



# **State and Local White Collar Crime Program: State Regulatory Agency Statutes for Selected Offenses (Volume II)**

Christian Desiltes, J.D.  
National White Collar Crime Center  
4905 Dickens Road Suite 106  
Richmond, VA 23230

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## **Abstract**

Examine how all 50 states, the District of Columbia, and five U.S. territories handled regulatory functions in four regulatory categories: banking and finance, environmental, worker safety, and Medicaid fraud. Volume I includes a series of tables for each state and territory's legislation pertaining to the regulation of those four areas and compares each under the administrative, civil, and criminal categories of enforcement. Volume II gives a general overview of each state and describes the state statutes codified in the four areas. Findings were based on an online review of state legislation, as part of the 2014 State and Local White Collar Crime Program.

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# Introduction

This report is organized into two volumes. Volume I presents white collar crime statutes for 50 states, the District of Columbia and five U.S. territories for four regulatory areas: banking and finance, environment, worker safety, and Medicaid fraud. Volume II provides a description of the statutes for these four regulatory areas. The reports are designed to provide guidance for attorneys and legislators. They capture data through October 2016.

White collar crime lacks a definition that is unreservedly accepted by all justice stakeholders. To determine whether it was possible to measure white collar crimes reported and enforced at the state level, it was first necessary to arrive at a mutually agreed on definition of white collar crime. The National White Collar Crime Center (NW3C) used information gleaned from previous definitional endeavors as a starting point and assembled subject matter expert groups that comprised noted academics in the field of white collar crime, practitioners in the field, and representatives from various state attorneys general offices.

NW3C's stakeholder opinions varied on how a white collar offense was identified. The definition that was ultimately agreed on was "any violation of law committed through nonviolent means, involving lies, omissions, deceit, misrepresentation, or violation of a position of trust, by an individual or organization for personal or organizational benefit."

The regulatory function of the jurisdictions in a number of fields often form the basis of several categories of white collar crime. However, not all jurisdictions handle or define the same action in the same way. The regulatory list was narrowed down to categories most commonly thought of as areas where white collar offenses are likely to be committed and measured:

- consumer fraud
- securities fraud
- insurance fraud
- tax fraud
- false claims and statements
- workplace-related offenses (e.g., unsafe working conditions)
- environmental offenses
- illegal payments to government officials (e.g., giving or receiving)
- unfair trade practices
- bank fraud
- medical fraud.

Of these categories, some were considered unsuitable to the task. When discussing regulatory agencies—

- Governmental corruption involved too many federal issues for a purely state-driven analysis.
- In general, fraud was already largely captured by the uniform crime reporting data.
- Consumer fraud included advertising and marketplace regulation that was not clearly within the bounds of the project.

The remaining categories were operationalized into their closest regulatory equivalents:

- Financial crimes were operationalized into Banking and Finance Regulation.
- Environmental crimes were operationalized as Environmental Regulation.
  - This category does not include wildlife and park management, which some states classify as environmental concerns.
- Workplace-related offenses were operationalized as Worker Safety Regulation.
- Medical fraud/entitlement fraud was operationalized as Medicaid Fraud.

NW3C researched each of the 50 U.S. states, the District of Columbia, and five U.S. territories to determine how they handled the regulatory function in the four categories. During this process, NW3C discovered that, depending on a number of considerations made by the regulatory authority charged with handling the violation, various aspects of the four regulatory functions were handled at one of three levels: administrative, civil, or criminal. NW3C compiled each state and territory's regulatory statutes authorizing enforcement options for the four categories and examined them according to the general, administrative, civil, and criminal enforcement options.

## Summary of statutes authorizing enforcement options

	Banking and finance				Environmental				Worker safety				Medicaid fraud		
<b>Administrative</b>	For	Against	None		For	Against	None		For	Against	None		For	Against	None
Exclusive right to act	2	--	54		1	--	55		2	--	54		--	--	56
Authority to approve, suspend, or revoke license	26	--	30		29	--	27		6	--	50		--	--	56
Authority to compel action or order cessation	47	--	9		42	--	14		37	--	19		1	--	55
Authority to impose fine or penalty	41	--	15		44	--	12		34	--	22		1	--	55
Forfeiture authority	2	--	54		1	--	55		1	--	55		--	--	56
Appeals to administrative action limited	6	1	49		44	--	12		--	2	54		--	--	56
Subpoena required to view proceedings	23	16	17		2	21	33		2	15	39		--	2	54
Associated record keeping requirement	27	--	29		15	--	41		25	--	31		47	--	9
<b>Civil</b>	For	Against	None		For	Against	None		For	Against	None		For	Against	None
Authority to approve, suspend, or revoke license	3	--	53		3	--	53		2	--	54		--	--	56
Authority to compel action or order cessation	24	--	32		43	--	13		26	--	30		--	--	56
Authority to impose fine/penalty	20	--	36		38	--	18		19	--	37		4	--	52
General civil authority within subject matter area	7	--	49		9	--	47		4	--	52		1	--	55
Forfeiture authority	2	--	54		1	--	55		--	--	56		--	--	56
Can initiate action in other than highest court in jurisdiction	5	1	50		10	1	45		6	--	50		1	--	55
Can initiate civil action on their own	14	3	39		24	7	25		11	6	39		1	--	55
Can initiate action if primary authority declines	1	1	54		1	--	55		1	1	54		--	--	56
Appeals to administrative action limited	1	--	55		1	--	55		--	--	56		--	--	56
Subpoena required to view proceedings	--	1	55		1	1	54		--	1	55		--	--	56

Associated record keeping requirement	--	--	56		1	--	55		1	--	55		--	--	56
<b>Criminal</b>	<b>For</b>	<b>Against</b>	<b>None</b>		<b>For</b>	<b>Against</b>	<b>None</b>		<b>For</b>	<b>Against</b>	<b>None</b>		<b>For</b>	<b>Against</b>	<b>None</b>
Explicitly created misdemeanor	33	--	23		40	--	16		40	--	16		--	--	56
Explicitly created felony	26	--	30		23	--	23		11	--	45		3	--	53
General criminal authority within subject matter area	1	--	55		2	--	54		1	--	55		1	--	55
Forfeiture authority	--	--	56		2	--	54		--	--	56		--	--	56
Can initiate prosecution on their own	5	4	47		4	2	50		6	3	47		2	1	53
May be initiated in higher courts	--	--	56		--	--	56		1	--	55		--	--	56
Appeals limited	--	--	56		--	--	56		--	--	56		--	--	56
Legal process required to view proceedings	--	--	56		--	--	56		--	--	56		--	--	56
Associated record keeping requirement	--	--	56		--	--	56		--	--	56		--	--	56

	Terms	Definition and usage notes
	Exclusive right to act	An affirmative statement that one or more agencies so completely occupies the field in question such that no other regulatory, law enforcement, or administrative authority in the state (e.g., attorneys general) may enforce relevant laws.
Administrative/regulatory	Withdrawal of license/approval	The ability to suspend, review, or revoke licenses, or a similar ability to control when entities can operate within the state, when such ability can be used without initiating a civil or criminal proceeding. This applies even if the decision is contestable in civil court.
	Compelled action (or cessation)	The ability to order an entity to stop what it is doing, or to take action to limit damages (roughly analogous to equitable relief), when such ability can be used without initiating a civil or criminal proceeding. This applies even if the order can be contested in a civil court.
	Fine/penalty	The ability of an agency to assess fines or penalties of its own accord (as an exercise of its administrative powers), without initiating civil or criminal proceedings. This applies even if the fines or penalties are appealable to a civil court.
	Forfeiture	The ability to take possession of property as an exercise of administrative or regulatory power without initiating civil or criminal proceedings. This applies even if the forfeiture can later be contested in a civil proceeding. Statutes that use the word “forfeiture” to refer to the taking of fungible monetary assets (e.g., \$100 instead of “the money involved in the criminal act”) are treated as fines or penalties.
	Appeals limited	A hard limit to the number of appeals allowed for administrative or regulatory decisions.
	Prohibited from revealing without legal process	A blanket prohibition on voluntarily revealing information about use of regulatory or administrative powers. An entity is not seen as being prohibited from revealing information, if they are allowed to (a) reveal information at an administrator’s discretion; (b) voluntarily reveal some classes of information but not others; or (c) reveal information in an anonymized fashion.
	Associated data-keeping requirement	Any requirement that at least some of the agency’s use of its administrative or regulatory powers must be recorded and kept for any length of time. This is assumed to be incorporated into any requirement to report such data.
Civil	Withdrawal of license/approval	The ability to suspend, review, or revoke licenses, or a similar ability to control when entities can operate within the state, when such ability is exercised through initiating civil proceedings
	Compelled action (or cessation)	The ability to order an entity to stop what it is doing, or to take action to limit damages (roughly analogous to equitable relief), when such ability is exercised through initiating civil proceedings.

	Statutory damages/penalty	Monetary damages codified in statute for at least one civil cause of action specifically created for the agency in question.
	General civil authority within subject matter	General (but not necessarily exclusive) authority to initiate civil actions within the general purview of the agency.
	Forfeiture	The ability to initiate civil forfeiture proceedings.
	Can initiate at court other than the highest state court	Must civil proceedings be initiated at the highest state court (as opposed to lower and/or regional courts)?
	Can initiate civil suits on its own	Regardless of whether the agency has general or specific civil authority, can it initiate at least some classes of civil suit on its own (rather than asking some other entity to initiate civil proceedings on their behalf)? This includes situations where the ability to bring suit in the name of the state is expressly given to sections of the populace which the agency would be part (such as all citizens of the state).
	Can move forward on its own if primary initiating authority declines?	If the other entity declines to initiate a civil suit on the agency's behalf, can the agency initiate the civil suit on its own?
	Appeals limited	A hard limit to the number of appeals allowed for civil decisions.
	Prohibited from revealing without legal process	A blanket prohibition on voluntarily revealing information about use of its civil enforcement powers. An entity is not seen as being prohibited from revealing information, if they are allowed to (a) reveal information at an administrator's discretion; (b) voluntarily reveal some classes of information but not others; or (c) reveal information in an anonymized fashion. They are considered to be prohibited from revealing information if they are only allowed to reveal information to a closed list of recipients (such as law enforcement agencies).
Associated data-keeping requirement	Any requirement that at least some of the agency's use of its civil enforcement powers must be recorded and kept for any length of time. This is assumed to be incorporated into any requirement to report such data.	
Criminal	Explicitly created misdemeanors	Misdemeanors defined within the statutes that set out the agency's powers and responsibilities (with an eye towards criminalizing statutory violations), even if the agency does not have any power to enforce them (e.g., where lying to the regulatory body is criminalized, but the incident would be referred to and investigated by an independent law enforcement agency). These do not include general purpose criminal statutes (e.g., fraud) that may be employed in a wide variety of contexts including the one in question.
	Explicitly created felonies	Felonies defined within the statutes that set out the agency's powers and responsibilities (with an eye towards criminalizing statutory violations), even if the agency does not have any power to enforce them. (e.g., where lying to the regulatory body



	is criminalized, but the incident would be referred to and investigated by an independent law enforcement agency). These do not include general purpose criminal statutes (e.g., fraud) that may be employed in a wide variety of contexts including the one in question.
General criminal authority within subject matter	General (but not necessarily exclusive) authority to investigate criminal matters and/or bring criminal charges in connection to suspects or matters within the agency's purview.
Forfeiture	The ability to seize funds or property as part of criminal proceedings that are specifically laid out for the agency's use (even if the forfeited items ultimately benefit some other state agency).
Agency initiate prosecution	Can the agency initiate any sort of criminal proceedings on its own? This includes instances where the agency refers the matter to another entity, and that entity is required to prosecute ("shall"), but does not include instances where the receiving agency has discretion in whether to pursue charges or not ("for consideration"), or where the matter is merely referred with no indication as to how the referral is treated.
Can agency refer prosecution to others	Can the agency refer at least some classes of criminal proceedings to others for prosecution?
May be initiated in higher state court	Is there any scenario through which a criminal trial for violations relating to the subject matter at hand may start at a higher state court than usual?
Appeals limited	A hard limit to the number of appeals allowed for criminal decisions.
Prohibited from revealing without legal process	A blanket prohibition on voluntarily revealing information about criminal matters under investigation by the agency. An entity is not seen as being prohibited from revealing information if they are allowed to (a) reveal information at an administrator's discretion; (b) voluntarily reveal some classes of information but not others; or (c) reveal information in an anonymized fashion.
Associated data-keeping requirement	Any requirement that at least some of the agency's criminal investigations must be recorded and kept for any length of time. This is assumed to be incorporated into any requirement to report such data.

# Alabama

## **Banking and finance**

Alabama's State Banking Department's enforcement powers are primarily administrative. Under Ala. Code § 5-2A-12, the superintendent may order a regulated entity or entities to correct any matters in the affairs of the bank that, in the superintendent's opinion, are unsafe or unsound. The same statute also empowers the Banking Board (after 20 days' notice from the superintendent and a hearing) to assess civil penalties for noncompliance (\$1,000 per day, with a maximum of \$100,000) and to order someone not to participate in the Alabama banking industry. Such decisions by the Banking Board are appealable to the Circuit Court of Montgomery County within 28 days.

Under § 5-2A-13, "(t)he superintendent shall make from the reports of the department during the year an annual report to the Governor on the activities of the Banking Department and such other information as the Governor may request and shall keep on file as a public record in the superintendent's office a copy thereof. The board may print for public distribution such annual report and such other material as it deems suitable for the more effective administration of departmental business." It is worth noting that, while this counts as a data reporting requirement, it contains no requirement that the report contain data of such specificity or on such topics as would facilitate white-collar crime reporting. While one would certainly hope that any discussion of the Banking Department's activities would include some detail on its enforcement function, none is specifically required by statute. Further, all proceedings before the Banking Board (the primary means by which banking and finance enforcement is effected in Alabama) are confidential, and breaching that confidentiality for any reason (other than for the purpose of appealing their decision) is a misdemeanor under § 5-2A-12(c). This could be read as also the criminalization of publicizing the outcomes of such proceedings, such as by including them in an annual report to the public. A review of publicly available annual reports from the department (available at [http://banking.alabama.gov/fiscal\\_year.aspx](http://banking.alabama.gov/fiscal_year.aspx)) reveals a focus on the assets controlled by Alabama banks, mergers, and other financial details—and no mention whatsoever of any enforcement activities.

The sole nod to banking regulation outside of the administrative sphere occurs in § 5-2A-14, which reads: "The superintendent may submit to any grand jury any criminal violations of the banking laws known to him or her to have occurred pursuant to applicable law regarding criminal venue and may make himself or herself or his or her staff available to testify in criminal cases if subpoenaed." It is unclear how this interacts with the requirement not to breach the confidentiality of matters before the Banking Board.

## **Environment**

Alabama's Department of Environmental Management has both civil and administrative options available to it. Ala. Code § 22-22A-5 is the main source for the department's authority. It grants the

department administrative powers to suspend or revoke permits, and to assess penalties for violations of applicable law. The department may only assess administrative penalties after issuing a notice to the violator, granting them an informal conference, publishing a notice in a paper of general circulation and on the department's website (laying forth the nature and location of the violation and the proposed penalty and/or proposed corrective measures, and giving members of the public the opportunity to comment or request a hearing), and giving the violator the opportunity of an administrative hearing. These penalties cannot exceed \$25,000 for each violation (with each day counting as a separate violation), or \$250,000 in total.

Civilly, § 22-22A-5 grants the department the power to file legal actions in its own name, to sue to recover the actual costs incurred in remediating violations, and to commence civil actions to recover penalties for any violation of law under its domain. These penalties cannot exceed \$25,000 for each violation (with each day counting as a separate violation), or \$250,000 in total. Civil matters are handled by the attorney general (under 22-22A-5(12)), but the department is allowed to move forward on its own if the Attorney general fails to file an action within a reasonable time. The Attorney general is also empowered to move forward on matters that are under the purview of the department when the department chooses not to pursue.

Ala. Code § 22-22A-5(5) also requires that the department "(s)erve as the state's clearinghouse for environmental data. The clearinghouse shall be developed in coordination and cooperation with other governmental data collection and record keeping systems to provide for an inventory, and for the cataloguing and dissemination of environmental information." This would indicate that, even if appropriate data collections do not currently exist, this department would be the one responsible for implementing them.

Ala. Code § 22-22A-5(6) requires that the department "(r)eport, as appropriate, to the Governor and to the Legislature on the programs and activities of the department and to recommend needed changes in legislation or administrative practice." While these reports do not appear to be public, the department's website (<http://www.adem.state.al.us/complinfo/default.cnt>) contains a large amount of enforcement and compliance information that one would expect in such a report.

## **Worker safety**

Worker safety in Alabama is primarily the responsibility of the Alabama Department of Labor, which has a range of administrative and criminal powers at its disposal. The department may also have at least one civil power.

Administratively, it has the power to inspect, to "administer all labor laws," and to "take such action as may be necessary to enforce compliance." While that mandate is very broad, it is typical in these sorts of laws and allows inspectors to tailor the remedy to the situation (or to revoke a license).

Ala. Code § 25-2-24 reads, in the pertinent part, "It shall be the duty of the qualified attorneys regularly employed by the Department of Industrial Relations, or the Attorney general of the state and any district attorney, upon the request of the Director of Industrial Relations or of any of his authorized

representatives, to prosecute any violation of any law, the administration or enforcement of which has been made a duty or function of the Department of Industrial Relations, or any rule or regulation adopted pursuant thereto.” (The Department of Industrial Relations was renamed the Department of Labor in 2012 by Ala. Code § 25-2-1.1, but the original terminology persists in the statutes.) In law, the term “prosecute” may be used in either a civil or criminal context, and it is unclear in which sense it was meant here. While Attorneys General are more typically associated with civil proceedings, there seems to be no other explicit mention of civil enforcement powers in this chapter of the Alabama code.

Under § 25-2-25, any person who violates (or refuses to comply with) any of the laws under the domain of the department or any lawful rule or regulation that they make is guilty of a misdemeanor (with a maximum penalty of \$100 and/or 6 months in jail, with each day of a continuing offence counting as a separate violation), unless a different penalty is specifically spelled out in the statute.

Ala. Code § 25-2-2(a)(7) requires the department to “make investigations and studies and to collect, collate, and compile statistical information and to make and publish reports concerning the conditions of labor generally, including living conditions, hours of work, wages paid, and all matters relating to the enforcement and effect of the provisions of this title coming under the jurisdiction of the Department of Labor and the rules and regulations issued pursuant thereto and other laws relating to the Department of Labor.” That said, there are no specific requirements to compile comprehensive enforcement statistics, and a perusal of its website (<http://www.labor.alabama.gov/>) did not reveal any study in the vein. However, it does have some data available on isolated white collar crime topics of interest, such as unemployment fraud.

Ala. Code § 25-2-2(a)(8) requires the department to make an annual report to the Governor covering its activities and accomplishments. These reports are available at [http://www.labor.alabama.gov/docs/doc\\_type.aspx?id=5](http://www.labor.alabama.gov/docs/doc_type.aspx?id=5). While they contain some minimal information that could be considered white collar crime data, the focus is elsewhere.

## **Medicaid fraud**

Alabama participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

(a) the number of investigations initiated and the number completed or closed, categorized by type of provider

(b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence

(c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies

(d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit

(e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing usable white collar crime statistics.

In Alabama, Medicaid fraud is handled by the Medicaid Fraud Division of the Alabama Office of the Attorney general. The division has the power to investigate and prosecute allegations of Medicaid fraud and to enter into civil settlements to recover funds of providers that are not involved in criminal activity.

While relevant white collar crime statistics are presumably being gathered by the Medicaid Fraud Division, they are either be nonpublic or not stored in a web-accessible format. Individual accounts of particular Medicaid fraud incidents (for all participating states) are logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# Alaska

## **Banking and finance**

Alaska's Department of Commerce, Community, and Economic Development has a fairly balanced mix of administrative and criminal enforcement powers. They also have a few civil tools at their disposal, though they are largely duplicative of the department's administrative powers (but backed by the power of the judiciary). On the administrative side, the department (under Alaska Stat. § 06.01.030) may issue administrative cease and desist orders concerning violations of law or unsafe (or unsound) practices. However, that same statute also allows the department to bring an essentially identical action in superior court to stop the practice. On the criminal side, § 06.01.030 sets out both administrative (in part e) and criminal penalties (in parts a-d) for violations. While specialized bodies of law exist to regulate particular niches within the banking and finance umbrella, they tend to keep to this general outline.

The ability to obtain useful data will depend largely on department cooperation. Under Alaska Stat. § 06.01.025(a), "(i)information in the records of the department obtained through the administration of this title is confidential, is not subject to subpoena, and may be revealed only with the consent of the department." Any data about the enforcement of the provisions of the title would fall under the heading of information obtained through its administration. What is slightly less clear is what "confidential" means in this context. While it would usually indicate that the information in question was restricted in and of itself, in this context it seems more likely to have been included solely as a defensive measure, to shield the department from being forced to divulge it. In that case, the statute collapses, for data-gathering purposes, to "information in the records of the department obtained through the administration of this title may only be revealed with the consent of the department." That said, there is no statutory requirement for the department to track any sort of statistics about itself or its activities. As such, there would be a significant chance that asking the department to produce any particular statistic would be asking them to comb through their files and create such data for the first time—something that few agencies would have the spare time to do without compensation. The department does list enforcement orders online, but does not make any sort of summary statistics available (<https://www.commerce.alaska.gov/web/dbs/enforcementorders.aspx>).

## **Environment**

Alaska's Department of Environmental Conservation primarily uses criminal and civil enforcement powers, with a few areas singled out for additional administrative penalties. Civil actions for acts of pollution are authorized under Alaska Stat. Ann. § 46.03.760, and civil injunctions are authorized under Alaska Stat. Ann. § 46.03.765. Under § 46.03.850, the department has the power to issue compliance orders (an administrative cousin of the injunction) but is mute about how such compliance might be enforced.

Under Alaska Stat. Ann. § 46.03.790, most types of misrepresentations concerning, or violations of, environmental law are also misdemeanors (except for certain classes of oil-based violations, which are treated as felonies). There are also specific laws concerning issues of special interest to the state—namely oil spills (Alaska Stat. Ann. § 46.03.758) and the regulation of public water systems (Alaska Stat. Ann. § 46.03.761). In Alaska, those specific-issue laws carry with them administrative penalties. The department, under Alaska Stat. Ann. § 46.03.865, also has a general ability to declare an emergency (regarding the discharge of oil, radioactive materials, or other hazardous substances) and to issue such orders as may be necessary to protect the environment or public health and welfare.

Insofar as usable statistics are concerned, there are competing factors. On the one hand, part of the department's expected function is just such research. Under Alaska Stat. Ann. § 46.03.020, the department may “undertake studies, inquiries, surveys, or analyses it may consider essential to the accomplishment of the purposes of the department; these activities may be carried out by the personnel of the department or in cooperation with public or private agencies, including educational, civic, and research organizations, colleges, universities, institutes, and foundations.” On the other hand, there is no affirmative requirement that it maintain statistics about its activities, or that it lend its data to researchers in any particular instance. Further, some of the data about enforcement of the relevant laws may be held by other agencies. Under § 46.03.890, any police officer of the state (in addition to state employees authorized by the commissioner) may enforce the environmental conservation chapter. It is unclear whether, in such cases, any notice of the enforcement activity is given to the department. That said, the department's website includes numerous anecdotes about enforcement activities (<http://dec.alaska.gov/das/ecu/news.htm>), but there is no way to know if these incidents are the entirety of the department's enforcement activities or are representative of the enforcement actions taken.

## **Worker safety**

Alaska's Department of Labor and Workplace Safety's powers are primarily administrative in nature, except for the most egregious cases. Under Alaska Stat. Ann. § 18.60.095, violations uniformly result in the commissioner assessing a monetary penalty (with a ceiling of either \$7,000 per violation or \$70,000, depending on the seriousness of the violation and the degree of willfulness involved). Criminal penalties may only be invoked for fraudulent statements or for willful or repeated violations that result in death.

While § 18.60.040 requires the department to prepare a report concerning its efforts in reducing workplace accidents, there is no requirement that it capture any data whatsoever concerning its enforcement efforts. A review of the department's publicly-available documents reveals that their annual reports (the 2015 edition is available at <http://labor.state.ak.us/lss/forms/2015-FY-achievement-rpt.pdf>) do, in fact, record some element of enforcement activity—but only in the form of the number of inspections projected and actually performed. There only indication of the outcomes of the inspections is the “significant achievements” section (which lists a few anecdotes). However, there is a reference in this portion of the report that “all the new Enforcement related activities are being entered into OIS.”

There is no further discussion of what data about these activities is being entered, what the OIS is, or who maintains it. This might be an avenue to explore in the future.

## Medicaid fraud

Alaska participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider
- (b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence
- (c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies
- (d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit
- (e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing usable white collar crime statistics.

In Alaska, the Medicaid Fraud Control Unit is part of the Attorney general's Office, and is responsible for investigating and criminally prosecuting such crimes. It does not seem to keep comprehensive statistics on its activities but does post a list of charged cases

(<http://www.law.state.ak.us/departments/criminal/mfcu.html>). Such charging documents contain detail that may be valuable for researchers, but they would need to be examined individually. Further, any researcher working with them would need to determine if they were a comprehensive account of the unit's activities or a sample. Unfortunately, information on the cases' eventual dispositions is not available online.

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.



# Arizona

## **Banking and finance**

Arizona's Department of Financial Institutions has an aggressive mix of administrative, civil, and criminal enforcement powers at its disposal. The superintendent, at his or her discretion, may respond to any violation of Title 6 of the Arizona Code (Banks and Financial Institutions) with an administrative fine (backed by the courts, under Arizona Revised Statutes § 6-132), an administrative cease and desist order (Ariz. Rev. Stat. Ann. § 6-137), and/or applying to the superior court in Maricopa county for an injunction (Ariz. Rev. Stat. Ann. § 6-137). Violating such a court order brings with it civil penalties of up to \$10,000 per violation (under Ariz. Rev. Stat. Ann. § 6-136). Further, violating any provision of Title 6 (or any rule, regulation, or order pursuant to it) for which a different penalty is not specifically provided is treated as a class 6 felony (Ariz. Rev. Stat. Ann. § 6-133(A)). The superintendent also has the ability to sue, prosecute, or defend in any action or proceeding in any court in the United States for the enforcement or protection of any right or remedy necessary or proper in connection with his or her office (Ariz. Rev. Stat. Ann. § 6-131(A)).

Arizona law (Ariz. Rev. Stat. Ann. § 6-129) prevents the Department of Financial Institutions from sharing information except in very limited circumstances, generally involving regulatory or law enforcement agencies. That said, the state attorney general is one of the parties with whom the department is authorized to share information (Ariz. Rev. Stat. Ann. § 6-129(B)(3)). Whether this could create a possible avenue of access to the underlying enforcement statistics is uncertain. The department's website displays "most, but not all" of their enforcement activity (<http://www.azdfi.gov/Consumers/PublicRecords/SupervisoryActions.html>). This data, as presented, is difficult to generalize from as there is no indication as to the selection criteria for inclusion on the list. Further, the list is presented in a non-aggregated format, requiring researchers to manually compile statistics.

## **Environment**

Arizona's Department of Environmental Quality generally regulates matters under its control administratively, with the courts available for support when violators prove unresponsive to administrative action. In regards to environmental issues that do not have a specific regulatory framework carved out for them ("environmental nuisances" under Arizona law), the director may issue abatement orders, and the department may abate the nuisance themselves if the problem persists (passing the cost on to the person responsible for maintaining the nuisance) and/or file an action in the superior court of the relevant county (Ariz. Rev. Stat. Ann. §49-142). With regard to areas of special concern (such as hazardous materials and soil remediation), it generally adds the option of administrative or civil penalties (typically \$1,000 a day) for noncompliance (Ariz. Rev. Stat. Ann. § 49-110 and 49-152). However, there are exceptions. Water control is of such critical concern to Arizona that it is treated criminally, and several types of violations are felonies (Ariz. Rev. Stat. Ann. § 49-263).

Under 49-104(A)(4), the department shall “(p)rovide information and advice on request of any local, state or federal agencies and private persons and business enterprises on matters within the scope of the department.” This points toward the department sharing any relevant data that it collects, though it does not mandate the collection of relevant data. That said, the department maintains a very thorough searchable database of many of its records (called MegaSearch) at <https://www.azdeg.gov/records-center>. Unfortunately, the records returned through MegaSearch contain relatively sparse and nonstandardized enforcement information (more in the style of case notes), and the system is geared to investigate one entity at a time. In its current incarnation, it seems more like a solid jumping-off point for collecting relevant white collar crime statistics than an actual resource in and of itself.

## **Worker safety**

Arizona’s Division of Occupational Safety and Health may rely primarily on administrative authority, with a small amount of civil support and recourse to criminal charges in cases of intentional obstruction and in the most extreme safety outcomes. It is generally authorized to promulgate standards and regulations and to exercise such powers as are necessary to carry out its duties and the requirements of the law. What these powers consist of in day-to-day use is unclear, but the director may issue citations that include a description of the violation in question and a time by which to abate it (Ariz. Rev. Stat. Ann. § 23-415(A)(2)), and may assess penalties for noncompliance (Ariz. Rev. Stat. Ann. § 23-418(A)). Misdemeanors exist for warning of site inspections or making false statements, while knowing violation resulting in death is a felony (Ariz. Rev. Stat. Ann. § 23-408 and 23-418). The department may also file in superior court to be issued an injunction preventing an employer from refusing to permit an inspection (Ariz. Rev. Stat. Ann. § 23-408(H)).

While Ariz. Rev. Stat. Ann. § 23-407 requires the department to prepare a report concerning workplace health and safety, there is no requirement that it capture any data whatsoever concerning its enforcement efforts. Ariz. Rev. Stat. Ann. § 23-408(E) reads—

Except as provided in § 23-426, information and facts developed by the commission, the director or any employee of the commission or division in the course of any inspection or investigation are public records subject to inspection pursuant to title 39, chapter 1, article 2, if, pursuant to § 23-415, subsection D, the inspection or investigation has been closed or a citation has been issued. Such information and facts shall not be admissible in any court or before any administrative body except pursuant to this article.

This would suggest that citations should be viewable in at least some form. Some relevant statistics are being released on its website ([http://www.ica.state.az.us/ADOSH/ADOSH\\_main.aspx](http://www.ica.state.az.us/ADOSH/ADOSH_main.aspx)), including aggregate numbers of serious, willful, and repeat violations in each fiscal year and the number of nonserious violations issued (for example, see pages 4 and 5 of

<https://www.azica.gov/sites/default/files/2014AnnualReport.pdf>). This suggests that more detailed and/or raw data might also be available to researchers.

## Medicaid fraud

Arizona participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider
- (b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence
- (c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies
- (d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit
- (e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing usable white collar crime statistics.

Arizona specifically criminalizes Medicaid fraud (in Ariz. Rev. Stat. Ann. § 36-2905.04(I)) and allows the director of the Arizona Health Care Cost Containment System to assess and collect penalties for same (Ariz. Rev. Stat. Ann. § 36-2905.04(D)). It has no particular state-based reporting requirements, but its website (<https://www.azahcccs.gov/>) gives month-by-month breakdowns of a number of different categories of enforcement actions, for example breaking down criminal prosecution data into number of convictions, number of cases accepted for prosecution, and number of cases referred for potential prosecution (<https://www.azahcccs.gov/Fraud/AboutOIG/statistics.html>).

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# **Arkansas**

## **Banking and finance**

The powers of Arkansas's State Bank Department are exclusively administrative. The superintendent has the power (under Arkansas Code Annotated § 23-46-205, 23-46-505, and 23-46-510) to issue cease and desist orders at his or her discretion, and to assess penalties (up to \$1,000 per day) for noncompliance. He or she may also revoke a bank's authority to transact business in Arkansas (under A.C.A. 23-46-508).

Arkansas law (A.C.A. § 23-46-101(a)) makes all records disclosing information obtained from examinations, or revealing facts concerning a financial institution (or certain other entities), confidential. This means that they can only be revealed in response to valid legal process or to state and federal regulatory agencies. There is also an exception ( A.C.A. § 23-46-101(b)(2)) for official orders of the department, if the commissioner makes a determination that such disclosure would not give advantage to a competitor or adversely affect the safety and soundness of the financial intuition. It is unclear, on a practical level, how much useable information such an approach would yield (as there would be no clear way to generalize from the cases given to the larger universe of the cases available to the superintendent). The department currently publishes an annual report (<http://banking.arkansas.gov/departmental-info/newsletterannual-report/annual-reports-of-the-bank-commissioner>), but it does not include enforcement data.

## **Environment**

Arkansas's Department of Environmental Quality primarily regulates through orders mandating compliance with existing law, but it has access to both the courts and its own administrative powers to do so (Arkansas Code Annotated § 8-1-107 (b)(2)(B)(i)) and can assess fines related to this power (Arkansas Code Annotated § 8-1-107 (b)(2)(B)(ii)). It has access to criminal authority only in cases of willful and unjustified refusal of the right of entry and inspection. The offense is a misdemeanor subject only to a fine of \$25,000 (Ark. Code Ann. § 8-1-107 (f)).

While Arkansas has a system of Environmental Audit Reports (A.C.A. § 8-1-301 et seq.), this is a voluntary evaluation system and not part of an enforcement process. It is pointedly excluded from the enforcement process (in A.C.A. § 8-1-303) to encourage people to voluntarily perform audits without fear of generating legal liability in so doing. There is no statutory mandate for the Department of Environmental Quality to collect or promulgate any sort of data whatsoever. That said, the Arkansas Department of Environmental Quality does, in fact, do so voluntarily, publishing public notices about enforcement activity in an online database located at <https://www.adeq.state.ar.us/poa/pi/notices/enforcement.aspx>. While the notices do not contain all the information that might interest a researcher (only the amount of the penalty assessed and the

entity against whom it was assessed and not, for example, the reason the penalty was assessed), it bodes well for future cooperation.

## **Worker safety**

Worker safety is the responsibility of the Arkansas Department of Labor. Worker safety law in Arkansas is strongly supported by the criminal justice system, with each day of offense (violation of any relevant provision of law, any lawful order of the director, or any judgment made by a court in connection with worker safety) being a separate misdemeanor offense, punishable by up to 6 months imprisonment (and a fine of up to \$100) (A.C.A. § 11-2-104). The attorney general and the prosecuting attorneys are obligated to prosecute any violation of the law that it is the duty of the director to enforce. Any penalty except imprisonment may be recovered in a civil action in the name of the state (A.C.A. § 11-2-105).

While A.C.A. § 11-2-120 requires the director to file an annual report on the activities of the Department of Labor, there is no requirement to specifically address enforcement activities. Its website (<http://www.labor.ar.gov/Pages/default.aspx>) did not make relevant information available.

## **Medicaid fraud**

Arkansas participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider
- (b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence
- (c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies
- (d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit
- (e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing usable white collar crime statistics.

Arkansas addresses Medicaid fraud through the Attorney General Office's Medicaid Fraud Control Unit. Its webpage indicates that it pursues such matters criminally, but the site does not release enforcement statistics available to the public (<http://arkansasag.gov/programs/arkansas-lawyer/medicaid-fraud/>).

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# California

## **Banking and finance**

California's Department of Business Oversight relies primarily on civil and administrative powers. The commissioner has broad authority to bring a wide range of actions in superior court in the name of the people of the state (under California Financial Code § 509). These include injunctions, restraining orders, enforced compliance and the collection of penalties. The commissioner is also given the power (under Cal. Fin. Code § 580 et seq.) to issue cease and desist orders administratively in a wide range of cases (involving violations of law, regulation, or agreement, or actions that may weaken California's banks). The power of these orders is broadened (by Cal. Fin. Code § 553) to allow the commissioner to order a person or institution to make restitution, provide a guarantee against loss, restrict their growth, dispose of an asset, correct violations of law, employ qualified officer or employees, and to limit the activities or functions of the subject institution or person. Cal. Fin. Code § 592 also gives the commissioner the power of administrative forfeiture in certain cases. Finally, the department has recourse to criminal law in the very limited case of people advertising securities as legal investments for savings banks when they are not, at that time, legal investment for such banks (a misdemeanor under Cal. Fin. Code § 565).

Under Cal. Fin. Code § 583(a), the commissioner is required to publish nearly all of his or her final orders on the department's website (though it may redact personal information). This website ([http://www.dbo.ca.gov/Enforcement\\_Search.asp](http://www.dbo.ca.gov/Enforcement_Search.asp)) is both comprehensive and robust, linking to scans of the original (full text) order, but lacks easily accessible aggregate data or outcome information. Nevertheless, much of the data that researchers could want is already being collected and maintained.

## **Environment**

California's Environmental Protection Agency consists of a variety of specialized agencies focused on the environment. These agencies are the Air Resources Board, the Department of Pesticide Regulation, the Department of Resources Recycling and Recovery, the Department of Toxic Substances Control, the Office of Environmental Health Hazard Assessment, and the State Water Resources Control Board (SWRCB). We chose to focus on the WRCB as an agency that seemed likely to be deeply involved in code enforcement.

Under California Water Code § 13300 et seq., regional water resources control boards are allowed to administratively require polluters to devise (and gain approval for) plans for repairing or limiting the damage that they are causing (or that is likely to occur), and may likewise issue orders that require the recipients to comply with pertinent laws and regulations, cease activities, and/or remediate damages. They may also (under Cal. Wat. Code § 13308) set financial penalties to be paid (up to \$10,000 per day) if orders are not complied with on schedule. If orders are not in full compliance, the board may also initiate a civil proceeding (through the attorney general) for an injunction forcing

compliance and/or to recover the money needed to step in and clean or abate the problem themselves (under Cal. Wat. Code § 13304 and 13331).

While Cal. Wat. Code § 13181 includes a wide variety of data collection initiatives, its focus is on water quality and environmental assessment, not enforcement. That said, the website for the California Environmental Protection Agency (<http://www.calepa.ca.gov/>) has a great deal of enforcement data available in a variety of formats

([http://www.waterboards.ca.gov/water\\_issues/programs/ciwqs/publicreports.shtml#violations](http://www.waterboards.ca.gov/water_issues/programs/ciwqs/publicreports.shtml#violations)).

Though some of the information is presented in an entity- or region-based format (as opposed to presenting aggregate data), the information needed for white collar crime statistics seems to be available.

## **Worker safety**

California's Department of Industrial Relations, Division of Occupational Safety and Health seems to operate primarily administratively, with support from the courts available if needed. Under California Labor Code § 6323, the division may apply to a superior court for injunctions prohibiting unsafe practices. It can also issue citations setting reasonable times to correct issues found and assess administrative fines for same (under Cal. Lab. Code § 6317).

Cal. Lab. Code § 6315.3 explicitly requires the Bureau of Investigations to keep data on, and make annual reports of the following:

(a) Totals of each type of report provided the bureau under each category in subdivision (b) of Section 6315.

(b) Totals of each type of case reflecting the number of investigations and court cases in progress at the start of the calendar year being reported, investigations completed in the calendar year, cases referred to appropriate prosecuting authorities in the calendar year, and investigations and court cases in progress at the end of the calendar year. The types of cases shall include the following:

(1) Those that the bureau is required to investigate, divided into fatalities, serious injuries to five or more employees, and requests for prosecution from a division representative.

(2) Those that were initiated by the bureau following the review required in subdivision (a) of Section 6315, divided into serious injuries to fewer than five employees and serious exposures.

(c) A summary of the dispositions in the calendar year of cases referred by the bureau to appropriate prosecuting authorities. The summary shall be divided into the types of cases, as described in subdivision (b), and shall show at least the violation, the statute for which the case



was referred for prosecution, and the dates of referral to the bureau for investigation, referral from the bureau for prosecution, and the final court action if the case was prosecuted.

(d) A summary of investigations completed in the calendar year that did not result in a referral for prosecution, divided into the types of cases as described in subdivision (b), showing the violation and the reasons for nonreferral.

(e) A summary of the use of the bureau's resources in accomplishing the bureau's mission.

Cal. Lab. Code § 6322 prohibits sharing information obtained by the division and makes violations of that confidentiality a misdemeanor. The division's website does not contain any information on enforcement statistics (beyond referring visitors to OSHA) (<http://www.dir.ca.gov/dosh/EnforcementPage.htm>).

## **Medicaid fraud**

California participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

(a) the number of investigations initiated and the number completed or closed, categorized by type of provider

(b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence

(c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies

(d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit

(e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing usable white collar crime statistics.

California addresses Medicaid fraud through the Attorney General Office's Bureau of Medi-Cal Fraud and Elder Abuse, which pursues such matters both civilly and criminally and publishes basic enforcement statistics on its website at <https://oag.ca.gov/bmfea/medical>.

The California Department of Health Care Services (DHCS) also puts itself forward as the reporting agency for Medicaid fraud (<http://www.dhcs.ca.gov/individuals/Pages/StopMedi-CalFraud.aspx>). It is unclear whether investigations initiated by the DHCS Audits and Investigations unit are routinely referred to the Attorney General's Office.

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# Colorado

## **Banking and finance**

The state bank commissioner and the state banking board, together, have an array of administrative powers, allowing them to require a bank to value assets a particular way, obtain insurance on real estate taken as a security, stop taking deposits, or other similar actions (Colorado Revised Statutes Annotated § 11-101-102(3) and 11-102-104). They may issue cease and desist orders (Colo. Rev. Stat. Ann. § 11-101-104(7)) and assess civil penalties for violations (Colo. Rev. Stat. Ann. § 11-101-503). Interestingly, Colorado expressly prohibits anyone other than the banking board from bringing or maintaining private civil actions for violations of the banking code (Colo. Rev. Stat. Ann. § 11-101-302), but does not grant the ability to bring civil suit to the banking board.

Colo. Rev. Stat. Ann. § 11-102-304 requires the commissioner to publish an annual report containing “such information as the commissioner may determine necessary to reasonably summarize the operations of the division.” While enforcement activity seems like it would fall squarely under that umbrella, there is no guarantee that any particular commissioner would find it to be of sufficient importance. That said, Colo. Rev. Stat. Ann. § 11-102-306 prohibits the banking board, the commissioner, and any deputies and employees from divulging any information acquired by them in the discharge of their duties (except when compelled). Enforcement activities also fall under this category. The Colorado Division of Banking (<https://www.colorado.gov/pacific/dora/node/92701>) has resolved this tension by omitting any mention of enforcement activities from their annual report (<https://drive.google.com/file/d/0BzYdkXo6Bxz2d0JCNFFNZVdqSlk/view>).

## **Environment**

Colorado’s Department of Public Health and Environment consists of a number of specialized boards and commissions focused on the environment and public health. These include the Air Quality Control Commission, the Board of Health, the Executive Director, the Solid and Hazardous Waste Commission, the Water and Wastewater Facility Operators Certification Board, and the Water Quality Control Commission, as well as a number of other boards and commissions that do not have rulemaking authority. We chose to focus on the Air Quality Control Commission as a unit that seemed likely to be deeply involved in code enforcement.

The Air Quality Control Board’s powers are primarily administrative, with the courts available for backup, if necessary. Criminal charges are also a possibility. Barring an emergency, the agency typically acts upon a complaint by investigating it, giving notice of violation (if applicable), and if the violation is not rectified within a reasonable time, issuing an order requiring the responsible person to comply. The order may include modifications to or termination of a license, and may include administrative fees for noncompliance (under Colorado Revised Statutes Annotated § 25-7-115). They also may make use of the district courts to collect on the administrative penalty (under C.R.S.A § 25-7-122).

In the case of emergencies, they may immediately issue cease and desist orders, and/or apply to the district court for a restraining order or injunction (under § 25-7-113).

The division also has the ability to ask the attorney general or the relevant district attorney to initiate criminal (misdemeanor) sanctions against people who knowingly violate the statutes. Felony charges are available for knowing false statements and knowing endangerment (§ 25-7-122.1).

While § 25-7-132 requires the department to make the emissions data that it collects public, there are no similar provisions pertaining to enforcement. That said, the department makes quarterly enforcement reports available on its website at <https://www.colorado.gov/pacific/cdphe/enforcement-action-reports>.

## **Worker safety**

While there was not a governmental agency that directly addressed worker safety in Colorado, the closest fit was the Industrial Claim Appeals Office in Colorado's Department of Labor and Employment. This department has general authority (under § 8-1-107(2)(b)) to "inquire into and supervise the enforcement, with respect to relations between employer and employee, of the laws relating to child labor, laundries, stores, factory inspection, employment offices and bureaus, and fire escapes and means of egress from places of employment and all other laws protecting the life, health, and safety of employees in employments and places of employment."

Failing to furnish information requested by the investigators is a misdemeanor (under § 8-1-114) as is intentional abuse of process (§ 8-1-125), failure to testify (§ 8-1-139), and failure to obey a lawful order (§ 8-1-140), but the director's primary tool is voluntary arbitration (§ 8-1-123). Any penalties are to be collected through a civil action in the director's name (§ 8-1-142). False statement to obtain a benefit are a class 5 felony (§ 8-1-144).

Colorado Revised Statutes Annotated § 8-1-115 prohibits sharing information obtained by the division, that has been deemed by the director to possibly contain a trade secret. The penalty for such disclosures is a \$1,000 fine and disqualification from state employment. No specific mention is made of any mandate to publish nonconfidential information. Its website (<https://www.colorado.gov/pacific/cdle/icao-wc>) makes no research data available.

## **Medicaid fraud**

Colorado participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider

(b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence

(c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies

(d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit

(e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing usable white collar crime statistics.

Colorado addresses Medicaid fraud through the Attorney General Office's Medicaid Fraud Control Unit (MFCU). They pursue such matters both civilly and criminally, but publish no statistics on its efforts (<http://coag.gov/about-us/office-sections/criminal-justice>). There is a brief mention of the MFCU in the Attorney General Office's annual report, which includes some aggregate enforcement metrics for the unit and a high-profile enforcement anecdote (<http://coag.gov/resources/annual-report/2014-annual-report>).

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# **Connecticut**

## **Banking and finance**

Under Connecticut General Statutes Annotated § 36a-15, the Banking Commissioner (Commissioner) is required to report crimes (for which confinement in a penal institution is a possibility) to the proper official, when the knowledge of the violation is obtained in the course of the commissioner's duties. This is not exactly the same thing as having criminal authority or specific laws governing the banking industry that carry with them criminal sanctions—but as most of the acts that one might expect to be criminalized in a banking code (such as fraud) are already criminal, it is unclear that there is much functional difference (except in data keeping, as the commissioner's involvement ends at the report).

The Commissioner also has access to a few minor administrative powers—he or she may administratively suspend a license (under C.G.S.A § 36a-24b), and failing to publish required reports carries with it an administrative fine of up to \$100 per day (under C.G.S.A § 36a-16).

While the Commissioner is required to make annual reports to the governor (under C.G.S.A § 36a-14), enforcement is not one of the topics that he or she is required to cover. However, under C.G.S.A § 36a- 21, “(t)he commissioner may, without waiving any privilege, disclose the records described in subsection (a) of this section for any appropriate supervisory, governmental, law enforcement, or other public purpose. Any such disclosure shall be made under safeguards designed to prevent further dissemination of such records.” As white collar crime statistics serve an appropriate public purpose, it looks like the commissioner would be allowed to share it. While this annual report was not located online, the Department of Banking's website does contain a searchable list of the department's administrative orders and settlements ([http://www.ct.gov/dob/cwp/view.asp?a=2246&q=302060&dobNAV\\_GID=1661&dobNav=|](http://www.ct.gov/dob/cwp/view.asp?a=2246&q=302060&dobNAV_GID=1661&dobNav=|)).

## **Environment**

Connecticut's Department of Energy and Environmental Protection relies primarily on its administrative authority, with the commissioner having broad authority to issue administrative fines in wide array of instances (under C.G.S.A § 22a-6b and 6e). The commissioner can make these fines conditional on repairing a violation, acting as a de facto ability to compel action, but can also apply to the superior court of the judicial district of Hartford for a cease and desist order, or can issue administrative cease and desist orders in the case of emergencies (C.G.S.A § 22a-7). In the case of damage to wetlands and watercourses in particular (under C.G.S.A § 22a-35), the commissioner can instruct the attorney general to institute a civil action to recover fines.

While it does not speak directly to publication, under Conn. Gen. Stat. Ann. § 22a-6(a)(6), the commissioner may “undertake any studies, inquiries, surveys or analyses he may deem relevant,

through the personnel of the department or in cooperation with any public or private agency, to accomplish the functions, powers and duties of the commissioner.” C.G.S.A § 22a-6w requires that “[p]rior to, or concurrent with, taking any enforcement action under this title or any action to recover any civil penalty imposed under this title, the Commissioner of Energy and Environmental Protection shall give notice of such action to the chief elected official of the municipality in which the regulated activity which gave rise to such action is located. Such information shall be held confidential by such official and shall not be considered a public record or public information for purposes of chapter 3.” The initial notification is made confidential, not the underlying facts (i.e., while the municipal notices may be confidential, statistics describing such events do not appear to be covered in the same way). All the same, other readings of that section are possible, including readings that would actively prevent the department from discussing enforcement actions at all. Its website does not currently host any relevant information: [http://www.ct.gov/deep/cwp/view.asp?a=2694&q=322602&depNav\\_GID=1629](http://www.ct.gov/deep/cwp/view.asp?a=2694&q=322602&depNav_GID=1629).

## **Worker safety**

Connecticut’s Occupational Safety and Health Review Commission uses a mix of administrative, civil, and criminal enforcement powers. Administratively, it may revoke or suspend licenses (under C.G.S.A § 31-374(h)(4)), issue citations that specify actions that must be completed to avoid penalty (C.G.S.A § 31-375), and assess fines (C.G.S.A § 31-382). Civilly, it can petition the Superior Court to enjoin dangerous conditions or practices (C.G.S.A § 31-380(a)). It can also invoke the criminal law, in cases where violations result in death (C.G.S.A § 31-382(e)), or in cases of people making false statements, providing advance notice of inspections, or injuring or refusing entry to authorized representatives (C.G.S.A § 31-382).

C.G.S.A § 31-381 makes the information that the commission gains confidential if it might reveal a trade secret, but C.G.S.A § 31-383 requires that the commissioner conduct research and mandates that it be made public (after anonymizing the data to protect the workers). Enforcement information is available on its website (<http://www.ctdol.state.ct.us/osha/osha.htm>).

## **Medicaid fraud**

Connecticut participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider
  
- (b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence

(c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies

(d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit

(e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing usable white collar crime statistics.

Connecticut addresses Medicaid fraud through the Medicaid Fraud Control Unit within the Office of the Chief State's Attorney and may exclusively pursue the matter criminally. It does not make statistical information available online (<http://www.ct.gov/csao/cwp/view.asp?q=285772>).

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.



# Delaware

## **Banking and finance**

The state bank commissioner of Delaware's powers are almost exclusively administrative, including the power to issue cease and desist orders (under Title 5 of Delaware Code Annotated § 136(a)), to order a financial institution to take action to correct violations (5 Del. C. § 124(a)(1)(b)), and to assess administrative fines (under 5 Del. C. § 143(a)(2)). There are isolated areas where the commissioner receives the backing of criminal or civil law. For example, making false statements to investigators is punishable by imprisonment (and must therefore be under criminal law), but no mention is made of the term of imprisonment, or whether this would be a misdemeanor or a felony (5 Del. C. § 123). Similarly, there is some mention of the commissioner (or the attorney general, at the commissioner's request) "initiating proceedings" (presumably civil proceedings) against banks with impaired capital (5 Del. C. § 130).

The commissioner is allowed (under 5 Del. C. § 124(b)) to share summaries of examination reports with "appropriate state and federal authorities," but it is unclear whether DOJ agencies would be considered to be "appropriate" in this context (or if the term is meant to reference regulatory agencies or something of that nature). Under 5 Del. C. § 125(a), the commissioner (and his or her employees) are required to keep any information obtained in the course of their examinations secret "except insofar as public duty shall require a report to be made of the examination" (on pain of imprisonment, fine, and termination of employment). It is unclear if the collection of accurate and timely white collar crime statistics is of sufficient importance to trigger a public duty, but it seems likely that the steep penalties would motivate said employees to err on the side of caution. While annual reports are available ([http://banking.delaware.gov/annual\\_reports.shtml](http://banking.delaware.gov/annual_reports.shtml)), they contain no real discussion of enforcement.

## **Environment**

Delaware's Department of Natural Resources and Environmental Control (Office of Environmental Protection) has a mix of civil, administrative, and criminal enforcement options at its disposal. It has recourse to the courts (in this case, the Superior Court) in order to impose a civil penalty (of between \$1,000 and \$10,000 per violation). It can also apply to the Court of Chancery for an injunction or restraining order if there is a likelihood that the violation will reoccur (7 Del. C. § 6005(b)(1), (2)). The Secretary can seek reimbursement for costs related to abatement, cleanup, and the like through administrative channels, with the support of the courts (in this case, any court of competent jurisdiction within the state of Delaware) (7 Del. C. § 6005(c)). The Secretary may also impose administrative penalties (of not more than \$10,000 per day of violation), which may be brought to the Superior Court for collection if all else fails (7 Del. C. § 6005(b)(3)), and can issue cease and desist orders to stop violations (7 Del. C. § 6018). Criminal charges are authorized for violations of 7 Del. C. §

6003 (dealing with discharging pollutants or contaminants without a permit), violations of requirements concerning monitoring, recording, or reporting pollutants or contaminants, violations of pretreatment standards, and for causing serious harm to the environment or serious physical injury to another person. Making false statements and tampering with monitoring equipment is likewise criminalized as a class D felony (7 Del. C. § 6013).

The Secretary of Department of Natural Resources and Environmental Control is required to maintain a record of violations (29 Del. C. § 8003(13)(e)). While the Secretary is also required to make an annual report to the Governor and General Assembly (29 Del. C. § 8017, 29 Del. C. § 8022 ), more focused data collection mandates are available. 7 Del. C. § 6014 mandates the creation of an Environmental Information System. The system is required to “provide the public with information that indicates when a facility has been inspected, what violations are detected, when the facility comes into compliance, and any enforcement action that results from violations at the facility.” This seems likely to provide data of value to researchers. The department’s enforcement and compliance information webpage (<http://www.dnrec.delaware.gov/Info/Pages/Enforcement.aspx>) includes a wide variety of enforcement information.

## **Worker safety**

A dedicated state agency responsible for worker safety in Delaware could not be located online.

## **Medicaid fraud**

Delaware participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider
- (b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence
- (c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies
- (d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit

(e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing usable white collar crime statistics.

Delaware addresses Medicaid fraud through the Medicaid Fraud Control Unit within the Delaware Department of Justice and pursues the matter both criminally and civilly. It does not make statistical information available online (<http://attorneygeneral.delaware.gov/fraud/mfcu/index.shtml>).

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# Florida

## **Banking and finance**

Florida's Office of Financial Regulation uses a mix of administrative and criminal powers, with the civil courts available as a fallback for the administrative powers, if necessary. Under Florida Statutes Annotated § 655.033, the office has the power to issue cease and desist orders. The circuit court may issue injunctions to a similar effect, if necessary (F.S.A. § 655.034). The office may also assess administrative fines of up to \$2,500 per day, per violation in most cases, or up to \$500,000 per day, per violation in more extreme cases (F.S.A. § 655.041). Felony criminal enforcement powers may be invoked in a variety of instances of financial services corruption (F.S.A. § 655.0322).

Under F.S.A. § 655.057, all records and information relating to investigations performed by the office that are not otherwise public records are confidential during an active investigation and also afterwards if they fit in one of several categories. These categories include records that might "defame or cause unwarranted damage to the good name or reputation of an individual" (F.S.A. § 655.057(1)(e)). It is unclear to what extent factual records of criminal complaints would be considered to defame someone's good name. However, F.S.A. § 655.057(5)(c) allows for "[d]isclosing or publishing summaries of the condition of financial institutions and general economic and similar statistics and data, provided that the identity of a particular financial institution is not disclosed." It is unclear to what extent enforcement data might be considered similar to general economic data. The Florida Office of Financial Regulation's website does not make enforcement data available online (<http://www.flofr.com/>).

## **Environment**

Florida's Department of Environmental Protection has both civil and criminal enforcement options at its disposal. F.S.A. § 403.141 makes polluters civilly liable to the state for damage caused to the environment and imposes a civil penalty of \$10,000 per offense. Other related offenses (such as making false statements or failing to report accidents) are civilly punished under F.S.A. § 403.161, which also criminalizes a range of offenses, including willfully releasing pollution so as to damage the environment (a felony under F.S.A. § 403.161(3)). Doing so recklessly is a misdemeanor under F.S.A. § 403.161(4)). Making false statements or failing to obtain a permit are also misdemeanors (under F.S.A. § 403.161(5)).

While F.S.A. § 403.111 makes records confidential that relate to secret methods of manufacture or production, or to financial information that is not otherwise public record (essentially, trade secrets), it is silent as to other information, such as enforcement statistics. It publishes a fairly wide array of them on its website (<http://dep.state.fl.us/mainpage/ce/stats.htm>).

## Worker safety

A dedicated state agency responsible for worker safety in Florida could not be located online.

## Medicaid fraud

Florida participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider
- (b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence
- (c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies
- (d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit
- (e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing usable white collar crime statistics.

Florida addresses Medicaid fraud through the Medicaid Fraud Control Unit within the Office of the Attorney General and pursues the matter both criminally and civilly. It does not make statistical information available online

<http://myfloridalegal.com/pages.nsf/4492d797dc0bd92f85256cb80055fb97/ebc480598bbf32d885256cc6005b54d1!OpenDocument>).

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# Georgia

## **Banking and finance**

Georgia's Department of Banking and Finance uses a mix of criminal and administrative authority, with the option of using the courts to back up its administrative orders if they are ignored. Under Georgia Code Annotated § 7-1-68, failing to meet a reporting requirement may be punished with an administrative fine of \$100 per day. If the financial institution fails to pay the department, the attorney general may bring an action in civil court to recover the sum owed. Similarly, the department may issue cease and desist orders under Ga. Code Ann. § 7-1-91(d), and the attorney general may bring an action in civil court to enforce it if need be, under Ga. Code Ann. § 7-1-91(e), up to an including civil forfeiture (Ga. Code Ann. § 7-1-92). The administrative fine provisions under Ga. Code Ann. § 7-1-91(f) are an exception to this pattern, as they do not direct the attorney general to assist in their collection. However, their description as a civil fine may imply access to the civil courts in enforcing them (even though the term "civil" is also used for administrative actions, and is used primarily to distinguish them from criminal actions). On the criminal side of things, Georgia makes many forms of corruption and deceptive business practices felonies (Ga. Code Ann. § 7-1-842, 845) or misdemeanors (Ga. Code Ann. § 7-1-843, 844).

The department is required to maintain its records of examinations and investigations for at least five years (Ga. Code Ann. § 7-1-69). While the department's records and the information contained within is presumptively confidential, the department may make exceptions for records which, in the opinion of the commissioner, "do not contain sensitive information and from which disclosure the public would benefit" (Ga. Code Ann. § 7-1-70). Enforcement data would seem like a prime example of such a record. That said, the department's website (<http://dbf.georgia.gov/enforcement-actions-and-orders-against-financial-institutions>) does not publish any, and it includes the sentence "The Department is not authorized to publish examination ratings, number of complaints, or informal administrative actions issued against individual financial institutions."

## **Environment**

Georgia's Department of Natural Resources, Division of Environmental Protection is primarily granted administrative and criminal powers. Under Ga. Code Ann. § 12-2-2(c)(4), the department may seek payment of civil penalties under Georgia's various environmental laws, such as Ga. Code Ann. § 12-5-106 (dealing with ground-water use) and Ga. Code Ann. § 12-8-30.6 (dealing with solid waste management). Under Ga. Code Ann. § 12-2-2(c)(5), it can seek criminal penalties on behalf of the Department of Natural Resources. These include both felonies (such as Ga. Code Ann. § 12-5-53, relating to water pollution) and misdemeanors (such as Ga. Code Ann. § 12-6-62, relating to the practice of professional forestry).

No statutes directly regulate the information gathered by the Division of Environmental Protection, though certain piecemeal provisions of the environmental code contain their own confidentiality provisions (such as 12-8-29.2, relating to solid waste management). The division's website lists executed administrative orders for the current week, but it does not maintain historical data online (<http://epd.georgia.gov/executed-orders>).

## **Worker safety**

A dedicated state agency responsible for worker safety in Georgia could not be located online. However, it does allow the Department of Health to "conduct studies and research pertaining to the operation and maintenance of industrial, commercial, business, or other facilities where people congregate or work. The department may issue such orders and directives in any particular instance as shall be necessary to abate or minimize any practice or any operation or condition that constitutes or may be reasonably deemed to constitute a hazard to the health and safety of the employees or the general public" (Ga. Code Ann. § 31-12-8).

While the Department of Health maintains statistics on occupational health, they are not from the point of view of enforcement (<http://dph.georgia.gov/georgia-occupational-health-and-safety-surveillance-program>).

## **Medicaid fraud**

Georgia participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider
- (b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence
- (c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies
- (d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit

(e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing usable white collar crime statistics. Georgia addresses

Medicaid fraud through the Medicaid Fraud Control Unit, under the Georgia Department of Law (which includes the attorney general), and primarily pursues the matter civilly. It does not make statistical information available online (<http://law.ga.gov/medicaid-fraud-control-unit>).

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.



# Hawaii

## **Banking and finance**

Hawaii's Department of Commerce and Consumer Affairs, Division of Financial Institutions uses a mix of administrative and criminal enforcement powers. Under Hawaii Revised Statutes Annotated § 412:2-300, the commissioner is given free rein to use a variety of administrative powers to effect the purposes of the division. These include cease and desist orders, removal orders, suspension and revocation orders, divestiture orders, and orders enforcing statutory provisions. Under H.R.S. § 412:2-601 et seq., a number of criminal penalties are laid out. Willful violation of any provision without a specific penalty is a misdemeanor (H.R.S. § 412:2-601). Available felonies include H.R.S. § 412:2-607, dealing with deception and false statements, and H.R.S. § 412:2-608, dealing with misapplication of funds.

Under HRS§ 412:2-104, the commissioner (and other employees) are prohibited from divulging any information that is in their possession through the course of their duties. Its website includes no public enforcement data (<http://cca.hawaii.gov/dfi/main/complaint-fags/>).

## **Environment**

Hawaii's Environmental Health Administration, Environmental Management Division, has five branches, which are each established separately in the law within Title 19 (Health) of Hawaii Revised Statutes. These branches are the Clean Air Branch (Chapter 342B), the Clean Water Branch (Chapter 342D), the Safe Drinking Water Branch (340E and F), the Solid and Hazardous Waste Branch (Chapter 342G), and the Wastewater Branch (340B). We chose to focus on the Clean Water Branch as a large, well-funded department that would be representative of environmental enforcement efforts in Hawaii.

The Clean Air Branch uses a mix of administrative and criminal power. The director may, under H.R.S. § 342D-9(a)(1), administratively require violators to take actions dictated by the department. Under H.R.S. § 342D-30, the director can fine violators up to \$25,000 per offense per day. Negligent violations are misdemeanors (except for repeat offenses, which are felonies) under H.R.S. § 342D-32. Offenses committed knowingly are also felonies (H.R.S. § 342D-33).

H.R.S. § 342D-14 attaches a \$1,000 fine to revealing confidential information but does not explicitly define what information is confidential. Reports of pollution submitted to the department are available for inspection by the public during established office hours (unless the report contains confidential information). The branch's website does not contain any sort of enforcement data online (<http://health.hawaii.gov/cab/>).

## Worker safety

Hawaii regulates worker safety through the occupational safety and health division of the department of labor and industrial relations. Under H.R.S. § 396-4(d), the department has the administrative power to mandate remedial actions and the right to obtain civil injunctions in the relevant circuit court. Under H.R.S. § 396-10, violators may be assessed administrative penalties of up to \$7,700 for each violation (or \$77,000 per violation for willful or repeated violations), with violations that result in death triggering misdemeanor criminal penalties. Misdemeanor criminal penalties are also available for knowingly making false statements and other related crimes.

While H.R.S. § 396-13 mandates that information containing or revealing trade secrets be kept confidential, there is no explicit mention of how other information is to be handled. Enforcement statistics are not available on its website (<http://labor.hawaii.gov/hiosh/>).

## Medicaid fraud

Hawaii participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider
- (b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence
- (c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies
- (d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit
- (e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing usable white collar crime statistics.

Hawaii addresses Medicaid fraud through the Medicaid Fraud Control Unit, which is conducted jointly by the Department of the Attorney General (Criminal Division) and the Department of Human Services (Adult Protective Services). It can make use of both civil and criminal enforcement tools. It does not make statistical information available online (<http://ag.hawaii.gov/cjd/medicaid-fraud-control-unit/>).

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# Idaho

## **Banking and finance**

Idaho's Department of Finance uses a mix of administrative and civil enforcement powers. Under Idaho Code § 26-1115, the director of the Department of Finance may issue administrative cease and desist orders to prevent or halt unsafe or unsound practices, or relevant violations of law. The director may also assess an administrative penalty of \$1,000 per violation per day. Under I.C. § 26-1116, the director also has the option to bring an action in any court of competent jurisdiction, asking for an injunction, a declaratory judgment, the appointment of a conservator or receiver, and/or the collection of penalties, costs, and fees.

Under I.C. § 26-1111, it is a felony for any member of the department to reveal any fact or information obtained in the course of its business unless they are required by law, or in certain other cases involving problem banks. Its website (<http://www.finance.idaho.gov/>) follows this pattern—presenting no comprehensive data, but including details on isolated problem entities.

## **Environment**

Idaho's Department of Environmental Quality has a wide array of enforcement tools at its disposal. Idaho Code § 39-108 specifically empowers the director to both take administrative enforcement actions (in the form of fines and compliance orders) and to ask the attorney general to commence civil actions (civil penalties and compelled compliance). I.C. § 39-109 similarly directs the attorney general to prosecute such criminal violations of the environmental quality laws as the director might require.

While I.C. § 39-111 declares that all information furnished to the department or its agents will be subject to disclosure, it does so by reference to Title 74, Chapter 1 of the Idaho Code. This is a large section on transparent and ethical government, which includes a number of different laws relating to exactly which sorts of information can and should be revealed to the public. How the department chooses to interpret them is unclear. Its website (<http://deq.idaho.gov/about-deq/>) does not feature enforcement statistics online, but whether this is an omission or a reflection of their interpretation of the disclosure laws is uncertain.

## **Worker safety**

While Idaho has a robust employee insurance and worker rehabilitation system, a dedicated state agency responsible for worker safety in Idaho could not be located online.

## **Medicaid fraud**

Idaho participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

(a) the number of investigations initiated and the number completed or closed, categorized by type of provider

(b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence

(c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies

(d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit

(e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing usable white collar crime statistics.

Idaho addresses Medicaid fraud through the Attorney General's Medicaid Fraud Control Unit, in cooperation with the Idaho Department of Health and Welfare and the Idaho Commission on Aging. It is unclear whether they pursue Medicaid fraud civilly or criminally or both. It does not make statistical information available online ([http://www.ag.idaho.gov/medicaidFraud/medicaidFraud\\_index.html](http://www.ag.idaho.gov/medicaidFraud/medicaidFraud_index.html)).

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# Illinois

## **Banking and finance**

Illinois' Department of Financial and Professional Regulation's Division of Banking has a relatively limited zone of authority, being able to act primarily in cases of misleading practices and names. However, the department does have both criminal (205 Illinois Compiled Statutes 5/46(a)) and administrative (205 Illinois Compiled Statutes 5/46(b), (d)) powers at its disposal. The division can also go after false statements criminally (205 ILCS 5/49). Under 205 ILCS 5/48.2, requiring that a customer use a specific service may be prosecuted as a business offense (a minor form of criminal violation).

Under 205 Illinois Compiled Statutes 5/48.3, any report of examination, visitation, or investigation prepared by the department is "confidential supervisory information" and may not be shared (except in certain situations) without incurring an administrative penalty of up to \$1,000. The department nevertheless makes a great deal of enforcement information available on its website (<http://www.idfpr.com/banks/cbt/enforcement.asp>).

## **Environment**

The Illinois Environmental Protection Agency has authority, under 415 ILCS 5/31, to administratively determine the actions necessary for an entity not to be in violation, and to involve the Office of the Attorney general in resolving the matter, if necessary (including by civil suit). 415 ILCS 5/31 also allows the agency to assess administrative penalties of up to \$50,000 per violation (plus \$10,000 per day). The penalty may be recovered in a civil action. 415 ILCS 5/43 authorizes civil injunctions. 415 ILCS 5/44 also assigns criminal penalties to many knowing violations of the statutes, many offenses involving hazardous waste, and many offenses involving false statements.

415 ILCS 5/4(b) gives the agency the duty to "collect and disseminate such information as may be required to carry out the purposes of the Act." This would allow the sort of data sharing that a white collar crime researcher would require. As of September 2016, its website did not feature enforcement statistics (<http://www.epa.illinois.gov/topics/environmental-justice/index>).

## **Worker safety**

Worker safety in Illinois is the responsibility of the Illinois Department of Safety and Health. Under 820 ILCS 219/80, the director has the power to demand the abatement of violations. 820 ILCS 219/85 allows the director to assess administrative penalties, and to request aid in collecting the sums from the attorney general (who may initiate civil suit to collect). Under 820 ILCS 219/120, criminal penalties are available for willful violations resulting in death, providing advance notice of inspection, and making false statements.

While 820 ILCS 219/125 criminalizes the disclosure of trade secrets by the agency, there is no guidance directly impacting enforcement statistics. In contrast, 820 ILCS 219/140 mandates annual reports to the

Governor that include “the result of inspections and investigations.” This includes enforcement statistics. The annual reports on its website

(<http://www.illinois.gov/idol/Laws- Rules/safety/Pages/healthsafetyact.aspx>) are detailed.

## **Medicaid fraud**

Illinois participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider
- (b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence
- (c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies
- (d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit
- (e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing white collar crime statistics.

Illinois addresses Medicaid fraud through the Medicaid Fraud Control Units inside the Illinois State Police, in cooperation with the Idaho Department of Healthcare and Family Services. The state police primarily pursues the matter criminally. The Illinois State Police does not make statistical information available online (<https://www.isp.state.il.us/crime/medicaidfraud.cfm>). The Department of Healthcare and Family Services’ Office of the Inspector General primarily pursues the matter administratively and civilly and does make some of its information available online (<http://www.illinois.gov/hfs/oig/Pages/AnnualReports.aspx>).

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# Indiana

## **Banking and finance**

Indiana's Department of Financial Institutions primarily uses accomplishes its mission through use of its administrative powers, with recourse to the courts if necessary. Under Indiana Code 28-11-4-3, the director may remove employees or officers from office or employment, and assess a penalty of \$500 a day if their command is not followed. IC 28-11-4-4(b)(3) further allows the director to issue cease and desist orders, or to compel action, while IC 28-11-4-7(c)(3) allows for administrative fines. IC 28-11-4-10 authorizes the director to use the courts to enforce orders, agreements, or conditions. The department can use the criminal courts under the following condition: It is a felony for someone who has been prohibited from participating in banking in Indiana (under IC 28-11-4-11).

Under IC 28-1-2-30, members of the department may not reveal "any...information concerning the affairs of any such financial institution." This would seem at first glance to include enforcement activity. That said, its website (<http://www.in.gov/dfi/2702.htm>) does list recent enforcement actions, even if it do not make any kind of aggregate statistics available online.

## **Environment**

While the Indiana Department of Environmental Management has primary authority to enforce Indiana's environmental laws and regulations, Indiana also allows any citizen to bring suit in the name of the state against any entity for the protection of the environment of Indiana (under IC 13-30-1-1). This would make gathering comprehensive statistics on such suits problematic (though there is a notification provision under IC 13-30-1-2). The commissioner has the usual administrative tools, including compelled action under the threat of administrative fines (under IC 13-30-3-3) and the equivalent civil court rights of action (under IC 13-30-4-1). Additionally, criminal penalties are available under IC 13-30-10-1.5 for some classes of knowing violations (generally involving hazardous waste, oil, or false material statements).

Indiana Code 13-30-7-5 requires the department to file an annual report that covers violations, corrections for violations, and penalties imposed. Data are also available through a searchable enforcement database ([http://www.in.gov/apps/idem/oe/idem\\_oe\\_order](http://www.in.gov/apps/idem/oe/idem_oe_order)).

## **Worker safety**

Worker safety in Indiana is the responsibility of the Indiana Occupational Safety Standards Commission. Under Indiana Code 22-8-1.1-23.1(c)(2), the commissioner has the power to demand the abatement of violations, and to assess an administrative fine if the violation is not abated in a reasonable time. Under IC 22-8-1.1-35.6, the commissioner may refer matters to the attorney general for enforcement through the civil courts if an administrative safety order, penalty assessment, or notice of failure to correct violation is ignored. Under IC 22-8-1.1-49, knowing violations of the chapter are misdemeanors, unless otherwise provided.



Trade secrets, and information that might reveal trade secrets, are held confidential under IC 22-8-1.1-48.4. This would not usually apply to enforcement data. Likewise, there are requirements to record statistical information (such as IC 22-8-1.1-43.1), but they apply more to safety information than to enforcement information. Its website (<https://secure.in.gov/dol/2366.htm>) contains isolated and sporadic enforcement data.

## Medicaid fraud

Indiana participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider
- (b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence
- (c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies
- (d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit
- (e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing white collar crime statistics.

Indiana addresses Medicaid fraud criminally through the Medicaid Fraud Control Unit associated with the Office of the Attorney General, in cooperation with the Indiana Family and Social Services Administration. Neither organization publishes relevant statistics

(AG: <https://secure.in.gov/attorneygeneral/2453.htm>; FSSA: <https://secure.in.gov/fssa/dfr/2385.htm>).

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# Iowa

## **Banking and finance**

Iowa's Division of Banking has access to civil, criminal, and administrative enforcement options. Under Iowa Code Annotated § 524.223, the superintendent may issue administrative orders. I.C.A. § 524.227 empowers the superintendent to enforce chapter 537 (the consumer credit code) against banks (which includes a variety of administrative and civil powers). I.C.A. § 524.1601 et seq. create a variety of criminal offenses related to banking.

Under Iowa Code Annotated § 524.212, employees of the banking division "shall not disclose, in any manner, to any person other than the person examined and those regulatory agencies referred to in section 524.217, subsection 2, any information relating specifically to the supervision and regulation of any state bank." This sentence is somewhat ambiguous as to exactly what is required to be specific. While enforcement data relates specifically to the regulation of state banks, aggregated enforcement data would not relate to any state bank specifically. However, I.C.A. § 524.216 requires that the superintendent create an annual report that includes "[s]uch other information as the superintendent may deem appropriate and advisable to fairly disclose the discharge of the duties imposed upon the superintendent." Its website (<http://www.idob.state.ia.us/>) does not contain published enforcement information.

## **Environment**

The Department of Natural Resources' Environmental Protection Commission is responsible for environmental regulation in Iowa. Because its responsibilities are broken into several code sections, one was selected as representative: air quality (Division II of Chapter 455B of Subtitle 1 of Title XI of the Iowa Code). The director of the Department of Natural Resources is allowed to issue administrative orders of various types (by I.C.A. § 455B.134(9) and emergency orders under I.C.A. § 455B.139). I.C.A. § 455B.146 allows the department to enlist the attorney general to initiate a civil action (for either a civil penalty or injunctive relief) on their behalf in response to violations of those orders, or of any permit or rule. Criminal penalties (of both misdemeanor and felony variety) for knowing violations, false statements, nonpayment, and negligent pollution are available under I.C.A. § 455B.146A.

I.C.A. § 455A.4 (1)(d) requires the department to file an annual report, and I.C.A. § 455B.134(5) and (7) specifically instruct the director to "conduct and encourage studies, investigations, and research relating to air pollution and its causes, effects, abatement, control, and prevention" and to "collect and disseminate information, and conduct educational and training programs, relating to air pollution and its abatement, prevention, and control." Both regulations suggest an interest in cooperating with white collar crime research. While I.C.A. § 455B.137 restricts the divulgement of trade secrets and

such, this prohibition seems unlikely to apply to enforcement data. Enforcement actions (going as far back as 2007) are listed alphabetically on its website (<https://www.iowadnr.gov/About-DNR/About-DNR/Enforcement-Actions>). The department does not make aggregate data available online.

## **Worker safety**

Worker safety in Iowa is the responsibility of the Labor Commissioner. The commissioner is authorized, under I.C.A. § 88.7(1), to issue citations in response to violations. These citations must include a reasonable time for abatement (functioning similarly to an administrative abatement order). Civil orders may be obtained under I.C.A. § 88.11 but only in emergencies. Administrative fines for violations are authorized under I.C.A. § 88.14 (and may be collected civilly or administratively under I.C.A. § 88.14(12)). I.C.A. § 88.14 also spells out a number of aggravated and serious misdemeanors.

Under I.C.A. § 88.6(8), records of enforcement actions are confidential until the enforcement action is complete. This strongly implies that they are publicly available after that point (though I.C.A. § 88.12 protects any trade secrets such information might contain). I.C.A. § 88.19(3) explicitly discusses enforcement activity as one of the categories of information that may be included in the commissioner's annual report. This report is not available on the Labor Commissioner's website (<http://www.iowadivisionoflabor.gov/>), which also does not contain any other enforcement data.

## **Medicaid fraud**

Iowa participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider
- (b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence
- (c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies
- (d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit

(e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing usable white collar crime statistics.

Iowa addresses Medicaid fraud criminally through the Medicaid Fraud Control Unit associated with the Iowa Department of Inspections and Appeals. The division does not make any statistics available on its webpage (<https://dia.iowa.gov/investigations/medicaid-fraud-control-unit>).

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# **Kansas**

## **Banking and finance**

The Kansas State Banking Commissioner accomplishes his or her mission through the use of administrative and criminal enforcement powers. The commissioner is empowered to issue administrative orders under Kansas Statutes § 9-1715 and § 9-1807, and to assess and collect administrative fines under KS § 9-1809. Kansas has various criminal laws at its disposal. Misdemeanor criminal sanctions are available under KS § 9-1717, 9-2001, 9-2005, 9-2007, 9-2008, 9-2011, 9-2013, and 9-2016. Felony sanctions are available under KS § 9-2002, 9-2006, 9-2010, 9-2012, and 9-2019.

Under Kansas Statutes § 9-1712, “[a]ll information the state bank commissioner generates in making an investigation or examination of a state bank or trust company shall be confidential information.”

However, confidential information is allowed to be disclosed with the written approval of the commissioner, meaning that this statute either completely blocks all enforcement data or makes it completely accessible, depending on the commissioner. The commissioner’s website (<http://www.osbckansas.org/index.html>) does not publish enforcement statistics at this time.

## **Environment**

Environmental enforcement responsibilities in Kansas rest with the Kansas Department of Health and Environment. While the various subject areas within environmental regulation and enforcement are codified and handled separately, Air Quality Control was chosen because it, unlike many other Kansas environmental bureaus, had a fully-formed enforcement body within it. Under KS § 65-3011, the secretary of health and environment may issue an administrative order directing regulated entities to take corrective action. Under KS § 65-3012, the secretary may also commence (or request the attorney general or appropriate county or district attorney to commence) an action in district court to enjoin acts or practices in violation of the environmental code. Administrative fines are authorized under KS § 65-3018. Criminal penalties for most types of violations are authorized under KS § 65-3025 and 65-3026, with most violations being misdemeanors unless they are done knowingly (in which case they are felonies).

Kansas Statutes § 65-3015 affirmatively makes all records, reports, and information obtained in the course of enforcing the environmental statutes open to the public, with the exception of records or information that can be shown to reveal trade secrets. That said, enforcement information is unavailable in either the department’s annual report ([http://www.kdheks.gov/environment/download/2013\\_Environment\\_Report.pdf](http://www.kdheks.gov/environment/download/2013_Environment_Report.pdf)) or the bureau’s enforcement webpage (<http://www.kdheks.gov/air-permit/indexCE.html>).

## **Worker safety**

Under KS § 44-636, worker safety in Kansas is the responsibility of the secretary of labor. The same statute authorizes administrative orders (KS § 44-636(d)), makes willful violation of such orders a

criminal misdemeanor (KS § 44-636(g)), and possibly authorized unspecified civil actions by the attorney general (KS § 44-636(h)).

While the secretary of labor is required to submit an annual report under KS § 44-634, there is no specific mention of reporting enforcement data. The secretary's website (<https://www.dol.ks.gov/Safety/Default.aspx>) does not publish information on related enforcement activities.

## **Medicaid fraud**

Kansas participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider
- (b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence
- (c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies
- (d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit
- (e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing white collar crime statistics.

Kansas addresses Medicaid fraud through the Office of the Attorney General (<https://ag.ks.gov/file-a-complaint/medicaid-fraud>). It is unclear whether it pursues the matter civilly or criminally, and it makes no data available on its website.

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# **Kentucky**

## **Banking and finance**

Kentucky's Department of Financial Institutions accomplishes its mission through the use of administrative and criminal enforcement powers. Under Kentucky Revised Statutes § 286.3-690, the commissioner of the department has the ability to administratively issue cease and desist orders (after an administrative hearing) in cases of violations or unsafe or unsound business practices. Administrative fines are authorized under KRS § 286.3-990, which also authorizes two misdemeanor penalties.

While there is a mandatory annual report (under KRS § 286.3-660), enforcement data, if any, would be folded into the category of "such other information relating to such banks and trust companies, as, in the commissioner's judgment, may be useful." These annual reports are available on the department's website (<http://www.kfi.ky.gov/publications/Pages/annualreports.aspx>). The report details the various units that make up the department, but it does not give uniform metrics between them. Only the Securities Division published enforcement statistics (most notably, the Division of Depository Institutions does not publish these statistics).

## **Environment**

Kentucky's Department for Environmental Protection is in the Energy and Environment Cabinet and has responsibility for enforcing Kentucky's various environmental statutes. While these laws are many and various (and generally codified separately), Kentucky Revised Statutes § 224.99-010 allows for administrative fines and misdemeanor penalties in a broad swath of environmental subject areas, and K.R.S. § 224.99-020 authorizes the collection of fines and penalties in civil court (and injunctions).

Under K.R.S. § 224.10-100(8), the cabinet is authorized to "collect and disseminate information and conduct educational and training programs relating to the protection of the environment." Similarly, K.R.S. § 224.10-210 mandates that all information obtained by the cabinet shall be open to reasonable public inspection (except for trade secrets and confidential business information). This does not specifically bar collecting white collar crime data. The Department for Environmental Protection makes its annual reports available at <http://dep.ky.gov/Pages/AnnualReports.aspx>, broken down by subject area. The enforcement report is available at <http://dep-enforcement.ky.gov/Documents/Annual%20Report%20FY2015.pdf> and contains a wide variety of applicable information.

## **Worker safety**

Worker safety in Kentucky is the responsibility of the Kentucky Occupational Safety and Health Standards Board and the Department of Workplace Standards. The commissioner (or an authorized representative) is empowered (under K.R.S. § 338.131) to issue administrative abatement orders in

response to conditions that pose an imminent danger of death or serious physical harm. The commissioner may apply to the Franklin Circuit Court for a restraining order, in the event that the danger is not immediately abated (under K.R.S. § 338.133, the commissioner may apply to the local circuit court for temporary injunctions in non-emergency matters.). K.R.S. § 338.141 authorizes administrative citations (that become final orders when uncontested) and administrative fines for violations. K.R.S. § 338.991 prescribes particular administrative and criminal misdemeanor penalties for various offenses.

While K.R.S. § 338.161 mandates the collection of occupational safety and health statistics, those are typically understood, in context, to deal with injuries and health, not enforcement. While it does not make enforcement statistics available on its website (<http://www.koshrc.ky.gov/Pages/KOSHRCHome.aspx>), it does make its decisions in individual cases available (<http://www.koshrc.ky.gov/Pages/Decisions.aspx>).

## **Medicaid fraud**

Kentucky participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider
- (b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence
- (c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies
- (d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit
- (e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing white collar crime statistics.

Kentucky addresses Medicaid fraud civilly through the Office of Medicaid Fraud and Abuse associated with the Office of the Attorney General. The office does not make any statistical information available on its webpage (<http://ag.ky.gov/civil/medicaid/Pages/default.aspx>).



Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# Louisiana

## **Banking and finance**

Louisiana’s Office of Financial Institutions has the power, under Louisiana Revised Statutes § 6:121.1(B), to administratively assess penalties or to require mandatory compliance agreements, and (under La. Stat. Ann. § 6:122(A)) to issue cease and desist orders to halt violations. The commissioner may also (under La. Stat. Ann. § 6:121.1(C)) refer particularly egregious offenders to the district attorney or attorney general of their parish for them to take appropriate action.

Louisiana does not explicitly address the office’s record policies. Its website (<http://www.ofi.state.la.us/>) does not publish enforcement data.

## **Environment**

The Louisiana Department of Environmental Quality has primary authority to enforce Louisiana’s environmental laws and regulations. Under La. Stat. Ann. § 30:2025, the department has broad civil powers to enforce its mission, and is allowed to bring “[a]ny civil action necessary to carry out [its responsibilities].” While the attorney general is supposed to represent the department in such cases, the department may move forward on its own if for some reason the attorney general refuses or does not respond in a timely manner. La. Stat. Ann. § 30:2025(C) allows for emergency administrative cease and desist orders. La. Stat. Ann. § 30:2025(E) allows for both civil and administrative fines. La. Stat. Ann. § 30:2025(F) establishes both misdemeanor and felony penalties for violations of the title.

La. Stat. Ann. § 30:2011(D)(8) and (9) empowers the secretary to conduct, participate in, and disseminate research relevant to the mission of the department. This includes enforcement data. Louisiana is one of the states that allows for citizen lawsuits over matters of environmental quality. This could mean that some environmental enforcement data may not move through the department (making it harder for researchers to capture). Its website (<http://www.deq.louisiana.gov/portal/Default.aspx?tabid=225>) includes a great deal of enforcement data—much of it available in spreadsheets.

## **Worker safety**

Worker safety in Louisiana is the responsibility of the Louisiana Workforce Commission. The director may, under La. Stat. Ann. § 23:9, apply to the courts for aid of enforcing any and all labor laws, regulations, and orders, including both aid and equitable relief. Specific civil fines for noncompliance are authorized by La. Stat. Ann. § 23:16. As they are responsible for enforcing all labor laws in Louisiana, they are also responsible for more targeted statutes, such as the criminal provisions found in La. Stat. Ann. § 23:49, dealing with boiler inspectors.

La. Stat. Ann. § 23:6(12) instructs the director to collect and publish statistical information relating to the employment conditions of workers. While this could include enforcement information, this mandate could also be fulfilled without covering the topic area. The commission's website (<http://www.laworks.net/>) includes quarterly reports of injuries and illness ([http://www.laworks.net/Downloads/Downloads\\_OWC.asp#Safety](http://www.laworks.net/Downloads/Downloads_OWC.asp#Safety)), but it does not contain enforcement information.

## **Medicaid fraud**

Louisiana participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider
- (b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence
- (c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies
- (d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit
- (e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing white collar crime statistics.

Louisiana addresses Medicaid fraud criminally and civilly through the Medicaid Fraud Control Unit associated with the Louisiana Department of Justice. It does not post any statistics to its website (<https://www.ag.state.la.us/Article/42>).

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# Maine

## **Banking and finance**

Maine's Bureau of Financial Institutions has the administrative power, under 9-B Maine Revised Statutes Annotated § 231 to issue cease and desist orders to halt violations. It may also issue fines (under 9-B M.R.S.A. § 222(5)), which it can collect at civil trial. Past that (under 9-B M.R.S.A. § 228), the superintendent can refer repeat violators to the attorney general, who has the option to initiate prosecution if he or she wishes.

While Maine labels many classes of information confidential under 9-B M.R.S.A. § 226, including "[e]xamination and investigative working papers and reports" (which could conceivably cover enforcement information), there are also many exceptions. These exceptions include 9-B M.R.S.A. § 226(3)(D), "[o]ther persons, including other state, foreign or federal regulatory officials, who, in the opinion of the superintendent, require this information to facilitate the general conduct of supervisory activities of the bureau" and 9-B M.R.S.A. § 226(3)(F), "[t]o those persons or entities necessary in order to comply with provisions of this Title relating to legal or regulatory proceedings and to disclosure or publication of certain applications, reports, statistics and information." While reasonable minds could see these factors lining up on either side of the issue, there at least seems to be enough wiggle room that a cooperation-minded superintendent could, if he or she so chose, decide that cooperation was allowed. The bureau maintains annual reports on its website at <http://www.state.me.us/pfr/financialinstitutions/reports/index.htm>, but the reports contain little of relevance to the topic of enforcement.

## **Environment**

Maine's Department of Environmental Protection (consisting of a board and a commissioner) has primary authority to enforce Maine's environmental laws and regulations. Under 38 M.R.S.A. § 341-D(3), the department may issue orders prescribing necessary corrective action. 38 M.R.S.A. § 347-A(1) gives similar powers to the commissioner, but also gives him or her the ability to refer violations to the attorney general for civil or criminal prosecution (or, with prior approval of the attorney general, commencing a civil action on his or her own). 38 M.R.S.A. § 349(1) sets out general criminal penalties for violations, and 38 M.R.S.A. § 349(2) likewise sets out general civil fines.

Under 38 M.R.S.A. § 341-D(7), the board is required to "report to the joint standing committee of the Legislature having jurisdiction over natural resource matters by January 15th of the first regular session of each Legislature on the effectiveness of the environmental laws of the state and any recommendations for amending those laws or the laws governing the board." This reads much like an explicit mandate to report enforcement statistics. The department maintains a compendium of monthly

enforcement reports at <http://www.maine.gov/dep/enforcement/mcar/index.html>, but these may be selected, nonrepresentative cases.

## **Worker safety**

The Bureau of Labor is responsible for worker safety in Maine. Failure to cooperate with the director's investigation is a misdemeanor (under 26 M.R.S.A. § 46). The same statute also creates administrative penalties for violations, and empowers the director to bring suit in civil court to collect. 26 M.R.S.A. § 53 creates additional civil fines. 26 M.R.S.A. § 49 empowers the director to apply to the relevant Superior Court to restrain any conditions or practices that constitute an imminent danger.

Maine pointedly makes reports of final bureau action public records under 26 M.R.S.A. § 3(2). This bodes well for the availability of research data. The department does not publish enforcement statistics on its website ([http://www.maine.gov/labor/labor\\_stats/research.html](http://www.maine.gov/labor/labor_stats/research.html)).

## **Medicaid fraud**

Maine participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider
- (b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence
- (c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies
- (d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit
- (e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing white collar crime statistics.

While the Office of the Maine Attorney General takes an interest in Medicaid fraud, it is unclear if it takes primary responsibility for fighting it, or if they pursue it as a civil or a criminal matter (though they have the authority to do both). No other agency was actively combatting Medicaid fraud as of September 2016. The Office of the Attorney General does not include any enforcement statistics (<http://www.maine.gov/ag/consumer/scams.shtml>).

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# **Maryland**

## **Banking and finance**

Maryland's Commissioner of Financial Regulation has both civil and administrative tools at his or her disposal. Administratively, Maryland Code Annotated, Financial Institutions § 2-115 grants the Commissioner the ability to issue administrative cease and desist orders and fines in response to violations. Md. Code Ann., Fin. Inst. § 2-116 grants the equivalent civil powers.

Md. Code Ann., Fin. Inst. § 2-107 mandates an annual report from the Commissioner. Fortunately for white collar crime research, this report must include "[a] breakdown by license category of the number of penalties assessed and instances of consumer recovery." (Md. Code Ann., Fin. Inst. § 2-107(5)). The Office of the Commissioner maintains lists of enforcement actions on its website (<http://www.dllr.state.md.us/finance/consumers/enforcement.shtml>), but no aggregate data are available online.

## **Environment**

Maryland's Department of the Environment mainly has recourse to civil and criminal enforcement options. On the criminal side, Maryland Code Annotated, Environment § 1-302 creates felonies for falsified or altered permits, while Maryland Code Annotated, Environment § 1-404(k) (interfering with the Secretary or the secretary's agent) and Maryland Code Annotated, Environment § 1-503 (dealing with revealing confidential records) are misdemeanors. On the civil side, Maryland Code Annotated, Environment § 1-303(a) makes reference to "suit for a civil penalty by the Department," but it is unclear where the authority for such suits is codified.

Maryland Code Annotated, Environment § 1-301(d) requires the Secretary to submit an annual report on the enforcement activities conducted by the department. This report must be made available to the public. This document can be accessed at <http://mde.maryland.gov/AboutMDE/DepartmentalReports/Pages/AboutMDE/enfcomp.aspx> and contains detailed enforcement data.

## **Worker safety**

Worker safety in Maryland is the responsibility of the Commissioner of Labor and Industry, who has access to civil, criminal, and administrative enforcement powers. Administratively, the Commissioner, under Maryland Code Annotated, Labor and Employment § 5-212, may issue administrative citations (setting reasonable periods for abatement of the violation). Maryland Code Annotated, Labor and Employment § 5-213 allows administrative fines to be assessed in conjunction with these citations (and

§ 5-809 allows for administrative fines, generally). Maryland Code Annotated, Labor and Employment § 5-215 grants the Commissioner the power to file a civil complaint to enforce any relevant order or regulation. Maryland Code Annotated, Labor and Employment § 5-216(b) gives the Commissioner the power to apply to a circuit court to enjoin imminent dangers. Criminal penalties are codified under Maryland Code Annotated, Labor and Employment § 5-804 (false statements), 805 (advance notice of inspections), and 806 (willful violation causing death).

While they do not directly address confidentiality issues, Maryland Code Annotated, Labor and Employment § 5-102 includes several purposes of the title, which include “developing innovative approaches, methods, and techniques to deal with occupational safety and health problems,” “providing for research in the field of occupational safety and health,” and “providing for reporting procedures on occupational safety and health that are appropriate to help to achieve the purposes of this title and to describe accurately the nature of occupational safety and health problems.” While none of these things are an explicit mandate to collect, retain, and disseminate enforcement data, they all indicate an environment that would be open to such a project. The department’s website (<https://www.dllr.state.md.us/labor/mosh/>) does not publish any enforcement statistics.

## **Medicaid fraud**

Maryland participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider
- (b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence
- (c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies
- (d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit
- (e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing white collar crime statistics.



Maryland addresses Medicaid fraud criminally through the Medicaid Fraud Control Unit associated with the Criminal Division of the Maryland Office of the Attorney General. It does not make any statistics public on its webpage (<http://msa.maryland.gov/msa/mdmanual/08conoff/attorney/html/06agf.html>).

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# Massachusetts

## **Banking and finance**

Regulating the banks of Massachusetts is the responsibility of the division and commissioner of banks. This task is largely administrative, with support from both criminal and civil enforcement tools. Massachusetts General Laws Annotated 167 § 2D empowers the commissioner to issue administrative fines and cease and desist orders. Civil actions are available (under M.G.L.A. 167 § 2F) to punish violations of these cease and desist orders. Misdemeanor charges are also available (under M.G.L.A. 167 § 8 and 10) for failing to make reports required by the commissioner (including reports of known incidents of fraud or embezzlement among bank employees).

While M.G.L.A. 167 § 13 requires an annual report, enforcement activity is not one of the topics. That said, it is not ruled out either, and the commissioner has the discretion to include “other information relative to the affairs of the banks as the commissioner considers to be in the public interest.”

Massachusetts makes a list of enforcement actions publicly available on the Division of Banks’ website (<http://www.mass.gov/ocabr/banking-and-finance/laws-and-regulations/enforcement-actions/>).

Aggregated data are not available online.

## **Environment**

The primary environmental enforcement agency in Massachusetts is the Executive Office of Energy and Environmental Affairs, Department of Environmental Protection. Massachusetts General Laws Annotated 111 § 142A grants the Department of Environmental Protection the power to punish violations with misdemeanor charges or civil fines, or to apply for civil injunctive relief. Mass. Gen. Laws Ann. ch.21A, § 19J (on making false statements) also creates criminal misdemeanor penalties (more for the use of the Executive Office but also explicitly for the use of the department).

Under Mass. Gen. Laws Ann. ch. 111, § 23, the commissioner of environmental protection is required to make an annual report that includes “the number of prosecutions by the department of environmental protection and an itemized account of the money expended by it in enforcement actions.” Mass. Gen. Laws Ann. ch. 111, § 24 specifically authorizes the department to publish such portions of its annual report as it thinks may promote the interests of the public health of the commonwealth. This may not capture the full extent of violations in the state. While the Executive Office of Environmental Affairs is responsible for enforcing a variety of penal laws (including environmental ones), the Office of Law Enforcement is also responsible for enforcing the same laws. It is unclear if the annual report includes statistics on cases initiated through the Office of Law Enforcement. The department’s webpage

(<http://www.mass.gov/eea/agencies/massdep/service/enforcement/enforcement-actions-2016.html>)

includes enforcement actions with incident details. It is kept as a plain-text list, and there is no indication if it is an exhaustive list or selected highlights.

## **Worker safety**

Worker safety in Massachusetts is the responsibility of the Executive Office of Labor and Workforce Development, Department of Labor Standards. It is responsible for enforcing a wide range of labor laws, with a variety of administrative, civil, and penal tools at their disposal. It has the ability to issue administrative fines under Massachusetts General Laws Annotated chapter 149, § 6F, 18I, 19B, 19C, and others. Civil injunctions can be obtained under Mass. Gen. Laws Ann. ch. 149, § 11A. Criminal penalties can be found under Mass. Gen. Laws Ann. ch. 149, § 19B(3), 21, and 27C.

Mass. Gen. Laws Ann. ch. 149, § 14 mandates an annual report but leaves its content largely discretionary (“The commissioner shall also include in his report such data as to the work of the division on the necessities of life as he may deem advisable”). Because the department covers such a wide range of labor laws, there is also a significant risk that any statistics kept by them may not separate out the occupational safety violations from the more general field of labor violations. While the department makes annual reports on occupational injuries and illnesses available (<http://www.mass.gov/lwd/labor-standards/occupational-safety-and-health-statistics-program/illness-and-injuries-reports/>), these reports do not contain enforcement information.

## **Medicaid fraud**

Massachusetts participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider
- (b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence
- (c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies
- (d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit

(e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing white collar crime statistics.

Massachusetts addresses Medicaid fraud both criminally and civilly through the Medicaid Fraud Division of the Massachusetts Attorney General. It does not make any statistics public on its webpage (<http://www.mass.gov/ago/bureaus/hcfc/the-medicaid-fraud-division/>).

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# Michigan

## **Banking and finance**

The Department of Insurance and Financial Services is responsible for regulating Michigan's banks. This task is largely administrative, though with support from both criminal and civil enforcement tools. It has administrative and penal enforcement tools. On the administrative side, they can issue administrative cease and desist orders (under Michigan Compiled Laws Annotated § 487.12304), while on the penal side, they are supported by statutes like M.C.L.A. § 487.12312 (dealing with violations of administrative orders removing someone from office).

M.C.L.A. § 487.12108 instructs the commissioner to compile and publish an annual report "in the form and containing information the commissioner determines necessary to reasonably summarize the operations of the bureau during the year." However, M.C.L.A. § 487.12109 requires that members of the bureau "shall keep secret all facts and information obtained in the course of their duties," which complicates things. Fortunately, that does not apply to "disclosures made in the public interest by the commissioner, at his or her discretion." The long and the short of this seems to be that anything not published in the annual report is secret until and unless the commissioner decides that it is in the public interest to disclose it. This means that the availability of research data may vary widely from commissioner to commissioner. Their annual reports are available at [http://www.michigan.gov/difs/0,5269,7-303-13047\\_32588---,00.html](http://www.michigan.gov/difs/0,5269,7-303-13047_32588---,00.html), but they do not include published enforcement data.

## **Environment**

Environmental protection in Michigan is the duty of the Department of Environmental Quality (DEQ). Under M.C.L.A. § 324.99903, the DEQ assumed responsibility for a wide variety of statutes. Some of these, like M.C.L.A. § 324.21323, include civil enforcement powers (injunctions, fines, and damages), some include criminal charges (such as M.C.L.A. § 324.21324), and some include administrative enforcement powers (such as departmental assessments, referenced in M.C.L.A. § 324.1407).

While the Department of Environmental Quality is required to make a variety of reports, none of them are closely related to enforcement. That said, the decentralized nature of the statutes for which the DEQ is responsible makes a comprehensive review of its authorizing statutes challenging, and it is quite possible that one nonetheless exists. Because these responsibilities are handled in such a distributed fashion, it can hard to gather comprehensive statistics. Further, data-gathering activities may be handled very differently from subject area to subject area. At least some of these areas are well documented. For example, the Remediation and Redevelopment Division keeps fairly extensive lists of it enforcement actions ([http://www.michigan.gov/deg/0,4561,7-135-3311\\_4109\\_4214---,00.html](http://www.michigan.gov/deg/0,4561,7-135-3311_4109_4214---,00.html)).

## Worker safety

Worker safety in Michigan is the responsibility of the Department of Licensing and Regulatory Affairs (under M.C.L.A. § 408.1013), which has administrative, civil, and penal tools at their disposal. Administratively, it has the ability to compel the abatement of violations under M.C.L.A. § 408.1033(1), to issue cease and desist orders under M.C.L.A. § 408.1045, and the power to levy administrative fines for a range of violations codified under M.C.L.A. § 408.1033, 408.1035, 408.1035a, and 408.1036. M.C.L.A. § 408.1035 and M.C.L.A. § 408.1035a also include criminal penalties (for willful violations resulting in death, false statements, giving advance notice of inspections, and interfering with someone's legal duty to enforce the worker safety laws). M.C.L.A. § 408.1045 gives civil authority to enforce departmental orders.

An online review could not locate specific statutes regulate its records or disclosures. The department's website includes a searchable database of decisions (<http://w2.lara.state.mi.us/Admsweb/DecisionSearch/Decision>), which links to original source documents. Aggregate statistical violation data (for the top 10 violation types) can be found at [http://www.michigan.gov/documents/lara/miosha\\_cetsp10\\_453184\\_7.doc](http://www.michigan.gov/documents/lara/miosha_cetsp10_453184_7.doc).

## Medicaid fraud

Michigan participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider
- (b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence
- (c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies
- (d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit
- (e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing white collar crime statistics.

Michigan splits Medicaid fraud into two categories: provider fraud and recipient fraud. Provider fraud is the domain of the Michigan Attorney General's Criminal Justice Bureau. Recipient fraud is the domain of the Michigan Department of Health and Human Services, Office of the Inspector General. Neither the attorney general ([http://www.michigan.gov/ag/0,4534,7-164-18156\\_18152-47192--,00.html](http://www.michigan.gov/ag/0,4534,7-164-18156_18152-47192--,00.html)) nor the Office of the Inspector General ([http://www.michigan.gov/mdhhs/0,5885,7-339-71547\\_2943-220188--,00.html](http://www.michigan.gov/mdhhs/0,5885,7-339-71547_2943-220188--,00.html)) make any statistics available, though some (dated) information is available (<https://oig.hhs.gov/oei/reports/oei-09-13-00070.pdf>).

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# **Minnesota**

## **Banking and finance**

The Commissioner of Commerce is responsible for regulating Minnesota's banks. This task is largely administrative, though with support from both civil and criminal statutes. The Commissioner is empowered to issue administrative cease and desist orders under Minnesota Statutes Annotated § 46.24. Refusal to obey the orders of the commissioner (or willfully obstructing or misleading the commissioner) is a felony under M.S.A. § 46.06 (though violations of orders barring people from participation in banking are misdemeanors under M.S.A. § 46.32.) M.S.A. § 46.31 allows the commissioner to apply to civil court for enforcement of an administrative order.

Under M.S.A. § 46.07, "[t]he commissioner shall divulge facts and information obtained in the course of examining financial institutions under the commissioner's supervision only when and to the extent required or permitted by law." As such, useable research data are not expected to be available from Minnesota. The Department of Commerce's website (<http://mn.gov/commerce/industries/financial-institutions/banks/>) includes activity reports for Minnesota's banks, but does not make enforcement data available online.

## **Environment**

Environmental protection in Minnesota is the duty of the Pollution Control Agency. The agency's powers are primarily spelled out in M.S.A. § 116.072 and include the power to issue administrative fines and corrective orders. M.S.A. § 116.072 also allows the attorney general to seek the equivalent remedies in district court.

Under M.S.A. § 116.075, all final records, studies, reports, orders, and other documents prepared in final form by order of, or for the consideration of, the agency are public records. While there are exceptions that a regulated owner or operator can advance (relating to sales figures, trade secrets, and damaging a company's competitive position), this presumption of availability seems advantageous for obtaining pertinent data. The agency maintains spreadsheets of raw enforcement data on its website (<https://www.pca.state.mn.us/regulations/quarterly-summary-enforcement-actions>).

## **Worker safety**

Occupational safety and health is the responsibility of the Minnesota Commissioner of Labor and Industry. This function is performed primarily with administrative tools. Under M.S.A. § 182.666, the Commissioner has broad power to levy administrative fines, and under M.S.A. § 182.66 the Commissioner has the power to issue citations that include orders to abate violations. M.S.A. § 182.661



gives the Commissioner civil enforcement options for failure to comply with an administrative final order. Under M.S.A. § 182.667, misdemeanor criminal penalties are available for making false statements, willful or repeated violations, and for giving advance notice of inspections.

Under M.S.A. § 182.663(4), “[t]he Commissioner is authorized to compile, analyze, and publish annually, either in summary or detailed form, all reports or information obtained under this section.” This includes enforcement data. The statistics available on its webpage (<http://www.dli.mn.gov/RS/StatWSH.asp>) are strictly related to health and injury data.

## Medicaid fraud

Minnesota participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider
- (b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence
- (c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies
- (d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit
- (e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing white collar crime statistics.

The Minnesota Medicaid Fraud Control Unit is housed with the Attorney General’s Office and pursues cases both civilly and criminally. While they post no statistics on their site (and do not have a page dedicated to Medicaid fraud: <http://www.ag.state.mn.us/>), they have been recently (2014) evaluated by the U.S. Department of Health and Human Services’ Office of the Inspector General, and those reports are available at <https://www.oig.hhs.gov/oei/reports/oei-06-13-00200.asp>.

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# **Mississippi**

## **Banking and finance**

The Department of Banking and Consumer Finance is responsible for regulating Mississippi's banks and financial institutions. In this capacity, the commissioner is authorized (under Mississippi Code Annotated § 81-1-121 and 81-1-123) to assess monetary penalties and to appear in court to move the court to order payment. It is unclear if this is an administrative penalty for which the commissioner is given access to the courts as a secondary enforcement mechanism (as would be the case if the commissioner customarily collected off of the administrative assessment and only brought noncompliant violators to court), or a civil proceeding for which the commissioner is allowed to set the amount in dispute (as would be the case if no collecting activity could take place absent a civil trial). Under Miss. Code Ann § 81-1-119, the commissioner is also allowed to issue administrative cease and desist orders (to halt or prevent unsafe or unsound banking practices, or violations of banking laws, regulations, orders, or conditions). The commissioner is also supported by penal laws that punish making false statements (Miss. Code Ann § 81-1-85 and Miss. Code Ann § 81-1-101).

Miss. Code Ann § 81-1-89 requires that "[t]he commissioner, examiners and all employees of the department shall keep as records of their office proper books showing all acts, matters and things done by them. Except when required in legal proceedings or as authorized under subsection (2) of this section, none of them shall disclose to any person, official or otherwise, any fact or information obtained in the course of the performance of their duties, except so far as it may be incumbent upon them under the law, to report to the commissioner, or to make public records and publish the same." There is no exception to this rule that applies to white collar crime research. However, there is a requirement (under Miss. Code Ann § 81-1-113) for the commissioner to make an annual report that "shall show fully, separately, and in detail the work done and the expenses incurred by the commissioner and each examiner." This would conceivably cover enforcement activity, in which case it could be released under the public records exception. Currently, enforcement information is not included in the department's annual reports ([http://www.dbcf.state.ms.us/annual\\_reports.asp](http://www.dbcf.state.ms.us/annual_reports.asp)). Its website does include a feature by which one can search for administrative actions pertaining to a particular entity (<http://www.dbcf.state.ms.us/actions.asp>), but its use for generating statewide data are limited as it requires knowing something about who you are searching for (or the city that they are located in) first.

## **Environment**

Environmental protection in Mississippi is handled by the Mississippi Commission on Environmental Quality, acting through the Office of Pollution Control of the Department of Environmental Quality. The commission is granted the power to assess administrative fines under Miss. Code Ann § 49-17-43(1) and to institute civil suit to enforce relevant rules, orders, and permits (under Miss. Code Ann § 49-17-43(2)).

The commission can also, under Miss. Code Ann § 49-17-43(3), bring civil suit to force an offender to pay for the replenishing of any wildlife killed as a result of their actions.

Under Miss. Code Ann § 49-17-39, “[i]nformation obtained by the commission concerning environmental protection including but not limited to information contained in applications for air emission equipment construction permits and water discharge permits shall be public information and shall be made available upon proper request.” While there are exceptions within the statute for trade secrets, there is no reason why this would not also make enforcement information fully public (if it is being collected and retained). The department’s website includes searchable inspection reports ([http://opc.deq.state.ms.us/report\\_eced\\_tasks.aspx](http://opc.deq.state.ms.us/report_eced_tasks.aspx)), but a researcher would have to examine them each individually for relevance (as this seems to be a list of all inspections, not just ones that resulted in sanctions).

## **Worker safety**

A review of online state agencies concluded that there is not a centralized branch of the state government that is responsible for regulating safe working conditions in Mississippi.

## **Medicaid fraud**

Mississippi participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider
- (b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence
- (c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies
- (d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit
- (e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing white collar crime statistics.

The Mississippi Medicaid Fraud Control Unit is housed with the Attorney General's Office. It is unclear whether it pursues such matters criminally, civilly, or both, and no statistical information is available on the website (<http://www.ago.state.ms.us/divisions/medicaid-fraud/>).

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# Missouri

## **Banking and finance**

The Division of Finance is responsible for regulating Missouri's banks and financial institutions. The director can issue administrative cease and desist orders (as well as sundry other administrative orders) under Vernon's Annotated Missouri Statutes 361.260 and can issue administrative fines for noncompliance with such orders under same. The director also has administrative forfeiture powers under V.A.M.S. 361.300, allowing him or her to take possession of the business and property of any subject corporation that is insolvent or refuses to allow inspection. V.A.M.S. 361.280 allows the director to refer all civil matters to the attorney general, and V.A.M.S. 361.270 and 310 allow the director to likewise refer any potentially criminal matters.

Under V.A.M.S. 361.080, "the director of finance and all employees of the division of finance shall be bound under oath to keep secret all facts and information obtained in the course of all examinations and investigations." While exceptions exist, they tend to focus on data sharing with other, similar agencies, and with case-by-case authorization. That said, enforcement data are arguably not obtained during an examination or investigation, but generated by it. In that case, the statute would be silent and the legal treatment of the data would be uncertain. While the division does not publish enforcement statistics online, it does maintain a list of removal and prohibition orders at <http://finance.mo.gov/reports/actions.php>.

## **Environment**

Environmental protection in Missouri is the responsibility of the Department of Natural Resources. As this department has many separately codified responsibilities, one area was chosen as representative. This area was solid waste management. The department can assess administrative fines under V.A.M.S. 260.249(1) and issue administrative orders under V.A.M.S. 260.230(1). It can also direct the county prosecuting attorney or the attorney general to bring corresponding actions in civil court (under V.A.M.S. 260.230(2)). The department also has access to criminal sanctions in isolated cases, such as violations of V.A.M.S. 260.208 (failure to notify a political subdivision of disqualification to contract, a felony), V.A.M.S. 260.211 (criminal disposition of demolition waste, which has both felony and misdemeanor provisions), and V.A.M.S. 260.212 (criminal disposition of solid waste, a felony).

There is no discussion of the department's data collection, publication, or management practices in this section. The various programs under the department's umbrella all keep their documents at <http://dnr.mo.gov/pubs/>. While there are not any documents on enforcement activities related to the solid waste management program, other programs (such as drinking water, at <http://dnr.mo.gov/pubs/docs/pub2662.pdf>) do maintain some form of enforcement data.

## Worker safety

The Labor and Industrial Relations Commission is responsible for worker safety in Missouri. Its enforcement tools are exclusively based in the criminal law. Refusing to allow an inspection is a misdemeanor under V.A.M.S. 291.130, as is any violation of the safety laws (under V.A.M.S. 292.210).

V.A.M.S. 291.120 requires the commission to present an annual report containing statistical details relating to the operation of the section. While enforcement activity is not explicitly discussed, it is certainly the sort of information that could be included in such a report.

Related information is available at

[http://labor.mo.gov/sites/default/files/pubs\\_forms/DWC2015AnnualReport.pdf](http://labor.mo.gov/sites/default/files/pubs_forms/DWC2015AnnualReport.pdf). While it specifically discusses enforcement, the focus is on defrauding the workers' compensation system, not on the worker safety laws (V.A.M.S. 287 instead of 292). More information is available at <http://labor.mo.gov/Lmi>, but this is focused on the safety and health matters themselves instead of safety violations and enforcement.

## Medicaid fraud

Missouri participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider
- (b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence
- (c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies
- (d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit
- (e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing white collar crime statistics.

Medicaid fraud in Missouri is split between provider fraud and participant fraud. Provider fraud is primarily handled by the attorney general's Medicaid Fraud Control Unit. It is unclear whether they pursue the matter criminally, civilly, or both. They make no statistics available on its website (<https://www.ago.mo.gov/divisions/medicaid-provider-fraud>). Participant fraud is handled by the Missouri Department of Social Services, who also handles some aspect of provider fraud. It is unclear if it has channels by which to coordinate criminal prosecution, or if it is restricted to a purely civil response. It makes no statistics available on its site (<http://mmac.mo.gov/fraud/medicaid-fraud/>).

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# **Montana**

## **Banking and finance**

Financial institutions in Montana are regulated by the State Banking Board. The Board's enforcement tools vary depending on who they are regulating. Unauthorized banking is handled administratively and civilly, while authorized banks are handled primarily criminally. Under Montana Code Annotated § 32-1-403, the Board is authorized to administratively fine unauthorized banks and to appeal to the civil court for injunctions against such entities. M.C.A. § 32-1- 236, 464, 471, 472, and 473, on the other hand, all create criminal penalties (mainly dealing with fraud and theft) applicable to regulated banks. M.C.A. § 32-1-474 also criminalizes behavior, but targets people making false statements to obtain loans (which less squarely targets banking malfeasance).

Under M.C.A. § 32-1-234, “[a]ny knowledge or information gained or discovered by the department in pursuance of its powers or duties is confidential information.” The board’s webpage ([https://banking.mt.gov/Banks\\_TrustCompanies\\_CreditUnions/banking\\_board](https://banking.mt.gov/Banks_TrustCompanies_CreditUnions/banking_board)) contains no information on enforcement.

## **Environment**

Montana’s Department of Environmental Quality has primary authority to enforce environmental laws and regulations in the state. As its various responsibilities are codified separately, the air quality provisions (75 M.C.A. Ch. 2) were selected as representative. M.C.A. § 75-2-401 grants the department power to levy administrative fines and to issue administrative corrective orders. M.C.A. § 75-2-402 broadens this power to include administrative cease and desist orders in response to emergency conditions. It is also given a choice (mutually exclusive except in the case of operating permit violations) to handle violations either criminally (as felonies under M.C.A. § 75-2-412) or civilly (collecting civil damages under M.C.A. § 75-2-413).

M.C.A. § 75-1-314 requires the department to report enforcement information (“[t]he number, description, method of discovery, and significance of noncompliances, including those noncompliances that are pending; and a description of how the department has addressed the noncompliances identified”). While there is no particular discussion of confidentiality, these sorts of reports are often made public. This report is available at <http://deq.mt.gov/DEQAdmin/ENF> and contains a fair amount of enforcement information.

## **Worker safety**

The Department of Labor and Industry is responsible for worker safety in Montana. It seems to operate primarily administratively, with access to civil remedies if needed. M.C.A. § 50-71-119 allows the department to assess administrative fines and to order corrective action. M.C.A. § 50-71-120 allows the department to administratively stop work on a site in response to dangerous conditions. Civil injunctions are available under M.C.A. § 50-71-121.



While M.C.A. § 50-71-119 requires the department to report the results of inspections, there is no discussion of data management in the larger sense. The department's website (<http://dli.mt.gov/>) does not post enforcement information.

## **Medicaid fraud**

Montana participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

(a) the number of investigations initiated and the number completed or closed, categorized by type of provider

(b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence;

(c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies

(d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit

(e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing white collar crime statistics.

M.C.A. § 53-6-156 authorizes Montana's Medicaid Fraud Control Unit in the Department of Justice, under the attorney general. It is a criminal justice agency and pursues the matters criminally (under M.C.A. § 53-6-157). The Department of Health and Human Services is generally responsible for administering the Medicaid program and is empowered to recover funds owed (for example, by lien after the patient's death, under M.C.A. § 53-6-171) but has no power to additionally punish. No enforcement statistics are available on the attorney general's site: <https://dojmt.gov/enforcement/investigations-bureau/>.

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# **Nebraska**

## **Banking and finance**

Financial institutions in Nebraska are regulated by the Director of Banking and Finance, who is entrusted with broad administrative, civil, and criminal enforcement powers. Under Revised Statutes of Nebraska Annotated § 8-1, 134, the director may issue administrative orders to correct violations and, as part of such an order, the director may also assess administrative fines. Under Neb. Rev. St. § 8-1, 136, the director may institute a civil action to enjoin acts or enforce compliance with the law. Additionally, a large number of statutes (such as Neb. Rev. St. § 8-142; 8-143.01; 8-145; 8-147; 8-175; 8-1, 119; and 8-1, 138) create criminal penalties for violations.

Under Neb. Rev. St. § 8-112, all records of the department are confidential. However, they may be released “insofar as is necessary in the performance of the official duty of the department.” It is possible, though unlikely, that collecting accurate white collar crime data may lay within the official duty of the department.

## **Environment**

Nebraska’s Department of Environmental Quality has primary authority to enforce environmental laws and regulations in the state. Under Neb. Rev. Stat. Ann. § 81-1504, it has the power to administratively issue orders “(a) prohibiting or abating discharges of wastes into the air, waters, or land of the state; and (b) requiring the construction of new disposal systems or any parts thereof or the modification, extension, or adoption of other remedial measures to prevent, control, or abate pollution.” The department is empowered by Neb. Rev. Stat. Ann. § 81-1508(2) to bring suit in civil court for an injunction, and by Neb. Rev. Stat. Ann. § 81-1508.02 to seek civil penalties in court.

Neb. Rev. Stat. Ann. § 81-1508.01 gives the department a number of misdemeanor and felony criminal enforcement options.

Neb. Rev. Stat. Ann. § 81-1527 allows companies to designate its information as confidential. Even when marked as confidential, the department is able to use the information to produce anonymized data about environmental quality. While a similar construct could easily apply to white collar crime research data, such uses are not contemplated within the four corners of the statute.

## **Worker safety**

The Commissioner of Labor is responsible for worker safety in Nebraska. Under Neb. Rev. Stat. Ann. § 48-414, the commissioner may administratively prohibit dangerous actions or the use of dangerous machinery. Under Neb. Rev. Stat. Ann. § 48-424, 48-434, and 48-442, the penalty for a safety violation is uniformly criminal (a misdemeanor). Under Neb. Rev. Stat. Ann. § 48-444, the commissioner is also empowered to assess administrative penalties for failure to create safety boards.

There is no discussion of the commissioner keeping files, much less whether such files would be confidential.

## **Medicaid fraud**

Nebraska participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider
- (b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence
- (c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies
- (d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit
- (e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing white collar crime statistics.

Nebraska's Medicaid Fraud and Patient Abuse Unit is located within the Nebraska Attorney General's Office. Neb. Rev. Stat. Ann. § 68-936 authorizes it to collect civil damages, while Neb. Rev. Stat. Ann. § 68-942 allows it to handle criminal prosecutions. No enforcement statistics are available on the attorney general's site: <https://ago.nebraska.gov/medicaid-fraud>.

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# Nevada

## **Banking and finance**

Financial institutions in Nevada are regulated by the Division and the Commissioner of Financial Institutions. These entities have a wide range of powers at their disposal. Nevada Revised Statutes Annotated § 668.12 gives the Commissioner the power to impose administrative fines of up to \$10,000 (in addition to any other penalties) upon anyone who violates any provision of chapters 657 to 668 (the primary banking code). Under N.R.S. § 658.195, the Commissioner may sue and prosecute in any court in furtherance of his or her duties. The Commissioner also has a number of criminal enforcement options available. N.R.S. § 668.015, 668.045, 668.055(1), and 668.095 are all felonies, while N.R.S. § 659.115, 668.055(2), 668.085, and 668.115 are misdemeanors. Additionally, under N.R.S. § 668.115, any statute that does not explicitly spell out a punishment is a misdemeanor.

Under N.R.S. § 665.130, “[t]he reports filed with or prepared by the Division of Financial Institutions and other information obtained from a depository institution are not public records and may not be disclosed, except information concerning financial institutions which by specific statute is made generally available to the public.” This is underscored by N.R.S. § 668.085, which explicitly criminalizes revealing such information. All the same, under N.R.S. § 665.133(1)(i), such information may still be revealed “if the Commissioner determines, after notice and opportunity for hearing, that disclosure is in the public interest and outweighs any potential harm to the depository institution and its stockholders, members, depositors and creditors.” Enforcement data are a likely candidate for such a public interest exception. The division makes such records available on its website at [http://fid.nv.gov/Opinion/Enforcement\\_Actions/](http://fid.nv.gov/Opinion/Enforcement_Actions/), though it is unclear whether the records made available are selections or constitute the entire universe of enforcement actions undertaken by the division.

## **Environment**

Nevada’s Department of Conservation and Natural Resources administers Nevada’s environmental laws and regulations. As Nevada’s environmental regulations are codified separately, air pollution was selected as representative of the overall body of environmental law. The director is allowed to issue administrative corrective orders under N.R.S. § 445B.450, and to assess administrative fines of up to \$10,000 per day under N.R.S. § 445B.470(2). Civil injunctive options are available under N.R.S. § 445B.460 (through the attorney general). Likewise, criminal enforcement options are available under N.R.S. § 445B.470(4), but the director must ask the attorney general to pursue the matter.

Nevada seems relatively amenable to data collection. Under N.R.S. § 445B.570, “[a]ny information that the Department obtains in the course of the performance of its duties pursuant to the provisions of this chapter is public information unless otherwise designated as confidential

information pursuant to the provisions of this section.” That information is presumed to be public is noteworthy enough, but later in the same statute, Nevada holds that, even when information is classified as confidential, it can still be used “[i]n compiling or publishing analyses or summaries relating to the condition of the outdoor atmosphere which do not identify any owner or operator or reveal any confidential information.” This is broad enough to apply white collar crime research, even if the link to the condition of the outdoor atmosphere is somewhat attenuated. The Bureau of Air Pollution Control, within the department’s Division of Environmental Protection, does not feature any incident data on its enforcement page (<http://ndep.nv.gov/bapc/compliance/compliance.html>). There is some enforcement information contained in the division’s biennial reports (<http://ndep.nv.gov/admin/report98.htm>), but these have not been updated since 2008.

## **Worker safety**

The Division of Industrial Relations of the Department of Business and Industry is responsible for worker safety in Nevada. They do this through a robust mix of administrative and criminal powers, with a possible grant of broad civil authority. Explicit administrative prescriptive authority is granted under N.R.S. § 618.315. General administrative corrective orders are handled under N.R.S. § 618.465, and emergency administrative orders are contained under N.R.S. § 618.545. N.R.S. § 618.625–675 enumerate various circumstances in which administrative fines are authorized (generally, for intentional or repeated violations, or a failure to comply with reporting or inspection requirements). Similarly, N.R.S. § 618.685–710 enumerate various more serious violations for which criminal penalties are authorized. (These include violations resulting in death, false statements, and giving advance notice of inspection.) N.R.S. § 618.285(4) commands the division to “[i]nstitute legal proceedings to compel compliance with this chapter or any rules, regulations, standards or orders adopted or issued under this chapter.” One assumes that the proceedings being referenced are civil proceedings, but this assumption could be faulty.

Under N.R.S. § 618.341(1), the public may inspect all records of the Division that contain information regarding “[t]he manner in which the Division acted on any such complaint...[a]ny citation issued by the Division to an employer and the reason for its issuance; and...[a]ny penalty imposed by the Division on an employer and the reason therefor.” As this seems like exactly the information that a white collar crime researcher would need, the only remaining question is whether this information is available in a convenient fashion. While they have a clear process in place to handle public records requests, the division does not make enforcement data available on its website (<http://dir.nv.gov/OSHA/Home/>).

## **Medicaid fraud**

Nevada participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider
- (b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence
- (c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies
- (d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit
- (e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing white collar crime statistics.

Medicaid fraud in Nevada is handled through the Medicaid Fraud Control Unit, located in the Attorney General's Office. It seems to primarily prosecute such matters criminally. It does not make statistical information available on its website ([http://ag.nv.gov/About/Criminal\\_Justice/Medicaid\\_Fraud/](http://ag.nv.gov/About/Criminal_Justice/Medicaid_Fraud/)).

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# New Hampshire

## **Banking and finance**

The banking commissioner is responsible for regulating New Hampshire's banks and financial institutions. The commissioner's administrative powers are largely codified in NH Rev. Stat. § 383-A:9-903. These include (under subsection (a)(ii)) the ability to issue cease and desist orders and (under the statute generally) the power to levy administrative fines. The commissioner's penal powers are codified under NH Rev. Stat. § 383-A:7-701 and include felony penalties for embezzlement, improperly accepting inducements, fraud, and untrue statements. The statute also (at (f)) creates civil penalties to be invoked in the case of unauthorized banking activities.

Under NH Rev. Stat. § 383:10-b, all records of the department's investigations are confidential "unless, in the judgment of the commissioner, the ends of justice and the public advantage will be served by the publication of those records." White collar crime research statistics are likely to be deemed to be both to the advantage of the public and in the interest of the ends of justice.

## **Environment**

Environmental protection in New Hampshire is the responsibility of the Department of Environmental Services, under the direction of the Commissioner of Environmental Services. They are responsible for a large number of environmental laws found at various places in the New Hampshire code. The water pollution and waste disposal code (chapter 485-a) was chosen as representative. The department has administrative orders at its disposal (such as orders to abate polluted conditions under NH Rev. Stat. § 485-A:12) and administrative fines (such as the fines imposed in 485-A:22). The department may institute civil actions in some cases (such as under NH Rev. Stat. § 485-A:14, dealing with failing to remove a submerged vehicle). The department also has criminal options at its disposal (such as NH Rev. Stat. § 485-A:15, dealing with placing solid waste in water or on ice).

There are no statutory controls on the department's records, but these may be contained elsewhere in the code.

## **Worker safety**

Occupational safety and health in New Hampshire is the responsibility of the labor commissioner. The bulk of the commissioner's authority in that regard is encapsulated under NH Rev. Stat. § 277:36, which creates criminal penalties for not complying with the commissioner's order, criminalizes intentionally interfering with safety measures, and allows the commissioner to administratively order work to cease until a danger is abated.

There are not statutory controls on the commissioner's records, but these may be contained elsewhere in the code.

## **Medicaid fraud**

New Hampshire participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider
- (b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence
- (c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies
- (d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit
- (e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing white collar crime statistics.

The New Hampshire Medicaid Fraud Control Unit is housed with the Attorney General's Office (within the New Hampshire Department of Justice), and pursues cases criminally. (There is no mention of pursuing cases civilly, but that does not mean that they do not.) Statistics are not posted on its site (<http://doj.nh.gov/criminal/medicaid-fraud/index.htm>).

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.



# **New Jersey**

## **Banking and finance**

The Department of Banking and Insurance is responsible for regulating New Jersey's banks and financial institutions. The department's powers may be purely administrative. Under New Jersey Statutes Annotated § 17:1-28, the director may impose administrative fines (N.J.S.A. § 17:1-28(a)(1)), issue cease and desist orders (N.J.S.A. § 17:1-28(a)(5)), or impose other sanctions or conditions as the commissioner deems appropriate ((N.J.S.A. § 17:1-28(a)(8)).

There is not any explicit statutory guidance about how the department manages its records, what information the department collects or reports, or what it releases to the public.

## **Environment**

Environmental protection in New Jersey is the responsibility of the Department of Environmental Protection. The commissioner can, under N.J.S.A. § 58:10A-10, issue administrative compliance orders (N.J.S.A. § 58:10A-10(a)(1)), levy administrative fines (N.J.S.A. § 58:10A-10(a)(3)), commence civil actions for damages or injunctive relief (N.J.S.A. § 58:10A-10(a)(2)), seek civil financial penalties (N.J.S.A. § 58:10A-10(a)(4)), or petition the attorney general to bring criminal charges ((N.J.S.A. § 58:10A-10(a)(5)).

Under N.J.S.A. § 58:10A-14.1, the department is required to prepare an annual report on implementation and enforcement actions. This report is public and required to be transmitted to at least one newspaper in each county.

## **Worker safety**

Occupational safety and health in New Jersey is the responsibility of the Department of Labor and Industry. The commissioner's sole enforcement tool is the ability to impose civil fines (under N.J.S.A. § 34:6A-19).

There is no explicit statutory guidance about how the department manages its records, what information the department collects or reports, or what it releases to the public.

## **Medicaid fraud**

New Jersey participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider

(b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence

(c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies

(d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit

(e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing white collar crime statistics.

Medicaid fraud in New Jersey is handled by the Office of the State Comptroller's Medicaid Fraud Division. It handles the matters civilly, but refer criminal matters to the Attorney General's Office. Neither the comptroller (<http://www.state.nj.us/njomig/about/what/>) nor the attorney general (<http://nj.gov/oag/>) make statistics available online, though the U.S. Department of Health and Human Services' Office of the Inspector General issued a report on the New Jersey Medicaid Fraud Control Unit in 2013 (<https://oig.hhs.gov/oei/reports/oei-02-13-00020.asp>).

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# **New Mexico**

## **Banking and finance**

The Financial Institutions Division of the New Mexico Regulation and Licensing Department is responsible for regulating New Mexico's banks and financial institutions. The department's primary enforcement statute seems to be New Mexico Statutes Annotated § 58-1-84, which makes any violation of the Banking Act a misdemeanor (or a felony if there was an intent to defraud). N.M.S.A. § 58-1-40 also creates administrative fines (for failing to file reports in a timely fashion).

According to N.M.S.A. § 58-1-38, "[n]either the commissioner [director of the financial institutions division of the regulation and licensing department], nor his deputies or employees, nor the state corporation commission [public regulation commission], nor any member thereof, nor any deputy, clerk or employee in its office shall divulge any information acquired by them in the discharge of their duties, except in so far as the same may be rendered necessary by law." That said, N.M.S.A. § 58-1-47 details an annual report that includes "such other information concerning the conduct and affairs of his office as he shall see fit to report."

## **Environment**

Environmental protection in New Mexico is the responsibility of the Department of Environment. While there are specialized sections of the code dealing with various specific types of pollution, the section of general application will be the focus. N.M.S.A. § 74-1-6 grants the department the power to sue and be sued in civil court (and to collect civil penalties). N.M.S.A. § 74-1-10 makes the violation of any regulation of the board a misdemeanor (unless a different penalty is explicitly specified) and allows the secretary to issue administrative compliance orders (or to seek a similar injunction in civil court). It also allows the assessment of administrative fines.

There is no explicit statutory guidance about how the department manages its records, what information the department collects or reports, or what it releases to the public.

## **Worker safety**

Occupational safety and health in New Mexico is the responsibility of the Department of Environment. The department can (under N.M.S.A. § 50-9-17(A)) issue administrative citations that include abatement requirements and (under N.M.S.A. § 50-9-17(B)) administrative fines. N.M.S.A. § 50-9-24 allows for administrative fines for violations, as well as misdemeanor criminal penalties (under N.M.S.A. § 50-9-24(J),(K),(L), and (M)).

N.M.S.A. § 50-9-21 requires that “information obtained or received by the department in connection with an investigation under or the administration or enforcement of the provisions of the Occupational Health and Safety Act shall be made available except to the extent privileged by law.” Further, even when information is confidential, the same statute holds that “[t]he information may be used for statistical purposes if the information revealed is not identified as applicable to any individual employer.” This is more than adequate for white collar crime research.

## **Medicaid fraud**

New Mexico participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider
- (b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence
- (c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies
- (d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit
- (e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing white collar crime statistics.

Medicaid fraud in New Mexico is handled by the Medicaid Fraud and Elder Abuse Division of the New Mexico Office of Attorney General, which pursues the matter both criminally and civilly. The attorney general’s website (<http://www.nmag.gov/medicaid-fraud-and-elder-abuse.aspx>) does not make statistics available online, though the U.S. Department of Health and Human Services’ Office of the Inspector General issued a report on the New Mexico Medicaid Fraud Control Unit in 2015 (<https://oig.hhs.gov/oei/reports/oei-09-14-00240.asp>).

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# **New York**

## **Banking and finance**

The Department of Financial Services is responsible for regulating New York's banks and financial institutions. Its enforcement powers may be entirely administrative. The superintendent may issue administrative orders to halt unauthorized, unsafe, or unsound practices under McKinney's Consolidated Laws of New York Annotated Banking Law § 39. The same statute also authorizes other sorts of administrative orders. N.Y. Banking Law § 44(1) and 44-a (McKinney) authorize various ranges of administrative fines.

There is no explicit statutory guidance about how the department manages its records, what information the department collects or reports, or what it releases to the public. While the department makes a variety of reports available to the public (including annual reports from both the department, generally, and reports from the department's Financial Fraud and Consumer Protection Division), these do not cover things such as the superintendent's administrative powers. Enforcement data are not available on its website (<http://www.dfs.ny.gov/>).

## **Environment**

Environmental protection in New York is the responsibility of the Department of Environmental Conservation. While they have general authority over environmental protection within the state of New York (under McKinney's Consolidated Laws of New York Annotated Environmental Conservation Law § 3-0301), their powers in relation to specific types of environmental dangers are codified separately. Air pollution was selected as representative of their typical regulatory practice. Under McKinney's ECL § 19- 0505, the commissioner may issue administrative orders in response to violations. McKinney's ECL § 19- 0509 grants the commissioner a great deal of latitude in regard to the content of said order.

There is no explicit statutory guidance about how the department manages its records, what information the department collects or reports, or what it releases to the public. The department's website does make some information available to the public, but not on a statewide basis. Enforcement information is available for Region 2 (New York City at <http://www.dec.ny.gov/regulations/58050.html>) and 4 (the Capital Region at <http://www.dec.ny.gov/regulations/45353.html>).

## **Worker safety**

Occupational safety and health in New York is the responsibility of the Department of Labor. Under McKinney's Consolidated Laws of New York Annotated Labor Law § 27, the commissioner can promulgate such rules as are necessary to protect the health of nonpublic employees who are not

covered by the federal OSHA regulations. Violations of such rules are punished as misdemeanors under McKinney's Labor Law § 213, which makes any violation of the labor law (or its associated rules and regulations) a misdemeanor unless another penalty is specified. This section pointedly does not apply to people covered by McKinney's Labor Law § 27-a, which covers worker safety for public employees. McKinney's Labor Law § 27-a creates a framework within which the commissioner is authorized to issue administrative compliance orders in response to violations, and to assess administrative fines for subsequent noncompliance. If administrative options are nonproductive, the commissioner is authorized to enforce compliance or payment through the civil courts.

While there are statutes governing how the department manages its records (such as McKinney's Labor Law § 35, dealing with the maintenance of records), there is no guidance concerning what information the department collects or reports, or what it releases to the public. The department's website ([http://labor.ny.gov/workerprotection/safetyhealth/DOSH\\_INDEX.shtm](http://labor.ny.gov/workerprotection/safetyhealth/DOSH_INDEX.shtm)) does not contain any enforcement information.

## **Medicaid fraud**

New York participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider
- (b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence
- (c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies
- (d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit
- (e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing white collar crime statistics.

Medicaid fraud in New York is handled by the Medicaid Fraud Control Unit, located within the Criminal Division of the New York Attorney General's Office. While the unit makes detailed and informative

research materials about its enforcement efforts available at <http://www.ag.ny.gov/medicaid-fraud/reports-publications>, these materials have not been updated since 2009 (as of September 2016).

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# North Carolina

## **Banking and finance**

The Commissioner of Banks is responsible for regulating North Carolina's banks and financial institutions. The commissioner has the power to assess administrative fines and to issue administrative orders under North Carolina General Statutes Annotated § 53C-8-12. The same statute also allows the commissioner to sue for civil penalties, and to refer criminal matters to the proper authorities.

It is a misdemeanor offense (under NCGSA § 53C-8-8) for an examiner to reveal information that they discover during an investigation, except as explicitly allowed by law. However, under NCGSA § 53C-2-7, the commissioner is instructed to keep a record of "the Commissioner's official acts, rulings, and transactions that, except as otherwise provided, shall be open to inspection and copying by any person." This would seem sufficient authority for making needed white collar crime information available, if not necessarily in a convenient fashion (as "open to inspection" would often require an in-person site visit). The commissioner's website includes lists of enforcement actions (<http://www.nccob.org/Public/News/NREnforcementActions.aspx>). However, this list may be incomplete (it lists only five banking enforcement actions since 2010; <https://www.nccob.org/Online/Shared/BRTSCommissionOrderListing.aspx>).

## **Environment**

Environmental protection in North Carolina is the responsibility of the Department of Environmental Quality. As their authority extends to a number of separately codified subject areas, one area (water resource management, Article 38 of chapter 143) was selected as representative. In this area, the department has the authority to issue emergency administrative orders under NCGSA § 143-355.3, and to assess administrative fines (under NCGSA § 143-355.3(a) and (c)). NCGSA § 143-355.3(c3) allows for the collection of the administrative fines through civil court if they have not been paid within 30 days. NCGSA § 143-355 creates criminal (fine only) misdemeanor charges for a limited class of violations pertaining to wells and cuttings.

There is no explicit statutory guidance about how the department manages its records, what information the department collects or reports, or what it releases to the public. The enforcement page for the Water Resources Division (<http://deq.nc.gov/about/divisions/water-resources/water-resources-enforcement>) does not contain any statistical information online.

## **Worker safety**

Occupational safety and health in North Carolina is the responsibility of the Occupational Safety and Health Division of the Department of Labor. Under N.C.G.S.A. § 95-133(b)(9), the commissioner (of the Department of Labor) has the power to administratively issue "all types of notices, citations, cease and



desist orders, or any other pleading, form or notice necessary to enforce compliance” with the state’s worker safety laws, as well as to apply to the courts for the same. The same section also authorizes the commissioner to assess penalties (at the request of the director of the division). The commissioner may “institute such proceedings as necessary for the enforcement and payment of such civil penalties.” These proceedings certainly include civil options, but administrative routes may also be anticipated by such language. N.C.G.S.A. § 95-138 further details the civil penalties available to the commissioner (at the request of the director). Criminal misdemeanor penalties are also available (under N.C.G.S.A. § 95-139) for violations that result in a death.

N.C.G.S.A. § 95-144 requires the commissioner to collect, compile, and analyze occupational safety data, but the emphasis is on the harms suffered by the employees and not on enforcement activity per se. That said, there is some possibility that enforcement information could also be collected through such a mechanism, if it is not already. N.C.G.S.A. § 95-152 requires that information that might reveal trade secrets be held as confidential, but does not directly burden enforcement data. The annual report on worker safety in North Carolina is available at <http://www.nclabor.com/osha/compliance/SOAR.pdf>. It includes basic data on enforcement activities.

## **Medicaid fraud**

North Carolina participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider
- (b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence
- (c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies
- (d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit
- (e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing white collar crime statistics.

Medicaid fraud in North Carolina is handled by two different entities. Medicaid provider fraud is handled through the North Carolina Attorney General's Investigative Division. Medicaid recipient fraud is handled by the Department of Health and Human Services' Division of Medical Assistance. While the Attorney General's Office's website (<http://www.ncdoj.gov/getdoc/2afb32e0-9831-41b7-8d53-99c9216c76a7/Reporting-Medicaid-Fraud-and-Abuse.aspx>) makes no statistics available, the Division of Medical Assistance makes some limited data available in their annual reports (<http://dma.ncdhhs.gov/medicaid-data-annual-reports>).

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# **North Dakota**

## **Banking and finance**

The Commissioner and the Department of Financial Institutions and the State Banking Board are responsible for regulating North Dakota's banks and financial institutions. Its powers are almost entirely administrative. The state banking board (of which the commissioner is a member) has the power to issue administrative cease and desist orders under North Dakota Century Code § 6-01-04.2 (though the commissioner can do it without the backing of the board in cases of emergency). Under NDCC § 6-01-04.3, the commissioner or the board can assess administrative penalties for not complying with such orders. In certain cases, the board can also administratively order corrective action under NDCC § 6-01-04.4. The sole exception to the administrative basis of their powers is found in NDCC § 6- 01-29, which makes it a felony to obstruct or mislead an examiner.

Under NDCC § 6-01-10, "[t]he commissioner shall report to the board annually, touching on all the commissioner's official acts and those of the deputy examiners." While enforcement activity would clearly constitute official acts, it is unclear as to how much information touching on them is supposed to convey. While there are confidentiality rules in NDCC § 6-01-07.1, they do not directly touch on enforcement data.

## **Environment**

Environmental protection in North Dakota is the responsibility of the Department of Health. As its authority extends to a number of separately codified subject areas, one area (solid waste management, chapter 29 of title 23) was selected as representative. In this area, the department has the authority, under NDCC § 23-29-04(10) to issue both administrative compliance and corrective orders. Under NDCC 23-29-12, any violation that does not otherwise specify a penalty carries with it an administrative fine, or a felony charge if committed willfully. One of the violations that specifies a different penalty is NDCC § 23-29-05.1 (which specifies a misdemeanor charge for littering). On the civil side, NDCC § 32-40-06 allows anyone, from private citizens to state agencies (with the approval of the attorney general), to file civil suit to enforce environmental statutes, rules, or regulations, or to recover damages from such a violation.

There is no explicit statutory guidance about how the department manages its records, what information the department collects or reports, or what it releases to the public.

## **Worker safety**

Occupational safety and health in North Dakota is the responsibility of North Dakota Workplace Safety and Insurance. Its joint role as both insurer and safety monitor gives them enforcement options that would not be available otherwise. For example, NDCC. § 65-03-02 allows for safety violations to be

punished through an administrative increase in insurance premium. NDCC. § 65-04-27.1 allows Workplace Safety and Insurance to obtain civil injunctive relief. Under NDCC. § 65-01-01, all other civil claims and actions are abolished. While NDCC. § 65-01-01 references civil penalties being available, it is unclear where they are codified. It is nonetheless assumed that they exist.

NDCC. § 65-02-09 mandates a biennial report, but enforcement measures are not a required topic. Still, it may include “[a]ny other matters which the organization wishes to call to the attention of the governor, including any recommendation for legislation or otherwise which it may have to make.” There is a nonzero chance that this would include enforcement data.

## **Medicaid fraud**

Medicaid fraud in North Dakota is handled by the Department of Human Services. Under NDCC § 50- 24.1-36, they are authorized to recover up to 25% of any funds lost through fraud or abuse from the provider in question, in addition to the department’s expenses. This penalty is capped at \$5,000 for acts of fraud or abuse that did not result in a payment. These penalties are in addition to any penalties the department might have established by rule.

There is no explicit statutory guidance about how the department manages its records, what information the department collects or reports, or what it releases to the public.

# Ohio

## **Banking and finance**

The Superintendent of Financial Institutions and Deputy Superintendent for Banks are responsible for regulating Ohio's banks and financial institutions. The superintendent can issue administrative cease and desist orders under Ohio Revised Code Annotated § 1121.32, and can issue administrative fines for violations under R.C. § 1121.35. Under R.C. § 1121.48, the superintendent can also bring civil suit in the name of the state (though the trial itself is to be conducted by the attorney general).

Under R.C. § 1121.18, "[i]nformation leading to, arising from, or obtained in the course of the examination of a bank or any examination conducted pursuant to the authority of section 1121.10 or 1121.11 of the Revised Code is privileged and confidential." This may also apply to enforcement statistics. That said, its website posts lists of enforcement actions (though only through 2012) at <http://www.com.ohio.gov/fiin/enforcement.aspx>. It also gives access to an enforcement database located at [https://www.comapps.ohio.gov/dfi/fiin\\_apps/EnforcementLookup/](https://www.comapps.ohio.gov/dfi/fiin_apps/EnforcementLookup/), but it is unclear whether the contents of the database are any more recent.

## **Environment**

Environmental protection in Ohio is the responsibility of the Director of Environmental Protection. As the director's authority extends to a number of separately codified subject areas, one area (solid waste management, chapter 3734) was selected as representative. In this area, the department has a broad range of civil, criminal, and administrative authority. Administratively, the director can issue enforcement orders (under R.C. § 3734.13(A)) and emergency orders (under R.C. § 3734.13(B)). Civilly, the same statute gives the director the ability to ask the attorney general to apply for civil orders and penalties (under R.C. § 3734.13(C)). Criminally, R.C. § 3734.99 creates both felony and misdemeanor charges for various types of violations.

While there is a general requirement for the director to create a department-wide annual report (under R.C. § 3745.01(F)), there is no clear guidance about whether enforcement data would be included in such a report. The Ohio Environmental Protection Agency's website includes a gateway to the enforcement pages of its various sections at <http://www.epa.state.oh.us/derie/Home.aspx#176365073-enforcement>. Many of these pages have enforcement data available, but not all, and not all of the pages are updated with any regularity.

## **Worker safety**

It appears that the Bureau of Workers' Compensation is primarily responsible for worker safety in Ohio. R.C. § 4101.11 reads "[e]very employer shall furnish employment which is safe for the employees engaged therein, shall furnish a place of employment which shall be safe for the employees therein and for frequenters thereof, shall furnish and use safety devices and safeguards, shall adopt and use methods and processes, follow and obey orders, and prescribe hours of labor reasonably adequate to render such employment and places of employment safe, and shall do every other thing reasonably necessary to protect the life, health, safety, and welfare of such employees and frequenters." Failure to abide by the statute, or "failing to perform any duty lawfully enjoined, within the time prescribed by the bureau of workers' compensation, for which violation no penalty has been specifically provided, or fail[ing] to obey any lawful order given or made by the bureau, or any judgment or decree made by any court in connection with such [matters]" (R.C. § 4101.15) is grounds for an administrative fine under R.C. § 4101.99.

Though it only applies to public employees, R.C. § 4167.14 allows the administrator of workers' compensation to seek injunctive relief or restraining orders in civil court in response to dangerous work conditions. R.C. § 4167.14 allows the administrator to apply to the courts for orders forcing violators to comply with administrative orders. This presupposes the existence of such administrative orders, though the explicit authority for them was unclear.

Though it pertains to public employees only, the administrator of workers' compensation is required to "develop and maintain, for public employers and public employees, an effective program of collection, compilation, and analysis of employment risk reduction statistics" under R.C. § 4167.11. While it is unlikely that enforcement statistics are currently being gathered, this is one possible justification for collecting them in the future. Though R.C. § 4167.12 restricts the revelation of trade secrets, it should not impact white collar crime data.

The bureau publishes its annual reports at <https://www.bwc.ohio.gov/downloads/blankpdf/AnnualReport.pdf>. It includes some basic enforcement information.

## **Medicaid fraud**

Ohio participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider

(b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence

(c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies

(d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit

(e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing white collar crime statistics.

Medicaid fraud in Ohio may be noticed by many different entities but is ultimately the responsibility of the attorney general. Under R.C. § 109.85(A), “[u]pon the written request of the governor, the general assembly, the auditor of state, the Medicaid director, the director of health, or the director of budget and management, or upon the attorney general's becoming aware of criminal or improper activity related to Chapter 3721 and the Medicaid program, the attorney general shall investigate any criminal or civil violation of law related to Chapter 3721 of the Revised Code or the Medicaid program.” (Chapter 3721 deals with rest homes and nursing homes.) While the website (<http://www.ohioattorneygeneral.gov/About-AG/Service-Divisions/Health-Care-Fraud>) includes some basic enforcement information, it seems insufficient for most research purposes.

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# Oklahoma

## **Banking and finance**

The State Banking Commissioner is responsible for regulating Oklahoma's banks and financial institutions. The commissioner can issue administrative cease and desist orders (to halt violations or unsafe or unsound practices) under 6 Oklahoma Statutes Annotated § 204(A)(10), and can issue administrative fines for violations under 6 Okl. St. Ann. § 204(A)(11). Civil injunctions can be obtained, under 6 Okl. St. Ann. § 1415, to halt impending violations or businesses holding themselves out as banks without authorization. 6 Okl. St. Ann. § 1414 criminalizes various acts of fraud or corruption.

6 Okl. St. Ann. § 212 lays out the requirements for the commissioner's annual report. However, all it says about the report's contents is that the report "shall include such matters as the Commissioner deems advisable." What this might mean in practice is highly variable from commissioner to commissioner. The current incarnation of the report (available at [https://www.ok.gov/banking/Annual\\_Report.html](https://www.ok.gov/banking/Annual_Report.html)) does not include any enforcement data.

## **Environment**

Environmental protection in Oklahoma is the responsibility of the Director of Environmental Quality. The director can issue administrative orders under 27A Okl. St. Ann. § 2-3-502. Violating such an order (or a license term or any permit, rule, or duty pertaining to the department) subjects the violator to a wide array of possible punishments. These include, under 27A Okl. St. Ann. § 2-3-504, administrative penalties (27A Okl. St. Ann. § 2-3-504(A)(3)), civil penalties (27A Okl. St. Ann. § 2-3-504(A)(2)), civil injunctions (27A Okl. St. Ann. § 2-3-504(A)(4)), and criminal misdemeanor charges (27A Okl. St. Ann. § 2-3-504(A)(1)).

27A Okl. St. Ann. § 2-3-101(H)(1) details the director's annual report, which is required to contain a great deal of basic enforcement information (such as the number of environmental inspections made within the various regulatory areas under the department's jurisdiction, the number and type of complaints filed with the department, the number of resolved and unresolved department complaints, a list of any complaints that failed to be resolved within the department's established time frames and an explanation of why the department was unable to meet said time frames, the number and type of administrative hearings held and their outcomes, the number of notices of violations issued by the department within the various regulatory areas under its jurisdiction, the amount of penalties collected by the department within the various regulatory areas under its jurisdiction, and any other information which the department believes is pertinent). While this data might not be recorded with the level of detail that a white collar crime researcher might be interested in, it at least points towards an enforcement-oriented bureaucratic infrastructure and amenability towards providing such data. These annual reports can be found at <http://www.deq.state.ok.us/mainlinks/reports.htm>.



## Worker safety

The Oklahoma Department of Labor is primarily responsible for worker safety in Oklahoma. 40 Okl. St. Ann. § 410 allows the commissioner to issue administrative corrective orders and emergency orders. The commissioner also has the ability to issue administrative fines under 40 Okl. St. Ann. § 412(D). This penalty would be either in addition to or in lieu of the standard penalty for a violation which, under 40 Okl. St. Ann. § 412(A) and (B), is a criminal misdemeanor. 40 Okl. St. Ann. § 412(C) allows the attorney general to bring an action against violators. As criminal penalties have already been spelled out in 40 Okl. St. Ann. § 412(A) and (B), this seems likely to be a reference to civil actions, but no further detail is available.

40 Okl. St. Ann. § 417 directs the department to collect statistical data from employers, to aggregate it, and to disseminate it to anyone with a legitimate interest. These data only deals with injuries and does not explore whether such injuries were linked to a violation, much less what the enforcement response was. While the statistical unit can be found at [https://www.ok.gov/odol/Workplace\\_Safety\\_&\\_Health/Statistics/Injury\\_&\\_Illness/index.html](https://www.ok.gov/odol/Workplace_Safety_&_Health/Statistics/Injury_&_Illness/index.html), there is no mention of enforcement data.

## Medicaid fraud

Oklahoma participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider
- (b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence
- (c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies
- (d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit
- (e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing white collar crime statistics.

Medicaid fraud in Oklahoma is handled by the Medicaid Fraud Control Unit within the Attorney General's Office. It pursues the matter both criminally and civilly. The office does not make any statistical data available on its website

([https://www.ok.gov/oag/About the Office/Medicaid Fraud Control Unit.html](https://www.ok.gov/oag/About_the_Office/Medicaid_Fraud_Control_Unit.html)).

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# Oregon

## **Banking and finance**

The Department of Consumer and Business Services is responsible for regulating Oregon's banks and financial institutions. The director can issue administrative cease and desist or corrective orders (after an administrative hearing) under Oregon Revised Statutes § 706.580(3)(a). O.R.S. § 706.580(3)(b) allows the director to apply for the corresponding orders through the civil courts. O.R.S. § 706.980 creates civil fines that can be collected in any court of competent jurisdiction. O.R.S. § 706.990 makes false statements or reports a felony.

O.R.S. § 706.620 requires the director to "keep proper books showing the acts, matters and things by the director done under the provisions of the Bank Act." This would presumably include enforcement activities. Under O.R.S. § 706.720(2), "the records of the Department of Consumer and Business Services that pertain to the administration of the Bank Act are available for public inspection unless the director determines in a particular instance that an Oregon operating institution or the directors, stockholders, officers, employees and customers of the Oregon operating institution have an interest in keeping the records confidential that outweighs the public interest in disclosing the records, or that the records are exempt from disclosure under ORS 192.501 to 192.505." O.R.S. § 192.501 to 505 include dozens of separate exceptions, but they should not usually apply to statistical data of completed, fully adjudicated investigations (though there are several exceptions that can apply to complaints that are still under investigations or that are still being adjudicated). While the Division of Financial Regulation (within the Department of Consumer and Business Services) includes mechanisms by which to request access to public records, it also includes a searchable list of the notices and orders that it has issued (<http://dfr.oregon.gov/public-resources/Pages/notices-orders.aspx>).

## **Environment**

Environmental protection in Oregon is the responsibility of the Department of Environmental Quality and the Environmental Quality Commission. They have a range of administrative, civil, and criminal enforcement options at their disposal. O.R.S. § 468.140 allows for the collection of administrative fines for violations (and O.R.S. § 468.996 allows for an additional administrative fine in cases of reckless or intentional behavior), while O.R.S. § 468.115 allows for emergency administrative orders. O.R.S. § 468.100 allows the Commission to seek equitable and injunctive relief (presumably from a civil court). The department's criminal enforcement options are codified at O.R.S. § 468.922 et seq., which criminalizes a wide variety of offenses, including both felonies and misdemeanors.

Under O.R.S. § 468.095(2), the department's records and information are open to the public unless specifically designated confidential by the director. This would presumably include enforcement records. The department's website includes a searchable database of formal enforcement actions (<http://www.deq.state.or.us/programs/enforcement/EnfQuery.asp>).

## **Worker safety**

The Oregon Department of Consumer and Business Services is primarily responsible for worker safety in Oregon. Under O.R.S. § 654.031, the director can issue administrative corrective orders when an inspection uncovers unsafe conditions. Under O.R.S. § 654.071, the director can issue corrective administrative orders (in response to violations), which trigger administrative fines if they are not followed promptly. Criminal misdemeanor sanctions are authorized under O.R.S. § 654.991 for willful violations that result in death, for giving advance notice of inspections, and for making false statements to the department.

The director is required, under O.R.S. § 654.120, to keep records for a reasonable period of time. While there are provisions for keeping trade secrets confidential, there is no reason to expect this to restrict access to enforcement data. All the same, while the department is keeping records, there is no mandate that they take any effort to aggregate them. Hence, there may be no statistical information available. The department does not publish data on its enforcement activities on its website (<http://osha.oregon.gov/rules/enf/Pages/enforcement.aspx>).

## **Medicaid fraud**

Oregon participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider
- (b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence
- (c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies
- (d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit
- (e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing white collar crime statistics.

Medicaid fraud in Oregon is handled by the Department of Justice. It pursues the matter criminally. The department does not make any statistical data available on its website ([http://www.doj.state.or.us/consumer/pages/medicaid\\_fraud.aspx](http://www.doj.state.or.us/consumer/pages/medicaid_fraud.aspx)).

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# Pennsylvania

## **Banking and finance**

The Department of Banking and Securities is responsible for regulating Pennsylvania's banks and financial institutions. The department has the power, under 71 Pennsylvania Statutes § 733-501(A), to issue administrative cease and desist orders and (under 71 P.S. § 733-501(D) – (G)) various other administrative remedial and investigative orders. 71 P.S. § 733-501(H) also allows the department to impose administrative fines for violations. The department (under 71 P.S. § 733-502) may petition the Commonwealth Court through the attorney general for a civil compliance order if its administrative order is not obeyed. The department may similarly seek the aid of the attorney general in collecting administrative fines in civil court under 71 P.S. § 733-403(E)(3). Any criminal activity detected is to be referred to the appropriate agency (71 P.S. § 733-1101).

While 71 P.S. § 733-404 makes clear that there are no publication requirements placed upon the department that can overrule the department's decision not to publish something, the department is allowed to publish information if it chooses to. "The department may, from time to time, with the approval of the Governor, cause to be published a summary of the condition of institutions under its supervision, containing such information in relation to such institutions as in its judgment is desirable." While the department would have to find publishing white collar crime information desirable, that's more a burden of persuasion than a burden of law. That said, it maintains a list of its enforcement actions (with links to copies of the original documents) at <http://www.dobs.pa.gov/For%20Media/Pages/2016-Enforcement-Orders.aspx>.

## **Environment**

Environmental protection in Pennsylvania is the responsibility of the Department of Environmental Protection. Its areas of responsibility are split among many sections of the code. As such, one subject area was chosen as representative. This subject area was solid waste management (Pennsylvania Statutes, chapter 29A). Under 35 P.S. § 6018.602, the department can issue whatever kinds of administrative orders it finds necessary. Under 35 P.S. § 6018.604, the department can apply to civil court for orders restraining nuisances and violations, and for civil fines. 35 P.S. § 6018.605 authorizes administrative fines. 35 P.S. § 6018.606 offers both misdemeanor and felony criminal enforcement options. Anything used to transport hazardous waste in such a criminal offense is civilly forfeit to the state under 35 P.S. § 6018.614.

While there is no specific statutory language concerning the department's records or who they can release them to, they are encouraged, under 35 P.S. § 6018.104(5) to "initiate, conduct, and support research, demonstration projects, and investigations, and coordinate all State agency research programs, pertaining to solid waste management systems." There is not one specific place where the department maintains enforcement information, but it mentions enforcement

actions within specialized subject areas (e.g., <http://www.ahs.dep.pa.gov/eFACTSWeb/default.aspx/default.aspx>).

## **Worker safety**

Worker safety in Pennsylvania is the responsibility of the Department of Labor and Industry, which deals with the matter through administrative and criminal law. Under 43 P.S. § 25-13, the department can issue instructions about how to correct violations. Under 43 P.S. § 25-15 (and 43 P.S. § 3), interfering with the department or committing a violation is made a misdemeanor.

There is no discussion of the department's record or information release policies. While the department makes health and safety information available on its website (<http://www.dli.pa.gov/Businesses/Compensation/WC/safety/Pages/default.aspx>), it does not publish enforcement information.

## **Medicaid fraud**

Pennsylvania participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider
- (b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence
- (c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies
- (d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit
- (e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing white collar crime statistics.

Medicaid fraud in Pennsylvania is handled by the Attorney General's Medicaid Fraud Section. It pursues the matter criminally. The department does not make any statistical data available on its website ([https://www.attorneygeneral.gov/Criminal/Medicaid\\_Fraud\\_Section/](https://www.attorneygeneral.gov/Criminal/Medicaid_Fraud_Section/)).

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.



# **Rhode Island**

## **Banking and finance**

The Department of Business Regulation is responsible for regulating Rhode Island's banks and financial institutions. The department is authorized to issue administrative orders (generally in regard to ceasing violations, but also in some other situations) under 19 Rhode Island General Laws Annotated § 19-4-12. Under 19 R.I. Gen. Laws Ann. § 19-4-14, the director may apply to the superior court for the enforcement of any administrative order. The director can impose administrative fines in a very narrow class of cases under 19 R.I. Gen. Laws Ann. § 19-4-15 (dealing with unauthorized banking businesses). The department also makes limited use of criminal law, such as in 19 R.I. Gen. Laws Ann. § 19-4-11, which makes it a misdemeanor to be unresponsive to an order to testify before the department (or to obstruct it), or 19 R.I. Gen. Laws Ann. § 19-4-13, which makes it a misdemeanor to continue dealing in financial transactions after being suspended from so doing.

Under 19 R.I. Gen. Laws Ann. § 19-4-3, information gained during investigations is protected with a strong presumption of confidentiality. "Documents, materials or other information in the possession or control of the division of banking that are obtained by or disclosed to the director or the director's designee or any other person in the course of an examination or investigation made pursuant to this chapter shall be confidential by law and privileged." While "or other information" is the section that might conceivably shield enforcement data, enforcement data cannot realistically be understood to be either obtained by or disclosed to the director. Rather, it is something that the director generates through his or her response to the situation. As such, the statute seems to be silent towards it, though it could conceivably be read another way. Nonetheless, the department lists its enforcement actions online at [http://www.dbr.state.ri.us/decisions/decisions\\_banking.php](http://www.dbr.state.ri.us/decisions/decisions_banking.php).

## **Environment**

Environmental protection in Rhode Island is largely decentralized, with individual cities and towns being responsible for the majority of day-to-day enforcement activities. There is a designated environmental advocate within the department of the attorney general who is, under, 10 R.I. Gen. Laws Ann. § 10-20-3, obligated to help in such matters. The court is authorized to issue equitable and declaratory relief in such cases (under 10 R.I. Gen. Laws Ann. § 10-20-6).

There is no discussion in this section of code of any record or information release policies. The environmental advocate does not make enforcement data available on its website (<http://www.riag.ri.gov/CivilDivision/EnvironmentalAdvocacyUnit.php>).

## **Worker safety**

Worker safety in Rhode Island is the responsibility of the Department of Labor and Training, Division of Occupational Safety. This is distinct from worker health, which is the domain of the Department of

Health, Division of Occupational Health. 28 R.I. Gen. Laws Ann. § 28-20-16 gives the director the power to issue administrative compliance orders. If these orders are not complied with, the director has a number of civil and/or criminal enforcement options at his or her disposal under 28 R.I. Gen. Laws Ann. § 28-20-18. Additionally, 28 R.I. Gen. Laws Ann. § 28-20-14 allows for the superior court (on petition of the attorney general) to restrain dangerous practices and issue injunctive relief.

The director is required to make an annual report under 28 R.I. Gen. Laws Ann. § 28-20-3, but there is no guidance as to the content of said report. While 28 R.I. Gen. Laws Ann. § 28-20-32 makes information containing trade secrets confidential, there is no particular reason to apply this to enforcement data. The department makes no enforcement data available on its website (<http://www.dlt.ri.gov/occusafe/>).

## Medicaid fraud

Rhode Island participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider
- (b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence
- (c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies
- (d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit
- (e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing white collar crime statistics.

Medicaid fraud in Rhode Island is handled by the Attorney General's Medicaid Fraud and Patient Abuse Unit. It pursues the matter both criminally and civilly. The department does not make any statistical data available on its website (<http://www.riag.ri.gov/CriminalUnit/MedicaidFraudPatientAbuseUnit.php>). The U.S. Department of Health and Human Services, Office of the Inspector General did a site visit in 2014, and that report is available at <https://oig.hhs.gov/oei/reports/oei-02-14-00580.asp>.

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# South Carolina

## **Banking and finance**

The Office of the Commissioner of Banking is responsible for regulating South Carolina's banks and financial institutions. The board's primary enforcement tool is the criminal law. Under South Carolina Code Annotated § 34-1-100, the commissioner of banking is authorized to initiate criminal prosecution if he or she finds any evidence of criminal wrongdoing whilst examining the state's banks. Aside from interfering with an investigation (itself a misdemeanor under S.C. Code Ann. § 34-1-120), most of the relevant criminal penalties are classified as misdemeanors and are codified between S.C. Code Ann. § 34-3-70 and S.C. Code Ann. § 34-3-90 (covering false statements and the default penalty for violations). The exception is S.C. Code Ann. § 34-3-110 (crimes against a federally chartered or insured financial institution), which is a felony.

While there is a considerable amount written about the records that the banks are required to keep (S.C. Code Ann. § 34-3-510 et seq.), there is no guidance pertaining to the records of the department. Its website (<http://www.banking.sc.gov/Pages/default.aspx>) does not publish enforcement data.

## **Environment**

Environmental protection in South Carolina is the responsibility of the Department of Health and Environmental Control. As its responsibilities are codified in various sections of the South Carolina code, one area of responsibility was selected as representative. This area was hazardous waste management. Under S.C. Code Ann. § 44-56-50, the director may issue administrative cease and desist and abatement orders, or may ask the attorney general to obtain a corresponding civil order, or may ask the attorney general to commence a civil action to recover damages. S.C. Code Ann. § 44-56-140 offers a parallel arrangement, with the director being authorized to issue administrative compliance orders, but being able to ask the attorney general to pursue corresponding civil orders and damages. S.C. Code Ann. § 44-56-140 also allows for criminal misdemeanor penalties for willful violations.

There is no discussion of the department's records or information release policies in this section of the state code. A list of orders issued by the department can be found on its website at <http://www.scdhec.gov/Environment/EnforcementActions/>.

## **Worker safety**

Worker safety in South Carolina is the responsibility of the Commissioner of Labor and the Department of Labor, Licensing, and Regulation. Under S.C. Code Ann. § 41-15-280, the Commissioner of Labor can issue citations that set abatement conditions. The Director of the Department of Labor, Licensing, and Regulation, on the other hand, can petition the court of common pleas to restrain and conditions that

pose an imminent danger under S.C. Code Ann. § 41-15-290. S.C. Code Ann. § 41-15-320 contains provisions for administrative penalties for violations and criminal penalties for giving advance notice or false statements. Any administrative fines that are not paid after 30 days may be brought to civil court by the attorney general, under S.C. Code Ann. § 41-15-330.

There is no discussion of the department's records or information release policies in this section of the state code. Some very basic enforcement statistics can be found on its website at <http://www.scosha.llronline.com/index.asp?file=stats.htm>.

## **Medicaid fraud**

South Carolina participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider
- (b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence
- (c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies
- (d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit
- (e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing white collar crime statistics.

Medicaid fraud in South Carolina is handled by the Attorney General's Medicaid Fraud Control Unit. It pursues the matter both criminally and civilly. The department does not make meaningful statistical data available on its website (<http://www.scag.gov/medicaid-fraud>). It does mention its total convictions and funds recovered (since 2008). This suggests that numbers are kept, even if they are not currently being reported in a detailed way to the public.

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# South Dakota

## **Banking and finance**

The Department of Labor and Regulation, Division of Banking is responsible for regulating South Dakota's banks and financial institutions. The director can issue temporary administrative cease and desist orders under South Dakota Consolidated Laws § 51A-2-25, and permanent orders under SDCL § 51A-2-26. If those orders are not complied with, the director can seek civil orders under SDCL § 51A-2-27. The director can assess administrative fines under SDCL § 51A-2-37 (for refusal to allow examination) and SDCL § 51A-1-5 (for failure to comply with a lawful order). Both misdemeanor and felony criminal penalties are codified in SDCL § 51A-1-9 to SDCL § 51A-1-14 (51A-1-12 excepted).

According to SDCL § 51A-2-33, “[b]efore entering upon the discharge of his duties, each member of the commission, the director, and all officers and employees of the division shall take an oath to keep secret all facts and information obtained in the discharge of his official duties.” As written, this seems to be a fairly effective tool for keeping the information about the division's activities inaccessible. There are a few exceptions (including “[a]s the public duty of such officer or appointee requires him to report upon or take special action regarding the affairs of any bank” and “[i]nformation with reference to a suspended bank which may be made public if, in the discretion of the director, it is to the best interests of the creditors thereof), but none of them fits the needs of white collar crime research. That said, SDCL § 51A-2-35 makes the (nonconfidential) records of the division open to inspection by the public. How these two statutes work together in practice are unclear. Its annual reports can be found at [http://www.dlr.sd.gov/banking/about\\_us.aspx#annualreports](http://www.dlr.sd.gov/banking/about_us.aspx#annualreports), and its activity reports can be found at [http://www.dlr.sd.gov/banking/commission\\_activity\\_report.aspx](http://www.dlr.sd.gov/banking/commission_activity_report.aspx). Neither resource contains enforcement data.

## **Environment**

Environmental protection in South Dakota is the responsibility of the Department of Environment and Natural Resources. As its responsibilities are codified in various sections of the South Dakota code, one area of responsibility was selected as representative. This area was water pollution control (chapter 34A-2), under the responsibility of the department's Water Management Board. Most violations of the water pollution control code are subject to administrative fines and misdemeanor criminal charges under SDCL § 34A-2-75. Those fines may also be recovered through civil means under SDCL § 34A-2-74. Under SDCL § 34A-2-72 and 73, the secretary may bring suit in circuit court to immediately enjoin violations or imminent and substantial dangers.

Under SDCL § 34A-2-94, there is a general presumption that all records, reports, and information of acquired under these statutes shall be available to the public (barring a showing that the information constitutes a trade secret). The department stores a large number of documents at

<http://denr.sd.gov/documents.aspx>. Some of these include at least some forms of enforcement data (such as <http://denr.sd.gov/des/dw/PDF/ACR2013.pdf>).

## **Worker safety**

While South Dakota has a well-developed body of workers' compensation law (title 62), an online review of state agencies did not locate an agency dedicated to ensuring worker safety before the fact.

## **Medicaid fraud**

South Dakota participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider
- (b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence
- (c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies
- (d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit
- (e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing white collar crime statistics.

Medicaid fraud in South Dakota is handled by the Attorney General's Medicaid Fraud Control Unit. It is unclear whether it pursues such matters civilly or criminally. The department does not make enforcement statistics available on its website

(<https://atg.sd.gov/OurOffice/Departments/MFCU/default.aspx>).

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# Tennessee

## **Banking and finance**

Banking and finance are handled separately in Tennessee. The Department of Financial Institutions is responsible for regulating Tennessee financial institutions. Tennessee Code Annotated § 45-1-107(a)(4) and (5) authorize the commissioner to issue administrative orders (cease and desist orders, as well as compliance orders). If the violator refuses to comply with the administrative order, TCA § 45-1-108(b) gives the commissioner the option of going to a civil court for a compliance order or of assessing administrative fines for violations. Other civil actions are available as well: TCA § 45-1-107(a)(6) allows the commissioner to bring a civil action to enjoin violations, while TCA § 45-1-123 allows the commissioner to bring any suit in civil court that they might wish.

The commissioner is also responsible for regulating Tennessee's banks, for which the criminal law is the primary enforcement tool. TCA § 45-2-1704 to 1716 and 1701 and 1718 detail a fairly wide list of misdemeanors under this section. (Though TCA § 45-2-1709 includes a right to seek injunctive relief in civil court in the case of unauthorized use of the word "bank.") TCA § 45-2-1702 (receipt of a deposit in an insolvent institution) is a felony, as is TCA § 45-2-1718 when done to defraud. 45-2-1719 gives the ability to seek civil injunctions against violations that threaten imminent injury.

On the financial institutions side, TCA § 45-1-120 allows the commissioner not to reveal anything that he or she does not wish to. While it is not axiomatic that the commissioner is then free to reveal anything that he or she might wish, there is no further guidance on the matter. On the banking side, 45-2-1603 discusses the confidentiality of "information obtained by the commissioner, or any bank examiner in making an examination into the affairs of the bank...for the purpose of ascertaining the true condition of the affairs of the bank," but this really does not touch on records of enforcement decisions. There is no solid guidance relevant to white collar crime research. The Department's annual reports can be found at <http://www.tennessee.gov/tdfi/article/tdfi-annual-report>. These reports include some very basic, aggregated enforcement data.

## **Environment**

Environmental protection in Tennessee is the responsibility of the Department of Environment and Conservation. As its responsibilities are codified in various sections of the Tennessee code, one area of responsibility was selected as representative. This area was air quality (title 68, chapter 201), under the responsibility of the department's Air Pollution Control Board. Under TCA § 68-201-105(a)(2), the Air Pollution Control Board can issue such administrative orders as they may find necessary. TCA § 68-201-105(a)(4), allows them to seek civil compliance orders to help effectuate its administrative orders. TCA § 68-201-105(b)(8) allows the department to likewise seek civil compliance orders to effectuate the board's administrative orders. The technical secretary (who exercises general control over all employees of the board) is also entitled to issue administrative orders (corrective orders under



TCA § 68-201-116(a)). The same statute also entitles the technical secretary to assess administrative fines for violations. TCA § 68-201-111 gives both the board and the commissioner the power to seek civil injunctive relief to stop violations. The commissioner can also issue administrative orders to reduce or discontinue emissions under TCA § 68-201-109. TCA § 68-201-117 authorizes the board and the technical secretary to levy noncompliance and nonpayment penalties. While it has the primary enforcement responsibility for these penalties, it is also allowed to collect them in civil court. Under TCA § 68-201-112, any violation (or false statement or lack of payment) is a misdemeanor criminal offense.

There is no direct statutory guidance in this section about the board's records, or the rules governing the release of information. The department makes its enforcement orders public at <https://tn.gov/environment/article/tdec-enforcement>.

## **Worker safety**

Worker safety in Tennessee is the responsibility of the Department of Labor and Workforce Development's Division of Occupational Safety and Health. T.C.A. § 50-3-307 authorizes the commissioner of labor and workforce development to issue citations that include abatement orders. T.C.A. § 50-3-402 authorizes the commissioner to assess administrative fines for any violation of the work safety code (or any corresponding rule, standard, or order). T.C.A. § 50-3-403 through 406 include specific administrative fines for particular situations. The commissioner is also authorized to institute, under T.C.A. § 50-3-401, civil proceedings to prevent, correct or remove any conditions or practices that pose a serious danger.

The commissioner is explicitly authorized (under T.C.A. § 50-3-305) to "compile, analyze and publish, either in summary or detailed form, all reports or information obtained under §§ 50-3-301—50-3-306" (dealing with inspections). This is done through annual reports that can be found at <https://www.tn.gov/workforce/section/publications>. These reports contain a fair amount of detailed enforcement data.

## **Medicaid fraud**

Tennessee participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider
- (b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence

(c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies

(d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit

(e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing white collar crime statistics.

Medicaid fraud in Tennessee is handled by the Medicaid Fraud Control Unit located in the Tennessee Bureau of Investigation's Criminal Investigation Division. It pursues such matters both civilly and criminally. The division does not make enforcement statistics available on its website (<https://www.tn.gov/tbi/article/medicaid-fraud-control-unit>).

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# Texas

## **Banking and finance**

The Texas Department of Banking and the Banking Commissioner are responsible for regulating Texas's banking and financial institutions. Under Vernon's Texas Code Annotated, Finance Code § 35.002, the commissioner is authorized to issue cease and desist orders in the case of violations, breaches of fiduciary duty, refusing to submit to examination, conducting business in an unsafe or unsound manner, or violating a charter condition. V.T.C.A., Finance Code § 35.003 allows for additional forms of administrative orders (prohibition and removal orders). If these orders are violated (or any other applicable law or rules enacted under the banking code), the commissioner is authorized to initiate an administrative penalty proceeding under V.T.C.A., Finance Code § 35.009(a-1)(1), or to refer the matter to the attorney general for enforcement by injunction or other civil remedy (V.T.C.A., Finance Code § 35.009(a-1)(2)).

V.T.C.A., Finance Code § 35.012 states that the banking commissioner "may release a final cease and desist order, a final order imposing an administrative penalty, or information regarding the existence of any of those orders to the public if the banking commissioner concludes that the release would enhance effective enforcement of the order." On the one hand, this explicitly allows the commissioner to share enforcement data. On the other hand, the sort of case-by-case determination all but guarantees an invalid sample (as there would be no way to know which cases were not included or why, and certainly no guarantee that the exclusions were in any way random). A list of the department's enforcement actions can be found at <http://www.dob.texas.gov/laws-regulations>.

## **Environment**

Environmental protection in Texas is the responsibility of the Texas Commission on Environmental Quality. As its responsibilities are separately codified at various places within the Texas state code, one area of responsibility was selected as being representative. This area was air quality (Subtitle C of Title 5 of the Health and Safety Code). The commission's powers in this regard is administrative. V.T.C.A., Health & Safety Code § 382.023 gives the commission the ability to issue such administrative orders as may be necessary. Under V.T.C.A., Health & Safety Code § 382.025, if air pollution exists, "the commission may order any action indicated by the circumstances to control the condition." Emergency administrative orders are authorized under V.T.C.A., Water Code § 5.514.

Under V.T.C.A., Health & Safety Code § 382.040, all commission records are public and open to inspection (except for information that might reveal secret processes or methods or manufacture). The commission's biennial reports can be found at [https://www.tceq.texas.gov/publications/legislative-reports/legrpt\\_84](https://www.tceq.texas.gov/publications/legislative-reports/legrpt_84). These each contain a detailed chapter on enforcement.

## **Worker safety**

Worker safety in Texas is the responsibility of the Department of Insurance, Division of Workers' Compensation. The division is given authority to "endeavor to eliminate an impediment to occupational or industrial safety" under V.T.C.A., Labor Code § 411.107, but no formal mechanism is given. V.T.C.A., Labor Code § 411.103 requires employers to "provide and maintain employment and a place of employment that is reasonably safe and healthful for employees," to "install, maintain, and use methods, processes, devices, and safeguards, including methods of sanitation and hygiene, that are reasonably necessary to protect the life, health, and safety of the employer's employees," and gives employers a duty to take all actions "reasonably necessary to make the employment and place of employment safe," but does not attach a penalty for failing to do so. However, V.T.C.A., Labor Code § makes any violation or failure to comply with the Texas Workers' Compensation Act (the subtitle that encompasses this section) an administrative violation. If a failure to provide the conditions outlined in V.T.C.A., Labor Code § 411.103 counts as such a failure to comply, then V.T.C.A., Labor Code § 415.021 allows the Commissioner of Workers' Compensation to enter administrative cease and desist orders and assign administrative penalties.

The division is ordered (under V.T.C.A., Labor Code § 411.012) to collect and serve as a repository for statistical information on workers' health and safety. While enforcement information could conceivably fit under that umbrella, it may not be collected by the division in the same manner as more directly safety-related information might be. While V.T.C.A., Labor Code § 411.105 restricts disseminating confidential information, enforcement data does not meet the confidentiality requirements.

The division reports its disciplinary orders at <https://wwwapps.tdi.state.tx.us/inter/asproot/commish/da/dwcclips2016.asp>. While some of these actions (such as those centered around failing to pay benefits) fall outside the subject areas we are looking for, these reports should also capture information relevant to safety enforcement if any were to be reported. As of September 2016, no such orders have been filed.

## **Medicaid fraud**

Texas participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider
- (b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence

(c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies

(d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit

(e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing white collar crime statistics.

Medicaid fraud in Texas is split into provider fraud and recipient fraud. Medicaid provider fraud is handled by the attorney general, who maintains one section to handle criminal Medicaid fraud, and one to handle civil Medicaid fraud. Neither makes their data public on its website (<https://www.texasattorneygeneral.gov/cj/criminal-medicaid-fraud> for criminal and <https://texasattorneygeneral.gov/cmfc/civil-medicaid-fraud> for civil). Medicaid recipient fraud is handled by the Texas Health and Human Services Commission Office of Inspector General. The OIG makes some information available in its quarterly reports (<https://oig.hhsc.texas.gov/reports>).

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# Utah

## **Banking and finance**

The Department of Financial Institutions is responsible for regulating Utah’s banking and financial institutions. Under Utah Code Annotated 1953 § 7-1-307, the Commissioner of Financial Institutions can issue administrative cease and desist orders. Additional sorts of administrative orders are available under U.C.A. 1953 § 7-1-308 (removal and prohibition orders) and U.C.A. 1953 § 7-1-313 (remedial and corrective orders). U.C.A. 1953 § 7-1-320(1) allows the commissioner to initiate civil action to enjoin violations and enforce compliance (including by injunction, restraining order, or extraordinary writ). The court can choose to impose civil fines at that time (under U.C.A. 1953 § 7-1-320(2)).

U.C.A. 1953 § 7-1-304 also allows the commissioner to initiate civil action to prevent unauthorized businesses. Under U.C.A. 1953 § 7-1-319, the commissioner is required to inform the relevant county attorney or district attorney of any violation of law that constitutes a felony or misdemeanor by an officer, director, or employee of a financial institution.

U.C.A. 1953 § 7-1-211 sets out a required annual report that includes any “proceeding had or done by the department showing generally the condition of the businesses under the supervision of the department and such other matters in connection with the businesses as may be of interest to the public.” Enforcement matters are of interest to the public, and even to show generally the condition of the business, but reasonable minds may differ. The annual reports available on the department’s website (<http://dfi.utah.gov/general-information/publications/>) do not include any enforcement information.

## **Environment**

Environmental protection in Utah is the responsibility of the Department of Environmental Quality. U.C.A. 1953 § 19-1-302(2) implicitly authorizes administrative abatement orders. It is unlawful, under U.C.A. 1953 § 19-1-302, to violate any part of the Environmental Quality Code, or any order or rule issued under it. Penalties for violations include civil penalties (under U.C.A. 1953 § 19-1-303(1)(a)(i)) as well as criminal penalties (under U.C.A. 1953 § 19-1-303(1)(a)(ii)).

U.C.A. 1953 § 19-1-306 adopts the bulk of the Government Records Access and Management Act. This act makes summary data (such as aggregate statistics) public records (under U.C.A. 1953 § 63G-2-301(2)(k)). The department makes a great deal of information—relating to enforcement and everything else—available through the EDocs portal located at <http://eqedocs.utah.gov/>.

## **Worker safety**

Worker safety in Utah is the responsibility of the Labor Commission, Division of Occupational Safety and Health. The division is allowed to issue administrative citations that include abatement requirements under U.C.A. 1953 § 34A-6-302(1)(c). The Labor Commission can assess administrative penalties under

U.C.A. 1953 § 34A-6-307. Injunctive relief and restraining orders can be obtained by the division director through the civil courts under U.C.A. 1953 § 34A-6-305. U.C.A. 1953 § 34A-6-307(6) also allows for the collection (by the division) of uncollected penalties through the civil courts. Criminal misdemeanor penalties for willful violations resulting in death, or for making false statements or giving advance notice of inspection, are available under U.C.A. 1953 § 34A-6-307(5).

U.C.A. 1953 § 34A-6-108 requires that the division “develop and maintain an effective program of collection, compilation, and analysis of occupational safety and health statistics.” Enforcement statistics are admittedly not traditionally seen as lying within the heartland of health and safety statistics, but the connection is not so attenuated as to be nonexistent either. In any case, there is no guidance more on-point (though U.C.A. 1953 § 34A-6-306 prohibits sharing trade secrets and information that might reveal them), so the statute is either in favor of data sharing or silent. Annual reports are available at <http://laborcommission.utah.gov/media/AnnualReports.html>, but they only contain safety-related enforcement information on a few narrow topics (such as boilers and elevators).

## **Medicaid fraud**

Utah participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider
- (b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence
- (c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies
- (d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit
- (e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing white collar crime statistics.

Utah's Medicaid Fraud Control Unit is housed within the Office of the Attorney General's Criminal Department, Markets and Financial Fraud Division. It pursues the matter both criminally and civilly. It makes no data available on its website ([http://attorneygeneral.utah.gov/markets- financial-fraud](http://attorneygeneral.utah.gov/markets-financial-fraud)).

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.



# Vermont

## **Banking and finance**

Banking and finance in Vermont are regulated by the Department of Financial Regulation. The Commissioner of Financial Regulation has the power to assess administrative fines for failure to testify or produce papers (under 8 V.S.A. § 13) and for violations of the banking code, lawful orders of the commissioner, and/or regulations (under 8 V.S.A. § 11601(4)). The commissioner may also, under 8 V.S.A. § 11601(3), issue administrative orders to cease violations or unsafe or unsound practices. Criminal misdemeanor sanctions are available under 8 V.S.A. § 11603 for violating the commissioner's existing orders, or, after receipt of either a removal order or an order assessing a penalty, for performing any duty or exercising any power of or on behalf of any financial institution until the penalty has been satisfied. Misapplication of funds is a felony (for an executive officer) under 8 V.S.A. § 11603(C).

8 V.S.A. § 23 states that “[r]egardless of source, all records of investigations, including information pertaining to a complaint by or for a consumer, and all records and reports of examinations by the Commissioner, whether in the possession of a supervisory agency or another person, shall be confidential and privileged, shall not be made public.” While one could argue that enforcement data are not so much records of an investigation they are the result of one, other language in the statute makes it clear that they also wish to make confidential the results of the investigation. This could be used as a rationale for refusing to share enforcement statistics. Enforcement data are not included in the other resources made available on the department's website (<http://www.dfr.vermont.gov/banking/publications-data/publications-data>).

## **Environment**

Environmental protection in Vermont is the responsibility of the Secretary of Natural Resources. Under 10 V.S.A. § 8008, the Secretary of Natural Resources may issue administrative orders whenever they believe that a violation exists (they may issue the orders as emergency orders under 10 V.S.A. § 8009 if they are in response to an immediate threat). The secretary may include administrative penalties with these orders, under 10 V.S.A. § 8010. Under 10 V.S.A. § 8014, the secretary can seek enforcement of these orders or penalties by bringing them before the Superior Court as civil matters. In regards to land use permits in particular, the secretary is allowed, under 10 V.S.A. § 8221 to directly seek civil orders and penalties in the Civil Division of the Superior Court.

10 V.S.A. § 8017 requires that the secretary's annual report include enforcement information. According to the statute, “[t]he report shall describe, at a minimum, the number of violations, the actions taken, disposition of cases, the amount of penalties collected, and the cost of administering the enforcement program.” That said, it is unclear where this annual report might be found. It is not available at the secretary's website ([http://anr.vermont.gov/about\\_us](http://anr.vermont.gov/about_us)).

## **Worker safety**

Worker safety in Vermont is the responsibility of the Department of Labor, Division of Occupational Health. The commissioner, when discovering violations that create dangerous conditions, is authorized to issue administrative corrective or closure orders under 21 V.S.A. § 208 and administrative fines. Citations may be issued by either the commissioner or the director (under 21 V.S.A. § 225). 21 V.S.A. § 210(a) allows for penalties to be assessed by the review board during their review of any citation issued under this chapter. On the low end, this starts with increasing onerous administrative fines and reaches, on the high end, a possibility of misdemeanor criminal penalties (for false statements, advance notice of inspections, and willful violations resulting in death). These administrative fines may also be recovered in civil court.

While 21 V.S.A. § 228(b) states that “[t]he commissioner shall make such reports to the Secretary of Labor in such form and containing such information as the Secretary shall from time to time require,” there is no guidance as to whether or not this would include enforcement data. There was at least some enforcement data included in the FAME-VOSHA annual report, available at <http://labor.vermont.gov/vosha/>.

## **Medicaid fraud**

Vermont participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider
- (b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence
- (c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies
- (d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit
- (e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing white collar crime statistics.

Medicaid fraud in Vermont is handled by the Medicaid Fraud and Residential Abuse Unit located in the Vermont Office of the Attorney General. It pursues such matters both civilly and criminally. Full and detailed enforcement data can be found in their annual reports, available here:

<http://ago.vermont.gov/divisions/medicaid-fraud.php>.

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at

<http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# Virginia

## **Banking and finance**

The State Corporation Commission's Bureau of Financial Institutions is responsible for regulating Virginia's banking and financial institutions. It mainly uses its administrative powers to get violating banks back on track, and criminal law to punish transgressions. If the commission discovers any banking violations (or that there are irregularities or that the bank's capital is in danger of being impaired), the commission may issue administrative orders to force the bank to take various actions under Virginia Code Annotated § 6.2-906. Violations of these orders are punished by administrative fine (under VA Code Ann. § 6.2-946). Penally, the commission has various criminal sanctions at its disposal. These include both misdemeanors (VA Code Ann. § 6.2-940 (making derogatory statements), VA Code Ann. § 6.2-941 (unauthorized use of bank logo), VA Code Ann. § 6.2-9342 (false certification of checks), and VA Code Ann. § 6.2-944 (knowingly violating banking code)) and felonies (VA Code Ann. § 6.2-938 (unauthorized banking), VA Code Ann. § 6.2-939 (unlawful use of the word "bank"), VA Code Ann. § 6.2-943 (embezzlement by officer), and VA Code Ann. § 6.2-945 (receiving deposit knowing bank to be insolvent)).

VA Code Ann. § 6.2-101 makes reports of examinations and any information furnished or obtained by the bureau that could endanger the safety and soundness of a bank confidential. While enforcement data does not sit squarely within any of these categories, it could be argued that the public revelation of criminal charges could impair the public's trust in a bank and, as such, its soundness. On the other hand, a reasonable argument could also be made that enforcement activity is not information that is obtained by the bureau so much as generated by it. Still, deciding that a violation has occurred (and that a penalty should follow) is arguably the end point of the examination process, which would make enforcement data a report of the examination process (although a fairly de minimis one). In the end, factors favor enforcement data not being confidential—but if someone wishes to make it a fight, the ammunition is there. Some enforcement data, at least, is available on the commission's website at <http://www.scc.virginia.gov/bfi/action.aspx>.

Its annual reports (available at <http://www.scc.virginia.gov/bfi/annual.aspx>) do not contain enforcement data.

## **Environment**

Environmental protection in Virginia is the responsibility of the Department of Environmental Quality. As its various areas of responsibility are separately codified, one such subject area was chosen as representative. This subject area was air quality. Air quality is the responsibility of the department's Air Pollution Control Board (Title 10.1, Chapter 13). The board has the authority (under VA Code Ann. § 10.1-1309(A)) to issue administrative cease and desist orders, compliance orders, emergency orders, and fines. VA Code Ann. § 10.1-1309.1 further expands on the types of administrative orders available, and labels willfully neglecting to implement a closure plan a felony. VA Code Ann. § 10.1-1311 and 10.1-1316 allow noncompliance penalties to be taken to the appropriate county or city civil court, and

VA Code Ann. § 10.1-1316 allows for the court to also issue orders in such cases. Knowing violations of the air pollution code, board regulations or orders, or permit conditions constitutes a misdemeanor under VA Code Ann. § 10.1-1320.

While VA Code Ann. § 10.1-1307(H) mandates an annual report and VA Code Ann. § 10.1-1314.1 protects the confidentiality of trade secrets, there is nothing in this section of the Virginia code that speaks to enforcement statistics, even very generally. That said, the department's website (<http://www.deq.virginia.gov/Programs/Enforcement.aspx>) makes copies of public notices and final orders available online.

## **Worker safety**

Worker safety in Virginia is the responsibility of the Commissioner of Labor and Industry. The commissioner has the ability to issue citations containing administrative orders under VA Code Ann. § 40.1-49.4(A)(1) and to issue administrative fines under VA Code Ann. § 40.1-49.4(A)(4). The commissioner may (either instead of or in addition to any administrative actions) choose to file a civil action in circuit court (under VA Code Ann. § 40.1-49.4(F)), asking the court to temporarily or permanently enjoin any violations or dangerous conditions or practices. There are also various misdemeanor criminal charges available for specific situations—VA Code Ann. § 40.1-49.4(K) (willful violations resulting in death), VA Code Ann. § 40.1-51.3:1 (giving advance notice), VA Code Ann. § 40.1-51.4:2 (making false statements), and VA Code Ann. § 40.1-51.4:3 (prohibiting asking about sexual activities under polygraph).

While VA Code Ann. § 40.1-51.4:1 makes information reported to the commissioner that might reveal a trade secret confidential, there's nothing in this chapter of the code that addresses enforcement data or general information management and access practices. The department's website ([http://www.doli.virginia.gov/vosh\\_enforcement/vosh\\_enforcement\\_intro.html](http://www.doli.virginia.gov/vosh_enforcement/vosh_enforcement_intro.html)) does not contain usable enforcement data (though a list of 25 most cited violations is available at [http://www.doli.virginia.gov/vosh\\_enforcement/vosh\\_workplace\\_violations.html](http://www.doli.virginia.gov/vosh_enforcement/vosh_workplace_violations.html)).

## **Medicaid fraud**

Virginia participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider
- (b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence

(c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies

(d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit

(e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing white collar crime statistics.

Virginia's Medicaid Fraud Control Unit is housed within the Office of the Attorney General. It pursues the matter both criminally and civilly. It makes a great deal of detailed enforcement data available in their annual reports, available at <http://www.oag.state.va.us/programs-initiatives/medicaid-fraud?id=181>.

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# Washington

## **Banking and finance**

The Department of Financial Institutions is responsible for regulating Washington's banking and financial institutions. Under Revised Code of Washington Annotated 30A.04.450, the director of the department can issue and serve notice upon a bank that is in violation of the banking code or has engaged in unsafe or unsound banking practices. Unless successfully contested, these notices result in administrative cease and desist orders. There is also an expedited process to issue a temporary administrative cease and desist order under RCWA 30A.04.455. If these orders are violated (or seem likely to be), RCWA 30A.04.465 allows the director to apply to the superior court of the county of the principal place of business of the bank for an injunction to enforce the order. There is also a procedure for securing a general compliance order through civil means under RCWA 30A.04.475. Any violations, either of statute, rule, regulation, agreement, or lawful order, may be penalized by administrative fine under RCWA 30A.04.050. This fine may also be recovered civilly by the attorney general. RCWA 30A.04.020 makes the unauthorized use of the word "bank" a misdemeanor.

RCWA 30A.04.075 makes "all examination reports and all information obtained by the director and the director's staff in conducting examinations" confidential. This does not seem like it would restrict access to purely statistical enforcement data. Even if it in some way does, RCWA 30A.04.075(2)(j) allows the director to share confidential information with "[o]ther persons as the director may determine necessary to protect the public interest and confidence." Collecting enforcement data seems likely to be viewed as in the public interest. The department makes its enforcement actions public at <http://www.dfi.wa.gov/laws-enforcement/dfi-enforcement-actions>, in a nonaggregated manner.

## **Environment**

Environmental protection in Washington is the responsibility of the Department of Ecology. As its various areas of responsibility are separately codified, one subject area was chosen as representative. This subject area was water pollution control (Chapter 48, Title 90). The Department of Ecology is given broad administrative, civil, and criminal enforcement support. It can issue administrative orders under RCWA 90.48.120 in response to violations or likely violations of the water pollution code. While it must usually issue a notice and give time for an answer, it may issue the administrative order immediately if necessary. The director is given a similar power to immediately issue administrative orders, under RCWA 90.48.240. RCWA 90.48.144 authorizes administrative penalties for violations. Under RCWA 90.48.037, the department, with the assistance of the attorney general, is authorized to bring any action it wishes in civil court in order to carry out its duties. Willfully violating any provision of the water pollution chapter is grounds for misdemeanor criminal sanctions under RCWA 90.48.140.

Though doubtless not the original intent of the statute, RCWA 90.48.100 gives the department the right to receive assistance from any education institution or state agency when it is deemed necessary by the department. This might be usable as a sideways way to access the department's enforcement data

through an educational partner. Other than this, there is no applicable information management or control statutes in the chapter. Nonetheless, enforcement publications are available on the department's website (<https://fortress.wa.gov/ecy/publications/UIPages/PublicationList.aspx?IndexTypeName=Topic&NameValue=Enforcement&DocumentTypeName=Publication>). These annual (eventually biennial) reports go into a great deal of information about the department's enforcement activities. The last available annual report on enforcement is from 2009.

## **Worker safety**

Worker safety in Washington is the responsibility of the Department of Labor and Industries. Under RCWA 49.17.120, the director can issue a citation for any violation of general safety standards. This citation includes abatement instructions. RCWA 49.17.130 lets the director issue administrative cease and desist orders in cases of dangerous conditions or practices. Such cease and desist orders may include corrective orders. Any time the director issues an order under RCWA 49.17.130, he or she may also apply to the relevant superior court for a temporary civil restraining order (or whatever other relief seems appropriate). Administrative penalties for violations are available under RCWA 49.17.180, with the option to collect them through civil action. Criminal misdemeanor penalties are available for giving advance notice, making false statements, knowingly interfering with safety mechanisms, willful and knowing violations that result in death, and violating an order restraining a practice, condition, method, or process.

RCWA 49.17.210 authorizes the director to "conduct, either directly or by grant or contract, research, experiments, and demonstrations as may be of aid and assistance in the furtherance of the objects and purposes of this chapter." This could conceivably apply to relevant white collar crime research. While the statute pointedly makes personal identifiers of participants confidential, this is little impediment to enforcement research, which typically uses anonymized statistics.

On the other hand, RCWA 49.17.260 orders the director to "develop and maintain an effective program of collection, compilation, and analysis of industrial safety and health statistics." The director is further instructed to "investigate and analyze industrial catastrophes, serious injuries, and fatalities occurring in any workplace subject to this chapter, in an effort to ascertain whether such injury or fatality occurred as the result of a violation of this chapter, or any safety and health standard, rule, or order promulgated pursuant to this chapter, or if not, whether a safety and health standard or rule should be promulgated for application to such circumstances." This would seem like an excellent resource for white collar crime research if it were not deemed confidential and only available under order of the superior court. It is not completely inaccessible, as RCWA 49.17.210 allows the director to grant variances from any rule or regulation or portion thereof for research purposes, but it is a known obstacle. The department's website illustrates (through a list of the top 10 rule violations in various industries, accessible at <http://www.lni.wa.gov/Safety/rules/topviolations.asp?F=SHPN>) that the department may be open to using this data to prepare nonconfidential derivative works. No other enforcement data are available on the site as of September 2016.



## Medicaid fraud

Washington participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider
- (b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence
- (c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies
- (d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit
- (e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing white collar crime statistics.

Washington's Medicaid Fraud Control Unit is housed within the Corrections Division of the Washington State Attorney General's Office. It pursues the matter both criminally and civilly. It makes a great deal of detailed enforcement data available in their annual reports (<http://www.atg.wa.gov/medicaid-fraud>).

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# **West Virginia**

## **Banking and finance**

The Division of Financial Institutions is responsible for regulating West Virginia's banks and financial institutions. The Commissioner of Banking is authorized, under West Virginia Code § 31A-2-4(15), to issue administrative cease and desist orders and (under W. Va. Code, § 31A-2-4(16)) to assess administrative fines. The commissioner is also empowered (under W. Va. Code, § 31A-2-4(19)) to apply to any court of competent jurisdiction for whatever sort of civil order, writ, process, or remedy is needed to enforce and administer the banking code. W. Va. Code, § 31A-2-13 underscores the commissioner's ability to respond to noncompliance by seeking civil orders. Willful refusal to provide required books or banking records is a misdemeanor under W. Va. Code, § 31A-2-7.

All of the commissioner's orders are in the public record under W. Va. Code, § 31A-2-4a. While this would not capture all disciplinary acts by the commissioner (such as civil fines), it ought to be of at least some value to researchers. These orders are available online at [http://www.dfi.wv.gov/administrative\\_actions/Pages/default.aspx](http://www.dfi.wv.gov/administrative_actions/Pages/default.aspx).

## **Environment**

Environmental protection in West Virginia is the responsibility of the Department of Environmental Protection. As its responsibilities are codified in various sections of the West Virginia code, one area of responsibility was selected as representative. This area was air pollution control, which falls under the auspices of the Air Quality Board. Under W. Va. Code, § 22-5-5, the Director of the Department of Environmental Protection can issue administrative cease and desist orders in response to violations. Civilly, the director can seek (under W. Va. Code, § 22-5-6) civil penalties in the circuit court of the appropriate county and can seek civil injunction against anyone in violation (under W. Va. Code, § 22-5-7). Knowing violations and misrepresentations are misdemeanors under W. Va. Code, § 22-5-6(1)(b).

W. Va. Code, § 22-5-10 makes virtually all of the department's records public under this chapter. While enforcement data are not listed by name, there is no reason to believe that it was meant to be excluded. The department's annual reports (<http://www.dep.wv.gov/pio/Pages/Annual%20Report.aspx>) contain aggregated enforcement data. Some additional information on settlements may be found at <http://www.dep.wv.gov/pio/Pages/Settlements,Ordersouttopublicnotice.aspx>.

## **Worker safety**

Worker safety in West Virginia is the responsibility of the Labor Commissioner. The commissioner is authorized to issue citations in response to violations. Under W. Va. Code, § 21-3A-9, these citations

include administrative abatement orders. Civil orders are also available (under W. Va. Code, § 21-3A-14) in the case of more immediate dangers.

Under W. Va. Code, § 21-3A-8(g), “[t]he commissioner is authorized to compile, analyze and publish in either summary or detail form all reports or information obtained under this section.” That said, it does not seem that the Labor Safety Section in fact does so, at least through its website ([http://www.wvlabor.com/newwebsite/Pages/Safety\\_main.html](http://www.wvlabor.com/newwebsite/Pages/Safety_main.html)).

## **Medicaid fraud**

West Virginia participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider
- (b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence
- (c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies
- (d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit
- (e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing white collar crime statistics.

Medicaid fraud in West Virginia is handled by the Medicaid Fraud Control Unit inside the Department of Health and Human Services’ Office of Inspector General. It pursues the matter both criminally and civilly. The attorney general can bring civil actions on behalf of the Department of Health and Human Resources to recover three times the defrauded amount under W. Va. Code, § 9-7-6. False claims, bribes, and conspiracies related to Medicaid fraud are criminalized under W. Va. Code, § 9-7-5. Its website (<https://www.wvdhhr.org/oig/mfcu.html>) does not include any statistical information.

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# **Wisconsin**

## **Banking and finance**

The Department of Financial Institutions, Division of Banking is responsible for regulating Wisconsin's banking and financial institutions. Wisconsin Statutes Annotated 214.74 gives the division authority to issue administrative corrective orders in response to violations, while W.S.A. 214.765 gives the division the ability to issue administrative prohibition orders. Administrative fines for violations are authorized under W.S.A. 214.935. The division is allowed, under W.S.A. 214.715, to commence civil actions to enforce any state laws that apply to banks. While its powers are overwhelmingly of the administrative and civil variety, it can also fall back on the criminal law in cases of false statements (a felony under W.S.A. 214.93).

W.S.A. 214.755 disallows employees of the division from disclosing information gathered by examination or through reports from a bank. While one could argue that enforcement data are not gathered through examination so much as generated by it, reasonable minds could also hold that this section makes examination data confidential and that the results of the examination (such as the decision to sanction) are part of the overall whole. The department's annual reports are available at [https://www.wdfi.org/this\\_is\\_dfi/annual\\_report/](https://www.wdfi.org/this_is_dfi/annual_report/) and contain some basic enforcement data.

## **Environment**

Environmental protection in Wisconsin is the responsibility of the Department of Natural Resources. As its various areas of responsibility are separately codified, one such subject area was chosen as representative. This subject area was pollution discharge elimination (chapter 283). The department's enforcement powers are almost entirely based in civil law. The department has the authority to recover cleanup costs from polluters through civil action under W.S.A. 283.87, and to recover civil fines (under W.S.A. 283.91(2), and (3)). It can also direct the department of justice (under W.S.A. 283.89) to initiate a civil action on its behalf to obtain an injunction against any violation (under W.S.A. 283.91). Making false statements to the department (or tampering with monitoring devices) is a misdemeanor under W.S.A. 283.91(4).

While W.S.A. 283.43 deals with the confidentiality of permit application forms, there is no discussion of other types of information, including enforcement data. The department's website (<http://dnr.wi.gov/topic/environmentprotect.html>) and annual reports ([http://dnr.wi.gov/about/documents/2014\\_AnnualReport\\_022515.pdf](http://dnr.wi.gov/about/documents/2014_AnnualReport_022515.pdf)) do not include any enforcement data.

## **Worker safety**

Worker safety in Wisconsin is the responsibility of the Department of Safety and Professional Services. Under W.S.A. 101.055(6), the department can issue administrative corrective orders to public employers

to rectify dangerous conditions or practices. W.S.A. 101.02(15)(d) and (e) extend that power generally. Violations of the department's orders (or of relevant sections of code) are subject to administrative fine under W.S.A. 101.599(3) and W.S.A. 101.02(13)(a). The department has the ability, generally, to sue in civil court (W.S.A. 101.02). Under W.S.A. 101.02(5)(f), the department of justice or district attorney will aid the department in the investigation and prosecution of any violations.

W.S.A. 101.02(4) requires the department to "collect, collate and publish statistical and other information relating to the work under its jurisdiction" and to "make public reports [that are] in its judgment necessary." While enforcement statistics are not required to be included in these reports, they are certainly not excluded either. The department's website goes one step further and includes a searchable database of orders and disciplinary actions (<http://dsps.wi.gov/Other-Services/Lookup-Orders-Disciplinary>). It is unclear if this database contains safety data or merely data pertaining to regulating particular professions.

## **Medicaid fraud**

Wisconsin participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider
- (b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence
- (c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies
- (d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit
- (e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing white collar crime statistics.

Medicaid fraud in Wisconsin is handled by the Medicaid Fraud Control and Elder Abuse Unit housed within the Wisconsin Department of Justice. While they pursue criminal sanctions, it is unclear if they

also pursue the matter civilly. The unit does not maintain any sort of statistics in the public portion of its website (<https://www.doj.state.wi.us/dls/medicaid-fraud-control-elder-abuse-unit>).

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# Wyoming

## **Banking and finance**

The State Banking Commissioner is responsible for regulating Wyoming's banking and financial institutions. The commissioner has the ability to assess administrative fines (under Wyoming Statutes Annotated § 13-10-207) and to issue various types of administrative orders (such as orders under W.S.1977 § 13-4-203, but mostly as codified at W.S.1977 § 13-10-201 et seq.). In some cases (such as for removal orders issued under W.S.1977 § 13-10-206), the commissioner may fall back on the civil courts for enforcement. W.S.1977 § 13-1-603(c)(iii) allows the commissioner to request the attorney general to bring an action in civil court to enforce or administer the banking law (and to seek any other appropriate relief). The commissioner can also request the district attorney in the relevant county to prosecute crimes under this act (of which there are several, found at W.S.1977 § 13-10-101 et seq.).

The Wyoming banking code does not address the commissioner's record management and information release practices, and the commissioner's website does not publish enforcement statistics.

## **Environment**

Environmental protection in Wyoming is the responsibility of the Department of Environmental Quality. The director has the power to issue administrative orders to respond to environmental emergencies (under W.S.1977 § 35-11-115) but generally works through the civil courts. The director can apply for a civil action through the attorney general. W.S.1977 § 35-11-901(a) sets civil penalties (including fines and injunctions) as the default response for any violation of the chapter. The same statute (W.S.1977 § 35-11-901(j) and (k)) assigns criminal penalties for knowing violations and false statements.

W.S.1977 § 35-11-109(a)(iv) instructs the director to “[c]onduct, encourage, request and participate in, studies, surveys, investigations, research, experiments, training and demonstrations by contract, grant or otherwise; prepare and require permittees to prepare reports and install, use and maintain any monitoring equipment or methods reasonably necessary for compliance with the provisions of this act; and collect information and disseminate to the public such information as is deemed reasonable and necessary for the proper enforcement of this act.” Though the topic is not addressed head-on, the statute seems to be in favor of gathering enforcement data for research purposes. W.S.1977 § 35-11-1101(a) states that all records, reports, and information obtained in this section should be available to the public (unless they can be shown to contain trade secrets). This again favors data availability. The department's website makes records of enforcement actions available at <http://deq.wyoming.gov/admin/resources/enforcement-actions/>.

One slight wrinkle is that W.S.1977 § 35-11-904 allows members of the public to commence a civil action to enforce this chapter. This might lead to a situation where the department would not be in possession of all relevant enforcement data.

## Worker safety

Worker safety in Wyoming is the responsibility of the Department of Workplace Services (in consultation with the Occupational Health and Safety Commission). W.S.1977 § 27-11-105(a)(xvi) charges the department with instituting (or causing to be instituted) appropriate civil or criminal actions. These civil actions include civil fines under W.S.1977 § 27-11-107(b), (c), (d), (f), and (g), securing injunctions against violations (under W.S.1977 § 27-11-110), and seeking civil cease and desist orders in cases of imminent danger under W.S.1977 § 27-11-106(b) (they can also, under the same statute, administratively direct people to cease operations). The criminal charges include misdemeanor criminal penalties (available under W.S.1977 § 27-11-107(a) and (e), and W.S.1977 § 27-11-108(c)).

The department is charged with the duty (under W.S.1977 § 27-11-105(a)(v)) to “compile statistics and to require such reports as may be needed to aid in accomplishing this purpose.” The sort of statistics are not specified, though one assumes that they would closely pertain to occupational health and safety. That said, enforcement statistics seem like a good, if slightly unconventional, fit. While the department’s enforcement page (<http://www.wyomingworkforce.org/businesses/osha/compliance/>) links out to federal OSHA informational resources, it does not contain enforcement data itself.

## Medicaid fraud

Wyoming participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider
- (b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence
- (c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies
- (d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit
- (e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing white collar crime statistics.



Medicaid fraud in Wyoming is handled by the Medicaid Fraud Control Unit housed within the Wyoming Attorney General's Office. It handles such matters exclusively through the criminal justice system. The unit does not publish any statistics in the public portion of its website (<http://ag.wyo.gov/medicaid-fraud-control-unit>).

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# Washington, D.C.

## **Banking and finance**

The Department of Insurance, Securities, and Banking is responsible for regulating Washington, D.C.'s banking and financial institutions. The Commissioner of Insurance, Securities, and Banking only has the power to issue administrative orders, but that power is backed up by both the civil and criminal court systems. The commissioner can issue administrative cease and desist orders after an administrative hearing (under District of Columbia Code Annotated § 26-551.13(b)) or, in emergency situations, immediately (under DC ST § 26-551.17, though the orders are only temporary). Under DC ST § 26-551.19, the commissioner may apply to the Superior Court of the District of Columbia for enforcement of the order, if need be. Violating a final order (the sort that is issued after an administrative hearing) is a misdemeanor under DC ST § 26-551.21.

Under DC ST § 26-551.18, the department is prohibited from disclosing information that constitutes the contents of a report or examination or that was obtained by the department if it thinks that doing so might harm the financial institution. While information about violations might be damaging, it seems unlikely to be the sort of damage contemplated by the statute. The department's website (<http://disb.dc.gov/page/banks-and-consumer-financial-services>) does not include any relevant enforcement data.

## **Environment**

While environmental protection in Washington, D.C. is ultimately the responsibility of the mayor (as the chief executive officer), the mayor largely chooses to fill that role with the Environmental Services Administration and the Natural Resources Administration, under the District Department of Energy and Environment. As there are a variety of divisions under each administration, each addressing separately codified areas of law, one was selected as representative. This area was air quality, handled by the Environmental Services Administration's Air Quality Division and codified in subchapter 1 (Air Pollution Control) of Chapter 1 of Subtitle A of Title 8 of the DC Code. While this subchapter references the Mayor of the District of Columbia as the active investigator and regulator, the mayor is allowed to use a designee—in this case, the Air Quality Division.

The mayor may issue administrative cease and desist and compliance orders under DC ST § 8-101.05g, and can issue administrative fines under DC ST § 8-101.05c(b). DC ST § 8-101.05c(a) provides for civil fines. Civil actions (by the attorney general) are available under DC ST § 8-101.05f(2). These actions may be for damages, fees, injunctive relief, or whatever else is needed to enforce compliance. Willful violation of the subchapter (or a related regulation) is a misdemeanor (under DC ST § 8-101.05d), as is making false statements (under DC ST § 8-101.05e).

DC ST § 8-151.8(6) requires the director of the Department of the Environment to “[o]btain, maintain, and make available to the public accurate, up-to-date information regarding the environment, including

compliance data.” This should include enforcement data. While some enforcement data are available on the department’s website (<http://doee.dc.gov/publication/enforcement-statistics>), it is cursory in nature.

## **Worker safety**

Worker safety in Washington, D.C. is the responsibility of the Minimum Wage and Industrial Safety Board. Its enforcement options are exclusively penal—any violation of the industrial safety code is a misdemeanor under DC ST § 32-812.

There is no discussion of the Board’s files or data management or data release policies in the chapter. It did not have a website as of September 2016.

## **Medicaid fraud**

The District of Columbia participates in the federally subsidized Medicaid fraud control effort. As such, it is bound by federal regulations in the matter. 42 C.F.R § 1007.17 requires that all participating states submit an annual report that must include, among other things—

- (a) the number of investigations initiated and the number completed or closed, categorized by type of provider
- (b) the number of cases prosecuted or referred for prosecution, the number of cases finally resolved and their outcomes, and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence
- (c) the number of complaints received regarding abuse and neglect of patients in health care facilities, the number of such complaints investigated by the unit, and the number referred to other identified state agencies
- (d) the number of recovery actions initiated by the unit, the number of recovery actions referred to another agency, the total amount of overpayments identified by the unit, and the total amount of overpayments actually collected by the unit
- (e) the number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement.

This looks promising for producing white collar crime statistics.

Medicaid fraud in Washington, D.C. is handled by the Medicaid Fraud Control Unit housed within the D.C. Office of the Inspector General. It handles such matters through both the civil courts and the criminal justice system. Several reports are available on its website, but they are largely anecdotal: <http://app.oig.dc.gov/news/newsLister2.asp?mode=mfcu&archived=0&agency=0>. Aggregate data are available in the office’s annual report (<http://oig.dc.gov/node/333592>). The U.S.

Department of Health and Human Services' Office of the Inspector General published a report on the DC MFCU in 2015.

Individual accounts of particular Medicaid fraud incidents (for all participating states) are also logged at <http://oig.hhs.gov/fraud/enforcement/state/index.asp>.

# Guam

## **Banking and finance**

The Office of Commissioner of Banking and Insurance is responsible for regulating banking in Guam. 11 Guam Code Annotated § 103104(a)(3)(D) authorizes the Banking and Insurance Board (located within the office) to issue administrative cease and desist orders. Noncompliant orders may be taken to the Superior Court of Guam for civil enforcement (under 11 G.C.A. § 103107).

While 11 G.C.A. § 103114 requires the commissioner to file an annual report, there is nothing in the statute that requires enforcement data to be included. Under 11 G.C.A. § 103116, there is no bar to doing so. It reads, in pertinent part, “Information from the records of the Division shall not be revealed to any person other than members of the Board, except with the consent of the Commissioner.” This means that researchers will have to enlist the commissioner in their cause in order to gain access to data, but that obstacle is more one of persuasion than of law. The Banking and Insurance Board’s webpage (<https://www.guamtax.com/bib/index.html>) does not include enforcement information.

## **Environment**

Environmental protection in Guam is the responsibility of the Guam Environmental Protection Agency. As its areas of responsibility are separately codified, one was selected as representative. This area was water pollution control (Chapter 47 of Title 10). The administrator of the agency is authorized to issue administrative abatement orders under 10 G.C.A. § 47105(c), administrative corrective orders under 10 G.C.A. § 47109, and administrative emergency orders under 10 G.C.A. § 47110. 10 G.C.A. § 47111 allows the agency to seek civil enforcement through the Superior Court of Guam. 10 G.C.A. § 47111 also makes violations criminal misdemeanors.

There is no code section discussing the data collection, management, or dissemination practices of Guam’s environmental regulators. While the Guam EPA has an extensive website (<http://epa.guam.gov/>), it does not post information about enforcement.

## **Worker safety**

The Division of Occupational Safety and Health (attached to the Department of Labor) is responsible for worker safety in Guam. While they have the power to issue citations, they do not have enforcement powers per se. It can administratively issue citations telling employees that they do not have to use articular pieces of dangerous equipment (under 10 G.C.A. § 87113 and 87115).

10 G.C.A. § 87109 sets out a required annual report for the division that includes a description of all safety and health violations in every agency. There is no enforcement information on its webpage (<http://dol.guam.gov/safety-and-health/dosh/>).

## **Medicaid fraud**

Guam does not participate in the federally subsidized Medicaid fraud control effort, nor does it have an agency, department, or division dedicated to fighting it.

# **Northern Mariana Islands**

## **Banking and finance**

The Department of Commerce and Labor is responsible for regulating banking in the Northern Mariana Islands. The director of the department is empowered to seek civil injunctions through the Commonwealth Trial Court (through the attorney general), under 4 Northern Mariana Islands Code § 6814. Under 4 N. Mar. I. Code § 6415, penalties for violations of the banking examination provisions include both criminal misdemeanors (in the normal course of things) and felonies (if done to defraud). This sentencing dichotomy persists in 4 N. Mar. I. Code § 6813, which criminalizes violations of the department's rules and orders generally.

4 N. Mar. I. Code § 6451 sets up a general information framework that favors confidentiality—any information that is not required to be published or explicitly made public elsewhere cannot be disclosed. As there is no clear requirement that enforcement data be made public, it is presumptively confidential. Although banking reports are available on the department's website (<http://commerce.gov.mp/divisions/banking/>), they do not contain information on enforcement actions.

## **Environment**

Environmental protection in the Northern Mariana Islands is the responsibility of the Department of Public Health and Environmental Services, Division of Environmental Quality. Administrative fines for violations of orders, environmental laws, or permit terms is authorized by 2 N. Mar. I. Code § 3131(c). Under 2 N. Mar. I. Code § 3131(a), the division chief is authorized to issue any administrative orders necessary to enforce the environmental protection code. At the request of the chief (under 2 N. Mar. I. Code § 3131(b)), the attorney general can institute a civil action in the Commonwealth Trial Court for a temporary restraining order, injunction, or other appropriate remedy. Knowingly and willfully violating the environmental protection law, making false statements, or tampering with monitoring devices is a misdemeanor under 2 N. Mar. I. Code § 3131(d).

There is no obvious code section discussing the data collection, management, or dissemination practices of the Northern Mariana Islands' environmental regulators. The division has no enforcement information available on its website (<http://deq.gov.mp/sec.asp?secID=18>).

## **Worker safety**

While the Northern Mariana Islands have workers' compensation laws on the books (Title 4, Division 9, Chapter 3), they do not have an OSHA-equivalent agency.

## **Medicaid fraud**

The Commonwealth of the Northern Mariana Islands does not participate in the federally subsidized Medicaid fraud control effort, nor does it have an agency, department, or division dedicated to fighting it.



# Puerto Rico

## **Banking and finance**

The Office of Commissioner of Financial Institutions is responsible for regulating banking in Puerto Rico. The commissioner's powers are largely laid out in Laws of Puerto Rico Annotated 7 § 151, and are primarily administrative in nature (though with some support from the civil and criminal law). 7 LPRA. § 151 (b) gives the commissioner the power to issue administrative orders "as consistent with the law and sound banking practices." Administrative fines for violating some types of administrative orders are codified in 7 LPRA. § 151(j) (as is the process for recovering the funds by civil suit if they are not paid promptly). 7 LPRA § 151(c) likewise grants the commissioner the power to assess administrative fines for violations of statutes or rules or regulations that do not have specific penalties already assigned. These specific penalties are almost always criminal sanctions (except for 7 LPRA § 113(h), which offers an administrative penalty for first-time offenders, and 7 LPRA § 155 and 157), and are always felonies when they are (including 7 LPRA § 113 – 116, 119, 121, and 155).

While there are a number of laws detailing the reports that banks must make to the commissioner (much of Title 7, Chapter 11), there are no requirements of the commissioner to report to anyone else, nor any other discussion of the commissioner's data management and release practices. The commissioner's website ([http://www.ocif.gobierno.pr/index\\_eng.html](http://www.ocif.gobierno.pr/index_eng.html)) does not publish any enforcement data.

## **Environment**

Environmental protection in Puerto Rico is the responsibility of the Environmental Quality Board. The board is authorized to invoke a wide range of administrative, civil, and criminal powers. 12 LPRA § 8002c(a)(7) allows for administrative orders (to diminish or discontinue activities causing pollution) (12 LPRA § 8002c(a)(8) allows for administrative cease and desist orders, generally.) Under 12 LPRA § 8002c(a)(1), the board can administratively or civilly demand payment for its environmental clean-up efforts from the party responsible for the adverse effect on the environment. The board is also authorized (under 12 LPRA § 8002c(a)(5) to institute whatever civil action they feel is necessary. Despite having a broad grant of civil authority, 12 LPRA § 8002c(a)(11) and (12) also specifically grant the ability to sue for damages and to seek civil enforcement orders, respectively. Violations of the environmental protection code are misdemeanors under 12 LPRA § 8002j(a).

12 LPRA § 8002k discusses which of the board's documents ought to be classified as public and which ought to be classified as confidential. Enforcement data are mentioned in neither case. However, 12 LPRA § 8002k(c)(2) specifies that even when documents are classified as confidential, this is not meant to limit its use "[f]or analyses or summaries relative to the general condition of the environment, insofar as the information does not identify the person furnishing the same." While it is perhaps a stretch to claim that enforcement data are "relative to the general condition of the environment," there is no doubt that violations, almost by definition, negatively impact the environment and are thus relative to it. The board's website (<http://www.jca.pr.gov/>) does not include

enforcement data, but the search for relevant data was not as thorough as would usually be desired, due to the board's website only being available in Spanish.

## **Worker safety**

The Department of Labor and Human Services is responsible for worker safety in Puerto Rico. The Secretary of the Department of Labor and Human Services is authorized (under 29 LPRA § 361r(a)) to issue administrative citations for violations of the worker safety code or any orders, rules, or regulations promulgated under it. These citations function in much the same way as abatement orders.

Administrative fines for such violations are authorized under 29 LPRA § 361f(a)(6). 29 LPRA § 361x includes a number of penalties for specific sorts of violations. These include both administrative (e.g., 29 LPRA § 361x(a)) and criminal misdemeanor (29 LPRA § 361x(f) and (g)) and felony (29 LPRA § 361x(e) and (i)) penalties.

29 LPRA § 361f(a)(4) requires the secretary to provide for "the compilation and analysis of statistics and related data in the field of occupational safety and health." Enforcement data would, at the very least, be fairly considered to be related data. The department's website (<http://www.trabajo.pr.gov/>) does not contain any enforcement data. The search was complicated by the fact that the site is in Spanish.

## **Medicaid fraud**

Puerto Rico does not participate in the federally subsidized Medicaid fraud control effort. It does field a Medicaid Anti-Fraud Unit under the Department of Health. No further information was found on this unit, though the search for such information was compromised by lack of facility with the Spanish language. (The website of the Department of Health is located at <http://www.salud.gov.pr/Pages/Home.aspx>, and through Google Translate at <https://translate.google.com/translate?sl=es&tl=en&js=y&prev=t&hl=en&ie=UTF-8&u=http%3A%2F%2Fwww.salud.gov.pr%2FPages%2FHome.aspx&edit-text=>).

# **American Samoa**

## **Banking and finance**

American Samoa does not have a dedicated regulatory agency for its banking industry. American Samoa Code Annotated § 28.1004 gives the governor the power to adopt rules governing the business of banking in American Samoa, but there is nothing in the code itself that covers the inspection, regulation, and sanctioning of banks.

There is no code section discussing the data collection, management, or dissemination practices of Samoa's banking regulators. There are no relevant documentation on the governor's website (<http://www.americansamoa.gov/office-of-the-governor>).

## **Environment**

Environmental protection in American Samoa is the responsibility of the Director of Health. Under Am. Samoa Code Ann. § 25.0103, the director may issue administrative compliance and abatement orders. Under Am. Samoa Code Ann § 25.0105, the pulenuu<sup>1</sup> have the authority to charge anyone in their jurisdiction with failure to comply with environmental law or regulations. What they charge them with will vary based on the village regulations in effect. The director is authorized to abate environmental nuisances and to seek civil reimbursement (under Am. Samoa Code § 25.0108). Violating the environmental code is a criminal misdemeanor under Am. Samoa Code Ann. § 25.0110.

There is no code section discussing the data collection, management, or dissemination practices of Samoa's environmental regulators. The Department of Public Health does not have a functional web presence (<http://www.americansamoa.gov/department-of-public-health>).

## **Worker safety**

While American Samoa has a robust workers' compensation system (Title 32, chapters 5 and 6), it does not have an agency dedicated to protecting worker safety before accidents occur.

There is no code section discussing the data collection, management, or dissemination practices of Samoa's worker safety regulators.

## **Medicaid fraud**

American Samoa does not participate in the federally subsidized Medicaid fraud control effort, nor does it have an agency, department, or division dedicated to fighting it.

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<sup>1</sup>While the author was unable to find an official definition of the pulenuu, they function much like village mayors. No disrespect is meant to the Samoan people for any nuance that has been missed by this attempt at rough analogy.

# **U.S. Virgin Islands**

## **Banking and finance**

The Banking Board (in the Office of the Lieutenant Governor) is responsible for regulating banking in the U.S. Virgin Islands. The board is authorized to issue regulations, the violation of which can be punished by administrative fine under 9 Virgin Islands Code § 61(c). False statements to the board are misdemeanor offenses, and in some cases felonies, under 9 VIC § 64.

Under 9 VIC § 64(g), all reports received by the board are public records. While this does not specifically touch on enforcement statistics (and nothing in the banking code seems to), few things are protected in banking regulatory environments as highly as the reports made to the regulatory agency by the supervised banks.

## **Environment**

Environmental protection in the U.S. Virgin Islands is the responsibility of the Commissioner of the Department of Planning and Natural Resources. This department has a wide range of separately codified responsibilities. Water pollution control (chapter 7 of title 12) was chosen as representative. The department may assess administrative fines under 12 VIC § 190(b)(2) for any violation of the water pollution chapter, or any permit, requirement, order, or standard issued or promulgated under it. Administrative corrective orders are also available (under 12 VIC § 188(a)(1)). The commissioner is authorized to commence a civil action for appropriate relief (explicitly including injunctions) under 12 VIC § 190(a). 12 VIC § 190(c)(1) allows for felony criminal penalties for any such violations that are done knowingly or negligently, or for knowingly or negligently polluting with a substance that the person knew or should have known could cause personal injury or property damage. 12 VIC § 190(c)(2) makes it a misdemeanor offence to knowingly make false statements to the department.

Under 12 VIC § 189(b), all records and reports received from regulated entities are public records (with an exception for trade secrets). While enforcement data does not squarely fall under that category, it is not addressed elsewhere in the chapter and is unlikely to be protected more highly than industry reports.

## **Worker safety**

The Department of Labor, Division of Occupational Safety and Health is responsible for worker safety in the U.S. Virgin Islands. The Commissioner of the Virgin Islands Department of Labor may issue citations for violations (under 24 VIC § 38), which, among other things, function like administrative abatement orders. Not complying with such orders (in the case of a serious violation) within the period permitted is grounds for an administrative fine under 24 VIC § 44(a)(1). Under 24 VIC § 42(a), the commissioner may petition the Superior Court of the Virgin Islands to restrain any conditions or practices that pose an

imminent threat of death or serious physical harm. 24 VIC § 44(b) and (c) provide for misdemeanor criminal penalties for giving advance notice of inspections and knowingly making false statements, respectively.

Under 24 VIC § 46(b), the commissioner is required to “maintain any statistical information required for the administration of this chapter.” Within the context of occupational health and safety, this would usually mean accident and injury data, but enforcement data is not clearly outside of the bounds of the statute (because such information would be useful for administering the chapter). While 24 VIC § 43 marks trade secrets (or things that might reveal them) as confidential, this would not have an impact on enforcement statistics.

## **Medicaid fraud**

The U.S. Virgin Islands does not participate in the federally subsidized Medicaid fraud control effort, nor does it have an agency, department, or division dedicated to fighting it.

DISCLAIMER: The information in this section has been drawn from publicly available statutes and websites. These laws and internet resources are subject to change without notice. As such, this analysis will become increasingly less accurate as time moves forward from its date of compilation (September 2016) and the situation that it seeks to describe evolves. While it is only a snapshot of how these things stand at a single moment of time, the authors believe that it is an instructive and representative snapshot.

While every effort has been made to represent each state fairly, thoroughly, and accurately, those familiar with the inner workings of any one of these state regulatory agencies may find elements of disagreement. The reality of these agencies “on the ground” is often a slightly different animal than their statutory representations, as the practical solutions implemented change over time. Additionally, it is entirely possible that our interpretation of any particular statute might be at odds with how it is interpreted in the state in question. With hundreds of authorizing statutes to analyze across 56 jurisdictions, an analysis of case law dealing with each statute was deemed to be outside the scope of the project.

The regulatory activities that we are attempting to measure across states can often be dealt with through various channels within any given state. In such cases, we have endeavored to find the channel that most closely matched the sort of agency that we were measuring in other states. Reasonable minds may disagree with our choices in any particular instance. Selecting an agency for analysis is not meant as an endorsement of that agency and is not meant to imply that it is the “right” agency for the task of enforcement. Further, our analysis of these agencies is not meant as either an endorsement or a condemnation. These data are not gathered for the purpose of deciding that some agencies are “good” and others are “bad,” but to merely evaluate what sort of data could be gathered from them and how easy this task would be for white collar crime researchers. This has no bearing on how well these agencies perform their essential functions.