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**Department of Public Safety and  
Correctional Services  
Fiscal 2010 Budget Overview**

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**Department of Legislative Services  
Office of Policy Analysis  
Annapolis, Maryland**

**January 2009**

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*Analysis of the FY 2010 Maryland Executive Budget, 2009*

*Q00 – DPSCS – Fiscal 2010 Budget Overview*

**Q00**  
**Department of Public Safety and Correctional Services**  
**Fiscal 2010 Budget Overview**

**Agency Description**

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

**Fiscal 2009 Deficiencies**

There are eight general fund deficiency appropriations increasing the fiscal 2009 working appropriation by approximately \$15.3 million.

- Overtime deficiencies account for 52.2% of the total deficiency appropriations, or \$8.0 million. The Division of Correction (DOC) receives the majority of the deficiency, \$6.0 million. This increases DOC overtime spending to \$37.6 million, an increase of 6.8% over the fiscal 2008 actual expenditures. The Division of Pretrial Detention and Services (DPDS) and Patuxent Institution (PTX) receive \$1.0 million each. This increases the fiscal 2009 overtime appropriations for DPDS and PTX to \$9.8 and \$3.1 million, respectively. This reflects a 23.6% increase for DPDS over the fiscal 2008 working appropriation and a 12.8% decrease for PTX.
- Deficiency appropriations to account for underfunding fuel and utilities in the fiscal 2009 budget total \$4.4 million, or 28.9% of the deficiency appropriation total.
- Underfunding in the fiscal 2009 budget for raw food supplies requires deficiency appropriations in DOC and PTX totaling approximately \$2.8 million, or 18.2% of the deficiency appropriation total. This increases each agency's appropriation 3.1% from fiscal 2008 actual expenditures.
- One deficiency appropriation for \$115,000 is needed to supplement the appropriation for providing birth certificates to inmates upon release from a DOC facility. The agency, in conjunction with the Department of Health and Mental Hygiene, began providing inmates with birth certificates and Social Security cards at the time of release in October 2008 as part of its efforts to provide more effective reentry services. To date, approximately 345 offenders have been released with a birth certificate. This deficiency is needed to cover the cost of the program and will provide birth certificates for approximately 5,830 inmates in fiscal 2009.

## **Fiscal 2009 Cost Containment Actions**

In total, DPSCS lost approximately \$45.1 million and 161 regular positions as a result of fiscal 2009 cost containment actions taken by the Board of Public Works. Across-the-board reductions to health insurance and Other Post Employment Benefit (OPEB) payments account for 59.0%, or \$26.6 million. The loss of 96 vacant correctional officer and 117 support staff positions reduced personnel expenses by approximately \$4.5 million. The remaining \$14.0 million in fiscal 2009 savings is largely generated by a \$6.0 million reduction in payments made to local detention centers for housing inmates and a \$4.0 million general fund offset from increased federal fund revenue for housing federal detainees. Closing a cell block at the Metropolitan Transition Center in Baltimore City and reducing information technology related costs and urinalysis testing also account for an additional \$1.4 million.

The fiscal 2009 cost containment actions generate ongoing savings in the fiscal 2010 budget of approximately \$32.2 million. The majority of this, nearly \$23.0 million, is from a reduction to OPEB payments. Actions relating to agency operations account for \$9.1 million in ongoing savings in fiscal 2010.

## **Fiscal 2010 Allowance**

As seen in **Exhibit 1**, the DPSCS fiscal 2010 operating budget allowance is approximately \$1.3 billion, absent any pay-as-you-go funding. This represents an increase of \$13.1 million, or 1% over the fiscal 2009 working appropriation. The allowance includes approximately \$15.6 million in across-the-board reductions. It is not known how the individual agency budgets might be impacted.

**Exhibit 1**  
**Department of Public Safety and Correctional Services Budget Overview**  
**Total Funds by Program**  
**Fiscal 2009-2010**  
**(\$ in Thousands)**

	<b>Working Appropriation <u>2009</u></b>	<b>Allowance <u>2010</u></b>	<b>\$ Change <u>2009-10</u></b>	<b>% Change <u>2009-10</u></b>
<b><u>Operating Programs</u></b>				
Office of the Secretary	\$140,972	\$135,121	-\$5,851	-4.2%
Division of Correction	798,471	820,682	22,211	2.8%
Parole Commission	5,316	5,333	17	0.3%
Division of Parole and Probation	105,682	104,753	-929	-0.9%
Patuxent Institution	45,248	47,972	2,724	6.0%
Inmate Grievance Office	587	615	28	4.8%
Police/Correctional Training Commissions	8,316	8,776	460	5.5%
Criminal Injuries Compensation Board	6,581	7,098	517	7.9%
MD Commission on Correctional Standards	504	532	28	5.6%
Division of Pretrial Detention and Services	150,432	159,885	9,453	6.3%
Across-the board Reductions		-15,582	-15,582	
<b>Total</b>	<b>\$1,262,109</b>	<b>\$1,275,185</b>	<b>\$13,076</b>	<b>1.0%</b>
<b>Funds</b>				
General Fund	\$1,068,300	\$1,084,821	\$16,521	1.5%
Special Fund	159,124	165,709	6,585	4.1%
Federal Fund	17,722	17,373	-349	-2.0%
Reimbursable Fund	16,963	7,282	-9,681	-57.1%
<b>Total</b>	<b>\$1,262,109</b>	<b>\$1,275,185</b>	<b>\$13,076</b>	<b>1.0%</b>
<b>PAYGO Program</b>				
Office of the Secretary PAYGO	\$0	\$10,000,000	\$10,000,000	n/a
<b>Funds</b>				
Federal	\$0	\$10,000,000	\$10,000,000	n/a

PAYGO: pay-as-you-go

Source: Governor's Budget Books, Fiscal 2010

*Q00 – DPSCS – Fiscal 2010 Budget Overview*

Absent any impact from across-the-board reductions:

- The largest change, an increase of \$22.2 million, is in DOC. This brings the agency's fiscal 2010 allowance to \$820.7 million, but only represents growth of 2.8% over the fiscal 2009 working appropriation. The majority of the increase, approximately \$15.9 million, can be attributed to growth in personnel expenditures, although overtime expenditures are reduced by \$1.8 million. Funds for inmate medical care increase by nearly \$1.1 million, a small increase compared to prior years. DPSCS has distributed fiscal 2010 inmate medical funds more accurately among the four custodial agencies. Significant reductions offsetting the growth include \$1.5 million less for fitted correctional officer stab vests and \$195,000 less for inmate food supplies. Although a relatively small reduction in food supplies, the fiscal 2010 allowance of \$18.6 million is approximately 10.1% below fiscal 2008 actual spending. When combined with the \$2.5 million fiscal 2009 deficiency for inmate food supplies, the fiscal 2010 allowance is underbudgeted by nearly 13.0%.
- The next largest change is a \$9.5 million increase in the Division of Pretrial Detention and Services, which represents 6.3% growth compared to the fiscal 2009 working appropriation. Personnel costs account for \$3.7 million of the increase, although overtime decreases \$1.3 million in the fiscal 2010 allowance, a reduction of 14.8% from fiscal 2009. The remainder of the growth, approximately \$5.9 million, is for inmate medical care. This 28.0% increase provides an additional \$367,000 to enhance mental health services, as required by the U.S. Department of Justice agreement but is more the result of increased accuracy in budgeting based on prior years' actual expenditures. Previously, the majority of funds relating to inmate medical contracts was budgeted in DOC and realigned by budget amendment at the end of the fiscal year.
- The Patuxent Institution receives an additional \$2.7 million for a total fiscal 2010 allowance of \$47.9 million. The majority of the increase is for personnel-related expenses, which increase approximately \$1.7 million. Overtime growth is approximately 42.8%, or \$900,000. Inmate medical expenses also increase \$915,000 in an effort to budget more accurately based on prior years' actual expenditures. These increases are offset by a slight reduction in fuel and utilities. There is no growth in the allowance for inmate food costs; however, fiscal 2010 is budgeted approximately 21.0% below actual food costs in fiscal 2008. With the fiscal 2009 deficiency, inmate food costs are 23.2% below the working appropriation.
- Offsetting the growth in the custodial agencies is a net \$5.9 million reduction in the Office of the Secretary. The \$135.1 million fiscal 2010 allowance represents a 4.2% reduction from fiscal 2009 spending. The net reduction is largely the result of a one-time transfer of \$8.9 million in reimbursable funds from the Major Information Technology (IT) Development Fund in fiscal 2009. Adjusting for this transfer, the agency's budget increases \$3.1 million, or 2.4%. The majority of this growth, approximately \$2.8 million, is attributable to increases in the 9-1-1 fees remitted to the State from wired and wireless phone service providers. An

## *Q00 – DPSCS – Fiscal 2010 Budget Overview*

additional \$1.1 million for personnel expenses is slightly offset by a \$500,000 decrease for the purchase of Livescan machines used for electronic transmission of fingerprint data.

- The Division of Parole and Probation (DPP) also receives a net reduction in fiscal 2010 of 0.9%, or \$929,000. A net reduction of \$989,000 for personnel expenses is largely the result of increased budgeted turnover expectancy for contractual and regular positions. Decreases for phone expenditures and office equipment purchases put the appropriations more in line with fiscal 2008 actual spending. These reductions are slightly offset by increases for inmate medical care (\$352,000), motor vehicle purchases for field agents (\$117,000), and global positioning satellite tracking for sex offenders (\$112,000).

Departmentwide, the allowance includes approximately \$156.7 million for the inmate medical contract. This is an increase of approximately \$8.2 million, or 5.5%, over the fiscal 2009 working appropriation. The growth primarily reflects the required consumer price index inflationary increase, but also takes into account increases in utilization of secondary care related to longer lengths of stay and increases in the number of inmates needing Hepatitis C treatment.

The fiscal 2010 allowance for overtime expenditures for the four custodial agencies totals \$40.5 million. This is a reduction of \$2.1 million, or 5%, from the fiscal 2009 working appropriation. Accounting for deficiencies, overtime in the fiscal 2010 budget is approximately \$10.1 million, or 20%, below what is required in fiscal 2009. Some overtime savings is anticipated in fiscal 2010 because of a reduction in roll call from 12 to 6 minutes in all correctional facilities, and because of a reduction in the use of temporary special assignment posts that are funded through overtime usage.

There is \$10.0 million in federal pay-as-you-go funding included in the fiscal 2010 allowance. These funds are budgeted in conjunction with \$13.2 million in general obligation bond funding for the Jessup Community Correctional Facility. The total project cost is \$46.6 million and will provide 1,120 minimum security beds and related support spaces. The fiscal 2010 budget will provide funds for design and construction of the first 560-bed compound, consisting of two dormitory-style housing units and a support services building. This project was added to the department's capital budget because the federal government has offered to provide \$20.0 million toward the building of the new facility, in exchange for increasing the number of federal detainees housed at the Maryland Correctional Adjustment Center in Baltimore City. The department will continue to receive revenue for housing the federal detainees, although it will likely be at a reduced rate.

### **Fiscal 2010 Cost Containment Actions**

Fiscal 2010 cost containment actions for agency specific operations total approximately \$21.4 million. This includes \$9.1 million in ongoing savings generated from fiscal 2009 cost containment actions. Approximately \$5.0 million in overtime and personnel-related savings is achieved by reducing roll call time in all correctional facilities and eliminating hiring and retention bonuses for correctional officers. Reductions in IT programming and maintenance contracts and the

elimination of a management study of the Collaborative Supervision and Focused Enforcement program in the Division of Parole and Probation also account for approximately \$600,000.

The majority of the new cost containment actions taken during fiscal 2010, approximately \$6.2 million, is the result of transferring inmates from two pre-release facilities to larger institutions in order to consolidate services, improve efficiency of operations, and reduce overtime. The majority of inmates currently held at the Baltimore Pre-release Unit for Women (BPRUW) and Poplar Hill Pre-release Unit (PHRPU) will be transferred to the Maryland Correctional Institution for Women (MICW) in Jessup and the Eastern Correctional Institution (ECI) in Westover, respectively. The fiscal 2010 reduction does not eliminate positions associated with the closed facilities and leaves approximately \$3.4 million for transfer to MCIW and ECI. The additional personnel will be used to staff posts currently funded with overtime. Not all inmates will be transferred from the pre-release facilities. Those inmates who are nearing release and would have their employment or programming services disrupted by a transfer will remain at BPRUW or PHPRU until their release date. Small numbers of staff will continue to work at BPRUW and PHPRU until all inmates have been transferred or released.

**DPSCS should explain how it intends to generate \$6.2 million in savings, when operation of the pre-release facilities will continue. The department should also comment on how it will ensure that inmates previously housed at the pre-release facilities will continue to receive adequate reentry services and comparable programming and opportunities in the community after they have been transferred.**

## **Fiscal 2010 Reductions**

Across-the-board reductions abolish 400 vacant positions and reduce the department's general fund appropriation by at least \$15.5 million. Approximately \$9.3 million is lost with the 400 positions. In addition, there is a \$1.3 million reduction for contractual employees. Funding for contractual services is reduced by \$3.6 million, the result of savings to be generated from rebidding contracts in a weak economy. Finally, language in the back of the fiscal 2010 budget bill eliminates funding for the State to provide a deferred compensation match for employee retirement. This reduces general and special funds in each agency's budget and provides a total reduction of \$1.3 million across the entire department.

## **Fiscal 2010 Contingent Reductions**

### **Overtime Spending**

The fiscal 2010 budget bill includes a departmentwide contingent reduction of \$8.0 million in general funds for overtime expenditures. The reduction is contingent on both the enactment of legislation to change the overtime calculation for correctional officers to be consistent with the federal Fair Labor Standards Act (FLSA) and the successful negotiation with the correctional

officers' union to change the length of shift from 8 to 12 hours. The change in shift would require a correctional officer to work four days and then receive three days off. Currently, DPSCS is required to pay overtime for any minute of time worked beyond 8 hours; therefore, 12-hour shifts would be too costly to implement under the current overtime system. The adjustment to the Fair Labor Standards Act would award overtime only after the total number of hours worked within a 28-day period has exceeded 171 hours. The estimated reduction in overtime expenditures is the difference between 160 hours (two current 80-hour pay periods) and 171 hours (FSLA standard) multiplied by the rate of overtime pay per correctional officer.

### **Drinking Driver Monitor Program**

The fiscal 2010 budget bill includes a \$1.4 million contingent general fund reduction for DPP. The reduction is contingent on the enactment of legislation which would remove the sunset provision for the monthly Drinking Driver Monitor Program (DDMP) fee and would increase the fee by \$10 per month. This increases the DDMP fee from \$45 to \$55 per month. Coupled with the \$40 monthly supervision fee, the legislation would increase total DDMP payments to \$95 per month. The \$1.4 million reduction assumes a 73% collection rate, which was the rate of collection for fiscal 2007. It is unclear how the increase might affect the rate of collection.

### **Local Jail Reimbursements**

The fiscal 2010 budget bill includes a \$6.0 million contingent general fund reduction in the Division of Correction. The reduction is contingent on the enactment of legislation which would alter the rate of reimbursement the State pays to local detention centers for housing inmates. Since the implementation of a statutory change in 1986, the State has reimbursed local jails for the confinement of inmates who have been sentenced under DOC jurisdiction and are serving their sentence in a local correctional facility for more than 3 months but not more than 18 months. Reimbursement is currently based on one of the following formulas: (1) for inmates sentenced on or after January 1, 1987, the State pays 50% of the per-diem rate per inmate for each day from the 91st day to the 365th day that the inmate is housed within the local facility; or (2) if a county can demonstrate that the average number of eligible inmate days for the previous fiscal year exceeds the average number of eligible inmate days for fiscal 1984 through 1986, the reimbursement rate is 85% of the per-diem rate. Per-diem rates are calculated based on the the total annual operating costs reported by the local facilities. The current legislation would reduce the reimbursement rates to 34% and 50% of the per-diem rates for two years and then return to the original 50% and 85%.

### **Fiscal 2009 and 2010 Budget Actions in Sum**

**Exhibit 2** demonstrates the impact to the DPSCS budget when including both fiscal 2009 deficiency appropriations and fiscal 2010 contingent and Back of the Bill reductions. The revised fiscal 2010 allowance is \$1.26 billion, approximately \$16.2 million, or 1.3% less than the revised fiscal 2009 working appropriation.

**Exhibit 2**  
**Department of Public Safety and Correctional Services Budget Overview**  
**Total Funds by Program with Additional Budget Actions**  
**Fiscal 2009-2010**  
**(\$ in Thousands)**

	<u>Working Approp. 2009</u>	<u>Deficiencies 2009</u>	<u>Revised Working Approp. 2009</u>	<u>Allowance 2010</u>	<u>Contingent &amp; Back of the Bill Reductions</u>	<u>Revised Allowance 2010</u>	<u>\$ Change Revised 2009 - Revised 2010</u>	<u>% Change Revised 2009 - Revised 2010</u>
<b><u>Operating Programs</u></b>								
O/S	\$140,972		\$140,972	\$135,121	-\$188	\$134,933	-\$6,039	-4.3%
DOC	798,471	\$12,179	810,650	820,682	-12,615	808,067	-2,583	-0.3%
MPC	5,316		5,316	5,333	-35	5,298	-18	-0.3%
DPP	105,682		105,682	104,753	-488	104,265	-1,417	-1.3%
PTX	45,248	1,586	46,834	47,972	-459	47,513	679	1.5%
IGO	587		587	615	-2	613	26	4.4%
PCTC	8,316		8,316	8,776	-25	8,751	435	5.2%
CICB	6,581		6,581	7,098	-2	7,096	515	7.8%
MCCS	504		504	532	-2	530	26	5.2%
DPDS	150,432	1,557	151,989	159,885	-1,451	158,434	6,445	4.3%
Departmentwide					-14,315			
<b>Total</b>	<b>\$1,262,109</b>	<b>\$15,322</b>	<b>\$1,277,431</b>	<b>\$1,290,767</b>	<b>-\$29,582</b>	<b>\$1,261,185</b>	<b>-\$16,246</b>	<b>-1.3%</b>
<b><u>Funds</u></b>								
General Fund	\$1,068,300	\$15,322	\$1,083,622	\$1,100,249	-\$30,828	\$1,069,421	-\$14,201	-1.3%
Special Fund	159,124		159,124	165,863	1,246	167,109	7,985	5.0%
Federal Fund	17,722		17,722	17,373		17,373	-349	-2.0%
Reimbursable Fund	16,963		16,963	7,282		7,282	-9,681	-57.1%
<b>Total</b>	<b>\$1,262,109</b>	<b>\$15,322</b>	<b>\$1,277,431</b>	<b>\$1,290,767</b>	<b>-\$29,582</b>	<b>\$1,261,185</b>	<b>-\$16,246</b>	<b>-1.3%</b>
<b><u>PAYGO Program</u></b>								
O/S – PAYGO	\$0			\$10,000,000			\$10,000,000	n/a
<b><u>Funds</u></b>								
Federal	\$0			\$10,000,000			\$10,000,000	n/a

*Q00 – DPSCS – Fiscal 2010 Budget Overview*

CICB: Criminal Injuries Compensation Board  
DOC: Division of Corrections  
DPDS: Division of Pre-trial and Detention Services  
DPP: Division of Parole and Probation  
IGO: Inmate Grievance Office  
MCCS: Maryland Commission on Correctional Standards  
MPC: Maryland Parole Commission  
O/S: Office of the Secretary  
PAYGO: pay-as-you-go  
PCTC: Police and Correctional Training Commissions  
PTX: Patuxent Institution

Source: Department of Public Safety and Correctional Services

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## **Personnel**

**Exhibit 3** shows that the department's personnel complement decreases by 374 regular positions, or 3.2%. This reduces the total number of regular positions to 11,249, the lowest number of regular positions since fiscal 2005. The 374 net decrease in positions reflects the creation of 27 new positions which are offset by the across-the-board reduction of 400 vacant positions and the abolishment of 1 position for the statewide consolidation of personnel classification functions.

All of the new positions are special funded positions and largely the result of contractual conversions. The department's contractual positions decrease by 13 contractual full-time equivalents (FTEs), or 3.2%. A total of 18 new regular positions are needed to support increased productivity and a larger inmate workforce for Maryland Correctional Enterprises in the DOC. The Criminal Injuries Compensation Board doubles its regular personnel complement, increasing its positions by 7. The majority of the positions are claims investigators, and 5 of the 7 new positions are contractual conversions. Finally, 2 new administrator positions are gained by the Emergency Numbers Systems Board in the Office of the Secretary through contractual conversion of existing FTEs.

**Exhibit 3**  
**Department of Public Safety and Correctional Services Budget Overview**  
**Positions by Program**  
**Fiscal 2009-2010**

**Regular Positions by Program**

	<u>Wrk. Approp.</u> <u>2009</u>	<u>Allowance</u> <u>2010</u>	<u># Change</u> <u>2009-10</u>	<u>% Change</u> <u>2009-10</u>
<b><u>Operating Programs</u></b>				
Office of the Secretary	544	545	1	0.4%
Division of Correction	7,497	7,515	18	0.2%
Parole Commission	75	75	0	0.0%
Division of Parole and Probation	1,301	1,301	0	0.0%
Patuxent Institution	507	507	0	0.0%
Inmate Grievance Office	6	6	0	0.0%
Police/Correctional Training Commissions	82	82	0	0.0%
Criminal Injuries Compensation Board	7	14	7	100.0%
MD Commission on Correctional Standards	6	6	0	0.0%
Division of Pretrial Detention and Services	1,599	1,599	0	0.0%
<b>Total</b>	<b>11,623</b>	<b>11,649</b>	<b>26</b>	<b>0.2%</b>
Departmentwide Vacant Positions Reduction		-400	-400	
<b>Revised Total</b>	<b>11,623</b>	<b>11,249</b>	<b>-374</b>	<b>-3.2%</b>

**Contractual Full-time Equivalents by Program**

	<u>Wrk. Approp.</u> <u>2009</u>	<u>Allowance</u> <u>2010</u>	<u># Change</u> <u>2009-10</u>	<u>% Change</u> <u>2009-10</u>
<b><u>Operating Programs</u></b>				
Office of the Secretary	115	109	-6	-5.2%
Division of Correction	93	91	-2	-2.1%
Parole Commission	3	3	0	0.0%
Division of Parole and Probation	129	129	0	0.0%
Patuxent Institution	2	2	0	0.0%
Inmate Grievance Office	1	1	0	0.0%
Police/Correctional Training Commissions	31	31	0	0.0%
Criminal Injuries Compensation Board	9	4	-5	-59.3%
MD Commission on Correctional Standards	2	2	0	0.0%
Division of Pretrial Detention and Services	23	23	0	0.0%
<b>Total</b>	<b>409</b>	<b>395</b>	<b>-13</b>	<b>-3.2%</b>

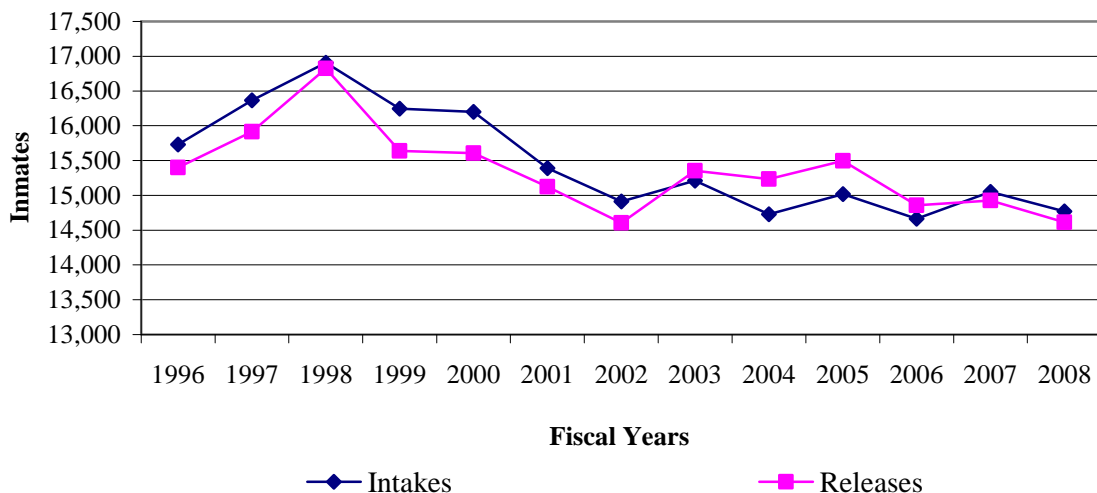
Source: Department of Public Safety and Correctional Services

## Correctional Population Caseload Trends

The custody function as a whole consumes the greatest amount of the department’s resources, and DOC accounts for the most significant portion of the inmate population. Population trends and policy decisions that affect the inmate population can have significant budgetary impacts. Even though population growth is considerably slower than it was 15 years ago, Maryland is still ranked eleventh among the 50 states in terms of corrections as a percentage of total general fund spending, with 7.6% of the general fund budget funding corrections agencies. According to a report by the *Pew Public Safety Performance Project*, Maryland’s prison population growth is estimated to be approximately 1.0% through fiscal 2011, which is one of the lowest growth rates in the country. Between fiscal 2007 and 2008, however, the average daily population for offenders under DOC jurisdiction grew approximately 3.0%.

Two of the strongest indicators of changes in the prison population are the length of stay and the comparison of the number of intakes versus releases each year. The average length of stay has increased 8.6% to 18.9 months since its most recent low in fiscal 2004. **Exhibit 4** shows the difference between intakes and releases per fiscal year from fiscal 1996 to 2008. A smaller gap between the number of inmates entering and leaving the prison system should contribute to slower growth in the inmate population. Between fiscal 2003 and 2006, releases actually exceeded intakes, leading to a corresponding decline in the inmate population. Most recently, in fiscal 2008, intakes exceeded releases by 156 inmates. This, coupled with the increasing length of stay, explains the growth in the inmate population in fiscal 2007 and 2008.

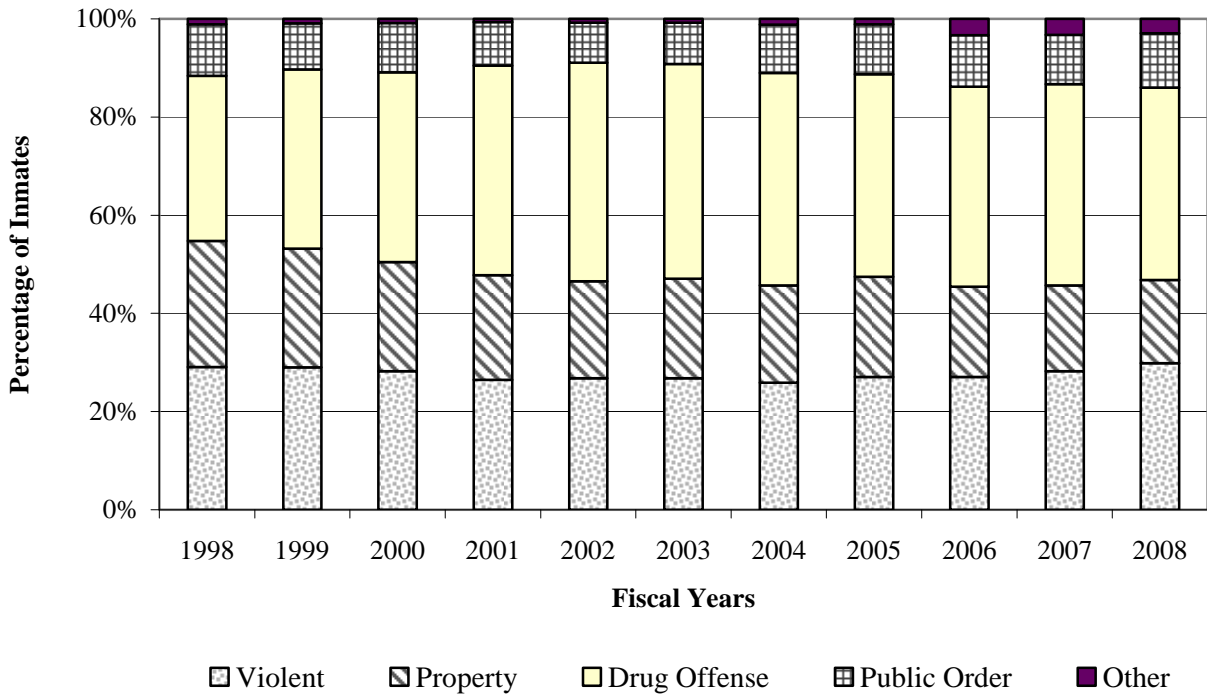
**Exhibit 4**  
**Division of Correction – Intakes versus Releases**  
**Fiscal 1996-2008**



Source: Division of Correction

**Exhibit 5** illustrates the percentage of new commitments whose major offense at intake was a violent, property, drug, public order, or other crime. Fiscal 2008 intakes for violent crimes have returned to the same level as a decade ago, approximately 29% of new commitments, despite a decline between fiscal 1998 and 2004. Intakes for property-related crimes have decreased nearly 9% over the past 10 years, while public order and other crime intakes have remained relatively stable. Most notable is the impact of drug offenses, which has consistently accounted for at least 40% of all new commitments since fiscal 2001. This intake data, as it is currently recorded, is flawed in that it only reflects an offender’s most serious offense at the time of intake. This leaves the possibility that even this high proportion of drug-related commitments is understated in this exhibit, because often, drugs are an impetus for other types of crime, such as theft or murder.

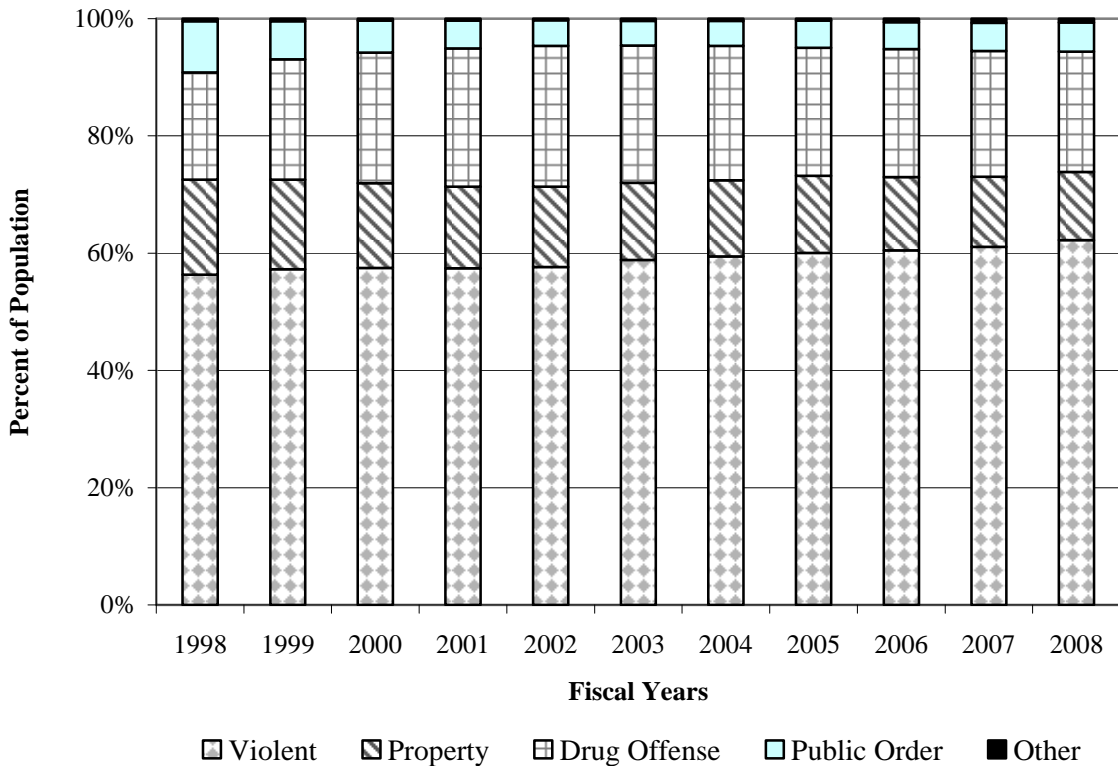
**Exhibit 5  
Major Offenses at Intake  
Fiscal 1998-2008**



Source: Division of Correction Annual Report

While Exhibit 5 shows that the largest percentage of new inmates is entering the system because of drug-related offenses, **Exhibit 6** shows that the majority of the standing population is held for violent crimes. In fiscal 2008, more than 62% of the standing population had a violent crime listed as the most serious offense. In comparison, offenders held for drug offenses accounted for approximately 20%. The percentage of the standing population held for violent offenses has consistently increased for more than a decade, rising 6% between fiscal 1998 and 2008. Offenders with property and public order related offenses have declined as a percentage of the total during the same time period. Part of the reason for the significant and growing proportion of offenders with violent offenses is because these types of crimes are more likely to receive longer sentences. Additionally, inmates classified as nonviolent offenders have more avenues and are more targeted for early release, meaning these inmates stay in the standing population for less time.

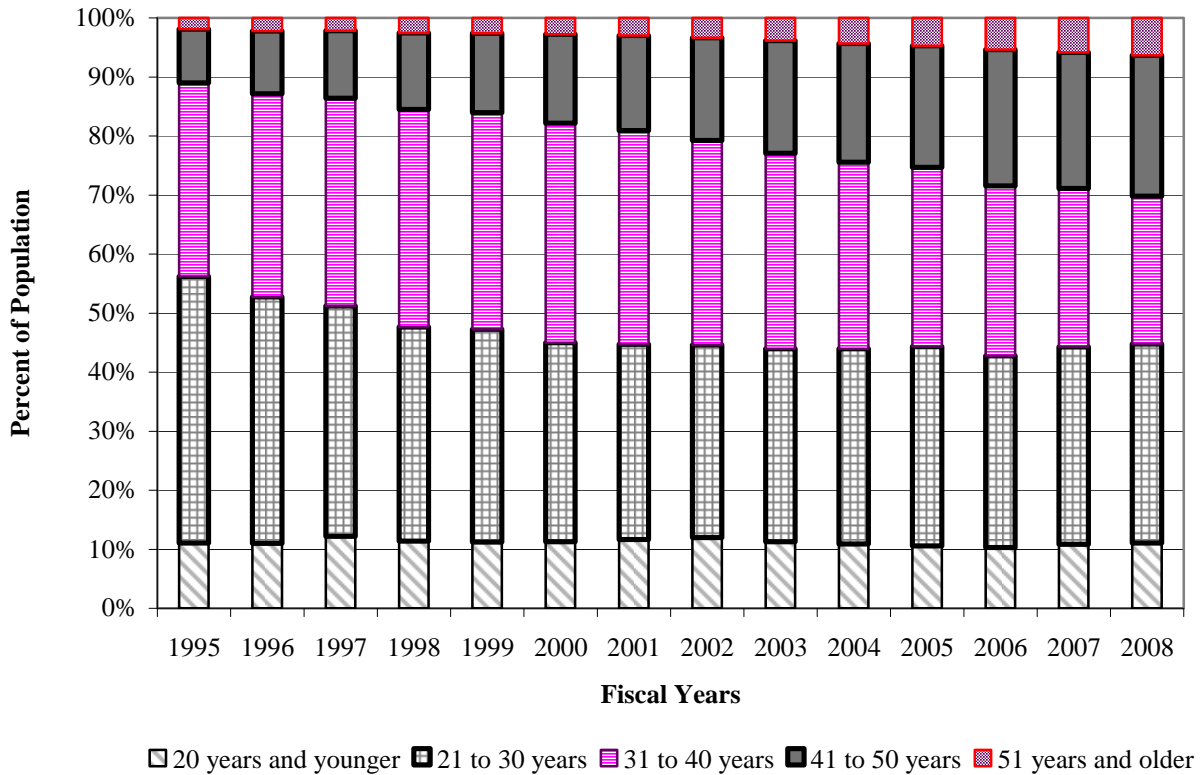
**Exhibit 6**  
**Standing Population – Major Offenses**  
**Percent of Population**  
**Fiscal 1998-2008**



Source: Division of Correction Annual Report

**Exhibit 7** shows the age distribution of the new inmate population from fiscal 1995 to 2008. Most notable is the significant increase in the percentage of inmates between the ages of 41 and 50 years at the time of intake, from 9.1 to 23.8%. Opposite that trend, the percentage of inmates between the ages of 21 and 30 years has declined 11.5% during that same time period. When combined with the three-year recidivism rate, this data suggests that there is a subset of offenders who are moving through the system and transitioning from one age group to another. Even with the percentage of inmates under the age of 30 being lower than it was 15 years ago, increases in fiscal 2007 and 2008 do provide an indication that a wave of younger offenders might be once again entering the system.

**Exhibit 7**  
**Age Distribution – DOC Intake Population**  
**Percent of Total Population**  
**Fiscal 1995-2008**



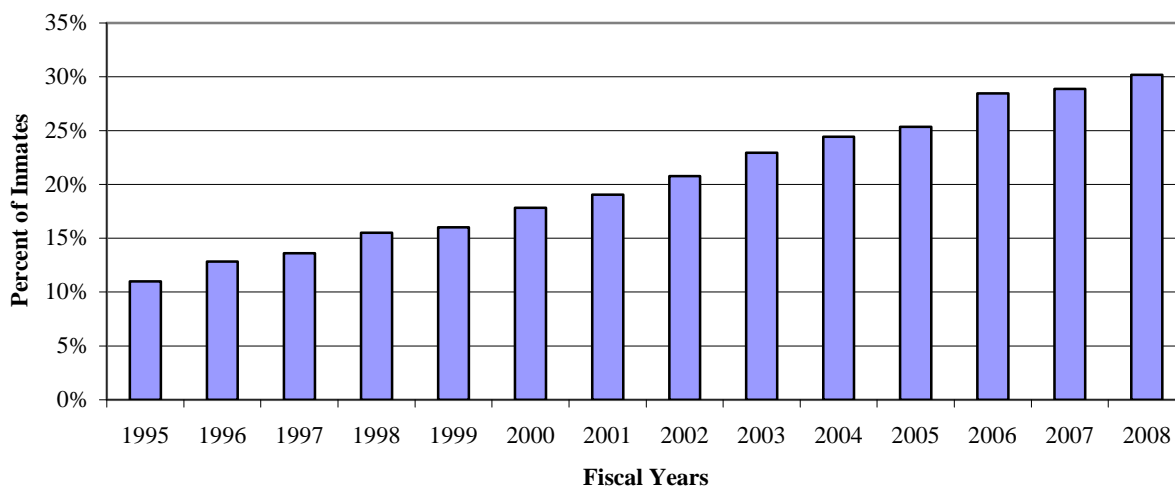
DOC: Division of Correction

Source: Division of Correction

Since the most notable population growth is with inmates over the age of 40 years, **Exhibit 8** specifically examines the age at intake for this population. Inmates in this age group only represented 11.0% of the intake population in fiscal 1995, but that number has increased to 30.2% in fiscal 2008. The average annual increase was approximately 7.5%. It is widely known that older inmates are more likely to have chronic medical problems and increased health care costs. This population is likely only a year or two away from representing the largest percentage of the intake population. **Exhibit 9** reveals that this trend continues within the standing population, as well, although the rate of growth is slower. The percentage of inmates over the age of 40 increased from 16.4% in fiscal 1998 to 33.8% in fiscal 2008. As the inmate population ages, the provision of preventative, efficient, and cost effective medical care becomes increasingly important.

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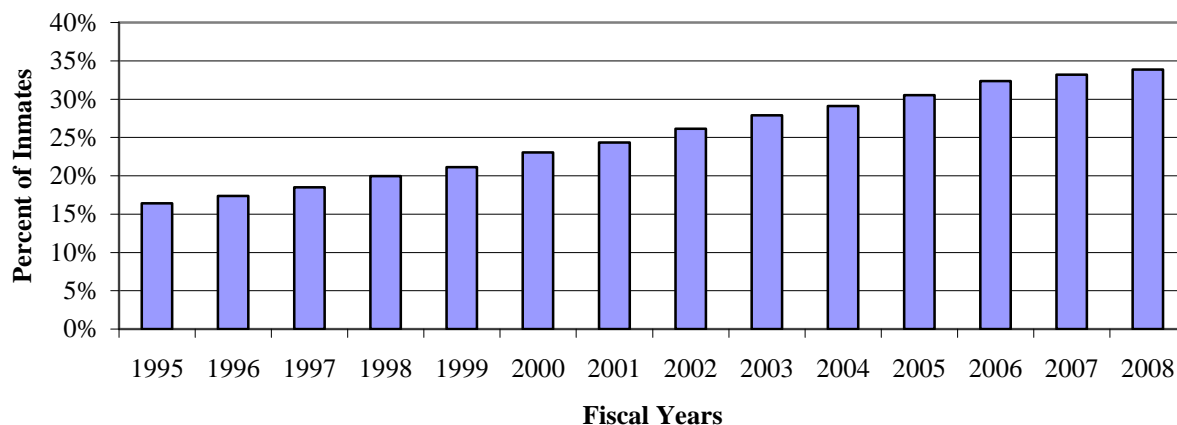
**Exhibit 8**  
**Intake Population – Age 41 and Above**  
**Percentage of Inmates**  
**Fiscal 1995-2008**



Source: Division of Correction Annual Report

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**Exhibit 9**  
**Standing Population – Age 41 and Above**  
**Percentage of Inmates**  
**Fiscal 1995-2008**

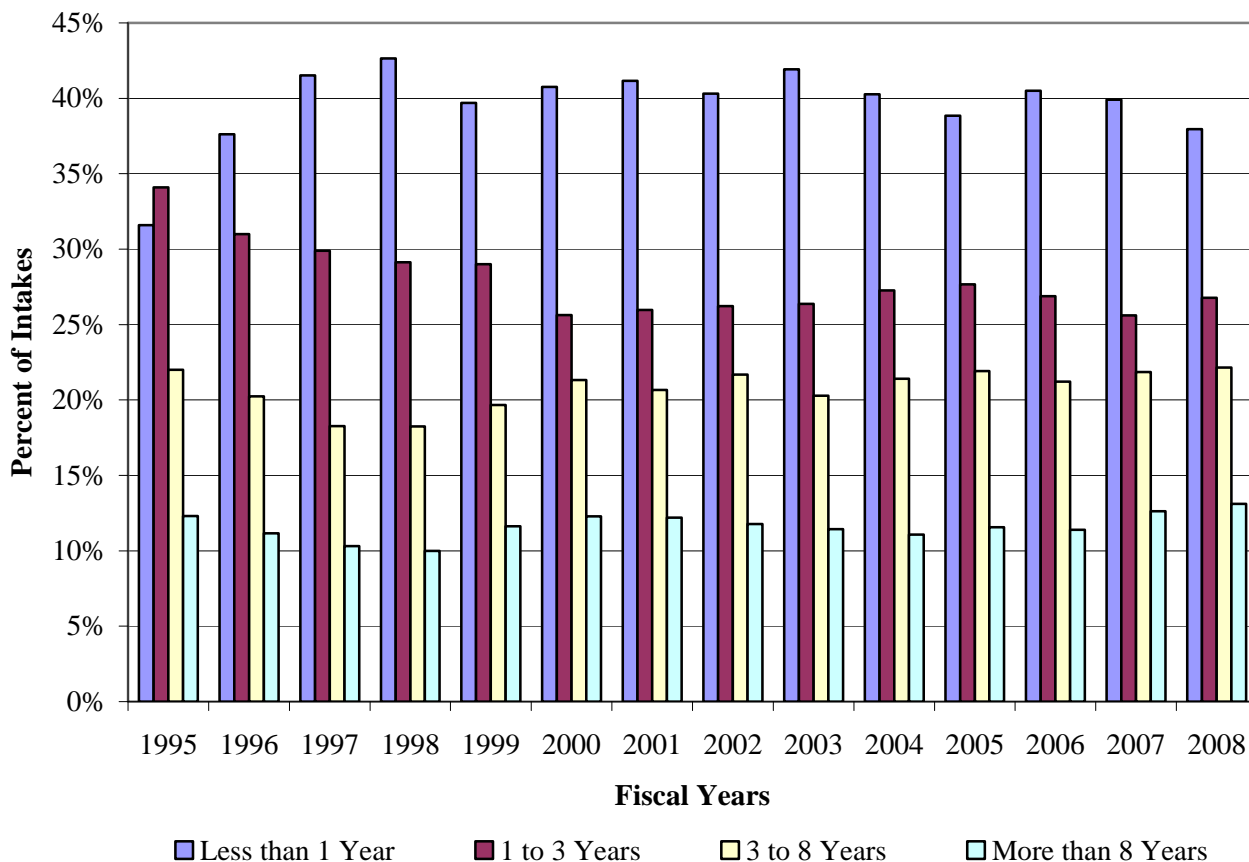


Source: Division of Correction Annual Report

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**Exhibit 10** shows that not only has the number of offenders sentenced to less than 1 year increased over the past 10 years, but these offenders have also consistently accounted for approximately 40% of the division’s intakes during the same time period. Typically, inmates are placed in DOC custody only if (1) they are sentenced to a term of confinement of more than 18 months; or (2) they are sentenced to a term of between 12 and 18 months, and the court indicates that they are to serve their time in DOC’s custody. The significant number of new inmates entering the DOC system with sentences of less than 1 year is largely the result of DOC taking over responsibility for housing all inmates sentenced in Baltimore City. Even though these are shorter terms of confinement, it still represents a significant drain on State resources.

**Exhibit 10**  
**Intake Population – Length of Sentence**  
**Percentage of Total Population**  
**Fiscal 1995-2008**



Source: Division of Correction Annual Report

## ***Issues***

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### **1. Meeting Correctional Staffing Requirements and the Impacts of Overtime Use**

To understand the operational impacts of overtime and other personnel expenditures, it is important to understand how the department determines its required security staffing needs and how that impacts overtime use.

#### **Understanding the Relief Factor**

Two important facts to remember when considering correctional staffing issues are that correctional facilities operate 24 hours a day, 7 days a week and that a post in a correctional facility is not a person but is a particular function at a physical location. Staffing requirements for posts vary depending on how often the function needs to be performed and at what operational staffing level the post is classified. Since correctional facilities are under continuous operation, an officer cannot work every day of the year and the post-to-position ratio cannot be 1:1. Therefore, when the department is determining its necessary security position complement, it must inflate the number beyond the number of identified posts in order to account for all of the variables that may result in the need for more than one employee to staff a post. The inflator is called the relief factor (RF) – the multiplier used by the department to determine the number of permanent staff positions required for appropriate coverage of a post for a given year. **Appendix 1** provides an example of how the RF is determined for one post.

The current formula does not include variables to account for vacancies or budgeted turnover when determining the number of positions needed. Vacancies are accounted for when the facility estimates the amount of overtime needed. According to the department, vacancies are not a factor in determining the number of authorized positions needed because, although they factor into actual staff availability in relation to overtime, when determining the number of necessary positions authorized in the budget, the department assumes it has the ability to achieve full staffing. One issue with this is that when the budget is reduced to assume some amount of turnover expectancy, it automatically puts the department in a position to require the use of overtime in order to meet its full staffing requirement. In order to avoid this, the department would need to include an additional inflationary variable to account for a standard vacancy rate.

#### **Impact of Using Overtime**

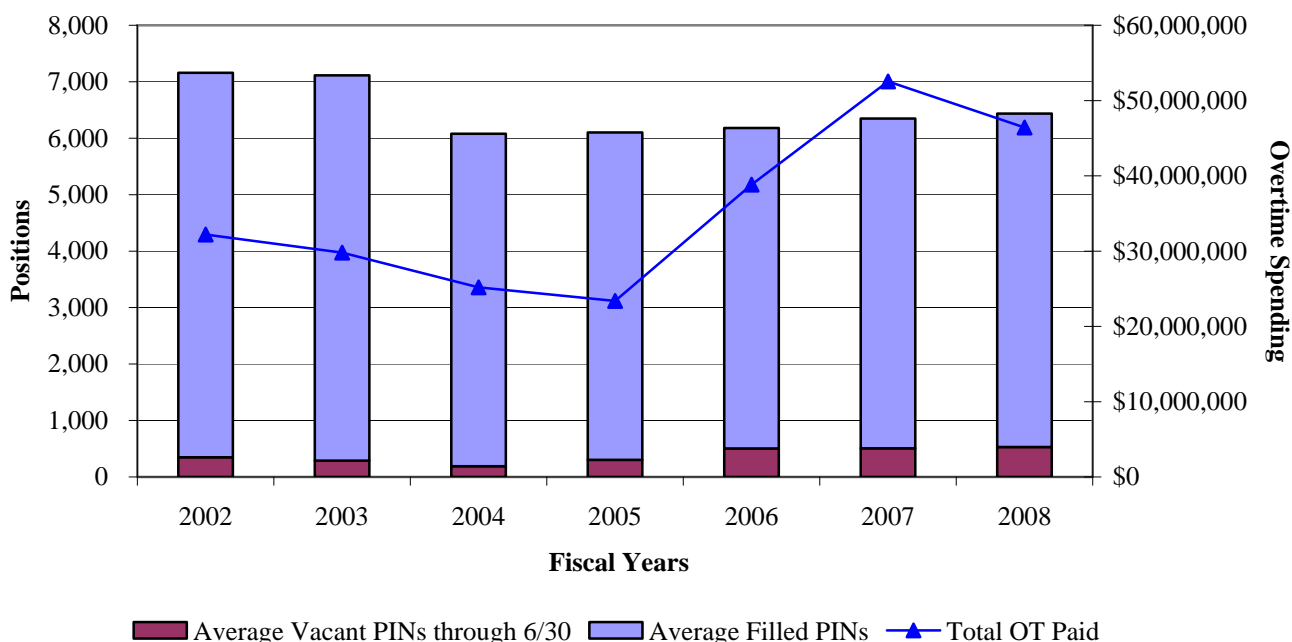
Historically, increases in overtime have been driven by:

- increases in average daily population;
- vacancies;

- the occurrence of unforeseen alterations to facility operations (riots, facility maintenance issues, etc.); and
- temporary alterations to the approved facility security staffing plan.

**Exhibit 11** shows how overtime spending has changed since fiscal 2002 in relation to the number of filled and vacant custodial positions throughout the department.

**Exhibit 11  
Department of Public Safety and Correctional Services  
Custodial Staff Positions and Overtime Spending  
Fiscal 2002-2008**



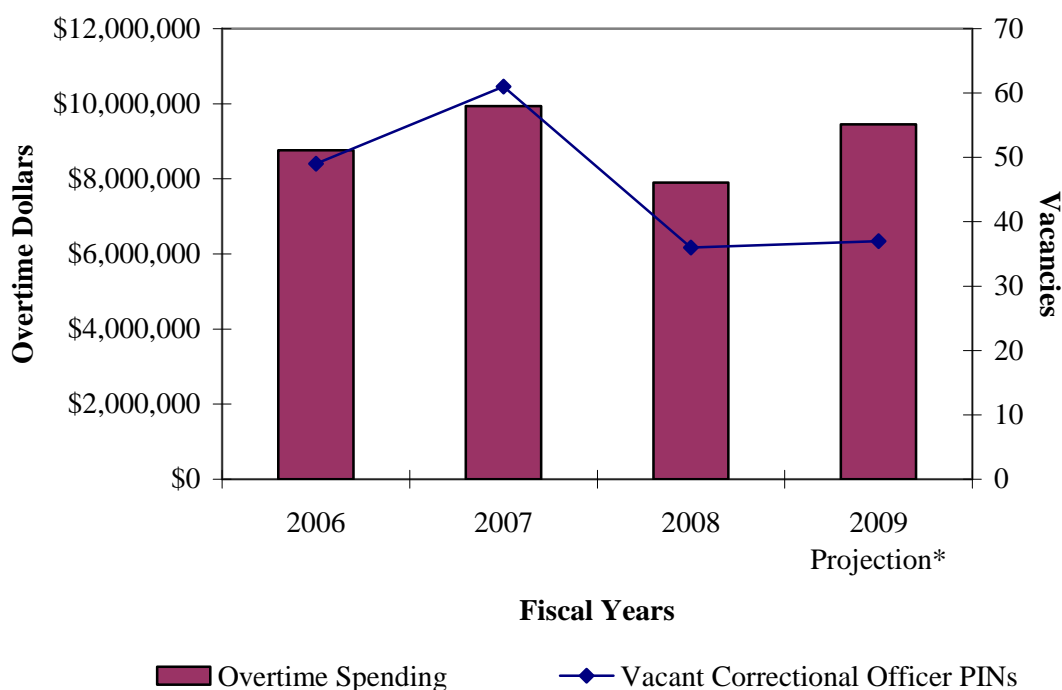
OT: overtime  
PIN: position identification number

Source: Department of Public Safety and Correctional Services

Because vacancies are not the only driver of overtime, some amount of overtime spending will always exist. As vacancies are filled and the department gets closer to achieving its ideal staffing requirements, however, overtime should decrease, unless one of the other drivers is having a greater impact. This appears to be the case across all three custodial agencies in fiscal 2009. Overtime expenses continue to increase despite improved recruitment and retention of correctional officers.

**Exhibit 12**, as an example, shows DPDS overtime spending in comparison to correctional officer vacancies for fiscal 2006 through the fiscal 2009 projection. When the number of vacant correctional officer positions increased from fiscal 2006 to 2007, the amount of overtime spending increased, as well. A nearly 41% decrease in the number of vacancies in fiscal 2008 resulted in a corresponding 20.5% decrease in overtime spending. According to fiscal 2009 projections, a 21.6% increase in overtime spending is expected, despite a leveling off for vacancies.

**Exhibit 12**  
**Division of Pretrial and Detention Services**  
**Correctional Officer Vacancies and Overtime Spending**  
**Fiscal 2006-2009 Projection**



PIN: position identification number

\*2009 projections are based on year-to-date average through October 2008.

Source: Department of Pretrial Detention and Services StateStat

DPSCS believes that the driver of overtime is increased use of special assignment posts, which are temporary extra staffing requirements that can be created by a Warden without the Commissioner’s approval in order to address situations or policy changes that need immediate attention and are not included in the facility’s security staffing plan. These posts are being utilized across the department because of efforts to increase safety and reduce violence. For the Baltimore

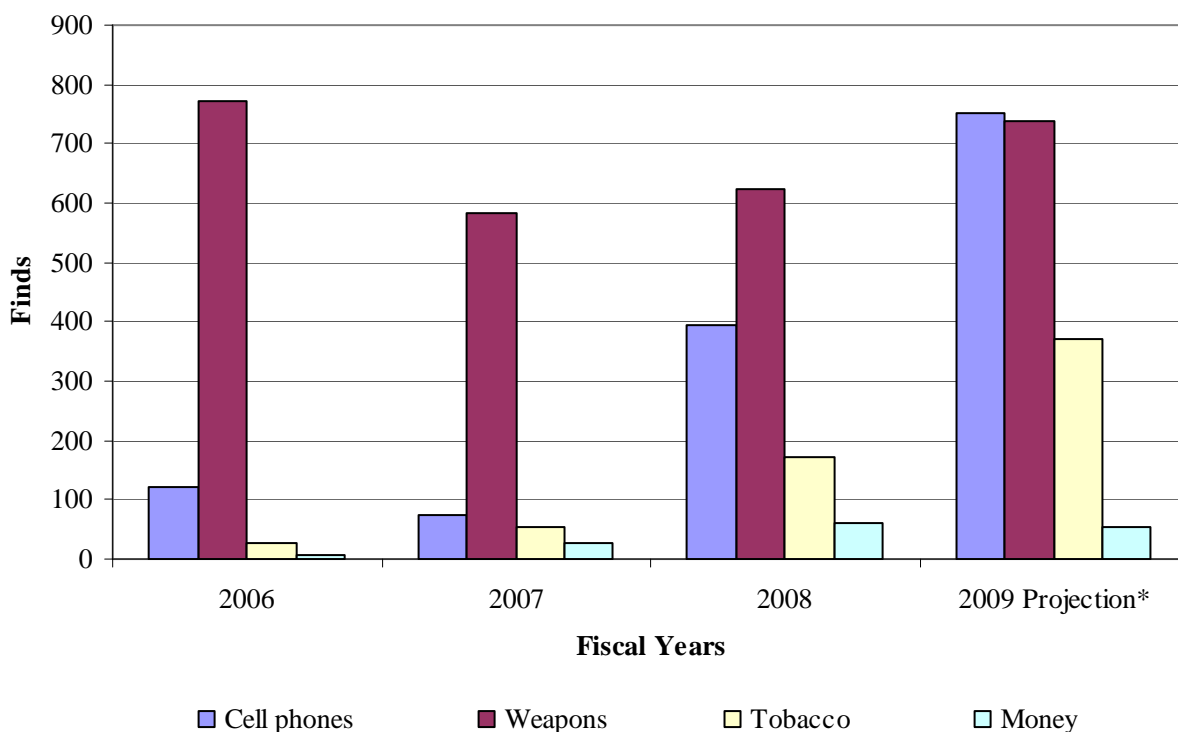
Central Booking and Intake Center alone, special assignment posts increased 50.0% from fiscal 2008 to 2009.

Vacancies are not the cause of increased DPDS overtime in fiscal 2009 because they are projected to stay the same. Population data shows that the number of bookings and commitments has decreased. Even though there is a slight increase in the length of stay, it is not significant enough to alter operations to the point of incurring additional overtime costs. There is also no indication of extraordinary increases in typical relief factor variables that would require additional overtime.

Although the use of Special Assignment Posts (SAPs) increases the amount of required overtime spending, the department believes that it is resulting in positive outcomes. **Exhibits 13 and 14** demonstrate that as the use of SAPs have increased, the number of contraband finds in DPDS facilities has increased and inmate assaults on both staff and other inmates has decreased.

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**Exhibits 13**  
**Contraband Found in Division of Pretrial and Detention Services Facilities**  
**Fiscal 2006-2009 Projection**

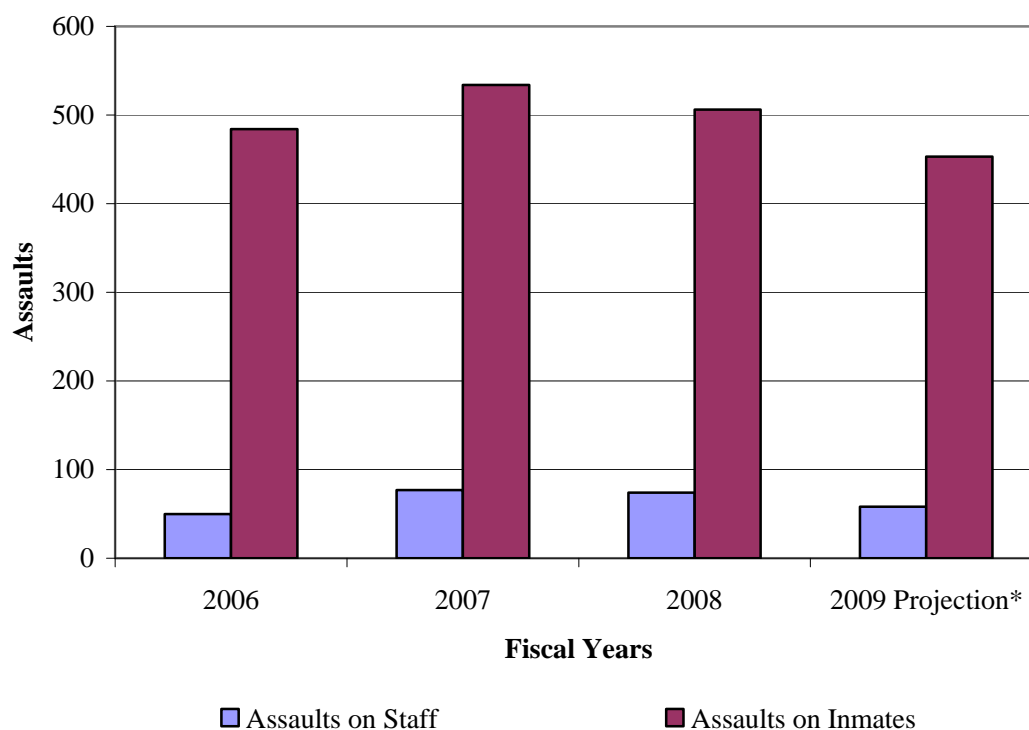


\*2009 projections are based on year-to-date average through October 2008.

Source: Department of Pretrial Detention and Services StateStat

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**Exhibit 14**  
**Division of Pretrial and Detention Services**  
**Assaults on Inmates and Staff**  
**Fiscal 2006-2009 projection**



\*2009 projections are based on year-to-date average through October 2008.

Source: Department of Pretrial Detention and Services StateStat

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As indicated in the previous issue, overtime expenditures for fiscal 2010 are again underfunded, absent the department receiving an increase in custodial positions. Some overtime savings is anticipated in fiscal 2010 because of a reduction in roll call from 12 to 6 minutes in all correctional facilities, and because of a reduction in the use of temporary SAPs that are funded through overtime usage. The department also anticipates an \$8 million contingent reduction in overtime by moving to a 12-hour shift, also pending union approval and the enactment of legislation at the 2009 session. However, if new positions are not added to address the permanent SAPs, it will only require additional overtime usage. The other alternative is to alter or eliminate the use of SAPs by scaling back the new policies that may be helping to reduce violence and contraband.

**DPSCS should comment on its policy for using and approving special assignment posts.** While it appears that the use of SAPs is helping to maintain the security of the institutions, the

purpose of a SAP is for temporary use. During a recent SAP assessment, the department identified enough SAPs that should be permanent to equate to needing 330 new positions. The use of SAPs has been growing over the past two years. If the department had been monitoring its staffing needs more closely, and accounting for staffing changes when implementing policies, it might have had a better idea of its need for overtime funding and positions.

**The Department of Legislative Services (DLS) recommends DPSCS conduct a new post-by-post security staffing analysis to identify the actual number of regular positions needed to safely and securely staff the State’s correctional facilities. A summary of the results of the staffing assessment should be submitted to the budget committees, along with an explanation for staffing changes needed as a result of the post-by-post review. The department should conduct and submit new staffing analyses every two years.**

## **2. Fiscal 2010 Budget Indicates DPSCS Continues to Be Underfunded and Understaffed**

Being underfunded and understaffed in the custodial agencies has been a chronic problem for DPSCS. Over the years, this has required numerous deficiency appropriations and general fund realignments among the agencies. Based on fiscal 2008 actual expenditures and fiscal 2009 projected spending, in order to maintain current operations, it appears the fiscal 2010 allowance is underfunded by at least \$55.8 million. An assessment of current staffing also indicates that the custodial agencies are operating well below their necessary staffing requirements. **Exhibit 15** shows the major areas of underfunding in the Governor’s allowance and also indicates what would be needed to provide the correctional facilities with optimal staffing levels.

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**Exhibit 15**  
**Major Areas of Underfunding in Fiscal 2010 Allowance**

	<u>Allowance</u>	<u>Full-funding Estimate</u>	<u>Underfunding Based on Current Operations</u>	<u>Underfunding Based on Optimal Staffing Levels</u>
Raw Food Purchases	\$19.3	\$22.7	\$3.4	\$3.4
Fuel and Utilities	50.2	56.8	6.6	6.6
Overtime	40.5	50.6	10.1	-5.4
Staffing			35.7	72.3
<b>Total</b>			<b>\$55.8</b>	<b>\$76.9</b>

Source: Department of Legislative Services

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## **Inmate Food Purchases**

The fiscal 2010 allowance includes two fiscal 2009 deficiency appropriations for raw food supplies, totaling \$2.8 million. This increases the appropriation 3.1% from fiscal 2008 actual expenditures, totaling \$22.3 million in fiscal 2009. The fiscal 2010 allowance for food supplies, however, is only \$19.3 million, approximately \$3.0 million, or 13.4% below what the department is anticipating to spend in fiscal 2009. Fiscal 2010 is also 10.6% below fiscal 2008 actual expenses. Using standard Consumer Price Index (CPI) inflation and the most recent year's actual expenditures, fiscal 2010 funding for food supplies should be approximately \$3.4 million more than what is currently in the allowance.

## **Fuel and Utility Expenses**

The fiscal 2010 allowance includes \$4.4 million in fiscal 2009 deficiency appropriations for fuel and utility expenses. This increases the appropriation 5.2% from fiscal 2008 actual expenditures. The fiscal 2010 allowance for fuel and utilities is only \$50.2 million, approximately \$4.1 million, or 7.5% below what the department is anticipating to spend in fiscal 2009. Fiscal 2010 is also 2.6% below fiscal 2008 actual expenses. Using standard CPI inflation and the most recent year's actual expenditures, fuel and utility expenses in fiscal 2010 are underfunded by approximately \$6.6 million.

## **Overtime**

During the 2008 session, it was noted that overtime expenditures for three custodial agencies (DOC, PTX, and DPDS) were believed to be underfunded in the fiscal 2009 budget. The fiscal 2010 allowance includes \$8.0 million in fiscal 2009 deficiency appropriations for overtime. This increases the appropriation 7.9% from fiscal 2008 actual expenditures, totaling \$50.6 million in fiscal 2009. The fiscal 2010 allowance for overtime, however, is only \$40.5 million, approximately \$10.2 million, or 20.3% below what the department is anticipating to spend in fiscal 2009.

Some amount of overtime spending will always exist; several circumstances ensure this to be true.

- Vacancies and turnover expectancy mean that from the start of the fiscal year not every position in the budget is funded. If those unfunded positions are security related, they must be filled using overtime.
- The department operates on an eight-hour shift, but each correctional officer (CO) must report for roll call 12 minutes prior to the start of the shift. Roll call is funded entirely through overtime expenditures.

## *Q00 – DPSCS – Fiscal 2010 Budget Overview*

- If an officer exceeds the assumed amount of “unavailable for work” time used in calculating the relief factor, the coverage for that officer must be filled using overtime.
- If a situation arises in a facility that is outside the realm of daily operations, meaning it requires additional unanticipated personnel, overtime would be required to provide staff to address the situation. Examples would be if there was a riot or maintenance problem.
- If policies are implemented that require the creation of temporary posts, those posts are covered solely through the use of overtime. These temporary posts are referred to as SAPs. An example would be implementing a policy to increase the number of cell searches to provide better security. This would require additional staff for all or part of a shift depending on how long the searches take.

The more ability DPSCS has to address and account for the circumstances that create overtime, however, the more it will be able to work toward reducing, but not eliminating, its overtime usage.

### **Custodial Staffing Requirements**

#### **Achieving Optimal Staffing Levels**

Even prior to the across-the-board position reduction, a recent assessment of security staffing requirements indicated the current number of total authorized correctional positions is below what is needed to provide adequate relief. In addition, in an effort to reduce overtime spending in fiscal 2010, the department conducted an analysis of its use of SAPs to identify where temporary posts could be eliminated. During its review, it was discovered that a majority of the SAPs added over the past two years were actually posts that should be permanent and officially added to the department’s security staffing plan, which had not been recently updated.

**Exhibit 16** shows the current number of authorized CO I, II, and III positions for each of the custodial agencies, prior to the across-the-board position abolition. The fiscal 2010 authorized position count, absent any impact from the across-the-board reduction, is compared to the number of additional positions needed to meet the most recent staffing analysis and to convert permanent SAPs being funded with overtime to regular positions. This comparison indicates that the department is currently operating at a deficit of 815 authorized custodial positions. Regardless of the agencies’ abilities to fill vacancies, not having enough budgeted positions automatically means the agency will incur overtime expenses. Once accounting for the personnel related actions in the fiscal 2009 and 2010 budgets, the department would require an additional \$72.3 million in order to achieve the number of positions needed to meet its optimal staffing levels. It is assumed that this cost would be partially offset by lower overtime expenditures.

**Exhibit 16  
Department of Public Safety and Correctional Services  
Ability to Meet Custodial Staffing Needs (CO I, II, III)**

	<b>Positions Needed Based on FY 08 Relief Factor</b>	<b>FY 2010 Authorized Positions*</b>	<b>Additional Needed to Meet Relief Factor</b>	<b>Additional Needed to Cover SAPs</b>	<b>Total Additional Positions Required</b>
Division of Correction	5,356	4,907	449	198	647
Patuxent Institution	368	352	16	12	28
Division of Pretrial Detention and Services	1,121	1,101	20	120	140
<b>Total Department</b>	<b>6,845</b>	<b>6,360</b>	<b>485</b>	<b>330</b>	<b>815</b>

CO: correctional officer

SAP: Special Assignment Post

\* Does not reflect across-the-board position reductions proposed for fiscal 2010.

Source: Department of Public Safety and Correctional Services

**Maintaining Current Operations**

In light of the State’s current fiscal difficulties, it is unrealistic to expect significant progress toward funding the optimal staffing levels; however, given the gap between current and optimal staffing levels, an intermediate goal should be to maintain staffing at the levels funded in the fiscal 2009 legislative appropriation. As a result of actions taken in the fiscal 2009 and 2010 budgets, DPSCS would require an additional \$35.7 million in order to maintain current levels of operation. This amount is largely the result of three actions.

- Fiscal 2009 cost containment actions abolished 161 positions, for a total reduction of \$8.3 million in fiscal 2010. Approximately 62.1% of these positions were correctional officers, reducing the CO position complement to 6,360. The remaining positions are integral to supporting the functions of the parole and probation agents and the State’s criminal justice information technology systems.
- The fiscal 2010 allowance includes an across-the-board reduction to vacant positions. This further reduces the department’s personnel complement by 400 positions and \$9.3 million. It is not known at this time which agencies will be impacted by the reductions, but it is estimated that at least 300 of the 400 positions will be custodial.

- Finally, higher than usual budgeted turnover expectancy in the DPSCS fiscal 2010 allowance, limits the amount of funds available to cover salary costs, making it difficult for the department to fill vacancies. Budgeted turnover is the amount of personnel expenses adjusted downward to allow for position vacancies that occur throughout the year. As of January 1, 2009, the entire department had 837 vacancies. This represents a 27% reduction from the number of vacancies in January 2008. The fiscal 2010 turnover for the department is budgeted for the equivalent of 908 vacant positions. This means that approximately 71 currently filled positions will not have a funded salary in fiscal 2010.

## **Recommendations**

**DPSCS should comment on how it intends to distribute the 400 abolished vacant positions among the agencies and its overall impact on non-security related departmental functions. The department should also explain the anticipated impacts of remaining underfunded and understaffed in the noted areas and what measures it intends to take in order to ensure security within the facilities, despite reductions in staffing and overtime.**

### **3. StateStat Improves Departmental Data Collection and Performance Analysis**

StateStat, an ongoing executive accountability tool used to enhance an agency's performance, was established by Chapter 7 of 2007. Its major purpose is to provide programmatic oversight and more valuable data gathering in order to increase agency effectiveness and efficiency of service. DPSCS has four agencies participating in StateStat: DOC, PTX, DPP, and DPDS. Data for each agency is reviewed twice a month. Significant amounts of data are being collected and reported that had not previously been tracked. In addition, with the frequency of DPSCS StateStat meetings, data is reported and issues are addressed in a more real time format.

## **Custodial Agencies**

Data collected for the three custodial agencies largely falls into three categories: personnel, safety, and treatment. Personnel data includes vacancies, overtime spending, sick leave usage, and injury reports. Safety data reports the number of assaults and contraband and cell phone recoveries. Treatment services data includes secondary care utilization, medical staffing, HIV and Hepatitis C treatment, and substance abuse participation. Additional data is collected regarding Maryland Correctional Enterprises production and the department's Minority Business Enterprises contract activity.

## **Parole and Probation**

DPP data collected through StateStat also provides insight into personnel issues, such as vacancies, sick leave, and injury reports; however, the majority of DPP data collected focuses on caseloads and intensive supervision programs administered by DPP. Data driven discussions regarding the number of supervisees involved in shooting incidences or who have had warrants issued for a new or technical offense can indicate success or concern in the level and type of supervision provided. StateStat places additional emphasis on supervisees in the Violence Prevention Initiative (VPI), a new program implemented under the current Administration to target more serious violent offenders. Since this is a new program, VPI specific data shows whether it is having any impact and being properly implemented. Additionally, reporting of the number of DNA samples collected and warrants served and outstanding demonstrates the abilities of DPP and other criminal justice agencies to communicate effectively and work together. If the number of outstanding warrants increases, it could lead to discussion of improving IT systems or data sharing efforts across agencies and across jurisdictions.

StateStat provides the opportunity to maintain a firm finger on the pulse of what is happening within each agency at that moment. In addition to providing the data needed to support the formulation of evidence-based practices, it is also providing a forum for bringing agency personnel and outside reviewers together to address issues and develop corrective action plans. **DLS recommends DPSCS consider including StateStat measures, such as contraband and cell phone recoveries or warrants issued for supervisees who committed technical and new offenses, in the annual Managing for Results measures.**

## ***Recommended Actions***

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1. Add the following language:

Provided that the Department of Public Safety and Correctional Services (DPSCS) shall regularly conduct a new post-by-post security staffing analysis for each of its custodial agencies in order to identify the actual number of regular positions needed to safely and securely staff the State’s correctional institutions. DPSCS shall provide a written report to the budget committees no later than December 1, 2009, with bi-annual submissions thereafter, summarizing the results of the analysis and explaining the need for any staffing changes resulting from the staffing analysis or changes in policy that require the use of additional positions.

The budget committees shall have 45 days to review and comment following receipt of the report.

**Explanation:** This action requires the Department of Public Safety and Correctional Services (DPSCS) to regularly conduct a post-by-post security staffing analysis and submit a summary report to the budget committees no later than December 1, 2009, explaining the need for any increases in staffing. Providing proper staffing can have an impact on the amount of overtime used by the custodial agencies. Over the past two years, the department has increased its use of temporary posts filled with overtime in order to implement policies designed to improve safety and security in the facilities. After careful review, it appears that the majority of these temporary posts should actually be permanent positions. Conducting regular staffing assessments should assist the department and the General Assembly in monitoring the staffing and overtime situation in the State’s correctional facilities.

<b>Information Request</b>	<b>Author</b>	<b>Due Date</b>
Analysis of Custodial Agency Staffing Requirements	DPSCS	December 1, 2009, and bi-annually thereafter

## Relief Factor Calculation for a 24-hour, 7-day-a-week Post

- Step 1: Determine the Average Number of Days Available to Cover a Post

**Max. # Working days per year – Total avg. # of days not available = Avg. # days available annually**

Maximum number of working days per year (26 pay periods x 14 days per pay period)	364
Total average days not available (includes weekends, sick, annual, administrative leave taken, and trainings, etc.)	169
Average days available per full-time equivalent (FTE) regular position to cover a post annually	195

- Step 2: Calculating the Relief Factor

**# of days per year the post is needed ÷ Avg. # of days available annually = The Relief Factor**

Days per year the post is needed for a 7-day post (26 pay periods x 14 days per pay period)	364
Average days available per FTE regular position to cover a post annually	195
The Relief Factor	1.87

- Step 3: Calculating the Staffing Level Required

**# of shifts per day the post is needed × Relief Factor = # of FTE positions needed**

Number of shifts per day for a 24-hour/7-day post	3
Relief Factor for the post	1.87
Number of FTE positions required to cover the post	5.61