

C82D00
Office of the State Prosecutor

Program Description

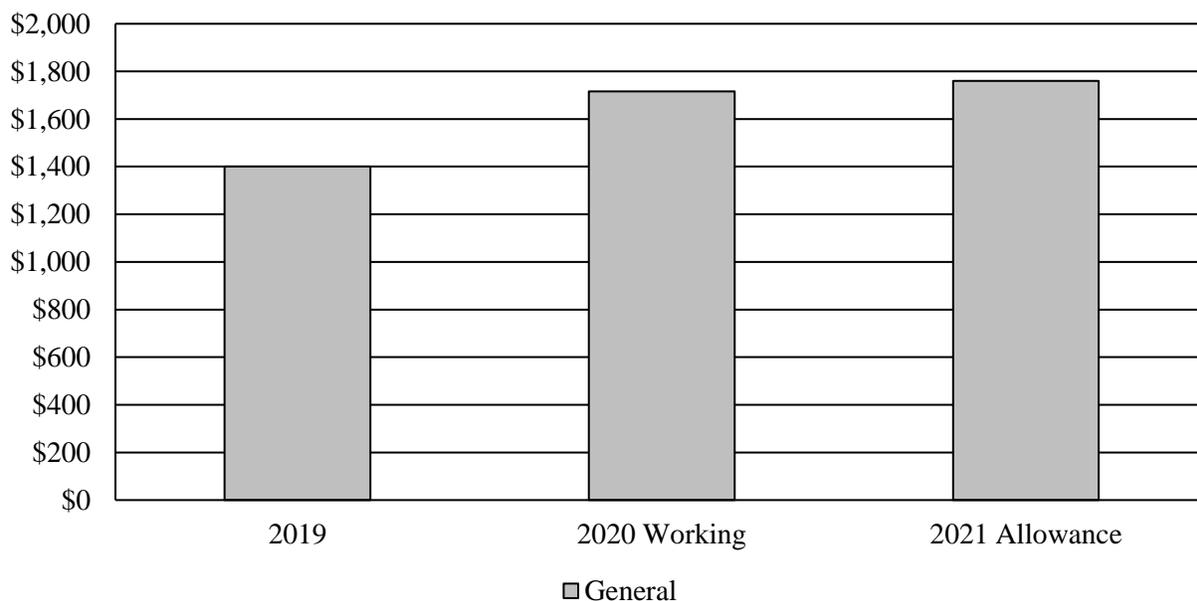
The Office of the State Prosecutor (OSP) is an independent agency within the Executive Branch that investigates and, where warranted, prosecutes criminal offenses affecting the honesty and integrity of governmental officials, institutions, and the electoral process. The State Prosecutor may investigate on his/her 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 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

Budget Increases by \$44,966 or 2.6% to \$1.8 Million in Fiscal 2021
(\$ in Thousands)



Note: Numbers may not sum due to rounding. The fiscal 2020 appropriation includes deficiencies, planned reversions, and general salary increases. The fiscal 2021 allowance includes contingent reductions and general salary increases.

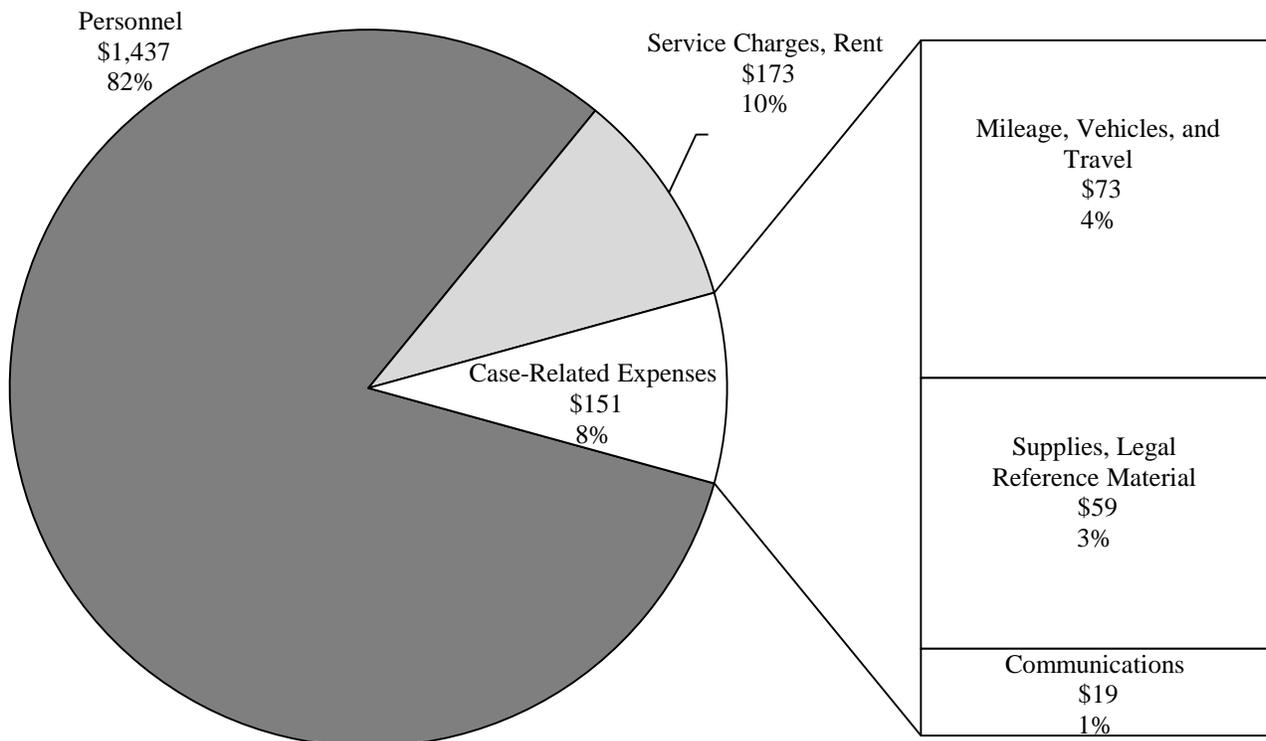
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Fiscal 2021 Overview of Agency Spending

As shown in **Exhibit 1**, approximately 82% of the OSP budget, including salary enhancements, is due to personnel spending for its 13 employees – 4 attorneys, 7 investigators, and 2 office staff members. Because of the agency’s small size, it is somewhat unique among State agencies in that its personnel component touches nearly all aspects of agency work. From preliminary investigations to actual cases and administrative work, all 13 employees are directly involved. Since about half of key nonpersonnel spending goes toward rent and various State service charges, OSP has just \$151,000 remaining in its fiscal 2021 allowance (or 8% of its budget) to cover mission-critical case-related expenditures. These expenses include funding for items such as motor vehicles and mileage reimbursements (as prosecutors travel throughout the State for their cases), legal publications and supplies, and communications.

Exhibit 1
Overview of Agency Spending
Fiscal 2021 Allowance
(\$ in Thousands)



Source: Department of Legislative Services

Proposed Budget Change

The fiscal 2021 allowance for OSP increases by \$44,966, as shown in **Exhibit 2**. This increase is largely attributable to statewide salary actions and costs for new motor vehicles.

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

How Much It Grows:	General Fund	Total
Fiscal 2019 Actual	\$1,401	\$1,401
Fiscal 2020 Working Appropriation	1,716	1,716
Fiscal 2021 Allowance	<u>1,761</u>	<u>1,761</u>
Fiscal 2020-2021 Amount Change	\$45	\$45
Fiscal 2020-2021 Percent Change	2.6%	2.6%

Where It Goes:

Changes

Personnel Expenses

Regular earnings	\$24
Fiscal 2021 2% cost-of-living adjustment (COLA).....	12
Annualization of fiscal 2020 1% COLA.....	6
Other fringe benefit adjustments.....	1
Health insurance premium costs	-15
Employee retirement system.....	-23

Other Changes

New motor vehicles for staff travel	31
Department of Information Technology (DoIT) enterprise system and other shared resources	17
New 0.5 contractual full-time equivalent forensic accountant	11
Communications: New cellphones for investigators and postage	9
New audiovisual equipment.....	5
Out-of-state attorney/investigator travel	5
Equipment repairs and legal reference spending	-16
DoIT service charge.....	-22

Total **\$45**

Note: Numbers may not sum due to rounding. The fiscal 2020 appropriation includes deficiencies, planned reversions, and general salary increases. The fiscal 2021 allowance includes contingent reductions and general salary increases.

Personnel Data

	<u>FY 19</u> <u>Actual</u>	<u>FY 20</u> <u>Working</u>	<u>FY 21</u> <u>Allowance</u>	<u>FY 20-21</u> <u>Change</u>
Regular Positions	13.00	13.00	13.00	0.00
Contractual FTEs	<u>1.00</u>	<u>0.00</u>	<u>0.50</u>	<u>0.50</u>
Total Personnel	14.00	13.00	13.50	0.50

Vacancy Data: Regular Positions

Turnover and Necessary Vacancies, Excluding New Positions	0.00	0.00%
Positions and Percentage Vacant as of 12/31/19	1.00	7.69%
Vacancies Above Turnover	1.00	

- Personnel Spending Decreases:*** In fiscal 2021, OSP receives 1 part-time contractual financial analyst/auditor position, which will assist with financial crimes. While the OSP personnel complement remains nearly unchanged since fiscal 2020, OSP has had several individuals retire in recent years, some of whom were among the highest paid members of the agency with a substantial amount of tenure. Those positions were filled with new hires who entered at a lower step; therefore, lower salaries led to overall lower personnel spending. OSP also reverted \$96,000 in surplus salary funds related to these positions in fiscal 2019; while some of these funds paid employee retirement costs, the remainder went unused as the positions were not filled until after the close of the fiscal year.
- New State Prosecutor:*** The new State Prosecutor, Charlton T. Howard III, was nominated by the State Prosecutor Selection and Disabilities Commission and appointed by Governor Lawrence J. Hogan, Jr. on November 7, 2019.

Key Observations

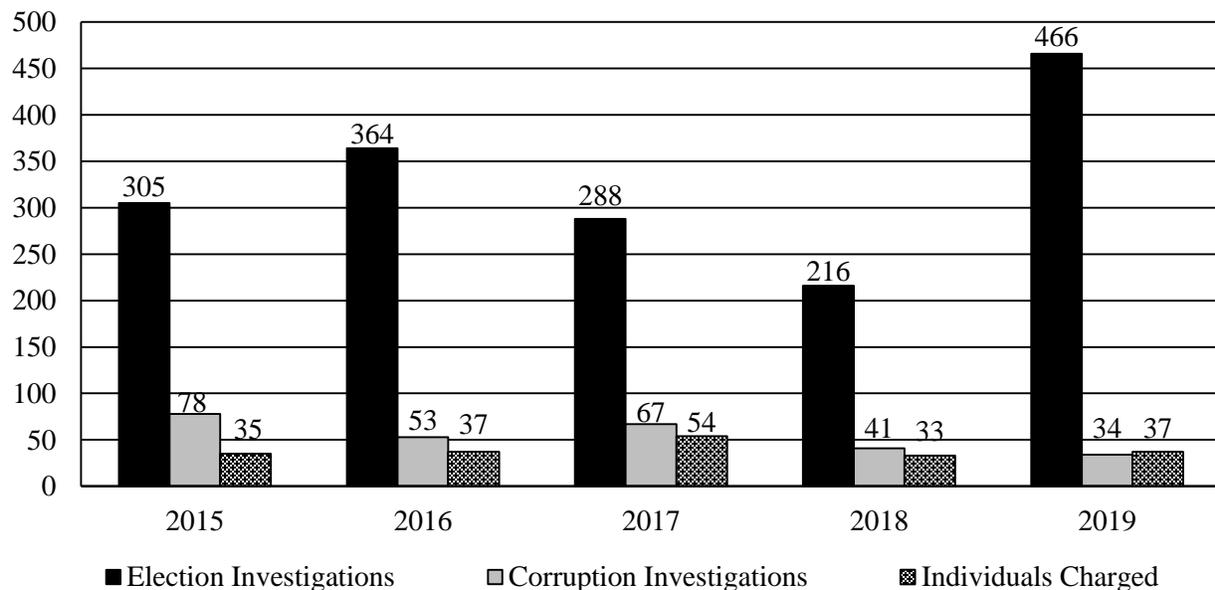
1. Overall Caseloads Increase; Case Clearance Rates Remain High

OSP generally divides its cases into two main categories: Election Law; and Corruption. Overall, election law investigations make up the majority of the OSP caseload, and these cases grow and decline along with the current election cycle. While OSP corruption cases do not follow any predictable pattern, a number of its major corruption cases have drawn national attention, and the agency notes that the pace of corruption investigations is increasing.

Election Law Cases More Than Double

As shown in **Exhibit 3**, the number of election law investigations has more than doubled in the past year, from 216 in fiscal 2018 to 466 in fiscal 2019; this is the highest OSP caseload total since at least fiscal 2011, and the largest total on record according to the State’s Managing for Results data. Election caseloads grew due to the 2016 election cycle, as filings tend to increase in the years after a major election. These filings deal with a variety of issues, from potential campaign finance violations to allegations of voting irregularities. OSP expects similar caseload increases due to the 2020 election cycle.

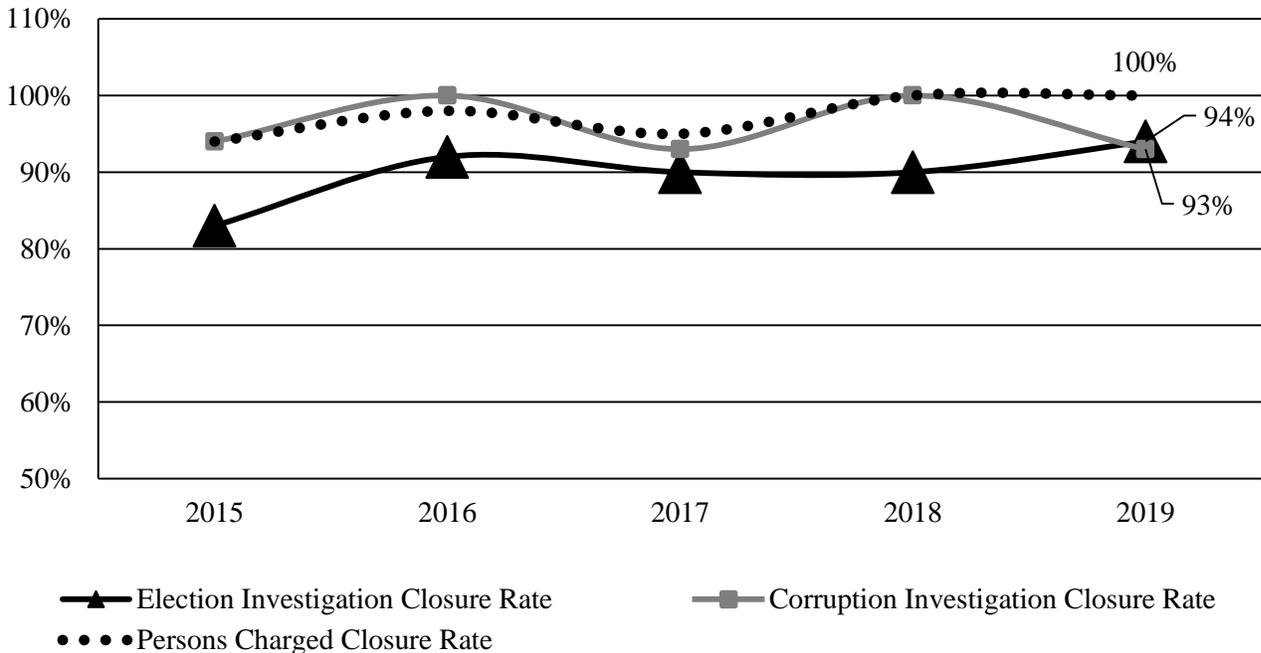
Exhibit 3
Corruption and Election Law Cases
Fiscal 2015-2019



Source: Department of Budget and Management

Significantly, OSP continued to handle all cases in a timely and efficient manner with all case types closing within their respective time standards (18 months for corruption and 9 months for election law and persons charged) as illustrated in **Exhibit 4**.

Exhibit 4
Cases Closed within Time Standards
Fiscal 2015-2019



Source: Department of Budget and Management

2. Budget, Personnel, and Resource Issues

While OSP is one of the smaller State agencies in terms of personnel and budget (approximately \$1.8 million in fiscal 2021), it is involved in a large number of investigations that have furthered the State’s interests in terms of dealing with corruption and ensuring transparency with respect to government officials. Since fiscal 2017, the agency has been involved in multiple, high-profile cases. These cases have a number of unique factors that affect OSP operations in many significant ways.

- **Unique Travel Costs:** Prosecutors currently travel to other states to interview witnesses and, in some cases, must house witnesses from other states in Maryland during a trial.

- ***Personnel Need during Wiretap Investigations:*** During a wide-ranging corruption investigation, because of a lack of staff, OSP was required to dedicate three investigators per day to listen to a wiretap for a full eight-hour shift, and dedicate one attorney to the wiretap on a full-time basis. This represented 40% of agency nonadministrative staff and reduced the amount of cases that could be handled by the three remaining attorneys.
- ***Secrecy during Investigations:*** While OSP always has various case-related costs, the agency must exercise additional discretion in high-profile cases to ensure the secrecy of each investigation. The need for secure cell phones and high-quality surveillance equipment has become an increasingly important factor.

Personnel Issues: Attorney and Investigator Workloads Have Increased

In high-profile or corruption cases, OSP's staff of six investigators and four attorneys (including the State Prosecutor) handle all of the work. Agency attorneys also do administrative work – copying, scanning, and typing correspondence. The agency reports that, while most attorneys typically spend 10% to 20% of their time doing administrative work, OSP attorneys spend 40% to 50% of their time on these tasks. In addition, OSP attorneys train other State agencies in subjects including political corruption and white-collar crime investigation and, unlike other prosecutors, do all of their own post-conviction and appeal work. While the agency is restructuring its personnel to better handle their growing responsibilities, there are other items of note.

- ***Election Caseloads Double; OSP Has One Election Attorney:*** While election law investigations have more than doubled, OSP has just one attorney dedicated to this caseload type. Duties will require this attorney to train with the State Board of Elections, manage the Annapolis election law docket, and prosecute all remaining cases during an election year that includes several highly contested races.
- ***Lack of a Government and Partner Affairs Position:*** OSP has no dedicated government affairs staff and no staff to deal with its numerous partner organizations. As a result, one attorney will be named the new Deputy for Strategy and Operations. Because of the shortage in staffing, the agency reports that this attorney will manage OSP's relationships with partner agencies, attend bill hearings, and oversee all agency budget issues, in addition to handling their usual legal caseload.
- ***Low Salaries Impede Employee Retention:*** Similar to many State agencies, OSP has had difficulty competing with the private sector, federal government, and other localities in terms of employee compensation.

Despite Lack of Resources, OSP Passes State Audit with Zero Findings

In recent fiscal years, OSP was unique in that its staff had to use their personal cellphones to conduct business when outside of the office. In fiscal 2019, OSP acquired cell phones for its investigators, a development that improved the agency's operational security. However, other OSP

needs still put Maryland behind other states in terms of basic technology for prosecuting crimes. There is a lack of laptops with mobile connection capability, adequate alarm systems and security for the office, surveillance equipment for use in investigations (including digital recorders, body wires, and global positioning system tracking devices), as well as funds for additional training and vehicles for travel.

The agency notes that sharing resources is not always feasible; OSP often has to operate independently so as not to alert the targets that it is investigating (who are sometimes very public figures). In addition, it is worth noting that despite its small staff and relative lack of resources, OSP recently completed its audit cycle with the Office of Legislative Audits and had no findings.

New Case Management System on the Horizon

OSP recently received a Bureau of Justice Assistance grant of nearly \$41,000 from the Governor's Office of Crime Prevention, Youth, and Victim Services (formerly the Governor's Office of Crime Control and Prevention) for a case management system. The agency will review products from two companies. After selecting a vendor, OSP reports that it will need to request additional funds from the State to pay for the subscription costs.

While OSP reports that it has been able to complete all of its duties and maintain a high level of legal services to the State, it needs additional resources to continue its work. In an environment with an ever-increasing number of election/voting issues, as well as numerous corruption issues, OSP needs the ability to be proactive, with an adequate level of resources. **OSP should comment on its current budgetary and personnel needs and brief the committees on its ability to prepare for the upcoming fiscal year, particularly in terms of election and corruption caseloads.**

Operating Budget Recommended Actions

1. Concur with Governor's allowance.

**Appendix 1
Audit Findings**

Audit Period for Last Audit:	July 24, 2015 – May 15, 2019
Issue Date:	August 2019
Number of Findings:	0
Number of Repeat Findings:	0
% of Repeat Findings:	0%
Rating: (if applicable)	n/a

The audit did not disclose any findings.

**Appendix 2
Object/Fund Difference Report
Office of the State Prosecutor**

<u>Object/Fund</u>	<u>FY 19 Actual</u>	<u>FY 20 Working Appropriation</u>	<u>FY 21 Allowance</u>	<u>FY 20 - FY 21 Amount Change</u>	<u>Percent Change</u>
Positions					
01 Regular	13.00	13.00	13.00	0.00	0%
02 Contractual	1.00	0.00	0.50	0.50	N/A
Total Positions	14.00	13.00	13.50	0.50	3.8%
Objects					
01 Salaries and Wages	\$ 1,213,374	\$ 1,414,045	\$ 1,402,201	-\$ 11,844	-0.8%
02 Technical and Spec. Fees	0	0	10,793	10,793	N/A
03 Communication	30,451	10,240	18,888	8,648	84.5%
04 Travel	5,263	13,804	18,804	5,000	36.2%
07 Motor Vehicles	19,796	23,740	54,462	30,722	129.4%
08 Contractual Services	27,547	125,285	103,884	-21,401	-17.1%
09 Supplies and Materials	27,860	46,491	45,736	-755	-1.6%
11 Equipment – Additional	0	0	5,000	5,000	N/A
13 Fixed Charges	76,217	76,097	76,852	755	1.0%
Total Objects	\$ 1,400,508	\$ 1,709,702	\$ 1,736,620	\$ 26,918	1.6%
Funds					
01 General Fund	\$ 1,400,508	\$ 1,709,702	\$ 1,736,620	\$ 26,918	1.6%
Total Funds	\$ 1,400,508	\$ 1,709,702	\$ 1,736,620	\$ 26,918	1.6%

Note: The fiscal 2020 appropriation does not include deficiencies, planned reversions, or general salary increases. The fiscal 2021 allowance does not include contingent reductions or general salary increases.