



**REPORT
OF THE
MARYLAND STATE PROSECUTOR**

FISCAL YEAR 2008

(July 1, 2007 – June 30, 2008)

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Introduction

The Office of the State Prosecutor was established to restore public's confidence that the State Government has the integrity and ability to monitor the activities of its public officials and employees. This Office has taken its mission seriously. Over the past several years the Office has had one goal – consistent and fair enforcement of the corruption, bribery and election laws without regard to political affiliation.

The successful prosecution of various cases in this Office has been directly proportional to the financial resources available to it. The Office had been able to obtain federal grants which permitted the Office to expand its investigative staff and to upgrade its forensic computer analysis capabilities. Unfortunately, this past year saw the elimination of some critical funding sources and the general funds budget for the next fiscal year did not replace the amount lost. As a result, fiscal year 2009 will be even more challenging. New complaints received by the Office may not receive the attention which they are due. Existing investigations may be delayed or stalled.

Nevertheless, in the coming fiscal year, the Office of the State Prosecutor intends to continue to pursue its goal of ferreting out those who have violated the law, especially those who have taken advantage of their public positions of trust for their own personal gain.

Significant Events Within the Office of the State Prosecutor During the Past Fiscal Year

A. The State Prosecutor Was Provided With The Same Subpoena Power As The County State's Attorneys

When the Office of the State Prosecutor was established in 1978, the law provided that the State Prosecutor “has all the powers and duties of a State’s Attorney, including the use of the grand jury in any county or Baltimore City.” However, there have been two (2) notable exceptions to that law. First, the State Prosecutor did not have the same power as a State’s Attorney to issue a subpoena for records. Second, unlike a State’s Attorney, the State Prosecutor could not seek court ordered “use immunity” to compel a witness to testify, either before a grand jury or at a trial.

After thirty (30) years, the General Assembly eliminated one of those exceptions and passed a Bill granting the State Prosecutor the same authority as a County State’s Attorney to issue subpoenas for records and documents. The Bill was signed by the Governor and, effective October 1, 2008, the State Prosecutor will have the ability to issue its own subpoena for records. The effect of the statute will be a more efficient use of the tight resources of the Office. Investigators and attorneys will no longer have to travel miles to various counties throughout the State to get a Circuit Court Clerk to stamp a grand jury subpoena or to obtain a subpoena from a County State’s Attorney.

The second benefit is that there is less likelihood that confidential investigations will become public. It is the policy of the Office of the State Prosecutor that all investigations shall remain confidential unless and until charges are initiated. In those

instances where charges do not result, it would be unfair to the individual under investigation if the investigation itself became public when no charges are ever filed. Using a subpoena issued by the Office instead of a third-party reduces the number of people who have access to the investigation and protects the reputations of those who are not charged.

In the coming years, efforts will be made to correct the second deficiency and provide the State Prosecutor with the authority to seek court-ordered “use immunity” to compel reluctant witnesses to testify. Two years ago the “Article 27 Committee” chaired by then Chief Judge Murphy of the Court of Special Appeals recommended legislation to provide the State Prosecutor with this authority. The proposal was not adopted at that time by the General Assembly. Hopefully, it will not take another thirty (30) years to get a Bill passed so that the State Prosecutor will truly have “all the powers and duties of a State’s Attorney.”

B. Continued Maintenance of the In-House Computer Forensics Laboratory

With the assistance of the United States Department of Justice, the Office’s computer forensics laboratory has become fully operational and has provided invaluable information in several investigations. The federal funds permitted the Office to purchase software and hardware to keep pace with the ever-changing technology. The Office was also able to send two (2) additional analysts to an intensive two week seminar for certification training. With these resources, the computer forensics laboratory has become a major asset in the public corruption investigations being conducted by the Office of the State Prosecutor.

Unfortunately, the Department of Justice was unable to renew the grant for the coming fiscal year. This loss of revenue has not been replaced with funds from any other source. As a result, the Office will need to use funds dedicated for other projects in order to maintain the laboratory. This lack of financial resources will sorely challenge the effectiveness and efficiency of the Office.

C. Meeting with Anti-Corruption Delegations

During the past year, a delegation from Moldova and the Attorney General of Albania met with the staff of the State Prosecutor's Office to discuss investigative methods and techniques. The Office of the State Prosecutor considers such interaction to be beneficial for both parties. Ideas are exchanged which can lead to a better understanding of the laws of another country and, hopefully, strengthen the ties with that country in some small measure. Already in the coming fiscal year, the State Prosecutor has been requested to meet with a full delegation from Albania.

Observations of the Maryland State Prosecutor

During the past few years, the State Prosecutor has met on numerous occasions with not only the various States' Attorneys, but his federal counterpart. What has become abundantly apparent is that there is no dearth of work to be done in the white-collar crime arena. Recognizing the difficult fiscal times, the State Prosecutor has attempted to reinforce the law enforcement ties with federal, state and county agencies. By sharing information and assets, law enforcement in the State is enhanced and limited

resources can be used more effectively. Such cooperative sharing of information will hopefully result in more successful prosecutions at all levels.

The General Assembly can assist in these efforts. For example, it can pass legislation that would give the State Prosecutor the authority to seek court ordered “use immunity.” It could also enact a statute that provides for a meaningful penalty for corporations which willfully file false tax returns.

Under Section 13-1002 (b) of the *Tax – General* Article of the Maryland Code, the penalty for “tax evasion” is proscribed in the perjury statute. The penalty for perjury [*Criminal Law Article*, Section 9-101 (b)] is a misdemeanor with imprisonment not to exceed ten (10) years. There is no fine. Since artificial entities such as corporations cannot be imprisoned and there is no fine, the net result is that corporations face no penalty for tax evasion. And, as is almost common knowledge, an effective tool in fighting corruption is a meaningful tax evasion statute. Certainly, this is a matter which the Legislature may want to address.

REVIEW OF SIGNIFICANT PROSECUTIONS IN FY 2008

A. Baltimore City Public School System Investigation

1. Conviction of Ashita Avinash Patel

As the first phase of the Baltimore City investigation was ending, there was still one significant conviction. During the past fiscal year, Ashita Avinash Patel was convicted of felony theft from the Baltimore City Schools and bribery in a scheme involving convicted felon, Rajiv Dixit. Ms. Patel was given a two (2) year suspended sentence and placed on probation for a period of five (5) years. During that time, she is

required to perform 350 hours of community service. She also is required to pay \$72,000 for restitution and federal forfeitures. Of the \$72,000, the Baltimore City schools will receive directly \$32,000.

B. Baltimore City Investigation

1. Conviction of Mildred Boyer

In March, 2008, Mildred Boyer pleaded guilty to filing a false tax return. Ms. Boyer, a former Special Assistant to former Baltimore Mayor Kurt L. Schmoke, was the owner of Union Technologies, LLC, which was known as Utech. Utech was a minority contractor on several projects in Baltimore. Ms. Boyer created and sent false invoices for payment to Action Capital Company in Atlanta, Georgia and received payment thereon. She was sentenced to a two (2) year suspended sentence and was placed on probation for five (5) years with the requirement that she perform 500 hours of community service in the Baltimore City schools. At the sentencing, she paid the victim \$61,351.47 and paid \$3,110.36 in taxes that were due. Ms. Boyer also made a \$4,500 donation to the CollegeBound Fund which is a non-profit organization that provides underprivileged children in Baltimore with money for college tuition. Ms. Boyer also agreed to cooperate with the State Prosecutor's continuing investigation.

2. Conviction of Dale Clark

In September, 2007, Dale Clark entered guilty pleas to three (3) counts of failure to file tax returns. Mr. Clark was the owner of Ultimate Network Integration Corporation which provided computer services to the Baltimore City Council for several years. He was given a five (5) year suspended sentence and placed on probation for five (5) years.

He is to perform 1000 hours of community service and pay a \$5,000 fine. He also agreed to cooperate with the State Prosecutor's continuing investigation.

C. Conviction of the Mayor of Forest Heights

1. Conviction of Mayor Myles Spires of Forest Heights, Maryland

After a two (2) week trial, the Mayor of the Town of Forest Heights in Prince George's County, Myles Spires, Jr., was convicted on October 2, 2007 of misconduct in Office and theft. The investigation began when Forest Heights' officials noticed some questionable expenditures and when the town's attorney questioned a request for reimbursement. He was sentenced to six (6) months incarceration to be followed by three (3) years of probation. During the probation, he is to perform 200 hours of community service and pay the Town of Forest Heights restitution in the amount of \$2,500.

D. Theft Conviction in Washington County

One of three persons charged in Washington County was convicted of felony theft from the Board of Licensing Commissioners and was given a sentence of two (2) years suspended and five (5) years supervised probation. The case involving Ricki Hemphill, the former Deputy Clerk of the Washington County Circuit Court, was placed on the stet docket with the condition he make restitution.

E. Multi-Jurisdictional Prosecution of Identity Theft Case

At the request of a State's Attorney and the United States Secret Service, the Office of the State Prosecutor undertook a multi-jurisdictional investigation into persons who were allegedly involved in a very substantial identity theft case. On December 10,

2007, a Baltimore County Grand Jury indicted Theresa Riley and Charmaine Bethea of conspiracy to commit theft of more than \$250,000. As of the end of the fiscal year, the defendants are awaiting trial.

F. Election Law Criminal Prosecutions

1. Son of Delegate Hattie Harrison convicted of tax violations

Having received a referral from the State Board of Elections, a review of the campaign reports of Delegate Hattie Harrison suggested possible improprieties. Subsequently, Robert “Skip” Harrison, the son of Delegate Hattie Harrison, was charged with both election law violations and failing to file tax returns. In August, 2007, Mr. Harrison pleaded guilty to three (3) tax counts and was sentenced to four (4) years probation with a requirement that he performs 200 hours of community service and pays a \$5,000 fine. As a special condition of probation, Mr. Harrison was ordered to pay restitution to Hattie Harrison’s campaign committee. Mr. Harrison is also prohibited from acting as a campaign treasurer and handling any funds for any campaign while he is on probation.

G. Over-Contribution and Third-Party Civil Prosecutions

1. Edward St. John

In June, 2008, Edward St. John, the owner of St. John Properties was charged in eleven (11) civil citations with making campaign contributions in excess of the statutory limitations through third parties who were then reimbursed for those contributions. Mr. St. John paid \$55,000 in fines and contributed another \$55,000 to CollegeBound, a non-profit organization which assists underprivileged children in Baltimore with college tuition and expenses.

2. James G. Robinson

In October, 2007 James G. Robinson, the owner of various Hollywood film production studios including Morgan Creek Productions, was charged in twenty-four (24) civil citations with making contributions over the legal limit permitted by Maryland law. Mr. Robinson paid a total of \$119,000 in civil fines. This was the largest fine ever levied in Maryland, and certainly one of the largest in the country, for campaign finance violations.

3. Parking Management Systems, Inc.

In August, 2007, Parking Management Systems, Inc. of Baltimore was charged in two (2) civil citations with making contributions in excess of the campaign contribution limitation. The company paid a fine of \$9,616.

4. Quadrangle Development Corporation

In July, 2007, a civil citation was issued to Quadrangle Development Corporation of Washington, D.C. for making a campaign contribution in excess of the maximum amount. Quadrangle paid a \$2,000 fine.

5. Landex Management Corporation

In September, 2007, Landex Management Corporation of Baltimore was fined \$1,175 for making an over-contribution in violation of the campaign finance law.

H. Campaign Reporting and Finance Violations

1. Failure to File Campaign Finance Reports

As was anticipated, the number of election law cases increased rather dramatically due to the 2006 elections. As a result, the number of campaigns which failed to file the required reports with the State Board of Elections increased. Consistent with the policy/practice of the Office, first time offenders who have not complied will be given an opportunity to come into compliance before a decision is made about whether to prosecute.

In January, 2008, the State Prosecutor filed criminal charges against forty-three (43) persons for failing to file campaign finance reports with the State Board of Elections, as required by law. Consistent with the practice of this Office, summonses, and not arrest warrants, were requested for the various chairpersons and treasurers of the committees.

INVESTIGATIONS NOT RESULTING IN CHARGES

Allegations are easy to make, but difficult to prove. One of the fundamental missions of the Office of the State Prosecutor is to prosecute, either civilly or criminally, persons who have committed offenses coming within the jurisdiction of the Office. The Office strives to assure equal, just treatment of all persons.

When the Office receives an allegation, it is imperative that the facts be analyzed without any preconception. Often, it is determined the allegations are unfounded or simply cannot be proven. In those instances, it is vital that the reputations of those persons who have not been charged publicly be protected from harm. A substantial amount of the Office's resources are devoted to investigations which never result in

public prosecutions. Every effort is made to do at least a preliminary review to the extent the Office has the financial resources.

CONCLUSION

The success of any office is directly attributable to the work performed by staff members who are often unknown to the public. In the case of the Office of the State Prosecutor, the success of any investigation and prosecution is totally dependent upon the thoroughness of the investigation performed by the investigators and the trial preparation of the attorneys. The State Prosecutor and the public owe a debt of thanks to the diligence of these men and women.

In the coming fiscal year, those investigators and attorneys will continue to work with the same dedication, with the goal of assuring justice is done.

Respectfully submitted,

Robert A. Rohrbaugh
State Prosecutor