

THE COUNCIL OF THE CITY OF NEW YORK

Hon. Corey Johnson
Speaker of the Council

Hon. Keith Powers
Chair, Committee on Criminal Justice



Report of the Finance Division on the
Fiscal 2019 Preliminary Budget and the
Fiscal 2018 Preliminary Mayor's Management Report for the
Board of Correction

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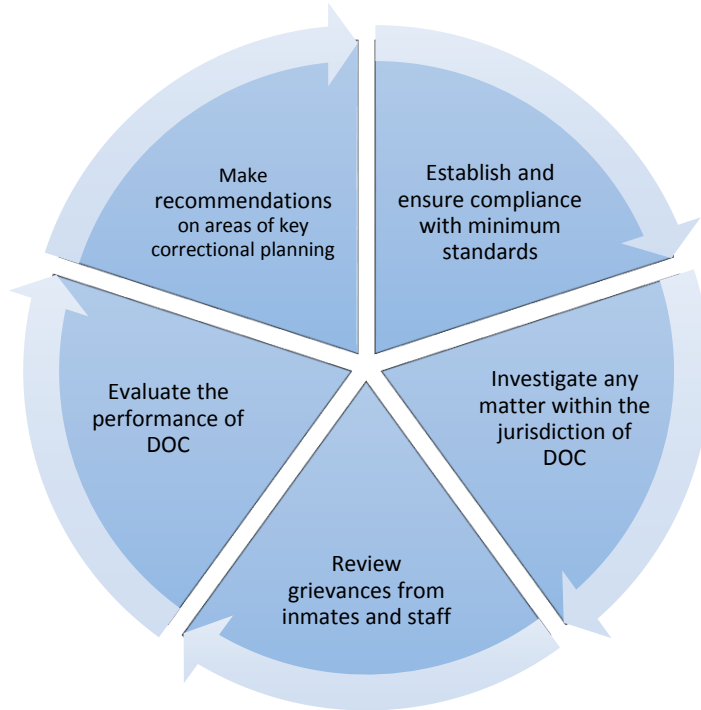
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Board of Correction Overview

The Board of Correction (BOC or the Board) is a nine-person, non-judicial oversight board that regulates, monitors, and inspects the City’s correctional facilities. The City Charter mandates the Board’s five functions:



The Board monitors conditions in the City’s jails, investigates serious incidents, evaluates the performance of the Department of Correction (DOC or the Department), reviews inmate and employee grievances, and makes recommendations of DOC’s long range programs and capital planning for the Department. Additionally, the Board has field representatives in the City jails. The field representatives conduct site visits at all facilities operated by DOC. Field representatives handle

prisoner and staff complaints, investigate suicides, homicides and other violent and unusual incidents, and help to smooth the delivery of basic services and calm tensions in the facilities.

The Board holds public meetings on the second Tuesday of each month, except April, August, and December. The public meetings typically include public comments on votes, presentation of limited variance requests to BOC Minimum Standards, discussion and votes on variance requests, correctional health services update, and reports from BOC’s visits to DOC facilities. Through the public meetings, the Board monitors ongoing issues at DOC. This includes the Department’s use of Enhanced Supervision Housing (ESH), monthly progress on young adult housing, the length of lockdowns and their impact on programs, implementation of the Prison Rape Elimination Act (PREA), and monthly progress of Health + Hospital’s Correctional Health Services (CHS).

This report provides a review of BOC’s Preliminary Budget for Fiscal 2019. In the first section, the highlights of the \$3 million Fiscal 2019 expense budget are presented in a Financial Summary chart that details BOC’s budget by unit of appropriation, funding source, and headcount. This is followed by an analysis of significant budget actions included in the November and Preliminary Financial Plans for Fiscal 2018-2022. BOC does not have a Capital Budget and is not an agency featured in the Mayor’s Preliminary Management Report.

Financial Plan Summary

The BOC's budget consists of two units of appropriation (UA), one for Personal Services (PS) and one for Other Than Personal Services (OTPS). Included in the PS budget is funds for all of the Board's administrative staff, whose responsibilities include development of minimum standards governing DOC's operations and monitoring of the Department's compliance with these standards. The OTPS budget is used to purchase supplies, materials and other services required to support agency operations.

BOC Financial Summary						
<i>Dollars in Thousands</i>						
	2016	2017	2018	Preliminary Plan		*Difference
	Actual	Actual	Adopted	2018	2019	2018 - 2019
Spending						
Personal Services	\$1,380	\$1,706	\$2,635	\$2,572	\$2,902	\$267
Other Than Personal Services	114	132	201	244	127	(73)
TOTAL	\$1,493	\$1,838	\$2,836	\$2,816	\$3,029	\$193
Funding						
City Funds			\$2,836	\$2,795	\$3,029	\$193
Other Categorical			0	21	0	0
TOTAL	\$1,493	\$1,838	\$2,836	\$2,816	\$3,029	\$193
Budgeted Headcount						
Full-Time Positions	18	22	38	39	39	1
TOTAL	18	22	38	39	39	1

**The difference of Fiscal 2018 Adopted Budget compared to Fiscal 2019 Preliminary Budget.*

The Board of Correction's Fiscal 2019 Preliminary Budget totals \$3 million, \$193,000 more than the Fiscal 2018 Adopted Budget of \$2.8 million. The personal services (PS) budget grew by \$267,000, but is offset by a decrease in the other than personal services (OTPS) budget of \$73,000. The increase is entirely due to an increase in full-time salary for one new investigative position, which will be dedicated to reviewing inmate deaths, with a salary of \$86,000 in Fiscal 2019 and the outyears. The sole source of funding for BOC's budget is City-tax levy (CTL). Of BOC's Fiscal 2019 Preliminary Budget of \$3 million, the PS budget accounts for 96 percent of BOC's overall budget and the OTPS budget accounts for four percent. The Board's staff is made up of four different units: the Executive Director's office, which will include the death investigator (seven positions); General Counsel (four positions); Monitoring (16 positions); and Research (nine positions). The Monitoring team has Standards Specialists who conduct site visits at DOC facilities.

BOC's Fiscal 2018 budget decreased by \$20,000 since the Adopted Budget of \$2.8 million. This is due to a \$63,000 decrease in the PS budget, but this is offset by a \$43,000 increase in the OTPS budget. The decrease in the PS budget is due to recognizing PS budget savings due to hiring delays.

Financial Plan Actions

Citywide Savings

- **Personal Services Accruals.** BOC will realize \$56,000 in Fiscal 2018 and \$60,000 in Fiscal 2019 in re-estimates due to a delay in hiring a Project Director who would lead BOC's oversight of sexual abuse and harassment standards. As shown in the table above, BOC's headcount was increased by 20 positions from Fiscal 2016 to Fiscal 2018. The increase presented a hiring challenge for the BOC. The Board's actual headcount as of March 2018 is 27 staff members.

New Needs

- **Investigative Position.** The Fiscal 2019 Preliminary Plan includes \$43,000 in Fiscal 2018 and baselined funding of \$86,000 in Fiscal 2019 and in the outyears for a permanent post to investigate all death of people in DOC custody on Rikers, borough jails, prison hospital wards, transportation, and elsewhere. This will be the Board's only death investigator, which is critical to complying with City rules requiring the Board to conduct reviews of deaths in DOC custody.

Jail Regulations

The Board of Correction establishes and ensures compliance with minimum standards regulating conditions of confinement, correctional health, and mental health care in all City correctional facilities. The following sections provide an overview of the minimum standards, variances, and highlights of the Board's published reports.

Minimum Standards & Variances

In 1978, the Board adopted a set of sixteen Minimum Standards to provide what it considered to be the basic elements necessary to ensure the safe and humane housing of inmates. The original Standards include provisions ensuring non-discriminatory treatment of inmates and inmate access to courts, religious services, telephones, visitors, and recreation. The original Standards remained substantially unchanged until 1985. Most recently, the Board created new standards regulating punitive segregation and Enhanced Supervision Housing (ESH). ESH is a unit within the jails used by DOC to closely monitor what the Department considers to be the most dangerous inmates in custody.

Mental Health Minimum Standards

The delivery of correctional health and mental health services is a critical part of the Board's mission. Spurred by its longstanding concern about inmate suicides, the Board held public hearings in the early 1980s to explore the quality and availability of mental health services provided to inmates. Thereafter, the Board worked collaboratively with the Departments of Correction, Health and Mental Hygiene, the Mayor's Office of Operations, the Office of Management and Budget and contract service providers to develop Mental Health Minimum Standards for the City's jails.

When the Mental Health Standards were implemented in 1985, New York City became the first jurisdiction in the country to *voluntarily* require the provision of appropriate mental health staffing and other resources to individuals incarcerated in its jails.

Key elements of these Standards include:

- Mental health screening of all incoming inmates within 24 hours of their arrival in DOC custody;
- Training of correctional and medical staff in the recognition of mental and emotional disorders;
- Special housing areas for inmates with mental or emotional disorders in need of close supervision;
- 24-hour access to mental health services personnel for emergency psychiatric care; and
- An inmate observation aide program that employs trained, carefully selected inmates to help monitor those inmates identified as potential suicide risks.

Health Care Minimum Standards

The Health Care Minimum Standards, which were implemented in 1991, require that the quality of services provided to inmates be consistent with "accepted professional standards and sound professional judgment and practice." For instance, on weekdays inmates must have access to sick call within 24 hours of requesting it; medical intake screening must occur within 24 hours of entering DOC custody, and timely access to follow-up care and specialty clinics on Rikers Island, the borough facilities, and in hospitals must be provided.

Sexual Abuse and Sexual Harassment Standards

The Elimination of Sexual Abuse and Sexual Harassment in Correctional Facilities Minimum Standards, which were implemented in 2016, are designed to detect, prevent and respond to sexual abuse and sexual harassment of persons incarcerated in jails and other facilities operated by the Department.

In April 2015, the New York City Public Advocate Letitia James petitioned the Board to adopt rules consistent with national standards that the Department of Justice ("DOJ") had promulgated pursuant to the Prison Rape Elimination Act of 2003 ("PREA"), 42 U.S.C. § 15601 (codified in 28 C.F.R. Part 115), et seq., in response to the epidemic of sexual violence in the nation's prisons and jails. The Board accepted the petition at its June 9, 2015 meeting, and after several months of fact-finding by the Board's ad hoc PREA Committee, developed proposed rules which incorporate in whole or in part many elements of the national standards.

Variations

The Department of Correction and NYC Health and Hospitals (H+H) may apply for a variance from a specific subdivision or section of the minimum standards, mental health care minimum standards or health care minimum standards when compliance cannot be achieved or continued.

The Board may include requirements as conditions on granting a variance. Any conditions are listed in the Record of Variance action. Some examples of recurring variances submitted by DOC and H+H are as follows:

- Minimum Standard 1-02(c)(1): extends date by which the Department shall implement the requirement that inmates aged 19-21 be housed separately and apart from inmates over the age of 21;
- Minimum Standard 1-16(c)(1)(ii): allows the Department to house people in custody ages 18-21 in Enhanced Supervision Housing; and
- Minimum Standards 2-05(b)(2)(i-ii): allows psychiatrists to see and evaluate stable adult patients on psychotropic medication in the general population at least every 28 days, rather than every 14 days.

Published Reports

The Board conducts independent research of DOC and publishes its reports online. Some highlights include the following:

- Lockdowns Report, January 8, 2018. The Board of Correction monitors the length of lockdowns and their impact on programs and services mandated by Minimum Standards, including access to health and mental health services. Lockdowns hinder DOC's and Correctional Health Services' ability to meet the Minimum Standards. As a security response that impacts a large number of people and services, lockdowns also contribute to perceptions of unfair and excessive punishment, frustrations, and tensions in the facilities.
- An Assessment of Enhanced Supervision Housing for Young Adults, July 24, 2017. In October 2014, as the Board debated historic punitive segregation reforms, the Department proposed a new restrictive housing unit, Enhanced Supervision Housing, that it believed to be a critical part of its punitive segregation and violence reduction plans. The Board ultimately approved a modified version of the proposal. BOC staff published an April 2017 report studying the first twenty-two months of adult ESH placement (February 2015 - November 2016) and is intended to inform the Board's discussion of the effectiveness of ESH. In July 2017, BOC staff published a second report studying ESH for Young Adults, reviewing all young adult placements between September 2016 and March 2017.

More can be found here: <http://www1.nyc.gov/site/boc/reports/board-of-correction-reports.page>

Appendix

A: Budget Actions in the November and the Preliminary Plans

<i>Dollars in Thousands</i>	FY 2018			FY 2019		
	City	Non-City	Total	City	Non-City	Total
BOC Budget as of the Fiscal 2018 Adopted Budget	\$2,836	\$0	\$2,836	\$3,003	\$0	\$3,003
New Needs						
Investigative Position	\$43	\$0	\$43	\$86	\$0	\$86
Subtotal, New Needs	\$43	\$0	\$43	\$86	\$0	\$86
Other Adjustments						
Grant Roll FY17 to FY18	\$0	\$21	\$21	\$0	\$0	\$0
PS Accruals	(84)	0	(84)	(60)	0	(60)
Subtotal, Other Adjustments	(\$84)	\$21	(\$63)	(\$60)	\$0	(\$60)
TOTAL, All Changes	(\$41)	\$21	(\$20)	\$26	\$0	\$26
BOC Budget as of the Fiscal 2019 Prelim Budget	\$2,795	\$21	\$2,816	\$3,029	\$0	\$3,029