combined impact of all these forces converging on and shattering our traditional industrial way of life. Above all, it’s the acceleration of change, itself, which marks our moment in history” (Toffler 1983 p.12).

A good deal of the New Public Management literature highlights the fundamental difficulties of traditional organizations in adapting to the realities of 21st century governance, and most agree that the prescriptions they suggest would alleviate many of the performance problems. But, as Ronald Moe (1994) points out, worthy recommendations can emanate from unworthy premises. “After all”, he notes, “Mussolini made the trains run on time.” In other words, in a democratic society improving performance is only half the solution.

THE ACCOUNTABILITY PROBLEM

By far, the most common criticism of New Public Management has been that it abandons bureaucratic accountability. Many scholars that concede the effectiveness of private management techniques nonetheless resist the new paradigm on grounds of accountability. Government, they say, is different. It is the embodiment of the will of the People, and it must be accountable to them. Government has no bottom line, it makes no profit, and it cannot be judged by the size of its market share. It must be judged by the processes it performs. Robert Behn describes the traditional mechanisms of retrospective accountability in this way:

Public workers are responsible for process. And the traditional method of accountability for process works in a relatively straightforward way: The legislature establishes general guidelines for various processes to be followed, and regulatory units within various executive-branch agencies codify them with more detailed regulations. Then an agency keeps records to demonstrate that it has followed these processes faithfully and consistently, and it might occasionally issue a report summarizing these records. Meanwhile, auditors examine these records in detail to see if all of the processes were indeed followed (and to detect any dishonest behavior). Others – journalists, watch-dog organizations, and stakeholders – also scrutinize the agency carefully, identifying instances when the agency failed to implement its own processes. And when a pattern of errors emerges, or a particularly egregious case is identified, or a small but juicy mistake is uncovered, legislative committees hold hearings and take corrective action. Sometimes people who failed to follow the prescribed processes are fired or disciplined. Moreover, because all of this is well known, agencies are motivated to achieve compliance with the established processes (Behn 1999 p151,152).

The efficiency problems with this approach have already been discussed. The success of the new perspective has, to some extent, been precisely because it provides an alternative to the process emphasis that created many of the frustrations modern governments face. Citizens increasingly want their governments to be accountable for the results they achieve and one way to

achieve this is to adapt existing accountability mechanisms to monitor results instead of (or in addition to) processes. The legislature, for example, could establish general guidelines for the results to be achieved during the next fiscal year instead of specifying individual procedures. Executive branch organizations could codify them into more detailed goals. Agencies could keep records documenting their progress toward their goals, and issue reports summarizing their accomplishments. Auditors could examine these records to see if the goals were indeed achieved (and to detect any dishonest behavior). Journalists and stakeholders could still scrutinize agencies carefully, identifying instances when the agency failed to achieve its own goals or the purposes of the legislature. Legislative committees could hold hearings and take corrective action in the event of failures, but with an evaluative emphasis on results instead of (or in addition to) process.

Yet, according to Behn, the new paradigm is doomed from the start because bureaucrats are inherently self-interested and have no incentive to cooperate. Regulations and procedures have the advantage of being specific and tangible – they are either followed or they are not. But setting and achieving goals requires the active participation of bureaucrats, and legislatures cannot compel them to cooperate.

The legislature can create a process, a form, and a deadline requiring each agency to specify one or several goals. But the legislature cannot force the agencies to take the requirement seriously or to tackle the task intelligently. Agencies can always choose noncontroversial and nonconsequential goals. They can always choose easily attainable goals. Given all the hoops that legislatures have forced executive agencies to jump through over the years, the

agencies have developed a lot of experience at hoop jumping. They can easily figure out how to jump through (or around) this one (Behn 1999 p155).

This is a key point of difference between the two perspectives. If bureaucrats are indeed unwilling to actively participate – if they prefer to show up, go through the motions and take their paycheck, minimizing their risk and involvement – then Behn and others are probably correct. The existing system of rules and procedures is adept at controlling these behaviors, and empowerment is unlikely to improve performance in the long run. If, on the other hand, bureaucrats are willing to participate – if they want to make a difference but are stuck in a system that punishes deviation – then a vast well of potential is being wasted and New Public Management might genuinely improve performance and accountability much as the progressive reforms did over a century ago. But is it the system or the bureaucrats themselves?

THE IMPORTANCE OF UNDERSTANDING BUREAUCRATS

The traditional approach has been to err on the side of caution, assuming that the interests of bureaucrats do not naturally coincide with policymakers. The new perspective argues that bureaucrats are undeserving of this reputation as self-serving and opportunistic. They contend that most people in public service are dedicated to their jobs and often sacrifice prodigious amounts of time and energy in order to provide services for their clients. Each perspective makes assumptions about the answers, yet there has been surprisingly little empirical research to support the assumptions of either side.

Bureaucrats themselves are the key. To balance performance and accountability we must first understand which assumptions about bureaucratic behavior are correct. For example, how do they respond to the challenges of their work environment? When and how do they use their discretion, and for what purpose? How do they respond to different types of control and supervision? We have known for years that some are more effective, more satisfied, more caring, or more productive than others. But we need to better understand how and why these differences occur, and the influences that shape them.

Public administration is in the midst of an identity crisis. The performance problem is real, the accountability problem is real, and thus far neither paradigm has provided a convincing response to both problems. The two must be considered together in order for a system to be efficient; too much control hinders the legitimate entrepreneurial activities that are the backbone of government service and too little promotes opportunistic behavior, shirking, and corruption. Regrettably, this study does not provide the magic bullet. But it does examine the behavior and attitudes of a key group of bureaucrats, tackling several assumptions that divide the two camps in a systematic way that can contribute empirical findings to the debate.

Chapter 1: Building Inspectors as Street-Level Bureaucrats

Governmental bureaucrats are an amazingly diverse group. Often alike only in that their employer is a government, they can be scientists or garbage collectors, doctors or fire fighters, architects or file clerks, lawyers or landscape technicians. Nearly every occupation imaginable is found somewhere within the ranks of government under federal, state, or local authority. Front line workers have received particular attention recently as part of debates over improving government performance. The cop on the beat, the teacher in the classroom, the welfare caseworker, the building inspector, and others have been the focus of reforms in community policing, education, human services integration, and regulatory services. These reforms are part of a more general movement toward a New Public Management that, among other things, promotes an increased reliance on the skills and expertise of front line workers in order to improve service delivery.

What happens at the front lines of service delivery focuses attention on what Michael Lipsky (1980) has called the “street level bureaucrat.” These are the men and women who decide every day who is eligible (or obligated) for the services of government. The nature of the tasks they perform often requires a level of autonomy and discretion that precludes close supervision and grants them a unique control over the way policies are ultimately delivered to citizens. Advocates of New Public Management reforms see the potential for street-level

bureaucrats to assume an even broader role in an increasingly complex and fast paced policy environment.

Centralized decision-making structures, these advocates argue, are poorly suited to the demands of the Information Age, where “the pressure for accelerated decision-making slams up hard against the increased complexity and unfamiliarity of the environment about which the decisions must be made” (Toffler 1978, p. xvii). In this environment, centralized decision-makers must rely increasingly on recommendations from policy experts and technical specialists, while front line workers have the knowledge, expertise, and perspective necessary to make decisions from their own experience. New Public Management advocates argue that with proper training, support, and accountability policymakers might productively entrust a much greater portion of policy decisions to capable street-level bureaucrats.

This approach contrasts starkly with the image of bureaucrats as self-interested, rule bound and opportunistic that has been promoted by popular media and politicians in attacking inefficient bureaucrats. Moreover, an influential strand of the public administration literature models bureaucratic behavior on the assumption that bureaucrats seek to maximize their individual utility at the expense of the citizens they serve (e.g. Moe 1984, Wood and Waterman 1991, Brehm and Gates 1997). The asymmetry of information between principals and agents that makes it possible for bureaucrats to conceal their abilities and preferences from supervisors tends to reinforce these assumptions of self

interest. The net result of this line of reasoning is that street-level bureaucrats need to be reined in through increased controls and limited discretion.

The contrast between the images and prescriptions of the New Public Management and the traditional public administration perspectives is a central theme of this study. In focusing on the behaviors of street-level bureaucrats and the consequences for service delivery, this research confronts that contrast. A central issue is what motivates street-level bureaucrats to do a good job. Recent research (Brehm and Gates 1997) has found that bureaucrats often work when they might shirk, and that they do not work because they are forced to, but because they receive satisfaction from performing their jobs. Similarly, studies of street-level bureaucracy (Lipsky 1980, Brodtkin 1997, Meyers, Glaser and MacDonald 1998, Winter 2002) have found that while workers manipulate both clients and supervisors in order to manage workloads and reduce stresses in their work environment, they also evidence a strong commitment to the policy objectives of their agencies.

The answer to the question of what motivates street-level bureaucrats to go a good job is more than academic. It has fundamental implications for the reform of service delivery. If advocates of New Public Management are right about the capacity and attitudes of street-level bureaucrats, an opportunity exists to improve the quality of service delivery by increasing their authority. If they are mistaken however, the efficiency of the existing system is simply undermined by any increase in street-level authority.

Who Are Street-Level Bureaucrats?

In coining the phrase “street-level bureaucrats” Lipsky (1980) turned the study of implementation on its head by suggesting that ordinary government workers at the front lines of service delivery make policy decisions every day. Prior studies of implementation, based on hierarchical models of decision-making, had focused primarily on the top levels of policymaking authority. Though some had considered the impact of bureaucratic agencies on implementation, Lipsky’s work added something new to the mix. Rather than analyzing workers according to job duties or organizational structure, he drew a simple distinction between workers that provide services directly to the public and those who do not. The former, he argued, are agents of public policy delivery, and their approach, attitude, and competence at the point of final service delivery in large part determine the level of policy success.

PUBLIC SERVICE PROVIDERS VERSUS STREET-LEVEL BUREAUCRATS

Street-level workers vary considerably in the amount of influence they exert on public policy. Two classes of street-level workers emerged from Lipsky’s work based around their impact on policy: public service providers and street level bureaucrats. Public service providers are the clerks and technicians that deliver many of the front line services of government – the examiner at the department of motor vehicles, the local librarian, or the permit clerk at the building department. These workers usually have no authority to make policy, but rather deliver policies made by others higher up. They may influence policy

delivery through their attitude and approach, but are not expected to make independent judgments. Most are considered entry or low-level positions, and usually have a highly structured work environment with close supervision. Most have clearly designated procedures for all standard situations, and instructions to funnel non-standard situations upward.

Some jobs however, by their very nature, are not amenable to control in this way. Some types of positions require workers to evaluate and make decisions along a spectrum of policy situations too wide to be fully contained by rules. Police officers, for example, face situations every day where societal expectations of justice conflict with those of mercy. They are expected to deliver justice when it is called for and mercy when it is deserved. In most everyday situations, they are given the discretion to decide what to enforce, what to ignore, and when to temper justice with mercy. Schoolteachers, social workers, police officers, and all types of inspectors are examples of this type of front line worker, the street-level bureaucrat.

DISCRETION AND AUTONOMY

Two key characteristics distinguish street-level bureaucrats from public service providers. First, they must exercise *discretion* in determining "...the nature, amount, and quality of benefits and sanctions provided by their agencies" (Lipsky 1980: p.13). Street-level bureaucrats make decisions about who gets what and how much. They are presumed to possess a specialized knowledge in their area of expertise, and their decisions are accepted and supported by their

superiors. They often have a highly complex set of rules to consider, but ultimately the decisions are theirs to make.

Second, street-level bureaucrats exercise relative *autonomy* from organizational authority. Generally speaking, these workers are not closely supervised. They commonly manage their own workload, reports and paperwork. They tend to resist efforts by management to impose structure or performance measures on their work. Lipsky believes that there is an inherent conflict between the interests of street-level bureaucrats, who desire primarily to manage their workload, and managers, who want to pursue agency goals and conserve resources.

In a very literal sense, these individuals create the public policy they enforce through daily interactions with clients. Welfare caseworkers create 'real' definition of deserving poor just as inspectors create the 'real' building code. Certainly there are limits to their discretion, and Lipsky makes no claim that their role is more important than those of legislatures or administrative groups. But he does suggest that these workers have a uniquely influential impact on the policy process. Policy at all other levels is made through negotiating compromises between opposing groups; street-level policy is often made by the interpretation of a single individual. It is precisely this impact that is the most interesting for street-level scholars.

Building Inspectors as Street-Level Bureaucrats

An important question for this research concerns the applicability of New Public Management reforms to regulatory processes. One of the most sweeping reform proposals is the shift to a private sector style emphasis on customer satisfaction. Yet in a regulatory setting, customers are often difficult to identify, and the targets of regulatory actions are seldom pleased by the attention. Street-level work involves inspection and regulation as often as it does the delivery of social services, yet the literature from this perspective has tended, by and large, to focus on those occupations that deliver social services to the public (Denhardt and Crothers 1998).

Notwithstanding the insightful contributions of Sparrow (2000) and Winter (2002), the role of street-level bureaucrats in a regulatory context is an understudied aspect of New Public Management that deserves increased attention. This study draws attention to these aspects by focusing on building inspectors and the context of building safety regulation with hypotheses that test the potential of New Public Management reforms for improving regulatory processes as well as service provision.

Regulation is an important function of government, and one that relies heavily on street-level bureaucrats for success. There are more than 250,000 inspectors and compliance officers in the United States, roughly 2.7 percent of all government employees (Occupational Outlook Handbook 2001). The job classification exists at every level of government, in every state, city, and

borough. As a group, these are a classic example of Lipsky's street-level bureaucrat, and the mechanism by which nearly all regulatory enforcement is accomplished.

Empirical studies of regulatory enforcement where the individual inspector is the unit of analysis are relatively rare. Studies that include many regulatory agencies are well suited to determine whether politics and bureaucratic structure make a difference, but they cannot determine whether decisions by individual inspectors reflect their prior work experience, personal convictions, or background. Studies that examine many inspectors at a small number of agencies can say something about variations in these individual characteristics, but are poorly suited to address political and bureaucratic influences. Choosing a national sample of local inspectors neatly resolves this paradox and facilitates the study of both individual and agency-level influences in the same model.

WHY BUILDING INSPECTORS?

There are a number of advantages to choosing building inspectors for a study of this type. First, building inspectors, with roughly 68,000 jobs nationwide, is the single largest category of inspectors (Occupational Outlook Handbook 2001). The size and diversity of the population increases the likelihood that findings will be representative of inspectors generally, but at the same time, the high similarity of duties between jurisdictions makes statistical comparisons meaningful.

Second, building code enforcement is organized at local levels of government that are diverse in both their environment and their approach to regulatory enforcement. The vast majority of communities enforce building codes based on similar, nationally devised standards, but each sets its own priorities and adopts its own enforcement approach. This means that building departments are similar enough to be comparable but different enough to test the influence of variations in the work environment and enforcement approach of the jurisdiction.

Third, the economic growth of the past two decades has had a dramatic effect on construction in the United States. The value of construction put in place nationally has risen more than \$200 billion (in constant 1996 dollars) in the last 10 years, an increase of more than 69 percent over 1991 levels (Census, U.S. Bureau of the 2001). At the same time, devolution efforts at the federal level have challenged communities to find creative ways to do more with fewer federal dollars. Building regulation has become a dynamic policy environment, with inspectors under unprecedented pressure to increase performance and find creative ways to control costs.

Fourth, with few exceptions building inspection is politically unimportant. Particularly when compared to high profile inspectors from the Occupational Safety and Health Administration, the Environmental Protection Agency, or the Federal Aviation Administration, the work of the average building inspector is done quietly, outside the political and media spotlight. Political pressures are

inevitable for any building inspector, but they are rarely of the magnitude that can distort data and obscure relationships. The relatively low political profile of building regulation means that influences from political pressures are likely to be personal and relevant to a study of individual behavior.

Examining Behavior at the Street-Level

Despite the advances made by Lipsky and his students in the early 1980s, research addressing street-level bureaucrats remains relatively undeveloped. As Winter (2002) points out, most implementation research that has focused on the street-level has been of a descriptive nature, and often begins with assumptions that have not been fully tested. The research on bureaucratic discretion and control more generally is vast, but these studies usually consider all bureaucrats together, ignoring the decision-making characteristics that make street-level bureaucrats unique. Responding to the call for more generalizable, quantitative approaches to the study of policy implementation (Goggin 1986), one contribution of this project is to examine hypotheses about street-level behavior guided by a theoretically driven framework.

A conceptual framework is the most basic element of successful systematic research. It defines the boundaries of the system; it structures and locates the inquiry within the system, and shows how previous works might relate to the current work. A framework makes sense out of chaos by identifying key groups of variables and the general relationships among them. Perhaps most important, the explicit use of a framework encourages the development and

commingling of theories, so analysts combine what has been learned before with their own observations to synthesize a richer and more robust understanding of the whole.

An established framework that has shaped the thinking of this research is the Institutional Analysis and Development (IAD) framework (see Kiser and Ostrom 1982, Ostrom 1999). While the IAD was designed originally to study formal institutions, it argues that the defining feature of an institution is the presence of repeated interactions characterized by established rules, norms, and strategies (Ostrom 1999, p.37). Although many types of street-level interactions are not repeated and therefore do not fit these criteria, the regular, repeated interactions of the building inspection process are well suited to the institutional perspective. A number of key concepts from the IAD literature were influential in organizing these analyses and have been adapted in this research to reflect the unique characteristics of building regulation and the inspection process.

The concept of decision-making levels is useful for mapping the various interactions and sources of influence that shape the behavior of the typical building inspector. Their adaptation to the process of building inspection (see Figure 1.1 below), illustrates both the flow of information and how decisions made at one level shape the rule structure for levels below. High level policy decisions, for example, are usually the product of traditional policy processes at the state or national level, and are not negotiable when they reach individual building departments. Most of the choices building departments make are

administrative choices about the nuts and bolts of the permitting process and code enforcement. There is the challenge of interpreting legislative decisions, developing effective policies in line with those decisions, and expanding or limiting the options available to street-level bureaucrats in pursuit of those objectives.

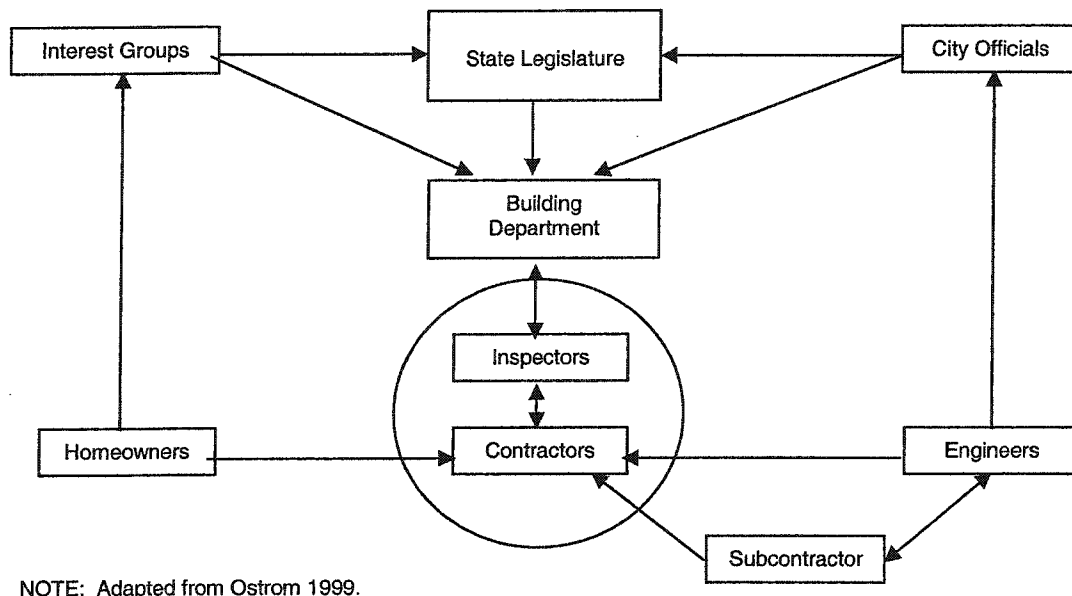


Figure 1.1: Decision Levels and Influences on Building Inspection

Building inspectors do not create the rules and regulations they enforce, but they do decide which will be cited, which will be negotiated, and which will be ignored each day. To some extent, the choices that exist at the street level are structured by decisions made by managers or administrators at the department level, but the final decision in most cases is left to the discretion of the field

inspector. Inspectors are influenced in these decisions by other inspectors, building department officials, various members of the building community, and city officials and advocacy groups, though these groups usually transmit their preferences through department officials.

Another key contribution from the IAD literature is the notion that clusters of variables from outside the inspection process impact inspector behavior. The work environment, organizational culture, and norms of behavior in a jurisdiction comprise what might be called the context of building inspection. Perhaps more than other street-level bureaucrats, building inspectors are influenced by the physical environment in which they work. Cities differ considerably in physical characteristics, such as the size and wealth of their population, pace of growth, age and condition of housing stock, or threat level from natural hazards such as earthquakes, hurricanes, or floods. Each of these factors impacts the enforcement approach in a jurisdiction as well as the individual decisions of inspectors.

Rules – both formal and informal – are a significant influence on street-level behavior. Formal rules, whether statutes, codes, policies, or procedures, determine the choices available to inspectors in an inspection situation. They are usually the result of higher level policy decisions and are externally imposed upon the participants of an inspection situation. A building code, state and local regulations, and building department policies all contribute to the rules of building inspection, but so do precedents set in previous street-level interactions. Street-

level bureaucrats are expected to be consistent in their decisions, and clients often incorporate outcomes from an interaction into the rule structure they apply to subsequent interactions.

Community and culture variables refer to the commonly accepted, yet unspoken norms of behavior that prevail in the community or culture of the inspector. Some norms are common to all actors in an arena, while others are critical to some but irrelevant to others. This can generate conflict, both between actors and within a single actor. Indeed, much of the goal conflict stress experienced by street-level bureaucrats may result from identification with communities whose norms conflict. Inspectors, for example, may have norms of efficiency and reciprocity from long association with the building community. These must be balanced with norms of policy enforcement, public safety, and fairness held by the inspector community.

So how do performance and accountability, New Public Management and traditional public administration fit within a framework of building inspection? What can these variable clusters and patterns tell us about why inspectors make the choices they do? Quite a lot, as it turns out. Frameworks paint with broad strokes, marking out edges and roughing in shapes. A framework can show how systems are organized and who the primary actors are, but cannot of itself make predictions or explain behavior. Theories must do that. With the application of a theory, organized groups of related variables become meaningful explanations of intentional behavior and structured relationships. Outcomes are proposed that

can be tested with empirically gathered data, separating what is known from what is not. With the context of the analysis established within a framework, the discussion can now consider the theory underlying each perspective.

COMMON THEORY, CONTRASTING ASSUMPTIONS

As different as they seem on the surface, traditional public administration and New Public Management share common roots in the formal models of principal agent theory.¹ Both conceptualize the relationship between subordinate and superior as an ongoing series of structured interactions where actors pursue their preferences in a rational way. And each relies on a system of microeconomic incentives and punishments to induce desired behaviors. The relationship between principals and agents is complicated, and can be daunting to represent formally. Many prominent scholars have spent years developing models to capture these complexities, yet for the purposes of this discussion a simplified version will suffice, since the emphasis here is on contrasting the two administrative approaches, not the nuances of the principal agent relationship itself.

In simplest terms, the key equation of the principal agent model reflects a choice faced by an agent (worker), of whether to follow the preferences of his principal (supervisor) or deviate from them in favor of his own preferences. The agent receives a certain amount of utility, whether in the form of satisfaction,

¹ See chapter four of Barzelay (2001) and chapter three of Lane (2000) for discussions of the principal agent foundations of New Public Management and chapter one of Brehm and Gates (1997) for a summary of the traditional principal agent approach to modeling bureaucratic behavior.

monetary reward, or some other measure, from each alternative. The assumption is usually made that the utility of an agent's own preferences will be greater than the utility gained from following principals, but that the balance can be shifted to favor principals' preferences through the addition of either incentives or punishments to the equation.²

Mathematically, if an agent receives x as the utility from following principals, and y from deviating in favor of his own preferences, the difference between x and y will accurately predict the choice in the absence of any other constraints. In practical terms, x and y are rarely exactly equal. On one hand, most people, bureaucrats included, will generally do what they are asked to do if they have no strong preferences to the contrary, and the benefits to be gained by following policy are clear and reasonably certain. On the other hand, much of the work bureaucrats do is routine or boring; some may even be unpleasant. Certainly it is not difficult to imagine the circumstance where one's preference for y , which can be literally anything other than x , might be higher. The microeconomic basis of the principal agent approach begins with this assumption, that agents will always choose to shirk if the equation is not shifted in some way, and offers various combinations of incentives and punishments calculated to induce rational agents to choose x .

Rewards and incentives are easy to model because they increase the value of x directly relative to y . If an employee receives a bonus of \$500.00 for

² This section was inspired by Bendor's review of formal models of bureaucracy in Lynn and Wildavsky (1990).

six months of perfect attendance, the preference for coming to work on a specific day is directly increased relative to the preference for staying home. The specific value placed on each alternative will of course vary from person to person depending on individual circumstances, but the effect of the incentive on the model will always be to increase the value of x .

Punishments, on the other hand, are more difficult to model because they are uncertain. If punishment for every deviation were assured, the sanction would directly decrease the relative value of y in much the same way an incentive increases the value of x . But they are not certain. When an agent deviates from a principal's preferences, there is a probability that the deviation will go undetected. If so, the agent receives the full utility of y , which is greater than x or the agent would not have chosen to deviate in the first place. If detected, the agent still receives some utility from being forced to correct his actions and perform x , but now the value of x is diminished by the punishment that is imposed for the deviation.

Therefore, in addition to the difference between preferences for x and y , the rational agent's decision would also include the likelihood of detection and the size of the sanctions involved. The overall utility from deviating can be represented as the probability of detection (p) multiplied by the value from the coerced performance of (x) minus sanctions (s), plus the value of deviating (y) multiplied by the probability of avoiding detection ($1-p$). Mathematically, this is represented as a decision function of $p(x-s) + (1-p)y$. If the value of this equation

is greater than the value of x , principal agent models predict that agents will always find it in their interest to deviate.

This basic formula is the starting point for discussing different approaches to controlling, channeling, or encouraging certain aspects of bureaucratic behavior. In both traditional public administration and New Public Management, principals want to keep the balance in their favor, so that agents will choose x over y , but they differ considerably in the methods they use to shape behavior. Traditional public administration tools tend to favor decreasing the utility of y by increasing the probability of detection and/or increasing the severity of sanctions. New Public Management tools rely on decreasing the distance between x and y through education and negotiation, acknowledging that the preferences of principals are not sacrosanct and that in some cases y may be a better solution than x .

Modeling the decision process in this way is inherently useful for analyzing complex relationships but it bears mentioning that models can never be better than their assumptions. Principal agent models, like any formal modeling techniques, isolate and specify a limited segment of reality and make inferences based on mathematical reasoning. While the logic of the relationships within the equations is usually clear and unambiguous, the models must of necessity make a host of assumptions about the state of the world beyond the strict confines of the mathematical equation. These assumptions are not contained in the model, nor are they tested. Their validity depends on empirical verification, and if they

are found to be unwarranted, the relationships predicted by the model may also be unwarranted.

Structuring the Analysis

The aim of this research is to subject some of the more contentious assumptions about bureaucrats to empirical analysis. The choice of which assumptions to test, like choices about methods and data are a matter of some subjectivity. Much of the existing research in this area consists of qualitative case studies which have the advantage of rich detail and texture, but are difficult to interpret outside the context of the original study. The use of survey research also involves tradeoffs, specifically the sacrifice of contextual understanding for the increased generalizability that comes from uniform responses and a broader palate of statistical techniques. This study, like many in an emerging generation of social science research, preserves the advantages of both approaches by using select case studies to inform and add depth to theoretically driven quantitative analyses which, in turn guide the selection criteria for case studies.

DATA

The survey data for this dissertation are the product of two complementary mail surveys conducted in the summers of 1995 and 1996 respectively. The first, conducted by Burby, May, and Patterson (1998), surveyed local building officials throughout the United States for the opinions and practices toward code enforcement issues in their jurisdiction. The sample frame was based on a 1992

national survey conducted by the National Conference of States on Building Codes and Standards that addressed state and local capacity to enforce the seismic safety provisions of building codes (see Burby and May 1998). Each jurisdiction was contacted by telephone to update contact information and gather basic information to be used for gauging non-response bias. The final sample frame consisted of 990 jurisdictions, from which 819 valid responses were obtained for a response rate of 83 percent.

The results of this survey provided the sample frame for a second data collection effort by Cabral in the following year. From the 819 responses, weighted to be representative of building departments nationally, 200 were selected randomly and asked to participate in a second survey. Of these, 121 responded positively to the request. Street-level inspectors in each of the cities were surveyed for the specifics of everyday inspections practices as well as more general questions about their attitudes toward code enforcement. Valid responses from 327 inspectors in 76 cities were obtained through a series of three separate mailings. These data are weighted in the analyses of this study in order to accurately reflect the proportion in each jurisdiction of the number of inspectors in the sample.³

A third set of data elements are provided through the complementary use of extensive qualitative data gathered by the author through participant

³ The data are weighted to minimize the influence of jurisdictional variation in the number of inspectors and the variation in response rates among cities. The formula used for weighting was as follows: (# of inspectors in each city/ # of total inspectors in the sample)/(# of responses received in city/ # of total responses to the survey).

observation and interviews with building officials, inspectors, and contractors. In the summer of 1999, telephone interviews were conducted with building officials in fourteen western Washington cities, followed by field observations of inspection practices in four of those cities. The cities selected for field observations were chosen to reflect a representative mix between large and small, strict and flexible, and wealthy and poor jurisdictions. Data were collected in each jurisdiction by observing the interactions of inspectors with builders of new residential construction. A total of sixteen interactions were observed over a two-month period. Each observation lasted at least 45 minutes, and the average duration was approximately one hour. Additional data were collected through semi-structured interviews with inspectors both before and after these interactions.

In the Spring of 2002, a second round of field visits was undertaken. Four additional cities were selected from the sample for a set of week-long observations.⁴ In each jurisdiction, several days were spent accompanying inspectors, observing their behavior, and querying them as to the policies and practices of inspection in their city. At least one day was also spent in each jurisdiction observing the operations of building department office staff, plan review procedures, and overall approach toward clients.

⁴The 76 jurisdictions for which both inspector and building official data were available were stratified according to their level of resources and the amount of effort they devote to enforcement. One city was selected for each of the four possible combinations of these two dimensions.

In addition, face to face interviews were conducted in each location with the building official to ascertain the continuing validity of the responses received in the 1995 survey. The observations gathered through this effort form the basis for the discussion of context presented in Chapter 2, and were instrumental in forming the hypotheses about bureaucratic behavior that are tested in the empirical chapters.

THREE KEY CATEGORIES OF ASSUMPTIONS

Many of the assumptions of the New Public Management reforms are interesting from the perspective of their impact on policy implementation, but some are more obviously critical for service delivery than others. The remainder of this study examines three such areas – context, discretion, and supervision – where conflicting assumptions about the nature of street-level behavior have led to different and sometimes mutually exclusive policy prescriptions from New Public Management and traditional public administration approaches.

Chapter 2 examines the context of building regulation, and how differences in resources and approach to enforcement can impact inspector behavior. The first studies of street-level bureaucracy found that workers often develop coping strategies to combat a chronic lack of resources and an inherently hostile working environment (Lipsky 1980). The logical extension of these findings is that adequate resources are an important precursor to service and inversely related to self-interest. This chapter tests this relationship by

comparing and contrasting the experiences of building inspectors in four very different jurisdictions in different parts of the United States.

Chapter 3 takes a closer look at the variability of discretionary behavior within jurisdictions. It tackles the core questions of why street-level bureaucrats with similar work environments and supervision levels differ in the way they approach code enforcement. Both traditional and New Public Management perspectives acknowledge the reality of street-level discretion, but make different assumptions about the motivations of front line workers. The former assumes that workers use discretion to minimize workloads, avoid unpleasant assignments, and manage clients according to their own interests. The latter assumes that workers are professionals who have chosen their career because they are committed to the policy aims of the agency, and use discretion to improve service or otherwise enhance efficiency. This chapter empirically tests these two sets of assumptions on the discretionary behavior of building inspectors.

Chapter 4 tackles the role of supervisors and examines their ability to control street-level attitudes and behavior. A key difference between the traditional and New Public Management approaches is the value of supervision for front line productivity and satisfaction. Traditionalists argue that while the complete elimination of discretion is undesirable, standardized procedures and strong supervision provide both protections for street-level workers (by limiting personal liability) and uniform service delivery that is highly desirable among

clients. The new perspective disagrees. Trust and empowerment are core elements of the paradigm, and they argue that street-level workers are both happier and more productive when supervisors support their field decisions. This chapter empirically tests several measures of supervision and control on the productivity and satisfaction of inspectors.

Chapter 5 summarizes the key findings from the three preceding chapters before returning to consider the broader questions of balancing performance and accountability. The theoretical and empirical analyses of the preceding chapters suggest that front line workers can make good policy choices, but that most systems constrain rather than encourage this behavior. It concludes with a discussion of the potential for street-level bureaucrats to play an increased role in regulatory policy implementation, and suggests ways in which New Public Management and principal-agent perspectives might be reconciled.

Chapter 2: The Importance of Context

Mention government inspectors at any social gathering and within minutes you're likely to hear some sort of bureaucratic horror story. First, second, and even third hand accounts of unreasonable and capricious behavior by inspectors are common, often prompting calls for increased accountability or closer supervision. Less than three percent of the more than nine million government employees are inspectors, yet they are often among the first targeted in "bureaucrat bashing" political campaigns, with few natural allies in the political process.

Much of the recent literature on customer service as the solution to the performance problems of government has focused on the empowerment of service delivery workers. Research on street-level bureaucrats has also focused on these workers, documenting the challenges they face in managing clients, determining eligibility, and distributing finite resources in an equitable way (Denhardt and Crothers 1998). New Public Management scholars have argued that identifying and satisfying customers is the key to improving performance.

But inspectors do not deliver services. They regulate behavior. They deliver, as Malcolm Sparrow (2000) puts it, the obligations of our society. Their customers are not easy to define. The effectiveness of both agencies and programs are often measured by their ability to promote voluntary compliance from a population that cannot even be fully identified. Conventional wisdom

holds that strict enforcement approaches are expensive but effective deterrents, while more cooperative and reasoned approaches often produce similar levels of compliance at substantially lower costs. While there is some support for these arguments, there are also studies that undermine the effectiveness of cooperative approaches, and indications that coercion is an important backstop for cooperative approaches (see May and Winter 1999 for a summary).

Inspectors are critical actors in this exchange. In each enforcement situation, they determine the proper combination of deterrence and cooperation to apply, ideally tailored to produce the greatest level of societal good. If their approach is too rigid, they force regulated entities to bear unnecessary costs; if they are too flexible they risk manipulation and capture. Scholz (1984) argues that the most effective enforcement technique is tit-for-tat, where cooperation is rewarded and defection is punished based upon the outcome of the most recent previous interaction. Grudges are not held, but neither are second chances granted.

Variation in Inspection

Some inspectors view the people and businesses they inspect as customers, and define their role in terms of helping these customers understand and comply with regulations as smoothly as possible. Others see the broader public as the customer, and define their role in terms of detecting violations, enforcing compliance, and generally protecting society from the self-interests of regulated entities. Both are valid perspectives but result in very different

approaches to enforcement. Among building inspectors, for instance, some will frequently walk through an entire project with a builder, pointing out both current and future problems, essentially performing quality control for the project. One inspector put it this way:

“I don’t charge re-inspection fees very often. I figure it’s all part of the job and they’re paying me to be here for eight hours anyway, so I’ll help them out whenever I can. In some ways we work for them. They bought the permits, they requested the inspections. I don’t ever just tell them it failed – I tell them why it failed and how they can fix it”.

At the other end of the spectrum are inspectors who never offer advice or assistance and who make it a point to inspect only the specific portion of the project for which they were called. They worry more about exposure to liability claims and the potential negative consequences of a reputation for negotiating compliance. One put it this way:

“It’s not my job to design it, build it, or fix it for them. They have that responsibility, not me. They need to make sure it meets all the Code requirements, then they call me and I come and inspect their work. We don’t want to engineer it for them, both from a time perspective as well as a liability issue.”

Each of these inspectors is dedicated to building safety. Each believes he is acting in the public interest and serving his customers. Each believes that his approach is the best way to handle contractors and promote overall compliance with the building code. The ultimate function of inspectors is to promote, cajole, encourage, coax, or coerce widespread compliance with regulations. Yet the vast majority of regulatory enforcement activity is a waste of time – or nearly so – from a strict compliance perspective. Kagan (1994) notes,

“Customs inspectors check thousands of forms and packages to find the few importers or travelers who really might be engaged in smuggling. Officials in all sorts of regulatory agencies process scores of permit applications and reams of mandatory compliance reports, most of which raise no significant problems... Looking for needles in haystacks may be necessary... but it is an inefficient process (p.409).”

Most of the criticisms of inspectors, and of street-level bureaucrats more generally, revolve around this central issue of reasonableness. The choice of the appropriate enforcement tool for a situation is often the determining factor in whether an inspector is perceived as reasonable or unreasonable. Bardach and Kagan (1982) describe the ideal inspector as one who balances toughness and leniency as needed to coax the optimum level of compliance at the minimum cost to all parties. These are the enforcement decisions inspectors make on a daily basis – how thorough to be, how picky to be, how accommodating, how friendly, how punitive.

But are some inspectors consistently more rigid than is necessary? Are others routinely more helpful than is required? And importantly, are these choices the product of individual personality traits or something more systematic? A number of promising variable clusters have been developed in the street-level bureaucracy literature that suggest factors that might play a role. Lipsky (1980) finds that environmental variables have the greatest impact on behavior, leading bureaucrats to develop mechanisms and strategies to cope with their environment and manage workloads. Gormley (1998) finds evidence of effects from age, gender, and previously working in the field. Brehm and Gates (1997) find that the preferences and capabilities of workers themselves play an

important role in their performance, as do the influences of co-workers and colleagues. And Denhardt and Crothers (1998) argue that street-level behavior is both contextual and client focused, prompted by the needs and circumstances of each situation.

Of these factors, perhaps the most basic is the impact of the work environment itself. Bardach and Kagan's work (1982) on the problems of regulatory unreasonableness identifies a number of problems associated with an increasingly complex regulatory environment. They note a marked shift toward "a more aggressive, tougher, and more uniform regulatory enforcement structure – a structure characterized by more stringent statutes, shifts in the burden of proof, and the strengthening of remedial and sanctioning powers." They suggest that both agency and individual level choices play a clear role in this process. Lipsky (1980) notes that while society may desire strict statutes and tough enforcement generally, it also recognizes the impossibility of formulating rules to cover every situation, and therefore grants discretion to street-level bureaucrats to tailor policy enforcement to the individual circumstances of each encounter.

Complex rule structures, workload levels, agency approaches, training, and resource levels all contribute to the structure of the enforcement environment. In the regulatory enforcement literature, most of these differences are associated with agency choices, jurisdictional resources, and approach to enforcement. This chapter explores that argument by examining how the context

in a jurisdiction, such as enforcement approach and resource levels, contributes to the individual behavior of inspectors.

MAPPING THE INSPECTION PROCESS

A building permit is required in most jurisdictions for everything from adding a deck to building a skyscraper. The number of required inspections however, varies considerably from city to city. The most thorough jurisdictions can require as many as thirteen separate inspections during the construction of a residential home, while others might inspect as few as three or four times. These differences are important because construction is a cumulative process and inspectors cannot inspect what they cannot see. As shown in Table 2.1, the work of one phase often covers work from previous phases, making the inspection of key elements difficult or impossible. Inspecting each phase of construction as it is completed is the only way to be certain code requirements are met, but each additional inspection requirement consumes more resources.

With limited resources, this is seldom a simple choice. Departments opting for more frequent inspections often sacrifice thoroughness for speed under pressure from builders for quick responses to inspection requests. Departments choosing fewer inspections must of necessity place a greater trust in builders to comply with code requirements. Some supplement inspection efforts with education and awareness campaigns to improve cooperation and promote voluntary compliance. Others simply inspect what they can see and hope for the best.

Table 2.1: Inspection Phases of Residential Construction

Inspection Phase	Require?	Key Items Inspected at Each Phase
<i>Preparation</i>		
Plan Review	Most	Project review on paper. Assignment varies.
Temporary Power	All	Usually conducted by local power company.
Site	Many	Drainage, soil conditions, potential for slides.
<i>Construction</i>		
Footings	Some	Proper depth and size, quality of concrete
Foundation/Slab	All	Adequate re-bar reinforcement before pouring
Sub-floor	Some	Strength and connection to foundation
Sheathing	Many	Exterior wall construction and ties to foundation
Roof Sheathing	Some	Panels are properly attached to roof trusses
Roofing	Some	Shingles are properly attached to sheathing
Framing	All	All structural elements, fire blocking
<i>Systems</i>		
Electrical System	All	Specialized inspections in most jurisdictions
Mechanical/HVAC	All	Specialized inspections in most jurisdictions
Plumbing System	All	Specialized inspections in most jurisdictions
<i>Finishing</i>		
Insulation	Some	R value, adequate air flow around insulation
Drywall	Some	Panels are properly attached to walls/ceilings
Fire Prevention	All	Usually conducted by Fire department
Final Inspection	All	All items completed for certificate of occupancy
<p><i>Note: Data for this table was derived from qualitative observations and experiences gathered by the author over a four year period and are intended only to illustrate the typical process of inspection. To my knowledge, no comprehensive data on inspection requirements and task assignments in the United States has yet been collected. Items in bold are considered the minimum requirements by all departments.</i></p>		

CITY SELECTION

To better understand the circumstances under which these choices are made, four cities were selected for qualitative research visits as a complement to the survey data gathered previously. The initial criteria for city selection were based on assumptions about the work environment from the bureaucratic and

regulatory enforcement literature. The weighted sample was divided into four quadrants according to the level of resources and the approach to enforcement of each jurisdiction.

One city from each quadrant was selected for observation. An effort was made to choose cities that were similar in size, style of government, growth rate and organizational structure of the building function, although some trade-offs are inevitable with limited sample sizes. The possibility that inspection is conducted differently in different regions of the country led to the selection of one city each from the East, West, South, and Midwest. Key characteristics from the selection process are summarized below in Table 2.2.

To the outside observer (and to many contractors) the process of inspection can be confusing and unpredictable. The building code, like most regulatory codes, is a complex set of rules and prescriptions that has developed over time based on the successes and failures of the industry. Although almost always based on a model code, building regulation is at heart a local process, and variations that are unique to a jurisdiction are common⁵. Despite the fact that most states now have a state building department, the specific requirements are often determined locally and can vary considerably even between neighboring jurisdictions.

⁵ Until recently, three model codes were used in the United States, varying by region geographically. In the East, the National Building Code was dominant, in the south, the Standard Building Code, and in the West and Midwest, the Uniform Building Code was used. In recent years however, an effort to combine the provisions into a single building code for use throughout North America has produced the International Building Code. At the time of this study, most jurisdictions were considering, but had not yet adopted the International Codes.

Table 2.2: The Context of Building Inspection in Four Cities

	Fairfield, CA	Newark, DE	Tuscaloosa, AL	Oshkosh, WI
Enforcement Approach ^a	Flexible	By-the-Book	Flexible	By-the-Book
Resources ^b	High	High	Low	Low
2000 Population	96,178	28,547	77,906	62,916
1990 Population	77,211	25,098	77,759	55,006
Land Area ^c	37.7	8.9	66.7	24.4
Style of Government	City Manager	City Manager	City Manager	City Manager
Density ^d	2554	3198	1385	2662
Number of Inspectors	6	7	12	8
Average Permit Price ^e	\$36,000	\$1,150	\$494	\$553
Geographic Region	West	East	South	Midwest

Notes:
a: Estimated from responses to questions probing the level of effort across a broad range of enforcement tasks, including plan checking, surveillance, public relations, inspection, legal prosecution, technical assistance and promoting public awareness. A wider range was associated with greater flexibility.
b: Index of perceived capacity of staffing resources, including adequacy of nonpersonnel budget, staffing, technical expertise, and authority for enforcing codes.
c: 2000 Census: Square miles of the jurisdiction, including lakes and bodies of water.
d: 2000 Census: Number of persons per square mile of area.
e: Based on telephone data gathered from cities in April, 2003 for new construction of a 2,000 square foot home with 3 bedrooms, 2 baths and a garage in a typical new subdivision.

A Tale of Four Cities: Exploring the Context of Building Inspection

The stories presented here emphasize the strengths and weaknesses of those local requirements in these four cities, with particular attention to the context that has led to the approaches each has developed. They also highlight, where present, the differences in the individual enforcement styles of inspectors. The size and complexity of building codes lead inspectors to vary in what they notice and prioritize. Some spend a lot of time examining nailing patterns and how deeply nails are driven into sheathing, while others barely glance at this,

focusing instead on fire-blocking, stairway proportions, tie-downs, or any of a dozen other important elements.⁶

Each is required by the building code, but the realities of street-level enforcement force inspectors to make decisions every day about what is important to them and what is not. Most of the institutional and technical aspects of the process are the same in every place, yet the variety in approach, emphasis, assumptions, and resources across jurisdictions make the actual inspection experience in each of these places very different.

FAIRFIELD, CALIFORNIA

Nestled among gently rolling hills halfway between Oakland and Sacramento, Fairfield lives up to its name in all respects, and initial impressions of the building department confirm its position among the best equipped in the nation. The city offices are recently built modern structures surrounding a small man-made lake that powers the cooling system for the offices as well as providing a beautiful landscape for city employees to admire. The building department offices are very tidy and organized, with floor to ceiling windows on the side facing the lake. Fairfield has a staff of just six inspectors – unusually small for their population and growth rate – but all are certified to perform

⁶Exterior sheathing is calculated as part of the load-bearing capacity of the structure. The plans specify for each wall the type of nail to be used as well as the nailing pattern and distance between nails. Nails that are 'overdriven' (driven too deeply) diminish the shear strength of the panel. Each floor should be framed in such a way that fire cannot easily pass through to the next floor. Spaces and gaps created by plumbing, heating, and electrical work must be plugged to meet fire-blocking requirements. Tie-downs, also called hold-downs or hurricane straps, are strategically placed metal strips that tie the second floor to the first, which is anchored to the foundation. Because of their design, they must be nailed in place manually, often requiring 25 or more nails each. As a result, they are sometimes 'forgotten' unless an inspector notices and requires their installation.

building, electrical, mechanical, and plumbing inspections. Because of this fact they have adequate capacity to meet demand levels even during peak times of the year or when they are short due to vacations or training. It also helps that plan review is handled by the planning department and property maintenance inspections are handled by the public works department.

The level of resources makes a clear difference here. Inspectors drive new Chevrolet trucks and are permitted to take the vehicles home with them. The department pays the fuel and insurance costs as well, trusting inspectors to use common sense in keeping their use within loosely defined boundaries of acceptability. They are also issued Nextel cellular phones to communicate with each other, the office and contractors. These phones have two-way radio capacity and allow instant communication with others in the area who are similarly equipped. They are widely used by contractors, and have substantially improved the scheduling and response times for inspections. In many cases, builders can now receive an immediate answer to code questions over the phone or arrange for the inspector to swing by within hours for an in-person consultation.

Officially, Fairfield has a 24-hour turnaround policy on inspection requests, but in practice response times have dropped since the introduction of the Nextels. Requests are now often made directly to inspectors, who are usually able to adjust their pace or schedule to accommodate the inspection within the same day. Though the shift has not been without controversy, particularly

among other city employees who have not been issued trucks or cell phones, most agree that the bottom line is that these tools have improved the efficiency of the department and its ability to serve its customers. One inspector put it this way:

“If I had an office job, there would be times when I’d need to make a personal call and nobody would think twice about that. But since we’re out in the field all the time some people think we should have to get our own phones for personal use. I used to have a cell phone in the truck when we just had radios, but now we have these Nextels and it just didn’t make sense anymore to keep it. To tell you the truth I get more work calls at home on the thing than personal calls at work, but I think overall they’re a great improvement over the radios.”

The permit and inspection system is equally sophisticated and efficient. Each project is assigned a unique number in a computerized system when the permit is issued, and inspectors can track the progress of a project quickly by address, permit number, contractor or property owner. They have created bar codes for each phase of inspection and other frequently entered data, and can update a record simply by scanning the appropriate bar code(s) from the permit. The next phase of automation will take this system to the field, where inspectors will be able to scan violations into the system as they walk the job and print a list of corrections for builders when the inspection is completed. A single permanent record of the inspection and required corrections would be created on the job site, reducing the potential for errors of communication during the inspection or of data entry by either party during later transcription.

Housing prices in Fairfield are high, and have been climbing for decades. The price of a building permit for new home construction is also high, averaging

more than \$30,000 for a typical 2,000 square foot home. While not exorbitant when compared with neighboring communities in California, a permit to build the same home in Tuscaloosa or Oshkosh would cost \$500.00 or less. According to Tom Garcia, the chief building official, one of the primary goals of the building department is to be self sufficient. He believes that building regulation is a critical component of the long term health of a community, and that builders will not resent high permit fees if they receive the highest level of service for their money. He sees the building community as his primary customers and his role to help them understand and comply with the regulations of the building code.

Despite some obvious advantages in resources and technology, the approach to enforcement in Fairfield is a working example of the customer service approach advocated by New Public Management. Fairfield considers itself a reinvented city and is continually working to find new and innovative ways to improve service to builders. They acknowledge that their ultimate responsibility is to the community, but are quick to point out that homebuilders are part of that community. They are unified in the belief that most builders want to build quality homes and will voluntarily comply with any regulations that are reasonable. They work hard to cultivate good working relationships and an environment of cooperation and negotiation. They believe that contractors are less likely to try to skirt the inspection process or try to hide expensive or difficult problems because of their flexible approach to enforcement.

Gary DeGracia has been a building inspector with the city for eight years. He worked for ten years as a superintendent for a major construction company before that and as a carpenter for another thirteen years prior to that. Gary, like all inspectors in Fairfield, is deeply connected to the building community. He grew up here and worked closely with most of the builders he inspects before he began working for the city. He describes his job as part consultant, part school teacher, and part principal. The following account, transcribed directly from field notes, describes a typical inspection in some detail. The intent is to capture as clearly as possible the character of the interaction between inspectors and contractors in this city, and to illustrate the contrast with the by-the-book regulatory approaches practiced in other cities.

The deep blue morning sky was a welcome change after three days of heavy rains. Steam rose from the muddy ground as Gary made his way up a makeshift path of lumber planks to the entryway. Piles of debris littered the yard; scraps of water-soaked lumber, empty tubes of construction adhesive, cardboard boxes, discarded roofing materials, and fast food containers. This was a framing inspection, the last one before the interior walls could be covered with sheetrock. At this point, the framing of the home should be finished, all the electrical and plumbing installed and inspected, the heating and air conditioning systems in place and functioning. For many inspectors, the framing inspection is a critical point in the building process, and in Fairfield there are no inspections after framing until the final, when all work has been finished and the home is ready for occupancy.

Many of the structural elements of a home are inspected and approved as they are constructed, but at the framing inspection the entire structure is examined again before the walls are allowed to be covered. This is because work by subcontractors on the plumbing, heating, and electrical systems can easily undermine the integrity of the structure or disrupt fire blocking as they bore holes in framing members to make pathways for pipes and wires. Now those systems are completed, the exterior has been covered in sheathing, the roof is on, and further changes in the structural elements are unlikely⁷. Most inspectors consider a home structurally complete after a successful framing inspection, but standing inside a home at this stage of construction can feel more like standing in the belly of a great beast than in a completed home. The skeletal timbers of walls and rafters are still starkly exposed, with only the vaguest hint of the individual rooms that will define the space once the sheetrock goes up.

Dozens of workers were on site today, but only the superintendent and his assistant stopped their work when we arrived. For five minutes or so they chatted conversationally before he asked for the plans and began to walk the inside perimeter, continuing the conversation as he went. He noticed a large bay window in the dining area that was not on the plans, and asked:

Inspector: "Where are the plans for this change?"

Builder: "What, the window? Well the owner saw how we built it like this in that other one (points toward a home in the same subdivision that had been recently built), and she said that's what she wants here. We built it the same, can we use the plans from the other one?"

Inspector: "You'll need to get your engineer to draft the change and make sure what he draws matches what's built here. I'll okay it today so you can cover, but I'll want to see the plans when I come next time."

For the next fifteen minutes, the routine continued. Gary walked the home, pointing out from time to time a violation along with what must be done to correct it. He marked violations with a can of red spray paint, both to remind the superintendent to fix the problem and to remind himself to check for corrections on the next visit. In several places, he offered advice or instructions about things that might cause problems in future inspections and how to avoid them. The atmosphere between them was relaxed and the conversation casual. The builder's assistant followed behind with a clipboard, taking note of every problem while builder and inspector discussed everything from code violations to weather to baseball. Finally, he asked for the permit card, signed his name, and headed for the door.

In the course of this example, over a dozen violations were found, yet the inspector passed the inspection and allowed them to begin sheetrocking. He noted that this is a common occurrence in Fairfield and offered two reasons for

⁷ Sheathing is the wood material that is nailed directly to the studs on the exterior walls of the house. It is almost always Oriented Strand Board (called OSB, Waferboard, or Chipboard), and is later covered with brick, stucco, or siding.

the decision. First, he explained, none of the violations in this case were a threat to life safety or serious compliance issues. But more importantly, this builder had earned the trust of the building department through past interactions, and Gary was confident the corrections would be made. Trust is a key component of the enforcement strategy here.

“You can’t possibly check for everything, and nothing is ever perfect. You have to allow the contractors to have some integrity on their own. I mean, we can’t stand over them the whole time and make sure they do it, but we’ve found that if we treat them fair and give them room to do it right, most will not disappoint you. Of course they have to earn that trust. I mean, that’s why they have laws governing contractors, because some want to cut the corners.”

Gary is a pragmatist. He believes in the code provisions he enforces, but he also believes that there are times when strict compliance is not the best answer. In another instance, a homeowner had hired a contractor he knew from church to complete a small addition to the back of his home. The contractor was well known to the department but had a reputation for shoddy work. The inspector had failed the job on four previous occasions and both the homeowner and the engineer had come in to the office to complain that the inspector was holding up the job. Tom Garcia was supportive of his inspector’s decisions while at the same time promising to do what he could to move things along. On the fifth framing inspection, Gary was both helpful and efficient. The interaction lasted less than ten minutes, and only minor changes in the type of insulation were required. Both builder and homeowner were visibly relieved to know that the job could now continue.

After leaving the home, Gary indicated that there were still some things wrong with the construction, but that he had passed the inspection because none of them were dangerous or easily fixed. He explained:

“This is one of those jobs that... let's just say I wasn't the first guy here. Somebody else was here first from the department, and they missed a few things. In every department, especially every government organization has people with different work ethics. And, some people care more about their job, some people are more knowledgeable of their job, and some people don't care to learn any more. They're satisfied with their life the way they are. Me, if my name's going on it I want it right. Unfortunately, there's a couple things in that house that I know weren't perfect but I don't think the house is going to fall down over it or it's going to cause anybody any injury, so I'm not going to make him tear it apart to fix it.

“Like, in California the code says the roof sheathing is a horizontal diaphragm, it's just like a shear wall. So there are some requirements for that. One is that you'll have no unblocked panels less than 24 inches. Well if you stand in that house and look up, the top piece is about that big (roughly twelve inches). But it was already shingled by the time I got there to do the frame inspection, so I wasn't going to make him tear it off and put those blocks in there when I can show you houses all over town with roofs that aren't even nailed – they're stapled – and they're still standing. So how do I justify telling this guy 'you've got to take off that \$5,000 roof to put in six blocks for me.' You know, it's just not that hard of a line to draw.

“The code was written because they find failures, and they get together and say let's do this and this and this to make our houses safer. But all the houses that were built before that don't have that, so why put either the contractor or the homeowner through it? Sometimes it's like beating your head against a wall. It's not going to get you anywhere, so why even bring it up?”

Situated not too far from Silicon Valley and within commuting distance to Oakland, San Francisco, and Sacramento, Fairfield is on the cutting edge of building regulation both technologically and philosophically. They have crafted a system that combines predictable, thorough inspections with rapid response times and professional working relationships with contractors. Interestingly, there is little variation in inspector style in Fairfield. Some inspectors are pickier than others certainly, and some are more knowledgeable or more helpful. But the

range of variation is narrow – no one sees himself or herself as a regulatory enforcement officer. Inspectors here seem to have reached a consensus about what building inspection should do, and believe that fair decisions and reasonable requirements are the secret to securing the long-term cooperation of the building community.

TUSCALOOSA, ALABAMA

On opposite sides of the country in more ways than one, the context of building regulation in Tuscaloosa is quite different from Fairfield. Building lots are very large here and land is abundant. There is far less need to get the most use from every available space, and as a result there is far less centralized planning. This seems to change the nature of inspections. There is a clear sense that government should minimize its intrusion in the lives of citizens – people should be allowed to take care of themselves. The building department has twelve full-time inspectors and two secretaries – double the number in Fairfield – yet inspectors are often barely able to meet inspection demands. Given the similarities in population, density, and housing units between the two cities (see Table 2.2), their staffing problems were something of a puzzle at first.

The reason became clear upon arrival however, and nicely illustrates an important aspect of the regulatory context: geography. Simply put, Tuscaloosa needs twelve inspectors because a large lake occupies the center of their inspection territory. Lake Tuscaloosa was created in 1970, and runs for nearly 20 miles north of town. Anything within 3 miles of the lake in any direction is

within their jurisdiction, so it can often take hours for an inspector to travel from one appointment to the next. The lake was not always part of the city but was annexed in recent years to better control the quality of the water supply, and inspectors report many difficulties with long-time residents who are now subject to city codes that they believe are unnecessary and unreasonable.

Many of the new homes rising around the lake are quite expensive, creating challenges of a different sort for inspectors.

Inspector: "The folks on the lake tend to be the rich ones and when you start telling them that they can't have that pier where they want it, the next thing you know the mayor's coming down here talking about someone's friend and such. A lot of variances get given for things like that. When I started they wanted me to run a boat out on the lake and do all the inspections around the lake. I could see the writing on the wall on that one, and I didn't want to get into the political ordeal."

Interviewer: "Does that happen a lot, where you're asked to pass something that doesn't meet code for political reasons?"

Inspector: "Sure, but I've been around long enough that I don't really put up with that stuff. If they want to take the card and sign it, that's fine with me, but I won't sign my name to something just because somebody's friends with the mayor. I have to be able to sleep at night, you know?"

In many ways, Tuscaloosa was a surprise, particularly with regard to the level of resources. According to the selection criteria, they were expected to be low, and yet they were not (see Table 2.2). They have new trucks, Nextel phones, new computers in the office, and are considering the addition of GPS technology to make finding new projects in a bewildering array of rural country lanes a little easier. They have an annual budget of \$20,000 for continuing education, and require all inspectors to be actively working toward certifications in each of the fields. Eventually, they hope to train each inspector to inspect

structural, mechanical, electrical, and plumbing elements in a single inspection, but this goal is still many years away.

Their resource levels rival Fairfield, yet they ranked themselves near the bottom when asked about their level of resources in the 1995 survey. This suggests three possible explanations: that their perception of necessary resources is skewed in some way, their task environment genuinely requires more resources than other jurisdictions, or that the data was incorrect in some way. Interviews with inspectors and the building official reveal that the difference is largely due to changes that have come to the jurisdiction since the data was gathered. By all accounts, the building department in 1995 was truly in a state of disarray. The building official at the time had been hired for his political connections, and had virtually no knowledge of any part of the job. They could not agree on a single approach to enforcement and the codes they enforced were far behind the latest versions. According to the assistant building official:

"We like to stay somewhat current now, maybe one cycle behind, just to let them get the kinks out, but you know we have to try to keep up because we have these engineers and architects coming out of school who say 'what code are you using?'. Up until a few years ago, we were using the 91 building (code), and you couldn't even buy it anymore. We were enforcing a code that was so old it was out of print. So, now we try hard to stay close at least to the latest version."

Part of the transformation in Tuscaloosa has been simple prosperity. Funding has increased substantially since the opening of a Mercedes Benz assembly plant in the area. All agree that the level of resources has risen sharply in the past five years, and now consider the level of staff, technical capacity, enforcement authority, and equipment adequate to fulfill their

responsibilities. They appear serious about promoting quality construction and compliance with the building code provisions they do enforce, but still take a highly flexible, even accommodating approach to enforcement. They differ from other jurisdictions in the sample in several important ways, especially plan review and the number of inspections they require for residential construction.

According to them, Alabama state law prohibits local jurisdictions from requiring plan review for single-family residential dwellings. As a result, many of the new homes are 'stick built', with no engineering at all. In one case, the only architectural plans for the inspector to reference were a series of pencil figures drawn on a piece of sheetrock on the garage wall. Tuscaloosa also omits several stages of the inspection process that are considered essential elsewhere. After the foundation or slab is inspected the structure is not seen again by the building inspector until the framing inspection, making many key structural elements difficult or even impossible to verify.

There is no inspection of the sheathing or roof before the exterior is covered, and no structural inspection of the interior before insulation is installed. Electrical, mechanical, and plumbing systems are inspected before insulation is installed, but due to the specialization of tasks in the department, none of them check fire-blocking, boring/notching, or any structural elements as part of their inspections. Also, the code requires the house to be weather-tight before electrical wiring is installed, so nailing patterns on the exterior sheathing are covered by tar paper by this time. After insulation is installed, the structural

members are largely hidden from the inside and the outside is covered. Tie downs are virtually impossible to verify, and would be difficult to enforce anyway, since formal plans are unusual. The roof is usually shingled too, and required tabs and nailing patterns on roof sheathing are impossible to verify. Provisions requiring anchor bolts that hold the house to the foundation are not enforced at all. Since a devastating tornado touched down in town in 2001 they have been requiring brick ties that anchor brick chimneys and facing to the home, but could not say exactly how they verify their installation since they would already be covered at the framing inspection.

Inspectors however, vary in many of the same ways as in other cities. They can be every bit as rigid or as flexible as inspectors in other jurisdictions, despite the comparatively lax approach of the department. One electrical inspector I accompanied, for example, tested every outlet, checked every GFI, and was picky enough to fail one inspection because one grounding screw in a breaker box was of the wrong type.⁸ Another inspector exemplified the facilitative approach. He was willing to both negotiate and trust builders when they said they'd fix whatever he wanted done. In one instance, we performed a final inspection on a home that was being built by the 16 year old son of a prominent local builder.

To my eyes, the home was far from finished; they were still hanging doors and installing the garage door opener as we arrived. Painting was partially done,

and the basement was filled with debris. Yet technically, those things required for occupancy had been completed, and the inspector signed the card while he joked with both son and father. In fact, he said, "Y'all better invite me up here to the house warming BBQ. I don't want to miss that." To be fair, it might have been different if the contractor had not been building it as his own house. The inspector might have felt obligated to make sure everything was done before okaying occupancy if it was being prepared for an unsuspecting buyer.

This illustrates another important part of the context in Tuscaloosa. Nearly everyone I interviewed mentioned significant differences of opinion between inspectors about the appropriate approach to code enforcement. The most frequently mentioned reason was the widening generation gap between inspectors. Many of the older inspectors come from the trades and believe, essentially, that no one can learn inspection from a book. Many also believe that continuing education is unimportant, and that changes in the code are just more 'government justifying its own existence'. They argue that homes have been built in the current manner for centuries and the important aspects of inspection are well known and proven. In one case, an inspector, reassuring a builder concerned about a coming change in building code versions, stated that he had no intention of changing his method of inspection, and that so long as he was around things would stay the same.⁹

⁸ Ground Fault Interrupter, required on all electrical outlets within 3 feet of a water source.

⁹ Tuscaloosa was preparing to move to the International Building Codes in June, 2002, with enforcement to begin in January, 2003.

This group is slowly being replaced with a new generation of inspectors with formal schooling or training, although most of them also have some trade experience. The young group tends to be more inclined to require strict adherence to the code, and likes to take a lot of time to explain reasons for each provision they cite. The older group seems to focus on relationships and continuity of expectations, and will negotiate or overlook things that the younger group would cite. Both groups are abundantly represented in Tuscaloosa, and the tension this division creates may keep them from addressing a number of other performance issues.

Inspectors are in the office every morning from 7:00 to 8:00 to take calls, and also return to the office to answer calls from 12:30 to 1:00 each afternoon. This is not their lunch period, but requires them to plan their day to be able to get back for that half hour. This perplexed me, since they each carry Nextel phones, and have given their code to most of the contractors they frequently deal with. In addition, the two secretaries in the office who take calls all day could easily relay the information to inspectors if additional calls came in throughout the day. On one day, we went nearly 20 miles up the lake, completed several inspections, then had to return to the city office to take calls before returning to the same area for more inspections.

Chris Newsome is one of the young breed of inspectors. Twenty-seven years old and filled with a sense of the importance of proper enforcement, Chris likes to take classes and is studying for his master electrician test. He plans to

take the tests for all additional areas as well eventually. He admits that older contractors often have trouble with his approach, but emphasizes that he usually finds a way to get along with them. He recounts a story of another inspector who had consistent problems with builders and was eventually fired as a result of the complaints from contractors. Chris makes considerable effort to build good relationships with contractors, but is clear that his first priority is to enforcement.

He is well trained for someone so young. He spent eight years gaining experience in the private sector before joining the city. He likes the security, the retirement, and the vacation benefits of city employment. He is paid less now than before, but talks about how he used to work many, many more hours a week than he does now. He appreciates the relaxed approach to work that is present in the public sector. He has been with the department as an inspector for two years.

Chris is concerned about his image, and feels a need to document his daily activity. "Even when they fail an inspection," he notes, "I have to write up a tag. Sometimes I don't give it to them, since a lot of people have a pride issue about having a 'red tag' on their property, but if I don't write something up, my supervisor could come back to me and say 'where were you all afternoon? What did you do with your day?' I don't want there to be any doubt about how my time is spent when I'm on the clock."

Tuscaloosa uses a paper system in the field, a three part form with a card stock copy that stays on the job, a copy that is given to the secretaries at the

office for entering into the computer system that tracks permits, and a third copy that is kept by the inspector personally to document his activity. They all seem to like the system despite the limitations of a paper-based system. At times, contractors are unable to find the copy on the jobsite, but that inconvenience is minimal, since inspectors are able to reference their copy or radio the office. The advantage of this system for them is that the contractor need not be present for the inspection. In fact, builders were rarely present during the inspections I observed in Tuscaloosa. In most cases, we arrived, inspected, and left the card with no one there at all. One inspector indicated that it's not unusual in Tuscaloosa for one subcontractor to finish his work and then call the next one directly to tell him that he can begin his work. He said that many general contractors may not even see the job site more than once every couple of weeks.

I spoke with Chris quite a bit about the penalties for violations inspectors are able to impose. Perhaps not surprisingly, he feels that he has enough power to compel compliance, but just barely. In the past, the city charged a fee to re-inspect failed work as an incentive to builders. This fee has since been discontinued, largely as a practical matter when they changed from issuing individual permits for each part of the process to a single permit for the whole job with periodic scheduled inspections. It made little sense, they explained, to charge for reinspection of one part when the permit applied to the whole project. Key players in this outcome were homebuilders associations, which are active and influence policymaking in the city. They argued that the permit fee covers all

the support and inspections necessary to make the project pass, and that inspectors get paid the same whether they're inspecting my property for the 3rd time or someone else's for the first.

There has been some talk recently of reinstating reinspection fees to curb the contractor tendencies to use inspectors for quality control. Individual inspectors are in favor of the idea, but admit that it's unlikely in the current political climate. Instead, they have developed their own strategies to cope with the lack of formal punitive power. One inspector will only write down three items on the form. As soon as he gets to three, he stops inspecting and writes 'not ready' on the form. The next time he comes out, he may write down another three things, but the builder has lost several days, and time is money in their business. They did note, however, that it is different when a builder is present and interested in the inspection. They're willing, even eager to provide educational assistance, but not to perform quality control for the builder.

Vaughn Smith is a plumbing inspector. He had a successful plumbing business before joining the department, but he hated having to work 60-80 hours each week. He hired on with the city six years ago for the stability, retirement, and vacation, but unlike Chris he chafes under the lower wages. Originally, he was allowed to keep his plumbing business so long as he did no work in the jurisdiction he inspected. Eventually, it got complicated because he was inspecting his competitors, so he closed the business. He is still entrepreneurial though, and has started a private home inspection business on the side for real

estate transactions. Vaughn was the only inspector I interviewed who implied that he might not stay with the city until retirement. He hinted that the profit opportunities in the private sector were attractive and that he might be changing careers soon.

One place we visited was back in the woods; right on the city limits line. The couple who lived there had been building their retirement home and were originally told their property was outside the city and they would not need a permit. They were told they did need one only after the framing was completed. In the meantime, the husband had died, and the widow was trying to finish the home with the help of friends and family. Much of the construction was wrong, and could not be made to meet code without significant teardown and rebuild. The stairs were too steep, the windows too small, and the roof support appeared inadequate. But we were there to talk about the plumbing. Vaughn put it this way:

"This is about as far away from code as it can be and still be plumbin'. We're going to show them how to fix it so it'll at least work. It still won't meet code, but at least it won't blow back on them every time they flush the toilet."

It is within the discretion of the building inspector to sign off on the project even if it doesn't meet strict code requirements, and Vaughn was clearly moved by the circumstances of this widow. She was not at the house, but an assistant was, and Vaughn spent half an hour working with him to explain what needed to be done to make the plumbing functional. As it was installed, there was no venting of the system and the diameter of pipe was too small in several cases.

He indicated that the upstairs toilet would blow back into the shower, and the washer would cause water to flow up through several drains because it pushes such a high rate of water flow.

The building department in Tuscaloosa presents an interesting set of contradictions. They have resources most jurisdictions would envy, but an inspection process that fails to inspect several of the key stages of residential construction. They have an enormous inspection territory with substantial geographic challenges, but require every inspector to return to the office in the middle of each day to answer phones. They are moving to the latest code, the International Building Code, but do not require plan review of any sort for new home construction.

Inspectors have a supportive administration, opportunities for advancement, and a reasonable workload. Yet there is little sense of a shared mission or accomplishment. Many have similar interests and hobbies, but do not do them together. They all expressed distaste for office work, and seemed happy to stay in the office only as long as required. Where Fairfield's inspectors came together every day for lunch and to play hearts on the computer, these inspectors are cordial to each other but get out in the field as soon as they can each day and return only when they must.

NEWARK, DELAWARE

Newark stands out among the cities selected for field visits. Based on the other visits, I would not have believed that such an approach to building inspection as Newark's existed in modern America. Everything about how they operate is a marked contrast to what goes on in other places. Here, inspectors are not consultants; they are deputized constables. They carry badges and have full authority to issue criminal citations for violations of the building code. Builders are not customers they are regulated entities, and code enforcement is just that – the strict enforcement of all provisions of the building code. They have seven inspectors and four secretaries, plus two more inspectors for fire safety on staff. For a city with a population of only 25-30,000 depending on whether the state university located there is in session, they seem to have a lot of manpower by comparison with other cities. By their standards however, they are stretched to the limit, and are desperate for more staff. I observed that the chief reason for this is that their idea of a proper inspection is much, much more involved than in any other jurisdiction I have seen.

Almost nothing is computerized in Newark. When a permit is issued, they have a three copy carbon paper similar to those used in Tuscaloosa, but they issue one for the entire job with each inspection listed on the sheet, while Tuscaloosa writes a new one for each phase of the project. One copy goes to the builder, one to the office, and one for the inspector to keep. This system seems to work reasonably well, but it is largely because they have a

comparatively low workload. It would be a nightmare to keep track of where each paper is if the workload were to double.

Many of the amenities common in Fairfield and Tuscaloosa are noticeably absent here. They have no Nextel phones and they are not allowed personal use of city trucks. In fact, the personal use of any city resources is actively monitored and controlled. Yet in many ways their performance surpasses either of the other two cities. They pride themselves here on short response times. They guarantee a 4-hour response, while neighboring jurisdictions offer at best 24 hours and at worst 3-4 days. Builders in Newark can call the office at 9:00 in the morning, and an inspector will generally be there by noon. Partly because of their small geographical size, they can, and often do visit every property under construction every day.

Ron Sylvester is the chief building official, and has been with the city for more than 20 years. Hired in the aftermath of a corruption scandal in 1980, he has had a guiding hand in developing the policies that are now in place. Even after 23 years, the scandal is a surprisingly regular topic of conversation and influenced nearly every policy or enforcement discussion I observed. In the purge that accompanied the scandal, every department employee was fired except one secretary, and with the new department was born an entirely new culture of inspection as regulatory enforcement.

Driving around the city, Ron discusses the some of the unique challenges inspectors face in this jurisdiction, and the mechanisms they have developed to

cope with them. As it happens, the University of Delaware, located in Newark, has a national reputation as a party school, and residents have for years been trying to control the parties and behavior of students. Ron reported regular parties of 300-400 kids at a single residence, out in the street, ripping out toilets and throwing them from second story windows to watch them shatter on the street. The initial tactics by police were ineffective, largely because they were limited in the severity of penalties they could impose, and most of the students were so wealthy that they could afford to pay the fines regularly.

Several years ago they passed an ordinance requiring all rental properties to have a rental permit and to be inspected once a year. They also imposed standards for exterior and interior conditions, and placed limits on the number of residents and vehicles that could occupy each home. There are 1,300 single family rentals in the Newark city limits, plus several thousand more apartments. Three full time inspectors do nothing but inspect rental properties and issue citations for violations of the property maintenance code. If a property receives three violations, their rental permit is revoked and the property owner is not allowed to rent that property again for two years. This forces property owners to police their tenants and evict them before the third violation. They report that it actually seems to be working, but it has resulted in a drastically different approach to code enforcement that spills over into the building inspections.

They require permits for everything in order to maintain control – sheds, decks, porches, siding, roofing, everything. However, the cost for these is

usually nominal, and only one inspection is usually required. They have a certificate of completion that they issue for each phase or project, which is different from the certificate of occupancy that a new building must have in order to be habitable.

The boundaries of the city are another unusual aspect of the context here. Rather than being a central town in the middle of an agricultural area, the city is woven into a web of developed areas, bordered on various sides by Pennsylvania, Maryland, and Newcastle County. Its boundaries are not square, and the roads pay no attention to them. As we drove the perimeter, I was quickly confounded as we drove in and out of the city limits.

"This subdivision is in, but that one is out. The line jogs a little here, following the creek, so that area is in, but all around it is out. On that side of the road is Pennsylvania. In fact, the line really goes at an angle, and on that house there, one corner of the house and the deck are actually in Pennsylvania. When I inspected it, I called them to ask if they wanted to come inspect the deck and their corner. They decided to just accept our inspections instead."

Ron has very definite ideas about how the code should be enforced and expects all his employees to enforce his vision. He definitely sees the contractors as regulated entities, not the customer. Perhaps because so many jobs are built by contractors that don't live in Newark city, they get little sympathy from Ron, and consequently, from his inspectors. He reports that he controls the process through plan review mainly. Each inspector reviews his own plans individually, but Ron says he also reviews each plan in addition. From him, I get the impression that he is the primary plan checker; from the inspectors I got the impression that each of them is the primary check. No one suggests that plan

checking is less than extremely important, but is not clear who has the primary responsibility for making sure they're right since they have no staff designated to check them.

Control is a huge issue for them – control of everything. Ron drives around, as time permits, and conducts spot inspections following up on his employees. He rotates inspectors periodically, especially the rental inspectors, to avoid the development of corrupt relationships. They are not allowed to accept anything valued at more than one dollar from clients, and send out letters at Christmas to remind them of this fact. Although many jurisdictions have similar rules to prevent corruption, Newark is more zealous than most in their application.

One inspector, for example, once agreed to look at a house for a friend on a weekend. She was interested in buying it and wanted to know if there were any problems. Afterwards, she wanted to pay him but he refused, knowing that taking money for inspections was forbidden, even if unofficial and on private time. She persisted, and eventually ended up buying a Nintendo 64 for his son. After purchasing the home however, she was unable to sell the home she had been living in, and opted to leave the new home vacant until she could sell the old one.

Sometime later, she decided to rent the new home to a friend. When applying for the rental permit, she mentioned that an inspector had already looked at the property before she bought it. The building official heard this and called the inspector into his office for the story. Rather than a pat on the back for

assisting a friend and promoting the reputation of the department, this inspector received a day off without pay for taking the Nintendo as payment for what had now become an official inspection.

There is a sense that much of what goes on is political. These are people used to living in a climate of rules and structure. They don't often question the rules, or the purposes behind them, but instead focus on understanding and enforcing the rules that are in place. It is an orientation that is very different from the culture on the west coast, where actions are often related to the reason behind them. I observed little enforcement for enforcement's sake before I saw Newark, yet time and again, inspectors repeated the following quote to explain how building inspection works here.

"Money is not an issue for the city of Newark. I don't care how much it costs you to fix it, if you want to build it here, it'll be right."

Examples of this philosophy in practice are not hard to find, and size or political clout seems to matter little. The following three vignettes are typical of the Newark approach.

Stadium Bolts: Recently, the University of Delaware constructed a large set of bleachers for their football stadium. On the plans, it called for 5/8 inch bolts, yet for some reason the contractor had ordered and installed 1/2 inch bolts. On the final inspection, the inspector noticed (don't ask me how) that the bolts holding the whole thing together were the wrong size. In any other jurisdiction I had visited, they would have worked together to create a solution that achieved

safety and efficiency without undue costs. Here, the contractor was given the opportunity to provide an engineer's report certifying that the smaller bolts were just as strong as the specified bolts or take them all out and replace them with the correct size. Though acknowledging that the smaller bolts were probably strong enough for the intended uses, perhaps because of the culture in this jurisdiction, the engineering firm declined to certify the smaller bolts, and the contractor was forced to replace each and every bolt in the stadium.

Frat house: On the day I arrived, a frat house was being shut down for violations of the property maintenance code. They had twice failed to keep their grass trimmed below the maximum 8 inches, and this last weekend they had hosted a party that got out of hand and were cited a third time for having too many people and vehicles on the premises (they can have a maximum of 100 visitors at one time). They were being evicted immediately (during finals week) and the property owner would have the rental permit revoked. Unless he chose to sell the property, it would have to remain vacant for the next two years.

Town homes: A builder submitted plans for a subdivision of town homes drawn by one engineering company, which were approved. Then, they changed companies and some minor alterations were made to the homes before construction started. Newark requires that every home provide two off-street parking spaces at least 16 feet in length, usually the garage and one in the driveway. The new engineers moved the homes on the lot so they were set back 16 feet from the curb, but neglected to account for the sidewalk. The electric

company, who requires a 20 foot setback for underground lines, discovered the problem when they came to do their initial installation. Eight of the units had been started; the foundation had been dug, footings poured, drains laid, and gravel placed to level for basement floor. The basement walls had been poured, the lots backfilled around basement walls, the floor joists installed, and the sub-flooring for the first floor was in place. Framers were well underway on all eight units when the error was discovered.

The only real issue was parking – if they continued to build as underway, any cars parked in the driveways would extend over the sidewalk. This was not a busy street but a dead-end side road with plenty of street parking. When completed, the subdivision would have a total of 14 town homes. The building inspector told them they would have to tear everything out and begin again. The builders appealed to the city council. The council asked the building official his opinion and his response was,

"I don't see any way they can make it meet the code without tearing everything out and starting over. We can't move the street so they'll have to move the house."

The council sided with the building department, and on the day I was there we inspected the forms for the new basements that were ready to be poured six feet behind the original ones. Floor joists had been removed and were awaiting reinstallation, and there were still some piles of concrete from the original foundations that hadn't yet been removed. Amazingly, no one ever said anything about the thousands of other homes in the city that have short driveways.

Homes have been built in Newark since before the revolutionary war, and it staggers the imagination to think that a variance was impossible to grant in this instance. The builder passed the costs for the mistake on to the engineers, and was covered by errors and omissions insurance, but more than \$120,000 was paid because in Newark everyone is treated the same and "money is not an issue here. If you built it wrong that's your problem."

Despite the efforts of department officials to control the character of inspections in the city, some variation in the enforcement style of inspectors was evident. Brian Daring has been with the department for nearly 20 years. He has the most seniority aside from Ron, the chief official. Brian doesn't agree with all Ron's measures, and would cut more slack to contractors if he could, so long as life safety was not threatened. Brian is the most facilitative inspector on their staff, and the only one to define his role as an educator. He emphasizes the need to educate himself in order to educate builders, not to find better or more creative solutions to problems that still achieve the intent of the code, but so he can explain more clearly why a particular provision was developed and why they should voluntarily comply.

Yet builders do choose to build in Newark, despite the rigid approach to enforcement. In interviews, two local builders stated that they build here because they value consistency above all else. They know that Newark is much more stringent in enforcement than surrounding jurisdictions, and they seem willing to accept that, provided the responses are consistent. The only complaint

either builder voiced is that they think Newark requires too many inspections – more than necessary to build a safe building. This is a minor inconvenience only though, and not nearly sufficient to make them stop building in the city. Apparently, a consistently strict approach is preferable to a more lenient, but less consistent approach.

At the other end of the spectrum of inspector style is Jim Keisel. Jim believes in the strict and rigid enforcement of ALL code provisions, and is unapologetic about this fact. Jim has been with the city for five years and was an architect for many years before that. He has little patience with sloppy work from contractors, engineers, or architects. He says he has a reputation as "Mr. Prick" with builders, and that he relishes the role. He has a baseball cap with "Mr. P." on it, given to him by his co-workers, many of whom disagree with the rigidity of his approach, but he is undeterred in his belief that strict enforcement is necessary.

He conducts incredibly thorough inspections, but is consistent and predictable. The first visit was a framing inspection, and the first thing he said upon meeting the contractor was "Bo, this is Dave. Dave isn't going to be happy with us today." Dave smiled weakly, but didn't disagree. As it turned out, there appeared to be a good working relationship. He walked every wall, checked behind insulation, and mentioned several minor things that Dave wrote down. The interaction was clearly regulatory, he was inspecting rather than facilitating. Dave was confident, but wary. He is a superintendent for a large construction

company, so none of the violations affect him personally, but a large delay would be difficult to explain to his supervisors. The most involved correction was the stairs off the back deck. The railing was too low because the first step had been framed level with the deck. The solution required them to dismantle and reframe the steps and railing.

"Most people like to build in Newark because everybody does it the same here. We're strict but fair, and they know that I'm going to inspect the same things each time I come. I don't make things up but I do expect them to comply with the code in every way. We usually run the pickup contractors out of town. They learn pretty quick that they can't make money that way here. Once they build something twice, it ends up costing them money and they realize that there are probably other places they'd rather work. We give them a chance to make it right, if they don't then we issue a summons and they can tell it to the judge."

This inspector is more interesting than any yet observed. His administration supports him fully, but in several instances he did things that would raise hell in almost any other place. Jim reads the building code for pleasure at lunch. When he talks about it it's almost in religious terms.

"Sometimes I'll read a passage that I've read ten times before, but on the eleventh, I'll understand it in a way that I didn't before." For Jim, even more so than other inspectors, every word of the code should be enforced. He doesn't use it to help solve problems they encounter or resolve differences of opinion between contractors or inspectors, he studies it for things that are not being enforced in his jurisdiction that could be.

He also pays more attention to inspections than any I've observed. He climbs up in the rafters to check them. He checks for manufacturer defects in trusses, he walks every wall, and he tests every outlet and faucet. He gets up on

foundation forms and walks along them where other inspectors are content to look from the bottom. He likes to look for himself where others are inclined to take the builder's word.

We walked through a University of Delaware building that was under construction. They had recently painted the fire doors in the building and had painted over the labels on the door jam that state the one hour fire rating of the door. Jim made them order new labels from the manufacturer and install them again, because the code says there must be a label on the door jam indicating a one hour rating. They also installed some jams with stickers on them that said 45 minutes. These are all steel jams, and will not burn. In fact, Jim said that they are the same jam with a different label. But the code says the label needs to be visible and say one hour, so that's what they must do to pass. He has been working on this project, visiting nearly every day, for over a year. While we were there together, he found five or six things – not inspecting, just giving the researcher a tour. Yet the superintendent seemed comfortable with him, and dutifully noted the corrections. And there can be no question that the building will be spectacular in every detail when completed.

Jim's singular focus on the letter of the law also means that he will pass things that may violate the intent of the code but are technically legal. For example, the code allows no unprotected penetrations into a stair well. Stairs are protected spaces and fire could enter from outside through holes used for wiring if not shielded. In this case, running phone wires through the stair well is the only

path from the old building to the new. Lacking the time to engineer a fireproof box around the wires, the contractor fills in the holes that were drilled, so there are no penetrations at the time of inspection. Then, once they have their occupancy permit, the school will run wires back through the holes in the stairwell. Jim knows that's what will happen, the contractor knows that's what will happen, and both see that as an acceptable solution, since the stairwell will be in compliance at the time of inspection. Yet the intent of the law was to create a protected space inside the stairwell that could withstand a fire for one hour. The end result of this solution will be a stairwell with penetrations that could transport fire, yet Jim seemed less worried about that than about making sure the proper stickers are on the door jams.

The building department in Newark tries harder than most to define and maintain a unified approach to enforcement, and there is little evidence of a rebellion brewing among builders either to build elsewhere or to lobby political leaders for a less stringent approach. On the contrary, the building community appears willing to accept strict enforcement in exchange for the resulting consistency and predictability of inspections. Their approach seems to work for them, yet as noted in regulatory enforcement literature, it is expensive to maintain a strict enforcement approach. Many communities have neither the resources nor the political context that Newark has, yet some try nonetheless, to adopt a similar approach to enforcement.

OSHKOSH, WISCONSIN

Oshkosh is situated along the western shore of Lake Winnebago in upper Wisconsin. Flanked by farmland and with Interstate 41 running through the west end of town, it is a prosperous and beautiful community. The building department occupies a small corner on the second floor of city hall, a grand old building from the outside, but carved up in standard government cubicles inside. Wisconsin is a conservative state, and the residents of Oshkosh are no exception. Government services are kept to a minimum here, and finding the resources to meet demand is the defining challenge for this department.

They have a relatively small staff, with four building and heating inspectors, two electrical inspectors, one plumbing inspector, and one property maintenance inspector. They provide direct service at the permit desk from 7:30-8:30 and 12:30-1:30 each day in addition to their regular inspection load. With a substantially smaller geographic area than Tuscaloosa, this process works here, keeping inspectors connected to their clientele and each other with little additional travel time. It also provides a way to conduct rudimentary plan reviews on projects that might otherwise go undetected. Home drawn plans are common here, particularly for residential alterations or additions. In one lengthy interaction between a homeowner and inspector, the plans for a sizeable addition were drawn and approved right on the counter as I watched. One inspector estimated that 75 percent of all residential inspections in this jurisdiction are

remodels, and that the percentage constructed without a permit decreased dramatically when they began offering free consultations at the permit window.

Construction activity in Oshkosh is heavily concentrated in the summer months, and demand for inspections increases dramatically during this period. One way the department has increased its capacity to meet the demand is through automation. Their entire permit process is computerized; each permit entered into a database with a unique number when issued and kept up to date by secretaries as inspections are done. Each morning, secretaries print out the day's inspections for each inspector and leave them in his/her box. At the end of the day they return the forms to the secretaries who update each record and file the paper copies for reference.

Despite this use of technology, they acknowledge that they are simply not equipped to provide the comprehensive regulatory approach they would like. They lack the staff to handle peak levels of demand and must often pick and choose what to inspect and where. Many decks, roofs, or interior remodels are never inspected. They will talk with them on the phone and ask questions about how it looks, but may never actually make it out to see the final product 'as built'.

They also rarely return to see if verbal corrections they give at time of final inspection have been made. Recently, they returned to several projects that had been completed earlier and found that virtually none of the required corrections had been made. This has subsequently been the subject of considerable discussion within the department, but inspectors feel trapped by conflicting

demands. They are expected to respond more quickly to new inspection requests yet make sure that required corrections were made on previous inspections. They are asked to motivate builders to comply with code provisions without punishing those who fail to do so. At the end of the day, they feel they simply haven't the time to go back and check every job, but are discouraged from using fines or fees to promote compliance.

Turnaround time on inspections is a prominent issue here. The average time of construction on a new home has dropped from four to five months to around ninety days, and builders are now floating the construction loans themselves. A month's interest could be \$1,000 or more, so they are continually pressuring the department to improve response times. With their current resource constraints however, the department has adopted a classic coping strategy. They require two business days notice for most inspections. They often don't need that long, but the code allows them two days, so they require two days. This bureaucratic buffer protects them during periods of peak demand, but has created an atmosphere of tension and conflict in the community that undermines any potential for voluntary compliance based on cooperative relationships with contractors.

Contractors rarely calculate time in their schedules for reinspections, which happen regularly. Because of their short construction timetables, builders will often call for an insulation inspection on Tuesday and schedule drywall installers to come on Thursday afternoon. If they fail the inspection, they often

get upset and protest through political channels. The building community in Oshkosh is organized and active in lobbying for fewer restrictions. A recent controversy is the departmental requirement for fire blocking in residential renovations. Older homes in the community were often balloon framed and have no fire protection between floors. Fire can travel easily from one floor to another, so they have required retrofitting with fire blocks any time the wall coverings are removed. Despite bringing in several special speakers to educate contractors on the need for the regulation, the Department still faces stiff pressure from both builders and some politicians to remove the requirement.

Oshkosh is more thorough in their inspections than the smaller towns and unincorporated areas that surround it. Builders who build in multiple jurisdictions routinely complain that they require more than is reasonable, which is to say more than is required elsewhere. As a result, the department gets pressure from the city manager and council to be nicer and more accommodating in their approach. Like Newark, this building department defines its role in regulatory terms, but it lacks the support of local political leaders, making the approach both more difficult and less effective here. The city manager and city council are clearly of the impression that contractors are the customers of the building department. They interpret complaints about the strict nature of requirements and lack of responsiveness as a customer service failure rather than evidence of regulatory successes. This puts inspectors in particular in the unenviable position of serving two masters. One expressed it this way:

"The city manager told us that he has three priorities for this year. Two of them are related to the budget because we're losing some federal money, but the third is to get the building department to be more responsive to the needs and issues of the building community. They even set up a committee on it with builders and officials both. But then we go to these training things and they tell us to check every little thing because if we don't and something fails it's our fault and we could be held personally liable. So how do you do both?"

This department is unusual in several respects. Allyn Dannhoff, the chief building official, holds a bachelor's degree in construction management and values education over experience in his inspectors. The company line in most departments is that inspection cannot be learned from a book. While nearly all departments have some inspectors with formal schooling, norms tend to downplay the usefulness of inspection schools compared to many years of experience in the trades. In Oshkosh that norm is reversed. These inspectors are all in their 20s and 30s, and while several have some trade experience, all have formal schooling in inspection processes. The grizzled ex-contractor that is so typical in other places is noticeably missing here.

They contend that simply working in an industry has little relation on one's ability to enforce code violations, no matter how long the experience. They have little inclination to be friends with contractors and are much more inclined to see themselves as regulators, yet they lack the single-minded focus on control and enforcement that was so prevalent in Newark. This may be due to an organizational culture of courtesy, or it may be due to weaker support from the city manager and council. In Newark the hierarchy is solidly behind their strict enforcement approach. Here there is substantial pressure to view contractors as customers, and develop a more customer friendly approach.

John Zarate is one of two residential building inspectors. He has been with the city of Oshkosh for only a couple of months, but has been an inspector for nearly nine years. He previously worked for a private company that contracts inspections to smaller municipalities in several states. He has never worked in the trades, but went to school to study architecture and inspection. John averages five to ten inspections per day when both inspectors are working. When one of them is out, whether for training, vacation, or sick leave, the load on the remaining inspector can be as high as twenty inspections per day. Unlike the other three cities visited, Oshkosh does not provide inspectors with city vehicles, but reimburses \$.37 per mile on their personal vehicles. John estimates that the reimbursement covers less than half of his vehicle expenses, and would gladly trade it for the use of a city vehicle. He notes:

“People think that the reimbursement is this great perk but it isn’t. It’ll make your payment on a new truck, that’s true, but you still gotta pay for insurance and gas and repairs. It don’t cover all that *and* a payment. Inspectors here will wear out a truck in three or four years driving it around all day, and then what do you do? You got a worn out truck that isn’t even paid off. When I was a private inspector we used company trucks and I had the same car for the whole time I worked for them. That worked better.”

To communicate with the office, the city provides cellular phones, but without the two-way capacity of Nextels or radios. The phones are to be used for city business only and John indicates they are rarely used, and that inspectors almost never call each other. In fact, had I not asked how they communicate with the office, he might not have remembered to turn on his cell phone at all. Impromptu inspection responses are rare, he adds. “When we’re this busy, we

can't rearrange our whole schedule just because someone forgot to call in an inspection." The secretaries know this and generally will not call unless it's an emergency.

John's natural enforcement style is helpful. He sees himself as a facilitator, and enjoys the opportunity to help build a better home or solve a difficult compliance problem. In one such case, the flat roof on an existing home was being replaced with a pitched roof. When he arrived, all but the last truss were in place and the contractor had called for advice on adapting the final truss to a unique part of the existing roofline. He knew that simply cutting around the obstacle would disrupt the engineered strength of the truss and cause problems with inspection. Despite a dozen inspections scheduled for that day, John spent nearly half an hour discussing the problems and working with the contractor to arrive at a solution that would fix the problem and pass inspection.

Yet he is openly frustrated with the seeming inability of some builders to learn the basic requirements that are enforced in this jurisdiction, and is not above punitive action to make his point. In another case, he failed an insulation inspection for a very minor violation – electrical wiring running through a cold air return wasn't properly caulked – largely because no one was present for the inspection. If someone had been there, they could have corrected the violation in 30 seconds and passed the inspection. But this builder has a history of poor construction and has lost the trust of the Department. John explained that a reinspection fee of \$100 would be assessed the next time they called for this

inspection, partly as a punitive measure and partly to deter future problems. They rarely use reinspection fees, but the inspection card of this builder shows repeated failures of inspections of all kinds, and he was confident that the builder would just begin the drywall and never fix the problem if he were not forced to do so.

The context of building inspection in Oshkosh is all about resources and relationships. The building department is filled with formally educated inspectors who do not consider themselves part of the building community. They define their role in regulatory terms but lack the resources to establish and maintain an aggressive enforcement approach. They are often at odds with the political leadership of their community, who prefer them to view builders as customers rather than regulatory targets. They are also under pressure from an organized building community to relax regulatory requirements and provide faster turnaround times on inspection requests.

They require a two day window for each inspection, which means that contractors will be present only by coincidence. But inspections often fail simply because no one is present to make minor but necessary corrections. This frustrates both builders, who perceive inspectors as overly picky, and inspectors, who perceive builders as apathetic to the inspection process. Inspectors must then return at some point to verify that corrections have been made, again requiring a two day window. If the contractor is again absent and something is wrong, the cycle repeats itself and frustration builds on both sides.

How Much Does Context Really Matter?

One of the defining characteristics of the street-level bureaucrat is the ambiguity of the world they inhabit. They are the pawns of a political process that is built on consensus and compromise, and the resulting legislative directives are usually vague and frequently contradictory. In typical fashion, inspectors are asked to serve multiple client groups according to multiple rule structures. They are given few instructions and broad discretion, then are expected to produce good public policy. The way that each worker resolves these ambiguities and contradictions forms their view of the world, and the paradigm within which they operate as an inspector.

Context is an important part of understanding how inspectors resolve these inconsistencies. In each of the four cases presented here, context is responsible for many similarities in inspector behavior, though the contextual aspects are different in each city. In Fairfield, a strong administrative orientation towards customer service and adequate resources create a focused, effective department with consistent, coordinated enforcement between inspectors. In Tuscaloosa, the unusual geographic features and conflict between generations of inspectors are the dominant contextual story, producing a less efficient and more diverse enforcement approach.

In Newark, a departmental scandal more than twenty years old is still an important aspect of context. City officials, department heads, and inspectors are all more concerned about rules and procedures than in other cities, an attitude

born in the aftermath of the scandal. Their administrative vision of enforcement is also unified, and reduces the variation in individual inspector behavior, but in Newark the focus is on regulation, rules, and procedures rather than serving customers. In Oshkosh the focus is also on regulation, but without the support of city leaders. In this context, inspectors are pressured from many directions at once and must continually justify their actions, never knowing if their decisions will be upheld or rescinded by political officials courting the building community.

While context clearly matters and accounts for some similarities in enforcement style, variations in style within jurisdictions suggest that context is not the only answer. Like many other types of street-level policy maker, inspectors are beset by competing goal structures. Their customer service goals toward builders often conflict with the goal of code enforcement. Their client is sometimes defined as the contractor, sometimes the home purchaser, and sometimes the public interest. They are expected to encourage community growth and development, but also to insure safe buildings and mitigate potential damage from natural hazards. They are generally supportive of the policies and interests of their department, but many express frustrations over frequent changes in agency goals brought about by political maneuvering. These conflicts are much more pronounced in some jurisdictions than others, but all inspectors must resolve some level of goal conflict.

The building code itself is a very complex set of regulations, and builders often express the belief that it is nearly impossible to build a perfectly compliant

house. Just as police officers can always find some basis to issue a citation if they desire, contractors feel that inspectors have such a vast network of regulations at their disposal that they simply select among the many violations those they wish to have corrected. Generally, inspectors try to counter that impression through education and instruction; however observations suggest that there is some truth to the assertions of builders. Inspectors do differ in the attention they give to different provisions of the code.

These differences are often subtle and difficult to categorize. One inspector, for example, focused a great deal on boring and notching (the holes that are drilled into framing members for plumbing and electrical wiring). The code requires that no more than 40 percent of a stud be removed in this process, yet other inspectors paid little attention to boring and notching, ignoring all but the most glaring of violations. The highly complex nature of the rule structure they enforce seems to require them to sort through and prioritize code provisions, in effect creating a unique set of building codes for each inspector. Builders who have repeated interactions with the same inspector report a much higher degree of confidence in their ability to pass inspections. To understand why inspectors with similar context might make different choices, the discussion now turns to a more thorough consideration of discretionary behavior.

Chapter 3: The Use of Discretion

Understanding the motivations behind street-level discretion is a central focus of this study. The idea that street-level bureaucrats influence policy through their discretionary choices is now widely accepted among scholars, but there is still considerable debate over the impact of these choices on the policy process and still more over whether discretionary behavior enhances or diminishes the capacity for service delivery. Traditional public administration scholars, who advocate constraining street-level discretion in order to increase efficiency and accountability in the bureaucracy (Mazmanian and Sabatier, 1981; Edwards 1980; Sabatier 1986) begin with very different assumptions about bureaucrats than do New Public Management scholars, who argue that front line discretion is vital for improving customer service and enhancing service delivery (Sparrow 2000; Moore 1995; Osbourne and Gaebler 1992). In this chapter, I take a closer look at assumptions about discretion in order to understand why building inspectors make the choices they do.

The debate over bureaucratic discretion today revolves around the need to deliver public services in more effective ways while preserving political neutrality, equity, and accountability in the system. Yet it was not always so. The earliest conceptualization of public administration was as part of the political process, where eligibility for public programs depended on political involvement and party affiliation. The political reforms of the early 20th century produced a

fundamentally different concept of what public administration should be, arguing that politics and administration should be treated as inherently separate affairs. The progressive era supervised the systematic replacement of politically appointed bureaucracies with professional administrators and career civil servants.

One product of this process was the traditional public administration paradigm, which emphasized the centralized, top-down control of decisions. Organizations, according to the Wilson's "science of administration", are to distribute services (and obligations) equitably to all citizens in the most efficient way possible, with decision making responsibility flowing downward through established hierarchical channels. A host of implementation studies have supported this approach (see Mazmanian and Sabatier 1981; 1983; Sabatier 1986) which considers the widespread exercise of street-level discretion a problem, but one that can be minimized through rules and managerial control. Much of the principal agent literature is devoted to modeling the inherent problems associated with controlling subordinate agents in bureaucratic systems.

The New Public Management is a contrasting approach that developed in response to this perspective, and argues that effective policy implementation is more about outcomes than the control of subordinates. They argue that front line workers are often in the best position to determine the most appropriate policy for a situation, and that granting them the discretion to choose the appropriate tool is more efficient in the long run. Advocates of this approach argue that street-level

workers are usually amenable to the preferences of their administration, and use their discretion more often to achieve policy objectives than to pursue their own interests. Some scholars take this notion a step farther, arguing that street-level bureaucrats are the pivotal contact point between citizens and government, and therefore have a responsibility to take a leadership role in developing and implementing policies that are both effective and legitimate (Denhardt and Crothers 1998).

A key question for both camps relates to the nature of the discretionary behavior itself. If the traditional perspective is correct, street level discretion is used primarily to minimize workload demands, which can undermine policy objectives and overall efficiency. If New Public Management is correct, street-level discretion may be used to manage workloads, but is primarily used when policies are inconsistent with field experience, and frequently results in greater efficiency than would otherwise occur. One of the contributions of this research is to compare these explanations in order to better understand the conditions that lead bureaucrats to depart from the preferences of policymakers.

One important part of the answer is found by taking a closer look at the motivations that shape discretionary choices. When street-level bureaucrats act in ways that differ from the policy preferences of their agencies, why do they do it? How much of their motivation is from a need to manage the demands of an unreasonable workload (Lipsky 1980), how much from desires to sabotage policy or maximize leisure (Brehm and Gates 1997), and how much is aimed at

improving customer service or minimizing perceived problems with the system itself (Denhardt and Crothers 1998; Sparrow 2000)?

The policy implications for behavior based on coping strategies are very different from those resulting from altruistic or facilitative behavior, and scholars have yet to fully unpack the reasons why street-level bureaucrats make the choices they do. Traditional public administration and New Public Management perspectives often reach different conclusions about the appropriate use of bureaucratic discretion and much of the reason is due to differing assumptions about the reasons why bureaucrats behave the way they do. In this chapter, I contribute to that debate by examining two important empirical questions about the role of bureaucratic discretion. First: *How often do street-level bureaucrats deviate from their agency's policies?* And second: *What are the factors that motivate them to deviate from agency policy in the situations where they do so?*

Theoretical Concepts

“Prior to Lipsky’s (1980) work on the influence of street-level bureaucrats in implementing social policy..., policy decisions were assumed to originate and be controlled by those at the top of the organizational hierarchy” (Maupin 1993).

Identifying the discretionary behavior of street-level bureaucrats is a challenging task, and attempting to explain it is even more so. In fact, so many variables affect behavior that it is difficult to construct meaningful models without limiting the scope in some way. Much of the variability in street-level behavior can be attributed to the differences in context discussed in Chapter 2.

Differences in physical environment, such as geography, climate, work environment, etc., as well as agency variables such as supervision, staffing, political environment, organizational culture and many others are important influences on behavior, but are fairly uniform in their influence on all workers in a jurisdiction.

For this chapter, the variability that is left over after these influences have been controlled – in other words the variability *within* a jurisdiction – is more interesting. By considering how inspectors within a city differ, we are able to bypass jurisdictional influences and focus more clearly on testing the individual motivations that scholars on both sides of the debate have claimed. So, how much do street-level bureaucrats vary in their behavior when jurisdictional differences are taken out of the picture, and more importantly, can we explain why they vary?

DEFINING DISCRETIONARY BEHAVIOR

Studies of discretionary behavior typically begin either by identifying specific behaviors considered discretionary and testing for their presence, or by making inferences from questions about decision making and independent authority directly. In part this is because evaluating specific behaviors as discretionary or not is usually quite difficult and often highly subjective. A different approach is used here, based on the assumption that in every regulatory jurisdiction there is a departmentally sanctioned enforcement strategy. Usually a set of formal policies, the enforcement strategy is the official attitude and

philosophy of the jurisdiction toward enforcement, and is generally well known to employees.

The nature of street-level enforcement however, gives inspectors considerable control over what to enforce and how, and it offers them many opportunities to substitute their own preferences for agency strategy. One way to conceptualize discretionary behavior is as the difference between the behavior of individual inspectors and the expectations of their agency. Discretionary behavior occurs whenever inspectors deviate from the enforcement strategy of their jurisdiction. An advantage of this approach is that measuring the difference between expected and observed behavior captures variation not visible with other techniques. It also allows distinctions between those who vary substantially from agency strategy and those who vary only slightly.

SANCTIONS AS A MEASURE OF DISCRETION

Almost all aspects of the enforcement process are subject to inspector discretion and might be used as a measure of discretionary behavior, yet key differences in frequency and acceptability make some aspects more suitable for this type of research than others. For example, inspectors can be lenient or strict, helpful or demanding, friendly or distant. They can also adjust their style as the demands of an enforcement situation changes. Supervisors expect this, and often provide only the most general guidance in this regard. Preferences and expectations are much more clearly defined however, when it comes to the imposition of civil or criminal penalties for violations, which makes the

discretionary imposition of sanctions a particularly interesting aspect of enforcement style.

The threat of sanctions for noncompliance is one of the most potent tools in any inspector's arsenal. The regulatory enforcement literature offers mixed conclusions about the effectiveness of sanctions, but among many practitioners of regulatory enforcement, a strong belief in the effectiveness of sanctions persists. The "softer" enforcement approach of education, capacity building, and voluntary compliance is regarded in many circles as ineffective. Building departments, like many regulatory agencies, are struggling to adapt their core processes and philosophies to the customer service orientations that have swept the nation in the last decade. Many inspectors still believe that enforcement means deterrence, and that deterrence is meaningless without sanctions. In field observations, this divide was jarringly evident in many departments, and was present to some extent in nearly all. One field inspector summarized his position succinctly: "Soft enforcement means soft compliance. It's all about what you want in your town."

These differences in philosophy and approach make the use of sanctions an excellent vehicle for studying the variety of motivations that influence inspectors' discretionary behavior. However, despite the considerable discretion inspectors enjoy, in most cases the actual imposition of unauthorized sanctions is beyond the scope of their authority. The threat of sanctions however, is well within their discretionary boundaries, and as a result provides an excellent

measure of discretionary behavior (see also May and Winter 1999, 2000; May and Feeley 2000; May and Wood 2003 for similar uses).

EXPLANATIONS OF DISCRETIONARY BEHAVIOR

The framework developed in Chapter 1 suggests several categories of factors that can play a role in shaping inspectors' choices in enforcement situations. Previous research has found evidence of influence from each of these categories on enforcement decisions, including pressures from the work environment (Lipsky 1980), the political environment (Lipsky 1980, May and Winter 2000), coworkers (Brehm and Gates 1997), and the personal characteristics of both bureaucrat and client (Brehm and Gates 1997, Golden 2000, Denhardt and Crothers 1998). The consolidation of these factors into a single explanatory framework allows comparisons of the relative influence of each variable in the model, and as a result provides a more comprehensive picture of the complex set of motivations that shape street-level interactions.

INFLUENCES FROM THE WORK ENVIRONMENT

Traditional explanations for street-level behavior are typically about coping with a demanding work environment. The original and still dominant explanation for street-level discretionary behavior is Lipsky's *Street Level Bureaucracy* (1980). His original characterization was of chronically overworked and underfunded civil servants unappreciated by either clients or supervisors. They are frequently unable to sort out the vague and conflicting expectations of their

agencies, but are expected to enforce them nonetheless. They are in a perpetually defensive position, and resist any attempt by supervisors to direct or measure their workloads. They develop coping strategies to preserve their autonomy and manage their workload, strategies which are often at odds with the policy objectives of their agency. These strategies can vary considerably, but include rationing services, standardizing responses to client requests, detachment from the needs of individual clients, and routinization.

If these characterizations are true, it follows that the highest levels of discretionary behavior should occur in jurisdictions where workload pressures are the greatest. More specifically, rapid growth, inadequate resources, and heavy workloads should produce greater levels of discretionary behavior as inspectors develop strategies to cope with pressures they cannot control.

INFLUENCES FROM THE POLITICAL ENVIRONMENT

For many policymakers, bureaucratic discretion is simply an undesirable side effect of policy delivery to be controlled whenever possible through centralized rules and procedures. In some jurisdictions, the rules and procedures that govern street-level behavior are relatively static, while in others the active involvement of political actors is a routine occurrence. Political pressures on building inspectors might come from elected officials eager to promote growth or repay influential constituents for political support, from contractors seeking to influence the process in their favor, or from managers and administrators within their own department.

Predicting the effects of political influences is somewhat more difficult than predicting the influences of the work environment. Depending on the situation in a jurisdiction, inspectors could face pressure from political sources to go easy on enforcement or to be more aggressive in finding and punishing violators.

Theoretically, the pressures to be less aggressive might offset the pressures to be more aggressive, making the relationship between political pressures and street-level behavior more difficult to see. The approach used here compensates for this possibility by conducting one analysis for the magnitude of influences on discretionary behavior and a separate modeling to determine the direction of those influences.

NORMS AND COWORKER INFLUENCES

The culture of the work community is important for understanding bureaucratic behavior. John Brehm and Scott Gates (1997) find that the actions and opinions of co-workers exert substantial influence on the behavior of bureaucrats in federal agencies. Moreover, in observations by the author of building code enforcement situations, there was often a disconnect between agency policy positions and the norms of acceptable day-to-day behavior. In many cases, the actions and expectations of coworkers seemed more important than either the actions or opinions of supervisors (see also Brehm and Gates 1997). Inspectors would frequently meet informally, both in the office and in the field, to brainstorm an appropriate solution to a particular enforcement challenge. This suggests that norms of acceptable behavior may play an important role in

shaping the behavior of inspectors, and that inspectors within a jurisdiction often share information and develop similar approaches toward code enforcement.

VALUES, ATTITUDES, AND CHARACTERISTICS

Individual characteristics and personality traits are one of the least systematic and most difficult to capture aspects of street-level behaviors. Yet it would be foolish to argue that street-level behavior is not influenced by the values, attitudes, age, and experience of the inspector. Prior to Lipsky's work, most studies of bureaucracy ignored individual characteristics, possibly attributing them to character or personality traits not easily changed. While more sophisticated explanations have since been developed, the influence of individual convictions on behavior is still unclear. Attitudes, values, and beliefs are an important part of the assumptions in both New Public Management and traditional public administration, and are particularly important for understanding the motivations that underlie discretionary behavior.

Key Measures

The arguments laid out above suggest that a variety of motivations can influence the discretionary threats of punishment inspectors might make. To compare them effectively, a reasonable means of operationalizing the variables is essential. The majority of the measures below are taken directly from survey questions, augmented with secondary data about conditions in the jurisdiction where appropriate. A common tradeoff when using survey methodology is the

need to rely heavily on self-reported data. In this case, several measures are self-reported, but the problem is reduced somewhat through the use of two complementary datasets that partially validate each other. It is also lessened by the fact that to some degree the questions I am asking are perceptual, and self-reports are often more useful than hard counts for explaining perceptions.

The dependent variable in each model is based on the variability in the threat of sanctions within a jurisdiction. In every city, inspectors vary in their willingness to threaten sanctions in order to obtain compliance. In some places, these threats are an approved part of the agency's enforcement strategy; in others threats are considered an unacceptable way to induce compliance. Nonetheless, in cities with a tough regulatory stance there are inspectors who never threaten sanctions and in cities with an accommodating, customer service oriented approach there are inspectors who routinely threaten sanctions. It is this deviation from policy that the models are designed to explain.

To measure this deviation, I compare survey questions that ask specifically about 'threats of sanctions' in each survey. For the departmental policy measure, a question from the section on enforcement philosophy is used. The building official answer to this question may or may not reflect an official departmental policy on the use of threats, but does indicate the general preference of the jurisdiction, which is presumably communicated to inspectors. For inspector behavior, I refer to a section that questions the frequency with which various enforcement tools are used in an average week. The threat of

sanctions is one of eight tools surveyed and provides a good measure of the relative frequency with which each inspector actually uses threats.

To separate discretionary from non-discretionary behavior, I simply measure the difference between the reported behavior of each inspector and the preferences of the building official in his or her city. To calculate this measure, I subtract the agency value from that of each inspector, resulting in a variation score for each inspector and a range of variability for each city. This measure is discussed in greater detail as part of the findings along with the transformations that accompany the analyses.

EXPLANATORY FACTORS

Traditional public administration approaches typically assume that street-level workers use discretion to cope with pressures from the work and political environment they inhabit. Contrasting explanations offered by New Public Management scholars tend to emphasize individual characteristics and the influence of peers. In the models below, measures from both perspectives are combined to facilitate a more direct comparison of their influences.

The Work Environment: The enforcement capacity of the jurisdiction, the rate of growth, the level of inspector workload, and the discretion they have available are all indicators that should be influential if discretionary choices are the result of workload pressures. To measure the enforcement capacity of a jurisdiction, I use an index comprised of the mean of responses to four questions

about the adequacy of staffing, budget, technical expertise, and authority for enforcing codes. The range of the measure is 1 to 5, and the Cronbach's Alpha index of reliability is .73.

As an indicator of growth pressures in the community, I include the number of permits issued divided by 1000 to more closely match the scale of the other measures. To gauge workload levels I include the average number of sites inspected per inspector each day. To measure the grant of discretion in each jurisdiction, I use an index generated from building official answers to six yes/no questions about the flexibility inspectors are given in enforcement situations. The scores for this index ranged from 1 to 6, with a mean score of 3, a standard deviation 1.2, and a Cronbach's Alpha score of .51.

The Political Environment: Capturing the political environment is more complicated, since inspector assessments are often biased by a number of other factors, but are still important for understanding their motivations. To approximate the agency perspective I include a measure from the building official survey asking how well local elected officials understand the building department function. This measure has a range from 1 to 4, a mean value of 2.27, and a standard deviation of .66. I also include a dummy variable for the presence of a political scandal or corruption within the previous 10 years. To measure the perceptions of inspectors, I use two questions about the negative impact of pressures from elected officials, contractors, and building owners on their ability to perform their job. Each is measured on a 5-point scale. The elected officials

measure has a mean score of 2.12 and a standard deviation of 1.09, and the contractors/owners measure has a mean of 2.24 and a standard deviation of 1.26.

Peer Influences: Previous research suggests that norms of behavior in bureaucratic systems can be quite different from official policy and can strongly influence behavior. However, many pressures are similar for all inspectors in a jurisdiction, and it is not unusual for successful strategies to be adopted by others, particularly in places with strong cohesion among inspectors. In other words, inspectors in most places talk to each other. Where workloads are heavy they might decide among themselves to eliminate some procedures and streamline others.

While this may be good or bad for inspectors and clients, it can create confusion for analysts trying to understand motivations. This behavior may be the result of sharing information about how to cope individually with heavy workloads or it might be the product of informal jurisdictional norms. To distinguish the impact of enforcement norms from individual factors in the analyses, I include the average level of deviation from agency policy in the use of threats for each jurisdiction. For each inspector, I compute the mean score of all *other* inspectors in the jurisdiction, producing an average or expected level of threats in a jurisdiction.¹⁰

¹⁰ Cities with only 1 inspector were excluded from models that included peer influences.

The range of variation from these norms is somewhat more limited than from policy. The norms variable has a potential range of 10 (-5 to 5), but an actual range of only 5.5. The minimum score is -2.2, while the maximum is 3.3. Nevertheless, the distribution is well behaved, with a mean score of zero and a standard deviation of .91. The variable appears to fit expectations with regard to range and distribution of variation.

Attitudes, Values, and Characteristics: For this study, several measures are available to tap inspectors' attitudes about the use of both threats and sanctions. The first measures general agreement with the use of deterrence and sanctions in enforcement. Measured on a 5-point scale, the mean score of this variable is 2.6 with a standard deviation of 1.12. The second and third measures ask inspectors to rate the effectiveness of threats of sanctions in routine and difficult enforcement situations, respectively. Also measured on a 5 point scale, their mean scores are 2.0 and 2.6, with standard deviations of 1.57 and 1.52.

In addition to attitudes, measures are included to control for differences in the basic age and education levels of inspectors. The measures of age and education are taken directly from survey questions, and are measured on a 5 and 6-point scale, respectively.

Findings

The analyses in this section proceed in two parts. In the first, I discuss the variation in the threat of sanctions as an indicator of discretionary behavior. I

look at both how often and how far inspectors deviate from the preferences of their agency to get some sense of the extent to which discretion is used among building inspectors. In the second part, I focus on identifying the motivating influences that can explain that deviation. I first model the extent of deviation in an ordinary least squares regression to in order compare the relative influence of each independent variable on deviation from policy. This is followed by a multinomial logistic regression model to better explain which factors might induce inspectors to be more threatening, and which might induce them to be less threatening.

HOW BUILDING DEPARTMENTS VIEW SANCTIONS

The use of punishments or sanctions to promote compliance with regulations is one of the most widely debated aspects of the regulatory enforcement literature. Deterrence theorists argue that compliance is the result of clients calculating the probability of detection and the likely costs for noncompliance if detected (Bendor 1990). When the potential costs for noncompliance outweigh benefits, they comply. Building departments that adhere to this enforcement philosophy tend to create a climate of deterrence, often characterized by the threat of stiff penalties for noncompliance and showcase actions against chronic offenders.

On the other end of the spectrum are advocates of a softer approach to enforcement. They argue that deterrence tactics are costly, unpopular, and less effective for obtaining compliance than the consistent application of reasonable

enforcement procedures. This philosophy argues that compliance is the result of clients understanding the logic upon which regulations are based, and tends to emphasize education, outreach, technical assistance, and voluntary compliance.

The distribution of agency and individual approaches in the data suggests that both ends of this philosophical spectrum are active in the United States. As shown in Table 3.1 below, building departments differ substantially in their position on the threat of sanctions. Over half the jurisdictions place themselves in categories 1 or 2, suggesting a policy that actively discourages threats. Twenty two percent of jurisdictions rate themselves at midpoint, suggesting a policy of moderation or neutrality with regard to threats, and twenty seven percent of jurisdictions place themselves in categories 4 or 5, indicating a policy stance that supports or actively encourages inspectors to threaten sanctions in order to obtain compliance.

Table 3.1: Policy and Attitudes on the Use of Threats

Department Policy^a:	1	2	3	4	5		
Avoid threats of sanctions ^b	26%	25%	22%	18%	9%	Threaten sanctions	
Inspector Behavior^c:	Never	Very Low	Low	Medium	High	Very High	
Threat of sanctions ^d	17%	33%	27%	15%	6%	2%	
<i>Notes:</i>							
^a Source: National Survey of Local Building Departments, 1995, N=76							
^b Survey question wording: "The following sets of terms describe building department enforcement philosophies. Circle the number that best reflects your building department's enforcement philosophy."							
^c Source: Survey of Building Inspectors/Code Enforcement Officers, 1996, N=316							
^d Survey question wording: "Please circle the number that best indicates how frequently you use <u>on average</u> each of the following administrative enforcement tools when you detect a violation in a <u>typical work week</u> ."							

In theory, inspectors should not make independent judgments about when or how to threaten sanctions. Their scores on this measure should match the

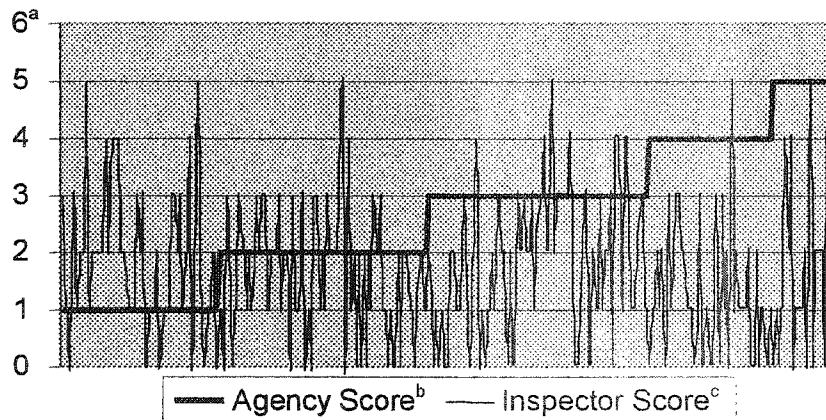
policy scores of their supervisors. From first glance however, it is evident that inspectors threaten sanctions less frequently than their agencies advocate. A full 77 percent of inspectors report that they never or rarely threaten sanctions, while another 15 percent report a moderate use of threats, and only 8 percent of inspectors indicate that the threat of sanctions is a regular part of their enforcement approach. For some inspectors, their approach is a reflection of their agency's policy, while for others it is a discretionary choice. To understand these differences, it is important to determine how well the approach of each inspector matches that of their agency.

In Figure 3.1, the relationship between agency policy and inspector behavior is illustrated in a visual way. The data are arranged according to the agency policy score from Table 3.1 (1 – 5), producing a step effect in the graph. The corresponding score for each field inspector is represented by a second line, illustrating the considerable variability between behavior and policy. One item of interest is that the more extreme policy positions at each end of the spectrum appear to elicit greater deviation from inspectors than the more moderate positions near the center. Nearly two thirds (63 percent) of the inspectors who report 'never' or a 'very low' usage of threats are found in jurisdictions that allow or even promote threatening sanctions as an appropriate enforcement tool.

Conversely, the 8 percent of inspectors reporting 'high' or 'very high' on their usage of threats are disproportionately located in jurisdictions with relaxed enforcement strategies. This suggests an interesting contrast to the 'rogue

inspector' notions that are popular in the media. From this data it appears that a majority of inspectors use threats infrequently. Further, they tend to follow agency policy when it is moderate, and use their discretion to moderate policy positions when they stray toward the extreme.

The data in figure 3.1 illustrate basic differences between inspector behavior and policy, and confirm the long-time assertions of both policy scholars and practitioners that street-level bureaucrats use their autonomy and discretion to shape policy. While this finding is quite interesting, the more difficult question that immediately springs to mind is, "Why do they differ so?" In order to model the factors that might provide an explanation for these differences, some adjustments to the data are necessary.



^aScale based on questionnaire responses described in Table 3.1.

^bSource: National Survey of Local Building Departments, 1995.

^cSource: Survey of Building Inspectors/Code Enforcement Officers, 1996.

Figure 3.1: Variation in Discretion: Agency Policy vs. Inspector Behavior

A deviation score can be conceptualized as the distance between each inspector score and policy score described in Figure 3.1. By subtracting each agency score from each inspector score, a measure of individual variation from jurisdiction policy for each inspector is created. This measure of deviation from policy has a potential range of 10 (-5 to 4). The distribution is well behaved, with a mean score of -.9 and a standard deviation of 1.9. This means that the average inspector in the sample threatens sanctions slightly less often than his agency's policy would suggest, and that nearly three quarters of inspectors fall within the range of -3 to 1.

This measure, while useful for understanding the extent of variation in behavior, is much more limited when the question turns to modeling the factors that *explain* the variation in behavior. The progression of values from -5 to 4 is not linear, since both -5 and 4 represent greater variation from policy, albeit in different directions, while the midpoint of the distribution (0) reflects the least variation from policy. To preserve the magnitude of deviations while still meeting the linear assumptions of OLS regression, the initial regression models shown in Table 3.2 below, are estimated using the absolute value of variation. This produces a variable with linear values ranging from 0 to 5, a mean value of 1.6 and a standard deviation of 1.3.

Table 3.2: Explaining Variation in Discretionary Behavior^a

	Model 1 ^b	Model 2 ^c
Work Environment Influences		
Enforcement Capacity of Jurisdiction	-.15* (-1.5)	-.13* (-1.3)
Number of Building Permits Issued/1000 ^d	.07 (.94)	.17* (1.3)
Inspection Workload	.03 (.48)	.02 (-.01)
Grant of Formal Discretion	.14** (2.0)	.05 (.80)
Political Environment Influences		
History of Scandal or Corruption	-.20** (-2.3)	-.11 (-1.3)
Perceived Understanding of building department by Elected Officials	.37*** (4.2)	.12* (1.4)
Perceived Interference from Elected Officials with Cases	.14* (1.5)	.12* (1.3)
Perceived Pressures from Contractors or Owners to Reduce Sanctions	-.10 (-1.0)	-.11* (-1.3)
Community and Peer Influences		
Norms of Behavior in Jurisdiction	---- ^e	.50*** (6.6)
Individual Values and Characteristics		
Belief in the Need for Deterrence and Sanctions	.09* (1.4)	.07 (1.2)
Believe Threats are Effective in Routine Cases	-.19*** (-2.8)	-.13** (-2.1)
Believe Threats are Effective in Difficult Cases	.14** (2.0)	.16*** (2.5)
Age	-.07 (-1.1)	-.02 (-.26)
Education Level	.08 (1.1)	.01 (.09)
Model Statistics		
Number of Observations	182	182
F-Value for Overall Model	6.94***	11.69***
Adjusted R ²	.30	.47
<p>*** p < .001 ** p < .01 * p < .05 (one tail test)</p> <p>^aDependent variable is the absolute value of the difference between agency policy and inspector actions on the frequency with which they threaten sanctions. Standardized coefficients reported, t scores in parentheses.</p> <p>^bModel 1 captures variation resulting from individual influences</p> <p>^cModel 2 captures both individual and group variation</p> <p>^dData were transformed to better fit the scale of other variables</p> <p>^eVariable not included for this model</p>		

EXPLAINING THE DISCRETIONARY BEHAVIOR OF INSPECTORS

Much of the debate between traditional public administration and New Public Management approaches boils down to their tendency to offer different explanations for the same street-level discretionary behavior. Traditionalists argue that this behavior is a product of coping strategies developed to respond to pressures from the work and political environment, while New Public

Management argues that behavior results from dedication, professional norms, personal beliefs, and the experience and education of the individual bureaucrat.

The regression results presented in Table 3.2 show how these variables shape the use of discretion with regard to the use of threats. Two models are shown, the first estimating influences from the work environment, the political environment, and personal attitudes and values on discretionary deviation from policy. This model captures the direct influence of these variables on inspector choices. The second model adds norms of behavior to the equation in order to distinguish between the individual responses to these factors and the shared responses that are often the result of peer influence.

One advantage of survey-based research is that the similar range and standard deviations of variables allows a fairly direct comparison of the magnitude of influences through the use of standardized coefficients. The models are estimated using Ordinary Least Squares regression in order to preserve these differences in magnitude. A separate modeling of the equations using logistical regressions was also conducted since the dependent variable has limited range and is categorical in nature. The results were similar to those from OLS, confirming the statistical relevance of these variables, but were less useful for the comparisons of influences that are important for this study.

Model 1 accounts for 30 percent of the deviation from agency policy, and is largely dominated by influences from the political environment and beliefs about the effectiveness of threats and sanctions.

Work Environment Pressures. The first four variables capture the influence of pressures from the work environment. Virtually all traditional studies of bureaucratic behavior cite heavy work demands as a primary cause of discretionary behavior, yet the results for Model 1 show only moderate support for this argument. Neither the number of permits issued nor the number of inspections required have a measurable impact on the discretionary behavior of inspectors. The enforcement capacity of the jurisdiction does have a statistically significant impact, and in the direction one would expect. This means that inspectors in cities with lower capacity deviate from policy more than those in cities with greater capacity. Lipsky (1980), Winter (2002) and others have suggested that variability in coping-type behavior is affected by the resources available to a jurisdiction, and these data provide some support for this argument.

The level of formal discretion an inspector is given is also significant as a predictor of the level of deviation. While this is not a surprising finding, the significance level of the variable and direction of the coefficient are useful for increasing confidence that the overall model captures genuine relationships. It is interesting to note however, that the coefficients for both measures are rather smaller than expected, particularly in light of the emphasis of workload pressures in the literature. This suggests that while workloads are not unimportant influences on street-level behavior, they are also not the dominating force that some approaches have assumed in this context.

Political Pressures. Influences from the political environment are one of two dominant categories for explaining the variation in Model 1. Three of the four political indicators are statistically significant for the model, and two have a stronger influence on deviation than any single factor from the work environment. The presence of a scandal or corruption within the past 10 years has a sizeable negative impact on the discretionary behavior of inspectors. Inspectors in these cities are less likely to deviate from policy than those in cities with no history of scandal. Presumably, this reflects an effort by administrators to restore credibility among contractors who no longer take the building department seriously.

The two measures of elected officials' involvement also show a strong influence on behavior in Model 1. The relationship between elected officials and discretionary behavior suggests an element of political control, and supports the notion that principals are able to constrain, at least to some extent, the behavior of their agents. In jurisdictions where elected officials are more involved in building department functions, inspectors are more likely to deviate from agency policies. This may be due in part to elected officials imposing their preferences for economic development and satisfied constituents on inspectors producing a more facilitative, less coercive approach, but may also be due to pressures from officials to crack down on violators. While this model is unable to distinguish between these explanations, the level of influence is impressive in itself. A more thorough investigation of the direction of effects is presented in a separate modeling later in this chapter.

Individual Characteristics. A second dominant story that emerges from this model is the role of personal beliefs and values for shaping inspector behavior. In this model, each of three separate measures of attitudes toward the use of deterrence and sanctions is statistically significant, suggesting that inspectors who often threaten sanctions also believe they are a necessary and effective enforcement tool. The relationship between belief and behavior is relatively straightforward and not unexpected, but in this case it is important as evidence of non-coping influences shaping the behavior of street-level bureaucrats. These data suggest that the inspectors who threaten sanctions most frequently do so because they believe that they promote compliance. In other words, they may choose to substitute their personal enforcement approach, in part at least, because they believe it is the right thing to do. The size of the coefficients, moreover, shows that personal beliefs and attitudes are among the stronger influences on behavior, even in a climate where the realities of scarce resources and heavy workloads would seem to favor coping explanations.

Peer Influences. A number of studies have suggested that co-workers play an important role in shaping bureaucratic behavior, and in Model 2 the influence from peers is added to the equation, increasing the variation explained by the model to 47 percent. The impact of these norms of behavior is immediately apparent from the data, as the addition of this single variable increases the variation explained by 17 percent, and the coefficient is nearly four times the size of any other variable in the model. Many of the factors that were

influential in model 1 remain significant, but the size of their coefficients are in most cases somewhat decreased.

One explanation for this, suggested by the field observations of the author, may be that coping strategies are accepted as a part of everyday behavior, and the norms of a jurisdiction may include a group-level response to compensate for workload and political pressures. In a number of cases in several jurisdictions, field inspectors were observed discussing the challenges of time and workload management. In each instance they came to agreement about the appropriate course of action, yet rarely was any decisive weight given to agency policy on the matter. Rather, mutually accepted norms seemed to guide their behavior for managing both time and the quality and quantity of inspections they performed.

EXPLAINING THE DIRECTION OF DEVIATION

The findings from Models 1 and 2 suggest that political pressures, peer behavior, and personal beliefs all motivate street-level bureaucrats to deviate from the policies of their agencies, but tell us little about whether inspectors become more threatening or less threatening in response to these influences. This is an intriguing question for scholars and an important distinction for policymakers, since arguments can be made in either direction for many of the variables outlined in the previous models. Workload pressures, for example, might reasonably lead inspectors to be more threatening in order to cultivate deterrence, since they have little time for repeat inspections. They might also

however, cause inspectors to be less threatening and more willing to sign off on marginal work in an effort to fulfill their demanding caseload.

To answer these questions, a multinomial logistic regression equation is presented in Table 3.3. For this model, variation from agency policy was recoded so that inspectors who use threats less frequently than their agency's policy are in one category while those who use threats more frequently than their agency's policy are in another. Those who match agency policy exactly are the base group for this analysis. The model generates a comparison between the base group and each of the other two categories. It predicts the influence of each independent variable on moving inspectors from the base group to either the more or less threatening category.

As with the previous models, the dominant factors here are influence of political environment pressures and measures of personal belief. Since the direction of influence is theoretically uncertain in this model, a more conservative two Tail statistical test of the significance of coefficients is appropriate. As a result, the only workload variable to achieve statistical significance is the number of building permits. This suggests that in jurisdictions with heavy growth, as measured by the number of permits issued, inspectors are more likely to be more threatening and less likely to be less threatening than in jurisdictions with slower growth. This finding supports traditional explanations that emphasize coping, and suggests that inspectors are more likely to become more threatening when pressed by forces in their work environment.

Table 3.3: Direction of Deviation in Discretionary Behavior

<i>Explaining the Direction of Deviation from Agency Policy^a</i>		
	Less Threatening	More Threatening
<i>Work Environment Influences</i>		
Enforcement Capacity of Jurisdiction	-.63 (.41)	-.09 (.51)
Number of Building Permits Issued/1000 ^b	-.37* (.17)	.55*(.18)
Inspection Workload	-.08 (.06)	-.07 (.09)
Grant of Formal Discretion	.28 (.20)	.20(.28)
<i>Political Environment Influences</i>		
Perceived Understanding of Local Elected Officials	1.5* (.58)	-.01 (1.1)
History of Scandal or Corruption	-2.6* (.89)	-1.8* (.90)
Perceived Interference from Elected Officials with Cases	.36 (.29)	-.21 (.36)
Perceived Pressures from Contractors or Owners to Reduce Sanctions	-.14 (.33)	-.04 (.38)
<i>Individual Values and Characteristics</i>		
Belief in the Need for Deterrence and Sanctions	.08 (.24)	.71* (.29)
Believe Threats are Effective in Routine Cases	-.57**(.18)	.94* (.26)
Believe Threats are Effective in Difficult Cases	-.53*(.23)	1.3* (.29)
Age	-.50 (.27)	-.01 (.31)
Education Level	.03 (.20)	.55 (.32)
<i>Model Statistics</i>		
Number of Observations	189	
Chi-Square GOF for Overall Model	168.65***	
Pseudo - R ² ^c	.60	
Percent Correctly Classified ^d	33 / 90 / 81	
<p>*** p < .001 ** p<.01 * p<.05 (Wald test)</p> <p>^aDependent variable is whether inspectors are more threatening or less threatening than agency preferences. Model predicts the influence of each factor on deviation from agency policy in each direction. Standard errors in parentheses.</p> <p>^bData were transformed to better fit the scale of other variables</p> <p>^cCox and Snell Pseudo – R Square.</p> <p>^dReported percentage correctly predicted for equal to policy/less threatening/more threatening</p>		

The measures of elected official involvement in this model paint a particularly clear picture of the relationship between political actors and street-level bureaucrats. As the involvement of elected officials in the building inspection process increases, inspectors are more likely to be in the less threatening category, and nearly equally less likely to be in the more threatening category. In other words, local elected officials seem to send clear messages to inspectors to go easy, at least so far as threats are concerned. Not surprisingly,

local officials are often concerned with constituency opinion, and this relationship may be the result of subtle messages from city officials trying to maximize their position. In field interviews, inspectors frequently complained about the intervention of elected officials. In one jurisdiction, a well connected mayor was particularly well known for softening enforcement decisions, and inspectors were outspoken about the potential negative long-term consequences of his actions even as they modified their own behavior toward contractors.

A history of scandal or corruption produces an interesting effect on discretionary behavior that warrants some discussion. From the model, it seems that inspectors in jurisdictions with a scandal in their past are much less likely to be less threatening than their agency, but not necessarily more likely to be more threatening. Two factors unique to the enforcement approach in these cities are important to note for understanding this relationship. First, cities recovering from a scandal often have a much greater interest in controlling discretionary behavior than other cities. Their reputation has been damaged and policymakers might reasonably insist on more uniform enforcement than is typical of other cities.

Second, cities recovering from scandal frequently demonstrate that they are serious about enforcement by imposing a rigid enforcement strategy. This means that inspectors in these cities may be uniformly more threatening than inspectors in other cities, but are less likely to be more threatening than their agency's policy because the policies support a more threatening approach. Inspectors from Newark Delaware, as recounted in Chapter 2, are a good

example of this. Though they did vary from one another in both philosophy and style, the range of variation was much smaller than in other jurisdictions. The most flexible inspector in Newark would be among the least flexible in nearly any other jurisdiction.

The findings in Model 1 showed that beliefs and attitudes play an important role in shaping inspector behavior, and the findings from the multinomial model strengthen that assertion. Each of the three measures of attitudes on the use of threats is statistically significant, and two of the measures are significant in both directions. This means that inspectors who believe threats, deterrence, and sanctions are effective enforcement tools are statistically more likely to be more threatening and equally less likely to be less threatening.

The importance of this finding should not be overshadowed by its intuitive simplicity. Deviations in street-level behavior are shaped by many factors, as this and other studies have noted. Yet few traditional explanations have placed much faith in either the ability or the willingness of street-level bureaucrats to make correct policy decisions. They are assumed instead to be more interested in easing their own working conditions than in promoting effective policies.

In these models however, one of the primary reasons inspectors deviate from policy is because their personal beliefs and attitudes run contrary to agency policy. The data suggest that inspectors use threats because they believe they are effective, or do not use them because they believe them ineffective. Presumably, this relationship extends to other dimensions of enforcement style

as well. A belief in the effectiveness of education might promote taking time to educate clients on the basis and reasons for regulations, just as a belief in cooperation and flexibility might produce compliance through negotiation rather than coercion.

Some will undoubtedly argue that these behaviors are not the product of isolated judgments, but that beliefs are shaped by experiences, which are in turn shaped by the policies of agencies and the actions of peers. While it is certainly true that both supervisors and peers do shape behavior, it is important to note that the statistical relationship between beliefs and discretionary behavior persists even when those factors are included in the model, suggesting that beliefs have an independent role in shaping street-level behavior over and above the factors offered in most traditional explanations.

Conclusions

The role of street level discretion is an important part of current debates in both public management and implementation circles, but without an honest understanding of why street-level bureaucrats behave as they do, the appropriate level of discretion is nearly impossible to determine. Binding them with centrally imposed rules and procedures dramatically reduces their ability to tailor service delivery to the needs of each situation, but giving unlimited discretion to an opportunistic shirker dramatically reduces an agency's ability to deliver services at all. A central question of this debate is what motivates street-level bureaucrats, both when they follow agency directives and when they deviate

from them. The findings presented in these models can make several important contributions to that debate.

Public Administration. These data show that building inspectors, like many street-level bureaucrats, vary substantially in the way they perform their jobs. They make choices that can substantially alter the policy that is delivered to clients, and policymakers exert only limited control over those choices. Discretion happens every day in every jurisdiction, despite efforts in most places to encourage uniformity in the delivery of services. This finding might encourage some policymakers to redouble their efforts to rein in their subordinates with more specific policies and standardized procedures.

Since street-level bureaucrats are not directly accountable to the electorate, one can reasonably argue that the level of deviation demonstrated by the data is unacceptable. Yet the deviation alone becomes either more or less problematic depending on the motivation underlying the behavior. Inspectors deviate from policy for reasons, and those reasons are the key piece of the puzzle for understanding their behavior and developing an efficient approach toward the use of discretion.

Traditional explanations contend that street-level bureaucrats make discretionary choices when they are pressured to do so by their political and/or work environment. There is evidence in these data that discretionary behavior is shaped by pressures from the work environment, but less than previous scholarly literature would suggest. Considerably more influential in this study are the

pressures from local political actors becoming involved in the enforcement process. The data show that inspectors do respond to pressures from local elected officials, and the direction of influence suggests that they are usually pressured to be more lenient and accommodating in their enforcement approach. The findings do support the notion that inspectors modify their behavior in order to cope with their environment, but they also point to a number of non-environmental factors as equally impacting on behavior.

One of the more intriguing findings from this chapter is that inspectors seem to differ from policymakers far more than they differ from each other. The data suggest that the norms of acceptable behavior in each city are among the strongest predictors of behavior. Peer influences are not ordinarily included as part of traditional 'coping' explanations, though Brehm and Gates (1997) find peer pressures to exert a powerful influence in the bureaucratic environments they studied. Some of the influence in this case probably stems from inspectors sharing coping strategies, but differs from individual coping responses in that behavior based on norms is more easily controlled and shaped by policymakers.

Norm-based behavior also tends to provide a greater level of accountability than individual coping decisions. This is good news for administrators in an era of shrinking budgets who desire to maintain or even increase the level of service but have few mechanisms at their disposal to decrease workloads. Coping strategies that evolve as a group are far more amenable to negotiation and control than the opportunistic decisions of a single

inspector, and these data suggest that shaping behavior through norms may be an effective alternative means of directing and controlling discretionary behavior.

New Public Management. The New Public Management perspective emphasizes the development of professional norms as a key mechanism for maintaining accountability and ethics while improving efficiency by replacing more formal rules and procedures. They are less concerned about opportunism and corruption than traditionalists, and argue that street-level workers who feel they belong to a professional community are more likely to uphold the norms of behavior intrinsic to that community.

These findings confirm not only that these norms exist but that their influence on behavior is substantial. In most cases, the norms observed in these data are not the professional standards of conduct advocated by New Public Management scholars, but are indicative of the level of influence that such norms might have if properly cultivated. The important point is that street-level bureaucrats listen to their peers and will tailor their behavior to match what others in their jurisdiction are doing.

A key criticism of the New Public Management approach has been that while professional norms might be adequate for many types of bureaucrats, they would prove insufficient to control the autonomous, self-interested street-level bureaucrat. These data suggest that this is not the case, that information sharing and norms of behavior are already in place and that the development of

professional norms would simply provide greater control to policymakers and administrators.

A surprising amount of variation in the models is explained by measures of attitudes and personal beliefs. There is evidence that inspectors are interested in doing what they believe works best, and they are in a unique position to evaluate and refine the impacts of their choices if given the opportunity by policymakers to do so. This is perhaps the most intriguing of the findings, for while there is clearly evidence that discretionary behavior can be a response to a hostile work environment, in these models there is also evidence that inspectors make choices based on their experiences and beliefs.

The New Public Management perspective has long asserted that the vast majority of government employees are good people more interested in doing a good job than in promoting their own interests. Empirical support for this contention has been mixed, yet these data suggest that inspectors' decisions are based at least as much on what they believe as on coping with the pressures that they face.

Implementation systems are often imperfect, and both administrators and field personnel must routinely adjust their behavior to respond to the changing desires of legislators and clients. New Public Management argues that street-level bureaucrats are actively engaged in this process, thinking on their feet to deliver policies in the way most likely to produce compliance. These findings support that assertion, suggesting that inspectors think about their enforcement

choices, and rely to a surprising degree on their own experiences and beliefs when selecting an approach.

Innovation is often the product of such a process and with the opportunity to transmit these ideas to others through the norms mechanism, the potential for far-reaching, positive effects on the enforcement system is considerable. The idea that street-level bureaucrats can be trusted to choose an optimal enforcement approach to maximize compliance rather than maximize leisure may be controversial, but these data suggest that in many cases it is already happening.

From these findings, arguments can be made for both sides of the debate on bureaucratic discretion. Certainly, inspectors are adjusting their behavior to diminish the impact of their work environment and respond to pressures from political figures. Traditionalists, concerned with the science of administration will no doubt find this unsettling, though probably not surprising. But inspectors are also influenced by coworkers and their own attitudes and values. New Public Management advocates will be encouraged by this evidence of beliefs and norms influencing behavior, implying that behavior is conscious and generally germane to agency policy.

Traditional approaches to public administration have always favored centralizing decisions as much as possible, granting discretion only in circumstances when no reasonable policy could cover all situational contingencies. They did this for two reasons. First, information was assumed to

be widely dispersed and difficult to obtain. Those at the center were better able to gather information from all sources and thus see the shape of a problem more clearly. Second, it was assumed that low-level workers would shirk if given the opportunity, and make decisions that favored their personal interests over policy interests.

Information is no longer difficult to obtain but instead is now difficult to process. Decisions are made more quickly now than at any time in history, yet the increasing complexity and specificity of policy issues require ever greater amounts of time, attention, and knowledge from policymakers. A central argument of New Public Management is that the mechanisms of administration from the early 20th century are increasingly unsuited to handle the realities of the 21st. They argue that street-level workers now possess both the specialized knowledge and the contextual understanding necessary for meaningful policy decisions, while centralized policymakers, increasingly, do not.

Yet in order for a transfer of decision-making responsibility to take place, policymakers must trust that their subordinates' actions will promote their policy objectives. This chapter finds little reason to suspect street-level bureaucrats are unworthy of this trust, and identifies several promising mechanisms for delegating authority while maintaining some element of accountability and control. Though the answer to questions of discretion will never be simple, increasing pressures on central policymakers will eventually require some sort of strategy to manage their own workloads, and delegating greater responsibility to

the front lines may well be the best of the available choices for coping with that reality.

Chapter 4: Supervision, Control, and Accountability

Spurred by successes in other nations and by decades of feedback from voters frustrated with the sluggish performance of the federal government, the Clinton administration adopted a version of New Public Management in 1993. Promising in the National Performance Review (1993) to “reinvent” the federal government to “work better and cost less”, the NPR recommended prioritizing customer service, streamlining and eliminating bureaucratic procedures, and empowering front line workers with greater decision-making authority.

Now, nearly a decade later, scholars and practitioners have expended a good deal of effort examining the successes and failures of the reinvention effort, yet are in many ways no closer to agreement on whether it is an improvement on the previous, more traditional approach. One of the most important and difficult issues in this debate has been about the supervision of empowered public servants.

New Public Management supporters have been consistently optimistic about the potential of empowerment to tap a vast reservoir of creativity, ingenuity, and innovation slumbering in the bureaucracy. The oft quoted notion that public servants are simply “good people trapped in bad systems” typifies the argument that bureaucrats will give liberally of their time, talents, and energy if

given the opportunity, the tools, and the proper motivation (Osborne and Gaebler 1992; Osborne and Plastrik 1998).

Traditionalists are far more pessimistic about the bureaucratic response to empowerment, emphasizing the heightened potential for manipulation by self-interested bureaucrats instead (Behn 1999; Lynn 2001). They question whether an empowered bureaucracy can ever be democratically accountable for its actions. They ask what role supervision would play in such a system, and whether citizens would accept the inconsistencies in service that inevitably arise with a decentralized decision model. They also raise a more fundamental question: whether typically risk-averse bureaucrats want to be empowered in the first place? Since bureaucrats function in an environment where information is power, they argue that most have invested years learning how to work the existing system and might value the protection of established processes more than the opportunity of innovative solutions.

Most of the debate between these two perspectives in this regard has ignored the somewhat startling fact that both are correct in their depiction of the weaknesses of the other. The procedural limitations of the traditional approach do impede performance, and in a climate of decreasing budgets and increasing citizen expectations, performance matters. But so does accountability. Citizens care as much about how their government operates as they do about what it accomplishes and the decentralized decision model of New Public Management does devalue the rules and procedures that promote accountability.

Earlier, I argued that successful public administration must balance the competing demands of performance and accountability. In this chapter I examine how aspects of supervision can impact attitudes and behavior. I believe the perspectives differ in their conclusions about the appropriate levels of supervision and control primarily because they make different assumptions about what motivates bureaucrats to act. Because they begin with different assumptions about what bureaucrats value, they arrive at different conclusions about the incentives and punishments that are necessary to produce the desired behavior.

Each approach is quite reasonable if their assumptions are true, but as Chapter 3 suggests, unilateral assumptions about discretionary behavior are overly simplistic – street-level behavior is often both self interested and altruistic. Inspectors respond to cues they receive from supervisors and coworkers, and tailor their behavior to fit their expectations. This suggests that supervision is not unimportant, as some studies have shown, but rather that different assumptions lead to different supervision tools, which in turn produce key differences in inspector attitudes as they deliver street-level services to citizens.

In the sections that follow, I first discuss the theoretical foundations of supervision in public administration, beginning with the shared supervision concepts that originate from principal agent models. I outline the differences in traditional and New Public Management assumptions and the combination of supervision tools that each prefers. I then turn to examine supervision in the

real-world, where tools are mixed and matched with little regard for their theoretical purity. I develop a measure to distinguish between the institutional and personal aspects of supervision then test the influence of each on the attitudes and behavior of inspectors. In the final section I return to some of the questions raised above. I discuss what I believe is the optimal relationship between supervisors and workers, ending with a mixed approach to supervision that values both performance and accountability.

Street-Level Bureaucrats and Supervision

Building departments are a good place for a study of supervision both because of the diversity of their environment and because of their freedom to choose their own approach. The vast majority of departments enforce building codes based on national models, but each sets their own priorities for enforcement and approach to supervision according to local needs and influences. As a result, they are a population with a wide range of solutions to fundamentally similar problems. Some are deeply traditional with a strong emphasis on standardization and procedures, while others are almost entirely customer-driven with an emphasis on responsiveness and flexibility.

In Chapter 1, I made the case that building inspectors are a good example of Lipsky's street-level bureaucrat. In this chapter, I argue that they are an equally good choice for analyzing the effects of supervision and empowerment. These workers are unique in that the tasks they are asked to perform require them to make policy decisions. As the men and women who actually deliver the

services and obligations of government to its citizens, they routinely make what amount to policy decisions about the eligibility for services or compliance with regulations. Their supervisors are rarely in a position to evaluate the appropriateness of their actions, even when standardized procedures exist to cover the circumstances of the situation. They are different by design in this way from other government employees; society grants them the autonomy to determine where they are most needed and the discretion to determine the appropriate response once they arrive. As such, their behavior is consequently both more important and more difficult to control than many other categories of public worker.

As a group, they are possibly the best example of an empowered class of government workers. They are also well suited for comparing traditional and New Public Management approaches because, as Lipsky (1980) notes, street-level bureaucrats continually face pressures and demands from both above and below and routinely have opportunities to shirk their duties or otherwise substitute their self interest for the public interest. Yet scholars find that in practice, they often ignore those opportunities. "Street-level workers discount the importance of self-interest and will often make their work harder, more unpleasant, more dangerous, and less officially successful in order to respond to the needs of individuals" (Maynard-Moody and Musheno 2000). This relates directly to key the differences in assumptions about what motivates bureaucrats and what they do in the absence of external controls that is the focus of this

chapter. To phrase the point another way, studying street-level bureaucrats can help us understand whether traditional control mechanisms like standardization and supervision are necessary tools for keeping otherwise self-interested bureaucrats honest and consistent, or unnecessary constraints that keep otherwise dedicated, professional bureaucrats from achieving their highest level of performance.

The Theoretical Arguments for Supervision

There are nearly as many ways to supervise workers as there are workers in need of supervision. Yet at the core, most administrators conceptualize the relationship between superiors and subordinates in similar ways. As outlined in Chapter 1, the principal agent model is the formal representation of this relationship, and specifies a number of characteristics that are common to both traditional and New Public Management perspectives on supervision. The decision model outlines the agent's behavior as a choice between what he is told to do (x) and what he prefers to do (y). The equation, $y(1-p)+p(x-s)$, represents the utility the agent receives from doing what he prefers, once the probability he will be detected and the subsequent punishment for deviating have been factored in.¹¹ The relevance for this chapter is to illustrate how different approaches shift the equation in different ways to induce agents to choose x over y .

¹¹ Remember that the probability of detection varies, so for any given choice the utility function of y is the value of y times the probability that the deviation escapes detection, or $y(1-p)$, plus the probability of detection times the value of x minus any sanctions (s), or $p(x-s)$. Refer to Chapter 1 for a more detailed discussion.

A brief example illustrates this point. If an agent prefers choice y over choice x by 50 percent, we can set their initial values at 1.5 and 1, respectively. In order for an agent to choose x , the agent's utility for choosing x must either be increased or the utility for y must be decreased. This can be done in a variety of ways, but the most common approach is to increase the level of monitoring and/or punishments (p and s) until the value of y drops below one.¹²

This basic principal agent model is depicted in Figure 4.1. If the probability of detection, for example, is 50 percent (.5), a sanction level of .5 will balance the equation in favor of x . If however, the probability of detection is small, say 20 percent (.2), a rational agent will be persuaded to choose x only by the threat of a very large sanction (2.0), one that is 50 percent larger than what he receives from y if undetected. A very diligent monitoring system that detects 90 percent of all deviations need have only a very small sanction of .056, less than six percent of the utility value of x and less than four percent of y . It should be noted that detecting 90 percent of deviations is considerably more expensive and intrusive than detecting only 20 percent, but the potential size of the deviation, and therefore the damage to the principal, is much smaller.

¹² The question of which alternative an agent will choose when the values of both are 1 is more complex, requires some consideration of risk aversion and is beyond the scope of this discussion. For this chapter, I assume that if choices are equal, the agent will choose the less risky alternative and follow principals.

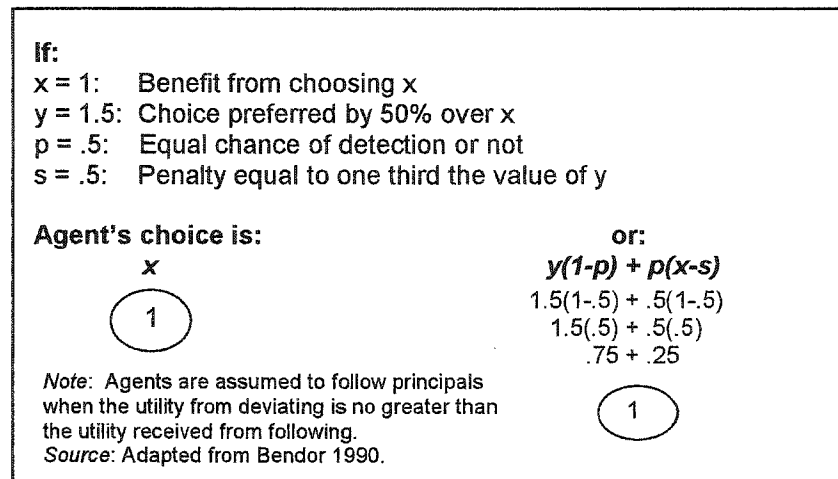


Figure 4.1: The Basic Principal Agent Decision Model

An alternative to increasing monitoring and sanctions is to simply decrease the distance between the values of x and y . If, for instance, an agent prefers y over x by only 20 percent, the level of monitoring and sanctions needed decreases considerably. With a detection probability of 50 percent (.5), the sanction needed is only .2, 30 percent smaller than in the previous example. Or, if principals establish a sanction of .5, they must now detect only 30 percent of deviations in order for the system to be effective, as opposed to 50 percent in the previous example. This approach mathematically lowers the need for both monitoring and sanctions in much the same way an ebbing tide lowers all boats. The ratio of an agent's preference for y over x can be changed in a number of ways, including rewards and incentives for choosing x , educating agents on the various merits of x over y , or by principals incorporating attributes from y into x .

Traditional approaches to x have relied most on monitoring and sanctions, while New Public Management has preferred incentives, education, and

empowerment. These differences are not random, but the product of the theoretical heritage and assumptions of each. Mathematically, each is effective for controlling agent behavior, but empirically, some tools do seem to work better than others. A discussion of the theoretical basis for these differences will provide the context that the formal models lack, and one that is necessary for an empirical comparison. But it is important to remember that despite their differences in theoretical origin, each of the tools discussed in this chapter can be understood in terms of its impact on the basic decision equation modeled above, and that the optimal combination of tools may not be fully contained within either perspective.

THE TRADITIONAL APPROACH TO SUPERVISION

One of the most common criticisms of New Public Management is that it abandons the system of structured accountability that, despite all its other inefficiencies, the traditional approach preserves. When decisions are centralized and flow in a hierarchical fashion, bureaucrats are responsible only for following the rules and procedures that are the decisions of their superiors, who are in turn accountable to their superiors and so forth eventually to elected officials who are accountable to voters. Defenders of the traditional public administration paradigm question whether a government with an empowered bureaucracy can ever be held accountable for its actions. Robert Behn notes:

“Democratic accountability is not optional; it is an essential characteristic of any approach to structuring the executive branch of government. It does not make any

difference how well your paradigm works for private-sector organizations. Government is different. Government must be responsible not just to some collection of interested stakeholders, but to the entire polity. If your system does not ensure accountability to the citizens, then it is, by definition, unacceptable” (Behn 1999).

The traditional approach to supervision has its roots in the earliest writings of public administration. The arguments of Wilson, Gulick, and Goodnow for the creation of a competent but politically neutral administration of policies included provisions for administrators to be accountable for the processes they used to carry out political mandates (see Fry 1989). Weber’s model of the bureau as the ideal organizational structure for delivering services was based on his analysis of nineteenth century Prussian bureaucracies, and promoted a hierarchical structure, a centralized system of decision and control, and a focus on creating and following rules and procedures prescribed by law. These concepts lead traditional systems to emphasize hierarchical authority and to standardize tasks and procedures as much as possible.

The traditional approach also tends to more actively monitor the behavior of subordinates and incorporate formal disciplinary mechanisms. These aspects are not based on early public administration works but on more recent rational choice models. Classical public administration scholars said relatively little about what motivates bureaucrats, but what they did say promoted an assumption of honesty and integrity in the public sector rather than self-interest. Weber in particular includes in his writings ideas that suggest that “public sector motivation is radically different from private sector motivation” (Lane 2000 p.24). He speaks

of 'a call to serve' in public life as an altruistic combination of obligation and honor that confers esteem on the public servant through service to something greater than himself. Weber's concept of altruistic service complemented Wilson's notion of separating the competent administration of government from the passionate and political aspects of government, and became the dominant assumption upon which bureaucratic behavior was modeled for much of the twentieth century.

The public choice school that emerged from economics in the 1960s and 1970s directly challenged this assumption of altruistic motivation and offered in its place a model of interaction that characterized bureaucrats as principals and agents. Based on assumptions that agents (workers) are rational and self interested, but with preferences that differ from those of principals (supervisors, policymakers), these models argue that finding a specific combination of incentives and/or punishments is the key to ensuring that agents continually serve the public interest rather than their personal interest. By centralizing decisions, standardizing procedures, emphasizing hierarchical authority, monitoring behavior, and punishing deviations, traditional public administration approaches are quite effective both at combating corruption and preserving accountability for the neutral implementation of public policies.

THE NEW PUBLIC MANAGEMENT APPROACH

Few advocates of New Public Management would argue against the value of bureaucratic accountability; it *is* an essential characteristic of a properly

functioning executive branch. But many would argue that traditional approaches to supervision are inefficient and unsuited to the 21st Century. The traditional approach was developed primarily to counter the corruption and incompetence that was widespread in the bureaucracy at the end of the nineteenth century. In fact, Wilson's argument for a 'science of administration' was directly related to his observation that America had "just begun purifying a civil service which was rotten full fifty years ago" (Wilson 1887).

Advocates of New Public Management argue that performance, not corruption, is the primary challenge facing the bureaucracy today. Voters today, they argue, demand accountability for results, not procedures, and the absence of dishonesty or incompetence is no longer an acceptable substitute for poor performance. There are other ways to ensure accountability, they maintain, that begin with a different set of assumptions about the fundamental nature of people. The NPR asserts that:

"...people – in government or out – are, for the most part, neither crooked nor stupid. Most people want to do the right thing, so long as the right thing makes sense. Perhaps the most important thing about the reinvention initiative, and its regulatory reform work in particular, is that it is based on a new assumption: that people are honest and that if you tell people what needs to be done, and let them get on with doing it, the chances are it will be done better – and more cheaply – than if you tell them how. Moreover, it values them as human beings" (NPR 1995 p.33).

The common assumption, they contend, that honest and smart people are either crooked or stupid results in restrictions and red tape that are both unnecessary and often more costly than the abuses they are intended to prevent.

“This lack of trust in its own employees is one reason why doing almost anything in the government has always required a couple dozen signatures: to be sure no one was cheating the taxpayer. Of course the process sometimes cost more than what was protected, but at least no one could be blamed if something went wrong” (ibid p.33).

The NPR advocates scrapping many of the traditional control and accountability mechanisms in favor of a culture of empowerment and trust. They flatly reject the core assumption of self interest when it comes to the preferences of public employees, preferring Weber’s concepts of altruism and service to higher ideals as the primary motivating factor for public service.

“The essential ingredient in bringing about so great a people-led change – indeed, the essential ingredient of self-government – is trusting the people involved. In this case, that means government employees and the people they serve... (G)overnment needs to have more trust in the American people – including its own employees. It needs to trust that when we say we need something, we’re right. It needs to trust that when we say something needs fixing, it does. It needs to trust that when we’re given a goal to reach, we’ll reach it” (NPR 1995 p.93).

The emphasis in New Public Management is almost exclusively on improving performance, and performance is defined by results, not process. Accountability is achieved chiefly through measuring customer satisfaction. Individual workers are empowered to make decisions and encouraged to ‘do the right thing’ in meeting the individual needs of their customers. The permission slip in Figure 4.2 below, distributed as part of the NPR reinvention, is a prime

example of the shift from process to performance that New Public Management advocates.

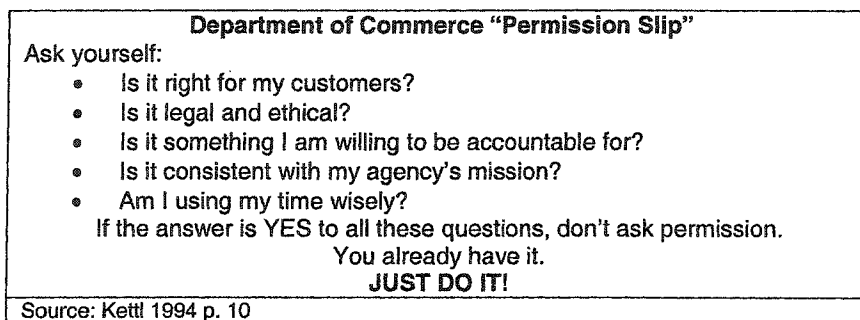


Figure 4.2: Department of Commerce 'Permission Slip'

Critics often argue that this type of empowerment amounts to a wholesale abandonment of the role of the supervisor, yet supporters counter that supervisors play an even more important, albeit different, role in shaping behavior than under traditional systems. The primary function of supervision under New Public Management is not to monitor and control subordinates, but to educate, persuade, and coordinate street-level decisions so that a continuity of service is maintained for the customer. This approach requires a positive relationship between principal and agent, and willingness on both sides to negotiate and learn.

Understanding Supervision in Practice

"In theory, there is no difference between theory and practice. But, in practice, there is."
- Jan L.A. van de Snepscheut

In the real world, building departments can differ considerably in their beliefs about what constitutes effective supervision. As in most settings, the daily

routine of supervising inspectors is more often about solving problems than about testing theories of public administration. Yet a number of important questions can be answered by looking at these real world solutions. Statistical models are a productive way to examine these types of questions, and the 1996 survey of building inspectors provides the quantitative data necessary for these techniques.

For this analysis, I approach the challenge of supervision in two steps. First, I use a principal components analysis to identify and isolate the institutional and personal aspects of supervision. I identify four independent dimensions in the analysis, each of which has an independent influence on subordinate behavior. Two of the dimensions reflect the institutional components of supervision, such as monitoring, standardization, and performance review. The other two capture dimensions of the personal side of supervision, such as leadership, communication, knowledge, and organizational support.

In the second step of the analysis, I model how these elements of supervision influence employee attitudes and behavior, using job satisfaction as an indicator of the potential for each dimension to motivate and shape inspector behavior. The selection of job satisfaction is important because street-level bureaucrats are unique in their ability to conceal their actions and resist enforcement of policies with which they disagree. Particularly when agency preferences are more rigid than inspector preferences, supervisors will find it difficult to know for certain whether an inspection was fully compliant or if the

inspector simply chose to ignore the violations. Inspectors who are unreasonably strict might be uncovered by builder complaints, but no builder has ever complained that an inspector was too easygoing.

Even if inspectors are given a standardized set of provisions to inspect, detailed criteria by which to judge compliance, and a quota on the number of citations to be written, building codes are sufficiently complex to allow inspectors to enforce and ignore provisions according to their own preferences. Building inspectors are difficult to coerce, but it is reasonable to assume that satisfaction is related to cooperation. If satisfied inspectors are more receptive to principals, supervision strategies that promote satisfaction are a reasonable indicator of strategies that promote cooperation with principals.

THE COMPONENTS OF SUPERVISION

The real world supervision of street-level bureaucrats is more complicated than the allocation of punishments and rewards. Studies that rely on a single measure of supervision often find only a minor influence on bureaucratic behavior, but this is often because of an emphasis on the punishment and reward aspects. Brehm and Gates (1997), for instance, find that administrative supervision is less important for inducing subordinates to work than their own predispositions or the influences of coworkers. While they acknowledge that administrative supervision is but one component of a complex interaction, they test only the single dimension in their model.

A typical supervisor accomplishes at least three things in the course of their work. They communicate the preferences of policymakers to employees, motivate them in some way to comply with those preferences, and monitor their behavior for deviations. To do this, they craft a personal style from some combination of what may be termed institutional and personal supervision tools. Standardized procedures, reporting requirements, follow-up inspections, formal training, and inspection quotas are some of the institutional tools commonly used to supervise building inspectors, and knowledge, trust, communication skills, flexibility, and respect, are the characteristics that inspectors list most often as desirable traits in a supervisor. Typical models of administrative supervision are quite limited in their ability to detect the influence of personal supervision tools.¹³ In fact, successful supervisors might persuade, educate, or negotiate to produce perfect compliance, and typical models would show little or no correlation between their actions and worker behavior.

The analytic challenge in developing a more representative model of supervision is to isolate the key dimensions that underlie supervisor behavior. Principal component analysis, a form of factor analysis that identifies underlying dimensions that explain variation among the original measures so that the dimensions themselves are uncorrelated, is well suited to this task, but involves some important decisions about what components to keep and what labels to apply to the resulting dimensions (see May and Winter 2000; Dunteman 1989).

¹³ I follow Brehm and Gates (1997) and Kadushin (1976) in using the term "administrative" to denote the aspects of

Fourteen questions were chosen from among the survey responses, each capturing attributes of supervision from the regulatory enforcement literature. The questions, as shown in Table 4.1, ranged from the leadership and managerial qualities of their supervisors to the institutional methods used in their jurisdiction to standardize performance. The best statistical fit for the model produces two dimensions of institutional supervision and two dimensions of personal supervision. It explains 61 percent of the overall variation in the fourteen measures of supervisor characteristics, and is an acceptable statistical fit that meets the conventional criterion for retention of underlying components with eigenvalues greater than one.

The analysis supports the theoretical distinction between the institutional and personal aspects of supervision, and analyses conducted independently for personal and institutional questions produce similar distribution and correlation patterns. The correlation between each dimension and measure is presented in Table 4.1, and gives some indication of what the underlying dimensions represent. The first two dimensions, Management and Knowledge, emphasize the personal characteristics of supervisors, while the second two dimensions, Standardization and Monitoring, load heavily on institutional elements. Each of these is discussed in greater detail below.

Table 4.1: Dimensions of Supervision

<i>Principal Components Analysis of Supervision Characteristics</i>				
Supervision Characteristics	Personal Dimensions		Institutional Dimensions	
	Management	Knowledge	Standardization	Monitoring
Good motivator	.79	.17	.10	.01
Sets clear goals	.79	.04	.02	.04
Coordinates work assignments well	.75	.18	-.02	.04
Active in working for improvements	.74	.16	.04	-.08
Good problem solver	.63	.41	.23	.03
Instructions are easy to understand	.58	.39	.20	.03
Supports field decisions	.11	.76	-.06	.04
Knows practical field enforcement	.29	.75	.11	.04
Knows technical aspects of Code	.26	.69	.16	.10
Requires inspection checklists	.07	.14	.85	-.03
Requires policy/procedure manual	.12	.04	.76	.26
Requires consult on hard calls	.03	.05	.03	.72
Periodically reviews inspector work	.18	-.10	.25	.70
Periodically rotates inspectors	-.10	.16	-.02	.62
Model Statistics				
Eigenvalue	4.48	1.66	1.18	1.09
Variance Explained	32%	12%	8%	8%

Notes: Cell entries are Pearson correlations between each item and the dimensions of supervision derived from a principal component analysis using varimax rotation of axes. Items in bold are those used to label each dimension.

The Personal Element of Supervision

Nine of the measures in the model target the leadership and managerial characteristics of supervisors. The table shows that the first six measures load heavily on the management dimension with little correlation to the other three. Communication, coordination, problem solving and other managerial skills are the common threads in this dimension, and suggest that the management dimension captures variation in the managerial abilities of supervisors.

For the dimension labeled knowledge, the three measures that load heavily appear to reflect variation in the knowledge or experience level of supervisors. Extensive knowledge of the building code and of the complexities of field enforcement is particularly valuable for supervisors in establishing legitimacy

with inspectors. In the case of disagreements, complaints, or violations requiring difficult decisions, a supervisor's knowledge relates directly to their credibility with employees and their ability to make meaningful judgments.

In most jurisdictions, building supervisors are drawn from the ranks of inspectors with many years of field experience in the jurisdiction. As in many fields however, success as an inspector does not guarantee success as a manager. In several of the cities I visited, tensions between inspectors and other city departments could be linked to the haphazard communication and management abilities of the building supervisor. In each of these cases, the supervisor had been an outstanding inspector, and continued to spend a substantial portion of his time in the field. As a result of these experiences, some cities have experimented with professionally trained managers, who often have limited experience with codes or field enforcement. While the very best supervisors will have skills in both management and knowledge, it is certainly not difficult to see how these two dimensions might influence inspector attitudes and behavior independently.

The Institutional Elements of Supervision

The remaining five measures in Table 4.1 relate to the institutional aspects of supervision. They represent policy decisions adopted as part of a supervision strategy, and are often conceptualized as a single dimension reflecting the level of control an agency maintains over workers. The current analysis however,

suggests that two underlying dimensions of institutional supervision have an independent influence on subordinate behavior.

Measures in the standardization dimension reflect the extent to which tasks are standardized in a jurisdiction. Standardizing tasks, forms, and procedures helps supervisors monitor and control the work of subordinates, but it also transfers much of the responsibility for decisions to supervisors (or policymakers). Much of the literature on bureaucracy assumes that bureaucrats are risk averse, and some work goes even further to characterize bureaucrats as risk-avoiding or conservative (Boyer 1973; Kaufman 1981). If this is so, standardization might improve the performance of street-level bureaucrats by providing structure and support for the field decisions they face.

The monitoring dimension is perhaps the most intuitively obvious component of supervision. Most conceptualizations of supervision typically focus on the monitoring of behavior, and the three measures that load heavily on this dimension reflect several ways supervisors monitor behavior. Conducting random follow-up inspections and requiring inspectors to consult with supervisors on non-standard cases are two common techniques for monitoring building inspector behavior. The periodic rotation of inspection territories is also used, both to assure a consistent inspection service to clients and to expose inappropriate relationships that may develop through repeated interactions between inspectors and clients.

Cities vary in the number of institutional control measures they use, although not surprisingly, the vast majority have at least some level of monitoring and standardization. Ninety two percent require supervisor approval on hard calls, and 76 percent use standardized forms or checklists in the inspection process. Supervisor traits also vary, particularly the skills needed for coordinating, motivating, and communicating with inspectors. Common sense suggests that supervisors with these skills will be more successful than those without, though principal agent theory says it shouldn't matter much which tools are used. Mathematically, increasing sanctions or monitoring should be just as effective as motivation that arises from leadership or persuasion, but in practice street-level bureaucrats have coping strategies at their disposal that make these tactics unequally effective.

The institutional dimensions of supervision correspond well to the traditional perspective of public administration, and the personal dimensions fit well with the New Public Management perspective of public administration, so a test of their relative effectiveness should offer some insight into the relative strength of each theoretical approach. To accomplish this, a dependent variable must be chosen that improves with successful supervision.

The most logical candidate would be a direct measure of productivity. In a widget factory for instance, a supervisor's effectiveness might be measured simply by counting the number of widgets produced. But building inspectors do not make widgets. The successful supervision of inspectors cannot be measured

by counting the number of inspections performed, since thoroughness is not uniform and some inspections take more time than others. It also cannot be measured by counting the number of violations cited, since not all violations are of equal severity and builders vary in the quality of their construction.

DEFINING SUCCESSFUL SUPERVISION: THE DEPENDENT VARIABLE

One of the most challenging aspects of this analysis is crafting an acceptable way to distinguish the effective supervisor from the ineffective one. Although most people can cite examples of exemplary supervision, they are often at a loss for a yardstick by which one might measure it. What constitutes successful supervision? Finding a measure that works equally well for both traditional public administration and New Public Management is especially problematic because of their emphasis on different things. The traditional emphasis on process means that supervisors are most successful when deviations from agency policy are minimized, while the New Public Management emphasis on performance means that supervisors are most successful when clients are most satisfied with the policies they receive. In the best of cases these two standards overlap; but far more often the successful supervisor by one standard is a failure by the other.

In an ideal sense, the supervision scenario for both perspectives is much more similar: both would grant agents freedom to pursue goals that are consistent with the principals' preferences while simultaneously discouraging all

forms of self-interested behavior. In practice, however, the asymmetry of information between agents and principals makes this balance impossible to achieve without the voluntary cooperation of agents. The perspectives diverge at this point, one assuming agents will never cooperate, the other assuming they will always cooperate. But in this ideal is a concept of successful supervision that is common to both. If ideal supervision is about crafting a balance between freedom and control so that workers optimize their own performance, the most successful type of supervision is the one that best engages the active participation of agents.

Since agent participation is voluntary, it is not too far a stretch to suggest that job satisfaction is a suitable proxy for a concept that is difficult to measure directly. Satisfied workers are far more likely to be diligent in the pursuit of agency objectives, whether process or outcome oriented. In fact, both perspectives acknowledge the importance of job satisfaction for maintaining a high quality of work, although from predictably different angles. The NPR quotes the Director of Customer Satisfaction at General Motors, saying;

“One of the things we learned... is that there’s a strong correlation between employee satisfaction and customer satisfaction. If your employees are unhappy and worried about the... quality of their work life, they won’t worry about their customers” (NPR 1993 p.85).

Traditional public administration, on the other hand, is more concerned with the potential for damage from dissatisfied workers. Michael Lipsky provides an example:

“Workers can punish supervisors who do not behave properly toward them, either by refusing to perform work of certain kinds, by doing only minimal work, or by doing work rigidly so as to discredit supervisors (Lipsky 1980 p.24).

As a measure of job satisfaction, I selected a question from the survey in which inspectors are asked to rate their overall satisfaction with their job as a building inspector on a 10 point scale. Although actual responses range from 1 to 10, inspectors are overall a surprisingly satisfied group of street-level bureaucrats, particularly when compared to Lipsky's (1980) observations. Over 80 percent of inspectors rate their satisfaction level at 7 or higher. The mean score is 8.0, with a standard deviation of 1.9. This skew was corrected to some extent for this analysis by eliminating the distinctions in satisfaction for inspectors with scores below six. All inspectors with a satisfaction score of five or less are considered equally dissatisfied, compressing the scale to 5 points and normalizing the distribution of the data. The mean of the revised measure is 8.2, with a standard deviation of 1.4.

The relationship between supervision and satisfaction is interesting to both scholars and practitioners in its own right as well. The argument for why satisfaction matters is straightforward. Satisfied workers deliver the goods and services of government more effectively and with more caring and concern for the individuals involved than do dissatisfied workers. In this sense, increased satisfaction increases both performance and accountability, to say nothing of the positive influence it has on workers themselves.

The formal decision models outlined earlier suggest that sanctions, monitoring, incentives, education, and persuasion are all equally effective tools for shaping street-level behavior, but pragmatically, workers resent threats and micromanagement. So long as satisfied workers are voluntarily more productive than their peers, the successful supervisor will continue to strive for the perfect combination of measures that induces cooperation without inciting resentment.

CONTROL FACTORS

While the argument for using job satisfaction to measure successful supervision is sound, some things that contribute to worker satisfaction have little to do with supervision. In order to insulate the impact of supervision variables as much as possible from a spurious correlation with satisfaction, a number of variables commonly associated with satisfaction are included in the model as controls.

Field Discretion: One of the core principles of New Public Management is that empowered workers are happier and more productive than traditional bureaucrats. The NPR describes it this way:

“Our bedrock premise is that ineffective government is not the fault of people in it. Our government is full of well-intentioned, hard-working, intelligent people – managers and staff. We intend to let our workers pursue excellence” (NPR 1993 p. 68).

Inspectors differ in the field discretion they enjoy, and if New Public Management advocates are correct, those with greater discretion are the more satisfied. In the survey, inspectors were twice asked to rate on a scale of 1 to 10

the degree of freedom they have over final decisions in the field; one rating for their discretion in routine cases and a second rating for their discretion in difficult cases. For this analysis, the mean of the two scores is used to reflect the average degree of freedom for each inspector. The scores range from 1 to 10, with a mean of 7.8 and a standard deviation of 1.96. The Chronbach's Alpha score for the index is .83.

Perceived Effectiveness: The correlation between the sense of making a difference and job satisfaction is well known. Most employees want to be effective in what they do, and building inspectors are no different. Without exception, the inspectors I accompanied in the field showed an abiding belief in both the building code and the inspection process. They showed a sense of ownership for the buildings of their jurisdiction, and took pride in pointing out structures they had shepherded through the process in the past. Yet several also expressed frustration with various aspects of their department and echoed a common complaint of government workers that too much of what they do appears meaningless.

To measure perceived effectiveness, I use a question from the inspector survey in which they were asked to rate their overall effectiveness at obtaining compliance with building code provisions on a scale of 1 to 10. Actual scores reflect an abiding belief in their own abilities as well, ranging from 2 to 10 with a mean score of 8.5 and a standard deviation of 1.3.

Individual Characteristics: When it comes to job satisfaction, the first item mentioned is usually salary. While public workers are often less directly motivated by money than their private sector counterparts, low wages can undermine the satisfaction of even the most dedicated employee. Other individual variables that might reasonably influence satisfaction include age, experience, and education. The measures used for each of these concepts are derived from survey questions. The measure of salary was collected on a 5-point scale ranging in \$10,000 increments from \$10,000 to over \$50,000. The median is 3, which corresponds to '\$30,000 to \$39,999'. The measure of age was also interval, a 6 point scale from '24 years or younger' to '65 years or older'. The median is 4, or '45 to 54 years'.

Education was collected on a 7-point scale ranging from 'Some grade school but not completed' to 'Bachelor's degree'. Actual scores however, show less than 1 percent without a high school diploma or equivalent, and a median score of 5, or 'Some college but no degree'. The measure of experience was calculated by subtracting the year each inspector began inspecting from 1996 (the year the survey was conducted). The range was 0 to 30 years, with an average length of 7.5 years and a standard deviation of 6.2.

Developing a Model of Supervisory Leadership

In an impressive summary of a diverse literature on empowerment, Petter et al (2002) list, among other things, an inspirational leadership as a necessary precursor of empowerment, and greater personal satisfaction, motivation, and

commitment as the conceptual products of empowered workers. They cite Dew (1997) in describing empowerment as creating in employees “a sense of ownership of their work” and being “proud of their work and their organization” (see also Van Wort 1995; Slate and Vogel 1997). Their research establishes the link between satisfaction and productivity, but leaves unanswered the question of what constitutes inspirational leadership.

Table 4.2: Job Satisfaction as a Function of Supervision

<i>Explaining Variation in Inspector Job Satisfaction^a</i>		
<i>Institutional and Personal Supervision</i>		Job Satisfaction
	Management Dimension	.23*** (4.3)
	Knowledge Dimension	.17*** (3.2)
	Standardization Dimension	-.02 (-.39)
	Monitoring Dimension	.04 (.67)
<i>Empowerment Factors</i>		
	Field Discretion	.23*** (4.2)
	Perceived Effectiveness	.22*** (3.9)
<i>Individual Characteristics</i>		
	Age	.13* (2.4)
	Education Level	-.01 (-.18)
	Experience	-.05 (-.83)
	Salary	.15* (2.5)
<i>Model Statistics</i>		
	Number of Observations	281
	F-Value for Overall Model	11.07***
	Adjusted R ²	.26
<p>*** p < .001 ** p < .01 * p < .05 (two tail test) ^a – Dependent variable is self reported rating of “overall level of satisfaction with your job as a building inspector”. Standardized coefficients reported, t scores in parentheses.</p>		

As Table 4.2 demonstrates, not all types of supervision have an equal impact on employee satisfaction. The model is estimated using Ordinary Least Squares in order to preserve information about the magnitude of each influence.¹⁴ The similar range and standard deviations of the variables permits the productive use of standardized coefficients, which are particularly useful when analyzing survey data such as this where sophisticated concepts are often measured on relatively simple scales. When the data are thus simplified, they allow a more direct comparison of the relative size of influences in the model. The model overall accounts for 26 percent of the variation in job satisfaction, and shows good face validity. That is to say, the predictors most commonly associated with job satisfaction are statistically significant, in the expected direction, and with a reasonably sized coefficient.

Institutional Supervision Elements. A number of studies of bureaucratic behavior have found that institutional supervision has little direct effect on the behavior and attitudes of government workers, and the results presented here lend further support to their findings (Brehm and Gates 1997). Neither the level of standardization nor the level of monitoring produces a statistically significant influence on the job satisfaction of building inspectors. Substantively, this can be interpreted in a number of ways. New Public Management scholars might suggest that these results confirm their position that standardization and monitoring are costly and unnecessary measures which stifle creativity and

¹⁴ A separate modeling of the equation using a logistic regression model was also performed with similar results.

undermine the satisfaction, motivation, and commitment of needed to improve performance.

Traditionalists, on the other hand, might as easily point out that though standardization and monitoring do not increase job satisfaction, neither do they appear to diminish it. If the traditional elements of supervision are as unpleasant as New Public Management scholars argue, a statistically distinguishable negative effect on satisfaction should be visible – and is not. One explanation for this is simply that the traditional approach *is* the traditional approach, and that workers have been conditioned for generations to expect high levels of standardization and monitoring in bureaucracies. They learn to live in the environment they inhabit, and develop ways to cope that have little to do with supervisor actions.

Personal Supervision Elements. The story changes considerably when we look at the impact of personal supervision. Both the management and knowledge dimensions are statistically significant by the most restrictive standards and have coefficients that are larger than any in the model save personal discretion. The coefficient for knowledge level is slightly higher than that for managerial skills, which roughly corresponds to my field observations, where inspectors often find themselves in situations that are not explicitly covered in the code. In one city, a builder was constructing several homes simultaneously in a small development. The plans had been approved, but when the inspector arrived for the framing inspection he concluded that the landings

provided by the stairway design were too small. The builder was understandably upset (stairway changes are particularly expensive, and six homes needed to be corrected), and appealed the decision to the building supervisor. In a later interview, that inspector repeatedly emphasized the importance of departmental support for their field decisions. In the end, they were able to negotiate a fix that met code requirements and was acceptable to the builder, but a key component of the compromise was the technical expertise of the supervisor. He knew the code provisions, and agreed with and supported the interpretation of his inspector.

The value of management skills for enhancing worker satisfaction is intuitive; good managers are adept at setting clear goals, communicating their expectations effectively, and motivating employees to give their best. The importance of these factors for building inspectors is indicated by the positive correlation and the large coefficient. When discussing the challenges of street-level bureaucracy, many of the shortcomings Lipsky (1980) observed correspond well to neglect in this dimension of supervision. Lipsky reported that workers were routinely overworked and unappreciated by managers, and goals and expectations were frequently conflicting or vague. Small wonder the workers he observed were often disgruntled and used the autonomy and discretion at their disposal to improve working conditions.

These findings suggest that the Lipsky scenario is not the only alternative. More than 80 percent of building inspectors in this study report a job satisfaction

rating of 7 or higher¹⁵, and one of the strongest contributors to this is the ability of their supervisors to provide what Petter et al (2002) call inspirational leadership. Success in this dimension is essential to the New Public Management approach, and these findings support their assertion that workers will respond to leaders who motivate and support them.

What is mildly surprising in this model, given the expected relationship between management and satisfaction, is that the coefficient for management is not the dominant predictor of satisfaction. Clearly, management skills matter, but for building inspectors at least, they are slightly less important than technical competence. This speaks to the trend mentioned earlier toward hiring professional managers with limited field experience. Perhaps this is due to some extent to the technical nature of building inspection, but inspectors clearly value supervisors who have field experience and code knowledge. Inspectors face conflicts with builders every day over interpretations of the building code, and the credibility and support that a knowledgeable supervisor adds to the equation appears to contribute to their satisfaction every bit as much as good management skills. Of course the reverse is true as well, and the very best supervisors, whether consciously or instinctively, continue to develop skills in both dimensions.

Discretion and Empowerment. One of the fundamental questions with regard to the New Public Management reforms is whether bureaucrats value

¹⁵ Scale of 1 lowest to 10 highest

empowerment and are willing to take a more prominent role in decision making. Some research has suggested that for some employees, empowerment is too much work (Argyris 1998), or that employees might take comfort in the rules and structures of a system they have learned to navigate (Clark 1999). For building inspectors, at least, this does not appear to be the case. The two measures of employee empowerment are both positively associated with satisfaction. Inspectors, perhaps like everyone else, like to feel that what they do matters, that their opinions and judgments are valued. John Van Maanen argues that it is “precisely the opportunity to exercise his perceived policy role that gives the occupational identity to the patrolman” (Manning 1978, p304).

Inspectors who believe they have a great deal of control over field decisions are much more satisfied than those who feel constrained. There is no indication that inspectors prefer the security of standardized procedures. On the contrary, they consider themselves professionals, trained to assess the needs of each enforcement situation and render the appropriate governmental response. Without exception, they were willing to assume both the responsibilities and risks associated with empowerment, although many mentioned the importance of support from their administration for their field decisions. So long as their decisions are supported, there is little doubt that building inspectors value the autonomy and independence that empowerment brings to their jobs.

A sense of effectiveness also produces a positive correlation, similar in size to discretion. Those who feel they are effective at promoting compliance

with the provisions of the building code are more satisfied with their jobs than those who do not. This suggests that inspectors care about the results of their work, and contradicts much of the stereotypical rhetoric that is commonly associated with the traditional paradigm. The New Public Management paradigm advocates “stripping away layers” and “empowering front-line employees to make more of their own decisions and solve more of their own problems.” In this model, there is a clear statistical relationship between the two measures of empowerment and job satisfaction. The most satisfied building inspectors are those with the freedom to make decisions in the field, a sense that those decisions are contributing to safer buildings, and a supervisor that has both the knowledge and management skills to support them in their effort.

Individual Characteristics. Two interesting findings in the model have little to do with supervision, but are a byproduct of modeling job satisfaction as the dependent variable in the equation. The model shows that older inspectors are statistically more satisfied with their work than are younger inspectors, but that neither the measures for education nor experience shows a corresponding role. This is interesting because building departments across the country are currently experiencing the pains of a massive transition. Older building inspectors, almost without exception, began their careers as tradesmen, transitioning at some point from the construction industry to government service.

They bring with them many years of field experience and a perspective on code enforcement based on that experience. They tend to believe that no one

can learn inspection from a book. Many also believe that continuing education is unimportant, and that changes in the code are just more 'government justifying its own existence'.¹⁶ They are slowly being replaced by younger inspectors with formal schooling or training in building inspection (though most of them also have some trade experience). The young group tends to be more inclined to require strict adherence to the code, and likes to take a lot of time to explain the reasons for each provision they cite. The older group tends to focus on relationships and continuity of expectations, and will negotiate or overlook things the younger group would cite.

The finding that older workers are more satisfied fits well with these observations, implying both that older inspectors are more easygoing and that younger inspectors are more idealistic (and frustrated) in their expectations. The lack of significance for education and experience was puzzling initially, but on closer examination appears to be a problem of measurement. The education measure in the survey asks about traditional schooling, e.g. high school, some college, Associate's degree, Bachelor's degree. The training most young inspectors receive however, is not typically provided through a university or college, but is a vocational program that results in a certification rather than a degree. The data do not distinguish between those with formal schooling to

¹⁶ This division was evident in every jurisdiction I visited, but was particularly intense in Tuscaloosa, AL. This quote, and the related sentiments are broadly reflective of the challenges building departments face, but were taken specifically from interviews with Tuscaloosa inspectors.

become an inspector and those who simply took the certification tests based on trade experience.

The experience measure may also be too imprecise to reflect its true influence. In the survey, inspectors were asked simply what year they began working for the building department. This provides a rough measure of experience, but cannot account for experience as an inspector in other jurisdictions, time spent working for the department in a capacity other than inspector, or as a superintendent or other quasi-inspector role in private industry.

One of the most interesting findings of the model is the absence of a stronger relationship between job satisfaction and salary. The lack of adequate financial compensation is a common complaint from bureaucrats, well documented by surveys of employee attitudes (see Brehm and Gates 1997). While this model does show a statistically significant positive relationship between salary and satisfaction, (i.e. as pay increases so does satisfaction), the relationship is much smaller than expected. The size of the coefficient is substantially smaller than empowerment and supervision measures, suggesting that while inspectors do value monetary rewards, they appear to value leadership, independence, and a sense of contribution much more.

Conclusions

Much of the existing literature on bureaucracy either argues or assumes the dominance of self-interest among government workers. It acknowledges that

discretion in street-level work is inevitable, and holds that workers use their discretion to lighten workloads, make tasks easier, and generally place personal interests above the public interest they are supposed to serve. Supervisors are the first line of defense in this perspective. They must assume workers will shirk and develop the appropriate countermeasures in order to induce or coerce them to work. The old adage “Good enough for government work” exemplifies both the attitude and assumptions of this perspective.

Yet in the trenches, one often observes a different story. Street-level workers, generally, do not believe their jobs are unimportant. Pride and dedication to their work are the rule, not the exception. Maynard-Moody and Musheno (2000) draw a contrast between the *state-agent* narrative of the traditional perspective and a *citizen-agent* narrative street-level workers use to describe themselves:

“Rather than discretionary state agents who act in response to rules, procedures, and law, street-level workers describe themselves as citizen agents who act in response to individuals and circumstances. They do not describe what they do as contributing to policy making or even as implementing policy...They base their decisions on their judgment of the worth of the individual citizen client” (Maynard-Moody and Musheno 2000).

Supervision approaches are inseparably linked to assumptions about the motivations of workers – they are the product of thinking about what motivates bureaucrats to act. As our understanding of what bureaucrats value improves, our ability to design systems of supervision also improves. From the analysis of

this chapter, two things about the relationship between job satisfaction and empowerment are clear. First, inspectors value the independence and discretion their job gives them. The greater their sense of field autonomy – the greater the sense of control over decisions they make in the field – the more satisfied they are with their job. The results are similar for effectiveness. Those that believe they are making a difference, that their actions are effective at producing safer buildings, seem to be much more satisfied with their job. The implication is that these bureaucrats, at least, want to make a difference and will accept the additional responsibility and risks associated with empowerment.

Second, the relationship between these variables and satisfaction supports Maynard-Moody's and Musheno's findings that bureaucrats are less self-interested than we think. Salary, the stereotypical self-interest variable, is substantially less impacting in this model than either effectiveness or discretion and, while this is far from conclusive, this ordering of influences suggests that bureaucrats might value empowerment more because it improves service than simply because it gives them more power.

An influential strand of the principal agent literature argues that supervision is nearly useless for inducing subordinates to comply with the preferences of their principals. Bhrehm and Gates (1997) state repeatedly that "One sees compliance in the enhanced principal-agent model (only) if the subordinate prefers the policy. Supervision, in general, does not affect the subordinate's decisions" (p 45). In formal models, they liberated supervisors

from the constraints that are typically blamed for poor performance in the public sector, and yet:

“We allowed supervisors to be omniscient, eliminating the hidden action aspects of principal-agency problems. We allowed supervisors to act as tyrants and to slap outrageous penalties on their subordinates. *Yet no matter how we varied the capacities of supervisors, the preferences and repertoire of subordinates determined how the subordinates performed* (p 74, emphasis mine).

Simply put, when subordinates have preferences that favor supervisors' policy, they work, rather than shirk or sabotage, irrespective of the punishments or rewards they receive from principals. Yet supervision is about more than just the allocation of punishment and reward, and this study suggests that the preferences of subordinates are determined, or at least influenced, by the non-coercive actions of supervision. The principal components analysis shows that supervisors perform a number of functions that do not vary along the single dimension used in the literature. It distinguishes between the institutional and personal aspects of supervision, and identifies two separate dimensions in each. In other words, monitoring is not the same as managing; standardization is not all there is to supervision. The personal elements of supervision – leadership, communication, persuasion, education, and cooperation – are characteristics that are absent from most models of supervision.

When it comes to the influence of supervision on satisfaction, substantively interpreting the results becomes a little tricky. Two dimensions of supervision are, in fact, statistically significant and quite influential on satisfaction.

We can say with some confidence that the personal aspects of supervision – the managerial skills, the leadership skills, and the level of knowledge that supervisors have – those things contribute in a positive way to job satisfaction.

From this we might conclude that if New Public Management reforms are to be successful, they need to be accompanied by attention to these aspects of supervision. The New Public Management concept requires bureaucrats to participate – to engage and ideologically commit to the new paradigm. Dissatisfied bureaucrats will not engage, and this research clearly demonstrates a link between inspirational leadership and job satisfaction. Mediocre leadership from supervisors will not produce the kind of engagement that they need in order to implement New Public Management reforms.

The picture is much less clear when it comes to the institutional elements of supervision – there is no significant relationship. We can infer from the model that bureaucrats are not risk averse, since job satisfaction is not improved by standardizing tasks or increased monitoring. These activities do not contribute to satisfaction, but importantly, neither do they appear to undermine it. Like much of the principal agent literature, these data suggest no statistical relationship between the institutional aspects of supervision and job satisfaction.

This is interesting because the institutional aspects of supervision are so closely associated with traditional accountability. New Public Management argues that such measures impede innovation and decrease satisfaction. For instance:

“...innovation, by definition, requires deviation. Unfortunately, faced with so many controls, many employees have simply given up. They do everything by the book – whether it makes sense or not. They fill out forms that should never have been created, follow rules that should never have been imposed, and prepare reports that serve no purpose – and are often never even read. In the name of controlling waste, we have created paralyzing inefficiency” (NPR 1993 p. 3).

The findings in this chapter suggest that this may not be the case after all.

Institutional supervision techniques may provide an important backstop that increases accountability without undermining satisfaction. Perhaps the best option for maximizing the balance between accountability and performance may be to standardize basic procedures – not abandon them as New Public Management suggests – but keep them in place augmented with an emphasis on inspirational leadership. Bureaucrats have long been skilled at evading, avoiding, and ignoring orders from supervisors they consider illegitimate, but to suggest that supervision is meaningless as a result ignores the greater part of its potential. Supervision does matter, but it requires supervisors who are leaders, trained to shape the preferences of subordinates through education and motivation.

Chapter 5: Balancing Performance and Accountability

It has been said that ordinary locks are designed to keep honest men honest and that a determined professional can quickly defeat or find a way around the security of the average home. Better systems exist certainly, but those sufficient to thwart the professional thief are typically so cumbersome and inconvenient that people stop engaging them after a while, leaving themselves even less protected than if they had used an ordinary deadbolt. Moreover, with nothing at all in place, the professional is no longer the biggest problem. The ninety-five percent that are deterred by a basic lock are not dissuaded at all by an unlocked door, and all that remains to keep them honest is the personal integrity of each individual.

In many ways, a system of public administration is analogous to a system of home security. Policymakers must decide which locks to install based on the same basic trade-off – the relationship between security and ease of use in the vernacular of home security is very similar to the one between accountability and performance in the parlance of public administration. Increasing the number and/or quality of locks in a system makes it more secure, but also makes it more cumbersome and difficult to come and go. Decreasing the number of locks makes a system operate more quickly but increases the exposure to damage from unscrupulous behavior. In designing a home security system, the desired level of security must be balanced with the inconvenience and expense of the

number and quality of locks chosen. No single combination works best for all situations, but rather is uniquely tailored to the individual needs and priorities of each system and client.

Many things can influence those choices. According to security system experts, the most common customers for home security companies are homeowners who have recently experienced a break-in. They often choose expensive systems and sophisticated locks even though statistically they are at no greater risk (perhaps even less) than before. Neighbors and subsequent owners who have not been burglarized are often far less interested in security and sometimes fail to even use the systems that are in place.

The traditional bureaucratic paradigm emerged in response to what might be called the burglary of the American system by the elites of the patronage era. Stung by the self-interested behavior of the political machines, the American people of the Progressive movement were interested in designing a system that was very secure. They not only installed a new set of locks, they changed the perception of the household about the need for locks. Corruption is intolerable, they claimed, but inevitable unless actively countered by a secure system.

Generations of government workers – Congressmen, administrators, and field workers – have been raised in the system the Progressives created, and the most innovative of each subsequent generation worked to make the system even more secure. However, as with many elaborate security systems, the very success of the system began eventually to work against it. When subsequent

generations, like subsequent owners, did not feel threatened but resented the inconvenience of the system itself, a number of changes began to appear.

For some, the answer was to simply stop using the locks and wait to see if anything happened. For others, a prioritization of locks made more sense, engaging those they deemed essential and letting others sit idle. They soon discovered however, that someone considered nearly every lock essential, and that others were busily adding new locks or enhancing the system to sound alarms when existing locks were neglected. Most agreed that the system needed repairs, but could not agree on which aspects of the system were most essential to maintaining security.

By the 1990s, the mood and priorities of the American people were changing. They saw a system with so many locks not as protective, but as wasteful and counterproductive. The frustration with the seeming inability of government to accomplish anything was not unlike the frustration that preceded the Progressive movement a century earlier, but this time the People were focused on improving performance. A new perspective emerged, arguing that the traditional emphasis on security was misplaced. They proposed a new system based on new assumptions that shifted the emphasis from accountability to performance. They proposed simple locks in place of complicated ones, installed at different (and fewer) locations, and distributing more keys in order to make the flow as efficient as possible.

For more than a decade now, traditional public administration and New Public Management advocates have argued over the best way to structure and operate the organizations of the public sector. The tension between democratic accountability and performance continues to divide them, largely because of key differences in the basic assumptions they make about the attitudes, motivations, and behavior of bureaucrats. Just as it is more reasonable to install an elaborate security system in a high-crime neighborhood than in a small town, an administrative system with extensive rules and procedures governing behavior is reasonable if corruption and self-interest are inevitable, but wasteful and counterproductive if they are not.

This study began from this theoretical departure point, acknowledging up front that the truly broad questions in the debate are beyond the scope of a single project, but arguing that many of the assumptions that divide them are not. These can be examined empirically and can add valuable information to the broader debate. To design an efficient home security system, information about the neighborhood, the home itself, and those who will use the system is combined with the preferences and priorities of owners to find the best balance between security and ease of use. This research can be seen as contributing similar information to those who are in the process of designing a better system of public administration.

Does Customer Service Promote Compliance?

Apart from the question of which assumptions are more accurate, there is the practical question of how well each approach actually works. Traditional public administration has a proven record in this regard. It may be slow and cumbersome, but it has proven able to deliver services and control corruption for more than a century. Implicit in the New Public Management challenge is the notion that private sector techniques are both more responsive and more effective, and will therefore be more desirable to citizens both as taxpayers and as customers.

Is it fair to say that the new approach is categorically better than the old in a regulatory setting? Can we say that consultant-style building inspectors are categorically better than cop-style building inspectors? Perhaps. An important point is to remember that the goal of building regulation is to promote building safety, not to punish code violations. Building safety, like most regulatory functions, is nearly impossible to measure directly, so how can we know when buildings are safe? Compliance with regulations is the most common proxy, but is inherently imprecise. Building codes are vast, and their provisions are neither equally enforced nor equally important. Furthermore, inspectors can never check everything, particularly when builders endeavor to hide their mistakes. The construction process itself is also complex and filled with variables that work against comprehensive assessments of compliance.

Modern homes are built almost entirely by subcontractors who seldom communicate with each other or work together. It is not unusual for a small error in the work of one subcontractor to have ramifications that ripple throughout the construction process, often making compliance in a later stage difficult or even impossible without modifications to the original plans to meet code requirements. Resolving these problems is part of the duties of the general contractor, but time and money are constant considerations in the construction industry. Builders who fear a strong regulatory response by inspectors may be inclined to devise their own solution and hide the problem from inspectors.

It may be reasonable to argue that builders who are treated as customers will voluntarily build safer buildings than builders who are subjected to by-the-book regulatory enforcement. In a study of contractor motivations for compliance, May and Wood (2003) found that contractors have definite preferences when it comes to inspector style. Many contractors expressed negative comments about inspectors and the inspection process. "The city views builders as [the] enemy," was the succinct answer of one respondent when asked to summarize his experiences with inspectors. Not surprisingly, builders prefer inspectors who are less formal and more helpful, and who will negotiate a reasonable solution when violations occur. They also perceive these inspectors as more legitimate, and are willing to accept corrections from them that might be resisted from a more punitive inspector.

The complex nature of the building process and the ambiguities of inspection suggest that the voluntary cooperation of builders is required to produce the greatest levels of building safety. Builders value flexibility, consistency, and responsiveness from inspectors, the hallmarks of the New Public Management approach. This suggests that, for building inspection at least, New Public Management may indeed be able to produce better policy outcomes than the traditional regulatory approach, but only if their assumptions about the motivations of inspectors are correct.

Examining Key Assumptions

The question of what motivates bureaucrats is not a simple one, but is absolutely critical for designing a system of administration that induces rather than hinders performance. Street-level bureaucrats in particular often have the resources to resist policies with which they disagree, and are not easily compelled to be more productive, more concerned, or more engaged. Traditional public administration has consistently assumed that bureaucrats are motivated by self-interest, and designed systems that centralize decisions and control behavior through structured rules and procedures. New Public Management makes the opposite assumption, that bureaucrats are motivated primarily by the desire to do a good job, and designs systems that remove barriers, streamline processes, and transfer decisions to the periphery.

One of the greatest challenges involved in testing these assumptions is assigning meaning to observed behavior that can, in many cases, be interpreted

as supporting either set of assumptions. A building inspector, for example, might choose to give a verbal warning or ignore a violation altogether instead of issuing a written notice of violation. He may do this for any number of reasons, each of which has a different implication for public administration theory. He may not wish to do the paperwork for a written violation and return for a reinspection, or he may be under pressure by political officials to move the project along. He may be trying to build a more cooperative, trusting relationship with the builder, or he may lack the training and experience to recognize the violation properly. He may personally disagree with the provision that is in violation, or he may feel the provision is valid but that the violation itself is minor and cut the builder a break. These are all legitimate interpretations of a single observable act, yet each is the result of different motivations on the part of the inspector.

Most of the official actions taken by building inspectors are difficult to classify directly as the product of either self-interest or public-interest. Most depend on the context in which they are made. The workload and resource levels, administrative culture, political environment, and physical characteristics of a locality all contribute to inspector choices. Moreover, other than physical characteristics such as risk level for earthquake, flood, fire, or wind hazards, these elements are seldom constant. Workloads fluctuate, resources shift, and administrative and political priorities often change with startling speed.

The stories depicted in Chapter 2 illustrate the importance of context and help to distinguish behavior motivated by values and attitudes from coping

behavior. It is expected that inspectors will make some choices from self-interest and some based on public-interest – anyone in a stressful work environment will, within the bounds of their discretion, act out of self-interest to reduce or cope with the stresses of that environment. Context clearly matters, but both perspectives make similar assumptions about how and why bureaucrats cope. An important question for this research is what motivates behavior that is *not* based on coping.

One of the defining characteristics of the street-level bureaucrat is the ambiguity of the world they inhabit, and inspectors create their unique enforcement style from their resolution of the conflicting demands to which they are subjected. But in every jurisdiction there are inspectors who are more strict and those who are less strict, those who are more helpful and those who are less helpful. Subject to the same regulatory context, some find creative solutions to code violations while others insist on by-the-book compliance. Both perspectives acknowledge that street-level discretion exists, but differ as to whether it is a positive force that increases administrative capacity or a negative force that diminishes administrative efficiency.

Chapter 3 showed that for building inspectors, exercising discretion in the field is a daily occurrence. In most jurisdictions, inspectors work alone and set their own schedule. Through their actions in choosing when and how violations are ignored or punished, they determine the code provisions that are enforced and the level of compliance that is acceptable. The analyses show a combination of factors that shape inspector choices, suggesting that inspectors

are neither exclusively self-interested nor altruistic. Certainly, inspectors can be found who make field decisions entirely on the basis of whether or not it will make their job easier. In fact, most inspectors probably use their discretion to manage their workload to some extent, making their jobs easier, safer, or more pleasant whenever feasible.

But inspector choices appear to be based on more than simple work reduction or leisure maximization strategies. In general, inspectors believe their work is important and they value the respect they gain from coworkers, supervisors, and city officials. The data show that discretionary choices are shaped by the actions and expectations of these individuals and by their own values and beliefs. Field observation found them to be uniformly dedicated to promoting building safety, and though they differed in tactics and level of success, every one was willing to spend extra time (thus complicating their own schedule) to explain code provisions or educate builders on how to improve their work.

This is an important piece of the puzzle for New Public Management. If inspector behavior is primarily shaped by the external forces of their work environment, inspectors are unlikely to have either the time or inclination to think creatively about policy innovation. The street-level bureaucrats Michael Lipsky (1980) describes are not the policy entrepreneurs New Public Management requires, and these findings suggest that environmental pressures are not the whole story. On the contrary, they show that the norms of behavior in a

jurisdiction are the most powerful influence on behavior, followed by the attitudes and beliefs of the inspector. In other words, inspectors tend to base their behavior on what their colleagues do and what they believe is right.

New Public Management is the challenger in the public administration arena, and as such must answer some tough questions. It is not enough to demonstrate that their approach is better in order for it to be acceptable. They must also demonstrate accountability. They must show that bureaucrats can be trusted, that they want to be empowered, and that they will do more rather than less if given the opportunity.

Consistent with their emphasis on performance, much of the New Public Management literature argues that bureaucrats should be held accountable for outcomes in the same way as they are now accountable for processes. They argue that accountability for process promotes failure, since no one is accountable for the achievement, just that procedures are followed. But the outcome for building inspection is increased building safety, which cannot be measured directly in the same way as pollution levels or educational achievement. The inspector who negotiates to produce reasonable solutions according to the 'intent of the code' is sometimes difficult to distinguish from the inspector who negotiates to reduce his own workload or in exchange for compensation from contractors.

Supervisors are key actors in making this distinction. Supervisors are uniquely situated both to evaluate behavior and to motivate inspectors to place

public interest before personal interest. As formal procedural checks on behavior are reduced or eliminated in the interest of increasing performance, supervisors become increasingly important for monitoring and shaping the behavior of their subordinates. However, not all types of supervision produce equal results among inspectors.

Many studies of bureaucratic behavior include only the reward and punishment dimension of supervision in their models, often finding that supervision has no direct impact on subordinate behavior (Brehm and Gates 1997). The findings in Chapter 4 showed that supervisors are not unimportant, but that the influence of supervisors is more complex than was previously supposed. The institutional elements of supervision, the standardization of tasks and increased monitoring, as in previous studies, had little effect on subordinate attitudes. But the personal elements of supervision – the managerial skills, leadership skills, and knowledge level of supervisors – exhibited a powerful effect on the job satisfaction of inspectors. Put another way, the data suggest that supervisors with these skills can have considerable influence over the attitudes and behavior of their subordinates, increasing both job satisfaction and their willingness to engage with agency problems in innovative ways.

Implications of This Research for New Public Management

New Public Management requires the participation of bureaucrats to succeed at reforming public administration. A customer service focus is impossible to achieve with employees who care little about customers. In the

private sector, this incentive is often provided through the threat of termination, but civil servants are difficult to fire, so they must be motivated ideologically. Fortunately, these findings suggest that many bureaucrats are already there. There is evidence here that bureaucrats are willing to accept the new paradigm, but they must be persuaded, led, and motivated to continue to do so.

New Public Management has been, from the start, a motivational movement. Most of the books that have emerged from the movement are collected stories of entrepreneurial success, often almost a cookbook for practitioners to use in adapting the successes of others to their organization. But for every success story there are a dozen attempts at reinvention that failed to gather the momentum needed to make meaningful and lasting changes. The findings from this research show that building inspectors are not motivated entirely by self-interest. They often make choices that make their jobs more difficult and more stressful in order to improve service to contractors, and they make those choices because of their beliefs, their values, and the norms of behavior in their jurisdiction.

This is essentially good news for New Public Management, for norms, values, and beliefs are malleable and can be shaped through training, association with similar professionals, and inspirational leadership. Supervisors are key players in this process. Monitoring and micromanagement have little direct effect on inspector behavior, but the link between personal leadership and bureaucratic attitudes is clearly established in Chapter 4. Mediocre leadership

from supervisors is not likely to produce the kind of paradigm shift from bureaucrats that is needed in order for New Public Management reforms to be successful in the long run.

Implications for Public Administration

Despite the successes of the past one hundred years, the potential for bureaucratic corruption has not disappeared. In each of the models in each of the chapters, a substantial portion of the explained variation is due to elements of self-interest. Bureaucrats are no different from other human beings, and the human tendency toward preservation and self-interest is strong. Public administration scholars are legitimate in their concern over a paradigm that requires the subordination of self-interest to be successful, and relies on a system of accountability where “the ends justify the means”.

The evidence from this research suggests that most bureaucrats are receptive to a customer service paradigm, and that, for building regulation at least, both customer satisfaction and policy outcomes might be improved under the new approach. But these improvements need not require the wholesale abandonment of procedural accountability. Despite many arguments to the contrary, government *is* different. The administration of the public sector is based on the execution of laws rather than the accumulation of profit. For businesses, the end often does justify the means because the ends are what matter. For government, the means must matter as well. Fairness and equality

are central to the traditional paradigm, and if pushed, most Americans would choose them over performance.

Fortunately, the findings from Chapter 4 suggest a balance that might improve performance without sacrificing procedural accountability. The institutional components of supervision – standardization and monitoring – had no statistical impact on employee satisfaction levels. Consistent with previous research, this finding suggests that institutional constraints may provide an important backstop that increases accountability without undermining satisfaction. Standardized goals and expectations can be combined with broadly decentralized decisions and inspirational leadership to create a public service that balances performance and accountability.

Summing Up: Extending Implications to Other Settings

If one thing has become clear during the course of this research, it is the notion that no single approach to administration will be universally effective for all bureaucrats in all situations and all jurisdictions. The findings in this research say a lot about why building inspectors make the choices they do, but building inspectors are only one type of inspector; inspectors are just one type of street-level bureaucrat, and street-level bureaucrats are only one type of bureaucrat.

Both New Public Management and traditional public administration literatures tend to consider bureaucrats as a block – as if all building inspectors, high school teachers, and welfare caseworkers are the same. This may be true,

but even among building inspectors, the diversity of enforcement style and variation in approach to regulation is indicative that one size does not fit all. The approach that works best in one city is often less than effective in another, and the style that works for one inspector can be utterly ineffective for another.

This does not mean that the findings of this research are not applicable beyond building regulation. Certainly, many other inspectors face similar challenges and questions about the applicability of customer service tactics to regulatory work. The successful adaptation of a customer service approach to a regulatory environment may be of interest to practitioners in other regulatory arenas and adds another dimension to studies of regulatory enforcement.

Scholars of street-level bureaucracy might find the high level of job satisfaction that is characteristic of building inspection interesting. While teachers are leaving public school systems in droves and many police departments struggle to maintain enough officers to meet their needs, more than 80 percent of all building inspectors indicate they will stay with the department at least ten more years or until they retire. By and large, building inspectors seem more satisfied with their jobs than other types of street-level bureaucrat, and the findings of this research set the stage for future research in this area.

Finally, the findings in this dissertation contribute most directly to the broader debate over the future of public administration. Many of the ideas promoted by New Public Management are exciting, and many governments have experienced significant success as a result of these reforms. But corruption and

opportunism can quickly erode any performance improvements if they are not balanced by an adequate system of accountability. Designing a system of public administration that decentralizes authority and promotes customer service without sacrificing accountability is not impossible.

Robert Behn (2001) believes that the best solution to this dilemma is to simply “trust, but verify.” The empirical findings of this work support this argument, suggesting that performance can be increased but that it must be accompanied by accountability. If New Public Management is to succeed on the scale of the Progressives, it must be with the understanding that at some times and in some places, the customer will not be right.

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Vita

Robert Wood was born in Bountiful, Utah and earned a Bachelor of Arts in Political Science from Weber State University in 1989. After eight years in the public sector working for the Utah Department of Workforce Services he returned to his studies, enrolling at the University of Washington, where he earned a Master of Arts in American Politics and Public Policy in 1999. In 2003 he earned a Doctor of Philosophy at the University of Washington in Public Policy and Public Administration. He currently resides with his wife and daughter in Grand Forks, North Dakota, where he is a member of the Political Science department at the University of North Dakota.