

Oversight and Enforcement of Public Integrity

A state-by-state study



Maryland

SYNOPSIS

In recent years, Maryland has battled corruption scandals at the state and local levels and passed significant reforms to promote transparency and tighten ethics rules. Like other Mid-Atlantic states facing legacies of corruption, Maryland has numerous oversight institutions at both the state and local levels, including the Maryland Ethics Commission, the Office of the State Prosecutor, and the inspectors general of Baltimore City, Montgomery County, and Prince George's County. The state also features a uniquely robust comptroller's office.

BACKGROUND

Maryland has long grappled with corruption, like many older, industrialized states. According to data collected by the Department of Justice, between 2003 and 2013, Maryland had the seventh-highest rate of federal convictions of public servants for public corruption per capita, with 325 convictions.¹ A 2003 survey found that state house reporters perceived Maryland to be the 15th most corrupt of 47 responding states.²

In recent years, Maryland has seen corruption scandals implicating an influential state senator, two county executives, and a former Baltimore police commissioner.³ Mayor Sheila Dixon of Baltimore was forced to resign and convicted of misappropriating funds intended for needy children in 2010.⁴ In 2015, a corruption sweep in the Baltimore prison system resulted in the conviction of forty people, including 24 corrections officers, for racketeering, bribery, extortion, and money laundering.⁵ Senator Nathaniel T. Oaks pleaded guilty to corruption charges in March 2018 for using his official position to help a fake real estate project in exchange for \$15,000 in cash bribes.⁶ Also in 2018, two Baltimore police detectives were convicted in federal court on charges of racketeering conspiracy, racketeering, and conspiracy for their actions on a disbanded "Gun Trace Task Force" that included stealing cash from criminals and reselling confiscated narcotics.⁷

On the other hand, Maryland's recent spate of corruption investigations may indicate a commitment by state and local authorities to clean up corruption and strengthen oversight. Maryland's ranking in the State Integrity Project improved from 40th to 22nd from 2012 to 2015.⁸ (However, the report attributed those changes to methodological adjustments and declines by other states, rather than improvements in Maryland.) The report found public access to information, internal auditing, and state pension management to be particular weak spots in the state. Indeed, the state ranked second-worst nationwide for internal auditing, due to the cursory nature of executive-branch audits and the under-funding of legislative-branch auditors. The report also complained that in Maryland the financial disclosure forms of officials and lawmakers are available only in person in Annapolis.⁹

After the indictments of several current and former state legislators and a Baltimore mayoral aide for "pay-to-play" scandals,¹⁰ Maryland passed a new ethics law in early 2017 that tightens the rules governing lawmakers' disclosures of conflicts of interest and lobbying. The bill also creates a new citizen advisory board to propose further ethics reforms.¹¹

At a Glance

Population, 2017: 6,052,177

Capital: Annapolis

Largest City: Baltimore

State Integrity Index Grade, 2015: D

State Integrity Index Ranking, 2015: 22nd best

BGA-ALPER Integrity Index Ranking, 2013: 30th best

Per Capita Ranking of Federal Public Corruption Convictions, 2003-2013: 7th highest

Transparency and Civil Society

Maryland's Department of Information Technology maintains the state's [Open Data Portal](#), as mandated by the state [Open Data Act](#), which became effective in 2014. The Act established the [Council on Open Data](#) and requires the state to release machine-readable open data to the public. The Public Interest Research Group graded Maryland "B+" in 2015 for providing online access to government spending data.¹²

In 2015, Maryland amended its public information act, which had been little revised since 1970, to establish a [compliance review board](#) and a public access ombudsman to mediate disputes and to require state agencies to designate a contact person for public information requests.¹³ These reforms had been promoted by [Marylanders for Open Government](#), a coalition including [Maryland Common Cause](#), [Maryland Public Interest Research Group](#), the [Maryland League of Women Voters](#), [Progressive Maryland](#), [Maryland Center on Economic Policy](#), and other nonprofits.

Three of the above organizations have a specific focus on government accountability and transparency. Maryland Common Cause's [legislative agenda](#) includes strengthening the state's open meetings laws, enacting a broader "revolving door" law, and regulating Super PACs. The Maryland Public Interest Research Group's [legislative agenda](#) includes matching small-donor funds during elections, promoting democratic shareholder decision-making in corporate campaign spending, and enhanced transparency in public spending, subsidies, and incentives. The Maryland League of Women Voters also works on [government accountability and transparency issues](#) in the state.

OVERSIGHT STRUCTURE

Maryland Ethics Commission

The [Maryland Ethics Commission](#), created in 1979, administers and enforces the [Maryland Public Ethics Law](#). The Commission conducts hearings in response to complaints of unethical conduct by state government officials and employees and lobbyists. The Commission also has jurisdiction over legislators for purposes of reviewing financial disclosures only and also maintains copies of the financial disclosures of members of the judiciary. The Commission lacks jurisdiction over local officials, who are governed by municipal ethics commissions.

The commission renders advisory opinions and conducts training on lobbyist rules, financial disclosures, and ethics. The Commission may initiate its own investigations or respond to complaints.¹⁴ It has the power to issue subpoenas for witnesses to testify under oath or produce evidence.¹⁵ Sanctions the Commission may issue include compliance orders, reprimands, recommendations of censure or removal to the appropriate authority, and—in the case of lobbying violations—fines and suspension of lobbyist registration.¹⁶ With judicial approval, the Commission may also issue a "cease or desist" order, set aside certain official actions, or impose fines of no more than \$5,000.

Bribery of a Public Servant or Party Office

The person giving the bribe to a public or party official must have "corrupt intent." This offense covers both offering and agreeing to confer any benefit "with the intent to influence" public action as well as soliciting, accepting, or agreeing to accept the benefit. Bribery of a public servant is punishable as a class 4 felony, which may result in a maximum fine of \$150,000 and imprisonment of up to 3 years, as well as forfeiture of office.

There are five commissioners, who serve staggered five-year terms with a two-term limit. All are appointed by the governor, including one nominated by the leader of each legislative chamber and at least one member from a major party other than the Governor's. The Commission currently has a dozen staffers and an annual budget of roughly \$1.2 million.

State-Level and Inter-Jurisdictional Inspectors General

Three executive departments within Maryland state government have an Office of the Inspector General (OIG) responsible for investigating and preventing fraud, waste, and abuse: the [Department of Health and Mental Hygiene](#), the [Department of Public Safety and Correctional Services](#), and the [Department of Human Resources](#). The offices audit departmental programs and operations, ensure compliance with ethics rules, conduct training, and promote reforms to ensure efficiency and accountability.

The Washington Metropolitan Area Transit Regulation and Authority—jointly managed by the District of Columbia, Maryland, Virginia, and the federal government—created an internal [Office of the Inspector General](#) in 2006. The office audits, reviews, and investigates programs and operations to promote economy and efficiency and to prevent and detect fraud, waste, and abuse. The Inspector General may refer criminal matters to law enforcement and may make recommendations of civil actions, administrative sanctions, and internal reforms to the Board of Directors and General Manager.

Legislative Oversight Institutions

The [Joint Committee on Legislative Ethics](#) (JCLE) is a standing statutory joint committee with six members from each house, including at least one from the minority party. The JCLE sets and interprets rules governing legislative ethics, and gives informal advice and advisory opinions, and publishes a useful online [ethics guide](#). The committee is assisted by one full-time counsel.

The [Office of Legislative Audits](#) (OLA), within the Department of Legislative Services, conducts audits and evaluations of executive-branch state agencies and local school systems, including both fiscal and performance audits. The OLA maintains a fraud hotline.

Prosecutorial Offices

As in most states, corruption prosecutions in Maryland are typically handled at the federal level, by the [Office of the United States Attorney for the District of Maryland](#). The office maintains a specialized fraud and corruption section, as well as a fraud and corruption team in the Southern Division serving the counties bordering the District of Columbia.

State offenses are prosecuted by the [Office of the Attorney General of the State of Maryland](#). While the office has a [White Collar Crimes Section](#), most corruption prosecutions at the state level are brought by the [Office of the Maryland State Prosecutor](#), an independent unit of the Office of the Attorney General.¹⁷ The State Prosecutor functions as a permanent special prosecutor dedicated to investigating and prosecuting cases involving state election law violations; state public ethics law violations; bribery involving public officials or employees; other offenses committed in office by state personnel; and extortion, perjury, or obstruction of justice relating to any of the preceding violations.¹⁸ The State Prosecutor is appointed by the Governor for a six-year term and may be removed only for cause.¹⁹

The State Prosecutor may investigate on his own initiative, or at the request of the Governor, Attorney General, General Assembly, State Ethics Commission, or a State's Attorney.²⁰ The State Prosecutor works in concert with the [State's Attorneys](#) of the various counties in Maryland. The State's Attorneys have the prerogative to prosecute any case arising in their jurisdiction, but in practice they generally defer to the Office of the State Prosecutor.

As of 2013, the Office of the State Prosecutor had a budget of only \$1.2 million and had only three prosecutors on staff.²¹ Nevertheless, in recent years the office has investigated and prosecuted several major corruption cases, including the embezzlement case against Sheila Dixon, former mayor of Baltimore.

Other Oversight Institutions

The [Comptroller of Maryland](#) is an elected office with unusually broad powers, compared to audit bodies in other states. The Comptroller is the state's chief financial officer and accountant, whose responsibilities include collecting and enforcing the collection of state taxes, providing information technology services for most state agencies, and regulating industries subject to use taxes (such as alcohol, tobacco, and gasoline). The office has more than 1,100 employees and an annual budget of \$110 million.

Maryland's [State Board of Elections](#) regulates campaign finances and disclosures and enforces election rules. The office maintains a campaign finance [online database](#).

The [Commission on Judicial Disabilities](#) is responsible for investigating complaints of judicial misconduct, as governed by [Maryland Rules 16-803 through 16-810](#). The Commission is empowered to conduct formal hearings regarding the conduct of any Maryland state judge, issue reprimands, and recommend to Maryland's highest court the removal or censure of any judge. The Commission is composed of eleven members appointed by the Governor, with the advice and consent of the Senate: three judges, three lawyers, and five lay members.

After a complaint is received, the Commission's investigative counsel conducts the initial inquiry. If further investigation is warranted, the case moves before the Judicial Inquiry Board, composed of seven members appointed by the Commission, who may then make a recommendation to the full commission. The Commission's investigative powers include the ability to hold hearings, call witnesses under oath, compel the attendance of witnesses and the production of evidence, and grant immunity from prosecution or from penalty or forfeiture.

[The Judicial Ethics Committee](#) provides guidance on judicial ethics, either by public opinion or private letter of advice, with respect to the application of the [Maryland Code of Judicial Conduct](#), the Maryland Code of Conduct for Judicial Appointees, and other applicable rules. Redacted versions of the Committee's ethics opinions are [available online](#). The Committee has 13 members, who are appointed by the Chief Judge of the Court of Appeals, the state's highest court. Membership is divided between current and former judges, as well as two lay members.

The Court of Appeals has the final say over judicial disability and misconduct. The court may impose the sanction recommended by the Commission or any other sanction permitted by law, or it may dismiss the case or remand it for further proceedings as specified.

Municipal Oversight

Maryland's Public Ethics Law requires every county, city, and school board to adopt ethics rules parallel to those at the state level. All counties, plus Baltimore City, have their own ethics code and a local ethics commission to enforce it. Baltimore City, Montgomery County, and Prince George's County also have inspectors general with full-time staff and more robust investigative powers. Counties with more than 500,000 residents are discussed below:

Baltimore City

Baltimore's [Office of the Inspector General](#), created by mayoral order in 2005, is charged with investigating violations of criminal law, civil statutes, regulations, or ethics rules concerning fraud, waste, and abuse by city employees and officers, board members, contractors and subcontractors, and recipients and beneficiaries of city funds. In 2018, Baltimore voters passed a charter amendment making this office independent. Under the new charter provisions, the IG is appointed by an advisory board comprised of the Mayor, City Solicitor, Comptroller, City Council President, a member of the City Council and deans of the two local law schools. The IG can only be removed by a majority of the advisory board for cause. The office audits and investigates government operations, including an annual audit of city procurement activities, and compiles annual reports [available online](#). The office may subpoena documents and call witnesses under oath. Baltimore's housing authority had its own inspector general from 2009 until 2015, when the [position was cut to save costs](#). The Housing Authority is now under the Baltimore IG's jurisdiction.

The Baltimore [Board of Ethics](#) has jurisdiction over city employees. Currently, the Board is comprised of five volunteer members confirmed by the City Council, three nominated by the Mayor, one by the President of the City Council, and one by the City Comptroller. The Board holds hearings and may issue advisory opinions, but must refer any criminal matters to prosecutorial authorities.

Baltimore County

Baltimore County, which surrounds but excludes the City of Baltimore, has an [Ethics Commission](#) composed of five members appointed by the County Executive. Lobbyists must register with the Commission, and county officials are required to file annual financial disclosure statements. The Commission gives advisory opinions and may issue fines and sanctions related to required disclosures.

Montgomery County

Montgomery, the most populous county in the state, created an [Office of the Inspector General](#) in 1997 under [Montgomery County Code, §2-151](#). The Inspector General is appointed to a four-year term by the City Council and oversees a small staff, with the assistance of a volunteer advisory group. The office is mandated to audit the effectiveness and efficiency of County offices and independent agencies, propose new accountability measures, and prevent and detect fraud, waste, and abuse in government activities. The office has power to subpoena documents and call witnesses under oath. Whistleblower retaliation and withholding of information from the office are county offenses, subject to fines of \$500 per instance. The [Montgomery County Ethics Commission](#) oversees the county's [Public Ethics Law](#) governing county employees and officials. Its responsibilities include financial disclosures and lobbying and the issuance of [advisory opinions](#).

Prince George's County

Prince George's, Maryland's second-most populous county, has an [Office of the Inspector General](#) to detect waste, fraud, and abuse in programs and operations of the county police and to provide independent oversight of the internal affairs bureau of the county police. The Inspector General is appointed by the city council. The county also has a [Board of Ethics](#), which offers advisory ethics opinions [available online](#), an [Office of Ethics and Accountability](#), which oversees financial disclosures and lobbyist registration, and a [Citizen Complaint Oversight Panel](#), which reviews complaints of excessive force, abusive language, and harassment by police.

Anne Arundel County

Like other counties in the state, Anne Arundel County has a bipartisan [Ethics Commission](#). The seven volunteer

LAWS OF PUBLIC INTEGRITY

Legal provisions combatting corruption in Maryland are found in the state [constitution](#), [Public Ethics Law](#) (Md. Code Ann., General Provisions (§§ 5-101 through 5-1001)) and various provisions of the [Criminal Law](#) (Md. Code Ann., Crim. Law (§§ 1-101 through 14-103)).

Constitutional Provisions:

The [Maryland Constitution](#) and [Declaration of Rights](#) contain several provisions which make corrupt behavior an offense punishable by law or relate to anticorruption efforts and procedures.

Md. Dec. of Rights Art. 33	Judges may not hold any other office, be otherwise employed, or receive fees, or perquisites of any kind, for the discharge of his official duties.
Md. Dec. of Rights Art. 35	Prohibition on holding more than one office for profit, and on receiving any present from any foreign Prince or State, or from the United States.
Md. Const. Art. I, § 6	Purchase or sale of votes is a punishable offense.
Md. Const. Art. 3 § 12	Ineligibility for office because of failure to account for public money.
Md. Const. Art. 3 § 21	Open Door legislative meeting policy, unless secrecy is necessary.
Md. Const. Art. 3 § 50	Punishment for bribery of public officers.
Md. Const. Art. 4 § 4	Judges may be removed from office for misbehavior or any other crime.
Md. Const. Art. 4 § 4B	The Commission on Judicial Disabilities empowered to investigate complaints against judges and conduct hearings regarding complaints.
Md. Const. Art. 4 § 7	Judges sitting on a case cannot be interested or connected to the parties.
Md. Const. Art. 6 § 6	Comptroller and Treasurer may be removed from office for malfeasance or misappropriation of the funds of the State.

Criminal Laws:

Bribery of a Public Employee

[Md. Code Ann., Crim. Law § 9-201](#) This provision specifically prohibits bribery of public employees. Subsection (b) prohibits citizens from bribing or attempting to bribe public employees in order to “influence the performance of official duties.” Subsection (c) prohibits public employees from demanding or receiving bribes in exchange for such influence. Violations of these provisions are punishable by two to twelve years’ imprisonment, and/or a \$100 to \$5,000 fine, as well as a prohibition against voting or holding office.

Bribery of a Voter

[Md. Code Ann., Crim. Law § 9-203](#) Prohibits any person from giving a gift or reward in exchange for a vote in an election. A violation is a misdemeanor offense with a maximum sentence of six months’ imprisonment and a \$500 fine.

Public Ethics Laws:

Md. General Provisions Code Ann. §§ 5-201 to -210	Establishment of State Ethics Commission.
Md. General Provisions Code Ann. §§ 5-301 to -304	Advisory opinions.
Md. General Provisions Code Ann. §§ 5-401 to -409	Procedures for complaint of violation of title.
Md. General Provisions Code Ann. §§ 5-501 to -522	Ethics rules, including gifts, conflicts of interest, procurement restrictions, and “revolving door” prohibitions.

[Md. General Provisions Code Ann. §§ 5-601 to -611](#)

[Md. General Provisions Code Ann. § 5-702](#)

[Md. General Provisions Code Ann. §§ 5-703 to -716](#)

[Md. General Provisions Code Ann. §§ 5-801 to -862](#)

[Md. General Provisions Code Ann. §§ 5-901 to -904](#)

Financial Disclosure requirements for public officials and candidates for public office.

Definition of lobbying and exemptions.

Lobbyist registration and regulation.

Requirements for each county and independent city to enact local public ethics laws governing conflicts of interests, financial disclosure, and lobbying substantially similar to state regulations.

Enforcement.

A willful violation of the lobbying rules in Subtitle 7 is a misdemeanor, subject to a fine of up to \$10,000 and/or up to a year in prison. Otherwise, violations of the Public Ethics Law are not criminal offenses, although administrative penalties for violations under section 5-904 include removal, withholding of salary, or other disciplinary actions.

ILLUSTRATIVE CASES

Bribery:

Thomas v. State, 992 A.2d 423, 413 Md. 247 (2010): The Court held that inability to award a contract was not a defense to bribery in a local kick-back scheme.

Richardson v. State, 492 A.2d 932, 63 Md. App. 324 (Md. Ct. Spec. App. 1985): In a case involving bribes paid to a clerk to provide blank birth certificates, the court held that a defendant can be convicted of bribery so long as the action he was bribed to engage in is related to his official duties.

Conflicts of Interest:

State Ethics Comm'n v. Antonetti, 780 A.2d 1154, 365 Md. 428 (2001): The defendant served as Administrator of the Prince George's County Board of Supervisors of Elections. While serving as Administrator, defendant employed his wife and four of his children in various positions for the Board. The Court of Appeals upheld the Ethics Commission's initial ruling that defendant had violated conflicts-of-interest prohibitions on employment of family members.

Financial Disclosure:

Montgomery Cnty. v. Walsh, 336 A.2d 97, 274 Md. 502 (1975): The Court of Appeals upheld the Montgomery County financial disclosure statute against various constitutional challenges brought by county employees. The Court of Appeals rejected claims that the county ordinance was in conflict with the state provisions on financial disclosure, that it violated the constitutional right to privacy, that it violated the employees' right to hold employment, that it was void for vagueness, that it was an unconstitutional delegation of legislative power, and that it was a violation of the Equal Protection Clause.

ANALYSIS AND CONCLUSIONS

Maryland faces some serious corruption problems and has responded to these problems with moderate success. On the one hand, Maryland has a relatively complete system of municipal and county-level oversight, with ethics codes and ethics commissions required at the county level as a matter of state law. In addition, Baltimore has an Office of Inspector General.

At the state level, however, Maryland's oversight system is less complete. On the positive side, the state comptroller is a powerful body with broad powers to conduct audits, and the unique Office of the State Prosecutor brings a focus to public corruption cases that most other states do not. On the other hand, there is no statewide inspector general, and the Maryland Ethics Commission has no jurisdiction over local officials and contractors and limited jurisdiction over the legislative or judicial branches of state government, although it does act proactively to propose changes to legislation and regulations. Furthermore, aside from a few bribery-related provisions present in every state and a misdemeanor offense for willful violations of lobbying rules, Maryland has virtually no criminal offenses related to ethics and corruption. We would like to see more robust criminal laws and statewide oversight that is more focused on corruption

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ENDNOTES

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CENTER FOR THE ADVANCEMENT OF PUBLIC INTEGRITY

The Center for the Advancement of Public Integrity (CAPI) is an anti-corruption resource center, the first and only of its kind to specialize in city and municipal governance.

Who Are We?

As the world continues its rapid pace of urbanization, cities are fast becoming the front line in policy innovation and development. Growing urban communities worldwide have increasingly demanded higher standards of integrity from their government officials and representatives. Rising to this mounting demand, leaders at the New York City Department of Investigation partnered with Columbia Law School in 2013 to create the center.

CAPI is an independent, non-profit resource center dedicated to bolstering municipal anti-corruption research, promoting essential tools and best practices, and cultivating a professional network to share new developments and lessons learned, both online and through regular conferences.

Our Mission:

CAPI aims to improve the capacity of public offices and practitioners to deter, identify, and combat corruption.

We work to:

- Build and support a vibrant community of leaders in the public integrity field.
- Develop tools and resources to help governments and practitioners fight corruption.
- Promote research and scholarship on important public integrity issues

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