

Q00T04
Division of Pretrial Detention
Department of Public Safety and Correctional Services

Operating Budget Data

(\$ in Thousands)

| | <u>FY 16</u> <u>Actual</u> | <u>FY 17</u> <u>Working</u> | <u>FY 18</u> <u>Allowance</u> | <u>FY 17-18</u> <u>Change</u> | <u>% Change</u> <u>Prior Year</u> |
|-----------------------------------|-------------------------------|--------------------------------|----------------------------------|----------------------------------|--------------------------------------|
| General Fund | \$243,099 | \$232,769 | \$229,539 | -\$3,230 | -1.4% |
| Adjustments | 0 | 571 | -548 | -1,118 | |
| Adjusted General Fund | \$243,099 | \$233,340 | \$228,991 | -\$4,349 | -1.9% |
| Special Fund | 1,360 | 1,639 | 1,044 | -595 | -36.3% |
| Adjusted Special Fund | \$1,360 | \$1,639 | \$1,044 | -\$595 | -36.3% |
| Federal Fund | 24,509 | 24,799 | 25,904 | 1,104 | 4.5% |
| Adjustments | 0 | 0 | -58 | -58 | |
| Adjusted Federal Fund | \$24,509 | \$24,799 | \$25,846 | \$1,047 | 4.2% |
| Reimbursable Fund | 298 | 343 | 299 | -44 | -12.8% |
| Adjusted Reimbursable Fund | \$298 | \$343 | \$299 | -\$44 | -12.8% |
| Adjusted Grand Total | \$269,266 | \$260,121 | \$256,180 | -\$3,941 | -1.5% |

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

- There is one fiscal 2017 deficiency appropriation for the Division of Pretrial Detention (DPD), which provides \$570,500 in general funds for the purchase of food service equipment. DPD took over food service preparation and delivery for meals served at the Baltimore City facilities in September 2015.
- The fiscal 2018 allowance includes one across-the-board contingent reduction to eliminate a supplemental payment to the State pension system for one year. The anticipated impact to DPD is a decrease of \$605,431 in retirement funding.

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

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- The fiscal 2018 allowance reflects a \$3.9 million, or 1.5%, decrease when compared to the fiscal 2017 working appropriation after accounting for the aforementioned adjustments. Increases for employee overtime and other personnel costs are primarily offset by decreased funding for contractual employment and inmate medical expenses.

Personnel Data

| | <u>FY 16</u> <u>Actual</u> | <u>FY 17</u> <u>Working</u> | <u>FY 18</u> <u>Allowance</u> | <u>FY 17-18</u> <u>Change</u> |
|------------------------|---|--|--|--|
| Regular Positions | 2,307.60 | 2,344.60 | 2,344.60 | 0.00 |
| Contractual FTEs | <u>103.18</u> | <u>124.91</u> | <u>34.59</u> | <u>-90.32</u> |
| Total Personnel | 2,410.78 | 2,469.51 | 2,379.19 | -90.32 |

Vacancy Data: Regular Positions

| | | |
|---|--------|--------|
| Turnover and Necessary Vacancies, Excluding New Positions | 136.69 | 5.83% |
| Positions and Percentage Vacant as of 12/31/16 | 448.00 | 19.11% |

- DPD has no change to its regular position complement in fiscal 2018; however, its contractual full-time equivalent (FTE) authorization decreases by 90.3 FTEs. DPD took over food service operations that had previously been provided via a private vendor in September 2015. The agency has determined that providing those services in-house will be a permanent solution. As such, the associated FTEs are being converted to regular positions. DPD has more than enough vacant positions within its existing authorization to accommodate the conversion. Therefore, new positions are not requested in the allowance.
- At the end of calendar 2016, DPD had 448.0 vacant positions, for a total vacancy rate of 19.1%. Approximately 52.0% of those positions have been vacant for over 12 months. With a fiscal 2018 budgeted turnover rate of 5.8%, DPD will have more than 311.0 funded vacancies, assuming there is no change in the number of vacant positions. Nearly 77.0% of the 448.0 vacancies are correctional officers.
- Since fiscal 2016, DPD has indicated that positions have been frozen and staff reallocated as a result of the closure of the Baltimore City Detention Center (BCDC) and reorganization into the Baltimore Pretrial Complex. However, it does not appear that the reallocations have been reflected in the authorized position complement for DPD, as regular positions increase by 37.0 between fiscal 2016 and 2017.

Analysis in Brief

Major Trends

Population Statistics: Both the number of arrestees processed through the Baltimore Central Booking and Intake Center and the number of commitments processed through BCDC have declined over the past decade. As a result, the average daily population (ADP) of DPD detainees has also declined by a cumulative 49.7% over the same period of time. Following the recent departmental reorganization, the division gained responsibility for the Department of Public Safety and Correctional Services (DPSCS) sentenced inmates incarcerated in Baltimore City facilities. This population is smaller than it was 10 years ago due to the closure of Baltimore City facilities, most notably portions of the Metropolitan Transition Center in fiscal 2009. Some of the inmates previously held in the now closed facilities were transferred to other Baltimore City facilities, while others were transferred to facilities in other parts of the State.

Facility Security: DPD reports the rate of assaults on detainees and staff per 100 ADP in order to measure the division's ability to maintain safe institutions. Both assault rates increased significantly in fiscal 2016, as the reorganization of the offender population has resulted in the entire pretrial population being held in dormitory style housing. The offender-on-offender assault rate nearly doubled when compared to fiscal 2015, to a rate of 16.57 assaults per 100 ADP. The offender-on-staff assault rate also increased by 48%, from 3.66 to 5.40 assaults per 100 offenders. **DPD should comment on the significant increase in the detainee assault rates for fiscal 2016 and provide an indication of how it plans to reduce assaults.**

Issues

Baltimore City Facility Closures: The department has prioritized the closure of the outdated facilities deemed structurally unfit to safely accommodate inmates and staff, beginning with the Men's Detention Center in August 2015 and continuing with the Baltimore City Women's Detention Center in October 2016. While this is a positive move for the State, it has raised some concerns regarding security, staffing, and the long-term plan for the complex. **DPSCS should comment on its long-term plan for the facilities and offenders in Baltimore City, discussing the department's plan to keep high security level pretrial offenders in dormitory style housing and in correctional facilities throughout the State. In addition, DPSCS should identify the actual number of positions needed to operate the current facility complement and provide a breakdown for how the 448 vacant positions should be reallocated, if at all.**

Settlement Agreement for Jerome Duvall, et al. v. Lawrence Hogan, Jr., et al.: Pursuant to narrative in the 2016 *Joint Chairmen's Report* (JCR), DPSCS submitted in August and September 2016 the signed settlement agreement for *Jerome Duval, et al. v. Lawrence Hogan, Jr., et al.*, as well as a plan for complying with the agreement and associated costs. The settlement agreement addresses a variety of concerns pertaining to the provision of medical and mental health services and the physical condition of DPD facilities. At the expense of the State, the agreement also provides for the payment of plaintiffs'

attorneys' fees and costs and the assignment of three independent experts to serve as compliance monitors and to offer technical assistance. The fiscal 2018 allowance does not provide increased funding for facility maintenance nor does it enhance the existing medical services. **DPSCS should comment on how it intends to meet the terms of the settlement agreement without increasing inmate medical or facility maintenance resources. Additionally, the department should comment on whether the terms of the agreement can be met by continuing to house offenders within existing facilities or if capital improvements will be required.**

DPD Staffing Analysis: In June 2016, DPSCS contracted with Community Resources Services (CRS) to assist with the staffing analysis for the Baltimore City facilities. After extending the deadline for submission once, DPSCS submitted a staffing report in December 2016 generated by CRS. Unfortunately, the submitted material only provides a detailed summary of the methodology being used to conduct the staffing analysis. A completed staffing analysis for the Baltimore City facilities is not provided, as it appears the consultant was still completing the data gathering part of the process at the time the report was submitted. There is no indication regarding the number of positions needed to staff the DPD facilities, how existing resources should be deployed, or how current staffing needs compare to prior evaluations. The submitted report does highlight some general operating efficiencies that might allow DPD to alter its staffing needs without requiring additional positions. **Given the lack of appendices and concrete staffing information provided in the JCR submission, the Department of Legislative Services (DLS) does not recommend releasing the restricted funds at this time. DPSCS may resubmit a detailed staffing analysis of the Baltimore City facilities by the close of the fiscal year for reconsideration. Additionally, DLS recommends the addition of budget language requesting that the department complete a biennial staffing analysis for its entire facility complement, including an evaluation of how implementing some of the identified operating efficiencies might impact staffing needs.**

Recommended Actions

1. Add language restricting funds pending receipt of a new post-by-post staffing analysis for all Department of Public Safety and Correctional Services operated facilities.
2. Adopt narrative requesting an evaluation of the cell phone managed access system.

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Division of Pretrial Detention
Department of Public Safety and Correctional Services

Operating Budget Analysis

Program Description

The Division of Pretrial Detention (DPD) is responsible for processing and managing the care, custody, and control of Baltimore City arrestees and detainees in a safe, humane, and secure environment. DPD also supervises the operation of Baltimore City facilities incarcerating a portion of the State sentenced inmate population.

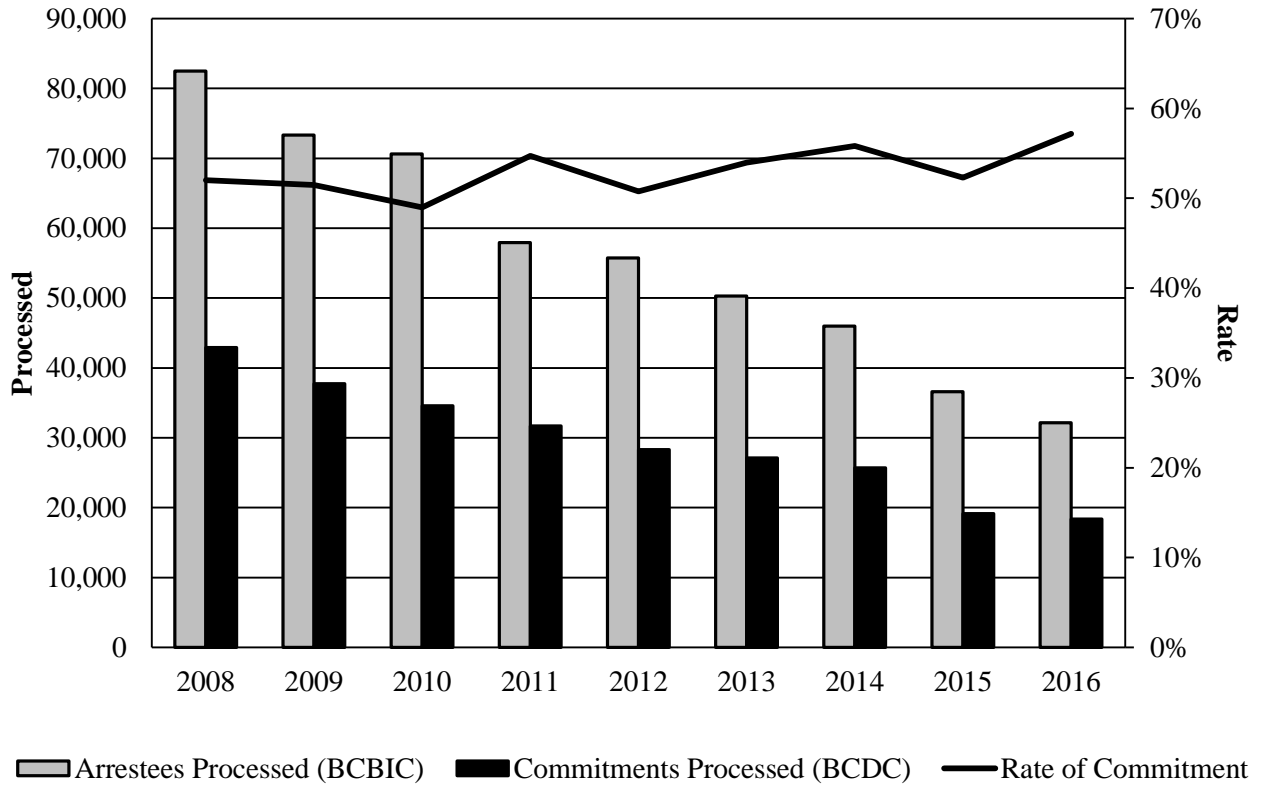
Performance Analysis: Managing for Results

1. Population Statistics

Both the number of arrestees processed through the Baltimore Central Booking and Intake Center (BCBIC) and the number of commitments processed through the Baltimore City Detention Center (BCDC) (portions of which are now the Baltimore Pretrial Complex) have been declining over the past decade. Although the percent of arrestees committed to DPD facilities has varied some, it has generally remained between 50% and 60%. These trends are demonstrated in **Exhibit 1** for fiscal 2008 through 2016. In fiscal 2016, DPD processed 32,164 arrestees. This reflects a more than 60% decrease from fiscal 2008, when 82,468 arrestees were processed. Similarly, over 24,500 fewer commitments were processed by BCDC in fiscal 2016 than in fiscal 2008, a reduction of about 57%. However, it should be noted that the decline in arrests and bookings in the past two years is in part attributable to the Freddie Gray case and ensuing civil unrest in Baltimore City. These recent declines mirror the arrest and detention trends of major cities across the country.

Despite the population declines, the rate of commitment has remained relatively stable, with an average of 53.0% over the past nine years. Fiscal 2010 saw the lowest rate of commitment at 49.0%, and fiscal 2016 saw the highest rate at 57.2%. This indicates that in most years, at least half of the people arrested in Baltimore City are ultimately housed in DPD facilities, which represents a significant cost to the State.

Exhibit 1
Division of Pretrial Detention
Detainee Processing and Rate of Commitment
Fiscal 2008-2016



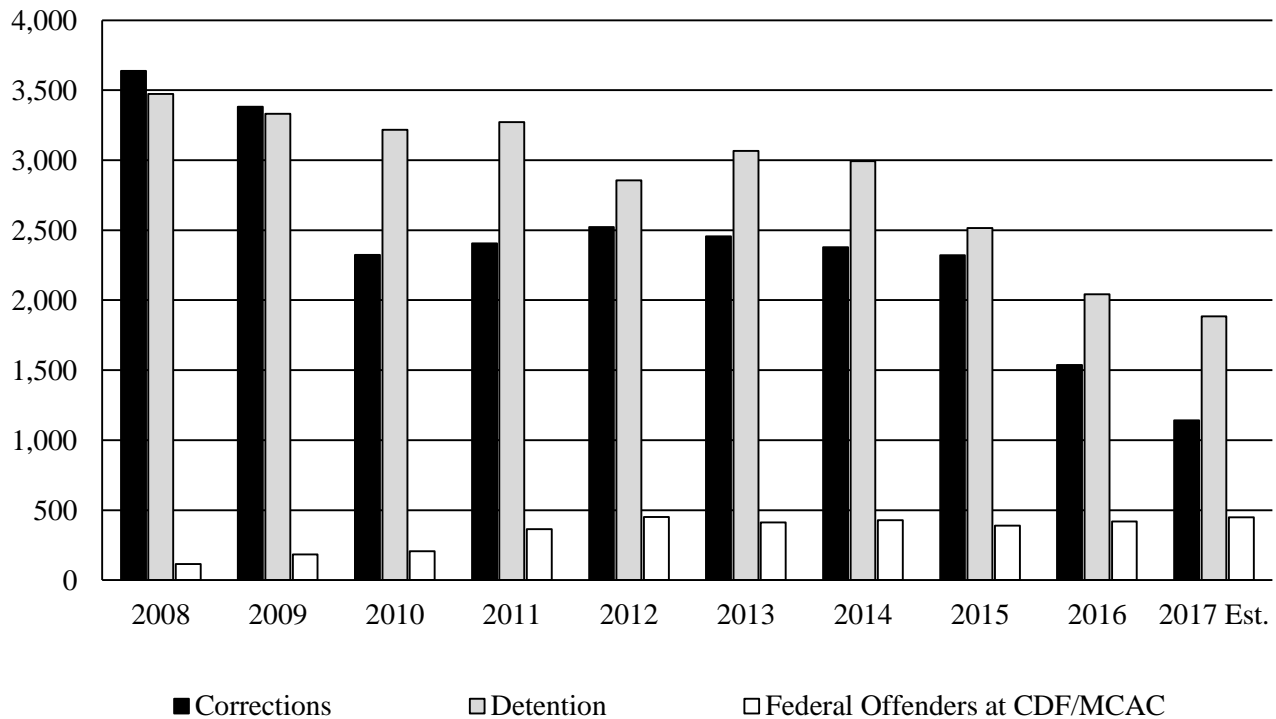
BCBIC: Baltimore Central Booking and Intake Center
 BDCD: Baltimore City Detention Center

Source: Managing for Results, Fiscal 2018 submission

Fortunately, as shown in **Exhibit 2**, the average daily population (ADP) for DPD detainees has generally declined over the past decade. In fiscal 2016, the DPD detainee ADP was 2,041. Pretrial populations are typically less expensive to maintain; however, the detainee population data considered alone is somewhat deceiving. Since the State operates both the Baltimore City local detention center and State prison facilities, the Department of Public Safety and Correctional Services (DPSCS) has the ability to house offenders in State prison facilities when the offenders might have a sentence that in any other jurisdiction would place them in a local detention center. As of January 2017, there were 365 inmates with sentences of 18 months or less departmentwide, and 222 of those were sentenced to less than 12 months. Of the inmates sentenced to 18 months or less, approximately 53% were housed

in facilities outside of DPD jurisdiction. Of the inmates sentenced to under 12 months, almost 37% were housed in facilities outside of DPD jurisdiction. Although this is not ideal policy, it does help the department address problems with inmate behavior; overcrowding in its Baltimore City facilities; and logistical concerns with maintaining sight and sound separation among male, female, and juvenile detainees.

Exhibit 2
ADP for Offenders Incarcerated in Baltimore City Facilities
Fiscal 2008-2017 Est.



ADP: average daily population
 CDF: Chesapeake Detention Facility
 MCAC: Maryland Correctional Adjustment Center

Source: Department of Public Safety and Correctional Services *Annual ADP Reports*, Fiscal 2006-2016

The sentenced population indicated in Exhibit 2 has declined due to the closure of a few Baltimore City facilities over the past decade. Most notably, portions of the Metropolitan Transition Center (MTC) were closed in fiscal 2009, which reduced the Baltimore City sentenced population by more than 850 offenders. The following year, the department closed the Baltimore Pre-Release Unit for Women that typically housed at least 120 sentenced offenders. In fiscal 2011, the Maryland

Correctional Adjustment Center was converted to a federal detention facility, the Chesapeake Detention Facility (CDF), necessitating the relocation of about 200 State inmates previously incarcerated there. And most recently, in fiscal 2014, the department closed the Baltimore Pre-Release Unit, which typically held 150 to 200 sentenced offenders. Some of the inmates previously held in these now closed facilities were transferred to other Baltimore City facilities, while others were transferred to facilities in other parts of the State.

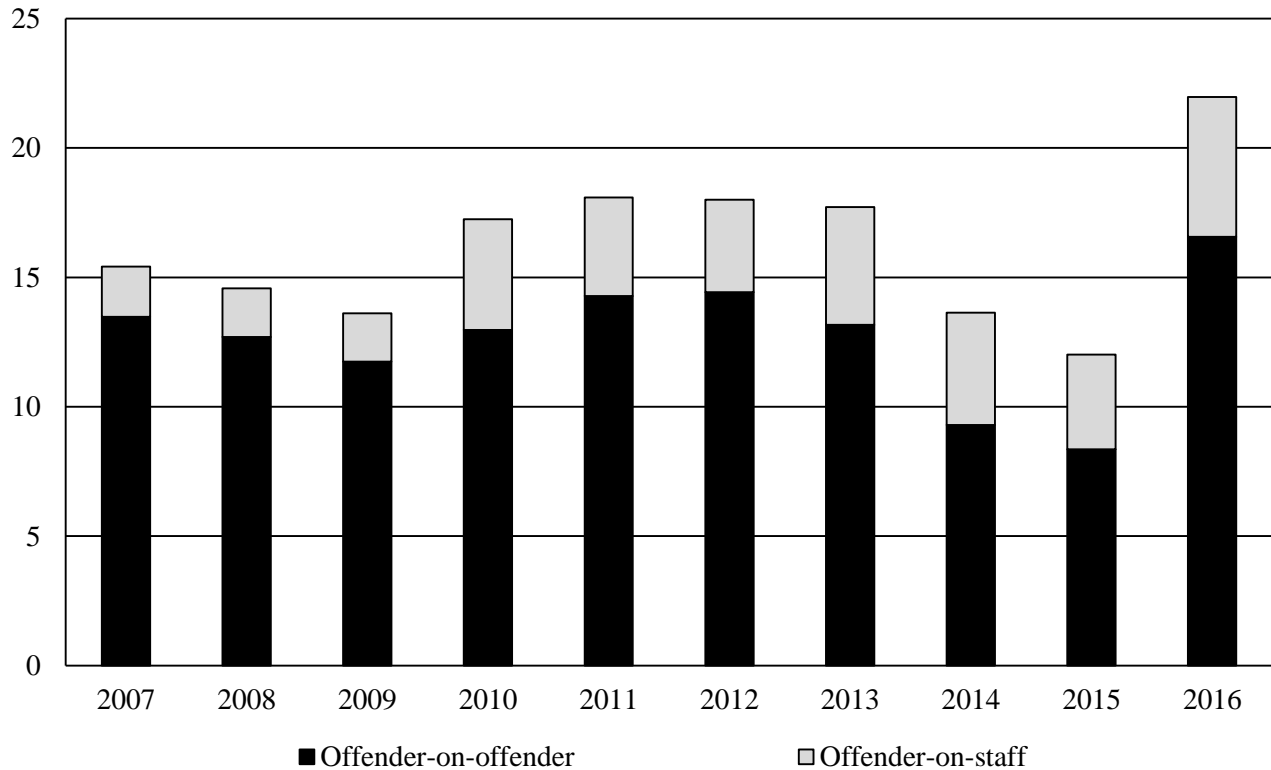
Similarly, the substantial decrease in the detention population indicated in Exhibit 2 is, in part, reflective of the closure of the Men’s Detention Center (MDC) and Women’s Detention Center (WDC) facilities in fiscal 2016. The impact of those facility closures is discussed in more detail in the Issues section of this analysis.

2. Facility Security

DPD reports the rate of assaults on detainees and staff per 100 offenders in order to measure the division’s ability to maintain safe institutions. The goal is to have detainee-on-detainee and detainee-on-staff assault rates at, or below, 13.17 and 4.54, respectively. Both goals went unmet in fiscal 2016.

As shown in **Exhibit 3**, in fiscal 2010, the assault rates increased significantly due to improved reporting. Prior to fiscal 2010, assaults were likely underreported. Between fiscal 2011 and 2015, the overall assault rate declined by 34%. The detainee-on-detainee assault rate hit its lowest point in the past decade, with 8.36 assaults per 100 ADP. The detainee-on-staff assault rate declined for the second consecutive year in fiscal 2015 to 3.66 assaults per 100 ADP. In fiscal 2016, however, both assault rates increased significantly. The detainee-on-detainee assault rate nearly doubled, increasing 98% to 16.57 assaults per 100 ADP. The detainee-on-staff assault rate rose by 48%, to 5.40 assaults per 100 offenders. With the depopulation of the MDC and WDC and subsequent reorganization of offenders among Baltimore City and other State facilities, 100% of the detainee population in Baltimore City is housed in dormitory style housing. This is not typical housing for a pretrial population, and with 97% of this population classified as maximum or medium security, it is not surprising that assaults would occur more frequently. **DPD should comment on the significant increase in the detainee assault rates for fiscal 2016 and provide an indication of how it plans to reduce assaults.**

Exhibit 3
Division of Pretrial Detention
Detainee Assault Rates
Fiscal 2007-2016



Source: Governor’s Budget Books, Fiscal 2006-2015; Managing for Results, Fiscal 2018 submission

Fiscal 2017 Actions

Proposed Deficiency

There is one fiscal 2017 deficiency appropriation for DPD, which provides \$570,500 in general funds for the purchase of food service equipment. DPD took over food service operations for the Baltimore City facilities in September 2015. These services had previously been provided through a private vendor. The fiscal 2017 deficiency appropriation will allow the agency to purchase a variety of equipment needed to support meal preparation and delivery to the inmate population.

Section 20 Position Reduction

Section 20 of the fiscal 2017 budget bill required the Governor to abolish 657 vacant regular positions and reduce the fiscal 2017 budget by \$25.0 million. The overall impact to the department was the loss of \$7.8 million in general funds, \$100,000 in special funds, and 58 regular positions. The DPD share of that reduction was 3 regular positions, with actual salary and fringe benefit savings of \$252,599.

Proposed Budget

As seen in **Exhibit 4**, the fiscal 2018 allowance for DPD decreases by nearly \$4 million, or 1.5%, when compared to the fiscal 2017 working appropriation and when accounting for the fiscal 2017 deficiency appropriation and the fiscal 2018 across-the-board contingent reduction for supplemental payments to the State pension system.

Exhibit 4
Proposed Budget
DPSCS – Division of Pretrial Detention
(\$ in Thousands)

| How Much It Grows: | <u>General Fund</u> | <u>Special Fund</u> | <u>Federal Fund</u> | <u>Reimb. Fund</u> | <u>Total</u> |
|-----------------------------------|----------------------------|----------------------------|----------------------------|---------------------------|---------------------|
| Fiscal 2016 Actual | \$243,099 | \$1,360 | \$24,509 | \$298 | \$269,266 |
| Fiscal 2017 Working Appropriation | 233,340 | 1,639 | 24,799 | 343 | \$260,121 |
| Fiscal 2018 Allowance | <u>228,991</u> | <u>1,044</u> | <u>25,846</u> | <u>299</u> | <u>\$256,180</u> |
| Fiscal 2017-2018 Amount Change | -\$4,349 | -\$595 | \$1,047 | -\$44 | -\$3,941 |
| Fiscal 2017-2018 Percent Change | -1.9% | -36.3% | 4.2% | -12.8% | -1.5% |

Where It Goes:

Personnel Expenses

| | |
|--|---------|
| Overtime..... | \$3,506 |
| Employee and retiree health insurance | 920 |
| Other fringe benefit adjustments | 451 |
| Workers' compensation premium assessment | 393 |
| Increments and other compensation..... | 225 |

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Where It Goes:

| | |
|---|-----------------|
| Employee retirement (less pension sweeper contingent reduction) | -678 |
| Turnover adjustments..... | -722 |
| Inmate Variable Costs | |
| Inmate uniforms | 234 |
| Inmate education services | 61 |
| Inmate food | -966 |
| Inmate medical expenses..... | -2,751 |
| Facility Operation and Maintenance | |
| Building and household supplies | 288 |
| Fuel and utilities..... | 146 |
| Youth Detention Center start-up costs | -211 |
| Less maintenance costs due to facility closures | -352 |
| Cell phone managed access system maintenance | -355 |
| One-time fiscal 2017 deficiency to purchase food service equipment..... | -570 |
| Other Changes | |
| Vehicle maintenance and repairs | 109 |
| Other | -250 |
| Inmate welfare funds..... | -255 |
| Contractual employment | -3,164 |
| Total | -\$3,941 |

DPSCS: Department of Public Safety and Correctional Services

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

Personnel

Personnel expenses increase by a net \$4.1 million. Decreases for the employee retirement system (\$678,000) and a higher budgeted turnover rate (\$722,000) are more than offset by increases for employee and retiree health insurance, workers' compensation, and custodial overtime.

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The allowance provides a total of \$17.6 million for employee overtime in fiscal 2018, an increase of 24.9% over the fiscal 2017 working appropriation. Despite this increase, however, the allowance remains approximately \$6.5 million, or 27.1%, below what was actually spent on overtime in fiscal 2016. Similarly, the fiscal 2017 working appropriation is about \$10.0 million short of fiscal 2016 actual spending. Given the large number of correctional officer vacancies and that DPD amassed over 200 additional vacancies between December 2015 and December 2016, overtime is likely underfunded in both the fiscal 2017 working appropriation and the fiscal 2018 allowance. Deficiency funding is not provided to cover the anticipated shortfall for fiscal 2017, as it is anticipated that excess salary funding from vacant positions will be available to redirect toward overtime. This method of budgeting, however, does limit the department's ability to fill its existing vacancies. This issue is discussed in more detail on a departmentwide basis in the DPSCS Overview analysis.

Inmate Variable Costs

The fiscal 2018 allowance includes funding for a number of items that are impacted by fluctuations in the inmate population. These items are largely budgeted in a manner that provides minor inflationary increases offset by downward adjustments due to anticipated declines in the offender population. Additional funding is provided for offender uniforms and education services to bring the allowance more in line with historical levels of spending, as the fiscal 2017 working appropriation may be slightly underfunded in these areas. The DPD allowance includes a decrease of approximately \$966,000 for food purchases, as the increased cost per meal is offset by the declining offender population.

The fiscal 2018 DPD allowance for inmate medical care is \$28.3 million, a decrease of about \$2.8 million from the working appropriation. The decline is largely attributable to the fiscal 2016 closure of MDC and WDC and associated transfer of sentenced inmates from DPD facilities to Division of Correction (DOC) facilities. This is also reflected as a portion of the fiscal 2017 increase of about \$7.1 million for DOC inmate medical care.

Facility Operation and Maintenance

Modest increases in household supply purchases and fuel and utility expenses are offset by the removal of one-time fiscal 2017 funding for food service equipment purchases and start-up costs for the new Youth Detention Center combined with maintenance savings generated from the closure of MDC and WDC and the agency's decision to not pursue expansion of its cell phone managed access system.

Funding for building and equipment maintenance contracts decreases by approximately \$352,000 in fiscal 2018. The decrease is attributable to the department's closure of aging and dilapidated structures within the Baltimore complex. The terms of the *Duvall v. Hogan* settlement agreement, however, require increased attention to maintenance and physical plant operations. It does not appear that this funding is addressed in the fiscal 2018 allowance. The terms of the agreement and impact on DPD operations is discussed in more detail in the Issues section of this analysis.

Cell Phone Managed Access and Facility Security Equipment

DPSCS began evaluating cell phone interdiction technologies in 2009 as a result of increasing cell phone confiscations in State prisons and BCDC. The impetus for adopting a facilitywide cell phone solution was a successful assassination of a witness, which was ordered by an inmate at BCDC. Facility staff utilized a variety of security procedures and technologies to interdict cell phones, including limiting entry points and using metal detectors, x-ray machines, and cell phone detecting canines. As jamming was illegal, and passive detection systems only showed usage, DPSCS explored implementation of a managed access system as a means of lessening the amount of staff resources dedicated to searching and confiscating cell phones.

A managed access system was implemented at MTC in April 2013. MTC was selected as the pilot site in order to test the technology in an urban environment and because it was the facility with the highest number of cell phone confiscations. The system was expanded to include BCDC the following year. Although not solely attributable to the managed access system, the rate of cell phone finds per 100 canine scans declined from 0.43 to 0.02 between fiscal 2011 and 2016.

DPSCS received funding to expand implementation of cell phone managed access to BCBIC and the Maryland Reception, Diagnostic and Classification Center in the fiscal 2015 legislative appropriation, in accordance with a recommendation from the 2013 Special Joint Commission on Public Safety and Security in State and Local Correctional Facilities. However, the funding was removed due to cost containment. Funding was again provided in the form of a \$6.7 million fiscal 2016 deficiency appropriation. Due to procurement problems, these funds were ultimately reverted at the close of the fiscal year.

In the fiscal 2018 allowance, DPSCS has made a decision to move away from expanding its cell phone managed access system, primarily because of the cost. The department estimates that the cost to equip one facility with managed access can range from \$3.5 million to more than \$5.0 million, depending on the size of the facility and the complexity of the layout. Because a majority of the installation costs are associated with labor and wiring, the expense cannot be lease financed. Additionally, maintenance for each system averages about \$300,000 annually.

As an alternative, DPSCS has included less than \$45,000 in the Administration budget for fiscal 2018 to lease finance security detection equipment that will include deployment to the Baltimore City facilities. Over the next three years, \$7 million will be spent on providing full body scanners, portable cell phone detection devices, advanced metal detectors, and security cameras to a variety of DOC and DPD facilities. While the initial expense of these items is less costly at the time of purchase, they are all more staff intensive than using a managed access system. This is particularly concerning, given the current staffing issues plaguing the department.

DPD should comment on its decision to move away from the use of managed access systems to prevent cell phone contraband. Given the annual costs to maintain the systems, the Department of Legislative Services (DLS) recommends the adoption of committee narrative requesting a performance evaluation of the technology, including a cost-benefit analysis, to

determine whether use of the system should occur, despite the availability of less costly technology.

Other Changes

Inmate Welfare Funds (IWF) budgeted within DPD decline by approximately \$255,000, or 31%, in fiscal 2018. The \$556,000 budgeted in the allowance reflects a 24% decrease from fiscal 2016 actual IWF expenditures. Departmentwide, IWFs decline by \$602,000 in fiscal 2018, providing approximately \$3.6 million for the purchase of goods and services that benefit the general inmate population (*e.g.*, inmate welfare kits, barber shop supplies, recreational equipment, movie rental, equipment repairs, and ice for inmates). This is approximately \$3.6 million below fiscal 2016.

With the loss of phone commissions, the department realigned and consolidated the budget for inmate welfare expenditures. Inmate welfare funding no longer covers permanent and contractual costs for chaplains. These are now all general funded. Additionally, the State split the costs between general funds/special funds for inmate education and legal services for inmates. Due to the backfill of general funds provided in fiscal 2017, DPSCS has been able to continue these services/functions with no impact to operations.

Funding for contractual full-time equivalents (FTE) decreases by nearly \$3.2 million. DPD is eliminating 90.32 FTEs in fiscal 2018, as it converts food service FTEs to regular positions. Prior to September 2015, food service for Baltimore City facilities was provided on a contractual basis. The department terminated the food service contract because the number of meals needed was lower than projected, and the vendor was unable to perform at the contract price. Although the department released a Request for Proposals (RFP) for a new food service contract, it did not receive any bids. At the same time, the department determined that it would be able to provide food service in-house, similar to the provision of food service at correctional facilities in other regions of the State.

In order to accommodate in-house food service, DPD increased FTE funding in fiscal 2017 by nearly \$3.0 million to hire dietary workers. The department is now in the process of reclassifying correctional officer positions to dietary officer positions for the operation of Baltimore City food service. This will allow the department to convert the Baltimore City contractual FTE dietary workers to regular positions, however, this will increase the cost of providing food service since regular positions receive benefits and leave, unlike contractual FTEs. With over 300 funded vacancies in the agency's fiscal 2018 allowance, DPD is able to convert these positions without the need for increased funding or additional positions. DPSCS is unable to provide a cost comparison between providing food service contractually versus in-house, due to the fluctuations in the Baltimore City offender population and facility complement.

Across-the-board Reductions

The fiscal 2018 budget bill includes a \$54.5 million (all funds) across-the-board contingent reduction for a supplemental pension payment. Annual payments are mandated for fiscal 2017 through 2020 if the Unassigned General Fund balance exceeds a certain amount at the close of the

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fiscal year. This agency's share of these reductions is \$547,906 in general funds and \$57,525 in federal funds. This action is tied to a provision in the Budget Reconciliation and Financing Act of 2017.

Issues

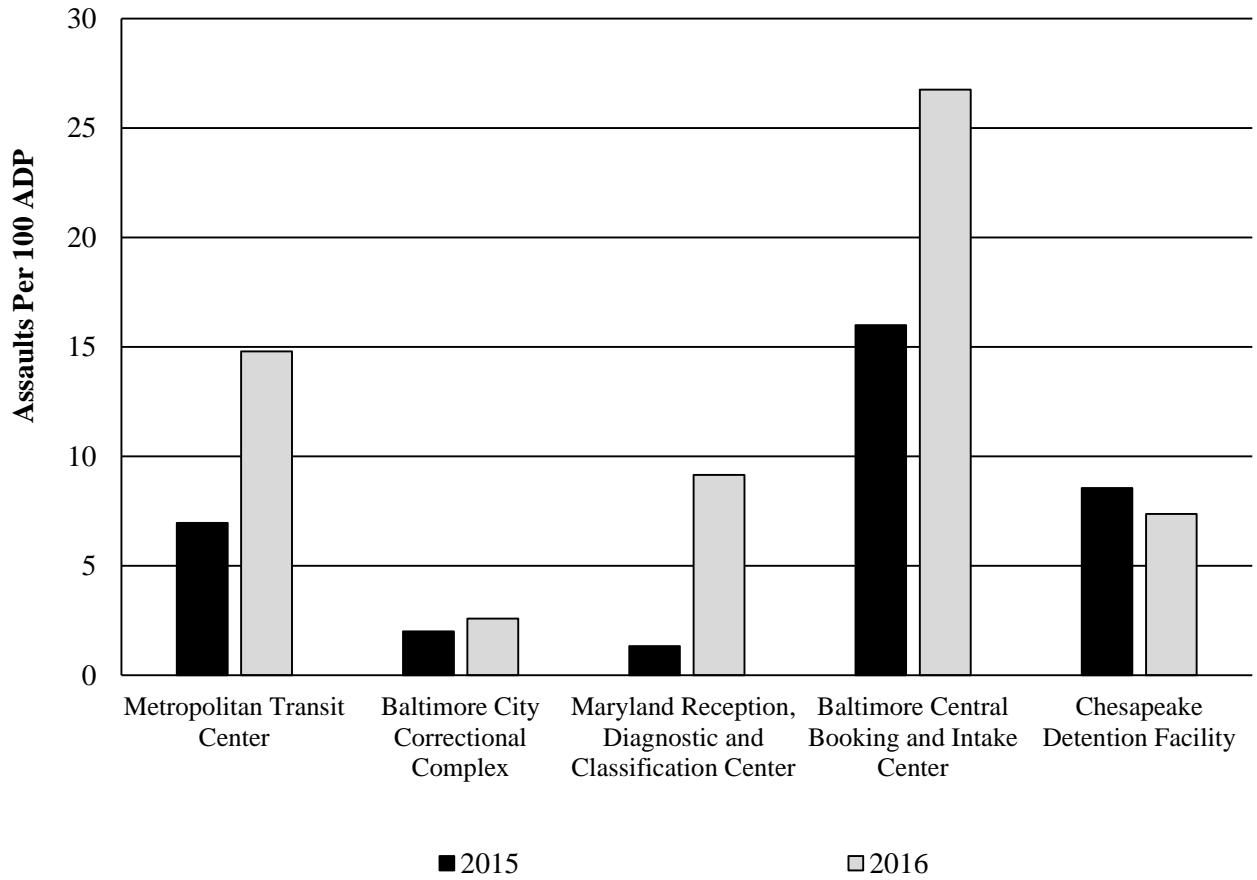
1. Baltimore City Facility Closures

The closure of MDC and WDC in Baltimore City resulted in the transfer of 2,374 offenders to other DPSCS facilities within Baltimore and throughout the State. Additionally, the department identified 572 positions available for reassignment to combat high vacancy rates in other areas. Although the closure of the outdated facilities is a positive move for the State, some concerns have been raised as a result of the changes.

Dormitory Housing Poses a Security Threat

With the closure of MDC and WDC, 100% of the pretrial population located in Baltimore City is housed in dormitory style housing. This is a particular concern, since 47% of that population is classified as maximum security, with another 50% classified as medium security. Dormitory housing is not standard for pretrial populations and makes it easier for a detainee to effectuate an assault. The Baltimore Pretrial Complex (formerly BCDC) pretrial facilities include MTC, the Jail Industries Building (JI), the Wyatt building (juveniles), and the Annex (weekenders). **Exhibits 5 and 6** compare fiscal 2015 and 2016 assault rates on offenders and staff for each Baltimore City facility. Due to the restructuring of facilities formerly designated as part of BCDC, assault data for offenders housed in the JI, Wyatt, and Annex buildings is not available for fiscal 2016. Assaults increased significantly at every facility in fiscal 2016, in part due to the shuffling of offenders throughout the State. Dormitory housing is clearly not the only factor contributing to the increase in assaults, but the offender-on-offender assault rate at MTC did increase by 113% in fiscal 2016.

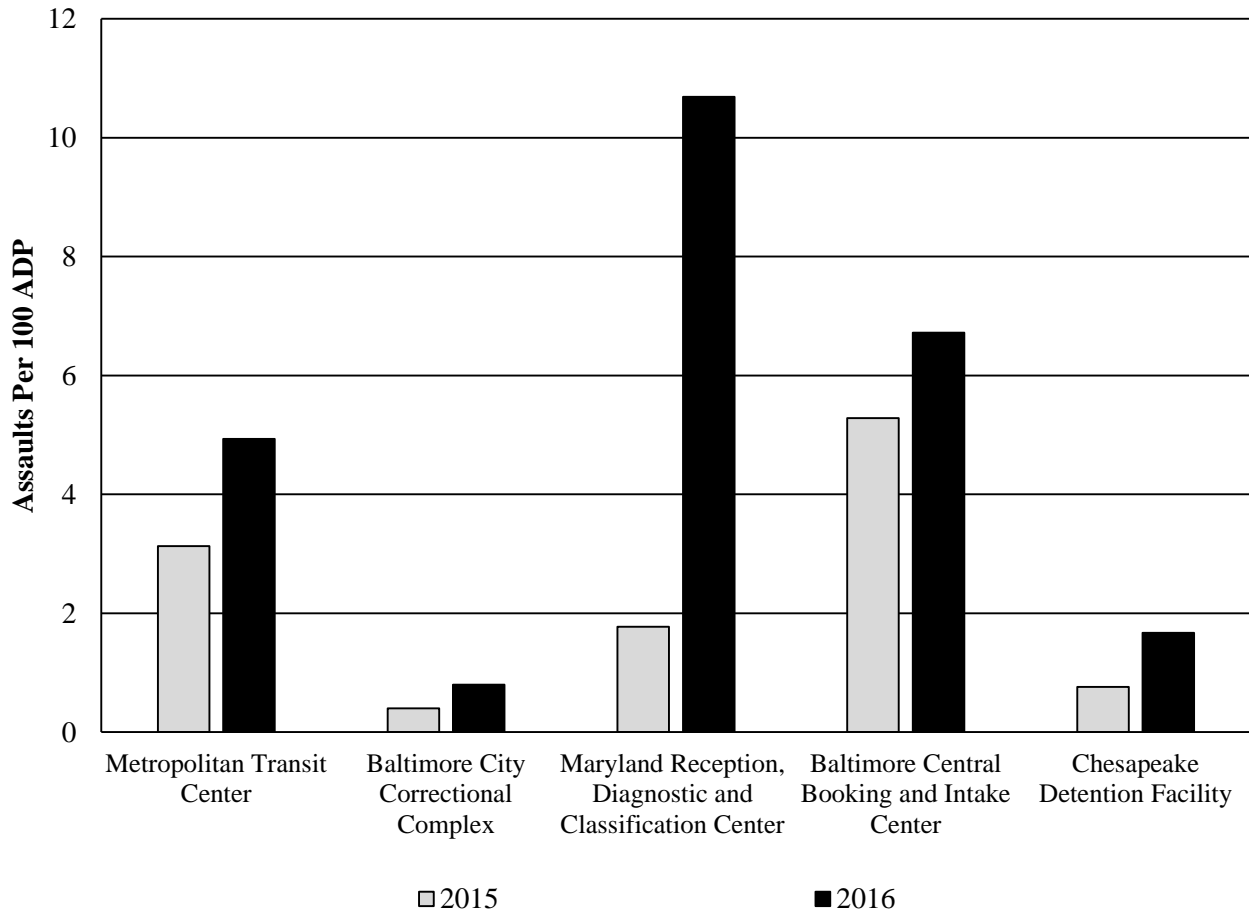
Exhibit 5
Offender-on-offender Assault Rate
Fiscal 2015-2016



ADP: average daily population

Source: Managing for Results, Fiscal 2018 submission

**Exhibit 6
Offender-on-staff Assault Rate
Fiscal 2015-2016**



ADP: average daily population

Source: Managing for Results, Fiscal 2018 submission

Inaccurate Staffing Data Makes Analysis Difficult

Reported staffing data does not reflect the realignment of staff resulting from the facility closures. DPSCS had indicated that when MDC was closed, 135 positions were to be reallocated to locations outside of Baltimore City. The facility was closed in fiscal 2016; however, none of the reported staffing changes are reflected in the fiscal 2016, 2017, or 2018 budget data. Similarly, when WDC closed, DPSCS identified 163 positions to be reassigned to facilities outside of DPD. These changes are also not reported in the budget data. This makes it difficult to ascertain the department’s

current staffing complement or staffing needs on any level other than a departmentwide analysis. Similar frustrations were expressed by a staffing consultant hired by the department to conduct a staffing evaluation specifically for the Baltimore City facilities.

DPD currently has a reported 448 positions vacant, which equates to approximately 311 more vacancies than what is needed to meet budgeted turnover. Because of the constantly shifting populations and facility closures, it is impossible to know if all of these positions are needed or the magnitude of concern this many vacancies should warrant. Additionally, DPSCS indicates that a number of these vacancies are slotted for reassignment to the new Dorsey Run Correctional Facility, the new Youth Detention Center (scheduled to open by fiscal 2018), dietary worker contractual conversions, and the new cadet program. None of these changes are reflected in the data submitted with the Governor's fiscal 2018 allowance.

Long-term Plan Is No Longer Clear

The long-term plan for managing the offender population in Baltimore City is no longer clear. The Governor's 2016 *Capital Improvement Plan* (CIP) initially included funding in fiscal 2017 for the demolition of the existing Baltimore City Jail and to begin design for a new detention center for adult men and women. The fiscal 2017 funds ultimately went unspent, with the planning funding redirected toward other higher education capital projects. The Governor's 2017 CIP includes \$2.2 million in general obligation bonds in fiscal 2018 to begin designing the demolition of the existing Baltimore City Jail. However, funding to construct a new detention facility has been deleted. The CIP indicates that the State no longer intends to replace the buildings with a new facility and that DPSCS will accommodate the population with existing facilities. Although adequate bed space exists to accommodate the current population, there are some downsides to maintaining the current operations as a permanent solution.

- As was previously discussed, pretrial offenders are housed in dormitory housing, which poses a security threat.
- Baltimore City pretrial offenders are now housed throughout the State. Approximately 5% of the pretrial population as of January 31, 2017, was located in facilities outside of Baltimore, including facilities in Cumberland and on the Eastern Shore. This increases transportation costs for detainee court appearances and anecdotally complicates detainee meetings with their legal representation.
- While the facilities in use are not as old as the Baltimore City Jail, the current conditions are still those of aging and worn facilities, particularly the JI and MTC buildings, which house over 40% of the pretrial population combined.
- The current setup is generating multiple operating inefficiencies. For example, the JI building does not have a secure perimeter, and offender movement outside of the building now requires use of a vehicle and a weapons qualified officer because nonvehicle connections were closed with the closure of MDC and WDC.

DPSCS should comment on its long-term plan for the facilities and offenders in Baltimore City, discussing the department’s plan to keep high security level pretrial offenders in dormitory style housing and in correctional facilities throughout the State. In addition, DPSCS should identify the actual number of positions needed to operate the current facility complement and provide a breakdown for how the 448 vacant positions should be reallocated, if at all.

2. Settlement Agreement for *Jerome Duvall, et al. v. Lawrence Hogan, Jr., et al.*

In June 2015, a motion was filed by the American Civil Liberties Union on behalf of Baltimore City detainees to reopen a partial settlement agreement regarding conditions and issues related to BCDC. This case has an extensive history, and was previously reopened in August 2009, when plaintiffs alleged that the Administration failed to resolve ongoing issues that related to the deaths of 24 inmates over the prior five-year period. The most recent June 2015 motion alleged that the terms of the 2009 settlement had not been met and sought relief in the form of a preliminary injunction requiring DPSCS to implement 10 improvements related to alleged environmental and hygiene issues, including deficiencies that affect health, safety, and security.

In response to the June 2015 filing, DPSCS made several changes to address the plaintiffs’ allegations, most notably the August 2015 closure of MDC and the relocation of detainees to other State facilities in Baltimore City. Additionally, \$3.6 million in emergency maintenance and repair funding was provided in fiscal 2016. In November 2015, the Board of Public Works approved the payment of \$450,000 in full settlement of the plaintiff’s claim for attorney’s fees and costs. In June 2016, the final Settlement Agreement was approved by the courts. In accordance with a 2016 *Joint Chairmen’s Report* (JCR) request, a copy of the agreement was provided to the budget committees in August 2016, with a follow-up report outlining the fiscal impact of the agreement submitted in September 2016.

Terms of the Agreement

The settlement agreement addresses a variety of concerns pertaining to the provision of medical and mental health services and the physical condition of DPD facilities. Some of the specific requirements include:

- the timely evaluation and provision of medical and mental health services, including an initial assessment within four hours of admission to BCBIC and availability for daily sick call requests;
- development of medical and mental health treatment plans, including addressing any ongoing conditions;
- continuation of existing medical and mental health medications, as identified by the offender and confirmed by clinical staff;

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- proper and thorough documentation within electronic patient health records that can be made available to clinical staff at all health care appointments;
- improved coordination between medical and custodial staff to ease transport of offenders and maintain appointments and ensure the proper use of required medical equipment and specialized housing;
- provide adequate, temperature-controlled housing when medically necessary; and
- improvements to the DPD facilities, including providing housekeeping, pest control, and maintenance programs adequate enough to prevent vermin infestations and maintain sanitation and safety within the facilities.

At the expense of the State, the agreement provided \$450,000 for the payment of plaintiffs' attorneys' fees and costs and also required the assignment of three independent experts to serve as compliance monitors and to offer technical assistance. Future attorneys' fees and the cost of monitoring compliance are capped at \$100,000.

Concerns

The fiscal 2018 allowance does not provide increased funding for facility maintenance nor does it enhance the existing medical services. Funding for building and equipment maintenance contracts declines by \$352,000 in fiscal 2018. Similarly, inmate medical costs decrease by nearly \$2.8 million. The department's fiscal estimate, as indicated in its September 2016 JCR submission, suggests the need for approximately \$2.2 million in maintenance funding through fiscal 2019. Meeting the medical improvements outlined in the settlement agreement would likely have some additional cost, although DPSCS did not reference any impact in its fiscal estimate. The department is pursuing a new inmate medical contract for the start of fiscal 2018. It is not clear whether the contract, currently out for bid, has been modified to address the concerns highlighted in the settlement agreement.

DPSCS should comment on how it intends to meet the terms of the settlement agreement without increasing inmate medical or facility maintenance resources. Additionally, the department should comment on whether the terms of the agreement can be met by continuing to house offenders within existing facilities or if capital improvements will be required. Finally, the department should comment on whether the current RFP for a new inmate medical contract addresses the deficiencies highlighted by the Duvall litigation and whether addressing the terms of the agreement have been factored into the fiscal 2018 estimated cost for the contract.

3. DPD Staffing Analysis

DPSCS submitted its most recent post-by-post staffing analysis to the budget committees in December 2015 but indicated in that report that, with technical assistance from the National Institute of Corrections (NIC) and consultation of relevant labor unions, it was in the process of reevaluating the

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staffing plan at the Baltimore City detention facilities following the closure of MDC in August 2015. Since the report was submitted, DPSCS also closed WDC in October 2016. Language added to the fiscal 2017 budget restricted funds until DPSCS submitted the final Baltimore City detention staffing analysis report to the budget committees, explaining the need for any changes in staffing levels from prior staffing analyses.

In June 2016, DPSCS contracted with Community Resources Services (CRS) to assist with the staffing analysis for the Baltimore City facilities, following issues with garnering enough support from NIC to conduct the study in a timely fashion. After extending the deadline for submission once, DPSCS submitted a staffing report in December 2016 generated by CRS. Unfortunately, the submitted material only provides a detailed summary of the methodology being used to conduct the staffing analysis. A completed staffing analysis for the Baltimore City facilities is not provided, as it appears the consultant was still completing the data gathering part of the process at the time the report was submitted. There is no indication regarding the number of positions needed to staff the DPD facilities, how existing resources should be deployed, or how current staffing needs compare to prior evaluations.

The consultant used NIC's methodology to conduct the submitted staffing analysis, which provides a multistep process to:

- examine the forces that shape staffing needs;
- involve existing staff in the process of identifying current concerns and ways to work smarter;
- develop efficient and effective coverage plans that deploy staff when needed;
- explore creative scheduling practices;
- calculate the net annual work hours to convert relieved coverage needs into budget needs; and
- generate all the previous information into a budget and implementation plan.

In the process of completing the work to date, the consultant's report noted encountering several challenges, including the tight timeframe for completing the study, changes in leadership, facility closures and changes in use, a lack of available staffing data, contractual obligations that must be maintained at CDF, and elimination of nonvehicle connections between buildings.

The report submitted by DPSCS, on behalf of CRS, is lacking Appendices A through D, which are referred to on multiple occasions throughout the submitted document. This makes it difficult to ascertain just how much of an evaluation has been completed by the consultant, as the appendices contain information specific to each facility being reviewed. DPSCS has been asked repeatedly to produce the appendices, however, the documents have not been provided.

The submitted report concludes that the current staffing plans, if fully implemented without excessive overtime, appear sufficient to meet the evolving needs of the division, if several

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organizational and operational changes are implemented. Essentially, it appears that the consultant is recommending that DPD should find ways to operate more efficiently instead of allocating more positions. It is not entirely clear what this recommendation is based on, or whether specific changes have been posed to the department for how to be more effective in its operations; however, the following general recommendations are included in the report:

- unify operations for all pretrial facilities and centralize certain services to avoid duplication of effort;
- adjust operations to respond to the predominantly pretrial detainee population;
- utilize a validated risk assessment for pretrial offenders and implement an incentive system to promote behavioral compliance;
- utilize segregation cells at other facilities to provide back-up to the dormitory housing at MTC and JI, which houses two-thirds of the detainee population;
- provide consistent and effective first-line supervision for staff;
- adjust day-to-day operations to lower peak periods of demand and improve timing to avoid delays;
- develop detailed contingency plans that authorize on-shift changes in operations to accommodate available staff;
- implement creative scheduling to match deployment to staffing needs;
- consider where civilian staff might be utilized in lieu of uniformed staff; and
- positively impact the relief factor by reducing absenteeism and attrition, improving working conditions, and minimizing the use of overtime.

The report indicates that the staffing analysis process is continuing at each facility. It is not clear from the submitted information how DPSCS intends to utilize the findings of the report. Identifying operating efficiencies is an interesting approach to the department's staffing situation and may be one that fits well with the current fiscal climate. As has been the case since fiscal 2010, DPSCS is scheduled to complete a biennial post-by-post staffing analysis and provide the results to the budget committees for the 2018 session. It should be expected that a complete analysis of the Baltimore facilities be included in that analysis.

Given the lack of appendices and concrete staffing information provided in the JCR submission, DLS does not recommend releasing the restricted funds at this time. DPSCS may resubmit a detailed staffing analysis of the Baltimore City facilities by the close of the fiscal year

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for reconsideration. Additionally, DLS recommends the addition of budget language requesting the department to complete a biennial staffing analysis for its entire facility complement, including an evaluation of how implementing some of the identified operating efficiencies might impact staffing needs.

Recommended Actions

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

, provided that \$100,000 of this appropriation shall be restricted until the Department of Public Safety and Correctional Services (DPSCS) conducts a new post-by-post security staffing analysis for each of its custodial facilities in order to identify the actual number of regular positions needed to safely and securely staff the State’s correctional institutions. DPSCS shall provide a written report to the budget committees no later than December 1, 2017, with bi-annual submissions thereafter, summarizing the results of the analysis and explaining the need for any staffing changes resulting from the staffing analysis or changes in policy that require the use of additional positions. To the extent possible, the analysis should discuss ways the department is generating operating efficiencies in lieu of the need for additional positions. The budget committees shall have 45 days to review and comment following receipt of the report. Funds restricted pending receipt of a report may not be transferred by budget amendment or otherwise and shall revert to the General Fund if the report is not submitted to the budget committees.

Explanation: This action requires DPSCS to regularly conduct a post-by-post security staffing analysis and submit a summary report to the budget committees no later than December 1, 2017, explaining the need for any changes in staffing. Providing proper staffing can have an impact on the amount of overtime used by the custodial agencies. Since fiscal 2010, DPSCS has identified the need for positions beyond its existing authorization; however, recent changes to the facility complement and declines in the offender population have made analysis of the staffing need convoluted. Conducting regular staffing assessments should assist the department and the General Assembly in monitoring the staffing and overtime situation in the State’s correctional and detention facilities. This language is modified from prior years to additionally request that the department address the potential for offsetting staffing needs by identifying alternative operating efficiencies.

| Information Request | Author | Due Date |
|--------------------------------|---------------|------------------|
| Post-by-post staffing analysis | DPSCS | December 1, 2017 |

2. Adopt the following narrative:

Evaluation of the Cell Phone Managed Access System: A managed access system was implemented at the Metropolitan Transition Center in April 2013 to alleviate the considerable staff resources dedicated to cell phone confiscations. The system was expanded to include the Baltimore City Detention Center the following year. In fiscal 2018, the Department of Public Safety and Correctional Services (DPSCS) made a decision to move away from expanding its cell phone managed access system, primarily because of the cost. Maintenance for the system averages \$300,000 annually. DPSCS has indicated the availability of less costly, more portable technology to assist with cell phone interdiction. Given the annual expense of operating the

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existing managed access system, the budget committee request that DPSCS conduct a performance evaluation of the technology, including a cost-benefit analysis, to determine whether use of the system should continue, despite the availability of less costly technology. The report should be submitted to the budget committees by October 30, 2017.

| Information Request | Author | Due Date |
|----------------------------------|---------------|------------------|
| Managed access system evaluation | DPSCS | October 30, 2017 |

Appendix 1
Object/Fund Difference Report
DPSCS – Division of Pretrial Detention

| <u>Object/Fund</u> | <u>FY 16</u> <u>Actual</u> | <u>FY 17</u> <u>Working</u> <u>Appropriation</u> | <u>FY 18</u> <u>Allowance</u> | <u>FY 17 - FY 18</u> <u>Amount Change</u> | <u>Percent</u> <u>Change</u> |
|---|-------------------------------|--|----------------------------------|--|---------------------------------|
| Positions | | | | | |
| 01 Regular | 2,307.60 | 2,344.60 | 2,344.60 | 0.00 | 0% |
| 02 Contractual | 103.18 | 124.91 | 34.59 | -90.32 | -72.3% |
| Total Positions | 2,410.78 | 2,469.51 | 2,379.19 | -90.32 | -3.7% |
| Objects | | | | | |
| 01 Salaries and Wages | \$ 194,678,255 | \$ 195,491,883 | \$ 200,191,968 | \$ 4,700,085 | 2.4% |
| 02 Technical and Spec. Fees | 4,038,059 | 4,251,629 | 1,088,013 | -3,163,616 | -74.4% |
| 03 Communication | 637,514 | 658,283 | 664,331 | 6,048 | 0.9% |
| 04 Travel | 34,429 | 14,680 | 17,800 | 3,120 | 21.3% |
| 06 Fuel and Utilities | 9,093,143 | 9,103,357 | 9,249,006 | 145,649 | 1.6% |
| 07 Motor Vehicles | 550,064 | 332,360 | 424,085 | 91,725 | 27.6% |
| 08 Contractual Services | 38,724,486 | 37,872,647 | 34,518,857 | -3,353,790 | -8.9% |
| 09 Supplies and Materials | 10,038,054 | 9,717,065 | 9,359,008 | -358,057 | -3.7% |
| 10 Equipment – Replacement | 3,020,612 | 44,310 | 44,310 | 0 | 0% |
| 11 Equipment – Additional | 936,627 | 404,091 | 0 | -404,091 | -100.0% |
| 12 Grants, Subsidies, and Contributions | 644,767 | 1,275,325 | 872,700 | -402,625 | -31.6% |
| 13 Fixed Charges | 414,061 | 384,764 | 355,613 | -29,151 | -7.6% |
| 14 Land and Structures | 6,455,798 | 0 | 0 | 0 | 0.0% |
| Total Objects | \$ 269,265,869 | \$ 259,550,394 | \$ 256,785,691 | -\$ 2,764,703 | -1.1% |
| Funds | | | | | |
| 01 General Fund | \$ 243,099,086 | \$ 232,769,070 | \$ 229,538,958 | -\$ 3,230,112 | -1.4% |
| 03 Special Fund | 1,359,547 | 1,639,313 | 1,044,396 | -594,917 | -36.3% |
| 05 Federal Fund | 24,508,768 | 24,799,386 | 25,903,537 | 1,104,151 | 4.5% |
| 09 Reimbursable Fund | 298,468 | 342,625 | 298,800 | -43,825 | -12.8% |
| Total Funds | \$ 269,265,869 | \$ 259,550,394 | \$ 256,785,691 | -\$ 2,764,703 | -1.1% |

DPSCS: Department of Public Safety and Correctional Services

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

**Appendix 2
Fiscal Summary
DPSCS – Division of Pretrial Detention**

| <u>Program/Unit</u> | <u>FY 16 Actual</u> | <u>FY 17 Wrk Approp</u> | <u>FY 18 Allowance</u> | <u>Change</u> | <u>FY 17 - FY 18 % Change</u> |
|--|-------------------------|-----------------------------|----------------------------|----------------------|-----------------------------------|
| 01 Chesapeake Detention Facility | \$ 24,560,073 | \$ 24,884,386 | \$ 25,932,137 | \$ 1,047,751 | 4.2% |
| 03 Baltimore City Detention Center | 16,020,703 | 0 | 0 | 0 | 0% |
| 04 Central Booking and Intake Facility | 65,286,858 | 57,095,562 | 62,185,196 | 5,089,634 | 8.9% |
| 05 Baltimore Pretrial Complex | 67,074,924 | 84,383,073 | 74,421,923 | -9,961,150 | -11.8% |
| 06 Maryland Reception Diagnostic and Classification Center | 35,514,623 | 36,380,335 | 37,645,514 | 1,265,179 | 3.5% |
| 07 Baltimore City Correctional Center | 15,066,527 | 14,868,852 | 14,986,049 | 117,197 | 0.8% |
| 08 Metropolitan Transition Center | 43,694,026 | 39,429,943 | 39,961,657 | 531,714 | 1.3% |
| 09 General Administration | 2,048,135 | 2,508,243 | 1,653,215 | -855,028 | -34.1% |
| Total Expenditures | \$ 269,265,869 | \$ 259,550,394 | \$ 256,785,691 | -\$ 2,764,703 | -1.1% |
| General Fund | \$ 243,099,086 | \$ 232,769,070 | \$ 229,538,958 | -\$ 3,230,112 | -1.4% |
| Special Fund | 1,359,547 | 1,639,313 | 1,044,396 | -594,917 | -36.3% |
| Federal Fund | 24,508,768 | 24,799,386 | 25,903,537 | 1,104,151 | 4.5% |
| Total Appropriations | \$ 268,967,401 | \$ 259,207,769 | \$ 256,486,891 | -\$ 2,720,878 | -1.0% |
| Reimbursable Fund | \$ 298,468 | \$ 342,625 | \$ 298,800 | -\$ 43,825 | -12.8% |
| Total Funds | \$ 269,265,869 | \$ 259,550,394 | \$ 256,785,691 | -\$ 2,764,703 | -1.1% |

DPSCS: Department of Public Safety and Correctional Services

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