

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

THE UNITED STATES OF AMERICA

Plaintiff,

v.

CIVIL ACTION NO. 94-2080 CC

COMMONWEALTH OF PUERTO RICO

Defendants,

**INFORMATIVE MOTION TO FILE
THE MONITOR'S SUBSTITUTE QUARTERLY REPORT**

TO THE HONORABLE COURT:

Today, the Monitor submits the Monitor's Substitute Quarterly Report for the second quarter of 2015, covering the months of April-June 2015. The regular compliance report would normally be due on August 1st, however, Monitor's Office operations have been suspended since May 30, 2015 due to the shortage of funds in the Commonwealth's account at the Court. (Docket #1160)

Therefore this report does not contain the customary information such as the compliance table summarizing compliance for all provisions, or the consultants' reports on facility conditions, compliance documentation initiatives, staffing, incidents, and abuse investigations.

The status of funding for the Monitor's office is as follows:

- The Monitor's Office has filed invoices totaling \$448,617.88 for the FY 2014-2015 fiscal year which ended June 2015. The amount invoiced is substantially below the expenditure limit of \$501,749 in the approved budget, and any impressions that the Monitor overspent the authorized budget are mistaken. The savings were achieved due to the limited availability of the Mental Health consultant resulting in lower-than-planned fees and expenses in that area, the lack of contingency fund spending intended for additional services in the event of contested provisions termination motions which did not take place, and measures taken in the fourth quarter, including suspension of operations, to limit spending due to the depletion of the fund balance in the Commonwealth's account at the Court.
- The Commonwealth's Court account had a substantial carry-over balance at the start of FY 2014-2015. The depletion of the balance resulted from payments, during FY 2014-2015, for invoices from prior fiscal years approved during FY 2014-2015, and the inability of the Commonwealth to fully or even partially fund the Monitor's FY 2015-2016 budget before July 1, 2015 which is the start of the new fiscal year. Had a partial or

full deposit been made by July 1, 2015, suspension of operations would not have been necessary.

- The Monitor met with the Secretary of Corrections, with counsel, on July 10, 2015 to discuss the funding status and other issues. The meeting was constructive, and information was shared about the exceptionally exigent financial circumstances of the Commonwealth, background on the decision to close CTS Bayamon, Monitor's concerns about potential compliance consequences of the relocations of youth and the continuity of essential services for them, the Monitor's concerns about suspended monitoring activities in areas involving risk to harm youth, and in areas where full and continuing compliance was on the verge of being documented, and the prospect for resuming regular operations of the Monitor's Office. While no commitments were made, based on the constructive tone of the meeting the Monitor anticipated resumed funding and operations would be possible in the near future.

However, as of the filing of this report, normal operations are still suspended.

Attached as an appendix to this motion is a status report by Deputy Monitor Javier Burgos concerning the relocations and the continuity of some of the services required by the Settlement Agreement.

WHEREFORE, the Monitor respectfully requests that this Honorable Court grant this motion and accept this informative motion and the attached report.

Respectfully Submitted,

s/ F. Warren Benton

F. Warren Benton

Monitor, United States v. Commonwealth of Puerto Rico
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Certificate of Service

I HEREBY CERTIFY that this 6th day of August, 2015, I electronically filed the forgoing with the Clerk of the Court using the CM/ECF system, which will simultaneously serve notice of such filing to counsel of record to their registered electronic mail addresses.

Respectfully Submitted,

s/ F. Warren Benton

F. Warren Benton

Monitor

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APPENDIX ONE
Report of Deputy Monitor Javier Burgos
July 30, 2015

During the last two months the PR Department of Correction and Rehabilitation, (PRDCR) has made changes in its Juvenile Facilities Division including youth movements, new functions and missions among facilities, and a facility closing for housing of youth. These changes were made without prior notice or consultation with the Monitor and/or his consultants.

According to PRDCR officials, these changes were in response to budget limitations and to a lower number of confined juveniles. For example in June 30, 2014 the amount was 419 and a year after is around 358. In addition, PRDCR has sought to improve the living conditions of confined adult women housed in Vega Alta Women Prison, an old facility in the north part of the island.

In May 2015 PRDCR decided to close CTS Bayamón, a juvenile facility with over 120 individual rooms with toilets, but not more than 75 youths. This facility also had specialized programs such as the Boxing Program, the mental health unit (PUERTAS) and the Evaluation and Classification Module (in Spanish, MER). The idea was to move the youths to other facilities thru the system, make some repairs, and then place maximum security women in the facility. During the first week of June 2015, around 10 youths from MER were moved to CD Bayamón, a detention center across the street; 8 youths from the Boxing Program to different facilities following their security level classification; 24 youths classified as Level IV to CTS Villalba; 24 youths classified as detainees to CTS Humacao; and 9 youths from PUERTAS to CTS Ponce. With these moves, all youth had been relocated from CTS Bayamón. Repairs have begun, and once completed the female inmates are to be moved to former CTS Bayamón.

In addition, the agency has continued supporting CREANDO, a program similar to a boot camp run by the Puerto Rico National Guard in Salinas, a small town in the south part of the island. The program has been operating successfully for the last 5 years and usually receives juveniles for 26 weeks between April and October. In this cycle 23 youths, adjudicated boys and girls are participating. Changes already mentioned have not impacted this program.

Consequently, currently PRDCR operates 4 facilities and a specialized program through its Juveniles Facilities Division:

Facility	Function	Potential Capacity	Population June 30, 2015
CD Bayamón	Detention for boys & girls, treatment center for girls & boys, MER	124	84
CTS Humacao	Treatment center for maximum security boys (Level V), two modules for detainees	120	82
CTS Villalba	Treatment center for Level IV boys	120	80
CTS Ponce	Treatment center for Level II & III boys, PUERTAS	120	84
CREANDO	Specialized program operated by the PR National Guard	23	23
Community	Extended or provisional passes (with relatives)	-	5
Total		507	358

The “potential capacity” defines the number of spaces in the facility if fully repaired. The actual feasible occupancy at any time depends on actual state of repair and code compliance, and on the classification status of the assigned youth. Youth must be separated based on adjudication status, gender and custody level and therefore operational occupancy will not match potential capacity.

The above facilities were visited before and after the changes and the following are some of the findings:

- The process was conducted without advance notification to or consultation with the Court Monitor and his consultants.
- The closing of CTS Bayamón has allowed reassignment of staff to other facilities especially to CD Bayamón. Some of these officers were able to be re-assigned to facilities closer to their homes.
- In CTS Humacao a new school schedule is required in order to separately serve adjudicated and non-adjudicated youths.
- New functions recently added to CD Bayamón have affected services for the girls, specially adjudicated girls, due to lack of areas and an effective schedule to provide outdoor recreation and physical education.
- Recently, air conditioning units out of service in CTS Humacao resulted in delays in moving detainee youth from CD Bayamón to CTS Humacao, to keep rooms available in Bayamón Detention Center.

- The classification and related facility-assignment system that has been used for years by the DCT Juvenile Facility Division will need to be reviewed to take into consideration the recent changes. During a recent visit to CTS Humacao some youths alleged that they are eligible to be moved to a less restrictive facility but that the moves are being delayed.

On July 30th, news reports described the imminent movement of maximum security females to former CTS Bayamon. Reports stated said that medium and low security women will also be moved to the Bayamon complex in approximately 3 months. Reports described more than 300 female inmates planned to be relocated from the old facility for women in Vega Alta. Former CTS Bayamon originally was designed for 190 beds but DCR is adding more spaces during the current repairs. At the end of the repair and remodeling process the facility's final capacity may be around 200 beds.

While there are rumors of plans to consider relocating youth to the Guaynabo complex, there have been no official announcements and no youth have been relocated to the Guaynabo site as of the filing of this report. However, if most or all of the reported 300 female prisoners are to be relocated to the Bayamon complex, a shift of youth in the CD Bayamon facility to the Guaynabo facilities or some other location might be implicated.

The Monitor's facilities consultant, and a code compliance expert, undertook a study of fire and building code compliance at Guaynabo in 2007, before it was deactivated for housing youth. The report is summarized in the Monitor's PLRA Report (Docket #703, pp 11-17), documenting facility deficiencies that constituted significant "*areas of non-compliance result in serious patterns of injury, risk of injury or abuse.*" The parties stipulated to these findings. (Docket #711) While some of the conditions may have been subsequently remedied, the Monitor and his consultants are concerned about returning youth to this facility if the deficient conditions have not been remedied.

Education Services

There is an additional potential problem with the academic services beginning in August. Officials do not know when the classes could begin because the positions for the academic teachers have not been approved yet. Teachers in the public school system begin work on Monday August 10.

Academic teachers in DCR are not regular employees or regular teachers and every year the agency has to hire new teachers and prepare new contracts for those who want to continue working with the agency.