



REPORT
OF
THE MARYLAND STATE PROSECUTOR
FISCAL YEARS 1997, 1998, 1999 & 2000
(July 1, 1996 – June 30, 2000)

Pursuant to State Government Article 59-1210

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SUMMARY OF FISCAL YEARS 1997 – 2000

(July 1, 1996 – June 30, 2000)

Three major investigations and prosecutions, two of which were initiated in FY97 and one in FY98, dominated the work of the State Prosecutor's Office during this reporting period. In the sixteen year tenure of this State Prosecutor no cases, occurring simultaneously, tested and strained the resources of the Office to the extent posed by these cases. No cases demanded such an unlimited amount of time and effort and, at times, seemingly insuperable legal and evidentiary problems. One ended in partial success, one was a disaster and one ended in a Pyrrhic victory; we won the battle, but lost the war. The three cases require some explanation.

State v. Madonna, et al

In 1996, after receiving reports that Baltimore City bar owners were being extorted by Liquor Board inspectors to purchase blocks of tickets for political fundraisers and paying the inspectors for protection, the State Prosecutor initiated an investigation of the Baltimore City Liquor Board. Although the bar owners refused to cooperate for fear of retaliation, sources were developed which focused the investigation upon bar owner and former state delegate William Madonna and his financial relationship with Chief Liquor Board Inspector Anthony Cianferano. The two had placed video poker machines in certain bars, secured the appointments of liquor inspectors whom they controlled and engaged in a conspiracy with certain bar owners to protect them from enforcement of the liquor laws.

After months of investigation it was obvious that cooperating state witnesses would require indisputable corroboration. A wiretap was placed on certain telephones, which ultimately led to indictments in April 1998, after eighteen months of extensive interviews, review of liquor board files, "sting" operations and surveillances. Madonna, Cianferano, two bar owners and two liquor inspectors were indicted for bribery and conspiracy to violate the liquor laws.

The cases were prosecuted in January 1999. The two bar owners pleaded guilty to conspiracy. The trial judge dismissed the bribery charges against Madonna and Cianferano who then pleaded guilty to conspiracy to violate the liquor laws. The charges against two liquor board inspectors, indicted along with Madonna and Cianferano, were dismissed after the trial judge severed their cases.

The prosecution was partially successful in removing a corrupting influence at the Liquor Board. The attention that the operations of the Liquor Board received, along with the Legislature's removal of the Liquor board inspectors from a patronage system and placing them in the City's merit system in 1997, may serve to improve the enforcement of liquor laws in Baltimore City.

State v. Larry Young

The investigation of State Senator Larry Young was initiated in the summer of 1997 based on allegations of his conflicting interests involving his legislative duties and his relationships with health care companies doing business with the State. After his expulsion from

the Senate in January 1998, following investigations by the Baltimore Sun and a legislative joint committee, a lengthy and extensive inquiry was conducted with the assistance of an Anne Arundel County grand jury.

During the course of the grand jury's inquiry thousands of documents were subpoenaed pertaining to the Young's financial records, the State Department of Health and Mental Hygiene and other entities. In addition search and seizure warrants were executed at the offices of Prime Health Corporation, a health care company with whom Young had a consulting contract, in Prince George's County and Washington, D.C. Many private citizens and public officials were also issued subpoenas. On December 14, 1998, Young was indicted for bribery, extortion and state tax evasion.

In September 1999, following a pre-trial hearing and after two weeks of trial before an Anne Arundel County jury, Young was acquitted of the bribery and tax charges. The court had dismissed the extortion charge and ruled out all evidence of Young's activities on behalf of Prime Health Corporation on the basis of legislative immunity.

This was the most significant corruption prosecution undertaken by the Office in recent years. Any attempt to explain the failure to obtain a conviction would be a disservice to an acquitted person. All that can be said in this public report is that the State failed to prove its case.

State v. Linda Tripp

In January 1998, Howard County State's Attorney Marna McLendon requested the State Prosecutor to investigate an allegation that Linda Tripp, a Howard County resident, had violated the state's wiretapping statute. Ms. Tripp allegedly had made tape recordings of her telephone conversations with a former White House intern named Monica Lewinsky, without Lewinsky's consent, concerning Ms. Lewinsky's relationship with President Clinton. The story was receiving national attention. State's Attorney McLendon believed that the case should be referred to the State Prosecutor because of the intense partisan interests, which it was generating.

Although the Office has no jurisdiction to investigate wiretap violations, it can obtain jurisdiction if the alleged crime took place partly in Maryland and partly in another jurisdiction when asked to do so by a State's Attorney authorized to prosecute the offense.

In July 1998, after deferring for six months to the Office of Independent Counsel Kenneth Starr, in order not to hinder his investigation, a grand jury was convened in Howard County. At that time the case had achieved great notoriety and the State Prosecutor's Office received hundreds of letters, phone calls, and email from throughout the nation both for and against prosecution. Requests to appear on various national television programs were refused for ethical reasons, as were requests for interviews with the local media.

The investigation presented two major legal problems; (1) Proving that Tripp willfully violated the law and, (2) Obtaining evidence independently of that obtained by the federal prosecutor under grants of immunity to both Tripp and Lewinsky. The first was resolved by finding witnesses, whom the federal prosecutor had not interviewed, who testified in the Grand

Jury and at pre-trial hearings that Tripp knew that she was violating the law, namely two lawyers from Dallas, Texas and Tripp's "bridge club" partners.

The second problem proved more troublesome. The indictment of Tripp was obtained in May 1999 by producing evidence generally known prior to the federal court's grant of immunity to Tripp in February 1998. In a pre-trial hearing, in which the office was represented by the Attorney General, Judge Diane O. Leisure ruled that the State was correct in maintaining that the so-called "prosecutor's grant of immunity" conveyed to Tripp by the OIC in December 1997 was of no legal effect until the OIC requested the federal court to grant her immunity on February 19, 1998.

However, in May 2000, after further hearings, Judge Leisure ruled that because Lewinsky had been debriefed by the OIC prior to being interviewed by the State Prosecutor, she could only testify that she had not consented to be tape recorded by Tripp. Without Lewinsky's authentication of the tape recording specified in the indictment, the case could not proceed. On May 24, 2000 the State Prosecutor announced his decision to dismiss the charges against Tripp.

Although the prosecution had to be *nolle prosequi* it did accomplish two ends: it made citizens aware of the strict requirements of the Maryland Wire Tap Law and; we believe that most Maryland citizens agree that the Office conducted a thorough and impartial investigation in order to uphold the State's law which had been flagrantly violated. It was also the first time in Maryland that a state prosecutor successfully challenged a federal prosecutor's decision to request a federal court to grant immunity to a person who had violated state law without coordinating with the local state's attorney. Had the OIC done so, it is very likely that the state's attorney would have agreed.

Managing for Results Program

This statewide program mandates that all state agencies submit budget requests accompanied by work units measuring their success in meeting stated goals and objectives. The program presented difficult problems for a small agency such as the State Prosecutor's Office, which investigates comparatively few but highly confidential complaints. The statute governing the Office permits the State Prosecutor to report to the public only those matters which are not confidential.

Rather than attempt to measure performance by results in the few cases brought to trial each year it was decided to measure satisfactory completion and timeliness in investigations undertaken. This necessitated establishing reasonable goals based on experience since there are no national standards. The details of how this was done are explained in the FY 2000 and FY 1999 reports.

Exhibits 1 and 3 were submitted to the Department of Budget and Management along with our FY 2000 and FY 1999 budget requests. They are very detailed and reflect that 85%-90% of the work of the Office never reaches the public's view. It may seem to the viewer that most of the inquiries and investigations never reach the courtroom. That is true of most criminal investigation agencies. Complaints must be investigated in order to answer the complainant

unless they are patently frivolous or simply malicious. Otherwise, the public will lose confidence in the agency. Although successful prosecution may seem improbable, the office cannot refuse to accept a complaint which seems to have some factual basis for believing that a public official has done something improper, or has given the appearance of impropriety. The fact that no one is charged does not mean that the investigation failed. As the exhibits show there are many reasons for closing investigations. Some of the resolutions may be just as effective as criminal prosecutions.

The exercise in developing a meaningful MFR program proved to be useful in establishing a system for self-analysis and using computerized records to monitor investigations on a monthly basis. It also gives budget analysts a useful tool in measuring agency performance without revealing confidential material.

Other Cases and Complaints

In each fiscal year's report examples of other investigations are presented to give the reader some concept of the variety of inquiries conducted by the Office. They pale in comparison to the major investigations discussed in this summary. They are by no means all inclusive, but merely a sample of those representing significant work hours. Election law complaints continue to increase. These seem to point to the ineffectiveness of the state's campaign financing laws which, hopefully, will receive the attention of the Legislature.

Conclusions

Despite the preoccupation with the three investigations noted above the office was able to conduct concurrently many other inquiries during the reporting period. Most of them were satisfactorily completed within a reasonable time. That is a tribute to a small hard working staff who derive their chief reward in knowing that they are good at what they do.

A prosecutor's office is judged primarily by its success in major cases which capture the public's attention. Much of its work is drudgery and undistinguished. Perhaps that can be said of most public service.

This Office has been through some difficult times during the past four years. Timely annual reports would not have been very meaningful with the undivided attention required by the work at hand and the need for confidentiality. Hopefully this report will give some insight into the work of an Office which experienced a crushing defeat, but continued to perform its duties with honor and dignity.

Stephen Montanarelli
State Prosecutor

FISCAL YEAR 2000
(July 1, 1999 – June 30, 2000)

JUDICIAL DISPOSITIONS

1. State v. Larry Young (former State Senator)

Following a 12-month grand jury investigation and 9 months of discovery and pre-trial hearings, former State Senator Larry Young was acquitted of bribery and tax evasion charges in September 1999 by an Anne Arundel County jury. Extortion charges had been dismissed by Circuit Court Judge Joseph P. Manck at the conclusion of the State's case. The jury reached its verdict without hearing any evidence from the defense.

2. State v. Linda Tripp (Howard County)

Allegations that Mrs. Tripp had violated the State's *Wiretapping and Electronic Surveillance* statute were referred to the State Prosecutor by the State's Attorney of Howard County in February 1998. A grand jury investigation did not commence until July 1998; in order not to interfere with the federal Office of Independent Counsel, which was preparing her to testify before a federal grand jury investigating President Clinton.

The Howard County Grand Jury indicted Mrs. Tripp in July, 1999; for willfully making an illegal recording of a telephone conversation with Monica Lewinsky and willfully disclosing the recording to *Newsweek* magazine, which later published excerpts of the taped conversation.

Following the indictment the State was engaged in extensive pre-trial hearings in which the Court determined; (1) that the federal immunity grant conferred on Mrs. Tripp did not prevent the State from prosecuting her and; (2) that crucial evidence obtained by the State from Monica Lewinsky authenticating the taped conversation was inadmissible and, therefore suppressed. The Court stated that Miss Lewinsky's recollection of the taped conversation was refreshed by her debriefing by federal agents before her federal grand jury testimony and could not be used by the State.

The State Prosecutor dismissed the indictment following the suppression ruling by the Court stating that the State could not prove its case without Miss Lewinsky's suppressed testimony.

3. State v. Negossee Denboba (Baltimore City)

The defendant was charged with stealing funds from the Office of the Register of Wills in Baltimore City where he was employed as a financial officer. An audit by the Attorney General's Office had disclosed the thefts, but, due to a conflict of interest, the case was referred to the State Prosecutor for prosecution.

On March 20, 2000, the defendant pleaded guilty to an agreed statement of facts. He was ordered to make restitution of \$4,230.00, fined \$500.00 and 50 hours of community service and placed on 18 months supervised probation as a condition of probation before judgment.

4. Other Dispositions – Election Law Violations

Three Election Law violations were charged; one for failing to pay fines levied by the State Board of Elections; another for false voting and a third for false registration. Election Law violators are charged when there is evidence of criminal intent or inexcusable avoidance of reporting requirements of the statute.

One defendant paid a \$1,000.00 fine to the State Board of Elections after failing to file a campaign report; another was fined \$100.00 and placed on probation for one year for false registration. In a third case the Court refused to accept an agreed statement of facts for false voting and imposition of a \$250.00 fine. The defendant then requested a jury trial. Since the State had agreed to a \$250.00 fine, a *nolle prosequi* was entered to avoid ineffective use of court time in a matter involving an elderly individual who lived in the District of Columbia and Maryland and thought that he could vote in both districts in the same election.

INVESTIGATIONS AND INQUIRIES

1. Managing For Results Program

Exhibit 1 to this fiscal year's report contains an Analysis of Complaints listed in the *State Prosecutor's Workload and Performance Report, Fiscal Year 2000*. The report was prepared in accordance with the State's *Managing For Results Program* which mandates that state agencies devise systems for measuring in terms of work units and citizen's satisfaction whether or not they are achieving their missions and goals.

Although standard work units for the Office are difficult to establish due to the disparity in time and complexity of the investigations undertaken; complaints, whether received or self-initiated, to which file numbers were assigned were deemed the most appropriate units of measure. All complaints are now entered into a database unless they are considered to be frivolous, malicious, or merely seeking information and guidance. They are classified as corruption, election law or other types of allegations and tracked to a conclusion as to whether they are satisfactorily and timely concluded.

Since most complaints (allegations) do not result in charges, a satisfactory conclusion can be any resolution which satisfies the complainant, or which the prosecutor believes is favorable to the State. It can also mean that the inquiry has established that no crime was committed, or that the Office has no jurisdiction to investigate the allegations and must refer the complainant to another agency. Goals were established to satisfactorily conclude 75% of all corruption and other types of complaints and 90% of all election law complaints. The lower rate for corruption and non-election law complaints recognizes the inherent difficulties involved in corruption and multi-jurisdictional investigations.

Another goal was established to complete all inquiries and investigations in a timely manner. A one-year timely completion objective was set for corruption and non-election law complaints and six months for election law complaints. The time periods are essentially arbitrary since it is impracticable to estimate an average time for completing a corruption investigation. Election law complaints are usually received in batches from the state and local boards of election. They are not as time consuming as other complaints. However, the time periods were established by taking into account the limited staff available and past experience.

The third goal was to achieve a 75% success rate in all cases prosecuted by the Office. Although litigation and preparation for court hearings represent approximately 10% to 15% of the total hours expended yearly by Office personnel, judicial dispositions are the most visible aspects of its work to the public. The remaining 85% to 90% of its work is confidential and usually never becomes public knowledge. The 75% success rate is based on experience and the small number of complaints, which result in court dispositions.

2. Fiscal Year 2000 Results

A brief analysis of Exhibit 1 reveals a total number of complaints of 149; grouped into 47 corruption allegations; 53 election law complaints and 49 other types. These numbers include 12 cases carried over from FY99. Therefore 137 new complaints were received or initiated in FY2000.

In terms of significant workload 66 of the 137 new complaints were completed in less than 15 days. Seventy-one, or 52% of the new complaints were open for more than 15 days and are considered significant workload. This does not mean that all of these complaints were worked upon every day that they remained open. Prosecutors, investigators and law clerks are each assigned multiple inquiries and work on them in accord with priorities established by the State Prosecutor. Complaints (files), which are closed in less than 15 days, frequently in one day, are included because they comprise part of the total workload and to make a record of these complaints for future reference.

The above numbers do not reflect the total workload of the Office for FY2000. For example; three prosecutors and three investigators were devoted practically full time during the first two and one-half months of FY2000 to preparing and participating in the case of *State v. Larry Young*. During most of December 1999 through March 2000, two prosecutors and three investigators were engaged for weeks in pleadings and pre-trial hearings involving the case of *State v. Linda Tripp*. These cases involved considerable uncompensated overtime.

A summary of FY2000 performance measured against goals follows. It indicates that the Office met its goals in closing corruption and non-election law complaints satisfactorily and timely. It fell below its standard in election law complaints due to four complaints, which were misplaced and had to be closed due to limitations. It fell woefully below its standard in judicial dispositions due to unsatisfactory results in the *Young* and *Tripp* cases.

SUMMARY OF PERFORMANCE

<u>Type Complaint</u>	<u>Open</u>	<u>Closed</u>	<u>Satisfactory</u>	<u>%</u>	<u>Standard</u>	<u>Timely</u>	<u>%</u>	<u>Standard</u>
Corruption	46	42	41	98%	75%	40	95%	1 yr.
Election Law	53	36	32	89%	90%	30	83%	6 mos.
Other	49	49	49	100%	75%	48	98%	1 yr.
Judicial Dispositions	6	6	3	50%	75%	N/A	N/A	N/A

3. Complainant Survey Results

In order to determine the extent to which complainants were satisfied with services rendered by the Office questionnaires were sent to those who furnished addresses with their complaints. The initial survey was begun in FY99 in an effort to comply with the Managing For Results Program. The FY2000 Survey was modified to simplify the responses and to make it as convenient as possible for complainants to reply. The State Board of Elections which accounts for most election law complaints is sent only one questionnaire. This primarily accounts for the difference between complaints received and questionnaires sent.

In FY99, 26 responses from 45 of the questionnaires mailed indicated that 73% of them were either very satisfied or satisfied with their overall experience with the Office. In FY2000, 23 of 54 complainants who received questionnaires responded. Their responses indicated that 74% of them were satisfied.

The low number of responses raises doubts as to the validity of the surveys. However, it is believed to be useful in assessing the reaction of a number of persons furnishing information to the Office. More than 90% of those responding stated that they would contact the Office again if they had another complaint.

A summary of the responses to each question in the FY2000 Questionnaire asked follows:

COMPLAINANT SURVEY RESULTS

QUESTIONNAIRE SUMMARY

	<u>Satisfied</u>	<u>Not Satisfied</u>	<u>Not Applicable</u>
1. Was your complaint/inquiry answered in a timely manner?	87%	13%	
2. Did you feel that the staff member with whom you spoke listened to your complaint/inquiry and offered a knowledgeable response?	87%	9%	4%
3. Did we clearly explain the reasons for what we did or did not do?	78%	22%	
4. If our Office could not assist you, did we refer you to an appropriate agency or offer helpful advice?	43%	17%	40%
5. How would you rate your overall experience with this Office?	74%	22%	4%
	<u>Yes</u>	<u>No</u>	
6. Would you contact our Office again if you have another complaint?	91%	9%	

INVESTIGATIONS CLOSED – NO CHARGES RECOMMENDED

A sampling of some of the 149 complaints processed in FY2000 which generated significant work follows. They are summarized so as to give some indication of the types of investigations performed by the Office without revealing the identities of the subjects.

1. Municipal Employees Bribery/Theft

An extensive investigation of an alleged bribery scheme involving “kickbacks” to supervisors for fraudulent overtime payments yielded inconclusive evidence of bribery by the employees. Corroborating evidence of the kickbacks would have necessitated granting immunity to unreliable culpable witnesses. Since this Office has no jurisdiction to prosecute thefts wholly within a single jurisdiction, the results of the investigation were referred to the appropriate State’s Attorney. None of the subjects were “public officers” within the scope of the law of misconduct in office.

2. **False Voting By Former Official**

An investigation of a well-known former office holder who changed his residence to another jurisdiction, but continued to vote in the jurisdiction where he formerly resided and owned property, did not establish an intent to abandon his former domicile. The recent decision in *Blount v. Boston*, 351 Md. 360, 718 A.2 1111 (Md. 1998) places special emphasis on a person's intent when considering the issues of domicile. In this case the State would have had a heavy, if not impossible, burden of proving an intent to abandon domicile.

3. **Mayor and Councilmembers, Capitol Heights, Prince George's County**

This investigation was publicized in local newspapers when the subjects released the State Prosecutor's letter exonerating them of misconduct. They had been accused by a former employee of receiving illegal salaries, unauthorized expenses and misuse of scholarship funds. The investigation, which included a thorough audit, revealed no misuse of scholarship monies and a lack of criminal intent necessary to charge misconduct in the receipt of salaries and expenses.

4. **City Commissioner – Violation of Ethics Ordinance**

A city commissioner was found to be in violation of a local ordinance governing conflicts of interest. The conflict involved the sale of land to the city. Upon payment of a fine imposed by the local board of ethics, the investigation was terminated.

5. **Mayor and City Council, Havre de Grace, Harford County**

A three-month inquiry resulted from an allegation that city officials had misrepresented the size and value of public land proposed for sale and submitted to city voters for approval. In a letter released for publication by the Mayor and City Council, the State Prosecutor concluded that the error in the size of the lot on the ballot was unintentional and that the appraised value was based on a review of comparably priced and sized properties in Havre de Grace. The allegation contended that the parcel was sold for far less than its appraised value and that the size of the parcel was far larger than that represented on the ballot.

6. **Eastern Shore Mayor – Conflict of Interest**

The mayor of an eastern shore community was accused of deriving personal and financial benefits by voting on a certain bond issue. The allegation asserted that the mayor had a conflict of interest and that the benefits were "bribes" tendered by the organization benefiting from the bond issue.

The inquiry established that the mayor was entitled to the benefits by virtue of his/her spouse's association with the organization; that the possible conflict was known to the other voting members; and that the matter had been submitted to the local State's Attorney who found

that the mayor's participation in the bond issue note did not constitute a criminal violation of the local code of ethics.

The State Prosecutor found no evidence of bribery and that the mayor's association with the benefiting organization was *de minimus*. Lacking any evidence of a corrupt motive, the request for a criminal investigation of misconduct was declined.

7. **Official's Misuse of County Property**

A complaint was received alleging that an elected county official was using county equipment for personal and family business. When advised of the complaint and the costs related to non-county business, the official reimbursed the county in full and returned the equipment. Prosecution was not warranted based on the official's willingness to admit error, to reimburse the county and on the amount of money involved.

8. **Alleged Bribery of Appointed Official**

A case closed in FY98 for lack of evidence was temporarily re-opened when additional source material was received. The additional documents did not implicate the official and the source would not identify himself/herself. The investigation was closed a second time for lack of resources to continue a long and extensive inquiry with little likelihood of success.

9. **False Registration and Perjury by Candidate for State Legislature**

This matter involved allegations that a candidate for the General Assembly in 1998 had filed a false certificate of candidacy as to residency and, subsequently perjured himself/herself in civil litigation challenging the candidate's eligibility for office on the basis that residency had not been established. The State's Attorney referred the allegations to the State Prosecutor as an election law perjury.

During the civil trial, in which the Court found that the candidate met constitutional requirements for domicile (subsequently affirmed by the Court of Appeals), a check for the payment of rent was introduced on the part of the candidate in order to prove that residency had been established for the required six-months prior to the election. The plaintiffs contended that the check had been backdated and that it was actually written two months later. However, a review of the transcripts of the civil case revealed that neither the candidate or his/her alleged co-conspirator, the recipient of the check, had ever been asked under oath or testified that the check was backdated. The lack of evidence of a false statement under oath precluded any prosecution for perjury.

10. **Misappropriation – Sheriff's Department**

An allegation was referred by a State's Attorney's Office that approximately \$20,000.00 had been misappropriated in 1997 within the local Sheriff's Department.

An inquiry disclosed that the Sheriff was authorized to distribute the funds, which were received as an incentive grant for locating delinquent non-support defendants, in any manner he/she deemed appropriate. Since the funds were distributed without documentation, it was impossible to determine whether or not any of the cash distributions were improper. In addition, many of the recipients, all of whom were departmental employees, could not recall the amounts which they received. Lacking any method of tracing the distribution of the funds, except vague oral recollections, the matter with supporting documentation of our inquiry was referred to the local auditor to examine how proper accountability can be maintained by the Sheriff's Department in accordance with the terms of future incentive awards.

*State Prosecutor's
Workload and
Performance Report,
Fiscal Year 2000*

7/28/00
Summary

Complaint Type	Total Number Open	Total Number Closed	Total Closed Satisfactorily	Percentage Closed Satisfactorily	Percentage Closed Timely
Corruption	46	42	41	98	95
Election Law	53	36	32	89	83
Other	49	49	49	100	98
Judicial Dispositions	6	6	3	50	N/A

**State Prosecutor's Workload and
Performance Report,
Fiscal Year 2000**

**7/28/00
Analysis of Complaints**

1 of 4

	A	B	C	D	E	F	G	H	I	J
1	Case	Subject	Type	Opened	Closed	Days	Timely?	Reason for Closing	Satisfactory?	Remarks
2	00-002	Mayor	Corruption	7/15/99	10/4/99	82	Yes	No crime	Satisfactory	No conflict of interest
3	00-003	Employee of Register of Wills	Corruption	7/20/99	2/16/00	212	Yes	Charged	Satisfactory	
4	00-004	Mayor	Corruption	7/21/99	9/10/99	52	Yes	No jurisdiction	Satisfactory	Local Ethics matter
5	00-005	State's Attorney	Corruption	7/27/99	Open	Open	Open	Open	Open	
6	00-006	Sheriff	Corruption	7/28/99	1/14/00	171	Yes	Referral	Satisfactory	Referred to audit agency
7	00-007	County Commissioner	Corruption	7/30/99	10/18/99	81	Yes	Restitution Made	Satisfactory	Personal use of county equipment
8	00-008	State Official	Corruption	8/3/99	9/27/99	56	Yes	Limitations	Satisfactory	Alleged conduct over 6 years old
9	00-009	City Councilperson	Corruption	7/8/99	3/27/00	264	Yes	Referral	Satisfactory	Fined by local Ethics Commission
10	00-013	Judge	Corruption	7/9/99	7/13/99	5	Yes	Insufficient Evidence	Satisfactory	Referred to Judicial Disabilities
11	00-014	Mayor	Corruption	10/1/99	11/9/99	40	Yes	Referral	Satisfactory	Environmental matter
12	00-017	Police Officer	Corruption	11/23/99	1/20/00	59	Yes	Insufficient Evidence	Satisfactory	Allegation unfounded
13	00-018	Police Chief	Corruption	11/30/99	3/28/00	120	Yes	Adequate civil remedy	Satisfactory	No criminal conduct by Chief
14	00-024	County Commissioner	Corruption	3/1/00	3/10/00	10	Yes	No crime	Satisfactory	Local Ethics matter
15	00-034	Judge	Corruption	4/12/00	6/8/00	58	Yes	No crime	Satisfactory	Dispute re estate administration
16	00-057	State's Attorney	Corruption	5/1/00	5/11/00	11	Yes	No crime	Satisfactory	Allegation unfounded
17	00-060	Police Officers	Corruption	7/14/99	7/16/99	3	Yes	Referral	Satisfactory	Referred to local police department
18	00-061	Register of Wills	Corruption	7/22/99	7/22/99	1	Yes	No crime	Satisfactory	Absenteeism--not criminal
19	00-063	Corporate President	Corruption	7/27/99	10/7/99	73	Yes	No crime	Satisfactory	No evidence of bid-rigging
20	00-065	Federal Prosecutor	Corruption	7/1/99	8/6/99	37	Yes	Referral	Satisfactory	Referred to Department of Justice
21	00-066	Judge	Corruption	8/13/99	8/13/99	1	Yes	No crime	Satisfactory	Civil matter--workman's comp.
22	00-073	Judge	Corruption	8/19/99	8/19/99	1	Yes	No crime	Satisfactory	Civil dispute re hotel ownership
23	00-075	State's Attorney	Corruption	7/19/99	9/13/99	57	Yes	Unreliable evidence	Satisfactory	Inmate alleges illegal conviction
24	00-076	State's Attorney	Corruption	9/3/99	9/3/99	1	Yes	Insufficient Evidence	Satisfactory	State's Att'y exercised discretion
25	00-079	State's Attorney	Corruption	10/25/99	10/25/99	1	Yes	No crime	Satisfactory	State's Att'y exercised discretion
26	00-099	Liquor Board	Corruption	12/2/99	1/3/00	33	Yes	Referral	Satisfactory	Referred to local ethics committee
27	00-100	Correctional Officer	Corruption	1/4/00	1/11/00	8	Yes	Referral	Satisfactory	Referred to DOC
28	00-102	Police Officers	Corruption	1/24/00	1/25/00	2	Yes	Referral	Satisfactory	Referred to FBI
29	00-107	Department of Corrections	Corruption	3/22/00	3/23/00	2	Yes	Unreliable evidence	Satisfactory	Anonymous allegation
30	00-109	Numerous government officials	Corruption	5/20/00	5/20/00	1	Yes	Unreliable evidence	Satisfactory	Bald allegations
31	00-110	Judge	Corruption	9/27/99	9/27/99	1	Yes	Unreliable evidence	Satisfactory	No basis found
32	00-112	Sheriff	Corruption	1/4/00	1/19/00	16	Yes	Referral	Satisfactory	Referred to audit agency
33	00-124	Judge	Corruption	2/9/00	3/1/00	22	Yes	Insufficient Evidence	Satisfactory	No basis found
34	00-126	Police Officer	Corruption	2/28/00	3/20/00	22	Yes	Referral	Satisfactory	Referred to Attorney General
35	00-128	State's Attorney	Corruption	1/20/00	2/9/00	21	Yes	No Crime	Satisfactory	State's Att'y exercised discretion
36	00-129	Chief of Police	Corruption	5/30/00	6/14/00	16	Yes	Prosecutorial discretion	Satisfactory	De Minimis
37	00-130	Sheriff	Corruption	6/5/00	Open	Open	Open	Open	Open	
38	00-132	Elected State Official	Corruption	6/9/00	Open	Open	Open	Open	Open	
39	00-133	State's Attorney	Corruption	6/13/00	Open	Open	Open	Open	Open	
40	00-135	County Government	Corruption	4/20/00	4/20/00	1	Yes	Allegation Insufficient	Satisfactory	Bald allegations

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	A	B	C	D	E	F	G	H	I	J
1	Case	Subject	Type	Opened	Closed	Days	Timely?	Reason for Closing	Satisfactory?	Remarks
41	00-136	Inspector	Corruption	6/16/00	6/16/00	1	Yes	Limitations	Satisfactory	Alleged misconduct in 1996
42	00-137	City Government	Corruption	6/16/00	6/29/00	14	Yes	No jurisdiction	Satisfactory	Florida offenses alleged
43	97-063	Appointed Official	Corruption	4/30/99	11/23/99	208	Yes	Prosecutorial discretion	Unsatisfactory	Lack of resources
44	99-045	Municipal Employees	Corruption	2/23/99	1/14/00	326	Yes	Referral	Satisfactory	Referred to State's Attorney
45	99-050	Police Officers	Corruption	2/23/99	6/30/00	494	No	No Crime	Satisfactory	No basis found
46	99-051	Mayor	Corruption	4/19/99	12/5/99	231	Yes	No Crime	Satisfactory	No basis found
47	99-055	Mayor	Corruption	5/10/99	5/31/00	388	No	No Crime	Satisfactory	No evidence of criminal intent
48	00-001	Citizen	Election Law	7/20/99	9/16/99	59	Yes	No crime	Satisfactory	
49	00-010	Campaign Committees	Election Law	8/5/99	5/30/00	300	No	Various	Satisfactory	Numerous late fee complaints
50	00-011	Campaign Treasurer	Election Law	9/28/99	Open	Open	Open	Open	Open	
51	00-012	Citizen	Election Law	10/3/99	10/8/99	6	Yes	No crime	Satisfactory	
52	00-015	Elected State Official	Election Law	10/5/99	10/15/99	11	Yes	No crime	Satisfactory	Transfer between committees
53	00-016	Citizen	Election Law	11/3/99	1/27/00	86	Yes	No crime	Satisfactory	No evidence of criminal intent
54	00-019	Unknown	Election Law	12/15/99	3/31/00	108	Yes	Referral	Satisfactory	MVA fraud
55	00-020	Citizen	Election Law	1/5/00	3/13/00	69	Yes	No crime	Satisfactory	
56	00-021	Candidate	Election Law	2/1/00	3/23/00	52	Yes	No crime	Satisfactory	
57	00-022	Citizen	Election Law	2/2/00	2/24/00	23	Yes	Innocence	Satisfactory	
58	00-023	Citizen	Election Law	2/8/00	3/28/00	50	Yes	No crime	Satisfactory	No evidence of criminal intent
59	00-025	Citizen	Election Law	3/8/00	Open	Open	Open	Open	Open	
60	00-027	Unknown	Election Law	3/10/00	6/8/00	91	Yes	No crime	Satisfactory	
61	00-029	Citizen	Election Law	3/24/00	5/5/00	43	Yes	No crime	Satisfactory	
62	00-030	Citizen	Election Law	4/6/00	6/14/00	70	Yes	No crime	Satisfactory	
63	00-031	Citizen	Election Law	4/6/00	4/19/00	14	Yes	No crime	Satisfactory	No evidence of criminal intent
64	00-032	Citizen	Election Law	4/6/00	4/14/00	9	Yes	No crime	Satisfactory	
65	00-033	Campaign Committee	Election Law	1/10/00	1/16/00	7	No	Limitations	Unsatisfactory	*see note
66	00-035	Campaign Committee	Election Law	4/12/00	Open	Open	Open	Open	Open	
67	00-036	Citizen	Election Law	4/12/00	Open	Open	Open	Open	Open	
68	00-037	Candidate	Election Law	4/12/00	5/31/00	50	Yes	Prosecutorial discretion	Satisfactory	Late fee paid
69	00-038	Candidate	Election Law	4/12/00	Open	Open	Open	Open	Open	
70	00-039	Candidate	Election Law	4/12/00	Open	Open	Open	Open	Open	
71	00-040	Candidate	Election Law	4/12/00	5/31/00	50	No	Limitations	Unsatisfactory	*see note
72	00-041	Candidate	Election Law	4/12/00	Open	Open	Open	Open	Open	
73	00-042	Candidate	Election Law	4/12/00	Open	Open	Open	Open	Open	
74	00-043	Candidate	Election Law	4/12/00	5/31/00	50	No	Limitations	Unsatisfactory	*see note
75	00-044	PAC	Election Law	4/12/00	5/31/00	50	Yes	Prosecutorial discretion	Satisfactory	SABEL waived; Treasurer deceased
76	00-045	PAC	Election Law	4/12/00	Open	Open	Open	Open	Open	
77	00-046	Campaign Committee	Election Law	4/12/00	5/31/00	50	No	Limitations	Unsatisfactory	*see note
78	00-047	Citizen	Election Law	4/18/00	Open	Open	Open	Open	Open	
79	00-048	Citizen	Election Law	4/18/00	Open	Open	Open	Open	Open	

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1	Case	Subject	Type	Opened	Closed	Days	Timely?	Reason for Closing	Satisfactory?	Remarks
80	00-049	Citizen.	Election Law	4/18/00	5/25/00	38	Yes	No crime	Satisfactory	
81	00-050	Citizen.	Election Law	4/18/00	Open	Open	Open	Open	Open	
82	00-051	Citizen.	Election Law	4/18/00	Open	Open	Open	Open	Open	
83	00-053	Campaign Committee	Election Law	4/20/00	Open	Open	Open	Open	Open	
84	00-054	Citizen.	Election Law	3/4/00	Open	Open	Open	Open	Open	
85	00-055	Elected State Official	Election Law	2/10/00	Open	Open	Open	Open	Open	File 127 merged (duplicate)
86	00-056	Campaign Committee	Election Law	5/4/00	5/10/00	7	Yes	No crime	Satisfactory	
87	00-058	Campaign Committee	Election Law	5/5/00	Open	Open	Open	Open	Open	
88	00-067	Candidate	Election Law	8/17/99	8/17/99	1	Yes	Prosecutorial discretion	Satisfactory	No evidence of criminal intent
89	00-077	Campaign Committee	Election Law	7/28/99	10/15/99	80	Yes	No crime	Satisfactory	
90	00-083	Campaign Committee	Election Law	11/11/99	12/2/99	22	Yes	No crime	Satisfactory	No evidence of criminal intent
91	00-084	Candidate	Election Law	11/22/99	11/23/99	2	Yes	No crime	Satisfactory	No evidence of criminal intent
92	00-094	N/A	Election Law	3/16/00	3/16/00	1	Yes	No jurisdiction	Satisfactory	Municipal election
93	00-118	N/A	Election Law	10/19/99	10/19/99	1	Yes	No crime	Satisfactory	
94	00-122	Candidate	Election Law	11/29/99	11/29/99	1	Yes	No crime	Satisfactory	No evidence of criminal intent
95	99-015	Citizen	Election Law	8/10/98	3/15/99	218	No	Charged	Satisfactory	False voting
96	99-043	Citizen	Election Law	2/15/99	7/13/99	149	Yes	Charged	Satisfactory	Double voting
97	99-053	Citizen	Election Law	5/5/99	8/9/99	97	Yes	No Crime	Satisfactory	
98	99-054	Citizen	Election Law	5/10/99	7/20/99	72	Yes	No Crime	Satisfactory	
99	99-056	Political Committee	Election Law	6/7/99	11/17/99	164	Yes	No Crime	Satisfactory	
100	99-057	Citizen	Election Law	6/17/99	7/20/99	34	Yes	No Crime	Satisfactory	
101	00-026	State's Attorney	Other	3/8/00	3/28/00	21	Yes	No crime	Satisfactory	
102	00-028	State's Attorney	Other	3/20/00	3/20/00	1	Yes	Insufficient Evidence	Satisfactory	
103	00-052	State's Attorney	Other	4/19/00	5/16/00	28	Yes	No crime	Satisfactory	
104	00-059	Corporation	Other	7/8/99	7/13/99	6	Yes	De Minimis	Satisfactory	
105	00-062	Department of Parole & Prob	Other	7/22/99	7/22/99	1	Yes	Referral	Satisfactory	
106	00-064	State's Attorney	Other	8/10/99	8/10/99	1	Yes	Referral	Satisfactory	
107	00-068	Citizen.	Other	8/13/99	8/13/99	1	Yes	No jurisdiction	Satisfactory	
108	00-069	Corporation	Other	9/8/99	9/8/99	1	Yes	Referral	Satisfactory	
109	00-070	Assistant State's Attorney	Other	9/8/99	9/8/99	1	Yes	No jurisdiction	Satisfactory	
110	00-071	Judge	Other	8/4/99	8/16/99	13	Yes	Referral	Satisfactory	
111	00-072	County School Board	Other	8/17/99	8/17/99	1	Yes	Referral	Satisfactory	
112	00-074	N/A	Other	8/23/99	8/23/99	1	Yes	No jurisdiction	Satisfactory	
113	00-078	County Government	Other	10/1/99	10/21/99	21	Yes	Adequate civil remedy	Satisfactory	
114	00-080	Citizen.	Other	10/21/99	10/25/99	5	Yes	Referral	Satisfactory	
115	00-081	County Police Officers	Other	10/8/99	11/9/99	33	Yes	Referral	Satisfactory	
116	00-082	Citizen.	Other	11/10/99	11/10/99	1	Yes	Referral	Satisfactory	
117	00-085	State's Attorney	Other	11/29/99	11/30/99	2	Yes	No jurisdiction	Satisfactory	
118	00-086	Chairman, State Commission	Other	12/1/99	12/1/99	1	Yes	Adequate civil remedy	Satisfactory	

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1	Case	Subject	Type	Opened	Closed	Days	Timely?	Reason for Closing	Satisfactory?	Remarks
119	00-087	Dep't of Housing	Other	1/5/00	4/10/00	97	Yes	Referral	Satisfactory	
120	00-088	Citizen.	Other	1/5/00	1/5/00	1	Yes	Referral	Satisfactory	
121	00-089	Citizen.	Other	1/5/00	1/5/00	1	Yes	Referral	Satisfactory	
122	00-090	Sheriff	Other	11/18/99	11/18/99	1	Yes	No crime	Satisfactory	No basis found
123	00-091	Citizen.	Other	1/27/00	1/27/00	1	Yes	No jurisdiction	Satisfactory	
124	00-092	Unknown	Other	2/10/00	2/10/00	1	Yes	No jurisdiction	Satisfactory	
125	00-093	N/A	Other	2/17/00	2/17/00	1	Yes	No jurisdiction	Satisfactory	
126	00-095	State's Attorneys Office	Other	3/18/00	3/21/00	4	Yes	No crime	Satisfactory	
127	00-096	Citizen.	Other	3/20/00	4/20/00	32	Yes	No jurisdiction	Satisfactory	
128	00-097	Fire Chief	Other	4/12/00	5/3/00	22	Yes	Referral	Satisfactory	
129	00-098	School Board	Other	5/5/00	5/10/00	6	Yes	No jurisdiction	Satisfactory	
130	00-101	N/A	Other	1/4/00	1/4/00	1	Yes	Referral	Satisfactory	
131	00-103	N/A	Other	1/27/00	1/27/00	1	Yes	No jurisdiction	Satisfactory	Perjury-Referred to State's Att'y
132	00-104	Federal Prosecutor	Other	2/8/00	2/22/00	15	Yes	Referral	Satisfactory	
133	00-105	Unknown	Other	2/28/00	3/5/00	7	Yes	No jurisdiction	Satisfactory	
134	00-106	Citizen.	Other	3/20/00	3/20/00	1	Yes	Innocence	Satisfactory	
135	00-108	Md. State Highway Admin.	Other	4/4/00	4/5/00	2	Yes	No jurisdiction	Satisfactory	
136	00-111	Attorney	Other	6/29/00	6/29/00	1	Yes	No jurisdiction	Satisfactory	
137	00-113	N/A	Other	7/20/99	7/20/99	1	Yes	No jurisdiction	Satisfactory	
138	00-114	Corporation	Other	7/29/99	7/29/99	1	Yes	Referral	Satisfactory	
139	00-115	N/A	Other	8/20/99	8/20/99	1	Yes	No jurisdiction	Satisfactory	
140	00-116	N/A	Other	9/9/99	9/9/99	1	Yes	No crime	Satisfactory	
141	00-117	N/A	Other	9/7/99	10/6/99	30	Yes	No crime	Satisfactory	
142	00-119	Citizen.	Other	10/5/99	10/18/99	14	Yes	Referral	Satisfactory	
143	00-120	Private Detective Firm	Other	10/26/99	10/29/99	4	Yes	Referral	Satisfactory	
144	00-121	Businessman	Other	11/1/99	11/9/99	9	Yes	Referral	Satisfactory	
145	00-123	N/A	Other	12/13/99	12/13/99	1	Yes	No jurisdiction	Satisfactory	
146	00-125	County Employee	Other	3/20/00	4/3/00	15	Yes	Referral	Satisfactory	
147	00-131	Citizen.	Other	6/7/00	6/14/00	8	Yes	No jurisdiction	Satisfactory	
148	00-134	Attorney	Other	6/13/00	6/16/00	4	Yes	No crime	Satisfactory	
149	98-025	Citizen	Other	2/10/98	7/30/99	536	No	Charged	Satisfactory	State v Linda R. Tripp
150										
151										*NOTE: Referrals received from SABEL
152										in FY 98 which were misplaced.

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Judicial Dispositions

<i>Case</i>	<i>Defendant</i>	<i>Charge</i>	<i>Charge Date</i>	<i>Verdict</i>	<i>Disposition Date</i>	<i>Outcome</i>	<i>Remarks</i>
97-043	Senator Larry Young	Bribery/Extortion/ Tax Fraud	12/14/98	Not Guilty	9/24/99	U	2 wk jury trial, Directed Verdict of Acquittal on Extortion Charges; Not Guilty on Bribery and Tax charges
98-004	Frank Schmidt	Failure to File Campaign Rpt.	4/20/99	Nolle Pros	9/17/99	S	After he was charged, Defendant paid a \$1,000 administrative fine to the State Board of Elections
98-025	Linda Tripp	Illegal Electronic Surveillance	7/31/99	Nolle Pros	5/31/00	U	Following extensive hearings regarding the effect of federally granted immunity and the independence of the State Prosecutor's investigation, the court found that all evidence was independent except certain limited (but essential) testimony by the victim, which was suppressed.
99-003	Negossee Denboba	Theft Over \$300	2/16/00	Guilty	3/20/00	S	\$500 fine; restitution of \$4,230.00; 18 months probation; 80 hours of community service, termination of employment. Defendant was an employee of the Register of Wills for Baltimore City.
99-015	Franklin Johnson	False Voting	11/19/99	Nolle Pros	1/7/00	U	Judge refused to accept an agreed statement of facts and a fine of \$250.00. Defendant demanded a jury trial. The State entered a nolle pros to avoid ineffective use of court time to collect a \$250.00 fine.
99-043	Diane Knaus	False Voter Registration	7/13/99	Guilty	9/24/99	S	\$100 fine; probation for 1 year

FISCAL YEAR 1999
(July 1, 1998 – June 30, 1999)

JUDICIAL DISPOSITIONS

1. State v. William Madonna, Jr., et. al. (Baltimore City)

On April 28, 1998, former State Delegate William Madonna, Jr., Chief Liquor Board Inspector Anthony Cianferano, two liquor inspectors and two licensees were indicted by a Baltimore City Grand Jury for bribery and alcoholic beverages law violations. The indictments resulted from a two-year investigation of alleged bribery and political influence in the operations of the City's Liquor Board. During the investigation a wiretap was placed on certain telephones which yielded evidence produced at the trial of Madonna and Cianferano.

In August 1998, liquor licensees Michael Swidowich and Joy Nickey pleaded guilty to conspiracy to violate the liquor laws. They were each sentenced to two years incarceration, their sentences were suspended and they were placed on three years probation, and fined \$500. The bribery charges were dismissed in return for their cooperation in the prosecution of the other defendants.

In January 1999, a two-week jury trial of Madonna and Cianferano resulted in an acquittal of their bribery charges and their decision to plead guilty to conspiracy to violate the liquor laws. They were each sentenced to two years incarceration (sentences suspended), placed on two years supervised probation, fined \$1,000 and ordered to perform 300 hours of community service. The charges against two Liquor Board inspectors were dismissed after their attorneys successfully moved to sever their cases from concurrent trial with Madonna and Cianferano.

Upon conviction, Cianferano resigned his position as chief liquor inspector. The positions of City Liquor Board inspectors have since been removed by the Legislature from patronage appointments by State Senators and placed under the Baltimore City civil service employment system.

2. State v. Brian H. Davis (Baltimore County)

On August 29, 1997, this Office charged Brian H. Davis with two counts of exceeding the \$10,000 limit for campaign contributions within one election cycle and one count of contribution in false name. Davis, a former trucking executive, contributed more than \$130,000 during the 1991-1994 election cycle and more than \$42,000 during the 1995 – 1998 election cycle to various political campaigns. Those contributions were made in the name of Davis – controlled companies and company employees, as well as Davis' relatives without their permission. Davis pleaded guilty to three counts in District Court on December 18, 1998, and received three one-year sentences and three \$1,000 fines, with all but a one one-year sentence

suspended. That sentence was to run concurrently with a federal sentence Davis previously received, according to the terms of a prearranged plea agreement between Davis and this Office.

3. *State v. Robert F. Dashiell (Baltimore County)*

On March 25, 1999, Robert F. Dashiell was charged with one count of perjury for "walk around services" in connection with his unsuccessful candidacy for state senator on Primary Election Day, September 15, 1998. An investigation revealed that 83 poll workers were authorized payments for their work on Election Day. On May 5, 1999, Dashiell pleaded guilty to the criminal information filed in District Court and received probation before judgment and a \$500 fine.

4. *State v. MSBDF A Management Group, Inc. (Baltimore City)*

On June 15, 1999, the Maryland Small Business Development Financing Authority (MSBDF A) Management Group, Inc., a private corporation which manages small business loans under a state contract, was charged with three counts of exceeding contribution limitations under the State Election Law. The corporation was charged specifically with making political contributions to various campaign committees totaling \$17,000 during the 1995-1998 election cycle in violation of the \$10,000 limit imposed on each individual or entity. All contributions were made in the name of the corporation.

This was the first case in which the State Prosecutor elected to use recently enacted provisions of the Election Law providing for civil citations when there is insufficient evidence to prove a willful violation of the statute.

Pursuant to an agreed statement of facts the corporation paid a civil fine of \$15,000 and did not contest the civil citations filed in District Court on June 15, 1999.

5. *State v. Larry Young (Anne Arundel County)*

On December 4, 1998, an Anne Arundel County grand jury charged former State Senator Larry Young with four counts of bribery, four counts of extortion by state officer, and one count of willfully filing a false income tax return. The Office began an inquiry into then Senator Larry Young's disclosures to the State Ethics Commission in February 1997, and turned the focus of the inquiry later that year to the crimes of bribery, misconduct in office, and state tax evasion in connection with Young's relationship with Maryland and out-of-state health care companies. After a prominent article in *The Sun* alleged a wide range of questionable conduct on Young's part in December 1997, the Office's investigation began to focus on Young's relationship with Prime Health Incorporated, a minority-owned health care provider based in Prince George's County. The charges related to his financial transactions with Prime Health.

Young's trial date was set for September 7, 1999 in Anne Arundel County Circuit Court. Young filed a pre-trial motion to change the venue from Anne Arundel County to Baltimore City, citing a racial disparity between black voters in those two jurisdictions. Young also claimed that because his official duties as a state senator were owed to his constituents in

Baltimore City (Young was elected to represent the 44th Legislative District), only Baltimore City provided the proper venue for the State's charges. The State filed a response to Young's motion, claiming that Anne Arundel County, in which the General Assembly is located, is the proper venue because Young's official duties emanate from Annapolis. At a hearing on August 20, 1999, Judge Joseph P. Manck denied Young's Motion

6. State v. Frank J. Schmidt (Anne Arundel County)

On April 20, 1999, Schmidt was charged in District Court with failure to pay late fees in connection with his position as treasurer for the Citizens For A Better Government Committee. After receiving his summons, Schmidt agreed to pay \$1,000 in fines in return for dismissal of the charges against him. The charges were dismissed upon his payment in full.

7. State v. Delano S. Bailey, Sr. (Anne Arundel County)

On February 17, 1994, Delano S. Bailey, Sr., treasurer for Delano S. Bailey-Personal Treasurer Account, was charged with three counts of failure to file campaign fund reports and four counts of failure to pay late fees associated with those Campaign Fund Reports. Bailey failed to appear in District Court on September 8, 1994, and a bench warrant was issued for his arrest. Unknown to this Office, Bailey paid to the Baltimore City Board of Supervisors of Elections on September 9, 1994 a previously agreed amount to settle the account. In October 1998, while attempting to close out this file for failure to find Bailey, this Office discovered Bailey's whereabouts and contacted him. Bailey then informed this Office of his 1994 payment to Baltimore City and this Office decided not to pursue further criminal prosecution against him. On December 18, 1998, at the request of this Office, the Anne Arundel County State's Attorney's Office *nol prossed* the seven counts against Bailey.

INVESTIGATIONS AND INQUIRIES

1. Managing For Results Program

The State Prosecutor began submitting performance data for the State's Managing For Results Program in its Fiscal Year 1999 budget estimates. This Program is designed to ultimately integrate budget allocations with program performance. Each agency must identify its mission, goals, objectives and performance measures in its budget submissions. Such a process presents problems for an investigative agency dealing with confidential matters and widely fluctuating workload from year to year.

It was finally decided to count complaints received and self-initiated inquiries, divide them into categories such as corruption, election law and multi-jurisdictional inquiries and to determine whether or not each inquiry was completed satisfactorily and timely. Since this is an investigative agency, very few investigations and inquiries result in trials in which success can be measured by conviction rates. However, satisfactory conclusions can be attained by any of the following criteria which are deemed justifiable reasons for closing a file.

- a. The subject is charged;
- b. The evidence is sufficient to charge but the file is closed for the following reasons:
 - de minimis – the offense is too trivial to take to court;
 - restitution – the subject agrees to make restitution and there is nothing to be gained by taking the case to court;
 - resignation – the subject agrees to resign his/her office and there is nothing to be gained by taking the case to court;
 - cessation of questionable activity – the subject agrees to cease questionable activity which may be difficult to prove as a criminal violation;
 - cooperation with the State – the subject agrees to cooperate in obtaining evidence in a more serious crime;
- c. The matter is referred to a more appropriate agency, such as a regulatory agency;
- d. The matter was not referred or discovered in time to toll the statute of limitations;
- e. The subject agrees to comply with statutory requirements and nothing is to be gained by taking the case to court;
- f. The Office lacks jurisdiction to investigate the case;
- g. The evidence indicates that no crime has been committed;
- h. The evidence indicates that the subject is innocent of the allegations;
- i. There is an effective civil remedy;
- j. The evidence is legally insufficient to prosecute the case;
- k. The evidence is legally sufficient to charge, but successful prosecution is doubtful due to the unreliability of witnesses or questionable physical evidence;
- l. Necessary evidence is unobtainable due to loss, destruction or privilege;
- m. A technical violation exists, but the prosecutor exercises discretion not to prosecute;
- n. The financial costs and expenditure of the State's resources do not justify prosecution.

Likewise, unsatisfactory conclusions can be obtained by the following criteria:

- a. The State allows the statute of limitations to preclude prosecution when at least one year remained to toll the statute when the complaint was received;
- b. It is probable that a criminal act has occurred, but the State cannot prove all elements;
- c. The State commits error in either the investigation or prosecution;
- d. The subject is acquitted of all charges;
- e. The State is unable to corroborate the testimony of an accomplice;
- f. The investigation proves to be too costly in time and resources expended and is closed so that resources can be diverted to more serious offenses.

The above are generally accepted criteria for prosecutors closing investigations. They are submitted in this report so that the State Prosecutor's annual submissions to the Executive and Legislative branches in accordance with budget and Managing For Results mandates can be better understood when satisfactory conclusions to complaints and inquiries are claimed.

Standards were set for satisfactory conclusion and timely completion rates so that each year's performance could be measured. For corruption inquiries a 75% satisfactory conclusion rate was adopted; 90% for election law inquiries and 75% for all other inquiries. A one-year timely completion rate was adopted for corruption inquiries and six months for election law complaints. The standards are based upon past experience and the availability of resources.

2. Fiscal Year 1999 Results

The Office worked on 75 case files in FY99; comprised of 25 corruption complaints, 49 election law complaints and one multi-jurisdictional. Eighteen of the cases were carry-overs from FY98 resulting in a net number of 57 new files. In addition, there were 71 preliminary inquiries which did not reach file number status since they were disposed without significant work hours. It was decided to process such complaints with case numbers in FY2000 when a new case management system was established along with a new database. This will result in a complete and standardized record of every complaint made to the Office, easily retrieved and requiring as little storage space as a computer disk for each fiscal year.

Twenty-two of the 25 corruption complaints were completed. Nineteen were judged satisfactory for a rate of 86%. Of these 3 were not completed in one year which reduced the timely completion rate to 86%.

Only two of the 49 election law complaints were judged unsatisfactory for a rate of 96% satisfactory completion rate. Eleven required more than six months to complete which reduced the timely completion rate to 78%.

Unsatisfactory conclusions were rendered primarily in cases in which the Office terminated investigations due to the unlikelihood of success and the need to divert resources to other cases. Due to the verdict in the *Young* case, that investigation was also deemed unsatisfactory.

In judicial dispositions eleven defendants were brought to trial with favorable resolutions in eight cases, or 72%.

Exhibit 3 following this fiscal year's report, is a detailed analysis of the 75 complaints submitted in the Managing For Results Program.

3. Complainants' Survey Results

The responses to the FY1999 survey of complainants are shown in Exhibit 2 following this fiscal year's report. This was the first survey made by the Office in order to obtain objective evaluations of the services rendered to complainants. The results are tabulated from 26 responses to 45 questionnaires mailed. All comments are included and these were edited only for spelling errors.

Due to the low number of responses, it was decided to simplify the questionnaire in FY2000 in order encourage a greater number of complainants to respond. This was not successful.

INVESTIGATIONS CLOSED – NO CHARGES RECOMMENDED

A sampling of some of the cases processed in FY99 which did not result in charges, but generated significant workload follows. Identities of the subjects are withheld to preserve confidentiality.

1. State Delegate's Failure To Disclose Certain Funds

An investigation initiated in 1994, which involved a state delegate's financial disclosure statements, was finally culminated in November 1998. It was alleged that the delegate failed to disclose funds received from two lobbyists. The investigation was conducted by a grand jury and engendered considerable litigation – all of which has been placed under seal by the courts.

2. Senatorial Campaign's Receipt of Slate Funds

A complainant alleged that a senatorial campaign committee had received funds and in-kind contributions illegally from a slate committee because the candidate had not registered as a member of the slate. Under campaign finance laws candidates who are not registered members of the slate can receive no more than \$6,000 from the group.

The State Prosecutor found that the candidate's failure to register with the slate was due to negligence and that there was no intent to conceal the candidate's membership; or, that his campaign committee was receiving funds from the slate. A request to investigate anonymous phone calls allegedly made by the slate on behalf of the candidate was declined as beyond the resources of the Office at that time and unlikely to reveal the anonymous callers and the source of their funds.

3. Alleged Extortion By County Liquor Board Inspector

A State's Attorney referred a complaint concerning alleged extortion of a restaurant owner by a county liquor board inspector. The restaurant owner claimed that the inspector demanded money and that when he refused to pay his restaurant was harassed by excessive inspections and an investigation of alcohol sales to minors. The alleged demand for money occurred three years prior to the alcohol sales to minors investigation.

Interviews of witnesses furnished by the restaurant owner as well as his employees failed to corroborate his allegation. In addition, an audit of the inspector's work records did not confirm excessive visits/inspections of the restaurant in question over a three-year period.

4. Four Hundred Eighty-Eight (488) False Registration Cases

In 1998 the election boards of Montgomery County and the District of Columbia compared voter registration and voting records in order to detect false registrations and false voting in their jurisdictions. It was believed that a number of voters were registered in both jurisdictions and possibly voting illegally in each jurisdiction. As a result, 488 cases of possible false registration and/or false voting were referred to the State Prosecutor by the Montgomery County Election Administrator.

The initial inquiry presented both legal and physical resource problems. The major impediment was the necessity of determining the legal residence of 488 individuals so as to establish in which jurisdiction they were entitled to vote. The recent case of *Boston v. Blount* in the Maryland Court of Appeals presented further difficulty in proving an individual's domiciliary residence. A potential jurisdictional issue was also recognized. Maryland law prohibits an individual from registering or attempting to register in two election districts or precincts in the State of Maryland. If any of the 488 persons were legal residents of Maryland, but also registered in the District, they were not in violation of Maryland law. However, they would be subject to prosecution in the District of Columbia for making false statements on their registration applications.

Faced with the above problems, the State Prosecutor declined to investigate the 488 cases. However, those cases bearing evidence of double registration and voting within Maryland were accepted for further investigation. In addition, the Montgomery County Election Board struck the names of all 488 individuals from the registration rolls since they had not responded to notices from the Board.

5. Award of No-Bid Contract – Independent Agency

The director of an independent state agency was alleged to have steered a no-bid contract to a favored vendor, by-passing a committee established to select a list of qualified bidders. A six months investigation which reviewed the director's financial records as well as agency records revealed that the agency was not governed by state procurement law; that the director had wide latitude in procurement actions and that the agency's board of directors approved the director's recommendations.

Due to three on-going major investigations at that time and the lack of resources the investigation was terminated, but rated as unsatisfactory performance by the Office in the Managing For Results Program.

6. Misappropriation of Narcotics Fund by Assistant State's Attorney

A State's Attorney referred an allegation that a former Assistant State's Attorney had misused funds reserved for narcotics investigations. Inquiries revealed that records of paid informants and funds used to purchase drugs and equipment were woefully inadequate and dated. Interviews of recipients of the funds were also not sufficient to establish criminal conduct. The investigation was terminated in early FY99 due to the lack of documentary evidence to prove a theft of the funds.

7. Corporation's Third Party Campaign Contributions

An allegation was received that a Maryland corporation was secretly making large donations to a statewide campaign through its employees and reimbursing them in the form of bonuses. The information was received from a source within the company. Both current and former employees who allegedly received the so-called "bonuses" refused to cooperate. The State Prosecutor has no authority to request immunization of witnesses by the courts.

ENFORCEMENT OF STATE ELECTION LAW

Election law complaints continued to consume a significant amount of investigative hours in FY99, primarily due to the Primary and General Elections taking place in this fiscal year.

In addition the 1998 General Assembly enacted a recodification of the Election Code effective January 1, 1999. Among the changes made was a reduction in the statute of limitations from three to two years for prosecuting failures to file campaign fund reports. This change compelled the State Board of Elections and this Office to accelerate the process of initiating enforcement of late filings and failures to file required reports. A listing of the types of election law complaints which were filed follows:

<u>New Complaints</u>	<u>FY99</u>
Late Fees (Individuals)	41
Over-contribution	4
Failure to File Accurate Report	4
Double Voting	82
Voter Fraud	1
False Registration	499 ¹
Walk Around Money	1
Authority Line	3
Official Misconduct	4
	<hr/>
TOTAL	639

¹ This number includes the 488 false registration complaints filed by Montgomery County discussed above under closed investigations.

Office of the State Prosecutor FY 99 Survey Results

1. The staff members were courteous and polite.

very satisfied	satisfied	needs improvement	unsatisfied	N/A
77%	23%	0%	0%	0%

- Comments:
- a. "But did nothing."
 - b. "Everyone I spoke to was very professional."
 - c. "However the Office of Prosecutor should be increased by 500 percent – removing corruption and criminals will increase the economy to pay for a bigger staff."
 - d. "You have a truly professional staff."
 - e. "The staff is overworked and has generally atrocious conditions and still courteous."

2. The process for filing a complaint was simple and without difficulty.

very satisfied	satisfied	needs improvement	unsatisfied	N/A
46%	42%	4%	4%	4%

- Comments:
- a. "Insisted I did not have a complaint."
 - b. "'Process' was simple and straightforward and well explained by one staff member who was helpful."
 - c. "Each step of the process was explained in detail."
 - d. "I believe the State Prosecutor should direct concerns by public that may be a city crime or IRS violations to the proper authorities."
 - e. "We generally submit by letter with back-up documentation attached."
 - f. "Forms seem alright it is the process that intimidates."

3. You were provided sufficient time to explain your complaint.

very satisfied	satisfied	needs improvement	unsatisfied	N/A
61%	19%	8%	4%	8%

- Comments:
- a. "To no avail!"
 - b. "You either get it right the first time, I generally do, or complaints fall between the cracks."

4. You had access to staff members by correspondence, telephone communications and/or meetings.

very satisfied	satisfied	needs improvement	unsatisfied	N/A
61%	31%	0%	0%	8%

- Comments:
- a. "Still no reaction of a positive nature."

- b. "Someone' was always available."
- c. "All my calls were returned the same day."
- d. "I did meet staff members and I was very encouraged by their genuine interest in our concerns."
- e. "Generally by correspondence but some telephone contact."
- f. "Jim K. is great!!!"

5. If your request to conduct an investigation was denied, you were provided an explanation for the reason.

very satisfied	satisfied	needs improvement	unsatisfied	N/A
19%	35%	8%	19%	19%

- Comments:
- a. "Not clear why not followed up on."
 - b. "I was told I had no proof of misconduct indicating to me – there are standard put-off replies."
 - c. "Explanation (verbal) expressed would not have the expertise to confirm allegations. I do not consider this a good reason to deny an investigation. Written explanation was much more tactful."
 - d. "Yes I was provided an explanation who I should address some of our concerns!"
 - e. "Prosecutor called to explain."
 - f. "Feel as though the prosecutors office is indifferent to prisoners complaints."
 - g. "Maryland law has holes that white collar crime drive through every day!!!"

6. If an investigation was not conducted, you were provided with opinions and/or referral information.

very satisfied	satisfied	needs improvement	unsatisfied	N/A
27%	27%	4%	11%	31%

- Comments:
- a. "Told to watch and that there was no statute of limitations."
 - b. "I was referred to offices which were not politically in a position to investigate. And they did not investigate either."
 - c. "Never was I told of an option or given a referral."

7. The staff members appeared to have proper training, knowledge and experience.

very satisfied	satisfied	needs improvement	unsatisfied	N/A
58%	23%	0%	4%	15%

- Comments:
- a. "I will never know, their hearing is impaired."
 - b. "Yes staff is professional."

8. Your complaint was handled in a responsive and timely fashion.

very satisfied	satisfied	needs improvement	unsatisfied	N/A
46%	38%	4%	4%	8%

- Comments:
- a. "I understand that you have much to do with limited resources and would support additional funding."
 - b. "The investigator contacted me periodically with updated information."

9. If an investigation was conducted, were you notified as to the findings?

very satisfied	satisfied	needs improvement	unsatisfied	N/A
31%	27%	4%	4%	34%

- Comments:
- a. "Should have had final input prior to decision being made"
 - b. "Yes, along with an explanation as to the reason for the findings."
 - c. "Once I was called into the office with K. Skullney formally that was good."

10. Please rate your overall experience with the Office of the State Prosecutor.

very satisfied	satisfied	needs improvement	unsatisfied	N/A
50%	23%	12%	15%	0%

- Comments:
- a. "The bottom line is 'results'. Courtesy, availability, knowledge, etc. may be great but if nothing is done to prove or disprove, improvement is needed."
 - b. "Extremely professional staff – excellent response to our needs."
 - c. "The Office of the State Prosecutor is by far one of the most professional offices I have dealt with."
 - d. "Do to the limited staff and funds the Prosecutor's Office is handicapped in doing their professional duties."
 - e. "S. Montanarelli left me out to dry, watched me get fired by the same machine I informed on!!"

11. Optional General remarks about the Office. Do you think that we are fair, unbiased and non-political? Would you contact us again, if you had a complaint?

- a. "Yes to both"
- b. "They need hearing evaluation. I explained the page and number of the Cumberland City Charter that was being broken by five elected officials. I thought your office would be my average citizen's recourse. Other than picking up their check and cashing it, they did nothing. AND I pay their salary."
- c. "As you can see from the ratings, I had a fine experience. You are on my list if I need help. I hope not to need your services."

- d. "I personally believe that while you attempt to be fair and unbiased your prosecutorial decisions are influenced by political and other considerations. How else can you explain taking 1 year on a simple case like that of Linda Tripp. The investigation is due in no small part as a result of pressure from politicians who control your budget."
- e. "Absolutely!"
- f. "Yes, yes – I believe that you need to hire more people and become much more proactive. The public's confidence level in gov't is down and now is the time to take a strong stand."
- g. "It is difficult for an office and or staff to be unbiased and political. However, I feel your office and staff does the best that any one can in being so. Also, I found all members of the staff to be more than fair."
- h. Staff members ranged from 'extremely helpful and positive' to 'argumentative and negative'. There are few places to go for help in deceitful public matters; if someone takes the time to document observed allegations they should be investigated even if the person making the complaint can not name the persons responsible. This is part of 'investigation'. Generally, I feel your office should be more aggressive in investigating complaints. If the need should arise again, I would probably contact your office in hopes of getting the 'good person' who was taken off my case (complaint)."
- i. "Overall I think your Dept. has about the best service in the state agencies."
- j. "This office is very important for the protection of the right to vote in our state – thank you for a job well done."
- k. "I believe the Office to be extremely fair, unbiased and non-political. I would certainly contact you again."
- l. "Yes, very fair, the office made me feel comfortable."
- m. "The investigations were handled in a timely fashion. The investigators were professional and thoroughly touched on all aspects of the case."
- n. "You are fair – unbiased – political? I would contact this great team of dedicated prosecutors investigators – I feel good that I have received a friendly atmosphere – The City Police and the States Attorney's Office have treated me as if I was committing a crime because I bring concerns to them!"
- o. "We have always had fair a-political service. We only wish you had a larger budget and staff."
- p. "No reason to believe the Office is partisan. In fact seems to bend over backwards to be non-partisan."
- q. "You are fair, unbiased, non-political and an all round good guy – I would contact you again if I had a complaint."
- r. "While your staff was courteous, responsive and [unreadable], I cannot help but feel the end result 'no investigation' was a disservice to the mission of the office. The reasons for the unwillingness to investigate (e.g. political, etc.,) I have no idea."
- s. "Office needs subpoena power and a dose of courage when it comes to defending complainants. Do not leave us twisting in the wind when it is expedient. Political influence is a matter of perception to me, the Office of the State Prosecutor seems cowed today."

- t. “It’s obvious everything is political. It makes me sick! There is no such thing as truth – justice – honesty. Democrats are running the future when right and wrong are turned upside down. It may be ‘good’ for today – but the price is paid in the future. When the system breaks – you will have had your part!”
- u. “There seems to be no process for making an elected official obey the law.”

Analysis of Complaints

Case Number/Name	Type	Open	Closed	Length (mths)	Closing	Disposition	Sat
95-051-State Delegate/Bribery, Ethics	C	10/6/94	11/30/98	50	Subject complied w/legal requirements		S
96-049-Liquor Board/Bribery	C	1/11/96	1/20/99	36	Charged 4-29-98	Two guilty pleas	S
97-043-State Senator/Bribery	C	2/20/97	12/14/98	20	Charged	Not guilty	U
97-063-State Agency/Bribery	C	8/1/98	2/1/99	6	Insufficient evidence		U
98-007-Assistant States' Attorney/Misconduct	C	8/28/97	8/14/98	12	Statute of limitations		S
98-024-Lobbyist/Lobbying Violation	C	12/23/97	12/14/98	N/A	Cooperated w/the State	Merge with 97-043	S
98-032-Police Officials/Misconduct	C	4/9/98	10/21/98	6	Unreliable witness		S
98-037-County Executive/Misconduct	C	8/16/98	5/14/99	11	No crime		S
98-040-Agency Secretary/Misconduct	C	6/19/98	1/20/99	7	No crime		S
98-041-State Senator/Misconduct, Bribery	C	6/29/98	10/22/98	4	Exonerated		S
99-031-Assistant State's Attorney/Misconduct	C	9/1/98	9/30/98	1	No crime		S
99-032-Insurance Agent/Bribery	C	9/30/98	9/30/98	0	No jurisdiction - referral		S
99-033-Sheriff/Misconduct	C	10/2/98	10/30/98	1	De Minimis		S
99-034-State's Attorney/Misconduct	C	10/2/98	11/16/98	1	No crime		S
99-035-Police Official/Misconduct	C	10/15/98	3/15/99	5	No crime		S
99-042-Liquor Board/Misconduct	C	1/20/99	3/9/99	2	No crime		S
99-044-Police Lieutenant/Misconduct	C	2/12/99	3/19/99	1	Lack of resources		U
99-045-Public Works Department/Bribery	C	2/23/99	Open	N/A			
99-048-Assistant Attorney General/Misconduct	C	4/8/99	6/28/99	3	De Minimis		S
99-049-Incorporated Municipality/Misconduct	C	4/8/99	6/4/99	2	No crime		S
99-050-State's Attorney, Police Official/Misconduct	C	4/9/99	Open	N/A			
99-051-Mayor/Misconduct	C	4/19/99	10/5/99	6	No crime		S
99-052-Court Commissioner/Misconduct	C	4/22/98	10/15/99	6	No crime		S
99-055-Incorporated Municipality/Misconduct	C	5/10/99	Open	N/A			
97-017-Fourteen Individuals/Late Fees	E	9/5/96	6/1/99	33	Administratively resolved/fees paid		S
98-004-Twenty-six Individuals/Late Fees	E	8/6/97	6/1/99	22	Administratively resolved/fees paid		S
98-019-3rd Party Contribution	E	11/19/97	10/21/98	11	Insufficient evidence/lack of resources		U
98-020-Seventeen Individuals/False Voting	E	11/21/97	11/6/98	11	Technical violation/prosecutorial discretion		S
98-038-Four Individuals/False Voting	E	6/16/98	4/12/99	10	Technical violation/prosecutorial discretion		S
98-039-State Agency/Election Law	E	6/17/98	6/15/99	12	Charged	Fined \$15K	S
99-001-Councilperson/Voting Ethics	E	8/3/98	8/20/98	1	Referred to appropriate agency		S
99-002-Campaign Committee/FTF Accurate Report	E	8/4/98	10/28/98	3	Technical violation/prosecutorial discretion		S
99-003-One Individual/False Voting	E	8/10/98	11/2/98	3	No Crime in Maryland		S
99-004-One Individual/False Voting	E	8/10/98	1/15/99	5	De Minimis		S
99-005-One Individual/False Voting	E	8/10/98	11/2/98	3	No Crime in Maryland		S
99-006-One Individual/False Voting	E	8/10/98	11/2/98	3	No Crime in Maryland		S
99-007-One Individual/False Voting	E	8/10/98	11/5/98	3	Exonerated - Misidentification		S
99-008-One Individual/False Voting	E	8/10/98	3/19/99	7	Prosecutorial discretion - expense		S

EXHIBIT 3

Analysis of Complaints

Case Number/Name	Type	Open	Closed	Length (mths)	Closing	Disposition	Sat
99-009-One Individual/False Voting	E	8/10/98	10/28/98	3	No Crime in Maryland		S
99-010-One Individual/False Voting	E	8/10/98	11/2/98	3	Exonerated - error in records		S
99-011-One Individual/False Voting	E	8/10/98	11/2/98	3	No Crime in Maryland		S
99-012-One Individual/False Voting	E	8/10/98	11/2/98	3	No Crime in Maryland		S
99-013-One Individual/False Voting	E	8/10/98	11/2/98	3	No Crime in Maryland		S
99-014-One Individual/False Voting	E	8/10/98	1/11/99	5	Prosecutorial discretion - Expense		S
99-015-One Individual/False Voting	E	8/10/98	7/19/99	11	Charged	\$100 Fine/24 hrs com	S
99-016-One Individual/False Voting	E	8/10/98	11/2/98	3	No Crime in Maryland		S
99-017-One Individual/False Voting	E	8/10/98	12/5/98	4	Referred to US Attorney - DC		S
99-018-One Individual/False Voting	E	8/10/98	10/28/98	3	No Crime in Maryland		S
99-019-One Individual/False Voting	E	8/10/98	11/2/98	3	No Crime in Maryland		S
99-020-One Individual/False Voting	E	8/10/98	4/5/99	8	Prosecutorial discretion - Expense		S
99-021-One Individual/False Voting	E	8/10/98	11/2/98	3	Exonerated - misidentification		S
99-022-One Individual/False Voting	E	8/10/98	11/2/98	3	Exonerated - error in records		S
99-023-One Individual/False Voting	E	8/10/98	11/5/98	3	No Crime in Maryland		S
99-024-One Individual/False Voting	E	8/10/98	11/5/98	3	No Crime in Maryland		S
99-025-488 Individuals/False Registration	E	8/10/98	10/30/98	3	Prosecutorial discretion-law, resources		U
99-026-Political Club/Authority Line	E	8/12/98	4/12/99	8	No crime		S
99-027-Political Candidate/Authority Line	E	9/14/98	9/18/98	0	No crime		S
99-028-County Board of Elections/Sample Ballots	E	9/22/98	9/23/98	0	Agreed w/AG - no crime		S
99-029-Co Board of Elections/Ballot Name Missing	E	9/22/98	11/6/98	1	Referred to appropriate agency		S
99-030-Political Candidate/Walk Around Money	E	9/2/98	4/14/99	7	Charged	Guilty Plea	S
99-036-One Individual/False Registration	E	10/16/98	11/11/98	1	Exonerated - signature forged		S
99-037-Sample Ballot/Authority Line	E	10/28/98	11/6/98	0	No crime		S
99-038-Slate Committee/FTF Accurate Report	E	10/30/98	4/6/99	5	No crime		S
99-039-Campaign Committee/FTF Accurate Report	E	11/2/98	3/1/99	4	Subject complied with legal requirements		S
99-040-PAC/Over-Contribution	E	11/11/98	4/19/99	5	Technical violation/prosecutorial discretion		S
99-041-One Individual/False Registration	E	12/15/98	4/1/99	3	Technical violation/prosecutorial discretion		S
99-043-One Individual/Double Voting	E	2/5/99	7/13/99	5	Charged	Guilty Plea	S
99-046-Campaign Committee/FTF Accurate Report	E	3/20/99	4/22/99	1	Subject complied with legal requirements		S
99-047-Forty-three Individuals/False Voting	E	4/7/99	5/4/99	1	4 Exonerated, 39 Referred Juris.		S
99-053-One Individual/False Voting	E	5/5/99	8/9/99	3	Legal impediment to charge		S
99-054-Two Individual/False Registration	E	5/8/99	7/20/99	2	Technical violation/prosecutorial discretion		S
99-056-PAC/Over-Contribution	E	6/7/99	11/17/99	5	Technical violation/prosecutorial discretion		S
99-057-One Individual/False Registration	E	6/19/99	7/30/99	1	Technical violation/prosecutorial discretion		S
98-025-One Individual/Wrap Violation	M	2/10/98	7/30/99	18	Charged	Pending	S

FY1999 Judicial Disposition

Case Number/ Name	Type	Open	Charged	Closed	Disposition	Stat
93-021E / D. Bailey - Late fees	E	9/1/92	8/4/94	12/18/98	Nolle Pros	U
97-030E / Brian Davis - Overcontribution	E	11/18/96	10/8/97	12/18/98	Guilty Plea - 3yrs, 2yrs suspended	S
96-049 / BC Liquor Bd - W. Madonna - Bribery.	C	1/11/96	4/29/98	1/20/99	Guilty Plea - 2yrs susp, 2yrs prob, 300 hrs cs, cc	S
96-049 / BC Liquor Bd - A. Ciaferano - Bribery	C	1/11/96	4/29/98	1/20/99	Gully Plea - 2yrs susp, 2yrs prob, 300 hrs cs, cc	S
96-049 / BC Liquor Board - M. Hyde - Bribery	C	1/11/96	4/29/98	1/20/99	Nolle Pros	U
96-049 / BC Liquor Board - D. Cassell - Bribery	C	1/11/96	4/29/98	1/20/99	Nolle Pros	U
96-049 / BC Liquor Board - J. Nickey - Bribery	C	1/11/96	4/29/98	1/20/99	Guilty Plea - 2yrs susp, 3yrs prob, \$500 fine	S
96-049 / BC Liquor Board - M. Swidowich - Bribery	C	1/11/96	4/29/98	1/20/99	Guilty Plea - 2yrs susp, 3yrs prob, \$500 fine	S
98-004E / Frank Schmidl - Late Fees	E	8/6/97	6/1/99	9/17/99	Nolle Pros - Paid the late \$1,000 fees in full	S
98-039E / MSBDFA - Over Contribution	E	6/16/98	6/15/99	6/15/99	Civil Citation - Paid \$15,000 fine	S
99-030E / Robert Dashiell - Walk Around Money	E	9/22/98	3/25/99	4/14/99	Guilty Plea - PBJ, \$500 fine	S

FISCAL YEAR 1998
(July 1, 1997 – June 30, 1998)

JUDICIAL DISPOSITIONS

1. State v. Sheriff Randy Lee Sines (Garrett County)

On September 5, 1998, Randy Lee Sines, who was elected Sheriff of Garrett County in December 1994, pleaded guilty to one count of misconduct in office. Pursuant to a plea agreement Sines received a three year suspended sentence, three years supervised probation, a fine of \$2,500 and an order to make restitution in the amount of \$4,440 which he had charged the County for personal expenses.

Also, pursuant to the plea agreement, Judge Fred W. Wright III later ordered Sines to pay an additional \$13,995.96 in restitution for checks written on an unauthorized checking account which Sines used to pay himself and others for personal expenses. The unauthorized checking account in Sines' name was discovered one week prior to his arraignment and incorporated in the plea agreement. Sines resigned his office the day before his arraignment.

2. State v. Carmel R. Gant (St. Mary's County)

On January 30, 1998, Carmel R. Gant, St. Mary's County Deputy Sheriff from September 1995 to May 1997, was charged with five counts of theft, malfeasance and misfeasance in office. The charges stemmed from the theft of funds which Gant was required to deposit to a departmental account for seized funds.

On May 1, 1998, Gant pleaded guilty to all counts and received a one year suspended sentence, five years supervised probation and ordered to make immediate restitution to the State in the amount of \$15,500 with an additional \$4,500 payment during the probationary period. In addition Gant agreed to accept termination for cause and not to seek employment in any position of public trust.

3. State v. Anthony Cicoria (Prince George's County)

On November 7, 1998, Judge Darlene G. Perry of the Circuit Court for Prince George's County denied post conviction relief for Cicoria stating that he had received effective assistance of counsel at both the trial and appellate levels for his convictions of felony theft, conspiracy to commit theft, and filing a false income tax return for 1986, 1987 and 1988. Cicoria, a former councilman of Prince George's County was convicted of his political campaign related offenses by a Prince George's County jury in 1990. Subsequently, he was found in violation of his probation in 1992, became a fugitive and was apprehended in Florida and extradited to Maryland. In November 1993, he was found guilty of violation of probation for unauthorized use of a county credit card and sentenced to serve the remainder of his original prison term of ten years.

On December 21, 1994, Governor William Donald Schaeffer issued an executive order of commutation releasing Cicoria "subject to such supervision and conditions the Parole Commission shall designate" for the balance of his sentence.

On April 9, 1996, Judge Robert C. Nalley of the District Court for Charles County ordered that the restitution of \$4,036 which he had originally ordered at the violation of probation hearing for unauthorized use of a county credit card remained in effect. Judge Perry in her order of November 7, 1997, ordered that the restitution, which Cicoria had paid, be returned to him as not being part of the Governor's commutation.

4. State v. Keith Green (Anne Arundel County)

On July 8, 1997, Green pleaded guilty for failure to pay a late fee to the State Board of Elections regarding campaign reports. He received a \$100 fine, probation before judgment and unsupervised probation on condition that he pay the late fees in full.

5. State v. Steven T. Stokes, Sr. (Baltimore City)

On April 17, 1998, Stokes pleaded guilty to one count of failing to file a campaign report. He was fined \$100 and received probation before judgment and a six months term of probation.

INVESTIGATIONS CLOSED – CHARGES FILED

Two investigations were closed in FY98. Brian H. Davis, a former Baltimore trucking executive was charged with contributing \$68,500 under false names to various political campaigns covering the 1994 and 1998 election cycles. In addition, he was charged with two counts of exceeding the State's \$10,000 limit on political campaign contributions during a four-year election cycle. The investigation was initiated in fiscal year 1997 following an investigation by the *Baltimore Sun* which detailed more than \$250,000 in state and federal campaign contributions made by Davis during a five-year period.

In April 1998, William J. Madonna, Jr., a former state delegate, Anthony J. Cianferano, chief inspector of the Baltimore City Liquor Board, two liquor board inspectors and two liquor licensees were indicted for bribery and various other charges. The charges resulted from an 18-month investigation initiated by the State Prosecutor.

INVESTIGATIONS CLOSED – NO CHARGES RECOMMENDED

During the fiscal year the Office opened 41 new files for complaints requiring either preliminary inquiries or full-scale criminal investigations. Added to 13 cases carried-over from Fiscal Year 1997, the total workload of significant complaints requiring formal investigative work hours amounted to 54 files.

In addition, there were 93 complaints received which were resolved, referred to other agencies or declined for investigation with minimum hours of effort. Most of these complaints required less than 15 days to resolve.

A sampling of cases resolved with no charges recommended follows. Those which were not made public are described in general terms without revealing the identity of the subject or jurisdiction involved.

1. **Alleged County Commissioner's Conflict of Interest**

On July 7, 1997 a State Prosecutor's report was released by Cecil County Commissioner President Oakley A. Sumpter to a local newspaper, in which the State Prosecutor found that Sumpter had not violated the county ethics laws. It had been alleged that Sumpter's proposal to run water, sewer and natural gas lines along the Route 40 corridor between Perryville and North East would benefit a corporation with which he had a financial relationship. The corporation, York Building Products, owned 7,000 acres in the area of the proposed pipelines.

The report disclosed that Sumpter had divested himself of all interests in York Building in 1994 and had not received any monies from the corporation since then except campaign contributions. A review of his tax returns, business records, campaign finance reports and other materials revealed no direct or indirect financial benefits which would raise conflict of interest issues. Other conflict of interest allegations were also discussed in the report and found to have no merit.

2. **Alleged Misconduct of St. Mary's County Sheriff**

On September 29, 1997, Sheriff Richard Voorhaar made public a report of the State Prosecutor to the State's Attorney of St. Mary's County. In his report the State Prosecutor found that the Sheriff had not committed misconduct in office in the investigation of a highly publicized murder case. The State's Attorney had referred the complaint to the State Prosecutor due to the involvement of the Deputy State's Attorney in the investigation.

The complainants alleged that the Sheriff had removed a key investigator from the investigation because the investigator favored a potential political opponent of the Sheriff in the forthcoming election. Specifically, the complainants believed that the Sheriff's actions prevented the case from being solved. They alleged that the Sheriff's acts amounted to misconduct in office.

The State Prosecutor reported that the Sheriff had acted on the advice of the Deputy State's Attorney who recommended replacement of the primary investigating officer after she found numerous deficiencies in the conduct of the investigation. The State Prosecutor found no corrupt motives on the part of either the Sheriff or Deputy State's Attorney.

The case involved the murder of a young child. It was later solved and the defendant was convicted of murder.

3. Alleged Bribery/Misconduct of County Executive

One of the subjects of an investigation conducted by the State Prosecutor alleged that he/she had made a substantial illegal contribution to a candidate for county executive in return for a promise to retain a certain employee on the county's payroll, if elected. Due to the subject's lack of credibility, an investigation was not initiated until certain facets of the subject's story had been confirmed. Although the candidate could not be convicted of bribery, if the allegation were true, since he/she was not a person who could be the subject of a bribe under Maryland law, he/she could be guilty of misconduct for executing the corrupt purpose of the illegal contribution after being elected to office.

Interviews of the candidate and a number of persons present at the meeting between the subject and the candidate did not corroborate the subject's accusation. In addition, the illegal over-contribution was beyond the statute of limitations.

4. County Commissioner's Conflict of Interest and Request for Prosecution

Representatives of a taxpayers' association requested an investigation of a county commissioner's vote on an issue involving his father's company. The commissioner voted to break a tie vote by the other commissioners without disclosing on the record any financial impact his vote would have on him or his spouse. The matter was referred to the county ethics commission which issued an opinion that since there was an "outside employment relationship" between the commissioner and his father, his vote constituted a conflict of interest. However, the ethics commission determined that it had no enforcement authority regarding criminal sanctions. When the State's Attorney declined to prosecute, the representatives of the association filed a complaint with the State Prosecutor.

After reviewing the county's ethics code, minutes of the commissioners' meetings, contracts and other documents, interviews were conducted with the commissioner and other county officials. Based on his findings the State Prosecutor declined to prosecute for the following reasons:

- (a) The outside employment relationship upon which the ethics commission based its decision consisted of work performed by the commissioner as a real estate agent for one of his father's companies. This had nothing to do with the company owned by his father which was the subject matter of the questioned vote;
- (b) The commissioner derived no economic benefit from his vote;
- (c) The other commissioners knew that the commissioner's father owned the company which was the subject of the vote;
- (d) There was no allegation of concealment or that the commissioner did anything to give his father's company an unfair advantage;

- (e) The company owned by the commissioner's father was the sole bidder on a lease which was the subject of the vote.

The complainants next appeared before the grand jury without a prosecutor present. Upon learning that the grand jury was requesting assistance in drawing an indictment, but refusing to seek advice from the State's Attorney, the Circuit Court Judge requested the State Prosecutor to meet with the grand jury.

The State Prosecutor conducted two grand jury hearings in which the accused commissioner waived his Fifth Amendment privilege, testified under oath and voluntarily produced certain financial records. The State's Attorney and the commissioner who referred the matter to the ethics commission also appeared before the grand jury. At the conclusion of testimony and questioning of the State Prosecutor and one of the complainants, the grand jury decided not to vote for a presentment.

5. Alleged Bribery of State Official

In April 1997, a complaint was received that a state official may have received a bribe for recommending the award of a multi-million dollar contract to a particular corporation. A preliminary inquiry revealed that the official had by-passed a committee established to recommend a qualified bidder; that he/she had failed to file a financial disclosure statement with State Ethics and that he/she had made substantial purchases of stock from various corporations during the procurement period.

The preliminary inquiry was closed in November 1997, following an extensive review of documents and questioning of the subject and other witnesses. The subject filed a disclosure statement during the inquiry. He/she then produced bank records and other financial records showing the source of the funds used to make the stock purchases. It was also determined that agency procurement procedures did not prohibit the official from making unilateral procurement recommendations to the agency's board of directors which approved the contract unanimously.

6. Assistant State's Attorney Accused of Subterfuge

In February 1997, a criminal defendant accused an assistant state's attorney of obtaining his psychiatric records in violation of the *Health General Article* of the *Annotated Code of Maryland* through subterfuge. At that time Title 4 of the *Health General Article* provided criminal sanctions for any person requesting or obtaining a medical record under false pretenses or deception. The defendant alleged that the prosecutor knew that psychiatric records were privileged and issued a subpoena to the health care provider under the pretense of obtaining medical records. The subpoena specified "including but not limited to psychiatric records".

An investigation revealed that the records were obtained and furnished to the F.B.I. However, the public defender, upon learning of the subpoena, filed a motion to quash. The State's Attorney, upon learning of the motion to quash, arranged for the return of the records, which were still sealed, removed the assistant from the case, shredded the records returned by the F.B.I. in the presence of the public defender and returned the state's copy to the hospital.

We found no intent to deceive on the part of the Assistant State's Attorney in that the subpoena clearly requested psychiatric records and a copy was furnished to the public defender. Title 4, at that time, specifically required the elements of requesting or obtaining the records under false pretenses or deception, which were not present in this case. In addition, the State's Attorney immediately took action to insure that the records were not disclosed and agreed to the motion to quash.

FISCAL YEAR 1997
(July 1, 1996 – June 30, 1997)

JUDICIAL DISPOSITIONS

1. Expunged Record

During the fiscal year a case was prosecuted under the Election Code which prohibits making campaign contributions in false names. The court accepted a plea of nolo contendere, fined the defendant \$1,000 and imposed one year of probation. The record of the case has since been expunged by court order which effectively removes it from public inspection.

2. State v. Robert J. Fousek, Sr. (Garrett County)

On January 22, 1997, a Carroll County jury found Fousek guilty of the theft of \$6,000 while executing his duties as County Clerk and Roads Administrator of Garrett County. The trial had been removed to Carroll County by Judge Frederick A. Thayer III of Garrett County who granted a motion for removal on the basis of prejudicial pre-trial publicity. Prior to the jury trial Fousek had pleaded guilty to tax perjury and failure to file a state tax return for the 1994 tax year.

On April 7, 1997, Judge Francis M. Arnold of Carroll County Circuit Court sentenced Fousek to 5 years, but suspended the sentence and placed him on probation for 5 years during which he was to make full restitution of the \$6,000 illegally obtained from Garrett County. Judge Arnold also imposed a civil judgment in favor of the Comptroller of Maryland for \$7,112 owed on the tax perjury and failure to file charges. One year and 90 days sentences for those charges were suspended and ordered to run concurrently with the five year suspended sentence.

3. State v. Arnold T. Bigger (Anne Arundel County)

Bigger was charged and pleaded guilty of false voting after voting twice in the March 5, 1996 primary election, once as a Republican in his own name and later as a Democrat in a false name. He explained to the Court that he was trying "to test the system".

Judge Joseph P. Manck sentenced Bigger to six months detention, suspended the sentence, fined him \$1,000 and placed him on 12 months unsupervised probation. An election judge recognized Bigger when he voted for the second time later in the day at the same election site.

4. State v. Roderick Willis (Prince George's County)

Willis pleaded guilty to an election law violation of failure to pay late fees on April 26, 1997. He received probation before judgment, six months probation and ordered to pay late fees of \$500 and a \$100 fine.

5. State v. Sean Eric Short (Prince George's County)

Short pleaded guilty to a charge of failure to pay a late fee on November 26, 1996 and received probation before judgment, six months probation, a fine of \$100 and ordered to pay a late fee of \$250 as a condition of probation.

FISCAL YEAR 1997 WORKLOAD

The number of complaints received, coupled with the work generated, proved to be an exceptional year in terms of workload for the Office. In addition to the Expunged and Fousek cases carried over from FY96 plus the Liquor Board and three other investigations, the Office opened seven full investigation, 26 preliminary inquiries, 20 election law inquiries and answered 82 telephone inquiries. The Office also produced 15 reports only one of which was made public by the release of a grand jury report in Garrett County.

A sampling of the investigative activities follows. Those cases which were not made public are disclosed in general terms in order not to reveal the identities of the subjects or the jurisdictions involved.

INVESTIGATIONS CLOSED – NO CHARGES RECOMMENDED

1. Alleged Attempt to Influence Investigation of Public Official

A public official complained that a member of his/her agency, who was under investigation for misconduct in office, had requested him/her to call an emergency meeting of the agency's board members in order to discuss the investigation. The complaining official reported that a substantial gift accompanied the request. He/she was also told by the subject of the investigation that the subject had contacted the head of the law enforcement agency conducting the investigation and had discussed the matter with that person.

A lengthy investigation was conducted in which all persons involved were interviewed including the subject of the investigation with his/her attorney. Telephone records were obtained of the subject and the head of the law enforcement agency. The law enforcement agency's file was also reviewed and its investigators were interviewed regarding any attempt to influence their investigation.

There was no evidence to indicate that the subject had contacted the head of the law enforcement agency or that any of its investigators had been influenced. It was also established that the complainant and the subject had exchanged a number of gifts in the past; that the gift accompanying the request was given as a Christmas gift; that the complainant had waited six months before reporting the incident and; that the complainant had not filed a financial disclosure statement for four years wherein he/she would have had to disclose the gifts received from the subject.

The law enforcement agency's file and interviews of the investigators revealed that there was insufficient evidence to charge the subject with misconduct in office.

2. Legislator's Failure To Disclose Certain Funds

An investigation of a legislator's failure to disclose certain funds received from lobbyists, initiated in 1994, was carried over and conducted throughout the fiscal year with no resolution

3. City Council Candidate's Residency

An issue which arose in FY96 as to whether or not an elected City Councilperson had committed perjury as to his residency on his certificate of candidacy was finally resolved in August, 1996. An extensive investigation by this Office resulted in litigation by the Attorney General challenging the candidacy of the candidate prior to the November, 1995 general election. The court dismissed the complaint for declaratory judgment and the successful candidate was allowed to be seated. However, the question of possible election law perjury remained to be resolved. In a report to the complainant and the subject issued August 20, 1996, it was determined that there was insufficient evidence to establish that the subject willfully made a false statement on his certificate of candidacy.

4. Exceeding Campaign Contributions Limits By Individual and His Wholly Owned Corporation

An allegation was received from Common Cause of Maryland that certain individuals and corporations in which they had interests had exceeded the \$10,000 limit on campaign contributions during the previous four-year election cycle. An investigation revealed that over-contributions appeared to have been made in excess of \$30,000. However, some of the alleged over-contributions was attributed to the individual's wife who also wrote campaign contribution checks from a joint bank account allowing the husband and wife a total limit of \$20,000.

As a result of the investigation, \$17,300 was refunded by campaign committees at the request of the individual's attorney. Prosecution was declined on the basis that the State would have had to prove that the over-contribution was made willfully and knowingly, which could not be done. However, the individual was placed on notice that, as a result of the investigation, he could no longer claim lack of knowledge in any future over-contributions.

5. Alleged Favorable Treatment of Son of Wealthy Person Arrested on Cocaine and Fraud Charges

A complainant alleged that a police chief ordered the release of a subject detained on drug and fraud charges to the custody of his father. It was also alleged that the Chief influenced the State's Attorney to drop the charges against the subject because his wealthy father donated \$20,000 to the police department.

Interviews and an examination of court records did not support the' allegations. The subject was arrested for possession of cocaine. His father posted \$20,000 cash bail for the son's

release into the custody of his parents and to attend a pre-trial release program. A bench warrant was issued for violations of his pre-trial release conditions and bail was continued pending trial. He was tried and convicted three months later, found guilty and placed on three years probation on condition that he attend a clinic for drug addiction in Houston, Texas. Two years later he was arrested on a theft charge and was held in a detention center with no bail for four months pending trial.

It was while being detained pending trial on the theft charge and for violation of probation that the subject was released temporarily into the custody of his father. His father attempted to convince him to cooperate with the police concerning the source of his drugs. When this failed, he was returned to the detention center, tried and convicted. He served all sixteen months of his sentence and was released on parole. A motion for modification of his sentence was denied. There was no evidence that his father donated any money to the chief or the police department.

6. Prosecutor Accused of Improper Activity by Female Defendant

A State's Attorney referred a letter written to a Circuit Court Judge by a female inmate of a detention center accusing a prosecutor of improper conduct. The conduct allegedly involved prostitution activities on the premises of the State's Attorney's Office during evening hours after the staff had departed and other indiscretions.

Although there was no allegation of favorable treatment afforded to female defendants in return for sexual favors, the State's Attorney requested the State Prosecutor to investigate the accusation.

An extensive investigation included interviews of twelve persons alleged to have knowledge of the matter, reviews of case files in the State's Attorney's Office, checks of folio records of a local motel and certain motor vehicle records.

Most of the letter writer's information was derived from a cellmate who was a drug addict and prostitute. Both women named other prostitutes, professional persons and a known homeless person who could corroborate their accusations. None of them did so. The prostitutes and the homeless person, who had no motives to protect the prosecutor denied any knowledge of his involvement with his accusers. The description of a vehicle involved in an assignation with the prosecutor proved to be false. When confronted with certain discrepancies in her statements, the letter writer admitted to fabricating certain details of her involvement with the prosecutor. Based on these initial findings the State Prosecutor declined to conduct a criminal investigation. A confidential report was delivered to the State's Attorney.

7. State Official Accused of Absenteeism and Theft of Services

An official supervising a large state sponsored program which enlisted the services of a great number of volunteers was accused of dereliction of his/her duties and collecting salary payments to which he/she was not entitled. The official was a contractual employee and

received payments only for actual time worked. Implicit in the accusation was the charge that his/her time records were falsified.

Neither the official nor his/her supervisors kept accurate time records. However, the program, which was seasonal, involved evening and weekend duties. The supervisors and work plans confirmed that the official worked extremely long hours during the seasonal peaks which were not recorded. The time records reflected "9 - 5" working hours for purposes of getting paid when more precise annotations were required. The official was also allowed to accrue compensatory time for the uncompensated time which he/she worked in peak periods. He/she was then allowed to use such time during the non-peak work periods.

Although the time records were inaccurate, given the limited supervision of the official's work and the unusual work hours, it would not have been possible to recommend a charge of theft of services with any degree of specificity. In addition, the supervisors believed and would testify that the official's compensation was earned, if not documented, and that the agency's record keeping was at fault. There was no evidence of collusion between the supervisors and the official to pay him/her for work not performed.

8. Unlawful Expenditures By County Executive and School Board

A complainant alleged that a county executive and school board had used public funds and resources to oppose a ballot question during the November 1996 General Election. Specifically, the complainant maintained that the school board had (1) failed to register as a "political committee", (2) had issued an anti-ballot question publication to 70,000 parents costing \$1,400; and, (3) had used public facilities for a press conference in order to publicize its opposition to the ballot question. In addition, the complainant alleged that the county executive had delayed the publication of an annual report on the county's financial condition in violation of the county charter in order to coincide with discussions of the ballot question.

The facts alleged by the complainant were not disputed by representatives of the school board and county executive. Therefore, the issues had to be resolved by references to case law and legislative intent regarding the use of public funds by elected and appointed officials to oppose a public initiative.

The research of state law, particularly in other jurisdictions which had addressed similar issues produced the following prosecutorial decisions enumerated in a report to the complainant which was referred to, but not published, by representatives of the school board:

1. The school board was acting as a single entity and, therefore, did not constitute two or more persons acting as a "political committee";
2. The activity of the school board is permitted by provisions of the Education Article, Section 4-101(b) of the Annotated Code which mandates that, "each school board shall seek in every way to promote the interests of the schools under its jurisdiction";

3. The activity of the school board was not "corrupt behavior" within the definition of misconduct in office; and, although their opposition to the ballot question was technically, "engaging in political activity during working hours" proscribed by other provisions of the Annotated Code; such activity was within the mandate stated in the Education Article;
4. The delay in the publication of the county's annual report was caused by problems in the procurement and production processes.

The complainant and the public officials involved in this inquiry were advised that there is case law providing for civil remedies when citizens believe that public officials have exercised unfettered discretion in the use of public funds for political purposes such as to defeat public initiatives.

APPELLATE LITIGATION

Office of the State Prosecutor v. Judicial Watch, Inc. 356 Md. 118, 737 A.2d 592 (1999).

On September 21, 1999, the Court of Appeals reversed a decision of the Circuit Court of Baltimore County which had ordered the State Prosecutor to submit a "Vaughn" index of documents, pursuant to the Public Information Act. The documents requested by the appellee, Judicial Watch, related to an ongoing investigation being conducted in Howard County of the Linda Tripp recordings of Monica Lewinsky.

The State Prosecutor denied the request on the basis that Judicial Watch was not a "person in interest" and that the records were part of an ongoing criminal investigation. Circuit Court Judge John F. Fader II, then ordered the prosecutor to submit a "Vaughn" index of documents, which would have compelled the prosecutor to produce a list of all documents in his possession, setting forth the date, author, general subject matters and claim of privilege for each document claimed to be exempt from discovery. This would have necessitated a listing of thousands of documents and would have given the appellee the same information which the prosecutor had refused.

After the Court denied a motion for reconsideration the Attorney General filed an appeal on behalf of the State Prosecutor to the Court of Special Appeals. The Circuit Court's order was stayed by the Court of Special Appeals and the Court of Appeals, on its own motion, issued a writ of certiorari to consider the propriety of the Circuit Court's order to the State Prosecutor.

In addition to reversing the Circuit Court the Court of Appeals ruled:

1. That the order was appealable since it was an injunction under the Public Information Act punishable by contempt;

2. That the information ordered to be protected was protected by grand jury secrecy which would have been breached the moment that the Vaughn Index was submitted;
3. That the Public Information Act does not provide for compelled production of a Vaughn Index which intrudes on an ongoing criminal investigation;
4. That the Baltimore County Circuit Court was improper venue for disclosure of grand jury information obtained by a Howard County grand jury;
5. That Judicial Watch was not a "person in interest" and could not show a particularized need for grand jury disclosure, and;
6. That a custodial law enforcement agency need not provide an explanation for denial of a record connected to a pending criminal proceeding to a person who is not the subject of the proceedings.

The decision serves to clarify the exemptions afforded records of ongoing criminal investigations under the Public Information Act. It also deals specifically with the so-called Vaughn Index order which can be a burdensome and an intrusive use of judicial authority for a law enforcement agency seeking to protect the confidentiality of an ongoing criminal investigation.

CHANGES IN REPORTS OF FINDINGS BY STATE PROSECUTOR

Section 9-1204(b) of the State Government Article, Annotated Code of Maryland, states:

- (1) If the State Prosecutor finds that no violations of criminal law have occurred or the State Prosecutor does not recommend prosecution, the State Prosecutor shall report the findings to the person requesting the investigation.

Prior to November 1997 the State Prosecutor had interpreted the statutory language to mean that any person requesting an investigation would be entitled to a report of his findings, if he found no violation of criminal law or did not recommend prosecution. A total of 129 formal reports were made between 1986 and 1997, 25 of which were made public by subjects of State Prosecutor investigations.²

In most cases, which did not involve detailed findings, both the complainants and subjects were satisfied with oral reports or letters stating simply that no violations were found.

In October, 1997 the subject of an investigation questioned the authority of the State Prosecutor to make reports to anyone other than persons expressly authorized in Section 9-1203, *supra*, to request investigations by the State Prosecutor, namely; the Governor, the Attorney General, the General Assembly, the State Ethics Commission, or a State's Attorney. The subject

Section 9-1204(b)(3) *supra* provides that at the request of the person who was the subject of the investigation, the report shall be made available to the public as soon as possible.

argued that in all other cases, the State Prosecutor is undertaking investigations on his own initiative, as provided in Section 9-1203, *supra*, and is not authorized to report his findings to persons requesting investigations other than those expressly named.

In order to resolve the matter the State Prosecutor requested an opinion from the Attorney General. This was rendered by an opinion letter from Jack Schwartz, Chief Counsel for Opinions and Advice to the Attorney General dated November 4, 1997. In his letter, Schwartz opined that since no one is authorized by statute to request an investigation by the State Prosecutor, other than the enumerated public officials and entities; then all other investigations are undertaken "on the State Prosecutor's own initiative" regardless of whether "someone other than the specified person comes to the State Prosecutor with information and urges that an investigation be conducted." Therefore, since the statute provides that only specified persons may request investigations, the provision in Section 9-1204(b)(1) that requires the State Prosecutor to report "to the person requesting the investigation" refers to those specified persons.

In addition Schwartz stated that this construction better comports with confidentiality since the specified public officials are more likely to maintain confidentiality of the State Prosecutor's Reports than private citizens seeking State Prosecutor investigations.

The State Prosecutor agreed with the advice of the Attorney General and has reported his findings only to the specified persons when not recommending prosecution since November 1997. This has caused considerable difficulty with complainants who want to know why the State Prosecutor is not prosecuting a subject based on the information which they supplied. However, compliance with the Attorney General's Opinion is deemed more in conformity with the intent of the Legislature and protects subjects who have not been criminally charged from public ridicule and humiliation.

LEGISLATION

Election Code Revisions – Civil Penalties

The 1998 General Assembly enacted a comprehensive revision to the Election Code (Article 33 Annotated Code of Maryland) effective January 1, 1999. Among the revisions, due in part to recommendations by the State Prosecutor, are provisions for civil penalties when persons violate the Election Code without knowledge. The maximum penalty is a fine not exceeding \$5,000 for each infraction, prosecutable by civil citation by either a State's Attorney or the State Prosecutor, for which the court can grant a civil judgment in favor of the State Board of Elections.

This legislation authorizes the State Prosecutor civil powers of enforcement which in many cases involving violations of election laws is more effective than criminal penalties.

Subpoena and Immunity Powers

During the reporting period two bills were introduced in the 1998 and 1999 sessions of the General Assembly which would have enabled the State Prosecutor to issue subpoenas comparable to those issued by State's Attorneys and to seek grants of immunity from the courts for state witnesses. Both bills failed in the Judiciary Committee of the House of Delegates.

ADMINISTRATION

As of the date of this report the Office has nine permanent positions, including four prosecutors, two investigators, an investigative auditor, personnel officer and an administrative aide. In addition there are two full time contractual positions usually filled by law school students working as part-time legal assistants.

The investigative auditor and additional contractual funds for legal assistants were added in February 1998, when the State Prosecutor made an emergency request for supplemental funding to the Governor. At that time there were three major investigations with simultaneous grand juries in three jurisdictions, prosecutors and investigators were working extraordinary overtime hours with no compensation and two officers had been borrowed from police departments to assist in the investigations.

The Governor responded by allocating \$125,000 in additional funding to cover the additional costs for the remainder of fiscal year 1998 and throughout fiscal year 1999.

In May 1998 John Draa, a retired Baltimore City police officer who left the police department with the rank of Lieutenant and went on to become a certified public accountant, joined the staff as an Investigative Auditor.

In August 2000 Isabel M. Cumming, who joined the Office in March 1994 as a legal intern and was later promoted to Assistant State Prosecutor, resigned to accept a position as Assistant State's Attorney in the Economic Crimes Unit of the Baltimore City State's Attorney's Office.

STAFF

The permanent staff at this time is comprised of the following individuals showing their job classifications and the month and year in which they began their duties with the Office.

<u>NAME</u>	<u>CLASSIFICATION</u>	<u>MO/YR OF EMPLOYMENT</u>
Stephen Montanarelli	State Prosecutor	May/84
Thomas M. (Mike) McDonough	Senior Assistant State Prosecutor	September/84
Albert T. (Tom) Krehely, Jr.	Senior Assistant State Prosecutor	July/90
Vacancy	Assistant State Prosecutor	
James I. Cabezas	Chief Investigator	July/86
John C. Poliks	Special Agent	August/96
John Draa	Investigative Auditor	May/98
Cynthia A. (Cindi) Lewis	Personnel Officer	November/94
Deborah A. (Debbie) Amig	Administrative Aide	January/87

LEGAL INTERNS

Listed below are the legal assistants, who have worked in the Office during the period of this report. They join a long list of former law students who have gone on to careers in the legal profession. All of them were valuable and trusted members of the staff during their service to the Office.

	<u>NAME</u>	<u>LAW SCHOOL</u>	<u>PERIOD OF SERVICE</u>
FY97	Lee Moore	University of Baltimore	July '96 – June '97
	Chris Marchand	University of Baltimore	Jan. '97 – May '97
FY98	Gavin Patashnick ³		Aug. '97 – Aug. '99
	Helen Page	Widener School of Law	May '98 – Aug. '98
	David Stamper	University of Maryland	May '98 – Aug. '98

³ Gavin Patashnick joined the Office as a volunteer intern from Goucher College in 1995. After graduation he worked for a law firm in New York City for a year and returned to our staff as a legal intern until his admittance to the University of Baltimore School of Law in August 1999.

	<u>NAME</u>	<u>LAW SCHOOL</u>	<u>PERIOD OF SERVICE</u>
FY99	Gavin Patashnick		Aug. '97 – Aug. '99
	Helen Page	Widener School of Law	May '98 – Aug. '98
	David Stamper	University of Maryland	May '98 – Aug. '98
	Steve Halpert	University of Baltimore	Aug. '98 – April '00
FY00	Gavin Patashnick	University of Baltimore	Aug. '97 – Aug. '99
	Steve Halpert	University of Baltimore	Aug. '98 – April '00
	Ralph Bailey	University of Baltimore	Jan. '00 – May '00
	Peter Madrinan	University of Baltimore	Jan. '00 – Aug. '00
	Douglas Walker	University of Baltimore	June '00 – Sept. '00
FY01	Peter Madrinan	University of Baltimore	Jan. '00 – Aug. '00
	Douglas Walker	University of Baltimore	June '00 – Sept. '00
	Jacob Schwartz	University of Baltimore	Aug. '00 – Present
	Kevin Overton	University of Baltimore	Sept. '00 – Present
	Keith Maynard	University of Baltimore	Oct. '00 – Present

BUDGET

	<u>FY1997</u>	<u>FY1998</u>	<u>FY1999</u>	<u>FY2000</u>
<u>Funds</u>	\$567,619	\$636,441	\$737,235	\$819,178
	<u>Staff</u>			
Authorized	8.0	8.0	9.0	9.0
Contractual (FTE)	<u>.5</u>	<u>.5</u>	<u>2.0</u>	<u>2.0</u>
TOTAL	8.5	8.5	11.0	11.0

FTE = full-time equivalent