Department of Public Safety and Correctional Services Fiscal 2023 Budget Overview

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

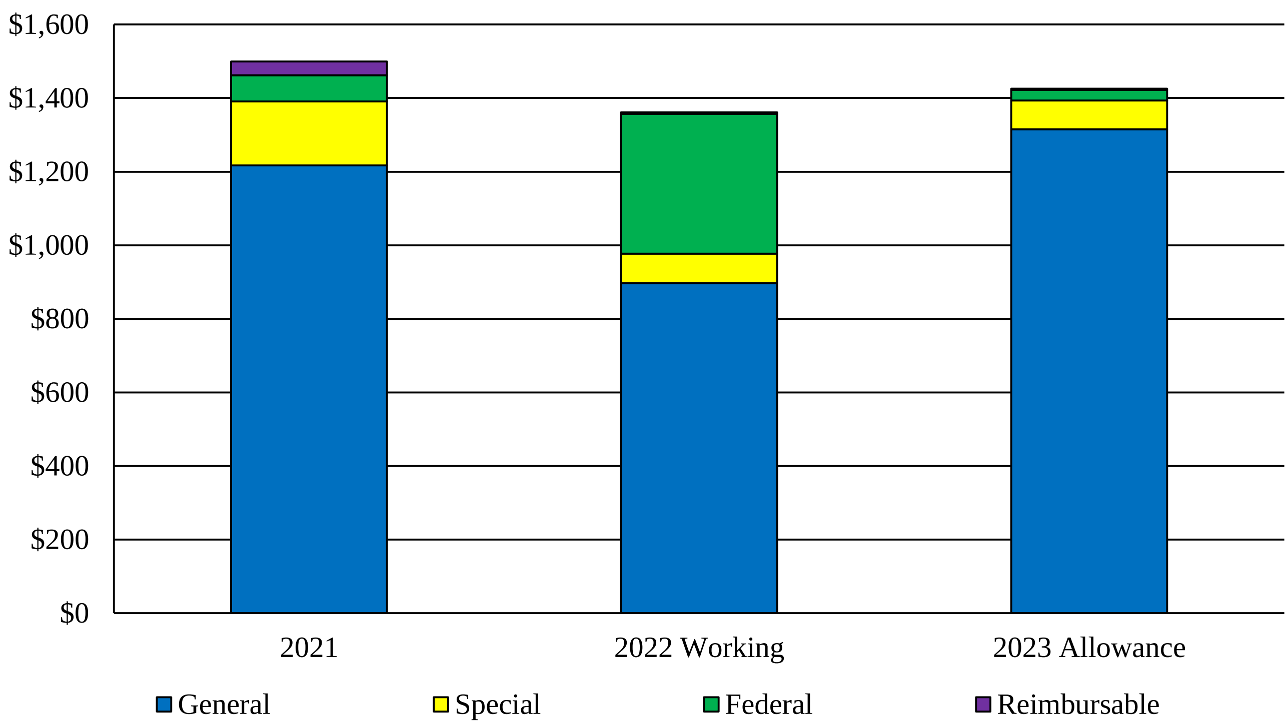
Fiscal 2023 Budget Overview

Executive Summary

The Department of Public Safety and Correctional Services (DPSCS) is a principal department of State government, responsible for operating 13 correctional facilities throughout the State and 5 detention facilities in Baltimore City, whose combined fiscal 2021 average daily population (ADP) is approximately 17,920 offenders. In addition, the department supervises offenders on parole and probation. Currently, DPSCS has a budget allowance of over $1.4 billion and 9,217 authorized positions that account for approximately 5.5% of all general fund expenditures and 10.6% of the total State workforce.

Operating Budget Summary

Fiscal 2023 Budget Increases by $64.3 Million, or 4.7%, to $1.43 Billion
($ in Millions)



Note: Numbers may not sum due to rounding. The fiscal 2022 working appropriation includes deficiency appropriations. The fiscal 2022 working appropriation and fiscal 2023 allowance do not reflect funding for statewide personnel actions budgeted in the Department of Budget and Management, which include cost-of-living adjustments, increments, bonuses, and may include annual salary review adjustments.

- ***$350 Million in Fiscal 2022 General Funds Swapped for Federal Funds:*** Due to the large amount of available federal aid, $350 million in general funds were removed from fiscal 2022 and replaced with $350 million in federal funds because correctional officer (CO) salaries are an eligible COVID-19 expense.

- ***Personnel Costs Increase by $52.2 Million:*** In fiscal 2022, salary enhancements increased the base for personnel costs, resulting in higher regular earnings, overtime, and fringe benefits despite no increase in overall employment. The fiscal 2023 allowance includes a turnover reduction that accounts for $23 million, or 36%, of the overall budget increase.

Key Observations

- ***Record Population Decreases Recorded from Fiscal 2020 to 2021:*** Total ADP of correctional and detention supervision decreased 11% in fiscal 2021 for an overall drop of 27.6% since fiscal 2011. Criminal supervision caseloads and offenders arrested and committed to pretrial detention also declined by record amounts.

- ***CO Employment Is Decreasing:*** DPSCS employment is trending downward in fiscal 2022. Still, the staff-to-inmate ratio has improved compared to past years.

- ***Four-year Outcomes: Justice Reinvestment Act (JRA) Results in Drop of 735 Offenders and $3.3 Million in Savings:*** In the first four years of JRA enactment, the ADP dropped by 4,354 inmates – 735 of which (17%) were directly related to JRA provisions.

Operating Budget Analysis

Program Description

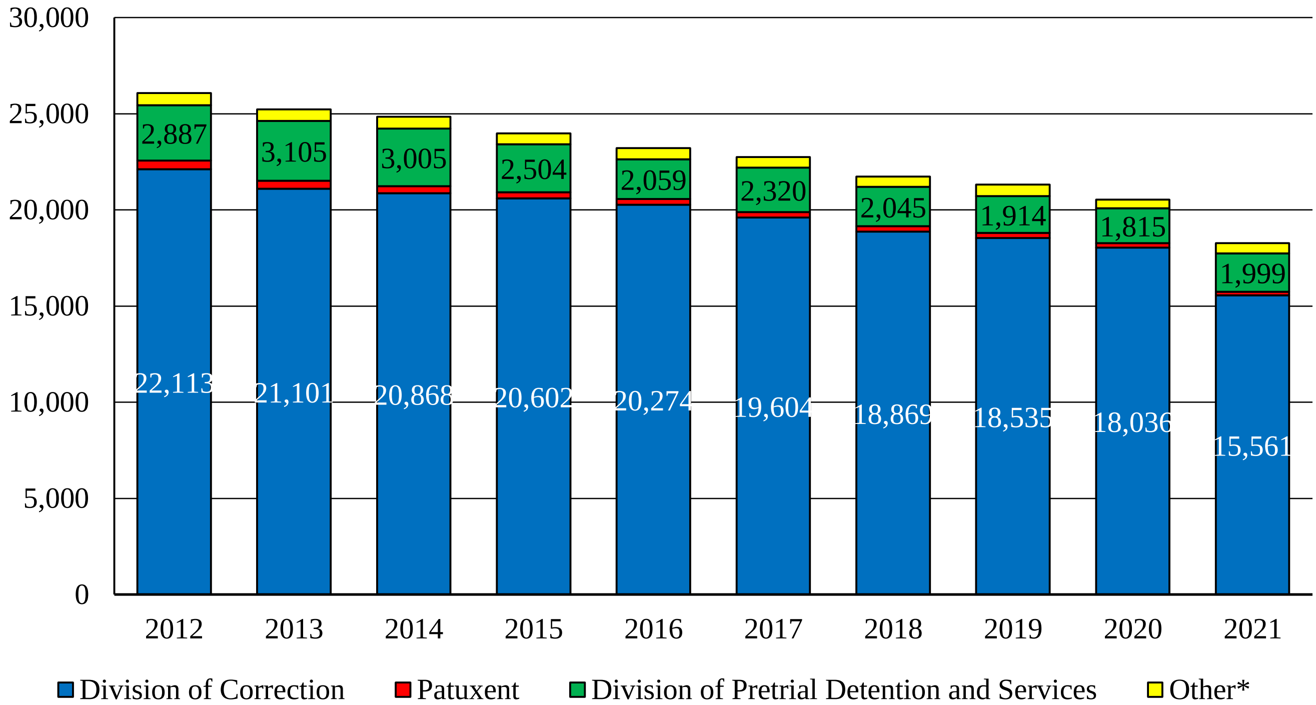
DPSCS helps keep Maryland communities safe and provides services to victims of crime. The department strives to ensure the safety, security, and wellbeing of defendants and offenders under its supervision and to provide criminal justice agencies with access to timely, accurate information about defendants and offenders.

Performance Analysis: Managing for Results

1. State Prison and Jail Populations Decreased Again in Fiscal 2021

Exhibit 1 shows the ADP of prisoners and detainees in DPSCS custody since fiscal 2012. Overall, the number of individuals who are incarcerated under State jurisdiction decreased substantially in fiscal 2021. This reflects the cumulative effect of delaying criminal proceedings during the COVID-19 pandemic with existing 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 7,809 offenders, or 30%, between fiscal 2012 and 2021. From fiscal 2020 to 2021, the population decreased from 20,540 to 18,276 – a full 11%. These decreases are mostly attributable to delayed judicial proceedings and the steady release of incarcerated inmates.

Exhibit 1
Incarcerated Offenders – Average Daily Population
Fiscal 2012-2021



* 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

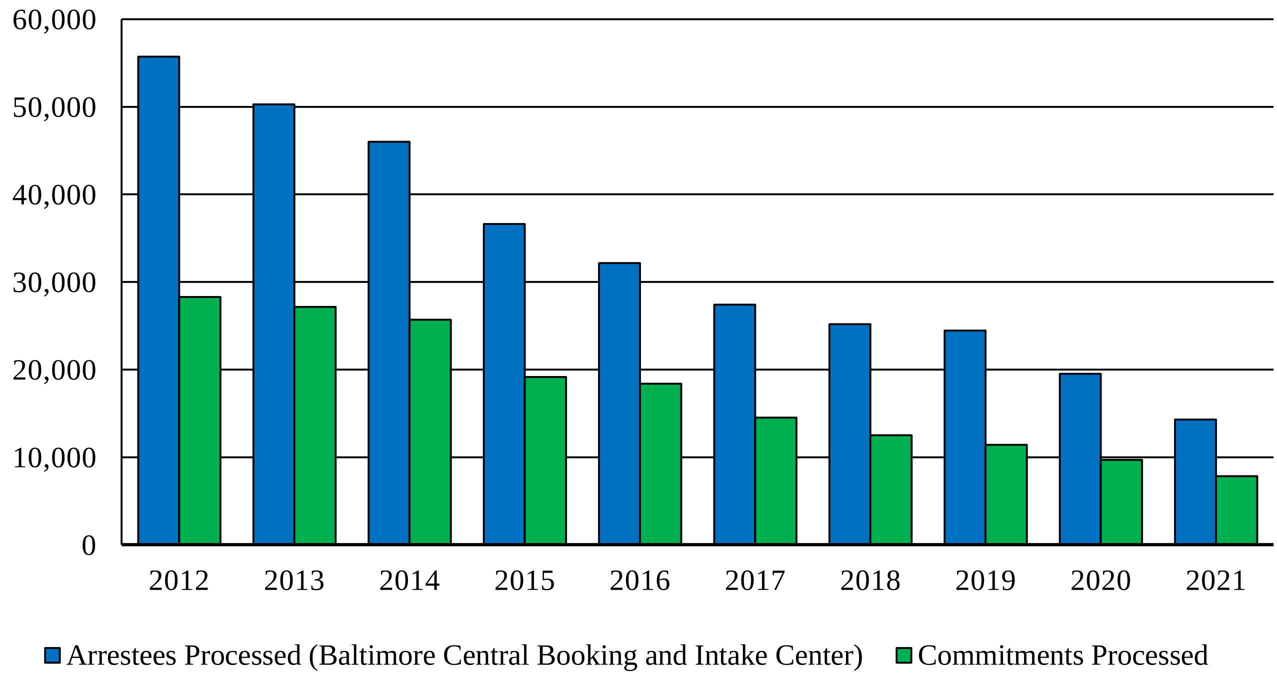
Inmate Population Statistics, Fiscal 2021

- 15,752 State prisoners were sentenced and incarcerated;
- 2,359 offenders were held in pretrial detention (1,999 local and 360 federal);
- the Eastern Correctional Institution held the largest percentage of sentenced offenders (2,809, or 17.8%); and
- the Baltimore Central Booking and Intake Center (BCBIC) held the largest percentage of detainees (32.0%).

2. Baltimore City Arrests Declined by Over 5,200 in Fiscal 2021

Exhibit 2 shows arrestees processed and the number of arrestees committed to pretrial detention in Baltimore City from fiscal 2012 to 2021. Both measures show a reduction in the arriving criminal population, driven by reduced crime rates during COVID-19. However, court closures dramatically delayed the processing of most pretrial cases. For this reason, the ADP of detention facilities has increased from fiscal 2020 to 2021.

Exhibit 2
Arrestees and Commitments to Pretrial Detention in Baltimore City
Fiscal 2012-2021



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

- ***Baltimore City Arrests Decline 74% Since 2012:*** About 56,000 arrestees were processed in fiscal 2012. In fiscal 2021, just 14,312 were processed, a 26.7% decrease from fiscal 2020 levels.

- ***Baltimore City Arrestees Committed to Detention Decrease 72% Since 2012:*** Approximately 28,300 arrestees were admitted to pretrial detention in fiscal 2012; in fiscal 2021, it was 7,834, a 19% decline from fiscal 2020 levels.

3. Community Supervision Cases Decline by Almost 19,500

The department's community supervision programs saw cases decline by a large margin in fiscal 2021. **Exhibit 3** depicts the total number of cases under community supervision that includes parole, probation, mandatory release, pretrial supervision, and Drinking Driver Monitor Program (DDMP) cases.

Exhibit 3
Parole and Probation Total Supervised Cases
Fiscal 2016-2021

	Probation	Parole	Mandatory	Pretrial	DDMP
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
2021	64,629	6,125	6,358	4,143	15,971

DDMP: Drinking Driver Monitor Program
Mandatory: mandatory release due to credits
Pretrial: Pretrial Supervision Program

Source: Department of Public Safety and Correctional Services

- ***Criminal Supervision Cases Decrease 31.7% Since Fiscal 2016:*** About 113,000 cases were under criminal supervision (probation, parole, and mandatory supervision) in fiscal 2016. In fiscal 2021, there were 77,112 cases under criminal supervision, a 15.6% decline from fiscal 2020 levels.

- ***DDMP Cases Decrease by 41.5% Since Fiscal 2016:*** The Division of Parole and Probation monitors managed 27,300 DDMP cases in fiscal 2016. In fiscal 2021, DDMP monitors managed 15,971 DDMP cases, a 24.5% decline from fiscal 2020 levels.

Fiscal 2021

Actual general fund spending in fiscal 2021 decreased by a net $20.9 million from the legislative appropriation, primarily due to the availability of federal funds to offset eligible COVID-19 expenses such as CO pay and medical costs. Fiscal 2021 is the final year in which the Maryland 9-1-1 Board (formerly the Emergency Number Systems Board) falls under the budget for DPSCS. The newly restructured Maryland Department of Emergency Management now holds responsibility for the organization's $100 million budget.

Fiscal 2022

Proposed Deficiencies

There are several general fund deficiency appropriations for fiscal 2022 that increase the department's appropriation. Replacement vehicles for inmate transport are funded at $1.3 million in fiscal 2022, and land improvements at the Maryland Correctional Institution – Jessup are funded at $400,000. An additional $11.1 million was provided for employee compensation to match the amount budgeted in fiscal 2023.

Federal Stimulus Fund Swap

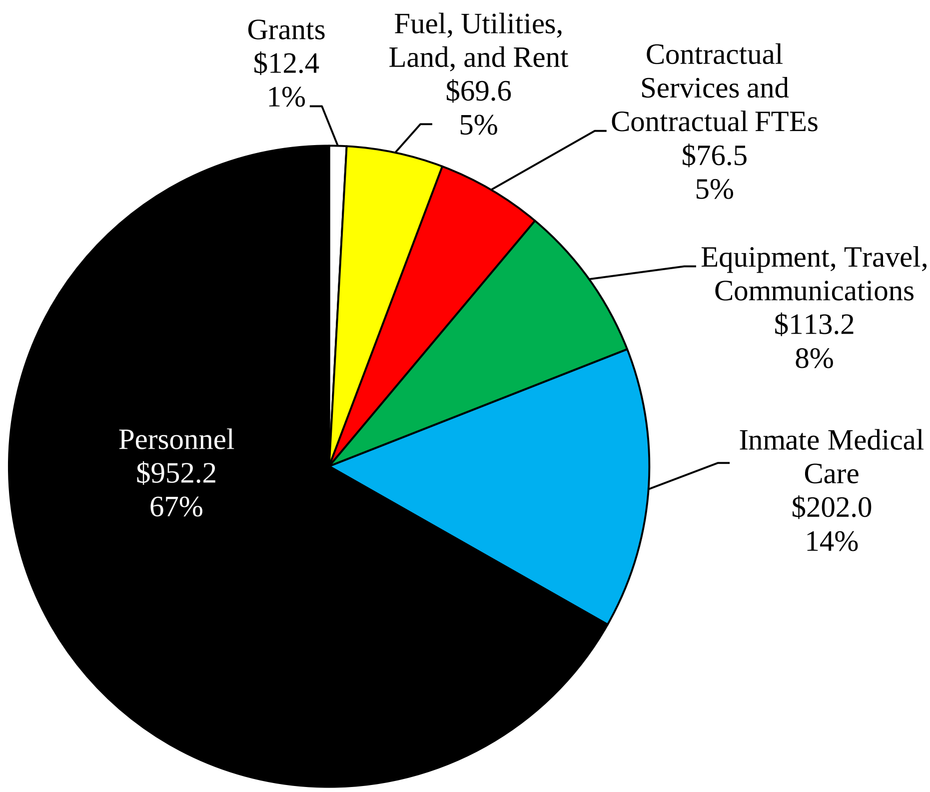
Two fund swaps were made to save general funds – contingent language in the fiscal 2023 Budget Bill reduces general funds by total of $350 million. These reductions are offset by a fiscal 2022 budget amendment submitted by the Administration for legislative review on January 3, 2022, providing $100 million in federal Coronavirus Relief Fund (CRF) monies and a deficiency appropriation providing $250 million in federal American Rescue Plan Act (ARPA) monies. This swap gives the State more flexibility in using general funds without impacting DPSCS spending.

Fiscal 2023

Overview of Agency Spending

The DPSCS allowance for fiscal 2023 is approximately $1.43 billion. The allowance is primarily used to pay personnel costs ($952.2 million), mainly for salaries and wages. Of this amount, 15.3%, or $145.8 million, goes toward overtime costs related to the department's large number of vacancies. The remaining areas of major spending are inmate medical care ($202.0 million), supplies and materials ($84.9 million), contractual services (about $68.5 million mainly related to key security and information technology (IT) programs), and fuel and utilities ($51.0 million). **Exhibit 4** displays the fiscal 2023 allowance categorized by major spending areas.

Exhibit 4
Overview of Agency Spending by Purpose
Fiscal 2023 Allowance
($ in Millions)



FTE: full-time equivalent

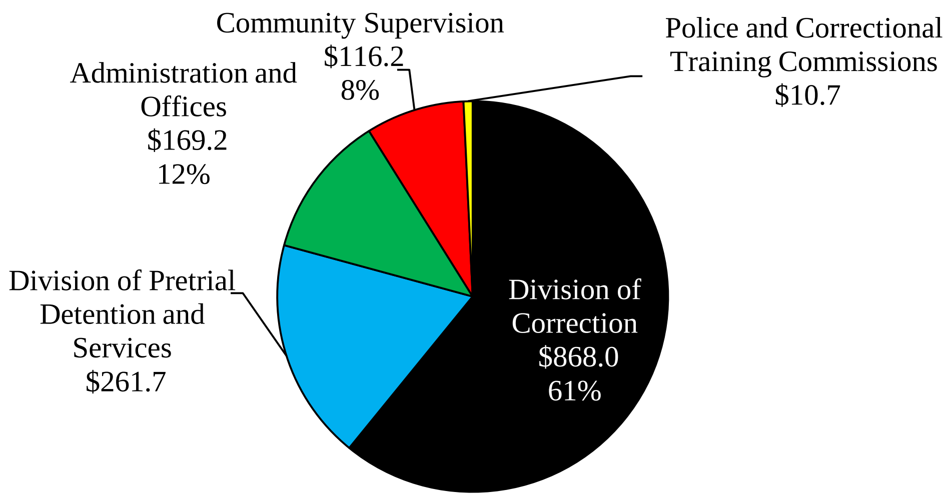
Note: The fiscal 2023 allowance does not reflect funding for statewide personnel actions budgeted in the Department of Budget and Management, which includes cost-of-living adjustments, increments, bonuses, and may include annual salary review adjustments.

Source: Governor's Proposed Budget

Spending by Departmental Function

Exhibit 5 allocates the fiscal 2023 budget between the primary functional units of DPSCS.

Exhibit 5
Overview of Agency Spending by Function
Fiscal 2023 Allowance
($ in Millions)



Note: The fiscal 2023 allowance does not reflect funding for statewide personnel actions budgeted in the Department of Budget and Management, which includes cost-of-living adjustments, increments, bonuses, and may include annual salary review adjustments.

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 11 State prisons. The remaining two State prisons fall under the authority of the Division of Pretrial Detention and Services (DPDS) due to their location in Baltimore City: the Maryland Reception Diagnostic and Classification Center (MRDCC) and the Baltimore City Correctional Center (BCCC). The DOC fiscal 2023 allowance is approximately $868 million, or 61%, of the total DPSCS allowance.

The Division of Pretrial Detention and Services (DPDS) is the second 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 DPDS' purview. Facilities include CDF, BCBIC, the Youth Detention Center, and the Metropolitan Transition Center. MRDCC and BCCC also fall under this budget. The DPDS fiscal 2023 allowance is approximately $261.7 million, or 18%, of the total DPSCS allowance.

Administration and Offices make up the third 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 Inmate Grievance Office (IGO) and the Maryland Commission on Correctional Standards (MCCS) are independent agencies included in the discussion of the Administration budget. 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 2023 allowance is about $169.2 million, or 12%, of the total DPSCS allowance.

Community Supervision has three main units – the Maryland Parole Commission, 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 2023 allowance is $116.2 million, or 8%, of the total DPSCS allowance.

The Police and Correctional Training Commissions (PCTC) develop the training standards for all law enforcement and COs in the State and are the smallest function within DPSCS. PCTC's fiscal 2023 allowance is $10.7 million, or less than 1%, of the total DPSCS allowance.

Spending by Fund Source

- ***General Funds ($1,315.1 Million):*** Increase by $417.8 million over the fiscal 2022 working appropriation primarily due to a fund swap removing $350 million in fiscal 2022 general funds and replacing them with federal funds. Without the fund swap, general funds increase by $67.8 million due to reductions in turnover and increases in salaries, health insurance costs, and other employee benefits.

- ***Special Funds ($78.6 Million):*** Decrease by $1.3 million over the fiscal 2022 working appropriation mostly due to changes in supply costs for MCE. COVID-19 caused sales and employment to decline at MCE due to lower demand for office furniture and tougher restrictions on indoor activities.

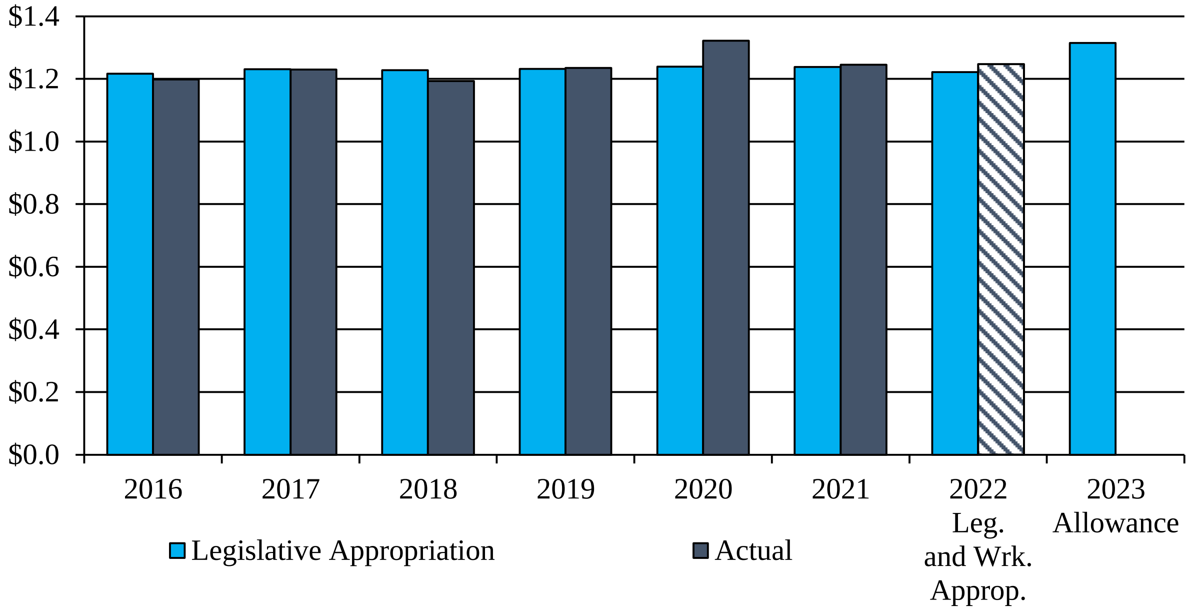
- ***Federal Funds ($28.0 Million):*** Decrease by $351.7 million from the fiscal 2022 working appropriation primarily due to the fund swap mentioned previously. Without the $350 million fund swap, federal funds would decrease by $1.7 million, largely due to the end of federally funded Major Information Technology Development Projects.

- ***Reimbursable Funds ($4.0 Million):*** Decrease by $0.5 million from the fiscal 2022 working appropriation.

Fiscal 2023 General Fund Expenses Increase by 5.4%

Exhibit 6 shows DPSCS general fund actual spending compared to the respective legislative appropriation since fiscal 2016. It is important to note that the fund swaps between federal and general funds in fiscal 2022 and 2020 are not shown so that expenses typically covered by general funds may be more accurately compared.

Exhibit 6
Actual versus Appropriated Spending – General Funds
Fiscal 2016-2023
($ in Billions)



Note: The fiscal 2022 working appropriation includes deficiency appropriations. The fiscal 2022 working appropriation does not reflect a fund swap of $350 million in general funds for federal funds. The fiscal 2022 working appropriation and fiscal 2023 allowance do not reflect funding for statewide personnel actions budgeted in the Department of Budget and Management, which include cost-of-living adjustments, increments, bonuses, and may include annual salary review adjustments.

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

Fiscal 2020 spending was elevated due to one-time COVID-19 expenses, including premium response pay for facility workers, sanitization services, and an emergency modification to the medical care contract. Fiscal 2021 general fund actual spending was close to the legislative appropriation and similar to previous years. The fiscal 2022 general fund working appropriation, however, exceeds the amount approved in the 2021 legislative session by over $25 million. The fiscal 2023 allowance is

$67.8 million higher than the fiscal 2022 working appropriation. The substantial increase is related to employee turnover, which is budgeted much lower in fiscal 2023 than in previous years in order to allow and encourage greater hiring.

Proposed Budget Change

Accounting for all adjustments, overall funding grows by $64.3 million, or 4.7%, compared to the fiscal 2022 working appropriation. By far, most of the allowance is in general funds (92.2%). **Exhibit 7** provides detail on the department's fiscal 2023 allowance increase and the changes to 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 2022 Working Appropriation	$897.3	$79.9	$379.8	$4.6	$1,361.5
Fiscal 2023 Allowance	1,315.1	78.6	28.0	4.0	1,425.7
Fiscal 2022-2023 Amount Change	$67.8	-$1.3	-$351.7	-$0.5	$64.3
Fiscal 2022-2023 Percent Change	7.6%	-1.6%	-$92.6	-11.6%	4.7%

Where It Goes:	Change
Personnel Expenses	
Turnover expectancy	$23,083
Regular earnings	7,303
Workers' compensation premiums	7,295
Health insurance premiums	7,151
Overtime earnings	3,124
Employee retirement contributions	2,739
Social Security contributions	845
Other fringe benefits	636
Correctional and Detention Facility Operations	
Dietary services	3,267
Clinical and medical services	1,395
Security operations	941

Where It Goes:	**Change**
Custodial care	572
Plant operation and maintenance	416
Substance Use Disorder treatment	43
Criminal Supervision and Investigation Program	20
Classification, education, and religious services	-51
Other Units and Operating Expenses	
Security equipment – new video management system	10,000
General administration and employee services	1,772
Administrative hearings fee	1,246
Division of Parole and Probation and Maryland Parole Commission	520
Division of Capital Construction and Facilities Maintenance	252
Intelligence and Investigative Division	203
IGO, MCCS, and PCTC	25
Central Home Detention Unit	-1,289
Information technology	-1,449
Maryland Correctional Enterprises	-1,488
End of funding for multiple Major Information Technology Development Projects	-2,600
One-time Fiscal 2022 Deficiencies	
Land improvements at Maryland Correctional Institution – Jessup	-400
Replacement inmate transport vehicles	-1,300
Total	**$64,273**

IGO: Inmate Grievance Office
MCCS: Maryland Commission on Correctional Standards
PCTC: Police and Correctional Training Commissions

Note: Numbers may not sum due to rounding. The fiscal 2022 working appropriation includes deficiency appropriations. The fiscal 2022 working appropriation and fiscal 2023 allowance do not reflect funding for statewide personnel actions budgeted in the Department of Budget and Management, which include cost-of-living adjustments, increments, bonuses, and may include annual salary review adjustments.

Personnel Costs Account for 81% of Budget Increase

Exhibit 7 breaks down the programmatic budgetary changes in the fiscal 2023 allowance compared to the adjusted fiscal 2022 working appropriation. Budgeted turnover decreases from 14.5% in fiscal 2022 to 10.6% in fiscal 2023, adding $23 million to the allowance. Health insurance and worker's compensation insurance premiums were down in fiscal 2022 but together increase by over $14 million in fiscal 2023. Overtime costs and regular earnings also increase. The full increase from fiscal 2022 to 2023 for personnel costs is $52.2 million.

Personnel Data

	FY 21 Actual	FY 22 Working	FY 23 Allowance	FY 22-23 Change
Regular Positions	9,613.40	9,217.40	9,217.40	0.00
Contractual FTEs	143.43	355.61	351.80	-3.81

Vacancy Data: Regular Positions

Turnover and Necessary Vacancies	977.26	10.6%
Positions and Percentage Vacant as of 12/31/21	1,264.00	13.7%
Vacancies Above Turnover	286.74	

- At current staffing levels, the allowance overprovides for about 287 positions. Using the departmental average, 287 positions correspond to about $19.5 million available for adding filled positions.

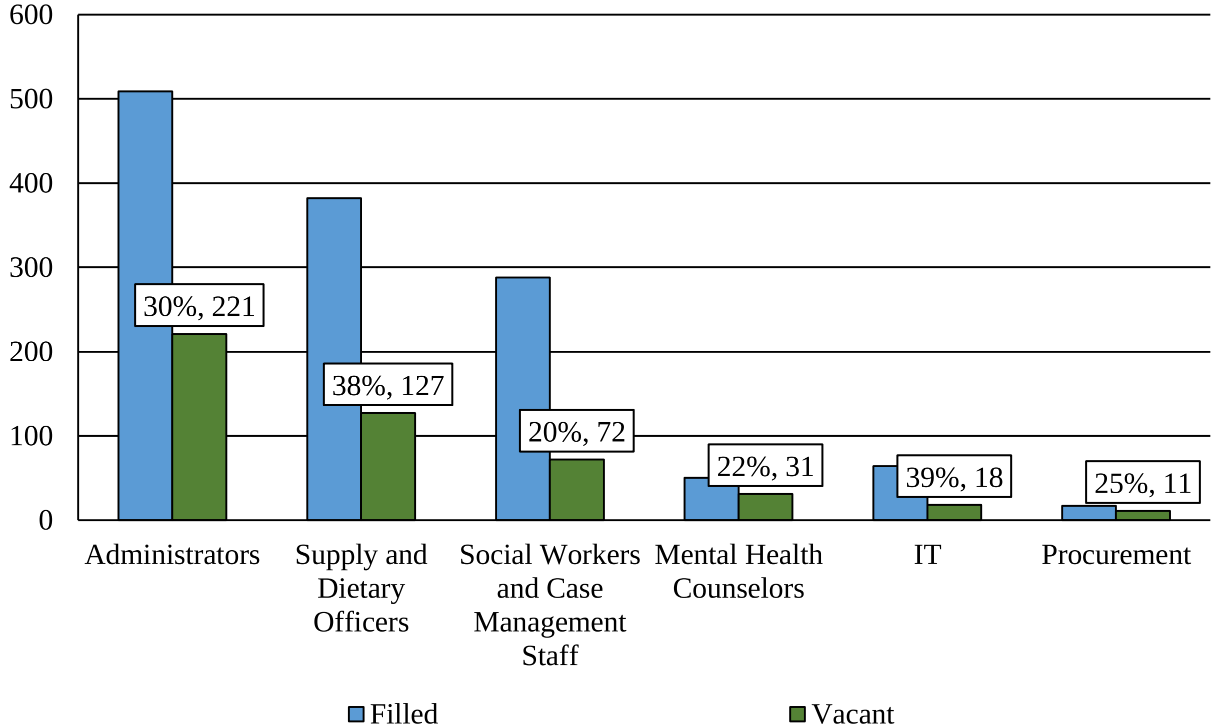
Issues

1. Employment Trends Are Worsening Across DPSCS in Fiscal 2022

The budget committees have been concerned for several years that DPSCS staffing levels are too low, particularly for COs and now community supervision agents. From January 2015 to January 2020, DPSCS lost 2,437 filled positions, including 1,869 COs. During the first portion of the COVID-19 pandemic, the department successfully broke the long-standing trend of employment loss. However, according to fiscal 2022 vacancy data, DPSCS has again seen a net departure of employees and has fewer employees than the previous low.

Using the working appropriation and vacancy data provided by the Department of Budget and Management (DBM), DPSCS employed 5,021 COs, 762 community supervision agents, and 2,164 administrative positions on January 1, 2022. This represents a drop of 141 positions from January 2021, mostly for administrative employees. Several administrative employee categories are critically understaffed, as shown in **Exhibit 8**. Of note, administrative officials make up 221 of the 769 vacancies for administrative positions and are responsible for carrying out policies set by DPSCS, other control agencies, and the General Assembly. Filling these positions may be less of a priority during difficult times but the positions are instrumental in accomplishing the many policy reforms sought by the General Assembly.

Exhibit 8
Administrative Employees and Vacancies
January 2022



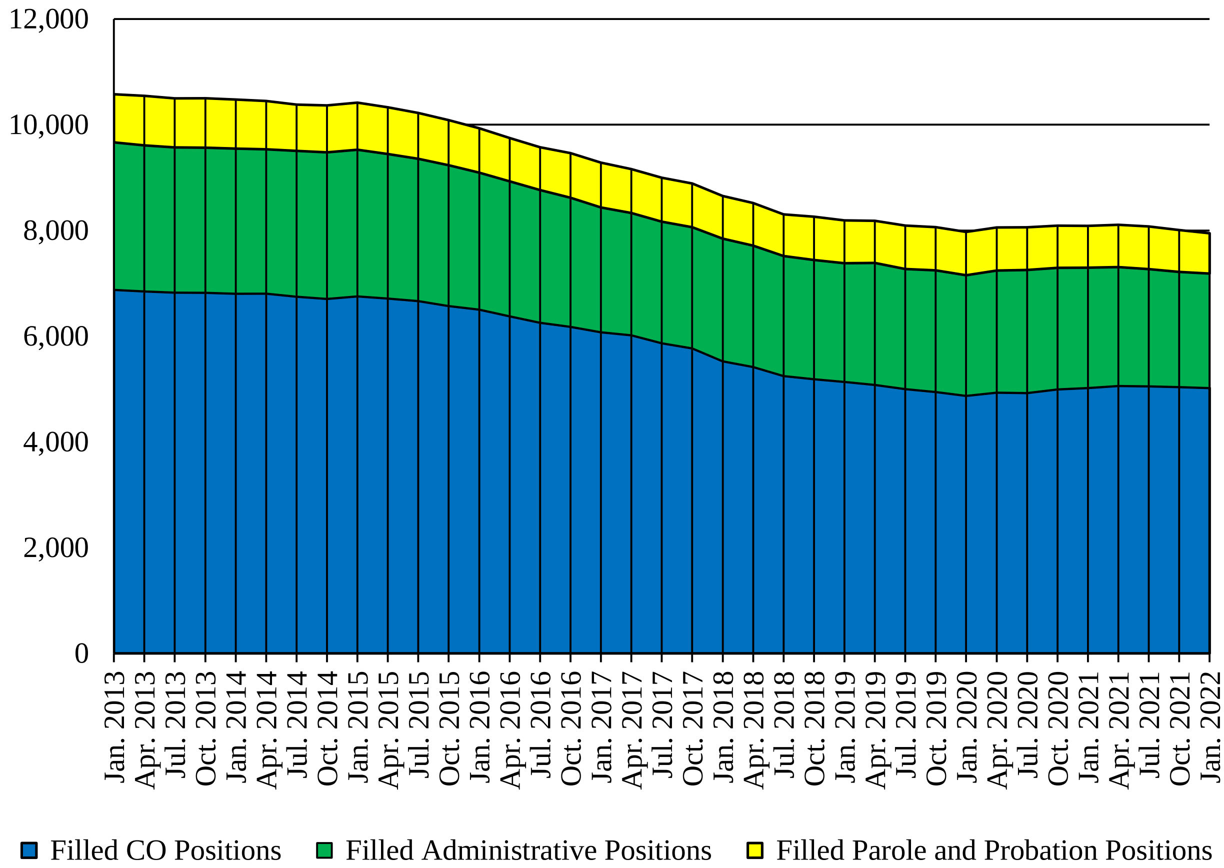
IT: information technology

Source: Department of Budget and Management; Department of Legislative Services

Filled Positions

Exhibit 9 shows the number of filled positions each fiscal quarter from January 2013 until January 2022. DPSCS employment previously bottomed out in January 2020 but increased at a moderate rate during fiscal 2021. Employment again dipped in fiscal 2022 to a new low of 7,947 filled positions. Employment for administrative positions remains the lowest with 1 in 4 positions vacant.

Exhibit 9
DPSCS Filled Positions by Employee Classification
Calendar 2013-2022



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

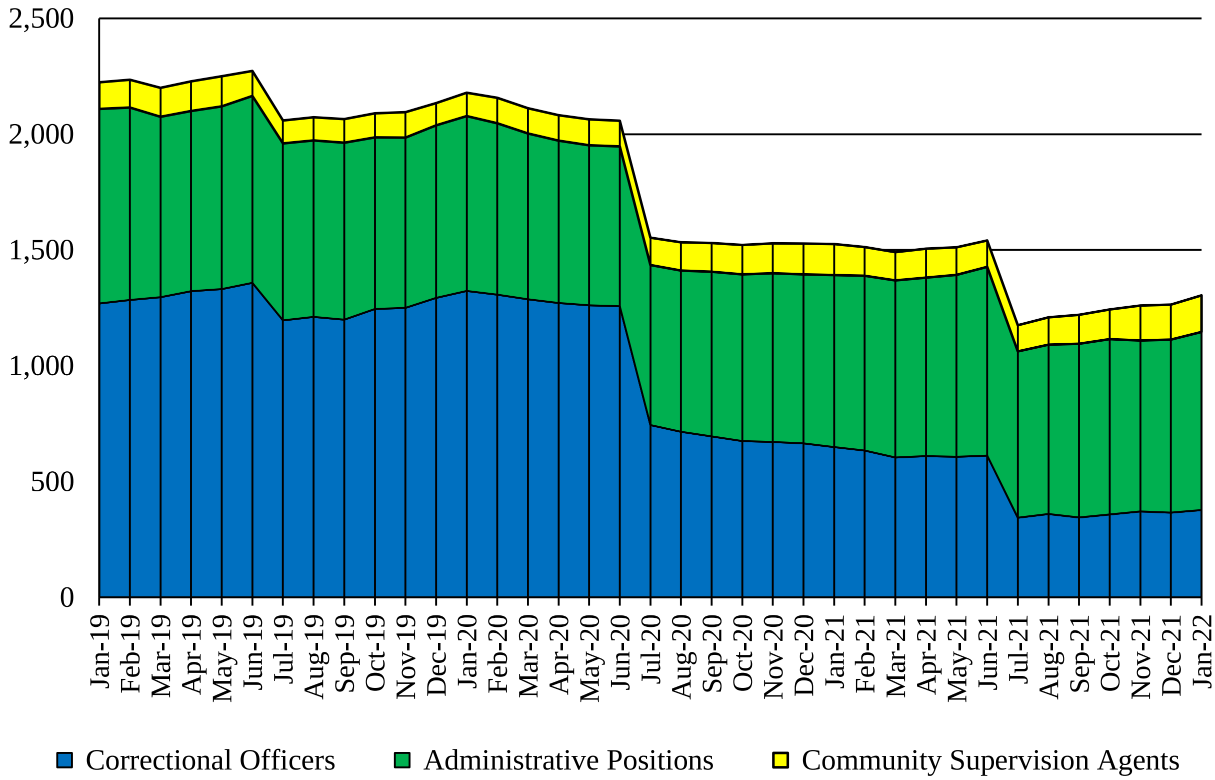
Source: Department of Budget and Management

Vacancies and Abolishments

Exhibit 10 shows the current total of DPSCS vacancies. Position abolishments decreased the legislative appropriation for regular positions from 10,414 in fiscal 2019 to 9,251 in fiscal 2022. 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 increasing vacancies historically led to large savings that were transferred to other areas of the department.

These changes impact the calculation for vacancies, which currently stand at 377 for COs (7.0%), 769 for administrative positions (26.2%), and 158 for community supervision agents (17.2%). The total number of positions authorized for fiscal 2022 and 2023 is 9,217.

Exhibit 10
DPSCS Vacancies by Employee Classification
January 2019 to January 2022



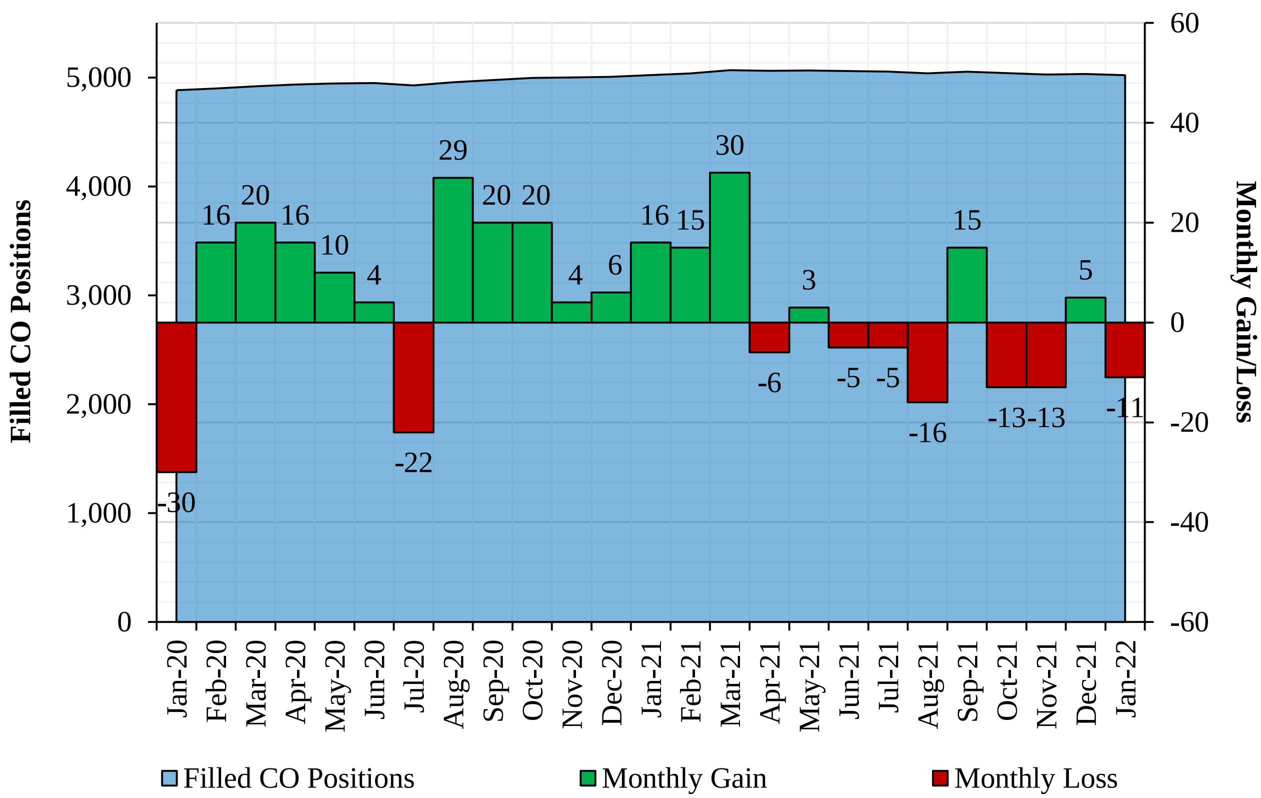
DPSCS: Department of Public Safety and Correctional Services

Source: Department of Budget and Management

The most recent staffing analysis conducted in calendar 2017 indicated that even prior to these abolishments, DPSCS required additional authorized positions to ensure an adequate correctional workforce. It is possible that DPSCS will need to fill more than the current 377 vacant CO positions in order to truly meet its staffing needs.

Exhibit 11 shows filled CO positions and the monthly gain or loss in employees according to DBM vacancy data. DPSCS added COs nearly each month in calendar 2020, but lost COs in seven months in calendar 2021. From January 1, 2021, to January 1, 2022, DPSCS only added 1 net filled CO position.

Exhibit 11
CO Filled Positions
January 2020 to January 2022



CO: correctional officer

Source: Department of Budget and Management

Future Steps

While the department's previous initiatives to increase hiring and reduce attrition were briefly successful in reversing the net loss of employees, it appears that more is needed. The pandemic prevented one-day in-person hiring events that were successful in 2019. DPSCS restarted those events with updated eligibility standards for prior substance use that were relaxed in fiscal 2022. Currently, the CO starting salary is $46,039 with a new hire bonus of $5,000 and a regional bonus of $2,500 for hard-to-recruit regions.

DPSCS employees represented by the American Federation of State, County and Municipal Employees (including COs) are scheduled to receive a negotiated salary increase of nearly 12% over the next two years:

- ***January 1, 2022:*** a $1,000 bonus, a 2% cost-of-living adjustment (COLA), and a make-up increment of approximately 2.4% for employees who did not receive an increment in the past fiscal year;

- ***July 1, 2022:*** a 3% COLA and regular increments of approximately 2.4% in fiscal 2023; and

- ***July 1, 2023:*** a 2% COLA.

In addition, qualifying workers that were part of a grievance over elevated quarantine and response pay will receive a $2,500 bonus in January 2022. Those employees who are unrepresented are scheduled to receive a $1,500 bonus, a 1% COLA, and a 2.4% increment adjustment in January 2022 as well as a 3% COLA and 2.4% increment adjustment in July 2022 for a total of nearly 9%.

Salary Step Increases

Effective July 1, 2021, over 3,800 employees received increases after the entry salary for CO Is was increased by 7.4% (from a step 3 to a step 5), and the CO II-Lateral entry salary was set at a step 7. Current COs received an increase of 3 steps while CO IIs were all advanced to step 8 (an increase of up to 5 steps). Also, Correctional Officer Sergeants, Correctional Maintenance Officers, Correctional Laundry Officers, Correctional Dietary Officers, Correctional Supply Officers and Maryland Correctional Enterprise Officers under bargaining unit H, all received one step as well.

The previous 9.5% salary increase for COs in fiscal 2019 was instrumental in improving DPSCS employment for a time. The new salary increases should likewise increase employment by continuing to make salaries more competitive and responsive to high inflation.

While the officer-to-inmate ratio is improved compared to previous years due to the inmate population decrease, DPSCS has not seen substantial declines in overtime hours worked or funds spent, a significant concern that reflects how thinly stretched the COs are in many of Maryland's prisons. Additionally, the recent population trends, discussed in Issue 2 of this analysis, show that the inmate population is rebounding in fiscal 2022 from the pandemic lows. This may keep DPSCS in a tight staffing situation moving forward. **Considering the increasing inmate population and decreasing employment, DPSCS should detail its strategic hiring plan for community supervision, correctional, and administrative officers.**

2. Overview of Departmentwide COVID-19 Response

State correctional facilities and parole and probation offices were all closed to the public in March 2020 after the Governor declared a state of emergency and catastrophic health emergency. In the first stage of the COVID-19 pandemic, DPSCS leadership established lines of communication, safety protocols, and salary initiatives to ensure that facilities were staffed and as safe as possible.

Effect of COVID-19 on DPSCS Populations

During the testing stage of the pandemic, DPSCS was largely successful in preventing prisons from becoming vectors for viral transmission, particularly in comparison to many states that saw outbreaks sweep through some facilities. Of primary concern remains fidelity to safety protocols such as social distancing and donning of personal protective equipment (PPE) to prevent COs from passing an outside case of COVID-19 to offenders held in DPSCS custody. **Exhibit 12** shows the progress of the virus this year compared to the first year of the pandemic.

Exhibit 12
Progression of COVID-19 in DPSCS Population
Calendar 2020-2021

	Total Inmate Cases	Active Inmate Cases	Inmate Deaths	Total Staff Cases	Active Staff Cases	Staff Deaths
January 20, 2021	3,780	244	20	1,929	215	4
January 14, 2022	5,199	416	36	4,142	888	8

DPSCS: Department of Public Safety and Correctional Services

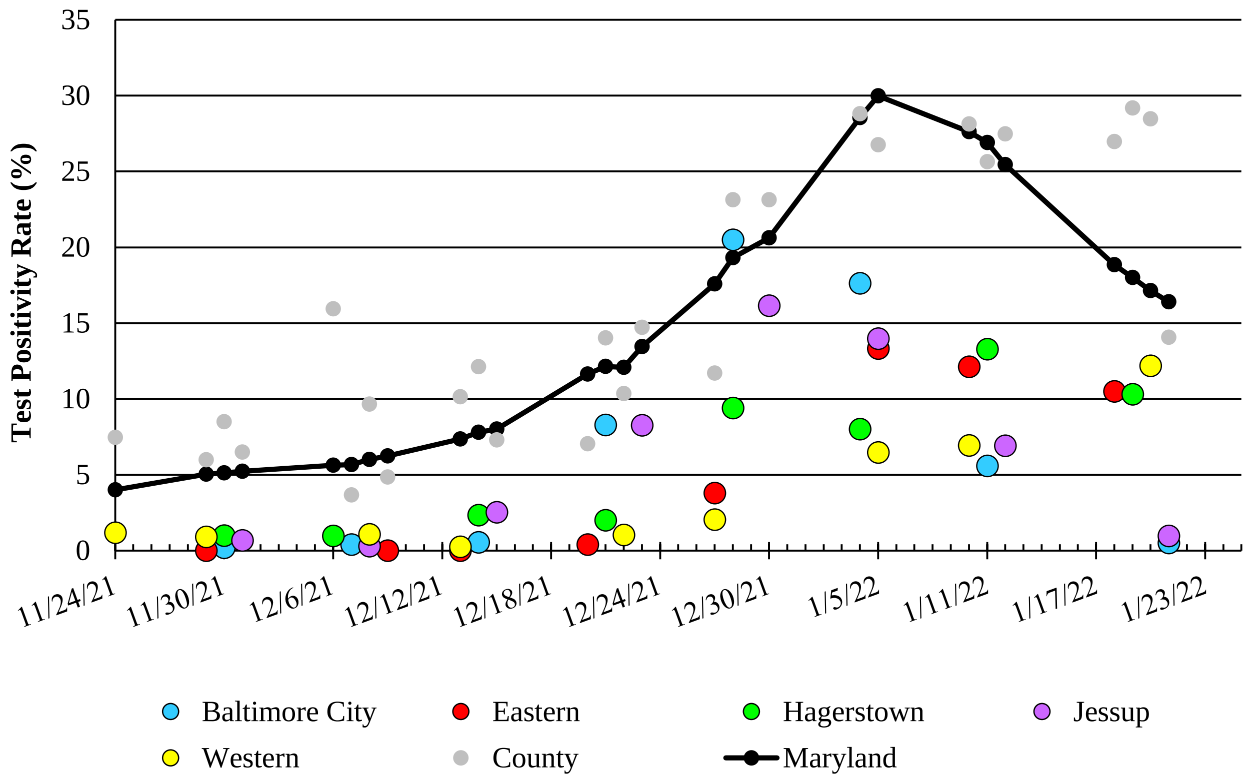
Source: Department of Public Safety and Correctional Services; Department of Legislative Services

The pandemic has progressed almost as much in the past 12 months as it did during the first 9 months. While the delta variant produced worse health outcomes, the omicron variant is more virulent and is currently the most prominent version of the virus in circulation.

Regional Differences

Exhibit 13 shows the most recent two months of testing for DPSCS staff and inmates by region since the omicron variant was first discovered. Within the last few weeks of calendar 2021 and the first week of 2022, all regions have experienced record high positivity rates. Western Maryland is the only region that did not experience a record high positivity rate at the close of calendar 2021, but its rate is now very elevated as well. The Central region (Baltimore City), Eastern region, and Jessup regions have the most inmates and, for Baltimore City, the closest quarters and most movement in facilities. These experienced the surge earlier than further out regions that are located in less densely populated areas and have less inmate-inmate and inmate-staff interaction. Currently, the Baltimore and Jessup regions have reduced their positivity rates to the typical low rate, while cases at Eastern, Hagerstown, and Western regions remain elevated due to the Omicron variant.

Exhibit 13
Regional COVID-19 Positivity Rates
November 2021 to January 2022

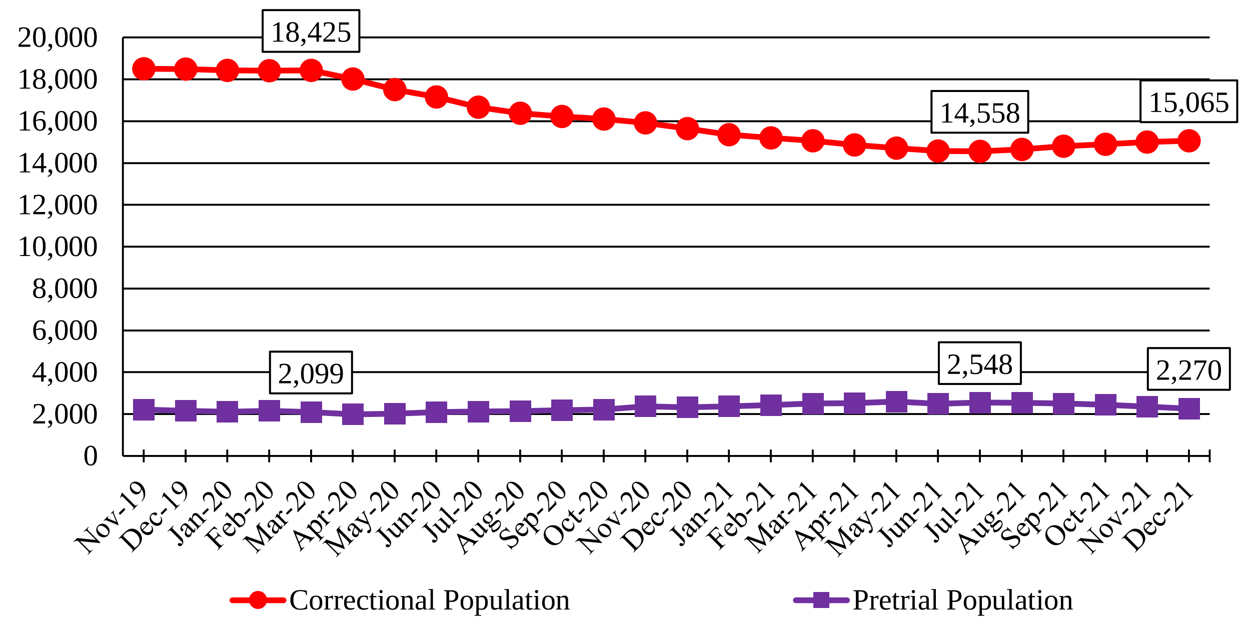


Source: Department of Public Safety and Correctional Services; Department of Legislative Services

Population Decline Reversed in Calendar 2021

Exhibit 14 shows the population decline by inmate category. During fiscal 2021, inmates continued to leave the department's custody in accordance to their sentences, while delayed judicial proceedings prevented new intakes from flowing into facilities. However, the Judiciary has resumed most judicial proceedings as normal, causing prison intakes to overtake prison releases for the first time since the start of the pandemic. Starting in August 2021, the trends reversed from the pandemic norm.

Exhibit 14
Population Change during COVID-19
December 2019 to December 2021



Source: Department of Public Safety and Correctional Services

Currently, the incarcerated population is increasing, while the pretrial population is decreasing. This trend was expected due to the aforementioned delays in judicial proceedings, resulting in a net gain of 273 inmates from July 2021 to December 2021. As the Judiciary works through the backlog of pretrial cases, DOC will see a likely resurgence in population. However, the pretrial population should soon stabilize at a lower level in line with the current trends in arrests and commitments. At that time, the incarcerated population should also begin to stabilize. **DPSCS should comment on how recent arrest trends and judicial backlogs are anticipated to impact its detention and correctional populations.**

COVID-19 Testing and Vaccination

DPSCS began holding vaccine clinics for staff in January 2021 and inmates in April 2021. So far, at least 4,102 staff have been fully vaccinated through onsite clinics, 2,003 have received a booster, and an unknown number have been vaccinated in the community. Among inmates, at least 12,175 (71%) have been fully vaccinated, 1,755 (10%) have received a booster shot, and 1,025 (6%) have refused to be administered a vaccine. As of September 1, 2021, all staff working in congregate facilities must either provide proof of full vaccination or submit to at least weekly COVID-19 tests. All staff continue to use PPE in facilities, and those who refused the vaccine are regularly offered the opportunity to be vaccinated free of charge by the department or community providers.

As cases climb in the staff population, a return to more austere safety procedures is necessary to prevent an outbreak in the inmate population. In-person visitation was restarted in July 2021 but canceled in January 2022 due to climbing cases. Opportunities for outside details, work release, religious services, and other programming are prioritized for vaccinated inmates. Education programming continues with existing safety protocols, including donning PPE, social distancing, and isolating as necessary. Current quarantine and isolation cells across the department are sufficient to move the inmate population as necessary, thanks in part to recent facility closures.

Moving forward, the department is set up to remain flexible by keeping interagency and intra-agency lines of communication open and by maintaining strict safety protocols. However, the success of the department depends, in part, on the voluntary vaccination of COs and inmates in facilities and continued offering of booster shots as recommended by public health authorities.

DPSCS should brief the committees on the effects of the omicron COVID-19 variant, including the impact on activities, sick days used, overtime hours worked, and efforts to increase vaccination rates.

3. JRA Three-year Implementation Update

The JRA of 2016 is one of the State's primary statutes 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 four years of data as well as significant changes in sentencing, parole, and treatment options for offenders.

Exhibit 15 displays each of the major JRA provisions, their definitions, and their results.

Exhibit 15
Justice Reinvestment Act – Status Updates
October 2017 to October 2021

	Results	2017-2019	2019-2020	2020-2021	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	1,452	336	224	2,012
	Ineligible	1,137	255	223	1,615
	Eligible	**265**	**81**	**51**	**397**
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	41	0	0	41
	Ineligible	40	0	0	40
	Eligible	**1**	**0**	**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	97	98	252	447
	Ineligible	23	19	0	42
	Eligible	**34**	**21**	**33**	**88**
	Deceased	8	3	6	17
	Denied	42	58	217	317
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**	**2,485**	**788**	**1,253**	**4,526**
Diminution Credits: Expands offender eligibility to earn diminution credits, how many credits can be earned, and for what reasons.	**Received Credits**	**860**	**605**	**247**	**1,712**
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.	**Received Credits**	**115,322**	**31,626**	**35,600**	**182,548**
Certificates of Rehabilitation: Allows nonviolent offenders to apply for a certificate of completion to restore their rights to obtain certain professional certifications.	Applied	16	13	13	42
	Denied	6	3	3	12
	Approved	**9**	**10**	**10**	**29**

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

Estimated Four-year JRA Cost Avoidance: $3.3 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 2021 inmate variable cost was $3,548.30 per offender per year, or $9.72 per day. Overall, DPSCS and the Department of Legislative Services (DLS) determined the following for the fourth year of JRA implementation, October 1, 2020, through September 30, 2021.

- ***Administrative Release:*** Resulted in 23,968 fewer days served by inmates.
- ***Diminution Credits:*** 26,764 fewer days served.
- ***Medical Parole:*** 54,084 fewer days served.
- ***Total Days Avoided:*** 104,816 fewer days served.
- ***ADP Avoidance:*** 287 fewer inmates in custody on average day.
- ***Fiscal 2021 JRA Direct Cost Avoidance:*** $1,015,667

The fiscal 2021 allowance for the Governor's Office of Crime Prevention, Youth, and Victim Services (GOCPYVS) includes $13.5 million in grant funding through the Performance Incentive Grant Fund. This grant fund supports State, local, and nonprofit projects that reduce Maryland's State and local incarcerated population through appropriate diversion, deflection, service provision, and recidivism reduction resources. GOCPYVS calculates the amount budgeted each year by multiplying the total cumulative reduction in the State correctional population since October 2017 by the variable inmate cost.

Appendix 1
2021 *Joint Chairmen's Report* Responses from Agency

The 2021 *Joint Chairmen's Report* (JCR) requested that DPSCS prepare three overview reports. Electronic copies of the full JCR responses can be found on the DLS Library website.

- ***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 2022 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 the contract solicitation has been delayed by another year due to changes necessitated by the COVID-19 pandemic. The funds restricted for this purpose were released despite DPSCS remaining unsuccessful at procuring a vendor for comprehensive substance abuse treatment services.

- ***Position Abolishments and Reclassifications Report:*** A total of 266 vacant CO I and II positions were abolished pursuant to fiscal 2021 Budget Bill language. Additionally, 5 DPP agent positions and 92 administrative positions were abolished. DPSCS continued reducing its position complement in fiscal 2022, transferring at least 31 positions to other agencies for police reform and other purposes since the fiscal year began.

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

Object/Fund	FY 21 Actual	FY22 Working Appropriation	FY 23 Allowance	FY 22 - FY 23 Amount Change	Percent Change
Positions					
01 Regular	9,613.40	9,217.40	9,217.40	0.00	0.0%
02 Contractual	143.43	355.61	351.80	-3.81	-1.1%
Total Positions	**9,756.83**	**9,573.01**	**9,569.20**	**-3.81**	**-0.1%**
Objects					
01 Salaries and Wages	$931,008,712	$900,003,345	$952,179,845	$52,176,500	5.5%
02 Technical and Special Fees	8,043,063	8,454,963	8,028,779	-426,184	-5.3%
03 Communication	5,223,828	4,813,912	4,952,838	138,926	2.8%
04 Travel	147,565	496,430	457,550	-38,880	-8.5%
06 Fuel and Utilities	50,073,204	50,807,987	50,967,541	159,554	0.3%
07 Motor Vehicles	5,127,483	6,971,451	6,645,432	-326,019	-4.9%
08 Contractual Services	271,798,854	270,669,385	270,385,542	-283,843	-0.1%
09 Supplies and Materials	86,213,411	83,221,653	84,921,175	1,699,522	2.0%
10 Equipment – Replacement	9,162,405	7,656,986	15,819,700	8,162,714	51.6%
11 Equipment – Additional	726,190	455,250	362,808	-92,442	-25.5%
12 Grants, Subsidies, and Contributions	119,645,719	12,072,919	12,445,243	372,324	3.0%
13 Fixed Charges	10,652,536	8,735,172	9,360,896	625,724	6.7%
14 Land and Structures	2,035,353	7,132,000	9,237,000	2,105,000	22.8%
Total Objects	**$1,499,858,323**	**$1,361,491,453**	**$1,425,764,349**	**$64,272,896**	**4.5%**
Funds					
01 General Fund	$1,217,312,911	$897,283,569	$1,315,090,102	$417,806,533	31.8%
03 Special Fund	173,446,663	79,875,233	78,595,902	-1,279,331	-1.6%
05 Federal Fund	71,517,056	379,767,515	28,040,961	-351,726,554	-1,254.3%
09 Reimbursable Fund	37,581,693	4,565,136	4,037,384	-527,752	-13.1%
Total Funds	**$1,499,858,323**	**$1,361,491,453**	**$1,425,764,349**	**$64,272,896**	**4.5%**

Note: The fiscal 2022 working appropriation includes deficiency appropriations. The fiscal 2023 working appropriation and fiscal 2023 allowance do not reflect funding for statewide personnel actions budgeted in the Department of Budget and Management, which include cost-of-living adjustments, increments, bonuses, and may include annual salary review adjustments.