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Department of Public Safety and Correctional Services
DPDS - Q00T4

Fiscal Year 2026 Operating Budget
Response to Department of Legislative Services Analysis

Senate Budget and Taxation Committee
Public Safety, Transportation and Environment Subcommittee
Senator Michael Jackson Chair
January 30, 2024

Appropriations Committee
Public Safety and Administration Subcommittee
Delegate Jazz Lewis, Chair
January, 29th, 2024

Duvall v. Moore Consent Decree

ISSUE: DPSCS should provide a compliance update for all Duvall provisions and the number of motions issued in fiscal 2024 and 2025 to date. DPSCS should also comment on the steps taken in the past to achieve greater compliance with Duvall, including a discussion of the effectiveness of third-party consultants and an expected timeline for compliance.

Response:

Paragraph 39 of the Duvall Settlement Agreement governs the determination of whether DPSCS achieved “substantial compliance” with the substantive requirements of the Agreement:

For purposes of this Settlement Agreement, “substantial compliance” means that the Commissioner has achieved: (a) full compliance with the components of the relevant substantive provision of this Settlement Agreement; or (b) sufficient compliance with the components of the relevant substantive provision of this Settlement Agreement such as to remove significant threat of constitutional injury to the plaintiff class posed by any lack of compliance with the components of that substantive provision. For purposes of

this Settlement Agreement, “substantive provision” means the requirements set forth in a single numbered paragraph in Section III of this Settlement Agreement.

The Department maintains “substantial compliance” has already been achieved and remains in “substantial compliance” with all substantive provisions of the Settlement Agreement as defined in Paragraph 39(b). In other words, to the extent any Court monitor previously found that DPSCS failed to achieve “full compliance with the components of [a] relevant substantive provision” of the Settlement Agreement, DPSCS maintains that the plaintiff class faces no “significant threat of constitutional injury” because of any lack of strict compliance. Accordingly, DPSCS remains in “substantial compliance” with all provisions of the Settlement Agreement.

Importantly, for reasons that remain unclear to DPSCS, neither the mental health monitor nor the former medical monitor measured DPSCS’s compliance with the substantive provisions of the Settlement Agreement pursuant to the definition of “substantial compliance” established by Paragraph 39(b). Instead, both monitors measured DPSCS’s compliance *only* pursuant to the definition of “substantial compliance” established by Paragraph 39(a); specifically, whether DPSCS “achieved … full compliance with the components of the relevant substantive provision of” the Settlement Agreement. Thus, the monitor’s reports should be understood in their proper context: they remain an incomplete assessment of DPSCS’s “substantial compliance” with the Settlement Agreement. DPSCS intends to continue to press the monitors to follow the explicit terms of the Settlement Agreement

In light of the foregoing, please find below the medical monitor’s and the mental health monitor’s most recent compliance findings. As noted in previous correspondence, the former medical monitor, Dr. Michael Puisis, abruptly resigned in December, 2023. The Court appointed Dr. Muthusamy Anandkumar as the new medical monitor in December, 2024. Thus, the compliance determinations Dr. Puisis made in his October, 2023 report, although dated, remain the most up-to-date monitor-issued ratings of the State’s substantial compliance. The mental health monitor, Dr. Jeffrey Metzner, last issued compliance findings in November, 2024. Both the medical monitor and the mental health monitor will update their compliance findings in May, 2025. Finally, on August 21, 2024, the Court ruled that the DPSCS satisfied Paragraph 23 of the Settlement Agreement through its sustained substantial compliance with that Paragraph. (Doc. 911). Thus, Paragraph 23 no longer remains subject to monitoring.

| PARAGRAPH | CATEGORY | DATE OF RATING | COMPLIANCE RATING |
|-----------|---------------|----------------|--------------------|
| 17.a. | Medical | October, 2023 | Partial Compliance |
| 17.b. | Medical | October, 2023 | Partial Compliance |
| 17.c. | Mental Health | November, 2023 | Partial Compliance |
| 17.d. | Medical | October, 2023 | Partial Compliance |
| 17.e. | Medical | October, 2023 | Partial Compliance |
| 18.a. | Medical | October, 2023 | Partial Compliance |
| 18.b. | Medical | October, 2023 | Partial Compliance |
| 18.c. | Medical | October, 2023 | Partial Compliance |
| 18.d. | Medical | October, 2023 | Partial Compliance |
| 18.e. | Medical | October, 2023 | Partial Compliance |

| | | | |
|-------|---------|---------------|------------------------|
| 18.f. | Medical | October, 2023 | Partial Compliance |
| 19.a. | Medical | October, 2023 | Partial Compliance |
| 19.b. | Medical | October, 2023 | Partial Compliance |
| 19.c. | Medical | October, 2023 | Non-Compliance |
| 19.d. | Medical | October, 2023 | Partial Compliance |
| 19.e. | Medical | October, 2023 | Non-Compliance |
| 19.f. | Medical | October, 2023 | Non-Compliance |
| 19.g. | Medical | October, 2023 | Non-Compliance |
| 20.a. | Medical | October, 2023 | Partial Compliance |
| 20.b. | Medical | October, 2023 | Partial Compliance |
| 20.c. | Medical | October, 2023 | Substantial Compliance |
| 20.d. | Medical | October, 2023 | Partial Compliance |
| 20.e. | Medical | October, 2023 | Substantial Compliance |

| | | | |
|-------|---------------|----------------|------------------------|
| 20.f. | Medical | October, 2023 | Substantial Compliance |
| 20.g. | Medical | October, 2023 | Substantial Compliance |
| 21.a. | Medical | October, 2023 | Partial Compliance |
| 21.b. | Medical | October, 2023 | Partial Compliance |
| 21.c. | Medical | October, 2023 | Partial Compliance |
| 21.d. | Medical | October, 2023 | Substantial Compliance |
| 22.a. | Medical | October, 2023 | Partial Compliance |
| 22.b. | Medical | October, 2023 | Non-Compliance |
| 22.c. | Medical | October, 2023 | Non-Compliance |
| 22.d. | Medical | October, 2023 | Non-Compliance |
| 24.a. | Medical | October, 2023 | Partial Compliance |
| 25.a. | Mental Health | November, 2024 | Substantial Compliance |
| 25.b. | Mental Health | November, 2024 | Partial Compliance |

| | | | |
|-----------|---------------|----------------|------------------------|
| 25.c. | Mental Health | November, 2024 | Substantial Compliance |
| 25.d. | Mental Health | November, 2024 | Substantial Compliance |
| 25.e. | Mental Health | November, 2024 | Substantial Compliance |
| 25.f.i. | Mental Health | November, 2024 | Substantial Compliance |
| 25.f.ii. | Mental Health | November, 2024 | Substantial Compliance |
| 25.f.iii. | Mental Health | November, 2024 | Partial Compliance |
| 25.f.iv. | Mental Health | November, 2024 | Substantial Compliance |
| 25.g. | Mental Health | November, 2024 | Substantial Compliance |
| 25.h. | Mental Health | November, 2024 | Substantial Compliance |

DPSCS continues to maintain that the above ratings fail to reflect an accurate or complete assessment, as mandated by the Settlement Agreement, and will continue to insist upon the enforcement of the plain terms of the Settlement Agreement.

Chesapeake Detention Facility Contract

ISSUE: DPSCS should discuss the outcome of the meeting with USMS as well as the reasoning for renewing the contract and the agency's strategies to reduce the need for general funds in fiscal 2025 and 2026.

Response:

The Department met with the United States Marshals Service's (USMS), Office of Detention Services and Prisoner Operations Division on February 18th to begin discussion regarding the current Chesapeake Detention Facility (CDF) USMS agreement. The current agreement with the USMS will expire on August 30, 2025.

As stated earlier, the Department has just begun contract negotiations with the USMS and we will endeavor to work with the federal agency to ensure that the best deal possible is made for the State of Maryland.

Recommended Actions:

DLS recommends adding language that restricts \$100,000 in general funds pending a report on DPSCS' strategy to reach full compliance with Duvall. The report should contain updates on all provisions and any motions issued between fiscal 2024 and 2025.

Response: The Department concurs with this recommended action.