



**REPORT
OF THE
MARYLAND STATE PROSECUTOR**

FY 2009 – FY 2013

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December, 2010)
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Introduction

The Office of the State Prosecutor was established to restore the 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 continued to take its mission seriously. Over the past several years, the Office has had one goal – the consistent and fair enforcement of the corruption, misconduct in office, bribery and election laws without regard to political affiliation.

During the past several years, the Office has convicted persons throughout the State of various offenses, including misconduct in office, bribery, theft and campaign finance and other election law violations. Our primary focus has been on public corruption investigations and election law criminal violations which use an overwhelmingly large portion of the limited assets of the Office.

The Office of the State Prosecutor continues to experience a heavy workload. Investigators and attorneys worked an enormous number of hours, often sacrificing weekends and evenings in order to meet the obligations of the Office and court imposed deadlines. The men and women in the Office do so willingly and without complaint. They do so out of a sense of responsibility and duty to the citizens of the State. Such efforts are to be recognized as their efforts have led to convictions in several significant, high impact investigations over the last two years.

In the coming year, the Office of the State Prosecutor intends to continue to pursue its goal of rooting out and prosecuting those who have violated the law, especially those who have taken advantage of their public positions of trust.

II.) Observations of the Maryland State Prosecutor – Emmet C. Davitt

On April 19, 2010, my predecessor in office, Robert A. Rohrbaugh, announced that he was retiring from office after six years as State Prosecutor. On December 10, 2010, I was appointed and duly qualified to a six-year term as the new State Prosecutor. This is my first report, and covers the period from my appointment to the end of FY 2013. I have also included a brief synopsis of the major cases handled by the Office under my predecessor during FY 2009 through my appointment on December 10, 2010.¹

During my first two years, I have met on numerous occasions with not only the various States' Attorneys, but my federal counterpart. It is clear to me that there remains to be done a great deal of work in the political corruption and white collar crime arena. Cognizant of the difficult fiscal times, I've worked to strengthen the law enforcement ties with federal, state and county agencies. One of the successful investigations and prosecutions discussed below (Schurick/Henson) is an outstanding example of effective collaboration between the State Prosecutor, the United States Department of Justice and the FBI into a fraudulent effort to suppress the (largely African-American) vote in Baltimore City and Prince George's County. By sharing information and assets, law enforcement in the State is enhanced and limited resources can be used more effectively. I particularly commend the Maryland State Police for their willingness to share resources and assist when feasible. Such cooperative sharing of resources and information will hopefully continue to result in successful prosecutions at all levels.

¹ From the beginning of FY 2009 through the end of FY 2013, the Office has been literally consumed with the investigation, trials and appeals of an exceptionally large number of significant cases. Since no reports were filed during the fiscal years 2009, 2010 and the first half of FY 2011, I have taken the liberty of providing a synopsis to bridge the gap.

The General Assembly can continue to assist in these efforts. For example, it can pass legislation that would give the State Prosecutor the authority to seek court ordered “use immunity”. As it has been pointed out in past reports, several years ago, an independent committee chaired by then Court of Special Appeals (now retired Court of Appeals) Judge Joseph Murphy recommended that this Office have the same statutory authority as County State’s Attorney to grant “use immunity” to witnesses who appear before the grand jury or at a trial. There was no opposition raised by any person, group or organization. Yet, the General Assembly to date has not enacted such a measure.

By the time an election law or campaign finance case is referred by the State Board of Elections, the statute of limitations is often about to expire. As a result, investigations are curtailed and criminal prosecutions are limited. The 2013 General Assembly has recently taken action to increase the statute of limitations on campaign finance crimes. This increase in the time during which a prosecution can be commenced is certainly a step in the right direction. However, many election laws and campaign finance requirements are defined on the basis of the 4-year election cycle. A statute of limitations that begins to run only at the end of the election cycle in which the violation occurs would result in far more effective enforcement.

Public corruption is not limited to illegal conduct by elected officials. Corruption reaches every level of government. It makes no difference to the citizens of this State what the job title of the public employee is – corruption at any level is not acceptable.

The Office of the State Prosecutor has been, and continues to become increasingly more effective in its primary missions: to detect, investigate and, where appropriate, prosecute and deter public corruption; and to protect the integrity of our electoral process.

In the course of doing so, the Office has also saved the citizens of the State of Maryland a considerable sum of money.

III.) Review of Significant Prosecutions, December, 2010 to June 30, 2013

A. Public Corruption

1.) County Executive John R. Leopold

On March 2, 2012, following a year-long investigation, the Anne Arundel County Grand Jury returned an indictment charging County Executive John R. Leopold with misconduct in office and fraudulent misappropriation by a fiduciary. The charges alleged that Leopold regularly misused his executive protection unit and other county employees for his own political and personal purposes.

In a trial that commenced on January 17, 2013 with extensive *voir dire* to select a panel from which jurors would be chosen (after which the defendant elected a court trial) and concluded on January 29, 2013. After a two-week court trial, County Executive Leopold was convicted of two counts of misconduct in office and subsequently resigned from office.

On March 14, 2013, he was sentenced to two years incarceration with all but 60 days suspended; 30 days to be served in the Anne Arundel County Detention Center incarceration and 30 days on home detention. He was also placed on probation for five years, ordered to pay a \$100,000 fine and perform 400 hours of community service.

2.) Delegate Tiffany Alston

In September 2011, newly elected Prince George's County State Delegate Tiffany Alston was indicted by the Anne Arundel County Grand Jury and charged with felony theft, misappropriation by a fiduciary and election law violations. The charges alleged

that Delegate Alston made disbursements from her campaign account for her personal use including a \$1,250.00 cash withdrawal, payments of \$660.00 to an employee of her private law firm to pay her law firm salary, and the issuance of two campaign account checks totaling \$3,560.00 to cover various wedding expenses.

On December 14, 2011, the grand jury returned a second indictment charging Delegate Alston with misconduct in office and theft. The charges alleged that Alston used General Assembly funds to pay an employee of her private law firm. The theft and misconduct indictment was tried by a jury in June, 2012. Alston was found guilty of both misconduct and theft. The court postponed sentencing pending resolution of the charges in the original indictment.

In October of 2012, Delegate Alston entered a plea of *nolo contendere* to the charge of fraudulent misappropriation by a fiduciary in the first indictment. The court imposed sentence on the misappropriation count of the first indictment and on the theft and misconduct convictions in the same proceeding. On the theft and misappropriation charges, Delegate Alston received the benefit of probation before judgment. On the misconduct in office conviction, she was sentenced to one year of incarceration, which was suspended in favor of three years of supervised probation. She was also ordered to perform 300 hours of community service and to pay restitution. The guilty verdict on the misconduct was subsequently modified to probation before judgment when Delegate Alston completed her community service and paid restitution. Delegate Alston was removed from the House of Delegates based on her misconduct in office conviction. Her removal was upheld by the Court of Appeals on April 9, 2013.

3.) Major Nicolas Plazio

In December of 2012, Major Nicholas Plazio, Commander of the Criminal Investigations Division of the Carroll County Sheriff's Department was charged with misconduct in office. The charge alleged that Plazio had both falsely reported to the Carroll County State's Attorney's Office and falsely testified in Circuit Court concerning two criminal cases. Charges that included first degree murder eventually had to be dismissed. Plazio pleaded guilty and the court imposed a one year suspended sentence and placed him on three years supervised probation. The court also ordered Plazio to pay a \$5,000.00 fine and perform 500 hours of community service. As a further condition of probation, Plazio may not seek or hold any position in a law enforcement agency.

4.) Deputy Sheriff Wendy Tyler

In June of 2013, Deputy Sheriff Wendy L. Tyler, former President of The Prince George's County Deputy Sheriff's Association, entered a guilty plea to felony theft. The charge alleged that Tyler obtained unauthorized stipend checks and also made unauthorized personal purchases on the Association's credit card including the purchase of a poodle. The court imposed probation before judgment, a year of supervised probation and also ordered Tyler to pay \$9,100.00 in restitution.

B.) Election and Campaign Finance Violations

1.) Voter Suppression Investigation

On Election Day, 2010, more than 100,000 voters in Baltimore City and Prince Georges County received the following automated telephone message (also known as a robo-call:

Hello. I'm calling to let everyone know that Governor O'Malley and President Obama have been successful. Our goals have been met. The polls were correct and we took it back. We're okay. Relax. Everything is fine. The only thing left is to watch it on TV tonight. Congratulations and thank you.

The call did not identify the name or contact information of the person responsible for the call.

On June 16, 2011, following an 8-month investigation, the Baltimore City Grand Jury returned indictments charging **Paul E. Schurick**, the campaign manager of candidate Robert L. Ehrlich's gubernatorial campaign, and **Julius Henson**, a Baltimore City campaign consultant, as co-defendants, with conspiracy, using fraud to affect a voter's decision whether to cast a vote, and failing to properly identify the source of the robo-call (known as an authority line violation).

In December 2011, following a 2-week jury trial, **Paul Schurick**, was convicted of two counts of conspiring with Henson and two counts of election law violations for his role in orchestrating the fraudulent political robo-call in an effort to suppress voter turnout in Baltimore City and Prince George's County. On February 16, 2012, **Schurick** was sentenced to 30 days home detention followed by four years probation. He was also ordered to perform 500 hours of community service.

Julius Henson was tried in a separate jury trial in May, 2012. He was convicted of conspiring with Paul Schurick to conceal the source of the robo-call. On June 14, 2012, he was sentenced to 1 year incarceration with all but 60 days suspended. Upon his release, **Henson** was placed on three years probation and ordered to perform 300 hours of

community service. He was also ordered to refrain from working on any political campaign during his period of probation.

2.) Wendy Rosen, Double Voting

On December 20, 2012, Wendy W. Rosen, former first district candidate for Congress, was charged with voting illegally in Maryland in the 2006 and 2010 general elections. Prior to the elections, Ms. Rosen was alleged to have abandoned her Maryland domicile and was voting in Florida. Rosen pleaded guilty to two counts of illegal voting and she was sentenced to a one year suspended term and placed on 5 years probation. She was also ordered to pay a fine of \$5,000.00 and perform 500 hours of community service.

3.) Olivia Harris, Campaign Treasurer for Senator Ulysses Currie

In February of 2011, Olivia Harris entered a guilty plea to theft over \$100,000.00 from the campaign account of Senator Ulysses Currie. During a three year period, Ms. Harris made over 350 ATM withdrawals from the campaign fund account for her personal use totaling \$157,350.00. Harris was sentenced to five years' incarceration with all but one year suspended. Upon her release, she will be placed on probation for ten years and required to make full restitution.

4.) Darrell A. Miller, Prince George's County Council Candidate

In September 2011, Darrell Miller was charged with felony theft, fraudulent misappropriation by a fiduciary and election law violations. The charges allege that Miller made improper disbursements from his campaign account including over \$1,000 in disbursements using an account debit card to pay for personal expenses. On January 4, 2012, Miller entered pleas of guilty to two election law charges. He was sentenced to a

suspended jail term of one year and placed on two years of supervised probation. He was also ordered to pay \$2000.00 in fines and perform 300 hours of community service.

5.) Stephen W. Whalen, Baltimore County Developer

On December 20, 2012, Stephen Whalen, a Baltimore County developer, was charged with multiple violations of the campaign finance laws. The charges alleged that Whalen concealed his contributions to a County Councilman by passing the funds through third parties. It was also alleged that Whalen exceeded the contribution limits both for a single candidate and for all candidates. Whalen pleaded guilty to all five counts contained in the indictment and also pled guilty to civil citations charging five companies that he controlled with over-contributions. Whalen paid \$58,000.00 in criminal and civil fines was sentenced to one year probation before judgment.

C.) Multijurisdictional Investigations

1.) Tracy Queen, Theft from the Baltimore City Public Schools

In April of 2011, Tracy Queen, owner of Queen's Mobile Education, was convicted of felony theft from the Baltimore City Schools. Queen pleaded guilty to billing and being paid over \$150,000.00 for tutoring services that were never performed. Over 250 specially identified city students were deprived of nearly 4000 hours of tutoring over a three year period. Queen was sentenced to ten years' incarceration with all but eighteen months suspended. Upon her release, she was placed on probation for ten years and ordered to make full restitution.

2.) Dr. William L. Howard, theft from the Baltimore City Public Schools

On December 13, 2012, Dr. William L. Howard II, former Principal of Coppin Academy High School in Baltimore City and then Assistant V.P. for Academic Services

at Saint Mary's College of Maryland, was indicted for felony theft. The charges alleged that Howard had made four unauthorized transfers totaling over \$10,000.00. from the Coppin Academy Student Activity Fund account into his personal bank account and used the money for personal purposes including wedding expenses. The Court imposed a sentence of probation before judgment, placed him on 4 years probation and ordered him to pay \$10,300.00 in restitution which he immediately paid at sentencing. He was also ordered to perform 150 hours of community service.

3.) Roosevelt Anderson, Theft from Griffith Energy Services, Inc.

In June 2011, Roosevelt Anderson pleaded guilty to stealing more than \$190,000.00 from his former employer, Griffith Energy Services, Inc., a fuel supply and delivery company with offices in Baltimore City and in Columbia, Maryland. Mr. Anderson was employed as a manager of the Baltimore office. He was sentenced to fifteen years' incarceration with all but time served suspended. He was placed on probation for ten years and is required to make full restitution to Griffith Energy Services, Inc. In July, 2012, Anderson was incarcerated for three years for failure to pay restitution as ordered.

4.) Leroy L. Ambush, III

On June 27, 2013, Leroy L. Ambush, III, former Victim Witness Coordinator for the Frederick County State's Attorney's Office, was charged with felony theft. The charges allege that on at least 56 occasions between February of 2010 and March of 2013, Ambush stole restitution funds that were paid by criminal defendants to reimburse their victims. Stolen restitution funds totaled just over \$20,700.00. The case is set for trial in August of 2013.

IV.) Synopsis of Significant Prosecutions, June 30, 2008 through December 10, 2010

1.) Baltimore Mayor Sheila A. Dixon

In early January of 2009, the Baltimore City Grand Jury returned two indictments against then-Mayor Sheila Ann Dixon. Extensive litigation on pretrial motions resulted in the issuance of essentially identical charges in two superseding indictments on June 29, 2009. One indictment charged her with theft, misappropriation by a fiduciary and misconduct in office for converting gift cards donated to the Mayor's Office of the City of Baltimore for the benefit of needy city children at Christmas to her personal use. The second indictment charged her with perjury for filing false financial disclosure reports with the City's Department of Legislative Reference.

Trial on the theft, misconduct and misappropriation charges commenced on November 9, 2009 in Baltimore City Circuit Court before a jury, the Honorable Dennis M. Sweeney presiding. On December 1, 2009, the jury returned a verdict of guilty on the charge of misappropriation by a fiduciary. On January 6, 2010, pursuant to a plea agreement, Mayor Dixon entered an *Alford* plea to the charge of perjury. Under the plea agreement, which encompassed both the misappropriation charge and the perjury charge, Mayor Dixon agreed to resign from office, withdraw her pending appeal, waive any other appeals and post trial motions on both cases, forfeit property seized from her home (including electronic equipment and two fur coats), not to seek or hold employment or office with the State or the City during probation, perform 500 hours of community service, and make a donation of \$45,000.00 to charity. It was agreed that the court would

otherwise suspend the sentence generally in both cases in favor of four years of probation before judgment.

On February 4, 2010, Judge Sweeney sentenced Ms. Dixon in accordance with the plea agreement. Her resignation as Mayor, announced January 7, 2010, was effective as of the sentencing on February 4, 2010. On January 2, 2013, Ms. Dixon's probation was terminated by the court because all conditions of the probation had been completed.

2.) William L. Lewis

On September 22, 2009, William L. Lewis, a manager in the University of Maryland Internal Auditing Office, was charged with misdemeanor theft for submitting payroll timesheet indicating that he was working when, in fact, he was not. Over a nine week period, he fraudulently submitted timesheets for seventy hours of pay which he did not earn. Lewis subsequently pleaded guilty to the theft count and was sentenced to probation before judgment and one year supervised probation. He was also ordered to pay full restitution and perform 50 hours of community service.

3.) Helen L. Holton, John Paterakis & Ronald Lipscomb

On July 28, 2009, criminal charges were filed against Baltimore City Councilwoman Helen Holton and businessman John Paterakis. Holton was charged with conspiracy to violate the campaign finance laws and conducting campaign finance activity other than through a campaign finance entity. Paterakis was charged with conspiracy to violate the campaign finance laws. The charges stemmed from a payment of \$12,500 by Doracon Contracting, Inc. in exchange for a 2007 political survey performed by a polling company. Holton had met with Paterakis and another businessman Ronald Lipscomb and requested that they finance the political survey on her

behalf. Paterakis paid \$6,000.00 and Lipscomb paid the remainder. Councilwoman Holton entered a plea of nolo contendere to the first count, was sentenced to probation before judgment and was ordered to pay a \$2,500.00 fine. Paterakis pleaded guilty and pursuant to a plea agreement, paid a fine of \$25,000. Lipscomb was charged separately with conspiracy to violate the campaign finance laws of Maryland and with conducting campaign finance activity for an election other than through a campaign finance entity. He pleaded guilty to the conspiracy count and was sentenced to a one year suspended sentence and one year of probation. He was ordered to pay a \$25,000.00 fine and complete 100 hours of community service.

4.) **Kenneth Oliver**

On January 5, 2009, Baltimore County Councilman Kenneth Oliver was charged with two counts of felony theft and numerous election law violations. The indictment alleged that Oliver wrote two different checks in the amount of \$2,000.00 each to himself and to his wife from his campaign account. Oliver subsequently pleaded guilty to misappropriation of funds by a fiduciary. Oliver was sentenced to probation before judgment and ordered to perform 50 hours of community service and pay a \$2,500.00 fine.

5.) **Timothy Rabelais**

On March 17, 2009, Timothy Rabelais, chairman of the campaign finance committee known as Progress for the People, was charged with felony theft, embezzlement and two corresponding election law violations. The indictment alleged that Rabelais wrote three different bank counter checks totaling \$5,000.00 to himself. Rabelais was found guilty of felony theft and sentenced to a six month suspended

sentence, placed on three years of supervised probation and ordered to perform 250 hours of community service. Rabelais paid back the \$5000.00 to the committee prior to sentencing.

6.) Bryan Alston

In February of 2009, the Prince George's County Grand Jury indicted Bryan Alston, the former City Administrator for the City of Seat Pleasant, for felony theft, counterfeiting, issuing of false documents and misconduct in office. The indictment alleged that Alston converted a number of checks belonging to the City of Seat Pleasant. Mr. Alston then issued falsified check payments to several of the City's vendors by forging the signatures of the Mayor of Seat Pleasant, the Treasurer of Seat Pleasant and the various individual vendors. The checks totaling Three Thousand Five Hundred Forty-Two Dollars and Twenty-Eight Cents (\$3,542.28) were then deposited into Mr. Alston's personal bank account. Alston pleaded guilty to counterfeiting/forgery and misconduct in office and was sentenced to a one year suspended sentence and placed on three years supervised probation. He was also ordered to pay restitution and perform 200 hours of community service.

IV) Campaign Reporting Violations

1.) Failure to File Campaign Finance Reports:

As was anticipated, the number of election law cases increased rather dramatically due to the 2010 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 have been given

an opportunity to come into compliance before a decision is made about whether to prosecute.

2.) Double Voting Cases:

During 2011 and 2012, this Office received numerous complaints from the State Board of Elections about persons who may have double voted during the 2010 elections. Most of the complaints were a result of reports submitted by various local election boards. Due to the limited resources of the Office, a preliminary review was undertaken on a sample number of the complaints. The sample failed to establish even one instance where a person double voted intentionally. Most often, there was confusion by both the voter and the election judge about voting after a provisional ballot had been cast.

V) Investigations Not Resulting In Charges

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. Allegations are easy to make, but difficult to prove. 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. In other instances such as cases where there has been a failure to file reports with the State Board of Elections, efforts are made to attempt to convince persons to file the necessary reports before prosecution is undertaken. When first time offenders come into compliance before a prosecution

commences, the Office takes no further action and the case does not become a matter of public record.

Furthermore, because one of the mandates of this Office is to pursue allegations of possible corrupt relationships which are, by definition, surreptitious and complex, the Office should not be judged on case numbers alone. Nevertheless, some statistics should be provided to reassure the public that its law enforcement officials are working diligently to successfully accomplish its mission. Our statistics are summarized as follows:

CASELOAD STATISTICS
Fiscal Year 2013

Cases Opened, FY 2013

Corruption	75
Election Law	34
<u>Other</u>	<u>15</u>
Total	124

Cases Closed, FY 2013

Corruption	78
Election Law	81
<u>Other</u>	<u>17</u>
Total	176

Open Investigations, End of FY 2013 91

CASELOAD STATISTICS
Fiscal Year 2012

Cases Opened, FY 2012

Corruption	94
Election Law	238
<u>Other</u>	<u>13</u>
Total	345

Cases Closed, FY 2012

Corruption	85
Election Law	347
<u>Other</u>	<u>12</u>
Total	444

Open Investigations, End of FY 2012 143

CASELOAD STATISTICS
Fiscal Year 2011

Cases Opened, FY 2011

Corruption	91
Election Law	274
<u>Other</u>	<u>11</u>
Total	376

Cases Closed, FY 2011

Corruption	94
Election Law	105
<u>Other</u>	<u>17</u>
Total	216

Open Investigations, End of FY 2011 242

CASELOAD STATISTICS
Fiscal Year 2010

Cases Opened, FY 2010

Corruption	95	
Election Law	80	(16 opened in error)
<u>Other</u>	<u>21</u>	
Total	196	

Cases Closed, FY 2010

Corruption	98	
Election Law	93	(including 16 opened in error)
<u>Other</u>	<u>20</u>	
Total	211	

Open Investigations, End of FY 2010 82

CASELOAD STATISTICS
Fiscal Year 2009

Cases Opened, FY 2009

Corruption	85	
Election Law	287	(16 opened in error)
<u>Other</u>	<u>22</u>	
Total	394	

Cases Closed, FY 2009

Corruption	85	
Election Law	251	(including 16 opened in error)
<u>Other</u>	<u>19</u>	
Total	355	

Open Investigations, End of FY 2009 96

VI) Meeting with Foreign Anti-Corruption Delegations

During the past year, delegations from several foreign nations have met with the staff of the State Prosecutor's Office to learn about the Office's purpose and its mission as well as to discuss investigative strategies and techniques.

In February of 2013, a delegation from Estonia met with members of our Office. In March of this year, eight Haitian officials visited our Office. Just last month, twelve Jordanian judges and prosecutors, including a member of Jordan's Supreme Court, attended a three hour presentation at the OSP.

The feedback that we received from all three delegations was very positive. It is hoped that, in some small measure, ties with these countries are strengthened.

VII) Conclusion

As the new State Prosecutor, I was fortunate to inherit an impressive, albeit small, group of dedicated and hard working lawyers, investigators and support staff.² Recent hires, in my opinion, have only strengthened our team. The employees who work in the Office of the State Prosecutor take great pride in their work and the fact that significant investigations and major successful prosecutions have been undertaken over the last several years. I look forward to working with these men and women for the remainder of my term and the entire team looks forward to continuing its important mission.

² Twelve individuals including myself comprise the entire OSP staff.

Respectfully submitted,

EMMET C. DAVITT
State Prosecutor