



**Department of Public Safety and Correctional Services**  
**Office of the Secretary**

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Department of Public Safety and Correctional Services  
Division of Pretrial Detention and Services - Q00T04  
Fiscal Year 2024 Operating Budget  
Response to Department of Legislative Services Analysis

Senate Budget and Taxation Committee  
Public Safety, Transportation and Environment Subcommittee  
Senator Sarah K. Elfreth, Chair  
March 2, 2023

Appropriations Committee  
Public Safety and Administration Subcommittee  
Delegate Tony Bridges, Chair  
March 1, 2023

### **Vacancy Savings**

**Issue: DPSCS should identify the overall amount of vacancy savings in fiscal 2022 that was used to fund other purposes and the amount of excess vacancy savings generated so far in fiscal 2023.**

#### **Response:**

In FY 2022, total fund vacancy savings totaled \$24.6 million of which \$10.8 or 44% was general funds, \$3.7 million or 15% was special funds, \$10.1 million or 41% was federal funds. The agency subobjects with the largest deficits were inmate food (\$7.5 million), utilities (\$2.9 million) and telecommunications (\$.8 million). DPSCS has 291 agency expenditure sub-objects, over 150 cost centers throughout its 40 budgetary programs. It is difficult to identify which specific deficits were covered by the surplus in object 1 due to the year end closing accrual process as well as interagency realignments. The amount of vacancy savings generated for FY 2023 can not be determined at this time given there are still eight pay periods remaining in this fiscal year and the Department is awaiting several statewide budget amendments, which will impact object 1.

## **Duvall Compliance**

**Issue: DPSCS should brief the committees regarding the actions and results of the legal consultants hired to assist with Duvall compliance. DPSCS should also comment on actions that are necessary to ensure that staff follow standards of compliance, particularly in areas where compliance has been downgraded.**

### **Response:**

The *Duvall v. Hogan* litigation is a class action lawsuit filed by a class of inmates housed in certain Baltimore Pretrial facilities. The major complaints asserted were that the physical plant conditions and the provision of medical and mental health care were unconstitutional. The litigation was initiated prior to the State assuming control of the Baltimore pretrial facilities and has been in existence for several decades.

### **Legal Consultants**

Outside counsel will participate in all aspects of the representation of the State in the *Duvall v. Hogan* litigation. This will include appearance in court, review of documents, preparation of documents for filing in court, potential hiring and preparation of expert witnesses for defendants, potential depositions of expert witness for plaintiffs, meeting with court monitors, and participating in tours of the pretrial facilities. Outside counsel might have other responsibilities that may arise as this litigation continues.

The paramount goal for the hiring of outside counsel is the hope that this will help bring this litigation to conclusion in the next eighteen months.

### **Actions to ensure staff follow compliance**

Compliance-related efforts continue to be implemented towards improving processes and documentation that address the central concerns of all medical and mental health care provisions. There has been significant work and progress towards achieving *Duvall* compliance and addressing the court-appointed medical and mental health monitors' observations; the work and progress are detailed in this submission. According to Exhibit 12 on page 19 of the analysis, the Department is listed as having been downgraded in all nine of the following listed provisions.

<b>Provision</b>	<b>Status (Analysis)</b>	<b>November 2021</b>	<b>May 2022</b>	<b>September 2022</b>
17b	Partial Compliance	Substantial Compliance	Substantial Compliance	Partial Compliance

19e -ii	Non-compliance	Non-compliance	Non-compliance	Non-compliance
19f	Non-compliance	Non-compliance	Non-compliance	Non-compliance
19g	Non-compliance	Non-compliance	Non-compliance	Non-compliance
20c	Partial Compliance	Substantial Compliance	Substantial Compliance	Partial Compliance
20d	Partial Compliance	Partial Compliance	Partial Compliance	Partial Compliance
21a	Partial Compliance	Partial Compliance	Partial Compliance	Partial Compliance
22b	Non-compliance	Non-compliance	Non-compliance	Non-compliance
22c	Non-compliance	Non-compliance	Non-compliance	Non-compliance

Based on a review of the analysis conducted over time, the Department has only been downgraded in two provisions. The Department continues to work with the court monitors and its health care providers to come into compliance with those provisions where it has been found to be either only partially compliant or noncompliant.

It should be noted that all of the provisions beginning with 19 are related to the Electronic Patient Health Records (EPHR) Project. As reported in the budget hearing for the Department's Administration and Offices, the Department is in the process of replacing the outdated EPHR with a new and more robust system. The application will provide the facility with an automated Electronic Medication Administration Record (EMAR) system including a scheduling system that interfaces with internal systems and external vendors. The new system will comply with legal requirements as outlined in the *Duvall v Hogan* case, and offer DPSCS comprehensive, primary, secondary, and specialty health services EPHR, as well as provide inpatient services, utilization management, and social work mental health services.

Subsequent to the vendor contract termination of Fusion, LLC, DPSCS received BPW approval for a two-year contract extension for the legacy EPHR vendor (NextGen) on June 8, 2022. DPSCS is actively working with NextGen to enhance the legacy application to meet the legal requirements as set forth in the 'Duvall vs. Hogan' consent decree. DPSCS is mandated by law to comply with a number of requirements to avoid costly penalties, including:

1. Process Improvement

2. Training
3. System Improvements
4. Enhanced Reporting

As the result of the contract termination with Fusion, LLC, the EPHR Schedule needs to be re-established. The new timeline is FY 2024.