

MEMORANDUM

Agenda Item No. 8(B)(1)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: January 17, 2023

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution approving the submission of a proposed Stipulated Order Regarding Appointment of Independent Jail Compliance Director in the case *United States of America V. Miami-Dade County, et al.*, Case No. 13-cv-21570-BLOOM and directing the County Mayor to submit the same to the Court for approval

The accompanying resolution was prepared by the Corrections and Rehabilitation Department and placed on the agenda at the request of Prime Sponsor Chairman Oliver G. Gilbert, III.


Geri Bonzon-Keenan
County Attorney

GBK/ks


MDC001

Memorandum



Date: January 17, 2023

To: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor 

Subject: Resolution Approving the Stipulated Order Regarding Appointment of Independent Jail Compliance Director in the case *United States of America v. Miami-Dade County, et al.*, Case No. 13-cv-21570-BLOOM

Executive Summary

The purpose of this item is to approve the submission of a proposed Stipulated Order Regarding Appointment of Independent Jail Compliance Director (Stipulated Order) in the case *United States of America v. Miami-Dade County, et al.*, Case No. 13-cv-21570-BLOOM, attached hereto as Exhibit 1, to address outstanding allegations regarding the conditions at the Miami-Dade Corrections and Rehabilitation Department (MDCR) jail facilities. This Stipulated Order has been approved by the Department of Justice (DOJ) and will recognize the appointment of Sheriff Gary Raney as Compliance Director to lead compliance efforts at MDCR and bring the County's jails into full compliance by October 31, 2023 with the Consent Agreement and Settlement Agreements (together the Agreements) which were approved by this Board through Resolution R-291-13. Upon approval of the Stipulated Order by the County and the Public Health Trust (PHT), the County, the PHT and the DOJ will jointly submit the Stipulated Order for judicial approval.

Recommendation

It is recommended that this Board approve the submission of the Stipulated Order to address outstanding allegations regarding the conditions at the MDCR jail facilities. Fundamental to the Stipulated Order is the appointment of Sheriff Raney as the Compliance Director to lead compliance efforts at MDCR and to fulfill all outstanding provisions of the Agreements. Sheriff Raney, a nationally recognized expert in jail reform, will work in cooperation with J.D. Patterson, Chief Corrections and Forensics, and the new MDCR Director James Reyes, set to begin January 16, 2023, to achieve these positive results. Approval of the Stipulated Order affords the County the opportunity to continue its work to get to compliance without the additional burden of federal court sanctions.

Scope

The impact of this item is countywide.

Delegation of Authority

The County Mayor or County Mayor's designee is delegated the authority to take all steps necessary to comply with the Stipulated Order to bring the County into compliance with the Agreements.

Fiscal Impact/Funding Source

Implementation of the Stipulated Order is estimated to have a fiscal impact of up to \$1,600,000. Costs include the services of the Compliance Director, jail management system consultants, and psychological and medical consultants, as well as costs associated with classification system upgrades and training. Ultimately, these costs will be offset by the County achieving an end to Court oversight and the expenditures associated with the court case, including, but not limited to, the cost of federal monitors.

Track Record/Monitor

Kim Bones, Chief Compliance Officer, will track and monitor this item.

Background

In 2013, the County, PHT, and DOJ reached the Agreements in the case *United States of America v. Miami-Dade County, et al.*, Case No. 13-cv-21570-BLOOM to resolve allegations of unconstitutional conditions at MDCR jail facilities. The case stemmed from the DOJ's investigation into the County's correctional facilities in April 2008, pursuant to the Civil Rights for Institutionalized Persons Act (CRIPA). Since entering into the Agreements, the County has made significant improvements to the jail system and considerably raised the standard of care for incarcerated individuals, particularly in the areas of medical and mental health care. These improvements, which included the establishment of a Mental Health Treatment Center to house acute mental health inmates, led to the County's substantial compliance with the vast majority of the provisions of the Agreements. While much progress has been made, according to DOJ, there are 16 remaining provisions in the Agreements that require additional work and a more detailed plan for reaching full compliance in certain areas.

On April 15, 2022, the Court, in response to reports by the federal monitors, ordered the DOJ to show cause as to why the federal government has not requested that sanctions be entered due to the lack of full compliance with the Agreements or to recommend any appropriate sanctions against the County and the PHT necessary to achieve full compliance with the Agreements. The Stipulated Order represents a proposed agreement by the parties as to the most efficient and effective path forward without the need for judicial sanctions and sets a timeline for the successful completion of any remaining provisions of the Agreements in October 2023.

The Stipulated Order provides that the Compliance Director shall exercise and perform his duties, powers, and responsibilities in a manner consistent with applicable federal, State and local laws, regulations, and contracts, including, but not limited to, collective bargaining agreements. Those duties, powers, and responsibilities include:

- Ensuring that MDCR is operated in a manner to protect incarcerated persons from harm and achieve substantial compliance with each provision of the Agreements on a timely basis;
- Overseeing MDCR operations related to the Agreements;

- Taking all necessary steps to implement the Agreements, and any other remedial orders that may be entered by the Court with respect to MDCR including, but not limited to, restructuring day-to-day operations at MDCR;
- Exercising administrative authority, under the County Mayor's Supervision, over all administrative, personnel, contractual, and other operational functions for MDCR relating to compliance with Agreements;
- Directing personnel actions;
- Establishing administrative personnel policies and positions related to the administration and operation of MDCR;
- Negotiating new MDCR contracts and agreements and renegotiating existing MDCR contracts and agreements necessary to come into compliance with the Agreements;
- Reviewing, investigating, and taking corrective actions regarding MDCR policies, procedures, and practices that are related to Agreements, and any future Court Orders in this case;
- Developing an action plan and providing reports to the DOJ and federal monitors; and
- Provides a mechanism for any party to seek further relief from the Court to achieve compliance with the Agreements.

In addition to the appointment of Sheriff Raney as Compliance Director, key leadership positions have been filled with well-qualified individuals who can fully support the remaining work to be done. Colonel James Reyes, who has had a distinguished career in the Broward Sheriff's Office Department of Detention, has been appointed as the Director of MDCR beginning January 16, 2023 and will lead the day-to-day operation of our jails. Director Reyes will work closely with Sheriff Raney and Chief Patterson to achieve positive results. Dr. Kenneth Rey, who has served as a federal monitor and serves as a DOJ expert in many cases, has been appointed as the new lead monitor to oversee the County's compliance efforts. These leadership appointments will ensure the County's continued improvement of the jail system and successful compliance with the Agreements.



J.D. Patterson
Chief of Corrections and Forensics



MEMORANDUM
(Revised)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: January 17, 2023

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 8(B)(1)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(B)(1)
1-17-23

RESOLUTION NO. _____

RESOLUTION APPROVING THE SUBMISSION OF A PROPOSED STIPULATED ORDER REGARDING APPOINTMENT OF INDEPENDENT JAIL COMPLIANCE DIRECTOR IN THE CASE *UNITED STATES OF AMERICA V. MIAMI-DADE COUNTY, ET AL.*, CASE NO. 13-CV-21570-BLOOM AND DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO SUBMIT THE SAME TO THE COURT FOR APPROVAL

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby approves the submission of the proposed Stipulated Order Regarding Appointment of Independent Jail Compliance Director (Stipulated Order) in case *United States of America v. Miami-Dade County, et al.*, Case No. 13-cv-21570-BLOOM, in substantially the form attached hereto as Exhibit 1, and made a part hereof, and directs the County Mayor or County Mayor's designee to submit the same to the Court for approval.

The foregoing resolution was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

Oliver G. Gilbert, III, Chairman	
Anthony Rodríguez, Vice Chairman	
Marleine Bastien	Juan Carlos Bermudez
Kevin Marino Cabrera	Sen. René García
Roberto J. Gonzalez	Keon Hardemon
Danielle Cohen Higgins	Eileen Higgins
Kionne L. McGhee	Raquel A. Regalado
Micky Steinberg	

The Chairperson thereupon declared this resolution duly passed and adopted this 17th day of January, 2023. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

LUIS G. MONTALDO, CLERK AD INTERIM

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Oren Rosenthal

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 13-cv-21570-BLOOM

UNITED STATES OF AMERICA

Plaintiff,

v.

MIAMI-DADE COUNTY, THE BOARD
OF COUNTY COMMISSIONERS, *et. al.*,

Defendants.

_____ /

**STIPULATED ORDER REGARDING APPOINTMENT OF
INDEPENDENT JAIL COMPLIANCE DIRECTOR**

In 2013, Miami-Dade County and the Miami-Dade County Board of County Commissioners (“County”), the Miami-Dade Public Health Trust (“PHT”), and the United States of America (the “Parties”) reached a Consent Agreement and the County, the Miami-Dade Board of County Commissioners, and the United States of America reached a Settlement Agreement to resolve allegations of unconstitutional conditions at the Miami-Dade Corrections and Rehabilitation Department (“MDCR”) jail facilities. The Consent Agreement covers medical care, mental health care, and suicide prevention. Consent Agreement [ECF No. 1-5]. The Settlement Agreement covers protection from harm, fire and life safety, and inmate grievances. Settlement Agreement, [ECF No. 85-1]. Together the Consent Agreement and the Settlement Agreement shall be hereinafter referred to as the “Agreements”. On April 15, 2022, this Court ordered that if Defendants did not “achieve full compliance with the remaining provisions in the Consent Agreement and Settlement Agreement by November 18, 2022. . . , the United States

shall file a statement regarding appropriate sanctions for the Court's consideration no later than December 2, 2022.” [ECF No. 243]. This Order Regarding Appointment of Independent Jail Compliance Director is to resolve all outstanding matters regarding protection from harm and compliance with the Agreements and to outline the authorities and duties of the Compliance Director. This Order shall bind all parties in the conduct of this proceeding.

The Parties agree that this Stipulated Order is drafted to address all remaining issues regarding compliance with the Agreements, including the reports and recommendations of the Monitor, and provide ample basis for concluding that the appointment of the Independent Compliance Director (“Compliance Director”) and additional relief set forth below are narrowly drawn, extend no further than necessary to correct the alleged current and ongoing violations of federal rights in the United States’ Complaint and findings report, are the least intrusive means necessary to achieve compliance, and will not have an adverse impact on public safety or the operation of the criminal justice system in Miami-Dade County. See 18 U.S.C. § 3626.

Background

1. Under the Miami-Dade County Home Rule Charter the County Mayor “shall be responsible for the management of all administrative departments of the County government and for carrying out policies adopted by the Commission.” § 2.02(a), Miami-Dade County Home Rule Charter (“Administrative Authority”). This includes, among other authority, “the power to issue and place into effect administrative orders, rules, and regulations” and to supervise “all administrative functions not otherwise specifically assigned to others by this Charter”. *Id.* §§ 5.01, 5.02.

2. The County Mayor has appointed Mr. Gary Raney to act as the Compliance Director for the Agreements. The County Mayor has delegated to Mr. Raney the necessary Administrative

Authority to lead compliance efforts at MDCR and to fulfill all outstanding provisions of the Agreements. Mr. Raney will have Administrative Authority over the department director of MDCR and directly report to the County Mayor. As the Compliance Director, Mr. Raney shall act as a representative of the County in communications and coordination with Corrections Health Service (“CHS”) for the provision of services to MDCR inmates in accordance with the Consent Agreement. CHS shall communicate, collaborate and cooperate with Mr. Raney as the Mayor’s delegate.

3. The Compliance Director’s contract with Miami-Dade County was approved by the Board of County Commissioners on [date]. See Resolution No. R-[number]. The contract may be amended by the Board from time to time as needed.

4. The Compliance Director was engaged and empowered at the recommendation of outgoing monitor Susan McCampbell¹ for his expertise and knowledge in the subject area of jail reform and modern jail practices.

5. Based on the assessment and advice of the Compliance Director, the County shall prioritize addressing issues which may result in inmate harm at the County jails, then prioritize compliance with the Agreements as they relate to potential for reducing harm to inmates at the County jails, and then prioritize any remaining compliance issues with the Agreements.

Accordingly, it is **AGREED by the Parties and the Court ORDERS** the relief set forth below:

¹ Ms. McCampbell and medical monitor Dr. Robert B. Greifinger tendered their resignation on August 1, 2022, effective December 30, 2022.

A. Authority of the Compliance Director

1. The Parties have agreed to the appointment of Mr. Gary Raney as the Independent Compliance Director until at least October 31, 2023, when substantial compliance with the Agreements will be achieved. At that time, the Parties shall confer on the retention and responsibilities of a Compliance Director during the period of sustaining compliance as set forth in the Agreements and shall submit any proposed amendments to this Stipulated Order to the Court as may be required.

2. The Compliance Director shall oversee the operations of MDCR in a manner that is professional and consistent with generally accepted correctional management, accounting, and personnel standards. Any Party may petition the Court for the Compliance Director's removal for good cause and the other Parties will have the opportunity to respond. "Good cause" for these purposes shall include, but not be limited to: neglect of duties; willful misconduct; inappropriate personal relationship with any Party or Monitor; conflict(s) of interest; or any criminal conduct during the pendency of the appointment.

3. In the event the Compliance Director is removed for good cause, is removed at the County Mayor's discretion, or the position otherwise becomes vacant, the County shall immediately notify all Parties, the Monitor, and the Court of such vacancy. The County Mayor shall expeditiously appoint a replacement Compliance Director, subject to the consent and approval of the United States, and inform the Court of the appointment of such replacement Compliance Director. The Compliance Director shall have the full Administrative Authority to ensure that MDCR is operated in a manner to protect incarcerated persons from harm and achieve substantial compliance with each provision of the Agreements on a timely basis.

4. The Compliance Director shall hold and exercise Administrative Authority with respect to the custody, care, and supervision of people incarcerated by MDCR. The Compliance Director shall oversee MDCR operations, related to the Agreements. The Compliance Director shall be responsible for implementing the Agreements, and any other remedial orders that may be entered by the Court with respect to MDCR including, but not limited to, restructuring day-to-day operations at MDCR. To this end, the Compliance Director shall have the necessary Administrative Authority over all administrative, personnel, contractual, and other operational functions for MDCR relating to compliance with Agreements as set forth herein.

5. The Compliance Director shall have the Administrative Authority to direct personnel actions, including, but not limited to, the authority to direct hiring, firing, suspension, supervision, promotion, transfer, and disciplinary actions, regarding MDCR employees or MDCR contract employees related to the operation of MDCR. The Compliance Director shall also have the Administrative Authority to establish administrative personnel policies and positions related to the administration and operation of MDCR and to the extent necessary to obtain compliance with the Agreements.

6. The Compliance Director shall have the Administrative Authority to negotiate new MDCR contracts and agreements and to renegotiate existing MDCR contracts and agreements, in the event that such action is necessary for the Compliance Director to fulfill the duties under this Order.

7. The Compliance Director shall have full Administrative Authority to direct specific actions at MDCR to attain and sustain substantial compliance levels, or remedy compliance errors, regarding all portions of the Agreements, including but not limited to: (a) changes to MDCR policies or standard operating procedures or practices; (b) MDCR personnel decisions,

including but not limited to engagement of consultants (as set forth above), assignments, internal MDCR findings and disciplinary actions in misconduct cases and use-of-force reviews, and the discipline or demotion of staff; and (c) maintaining or eliminating MDCR programs or initiatives related to or affecting Consent or Settlement Agreement tasks or objectives. The Compliance Director shall have full Administrative Authority to direct MDCR staff on all outstanding tasks and issues related to compliance with the Agreements and the overall objectives of the Agreements.

8. To exercise these powers, the Compliance Director shall be onsite at MDCR with sufficient frequency, regularity, and duration to implement the Agreements and any other orders of the Court.

9. The Compliance Director shall, at his or her discretion, or at the request of the Court, the Monitor, or the United States, develop a corrective action plan for any task for which the Monitor finds MDCR to be out of compliance with the Agreements. If the Compliance Director disagrees with a finding of non-compliance, by motion the County may request a status conference to seek resolution and guidance by the Court. As part of any such corrective action plan, the Compliance Director shall determine the nature and frequency of MDCR's future internal compliance assessments for that task.

10. The Compliance Director will have the full Administrative Authority to review, investigate, and take corrective action regarding MDCR policies, procedures, and practices that are related to Agreements, and any future Court Orders in this case.

11. Notwithstanding any other provision herein, the Compliance Director shall exercise their powers and any authority described in this Stipulated Order, in a manner consistent with applicable federal, State and local laws, regulations, and contracts, including, but not limited to,

collective bargaining agreements (together “General Legal Requirements”). In the event, however, that the Compliance Director finds that General Legal Requirements or other third-party action or inaction is preventing them from carrying out the Court’s Orders, the Compliance Director shall notify the Parties and try to resolve the issue, communicating with any third parties, including state officers and other state or local agencies, as necessary. If the Compliance Director is still unable to resolve the issue, the Compliance Director shall notify the Parties, and any Party may notify the Court and request appropriate action. If the Court, upon an opportunity for hearing from all Parties, determines that the third party is unlawfully preventing implementation of constitutionally required remedies, the Court may grant additional, appropriate relief.

B. Duties of the Compliance Director

1. The Compliance Director shall, within 14 days of the date of this Stipulated Order, develop a detailed Plan of Action (“the Plan”) designed to address any alleged unconstitutional conditions of confinement and compliance with the Agreements. The Plan shall include timelines for all specified remedies, indicating the responsible individuals and steps for implementation. The Compliance Director shall develop the Plan with the assumption that substantial compliance for all provisions of the Agreements can be obtained by October 31, 2023.

2. The Plan shall be consistent with the Agreements and include, but not be limited to, the following:

- a. How the County will (a) conduct an inmate bed and classification analysis to ensure the Jail has adequate beds for maximum security and disciplinary segregation of inmates, and (b) implement a plan to address the results of the analysis. The Compliance Director will work with the Monitor to conduct an annual review to determine whether MDCR’s objective classification system

continues to accomplish the goal of housing inmates based on level of risk and supervision needs.

- b. How the County will accomplish a reduction in inmate-on-inmate violence in each MDCR Jail facility on a quarterly basis. If reductions in violence do not occur, the Plan shall address how MDCR shall demonstrate that its systems for minimizing inmate-on-inmate violence are operating effectively.
- c. How the County will develop and implement policies, protocols, trainings, and audits consistent with the requirements of the Prison Rape Elimination Act of 2003, 42 U.S.C. § 15601, et seq., and its implementing regulations, including those related to the prevention, detection, reporting, investigation, data collection of sexual abuse, including inmate-on-inmate and staff-on-inmate sexual abuse, sexual harassment, and sexual touching.
- d. How the County will develop and implement measures to self-monitor and take corrective action to ensure compliance with constitutional mandates in addition to the review and assessment of the provisions of the Consent and Settlement Agreements on a quarterly basis. Such measures shall include developing and implementing corrective action plans within 30 days of each quarterly review, including changes to policy and changes to and additional training. On at least a quarterly basis, the Compliance Director and command staff shall also review data concerning inmate safety and security to identify and address potential patterns or trends resulting in harm to inmates in the areas of supervision, staffing, incident reporting, referrals, investigations, classification, and grievances. The review shall include the following information:

- i. documented or known injuries requiring more than basic first aid;
 - ii. injuries involving fractures or head trauma;
 - iii. injuries of suspicious nature (including black eyes, injuries to the mouth, injuries to the genitals, etc.);
 - iv. injuries that require treatment at outside hospitals;
 - v. self-injurious behavior, including suicide and suicide attempts;
 - vi. inmate assaults; and
 - vii. allegations of employee negligence or misconduct.
- e. The Compliance Director will provide to the United States and the Monitor bi-annual reports regarding the below items:
- i. Total number of inmate disciplinary reports;
 - ii. Safety and supervision efforts. The report will include:
 - 1. a listing of maximum-security inmates who continue to be housed in dormitory settings;
 - 2. a listing of all dangerous contraband seized, including the type of contraband, date of seizure, location and shift of seizure; and
 - 3. a listing of inmates transferred to another housing unit because of disciplinary action or misconduct.
 - iii. Staffing levels. The report will include:
 - 1. a description of each post and position needed at the Jail;
 - 2. a listing of the number of vacant sworn positions;
 - 3. a listing of the number of overtime hours per month being used to operate the jail, including officers and supervisors.

iv. Reportable incidents. The report will include:

1. a brief summary of all reportable incidents, by type and date;
2. data on inmates-on-inmate violence and a brief summary of whether there is an increase or decrease in violence;
3. a brief summary of whether inmates involved in violent incidents were properly classified and placed in proper housing;
4. number of reported incidents of sexual abuse, the investigating entity, and the outcome of the investigation;
5. a description of all suicides and in-custody deaths, including the date, name of inmate, and housing unit;
6. number of inmate grievances screened for allegations of misconduct and a summary of staff response; and
7. number of grievances referred to IA for investigation

f. How the County will develop and implement written Quality Improvement policies and procedures and strategies to identify and address serious deficiencies in protection from harm and to assess and ensure compliance with the terms of the Consent and Settlement Agreements on an ongoing basis.

3. The Compliance Director shall send the Plan to the Parties for comment, and the Parties may submit comments to the Compliance Director within 21 days after receipt of the Plan. The Compliance Director will then submit the final Plan to the Court within 14 days after receiving any comments from the Parties. The Compliance Director shall update and/or modify this Plan as necessary and file updated versions with the Court. Pending development of the Plan, the Compliance Director shall undertake short-term or interim measures designed to immediately

improve the conditions of confinement at MDCR and begin the process of implementing the Court's orders.

4. The Compliance Director will work closely and communicate regularly with the Mayor of Miami-Dade County, the United States, the Monitor, and Defendants, including MDCR and CHS staff, to develop and implement the Plan.

5. The Compliance Director is responsible for drafting and filing a Self-Assessment Report on a quarterly basis. The Self-Assessment Report shall describe the progress with each provision of the Compliance Director's Plan of Action, including the implementation status of the Agreements, as well as every court-ordered remedy. Additionally, this Self-Assessment Report shall identify any barriers to progress, any corrective action taken by the Compliance Director to address inadequate progress, and any other matters deemed relevant by the Compliance Director. In addition to these written reports filed with the Court, the Compliance Director will report on their efforts, progress and challenges in open court at each Court status conference and shall communicate through written filings with the Court throughout the duration of the Compliance Director's appointment on an as-needed basis.

C. General Provisions Regarding the Compliance Director

1. The Compliance Director, including any staff or consultants of the Compliance Director, shall have unlimited access to all MDCR records and files (paper and electronic), including all institutional, personnel, financial, and detainee records, and access to all CHS and contractor records and files (paper and electronic), including all institutional, personnel, financial, and detainee records for which MDCR or CHS would otherwise have access as deemed necessary by the Compliance Director to carry out the duties set forth in this Order. The Compliance Director, and Compliance Director consultants and staff as authorized by the Compliance Director, shall

have unlimited physical access to MDCR jail facilities and documents. The Compliance Director, and Compliance Director consultants and staff, shall not need to give notice before entering MDCR jail facilities. The Compliance Director, and the Compliance Director consultants and staff as authorized by the Compliance Director, shall have unlimited communications access to detainees, detention officers, MDCR managers, medical and mental health staff, and maintenance staff. This access includes access the County may have to any medical, mental health, and maintenance staff of CHS, and any contractors subject to any conditions placed upon the County on such access. All access provided in this provision shall be subject to any restrictions that would otherwise be placed on MDCR or CHS.

2. The Compliance Director shall not be retained as a consulting or testifying expert by any current or future litigant or claimant in a claim or lawsuit against Miami-Dade County (“the County”), MDCR, CHS, the Mayor, or their employees in a jail conditions-related claim or similar related claim, but shall be required to testify only in this matter if called by any Defendant or the Court.

3. Nothing in this Stipulated Order shall be interpreted to limit or deny the Parties’ pre-existing rights of access, discovery rights, or other rights under the Federal Rules of Civil Procedure. The Parties will each retain their rights of access to documents, detainees, staff, and MDCR, and all other rights under the Agreements.

4. Nothing in this Stipulated Order shall be deemed to waive any Defendant’s right to file, at the appropriate time, a motion to terminate prospective relief pursuant to 18 U.S.C. § 3626(b)(1) and nothing in this Stipulated Order shall be deemed to limit any Defendant’s right to challenge the compliance ratings, findings, and/or allegations of any Monitor.

5. The United States and the Monitor and the Monitor's team have the right to communicate directly, *ex parte*, with the Compliance Director. All *ex parte* discussions with the Compliance Director under this Paragraph shall be limited to facts, data and opinions related to conditions at the jail and shall not bind the County, CHS or the Public Health Trust and such discussions shall not be admissible in any proceeding regarding the Agreements.

6. Given that the Compliance Director position is significant in its scope and dimension, the Court finds that flexibility will be an important element in ensuring its effectiveness. Accordingly, this Stipulated Order may be modified with approval of the Court.

D. Ongoing Role of the Court Monitor

Nothing in this order alters the responsibilities and duties of the Monitor.

E. Termination of Certain Provisions of the Consent Agreement

1. The Consent Agreement at Section VII.C. specifically provides for separate and independent termination of individual substantive provisions of the Agreement if Defendants reach and maintain substantial compliance for eighteen (18) months, i.e., maintain sustained substantial compliance.

2. The Parties have advised the Court that the following provisions of the Consent Agreement have reached and maintained substantial compliance for at least eighteen (18) months and therefore have achieved sustained compliance: Subsections: III.A.6. Discharge Planning and III.C.5. Mental Health Care Housing.

3. The Parties agree that the Bi-annual reporting requirements set forth in Section III.D.2. of the Settlement Agreement shall be suspended while the Compliance Director position is in effect as duplicative of the reporting requirements set forth in this Stipulated Order.

4. Accordingly, this Court terminates the aforementioned provisions of the Agreements, per this Stipulated Order.

DONE AND ORDERED in Chambers at Miami, Florida, on _____, 2022.

BETH BLOOM
UNITED STATES DISTRICT JUDGE

Copies to:

Counsel of Record