

C82D00
Office of the State Prosecutor

Operating Budget Data

(\$ in Thousands)

	<u>FY 06</u> <u>Actual</u>	<u>FY 07</u> <u>Working</u>	<u>FY 08</u> <u>Allowance</u>	<u>FY 07-08</u> <u>Change</u>	<u>% Change</u> <u>Prior Year</u>
General Fund	\$1,012	\$1,081	\$1,182	\$101	9.3%
Federal Fund	145	160	123	-37	-23.0%
Reimbursable Fund	<u>0</u>	<u>27</u>	<u>79</u>	<u>53</u>	<u>197.1%</u>
Total Funds	\$1,157	\$1,268	\$1,385	\$117	9.2%

- The Office of the State Prosecutor (OSP) submitted a fiscal 2007 general fund deficiency request in the amount of \$57,290. These funds are requested to correct a fiscal 2005 closeout error which carried forward into fiscal 2007. This deficiency amount represents a 4.5% increase over the \$1,267,811 working appropriation.
- OSP's fiscal 2008 allowance increases by \$116,706, or 9.2% above the fiscal 2007 working appropriation. However, when you adjust the fiscal 2007 working appropriation to reflect the one-time health surplus, the fiscal 2008 allowance increases by \$136,069, or 10.9%.
- Regular and contractual employee expenditures increase by \$90,199 and \$50,633, respectively.
- Reimbursable funds increase by \$52,554 due to additional funding received from the Governor's Office of Crime Control and Prevention to hire three additional full-time equivalent (FTE) contractual positions.

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

For further information contact: Chantelle M. Green

Phone: (410) 946-5530

Personnel Data

	<u>FY 06</u>	<u>FY 07</u>	<u>FY 08</u>	<u>FY 07-08</u>
	<u>Actual</u>	<u>Working</u>	<u>Allowance</u>	<u>Change</u>
Regular Positions	10.00	10.00	11.00	1.00
Contractual FTEs	<u>5.00</u>	<u>4.00</u>	<u>7.00</u>	<u>3.00</u>
Total Personnel	15.00	14.00	18.00	4.00

Vacancy Data: Regular Positions

Turnover, Excluding New Positions	0.33	3.02%
Positions Vacant as of 12/31/06	1.00	10.00%

- The allowance contains one additional forensic computer analyst position. On December 20, 2006, the Board of Public Works (BPW) approved two new forensic analyst positions. The allowance includes funding to continue one of the two positions. The fiscal 2008 allowance also contains three additional contractual FTE positions. The three additional FTE positions include an investigator, investigative auditor, and a paralegal/investigative assistant.
- As of December 31, 2006, the vacancy rate for regular employees was 10%. Currently, OSP has no vacancies. OSP may have difficulty meeting its turnover rate of 3%. The turnover rate for regular employees increases from 2.96 to 3.02%.

Analysis in Brief

Major Trends

Continuing Success in the Disposition of Investigations: One hundred percent of complaints closed by OSP resulted in an appropriate legal disposition in fiscal 2006.

OSP Continues to Improve the Percentage of Election Law Complaints Closed in a Timely Manner: OSP improved the percentage of election law complaints closed by three percentage points in fiscal 2006.

Issues

New Computer Forensics Laboratory: In December 2006, BPW approved funding for two new forensic analyst positions as the first step in establishing an independent computer forensic laboratory within OSP. **OSP should comment to the committees on the long-term strategic plan for the new forensic laboratory and its projected fiscal impact on State resources.**

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 in office committed by a public officer or employee; 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 ethical and/or legal requirements to 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 (*i.e.*, no action) because the nature of the allegation does not warrant a preliminary review or inquiry by the agency. In fiscal 2006, the number of corruption and other types of complaints closed increased by 12.2 and 3.4%, respectively. By contrast, the number of election law complaints closed decreased by 48.7%. According to the agency, this decline is likely attributed to fewer referrals of election law violations from the State Board of Elections (SBE) in calendar 2005.

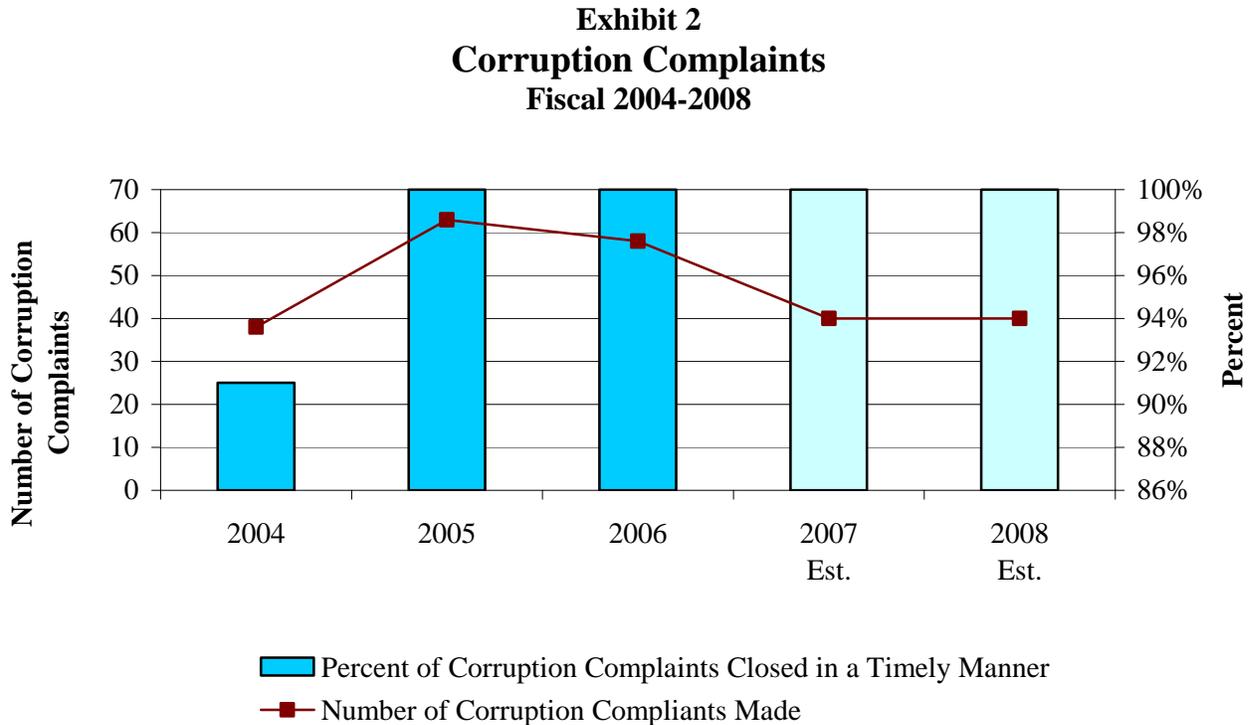
¹ All "other" complaints involve alleged violations of the State Ethics Law, or multi-jurisdictional offenses when an investigation is requested by the Governor, Attorney General, General Assembly, or a State's Attorney.

Exhibit 1
Corruption, Election Law, and Other Types of Cases Closed
Fiscal 2004-2008

	<u>Actual</u> <u>2004</u>	<u>Actual</u> <u>2005</u>	<u>Actual</u> <u>2006</u>	<u>Estimate</u> <u>2007</u>	<u>Estimate</u> <u>2008</u>
Corruption Complaints					
Fails to meet ethical and/or legal requirements	3	10	31	4	4
Referral	6	6	6	5	5
Meets requirements to be an OSP investigation, but insufficient evidence	13	26	10	22	25
Prosecutorial discretion	0	2	2	2	2
Formal charge filed	1	5	6	6	3
Inappropriate disposition	0	0	0	1	1
Total	23	49	55	40	40
Election Law Complaints					
No action	0	8	2	0	0
Fails to meet ethical and/or legal requirements	8	2	21	10	10
Meets requirements to be an OSP investigation, but insufficient evidence	125	114	6	90	90
Prosecutorial discretion	22	18	48	20	20
Formal charge filed	27	45	19	20	20
Inappropriate disposition	1	0	0	0	0
Total	183	187	96	140	140
Other Types of Complaints					
No action	11	15	11	15	15
Fails to meet ethical and/or legal requirements	5	11	11	10	10
Referral	6	2	4	2	2
Meets requirements to be an OSP investigation, but insufficient evidence	1	1	3	2	2
Prosecutorial discretion	2	0	0	1	1
Formal charge filed	1	0	1	0	0
Inappropriate disposition	0	0	0	0	0
Total	26	29	30	30	30

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 2006, although there was an 8% decline in the number of corruption complaints made, the percentage of corruption complaints closed in a timely² manner remained at 100%. OSP attributes its continued success in closing corruption complaints to the due diligence of its staff and monthly staff meetings. In fiscal 2006, the agency held monthly staff meetings to assess the status of each investigation and to determine whether an investigation was likely to result in a viable prosecution.



Note: Timely is defined as within two years.

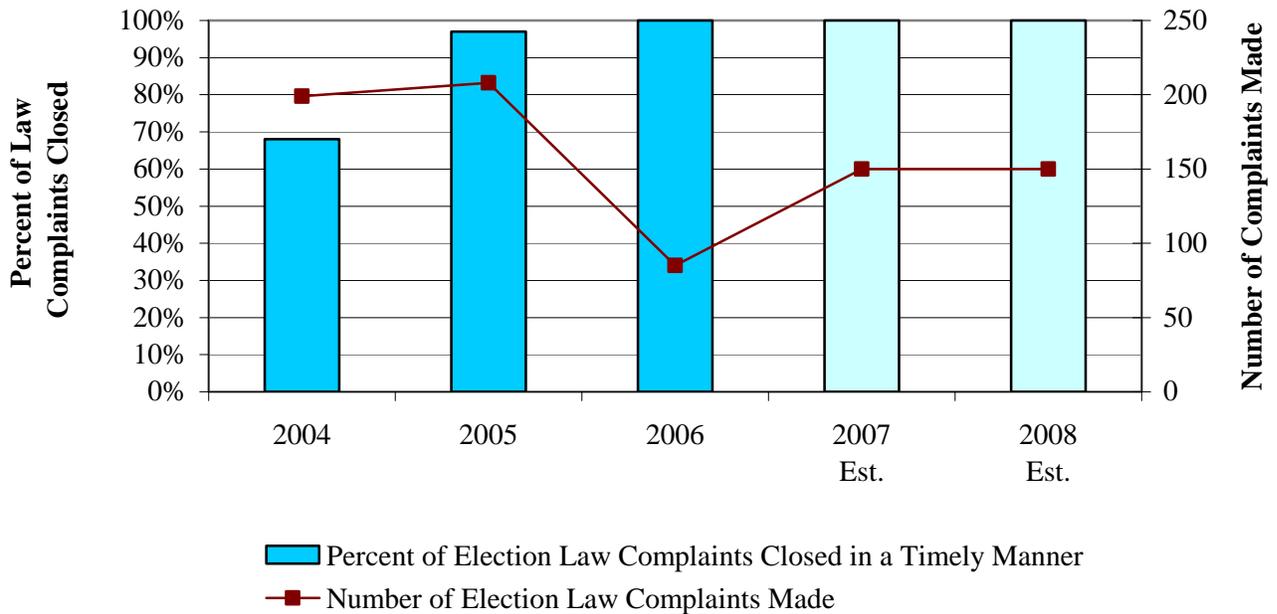
Source: Office of the State Prosecutor

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 the number of corruption complaints, the number of election law complaints made declined in fiscal 2006. By contrast, the percentage of election law investigations completed in a timely fashion increased to 100%. OSP reports that better case management, fewer referrals of election law violations, and continued collaboration with SBE regarding which types of cases should be referred to OSP has increased the agency’s performance and productivity in this area.

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 2004-2008**



Note: Timely is defined as within six months.

Source: Office of the State Prosecutor

Fiscal 2007 Actions

Proposed Deficiency

OSP has requested a fiscal 2007 general fund deficiency appropriation of \$57,290. These funds are requested to correct a fiscal 2005 closeout error which carried forward into fiscal 2007. According to the agency, expenditures were understated in fiscal 2006 because reimbursable funds received from the Governor’s Office of Crime Control and Prevention (GOCCP) were inadvertently recorded in fiscal 2006 as opposed to fiscal 2005. Consequently, OSP’s fiscal 2006 general fund expenditures were understated.

Governor’s Proposed Budget

As illustrated in **Exhibit 4**, OSP’s fiscal 2008 allowance increases by 9.2%, or \$116,706 above the fiscal 2007 working appropriation. The net increase is primarily driven by a \$90,199 increase in personnel expenditures due to the addition of a forensic computer analyst position and a \$50,633 increase in contractual employee expenditures due to the addition of three contractual full-time equivalent positions (investigator, investigative auditor, and paralegal/investigative assistant). Notable decreases include a \$25,647 reduction in motor vehicle expenses and an \$18,246 reduction in contractual services expenditures.

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

How Much It Grows:	General Fund	Federal Fund	Reimb. Fund	Total
2007 Working Appropriation	\$1,081	\$160	\$27	\$1,268
2008 Governor’s Allowance	<u>1,182</u>	<u>123</u>	<u>79</u>	<u>1,385</u>
Amount Change	\$101	-\$37	\$53	\$117
Percent Change	9.3%	-23.0%	197.1%	9.2%

Where It Goes:

Personnel Expenses

New forensic computer analyst position.....	\$66
Increments and other compensation	21
Employees’ retirement system.....	16
Turnover adjustments	-1
Net health insurance costs and one-time use of surplus	-14
Other fringe benefit adjustments	2

Other Changes

Contractual payroll – three new full-time equivalent positions.....	51
Communications expenditures.....	8
Vehicle replacement	-35
Other motor vehicle expenses.....	9
Reduced contractual services expenditures	-18
Office supplies.....	6
Equipment expenditures	5
Other	1

Total **\$117**

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

Issues

1. New Computer Forensics Laboratory

In December 2006, the Board of Public Works approved funding for two new forensic analyst positions. The two new positions, which are currently being funded via a grant from GOCCP, were requested to establish an independent computer forensics laboratory within OSP. The allowance includes funding to continue one of the two new positions.

Currently, Maryland only has one computer forensic laboratory which is operated by the Maryland State Police (MSP). According to OSP, almost every imaginable crime now involves the use of technology. Computers are used to store data, summarize financial information, and to send e-mails and photographs. While technology has advanced, Maryland has no computer forensic laboratory dedicated to conducting analyses of white collar theft or fraud. Although MSP has assisted OSP with conducting white collar analyses in the past, due to limited resources, MSP now accepts only those cases that involve crimes of violence, terrorism, child pornography, or child endangerment. Consequently, agencies that investigate white collar crimes, such as OSP, have no ability to have digital evidence analyzed.

The new forensic analyst positions are the first step in establishing an in-house computer forensic laboratory. According to OSP, initial funding totaling \$160,000, which includes analyst training and equipment, is being funded by the United States Department of Treasury at no expense to the State. OSP estimates that it will cost an additional \$140,000 annually to fund the two new positions and approximately \$10,000 for additional rent and miscellaneous expenditures.

OSP should comment to the committees on the long-term strategic plan for the new forensic laboratory and its projected fiscal impact on State resources.

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 2006					
Legislative Appropriation	\$966	\$0	\$0	\$0	\$966
Deficiency Appropriation	103	0	0	0	103
Budget Amendments	30	0	147	0	177
Reversions and Cancellations	-88	0	-2	0	-90
Actual Expenditures	\$1,011	\$0	\$145	\$0	\$1,156
Fiscal 2007					
Legislative Appropriation	\$1,071	\$0	\$0	\$27	\$1,098
Budget Amendments	10	0	160	0	170
Working Appropriation	\$1,081	\$0	\$160	\$27	\$1,268

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

Fiscal 2006

In fiscal 2006, the total budget for OSP increased by \$190,272. The general fund appropriation increased by \$133,112 due to the following: (1) \$102,670 deficiency appropriation for various operating and contractual employee expenditures; (2) \$17,250 health insurance adjustment by the Department of Budget and Management; (3) \$9,997 cost-of-living adjustment (COLA); and (4) \$3,195 increase the salary of the State Prosecutor, which is tied to that of a circuit court judge pursuant to 2005 House Joint Resolution 1. Additionally, there was an \$87,730 general fund reversion. The reversion was due to unrealized general fund expenditures following OSP's deficiency appropriation and a fiscal 2005 closeout error which carried forward into fiscal 2006.

The federal fund appropriation increased by \$146,958. This increase was due to the award of \$88,178 in Federal Asset Forfeiture Funds from the U.S. Departments of Homeland Security and Justice for OSP's involvement in the prosecution of two cases – *State v. Sung Yul Kim* and *State v. Rajiv Dixit* – and a \$58,780 Federal Byrne grant to fund contractual investigators for the ongoing investigation and prosecution of crimes within the Baltimore City Public School System. Additionally, OSP's asset forfeiture award exceeded actual expenditures, which resulted in a federal fund cancellation of \$2,069.

Fiscal 2007

The general and federal fund appropriations increased by \$10,197 and \$160,000, respectively. General funds increased due to a COLA, and federal funds increased due to receipt of Federal Asset Forfeiture Funds from the U.S. Departments of Homeland Security and Justice. Federal funding will be used to hire contractual investigators, replace two agency vehicles, and to finance trial-related expenditures.

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

<u>Object/Fund</u>	<u>FY06 Actual</u>	<u>FY07 Working Appropriation</u>	<u>FY08 Allowance</u>	<u>FY07-FY08 Amount Change</u>	<u>Percent Change</u>
Positions					
01 Regular	10.00	10.00	11.00	1.00	10.0%
02 Contractual	5.00	4.00	7.00	3.00	75.0%
Total Positions	15.00	14.00	18.00	4.00	28.6%
Objects					
01 Salaries and Wages	\$ 746,221	\$ 789,518	\$ 879,717	\$ 90,199	11.4%
02 Technical and Spec. Fees	197,344	269,375	320,008	50,633	18.8%
03 Communication	10,013	9,500	17,942	8,442	88.9%
04 Travel	4,882	4,000	4,000	0	0%
07 Motor Vehicles	36,809	51,043	25,396	-25,647	-50.2%
08 Contractual Services	64,667	43,200	24,954	-18,246	-42.2%
09 Supplies and Materials	31,375	21,600	27,500	5,900	27.3%
10 Equipment – Replacement	0	0	5,200	5,200	N/A
13 Fixed Charges	65,393	79,575	79,800	225	0.3%
Total Objects	\$ 1,156,704	\$ 1,267,811	\$ 1,384,517	\$ 116,706	9.2%
Funds					
01 General Fund	\$ 1,011,814	\$ 1,081,143	\$ 1,182,075	\$ 100,932	9.3%
05 Federal Fund	144,890	160,000	123,220	-36,780	-23.0%
09 Reimbursable Fund	0	26,668	79,222	52,554	197.1%
Total Funds	\$ 1,156,704	\$ 1,267,811	\$ 1,384,517	\$ 116,706	9.2%

Note: The fiscal 2007 appropriation does not include deficiencies, and the fiscal 2008 allowance does not reflect contingent reductions.