
Department of Public Safety and Correctional Services Fiscal 2005 Budget Overview

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

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

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Analysis of the FY 2005 Maryland Executive Budget, 2004

Q00
Department of Public Safety and Correctional Services
Fiscal 2005 Budget Overview

State Funding

Exhibit 1 shows that the Department of Public Safety and Correctional Services' (DPSCS) fiscal 2005 allowance is approximately \$942.1 million. The allowance represents a \$28.3 million, or 3.1% increase, over the fiscal 2004 working appropriation.

- The largest increase, \$10.9 million, is in the Division of Correction (DOC). The increase can be attributed to salaries and wages (including regular earnings, workers' compensation payments, and lower turnover), special payments payroll (program personnel), contractual services, and supplies and materials.
- The next largest increase, \$8.7 million, is in the Office of the Secretary. The increase can be attributed to increases in salaries and wages (primarily due to a lower turnover rate), communications expenses, and grants through the 9-1-1 program.
- The Division of Pretrial Detention and Services received an increase of \$6.8 million in the fiscal 2005 allowance. The increase over the working appropriation can be attributed to salaries and wages and the inmate medical contract.
- The Police and Correctional Training Commissions have received a \$1.2 million increase over the working appropriation attributable to opening a new facility.

Exhibit 2 shows that the department's personnel complement has grown by only 30 regular positions, or 0.3%. The department's contractual positions have been reduced by 0.6%, or 3 full-time equivalents.

Exhibit 1
Department of Public Safety and Correctional Services Budget Overview
Total Funds by Program
Fiscal 2003 – 2005

	<u>FY 2003</u>	<u>FY 2004 Working Appropriation</u>	<u>FY 2005 Allowance</u>	<u>Change FY 04-05</u>	<u>% Change FY 04-05</u>
Operating Programs					
Office of the Secretary	\$82,547,355	\$94,166,840	\$102,834,797	\$8,667,957	9.20%
Division of Correction	583,304,200	575,253,703	586,202,486	\$10,948,783	1.90%
Parole Commission	4,023,999	4,200,098	4,541,315	\$341,217	8.12%
Division of Parole and Probation	77,632,799	83,887,262	83,619,886	-\$267,376	-0.32%
Patuxent Institution	34,021,011	34,293,999	34,935,841	\$641,842	1.87%
Inmate Grievance Office	576,836	594,666	566,590	-\$28,076	-4.72%
Police/Correctional Training Comms.	5,399,607	6,810,038	8,015,730	\$1,205,692	17.70%
Criminal Injuries Compensation Board	5,246,299	5,963,384	5,970,709	\$7,325	0.12%
Correctional Standards Commission	418,066	475,880	481,752	\$5,872	1.23%
Div. of Pretrial Detention and Services	112,268,994	108,153,918	114,967,791	\$6,813,873	6.30%
Total	\$905,439,166	\$913,799,788	\$942,136,897	\$28,337,109	3.10%
By Funds					
General	\$779,675,814	\$777,378,014	\$803,338,604	\$25,960,590	3.34%
Special	106,743,701	112,469,815	121,619,994	\$9,150,179	8.14%
Federal	9,045,287	8,377,037	7,266,533	-\$1,110,504	-13.26%
Reimbursable	9,974,364	15,574,922	9,911,766	-\$5,663,156	-36.36%
Total	\$905,439,166	\$913,799,788	\$942,136,897	\$28,337,109	3.10%

Source: Department of Public Safety and Correctional Services

Exhibit 2
Department of Public Safety and Correctional Services Budget Overview
Fiscal 2003 – 2005

Regular Positions by Program

	<u>FY 2003</u>	<u>FY 2004 Working Appropriation</u>	<u>FY 2005 Allowance</u>	<u>Change FY 03-05</u>	<u>% Change FY 03-05</u>
Operating Program					
Office of the Secretary	474	486	491	5	1.03%
Division of Correction	7,529	7,265	7,275	10	0.14%
Parole Commission	78	80	80	0	0.00%
Division of Parole and Probation	1,335	1,315	1,315	0	0.00%
Patuxent Institution	526	503	503	0	0.00%
Inmate Grievance Office	6	6	6	0	0.00%
Police/Correctional Training Comms.	59	59	64	5	8.47%
Criminal Injuries Compensation Board	7	7	7	0	0.00%
Correctional Standards Commission	6	6	6	0	0.00%
Div. of Pretrial Detention and Services	1,544	1,505	1,515	10	0.66%
Total	11,563	11,231	11,261	30	0.27%

Contractual Positions by Program

	<u>FY 2003</u>	<u>FY 2004 Working Appropriation</u>	<u>FY 2005 Allowance</u>	<u>Change FY 03-05</u>	<u>% Change FY 03-05</u>
Operating Programs					
Office of the Secretary	103	139	140	0	0.29%
Division of Correction	34	82	95	13	15.41%
Parole Commission	1	2	2	0	0.00%
Division of Parole and Probation	79	151	114	-37	-24.55%
Patuxent Institution	20	41	40	-1	-2.42%
Inmate Grievance Office	0	1	1	0	0.00%
Police/Correctional Training Comms.	23	32	54	22	68.11%
Criminal Injuries Compensation Board	2	4	4	0	0.00%
Correctional Standards Commission	1	2	2	0	0.00%
Div. of Pretrial Detention and Services	17	25	25	0	0.00%
Total	281	480	477	-3	-0.61%

Source: Department of Public Safety and Correctional Services

Budgetary Context

Introduction

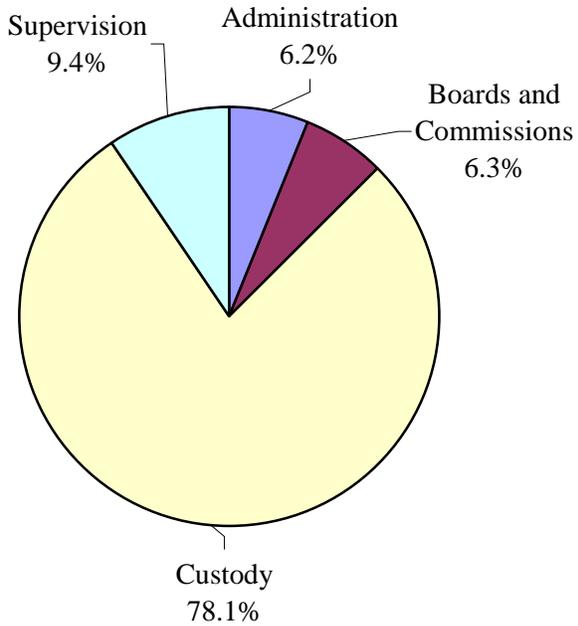
DPSCS is composed of 10 distinct agencies. The agencies can be categorized into four functional areas: administration, boards and commissions, custody, and supervision. The largest functional unit is the custody function.

The custody function is composed of three agencies: the Division of Correction, the Patuxent Institution, and the Division of Pretrial Detention and Services. Each of these agencies is responsible for the physical confinement and control of inmates and detainees ordered confined by Maryland's judicial system. While each of these agencies is composed of various facilities and programs, **Exhibit 3** shows that their aggregate fiscal 2005 allowance is approximately \$736 million, or 78.1% of the of the total allowance. **Exhibits 4** and **5** show that the fiscal 2005 allowance also provides for 9,303 regular employees and 160 contractual employees, or 82.5% and 33.6% of the total personnel allowance respectively. DPSCS estimates that the average daily population for the custody units will exceed 28,000 individuals during fiscal 2005.

The next largest functional unit is the supervision function, which is facilitated by the Division of Parole and Probation (DPP) and the Maryland Parole Commission (MPC). DPP is responsible for supervising offenders under criminal supervision via probation by the judicial system or parole by MPC, and individuals assigned to the Drinking Driver Monitoring Program. DPP supervises a population of more than 72,413 individuals. MPC is responsible for evaluating and hearing the cases of all inmates in State and local facilities when they become statutorily eligible for parole. MPC estimates that it will hear over 12,000 cases during fiscal 2005. The supervision functional area's fiscal 2005 allowance is \$88 million, or 9.4% of the total DPSCS allowance. For the supervision function, the fiscal 2005 allowance provides 1,395 regular employees and 115.7 contractual employees, or 12.4% and 24.3% of DPSCS' total personnel allowance respectively.

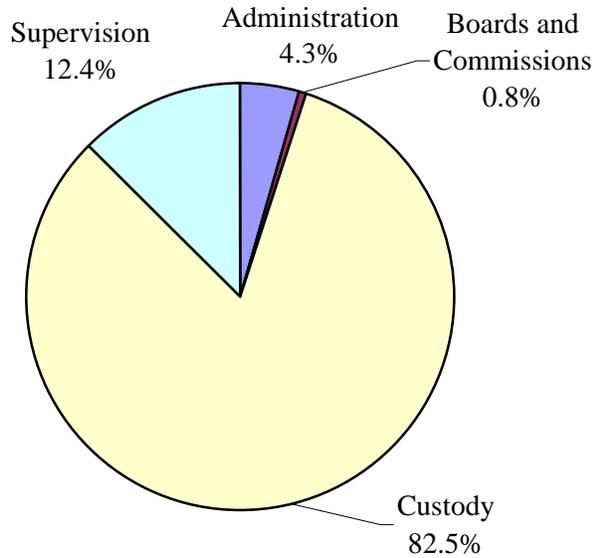
The third largest functional area is the boards and commissions function which includes the Criminal Injuries Compensation Board (CICB), the Inmate Grievance Office, the Emergency Number System Board (ENSB), the Maryland Commission on Correctional Standards (MCCS), and the Police and Correctional Training Commissions (PCTC). Each of the agencies in the functional areas, except for MCCS, receives the majority of its operating revenue from special funds. CICB provides the administrative support to victims who wish to be compensated for injuries and damages sustained as a result of criminal activity. The ENSB develops policy and provides financial support for the State's 9-1-1 emergency system. MCCS develops and

Exhibit 3
Fiscal 2005 Allowance by Function



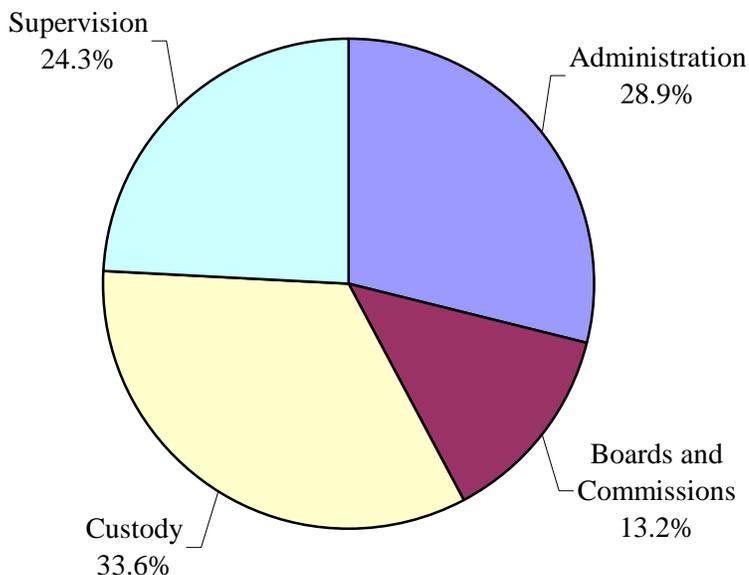
Source: Department of Public Safety and Correctional Services

Exhibit 4
Fiscal 2005 Regular Employees by Function



Source: Department of Public Safety and Correctional Services

Exhibit 5
Fiscal 2005 Contractual Employees by Function



Source: Department of Public Safety and Correctional Services

audits compliance with the standards for all public and private correctional and detention facilities in the State. PCTC develops the training standards for all law enforcement and correctional officers in the State and provided training for approximately 31,000 personnel in fiscal 2003. The boards and commissions functional area aggregate fiscal 2005 allowance is approximately \$60 million, or 6.3% of DPSCS' total allowance. The fiscal 2005 allowance also provides the boards and commissions area 83 regular employees and 65.2 contractual employees, or 0.8% and 13.2% of the total personnel allowance respectively.

The final functional area is the administration area. The administration area is composed of most of the units within the Office of the Secretary, including the Internal Investigation Unit, the Office of Treatment Services, General Administration, Capital and Facilities Management, and the Information Technology and Communications Division. The administration area coordinates and supports the other functional units' activities. The administration functional area's

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fiscal 2005 allowance is \$58 million, or 6.2% of the total DPSCS allowance. For the administration function, the fiscal 2005 allowance also provides 491 regular employees and 135.9 contractual employees, or 4.3% and 28.9% of DPSCS' total personnel allowance respectively. **The department should be prepared to discuss the impact of the Governor's allowance on operations and service delivery within the functional units.**

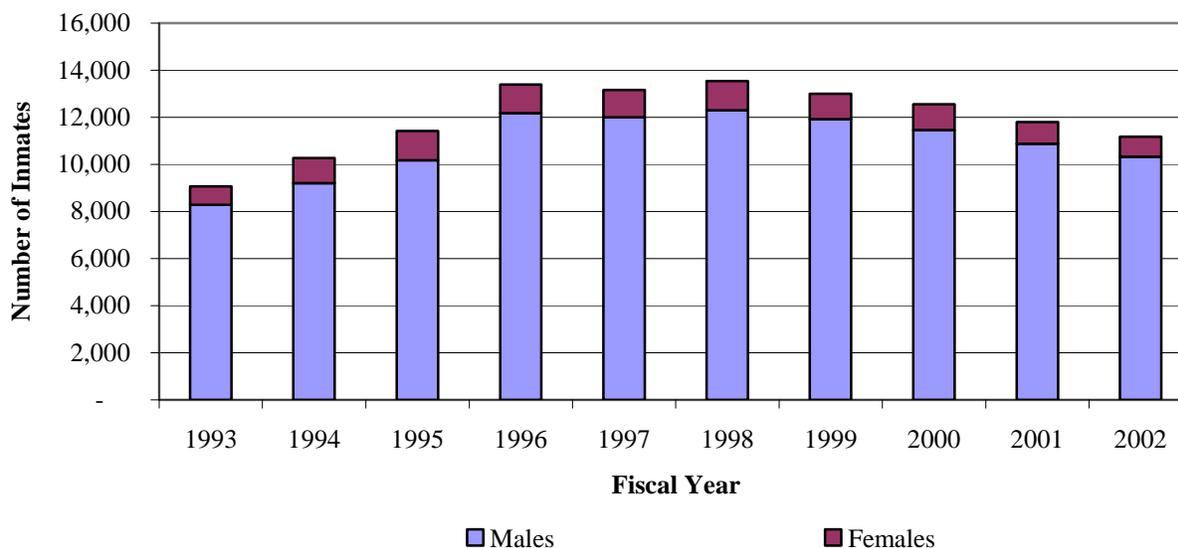
Correctional Population

Since the custody function consumes the greatest amount of DPSCS' resources, trends that affect the inmate and detainee populations have significant budgetary consequences. The actual population growth rate is substantially lower than it has been during the 1980s and early 1990s. The Urban Institute, in its report entitled *A Portrait of Prisoner Reentry in Maryland*, suggests that the growth rate has slowed because inmates are given shorter sentences by the courts and serve less time due to diminution of confinement credits. From 1990 to 1995, the average length of sentence was 53.26 months, with an average length of stay of 25.03 months. During the period 1996 through 2001, the average length of sentence was 41.97 months, while the average length of sentence was 19.59 months.

Although not as quickly, the standing population continues to grow because there are more inmates entering the system than there were during the 1980s and the early 1990s. According to DPSCS, in 2002 the average monthly number of intakes was 931 compared to 755 in 1993. Additionally, 8,085 of the offenders in the active population are serving sentences of over 15 years, including 2,175 offenders serving life sentences. This means that while more offenders are coming into the prison system, approximately 34% of them will not cycle through the system fast enough to create space for the new arrivals. The standing population's growth exceeds what the system was designed to handle.

While the numbers of inmates entering DOC has increased 24.6% for males and 9.8% for females between 1993 and 2002, they are down from their high points in the mid 1990s. **Exhibit 6** shows that in 1995, 1,259 women entered DOC compared to 849 in 2002. In 1996, 12,180 men entered DOC compared to 10,323 in 2002.

Exhibit 6
Number of Intakes into DOC

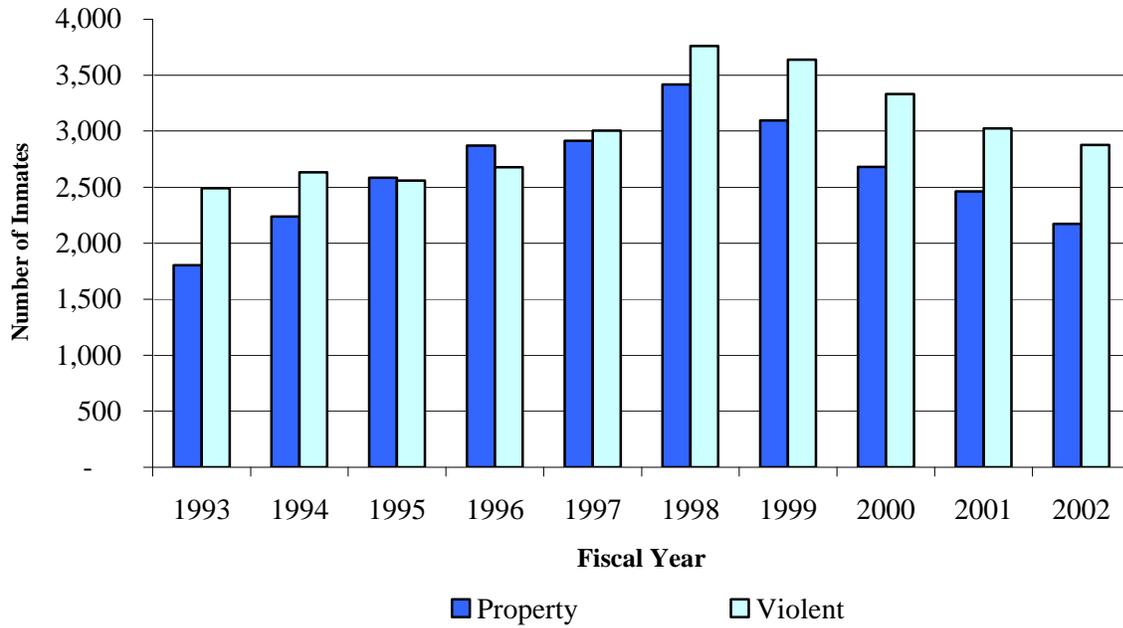


Source: Department of Public Safety and Correctional Services

Exhibit 7 shows the number of inmates whose major offense at intake was violent- or property-related crime. Between 1993 and 2002, the number of inmates whose major offense was a violent crime increased from 2,491 to 2,875, an increase of 384 inmates, or 15.4%. This is still well below the 1998 high point of 3,759. The number of inmates whose major offense was a property-related crime has also increased between 1993 and 2002 from 1,804 to 2,170, or 366 inmates, or 20.3%. This too, is well below the 1998 high point of 3,418.

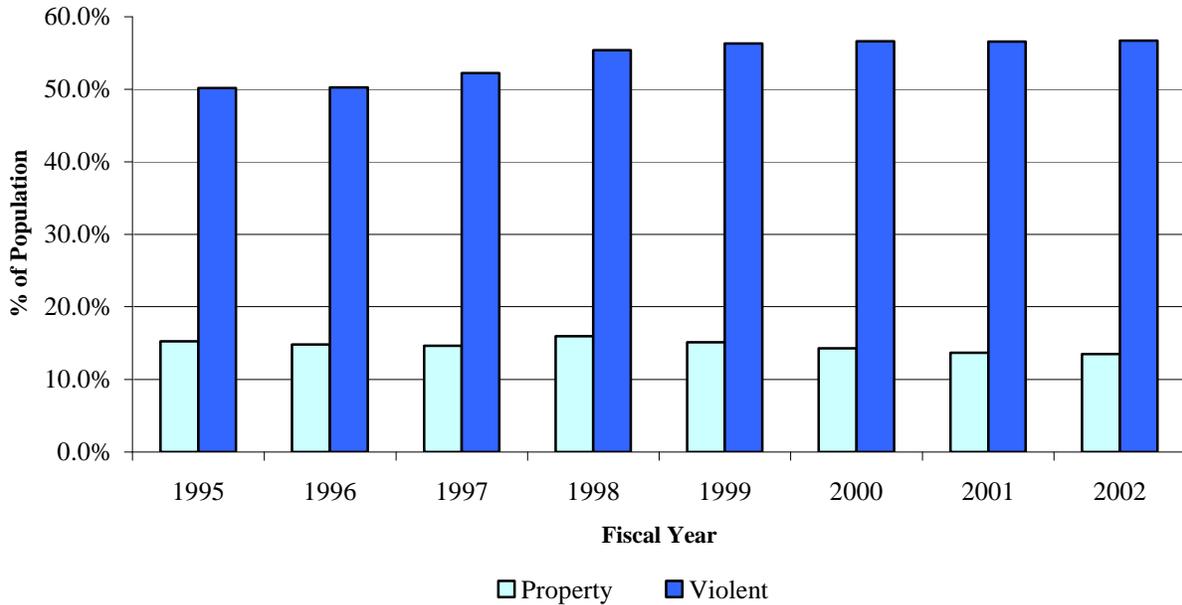
While Exhibit 7 shows that the percentage of new inmates whose major offense is property-related is increasing, **Exhibit 8** shows that the percentage of the standing population held for property-related crimes is decreasing. The decrease in the percentage has occurred because the percentage of inmates serving time for violent crimes has increased by an average of 10.6% annually between 1995 and 2002. There are two possible reasons for this trend. First, the courts reserve prison sentences for violent offenders. Next, offenders who commit property crimes do not serve as long a term of confinement; therefore, stay in the standing population for less time.

Exhibit 7
Major Offenses at Intakes
Fiscal 1993 – 2002



Source: Department of Public Safety and Correctional Services

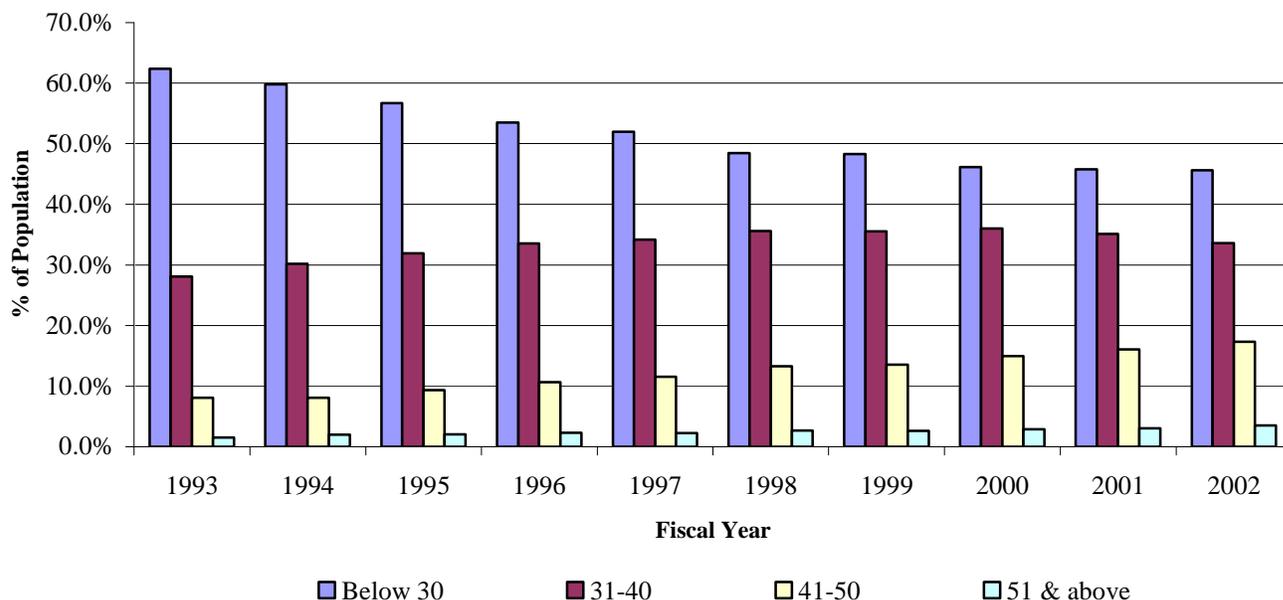
Exhibit 8
Standing Populations – Major Offenses
Percent of Population
Fiscal 1995 – 2002



Source: Department of Public Safety and Correctional Services

Exhibit 9 shows the composition of the new inmate population by age. The percentage of inmates below the age of 30 at the time of intake, continued to decline between 1993 and 2002 from 62.4% to 45.6%. During the same period, the percentage of new inmates between the ages of 31 years and 40 years, increased from 28.1% to 33.6%. When combined with a three-year recidivism rate of over 51%, it suggests that offenders are moving through the system and transitioning from one age group to another.

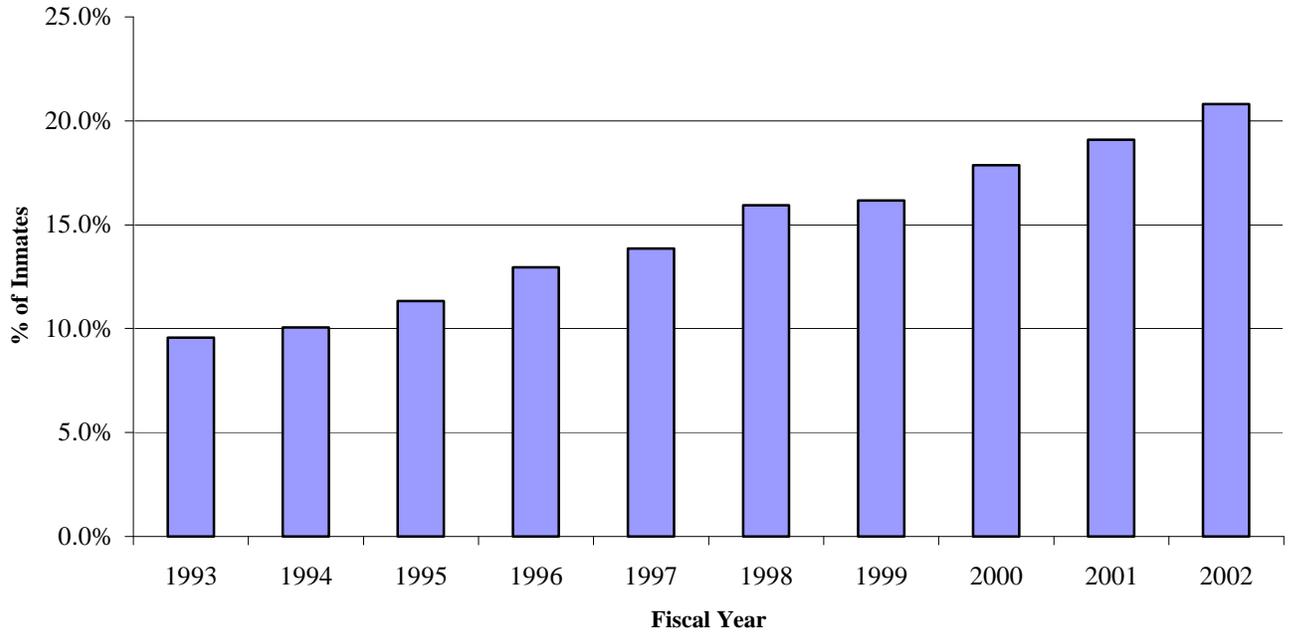
Exhibit 9
Percent of Total Population
New Commitments
Fiscal 1993 – 2002



Source: Department of Public Safety and Correctional Services

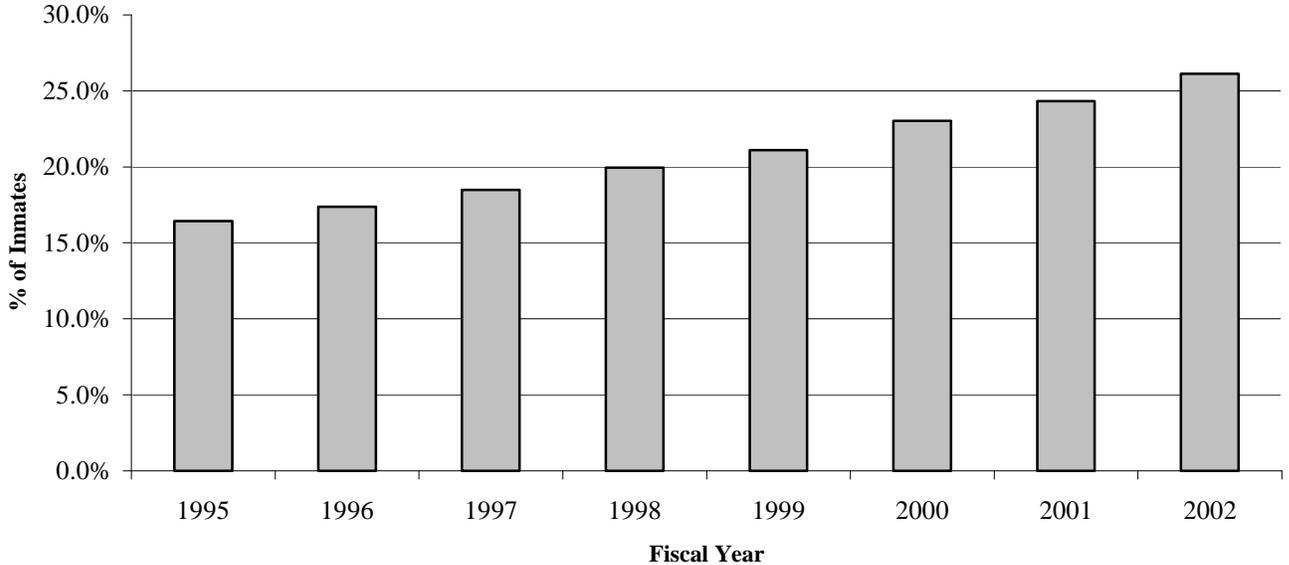
Exhibit 10 specifically examines the age at intake of inmates over 41 years old. While the inmates that compose this age group only represented 9.6% of the population in 1993, the percentage soared by 2002 to 20.8%. The average annual increase was 12.3%. If this age group continues to grow at this rate, it will represent the largest percentage of intakes by 2012. This group will pose a significant drain on the department’s resources given the poor health and chronic care necessary for older inmates. **Exhibit 11** shows that the trend continues within the standing population where inmates 41 years and older went from 16.4% of the population in 1995 to 26.1% by 2002. This suggests that inmates are getting older within the correctional system.

Exhibit 10
Intakes – Age 41+
Percentage of the Inmates
Fiscal 1993 – 2002



Source: Department of Public Safety and Correctional Services

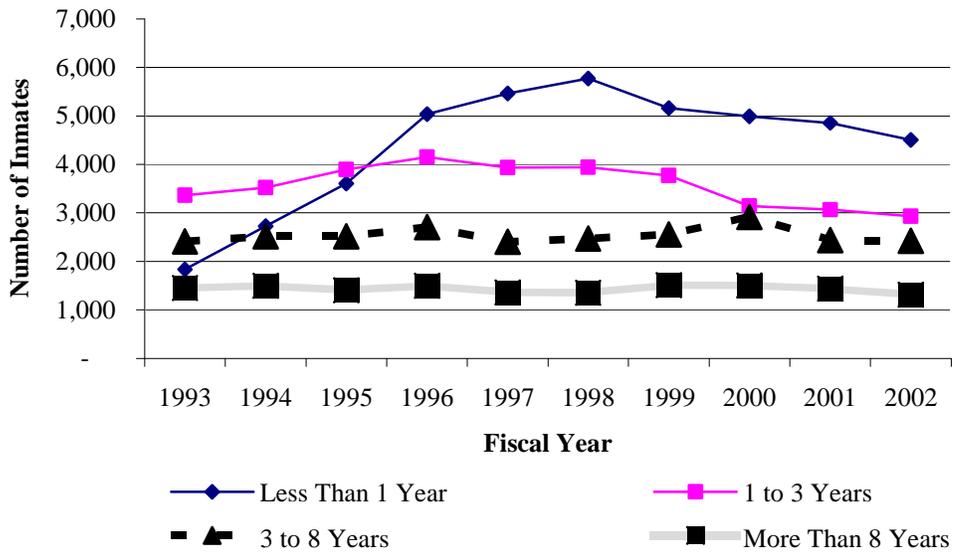
Exhibit 11
Standing Population – Age 41+
Percentage of Inmates
Fiscal 1995 – 2002



Source: Department of Public Safety and Correctional Services

Exhibit 12 shows that there has been a substantial increase in the number of new inmates sentenced to one year or less; from 1,836 in 1993 to 4,504 in 2002, an increase of 145.3%. DPSCS indicates that the lion’s share, if not all, of the increase stems from changes in the law that requires DOC to house all inmates sentenced in Baltimore City. This suggests that approximately 40% of the inmates received in 2002 would not have been the State’s responsibility if DOC was not required to house all inmates sentenced in Baltimore City. Inmates in other jurisdictions are placed in DOC’s custody only if (1) they are sentenced to a term of confinement of more than 18 months; or (2) they are sentenced to a term of between 12 and 18 months and the court indicates that they are to serve their time in DOC’s custody. **The department should be prepared to discuss the operational impact of the changes in inmate and detainee populations.**

Exhibit 12
Intakes – Length of Sentence
Number of Inmates



Source: Department of Public Safety and Correctional Services

Issues

1. Staffing

In its announcement to change operational philosophy with project RESTART, DPSCS proposed financing the new initiative with cost savings from modifying its staffing composition. During what the department terms “first ever comprehensive post evaluation,” DPSCS created an internal Staffing Analysis Team which was trained by staff from the National Institute of Corrections. The team then went to each facility in DOC and the Patuxent Institution and reviewed the staffing instructions and necessity of each post. The preliminary results of the analysis were that there are an excess of 218 personnel classified as Correctional Officer I, II, and III in the facilities. **Exhibit 13** shows the preliminary results of the analysis by geographical region. The evaluation does not consider staff in the Division of Pretrial Detention and Services, correctional auxiliary (maintenance, dietary, etc.), or those with the rank of lieutenant or higher.

Exhibit 13
Division of Correction and Patuxent Institution
Post Analysis Results
For Correctional Officers I, II, and III
As of October 2003

	<u>Authorized</u>	<u>Required</u>	<u>Difference</u>
Baltimore/Jessup	2,815	2,834	(19)
Hagerstown	1,228	1,085	143
Eastern Shore	601	555	46
Western Maryland	423	375	48
Total	5,067	4,849	218

Source: Department of Public Safety and Correctional Services

The results of the 2003 analysis are markedly different than the results of DPSCS’ previous analysis. In 1998 at the legislature’s instruction, DPSCS completed a staffing assessment and reported the findings to the legislature. The General Assembly has relied upon the results of the 1998 assessment to make budget and policy decisions since that point. The department indicated that in December 2002 that analysis was reviewed by the National Institute of Corrections and deemed to be a model on which other correctional departments should base their operations.

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As shown in **Exhibit 14**, DPSCS testified last session that as of the fiscal 2004 allowance, it needed 657 more Correctional Officer I, II, III and sergeants in DOC and Patuxent to maintain safe and secure operations. During the 2003 legislative session, DPSCS used the results of the 1998 report to justify its considerable use of overtime. The department testified that given its inability to build new facilities to meet an increasing population with more programmatic needs, the use of more than 117,000 hours of overtime at DOC and Patuxent during fiscal 2002 was not only necessary, but inevitable (note: this is only the overtime used to offset the use of sick leave). The legislature expressed its concern over DPSCS' staffing issues and instructed the Office of Legislative Audits (OLA) to review the department's staffing analysis. The department's 2003 post evaluation announcement preempts OLA's audit results. The fact that within the span of 10 months the department has uncovered a staffing error which accounts for more than 11% of all of their total staff complement at DOC and Patuxent (correctional and administrative) suggests that the reliability of the new numbers may be limited.

Exhibit 14
DPSCS Testimony from the 2003 Legislative Session
On Additional Security Position Phase-in Plan

	<u>Total</u>	<u>FY 03</u>	<u>Section 37</u>	<u>FY 04</u>	<u>FY 04</u>	<u>Relocation/</u>	<u>Remaining</u>
	<u>Required</u>	<u>Reduction</u>	<u>Cuts</u>	<u>Not</u>	<u>Abolition</u>	<u>Future</u>	<u>Need</u>
Patuxent	89	15	15	29	8	0	233
Division of Correction	604	124	88	126	86	166	590
Total	693	139	103	155	94	166	657

Source: Department of Public Safety and Correctional Services

Experts in the field of correctional staffing indicate that there are six factors that contribute to the appropriate staffing complement in an institution: inmate population, inmate security level, programmatic support, facility layout, correctional philosophy, and custody staff training and availability. The results of these factors can vary significantly even among facilities in the same jurisdiction. The driving force behind the department's 2003 results appears to be its desire to change the custody focus from a system of confinement and control to one of rehabilitation and treatment. This significant shift away from the State's traditional correctional focus, while laudable, may be ill timed given the current fiscal condition. **The department should be prepared to discuss how the current staffing evaluation was created and how its findings supports the department's ability to provide places of safe and secure confinement.**

2. Project Reentry Enforcement Services Targeting Addiction, Rehabilitation, and Treatment (RESTART)

Introduction

DPSCS houses more than 28,000 inmates and detainees each day. To assist the inmates in modifying behavior and to manage the population, the department provides some rehabilitative and educational services for those in custody. The services currently provided include academic, vocational, substance abuse, religious, and mental health programs. Some of the programs, especially drug treatment, are provided in-house by DPSCS staff. The academic programs are provided in partnership with the Maryland State Department of Education. The rest of the programs are generally provided by volunteers. Even with the level of rehabilitative programs available the recidivism rate exceeds 51%. The recidivism rate measures the number of released inmates who relapse into criminal activity within three years.

DPSCS has decided that the most effective way to combat the recidivism rate is to increase the amount and quality of the rehabilitative programming available to inmates and detainees. To that end, DPSCS has announced that it has developed a conceptual framework for a new initiative entitled RESTART.

RESTART anticipates moving away from a system of confinement and control to a system that focuses on rehabilitation and cognitive restructuring. The underlying premise is that by causing the offender to cease his/her criminal behavior, the recidivism rate will drop, the offender will become a productive member of society, the State will save money on incarceration costs, and the public's safety will increase through lower crime. To support this position, DPSCS relies on rigorous research from Maryland and other states that demonstrates that cognitive restructuring programs reduce recidivism.

Cost Considerations

DPSCS indicates that 14,600 inmates were released back into the community in 2002. Using the three-year recidivism rate, it is estimated that almost 7,500 of them will return to the department's supervision by 2005. Of the 7,500 returning to the department's supervision, 4,200 will be reincarcerated. The inmates that are reincarcerated must be fed, clothed, housed, and cared for medically. The inmates who return to DPP must only be supervised. Therefore, the reincarcerated inmates cost more to the State.

DPSCS' plan to finance the RESTART initiative is based on its findings of a post-by-post staffing analysis of the custody institutions. The department found that it had 218 correctional officers too many. Although the attrition rates in the affected areas are low, the department plans

to use the attrition of correctional officers and convert those positions to develop the staffing complement for the RESTART initiative. **Exhibit 15** shows the additional positions that will be created under the RESTART initiative. The department estimates that the 218 positions will create a savings of \$7 million while the “basic” RESTART program costs are estimated at \$9 million. The Governor’s allowance contains \$1.2 million for contractual teachers in fiscal 2005.

Exhibit 15
New Positions to Be Created under the RESTART Initiative

<u>Position Type</u>	<u>Number of Staff</u>
Substance Abuse Counselors	43
Social Worker	49
Case Managers	10
Transition Coordinators	27
Teachers (Contractual)	26
Therapeutic Community Staff	40
Total	195

Source: Department of Public Safety and Correctional Services, January 20, 2004 Briefing

The Governor has indicated that the department will begin the RESTART initiative with an estimated cost of \$9.2 million. The department indicates that \$9.2 million to fully fund the program will be phased in over a three-year period. The department also indicates that the fiscal 2005 allowance contains \$3.1 million earmarked for the RESTART initiative, which represents a shift of current resources in addition to new general funds. **Exhibit 16** shows that only \$1.2 million of the fiscal 2005 allowance is new funding. The new funds will be used to hire contractual teachers for portions of the RESTART initiative.

If the RESTART initiative can reduce the recidivism among the reincarcerated population by 10%, or 420 inmates (which research suggests is improbable), the cost savings to the department would only be \$623,000. The RESTART initiative anticipates annual cost of \$9 million. While the department may choose to cite other sources which show substantial cost savings, closer examination of the assumptions underlying many of the estimates are not readily applicable to

Exhibit 16
Contractual Teaching Position in the Fiscal 2005 Allowance for
the RESTART Initiative

<u>Facility</u>	<u>Region</u>	<u>\$ Increase</u>	<u>Number of Positions</u>
Maryland Correctional Institution – Jessup	Jessup	\$50,770	1.1
Metropolitan Transition Center	Baltimore	244,622	5.3
Maryland Correctional Institution – Hagerstown	Hagerstown	50,770	1.1
Maryland Correctional Training Center	Hagerstown	272,286	5.9
Roxbury Correctional Institution	Hagerstown	106,157	2.3
Maryland Correctional Institution for Women	Women's Facilities	180,005	3.9
Brockbridge Correctional Facility	Pre-release	101,540	2.2
Eastern Correctional Institution	Eastern Shore	193,850	4.2
Total		\$1,200,000	26.0

Source: Department of Public Safety and Correctional Services

Maryland. **Exhibit 17** shows the factors considered by the often cited Washington State Institution for Public Policy’s 2001 report entitled *The Comparative Costs and Benefits of Programs to Reduce Crime*. While the department asserts that cost savings were found in the Washington report, no showing has been made that a thorough analysis has been done to determine the cost savings in Maryland. For an initiative of this magnitude, the fact that savings were found in Washington does not justify the experiment in this State. Even the authors of the study indicate that a separate cost analysis should be done by any state wishing to test the programs.

The department has also indicated that there are limited plans to implement this program in fiscal 2005. Since the RESTART initiative has a three-year phase-in period, the project will not be fully implemented until fiscal 2008. Additionally, the recidivism rate is measured in three-year increments. Therefore, no credible data on the success of this initiative will be available until at least fiscal 2011. In the interim, if the department’s cost estimates are accurate, the State will spend approximately \$58 million to get to the evaluation point. During the same period of time, the State is anticipating an annual structural deficit of up to \$1 billion.

Exhibit 17
Factors Considered by the Washington State Institute
For Public Policy When Analyzing Cost Savings

<u>Types of Crime</u>	<u>Types of Resource Costs Incurred</u>
1. Murder/Manslaughter	1. Police and Sherriffs' Offices
2. Rape/Sex Offenses	2. Superior Courts and County Prosecutors
3. Robbery	3. Juvenile Detention, with Local Sentence
4. Aggravated Assault	4. Juvenile Detention, with JRA Sentence
5. Felony Property Crimes	5. Juvenile Local Probation
6. Drug Offenses	6. Juvenile Rehabilitation, Institutions
	7. Juvenile Rehabilitation, Parole
	8. Adult Jail, with Local Sentence
	9. Adult Jail, with Prison Sentence
	10. State Community Supervision, Local Sentence
	11. Department of Corrections, Institutions
	12. DOC, Post-prison Supervision
	13. Crime Victim Monetary Costs
	14. Crime Victim Quality of Life Costs

Source: The Washington State Institute for Public Policy

Planning Considerations

As of the date of this analysis, DPSCS has provided neither an operational nor an implementation plan. The implementation plan should address recruitment, retention, turnover rates, program personnel allocations, program financing and administration, goals and objectives, space availability, and data tracking and measurement. The operational plan should address day-to-day tasks for each type of personnel, statutory, judicial, and regulatory compliance, process evaluation, and chain of command.

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The department's history includes a number of operational problems. There has been evidence of poor operational control and management in all the units ranging from the custody units (excessive use of overtime and personnel), to capital projects (substantial requests for supplemental funding and program modifications), to repeated deficiency requests, and offender health and safety (court orders and federal investigations). Before undertaking this rather ambitious initiative, the department should demonstrate that it has developed the infrastructure or institutional will for successful implementation.

Applicability

The department further indicates that the combination of programs currently provided in the conceptual framework have never before been attempted together. DPSCS assumes that the programs combined should have at least the effect on recidivism that each has in isolation. The department's premise ignores three very important considerations. First, the premise does not consider the self selection variable on the recidivism rate. The studies on which the department relies do not appear to control for the self-selection variable and its effect on the recidivism rate. In short, the studies do not appear to differentiate between cause and effect: did the program convince an offender not to commit additional crimes; or did the offender who decided not to commit additional crimes join the program?

Secondly, the department appears to assume that because portions of the program have been successful in other places that they will be successful in the State. Finally, the department does not appear to consider that one program's contribution to lowering the recidivism rate may be cancelled out by another. For example, if an inmate is led away from criminal activity by one program, the impact of another program on the recidivism rate relative to that inmate is nonexistent.

The State is currently facing a large projected outyear structural deficit. During austere fiscal times, initiating a new program for which plans can not be presented and cost savings demonstration may be premature. **The department should be prepared to discuss its current use of programs and the adequacy of the programs, including its offender workforce goals. The Department of Legislative Services (DLS) recommends that budget language be added that prohibit expenditure of general funds for any of the components of project RESTART until an implementation and operation plan has been submitted to the General Assembly.**

Add the following language:

Provided that the general fund appropriation for the Department of Public Safety and Correctional Services may not be used to expand the use of rehabilitative or educational services, excluding substance abuse treatment services, for inmates or detainees in the any custody facility until the department has submitted an implementation and operation plan. The budget

committees will have 45 days to review and comment on the plan before funds may be expended.

Explanation: The legislature is concerned that the department has developed a laudable conceptual framework with significant cost implications without developing an effective implementation or operation plan. The department must develop and submit a plan before it can expend general funds to expand its rehabilitative services.

3. Drug Sentencing Policy and Prison Costs

Due to recent increases in prison population growth and the growth of budget deficits, many states have recently tried to modify their sentencing and release policies, particularly with respect to nonviolent drug offenders. The latest prisoner survey released by the U.S. Justice Department in July 2003 found that after two years of slowing prison growth, the nation's incarcerated population rose at three times the rate of the previous year.

Many states have recently begun making changes in sentencing and release policies in order to limit and control incarceration costs. Some have sought explicit treatment alternatives to incarceration – especially for the nonviolent drug offender. For example, since 1993, Kansas has operated under presumptive sentencing, which is based on the assumption that incarceration is reserved for serious offenders. In Arizona and California, as a result of ballot initiatives, the approach to drug offenders has shifted to mandated treatment rather than incarceration.

In a typical year in Maryland, 20,000 offenders are placed under the supervision of DPSCS for drug convictions, with over 75% of those offenders being granted probation rather than incarceration at DOC. Those receiving terms of incarceration, rather than probation, are often repeat offenders who are often also involved in other serious offenses. Over the past five fiscal years, the drug offender standing population has increased nearly 18% from 4,648 offenders in 1999 to 5,477 in 2003.

DPSCS currently attempts to provide treatment to the less dangerous of those drug offenders and gives them consideration for early release, but most are not minor drug users and almost none are first time, simple drug possession offenders

Nationally, drug treatment courts have often shown reduced incidence of new arrests for those who attend or graduate. Such courts strive to make productive and taxpaying citizens out of their clientele, rather than simply to eliminate the person's presence among the inmate population. With 1,078 drug courts in operation around the country, these programs have often claimed to reduce criminality and to increase criminal justice system savings as high as \$10 for every \$1 spent by a state. There are currently adult drug courts operating in Baltimore City and Anne Arundel, Harford, and Prince George's counties. Juvenile drug treatment courts currently

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operate in Baltimore City and Anne Arundel, Baltimore, and Harford counties. Additional drug treatment courts are in the planning stages in 10 jurisdictions. With funding for matching treatment slots, expanding drug treatment courts may offer the best alternative to incarceration (and its costs) in Maryland for nonviolent drug offenders. **The department should be prepared to discuss the impact of the nonviolent drug offenders on the inmate and intake populations.**