

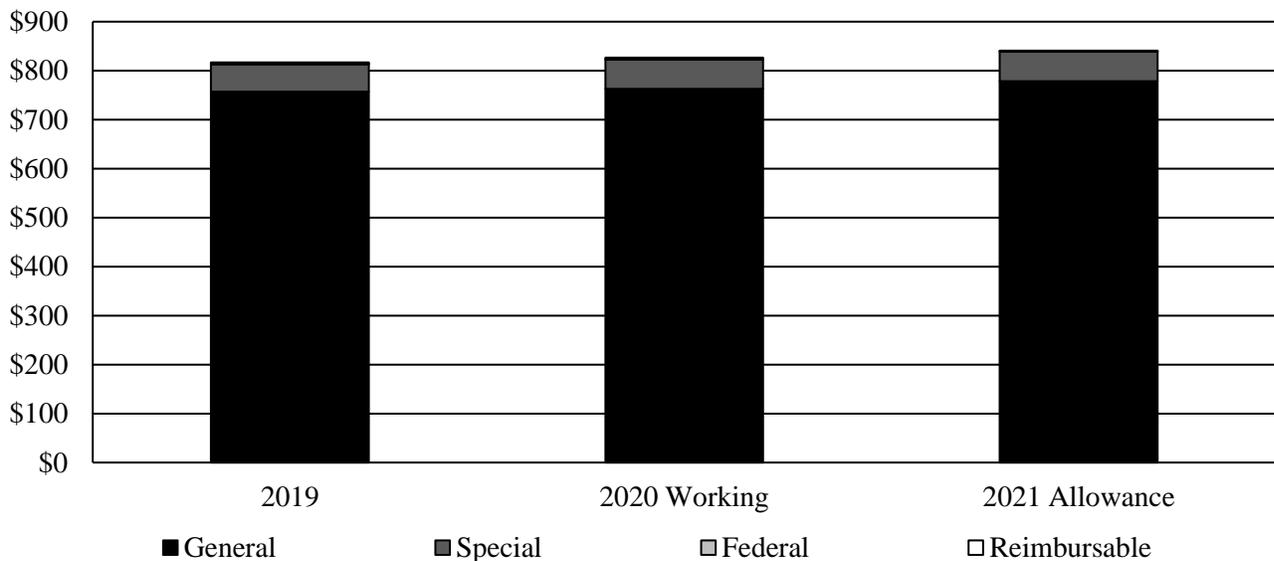
Q00B
Corrections
 Department of Public Safety and Correctional Services

Executive Summary

Corrections is the primary charge of the Department of Public Safety and Correctional Services (DPSCS). This functional unit is comprised of the Division of Correction and the Patuxent Institution, which have a combined average daily population of 18,800 offenders, and Maryland Correctional Enterprises, which is the prison industry arm of the department. These agencies are allowed 5,680 regular positions and receive approximately 55% of departmental resources in fiscal 2021.

Operating Budget Summary

Fiscal 2021 Budget Increases \$14.4 Million or 1.7% to \$841.2 Million
 (\$ in Millions)



Note: Numbers may not sum due to rounding. The fiscal 2020 appropriation includes deficiencies, planned reversions, and general salary increases. The fiscal 2021 allowance includes contingent reductions and general salary increases.

- Equipment and facility renovation costs increase in the allowance based on trends in actual spending in those areas.
- DPSCS depopulated and closed the Brockbridge Correctional Facility, removing or relocating \$8.5 million in operating costs from the program.

Key Observations

- ***Correctional Officer (CO) Employment Declines 5%:*** Despite several bonus programs and salary enhancements, filled CO positions fell 264 from January 2019 to January 2020.
- ***Average Length of Stay Is 2.5 Years:*** The time that it takes the average offender to be released from DPSCS facilities continues to climb.
- ***Americans with Disabilities Act (ADA) Compliance:*** Considering litigation trends and departmental actions, improving ADA compliance has become a priority.

Operating Budget Recommended Actions

	<u>Funds</u>
1. Reduce funding for abolished positions.	\$5,000,000
2. Adopt committee narrative requesting a report on Maryland Correctional Enterprises staffing, programs, and sales.	
3. Restrict funding pending receipt of report on the new Pre-Release, Re-Entry, and Workforce Development Facility.	
4. Delete appropriation for chiller replacement at the Patuxent Institution.	429,000
5. Add language requiring the Department of Public Safety and Correctional Services to submit a quarterly hiring and attrition report.	
6. Delete appropriation for heating, ventilation, and air conditioning replacement at Western Correctional Institution.	1,300,000
7. Delete appropriation for Maryland Correctional Institution – Jessup facility improvements.	360,000
8. Delete appropriation for metal door replacement at Southern Maryland Pre-Release Unit.	87,000
9. Delete appropriation for warehouse freezer at Eastern Correctional Institution.	150,000
10. Delete appropriation for paving project at Central Maryland Correctional Facility.	100,000
Total Reductions	\$ 7,426,000

Budget Reconciliation and Financing Act Recommended Actions

1. Delete \$18,000,000 in personnel funding from the fiscal 2020 appropriation for the Department of Public Safety and Correctional Services.

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Operating Budget Analysis

Program Description

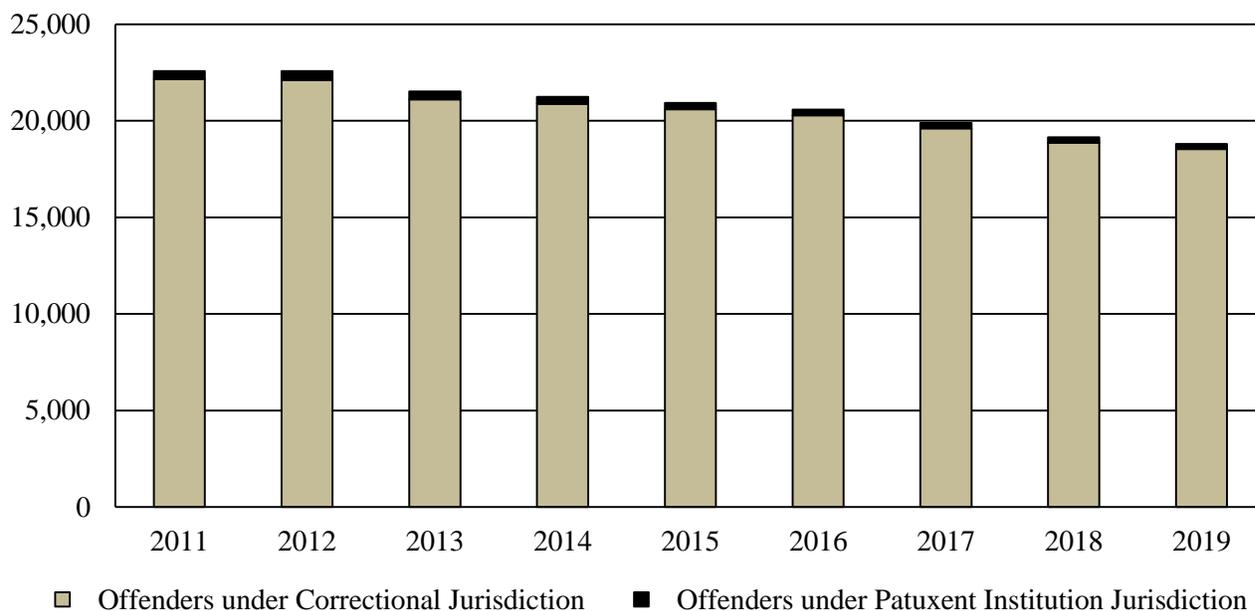
This analysis examines Corrections, which includes the operations of State correctional facilities under the Division of Correction (DOC) and the Patuxent Institution (PATX) as well as Maryland Correctional Enterprises (MCE). DOC operates 15 correctional facilities, including 2 pre-release units and the Maryland Correctional Institution for Women (MCI-W). The Corrections function, in accordance with applicable State and federal law, works to protect the public, its employees, and offenders under its supervision. The function also works to return offenders to society with the necessary tools for success by offering job skill improvement, educational programming, mental health therapy, and drug treatment.

Performance Analysis: Managing for Results

1. Inmate Populations Continue to Decline

Overall, the number of offenders in DOC and PATX custody continues to decline. **Exhibit 1** shows the average daily population (ADP) of sentenced offenders in the Department of Public Safety and Correctional Services (DPSCS) custody since fiscal 2010. In fiscal 2019, 18,803 offenders were kept in State prisons on average each day. This represents a 16.7% decline from fiscal 2011 levels. It should be noted that Exhibit 1 shows ADP of all State sentenced offenders rather than ADP of DOC facilities. In fiscal 2019, an average of 427 sentenced offenders were kept each day at the Central Home Detention Unit, State hospitals, transitional housing, or in the custody of other jurisdictions. An average of 144 sentenced offenders were kept in Division of Pretrial Detention (DPD) facilities, while 478 pretrial offenders were kept in DOC facilities on average each day.

Exhibit 1
Average Daily Population under Correctional Jurisdiction
Fiscal 2011-2019



Source: Department of Public Safety and Correctional Services

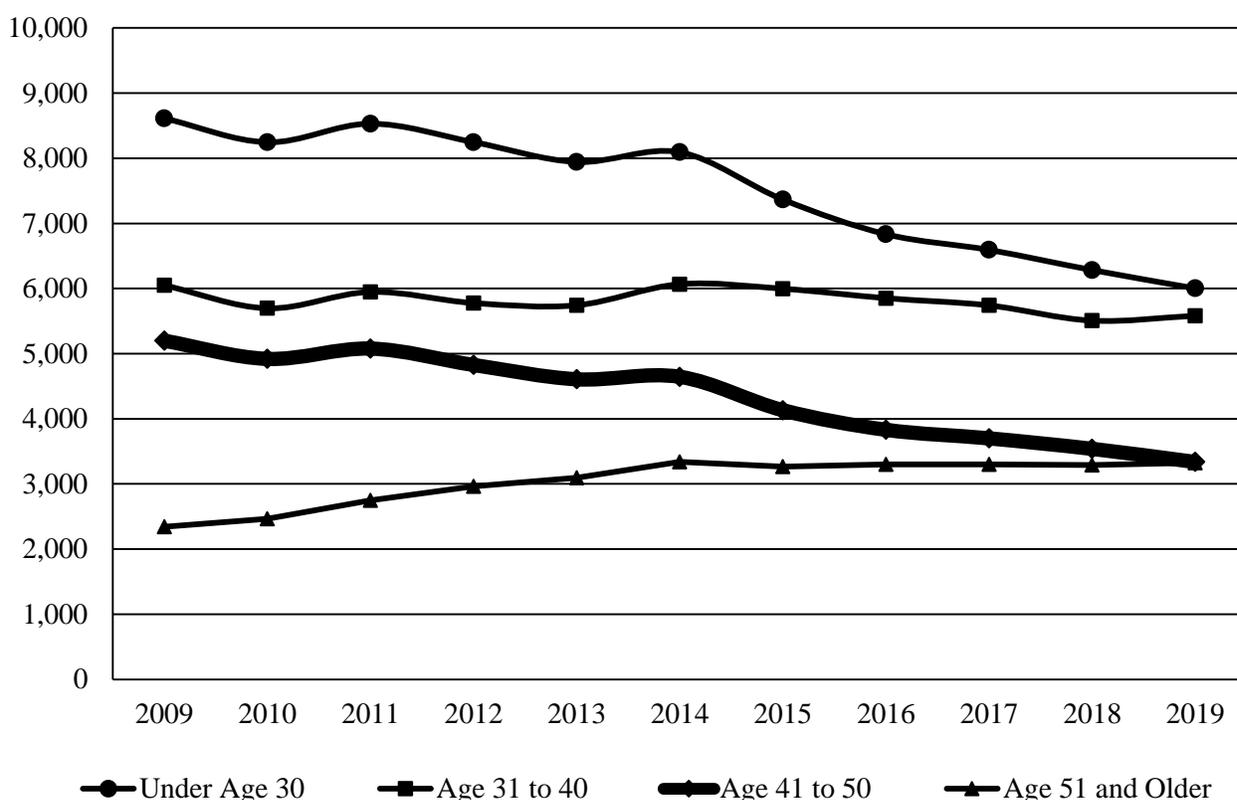
Lower custody populations have enabled DPSCS to downsize and close a number of correctional facilities. Since July 2014, the department has eliminated 2,580 beds for various legal, operational, and maintenance reasons, including:

- Pursuant to the 2016 *Duvall v. Hogan* settlement agreement, the Baltimore City Detention Center closure resulted in the shifting of 1,102 beds at the Metropolitan Transition Center and Jessup Correctional Institution from the incarcerated population to the pretrial detention population.
- In fiscal 2017, the Poplar Hill Pre-Release Unit was closed, and Maryland Correctional Institution – Hagerstown was downsized, removing 192 minimum-security beds and 952 medium-security beds, respectively.
- Beginning in fiscal 2019 and ending in September 2019, DPSCS downsized then depopulated Brockbridge Correctional Facility (BCF) due to excess minimum-security beds and structural and plumbing issues with the facility. This closure removed a total of 600 minimum-security beds, though DPSCS has announced plans to redeploy BCF as a pre-release and reentry facility with a currently undefined capacity by the beginning of calendar 2021.

2. Average Inmate Age Remains 38

Inmates within the Maryland State prison system are aging faster than young offenders are added, causing the average inmate age to increase over time. **Exhibit 2** shows inmate age group totals since fiscal 2009. While the under-30 age group made up 39% of the incarcerated population in fiscal 2009 with 8,614 inmates, they made up 27% in 2019 with just over 6,000 inmates.

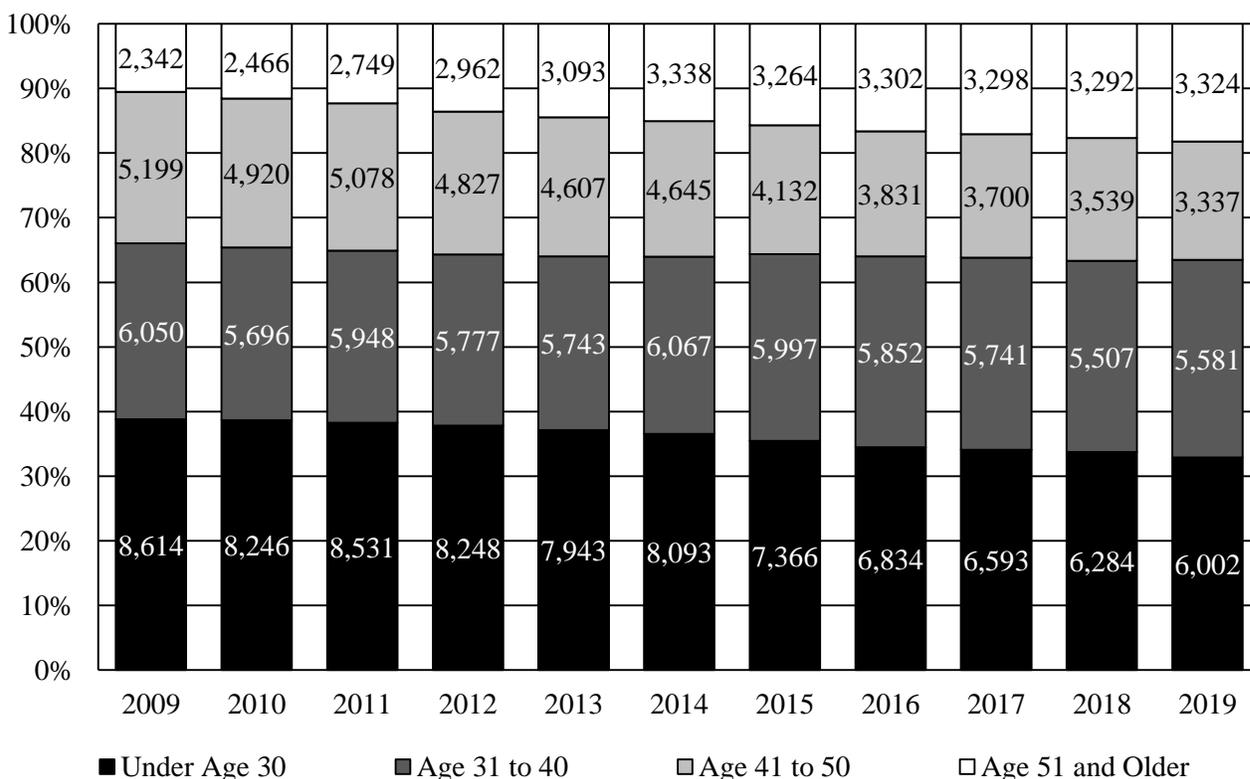
Exhibit 2
Inmate Age Groups
Fiscal 2009-2019



Source: Department of Public Safety and Correctional Services

Exhibit 3 shows inmate age distribution over the same period. The number of inmates age 51 and older has increased 42% since fiscal 2009, while the 41 to 50 age group has declined 36%. This is a point-in-time measure including all sentenced offenders in DPSCS custody. Maryland Correctional Institution – Jessup (MCI-J) has the highest average inmate age at 41.9 years, while the correctional facility with the lowest average inmate age is the Maryland Reception Diagnostic and Classification Center at 32.5 years.

**Exhibit 3
Inmate Age Distribution
Fiscal 2009-2019**

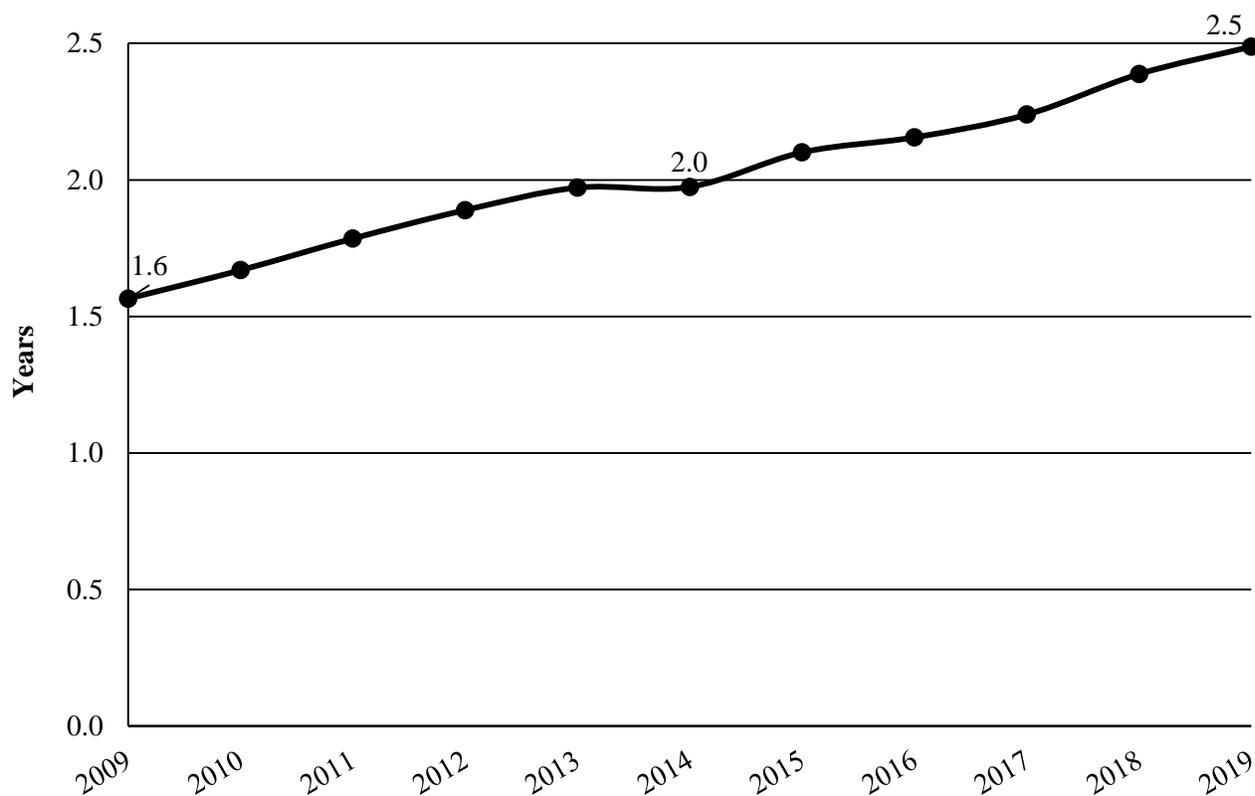


Source: Department of Public Safety and Correctional Services

3. Average Length of Stay Is 2.5 Years

While arrests have stabilized since fiscal 2017, the length of time served by inmates has increased. **Exhibit 4** shows that the average length of stay for DPSCS facilities was 1.6 years in fiscal 2009 but was 2.5 years in fiscal 2019 – a 59% increase in the time that it takes the average offender to be released. Of all intakes to DOC, those who committed homicide, kidnapping, or rape received the longest sentences, while nonviolent property crimes and traffic had the shortest sentences.

Exhibit 4
Average Length of Stay
Fiscal 2009-2019

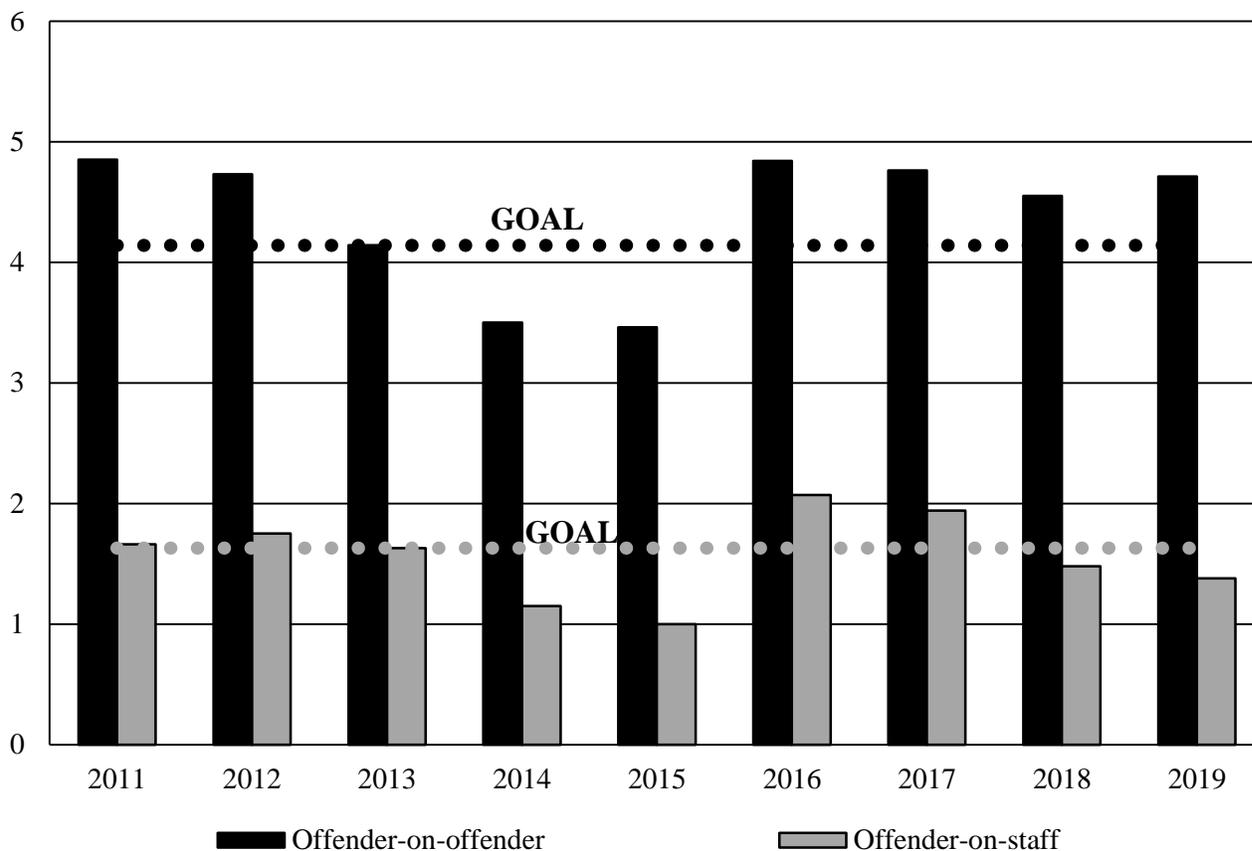


Source: Department of Public Safety and Correctional Services

4. Assaults on Offenders and Staff in Correctional Facilities Stabilize

From fiscal 2018 to 2019, offender-on-offender assaults increased slightly, and offender-on-staff assaults decreased slightly. Within DOC facilities, Dorsey Run Correctional Facility has the current highest offender-on-offender assault rate of 7.2 assaults per 100 ADP for fiscal 2019. Assaults are currently 175% higher in detention facilities than correctional facilities due to the nature of holding a pretrial inmate in detention and the physical layout of many DPD facilities. **Exhibit 5** shows current assault rates by target of assault for fiscal 2009 through 2019. Offender-on-offender assaults remain above the goal of 4.14 assaults per 100 ADP.

**Exhibit 5
Offender Assaults Per 100 ADP
Fiscal 2011-2019**



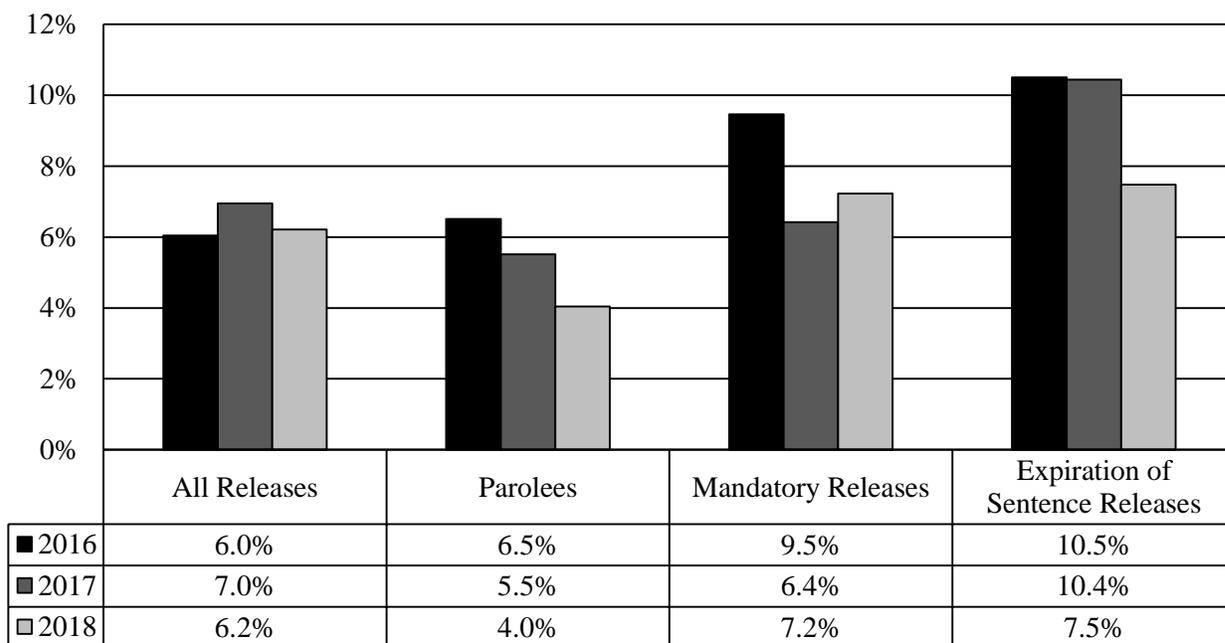
ADP: average daily population

Source: Department of Public Safety and Correctional Services

5. First-year Recidivism Data

Due to the fiscal 2015 transition to a new Offender Case Management System, DPSCS lost the ability to track recidivism for several cohorts of inmates released from correctional facilities. DPSCS has at last estimated recidivism for the cohorts released in fiscal 2016, 2017, and 2018. However, the recidivism calculated for these years only represents one year following release rather than the standard three years to which the department previously adhered. Overall, 579 inmates from the fiscal 2016 release cohort recidivated within a year of release, 464 from fiscal 2017 recidivated, and 389 from fiscal 2018 recidivated. The average one-year recidivism rate for these years is 6.4%. **Exhibit 6** shows single-year recidivism rates for these three release cohorts.

**Exhibit 6
Single-year Recidivism Data
Fiscal 2016-2018 Release Cohorts**



Source: Department of Public Safety and Correctional Services

Single-year recidivism data do not tell a robust story. Those that recidivate within a year of release disproportionately suffer from homelessness, substance abuse disorders, and mental health disorders and respond the least to correctional rehabilitation. Three-year recidivism data is far preferable to single-year data due to the comparability of data across states and because the risk of recidivating declines substantially after three years. The department’s true performance in preparing inmates to return as citizens cannot be determined through single-year data.

The department should comment on the process to produce these recidivism numbers, why single-year rather than three-year recidivism rates were reported, and the potential of reporting three-year recidivism rates in future Managing for Results submissions.

Fiscal 2020

Proposed Deficiency

The Correctional Officer Retention Incentive Bonus is a new program appropriated as a deficiency within the Department of Budget and Management. This program receives \$5.9 million in fiscal 2020 and \$2.7 million in fiscal 2021. The amount that correlates to the correctional officer (CO) complement in this agency is \$4.1 million in fiscal 2020 and \$1.9 million in fiscal 2021. These amounts will change depending on actual CO participation.

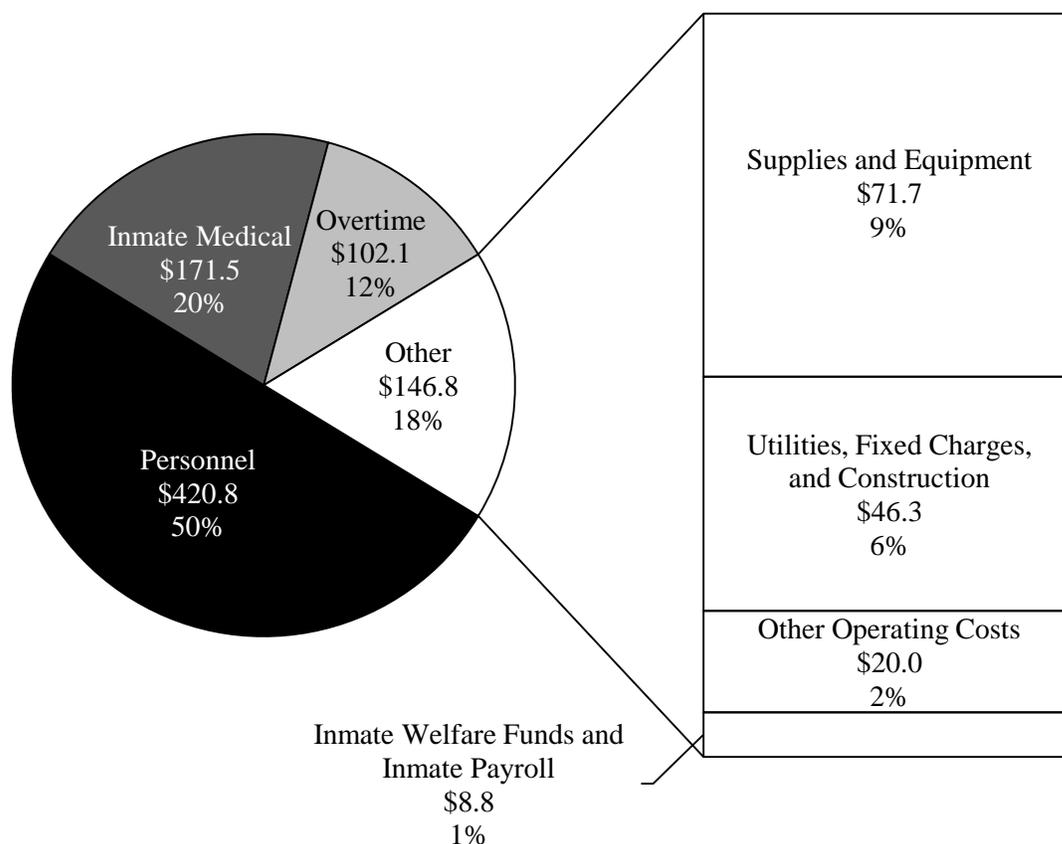
Assumed Reversion

Additionally, the Administration's budget plan assumes that \$7 million in personnel funds fenced off to provide a CO salary increase will not be released and will revert to the General Fund at the end of the fiscal year.

Fiscal 2021 Overview of Agency Spending

The Corrections allowance for fiscal 2021 is approximately \$841.2 million after adjusting for statewide salary actions. Three-fifths of spending goes to personnel costs (including overtime), while one-fifth goes to inmate medical expenses. The final fifth of Corrections' spending in fiscal 2021 is dedicated to facility operations, supplies and equipment for staff, and inmate payments. **Exhibit 7** displays agency spending by category.

Exhibit 7
Overview of Agency Spending
Fiscal 2021 Allowance
(\$ in Millions)



Source: Governor’s Fiscal 2021 Budget Books

Proposed Budget Change

Overall funding grows \$14.4 million, or 1.7%, from the working appropriation. General funds increase by 2.1%, while federal and reimbursable funds decrease by 84.7% and 16.9%, respectively. **Exhibit 8** provides details on the department’s fiscal 2021 budget increase and changes to particular spending items.

**Exhibit 8
Proposed Budget
DPSCS – Corrections
(\$ 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 2019 Actual	\$757,112	\$55,819	\$2,029	\$2,193	\$817,154
Fiscal 2020 Working Appropriation	762,743	59,955	1,402	2,701	826,800
Fiscal 2021 Allowance	<u>778,472</u>	<u>60,235</u>	<u>215</u>	<u>2,245</u>	<u>841,167</u>
Fiscal 2020-21 Amount Change	\$15,729	\$280	-\$1,187	-\$456	\$14,367
Fiscal 2020-21 Percent Change	2.1%	0.5%	-84.7%	-16.9%	1.7%
Where It Goes:					<u>Change</u>
Personnel Expenses					
Turnover expectancy					\$13,053
Regular earnings					3,497
Fiscal 2021 2% cost-of-living adjustment (COLA).....					3,152
Retirement contributions					2,531
Net annualization of fiscal 2020 1% COLA.....					465
Overtime earnings.....					-113
Interagency transfers and reclassifications					-183
Other fringe benefits					-197
Social Security contributions					-255
Workers’ compensation					-2,136
Employee and retiree health insurance premiums					-9,519
Inmate Expenses					
Inmate medical care					4,606
Pharmacy services					2,258
Inmate mental health care					1,368
Inmate dental health care					843
Inmate wages					773
Maryland Department of Labor inmate education agreement					-406
Inmate welfare funds					-1,104
Equipment and Supplies					
MCE equipment and supplies					1,920
Building materials and equipment					298
Custody equipment and supplies					86
Administration equipment and supplies					71

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Where It Goes:	<u>Change</u>
Clinical equipment and supplies	-18
Food supplies and dietary equipment	-1,270
Operational Expenses	
Demolition of vacated buildings at MCI-W	1,500
Replacement HVAC units at WCI.....	1,300
Chiller replacement at PATX	429
Other	290
Replacement vehicles for DRCF, WCI, and MCE	230
Fixed charges	225
Facility renovations at MCI-J, ECI, CMCF, and SMPRU	202
Contracts for office assistance and fiscal services	202
Employee training.....	47
Employee health care.....	-17
Buildings/roads repair and maintenance.....	-598
Fuel and utilities	-671
Closure of Brockbridge Correctional Facility	-8,488
Total	\$14,367

CMCF: Central Maryland Correctional Facility
DPSCS: Department of Public Safety and Correctional Services
DRCF: Dorsey Run Correctional Facility
ECI: Eastern Correctional Institution
HVAC: heating, ventilation, and air conditioning
MCE: Maryland Correctional Enterprises
MCI-J: Maryland Correctional Institution – Jessup
MCI-W: Maryland Correctional Institution for Women
PATX: Patuxent Institution
SMPRU: Southern Maryland Pre-Release Unit
WCI: Western Correctional Institution

Note: Numbers may not sum due to rounding. The fiscal 2020 appropriation includes deficiencies, planned reversions, and general salary increases. The fiscal 2021 allowance includes contingent reductions and general salary increases.

Facility Renovation Funding Increases

The fiscal 2021 budget includes increases in facility renovation funding. One of these projects will demolish vacated buildings at MCI-W, which is not considered an operating expense and would typically be included in an agency’s capital program. Other projects include a heating, ventilation, and air conditioning replacement at Western Correctional Institution; replacement of a chiller unit at PATX; a paving project at Central Maryland Correctional Facility; a metal door replacement at Southern Maryland Pre-Release Unit; and several projects at MCI-J. These projects, minus the MCI-W demolitions, total \$2.426 million. **Due to the fact that DPSCS has \$3.145 million of dedicated but**

unallocated funding in the Department of General Services (DGS) Facilities Renewal Fund, the Department of Legislative Services (DLS) recommends reducing this appropriation by \$2.426 million and that DPSCS instead utilize available funding from the DGS Facility Renewal program to support these projects.

Brockbridge Correctional Facility Is Closed

DPSCS announced the closure of BCF on January 16, 2020. The department plans to repurpose BCF, a minimum security facility located in Jessup, as a comprehensive prerelease, reentry, and workforce development facility. While the department has communicated plans to open the new facility by the end of calendar 2020, there is no appropriation in the allowance for the facility, and the fiscal 2020 working appropriation only covers expenses that were necessary to operate the first quarter of the fiscal year. Exhibit 8 shows that the difference in operational costs between the working appropriation and allowance for BCF is \$8.5 million. This amount is not a net decrease because the medical contract is fixed-rate and is simply realigned to other facilities proportionally. Personnel resources not used at BCF are likewise absorbed elsewhere in the department rather than deleted.

While the replacement facility for BCF may satisfy many programmatic goals of DPSCS, more information is required to evaluate the impact of opening this first-of-its-kind facility in the State prison system. **DLS recommends including budget bill language restricting \$100,000 of the Corrections' appropriation pending receipt of a report that summarizes actions taken to downsize BCF, provides a funding and construction timeline for any necessary facility renovations, and provides a detailed description of operational and programmatic plans for the new facility.**

Equipment Expenses Climb

While food costs are declining due to the steady decrease in the inmate population, equipment costs are increasing. This was expected by DLS based on actual departmental spending in these areas in recent years. Supplies for MCE increase by about \$1.9 million from fiscal 2020 to 2021. MCE inventory issues are discussed further in the Issues section of this analysis.

Personnel Data

	<u>FY 19 Actual</u>	<u>FY 20 Working</u>	<u>FY 21 Allowance</u>	<u>FY 20-21 Change</u>
Regular Positions	5,899.00	5,688.00	5,683.00	-5.00
Contractual FTEs	<u>19.05</u>	<u>41.70</u>	<u>39.23</u>	<u>-2.47</u>
Total Personnel	5,918.05	5,729.70	5,722.23	-7.47

Vacancy Data: Regular Positions

Turnover and Necessary Vacancies, Excluding New Positions	959.86	16.89%
Positions and Percentage Vacant as of 12/31/19	1,172.50	20.61%

Vacancies Above Turnover 212.64

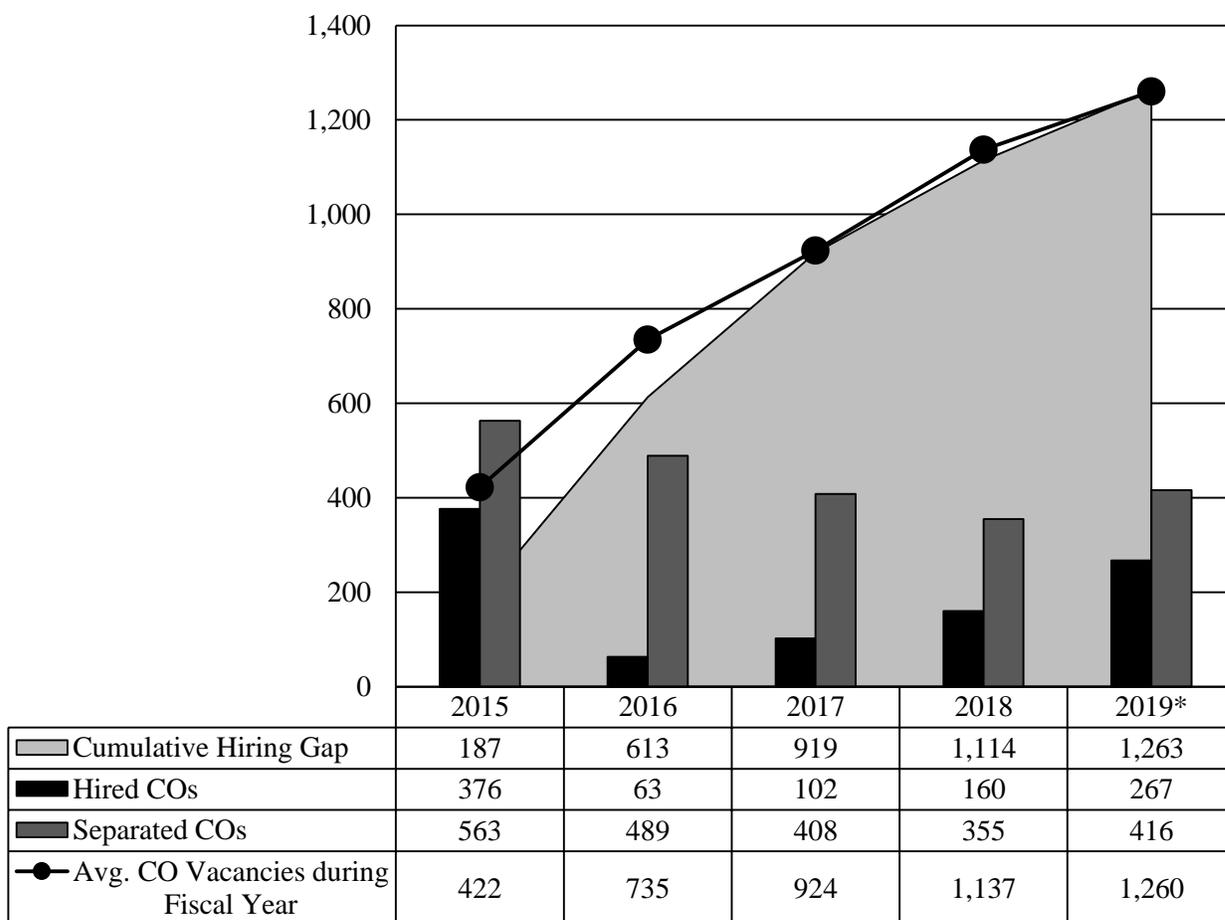
- Five positions in the working appropriation will be transferred to other agencies within the department in fiscal 2021, removing \$183,000 from the Corrections allowance.
- Turnover expectancy for Corrections increased from the legislative to the working appropriation, moving those funds primarily to support overtime costs. The working appropriation is in line with actual vacancies, while the allowance is set at 17% and provides funding for 212 positions over the actual fill rate. Using the average agency salary and fringes, this amounts to \$14.2 million in additional personnel funding.
- Several classifications received an Annual Salary Review grade increase of 6% in fiscal 2021. The correlating positions in this division are 64.5 commitment records specialists, 25 pretrial release investigators, 28 social workers, and 8 psychologists. Overall, these positions are currently 34% vacant.

Issues

1. Correctional Officer Vacancies Have Worsened

DPSCS has struggled since fiscal 2016 to hire an adequate number of COs. **Exhibit 9** shows how the gap between hiring and attrition rapidly created a deficit in filled positions.

Exhibit 9
Departmentwide Correctional Officer Hiring Gap
Calendar 2015-2019



Avg.: average
CO: correctional officer

*Calendar 2019 CO separations estimated using currently available statistics.

Source: Department of Public Safety and Correctional Services

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While the declining inmate population has allowed the department to pursue some staffing efficiencies to reduce the impact of high CO vacancies, the issue has only continued to grow.

- CO positions are currently 21.4% vacant despite abolishing or reclassifying 860 CO PINs since the beginning of fiscal 2017. Without these changes, the CO vacancy rate would be 31%.
- Overtime costs are nearly \$150 million in the working appropriation and allowance, an increase of 240% over the fiscal 2013 level of \$44 million and an increase of 7.2% from the fiscal 2019 level of \$139 million.
- Offender assaults were markedly elevated between fiscal 2016 and 2019.
- CO filled positions have declined for 23 consecutive fiscal quarters dating to April 2014.

To address these staffing shortfalls, DPSCS and the General Assembly have implemented several bonus programs and salary enhancements targeting CO candidates and existing employees. More information on these actions can be found in the DPSCS Overview budget analysis.

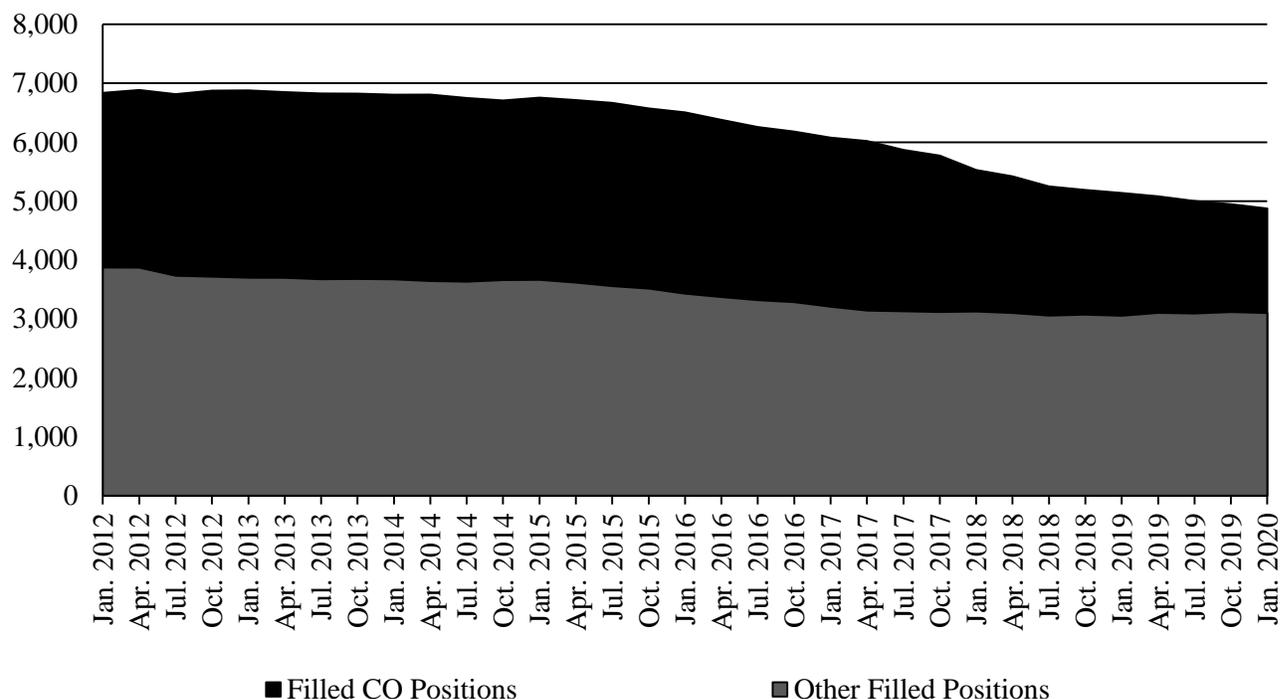
Vacancies and Salary Savings

In previous years, DLS has recommended that the turnover expectancy for DPSCS be increased to match actual vacancies. Because the turnover expectancy has been set well below actual vacancies, DPSCS has utilized excess personnel funds to support other initiatives, such as facility renovations, information technology (IT) equipment, emergency needs, and steep overtime costs. While DLS does not refute the usefulness of these expenses, the practice of allocating more personnel funds than needed and transferring the excess to priority areas via budget amendment inhibits public accountability and budget committee oversight.

In fiscal 2019, budget amendments and the Budget Reconciliation and Financing Act (BRFA) of 2019 removed \$18.8 million from net final spending. This reduction includes increases for higher than expected overtime costs. Each position has an associated salary and fringe benefits that can be used to determine the savings from keeping the positions vacant. Using each day that a position went vacant in the first half of fiscal 2020, DLS calculated an excess of \$32 million in the overall working appropriation, which has a turnover expectancy of 17% despite vacancies of 21.5%. Using payroll data provided by the department, there is an excess of \$25 million in personnel spending for fiscal 2020. Considering trends in hiring and attrition, filled positions for COs will likely continue to decline through the end of fiscal 2020.

Exhibit 10 shows that, from the first quarter of fiscal 2013 to the second quarter of fiscal 2020, filled positions only increased on three occasions. While that trend may reverse in fiscal 2021, DLS is confident that the working appropriation overprovides for personnel expenses. This is supported by corresponding increases in the allowance for other budget categories that received salary savings at fiscal 2019 closeout, such as contractual services, vehicles, and buildings.

**Exhibit 10
Departmentwide Filled Positions
Fiscal 2013-2020**



CO: correctional officer

Source: Department of Budget and Management

Regarding the fiscal 2021 allowance, turnover expectancy is again set at 17% despite high vacancies. Additionally, the budget bill requires DPSCS to abolish 521 vacant positions. The associated personnel funds, approximately \$35.7 million, remain in the appropriation to be used where needed by the department. Because departmental hiring may reach and overcome attrition in fiscal 2021, the amount of excess funds is lower in the allowance than in the working appropriation.

DLS recommends three actions that concern salary savings and hiring. The first action is a BRFA provision to remove \$18 million in excess personnel funding from the fiscal 2020 working appropriation. The second action removes \$5 million in personnel funds for abolished positions in the fiscal 2021 allowance. The third action restricts funding to require quarterly reports showing hiring and attrition data by employee category. The fiscal 2020 reduction recognizes that the department will not likely fill its vacancies based on hiring and separation trends, while the fiscal 2021 reduction allows for a moderate improvement in hiring.

2. Maryland Correctional Enterprises Audit Findings

MCE is the State-use industry arm of DPSCS. MCE provides structured employment and training activities for offenders in order to improve employability upon release, to enhance safety and security, to reduce prison idleness, to produce quality, saleable goods and services, and to be a financially self-supporting State agency.

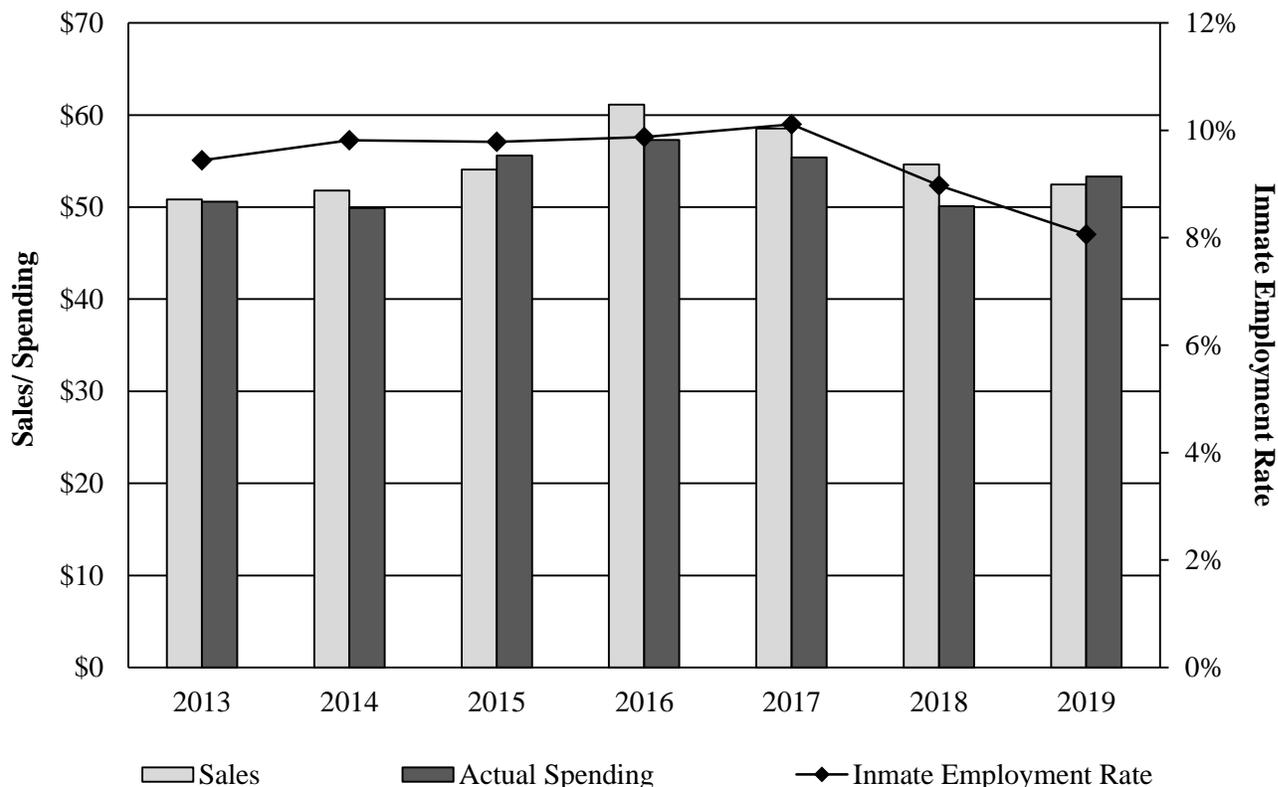
The Office of Legislative Audits (OLA) released an audit report on MCE activities in October 2019. OLA made a repeat finding that MCE had no documentation of supervisory review and approval of adjustments to inventory records, as is required by the DGS Inventory Control Manual. OLA found that MCE adjusted the inventory records to reflect the amounts on hand without any investigation or supervisory review and approval. The total materials and supplies inventory balance reported to DGS on June 30, 2018, totaled \$10.5 million. OLA discovered that variances of \$1.1 million, or over 10% of the total, were not investigated by MCE and were adjusted without review or approval.

MCE advised OLA that staffing shortages made it difficult to investigate these variances. Currently, MCE officer positions are 62% vacant, and the 2 accountant supervisor positions responsible for reviewing and approving inventory records are vacant. Inventory issues are also attributable to an inadequate resource management tool. Project planning for the MCE Enterprise Resource Planning Implementation Project, a Major Information Technology Development Project, has been delayed multiple times due to unsuccessful solicitations. MCE secured a project manager at a cost of \$1.2 million to rework the Request for Proposals and ensure a successful procurement.

DPSCS should update the committees on the estimated total cost and timeline of the project and if the total appropriation of \$6 million will be sufficient to ensure a successful transition. DPSCS should also discuss how OLA audit findings are currently being addressed and may be addressed by this major IT project.

MCE employment has also substantially declined, with just 1,516 inmates in programs by the end of fiscal 2019, a quarter lower than the goal of 2,000. **Exhibit 11** shows the correctional inmate employment rate compared to MCE sales and spending.

**Exhibit 11
MCE Employment and Sales
Fiscal 2013-2019
(\$ in Millions)**



MCE: Maryland Correctional Enterprises

Source: Managing For Results

The inmate employment rate is now 8.1%, the lowest since fiscal 2007 and 2 percentage points lower than the inmate employment rate in fiscal 2017. MCE sales have also seen year-over-year declines and, in fiscal 2019, actual spending was higher than sales for the first time since fiscal 2015. MCE sales totaled \$52.5 million in fiscal 2019, a drop of \$8.7 million from the peak in fiscal 2016. DPSCS previously attributed lower MCE sales and employment to the declining inmate population. However, the inmate population has consistently declined for two decades, while MCE employment only dropped in fiscal 2018 and 2019.

Considering legislative audit findings, high officer vacancies, and declining employment and sales, DLS recommends committee narrative to request a report analyzing the causes and results of these trends on MCE’s operations and mission.

3. Americans with Disabilities Act Compliance is Lacking

The Americans with Disabilities Act (ADA) was enacted in 1990 and requires public entities to ensure that qualified inmates or detainees with disabilities are not discriminated against; denied benefits to which they are entitled; or excluded from programs, services, or activities for which they are eligible. Inmates or detainees with disabilities must be housed in the most integrated setting appropriate to their needs. Accessible cells or housing units need to be available in all security classifications and/or program levels of a facility. Additionally, the State must ensure “equally effective communication” with blind and low-vision inmates.

Qualified inmates or detainees with disabilities should have access to available programs and activities, whether they are mandatory or voluntary. Such activities may include educational, vocational, work release, or religious programs as well as opportunities for visitation. Unless it is appropriate to make an exception, public entities must not place inmates with disabilities in:

- inappropriate security classifications because no accessible cells or beds are available;
- medical areas unless they are actually receiving medical care or treatment;
- facilities that do not offer the same programs as facilities where they otherwise would be housed; or
- distant facilities where they would otherwise not be housed and that would deprive them of visitation with family members.

Nine Blind Inmates Received Settlement Regarding Discrimination Case

Brown v. Department of Public Safety and Correctional Services was settled in June 2019 for \$1.4 million in damages and attorney’s fees. In this suit, the National Federation of the Blind and the Prisoner Rights Information System of Maryland alleged that blind inmates were discriminated against in a multitude of ways that harmed their safety and access to prison services and privileges guaranteed by the ADA. These allegations include but are not limited to:

- denial of housing at the lowest allowed security level due to sight impairment;
- exclusion from prison work programs that provide job skills training, income, and diminution credits to reduce sentence length; and
- lack of accommodations for sight-impaired inmates regarding departmental communications, flyers, and notices, leading to unequal access to services and programs.

The suit also alleged that the discrimination experienced by blind inmates led to their mistreatment at the hands of other inmates. They alleged that blind inmates had to rely on other inmates

to help them navigate prison facilities, read their mail (including attorney-client communications), read the rules in the inmate handbook, use the commissary and prison library, file grievances and requests for medical attention, and more. This allegedly subjected them to mistreatment by other inmates, who took advantage of the blind prisoners' need for help by extorting money, commissary items, and even sex.

Future Steps in Settlement Agreement

Existing policies and procedural standards regarding inmates with disabilities and special needs can be found in **Appendix 4**. As part of the settlement, DPSCS agreed to modify operations in the following ways:

- DPSCS will set up computers with text-to-speech screen reader software, document scanners, and other assistive technology in the prison library, classrooms, and other locations to allow blind prisoners to conduct research and read and prepare documents independently;
- DPSCS will ensure that blind inmates have access to qualified human readers and scribes who meet certain security and disciplinary criteria; and
- DPSCS will provide training for blind inmates in skills that will allow them greater independence.

The department should identify the resources that are or will be dedicated to these requirements in the current budget and provide a timeline for completion.

Ongoing Litigation

While the *Brown v. Department of Public Safety and Correctional Services* settlement concerns mistreatment of blind inmates, active litigation currently alleges mistreatment of mobility-impaired inmates. Six former inmates allege that a culture of ADA noncompliance permeates the department and facilities, leading to indifference by COs regarding the needs of disabled inmates. In the lawsuit, plaintiffs claim that they were placed in housing with improper accommodations, including inaccessible showers, tables and toilets of improper height, and faulty wheelchairs.

While multiple facilities are scheduled to, or have already completed, shower renovations, there is still great need across State facilities for comprehensive ADA renovations to allow all staff, visitors, and inmates with disabilities to have the same access and privileges as others. The ADA transition plan put in place during fiscal 2017 assumes that the department requires \$7.8 million through fiscal 2024. Considering the liability of the State in instances of ADA noncompliance or discrimination, these changes are necessary but likely to be insufficient. The fiscal 2020 budget includes a deficiency appropriation of \$974,000 to conduct a comprehensive ADA study of all DPSCS facilities for overall compliance with federal law. The study is much needed due to the issues outlined above and will likely increase departmental estimates for the cost of full compliance.

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As of November 2019, DPSCS houses 46 sight-impaired inmates, 79 hearing-impaired inmates, 406 mobility-impaired inmates, and 198 inmates who require special housing for accessibility. **DPSCS should comment on the methodology for placing sight-impaired and other special needs inmates in proper housing and provide a list of facilities that are fully ADA compliant. DPSCS should also discuss budgetary needs for providing ADA accommodations and provide an update on the progress of the ADA Transition Plan.**

Operating Budget Recommended Actions

1. Add the following language:

Provided that \$5,000,000 in general funds shall be reduced to reflect personnel savings associated with the abolishment of 521 positions across the department.

Explanation: The Department of Public Safety and Correctional Services is directed to abolish 521 positions through budget bill language. This related action deletes a portion of saved personnel costs due to these position abolishments while ensuring that funding is sufficient to fill vacant positions.

2. Adopt the following narrative:

Maryland Correctional Enterprises Staffing, Programs, and Sales Report: The budget committees are concerned that recent trends in sales, employment, and staff vacancies may inhibit the ability of Maryland Correctional Enterprises (MCE) to carry out its mission to improve employability upon release, enhance safety and security, reduce prison idleness, and produce quality goods and services. The budget committees direct the Department of Public Safety and Correctional Services (DPSCS) to submit a report by September 15, 2020, providing the following information:

- a breakdown of regular and special programs to include employment data;
- a review of MCE audit findings and steps taken to address faulty inventory records;
- an analysis of sales and employment trends and any steps that can be taken to maximize sales and employment; and
- an analysis of the impact of MCE vacancies on audit findings, sales, and employment trends.

Information Request	Authors	Due Date
MCE staff, programs, and sales report	MCE DPSCS	September 15, 2020

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

, provided that \$100,000 of this appropriation may not be expended until the Department of Public Safety and Correctional Services submits a report on plans to replace the Brockbridge Correctional Facility (BCF). The report shall summarize actions taken to downsize BCF, provide a funding estimate and construction timeline for any necessary facility renovations, and provide a detailed description of operational and programmatic plans for the new facility. The report shall be due August 15, 2020, and the budget committees shall have 45 days to review and comment. Funds restricted pending the receipt of a report may not be transferred by budget amendment or otherwise to any other purpose and shall revert to the General Fund if the report is not submitted to the budget committees.

Explanation: The Department of Public Safety and Correctional Services (DPSCS) announced in January 2020 that BCF is depopulated and will be replaced by a comprehensive Pre-Release, Re-Entry, and Workforce Development Facility. This action requires the department to report on plans for renovating BCF and provide a detailed description of the programs and operations that will take place once the new facility opens.

Information Request	Author	Due Date
BCF replacement report	DPSCS	August 15, 2020

- | | <u>Amount
Reduction</u> |
|---|------------------------------------|
| 4. Reduce funding for chiller replacement at the Patuxent Institution. Unappropriated funds are available to support this project through the Department of General Services Facilities Renewal Fund. | \$ 429,000 GF |

5. Add the following language:

, provided that \$100,000 of this appropriation may not be expended until the Department of Public Safety and Correctional Services submits hiring and attrition reports to the budget committees on a quarterly basis. The reports shall include a breakdown of all hires and separations for the three-month period in question by category of employee (correctional officer, community supervision agent, or administrative employee) and by reason for separation. The report shall also include narrative summarizing all hiring events and changes to the hiring process that occurred during the quarter; the quantity, type, and cost of bonuses disbursed; as well as overall applications received, tested, and interviewed. The first quarterly report shall be submitted to the budget committees no later than October 30, 2020. Funds restricted pending the receipt of a report may not be transferred by budget amendment or otherwise to any other purpose and shall revert to the General Fund if the report is not submitted to the budget committees.

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Explanation: Hiring within the Department of Public Safety and Correctional Services (DPSCS) has dropped to unsustainable levels, threatening the safety of staff and inmates at facilities and hampering efforts to carry out major projects and policy reforms. The department submitted the Correctional Officer Hiring Strategic Plan Report in December 2019, detailing efforts to improve the hiring process and increase hiring numbers, which are currently 50% lower than the calendar 2010 through 2015 average. The quarterly reports requested in fiscal 2021 will enhance the ability of the budget committees to track all departmental hiring as well as the success of recent initiatives.

Information Request	Author	Due Date
DPSCS hiring and attrition report	DPSCS	October 15, 2020 January 15, 2021 April 15, 2021 July 15, 2021

	<u>Amount Reduction</u>	
6. Delete funding for heating, ventilation, and air conditioning replacement at Western Correctional Institution. Unappropriated funds are available to support this project through the Department of General Services Facilities Renewal Fund.	1,300,000	GF
7. Reduce funding associated with gym floor replacement, air handling unit replacement, and oven hood and vent replacements at Maryland Correctional Institution – Jessup. Unappropriated funds are available to support this project through the Department of General Services Facilities Renewal Fund.	360,000	GF
8. Reduce funding for metal door replacement at the Southern Maryland Pre-Release Unit. Unappropriated funds are available to support this project through the Department of General Services Facilities Renewal Fund.	87,000	GF
9. Delete appropriation for a new warehouse freezer at Eastern Correctional Institution. Unappropriated funds are available to support this project through the Department of General Services Facilities Renewal Fund.	150,000	GF

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- | | | | |
|-----|---|---------|----|
| 10. | Reduce funding for paving project at Central Maryland Correctional Facility. Unappropriated funds are available to support this project through the Department of General Services Facilities Renewal Fund. | 100,000 | GF |
|-----|---|---------|----|

Total General Fund Reductions	\$ 7,426,000
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Budget Reconciliation and Financing Act Recommended Actions

1. Reduce fiscal 2020 general fund appropriation for the Department of Public Safety and Correctional Services by \$18,000,000 based on actual vacancies and payroll expenditures.

Appendix 1
2019 Joint Chairmen’s Report Responses from Agency

The 2019 *Joint Chairmen’s Report* (JCR) requested that the Department of Public Safety and Correctional Services (DPSCS) – Corrections prepare one report. An electronic copy of the full JCR response can be found on the Department of Legislative Services Library website.

- ***Correctional Officer (CO) Hiring Strategic Plan:*** DPSCS implemented several changes to CO recruitment and compensation to improve hiring and retention. DPSCS shortened the testing and interview process, began hosting one-day hiring events for expedited offers, and doubled field recruitment staff. It also reported success in hosting a pilot recruitment event in Puerto Rico for bilingual officers. CO starting salaries increased by about 10% from fiscal 2018 to 2019, and new hires receive a \$2,000 bonus following completion of the training academy and \$3,000 upon completion of the probationary period. Further, a \$500 referral bonus and \$750 retention and attendance bonus are offered to target existing employees. Information regarding participation in these bonus programs and recruitment initiatives can be found in the Issues section of this analysis.

Appendix 2
Audit Findings
Maryland Correctional Enterprises

Audit Period for Last Audit:	February 20, 2015 – March 31, 2019
Issue Date:	October 2019
Number of Findings:	3
Number of Repeat Findings:	1
% of Repeat Findings:	33%

Finding 1: Proper controls had not been established over mail receipts.

Finding 2: Maryland Correctional Enterprises (MCE) lacked adequate controls over non\cash credit adjustments.

Finding 3: **MCE had no documentation of supervisory review and approval of adjustments to inventory records.**

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

Appendix 3
Major Information Technology Project
Department of Public Safety and Correctional Services
Enterprise Resource Planning Implementation Project (ERPIP)

New/Ongoing: Ongoing								
Start Date: Fiscal 2020					Est. Completion Date: Fiscal 2021			
Implementation Strategy: Agile								
(\$ in Millions)	Prior Year	2020	2021	2022	2023	2024	Remainder	Total
SF	\$4.2	\$0.5	\$1.3	\$0.0	\$0.0	\$0.0	\$0.0	\$6.0
Total	\$4.2	\$0.5	\$1.3	\$0.0	\$0.0	\$0.0	\$0.0	\$6.0

- Project Summary:** Maryland Correctional Enterprises (MCE) intends to replace its legacy application with a new Enterprise Resource Planning solution. The new solution will modernize and automate manual processes that result in delays in accounts payable, accounts receivable, and inventory management along with delays in other financial workstreams. The new application will provide a centralized system to address the current limitations of decoupled processes and systems and will replace manual and inefficient business processes.
- Need:** Currently, many of the processes within MCE are paper driven, causing long delays in accounts payable, accounts receivable, and generating financials. Auditors have found issues with the accounting of inventory related to the current system. Analysis of sales data history can take several weeks, as data mining is difficult with the current system. The current system has surpassed its end of life, causing difficulty in acquiring replacement parts and service as well as longer than average downtime. Prior updates for the system have not been purchased or installed, as it would require a complete replacement of the backend hardware.
- Observations and Milestones:** A project manager has been procured and a Request for Proposals (RFP) is expected to go live in the first quarter fiscal 2021.
- Changes:** This project has undergone significant changes since inception in 2008 with the previous solicitation canceled in lieu of a new cloud-based solution. Procurement issues continued after the project was modified, so a project manager and team was procured (contract approved November 20, 2019) to reissue the RFP and make an expeditious award.
- Concerns:** As the new system may integrate with other legacy applications, the department will be required to provide subject matter experts knowledgeable in legacy applications, business processes, and workflows.

Appendix 4
Department of Public Safety and Correctional Services
Standards Regarding Disabilities and Special Needs

As of January 2019, Corizon Health, Inc. is the medical services provider at Department of Public Safety and Correctional Services (DPSCS) facilities. The following information is gleaned from Chapter 6 of the Medical Evaluations Manual promulgated by the Office of Clinical Services and Inmate Health at DPSCS.

Policy Statement Regarding Inmates with Special Needs

Inmates admitted into DPSCS facilities who demonstrate medical, physical, or mental health needs that require special adjunctive support in order to secure their safety and wellbeing shall be identified during the initial intake receiving process and/or during other clinical encounters. Appropriate measures that include treatment and discharge planning shall be done to accommodate the inmate’s disability such that continuity of care and support is maintained upon entrance and at discharge from the facility.

Special need patients are inmates who are medically stable but cannot be housed in general population because of their physical or medical condition. These patients include, but are not limited, to persons with machines for sleep apnea, persons with dialysis catheters, or those with other impairments or disabilities, vision, hearing, or chronically ill; communicable diseases; and terminally ill or developmentally disabled. Mental health inmates whose conditions limit mainstreaming may be housed in special mental health units or infirmaries.

Summary of Procedures

- (1) Physical and mental disabilities that require specific treatment accommodations in order for the inmate to successfully navigate the routine demands of a correctional environment shall be identified at the initial intake examination. This may include a vision and hearing test.
- (2) The evaluating clinician shall determine the level of medically permissible activity and medically necessary housing assignments for all sentenced and pretrial inmates including special consideration – to the extent reasonable – for sight and sound separation of juveniles from adults.
- (3) At the time of admission to a special needs unit, the clinician will document in the medical record the reasons for admitting the inmate to the special need unit, how long he or she is likely to remain in the special need unit, and what would be required to move the inmate from special housing.
- (4) Individuals requiring durable medical equipment or assistive devices shall be allowed to maintain equipment from home. If none is available from the home, the department will provide medically approved assistive devices.

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- (5) Special needs inmates shall be considered for work assignments consistent with the level of abilities associated with their perspective challenges.
- (6) Inmates with special needs housed in onsite special medical housing or cells will be monitored by the medical contractor staff.
- (7) Inmates with special needs may require additional care, and contracted medical staff will assess clothing, mattress, blankets, commissary, access to phone, meals, and other privileges to assure that these will be similar to those of inmates housed in the general population unless otherwise ordered or restricted by the nurse, clinician, or custody staff.
- (8) A physician will develop an individual treatment plan for all inmates with special needs.

Appendix 5
Object/Fund Difference Report
Department of Public Safety and Correctional Services – Corrections

<u>Object/Fund</u>	<u>FY 19</u> <u>Actual</u>	<u>FY 20</u> <u>Working</u> <u>Appropriation</u>	<u>FY 21</u> <u>Allowance</u>	<u>FY 20 - FY 21</u> <u>Amount Change</u>	<u>Percent</u> <u>Change</u>
Positions					
01 Regular	5,899.00	5,688.00	5,683.00	-5.00	-0.1%
02 Contractual	19.05	41.70	39.23	-2.47	-5.9%
Total Positions	5,918.05	5,729.70	5,722.23	-7.47	-0.1%
Objects					
01 Salaries and Wages	\$ 513,097,529	\$ 519,170,629	\$ 518,848,984	-\$ 321,645	-0.1%
02 Technical and Special Fees	952,390	1,563,749	1,464,848	-98,901	-6.3%
03 Communication	1,376,510	1,247,611	1,116,673	-130,938	-10.5%
04 Travel	95,604	100,965	101,185	220	0.2%
06 Fuel and Utilities	37,553,214	41,915,989	40,571,413	-1,344,576	-3.2%
07 Motor Vehicles	2,954,119	3,632,022	3,748,397	116,375	3.2%
08 Contractual Services	176,887,512	182,217,043	185,041,913	2,824,870	1.6%
09 Supplies and Materials	69,656,527	70,829,140	69,824,068	-1,005,072	-1.4%
10 Equipment – Replacement	1,452,585	1,045,630	1,834,937	789,307	75.5%
11 Equipment – Additional	1,548,826	228,665	40,000	-188,665	-82.5%
12 Grants, Subsidies, and Contributions	6,878,584	9,347,575	8,802,756	-544,819	-5.8%
13 Fixed Charges	1,528,900	1,541,574	1,765,204	223,630	14.5%
14 Land and Structures	3,171,572	495,000	3,926,000	3,431,000	693.1%
Total Objects	\$ 817,153,872	\$ 833,335,592	\$ 837,086,378	\$ 3,750,786	0.5%
Funds					
01 General Fund	\$ 757,112,471	\$ 769,304,510	\$ 774,560,126	\$ 5,255,616	0.7%
03 Special Fund	55,819,459	59,928,914	60,066,352	137,438	0.2%
05 Federal Fund	2,028,828	1,401,635	215,000	-1,186,635	-84.7%
09 Reimbursable Fund	2,193,114	2,700,533	2,244,900	-455,633	-16.9%
Total Funds	\$ 817,153,872	\$ 833,335,592	\$ 837,086,378	\$ 3,750,786	0.5%

Note: The fiscal 2020 appropriation does not include deficiencies, planned reversions, or general salary increases. The fiscal 2021 allowance does not include contingent reductions or general salary increases.

Appendix 6
Fiscal Summary
Department of Public Safety and Correctional Services – Corrections

<u>Program/Unit</u>	<u>FY 19 Actual</u>	<u>FY 20 Wrk Approp</u>	<u>FY 21 Allowance</u>	<u>Change</u>	<u>FY 20 - FY 21 % Change</u>
01 Maryland Correctional Enterprises	\$ 53,266,472	\$ 55,651,564	\$ 56,733,452	\$ 1,081,888	1.9%
01 General Administration	5,637,375	6,906,277	4,755,953	-2,150,324	-31.1%
01 Patuxent Institution	55,235,766	58,006,178	60,273,712	2,267,534	3.9%
01 Maryland Correctional Institution – Hagerstown	53,938,388	57,661,823	55,813,363	-1,848,460	-3.2%
02 Maryland Correctional Training Center	83,445,443	85,188,709	87,367,186	2,178,477	2.6%
03 Roxbury Correctional Institution	58,382,644	58,402,320	57,437,120	-965,200	-1.7%
04 Western Correctional Institution	63,295,396	65,388,442	64,823,623	-564,819	-0.9%
05 North Branch Correctional Institution	64,754,170	65,264,573	66,418,249	1,153,676	1.8%
01 Jessup Correctional Institution	87,108,362	90,035,944	96,031,384	5,995,440	6.7%
02 Maryland Correctional Institution Jessup	41,753,490	42,096,645	44,029,069	1,932,424	4.6%
03 Maryland Correctional Institution for Women	40,883,256	42,137,918	43,844,835	1,706,917	4.1%
04 Brockbridge Correctional Institution	23,235,329	21,640,050	11,669	-21,628,381	-99.9%
06 Southern Pre-Release Unit	5,758,179	6,366,386	6,444,267	77,881	1.2%
07 Eastern Pre-Release Unit	6,239,213	6,387,727	6,403,157	15,430	0.2%
08 Eastern Correctional Institution	121,253,151	117,266,024	123,763,847	6,497,823	5.5%
09 Dorsey Run Correctional Facility	35,961,538	36,898,876	43,756,230	6,857,354	18.6%
10 Central Maryland Correctional Facility	17,005,700	18,036,136	19,179,262	1,143,126	6.3%
Total Expenditures	\$ 817,153,872	\$ 833,335,592	\$ 837,086,378	\$ 3,750,786	0.5%
General Fund	\$ 757,112,471	\$ 769,304,510	\$ 774,560,126	\$ 5,255,616	0.7%
Special Fund	55,819,459	59,928,914	60,066,352	137,438	0.2%
Federal Fund	2,028,828	1,401,635	215,000	-1,186,635	-84.7%
Total Appropriations	\$ 814,960,758	\$ 830,635,059	\$ 834,841,478	\$ 4,206,419	0.5%
Reimbursable Fund	\$ 2,193,114	\$ 2,700,533	\$ 2,244,900	-\$ 455,633	-16.9%
Total Funds	\$ 817,153,872	\$ 833,335,592	\$ 837,086,378	\$ 3,750,786	0.5%

Note: The fiscal 2020 appropriation does not include deficiencies, planned reversions, or general salary increases. The fiscal 2021 allowance does not include contingent reductions or general salary increases.