

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

Operating Budget Data

(\$ in Thousands)

	<u>FY 06</u> <u>Actual</u>	<u>FY 07</u> <u>Working</u>	<u>FY 08</u> <u>Allowance</u>	<u>FY 07-08</u> <u>Change</u>	<u>% Change</u> <u>Prior Year</u>
General Fund	\$129,789	\$139,575	\$140,441	\$866	0.6%
Special Fund	2,662	2,514	3,028	514	20.4%
Federal Fund	<u>4</u>	<u>10</u>	<u>10</u>	<u>0</u>	<u>0.0%</u>
Total Funds	\$132,455	\$142,099	\$143,479	\$1,380	1.0 %

- There are four deficiency appropriations totaling approximately \$5.7 million for the inmate medical contract, fuel and utilities, and the purchase of security equipment and vehicles.
- The nearly \$1.4 million increase is largely the result of increases for inmate medical services and fuel and utilities. Adjusting for the decline in health insurance costs due to one-time savings and the fiscal 2007 deficiencies for ongoing expenses, the underlying budget grows by approximately \$1.5 million, or 1.1%.

Personnel Data

	<u>FY 06</u> <u>Actual</u>	<u>FY 07</u> <u>Working</u>	<u>FY 08</u> <u>Allowance</u>	<u>FY 07-08</u> <u>Change</u>
Regular Positions	1,553.00	1,596.00	1,619.00	23.00
Contractual FTEs	<u>12.02</u>	<u>25.20</u>	<u>25.20</u>	<u>0.00</u>
Total Personnel	1,565.02	1,621.20	1,644.20	23.00

Vacancy Data: Regular Positions

Turnover, Excluding New Positions	64.60	3.99%
Positions Vacant as of 12/31/06	126.00	7.89%

- The allowance reflects an increase of 23 regular positions, which includes 21 correctional officers and 2 intelligence officers. These new positions are based on a recalculation of the relief factor and the creation of new posts as a result of new security assessments.

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

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Analysis in Brief

Issues

Impact of New Memorandum of Agreement with U.S. Department of Justice (DOJ): In January 2007 the Department of Public Safety and Correctional Services entered into a Memorandum of Agreement with the U.S. Department of Justice to establish requirements for improving the conditions of confinement at the Baltimore City Detention Center (BCDC). It is likely these requirements will have a significant fiscal and operational impact. **The department should comment on past and future actions taken to improve conditions at BCDC. The department should also identify the fiscal impact of any improvements or changes in operations associated with the DOJ investigation. The Department of Legislative Services recommends the department also be required to submit the Action Plan and subsequent Compliance Reports to the General Assembly.**

Recommended Actions

1. Adopt committee narrative directing the division to submit the federally required Action Plan and subsequent Compliance Reports resulting from the new Memorandum of Agreement with the U.S. Department of Justice.

Updates

The 24-hour Release Rule Compliance: The 2006 *Joint Chairmen's Report* required the Division of Pretrial Detention and Services to submit a report discussing any 24-hour rule violations in fiscal 2006 and what corrective measures have been taken to reduce the number of violations. Since November 2005, there have been no violations.

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Division of Pretrial Detention and Services
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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 inmates 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

As with the other custodial agencies in the department, the division's goal is good offender management, as measured by meeting its goals of keeping communities safe and offenders secure. Three indicators of good offender management for DPDS are offender escapes, incorrect releases, and assault rates.

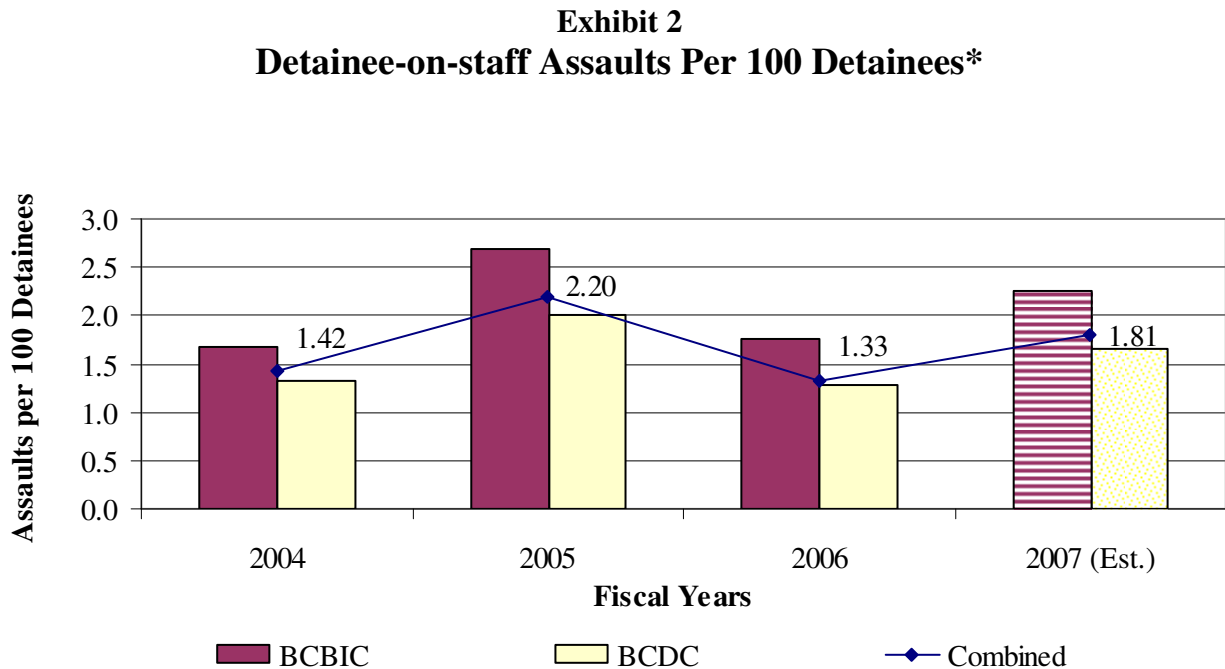
Exhibit 1 shows the number of offender escapes and incorrect releases from fiscal 2002 through 2006. The goal is to allow no offenders to escape or be incorrectly released. Since fiscal 2002, there have been a total of 5 escapes from DPDS facilities, and these have all occurred since fiscal 2004. Incorrect releases have occurred more frequently, with a total of 18 over the 5-year period. However, improvement was demonstrated in fiscal 2006, with zero incorrect releases. The department attributes meeting this target to the application of in-service training on release procedures to both custodial and commitment records staff. **The department should comment on why inmate escapes have been increasing in the past 3 years and what steps are being taken to reduce the number of inmate escapes and incorrect releases.**

Exhibit 1
Division of Pretrial Detention and Services
Offender Escapes and Incorrect Releases
Fiscal 2002-2006

	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>
Escapes	0	0	1	2	2
Incorrect Releases	3	5	6	4	0

Source: Department of Public Safety and Correctional Services

Exhibit 2 shows the detainee-on-staff assault rate for fiscal 2004 through 2007 estimate. The department began using a new automated data system to report incidents of assault in 2004. Since DPDS assault rates were always reported according to incidence of assault, as opposed to guilty conviction of assault, the data for 2006 is comparable to previous years.



*Average end-of-month population.

BCBIC: Baltimore Central Booking and Intake Center

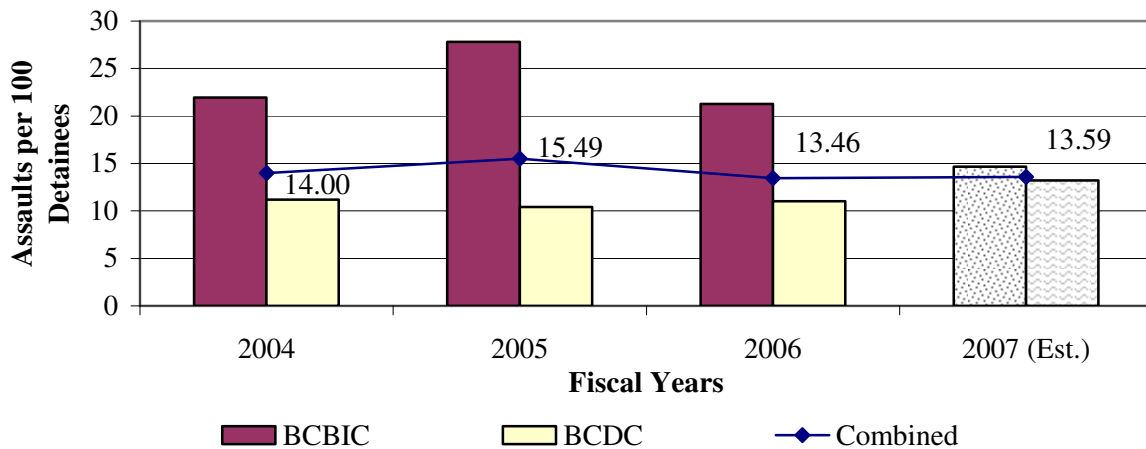
BCDC: Baltimore City Detention Center

Source: Department of Public Safety and Correctional Services

As shown in the exhibit, the combined detainee-on-staff assault rate spiked in fiscal 2005 but decreased by .87 assaults per 100 detainees in fiscal 2006, to a total of 1.33 assaults per 100 detainees. Detainee-on-staff assault rates for the individual institutions follow the same pattern. On average, 0.5 more assaults per 100 detainees occur at the Baltimore Central Booking and Intake Center (BCBIC) than at the Baltimore City Detention Center (BCDC).

Exhibit 3 shows a similar pattern for detainee-on-detainee assaults, although at a much higher rate. Over the past three years, detainee-on-staff assaults averaged 1.7 assaults per 100 detainees, in contrast to detainee-on-detainee assaults, which averaged 14.32 per 100 detainees.

Exhibit 3
Detainee-on-detainee Assault Rate Per 100 Detainees*



*Average end-of-month population.

BCBIC: Baltimore Central Booking and Intake Center

BCDC: Baltimore City Detention Center

EOM: End-of-month

Source: Department of Public Safety and Correctional Services

The combined assault rate for detainee-on-detainee assaults was approximately 11% higher in 2005 than in 2004, increasing from 14.00 to 15.49 assaults per 100 detainees. Fiscal 2006, however, saw a 13% decrease, to a total of 13.46 assaults per 100 detainees. On average, 12.8 more assaults per 100 detainees occur at BCBIC than at BCDC.

The department should discuss reasons for the increase in assault rates on both detainees and staff during 2005 and what measures have been taken to reduce the assault rate. The department should also address why detainee-on-detainee assaults occur much more frequently than detainee-on-staff assaults; why these assaults are so much higher than detainee-on-staff assaults at Division of Correction facilities; and why assaults on both detainees and staff occur at a higher rate at BCBIC than at BCDC.

Fiscal 2007 Actions

Proposed Deficiency

DPDS has a total of four deficiency appropriations totaling \$5,736,386 for fiscal 2007.

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- Of this amount, 56%, or \$3.2 million is for payments to contractors for inmate medical services. This brings total DPDS expenditures for the inmate medical contract in fiscal 2007 to approximately \$19.2 million.
- There are two deficiency appropriations, totaling approximately \$1.3 million, that are for the purchase of additional security equipment, supplies, and replacement vehicles used for security and inmate transport.
- The final deficiency appropriation is \$1.2 million for the increasing cost of generating steam to operate the correctional facilities.

Governor's Proposed Budget

As seen in **Exhibit 4**, the Governor's fiscal 2008 allowance for DPDS increases by approximately \$1.4 million, or 1.0%.

Personnel expenses decrease approximately \$2.6 million. Large decreases in health insurance costs and overtime mask increases for retirement costs, employee increments, and lower budgeted turnover expectancy. There is also an increase of \$834,000 associated with the 23 proposed positions. These new positions are the result of new posts created through security assessments done within the facilities and a recalculation of the relief factor. These posts are currently being funded through overtime, so it is likely that the \$4.8 million reduction in overtime is inaccurate.

The allowance includes a \$2.7 million increase for inmate medical services in fiscal 2008. This brings total inmate medical expenditures for DPDS to \$18.7 million, or 14.1% of total expenditures. After accounting for the fiscal 2007 deficiency, however, the funding in the allowance for medical services will be less than the current estimate for fiscal 2007.

Fuel and utilities increase by approximately \$782,000. This represents a 19.6% increase from the fiscal 2007 working appropriation. Expenditures for fuel oil and natural gas remain unchanged, but steam increases by \$457,000, electricity by \$306,000, and sewage by \$19,000.

Inmate Welfare Fund grants increase by \$250,000 based on prior year actual expenditures, including an increase for library services and commissary items.

Supplies and materials increase by approximately \$238,000. This includes an additional \$45,000 to replace windows as a result of the agreement with the U.S. Department of Justice. The remaining increase for housekeeping, laundry, and dietary supplies is based on prior year actual expenditures.

Exhibit 4
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>
2007 Working Appropriation	\$139,575	\$2,514	\$10	\$142,099
2008 Governor's Allowance	<u>140,441</u>	<u>3,028</u>	<u>10</u>	<u>143,479</u>
Amount Change	\$866	\$514	\$0	\$1,380
Percent Change	0.6%	20.4%		1.0%

Where It Goes:

Personnel Expenses

New positions	\$834
Increments and other compensation	1,695
Overtime	-4,820
Health insurance costs decline due to one-time savings	-3,908
Workers' compensation premium assessment	61
Retirement	1,483
Turnover adjustments	2,259
Other fringe benefit adjustments	-222

Other Changes

Inmate medical services.....	2,727
Fuel and utilities	782
Inmate Welfare Funds (library services, commissary, institutional operations).....	250
Supplies and materials	239

Total	\$1,380
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Note: Numbers may not sum to total due to rounding.

Fiscal 2008 Underfunding

An analysis of fiscal 2007 expenditure requirements suggests that the fiscal 2008 allowance might be significantly underfunded. **Exhibit 5** shows the real growth in the fiscal 2008 budget for the division, accounting for the savings from the health insurance surplus and the fiscal 2007 deficiency appropriations for inmate medical services and fuel and utilities. These deficiencies are in areas that have been consistently underfunded in previous years. As the exhibit shows, the fiscal 2008 allowance only shows real growth of approximately 1.1%.

Exhibit 5
Division of Pretrial Detention and Services
Real Growth in the Fiscal 2008 Budget

	<u>Fiscal 2007</u>	<u>Fiscal 2008</u>	<u>% Change</u>
Appropriation	\$142,098,694	\$143,478,894	1.0%
Deficiencies	4,500,000		
Health Insurance Surplus	-4,658,110		
Underlying Growth	\$141,940,584	\$143,478,894	1.1%

Source: Department of Public Safety and Correctional Services

Inmate Medical Services

Funding for inmate medical services actually decreases by \$500,000 between fiscal 2007 and 2008, once the deficiency appropriation is accounted for. Given the considerable escalation of the contract in the past two years, the fiscal 2008 allowance is likely underestimated.

Overtime

Exhibit 6 shows DPDS overtime spending from fiscal 2005 through 2008. Overtime spending in the fiscal 2008 allowance is nearly 50% less than the fiscal 2007 working appropriation, which already exceeds the legislative appropriation. Year-to-date overtime spending is approximately \$5.9 million. Given that a number of security posts are currently being filled through overtime spending, assuming overtime spending will decline 50% in fiscal 2008 appears very optimistic.

Exhibit 6
Division of Pretrial Detention and Services
Overtime Expenditures

	<u>2005</u> <u>Actual</u>	<u>2006</u> <u>Actual</u>	<u>2007</u> <u>Approp.</u>	<u>2007</u> <u>Working</u>	<u>2007</u> <u>YTD</u>	<u>2008</u> <u>Allowance</u>
Overtime Spending	\$7,501,019	\$8,757,154	\$9,275,840	\$9,770,455	\$5,870,636	\$4,950,561

Source: Department of Public Safety and Correctional Services

Turnover Expectancy

One area that could potentially offset the under funded overtime is the low budgeted turnover rate. Since 2005, the agency's turnover rate has been higher than 7.00%, and as of December 31, 2006, the vacancy rate was 7.89%. The agency has a budgeted turnover rate of 3.99% for fiscal 2008. Given the historical vacancy trends, this vacancy rate seems unrealistic, and it is likely that turnover is over funded. Each 1% increase in the turnover rate equates to about \$800,000.

The department should comment on the potential for under funding and the impact on operations in fiscal 2007 and 2008, given the 1.1% real growth. It should also address the impact on operations if overtime and inmate medical continue to be under funded and should identify any additional deficiencies in funding for fiscal 2007 and 2008.

Issues

1. Impact of New Memorandum of Agreement with U.S. Department of Justice (DOJ)

In October 2000 DOJ began an investigation of the conditions of confinement at the BCDC to determine if those conditions violated inmates' constitutional rights. On two separate occasions in 2000 and 2001, DOJ toured BCDC with consultants in the fields of corrections, juvenile justice, medical care, mental health care, education, fire safety, and sanitation. DOJ found BCDC to be "deliberately indifferent" to inmates' medical and mental health needs; the potential harm from deficiencies in fire safety and sanitation; and the lack of separation between juveniles and adult inmates. In addition, DOJ identified a lack of available special education for eligible inmates under the Individuals with Disabilities Education Act.

In 2003 BCDC voluntarily took steps to change the environment at the facility and correct the identified violations. This included establishing a separate tier with appropriate programming for juvenile arrestees; developing programs to improve fire safety and sanitation conditions within the facility; and the implementation of new inmate medical contracts effective July 1, 2005. When DOJ again toured the facility in 2005, with the same consultants, it determined a willingness to voluntarily undertake measures to improve conditions at the facility.

In January 2007 DOJ entered into a Memorandum of Agreement (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.

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It is likely that these requirements will have a significant impact on the division's operating budget. This will likely include:

- 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 department should comment on the specific actions taken to improve conditions at BCDC and what actions will need to be taken to comply with the new MOA. The department should also identify the fiscal impact of any improvements or changes in operations associated with the DOJ investigation.

The department has also indicated that a number of requirements identified in the MOA cannot be met without building new Youth and Women's Detention Centers. The total estimated cost of these two projects is \$270 million. These projects are currently in the *Capital Improvements Program* for fiscal 2009. **The department should comment on why new facilities are needed to meet the requirements in the MOA, and should identify any additional capital needs as a result of the agreement.**

The MOA requires the department to submit an Action Plan to DOJ by May 2007 specifying measures the department intends to take in order to bring the facility into compliance, including a timeline for completion of each of the measures. In addition, the department is required to submit Compliance Reports within 90 days of submitting the Action Plan and every 6 months thereafter. The Compliance Reports are to identify progress in implementing the Action Plan and any revisions to the Action Plan and should include a summary of the steps taken to implement the plan. **The Department of Legislative Services recommends that the department also be required to submit the Action Plan and subsequent Compliance Reports to the General Assembly.**

Recommended Actions

1. Adopt the following narrative:

Compliance with U.S. Department of Justice: The committees direct the Division of Pretrial Detention and Services (DPDS) to submit the written Action Plan and subsequent Compliance Reports, as required through the new Memorandum of Agreement with the U.S. Department of Justice. Receipt of these reports will allow the General Assembly to further monitor compliance with the agreement and ensure that the division is efficiently making every effort to eliminate any violations to offenders' constitutional rights. The Action Plan should be submitted to the committees no later than June 1, 2007, with subsequent Compliance Reports submitted on January 1, 2008, and June 30, 2008.

Information Request	Author	Due Date
DPDS Action Plan	DPDS	June 1, 2007
DPDS Compliance Report	DPDS	January 1, 2008 June 30, 2008

Updates

1. The 24-hour Release Rule Compliance

In early 2005, the Public Defender filed suit against the State of Maryland, alleging continuing violations of the Maryland 24-hour Release Rule by the staff assigned to the booking operations at BCBIC. The 24-hour Release Rule requires that an arrestee be presented to a judicial officer within 24 hours of arrest. During the 2006 session, the committees required DPDS to submit a report detailing the division's efforts to comply with the 24-hour rule, including a discussion of violations of the rule during 2006 and what efforts have been taken to reduce the likelihood of violations.

The division processed 94,656 arrestees in fiscal 2005 and 95,463 in fiscal 2006. From July to November 2005 a total of 11 arrestees were detained for more than 24 hours. These were the result of employee error, misidentification of the arrestee, and temporary failure of the processing system. Some of the corrective actions included additional training and supervision for employees; refinements of the monitoring system to better identify similar cases earlier in the booking process; and a change in the staffing pattern to address backlogs and peak processing requirements. According to the report, there have been no violations of the 24-hour rule since November 2005.

Current and Prior Year Budgets

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

	<u>General Fund</u>	<u>Special Fund</u>	<u>Federal Fund</u>	<u>Reimb. Fund</u>	<u>Total</u>
Fiscal 2006					
Legislative Appropriation	\$122,555	\$2,476	\$10	\$0	\$125,041
Deficiency Appropriation	0	0	0	0	0
Budget Amendments	7,234	265	0	0	7,499
Reversions and Cancellations	0	-79	-6	0	-85
Actual Expenditures	\$129,789	\$2,662	\$4	\$0	\$132,455
Fiscal 2007					
Legislative Appropriation	\$133,389	\$2,510	\$10	\$0	\$135,909
Budget Amendments	6,186	4	0	0	6,190
Working Appropriation	\$139,575	\$2,514	\$10	\$0	\$142,099

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

Fiscal 2006

General fund spending in fiscal 2006 was approximately \$129.8 million.

- Budget amendments increased the appropriation by approximately \$7.2 million. Of that amount, \$903,000 may be attributed to the cost-of-living adjustment amendment. Approximately \$2.7 million is from a departmentwide amendment that adjusted general funds in accordance with actual expenditures. Other large increases included a \$1.3 million transfer from the Department of Budget and Management for correctional officer pay incentives and a \$1.9 million increase due to the departmentwide realignment of funds to meet actual employee and retiree health insurance expenditures.

Special fund expenditures totaled approximately \$2.7 million in fiscal 2006. This included an amendment to distribute inmate welfare funds that increased the appropriation by \$265,000. The department cancelled approximately \$79,000 of inmate welfare funds which were carried forward in the fund.

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

Fiscal 2007

The general fund working appropriation for fiscal 2007 is approximately \$139.6 million, including a roughly \$6.2 million increase from the cost-of-living adjustment and funding for correctional officer reclassifications and related salary adjustments as a result of the annual salary review.

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

<u>Object/Fund</u>	<u>FY06 Actual</u>	<u>FY07 Working Appropriation</u>	<u>FY08 Allowance</u>	<u>FY07-FY08 Amount Change</u>	<u>Percent Change</u>
Positions					
01 Regular	1,553.00	1,596.00	1,619.00	23.00	1.4%
02 Contractual	12.02	25.20	25.20	0	0%
Total Positions	1,565.02	1,621.20	1,644.20	23.00	1.4%
Objects					
01 Salaries and Wages	\$ 88,892,662	\$ 102,974,646	\$ 100,356,183	-\$ 2,618,463	-2.5%
02 Technical and Spec. Fees	407,292	505,076	509,418	4,342	0.9%
03 Communication	609,640	507,893	518,483	10,590	2.1%
04 Travel	25,386	26,450	29,100	2,650	10.0%
06 Fuel and Utilities	4,559,880	3,991,050	4,772,799	781,749	19.6%
07 Motor Vehicles	357,239	302,757	339,098	36,341	12.0%
08 Contractual Services	31,617,596	29,952,529	32,586,964	2,634,435	8.8%
09 Supplies and Materials	3,136,915	1,958,226	2,196,250	238,024	12.2%
10 Equipment – Replacement	379,998	35,430	39,305	3,875	10.9%
11 Equipment – Additional	340,868	0	2,500	2,500	n/a
12 Grants, Subsidies, and Contributions	1,832,780	1,605,000	1,890,000	285,000	17.8%
13 Fixed Charges	294,962	239,637	238,794	-843	-0.4%
Total Objects	\$ 132,455,218	\$ 142,098,694	\$ 143,478,894	\$ 1,380,200	1.0%
Funds					
01 General Fund	\$ 129,789,357	\$ 139,574,974	\$ 140,441,192	\$ 866,218	0.6%
03 Special Fund	2,661,811	2,513,720	3,027,702	513,982	20.4%
05 Federal Fund	4,050	10,000	10,000	0	0%
Total Funds	\$ 132,455,218	\$ 142,098,694	\$ 143,478,894	\$ 1,380,200	1.0%

Note: The fiscal 2007 appropriation does not include deficiencies, and the fiscal 2008 allowance does not reflect contingent reductions.

Fiscal Summary
DPSCS – Division of Pretrial Detention and Services

<u>Program/Unit</u>	<u>FY06 Actual</u>	<u>FY07 Wrk Approp</u>	<u>FY08 Allowance</u>	<u>Change</u>	<u>FY07-FY08 % Change</u>
01 General Administration	\$ 7,300,441	\$ 8,347,706	\$ 8,703,035	\$ 355,329	4.3%
02 Pretrial Release Services	4,794,526	5,215,499	5,143,425	-72,074	-1.4%
03 Baltimore City Detention Center	77,441,386	81,024,155	82,721,703	1,697,548	2.1%
04 Central Booking and Intake Facility	42,918,865	47,511,334	46,910,731	-600,603	-1.3%
Total Expenditures	\$ 132,455,218	\$ 142,098,694	\$ 143,478,894	\$ 1,380,200	1.0%
General Fund	\$ 129,789,357	\$ 139,574,974	\$ 140,441,192	\$ 866,218	0.6%
Special Fund	2,661,811	2,513,720	3,027,702	513,982	20.4%
Federal Fund	4,050	10,000	10,000	0	0%
Total Appropriations	\$ 132,455,218	\$ 142,098,694	\$ 143,478,894	\$ 1,380,200	1.0%

Note: The fiscal 2007 appropriation does not include deficiencies, and the fiscal 2008 allowance does not reflect contingent reductions.