

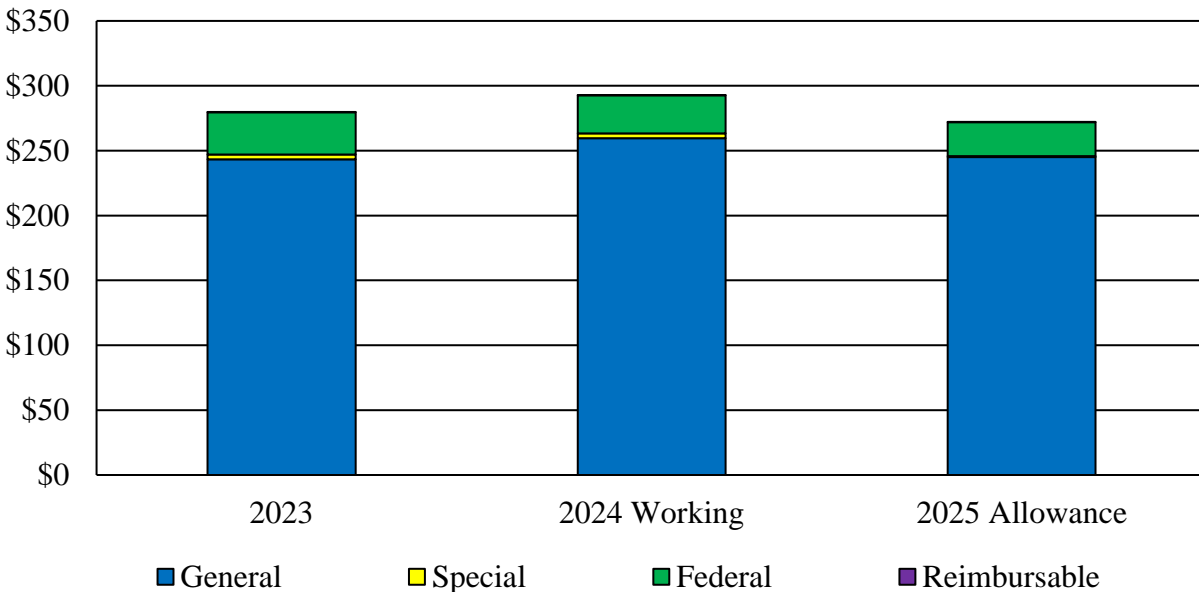
Q00T04
Division of Pretrial Detention and Services
Department of Public Safety and Correctional Services

Executive Summary

The Division of Pretrial Detention and Services (DPDS) is responsible for processing and managing the care, custody, and control of Baltimore City arrestees and detainees in a safe, humane, and secure environment. DPDS also supervises the operation of all Baltimore City Department of Public Safety and Correctional Services (DPSCS) facilities, some of which incarcerate a portion of the State-sentenced inmate population as well as federal detainees. DPDS also oversees the Pretrial Release Services Program (PRSP), which interviews, investigates, and presents recommendations to Baltimore City courts concerning the pretrial release of individuals accused of crimes in Baltimore as well as supervises those released on personal recognizance.

Operating Budget Summary

Fiscal 2025 Budget Decreases \$20.6 Million, or 7.1%, to \$272.1 Million
(\$ in Millions)



Note: The fiscal 2024 working appropriation includes deficiencies. The fiscal 2024 impacts of statewide salary adjustments appear in the Statewide Account in the Department of Budget and Management (DBM), and adjustments are not reflected in this agency’s budget. The fiscal 2025 impacts of the fiscal 2024 statewide salary adjustments appear in this agency’s budget. The fiscal 2025 statewide salary adjustments are centrally budgeted in DBM and are not included in this agency’s budget.

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- Federal funds make up approximately 10% of this budget due to the agreement between DPSCS and the U.S. Marshals Service (USMS) to operate the Chesapeake Detention Facility (CDF) as a regional facility for detaining federally charged individuals. This agreement is valid until the end of calendar 2025.

Key Observations

- ***Central Booking Intake Volume Increased 21%:*** While the average daily population (ADP) was stable, the number of arrestees and commitments increased together for the first time in a decade.
- ***Assaults Decline Overall but Increase for Several Facilities:*** The number of assaults and the overall assault rate at DPDS facilities declined in fiscal 2023, but the Youth Detention Center (YDC), Maryland Reception, Diagnostic, and Classification Center (MRDCC), and CDF saw significant increases in both rates and total number of assaults.
- ***Inmate Brutality Case Settled for \$7 Million:*** An appeal to the Supreme Court of Maryland was averted by agreeing to pay Daquan Wallace \$7 million instead of the \$200,000 approved by Maryland law. The courts originally awarded \$25 million in damages, but statutory limits reduced the amount by over 99%.
- ***Duvall v. Hogan Consent Decree Set to Expire June 30, 2024:*** The long-standing consent decree regarding conditions of confinement and medical and mental health care in the Baltimore Pretrial Complex is set to expire by the end of fiscal 2024 without DPSCS reaching full compliance. DPDS is currently in substantial compliance with 18 provisions, partially compliant with 27 provisions, and noncompliant with 9 provisions.

Operating Budget Recommended Actions

1. Concur with Governor’s allowance.

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Division of Pretrial Detention and Services
Department of Public Safety and Correctional Services

Operating Budget Analysis

Program Description

DPDS is responsible for processing and managing the care, custody, and control of Baltimore City arrestees and detainees in a safe, humane, and secure environment. DPDS operates five detention facilities including Baltimore Central Booking and Intake Center (BCBIC); the Metropolitan Transition Center (MTC); YDC; MRDCC; and CDF, which houses federal offenders for the USMS. The Baltimore City Correctional Center is a correctional facility holding short-sentenced prisoners that falls under the budgetary organization of DPDS due to their location. PRSP is also operated by DPDS and provides investigative and supervisory services regarding the pretrial release of individuals accused of crimes in Baltimore City. Goals for DPDS include:

- keeping communities safe;
- securing and safeguarding individuals under departmental supervision;
- ensuring conditions of confinement are humane; and
- ensuring individuals receive appropriate treatment services and programming to help improve community reentry.

Performance Analysis: Managing for Results

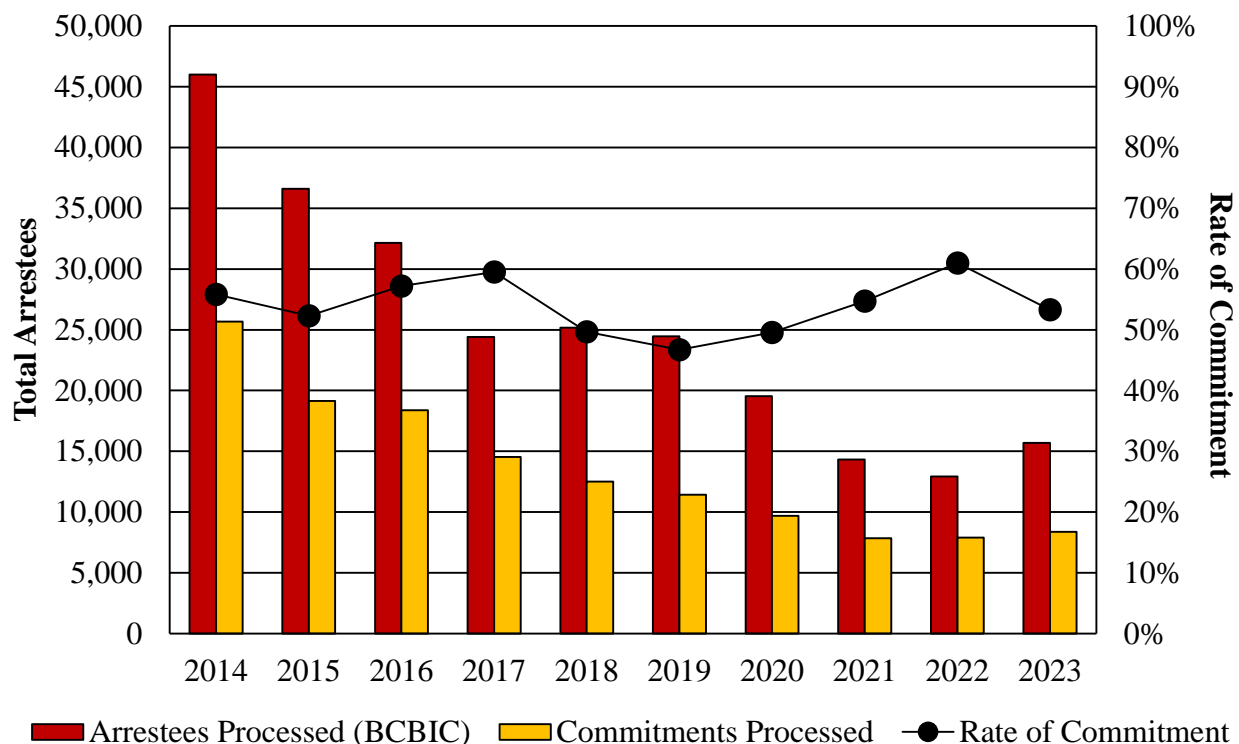
1. Arrestees and Commitments Increase while ADP Shrinks

In Baltimore City, all arrestees are processed at BCBIC. The past decade saw a continued decline in overall activity through BCBIC, though the number of arrestees processed (or booked) remained steady from fiscal 2017 to 2019. The number of individuals committed to pretrial detention (those held in jail) steadily declined by an average of 11% each year this decade, as seen in **Exhibit 1**. However, commitments increased from fiscal 2021 to 2022 for the first time in a decade, and arrestees increased from fiscal 2022 to 2023 for the first time in half a decade. The rate of commitment decreased from the peak in fiscal 2022, but the overall volume of individuals processed through BCBIC increased. In fiscal 2023:

- arrestees processed increased by 2,774, or 21%;

- commitments increased by 483, or 6%; and
- the rate of commitment decreased by 8 percentage points to 53%.

Exhibit 1
Arrestees Processed and Rate of Commitment
Fiscal 2014-2023

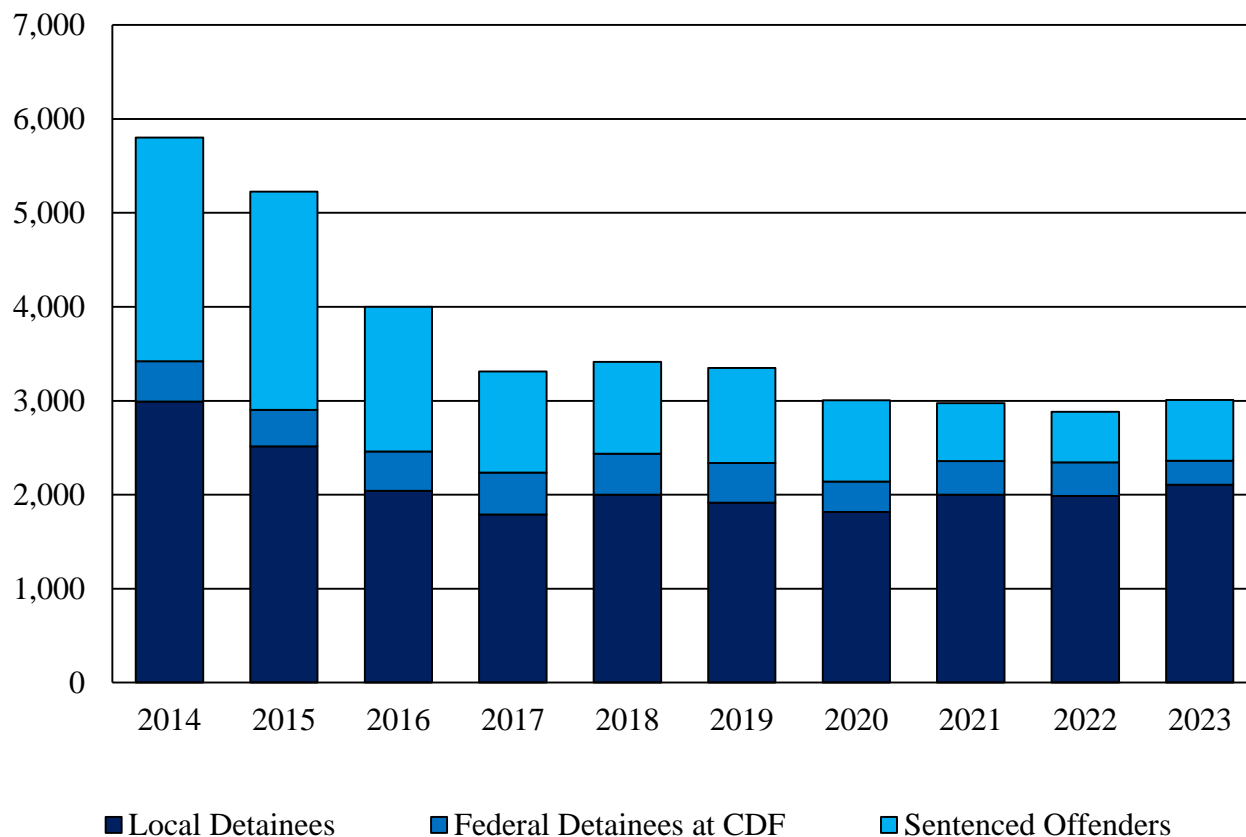


BCBIC: Baltimore Central Booking and Intake Center

Source: Governor’s Fiscal 2025 Budget Books

In addition to the pretrial detainees held in Baltimore City, DPDS holds some sentenced offenders in custody. Including these sentenced offenders better represents the DPDS population and shows that there was an increase in the ADP in Baltimore City facilities in fiscal 2023. **Exhibit 2** shows the ADP of sentenced offenders, local pretrial detainees, and federal pretrial detainees in Baltimore City for the past 10 years. The decline from fiscal 2014 to 2017 is attributable to the closure of several facilities in the Baltimore City Pretrial Complex and an overall reduction in arrests made in Baltimore City.

**Exhibit 2
Average Daily Population of Baltimore City Facilities
Fiscal 2014-2023**



CDF: Chesapeake Detention Facility

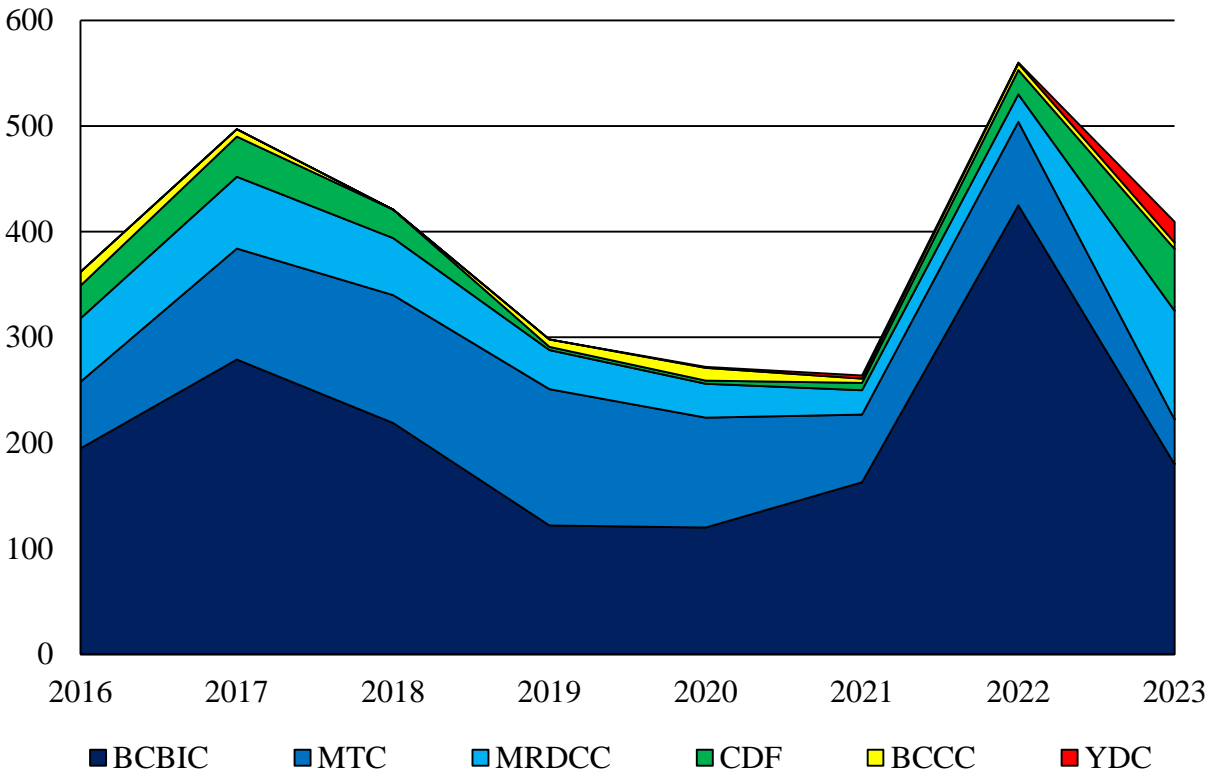
Source: Department of Public Safety and Correctional Services

Since fiscal 2017, the overall population under DPDS jurisdiction has not changed to a great extent. This is due, in part, to bail reform, which resulted in more defendants released without bond but also increased those held without bond. While overall commitments did not increase until fiscal 2023, those committed have been held for longer periods, partially attributable to an increase in individuals held without bail. Fewer defendants are being held for longer periods, resulting in a leveling out of the ADP. The population declined from fiscal 2020 to 2022, but not to the same extent as arrests or commitments because the rate of release slowed considerably during the COVID-19 pandemic. The length of stay for DPDS facilities was 13.2 months at the end of fiscal 2020 due to slower decisions by the courts, but improved to 3.1 months on average for BCBIC, MTC, MRDCC, and YDC sentenced offenders by July 2022.

2. Assaults Decline Overall, but Increase for MRDCC, CDF, and YDC

Exhibit 3 shows the approximate number of individual-on-individual assaults within DPDS facilities since fiscal 2016.

Exhibit 3
Individual-on-Individual Assaults in DPDS Facilities
Fiscal 2016-2023



BCBIC: Baltimore Central Booking and Intake Center
BCCC: Baltimore City Correctional Center
CDF: Chesapeake Detention Facility
MRDCC: Maryland Reception, Diagnostic, and Classification Center
MTC: Metropolitan Transition Center
YDC: Youth Detention Center

Note: Estimated assaults calculated by multiplying average daily population of facility by rate of assault per fiscal year.

Source: Governor’s Fiscal 2025 Budget Books

DPDS saw a spike in assaults in fiscal 2022 following several years of declining numbers of assaults. Assaults at BCBIC spiked to the highest rate per 100 that ADP has seen since the Managing for Results (MFR) measure began. However, fiscal 2023 saw improvements for BCBIC and MTC, which were the major contributors to reducing the DPDS individual-on-individual assault rate by 37% from 22 individual-on-individual assaults per 100 ADP in fiscal 2022 to 14 in fiscal 2023.

The individual-on-individual assault rate in BCBIC reduced by more than half from 43.4 in fiscal 2022 to 18.2 in fiscal 2023. The facilities with the highest rate of assaults per 100 ADP have historically been BCBIC and MTC. However, YDC experienced a drastic increase from only 1 assault reported in fiscal 2022 to 20 assaults in fiscal 2023. CDF and MRDCC assault rates also overcame MTC rates for the first time. BCBIC, CDF, MRDCC, and YDC have individual-on-individual assault rates of 18.2, 15.2, 14.7, and 35.8 individual-on-individual assaults per 100 ADP, respectively.

Assault rates on staff declined by 49% for BCBIC and 15% for DPDS facilities as a whole between fiscal 2022 and 2023. However, MRDCC had an increase in staff assaults and experienced higher rates than BCBIC in fiscal 2023. The level of safety in facilities is impacted by the state of the workforce, which has been strained from years of high vacancies and growing mandatory overtime. Tired employees are less likely to pick up on dangerous situations and may even contribute to the danger through negligence.

One Homicide in Detention Facilities

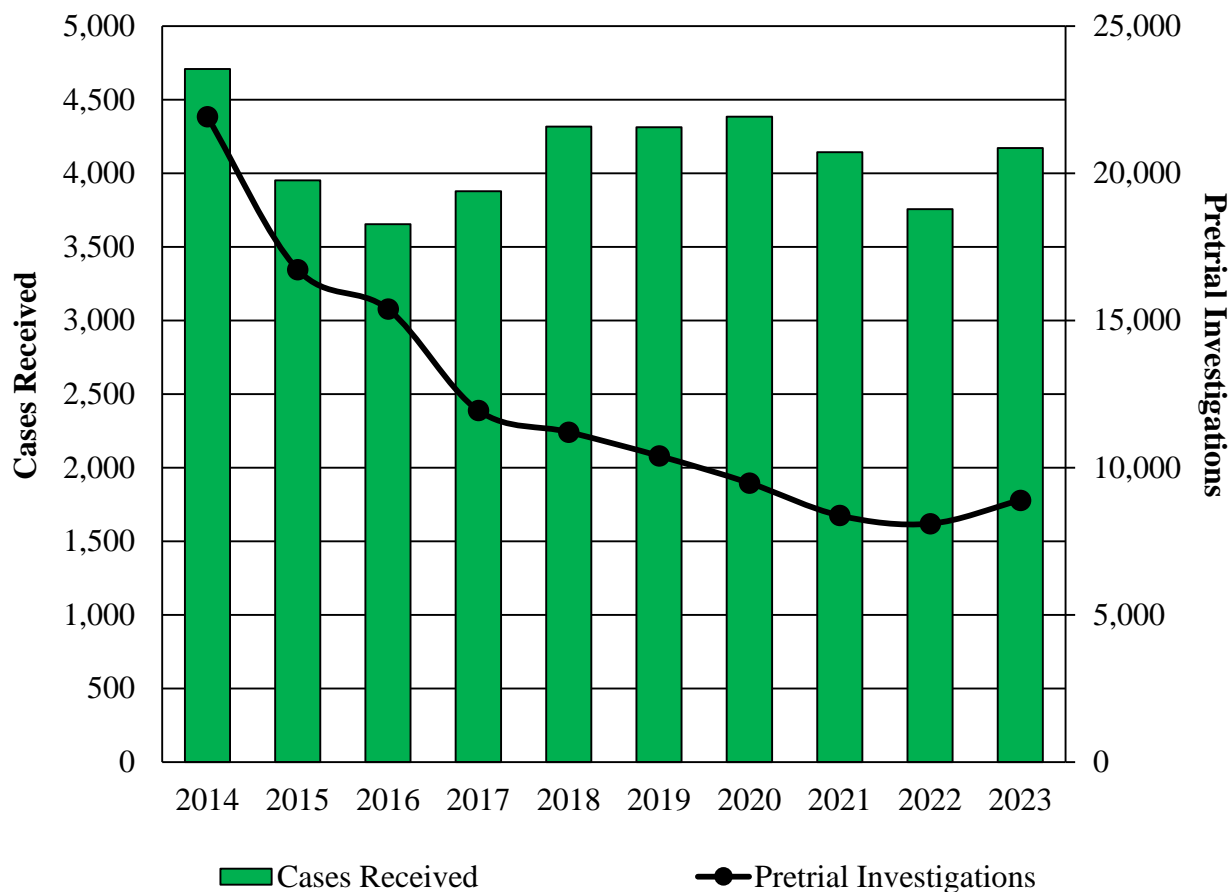
In fiscal 2023, DPDS reported one homicide in facilities by an incarcerated individual on another incarcerated individual. In fiscal 2022, there was also one homicide.

3. PRSP Meets Goals

PRSP interviews, investigates, and presents recommendations to Baltimore City courts concerning the pretrial release of individuals accused of crimes in Baltimore. PRSP also supervises defendants released on personal recognizance or conditional bail as ordered by the court.

In fiscal 2023, the number of cases received and the number of pretrial investigations ordered were higher than the previous year. This is the first time since fiscal 2008 that pretrial investigation orders have increased and the first time since fiscal 2020 that the number of incoming cases increased. However, the cases were processed throughout the year, and PRSP ended fiscal 2023 with 72 fewer cases than at the start of fiscal 2023. **Exhibit 4** shows the decline in pretrial investigations along with the number of supervision cases received each year over the past decade with the uptick in fiscal 2023. At the end of fiscal 2023, PRSP had 892 clients on supervision, which is less than the average during the last decade.

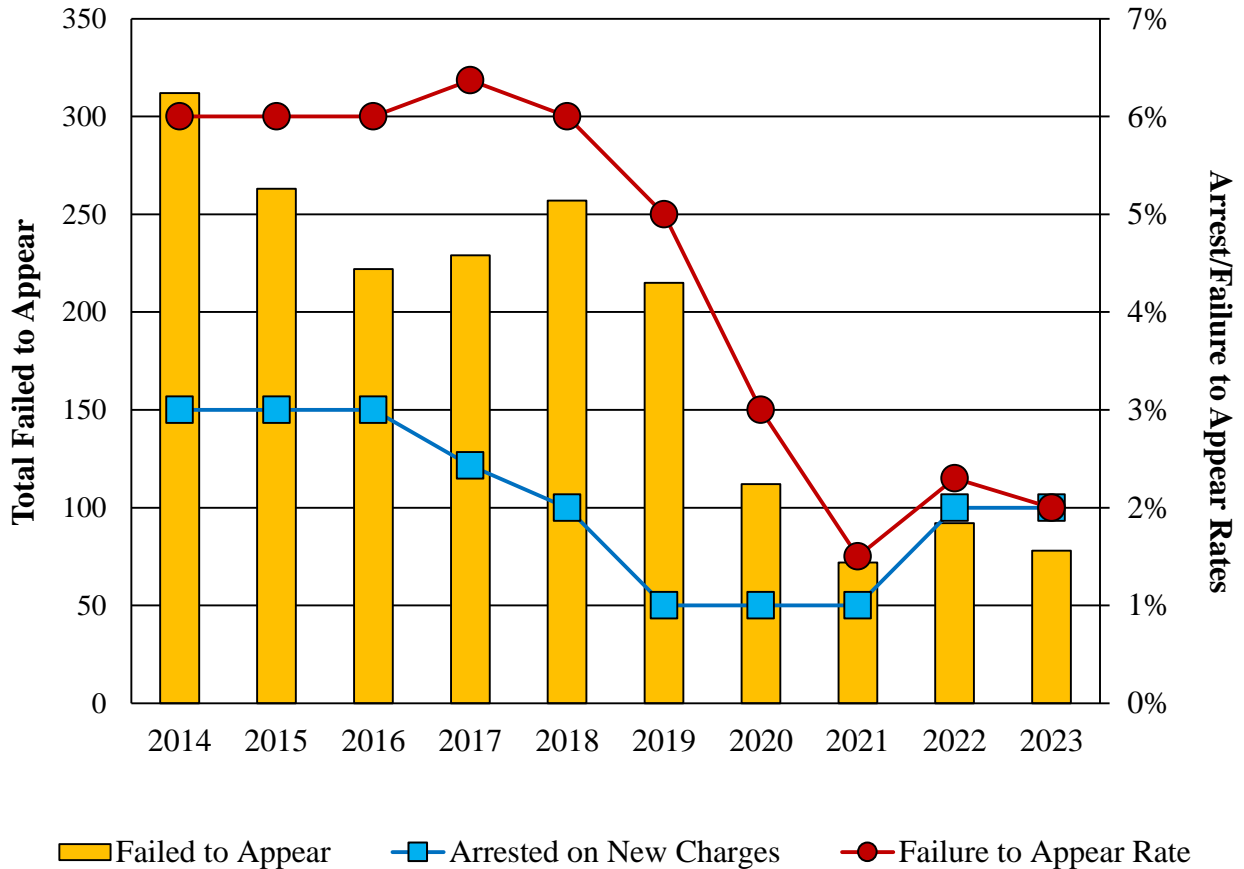
**Exhibit 4
Defendants under Pretrial Release Supervision or Investigation
Fiscal 2014-2023**



Source: Governor’s Fiscal 2025 Budget Books

PRSP’s goal is to ensure that pretrial defendants released into the community comply with bail conditions, do not engage in criminal activity while on release, and appear for court when required. **Exhibit 5** shows that PRSP staff successfully met the goals of having 4% or less of its population arrested on new charges while under supervision and having 8% or less of the population fail to appear for required court dates in fiscal 2023 – 2% of defendants were arrested on new charges and 2% (78 individuals) failed to appear in court. The decrease from fiscal 2019 to 2021 may have been partially the result of court closures, but PRSP continues to meet both of its MFR goals as reopening continues.

**Exhibit 5
PRSP Defendants Arrested on New Charges and Failure to Appear Rates
Fiscal 2014-2023**



PRSP: Pretrial Release Services Program

Source: Governor’s Fiscal 2025 Budget Books

Fiscal 2023

Actual spending in fiscal 2023 was higher than anticipated in the working appropriation by 3.0%, or \$8.5 million, due to the distribution of targeted and general statewide salary enhancements.

Fiscal 2024

Proposed Deficiency

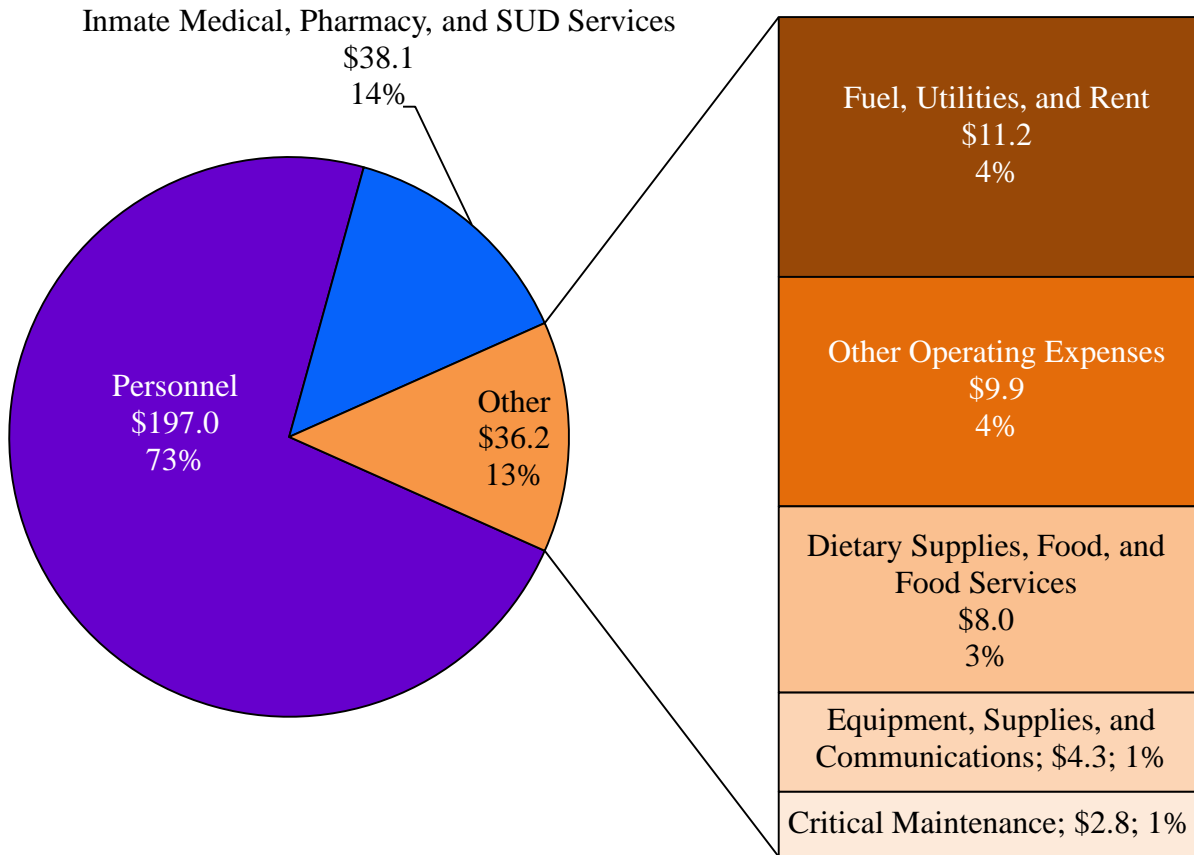
Proposed general fund deficiencies for fiscal 2024 total \$8.3 million for DPDS:

- \$4.35 million for electricity costs that were higher than budgeted due to inflation;
- \$3.3 million for extending the medical care contract for six months; and
- \$682,000 for contractual food services that were higher than budgeted due to inflation.

Fiscal 2025 Overview of Agency Spending

The fiscal 2025 allowance for DPDS is \$272.1 million. Three-quarters of agency spending is dedicated to personnel costs for the 1,789 regular positions. Inmate medical care (including mental health, dental, substance use disorder (SUD) treatment, and pharmacy services) accounts for approximately \$38.1 million, or 14%. Other costs to operate facilities and provide services to inmates are \$36.2 million, or 13%. **Exhibit 6** shows DPDS expenses by category.

Exhibit 6
Overview of Agency Spending
Fiscal 2025 Allowance
(\$ in Millions)



SUD: substance use disorder

Source: Governor’s Fiscal 2025 Budget Books

Proposed Budget Change

The fiscal 2025 allowance for DPDS decreases by \$20.6 million from the fiscal 2024 working appropriation. Overtime is the single largest driver of the decrease. **Exhibit 7** shows the budget change by spending item.

Exhibit 7
Proposed Budget
DPSCS – Division of Pretrial Detention and Services
(\$ in Thousands)

How Much It Grows:	General Fund	Special Fund	Federal Fund	Reimb. Fund	Total
Fiscal 2023 Actual	\$243,414	\$3,556	\$32,717	\$230	\$279,918
Fiscal 2024 Working Appropriation	259,512	3,712	29,370	151	292,745
Fiscal 2025 Allowance	<u>244,973</u>	<u>745</u>	<u>26,233</u>	<u>154</u>	<u>272,105</u>
Fiscal 2024-2025 Amount Change	-\$14,538	-\$2,967	-\$3,137	\$3	-\$20,640
Fiscal 2024-2025 Percent Change	-5.6%	-79.9%	-10.7%	1.7%	-7.1%
Where It Goes:					<u>Change</u>
Personnel Expenses					
Salary increases and associated fringe benefits including fiscal 2024 cost-of-living adjustments and increments.....					\$6,487
Turnover expectancy reduced from 15.9% to 12.9%.....					4,540
5 positions transferred into DPDS from other units of DPSCS					245
Accrued leave payout and shift differential					-50
8 positions transferred out of DPDS into other units of DPSCS.....					-606
Workers' compensation insurance premiums reduced to align with Injured Workers' Insurance Fund needs					-3,075
Overtime earnings.....					-27,418
Other Changes					
Utilities, excluding electricity					1,444
Food and dietary supplies					1,282
Insurance premiums paid to the State Treasurer's Office					216
Wages for incarcerated individuals.....					65
Other					1
Inmate Transportation Unit motor vehicle costs.....					-41
Contractual full-time equivalent turnover expectancy increases					-50
Contractual food services.....					-91
Other facility management costs.....					-135
Comprehensive Building Maintenance Services at Baltimore Correctional Complex.....					-137
DPDS share of incarcerated inmate medical, pharmacy, and drug treatment services					-350
Critical maintenance projects.....					-800
Electricity costs.....					-2,168
Total					-\$20,640

DPDS: Division of Pretrial Detention and Services

DPSCS: Department of Public Safety and Correctional Services

Note: Numbers may not sum to total due to rounding. The fiscal 2024 working appropriation includes deficiencies. The fiscal 2024 impacts of statewide salary adjustments appear in the Statewide Account in the Department of Budget and Management (DBM), and adjustments are not reflected in this agency's budget. The fiscal 2025 impacts of the fiscal 2024 statewide salary adjustments appear in this agency's budget. The fiscal 2025 statewide salary adjustments are centrally budgeted in DBM and are not included in this agency's budget.

Budget Decreases Most for Personnel Costs

The single largest change in fiscal 2025 is the \$27.4 million reduction to overtime. This reduction appears to account for an increase in hiring for this division but likely overstates the associated savings. As pointed out in Q00 – DPSCS Overview, utilization of overtime has not decreased enough to justify the size of this reduction. For illustration, DPDS expended \$48 million in overtime in fiscal 2023 but is only budgeted \$24.8 million in fiscal 2025. **DPDS should comment on this anticipated decline in overtime spending for the division.**

The amount budgeted for turnover expectancy is also adjusted from 15.9% to 12.9%, adding \$4.5 million. This adjustment is more in line with changes to vacancies than the overtime adjustment. Of the other operational changes, electricity costs appear to decrease by over \$2 million but were elevated in fiscal 2024, so the allowance is actually higher than the fiscal 2023 actuals. Medical, dental, and pharmacy costs also decrease by \$0.4 million for DPDS because the overall amounts for these services are distributed across DPSCS functions in proportion to their share of the inmate population.

Personnel Data

	<u>FY 23</u> <u>Actual</u>	<u>FY 24</u> <u>Working</u>	<u>FY 25</u> <u>Allowance</u>	<u>FY 24-25</u> <u>Change</u>
Regular Positions	1,793.60	1,791.60	1,788.60	-3.00
Contractual FTEs	<u>12.99</u>	<u>37.21</u>	<u>37.21</u>	<u>0.00</u>
Total Personnel	1,806.59	1,828.81	1,825.81	-3.00

Vacancy Data: Regular Positions

Turnover and Necessary Vacancies, Excluding New Positions	229.84	12.85%
Positions and Percentage Vacant as of 12/31/23	200.00	11.16%
Vacancies Below Turnover	29.84	

- The fiscal 2025 allowance transfers 8 positions out of the agency and 5 positions into the agency for a net decrease of 3 positions and approximately \$360,000.
- Vacancies declined by 64 from January 2023 to 2024, mostly for administrative positions. Current vacancies are 85 for administrative positions and 115 for correctional officers (CO).

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- Correctional dietary, supply, and maintenance officers have higher vacancies than other administrative classifications.
- Entry-level CO vacancies are the highest among all classifications at 85 vacant and 119 filled.
- MTC has the highest vacancies among all DPDS facilities, as shown in **Exhibit 8**.

Exhibit 8
DPDS Vacancies by Program/Facility
January 2024

<u>Program/ Facility</u>	<u>Vacancies</u>	<u>Allowed Positions</u>	<u>Vacancy Rate</u>
Metropolitan Transition Center	72	465	15.5%
DPDS Headquarters	2	14	14.3%
Chesapeake Detention Facility	29	211	13.7%
Baltimore City Correctional Center	14	112	12.5%
Youth Detention Center	12	99	12.1%
Maryland Reception Diagnostic and Classification Center	33	283	11.7%
Pretrial Release Services Program	7	86	8.1%
Baltimore Central Booking and Intake Center	31	522	5.9%

DPDS: Division of Pretrial Detention and Services

Source: Department of Budget and Management

Issues

1. Inmate Brutality Victim Receives \$7 Million Settlement

In December 2014, an individual in DPDS custody was brutalized by other detained individuals at the now-demolished Baltimore City Detention Center (BCDC). Following the attack, then 20-year-old Daquan Wallace was left permanently mute and triplegic with catastrophic brain damage. On Dec. 15, 2017, Daquan Wallace filed a lawsuit against the State, DPSCS, and DPDS accusing the State of violating his due process rights, use of excessive force, encouraging and covering up the attack, and failing to render aid. The court filings specified that the assault was allowed to occur by a CO who deliberately left cells unlocked in the housing unit. The COs accused in Wallace’s lawsuit received no disciplinary action, as per departmental records, and have all retired and no longer work for DPSCS.

The jury ruled in favor of Daquan Wallace and awarded \$25 million in damages: \$15 million for State negligence and \$10 million for the violation of civil rights. However, the award for damages was reduced to \$200,000 in accordance with the Maryland Tort Claims Act (MTCA), which limits damages that can be paid in personal injury lawsuits against the State. The jury found that:

- the State violated Daquan Wallace's rights under Article 24 of the Maryland Declaration of Rights;
- the State violated his rights under the Maryland Declaration of Rights by engaging in unconstitutional customs, policies, or practices;
- the State trained or supervised its employees negligently; and
- the State’s negligence directly and proximately caused his injuries.

Case Settled for \$7 Million Due to Supreme Court Appeal

The Court of Special Appeals, now the Appellate Court of Maryland, upheld the reduction in the award in June 2022, but Daquan Wallace pursued further litigation with the Maryland Court of Appeals, now the Supreme Court of Maryland, bringing into question the constitutionality of the MTCA. The case was scheduled for March 2023. However, the State reached a settlement with Daquan Wallace, and the Board of Public Works (BPW) approved a payment of \$7 million on March 1, 2023, to avoid further litigation. During the BPW meeting, State Treasurer Dereck Davis expressed concern that taxpayer money was being diverted once again for “improper, unacceptable behavior” committed by officers who are not held personally responsible.

The \$7 million appropriation for fiscal 2023 was provided for in the Fiscal 2024 Supplemental Budget No. 2. This was paid for in part by removing a \$1.5 million appropriation

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for a new incarcerated individual mentorship program that was not ready to start in time to utilize the funding. The funding appears in Q00A – DPSCS Administration and Offices budget because the Office of the Secretary is responsible for paying sundry claims.

The size of the settlement in Daquan Wallace’s case was unusually large compared to other recent settlements for cases claiming harm by DPSCS for which payments were ultimately approved by BPW. All such claims paid by DPSCS since fiscal 2022 are shown in **Exhibit 9**, averaging approximately \$370,000 per year, excluding the Wallace case.

Exhibit 9
Cases Settled by State for Claims Against DPSCS
Fiscal 2022-2024 Year to Date

<u>Case Name</u>	<u>Issue</u>	<u>Payment Amount</u>
Fiscal 2022		
<i>Sondra Arsenault v. State of Maryland, DPSCS</i>	Discrimination/Employment	\$90,000
<i>Grant Holley v. Kevin Foxx, et al.</i>	Excessive use of force	45,000
<i>Tonia Froehlich v. State of Maryland, DPSCS</i>	N/A	40,000
<i>Bryan Sheppard v. Martins Aito, et al.</i>	Excessive use of force	40,000
<i>Hammel Clark v. Denise Gelsing, et al.</i>	Conditions of confinement	40,000
<i>Romeo Hillman v. Dickson Wale Soroye</i>	Housed with assailant	35,000
<i>The Estate of Michael Perry v. Thomas Barnes, et al.</i>	Assault allowed to occur	35,000
<i>Rodney Chase v. DPSCS et al.</i>	Medical malpractice	20,000
<i>Terrance Pevie v. Scott Snyder, et al.</i>	Conditions of confinement	15,000
Fiscal 2022 Total		\$360,000
Fiscal 2023		
<i>Daquan Wallace v. State of Maryland, et al.</i>	Assault allowed to occur	7,000,000
<i>Lonnie Murrill v. Otis Merritt, Warden, et al.</i>	Assault allowed to occur	100,000
<i>Amber Maree Canter v. J. Michael Zeigler, et al.</i>	Denial of transgender medical care	92,000
<i>Lestor DeShazor v. Barb, et al.</i>	Excessive use of force	85,000
<i>Corey Lee Dove v. Laura Armstead and Jason Anderson</i>	Retaliation	37,500
<i>Othella Gough v. Mark Semexan</i>	Excessive use of force	30,000
<i>Harold Singfield v. Smith, et al.</i>	Assault allowed to occur	20,000
<i>Poole v. Bishop, et al.</i>	Denial of religious meal	12,000
<i>State of Maryland v. Dennis Claridge</i>	N/A	2,500
Fiscal 2023 Total		\$7,379,000

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<u>Case Name</u>	<u>Issue</u>	<u>Payment Amount</u>
Fiscal 2024 YTD		
<i>Line Choumessi Caceres v. Maryland DPSCS</i>	Discrimination/Employment	48,500
<i>Claudine Etanki v. Maryland DPSCS</i>	Discrimination/Employment	45,000
<i>Malik Shakur v. John Portmess, et al.</i>	N/A	45,000
<i>Ronald Kirchner v. Warden Richard J. Graham, et al.</i>	N/A	43,560
Fiscal 2024 YTD Total		\$182,060
Fiscal 2022-2024 YTD Total		\$7,921,060

DPSCS: Department of Public Safety and Correctional Services

N/A: Not available

YTD: year to date

Note: Year to date as of the January 31, 2024 Board of Public Works meeting.

Source: Board of Public Works; Maryland District Court, Baltimore City; United States District Court, District of Maryland

It is important to note that a settlement payment does not represent an admission of guilt or determination of wrongdoing. However, in the majority of cases approved for settlement, the court found that the plaintiff's claims had merit and denied motions to dismiss from the State. For many of these individuals harmed by DPSCS, the wait is years long before they find justice. Additionally, the amounts approved, in most cases, are only sufficient for legal fees, not true damages. The process for being made whole is governed by the MTCA, which currently limits awards to \$400,000 per individual or \$800,000 per instance. While the Wallace case will no longer bring into question the constitutionality of the MTCA, the limits placed on settlement amounts may unduly burden those that have been harmed by the State. Circumvention of this limit is possible through BPW action, but there are no clear policy guardrails in place nor any obligations to approve the funds.

Senate Bill 134 – Correctional Ombudsman

The Office of the Attorney General (OAG) has supported the creation of a unit within OAG for conducting investigations, reviews, and assessments of administrative acts taken by DPSCS and for referring certain matters for criminal charges or disciplinary proceedings. The unit would be an independent source of information into potential wrongdoings committed by State employees. This ombudsman unit would not only look into similar situations as discussed above but would be able to identify systemic issues that require attention.

DPSCS should comment on efforts to improve the administrative remedy process, diligently investigate claims of wrongdoing of employees or others, and maintain the safety

of claimants while investigations are conducted. Additionally, as training was a component of the jury’s findings in the Wallace case, DPSCS should comment on changes to DPDS and Division of Correction employee training since the closure of BCDC that are relevant to use of force, negligence, retaliation, and preservation of rights. Finally, DPSCS should comment on the pros and cons of a correctional ombudsman.

2. *Duvall v. Hogan* Consent Decree Soon to Expire

Background

In 2015, the American Civil Liberties Union filed on behalf of Jerome Duvall and other BCDC detainees to reopen a partial settlement agreement regarding conditions at the former BCDC. Maryland agreed to overhaul the jail’s health care system and make major improvements to the facilities, including accommodations for people with disabilities. DPSCS also agreed to pay \$450,000 in attorneys’ fees and allow a court-appointed monitor access. The *Duvall v. Hogan* settlement agreement as amended contained stipulations in several areas. Of the areas listed below, DPDS is in substantial compliance with daily “sick call” and the three physical plant compliance areas.

Medical and Mental Health Care:

- intake and initiation of medication;
- medical “plan of care;”
- medication management and testing;
- interaction between medical and custody staff;
- accommodations for plaintiffs with disabilities;
- specialty care/consultation;
- daily “sick call;”
- medical recordkeeping; and
- mental health care.

Physical Plant:

- housekeeping;

- vermin control; and
- equipment and building maintenance and repair.

Substantial Compliance Reached on Physical Plant Requirements

The full listing of sub provisions and their status can be found in **Appendix 2** of this analysis. DPDS implemented corrective action on the physical plant portion of the settlement agreement in fiscal 2017, including renovations in the MTC kitchen and warehouse, reorganization of dietary staff, and establishment of a pest control contract. The court-assigned monitor declared DPDS to be in substantial compliance with all three areas of the physical plant provisions in September 2018.

Compliance Upgraded on Certain Mental Health Requirements

From September 2022 to October 2023, eight provisions have been upgraded to in compliance, while one has been downgraded. The new SUD treatment and mental health contract has allowed DPDS to improve from partial compliance to substantial compliance for several mental health treatment provisions including timely evaluations, medication renewal appointments, timely treatment plans, and chronic care follow up. Two areas of medication administration and regulation were also upgraded from noncompliance to partial compliance including timely, uninterrupted medication renewal and on-person medication refills. The upgraded provisions are listed in **Exhibit 10**. One provision was downgraded: medical accommodations (such as bottom bunk placement, access to a cane or crutches, specialized housing for medical or mental health purposes, or for purposes of protection from exposure to excessive heat).

Exhibit 10
Changes in Duvall Provision Compliance
October 2023

<u>Provision</u>	<u>Description</u>	<u>Compliance Status</u>
19a	Timely, uninterrupted medication renewal.	Partial (upgraded)
19d	Keep-on-person medication refill.	Partial (upgraded)
20b	Custody to adhere to medically directed accommodations.	Partial (downgraded)
20c	Medical having daily access to the Offender Case Management System patient location information.	Substantial (upgraded)
25c	Mental health timely evaluations by mental health professionals when urgently referred within 24 hours.	Substantial (upgraded)
25d	Mental health follow-up appointment for medication renewal.	Substantial (upgraded)
25f – ii.	Mental health treatment plan within 14 days of admissions into the facility.	Substantial (upgraded)
25f – iii.	Mental health chronic care follow-up every 90 days.	Substantial (upgraded)
25g	Mental health return from State hospital.	Substantial (upgraded)

Source: Department of Public Safety and Correctional Services

DPSCS on Track to Miss Deadline

The *Duvall v. Hogan* consent decree was reopened in 2015 and initially was set to expire in June 2020. However, after a settlement conference in May 2019, the expiration date was extended by two years to June 2022. On April 9, 2020, the plaintiffs filed an emergency motion for COVID-19 mitigation measures at the Baltimore Pretrial Complex. They sought a release plan, testing, plans for testing and treatment, and the ability to social distance. On July 2, 2020, the court ordered DPSCS to:

- develop a written plan for taking care of inmates who were at a heightened risk of serious illness or death from COVID-19;
- require weekly COVID-19 testing and mask distribution; and
- provide information on vaccine distribution.

After the issuance of the August 2020 semi-annual compliance report by the Commissioner of DPDS, independent medical monitors conducted a separate report, contradicting parts of the commissioner’s report and finding there was less compliance with the agreement than stated by the commissioner. The independent report indicated that the detention center was in substantial compliance with only 6 of the 37 medical and mental health provisions required in the settlement agreement.

In May 2021, Judge Ellen Lipton Hollander agreed to a motion by the plaintiffs to require submission of a plan to reach compliance with the provisions and extended the deadline by 18 months to December 22, 2023. In the motion, the plaintiffs claimed that DPDS failed to achieve substantive compliance “because of their lack of any incentive to do so.” In May 2022, Judge Hollander agreed to extend the deadline to June 30, 2024. While DPDS used \$750,000 in fiscal 2023 to procure attorneys and experts to reach substantive compliance with *Duvall*, DPDS still needs to make more progress before the deadline.

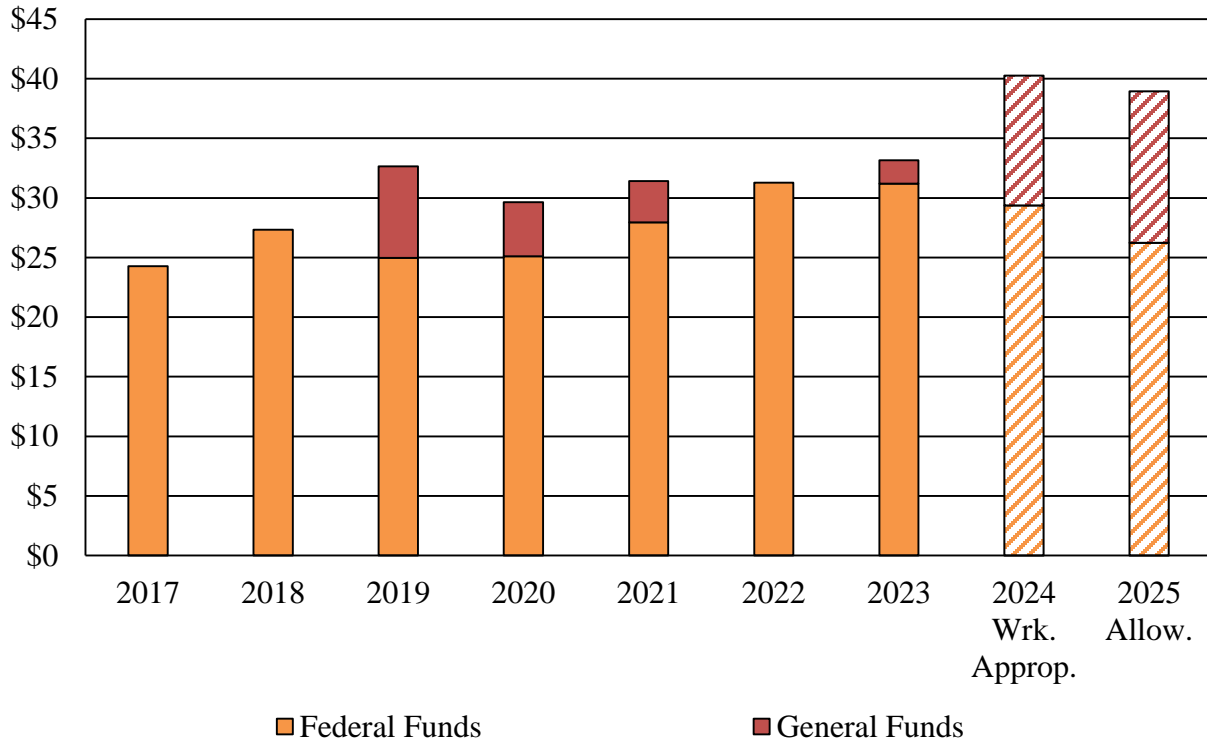
At the point of writing this analysis, no new motions have been issued with respect to this longstanding litigation that has a history of over 741 total motions. DPDS is currently in substantial compliance with 18 provisions, partially compliant with 27 provisions, and noncompliant with 9 provisions. There is concern that DPDS will not meet the deadline and will become exposed to increased legal risk. The division has failed to meet the requirements of the consent decree for many years, and the State cannot expect the court to perpetually extend the deadline.

DPSCS should comment on the steps taken in the past year to achieve greater compliance with *Duvall*, including a discussion of the effectiveness of third-party consultants and the new SUD contract. DPSCS should also comment on the impending deadline of June 30, 2024, and address the possibility of future litigation.

3. CDF Agreement Ending December 2025

DPSCS has operated CDF on behalf of USMS since fiscal 2012. USMS addressed the need for federal detention space in Maryland by entering into a cooperative agreement with the State. In return for the use of 500 beds for federal detainees from fiscal 2010 through fiscal 2025, USMS provided a lump sum of \$20 million to DPSCS to support the construction costs of Dorsey Run Correctional Facility in Jessup. The USMS funds operating expenses of CDF through the agreement, but the funding has not always been adequate to support all CDF expenses. **Exhibit 11** shows the amount of federal and general funds needed to fully operate CDF since fiscal 2017. Expended general funds have totaled \$18 million since fiscal 2019 and are budgeted to grow to \$41 million by the end of fiscal 2025.

Exhibit 11
Chesapeake Detention Facility Funding Summary
Fiscal 2017-2025
(\$ in Millions)



Note: Fiscal 2017-2023 are actual expenditures. Fiscal 2024 and 2025 are budgeted based on anticipated federal revenues and overall expenditures.

Source: Governor’s Fiscal 2025 Budget Books

The detainment of federally charged individuals is not a State function or priority, yet the agreement in place with USMS requires State resources to support facility and personnel costs that are not covered by the negotiated reimbursement.

DPSCS should comment on their plans to utilize CDF upon completion of the agreement with USMS. DPSCS should also discuss strategies to reduce the need for general funds in fiscal 2024 and 2025.

Operating Budget Recommended Actions

1. Concur with Governor’s allowance.

Appendix 1
2023 Joint Chairmen’s Report Responses from Agency

The 2023 *Joint Chairmen’s Report* (JCR) requested that DPDS prepare one report. Electronic copies of the full JCR responses can be found on the Department of Legislative Services Library website.

- ***Report on Overtime and Assaults:*** DPSCS provided facility-level data per pay period from October 2016 to August 2023 and annual spending summaries per facility from fiscal 2014 to 2023. The department also expounded upon their strategies to reduce overtime and assaults and the results of those efforts it was able to quantify. Overall, DPSCS overtime use is increasing, while assaults show slight single-year improvements. The trends in overtime are driven by staffing levels and mitigated by operational changes. The drivers of assault trends are less clear but could be related to the department’s ongoing response. The Maryland Correctional Institution for Women is the facility with the fastest growing assault and overtime rates.

Appendix 2
Duvall v. Hogan Provisions

<u>Provision</u>	<u>Description</u>	<u>Status - October 2023</u>
17a	Timely intake.	Partial Compliance
17b	Assessment of urgent needs and identification prescribed medications within 24 hours of Initial Medical and Mental Health Screen (IMMS)	Partial Compliance
17c	Mental Health timely evaluation for patients on psychotropic medications and/or urgently referred within 24 hours of IMMS.	Substantial Compliance
17d	First dose medication administration.	Partial Compliance
17e	Documentation of first dose medications or discontinuation.	Partial Compliance
18a	Plan of Care (POC) to include summary of problems, medications, testing, and chronic care appointments.	Partial Compliance
18b	Develop a POC.	Partial Compliance
18c	Conduct chronic care clinics and document in the Electronic Medical Record (EMR) within 7 days of admission into the facility.	Partial Compliance
18d	Clinicians to place order for chronic care clinics in EMR and recommend any specialty care promptly.	Partial Compliance
18e	Clinicians to develop or update POC for any chronic care conditions diagnosed after initial diagnosis.	Partial Compliance
18f	POC accessibility to clinicians.	Partial Compliance
19a	Timely, uninterrupted medication renewal.	Partial Compliance (upgraded)
19b	Appropriate documentation of Medication Administration Records to include nursing credentials and refusal info.	Partial Compliance

<u>Provision</u>	<u>Description</u>	<u>Status - October 2023</u>
19c	Documentation and review of vital signs and glucose results as ordered, per policy.	Noncompliance
19d	Keep-on-Person medication refill.	Partial Compliance (upgraded)
19e	Clinicians’ timely response to and documentation of critical lab results and any actions taken.	Noncompliance
19e – i.	Clinicians to document review of critical/seriously abnormal lab results within 24 hours of receipt.	Noncompliance
19e – ii.	Clinicians to document review of all results within a reasonable timeframe.	Noncompliance
19f	Clinicians to order labs within timeframes consistent with test urgency.	Noncompliance
19g	Clinicians’ recognition and communication of clearly defined abnormal vital signs with appropriate actions taken.	Noncompliance
20a	Patient transport for onsite/offsite appointment and medical testing.	Partial Compliance
20b	Custody to adhere to medically directed accommodations.	Partial Compliance (downgraded)
20c	Medical having daily access to the Offender Case Management System patient location information.	Substantial Compliance (upgraded from partial)
20d	Cooperation between custody and medical for organized medication administration.	Partial Compliance
20e	Temperature-controlled housing and heat stratification.	Substantial Compliance
20f	Temperature-controlled housing and heat stratification.	Substantial Compliance
20g	Temperature-controlled housing and heat stratification.	Substantial Compliance

<u>Provision</u>	<u>Description</u>	<u>Status - October 2023</u>
21a	Timely delivery of necessary medical supplies and special housing accommodations.	Partial Compliance
21b	Designated trained staff to address Americans with Disabilities Act (ADA) patient accommodations.	Partial Compliance
21c	ADA patients access to same care/visits as general population.	Partial Compliance
21d	Specially equipped and adapted vehicles for ADA patients.	Substantial Compliance
22a	Timely review of requests for routine, urgent, and emergency specialty care.	Partial Compliance
22b	Specialists’ referrals with review and approval of consultations not exceeding 48 hours for urgent care and 5 business days for routine care.	Noncompliance
22c	Logs are maintained documenting approval request dates, Utilization Management action dates, outcome details, and referral purpose.	Noncompliance
22d	If applicable, patients’ medical records contain documentation of request for outside specialty care, date of request, date and nature of the response, date consultation is scheduled, and date of consultation encounter with applicable follow-up care.	Noncompliance
23a	Sick call request pick-up.	Substantial Compliance
23b	Sick call timely triage within 24 hours of receipt.	Substantial Compliance
23c	Sick call appointment occurrence within 48 hours (72 hours on weekends).	Partial Compliance
23d	Sick call appropriate clinical judgment and quality of care.	Partial Compliance
24a	Medical records availability (paper and EMR).	Partial Compliance

<u>Provision</u>	<u>Description</u>	<u>Status - October 2023</u>
25a	Mental health timely suicide risk evaluations and medication within 24 hours.	Partial Compliance
25b	Mental health timely evaluations for patients with bridge orders within 14 days; sooner if clinically indicated.	Partial Compliance
25c	Mental health timely evaluations by Mental Health Professionals when urgently referred within 24 hours.	Substantial Compliance (upgraded from partial)
25d	Mental health follow-up appointment for medication renewal.	Substantial Compliance (upgraded from partial)
25e	Mental health close observation.	Substantial Compliance
25f – i.	Mental health POC development.	Partial Compliance
25f – ii.	Mental health treatment plan within 14 days of admissions into the facility.	Substantial Compliance (upgraded from partial)
25f – iii.	Mental health chronic care follow-up every 90 days.	Substantial Compliance (upgraded from partial)
25f – iv.	Mental health POC accessibility to clinicians.	Partial Compliance
25g	Mental health return from State hospital.	Substantial Compliance (upgraded from partial)
25h	Ability of anyone to place patient on suicide watch.	Substantial Compliance

Appendix 3
Object/Fund Difference Report
DPSCS – Division of Pretrial Detention and Services

<u>Object/Fund</u>	<u>FY 23</u> <u>Actual</u>	<u>FY 24</u> <u>Working</u> <u>Appropriation</u>	<u>FY 25</u> <u>Allowance</u>	<u>FY 24 - FY 25</u> <u>Amount Change</u>	<u>Percent</u> <u>Change</u>
Positions					
01 Regular	1,793.60	1,791.60	1,788.60	-3.00	-0.2%
02 Contractual	12.99	37.21	37.21	0.00	0%
Total Positions	1,806.59	1,828.81	1,825.81	-3.00	-0.2%
Objects					
01 Salaries and Wages	\$ 215,019,625	\$ 216,858,082	\$ 196,981,259	-\$ 19,876,823	-9.2%
02 Technical and Special Fees	699,417	630,900	581,400	-49,500	-7.8%
03 Communication	652,277	671,950	669,516	-2,434	-0.4%
04 Travel	7,898	8,000	8,750	750	9.4%
06 Fuel and Utilities	11,044,300	7,561,797	11,188,603	3,626,806	48.0%
07 Motor Vehicles	347,830	696,470	655,315	-41,155	-5.9%
08 Contractual Services	45,117,333	48,915,570	52,152,000	3,236,430	6.6%
09 Supplies and Materials	5,377,777	4,046,929	5,328,976	1,282,047	31.7%
10 Equipment – Replacement	433,637	120,570	123,070	2,500	2.1%
11 Equipment – Additional	60,651	0	0	0	0.0%
12 Grants, Subsidies, and Contributions	567,844	824,094	888,800	64,706	7.9%
13 Fixed Charges	453,499	510,976	726,939	215,963	42.3%
14 Land and Structures	135,949	3,600,000	2,800,000	-800,000	-22.2%
Total Objects	\$ 279,918,037	\$ 284,445,338	\$ 272,104,628	-\$ 12,340,710	-4.3%
Funds					
01 General Fund	\$ 243,414,037	\$ 251,212,585	\$ 244,973,364	-\$ 6,239,221	-2.5%
03 Special Fund	3,556,478	3,711,843	744,906	-2,966,937	-79.9%
05 Federal Fund	32,717,432	29,369,700	26,232,648	-3,137,052	-10.7%
09 Reimbursable Fund	230,090	151,210	153,710	2,500	1.7%
Total Funds	\$ 279,918,037	\$ 284,445,338	\$ 272,104,628	-\$ 12,340,710	-4.3%

Note: The fiscal 2024 appropriation does not include deficiencies. The fiscal 2025 allowance does not include salary enhancements budgeted in the Department of Budget and Management.

**Appendix 4
Fiscal Summary**

DPSCS – Division of Pretrial Detention and Services

<u>Program/Unit</u>	<u>FY 23 Actual</u>	<u>FY 24 Wrk Approp</u>	<u>FY 25 Allowance</u>	<u>Change</u>	<u>FY 24 - FY 25 % Change</u>
01 Chesapeake Detention Facility	\$ 33,209,085	\$ 39,944,866	\$ 39,026,074	-\$ 918,792	-2.3%
02 Pretrial Release Services	6,810,808	7,287,345	7,806,535	519,190	7.1%
04 Central Booking and Intake Facility	86,631,398	83,720,313	75,385,177	-8,335,136	-10.0%
05 Baltimore Pretrial Complex	18,965,568	18,459,547	17,228,303	-1,231,244	-6.7%
06 Maryland Reception Diagnostic and	44,208,949	45,461,720	40,343,145	-5,118,575	-11.3%
07 Baltimore City Correctional Center	20,209,742	19,195,408	21,385,707	2,190,299	11.4%
08 Metropolitan Transition Center	67,829,673	67,938,337	68,592,449	654,112	1.0%
09 General Administration	2,052,814	2,437,802	2,337,238	-100,564	-4.1%
Total Expenditures	\$ 279,918,037	\$ 284,445,338	\$ 272,104,628	-\$ 12,340,710	-4.3%
General Fund	\$ 243,414,037	\$ 251,212,585	\$ 244,973,364	-\$ 6,239,221	-2.5%
Special Fund	3,556,478	3,711,843	744,906	-2,966,937	-79.9%
Federal Fund	32,717,432	29,369,700	26,232,648	-3,137,052	-10.7%
Total Appropriations	\$ 279,687,947	\$ 284,294,128	\$ 271,950,918	-\$ 12,343,210	-4.3%
Reimbursable Fund	\$ 230,090	\$ 151,210	\$ 153,710	\$ 2,500	1.7%
Total Funds	\$ 279,918,037	\$ 284,445,338	\$ 272,104,628	-\$ 12,340,710	-4.3%

Note: The fiscal 2024 appropriation does not include deficiencies, targeted reversions, or across-the-board reductions. The fiscal 2025 allowance does not include contingent reductions or cost-of-living adjustments.