

Q00P00
Division of Pretrial Detention and Services
Department of Public Safety and Correctional Services

Operating Budget Data

(\$ in Thousands)

	<u>FY 07</u> <u>Actual</u>	<u>FY 08</u> <u>Working</u>	<u>FY 09</u> <u>Allowance</u>	<u>FY 08-09</u> <u>Change</u>	<u>% Change</u> <u>Prior Year</u>
General Fund	\$151,165	\$142,692	\$153,035	\$10,343	7.2%
Special Fund	2,501	3,041	2,337	-704	-23.2%
Federal Fund	6	10	10	0	0.1%
Total Funds	\$153,672	\$145,743	\$155,382	\$9,639	6.6%

- One fiscal 2008 deficiency appropriation for \$1.1 million is needed to fund additional overtime expenditures.
- The fiscal 2009 allowance increases approximately \$9.6 million, or 6.6%. Absent health insurance and Other Post Employment Benefits funding which can distort year-to-year comparisons, the underlying fiscal 2009 budget growth is \$1.7 million, or 1.3%. Personnel expenses account for the majority of the growth.

Personnel Data

	<u>FY 07</u> <u>Actual</u>	<u>FY 08</u> <u>Working</u>	<u>FY 09</u> <u>Allowance</u>	<u>FY 08-09</u> <u>Change</u>
Regular Positions	1,596.00	1,603.00	1,598.00	-5.00
Contractual FTEs	12.00	23.20	23.20	0.00
Total Personnel	1,608.00	1,626.20	1,621.20	-5.00

Vacancy Data: Regular Positions

Turnover, Excluding New Positions	119.85	7.50%
Positions Vacant as of 12/31/07	99.00	6.18%

- The division loses five vacant administrative support positions as a result of cost containment.

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

For further information contact: Rebecca J. Moore

Phone: (410) 946-5530

Analysis in Brief

Issues

Compliance with the U.S. Department of Justice Memorandum of Agreement: Committee narrative adopted during the 2007 session required the Department of Public Safety and Correctional Services to submit an Action Plan and subsequent Compliance Reports in regard to steps taken to comply with the Memorandum of Agreement (MOA) entered into with the U.S. Department of Justice to establish requirements for improving the conditions of confinement at the Baltimore City Detention Center. **The Division of Pretrial Detention and Services should be prepared to discuss what steps have been taken in the past year toward compliance with the MOA and address how cost containment actions have impacted the agency’s progress.**

Recommended Actions

1. Concur with Governor’s allowance.

Q00P00
Division of Pretrial Detention and Services
Department of Public Safety and Correctional Services

Operating Budget Analysis

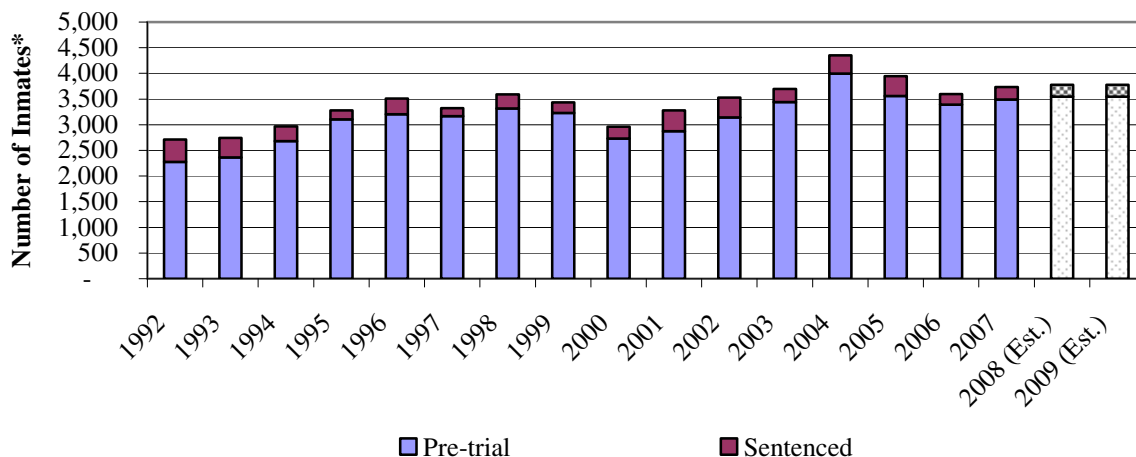
Program Description

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 provides bail recommendations to the courts in Baltimore City and supervises defendants who have been released to the community to await trial.

Performance Analysis: Managing for Results

Exhibit 1 shows how DPDS detainee population has grown approximately 33.2%, or by 932 detainees, since fiscal 1992. Since the most recent peak of 4,351 detainees in fiscal 2004, the DPDS population has declined 14.3%, to an average population of 3,736 detainees in fiscal 2007. Since fiscal 1992 the average annual growth rate has been approximately 2.1%, and the population is estimated to grow 1.0% between fiscal 2007 and 2008. On average, pre-trial detainees account for 90.0% of the total DPDS population, and approximately 75.8% of the total DPDS population is housed in the Baltimore City Detention Center (BCDC). The remainder of the population is housed at the Central Booking and Intake Center.

Exhibit 1
Division of Pretrial Detention and Services
Pretrial and Sentenced Offender Population
Fiscal 1992-2009



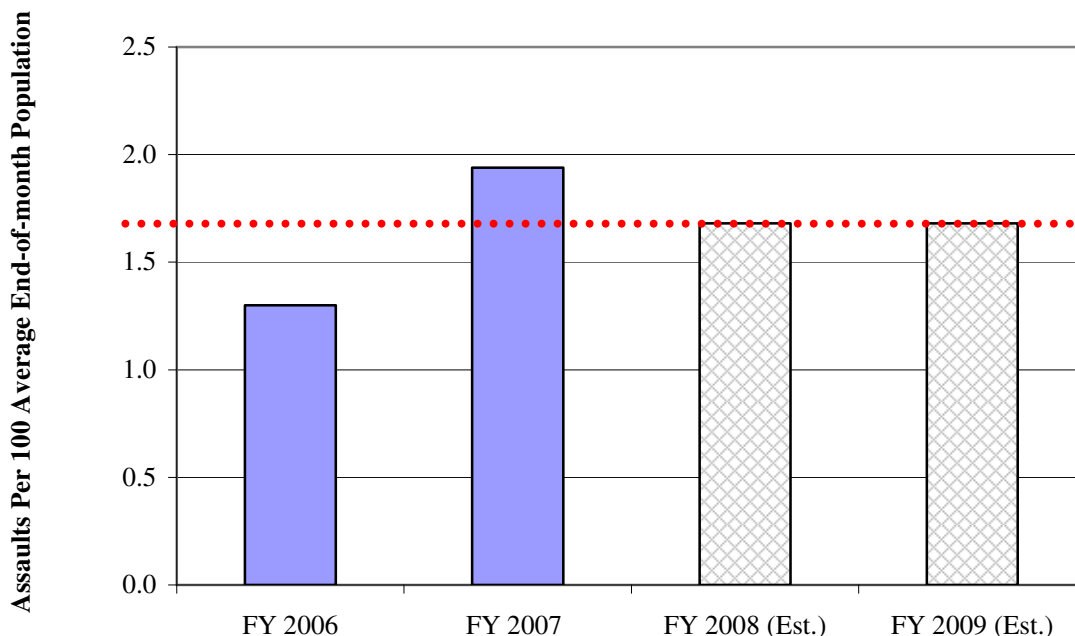
*Average end-of-month population.

Source: Department of Public Safety and Correctional Services

Exhibit 2a and **2b** show the rate of detainee assaults on both employees and other detainees per 100 detainees from fiscal 2006 through the 2009 estimate. As a goal, the agency aims to keep detainee assault rates below the fiscal 2002 level. DPDS recalculated the target as of fiscal 2006 because, although assaults that took place on the booking floor at the Central Booking and Intake Center were always included in the reported assault rate, the average daily population of arrestees committing the booking floor assaults was never included. Adding this population into the calculation reduces the target from 1.81 to 1.68 detainee-on-employee assaults and from 13.59 to 12.66 detainee-on-detainee assaults.

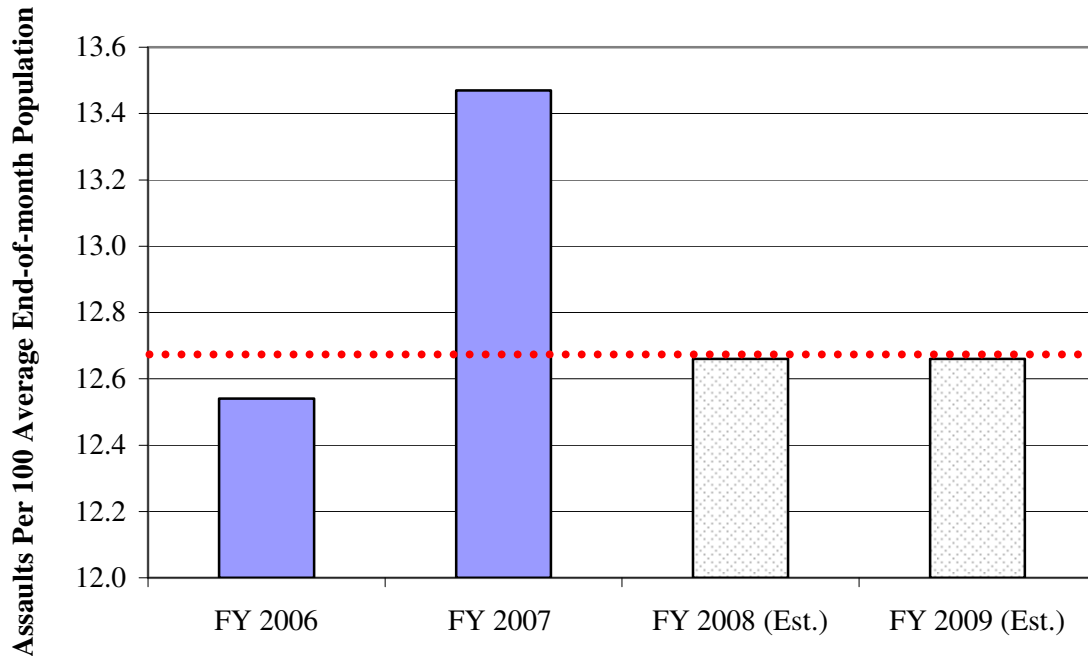
Even with including more accurate population statistics, the agency was not able to meet the target for controlling the rate of assaults on detainees or staff. The detainee-on-employee assault rate increased from 1.30 to 1.94 assaults between fiscal 2006 and 2007. The detainee-on-detainee assault rate increased from 12.54 to 13.00 assaults per 100 detainees. While the majority of assaults of both kinds were of the less serious nature, there was an increase in the number of weapons-related assaults. **DPDS should be prepared to comment on the reasons for the increase in weapons-related assaults and what the agency is doing to address overall institutional violence in order to lower the assault rates on both detainees and staff.**

Exhibit 2a
Detainee-on-employee Assault Rates
Fiscal 2006-2009



Source: Department of Public Safety and Correctional Services

Exhibit 2b
Detainee-on-detainee Assault Rate
Fiscal 2006-2009



Source: Department of Public Safety and Correctional Services

Fiscal 2008 Actions

Proposed Deficiency

There is one fiscal 2008 deficiency appropriation totaling approximately \$1.1 million. The deficiency is needed to fund additional overtime expenditures, which were understated in the fiscal 2008 budget.

Governor's Proposed Budget

As seen in **Exhibit 3**, the Governor's fiscal 2009 allowance for DPDS increases by approximately \$9.6 million, or 6.6%.

Exhibit 3
Governor’s Proposed Budget
DPSCS – Division of Pretrial Detention and Services
(\$ in Thousands)

How Much It Grows:	<u>General Fund</u>	<u>Special Fund</u>	<u>Federal Fund</u>	<u>Total</u>
2008 Working Appropriation	\$142,692	\$3,041	\$10	\$145,743
2009 Governor’s Allowance	<u>153,035</u>	<u>2,337</u>	<u>10</u>	<u>155,382</u>
Amount Change	\$10,343	-\$704	\$0	\$9,639
Percent Change	7.2%	-23.2%	0.1%	6.6%

Where It Goes:

Personnel Expenses

Abolished/transferred positions	-\$245
Increments and other compensation	1,620
Overtime earnings.....	3,547
Health Insurance – pay-as-you-go costs	2,465
Health Insurance – reduce long-term Other Post Employment Benefits liability	5,577
Workers’ compensation.....	306
Social Security contributions.....	394
Fiscal 2008 Budget Section 45 – one-time hiring freeze savings.....	394
Turnover adjustments	-4,314
Other fringe benefit adjustments	-41

Other Changes

Fuel and utilities expenditures.....	-625
Cost containment reduction in management studies.....	-170
Cost containment reduction for temporary support staff.....	-278
Supplies and materials	-126
Inmate medical services.....	663
Expansion of HIV testing and treatment	426
Other	46

Total **\$9,639**

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

Q00P00 – DPSCS – Division of Pretrial Detention and Services

Personnel expenses increase approximately \$9.7 million. Increasing the turnover expectancy 2.3% to 7.5% reduces the allowance by approximately \$4.3 million. The agency's current vacancy rate, however, is only 6.2%, which represents a difference in funding approximately 20 positions. In addition, overtime expenditures increase 70.2%, or by \$3.5 million, over the fiscal 2008 working appropriation; although once the deficiency appropriation is accounted for, the increase is approximately \$2.5 million. **DPDS should be prepared to comment on how it intends to fund current filled positions given the high budgeted turnover rate.**

An additional increase in the fiscal 2009 allowance of approximately \$1.1 million is for the inmate medical contracts. Inflationary increases account for 60.8%, or approximately \$663,000 of the total increase. The remaining \$426,000 is needed to expand HIV testing and treatment for the sentenced population to occur at intake into the system and also upon release to the community.

These increases are offset by a \$126,000 reduction in supplies and materials, a \$448,000 reduction in management studies and support staff due to cost containment, and a net reduction of \$625,000 for fuel and utilities. The fiscal 2009 allowance for utilities is largely based on fiscal 2007 actual expenditures, with slight increases to account for inflation and rate increases.

Division's Budget Chronically Understates Actual Expenditure Requirements

In recent years the budget for DPDS has understated actual expenditure requirements by about 5%. The gap is filled each year through deficiency appropriations or a department wide budget amendment to align the budget with actual expenditures. This makes evaluating the allowance problematic. For example, after adjusting for the Other Post Employment Benefits requirements the fiscal 2009 allowance is less than the actual fiscal 2007 expenditures that were required for DPDS. Less is budgeted for inmate medical services, only \$34,410 is budgeted for equipment (versus \$764,563 in fiscal 2007), and less is budgeted for fuel and utilities. The department indicates that any budget shortfalls will be reconciled through the reallocation of funds from other units of the department. **DPDS should comment on the common practice of underbudgeting DPDS, which makes it difficult for the General Assembly to objectively evaluate the budget requirements of the division.**

Impact of Cost Containment

Cost containment reductions to the fiscal 2009 allowance total \$911,355. The abolishment of five vacant administrative support positions accounts for the majority of the reduction. However, there is also a \$278,000 reduction in temporary agency staffing and a \$170,000 reduction in funding for the Cultural Change Initiative and the Juvenile Services Program. Funding for the Cultural Change Initiative, a program designed to enhance the leadership abilities of middle management, is completely eliminated and is reduced by more than half for the Juvenile Services Program. The Juvenile Services Program provided services to keep DPDS in compliance with the U.S. Department of Justice (DOJ) Memorandum of Agreement and had an original budget of \$165,000 to fund consultant support from the University of Maryland. The fiscal 2009 allowance includes \$79,000 to support the program. The impact of the cost containment actions will be the discontinuation of training associated with these two programs.

Q00P00 – DPSCS – Division of Pretrial Detention and Services

According to the department, the reductions in staffing will eliminate the administrative support used to assist in monitoring compliance with the DOJ agreement, violence reduction efforts, and emergency planning. It will also reduce the administrative support for the classification component within the Baltimore City Detention Center and the Central Records Unit within the Central Booking and Intake Facility. This could potentially result in processing delays of offender records, impacting court dates and release dates.

DPDS should comment on how it intends to continue to operate effectively given the reductions in support staff. The agency should also be prepared to discuss how these cost containment actions will impact compliance with the DOJ agreement.

Fiscal 2009 Contingent Reduction

Overtime expenditures increase by approximately \$3.5 million; however, once the fiscal 2008 deficiency appropriation is accounted for, the increase is \$2.5 million. There is a contingent reduction in overtime expenditures for \$670,000 included in the fiscal 2009 budget bill, which would then only provide an increase of \$1.8 million over the fiscal 2008 anticipated spending level.

The reduction in overtime is contingent upon both the enactment of legislation changing the overtime calculation to be consistent with the federal Fair Labor Standards Act (FLSA) and also the successful negotiation with AFSCME-IBT for approval in the length of shifts from 8 to 12 hours. According to the department, the adjustment to a 12-hour shift provides a number of benefits to employees including increased time off and more flexibility in scheduling leave, in addition to benefiting the management of the institution by providing additional relief support and the potential for a reduction in sick leave usage.

The move to a 12-hour shift cannot occur without the approval of the labor union, and without the facilities operating on a 12-hour shift, conforming to the FLSA would be too costly. Currently, the department is responsible for paying overtime to correctional officers for every minute worked beyond 40 hours per work week, or every minute beyond 160 hours per every 28-day period. Movement to a 12-hour shift would automatically award a minimum of 8 hours of overtime for every work week. Under the FLSA, overtime is not awarded until after 171 hours have been worked per every 28-day period. Overtime savings is largely realized by not having to award overtime pay for the difference in hours worked between 160 and 171 hours per every 28-day period.

Issues

1. Compliance with the U.S. Department of Justice Memorandum of Agreement

In October 2000, U.S. DOJ began an investigation of the conditions of confinement at the BCDC to determine if those conditions violated inmates' constitutional rights. U.S. DOJ found a number of deficiencies relating to medical and mental health needs, education, fire safety and sanitation, and the handling of juvenile offenders. In January 2007, U.S. DOJ entered into a MOA with the department allowing it four years to achieve all of the identified requirements. The agreement may be terminated earlier than that if the department achieves "substantial compliance" and sustains it for one year. The requirements of the MOA include:

- prompt response to maintenance needs related to health, safety, and sanitation, including toilets, showers, sinks, ventilators, and fans;
- increased efforts to improve medical and mental health care, including protocols, staffing, and training;
- increased efforts to ensure sight and sound separation for juveniles from the adult inmate population;
- additional support for the special education program;
- new fire safety equipment for the Jail Industries Building;
- increased efforts to minimize violence; and
- increased personnel resources to effectively monitor compliance efforts and results.

Committee narrative adopted during the 2007 session required DPDS to submit a written Action Plan and two subsequent Compliance Reports to the General Assembly in order to monitor the division's effort to achieve U.S. DOJ compliance. The Action Plan was submitted on June 8, 2007, and the division received an extension to submit the Compliance Report on February 14, 2008.

Action Plan

The formal Action Plan, as submitted to the federal government on May 16, 2007, serves as a guide for the remedial measures taken at the BCDC. It identified 174 total requirements, with many requirements having multiple steps to achieve compliance. The requirements are separated into categories including medical, security, juveniles, education, fire safety, and environmental health and safety.

Medical

Medical deficiencies were the majority of requirements identified in the Action Plan. Compliance with these issues is largely addressed through the current medical contracts in place throughout the department. As of June 2007, almost all requirements have been initiated, and the majority of actions have been audited, with proper documentation identified.

Security

Actions to address security requirements were all initiated by April 2007. Requirements include such actions as maintaining sufficient staff to maintain security in the facilities, reducing levels of contraband, and developing a classification system that accounts for institutional behavior of inmates previously held or committed to the facility. Identified actions to address those requirements included:

- adding positions in fiscal 2007 and 2008;
- installing security cameras in stairwells and the Men’s Detention Center; and
- implementing a new classification/case management system.

DPDS did not receive all of the positions authorized in the fiscal 2008 budget because the agency had a vacancy rate over 8%. Also, implementation of the case management system has raised concern with regard to the cost of the project and timeline for implementation.

Juvenile Offenders

Requirements for compliance in housing juvenile offenders largely relates to maintaining sight and sound separation from the adult detainee and offender population. All actions to achieve compliance were initiated by March 2006. A portion of the actions are temporary solutions, such as housing female juveniles in a separate dorm of the Women’s Detention Center, which provides sight but not sound separation. The department intends to permanently address a number of these through construction of a new Youth Detention Facility within the Baltimore Correctional Complex. The Governor’s fiscal 2009 capital budget includes \$3.4 million for partial design funding to begin this project. The total estimated cost of the project is \$103.9 million and is expected to be completed in fiscal 2011.

Education

With regard to education, required actions were largely focused on the provision of special education services, administered by the Maryland State Department of Education (MSDE) for adult offenders and the Baltimore City Public School System for juveniles. These requirements relate largely to the:

Q00P00 – DPSCS – Division of Pretrial Detention and Services

- proper identification and placement of offenders needing special education services;
- ensuring offenders are being instructed in a manner consistent with their grade and skill level; and
- dedicating the appropriate amount of space, staff, and supplies.

The majority of actions were initiated in 2005 and 2006. Senate Bill 203/House Bill 367 would transfer all adult correctional education services from MSDE to the Department of Labor, Licensing, and Regulation. It is unclear how this shift might impact service delivery, educational funding, and compliance with the U.S. DOJ agreement.

Fire Safety

Requirements to achieve compliance with regard to fire safety were initiated as early as July 2000, when DOJ first began its investigation, and as of May 2007, all required actions had been initiated. These requirements focus on:

- installing new smoke detection and audible alarm systems;
- updating sprinkler systems;
- enclosing all stairwells designated as emergency exits; and
- conducting routine fire safety inspections.

Environmental Health and Safety

Environmental health and safety requirements were all initiated by July 2007. These requirements addressed maintenance concerns that were creating sanitation and hygienic concerns. Specific actions to address these requirements included:

- repairing all lighting, floors, windows, and bathroom fixtures by December 31, 2007;
- making repairs to the physical conditions of the showers within 18 months of the date of the MOA; and
- replacing ventilation systems, components of the hot water system, and laundry equipment.

Granting the extension for the Compliance Report has not allowed enough time for proper review of the report. Therefore, DPDS should provide a brief status update on the steps taken to address each major category of the Action Plan and a timeline for addressing the remainder of the actions. The agency should also specifically address how enactment of Senate Bill 203/House Bill 367 might impact compliance with the agreement.

Fiscal Implications

Meeting and maintaining compliance with the MOA requirements has and will continue to have an impact on the division's operating budget. This includes:

- increased demand for maintenance funding, particularly for maintenance materials and supplies;
- additional overtime expenditures to train staff for the Juvenile Services program;
- additional furniture and equipment for the special education program; and
- additional personnel and resource expenditures to monitor compliance.

The fiscal 2009 allowance for DPDS includes only a single item that is specifically responsive to the requirements of the agreement with U.S. DOJ. The Juvenile Services Program at BCDC has \$86,500 budgeted for the consultant support contracted from the University of Maryland. The original contract amount was \$173,000 for fiscal 2009 but was reduced as a result of cost containment actions.

The division intends to resubmit requests in fiscal 2010 for any other U.S. DOJ enhancements which were originally scheduled for fiscal 2009 but not funded in the allowance. Increased spending on U.S. DOJ-related requirements has been through the use of existing maintenance funds which are made available by deferring or delaying other projects. Basically, any renovation, replacement, or repair project that is not a compliance issue for U.S. DOJ is given a lower priority for funding.

DPDS should be prepared to comment on what enhancements were scheduled for funding but not included in the fiscal 2009 allowance and what other projects have been delayed as a result of reallocating maintenance funding to address U.S. DOJ-compliance projects. The agency should also discuss how these delays in both U.S. DOJ and non-U.S. DOJ projects are impacting operation and overall maintenance of the facilities, as well as the timeline for addressing U.S. DOJ concerns.

Recommended Actions

1. Concur with Governor's allowance.

Current and Prior Year Budgets

Current and Prior Year Budgets Division of Pretrial and Detention Services (\$ in Thousands)

	<u>General Fund</u>	<u>Special Fund</u>	<u>Federal Fund</u>	<u>Reimb. Fund</u>	<u>Total</u>
Fiscal 2007					
Legislative Appropriation	\$133,389	\$2,510	\$10	\$0	\$135,909
Deficiency Appropriation	5,736	0	0	0	5,736
Budget Amendments	12,040	4	0	0	12,044
Reversions and Cancellations	0	-12	-4	0	-16
Actual Expenditures	\$151,165	\$2,502	\$6	\$0	\$153,673
Fiscal 2008					
Legislative Appropriation	\$140,048	\$3,028	\$10	\$0	\$143,086
Cost Containment	0	0	0	0	0
Budget Amendments	2,644	14	0	0	2,658
Working Appropriation	\$142,692	\$3,042	\$10	\$0	\$145,744

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

Fiscal 2007

General fund spending in fiscal 2007 was approximately \$151.2 million, approximately \$17.8 million more than the legislative appropriation.

- Deficiency appropriations provided an increase of approximately \$5.7 million. This increase consisted of \$3.2 million for inmate medical services; \$1.3 million for security equipment, supplies, and replacement vehicles; and \$1.2 million for fuel and utilities.
- Budget amendments increased the appropriation by approximately \$12.0 million. Of that amount, \$1.3 million can be attributed to the cost-of-living adjustment amendment that was centrally budgeted in the Department of Budget and Management. Approximately \$5.3 million is from a departmentwide amendment that adjusted general funds in accordance with actual expenditures. The remaining increase is \$5.5 million for correctional officer pay incentives, reclassifications, and overtime expenditures.

Special fund expenditures totaled approximately \$2.5 million in fiscal 2007. This included a \$4,000 budget amendment for the cost-of-living adjustment that was centrally budgeted in the Department of Budget and Management. The department cancelled approximately \$12,000 in unused funds appropriated for the Baltimore Substance Abuse Systems, female acupuncture program.

Federal fund spending was approximately \$6,000 as a result of the cancellation of approximately \$4,000 due to underattainment of estimated reimbursements for housing federal prisoners.

Fiscal 2008

The fiscal 2008 general fund working appropriation is approximately \$142.7 million, including \$1.1 million from a supplemental appropriation to cover increased inmate medical expenses and \$1.5 million for a cost-of-living adjustment.

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

<u>Object/Fund</u>	<u>FY07 Actual</u>	<u>FY08 Working Appropriation</u>	<u>FY09 Allowance</u>	<u>FY08-FY09 Amount Change</u>	<u>Percent Change</u>
Positions					
01 Regular	1596.00	1603.00	1598.00	-5.00	-0.3%
02 Contractual	12.00	23.20	23.20	0	0%
Total Positions	1608.00	1626.20	1621.20	-5.00	-0.3%
Objects					
01 Salaries and Wages	\$ 102,921,885	\$ 101,495,354	\$ 111,198,505	\$ 9,703,151	9.6%
02 Technical and Spec. Fees	389,251	509,418	529,178	19,760	3.9%
03 Communication	666,090	518,483	565,272	46,789	9.0%
04 Travel	41,321	29,100	35,100	6,000	20.6%
06 Fuel and Utilities	4,350,609	4,772,799	4,147,458	-625,341	-13.1%
07 Motor Vehicles	649,727	339,098	268,246	-70,852	-20.9%
08 Contractual Services	38,473,453	33,711,993	34,472,302	760,309	2.3%
09 Supplies and Materials	2,418,314	2,196,250	2,069,850	-126,400	-5.8%
10 Equip. – Replacement	144,008	39,305	34,410	-4,895	-12.5%
11 Equip. – Additional	620,555	2,500	0	-2,500	-100.0%
12 Grants, Subsidies, and Contributions	1,641,998	1,890,000	1,864,600	-25,400	-1.3%
13 Fixed Charges	239,269	238,794	197,027	-41,767	-17.5%
14 Land and Structures	1,115,702	0	0	0	0.0%
Total Objects	\$ 153,672,182	\$ 145,743,094	\$ 155,381,948	\$ 9,638,854	6.6%
Funds					
01 General Fund	\$ 151,165,360	\$ 142,691,905	\$ 153,034,830	\$ 10,342,925	7.2%
03 Special Fund	2,501,222	3,041,189	2,337,110	-704,079	-23.2%
05 Federal Fund	5,600	10,000	10,008	8	0.1%
Total Funds	\$ 153,672,182	\$ 145,743,094	\$ 155,381,948	\$ 9,638,854	6.6%

Note: The fiscal 2008 appropriation does not include deficiencies.

Fiscal Summary
DPSCS – Division of Pretrial Detention and Services

<u>Program/Unit</u>	<u>FY07 Actual</u>	<u>FY08 Wrk Approp</u>	<u>FY09 Allowance</u>	<u>Change</u>	<u>FY08-FY09 % Change</u>
01 General Administration	\$ 8,619,706	\$ 8,742,272	\$ 9,032,351	\$ 290,079	3.3%
02 Pretrial Release Services	5,147,499	5,203,464	5,495,470	292,006	5.6%
03 Baltimore City Detention Center	92,174,568	84,184,060	90,331,398	6,147,338	7.3%
04 Central Booking and Intake Facility	47,730,409	47,613,298	50,522,729	2,909,431	6.1%
Total Expenditures	\$ 153,672,182	\$ 145,743,094	\$ 155,381,948	\$ 9,638,854	6.6%
General Fund	\$ 151,165,360	\$ 142,691,905	\$ 153,034,830	\$ 10,342,925	7.2%
Special Fund	2,501,222	3,041,189	2,337,110	-704,079	-23.2%
Federal Fund	5,600	10,000	10,008	8	0.1%
Total Appropriations	\$ 153,672,182	\$ 145,743,094	\$ 155,381,948	\$ 9,638,854	6.6%

Note: The fiscal 2008 appropriation does not include deficiencies.