

V00A
Department of Juvenile Services

Operating Budget Data

(\$ in Thousands)

	<u>FY 16</u> <u>Actual</u>	<u>FY 17</u> <u>Working</u>	<u>FY 18</u> <u>Allowance</u>	<u>FY 17-18</u> <u>Change</u>	<u>% Change</u> <u>Prior Year</u>
General Fund	\$269,774	\$275,175	\$273,456	-\$1,719	-0.6%
Adjustments	0	-2,803	-549	2,254	
Adjusted General Fund	\$269,774	\$272,372	\$272,907	\$535	0.2%
Special Fund	3,276	3,864	3,239	-625	-16.2%
Adjusted Special Fund	\$3,276	\$3,864	\$3,239	-\$625	-16.2%
Federal Fund	5,393	4,837	4,829	-8	-0.2%
Adjustments	0	0	-8	-8	
Adjusted Federal Fund	\$5,393	\$4,837	\$4,821	-\$16	-0.3%
Reimbursable Fund	106	247	234	-13	-5.1%
Adjusted Reimbursable Fund	\$106	\$247	\$234	-\$13	-5.1%
Adjusted Grand Total	\$278,550	\$281,320	\$281,201	-\$119	0.0%

Note: Includes targeted reversions, deficiencies, and contingent reductions.

- The Department of Juvenile Services (DJS) has more than \$2.8 million in negative general fund deficiency appropriations for fiscal 2017. Funding is reduced from the agency's current budget to reflect personnel and other operating savings resulting from excess vacant positions and lower juvenile populations under the department's jurisdiction.
- The fiscal 2018 budget bill includes a \$54.5 million (all funds) across-the-board contingent reduction to eliminate a supplemental payment to the State pension system for one year. It is estimated that the department's share of that reduction is \$557,278.

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

For further information contact: Rebecca J. Ruff

Phone: (410) 946-5530

V00A – Department of Juvenile Services

- The fiscal 2018 allowance reflects virtually no change from the fiscal 2017 working appropriation, after accounting for all adjustments. In total, the allowance decreases by \$119,000.
- Special funds decline by approximately \$625,000, primarily the result of population declines impacting the amount of revenue anticipated from local jurisdictions to fund education services for youth in DJS residential care.

Personnel Data

	<u>FY 16</u> <u>Actual</u>	<u>FY 17</u> <u>Working</u>	<u>FY 18</u> <u>Allowance</u>	<u>FY 17-18</u> <u>Change</u>
Regular Positions	2,041.05	1,998.05	1,978.05	-20.00
Contractual FTEs	<u>177.76</u>	<u>146.65</u>	<u>150.40</u>	<u>3.75</u>
Total Personnel	2,218.81	2,144.70	2,128.45	-16.25

Vacancy Data: Regular Positions

Turnover and Necessary Vacancies, Excluding New Positions	143.61	7.26%
Positions and Percentage Vacant as of 12/31/16	209.20	10.47%

- The fiscal 2018 allowance abolishes 20 regular positions, all long-term vacancies. These include 2 human resource positions, 2 youth transportation officers, 4 nurses, and 12 resident advisors. Although population declines would suggest the potential for facility staffing reductions, the most recent staffing analysis conducted by the department indicated the need for 105 additional direct care positions beyond its current regular position complement.
- At the close of calendar 2016, DJS had 209 positions vacant, equating to nearly 10.5% of its workforce. Approximately 8.5% of those positions have been vacant for more than 12 months. This leaves the department with about 66 vacancies beyond what is needed to meet fiscal 2018 budgeted turnover.

Analysis in Brief

Major Trends

Maryland Juvenile Arrest Data: Arrest rates for juveniles between the ages of 10 and 17 continue to decline, falling 35.1% over the past five years, with a decrease of 6.9% in the most recent year-over-year change. A 15.9% decrease in property crimes is outweighing a 0.5% increase in violent crimes in calendar 2015, to have an overall reduction of approximately 11.8% for Part 1 crimes.

DJS Complaint Totals and Complaint Disposition: Approximately 22,400 complaints were referred to the department in fiscal 2016, reflective of a 4.5% decrease from the previous year. Nearly half of the complaints referred to the department did not require court intervention. Formal cases declined by 9.5% in fiscal 2016, to just below 10,900 cases. Of those cases receiving a formal recommendation for court intervention, approximately 26.0% received a probation disposition and 8.3% received a committed disposition.

Nonresidential Placement Trends: Fiscal 2016 and 2017 year-to-date data reflects a continued drop in overall nonresidential placements, consistent with the population declines experienced throughout the department. Probation cases account for approximately 52% of the average monthly nonresidential caseload.

Secure Detention and Pending Placement Trends: There were nearly 221 fewer pre-adjudication and pending placement youth detained in DJS facilities in fiscal 2016 compared to a decade ago, reflecting a 51% decrease since fiscal 2008. Comparing year-over-year change, the detention population decreased by 2% between fiscal 2015 and 2016, with the reduction mitigated by a 52% increase in the adult court authorized detention population. The fiscal 2016 pending placement average daily population (ADP) was 60 youth, marking the third consecutive year that the pending placement population was below 100 youth, and a 9% reduction from the previous fiscal year. As a percentage of the total population of youth either in an alternative to detention (ATD) program or in secure detention (pre-adjudication and pending placement), the ATD population accounted for 64% in fiscal 2016. This calculation excludes the population of youth who are detained in a DJS facility pending action from the adult court system. Preliminary data from fiscal 2017 indicates that this population continues to decrease to 60% of the overall population. **DJS should comment on the decline in the use of ATD programming, given the fact that increasing diversion efforts is a key goal of the department’s juvenile justice reform.**

Adult Court Authorized Detention Population Trends: Effective October 1, 2015, courts are required to order a youth charged as an adult who is eligible for transfer to the juvenile system to be held in a juvenile detention facility, while pending that transfer decision, with a few exceptions. DJS has seen a significant increase in its youth-charged-as-adult population since fiscal 2014, increasing from an ADP of 37 to 104 youth in the past three years. These youth have significantly longer lengths of stay than other detention populations. An increasing percentage of these cases are being remanded to juvenile court, which could ultimately impact the department’s committed population. **DJS should comment on how this population is being managed within the detention facilities, the potential**

impact to the committed population, and the unique resource needs of these youth. As will be discussed later in this analysis, the programming budget for the department is essentially level funded in fiscal 2018. DJS should comment on whether the increases in the adult court authorized detention population and the potential flow through to the committed population are accounted for in the fiscal 2018 budget.

Committed Population Trends: In fiscal 2016, an ADP of 573 youth were in committed residential programs. Data through the first six months of fiscal 2017 shows a significant decline of nearly 14% to an ADP of 494 youth. Of all youth in committed residential placements, nearly 93% remain in-state. The out-of-state ADP has declined 53% since fiscal 2013 to an ADP of 57 youth in fiscal 2016. Of the youth remaining in-state, 71% are placed in private per diem facilities.

Recidivism Rates: The one-year recidivism rates for youth released from a committed program have declined significantly since fiscal 2010, with the reincarceration rate falling by 5 percentage points to 13%. Two- and three-year recidivism rates have also declined since fiscal 2012, although not to as great a degree. After three years, approximately 33% of youth released from a committed program in fiscal 2013 are reincarcerated, compared to 35% of youth released in fiscal 2012.

Issues

DJS Staffing Overview: Over the past 15 years, DJS has lost a net of 112 regular positions, or over 5% of its regular workforce. The fiscal 2018 allowance eliminates an additional 20 vacant positions. Overtime spending has increased by \$1.4 million since fiscal 2013, along with resident advisor vacancies. The most recent staffing analysis data provided by DJS suggested the need for 105 additional direct care positions, prior to the loss of 20 positions in fiscal 2018. **DJS should comment on how the department’s current vacancy rate, after accounting for contractual resident advisors, compares to budgeted turnover for fiscal 2017 and 2018. The department should also discuss the issues driving the high attrition for resident advisor positions and what is being done to focus on improving employee retention. Finally, the department should comment on how the loss of 20 additional direct care positions, despite an already existing shortage of 105 positions, impacts departmental operations.**

Departmental Policies on Shackling and Strip Searching Youth in Custody: During the 2016 session, the General Assembly expressed concern with the department’s current policies regarding the use of mechanical restraints and strip searches for youth in DJS custody. These concerns resulted in the addition of restrictive language in the fiscal 2017 budget bill and the enactment of Chapter 655 of 2016 establishing the Task Force to Study the Restraint, Searches, and Needs of Children in the Juvenile Justice System. The final report of the task force included over 20 recommendations, several of which have been adopted by DJS. Additionally, several pieces of legislation related to the task force recommendations have been introduced during the 2017 session. **DJS should comment on the potential fiscal impact of the agreed upon policy changes and whether those changes can be accommodated within the department’s existing appropriation. DJS should also comment on the extent to which legislation is necessary to successfully implement recommended changes to the use of strip searches and mechanical restraints. The Department of Legislative Services**

recommends adopting committee narrative requesting DJS to provide an update on the status of implementing changes to the use of strip searches and mechanical restraints for youth in the department’s custody. In addition, DJS should be asked to report data consistent with the recommendations of the task force.

Recommended Actions

	<u>Funds</u>
1. Add language restricting funds pending the confirmed resolution of four or more outstanding repeat audit findings.	
2. Adopt committee narrative requesting the provision of data regarding the use of mechanical restraints during transport and strip searches and progress on implementing proposed changes to existing policies and practices.	
3. Reduce funding for provider rate increases to allow for 1% growth.	\$ 363,689
Total Reductions	\$ 363,689

Updates

Improving Juvenile Services Education: As a means to address concerns regarding educational services for youth at DJS facilities, the fiscal 2017 budget included \$457,000 for DJS to improve educational facilities and \$2 million for the Maryland State Department of Education (MSDE) to hire 20 new positions for its Juvenile Services Education System (JSES) and provide turnover relief. However, vacancy rates have remained high for JSES. The General Assembly added budget bill language to the fiscal 2017 budget requiring reporting by MSDE and DJS, including how they were addressing concerns regarding DJS education services; information on contracts between DJS and private providers that deliver education services; and additional measures with which to evaluate JSES, with the intent that these measures be included in MSDE’s annual Managing for Results submission, but they were not submitted with the budget.

V00A – Department of Juvenile Services

V00A
Department of Juvenile Services

Operating Budget Analysis

Program Description

Functionally, the Department of Juvenile Services (DJS) is broken down into two major areas:

- ***Leadership Support*** – which is essentially headquarters operations that provide guidance and centralized services to the other part of the agency. It consists of two areas:
 - Office of the Secretary; and
 - Departmental Support, which includes functions such as human resources, capital planning, property management, procurement, information technology (IT), professional development and training, and professional responsibility and accountability (for example, audits, professional standards, and quality assurance).
- ***Residential, Community, and Regional Operations*** – which incorporates the actual delivery of services to youth in community and residential settings. A leadership division provides direction to regional operations and programs that are organized around six regions:
 - Baltimore City;
 - Central (Baltimore, Carroll, Harford, and Howard counties);
 - Western (Allegany, Frederick, Garrett, and Washington counties);
 - Eastern (Caroline, Cecil, Dorchester, Kent, Queen Anne’s, Somerset, Talbot, Wicomico, and Worcester counties);
 - Southern (Anne Arundel, Calvert, Charles, and St. Mary’s counties); and
 - Metro (Montgomery and Prince George’s counties).

The key goals of the department are public safety, juvenile offender accountability, and the development of a level of competency in juvenile offenders to reduce the risk of recidivism.

Performance Analysis: Managing for Results

1. Maryland Juvenile Arrest Data

Exhibit 1 presents Maryland juvenile arrest data for calendar 2011 through 2015. The data uses distinctions found in the *Uniform Crime Reports*. Part 1 arrests are those for murder, manslaughter, rape, robbery, felonious assault, breaking and entering, larceny theft, motor vehicle theft, and arson. Part 2 arrests are all other arrests, including offenses such as vandalism, drug abuse violations, weapon offenses, and fraud. The exhibit also distinguishes Part 1 arrests between violent and serious property crimes.

Exhibit 1
Juvenile Arrest Data (Ages 10 to 17)
Calendar 2011-2015

	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>% Change 2011-15</u>	<u>% Change 2014-15</u>
Total Arrests	35,219	29,987	28,048	24,230	22,497	-36.1%	-7.2%
Arrest Rate	5,733	4,922	4,639	4,000	3,722	-35.1%	-6.9%
Part 1 Arrests	11,096	9,397	8,905	8,379	7,391	-33.4%	-11.8%
Part 1 Arrest Rate	1,806	1,542	1,473	1,383	1,223	-32.3%	-11.6%
Part 1 Arrests							
a. Violent Crimes	2,227	1,900	2,064	2,089	2,099	-5.7%	0.5%
Violent Crime Rate	363	312	341	345	347	-4.2%	0.7%
b. Property Crimes	8,869	7,497	6,841	6,290	5,292	-40.3%	-15.9%
Property Crime Rate	1,444	1,231	1,131	1,038	876	-39.4%	-15.7%
Part 2 Arrests	24,123	20,590	19,143	15,851	15,106	-37.4%	-4.7%
Part 2 Arrest Rate	3,927	3,379	3,166	2,617	2,499	-36.4%	-4.5%

Note: Rates are per 100,000 juveniles, ages 10 through 17.

Source: U.S. Census; *Uniform Crime Reports*; Department of Legislative Services

Total arrests continue to decline dramatically. Compared to the number of youth arrested a decade ago, the 22,497 arrests in calendar 2015 are 54.9% below calendar 2004. Total juvenile arrests have now been consistently below 30,000 for four consecutive years, with the most recent year-over-year change of -7.2%. Accounting for any changes to the statewide juvenile population (all youth ages 10 through 17), which has fallen by 1.6% over the five-year period shown in Exhibit 1, the juvenile arrest rate per 100,000 youth has decreased 35.1% since calendar 2010.

Part 1 arrests declined 33.4% over the past five years, with property crimes decreasing at a considerably higher rate than violent crimes. In looking at the year-over-year change, the 11.6% reduction in the Part 1 arrest rate between calendar 2014 and 2015 is solely driven by a 15.7% decrease in the rate of property crime arrests. The arrest rate for violent crimes experienced a slight increase of 0.7%. This includes arrests for murder, rape, robbery, and felonious assault. The Part 2 arrest rate also declined by 36.4% between calendar 2011 and 2015, with the most recent year-over-year change being a 4.5% decrease.

2. DJS Complaint Totals and Complaint Disposition

Mirroring the trends in juvenile arrests, **Exhibit 2** reflects the dramatic decrease in the total number of complaints received by DJS over the past decade and the disposition of those cases. As shown in the exhibit:

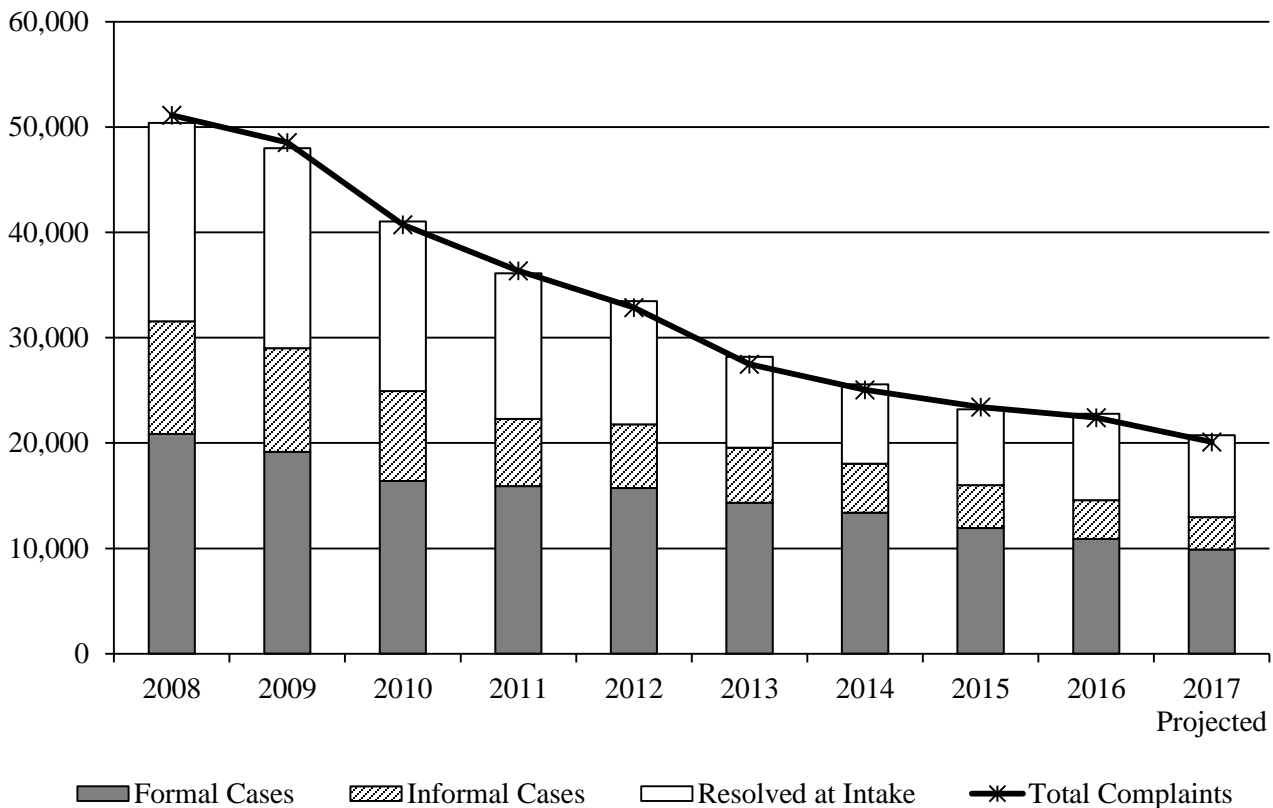
- DJS received approximately 22,400 complaints in fiscal 2016, equating to a 4.5% decrease from the previous year. The magnitude of the decrease has continued to slow down; however, fiscal 2017 projections, using data through the first six months of the current fiscal year, suggest that the downward trend will continue. The fiscal 2017 projection is that the department will receive slightly less than 20,100 complaints. Compared to a decade ago, when DJS handled over 51,000 complaints, total complaints have fallen by more than 56.0%.
- A larger percentage of the complaints received in fiscal 2016 did not require court intervention, compared to the prior year. Approximately 53.1% of the cases received in fiscal 2016 were either resolved at intake (36.6%) or referred for informal intervention (16.5%), compared to 48.2% in fiscal 2015. This growth is due to a 12.0% increase in cases resolved at intake, which also increased by 6 percentage points when considered as a proportion of total complaints. The number of cases that require some form of intervention but not court intervention (the informal caseload) continued to decline, falling by 10.3% from the prior fiscal year. The informal caseload has encountered a steady decrease over the past decade, when considered as a percentage of total complaints. In fiscal 2008, informal cases accounted for nearly 21.0% of all case dispositions, compared to 16.5% of all cases considered in fiscal 2016.
- The formal caseload, cases where court intervention is required, accounts for slightly less than half of complaints received (49.3%). The 9.5% decrease experienced in fiscal 2016 reduced total formal cases to 10,883, nearly half the formal complaints received a decade ago. Of those cases receiving a formal recommendation for court intervention in fiscal 2016, approximately

V00A – Department of Juvenile Services

26.0% received a probation disposition, and 8.3% received a committed disposition. These percentages have remained constant for the past five years, while commitments to DJS and the percentage of cases dismissed have decreased.

- In fiscal 2016, 74.0% of total complaints received were for male youth, with 26.0% accounted for by female youth.
- Complaints from the Central and Southern regions account for nearly 50.0% of all complaints received in fiscal 2016 (26.0% and 22.0%, respectively).

**Exhibit 2
Juvenile Complaint and Complaint Disposition
Fiscal 2008-2017 Projected**



Note: Total complaints typically vary from the sum of those resolved at intake and the informal and formal caseload. The difference relates to jurisdictional issues or when a decision is not recorded.

Source: Department of Juvenile Services

Placement Trends

3. Nonresidential Placement Trends

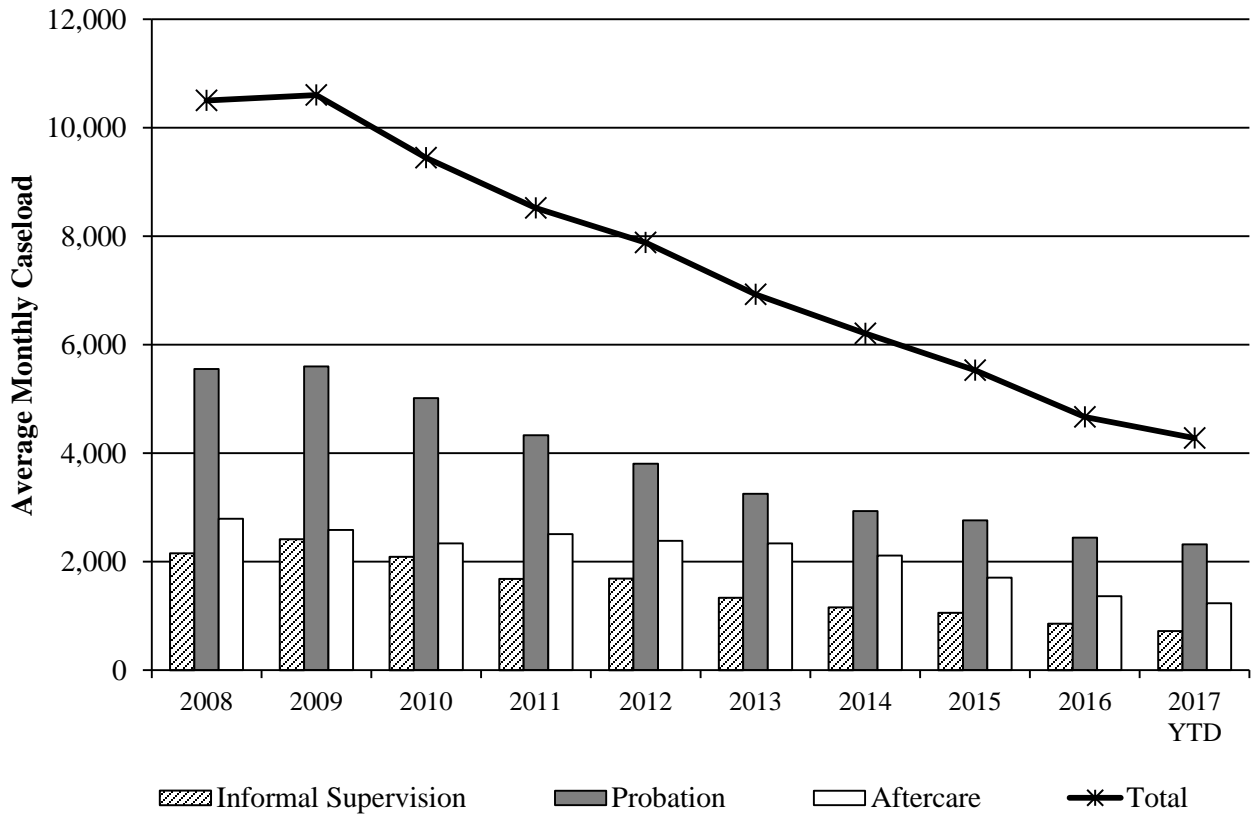
The nonresidential placement population includes youth who are receiving informal supervision, are on probation, or are in aftercare programming. Informal (or pre-court) supervision is an agreement between DJS and a youth and family to enter into counseling and/or DJS monitoring without court involvement. Youth on probation are receiving court-ordered supervision in the community that requires the youth to meet court-ordered probation conditions, which may include school attendance, employment, community service, restitution, counseling, *etc.* Aftercare programming provides supervision and individualized treatment services to youth in the community following discharge from a residential program.

As shown in **Exhibit 3**, nonresidential caseloads have been in decline for the past eight fiscal years, and fiscal 2017 year-to-date data suggests this trend will continue. Since the most recent peak in fiscal 2009, the average monthly caseload for nonresidential placements has fallen by nearly 6,000 cases, or 56%, with the greatest reduction occurring among the probation cases. In fiscal 2016, average monthly nonresidential caseloads for all case types totaled 4,668 cases. This reflects a decrease of nearly 16%, when compared to fiscal 2015.

Probation cases account for approximately 52% of the average monthly nonresidential caseload. Over the past decade, DJS has been utilizing informal supervision less, as proportionally these cases have decreased from 23% of total caseloads in fiscal 2009 to 18% in fiscal 2016. During that same time period, aftercare caseloads as a proportion of total nonresidential caseloads have grown from a low point of 24% to consistently accounting for at least 30% of total caseloads for the past five years.

The department has continued to realign its community supervision and case management staff to account for the declining populations but to also enhance the nonresidential services provided to DJS youth, in particular those services that support transition back to the community.

**Exhibit 3
Nonresidential Caseload Trends
Fiscal 2008-2017 Year-to-date**



YTD: year-to-date

Note: Fiscal 2017 data is through December 2016. Aftercare caseloads include youth in residential and community-based programs.

Source: Department of Juvenile Services

4. Secure Detention and Pending Placement Trends

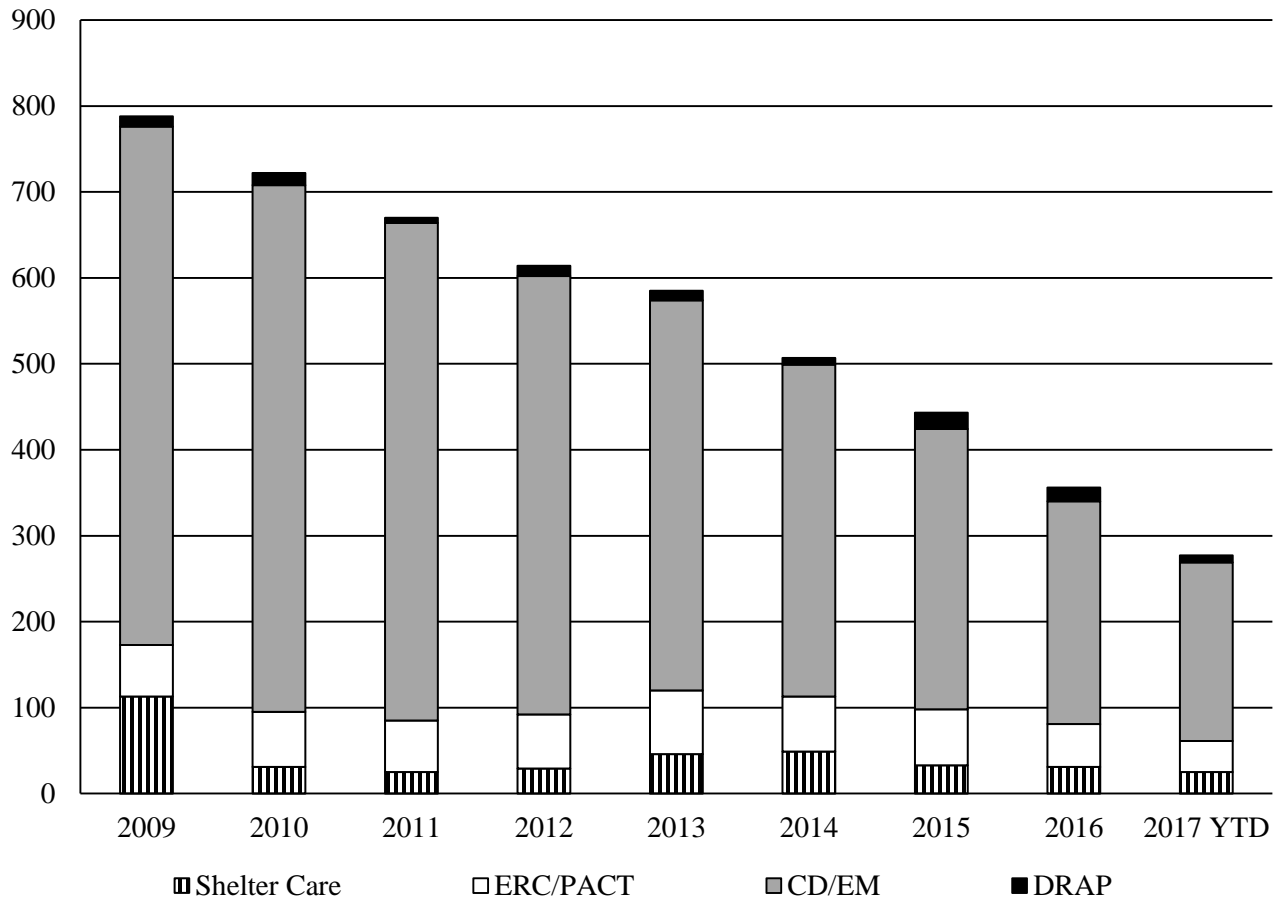
Youth who are in either pre-adjudication or pending placement status include those youth who receive services in the community as an alternative to detention (ATD), those who are awaiting adjudication in secure detention, or those who are pending placement in a secure detention facility (youth who have been adjudicated delinquent and are held in secure detention pending a permanent committed placement).

V00A – Department of Juvenile Services

ATD programming primarily includes shelter care, day and evening reporting center participation, and community detention/electronic monitoring. DJS also partners with private providers in Baltimore City to utilize additional alternative programs, such as the Pre-adjudication Coordination and Transition Center and the Detention Reduction Advocacy Program. **Exhibit 4** shows population trends by type of ATD since fiscal 2009.

- The use of ATDs peaked in fiscal 2009 with an average daily population (ADP) of 785 youth participating in an ATD program. Since fiscal 2009, the use of ATDs has been steadily declining. Between fiscal 2009 and 2016, the population of youth in ATD programming decreased by 55% to an ADP of 356 youth. Fiscal 2017 year-to-date data indicates that the downward trend will continue, with an ADP of 277 youth participating in ATD programming in the first six months of the fiscal year. Approximately 73% of youth who participate in ATD were on community detention/electronic monitoring in fiscal 2016. This reflects a decline from previous years, as DJS has increased the use of reporting centers and shelter care.
- As a percentage of the total population of youth either in an ATD program or in secure detention (pre-adjudication and pending placement), the ATD population accounted for 64% in fiscal 2016. This calculation excludes the population of youth who are detained in a DJS facility pending action from the adult court system. Preliminary data from fiscal 2017 indicates that this population continues to decrease to 60% of the overall population. **DJS should comment on the decline in the use of ATD programming, given the fact that increasing diversion efforts is a key goal of the department’s juvenile justice reform.**

**Exhibit 4
Alternative to Detention Programming
By Type of Program
Fiscal 2009-2017 Year-to-date**



CD/EM: Community Detention/Electronic Monitoring
 DRAP: Detention Reduction Advocacy Program
 ERC/PACT: Evening Reporting Center/Pre-adjudication Coordination and Transition Center
 YTD: year-to-date

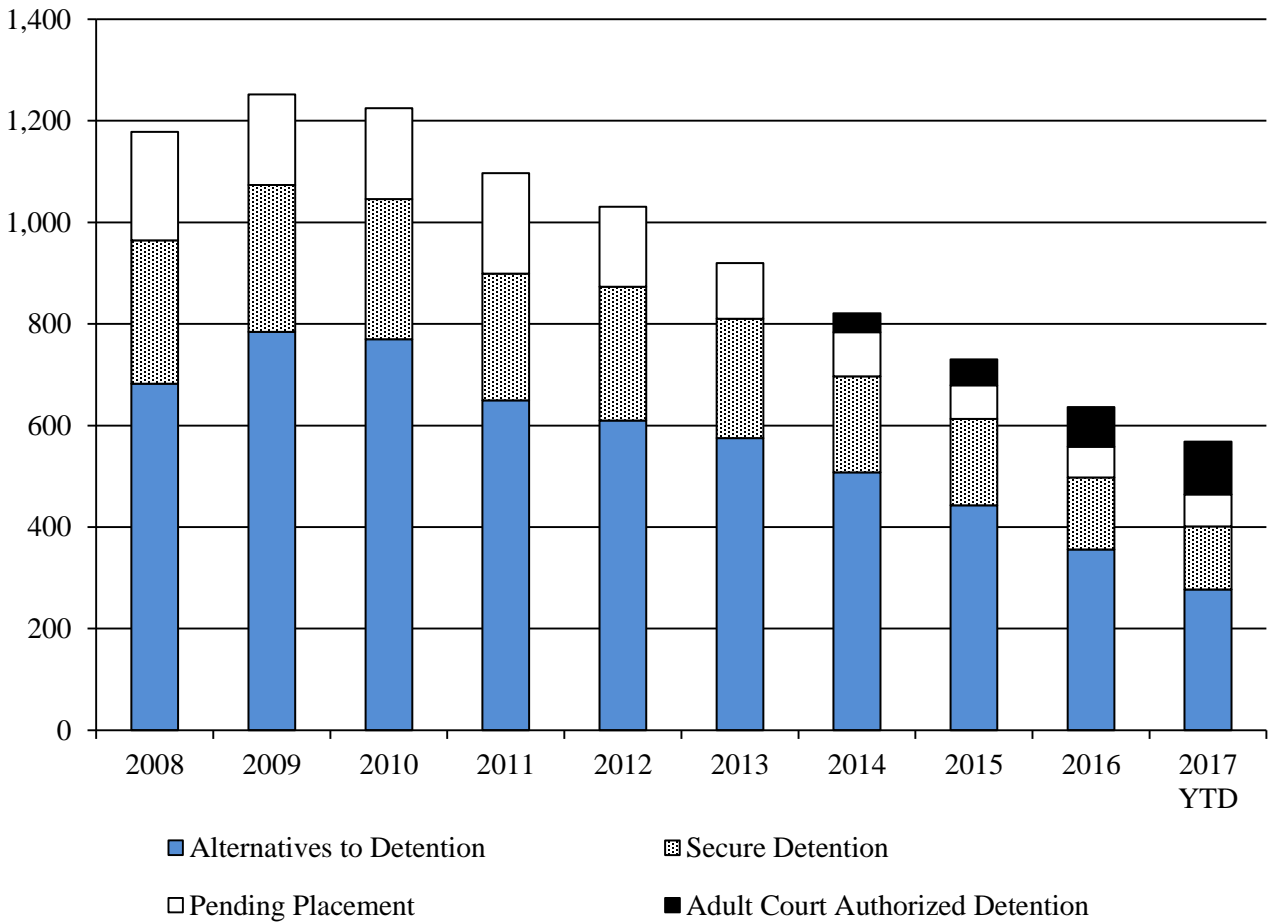
Note: Fiscal 2017 data is through December 2016.

Source: Department of Juvenile Services

Exhibit 5 shows the population trends for all youth held in DJS detention facilities since fiscal 2008. This includes pre-adjudicated youth in secure detention, those who are pending placement in a committed program, and those youth whose detention is authorized by the adult court system. As seen in the exhibit:

- The overall population of youth in DJS detention facilities has declined significantly since fiscal 2009, when the population of pre-adjudicated and pending placement youth exceeded 467 children. In fiscal 2016, the ADP of 280 youth includes 78 individuals awaiting action from the adult courts. Excluding this population, there were nearly 265 fewer youth detained in DJS facilities in fiscal 2016 compared to a decade ago, reflecting a 57% decrease since fiscal 2009. Comparing year-over-year change, the detention population decreased by 2% between fiscal 2015 and 2016, despite a nearly 35% increase in the adult court authorized detention population. Absent the youth-charged-as-adult population, the detention population declined by 15% in fiscal 2016. The ADP for all youth in detention in fiscal 2016 was at a historic low of 280 youth. The decrease is attributable to flow-through from the decline in referrals and formal cases, in addition to reductions in the pending placement population. Data through the first six months of fiscal 2017 suggests that the continued increase in the youth-charged-as-adult population will outpace reductions in the traditional DJS detention populations, resulting in a slight increase in the total ADP (4%).
- The ADP of pre-adjudicated youth held in secure detention fell below 200 for the first time in more than a decade in fiscal 2014, and that continues through the fiscal 2017 projections. In fiscal 2016, an average of 142 youth were held in secure detention while awaiting action from the juvenile court system. Compared to the peak of 289 youth held in secure detention in fiscal 2009, the pre-adjudication detention population has declined by nearly 51%. Preliminary fiscal 2017 data reflects a pre-adjudication ADP of 124 youth, an approximate decrease of 13% from fiscal 2016.
- The pending placement population has decreased in number as well as proportion, since fiscal 2008. Over the past decade, pending placement youth accounted for as much as 43% of the detention population. In fiscal 2016, however, the proportion of detained youth pending placement was slightly less than 30%. The fiscal 2016 pending placement ADP was 60 youth, marking the third consecutive year that the pending placement population was below 100 youth. This reflects a 10% reduction from the previous fiscal year. Data from the first six months of fiscal 2017 shows the pending placement population increasing slightly to an ADP of 63 youth.

Exhibit 5
Average Daily Population of Youth in DJS Detention Facilities
Fiscal 2008-2017 Year-to-date



DJS: Department of Juvenile Services

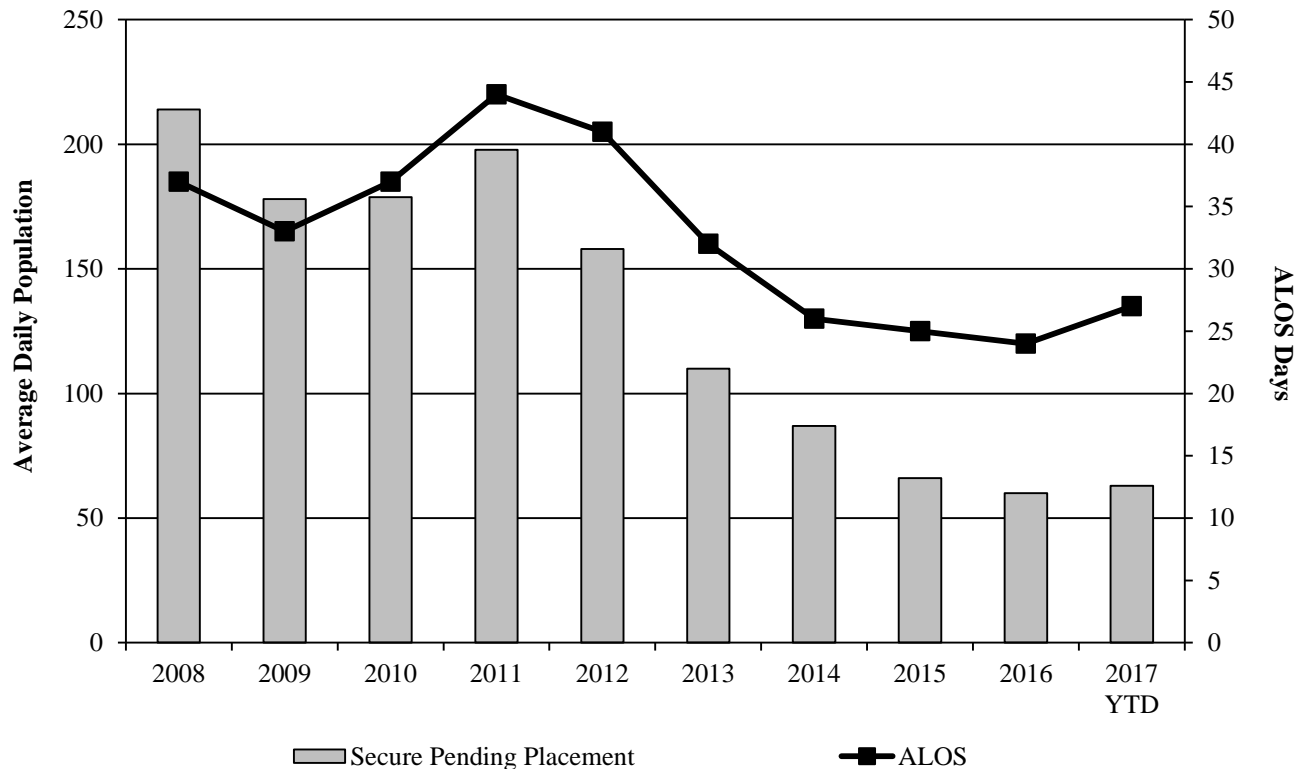
YTD: year-to-date

Note: Fiscal 2017 data is through December 2016.

Source: Department of Juvenile Services

- As shown in **Exhibit 6**, changes in the secure pending placement population are closely linked with trends in the average length of stay (ALOS). Between fiscal 2009 and 2011, when the ALOS for pending placement youth increased by 33%, the ADP increased by 11%. At that time, an ADP of 198 youth were held in detention facilities pending placement for an average of 44 days. Since fiscal 2011, the ALOS for pending placement youth has declined by 45% and the population by 70%. In fiscal 2016, an ADP of 60 youth were held pending placement for an average of 24 days. Both the ADP and ALOS increase slightly in fiscal 2017, to 63 youth and 27 days, based on data through the first six months of the fiscal year.

Exhibit 6
Pending Placement Population
Average Daily Population and Length of Stay
Fiscal 2008-2017 Year-to-date



ALOS: average length of stay
 YTD: year-to-date

Note: Fiscal 2017 data is through December 2016.

Source: Department of Juvenile Services

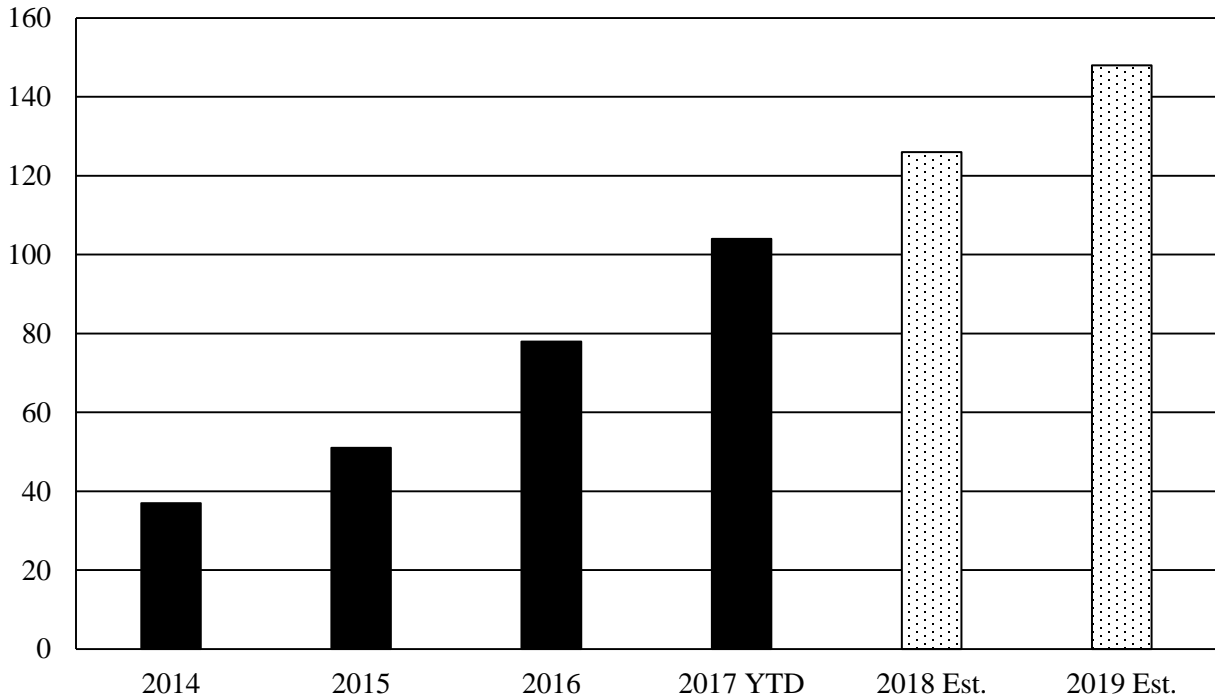
- The significant decline in the pending placement population since fiscal 2011 was largely attributed to legislation enacted by the General Assembly during the 2012 session. Chapter 198 of 2012 established provisions authorizing DJS to transfer youth between committed placements without court intervention. Prior to Chapter 198, if DJS believed that a facility with higher security than what was initially designated by the court was necessary, a juvenile had to be kept in detention until another court hearing could be scheduled to have the type of placement modified. During that time, the juvenile was not receiving the specific treatment services that may be required for rehabilitation. After receiving a two-year extension, the enacted legislation expired at the end of fiscal 2016, despite attempts by the department to repeal the sunset provision. DJS has indicated that the expiration of the provisions in Chapter 198 has not had a negative impact on the pending placement population. DJS, without the statute, retains the ability to move youth within the same level of care, which constitutes the majority of movements among programs. DJS has also worked with the courts to ensure youth who require a placement to a higher level of care receive a hearing quickly.

5. Adult Court Authorized Detention Population Trends

In fiscal 2014, DJS entered into an agreement with Baltimore City to have the department house qualified juveniles who have been charged as adults and who would otherwise be held in the city's adult pretrial detention center. During the 2015 session, the law regarding pre-transfer detention for youth charged as adults was amended to create a presumption that youth charged as adults should be held in a juvenile detention facility. Effective October 1, 2015, the court must order a youth charged as an adult who is eligible for transfer to the juvenile system to be held in a juvenile detention facility while pending that transfer decision unless (1) the youth is released on bail, recognizance, or other pretrial condition; (2) there is no capacity in the secure juvenile facility; or (3) the court finds that detention in a secure juvenile facility would pose a risk of harm to the child or others, and states the reasons for the finding on the record.

As seen in **Exhibit 7**, the adult court authorized detention population has increased significantly as a result of the Baltimore City agreement and subsequent legislation. In fiscal 2014, DJS had an ADP of 37 youth charged as adults held in its facilities. That number has increased to an ADP of 104 youth for the first six months of fiscal 2017, an increase of nearly 200%. Given the significant decreases in other DJS detention population, the department has been able to absorb this increase; however, the substantial growth in the adult court authorized detention ADP has begun to outpace these other population reductions, resulting in an overall increase in the detained ADP for the first half of fiscal 2017. Furthermore, DJS projections for this population reflect continued increases of 21% and 17% for fiscal 2018 and 2019, respectively. The projected population for fiscal 2018 is 126 youth.

Exhibit 7
Adult Court Authorized Detention
Average Daily Population
Fiscal 2014-2019 Est.



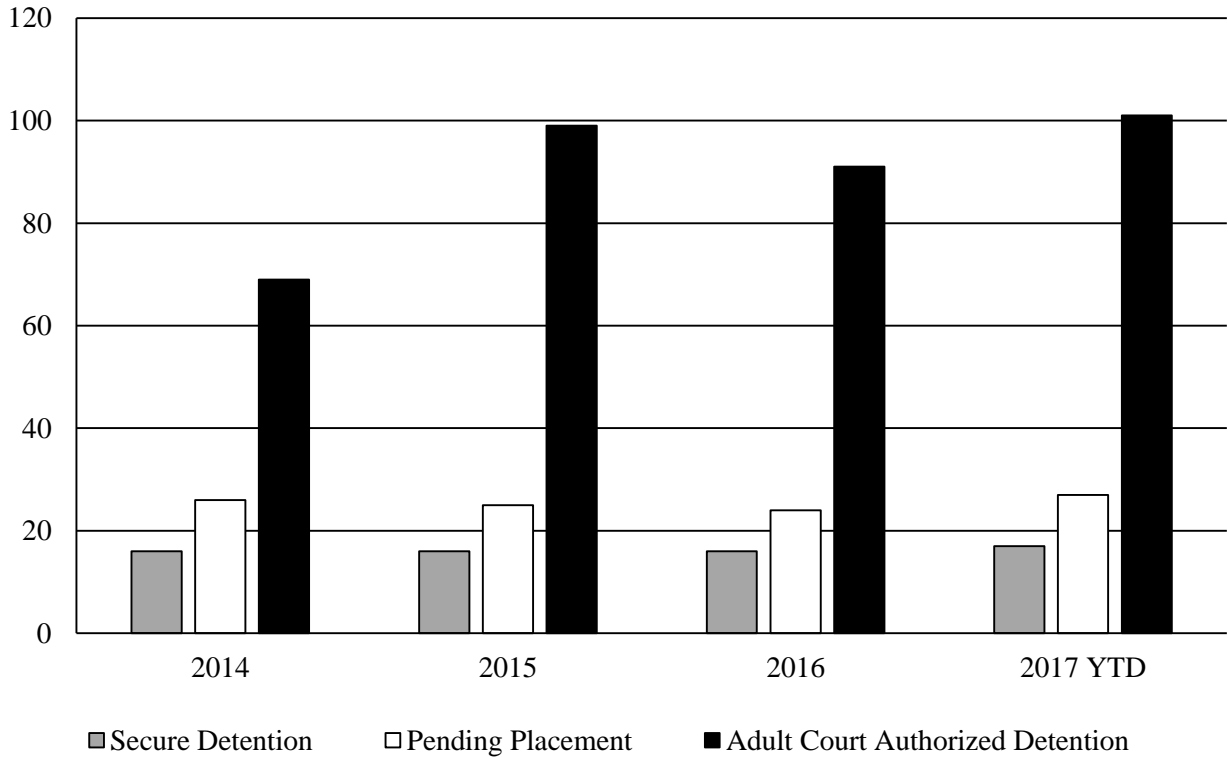
YTD: year-to-date

Note: Fiscal 2017 data is through December 2016.

Source: Department of Juvenile Services

In addition to impacting capacity, the youth-charged-as-adult population also impacts agency operations, in that these youth have a much longer ALOS, as evidenced in **Exhibit 8**. The average length of stay for a youth in secure (pre-adjudication) detention has been consistently 16 days for the past three fiscal years. With improvements to the pending placement population through the continuum of care process, DJS lowered the ALOS for pending placement youth to 24 days in fiscal 2016. The ALOS for the youth-charged-as-adult population, however, was at 91 days in fiscal 2016, which is more than two months longer than other populations.

Exhibit 8
Average Length of Stay for Youth in DJS Detention Facilities
Fiscal 2014-2017 Year-to-date



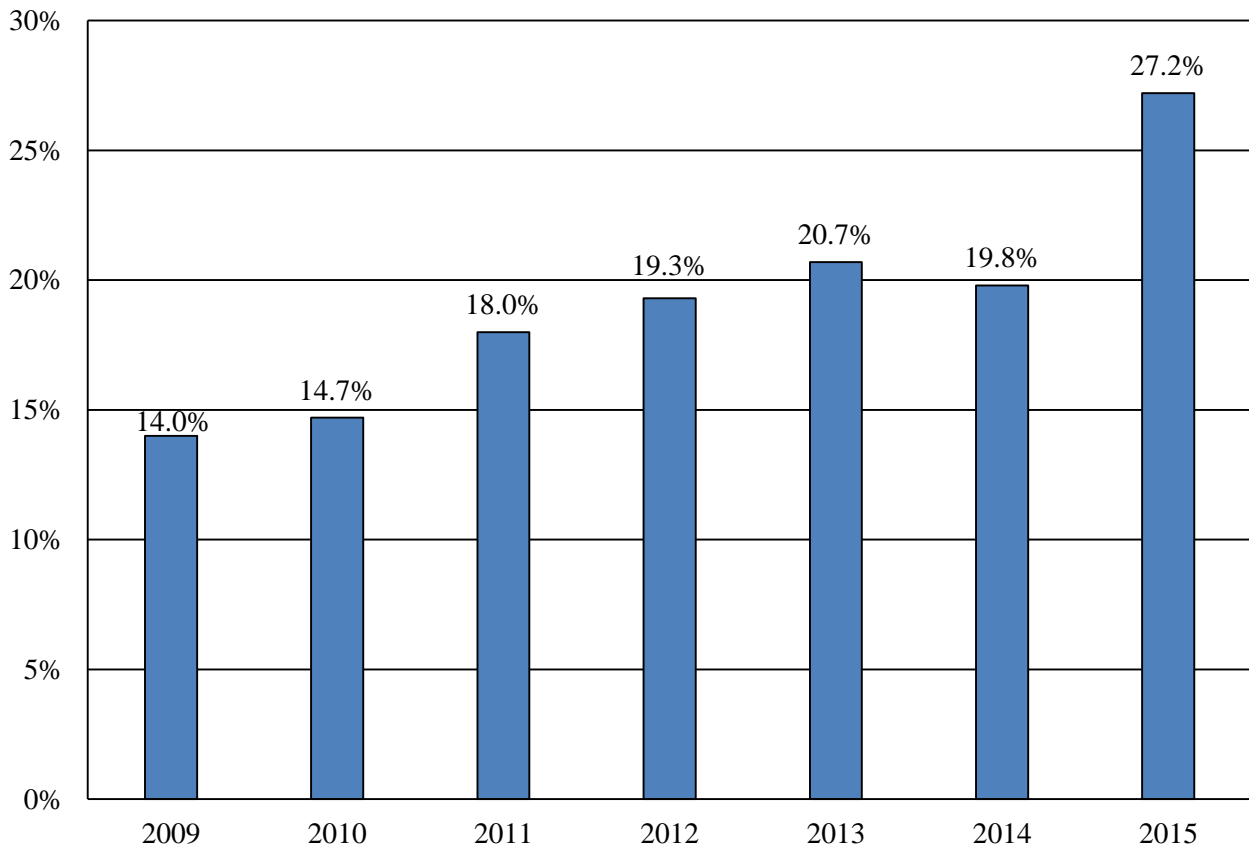
DJS: Department of Juvenile Services
 YTD: year-to-date

Note: Fiscal 2017 data is through December 2016.

Source: Department of Juvenile Services

It is likely that this increase in the number of youth detained in DJS facilities pending action from the adult court system will eventually have a similar impact on the department’s committed population. As **Exhibit 9** shows, the percentage of cases remanded to juvenile court increased significantly over the past seven years, by 94%, with the most significant increase occurring in fiscal 2015, after DJS began housing the youth-charged-as-adult population in its detention facilities.

Exhibit 9
Cases Remanded to Juvenile Court
Calendar 2009-2015



Source: Department of Juvenile Services

DJS should comment on how this population is being managed within the detention facilities, the potential impact to the committed population, and the unique resource needs of these youth. As will be discussed later in this analysis, the programming budget for the department is essentially level funded in fiscal 2018. DJS should comment on whether the increases in the adult court authorized detention population and the potential flow through to the committed population are accounted for in the fiscal 2018 budget.

6. Committed Population Trends

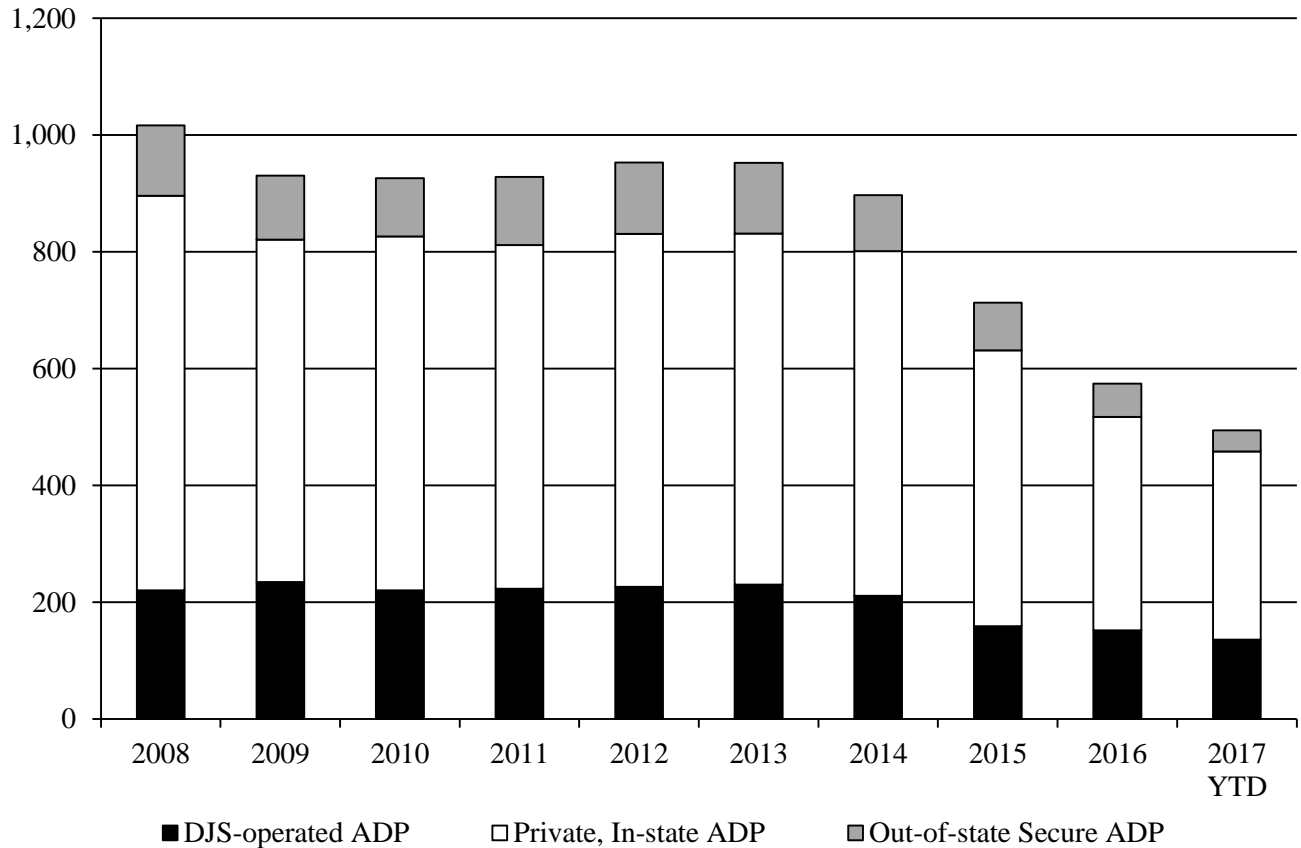
DJS has established three levels of residential program placements based largely on the level of program restrictiveness. Level I includes all programs where youth reside in a community setting and attend community schools. Level II includes programs where education programming is provided on grounds, and youth movement and freedom is restricted primarily by staff monitoring or supervision. Level III programs provide the highest level of security by augmenting staff supervision with physical attributes of the facility, *e.g.*, locks, bars, and fences. State-run committed residential facilities do not provide adequate capacity to accommodate the number of youth requiring out-of-home placements, nor do they provide the full complement of programming required to address the variety of treatment needs for the committed population. As such, DJS also contracts with private in-state as well as out-of-state vendors to provide services to committed youth.

Exhibit 10 illustrates the ADP of youth in all types of committed residential programs. The out-of-home committed population continued to decline in fiscal 2016, falling by 130 youth, which equates to a nearly 20% reduction. Compared to the most recent high of 952 youth placed out-of-home in fiscal 2013, the ADP has fallen by nearly 40%. In fiscal 2016, an ADP of 573 youth were in committed residential programs. Data through the first six months of fiscal 2017 shows a further decrease of nearly 14% to an ADP of 494 youth.

Of all youth in committed residential placements, nearly 93% remain in-state. This has not always been the case; in the early part of the current decade, nearly 13% of the committed population was placed in out-of-state programs compared to less than 7% for the first half of fiscal 2017. The expansion of the Silver Oak Academy, located in Carroll County, from 48 to 96 beds, is responsible for a significant portion of the reduction in out-of-state placements. It also contributed to the reduction in the pending placement population.

Nearly 71% of youth committed to in-state residential placements are placed in private per diem facilities (a mix of foster care, group homes, substance abuse, mental health treatment programs, residential treatment centers, and staff secure facilities). This has been consistent for the past decade, as the department has not made any additions to its residential capacity. A comparison of the fiscal 2016 per diem rates for State-operated facilities versus private providers would suggest that the use of private residential programming is an efficient use of State resources. The average per diem cost to operate the State-run committed facilities in fiscal 2016 was \$733 compared to \$274 for private per diem programs. In fiscal 2016, an average of 517 youth were committed to an in-state residential placement, with 365 of those youth placed in privately operated programs.

Exhibit 10
Committed Residential Population
Fiscal 2008-2017 Year-to-date



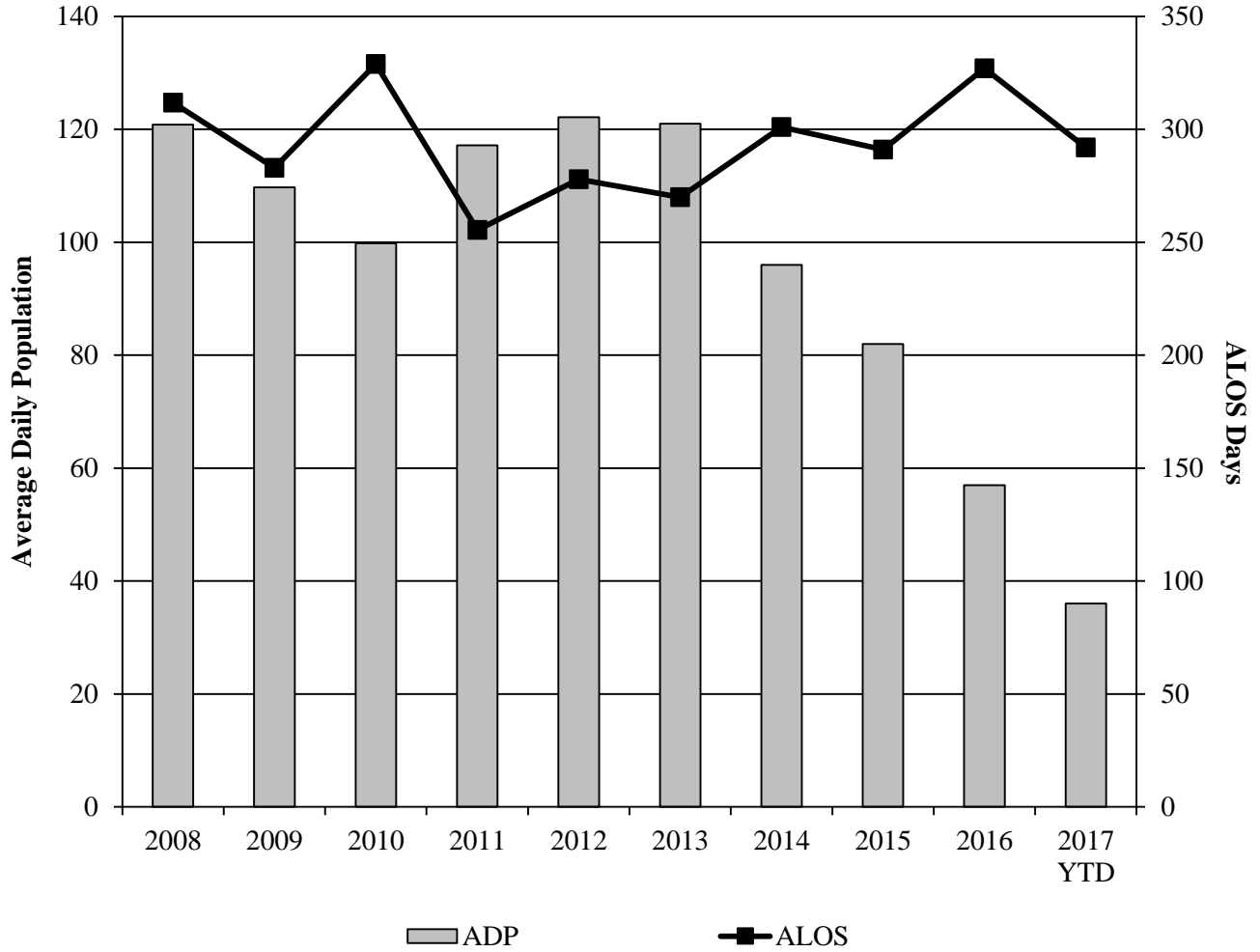
ADP: average daily population
 DJS: Department of Juvenile Services
 YTD: year-to-date

Note: Fiscal 2017 data is through December 2016.

Source: Department of Juvenile Services

The overall decline in all facets of the DJS population and the increased in-state capacity also has a demonstrated impact on the number of out-of-state placements, as shown in **Exhibit 11**. In an effort to reduce the pending placement population by placing youth in any appropriate committed program to begin treatment, regardless of the location, the out-of-state population increased from fiscal 2010 through 2013. Since fiscal 2013, the out-of-state population has declined by an ADP of 64 youth, or 53%. Preliminary data from fiscal 2017 shows a continued decline to a record low out-of-state ADP of 36 youth.

Exhibit 11
Out-of-state Committed Residential Population
Average Daily Population and Length of Stay
Fiscal 2008-2017 Year-to-date



ADP: average daily population
 ALOS: average length of stay
 YTD: year-to-date

Note: Fiscal 2017 data is through December 2016.

Source: Department of Juvenile Services

7. Recidivism Rates

Exhibit 12 presents recidivism rates for youth released from residential placements within two and three years. Recidivism is only one measure of the impact of a residential placement on a youth; however, it is a widely used measure. Recidivism includes returns to both the juvenile and adult criminal justice system and represents the fuller picture of recidivism for those older youth who age out of the juvenile justice system. Data reflects the most serious subsequent penetration of the juvenile or criminal system by a youth.

Exhibit 12
Recidivism Rates to the Juvenile Justice and Criminal Justice System for Youth Released from Residential Placements within Two and Three Years of Release
Fiscal 2012-2014

	2012		2013		2014	
	<u>2 Years</u>	<u>3 Years</u>	<u>2 Years</u>	<u>3 Years</u>	<u>2 Years</u>	<u>3 Years</u>
Rearrest Juvenile/Adult	64	71	62	70	61	
Readjudication/Conviction	34	40	33	39	30	
Recommitment/Incarceration	28	35	27	33	24	

Note: Beginning with fiscal 2012 data, the Department of Juvenile Services refined recidivism methodology to include only misdemeanor and felony offense toward the recidivism count.

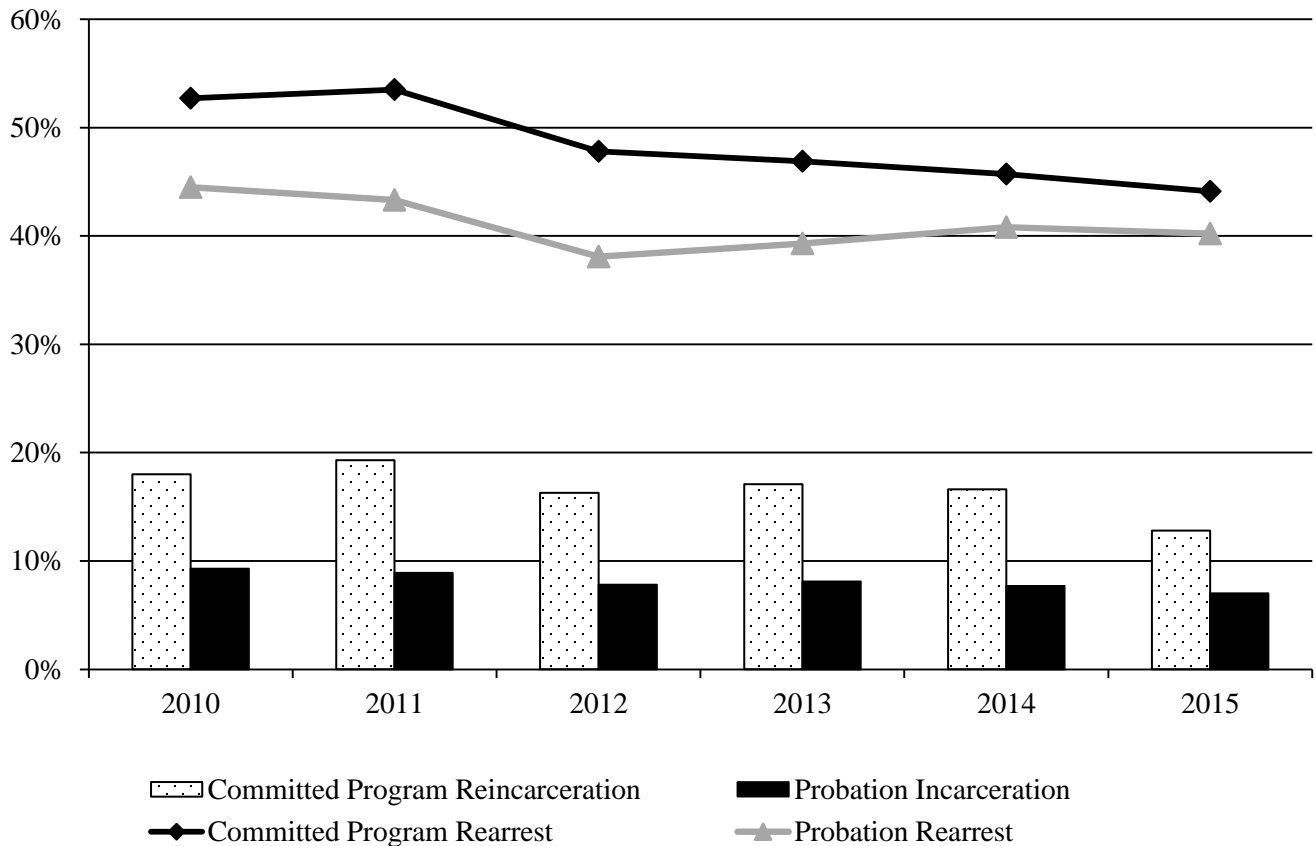
Source: Department of Juvenile Services; Department of Legislative Services

Beginning with fiscal 2012 releases, DJS has revised its recidivism methodology. First, the date used to report the event is now based on the date of offense (for juvenile offenses) or arrest (for adult charges), rather than the date of any resulting court decision or placement. Previously, the department used the date of court action or placement for reporting recidivism beyond the offense level. In addition, recidivism data now only includes misdemeanor and felony offenses. Technical violations, citations, and other nondelinquent referrals are no longer counted. As a result of these changes, recidivism data prior to fiscal 2012 is no longer comparable.

Over the three years reflected in Exhibit 12, all facets of the two-year recidivism rates have experienced a decrease, with the rate of recommitment/incarceration falling by 4 percentage points, to 24% of fiscal 2014 releases returned to commitment within two years. Three-year recidivism rates also declined between 2012 and 2013, with 70% of youth rearrested, 39% reconvicted, and 33% recommitted within three years of release.

Exhibit 13 illustrates the percentage of youth who are rearrested or incarcerated within 12 months of being released from a committed residential program or receiving services in the community via probation or a committed community placement. For the purpose of analyzing long-term trends, DJS recalculated one-year recidivism rates beginning with fiscal 2010 releases. Recidivism for the “probation” cohort is measured from the disposition date, as opposed to the release date for youth in committed residential placements. In addition, since youth on probation or in a community placement were not previously placed in a committed out-of-home program, the “incarceration” rate reflects the first commitment to an out-of-home placement or incarceration in the adult system.

Exhibit 13
One-year Recidivism Rate for Committed Program Releases and
Probation Placements
Fiscal 2010-2015



Source: Department of Juvenile Services, *Fiscal 2016 Data Resource Guide*

Youth released from committed residential programs are rearrested and reincarcerated at a higher rate than youth under supervision in the community. For fiscal 2015 releases, 44% of youth released from a committed residential placement were rearrested within 12 months of release versus 40% of youth placed on probation. Similarly, the one-year reincarceration rate for committed youth was 13% compared to 7% for probationers. Lower recidivism rates for youth on probation should be expected, as these youth often have less history of DJS involvement and are lower risk offenders.

Over the past six years, the 12-month reincarceration rate has fallen by 5 percentage points, reflecting a nearly 28% reduction in the rate of recidivism. In comparing year-to-year changes, recidivism rates by all measures have been generally declining since fiscal 2011, with fiscal 2015 having the lowest recidivism rates overall. In looking further, recidivism data reported by DJS in its *Data Resource Guide* indicates that males have a higher recidivism rate than females, and black youth had the highest rates for all recidivism measures. Not surprisingly, youth identified as higher risk according to the department's assessment tool also had higher recidivism rates for rearrest, reconviction, and reincarceration. In terms of recidivism by type of program, for fiscal 2015 releases, State-operated facilities had the highest rearrest rate, while youth released from residential treatment centers had the highest rate of reconviction and reincarceration.

Fiscal 2017 Actions

Proposed Deficiency

Fiscal 2017 general funds are reduced by approximately \$2.8 million, by way of a negative deficiency appropriation, to capture personnel and other operating savings resulting from lower than anticipated populations. Reductions are taken in the following areas: personnel (\$540,691), telecommunications (\$14,213), fuel and utilities (\$238,935), and residential per diems (\$2,009,375).

Cost Containment

On November 2, 2016, the Board of Public Works (BPW) adopted the Administration's proposed cost containment reductions. The general fund appropriation for DJS was reduced by \$9.1 million to reflect declines in the residential per diem committed population.

Section 20 Position Reduction

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 overall impact to the department was the loss of nearly \$1.6 million in general funds and 40 regular positions.

Proposed Budget

As seen in **Exhibit 14**, the fiscal 2018 allowance decreases by \$119,000 when compared to the fiscal 2017 working appropriation, after accounting for fiscal 2017 deficiency appropriations and the fiscal 2018 across-the-board contingent reduction to supplemental pension payments. Negligible changes in general and federal funds are reflective of the shrinking size of the department’s out-of-home populations. The special funds decline of \$625,000, or 16.2%, is primarily the result of population decreases impacting the amount of revenue anticipated from local jurisdictions to fund education services for youth in DJS residential care. The 5.1% decrease in reimbursable funds is due to less pass-through grant funding anticipated from the Governor’s Office of Crime Control and Prevention.

Exhibit 14
Proposed Budget
Department of Juvenile Services
(\$ in Thousands)

How Much It Grows:	<u>General Fund</u>	<u>Special Fund</u>	<u>Federal Fund</u>	<u>Reimb. Fund</u>	<u>Total</u>
Fiscal 2016 Actual	\$269,774	\$3,276	\$5,393	\$106	\$278,550
Fiscal 2017 Working Appropriation	272,372	3,864	4,837	247	281,320
Fiscal 2018 Allowance	<u>272,907</u>	<u>3,239</u>	<u>4,821</u>	<u>234</u>	<u>281,201</u>
Fiscal 2017-2018 Amount Change	\$535	-\$625	-\$16	-\$13	-\$119
Fiscal 2017-2018 Percent Change	0.2%	-16.2%	-0.3%	-5.1%	

Where It Goes:

Personnel Expenses

Overtime	\$1,418
Workers’ compensation premium assessment	775
Turnover adjustments	449
Other fringe benefit adjustments.....	-104
Accrued leave payout.....	-113
Increments and other compensation.....	-239
Employee retirement (less pension sweeper contingent reduction).....	-292
Abolished positions.....	-1,473
Employee and retiree health insurance	-2,062

V00A – Department of Juvenile Services

Where It Goes:

Programmatic Changes

Community-based behavioral health programs	1,113
Other contractual services (interpreter services, hair care/barber services, <i>etc.</i>)	992
Behavioral health services for State-operated facilities	177
Non-residential programming	15
Evaluation contracts	-30
Evidence-based services programming	-73
Residential per diems (accounting for fiscal 2017 negative deficiency)	-841

Other Changes

Janitorial services	755
Contractual employment	400
University of Maryland research and technical assistance	326
Food services	95
Other	-1
Motor vehicle costs	-196
LEA reimbursement for education services provided to youth in DJS facilities	-300
Consolidation of information technology services with DoIT	-351
Building/road repairs and maintenance	-559

Total **-\$119**

DJS: Department of Juvenile Services
 DoIT: Department of Information Technology
 LEA: local education agencies

Note: Numbers may not sum to total due to rounding

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. This agency’s share of these reductions is \$549,480 in general funds and \$7,798 in federal funds. This action is tied to a provision in the Budget Reconciliation and Financing Act of 2017.

Personnel Expenses

Personnel expenses decrease by a net \$1.6 million in fiscal 2018. A \$1.4 million (13.7%) increase over the fiscal 2017 working appropriation brings the allowance for employee overtime in line with fiscal 2016 actual expenditures. Total overtime funding provided in fiscal 2018 is \$11.8 million. Funding increases are also provided for workers compensation (\$775,000) and an improved budgeted turnover rate.

Twenty regular positions are abolished in the fiscal 2018 allowance, all long-term vacancies. Those positions have associated costs totaling nearly \$1.5 million. The abolished positions include 2 human resource positions, 2 youth transportation officers, 4 nurses, and 12 resident advisors. Although population declines would suggest the potential for facility staffing reductions, the most recent staffing analysis conducted by the department indicated the need for 105 additional direct care positions beyond its current regular position complement, after accounting for the reduced population. DJS staffing is further discussed in the Issues section of this analysis.

Programmatic Changes

In total, fiscal 2018 funding for residential- and community-based programs increases by nearly \$1.4 million. General fund spending totals \$57.5 million, a net increase of \$1.5 million (3.3%) when compared with fiscal 2017. This increase offsets a \$200,000 reduction in special funds collected from local education agency reimbursements, reflective of declines in the population of DJS youth receiving education services outside of the traditional school setting. Federal funds also decline by 11.7%, or \$305,000, due to lost Medicaid revenue and population declines.

The fiscal 2018 allowance includes funding increases for behavioral health services, interpreter services, and nonresidential programming. These increases are offset by reductions for residential per diems, evidence-based services, and court-ordered evaluations. The reductions in funding in the allowance reflects efforts to align the budget with actual expenditures and demand for program services.

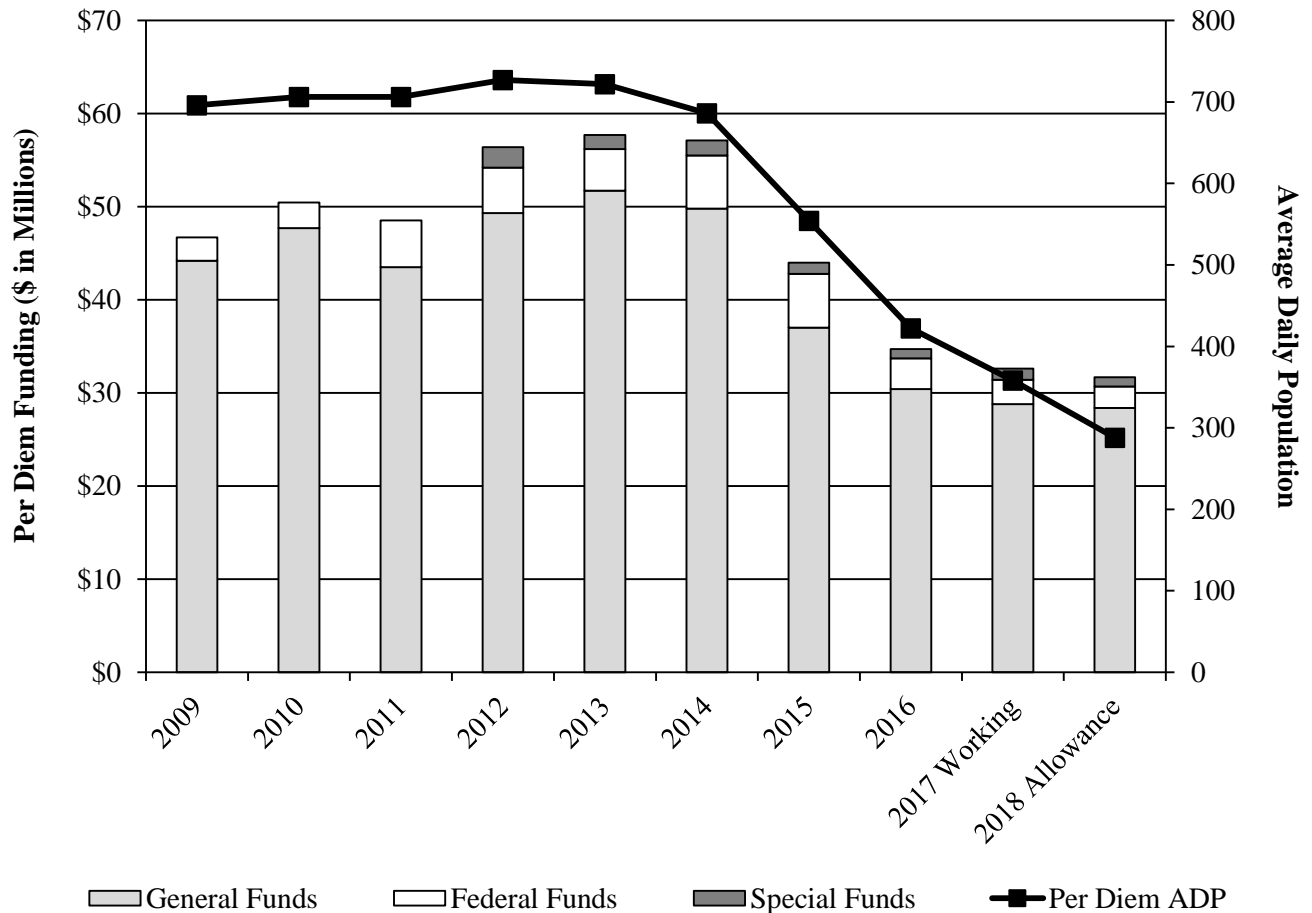
The most significant area of programmatic increase is an additional \$1.1 million provided for community-based behavioral health programs, mostly to support sex offender treatment services for youth in the community. The \$1.4 million provided in fiscal 2018 also provides a \$520,000 increase over fiscal 2016 actual expenditures. The increase is attributable to more youth being court-ordered to receive these treatment services.

Residential Per Diems

Exhibit 15 provides funding and population detail for residential per diem placements since fiscal 2009. In fiscal 2016, DJS spent slightly less than \$34.7 million to place an average of 422 youth in contractual residential programming each day. This reflects a 21% decrease compared to fiscal 2015, and a nearly 40% reduction from the most recent high of \$57.5 million in residential per diem expenditures in fiscal 2013. The fiscal 2017 working appropriation and fiscal 2018 allowance continue to reflect reductions in per diem funding; as all evidence suggests, DJS will continue to experience declines in out-of-home committed placements for at least the near future. After accounting for the

\$9.1 million cost containment reduction taken through BPW in November 2016 and the \$2.0 million fiscal 2017 negative deficiency, the fiscal 2018 allowance of \$31.7 million reflects a less than 3.0% decrease from the working appropriation.

Exhibit 15
Residential Per Diem Placement Funding and Per Diem Average Daily Population
Fiscal 2009-2018



ADP: average daily population
 DJS: Department of Juvenile Services

Note: Fiscal 2009 to 2017 data reflects ADP for all out-of-home committed placements. The fiscal 2018 allowance ADP reflects DJS funded placements only. A certain percentage of DJS out-of-home committed placements can be funded wholly through Medicaid or other sources.

Source: Governor’s Fiscal 2018 Allowance; Department of Juvenile Services

Other Significant Changes

Outside of personnel and programming services, the fiscal 2018 allowance provides additional funding for janitorial services (\$755,000), contractual employment (\$400,000), an interagency agreement with the University of Maryland (\$326,000), and food services (\$95,000). The additional janitorial funding is needed to improve facility hygiene at the Baltimore City Juvenile Justice Center and to provide a new service contract to maintain the new Cheltenham Youth Facility. The additional funding for full-time equivalents (FTE) reflects the inclusion of direct care employees hired as probationary FTEs in the September 2016 step increase approved as a means of improving the department's staffing. Funding for the interagency agreement increases to provide IT enhancements for after care/reentry programming, the Multi-disciplinary Assessment Staffing Teams staffing management system, and to create a detention service plan. DJS utilizes this agreement with the university to assist in enhancing case management practices, because the department does not have internal staff capable of handling the IT workload and demand.

Other significant funding reductions include a \$196,000 reduction in motor vehicle expenses, based on prior year actual expenditures. The allowance allows the department to purchase 32 replacement vehicles. Education funding collected from local jurisdictions that is passed through to the Maryland State Department of Education (MSDE) declines by \$300,000 due to population reductions. The fiscal 2017 consolidation of certain components of the department's IT services within the Department of Information Technology resulted in a \$351,000 decrease in IT-related funding for fiscal 2018. Finally, building and road maintenance costs decline by \$559,000, reflective of the completion of one-time repair projects in fiscal 2016 and 2017.

Issues

1. DJS Staffing Overview

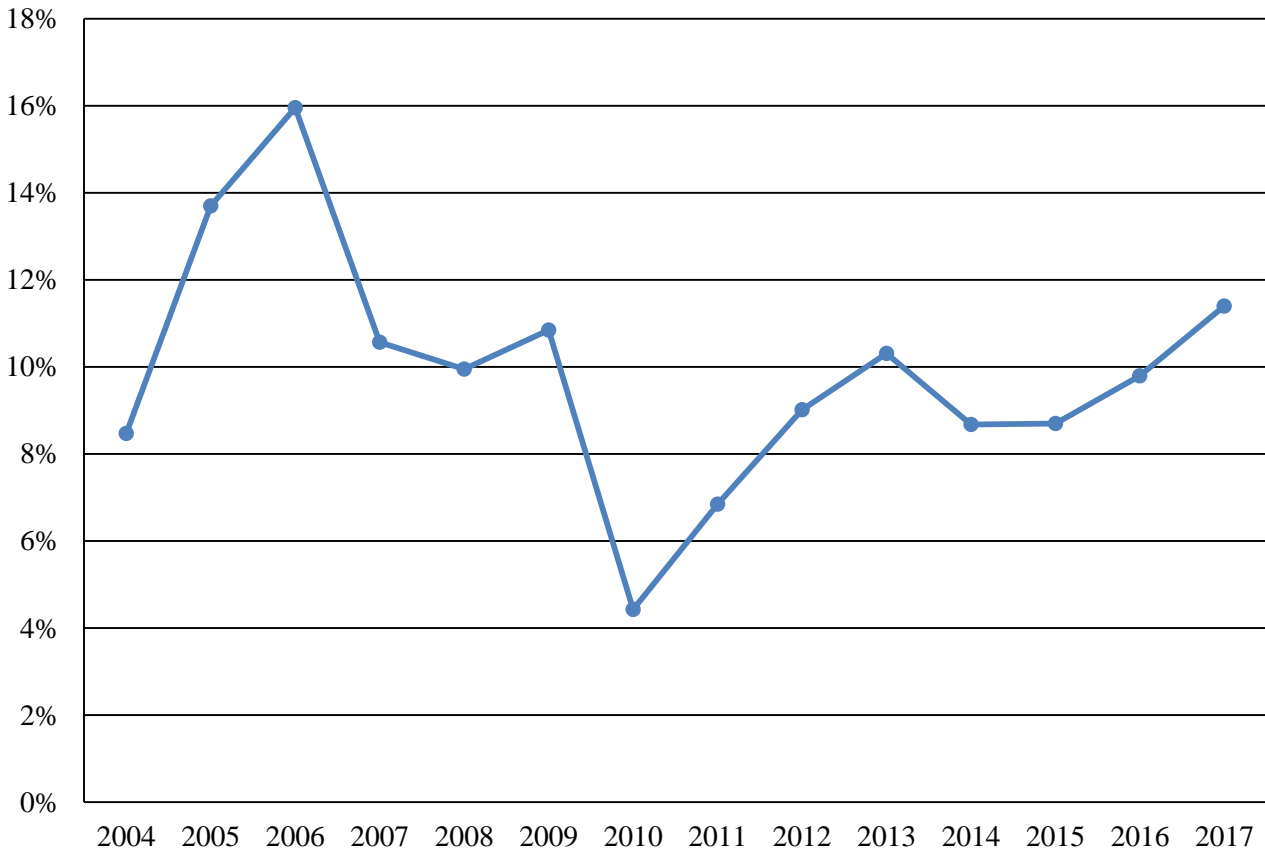
Over the past 15 years, DJS has lost a net of 112 regular positions, or over 5% of its regular workforce. The fiscal 2018 allowance eliminates an additional 20 vacant positions. In the most recent years, a number of the positions lost have been the result of cost containment actions. Historic population declines already evidenced in this analysis have allowed these reductions to occur without significant detriment to DJS operations. The department has also improved its ability to evaluate staffing needs and allocate positions for both facility direct care and community case management staff by using data-driven analysis tools. This has allowed DJS to adjust its position allocation based on workload and population demands. As is discussed in further detail below, these staffing tools have, in past years, identified an excess of staff positions allocated to community case management. Due to fiscal constraints, these positions have often been eliminated from the department's budget as opposed to addressing identified staffing needs in other areas.

DJS has also increased its use of contractual FTEs, primarily as a means of streamlining and expediting the hiring process for facility direct care staff. To improve recruitment and retention, DJS hires direct care staff via contractual employment for the first six months while the staff completes training and is acclimated to working in DJS' facilities. At the end of six successful months of service, the FTE is converted to fill an existing resident advisor vacancy.

Vacancy History and the Impact to Overtime

At the close of calendar 2016, DJS had 209 regular positions vacant, nearly 10.5% of its total personnel complement. This is approximately 66 positions more than what will be required to meet a fairly high budgeted turnover rate of 7.3% in fiscal 2018. As seen in **Exhibit 16**, the vacancy rate for the department at the start of each fiscal year has exceeded 8.0% since fiscal 2011, despite an 8.5% decrease in regular positions during that time period. High vacancy rates, particularly among facility direct care employees, have a number of negative consequences for the department, including increased overtime expenses and employee morale issues.

Exhibit 16
Departmental Vacancy Rate as of July 1
Fiscal 2004-2017

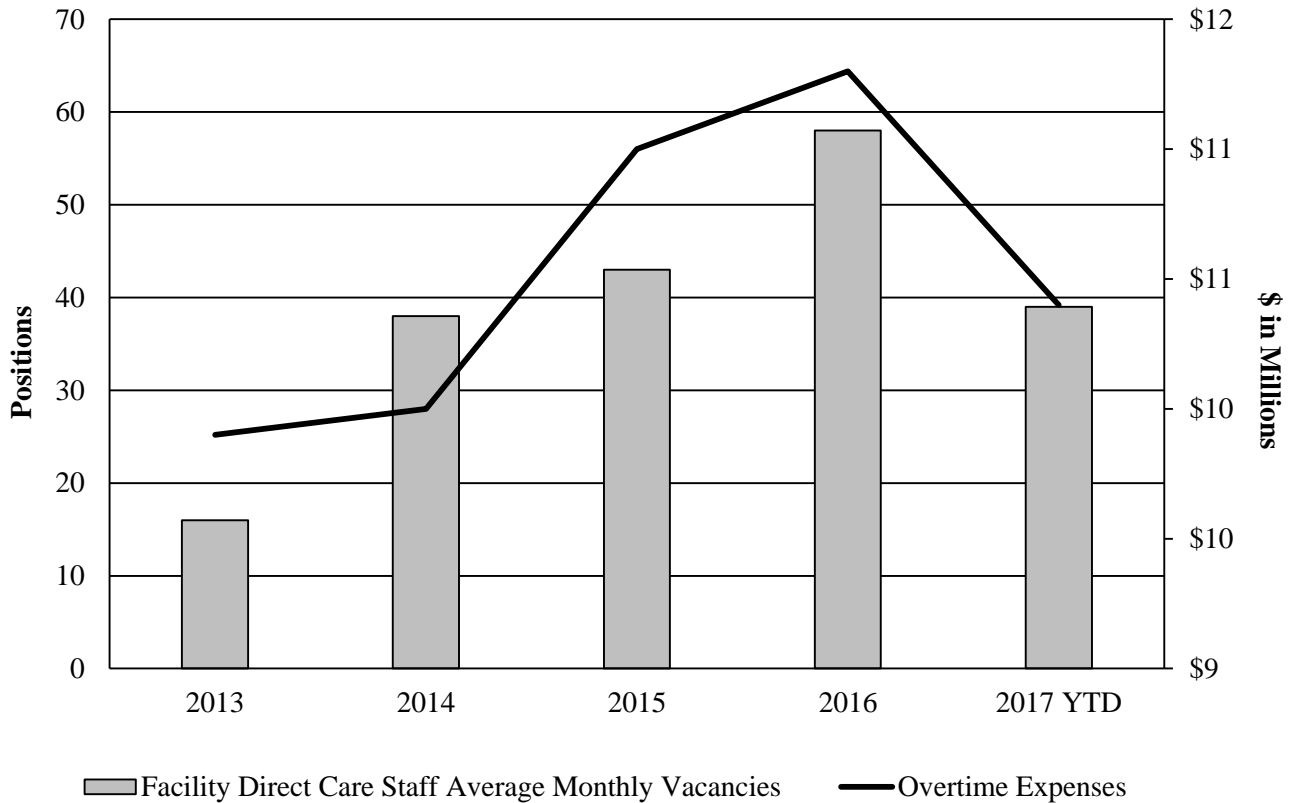


Note: Fiscal 2017 vacancy rate as of December 31, 2016.

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

Overtime costs for the department have exceeded \$10.0 million since fiscal 2014. **Exhibit 17** compares vacancy data for facility direct care employees to overtime expenses for the past five fiscal years. When direct care vacancies increase, overtime expenses rise as well. Between fiscal 2015 and 2016, the average number of direct care positions vacant each month increased by 34.8%, requiring an additional \$300,000 in overtime. Through the first six months of fiscal 2017, average monthly vacancies have fallen in line with fiscal 2014 levels, allowing for a similar decrease in overtime funding. Funding for employee overtime in fiscal 2018 reflects a \$1.4 million increase to bring the allowance in line with fiscal 2016 actual expenditures.

Exhibit 17
Facility Direct Care Staff Vacancies and Overtime Expenditures
Fiscal 2013-2017 Year-to-date



Note: Fiscal 2017 year-to-date reflects data through November 2016.

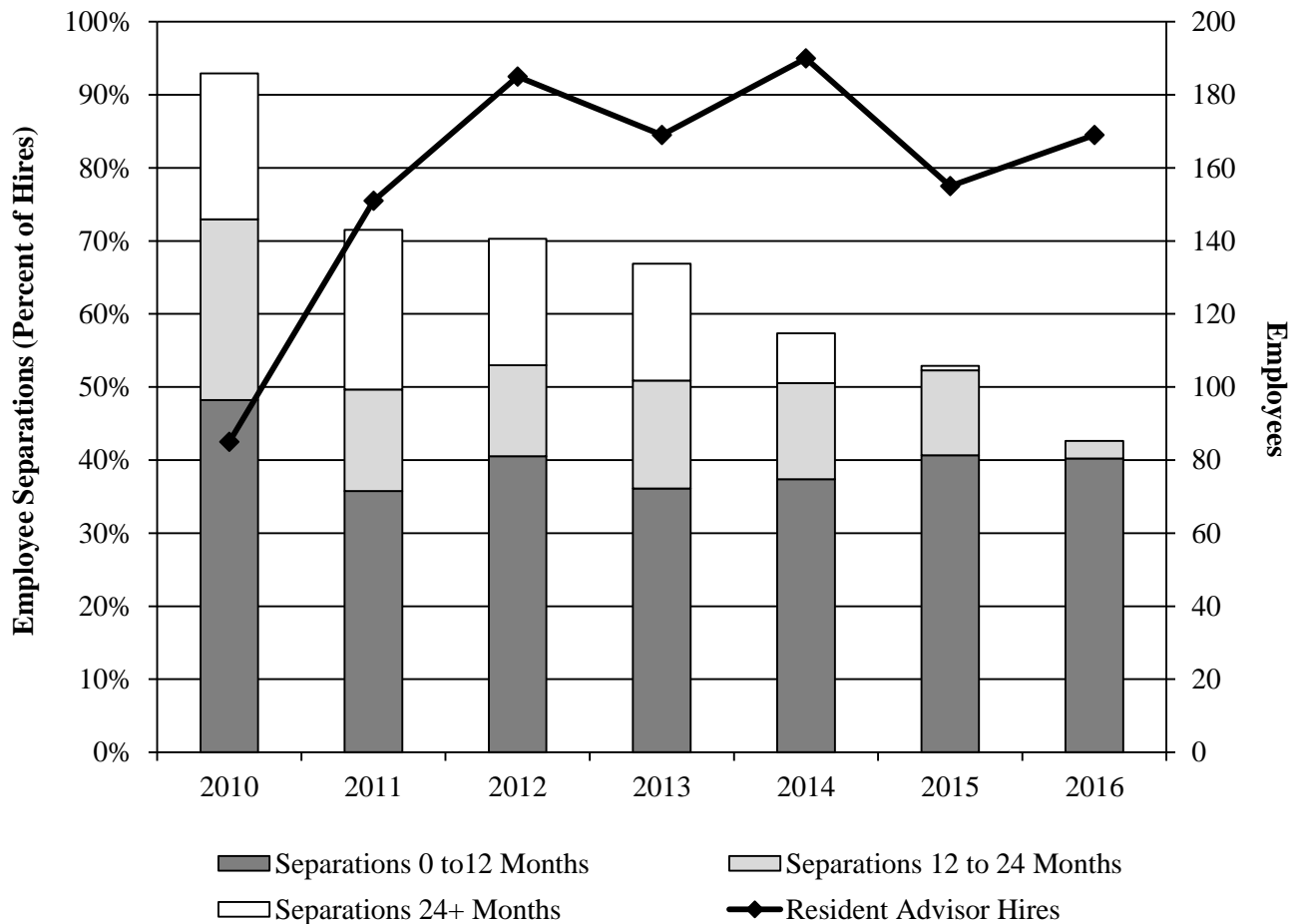
Source: Department of Juvenile Services

According to DJS, the current reported vacancy rate is somewhat deceiving. DJS utilizes some of the funding for regular positions to cover the costs of hiring contractual resident advisors for the initial six-month probationary period.

Recruitment and Retention

The high budgeted turnover rate the department operates under is indicative of ongoing issues with recruitment and retention. Through improvements in advertising and outreach, coupled with streamlining the hiring process and increasing the base salary for direct care staff, DJS has greatly improved its recruitment. Since fiscal 2010, new hires for resident advisor positions have nearly doubled. Unfortunately, as evidenced in **Exhibit 18**, the 12-month turnover rate for new hires continues to hover at or near 40% each year, suggesting that employee retention remains a problem.

Exhibit 18
Hiring and Attrition for Resident Advisor Positions
Fiscal 2010-2016



Source: Department of Juvenile Services

In fiscal 2015, DJS received funding to implement an increase to the base salaries for facility direct care staff in an effort to improve hiring and retention. The resident advisor position received a 1 grade increase to Grade 11, bringing the starting salary to \$32,364. New hires increased by 9.0% between fiscal 2015 and 2016. In September 2016, the department was granted permission to hire all resident advisor positions beginning at Grade 11, Step 4 (starting salary of \$37,280), as hiring had not improved sufficiently enough to positively impact facility overtime use. At this point in time, it is too soon to evaluate the impact of this most recent salary increase.

Staffing Analysis

Facility Direct Care Staff

In 2011, DJS conducted a comprehensive analysis of each State-operated facility to identify operational and administrative staffing deficiencies. The post analysis for direct care staff was determined based on the staff-to-youth ratio established at each facility, the physical plant design, the custody level of the youth, and the security classification of the facility. Staffing needs were also determined by using a relief factor calculation established for each region, based on calendar 2010 actual data. The analysis concluded at the time, that DJS needed an additional 173 positions to address all identified deficiencies at an estimated cost of \$4.7 million.

The population of youth in State-run detention and committed facilities has decreased considerably since the 2011 staffing analysis was completed. In total, the ADP of youth in State-run facilities has fallen by 36%, or 238 youth, since fiscal 2011. As such, the staffing need has also decreased.

DJS updates its staffing analysis on an annual basis using the prior year's employee leave data to recalculate the relief factor. The most recent analysis conducted by the department used 2015 leave data. The analysis identified the staffing need for each facility based on the facility capacity and the current ADP. In sum, if DJS were to operate all of its facilities at capacity, the department would be understaffed by 312 regular positions. Accounting for the use of contractual direct care staff and the declines in population, the current need is for 105 additional direct care positions. This is prior to the loss of 20 vacant positions in the fiscal 2018 allowance.

Community Case Management Staff

The population of youth under DJS supervision while in the community has been reduced by more than half (56%) since fiscal 2009. In 2012, DJS conducted a workload study of staffing needs for its community case management positions. With the already significant population declines experienced between fiscal 2009 and 2012, the workload study revealed that DJS was operating with an excess of 40 positions in its community case management function. In response to these findings, DJS reallocated positions throughout the department to address other staffing needs, primarily understaffing in the State-operated facilities.

As the community-based populations have continued to drop, community case management staffing needs have also lessened. The department was able to use the 2012 workload analysis model to develop a data-driven tool for continuously reevaluating staffing levels versus case management needs. The most recent analysis provided by DJS has indicated that staffing in this area is currently at 121% of the identified need, affording DJS the potential to reallocate positions to continue to address staffing concerns at the facilities.

Despite the identified issues with understaffing, recruitment, and retention, DJS has seen improvement in its operations, most notably among the one-year recidivism rates. The percentage of youth incarcerated within one year of release from a DJS committed program declined to 12.8% for youth released in fiscal 2015, compared to 17.1% for youth released in fiscal 2013.

DJS should comment on how the department’s current vacancy rate, after accounting for contractual resident advisors, compares to budgeted turnover for fiscal 2017 and 2018. The department should also discuss the issues driving the high attrition for resident advisor positions and what is being done to focus on improving employee retention. Finally, the department should comment on how the loss of 20 additional positions, despite an already existing shortage of 105 direct care positions, impacts departmental operations.

2. Departmental Policies on Shackling and Strip Searching Youth in Custody

The State’s Juvenile Justice Monitoring Unit (JJMU) has, on multiple occasions, drawn attention to the current policies and practices within DJS regarding the indiscriminate shackling and strip searching of youth within the juvenile justice system. In its *Fourth Quarter Report and 2015 Annual Review*, JJMU quotes the Maryland Judiciary in noting that shackling “can be traumatizing and contrary to the developmentally appropriate approach to juvenile justice.” During the 2016 session, the General Assembly also expressed concern with the department’s current policy of shackling children in certain facilities during transportation to and from court hearings, medical and educational appointments, and earned home passes, without any individualized determination of risk. Additionally, the legislature and JJMU have been deeply troubled by the department’s policy of routinely strip searching children, regardless of whether there is an individualized or reasonable suspicion that they are concealing something potentially harmful. These concerns resulted in the addition of restrictive language to the fiscal 2017 budget withholding \$1 million from the department pending receipt of a report on the issue and the enactment of Chapter 655 of 2016 establishing the Task Force to Study the Restraint, Searches, and Needs of Children in the Juvenile Justice System.

Response to the 2016 Joint Chairmen’s Report

In response to the budget bill language, DJS provided an explanation of its policies for employing the use of mechanical restraints and visual body searches and noted several actions being undertaken to address the legislature’s concerns. For security purposes, DJS did not provide copies of the standard operating procedures used to implement the written policies. The department was also unable to provide incident or age data for youth who received a visual body search or were placed in mechanical restraints during secure transport. As a result, the committees released half of the \$1 million in restricted general funds in August 2016 and continue to withhold the remaining funds pending the collection of data by DJS regarding the frequency, age range, and reason for employing mechanical restraints and visual body searches of youth in custody. A resubmission of the data collected for September 2016 through March 2017 is anticipated no later than April 5, 2017.

Task Force Findings

The Task Force to Study the Restraint, Searches, and Needs of Children in the Juvenile Justice System began meeting in September 2016, with meetings occurring every two weeks. Discussion topics at the meetings included a review of current DJS policies and procedures for shackling and strip searching youth, reviews of policies in other states, and expert presentations and witness testimony on the impact that shackling and strip searches have on youth. A final report with over 20 recommendations was submitted December 31, 2016.

Exhibit 19 provides a summary of the recommendations made by the task force pertaining to the use of strip searches and mechanical restraints. In addition to these recommendations, the task force recommended that youth under the age of 13 should not be admitted to secure detention, that compensation levels for DJS employees be reviewed to improve recruitment and retention, and that all DJS policies be made public.

Exhibit 19 Summary of Task Force Recommendations

Strip Search Recommendations

1. Youth in the Department of Juvenile Services (DJS) custody shall not be strip searched, except upon admission to a detention or hardware secure facility, unless there is an articulated, reasonable suspicion of certain types of contraband; and the search has been approved by facility management. Currently, all youth are strip searched upon admission to any DJS-operated facility or following contact with the public.
2. Youth in detention shall not be strip searched upon admission if detained for certain reasons: failure to appear, children in need of supervision complaint, status offense, traffic violations, or a parent is unable/unwilling to take custody of the youth.
3. While being strip searched, youth must be provided a disposable paper gown.

Strip Search Recommendations (Cont.)

4. DJS should utilize graduated search procedures when suspicious of contraband prior to employing a strip search.
5. DJS shall collect data regarding the circumstances, frequency, and outcomes of strip searches and report to the General Assembly by December 31, 2017, regarding implementation of the task force recommendations.

Mechanical Restraints Recommendations

1. DJS must evaluate the potential for creating a nonsecure transportation unit to ensure that youth are not unnecessarily placed in mechanical restraints during transport. Currently, DJS operates one transportation unit that only provides secure transport.
2. DJS should work with private providers to transition nonsecure transportation services to the provider.
3. DJS should develop procedures for out-of-state transports to consider risk factors specific to the individual youth when determining the necessity and extent to which mechanical restraints are used.
4. DJS should eliminate the use of secure transports for youth on earned home passes or being released to the community.
5. Mechanical restraints should not be utilized for longer than eight hours, with a five minute period of nonrestraint provided for every four hours a youth is restrained.
6. Youth in mechanical restraints must always have a free hand when using the restroom.
7. Consistent with State law, DJS shall not use mechanical restraints for convenience or discipline.
8. DJS should evaluate the use of video conferencing for court hearings to mitigate the need for secure transport.
9. DJS should collect data on the use of mechanical restraints during transport and report to the General Assembly by December 31, 2017, on implementation of the task force recommendations.

Source: *Report of the Task Force to Study the Restraint, Searches, and Needs of Youth in the Juvenile Justice System*; Department of Legislative Services

In response to the concerns raised by the legislature and the recommendations made by the task force, DJS has committed to make the following alterations to its policies regarding the use of strip searches:

- DJS will provide youth with a disposable paper gown when conducting a visual body search;
- DJS will no longer conduct strip searches following attorney and family visitation, unless there is an articulated reasonable suspicion that the youth is in possession of contraband;

V00A – Department of Juvenile Services

- youth will no longer be strip searched upon re-admission to a facility, so long as the youth has remained under the direct and continuous supervision of the department; and
- DJS will clarify procedures to direct staff to utilize a graduated approach when conducting a reasonable suspicion search.

The department has also committed to implementing nearly all of the recommendations pertaining to the use of mechanical restraints during transport, with the exception of limiting the total time in restraint to eight hours.

DJS anticipates implementing a majority of the changes by March 2017, with all other changes implemented by the start of fiscal 2018. Certain aspects of the recommendations will have a potential fiscal impact, such as the department's intended use of pan and zoom cameras to mitigate security risks during visitation, the expanded use of video conferencing, and the potential creation of a second transportation unit. No additional funding is provided in fiscal 2017 and 2018 to assist with the implementation of the task force recommendations. **DJS should comment on the potential fiscal impact of the agreed upon policy changes and whether those changes can be accommodated within the department's existing appropriation.**

Several pieces of legislation related to the task force recommendations have been introduced during the 2017 session. HB 1256 and SB 982 closely align with the recommendations pertaining to limitations on strip searches. HB 1255 and SB 981 closely align with the recommendations pertaining to the use of mechanical restraints. HB 928 and SB 907 would permit the use of video conferencing in juvenile hearings. In addition, HB 853 and SB 904 prohibit continued detention for youth under 13 unless the youth is charged with a crime of violence. DJS had sponsored SB 5, which similarly, prohibited detention for youth under the age of 12; however, that legislation was unfavorable. **DJS should comment on the extent to which legislation is necessary to successfully implement recommended changes to the use of strip searches and mechanical restraints.**

The Department of Legislative Services (DLS) recommends adopting committee narrative requesting DJS to provide an update on the status of implementing changes to the use of strip searches and mechanical restraints for youth in the department's custody. In addition, DJS should be asked to report data consistent with the recommendations of the task force.

Recommended Actions

1. Add the following language to the general fund appropriation:

, provided that since the Department of Juvenile Services (DJS) has had four or more repeat findings in the most recent fiscal compliance audit issued by the Office of Legislative Audits (OLA), \$50,000 of this agency’s administrative appropriation may not be expended unless:

- (1) DJS has taken corrective action with respect to all repeat audit findings on or before November 1, 2017; and
- (2) a report is submitted to the budget committees by OLA listing each repeat audit finding along with a determination that each repeat finding was corrected. The budget committees shall have 45 days to review and comment to allow for funds to be released prior to the end of fiscal 2018.

Explanation: The Joint Audit Committee has requested that budget bill language be added for each unit of State government that has four or more repeat audit findings in its most recent fiscal compliance audit. Each agency is to have a portion of its administrative budget withheld pending the adoption of corrective action by the agency and a determination by OLA that each finding was corrected. OLA shall submit reports to the budget committees on the status of repeat findings.

Information Request	Author	Due Date
Status of corrective actions related to the most recent fiscal compliance audit	OLA	45 days before the release of funds

2. Adopt the following narrative:

Use of Mechanical Restraints and Strip Searches: In response to concerns from the General Assembly, the Department of Juvenile Services (DJS) has agreed to implement a number of the recommendations made by the Task Force to Study the Restraint, Searches, and Needs of Children in the Juvenile Justice System. The budget committees request that DJS provide the following information by December 1, 2017:

- an update on the progress made in implementing those recommendations;
- data on the use of strip searches pertaining to the circumstances, frequency, and outcomes for searches conducted in fiscal 2017;

V00A – Department of Juvenile Services

- data on the number of times that youth are transported in mechanical restraints from a staff secure placement, while being released on an earned home pass, or released back to the community; and
- an evaluation of the potential for creating a nonsecure transportation, including both the fiscal and operational impact.

Information Request	Author	Due Date
Use of restraints and strip searches	DJS	December 1, 2017

	<u>Amount Reduction</u>
3. Reduce funds budgeted for a provider rate increase. The fiscal 2018 allowance includes funding for a 2% provider rate increase for providers who have rates set by the Interagency Rates Committee. However, inflation is low and the fiscal 2018 budget does not include increases for State employees and level funds many mandated grants to local governments. This action allows for a 1% increase in provider rates for residential and nonresidential programs.	\$ 363,689 GF
Total General Fund Reductions	\$ 363,689

Updates

1. Improving Juvenile Services Education

As a result of legislation enacted by the General Assembly in 2003, MSDE began the process of assuming responsibility for the provision of education services to all State-operated DJS detention and committed-care facilities in fiscal 2005. The last of 14 facilities were transferred in fiscal 2013. The assumption at the time that the legislation was enacted was that MSDE, being the overseer of education services for the State, was better positioned to ensure the provision of adequate education services to the population of youth under the care of DJS. With the takeover of each facility under its Juvenile Services Education System (JSES), MSDE repeatedly indicated that additional resources were needed to improve the delivery of education services to DJS youth. As a means to address this, the fiscal 2017 budget included \$457,000 for DJS to improve educational facilities, and \$2 million for MSDE to hire 20 new positions and provide turnover relief.

The General Assembly added budget bill language to the fiscal 2017 budget requiring reporting by MSDE and DJS, including how they were addressing concerns regarding the quality of education services being provided to DJS youth; information on contracts between DJS and private providers that deliver education services; and additional measures with which to evaluate JSES, with the intent that these measures be included in MSDE's annual Managing for Results (MFR) submission.

Addressing Concerns

MSDE and DJS provided the following information in response to the reporting requirements.

- **Postsecondary, Vocational, and Work Opportunities:** Currently, students residing at Backbone Mountain Youth Center, Green Ridge Youth Center, Savage Mountain Youth Center, and Meadow Mountain Youth Center who have obtained a high school diploma are able to participate in postsecondary courses provided through Garrett College. JSES has recently developed a new partnership with Frederick Community College to offer online college courses scheduled to begin in spring 2017 for students residing at Victor Cullen and is in discussion with Chesapeake College to finalize a similar partnership for students at the J. DeWeese Carter Center. All JSES schools provide coursework in career research and development, six offer an office systems management series, and three offer construction trades professions. The certificates that students are able to earn at the various JSES schools are available in the report.
- **Grouping Classes:** MSDE and DJS have jointly determined that most youth in DJS detention facilities will be grouped in classes by living units due to their short-term length of stay. Currently, youth are grouped by skill level at the Green Ridge Youth Camp and Carter Center.
- **High Vacancy Rates:** High vacancy rates and a lack of substitute teachers to fill long-term vacancies have been persistent problems for JSES. MSDE has implemented a plan for \$3,000 recruitment/retention incentives for all JSES teachers and principals. This plan

V00A – Department of Juvenile Services

estimated to spend \$60,000 to recruit 20 staff members and provide \$327,000 to the 109 filled teaching and principal positions on staff at the time of the announcement. However, vacancy rates have remained high for JSES teachers, with a vacancy rate of 16%, or 18 positions, as of January 2017. In regard to substitute teaching, MSDE reports that it is in the procurement process with a vendor to provide services to fill long-term vacancies, with implementation for these services scheduled for spring 2017.

- **Space Limitations:** MSDE reports that of the 13 DJS facilities, 7 provided adequate space with no space limitations, 4 reported being in the process of providing new facilities, and 2 (Lower Eastern Shore Children’s Center and Western Maryland Children’s Center) reported having no available space to expand.
- **Adherence to Individualized Education Programs:** JSES has instituted comprehensive monitoring, staff supports, and effectiveness reviews in order to ensure that professional learning practices are consistent with the Individuals with Disabilities Education Act. MSDE reports that all special education complaints from calendar 2014 through 2016 have been closed.
- **Tuition Assistance:** MSDE has been in conversations with the University of Maryland and the Maryland Higher Education Commission about assistance programs for students who commit to teach in JSES facilities and about possibilities for research about such programs.
- **Recordkeeping:** The report states that JSES, DJS, and local education agencies maintain regular contact in order to assist youth while they are detained in the DJS facility as well as upon their release and provides a description of training undertaken by JSES and DJS staff, meetings in which they engage, and their communication processes.

MSDE also provided an overview of programs contracted by DJS to provide educational services to its committed youth. All in all, 43 programs were contracted to serve an ADP of 335 youth (though within this count, some youth likely attended more than one program, meaning the headcount for youth served would be lower), at an average daily rate of \$73 a day for regular education and \$133 a day for special education.

Performance Measures

MSDE and DJS were also required to report on the following performance measures.

- **The Average Length of Time to Transition Student Records between a JSES School and a Local School System:** MSDE and DJS report the average length of time to transfer records is three business days.
- **Teacher Vacancy Rates and Length of Tenure:** MSDE and DJS reported an average 18% vacancy rate for fiscal 2017 and an average length of tenure for JSES teachers of 3.4 years at the time of its report’s submission.

V00A – Department of Juvenile Services

- ***Contacts with Local School System Liaisons to Support Student Transition into the Community:*** JSES had 944 career and technology education enrollments between July and August 2016 and issued 1,510 certificates during the 2015-2016 school year. There are currently eight students enrolled at the Backbone College Program at Garrett College.
- ***The Number of Classroom Hours Canceled Due to the Unavailability of a Teacher or Substitute:*** JSES had a total of 304 hours canceled due to the unavailability of a teacher or substitute during the first two months of fiscal 2017, or 3% of potential hours.

The General Assembly requested that these measures be included in MSDE's annual MFR measures beginning with the fiscal 2018 allowance submission. However, as these measures were not included in the fiscal 2018 submission, DLS has recommended that language be added to the Department of Budget and Management's fiscal 2018 budget to require these measures be included in future submissions.

V00A – Department of Juvenile Services

Appendix 1
Current and Prior Year Budgets
Department of Juvenile Services
(\$ in Thousands)

	<u>General</u> <u>Fund</u>	<u>Special</u> <u>Fund</u>	<u>Federal</u> <u>Fund</u>	<u>Reimb.</u> <u>Fund</u>	<u>Total</u>
Fiscal 2016					
Legislative Appropriation	\$276,773	\$4,906	\$7,343	\$220	\$289,243
Deficiency Appropriation	0	0	0	0	0
Budget Amendments	2,314	0	18	0	2,332
Reversions and Cancellations	-9,313	-1,630	-1,967	-114	-13,025
Actual Expenditures	\$269,774	\$3,276	\$5,393	\$106	\$278,550
Fiscal 2017					
Legislative Appropriation	\$282,911	\$3,864	\$4,836	\$247	\$291,857
Cost Containment	-9,142	0	0	0	-9,142
Budget Amendments	1,406	0	1	0	1,407
Working Appropriation	\$275,175	\$3,864	\$4,837	\$247	\$284,123

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

Fiscal 2016

The Department of Juvenile Services (DJS) expended nearly \$278.6 million in fiscal 2016, a decrease of approximately \$10.7 million from the legislative appropriation.

General fund expenditures totaled nearly \$269.8 million in fiscal 2016, reflecting a decrease of nearly \$7.0 million when compared to the legislative appropriation. A \$2.3 million increase for employee salary enhancements was offset by the reversion of \$9.3 million in unexpended funding for residential per diems based on lower than anticipated out-of-home placements.

Special fund expenditures totaled \$3.3 million in fiscal 2016, reflecting the cancellation of \$1.6 million based on actual collections from local education agencies for youth receiving education services while in a DJS facility. Lower residential populations generate less revenue from local jurisdictions for education services.

Federal fund expenditures totaled \$5.4 million in fiscal 2016, a decrease of nearly \$2.0 million from the legislative appropriation. Title IV-E and Medicaid funds were canceled at the close of fiscal year due to lower than anticipated out-of-home placements.

Reimbursable fund expenditures totaled \$106,000 at the close of fiscal 2016. The department canceled approximately \$114,000 in unexpended grant funds.

Fiscal 2017

The fiscal 2017 general fund working appropriation reflects a decrease of approximately \$7.7 million when compared to the legislative appropriation. Cost containment actions adopted by the Board of Public Works in November 2016 reduced general funds for residential per diems by \$9.1 million to better align with declines in the department's committed population. This reduction was offset by a net increase of \$1.4 million in budget amendments. These amendments increased funding for employee increments (\$2.7 million) and an annual salary review increase for building security officer positions (\$9,030) and reduced funds by nearly \$1.3 million as part of a realignment of information technology positions and substance abuse services among various State agencies.

**Appendix 2
Object/Fund Difference Report
Department of Juvenile Services**

<u>Object/Fund</u>	<u>FY 16 Actual</u>	<u>FY 17 Working Appropriation</u>	<u>FY 18 Allowance</u>	<u>FY 17 - FY 18 Amount Change</u>	<u>Percent Change</u>
Positions					
01 Regular	2,041.05	1,998.05	1,978.05	-20.00	-1.0%
02 Contractual	177.76	146.65	150.40	3.75	2.6%
Total Positions	2,218.81	2,144.70	2,128.45	-16.25	-0.8%
Objects					
01 Salaries and Wages	\$ 163,020,397	\$ 172,891,718	\$ 171,267,254	-\$ 1,624,464	-0.9%
02 Technical and Spec. Fees	7,155,811	5,965,736	6,365,845	400,109	6.7%
03 Communication	2,362,764	2,789,215	2,758,756	-30,459	-1.1%
04 Travel	917,390	1,062,671	1,007,964	-54,707	-5.1%
06 Fuel and Utilities	4,164,047	4,680,049	4,942,443	262,394	5.6%
07 Motor Vehicles	1,520,081	2,081,230	1,884,760	-196,470	-9.4%
08 Contractual Services	79,904,926	79,168,838	78,840,509	-328,329	-0.4%
09 Supplies and Materials	6,706,893	6,751,013	6,973,184	222,171	3.3%
10 Equipment – Replacement	1,969,439	1,059,659	790,540	-269,119	-25.4%
11 Equipment – Additional	1,481,719	17,812	44,105	26,293	147.6%
12 Grants, Subsidies, and Contributions	2,404,373	2,910,231	2,615,536	-294,695	-10.1%
13 Fixed Charges	3,617,296	4,249,167	3,771,602	-477,565	-11.2%
14 Land and Structures	3,324,872	495,707	495,707	0	0%
Total Objects	\$ 278,550,008	\$ 284,123,046	\$ 281,758,205	-\$ 2,364,841	-0.8%
Funds					
01 General Fund	\$ 269,774,186	\$ 275,175,156	\$ 273,456,202	-\$ 1,718,954	-0.6%
03 Special Fund	3,276,346	3,864,096	3,238,935	-625,161	-16.2%
05 Federal Fund	5,393,447	4,836,964	4,828,918	-8,046	-0.2%
09 Reimbursable Fund	106,029	246,830	234,150	-12,680	-5.1%
Total Funds	\$ 278,550,008	\$ 284,123,046	\$ 281,758,205	-\$ 2,364,841	-0.8%

Note: Does not include targeted reversions, deficiencies, and contingent reductions.

**Appendix 3
Fiscal Summary
Department of Juvenile Services**

<u>Program/Unit</u>	<u>FY 16 Actual</u>	<u>FY 17 Wrk Approp</u>	<u>FY 18 Allowance</u>	<u>Change</u>	<u>FY 17 - FY 18 % Change</u>
01 Office of the Secretary	\$ 4,063,915	\$ 4,026,642	\$ 4,103,726	\$ 77,084	1.9%
02 Departmental Support	26,629,712	25,364,433	25,316,271	-48,162	-0.2%
01 Residential Operations	5,119,269	5,632,415	5,472,170	-160,245	-2.8%
01 Baltimore City Region Operations	57,613,316	58,208,798	58,197,639	-11,159	0%
01 Central Region Operations	37,267,873	36,746,026	36,392,566	-353,460	-1.0%
01 Western Region Operations	49,675,329	49,625,116	50,401,834	776,718	1.6%
01 Eastern Region Operations	20,579,609	22,064,502	21,503,945	-560,557	-2.5%
01 Southern Region Operations	22,941,832	24,076,617	23,810,045	-266,572	-1.1%
01 Metro Region Operations	54,659,153	58,378,497	56,560,009	-1,818,488	-3.1%
Total Expenditures	\$ 278,550,008	\$ 284,123,046	\$ 281,758,205	-\$ 2,364,841	-0.8%
General Fund	\$ 269,774,186	\$ 275,175,156	\$ 273,456,202	-\$ 1,718,954	-0.6%
Special Fund	3,276,346	3,864,096	3,238,935	-625,161	-16.2%
Federal Fund	5,393,447	4,836,964	4,828,918	-8,046	-0.2%
Total Appropriations	\$ 278,443,979	\$ 283,876,216	\$ 281,524,055	-\$ 2,352,161	-0.8%
Reimbursable Fund	\$ 106,029	\$ 246,830	\$ 234,150	-\$ 12,680	-5.1%
Total Funds	\$ 278,550,008	\$ 284,123,046	\$ 281,758,205	-\$ 2,364,841	-0.8%

Note: Does not include targeted reversions, deficiencies, and contingent reductions.