CD.00
Office of the State Prosecutor

Operating Budget Data

($ in Thousands)

	FY 01 Actual	FY 02 Working	FY 03 Allowance	Change	% Change Prior Year
General Fund	$871	$914	$948	$35	3.8%
Total Funds	**$871**	**$914**	**$948**	**$35**	**3.8%**

Personnel Data

	FY 01 Actual	FY 02 Working	FY 03 Allowance	Change
Regular Positions	9.00	9.00	9.00	0.00
Contractual FTEs	1.00	2.00	2.00	0.00
Total Personnel	**10.00**	**11.00**	**11.00**	**0.00**

Vacancy Data: Regular Positions

Budgeted Turnover: FY 03	0.11	1.26%
Positions Vacant as of 12/31/01	0.00	0.00%

- The fiscal 2003 allowance provides for no new positions.

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

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Analysis in Brief

Issues

Salaries in the Office of the State Prosecutor: The State Prosecutor's salary is statutorily linked to that of a circuit court judge through Section 9-1201(d) of the State Government Article. The Judicial Compensation Commission has recommended an increase in judicial salaries, which would also increase the State Prosecutor's salary. Also, a recent report comparing the salaries of attorneys working for State agencies found that the State Prosecutor position classification pay grades should be increased. However, the report recommends that this issue be reviewed in the fiscal 2004 budget. **DLS recommends that the State Prosecutor brief the budget committees on the proposed salary increases for his office.**

Recommended Actions

		Funds	Positions
1.	Reduce growth in contractual services for information technology.	$ 15,000	
	Total Reductions	**$ 15,000**	

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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 the offerer or offeree of a bribe; criminal malfeasance; malfeasance in office committed by a public officer or employee; all multi-jurisdictional offenses; and violations of State obstruction of justice, perjury, and extortion laws.

Cost Containment

While the OSP is exempt from the Governor's hiring freeze, it is not exempt from the 1.5% reduction in operating expenses. This cost containment measure has reduced their fiscal 2002 legislative appropriation by $3,000.

DLS recommends that the OSP brief the budget committees on the effects of the reduction in operating expenses in their office.

Governor's Proposed Budget

The fiscal 2003 allowance is $948,224, a $34,640, or 3.8%, increase over the fiscal 2002 working appropriation. Standard personnel expenses decrease $45,461 below the fiscal 2002 working appropriation. The nine-person office receives no new regular or contractual positions in the fiscal 2003 allowance and did not receive any additional regular or contractual positions in fiscal 2001 or 2002. **Exhibit 1** shows the expenses that contribute to the increase in the fiscal 2003 allowance.

Exhibit 1

Governor's Proposed Budget
Office of the State Prosecutor
($ in Thousands)

How Much It Grows:	General Fund	Special Fund	Federal Fund	Reimb. Fund	Total
2002 Working Appropriation	$914	$0	$0	$0	$914
2003 Governor's Allowance	948	0	0	0	948
Amount Change	$34	$0	$0	$0	$35
Percent Change	3.7%				3.7%

Where It Goes:	
Personnel Expenses	
Fiscal 2003 increments	7
Annualize fiscal 2002 general salary increase	11
Other adjustments	(66)
Other Changes	
Increase in information technology costs	47
Increase in rent	17
Increase in costs for training and staff development	11
Increase in compensation for contractual employees	7
Increase in Department of Budget and Management (DBM) communications costs	6
Increase in legal services costs	4
Decrease in DBM motor vehicle purchase/lease costs	(9)
Total	**$35**

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

Performance Analysis: Managing for Results

The OSP has submitted a Managing for Results (MFR) document, which is substantially the same as last year's MFR with very few alterations. The fiscal 2003 MFR includes the same specific goals, objectives, strategies, and relevant performance measures as the fiscal 2002 MFR. In fiscal 2002, the OSP developed quantified goals related to satisfactory and timely disposition of cases. That same year, it also developed a survey to measure complainant satisfaction which addresses timeliness, completeness, degree of assistance, as well as overall satisfaction. It also included a thoughtful discussion section in the MFR submission, describing its measurement methods, defining its goals, and discussing performance measurement data. The only real difference in this year's submission is the addition of 2001 actual figures, 2003 estimated figures, and a new analysis of performance measures and complainant survey results. Further, the category of "appropriate disposition" has been broken down into more detail based upon the actual disposition of the cases. Now, one can see how many cases were charged, referred, failed to meet legal requirements, and so forth. Previously, these dispositions all fell under one category.

The OSP has also prepared a report reviewing its activities for fiscal 2001, a year it describes as one with a lot of work but no high profile prosecutions. The report contains information on the judicial disposition of significant cases for fiscal 2001. In addition, that report includes a discussion of the MFR, list of staff, and a list of every complaint filed with a note about its status.

Performance Analysis

Exhibit 2 shows the actual data provided in the fiscal 2003 MFR. The years of actual data show improvements in the satisfactory resolution of cases in all areas. The actual data also continues to show improvements in the timely closure of all cases in all areas except election law cases. However, the OSP is meeting and exceeding its goals in the appropriate legal disposition of cases and closing complaints in a timely fashion. Estimates for fiscal 2001 and 2002, however, project declines in almost all measured areas. These projections are inexplicable. Beginning in fiscal 2002, the OSP began instituting a new case management system which will improve case tracking and timely resolution. **A representative of the OSP should explain to the committees the basis for projections of reduced workload in fiscal 2002 and 2003.**

Exhibit 2

Program Measurement Data
Office of the State Prosecutor
Fiscal 1999 through 2003

	Actual 1999	Actual 2000	Actual 2001	Est. 2002	Est. 2003	Ann. Chg. 00-02	Ann. Chg. 01-03
Workload							
Complaints	75	148	213	145	145	68.5%	-17.5%
Cases closed	63	127	191	131	131	74.1%	-17.2%
Persons charged	11	6	23	10	10	44.6%	-34.1%
Quality Measures							
Percentage Closed Satisfactorily							
All investigations	n/a	95%	100%	n/a	n/a	n/a	-100.0%
Percentage Closed Timely							
Corruption	84	95	97	90	90	7.5%	-3.7%
Election law	74	83	80	90	90	4.0%	6.1%
Other	0	98	100	75	75	n/a	-13.4%

Note: Timely resolution is six months for Election Law complaints and one year for all others. Satisfactory conclusions include filing of charges, restitution, resignation, cessation of questionable activity, cooperation, and determination of no legal or a de minimus violation. Unsatisfactory conclusions include lapsed statute of limitations after complaint, lack of proof, prosecutorial error, and acquittal of all charges.

Source: Office of the State Prosecutor

Issues

1. Salaries in the Office of the State Prosecutor

State Prosecutor's Salary Linked to the Salary of Circuit Court Judges

In accordance with Section 1-708 of the Court and Judicial Proceedings Article, joint resolutions setting forth the Judicial Compensation Commission's fiscal 2003 salary recommendations were introduced in both houses of the General Assembly for their consideration. The State Prosecutor's salary is statutorily linked to that of a circuit court judge through Section 9-1201(d) of the State Government Article. Under that section, the State Prosecutor must receive the salary provided in the budget, but not less than the salary of a judge of the circuit court. Thus, if judicial salaries are increased by the General Assembly pursuant to the joint resolutions the State Prosecutor will incur increased personnel costs not accounted for in the governor's fiscal 2003 allowance. Typically, when judicial salaries are statutorily adjusted, a supplemental appropriation is made available. The fiscal 2003 allowance for the State Prosecutor is $119,601, which is equal to the current circuit court judge salary. According to the January 2002 *Report of the Judicial Compensation Commission*, a circuit court judge could make as much as $125,600 in fiscal 2003. Therefore, there may exist a need to provide additional funds in a supplemental budget depending upon the General Assembly's treatment of House Joint Resolution 5 and Senate Joint Resolution 5.

Salary of Attorneys in the Office of the State Prosecutor Compared to Salaries of Attorneys in Other State Agencies

Pursuant to concerns that the attorneys for the Office of the Public Defender were being paid at a lower grade level than attorneys at the Office of the Attorney General performing the same work, language in the fiscal 2001 budget bill required the Department of Budget and Management (DBM) to evaluate and report on the appropriateness of the salaries. The budget committees later advised DBM that the study should be inclusive of attorneys in other State agencies, including the State Prosecutor's office. The result was a report dated January 2002.

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In comparing the salaries for attorneys at the OSP to the salaries of attorneys in other State agencies, the report recommends that the entry, intermediate, and full performance level salaries should be adjusted to Grades 20, 21, and 22, respectively. Further, the report recommends that the lead attorney position should also be adjusted two grades. Projected costs for this adjustment to the Office of the State Prosecutor is $20,000, which includes the 4% cost-of-living adjustment effective January 1, 2002, plus the cost of benefits, less turnover. However, the report notes that "Section 8-105(D) of the State Personnel and Pensions Article provides that an amendment to the Standard Pay Plan may not take effect unless sufficient money is available in the budget to cover the new pay rates." Thus, the report recommends that the implementation of these adjustments be delayed and reviewed in the fiscal 2004 budget.

DLS recommends that the State Prosecutor brief the budget committees on the proposed salary increase for his office.

Recommended Actions

		Amount Reduction		Position Reduction
1.	Reduce growth in contractual services for information technology. The Office of the State Prosecutor is investing in developing a case management system to alleviate duplicate efforts by their office and the State Board of Elections. The total project amount is $62,000. The Information Technology Project Request Form states that this is not a major project. This project should be either slowed or a portion delayed for at least one year.	$ 15,000	GF	
	Total General Fund Reductions	**$ 15,000**		

Appendix 1

Current and Prior Year Budgets

Current and Prior Year Budgets

Office of the State Prosecutor

($ in Thousands)

	General Fund	Special Fund	Federal Fund	Reimb. Fund	Total
Fiscal 2001					
Legislative Appropriation	$867	$0	$0	$0	$867
Deficiency Appropriation	0	0	0	0	0
Budget Amendments	4	0	0	0	4
Reversions and Cancellations	0	0	0	0	0
Actual Expenditures	**$871**	**$0**	**$0**	**$0**	**$871**
Fiscal 2002					
Legislative Appropriation	$917	$0	$0	$0	$917
Budget Amendments	(3)	0	0	0	(3)
Working Appropriation	**$914**	**$0**	**$0**	**$0**	**$914**

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

The agency's fiscal 2002 working appropriation is $3,000 below its legislative appropriation. Due to cost containment measures, $3,000 has been removed from the fiscal 2002 operating budget of the Office of the State Prosecutor and thus has reduced the total working appropriation to $913,584.

Object/Fund Difference Report
Office of the State Prosecutor

Object/Fund	FY01 Actual	FY02 Working Appropriation	FY03 Allowance	FY02 - FY03 Amount Change	Percent Change
Positions					
01 Regular	9.00	9.00	9.00	0	0%
02 Contractual	1.00	2.00	2.00	0	0%
Total Positions	**10.00**	**11.00**	**11.00**	**0**	**0%**
Objects					
01 Salaries and Wages	$ 595,851	$ 687,199	$ 641,738	($ 45,461)	(6.6%)
02 Technical & Spec Fees	54,154	53,288	71,032	17,744	33.3%
03 Communication	15,949	6,881	11,899	5,018	72.9%
04 Travel	9,997	11,200	11,200	0	0%
07 Motor Vehicles	2,479	14,207	1,174	(13,033)	(91.7%)
08 Contractual Services	96,064	55,458	104,061	48,603	87.6%
09 Supplies & Materials	37,498	37,500	43,400	5,900	15.7%
13 Fixed Charges	58,657	47,851	63,720	15,869	33.2%
Total Objects	**$ 870,649**	**$ 913,584**	**$ 948,224**	**$ 34,640**	**3.8%**
Funds					
01 General Fund	$ 870,649	$ 913,584	$ 948,224	$ 34,640	3.8%
Total Funds	**$ 870,649**	**$ 913,584**	**$ 948,224**	**$ 34,640**	**3.8%**

Note: Full-time and contractual positions and salaries are reflected for operating budget programs only.