

V00A
Department of Juvenile Services

Operating Budget Data

(\$ in Thousands)

| | <u>FY 17</u> <u>Actual</u> | <u>FY 18</u> <u>Working</u> | <u>FY 19</u> <u>Allowance</u> | <u>FY 18-19</u> <u>Change</u> | <u>% Change</u> <u>Prior Year</u> |
|-----------------------------------|---------------------------------------------|----------------------------------------------|------------------------------------------------|------------------------------------------------|----------------------------------------------------|
| General Fund | \$269,985 | \$268,406 | \$264,528 | -\$3,878 | -1.4% |
| Adjustments | 0 | -1,990 | 1,203 | 3,193 | |
| Adjusted General Fund | \$269,985 | \$266,416 | \$265,731 | -\$685 | -0.3% |
| Special Fund | 3,814 | 3,239 | 3,616 | 377 | 11.6% |
| Adjusted Special Fund | \$3,814 | \$3,239 | \$3,616 | \$377 | 11.6% |
| Federal Fund | 4,965 | 4,821 | 5,324 | 503 | 10.4% |
| Adjustments | 0 | -33 | 10 | 43 | |
| Adjusted Federal Fund | \$4,965 | \$4,788 | \$5,334 | \$546 | 11.4% |
| Reimbursable Fund | 895 | 234 | 45 | -189 | -80.7% |
| Adjusted Reimbursable Fund | \$895 | \$234 | \$45 | -\$189 | -80.7% |
| Adjusted Grand Total | \$279,659 | \$274,678 | \$274,727 | \$49 | 0.0% |

Note: FY 18 Working includes targeted reversions, deficiencies, and across-the-board reductions. FY 19 Allowance includes contingent reductions and cost-of-living adjustments.

- The Department of Juvenile Services (DJS) receives one general fund deficiency appropriation providing \$516,251 in fiscal 2018 to return various information technology (IT) positions that had previously been consolidated within the Department of Information Technology (DoIT).
- After accounting for the deficiency appropriation and an across-the-board reduction to employee health insurance contributions in fiscal 2018 as well as a general salary increase in fiscal 2019, the proposed fiscal 2019 allowance for DJS reflects essentially no change from the department's fiscal 2018 working appropriation.

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

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Personnel Data

| | <u>FY 17</u> <u>Actual</u> | <u>FY 18</u> <u>Working</u> | <u>FY 19</u> <u>Allowance</u> | <u>FY 18-19</u> <u>Change</u> |
|------------------------|---------------------------------------------|----------------------------------------------|------------------------------------------------|------------------------------------------------|
| Regular Positions | 1,998.05 | 1,987.05 | 1,987.05 | 0.00 |
| Contractual FTEs | <u>183.39</u> | <u>151.15</u> | <u>149.00</u> | <u>-2.15</u> |
| Total Personnel | 2,181.44 | 2,138.20 | 2,136.05 | -2.15 |

Vacancy Data: Regular Positions

| | | |
|-----------------------------------------------------------|--------|--------|
| Turnover and Necessary Vacancies, Excluding New Positions | 138.70 | 6.98% |
| Positions and Percentage Vacant as of 12/31/17 | 202.00 | 10.17% |

- Although there is no change reflected in the 1,987 regular positions allocated to the department in fiscal 2018 and 2019, DJS does receive 9 IT positions (and associated funding) via a fiscal 2018 deficiency appropriation that had previously been consolidated within DoIT.
- At the end of calendar 2017, DJS had 202 regular positions vacant, equating to nearly 10.2% of its regular position complement. This is approximately 63 positions above what is needed to meet fiscal 2019 budgeted turnover.

Analysis in Brief

Major Trends

Maryland Juvenile Arrest Data: Juvenile arrest data typically included in this analysis is sourced from the *Uniform Crime Report*. Issues arising from inaccurate data from local law enforcement have delayed the Department of State Police’s ability to publish the 2016 *Uniform Crime Report*. As such, juvenile arrest data is not available for analysis at this time.

DJS Complaint Totals and Complaint Disposition: Approximately 21,500 complaints were referred to the department in fiscal 2017, reflective of a 4.0% decrease from the previous year. Nearly 55% of the complaints referred to the department did not require court intervention. Formal cases declined by 7.8% in fiscal 2017, to just above 10,000 cases. Of those cases receiving a formal recommendation for court intervention, approximately 24.0% received a probation disposition, and 10% received a committed disposition. Complaints from the Central and Southern regions account for nearly 50% of all complaints received in fiscal 2017. Complaints in Baltimore City, as a proportion of the total, have fallen steadily from 16% in fiscal 2014 to 10% in fiscal 2017. Complaints for crimes of violence have increased from 9% of total complaints in fiscal 2011 to 12% in fiscal 2017.

Nonresidential Placement Trends: Fiscal 2017 and 2018 year-to-date data reflects a continued drop in overall nonresidential placements, consistent with the population declines experienced throughout the department. Probation cases are an increasingly larger portion of the nonresidential placement population, accounting for approximately 54% of the average monthly nonresidential caseload.

Secure Detention and Pending Placement Trends: Since fiscal 2012, the average daily population (ADP) of youth in DJS detention facilities has fallen by 138 youth, or 33%. This is despite a 214% increase in the adult-court-authorized detention population, since assuming the population in fiscal 2014. Absent the youth awaiting action from the adult court, the juvenile detention population has decreased by 61%, or 257 youth, in the past seven years. Comparing year-over-year change, the detention population increased by 7% between fiscal 2016 and 2017, entirely attributable to a nearly 50% increase in the youth charged as adult population. The fiscal 2017 pending placement ADP was 61 youth, marking the fourth consecutive year that the pending placement population was below 100 youth. 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 49% of the population in fiscal 2017.

Adult-court-authorized Detention Population Trends: Effective October 1, 2015, courts were 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 116 youth in the past four years. These youth have significantly longer lengths of stay than other detention populations. A comparison of the average length of stay (ALOS) for this population by region reveals that ALOS in Baltimore City is more than double the second longest regional ALOS. **DJS should comment on how it is working with the courts and other stakeholders**

to improve case processing for youth awaiting action from the adult court system. The department should also comment on what actions the General Assembly should consider to alleviate the strain on these youth and departmental operations.

Committed Population Trends: In fiscal 2017, an ADP of 479 youth were in committed residential programs. Data through the first six months of fiscal 2018 shows a significant decline of nearly 13% to an ADP of 419 youth. Of all youth in committed residential placements, nearly 92% remain in-state. The out-of-state ADP has declined 67% since fiscal 2013 to an ADP of 40 youth in fiscal 2017. Of the youth remaining in-state, 69% are placed in private per diem facilities. Similar to the increases in complaints and detention placements, the rate of youth committed for crimes of violence has also increased in recent years. In fiscal 2017, 27% of commitments to the department were for crimes of violence, compared to 24% in fiscal 2016.

Strategic Reentry: Youth who are released from commitment face numerous challenges in returning to daily life, such as re-enrolling in school or accessing needed somatic or behavioral health service. In fiscal 2016, DJS adopted a Strategic Re-Entry Plan designed to ensure that youth returning to the community have the support and resources necessary to help them achieve a successful transition. Initial indicators suggest a positive impact from the clearly established quality assurance system in place to ensure the services once the youth is in the community. **To assist the General Assembly in monitoring the department's progress in improving juvenile reentry, the Department of Legislative Services (DLS) recommends that DJS develop reentry performance measures as part of its Managing for Results submission.**

Recidivism Rates: Two- and three-year recidivism rates have declined significantly in the past three years. The two-year reincarceration rate fell from 27% to 18% between fiscal 2013 and 2015. After three years, approximately 26% of youth released from a committed program in fiscal 2014 are reincarcerated, compared to 33% of youth released in fiscal 2013. Similar declines have been seen in the one-year recidivism rates, as well, although fiscal 2016 data shows slight upticks in the rearrest rates. One-year reincarceration data is not available for 2016, as DJS has encountered several data issues prohibiting the calculation. This is due to the number of adult-court-authorized cases that are still pending resolution.

Issues

Office of Legislative Audits Notes One Dozen Findings in the Most Recent Fiscal Compliance Audit: The Office of Legislative Audits released its most recent fiscal compliance audit for the department in November 2017. The audit disclosed 12 separate findings, of which 3 were repeat findings from the previous audit. Issues pertain to contracts for youth care services, circumventing State procurement regulations, not maximizing federal funds, and insufficient controls over the restitution process. **DJS should brief the budget committees on actions taken to address each of the audit findings.**

Newly Constructed Cheltenham Youth Detention Center is Hampered by Significant Maintenance Issues: The State provided \$58.7 million in capital funding to construct the new 72-bed Cheltenham Youth Detention Center. The facility was occupied in November 2016. Since that time, there have

been numerous warranty work order issues. While these are not resulting in a fiscal impact to the department, they are generating operational issues. In addition, the contract with the Whiting-Turner Construction Company does not include a specific timeframe for responding to warranty issues. As such, many of the identified issues remain unresolved. **DJS should brief the committees on the issues with the facility and the impact on youth and staff. The department should also comment on how it intends to remedy the outstanding work orders under the warranty and lessons learned for avoiding similar situations for future construction projects.**

DJS Increasingly Utilizes Excess Operating Funds for Capital Expenses: With higher than anticipated vacancy rates and lower than anticipated populations, DJS has benefitted from sizeable general fund surpluses in recent years. At the same time, the State has faced a compressed capital budget and significant underfunding of its Facility Renewal program. As a result, DJS has increasingly redirected general funds toward capital projects, improving, upgrading, and modifying its facilities outside of the typical capital budget process. While these projects may be of worthy pursuit, funding capital projects with the use of operating appropriations originally provided for other purposes poses several issues. It limits the oversight and input of the General Assembly and the Department of Budget and Management, in terms of the capital projects funded and the level of operating expenses required by the agency; generates an increased, yet unacknowledged, workload for the Department of General Services; and counts one-time capital-related expenditures as ongoing State spending. **DLS recommends that DJS conduct an analysis of its facility capital needs that are not addressed through its Facility Master Plan. To the extent that funding is provided for these projects, it should be done through the capital budget, Facility Renewal Program, or a pay-as-you-go appropriation.**

Operating Budget Recommended Actions

Funds

1. Add language restricting funding for contractual youth care services for that purpose only.
2. Adopt narrative requesting reentry performance measures be included with the Managing for Results submission.
3. Adopt narrative requesting an analysis of facility capital needs.
4. Reduce fiscal 2018 funding for residential per diems based on anticipated population declines.
5. Reduce funding for residential per diems based on anticipated population decline. \$ 1,000,000
6. Reduce funding for overtime in line with prior year actual expenditures. 400,000

Funds

Total Reductions

\$ 1,400,000

Updates

Use of Restraints and Strip Searches for Youth in Custody: The Task Force to Study the Restraint, Searches, and Needs of Children in the Juvenile Justice System was created in 2016 to address concerns regarding the use of mechanical restraints and strip searches for youth in DJS custody. The 2017 *Joint Chairmen’s Report* requested that DJS report to the budget committees on progress made regarding the implementation of the task force’s recommendations, provide updated data on the frequency for using restraints and strip searches, and evaluate the potential for creating a separate nonsecure transportation unit. DJS submitted its response in December 2017, acknowledging that several policy and procedure changes had been implemented as of May 23, 2017. Between May and November 2017, DJS reported that there were no incidences of strip searches being conducted due to a reasonable suspicion of contraband and that there were no youth transported for a home pass or return to the community with mechanical restraints.

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

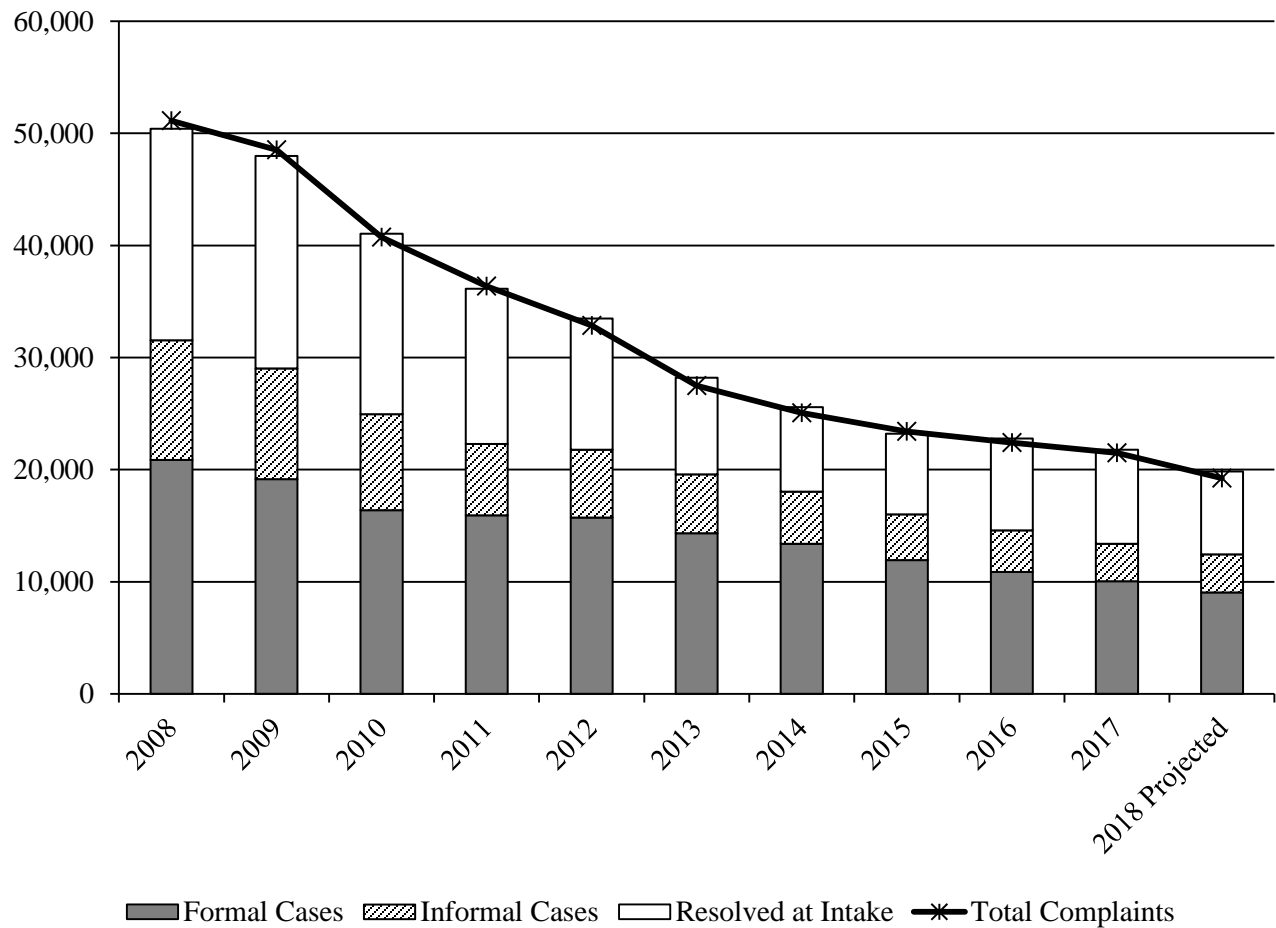
Juvenile arrest data typically included in this analysis is sourced from the *Uniform Crime Report*. Issues arising from inaccurate data from local law enforcement have delayed the Department of State Police's ability to publish the 2016 *Uniform Crime Report*. As such, juvenile arrest data is not available for analysis at this time.

1. DJS Complaint Totals and Complaint Disposition

Exhibit 1 illustrates 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 21,500 complaints in fiscal 2017, equating to a 4.0% decrease from the previous year. The magnitude of the decrease has continued to slow down; however, fiscal 2018 projections, using data through the first six months of the current fiscal year, suggest that the downward trend will continue. The fiscal 2018 projection is that the department will receive slightly less than 19,300 complaints. Compared to the peak in fiscal 2004, when DJS handled over 53,000 complaints, total complaints have fallen by 60%.
- A larger percentage of the complaints received in fiscal 2017 did not require court intervention, compared to the prior year. Approximately 54.6% of the cases received in fiscal 2017 were either resolved at intake (39.0%) or referred for informal intervention (15.6%), compared to 53.1% in fiscal 2016. This growth is due to a 2.4% increase in cases resolved at intake, which also increased by 3 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 9% 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 15.6% of all cases considered in fiscal 2017.
- The formal caseload, cases where court intervention is required, accounts for 47% of all complaints received. The 7.8% decrease experienced in fiscal 2017 reduced total formal cases to just above 10,000, less than half the formal complaints received a decade ago. Of those cases receiving a formal recommendation for court intervention in fiscal 2017, approximately 24.0% received a probation disposition, and 10% received a committed disposition. These percentages have remained consistent for the past five years, despite declines in commitments to DJS and the percentage of cases dismissed.
- In fiscal 2017, 74.0% of total complaints received were for male youth, with 26.0% accounted for by female youth.

Exhibit 1
Juvenile Complaint and Complaint Disposition
Fiscal 2008-2018 Projected

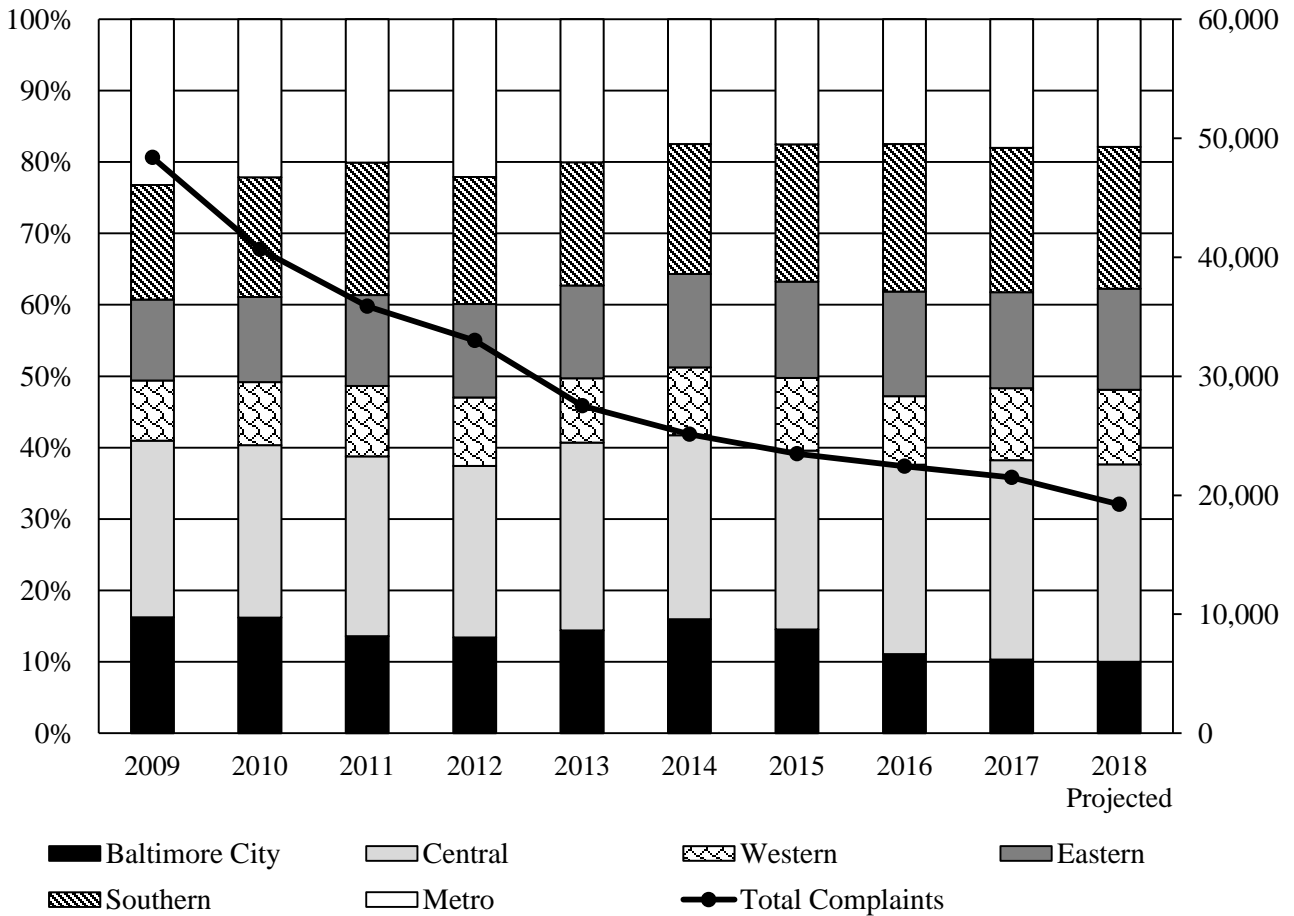


Note: Total complaints typically vary from the sum of those resolved at intake and the informal and formal caseload. The difference relates to jurisdictional issues or when a decision is not recorded. Fiscal 2018 projections are based on data reported through December 2017.

Source: Department of Juvenile Services

Exhibit 2 shows regional complaint data as a percentage of total complaints received. Complaints from the Central and Southern regions account for nearly 50.0% of all complaints received in fiscal 2017 (28.0% and 20.0%, respectively). Complaints in Baltimore City, as a proportion of all complaints received, have fallen steadily from 16% of all complaints in fiscal 2014 to 10% in fiscal 2017.

Exhibit 2
Juvenile Complaints by Region
Fiscal 2009-2018 Projected

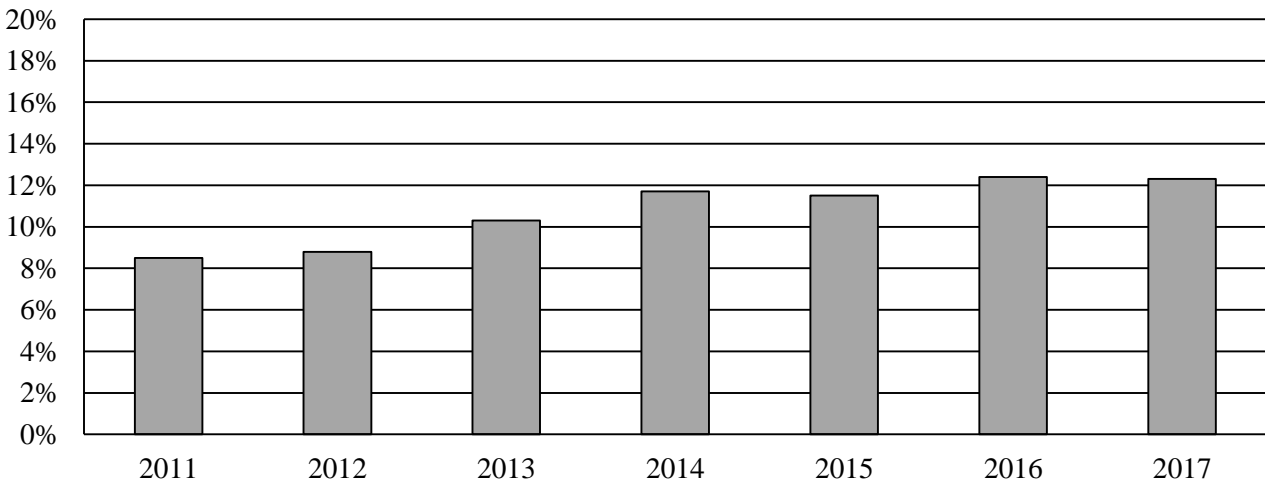


Note: Fiscal 2018 projections are based on data reported through December 2017.

Source: Department of Juvenile Services

Exhibit 3 shows that crimes of violence are accounting for an increasingly larger percentage of the complaints received by the department. In fiscal 2011, crimes of violence accounted for 8.5% of all complaints received. That has since increased to 12.3% in fiscal 2017.

Exhibit 3
Complaints Received Due to Crimes of Violence
Fiscal 2011-2017



Source: Department of Juvenile Services

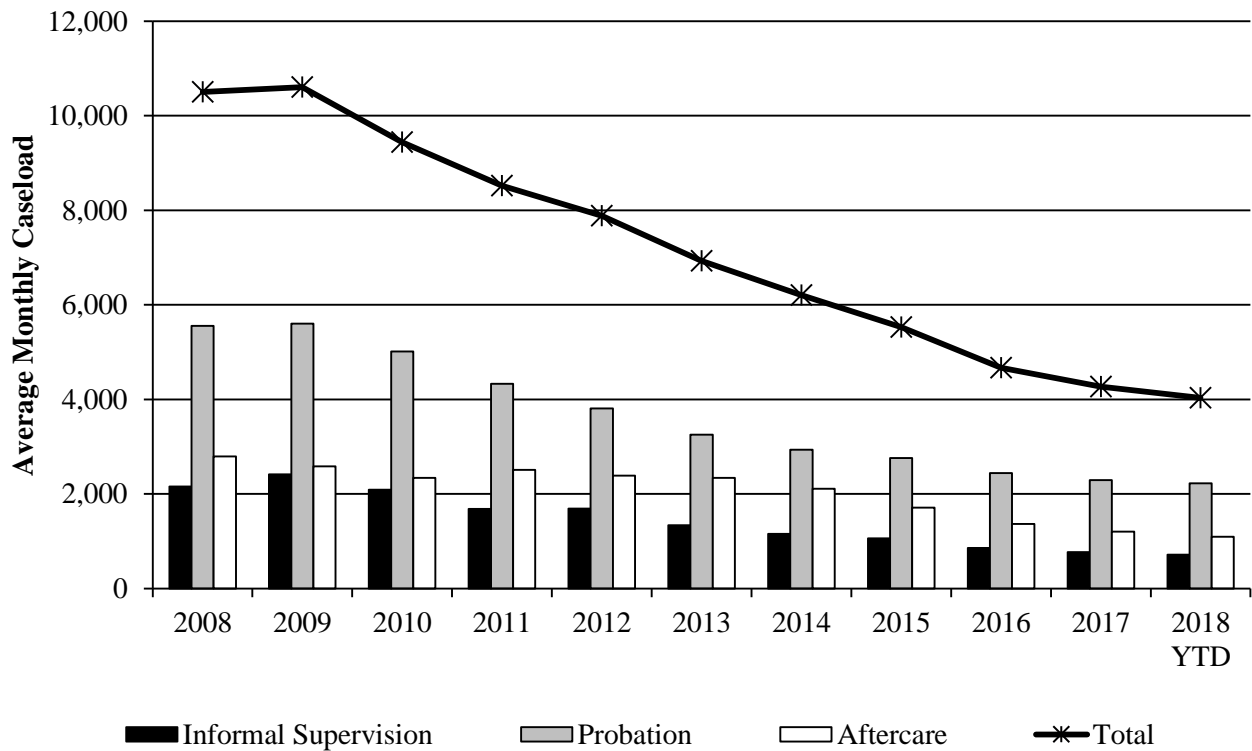
Placement Trends

2. 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 4**, nonresidential caseloads have been in decline since fiscal 2009, and fiscal 2018 year-to-date data suggests this trend will continue. Over the past decade, the average monthly caseload for nonresidential placements has fallen by over 6,300 cases, or nearly 60%, with the greatest reduction occurring among the probation cases. In fiscal 2017, average monthly nonresidential caseloads for all case types totaled 4,268 cases. This reflects a decrease of nearly 9%, when compared to fiscal 2016.

**Exhibit 4
Nonresidential Caseload Trends
Fiscal 2008-2018 YTD**



YTD: year to date

Note: Fiscal 2018 data is through December 2017. Aftercare caseloads include youth in residential and community-based programs.

Source: Department of Juvenile Services

Probation cases account for nearly 54% of the average monthly nonresidential caseload, a slight increase from fiscal 2016. 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 2017. Recently, aftercare cases have accounted for less of the total nonresidential population as well, having accounted for 34% of the total caseload in fiscal 2014 and falling to 28% in fiscal 2017.

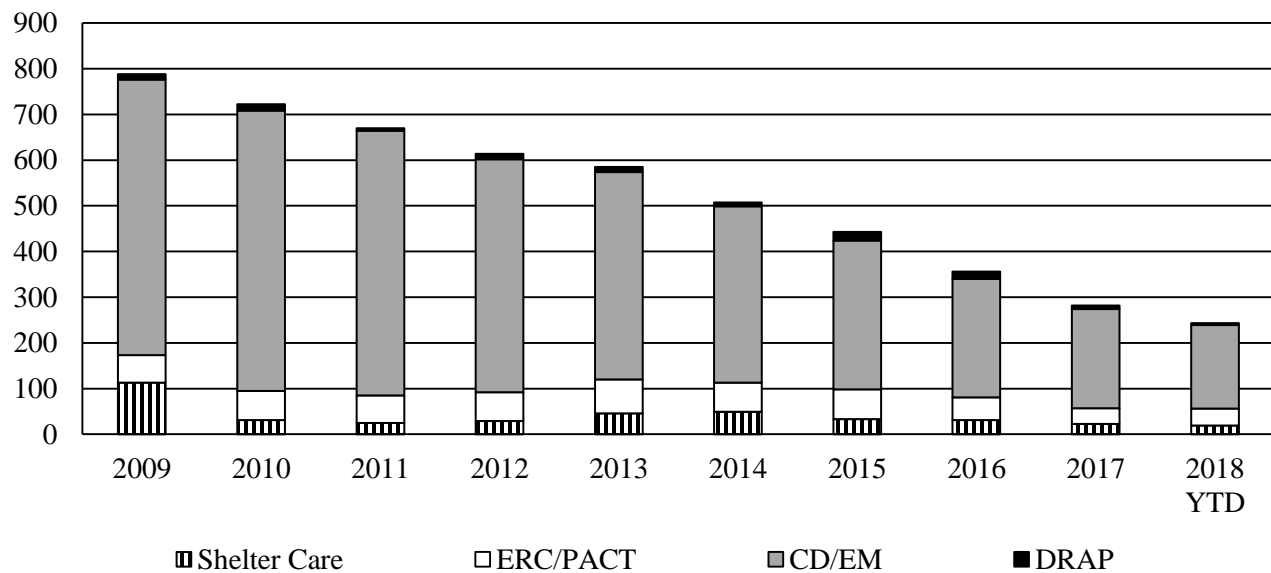
The department has continued to realign its community supervision and case management staff to account for the declining populations but to also enhance the nonresidential services provided to DJS youth, in particular those services that support transition back to the community.

3. 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).

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 5** shows population trends by type of ATD since fiscal 2009.

Exhibit 5
Alternative to Detention Programming
By Type of Program
Fiscal 2009-2018 YTD



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 2018 data is through December 2017.

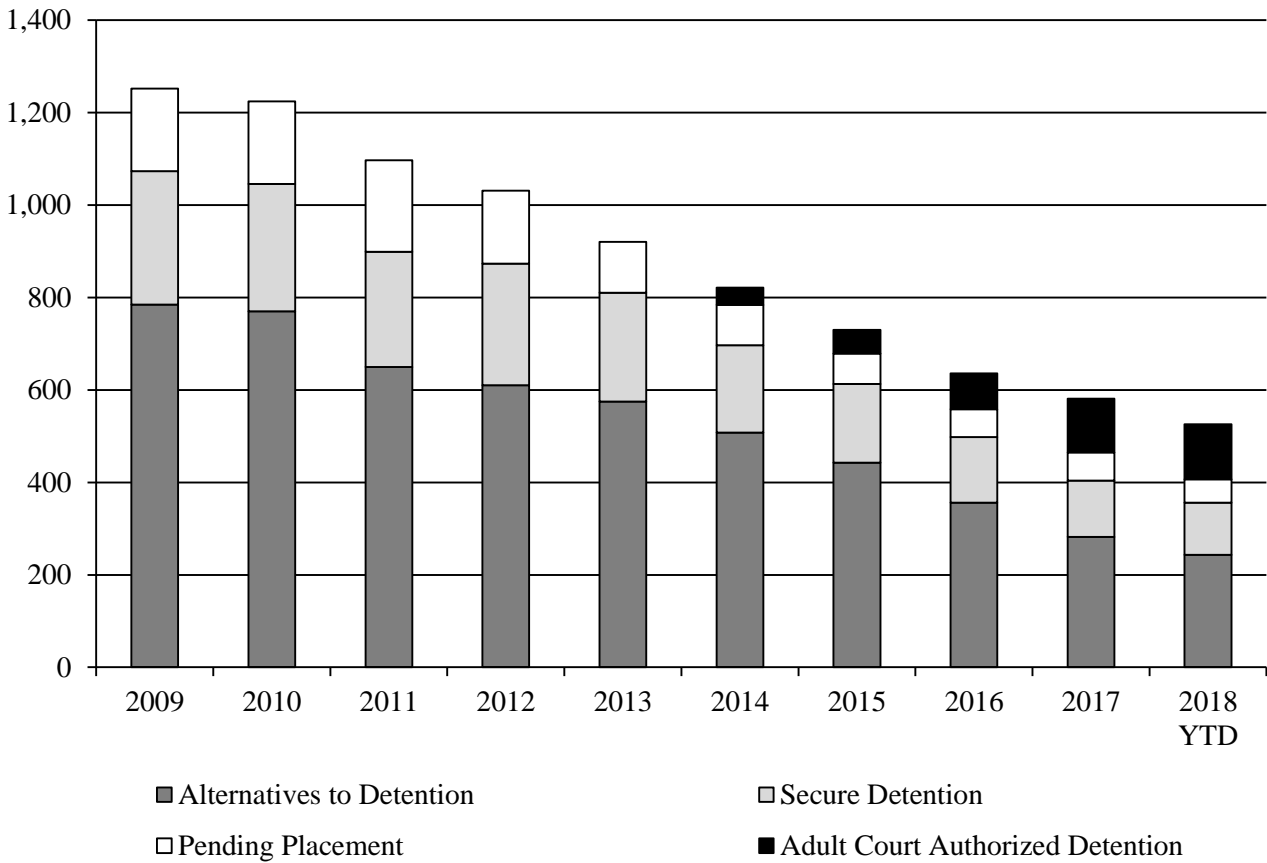
Source: Department of Juvenile Services

- Over the past decade, the use of ATDs has been steadily declining. Between fiscal 2009 and 2017, the population of youth in ATD programming decreased by 64% to an average daily population (ADP) of 282 youth. In the past year, the use of ATDs has fallen by nearly 21%. Fiscal 2018 year-to-date data indicates that the downward trend will continue, with an ADP of 243 youth participating in ATD programming in the first six months of the fiscal year. Approximately 77% of youth who participate in ATD were on community detention/electronic monitoring in fiscal 2017.
- 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 61% in fiscal 2017. 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 2018 indicates that this population continues to decrease to 60% of the overall population.

Exhibit 6 shows the population trends for all youth held in DJS detention facilities since fiscal 2009. 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 2017, the ADP of 299 youth includes 116 individuals awaiting action from the adult courts. Excluding this population, there were nearly 284 fewer youth detained in DJS facilities in fiscal 2017 compared to a decade ago, reflecting a 61% decrease since fiscal 2009. Comparing year-over-year change, the detention population increased by 7% between fiscal 2016 and 2017, entirely attributable to the nearly 50% increase in the adult-court-authorized detention population. Absent the youth-charged-as-adult population, the detention population declined by 9% in fiscal 2017.
- The ADP of pre-adjudicated youth held in secure detention fell below 150 for the first time in more than a decade in fiscal 2016, and that continues through the fiscal 2018 projections. In fiscal 2017, an average of 122 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 58%. Preliminary fiscal 2018 data reflects a pre-adjudication ADP of 113 youth, an approximate decrease of 7% from fiscal 2017.
- The pending placement population has been relatively stable in recent years, with an ADP of 61 youth in fiscal 2017. Over the past decade, pending placement youth accounted for as much as 43% of the detention population. In fiscal 2017, however, the proportion of detained youth pending placement was approximately 33%. Data from the first six months of fiscal 2018 does reflect further decline in the population, to an ADP of 51 youth.

Exhibit 6
Average Daily Population of Youth in
Department of Juvenile Services Detention Facilities
Fiscal 2009-2018 YTD



YTD: year to date

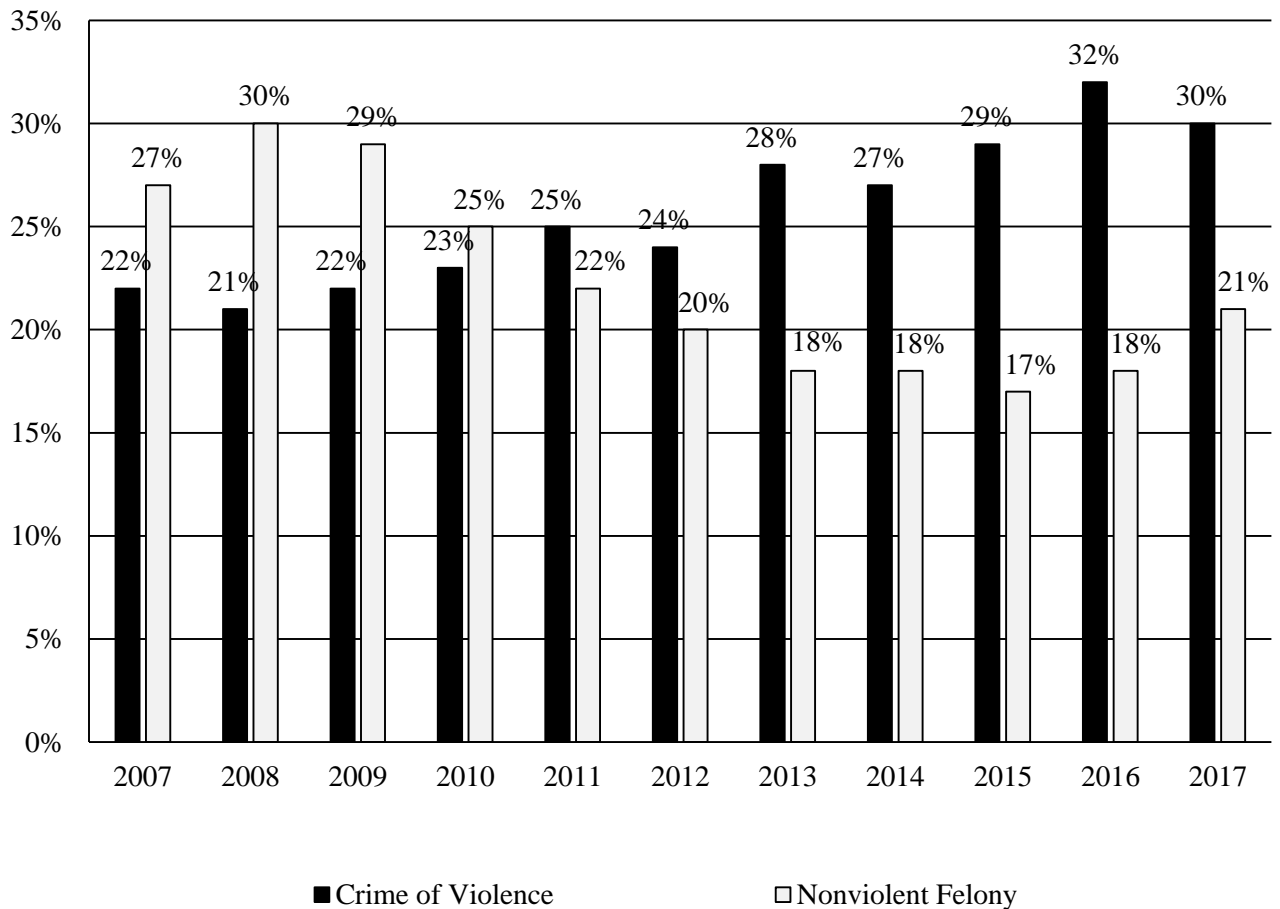
Note: Fiscal 2018 data is through December 2017.

Source: Department of Juvenile Services

Exhibit 7 presents data on the percentage of the pre-disposition detention placements that are due to a crime of violence versus a nonviolent felony. The proportion of youth detained for crimes of violence increased by 10 percentage points between fiscal 2007 and 2016. In contrast, the percentage of admissions into detention for youth with nonviolent felony charges has declined by 9 percentage points over the same time period. Although this could be attributable to the increase in overall complaints for crimes of violence, it is also likely reflective of long-term efforts across the criminal

justice system to limit the use of unnecessary detention and increase the number of youth who remain in the community via ATD programming or other supportive services.

Exhibit 7
Pre-disposition Detention Placement
Crimes of Violence vs. Nonviolent Felonies
Fiscal 2007-2017



Source: Department of Juvenile Services

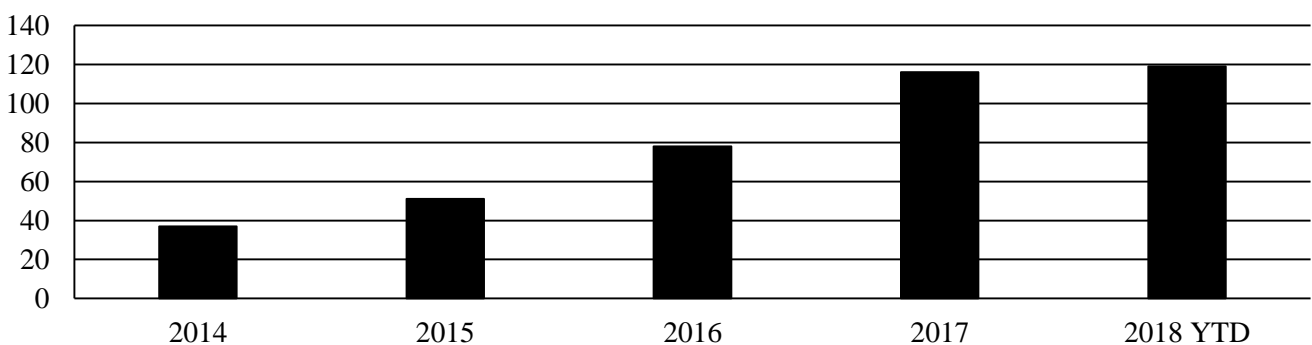
In fiscal 2017, 30% of detention admissions were for crimes of violence, a slight decrease from the peak of 32% in fiscal 2016. Approximately 21% of detention admissions were for nonviolent felonies in fiscal 2017, a slight increase from the 18% in the prior year.

4. 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 8**, the adult-court-authorized detention population has increased significantly in the past four years. 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 119 youth for the first six months of fiscal 2018, an increase of over 220%. Given the significant decreases in other DJS detention population, the department has been able to absorb this increase; however, the detention ADP did experience a slight uptick in fiscal 2017 for the first time in over a decade. This is due solely to the substantial growth in the adult-court-authorized detention ADP outpacing these other population reductions. Preliminary data for fiscal 2018 shows a slight increase in the adult court population but an overall decrease in the total detention population.

Exhibit 8
Adult Court Authorized Detention
Average Daily Population
Fiscal 2014-2018 YTD



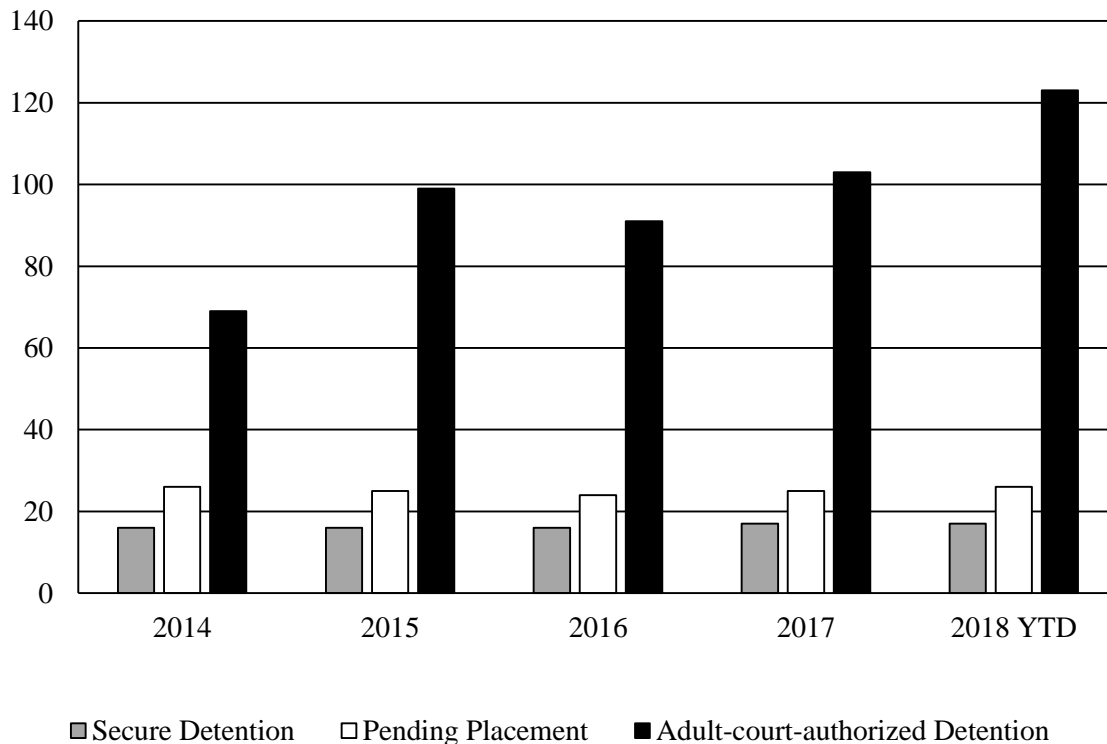
YTD: year-to-date

Note: Fiscal 2018 data is through December 2017.

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 average length of stay (ALOS), as evidenced in **Exhibit 9**. The ALOS for a youth in secure (pre-adjudication) detention has been consistently under 20 days for the past four 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. Fiscal 2017 and preliminary data from fiscal 2018 does show a slight increase to 25 days and 26 days, respectively. In stark contrast to both of these populations, the ALOS for the youth-charged-as-adult population continues to grow, exceeding the 100-day mark in fiscal 2017 with an ALOS of 103 days. Data through the first six months of fiscal 2018 shows the ALOS further increasing to 123 days, which is more than three months longer than other populations.

Exhibit 9
Average Length of Stay for Youth in DJS Detention Facilities
Fiscal 2014-2018 YTD



DJS: Department of Juvenile Services
YTD: year to date

Note: Fiscal 2018 data is through December 2017.

Source: Department of Juvenile Services

A comparison of the ALOS for the adult-court-authorized population by region reveals that ALOS in Baltimore City is more than double the second longest regional ALOS. The fiscal 2017 ALOS in Baltimore City was 59 days, compared to 26 days for adult-court-authorized youth in the Metro Region. All other regions had ALOSs of 11 days or less. **DJS should comment on how it is working with the courts and other stakeholders to improve case processing for youth awaiting action from the adult court system, particularly in Baltimore City. The department should also comment on actions the General Assembly should consider to alleviate the strain on these youth and departmental operations.**

5. Committed Population Trends

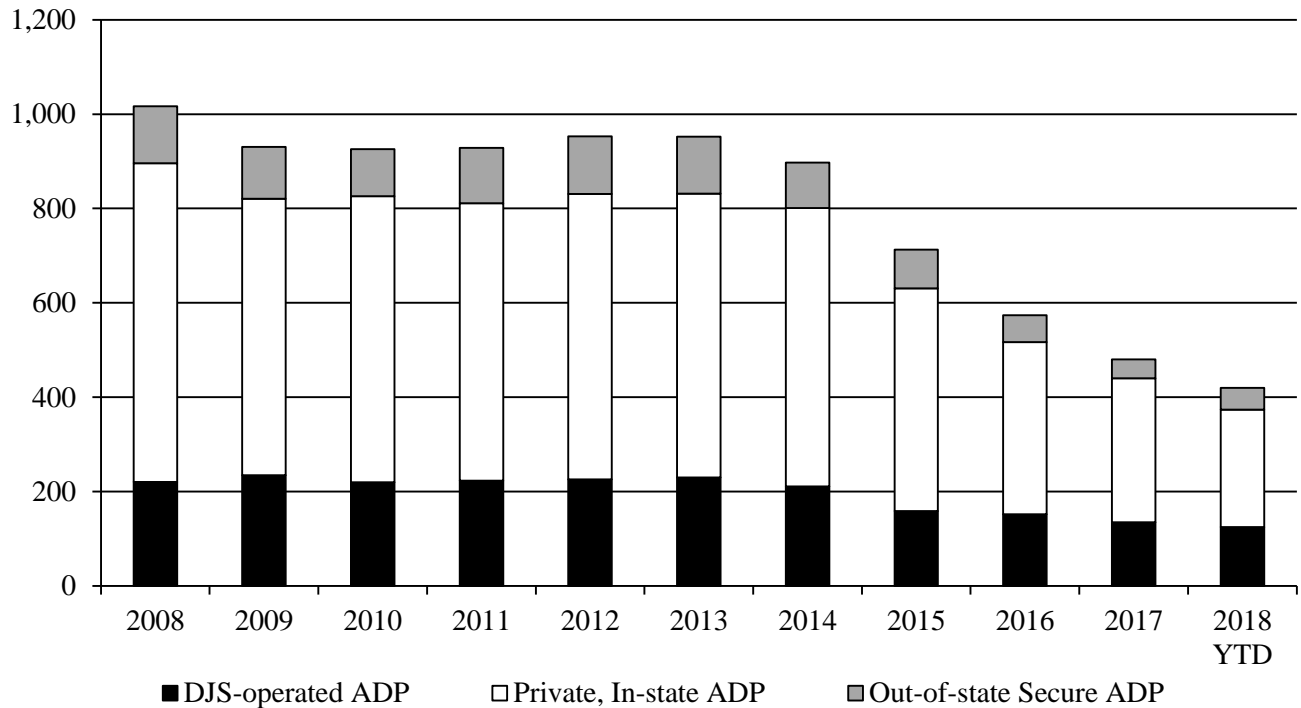
DJS has established three levels of residential program placements based largely on the level of program restrictiveness. Level I includes all programs where youth reside in a community setting and attend community schools. Level II includes programs where educational programming is provided on grounds, 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 2017, falling by 94 youth, which equates to a nearly 16% reduction. Compared to the most recent high of 952 youth placed out of home in fiscal 2013, the ADP has fallen by nearly half. In fiscal 2017, an ADP of 479 youth was in committed residential programs. Data through the first six months of fiscal 2018 shows a further decline of nearly 13% to an ADP of 419 youth.

Of all youth in committed residential placements, nearly 92% remain in-state, with less than 10% of the committed population traveling out-of-state for treatment for the past two years. 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.

Approximately 69% of youth committed to in-state residential placements are placed in private per diem facilities (a mix of foster care, group homes, substance abuse and mental health treatment programs, residential treatment centers, and staff secure facilities). These placements have accounted for a declining percentage of the in-state committed population since fiscal 2015, when nearly 75% of youth were placed in private committed programs. In fiscal 2017, more than 30% of the population received treatment services at a State-run facility.

Exhibit 10
Committed Residential Population
Fiscal 2008-2018 YTD



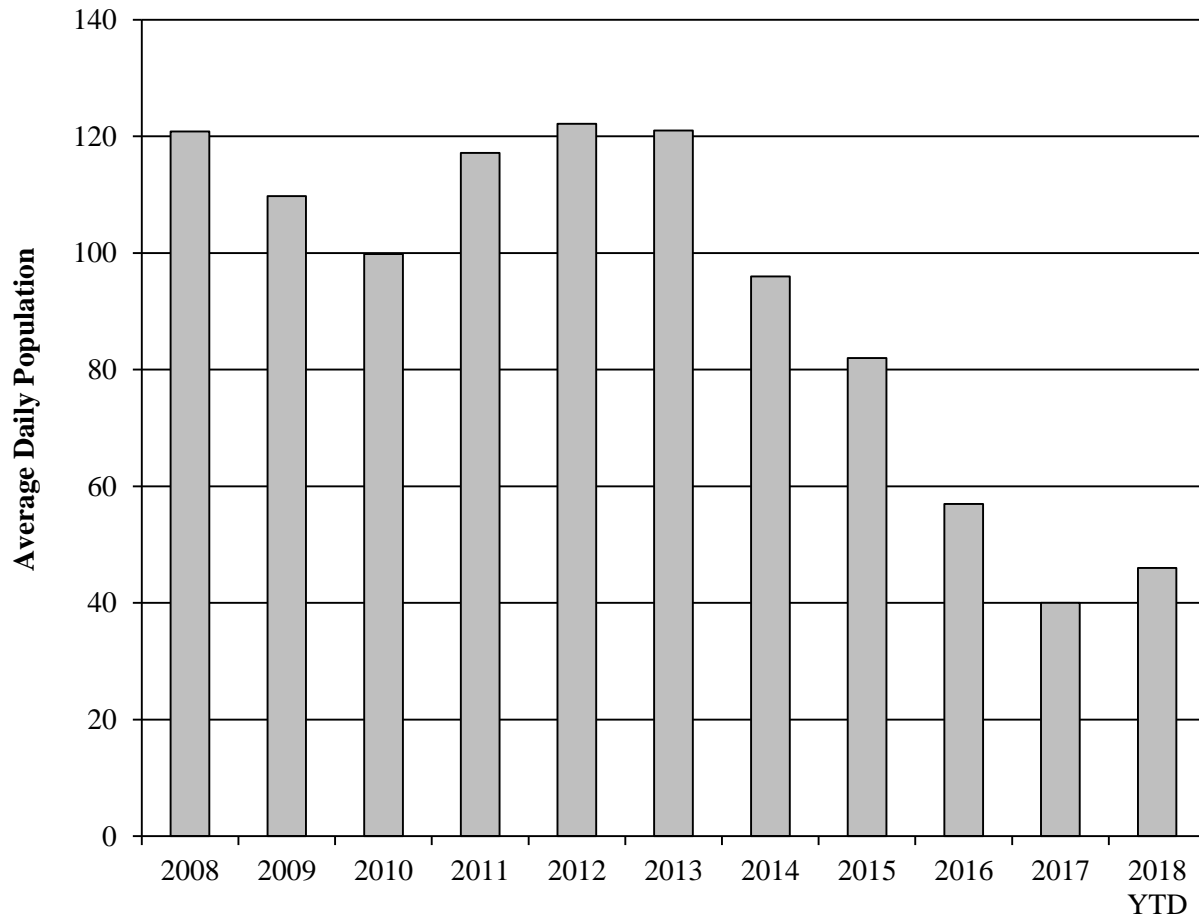
ADP: average daily population
DJS: Department of Juvenile Services
YTD: year to date

Note: Fiscal 2018 data is through December 2017.

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 81 youth, or 67%. Fiscal 2017 saw the out-of-state population fall to a record low ADP of 40 youth.

Exhibit 11
Out-of-state Committed Residential Population
Average Daily Population
Fiscal 2008-2018 YTD



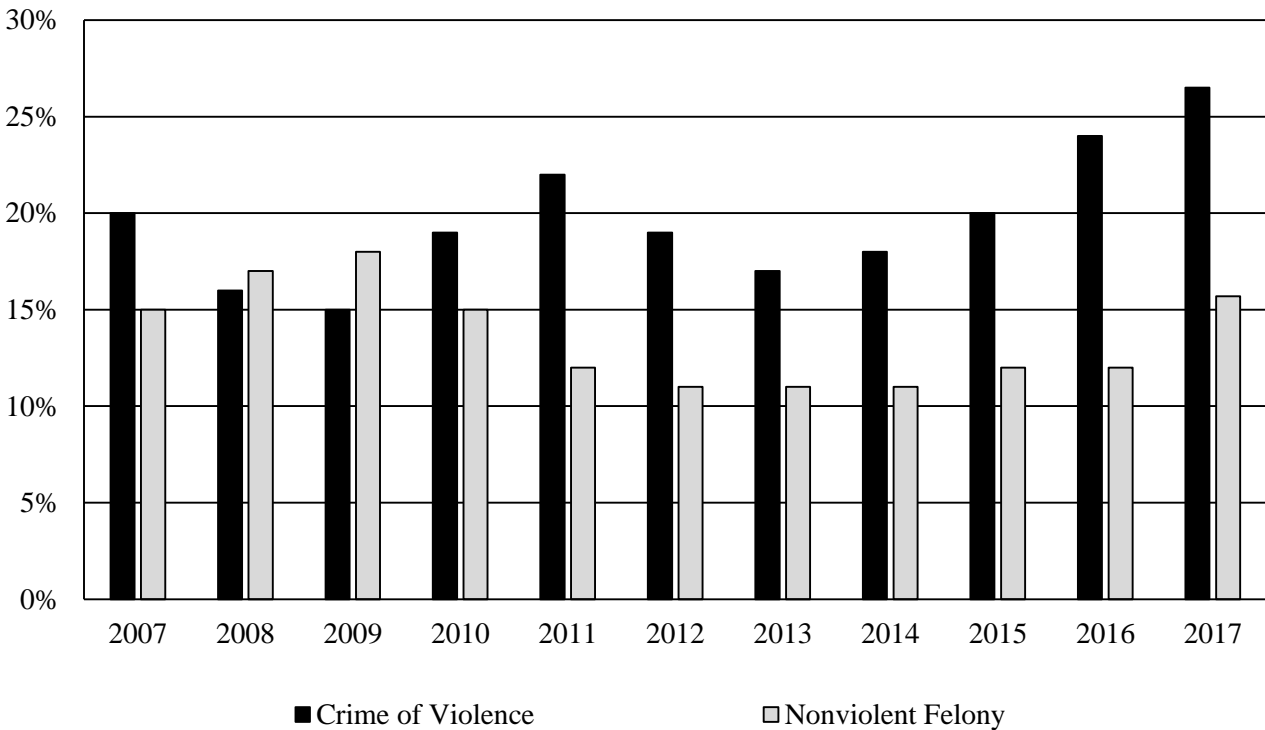
YTD: year to date

Note: Fiscal 2018 data is through December 2017.

Source: Department of Juvenile Services

Similar to the increases in complaints and detention placements, the rate of youth committed for crimes of violence has also increased in recent years. As **Exhibit 12** shows, in fiscal 2017, 27% of commitments to the department were for crimes of violence, compared to 24% in fiscal 2016. Despite a 4 percentage point increase in fiscal 2017, the percent of youth committed for nonviolent felonies has decreased from its peak of 18% in fiscal 2009.

Exhibit 12
Youth Commitments
Crimes of Violence vs. Nonviolent Felonies
Fiscal 2007-2017



Source: Department of Juvenile Services

6. Strategic Reentry

Effective transition from residential out-of-home placement back to the community is imperative to a youth's success. Youth who are released from commitment face numerous challenges in returning to daily life, such as re-enrolling in school or accessing needed somatic or behavioral health service. In fiscal 2016, DJS adopted a Strategic Re-Entry Plan designed to achieve the following goals:

- reduce recidivism by providing supervision to all youth returning home from committed care;
- engage families of committed youth at all key case planning decision points;
- connect all committed youth needing educational services to local education resources;

- connect all youth to local employment services and resources; and
- connect all youth in need of behavioral or somatic health services to local resources to provide continuity of care.

Under the plan, the reentry process is managed by a team of regional reentry specialists who oversee each youth's return to the community. A reentry staffing meeting is held 45 days prior to release from an out-of-home placement. During this meeting, the youth's housing plan, educational and occupational needs, ongoing behavioral/somatic health service requirements, and family relationships are reviewed. Families of committed youth are invited and encouraged to participate in the reentry planning process. After the youth has been in the community for 30 days, a DJS reentry specialist follows up with the youth and family to assure that the youth has accessed all needed services, has successfully enrolled in school, and remains in stable and suitable housing. The outcomes of the follow-up visit are documented and reported to the department.

In fiscal 2017, 308 youth and families had 30-day post-release follow-up visits from reentry specialists. According to DJS, 94% of released youth requiring alternative living arrangements remained in sustainable housing 30 days after discharge. Nearly 95% of released youth requiring educational services had their educational records forwarded to the local school system within two business days of discharge. Approximately 82% of released youth in need of behavioral or somatic health services were linked to these services within 30 days of discharge. Close to 76% of released youth in need of prescription medication had a 30-day (or existing) supply of medication upon discharge.

The implementation of the plan is still relatively new. The true indication of its impact will be when recidivism data is available; however, these initial indicators suggest a positive impact from the clearly established quality assurance system in place to ensure the services once the youth is in the community. **To assist the General Assembly in monitoring the department's progress in improving juvenile reentry, DJS should report reentry performance measures as part of its Managing for Results submission.**

7. Recidivism Rates

Exhibit 13 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 13
Recidivism Rates to the Juvenile Justice and Criminal Justice System for Youth Released from Residential Placements within Two and Three Years of Release
Fiscal 2013-2015

| | 2013 | | 2014 | | 2015 | |
|----------------------------|------------------|--------------------|------------------|--------------------|------------------|--------------------|
| | <u>Two Years</u> | <u>Three Years</u> | <u>Two Years</u> | <u>Three Years</u> | <u>Two Years</u> | <u>Three Years</u> |
| Rearrest Juvenile/Adult | 62% | 70% | 62% | 68% | 61% | |
| Re-adjudication/Conviction | 33% | 39% | 32% | 34% | 27% | |
| Recommitment/Incarceration | 27% | 33% | 25% | 26% | 18% | |

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

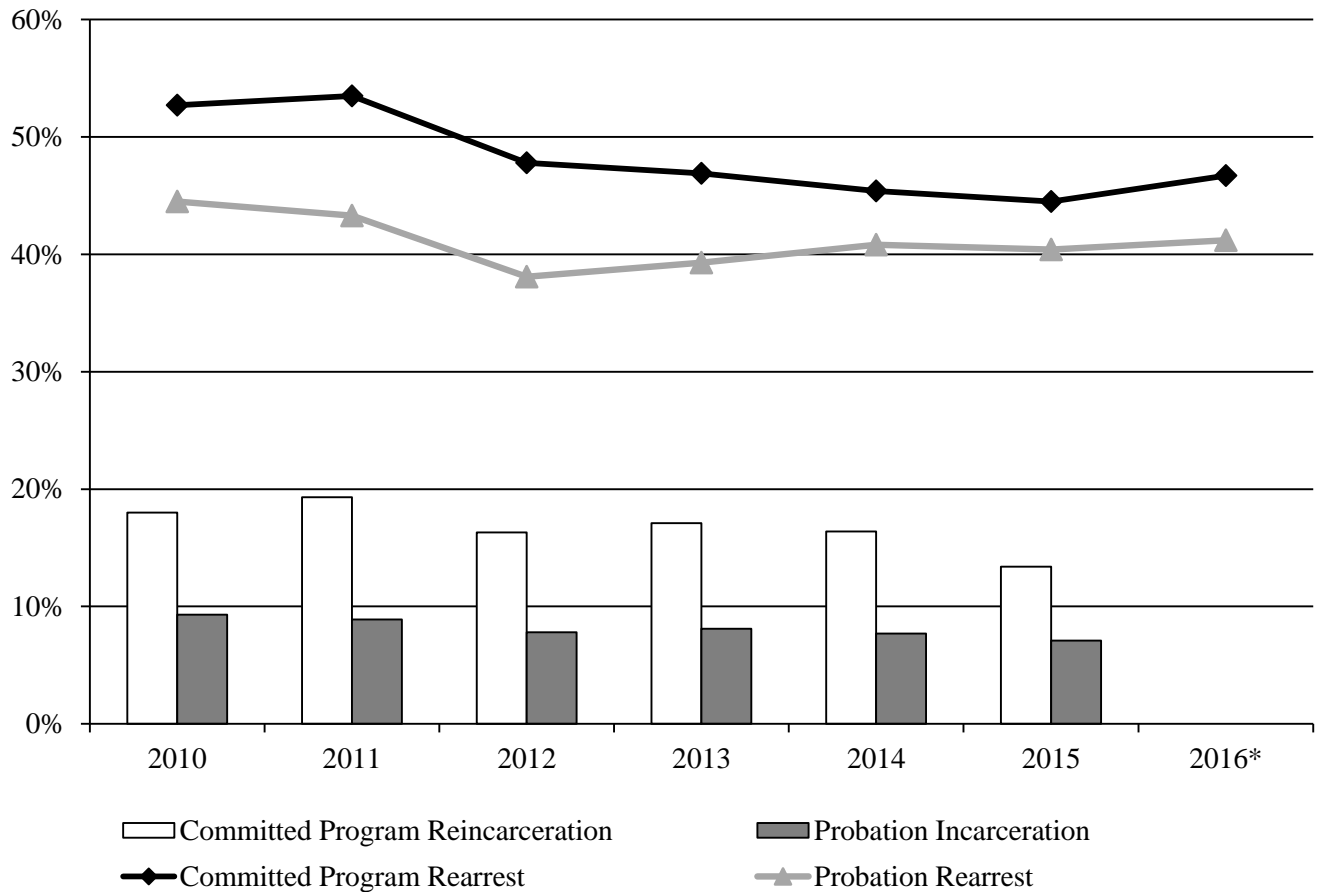
Source: Department of Juvenile Services; Department of Legislative Services

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 13, all facets of the two-year recidivism rates have experienced a decrease, with the rate of recommitment/incarceration falling by 9 percentage points, to 18% of fiscal 2015 releases returned to commitment within two years. Three-year recidivism rates also declined between 2013 and 2014, with 68% of youth rearrested, 34% reconvicted, and 26% recommitted within three years of release.

Exhibit 14 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 14
One-year Recidivism Rate for Committed Program Releases and
Probation Placements
Fiscal 2010-2016



*One-year reincarceration data is not available for 2016 releases due to a high number of youth with cases still pending action from the adult court system.

Source: Department of Juvenile Services, *Fiscal 2017 Data Resource Guide*

One-year recidivism rates reflect similar declines to those seen in the two- and three-year rates, although fiscal 2016 data does show slight upticks in the rearrest rates for both committed youth and youth on probation. One-year reincarceration data is not available for 2016, as DJS has encountered several data issues hindering the calculation. This is due to the high number of adult-court-authorized cases that are still pending resolution.

Fiscal 2018 Actions

Proposed Deficiency

DJS receives one general fund deficiency appropriation providing \$516,251 in fiscal 2018 to return nine IT positions that had previously been consolidated within the Department of Information Technology.

Cost Containment

Cost containment actions adopted by the Board of Public Works in September 2017 reduced the department's general fund appropriation for youth care services, primarily residential per diems, by \$4.5 million. This reduction is based on declining populations.

Across-the-board Employee and Retiree Health Insurance Reduction

The budget bill includes an across-the-board reduction for employee and retiree health insurance in fiscal 2018 to reflect a surplus balance in the fund. This agency's share of this reduction is \$2,505,930 in general funds and \$32,988 in federal funds.

Proposed Budget

Although the fiscal 2019 allowance provides for less than a \$50,000 net increase compared to the fiscal 2018 working appropriation, **Exhibit 15** illustrates that there are several funding changes within the department's operating budget.

Exhibit 15
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 2017 Actual | \$269,985 | \$3,814 | \$4,965 | \$895 | \$279,659 |
| Fiscal 2018 Working Appropriation | 266,416 | 3,239 | 4,788 | 234 | 274,678 |
| Fiscal 2019 Allowance | <u>265,731</u> | <u>3,616</u> | <u>5,334</u> | <u>45</u> | <u>274,727</u> |
| Fiscal 2018-2019 Amount Change | -\$685 | \$377 | \$546 | -\$189 | \$49 |
| Fiscal 2018-2019 Percent Change | -0.3% | 11.6% | 11.4% | -80.7% | |

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Where It Goes:

Personnel Expenses

| | |
|------------------------------------------------|---------|
| Employee and retiree health insurance..... | \$1,539 |
| General salary increase..... | 1,213 |
| Workers' compensation premium assessment | 945 |
| Overtime..... | 858 |
| Other fringe benefit adjustments | 114 |
| Turnover adjustments..... | 512 |
| Regular earnings..... | -925 |
| Social Security contributions | -939 |

Programmatic Changes

| | |
|----------------------------------------------------------------------------------|-------|
| Foreign language interpreters..... | 1,483 |
| Evening Reporting Centers (ERC) (including a new ERC on the Eastern Shore) | 274 |
| Nonresidential programming..... | 172 |
| Evidence-based services..... | -7 |
| Other programmatic changes | -61 |
| Behavioral health | -164 |
| Drug courts..... | -299 |
| Evaluations..... | -304 |
| Residential per diems (including education expenses)..... | -538 |
| Electronic monitoring equipment rental (based on population decline) | -647 |
| Medical care (based on population decline)..... | -700 |

Other Changes

| | |
|----------------------------------------------------------------------------|------|
| Contractual employment | -128 |
| Equipment repairs/maintenance | -138 |
| Education trailers at Savage Mountain Youth Center and Victor Cullen | -208 |
| Travel costs | -225 |
| Motor vehicle expenses (including new car purchases)..... | -414 |
| Communication expenses (based on prior year actual expenditures) | -624 |
| Building/road repairs and maintenance..... | -741 |
| Other..... | 1 |

| | |
|--------------|-------------|
| Total | \$49 |
|--------------|-------------|

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

Personnel Expenses and Staffing Issues

Personnel expenses increase by approximately \$3.3 million, after accounting for the fiscal 2018 deficiency appropriation and reduction to health insurance contributions as well as a fiscal 2019 general salary increase for all State employees. Funding for employee overtime increases by approximately \$858,000, providing a total of \$12.6 million. The allowance reflects an increase of approximately \$400,000 over fiscal 2017 actual expenditures. The department also receives a slightly improved budgeted turnover rate, at just under 7%, providing the agency with an additional \$512,000 to fill vacant positions in fiscal 2019. Regular earnings decline by \$925,000, primarily the result of budgeting vacant positions at base salary.

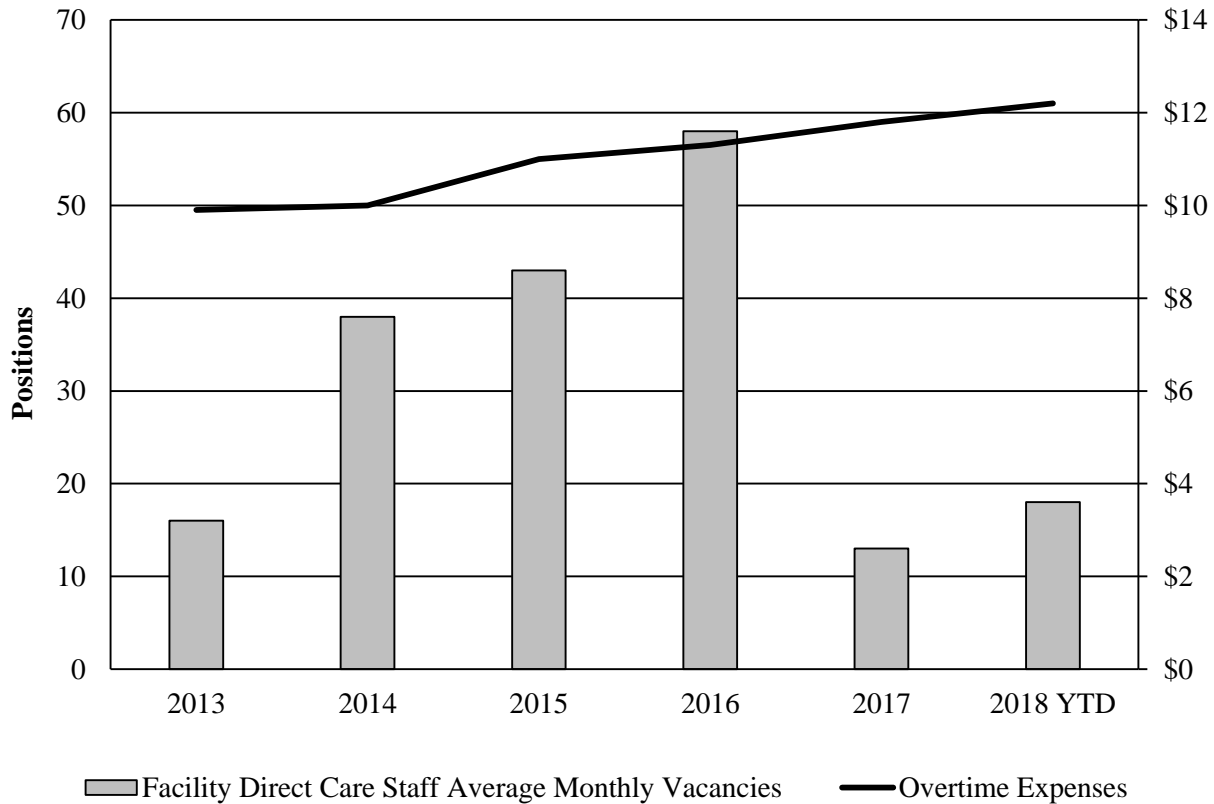
General Salary Increase

The fiscal 2019 allowance includes funds for a 2% general salary increase for all State employees, effective January 1, 2019. These funds are budgeted in the Department of Budget and Management's (DBM) statewide program and will be distributed to agencies during the fiscal year. This agency's share of the general salary increase is \$1,203,138 in general funds and \$10,227 in federal funds. In addition, employees will receive another 0.5% increase and a \$500 bonus effective April 1, 2019, if actual fiscal 2018 general fund revenues exceed the December 2017 estimate by \$75 million. These funds have not been budgeted. The Administration will need to process a deficiency appropriation if revenues are \$75 million more than projected.

Vacancies and Staffing

At the close of calendar 2017, DJS had 202 regular positions vacant, approximately 10.2% of its total personnel complement. This is an improvement over prior years, although it still reflects approximately 63 positions more than what will be required to meet a fairly high budgeted turnover rate of 7.0% in fiscal 2019. 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. Funding for employee overtime continues to grow, and the allowance provides a more than \$850,000 increase in fiscal 2019, although the average monthly vacancies for facility direct care staff have fallen considerably in fiscal 2017 and through the first six months of fiscal 2018 (**Exhibit 16**).

Exhibit 16
Facility Direct Care Staff Vacancies and Overtime Expenditures
Fiscal 2013-2018 YTD
(\$ in Millions)

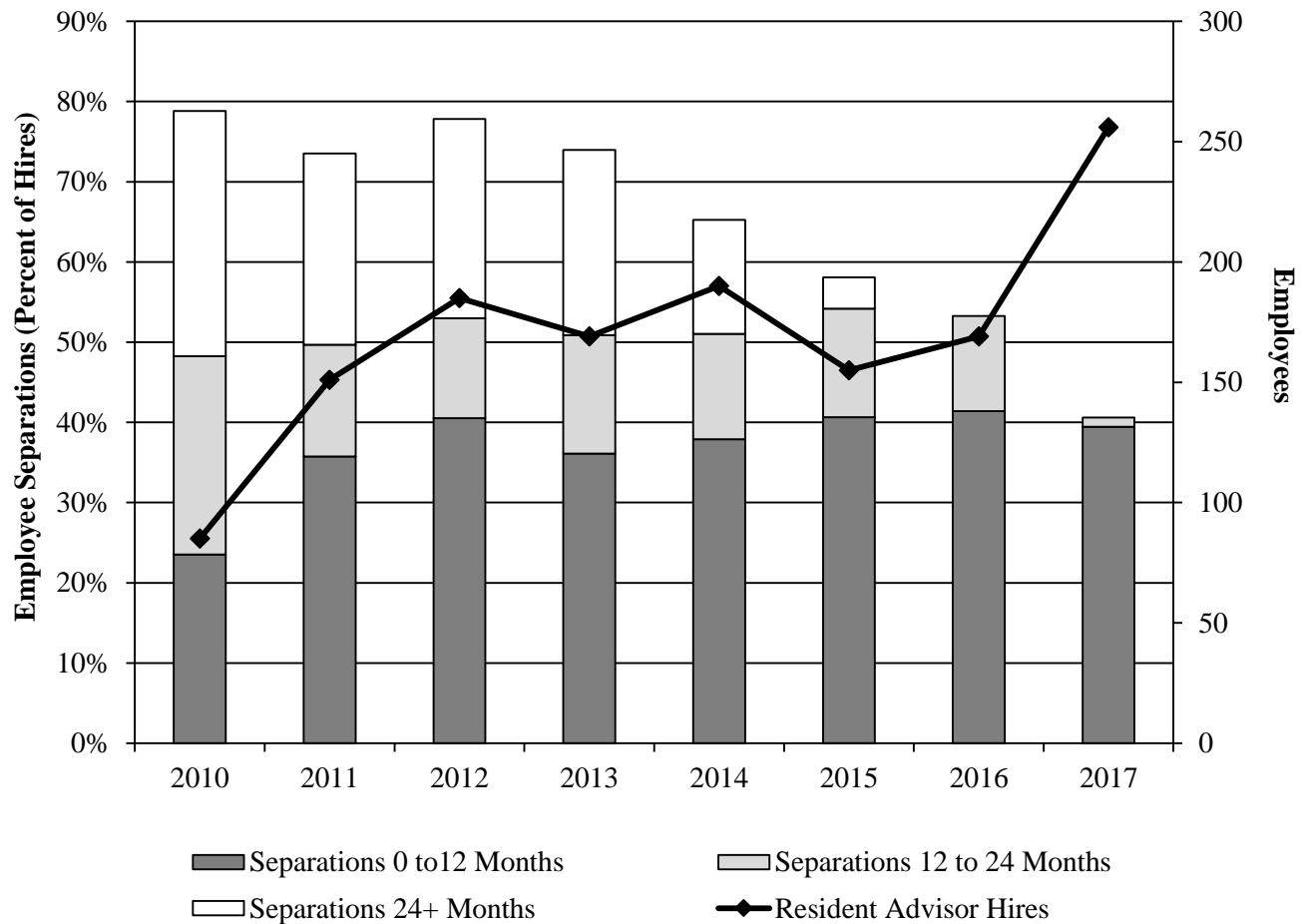


YTD: year to date

Source: Department of Juvenile Services

The staffing data presented in **Exhibit 17**, which compares the number of resident advisor positions hired each year to the percent leaving DJS service within 12 and 24 months, further suggests that DJS is improving its ability to hire and retain staff. Through improvements in advertising and outreach coupled with streamlining the hiring process, DJS has greatly improved its ability to recruit. The department hired over 51% more direct care staff in fiscal 2017 than in the year prior. In addition, the percentage of new hires leaving DJS employment within 12 months declined for the first time since fiscal 2013. Even with this improvement, 39% of new hires in fiscal 2017 left within 12 months.

Exhibit 17
Direct Care Facility Staff
Employee Hires vs. Separations within 12 and 24 Months
Fiscal 2010-2017



Source: Department of Juvenile Services

It is possible that improved compensation for direct care positions is having the desired impact. 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 one grade increase to Grade 11, bringing the starting salary to \$32,364. 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. After one year of implementation, DJS does not appear to be struggling as significantly to recruit and retain direct care staff positions.

Despite these improvements, a 10% vacancy rate is still less than ideal. A comprehensive study of Executive Branch staffing needs was completed by the Department of Legislative Services (DLS) in January 2018. According to the report, ongoing staffing struggles, such as increasing overtime and nearly 40% of new hires leaving within a year, are driven by the need for additional positions to adequately meet staffing plans and account for the time when employees are unavailable for work. The most recent DJS staffing analysis indicates that 79 additional positions, along with additional funds to fully cover the cost of the department's use of full-time equivalents, are needed to adequately staff all DJS committed and detention facilities at the current population level. A recent cost analysis completed by the department estimated the annual fiscal need to be in excess of \$4.5 million.

Programmatic Changes

The changes highlighted in Exhibit 15 reflect a net decrease of \$791,000 in funding for programming and youth care services in fiscal 2019. General fund spending totals \$59.1 million, a net decrease of \$1.8 million (2.9%) when compared with fiscal 2018. This decrease is partially offset by an increase in federal funds for Medicaid and Title IV-E revenues.

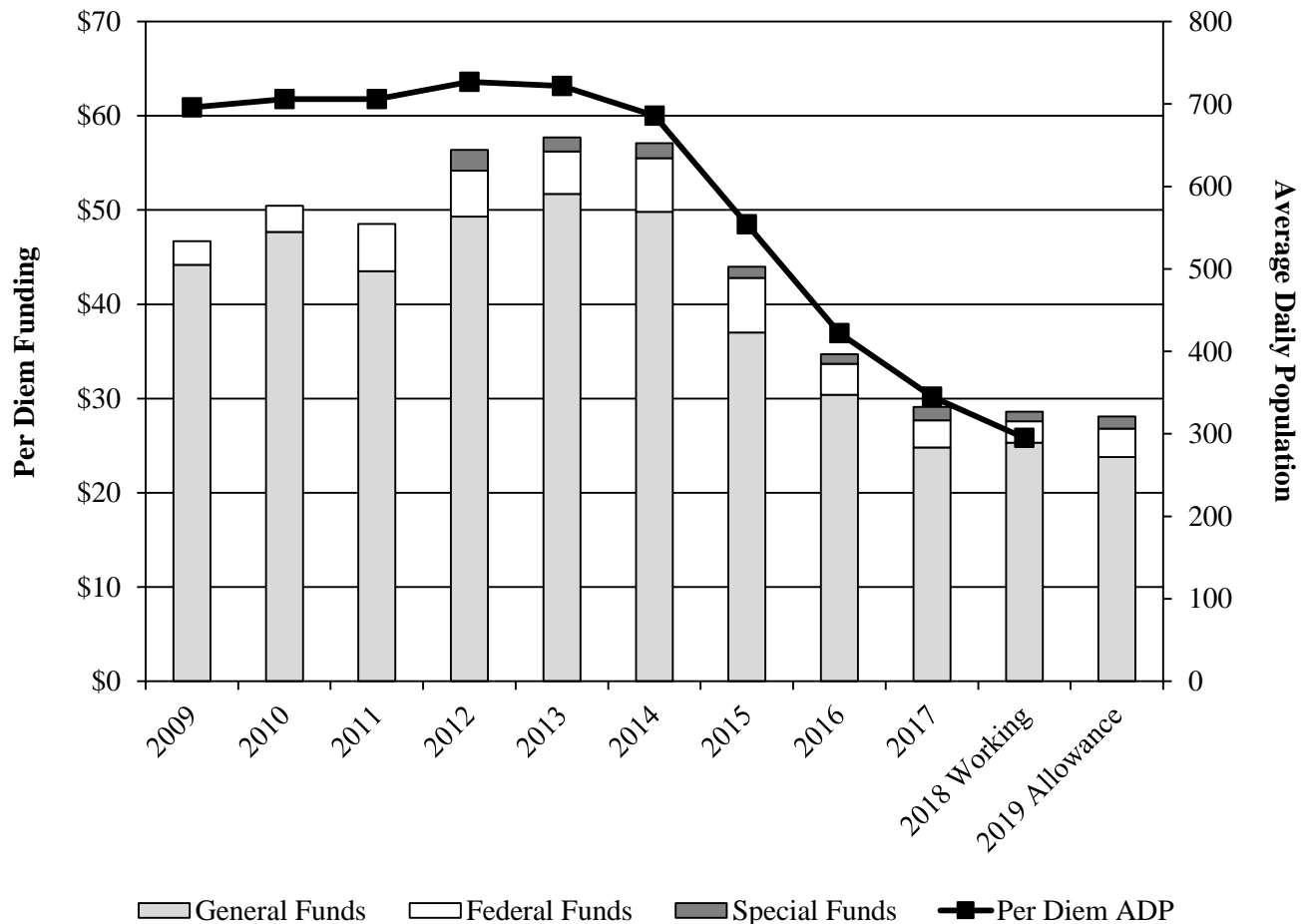
The fiscal 2019 allowance provides a nearly \$1.5 million funding increase for interpreter services based on increased demand, particularly in the Metro Region. The appropriation for Evening Reporting Centers (ERC) increases by \$274,000, which includes \$250,000 to open a new ERC for youth on the Eastern Shore. It will be a privately run program, serving approximately 15 to 20 youth. Funding for nonresidential programming also increases based on prior year contract utilization.

These increases are offset by several reductions based on anticipated population declines. Funding for drug court intergovernmental agreements is also reduced by \$299,000. This fully eliminates the department's financial commitment to drug courts.

Residential Per Diems

Exhibit 18 provides funding and population detail for residential per diem placements since fiscal 2009. In fiscal 2017, DJS spent approximately \$29.1 million on contractual residential programming for an ADP of 345 youth (although certain subsets of the population receive per diem funding from other sources). This reflects a 16% decrease compared to fiscal 2016 and a nearly 50% reduction from the most recent high of \$57.5 million in residential per diem expenditures in fiscal 2013. The fiscal 2018 working appropriation and fiscal 2019 allowance are budgeted nearly in line with fiscal 2017 actual expenditures, as all evidence suggests that DJS will continue to experience declines in out-of-home committed placements for at least the near future.

Exhibit 18
Residential Per Diem Placement Funding and Per Diem Average Daily Population
Fiscal 2009-2019 Allowance
(\$ in Millions)

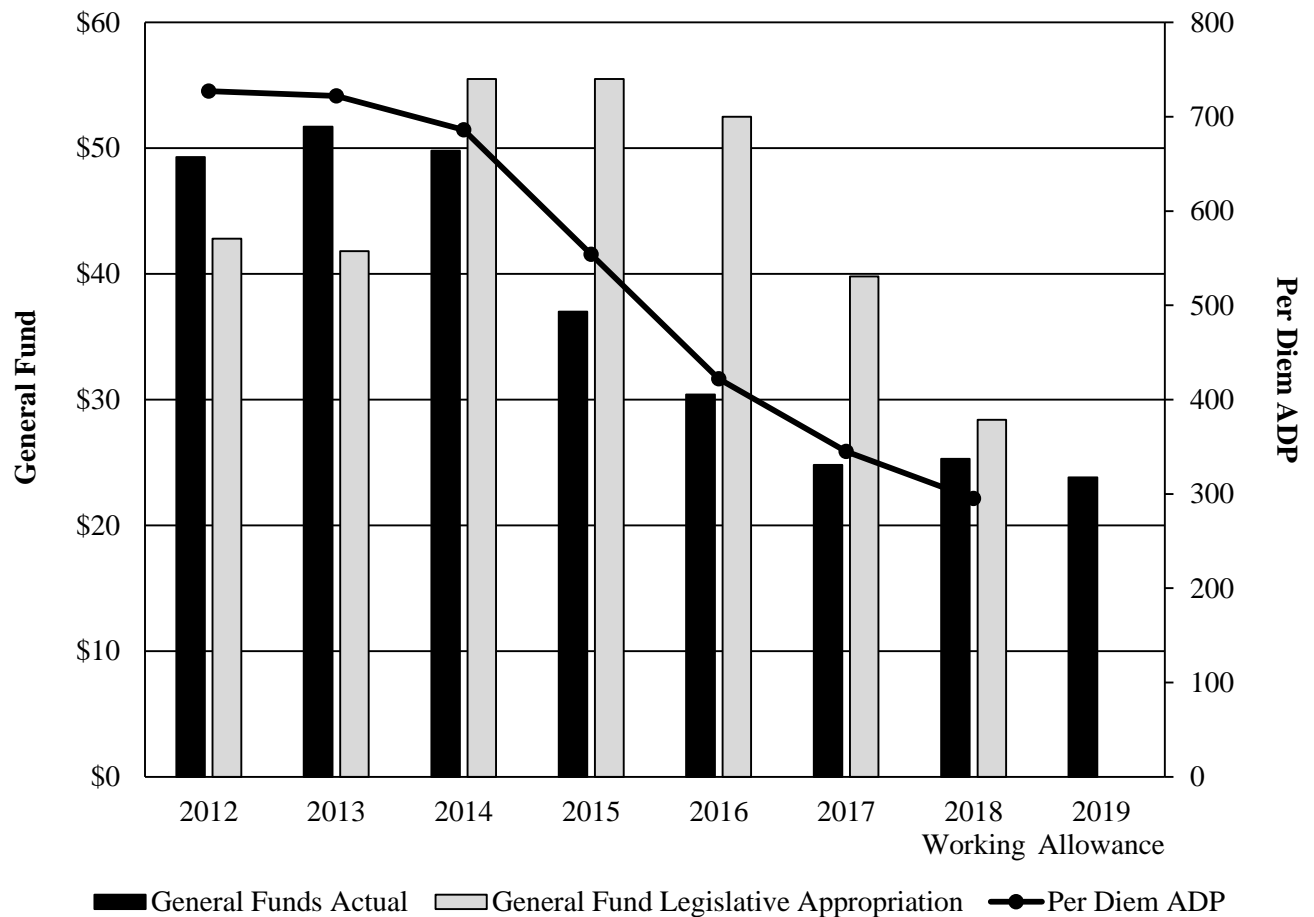


ADP: average daily population

Source: Governor's Fiscal 2019 Allowance; Department of Juvenile Services

Exhibit 19 provides similar residential per diem funding data but compares the actual amount of general funds spent each year to the legislative appropriation at the start of the fiscal year. For each of the past five years, DJS has spent less than its legislative appropriation, with underspending ranging from \$3.1 million in the fiscal 2018 working appropriation to \$22.1 million in fiscal 2016. In several instances, the department has either had its funding reduced via cost containment or targeted reversion; however, DJS has also redirected these general fund surpluses toward other internal expenses, some of which are discussed further in the Issues section of this analysis.

Exhibit 19
Residential Per Diem Funding
Legislative Appropriation vs. Actual Spending
Fiscal 2012-2019 Allowance
(\$ in Millions)



ADP: average daily population

Source: Governor's Fiscal 2019 Allowance; Department of Juvenile Services

Given the recent history of general fund surpluses and the continued population declines evidenced in the preliminary data for fiscal 2018, DLS recommends reducing the general fund appropriation for residential per diems in fiscal 2018 and 2019. In addition, DLS recommends adding language restricting the funding for contractual youth care services to that purpose only.

Issues

1. Office of Legislative Audits Notes One Dozen Findings in the Most Recent Fiscal Compliance Audit

The Office of Legislative Audits (OLA) released its most recent fiscal compliance audit for the department in November 2017. The audit disclosed 12 separate findings, of which 3 were repeat findings from the previous audit. A description of each finding is provided in **Appendix 2**.

With regard to the contracts in place for providing youth care services, the audit found that DJS used several intergovernmental agreements with nonprofit entities to obtain these services. These agreements did not always provide the best value to the State, as some services were subcontracted to other providers, with DJS paying an administrative fee to the nonprofit entity for subcontractor oversight. This was done without ascertaining whether it was possible to contract directly with the subcontractor providing the services. Of the six agreements tested by OLA, valued at \$7.6 million, approximately \$523,000 was paid in administrative fees. In addition, DJS did not ensure that funds spent by youth care services providers were only on allowable costs and did not attempt to recover excess payments. OLA noted that DJS allowed four private providers to retain excess payments of approximately \$380,000 without adequate justification, and another test revealed four nonprivate agreements totaling \$5.6 million that did not receive any documentation to support provider expenditures.

The audit also raised issues with the department circumventing State procurement regulations by dividing contracts for regular services into smaller sums of \$15,000 or less. For example, the auditors found that of the \$9 million in payments made to 22 vendors between fiscal 2014 and 2016, approximately \$7.5 million was for procurements under the \$15,000 threshold. Frequent small purchases limit the State's purchasing power. In addition, OLA noted that several of the purchases appeared questionable, in that there were 19 procurements of routine services to two companies; however, the two companies were owned by the same person, and in most instances, the companies were the only bidders. In addition, these procurements were not publicly solicited, meaning DJS employees would have had to directly solicit these procurements and should have been aware of the relationship between the companies. OLA referred its findings to the Attorney General – Criminal Division.

Other findings note that DJS improperly retained funding at its year-end closeout for fiscal 2015 and that the department did not maximize the recovery of Title IV-E and Medicaid funding for certain residential rehabilitation services and treatment foster care. OLA also found that DJS did not protect the personally identifiable information of juveniles under its supervision, as some vendors included that information on invoices. Issues with regard to restitution collections and controls remain unresolved, one of the department's three repeat audit findings. Finally, OLA noted internal control issues with equipment records and overtime payments.

DJS should brief the budget committees on actions taken to address each of the audit findings.

2. Newly Constructed Cheltenham Youth Detention Center is Hampered by Significant Maintenance Issues

The State provided \$58.7 million in capital funding to construct the new 72-bed Cheltenham Youth Detention Center. The facility was occupied in November 2016. Since that time, there have been numerous warranty work order issues. While these are not resulting in a fiscal impact to the department, they are creating operational issues.

Many of the initial warranty work issues have been addressed, including the lack of a gas line for the kitchen stove, weekly flooding of toilets, doors falling off hinges, and improper wall insulation. Outstanding warranty items include:

- flooding and equipment failures associated with the Evac sewage system;
- drain failures resulting in flooding throughout the kitchen;
- electrical outages resulting from lightning strikes and major rain events causing the heating, ventilation, and air conditioning systems to shut down and be reprogrammed, in addition to the housing unit light outages forcing the relocation of all youth to other housing units;
- stormwater management drainage and sediment control pond back-ups, resulting in total kitchen flooding and major site flooding at numerous locations in the building; and
- unmaintained landscaping, despite the contract requiring replanting of trees and shrubs.

According to DJS, the contract with the Whiting-Turner Construction Company does not include a specific timeframe for responding to warranty issues; as such, the contractor's response time has not reflected a sense of urgency, and many of the identified issues remain unresolved. **DJS should brief the committees on the issues with the facility and the impacts that they are having on youth and staff. The department should also comment on how it intends to remedy the outstanding work orders under the warranty and lessons learned for avoiding similar situations for future construction projects.**

3. DJS Increasingly Utilizes Excess Operating Funds for Capital Expenses

With higher than anticipated vacancy rates and lower than anticipated populations, DJS has benefitted from sizeable general fund surpluses in recent years. At the same time, the State has faced a compressed capital budget and significant underfunding of its Facility Renewal program. As a result, DJS has increasingly redirected its general funds toward capital projects, improving, upgrading, and modifying its facilities outside of the typical capital budget process.

In July 2016, DJS reported over \$1.6 million in capital projects being funded within its operating budget, including construction of a new print shop building and fence at the Victor Cullen Center. One notable example is the upgrade taking place at the Savage Mountain Youth Center (SMYC). The 2016 session capital budget analysis for the department acknowledged the use of \$1.5 million in operating funds to construct a fence around SMYC in order to upgrade the facility to a hardware secure status. The funds were available due to general fund surpluses resulting from declining populations. Since then, the cost and scope of the project has grown to over \$3.7 million, signifying a more significant capital project than originally communicated. The project utilizes general funds from fiscal 2016 through 2018. The scope includes a new fence, gatehouse, intrusion system, electrical upgrade, putting down blacktop around the campus, and replacing the heating and air conditioning in the gym. Due to the construction at the facility, the center was closed to all youth in September 2017.

While the projects may be of worthy pursuit, funding capital projects with the use of operating appropriations originally provided for other purposes poses several issues.

- First, it limits the oversight and input of the General Assembly and DBM, both in terms of the capital projects that get funded and the level of operating expenses required by the agency.
- In addition, these projects create an increased workload for the Department of General Services, as it is still involved in the procurement, design, and implementation; however, it is not an acknowledged workload because it is funded outside of the capital budget and Facility Renewal Program. Funding these projects internally within agency operating budgets skews the true statewide need for lower level facility upgrades that may fall outside the radar of an agency's Facility Master Plan but also cannot be categorized as a true maintenance expense.
- Funding capital costs in this manner has a negative impact on the State's spending affordability calculation, as it counts one-time capital-related expenditures as ongoing State spending. If these projects were to be funded through the general obligation program or with a pay-as-you-go (PAYGO) appropriation, it would be excluded from the spending affordability limit. Moreover, funding capital within existing operating programs is a violation of Section 7-119 of the State Finance and Procurement Article, which requires PAYGO spending to be segregated into eight-digit programs.

DLS recommends that DJS conduct an analysis of its facility capital needs that are not addressed through its Facility Master Plan and identify the extent to which smaller facility improvements can be combined into larger, more comprehensive capital projects. To the extent that funding is provided for these projects, it should be done through the capital budget, Facility Renewal Program, or a PAYGO appropriation.

DJS has indicated its intention to pursue accreditation by the Juvenile Division of the American Correctional Association (ACA) for two of its committed residential facilities, the Victor Cullen Center and the J. DeWeese Carter Center. When ACA accreditation has been pursued in the adult correctional system, it has required extensive facility improvements. **DJS should discuss its plans for pursuing ACA accreditation and the potential impacts this will have on its capital and operating needs.**

Operating Budget Recommended Actions

1. Add the following language:

Provided that \$45,292,144 of the appropriation made for Comptroller's subobject 0818 Purchase of Care Services may only be expended for that purpose. Funds not expended for this restricted purpose may not be transferred by budget amendment or otherwise, and shall revert to the General Fund or be canceled.

Explanation: This action restricts funding budgeted for contractual youth care services to that purpose only. In recent years, the department has experienced population declines significant enough to create general fund surpluses. Portions of these surpluses have been redirected for various internal uses, including significant capital improvements and other operating expenses. The use of operating funds in this manner minimizes the transparency of the agency's true operating need. This action ensures that funds budgeted for youth care services are used for that purpose, and if additional need exists elsewhere, the department should pursue proper deficiency and funding approval request procedures.

2. Adopt the following narrative:

Strategic Reentry Performance Measures: Youth who are released from commitment face numerous challenges in returning to daily life, such as re-enrolling in school or accessing needed somatic or behavioral health service. In fiscal 2016, the Department of Juvenile Services (DJS) adopted a Strategic Re-Entry Plan designed to ensure that youth returning to the community have the support and resources necessary to help them achieve a successful transition. Initial indicators suggest a positive impact from the clearly established quality assurance system in place to ensure the services once the youth is in the community. To assist the General Assembly in monitoring the department's progress in improving juvenile reentry, the budget committees request that DJS develop reentry performance measures as part of its Managing for Results submission.

| Information Request | Author | Due Date |
|----------------------------------------|---------------|-------------------------------------------------|
| Strategic reentry performance measures | DJS | With the annual Managing for Results submission |

3. Adopt the following narrative:

Facility Capital Needs Assessment: The budget committees request that the Department of Juvenile Services (DJS) conduct an analysis of its facility capital needs that are not addressed through its Facility Master Plan, including any facility renewal and lifecycle management projects. In addition, the assessment should identify the extent to which smaller facility improvements can be combined into larger, more comprehensive capital projects. It is the intent of the budget committees that, to the extent that funding is provided for these projects, it

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should be done through the capital budget, Facility Renewal Program, or a pay-as-you-go appropriation. The assessment should be submitted to the budget committees no later than September 15, 2018.

| Information Request | Author | Due Date |
|-----------------------------------|---------------|--------------------|
| Facility capital needs assessment | DJS | September 15, 2018 |

4. Add the following language:

V00G01.01 Baltimore City Regional Operations

To become available immediately upon passage of this budget to reduce the fiscal 2018 appropriation for residential per diems to bring funding in line with projected population declines.

General Fund Appropriation..... -2,500,000

Explanation: This language implements a negative deficiency appropriation, withdrawing \$2.5 million in general funds for residential per diems, based on anticipated population decline.

| | <u>Amount Reduction</u> | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------|--|----|
| 5. Reduce funding for residential per diems based on anticipated population decline. | \$ 1,000,000 | | GF |
| 6. Reduce funding for overtime expenses. This reduction places fiscal 2019 overtime in line with fiscal 2017 actual expenditures, based on continuous population declines and improvements in hiring. The reduction can be allocated across all programs within the department. | 400,000 | | GF |
| Total General Fund Reductions | \$ 1,400,000 | | |

Updates

1. Use of Restraints and Strip Searches for Youth in Custody

The Task Force to Study the Restraint, Searches, and Needs of Children in the Juvenile Justice System was created in 2016 to address concerns regarding the use of mechanical restraints and strip searches for youth in DJS custody. The 2017 *Joint Chairmen's Report* requested that DJS report to the budget committees on progress made regarding the implementation of the task force's recommendations, provide updated data on the frequency for using restraints and strip searches, and evaluate the potential for creating a separate nonsecure transportation unit. DJS submitted its response in December 2017.

Over the course of calendar 2017, DJS has implemented several policy and procedural changes to address the recommendations of the task force. A new directive was issued to modify strip search policy and procedure, so that searches now only automatically occur at each new admission or upon return from an unsupervised off-campus event or home visit. Searches following attorney visits, family visits, and supervised off-campus visits are only warranted if there is a reasonable suspicion of contraband.

If there is a reasonable suspicion of contraband, staff are instructed to apply a graduated approach to obtaining a youth's cooperation to surrender the suspected contraband, followed by employing a pat-down search and/or metal detector wand. A visual body search is the option of last resort. However, all youth are now provided paper gowns prior to conducting any strip search.

DJS procured and installed pan and zoom cameras at all DJS detention and committed facilities, which add extra layers of surveillance and mitigate the risk of contraband. This has allowed the department to eliminate the need for strip searches following family visits, unless there is a reasonable suspicion. DJS also modified incident reporting procedures to require a report be filed for each search that occurs due to reasonable suspicion and that the reason be clearly stated. Since the department began tracking these reports on May 23, 2017, there have been no occasions of needing a strip search due to reasonable suspicion of contraband.

With regard to the use of mechanical restraints during transport, DJS modified its policies to require that all youth transports for a home visit or release to the community shall be nonsecure, and that youth who are transported in mechanical restraints be provided with five-minute breaks without restraints for trips that exceed four hours. Finally, handcuffs are removed for all bathroom breaks. Since DJS modified its policies on May 23, 2017, there have been no reported use of mechanical restraints for youth returning to the community or on home pass.

At the request of the budget committees and the task force, DJS did evaluate the potential for establishing a nonsecure transportation unit. The department determined that this would require each youth center in Western Maryland to have two transport vans, with each van requiring two staff. The annual cost for the unit would be approximately \$740,000, plus an initial cost of \$153,420 to purchase the vehicles. In lieu of this, DJS is pursuing alternatives with its juvenile justice system partners to

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avoid unnecessary transports. These alternatives include utilizing video-conferencing for court review hearings, better organizing court calendars, and/or reducing the number of nonstatutory court appearances.

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

| | <u>General Fund</u> | <u>Special Fund</u> | <u>Federal Fund</u> | <u>Reimb. Fund</u> | <u>Total</u> |
|----------------------------------|--------------------------------|--------------------------------|--------------------------------|-------------------------------|---------------------|
| Fiscal 2017 | | | | | |
| Legislative Appropriation | \$282,911 | \$3,864 | \$4,836 | \$247 | \$291,857 |
| Deficiency Appropriation | -2,803 | 0 | 0 | 0 | -2,803 |
| Cost Containment | -9,142 | 0 | 0 | 0 | -9,142 |
| Budget Amendments | 1,406 | 0 | 221 | 806 | 2,434 |
| Reversions and Cancellations | -2,387 | -50 | -92 | -158 | -2,687 |
| Actual Expenditures | \$269,985 | \$3,814 | \$4,965 | \$895 | \$279,659 |
| Fiscal 2018 | | | | | |
| Legislative Appropriation | \$272,907 | \$3,239 | \$4,821 | \$234 | \$281,201 |
| Cost Containment | -4,500 | 0 | 0 | 0 | -4,500 |
| Budget Amendments | 0 | 0 | 0 | 0 | 0 |
| Working Appropriation | \$268,407 | \$3,239 | \$4,821 | \$234 | \$276,701 |

Note: The fiscal 2018 appropriation does not include deficiencies, targeted reversions, or across-the-board reductions. Numbers may not sum to total due to rounding.

Fiscal 2017

The Department of Juvenile Services (DJS) spent nearly \$270 million in general funds in fiscal 2017, a decrease of \$12.9 million from the legislative appropriation. Approximately \$2.8 million was withdrawn in the form of a negative deficiency appropriation, acknowledging excess funding from vacant positions and lower residential committed populations. Cost containment actions adopted by the Board of Public Works further reduced funding for residential per diems by approximately \$9.1 million. Budget amendments provided an offsetting net increase of \$1.4 million. General fund budget amendments were processed for the following reasons:

- \$2.7 million increase for employee increments;
- \$9,030 to fund an annual salary review increase for building security officer classifications;
- \$50,000 reduction to realign funding for substance abuse treatment services; and
- \$1.2 million reduction to realign information technology (IT) personnel within the Department of Information Technology.

At the close of the fiscal year, DJS reverted approximately \$2.4 million in general funds, primarily due to higher than anticipated vacancies, lower utility costs, and delays in procuring education trailers at State-run facilities. DJS had \$50,000 in funding restricted by the General Assembly revert at the close of the fiscal year because it was unable to fulfill budget language requiring the resolution of repeat audit findings.

The department's special fund expenditures totaled \$3.8 million in fiscal 2017. Approximately \$50,000 was canceled at the close of the fiscal year because of unrealized reimbursement revenues from local education agencies.

The department spent nearly \$5.0 million in federal funds in fiscal 2017, a net increase of approximately \$129,000 from the legislative appropriation. Budget amendments provided \$221,000 in additional funding for employee increments and additional Title IV-E revenues, based on prior year actual reimbursements. Approximately \$92,000 in federal funds was canceled at the close of the fiscal year.

Reimbursable fund spending increased by \$648,000 compared to the legislative appropriation, for a total of \$895,000 in expenditures in fiscal 2017. The department received \$806,315 via budget amendment from the Major IT Project Development Fund for interoperability radios and equipment. Approximately \$158,000 in reimbursable funds were canceled at the close of the fiscal year.

Fiscal 2018

The fiscal 2018 working appropriation for the department is approximately \$276.7 million, a decrease of \$4.5 million from the legislative appropriation. These funds, provided for residential per diems, were reduced in September 2017 as part of the Administration's cost containment proposal. The funding was reduced to bring the appropriation in line with anticipated population declines.

Appendix 2 Audit Findings

| | |
|------------------------------|--------------------------------------|
| Audit Period for Last Audit: | November 5, 2012 – December 15, 2015 |
| Issue Date: | November 2017 |
| Number of Findings: | 12 |
| Number of Repeat Findings: | 3 |
| % of Repeat Findings: | 25% |
| Rating: (if applicable) | n/a |

- Finding 1:** Certain youth care services were procured in a manner that did not provide assurance that these services were obtained at the best value to the State, and the Department of Juvenile Services (DJS) did not ensure that the related services were received.
- Finding 2:** Financial examinations of youth care service providers conducted by DJS were not sufficient to ensure that funds were spent on allowable costs and excess payments were recovered.
- Finding 3:** **DJS artificially divided procurements for goods and services, circumventing State procurement regulations. Some of these procurements appeared questionable.**
- Finding 4:** DJS improperly retained \$9.7 million in unspent general funds at the end of fiscal 2015.
- Finding 5:** DJS did not maximize recoveries of available federal funds, resulting in the use of State funds to recover the cost of services that were eligible for federal reimbursement.
- Finding 6:** DJS did not protect the personally identifiable information and other confidential information of juveniles under its supervision.
- Finding 7:** **DJS had not established sufficient controls over the restitution process to ensure that all transactions were properly recorded, disbursements were properly made, and accounts were properly monitored.**
- Finding 8:** **The Automated Statewide System of Information Support Tools database was not properly secured and related logging and monitoring controls were not adequate.**
- Finding 9:** The Department of Information Technology maintained appliances that provided firewall and intrusion detection prevention system services for DJS but were not configured to adequately secure the DJS network.
- Finding 10:** Malware protection was not sufficient to provide DJS with adequate assurance that its computers were properly protected.

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Finding 11: DJS did not maintain complete and accurate detail records and properly account for its equipment.

Finding 12: Overtime paid to employees was not always pre-authorized and approved.

*Bold denotes item repeated in full or part from preceding audit report.

Appendix 3
Object/Fund Difference Report
Department of Juvenile Services

| <u>Object/Fund</u> | <u>FY 17 Actual</u> | <u>FY 18 Working Appropriation</u> | <u>FY 19 Allowance</u> | <u>FY 18 - FY 19 Amount Change</u> | <u>Percent Change</u> |
|-----------------------------------------|-------------------------|--------------------------------------------|----------------------------|----------------------------------------|---------------------------|
| Positions | | | | | |
| 01 Regular | 1,998.05 | 1,987.05 | 1,987.05 | 0.00 | 0% |
| 02 Contractual | 183.39 | 151.15 | 149.00 | -2.15 | -1.4% |
| Total Positions | 2,181.44 | 2,138.20 | 2,136.05 | -2.15 | -0.1% |
| Objects | | | | | |
| 01 Salaries and Wages | \$ 168,686,858 | \$ 170,709,976 | \$ 170,791,167 | \$ 81,191 | 0% |
| 02 Technical and Spec. Fees | 8,156,009 | 6,365,845 | 6,237,514 | -128,331 | -2.0% |
| 03 Communication | 2,104,788 | 2,758,756 | 2,134,307 | -624,449 | -22.6% |
| 04 Travel | 794,541 | 1,007,964 | 783,337 | -224,627 | -22.3% |
| 06 Fuel and Utilities | 4,478,546 | 4,942,443 | 4,921,355 | -21,088 | -0.4% |
| 07 Motor Vehicles | 1,738,052 | 1,884,760 | 1,470,510 | -414,250 | -22.0% |
| 08 Contractual Services | 73,329,203 | 74,339,849 | 72,721,780 | -1,618,069 | -2.2% |
| 09 Supplies and Materials | 6,861,292 | 6,973,184 | 6,709,459 | -263,725 | -3.8% |
| 10 Equipment – Replacement | 2,357,340 | 790,540 | 668,898 | -121,642 | -15.4% |
| 11 Equipment – Additional | 666,914 | 44,105 | 110,600 | 66,495 | 150.8% |
| 12 Grants, Subsidies, and Contributions | 2,849,641 | 2,615,536 | 2,765,362 | 149,826 | 5.7% |
| 13 Fixed Charges | 4,130,304 | 3,771,602 | 3,911,506 | 139,904 | 3.7% |
| 14 Land and Structures | 3,505,912 | 495,707 | 287,520 | -208,187 | -42.0% |
| Total Objects | \$ 279,659,400 | \$ 276,700,267 | \$ 273,513,315 | -\$ 3,186,952 | -1.2% |
| Funds | | | | | |
| 01 General Fund | \$ 269,985,026 | \$ 268,406,062 | \$ 264,527,963 | -\$ 3,878,099 | -1.4% |
| 03 Special Fund | 3,813,782 | 3,238,935 | 3,616,109 | 377,174 | 11.6% |
| 05 Federal Fund | 4,965,101 | 4,821,120 | 5,323,986 | 502,866 | 10.4% |
| 09 Reimbursable Fund | 895,491 | 234,150 | 45,257 | -188,893 | -80.7% |
| Total Funds | \$ 279,659,400 | \$ 276,700,267 | \$ 273,513,315 | -\$ 3,186,952 | -1.2% |

Note: The fiscal 2018 appropriation does not include deficiencies, targeted reversions, or across-the-board reductions. The fiscal 2019 allowance does not include contingent reductions or cost-of-living adjustments.

**Appendix 4
Fiscal Summary
Department of Juvenile Services**

| <u>Program/Unit</u> | <u>FY 17 Actual</u> | <u>FY 18 Wrk Approp</u> | <u>FY 19 Allowance</u> | <u>Change</u> | <u>FY 18 - FY 19 % Change</u> |
|-------------------------------------|-------------------------|-----------------------------|----------------------------|----------------------|-----------------------------------|
| 01 Office of the Secretary | \$ 4,286,805 | \$ 4,088,384 | \$ 4,049,552 | -\$ 38,832 | -0.9% |
| 02 Departmental Support | 26,303,685 | 25,273,593 | 24,904,877 | -368,716 | -1.5% |
| 01 Residential Operations | 5,779,231 | 5,455,128 | 5,547,666 | 92,538 | 1.7% |
| 01 Baltimore City Region Operations | 55,645,636 | 56,939,824 | 54,844,498 | -2,095,326 | -3.7% |
| 01 Central Region Operations | 37,215,889 | 35,626,735 | 35,694,717 | 67,982 | 0.2% |
| 01 Western Region Operations | 52,791,507 | 49,980,200 | 49,650,950 | -329,250 | -0.7% |
| 01 Eastern Region Operations | 19,938,601 | 21,028,003 | 20,142,799 | -885,204 | -4.2% |
| 01 Southern Region Operations | 24,016,836 | 23,137,441 | 23,948,714 | 811,273 | 3.5% |
| 01 Metro Region Operations | 53,681,210 | 55,170,959 | 54,729,542 | -441,417 | -0.8% |
| Total Expenditures | \$ 279,659,400 | \$ 276,700,267 | \$ 273,513,315 | -\$ 3,186,952 | -1.2% |
| General Fund | \$ 269,985,026 | \$ 268,406,062 | \$ 264,527,963 | -\$ 3,878,099 | -1.4% |
| Special Fund | 3,813,782 | 3,238,935 | 3,616,109 | 377,174 | 11.6% |
| Federal Fund | 4,965,101 | 4,821,120 | 5,323,986 | 502,866 | 10.4% |
| Total Appropriations | \$ 278,763,909 | \$ 276,466,117 | \$ 273,468,058 | -\$ 2,998,059 | -1.1% |
| Reimbursable Fund | \$ 895,491 | \$ 234,150 | \$ 45,257 | -\$ 188,893 | -80.7% |
| Total Funds | \$ 279,659,400 | \$ 276,700,267 | \$ 273,513,315 | -\$ 3,186,952 | -1.2% |

Note: The fiscal 2018 appropriation does not include deficiencies, targeted reversions, or across-the-board reductions. The fiscal 2019 allowance does not include contingent reductions or cost-of-living adjustments.