

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

Operating Budget Data

(\$ in Thousands)

	<u>FY 17</u> <u>Actual</u>	<u>FY 18</u> <u>Working</u>	<u>FY 19</u> <u>Allowance</u>	<u>FY 18-19</u> <u>Change</u>	<u>% Change</u> <u>Prior Year</u>
General Fund	\$229,487	\$227,588	\$220,474	-\$7,115	-3.1%
Adjustments	0	-4,984	1,158	6,143	
Adjusted General Fund	\$229,487	\$222,604	\$221,632	-\$972	-0.4%
Special Fund	813	1,044	980	-65	-6.2%
Adjustments	0	0	4	4	
Adjusted Special Fund	\$813	\$1,044	\$983	-\$61	-5.9%
Federal Fund	24,341	25,846	25,091	-755	-2.9%
Adjustments	0	-318	122	440	
Adjusted Federal Fund	\$24,341	\$25,528	\$25,214	-\$315	-1.2%
Reimbursable Fund	286	455	368	-87	-19.2%
Adjustments	0	0	2	2	
Adjusted Reimbursable Fund	\$286	\$455	\$370	-\$85	-18.7%
Adjusted Grand Total	\$254,926	\$249,631	\$248,198	-\$1,433	-0.6%

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

- There is one fiscal 2018 deficiency appropriation for the Division of Pretrial Detention (DPD) that withdraws \$1,215,000 in general funds for fuel and utilities savings. There is also a \$4 million across-the-board reduction for health insurance (\$3,769,384 in general funds and \$317,777 in federal funds).
- In addition, the DPD fiscal 2019 allowance also includes a cost-of-living adjustment for State employees that consists of \$1,158,366 in general funds, \$3,502 in special funds, \$122,173 in federal funds, and \$2,047 in reimbursable funds.

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

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- Overall, the division’s fiscal 2019 allowance decreases by \$1.4 million, or 0.6%, including the previously mentioned across-the-board adjustments. The change is largely due to increases for employee overtime offset by decreases in turnover expectancy.

Personnel Data

	<u>FY 17</u>	<u>FY 18</u>	<u>FY 19</u>	<u>FY 18-19</u>
	<u>Actual</u>	<u>Working</u>	<u>Allowance</u>	<u>Change</u>
Regular Positions	2,314.60	2,204.60	2,204.60	0.00
Contractual FTEs	<u>119.58</u>	<u>114.07</u>	<u>27.00</u>	<u>-87.07</u>
Total Personnel	2,434.18	2,318.67	2,231.60	-87.07

Vacancy Data: Regular Positions

Turnover and Necessary Vacancies, Excluding New Positions	230.16	10.44%
Positions and Percentage Vacant as of 12/31/17	464.00	21.05%

- In terms of personnel, DPD has no change in regular positions in fiscal 2019. Contractual full-time equivalents (FTE) decrease from 114.07 to 27. Beginning in September 2015, DPD stopped using contractual FTEs for food service in Baltimore City detention centers and started providing the service in-house. The remaining contractual FTEs are being converted into vacant regular positions, and the process will be complete in fiscal 2018.
- At the end of calendar 2017, DPD had 464 vacant positions and a vacancy rate of 21.05%. The number of current vacancies is more than twice what is needed to meet budgeted turnover. Approximately 44% of those positions have been vacant for over 12 months, down from 52% in the previous fiscal year. Since fiscal 2016, DPD has closed several Baltimore City detention center buildings and reallocated staff to other facilities; however, these changes have not resulted in reductions to their authorized position complement.

Analysis in Brief

Major Trends

Population Statistics: Overall, the number of arrestees processed at the Baltimore Central Booking and Intake Center has declined by 70% since fiscal 2008. Similarly, the number of offenders committed to department facilities also declined during the same time period by 66%. As Baltimore facilities continue to be closed, most recently the Jail Industries (JI) Building in August 2017, the detainee population housed in Baltimore City declined 8% from fiscal 2016. The lower population numbers have allowed the department to transfer detainees to other Baltimore City facilities and a small number of detainees to prisons in other parts of the State. However, the overall detainee population under DPD jurisdiction is rising due to a number of factors, including increases in the number of offenders not assigned bail. **DPD should comment on its rising detainee population and the expected impact on operations.**

Facility Security: DPD reports the rate of assaults on detainees and staff per 100 average daily population in order to measure the division's ability to maintain safe institutions. While the offender-on-offender assault rate nearly doubled between fiscal 2015 and 2016, it increased another 58% in fiscal 2017 to the highest level since fiscal 2002. The offender-on-staff assault rate increased by 40% in fiscal 2017 due to a large number of detainees in dormitory housing, which contributes to the high assault rates. **DPD should comment on the significant increase in detainee assault rates and how long it plans to continue placing detainees in dormitory housing.**

Issues

Facility Closures and Detainee Transfers: In order to comply with the *Duvall v. Hogan* settlement, the department has been closing Baltimore City facilities deemed structurally unfit to safely house inmates. With the recent closure of the JI Building, the transfer of inmates within the Baltimore City complex and other State facilities continues to create several concerns, including the mixing of populations in dormitory housing and increased assault rates. This issue examines departmental data regarding inmate transfers, plans for the Baltimore City complex, and the opening of the new Youth Detention Center. **The Department of Public Safety and Correctional Services (DPSCS) should report on the use of dormitory housing, Baltimore City detainees in State facilities, overtime spending, and associated issues.**

Bail Reform: In October 2016, the Office of the Attorney General submitted a letter to the Standing Committee on Rules requesting that the committee consider changes to Maryland Rule 4-216 to prohibit pretrial detention based solely on financial ability to afford bail. This issue reviews the effect of bail reform on DPD facilities, detainee populations, and department budgets. **DPSCS should comment on potential pretrial release efforts and the effect of bail reform on its operations.**

Operating Budget Recommended Actions

1. Adopt committee narrative requesting a report on the Division of Pretrial Detention dormitory housing, vacancies, and overtime spending by December 1, 2018.

Updates

Post-by-post Staffing Analysis: Fiscal 2018 budget bill language restricted funds pending receipt of a post-by-post staffing analysis for each of its facilities, due by December 1, 2017. This update reviews the report and its recommendations concerning corrections and detention staff, impact on overtime spending, as well as safety and security issues.

Evaluation of Managed Access: The General Assembly adopted committee narrative requesting a progress report from the department on its implementation of the managed access cell phone blocking system due by October 30, 2017. This update reviews system data and examines the cost-benefit analysis provided by the department regarding alternative and less costly cell phone interdiction technology.

U.S. Immigration and Customs Enforcement Detainee Arrests: Under current law, U.S. Immigration and Customs Enforcement can issue detainers to local jails to hold individuals with immigration violations. While this type of extended detention is legal, local governments must pay these costs. In recent years, jurisdictions in some states (including Baltimore City) have not enforced these detainers without a specific warrant. Federal agents now have increased latitude to enforce immigration detainers and arrest individuals, some of whom may be held in local detention facilities. This update reviews local policies regarding this issue and whether detainer enforcement (or lack thereof) has any budgetary or operational implications for the State's detention facilities.

Q00T04
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. In fiscal 2019, the Pre-trial Release Services Program (PRSP), formerly under the jurisdiction of the Department of Parole and Probation, is now under DPD.

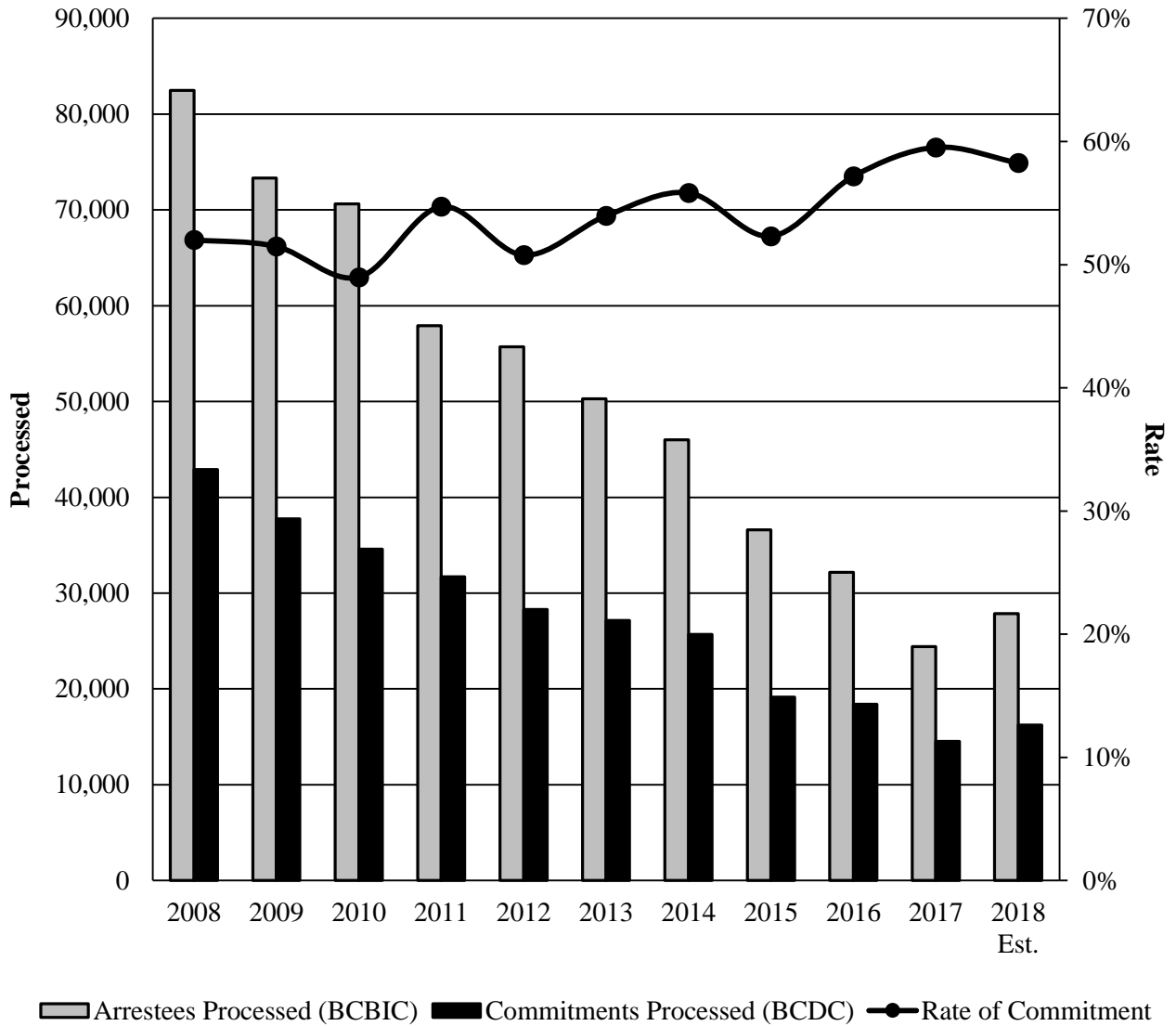
Performance Analysis: Managing for Results

1. Population Statistics

Across the department, arrestees processed, total inmates, detainees, and total commitments continue to fall, mirroring trends around the country. At the Baltimore Central Booking and Intake Center (BCBIC), arrestees processed and total commitments have declined substantially, as shown in **Exhibit 1**, but are expected to rise 14% and 11%, respectively, in fiscal 2018.

While total populations declined, the rate of offenders committed to custody remained in the 50% to 55% range for fiscal 2008 through 2015. Since fiscal 2015, commitment rates are increasing, rising to 59.5% in fiscal 2017. The number of detainees in DPD custody also increased in fiscal 2017 from 2,059 to 2,320, after a decade of overall decline. This increase is due to several factors. First, more detainees are not being assigned bail. As a result, the number of detainees released with bail posted has decreased. In addition, the average length of stay for detainees at the time of release has increased from 55 days to 85 days during the past 12 months due to longer court processing times. **The Department of Public Safety and Correctional Services (DPSCS) should comment on its rising detainee population and the expected impact on operations.**

Exhibit 1
Arrests Processed and Rate of Commitment
Fiscal 2008-2018 Est.

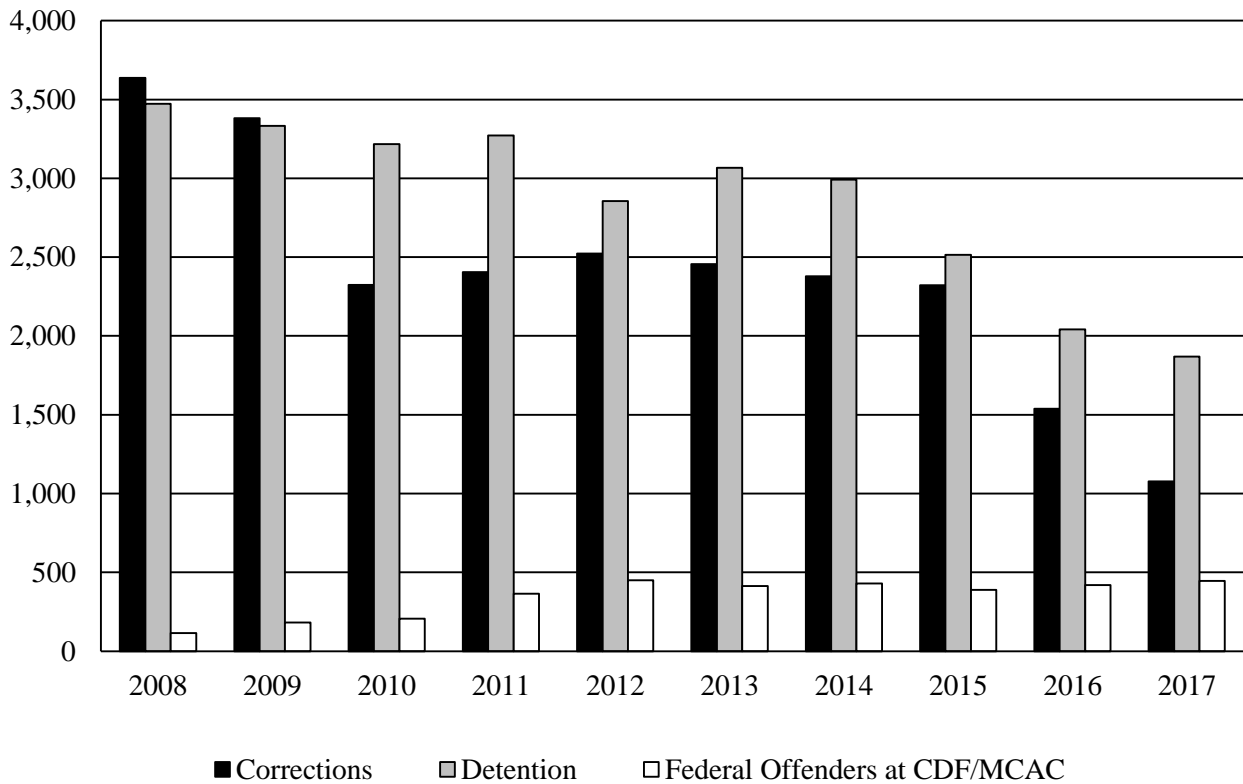


BCBIC: Baltimore Central Booking and Intake Center
 BCDC: Baltimore City Detention Center

Source: Managing for Results, Fiscal 2019 submission

Exhibit 2 shows the sentenced population in Baltimore City facilities. The decline in local DPD populations is due to the closure of multiple facilities including the Baltimore City Detention Center, the Baltimore Pre-Release Unit, and most recently, the Jail Industries (JI) Building in fiscal 2017. Even though the actual number of offenders within the confines of Baltimore City is decreasing, the total number of offenders under DPD jurisdiction has risen in fiscal 2018, for the reasons mentioned in the previous section. Additional offenders, including approximately 400 who were relocated to other State facilities, including Jessup Correctional Institution (JCI), are not included in Exhibit 2 because they are held outside of the city. Further information on these detainees, inside and outside of Baltimore City, is provided in the Issues section of this analysis.

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



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

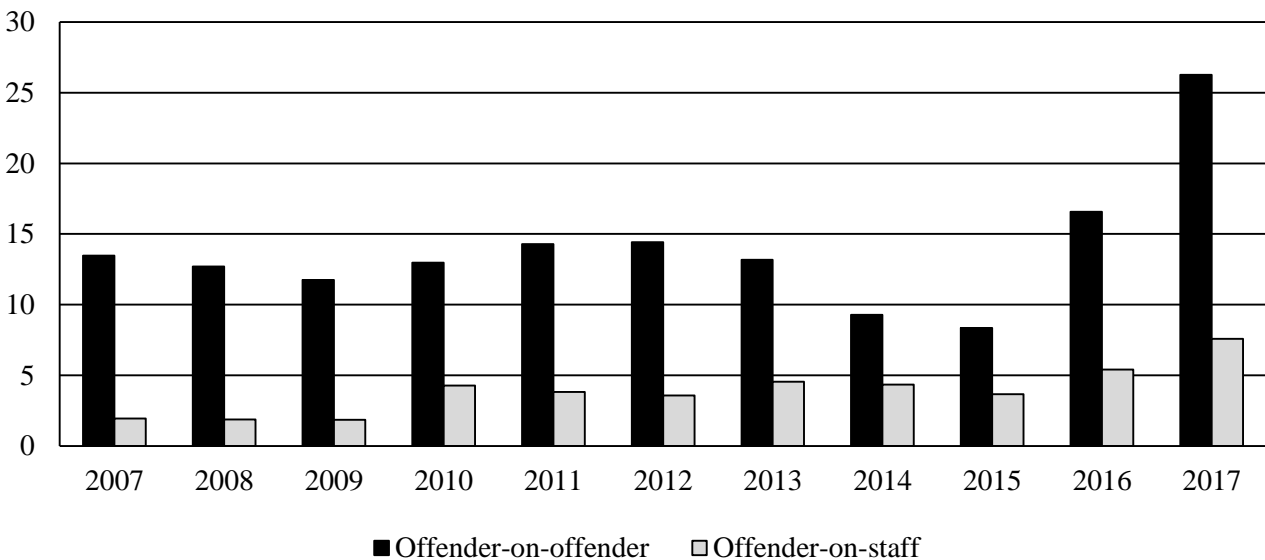
Source: Department of Public Safety and Correctional Services, Annual ADP Reports

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 the fiscal 2013 levels of 13.17 and 4.54, respectively.

As shown in **Exhibit 3**, the offender-on-offender assault rate nearly doubled between fiscal 2015 and 2016, and increased another 58% in fiscal 2017 to the highest level since fiscal 2002. At 26.3 assaults per 100 average daily population (ADP), the offender-on-offender assault rate is almost exactly twice the division goal of 13.17. Following a similar trend, the offender-on-staff assault rate increased by 40% in fiscal 2017. Currently, both of the department’s largest units, the Division of Correction (DOC) and DPD, are facing a shortage of correctional officers (CO). At the same time, DPD has nearly 1,200 detainees who live in dormitory housing at several facilities, with low- and medium-security offenders mixed together. **DPD should comment on the significant increase in detainee assault rates and how long it plans to continue placing detainees in dormitory housing. Lastly, the DPSCS fiscal 2019 Managing for Results submission notes that urinalysis drug tests were not conducted at BCBIC in fiscal 2017. The department should comment on why these tests were not conducted.**

Exhibit 3
Detainee Assault Rates
Fiscal 2007-2017



Source: Department of Public Safety and Correctional Services

Fiscal 2018 Actions

Proposed Deficiency

The fiscal 2019 allowance includes one general fund deficiency appropriation withdrawing \$1,215,000 for fuel and utilities savings for fiscal 2018.

Cost Containment

The Board of Public Works actions reduced the department’s fiscal 2018 general fund appropriation by approximately \$8.4 million. This amount was related to salary savings due to the department’s high vacancy rate. The DPD share of this total is \$2,315,000.

Across-the-board Employee and Retiree Health Insurance Reduction

The budget bill includes an across-the-board reduction for employee and retiree health insurance in fiscal 2018 to reflect a surplus balance in the fund. This agency’s share of this reduction is \$3,769,384 in general funds and \$317,777 in federal funds.

Proposed Budget

As shown in **Exhibit 4**, the Governor’s fiscal 2019 allowance for DPD decreases by \$1.4 million, or 0.6%. This decrease takes into account the previously mentioned fiscal 2018 deficiency appropriation and across-the-board reduction for employee and retiree health insurance, as well as the fiscal 2019 cost-of-living adjustment, all of which are discussed further in this section.

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

How Much It Grows:	General Fund	Special Fund	Federal Fund	Reimb. Fund	Total
Fiscal 2017 Actual	\$229,487	\$813	\$24,341	\$286	\$254,926
Fiscal 2018 Working Appropriation	222,604	1,044	25,528	455	249,631
Fiscal 2019 Allowance	<u>221,632</u>	<u>983</u>	<u>25,214</u>	<u>370</u>	<u>248,198</u>
Fiscal 2018-2019 Amount Change	-\$972	-\$61	-\$315	-\$85	-\$1,433
Fiscal 2018-2019 Percent Change	-0.4%	-5.9%	-1.2%	-18.7%	-0.6%

Q00T04 – DPSCS – Division of Pretrial Detention

Where It Goes:

Personnel Expenses

Employee overtime	\$3,051
Employee and retiree health insurance	2,265
Correctional officer employee referral and bonus program.....	1,785
General salary increase	1,286
Workers' compensation premium assessment	398
Accrued leave payout	-199
Shift differential pay	-375
Turnover adjustments (includes restoration of BPW cost containment measure)	-11,209

Inmate Variable Costs

Inmate medical care	2,411
Food purchases	943
Employee and inmate uniforms	183
Metropolitan Transition Center contractual dietary staff.....	-3,101

Facility Security and Maintenance

Building/road repairs and maintenance	113
Sanitation	61
Cell phone managed access maintenance	-98
Equipment repairs and maintenance	-222
Housekeeping	-262
Supplies	-340
Fuel and utilities expenses	-1,416

Other Changes

Contractual turnover expectancy	2,987
Motor vehicle expenses	181
Other	125

Total **-\$1,433**

BPW: Board of Public Works

DPSCS: Department of Public Safety and Correctional Services

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

General Salary Increase

The fiscal 2019 allowance includes funds for a 2% general salary increase for all State employees, effective January 1, 2019. These funds are budgeted in the Department of Budget and Management’s statewide program and will be distributed to agencies during the fiscal year. This agency’s share of the general salary increase is \$1,158,366 in general funds, \$3,502 in special funds, \$122,173 in federal funds, and \$2,047 in reimbursable funds. In addition, employees will receive another 0.5% increase and a \$500 bonus effective April 1, 2019, if actual fiscal 2018 general fund revenues exceed the December 2017 estimate by \$75 million. These funds have not been budgeted. The Administration will need to process a deficiency appropriation if revenues are \$75 million more than projected.

Personnel Expenses

Overtime

Personnel expenses decrease by nearly \$3 million. Increases include \$3 million for employee overtime. Total DPD overtime is budgeted at \$22 million in the fiscal 2019 allowance, which is approximately \$1.4 million below fiscal 2017 actual overtime expenses. While it is likely that departmental overtime spending is underfunded due to increasing CO vacancies, the DPD allocation of overtime funding may be sufficient – the division had 16 additional vacancies since the previous fiscal year, and closures of detention facilities may mitigate added overtime spending.

Other increases include \$2.3 million for employee and retiree health insurance (including the restoration of the across-the-board health insurance reduction in fiscal 2018), \$1.8 million for the department’s CO employee bonus program, \$1.3 million for general salary increases, and \$400,000 for workers’ compensation payments. These increases are offset by decreases of \$11.2 million in turnover adjustments that move the division’s turnover rate from 0.19% to 10.4%, \$375,000 in pay related to shift differentials, and \$200,000 in accrued leave payouts.

Inmate Variable Costs

Funding for inmate variable costs such as food, uniforms, and medical care are budgeted in the fiscal 2019 allowance, taking into account the impact of varying ADP as well as the need to realign amounts based on prior actual spending. Increases include \$2.4 million in medical care and \$943,000 in food purchases (which was adjusted upward for normal inflation). Employee and inmate uniform costs increased, largely due to anticipated increases at the Metropolitan Transitional Center (MTC) in Baltimore City. These increases were offset by a \$3.1 million decrease related to the conversion of contractual food service staff at MTC to regular positions. The fiscal 2018 legislative appropriation had a 90.32 reduction in contractual full-time equivalents (FTE), anticipating a successful conversion to regular positions. However, the fiscal 2018 working appropriation lists over 114 FTEs with an 87.07 FTE reduction, which implies that far fewer FTEs were actually converted. **DPSCS should comment on the status of the position conversions and when it expects this process to be complete.**

Facility Security and Maintenance

There were only two major increases in this area of the fiscal 2019 budget, \$113,000 for building repairs and maintenance and \$61,000 for sanitation. These increases were offset by decreases in fuel and utility expenses (\$1.4 million), \$340,000 in supplies, \$262,000 in housekeeping (adjusted for anticipated ADP decreases), \$220,000 in equipment repair, and \$98,000 for the managed access cell phone blocking system at MTC, which is based on prior year actual expenditures.

Cell Phone Managed Access System

Currently, the expansion plans for the managed access system were put on hold due to the estimated high cost of installing and maintaining the system across DPSCS facilities. The system is now operational in one facility, MTC in Baltimore City. To address cell phone contraband, the department purchased Cellsense portable contraband detectors in fiscal 2018 and is relying on additional searches and K9 teams to interdict cell phones. Further information on this topic is provided in the Updates section of this analysis.

Duvall Settlement Compliance

In fiscal 2015, the *Duvall* settlement agreement was reopened to address concerns regarding Baltimore City facility conditions and safety. Courts mandated that comprehensive improvements were to be made to DPD facilities. Some of the main areas being monitored are maintenance, sanitation, and inmate physical and mental health. The department reports that all of its facilities have implemented sanitation plans and staff have been instructed on how to input maintenance issues into the work order system to expedite a resolution. In fiscal 2017, the MTC kitchen and warehouse have undergone renovations, dietary staff has been reorganized, and a new pest control contractor is in place. According to the department, it has achieved substantial compliance in most categories in terms of maintenance and sanitation, and will seek to have this category removed from the settlement due to achieving full compliance. DPSCS also reports that the medical and mental health aspects of the *Duvall* agreement will be more challenging considering the physical layout of its Baltimore City facilities, the performance of the current health services vendor, and current lack of an Electronic Medical Record (EMR) system. A new EMR system is being funded as a Major Information Technology project, with \$7.3 million in the fiscal 2019 budget.

Youth Detention Center

The new \$35 million Youth Detention Center (YDC) opened in September 2017 on the grounds of the Baltimore City detention complex. Currently, the facility can house 50 males and 10 females and has individual cells; a full-size gymnasium; and onsite medical, dental, and behavioral health treatment. The department reports that YDC has better sightlines and security, and no adults will be held at the facility. Currently, YDC houses fewer than 15 offenders on an average day, and in December 2017, there were 23 detainees and 10 inmates being held. All offenders are attending school as required by law. The department reports that if the population increases, it can make modifications, such as double bunking cells, to house additional juveniles in the facility.

Issues

1. Facility Closures and Detainee Transfers

In order to comply with the *Duvall v. Hogan* settlement, the department has been closing Baltimore City facilities deemed structurally unfit to safely house inmates. Overall, the declining total inmate/detainee population has enabled the department to conduct these closures as it now has additional space in its other facilities. In fiscal 2015 and 2016, the closure of the Men’s Detention Center (MDC) and Women’s Detention Center (WDC) in Baltimore City resulted in the transfer of 2,374 offenders to other DPSCS facilities within Baltimore City and throughout the State. At the same time, the department identified 572 CO positions available for reassignment to combat high vacancy rates at other facilities. Since fiscal 2015, the department was able to move 850 CO positions by closing or downsizing the following facilities:

- MDC – closed in August 2015.
- WDC – closed in October 2016.
- The Annex at the Baltimore City Jail – closed in August 2016.
- Maryland Correctional Institution – Hagerstown (MCI-H) – downsized in 2017.
- Poplar Hill Pre-Release Unit (PHPRU) – temporarily closed in July 2017.
- JI Building at the Baltimore City Jail – closed in August 2017.

With the recent closure of the JI Building, the transfer of inmates within the Baltimore City complex and other State facilities continues to create several concerns, including the mixing of populations in dormitory housing and increased assault rates. **Exhibit 5** shows fiscal 2017 detainee transfers from Baltimore City to other DPSCS facilities.

Exhibit 5
Detainee Population by Facility
January-December 2017

	<u>January- March 2017</u>	<u>September 2017</u>	<u>December 2017</u>	<u>Change</u>
Central				
Baltimore Central Booking Intake Center	791	858	750	-41
Baltimore City Detention Center	19	63	0	-19
Baltimore City Detention Center (JI Building)	463	0	0	-463
Maryland Reception, Diagnostic, and Classification Center	191	144	150	-41
Metropolitan Transition Center	472	636	630	158
Youth Detention Center	0	12	30	30
East				
Jessup Correctional Institution B – Building Detainees	33	318	363	330
Maryland Correctional Institution – Women	25	21	13	-12
Patuxent Institution	4	3	0	-4
West				
Maryland Correctional Institution – Hagerstown	1	2	2	1
Maryland Correctional Training Center	5	2	0	-5
North Branch Correctional Institution	8	9	4	-4
Roxbury Correctional Institution	5	5	0	-5
Western Correctional Institution	5	6	4	-1
Total	2,022	2,079	1,946	-76

Source: Department of Public Safety and Correctional Services

As Baltimore City detainees are housed in State facilities, they are further away from the court system and need transportation between each area. This contributes to added fuel costs and staff pay. Also, there is a lack of adequate program space and programs available for pretrial detainees. For example, since detainees are pretrial, they are not permitted to attend programs with the DOC inmates housed at JCI. Additionally, due to the increased distance from the city, travel time for families and lawyers has increased.

As shown in Exhibit 5, the majority of detainees at the JI Building were moved to the JCI's B-Building (JCI-B) and MTC. While the closure of Baltimore City facilities was necessary, there have been security concerns because the detainee population classified as low- and medium-security were relocated to dormitory housing.

Assault Rates Increase

As detainees were moved to other DPSCS facilities in fiscal 2016, assault rates rose. Dormitory housing is not standard for pretrial populations and mixes low- and medium-security detainees. The close proximity of detainees means that it is easier to initiate an assault. This is the most likely explanation for why offender-on-offender assaults are much higher than offender-on-staff assaults, because the detainees are together for much of the day and night. While more data is needed to ascertain why assaults are rising, particularly at BCBIC and MTC, one possible explanation is that BCBIC and MTC have larger numbers of detainees and the highest concentration of mixed-classification populations – *i.e.*, low- and medium-security offenders living together. **Exhibit 6** shows facility security classifications along with the concentration of inmates living in dormitory housing.

Exhibit 6
DPD Facilities and Dormitory Housing
Fiscal 2018

<u>Facility</u>	<u>Low</u>	<u>Medium</u>	<u>Maximum</u>	<u>Total</u>	<u>% in Dorms</u>
Baltimore Central Booking and Intake Center	136	255	457	848	46.1%
Metropolitan Transitional Center	94	375	207	676	69.4%
Maryland Reception, Diagnostic, and Classification Center	9	80	63	152	58.6%
Total	239	710	727	1,676	

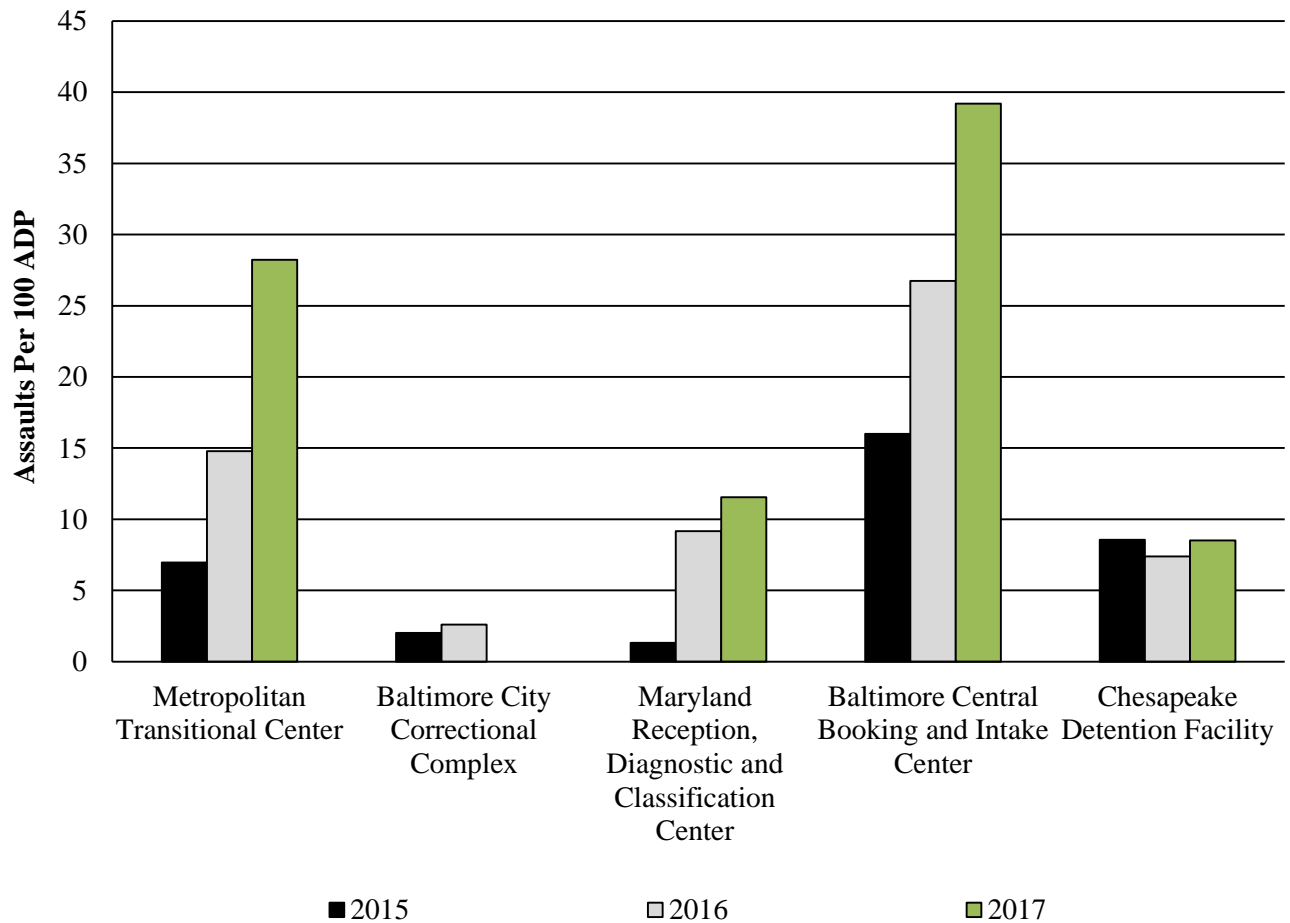
DPD: Division of Pretrial Detention

Source: Department of Public Safety and Correctional Services

In fiscal 2017, offender-on-offender assault rates grew to 10-year highs. **Exhibit 7** shows offender-on-offender assault rates by DPD facility. Of note is that assault rates at BCBIC are 39.1 per 100 offenders, up 46%, and assaults at MTC nearly doubled, from 14.79 to 28.23 offenders. While BCBIC, MTC, and JCI-B had detainee populations of approximately 750, 630, and 363, respectively, the assault rate at JCI overall (including prisoners and detainees) is only 4.4%. This is a lower assault rate than the women’s dormitory detainees at Maryland Correctional Institution – Women. Another item of note is that while assault rates at detention facilities move higher, the assault rates at State prisons are much lower to begin with and are actually beginning to decline. This suggests that elevated assault rates at detention facilities are likely due, in large part, to the use of dormitory housing.

Offender-on-staff assault rates are also increasing. When compared to offender-on-offender assaults, however, the rates are much lower. In the case of BCBIC, assaults against staff members are three times lower than assaults against offenders. Again, this suggests that dormitory housing and close inmate proximities are driving elevated assault rates.

Exhibit 7
Offender-on-offender Assault Rates at DPD Facilities
Fiscal 2015-2017



Source: Department of Public Safety and Correctional Services

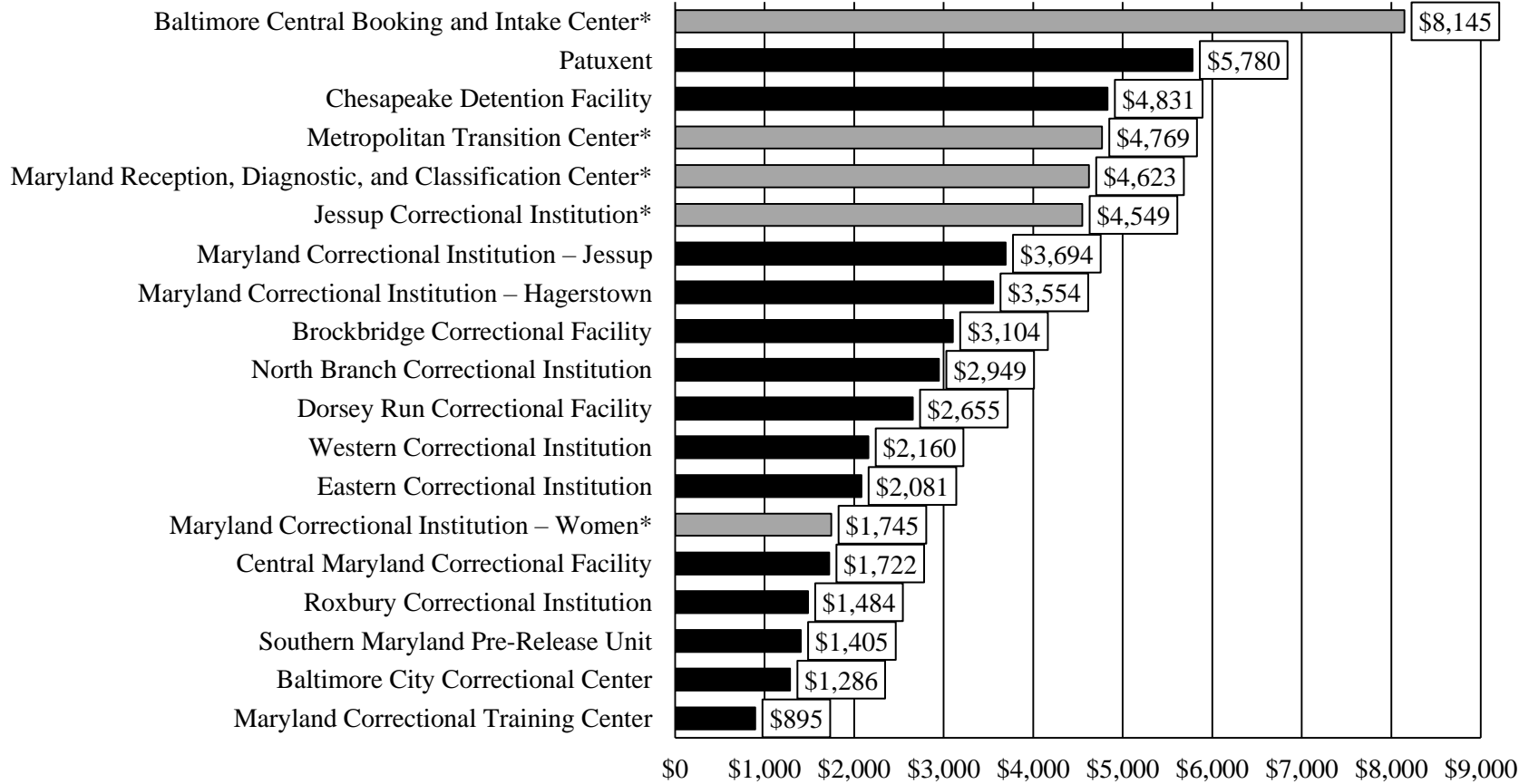
Department Response

The department reports that going forward, offenders will be placed in facilities with a majority of cells instead of dormitories. In terms of current conditions, DPD facilities hold violence reduction meetings to review cases where assaults have occurred and determine if there are steps that can be taken to prevent future violence. Additionally, DPSCS is in the process of re-validating its classification instrument so that inmates can be classified within seven days and housed in a facility where the security level matches their classification.

Overtime

Dealing with detainees in dormitory housing has been exacerbated by the high number of CO vacancies across the department. While overtime hours and total overtime spending grew at most DPSCS facilities, the overtime cost per capita is much higher at detention facilities, overall, than at State prisons. Four out of the top six overtime-earning facilities are under DPD jurisdiction, while the remaining two are prisons with special mandates – Patuxent Institution which houses inmates with mental health issues and the Chesapeake Detention Facility (CDF), which houses federal prisoners. **Exhibit 8** shows overtime costs per capita for fiscal 2017.

**Exhibit 8
Overtime Costs Per Capita by Facility
Fiscal 2017**



* Facilities with more than 10 DPD detainees in custody
Source: Department of Public Safety and Correctional Services

Future Issues

Over the long term, it appears that the movement of detainees and State prison inmates will continue for the foreseeable future. While the closures and partial closures of DPSCS facilities have lowered vacancy rates at select facilities, the movement of detainees within Baltimore City and to other State facilities has resulted in several issues, including the following:

- dormitory housing (among other factors) has led to increased assaults;
- over 16% of detainees are located in facilities outside of Baltimore City – further away from family, attorneys, and the courts;
- DPSCS has additional costs related to the transportation of detainees back to Baltimore; and
- there is no dedicated, modern facility for Baltimore City detainees or plans to build one.

Overall, the issues that the division faces are linked to high CO vacancies, elevated assault levels, and a lack of modern, Baltimore-based facilities that would enable the department to house detainees without resorting to dormitory housing and mixing security classifications. **Therefore, the Department of Legislative Services recommends the addition of committee narrative requesting that DPSCS submit a report by January 2, 2019, that includes the following:**

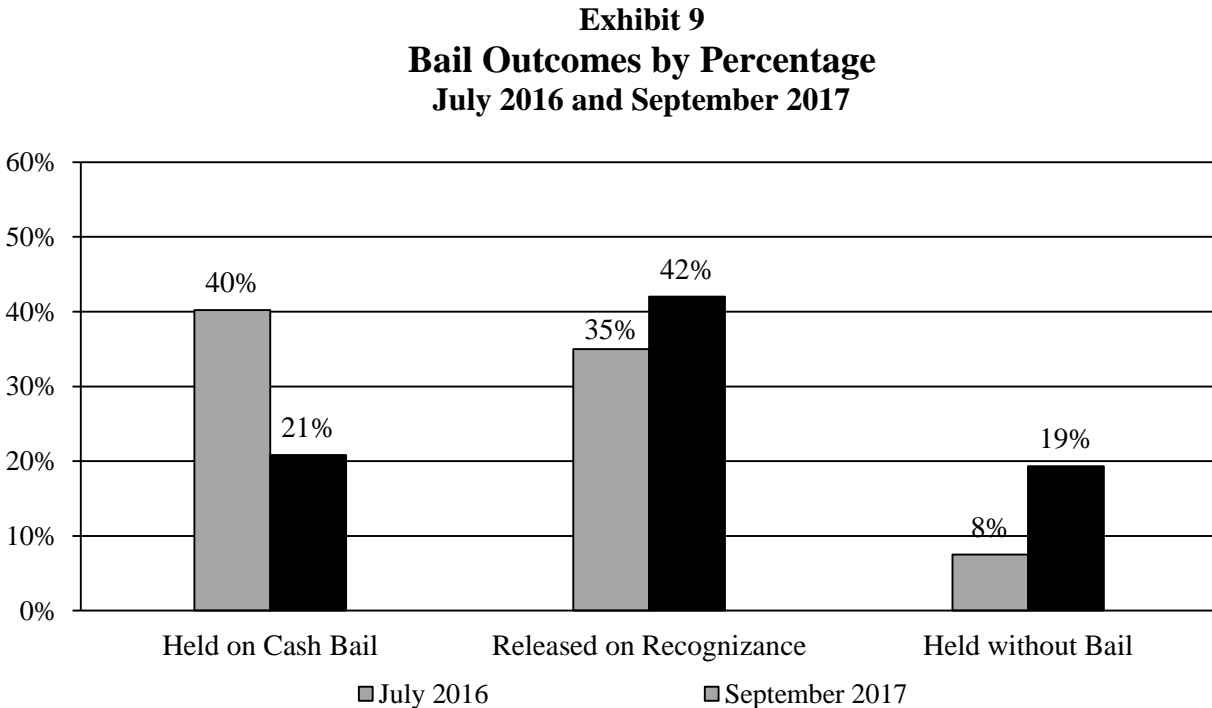
- **the long-term plan for Baltimore City detainees in State prisons (how long they will remain outside of their jurisdiction, the length of time they are expected to remain in dormitory housing, and the number of staff hours and/or transports to Baltimore City so that the costs can be determined);**
- **efforts to permanently move away from or mitigate the use of dormitory housing;**
- **efforts to reduce assaults at DPD facilities, particularly at BCBIC and MTC;**
- **data on assault rates at JCI (including the detainee B-Building) for the previous six months;**
- **information on why BCBIC has the highest overtime spending per capita among all DOC and DPD facilities;**
- **actual overtime data at all DPD facilities that includes total CO drafted overtime hours by shift; and**
- **a brief summary of the department’s options for detainees given that the plan for a new Baltimore City detention center was removed from the *Capital Improvement Plan*.**

2. Bail Reform

In October 2016, the Office of the Attorney General submitted a letter to the Standing Committee on Rules requesting that the committee consider changes to Maryland Rule 4-216 to prohibit pretrial detention based solely on financial ability to afford bail. According to the Maryland Judiciary, the rule changes were designed to improve pretrial justice and ensure that offenders, particularly those arraigned for low-level offenses, are not incarcerated simply because they cannot afford to pay bail. According to recent information from the Maryland Judiciary, the rules have had an impact on pretrial release results, including the following:

- the percentage released on their own recognizance increased from 35% to 42%;
- the percentage held on cash bail decreased from 40.2% to 20.8%; and
- the percentage held without bail increased from 7.5% to 19.3%.

Exhibit 9 shows bail outcomes by percentage in the State from July 2016 to September 2017. After the initial court appearance, individuals who were held on bail and held without bail go before a commissioner. In those cases, as the commissioner exercised their discretion regarding bail, individuals held without bail decreased 34%.



Source: Maryland Judiciary

Failure to Appear Rates

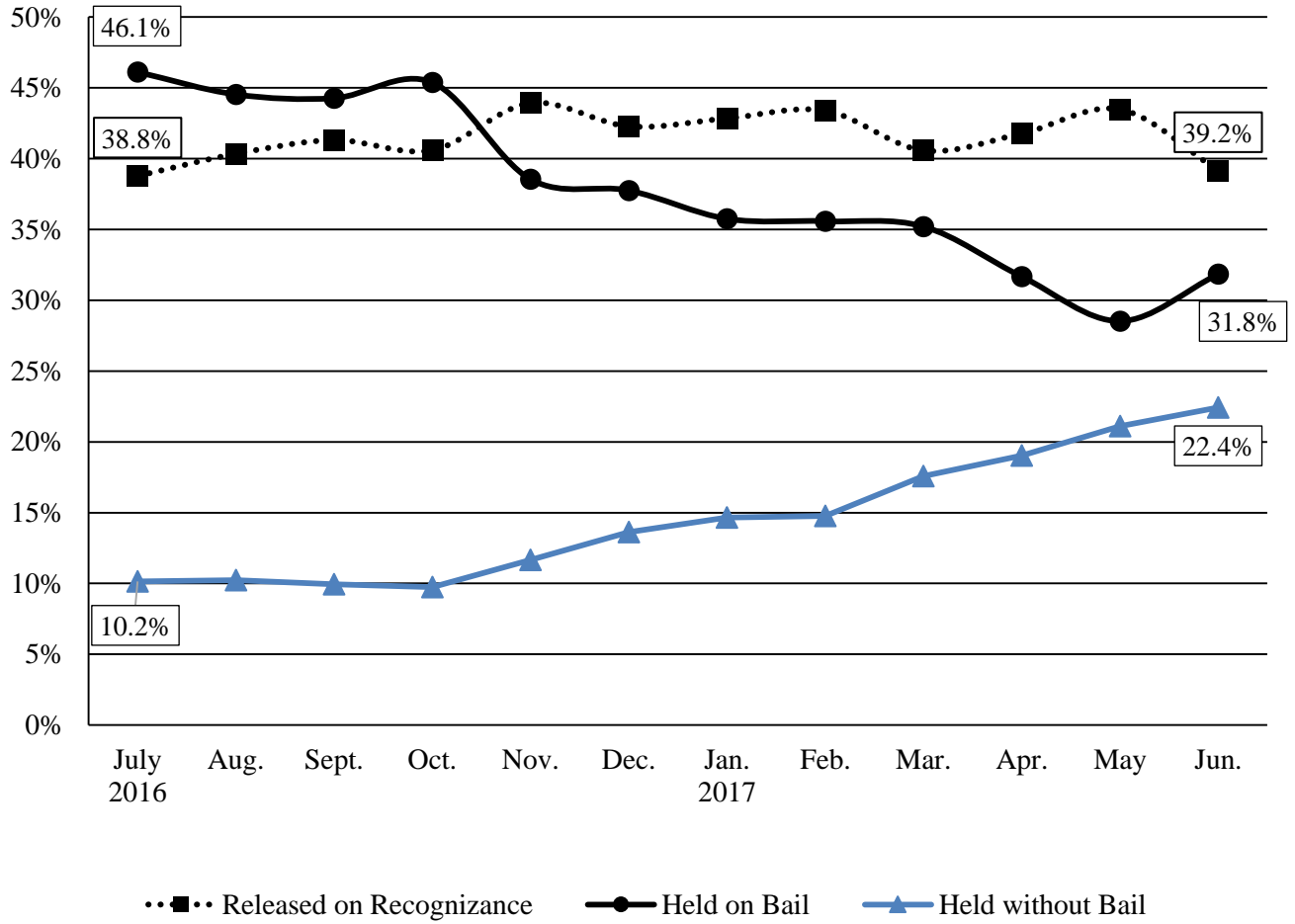
One of the criticisms of bail reform is that requiring cash bail in fewer circumstances and releasing individuals on their own recognizance more often would result in individuals failing to appear in court. Court information from fiscal 2017 indicates that individuals returned to court after their first appearance at a slightly higher rate. Overall, the failure to appear rate decreased from 10.1% to 9.2%.

Bail Reform in Baltimore City

In Baltimore City, the percentage of individuals held on bail from July 2016 to 2017 decreased from 46% to 32%. In general, bail trends in Baltimore City were similar to those statewide. However, the percentage of individuals held on bail started higher than the State percentage (46.1% in Baltimore City vs. 40.2% statewide). After one year, approximately 32% were held on bail in Baltimore City, while just 21% statewide were held on bail. The number of individuals held without bail started higher and remained higher in Baltimore City (10% to 22%) than individuals statewide (8% to 19%).

Exhibit 10 shows the percentage of individuals in Baltimore City held with and without bail and released on their own recognizance. The number of individuals released on their own recognizance remained steady, ranging from 38.8% to 39.2%. In calendar 2015, over 8,000 detainees were granted bail but remained in detention due to their inability to pay bail. In fiscal 2017, a total of 10,198 individuals were held on bail in Baltimore City.

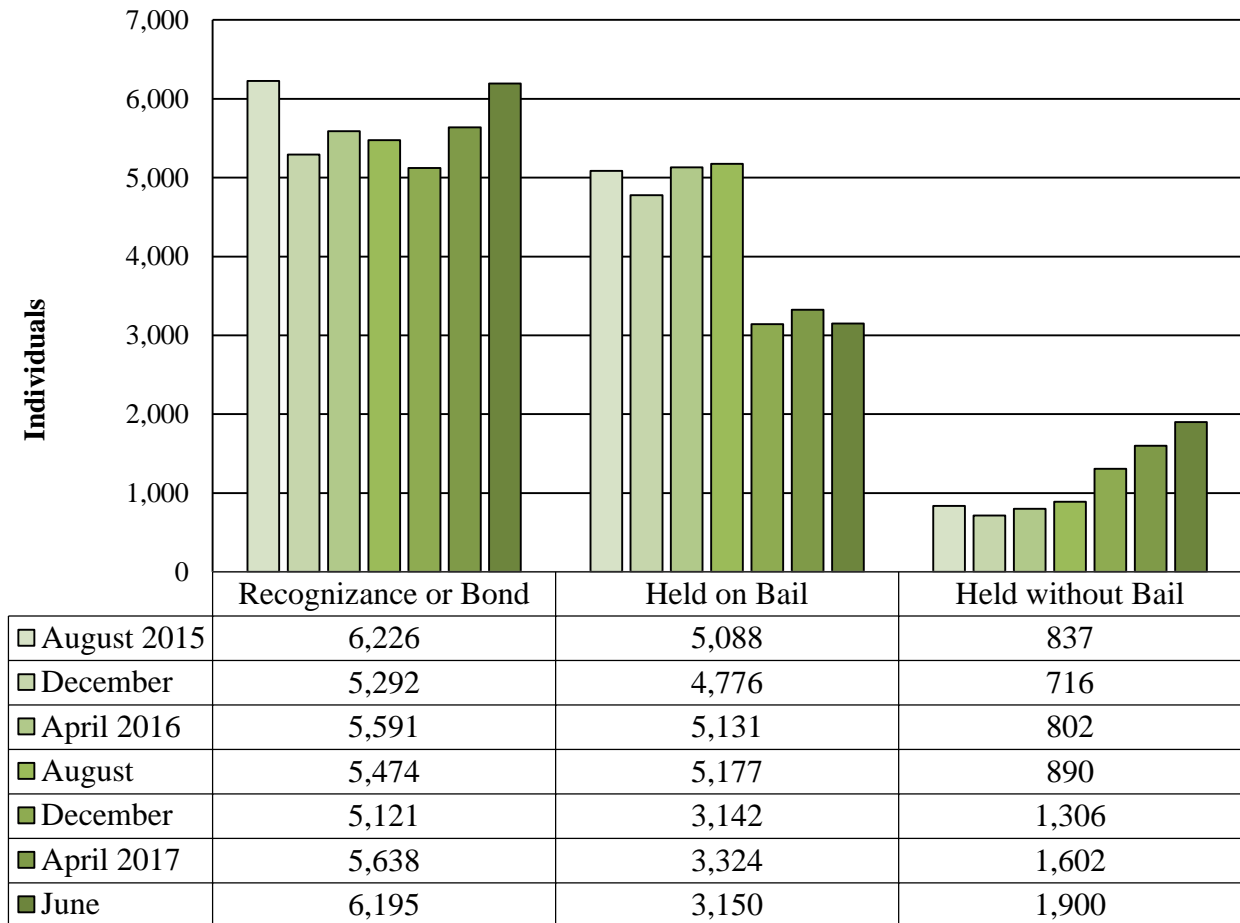
Exhibit 10
Baltimore City Percentage of Individuals Held with and without Bail
July 2016-June 2017



Source: Maryland Judiciary

Exhibit 11 shows total statewide trends for bail outcomes with the total number of individuals by bail status.

Exhibit 11
Statewide Bail Trends
August 2015-June 2017



Source: Maryland Judiciary

Conclusion

The State detainee population is changing. Overall, trends have resulted in fewer arrestees, fewer intakes, and ultimately fewer inmates and detainees. In addition, there are less detainees being held on cash bail, while more detainees are being held without bail. The data indicates that the percentage of those detained or incarcerated for more serious crimes is rising, particularly as those with

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lower level offenses are released due to bail reform and other factors. Baltimore City's pretrial supervision program has a variety of services, but just 11 other counties have pretrial services available, with others seeking to develop more comprehensive services.

DPSCS provides pretrial services in Baltimore City, a jurisdiction that is greatly affected by disparities regarding certain aspects of bail. For example, the Governor's Commission to Reform Maryland's Pretrial System indicates that bail determinations in Baltimore City were five times higher than those of Montgomery County for comparable crimes. According to the Office of the Attorney General, counties such as St. Mary's and Montgomery are shifting away from cash bail and are seeing successful outcomes. Both the Justice Reinvestment Act and the Office of the Attorney General encourage the expansion of pretrial services and data sharing, and the Judiciary is investigating a statewide risk assessment tool. In theory, tools like this can reduce disparities in bail. Finally, DPD is affected by long case processing times, which is a function of the court system. The average length of stay for detainees has increased from 55 days to 85 days during the past 12 months; longer processing times means detainees are incarcerated longer, and costs to the State increase as a result.

While bail reform and pretrial release initiatives outside of Baltimore City will be monitored by the Judiciary, the department should comment on bail reform, the potential impact reforms will have on DPD ADP and costs, and any efforts that it will make to join other counties in expanding pretrial release initiatives, developing shared risk assessment tools, and how (to the extent possible) the PRSP, which is now under DPD control, can assist.

Operating Budget Recommended Actions

1. Adopt the following narrative:

Division of Pretrial Detention Dormitory Housing, Vacancies, and Overtime Spending:

The budget committees request that the Department of Public Safety and Correctional Services (DPSCS) submit a report due by December 1, 2018, on the following:

- the long-term plan for Baltimore City detainees in State prisons (how long they will remain outside of their jurisdiction, the length of time they are expected to remain in dormitory housing, and the number of staff hours and/or transports to Baltimore City so that the costs can be determined);
- efforts to permanently move away from or mitigate the use of dormitory housing;
- efforts to reduce assaults at Division of Pretrial Detention (DPD) facilities particularly at the Baltimore Central Booking and Intake Center (BCBIC) and the Metropolitan Transitional Center;
- data on assault rates at the Jessup Correctional Institution (including the detainee B-Building) for the last six months;
- information on why BCBIC has the highest overtime spending per capita among all Division of Correction and DPD facilities;
- actual overtime data at all DPD facilities which includes total correctional officer drafted overtime hours by shift; and
- a brief summary of the department’s options for detainees given that the plan for a new Baltimore detention center was removed from the Capital Improvement Plan.

Information Request	Author	Due Date
DPD dormitory housing, vacancies, and overtime spending	DPSCS	December 1, 2018

Updates

1. Post-by-post Staffing Analysis

Fiscal 2018 budget bill language restricted \$100,000 in general funds pending receipt of a post-by-post staffing analysis for each of its facilities, due December 1, 2017. Additionally, the report was required to identify the actual number of regular positions needed to safely and securely staff DPSCS facilities along with other key personnel data. This update reviews the report and its recommendations concerning corrections and detention staff, impact on overtime spending, and safety and security issues.

DPSCS submitted the required report, which detailed the number of staff needed at each facility, information on overtime hours worked, the effect that staffing shortages have had on facility activities, information on the reasons why COs left DPSCS, an assessment of future turnover, and various operational efficiencies that could mitigate the need for additional positions. In terms of data, the report included the following information:

- ***A Post-by-post Analysis That Identifies the Actual Number of Positions Needed to Safely and Securely Staff Each Institution:*** While the department had multiple facility closings and personnel consolidations during fiscal 2015 to 2017, the report identified approximately 6,407 CO positions needed at the department. In comparison, the CO complement in fiscal 2018 provides 6,253 positions, indicating a shortfall of 154 CO positions. **Exhibit 12** shows the number of CO positions needed, by facility.

Exhibit 12
CO Positions Needed by Facility
Fiscal 2018

<u>Facility</u>	<u>Positions Needed</u>
Baltimore City Correctional Center	107
Baltimore Central Booking and Intake Center	391
Brockbridge Correctional Facility	137
Chesapeake Detention Facility	200
Central Maryland Correctional Facility	89
Dorsey Run Correctional Facility	234
Eastern Correctional Institution	552
Eastern Correctional Institution Annex	96
Eastern Pre-Release Unit	35
Jessup Correctional Institution	488
Jail Industries Building*	270
Maryland Correctional Institution – Hagerstown	313
Maryland Correctional Institution – Jessup	293
Maryland Correctional Institution – Women	281
Maryland Correctional Training Center	471
Maryland Reception, Diagnostic, and Classification Center	299
Metropolitan Transition Center	310
North Branch Correctional Institution	454
Patuxent Institution	419
Poplar Hill Pre-Release Unit*	33
Roxbury Correctional Institution	352
Southern Maryland Pre-Release Unit	33
Western Correctional Institution	352
Women’s Detention Center*	198
Total	6,407

CO: correctional officer

* Closed or temporarily closed.

Source: Department of Public Safety and Correctional Services

- **The Amount of Overtime Being Used to Meet Minimum Standards:** The amount of overtime being used at DPSCS facilities totaled 1.6 million hours in fiscal 2015 and 1.8 million hours in fiscal 2016, a growth rate of 12%. **Exhibit 13** shows the top five facilities with the highest growth in overtime hours between fiscal 2016 and 2017.

**Exhibit 13
Select Facilities Overtime Usage
Fiscal 2015-2017**

<u>Facility</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>Average</u>	<u>% Change 2016-17</u>
Central Maryland Correctional Facility	7,566	8,811	23,571	13,316	167.5%
Maryland Correctional Training Center	48,175	70,044	110,779	76,332	58.2%
Baltimore City Correctional Center	12,187	15,756	24,362	17,435	54.6%
Brockbridge Correctional Facility	9,945	58,550	86,671	51,722	48.0%
Maryland Correctional Institution for Women	27,408	38,207	54,808	40,141	43.5%

Source: Department of Public Safety and Correctional Services

- **An Accounting of All Institution Activities That Have Been Impacted by Staffing Levels:** To comply with the requirements of the study, administrators provided a list of activities at each facility that have been affected by staff shortages. Overall, 42% of DPSCS facilities (which includes DOC prisons and DPD detention centers) were impacted by lower staffing levels. The report does not quantify the number of hours activities are reduced by but does note that facility administrators are given the latitude to adjust activities in accordance with daily staffing levels. Programs and activities in the affected facilities are listed below:
 - **BCBIC** – reduced recreation time on occasion;
 - **Baltimore City Correctional Center** – reduced staff training time;
 - **CDF** – reduced staff training time, has cancelled library hours on occasion;

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- ***Eastern Correctional Institution*** – consolidated multiple Alcoholics and Narcotics Anonymous groups into one group each, reduced band practice time, and veteran and chess club time;
 - ***MCI-H*** – reduced academic and vocational class time, library hours, religious study time, self-help group time, and volunteer services;
 - ***Maryland Correctional Institution*** – Jessup – reduced recreation, educational, religion, and volunteer service time;
 - ***Roxbury Correctional Institution*** – reduced Alcoholics and Narcotics Anonymous group time;
 - ***Western Correctional Institution*** – reduced education and vocation shop time, outside recreation time, religious study time, and barber shop passes. Meals, medicine, and commissary items have been delivered to the housing units; and
 - ***Maryland Correctional Training Center*** – reduced shop time, library hours, and recreation time.
- ***An Assessment of Turnover and Expected Future Turnover in Personnel:*** According to the report, a total of 3,194 COs left DPSCS between calendar 2011 and 2016. On average, resignations (with and without proper notice) account for 59% of CO turnover, while retired COs account for 30%. In terms of length of service, the largest cohort of COs that left the department had 5 to 10 years of experience.
 - In addition, an average of 532 officers left DPSCS annually between calendar 2011 and 2016. Accounting for the average number of filled CO positions during that time period yields an average vacancy rate of approximately 8%.
 - On average, the department expected 532 COs to leave DPSCS in calendar 2017, and the actual number was 549.
 - ***Operating Efficiencies Utilized in Lieu of Additional Positions:*** Due to a declining inmate/detainee population at its facilities, the department was able to reassign nearly 850 regular positions to other facilities by closing or downsizing BCDC, JI, MCI-H, PHPRU, and the Annex at the Baltimore City Jail.

2. Evaluation of Managed Access

The budget committees requested a progress report from the department on its implementation of the managed access cell phone blocking system. Managed access systems form a radio frequency umbrella around a precise area that allows calls from cell phones to be made from approved devices and denies calls made from unauthorized cell phones and small, easy-to-hide SIM cards.

In 2012, the department secured a \$1 million federal grant through the Edward J. Byrne Justice Assistance Grant Program but has since discontinued its use in Baltimore City due to (1) the closures of MDC, WDC, and the JI Building; and (2) the cost of expanding the program was \$7 million and too expensive. However, the system is still operational at MTC. Under the amended contract, the cost is \$151,800 for the remainder of fiscal 2018 and \$226,200 for fiscal 2019. DPSCS intends to continue using managed access at MTC for the foreseeable future.

Instead of expanding cell phone blocking, the department has purchased a variety of equipment to address the issue of contraband cell phones, including the following:

- \$1 million in Body Orifice Security Scanner Chairs, 18 X-ray scanners, 12 new SecureView scanners, and various security camera equipment;
- four contraband dogs capable of detecting cell phones and other contraband. All four dogs work 40 hours a week with their handlers and conduct approximately 100 searches per week per dog; and
- \$1.8 million in fiscal 2018 for Cellsense portable contraband detectors.

In fiscal 2017, due to the use of expanded searches with the use of intelligence and additional security equipment, DPSCS cell phone finds in its facilities grew tenfold. The department notes that it will continue to improve upon its contraband interdiction efforts.

3. U.S. Immigration and Customs Enforcement Detainee Arrests

Under current law, U.S. Immigration and Customs Enforcement (ICE) can issue detainers to local jails to hold individuals with immigration violations. While this type of extended detention is legal, local governments must pay these costs. In recent years, jurisdictions in some states (including Baltimore City) have not enforced these detainers without a specific warrant. Federal agents now have increased latitude to enforce immigration detainers and arrest individuals, some of whom may be held in local detention facilities.

The department notes only that if ICE notifies it that a detainee is wanted, it will coordinate with ICE if it is prior to the detainee's release. If it is beyond the release time, DPSCS can hold the detainee for up to 48 hours only, if there is a judicial warrant. In terms of requests, the department notes that from February 2017 to January 2018 it has received 132 notifications or requests for detainee holds from ICE, and that these requests entail no additional costs.

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Appendix 1
Current and Prior Year Budgets
DPSCS – Division of Pretrial Detention
(\$ in Thousands)

	<u>General</u> <u>Fund</u>	<u>Special</u> <u>Fund</u>	<u>Federal</u> <u>Fund</u>	<u>Reimb.</u> <u>Fund</u>	<u>Total</u>
Fiscal 2017					
Legislative Appropriation	\$236,369	\$1,699	\$24,799	\$343	\$263,210
Deficiency Appropriation	571	0	0	0	571
Cost Containment	0	0	0	0	0
Budget Amendments	-2,076	-60	0	38	-2,099
Reversions and Cancellations	-5,376	-827	-459	-95	-6,756
Actual Expenditures	\$229,487	\$813	\$24,341	\$286	\$254,926
Fiscal 2018					
Legislative Appropriation	\$223,630	\$1,044	\$25,846	\$299	\$250,820
Cost Containment	-2,315	0	0	0	-\$2,315
Budget Amendments	6,273	0	0	156	\$6,429
Working Appropriation	\$227,588	\$1,044	\$25,846	\$455	\$254,933

DPSCS: Department of Public Safety and Correctional Services

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

Fiscal 2017

General Fund

General fund expenditures for fiscal 2017 decrease by \$573,000 from the legislative appropriation. The department received one general fund deficiency appropriation of \$570,500, which provided funds to purchase food service equipment for Baltimore City detention facilities.

Budget amendments decreased the department's appropriation by \$2.1 million. These amendments allocated approximately \$2.3 million for employee salary increments, \$150,000 reallocated for employee and retiree health insurance, with the net remainder used to realign funds among agencies and to match actual expenditures. General fund reversions totaled \$5.3 million due to salary savings associated with the department's high vacancy rate.

Special Fund

Fiscal 2017 special fund expenditures were approximately \$813,000, a nearly \$900,000 decrease from the legislative appropriation. The special fund appropriation increased by a net \$60,095 in budget amendments for employee increments and the realignment of funds to match actual expenditures. The department cancelled approximately \$827,000 in Inmate Welfare Fund revenue and expected inmate work release earnings.

Federal Fund

Fiscal 2017 federal fund cancellations were approximately \$459,000 for salary cancellations at the Chesapeake Detention Facility due to vacancies.

Reimbursable Fund

Reimbursable funds totaled approximately \$286,000, \$57,000 less than the legislative appropriation. Budget amendments totaled \$37,602, all of which were allocated from the Governor's Office of Crime Control and Prevention (GOCCP), for reentry programs at the Maryland Reception, Diagnostic, and Classification Center (MRDCC). Fiscal 2017 reimbursable fund cancellations were \$94,727 for the cancellation of appropriation for grants related to contractual employees which will be spent in fiscal 2018.

Fiscal 2018

The fiscal 2018 working appropriation is increased by approximately \$6.4 million in budget amendments. Approximately \$6.3 million in general funds is associated with moving the Pretrial Release Services Program from the Division of Parole and Probation to the Division of Pretrial Detention, as established in statute (§ 5-201 of the Correctional Services Article). An additional \$155,872 in reimbursable funds are brought in via budget amendment from GOCCP to MRDCC for

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inmate reentry planning. These increases were offset by \$2.3 million in cost containment actions from the Board of Public Works due to vacancy savings within the Department of Public Safety and Correctional Services.

Appendix 2
Object/Fund Difference Report
Department of Public Safety and Correctional Services – Division of Pretrial Detention

<u>Object/Fund</u>	<u>FY 17</u> <u>Actual</u>	<u>FY 18</u> <u>Working</u> <u>Appropriation</u>	<u>FY 19</u> <u>Allowance</u>	<u>FY 18 - FY 19</u> <u>Amount Change</u>	<u>Percent</u> <u>Change</u>
Positions					
01 Regular	2,314.60	2,204.60	2,204.60	0.00	0%
02 Contractual	119.58	114.07	27.00	-87.07	-76.3%
Total Positions	2,434.18	2,318.67	2,231.60	-87.07	-3.8%
Objects					
01 Salaries and Wages	\$ 187,145,303	\$ 196,030,542	\$ 187,659,202	-\$ 8,371,340	-4.3%
02 Technical and Spec. Fees	4,659,168	1,224,722	864,498	-360,224	-29.4%
03 Communication	662,851	752,558	650,409	-102,149	-13.6%
04 Travel	5,119	18,900	11,350	-7,550	-39.9%
06 Fuel and Utilities	7,819,716	9,249,912	7,833,750	-1,416,162	-15.3%
07 Motor Vehicles	647,921	424,085	605,137	181,052	42.7%
08 Contractual Services	33,627,445	36,502,398	38,451,088	1,948,690	5.3%
09 Supplies and Materials	9,486,484	9,414,508	9,796,563	382,055	4.1%
10 Equipment – Replacement	599,001	48,250	34,832	-13,418	-27.8%
11 Equipment – Additional	1,144,766	4,975	0	-4,975	-100.0%
12 Grants, Subsidies, and Contributions	458,907	872,700	609,500	-263,200	-30.2%
13 Fixed Charges	431,069	389,873	395,710	5,837	1.5%
14 Land and Structures	8,238,435	0	0	0	0.0%
Total Objects	\$ 254,926,185	\$ 254,933,423	\$ 246,912,039	-\$ 8,021,384	-3.1%
Funds					
01 General Fund	\$ 229,487,274	\$ 227,588,343	\$ 220,473,555	-\$ 7,114,788	-3.1%
03 Special Fund	812,738	1,044,396	979,539	-64,857	-6.2%
05 Federal Fund	24,340,673	25,846,012	25,091,434	-754,578	-2.9%
09 Reimbursable Fund	285,500	454,672	367,511	-87,161	-19.2%
Total Funds	\$ 254,926,185	\$ 254,933,423	\$ 246,912,039	-\$ 8,021,384	-3.1%

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

**Appendix 3
Fiscal Summary
Department of Public Safety and Correctional Services – Division of Pretrial Detention**

<u>Program/Unit</u>	<u>FY 17 Actual</u>	<u>FY 18 Wrk Approp</u>	<u>FY 19 Allowance</u>	<u>Change</u>	<u>FY 18 - FY 19 % Change</u>
01 Chesapeake Detention Facility	\$ 24,299,260	\$ 25,874,612	\$ 25,123,334	-\$ 751,278	-2.9%
02 Pretrial Release Services	5,887,856	6,272,996	6,146,647	-126,349	-2.0%
04 Central Booking and Intake Facility	60,029,606	61,459,403	65,573,245	4,113,842	6.7%
05 Baltimore Pretrial Complex	63,435,736	68,031,135	40,645,017	-27,386,118	-40.3%
06 Maryland Reception Diagnostic and	35,980,392	37,094,156	40,107,021	3,012,865	8.1%
07 Baltimore City Correctional Center	16,920,880	15,006,822	16,174,015	1,167,193	7.8%
08 Metropolitan Transition Center	46,564,424	39,544,840	51,252,676	11,707,836	29.6%
09 General Administration	1,808,031	1,649,459	1,890,084	240,625	14.6%
Total Expenditures	\$ 254,926,185	\$ 254,933,423	\$ 246,912,039	-\$ 8,021,384	-3.1%
General Fund	\$ 229,487,274	\$ 227,588,343	\$ 220,473,555	-\$ 7,114,788	-3.1%
Special Fund	812,738	1,044,396	979,539	-64,857	-6.2%
Federal Fund	24,340,673	25,846,012	25,091,434	-754,578	-2.9%
Total Appropriations	\$ 254,640,685	\$ 254,478,751	\$ 246,544,528	-\$ 7,934,223	-3.1%
Reimbursable Fund	\$ 285,500	\$ 454,672	\$ 367,511	-\$ 87,161	-19.2%
Total Funds	\$ 254,926,185	\$ 254,933,423	\$ 246,912,039	-\$ 8,021,384	-3.1%

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