

C82D00
Office of the State Prosecutor

Operating Budget Data

(\$ in Thousands)

	<u>FY 09</u> <u>Actual</u>	<u>FY 10</u> <u>Working</u>	<u>FY 11</u> <u>Allowance</u>	<u>FY 10-11</u> <u>Change</u>	<u>% Change</u> <u>Prior Year</u>
General Fund	\$1,266	\$1,189	\$1,237	\$49	4.1%
Contingent & Back of Bill Reductions	0	0	-31	-31	
Adjusted General Fund	\$1,266	\$1,189	\$1,207	\$18	1.5%
Federal Fund	71	0	0	0	
Adjusted Federal Fund	\$71	\$0	\$0	\$0	
Reimbursable Fund	39	0	0	0	
Adjusted Reimbursable Fund	\$39	\$0	\$0	\$0	
Adjusted Grand Total	\$1,376	\$1,189	\$1,207	\$18	1.5%

Note: For purposes of illustration, the Department of Legislative Services has estimated the distribution of selected across-the-board budget. The actual allocations are to be developed by the Administration.

- When adjusted for Back of the Bill reductions, the Office of the State Prosecutor (OSP) fiscal 2011 allowance increases \$18,000, or 1.5%, above the working appropriation.
- Increases are primarily attributed to expenditures for health insurance and the employee retirement system.

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

For further information contact: Flora M. Arabo

Phone: (410) 946-5530

Personnel Data

	<u>FY 09 Actual</u>	<u>FY 10 Working</u>	<u>FY 11 Allowance</u>	<u>FY 10-11 Change</u>
Regular Positions	12.00	12.00	12.00	0.00
Contractual FTEs	<u>4.00</u>	<u>4.00</u>	<u>3.00</u>	<u>-1.00</u>
Total Personnel	16.00	16.00	15.00	-1.00

Vacancy Data: Regular Positions

Turnover and Necessary Vacancies, Excluding New Positions	0.36	3.00%
Positions and Percentage Vacant as of 12/31/09	0.00	0.00%

- Although the number of regular positions does not change, the allowance eliminates \$54,490 in funding due to the loss of grant funds for 1 position. The position is not abolished so that OSP may attempt to secure alternative grant funding.
- The fiscal 2011 allowance reflects 1.0 abolished contractual full-time equivalent.
- The agency had no vacant positions as of December 31, 2009.

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 2009, the percentage of corruption complaints closed in a timely manner remained at 100% for the fifth consecutive year. Similarly, the percentage of election law investigations completed in a timely fashion remained at 100% for the fourth consecutive year.

Recommended Actions

1. Add budget bill language to abolish 1 position to reflect a loss of grant funds.

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 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 2009, the number of corruption complaints closed increased 14.3% over 2008. However, election law complaints closed decreased 19.8%. According to the agency, the number of 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.

Exhibit 2 shows the number of corruption complaints made and the percent of corruption investigations closed in a timely manner by OSP. In fiscal 2009, the percentage of corruption complaints closed in a timely² manner remained at 100% for the fifth consecutive year. OSP attributes the continued success in closing corruption complaints to the continuity and thoroughness of the staff. OSP continues to meet this goal in spite of the loss of federal asset forfeiture funds and depleting grants that have supported personnel and investigation costs up through 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.

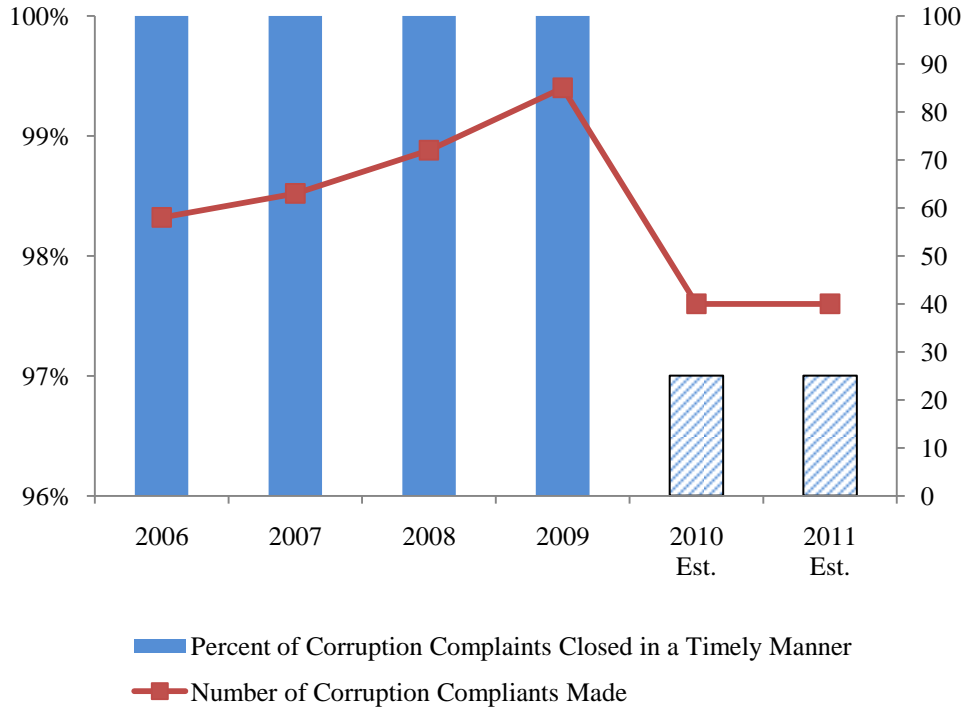
² "Timely" is defined as corruption complaints closed within two years.

Exhibit 1
Corruption, Election Law, and Other Types of Cases Closed
Fiscal 2007-2011

	<u>Actual</u> <u>2007</u>	<u>Actual</u> <u>2008</u>	<u>Actual</u> <u>2009</u>	<u>Estimate</u> <u>2010</u>	<u>Estimate</u> <u>2011</u>
Corruption Complaints					
Fails to meet ethical and/ or legal requirements	12	6	2	4	4
Referral	4	10	5	5	5
Meets requirements to be an OSP investigation, but insufficient evidence	34	59	64	25	25
Prosecutorial discretion	8	1	9	2	2
Formal charge filed	5	1	8	3	3
Inappropriate disposition	0	0	0	1	1
Total	63	77	88	40	40
Election Law Complaints					
No action	11	0	0	0	0
Fails to meet ethical and/ or legal requirements	11	0	10	10	10
Referral	43	122	66	0	0
Meets requirements to be an OSP investigation, but insufficient evidence	150	36	23	90	90
Prosecutorial discretion	82	101	99	20	20
Formal charge filed	20	24	29	20	20
Inappropriate disposition	0	0	0	0	0
Total	317	283	227	140	140
Other Types of Complaints					
No action	3	0	0	15	15
Fails to meet ethical and/ or legal requirements	8	4	2	10	10
Referral	2	2	1	2	2
Meets requirements to be an OSP investigation, but insufficient evidence	5	6	15	2	2
Prosecutorial discretion	1	3	0	1	1
Formal charge filed	2	2	1	0	0
Inappropriate disposition	0	0	0	0	0
Total	21	17	19	30	30

Source: Office of State Prosecutor; Maryland Judiciary

Exhibit 2
Corruption Complaints
Fiscal 2006-2011



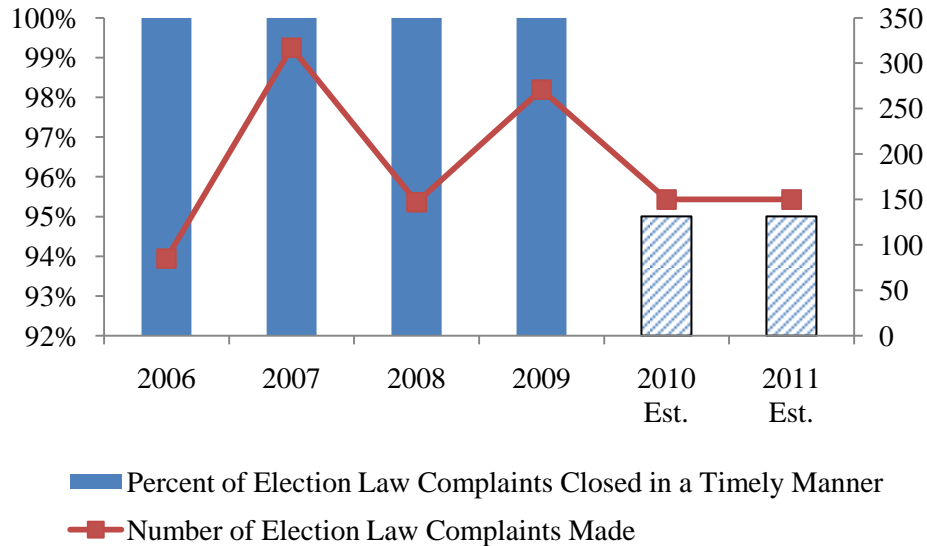
Note: Timely is defined as within two years.

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 fourth 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.

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

**Exhibit 3
Election Law Complaints
Fiscal 2006-2011**



Note: Timely is defined as within two years.

Source: Office of the State Prosecutor

Fiscal 2010 Actions

Impact of Cost Containment

In July, August, and November 2009, the Governor proposed and the Board of Public Works (BPW) adopted reductions to the fiscal 2010 appropriation. Cost containment actions specific to OSP included \$43,015 in general funds for the statewide furlough and \$1,000 for travel.

Proposed Budget

As shown in **Exhibit 4**, the allowance increases \$18,000, or 1.5%, above the fiscal 2010 working appropriation. This is primarily due to changes in personnel expenditures. The allowance increases \$15,000 for the employee retirement system, \$8,000 for reclassifications, and \$7,000 for health insurance. The budget also reflects decreases for turnover and nonpersonnel expenses such as computer maintenance contracts and motor vehicles. The fiscal 2011 allowance also abolishes 1 contractual full-time equivalent.

Impact of Cost Containment

The fiscal 2011 budget reflects several across-the-board actions to be allocated by the Administration. This includes a combination of employee furloughs and government shut-down days similar to the plan adopted in fiscal 2010; a reduction in overtime based on accident leave management; streamlining of State operations; hiring freeze and attrition savings; a change in the injured workers' settlement policy and administrative costs; and a savings in health insurance to reflect a balance in that account. For purposes of illustration, the Department of Legislative Services has estimated the distribution of selected actions relating to employee furloughs, health insurance, and the Injured Workers' Insurance Fund cost savings.

Exhibit 4
Proposed Budget
Office of the State Prosecutor
(\$ in Thousands)

How Much It Grows:	<u>General</u> <u>Fund</u>	<u>Federal</u> <u>Fund</u>	<u>Reimb.</u> <u>Fund</u>	<u>Total</u>
2010 Working Appropriation	\$1,189	\$0	\$0	\$1,189
2011 Allowance	<u>1,237</u>	<u>0</u>	<u>0</u>	<u>1,237</u>
Amount Change	\$49	\$0	\$0	\$49
Percent Change	4.1%	0.0%	0.0%	4.1%
 Contingent Reductions	 -\$31	 \$0	 \$0	 -\$31
Adjusted Change	\$18	\$0	\$0	\$18
Adjusted Percent Change	1.5%			1.5%

Where It Goes:

Personnel Expenses

Employee retirement system	\$15
Reclassifications.....	8
Employee and retiree health insurance	7
Turnover adjustments.....	-5
Other personnel	2

Other Changes

Computer maintenance contracts	-4
Motor vehicles.....	-3
Abolish 1.0 contractual full-time equivalent.....	-2

Total **\$18**

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

Recommended Actions

1. Add the following language:

Provided that position identification number 086522 is abolished to reflect the loss of funds for the position. The Governor is authorized to process a budget amendment for a contractual full-time equivalent if the Office of the State Prosecutor secures alternative grant funding.

Explanation: The fiscal 2011 allowance eliminates \$54,490 in funding due to the loss of grant funds for the salary and fringe benefits of 1 position. Although the funding was deleted, the position was not. This action deletes the position. The Governor is authorized to process a budget amendment if the Office of the State Prosecutor is able to secure alternative grant funding to support a contractual full-time equivalent in fiscal 2011.

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 2009					
Legislative Appropriation	\$1,283	\$0	\$76	\$0	\$1,359
Deficiency Appropriation	0	0	0	0	0
Budget Amendments	17	0	0	63	80
Cost Containment	-34	0	0	0	-34
Reversions and Cancellations	0	0	-5	-24	-29
Actual Expenditures	\$1,266	\$0	\$71	\$39	\$1,376
Fiscal 2010					
Legislative Appropriation	\$1,233	\$0	\$0	\$0	\$1,233
Cost Containment	-44	0	0	0	-44
Budget Amendments	0	0	0	0	0
Working Appropriation	\$1,189	\$0	\$0	\$0	\$1,189

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

Fiscal 2009

OSP completed fiscal 2009 \$17,000 above its legislative appropriation. Actual fiscal 2009 general fund expenditures were \$17,000 below the legislative appropriation. This was the net result of a \$16,765 increase for a cost-of-living adjustment and a \$33,448 decrease for cost containment actions implemented by the BPW. Federal fund expenditures were \$5,000 below the legislative appropriation due to unspent funds. Lastly, though OSP did not have a legislative appropriation for reimbursable funds, a budget amendment provided \$63,000 from the Maryland State Police Department for the Vehicle Theft Prevention Program, of which \$24,000 was unspent.

Fiscal 2010

In fiscal 2010, the working appropriation for OSP is \$44,000 lower than the legislative appropriation. This is due to \$44,000 in cost containment measures implemented by the BPW in August and November 2009, which reduced general funds for the statewide furlough and travel expenditures.

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

<u>Object/Fund</u>	<u>FY 09 Actual</u>	<u>FY 10 Working Appropriation</u>	<u>FY 11 Allowance</u>	<u>FY 10-FY 11 Amount Change</u>	<u>Percent Change</u>
Positions					
01 Regular	12.00	12.00	12.00	0	0%
02 Contractual	4.00	4.00	3.00	-1.00	-25.0%
Total Positions	16.00	16.00	15.00	-1.00	-6.3%
Objects					
01 Salaries and Wages	\$ 956,063	\$ 922,468	\$ 981,248	\$ 58,780	6.4%
02 Technical and Spec. Fees	226,678	120,857	118,722	-2,135	-1.8%
03 Communication	9,739	14,361	14,476	115	0.8%
04 Travel	1,621	2,200	700	-1,500	-68.2%
07 Motor Vehicles	15,194	24,856	22,678	-2,178	-8.8%
08 Contractual Services	-5,339	9,334	5,844	-3,490	-37.4%
09 Supplies and Materials	56,362	12,935	11,900	-1,035	-8.0%
12 Grants, Subsidies, and Contributions	33,470	0	0	0	0.0%
13 Fixed Charges	82,546	81,582	81,868	286	0.4%
Total Objects	\$ 1,376,334	\$ 1,188,593	\$ 1,237,436	\$ 48,843	4.1%
Funds					
01 General Fund	\$ 1,266,271	\$ 1,188,593	\$ 1,237,436	\$ 48,843	4.1%
05 Federal Fund	70,898	0	0	0	0.0%
09 Reimbursable Fund	39,165	0	0	0	0.0%
Total Funds	\$ 1,376,334	\$ 1,188,593	\$ 1,237,436	\$ 48,843	4.1%

Note: The fiscal 2010 appropriation does not include deficiencies.