

C82D00
Office of the State Prosecutor

Operating Budget Data

(\$ in Thousands)

	<u>FY 07</u> <u>Actual</u>	<u>FY 08</u> <u>Working</u>	<u>FY 09</u> <u>Allowance</u>	<u>FY 08-09</u> <u>Change</u>	<u>% Change</u> <u>Prior Year</u>
General Fund	\$1,102	\$1,194	\$1,296	\$103	8.6%
Federal Fund	105	123	77	-46	-37.2%
Reimbursable Fund	<u>175</u>	<u>79</u>	<u>0</u>	<u>-79</u>	<u>-100.0%</u>
Total Funds	\$1,382	\$1,396	\$1,374	-\$22	-1.6%

- The allowance decreases by \$22,284, or 1.6%, below the fiscal 2008 working appropriation. However, when you adjust the budget to reflect changes in the allocation of health insurance and Other Post Employment Benefits (OPEB), the fiscal 2009 allowance decreases by \$88,200, or 6.6%.
- Personnel expenditures increase by \$137,611 mostly due to employee increments (\$57,384), health insurance (\$36,682), and OPEB (\$29,234) expenditures.
- Contractual employee expenditures decrease by \$110,282 due to the elimination of two contractual full-time equivalents (FTE).
- Reimbursable funds decrease by \$79,222, or 100%, due to a reduction in funding from the Governor's Office of Crime Control and Prevention.
- Federal funds decrease by \$45,808, or 37%, due to a reduction in Federal Asset Forfeiture Funds.

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

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Personnel Data

	<u>FY 07 Actual</u>	<u>FY 08 Working</u>	<u>FY 09 Allowance</u>	<u>FY 08-09 Change</u>
Regular Positions	11.00	12.00	12.00	0.00
Contractual FTEs	<u>4.50</u>	<u>6.00</u>	<u>4.00</u>	<u>-2.00</u>
Total Personnel	15.50	18.00	16.00	-2.00

Vacancy Data: Regular Positions

Turnover, Excluding New Positions	0.34	2.85%
Positions Vacant as of 12/31/07	0.00	0.00%

- The allowance eliminates two contractual FTE investigator positions.
- The turnover rate for regular employees decreases from 3.52% to 2.85%.

Analysis in Brief

Major Trends

The Office of the State Prosecutor Continues to Resolve Election Law and Corruption Complaints in a Timely Manner: In fiscal 2007, the Office of the State Prosecutor (OSP) resolved 100% of its election law and corruption complaints in a timely manner.

Recommended Actions

1. Concur with Governor's allowance.

Updates

Audit Findings: OSP has taken several steps toward addressing its April 2007 audit findings.

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 (MFR) 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 (*e.g.*, no action) because the nature of the allegation does not warrant a preliminary review or inquiry by the agency. In fiscal 2007, the number of corruption and election law complaints closed increased by 15 and 230%, respectively. According to the agency, the significant increase in election law complaints is attributed to additional referrals from the State Board of Elections (SBE) in calendar 2006 due to the State's general election.

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 Other² Types of Cases Closed
Fiscal 2005-2009

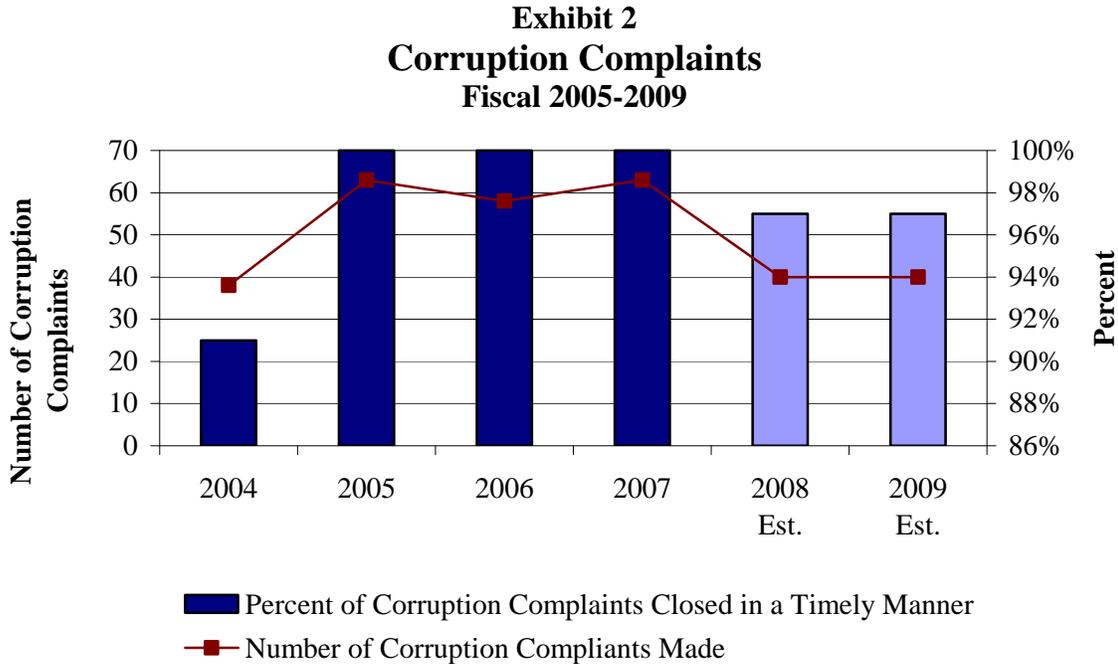
	<u>Actual</u> <u>2005</u>	<u>Actual</u> <u>2006</u>	<u>Actual</u> <u>2007</u>	<u>Estimate</u> <u>2008</u>	<u>Estimate</u> <u>2009</u>
Corruption Complaints					
Fails to meet ethical and/or legal requirements	10	31	12	4	4
Referral	6	6	4	5	5
Meets requirements to be an OSP investigation, but insufficient evidence	26	10	34	22	25
Prosecutorial discretion	2	2	8	2	2
Formal charge filed	5	6	5	6	3
Inappropriate disposition	0	0	0	1	1
Total	49	55	63	40	40
Election Law Complaints					
No action	8	2	11	0	0
Fails to meet ethical and/or legal requirements	2	21	11	10	10
Referral	0	0	43	0	0
Meets requirements to be an OSP investigation, but insufficient evidence	114	6	150	90	90
Prosecutorial discretion	18	48	82	20	20
Formal charge filed	45	19	20	20	20
Inappropriate disposition	0	0	0	0	0
Total	187	96	317	140	140
Other² Types of Complaints					
No action	15	11	3	15	15
Fails to meet ethical and/or legal requirements	11	11	8	10	10
Referral	2	4	2	2	2
Meets requirements to be an OSP investigation, but insufficient evidence	1	3	5	2	2
Prosecutorial discretion	0	0	1	1	1
Formal charge filed	0	1	2	0	0
Inappropriate disposition	0	0	0	0	0
Total	29	30	21	30	30

OSP: Office of the State Prosecutor

Source: Maryland Judiciary

² 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 2 shows the number of corruption complaints made and the percent of corruption investigations closed in a timely manner by OSP. In fiscal 2007, the percentage of corruption complaints closed in a timely³ manner remained at 100%. OSP attributes the continued success in closing corruption complaints to low employee turnover and the diligence of the OSP staff.



Note: Timely is defined as within two years.

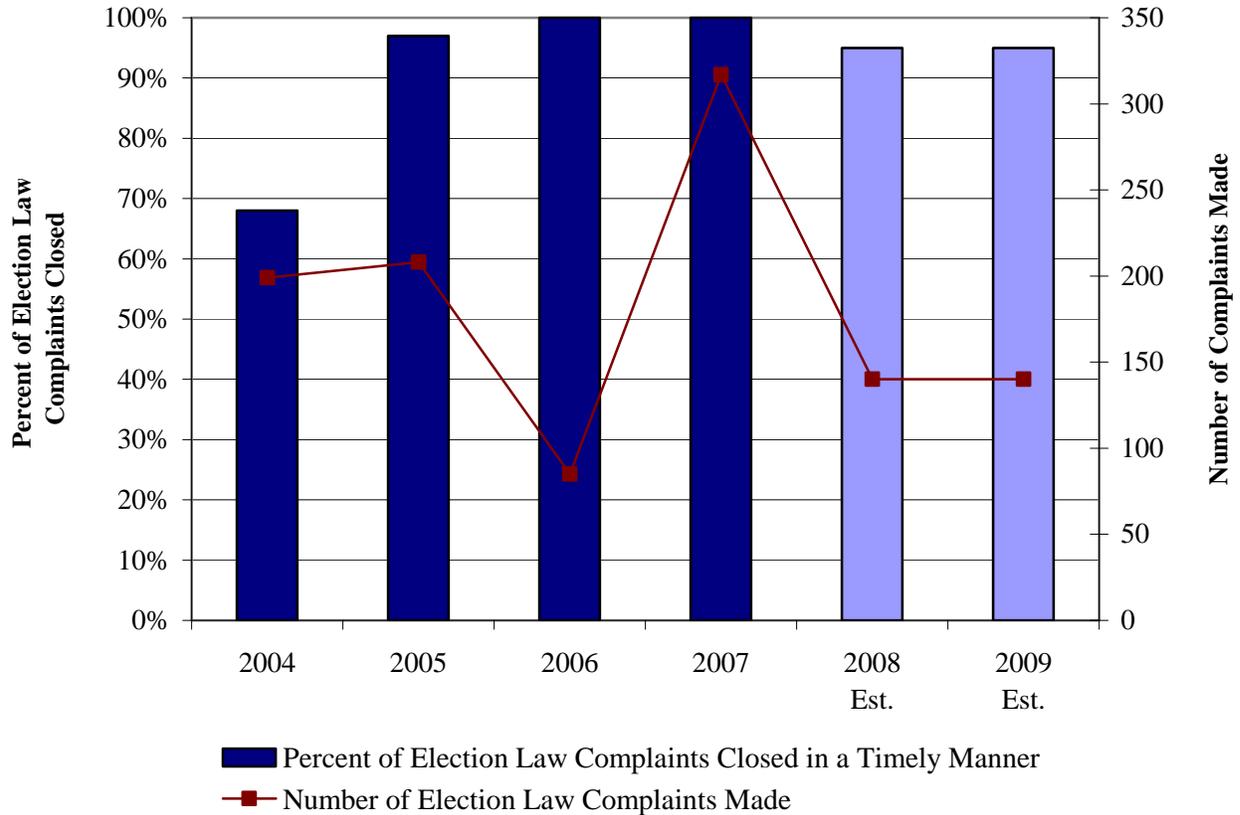
Source: Office of the State Prosecutor

Exhibit 3 shows the number of election law complaints made and the percent of election law complaints closed in a timely⁴ manner by OSP. Similar to corruption complaints, the percentage of election law investigations completed in a timely fashion remained at 100%. OSP reports that better case management, coupled with the agency’s continued collaboration with SBE regarding which types of cases should be referred to OSP has contributed to the agency’s overall success in resolving election law complaints.

³ “Timely” is defined as corruption complaints closed within two years.

⁴ “Timely” is defined as election law complaints closed within six months.

Exhibit 3
Election Law Complaints
Fiscal 2005-2009

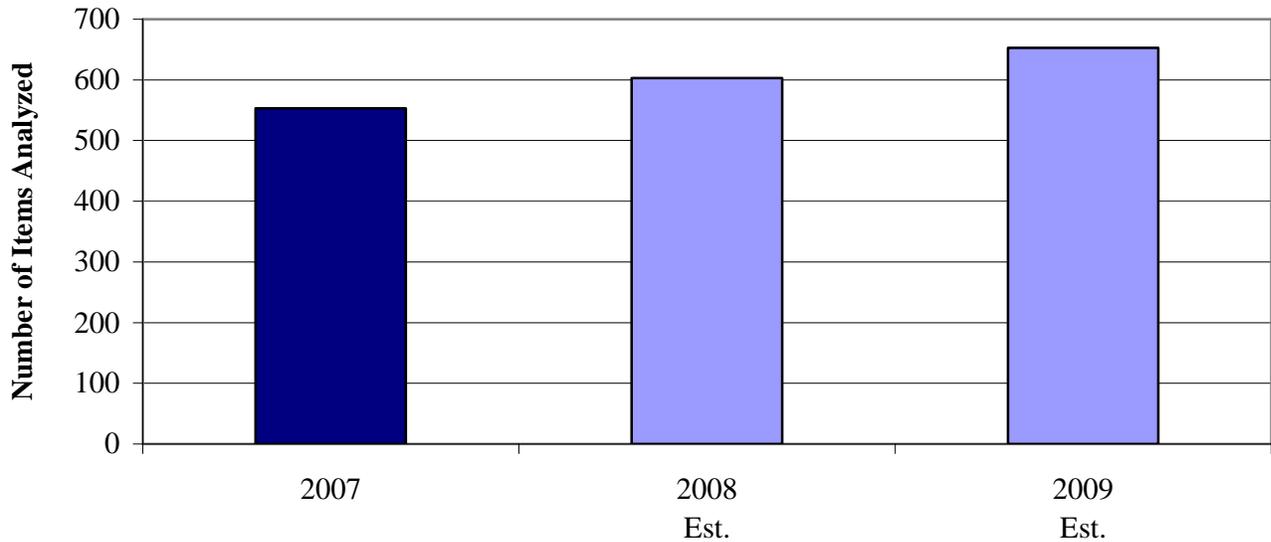


Note: Timely is defined as within six months.

Source: Office of the State Prosecutor

Exhibit 4 shows the number of items analyzed by OSP’s computer forensics laboratory. In December 2006, OSP established an in-house computer forensics laboratory to strengthen law enforcement investigations of white-collar and non-violent crimes. According to the agency’s Managing for Results (MFR) data, the lab examined over 500 pieces of evidence in fiscal 2007. One of the lab’s primary objectives is to analyze evidence in a thorough, legally viable, and timely manner. **The Department of Legislative Services recommends that OSP modify its computer forensics performance measures to include a timeliness goal.**

Exhibit 4
Computer Forensics Laboratory
Fiscal 2007-2009



Source: Office of the State Prosecutor

Fiscal 2008 Actions

OSP was required to reduce general fund expenses by \$5,000 for cost containment in fiscal 2008. This represents a 0.4% reduction in OSP's fiscal 2008 general fund legislative appropriation. OSP plans to achieve this target by implementing across-the-board reductions of various expenditures.

Governor's Proposed Budget

As illustrated in **Exhibit 5**, OSP's fiscal 2008 allowance decreases by \$22,284, or 1.6%, below the fiscal 2008 working appropriation. The net decline in expenditures is primarily attributed to the following: (1) a \$137,611 increase in personnel expenditures; (2) a \$110,282 decrease in contractual employee expenditures; and (3) a \$49,613 decrease in various operating expenditures (e.g., contractual services, supplies, and motor vehicle expenses).

Exhibit 5
Governor’s 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>
2008 Working Appropriation	\$1,194	\$123	\$79	\$1,396
2009 Governor’s Allowance	<u>1,296</u>	<u>77</u>	<u>0</u>	<u>1,374</u>
Amount Change	\$103	-\$46	-\$79	-\$22
Percent Change	8.6%	-37.2%	-100.0%	-1.6%

Where It Goes:

Personnel Expenses

Increments, merit increases, and other pay adjustments.....	\$57
Health insurance – ongoing costs	37
Health insurance – Other Post Employment Benefits	29
Turnover adjustments	4
Employees’ retirement system.....	4
Other	7

Other Changes

Contractual employee expenditures.....	-110
Computer forensics training	1
Contractual services expenditures	-16
Supplies	-11
Motor vehicle expenses	-9
Equipment expenditures	-5
Rent.....	-4
Travel.....	-3
Other	-3

Total **-\$22**

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

Recommended Actions

1. Concur with Governor's allowance.

Updates

1. Audit Findings

OSP's April 2007 audit disclosed several findings: (1) OSP procured certain computer equipment and services in violation of State Procurement Regulations; (2) OSP failed to ensure the propriety of payments for certain goods and services; and (3) OSP failed to establish adequate internal controls over disbursement and payroll processing transactions. **Exhibit 5** provides a tabular representation of the Office of Legislative Audits' audit findings and OSP's response to those findings.

Exhibit 5

The Office of the State Prosecutor's April 2007 Audit Findings and Responses

Office of Legislative Audits Finding

OSP failed to solicit bids or obtain Department of General Services' approval for purchases of computer equipment and services totaling \$238,000. Additionally, OSP failed to ensure that computer services invoices contained adequate detail regarding services rendered.

OSP failed to restrict user access to the State's Financial Management Information System (FMIS). Specifically, one employee could initiate, approve, and release certain disbursements to the Comptroller of the Treasury without independent approval. As a result, this employee could process unauthorized disbursement transactions without being readily detected.

OSP failed to establish internal controls over payroll processing. Specifically, one employee had on-line capability to prepare payroll time reports and transmit them to the Central Payroll Bureau without independent approval. Additionally, the Office of Legislative Audits' test of employees' timesheets revealed that timesheets were not always approved by a supervisor as required by State regulations.

OSP Response

OSP plans to take the necessary steps to follow the State's procurement process by soliciting bids, obtaining appropriate control agency approval, and preparing required written contracts. Additionally, OSP has begun requiring its vendors to provide invoices with sufficient detail regarding the nature of the services rendered.

OSP reports that it recently hired a full-time administrator who has been trained on how to utilize FMIS' security features. Employees will now have approved path levels which will ensure independent approval for critical disbursement transactions.

OSP concurs with the audit's findings and has contacted the Department of Budget and Management to ensure that the two employees that process payroll are not granted identical access to prepare, approve, and transmit payroll reports. Additionally, OSP's new administrator has been instructed to ensure that timesheets are approved by a supervisor.

Source: Office of Legislative Audits; Office of the State Prosecutor

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 2007					
Legislative Appropriation	\$1,071	\$0	\$0	\$27	\$1,098
Deficiency Appropriation	57	0	0	0	57
Budget Amendments	10	0	160	157	327
Reversions and Cancellations	-36	0	-55	-8	-99
Actual Expenditures	\$1,102	\$0	\$105	\$176	\$1,383
Fiscal 2008					
Legislative Appropriation	\$1,182	\$0	\$123	\$79	\$1,384
Cost Containment	-5	0	0	0	-5
Budget Amendments	16	0	0	0	16
Working Appropriation	\$1,193	\$0	\$123	\$79	\$1,395

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

Fiscal 2007

In fiscal 2007, the total budget for OSP increased by \$284,198. The general fund appropriation increased by \$66,900 due to the following: (1) a \$57,290 deficiency appropriation needed to correct a fiscal 2005 closeout error which carried forward into fiscal 2007; (2) a \$10,197 cost-of-living adjustment (COLA) that was centrally budgeted in the Department of Budget and Management (DBM); (3) a \$5,506 reduction in health insurance pursuant to Section 40 of the fiscal 2007 budget bill; (4) a \$5,000 increase in telephone communications expenditures due to a realignment of statewide telecommunications expenses; and (5) a \$81 general fund reallocation to DBM to conduct a salary study pursuant to Section 40 of the fiscal 2007 budget bill. Additionally, there was a general fund reversion of \$36,297 due to an accounting error.

The federal fund appropriation increased by \$160,000. OSP received Federal Asset Forfeiture Funds from the U.S. Departments of Homeland Security and Justice to hire contractual investigators, replace two agency vehicles, and to finance trial-related expenditures. Additionally, there was a federal fund cancellation of \$55,138 due to differences in the timing of grant funding cycles.

Lastly, OSP's reimbursable fund appropriation increased by \$156,809. The increase was due to a technical adjustment made by OSP to properly closeout fiscal 2007 reimbursable and general fund expenditures. Additionally, there was a reimbursable fund cancellation of \$8,077 due to differences in the timing of grant funding cycles.

Fiscal 2008

In fiscal 2008, the general fund appropriation for OSP increased by \$16,469 due to a 2% COLA centrally budgeted in DBM offset by a \$5,000 cost containment reduction.

Audit Findings

Audit Period for Last Audit:	December 12, 2003 – November 30, 2006
Issue Date:	April 2007
Number of Findings:	3
Number of Repeat Findings:	None
% of Repeat Findings:	n/a
Rating: (if applicable)	n/a

Finding 1: OSP procured computer equipment and services in violation of State Procurement Regulations and did not adequately monitor the related payments.

Finding 2: Proper internal controls were not established over disbursement transactions.

Finding 3: Internal controls over payment processing were inadequate.

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

<u>Object/Fund</u>	<u>FY07 Actual</u>	<u>FY08 Working Appropriation</u>	<u>FY09 Allowance</u>	<u>FY08-FY09 Amount Change</u>	<u>Percent Change</u>
Positions					
01 Regular	11.00	12.00	12.00	0	0%
02 Contractual	4.50	6.00	4.00	-2.00	-33.3%
Total Positions	15.50	18.00	16.00	-2.00	-11.1%
Objects					
01 Salaries and Wages	\$ 877,459	\$ 891,186	\$ 1,028,797	\$ 137,611	15.4%
02 Technical and Spec. Fees	225,423	320,008	209,726	-110,282	-34.5%
03 Communication	16,510	17,942	15,225	-2,717	-15.1%
04 Travel	10,532	4,000	2,200	-1,800	-45.0%
07 Motor Vehicles	43,849	25,396	16,880	-8,516	-33.5%
08 Contractual Services	96,641	24,954	8,900	-16,054	-64.3%
09 Supplies and Materials	31,873	27,500	16,022	-11,478	-41.7%
10 Equip. – Replacement	0	5,200	0	-5,200	-100.0%
13 Fixed Charges	79,605	79,800	75,952	-3,848	-4.8%
Total Objects	\$ 1,381,892	\$ 1,395,986	\$ 1,373,702	-\$ 22,284	-1.6%
Funds					
01 General Fund	\$ 1,101,630	\$ 1,193,544	\$ 1,296,290	\$ 102,746	8.6%
05 Federal Fund	104,862	123,220	77,412	-45,808	-37.2%
09 Reimbursable Fund	175,400	79,222	0	-79,222	-100.0%
Total Funds	\$ 1,381,892	\$ 1,395,986	\$ 1,373,702	-\$ 22,284	-1.6%

Note: The fiscal 2008 appropriation does not include deficiencies.