

**DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES
FY 2019 BUDGET DIVISION OF CORRECTION**

Population Statistics

Issue: As the inmate population continues to decline, DPSCS should comment on the effect that the new Justice Reinvestment Act (JRA) provisions may have on the department's intake and release totals.

Response: The Department has seen a decrease in the inmate population over the past several years. The Department believes there will continue to be an increase in the number of releases over the next several years as a result of the Justice Reinvestment Act (JRA). However, the Department is unable to ascertain whether the population trend will continue on the same trajectory moving forward.

Certain substantive provisions of the JRA are only applicable to individuals convicted after October 1, 2017, including changes to the calculation of diminution credits. The impact will not be realized for a number of years. Another provision that aims to increase releases is the Administrative Release component of the JRA. However, there are several variables to consider with the Administrative Release process that make it nearly impossible to estimate the number of releases. For example, the inmate must adhere to their case plan and abstain from committing a serious infraction to remain eligible for Administrative Release. The Department has no way of anticipating the number of inmates who will actually adhere to their case plan or meet the other elements as established under statute.

Additionally, other substantive provisions of the JRA actually increase the criminal penalties and length of sentences for certain offenders. Therefore, the Department is unable to determine whether releases will continue to exceed intake figures moving forward.

Inmate Characteristics

Issue: DPSCS should comment on the age of its offender population and its potential impact on operations, service delivery, and costs – particularly for health care.

Response: As of February 13, 2018, the Department's Division of Correction (DOC) has 973 inmates over 60 in its custody, 359 of which are serving life sentences. Anecdotally, this population requires more involved medical

treatment. Similar to what occurs in the community, as inmates age they become more susceptible to chronic medical and mental conditions.

Although the Department believes that the treatment of the older inmate population tend to be more expensive than the treatment of the younger inmate population, the Department is unable to breakdown the cost of treatment for a specific illness or age-related illnesses. Even if the Department were able to do so, the information would be of little benefit overall since the contract with the medical treatment services provider contains a fixed cost per inmate, across the entire Department. Additionally, the Department is responsible for treating all inmates in its custody regardless of their age or illness.

Summary Report Age – Inmates Serving Non-Life Sentences	
Age Ranges	Count
17 and Under	5
18 to 25	2,313
26 to 30	3,561
31 to 35	2,933
36 to 40	2,445
41 to 50	3,105
51 to 60	1,896
Over 60	614
Total	16,872

Summary Report Age – Inmates Serving Life Sentences	
Age Ranges	Count
18 to 25	36
26 to 30	114
31 to 35	182
36 to 40	263
41 to 50	653
51 to 60	672
Over 60	359
Total	2,279

Facility Security

Issue: DPSCS should comment on elevated assault levels, despite nominal decreases in fiscal 2017. In addition, the department should comment on why walk-offs and offender homicides increased and where they occurred. Given the recent corruption indictments and the fact that the U.S. Attorney's Office stated that cell phones were central to illegal contraband smuggling efforts, the department should comment on the increase in cell phone finds and whether intensified Cellsense deployment could deter future contraband smuggling.

Response: The Department takes assaults – no matter how minor – very seriously. The increase in assault rates in FY17 is attributable to a couple of factors. In September of 2015, the Department revamped its policy on how assaults are reported so that even very minor assaults are reported and investigated accordingly. This shift resulted in an increase in the number of minor assaults in FY16 and FY17. Additionally, the Department is dealing with a more violent population as the percentage of offenders serving sentences for violent crimes has increased. Approximately 57% of the inmate population was serving a sentence for a violent crime in FY 2017 compared to 40% in FY 2014.

There were a total of 11 walk-offs during FY17: one from Dorsey Run Correctional Facility; six from Baltimore City Correctional Center; three from Poplar Hill Pre-Release Unit; and one from the Baltimore Pre-Release Unit. All except of the inmates have been apprehended.

There were two inmate homicides in 2017 compared to one homicide in 2016. Both homicides that occurred in 2017 took place at Western Correctional Institution and have been solved.

The increase in the number of cellphones and contraband seized is due to a number of factors, including advances in technology and the expansion of the Department's K9 Unit. The advance in technology of cellphones has made them smaller and cheaper to obtain and smuggle. The Department has also experienced multiple instances where bundles of cellphones were recovered (approximately 6 bundles in 2017). The bundles were contained in trash bags, footballs, tennis balls, etc. – all of which can be easily thrown over the perimeter fences.

Over the past year, the Department's award-winning K9 Unit has been working more missions directly with IID, in addition to its regular random searches and

perimeter sweeps. During these coordinated missions, IID and the K9 Units target specific facilities and tiers based on intelligence gathered by IID. They have also worked diligently to increase communication and collaboration with external law enforcement partners to prevent contraband from entering the facilities.

The K9 Unit was also able to conduct a greater number of scans as a result of increasing the number of contraband detection dogs to four (4) from three (3) over the prior year. The Department is acquiring two (2) additional contraband detection K9s in February, which may further increase the amount of contraband recoveries this year.

The Department has purchased and deployed over 160 Cellsense® units, which are designed to sense cellphones and metal contraband. Not only does each institution use these units for random searches of tiers, but they also station them strategically throughout the institution to pick up on contraband during mass inmate movement. The units are portable and lightweight which allow us to utilize them to identify gaps in traditional detection and screening processes. The Department believes these units deter contraband smuggling to a certain extent; however, advancements in technology makes it nearly impossible to effectively deter the introduction of all contraband.

Maryland Correctional Enterprises

Issue: DPSCS should comment on its ability to maintain current revenue levels.

Response: Maryland Correctional Enterprises (MCE) has an established goal to achieve revenues of at least \$50 million each fiscal year and this goal has been attained consistently since Fiscal Year 2008. Although, revenues have exceeded benchmarks in recent years, it is unlikely that MCE will continue to maintain the elevated level of revenues achieved in fiscal years (FY) 2016 and 2017 due to several factors:

- The declining prison population. In FY 2017, the Department of Public Safety and Correctional Services (DPSCS) accounted for approximately 25.5% of MCE revenues. As the prison population decreases, MCE will see a reduction in sales relating to products for inmates such as food products, clothing, bedding, laundering services, etc.
- A decline in Capital Projects for state and community colleges. In FY 17, approximately 30% of MCE sales were to state and community colleges

for projects related to their expansion and renovation. Capital Projects totaled \$13.1 and \$13 million in Fiscal Year's 2016 and 2017 respectively. MCE projects that Capital Projects will account for approximately \$10.4 million of in sales for Fiscal Year 2018, representing a 20% decrease from the two previous years.

- An overall decline in state spending. In the current year, MCE has experienced decreased purchasing from various state agencies. Incoming orders through January 2018 totaled \$27.4 million compared to \$31.2 million in January 2017, accounting for a 12.2% decrease in incoming sales.

As mandated by law, MCE's market is restricted to state agencies and non-profit entities. However, MCE continues to be successful in achieving annual revenues of \$50 million and anticipates continued success with respect to this established goal.

Detainee Transfers

Issue: DOC should comment on detainee populations at State facilities and efforts to keep detainees, particularly at JCI and MCI-W, separate from State prisoners and whether these efforts require any additional staff and/or costs, particularly for detainee transportation back to Baltimore City courts.

Response: Although some detainees have been dispersed throughout State correctional facilities, the majority of detainees who are not located in Baltimore City are either at the Jessup Correctional Institution (JCI) or the Maryland Correctional Institution for Women (MCIW). The Department designated the Jessup Correctional Institution (JCI) as the main location for male detainees within the DOC since it is centrally located, is classified as a maximum security facility, and has cells instead of dormitory-style housing. The detainees selected for transfer from the Baltimore City Jail to JCI were maximum security who could not be safely housed in dormitory housing.

JCI has specifically designated B-Building and one wing of the D-Building as the housing locations for detainees in order to keep the detainees separated from sentenced inmates. These buildings have recreation yards that are separate by design so that detainees and inmates have different times at which they can take advantage of recreation time. The detainees are also escorted to the dining facility where they consume their meals separately from the sentenced inmates. Although visitation and medical appointments for the detainee population takes

place at the same time as the sentenced inmates, custody staff works diligently to ensure they maintain as much distance from one another as possible.

The female detainees housed at the Maryland Correctional Institution for Women (MCIW) are either on administrative segregation, assigned to the mental health unit or the infirmary. It is relatively simple to keep the detainees separate from the sentenced inmates by ensuring they are housed separately and have designated times for recreation.

The above arrangements are not overly burdensome and do not impact the daily operations of these facilities. Increased transportation is the only notable impact of this housing arrangement; however, relocating a portion of the detainee population was necessary after the closure of five of the buildings on the Baltimore City Jail Complex.

CO Separations

Issue: DPSCS should comment on how the CO rule modifications regarding retirement have affected CO separations.

Response: Chapters 688 and 690 expanded the membership of the Correctional Officers' Retirement System (CORS) to include certain individuals serving in certain positions in the Department. The positions included in CORS under these bills were Agents within the Division of Parole and Probation; Social Workers; Psychologists; Alcohol and Drug Counselors; Mental Health Counselors; and, Recreation Officers. The only correctional officer classification impacted by these bills was Recreation Officers. Therefore, these bills should have no impact on correctional officer separations.

Recommended Actions

1. Add the following language:

Provided that \$895,770,049 of the appropriation provided for Comptroller Object 01 Salaries and Wages may be expended for that purpose only and may not be transferred, by budget amendment or otherwise, to any other purpose. Funds unexpended at the end of the fiscal year shall revert to the general fund or be cancelled.

Response: The Department unequivocally and vehemently disagrees with the recommended action as it is irresponsible and jeopardizes the safety and security of the Department's operations. While the Department has been actively

trying to recruit to fill its vacancies, the Department uses its vacancies savings to fund critical projects. This item would restrict 70% of the Department's entire budget and the remaining 30% is already allocated as it is dedicated to inmate medical care, inmate dietary, utilities and service contracts. By restricting 70% of the Department's entire budget, the Department will not be able to cover expenses for equipment used to increase the safety and security of its 23 correctional facilities; emergency maintenance projects; items necessary in reaching compliance with the *Duvall* settlement agreement; certain items for the Maryland Correctional Enterprises (MCE); and require the Department to terminate certain contractual employees.

For illustrative purposes, had this restriction been in place for the Fiscal Year 2017 budget, the Department would not have been able to purchase equipment directly related to ensuring the safety and security of the correctional facilities. Utilizing vacancy savings, the Department purchased Cellsense® towers, x-ray machines, and radios. As stated in prior testimony, Cellsense® towers and x-ray machines are key pieces of technology in the correctional setting as they detect contraband, including cellphones and weapons. Albeit simplistic, radios are essential in correctional facilities as they are the primary mode of communication between staff.

In addition to purchasing equipment, vacancy savings were utilized in fiscal year 2017 to fund approximately \$9 million in critical and emergency maintenance projects. Had these projects been neglected and gone unfunded, the Department would have been subject to lawsuits and would have ended up paying more in legal fees and settlement agreements. These projects include:

- May 2017 – emergency repairs to the fence detection system at Western Correctional Institution (\$76,563);
- May 2017 – emergency to replace grease traps at the Baltimore City Correctional Center (\$293,400);
- May 2017 – HVAC repairs and installation of air condenser units at the Metropolitan Transition center (\$1,448,306);
- April 2017 – emergency procurement for automated time clocks to address employee pay issues (\$781,500);
- June 2017 – Maintenance contract for building demolition of the old sewing shop (\$415,900);
- July 2017 – emergency for water dam repairs located on the grounds of the Dorsey Run Correctional Facility (\$322,923);
- July 2017 – emergency procurement to remove exterior bricks due to safety hazards and concerns at the old Baltimore City Detention Center (\$747,689);
- July 2017 – emergency procurement to repair underground steam leak (\$27,600);

- August 2017 – emergency to repair exterior exercise cages at Maryland Correctional Institution-Jessup (\$276,000); and
- August 2017 – emergency to install exterior security screens and window replacements at Baltimore City Booking and Intake Center (\$579,400).

In operating and overseeing 23 correctional facilities, 43 parole and probation offices, and MCE, the Department needs flexibility in its budget to deal with unforeseen issues as they arise. This recommended action seems to suggest that the Department should resume the practice of requesting and relying on deficiency funding. However, this is irresponsible and unpractical as the Department would have to wait until April of 2019 to have funding approved. In addition, the Department is concerned over its ability to fund items after April 2019 as the Department will not be able to submit deficiencies for the remainder to the fiscal year. Therefore, the Department would be unable to fund any urgent safety or maintenance issues, which would result in serious injury or harm to the Department's employees, the offenders under its custody, and the public.

It is also important that a substantive provision of the Duvall settlement agreement involves maintenance of the remaining buildings at the Baltimore City Jail. This provision requires the Department to address maintenance issues as they arise in a timely fashion instead of waiting for long periods of time and allowing conditions to worsen. This recommended action would prevent the Department from utilizing vacancy savings to rectify and immediately cure maintenance issues in Baltimore City which directly impedes the Department's progress in terms of reaching substantial compliance with the settlement agreement.

This recommended action would negatively impact the Department's ability to cover unanticipated costs incurred by MCE which could include the replacement or repair of vehicles, shortfalls in utilities or other seasonal related expenditures. MCE is statutorily obligated to operate like a business as closely as possible. This means ensuring MCE has adequate vehicles to transport goods to its customers and maintain utilities so its shops are operational.

This recommended action would inhibit the Department's ability to rehire retired correctional officers and would effectively terminate its ability to utilize contractual employees to carry out food services in Baltimore City. Currently, the Department rehires retired correctional officers to counter the impact of its vacancy rate and benefit from the expertise of the retiree. The Department utilizes vacancy savings to hire these retired correctional officers so the Department would be forced to terminate this program which would only increase its reliance and utilization of overtime. The Department also utilizes contractual dietary officers for food services in Baltimore City which – again – are funded out of vacancy savings. Should this action be adopted, the Department will be

forced to eliminate all non-budgeted contractual employees on July 1st which means the Department will not be able to provide food services to approximately 2,800 detainees in the City.

In summary, this recommended action would nearly cripple the Department's ability to operate by eliminating its ability to utilize vacancy savings. The Department understands the Committees' concerns in its ability to fill its vacant positions; however, this recommended action is overly punitive and does little to address the underlying cause of its vacant positions. It is a prudent and acceptable budgetary practice to utilize any budgeted savings available to cover unanticipated costs throughout the entire year to assist in ensuring the Department has a balanced budget. The Department urges the Committee to reject this recommended action.

2. Adopt the following narrative:

Correctional Officer Transfers and Staffing Report: The large number of correctional officer (CO) vacancies and related issues, including required overtime for officers, has had a negative effect on recruiting and officer retention. Recently, the department has partially closed several facilities, allowing administrators to transfer correctional officers to other prisons with staffing issues. The budget committees request that the Department of Public Safety and Correctional Services submit a report providing data pertaining to Division of Correction (DOC) transfers and staffing which includes the following information:

- given the success of the Maryland Correctional Institution in Hagerstown redistribution of inmates in lowering vacancy rates at select facilities, the options for further strategic realignment of COs and/or inmates to other departmental facilities;
- the current number of detainees at State facilities, their security classification, whether they are housed with inmates from different security classifications, and the additional costs to house and transport them;
- information on DOC efforts to address the high number of retirements and early separations of new CO employees;
- specific data on overtime which includes the total number of COs at each facility who were required to work overtime each month for

the most recent 12-month trailing period (and the number of drafted overtime hours worked);

- the number of CO cadets hired and their locations, and the number of COs who successfully qualified for the new bonus program; and
- additional efficiencies including new sick leave definitions and their impact on staff levels.

Response: The Department concurs with the recommended action.

3. Adopt the following narrative:

Inmate Education Report: In fiscal 2017, the General Assembly passed legislation calling for better education of inmates in State prisons in order to reduce recidivism and improve public safety. The budget committees request that the Department of Public Safety and Correctional Services (DPSCS) submit a report, in conjunction with the Department of Labor, Licensing, and Regular's (DLLR) Correctional Education Program, due by December 1, 2018, which provides data on enrollment and graduation rates for all academic programs, average self-pay tuition and book costs for inmates, total costs for post-secondary educational programs, and to the extent possible, recidivism rates for inmates who successfully completed academic programs from the high school level and higher. In addition, the report should include the average cost for post-secondary education per inmate, and any efforts by the Division of Correction to obtain additional funds for education via the Justice Reinvestment Act (JRA) grant funds or savings generated from the JRA.

Response: The Department concurs with the recommended action.

4. Adopt the following narrative:

Inmate Substance Abuse Treatment: Pursuant to Chapter 515 of 2016, the Justice Reinvestment Act (JRA), if offenders request drug treatment and the court approves, the State is required to place them in a treatment program immediately. While this may ease the burden on State prisons, if treatment is requested and denied, the department must offer similar, medically appropriate treatment to substance abusers when they are

incarcerated. The budget committees request that the Department of Public Safety and Correctional Services (DPSCS) submit a report due by December 1, 2018, on its substance abuse treatment programs. Given the possibility that JRA-related provisions may increase the number of offenders both in custody for treatment, and outside of custody for residential/outpatient treatment, the department should provide the following:

- the number of beds needed for substance abusers at outside facilities;
- data regarding wait times to move offenders to available treatment through the Maryland Department of Health and if the wait times are sufficiently short;
- substance abuse spending per facility and whether current spending levels are sufficient;
- information regarding substance abuse management tactics and programs including the naltrexone pilot program;
- total number of inmates currently being treated for substance abuse at each facility (including those receiving opioid treatment); and
- overall substance abuse treatment needs at the Division of Correction facilities and related efforts that involve the Opioid Operational Command Center or any other State task forces.

Response: The Department concurs with the recommended action.