



# Department of Public Safety and Correctional Services

## Office of the Secretary

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## DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES DIVISION OF CORRECTION FY 2021 OPERATING BUDGET

### Response to Department of Legislative Services Budget Analysis

#### Recidivism Data:

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

**Response:** Single year recidivism numbers were reported in the current Managing for Results (MFR) report for fiscal year (FY) 2016-2018, as is historically consistent. The MFR tracks single-year outcomes, which is why a preliminary one-year recidivism calculation has been provided as an interim measure since FY 2011. Single and three-year recidivism calculations were disrupted by the migration to the Department's new Offender Case Management System (OCMS) in 2014 and subsequent system adjustment. This changeover reset the Department's cohort in FY 2016, as post-2007 migrated data lacked the detail necessary for a comprehensive recidivism calculation, which made FY 2019 the first year that three-year recidivism could be calculated.

Beginning in FY 2019, the first year available, single-year recidivism figures for return to DOC custody were provided for FY 16-19. The Department has historically made three-year recidivism figures public on its website in its annual reporting, and recommends maintaining this method of reporting to complement one-year recidivism reported through MFR. The Department is incorporating best practices modeled in neighboring states to expand beyond its prior calculation to report in detail the variations in recidivism across different populations with different levels of contact with the criminal justice system. This new methodology will better identify overlaps between the state and local incarcerated population, including the impacts on recidivism of the Justice Reinvestment Act, and differing recidivism rates of individuals who participated in key recidivism-reduction programming, including workforce

development through Maryland Correctional Enterprises. The Department expects to finish the FY 2019 recidivism report in Spring 2020.

#### **MCE Audit:**

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

**Response:** The Maryland Correctional Enterprises (MCE) Enterprise Resource Planning Implementation Project (ERPIP) will provide the ability for MCE to revise and update its aging financial and manufacturing information technology infrastructure. This project will allow more efficient management of the agency's program that currently generates close to \$53 million per year in sales and service and employs close to 1,500 inmates throughout Maryland's correctional facilities. The current paper-driven process and computing platform is not efficient and has become less effective as MCE expands its business. Given the size and scope of this project original estimates for the project were between \$4 and \$4.5 million.

It's important to keep in mind that MCE is completely self-sustaining through revenue achieved through the sales of goods and services provided and as such, MCE receives no State general funded support. Therefore, the costs to implement this project are funded solely through MCE revenues. The \$6 million in funding appears to represent the total combined authorized appropriation over prior years. Due, to unsuccessful attempts at past solicitations, the authorized appropriation for this project was not spent and therefore cancelled. Because this is not a project funded utilizing Major Information Technology Development (MITDP) monies, each year funding must be appropriated in the budget allowing MCE to spend money on this project. At this time, there is no reason to believe that the original estimates for this project are not valid, but until a successful solicitation and proposals are received, actual costs remain uncertain. The current and revised timeline for the ERPIP is:

- April 2020 - Onboard New Project Manager
- August 2020 - Finalize request for proposal (RFP) solicitation
- November 2020 – Publish RFP and review bids
- March 2021 – Award of new contract
- March 2022 – Phase-1 implementation completed

The most recent Office of Legislative Audit (OLA) found deficiencies with inventory controls. MCE has already begun the process of implementing a

corrective action plan, which includes staff training, conducting inventory reconciliations more frequently, and implementing steps to document authorization pertaining to the inventory reconciliation process prior to making system corrections. Implementation of the ERPIP will assist MCE in resolving the identified audit findings by increasing the control and visibility through an automated system inventory and thereby reducing reliance on manual paper tracking.

**Litigation:**

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

**Response:** In the analysis, DLS asked the Department to respond to three specific areas related to the *Brown v. Department of Public Safety and Correctional Services* settlement agreement. Please see below, the three areas and responses to each.

- DPSCS will set up computers with text-to-speech screen reader software, document scanners, and other assistive technology in the prison library, classrooms, and other locations to allow blind prisoners to conduct research and read and prepare documents independently

In June 2019, the Department hired a full-time ADA coordinator, who assists in ensuring compliance with the settlement agreement and with the terms of the ADA. The Department has acquired and installed all of the aforementioned assistive technology. The Department is able to provide a breakdown of the technological equipment and services purchased upon request by the budget committees.

- DPSCS will ensure that blind inmates have access to qualified human readers and scribes who meet certain security and disciplinary criteria

The Department's Case Management staff screen readers and scribes assigned to the blind inmates to ensure the inmates who are assigned in these roles have not been convicted of a sex offense or crime involving abuse of a vulnerable person, and have been infraction free for one year.

- DPSCS will provide training for blind inmates in skills that will allow them greater independence.

In July 2019, Blind Industries and Services of Maryland (BISM) provided training for designated inmates to attainment etiquette and skills necessary for serving in the role of Sighted Guide and Reader/Scribe. Roxbury

Correctional Institution (RCI) has \$20,000 budgeted in an open Purchase Order for training purposes with the Blind Industries and Services of Maryland (BISM) to continue offering skills to enable greater independence.

**Issue: DPSCS should comment on the methodology for placing sight-impaired and other special needs inmates in proper housing and provide a list of facilities that are fully ADA compliant. DPSCS should also discuss budgetary needs for providing ADA accommodations and provide an update on the progress of the ADA Transition Plan.**

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

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

In terms of facility compliance with the ADA and budgetary needs associated with ADA compliance, the Department is receiving \$974,000 in deficiency funds for the purposes of completing an ADA feasibility study for ADA. This study will assist the Department in determining current levels of ADA compliance and compliance-related needs.

**Recommended Actions:**

1. Add the following language:

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

**Response:** The Department strongly disagrees with the recommended action to reduce \$5 million based on personnel savings associated with abolishing 521 vacant positions.

The current recommendation does not align with prior statements made by the Department of Legislative Services (DLS). Specifically, in the Overview of the Department's budget, DLS specifically states that, *"the fiscal 2021 budget allowance requires DPSCS to identify and abolish 521 vacant positions. These cuts will come from hard-to-fill areas, and the associated salary savings will be used to support overtime increases and bonus programs. [Furthermore], Abolishing 521 will reduce overall positions to 9,618, a 5.4% decrease from fiscal 2020. This adjustment will also bring the number of currently vacant positions closer to the turnover expectancy for future budgets."*<sup>1</sup>

Utilizing data provided in the DLS Overview there were 2,179 vacancies as of December 31, 2019 and in accordance with DLS calculations 1,744 are required to meet the Department's budgeted turnover. Based on a reduction of 521 this would reduce the number of vacancies from 2,179 to 1,658 which based on the Department's calculation, is 68 positions below the number identified by DLS that DPSCS is required to maintain in order to meet budgeted turnover.

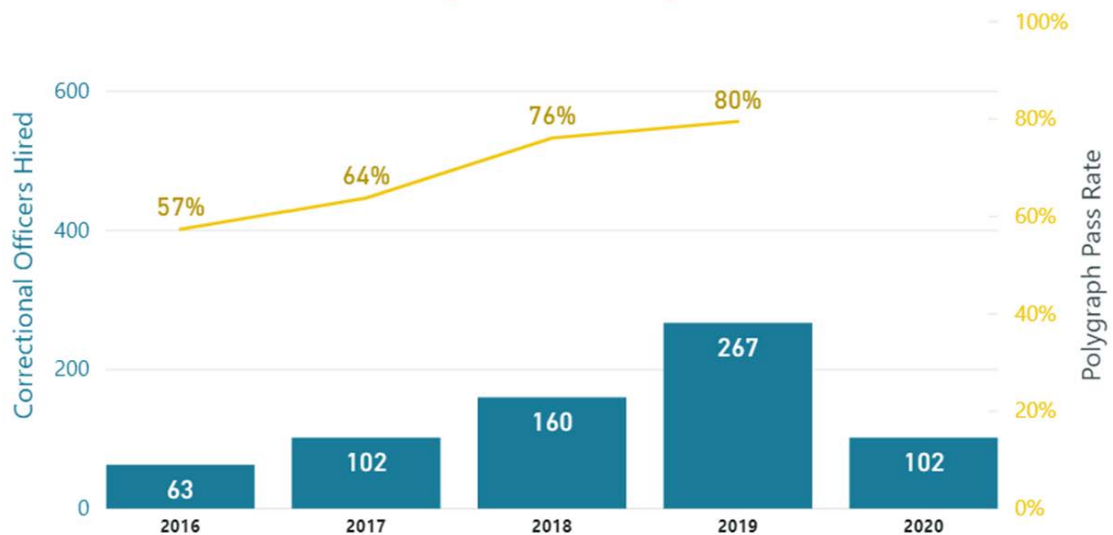
Furthermore, the Department has provided ample evidence documenting the strides and efforts achieved through increasing new hires and reducing the number of separations from the Department.

The graph provided in response to the Department's position on the Overview Budget clearly details that the hires have outpaced separations in January 2020 and February 2020 month to date. This is significant. As illustrated in previous hearings, the Department has made incredible strides in hiring correctional officers. The Department has hired 102 correctional officers in less than two months' time, which matches all correctional officer hiring in the entirety of 2017 (see graph on following page).

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<sup>1</sup> Department of Legislative Services Q00 – DPSCS – Fiscal 2021 Budget Overview

## Hiring Outcomes by Year



The budget as submitted appropriately realigns expenses related to the vacant position reduction in accordance with anticipated costs to be incurred as recommended by the Budget Committees and Legislative Services. The recommendation to reduce the Department's budget by an additional \$5 million simply does not reflect reality. Instead, the proposed reduction directly contradicts the message expressed by the Budget Committees. There are simply no additional funds to cut. In fact, if this recommended action were to be adopted, the Department will be unable to fill 93 Correctional Officer-I vacancies.

In summary, the Department respectfully requests the budget committees reject this recommendation, which is not supported by DLS's own analysis of the Department or intent expressed by the committees. A further reduction in funds reduces the ability of the Department to hire, which is contradictory to everything that the Department is trying to achieve. **Reject this proposal**

### 2. Adopt the following narrative:

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

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

**Response:** The Department concurs.

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

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

**Response:** The Department concurs.

4. Reduce funding for chiller replacement at the Patuxent Institution. Unappropriated funds are available to support this project through the Department of General Services Facilities Renewal Fund. (\$429,000)

**Response:** The Department strongly disagrees with the recommended action. The action as proposed incorrectly mischaracterizes funding within the Department of General Service's (DGS) budget totaling \$3.1 million. The Department is working with DGS to finalize the list of projects for Fiscal Year 2021 and as such, funds are not available to cover planned projects within the DPSCS operating budget. Specifically, the Department conducted an assessment and determined that the system that controls the doors and cameras for the Baltimore City Booking & Intake Center (BCBIC) must be replaced. The system is outdated, requires constant repairs, which are

increasingly difficult to complete due to the unavailability of parts and compatibility with modern components. The Department absolutely must replace this system to ensure safety and security within the facility, prior to this issue escalating to an emergency. Over the past two-years, the General Assembly urged the Department to realign its budget to more appropriately account for expenditures in categories of spending and not rely on salary savings through vacancies. The Department has done exactly that. Due to the Department's aging infrastructure, funds were added to both the DPSCS and DGS budget to tackle the exuberant and maintenance backlog that now exceeds \$80 million.

With respect to the replacement chiller at the Patuxent Institution, this maintenance project is absolutely necessary due to the age of the equipment. The equipment is original to the building and repairs can no longer be made. This item cannot be deferred any longer and, as previously stated, additional funds in the DGS budget are already earmarked.

**5. Add the following language:**

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

**Response:** The Department concurs.

**6. Delete funding for heating, ventilation, and air conditioning replacement at Western Correctional Institution. Unappropriated funds are available to support this project through the Department of General Services Facilities Renewal Fund. (\$1,300,000)**

**Response:** The Department strongly opposes this proposed reduction. As previously indicated, funding is not available through the DGS Facilities Renewal Fund. Those funds are earmarked for other critical maintenance



projects that will address the Department's aging infrastructure and backlogged maintenance needs which exceed \$80 million.

The Department requests the committees reject this recommended action specifically as funds are required to replace the heating, ventilation and air conditioning system at Western Correctional Institution. The current system is 25-years old, inefficient, and costly to repair and maintain. The current system utilizes R22 refrigerant, which has proven harmful to the environment. It's imperative that the Department replace this system which supports the inmate education building, medical, food services, and administration. This item cannot be deferred any longer and as previously stated, additional funds in the DGS budget are already earmarked.

7. Reduce funding associated with gym floor replacement, air handling unit replacement, and oven hood and vent replacements at Maryland Correctional Institution – Jessup. Unappropriated funds are available to support this project through the Department of General Services Facilities Renewal Fund. (\$360,000)

**Response:** The Department strongly opposes this proposed reduction. As previously indicated, funding is not available through the DGS Facilities Renewal Fund. Those funds are earmarked for other critical maintenance projects in which to address the Department's aging infrastructure and backlogged maintenance needs which exceed \$80 million.

The funding identified under this recommended action is needed in order to replace the gymnasium floor at the Institution-Jessup (MCIJ). The current floor is no longer repairable and poses a significant safety risk. The air handling unit, oven hood, and vent are all original to the facility that have outlasted their expected 20-year lifespan. This item cannot be deferred any long and as previously stated, additional funds in the DGS budget are already earmarked.

8. Reduce funding for metal door replacement at the Southern Maryland Pre-Release Unit. Unappropriated funds are available to support this project through the Department of General Services Facilities Renewal Fund. (\$87,000)

**Response:** The Department strongly opposes this proposed reduction. As previously indicated, funding is not available through the DGS Facilities Renewal Fund. Those funds are earmarked for other critical maintenance projects in which to address the Department's aging infrastructure and backlogged maintenance needs which exceed \$80 million.

The funding referenced in this recommended action is necessary to replace metal doors at the Southern Maryland Pre-Release Unit (SMPRU). The current metal doors are over 40-years old and have rusted beyond repair, posing a safety and security concern. This item cannot be deferred any long and as previously stated, additional funds in the DGS budget are already earmarked.

9. Delete appropriation for a new warehouse freezer at Eastern Correctional Institution. Unappropriated funds are available to support this project through the Department of General Services Facilities Renewal Fund. (\$150,000)

**Response:** The Department strongly opposes this proposed reduction. As previously indicated, funding is not available through the DGS Facilities Renewal Fund. Those funds are earmarked for other critical maintenance projects in which to address the Department's aging infrastructure and backlogged maintenance needs which exceed \$80 million.

The Department recommended rejecting this action as the funding is needed to replace the warehouse freezer at the Eastern Correctional Institution (ECI). The current freezer is now over 30-years old and replacement parts are no longer available. This item cannot be deferred any long and as previously stated, additional funds in the DGS budget are already earmarked.

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

**Response:** The Department strongly opposes this proposed reduction. As previously indicated, funding is not available through the DGS Facilities Renewal Fund. Those funds are earmarked for other critical maintenance projects in which to address the Department's aging infrastructure and backlogged maintenance needs which exceed \$80 million.

The funding identified in the recommended action is needed in order to repair the facility road and parking lot at the Central Maryland Correctional Facility (CMCF). The current parking lot and road is riddled with potholes and attempting to fix this with short-term patches is no longer a viable option. This item cannot be deferred any long and as previously stated, additional funds in the DGS budget are already earmarked.

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

**Response: The Department strongly opposes the recommended action to cut the Department's budget by \$18 million based on vacancies.** The \$18 million as identified by the Department of Legislative Services (DLS) is not a comprehensive analysis regarding the Department's required general fund salary spending. The DLS estimate fails to incorporate required payments such as accident leave, annual leave payouts, acting capacity pay, bonus payments, and overtime. Most importantly, it appears the DLS calculation fails to account for the required year-end salary accrual, which is a requirement established by the General Accounting Division (GAD), for all State agencies. This is significant as general fund payroll is currently averaging \$15.8 million per pay period and excluding this from the calculation greatly distorts the proposed estimated savings.

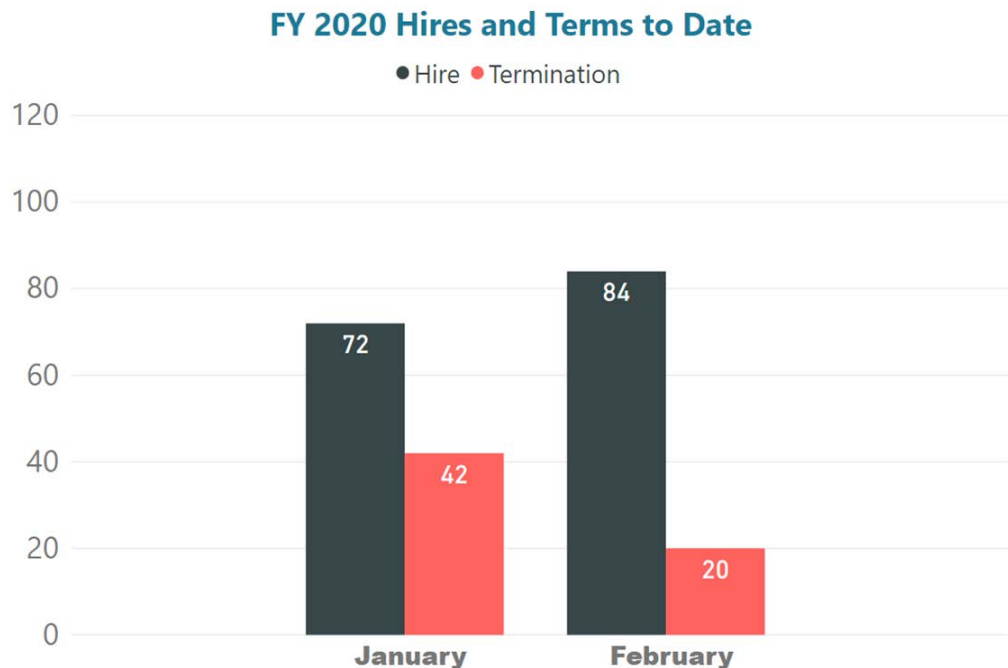
The Department has provided the DLS with a detailed analysis, utilizing current general fund payroll expenditures and projected expenses through the remainder of the year. The analysis is extremely comprehensive and inclusive, detailing all salary related spending the Department is required to make. The analysis verifies that the Department currently has a projected general fund surplus of only \$4.4 million, representing only 0.5% of the Department's general fund salary budget. This minimal surplus is already earmarked to cover identified shortfalls recognized in other DLS analysis which are specific to covering salaries for filled positions due to declining special fund fees through the Drinking Driver Monitoring Program (DDMP) and federal revenue obtained through the U.S. Marshal's Office to cover operating costs associated with the Chesapeake Detention Facility (CDF). The elimination of these funds will directly impact filled positions in these programs and that is not acceptable.

Unlike in previous years, the Department's budget has been appropriately realigned to better reflect vacancies and actual personnel spending. As a result of these realignments, there is not a windfall in vacancy savings as indicated by DLS and confirmation of this fact is evidenced by the Department's comprehensive payroll analysis. Additionally, in fiscal year 2019 the Department only reverted \$105,000 back to the general fund representing .0008% of the Department's General Fund appropriation.

The Department is absolutely disheartened by continuous statements claiming the Department's efforts are lacking and not doing enough to fill vacancies. The dedication and support from agency staff, including front-line correctional officers, directly conflicts with DLS assertions, which does not reflect the countless hours Departmental staff have dedicated to recruitment. Additionally, such statements do not accurately reflect reality. In fact,

increased salaries provided through Cost of Living Adjustments (COLAs) and the creation of a new and separate pay scale for correctional officers as of July 1<sup>st</sup> 2019 is having a positive impact on hiring. As previously stated, fiscal year 2020 data to date shows the Department has hired 424 new employees while only experiencing 433 separations. This is a gap of only 9 employees, representing the narrowest gap in years!

The Department anticipates it will continue to close the gap and surpass the rate of separations to hires. The implementation of the Retention Longevity Incentive Program (RLPI) has already had an incredible impact on employee retention. A total of 650 employees have been accepted into the program, reducing the number of potential separations and resulting in an avoidance of overtime expenditures of up to \$142 million over 5-years. Please see below, the total number of hires and separations for January and February 2020 year to date below.



The Department implores the budget committees to reject the recommendation based on an incomplete analysis of the Department's general fund payroll projection, an accurate portrayal of hiring and separations, and the fact that the so called "slush fund" in vacancy savings no longer exists. **REJECT THIS RECOMMENDATION**