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# **Department of Public Safety and Correctional Services Fiscal 2019 Budget Overview**

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

**January 2018**



## ***Analysis in Brief***

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### **Issues**

***Executive Branch Staffing Shortfall:*** Since fiscal 2002, the Executive Branch has abolished over 6,500 regular positions. Over the past two years, the Department of Legislative Services has analyzed agency staffing needs based on laws, regulations, caseload guidelines, agency staffing studies, and other documentation. This issue will specifically discuss the staffing shortfall observed within this agency, including the cost implications and the agency’s ability to fill existing positions.

***Departmentwide Vacancies and Vacancy Spending:*** For several years, the department has had problems with high vacancy rates in key positions, particularly correctional officers. These vacancies have led to problems with procurement and increases in assaults, mandatory overtime, and employee overtime expenditures. As positions remain vacant, unused salary funds are being spent in other areas by the department, a practice that is likely not sustainable. This issue will review staffing shortfalls and address vacancy spending concerns.

***Justice Reinvestment Act Begins:*** Chapter 515 of 2016, the Justice Reinvestment Act, is the State’s primary legislation addressing criminal justice reform. It includes policy changes designed to reduce prison populations and correctional spending and reinvest the savings in programs that reduce recidivism. The law took effect in October 2017 and introduced significant changes in sentencing, parole, and treatment options for offenders. This issue will review all sub-agency efforts to implement these changes and anticipated effects on the department’s budget and operations.

***Inmate Pharmacy Costs:*** Historically, the department has struggled with large medical procurements and key medical contracts have been modified multiple times to reflect increased costs. In fiscal 2017, department spending on pharmaceuticals rose dramatically due to more expensive HIV and Hepatitis-C medications. While the focus in the past has been on HIV, Hepatitis-C is spreading among inmate populations and is a major cost driver of inmate medical spending around the country. This issue will evaluate the data, treatment, and costs associated with the new medications.

### **Operating Budget Recommended Actions**

1. Adopt committee narrative requesting a progress report on departmentwide vacancies and vacancy spending by November 1, 2018.
2. Adopt committee narrative requesting a report on the Justice Reinvestment Act and associated estimates regarding the effects on department average daily population and costs by December 1, 2018.
3. Adopt committee narrative requesting a report on inmate pharmacy costs by December 1, 2018.



**Q00**  
**Department of Public Safety and Correctional Services**  
**Fiscal 2019 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**

Overall, the number of individuals under State jurisdiction continues to decrease significantly. Since fiscal 2011, the number of offenders in prison, those detained in local jails sentenced to State jurisdiction, and others including federal prisoners, has declined by more than 16%. The number of incarcerated offenders in the State is under 20,000 for the first time since the 1990s and is predicted to fall further in fiscal 2018, particularly as elements of the Justice Reinvestment Act (JRA) begin to take effect. Highlights include the following:

- 19,883 offenders were sentenced and incarcerated;
- 2,320 offenders were held in pretrial detention (1,870 local, 450 federal);
- Eastern Correctional Institution had the largest percentage of sentenced offenders (13%); and
- Baltimore Central Booking and Intake Center (BCBIC) had the largest percentage of detainees (23%).

**Exhibit 1** shows the average daily population (ADP) of both sentenced and detained individuals in DPSCS custody since fiscal 2011.

## **Arrest and Detention Data**

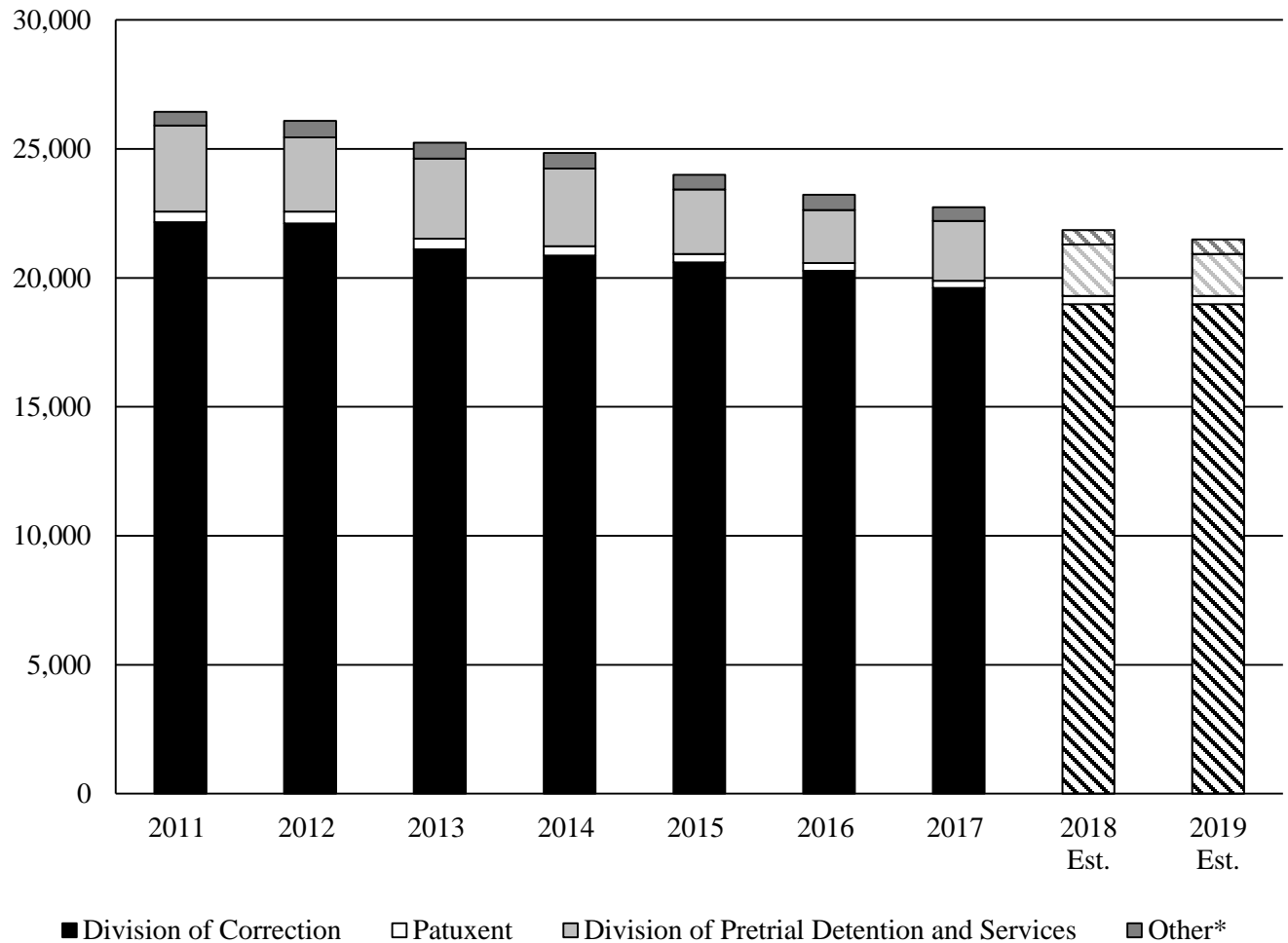
**Exhibit 2** shows total arrestees processed and the number of offenders committed to detention in Baltimore City from fiscal 2012 to 2019. Again, all numbers have declined significantly. Highlights include the following:

- In fiscal 2004, over 100,000 individuals were arrested and processed.
- In fiscal 2011, nearly 60,000 individuals were arrested and processed (30,000 were detained).
- In fiscal 2017, 25,000 were arrested, with 15,000 detained.

*Q00 – DPSCS – Fiscal 2019 Budget Overview*

- Overall, the number of arrestees processed has declined by 75% over the last 12 years.
- However, arrestees processed is expected to rise by 14% in fiscal 2018.

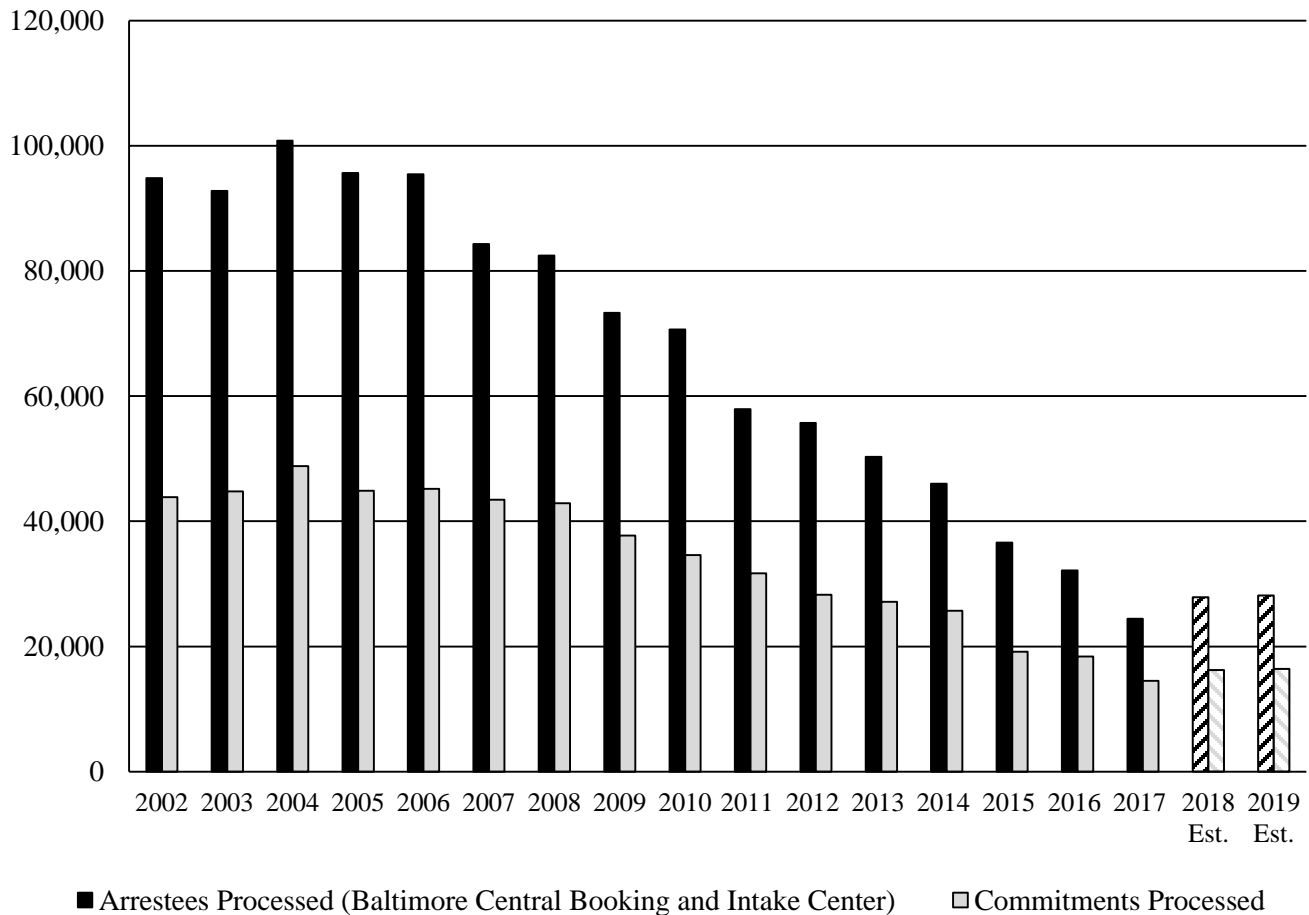
**Exhibit 1**  
**Incarcerated Offenders – Average Daily Population**  
**Fiscal 2011-2019 Est.**



\* 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 2019 Managing for Results

**Exhibit 2**  
**Division of Pretrial Detention**  
**Arrests vs. Commitments**  
**Fiscal 2002-2019 Est.**



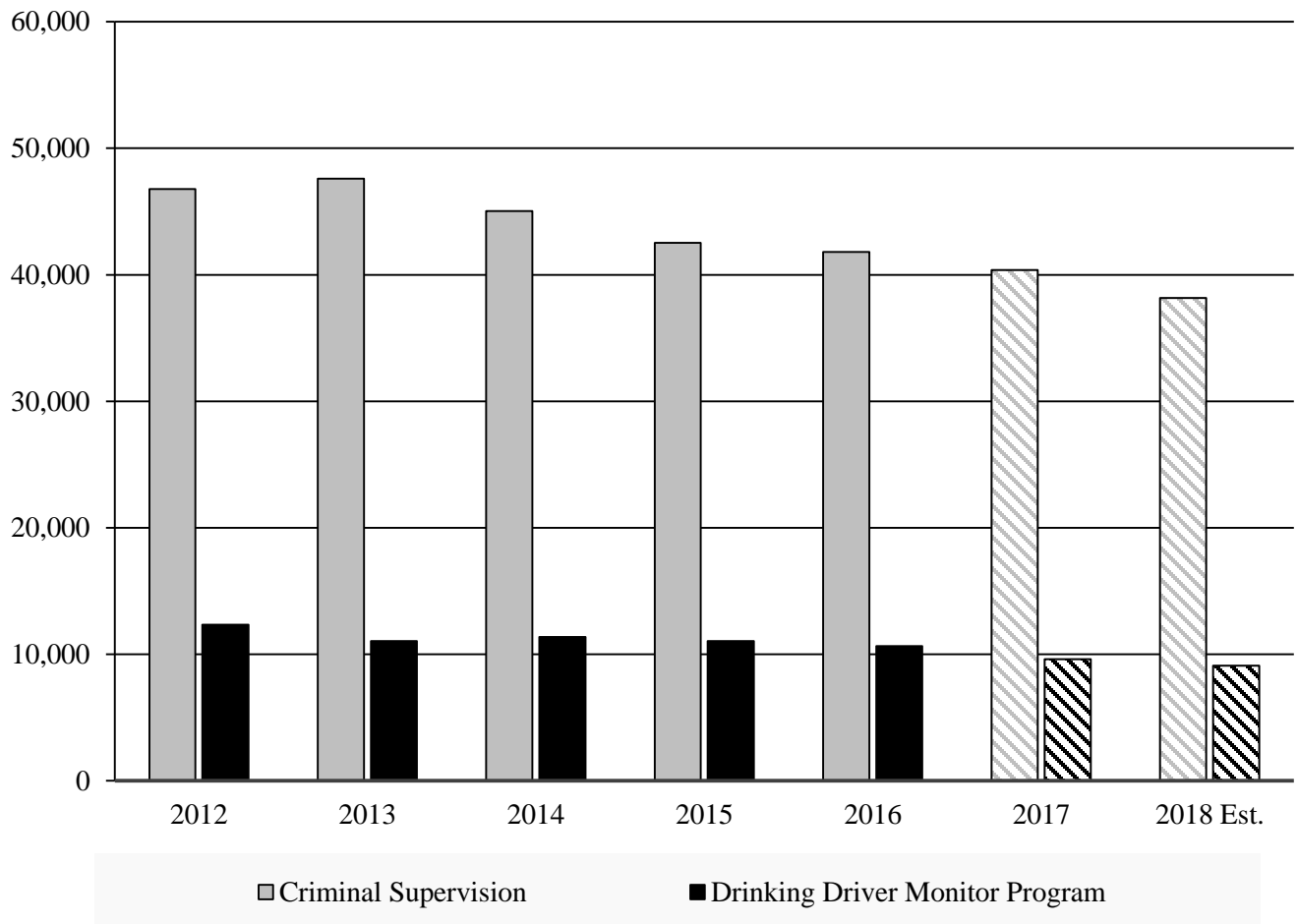
Source: Fiscal 2019 Managing for Results

With the dramatic declines in arrests, commitments, and offender populations, the department has continued to close or partially close aging facilities, including Men’s and Women’s Detention centers (July 2015), the Jail Industries building in Baltimore (closed August 2017), the Maryland Correctional Institution – Hagerstown (MCI-H) (downsized in January 2017), and the Poplar Hill Pre-Release Unit (July 2017). However, despite actual and projected population decreases, recent budgets have been essentially level funded.

## Parole and Probation

Population declines also continue in the department's community supervision programs. **Exhibit 3** depicts the total number of active cases under community supervision, which includes parole, probation, and mandatory release cases. Since the peak in 2013, cases under criminal supervision have fallen by 15%. During the same timeframe, Drinking Driver Monitor Program (DDMP) cases decreased by 3%. Overall, the Division of Parole and Probation (DPP) supervised a total of 40,432 criminal supervision cases and 9,610 DDMP cases in fiscal 2017 – a 9.7% decline from the previous fiscal year. Total active cases in all categories are expected to decrease by an additional 4.8% in fiscal 2018.

**Exhibit 3**  
**Parole and Probation Active Cases**  
**Fiscal 2012-2018 Est.**



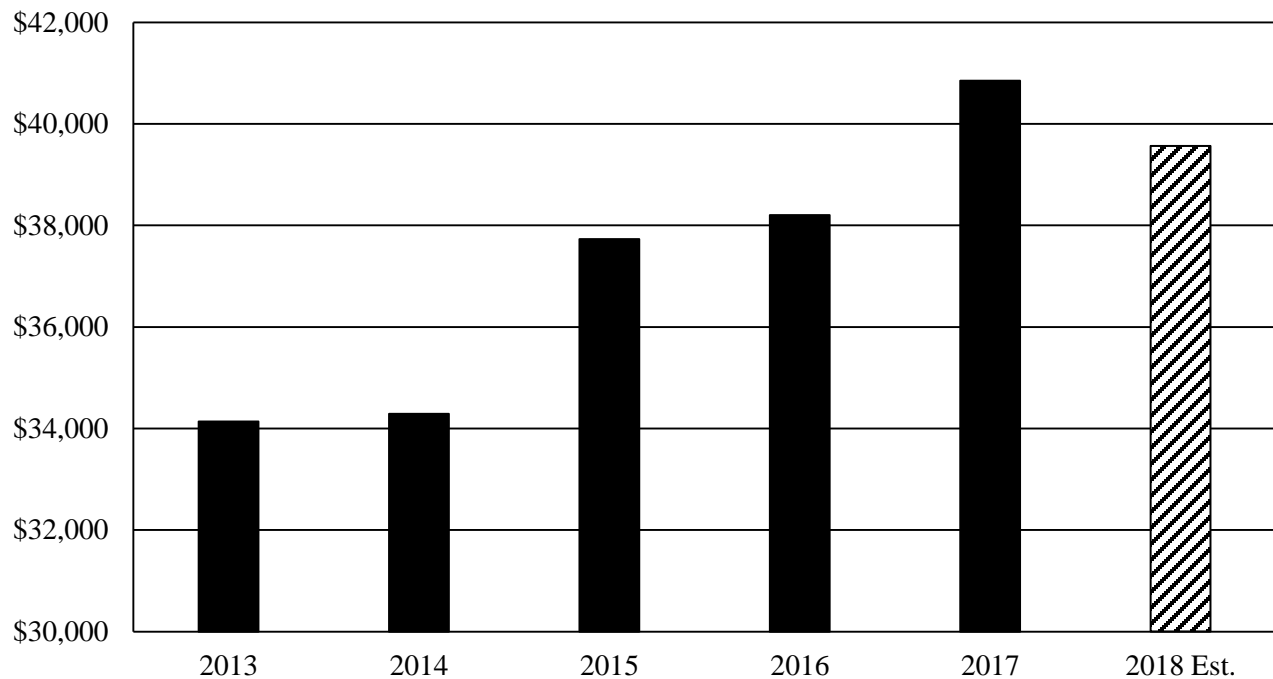
Source: Department of Public Safety and Correctional Services



## **Cost Per Inmate**

Overall, annual cost per capita, or average cost per inmate, is the amount that DPSCS spends on inmates in State prisons (not detention centers). These costs include both the fixed and variable costs and account for a variety of services in several categories including administration, custodial, dietary, religious, medical service costs, and expenses for substance abuse treatment and other forms of therapy. **Exhibit 4** shows the department's cost per inmate. While the total number of inmates has declined 7% since 2013, the cost per inmate has risen nearly 20%. This is because fixed costs are being spread across a smaller number of inmates.

**Exhibit 4**  
**Cost Per Inmate**  
**Fiscal 2013-2018 Est.**



Source: Fiscal 2019 Managing for Results

## **Fiscal 2018**

### **Budget Overview**

#### **Proposed Deficiencies**

There is one deficiency appropriation for fiscal 2018 that reduces the appropriation by \$1.9 million in general funds to reflect fuel and utility savings. It is anticipated that the department will likely use additional salary savings related to high vacancy rates to fund other areas of the budget, which will be discussed further in this analysis.

#### **Cost Containment**

For fiscal 2018, the Board of Public Works actions reduced the department's general funds by \$8.4 million. This reduction was achieved through salary savings departmentwide based on current vacancy rates. This analysis will further analyze the department's spending needs in fiscal 2018 and 2019, as it is likely that additional salary savings will be used to fund other areas of their budget.

## **Fiscal 2019**

The DPSCS allowance for fiscal 2019 is approximately \$1.4 billion after adjusting for deficiencies withdrawing \$1.9 million for fuel/utilities savings. Similar to the previous fiscal year, the vast majority of the allowance (87.7%) is general funds. Compared to the fiscal 2018 working appropriation, the allowance increases by \$34.8 million, or 2.5%. Additionally, when compared to fiscal 2017 actual spending, the current allowance is nearly level funded, representing an increase of \$18.7 million, a 1.3% difference.

### **General, Special, and Federal Funds**

The total general fund appropriation for the department increases by a net \$38.8 million, a 3.2% difference. The majority of the change is due to restoration of the health insurance reduction from fiscal 2018 and a \$19.8 million increase in inmate medical care. Again, the change in funding reflects a nearly level funded budget, not just in general funds but overall, as 88% of the department's allowance consists of general funds. While anticipated reductions in the inmate population (some in part due to the JRA that offsets an inflationary growth in operating costs, current vacancies and associated salary savings will likely continue to be used by the department in case of any underfunding.

The fiscal 2019 special fund appropriation totals \$138.0 million and decreases by 0.2%, or \$228,000, which is largely attributable to a \$500,000 decrease in funds for building additions. Federal funds of \$29.9 million are the third smallest portion of the allowance and decrease \$3.5 million from the working appropriation. The changes in federal funds are largely driven by a reduction in previous year one-time federal funding for major information technology (IT) projects, including the

Computerized Criminal History Project and the Maryland Correctional Enterprises (MCE) Enterprise Resource Program.

## **Proposed Budget**

**Exhibit 5** shows departmental operating expenses in the fiscal 2019 allowance, which increases by a net \$34.8 million when adjusted for fiscal 2018 deficiency appropriations.

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**Exhibit 5**  
**Proposed Budget**  
**DPSCS – Budget Overview**  
**(\$ in Thousands)**

**Where It Goes:**

**Personnel Expenses**

Employee overtime .....	\$23,293
Employee and retiree health insurance .....	12,395
Other fringe benefit adjustments.....	7,972
Correctional officer employee referral and bonus program funds .....	6,876
General salary increase .....	6,213
Workers' compensation premium assessment .....	1,667
Accrued leave payouts .....	-251
Employee retirement system.....	-1,434
Turnover.....	-38,783

**Information Technology and Equipment**

System software maintenance.....	544
Radios and electronic equipment .....	201
Security camera purchases.....	-1,414
Information technology projects (Computerized Criminal History project and the Maryland Correctional Enterprises Enterprise Resource Program).....	-2,153

**Inmate Variable Costs**

Inmate medical expenses .....	20,229
Inmate food purchases .....	436

**Facility Operations and Maintenance**

Capital lease payments.....	1,206
Facility/road repairs and maintenance .....	1,076
Rent.....	262
Building additions.....	-500
Equipment repairs and maintenance .....	-543

## *Q00 – DPSCS – Fiscal 2019 Budget Overview*

### **Where It Goes:**

Restoration of fuel deficiency withdrawal.....	1,900
Fuel and utilities.....	-2,289
Vehicle purchases, repairs, and maintenance.....	-2,409
<b>Other</b>	
Other contractual services.....	1,167
Employee uniforms.....	325
Inmate welfare funds.....	-524
Education and training contracts for Police and Correctional Training Commissions .....	-812
Other .....	122
<b>Total</b>	<b>\$34,772</b>

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

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### **Personnel Expenses**

Overall, personnel expenses decrease by a net \$17.9 million. Health insurance grows by \$12.4 million, and there is \$6.2 million for the general salary increase. This is offset by a \$38.8 million decrease in turnover expectancy, a 159% increase. Overtime grows by \$23.3 million, a 36.9% increase. Employee overtime is analyzed in more detail in the Issues section of this analysis. Employee retirement and other fringe benefits and adjustments account for a net decrease of \$604,000 in personnel spending.

### **IT and Technology Expenses**

In terms of technology, the allowance shows a decrease of \$2.1 million in expenses for major IT projects (Computerized Criminal History Project and the MCE Enterprise Resource Program); however, the Major IT Development Project Fund does include \$10.1 million in general funds for DPSCS major IT projects. These funds will be transferred via budget amendment during the fiscal year. An additional reduction of \$1.4 million for security cameras was offset by nearly \$750,000 in system software maintenance and funds for radios and related equipment for corrections and parole/probation officers.

### **Facility Operations and Maintenance**

Inmate variable costs increase dramatically in fiscal 2019, with \$20.2 million in additional funding allocated for inmate medical expenses. This amount, an 11.2% increase over the appropriation, is five times larger than the medical increase in fiscal 2018 and is largely due to increased spending on mental health contracts and a contract modification. Food purchases for correctional facilities also increase by \$436,000, a 1.3% increase.

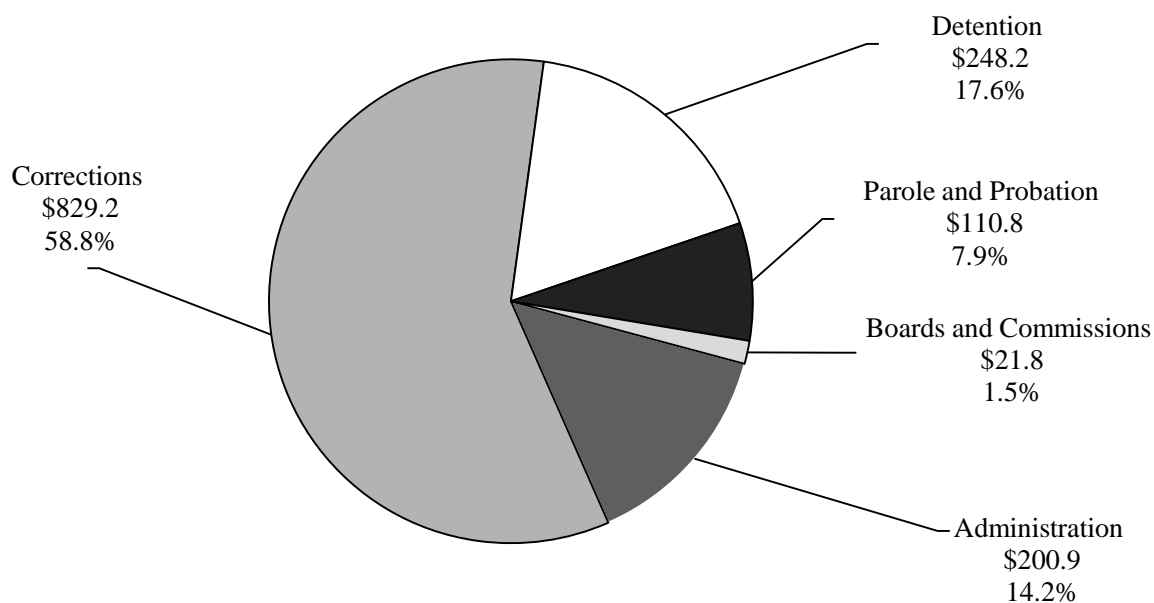
Facility expenditure increases are related to funds lease payments (\$1.2 million), building repairs and maintenance (\$1.0 million), and rent (\$262,000). These were offset by decreases in fuel/utilities (\$2.3 million) and \$2.4 million in expenses related to vehicle purchases, repair, and maintenance. Other changes include increases in contractual expenses (\$1.2 million) and employee uniforms (\$325,000). These increases are offset by decreases of \$524,000 for inmate welfare funds and an \$812,000 decrease in the Police and Correctional Training Commissions (PCTC) education and training contracts.

## **Budget Overview by Functional Unit**

DPSCS has five functional units: Administration, Boards and Commissions, Corrections, Detention, and Parole and Probation. **Exhibit 6** shows each unit's share of the fiscal 2019 allowance. Corrections, which is responsible for the physical confinement and control of inmates incarcerated by Maryland's judicial system, operates 16 State prison facilities. Corrections also includes MCE, which is the prison industry arm of the division, and the Security Operations Unit located within the Office of the Deputy Secretary for Operations. Overall, Corrections accounts for 58.8%, or \$829.2 million, of the department's \$1.4 billion fiscal 2019 allowance.

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**Exhibit 6**  
**Fiscal 2019 Allowance by Function**  
(\$ in Millions)



Source: Department of Legislative Services; State Budget

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## *Q00 – DPSCS – Fiscal 2019 Budget Overview*

Detention is the second largest functional area and is responsible for all offenders arrested in Baltimore City, as well as those held on warrants from Baltimore City. Additionally, federal prisoners held at the Chesapeake Detention Facility (CDF) are within Detention's mandate. Beginning this year, the Pretrial Release Services Program, formerly under Parole and Probation, is now part of Detention. Facilities include CDF, BCBIC, the Baltimore Pre-Trial Complex (which includes the new Youth Detention Center), and the Metropolitan Transition Center. Detention accounts for 17.6%, or \$248.2 million, of the department's fiscal 2019 allowance.

Parole and Probation has three main units – the Central Home Detention Unit, the Warrant Apprehension Unit, and the regional office units that conduct criminal supervision of offenders on parole or probation, or who are assigned to DDMP. The Parole and Probation fiscal 2019 allowance is \$110.8 million, or 7.9%, of the total DPSCS allowance.

Administrative consists of most of the units within the Office of the Secretary, including Capital and Facilities Management, General Administration, the Intelligence and Investigative Division, and the Information Technology and Communications Division. Administration 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). Administration's fiscal 2019 allowance is \$200.9 million, which is 14.2% of the total allowance.

Boards and Commissions includes the Criminal Injuries Compensation Board (CICB), the Emergency Number Systems Board (ENSB), the Inmate Grievance Office (IGO), the Maryland Commission on Correctional Standards (MCCS), the Maryland Parole Commission (MPC), and PCTC. Boards and Commissions is made up of the following six units:

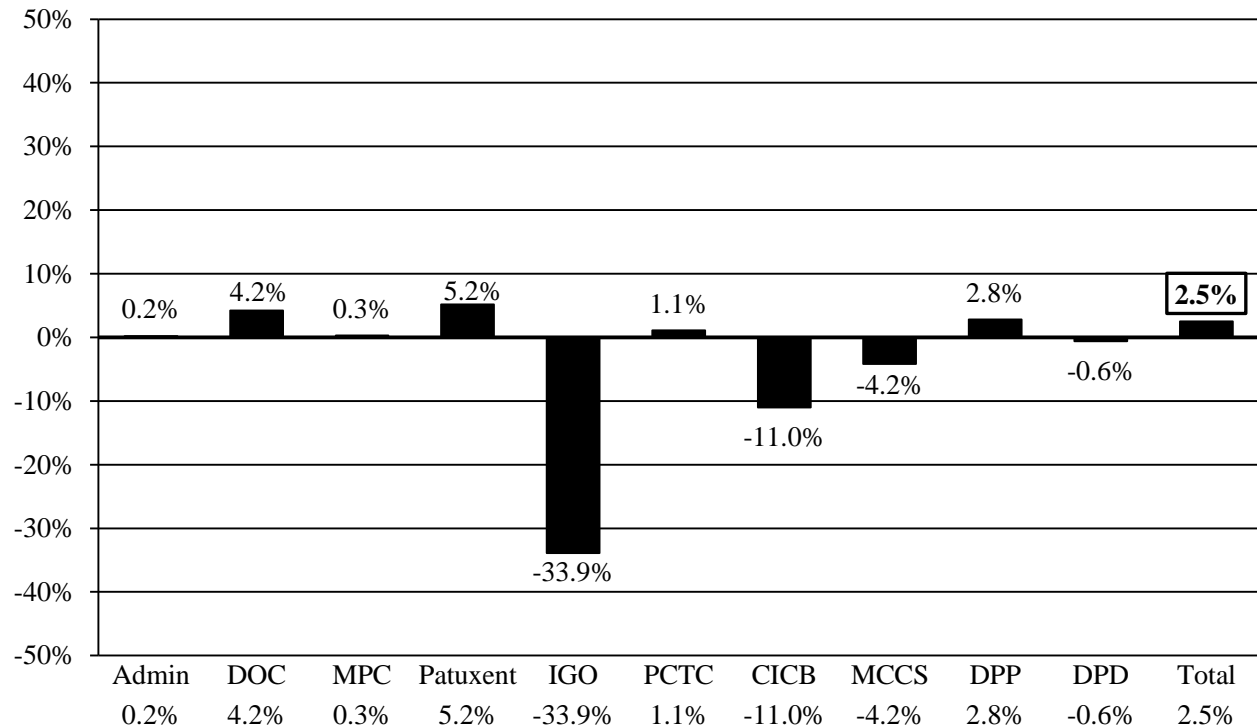
- **CICB:** Provides administrative and grant support to victims who wish to be compensated for injuries and damages sustained as a result of criminal activity.
- **ENSB:** Develops policy and provides financial support for the State's 9-1-1 emergency system.
- **IGO:** Has jurisdiction over all inmate grievance complaints against DPSCS.
- **MCCS:** Develops and audits compliance with the standards for all public and private correctional and detention facilities in the State.
- **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.
- **PCTC:** Develops the training standards for all law enforcement and correctional officers in the State.

Overall, the Boards and Commissions fiscal 2019 allowance is approximately \$21.8 million, or 1.5%, of the total DPSCS allowance.

## Funding by Program

**Exhibit 7** shows fiscal 2019 funding growth and declines for the department. Overall, funding for the department’s 10 agencies increases by 2.5%, essentially level funded with the fiscal 2018 working appropriation. There are no major areas of funding growth and two divisions with substantial funding declines. However, these two divisions are small in size – IGO (-33.9%) and CICB (-11.0%). Of the four largest agencies, one has a modest funding decline; DPD (0.6%). DOC and DPP have increases of 4.2% and 2.8%, respectively. Patuxent Institution has the largest funding increase, with 5.2%. **Exhibit 8** shows the fiscal 2019 allowance by agency, with comparisons to fiscal 2017 and 2018.

**Exhibit 7**  
**Budget Growth by Program**  
**Fiscal 2019**



Admin: Administration

CICB: Criminal Injuries Compensation Board

DOC: Division of Correction

DPD: Division of Pretrial Detention

DPP: Division of Parole and Probation

IGO: Inmate Grievance Office

MCCS: Maryland Commission on Correctional Standards

MPC: Maryland Parole Commission

PCTC: Police and Correctional Training Commissions

Source: Department of Legislative Services; State Budget

**Exhibit 8**  
**Total Funds by Program**  
**Fiscal 2017-2019**  
**(\$ in Thousands)**

	<u>Actual Spending 2017</u>	<u>Working Approp. 2018</u>	<u>D/R 2018</u>	<u>Health Insurance Reduction</u>	<u>Revised Working Approp. 2018</u>	<u>COLA</u>	<u>Allowance 2019</u>	<u>\$ Change 2018- 2019</u>	<u>% Change 2018- 2019</u>	<u>\$ Change 2017- 2019</u>	<u>% Change 2017- 2019</u>
<b>Operating Programs</b>											
DPSCS											
Administration	\$201,978	\$202,322	-\$35	-\$1,845	\$200,442	\$646	\$200,911	\$469	0.2%	\$1,067	-0.5%
Division of											
Correction	757,521	756,041	-650	-10,562	744,829	3,271	775,819	30,990	4.2%	18,298	2.4%
Parole											
Commission	5,848	6,133		-109	6,024	39	6,042	18	0.3%	194	3.3%
Patuxent											
Institution	51,455	51,547		-787	50,760	264	53,405	2,645	5.2%	1,950	3.8%
Inmate Grievance											
Office	1,065	1,244		-10	1,234	5	816	-418	-33.9%	-249	-23.4%
Police/Correctional											
Training											
Commissions	7,722	9,680		-84	9,596	38	9,700	104	1.1%	1,978	25.6%
Criminal Injuries											
Compensation											
Board	4,483	5,253		-13	5,240	7	4,664	-576	-11.0%	181	4.0%
Maryland											
Commission on											
Correctional											
Standards	521	587		-7	580	3	556	-24	-4.2%	35	6.8%
Division of Parole											
and Probation	106,634	109,649		-1,890	107,759	656	110,757	2,998	2.8%	4,123	3.9%
Division of Pretrial											
Detention	254,926	254,933	-1,215	-4,087	249,631	1,286	248,198	-1,433	-0.6%	-6,728	-2.6%
<b>Total</b>	<b>\$1,392,151</b>	<b>\$1,397,389</b>	<b>-\$1,900</b>	<b>-\$19,395</b>	<b>\$1,376,094</b>	<b>\$6,213</b>	<b>\$1,410,867</b>	<b>\$34,772</b>	<b>2.5%</b>	<b>\$18,715</b>	<b>1.3%</b>



	<b><u>Actual Spending 2017</u></b>	<b><u>Working Approp. 2018</u></b>	<b><u>D/R 2018</u></b>	<b><u>Health Insurance Reduction</u></b>	<b><u>Revised Working Approp. 2018</u></b>	<b><u>COLA</u></b>	<b><u>Allowance 2019</u></b>	<b><u>\$ Change 2018- 2019</u></b>	<b><u>% Change 2018- 2019</u></b>	<b><u>\$ Change 2017- 2019</u></b>	<b><u>% Change 2017- 2019</u></b>
<b>Funds</b>											
General Fund	\$1,229,941	\$1,219,261	-\$1,900	-\$18,577	\$1,198,783	\$5,801	\$1,237,539	\$38,756	3.2%	\$7,598	0.6%
Special Fund	128,896	138,353	0	-391	137,962	255	137,734	-228	-0.2%	8,838	6.9%
Federal Fund	28,635	33,815	0	-427	33,389	132	29,859	-3,530	-10.6%	1,224	4.3%
Reimbursable Fund	4,679	5,960	0	0	5,960	26	5,735	-225	-3.8%	1,056	22.6%
<b>Total</b>	<b>\$1,392,151</b>	<b>\$1,397,389</b>	<b>-\$1,900</b>	<b>-\$19,395</b>	<b>\$1,376,094</b>	<b>\$6,213</b>	<b>\$1,410,867</b>	<b>\$34,772</b>	<b>2.5%</b>	<b>\$18,715</b>	<b>1.3%</b>

COLA: cost-of-living adjustment

DPSCS: Department of Public Safety and Correctional Services

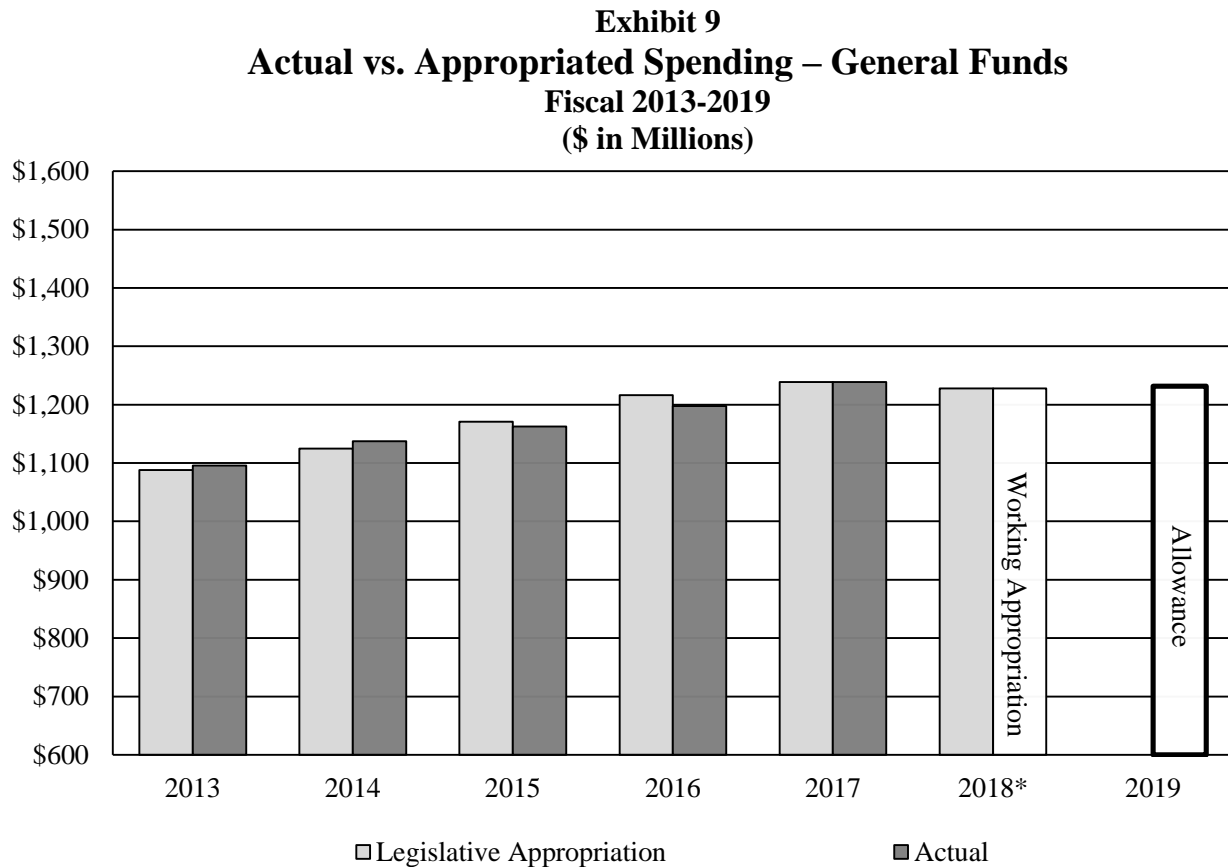
D/R: deficiencies and reversions

\* Fiscal 2018 reflects \$1.9 million in withdrawn general funds for fuel and utilities.

Source: Department of Public Safety and Correctional Services; Governor’s Budget Books, Fiscal 2019

## Department Underfunding

To demonstrate the department's actual spending, **Exhibit 9** shows DPSCS general fund expenditures compared to the respective legislative appropriation since fiscal 2013. For the first two periods, fiscal 2013 and 2014, departmental spending exceeded the legislative appropriation. Due to increasing vacancy rates, inmate population declines, and cost containment measures taken by the State, actual spending was lower than the appropriation in fiscal 2015 and 2016. For fiscal 2017, actual spending was slightly higher than the appropriation. For fiscal 2018 and 2019, the department's actual spending was significantly lower than the legislative appropriation.



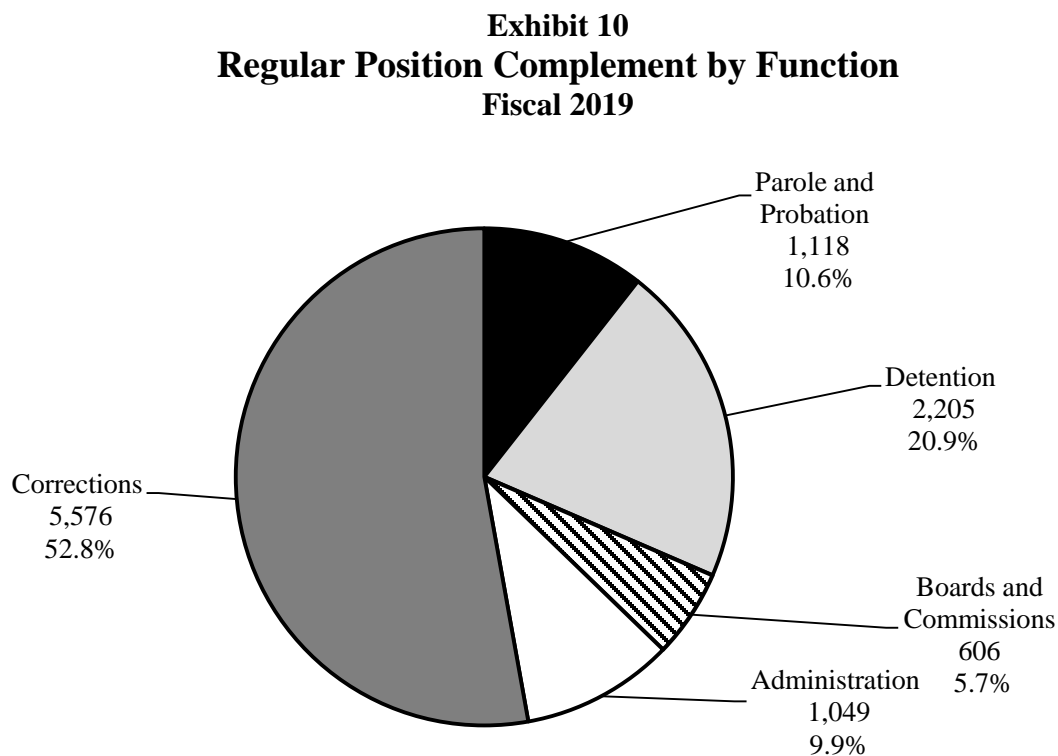
Source: Department of Legislative Services; Department of Budget and Management

Overall, general funds make up the majority of the current allowance (87.7%), which is essentially level funded at approximately \$1.2 billion. Despite the continued rise in vacancy rates and subsequent overtime expenses, the fiscal 2019 allowance is 1.3% higher than 2017 actual spending. In fiscal 2019, overtime spending increases by over \$23 million, a 37.0% increase, which puts departmental overtime expenses at over \$86 million.

## Staffing Overview

### Positions

**Exhibit 10** depicts the total number of fiscal 2019 regular positions in each of the department’s five functional units. Corrections is the largest, accounting for the majority of DPSCS personnel at 52.8%, or 5,576 regular positions. Second is Detention, which has 2,205 employees, or 20.9% of the position total. Parole and Probation is third in size with 1,118 employees, or 10.6% of the DPSCS workforce. Of the department’s main operating units (not including Boards and Commissions), Parole and Probation is the smallest in the budget; however, it has more employees than Administration.



Source: Department of Public Safety and Correctional Services

Employees in Administration account for 1,049 positions, or 9.9% of the total. Last, the Boards and Commissions account for just 5.7% of departmental personnel.

**Exhibit 11** shows all regular positions in each of the department’s agencies from 2017 to the 2019 allowance. There were no changes between the 2019 allowance and the 2018 working appropriation. From fiscal 2017 to 2019, there is a decrease of 500 positions, all related to the

downsizing of MCI-H. The allowance also eliminates 100 additional vacant positions, although the funding for those positions remains in the budget.

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**Exhibit 11**  
**Regular Positions by Program**  
**Fiscal 2017-2019**

	<u>Actual</u> <u>2017</u>	<u>Working</u> <u>Approp.</u> <u>2018</u>	<u>Allowance</u> <u>2019</u>	<u>Change</u> <u>2018-</u> <u>2019</u>	<u>%</u> <u>Change</u> <u>2018-</u> <u>2019</u>	<u>Change</u> <u>2017-</u> <u>2019</u>	<u>%</u> <u>Change</u> <u>2017-</u> <u>2019</u>
<b>Operating Programs</b>							
DPSCS Administration	1,062.0	1,049.0	1,049.0	0.0	0.0%	-13.0	-1.2%
Division of Correction	5,834.0	5,576.0	5,576.0	0.0	0.0%	-258.0	-4.4%
Parole Commission	72.0	72.0	72.0	0.0	0.0%	0.0	0.0%
Patuxent Institution	462.0	443.0	443.0	0.0	0.0%	-19.0	-4.1%
Inmate Grievance Office	7.0	7.0	7.0	0.0	0.0%	0.0	0.0%
Police/Correctional Training							
Commissions	69.8	69.8	69.8	0.0	0.0%	0.0	0.0%
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	1,118.0	1,118.0	1,118.0	0.0	0.0%	0.0	0.0%
Division of Pretrial Detention	2,314.6	2,204.6	2,204.6	0.0	0.0%	-110.0	-4.8%
Departmentwide	0.0	0.0	-100.0	-100.0	0.0%	-100.0	n/a
<b>Total</b>	<b>10,954.4</b>	<b>10,554.4</b>	<b>10,454.4</b>	<b>-100.0</b>	<b>0.9%</b>	<b>-500.0</b>	<b>-4.6%</b>

DPSCS: Department of Public Safety and Correctional Services

Source: Department of Public Safety and Correctional Services; Governor's Budget Books, Fiscal 2019

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**Exhibit 12** shows the department's full-time equivalents (FTE) decrease in fiscal 2019 by 91.3 FTEs. The vast majority (87.1) of the position decrease is from DPD, as the agency stopped using contractual FTEs for food service in Baltimore City detention centers. Now that DPD is providing this service in-house, the remaining contractual FTEs are being converted into vacant, regular positions and the process will be complete during this fiscal year.

**Exhibit 12**  
**Contractual Full-time Equivalents by Program**  
**Fiscal 2017-2019**

	<u>Actual</u> <u>2017</u>	<u>Wrkg</u> <u>Approp.</u> <u>2018</u>	<u>Allow.</u> <u>2019</u>	<u>Change</u> <u>2018-2019</u>	<u>%</u> <u>Change</u> <u>2018-2019</u>	<u>Change</u> <u>2017-2019</u>	<u>%</u> <u>Change</u> <u>2017-2019</u>
<b>Operating Programs</b>							
DPSCS							
Administration	57.1	91.5	90.9	-0.6	-0.7%	33.7	59.0%
Division of							
Correction	46.8	52.1	44.5	-7.6	-14.6%	-2.2	-4.8%
Parole							
Commission	1.3	0.0	1.8	1.8	0.0%	0.5	37.2%
Patuxent							
Institution	1.1	1.2	1.2	0.0	0.0%	0.1	13.1%
Inmate Grievance							
Office	0.3	0.8	0.8	0.0	0.0%	0.4	127.3%
Police/Correctional							
Training							
Commissions	13.8	23.6	23.7	0.2	0.7%	10.0	72.5%
Criminal Injuries							
Compensation							
Board	3.3	2.0	4.0	2.0	103.0%	0.7	22.3%
Maryland							
Commission on							
Correctional							
Standards	1.2	1.8	1.8	0.0	0.0%	0.6	52.1%
Division of Parole							
and Probation	38.3	64.6	64.6	0.0	0.0%	26.3	68.8%
Division of Pretrial							
Detention	119.6	114.1	27.0	-87.1	-76.3%	-92.6	-77.4%
<b>Total</b>	<b>282.7</b>	<b>351.6</b>	<b>260.3</b>	<b>-91.3</b>	<b>-26.0%</b>	<b>-22.4</b>	<b>-7.9%</b>

FTEs: full-time equivalents

DPSCS: Department of Public Safety and Correctional Services

Source: Department of Public Safety and Correctional Services; Governor's Budget Books, Fiscal 2019

## **Workday Payroll System and Employee Paycheck Issues**

In November 2016, some DPSCS employees had issues with the Workday timekeeping system, where human error caused them to be shortchanged on their paychecks. In fiscal 2017, the DOC working appropriation included funding for an additional 45 timekeepers and 11 contractual employees to operate the payroll system. Since May 2017, the department has been able to expand the system to all facilities and train employees to use it. The timeclocks automatically migrate time from the clock to populate punch-in and punch-out times in Workday and have reduced data entry requirements and errors. As a result, the department did not need to renew contractual employee timekeeper contracts at the end of fiscal 2017 and is now operating the system using existing payroll resources.

## Issues

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### 1. Executive Branch Staffing Shortfall

Since fiscal 2002, the Executive Branch has abolished over 6,500 regular positions. Over the past two years, the Department of Legislative Services (DLS) has analyzed agency staffing needs based on laws, regulations, caseload guidelines, agency staffing studies, and other documentation. Current estimates show that there are staff shortages of 2,631 positions in 11 agencies of State government. **Exhibit 13** summarizes the position need by agency and functional purpose. Overall, DPSCS has 1,091 of the 2,631 positions needed, nearly 42% of the total.

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#### Exhibit 13 Staffing Shortages

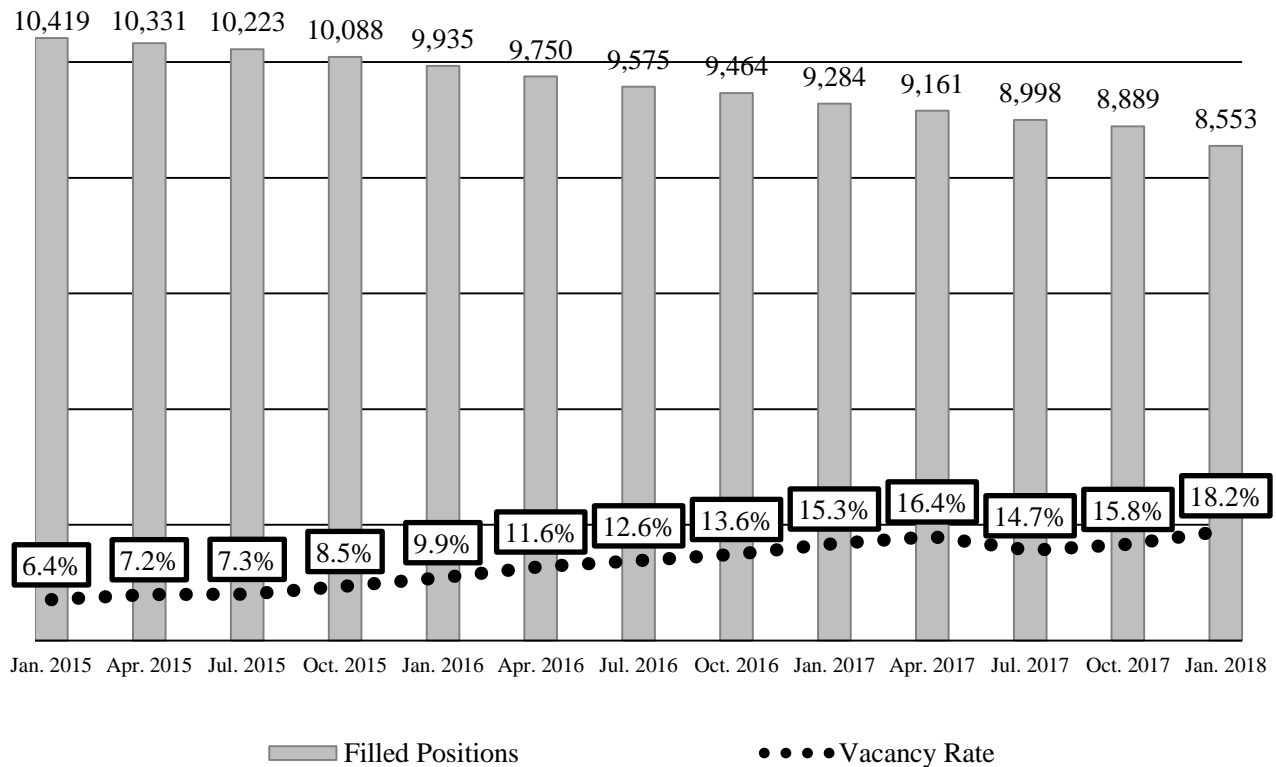
<u>Agency/Function</u>	<u>Additional Positions Needed</u>	<u>Vacant Positions</u>	<u>Total</u>
Department of Public Safety and Correctional Services (DPSCS)	154	937	1,091
<b>DPSCS Share of Vacant Positions</b>	<b>41.5%</b>		

Source: Department of Legislative Services

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**Exhibit 14** shows the quarterly vacancy rate for all DPSCS positions, which have more than tripled since 2014. Currently, there are 1,901 positions vacant, for a total vacancy rate of 18.2%. The fiscal 2019 allowance eliminates 100 vacant positions. **Regarding these positions, DPSCS should comment on which positions will be lost.**

**Exhibit 14**  
**Department of Public Safety and Correctional Services**  
**Overall Vacancy Rate**  
**January 2015- January 2018**



Source: Department of Public Safety and Correctional Services

### Administrative Vacancies

While the large number of correctional officer (CO) vacancies has been the focus in recent years, positions in the administrative and support functional areas have the highest vacancy rate in the department. Consisting of all non-Corrections and non-Parole and Probation supervision positions, these administrative positions account for about 28% of DPSCS' fiscal 2018 workforce, down from about 30% in fiscal 2002.

Compared to correctional and supervision agent positions, administrative positions have been disproportionately affected by reductions over the years. This is due largely to concerns that eliminating COs or supervision agents would negatively affect the safety and security of staff and offenders in DPSCS facilities. Since 2002, administrative positions have decreased by a net 535, which accounts for almost 50% of the total DPSCS position reductions.



## **Procurement**

The department's procurement positions have been understaffed. In fiscal 2002, the department had no positions specifically listed and coded as procurement. In calendar 2017, there were 7 unfilled positions, resulting in a substantial vacancy rate of 30%. Since then, the situation has improved as the department has filled 14 key positions, including the director and deputy director of procurement.

## **IT Positions**

Another category of positions with documented evidence of understaffing concerns IT positions that DPSCS had been supplementing through an interagency agreement with a State university. In the final year of the agreement, the department paid approximately \$3.4 million to a university to subcontract 30 IT employees. In addition, the State's 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. As part of this statewide consolidation of IT services, 7 positions were removed from DPSCS' fiscal 2017 appropriation and transferred to DoIT. While DoIT does not anticipate consolidating these services for DPSCS until fiscal 2018, it is possible that the change will alleviate some of DPSCS' staffing needs.

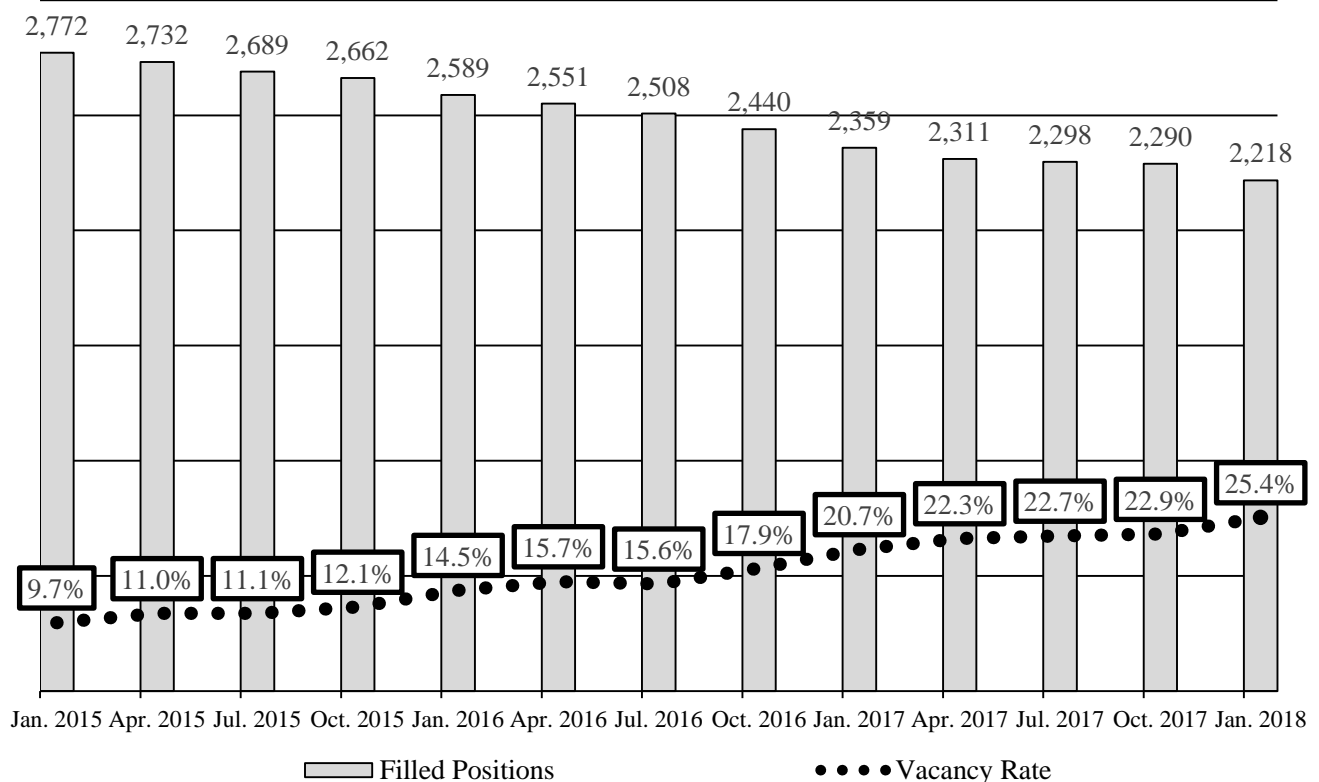
## **Security Operations**

Another area of concern is the large number of vacancies (86) within DPSCS Administration's Security Operations. This unit provides canine interdiction, intelligence, and other special operations for high-risk transports, courtroom security, and disturbance responses. Overall, the single largest material increase in personnel expenses in DPSCS Administration is \$1.0 million for overtime. Security Operations, with its high vacancies, has over \$3.6 million budgeted for overtime in the fiscal 2019 allowance and accounted for over 85% of all overtime claims in DPSCS Administration.

The department notes that Security Operations duties have been stretched due to increased contraband detection efforts and required overtime due to the need for inmate medical and court transport, as well as for detainee transfers between Baltimore City and other facilities as a result of the closure of the Men's and Women's Detention centers.

**Exhibit 15** shows vacancy data for all administrative/support positions from January 2015 through January 2018. Overall, administrative/support positions have the highest vacancy rate in the entire department, with 25.4% of positions unfilled.

**Exhibit 15**  
**Department of Public Safety and Correctional Services**  
**Administrative/Support Positions – Quarterly Vacancy Rate**  
**January 2015-January 2018**



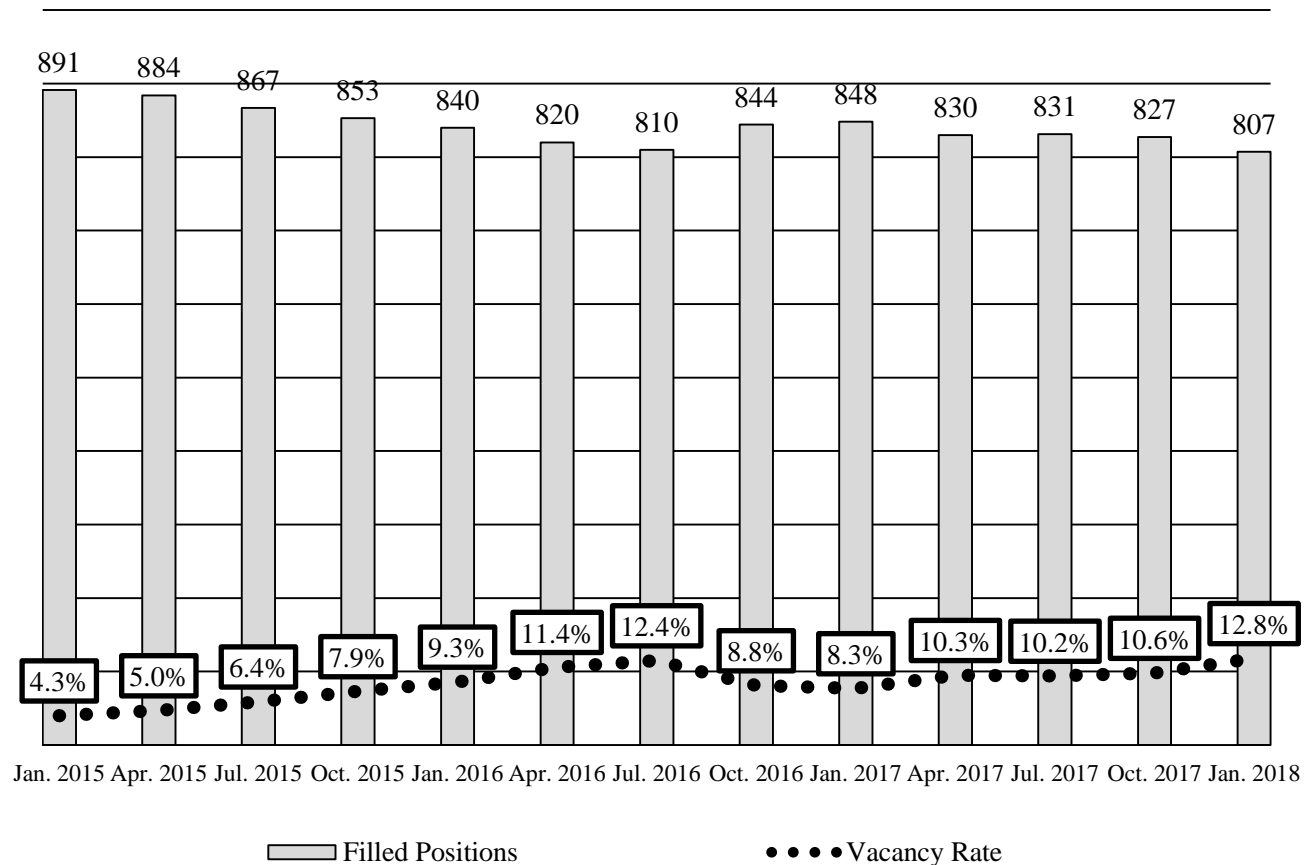
Source: Department of Public Safety and Correctional Services

### Parole and Probation Vacancies and Caseloads

Supervision agent positions are under the purview of DPP and account for less than 10% of the entire DPSCS workforce. Over the long term, the total number of supervision agent positions in the department has declined. From fiscal 2002 to 2017, the number of supervision agents decreased by 70, from 995 to 925 positions. Most of the decline in positions (54%) has come from within DDMP. In an effort to align program expenditures with annual special fund revenue supporting the program, there are 38 fewer DDMP agent positions, a 30% decrease from fiscal 2002. Recent staffing data indicated that vacancy rates at DPP had improved; there was a slight decline in the vacancy rate – to 10.2% in July 2017 – which was partially due to a net loss of 17 employees. The vacancy rate was also lower due to larger parole and probation academy classes. However, as of January 2018, the vacancy rate

has risen to 12.8%, which is the result of 20 new vacancies. **Exhibit 16** depicts departmental vacancy rates.

**Exhibit 16**  
**Parole/Probation Agents – Quarterly Vacancy Rate**  
**January 2015-January 2018**



Source: Department of Public Safety and Correctional Services

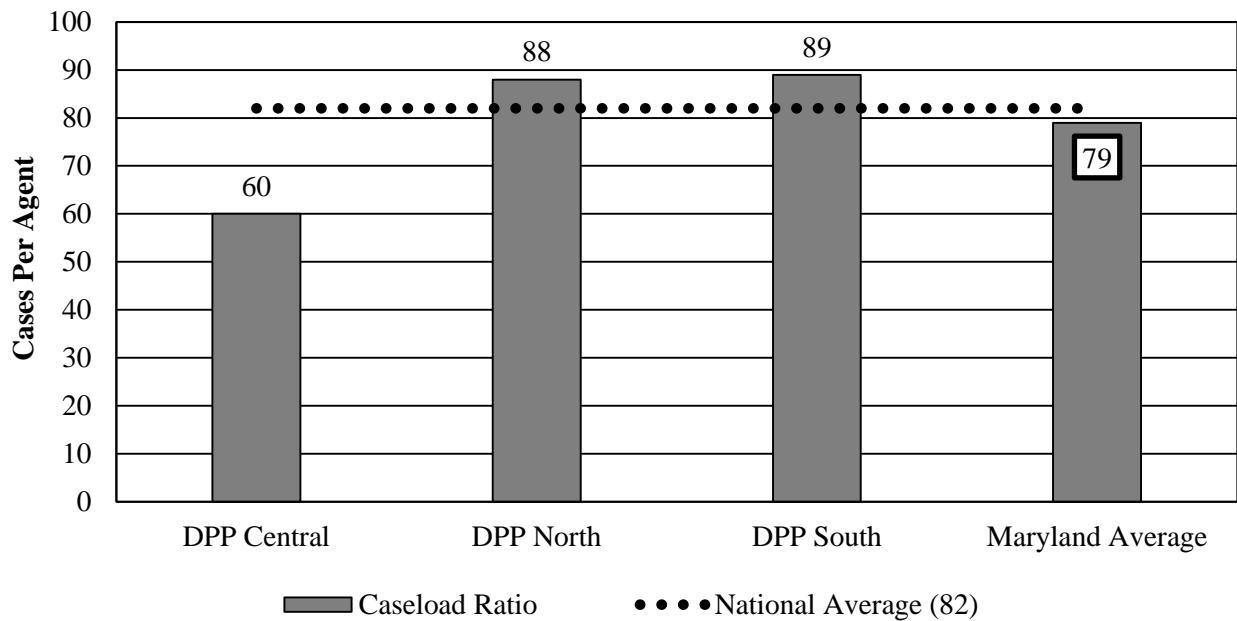
### DPP Improved Hiring and Caseload Ratios

Overall, improvements have been made regarding the DPP caseload ratios. Caseload ratio calculations are complex because certain types of cases (such as high violence or sex offenders) require more intense supervision than general caseloads. This distinction will be discussed further in the DPP analysis. In 2016, a comparison of Maryland caseload data to other states revealed that the national average number of cases per agent was 82. Meanwhile, Maryland's average caseload ratio was

116 cases per agent, a level that made parole and probation oversight difficult. In fiscal 2017, the Maryland caseload ratio declined to 79, which is under the national average of 82 and represents a significant 32% decrease.

DPP reports that while there has been a decline in the number of individuals under supervision, the division has also filled many of its vacant agent positions. The combination of these two factors has produced the current statewide caseload average of 79 offenders for each supervising agent. However, there is room for improvement as the North and South regional parole and probation offices remain above the national caseload average. **Exhibit 17** shows regional and statewide caseload ratios compared to the national average of 82. Further analysis will be presented separately in the DPP report.

**Exhibit 17**  
**Parole and Probation Caseload Ratios**  
**Fiscal 2017**



DPP: Division of Parole and Probation

Source: Department of Public Safety and Correctional Services

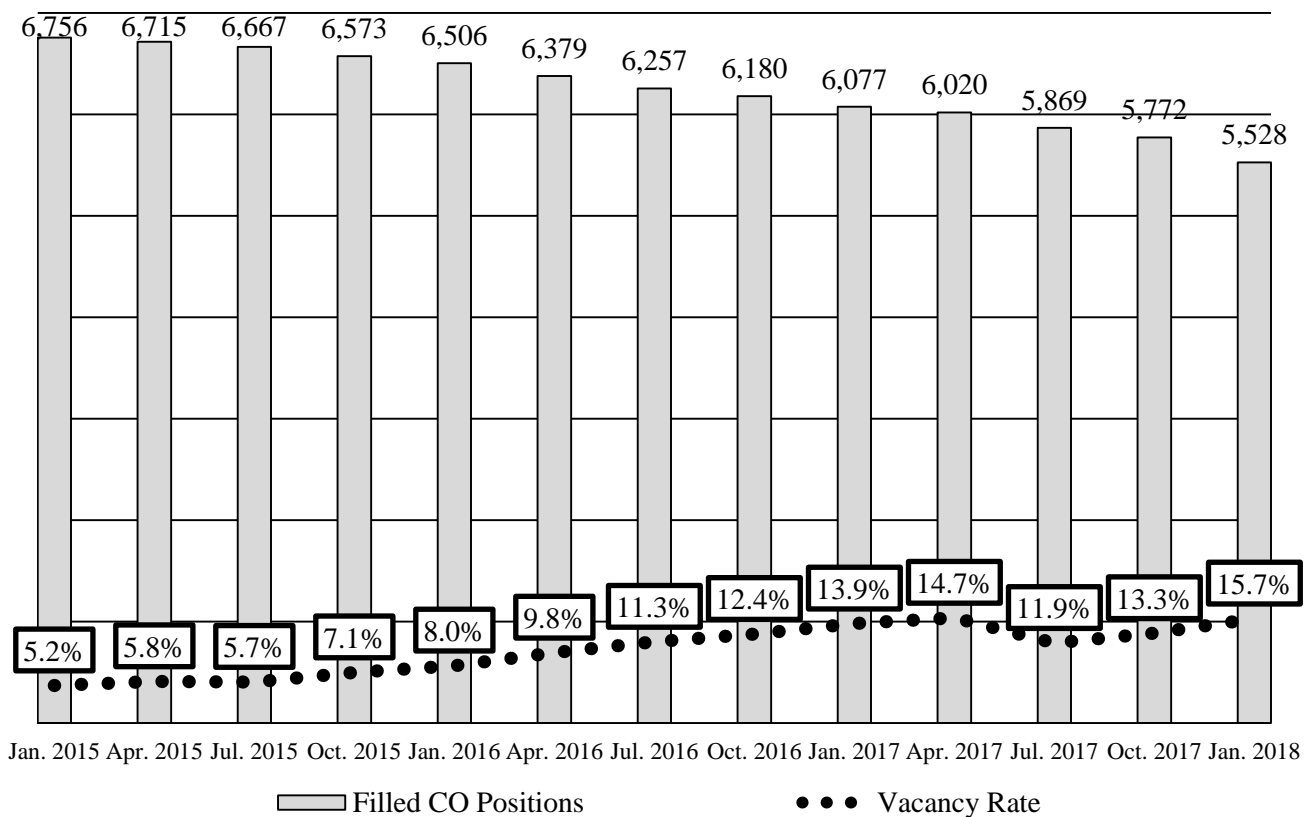
## **CO Vacancies**

Overall, vacancies among COs continue to increase. Over the past five fiscal years, DOC vacancies have risen nearly six fold, from 2.6% in January 2012 to 15.7% in January 2018. In addition, COs are the largest single personnel group at DPSCS and account for approximately 63% of all

positions. Because of the high number of vacancies in this division, overtime spending has dramatically increased, and assaults on both staff and inmates have climbed because facilities are undermanned and COs are working longer hours.

Because 400 positions were abolished due to the partial closing of MCI-H, the CO vacancy rate decreased in July 2017 for the first time in five years, from 14.7% to 11.9%. Since then, a decrease of 241 filled positions has moved total CO vacancies to the same level they were before the position cancellations. As of January 2018, there are now 1,030 CO vacancies. **Exhibit 18** shows quarterly vacancy rates for DPSCS COs from January 2015 through January 2018.

**Exhibit 18**  
**Correctional Officer Positions – Quarterly Vacancy Rate**  
**January 2015-January 2018**



CO: correctional officer

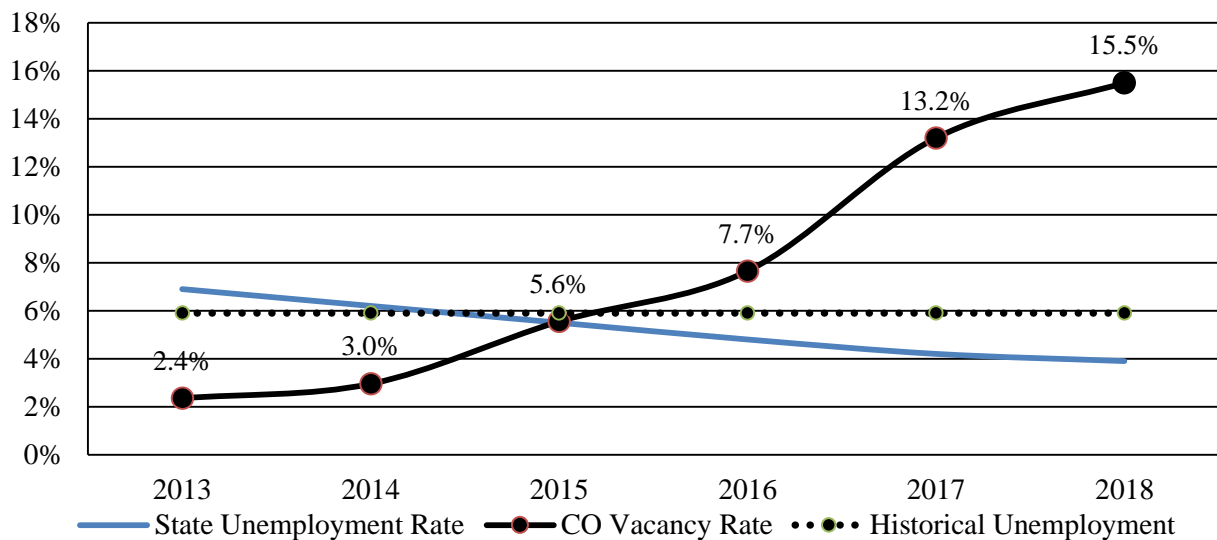
Source: Department of Public Safety and Correctional Services

Chapter 829 of 2017 required DPSCS to submit a security and staffing report for all DPSCS facilities. Overall, the summary indicated the need for approximately 6,407 CO positions. When adjusting for the loss of 376 CO positions in the fiscal 2018 appropriation, the total CO complement for all DPSCS facilities only provides 6,253 positions. While this would indicate a shortfall of 154 positions, to meet the needs identified in the facility staffing plans, the Governor’s allowance cuts an additional 100 positions for fiscal 2019. Given that CO vacancies continue to climb, a reduction in positions this fiscal year will not alleviate the issue but will, in fact, cause a nominal decrease in the department’s vacancy rate.

### **Improving Job Market Means Filling CO Positions Is Difficult**

One issue of note is the fact that filling CO positions – a high-stress, often dangerous job, is difficult. Across the country, corrections departments are not easily able to retain and recruit people for these positions, particularly while the labor market improves and the unemployment rate declines. **Exhibit 19** shows the Maryland State unemployment rate along with the department’s rate of filled CO positions. In fiscal 2015, the unemployment rate dropped below the historical average of 5.9% while the overall economy improved. In this labor environment, the number of COs decreased dramatically, which suggests that as the job market improves, hiring for new CO positions becomes more difficult.

**Exhibit 19**  
**CO Vacancy Rates vs. Maryland Unemployment Rate**  
**Fiscal 2013-2018**



CO: correctional officer

Source: Department of Public Safety and Correctional Services; U.S. Bureau of Labor Statistics

## **Future Steps**

With the department's shifting facility complement and declining population, these staffing plans and suggested position numbers have the potential to be out of date. In addition, the increasing vacancy rate over the past two years suggests that DPSCS will face challenges in its ability to fill new positions. At this time, priority should be placed on developing a plan to successfully recruit for the department's more than 1,000 vacant CO positions. The department has a variety of programs and initiatives aimed at improving vacancies; most notably, financial incentives for employee referrals, new employee bonuses, and a new class of CO training cadets. These programs will be discussed further in the DOC analysis.

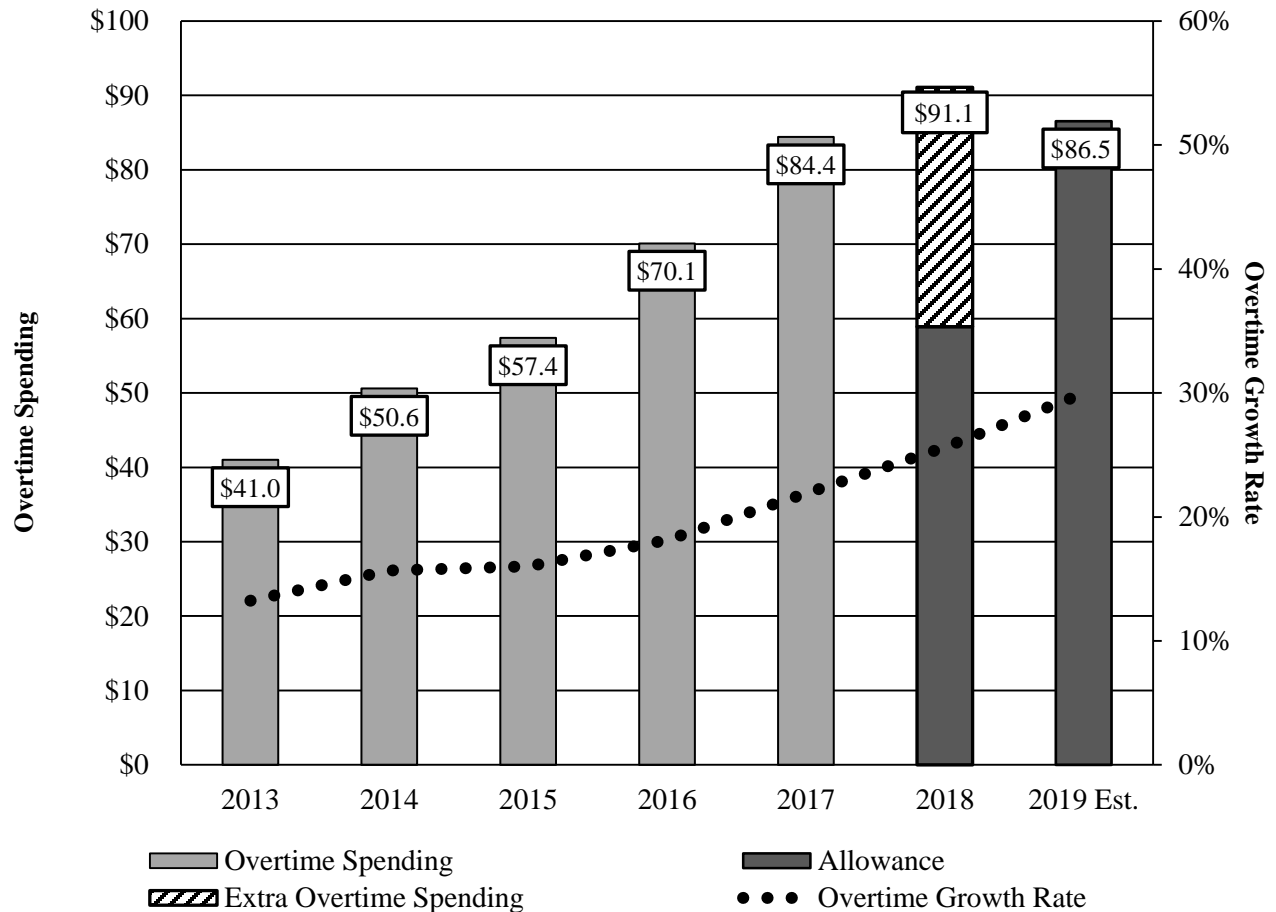
It should be noted that the coming years could potentially alleviate some of the gap between filled and unfilled CO positions. The size of Maryland's incarcerated population has been declining, consistent with national crime and incarceration trends. The population under the jurisdiction of DOC decreased by nearly 9.0% between fiscal 2012 and 2016. Additionally, provisions of the JRA, which is intended to reduce the State's incarcerated population, went into effect in October 2017. Significant decreases in the population would allow the department to continue closing facilities and lower the number of COs necessary. Therefore, it is recommended that the General Assembly continue to monitor the department's CO staffing needs, as well as the department's new plans to successfully increase recruitment and employee retention.

## **2. Departmentwide Vacancies and Vacancy Spending**

As was stated earlier in this analysis, the department has had high vacancy rates in key positions, particularly among COs. These vacancies have led to problems with procurement and increases in assaults, mandatory overtime, and employee overtime expenditures. As positions remain vacant, unused salary funds are being spent in other areas by the department, a practice that is likely not sustainable. Overall, departmental operations and expenditures have been impacted by the high vacancy rates.

For fiscal 2017, the department had \$58.9 million allocated for overtime spending. However, actual overtime spending was \$84.4 million. Because DPSCS facilities must be fully staffed at all times, the lack of available officers has led to an increase in mandatory overtime and assaults. **Exhibit 20** shows the department's overtime spending and growth rate in overtime hours. The data shows that overtime hours have increased 36% since fiscal 2015. Based on year-to-date expenditures, overtime spending is expected to rise again, to over \$91 million for fiscal 2018.

**Exhibit 20**  
**Overtime Spending and Growth Rates**  
**Fiscal 2013-2019 Est.**



Source: Department of Public Safety and Correctional Services

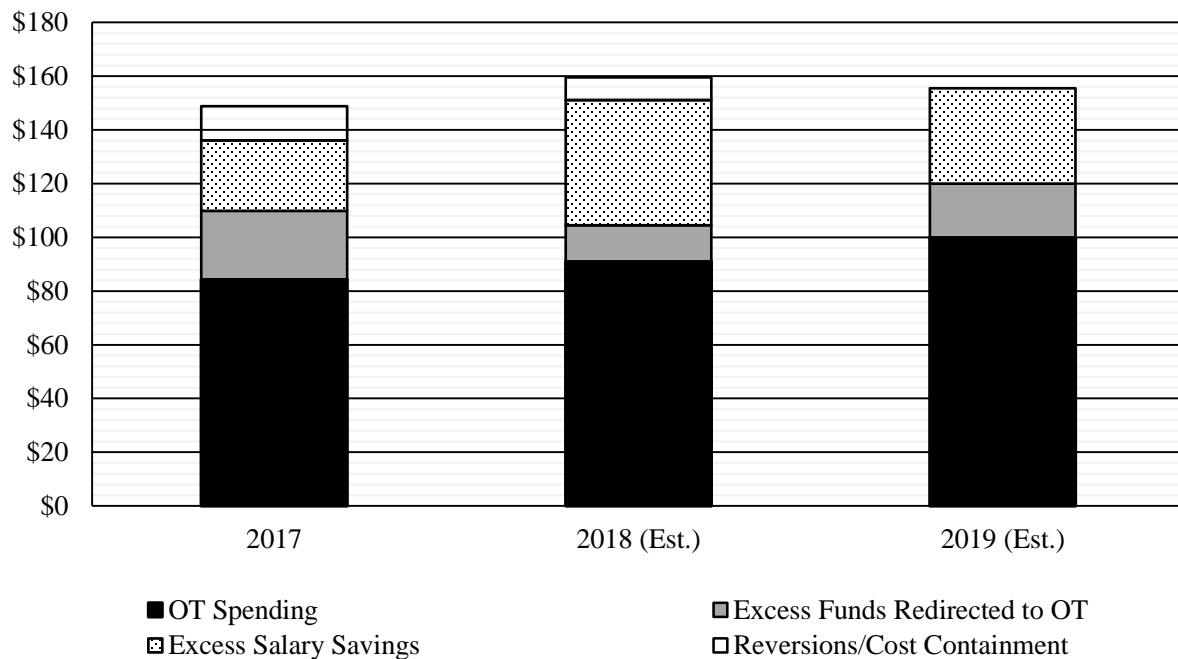
## Vacancy Savings and Spending

The results of having a high vacancy rate – increased assaults, mandatory employee overtime, and related spending – are major issues for the department not just in budgetary terms but in terms of facility safety and staff morale. Of note here is the fact that the department has a substantial amount of salary savings due to the large number of unfilled CO positions. The amount saved each fiscal year has allowed the department to pay for expenses in other areas without increasing the budgeted appropriations considered by the legislature. Recent vacancy data from August 2017 shows that while DOC had 799 vacant positions, it only needed 360 vacancies to meet budgeted turnover. This means it had salary savings from approximately 439 vacant positions. Across the entire department, DPSCS



had approximately \$26 million in excess salary savings in fiscal 2017. In fiscal 2019, the department has a projected salary savings total of \$45 million. **Exhibit 21** shows available overtime funds and actual spending since fiscal 2017. Despite having excess salary savings in fiscal 2017, the department reverted \$12.7 million in salaries.

**Exhibit 21**  
**Overtime Spending and Excess Salary Savings**  
**Fiscal 2017-2019 (Est.)**  
**(\$ in Millions)**



OT: overtime

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

It is worth noting that overtime expenses alone are estimated to be over \$91 million in fiscal 2018, and given that CO vacancies are now over 1,000 as of January 2018, it is possible that overtime costs will rise to \$100 million by fiscal 2019. Conversely, as more positions are filled, the department will have less vacancy savings to spend in other areas. However, approximately 66% of vacancy savings are spent on overtime costs. Overall, the DPSCS budget will be substantially affected by the interplay between increased hiring and more salaries to pay – or fewer positions filled, and excess salary savings that could be spent in other areas of the budget.

**DLS recommends the adoption of committee narrative requesting that the department submit a report to the budget committees by November 1, 2018, on projected vacancy savings for fiscal 2019, the nonbudgeted items that vacancy spending will likely be used to pay for, and whether the practice of using excess vacancy savings will be enough to offset upcoming additional expenditures in the current fiscal year. In addition, the department should provide data on vacancy savings expenditures for the last three fiscal years (fiscal 2016, 2017, and 2018). Lastly, the department should report on how it prioritizes which areas to use vacancy spending and if improvements in hiring can be accomplished at current compensation levels or if additional funding is needed.**

### **3. Justice Reinvestment Act Begins**

Chapter 515 of 2016, the JRA, is the State’s primary legislation addressing criminal justice reform. It includes policy changes designed to reduce prison populations and correctional spending and reinvest the savings in programs that reduce recidivism. The majority of the law took effect in October 2017 and introduced significant changes in sentencing, parole, and treatment options for offenders.

According to the broad directives of the JRA, the next two years will be dedicated to developing policies and conducting training. Currently, the State is in Stage II of the JRA and is eligible for federal funding. In December 2017, the department was awarded approximately \$300,000 in Byrne Justice Assistance Grants funding to support the inmate risk and needs assessment provision of the JRA, which will be used for the following:

- 5 assessment counselors and 1 supervisor (State positions via the Department of Budget and Management);
- computers/equipment;
- 15,000 LSI-R risk assessment instruments; and
- 1 LSI-R software license.

#### **Implementation**

Overall, preliminary implementation of the JRA requires key changes to the department’s Offender Case Management System (OCMS). A \$500,000 fiscal 2017 deficiency appropriation was used to implement these necessary changes in OCMS. Specifically, adjustments need to be added within DOC case management systems for good conduct credits; enhancements need to be made for MPC pertaining to special releases and juvenile lifer alerts; and DPP requires the addition of a violation matrix for offenders on parole along with a template to track earned compliance credits.

## **Innovation Teams**

In terms of the Act’s implementation, the department has already established 10 innovation teams to handle 10 key criminal justice reform areas of the JRA. Each team meets at least monthly and is led by two co-chairs. The co-chairs also meet on a regular basis to ensure effective communication and collaboration. **The fiscal note estimated that the department needed an additional 109 positions to fully implement the JRA. Since there is no additional support provided in the allowance and given its high number of vacancies, DPSCS should comment on its ability to implement the JRA with its current personnel complement.**

**Exhibit 22** depicts the key JRA provisions, their definitions, and current actions taken to implement them.

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### **Exhibit 22 Justice Reinvestment Act – Innovation Team Updates**

<b>Policy</b>	<b>Current Status</b>
<b>Administrative Release</b>	<p>Allows inmates convicted of certain offenses after October 1, 2017, to be released on parole after serving one-fourth of their sentence. Victims are notified of the early release and can request a regular parole hearing.</p> <ul style="list-style-type: none"><li>• The Maryland Parole Commission (MPC) Hearing Officers received training in August 2017.</li><li>• MPC is working with the Department of Information Technology to create a dashboard to manage offenders and its compliance with the new release procedures.</li></ul>
<b>Geriatric Parole</b>	<p>Offenders age 60 and up who were sentenced under Section 14-101 of the Criminal Law Article (which deals with mandatory minimum sentences) can petition for geriatric parole.</p> <ul style="list-style-type: none"><li>• To date, only three inmates have petitioned. The impact of this provision is expected to be minimal.</li></ul>
<b>Medical Parole</b>	<p>Inmates can petition to seek a recommendation (at no cost) from a medical professional, who may request that the offender be paroled for medical reasons. The Governor has 180 days to deny any approved request.</p> <ul style="list-style-type: none"><li>• MPC has a medical contractor in place.</li><li>• 50 requests have come in and are being reviewed.</li></ul>

*Q00 – DPSCS – Fiscal 2019 Budget Overview*

<b>Policy</b>	<b>Current Status</b>
<b>Division of Parole and Probation (DPP) Graduated Sanctions and Revocation Caps</b>	<p>DPP supervision agents use a matrix to determine the proper sanction against an offender who has violated parole. Noncustodial (non-jail) sanctions are considered. Revocation caps limit the length of incarceration time imposed for violations of parole or probation to:</p> <ul style="list-style-type: none"> <li>• 15 days for the first violation;</li> <li>• 30 days for the second violation;</li> <li>• 45 days for the third violation; and</li> <li>• allows departure from these limits for public safety reasons.</li> </ul>
<b>Diminution Credits</b>	<p>Expands offender eligibility to earn diminution credits, how many credits can be earned, and for what reasons. Programs that earn credits include:</p> <ul style="list-style-type: none"> <li>• workforce development training;</li> <li>• cognitive-behavioral therapy; and</li> <li>• substance abuse therapy.</li> </ul>
<b>Restitution</b>	<p>Requires 25% of inmate earnings to be withheld for the payment of an unsatisfied judgment of restitution.</p> <ul style="list-style-type: none"> <li>• Teams need to coordinate with all local detention centers to establish a uniform collection effort.</li> </ul>
<b>Division of Correction (DOC) and DPP Assessment and Case Planning</b>	<p>Requires a risk/needs assessment and development of a related case plan for all State inmates (and parole/probationers) as part of the intake process and to be used to guide programming and treatment decisions.</p> <ul style="list-style-type: none"> <li>• Validated risk assessment tool (LSI-R) has been purchased and incorporated into the Offender Case Management System.</li> <li>• Equipment used for the assessment process has been ordered using funds from the Governor’s Office of Crime, Control, and Prevention.</li> <li>• Training for DOC and DPP staff has been ongoing with evidence-based practices training (includes understanding offender risk factors, and how to encourage offender behavior change).</li> </ul>

*Q00 – DPSCS – Fiscal 2019 Budget Overview*

Policy	Current Status
<b>DPP Earned Compliance Credits</b>	The Justice Reinvestment Act allows individuals on probation and parole to earn credits to reduce their supervision and now requires DPP to automatically transfer nonviolent offenders (who have earned enough credits to satisfy their supervision term) to unsupervised probation or parole where they will not be required to report regularly or pay supervision fees.
<b>DPP Certificate of Rehabilitation</b>	Allows first-time, nonviolent offenders (excluding sex offenders) to apply for a certificate of completion to restore their rights to obtain certain professional certifications. <ul style="list-style-type: none"><li>• Application process and forms have been created.</li><li>• The Department of Labor, Licensing, and Regulation has approved the process.</li></ul>
<b>Department of Public Safety and Correctional Services Evidence-based Practices Training</b>	Requires annual evidence-based practices training for parole and probation agents, MPC members, and hearing officers. <ul style="list-style-type: none"><li>• All DPP and MPC training is complete in this area.</li></ul>

Source: Department of Public Safety and Correctional Services

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Estimating the impact of the JRA on the DPSCS budget and operations will be difficult. However, understanding and quantifying the changes that the law will have on inmate populations is important. While the department states that there are no current fiscal or ADP projections available, there will be initial data that could improve the State's ability to understand the JRA and its effect on operations. For example, a key JRA provision allows certain offenders with mandatory minimum sentences to petition for a sentence change that could result in their release from prison. DPSCS identified 300 offenders eligible for release under this provision and in time, the number of offenders whose petitions are approved will be available. Likewise, key data regarding inmates petitioning under JRA-related provisions can give the budget committees insight into how the law will have a direct effect on the number of offenders in State and local prisons and jails. **As a result, DLS recommends the adoption of committee narrative requesting that DPSCS submit a report to the budget committees by December 1, 2018, on the following items:**

- **annual updates on the number of offenders petitioning and approved for new JRA provisions including, but not limited to, administrative release, medical/geriatric parole, certificates of rehabilitation, and the number of offenders affected by new diminution and earned compliance credit rules;**

- **an update regarding the graduated sanctions matrix that has been shared with the Judiciary and the number of offenders who have been given graduated sanctions;**
- **updates on any sentencing changes adopted by the Judiciary, as well as information on the number of offenders affected by those changes in sentencing rules; and**
- **information regarding case planning issues and challenges, all efforts to notify inmates about new JRA provisions that they may petition for, and estimated cost savings related to the previous three items.**

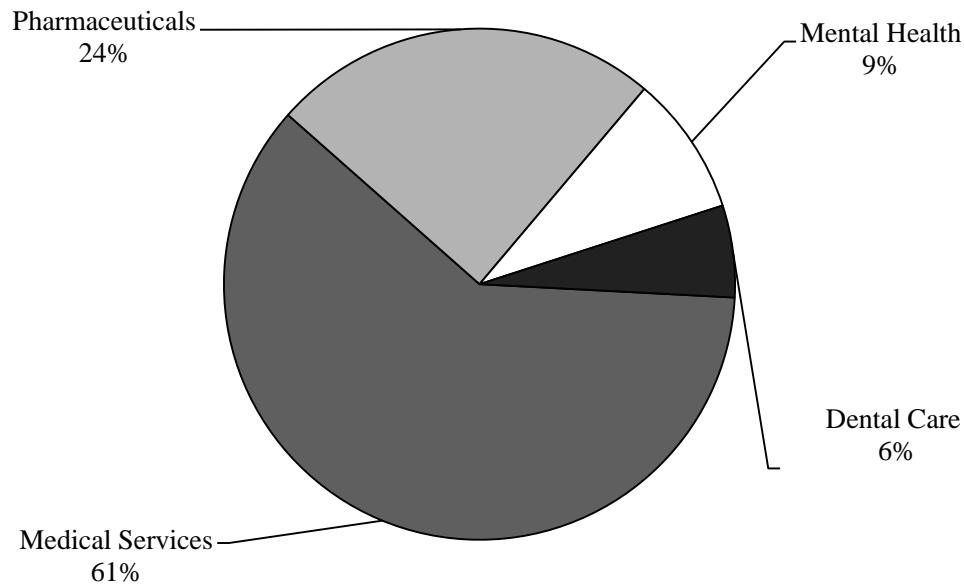
#### **4. Inmate Pharmacy Costs**

Historically, the department has struggled with large medical procurements, and key medical contracts have been modified multiple times to reflect increased costs. In fiscal 2017, department spending on pharmaceuticals rose due to more expensive HIV and Hepatitis-C medications. While the focus in the past has been on HIV, Hepatitis-C is spreading among inmate populations and is a major cost driver of inmate medical spending around the country.

Within DPSCS, the Office of Inmate Health Clinical Services (OICS) supervises the treatment of offenders under the control and custody of the department. Treatment services include overall medical care, mental health, dental, pharmacy services, and substance abuse care. Overall, DPSCS works with private health care providers through a competitive bid process and enters into contractual relationships with those providers to deliver health care services.

In general, these health care practitioners are located at State facilities, according to the needs of the offender population. The service delivered by these practitioners is monitored by OICS staff to ensure quality of care and contract compliance. For fiscal 2018, DPSCS spends approximately \$180 million on inmate medical care, which represents about 12% of the agency's budget of \$1.38 billion. Overall, corrections departments across the country spend between 9% and 30% of their total budget on inmate medical care. Relatively speaking, Maryland is on the lower end of that spending range. **Exhibit 23** shows a breakdown of inmate medical expenses by service provided. The two largest categories of spending include medical services, which make up 61% of the total, followed by pharmacy care (24%).

**Exhibit 23  
Inmate Medical Care by Service  
Fiscal 2018**



Source: Department of Public Safety and Correctional Services

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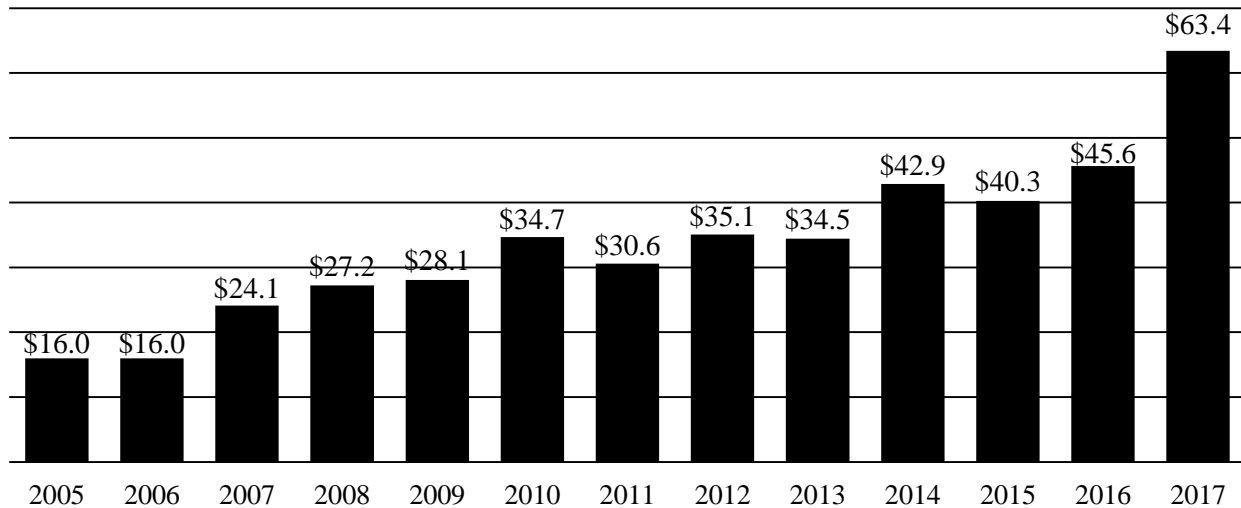
### **Medical Spending Declines Due to Fewer Inmates**

The inmate medical contract accounts for ADP changes in State correctional facilities. Instead of a simple bulk payment, the final cost can change according to the size of the inmate population. DPSCS notes that the department's declining inmate population resulted in about \$11 million in contract cost avoidance in fiscal 2016. Continued reductions in the ADP are anticipated for fiscal 2018 and 2019. These reductions will lower the contract cost and offset a portion of the contract's anticipated inflationary increase.

### **Inmate Pharmacy Contract**

Historically, DPSCS has struggled with large procurements, and its medical contracts have been major issues in multiple analyses during recent years. In particular, DPSCS has been engaged in an extremely lengthy procurement for a new inmate pharmacy contract and will be awarding new contracts to medical and pharmacy contractors in fiscal 2018. The current contract includes a \$63.4 million contract modification, which is substantially larger than the fiscal 2015 and 2016 modifications in the \$40 million range. **Exhibit 24** shows the annual contract amounts and modifications since fiscal 2005.

**Exhibit 24**  
**Pharmacy Contract Totals**  
**Fiscal 2005-2017**  
**(\$ in Millions)**



Source: Department of Public Safety and Correctional Services

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**Reasons for Increased Costs: Hepatitis-C and HIV**

According to DPSCS, the increase in pharmacy costs in fiscal 2017 was due to the use of more expensive HIV and Hepatitis-C medications. The department states that the number of inmates needing treatment is rising, so costs have risen. While the focus in the past has been on HIV, Hepatitis-C is a major cost driver and will remain so in upcoming fiscal years.

Hepatitis-C is the most dangerous infectious disease in the United States and is responsible for over 20,000 fatalities per year. In addition, Hepatitis-C infection rates average 17% in state prisons around the country, and inmate infection rates are 30 times higher than the general population. In Maryland, the average inmate infection rate is about 11%. To respond to this problem, states have increasingly turned to the newest drugs such as Gilead Sciences' Sovaldi, which has a 90% cure rate and has been touted as a breakthrough. The nationwide average cost for a 12-week course is \$84,000. According to DPSCS, treatment costs will range between \$55,000 and \$85,000 per inmate, per year.

Overall, the cost of Hepatitis-C drugs has been stretching state budgets. Nationwide, corrections departments in 41 states spent at least \$39.8 million per year on Hepatitis-C drugs – an



amount equal to total pharmacy spending in Maryland (\$40 million to \$45 million per year on average). According to the National Conference of State Legislatures (NCSL), many states including Delaware, Florida, New York, and Washington have had particular difficulty with the cost of Sovaldi, Harvoni, and similar medications. Additionally, the opioid epidemic has led to an increase in both Hepatitis-C and HIV infection rates, due to frequent sharing of contaminated needles.

## **State and Federal Response**

NCSL notes that procurement groups such as the Minnesota Multistate Contracting Alliance for Pharmacy have helped states save money on costly medical procurements, and several states are pursuing this option. However, states like Oregon have noted that if it treated all of its inmates for Hepatitis-C, the cost would be greater than the entire prison system's health care budget. Other states, such as Illinois, are only treating inmates after the disease begins to advance, and limiting treatment for those who have a history of drug and alcohol abuse.

At the federal level, the pricing situation around expensive Hepatitis-C drugs has caused a great deal of controversy, as a U.S. Senate investigation revealed a lack of transparency in medication pricing. The Senate study also noted that the Federal Bureau of Prisons, the U.S. Department of Veteran Affairs, and the Department of Defense were receiving discounts that averaged near 25%.

## **Potential Cost Savings**

Unlike the department's medical contract, the inmate pharmacy contract is not ADP-based; it is utilization-based – so a decline in offender populations will not result in built-in cost savings due to the fact that a lower number of inmates will need to be treated. However, because inmate numbers continue to decline, the department's total medical expenditures will likely decrease in the long term.

In terms of reducing costs, one option for states to receive similar discounts is the 340B Discount Drug Program (340B). This federal program offers drug discounts to organizations that treat sizable, "vulnerable," low-income populations, including prisoners. However, the discount only applies to qualifying health organizations – to receive the discount, prison systems must partner with an appropriate hospital or group.

DPSCS stated that the wait time for 340B approval necessitated postponing a new Request for Proposal for inmate pharmacy services and as a result, the current contract had to be extended. This means a new contractor is not likely to be hired until fiscal 2019.

**Exhibit 25** shows the current costs of treating prisoners with Hepatitis-C statewide. During the past three fiscal years, the number of inmates treated has risen nearly 70%, and the cost to treat each inmate has more than doubled, from approximately \$25,565 to \$51,721.

**Exhibit 25**  
**Hepatitis-C Treatment Costs**  
**Fiscal 2015-2017**

	<u>2015</u>	<u>2016</u>	<u>2017</u>
-			
Patient Total	169	106	286
Hepatitis-C Treatment Costs	\$4,320,408	\$4,960,713	\$14,792,235
Cost Per Inmate	\$25,565	\$46,799	\$51,721

Source: Department of Public Safety and Correctional Services

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There are several issues that need to be examined in more detail:

- **Costs:** 286 inmates in treatment represents approximately 1% of the total number of inmates in custody. According to a Yale study, average state inmate infection rates are expected to be near 11%. This implies that the total number of infected inmates could be approximately 2,411. If all 2,411 infected inmates were treated (at a cost of \$51,721 per inmate), Hepatitis-C costs would rise to nearly \$125 million. The current DPSCS budget for all inmate medical expenses is \$180 million.
- **Savings:** The 340B discount program has been slated for funding cuts by the federal government, and the Centers for Medicare and Medicaid Services announced a final rule to cut payments for hospitals in the program by \$1.6 billion. Cuts to this program could have an effect on inmate pharmacy costs.
- **Sustainability:** Hepatitis-C drugs cure the infection, but they do not immunize a patient against it. People, especially inmates, can be re-infected. For example, after an inmate is cured, they can use an infected needle and get Hepatitis-C again. While re-infection rates tend to be low, they can range from 10% to 20% among high-risk patients (which includes those with HIV, drug users who use needles, and prisoners). Paying exorbitant fees more than once, for the same person, is a nonstarter for many state corrections agencies. This is another reason why some states block patients from receiving treatment until the disease advances past a certain threshold, or after they receive some kind of guarantee that the patient will finish the drug regimen and begin a healthy lifestyle without relapsing.
- **Legislation:** NCSL notes that dozens of states are considering laws that require drug manufacturers to justify increases in medication costs.

- ***Quality Control:*** DPSCS and its medical contractor already conduct monthly continuous quality improvement (CQI) meetings. As part of this process, DPSCS should be asked to keep this kind of information transparent in the pharmacy program, as well as its long-term plan which should collect infection and cure rates, relapse tracking, post-release treatment options, and similar performance measures.
- ***New Drugs:*** Mavyret, a new Hepatitis-C drug, is now on the market and costs about 50% less than the leading drugs and has a similar cure rate.
- ***Effect on the State Budget:*** Medical experts state that Hepatitis-C infections nationwide will likely decrease because of the high cure rate of the newest drugs. The State could potentially benefit from aggressive Hepatitis-C treatment as it can reduce the effect of diseases related to the infection, reduce costs of future hospitalization, and lower infection rates statewide. In any case, DPSCS should work with the Maryland Department of Health (MDH) wherever possible to track and share relevant information.

**Therefore, DLS recommends the adoption of committee narrative requesting that DPSCS submit a report to the budget committees by December 1, 2018, on the following items:**

- **A full report on the number of inmates screened and treated for Hepatitis-C, the number infected and cured, requirements for treatment, and the overall cost of treatment per inmate.**
- **A general overview of the CQI process and what metrics are collected in that process and any information about data sharing with MDH regarding Hepatitis-C.**
- **Any information on inmate relapse/reinfection tracking, post-release treatment options for offenders, the upcoming inmate medical and pharmacy contractors, and related performance measures and data.**

**In addition, DPSCS should report on the policies regarding the requirements for treatment and its intersection with substance abuse treatment, in particular with opioids. As such, any policies aimed at preventing further infections should be reported to the budget committees.**

## **Operating Budget Recommended Actions**

1. Adopt the following narrative:

**Vacancy Spending Report:** The budget committees request that the department submit a report by November 1, 2018, on projected vacancy savings for fiscal 2018, the nonbudgeted items that vacancy spending will likely be used to pay for, and whether the practice of using excess vacancy savings will be enough to offset upcoming additional expenditures in the current fiscal year. In addition, the department should provide data on vacancy savings expenditures for the last three fiscal years. Lastly, the department should report on how it prioritizes which areas to use vacancy spending and if improvements in hiring can be accomplished at current levels, or if additional funding is needed.

Information Request	Author	Due Date
Vacancy spending report	Department of Public Safety and Correctional Services	November 1, 2018

2. Adopt the following narrative:

**Justice Reinvestment Act Initial Data Report:** The budget committees request that the department submit a report by December 1, 2018, that includes annual updates on the number of offenders petitioning and approved for new Justice Reinvestment Act (JRA) provisions including, but not limited to, administrative release, medical/geriatric parole, certificates of rehabilitation; the number of offenders affected by new diminution and earned compliance credit rules; an update regarding the graduated sanctions matrix that has been shared with the Judiciary and the number of offenders who have been given graduated sanctions; updates on any sentencing changes adopted by the Judiciary, as well as information on the number of offenders affected by those changes in sentencing rules; and information regarding case planning issues and challenges, all efforts to notify inmates about new JRA provisions that they may petition for, and estimated cost savings related to the previous three items.

Information Request	Author	Due Date
JRA initial data report	Department of Public Safety and Correctional Services	December 1, 2018

3. Adopt the following narrative:

**Inmate Pharmacy Treatment Costs Report:** The budget committees request that the department submit a report by December 1, 2018, that includes the following items:

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- a full report on the number of inmates screened and treated for Hepatitis-C, the number infected and cured, requirements for treatment, and the overall cost of treatment per inmate;
- a general overview of the continuous quality improvement process and what metrics are collected in that process, and any information about data sharing with the Maryland Department of Health;
- any information on inmate relapse/reinfection tracking, post-release treatment options for offenders, the upcoming inmate medical and pharmacy contractors, and related performance measures and data; and
- DPSCS should report on the policies regarding the requirements for treatment and its intersection with substance abuse treatment, in particular with opioids. As such, any policies aimed at preventing further infections should be reported to the budget committees.

<b>Information Request</b>	<b>Author</b>	<b>Due Date</b>
Inmate pharmacy treatment costs report	DPSCS	December 1, 2018