



Eliot Spitzer

“The People’s Lawyer”— Disgraced

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Abstract

As attorney general for the State of New York, Eliot Spitzer went after Wall Street’s masters of the universe, air-polluting power plants, gun manufacturers, and organized crime. His relentless efforts earned him such accolades as “Crusader of the Year,” “Sheriff of Wall Street,” and “The Enforcer.” Spitzer used his exemplary record as attorney general to win the 2006 race for governor by a record margin. His fourteen-month tenure as governor was marked by conflict, failure, allegations of abuse of office, and lying. On March 12, 2008, Spitzer resigned in the face of an investigation into his involvement with high-priced prostitutes. This article examines how someone once viewed as an ethical exemplar could fall so far in so short a time and considers what those who attempt to assess exemplars can learn from this case.

Eliot Spitzer became New York State’s sixty-third attorney general on January 1, 1999. He used the powers of that post and excellent media relations to transform his office into a highly visible platform to fight for the people’s rights against the giants of Wall Street investment banking, drug companies, the insurance industry, gun manufacturers, power plants, and even prostitution rings. In virtually every case, Spitzer successfully employed the same strategy—pursue the offender relentlessly with all the resources available and engage the media to call attention to the case and himself. Spitzer’s predecessors had similar opportunities but were somehow unable or unwilling to pursue them (Eimicke 2005).

As noted in a previous article in *Public Integrity* (Eimicke 2005), Spitzer’s ability to obtain a positive national reputation evoked the trajectory of another unlikely exemplar, C. Everett Koop, the former surgeon general of the U.S. Public Health Service. Like Koop, Spitzer was not very well known before taking office. James Bowman’s description of Koop could apply equally to Spitzer’s service as attorney general: “[He] transformed nominal powers into genuine influence, something that all exemplars in public service must, no doubt, do. He remains a peerless example that one person can, through force of character, make a difference” (Bowman 1992).

That 2005 article on Spitzer as exemplar, which of course preceded his brief term

as governor, noted the then-AG's tendencies to overstep his jurisdiction, engage in personal conflicts, and try cases in the media, and his obvious political ambition. The article also highlighted the extraordinary results Spitzer achieved for the average citizen—major improvements in transparency and management of mutual funds and consumer accounts on Wall Street, reductions in emissions that cause acid rain, and limits on the devastating impact of illegal guns on our society. The article concluded that Spitzer's conduct bore the hallmarks of a true exemplar, while noting that judging character is an especially "difficult and dangerous endeavor" (Cooper 1992b, 338) when the public official is in the middle of a potentially long public career.

Unfortunately for Spitzer, his family, and the people of New York State, his next step up the political career ladder proved to be the end, not the continuation, of a

Clearly, the shift from attorney general to governor exposed and exacerbated some of Spitzer's character and ethical weaknesses. In particular, the executive branch role highlighted his inability to work collaboratively with other public officials and an increasing propensity to choose his personal interests over the public interest.

brilliant career. Almost immediately after assuming the office of governor, Spitzer's obsession with gaining control of the state legislature led him into a series of political defeats and ethical violations.

Clearly, the shift from attorney general to governor exposed and exacerbated some of Spitzer's character and ethical weaknesses. In particular, the executive branch role highlighted his inability to work collaboratively with other public officials and an increasing propensity to choose his personal interests over the public interest. While these character deficits were evident during Spitzer's

AG service, few foresaw the extent to which personal flaws would undermine his governorship. This article explores how and why Eliot Spitzer's ethical weaknesses began to outweigh his commitment to laudable goals, and it attempts to derive some lessons for those trying to assess exemplars in mid-career.

Background

Eliot Spitzer's rise and fall as crusader for the average citizen is an unlikely story. He grew up in a wealthy family, attended elite schools (Horace Mann School, Princeton, and Harvard Law School), and clerked for a federal judge (Kosova 2004). He worked at the prestigious Manhattan law firms of Paul Weiss, Rifkind, Wharton and Garrison and Skadden, Arps, Slate, Meagher and Flom.

Throughout his upbringing, Spitzer's very successful father, Bernard, was determined to have him recognize the importance of hard work, intellect, and the ability to articulate and defend his point of view (Kosova 2004). The former governor would say of his father, "There isn't a lot of tolerance just for wasted time and such, so we didn't sit around the dinner table talking about the weather and gossip" (Hakim 2008c). His family's wealth would later become a political issue when Spitzer ran for attorney general and repeatedly denied, and then finally admitted, receiving financial assistance from his father (Holbreich and Reed 1998).

Spitzer exhibited his talent for attracting attention even in law school, catching the eye of Alan Dershowitz, the famous Harvard Law School professor and television commentator. Dershowitz hired law student Spitzer to work on the Claus von Bulow

defense. Spitzer was regarded as a brilliant student and, according to Dershowitz, "always wants to do what's right" (Ignatius 2002).

Eliot Spitzer served as an assistant district attorney in Manhattan from 1986 until 1992, rising to the position of chief of the Labor Racketeering Unit. His defining achievement there may have helped to shape his philosophy of law enforcement and ethical public behavior. Spitzer set up a sting operation to gather evidence against the Gambino crime family's illegal domination of the trucking business in New York's garment industry. In the end, Thomas and Joseph Gambino pleaded guilty to antitrust charges, paid \$12 million in fines, and agreed to stay out of trucking and the garment industry forever. They avoided incarceration, however, because Spitzer was satisfied to hurt the Gambinos financially and end their participation in the garment industry going forward. Spitzer was criticized then, and later as attorney general, for not insisting upon jail time for the wrongdoers he so vigorously pursued.

Spitzer as Attorney General

As New York State's lawyer, Spitzer promised to focus on fraud and corruption in government and big business. He advocated sweeping campaign finance reform but was forced to deal with controversy in this area while seeking the attorney general's office, admitting only in the last week of the campaign that he had received a \$4 million loan from his father to pay off debts from his unsuccessful 1994 run for that office (Craddock, Herr, and Ziemer 1998).

Spitzer's narrow victory did not deter him from aggressively pursuing his campaign agenda. His activism earned Spitzer enormous public recognition; he was named *Time's* Crusader of the Year, *Governing's* Public Official of the Year, *New York Magazine's* New Yorker of the Year, and the *San Francisco Chronicle's* Businessperson of the Year. However, his "government by press release" raised serious questions about his motivations and judgment.

Going after Wall Street brokerages and mutual funds garnered the most attention for Spitzer as attorney general, and drew the most intense criticism. His supporters saw him as a modern-day combination of Teddy Roosevelt, Eliot Ness, and Don Quixote, taking on and defeating the richest and most powerful corporations in the world on behalf of the small investor, at great risk to his own career. His critics saw a cynical, self-serving headline grabber settling for relatively small fines and no jail time for those at the top. In response, Spitzer argued, "If you want to really have an impact and prevent crime . . . you have to address the structure rather than just the individual who happens to be the pawn of the given moment. You try to change the whole marketplace" (Jervey 2003). Skeptics argued that the changes he forced in business practices bore scant connection to his investigations or the evidence he had uncovered. In *Fortune Magazine*, Rob Norton opined, "It seems pretty obvious Spitzer went after Merrill Lynch primarily to boost his political career rather than to seek justice for the small investor" (Norton 2002).

Spitzer's actions did convince many, even some of his detractors, of the importance of his work rooting out corrupt practices on Wall Street. The *National Review* commented, "This was the issue that made Spitzer a national name, and he deserves the credit for his work on it" (Ponnuru 2004). The *Economist* was initially less generous: "For all his grandstanding and televised press conferences, Mr. Spitzer seems to have

some good points” (Economist 2002). As the extent of the wrong-doing became clear through Spitzer’s investigations, however, the *Economist* concluded, “There may be no constituency more supportive of Mr. Spitzer than the rank and file—including the former rank and file—of many banks: he is the only public official bold enough to take action to bring people to account” (“Opinion” 2002).

Fighting to reduce the impact of acid rain became another moral crusade for Spitzer, and it foreshadowed the themes and tactics he would use in the future. Spitzer’s initial action was prompted by a federal court decision throwing out several U.S. Environmental Protection Agency regulations controlling particulate pollution and ground-level ozone (NYS Office of Attorney General 1999a). In what would become typical behavior, Spitzer used his somewhat obscure state office to call on the EPA to appeal the ruling and called on Congress to enact stricter controls on utility emissions.

As might be expected, no immediate action was forthcoming from the Clinton bureaucracy. Spitzer then announced his intention to take direct legal action against seventeen power plants in Indiana, Kentucky, Ohio, Virginia, and West Virginia for failing to comply with a provision of the federal Clean Air Act that requires plants undergoing major modifications to comply with the same strict standards that apply to new plants (NYS Office of Attorney General 1999b). A month later, he petitioned the EPA to issue regulations requiring further reductions in air pollution (he had already prodded Governor George Pataki to issue regulations mandating dramatic emissions reductions from New York power plants) and convinced the six New England states to join him in the petition (NYS Office of Attorney General 1999c).

Spitzer filed suit in federal court in Columbus, Ohio, against the owners of ten of the seventeen plants initially targeted, and promised additional suits against the others, as well as new targets in the near future (NYS Office of Attorney General 1999d). Only eighteen months after Spitzer started his improbable crusade, Virginia Electric Power Company agreed to spend \$1.2 billion to reduce emissions by 70 percent from eight plants targeted by Spitzer’s lawsuits. The settlement included payments of \$5.3 million in penalties to the federal government and \$13.9 million to fund environmental projects (NYS Office of Attorney General 2000a). A month later, Cinergy Corporation agreed to spend \$1.4 billion to reduce emissions by two-thirds from ten midwestern power plants, pay \$8.5 million in penalties, and provide \$21.5 million for environmental projects (NYS Office of Attorney General 2000b).

Spitzer’s fight against acid rain achieved remarkable results. In the process, Spitzer stepped on a lot of toes, including those of fellow Democrats and dedicated environmentalists. As President Clinton’s EPA administrator, Carol Browner, said, “We were working on it, trying to do things strategically. Eliot became impatient” (Masters 2004).

Were Eliot Spitzer’s actions as attorney general those of a moral exemplar or merely a political opportunist? As David Hart (1992) observed, “To be a moral exemplar is a complex business.” Among the criteria set out by Hart are moral actions taken intentionally, voluntarily, with emotional engagement, that capture the public attention and imagination. To capture the public attention requires that the actions of the exemplar be publicized. This gives rise to what Hart calls the paradox of publicity—“genuine morality seldom seeks advertisement.” According to Hart, it is the moral obligation of others to publicize the deeds of moral exemplars.

Spitzer as Governor

Eliot Spitzer was elected governor in November 2006 by a record margin and promised that everything would change in the state capital of Albany beginning on "Day One" of his administration. New York State government was widely known as dysfunctional (and frequently corrupt), garnering notoriety as *the* most dysfunctional state government in the nation (Creelan and Moulton 2004, 21). During Governor George Pataki's twelve years in office, observers criticized the "three men in a room" political domination of Pataki, Senate Majority Leader Joseph Bruno, and Assembly Speaker Sheldon Silver. Spitzer vowed to end three-men-in-a-room politics, promising transparent decision-making, ethical government, and campaign reform. He delivered none of these needed reforms during his brief governorship.

Instead, Spitzer took on the legislative leadership in unusually personal ways, and generally lost, both in substance and in reputation. He fought the legislature's choice of one of its members, Thomas P. DiNapoli, to fill the state comptroller post following Alan Hevesi's resignation due to ethical lapses. Spitzer attacked DiNapoli as totally unqualified. In a widely publicized telephone conversation, Spitzer threatened State Assembly Minority Leader James Tedisco, characterizing himself as "a f--king steamroller" that would roll over Tedisco and anyone else who continued to promote DiNapoli (Dicker 2007). Tedisco and the majority of the legislature ignored the governor's bluster and confirmed DiNapoli.

Spitzer retaliated by visiting the districts of Democratic legislators to chastise those who had voted for DiNapoli. He also committed himself and his administration to overcoming the narrow Republican majority in the state Senate and to unseat his new enemy, Senate Majority Leader Bruno. This confrontational approach did not help the governor to achieve his promise of a more transparent and responsible state budget process.

As in the past, important budget decisions were made by three men—Spitzer, Bruno, and Silver—behind closed doors. Transparency and reform were tabled, and deal making was back. The so-called balanced budget of 2007–2008 was billions out of balance before six months had passed. By the end of October 2007, it was projected that the state would run a deficit exceeding \$4 billion for the year.

The beginning of the end of Eliot Spitzer as a political force and ethical exemplar became known in the New York media as "Troopergate" because of his use of the state police in an attempt to discredit Senate Majority Leader Bruno. A report by Attorney General Andrew Cuomo in July 2007 concluded that the Spitzer administration had directed the state police to keep a special record of Bruno's travel on state aircraft, and even fabricated documents intended to discredit Bruno.

The attorney general's report further concluded that the governor's office, assisted by the acting superintendent of the state police, had engaged in a campaign to feed damaging information about Senator Bruno's travels to the media. The report

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determined that Bruno had not done anything wrong. Spitzer's inspector general agreed with the findings of the attorney general. The *New York Times* characterized the Cuomo report as "a devastating blow to a governor who had promised to bring a new dawn of ethical responsibility to state politics" (Hakim 2007a).

Spitzer accepted responsibility for "the actions of my office" and apologized to Senator Bruno, the state police, and the people of New York (Hakim 2007a). Spitzer denied any personal knowledge of the improper behavior, however, and immediately suspended his communications director and reassigned another senior staffer to a position outside the governor's office. The release of the Cuomo report, the apologies, and the reassignment did not bring an end to Troopergate. The Republican majority in the state legislature continued its own investigation, and the Albany County district attorney also continued to gather information independently.

According to Pulitzer Prize-winning *New York Daily News* columnist Michael Goodwin, the Troopergate scandal forced Spitzer to shift his policy agenda radically leftward, in a desperate attempt to rally unions and liberals to his defense (Goodwin 2007). Goodwin reported that among other positions, Spitzer advanced a plan to provide driver's licenses to illegal immigrants, supported efforts to end interview and fingerprint requirements for food stamps, proposed suing the federal government for the right to extend public health insurance for children in families earning up to \$82,600, and suggested a hike in the hotel tax to fund a union-supported major expansion of New York City's Javits Convention Center.

Despite needing allies on these measures, Spitzer reacted with typical disdain and moral superiority when others disagreed with him. For example, when New York City Mayor Michael Bloomberg questioned the advisability of issuing driver's licenses to illegal immigrants, Spitzer responded in confrontational terms: "He is wrong at every level—dead wrong, factually wrong, legally wrong, morally wrong, ethically wrong" (Goodwin 2007).

Spitzer went ahead and issued an executive order directing State Department of Motor Vehicles offices to issue driver's licenses to illegal immigrants who presented a foreign passport as identification. After the state senate voted to oppose the plan, Spitzer modified it by proposing a different kind of license for illegal immigrants with the expiration date of their visa printed on the license. By mid-November 2007, with polls showing that 70 percent of New Yorkers who were aware of the plan opposed it, Spitzer abandoned what he characterized as his "principled decision" (Hakim 2007b) on licenses for immigrants. Spitzer decided that the plan would be stopped by legal challenges, legislative action, or resistance at the county level. Before it was over, the Spitzer plan stimulated a national debate on how illegal immigrants living and working in the United States should be treated.

By the end of his first year in office, the man who had been elected by a record 69 percent of voters had a favorable rating of only 35 percent; in addition, 56 percent of those polled said they would vote for someone else in the next election (Miller 2007). According to the director of the polling institute, first Troopergate and then the driver's licence issue had contributed to the drop in Spitzer's popularity. He went on to say, "Gov. Spitzer promised that on day one, everything changes. . . . One year later, 68 percent of New York state voters say it didn't" (Miller 2007).

On March 7, 2008, the *New York Times* began to investigate whether Spitzer was involved in a prostitution operation, one day after federal prosecutors charged four people with running an elite, Web-based call-girl service called Emperors Club VIP

(Hakim and Rashbaum 2008). On Monday, March 10, 2008, the *New York Times* published a report linking Spitzer to the prostitution ring. Later that day, Spitzer made a public statement indicating that he had violated his sense of right and wrong and apologized to his family and the public. He did not answer any questions and did not resign (Hakim and Rashbaum 2008).

The political world was stunned and titillated. *Time* called it "a Jimmy Swaggert moment for New York State," a scandal of lust plus pride (Thornburgh 2008). The *Economist* characterized it as "the fall of ethics man" and "a shocking descent from grace" ("Fall of Ethics Man" 2008). In a swirl of investigations, investigative reporting, tabloid headlines, and threats of impeachment from the man he had threatened to steamroll (State Assemblyman James Tedisco), Spitzer announced on March 12 that he would resign, effective March 17 (Kocieniewski and Hakim 2008).

Spitzer's resignation came two days after his connection to the prostitution ring became public. At a press conference in his New York City office, with his wife by his side, Spitzer said, "Over the course of my public life, I have insisted—I believe correctly—that people take responsibility for their conduct. I can and will ask no less of myself. For this reason, I am resigning from the office of governor" (Kocieniewski and Hakim 2008).

The investigations of the events leading to Spitzer's resignation are ongoing. As of this writing, there are continuing investigations into Troopergate by the state attorney general's office, the state senate's Investigations Committee, the Albany County District Attorney's Office, and the New York Commission on Public Integrity. Newspaper reports indicate that, contrary to his earlier statements, Spitzer participated directly in the effort to discredit Senator Bruno, including ordering the release of damaging information to the media and directing aides to reach out to reporters with information from the state police about Bruno (Hernandez and Hakim 2008).

The new governor, David Paterson, granted Attorney General Andrew Cuomo wide authority to investigate whether the state police acted improperly to help the Spitzer administration discredit Bruno. Paterson indicated he was concerned that there had been political interference that might undermine the reputation of the state police (Hakim 2008a). Daniel Wiese, the inspector general of the State Power Authority, was placed on indefinite administrative leave after the Albany County District Attorney's Office reported that Wiese, a former state police official, had spoken to the *New York Times* in July 2007 about Bruno's use of state aircraft at the request of then-governor Spitzer (Hakim 2008b). With respect to the prostitution scandal, at this time federal prosecutors have not reached a deal with Spitzer, so federal prosecution remains a possibility (Johnston and Shenon 2008).

Eliot Spitzer as an Exemplar Disgraced

Public officials need not be perfect to serve as exemplars. The senators portrayed in John F. Kennedy's *Profiles in Courage* acted bravely in the public interest, in spite of some significant personal failings or weaknesses (Carson 2004). As Terry Cooper describes it, however, exemplars must be "ethically sophisticated enough to reason with others about how their conduct serves the public interest and [have] sufficient clarity about their own professional ethical commitments to maintain integrity and a sense of self-esteem" (Cooper 2006, 6). Over time, Eliot Spitzer's

personal failings and weaknesses overwhelmed his commitment to ethical issues and policies of reform.

As attorney general, Eliot Spitzer was an exemplary public official. There were concerns about his strong-arm tactics, excessive self-promotion, difficulty in working constructively with others, and dishonesty in the case of his belated admission that he had borrowed money from his father. However, Spitzer's passionate advocacy, courage, and success in taking on difficult issues as attorney general more than outweighed these character failings. Now that he has fallen spectacularly from grace, it may prove instructive to assess Spitzer's entire public record and determine what lessons can be learned about public integrity and evaluating moral exemplars.

Historically, "ethics in public administration suffer[ed] from the absence of a theoretical framework" (Denhardt 1988), but substantial progress has been made in constructing that framework since 1988, particularly by Carol Lewis (1990), James Bowman (1991), Terry Cooper (2004), John Rohr (1989), H. George Frederickson (1993), and David Hart (1992). Terry Cooper's work is extremely helpful in examining the Spitzer case, particularly as he writes of those who have "exemplified virtue understood as specific character traits and as the quest for a life of integrity in the practice of public administration" (Cooper 1992a, 7). For Cooper, virtues are acquired traits of character that integrate thought and feeling and are cultivated and refined throughout life. Optimism, courage, fairness, honesty, consistency, humility, sympathy, self-control, a willingness to compromise, reciprocity, and duty are often suggested as characteristics of effective and ethical public officials (Bailey 1965; Van Wart 1998; Wilson 1993). While Spitzer often displayed courage and frequently fought for fairness, he seldom displayed humility or willingness to compromise. Most glaringly, he lacked self-control and forthrightness.

Two distinct kinds of conduct contributed to Spitzer's demise: actions reflecting his personal animosity toward other elected officials and, shockingly, multiple instances of consorting with high-priced prostitutes. Both types of conduct were probably illegal, and neither served the public interest or were consistent with Spitzer's public duties. Promoting the public interest and acting in accordance with duty are apt general criteria for evaluating elected officials.

Standards of Duty and Serving the Public Interest

It is especially appropriate to consider the question of duty for public officials, such as Eliot Spitzer, who take an oath of office. Indeed, a major focus of the field of ethics and the public administrator comes from the constitutional-legal perspective (Frederickson 1997). Terry Cooper identifies a crucial aspect of duty—the public administrator as a fiduciary professional citizen (Cooper 1991). This concept of duty suggests that ethical public officials must go beyond their own personal judgment in exercising the powers of their office. Cooper goes much further, arguing that it is the duty of ethical public administrators to use their knowledge, expertise, and power to act in the best interests of the average citizen.

In addition to serving as a public administrator, throughout his public service career Eliot Spitzer remained a member of the New York State bar. As such, he had an ethical duty to represent his clients zealously (NY Sup Ct 2007). Bar rules state that avoiding "offensive tactics" and "treat[ing] with courtesy and consideration" all

those involved in the legal process, are wholly consistent with zealous advocacy.

Some consider acting in the public interest a less effective criterion for judging exemplars because of its broad scope and various interpretations (Cooper 2004). Nevertheless, Carol Lewis constructed an extremely useful set of rules to guide public administrators seeking to behave ethically; serving the public interest is a major theme (Lewis 1990). In 1994, the American Society for Public Administration enacted a major reorganization of its Code of Ethics, with the first of five themes being "Serve the Public Interest. Serve the public, beyond serving oneself" (Van Wart 2003). Cooper also suggests using the public interest in the form of a question before making an important decision: "Are you acting on behalf of broad shared interests or limited particular ones?" (Cooper 2004).

Acting in the public interest can be a very useful evaluation tool if defined in Walter Lippmann's terms—"what men would choose if they saw clearly, thought rationally and acted disinterestedly and benevolently" (Lippmann 1955). Viewed this way, Lippmann's framework ties together the aforementioned constructs of Cooper, Frederickson, Lewis, and Wilson.

How does Spitzer measure up to the public interest test and the standards of official duty discussed above? Some of the negative qualities he exhibited as attorney general, which paled against his exemplary passion for justice, resurfaced when he became governor in ways that limited his effectiveness. Using Lippmann's formulation, it appears that Spitzer rarely acted disinterestedly. Many agree that promoting his political future was frequently at the top of Spitzer's mind as he gained fame prosecuting Wall Street tycoons.

Professional Conduct and Getting Things Done

Effective and efficient management frequently requires cooperation among agencies, collaboration, and even formal partnerships. As Terry Cooper suggests, "Responsible administrators should also bear a larger obligation to encourage collaboration rather than competition with other units, organizations, elected officials and the public" (Cooper 1998, 257). While serving as attorney general, Eliot Spitzer was not known for "playing well with others." His critics frequently cited his propensity to unreasonably stretch his jurisdiction to pursue issues and cases that were the province of other agencies. In the case of acid rain, the EPA was pursuing the case before Spitzer stepped in. Similarly, the SEC claimed that it was pursuing conflicts of interest on Wall Street. Spitzer responded that the federal agencies might have been pursuing the same cases, but were proceeding at a snail's pace and were not getting results.

As attorney general, Spitzer could instill fear in adversaries because he wielded the power of prosecution. In this respect, he showed little inclination to temper his zealous advocacy by avoiding "offensive tactics" or treating others with "courtesy or consideration" (NY Sup Ct 2007). Indeed, he frequently threatened those whom he perceived as standing in his way. In the case of Assembly Minority Leader James Tedisco, Spitzer virtually confirmed his threat to roll over him like a "f--cking steam-roller" if he got in his way (Dicker 2007). According to the *New York Post*, Spitzer replied, "You're right, indeed you're right," when a reporter sought to determine whether he had in fact said this in reference to Tedisco (Dicker 2007).

John Whitehead, the former chairman of Goldman Sachs, claims that Spitzer, as attorney general, threatened him for writing a published letter in defense of one of Spitzer's Wall Street targets, Maurice "Hank" Greenberg, former chief executive of the insurance giant AIG (Giannone 2005). In a letter to the editor of the *Wall Street Journal*, Whitehead says that Spitzer told him: "Mr. Whitehead, it's now a war between us and you've fired the first shot. I will be coming after you. You will pay the price. This is only the beginning and you will pay dearly for what you have

done. You will wish you had never written that letter" (Whitehead 2005).

Spitzer spokesperson Darren Dopp said that Whitehead's version was inaccurate, embellished, and false (Giannone 2005). Dopp's credibility is certainly questionable, however, as he would later appear as Spitzer's designated "fall guy" in the Troopergate scandal, which was triggered mainly by Spitzer's inability to bully senate leader Bruno into submission. Reports on the ongoing investigations indicate that Dopp has given sworn

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testimony and documentation that Spitzer personally directed him to leak records on Bruno to the media (Hernandez and Hakim 2008).

As governor, Spitzer's unwillingness to work with others had disastrous consequences. Positive action by the two houses of the New York State Legislature is required to enact legislation. Governor Spitzer's aggressive tactics—threats of political retribution and using the media to pressure his opponents—backfired when applied to the leaders of the state senate and assembly, Bruno and Silver, respectively.

Spitzer was not prepared to deal with two such entrenched, skilled, and battle-hardened politicians. Perhaps he underestimated his adversaries: Notably, State Majority Leader Bruno and Assembly Speaker Silver remained in office as Mario Cuomo, George Pataki, and then Spitzer himself entered and exited the Governor's Mansion. Spitzer certainly overestimated his own authority, leverage, and persuasive power. Try as he might, he was unable to "steamroll" Bruno and Silver on a host of issues large and small.

Spitzer used the media and threats in an attempt to get Bruno and Silver to acquiesce on his choice to fill the state comptroller vacancy. They ignored him and chose one of their own. He tried to force his executive budget proposal down their throats but ultimately was forced to accept a budget that was more theirs than his. He sought legislative approval for gay marriage and failed. He sought to implement driver's licenses for illegal immigrants but had to pull his controversial proposal off the table when he could not win legislative or public support. He probed Bruno's use of state aircraft to try to force him out of office and ended up apologizing to him.

During his first year in office, Governor Spitzer seemed not to understand that being an effective governor requires a different approach and skill set than are called for to be an effective attorney general. Terry Cooper reminds us that the responsible administrator has an obligation to cooperate, not compete, with other branches and units of government. As governor, Spitzer focused on "limited particular" interests, not broad, shared ones. His seeming obsession with battling Senate leader Bruno, with whom he had failed to cultivate a cooperative relationship, led ultimately to

Troopergate. To the public and most observers, Spitzer appeared to lose his laudable original focus on making state politics more ethical and transparent. Instead, he became obsessed with "taking out" those who seemed to be blocking his agenda.

If Spitzer had accomplished only a portion of his ambitious gubernatorial goals, we might well praise him as a public interest exemplar, as the 2005 article in *Public Integrity* did. In pursuing his agenda, however, Spitzer's leadership flaws were exposed, primarily, it appears, out of frustration with not being able to bully others to adopt his positions. Spitzer failed to adapt to a state legislative process that featured two men, Bruno and Silver, as powerful as he. Spitzer's conduct and confrontational attitude as governor exhibited none of the hallmarks of an ethical exemplar.

Flawed Character and Personal Conduct

New Yorkers inside and outside government and politics, friend and foe alike, were utterly stunned by the revelations about Eliot Spitzer's personal secrets. The most frequently cited explanation for Spitzer's risk-taking behavior with prostitutes was that he must have had some unconscious desire to escape the pressure and recent failings of the public career he had built.

New York Times columnist David Brooks described what he called the "rank-link imbalance" (Brooks 2008). Certain people, he wrote, develop the social skills to advance their careers but are unable to develop genuine relationships with friends and lovers. They realize in middle age that fame is not enough, and they feel lonely and sorry for themselves. "They seek to heal the hurt. Maybe they frequent prostitutes because transactional relationships are something they understand." Whatever the conscious or subconscious motivators, isn't what Spitzer did—particularly since "johns" are rarely prosecuted—part of his private life?

Ethics blogger Chris MacDonald noted the many commentators who emphasized Spitzer's hypocrisy—he prosecuted prostitution rings as attorney general while in all likelihood patronizing other services (MacDonald 2008). MacDonald argues that hypocrisy may be a character flaw, but it is not grounds for removal. We agree that neither hypocrisy nor patronizing prostitutes necessarily constitutes sufficient grounds for removal from elected office. Like MacDonald, however, we believe it inarguable that Spitzer's secret and questionable private behavior put the public interest at serious risk. The danger of blackmail, for example, is ever present given the common connection between prostitution and organized crime. Spitzer's personal conduct is not readily separable from his official life in instances where the "private" behavior is illegal, potentially compromising (in ways distinct from a DWI, for instance), and models utter hypocrisy in flouting the rule of law he previously championed.

Dennis Thompson has explored this question thoroughly and states unequivocally, "The privacy of public officials *should* receive less respect than the privacy of ordinary citizens" because, among other reasons, "the way officials conduct their private lives can affect for good or ill the way citizens conduct theirs" (Thompson 1987, 123). But Thompson goes on to say that the most difficult cases are when the private conduct is properly regarded as immoral but does not directly affect an official's job performance.

In this case, perhaps the best assessment was made by Eliot Spitzer himself in

announcing his resignation: “Over the course of my public life, I have insisted—I believe correctly—that people regardless of their position or power take responsibility for their conduct. I can and will ask no less of myself. For this reason, I am resigning from the office of governor” (Grynbaum 2008).

Judging (and Re-Judging) Exemplars

The character flaws evident in Eliot Spitzer as attorney general did not undermine his ability to achieve positive outcomes for the public. Prosecutors can accomplish a great deal even when they do not work well with others or when they bend the

Perhaps most important, a second look at the career of Eliot Spitzer recalls the ethical consequences of separating means and ends. It may well be that inadequate attention was paid to Spitzer’s questionable ethical means as attorney general because of the surprising, beneficial outcomes he was achieving.

rules to achieve what they believe is a more important ultimate outcome. Once Spitzer became governor, his character flaws compromised his effectiveness.

Several interesting questions arise for those attempting to evaluate exemplars. In Spitzer’s specific context, does being a successful governor require not only a different skill set than that of a chief prosecutor, but a different array of personal characteristics? In general, must those assessing exemplars focus on where careers may potentially be heading, and attempt to map known character deficits to the requirements of the new position?

Perhaps most important, a second look at the career of Eliot Spitzer recalls the ethical consequences of separating means and ends. It may well be that inadequate attention was paid to Spitzer’s questionable ethical means as attorney general because of the surprising, beneficial outcomes he was achieving. Once he became governor, positive outcomes were no longer being achieved, and Spitzer—perhaps desperate to achieve results—became even more extreme and unethical in his means. With his character flaws on display, the totality of his impact on society as governor became more clearly negative.

It is far too simplistic to say that Eliot Spitzer “rose to the level of his own incompetence.” Nevertheless, public officials would be well advised to recognize how their character flaws and personal limitations may affect their performance in a role to which they aspire. Perhaps character deficiencies can be overcome through conscious choices to avoid situations that would highlight personal or leadership weaknesses rather than strengths. Those attempting to evaluate rising public exemplars should carefully consider the individual’s known character flaws in a wider context that includes both current position and possible future aspirations.

Conclusion: An Ethical Character

The fall of Eliot Spitzer highlights the importance—for public officials, for voters, and for those who assess exemplars—of understanding the full array of personal qualities and character traits a person possesses. Significant flaws in character must not be ignored or minimized, even if the public official is effective despite those

negative qualities. The potential for personal failings to take on greater importance is heightened when the public official ascends to a position that requires more or different personal or political skills.

Despite his success as attorney general and his meteoric rise to national fame, Eliot Spitzer proved not to be a moral exemplar of the first order. As an elected official, he tilted at some windmills and won. But ultimately he met an ethical challenge he could not overcome—himself.

REFERENCES

- Bailey, Stephen K. 1965. "Ethics and the Public Service." In *Public Administration and Democracy: Essays in Honor of Paul H. Appleby*, edited by Roscoe C. Martin, pp. 283–298. Syracuse, N.Y.: Syracuse University Press.
- Bowman, James. 1992. "C. Everett Koop: Integrity—No Matter What." In *Exemplary Public Administrators*, edited by Terry L. Cooper and N. Dale Wright, pp. 270–301. San Francisco: Jossey-Bass.
- Bowman, James, ed. 1991. *Ethical Frontiers in Public Management*. San Francisco: Jossey-Bass.
- Brooks, David. 2008. "The Rank-Link Imbalance." *New York Times*, March 14 (www.nytimes.com/2008/03/14/opinion/14brooks.html).
- Carson, Carol. 2004. "Profiles in Courage for Our Time." *Public Integrity* 6, no. 1:83–86.
- Cooper, Terry L. 1991. *An Ethic of Citizenship for Public Administration*. Englewood Cliffs, N.J.: Prentice Hall.
- . 1992a. "On Virtue." In *Exemplary Public Administrators*, edited by Terry L. Cooper and N. Dale Wright, p. 7. San Francisco: Jossey-Bass.
- . 1992b. "Reflecting on Exemplars of Virtue." In *Exemplary Public Administrators*, edited by Terry L. Cooper and N. Dale Wright, p. 338. San Francisco: Jossey-Bass.
- . 1998. *The Responsible Administrator*. San Francisco: Jossey-Bass.
- . 2004. "Big Questions in Administrative Ethics: A Need for Focused, Collaborative Effort." *Public Administration Review* 64, no. 4:395–407.
- . 2006. *The Responsible Administrator*, 5th ed. San Francisco: Jossey-Bass.
- Craddock, B., R. Herr, and T. Zeimer. 1998. "Vacco, Spitzer Await Verdict on AG Race." *Uptown Register* (Columbia University School of Journalism), November 4:3.
- Creelan, Jeremy M., and Laura M. Moulton. 2004. *The New York State Legislative Process: An Evaluation and Blueprint for Reform*. New York University School of Law, Brennan Center for Justice.
- Denhart, Kathryn. 1988. *The Ethics of Public Service: Resolving Moral Dilemmas in Public Organizations*. Westport, Conn.: Greenwood Press.
- Dicker, Fred. 2007. "Full Steam Ahead for Spunky Spitz." *New York Post*, February 1:7.
- Eimicke, William B. 2005. "Eliot Spitzer, The People's Lawyer." *Public Integrity* 7, no. 4:353–372.
- "The Fall of Ethics Man." 2008. *Economist*, March 11 (www.economist.com/world/na/displaystory.cfm?story-id=10835377).
- Frederickson, H. George. 1997. *The Spirit of Public Administration*. San Francisco, Calif.: Jossey-Bass.
- Frederickson, H. George, ed. 1993. *Ethics and Public Administration*. Armonk, N.Y.: M.E. Sharpe.
- Giannone, Joseph. 2005. "Former Goldman Chairman Says Spitzer Threatened Him." *USA Today*, December 22 (www.usatoday.com/money/companies/regulation/2005-12-22-spitzer-whitehead_x.htm).
- Goodwin, Michael. 2007. "Cornered by Troopergate, Spitzer Is Showing His Des-

- peration." *New York Daily News*, September 30 (www.nydailynews.com/opinions/2007/09/30/2007-09-30).
- Grynbaum, Michael. 2008. "Spitzer Resigns, Citing Personal Failings." *New York Times*, May 12 (www.nytimes.com/2008/03/12/nyregion/12cnd-resign.html).
- Hakim, Danny. 2007a. "Spitzer's Staff Misused Police, Report Finds." *New York Times*, July 23 (www.nytimes.com/2007/07/23/nyregion/23cnd-spitzer.html).
- . 2007b. "Spitzer Dropping His Driver's License Plan." *New York Times*, November 14 (www.nytimes.com/2007/11/14/nyregion/spitzer.html).
- . 2008a. "In Albany, Spitzer's Out but Inquiries Keep Coming." *New York Times*, April 2 (www.nytimes.com/2008/04/02/nyregion/02trooper.html).
- . 2008b. "Official Put on Leave After Latest Report on Trooper Inquiry." *New York Times*, April 5 (www.nytimes.com/2008/04/05/nyregion/05wiese.html).
- . 2008c. "Spitzer Spends His Time with Lawyers and Family." *New York Times*, April 14 (www.nytimes.com/2008/04/14/nyregion/14empire.html).
- Hakim, Danny, and W. Rashbaum. 2008. "Spitzer, Linked to a Sex Ring as a Client, Apologizes to the Public and His Family." *New York Times*, March 11 (<http://query.nytimes.com/gst/fullpage.html?res=9E005DC1E3AF932A2575OCA96E9C>).
- Hart, David K. 1992. "The Moral Exemplar in an Organizational Society." In *Exemplary Public Administrators*, edited by Terry L. Cooper and N. Dale Wright, pp. 9–27. San Francisco: Jossey-Bass.
- Hernandez, Raymond, and Danny Hakim. 2008. "Spitzer Pushed Staff's Effort to Smear Bruno." *New York Times*, March 24 (www.nytimes.com/2008/03/24/nyregion/24report.html).
- Holbreich, J., and C. Reed. 1998. "Vacco and Spitzer Fight Past the Finish" (www.thirdrail.jrn.columbia.edu/1998/state/vacco-spitzer/index).
- Ignatius, Adi. 2002. "Crusader of the Year: Eliot Spitzer." *Time.com*. December 21.
- Jervey, Gay. 2003. "Wall Street." *Money Magazine*, July 1.
- Johnston, David, and P. Shenon. 2008. "U.S. Defends Tough Tactics on Spitzer." *New York Times*, March 21 (www.nytimes.com/2008/03/21/nyregion/21justice.html).
- Kocieniewski, David, and Danny Hakim. 2008. "Felled by Scandal, Spitzer Says Focus Is on His Family." *New York Times*, March 13 (www.nytimes.com/2008/03/13/nyregion/13spitzer.html).
- Kosova, Weston. 2004. "Keeping a Close Eye on Wall Street." *Newsweek*, December 29/January 5:93.
- Lewis, Carol. 1990. *The Ethics Challenge in Public Service*. San Francisco: Jossey-Bass.
- Lippmann, Walter. 1955. *Essays in the Public Philosophy*. New York: Little, Brown.
- MacDonald, Chris. 2008. "Gov. Eliot Spitzer and Business" (www.businessethics.ca/blog/2008/03/gov-eliot-spitzer-and-business-ethics_14.html).
- Masters, Brooke. 2004. "Eliot Spitzer Spoils for a Fight." *Washington Post*, May 31 (www.washingtonpost.com).
- Miller, Kyle. 2007. "Two Polls Show Spitzer's Public Image Still Suffering." *Legislative Gazette*, December 17 (www.legislativegazette.com/printable.php?id=2752).
- Norton, Rob. 2002. "First: Not So Fast—The Problem with Eliot Spitzer." *Fortune*, June 23:44.
- NYS Office of Attorney General. 1999a. "Spitzer Urges Greater Attention to Acid Rain and Air Pollution" (www.oag.state.ny.us/press/1999/may/may21a_99.html).
- . 1999b. "Spitzer Takes on Midwestern Power Plants over Acid Rain and Smog" (www.oag.state.ny.us/press/1999/sep/sep15a_99.html).
- . 1999c. "New York Petitions EPA to Reduce Acid Rain Damage" (www.oag.state.ny.us/press/1999/oct/oct26a_99.html).
- . 1999d. "Spitzer Files Lawsuits Against Out-of-State Power Plants" (www.oag.state.ny.us/press/1999/nov/nov29a_99.html).
- . 2000a. "Mid-Atlantic Utility Agrees to Cut Emissions Linked to Acid Rain and Smog." www.oag.state.ny.us/press/2000/nov/nov16a_00.html.

- . 2000b. "Second Major Utility Agrees to Cut Emissions." www.oag.state.ny.us/2000/dec/dec21c_00.html.
- NY Sup Ct. 2007. Disciplinary Rules of the Code of Professional Responsibility, New York Supreme Court, Appellate Divisions. DR7-101 [Sec. 1200.32].
- "Opinion: Financial Analysis—Independence Days." 2002. *Economist*. April 25:64
- Ponnuru, Ramesh. 2004. "Meet Eliot Spitzer: The Most Destructive Politician in America." *National Review*, June 14:26–29.
- Rohr, John A. 1989. *Ethics for Bureaucrats: An Essay on Law and Values*, 2nd ed. New York: Marcel Dekker.
- Thompson, Dennis. 1987. *Political Ethics and Public Office*. Cambridge, Mass.: Harvard University Press.
- Thornburgh, Nathan. 2008. "The Spitzer Scandal: Lust Plus Pride." Time.com, March 10 (www.time.com/time/printout/0,8816,1721095,00.html).
- Van Wart, Montgomery. 1998. *Changing Public Sector Values*. New York: Garland.
- . 2003. "Codes of Ethics as Living Documents." *Public Integrity* 5, no. 4:331–346.
- Whitehead, John. 2005. "Scary." December 22 (www.opinionjournal.com/forms/print-this.html?id=110007713).
- Wilson, James Q. 1993. *The Moral Sense*. New York: Free Press.

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