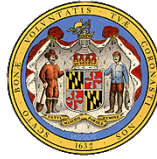


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Office of the State Prosecutor

Fiscal Year 2025 Operating Budget
Response to Department of Legislative Services Analysis

Senate Budget and Taxation Committee
Public Safety, Transportation & Environment Subcommittee
Senator Sarah K. Elfreth, Chair
January 26, 2024

House Appropriations Committee
Public Safety & Administration Subcommittee
Delegate Jazz Lewis, Chair
January 29, 2024

The Office of the State Prosecutor (OSP) continues to investigate and where appropriate prosecute political corruption, official misconduct, election law and campaign finance offenses, and other crimes throughout the State of Maryland. The Department of Legislative Services (DLS) Analysis highlights our new unit focused on investigating official misconduct involving Special Victims, and our increase in complaints, both in corruption and election law cases. Our office is committed to engaging in proactive work to encourage compliance as well as enforcement through various methods, including prosecution. The Office concurs in the DLS Recommendation and the Governor's Budget Allowance.

OSP Response to DLS Key Observations Questions:

DLS Key Observation Question 1. The Work of the New Unit for Investigating Official Misconduct and Special Victims and how to track its progress:

The Office of the State Prosecutor appreciates the budget allowance for the creation of a new unit for investigating public official misconduct involving special victims and is proud to have hired an experienced prosecutor and investigator, specially assigned to this unit, who are already engaged in several investigations. The purpose of this unit is to conduct investigations, and, where appropriate, prosecutions of allegations of official misconduct that involve special victims. The Office of the State Prosecutor has seen a significant uptick in complaints involving special victims and appreciates having the resources to handle these complicated, sensitive allegations with significant expertise and resources.

The unit is headed by Mary Setzer, an experienced special victim's prosecutor, who has served as both an Assistant United States Attorney, prosecuting federal cases and an Assistant State's Attorney in Anne Arundel County State's Attorney's Office. At the United States Attorney's Office, Ms. Setzer led the office's investigative efforts in human trafficking cases, investigating and litigating significantly complicated and high-profile human trafficking cases throughout Maryland. Ms. Setzer also served as the Violence Against Women Act (VAWA) Coordinator for the United States Attorney's Office and prosecuted numerous federal child exploitation and sex crimes cases. Prior to serving as an Assistant United States Attorney, Mary served as the Chief of the Domestic Violence Division of the Special Victims Unit in the Anne Arundel County State's Attorney's Office. Mary is working with Special Agent Jeff Stauder who investigated sex offense and internal affairs cases for over two decades at the Baltimore City Police Department.

The unit will not only be tasked with investigating and, where appropriate, prosecuting cases involving special victims, it will also engage with training throughout the State about how to approach cases involving corruption crimes that impact special victims. Often victims will report these cases initially to internal affairs, human resources, inspector general's offices or other administrative investigator's offices, before the case is escalated to specialized investigators and prosecutors. This can introduce challenges because administrative agencies rarely have specialized training in special victims' matters, which can lead to re-victimization through repeated interviews, as well as other legal and practical challenges in pursuing the case criminally. Introducing this training does not mean that an ultimate prosecution is always the goal; on the contrary, ensuring the victim is heard and that his/her/their concerns are addressed is why this effort is important. Where appropriate, our office often works with administrative agencies to engage in non-prosecution agreements or other mechanisms to achieve justice for the victims without the potential trauma of a larger scale investigation and trial.

The data measurements for this new unit need to reflect its various functions, including training outreach, investigations, and all types of enforcement action. The unit is new, as the positions were allotted in the spring of 2023. We are working to create data points that best reflect the core work of the unit and result in meaningful metrics that can be used to evaluate results and manage unit activities.

DLS Key Observation Question 2. Election law referrals and enforcement actions increase and how to address potential future trends:

OSP concurs with DLS's analysis noting a significant increase during the past year in Election Law Referrals, but notes (as does DLS) that the rate of election law and campaign finance referrals, the majority of which originate with the State Board of Elections (SBE), tracks the federal and state election cycles. Last year we addressed a decrease in election law referrals and referenced delays are often caused by the challenges of collecting information from local boards of election and garnering essential financial data from a plethora of institutions. Last year we noted that "given the past trends following hotly contested elections, and the technical and process improvements noted in the section above, OSP expects ever-increasing numbers of both referrals and enforcement actions in the upcoming fiscal years." This year reflects that increase

coming out of the referrals from an election year, and the numbers are the highest they have been in the past five years.

OSP anticipates we will continue to see increases in election law referrals as emerging elections issues receive more scrutiny, particularly given the expanding use of technology. OSP works closely with SBE to coordinate the processing and assessment of complaints to ensure OSP's limited investigative and prosecutive resources are employed in the optimum manner to enforce the laws safeguarding the integrity of state and local elections. OSP enforcement actions include both civil and criminal remedies, and in the first instance are most often geared to bring errant parties into compliance with the regulatory requirements, while at the same time identifying individual instances of criminal culpability meriting further investigation and litigation.

The election law numbers are comprised of several referral sources. While the general election cycle ebbs and flows have always seen alternate years with increasing and decreasing referrals, we do anticipate these complaints to continue to trend upwards. First, voting referrals have increased with the use of mail-in ballots. While votes are not counted multiple times because of safeguards employed by SBE, many voters either forget they mailed in a vote and vote in person or want to vote in person to ensure their vote is counted. In addition to voting issues, campaign violations are increasing as well. The advent of improved technology in campaigns means that campaign materials are significantly easier to create and distribute. The widespread distribution results in more complaints if the material lacks an authority line or other required elements. Since one social media post can be sent to thousands of people, the complaints that are derived from one potential infraction are significantly higher than the number of individuals that would see a sign on the road, for example. These concerns also pertain to email distributions and the dissemination of other forms of election material. In sum, the Office anticipates that because of these trends we will see more election law complaints in future election cycles.

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