

APA Webinar

# Ethics and the Digital World

Wednesday, December 7, 2016

3 – 4:30 p.m. (Central time)



## Ethics and the Digital World

### **Jim Peters, FAICP**

Ethics Officer, American Institute of Certified Planners



In 2015, APA's Smart Cities and Sustainability Initiative noted a growing need to:

“Balance the enhanced capabilities enabled by ‘big data’ with the aspirations of the planning profession in performing planning tasks.”

One recommendation was that ethical concerns related to ‘big data’ would be a timely topic for educational training.

### **SMART CITIES AND SUSTAINABILITY INITIATIVE**

American Planning Association

April 2015



# Introduction of Panel

**Moderator:**            **Dwight Merriam, FAICP**  
Partner, Robinson & Cole  
Hartford, CT



**Speaker #1:**            **David Fields, AICP**  
Principal, Nelson/Nygaard  
San Francisco, CA



## Introduction of Panel (contd.)

**Speaker #2:**            **Julie A. Tappendorf, JD**  
Partner, Ancel Glink  
Chicago, IL



**Speaker #3:**            **Jerry Weitz, FAICP, PhD**  
President, Jerry Weitz & Associates  
Alpharetta, GA



# Agenda



Dwight Merriam

- 1. Background and Ethical Issues (5 min)**
- 2. Questions for Panelists (1 hour)**
- 3. Q&A from Participants (15 min)**



## Ethics and the Digital World

### Background (contd.)

The size of these data sets eclipses anything in human history.<sup>(1)</sup> This societal transformation is said to be comparable to the Industrial Revolution,<sup>(2)</sup> leading to a “Data-Driven City.”<sup>(3)</sup>

One consequence is a growing number of ethical issues of how to balance this expanded technology with the human values we most care about—including accountability, confidentiality, costs, free choice, inclusiveness, privacy, transparency.

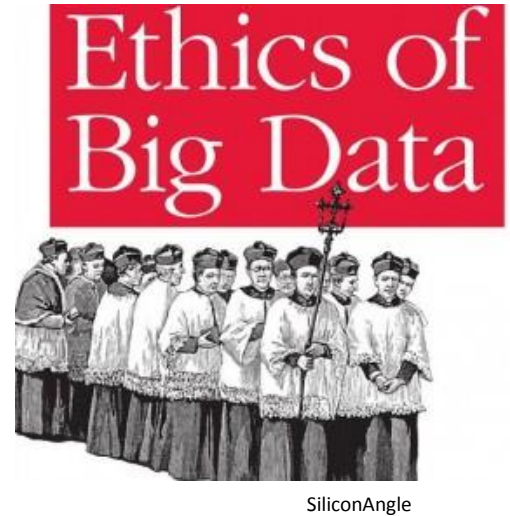


# Ethical Issues

Numerous technology-related organizations have adopted ethical codes relating to digital technology for analysis, the gathering of information, or the communication of its cause and effects.

These groups include the:

- American Statistical Association
- Association for Computing Machinery
- Association of Internet Researchers
- Data Science Association
- Council for Big Data, Ethics, and Society





### General Ethical Issues (contd.)

The *AICP Code of Ethics and Professional Conduct* doesn't specifically reference technology and the digital world. However, its "aspirational" Principle #3i says: "We [planners] shall systematically and critically analyze ethical issues in the practice of planning."

Based on the ethical issues raised by various technology groups, as well as the *AICP Code* itself, our panel will be addressing four areas of ethical conduct today:

- 1) Access and Inclusiveness
- 2) Clear and Accurate Information
- 3) Credit and Transparency
- 4) Confidentiality and Privacy



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Part One:

# Access and Inclusiveness



Joe Szurszewski; APA Image Library

## Question #1

**Governments have been using social media and other technology as outreach tools.**

**What are the key ethical concerns of using these types of technologies from a legal point of view?**



Dwight Merriam



Yourstory.com

## Q1: Julie Tappendorf

**Rule of Conduct #1** requires planners to provide “adequate, timely, clear and accurate information on planning issues.”

- Obligation to be inclusive to ensure broad public participation.
- Social media is not a replacement for live interaction. Not all people have access, particularly underserved groups.
- Are print publication of public notices still necessary?



Carolyn Torma; APA Image Library

## Q1: Tappendorf (contd.)

**Rule of Conduct #8** prohibits planners from engaging in private communications with planning process participants.

- Could lead to due process problems.
- Ethical obligation of hearing body members to avoid *ex parte* communications.
- Importance of impartiality in the zoning process (i.e., social media “friending” of witnesses or parties could lead to an impression of bias on the part of a hearing body member).



Carol Hu; APA Image Library

## Question #2:

**Several scenarios in the recent book, “The Ethical Planning Practitioner,” discuss the use of technology in citizen participation and social media postings.**

**Jerry, as the author of that book, what would you add to Julie’s advice, from the standpoint of the *Code of Ethics*?**



Dwight Merriam



## Jerry Weitz



*AICP Code of Ethics and Professional Conduct:*

**Principle #1d** says to provide information to “all affected persons.”

- Exclusive use of digital technology is probably inappropriate, since not all disadvantaged groups have internet access.

**Principle #1e** says participation should be broad enough to include those “who lack formal organization or influence.”

- A few statistics on internet access.

## Q2: Weitz (contd.)

**Rule of Conduct #19** notes the need to “disclose the interests” of one’s client or employer when participating in the planning process.

- One scenario I’ve used concerns a planner’s private posts on social media about a proposed highway he’s been involved with.
- Is social media the proper venue for informing the public? And, if you do so anonymously, are you failing to “disclose the true interests” of your client or employer?



James Van Hemert; APA Image Library



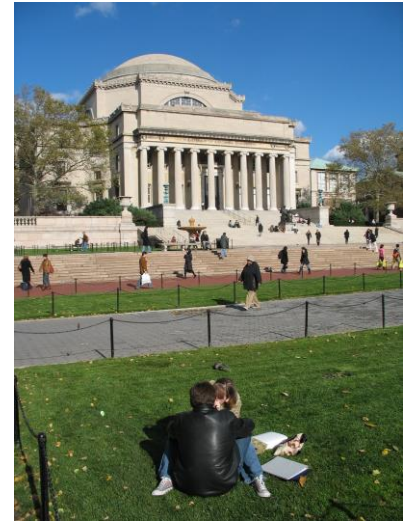
## Question #3:

**Much of this “big data” is controlled by governments, corporations, and universities—which can’t be accessed by a majority of the population.**

**Is there something planners need to do to provide broader access to some of this data?**



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## Q3: David Fields



Providing open source data to the public.

- Mind shift to encourage public to package agency data for general use.
- Agencies that do not provide their data are being seen as not fully serving the public.



Joe Szurszewski; APA Image Library

## Q3: Fields (contd.)

Potential for economic disparity.

- Between agencies with different user groups.
- Between service areas/municipalities with different levels of engaged citizens.



Ryan Scherzinger; APA Image Library

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**Part Two:**

# **Clear and Accurate Information**



## Question #4:

As a follow up to the previous question:

What is the most important challenge concerning a planner's use of data and technology, in terms of the *Code of Ethics*?



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Joe Szurszewski; APA Image Library



## Q4: David Fields

*AICP Code of Ethics and Professional Conduct:*

- **Rule of Conduct #1** and **Principle #1d**: Provide “adequate, timely, clear, and accurate information.”
- **Principle #2a**: Exercise “independent professional judgment.”

## Q4: David Fields (contd.)

What's the rational nexus between data and the Code of Ethics?

- Data is neutral.
- Planner's responsibility is to sift and sort, while providing access for others to dig deeper.



Pinterest photos

## Question #5

**As you think about the sheer amount of data that's available now, are there greater ethical threats for today's professional planners?**

**What other areas are planners more susceptible in the digital age?**



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Joe Szurszewski: APA Image Library





## Q5: Jerry Weitz

**Rule of Conduct #3** deals with changing your position on an issue within three years.

- Digital Age allows for greater and easier discovery by others of your prior positions. Need a good memory of what you've said and done.

**Rule of Conduct #6** addresses the “possibility for direct personal or financial gain.”

- Again, it's much easier in age of Big Data for someone to discover your “interests” and those of family members.

## Part Three:

# Credit and Transparency



ShowMeInstitute.org

## Question #6

**Broader access to megadata raises concerns about the ownership of these materials.**

**As an attorney, Julie, could you discuss the issues of copyright for some of the types of digital information planners might use?**



Dwight Merriam



StateSymbolsUSA.org

## Q6: Julie Tappendorf



- Use of photos and videos without permission—better to create your own content.
- Just because it's on the Internet does not mean it's free to use (e.g., lawyer's use of stock photos; use of memes).

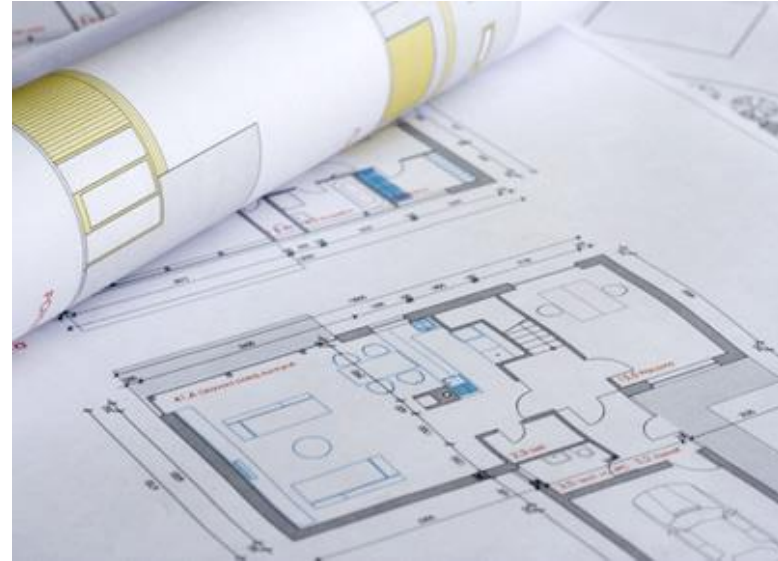


Gossiponthis.com

## Q6: Ownership and Copyright

### Q6: Tappendorf (contd.)

- Obtain permission from applicant at the outset to post plans (engineering, architectural, etc.) on the Internet.
- Include acknowledgement—in an application form the applicant signs—to allow copying and posting of all application materials.
- Regarding ownership of comprehensive plans and other documents, this goes back to the initial consultant's agreement.



Wikimedia Commons

## Question #7

**Given the broad access we have to material on the Internet, proper credit can be a huge issue—including doctored items, such as Photoshop or scenario planning.**

**How do planners protect themselves against these ethical concerns?**



Dwight Merriam



From “Zelig” (Warner Brothers, 1983)



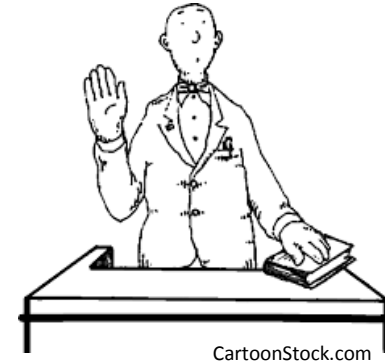
## Q7: David Fields

*AICP Code of Ethics and Professional Conduct:*

- **Rule of Conduct #17:** Shall not use the product of others' efforts.
- **Rules of Conduct #11 and #12:** Shall not misrepresent your own qualifications.

## Q7: Fields (contd.)

### Give Credit Where Credit is Due



- Regardless of the medium, planners have the same responsibility: stand behind their work and identify when the work came from elsewhere.
- Guidance for citations:
  - Original research and results: Planner's equivalent of a copyright.
  - Work based on products generated by others: Identify original sources.
  - Work of others, modified by you: Obtain permission and cite both the original source and approval for use.





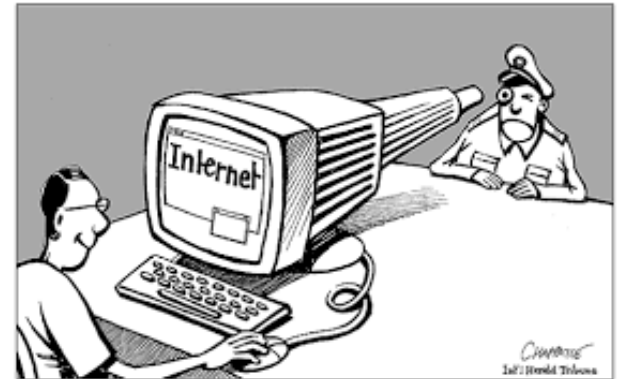
## Question #8:

One of the most common concerns about “big data” is, of course, privacy.

What about private conversations in emails or “shared documents” or in dropboxes, the cloud, etc.?



Dwight Merriam



High Tech Forum

## Q8: Julie Tappendorf



**Rule of Conduct #7** protects client confidences from being exposed by planners.

- Be careful not to inadvertently share confidential information when using technology.
- Information on social media sites and other public sites are public records and subject to Freedom of Information Acts (FOIA) and records retention.



## Q8: Tappendorf (contd.)

- Remember: Nothing is unhackable...and nothing is private when shared on the Internet.
- In Illinois, if someone has “FOIA’d” something, they have the right to the metadata (hidden data). Need to be careful how we save and share public records. And nothing you post will be confidential.



## Question #9

**Are there any other ethical “rules of conduct” that could apply to private email conversations involving planners, the public, and decision makers?**



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Kelly Wilson; APA Image Library



## Q9: Jerry Weitz

**Rules of Conduct #8 and #9** both discuss prohibitions on certain “private communications.”

- Rule #8 talks about discussions with “planning process participants,” where the planner has the authority to make “binding, final decisions.”
- Rule #9 warns about private conversations with “decision makers.”

## Ethics and the Digital Age

### Q9: Weitz (contd)

Here's one ethics scenario I've used before:

- A planner learns about a proposed new downtown parking garage that would be located adjacent to a residential neighborhood. He tells a friend who subsequently leaks those plans through social media.
- In the digital age, it is much easier to release privileged information—either deliberately or accidentally. Thus, if you're not careful you may be revealing private information without realizing it.



Dean Brennan and Al Zelinka; APA Image Library

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# Q & A from Participants



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# Conclusion and Thanks

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# Readings and References

Books

Articles

Organizations

Footnotes