

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

Operating Budget Data

(\$ in Thousands)

	<u>FY 15</u> <u>Actual</u>	<u>FY 16</u> <u>Working</u>	<u>FY 17</u> <u>Allowance</u>	<u>FY 16-17</u> <u>Change</u>	<u>% Change</u> <u>Prior Year</u>
General Fund	\$237,642	\$225,626	\$232,189	\$6,563	2.9%
Deficiencies and Reductions	0	23,478	-613	-24,092	
Adjusted General Fund	\$237,642	\$249,105	\$231,575	-\$17,529	-7.0%
Special Fund	1,831	1,704	2,018	314	18.5%
Deficiencies and Reductions	0	0	-1	-1	
Adjusted Special Fund	\$1,831	\$1,704	\$2,017	\$313	18.4%
Federal Fund	23,176	24,539	24,865	326	1.3%
Deficiencies and Reductions	0	0	-48	-48	
Adjusted Federal Fund	\$23,176	\$24,539	\$24,817	\$278	1.1%
Reimbursable Fund	522	355	343	-12	-3.5%
Adjusted Reimbursable Fund	\$522	\$355	\$343	-\$12	-3.5%
Adjusted Grand Total	\$263,171	\$275,702	\$258,752	-\$16,950	-6.1%

- The Governor's allowance for the Division of Pretrial Detention (DPD) includes \$23.5 million in fiscal 2016 deficiency appropriations. Of this, \$8.8 million is provided to support custodial overtime, \$6.7 million funds the implementation of cell phone managed access systems at two facilities, \$4.8 million is needed for emergency maintenance and repairs, \$3.1 million supports the replacement of the radio system at the Baltimore Central Booking and Intake Center, and \$104,000 is for vehicle purchases.

Note: Numbers may not sum to total due to rounding.

For further information contact: Hannah E. Dier

Phone: (410) 946-5530

Q00T04 – DPSCS – Division of Pretrial Detention

- The fiscal 2017 allowance for DPD declines by nearly \$17.0 million, or 6.1%. Of this, \$9.8 million is the result of the removal of one-time fiscal 2016 deficiency appropriations. The remaining \$7.2 million decrease is largely attributable to a net \$4.2 million reduction in building repairs and maintenance, a \$2.3 million decline in inmate variable costs, and a \$1.2 million decrease in personnel expenses.

Personnel Data

	<u>FY 15</u> <u>Actual</u>	<u>FY 16</u> <u>Working</u>	<u>FY 17</u> <u>Allowance</u>	<u>FY 16-17</u> <u>Change</u>
Regular Positions	2,314.60	2,307.60	2,307.60	0.00
Contractual FTEs	<u>40.16</u>	<u>125.48</u>	<u>123.64</u>	<u>-1.84</u>
Total Personnel	2,354.76	2,433.08	2,431.24	-1.84

Vacancy Data: Regular Positions

Turnover and Necessary Vacancies, Excluding New Positions	95.07	4.12%
Positions and Percentage Vacant as of 12/31/15	243.00	10.53%

- The allowance includes no change in regular positions and a reduction of 1.8 contractual full-time equivalents.
- At the close of calendar 2015, DPD had 243.0 positions vacant, more than twice what is needed on average to meet budgeted turnover. However, a January 2016 *Joint Chairmen's Report* response indicates that the department has frozen 155.0 vacant DPD positions for reallocation to other functions and facilities, such as operation of Baltimore City food service and operation of the second Dorsey Run Correctional Facility compound.

Analysis in Brief

Major Trends

Population Statistics: Both the number of arrestees processed through the Baltimore Central Booking and Intake Center and the number of commitments processed through the Baltimore City Detention Center (BCDC) have declined over the past decade. As a result, the average daily population (ADP) of DPD detainees has also declined by a cumulative 25.8% over the same period of time. Following the recent departmental reorganization, the division gained responsibility for the Department of Public Safety and Correctional Services (DPSCS) sentenced inmates incarcerated in Baltimore City facilities. This population is smaller than it was 10 years ago due to the closure of Baltimore City facilities, most notably portions of the Metropolitan Transition Center in fiscal 2009. Some of the inmates previously held in the now closed facilities were transferred to other Baltimore City facilities, while others were transferred to facilities in other parts of the State.

Facility Security: DPD reports the rate of assaults on detainees and staff per 100 ADP in order to measure the division's ability to maintain safe institutions. The fiscal 2015 detainee-on-staff assault rate decreased by 5.3% from fiscal 2014 to 4.82 assaults per 100 ADP; however, this is still the second highest that the detainee-on-staff assault rate has been since reporting was improved in fiscal 2010. The detainee-on-detainee assault rate declined for the third consecutive year in fiscal 2015, to 11.56 assaults per 100 ADP. **DPD should comment on the anticipated change in the detainee assault rates for fiscal 2016 following the depopulation of detainees from the Men's Detention Center (MDC) and the transfer of inmates among Baltimore City and State facilities.**

Issues

Baltimore City Offender Population and Facility Reorganization: Following the depopulation of MDC beginning in July 2015, the number of DPD facilities housing pretrial detainees has increased from two to four. DPSCS also orchestrated the transfer of several hundred inmates between facilities across the State in order to depopulate MDC and accommodate all Baltimore City detainees within Baltimore City facilities. Concurrently, DPSCS underwent a departmental reorganization and reestablished DPD. Under the new organizational structure, DPD facilities house a sentenced inmate population of nearly 1,400. **DPSCS should comment on the reason for organizing correctional facilities within DPD despite the lack of a significant detainee population at those facilities.**

Jerome Duvall, et al. v. Lawrence Hogan, Jr., et al.: In June 2015, a motion was filed by the American Civil Liberties Union (ACLU) on behalf of Baltimore City detainees to reopen a partial settlement agreement regarding conditions and issues related to BCDC. In November 2015, DPSCS and the ACLU announced that a settlement agreement had been reached; however, the final settlement has not been signed by the judge. **The Department of Legislative Services recommends adding budget bill language restricting funds until receipt of a report outlining a plan and associated costs for complying with the final settlement agreement.**

Recommended Actions

1. Add language restricting funds until submission of a plan for complying with the terms of the final settlement agreement in *Jerome Duvall, et al. v. Lawrence Hogan, Jr., et al.*

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

Operating Budget Analysis

Program Description

The Division of Pretrial Detention (DPD) is responsible for processing and managing the care, custody, and control of Baltimore City arrestees and detainees in a safe, humane, and secure environment. DPD also supervises operation of Baltimore City facilities incarcerating a portion of the State sentenced inmate population.

Performance Analysis: Managing for Results

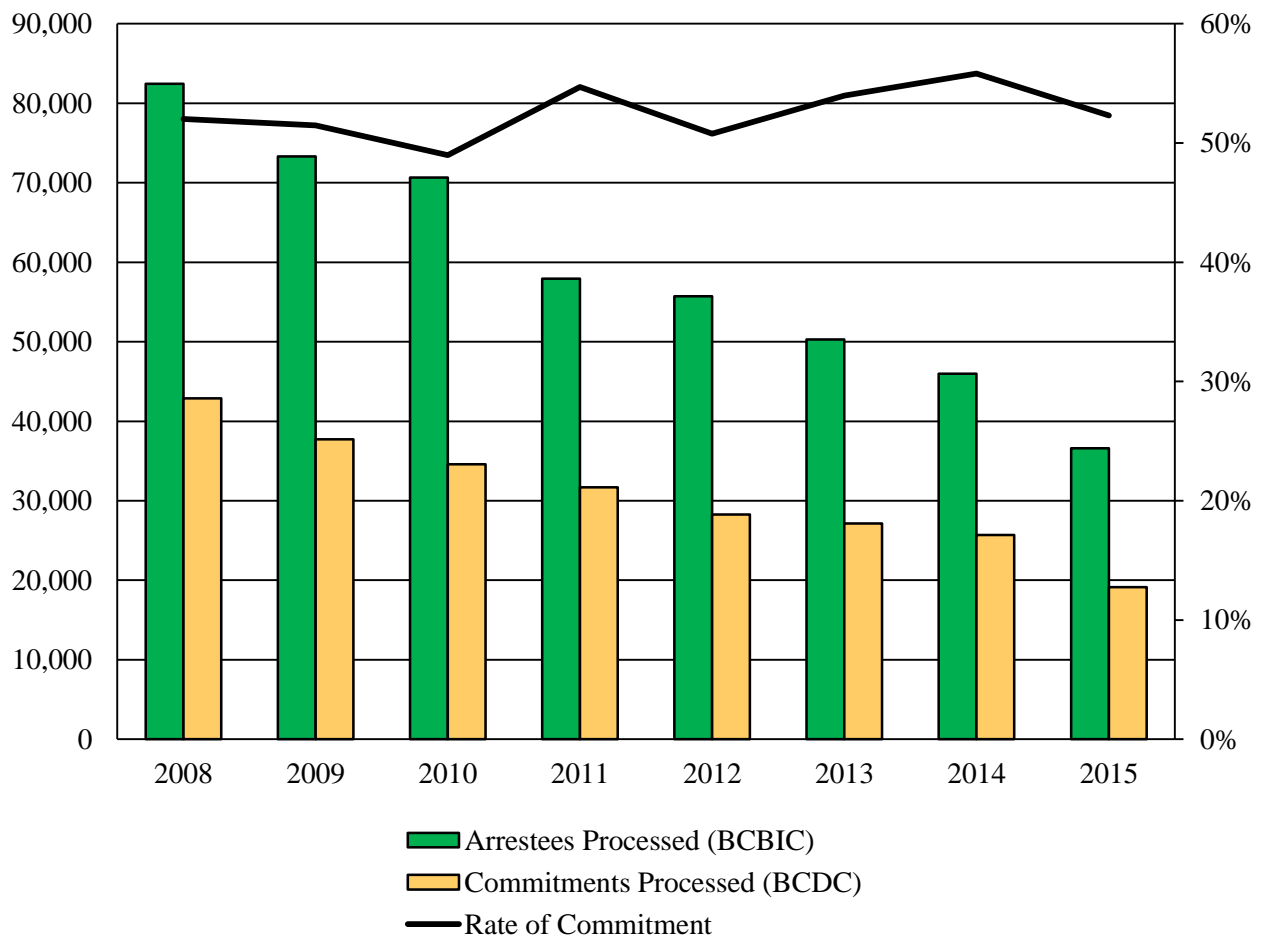
1. Population Statistics

Both the number of arrestees processed through the Baltimore Central Booking and Intake Center (BCBIC) and the number of commitments processed through the Baltimore City Detention Center ((BCDC); portions of which are now the Baltimore Pretrial Complex (BPC)) have been declining over the past decade. Although the percent of arrestees committed to DPD facilities has varied some, it has generally remained between 50.0% and 60.0%. These trends are demonstrated in **Exhibit 1** for fiscal 2008 through 2015. In fiscal 2015, DPD processed 36,602 arrestees. This is less than half the 82,468 arrestees processed in fiscal 2008. Similarly, about 23,748 fewer commitments were processed by BCDC in fiscal 2015 than in fiscal 2008, a reduction of almost 56.0%. However, it should be noted that the 2015 decline in arrests and bookings is in part attributable to the Freddie Gray case and ensuing civil unrest in Baltimore City. The rate of commitment has remained relatively stable, with an average of 52.5% over the past eight years. Fiscal 2010 saw the lowest rate of commitment, at 49.0%, and fiscal 2014 saw the highest rate at 55.8%. This indicates that in most years, at least half of the people arrested in Baltimore City are ultimately housed in DPD facilities, which represents a significant cost to the State.

Fortunately, as shown in **Exhibit 2**, the average daily population (ADP) for DPD detainees has generally declined over the past decade. In fiscal 2015, the DPD detainee ADP was 2,515. Pretrial populations are typically less expensive to maintain; however, the detainee population data considered alone is somewhat deceiving. Since the State operates both the Baltimore City local detention center and the State prison facilities, the Department of Public Safety and Correctional Services (DPSCS) has the ability to house offenders in State prison facilities when the offenders might have a sentence that in any other jurisdiction would place them in a local detention center. As of January 2016, there were 546 inmates with sentences of 18 months or less departmentwide, and 350 of those were sentenced to less than 12 months. Of the inmates sentenced to 18 months or less, just more than 55% were housed in facilities other than one of the two Baltimore City detention facilities; of the inmates sentenced

to under 12 months, almost one-third were housed in facilities other than one of the two Baltimore City detention facilities. Although this is not ideal policy, it does help the department address problems with overcrowding in its Baltimore City facilities and logistical concerns with maintaining sight and sound separation among male, female, and juvenile detainees.

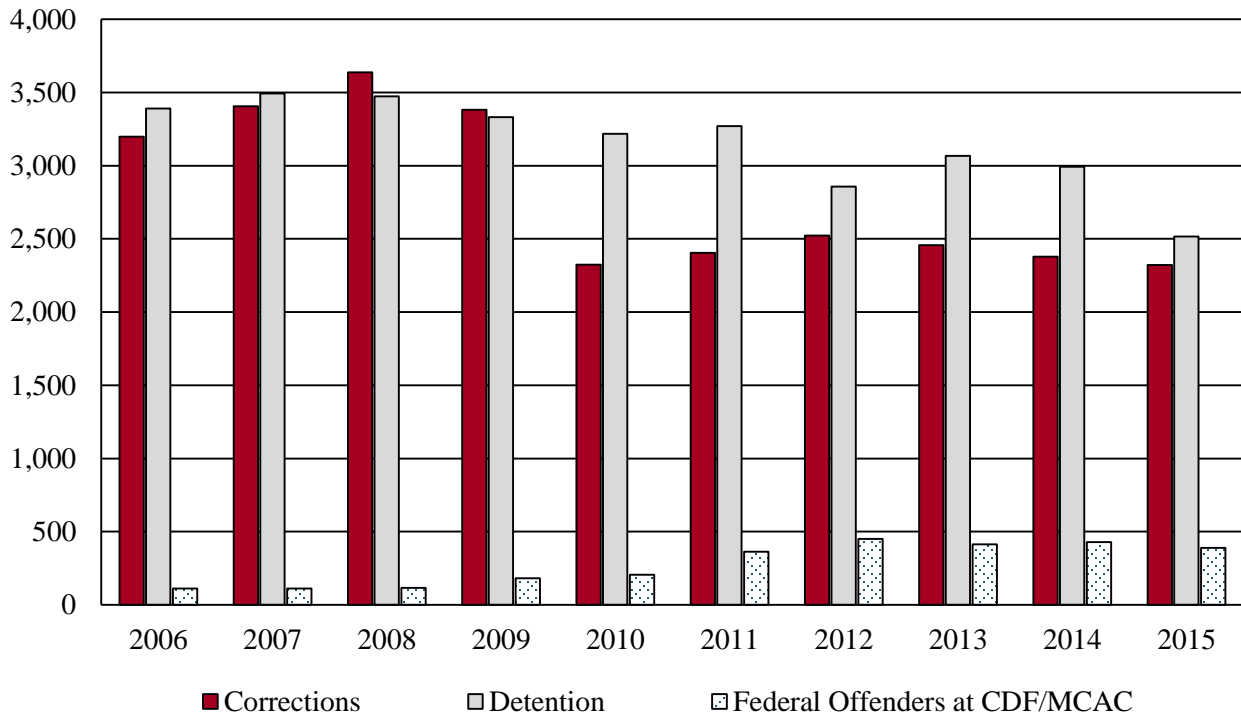
Exhibit 1
Division of Pretrial Detention
Detainee Processing and Rate of Commitment
Fiscal 2008-2015



BCBIC: Baltimore Central Booking and Intake Center
BCDC: Baltimore City Detention Center

Source: Governor's Budget Books, Fiscal 2008-2015

Exhibit 2
ADP for Offenders Incarcerated in Baltimore City Facilities
Fiscal 2006-2015



ADP: average daily population
CDF: Chesapeake Detention Facility
MCAC: Maryland Correctional Adjustment Center

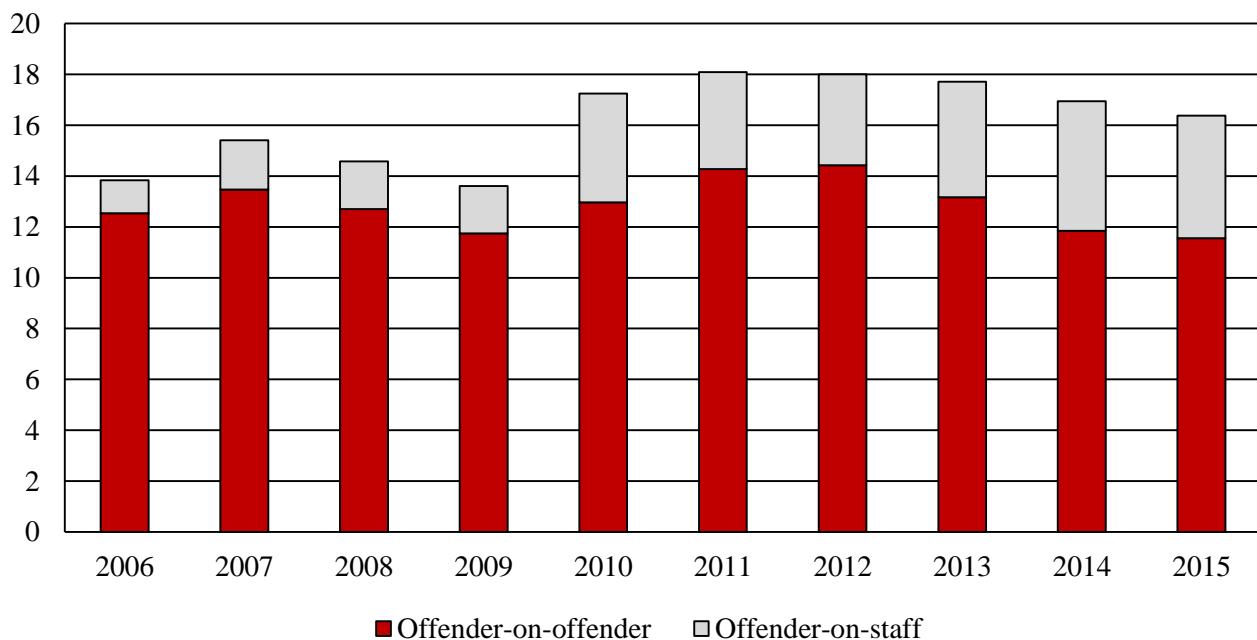
Source: Department of Public Safety and Correctional Services *Annual ADP Reports*, Fiscal 2006-2015

The sentenced population indicated in Exhibit 2 has declined due to the closure of a few Baltimore City facilities over the past decade. Most notably, portions of the Metropolitan Transition Center (MTC) were closed in fiscal 2009, which reduced the Baltimore City sentenced population by more than 850 offenders. The following year, the department closed the Baltimore Pre-Release Unit for Women that typically housed at least 120 sentenced offenders. The Maryland Correctional Adjustment Center was converted to a federal detention facility, the Chesapeake Detention Facility (CDF), in fiscal 2011, necessitating the relocation of about 200 State inmates previously incarcerated there. And most recently, the department closed Baltimore Pre-Release Unit in fiscal 2014, which typically held 150 to 200 sentenced offenders. Some of the inmates previously held in these now closed facilities were transferred to other Baltimore City facilities, while others were transferred to facilities in other parts of the State.

2. Facility Security

DPD reports the rate of assaults on detainees and staff per 100 offenders in order to measure the division's ability to maintain safe institutions. The goal is to have detainee-on-detainee and detainee-on-staff assault rates at, or below, 13.17 and 4.54, respectively. Overall, detainee assaults decreased by 9.5% since reaching a high in fiscal 2011. As shown in **Exhibit 3**, in fiscal 2010, the detainee-on-staff assault rate increased significantly due to improved reporting. Prior to fiscal 2010, this assault rate was likely underreported. In fiscal 2014, the detainee-on-staff assault rate increased to a five-year high of 5.07 assaults per 100 ADP. The assault rate decreased by 4.9% in fiscal 2015 to 4.82 assaults per 100 ADP; however, this is still the second highest that the detainee-on-staff assault rate has been since reporting was improved in fiscal 2010. The detainee-on-detainee assault rate declined for the third consecutive year in fiscal 2015 to 11.56 assaults per 100 ADP. **DPD should comment on the anticipated change in the detainee assault rates for fiscal 2016 following the depopulation of detainees from the Men's Detention Center (MDC) and the transfer of inmates among Baltimore City and State facilities.**

Exhibit 3
Division of Pretrial Detention
Detainee Assault Rates
Fiscal 2006-2015



Source: Governor's Budget Books, Fiscal 2006-2015

Fiscal 2016 Actions

Proposed Deficiency

DPD receives approximately three-quarters of all DPSCS fiscal 2016 deficiency appropriations. The nine general fund deficiencies add \$23.5 million to the division's working appropriation and add funding as follows:

- \$8.8 million in general funds for DPD employee overtime expenses. The fiscal 2016 working appropriation for DPD employee overtime is \$1.3 million below the legislative appropriation and \$10.0 million below fiscal 2015 actual expenditures. The fiscal 2016 deficiency appropriation increases overtime funding to \$20.0 million, which is still nearly \$1.2 million below fiscal 2015 actual expenditures;
- \$6.7 million in general funds to install cell phone managed access systems at BCBIC and the Maryland Reception, Diagnostic, and Classification Center (MRDCC). DPSCS originally received funding to expand implementation of cell phone managed access to these facilities in the fiscal 2015 legislative appropriation, in accordance with a recommendation from the 2013 Special Joint Commission on Public Safety and Security in State and Local Correctional Facilities. However the funding was removed as part of the department's fiscal 2015 2% general fund reduction. Similar systems have been implemented at MTC and BCDC in fiscal 2013 and 2014, respectively;
- \$3.1 million in general funds to replace the radio system at BCBIC;
- \$4.8 million in general funds for emergency maintenance and repairs. Of this amount, \$3.6 million is provided to support maintenance and repairs related to pending litigation, as discussed in the Issues section of this analysis; and
- \$104,000 in general funds for purchase of two box trucks associated with terminating the Baltimore City food service contract and absorbing that function in-house. Other related costs are discussed later in this analysis.

Cost Containment

Departmentwide, the fiscal 2016 legislative appropriation for DPSCS included a 2% across-the-board general fund reduction totaling \$24.4 million. Of the total reduction, \$1.9 million was allocated to savings for maintenance, overtime, and other costs associated with the closure of the Baltimore City MDC; however, the division's fiscal 2016 deficiencies for overtime and facility maintenance negate this reduction. The following reductions allocated on a departmentwide basis in part affected the fiscal 2016 appropriation for DPD:

- \$6.0 million for increased vacancies;

Q00T04 – DPSCS – Division of Pretrial Detention

- \$5.6 million for reduced inmate medical and food costs associated with a decreasing inmate population;
- \$4.5 million for elimination of roll call and implementation of a 10-hour correctional officer shift;
- \$2.4 million for salary savings associated with a 50-position reduction; and
- \$358,244 for reclassification of one vacant positions and elimination of contractual full-time equivalents (FTE) associated with the consolidation of financial operations across the department.

The department was unable to meet the January 2016 schedule set by the Department of Budget and Management for negotiating the elimination of roll call and the implementation of a 10-hour correctional officer shift. The implementation of a 10-hour shift would also require legislation which, to date, has not been introduced. All \$4.5 million in anticipated overtime savings is returned to the department as part of the fiscal 2016 overtime deficiency appropriation of \$13.2 million. The department has indicated that it still plans to pursue negotiations related to eliminating roll call and implementing an extended shift in facilities.

Proposed Budget

As seen in **Exhibit 4**, the fiscal 2017 allowance for DPD decreases by nearly \$17 million, or 6.1%, when compared to the fiscal 2016 working appropriation and when accounting for fiscal 2016 deficiency appropriations and the fiscal 2017 back of the bill reduction for health insurance. Absent deficiency appropriations, the allowance grows by \$6.5 million.

Exhibit 4
Proposed Budget
DPSCS – Division of Pretrial Detention
(\$ in Thousands)

How Much It Grows:	General Fund	Special Fund	Federal Fund	Reimb. Fund	Total
Fiscal 2015 Actual	\$237,642	\$1,831	\$23,176	\$522	\$263,171
Fiscal 2016 Working Appropriation	249,105	1,704	24,539	355	275,702
Fiscal 2017 Allowance	<u>231,575</u>	<u>2,017</u>	<u>24,817</u>	<u>343</u>	<u>258,752</u>
Fiscal 2016-2017 Amount Change	-\$17,529	\$313	\$278	-\$12	-\$16,950
Fiscal 2016-2017 Percent Change	-7.0%	18.4%	1.1%	-3.5%	-6.1%

Q00T04 – DPSCS – Division of Pretrial Detention

Where It Goes:

Personnel Expenses

Employee and retiree health insurance	\$4,146
Employee retirement system.....	3,080
Workers' compensation premium assessment	582
Reclassification	-85
Salaries and other compensation.....	-90
Turnover adjustments	-2,888
Custodial overtime	-5,871
Other fringe benefit adjustments.....	-33

One-time Fiscal 2016 Deficiency Appropriations

Purchase of two box trucks	-104
Replacement of radio system at BCBIC	-3,048
Implementation of cell phone managed access systems at BCBIC and MRDCC	-6,680

Inmate Variable Costs

Food purchases	192
Inmate medical services.....	-1,142
Contractual food service	-1,389

Facility Operation and Maintenance

Partial year operation of new Baltimore City YDC.....	777
Housekeeping supply purchases	-274
Building repairs and maintenance net of deficiencies	-4,162

Other

Outpatient addictions aftercare at MTC.....	358
Contractual full-time equivalents.....	-120
Vehicle replacements.....	-215
Other	16

Total	-\$16,950
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BCBIC: Baltimore Central Booking and Intake Center
MRDCC: Maryland Reception, Diagnostic, and Classification Center
MTC: Metropolitan Transition Center
YDC: Youth Detention Center

Note: Numbers may not sum to total due to rounding.

Personnel Expenses

Personnel expenses decrease by a net \$1.2 million. Increases for employee and retiree health insurance (\$4.1 million), the employee retirement system (\$3.1 million), and the workers' compensation premium assessment (\$582,000) are more than offset by decreases for the turnover adjustment and custodial overtime.

The fiscal 2017 DPD allowance for overtime is \$14.1 million, which is \$5.9 million below the fiscal 2016 working appropriation when adjusting for deficiency appropriations. Most of the decrease is attributable to the realignment of funds associated with the departmental reorganization and the closure of MDC. Following the closure of MDC, the population incarcerated in DPD facilities is about 1,300 offenders, or 28.5%, lower than it was at this time one year ago. Compared to fiscal 2015 actual expenditures, the overtime allowance is nearly \$7.1 million lower. The department also plans to reassign or reclassify 270 correctional officer positions from DPD facilities to other functions or facilities in the State, as discussed in the DPSCS Overview analysis.

The allowance for the Department of Budget and Management also includes funding for employee increments. A general fund amount of \$2,340,380 and a special fund amount of \$2,606 will be transferred by budget amendment to DPD to allocate funding for increments.

Inmate Variable Costs

The fiscal 2017 DPD allowance for inmate medical care is \$31.0 million, a decrease of about \$1.1 million from the working appropriation. The decline is largely attributable to the September 2015 closure of MDC and associated transfer of sentenced inmates from DPD facilities to Division of Correction (DOC) facilities. This is also reflected as a portion of the fiscal 2017 increase of about \$3.9 million for DOC inmate medical care.

The DPD allowance includes a decrease of approximately \$1.4 million for contractual food services and an increase of \$192,000 for food purchases. Prior to September 2015, food service for Baltimore City facilities was provided on a contractual basis. The department terminated the food service contract because the number of meals needed was lower than projected, and the vendor was unable to perform at the contract price. Although the department released a Request for Proposals for a new food service contract, it did not receive any bids. At the same time, the department determined that it would be able to provide food service in-house, similar to the provision of food service at correctional facilities in other regions of the State.

In order to accommodate in-house food service, DPD has increased funding between the current year legislative and working appropriations for contractual full-time equivalents (FTE) by nearly \$3.0 million to hire dietary workers. DPD also receives a fiscal 2016 deficiency appropriation in the amount of \$104,000 to purchase two box trucks for food delivery. The allowance includes \$5.7 million in funding for a full year of food purchases and about \$588,000 for the purchase of dietary supplies. These costs are offset by the reduction of \$12.7 million from the fiscal 2016 legislative appropriation for the food services contract. The department also plans to reclassify up to 140 correctional officer positions to dietary officer positions for operation of the Baltimore City food

service. This would allow the department to convert the Baltimore City contractual FTE dietary workers to regular positions, which would increase the cost of providing food service since regular positions receive benefits and leave, unlike contractual FTEs. It is also important to note that, like inmate medical costs, the transfer of inmates to DOC facilities following the closure of MDC resulted in the shift of some inmate food costs to other facilities in the State. Therefore, prior year expenditures for contractual food service cannot be compared exactly to the fiscal 2017 allowance for the in-house provision of food service.

Other Changes

The new Baltimore City Youth Detention Center is scheduled to open partway through fiscal 2017, and the allowance includes funding for partial year operation. The allowance does not include additional positions, but it does include a total of \$777,000 for operational costs, primarily consisting of utilities and supply and material purchases. Funding for DPD building repairs and maintenance decreases by about \$4.2 million in the allowance, largely due to the removal of associated fiscal 2016 deficiency appropriations. The decrease for the deficiencies is partially offset by an increase of \$655,000 for various maintenance and repairs at DPD facilities.

The \$358,000 included in the allowance for an outpatient addictions aftercare program at MTC is part of a total of \$4.5 million statewide to implement recommendations of the Heroin and Opioid Emergency Task Force. The task force recommendation involves creating a transition process to allow inmates with known substance abuse disorders who are nearing release to establish pre-release links to community resource providers and post treatment services. The final report of the task force specifically indicates that participants in the program should successfully apply for health insurance and schedule requisite medical, mental health, and addictions appointments prior to release. **DPD should comment on the size of the offender population anticipated to be served by the pilot program.**

Across-the-board Reductions

The fiscal 2017 budget bill includes an across-the-board reduction for employee health insurance, based on a revised estimate of the amount of funding needed. This agency's share of these reductions is \$613,430 in general funds, \$877 in special funds, and \$48,286 in federal funds. There is an additional across-the-board reduction to abolish positions statewide, but the amounts have not been allocated by agency.

Issues

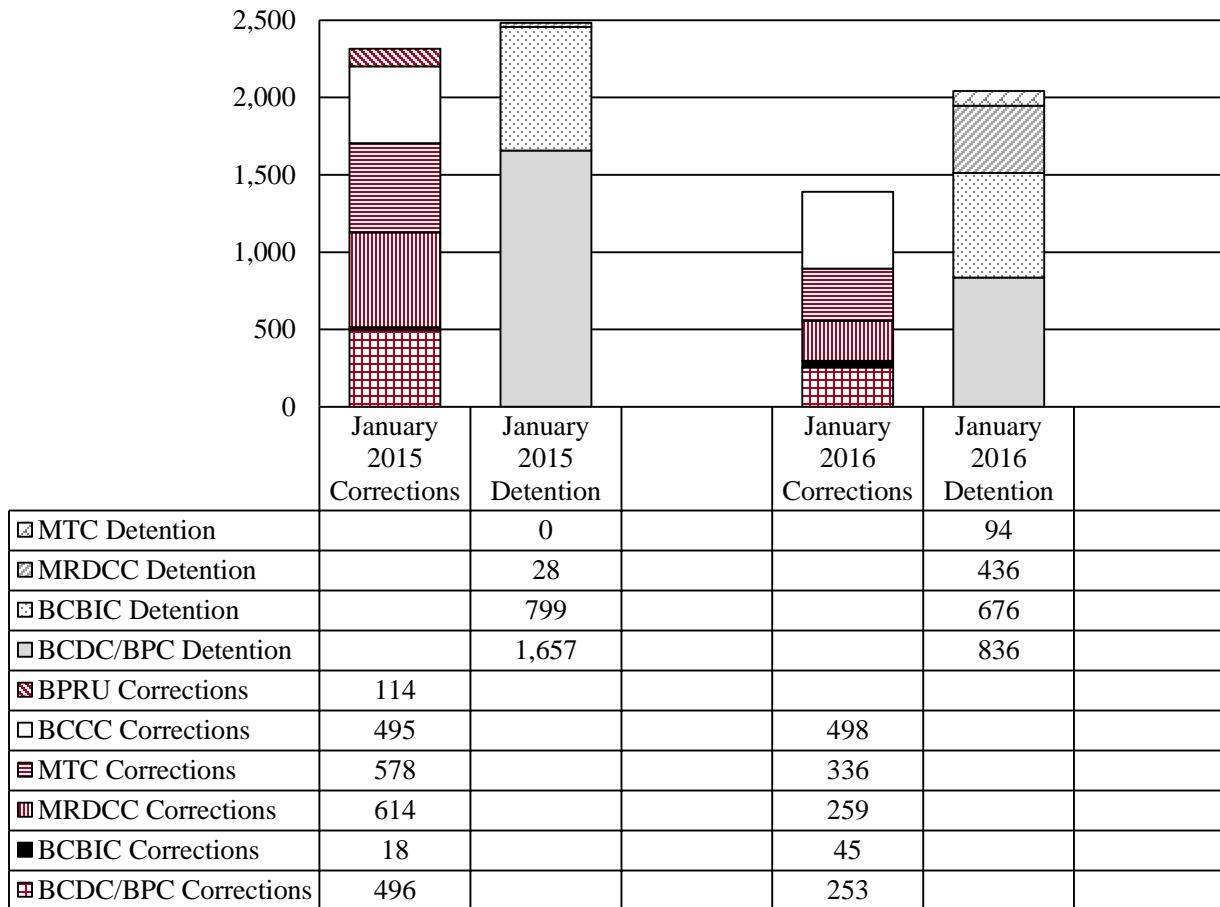
1. Baltimore City Offender Population and Facility Reorganization

Following the depopulation of the Baltimore City MDC beginning in July 2015, the number of facilities housing Baltimore City pretrial detainees has increased from just BPC (formerly BCDC) and BCBIC, to also include MTC and MRDCC. **Exhibit 5** shows a point in time comparison of the overall offender population housed in Baltimore City facilities in January 2015 and January 2016. Most of the 764 detainees depopulated from MDC were transferred to MRDCC or buildings that now comprise BPC, such as the Jail Industries Building. A small amount of detainees were also relocated to MTC to perform dietary work. All Baltimore City detainees are still incarcerated at facilities in Baltimore City. The decreased overall detainee population, seen in Exhibit 5, could be partially attributable to the declining pretrial population, as well as the reduction in the jail population due to the Freddie Gray case and ensuing civil unrest.

DPSCS also orchestrated the transfer of 832 sentenced inmates between facilities across the State in order to depopulate MDC, transfer the pretrial population from MDC to housing separated from the sentenced inmate population, and maintain comparable programming for transferred inmates. As illustrated in Exhibit 5, the shifts that resulted from the closure of MDC reduced the overall size of the sentenced population housed in Baltimore City facilities and shifted part of the population to facilities in other parts of the State. This necessitated the shifting of inmate costs, such as food and medical, from DPD to DOC. Sentenced inmates previously housed at MTC (582 inmates) were transferred to facilities in Jessup and Hagerstown, as well as the Baltimore City Correctional Center (BCCC) and MRDCC. Smaller numbers of sentenced inmates were transferred from BCCC to various facilities across the State. Prior to the depopulation of MDC, parole violators from the Baltimore City region were held at MRDCC. Seventy-eight parole violators were moved to facilities in Hagerstown and Jessup while others remained in the city. Parole violators held in Baltimore City are now held at MTC.

Concurrently, DPSCS underwent a departmental reorganization and reestablished DPD and other functional agencies from the previous regional organization. DPSCS was organized similarly to its current structure prior to fiscal 2013. However, DPD in its previous form only included BCDC, BCBIC, and the federal CDF, as well as the Pretrial Release Services Program, which is now organized within the Division of Parole and Probation. DPD now includes all six Baltimore City correctional and detention facilities: BPC, BCBIC, CDF, MRDCC, MTC, and BCCC. BCCC, however, houses only sentenced offenders, more than 95% of whom had a sentence of over 18 months according to January 2016 data. The detainee population at MTC only accounts for 22% of the overall offender population incarcerated there, and only 41 out of 454 sentenced offenders incarcerated at MTC in January 2016 had a sentence length of 18 months or less. BCCC and MTC, as well as MRDCC, are still categorized as correctional facilities. **DPSCS should comment on the reason for organizing correctional facilities within DPD despite the lack of a significant detainee population at those facilities.**

Exhibit 5
Average Daily Population for Offenders Incarcerated in Baltimore City by Facility
January 2015 to January 2016



BCBIC: Baltimore Central Booking and Intake Center
 BCCC: Baltimore City Correctional Center
 BCDC: Baltimore City Detention Center
 BPC: Baltimore Pretrial Complex
 BPRU: Baltimore Pre-Release Unit
 MRDCC: Maryland Reception, Diagnostic, and Classification Center
 MTC: Metropolitan Transition Center

Source: Governor's Budget Books, Fiscal 2008-2015

2. *Jerome Duvall, et al. v. Lawrence Hogan, Jr., et al.*

In June 2015, a motion was filed by the American Civil Liberties Union (ACLU) on behalf of Baltimore City detainees to reopen a partial settlement agreement (PSA) regarding conditions and issues related to BCDC. This case has an extensive history, and was previously reopened in August 2009, when plaintiffs alleged that the administration failed to resolve ongoing issues that related to the deaths of 24 inmates over the prior five-year period. The most recent June 2015 motion alleges that the terms of the 2009 settlement have not been met and seeks relief in the form of a preliminary injunction requiring DPSCS to implement 10 improvements related to the alleged environmental and hygiene issues, including deficiencies that affect health, safety, and security.

In November 2015, DPSCS and ACLU announced that a settlement agreement had been reached, requiring the State to make improvements to the detainee health care system and facilities. The settlement also includes assessment by independent monitors in order to ensure the State's compliance with the settlement. Although the settlement agreement has been reached, it has not yet been signed by the judge. The Prison Litigation Reform Act requires that all settlement agreements must be posted for class notice and subject to a fairness hearing before being signed by the judge. The class notice was posted in December 2015, and the fairness hearing is scheduled for April 2016, after which it can be signed.

Since the filing of the June 2015 motion to reopen the PSA, DPSCS has made several changes to address the plaintiffs' allegations, most notably the August 2015 closure of MDC and the relocation of detainees to other State facilities in Baltimore City. Additionally, DPD has made approximately \$2.1 million in repairs at BPC and MTC to address temperature control, ventilation, shower, sewage, and other physical condition issues. Both of these facilities, as well as MRDCC, currently house pretrial detainees. DPD has also entered into a maintenance services contract, at an additional cost of \$1.5 million. This \$3.6 million in maintenance and repairs is part of the \$4.8 million general fund deficiency appropriation included with the Governor's allowance for DPD. In November 2015, the Board of Public Works approved the payment of \$450,000 in full settlement of the plaintiff's claim for attorney's fees and costs; however, final payment is subject to the approval of the settlement.

The Department of Legislative Services recommends adding budget bill language restricting funds until receipt of a report outlining a plan and associated costs for complying with the final settlement agreement.

Recommended Actions

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

, provided that \$100,000 of this appropriation made for the purpose of general administration may not be expended until the Department of Public Safety and Correctional Services submits a report outlining a plan for complying with the final settlement agreement in *Jerome Duvall, et al. v. Lawrence Hogan, Jr., et al.*, including any associated costs, to the budget committees. The report shall be submitted by December 31, 2016. The budget committees shall have 45 days from receipt of the final report to review and comment. Funds restricted pending the receipt of the report may not be transferred by budget amendment or otherwise to any other purpose and shall revert to the General Fund if the report is not submitted to the budget committees.

Explanation: The Department of Public Safety and Correctional Services (DPSCS) announced in November 2015 that a settlement agreement had been reached in *Jerome Duvall, et al. v. Lawrence Hogan, Jr., et al.*, but the agreement has not yet been signed by the judge. This language restricts administrative funds pending receipt of a report indicating a plan and any anticipated costs for complying with the terms of the final settlement agreement.

Information Request	Author	Due Date
Report on plan for complying with final <i>Jerome Duvall, et al. v. Lawrence Hogan, Jr., et al.</i> settlement agreement	DPSCS	December 31, 2016

**Object/Fund Difference Report
DPSCS – Division of Pretrial Detention**

<u>Object/Fund</u>	<u>FY 15 Actual</u>	<u>FY 16 Working Appropriation</u>	<u>FY 17 Allowance</u>	<u>FY 16 - FY 17 Amount Change</u>	<u>Percent Change</u>
Positions					
01 Regular	2,314.60	2,307.60	2,307.60	0.00	0%
02 Contractual	40.16	125.48	123.64	-1.84	-1.5%
Total Positions	2,354.76	2,433.08	2,431.24	-1.84	-0.1%
Objects					
01 Salaries and Wages	\$ 189,772,749	\$ 187,023,209	\$ 195,354,802	\$ 8,331,593	4.5%
02 Technical and Spec. Fees	1,444,158	4,370,753	4,250,849	-119,904	-2.7%
03 Communication	624,112	664,266	658,283	-5,983	-0.9%
04 Travel	16,052	14,500	14,680	180	1.2%
06 Fuel and Utilities	9,150,684	8,813,942	9,103,357	289,415	3.3%
07 Motor Vehicles	382,490	573,033	332,360	-240,673	-42.0%
08 Contractual Services	56,272,680	39,413,821	37,872,647	-1,541,174	-3.9%
09 Supplies and Materials	3,620,776	9,816,072	9,717,065	-99,007	-1.0%
10 Equipment – Replacement	203,497	73,448	44,310	-29,138	-39.7%
11 Equipment – Additional	418,623	0	404,091	404,091	N/A
12 Grants, Subsidies, and Contributions	794,346	1,075,829	1,277,200	201,371	18.7%
13 Fixed Charges	411,188	384,756	384,764	8	0%
14 Land and Structures	59,828	0	0	0	0.0%
Total Objects	\$ 263,171,183	\$ 252,223,629	\$ 259,414,408	\$ 7,190,779	2.9%
Funds					
01 General Fund	\$ 237,642,298	\$ 225,626,239	\$ 232,188,822	\$ 6,562,583	2.9%
03 Special Fund	1,831,001	1,703,729	2,018,090	314,361	18.5%
05 Federal Fund	23,176,065	24,538,665	24,864,871	326,206	1.3%
09 Reimbursable Fund	521,819	354,996	342,625	-12,371	-3.5%
Total Funds	\$ 263,171,183	\$ 252,223,629	\$ 259,414,408	\$ 7,190,779	2.9%

Note: The fiscal 2016 working appropriation does not include deficiencies or reversions. The fiscal 2017 allowance does not include contingent reductions.

Q00T04 – DPSCS Division of Pretrial Detention

Appendix 1

Fiscal Summary
DPSCS – Division of Pretrial Detention

<u>Program/Unit</u>	<u>FY 15 Actual</u>	<u>FY 16 Wrk Approp</u>	<u>FY 17 Allowance</u>	<u>Change</u>	<u>FY 16 - FY 17 % Change</u>
01 Chesapeake Detention Facility	\$ 22,445,505	\$ 24,589,665	\$ 24,949,871	\$ 360,206	1.5%
03 Baltimore City Detention Center	88,109,737	21,600,436	0	-21,600,436	-100.0%
04 Central Booking and Intake Facility	59,956,795	56,896,726	56,884,626	-12,100	0%
05 Baltimore Pretrial Complex	0	61,583,025	84,373,061	22,790,036	37.0%
06 Maryland Reception Diagnostic and Classification Center	34,813,762	34,171,520	36,394,228	2,222,708	6.5%
07 Baltimore City Correctional Center	14,672,733	14,370,151	14,867,057	496,906	3.5%
08 Metropolitan Transition Center	40,595,950	36,655,747	39,435,157	2,779,410	7.6%
09 General Administration	2,576,701	2,356,359	2,510,408	154,049	6.5%
Total Expenditures	\$ 263,171,183	\$ 252,223,629	\$ 259,414,408	\$ 7,190,779	2.9%
General Fund	\$ 237,642,298	\$ 225,626,239	\$ 232,188,822	\$ 6,562,583	2.9%
Special Fund	1,831,001	1,703,729	2,018,090	314,361	18.5%
Federal Fund	23,176,065	24,538,665	24,864,871	326,206	1.3%
Total Appropriations	\$ 262,649,364	\$ 251,868,633	\$ 259,071,783	\$ 7,203,150	2.9%
Reimbursable Fund	\$ 521,819	\$ 354,996	\$ 342,625	-\$ 12,371	-3.5%
Total Funds	\$ 263,171,183	\$ 252,223,629	\$ 259,414,408	\$ 7,190,779	2.9%

Note: The fiscal 2016 working appropriation does not include deficiencies or reversions. The fiscal 2017 allowance does not include contingent reductions.

Q00T04 – DPSCS – Division of Pretrial Detention

Appendix 2