Department of Public Safety and Correctional Services Fiscal 2022 Budget Overview

Department of Legislative Services
Office of Policy Analysis
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Department of Public Safety and Correctional Services

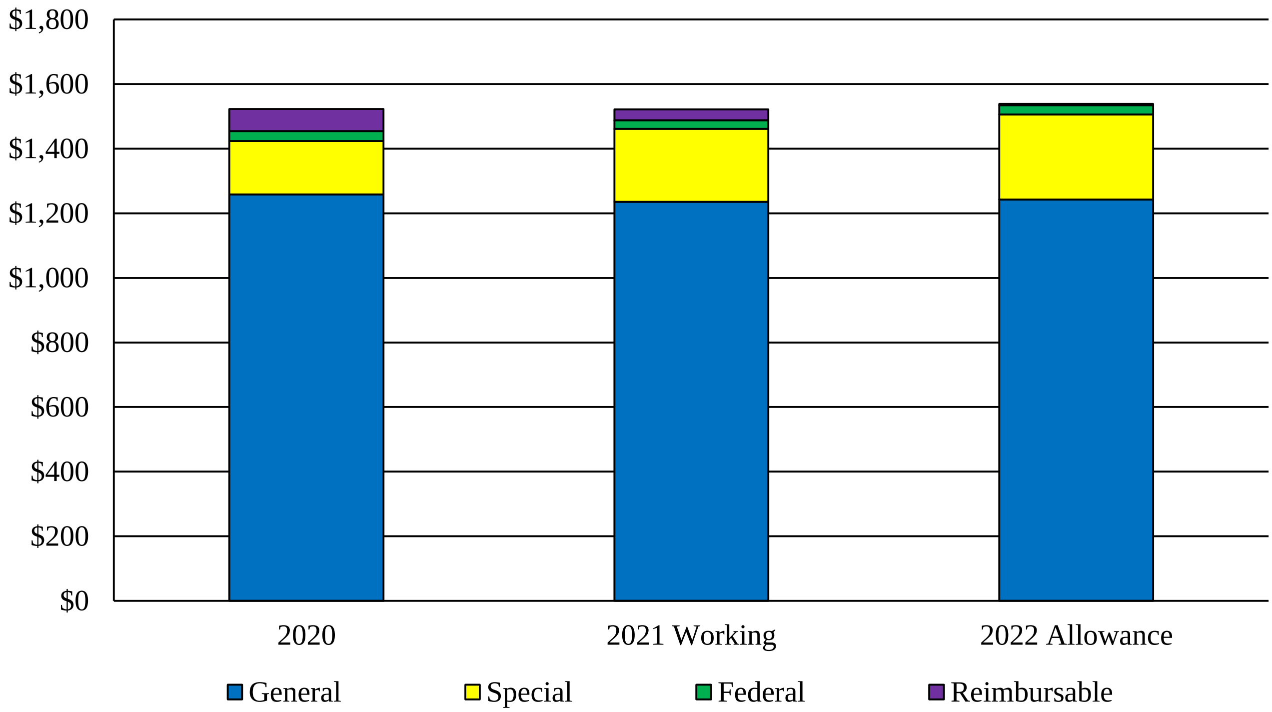
Fiscal 2022 Budget Overview

Executive Summary

The Department of Public Safety and Correctional Services (DPSCS) is a principal department of State government, responsible for operating 15 correctional facilities throughout the State and 4 detention facilities in Baltimore City whose combined fiscal 2020 average daily population (ADP) is approximately 20,420 offenders. In addition, the department supervises offenders on parole and probation. Currently, DPSCS has a budget allowance of over $1.5 billion and 9,251 authorized positions that account for approximately 6.2% of all general fund expenditures and 11.9% of the total State workforce.

Operating Budget Summary

Fiscal 2022 Budget Increases by $17.5 Million, or 1.2%, to $1.54 Billion
($ in Millions)



Note: Numbers may not sum due to rounding. The fiscal 2021 appropriation includes deficiencies, planned reversions, and general salary increases. The fiscal 2022 allowance includes contingent reductions and annualization of the fiscal 2021 general salary increases.

- ***Overtime Spending Decreases 13% from Fiscal 2021 Legislative Appropriation to $129 Million:*** Increased hiring and decreased separations for correctional officers (CO) results in less need for overtime.

- ***9-1-1 County Funds Are Up by $38 Million:*** County-level changes to fees assessed on telephone lines result in higher allowance levels than the record high spending in fiscal 2020 and 2021. These funds will support regular operations of county public safety answering points (9-1-1 call centers).

- ***DPSCS Receives $92 Million in COVID-19 Relief:*** General fund reductions of about $63.6 million in fiscal 2020 and $28 million in fiscal 2021 are offset by reimbursements from the Maryland Department of Health's distribution of federal Coronavirus Aid, Relief, and Economic Security Act funding. These reimbursable funds go toward pandemic-related pay incentives to COs, sanitization efforts, and medical care.

Key Observations

- ***Incarcerated Population Dropped 21% Over the 2011 to 2020 Decade:*** Total ADP of correctional and detention supervision declines 3.6% in fiscal 2020 for an overall drop of 21.3% since fiscal 2011. Criminal supervision caseloads also decline overall despite more pretrial supervision cases.

- ***Total DPSCS Employment Rebounds by 126 Filled Positions:*** Vacancies across most classifications trended down in calendar 2020.

- ***Justice Reinvestment Act (JRA) Savings Total $0.9 Million in Fiscal 2020:*** Cost avoidance due to fewer days served by JRA recipients was calculated to be approximately $921,152 in the third year of implementation, lower than the second year.

Operating Budget Analysis

Program Description

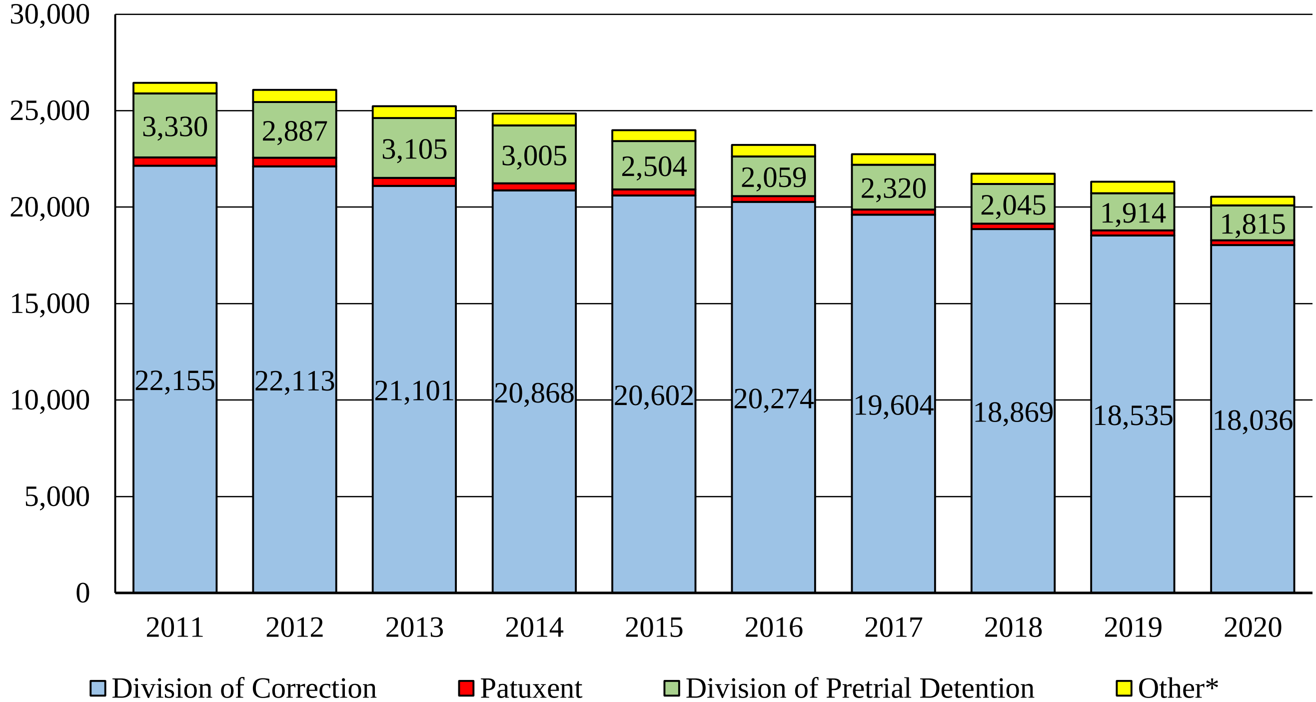
The Department of Public Safety and Correctional Services (DPSCS) helps keep Maryland communities safe and provides services to victims of crime. The department strives to ensure the safety, security, and well-being of defendants and offenders under its supervision and to provide criminal justice agencies with access to timely, accurate information about defendants and offenders.

Performance Analysis: Managing for Results

1. Court Closures Further Drive Down State Prison and Jail Populations

Exhibit 1 shows the average daily population (ADP) of prisoners and detainees in DPSCS custody since fiscal 2011. Overall, the number of individuals who are incarcerated under State jurisdiction continues to decrease, largely reflecting pre-COVID national trends of lower crime and incarceration rates. The ADP of detainees in Baltimore City, offenders in State prisons, and others, including federal prisoners at the Chesapeake Detention Facility (CDF), declined by 5,902 offenders, or 21.3%, between fiscal 2011 and 2020. In fiscal 2021, the population has declined an additional 2,449 offenders as of December 2020. The effects of COVID-19 on DPSCS populations, budget, and operations is discussed further in the Issues section of this analysis.

Exhibit 1
Incarcerated Offenders – Average Daily Population
Fiscal 2011-2020



* Other includes federal prisoners held at the Chesapeake Detention Facility and offenders in local jails awaiting transfer to the Department of Public Safety and Correctional Services.

Source: Managing for Results, Department of Public Safety and Correctional Services

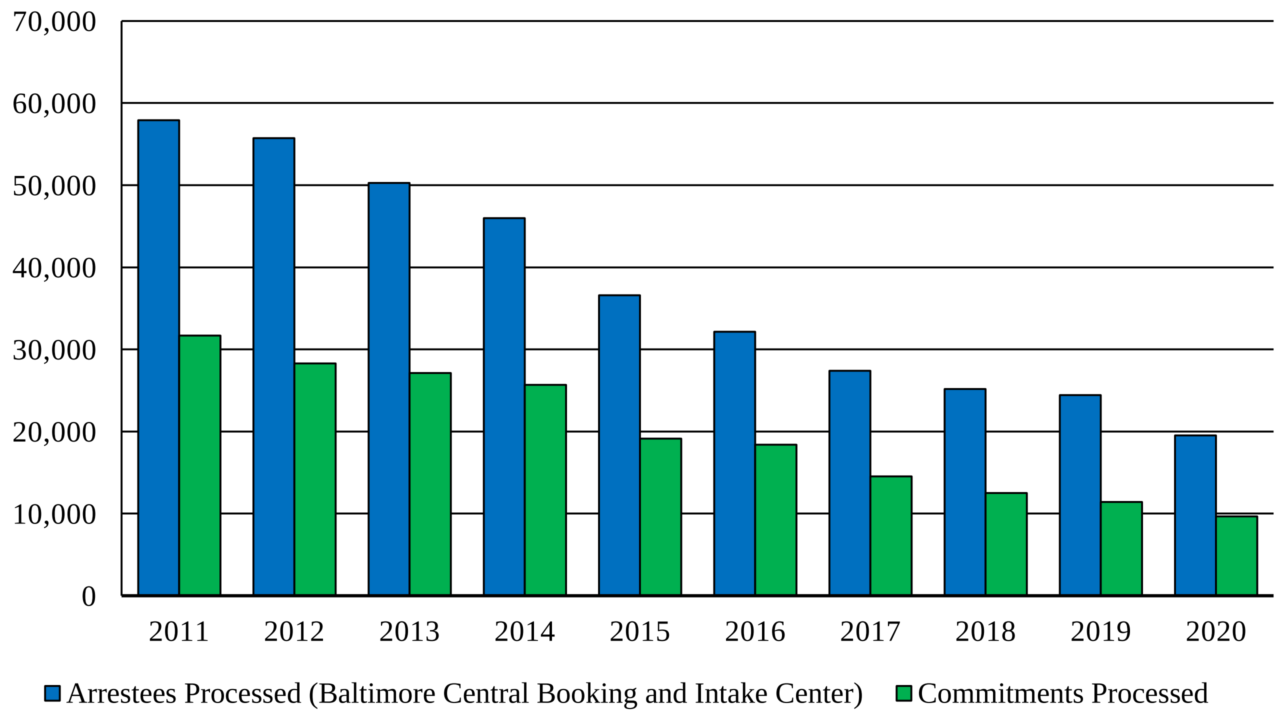
Inmate Population Statistics, Fiscal 2020:

- 18,281 State prisoners were sentenced and incarcerated;
- 2,140 offenders were held in pretrial detention (1,815 local and 325 federal);
- the Eastern Correctional Institution held the largest percentage of sentenced offenders (17.8%); and
- the Baltimore Central Booking and Intake Center (BCBIC) held the largest percentage of detainees (34.6%).

2. Baltimore City Arrests Declined by Nearly 5,000 in Fiscal 2020

Exhibit 2 shows arrestees processed and the number of arrestees committed to pretrial detention in Baltimore City from fiscal 2011 to 2020. Both measures indicate a reduction in the arriving criminal population, driven by reduced crime rates during COVID-19 and increased diversion of arrestees to pretrial supervision rather than detention. However, court closures dramatically delayed the processing of most pretrial cases. For this reason, the ADP of detention facilities has not declined as substantially as the incarcerated population.

Exhibit 2
Arrestees and Commitments to Pretrial Detention in Baltimore City
Fiscal 2011-2020



Source: Managing for Results, Department of Public Safety and Correctional Services

- ***Baltimore City Arrests Decline 65% Since 2011:*** About 58,000 arrestees were processed in fiscal 2011. In fiscal 2020, just over 19,529 were processed, a 20.1% decrease from fiscal 2019 levels.

- ***Baltimore City Arrestees Committed to Detention Decrease 66% Since 2011:*** Approximately 31,700 arrestees were admitted to pretrial detention in fiscal 2011; in fiscal 2020, it was 9,682, a 15% decline from fiscal 2019 levels.

3. Community Supervision Cases Decline by 4,360

The department's community supervision programs saw cases decline again in fiscal 2020. **Exhibit 3** depicts the total number of cases under community supervision that includes parole, probation, probation before judgment, pretrial supervision, and mandatory supervision cases.

Exhibit 3
Parole and Probation Total Supervised Cases
Fiscal 2015-2020

	Probation	Parole	Mandatory	Pretrial	DDMP
2015	99,648	9,311	7,848	3,952	27,614
2016	96,674	8,651	7,574	3,655	27,300
2017	90,487	8,082	7,025	3,879	26,394
2018	83,419	7,639	6,442	4,317	21,442
2019	81,430	7,173	6,564	4,313	21,825
2020	77,900	6,738	6,764	4,385	21,158

DDMP: Drinking Driver Monitor Program
Mandatory: Mandatory Supervision
Pretrial: Pretrial Supervision Program

Source: Department of Public Safety and Correctional Services

- ***Criminal Supervision Cases Decrease 22% Since Fiscal 2015:*** About 116,807 cases were under criminal supervision (probation, parole, and mandatory supervision) in fiscal 2015. In fiscal 2020, there were 91,402 cases under criminal supervision, a 4% decline from fiscal 2019 levels.

- ***Drinking Driver Monitor Program (DDMP) Cases Decrease by 23% Since Fiscal 2015:*** The Division of Parole and Probation (DPP) monitors managed 27,614 DDMP cases in fiscal 2015. In fiscal 2020, DPP monitors managed 21,158 DDMP cases, a 3% decline from fiscal 2019 levels.

Fiscal 2020

Actual general fund spending in fiscal 2020 increased by a net $19 million from the legislative appropriation, primarily due to statewide salary increases. Special funds also increased by a net $28 million in order to appropriate and spend the extra revenues now collected for the increased State and local 9-1-1 fee. Additionally, reimbursable funds increased by a net $62.9 million over the legislative appropriation to reflect federal Coronavirus Relief Fund (CRF) reimbursements distributed through the Maryland Department of Health (MDH) for the COVID-19 response beginning in March 2020.

Fiscal 2021

Cost Containment

Board of Public Works (BPW) actions at the July 1, 2020 meeting removed a total of $8.8 million from the fiscal 2021 appropriation. General funds for critical maintenance and contractual spending at the Maryland Correctional Institution for Women (MCI-W) budget were deleted, totaling $1.5 million. Critical maintenance funding of $1 million at the Baltimore City Correctional Center was also deleted. Funds for information technology (IT) equipment were reduced by $1.7 million, legal services were reduced by $0.6 million, and $1.3 million for an expansion to the Community Adult Rehabilitation Center was deleted. Funding for contractual employees was reduced by $1.0 million, and payments to unemployment insurance were reduced by $1.4 million.

Proposed Deficiencies

There are several deficiency appropriations for fiscal 2021 that increase the department's general fund appropriation by a net $13 million. Several contracts related to the department's COVID-19 response were approved, totaling $6.7 million. These include housekeeping, isolation fencing and partitions, dietary supplies, and power generators for medical tents servicing the facilities. An additional $2.5 million was provided for terminating leases early, which allows for additional cost savings during a time when most nonfacility staff for DPSCS work remotely. DPSCS also receives $1.8 million for employee bonuses and $1.5 million for emergency repairs to housing unit doors. The final deficiency appropriation provides $530,000 to fund legal settlements related to Americans with Disabilities Act (ADA) compliance. This complements the $974,000 deficiency made in fiscal 2020 to fund an ADA compliance study across the department.

Federal Stimulus Fund Swap

DPSCS receives $28.7 million in additional fiscal 2021 reimbursable funds in support of quarantine and response pay to keep employees in critical positions. These reimbursements, processed through MDH, reflect the replacement of federal Coronavirus Aid, Relief, and Economic Security (CARES) Act funding with general funds on a 1:1 basis.

Assumed Reversion

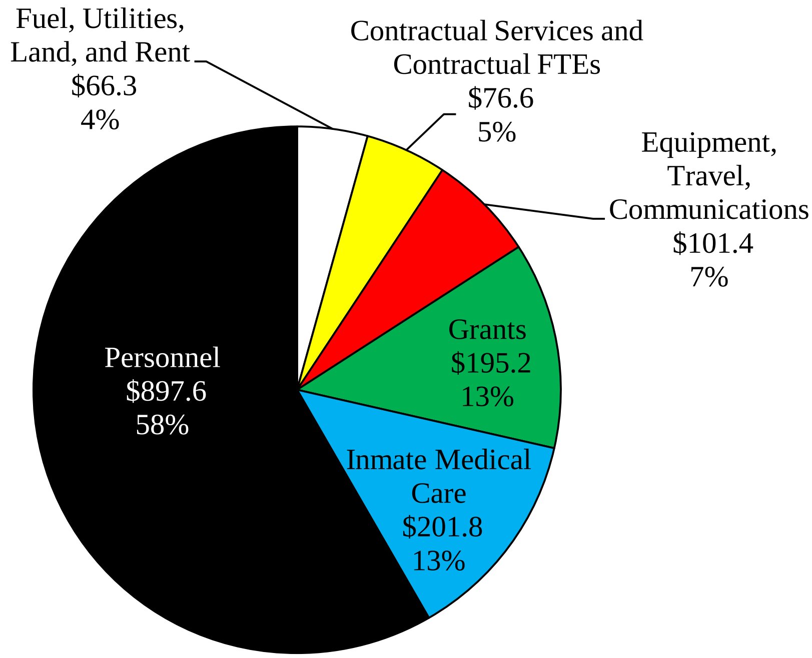
The Governor's fiscal 2021 budget balancing plan assumes a $1.5 million reversion in general funds that were restricted at MCI-W contingent on DPSCS developing a women's prerelease program independent of opportunities for men.

Fiscal 2022

Overview of Agency Spending

The DPSCS allowance for fiscal 2022 is approximately $1.54 billion. The allowance is primarily used to pay personnel costs ($897.7 million), mainly for salaries and wages. Of this amount, 14.4%, or $129.6 million, goes toward overtime costs related to the department's large number of vacancies. The remaining areas of major spending are inmate medical care ($201.8 million), supplies and materials ($83.2 million), contractual services (about $68 million mainly related to key security and IT programs), and funds for grants/contributions ($195 million in mostly special funds) that include 9-1-1-related grants, inmate welfare funds, and payments to local jails for housing State prisoners. **Exhibit 4** displays the fiscal 2022 allowance categorized by major spending areas.

Exhibit 4
Overview of Agency Spending by Purpose
Fiscal 2022 Allowance
($ in Millions)



FTE: full-time-equivalent

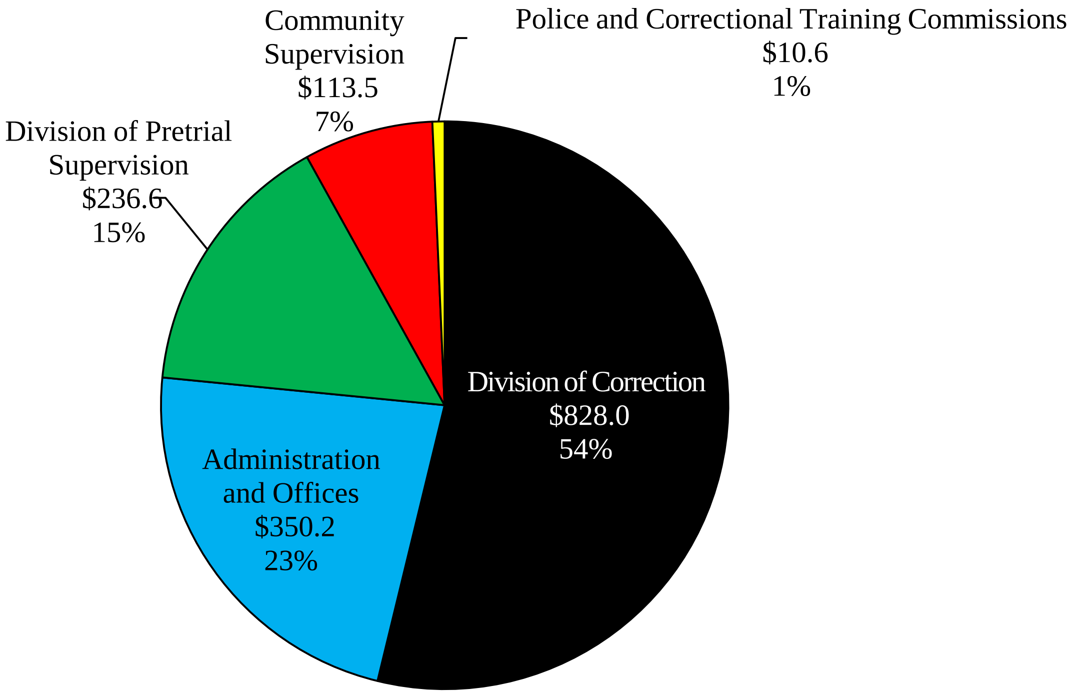
Note: The fiscal 2022 allowance is adjusted for statewide salary increases, planned reversions, and employee bonuses.

Source: Governor's Proposed Budget

Spending by Departmental Function

Exhibit 5 allocates the fiscal 2022 budget between the primary functional units of DPSCS.

Exhibit 5
Overview of Agency Spending by Function
Fiscal 2022 Allowance
($ in Millions)



Note: The fiscal 2022 allowance is adjusted for the annualization of the fiscal 2021 general salary increase.

Source: Governor's Proposed Budget; Department of Legislative Services

Corrections includes the Division of Correction (DOC); the Patuxent Institution; and Maryland Correctional Enterprises (MCE), the prison industry arm of the division. Corrections, which is responsible for the physical confinement and control of inmates incarcerated by Maryland's judicial system, operates 14 State prisons. The DOC fiscal 2022 allowance is approximately $828 million, or 54%, of the total DPSCS allowance.

Administration and Offices make up the second largest functional area, consisting of several oversight units and independent agencies. Capital and Facilities Management, General Administration, the Intelligence and Investigative Division, and the IT and Communications

Division are included within DPSCS headquarters as well as the consolidated Administrative Services Program consisting of Human Resources, Procurement, Fiscal, Budget, Regulation and Policy Coordination, and Grants/Statistical Analysis. The Emergency Number Systems Board (ENSB), the Inmate Grievance Office (IGO), and the Maryland Commission on Correctional Standards (MCCS) are independent agencies included in the discussion of the Administration budget. ENSB develops policy and provides financial support to the State's 9-1-1 emergency system, IGO has jurisdiction over all inmate grievances against DPSCS, and MCCS develops and audits compliance with standards for all correctional and detention facilities in the State. The Administration and Offices fiscal 2022 allowance is about $350 million, or 23%, of the total DPSCS allowance.

The Division of Pretrial Detention (DPD) is the third largest functional area and is responsible for all offenders arrested in Baltimore City as well as those held on warrants from Baltimore City. Federal prisoners held at CDF are also under DPD's purview. Facilities include CDF, BCBIC, the Youth Detention Center, and the Metropolitan Transition Center. The DPD fiscal 2022 allowance is approximately $236.6 million, or 15%, of the total DPSCS allowance.

Community Supervision has four main units – the Maryland Parole Commission (MPC), the Central Home Detention Unit, the Warrant Apprehension Unit, and the regional office units that conduct criminal supervision of offenders on parole or probation or who are assigned to DDMP. The Community Supervision fiscal 2022 allowance is $113.5 million, or 7%, of the total DPSCS allowance.

The Police and Correctional Training Commissions (PCTC) develop the training standards for all law enforcement and correctional officers (CO) in the State and are the smallest function within DPSCS. PCTC's fiscal 2022 allowance is $10.6 million, or less than 1%, of the total DPSCS allowance.

Spending by Fund Source

- ***General Funds ($1,242.7 Million):*** Increase by $7.4 million over the fiscal 2021 working appropriation primarily due to the net effect of reduced overtime, cost-of-living adjustments, and employee bonuses. General funds would have decreased by a net $21.3 million if not for the reimbursable fund swap identified below.

- ***Special Funds ($263.7 Million):*** Increase by $37.4 million over the fiscal 2021 working appropriation. Changes in special funds are almost entirely due to increases in 9-1-1 fee revenues collected by the State and passed through to the counties.

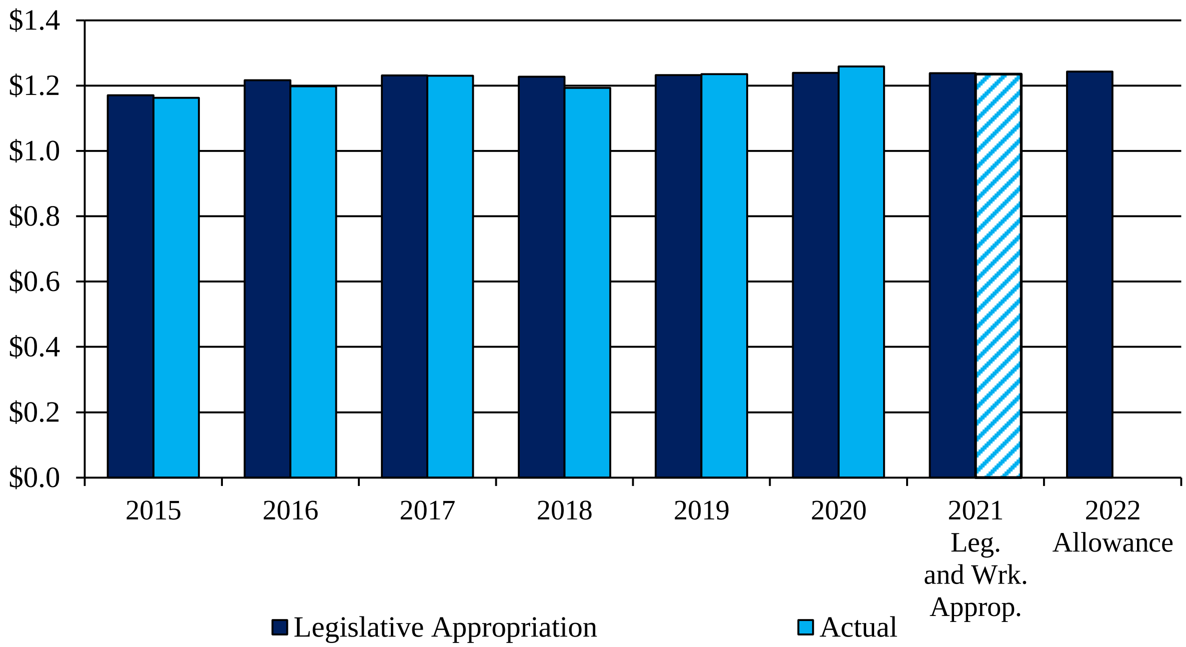
- ***Federal Funds ($28.0 Million):*** Increase by $1.3 million from the fiscal 2021 working appropriation.

- ***Reimbursable Funds ($4.6 Million):*** Decrease by $28.6 million due to the end of federal COVID-19 relief funds reimbursed through MDH. Those funds currently support incentives to keep employees in critical positions during the pandemic.

Fiscal 2021 Federal Stimulus Hides True Decline in General Fund Expenses

Exhibit 6 shows DPSCS general fund actual spending compared to the respective legislative appropriation since fiscal 2015. Actual spending was lower than the appropriation from fiscal 2015 to 2018 due to increasing vacancy rates, inmate population declines, and cost containment measures taken by the State. Earlier, from fiscal 2012 to 2014, departmental spending exceeded the legislative appropriation by an average of $13 million. Fiscal 2020 general fund actual spending exceeded the legislative appropriation, while the fiscal 2021 general fund working appropriation is anticipated to meet the level approved in the 2020 session.

Exhibit 6
Actual versus Appropriated Spending – General Funds
Fiscal 2015-2021
($ in Billions)



Source: Department of Public Safety and Correctional Services; Department of Legislative Services

It is important to note that the fund swap between reimbursable and general funds in fiscal 2020 and 2021 cause Exhibit 6 to underrepresent the expenses typically covered by DPSCS general funds. The fiscal 2022 general fund allowance appears to increase by $7.4 million over the fiscal 2021 working appropriation, but without federal stimulus money reimbursed through MDH, general funds would actually decrease by $21.3 million from the working appropriation to the allowance. Due to the end of coronavirus relief funding in fiscal 2022, COVID expenses moving forward will likely require general fund support.

Proposed Budget Change

Accounting for all adjustments, overall funding grows by $17.5 million, or 1.2%, compared to the fiscal 2021 working appropriation. The vast majority of the allowance is in general funds (80.7%).

While the overall budget does not change much in fiscal 2022, when special fund increases related to increases in 9-1-1 revenues are removed, the allowance decreases by $20.5 million, or a 1.3% reduction. **Exhibit 7** provides detail on the department's fiscal 2022 allowance increase of $17.5 million and the changes to particular programs and spending initiatives.

Exhibit 7
Proposed Budget
Department of Public Safety and Correctional Services
($ in Millions)

How Much It Grows:	General Fund	Special Fund	Federal Fund	Reimb. Fund	Total
Fiscal 2021 Working Appropriation	$1,235.3	$226.4	$26.7	$33.2	$1,521.5
Fiscal 2022 Allowance	1,242.7	263.7	28.0	4.6	1,539.0
Fiscal 2021-2022 Amount Change	$7.4	$37.4	$1.3	-$28.6	$17.5
Fiscal 2021-2022 Percent Change	0.6%	16.5%	4.9%	-86.3%	1.2%

Where It Goes:	Change
Personnel Expenses	
Health insurance premiums	$13,016
Net annualization of fiscal 2021 2% COLA	6,779
Retention Longevity Pay Incentive bonuses for correctional officers	6,090
Unemployment insurance	1,439
Fiscal 2022 annual salary review	657
Fiscal 2022 SLEOLA 4% COLA and increments	479
Shift differential pay and accrued leave payout	-149
Social Security and retirement contributions	-1,069
Regular earnings	-2,050
Abolished positions	-2,067
Workers' compensation premiums	-4,702
Overtime earnings	-12,440
Turnover expectancy	-12,784

Where It Goes:	**Change**
Correctional and Detention Facility Operations	
Facility operations and maintenance	23
Planned reversion of fiscal 2021 funds fenced-off to create a women's prerelease program	1,500
Dietary services	587
Investigation	2
Custodial care	2
Classification, education, and religious services	-17
Security operations	-34
Canine contraband detection unit	-71
Substance abuse treatment in facilities	-75
Facility general administration	-164
Central Transportation Unit	-358
SMPRU and EPRU facility closures (nonpersonnel costs)	-2,002
Clinical and medical services	-2,306
One-time Fiscal 2021 Deficiencies	
Legal settlements related to ADA compliance	-530
Vinyl partitions for social distancing in dormitory-style housing units	-650
Isolation fences in various facility recreation yards	-1,164
Emergency power generators purchased to support departmental COVID-19 response	-1,220
Deep cleaning of DPP offices to prevent COVID-19	-1,260
Emergency repairs to door control locks at various facilities	-1,466
Community Supervision Operations	
Central Home Detention Unit	2,541
Pretrial Release Services Program	-8
Drug testing of supervisees in the community	-58
DPP and MPC general administration	-297
Criminal supervision unit	-1,660
Administrative Units and Other Expenses	
9-1-1 Local fee passthrough	38,011
Office of the Secretary – DPSCS headquarters	535
ENSB operations	118
Warrant apprehension	-46
Division of Capital Construction and Facilities Maintenance operations	-63
IGO and MCCS general administration	-110
Maryland Correctional Enterprises operations	-270
PCTC general administration	-653
ITCD operations	-842
Office of the Deputy Secretary	-860
End of MCE Enterprise Resource Planning Implementation Project funding	-1,200

Where It Goes:	**Change**
Administrative Services Program	-1,670
Total	**$17,464**

ADA: Americans with Disabilities Act
COLA: cost-of-living adjustment
DPSCS: Department of Public Safety and Correctional Services
DPP: Division of Parole and Probation
ENSB: Emergency Number Systems Board
EPRU: Eastern Pre-Release Unit
IGO: Inmate Grievance Office
ITCD: Information Technology and Communications Division
MCCS: Maryland Commission on Correctional Standards
MCE: Maryland Correctional Enterprises
MPC: Maryland Parole Commission
PCTC: Police and Correctional Training Commissions
SLEOLA: State Law Enforcement Officers Labor Alliance
SMPRU: Southern Maryland Pre-Release Unit

Note: Numbers may not sum due to rounding. The fiscal 2021 appropriation includes deficiencies, planned reversions, and general salary increases. The fiscal 2022 allowance includes contingent reductions and annualized costs of the fiscal 2021 general salary increases.

Custody Expenses Decline for Most Units

Exhibit 7 shows a largely programmatic breakdown of budgetary changes in the fiscal 2022 allowance compared to the adjusted fiscal 2021 working appropriation. The largest change is in the ENSB budget, which increases another $38 million due to special funds collected through the local 9-1-1 fee. General administrative costs (nonpersonnel) for DPSCS headquarters, independent agencies, and functional divisions increase by $3 million. IT spending decreases by a net $2 million due to the MCE Major IT Development Project reaching the end of the funding phase. Nonpersonnel spending associated with the community supervision function increases by about $518,000, reflecting lower office costs for DPP and reduced funding for community rehabilitation centers despite a large increase in the Central Home Detention Unit budget.

Dietary services increased on net after including a fiscal 2021 deficiency for additional food expenses. Other deficiencies added general funds to support COVID-19 initiatives as well as employee bonuses, a budget for ADA settlements, and an agreement for Maryland Environmental Service to operate a boiler plate at Central Maryland Correctional Facility.

Facility Closures

The Southern Maryland Pre-release Unit (SMPRU) in Charlotte Hall and the Eastern Pre-Release Unit (EPRU) in Church Hill are scheduled for depopulation and closure at the outset of fiscal 2022. The facilities have a combined ADP of 164 offenders and a combined allowance of 87 positions, 76 of which are filled as of January 1, 2021. Nonpersonnel expenses saved through these closures is $2 million. A related provision in the Budget Reconciliation and Financing Act of 2021 (HB 589) directs DPSCS to transfer employees from SMPRU and EPRU to existing vacancies in other DPSCS facilities without loss of status, compensation, or benefits.

Personnel Expenses Decline by $6.8 Million

Health insurance costs were down in fiscal 2021 but increase by $13 million in fiscal 2022. Compensation enhancements from an annualized fiscal 2021 2% salary increase, a 4% State Law Enforcement Officers Labor Alliance salary increase, and the annual salary review (ASR) added $7.9 million to the budget compared to the working appropriation. Disbursements for the Retention Longevity Pay Incentive (RLPI) increase by $6.1 million, reflecting the second year of payments to the first cohort of COs receiving this bonus. RLPI benefits provide up to $37,500 to retirement-eligible COs to stay on with the department for four additional years.

Regular earnings decrease by $2 million from the working appropriation to the fiscal 2022 allowance, and overtime decreases by $12.4 million. This reflects improvements in hiring to reduce overtime costs as well as a return to normal operations after the staffing-intensive requirements of COVID-19, which were supported by $28.7 million in CRF aid replacing general funds. Abolished vacancies in SMPRU and EPRU generate about $2 million in savings. Despite lower vacancies across the department, budgeted turnover expectancy grows to 15.0%, reflecting the actual vacancy rate more closely than in the working appropriation and removing $12.8 million from the allowance.

Personnel Data

	FY 20 Actual	FY 21 Working	FY 22 Allowance	FY 21-22 Change
Regular Positions	10,139.40	9,613.40	9,601.40	-12.00
Contractual FTEs	180.23	362.62	287.88	-74.74
Vacancy Data: Regular Positions				
Turnover and Necessary Vacancies		1,442.64	15.03%	
Positions and Percentage Vacant as of 12/31/20		1,525.50	15.87%	
Vacancies Above Turnover		82.86		

- The fiscal 2022 allowance abolishes 12 vacancies at the prerelease units scheduled for closure, and contingent language requires DPSCS to identify and abolish 350 other vacant positions. Funding for the 12 positions is already removed from the fiscal 2022 allowance. The overall amount of personnel funding for the additional 350 positions will not be reduced but will be rerouted into reducing turnover expectancy. Currently, 84 positions are vacant beyond what is needed to meet budgeted turnover. However, removing the 12 abolishments in fiscal 2022 means that, at current staffing levels, the allowance overprovides for 71 positions. Using the departmental average, 71 positions corresponds to about $5 million available for adding filled positions.

- Abolishing 350 regular positions will reduce overall positions to 9,251.4, a 3.6% decrease from fiscal 2021. This adjustment will also bring the number of currently vacant positions to 1,165, or 12.6%.

Issues

1. Overview of Departmentwide COVID-19 Response

A State of Emergency and Catastrophic Health Emergency were declared on March 5, 2020, and a "Stay at Home Executive Order" was declared on March 30, 2020, in relation to the COVID-19 pandemic. State correctional facilities were closed to the public beginning on March 12, 2020, while parole and probation offices were closed on March 31. In this first stage of pandemic response, establishing security and safety at facilities was paramount to DPSCS leadership. Personal protective equipment (PPE) was distributed along with policies around proper PPE usage and penalties for violations.

The department restricted movement throughout facilities so that social distancing of inmates and staff was possible. This included grab-and-go lunches, extra recreation time (no contact sports), closure of several MCE shops, and cessation of in-person volunteer services and programming. Even disciplinary and administrative segregation policies were modified due to the need to prevent transmission risk. DPSCS has identified 1,350 quarantine and 813 isolation cells across the State prison system, though these levels fluctuate depending on the inmate population and operational needs. Along with quarantine space, temporary medical tents were raised at several facilities to accommodate a possible surge of the virus.

Budgetary Impact

Fiscal 2020 spending increased due to this crisis. Federal assistance was passed through MDH for eligible expenses incurred by DPSCS in responding to the pandemic. About $27.7 million supported employee payment incentives necessary to maintain an adequate workforce at facilities, which hold the infection risk of congregate residents. Premium pay began in March and offered overtime payments at twice the normal rate. These were replaced by response and quarantine payments, which targeted eligible classifications with an additional $3.38 per hour for all facility employees and an extra $2 per hour for those working in quarantine housing units. Response pay was ceased on September 8, 2020, while quarantine pay incentives remain in place. Medical care and housekeeping COVID-19 reimbursements totaled $11.3 million and $22.7 million in fiscal 2020, reflecting the need for more intensive medical care and expensive sanitization procedures across the 19-facility, 18,000-inmate department.

Fiscal 2021 spending also increased due to this crisis, though reimbursements are much less due to the upfront costs of responding in fiscal 2020. About $28.7 million in personnel funding is eligible for CARES funding reimbursed through MDH, supporting employee incentives and overtime costs. General fund deficiency payments also support about $6.7 million in fiscal 2021 COVID-19 costs.

Medical Contract

In response to the looming pandemic and the declaration of health care workers and correctional staff as essential workers, DPSCS negotiated an emergency 33% increase to monthly payment levels early in March. In the emergency contract provisions, DPSCS rescinded the right to assess liquidated damages against the vendor, despite there being grounds to do so due to lower than required staffing levels. Additionally, this was a flat-rate increase that did not require auditing of eligible expenses. These payments lasted until June 30, 2020. The amount paid to Corizon Health under this emergency contract modification totaled $11.3 million. These decisions were made by the department under difficult circumstances to protect its staff and inmates, but BPW unanimously rejected the emergency flat-rate increase in favor of an auditable reimbursement model. DPSCS will likely require about $12 million in additional fiscal 2021 funding to cover the medical costs rejected for funding by BPW. These are qualifying expenses for federal aid.

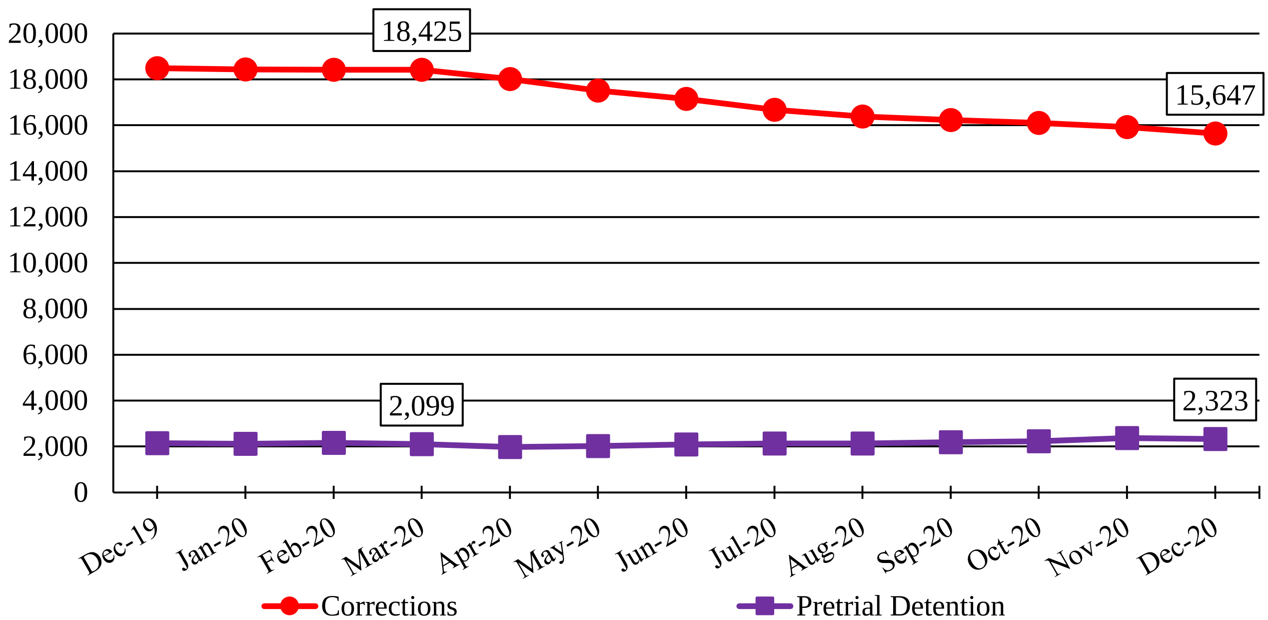
Population Decrease

Governor Lawrence J. Hogan, Jr. issued an executive order on April 19, 2020, that called for MPC and the Commissioner of Correction to work with the Judiciary to identify and expedite the release of individuals who were within 120 days of release when the state of emergency was declared. Most states and localities also took this de-incarceration approach. Inmates were screened for early mandatory supervision, early home detention, and expedited parole. DPSCS reports that 140 correctional and 48 parole cases were released through early release efforts. However, a much larger number of individuals were released under other flexible options afforded in statute, including pretrial supervision and home detention.

From March 1, 2020, to December 30, 2020, DPSCS reports that 15,487 individuals were released from the department, with 4,697 released either on bond or on supervision, 5,437 released on pretrial supervision, 4,398 released post-conviction to parole or unsupervised release, and 955 released to home detention. Placements on home detention increased 155%, and placements on pretrial supervision increased 160% compared to 2019 rates.

DPSCS has consistently released individuals at an elevated rate since the early stages of the pandemic, as shown by the population decline in **Exhibit 8**. So far in fiscal 2021, DPSCS has a total bed capacity of over 23,000 and a total ADP of about 17,971, demonstrating a level of success in reducing congregate populations to allow for more effective social distancing and quarantine procedures.

Exhibit 8
Population Decline during COVID-19
December 2019 to December 2020



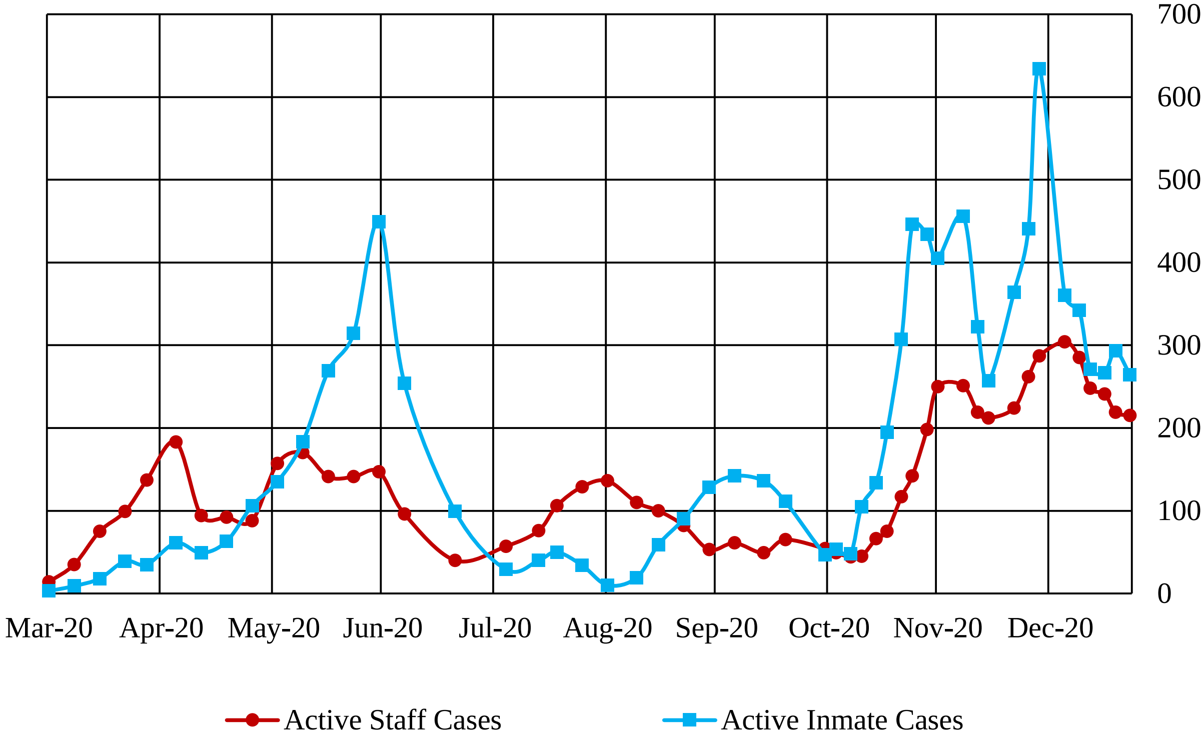
Source: Department of Public Safety and Correctional Services

COVID-19 Testing and Cases

Prior to May 20, 2020, DPSCS conducted tests of symptomatic individuals according to existing U.S. Centers for Disease Control and Prevention (CDC) and MDH guidance. Beginning on May 20, DPSCS began the process of systematically testing each correctional employee and inmate. As of January 22, 2021, 4 staff and 20 inmates have passed away due to the disease. At least 1,929 staff have contracted the virus, and 1,714 recovered, leaving 215 estimated active cases among staff. At least 3,780 inmates have contracted the virus, and 3,516 have recovered, leaving 244 estimated active cases among inmates.

Exhibit 9 shows all DPSCS active cases since March 30, 2020. DPSCS completed testing every inmate and employee in July and continues to regularly test them. The peak at the end of June is related to the large number of asymptomatic individuals who would not otherwise have been tested prior to the universal screening. Cases rose dramatically in the fall when summertime activities ended and the State struggled to lower the positivity rate. While there are more total inmate cases than staff cases, the rate of positives is higher among staff than the inmate population.

Exhibit 9
Positive COVID-19 Cases Less Recovered Cases
March 2020 to December 2020



Source: Department of Public Safety and Correctional Services

These tests are funded through federal assistance and administered through the medical services provider. Inmates who refuse testing are isolated in designated cells to lower the risk of asymptomatic transmission to others. Individuals who display symptoms of COVID-19 are brought to the infirmary with a mask for evaluation and quarantined (if space is available) in reverse-pressure rooms meant to prevent spread of airborne pathogens. They are sent to hospitals when transportation is available for testing and treatment, though not all are hospitalized. The department initiates contact tracing for every inmate or employee testing positive for the virus and investigates those who may have been exposed. The department provides emergency sick leave for COVID-19-positive employees and follows CDC guidelines for returning recovered staff to work and inmates to general population.

Community Supervision

Parole, probation, mandatory release, and pretrial release for supervision changed greatly due the pandemic. New releases are screened for COVID-19 and remain in departmental custody if red flags are raised. Continuity of care and home plans now include directions for self-quarantine and instructions to wear and keep masks in accordance to health guidelines and State and local policies. All community supervision activities transitioned to remote when parole and probation offices closed. This included ceasing drug testing and in-person intake or routine visits. Visits for-cause are still allowed with supervisory approval. On June 17, 2020, community supervision agents began making home visits again but with strict protocols and mandatory PPE. Currently, drug testing occurs at the normal rate, and supervision fees are being collected. DPP is not, however, issuing violations to supervisees who are behind on payments.

Future Steps

DPSCS leadership has expressed success in transitioning to socially distanced work. Particularly of note is the unprecedented monthly virtual meetings with other leaders and stakeholders in Maryland's criminal justice system. These meetings reportedly allowed for necessary collaboration between courts, local detention agencies, State correctional agencies, and community supervision agencies. The department's use of virtual visitation has proven to be effective in providing family contact without risking viral contamination or the exchange of contraband. Virtual court appearances are also effective cost- and time-saving measures that could continue after the pandemic with the right collaboration between courts and DPSCS. Finally, remote work allowed greater flexibility and cost savings for administrative personnel, making remote work a more viable option for drawing in high-quality candidates.

DPSCS should provide information on necessary spending, inmate population reduction strategies, and one-time or recurring changes to normal operating procedure related to the COVID-19 pandemic.

Vaccination efforts are the next step in the State coronavirus response. According to vaccine summary reports provided by MDH, as of February 1st, 2021, DPSCS has been allocated and delivered 13,650 combined doses of the coronavirus vaccine The first tier of vaccinations includes correctional facility staff and medical workers. These total about 7,700 facility staff who are eligible to receive a vaccine provided by the State. Inmates older than 75 (about 90 individuals) are also eligible in the second level of the first tier. The first vaccinations for staff were held on January 6, 2020. A total of 3,250 first doses and 188 second doses have been administered for a total administration rate of 25.2%.

Given the importance of returning to normal operations, DPSCS should comment on their vaccination efforts and provide a timeline for reaching full administration of their allocation.

2. Vacancy and Hiring Analysis

From January 2015 to January 2020, DPSCS lost 2,437 filled positions, including 1,869 COs. DPSCS has struggled since calendar 2015 to maintain adequate staffing levels across all employee categories, especially for COs. Despite several years of general and targeted hiring campaigns, DPSCS employment was at an all-time low during the 2020 legislative session. Using vacancy data provided by the Department of Budget and Management (DBM), DPSCS employed 4,883 COs, 101 community supervision agents, and 2,253 administrative positions at the outset of calendar 2020.

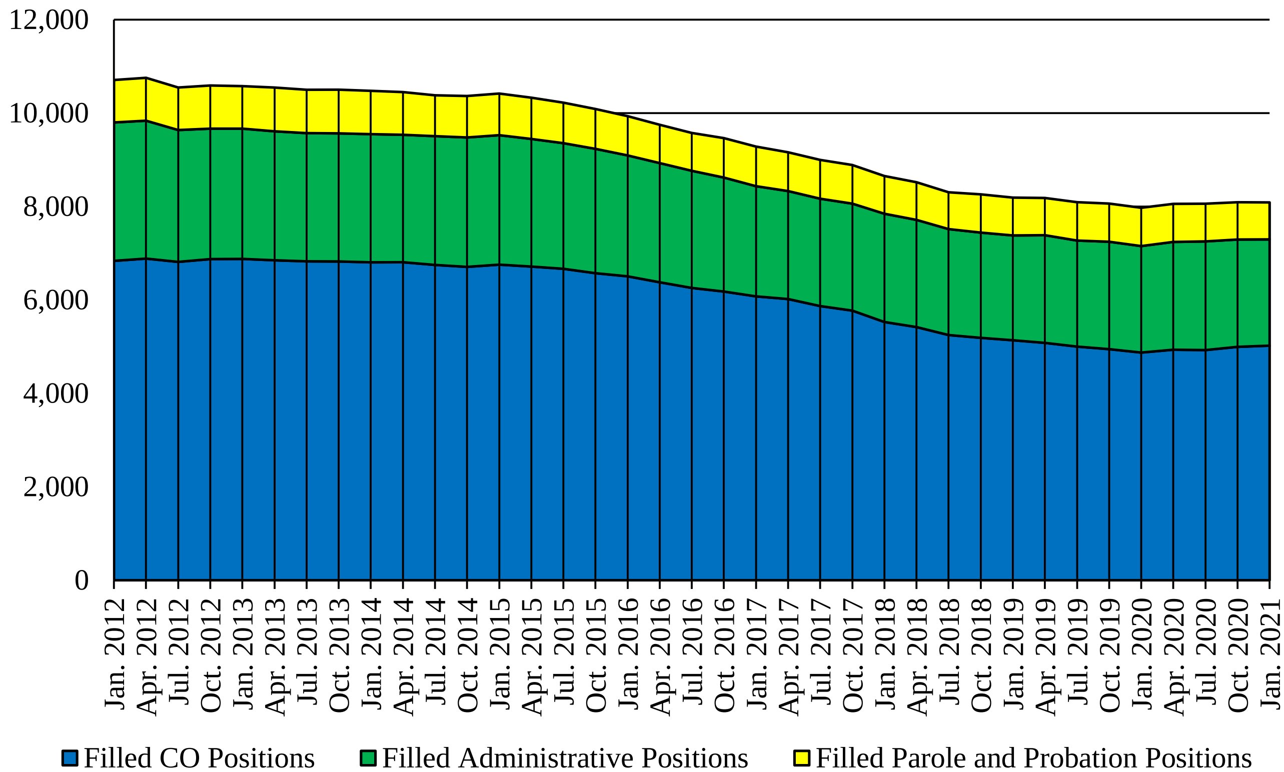
From January 2020 to January 2021, however, DPSCS successfully posted an overall gain of 127.5 positions due to the gain of 139 COs and 21.5 administrative positions. However, there were 33 fewer filled positions for community supervision agents. Overall, this is the first period of sustained total employment gains for DPSCS since the Great Recession.

A number of targeted and broad budgetary initiatives contributed to increased hiring. These include general salary increases, new-hire and referral bonus programs, and ASR grade increases for hard-to-fill administrative positions. In calendar 2019, DPSCS also revamped the hiring process for COs, creating a one-day hiring model and a streamlined assessment process. Much of the successes in 2020 are attributable to these efforts in 2019. In addition to these hiring initiatives, several retention initiatives also took effect in calendar 2020, including noncompetitive promotions for new COs and the RLPI. RLPI provides bonuses up to $37,500 for COs who agree to work four additional years despite being retirement eligible. In December, DPSCS reported that 1,480 employees received RLPI payments since January 2020 totaling $7.23 million. A new hire bonus is also in effect and has resulted in total payments of $1.25 million to 500 employees. Referral bonuses resulted in total payments of $25,000 to 50 employees for referring successful CO candidates.

Filled Positions

Exhibit 10 shows the number of filled positions each fiscal quarter from January 2012 until January 2021. DPSCS employment bottomed out in January 2020 but has increased at a moderate rate during the calendar year. Employment for administrative positions remains the lowest among employee categories, currently at a 75.3% fill rate.

Exhibit 10
DPSCS Filled Positions by Employee Classification
Calendar 2012-2020



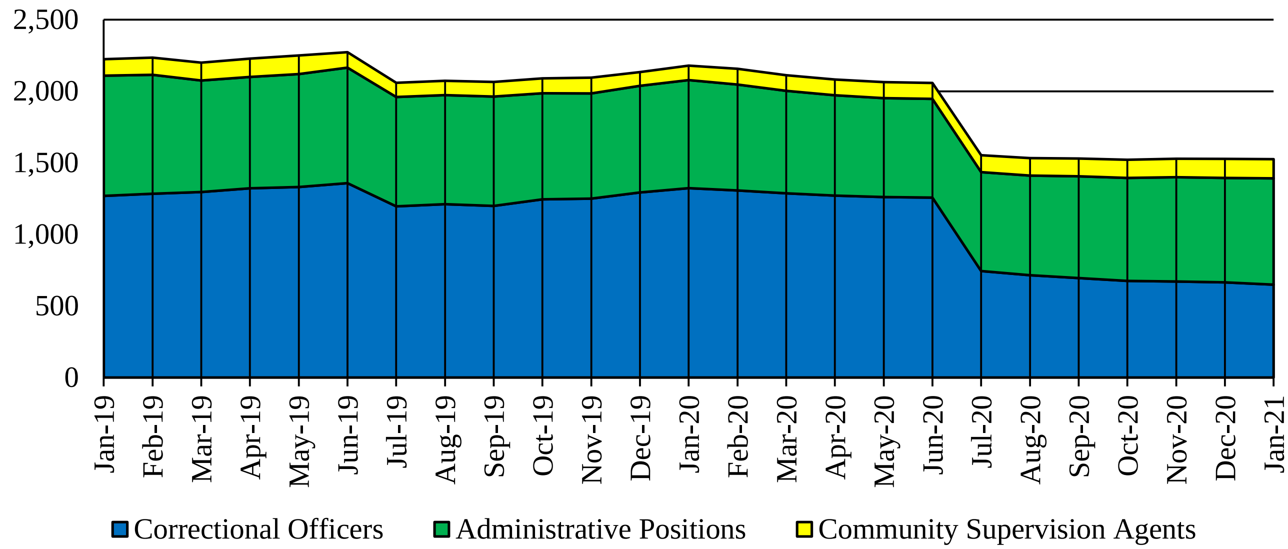
CO: correctional officer
DPSCS: Department of Public Safety and Correctional Services

Source: Department of Budget and Management

Vacancies Decline Mostly Due to Abolishments

Exhibit 11 shows the current total of DPSCS vacancies. Due to smaller legislative appropriations and required position abolishments, the number of allowed PINs decreased from 10,414 to 10,139 in the fiscal 2020 appropriation and to 9,613 in the fiscal 2021 working appropriation. These changes impact the calculation for vacancies, which currently stand at 649 for COs (11.4%), 744 for administrative positions (24.7%), and 134 for community supervision agents (14.5%). Further position abolishments are required in the fiscal 2022 allowance, though it is unclear which employee classifications will be affected. The total number of positions allowed at the start of fiscal 2022 will be 9,251.4.

Exhibit 11
DPSCS Vacancies by Employee Classification
January 2019 to January 2021



DPSCS: Department of Public Safety and Correctional Services

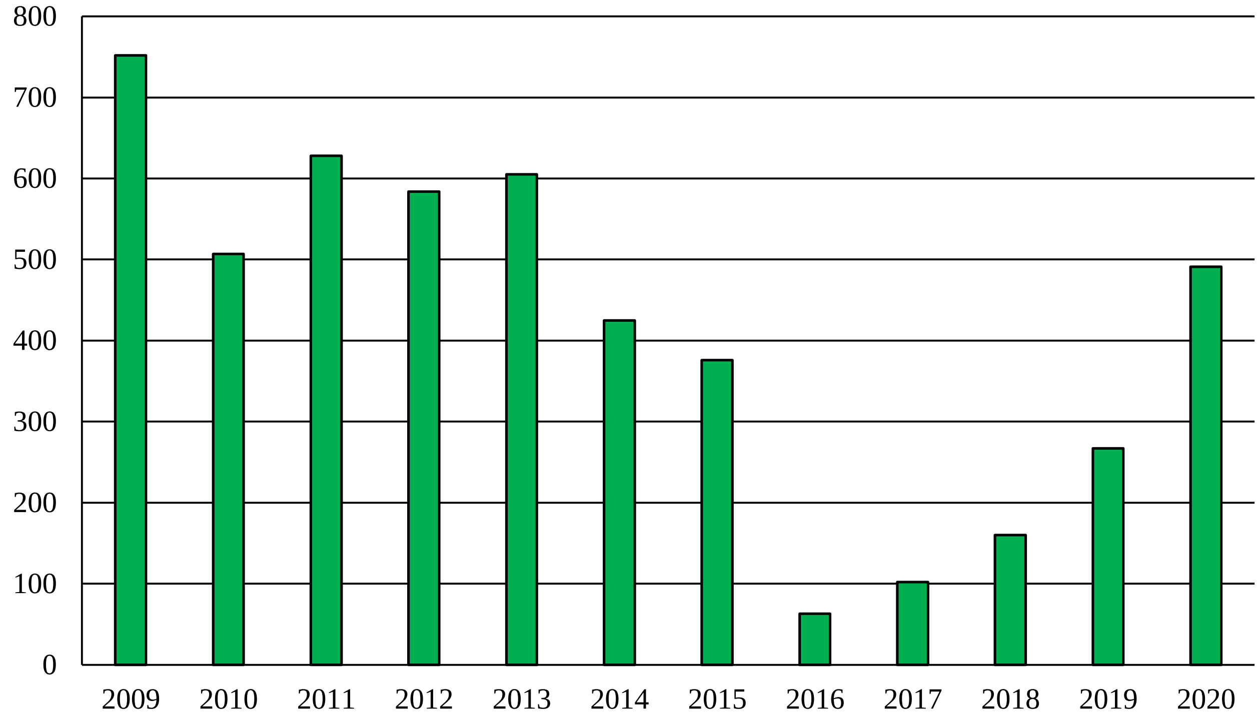
Source: Department of Budget and Management

These position abolishments were made for a few reasons including a declining inmate population and the closure of several housing units and facilities. However, much of the personnel reduction was related to the inability of the department to fill those positions. The abolished positions bring the budget closer in line with reality, as skyrocketing vacancies historically led to large savings that were transferred to other areas of the department. The most recent staffing analysis conducted in calendar 2017 indicated that even prior to these abolishments, DPSCS required additional allowed positions to ensure an adequate correctional workforce. It is possible that DPSCS will need to fill more than the current 649 vacant CO positions in order to truly meet its staffing needs.

CO Hires Return to Sustainable Levels

DPSCS presented hiring and separation data for all classifications in their response to the 2020 *Joint Chairman's Report*. The Department of Legislative Services used past hiring data from DPSCS to complete an attrition analysis. From January 2015 through December 2020, approximately 1,459 COs were hired, while about 2,566 separated from state service – a gap of 1,107 hires. While the trough in filled positions came in January 2020, the trough in hiring came in calendar 2016, as shown in **Exhibit 12**, when just 63 COs were hired compared to 489 separations. This reduction in new hires relative to the comparatively stable departure of officers resulted in a drop of 1,804 filled CO positions from January 2015 to January 2020, when employment bottomed out.

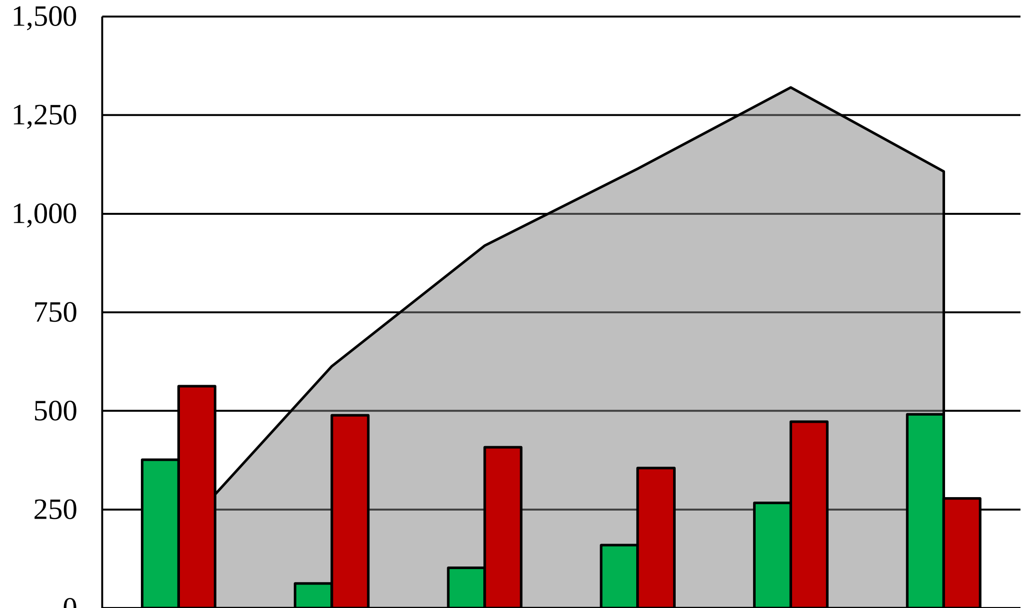
Exhibit 12
Correctional Officer Hires
Calendar 2009-2020



Source: Department of Public Safety and Correctional Services; Department of Legislative Services

Exhibit 13 shows the cumulative hiring gap that grew due to separations outpacing hiring. In calendar 2020, hiring for COs outpaced separations for the first time since 2014 with 491 new hires and 278 separations. Among all classifications, DPSCS reported 706 new hires and 540 separations. Calendar 2020 was the first year to see a reduction in the 2015 CO hiring gap, directly reducing the need for overtime in the fiscal 2022 allowance.

Exhibit 13
Cumulative Correctional Officer Hiring Gap
Calendar 2015-2020



	2015	2016	2017	2018	2019	2020
Cumulative Hiring Gap	187	613	919	1,114	1,320	1,107
Hired COs	376	63	102	160	267	491
Separated COs	563	489	408	355	473	278

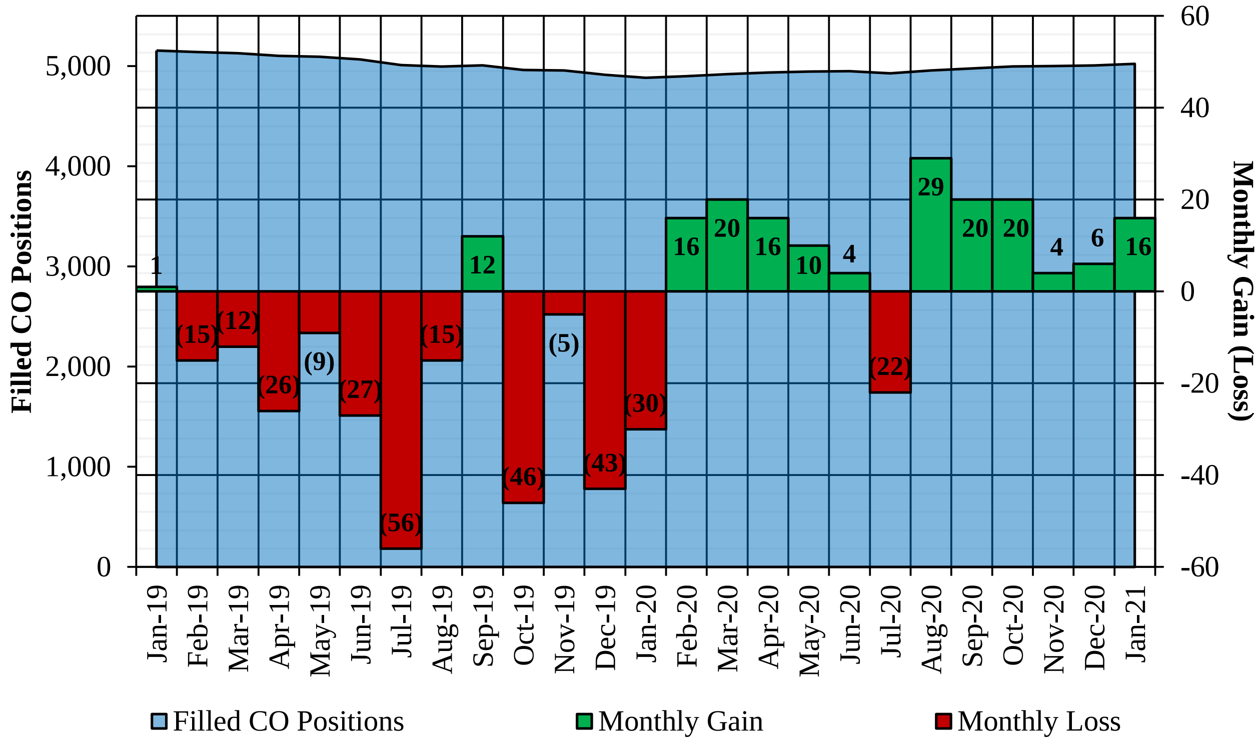
CO: correctional officer

Source: Department of Public Safety and Correctional Services; Department of Legislative Services

While DPSCS is no longer losing correctional staff faster than they can be replaced, there remains work to be done to ensure the stability of the department's correctional staff complement. While current attrition is vastly improved over recent hiring since calendar 2015, it remains below the average from 2009 to 2013 of 615 new CO hires per year.

Exhibit 14 shows filled CO positions and the monthly gain or loss in employees according to DBM vacancy data. DPSCS lost an average of 21 COs in calendar 2019 and added an average of 8.3 COs each month in calendar 2020. Using current hiring rates, DPSCS would fill all vacant CO positions by June 2027. Should DPSCS maintain this steady decline in vacancies, it should continue to see reductions in mandatory and voluntary overtime hours worked, which rose alongside vacancies. Reduced overtime will also contribute to an adequate amount of well-rested COs and other facility staff to provide more effective and quality programming.

Exhibit 14
Correctional Officer Filled Positions
January 2019 to January 2021



CO: correctional officer

Source: Department of Budget and Management

While current vacancy and hiring data point to positive trends in this field, the $130 million in budgeted overtime spending suggests there are still far too few filled CO positions to see the benefits of an adequate staffing complement. Furthermore, even with the increase in hiring and filled positions, the possible rebound of the correctional population may keep DPSCS in a tight staffing situation moving forward. Despite these concerns, the data presented are encouraging.

COVID-19 and Recruitment

While vacancy and hiring data from DBM and DPSCS show positive improvements in hiring and retention, the budget committees should also consider the extent to which the ongoing COVID-19 pandemic and related economic recession have contributed to the department's success. DPSCS has historically pointed to the effect of the economy on recruitment, indicating that COs are easier to recruit during a recession and harder to recruit during periods of economic growth. The previous period of employment growth and stability for DPSCS occurred during the Great Recession. A recession could also reduce separations due to the uncertain economic outlook. Supporting this concept, retirements and overall separations contracted in April 2020. However, any effect was short lived, as separations returned to average levels in May, June, and July. Additionally, a communicable disease caused the current recession. This affected the department's plans for single-day hiring events that had been successful during the winter and may have caused a slight dip in overall hires. Application and conditional offer data corroborates that the two possible effects of COVID-19 – reduction in separations and reduction in hires – were minor in intensity and returned to normal levels in July.

DPSCS should comment on its strategies to maintain adequate staffing after the economy recovers and temporary employee incentives expire.

3. The Justice Reinvestment Act Three-year Implementation Update

The Justice Reinvestment Act (JRA) is the State's primary statute addressing criminal justice reform. The JRA includes policy changes designed to reduce prison populations and correctional spending and reinvest the savings in programs that reduce recidivism. The JRA became effective on October 1, 2017, and as a result, has produced three years of data as well as significant changes in sentencing, parole, and treatment options for offenders.

Exhibit 15 displays all of the major JRA provisions, their definitions, and all current actions taken regarding them.

Exhibit 15
Justice Reinvestment Act – Status Updates
October 2017 to October 2020

	Results	First Year	Second Year	Third Year	All Years
Administrative Release: Allows inmates convicted of certain nonviolent offenses to be released on parole after serving one-fourth of their sentence. Victims are notified of the early release and can request a regular parole hearing.	Screened	700	752	336	1,452
	Ineligible	550	637	255	1,187
	Eligible	**150**	**115**	**81**	**265**
Geriatric Parole: Offenders age 60 and up who were sentenced under Section 14-101 of the Criminal Law Article (and convicted of more than one violent crime and have served at least 15 years) can petition for geriatric parole.	Screened	31	10	0	41
	Ineligible	31	9	0	40
	Eligible	**0**	**1**	**0**	**1**
Medical Parole: Inmates or their advocates can petition to be released if they are chronically debilitated or incapacitated and are physically incapable of presenting a danger to society. The Governor has 180 days to deny any approved request.	Screened	61	36	98	195
	Ineligible	19	4	19	42
	Eligible	**17**	**17**	**21**	**55**
	Denied	25	17	58	100
Division of Parole and Probation (DPP) Graduated Sanctions: DPP Supervision Agents use a matrix to determine the proper sanction against an offender who has violated parole. Noncustodial (nonjail) sanctions are considered. Revocation caps limit the length of incarceration time imposed for violations of parole or probation to 15, 30, or 45 days, respectively, for the first, second, and third violation. Technical violations do not involve arrest, summons, or willfully evading parole/probation supervision.	**Received Sanctions**	**1,365**	**1,120**	**788**	**3,273**
Diminution Credits: Expands offender eligibility to earn diminution credits, how many credits can be earned, and for what reasons. Inmate programs eligible for credits has been expanded.	**Received Credits**	**431**	**429**	**605**	**1,465**
Earned Compliance Credits: The Justice Reinvestment Act allows individuals on probation and parole to earn credits to reduce their supervision and now requires DPP to automatically transfer nonviolent offenders (who have earned enough credits to satisfy their supervision term) to unsupervised probation or parole, where they will not be required to report regularly or pay supervision fees.	Eligible Cases	84,676	111,086	n/a	n/a
	Cases Receiving Credits	**69,091**	**46,231**	**31,626**	**n/a**
Certificates of Rehabilitation: Allows nonviolent offenders to apply for a certificate of completion to restore their rights to obtain certain professional certifications.	Applied	7	9	13	16
	Denied	3	3	3	6
	Approved	**3**	**6**	**10**	**9**

Source: Department of Public Safety and Correctional Services; Department of Legislative Services

Estimated Three-year JRA Cost Avoidance: $2.2 Million

Estimating the impact of the JRA on the DPSCS budget and operations is difficult and has been stated as such in the past by the department as well as in other states and jurisdictions where similar legislation was enacted. However, because the JRA is designed to further reduce inmate populations and apply those savings (from fewer inmates), estimated cost savings can be quantified in terms of cost avoidance. In other words, as specific inmates have reduced sentence time due to JRA provisions, administrators can determine exactly how many fewer days that inmates are serving and calculate the savings to the State.

In this context, variable costs are those specific costs to DPSCS that are impacted the most by a change in inmate population, such as food, laundry/uniform expenses, *etc*. Medical care is no longer included in this calculation because the current inmate medical contract does not change with the population, causing JRA savings estimates to decrease in fiscal 2020. The fiscal 2020 inmate variable cost was $3,074 per offender per year, or $8.40 per day. Overall, DPSCS determined the following for the third year of JRA implementation.

- ***Administrative Release:*** Resulted in 18,073 fewer days served by inmates.

- ***Diminution Credits:*** Resulted in 28,889 fewer days served by inmates.

- ***Medical Parole:*** Resulted in 64,699 fewer days served by inmates.

- ***Total Days Avoided:*** 109,661 fewer days served.

- ***Fiscal 2020 JRA Cost Avoidance:*** $8.40 (daily inmate rate) multiplied by 109,661 equals $921,152

The fiscal 2021 allowance for the Governor’s Office of Crime Prevention, Youth, and Victim Services (GOCPYVS) includes $9.6 million in grant funding to local or State correctional agencies through the Performance Incentive Grant Fund. GOCPYVS calculates this amount by multiplying the total annual reduction in the State correctional population by the variable inmate cost.

Appendix 1
2020 *Joint Chairmen's Report* Responses from Agency

The 2020 *Joint Chairmen's Report* (JCR) requested that the Department of Public Safety and Correctional Services (DPSCS) prepare four reports. Electronic copies of the full JCR responses can be found on the Department of Legislative Services Library website.

- ***Justice Reinvestment Act (JRA) Report:*** DPSCS provided an update on the implementation of the JRA, including the number of offenders petitioning and approved for JRA provisions and the annual JRA cost avoidance estimate. Further information regarding the JRA can be found in Issue 3 of this analysis.

- ***Substance Abuse Treatment Services Report:*** Fiscal 2021 Budget Bill language restricted $100,000 in substance abuse treatment funds pending a report on the new vendor to conduct those services. In its submission, DPSCS notified the committees that a contract solicitation was canceled and has been delayed by a year due to changes necessitated by the COVID-19 pandemic. Approximately $4.6 million was earmarked for this service contract. Currently, however, the estimate for a full year of services from such a contract is close to $10 million or more. The funds restricted for this purpose are not to be released until DPSCS successfully procures a vendor for comprehensive substance abuse treatment services.

- ***Position Abolishments and Reclassifications Report:*** A total of 521 vacant correctional officer (CO) I and II positions were abolished pursuant to fiscal 2021 Budget Bill language. Additionally, 6 vacant CO positions were transferred to the Opioid Task Force within the Maryland Emergency Management Agency, and 1 vacant position was transferred to the Office of the Attorney General. Several positions were transferred to the Department of General Services due to the transfer of procurement responsibilities – 2 filled and 4 vacant positions.

- ***DPSCS Hiring and Attrition Reports:*** DPSCS submitted 6 of the 12 monthly reports required by the fiscal 2021 Budget Bill. These reports indicate significant improvements over past hiring and attrition patterns. DPSCS made an overall gain in employees and COs for the first time since fiscal 2015. Further information regarding DPSCS staffing trends can be found in Issue 2 of this analysis.

Appendix 2
Object/Fund Difference Report
Department of Public Safety and Correctional Services

Object/Fund	FY 20 Actual	FY 21 Working Appropriation	FY 22 Allowance	FY 21 - FY 22 Amount Change	Percent Change
Positions					
01 Regular	10,139.40	9,613.40	9,601.4	-12	-0.1%
02 Contractual	180.23	362.62	287.88	-74.74	-20.6%
Total Positions	**10,319.63**	**9,976.02**	**9,889.28**	**-86.74**	**-0.9%**
Objects					
01 Salaries and Wages	$934,817,608	$898,754,304	$876,164,839	-$22,589,465	-2.5%
02 Technical and Special Fees	8,724,498	8,232,691	8,045,817	-186,874	-2.3%
03 Communication	4,778,853	4,562,684	4,815,681	252,997	5.5%
04 Travel	453,172	645,820	509,830	-135,990	-21.1%
06 Fuel and Utilities	57,016,004	49,664,720	50,807,987	1,143,267	2.3%
07 Motor Vehicles	5,154,587	7,064,456	5,671,451	-1,393,005	-19.7%
08 Contractual Services	267,403,209	275,830,958	270,413,661	-5,417,297	-2.0%
09 Supplies and Materials	111,607,501	83,069,749	83,224,784	155,035	0.2%
10 Equipment – Replacement	12,754,555	9,002,759	6,691,882	-2,310,877	-25.7%
11 Equipment – Additional	2,138,564	1,826,250	455,250	-1,371,000	-75.1%
12 Grants, Subsidies, and Contributions	102,824,894	158,994,586	195,192,592	36,198,006	22.8%
13 Fixed Charges	9,713,571	13,073,005	8,736,772	-4,336,233	-33.2%
14 Land and Structures	5,098,368	6,566,000	6,732,000	166,000	2.5%
Total Objects	**$1,522,485,384**	**$1,517,287,982**	**$1,517,462,546**	**$174,564**	**0.0%**
Funds					
01 General Fund	$1,258,446,477	$1,231,327,073	$1,221,882,566	-$9,444,507	-0.8%
03 Special Fund	164,948,413	226,196,081	263,315,704	37,119,623	16.4%
05 Federal Fund	30,911,052	26,553,143	27,699,140	1,145,997	4.3%
09 Reimbursable Fund	68,179,442	33,211,685	4,565,136	-28,646,549	-86.3%
Total Funds	**$1,522,485,384**	**$1,517,287,982**	**$1,517,462,546**	**$174,564**	**0.0%**

Note: The fiscal 2021 appropriation does not include deficiencies, planned reversions, or general salary increases. The fiscal 2022 allowance does not include general salary increases, statewide actions, or contingent reductions.