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An Overview of State and Local Anti-Corruption Oversight in the United States

Center for the Advancement of Public Integrity

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The United States has a decentralized system of anti-corruption oversight unique in the world. Instead of a national anti-corruption agency, like most countries,* the federal government has a profusion of institutions including the Government Accountability Office in the legislative branch, the Office of Government Ethics in the executive branch, and more than 70 inspectors general responsible for monitoring a specific department or program.

At the state level, the oversight landscape is even more variegated. Some states, cities, and counties have multiple agencies while others have one or none at all. Some watchdog agencies have large staffs with sweeping investigative powers, while others are volunteer boards that meet rarely and lack means of enforcement. Each jurisdiction's institutions have evolved largely in isolation, in response to local political pressures and other factors, with few efforts at harmonization or coordination due to America's strong traditions of federalism.† Fighting corruption in America tends to be seen as a local concern, with the important exception of the prosecutors and federal agents under the U.S. Department of Justice.

Generally, states and cities have passed anti-corruption reforms in response to local scandals. For example, the country's oldest, largest, and perhaps most powerful watchdog, New York City's Department of Investigation, was created in 1873 to counter the widespread graft associated with the "Tammany Hall" machine. Likewise, the first statewide inspector generals' office, in Massachusetts, was created in 1981 in response to corruption in public construction contracts. Watchdogs have proliferated since the 1970s, when the Federal Bureau of Investigation began to prioritize public corruption cases and widely-reported scandals like "Watergate," "Abscam," and "Sharpstown" galvanized public pressure for reforms. State and local watchdogs are still in flux; in recent years, New Jersey closed its inspector general's office while Virginia and South Carolina each opened one.

To make sense of this shifting landscape, the Center for the Advancement of Public Integrity undertook a survey of anti-corruption oversight in cities and states nationwide. This brief is an overview of the findings of our state-by-state survey. At the state level, we found three basic oversight models: states with a statewide inspector general and an ethics commission; states with only an ethics commission (or multiple ethics commissions); and states with no statewide watchdog. Statewide inspectors general and ethics commissions can further be categorized as relatively strong, standard, or weak, based on factors highlighted in the anti-corruption literature such as institutional powers, jurisdiction, mandate, resources, and safeguards of independence.

* *Specialised Anti-Corruption Institutions: Review of Models, Second Edition,* Organisation for Economic Co-operation and Development (OECD), 2013. http://www.oecd.org/corruption/acn/specialisedanti-corruptioninstitutions-reviewofmodels.htm (last visited August 30, 2016).
† Patricia Salkin and Zachary Kansler, *Ensuring Public Trust at the Municipal Level: Inspectors General Enter the Mix,* Albany Law Review, 2011, Vol. 75.1.

Inspector General or Ethics Commission?

The watchdogs with the strongest teeth tend to be inspectors general (IGs), who investigate cases of fraud, waste, and corruption. State inspectors general are typically appointed by governors with legislative consent. Their offices include full-time investigators with a range of law enforcement powers including the ability to conduct audits and investigations, subpoena evidence and witnesses, collect sworn testimony, and hold public hearings. In some cases, agents may be empowered to execute warrants to search premises and seize evidence and to carry and use firearms, like federal IG agents.[‡] Eleven states currently have statewide inspectors general, and a slight majority of states have IGs within specific executive offices focused on oversight in sectors vulnerable to fraud and abuse such as healthcare, public benefits, corrections, and transportation. Few states have more than three state inspectors general, other than Florida (which has 30), Illinois (11), and New York (7).

Ethics commissions are more common watchdogs, with broader mandates. Currently, 42 states have ethics commissions—including every state with a statewide inspector general. A typical ethics commission oversees ethics rules, investigates ethics violations, issues administrative sanctions such as fines or injunctions, refers criminal matters to law enforcement authorities, issues advisory opinions, and conducts training and public awareness programs. Generally, board members are volunteers appointed for fixed terms by a mix of executive, legislative, and sometimes judicial leaders, with safeguards against removal without cause. Nearly all state ethics commissions have a paid, full-time staff. Ethics commissions are typically empowered to subpoena evidence and collect sworn testimony, but they lack audit powers and generally have more limited investigative powers than inspectors general. They also face practical constraints on their capacity to conduct in-depth investigations due to competing responsibilities, such as electoral oversight, lobbyist registration, or public access to information.

Finally, there are seven states without statewide IGs or ethics commissions. All are rural states with fewer than a million residents except the fast-growing states of Arizona, New Mexico, and Idaho. Albuquerque, New Mexico has an inspector general's office and Boise, Idaho has an ethics commission. Arizona stands out as a populous state that lacks dedicated watchdogs at the state or local level. Notably, there are reform efforts in Arizona, New Mexico, and Idaho to create statewide ethics commissions. Clearly, the trend among the states is towards more oversight institutions.

Other State Watchdogs

Other common state-level offices play important roles in public integrity enforcement. Judicial ethics commissions, present in every state (listed here), investigate judicial ethics violations, and typically recommend sanctions to the state supreme court.

Legislative ethics committees (listed here) investigate legislative ethics violations, and typically recommend sanctions to the full legislature. A 2008 study by the National Conference of State Legislatures found legislative ethics committees in 40 states: 15 joint standing committees, 3 single-chamber standing committees, and 22 ad hoc committees.[§] Some of those bodies have a small staff to provide advice and conduct training activities, such as Maryland's Joint Committee on Legislative Ethics and the Office of Ethics and Compliance of the New York Assembly. The legislatures of a few larger states have nonpartisan research arms to assist in oversight of the executive branch, such as California's Legislative Analyst's Office.

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‡ Wendy Ginsberg, *Offices of Inspectors General and Law Enforcement Authority: In Brief,* Congressional Research Service, 2014, http://digital.library.unt.edu/ark:/67531/metadc462481/ (last visited August 30, 2016).

§ Peggy Kerns and Luke Martel, Ethics Committees: Internal Oversight of Ethics Laws, National Conference of State Legislatures, March 2008, Vol. 16, No. 15, http://www.ncsl.org/documents/legisbriefs/Ethics_Committees_08.pdf (last visited August 30, 2016).

Every state has an audit body, such as an auditor, comptroller, or treasurer, to monitor government spending (list here). Some states, such as New York, Tennessee, and Mississippi, have audit bodies with substantial investigative units. Generally, each state's office of the secretary of state has some oversight functions, such as electoral oversight, facilitating access to government information, and maintaining campaign finance disclosures. A few states have special commissions to oversee public campaign finance programs, such as Arizona and Connecticut.

Many states have federal, state, or local prosecutorial offices with specialized units dedicated to public integrity violations. Others, like Texas and New Jersey, have such specialized anti-corruption units within the state police. Maryland has a unique prosecutorial office called the State Prosecutor focused solely on public integrity offenses. New Jersey has a special anti-corruption investigative commission.

Finally, many states have executive offices that promote transparency, within the office of the secretary of state, the governor's office, or a specialized office like Nebraska's Public Counsel or Iowa's Public Information Board. And a few states have unique anti-corruption institutions, like Arkansas' Independent Citizen's Commission, which sets salaries for public officials, and Connecticut's Office of Government Accountability, which groups together various state watchdogs.

Watchdog Effectiveness

Global scholarship about anti-corruption agencies shows a wide consensus around several factors of effectiveness: strong legal foundations, broad jurisdiction, safeguards of independence, robust enforcement powers, ample resources, partnerships with complementary institutions, and political will.[**] Those factors apply to state watchdogs as well. Some state watchdogs are constitutional offices (like Rhode Island and Oklahoma), while others were created by executive order. Some have jurisdictions over state and local public officials and employees as well as contractors and subcontractors (as in the Louisiana and Ohio inspectors general), while others are limited to a specific branch of government. Some have appointment and removal processes secured by checks and balances (as in Oregon and Illinois), while others have leaders appointed by the governor and removable at will. Some offices can administer a range of sanctions (as in New York and Indiana), while others can merely recommend penalties and provide advice. Some offices command large staffs, while others have no full-time employees.

CAPI's online state-by-state comparative map makes it easy to compare state watchdogs across a number of related objective criteria, such as their powers, jurisdiction, relative budget, and leadership appointment and removal processes. The downloadable reports provide more detail and context. As the reports make clear, each institution has its own strengths and weaknesses, and local perceptions may differ from how an institution looks on paper. Nevertheless, a preliminary analysis based on CAPI's survey shows that some state watchdogs are clearly stronger than others.

The eleven state inspectors general (along with the inspector general of the District of Columbia) may be divided into *strong*, *standard*, and *weak*. Strong offices have relatively broad mandates, strong enforcement powers, and ample resources. Weak offices are short on resources (as in Georgia, South Carolina, and Virginia), limited in powers (Georgia's OIG lacks subpoena powers), or overly narrow mandates (Pennsylvania's OIG focuses almost exclusively on public benefits fraud).

[**] *See*, *e.g.*: OECD *supra,* Patrick Meagher, *Anti-corruption agencies: A review of experience*, The IRIS Discussion Papers in Institutions and Development, 2004; Francesca Recanatini, *Anti-Corruption Authorities: An Effective Tool to Curb Corruption?,* in *International Handbook on the Economics of Corruption, Volume Two*, ed. Susan Rose-Ackerman and Tina Søreide, Edward Elgar Publishing, 2011.

<table>
<tr><th colspan="12">State Ethics Watchdog Models</th></tr>
<tr><td colspan="4">Strong IG Model (7)
NY, FL, IL, MA, OH, LA, DC*</td><td colspan="4">Standard IG Model (1)
IN</td><td colspan="4">Weak IG Model (4)
VA, SC, PA, GA</td></tr>
<tr><td colspan="3">Strong Commission Model (7)
CA, CT, HI, MD, NJ, OK, RI</td><td colspan="3">Standard Commission Model (15)
AL, AR, IA, KS, MO, MS, MT, NE, NV, NC, OR, TN, TX, WV, WI</td><td colspan="3">Weak Commission Model (6)
ME, MN, MI, NH, CO, DE</td><td colspan="3">Multiple Commission Model (4)
UT, KY, WA, AK</td></tr>
<tr><td colspan="12">No statewide watchdog (7)
AZ, NM, ID, ND, SD, VT, WY</td></tr>
</table>

*While the District of Columbia is not a state, it has been included to provide a more accurate understanding of the national landscape.

The 32 states that have ethics commissions but lack inspectors general may be divided into four categories. Seven of those states have relatively strong ethics commissions. For example, Hawaii, Oklahoma, and Rhode Island have ethics commissions with rule-making authority. California, Connecticut, and New Jersey have relatively large offices. In contrast, weak offices are more limited in scope. Minnesota and Michigan have fairly toothless ethics commissions, with few enforcement powers. Colorado, Delaware, and New Hampshire have ethics commissions with only one or two employees. Maine's ethics commission governs only the legislative branch. And finally, four states have a multiple-commission model. Alaska and Washington have separate commissions dealing with ethics enforcement and disclosure of conflicts of interest. Kentucky has separate ethics commissions for the executive and judicial branches. And Utah has four statewide ethics commissions: executive, legislative, judicial, and municipal.

Conclusion

There's no "best" model for anti-corruption oversight: it's up to each state to develop its own anti-corruption system, in response to local challenges, government structure, and other factors. In its reports, CAPI has found that an overabundance of watchdogs may hamper coordination (as in Illinois) while over-centralization may short-change local oversight (as in California). Nevertheless, offices of the inspector general and ethics commissions perform different roles and address different—if sometimes overlapping—issues, and thus complement one another well.

Looking across the country, it's interesting to note that some small states, like Rhode Island and Hawaii, have relatively strong oversight systems, while some big states, like Arizona and Michigan, lack them. In general, oversight systems are more developed in more urbanized states like Florida, Illinois, and the Northeast, due perhaps to high-profile municipal corruption scandals and more organized reform movements. Many of the fastest-growing states, like Arizona, Colorado, and Utah, have lagged in oversight to match their growth in public expenditures.

Ultimately, the national proliferation of watchdogs is encouraging. Just as the states differ demographically, economically, and politically, they may differ in oversight needs. To serve as "laboratories of experimentation," a medley of models may suit the diversity of American democracy.

Integrity in Brief Series

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