

Inspection as a Social Process:

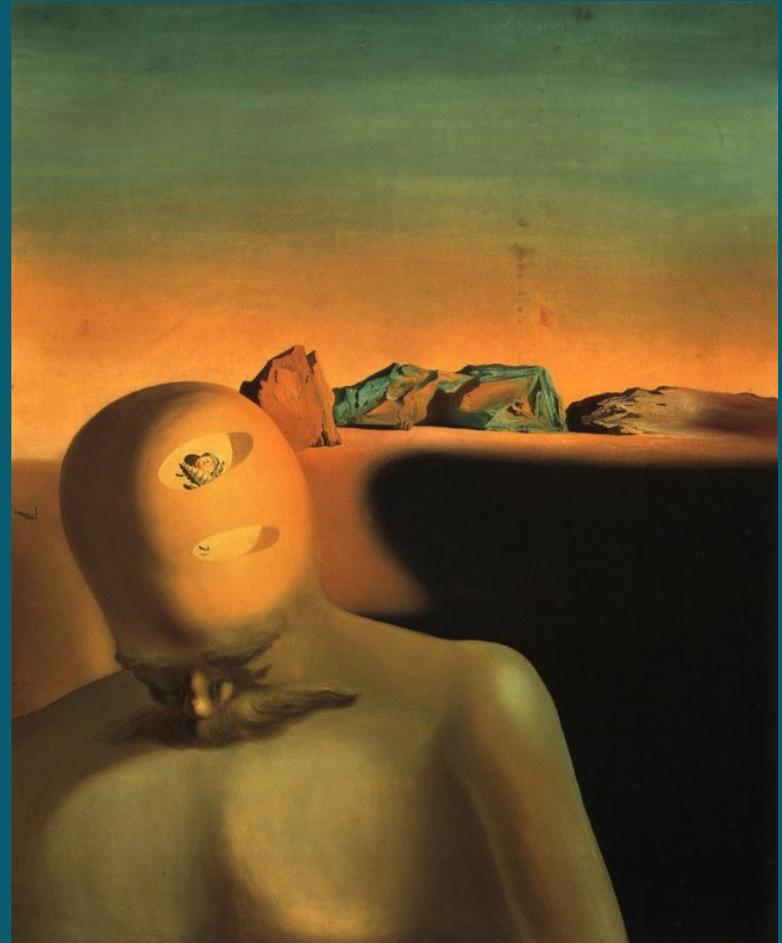
From “Street-Level Bureaucrat” to “Relational Regulator” and Beyond

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The “Street-Level Bureaucrat” (Lipskey 1980)

- **Key insights:**
 - Law entails implementation
 - Massive implementation discretion at staff level
 - Discretion is social
- **Factors shaping discretion:**
 - Professional training
 - Organizational variables:
 - Incentives
 - Rules
 - Structural
 - Politics
 - Self-interest
 - Identity
 - Personal characteristics
 - Ideology/values
 - Relationships



The “Reasonable” Inspector

(Bardach and Kagan 1982; Hawkins and Thomas 1984; Hutter 1989)



The “Unreasonable” Inspector

- Applies law mechanistically and legalistically
 - Imposes requirements that will not yield significant health and safety benefits
 - Imposes requirements whose cost substantially outweighs any benefits
 - Imposes requirements uniformly without attention to relevant differences between regulated entities
- Sees all regulated entities as greedy malefactors
- Relies on theory, disconnected from practical business realities



The “Reasonable” Inspector

- **Flexible and cooperative**
 - Neither uniformly legalistic or overly accommodating
 - Neither uniformly distrustful nor overly trustful
 - Makes sensible compromises to achieve regulatory goals
- **Tailors regulatory requirements to fit individual cases**
 - Overlooks violations that pose no serious risk
 - Takes account of good faith compliance efforts
- **Acts as a consultant, not merely a “cop”**
 - Identifies root causes of violations
 - Provides compliance assistance
- **Respects regulated entities**
 - Validates their contributions to society
 - Takes seriously problems faced by regulated entities
- **Exercises judgment informed by practical experience**



The “Reasonable” Inspector

“Has the wisdom of Solomon...



...the craftiness of Ulysses...



... and the fortitude of Winston Churchill”



Research on Inspector Styles/Characteristics

- **No clear empirical evidence linking inspectors' "styles" to compliance outcomes**
- **Dangers of forbearance**
 - Recent survey found: (Rorie, Rinfret and Pautz 2015)
 - Environmental inspectors less likely to issue NOV if:
 - Inspector believes there will be bad financial consequences for firm
 - Inspector knows that firm has participated in a voluntary "beyond compliance" program
 - Company compliance managers more likely to commit a violation if they were investigated but not cited for past violations

Research on Inspector Styles/Characteristics

- **Key findings on inspector approaches associated with compliance outcomes:**
 - [1] Clear and consistent communication of regulatory requirements
 - [2] Building relationships with key organizational actors
 - [3] Creating perception of fairness in application of the law

Key Finding [1]: Clear and Consistent Communication of Regulatory Requirements

Less compliance among building contractors when:

- Subject to the jurisdiction of multiple regulators with conflicting requirements
- Same inspector gives inconsistent information about compliance (May and Wood 2003)



More compliance among small food-industry businesses when inspectors convey regulatory requirements clearly and prescriptively and educate regulated entities about requirements (Fairman and Yapp 2005)

- Knowledge issues: 43% of small businesses mistakenly thought they were in compliance
- “Flexible” approaches that solicited input from regulated establishment not effective

Key Finding [2]: Building relationships through direct and sustained interactions



Compliance personnel at university who had direct and repeated interactions with EPA inspectors developed relationships and rapport with inspectors and came to see them as allies rather than adversaries (Gray and Silbey 2014)

Building contractors who had direct contact with inspectors in the field more likely than those who did not to report: (May and Wood 2003)

- Inspectors were cooperative and provided useful quality control function
- Important to comply in order to maintain reputation with the inspector

- Contingent on employees' organizational autonomy and professional expertise



Key Finding [3]: Fairness in application of the law

- Citizens more likely to comply with military service policies when they perceive that other citizens are doing their share (Levi 1997)
- Building contractors more likely to comply with regulatory requirements when they know these requirements are being enforced on other contractors (May 2005)
- Industrial facilities more likely to comply with Clean Air Act requirements when other facilities in the same industry are more frequently inspected (Short and Toffel 2010)

Current Trends in Inspection/Enforcement Research

- Factors influencing inspector heterogeneity
- Private monitors
- “Relational Regulation”



Current Trends: Inspector Heterogeneity (Large-N Studies)

- **Experience:**
 - More experienced FDA inspectors are less likely to find a facility in total non-compliance (Macher, Mayo and Nickerson 2011)
 - More experienced supply chain audit teams report more violations than less experienced teams (Short, Toffel and Hugill 2015)
- **Relationships with Regulated Entities (the “dark side” of relationships):**
 - Restaurant inspectors new to the inspected establishment report 12.7-17.5% more violations than returning inspectors (Jin and Lee 2014a)
 - Supply chain audit teams entirely new to the audited factory report more violations than teams with returning auditors (Short, Toffel and Hugill 2015)
- **Training**
 - Supply chain audit teams with more training report more violations (Short, Toffel and Hugill 2015)
- **Gender**
 - Supply chain audit teams with at least one woman report more violations (Short, Toffel and Hugill 2015)

Current Trends: Private 3P Monitors (The “Hired Gun”?)



- **Substantial evidence of economic conflicts of interest**
 - Factory pays environmental inspector $\tilde{\sim}$ lax inspection (Duflo *et al.* 2013)
 - Financial auditors earn consultancy fees $\tilde{\sim}$ lax auditing (Kinney, Jr. *et al.* 2004)
 - Bond issuers pay CRA $\tilde{\sim}$ higher bond ratings (Jiang, Stanford, and Xie 2012)
 - Supply chain factory pays social auditor $\tilde{\sim}$ lax auditing (Toffel and Short 2015)
 - SMOG-Check stations have lucrative cross-selling opportunities $\tilde{\sim}$ lax inspection (Pierce and Toffel 2013)
- **Private monitors also influenced by social factors** (Short, Toffel and Hugill 2015)
 - Ongoing relationships with audited factories
 - Experience
 - Audit skills training
 - Gender

Current Trends: The “Relational Regulator”

- No single, best model of inspection
- Inspector adapts tools she has to circumstances at hand
- Inspectors are most successful when they:
 - Look beyond traditional roles and agency boundaries to access new resources
 - e.g. Labor inspectors working with bank regulators to monitor wages (Pires 2011)
 - Understand and intervene in the organizational culture of regulated firms to achieve compliance results
 - e.g. Identify those most likely to be allies



New enforcement tools, new questions

How does technology influence the social process of inspection?

- Continuous emissions monitoring
- Data analytics
- Innovation in inspection technology
 - Adoption of PDAs by restaurant inspectors led to: (Jin and Lee 2014b)
 - 11% increase in detected violations
 - Compliance improvement
 - Lower incidence of foodborne illnesses



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