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# **Department of Public Safety and Correctional Services Fiscal 2018 Budget Overview**

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**Department of Legislative Services  
Office of Policy Analysis  
Annapolis, Maryland**

**February 2017**



**Q00**  
**Department of Public Safety and Correctional Services**  
**Fiscal 2018 Budget Overview**

## **Agency Description**

The Department of Public Safety and Correctional Services (DPSCS) helps to keep Maryland communities safe and provides services to victims of crime. The department strives to ensure the safety, security, and well-being of defendants and offenders under its supervision and to provide criminal justice agencies with access to timely, accurate information about defendants and offenders.

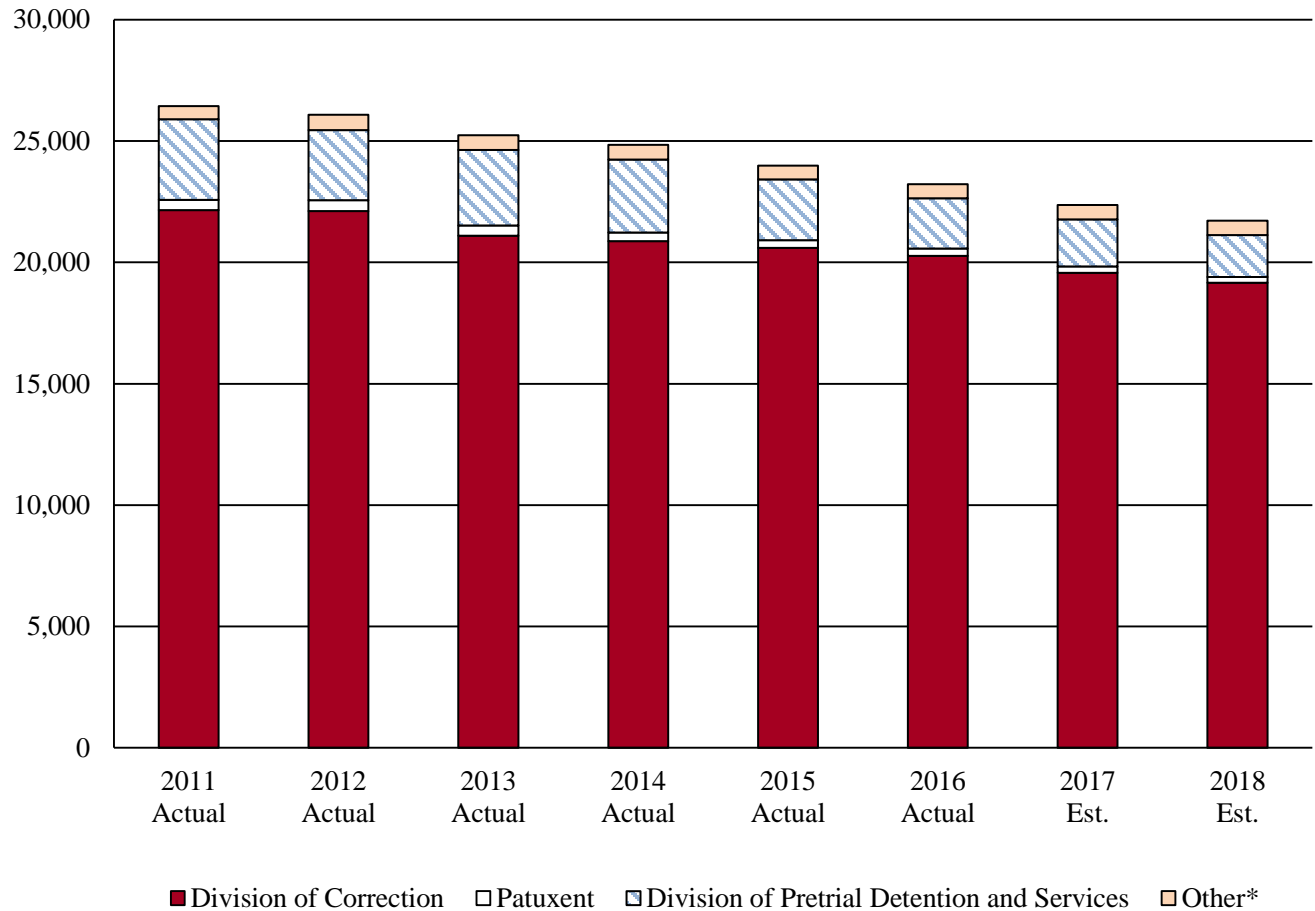
## **Population Trends**

Populations across all facets of the department have been in decline since fiscal 2011, with similar trends projected for fiscal 2017 and 2018. These projected decreases form the basis for a fiscal 2018 budget with limited areas of growth and an overall net decline in funding.

In fiscal 2016, 23,219 offenders were sentenced to the department or held in a DPSCS operated facility. **Exhibit 1** illustrates how the number of incarcerated individuals under DPSCS care has declined by 12.2% over the past six fiscal years. Since fiscal 2011, the average daily population (ADP) has been reduced by 3,223 inmates. DPSCS is projecting continued reductions of 850 inmates (4.0%) in fiscal 2017 and 650 inmates (3.0%) in fiscal 2018. The fiscal 2017 second quarter ADP report noted an inmate population of 22,300 offenders, which is 69 inmates below the projected fiscal 2017 ADP noted in the department's Managing for Results performance measures.

**Exhibit 2** shows how arrests and commitments to detention in Baltimore City have fallen significantly. Since fiscal 2011, the number of arrestees processed has fallen by nearly 25,800, or 44.5%. In fiscal 2016, 32,164 arrestees were processed at the Baltimore Central Booking and Intake Center. Commitments to detention also decreased by more than 13,300, equating to a 42.0% decline over the six-year time period. A total of 18,388 individuals were committed to detention in fiscal 2016. These decreases have contributed to the near 40.0% decline in the number of offenders held in secure detention facilities operated by DPSCS, which has also allowed for the closure of the aging Men's and Women's Detention Centers within the Baltimore Pretrial Complex (BPC). DPSCS is projecting arrests and commitments to detention to continue declining in fiscal 2017 and 2018. Arrests are projected to fall below 20,000 by fiscal 2018, with less than 11,400 individuals being committed to detention. This is in stark contrast to just 15 years ago when over 100,000 arrestees were processed.

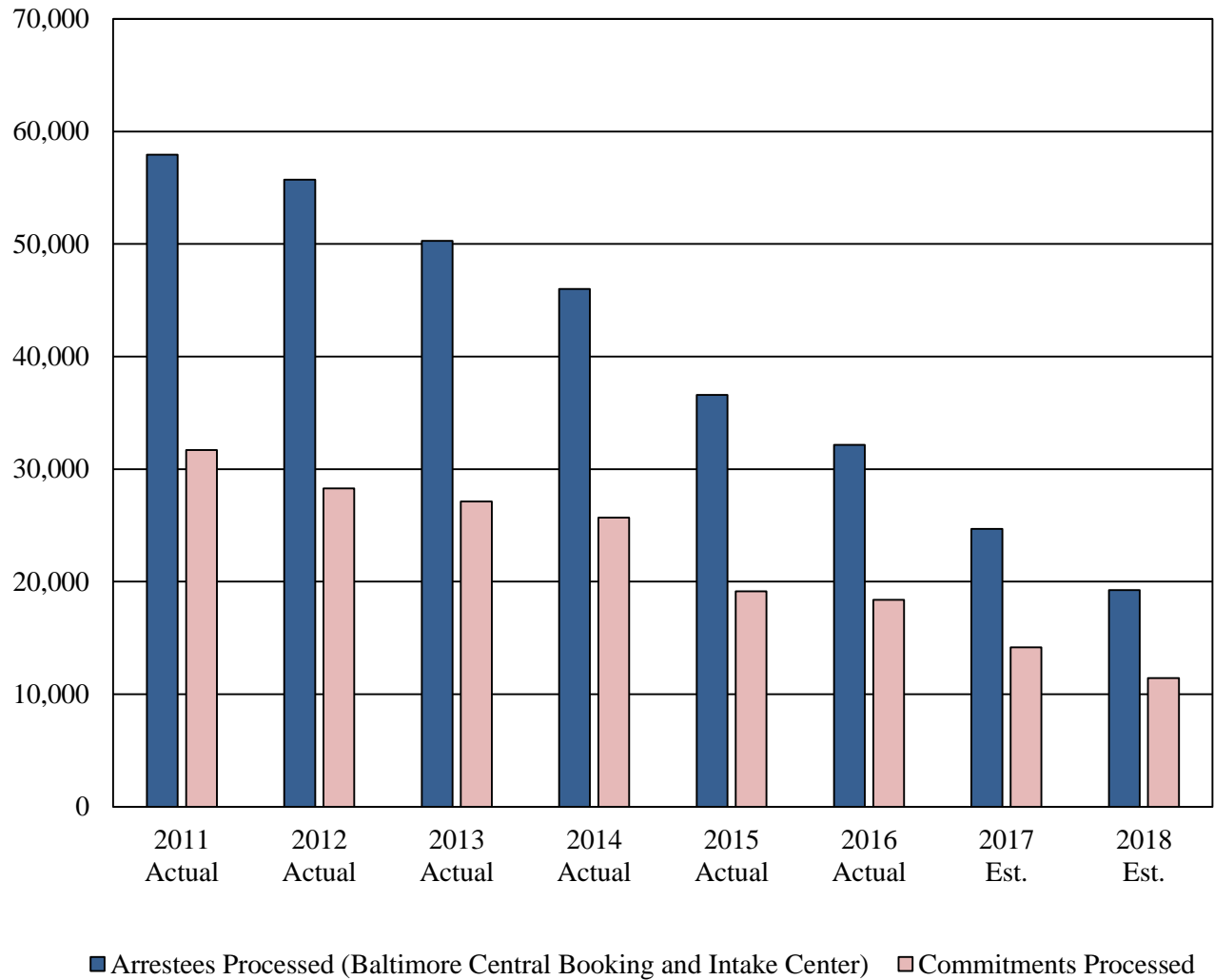
**Exhibit 1**  
**Department of Public Safety and Correctional Services**  
**Average Daily Population of Incarcerated Offenders**  
**Fiscal 2011-2018 Est.**



\* Other includes federal prisoners held at the Chesapeake Detention Facility and offenders in local jails awaiting transfer to the Department of Public Safety and Correctional Services.

Source: Fiscal 2018 Managing for Results

**Exhibit 2**  
**Department of Public Safety and Correctional Services**  
**Pretrial Populations**  
**Fiscal 2011-2018 Est.**

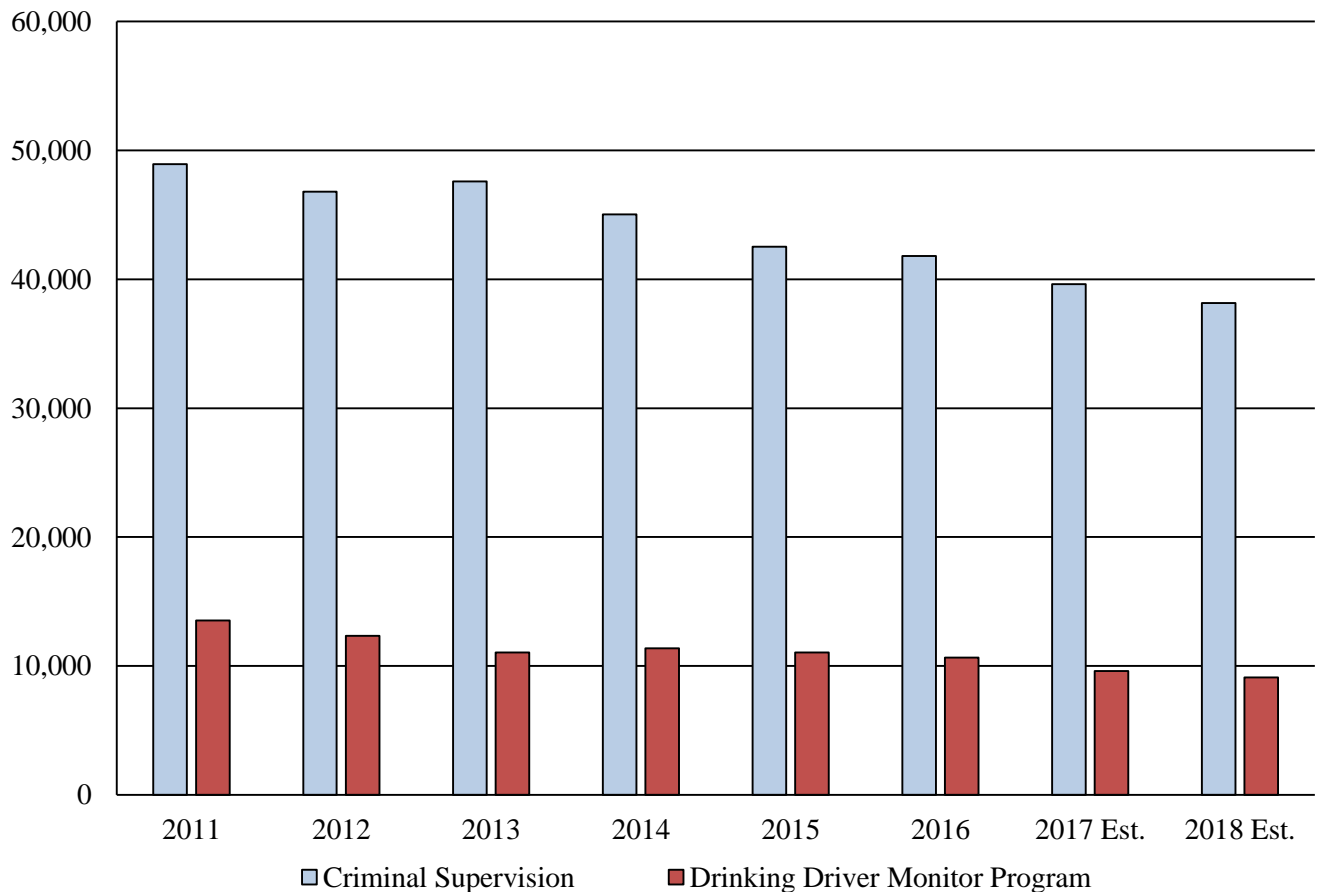


Source: Fiscal 2018 Managing for Results

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Similar population reductions are also evident among the community supervision populations within the Division of Parole and Probation (DPP), although not to the same degree as the pretrial and sentenced offender populations. The data in **Exhibit 3** shows that the number of active criminal cases under DPP supervision at the end of each fiscal year has fallen by approximately 14.6% since fiscal 2011. In fiscal 2016, DPP had 41,805 active criminal cases under its supervision. Drinking Driver Monitor Program cases (DDMP) experienced an even greater decrease over the same time period (21.3%). A total of 10,646 active DDMP cases were under supervision at the end of fiscal 2016. DPSCS projections for fiscal 2017 and 2018 show a continued decline for both criminal and DDMP cases.

**Exhibit 3**  
**Department of Public Safety and Correctional Services**  
**Community Supervision Active Cases**  
**Fiscal 2011-2018 Est.**



Source: Department of Public Safety and Correctional Services

## **Fiscal 2017**

### **Budget Overview**

#### **Proposed Deficiencies**

There are three deficiency appropriations, which add approximately \$2.0 million in general funds to the fiscal 2017 working appropriation. The deficiencies are outlined in **Exhibit 4** and will be discussed in further detail in their respective agency analyses. The amount of identified deficiency funding provided in the budget is not reflective of the department's true deficiency needs for fiscal 2017. As will be discussed further in this analysis, it is assumed that DPSCS will realign excess personnel funding generated from exceptionally high vacancy rates to cover underfunding in other areas.

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#### **Exhibit 4**

### **Fiscal 2017 Deficiency Appropriations**

<b><u>Item</u></b>	<b><u>Funding</u></b>
Case management system enhancement due to Justice Reinvestment Implementation	\$500,000
Short-term contractual timekeeping staff to address Workday implementation issues	918,464
Food service equipment purchases	570,500
<b>Fiscal 2017 Deficiencies Total</b>	<b>\$1,988,964</b>

Source: Department of Legislative Services; State Budget

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#### **Cost Containment**

The Governor's fiscal 2018 budget plan includes an assumed reversion from DPSCS of \$5.0 million in general funds. It is anticipated that these funds will be available for reversion due to the department's extraordinarily high number of vacancies. As of January 1, 2017, DPSCS had 635 funded vacancies across the entire department. Staffing issues and the impact of this reversion are discussed later in this analysis.

#### **Section 20 Position Abolitions**

Section 20 of the fiscal 2017 budget bill required the Governor to abolish 657 vacant regular positions and reduce the fiscal 2017 budget by \$25.0 million. The impact to DPSCS was the loss of \$7.8 million in general funds, \$100,000 in special funds, and 58 regular positions. The abolished positions consisted entirely of administrative positions, with actual salary and fringe benefit savings of

\$2.4 million. DPSCS absorbed the additional \$5.5 million reduction with excess personnel funding available from other vacancies.

## **Fiscal 2018**

The department's fiscal 2018 allowance totals approximately \$1.4 billion after adjusting for an across-the-board contingent reduction in fiscal 2018 for a supplemental pension payment and a \$16.9 million reduction associated with the downsizing of the Maryland Correctional Institution in Hagerstown (MCI-H). Nearly 88.0% of the department's allowance is general funds. In comparison to the fiscal 2017 working appropriation, accounting for the \$5.0 million assumed reversion and the \$2.0 million in fiscal 2017 deficiencies, the allowance decreases by 1.4%, or \$19.2 million. When compared to the most recent year of actual expenditures, fiscal 2016, the fiscal 2018 allowance provides an increase of approximately \$30.2 million, or 2.2%. It is assumed that anticipated reductions in the inmate population in fiscal 2017 and 2018 will offset any significant growth in operating costs attributable to standard inflation.

### **Budget Overview**

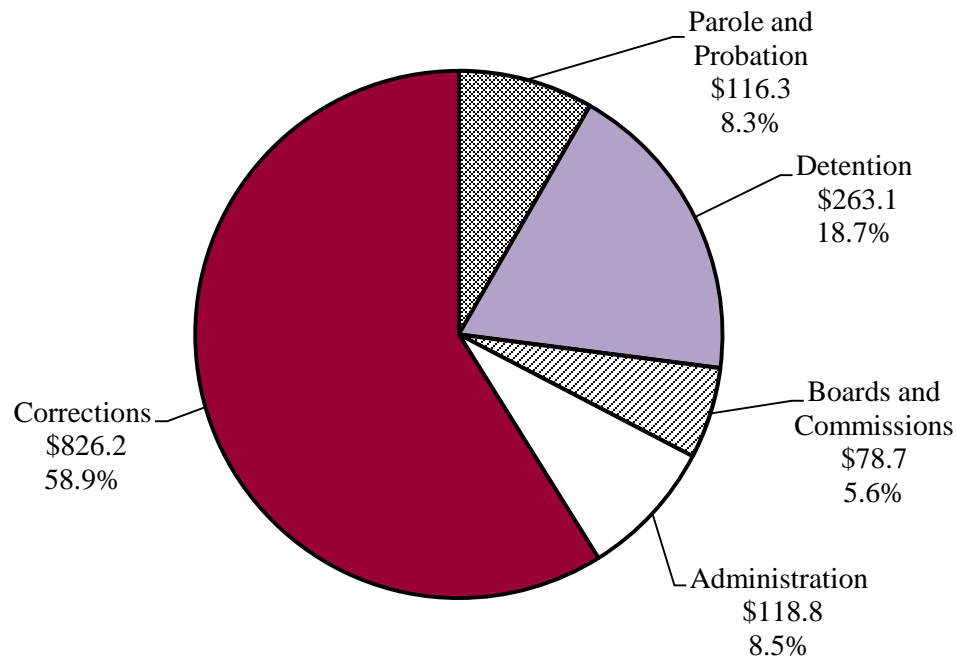
DPSCS can be categorized into five functional areas: administration, boards and commissions, detention, corrections, and parole and probation. As seen in **Exhibit 5**, the largest functional unit is the corrections function, responsible for the physical confinement and control of inmates incarcerated by Maryland's judicial system and includes the operation of 15 State prison facilities. The corrections function also includes the Maryland Correctional Enterprises (MCE), as well as the Security Operations Unit within the Office of the Deputy Secretary for Operations. The corrections function accounts for 58.9%, or \$826.2 million, of the department's \$1.4 billion fiscal 2018 allowance.

The next largest functional area is the detention function, which is responsible for everyone arrested in Baltimore City or arrested on a warrant from Baltimore City, as well as operation of the federal Chesapeake Detention Facility (CDF) for which the State receives federal reimbursement. It includes CDF, the Baltimore Central Booking and Intake Center, BPC (formerly the Baltimore City Detention Center), the Baltimore City Correctional Center, and the Metropolitan Transition Center. Operation of these detention facilities accounts for 18.7%, or \$263.1 million, of the department's allowance in fiscal 2018.

The parole and probation function includes the Pretrial Release Services Program, the Central Home Detention Unit, the Warrant Apprehension Unit, and the regional units responsible for supervising offenders under criminal supervision via probation or parole and individuals assigned to the DDMP. The parole and probation function's fiscal 2018 allowance is \$116.3 million, or 8.3%, of the total DPSCS allowance.



**Exhibit 5**  
**Fiscal 2018 Allowance by Function**  
**(\$ in Millions)**



Source: Department of Legislative Services; State Budget

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The administrative function accounts for 8.5% of the department's fiscal 2018 allowance and is composed of most of the units within the Office of the Secretary, including the Intelligence and Investigative Division, General Administration, Capital and Facilities Management, and the Information Technology (IT) and Communications Division. The administration function also includes units within the Office of the Deputy Secretary for Operations, as well as General Administration units for the Division of Correction (DOC) and the Division of Pretrial Detention (DPD). The administrative units coordinate and support the activities of the other functions. The administrative function's fiscal 2018 allowance is \$118.8 million.

The final functional area is the boards and commissions function, which includes the Criminal Injuries Compensation Board (CICB), the Maryland Parole Commission (MPC), the Inmate Grievance Office (IGO), the Emergency Number Systems Board (ENSB), the Maryland Commission on Correctional Standards (MCCS), and the Police and Correctional Training Commissions (PCTC). CICB, IGO, and ENSB receive the majority of their operating revenue from special funds. CICB provides the administrative support to victims who wish to be compensated for injuries and damages sustained as a result of criminal activity. MPC hears cases for parole release and revocation and is authorized to parole inmates sentenced to a term of confinement of six months or more. ENSB develops

### *Q00 – DPSCS – Fiscal 2018 Budget Overview*

policy and provides financial support for the State's 9-1-1 emergency system. MCCS develops and audits compliance with the standards for all public and private correctional and detention facilities in the State. PCTC develops the training standards for all law enforcement and correctional officers in the State. The boards and commissions' functional area aggregate fiscal 2018 allowance is approximately \$78.7 million, or 5.6%, of the total DPSCS allowance.

**Exhibit 6** provides an overview of the fiscal 2018 allowance by agency compared to the fiscal 2017 working appropriation. Six of the department's 10 agencies receive a funding decrease in fiscal 2018. DPP is the only agency to receive a funding increase in excess of \$1.0 million; however, this only reflects growth of 0.9%. As a percentage change, PCTC and the Patuxent Institution receive the largest decreases, falling by 20.4% and 4.4%, respectively. DOC experiences the largest dollar amount decline, falling by approximately \$7.4 million in fiscal 2018; however, the percentage reduction is minimal.

The total general fund appropriation for the department decreases by a net \$13.0 million, or 1%. This decrease is largely reflective of the \$16.9 million general fund reduction associated with the downsizing of MCI-H and abolishing 400 vacant positions throughout the department. Given that more than four-fifths of the department's operations are funded via general funds, the change in fiscal 2018 essentially reflects a level-funded budget. This seems reasonable if DPSCS is able to achieve the anticipated reductions in the inmate population, which will offset any significant growth in operating costs attributable to standard inflation. Additionally, excess personnel funding from high vacancy rates will likely continue to provide funding for resources in the event that other areas of the budget are underfunded.

The department's special fund appropriation decreases by 2.0%, or \$2.8 million. This decrease is largely driven by a decrease in anticipated special fund revenue for MCE and declining Inmate Welfare Funds.

The \$2.5 million (-7.5%) decrease in federal funds is primarily driven by one-time grant funding for a new major IT project to replace the Computerized Criminal History system. Additionally, a \$300,000 Second Chance Act Prisoner Reentry Initiative grant for the Patuxent Institution is not continued in the fiscal 2018 allowance.

**Exhibit 6**  
**Department of Public Safety and Correction Services – Total Funds by Program**  
**Fiscal 2016-2018**  
**(\$ in Thousands)**

	<u>Actual Spending 2016</u>	<u>Working Approp. 2017</u>	<u>Deficiencies and Reversions 2017</u>	<u>Revised Working Approp. 2017</u>	<u>Allowance 2018</u>	<u>\$ Change 2017-2018</u>	<u>% Change 2017-2018</u>	<u>\$ Change 2016-2018</u>	<u>% Change 2016-2018</u>
<b>Operating Programs</b>									
DPSCS Administration	\$193,961	\$205,289	\$500	\$205,789	\$201,290	-\$4,499	-2.2%	\$7,329	3.8%
Division of Correction	728,894	764,252	-4,082	760,170	752,739	-7,431	-1.0%	23,845	3.3%
Parole Commission	5,774	5,952		5,952	6,134	182	3.1%	360	6.2%
Patuxent Institution	49,553	54,785		54,785	52,350	-2,435	-4.4%	2,797	5.6%
Inmate Grievance Office	986	1,167		1,167	1,244	77	6.6%	258	26.2%
Police/Correctional Training Commissions	7,961	10,767		10,767	8,573	-2,194	-20.4%	612	7.7%
Criminal Injuries Compensation Board	5,178	5,261		5,261	5,241	-20	-0.4%	63	1.2%
Maryland Commission on Correctional Standards	499	558		558	587	29	5.2%	88	17.6%
Division of Parole and Probation	108,014	114,870		114,870	115,927	1,057	0.9%	7,913	7.3%
Division of Pretrial Detention	269,266	259,550	571	260,121	256,185	-3,936	-1.5%	-13,081	-4.9%
<b>Total</b>	<b>\$1,370,086</b>	<b>\$1,422,452</b>	<b>-\$3,011</b>	<b>\$1,419,441</b>	<b>\$1,400,270</b>	<b>-\$19,171</b>	<b>-1.4%</b>	<b>\$30,184</b>	<b>2.2%</b>
<b>Funds</b>									
General Fund	\$1,197,881	\$1,242,035	-\$3,011	\$1,239,024	\$1,226,059	-\$12,965	-1.0%	\$28,178	2.4%
Special Fund	138,789	141,116		141,116	138,353	-2,763	-2.0%	-436	-0.3%
Federal Fund	28,240	32,846		32,846	30,386	-2,460	-7.5%	2,146	7.6%
Reimbursable Fund	5,176	6,455		6,455	5,472	-983	-15.2%	296	5.7%
<b>Total</b>	<b>\$1,370,086</b>	<b>\$1,422,452</b>	<b>-\$3,011</b>	<b>\$1,419,441</b>	<b>\$1,400,270</b>	<b>-\$19,171</b>	<b>-1.4%</b>	<b>\$30,184</b>	<b>2.2%</b>

DPSCS: Department of Public Safety and Correctional Services

Note: Fiscal 2018 allowance reflects agency allocation of contingent reduction to eliminate statutory pension sweeper for one year.

Source: Department of Public Safety and Correctional Services; Governor's Budget Books, Fiscal 2018

**Exhibit 7** provides additional detail on how the department's operating expenses in the fiscal 2018 allowance decrease by \$19.2 million, when adjusted for the fiscal 2017 deficiency appropriations and reversions and fiscal 2018 across-the-board and other language reductions.

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**Exhibit 7**  
**Proposed Budget**  
**DPSCS – Budget Overview**  
**(\$ in Thousands)**

**Where It Goes:**

**Personnel Expenses**

Employee overtime .....	\$10,919
Workers' compensation premium assessment .....	1,345
Other fringe benefit adjustments .....	926
Accrued leave payouts .....	427
Salaries and wages .....	225
Abolished positions due to MCI-H downsizing.....	-16,900
Employee retirement system (less pension sweeper contingent reduction) .....	-3,698
Employee and retiree health insurance .....	-1,585
Turnover.....	-771

**Information Technology**

MCE Enterprise Resource Program (Major IT Project).....	-500
One-time fiscal 2017 case management system enhancements .....	-500
Tablet purchases for parole and probation agents .....	330
Computerized criminal history replacement (Major IT Project).....	-2,300
IT contractual services .....	-470

**Inmate Variable Costs**

Inmate medical expenses .....	4,094
Inmate food purchases and contractual food services.....	-122

**Facility Operation, Maintenance, and Security**

Security camera purchases .....	1,772
Facility repairs and maintenance.....	603
Fuel and utilities.....	-3,495
Drone detection systems at ECI and WCI.....	-750
One-time food service equipment purchases .....	-571
Fiscal 2017 Brockbridge Correctional Facility perimeter fence and ventilation upgrade.....	-429

*Q00 – DPSCS – Fiscal 2018 Budget Overview*

**Where It Goes:**

**Other**

Community-based sex offender treatment services .....	111
Contractual full-time equivalents .....	-3,523
MCE supply and material purchases .....	-740
MCE warehouse renovations .....	-350
Contractual timekeeping staff to assist with Workday implementation in fiscal 2017 .....	-918
Vehicle replacements and purchases .....	917
Inmate Welfare Funds .....	-602
End of federal Second Chance Act Prisoner Reentry Initiative Grant .....	-300
Payments to local jails .....	-216
Other .....	-2,100
<b>Total</b>	<b>-19,171</b>

ECI: Eastern Correctional Institution

IT: information technology

MCE: Maryland Correctional Enterprises

MCI-H: Maryland Correctional Institution in Hagerstown

WCI: Western Correctional Institution

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Personnel expenses decrease by a net \$9.1 million. The fiscal 2018 budget bill includes language to reduce the department's allowance by \$16.9 million in general funds and 400 vacant positions. As such, it is anticipated that the entire reduction will be taken in the form of personnel savings. This action is in association with a plan to downsize MCI-H based on lower inmate population projections for fiscal 2017 and 2018. Not all of the abolished positions will likely come from MCI-H and may be taken from other areas of the department. It is anticipated, however, that a majority of the abolished positions will be front line staff. DPSCS anticipates the downsizing to occur over a 12- to 18-month period. The entire salary and fringe benefit savings resulting from the loss of 400 positions is anticipated to be \$21.7 million. DPSCS anticipates using the remainder of the savings (\$4.8 million) toward employee overtime expenses that are generated as a result of understaffing.

Aside from the savings generated from the abolished positions, personnel expenses for the department are essentially level funded. A \$10.9 million increase in employee overtime is offset by reductions for health insurance and retirement. The fiscal 2018 turnover rate for the department is higher than what was budgeted for fiscal 2017, setting turnover at 6.0% versus 4.7%. The current vacancy rate for the department is 15.3%.

The department's allowance does not provide for many new areas of funding. The appropriation for inmate medical expenses increases by nearly \$4.1 million (2.3%). Deficiency funding provides support for one-time modifications to the Offender Case Management System (OCMS) associated with the implementation of the Justice Reinvestment Act (JRA), funding for additional contractual staff

needed to address data entry problems with the new payroll system, and food service equipment purchases for the Baltimore City facilities. In addition, \$330,000 is provided to purchase tablets for parole and probation agents to allow for remote access to offender case files. Approximately \$1.7 million is also provided to purchase and install security camera upgrades at eight facilities, including BPC and the Eastern Correctional Institution.

### **Across-the-board Reductions**

The fiscal 2018 budget bill includes a \$54.5 million (all funds) across-the-board contingent reduction for a supplemental pension payment. Annual payments are mandated for fiscal 2017 through 2020 if the Unassigned General Fund balance exceeds a certain amount at the close of the fiscal year. The department's total share of these reductions is \$2,818,166 in general funds, \$81,261 in special funds, and \$57,525 in federal funds. This action is tied to a provision in the Budget Reconciliation and Financing Act of 2017.

### **Underfunding Concerns**

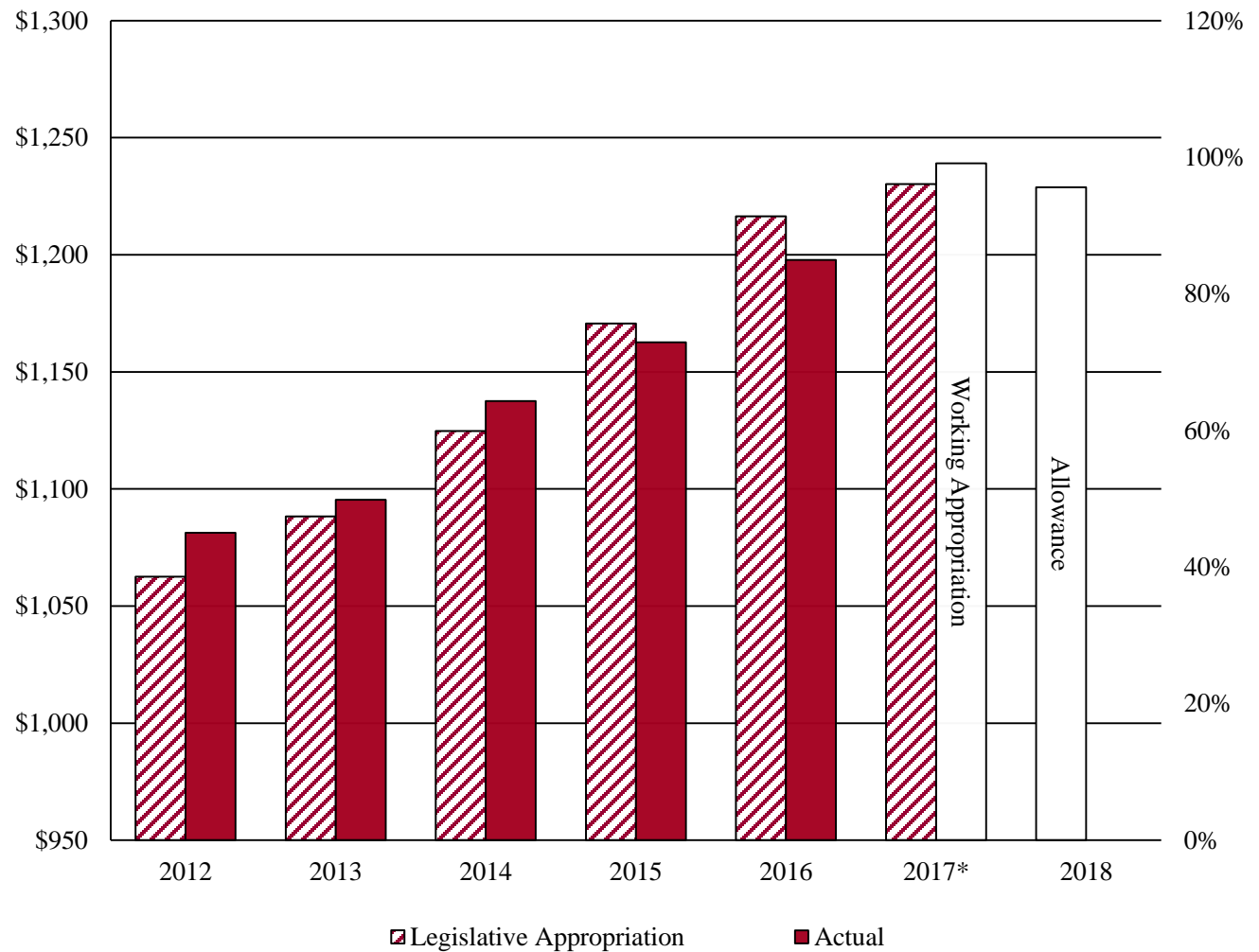
**Exhibit 8** compares the department's actual general fund expenditures versus the legislative appropriation since fiscal 2012. On average, general funds account for 86.0% of the department's budget. For fiscal 2012 through 2014, actual expenditures exceeded the legislative appropriation, requiring annual general fund deficiency appropriations ranging from \$7.2 million to \$18.7 million. Fiscal 2015 was the first year since fiscal 2011 that actual spending was below the legislative appropriation, by approximately \$8.0 million. This was largely the result of increasing vacancy rates and larger population declines, coupled with a 2.0% across-the-board cost containment reduction to general fund expenses. Despite DPSCS reverting approximately \$30.2 million at the close of the fiscal year due to high vacancy rates, lower operating costs, and procurement delays, fiscal 2016 spending did provide a net increase of \$35.2 million compared to fiscal 2015. The fiscal 2017 working appropriation provides a 3.4% increase over fiscal 2016 actual expenditures and provides less than \$2.0 million in deficiency appropriations. The fiscal 2018 allowance is essentially level funded, decreasing by less than 1.0% compared to the fiscal 2017 working appropriation.

One habitual area of underfunding within the department's budget is employee overtime. **Exhibit 9** shows DPSCS employee overtime spending from fiscal 2012 through the fiscal 2018 allowance overlaid with the correctional officer vacancy rate. Overtime expenses totaled \$41.0 million in fiscal 2013, the lowest it has been in the past five years. Although overtime decreased slightly between fiscal 2012 and 2013 by \$1.3 million, or 3.1%, the \$9.0 million deficiency in fiscal 2014 and continued increases in overtime spending in fiscal 2015 demonstrated that the reduction was unsustainable.

Overtime spending in fiscal 2016 reached a record high, totaling approximately \$70.2 million. This reflects a 22.1% increase over fiscal 2015 but is not necessarily surprising, given that the correctional officer vacancy rate increased from 5.2% to 8.0% in the same time period. Of greater concern is that the fiscal 2017 working appropriation is approximately \$22.2 million below the fiscal 2016 actual spending, and the correctional officer vacancy rate has continued to increase to 13.9% as of January 2017. Current projections indicate that the department will spend the same amount in

overtime as fiscal 2016, which when compared against the fiscal 2017 working appropriation, reflects a projected shortfall of \$22.2 million.

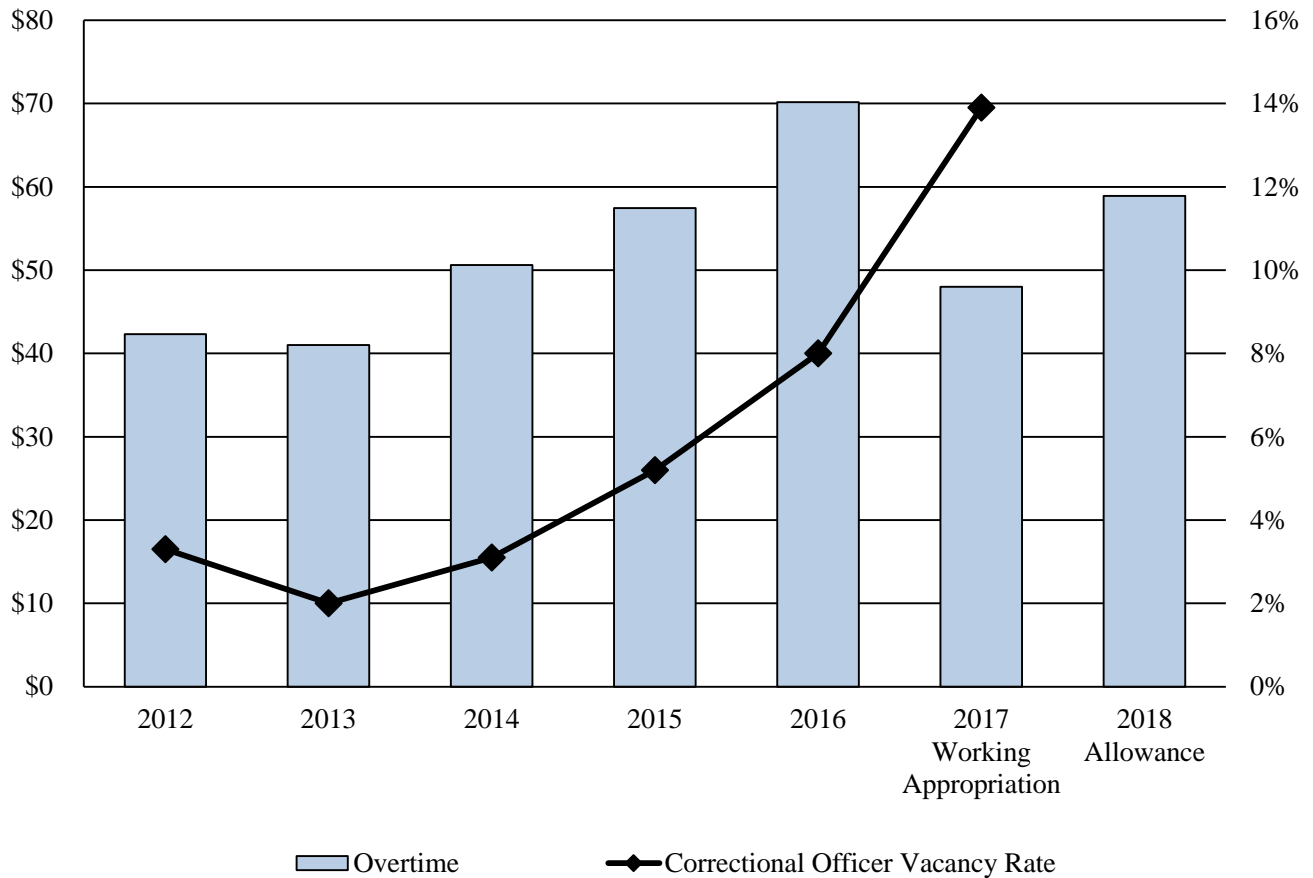
**Exhibit 8**  
**Actual vs. Appropriated Spending**  
**General Funds**  
**Fiscal 2012-2018**  
**(\$ in Millions)**



\* Working appropriation includes deficiencies and \$5.0 million assumed general fund reversion. Fiscal 2018 allowance reflects \$16.9 million reduction due to the Maryland Correctional Institution in Hagerstown downsizing.

Source: Department of Legislative Services; Department of Budget and Management

**Exhibit 9**  
**DPSCS – Employee Overtime**  
**Fiscal 2012-2018 Allowance**  
**(\$ in Millions)**



DPSCS: Department of Public Safety and Correctional Services

Note: Vacancy data is from January of each fiscal year.

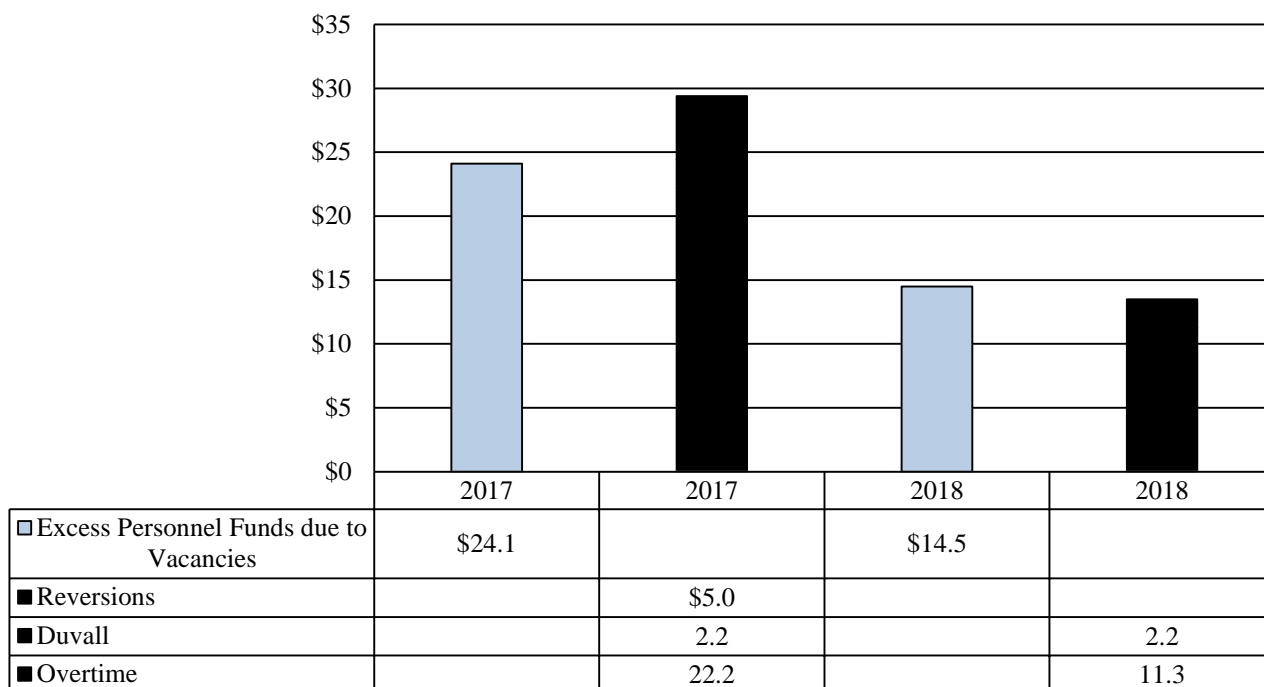
Source: Department of Public Safety and Correctional Services

The fiscal 2018 allowance provides an additional \$10.9 million for overtime, increasing the total overtime appropriation to \$58.9 million. Given the high vacancy rate and ongoing issues with recruitment and retention, however, the potential exists for overtime to be underfunded in fiscal 2018, as well. Assuming overtime spending remains at the fiscal 2016 level, the fiscal 2018 overtime budget would require an additional \$11.3 million.



**Exhibit 10** examines whether personnel savings from vacancies exceeding budgeted levels are sufficient to offset shortfalls for overtime and other operating costs in fiscal 2017 and 2018.

**Exhibit 10**  
**Department of Public Safety and Correctional Services**  
**Potential Underfunding in Fiscal 2017 and 2018**  
**(\$ in Millions)**



MCI-H: Maryland Correctional Institution – Hagerstown

Source: Department of Legislative Services; State Budget

As the exhibit shows, identified deficiencies in fiscal 2017 exceed available excess personnel funding by approximately \$5.3 million. The fiscal 2017 working appropriation has approximately \$24.1 million in excess funding due to vacancies. This would be enough to cover the estimated \$22.2 million shortfall for employee overtime; however, the Governor’s fiscal 2018 budget plan also includes an assumed \$5.0 million general fund reversion in fiscal 2017. Additionally, the settlement agreement for *Jerome Duvall, et al. v. Lawrence Hogan, Jr., et al.*, requires a number of improvements to the maintenance and physical plant of the Baltimore City pretrial facilities. In a September 2016 *Joint Chairmen’s Report* submission regarding the settlement agreement, DPSCS noted the need to fund a maintenance contract at a cost of approximately \$2.2 million for three years. That contract does not appear to be funded in the fiscal 2018 budget.

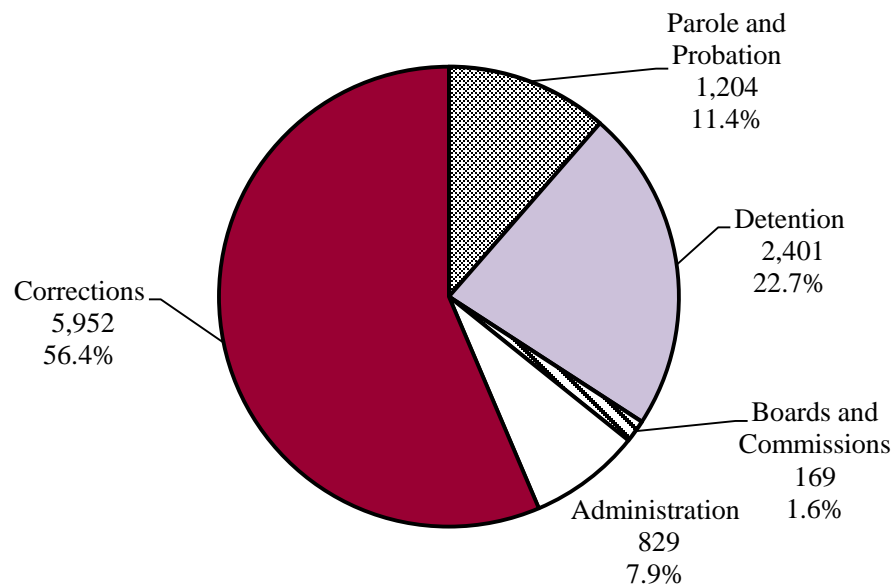
A similar analysis of the fiscal 2018 allowance suggests that the budget contains sufficient funding. However, since the current budget for fiscal 2017 and 2018 requires DPSCS to maintain its high vacancy rate in order to provide adequate operating funds, this does not allow for much opportunity for improving its current staffing complement.

## **Staffing Overview**

**Exhibit 11** illustrates the department’s fiscal 2018 regular position complement delineated into each of the five functional areas. Since the delivery of correctional services is very staff intensive, the position complement closely mirrors departmental spending. The corrections function accounts for 56.4% of all DPSCS personnel with 5,952 regular positions. The detention function has 22.7% of the department’s employees. The parole and probation function has 11.4% of all employees, despite accounting for only 8.3% of the fiscal 2018 allowance. Personnel in the department’s administrative units make up 7.9% of the position complement, with 829 positions. The boards and commissions function requires only 1.6% of the department’s personnel but 5.6% of its budget.

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**Exhibit 11**  
**DPSCS – Regular Position Complement by Function**  
**Fiscal 2018**



DPSCS: Department of Public Safety and Correctional Services

Source: Department of Public Safety and Correctional Services

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**Exhibit 12** provides additional detail on the regular position complement by agency, providing the net impact of position changes in fiscal 2016 through 2018. The only change in fiscal 2018 is the reduction of 400 vacant positions associated with downsizing MCI-H. This reflects a 3.7% reduction in regular positions compared to fiscal 2017. As was previously mentioned, the reduction is in association with a partial facility closing, but the abolished positions are likely to come from throughout all of DPSCS. Unlike other significant position reductions, which excluded correctional officer positions from being abolished, front line staff are likely to account for a significant portion of the abolished positions. As of January 2017, correctional officer vacancies accounted for 58.6% of total DPSCS vacancies. In addition, with the partial closure of a facility being the impetus for the reduction, a number of custodial positions will no longer be needed to staff that facility. Filled positions no longer required at MCI-H will be reallocated to address staffing shortfalls at other facilities, primarily in the Western Region.

**Exhibit 12**  
**DPSCS – Regular Positions by Program**  
**Fiscal 2016-2018**

**Regular Positions by Program**

	<u>Actual 2016</u>	<u>Working Approp. 2017</u>	<u>Allowance 2018</u>	<u>Change 2017-2018</u>	<u>% Change 2017-2018</u>	<u>Change 2016-2018</u>	<u>% Change 2016-2018</u>
<b><u>Operating Programs</u></b>							
DPSCS Administration	1,054.5	1,040.0	1,040.0	0.0	0.0%	-14.5	-1.4%
Division of Correction	5,816.5	5,750.0	5,750.0	0.0	0.0%	-66.5	-1.1%
Parole Commission	72.0	72.0	72.0	0.0	0.0%	0.0	0.0%
Patuxent Institution	457.0	452.0	452.0	0.0	0.0%	-5.0	-1.1%
Inmate Grievance Office	7.0	7.0	7.0	0.0	0.0%	0.0	0.0%
Police/Correctional Training Commissions	94.8	69.8	69.8	0.0	0.0%	-25.0	-26.4%
Criminal Injuries Compensation Board	11.0	11.0	11.0	0.0	0.0%	0.0	0.0%
Maryland Commission on Correctional Standards	4.0	4.0	4.0	0.0	0.0%	0.0	0.0%
Division of Parole and Probation	1,201.0	1,204.0	1,204.0	0.0	0.0%	3.0	0.2%
Division of Pretrial Detention	2,307.6	2,344.6	2,344.6	0.0	0.0%	37.0	1.6%
Departmentwide	0.0	0.0	-400.0	-400.0	n/a	-400.0	n/a
<b>Total</b>	<b>11,025.4</b>	<b>10,954.4</b>	<b>10,554.4</b>	<b>-400.0</b>	<b>-3.7%</b>	<b>-471.0</b>	<b>-4.3%</b>

DPSCS: Department of Public Safety and Correctional Services

Source: Department of Public Safety and Correctional Services; Governor's Budget Books, Fiscal 2018

*Q00 – DPSCS – Fiscal 2018 Budget Overview*

The entire department's contractual full-time equivalent (FTE) complement decreases in fiscal 2018 by 83.7 FTEs, as shown in **Exhibit 13**. The majority of the decrease occurs within DPD, which loses 90.3 FTEs in the allowance. DPD had been provided 85.0 contractual FTEs in the 2016 working appropriation as a result of terminating contractual food service in Baltimore City and providing the service in-house in September 2015. Since the in-house provision of food service is a permanent solution, DPSCS is in the process of converting those contractual employees into existing vacant regular positions. It is anticipated that those conversions will be complete in fiscal 2018, thus the FTEs are no longer required.

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**Exhibit 13**  
**DPSCS – Contractual Full-time Equivalents by Program**  
**Fiscal 2016-2018**

Contractual Positions by Program							
	<u>Actual</u> <u>2016</u>	<u>Working</u> <u>Approp.</u> <u>2017</u>	<u>Allowance</u> <u>2018</u>	<u>Change</u> <u>2017-2018</u>	<u>% Change</u> <u>2017-2018</u>	<u>Change</u> <u>2016-2018</u>	<u>% Change</u> <u>2016-2018</u>
<b><u>Operating Programs</u></b>							
DPSCS Administration	66.4	91.4	88.2	-3.2	-3.5%	21.8	32.9%
Division of Correction	21.8	72.3	81.1	8.8	12.1%	59.3	272.2%
Parole Commission	1.3	1.8	1.7	-0.1	-5.0%	0.5	35.4%
Patuxent Institution	1.0	1.2	2.3	1.1	91.7%	1.4	144.2%
Inmate Grievance Office	0.5	0.8	0.8	0.0	0.0%	0.3	66.7%
Police/Correctional Training Commissions	17.1	21.2	21.2	0.0	0.0%	4.2	24.3%
Criminal Injuries Compensation Board	2.7	5.3	5.3	0.0	0.0%	2.6	94.5%
Maryland Commission on Correctional Standards	1.1	3.2	3.2	0.0	0.0%	2.1	190.0%
Division of Parole and Probation	53.2	69.9	69.9	0.0	0.0%	16.7	31.4%
Division of Pretrial Detention	103.2	124.9	34.6	-90.3	-72.3%	-68.6	-66.5%
<b>Total</b>	<b>268.1</b>	<b>392.0</b>	<b>308.3</b>	<b>-83.7</b>	<b>-21.4%</b>	<b>40.2</b>	<b>15.0%</b>

DPSCS: Department of Public Safety and Correctional Services

FTEs: full-time equivalents

Source: Department of Public Safety and Correctional Services; Governor's Budget Books, Fiscal 2018

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***Q00 – DPSCS – Fiscal 2018 Budget Overview***

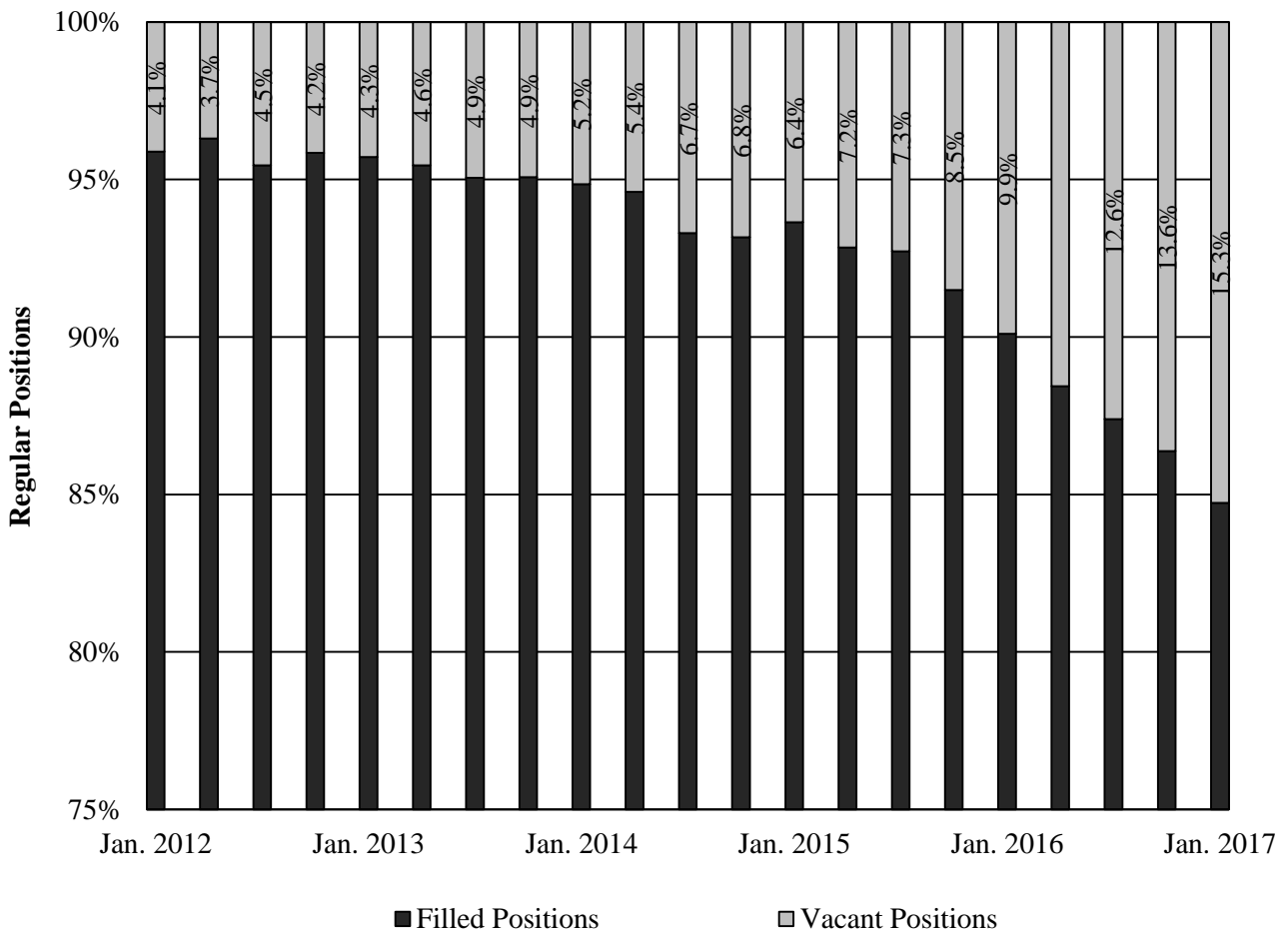
DOC's fiscal 2017 working appropriation is considerably higher than the fiscal 2016 actual because of the addition of 45 timekeepers and 11 contractual staff to support increased data entry necessary due to the new payroll system, Workday. These FTEs are funded with the fiscal 2017 deficiency appropriation with vacancy savings. This is not anticipated to be an ongoing cost, as DOC intends to implement a new timeclock system by the end of fiscal 2017, eliminating the need for contractual personnel. This issue will be discussed in greater detail in the DOC analysis.

## Issues

### 1. DPSCS Staffing Crisis

DPSCS is facing a staffing crisis. Vacancy rates and overtime spending are at record high levels. **Exhibit 14** shows the quarterly vacancy rate for all DPSCS positions since fiscal 2012. As of January 1, 2017, DPSCS had 1,673 positions vacant, which equates to 15.3% of its authorized staff.

**Exhibit 14**  
**DPSCS – Quarterly Vacancy Rate**  
January 2012 – January 2017



DPSCS: Department of Public Safety and Correctional Services

Source: Department of Public Safety and Correctional Services

This situation is having an impact on all facets of departmental operations and spending. Administrative vacancies in the finance unit are resulting in incomplete procurements and the inability to reconcile inmate accounts. Lack of staff in the department's IT function has resulted in the use of costly interagency agreements with State higher education entities. Vacancies in the correctional facilities are resulting in an extraordinarily high amount of overtime spending and increased assault rates. Improper staffing for parole and probation agents is contributing to higher than recommended supervision caseloads. Exacerbating these issues is the fact that, even if every one of the department's near 11,000 positions were filled, recent staffing evaluations indicate that DPSCS would still need over 500 additional positions to properly fulfill its mission. Of more immediate concern is that the department needs the excess personnel funding generated from its high number of vacancies to cover anticipated operating expenses in fiscal 2017 and 2018, leaving very few funded positions available to fill.

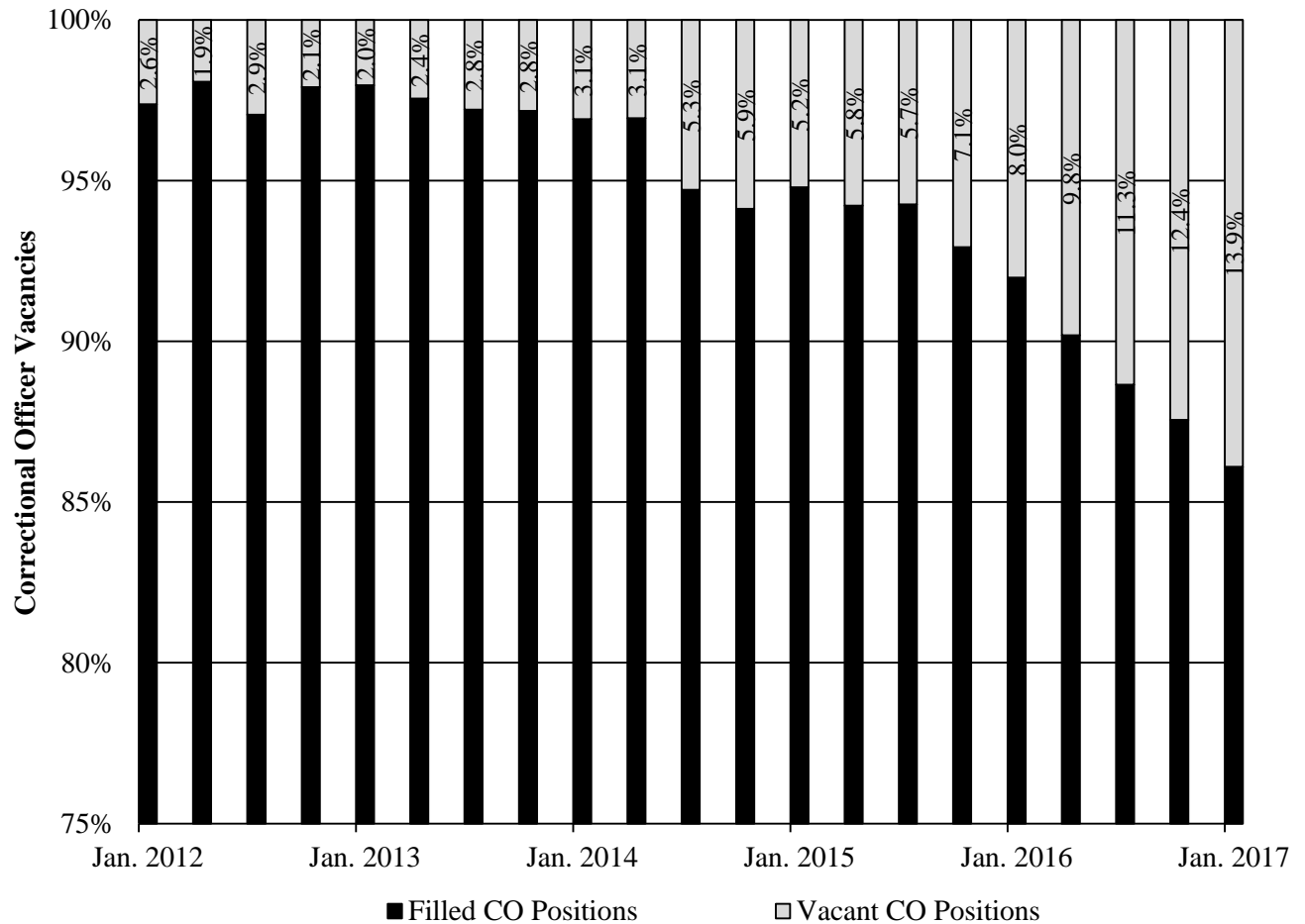
### **Correctional Officer Positions**

Correctional officer positions account for nearly 65.0% of the entire DPSCS workforce. Despite legislative efforts to increase the number of correctional officer positions due to facility safety and security concerns, DPSCS has had a net decrease of 116 correctional officer positions over the past 15 years, a decline of 1.6%. Consistent with budget bill language, DPSCS most recently gained 100 correctional officer positions in fiscal 2015. However, half of these positions were subsequently eliminated as part of the department's fiscal 2015 cost containment actions.

**Exhibit 15** provides quarterly vacancy data for correctional officers from January 2012 through January 2017. The vacancy rate remained around or below 3.0% through April 2014. In part due to the addition of 100 correctional officer positions in fiscal 2015, the vacancy rate increased to between 5.0% and 6.0% through the end of fiscal 2015. Beginning in July 2015 and continuing through January 2017, the vacancy rate has increased steadily to a high of 13.9%, or more than 980 unfilled positions.

Historically, correctional officer recruitment has lagged as the statewide unemployment rate has improved. The recent increase in the correctional officer vacancy rate conforms to this pattern, as illustrated in **Exhibit 16**.

**Exhibit 15**  
**Department of Public Safety and Correctional Services**  
**Correctional Officer – Quarterly Vacancy Rate**  
**January 2012 – January 2017**



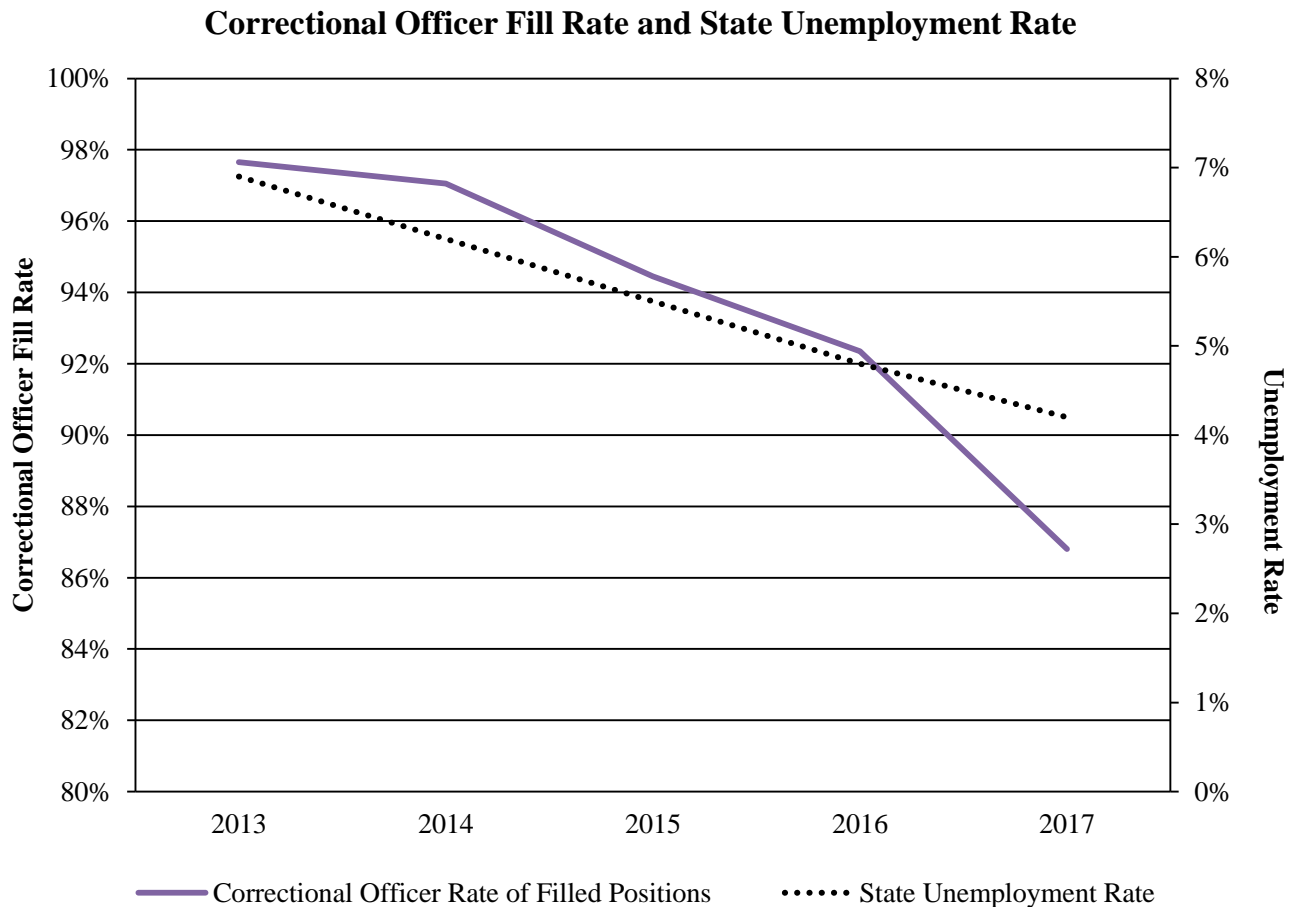
CO: correctional officer

DPSCS: Department of Public Safety and Correctional Services

Source: Department of Public Safety and Correctional Services



**Exhibit 16**  
**Correctional Officer Fill Rate and State Unemployment Rate**  
**Fiscal 2013-2017**



Note: Correctional officer fill rate is the average fill rate at the start of each quarter; fiscal 2017 reflects July and January 1 fill rates.

Source: Department of Public Safety and Correctional Services

The correctional officer vacancy rate directly affects departmental overtime spending since facilities must be fully staffed all hours of the day, all days of the year. As the vacancy rate has grown to nearly 14.0% as of January 2017, overtime spending has soared to more than \$70.0 million. From a safety perspective, as vacancies and the use of overtime has increased, so have assault rates. The offender-on-offender assault rate increased to 6.03 assaults per 100 offenders in fiscal 2016, compared to a rate of 4.5 assaults the prior year. Similarly, the offender-on-staff assault rate increased from 1.57 to 2.49 assaults per 100 offenders.

Data provided by DPSCS suggests that the problems with maintaining filled correctional officer positions reside with both the recruitment and retention of correctional employees. A more detailed analysis of this data, along with potential recommendations to improve hiring, will be provided in the DOC analysis.

In January 2016, DPSCS submitted its third biannual post-by-post staffing analysis identifying the minimal number of positions needed to safely and securely staff the State's correctional and detention facilities. According to its analysis, the department needs an additional 455 regular positions to achieve the minimum standard of staffing. The number of positions required to staff facilities has fluctuated over the years based on the number of Special Assignment Posts and the departmental relief factor. Alterations to the department's facility complement and a declining inmate population are also contributing factors.

The fiscal 2018 allowance abolishes 400 vacant positions prompted by the department's plans to downsize operations at MCI-H. As of January 13, 2017, DPSCS had a total of 1,694 vacancies, of which 985 were for correctional officers. Nearly two-thirds of the total vacancies fall within the correctional officer classification series, which also includes dietary, maintenance, supply officers, case managers, *etc.*, meaning that a majority of the abolished positions will need to be front line staff positions. With the partial closure of MCI-H, at least some portion of correctional positions will no longer be needed. DPSCS intends to reallocate filled positions throughout the department to alleviate staffing shortages in other areas.

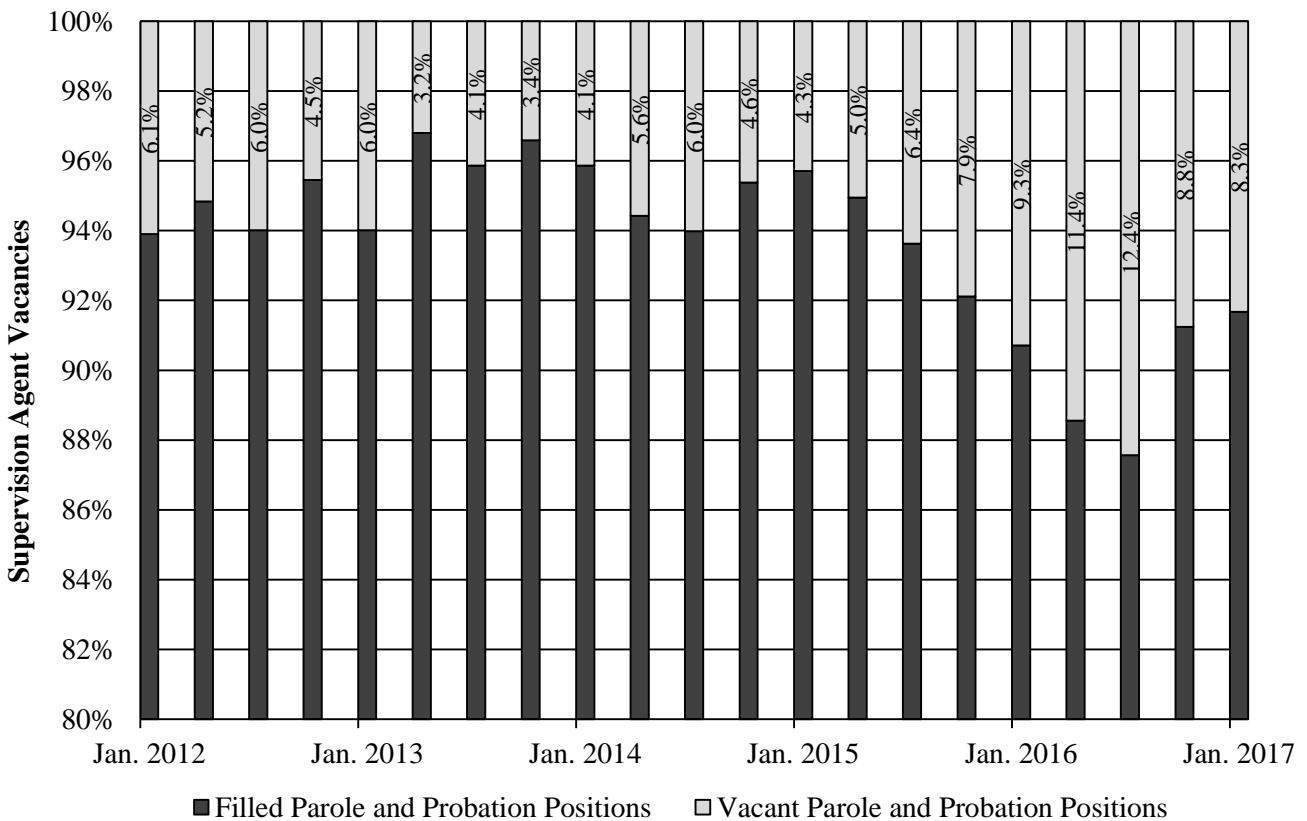
### **Supervision Agent Positions**

Supervision agent positions account for less than 10% of the entire DPSCS workforce. The overall number of supervision agent positions has decreased by 70 over the past decade and a half. Just more than half of this decrease has come from supervision agents for DDMP in an effort to align program expenditures with annual special fund revenue supporting the program.

**Exhibit 17** shows quarterly vacancy data for supervision agents from January 2012 through January 2017. The vacancy rate generally fluctuated between 4.0% and 6.0% until the beginning of fiscal 2016, and reached a high of 12.4%, or 115.0 unfilled positions, in July 2016. The most recent quarterly vacancy rate is down to 8.3%, due to improved hiring and larger parole and probation academy classes.

Although the number of cases under supervision has been in decline, identifying appropriate caseload standards for parole and probation agents has been an area of ongoing concern. Because of this, DPSCS contracted with a research team at the University of Baltimore Schaefer Center for Public Policy to conduct a time study, caseload analysis, and agent focus groups to evaluate the issue. The final report and recommendations were submitted in December 2015.

**Exhibit 17**  
**Department of Public Safety and Correctional Services**  
**Supervision Agent – Quarterly Vacancy Rate**  
**January 2012 – January 2017**

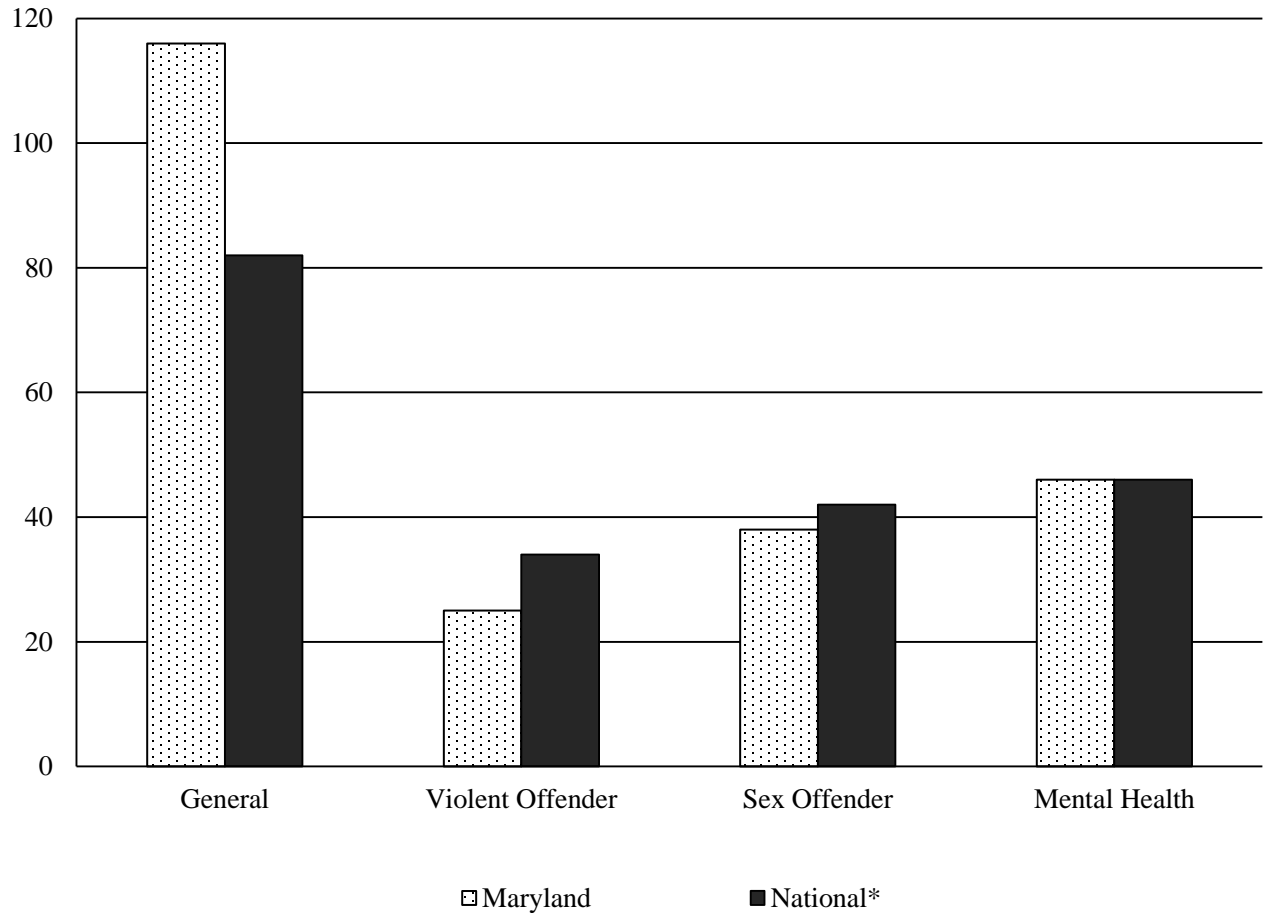


DPSCS: Department of Public Safety and Correctional Services

Source: Department of Public Safety and Correctional Services

**Exhibit 18** illustrates the findings of the caseload analysis, including a comparison to other states. The research team's analysis indicated that nearly 80.0% of offenders fall into the general supervision category, about 6.0% in the sexual offender category, about 4.5% in the Violence Prevention Initiative category, and the remaining 10.0% in review. Agents responsible for offenders under general supervision handle about three times as many cases as agents responsible for any offenders under special supervision types. Comparing Maryland caseload data to other states revealed that Maryland's average general caseload of 116 cases is the fourth highest average compared to 31 other states. Maryland's average special caseload sizes though, fall at or below the national averages calculated by the research team.

**Exhibit 18**  
**Division of Parole and Probation – Caseload Analysis**



\* National averages include the following number of states, including Maryland: 32 states for general, 12 states for violent offender, 21 states for sex offender, and 13 states for mental health.

Source: Department of Public Safety and Correctional Services

The research team recommended that the general supervision caseload size be reduced. There is no industry standard, but Maryland's general caseload could be reduced to be more in line with the national average of 82 cases per agent. The research team also suggested that adding more supervision agents would help to reduce the caseload, but the caseload could also be reduced by improving the effectiveness of supervision tools, management practices, and coordination with partner agencies. The OCMS, urinalysis testing, and kiosks are specifically identified as tools that should be improved.

The University of Baltimore Schaefer Center for Public Policy report indicates that there are 672 nonsupervisory agent positions assigned to DPP. In order to meet the recommendation that DPP needs 700 supervision agents to handle its caseload, DPP would need an additional 28 positions. However, DPP would likely need more than 700 authorized supervision agent positions in order to account for regular turnover and actually have 700 working agents at any given time. In order to maintain a vacancy rate of 3% (the lowest quarterly vacancy rate the department has achieved for supervision agents since January 2012) and still have 700 agents employed, DPP would need a total of 722 nonsupervisory agent positions, 50 positions more than DPP currently has authorized. This likely also would result in the need for 5 to 10 additional supervisors.

The staffing analysis estimate does not include an adjustment for the expected increase in the offender population under supervision associated with the implementation of Justice Reinvestment Initiative recommendations. Should the supervision population increase, DPP would need additional agents in order to handle the additional offenders and maintain a reasonable caseload.

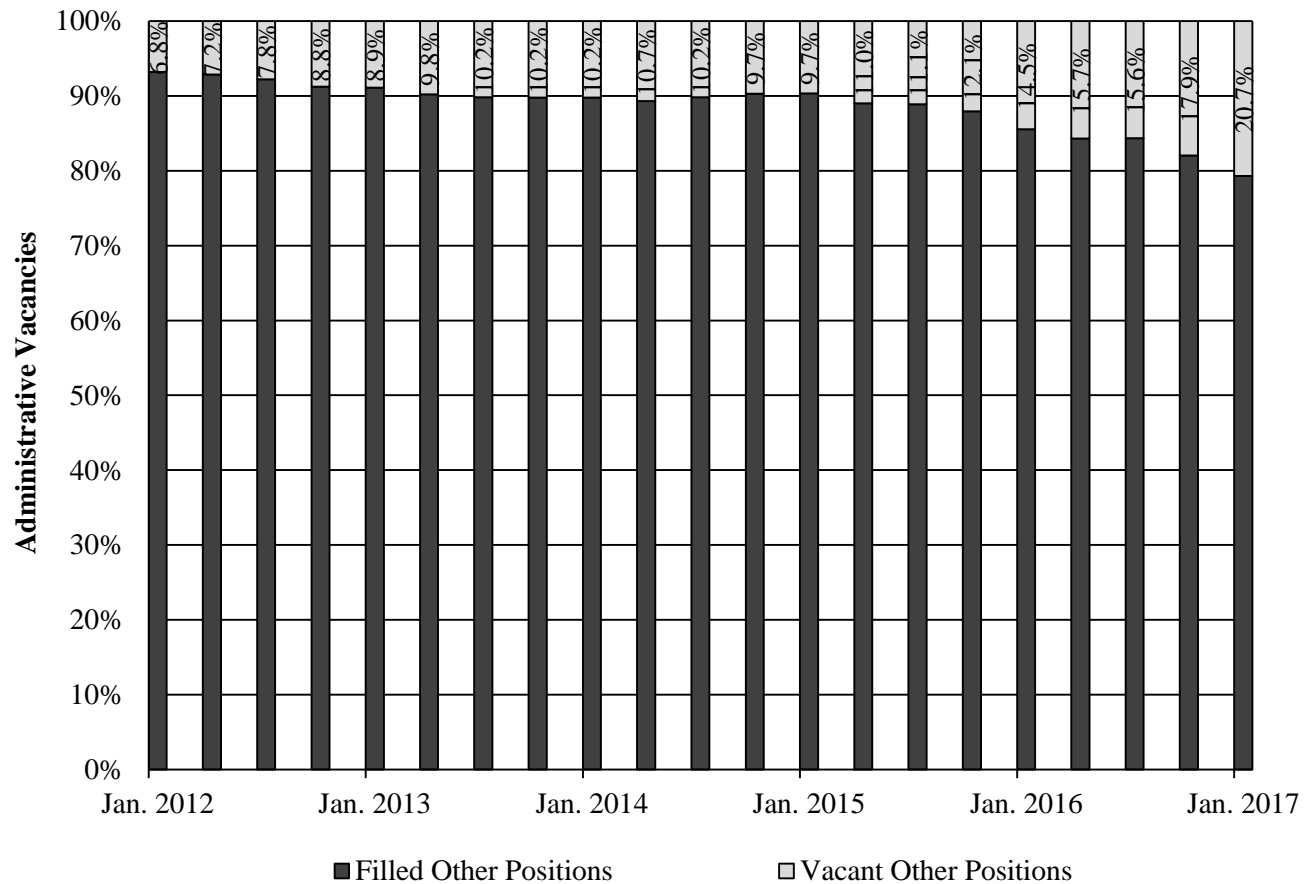
### **Administrative and Support Function Positions**

Positions other than supervision agents and correctional officers account for about 27% of the entire fiscal 2017 DPSCS position complement, down from about 30% in fiscal 2002. Over that period of time, these positions have been decreased by a net of 520, which accounts for almost 75% of the total DPSCS position reductions over the past 15 years. Compared to correctional officer and supervision agent positions, these positions have disproportionately been affected by reductions over the years. This is due largely to legislative and executive direction indicating that eliminating correctional officer and supervision agent positions would negatively affect the safety and security of staff and offenders. There has been an increase in the number of contractual FTEs for DPSCS to offset the reduction in administrative positions, though the increase is only about one-eighth the amount of the regular positions abolished.

**Exhibit 19** shows quarterly vacancy data for all positions other than supervision agents and correctional officers from January 2012 through January 2017. The vacancy rate for these positions has historically been higher than that of supervision agents and correctional officers, but has also steadily increased over the past one to two years. The vacancy rate remained below 11.0% each quarter through January 2015, and has increased by 9 percentage points since then. As of January 2017, DPSCS had 615 of these positions vacant, for a vacancy rate of 20.7%.

Many operational needs provided by the administrative and support functions, such as correctional case management, are largely driven by the size of the population supervised, incarcerated, and detained. As was illustrated earlier in this analysis, all of these populations have been in decline. Although there have been no formal analyses of personnel needs for these functions, like there have been for correctional officers and supervision agents, there has been some anecdotal evidence of understaffing. Case management in particular has been noted at several correctional facilities as an area with regularly high caseload sizes. As case management is an integral part of the successful implementation of the JRA, inadequate staffing in this area poses a significant problem. At this time, it is not clear whether staffing concerns pertaining to case management are the result of too many vacancies or an inadequate number of authorized positions dedicated to that function.

**Exhibit 19**  
**Department of Public Safety and Correctional Services**  
**Administrative and Support Positions – Quarterly Vacancy Rate**  
**January 2012 – January 2017**



DPSCS: Department of Public Safety and Correctional Services

Source: Department of Public Safety and Correctional Services

Additionally, evidence suggests severe understaffing in the finance and procurement functions. In response to legislative concerns regarding the reconciliation of inmate accounts, DPSCS was required to submit monthly reports showing that all accounts are being regularly reconciled. Due to staffing shortages, DPSCS has been unable to reconcile DPD inmate accounts since July 2016. Additionally, the department has had a number of failed or incomplete procurements recently resulting from a lack of available knowledgeable staff. For example, funding was provided in fiscal 2015 and 2016 to expand the department's cell phone managed access system; however, due to struggles with

the procurement, the funds were never expended and the expansion never completed. Similarly, the \$570,000 fiscal 2017 deficiency appropriation provides funding for food service equipment in Baltimore City that has been needed for a while, but the purchase has not progressed until now due to procurement staffing shortages.

### **Information Technology Positions**

The department has been reduced by a significant number of IT positions. A November 2015 Office of Legislative Audits (OLA) report of DPSCS Office of the Secretary and Other Units indicated that DPSCS augmented its staff beyond its budgeted positions through an interagency agreement with a State university. DPSCS management indicated that the agreement had been in place for at least 10 years. The agreement between fiscal 2011 and 2013 totaled \$14.0 million, and the agreements for fiscal 2014 and 2015 totaled \$3.8 million and \$3.4 million, respectively. In fiscal 2015, the department's Information Technology and Communications Department (ITCD) had 214 authorized positions at a cost of \$16.1 million. The fiscal 2015 agreement created an additional 30 contractual IT FTEs at a cost of \$3.4 million, of which, \$162,000 was paid to the State university for indirect costs.

OLA found that although the university was responsible for recruitment, hiring, and payroll, DPSCS performed all oversight and monitoring of the contractual employees. The contractual employees held positions integrated into the ITCD organizational and management structure, including an assistant director and a chief networking officer. DPSCS indicated that the interagency agreement allowed ITCD to attract IT employees at a higher salary compared to State IT salaries and also allowed ITCD to adjust the size of the IT staff as needed and dismiss employees for poor performance without union issues. Although OLA recommended that ITCD refrain from entering into interagency agreements to augment budgetary positions, the department's fiscal 2017 budget includes funding to continue the agreement. DPSCS has indicated its intention to have a competitively procured contract for the services in place by the start of fiscal 2018.

The fiscal 2017 DPSCS personnel appropriation for ITCD was reduced by 7 positions from the fiscal 2016 appropriation. The Department of Information Technology (DoIT) is moving to an enterprise model to provide services for cabinet-level agencies in an effort to reduce IT costs and improve services. The 7 positions removed from the fiscal 2017 DPSCS appropriation were transferred to DoIT as part of this statewide consolidation of IT services. Although these positions were transferred in fiscal 2017, DoIT does not anticipate consolidating services for DPSCS until after fiscal 2017.

### **Filling Positions Will Compete with the Need to Fund Operations**

One of the primary issues DPSCS will have in increasing the number of filled positions is how to allocate funding. As this analysis has already highlighted, the fiscal 2017 working appropriation will need to utilize nearly \$30 million in vacancy savings to fund other operating costs. The budget provides minimal deficiency appropriations in anticipation that these savings will be available. A similar assumption exists for fiscal 2018, although the department will have fewer vacancies to generate savings.

**Exhibit 20** lays out how the department's 1,694 vacancies are distributed in fiscal 2018, resulting in the opportunity for DPSCS to fill less than 90 positions and remain within its operating budget (barring any other unforeseen increases in operating expenses). Filling this many positions would have a negligible impact on the total vacancy rate, reducing it from 15.3% to 14.4%.

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**Exhibit 20**  
**Department of Public Safety and Correctional Services**  
**Allocation of Vacancies**  
**Fiscal 2018**

<u><b>Vacant Positions</b></u>	<u><b>Allocation</b></u>
1,694	Departmentwide vacancies as of January 13, 2017
-637	Vacancies needed to meet budgeted turnover
-400	Vacant positions abolished to due MCI-H downsizing
-90	DPD food service contractual conversion
-425	Funded vacancies needed to meet overtime
-52	Cadet program*
<b>90</b>	<b>Positions Available to Fill</b>

DPD: Division of Pretrial Detention

MCI-H: Maryland Correctional Institution in Hagerstown

\* DPSCS is in the process of implementing a cadet program for 18- to 20-year olds interested in becoming correctional officers. The formation of this program would require 52 regular positions, leaving 90 positions available to fill within the funding provided in fiscal 2018 allowance.

Source: Department of Legislative Services; Department of Public Safety and Correctional Services

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DPSCS cautions that a number of variables, beyond filling vacancies, have an impact on staffing and overtime. It could be argued, however, that filling the 90 vacant positions referenced in Exhibit 20 would generate some overtime savings and free additional resources to continue to increase hiring. A simple approximation would suggest that filling 90 correctional officer positions could generate up to \$4.4 million in overtime savings. This would allow the department to fill an additional 66 positions. From an overall budgetary perspective, however, it is important to note that, when factoring in the current costs associated with fringe benefits, the cost of filling 100 vacant correctional officer positions is actually more expensive than overtime. A comparison of the cost of filling 100 vacant correctional officer positions versus potential overtime savings indicates that the cost to the State would be approximately \$1.7 million. This does not account for any costs associated with academy training and other new hire expenses.



## **Summary**

Various staffing analyses completed by DPSCS have indicated a need for over 500 additional positions beyond the department's current staffing complement. However, given the anticipated reductions in the inmate population and changes in the facility complement, this number should continue to be evaluated. Furthermore, with the consistently increasing vacancy rate over the past two years, it is unlikely that DPSCS would be able to fill new positions beyond its current authorization.

Of more immediate concern is how to address the near 1,700 vacancies and the impact these vacancies are having on departmental operations and the budget. Positions need to be filled in order to reduce overtime spending that is operationally and fiscally unsustainable and to avoid further increases in assaults. Proper administrative support is needed in the facilities, particularly as DPSCS moves to implement the provisions of the JRA. Timely procurements are necessary to ensure that the proper goods and services are provided to efficiently operate the department. In order to fill these positions, however, DPSCS will likely need additional funding in fiscal 2017 and 2018.

**DPSCS should comment on what is driving the high vacancy rates, particularly among correctional officers and administrative positions and the impact on departmental operations. The department should also discuss what is being done to improve hiring in those areas. Given the high number of vacancies across all functions, DPSCS should discuss how it prioritizes which vacancies to fill. Finally, the department should comment on how it intends to balance filling vacant positions with funding its operating budget deficiencies.**

## **2. Justice Reinvestment**

Chapter 515 of 2016, the JRA, created a framework of sentencing and corrections reforms with the goal of safely reducing the number of inmates in Maryland prisons, reinvesting those savings into more effective strategies to increase public safety, and at the same time, help nonviolent offenders from returning to prison. While the implementation process is anticipated to be slow and deliberative and most of the chapter's provisions do not take effect until October 2017, all of the invested stakeholders have taken first steps toward the policy development and establishment of infrastructure necessary to achieve the JRA's desired outcomes.

### **Justice Reinvestment Overview**

Chapter 42 of 2015 established the Justice Reinvestment Coordinating Council (JRCC) within the Governor's Office of Crime Control and Prevention (GOCCP). JRCC was required to use a data-driven approach to develop a statewide policy framework for sentencing and corrections policies to further reduce the State's incarcerated population, reduce spending on corrections, and reinvest in strategies to increase public safety and reduce recidivism. The council and its subcommittees met numerous times in 2015 to analyze criminal justice data and review relevant research. Based on its findings, JRCC developed a comprehensive set of recommendations intended to focus prison resources on serious and violent offenders, strengthen community supervision efforts, improve and enhance

release and reentry practices, support local corrections systems, and ensure oversight and accountability.

Chapter 515 of 2016, the JRA, generally implements many of the recommendations of JRCC by altering provisions relating to sentencing, corrections, parole, and offender supervision. In addition, the JRA (1) alters provisions relating to criminal gangs; (2) increases maximum penalties for second-degree murder and first-degree child abuse resulting in death; (3) modifies provisions regarding drug treatment; (4) expands expungement provisions; and (5) provides for the reinvestment of savings.

Most of JRA's provisions take effect on October 1, 2017; however, many important organizational aspects of the JRA requirements became effective on October 1, 2016. JRCC was replaced by the Justice Reinvestment Oversight Board (Oversight Board), tasked with generally monitoring progress and compliance with the recommendations of JRCC and implementation of the JRA. The Oversight Board consists of 24 members and is required to meet annually. The Oversight Board is housed in GOCCP, and members were appointed in December 2016, with retired judge and former elected official Daniel M. Long serving as Chair. The first organizational meeting of the Oversight Board was held on January 4, 2017.

The Oversight Board must establish an advisory board of criminal justice stakeholders that will assist in the analysis and implementation of the JRA. The JRA also provides for a Local Government Justice Reinvestment Commission with a representative from each county to advise the Oversight Board on local impacts of implementing the JRA and on local grant funding through the Performance Incentive Grant Fund (PIGF).

The PIGF is a special fund that will be administered by GOCCP and make use of the savings accrued from implementing the JRA's provisions. Funding for the PIGF will come from (1) savings realized from changes to the supervision abatement process; (2) savings from reducing the inmate population as a result of the entire JRA scheme; (3) money appropriated by the Governor; (4) interest; and (5) any other money from any other source. While the establishment of the PIGF became effective on October 1, 2016, any significant contributions will not be realized until well after the substantive provisions of the JRA go into effect. For example, the first prison population comparison for savings to be appropriated to the fund will not be conducted until October 1, 2018. As a result, those funds will not be included in the operating budget until fiscal 2020.

## **DPSCS Implementation**

### **Policy Development**

**Exhibit 21** highlights the JRA provisions that pertain to DPSCS. The department has established 10 implementation teams, referred to as Innovation Teams, to identify and develop the specific policy, procedural, and programmatic changes necessary to implement each provision of the legislation.

**Exhibit 21**  
**Department of Public Safety and Correctional Services**  
**Justice Reinvestment Act – Innovation Teams for Implementation**

**JRA Provision**

**Policy Requirements**

Medical and Geriatric Parole	Modifies current policies regarding eligibility for medical and geriatric parole to include offenders with chronic disabilities and those aged 60 or older, allows for a separate medical evaluation conducted by an independent professional, and provides the Governor with 180 days to deny an MPC-approved medical parole before the release is automatically effective.
Restitution	Requires 25% of inmate earnings to be withheld for the payment of an unsatisfied judgment of restitution.
DPP Validated Screening Tool and Risk/Needs Assessment	Requires the use of a validated risk screening tool on all supervised offenders. Offenders identified as moderate or high risk to reoffend receive a risk/needs assessment and individual case plan.
DPP Earned Compliance Credits	Establishes automatic abatement of supervision when a combination of time served under supervision and earned compliance credits satisfies the individual's active term of supervision, requires the automation of the system used to track and award earned compliance credits, and requires notification of eligibility for abatement 90 days prior to status change.
DPP Graduated Sanctions	Requires the statewide use of graduated sanctions in response to technical violations of conditions of supervision, establishes revocation caps on sentences resulting from a technical violation but does allow the opportunity for departure from the limit for public safety reasons, requires notification of technical violations and graduated sanctions to the courts and MPC when imposed by DPP.
DOC Diminution Credits	Expands who is eligible for earning diminution credits, how many credits can be earned, and for what reasons.
DPP Certificate of Rehabilitation	Allows first-time, nonviolent offenders (excluding sex offenders) to apply for a certificate of completion to restore their rights to obtain certain professional certifications.
DOC Risk/Needs Assessment and Case Planning	Requires a risk/needs assessment and development of a related case plan for all State inmates as part of the intake process and to be used to guide programming and treatment decisions.

## *Q00 – DPSCS – Fiscal 2018 Budget Overview*

### **JRA Provision**

### **Policy Requirements**

DPSCS Evidence-based Practices Training	Requires annual evidence-based practices training for parole and probation agents, MPC members, and hearing officers.
Administrative Release	Allows an inmate to be released on parole, without a hearing, after serving one-fourth of his/her sentence if certain conditions are met; requires eligibility investigations by MPC and calculation of release dates; and requires State and local correctional facilities to develop individual case plans with regular progress reviews and reports.

DOC: Division of Correction

DPP: Division of Parole and Probation

DPSCS: Department of Public Safety and Correctional Services

JRA: Justice Reinvestment Act

MPC: Maryland Parole Commission

Source: Department of Legislative Services; Department of Public Safety and Correctional Services

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According to the Oversight Board's first progress report, DOC is making progress toward revising release policies and identifying offenders who are eligible for diminution credits and how many credits the eligible offenders are allowed to obtain. This will be accomplished through development of a screening tool to determine the offender's eligibility for diminution credits and an indicator, or flag, in the case file to keep track of the diminution eligibility for each inmate. Additionally, the Diminution Credit Innovation Team has begun to identify jobs and programs that can be awarded diminution credits and how many credits each program is worth. The Medical Geriatric Parole Innovation Team is investigating who is responsible for funding the examinations that determine medical parole eligibility as the inmate is not responsible for this cost. The Administrative Release Innovation Team has worked with the Director of Policy and Regulations to ensure the policies will be accurately portrayed in the *Code of Maryland Regulations*. This team is also developing a process to identify eligibility for administrative release and has been in communication with the Chair of MPC on administrative release policies and procedures.

DPP is focusing on policy changes needed to improve the effectiveness of community supervision. To date, a graduated responses matrix and policy has been drafted and shared with the Judiciary for feedback; the application for a Certificate of Rehabilitation and the certificate itself have been drafted; and, a risk and needs assessment has been selected, training on the assessment has begun, and DPP has started to develop the case plans to drive the interactions of probation agents and offenders.

## **Fiscal and Operational Impact**

At the first meeting of the Oversight Board, it was announced that Maryland has been designated as a Justice Reinvestment Phase II state and has moved into the implementation stage of the process. According to GOCCP, this phase is anticipated to last approximately three years, and the primary focus is on developing the policies and infrastructure necessary to effectuate the JRA provisions and providing training to ensure that participating stakeholders are prepared to achieve the desired programmatic changes. The Bureau of Justice Assistance is funding implementation technical assistance provided by the Crime and Justice Institute to help with Phase II. It is anticipated that GOCCP will apply for a federal grant award of approximately \$400,000 to cover these costs.

Given that the JRA is still in the early stages of a lengthy implementation process, most stakeholder agencies are primarily engaged in identifying the policies and procedures necessary to implement the JRA provisions. Estimating the fiscal and operational impact of the JRA has proven difficult, as the outcomes for many of the provisions can only be determined once there is experience under the bill. For example, one provision allows for certain offenders with a mandatory minimum to apply for a sentence modification resulting in release. DPSCS has identified 300 offenders eligible for release under this provision but cannot accurately estimate how many will apply or be released.

The fiscal note for Chapter 515 did not estimate a fiscal impact for DPSCS in fiscal 2017; however, the fiscal 2018 allowance provides \$500,000 in one-time deficiency funding to ITCD for enhancements to the case management system needed to implement the JRA provisions. In addition, GOCCP awarded DPSCS nearly \$300,000 to support implementation of JRA provisions pertaining to the use of a risk and needs assessment tool for incarcerated and supervised offenders.

**Exhibit 22** provides the projected incarceration savings and new costs anticipated for DPSCS beginning in fiscal 2018, as identified in the fiscal note for the enrolled bill. It was estimated that the department would need an additional \$6.3 million and 109 new positions in fiscal 2018, accounting for the delayed October 2017 implementation date for a number of positions. According to DPSCS, no additional funding is provided in fiscal 2018, as the first few years are devoted to planning and training.

**DPSCS should provide an update on the status of the JRA implementation and how the provisions, taking effect on October 1, 2017, will impact the department's fiscal 2018 population. Additionally, DPSCS should comment on how the department's fiscal 2018 budget and needs compare to the fiscal note's estimate of anticipated savings and expenditures.**

**Exhibit 22**  
**Projected Incarceration Savings and New Costs for DPSCS**  
**Fiscal 2018-2026**

	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>	<u>2025</u>	<u>2026</u>
Incarceration Savings – Recognized in Formula		\$4,352,040	\$6,689,760	\$8,214,360	\$8,463,840	\$7,623,000	\$6,033,720	\$4,065,600	\$1,653,960
50% of Savings to Special Fund		2,176,020	3,344,880	4,107,180	4,231,920	3,811,500	3,016,860	2,032,800	826,980
50% of Savings for Other JRCC Priorities		2,176,020	3,344,880	4,107,180	4,231,920	3,811,500	3,016,860	2,032,800	826,980
Total Incarceration Savings Due to the Bill	\$1,071,840	6,320,160	8,537,760	9,480,240	9,794,400	10,210,200	10,552,080	10,838,520	11,032,560
DPSCS Required New General Fund Spending	6,281,359	7,945,192	8,263,369	8,595,330	8,853,190	9,118,786	9,392,349	9,674,120	9,964,343
Savings Available to Offset DPSCS New Costs*	1,071,840	4,144,140	5,192,880	5,373,060	5,562,480	6,398,700	7,535,220	8,805,720	10,205,580
Net Impact on DPSCS Spending	5,209,519	3,801,052	3,070,489	3,222,270	3,290,710	2,720,086	1,857,129	868,400	-241,237

DPSCS: Department of Public Safety and Correctional Services  
 JRCC: Justice Reinvestment Coordinating Council

\*Reflects total incarceration savings due to the bill less the amount directed to the special fund.

Source: Enrolled fiscal note for Chapter 515 of 2016, Department of Legislative Services

**Appendix 1**  
**Current and Prior Year Budgets**  
**Department of Public Safety and Correctional Services**  
**(\$ in Thousands)**

	<b><u>General Fund</u></b>	<b><u>Special Fund</u></b>	<b><u>Federal Fund</u></b>	<b><u>Reimb. Fund</u></b>	<b><u>Total</u></b>
<b>Fiscal 2016</b>					
Legislative					
Appropriation	\$1,173,019	\$143,255	\$28,584	\$6,036	\$1,350,894
Deficiency					
Appropriation	43,446	0	0	0	43,446
Budget					
Amendments	11,644	1,559	1,061	128	14,392
Reversions and Cancellations	-30,229	-6,025	-1,405	-988	-38,646
<b>Actual</b>					
<b>Expenditures</b>	<b>\$1,197,881</b>	<b>\$138,789</b>	<b>\$28,240</b>	<b>\$5,176</b>	<b>\$1,370,086</b>
<b>Fiscal 2017</b>					
Legislative					
Appropriation	\$1,230,201	\$140,682	\$32,846	\$6,282	\$1,410,011
Cost					
Containment	0	0	0	0	0
Budget					
Amendments	11,834	434	0	173	12,441
<b>Working</b>					
<b>Appropriation</b>	<b>\$1,242,035</b>	<b>\$141,116</b>	<b>\$32,846</b>	<b>\$6,455</b>	<b>\$1,422,452</b>

Note: Does not include targeted reversions, deficiencies, and contingent reductions. Numbers may not sum to total due to rounding.

## **Fiscal 2016**

### **General Fund**

General fund spending for fiscal 2016 was approximately \$1.2 billion, an increase of \$24.9 million from the legislative appropriation. The department received general fund deficiency appropriations totaling \$43.4 million to:

- fund custodial employee overtime (\$21.2 million);
- conduct emergency maintenance and powerplant upgrades (\$7.9 million);
- implement cell phone managed access systems at the Baltimore Central Booking and Intake Center (BCBIC) and the Maryland Reception, Diagnostic, and Classification Center (\$6.7 million);
- replace the radio system at BCBIC (\$3.1 million);
- fund accrued leave payouts (\$3.7 million); and
- replace and purchase food service vehicles (\$1.0 million).

The department's fiscal 2016 general fund budget amendments further increased the appropriation by a net \$11.6 million. Budget amendments primarily allocated funding for restoration of the cost-of-living adjustment (COLA) (\$12.1 million) and the State Law Enforcement Officer's Labor Alliance bargaining agreement (\$34,899), slightly offset by a reduction of \$471,000 to realign the telecommunications appropriation amount agencies.

The department reverted just more than \$30.2 million in general funds. The largest reversion, approximately \$11.6 million, was for salaries associated with the department's high vacancy rate. The Department of Public Safety and Correctional Services (DPSCS) also reverted funds because of procurement issues with the cell phone managed access system implementation at two Baltimore City facilities (\$6.7 million) and a higher than anticipated Medicaid reimbursement, which reduced the need for general funds (\$3.5 million). The department reverted smaller amounts for utility costs as a result of the mild winter (\$2.6 million), food costs associated with a lower than expected average daily population (\$1.0 million), and employee uniforms due to a late procurement (\$1.0 million).

### **Special Fund**

Fiscal 2016 special fund expenditures totaled \$138.8 million, reflecting a \$4.5 million decrease from the legislative appropriation. The special fund appropriation was increased by \$1.6 million in budget amendments in order to restore the COLA (\$484,000), as well as to allocate increased revenue from the sale of Maryland Correctional Enterprises (MCE) goods and services (\$425,000), fees



associated with the Drinking Driver Monitor Program (DDMP) (\$455,000), and the Baltimore City work crews (\$195,000). DPSCS canceled a total of \$6.0 million in special funds, \$2.7 million of which was due to the 9-1-1 Emergency fund allocation exceeding actual funds collected and, therefore, requiring a reduction in expenditures. The department also canceled \$710,213 in special funds associated with an MCE Enterprise Resource Planning information technology project. The project did not progress as quickly as anticipated in fiscal 2016, so the funds will instead be used in fiscal 2017. Other unexpended funds resulting in cancellations included Inmate Welfare Fund revenue (\$1.1 million), Criminal Injuries Compensation Board fees (\$372,425), and the DDMP (\$87,786).

## **Federal Fund**

The department's fiscal 2016 federal fund appropriation totaled \$28.2 million, a decrease of nearly \$344,000 from the legislative appropriation. Three budget amendments increased the department's appropriation by \$1.1 million in order to restore the COLA (\$266,000) and allocate federal fund grants for information technology projects (\$300,000), crime victim compensation (\$350,000), and housing federal prisoners in the Chesapeake Detention Facility (\$120,130). Federal fund cancellations totaled \$1.4 million, including a cumulative \$832,251 from the Information Technology and Communications Division related to three federal grants: the National Criminal History Improvement Program grant (\$392,962), the Sex Offender Registration and Notification Act grant (\$173,448), and the National Instant Criminal Background Check System Act Record Improvement Program grant (\$265,840). Due to the timing of these grant awards, canceled funds will be used in fiscal 2017. At the time that the fiscal 2016 budget was formulated, the department anticipated receiving a \$300,000 federal Second Chance Act Prisoner Reentry Initiation grant to the Patuxent Institution. However, the department did not receive the grant, resulting in the cancellation of the associated funds. DPSCS also canceled \$204,152 from the Police and Correctional Training Commissions, which receive federal funds for participation from federal agencies.

## **Reimbursable Fund**

Reimbursable funds decreased by just under \$900,000 from the legislative appropriation, with actual expenditures totaling \$5.2 million. Three budget amendments increased the legislative appropriation by a total of \$128,000, all of which was funding for grants the department received from the Governor's Office of Crime Control and Prevention (GOCCP) for crime victim compensation and initiatives associated with the federal Prison Rape Elimination Act. Cancellations for reimbursable funds totaled \$987,913. About \$300,000 of the canceled funds are attributable to anticipated grants that were not actually received from GOCCP to support information technology projects. Additionally, the department realized lower than expected use of inmate road crews for the State Highway Administration, resulting in a cancellation of about \$496,000.

## **Fiscal 2017**

Budget amendments increase the fiscal 2017 working appropriation for the department by approximately \$12.4 million. Reallocation for employee increments provided DPSCS with an

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additional \$11.6 million in general funds and nearly \$434,000 in special funds. Funding enhancements for a new labor agreement with the State Law Enforcement Officers Labor Alliance provided an additional \$180,000. Additionally, \$65,720 was transferred from the Department of Budget and Management to fund annual salary review increases for the Division of Parole and Probation support staff. Reimbursable funds increased by \$173,489 to reflect the receipt of federal grant funds from GOCCP for the Prison Rape Elimination Act compliance and drug treatment services.