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Office of the State Prosecutor

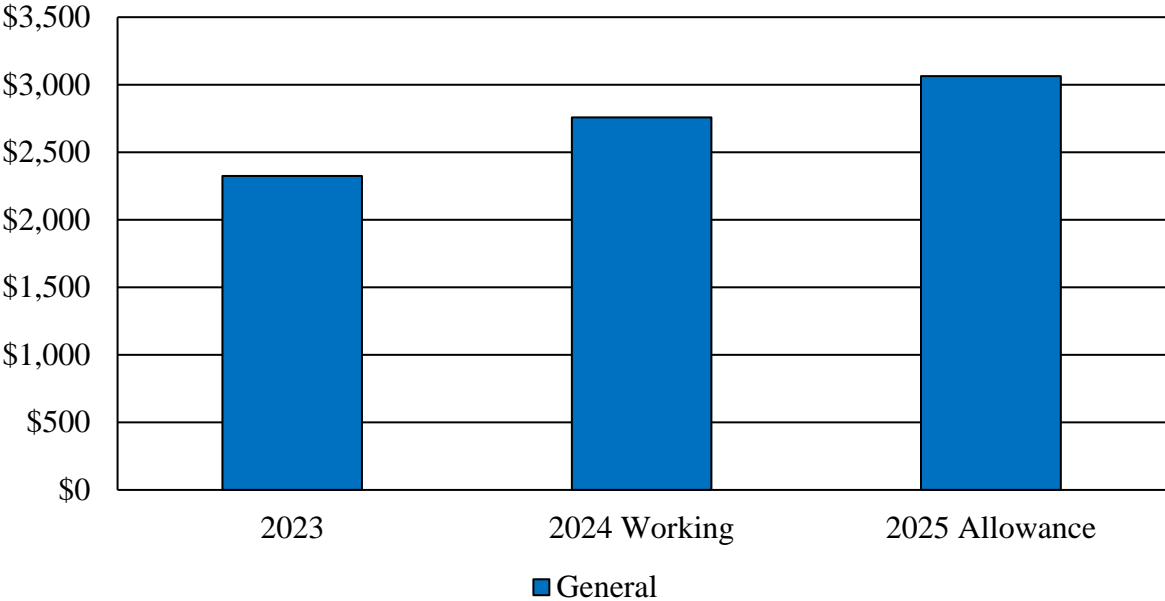
Program Description

The Office of the State Prosecutor (OSP) is an independent agency within the Executive Branch that investigates and, where warranted, prosecutes criminal offenses affecting the honesty and integrity of governmental officials, institutions, and the electoral process. The State Prosecutor may investigate on their own initiative – or at the request of the Governor, the Attorney General, the General Assembly, the State Ethics Commission, or a State’s Attorney – certain criminal offenses including election law and public ethics law violations; State bribery law violations involving public officials or employees; misconduct in any office by public officials or employees; and extortion, perjury, or obstruction of justice related to any of the above.

In addition, the State Prosecutor may investigate and prosecute any offense that takes place in more than one county within the State or in more than one state including Maryland.

Operating Budget Summary

Fiscal 2025 Budget Increases \$307,353, or 11.1%, to \$3.0 Million
(\$ in Thousands)



Note: Numbers may not sum to total due to rounding. The fiscal 2024 working appropriation includes deficiencies. The fiscal 2024 impacts of statewide salary adjustments appear in the Statewide Account in the Department of Budget and Management (DBM), and adjustments are not reflected in this agency’s budget. The fiscal 2025 impacts of the fiscal 2024 statewide salary adjustments appear in this agency’s budget. The fiscal 2025 statewide salary adjustments are centrally budgeted in DBM and are not included in this agency’s budget.

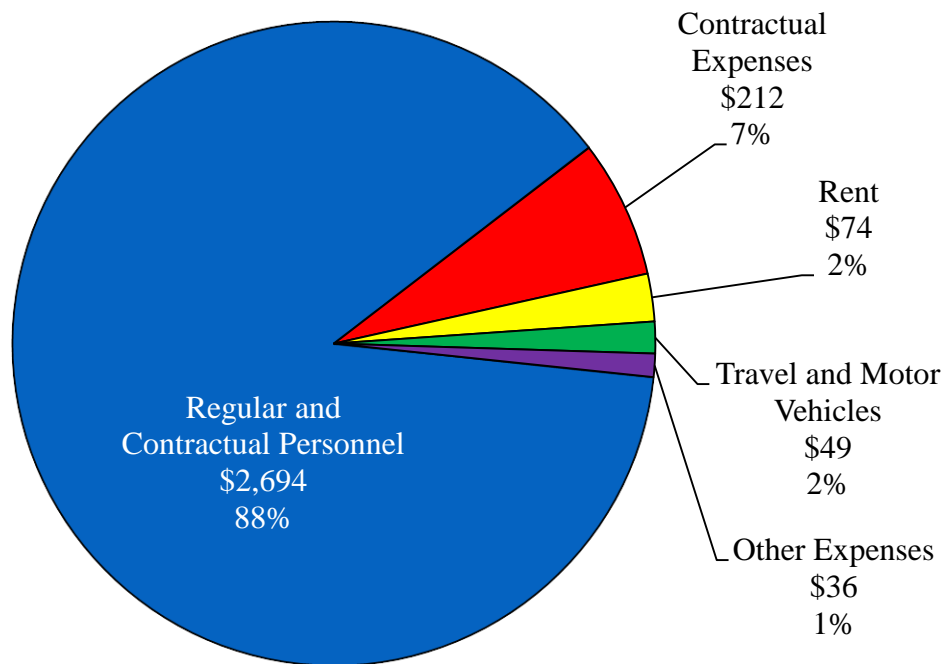
For further information contact: Jacob L. Pollicove

Jacob.Pollicove@mlis.state.md.us

Fiscal 2025 Overview of Agency Spending

As shown in **Exhibit 1**, approximately 88% of the OSP budget is dedicated to personnel spending. Other significant parts of the OSP budget include spending on contractual services – such as transcription services for depositions, interviews, and other proceedings – and rent for office space.

Exhibit 1
Overview of Agency Spending
Fiscal 2025 Allowance
(\$ in Thousands)



Note: The fiscal 2025 statewide salary adjustments are centrally budgeted in the Department of Budget and Management and are not included in this agency’s budget.

Source: Governor’s Fiscal 2025 Budget Books

Proposed Budget Change

The fiscal 2025 allowance for OSP increases by \$307,353, as shown in **Exhibit 2**. This increase is largely driven by a reduction in the turnover rate from 8.62% to 1.01%, along with salary increases and associated fringe benefits.

Exhibit 2
Proposed Budget
Office of the State Prosecutor
(\$ in Thousands)

| How Much It Grows: | General Fund | Total |
|--|---------------------|----------------------|
| Fiscal 2023 Actual | \$2,323 | \$2,323 |
| Fiscal 2024 Working Appropriation | 2,757 | 2,757 |
| Fiscal 2025 Allowance | <u>3,065</u> | <u>3,065</u> |
| Fiscal 2024-2025 Amount Change | \$307 | \$307 |
| Fiscal 2024-2025 Percent Change | 11.1% | 11.1% |
| | | |
| Where It Goes: | | <u>Change</u> |
| Personnel Expenses | | |
| Turnover decreases from 8.62% to 1.01% | | \$174 |
| Salary increases and associated fringe benefits including fiscal 2024 cost-of-living adjustment and increments | | 159 |
| Costs associated with 1 new paralegal position converted from a contractual position..... | | 65 |
| Reclassification costs associated with two investigator positions and 1 paralegal position | | 63 |
| Other Changes | | |
| Agency share of statewide cost allocation | | 46 |
| One-time funding for new computer and communications equipment | | -10 |
| Office supplies | | -11 |
| One-time funding for new computers in fiscal 2024 | | -21 |
| One-time funding for vehicle purchases in fiscal 2024 | | -58 |
| Removal of costs associated with 1 contractual position converted to a regular position..... | | -104 |
| Other adjustments | | 4 |
| Total | | \$307 |

Note: Numbers may not sum to total due to rounding. The fiscal 2024 working appropriation includes deficiencies. The fiscal 2024 impacts of statewide salary adjustments appear in the Statewide Account in the Department of Budget and Management (DBM), and adjustments are not reflected in this agency’s budget. The fiscal 2025 impacts of the fiscal 2024 statewide salary adjustments appear in this agency’s budget. The fiscal 2025 statewide salary adjustments are centrally budgeted in DBM and are not included in this agency’s budget.

Personnel Data

| | <u>FY 23</u> <u>Actual</u> | <u>FY 24</u> <u>Working</u> | <u>FY 25</u> <u>Allowance</u> | <u>FY 24-25</u> <u>Change</u> |
|------------------------|---|--|--|--|
| Regular Positions | 13.00 | 16.00 | 17.00 | 1.00 |
| Contractual FTEs | <u>2.00</u> | <u>3.00</u> | <u>2.00</u> | <u>-1.00</u> |
| Total Personnel | 15.00 | 19.00 | 19.00 | 0.00 |

Vacancy Data: Regular Positions

| | | |
|--|-------|-------|
| Turnover and Necessary Vacancies, Excluding New Positions | 0.16 | 1.01% |
| Positions and Percentage Vacant as of 12/31/23 | 0.00 | 0.00% |
| Vacancies Below Turnover | -0.16 | |

- The decrease in the fiscal 2025 turnover rate for OSP results in the number of vacancies necessary for turnover equating to almost zero.
- The 1 new position in fiscal 2025 is a contractual conversion of a paralegal position to support the work of the new unit focusing on official misconduct and special victims.

Key Observations

1. New Unit for Investigating Official Misconduct and Special Victims

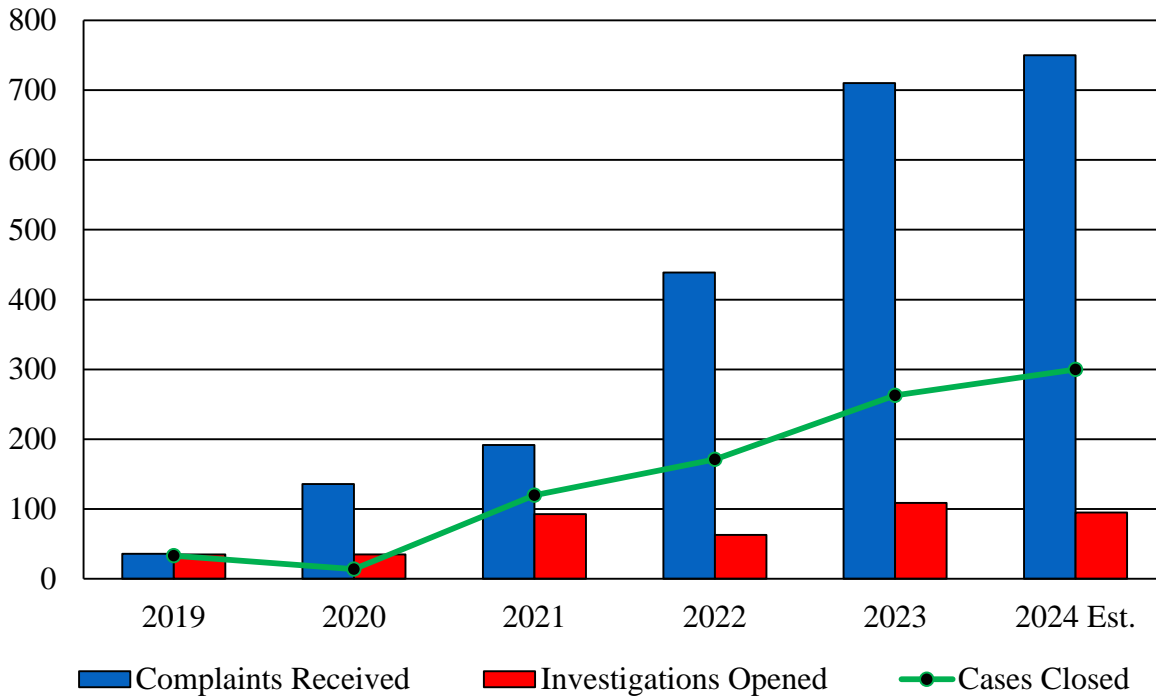
In fiscal 2024, OSP created a new unit within the office devoted to investigating official misconduct as well as cases involving special victims. The unit is headed by a Senior Assistant State Prosecutor and staffed by existing employees within OSP. The existence of this unit allows OSP to place a more direct focus on cases involving matters of official misconduct and cases involving special victims and to separate this work from the work of other areas of the office. OSP has stated that this unit is focused not only on prosecuting cases but also on bringing awareness to these types of cases and educating agencies about what constitutes official misconduct or a case involving a special victim. This is done in an effort to make the investigation process start when a complaint is received at an agency, rather than having the case be identified as one of official misconduct or involving a special victim only when OSP becomes involved, which can sometimes be much later in the investigatory process. OSP is actively working with inspectors general at other State agencies and other authorities to provide this education and increase awareness.

Data regarding the performance of this unit is not currently reported in the annual Managing for Results (MFR) report published by the Department of Budget and Management (DBM); at the time this analysis was written, OSP's self-published annual report was not yet available. OSP did inform the Department of Legislative Services that the agency received 58 complaints in fiscal 2023 that would fall under the purview of this unit. Tracking the number of complaints as well as the results of complaints including investigations, prosecutions, and convictions would be helpful in analyzing the performance of this unit of OSP. **OSP should comment on how the work of the new unit will impact existing OSP staff and if additional personnel are expected to be needed as the unit takes on more cases. OSP should also work with DBM to add sections tracking data specific to cases involving official misconduct and special victims to the MFR.**

2. Continued Growth in Complaints Received, Investigations Increase

Exhibit 3 shows the number of complaints, investigations, and closed cases since fiscal 2019. The number of complaints submitted to OSP continued to increase in fiscal 2023, reaching 710, an increase of 271 complaints, or 62%. The number of opened investigations also increased from 63 cases in fiscal 2022 to 109 in fiscal 2023. OSP closed 263 cases in fiscal 2023, a 54% increase from the prior year. The increase in complaints outpaces the increased number of closed cases.

**Exhibit 3
Complaints Received, Investigations Opened, and Cases Closed
Fiscal 2019-2024 Est.**



Source: Department of Budget and Management; Department of Legislative Services

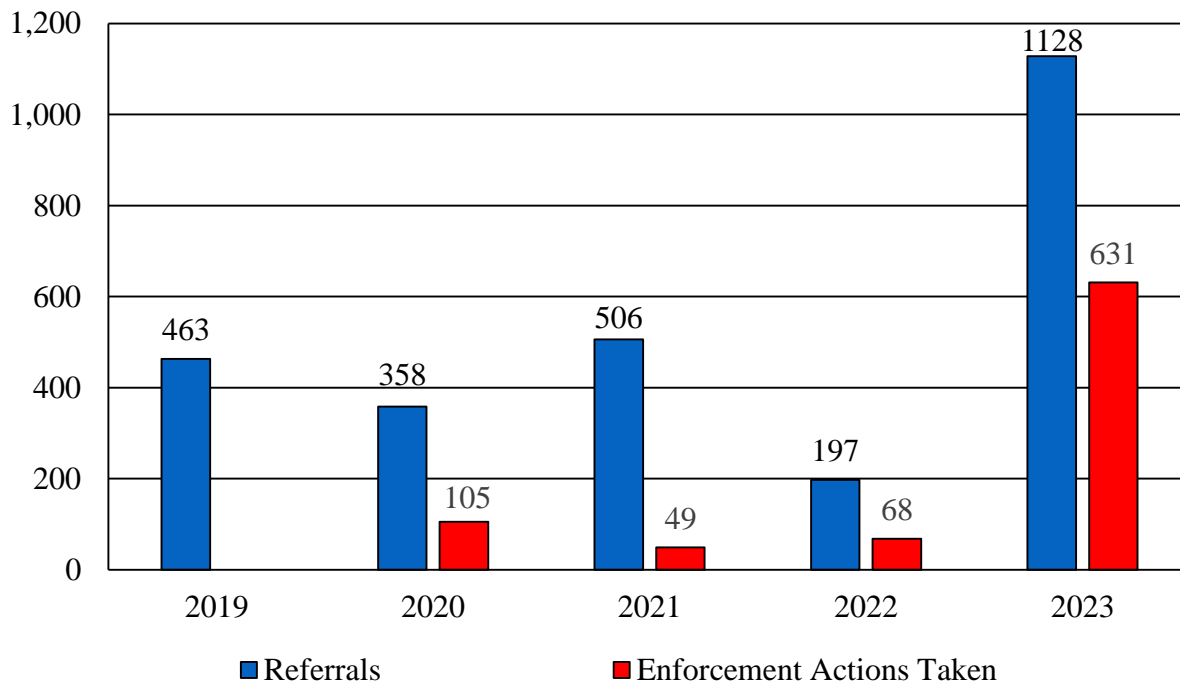
This data indicates that OSP’s case management system is achieving the agency’s goal of making it easier for complaints to be submitted to OSP, and that the greater number of complaints and investigations is not stopping OSP from closing cases in an efficient manner. OSP currently estimates the growth in complaints and investigations opened to taper off in fiscal 2024; however, if this growth does not slow as expected, OSP should consider how continued growth will impact their operations and what they can do internally to continue to effectively manage the growth in these metrics. These considerations should include caseloads for attorneys and paralegals, how long OSP takes to process a case from start to finish, and how each area of work is impacted by the increased numbers of complaints and investigations.

3. Election Law Referrals and Enforcement Actions Increase

OSP is responsible for investigating referrals related to potential violations of State election law and making impartial decisions on enforcement and prosecution where warranted. Referrals are first presented to the State Board of Elections (SBE), which reviews claims before sending

them to OSP if found to be credible. Common violations referred to OSP by SBE include failure to file required reports or pay required fees, authority line violations, voting by noncitizens, and overcontributions. The number of referrals tends to fluctuate in concert with the federal election cycle, and as such, fiscal 2023 saw an increase in referrals over the prior year. The number of referrals in fiscal 2023 was also more than double the amount from fiscal 2021, and the number of enforcement actions grew significantly in 2023 compared to fiscal 2021. **Exhibit 4** shows the number of referrals for fiscal 2019 to fiscal 2023, along with the number of enforcement actions taken in each year since fiscal 2020, the first year that metric was tracked.

Exhibit 4
Election Law Referrals and Enforcement Actions
Fiscal 2019-2023



Source: Department of Budget and Management; Department of Legislative Services

These large increases in referrals and enforcement actions from previous election years represent what is at this point an outlier of a year. Data regarding referrals was not tracked in the same way prior to fiscal 2019, so there is a limited scope for determining if similar spikes have occurred in the past. OSP only brought one criminal charge in fiscal 2023, which is identical to both fiscal 2019 and 2021. OSP has stated that the increase in referrals in fiscal 2023 is due to several factors, including a new reporting process implemented by SBE as well as increases in certain types of complaints. The new reporting process allows SBE to transfer complaints to OSP at a faster pace, as opposed to the previous process where complaints were sent to OSP in bulk

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after an election. OSP also reports an increase in complaints involving theft of campaign signage, noncitizen voting, and double voting in fiscal 2023. These increased complaints led to an increase in enforcement actions. OSP has also stated that one person or group can receive multiple enforcement actions as a result of a single complaint. **OSP should comment on if the number of referrals is expected to decrease back to prior levels in the next election year and if and how the higher number of referrals and enforcement actions impacted their operations in fiscal 2023.**

Operating Budget Recommended Actions

1. Concur with Governor's allowance.

**Appendix 1
Object/Fund Difference Report
Office of the State Prosecutor**

| <u>Object/Fund</u> | <u>FY 23 Actual</u> | <u>FY 24 Working Appropriation</u> | <u>FY 25 Allowance</u> | <u>FY 24 - FY 25 Amount Change</u> | <u>Percent Change</u> |
|--------------------------------|-------------------------|--|----------------------------|--|---------------------------|
| Positions | | | | | |
| 01 Regular | 13.00 | 16.00 | 17.00 | 1.00 | 6.3% |
| 02 Contractual | 2.00 | 3.00 | 2.00 | -1.00 | -33.3% |
| Total Positions | 15.00 | 19.00 | 19.00 | 0.00 | 0% |
| Objects | | | | | |
| 01 Salaries and Wages | \$1,777,617 | \$2,096,558 | \$2,557,322 | \$460,764 | 22.0% |
| 02 Technical and Special. Fees | 136,554 | 234,951 | 137,002 | -97,949 | -41.7% |
| 03 Communication | 19,881 | 11,800 | 9,800 | -2,000 | -16.9% |
| 04 Travel | 27,500 | 21,500 | 21,500 | 0 | 0% |
| 07 Motor Vehicles | 33,409 | 84,844 | 27,340 | -57,504 | -67.8% |
| 08 Contractual Services | 167,168 | 175,661 | 212,146 | 36,485 | 20.8% |
| 09 Supplies and Materials | 76,468 | 32,422 | 20,936 | -11,486 | -35.4% |
| 11 Equipment – Additional | 0 | 21,000 | 0 | -21,000 | -100.0% |
| 13 Fixed Charges | 84,863 | 78,635 | 78,678 | 43 | 0.1% |
| Total Objects | \$2,323,460 | \$2,757,371 | \$3,064,724 | \$307,353 | 11.1% |
| Funds | | | | | |
| 01 General Fund | \$2,323,460 | \$2,757,371 | \$3,064,724 | \$307,353 | 11.1% |
| Total Funds | \$2,323,460 | \$2,757,371 | \$3,064,724 | \$307,353 | 11.1% |

Note: The fiscal 2024 appropriation does not include deficiencies, targeted reversions, or across-the-board reductions. The fiscal 2025 allowance does not include contingent reductions or cost-of-living adjustments.