

C82D00
Office of the State Prosecutor

Operating Budget Data

(\$ in Thousands)

	<u>FY 14</u> <u>Actual</u>	<u>FY 15</u> <u>Working</u>	<u>FY 16</u> <u>Allowance</u>	<u>FY 15-16</u> <u>Change</u>	<u>% Change</u> <u>Prior Year</u>
General Fund	\$1,340	\$1,435	\$1,466	\$31	2.1%
Deficiencies and Reductions	0	-29	-64	-35	
Adjusted General Fund	\$1,340	\$1,407	\$1,402	-\$5	-0.3%
Reimbursable Fund	11	0	0	0	
Adjusted Reimbursable Fund	\$11	\$0	\$0	\$0	
Adjusted Grand Total	\$1,350	\$1,407	\$1,402	-\$5	-0.3%

Note: The fiscal 2015 working appropriation reflects deficiencies and the Board of Public Works reductions to the extent that they can be identified by program. The fiscal 2016 allowance reflects back of the bill and contingent reductions to the extent that they can be identified by program.

- The fiscal 2016 allowance reflects a \$4,849, or -0.3%, decrease compared to the fiscal 2015 adjusted working appropriation.
- Personnel expenses are decreasing by a net of \$13,067, reflective of back of the bill reductions to eliminate the fiscal 2015 2% cost-of-living adjustment increase and fiscal 2016 employee increments. This decrease is offset by an increase of \$17,000 for the purchase of a new State vehicle and associated costs.

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

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Personnel Data

	<u>FY 14 Actual</u>	<u>FY 15 Working</u>	<u>FY 16 Allowance</u>	<u>FY 15-16 Change</u>
Regular Positions	13.00	13.00	13.00	0.00
Contractual FTEs	<u>0.30</u>	<u>1.00</u>	<u>1.00</u>	<u>0.00</u>
Total Personnel	13.30	14.00	14.00	0.00

Vacancy Data: Regular Positions

Turnover and Necessary Vacancies, Excluding New Positions	0.39	3.00%
Positions and Percentage Vacant as of 11/1/14	0.00	0.00%

- The fiscal 2016 allowances includes no new regular positions or contractual full-time equivalents.
- As of November 1, 2014, the Office of State the Prosecutor has no vacant positions.

Analysis in Brief

Major Trends

Timely Resolution of Corruption Complaints Improves, but Timely Resolution of Election Law Complaints Falls Off the Pace: The number of corruption complaints closed in a timely manner increases to 100%, but the number of election law complaints closed in a timely manner falls to 60% in fiscal 2014.

Recommended Actions

	<u>Funds</u>
1. Delete full-time equivalent contractual.	\$ 32,260
Total Reductions	\$ 32,260

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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. The State Prosecutor investigates and, where warranted, prosecutes criminal offenses affecting the honesty and integrity of our governmental officials and institutions and the electoral process. Specifically, the State Prosecutor is authorized to investigate and prosecute criminal offenses under the State election laws and public ethics law, as well as the bribery laws and offenses constituting criminal malfeasance, misfeasance, or nonfeasance in office. These investigations are conducted either upon the initiative of OSP or upon the request of the Governor, the Attorney General, the General Assembly, the State Ethics Commission, or a State's Attorney. In addition, upon the request of the Governor, the Attorney General, the General Assembly, the State Ethics Commission, or a State's Attorney, the State Prosecutor may investigate and prosecute any offense which takes place in more than one county within the State or in more than one state including Maryland.

Performance Analysis: Managing for Results

1. Timely Resolution of Corruption Complaints Improves, but Timely Resolution of Election Law Complaints Falls Off the Pace

OSP's Managing for Results performance appears to have varied in recent years. **Exhibit 1** displays the total number of corruption, election law, and other¹ types of complaints closed by OSP. An investigation is considered 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 discretion; (5) warrants an investigation by OSP but is later deemed to be nonprosecutorial 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.

The number of corruption complaints remains steady, with a slight increase expected in fiscal 2015 and 2016. OSP projects the estimated increase due to recent publicized high profile prosecutions that increased the general public's knowledge of the office and its mission.

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

Exhibit 1
Corruption, Election Law, and Other Types of Cases Closed
Fiscal 2012-2016 Est.

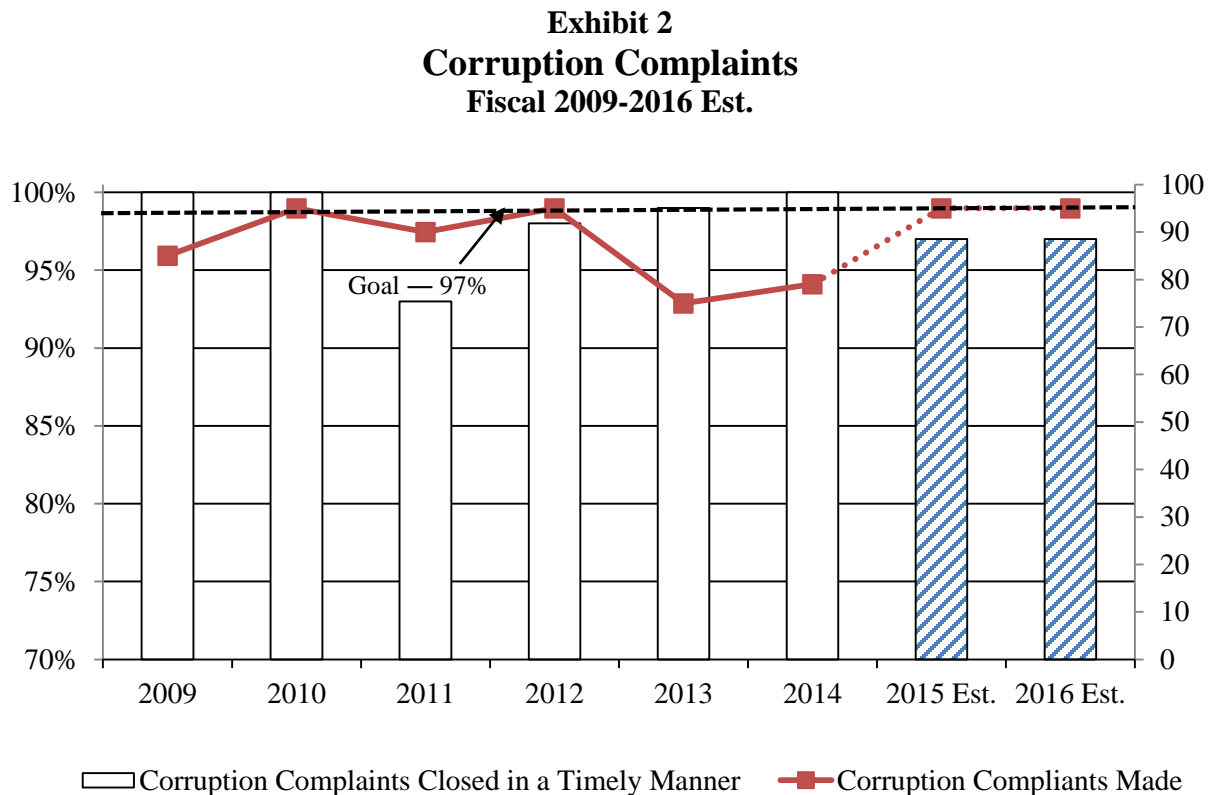
	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>Est.</u> <u>2015</u>	<u>Est.</u> <u>2016</u>
Corruption Complaints					
Fails to meet ethical and/or legal requirements	2	0	3	2	2
Referral	3	2	3	2	2
Meets requirements to be an OSP investigation, but insufficient evidence	76	70	72	83	83
Prosecutorial discretion	2	4	1	5	5
Formal charge filed	1	2	1	3	3
Inappropriate disposition	0	0	0	0	0
Total	84	78	80	95	95
Election Law Complaints					
No action	0	0	0	0	0
Fails to meet ethical and/or legal requirements	12	19	4	20	20
Referral	0	0	69	0	0
Meets requirements to be an OSP investigation, but insufficient evidence	13	12	226	20	20
Prosecutorial discretion	320	48	252	300	300
Formal charge filed	2	2	51	10	10
Inappropriate disposition	0	0	0	0	0
Total	347	81	602	350	350
Other Types of Complaints					
No action	0	0	0	0	0
Fails to meet ethical and/or legal requirements	1	3	2	7	7
Referral	0	1	1	0	0
Meets requirements to be an OSP investigation, but insufficient evidence	7	10	0	7	7
Prosecutorial discretion	3	2	0	4	4
Formal charge filed	0	1	0	0	0
Inappropriate disposition	0	0	0	0	0
Total	11	17	3	18	18

Source: Office of the State Prosecutor

In fiscal 2014, the number of election complaints increased by 521 from fiscal 2013, attributable to the 2014 statewide election and the enactment of the Campaign Finance Reform Act of 2013. In addition to investigating campaign finance reports referred from the State Board of Elections (SBE), in fiscal 2014, OSP also investigated more than 250 cases of persons alleged to be registered and voting in both Maryland and Washington, DC. OSP saw a dip in election complaints in fiscal 2013, due to a

failure to file complaints referred by SBE. OSP estimates the number of election complaints to normalize to historic numbers for fiscal 2015 and 2016.

Exhibit 2 shows the number of corruption complaints made and the percent of corruption investigations closed in a timely manner. In fiscal 2014, 100% of corruption complaints were closed in a timely² manner, an increase over the fiscal 2012 level of 98% and fiscal 2013 level of 99%. OSP estimates a slight dip in percentage of cases to 97% closed in a timely manner for fiscal 2015 and 2016. OSP presently has several complex, long-term corruption investigations and in its estimate of timeliness is allowing for the possibility that one or two of these cases may exceed the time completion goal.



Note: Timely is defined as within two years.

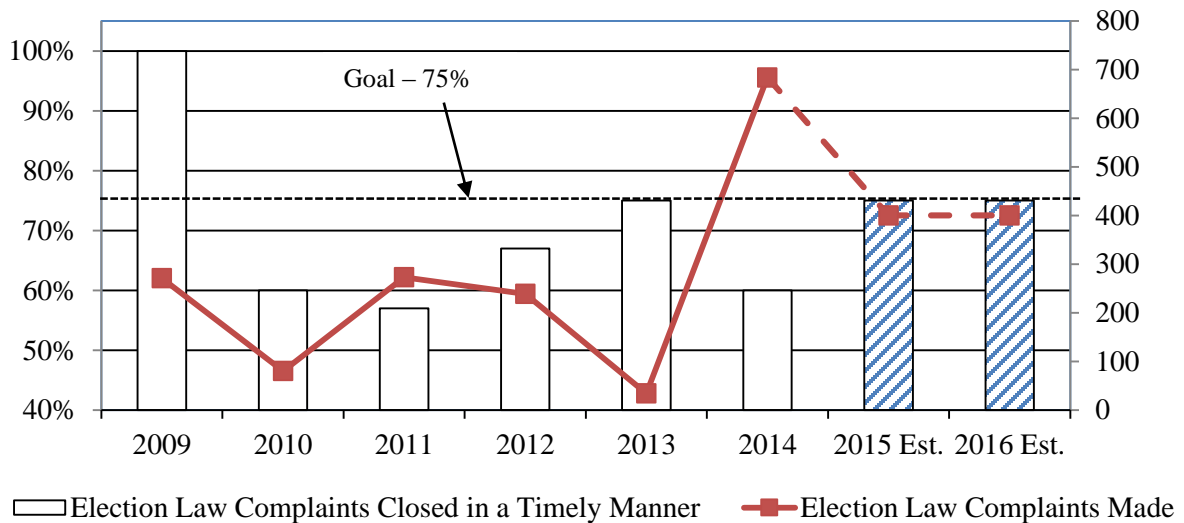
Source: Office of the State Prosecutor

Exhibit 3 shows the number of election law complaints made and the percent of election law complaints closed in a timely³ manner by OSP. In fiscal 2014, only 60% of election complaints were

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 2009-2016 Est.



Source: Office of the State Prosecutor

closed in timely manner, which was a decrease from 75% in fiscal 2013. OSP projects a timely completion rate of 75% in fiscal 2015 and 2016. However, in the last six years, OSP has only met its goal of 75% of election law complaints closed in a timely manner twice. The Board of Public Works (BPW) approved a new assistant State prosecutor position on November 20, 2013, to handle the increased election complaint cases resulting from the Campaign Finance Reform Act of 2013. The new prosecutor started in January 2014 and was able to clear a backlog of older cases, which were already older than six months. With this additional assistance, OSP expects to increase the percentage of cases closed in timely manner.

Fiscal 2015 Actions

Cost Containment

On January 7, 2015, BPW implemented a 2% across-the-board reduction in general funds as fiscal 2015 cost containment. The agency's share of the reduction was \$28,708, as shown in **Exhibit 4**. OSP is currently recruiting for a vacant position that is the result of an employee transferring to another State agency. At the lowest step level for this position, the vacant position could remain vacant to absorb the budget cut.

The agency should comment on the impact this reduction will have on services provided.

Exhibit 4
Fiscal 2015 Reconsolidation
(\$ in Thousands)

<u>Action</u>	<u>Description</u>	<u>General Fund</u>	<u>Special Fund</u>	<u>Federal Fund</u>	<u>Reimb. Fund</u>	<u>Total</u>
Legislative Appropriation with Budget Amendments		\$1,435	\$0	\$0	\$0	\$1,435
Working Appropriation		\$1,435	\$0	\$0	\$0	\$1,435
January BPW Across the Board	2% across-the-board reduction.	-29	0	0	0	-29
Total Actions Since January 2015		-\$29	\$0	\$0	\$0	-\$29
Adjusted Working Appropriation		\$1,407	\$0	\$0	\$0	\$1,407

BPW: Board of Public Works

Source: Department of Legislative Services

Proposed Budget

When adjusted for across-the-board reductions, the fiscal 2016 allowance decreases by \$4,849, as shown in **Exhibit 5**.

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

How Much It Grows:	<u>General Fund</u>	<u>Total</u>
Fiscal 2014 Actual	\$1,340	\$1,350
Fiscal 2015 Working Appropriation	1,407	1,407
Fiscal 2016 Allowance	<u>1,402</u>	<u>1,402</u>
Fiscal 2015-2016 Amt. Change	-\$5	-\$5
Fiscal 2015-2016 Percent Change	-0.3%	-0.3%

Where It Goes:

Personnel Expenses

Increments and other compensation (prior to cost containment).....	\$43
Employee and retiree health insurance	-13
Employee retirement.....	-12
Turnover adjustments	-1
Other fringe benefit adjustments	4
Section 21: Abolition of employee increments	-12
Section 20: Abolition of prior year 2% general salary increase	-22

Other Changes

Motor Vehicles – Purchase of new car	17
Statewide allocation for Department of Budget and Management paid telecommunications...	-8
Rent.....	-6
Travel for investigations and cases.....	4
Statewide allocation for new budget system	2
Section 19: Difference in the 2% across-the-board reduction	-1

Total **-\$5**

Note: Numbers may not sum to total due to rounding. The fiscal 2015 working appropriation reflects deficiencies and the Board of Public Works reductions to the extent that they can be identified by program. The fiscal 2016 allowance reflects back of the bill and contingent reductions to the extent that they can be identified by program.

Cost Containment

In fiscal 2016, the Administration has implemented several across-the-board reductions. This includes a general 2% reduction, elimination of employee increments, and a revision to the salary plan, which reflects the abolition of the 2% general salary increase provided on January 1, 2015. This agency's share of these reductions totals \$64,206.

OSP should comment on how the proposed contingent reductions will be implemented and the impact these reductions will have on services provided.

Personnel

The largest personnel-related increase was salary increments and other compensation, which increased by \$42,762. There is a net decrease in employee health insurance of \$12,907. Employee retirement contributions decreased by \$11,809. Other fringe benefit adjustments increased by \$3,945, and turnover expectancy decreased by \$852. However, as a result of back of the bill reductions, personnel-related expenses will decrease by a net of \$13,067.

Other

The largest nonpersonnel-related increase is \$15,000 for the purchase of a new vehicle to replace an aging vehicle, with a related \$2,000 increase for other motor vehicle expenses. There is also an increase of \$3,500 for in-state travel and a \$1,688 allocation for the new statewide budget system. Other changes in spending include an \$8,632 decrease in the allocation for the Department of Budget and Management paid telecommunications and a \$5,980 decrease for rent due to a renegotiated lease.

Recommended Actions

	<u>Amount Reduction</u>	
1. Delete 1.0 full-time equivalent contractual.	\$ 32,260	GF
Total General Fund Reductions	\$ 32,260	

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 2014					
Legislative Appropriation	\$1,285	\$0	\$0	\$0	\$1,285
Deficiency Appropriation	-35	0	0	0	-35
Budget Amendments	94	0	0	11	105
Reversions and Cancellations	-4	0	0	0	-4
Actual Expenditures	\$1,340	\$0	\$0	\$11	\$1,351
Fiscal 2015					
Legislative Appropriation	\$1,424	\$0	\$0	\$0	\$1,424
Cost Containment	0	0	0	0	0
Budget Amendments	11	0	0	0	11
Working Appropriation	\$1,435	\$0	\$0	\$0	\$1,435

Note: Numbers may not sum to total due to rounding. The fiscal 2015 working appropriation does not include January 2015 Board of Public Works reductions and deficiencies.

Fiscal 2014

OSP finished fiscal 2014 \$65,426 above its legislative appropriation. Amendments for the cost-of-living adjustment (COLA) and salary increment increased the appropriation by \$18,340. Retirement contributions were reduced by \$16,011 and health care contributions were reduced by \$15,798 through deficiency appropriations.

General Funds

Actual expenditures were \$54,650 above the legislative appropriation due to amendments that were partially offset by deficiency appropriations and reversions which included:

- \$18,340 increase related to the COLA and salary increments;
- \$75,000 increase related to funding two additional positions needed to implement the provisions of HB 1499 (Chapter 419 of 2013), the Campaign Finance Reform Act of 2013;
- \$15,798 in statewide reductions for health savings;
- \$16,011 in statewide reductions for retirement;
- \$2,792 for restricted contributions to Statewide Personnel Systems; and
- \$4,089 in reverted funds.

Reimbursable Funds

Actual expenditures were \$10,776 above the legislative appropriation due to an equipment grant from the Governor's Office of Crime Control and Prevention.

Fiscal 2015

To date, \$11,142 has been added through budget amendments to the legislative appropriation for fiscal 2015 to cover the COLA adjustment.

Object/Fund Difference Report
Office of the State Prosecutor

<u>Object/Fund</u>	<u>FY 14 Actual</u>	<u>FY 15 Working Appropriation</u>	<u>FY 16 Allowance</u>	<u>FY 15 - FY 16 Amount Change</u>	<u>Percent Change</u>
Positions					
01 Regular	13.00	13.00	13.00	0.00	0%
02 Contractual	0.30	1.00	1.00	0.00	0%
Total Positions	13.30	14.00	14.00	0.00	0%
Objects					
01 Salaries and Wages	\$ 1,131,283	\$ 1,266,046	\$ 1,287,185	\$ 21,139	1.7%
02 Technical and Spec. Fees	11,432	31,910	32,260	350	1.1%
03 Communication	9,279	20,570	12,438	-8,132	-39.5%
04 Travel	4,019	700	4,200	3,500	500.0%
07 Motor Vehicles	17,984	16,910	33,910	17,000	100.5%
08 Contractual Services	29,116	11,500	13,329	1,829	15.9%
09 Supplies and Materials	59,020	5,469	6,440	971	17.8%
10 Equipment – Replacement	12,349	0	0	0	0.0%
13 Fixed Charges	76,007	82,333	76,325	-6,008	-7.3%
Total Objects	\$ 1,350,489	\$ 1,435,438	\$ 1,466,087	\$ 30,649	2.1%
Funds					
01 General Fund	\$ 1,339,713	\$ 1,435,438	\$ 1,466,087	\$ 30,649	2.1%
09 Reimbursable Fund	10,776	0	0	0	0.0%
Total Funds	\$ 1,350,489	\$ 1,435,438	\$ 1,466,087	\$ 30,649	2.1%

Note: The fiscal 2015 working appropriation does not include January 2015 Board of Public Works reductions and deficiencies. The fiscal 2016 allowance does not reflect contingent or across-the-board reductions.