

**DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES
FY 2017 BUDGET DIVISION OF PRETRIAL DETENTION**

Facility Security

Issue: 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.

Response: As shown in exhibit three of the legislative analysis, the overall assault rates for detainees continues to trend down from the 2011 figures. With specific regard to the anticipated detainee assault rate, the Department has seen an initial increase in detainee assaults; however, the Department anticipates the rate will decrease over time. The Department believes the initial increase is primarily attributable to two factors, including increasing staff accountability in reporting all assaults and the initial depopulation of the Men's Detention Center (MDC).

The Department takes all assaults seriously and has been reemphasizing to staff the importance of reporting all assaults with no exceptions. By increasing accountability in reporting, the Department anticipates that there will be an initial increase in assault numbers.

Additionally, the Department experienced an initial increase in detainee assaults associated with the depopulation of the Men's Detention Center due the change in housing environments. During the depopulation of MDC, the Department initially transferred detainees from the Men's Detention Center to the Metropolitan Transition Center (MTC). However, after experiencing several incidents, the Department realized that the housing environment was not ideal for the detainee population and moved expeditiously in transferring a portion of the population to other institutions, including the Maryland Reception, Diagnostic and Classification Center (MRDCC). These instances were certainly a driving factor in the assault rate.

It is also important to note that the assault rates at the former Baltimore City Detention Center (BCDC) were higher when compared to other facilities within the City. This is mostly due to the transient nature of the population served. For example in Fiscal Year 2015, there were 208 reported assaults on inmates and 113 reported assaults on staff. A majority of the reported incidents are less serious physical assaults or bodily fluid assaults. Therefore, by transferring a portion of this population to MRDCC, the Department anticipated seeing similar trends at MRDCC.

Although the Department expects an initial increase in detainee assaults, the Department expects to see a decrease in the rates over time. By reemphasizing the importance of reporting all incidents, the Department will get a more accurate picture of the issues at hand and will be able to respond accordingly.

Heroin and Opioid Task Force

Issue: DPD should comment on the size of the offender population anticipated to be served by the pilot program.

Response: As indicated in the final report for the Governor's - Heroin, Opioid Emergency Task Force – an offender's best chance of success is providing linkages of in-prison treatment services with post treatment services upon release to the community. The recommendation tasks the Department to create a transition process that allows inmates leaving incarceration with known substance use disorders to be engaged with community resource providers (faith-based organizations, peer support, and outpatient treatment programs) prior to release. The Department is currently determining what this process should be and the appropriate methodology and scope of services that are to be provided. Therefore, it remains too early in the process to comment on specifics as to the number of offenders that may be served.

Baltimore City Facility Reorganization

Issue: DPSCS should comment on the reason for organizing correctional facilities within DPD despite the lack of a significant detainee population at those facilities.

Response: The Department implemented a department-wide reorganization which realigned operations to comply with statute. The decision to consolidate the Maryland Reception, Diagnostic and Classification Center, Baltimore City Correctional Center and Metropolitan Transition Center under the Division of Pretrial Detention and Services was to allow the Department operational flexibility in realigning offenders as we closed the Men's Detention Center and began planning for a replacement detention center. Due to a decline in the Division of Correction's population, these facilities will be used to house pretrial detainees. Currently, the Department has approximately 475 detainees housed at these three facilities; however, this number will likely increase as the Department moves forward with the demolition of MDC and the Women's Detention Center and the continued need to shift the population in conjunction with the Capital Improvement Plan.

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 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.

Response: Pursuant to Maryland Code Ann., Gov't §§ 12-404 and 12-405, the Department submitted to the Board of Public Works a comprehensive settlement of more than four-decades-old litigation over conditions at the Baltimore City Detention Center, in *Jerome Duvall, et al. v. Lawrence Hogan, Jr., et al.*

The Administration inherited this issue and, when the plaintiffs filed action in June 2015, the Department acted swiftly and diligently in lengthy mediation sessions in order to reach a settlement agreement. Reaching a settlement agreement, under the circumstances, was a feat and certainly preferable to a lengthy litigation process, which inevitably leads to substantial court fees and the dedication of countless staff hours.

As unanimously approved by the BPW on November 18, 2015, the settlement agreement stipulates \$450,000 as full satisfaction of the plaintiffs' claim for attorneys' fees and costs. The settlement agreement also imposes a cap of \$100,000 on payment of future attorneys' fees and costs for monitoring compliance with the terms of the settlement over its four-year term. Currently, the settlement is being reviewed by the Court and a Fairness Hearing has been scheduled for April.

In addition, the Administration closed the Men's Detention Center (MDC) and realigned the offender population and provided an additional \$3.6 million in funding for repairs and maintenance to address issues pertaining to environmental and hygiene issues impacting health, safety and security. All items were approved by the BPW last fall.

The Department believes it has already met the requirements being listed in the recommended action through the approved BPW documents pertaining to the settlement agreement and emergency repair and maintenance items. Furthermore, the Department is concerned about the negative impact this may have on the settlement process and therefore we respectfully request that the budget committees reject this recommendation.