

**DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES  
FY 2020 BUDGET DIVISION OF PRETRIAL DETENTION**

**Population Statistics**

**Issue:** DPD should comment on the slight increase in detainees in fiscal 2018, the overall decrease in the percentage of arrestees jailed, and how court processing times have affected detainee totals in Baltimore City.

**Response:** The Department is unable to comment on the overall decrease in the percentage of arrestees as the Department has no control over the number of arrests; however, the slight increase in detainees and average length of stay is attributable to bail reform. 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. As such, the Department has no control over the number of arrestees, which does fluctuate on a monthly basis.

In terms of the increase in detainees and average length of stay, the percentage of detainees held without bail has increased significantly over the past two years. In October of 2016, the Chief Judge of the District Court circulated a letter deterring Judges from using monetary bail. This was codified in February 2017 when the Standing Committee on Rules of Practice and Procedure of the Maryland Court of Appeals passed a rule discouraging the use of monetary bail and “promot[ing] the release of defendants on their own recognizance or, when necessary, unsecured bond.” Although DPDS has seen an increase in the number of arrestees who are released on their own recognizance, DPDS has also seen an increase in the percentage of detainees held without bail. Prior to the rule change, the number of detainees held without bail represented 50% of the DPDS population. In August of 2017 the percentage had increased to 79%, was up to 89% as of December 2018 and currently stands at 92%.

The detainees who are held without bail tend to face more serious charges and must remain committed to DPDS until their case has been completely adjudicated. The adjudication process for detainees facing serious charges is inherently longer and more complex than for offenders facing less serious charges. As such, DPDS has also seen an increase in the average length of stay for the committed population; rising from 119 days in April 2017 to 137 days in January 2019. As a result, this has impacted the number of detainees and is attributable to the slight increase in the detainee population.

### **Offender Demographics**

**Issue:** DPD should comment on the relatively high number of traffic offenders at BCBIC. In addition, as the department provides detailed breakdowns of the crimes committed by its inmate population, the Department of Legislative Services (DLS) recommends committee narrative requesting a similar report on major offenses (by category, facility, and percentage) of both arrestees and pretrial detainees for fiscal 2019.

**Response:** As previously stated, 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. The Department has no control over the composition of the DPDS population. The Baltimore City Police Department arrests offenders and the courts determine which arrestees are released or committed.

### **Contractual Dietary Workers**

**Issue:** DPSCS should comment on the status of the position conversions and when it expects this process to be complete.

**Response:** The Department continues to work on moving contractual dietary staff into full-time positions. However, many of the dietary staff fail to show up for pre-employment interviews; fail to provide the necessary documentation; and/or respond to repeated requests to determine if they are in fact interested in this conversion. Therefore, it is unclear based on the level of interest currently expressed when this process may be completed. The Department previously hired 23 contractual dietary staff and is in the process of hiring an additional nine (9) full-time dietary employees. The Department will continue to work on moving all dietary staff into full-time positions.

### **Duvall Settlement**

**Issue:** DPD should comment on its most recent status with respect to Duvall compliance.

**Response:** The Department is currently monitored by three professional experts who evaluate the Department's compliance pertaining to conditions of confinement, medical care, and mental health care. Specifically, with respect to physical plant and conditions of confinement, the court appointed monitor declared six (6) months ago that the Department was in substantial compliance

with all areas under court supervision. The Department must maintain substantial compliance for maintenance and sanitation over an additional two (2) monitoring visits in order for these items to be deemed satisfied and resolved.

The Department continues to work towards achieving and maintaining substantial compliance with the medical and mental health provisions of *Duvall*. The Department hired a Chief Health Strategy and Operations Officer and Chief Compliance and Integrity Officer to oversee medical and mental healthcare delivery; to develop systems, processes, and teams necessary to facilitate operations; and compile and track data necessary for reporting requirements under the settlement agreement.

### **Assault Rates**

**Issue:** DPD should comment on assault levels in its facilities, efforts to reduce them (particularly gang-related activity), and why JCI-B has a relatively high assault rate.

**Response:** The Division of Pretrial Detention Services (DPDS) has been successful in decreasing the number of assaults at the Baltimore City facilities by using a validated classification instrument to determine housing assignments; working collaboratively with the Department's Intelligence and Investigative Division (IID); monitoring detainees with gang affiliations; and conducting routine violence reduction meetings. The Department has seen an increase in the number of assaults at JCI B-Building which is attributable to the security level and transient nature of the detainee population housed there.

DPDS utilizes a validated classification instrument that determines the appropriate level of housing by the detainees' offender classification. Detainees identified as lower custody level are housed in dormitory style settings while detainees identified as higher custody level are housed in secure housing with cells. Appropriately identifying the security level of the detainee and assigning housing based on security level has assisted in reducing the number of assaults. Additionally, DPDS collaboratively works with the Department's intelligence and investigation units. Detainees identified with known gang affiliations are assigned to higher security level housing. DPDS deploys specialized tactical, K-9 and special operations groups to conduct searches to reduce the amount of contraband and weapons. Facilities conduct violence reduction meetings to review cases, develop corrective action plans and training exercises to assist in the implementation of de-escalation techniques and procedures that will assist in reducing or preventing future assaults.

As previously mentioned, the Department has seen an increase in assaults at the JCI B-Building. The Baltimore Booking and Intake Center and the Metropolitan

Transition Center D-Dorm are primarily comprised of dormitory style housing, which is not conducive to housing high-risk detainees or detainees who present a security risk. Due to the decline in inmate population within the Division of Correction (DOC), the Department was able to repurpose B-Building within Jessup Correctional Institution (JCI) so that it could house high-risk DPDS detainees in cells. Since the population that JCI B-Building houses is high-risk, this cohort represents a significant challenge as they are more prone to acts of violent incidents. Unlike the inmate population in the DOC, the detainee population is far more transient which makes it more difficult to evaluate and anticipate certain detainees' behaviors. The Department is dedicated to ensuring the safety and security of all of its correctional facilities and will continue monitoring this issue closely.

### **Pretrial Investigations**

**Issue:** DPD should comment on the fact that while investigations declined significantly, the number of defendants supervised has remained steady.

**Response:** The number of investigations conducted by the Pretrial Release Services Program (PRSP) has declined due to the overall decline in the number of offenders arrested while the number of offenders placed under pretrial supervision has increased due to bail reform. Offenders who are arrested and booked at the Baltimore Booking and Intake Center appear before a Court Commissioner who determines whether an offender can be released on their own recognizance or should continue to be held with or without bail. If an offender is not released on their own recognizance, they must appear before a Judge who reviews the pretrial conditions set by the Court Commissioner. PRSP is responsible for making recommendations to the Baltimore City courts on whether offenders who were initially held by the Commissioner would be suitable for release to be supervised in the community until the offender has a trial. Specifically, PRSP conducts an investigation into each offender, including their criminal history, ties to the community, and verifies employment. If a Judge releases an offender on pretrial supervision, PRSP is responsible for supervising the offenders.

The number of investigations conducted by PRSP is directly related to the number of detainees held by the Court Commissioners. Since the number of bookings has drastically declined in the past decade, the number of detainees held by the Court Commissioners has also drastically declined – resulting in a decrease in the number of investigations conducted by PRSP as noted below.

- In fiscal year (FY) 2004, 100,848 offenders were booked in Baltimore City.
  - PRSP conducted 46,430 investigations.

- PRSP supervised 5,648 pretrial offenders in the community.
- In FY 2018, 25,180 offenders were booked in Baltimore City.
  - PRSP conducted 11,211 investigations.
  - PRSP supervised 4,317 pretrial offenders in the community.

The percentage of offenders released under pretrial supervision has increased over the past several years due to the aforementioned bail reform initiated in October 2016. The rule encouraged Judges to move away from monetary bail so Judges began placing more offenders under pretrial supervision. So even though the number of investigations has declined, the percentage of offenders placed under pretrial supervision has increased.

### **Recommended Actions**

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

, provided that \$150,000 of this appropriation may not be expended until the Department of Public Safety and Correctional Services submits a report to the budget committees no later than December 1, 2019, on Baltimore City arrestees and detainees. The report should include the following information for fiscal 2019:

- 1) major offense at time of arrest (grouped by category and percentage);
- 2) major offense for the detainee population (grouped by category and percentage by facility); and
- 3) information regarding Baltimore City detainees being held outside of the city, including the total number of transports and the total cost in fiscal 2018 to move these detainees back to Baltimore City for counsel, court dates, or medical reasons.

The budget committees shall have 45 days to review and comment following receipt of the report. Funds restricted pending a 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:** The Department concurs with the recommended action.

2. Adopt the following narrative:

**Division of Pretrial Detention Criminal Justice and Data Report:**

Overall, the Division of Pretrial Detention (DPD) is dealing with a unique set of circumstances. The many changes caused by criminal justice reform are taking place within a difficult environment for correctional officer hiring and retention. In addition, the connection between different types of reform and the impact that they are having on detainee populations in Baltimore City is difficult to ascertain. To better understand these issues, the budget committees request a report from DPD, in consultation with the Judiciary, due by January 1, 2020, on key criminal justice reform data including the following:

- an evaluation of how criminal justice reforms and court-level factors are affecting DPD's population and operations. Reforms examined should include, but not be limited to, the Justice Reinvestment Act (JRA), bail reform, and changes in sentencing rules;
- an update on court case processing times and how it is affecting DPD population increases; and
- an update on the processes for reporting and sharing the JRA and any other relevant data with the Judiciary and the Governor's Office of Crime Control and Prevention, along with any data sharing impediments.

**Response:** The Department concurs with the recommended action.

3. Adopt the following narrative:

**Pretrial Release Services Program Report:** Given that the Pretrial Release Services Program (PRSP) now has a full year of data and experience under the Division of Pretrial Detention (DPD) management, the budget committees request a report that includes PRSP's first year performance, the integration with DPD, any efficiencies gained from relocating PRSP to DPD, as well as an update on the decrease in pretrial investigations over the last decade – and why the number of defendants under supervision has remained consistent while arrests, investigations, and total jailed varied significantly. A report should be submitted to the committees by October 30, 2019.

**Response:** The Department disagrees with the recommended action. In 1991, when the State assumed operations of the Baltimore City Jail the General Assembly passed legislation establishing DPDS and merging DPDS with PRSP. From 1991 to 2012 the appointing authority for PRSP was the Commissioner of the DPDS. In 2012 the Department was unofficially reorganized into regions and PRSP was placed under “Community Supervision.” However, the prior Administration failed to submit legislation to reflect the reorganization of 2012. The Department reverted to its statutorily mandated structure in 2015, resulting in PRSP being moved back under the authority of DPDS. Placing PRSP back under the authority of DPDS in 2015 does not constitute a realignment; it was simply a move to ensure the Department was operating in accordance with the Correctional Services Article. PRSP has over 20-years of operational implementation in accordance with statute. Therefore, the Department does not believe a report on performance is required.

Operationally, it is more efficient for PRSP to be under the purview of DPDS as this chain of command allows for close collaboration and consistency between all the Units of DPDS. PRSP works to responsibly and safely release defendants that pose no danger to the community or that would not pose a flight risk. This effectively helps with reducing the number of detainees housed at pretrial facilities.

In addition the Department has provided a written response to the number of defendants under supervision and is therefore not needed as part of an additional report.