

C82D00
Office of the State Prosecutor

Operating Budget Data

(\$ in Thousands)

	<u>FY 08</u> <u>Actual</u>	<u>FY 09</u> <u>Working</u>	<u>FY 10</u> <u>Allowance</u>	<u>FY 09-10</u> <u>Change</u>	<u>% Change</u> <u>Prior Year</u>
General Fund	\$1,194	\$1,282	\$1,274	-\$8	-0.6%
Contingent & Back of Bill Reductions	0	0	-36	-36	
Adjusted General Fund	\$1,194	\$1,282	\$1,238	-\$44	-3.5%
Federal Fund	88	76	0	-76	-100.0%
Adjusted Federal Fund	\$88	\$76	\$0	-\$76	-100.0%
Reimbursable Fund	74	0	0	0	
Adjusted Reimbursable Fund	\$74	\$0	\$0	\$0	
Adjusted Grand Total	\$1,356	\$1,358	\$1,238	-\$120	-8.9%

- When adjusted for cost containment actions and contingent reductions, the Office of the State Prosecutor (OSP) fiscal 2010 allowance decreases \$120,000, or 8.9%, below the fiscal 2009 working appropriation.
- Reductions contingent upon the enactment of legislation include a \$6,000 decrease for the deferred compensation match.
- Cost containment actions taken in the budget include a \$29,868 decrease for contractual full-time equivalents (FTEs).

Note: Numbers may not sum to total due to rounding.

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Personnel Data

	<u>FY 08</u> <u>Actual</u>	<u>FY 09</u> <u>Working</u>	<u>FY 10</u> <u>Allowance</u>	<u>FY 09-10</u> <u>Change</u>
Regular Positions	12.00	12.00	12.00	0.00
Contractual FTEs	<u>4.00</u>	<u>4.00</u>	<u>4.00</u>	<u>0.00</u>
Total Personnel	16.00	16.00	16.00	0.00

Vacancy Data: Regular Positions

Turnover and Necessary Vacancies, Excluding New Positions	0.31	2.58%
Positions and Percentage Vacant as of 12/31/08	1.00	8.33%

- While the fiscal 2010 allowance does not reflect any new or deleted positions, OSP will lose support for 1 grant-funded position because the grant will be exhausted in fiscal 2009. The position is not abolished, so OSP may try to secure alternate funding.
- While the fiscal 2010 allowance does not reflect any new or abolished contractual FTEs, the agency will lose federal funding that has partially supported contractual FTE salaries. The FTEs are not abolished so that OSP may try to secure additional federal funds to maintain staff.
- The vacancy rate as of December 31, 2008, was 8.3%, or 1.0 position.
- The agency's budgeted turnover rate of 2.58% requires an average of 0.31 vacant positions throughout fiscal 2010 to achieve the savings required.

Analysis in Brief

Major Trends

The Office of the State Prosecutor Continues to Resolve Corruption and Election Law Complaints in a Timely Manner: In fiscal 2008, the percentage of corruption complaints closed in a timely manner remained at 100% for the fourth consecutive year. Similarly, the percentage of election law investigations completed in a timely fashion remained at 100% for the third consecutive year.

Recommended Actions

1. Concur with Governor's allowance.

C82D00 – Office of the State Prosecutor

C82D00
Office of the State Prosecutor

Operating Budget Analysis

Program Description

The Office of the State Prosecutor (OSP) is an independent agency within the Executive Branch of government. The State Prosecutor investigates and prosecutes certain criminal offenses committed by public officials. The office conducts these investigations on its own initiative or at the request of the Governor, the Attorney General, the General Assembly, the State Ethics Commission, or a State's Attorney. OSP investigates the following types of cases: criminal offenses under the State election and conflict of interest laws; violations of the State bribery laws in which a public official or employee was offered or solicited a bribe; criminal malfeasance, misfeasance, or nonfeasance committed by a public officer or employee in office; all multi-jurisdictional offenses; and violations of State, obstruction of justice, perjury, and extortion laws.

Performance Analysis: Managing for Results

Overall, OSP's Managing for Results (MFR) performance measures show continued success. **Exhibit 1** displays the total number of corruption, election law, and other¹ types of complaints closed by OSP. An investigation is considered to be closed when it has resulted in an appropriate disposition. An investigation is appropriately disposed when a complaint (1) fails to meet the ethical and/or legal requirements that warrant an investigation; (2) is referred to a more appropriate agency; (3) results in a formal charge; (4) is not prosecuted due to prosecutorial suggestion; (5) warrants an investigation by OSP but is later deemed to be non-prosecutorial because the activity does not violate the law; or (6) is given no further consideration (*e.g.*, no action) because the nature of the allegation does not warrant a preliminary review or inquiry by the agency. In fiscal 2008, the number of corruption complaints closed increased 22% over 2007. However, election law complaints closed decreased 11%. According to the agency, the significant increase in election law complaints in fiscal 2007 was attributable to additional referrals from the State Board of Elections (SBE) in calendar 2006 due to the State's general election for which some investigations continued into fiscal 2008.

¹ All "other" complaints involve alleged violations of the State Ethics Law, or multi-jurisdictional offenses when an investigation is requested by the Governor, Attorney General, General Assembly, or a State's Attorney.

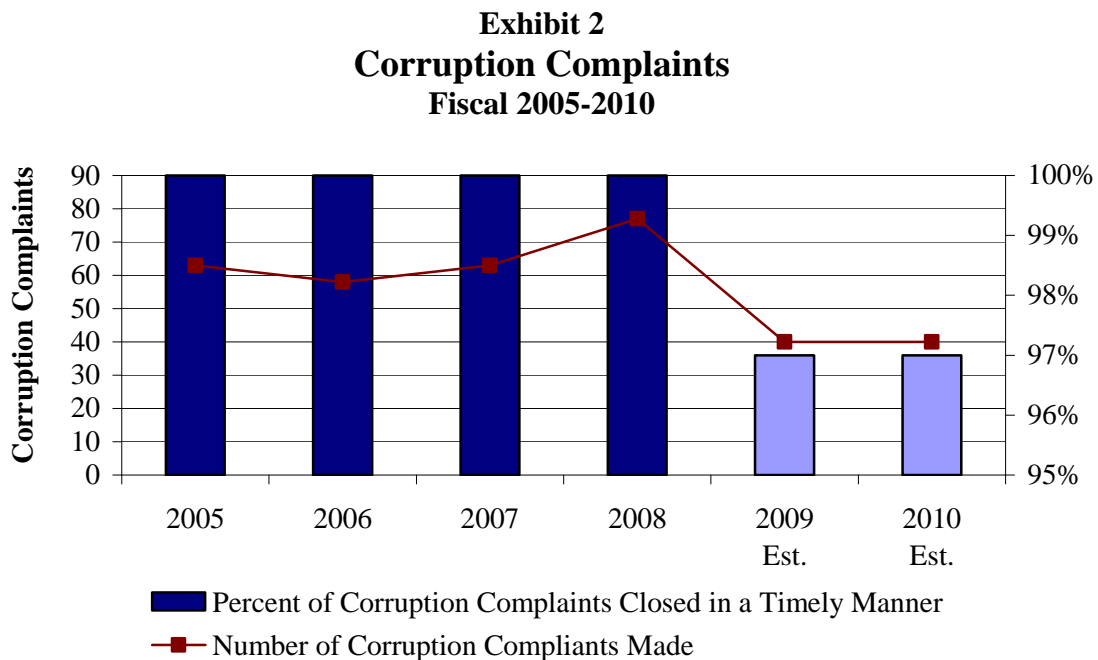
Exhibit 1
Corruption, Election Law, and Other Types of Cases Closed
Fiscal 2006-2010

	<u>Actual</u> <u>2006</u>	<u>Actual</u> <u>2007</u>	<u>Actual</u> <u>2008</u>	<u>Estimate</u> <u>2009</u>	<u>Estimate</u> <u>2010</u>
Corruption Complaints					
Fails to meet ethical and/ or legal requirements	31	12	6	4	4
Referral	6	4	10	5	5
<i>Meets requirements to be an OSP</i> investigation, but insufficient evidence	10	34	59	25	25
Prosecutorial discretion	2	8	1	2	2
Formal charge filed	6	5	1	3	3
Inappropriate disposition	0	0	0	1	1
Total	55	63	77	40	40
Election Law Complaints					
No action	2	11	0	0	0
Fails to meet ethical and/ or legal requirements	21	11	0	10	10
Referral	0	43	122	0	0
<i>Meets requirements to be an OSP</i> investigation, but insufficient evidence	6	150	36	90	90
Prosecutorial discretion	48	82	101	20	20
Formal charge filed	19	20	24	20	20
Inappropriate disposition	0	0	0	0	0
Total	96	317	283	140	140
Other Types of Complaints					
No action	11	3	0	15	15
Fails to meet ethical and/ or legal requirements	11	8	4	10	10
Referral	4	2	2	2	2
<i>Meets requirements to be an OSP</i> investigation, but insufficient evidence	3	5	6	2	2
Prosecutorial discretion	0	1	3	1	1
Formal charge filed	1	2	2	0	0
Inappropriate disposition	0	0	0	0	0
Total	30	21	17	30	30

OSP: Office of the State Prosecutor

Source: Office of the State Prosecutor

Exhibit 2 shows the number of corruption complaints made and the percent of corruption investigations closed in a timely manner by OSP. In fiscal 2008, the percentage of corruption complaints closed in a timely² manner remained at 100% for the fourth consecutive year. OSP attributes the continued success in closing corruption complaints to the continuity and thoroughness of the staff. However, OSP notes that it will be difficult to continue meeting this goal with the loss of federal asset forfeiture funds and depleting grants that have supported personnel and investigation costs thus far.



Note: Timely is defined as within two years.

Source: Office of the State Prosecutor

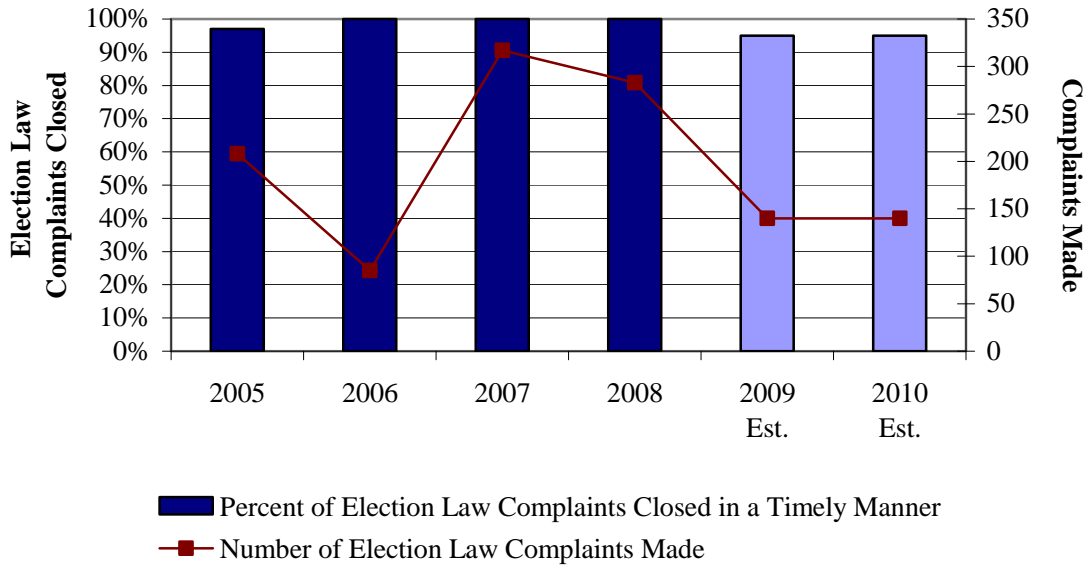
Exhibit 3 shows the number of election law complaints made and the percent of election law complaints closed in a timely³ manner by OSP. Similar to corruption complaints, the percentage of election law investigations completed in a timely fashion remained at 100% for the third consecutive year. OSP reports that the efforts of the Assistant State Prosecutor, coupled with the agency’s continued collaboration with SBE has contributed to the agency’s overall success in resolving election law complaints.

Exhibit 4 shows the number of items analyzed by OSP’s computer forensics laboratory. In December 2006, OSP established an in-house computer forensics laboratory to strengthen law enforcement investigations of white-collar and nonviolent crimes. According to the agency’s MFR data, the lab examined 513 pieces of evidence in fiscal 2008, slightly less than in 2007.

² “Timely” is defined as corruption complaints closed within two years.

³ “Timely” is defined as election law complaints closed within six months.

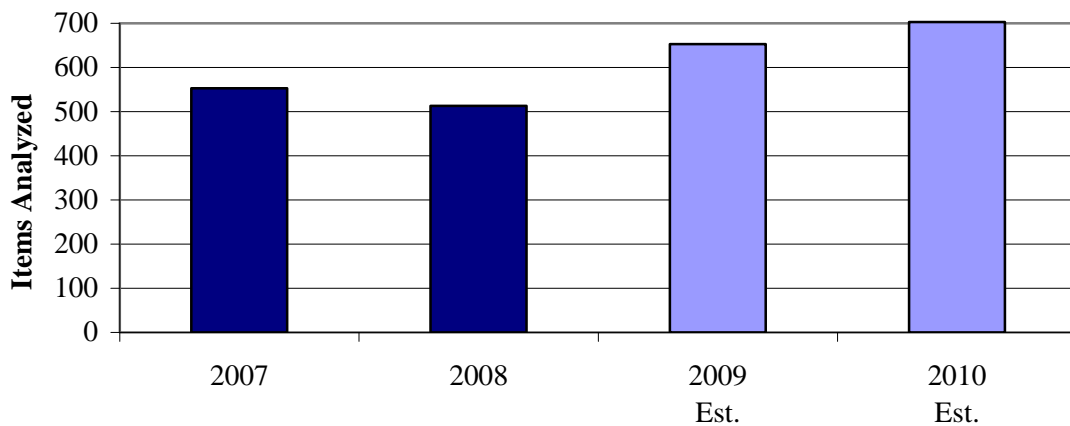
**Exhibit 3
Election Law Complaints
Fiscal 2005-2010**



Note: Timely is defined as within six months.

Source: Office of the State Prosecutor

**Exhibit 4
Computer Forensics Laboratory
Fiscal 2007-2010**



Source: Office of the State Prosecutor

Fiscal 2009 Actions

Impact of Cost Containment

The Governor proposed, and the Board of Public Works (BPW) adopted, reductions to the fiscal 2009 appropriation. Cost containment actions taken in fiscal 2009 total \$18,073. Included in the actions were reductions for health insurance and the Other Post Employment Benefits (OPEB) unfunded liability (\$17,741 general funds, \$332 federal funds).

Proposed Budget

As shown in **Exhibit 5**, the allowance decreases \$120,000, or 8.9%, below the fiscal 2009 working appropriation. This is primarily due to (1) a \$111,000 decrease for personnel and contractual full-time equivalents (FTEs) as a result of grants and federal asset forfeiture funds that will be exhausted in fiscal 2009; (2) across-the-board reductions that would delete an additional \$29,868 for contractual FTEs; and (3) \$17,981 to delete funds for the OPEB unfunded liability.

Impact of Cost Containment

Contingent and across-the-board reductions are effected in this agency budget to reduce \$29,868 general funds for contractual FTEs and \$6,600 general funds to delete the deferred compensation match. Personnel reductions may occur in this agency as part of a statewide \$30.0 million unallocated across-the-board reduction.

Exhibit 5
Proposed Budget
Office of the State Prosecutor
(\$ in Thousands)

How Much It Grows:	General Fund	Federal Fund	Total
2009 Working Appropriation	\$1,282	\$76	\$1,358
2010 Allowance	<u>1,274</u>	<u>0</u>	<u>1,274</u>
Amount Change	-\$8	-\$76	-\$84
Percent Change	-0.6%	-100.0%	-6.2%
Contingent Reductions	-\$36	\$0	-\$36
Adjusted Change	-\$44	-\$76	-\$120
Adjusted Percent Change	-3.5%	-100.0%	-8.9%

Where It Goes:

Personnel Expenses

Loss of grant funding for personnel	-\$71
Loss of federal funds for contractual FTEs.....	-40
Across-the-board reduction for contractual FTEs.....	-30
Reduction in Other Post Employment Benefits unfunded liability.....	-18
Contingent reduction: elimination of deferred compensation match.....	-7
Regular earnings	16
Retirement contribution	10
Employee and retiree health insurance	8
Other personnel	2

Other Changes

Motor vehicle repairs and maintenance	5
Rent	5
Library supplies	-3
Other	3

Total **-\$120**

FTEs: full-time equivalents

Note: Numbers may not sum to total due to rounding.

Recommended Actions

1. Concur with Governor's allowance.

Current and Prior Year Budgets

Current and Prior Year Budgets Office of the State Prosecutor (\$ in Thousands)

	<u>General Fund</u>	<u>Special Fund</u>	<u>Federal Fund</u>	<u>Reimb. Fund</u>	<u>Total</u>
Fiscal 2008					
Legislative Appropriation	\$1,182	\$0	\$123	\$79	\$1,384
Deficiency Appropriation	0	0	0	0	0
Budget Amendments	16	0	0	0	16
Cost Containment	-5	0	0	0	-5
Reversions and Cancellations	0	0	-35	-5	-40
Actual Expenditures	\$1,193	\$0	\$88	\$74	\$1,355
Fiscal 2009					
Legislative Appropriation	\$1,283	\$0	\$76	\$0	\$1,359
Cost Containment	-18	0	0	0	-18
Budget Amendments	17	0	0	0	17
Working Appropriation	\$1,282	\$0	\$76	\$0	\$1,358

Note: Numbers may not sum to total due to rounding.

Fiscal 2008

OSP finished fiscal 2008 \$29,000 below its legislative appropriation. The general fund appropriation increased by \$16,469 due to a cost-of-living adjustment (COLA) budgeted in the Department of Budget and Management (DBM). There was also a \$5,000 general fund decrease for cost containment initiatives. Cancellations included \$35,000 in federal funds because fiscal 2008 expenses relating to an ongoing investigation were delayed until fiscal 2009. Reimbursable funds of \$5,000 were also cancelled to reflect actual expenditures.

Fiscal 2009

OSP's fiscal 2009 working appropriation is \$1,000 lower than the legislative appropriation. This is primarily due to \$18,073 in cost containment measures implemented by BPW in June and October 2008. Fringe benefit appropriations were reduced as OPEB prefunding of \$11,026 was ceased and statewide employee health insurance balances of \$7,047 were used in lieu of budgeted funds. Nearly the entire cost containment was offset by a \$16,754 COLA budgeted in DBM.

**Object/Fund Difference Report
Office of the State Prosecutor**

<u>Object/Fund</u>	<u>FY08 Actual</u>	<u>FY09 Working Appropriation</u>	<u>FY10 Allowance</u>	<u>FY09 - FY10 Amount Change</u>	<u>Percent Change</u>
Positions					
01 Regular	12.00	12.00	12.00	0	0%
02 Contractual	4.00	4.00	4.00	0	0%
Total Positions	16.00	16.00	16.00	0	0%
Objects					
01 Salaries and Wages	\$ 981,375	\$ 1,014,485	\$ 960,867	-\$ 53,618	-5.3%
02 Technical and Spec. Fees	194,468	208,182	167,865	-40,317	-19.4%
03 Communication	13,298	15,225	14,361	-864	-5.7%
04 Travel	10,795	2,200	2,200	0	0%
07 Motor Vehicles	15,463	16,880	24,856	7,976	47.3%
08 Contractual Services	31,609	8,900	9,334	434	4.9%
09 Supplies and Materials	48,031	16,022	12,935	-3,087	-19.3%
10 Equipment – Replacement	3,255	0	0	0	0.0%
12 Grants, Subsidies, and Contributions	-33,466	0	0	0	0.0%
13 Fixed Charges	90,921	75,952	81,582	5,630	7.4%
Total Objects	\$ 1,355,749	\$ 1,357,846	\$ 1,274,000	-\$ 83,846	-6.2%
Funds					
01 General Fund	\$ 1,193,544	\$ 1,281,978	\$ 1,274,000	-\$ 7,978	-0.6%
05 Federal Fund	88,317	75,868	0	-75,868	-100.0%
09 Reimbursable Fund	73,888	0	0	0	0.0%
Total Funds	\$ 1,355,749	\$ 1,357,846	\$ 1,274,000	-\$ 83,846	-6.2%

Note: The fiscal 2009 appropriation does not include deficiencies. The fiscal 2010 allowance does not include contingent reductions.