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Report to the Committees on Finance and Criminal Justice on the Fiscal 2022 Executive Budget for the

Department of Correction

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Finance Division

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Department of Correction Overview

This report presents a review of the Department of Correction's (DOC or the Department) \$1.2 billion Fiscal 2022 Executive Budget. The section below presents an overview of the Department's expense budget. The next section highlights significant actions included in the Executive Plan. Although the Executive Plan includes mostly minor technical changes, an addition of 400 new Correction Officers in Fiscal 2022 is the first major new initiative to increase the Department's uniform headcount since Fiscal 2019. According to the Administration, this new class of recruits is an attempt to address the Department's current operational challenges relating to its COVID-19 mitigation strategy and the changing population in the City's jails. However, a recent report from the *Nunez* independent federal monitor revealed deep concerns about the Department's management of its uniformed workforce. This report will discuss those concerns in the context of the Fiscal 2022 Executive Budget. Analysis and highlights of the DOC's Fiscal 2022 Executive Capital Budget, Commitment Plan and Capital Strategy follow. For additional information on the Department's budget and its various programs, please refer to the: Report of the Finance Division on the Fiscal 2022 Preliminary Budget for the Department of Correction.

DOC Spending and Headcount

DOC Expense Budget						
	FY19	FY20	FY21	Executive Plan		*Difference
Dollars in Thousands	Actual	Actual	Adopted	FY21	FY22	FY21-FY22
Personal Services	\$1,182,001	\$1,112,106	\$1,000,681	\$979,707	\$1,020,245	\$19,564
Other Than Personal Services	192,536	175,110	149,341	159,194	156,660	7,319
TOTAL	\$1,374,537	\$1,287,217	\$1,150,022	\$1,138,901	\$1,176,905	\$26,883
Full-Time Positions -Uniform	10,189	9,237	7,219	7,219	7,460	241
Full-Time Positions - Civilian	1,749	1,741	1,769	1,670	1,838	69
TOTAL	11,938	10,978	8,988	8,889	9,298	310

^{*}The difference of Fiscal 2021Adopted Budget compared to Fiscal 2022 Executive Budget.

DOC's Fiscal 2022 Executive Budget totals \$1.2 billion, including \$1 billion for personal services (PS) and \$156.6 million for other than personal services (OTPS). DOC's projected Fiscal 2022 Budget is \$26.8 million more than its Fiscal 2021 Adopted Budget of \$1.15 billion, an increase of just over two percent, and \$19.7 million more than its Fiscal 2022 Preliminary Budget of \$1.6 billion, or an increase of less than two percent. DOC's Fiscal 2022 budget makes up approximately one percent of the City's \$98.6 billion Executive Budget.

The Fiscal 2022 Executive Budget increases the Department's headcount by approximately three percent, from 8,988 to 9,298. Three percent of the City's total workforce is employed by the Department. DOC is one of the City's four uniformed agencies and the Department's 7,460 uniformed positions make up 12 percent of the City's total uniformed workforce in Fiscal 2022. Eighty percent of the headcount is uniformed with 7,460 positions and the remaining 20 percent, 1,838 positions, is civilian. The headcount increase is driven almost entirely by 400 additional uniformed staff added in Fiscal 2022.

Notably, the Department's budget has seen minor year to year changes since 2019 while headcount, average daily population (ADP) in custody, and the Department's operational footprint have all decreased significantly. Compared to Fiscal 2019, total budgeted headcount has declined by 22 percent in Fiscal 2022. In Fiscal 2019, ADP was 7,938 and fell to 5,387 in the

third quarter of Fiscal 2021, a decrease of 32 percent. By comparison, the Fiscal 2022 Executive Budget represents a decrease of just 14 percent compared to actual spending in Fiscal 2019.

DOC Budget by Funding Source

DOC typically is funded almost entirely with City tax-levy (CTL) funding, accounting for 99 percent of its budget in Fiscal 2021. Notably, the Executive Budget swaps \$280 million of CTL with federal funding from the American Rescue Plan Coronavirus Local Fiscal Recovery Fund (ARP). An eligible use category for ARP funds is the replacement of lost revenue to support the cost of core government services. This funding appears in the Department's budget under the Unit of Appropriation (U/A) for operations and will support 3,600 positions. This action reduces the CTL portion of DOC's budget to \$886 million from \$1.13 billion at Adoption, a decrease of approximately 22 percent. As a result, CTL is projected to make up 75 percent of DOC's funding in Fiscal 2022, and federal funding represents roughly 25 percent of the total projected budget. This funding swap dramatically increases the Department's federal funding, from \$8.3 million Fiscal 2021 to \$288.3 million in Fiscal 2022.

	FY19	FY20	FY21	Executive Plan		*Difference	
Funding	Actual	Actual	Adopted	FY21	FY22	FY21-FY22	
City Funds	\$1,366,048	\$1,265,271	\$1,139,741	\$1,127,556	\$886,624	(\$253,117)	
Other Categorical	4,640	2,842	0	737	0	0	
Capital- IFA	744	734	778	778	778	0	
State	929	260	1,109	1,184	1,109	0	
Federal - Other	573	17,779	8,286	8,286	288,286	(280,000)	
Intra City	1,603	331	108	361	108	\$0	
TOTAL	\$1,374,537	\$1,287,217	\$1,150,022	\$1,138,901	\$1,176,905	\$26,883	

^{*}The difference of Fiscal 2021 Adopted Budget compared to Fiscal 2022 Executive Budget.

Significant Programmatic Changes

The table below delineates DOC's budget from Fiscal 2019 through the Fiscal 2022 by program area, as defined by the Budget Function Analysis report prepared by the Office of Management and Budget (OMB). The difference compares the Fiscal 2022 Executive Budget and the Fiscal 2021 Adopted Budget.

	FY19	FY20	FY21	Executive Plan		*Difference
	Actual	Actual	Adopted	FY21	FY22	FY21-FY22
Budget by Program Area						
Administration-Academy and Training	\$33,807	\$18,396	\$15,532	\$14,761	\$18,093	\$2,561
Administration-Management & Administration	102,150	108,848	98,755	102,224	99,574	819
Health and Programs	52,711	52,228	46,670	46,382	49,177	2,507
Jail Operations	1,025,578	944,084	906,852	882,870	913,419	6,567
Operations-Hospital Prison Ward	25,125	24,856	14,508	14,508	14,953	444
Operations-Infrastructure & Environmental Health	69,692	71,323	28,995	38,816	42,012	13,017
Operations-Rikers Security & Ops	65,473	67,481	38,710	39,340	39,678	968
TOTAL	\$1,374,537	\$1,287,217	\$1,150,022	\$1,138,901	\$1,176,905	\$26,883

^{*}The difference of Fiscal 2021 Adopted Budget compared to Fiscal 2022 Executive Budget.

The Fiscal 2022 Executive Budget supports seven program areas within the Department. Across its program areas, DOC's budget is remarkably stable. Core functions such as Jail Operations and Management and Administration have experienced minimal year over year changes since Fiscal 2019. In the Fiscal 2022 Executive Budget, program areas for support functions saw the most significant proportional changes as the Department responds to changing operational needs on Rikers Island and across the City. Infrastructure and Environmental Health program area grew by

45 percent compared to its budget at Adoption. DOC is charged with the complete responsibility of the infrastructure on Rikers Island, including building systems, facilities, and maintenance and this program area supports the cost of these activities. Academy and Training increased by 16 percent, or \$2.5 million, from \$15.5 million at Adoption to \$18.1 million in Fiscal 2022.

Executive Plan Overview: Changes in the Executive Plan and Agency Issues

Year:	FY21	FY22	FY23	FY24	FY25
New Needs:	\$0	\$10.7M	\$350K	\$350K	\$350K
Other Adj.:	(\$1.4M)	\$9M	\$8.6M	\$8.6M	\$8.6M
Total:	(\$1.4M)	\$19.7M	\$8.9M	\$8.9M	\$8.9M

Detailed Changes in the Plan

The Executive Plan introduced \$10.7 million in new needs and \$8.9 million in other adjustments in Fiscal 2022. The Plan does not include savings for DOC and makes minimal changes to the Department's projected budget. Savings introduced in the November 2020 Financial Plan and the Preliminary Plan reduced the Department's Fiscal 2022 projected budget by decreasing the uniform overtime budget by approximately \$60 million. The figure above reflects the Executive Plan's changes in Fiscal 2021, Fiscal 2022 and the outyears. For more detailed information on changes see Appendix A. Major actions included in the Plan are outlined below.

New Needs

- Correction Officer Recruit Class. The Fiscal 2022 Executive Budget includes \$10.4 million in Fiscal 2022 only for a new class of 400 Correction Officers (CO). According to the Department and the Office of Management and Budget, operational challenges at the agency have resulted in excessive consecutive shifts for uniformed staff and staffing shortages across the Department. The Administration will attempt to address these operational challenges with the new academy class, however, the estimated process for recruiting, hiring, and training for the 400 Correction Officers is approximately eight months. It is unclear how the additional headcount will address the Department's current operational issues before the class is fully active in the next fiscal year. This will be the first academy class since July 2019 when 387 new recruits graduated the academy and joined the Agency. This headcount addition is not a permanent increase in headcount and only appears in Fiscal 2022. However, the Department is currently over its authorized uniform headcount.
- **PS Adjustment.** The Fiscal 2022 Executive Budget includes \$350,000 for three new positions in the Management and Administration program area.

Other Adjustments. The Executive Budget includes a net decrease of \$1.4 million in Fiscal 2021 and a net increase of \$9 million in Fiscal 2022.

• American Rescue Plan Coronavirus Local Fiscal Recovery Fund. The Executive Budget includes a revenue swap of \$280 million in federal funding replacing City tax-levy. In the Executive Budget, ARP funds are used to support approximately 25 percent of the Department's operating costs in Fiscal 2022 including the PS costs for 3,600 uniformed

staff. The Financial Plan leaves the Department's budget almost entirely City funded in all the outyears.

- **Heat, Light and Power.** The Executive Budget includes a reduction of \$1.6 million in Fiscal 2021 only due to re-estimates. Beginning in Fiscal 2022, the Executive Plan introduces a baseline increase of \$7.5 million for heat, light and power. According to the Department of Citywide Administrative Services (DCAS), the baseline increase stems from revised billing between the City and Con-Ed for the co-generation plant at Rikers Island. The Department's total budget for heat, light and power is \$22.8 million in Fiscal 2022.
- Motor Fuel. The Executive Budget reflects a re-estimate of \$644,461 in Fiscal 2021 for motor fuel for the Department's fleet. The Executive Plan includes a baseline increase of \$216,066 for motor fuel beginning in Fiscal 2022. As of Fiscal 2021, the Department maintains a fleet of 606 vehicles.

Agency and Budget Issues

In 2015, federal monitor Steve J. Martin was appointed to oversee a wide range of reforms to address violence in the City's jails as a result of the Consent Judgement in *Nunez v. City of New York et. al.* On May 11, 2021, the federal monitor released its eleventh report and concludes that, despite making considerable progress in some areas of reform, "...the Department struggles to meaningfully reform the Agency." The monitor finds that three overarching issues continue to hamper DOC's reform efforts: the quality of jail leadership, dysfunctional staffing and resource management, and the inability to effectively hold staff accountable for misconduct.

Headcount, Staffing and Management. The Department's actual and budgeted uniform headcount continues to be imbalanced in the Executive Budget and the Plan does not address the Agency's staffing, overtime, and managerial challenges. The Fiscal 2022 Executive Budget supports a budgeted uniform headcount of 7,219 in Fiscal 2021. However, the Department maintains an actual uniform headcount 8,673, an excess 1,454 positions.

Rather than suffering from insufficient staffing, staff are inadequately deployed and inefficiently managed which leads to a perception of understaffing, reports the federal monitor.² Remarkably, the monitor states that, in most cases, "...it appears the Staff and Supervisors...are simply unwilling or unable to accept and execute their core responsibilities, such as to provide basic services and resolve interpersonal conflict, and instead seek more staff to address the problem."³ The monitor has consistently found that DOC's default operational posture is excessive staff presence, which runs counter to the claim that the Department has insufficient headcount to perform its core functions. Rather, the Department struggles to supervise its staff effectively to provide basic services.

Of concern, as the monitor writes, "Facility operations reveal an unusually large number of Staff working in the Facilities despite some markers that could suggest understaffing." The monitor's finding about unusually large number of staff comes as the ADP continues to decline over the long run, dropping significantly in the last Fiscal Year as a result of COVID-19. It is unclear how

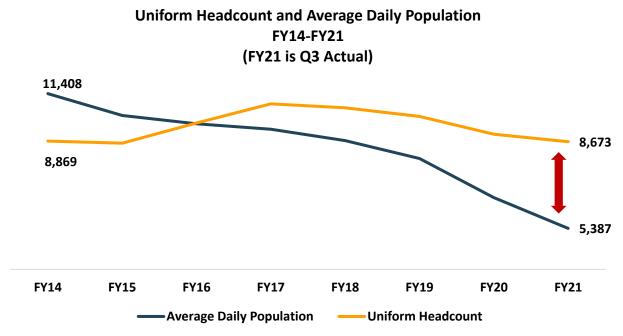
¹ Eleventh Report of the Nunez Independent Monitor, 6.

² Id., 12.

³ Id., 13.

⁴ Id., 13.

the addition of 400 new Correction Officers in Fiscal 2022 Executive Budget addresses these issues and may exacerbate them as the Department's headcount grows in Fiscal 2022.



Source: FY14-FY21 MMR, PMMR and DOC

The Fiscal 2022 Executive Budget includes \$84.1 million for uniform overtime in Fiscal 2021 and \$80.6 million in Fiscal 2022. According to DOC, while the Department alters its operations to reduce density and address COVID-19, significant numbers of staff consistently call out sick or are unavailable for service for various reasons. As of May 2021, 1,535 members of service were unavailable for work, or nearly 18 percent of the active uniform headcount. As a result, the Department has seen a significant increase in overtime. DOC's actual spending on uniform overtime in Fiscal 2019 and Fiscal 2020 was \$154.8 million and \$125.1 million respectively. As of March 2021, with four months remaining in the fiscal year, the cost of uniform overtime was \$95 million, exceeding the \$84.1 million overtime budget in Fiscal 2021 included in the Executive Plan. The Executive Plan appears to have undestimated the operational challenges facing the Department and its need to rely on excessive overtime.

The monitor's report raises concerns about supervisory capacity at the Department. Serious concerns about the Agency's ability to supervise its uniform workforce and line staff were raised in the previous report and appear to be persistent.⁵ The bulk of the Department's misaligned headcount can be found in the Correction Officer rank. The Fiscal 2021 budgeted headcount for Correction Officers is 6,315 while the actual headcount as of May 10, 2021 is 7,803. The actual and budgeted headcount for Captains are more closely aligned, with 734 budgeted positions and 736 actual in Fiscal 2021. At the higher supervisory ranks the budgeted and actual headcounts diverge further. The Executive Budget includes a budgeted headcount of 122 Assistant Deputy Wardens, six Deputy Wardens in Command, and 17 Wardens. The actual headcounts are significantly under the budgeted headcounts with 95 Assistant Deputy Wardens, two Deputy

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⁵ Tenth Report of the Nunez Independent Monitor, 26.

Wardens in Command, and ten Wardens. In total, the Executive Budget projects that the Department requires 904 supervisory positions to manage a line staff of 6,317 Correction Officers. In reality, 870 supervisors are managing a workforce of 7,803 in Fiscal 2021.

Capital Program

Fiscal 2022 Executive Capital Budget for Fiscal 2022-2025

The proposed Fiscal 2022 Capital Budget for DOC is \$407.9 million in Fiscal 2022 and \$5.8 billion across Fiscal 2022-2025, a decrease of approximately \$302 million, or five percent, when compared to the Fiscal 2022 Preliminary Capital Budget. Changes in Fiscal 2022 amount to a \$139 million decrease, or 25 percent. Changes in the procurement and project timelines for several new jail facility projects are responsible for the decreased budget for Fiscal 2022.

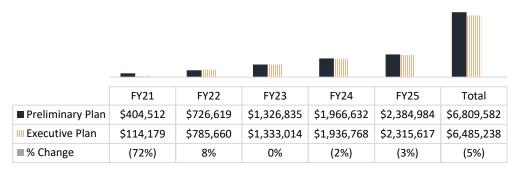
Plan	FY22	FY23	FY24	FY25	Total
Preliminary Plan	\$546,634	\$1,292,510	\$1,955,304	\$2,331,406	\$6,125,855
Executive Plan	\$407,862	\$1,305,939	\$1,927,421	\$2,182,448	\$5,823,670
Change	(25%)	1%	(1%)	(6%)	(5%)

Dollars in Thousands

Fiscal 2022 Executive Capital Commitment Plan for Fiscal 2021-2025

The Department's Executive Commitment Plan includes \$6.5 billion in Fiscal 2021-2025, a five percent decrease when compared to the Preliminary Plan. This represents seven percent of the City's total \$93 billion Commitment Plan for Fiscal Years 2021-2025.

DOC Capital Commitment Plan: FY21-25



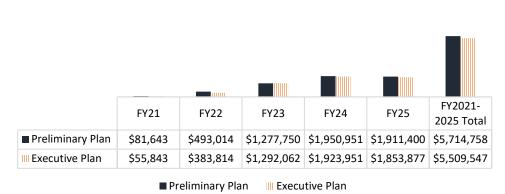
Dollars in Thousands

Fiscal 2020 Executive Capital Commitment Plan Highlights

• Borough Based Jails. Before the onset of COVID-19, the City Council and the Administration collaborated to set in motion the closure of Rikers Island's jail facilities and the transition to the Borough Based Jails system by 2026. The central component of this plan is the construction of four new jail facilities under an ambitious timeline and a ULURP change that prohibits Rikers Island's use as a jail after December 31, 2026. As a result of COVID-19, in October 2020, the Administration announced that the original deadline of December 31, 2026 to transition from Rikers Island to new Borough Based Jail Facilities would be delayed until 2027.

Most of DOC's Capital Commitment Plan supports the construction of the new Borough Based Jails facilities. Of the Department's \$6.5 billion Fiscal 2022 Executive Capital Commitment Plan, \$5.5 billion, or 85 percent, is committed to the four new jail facilities, the Queens garage project, and program management consultants to supervise and coordinate the projects. The Executive Capital Commitment Plan introduces minimal overall changes compared to the Preliminary Plan. The Executive Plan decreases commitments by \$25.8 million in Fiscal 2021 and \$109 million in Fiscal 2022, a reduction of 32 percent and 22 percent, respectively. In Fiscal 2021 these changes are driven mainly by a 100 percent reduction of the \$21 million commitments for the new Queens facility. In Fiscal 2022, the Executive Capital Plan reduces planned commitments of \$232.4 million for the new Manhattan facility by 64 percent, a decrease of \$150 million. Decreases included in the Executive Budget reflect re-estimates of expected commitments and do not indicate any additional delays to the projects. The chart below compares the Fiscal 2022 Preliminary Capital Commitment Plan to the Fiscal 2022 Executive Capital Commitment Plan for all four new jail facilities, the Queens garage, and the Program Management Consultants. For detailed information on projects and the changes included in the Executive Plan see Appendix B.

The figure below compares commitments in the Preliminary and Executive Plans.



Borough Based Jails Projects Fiscal 2021-2025

Dollars in thousands

- Rose M. Singer Center (RMSC). The Executive Capital Commitment Plan includes \$88.3 million for eight projects at RMSC. The Plan shifts approximately \$80.5 million for six projects at RMSC from Fiscal 2021 to Fiscal 2022. These projects include \$10 million for duct work, heating, ventilation, and cooling equipment, \$30 million for power upgrades, and \$7.1 million for modifying the facility's entrances. The Executive Capital Commitment Plan also includes \$25.7 million for roof replacement at the facility in Fiscal 2022.
- Investigations Case Management System and Inmate Management System. The
 Executive Capital Commitment Plan shifts \$13.4 million from Fiscal 2021 to Fiscal 2022 for
 the Department's investigative case management system. The investigative case
 management system supports the Department's use of force investigations. Investigating
 use of force is central to the agency's ongoing efforts to comply with the Nunez Consent

Judgement, which requires DOC to implement a reform plan to address violence in the jails. The Executive Capital Commitment Plan also shifts \$14.1 million from Fiscal 2021 to Fiscal 2022 for the Department's inmate management system.

Appendix A: Budget Actions in the Executive Financial Plan

	FY21			FY22		
Dollars in Thousands	City	Non-City	Total	City	Non-City	Total
DOC Budget as of the Fiscal 2022 Preliminary Budget	\$1,128,991	\$11,346	\$1,140,337	\$1,146,862	\$10,281	\$1,157,143
Executive Plan, New Needs						
Correction Officer Recruit Class	\$0	\$0	\$0	\$10,427	\$0	\$10,427
PS Adjustment	0	0	0	350		350
Subtotal, New Needs	\$0	0	\$0	\$10,777	\$0	\$10,777
Executive Plan, Other Adjustments						
American Rescue Plan Coronavirus Local Fiscal Recovery						
Fund	\$0	\$0	\$0	(\$280,000)	\$280,000	\$0
Heat, Light and Power	(1,583)	0	(1,583)	7,495	0	7,495
Heating Fuel Adjustment	(42)	0	(42)	19	0	19
Motor Fuel	(644)	0	(644)	216	0	216
Technical Adjustment	345	0	345	972	0	972
MS Enterprise Leasing	474	0	474	0	0	0
Labor Funding	15	0	15	15	0	15
Lease Adjustment	0	0	0	269	0	269
Other Adjustments, Subtotal	(\$1,435)	\$0	(\$1,435)	(\$271,014)	\$280,000	\$8,986
TOTAL, All Changes	(\$1,435)	\$0	(\$1,435)	(\$260,237)	\$280,000	\$19,763
DOC Budget as of the Fiscal 2022 Executive Budget	\$1,127,556	\$11,346	\$1,138,902	\$886,625	\$290,281	\$1,176,906

Appendix B: Detailed Fiscal 2022 Executive Capital Commitment Plan for Borough Based Jails

Queens Garage	FY21	FY22	FY23	FY24	FY25	Total
Preliminary Plan	\$24,967	\$53,720	\$13,303	\$0	\$0	\$ 91,990
Executive Plan	24,967	53,720	13,303	0	0	91,990
% Change	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Change	\$0	\$0	\$0	\$0	\$0	\$0
New Queens Detention Facility	FY21	FY22	FY23	FY24	FY25	Total
Preliminary Plan	\$20,976	\$63,187	\$279,642	\$491,205	\$466,998	\$1,322,008
Executive Plan	0	99,163	264,642	496,205	446,998	1,307,008
% Change	(100.0%)	56.9%	(5.4%)	1.0%	(4.3%)	(1.1%)
Change	(\$20,976)	\$35,976	(\$15,000)	\$5,000	(\$20,000)	(\$15,000)
New Brooklyn Detention Facility	FY21	FY22	FY23	FY24	FY25	Total
Preliminary Plan	\$100	\$66,466	\$280,114	\$478,373	\$472,162	\$1,297,215
Executive Plan	0	66,566	280,114	478,373	472,162	1,297,215
% Change	(100.0%)	0.2%	0.0%	0.0%	0.0%	0.0%
Change	(\$100)	\$100	\$0	\$0	\$0	\$0
New Bronx Detention Facility	FY21	FY22	FY23	FY24	FY25	Total
Preliminary Plan	\$289	\$45,248	\$260,511	\$442,649	\$436,311	\$1,185,008
Executive Plan	0	45,537	260,511	442,649	436,311	1,185,008
% Change	(100.0%)	0.6%	0.0%	0.0%	0.0%	0.0%
Change	(\$289)	\$289	\$0	\$0	\$0	\$0
New Manhattan Detention Facility	FY21	FY22	FY23	FY24	FY25	Total
Preliminary Plan	\$100	\$232,424	\$416,188	\$511,726	\$509,493	\$1,669,931
Executive Plan	0	82,524	445,500	479,726	471,970	1,479,720
% Change	(100.0%)	(64.5%)	7.0%	(6.3%)	(7.4%)	(11.4%)
Change	(\$100)	(\$149,900)	\$29,312	(\$32,000)	(\$37,523)	(\$190,211)
New Jails Facilities	FY21	FY22	FY23	FY24	FY25	Total
Preliminary Plan	\$35,211	\$31,969	\$27,992	\$26,998	\$26,436	\$148,606
Executive Plan	30,876	36,304	27,992	26,998	26,436	148,606
% Change	(12.3%)	13.6%	0.0%	0.0%	0.0%	0.0%
Change	(\$4,335)	\$4,335	\$0	\$0	\$0	\$0