

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
PLAINTIFF,	)	
	)	
v.	)	Civil No. 02:15cv368-MHT
	)	
THE STATE OF ALABAMA AND THE	)	
ALABAMA DEPARTMENT OF	)	
CORRECTIONS,	)	
	)	
DEFENDANTS	)	

Monitor's Ninth Compliance Report

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Introduction

The State of Alabama and the United States Department of Justice (DOJ) entered into a settlement agreement on May 28, 2015. The agreement involves a comprehensive set of provisions regarding the safety and security of the women offenders housed at the Tutwiler Prison for Women (Tutwiler). The purpose of this compliance report is to document the progress of the actions of the Alabama Department of Corrections (ADOC) and Tutwiler in response to the specific requirements of the provisions in the settlement. This is the ninth required court report, due February 28, 2019, submitted by independent monitor Kathleen Dennehy, Ph.D. This Court approved Ms. Dennehy as monitor on August 26, 2016.

Ms. Dennehy conducted a compliance visit December 1-4, 2019. This report describes the actions taken by the monitor to determine compliance and uses the time frame July 1, 2019 to December 31, 2019 as the "reporting period."

The settlement uses four levels to measure compliance: substantial compliance, partial compliance, non-compliance, and not applicable (N/A). The Summary of Compliance section of this report at page 76 includes a chart summarizing the compliance status for each provision.

Specific Actions to Evaluate Compliance

The monitor took the following specific actions to evaluate compliance:

- 1) **Compliance Visit:** During Monitor Dennehy's December 2019 compliance visit with the ADOC and Tutwiler, she interviewed central office staff including executive leadership and section managers, who have

responsibilities related to ADOC duties and Tutwiler compliance with the settlement. Monitor Dennehy also interviewed ADOC staff assigned to Tutwiler, including the facility's top leadership, staff with specific settlement responsibilities, and the acting Institutional Prison Rape Elimination Act Compliance Manager (IPCM). At the time of the December 2019 compliance visit, Captain Blanding, who had previously, as a Lieutenant, held the position of Institutional PREA Compliance Manager, was acting in that capacity during recruitment efforts to fill that critical position. Throughout the compliance visit, the monitor was also provided meeting space to engage in private conversations with staff and inmates. In addition to these formal, private interviews, the monitor was afforded open access to staff and inmates during the monitoring visit and had many opportunities to question and engage in conversations with both staff and inmates while touring the housing and program areas. These staff members were diverse in gender, race, and years of experience in corrections. The inmates were diverse in age, housing placements, length of sentence, and time already served at Tutwiler.

- 2) **Documents:** The monitor reviewed multiple ADOC and Tutwiler documents during this reporting period. These documents included: previously promulgated ADOC and Tutwiler policies; ADOC and Tutwiler policy drafts; and training curricula, attendance records, and materials. Prior to the December 2019 compliance visit, the monitor requested and received many documents, including inmate polling results, randomly

selected inmate grievances, as well as an update on the activities of the Gender Dysphoria Committee, to prepare for a tour of the facility and staff and inmate interviews. During the tour, the ADOC allowed the monitor access to investigations, training files, staff rosters, and shift reports. The ADOC provided full access to records maintained by the acting IPCM, Captain Blanding; Grievance Coordinator, Ms. Tina Tyler; and Settlement Compliance Manager, Warden Lagreta McClain. While Warden McClain will continue as the Settlement Manager, Cpt. Blanding in her new role as Compliance Captain is assuming more responsibility for the maintenance of settlement agreement documentation. After the compliance visit, the monitor requested and received additional documents to substantiate and assess the progress of the work and actions taken by the ADOC and Tutwiler in response to the requirements of each section of the settlement agreement.

- 3) **Correspondence:** Tutwiler has a notice posted throughout the facility, with correspondence addresses for the monitor. During this reporting period, the monitor did not receive any correspondence from third parties. The monitor received correspondence from three Tutwiler inmates prior to the monitoring visit. These letters addressed a diverse range of issues, including a request for assistance securing a transfer out of Tutwiler due to allegations of harassment by various staff members, a question regarding surgical interventions for a diagnosis for Gender Dysphoria, questions about requirements to register as a sex offender and resulting institutional

unit assignments, and dental issues. The monitor reviewed each letter and requested additional information from ADOC officials to better assess the contents of the correspondence and to request follow-up action where appropriate. In each instance, the ADOC provided timely and appropriate responses to the monitor.

- 4) **Communication:** The monitor had multiple communications with Deputy Commissioner Wendy Williams during this reporting period to request investigative summaries and to address questions about inmate correspondence, grievances, or other documents reviewed by the monitor. The ADOC and Tutwiler administrators have consistently provided timely and thorough responses for each information request made by the monitor.

Executive Summary

Intent of the Report

This report is made to inform the Court and the parties of the monitor's assessment of the current progress and status of the ADOC and Tutwiler compliance with the settlement provisions and requirements. The monitor provides feedback for the ADOC and Tutwiler in each section. In some sections of the report, the monitor includes recommendations for actions by the ADOC and Tutwiler over the next reporting period.

Alabama Department of Corrections: Progress, Strengths and Challenges

Progress

As in prior reporting periods, the monitor observed steady, continuing progress by

the ADOC and Tutwiler towards reaching full compliance¹ with the terms of the settlement agreement. In this ninth compliance report, the monitor has determined that Tutwiler and the ADOC have achieved "substantial compliance" with forty-one sections and "partial compliance" with three sections of the agreement.² Attachment C provides a detailed summary of the monitor's compliance determinations.

The narrative that supports the compliance ratings in this ninth compliance report illustrates Tutwiler and the ADOC's continued progress under the settlement agreement. In the first court report filed February 24, 2016, the monitor found the ADOC and Tutwiler in "substantial compliance" with twelve sections of the settlement agreement. In the second report filed August 25, 2016, the monitor found the ADOC and Tutwiler in "substantial compliance" with a total of thirty-seven sections of the agreement. In the third report filed March 28, 2017, the monitor determined "substantial compliance" in thirty-nine sections and "partial compliance" in four sections of the agreement. In the fourth, fifth, and sixth compliance reports, the monitor determined "substantial compliance" with forty sections and "partial compliance" with three sections of the agreement. In the seventh and eighth compliance reports the monitor determined that Tutwiler and the ADOC achieved "substantial compliance" with forty-one sections and "partial compliance" with two sections of the agreement. Assessment of one requirement of the agreement was deemed "not applicable" , as it was not yet scheduled for assessment. Additional progress has been made since the June 2019 compliance visit.

¹ The definitions of degrees of compliance are addressed in the Summary of Compliance section of this report at page 69.

² One settlement agreement provision was not subject to compliance assessment until March 2019, a date originally set based upon the expected implementation schedule forecasted in the settlement. Implementation was delayed due to software and staffing issues.

One assessment of compliance with a requirement had been deferred as "non applicable" until 2019 and was just assessed during the December 2019 visit and based upon progress made, has been deemed to now be in "partial compliance". As of December 31, 2019, with the exception of three requirements now in "partial compliance, the ADOC and Tutwiler are now in "substantial compliance" with all other requirements of the agreement.

The findings of "substantial compliance" and "partial compliance" are specific to the monitor's observations and findings of fact regarding the ADOC and Tutwiler's degree of compliance with the requirements of the various sections. The monitor understands these compliance determinations reflect a "continuum" of staff actions that will be evaluated in each court report.

General Policies and Procedures

The ADOC and Tutwiler continue to maintain written policies to prevent sexual abuse and sexual harassment. The current policy in place at Tutwiler that contains Prison Rape Elimination Act (PREA) provisions is Standard Operating Procedure (SOP) 8-12, *Inmate Sexual Abuse and Sexual Harassment*. This procedure incorporates recommendations previously made by the DOJ and the monitor.

In group discussions, formal individual interviews, informal discussions, and interactions and observations while touring, staff members consistently demonstrated to the monitor an awareness of their responsibilities regarding reporting allegations of sexual abuse and sexual harassment, safety for inmates, and investigative processes. Staff consistently demonstrated on-the-job knowledge of the policies and procedures on which

they have been trained.

On September 28, 2017, the ADOC forwarded the final version of SOP 8-30, *Behavior Intervention & Discipline Policy*, to the DOJ and monitor. Tutwiler completed all the required staff training and inmate education on this new policy. All ADOC staff working at Tutwiler, as well as staff members who work for the contracted inmate mental health and medical services providers, were required to attend this training. This policy became effective January 1, 2018 and seeks to establish a disciplinary structure and process that is evidence-based, strength-based, gender-responsive, and trauma-informed, and that reinforces a safe facility culture by motivating inmate behavior and encouraging self-management. The goal is to hold inmates accountable for their behaviors and actions utilizing mediation, cognitive behavioral interventions, and the lowest possible disciplinary sanction to address rule violations. Employees may respond to low-level misconduct by verbal re-direction, which may include: helping the inmate to refocus on more productive behavior and positive tasks; collaborative problem solving with the inmate; and engaging inmates through motivation strategies. The Behavior Intervention Program was developed for those inmates who have already engaged with employees on the verbal redirect level and continue to violate rules, or for those who violate a medium-level misconduct rule and for whom verbal redirection is not appropriate. Appropriate strategies to address behaviors or specific rule violations are recommended by the charging official and approved by the shift supervisor. Examples of these kinds of interventions include: journaling; book reading assignments and book reports; restorative actions; and/or a referral to a counselor or case manager. The traditional, formal disciplinary process is reserved for instances when verbal redirection and the Behavior

Intervention Program have been unsuccessful, or a serious incident has occurred. The new policy provides guidelines but allows for staff discretion based upon the circumstances. The new policy continues to be met with mixed reviews by both staff and inmates as expected because implementation of this policy requires a significant shift in both the inmate and staff cultures. Administrators involved in implementation agree that this culture shift requires sustained supervision, ongoing monitoring of the implementation of this policy, and additional staff training and inmate education as needed.

The finalization of SOP 8-24, *Disciplinary Segregation*, was contingent on the implementation of SOP 8-30, *Behavior Intervention & Discipline Policy*, as the final version of SOP 8-24 had to align with changes made to SOP 8-30. The implementation of these two SOPs has contributed to a significant reduction in both the number of placements and the length of time spent in Disciplinary Segregation. This is reflected in the unit's logs.

As requested by the monitor, an updated progress report on the implementation of SOP 8-30 *Behavior Intervention & Discipline Policy*, and SOP 8-24, *Disciplinary Segregation*, was provided during the December 2019 compliance visit. From July 1, 2019 through November 30, 2019 a total of 620 verbal redirections were issued and 54 behavioral interventions were employed. A total of 177 disciplinary reports were written for behavior including, but not limited to: fighting without a weapon; assault on an inmate; use of alcohol, narcotics, or other intoxicants; and creating a security, safety, or health hazard. Behavior intervention strategies included: completing a responsibility questionnaire; engaging in a stress management activity; completing an anger

management worksheet; completing a hygiene worksheet; or engaging in an activity focused on listening and getting along with others. These data reflect a significant increase in the application of both verbal redirection and the imposition of behavioral interventions. To a lesser extent, the use of disciplinary reports has also increased during this reporting period. These data suggest staff appear to be more comfortable applying the new policies. During interviews with the monitor, some staff expressed a desire for faster review and approval of their recommended responses to inmate misconduct by their supervisors.

The monitor encourages Tutwiler's administration to continue to provide sustained monitoring of the application of these two SOPs and to provide additional staff training and inmate education to reinforce the intent and requirements of these policies. It is critically important that mid-level managers and supervisors exercise leadership and supervision and demonstrate support of this culture change when interacting with their direct reports and inmates. In both formal and informal interviews, some older, longer-term inmates expressed their belief that some inmates were manipulating the system to avoid disciplinary sanctions and expressed their frustration at the perception that discipline has gotten lax and younger inmates are not being held accountable for their conduct. This is understandable, inasmuch as inmates are not privileged to see the outcome of another inmate's disciplinary charge. Absent a high profile placement in the disciplinary segregation unit, an inmate would not be able to determine another inmate's sanction with certainty. Some staff members expressed similar concerns to the monitor.

Camera Management

Both staff and inmates continue to express appreciation of the significant role cameras play in the prevention of sexual abuse and the important role the camera footage plays in investigations and in holding both staff and inmates accountable.

The third annual camera review meeting was held December 13, 2018, and the ADOC PREA Coordinator attended as recommended by the monitor. The monitor reviewed the minutes from this meeting and the resulting action plan, which addressed recommended camera adjustments and the repair of some connection failures. During the December 2019 monitoring visit, the monitor visited the camera operations room and remains quite impressed with the cameras' capabilities, as well as the staff's maintenance of the equipment. The on-duty staff were fully attentive and engaged in their duties. At the time of the December 2019 compliance visit, the fourth annual camera review had been scheduled for December 19, 2019.

The video surveillance system has additional capabilities that are not yet activated. The monitor is aware that Tutwiler's camera system does not have audio recording capacity. In many allegations of either staff or inmate misconduct, the issue at hand is the language spoken, not the physical actions of a staff member or an inmate. Tutwiler has submitted a spending request to support the activation of audio capabilities for some cameras. This request was still pending as of the December 2019 compliance visit. Should funding and the opportunity present itself, the monitor would also encourage consideration of initiating a pilot body camera program for security staff at Tutwiler.

Staffing

The settlement agreement requires the development of a professional staffing analysis and for a plan based on this analysis to be presented to the ADOC and Tutwiler. ADOC and Tutwiler expended considerable funds to have a staffing analysis conducted at Tutwiler by nationally recognized experts to research and develop a gender-responsive staffing plan for Tutwiler. This staffing plan was informed by gender-responsive principles identified by the National Institute of Corrections (NIC), PREA requirements, DOJ settlement agreement requirements, and emerging correctional best practice.

For the first court report, former Monitor Lancaster was asked to review the schedule for the Phase II Staffing section due to its complexity, multiple requirements, and need for a tremendous amount of data from ADOC and Tutwiler. Monitor Lancaster provided recommendations in the first court report and noted concerns at that time about the timeframes established in the settlement for the completion of the analysis and the implementation of the staffing plan. Revisions to the implementation schedule were strongly recommended by the monitor at the beginning, and project extensions were granted.

ADOC submitted the draft staffing analysis to the DOJ and monitor in the Spring 2016. Both the DOJ and Monitor Lancaster offered comments on this draft in late June 2016. On August 16, 2016, ADOC sought clarification regarding some of DOJ's feedback.

During the December 2016 compliance visit, the ADOC asked the new monitor to review the draft staffing plan and the DOJ's comments in an attempt to clarify all

comments for ADOC's review and response. On January 30, 2017, Monitor Dennehy provided ADOC with extensive feedback.

The monitor recognizes that a solid staffing analysis and plan is fundamentally important as a tool to determine the number and type of employees needed to staff Tutwiler. The plan is a dynamic document that examines the nature of the work to be done in terms of volume, location, duration, and gender restrictions. A solid analysis of staff requirements is instrumental to identifying the knowledge, skills, and abilities needed for a gender-responsive, trauma-informed Tutwiler workforce. This a complex and challenging task, complicated by a high percentage of position vacancies, a high rate of staff call outs, critical posts being filled by mandating overtime for officers, assigning supervisors to work line posts, and doubling up officer posts. The consultant's draft report noted the vacancy rate had a significant impact on the development and implementation of a staffing plan. Given the complexity of this task, both the ADOC and the DOJ agreed that additional time was needed for ADOC to work through the DOJ and the monitor's comments and finalize the plan. Monitor Dennehy approved an extension to June 1, 2017.

The ADOC continued to work with the monitor and the DOJ towards developing a final, approved staffing analysis to ensure it effectively incorporated the gender-responsive principles required in the settlement agreement. The monitor approved an additional extension to September 2017 to allow ADOC sufficient time to review and respond to each recommendation made by the DOJ and monitor.

On July 26, 2017, the ADOC provided the DOJ and monitor a copy of the finalized staffing plan and a matrix listing every comment and suggestion previously

provided to the ADOC by the DOJ and monitor, together with an explanation for what was modified and what was not included in the final plan issued by the ADOC. The monitor reviewed the staffing plan and ADOC's documented consideration of the monitor and DOJ's recommendations.

The monitor requested ADOC and Tutwiler provide periodic progress updates on the implementation plan addressing the recommendations made in the staffing plan. In April 2019, Tutwiler moved the inmates' breakfast meal by one and one-half hours to two hours and adjusted subsequent activities to increase staffing efficiency to lower peak staffing demands and to provide inmates with more hours to sleep. The monitor was provided another update during the December 2019 compliance visit. As of December 1, 2019 Tutwiler had implemented twenty-one of twenty-two recommendations in the staffing plan. Only one recommendation remains: implementing audio capabilities of the video surveillance system. Implementation of this final recommendation is contingent upon funding for which a request has been made.

The monitor recognizes the full implementation of the staffing plan is ongoing and will continue to request these periodic implementation progress updates. In addition to the aforementioned reports, in compliance with Section III.C.2.vi of the settlement agreement, ADOC and Tutwiler are required to submit quarterly staffing reports to the monitor and the DOJ. These reports include the following information: (a) a listing of staff hired at Tutwiler, by gender and positions filled; and (b) a listing of staff who ended their employment at Tutwiler, including gender, position, and the reason for separation. The most recent report was forwarded to the DOJ and the monitor on October 15, 2019.

Section III.C.2.vii of the settlement agreement requires Tutwiler to provide to the

monitor and the DOJ a staffing report every six months in the first year after the effective date, and yearly thereafter. This report's due date was contingent upon the date of the completion of the staffing analysis. The date of the staffing plan was July 26, 2017. Therefore, the first staffing report covered the timeframe July 26, 2017-January 26, 2018 and was submitted to the DOJ and the monitor on March 13, 2018. The next staffing report was submitted on September 4, 2018. In accordance with the agreement, this staffing report will now be provided on an annual basis until termination of the agreement. The staffing report for the first full year, July 28, 2018 thru July 28, 2019 was forwarded to the DOJ and the monitor on October 16, 2019.

While acknowledging improvements in the staffing, the monitor remains concerned about correctional officer staffing levels at Tutwiler. As of June 30, 2019 there were sixty-one correctional officers and nine basic correctional officers on staff (forty-four females and twenty-six males). At that time, only forty-four percent of Tutwiler's correctional officer positions were filled. As of December 31, 2019, the combined vacancy rate for correctional officer and basic correctional officer positions was thirty-one percent. Fifty positions remained vacant. There were sixty-five correctional officers and forty-five basic correctional officers. Of the filled correctional officer positions, twenty-one were men (eighteen-African-American, three-Caucasian) and forty-four were women (forty-one-African-American, three-Caucasian). Of the filled basic correctional officer positions, one was an African-American man, and forty-four were women (forty-two-African-American, and two-Caucasian). Overall, the uniformed staff is comprised predominately of African-American women. Correctional officers are certified by the Alabama Peace Officers' Standards and Training Commission (APOSTC). Basic

correctional officers are not certified by APOSTC.

The monitor appreciates the efforts Tutwiler has taken to mitigate the issues resulting from understaffing. Those steps have included a reliance on overtime and using employees who are non-APOSTC correctional officers for certain jobs, such as monitoring the prison's camera system. Other mitigating strategies have included placing supervisors on line posts when needed to maintain operations and doubling up correctional officer housing posts. The ADOC continues the practice of allowing officers from other ADOC facilities to work overtime, or otherwise be temporarily assigned at Tutwiler, only after those officers have been trained as required by the settlement agreement. The monitor cross-referenced staff training attendance records with the names of officers on overtime rosters and has verified that this training requirement is being met. The Tutwiler staffing plan calls for one officer to be assigned to each dorm. It has become the norm that some posts must be doubled each shift as a result of low staffing levels. When this occurs, one officer must cover two dorms; however, video surveillance is constant in all dorms. Occasionally, supervisors are pulled from their assignments to perform correctional officer duties. While these efforts may be workable in the short term, they do not, in the monitor's strongly held opinion, present a long-term solution to the chronic staffing shortage. As such, the recruitment and retention of qualified staff is critically important and will be addressed later in this report.

Going forward, the monitor recognizes that the staffing plan is evolving and will also need to be revisited periodically as the facility schedule, programming changes, and dorm reconfigurations are made to support critical changes to the gender-responsive classification process.

For the reasons cited, the monitor has determined that the ADOC and Tutwiler currently remain in "partial compliance" with the staffing and recruitment provisions of the settlement agreement.

Training

Tutwiler's training team provided the required annual refresher training regarding sexual abuse and sexual harassment. The completion of this year's annual training was completed on November 19, 2019. This completion was certified by the Dr. Wendy Williams, Deputy Commissioner's for Women's Services.

The Tutwiler training team is comprised of qualified instructors, as they had previously received specialized refresher facilitator training on custodial sexual abuse by the agency's nationally recognized consultant. The facilitator's guide for the refresher training curriculum was reviewed and commented upon by the DOJ and monitor, consistent with Section III.A.6 of the settlement agreement. Additional training on gender-responsive and trauma-informed use of force has been incorporated into the ongoing refresher training.

The monitor has been very impressed with the documentation of staff attendance at training maintained by both Warden McClain, in her capacity as the Settlement Compliance Manager, and the IPCM. These records are well organized and easily retrievable and demonstrate careful tracking of any pending attendance requirements.

Medical and mental health staff are expected to receive specialized PREA training, in addition to that which is provided by the ADOC and Tutwiler for correctional staff. While on-site in December 2018, the monitor reviewed the medical and mental

health staff's policy manual and PREA staff training curriculum. The monitor offered suggestions to enhance the sections of the policy and curriculum that address PREA generally and sexual harassment specifically. The provider has since revised the policy and curriculum. The monitor has reviewed the revised curriculum. During the December 2019 compliance visit, the monitor reviewed randomly selected training records to verify that newly hired staff are attending this training.

Intake Dorm and Overcrowding

Upon entry into the facility, all newly admitted inmates are processed and placed in the Intake Unit as they await the results of their medical and mental health screens, and the assessment of their placement eligibility and suitability. Historically, inmates may have stayed longer than necessary in this unit due to the limited availability of bed space within the ADOC women's facilities. In July 2015, the Deputy Commissioner for Women's Services convened a work group to evaluate methods to reduce or eliminate use of Dorm A (the Intake Unit) to house inmates for more than 48 hours.

This group continues to meet quarterly, and the meeting notes are forwarded to the Deputy Commissioner for Women's Services. The Monitor reviewed the minutes from the December 16, 2019 meeting. Tutwiler's initial efforts at reducing the use of placement in the Intake Unit resulted in both an overall reduced unit count and overall shorter lengths of stay in the unit. More significantly, the decrease in the Intake Unit's population reflected a decrease in Tutwiler's overall population. This reduction in the overall inmate population provided some relief for Tutwiler in housing placement options and staffing deployments. To improve the facility's overall bed management, in January

2018, Tutwiler relocated the intake dorm from Dorm A to Dorm K, a smaller unit. As of June 2019, the average length of stay for each inmate in Dorm K was three to four days, compared to the starting point of an average stay of ten to thirteen days.

As of June 2019, Tutwiler's overall population count began trending upward likely due to the Pardon and Parole Board's release guidelines becoming more restrictive. The facility also reported an emerging increase in parolees being returned for brief periods of time for technical violations while on parole. These returning inmates are referred to as "dunks." For these dunks, a judge may impose a term of imprisonment for thirty to ninety days instead of revoking their probation or parole status and imposing their full sentence. This short time frame does not provide the recommended time for the inmate's participation in any meaningful substance abuse treatment or any other programming.

Dorm K houses a maximum of fifty-eight inmates. During the months of October, November, and December 2019, the unit has been nearly full on a daily basis. As of December 1, 2019 the average length of stay in the unit had climbed to ten days. The primary reasons cited for the longer-than normal targeted length of stay are 1) limited bed space availability within the ADOC women's facilities; 2) placement eligibility; and 3) the need to address inmates' serious mental illness or medical issues. On average, one-third of the inmates arriving at Tutwiler continue to be court-ordered "dunks" (those brought back for a short period of time) who cannot be transferred to a work release and are required to remain at Tutwiler. In addition, the other ADOC women's facilities are not staffed to provide the intensive mental health services or access to around the clock medical care that is provided at Tutwiler. Between fifty-sixty percent of the October,

November, and December new arrivals were seriously mentally ill or classified with a health care code that disqualified them for out-placement to work release sites.

The workgroup has been very aggressive in monitoring and responding to changing shifts in the population. The committee is again exploring a relocation of the intake unit in the event these shifts in admission, sentencing eligibility, and release data continue. A daily review of placements is on-going and communication between security, health services, mental health, and classification is excellent. The monitor will review these data during the June 2020 compliance visit.

*Gender-Responsive Risk/Needs Assessment, Classification and Programming
Classification*

A consultant, nationally known for her work with women inmates, was contracted to work with the ADOC to develop a gender-responsive classification system and assist Tutwiler in developing the programs necessary to address the women's needs. The ADOC forwarded the classification proposal to the monitor and DOJ for review in May 2016.

An implementation workgroup was created and includes a cross section of key ADOC and Tutwiler staff members. The Women's Risk Needs Assessment (WRNA) and Women's Services Classification Manual were implemented on August 15, 2016, with the expectation that during a six-month "pilot" program all the women at Tutwiler would have an assessment completed on them. The pilot program period was to end February 15, 2017. Following the pilot period, a validation assessment was expected to commence. This original timeframe was expected to yield WRNA validation results by March 28, 2019, when an assessment of compliance with the settlement agreement was originally

due. The pace of implementation was delayed as a result of several factors. The primary reasons for the delay included the: 1) lack of software automation to support WRNA; 2) time delays in hiring new positions required to assist with the implementation process; and 3) slower than expected pace of administering the WRNA to the Tutwiler population. As a result of this slower than expected pace of initial implementation, the pilot end date had to be extended to August 2017.

After an exhaustive request for proposal process, the ADOC contracted with a technology company to create the software automation for WRNA. The company established a deliverable date for July 2017. The software company provided the necessary staff training. In addition, Tutwiler had nine new positions allocated and created, and as of July 1, 2017, all the positions were filled. The pace of administering the WRNA then accelerated under the leadership of a new classification supervisor. As of mid-July 2017, all the Tutwiler inmates had been classified using the WRNA. The pilot period was completed, and the Women's Services Classification Manual was finalized. In May 2019, the Women's Services Classification Manual was revised to reflect changes in policy and practice, and to streamline the manual format. The DOJ and the monitor reviewed the draft and provided their feedback. The final draft of the manual was published on May 14, 2019.

The new classification system incorporates gender-responsive principles and addresses the needs of women inmates at Tutwiler including: housing safety; mental health (depression/anxiety/psychosis); abuse and trauma; family conflict; relationship dysfunction; and parental stress. The system focuses on strength and resiliency factors including educational assets, family support, and self-efficacy. The use of "restricted

status” for female inmates was abolished in September 2016 pursuant to the new classification system. A comparison of classification levels of Tutwiler inmates on August 1, 2016, November 1, 2017, November 1, 2018, and November 26, 2019 documents the impact of the new classification system. In 2016, forty-seven percent of the women were classified as minimum custody. In 2017, this rose to sixty-two percent. In 2018, this figure increased to seventy percent. In November 2019, seventy-three percent of Tutwiler inmates were classified as minimum custody. In 2016, thirty percent of the women had been classified as medium custody. This number continues to decline and reduced to twenty-five percent in 2017, twenty percent in 2018, and sixteen percent in 2019. These numbers reflect that many women's custody levels were historically over classified due to a reliance on classification instruments and processes designed for male prisoners. Women offenders' pathways to incarceration are different than those for men, so their risks and needs differ. At some point in the near future, the monitor expects to see a leveling off in the distribution of custody levels of the women at Tutwiler.

In October 2016, ADOC formed a WRNA validation committee. The final validation plan was provided to the DOJ and monitor on July 28, 2017. ADOC prepared a request for proposal to conduct this study and it was disseminated to potential researchers in June 2018. In October 2018, the ADOC awarded the validation study contract to the University of Alabama. Auburn University is partnering with the University of Alabama on this project. A contract was finalized in January 2019. The entire validation process was expected to take three years and six months to complete once the process began.

The University of Alabama and Auburn University obtained Institutional Review

Board approval from their respective institutions in October 2019. The validation study began on November 1, 2019. At the time of the December 2019 compliance visit assessment of inter-rater reliability was underway.

The compliance assessment date originally set for the applicable provision in the settlement requirement was March 28, 2019. Given the postponement of the initial WRNA implementation date, the monitor deferred assessment of this requirement until the December 2019 compliance visit. The monitor has determined that ADOC and Tutwiler are now in "Partial Compliance" with this provision. ADOC has fully met all requirements, excepting the validation of the instrument which is now underway. The contracts and process are in place. Data are being collected and inter-rater reliability reviewed. Piloting and validation of the WRNA for Alabama will be completed within three years and five months from November 1, 2019. The monitor will request an update on the project and projected timeframes from the University of Alabama researchers working on this project prior to her visit in June 2020. The monitor will review the compliance status of this requirement when the first research study (Intake Assessment Validation) has been completed and reviewed.

Programming

A gender-responsive program committee was convened in October 2016 to research and develop a proposal for review by the Deputy Commissioner for Women's Services and the Associate Commissioner for Plans and Programs. The contracted expert facilitated the committee's work. The committee focused on identifying and developing evidence-based programs that are gender specific and responsive to the programming

needs identified by the WRNA. The initial proposal was forwarded to the DOJ and monitor for review in April 2017. The final proposal addressing the DOJ's and monitor's feedback was forwarded to the monitor and DOJ on July 31, 2017. Programming was selected based upon which programs addressed the women's identified needs, had research to support their use, and could be implemented within ADOC's facilities. If there were more than one program which fit this criteria, programs were selected based upon cost and ability to acquire any training needed by staff. Development of the resources to support the programs began immediately following the finalization of the proposal.

Tutwiler and the Women's Division of the ADOC continue their joint focus on developing and providing gender-responsive, trauma informed, evidence/research based programming for women offenders. Tutwiler's graduation and current enrollment statistics are provided for these programs for the timeframe July 1-December 31, 2019. **The Getting Ahead While Getting Out** program is a re-entry program designed to engage the offender, her family, volunteers, community and staff in problem solving for a successful transition to the community. As of December 31, 2019 this program has produced twenty-eight graduates with an additional eight women enrolled in the current program cycle. The **Helping Women Recover** program is designed to treat addiction and utilizes the theories of women's psychological development and trauma. It addresses triggers for relapse, relationships, domestic violence, trauma, family issues and self-esteem. A total of one hundred-twenty women have graduated from this program with another thirty-seven currently enrolled. The **Beyond Trauma Program** incorporates the latest research in neuroscience, trauma, and post-traumatic stress disorder. It also

incorporates cognitive behavioral techniques, mindfulness, expressive arts, and body-oriented exercises. This program has graduated seventy-one women and another nineteen are set to graduate at the completion of the current program cycle. The **Beyond Violence Program** focuses on emotional regulation of anger. It addresses both violence and trauma that women have experienced, and the violence they have perpetuated. This program has graduated sixteen women and thirteen more will graduate at the end of this program cycle.

Active Adult Relationships teaches participants skills to include: communication, conflict resolution, emotion management, making budgets, wise choices for friends, dating and marriage, recognizing personal strengths, and future planning. As of June 30, 2019, it produced sixty graduates with twenty women currently enrolled. **Moving On** began in August 2018 and leverages both educational and cognitive skill building approaches to help women at risk of future criminal justice involvement find alternatives to criminal activity. The program supports women as they mobilize and build personal strategies, natural supports, and community resources. Seven women have graduated and there are no women enrolled in the current program cycle. **This program is designed for moderate to high risk offenders and Tutwiler has very few women assessed at this level of risk. A low enrollment is understandable.** **Parenting Inside Out** was implemented late January 2019. The program teaches parent management skills to incarcerated parents. It helps to promote healthy child adjustment, prevent problem behavior, and stop the intergenerational cycle of criminal justice involvement. Fifteen women have graduated and nine are currently enrolled.

Family Days are planned to begin in Spring 2020. This will involve extended

visitation by family members combined with a series of seminars about the programs the inmates are participating in and ways for family members to support inmates during and after incarceration.

To accommodate this program expansion, several facility renovations were initiated with the support of the Central Office Engineering Division. Much needed additional classroom space was constructed and now provides a professional learning environment for the new programs. The facility has also renovated the old dining room to use as a visiting room and activities center. In addition to a common area for visits, the area will include two small rooms designated for activities. An outdoor play area for children is also planned.

The Alabama Prison Birth Project has been providing doula support to pregnant prisoners at Tutwiler and has partnered with the ADOC and Tutwiler to create a lactation room. Women are allowed to leave their dorms for the privacy of the lactation room whenever they need to pump breast milk. The milk is logged, labeled, and stored in a deep freezer. Once a week, a certified lactation counselor retrieves the bottles of milk from the prison, packs them in dry ice and ships them to where the mothers' babies are living. The room is called "Serene Expression" and inmates have painted the pastel colored room and decorated the walls with artwork. This particular program has received positive media attention and was the subject of a recent documentary produced by The Marshall Project.

Inmate Education

Incoming inmates receive comprehensive orientation education within fourteen

days of admission to Tutwiler. The IPCM maintains records of inmate attendance at these orientation sessions. The monitor has attended this orientation during previous compliance visits as scheduling permits. The curriculum and training aids are well designed. In interviews with the monitor, inmates demonstrated their understanding of their right to be free from sexual abuse and sexual harassment and how to report any allegations.

Inmates' Right to Privacy

During the current reporting period and during the compliance visit, the monitor received no complaints from inmates of inappropriate cross gender viewing or searching.

While touring during the December 2019 compliance visit, the monitor observed that appropriate privacy panels and shower curtains were in use in the shower and bathroom areas in inmate housing units. The monitor also witnessed staff consistently announce the presence of a male officer on the unit when needed.

Transgender inmates shower privately in the Health Services Unit.

Inmate Polling

The ADOC and Tutwiler established a system to routinely poll inmates regarding their perceptions of the implementation of the specific terms of the settlement agreement. The subject matter areas include: the prevalence of staff sexual abuse and sexual harassment; inmate vulnerability to sexual abuse and sexual harassment; the investigation and discipline of staff accused of sexual abuse and sexual harassment; the efficacy of inmate education regarding sexual abuse and sexual harassment; privacy in the showers

and toilets; the appropriateness of inmate classification; the levels of staff supervision; the efficacy of the reporting systems for sexual abuse and sexual harassment including grievances; and official responses to, and retaliation for, allegations of sexual abuse and sexual harassment. As agreed upon by the monitor, the DOJ, and ADOC, The Moss Group, Inc., a corrections consulting firm, initially administered the survey quarterly for the ADOC. The initial inmate polling was conducted in July 2016, and a second was held in October 2016. The Moss Group, Inc. conducted two additional polls in 2017.

ADOC entered into a Memorandum of Understanding (MOU) with Auburn University on August 9, 2017, for the University to provide long term assistance with the administration of this survey. A copy of the MOU, and the University's draft protocol were provided to the DOJ and monitor. Both the DOJ and monitor reviewed and offered feedback on the initial draft protocol. This agreement serves to institutionalize the inmate polling survey as a valuable tool for ADOC and Tutwiler in the future. The protocol was finalized on October 24, 2017. Since then Auburn University has administered the inmate polling surveys.

After a year of conducting polling activity, Auburn University changed the participation protocol from random sampling to a more structured dorm-by-dorm selection method. This was a result of the research team's attempt to increase inmate participation in the survey, reduce the probability of inmates being randomly selected more than one time, and disrupting the inmates' daily program/work assignments unnecessarily.

On July 24, 2019 ADOC sent the monitor and DOJ Auburn University's updated 2019-2020 polling protocol for review and comment. On that same date, the monitor and the

DOJ received the results of a polling survey held in June 2019. The June 2019 polling administration invited approximately three-hundred women to participate in the polling with one hundred forty-one starting and one hundred thirty-seven completing the poll yielding a forty-six percent response rate. There was an eighteen percent increase in the response rate from the February 2019 polling to the June 2019 polling. This polling survey is rich in data and much of the feedback is supported by what the monitor has observed in correspondence from inmates, a review of grievances, and a review of PREA-related investigations. For example:

- Two-thirds of participants reported an awareness of verbal abuse by staff towards inmates. More than half of respondents agreed that staff members disrespectful comments to inmates had increased in the past year. Fifty percent of respondents disagreed that staff treat inmates with respect. Regarding inmate treatment of staff members, fifty-six percent of respondents disagreed that inmates treat staff with respect. Based upon survey results, inmate grievances, and feedback provided by the women to the monitor, it appears verbal abuse by staff of inmates is still a chronic issue. The monitor and Deputy Commissioner Williams discussed this issue and the need for an on-going response to address this problem.
- The majority of the women respondents were not aware of staff members, contractors, or volunteers sexually harassing or sexually abusing inmates. When asked if sexual relations between inmates and staff members continue to occur, sixty-two percent disagreed, eighteen percent agreed, and twenty-two percent neither agreed nor disagreed.
- When asked if PREA incidents against inmates were investigated in a timely manner, forty-six percent agreed they were, eighteen percent disagreed, and thirty-seven percent neither agreed nor disagreed. When asked about the fairness of these investigations, forty-one percent agreed they were fair, twenty-two percent disagreed, and thirty-seven percent neither agreed nor disagreed.
- The overwhelming majority of the women who responded to this survey indicated they understood the PREA rules (ninety-three percent) and their rights associated with sexual safety and abuse. Only one percent disagreed, and four percent neither disagreed nor agreed. This demonstrates that the inmate education piece has been effective.
- Forty-four percent of the respondents agreed there is adequate privacy in the

toilet and shower areas, while forty-six percent disagreed. Ten percent neither agreed or disagreed. Based upon the feedback from both staff and inmates, it is evident to the monitor that the shower areas are the "hotspot" for inmate smoking, use of drugs, and sexual contact between inmates. The monitor did not receive a single verbal complaint about inadequate privacy during the December 2019 compliance visit. In this instance, the survey data is at odds with the monitor's observations and random communication with staff and inmates.

- When asked about feelings of safety at the facility, seventy-seven percent agreed they felt sexually safe, while only nine percent disagreed, and fourteen percent neither agreed nor disagreed. In conversations between the inmates and the monitor not one woman reported feeling unsafe.
- When asked if there was enough staff available so they can get to the work, program, or other assignments on time, nineteen percent agreed, while seventy-one percent disagreed on enough staff being available. In another question about availability of staff members in the dorms, thirty-nine percent agreed, while forty-nine percent of the respondents disagreed on enough staff being available. These data represent a significant shift from the last polling data when thirty-nine percent of respondents agreed, thirty percent disagreed. During the December 2019, several inmates complained to the monitor about long delays while awaiting officer escorts between the Annex and the main compound and the Annex and the factory.
- When asked if participants use PREA to falsely report incidents against staff, sixty-four percent agreed, and twelve percent disagreed, with twenty-six percent neither agreeing or disagreeing. When asked if inmates use PREA to falsely report incidents against other inmates, seventy-two percent agreed, and only ten percent disagreed. The percentage of women acknowledging the use of false reports of PREA violations has grown significantly. This feedback is consistent with information obtained by the monitor in formal and informal conversations and correspondence with inmates, and during the review of investigations. Several inmates referred to these false accusations as "being PREA'ed" noting that some women threaten staff and inmates by saying "I'm gonna PREA you". The monitor is fully aware, as are the inmates, that upon occasion inmates do lodge allegations in an effort to get experienced, effective officers removed from their housing units or to manipulate inmate housing assignments to be near partners.
- When asked if the programs and classes participants have attended are useful, seventy-two percent agreed they were and only eight percent disagreed. Inmates consistently reported to the monitor an appreciation for the new programming.
- A total of thirty percent of the respondents reported having trust in the grievance system, while forty-eight percent disagreed that they trust the

grievance system. This survey result is supported by the monitor's communications with inmates.

- When asked if inmates are disciplined consistently for violating rules about relationships with other inmates, only nineteen percent agreed, while sixty percent of respondents disagreed. In conversations with the monitor, some inmates do assert that some staff members turn a blind eye to some inmate relationships based upon the race of the staff and inmates. The monitor saw no evidence to support this perception.
- When asked if staff members making disrespectful comments to inmates has increased, fifty-seven percent agreed, twenty-four percent disagreed with twenty percent neither agreeing nor disagreeing. The number of inmates lodging this complaint has grown since the last polling exercise when thirty eight percent agreed.
- When asked if they perceived staff members are held accountable when they violate rules related to staff sexual abuse and sexual harassment, fifty percent agreed, while fifteen percent disagreed with thirty-six percent neither agreeing or disagreeing.
- When asked if they had noticed positive changes at Tutwiler twenty-nine percent agreed they had and thirty-one percent disagreed, with forty-one percent neither agreeing or disagreeing. In the monitor's conversations with inmates, it is a rare occurrence for a woman to disagree that there has been positive change at Tutwiler. In particular, longer term inmates who have spent many years at Tutwiler acknowledge what they mostly view as positive change. In this instance, survey data are at odds with the monitor's observations and random communication with inmates.

Overall, the survey results are mixed, so it is important that the Quality Improvement Team remain active in reviewing the survey results and any incidents, problematic areas in the facility, and any allegations of sexual abuse, sexual harassment or the use of unprofessional language by staff. The team is encouraged to hold deeper discussions about the kinds of changes in the grievance, investigations, disciplinary, and classification processes that are needed so that inmates consistently view these processes as useful and credible.

The First Session Polling for Year Four was conducted in October 2019, and the

compiled results were received in January 2020 and will be addressed in the next compliance report.

Quality Improvement and Data Collection

Quality improvement meetings began in August 2016 and meet monthly and hold additional discussion and conduct analysis of all the incidents occurring over the previous thirty days, including any action plans that were developed at previous meetings. In the past, the monitor and DOJ attorneys had an opportunity to attend a quality improvement meeting. The meeting was expertly chaired by Warden Wright, who guided a cross-section of Tutwiler staff through a comprehensive agenda that included in-depth analysis of all incident reports involving inmates as alleged victims of excessive use of force; allegations of sexual abuse or sexual harassment; video reviews of incidents; a video review summary of at least four randomly chosen shifts for a spot check of staff posting and work expectations; staff polling results; an update on staff to include gender of staff and posts assigned; a review of overtime usage; the use of leave time; reasons for any staff resignations; a review of any documented variations from the facility staffing plan; a review of inmate grievances; a review of medical and mental health grievances; and a review of inmate disciplinary reports. The monitor was especially impressed with Warden Wright's facilitation of the meeting and her assignment and tracking of outstanding issues and staff responsibilities; the frank discussion and input from the captains and other key staff; and the inter-disciplinary collaborative problem solving involving the medical, mental health and correctional staff.

Meeting minutes from the quality improvement meetings are made available for

the monitor's review. The monitor has reviewed several sets of meeting minutes, including the minutes to the most recent meeting convened on December 10, 2019. The Quality Improvement Team has demonstrated they are using the enormous amount of data that is collected and they are digging deep into it to identify opportunities to make operational improvements.

The ADOC and Tutwiler developed the Risk Management System (RMS), which is designed to track facility trends related to: (1) sexual abuse or sexual harassment; (2) unprofessional staff conduct involving inmates, including the use of sexually explicit, vulgar, or degrading language; and (3) use of force incidents.

In addition to the RMS data being reviewed at the monthly quality improvement meetings, these data are reviewed and aggregated on a quarterly basis by Warden McClain and reviewed by the Deputy Commissioner for Women's Services. A quarterly review is conducted to assess and improve the effectiveness of sexual abuse and sexual harassment prevention, detection, and response policies, practices, and training. The quarterly reviews allow for: (a) the identification of potential patterns, changes, and problem areas, which includes problems in staffing levels, policies, practices, staff discipline system, and staff and inmate training/education; (b) the identification of staff or supervisors in need of retraining, performance plans, or discipline; (c) the development of an array of intervention options to facilitate an effective response to problems; (d) taking corrective action on an ongoing basis; and (e) preparing bi-annual reports of its findings and corrective actions, including a comparison of the findings in previous reports to assess progress. The challenge for the administration is to integrate and analyze all data in a timely manner. Funding for automation of the RMS system, including

mapping capabilities, would support a more timely and robust review of the RMS data and trends.

During this reporting period, ADOC provided the monitor and DOJ one biannual report listing all staff members identified through the RMS and any corrective action taken. The report covered the time period from November 29, 2018 to May 28, 2019 and was submitted to the monitor and DOJ on August 1, 2019. This RMS report documented eighteen allegations against staff members for engaging in the use of profane, degrading, unprofessional, threatening, or insensitive language with inmates. This compares to the thirty allegations of this nature reported in the previous biannual report. Each of these incidents was tracked and investigated. No corrective action was taken when the allegation was disproved and determined to be unfounded. In most instances, the inmate's allegation could not be proved or disproved, so the allegations were determined to be unsubstantiated. Corrective action taken for unsubstantiated cases ranged from verbal counseling, issuing a formal memo for the record, and issuing a policy reiteration memo. Nevertheless, in all instances of an unsubstantiated allegation, a supervisor met with each staff member and reiterated Tutwiler policy and performance expectations. In the absence of conclusive proof, this administrative response is appropriate.

The monitor reviewed the RMS reports and attests that the ADOC and Tutwiler staffs have already demonstrated good use of RMS data and the results of the inmate polling survey. Both instruments document that some Tutwiler staff allegedly use abusive and profane language towards the inmate population that undermines efforts to build a gender-responsive and trauma informed environment. In previous reports, the monitors have recognized the need for staff interventions regarding the requirements for using

professional language while addressing inmates. Addressing this issue remains a top priority for the facility wardens. In response to an earlier inmate survey, Warden Wright developed an intervention plan to address staff's unprofessional use of sexually explicit, vulgar, degrading, or racially insensitive or offensive language. In that many allegations of this kind of behavior cannot be substantiated due to the lack of corroboration by others, the plan included the use of policy reiteration memos. A supervisor meets with the staff member accused of using inappropriate or abusive language and uses the meeting as an opportunity to reinforce Tutwiler policy and provide supervisory coaching. The employee is reminded in writing of policy requirements. Overall, this strategy does not seem to be shifting behavior, as verbal abuse by a small number of staff continues to be an issue. The monitor is also aware, however, that there are inmates who make allegations of this nature in an effort to retaliate against staff who hold inmates accountable. For those officers, repeated receipt of a policy reiteration memo may be demoralizing and impact an employee's retention.

The monitor and the Tutwiler administration have discussed the need to continue to aggressively investigate these allegations and to hold staff accountable using progressive discipline, increased supervision, reassignments, and retraining. The monitor looks forward to receiving an update from ADOC and Tutwiler about their continuing efforts to eliminate the use of offensive and abusive language by staff.

As on previous compliance monitoring visits, some of the Caucasian inmates who speak or write to the monitor allege that African American staff are less strict with African American inmates. This creates a perception of favoritism that may create tensions along racial lines, especially when, as of December 31, 2019, one hundred-one

of the one hundred-ten officers working at Tutwiler are African American and fifteen of the of the seventeen sergeants are African American.

Pursuant to the settlement agreement, on an annual basis, ADOC and Tutwiler shall conduct a documented review of the RMS to ensure that it has been effective in identifying concerns regarding policy, training, or the need for discipline. The ADOC and Tutwiler convened a panel to conduct the third annual review of the RMS covering data tracked from May 29, 2018 - May 28, 2019. This report was submitted to the monitor and the DOJ on October 22, 2019.

Sexual Abuse/Sexual Harassment Allegations

The monitor met with Mr. Arnaldo Mercado, Director of the ADOC's Investigation and Intelligence Division (I & I) and Investigator Kelley Smith to discuss and review completed investigations into allegations of staff-on-inmate sexual abuse/sexual harassment and inmate-on-inmate sexual abuse investigations that occurred during this reporting period. There were seven staff related PREA investigations completed during this reporting period. All of the six alleging staff-on-inmate sexual abuse cases were determined to be unfounded, as evidence did not support the allegations. The one case of alleged sexual harassment of an inmate by staff was also determined to be unfounded.

There were eight completed investigations into allegations of inmate-on-inmate sexual abuse. Two of these cases were unsubstantiated, as no corroborating evidence surfaced. Six of the allegations of inmate-on-inmate sexual abuse were determined to be unfounded. Upon review, the monitor determined that these allegations appear to have

been appropriately determined to be unfounded or unsubstantiated and were conducted in accordance with AR 454 and SOP 8-12, *Inmate Sexual Abuse and Sexual Harassment*. In conversations with the monitor, inmates expressed confidence in Investigator Kelley Smith who conducts investigations into allegations of staff-on-inmate sexual abuse and sexual harassment as well as inmate-on-inmate sexual abuse, and the acting IPCM, Captain Blanding, who conducts investigations into inmate-on-inmate sexual harassment allegations. During this reporting period, Captain Blanding investigated six allegations of inmate-on-inmate sexual harassment. Two cases were unsubstantiated, three were deemed unfounded, and one case was open and was pending.

The monitor reviewed the facility response to allegations and the management of the reporting inmates and alleged perpetrators to determine if Tutwiler considered an adjustment of inmate housing and job assignments to ensure the safety of all involved. Captain Blanding closely monitors the management of reporting inmates and documents any allegations of retaliation against those who report allegations.

The monitor notes there are multiple, effective means of reporting allegations of inmate sexual abuse and sexual harassment, including a grievance process and at least one confidential method. During this reporting period, seven hundred-seventy-eight grievances, addressing a wide variety of issues were filed. Of these, only one grievance, involving two inmates, was PREA related and involving two inmates. The allegation was unsubstantiated. Mental health referrals and PREA risk assessments were conducted for both inmates. On a regular basis, the monitor randomly selected grievances for review. The administration's response to the one PREA-related grievance was also reviewed and the monitor determined the ADOC and Tutwiler policy was followed and

appropriate action was taken.

The inmates can use a toll-free number to call the Alabama Coalition Against Rape (ACAR) for reporting. The agreement between the ACAR and the ADOC is that all calls are confidential, per ACAR policy. The ACAR agreed to suggest and/or encourage the inmates to use the ADOC and Tutwiler methods of reporting if their call was regarding an allegation of sexual abuse or sexual harassment. There is no requirement for the ACAR to report to the ADOC, so the number of calls for this reporting period is unknown.

Third parties are permitted to assist inmates in filing requests for administrative remedies for allegations of sexual abuse and sexual harassment and are permitted to file such requests on behalf of inmates. If a third-party files a grievance on behalf of an inmate and it relates to sexual abuse or sexual harassment, that report will be sent from the Institutional Grievance Officer to the ADOC PREA Director. If the grievance contains allegations of sexual abuse, or staff-on-inmate sexual harassment, the I & I Division will investigate the allegation. If the grievance contains allegations of inmate-on-inmate sexual harassment, the IPCM will investigate.

The monitor reviewed the ADOC website link for the public regarding the ability to file a PREA report. It provides adequate instruction for the public's reporting use. During this reporting period, there were no third party PREA-related allegations reported via the website.

Inmates have at least one way to report sexual abuse or sexual harassment to a public or private entity or office that is not part of the agency, and that is able to receive and immediately forward inmate reports of such abuse and harassment to agency

officials. The ADOC entered into an agreement with the Alabama Department of Economic and Community Affairs (ADECA) to take these reports. Inmates may make a report by dialing *6611, and this can be done anonymously. The monitor reviewed the call log for the entire reporting period to review the nature of each call and the ADOC's response. A total of eleven calls were made to ADECA's hotline during this reporting period. Many of the complaints made were not related to sexual abuse or sexual harassment. In each instance, the Tutwiler administration followed up on the allegations/complaints and the response was appropriate. Previously, at the monitor's request, the form used to track the nature of these calls was expanded to include more information detailing any actions taken by facility management.

Finally, during the facility tour, the monitor noted that information on how to report sexual abuse or sexual harassment is widely posted within the facility.

Alabama Strengths

The monitor believes Alabama has a strong foundation for continued progress in reaching all of the goals outlined and compliance terms required in the settlement agreement. That strong foundation is a result of the following organizational strengths.

Leadership from the Alabama Department of Corrections

With support of Commissioner Dunn, Deputy Commissioner Wendy Williams continues to provide the agency leadership for Tutwiler staff, directing and supporting successful implementation of the Tutwiler settlement agreement. In addition, Commissioner Dunn and Deputy Commissioner Williams are strategically focused on developing the capacity of agency and facility leadership as a means to sustain and

advance the progress made to date. Commissioner Dunn has been a strong advocate for the legislative action necessary to replace some of Alabama's outdated prisons, including Tutwiler, and for recent legislation to enhance compensation for security staff to improve staff recruitment and retention efforts.

Under Commissioner Dunn's leadership, in May 2019, the ADOC rolled out a new 2019-2021 agency Strategic Plan with four primary focus areas: staffing, infrastructure, programming, and culture. The goal of the programming focus area is to improve the delivery of research and evidence-based rehabilitative programs for inmates. The plan addresses gender specific programming. This plan, which is located on the ADOC website, details a strategy that will create an environment supportive of positive offender change and rehabilitation, where the WRNA is used to inform case management, and where proactive assessment-driven case management connects inmates to programs and services.

In June 2017, the monitor was advised that a regional training center dedicated for the training of line staff working in the women's facilities was being created in recognition of the gender specific training agenda and curricula necessary for staff who work with women inmates. It became operational in May 2018. This allocation of resources by Central Office signifies a significant commitment to the need for specialized training for those who work with female offenders. The ADOC repurposed a state-owned building, conveniently located next to Tutwiler, to create this training center. It provides a professional and appropriate setting for staff training. Overall, Tutwiler is equipped with a solid training curriculum and the appropriately credentialed staff to deliver this training. The monitor and the DOJ attorneys have been afforded the opportunity to

observe a staff training session.

The monitor works closely with Deputy Commissioner Williams who oversees the ADOC's Women's Services Division. Dr. Williams communicates regularly with the monitor regarding any developments of note occurring at Tutwiler relevant to the settlement's requirements. The monitor and DOJ commend Deputy Commissioner Williams for her consistent and thoughtful leadership, actions taken, and support given to the warden and staff at Tutwiler. Dr. Williams is the pivotal leader for the ADOC in managing their compliance with this settlement agreement.

Tutwiler's first official PREA audit was conducted on May 9-11, 2016 by PREA Auditors of America, LLC. The final audit report and certificate of successful completion was dated June 8, 2016. The second official three-year PREA audit cycle began in August 2016. The second PREA audit for Tutwiler was conducted January 22-25, 2019. The final report and certificate of successful completion was dated March 26, 2019 and was submitted to the DOJ and monitor on May 17, 2019.

In addition to meeting with Commissioner Dunn, the monitor met with Mr. Arnaldo Mercado, Director of ADOC's I & I Division; Ms. Kelley Smith, Tutwiler's investigator; and Mr. William Lawley, ADOC's Personnel Director. All ADOC central office staff consistently demonstrated working knowledge of their settlement related responsibilities during their interviews with the monitor.

Tutwiler Leadership

In this past year, there have been significant changes in Tutwiler's management team. All three of Tutwiler's warden positions are now filled. While absent during the monitor's December 2019 compliance visit due to medical leave, Ms. Deidra Wright

serves as Warden III at Tutwiler. Ms. Lagreta McClain, who was promoted from Warden I in March 2019 to fill the Warden II post played a central role in the December 2019 compliance visit during Warden Wright's absence. In May 2019, Mr. Kenneth Drake joined the Tutwiler management team as Warden I.

To ensure consistency in the on-site monitoring of the settlement agreement, Warden McClain had retained her duties and responsibilities as the Settlement Coordinator for this agreement during her transition to her new role. Captain Blanding who had served as the IPCM was recently promoted to Compliance Captain. Warden McClain has been training Captain Blanding to transition some of the Settlement Coordinator duties. Captain Blanding has also been serving as the acting IPCM. Tutwiler has announced that a new IPCM, a civilian, will be taking over January 1, 2020. Captain Blanding will assist in the new IPCM's training and will provide support during the transition period.

The monitor continues to observe outstanding leadership by the facility wardens and the executive team at Tutwiler during this reporting period. During the monitoring visit, Warden McClain provided an opening presentation to the monitor. Warden McClain also participated in both formal and informal discussions with the monitor and demonstrated her leadership at Tutwiler during observed interactions with staff and inmates.

As previously acknowledged, upon her promotion from captain to warden, and then again from Warden I to Warden II, Warden McClain retained her duties as Settlement Coordinator. The monitor interviewed Warden McClain in the privacy of her office and reviewed the settlement agreement documentation retained in her office.

Warden McClain has played a critical role in tracking Tutwiler's compliance, maintaining documentation, and organizing the RMS. She is very well organized and her follow through on issues is exceptional.

The monitor also observed the dedication and commitment of supervisors and line staff at Tutwiler to follow policies to ensure sexual safety, in spite of staffing challenges, such as the number of correctional officer vacancies.

Captain Felisha Blanding was fully available to the monitor during the December 2019 compliance visit to ensure a comprehensive review of the documentation she maintains, to coordinate private interviews with inmates, and to address all the monitor's questions. The monitor met privately with Captain Blanding in her office to review documentation and continues to be impressed with her tracking system and record-keeping.

Ms. Tina Tyler, the Institutional Grievance Coordinator, also fills a critical leadership role at Tutwiler. Ms. Tyler, a civilian, also serves as Tutwiler's Americans with Disabilities Administrator. The monitor also met with Ms. Tyler to review specific grievances and discuss the grievance process. Ms. Tyler's documentation is excellent and her follow-through on issues is exemplary.

ADOC Consultants

The ADOC and Tutwiler continue to draw on and benefit from consultant expertise in several specific areas. Specifically, expert consultants have participated with the ADOC in the development of the gender-based classification plan and programming; the staffing analysis; the inmate polling/survey process; data collection; the gender-responsive review of draft policies; validation of the WRNA, the provision of staff

training and inmate education; and the development of a staff recruitment and retention plan.

ADOC Women Services Division Strategic Planning Committee

The ADOC Women's Services Strategic Planning Committee continues to meet once a quarter to review and guide the ADOC and Tutwiler's efforts for creating sustainability models/practices/tools for their operations, future plans and mission for women offenders in Alabama.

Tutwiler Sexual Safety Culture

Staff and inmates report to the monitor a respect for the settlement-related policies and practices and are knowledgeable about them. Most importantly, during formal interviews and informal conversations with the monitor, the women say they trust that leadership will act on their behalf if an incident of sexual abuse or sexual harassment occurs.

Tutwiler currently uses SOP 8-12, *Form A, PREA Risk Factors Checklist*, to screen all inmates for risk of victimization or abusiveness. This form was originally created in May 2014. After consultation with other states to get input on risk factors and checklists in use elsewhere, the form was revised in January 2016.

All inmates are screened within seventy-two hours of arrival. The process is conducted by the classification staff. If an inmate is assessed as being at risk of sexual abuse or of being sexually abusive toward other inmates, a mental health referral is completed by the classification specialist, and that inmate will be interviewed by a mental health practitioner that day. Inmates are reassessed within thirty days of their arrival. The

monitor met with Ms. Felicia Greer, Tutwiler's Mental Health Site Administrator, to review her tracking system and her documentation. Ms. Greer maintains impressive records of inmate referrals and attendance of staff at required training programs.

The IPCM and Psychological Services actively follow up with any inmate who presents as at risk of being sexually abused or sexually aggressive toward inmates. Consideration is given to the inmate's housing, bed, work, education, and program assignments. Placement and programming assignments for an inmate at high risk of sexual victimization are reassessed at least twice a year.

Tutwiler sought the assistance of The Moss Group, Inc. about working with the principle researchers at the University of Nebraska who had worked on the PREA risk screening tools for the Iowa Department of Correction with the goal of revising Tutwiler's *PREA Risk Factors Checklist* to incorporate gender-responsive weights and measures into the screening tool. The Moss Group, Inc. has assigned a consultant to the project and she will be engaging with one of the researchers involved in the development of Iowa's tool. Dr. Kelly Mautz, who works closely with Deputy Commissioner Williams, will serve as the ADOC lead on this project.

Alabama Challenges

Tutwiler Facility

The monitor continues to note the challenges that the prison's aging infrastructure presents for leadership. Specifically, options for program space, medical and mental health screening and treatment, housing placements, and the day room areas are severely limited by the old design, aging infrastructure, and overcrowding. The physical plant also

impacts staffing requirements, as it has a direct bearing on operations and the location of officer posts. The physical plant is sprawling, and some housing and program areas are isolated and poorly lit, impacting the number of posts and staff needed to support safe and secure operations.

Population Capacity

Tutwiler's original design had an operating capacity of three hundred-fifty and the annex was rated at one hundred twenty-eight. The daily count has historically been nearly double the facility's original capacity. Currently, the operational capacity is seven hundred for the main campus and two-hundred fifty at the annex.

Dorm K currently serves as the intake unit and holds a maximum of fifty-eight inmates. During the months of October, November, and December 2019, the unit has been nearly full on a daily basis. Ongoing efforts to evaluate methods to decrease or eliminate the use of the intake dorm for a period that exceeds forty-eight hours had successfully resulted in both an overall reduced unit count and overall shorter lengths of stay in the unit. As of May 20, 2019 the average length of stay in the intake dorm was three days compared to the starting point of an average stay of ten to thirteen days. As of December 1, 2019 the average length of stay had climbed to ten days. The primary reasons for the longer-than normal targeted length of stay are 1) limited bed space availability within the ADOC women's facilities; 2) placement eligibility; and 3) the need to address inmates' serious mental illness or medical issues. On average one-third of the inmates arriving at Tutwiler continue to be court-ordered "dunks" (those brought back for a short period of time) who cannot be transferred to a work

release site and are required to remain at Tutwiler. In addition, the other ADOC women's facilities are not staffed to provide the intensive mental health services or access to around the clock medical care that is provided at Tutwiler. Between fifty to sixty percent of the October, November, and December new arrivals were assessed to be seriously mentally ill or classified with a health care code that disqualified them for out-placement to work release sites.

Both the settlement requirement for the development of a gender-based classification system and the development and implementation of gender-based programs at Tutwiler will be impacted by the overcrowding issues at Tutwiler. Specifically, plans will require the development of various housing options for separating groups of inmates, via the classification review process, that will be difficult to maintain as bed space must be allocated according to new placement criteria as it is implemented. In addition, the classification system will prescribe a number of program offerings that should be available for the inmates, based on a needs assessment. Tutwiler has completed some physical plant renovations to add much needed space for programs and activities. The staff have creatively converted and renovated every space possible to provide additional room for expanded programming. As previously discussed, the old dining hall was recently renovated and converted into an activity center which can be utilized for visits and programming. Central Office staff has worked with Deputy Commissioner Williams to provide support by allocating resources for capital improvements.

Staffing Challenges-Overall Vacancies and Recruitment and Retention of Women

In the first court report, the monitor noted a vacancy rate of almost fifty percent of authorized, funded positions. At the end of calendar year 2016, correctional officers were at forty-two percent staffing level. As of June 30, 2017, correctional officers were at thirty-eight percent staffing level. On March 13, 2018 correctional officers were at thirty-three percent staffing level. As of June 30, 2018, forty percent of correctional officer positions were filled. On December 31, 2018, 42 percent of correctional officer positions were filled. As of June 30, 2019, forty-four percent of correctional officer positions (including basic correctional officers) were filled. As of December 31, 2019, one hundred-ten of the combined one hundred-sixty correctional officer positions were filled, leaving a vacancy rate of thirty-one percent in these ranks. While this reflects considerable progress in recruitment, the monitor notes that the chronic, ongoing number of staff vacancies at Tutwiler presents a serious concern for leadership, staff and inmates, and could possibly impact the safety and security of the facility.

To ensure adequate staff to fill key posts, Tutwiler leadership implemented a mandatory overtime policy at the end of 2016 to address critical vacancies because key posts must be staffed. Tutwiler relies on mandatory overtime to maintain functions. Correctional officers, especially single parents, face challenges balancing family obligations with unscheduled, forced overtime demands. This can lead to an increase in staff members "calling out" sick as a means to obtain needed time off. The reliance on overtime to staff critical functions is not a long-term solution to the staffing shortfall.

Previously, the monitors have reported that this mandated overtime policy has caused stress and concern among the officers interviewed by the monitors during

compliance visits. This situation continues to be an area of concern for staff, and according to staff interviewed during this and prior monitoring visits, it is adversely impacting staff morale. During some of the monitor's interviews, uniformed security staff expressed concern about the impact of staff shortages, overtime and staff scheduling on staff morale. A decision was made to transition to eight hour shifts effective June 3, 2017. In consultation with staff, Warden Wright also amended Tutwiler's forced overtime practices such that staff can now elect and anticipate which days of the week they might be required to work overtime. Staff seem appreciative of this adjustment in practice. The monitor has discussed these chronic staffing issues with Deputy Commissioner Williams and Director Lawley. Associate Commissioner Brand, who was unavailable for an interview during the December 2019 compliance visit, continues to oversee the correctional officer training and hiring processes, including the physical fitness screening process. It is important to note the Alabama Merit System determines the minimum qualifications, administers examinations, and establishes employment registers for all positions within the classified services. ADOC does not have control or oversight over these functions.

Physical Agility/Ability Test (PAAT)

Historically, ADOC's recruitment and hiring data have underscored a system-wide issue with the application of the Alabama Peace Officers' Standards and Training Commission (Commission or APOSTC) physical standards to women candidates. Overall, the recruitment and retention problems that lead to the high vacancy rate remain a concern. Commissioner Dunn took an important first step in his outreach to the Commission by submitting a request to modify the administration of the PAAT academy

training requirements for state correctional officer applicants. It was encouraging that the Commission approved the Commissioner's request to modify the administration of the PAAT, which became effective January 2017. The revised Commission rules pushed a correctional officer trainee's last PAAT attempt from the first week of the academy training to week eight of the program, affording candidates more time to get in shape and meet the standards. Because the PAAT had been moved to the end of the academy, the ADOC discontinued the physical fitness assessments that were conducted on all correctional officer trainees during their pre-academy assignment. The basic training academy Class 17-01, which began in February 2017, was the first class to enter the academy under the new Commission rules regarding the physical agility/ability requirements. At the time, this change reportedly produced some promising results. The trainees who could not pass the PAAT in week one, including one of the women, all passed the test by week eight and all successfully graduated the academy in May 2017. As reported to the monitor, this was the first time in recent memory that no one, male or female, had been removed from the basic training course for a PAAT failure.

Unfortunately, the monitor and the DOJ were notified during the June 2018 compliance visit, that APOSTC was reverting back to its original practice of administering the test during the first week of training and that the Commission had agreed to allow ADOC to continue the eight-week administration through calendar year 2019. During the December 2018 compliance visit, the monitor was advised that, based upon some preliminary discussions, the APOSTC might look favorably on extending the waiver that allowed the ADOC to physically test trainees in week eight instead of week one. Consequently, ADOC formally requested APOSTC to grant an extension to the

waiver. The request was denied. Therefore, beginning, January 1, 2020, all APOSTC academy trainees will again be required to complete the PAAT during the first week of the Academy.

During the June 2019 compliance visit the monitor was also advised by ADOC that APOSTC had agreed in principle to support a two-part corrections academy that would help ADOC to develop a new "non-APOSTC" correctional officer position to work basic correctional posts such as a population dorm. This new job classification, formally titled Correctional Security Guard, was approved and announced on May 1, 2019 by the State Personnel Department. Candidates for this "non-APOSTC" officer will attend Part 1 of the training academy, and graduate as a "basic" correctional officer. They will then be authorized to work on posts that do not require the use of firearms or any other specialized training, but they will be required to pass an occupational fitness test before graduation. The one and one-half mile run in 19:28 minutes requirement was eliminated. Candidates will not be required to pass sit-up and push-up testing. The occupational test will include satisfactory completion of defensive tactics. While it is hoped this initiative will improve ADOC and Tutwiler's recruitment efforts, the monitor and DOJ expressed a cautionary note of concern that this proposed new category of officers could be filled disproportionately by women, creating a lesser role, with very limited career advancement. As of December 31, 2019, forty-four of the filled basic correctional officer positions were held by women.

The Commission contracted with Auburn University at Montgomery (AUM) for the review of the validation study of their PAAT standards and to assess any disparate impact on women candidates. The monitor and DOJ received a copy of AUM's

assessment from the ADOC on January 2, 2018. The report detailed several deficiencies in the eighteen year old validation study. The monitor remains unconvinced that there is a direct correlation between PAAT performance and job performance or other current job outcomes for correctional staff. Until such time as the validation of these standards for correctional officers and evidence that the standards have been examined for the necessity of gender-norming certain components is addressed, or the terms of the agreement modified, the monitor determines "partial compliance" with this provision. The AUM Report suggests an alternative validation approach may be warranted if adverse impact is ever a problem. The researcher argued that when women elect to retest, there is no adverse impact against them because "the pass rate improves when the number of attempts is very high. When given enough attempts it appears that almost every candidate who attempts every test will eventually pass one." The Commission appears to have given very little, if any, consideration to (a) the differences between police officer and correctional officers jobs, (b) the extent to which job duties have changed in the last eighteen years, and (c) the extent to which women candidates for correctional officer positions engage in repeated retesting or withdrawn from the academy.

As the monitor has opined previously, to the extent the ADOC could have helped shape AUM's review, the researchers should have been encouraged to review the physical training standards set for correctional officers in other states and gather information about academy training standards, broken down by gender, as it relates to *bona fide* occupational qualifications for correctional officers, rather than focusing solely on standards that apply to police officers. To the monitor's knowledge, AUM did not review the physical training standards established for other correctional officers in other

state jurisdictions.

Under the terms of the settlement agreement, ADOC and Tutwiler are to continue to work with the APOSTC in the screening, selecting, or hiring of applicants for entry-level correctional officer positions until such standards, or any other physical test employed, are both validated for a corrections environment and examined for the necessity of gender-norming certain components. The monitor understands the ADOC does not have the statutory authority to set APOSTC training standards. The monitor advised ADOC that a deeper discussion with DOJ may provide some guidance in addressing this issue long-term, especially if APOSTC does not address the actions required in the Tutwiler settlement agreement. In the event the ADOC wishes to advance deeper discussions regarding the terms for this settlement requirement, the monitor requested they compile a report detailing their interactions with APOSTC and the barriers they face validating the APOSTC standards for a corrections environment and for the necessity of gender-norming certain components of those standards.

Recruitment Initiatives

The ADOC has increased recruiting efforts through advertising, the use of social media, and collaboration with the Alabama Department of Labor and other state agencies to promote career opportunities in the ADOC. The advertising budget was increased to create a greater advertising presence on television, radio, newspapers, and public billboards. ADOC announces upcoming tests on the department's website and via employee e-mail. The recruitment efforts are aimed at all races and genders.

A Recruiting Unit for ADOC remains operational and now falls directly under the oversight of Mr. Bill Lawley (ADOC Personnel Director). There are three full-time

recruiters and a recruiting coordinator who exclusively recruit correctional staff throughout Alabama.

Beginning December 1, 2018, ADOC outsourced most of the agency's recruiting efforts to Markstein, a marketing agency located in Birmingham, AL. In addition to the marketing support provided by Markstein, ADOC has contracted with Warren Averett to assist with the Department's recruiting efforts. Warren Averett made short-term and long-term recommendations for ADOC concerning recruiting, hiring, and retention of correctional staff.

Warren Averett has provided four contract recruiters to assist the ADOC Recruiting Division and conducted an analysis of ADOC's policies, practices, and procedures relating to or affecting the recruitment, employment, and retention of correctional staff. One consultant works with the correctional officer hiring division in the ADOC's Central Office and the other three are in Birmingham. The contracted recruiters primarily make initial and follow up phone calls to potential and current applicants. In addition, they provide consulting assistance to ADOC recruiting strategies. Consultants assist with State Personnel Department staffing requests and have advised extensively on how to improve ADOC on-site testing for correctional and basic correctional officers to make them more appealing for applicants. In fiscal year 2020, Markstein is expected to take the lead in advising the ADOC where and how to spend the marketing budget. In addition, Markstein provides consulting on branding and other marketing concepts for the Department.

The lead Warren Averett consultant worked extensively with ADOC's Personnel Director, to draft a legislative proposal inclusive of pay raise incentives for correctional

staff. This bill passed the Legislature and authorized significant salary increases for newly hired correction officers and provides moderate compensation increases for all officers and supervisors in the Department. Comprehensive pay compensation legislation provided for many changes to the compensation structure for the ADOC security workforce, to include but not limited to the following:

- Effective July 31, 2019, ADOC employees with a performance appraisal score of “meets standards” received a five percent pay increase (an increase of the previous rate of two and one-half percent) .
- Beginning August 2019, existing correction officer trainees and correctional officers became eligible to earn bonuses tied to Academy completion, classification status, and work performance, ranging from \$4,500 to \$7,500. Existing supervisory personnel were also eligible for the same amount.
- All state employees received a two percent cost-of-living-adjustment (COLA) effective September 1st, 2019
- All ADOC security classifications received a five percent salary increase effective October 1, 2019; in addition, all security classifications pay grades were increased by two and one-half percent to ten percent, depending upon the job classification. This raised the upper limit of compensation for each job class.
- Effective January 1, 2020, ADOC employees in positions requiring APOSTC certification will be eligible to receive payment for up to eighty hours of excess annual leave.
- Effective February 1, 2020, all existing APOSTC correctional officers will be promoted to senior correctional officers and will receive a five percent increase at that time. Upon obtaining merit system status as a senior officer these employees will receive another five percent increase in pay.

New correctional officer trainees hired before October 1, 2019 will essentially receive up to a forty-one percent salary increase in less than three years, plus bonuses. New correctional officer trainees hired after October 1, 2019 will essentially receive a thirty-four percent salary increase in less than three years, plus bonuses.

In May 2019, ADOC rolled out a new 2019-2022 Strategic Plan with four primary focus areas: staffing, infrastructure, programming, and culture. The goal of the staffing focus area is to be fully staffed with high-quality professionals working in the security, medical and other non-security fields of the ADOC. This area of the plan focuses on ways to recruit, retain and grow the ADOC workforce through better compensation and improved workplace conditions. The full strategic plan can be located on the ADOC website.

ADOC also engaged in another promising effort to increase correctional staff. Troy University's Center for Public Service conducted a comprehensive analysis of the compensation and benefits offered by ADOC to correctional staff, including a comparison of ADOC compensation and benefits for correctional staff to the compensation and benefits afforded by law enforcement agencies at the state, county, and local level. This analysis was intended to result in short-term and long-term recommendations for ADOC concerning compensation and benefits of correctional staff. A copy of this analysis was shared with the DOJ and the monitor on May 20, 2019. Combined, these initiatives go a long way to making ADOC's salaries competitive with other local criminal justice and law enforcement organizations and improving recruitment and retention results.

Tutwiler is also focusing on addressing employee recruitment and retention. To that end, in addition to adjusting correctional officer shifts from twelve hours to eight hours, Tutwiler has participated in ADOC's statewide recruitment team. In an effort to obtain important feedback from staff, an exit interview with each staff person leaving Tutwiler is conducted.

Tutwiler has also distributed job satisfaction surveys to staff on an annual basis. The first survey was administered in Spring 2017. The ADOC and Tutwiler committed to another staff survey in 2018. A draft survey was provided to the DOJ and monitor on April 2, 2018. The instrument was modified based upon this feedback, and it launched on May 15, 2018. Employees had until June 8, 2018, to complete the survey online. The results of the survey were provided to the DOJ and monitor on July 16, 2018, and provided some insights about employees' perceived training needs, communication issues, relationships with supervisors, and staff morale. Nearly seventy-five percent of respondents expressed satisfaction with their jobs, while twenty-five percent disagreed. Almost eighty-three percent of the survey takers reported planning on working for ADOC for at least another year, while seventeen percent did not. When asked if they felt committed to the vision for ADOC's Women's Services, seventy-three percent responded affirmatively, nearly twenty percent responded "somewhat" and seven percent chose "not at all" as their response. While much work remains to be done, the results of this survey are encouraging. Another staff survey was conducted in November 2019. The monitor looks forward to reviewing the results.

Tutwiler is also committed to supporting those who work in the Women's Services Division specifically. Tutwiler has explored strategies to increase workplace health and wellness for staff. An employee gym has been developed at the new Women's Division Training Center for use by staff. Space has been renovated to house an employee break room and a new parking lot has been constructed which will address the extreme shortage of employee on-site parking space. Staff expressed appreciation for this development.

The Moss Group, Inc. worked with the ADOC Women's Services strategic planning sub-committee to develop a recruitment and retention plan for ADOC Women's Services. The plan is organized into two categories: Retention: Re-recruiting our staff and Recruitment: Making the most of the market. The plan includes many practical and actionable strategies and objectives and recommends the establishment of small, task-specific committees to implement approved recommendations at the facility level.

Previously the monitor suggested a few additional targeted recruitment strategies for consideration. Given promising developments, including recent legislation to increase compensation; the creation of the Correctional Security Position which requires a lesser degree of demonstrated physical fitness and a shorter length of time in the training academy; and the change in shift length and revisions to the forced overtime practice to afford staff more control over their schedules; the monitor suggested strategic outreach to those men and women who may have previously left the academy as a result of not being able to meet all the fitness requirements. The creation of the new position may afford them an opportunity to work for the ADOC. Another potential target group for recruitment includes staff who resigned from Tutwiler in the last few years as a result of the amount and unpredictability of forced overtime hours. These individuals have already attended the training academy and would require very little training before being placed back on a roster. Retirees also represent a potential source of re-hires as they are allowed to work part-time hours post retirement.

Logistics

Compliance Visit

The purpose of the December 2019 compliance visit was for the monitor to acquire information and observations to inform the ninth court compliance report. The monitor and Deputy Commissioner Williams worked together to finalize the tour agenda and interview schedule.

Introductory Meeting /Presentation by Warden McClain

In Warden Wright's absence, Warden McClain provided a very helpful and detailed overview of progress made at the facility to the monitor and the DOJ at an opening meeting attended by Deputy Commissioner Williams and key members of Tutwiler's management team.

Compliance Visit Staff Interviews

Throughout the week, the monitor held individual meetings and had multiple interactions with the following executive leadership and supervisory staff, including:

Alabama Department of Corrections

- ADOC Commissioner Jefferson Dunn
- Dr. Wendy Williams, Deputy Commissioner for Women's Services
- Ms. Carrie Shaw, ADOC Counsel
- Dr. Kelly Mautz, Research Assistant, WRNA Validation
- Mr. Arnaldo Mercado, Director of ADOC's I&I Division
- Ms. Kelley Smith, I&I's Tutwiler investigator

- Mr. William Lawley, ADOC Personnel Director

Tutwiler Prison for Women

- Ms. Lagreta McClain, Warden II and Settlement Compliance Manager
- Mr. Kenneth Drake, Warden I
- Captain Felisha Blanding, Compliance Captain and acting IPCM
- Ms. Tina Tyler, ADA Coordinator/Inmate Grievance Coordinator
- Ms. Felicia Greer, Tutwiler Mental Health Site Administrator
- Ms. Constance Johnson, Tutwiler Healthcare Site Administrator
- Ms. Tenesha Williams, Classification Supervisor

The monitor selected line staff members for individual interviews. These staff members were diverse in positions, race, length of experience in corrections, and gender. In general, the monitor asked about their awareness of the PREA reporting structure, investigations, the inmate grievance system, their recent PREA and gender-responsive training, and their impressions of the new behavior intervention and inmate discipline program and the use of the residential treatment unit.

Compliance Visit Inmate Interviews

During informal interactions and formal interviews with inmates from various housing dorms, the monitor used a set of questions regarding their knowledge of PREA policies, reporting of allegations, the grievance system, staff/inmate professional relationships, and the availability of reporting allegations using various phone lines. The women discussed incidents they observed of unprofessional conduct, their use of the grievance system, impressions of the new behavior intervention and inmate discipline

program, and their overall feeling of safety at Tutwiler. Their responses are documented in the monitor's discussion in various sections of the compliance report. Several topics were repeatedly raised by the women. They made allegations against a small number of officers using vulgar, degrading, or insensitive or offensive language. Some women expressed a great deal of frustration over the lack of consistency in practice between shift officers, especially in the housing units. Some inmates alleged a perception that racism was an issue and that officers treated inmates, specifically inmates in romantic partnerships, differently based upon race. The specific issue of perceived racial discrimination, though raised during this visit, arose far less frequently than it has in previous monitoring visits. The majority of the prison staff is African American, and the majority of the inmate population is Caucasian. The women allege that African American inmates get preferential treatment. The monitor recognizes these issues are deeply embedded in culture and the inmates' pre-incarceration experiences.

Some of the inmates interviewed by the monitor focused on issues that are beyond the scope of the settlement agreement, raising issues and complaints about sentencing laws, parole policy and decision making, medical and dental services, property, law library, food services, and the behavior of other inmates. Many inmates complained about the actions of other inmates, including the women who use PREA allegations to manipulate their own housing assignments or to attempt to have targeted inmates removed from their units. The monitor is quite familiar with the potential manipulation of PREA allegations by inmates against other inmates or staff. Tutwiler has been very cautious responding to allegations that are determined to be unfounded. Staff has balanced the need to hold inmates accountable for their actions against the risk of

discouraging the active reporting of legitimate allegations by others.

Lastly, many inmates seemingly have misinterpreted the intervention guidelines included in SOP 8-30, *Behavior Intervention and Inmate Discipline*. There is a misperception that officers cannot use their discretion and must always issue a verbal redirect first. Some inmates perceive a disparity in sanctions because they are failing to recognize the many factors, including an inmate's mental health state and institutional disciplinary history, that the officer is weighing. For this reason, the monitor recommends continued educational sessions for inmates to review the requirements of the new policy. As stated previously, this resistance is not unexpected, because this change in policy represents a significant shift in both staff and inmate cultures.

Facility Tours

While touring the facility during the compliance visit, the monitor noted improvements to the physical plant and to the overall cleanliness of the physical plant. The management team has creatively repurposed or rehabbed many areas of the facility to be used as program space. As programming options for the women expand, leadership will be challenged to maximize the use of all available, appropriate space.

In each housing unit, the monitor noted the prominent posting of notices and information for inmates, including: a PREA hotline notice, notice of a victim support line, PREA education materials, principles of gender-responsive programming for women, sick call slips, and grievance and appeal forms.

Throughout the tour, ADOC and Tutwiler staff afforded the monitor the time, space, and many opportunities to engage in private conversations with both staff and inmates in housing and program units. Staff consistently demonstrated knowledge of

sexual safety and their individual roles and responsibilities in this area. Generally, the inmates acknowledged and expressed appreciation for the positive changes at the facility regarding sexual safety. Feedback from the long termers underscored that many women feel much safer at Tutwiler today.

Appreciating that the institutional climate and culture can differ shift to shift, the monitor and Deputy Commissioner Williams conducted an unannounced night visit to the facility for the purpose of observing operations during the evening shift, when top facility leadership are generally not on-site. This visit was conducted on the evening of December 1, 2019. The facility climate was very quiet and low-key. While staffing vacancies still exist, the presence of additional uniform staff was apparent to the monitor.

During the December 2019 monitoring visit, the monitor also visited:

- The residential treatment unit
- Mental health unit
- Honor unit
- Trade school unit
- Segregation Unit
- Infirmary, clinic area
- Dorm D5, the aged and infirmed unit
- K-Dorm, Intake Unit
- Shift commander's office
- Administrative offices
- Program space
- Visiting room

- Dining room
- Camera room
- Annex

While work on the youthful offender trailer was completed on October 20, 2016, making it ready for occupancy and providing designated placement for this specialized population, Tutwiler did not receive any youthful offenders during this reporting period, so this unit was again vacant during the monitor's December 2019 visit.

It is notable that the segregation unit was again empty during the monitor's compliance visit, indicating reduced use of restrictive housing as a disciplinary sanction or investigatory tool. Based upon the monitor's review of the segregation placement log, it is apparent that the number of segregation placements has been reduced.

The DOJ attorney visited many areas of the facility, including the death row unit while the monitor conducted several private interviews with inmates.

Document Review

In addition to the interviews and discussions with staff and the tours of Tutwiler, the monitor reviewed a wide variety of documents, correspondence, records, and staff reports. These documents are listed in the "Measures of Compliance" box in the audit tool for each section. The monitor reviewed most of these documents prior to her visit and reviewed some documents on-site during the visit. In addition, the monitor made several additional follow-up requests for documents, which she received after the visit. Attachment A to this report lists documents reviewed by the monitor prior to, during, and after the compliance visit.

The monitor showed various documents to staff during the interviews, for their

authentication and comment. The monitor also reviewed multiple documents maintained by Warden McClain, Captain Blanding, and Ms. Tyler while conducting formal interviews with them. The monitor recognizes and appreciates the time and commitment these individuals expend to maintain the level of detailed documentation required to demonstrate compliance. The ADOC and Tutwiler team continues to maintain impressive records.

The monitor referred to specific documents for each set of requirements in the audit tool report in the monitor's discussion of ADOC compliance with the section.

Exit Debriefing with ADOC Leadership

The monitor and Deputy Commissioner Williams debriefed each day of the compliance visit, and Deputy Commissioner Williams, the monitor, and DOJ attorneys conducted an exit meeting at the conclusion of the compliance visit. At the exit meeting, the monitor made a request for some additional documents and data and recapped issues raised by inmates during formal interviews.

Monitoring Tool

The parties had previously agreed on a "monitoring tool" format for each of the settlement provisions and their subsections. The front page of each provision in the tool includes both the specific requirements for that section and the target dates for the ADOC's compliance. The settlement provides, for most requirements, that the ADOC: create a policy; train staff on that policy; and implement the policy in the regular activities at Tutwiler and the ADOC. Specifically, an approved ADOC policy must first be published for operational practice in a facility. At Tutwiler, the facility develops

written SOPs to apply the ADOC policy to direct specific operational practices at the prison. The second step is to train all staff subject to the policy and SOP using an approved training curriculum. The third step is to then implement and document compliance with these policies and SOPs in the actual practice of the directives at the facility.

The monitor evaluated each section and its specific requirements through interviews with inmates and ADOC and Tutwiler staff; document review; announced and unannounced facility tours; on-site observations (dorm activities, inmate movement, camera room operations); communication with the parties through calls and emails; and a review of previous compliance reports. For each section, the monitor assesses the extent to which ADOC and Tutwiler have complied with the requirement and addressed any outstanding issues from the last compliance visit, documents her findings, and chooses the rating corresponding to her assessment of the ADOC and Tutwiler's level of compliance. Prior to conducting the very first monitoring visit, initial Monitor Jennie Lancaster and the DOJ attorneys had established the "Measures of Compliance" for each provision and identified the documents and interviews to be used to assess compliance. The ADOC submitted the documents prior to the visit and drafted an interview agenda and touring schedule for the monitoring visit. During the transition of monitoring responsibilities from Ms. Lancaster to Ms. Dennehy in August 2016, Monitor Dennehy committed to using the same process, measures and documents, but reserved the option to revisit and amend these measures to facilitate monitoring going forward.

The monitor completed this report and the monitoring tool through the following actions:

- 1) Examining the settlement agreement, its provisions, and the specific requirements listed in the monitoring tool.
- 2) Requesting and examining specific documents to identify and assess the extent of the ADOC and Tutwiler actions in response to the agreement requirements. Examples include: ADOC policies and Tutwiler standard operating procedures; training curricula; staff rosters for training; staff reports and spreadsheets to document actions; inmate grievances; investigations; and meeting minutes.
- 3) Selecting specific ADOC and Tutwiler staff for compliance interviews based on the individual's overall and direct responsibilities for settlement implementation.
- 4) Conducting formal, private, individual interviews with selected staff to obtain feedback and perspective on Tutwiler activities and practices related to the settlement terms and requirements.
- 5) Conducting formal, private, individual interviews with selected inmates to obtain feedback and perspective on Tutwiler activities and practices related to the settlement terms and requirements.
- 6) Engaging in spontaneous, private conversations with both staff and inmates in housing and program areas during monitoring visits.
- 7) Reviewing letters submitted confidentially to the monitor from inmates and conducting interviews with selected inmates to follow-up on issues raised in their correspondence received by the monitor.
- 8) Using routine communication with the parties, prior to, during, and after the

visit to ask for more information or clarification regarding the settlement, its terms and requirements and determinations of compliance.

- 9) The monitor sent the first draft report to both parties on February 9, 2020.

The agreement allows for a two-week period of review by both parties. The monitor received comments from the DOJ and ADOC and reviewed the comments of both parties, in each section, and took them into consideration in her final revisions to the report.

- 10) The monitor will submit the completed set of audit tool report, the narrative summary and attachments, to the court by February 28, 2019.

Summary of Compliance

"Compliance" is discussed throughout the agreement and this report in the following terms: substantial compliance, partial compliance, and non-compliance. "Substantial compliance" indicates that the ADOC and Tutwiler have achieved material compliance with most or all components of the relevant provision of the settlement agreement. "Partial compliance" indicates that the ADOC and Tutwiler have achieved material compliance on some of the components of the relevant provision of the settlement agreement, but significant work remains. "Noncompliance" indicates that the ADOC and Tutwiler have not met most or all the components of the relevant provision of the settlement agreement. "Material compliance" requires that, for each provision, the ADOC and Tutwiler have developed and implemented a policy incorporating the requirement, trained relevant personnel on the policy, and relevant personnel are complying with the requirement in actual practice.

Closing Observations

The monitor appreciates the high level of cooperation she continues to receive from all parties during the monitor compliance visits. The monitor also appreciates the level of cooperation and responsiveness of the ADOC and Tutwiler staff during this entire reporting period. The monitor made requests for documents or information and they were always processed in a thorough and timely manner.

The monitor sees continued progress by the ADOC and Tutwiler and is impressed by leadership's commitment to fully implement the settlement and evidence-based gender specific practices at Tutwiler. Leadership also demonstrates a commitment to quality improvement. The monitor recognizes the time and commitment needed to maintain the level of detailed documentation required to demonstrate compliance. The ADOC and Tutwiler team continue to maintain impressive records. More importantly, leadership continues to use this information and data to monitor and improve practice and create a culture at Tutwiler that reflects awareness of policies designed to address sexual abuse and sexual harassment, with the inmates respecting the accountability practices demonstrated by the leadership and staff.

Attachment A:
List of Documents Used for Compliance Report

Monitor's note: the monitor also reviewed some documents, not listed below, that were received/reviewed for the compilation of the previous compliance reports.

- Initial Inmate Survey and Polling Plan
- Inmate Survey Results
- Auburn University's MOU with ADOC
- Auburn University's Polling Proposal
- Tutwiler PREA Incident Review Committee reports, July-December 2019
- Tutwiler Risk Management System spreadsheet, July-December 2019
- Risk Management System Summary
- Quarterly Risk Management System Data Review
- Spreadsheet of Staff Identified in Risk Management System -Corrective Action Taken
- Annual assessments of the Risk Management System
- Log of unannounced rounds by supervisors
- Monthly grievances, July-December 2019-randomly selected
- All PREA-related inmate grievances, July-December 2019
- Tutwiler spreadsheets documenting inmate disciplinary infractions, July-December 2019
- Gender -Responsive Classification Policy
- ADOC Women's Services Classification Instruction Manual
- Tutwiler PREA risk factors checklists
- Tutwiler PREA risk re-assessments checklists (30-day reassessment)
- Tutwiler ADOC mental health referrals for PREA assessments
- Tutwiler mental health treatment notes for initial PREA assessments
- Spreadsheets/logs for the classification checklists
- Update on progress of the implementation of WRNA and any data collected.
- WRNA Validation Committee's agenda, notes, and PPT
- WRNA Validation Project Proposal
- Intake Unit inmate movement sheets
- Intake Unit receiving log
- Intake Unit quarterly workgroup meeting minutes
- Dorm representatives meeting minutes
- Tutwiler bed count rosters
- ADOC's Classification PREA risk referral log
- Wexford new employee orientation manual
- Wexford new staff orientation "on-boarding" training curriculum and manual
- Wexford staff training records, including post tests for oldest and newest employees.
- Wexford PREA policy

- Wexford staff training records
- Wexford PREA sexual assault allegations log
- Wexford PREA inmate evaluation log
- Wexford inmate grievance log
- Tutwiler ADOC and Wexford mental health staff meetings minutes
- Tutwiler classification PREA risk referral log
- Draft Administrative Regulation 637-Gender Dysphoria Disorder
- Gender Identify Committee Review meeting, tracking log
- Completed and published PREA audit, May 2016
- Completed and published PREA audit, March 2019
- Communications log maintained by Cpt. Blanding, regarding calls, emails, etc. reflected communication with ADOC PREA Coordinator Vincent
- Bi-monthly PREA reports from Cpt. Blanding to ADOC PREA Coordinator Vincent
- PREA #6611 hotline calls log, maintained by Institutional PREA Compliance Manager for July-December 2019
- Monthly spreadsheet of calls made to ADECA
- Notification to inmate population regarding availability of hotline
- Copies of random inmate interviews conducted by Cpt. Blanding to monitor reporting culture for July-December 2019
- Training rosters maintained by Cpt. Blanding for July-December 2019
- PREA training documentation for the private transport security staff
- Training documentation for Tutwiler staff, contractors, volunteers, overtime staff in SOPs
- PREA & Gender-Responsive Refresher Training Facilitator Guide
- Randomly selected training evaluations from Tutwiler staff attending the required PREA (SOP 8-12) and gender-responsive training
- Log of pregnant inmate intake maintained by Cpt. Blanding
- Pregnant inmate intake statements maintained by Cpt. Blanding
- Tutwiler "inmate on inmate harassment" allegation investigations, completed by Cpt. Blanding July-December 2019
- Tutwiler inmate education session attendance logs for July-December 2019
- Final inmate orientation guide
- Certification of completion of inmate education on the new Women's Services Classification manual
- Engaging Women in Trauma-informed Peer Support: A Guidebook
- Copies of Gender-Responsive Women's Programs Work Group agenda, notes and PowerPoint presentation
- Women's Services Handbook
- Tutwiler camera room surveillance logs, July-December 2019
- Tutwiler annual assessments of the camera operations
- Tutwiler Gender-Responsive Staffing Analysis and Plan
- Tutwiler staffing updates for July-December 2019
- ADOC recruitment and Retention data, July-December 2019

- Auburn University's study of Physical Agility Ability Testing (PAAT, conducted for the Alabama Peace Officers' Standards and Training Commission, December 2017
- Tutwiler staff discipline: July-December 2019
- Abusive and profane language intervention plan
- Tutwiler shift duty rosters (noting overtime staff)
- Tutwiler list of currently approved overtime employees
- Periodic staff overtime reports
- Social service caseworker lateral transfer announcement approving the filling of positions
- Randomly selected Tutwiler shift dorm assignment logs
- Correctional Officer Trainee, "Physical Fitness training "assessments/ reports, July-December 2019
- ADOC reports for the staff physical fitness exams results, from the academy, for July-December 2019 broken down by gender
- Inmate correspondence received by the monitor during July-December 2019
- PREA-related investigations, completed by ADOC Investigations & Intelligence July-December 2019
- SOP 8-30, *Behavior Intervention and Inmate Discipline*
- Implementation plan for SOP 8-30 *Behavior Intervention and Inmate Discipline*
- Curriculum for the specialized "investigation" training
- SOP 8-24 *Disciplinary Segregation*
- Women's Services, Retention and Recruitment Plan, July 2018
- ADOC Strategic Plan 2019-2022

Attachment B:
List of Tutwiler's Standard Operating Procedures (SOPs)

This is a listing of all the ADOC and Tutwiler policies provided to the monitors to date. The monitor reviewed the drafts, provided comments on each to ADOC and received the final ADOC published copies.

SOP	TITLE
1-1	Mission
4-1	Warden III
4-2	Assistant Wardens, Warden II & Warden I
4-3	Correctional Captains
4-4	Lieutenants & Sergeants - Shift Supervisors
4-5	Correctional Officers & Trainees
5-00	Dormitory Security SOP
5-01	Dormitory A Post Order
5-02	Dormitory B Post Order
5-03	Dormitory C Post Order
5-04	Dormitory D Post Order (Health Care Unit)
5-05	Dormitory F Post Order
5-06	Dormitory G & J Post Order (South Hall II)
5-07	Dormitory I Post Order (South Hall III)
5-08	Dormitory K&M Post Order (Death Row) (South Hall I)
5-09	Dormitory L Post Order (Segregation Unit)
5-10	Dormitory H Post Order (Mental Health Unit)
5-11	Dormitory N / O Post Order (Annex)
5-12	Annex Back Gate Post Order
5-14	Tutwiler Back Gate Post Order
5-18	Sewing Factory Post Order
5-20	Trade School Security Post Order
5-21	Kitchen Officer and Chief Steward Post Order
5-22	Laundry Post Order
5-23	Gender Specific Posts
6-2	Referrals to Mental Health Services
6-4	Reception Mental Health Screening
6-6	Crisis Intervention
6-9	Mental Health Observation and Suicide Watch Procedures
6-11	Closed Residential Treatment Unit (CRTU)
6-12	Mental Health Unit Dormitory H Stabilization
7-3	Institutional Security, Sanitation, & Safety Inspections

SOP	TITLE
7-7	Searches
7-8	Use of Force
7-9	Inmate Count Procedures
7-10	Emergency Medical Treatment
7-12	Evacuation of Inmates in Specialized Housing
7-14	Inmate Pregnancy
7-17	Security Threat Groups
7-19	Inmate Visitation Privileges
7-20	Aid to Inmate Mothers Visitation Criteria
7-29	Employee / Inmate Relationships
8-1	Reception and Orientation: Receiving Rules
8-3	Inmate Transports
8-5	Controlled Movement
8-12	Inmate Sexual Abuse and Sexual Harassment
8-13	Inmate Control Systems (ICS)
8-14	Inmate Personal Property
8-17	Tutwiler Inmate Photographs
8-18	Inmate Drug Screening
8-19	Youthful Inmates
8-22	Inmate Grievance Procedures
8-23	Administrative Segregation
8-24	Disciplinary Segregation
8-27	Hygiene Item Issuance
8-28	Death Row Unit-M
8-29	LGBTI Inmate Population
8-30	Behavior Intervention and Inmate Discipline
8-31	Hair Grooming
9-5	Overtime / Mandatory Overtime Work
9-6	Staffing Plan
9-7	Private Transportation Security Agents
9-9	Employee Standards of Conduct & Discipline
9-16	Institutional PREA Compliance Manager
11-1	Data Collection and Quality Improvement

Attachment C: Summary of Compliance

Requirement	Description				
		Substantial Compliance	Partial Compliance	Non-Compliance	N/A
E.1,3,6,7	(Inmate Education: Intake) 1. ADOC and Tutwiler shall ensure that, during the intake process, all inmates receive information regarding the following (listed below): 3. Current Tutwiler inmates will receive the information and education described in III.E.1 within three months of the Effective Date (by August 28, 2015). 6. Consistent with current policy, ADOC and Tutwiler shall ensure that the information outlined in III.E.1 is conveyed and made available in formats accessible to all inmates, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled as well as to inmates who have limited reading skills. 7. ADOC and Tutwiler shall provide the Monitor and DOJ for their review consistent with Section III.A.6 any materials or curriculum utilized to satisfy the requirements of III.E.1	X			
E.2,3,4,5,6,7,8	(Inmate Education: Comprehensive) 2. Within 14 days of intake, ADOC and Tutwiler shall provide comprehensive orientation education to inmates either conducted in-person or through a video presented by an in-person facilitator regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding their policies and procedures for responding to such incidents. 3. Current Tutwiler inmates will receive the information and education described in III.E.2 within three months of the Effective Date (by August 28, 2015). 4. ADOC and Tutwiler shall ensure that the individual conducting or facilitating the comprehensive inmate educational orientation is trained on Tutwiler's and ADOC's policies and procedures related to sexual abuse and sexual harassment, the PREA standards, and this Agreement. 5. The individual conducting or facilitating the comprehensive inmate orientation education shall remain in the room during the entire orientation and shall monitor the inmates for reactions to and understanding of the information. A mental health practitioner will serve as an advisor to the orientation process and services will be available during the orientation process if indicated. 6. Consistent with current policy, ADOC and Tutwiler shall ensure that the information outlined in III.E.2 is conveyed and made available in formats accessible to all inmates, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled as well as to inmates who have limited reading skills. 7. ADOC and Tutwiler shall provide the Monitor and DOJ for their review consistent with Section III.A.6 any materials or curriculum utilized to satisfy the requirements of III.E.1 8. ADOC and Tutwiler shall maintain documentation of inmate participation in the education sessions required by III.E.2.	X			
III.F. GENDER-RESPONSIVE CLASSIFICATION					
F.1	Within two months of the Effective Date, ADOC and Tutwiler shall convene a working group to evaluate methods to decrease or eliminate Tutwiler's use of Dorm A for a period of time that exceeds 48 hours while screenings are completed, including an examination of the necessity of PAP test and/or other medical, mental health, or intellectual test results prior to classification and failures to provide adequate continuity in medical and mental health care to Dorm A residents	X			
F.2	Within six months of convening of the working group, ADOC and Tutwiler shall retain an expert in gender responsive assessment and classification.	X			

Requirement	Description	Compliance			
		Substantial Compliance	Partial Compliance	Non-Compliance	N/A
F.3,4	3. The approved plan for implementation of the classification system shall be managed by an implementation workgroup and completed within two years of the approval of plan 4. The system shall provide programs that incorporate gender responsive principles and address the needs of women inmates at Tutwiler, including those addressing sexual abuse, sexual harassment, and trauma; domestic violence; dating violence; and medical and mental health care.		X		
III.G RISK ASSESSMENT					
G.1	ADOC and Tutwiler shall continue to utilize a risk assessment instrument to screen for risk of victimization and abusiveness	X			
G.2,3	2. Inmates at high risk for sexual victimization shall not be placed in involuntary segregation housing due to their high risk of victimization unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers. Such an assessment and determination shall be documented, explain the basis for Tutwiler's concern for the inmate's safety and the reason why no alternative means of separation can be arranged. A review of such determination must be afforded each inmate at least every 30 days to determine whether there is a continuing need for separation from the general population. 3. Inmates placed in segregated housing Due to potential victimization shall, to the extent possible, have full access to programs, privileges, education, and work opportunities as inmates in general population housing.	X			
III.H. INMATES' RIGHT TO PRIVACY					
H.1	Cross-Gender Searches : ADOC and Tutwiler shall continue to comply with its policy regarding cross-gender pat and strip searches	X			
H.2	2.i Cross- Gender Viewing: ADOC and Tutwiler shall develop, submit to the Monitor and DOJ for review consistent with Section A.III.6, and implement policies and procedures that enable inmates to perform bodily functions – such as showering, bathing, and using the toilet – and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances of when such viewing is incidental to routine cell checks 2.ii ADOC and Tutwiler shall develop, submit to the Monitor and DOJ for review consistent with Section III.A., and implement policies and procedures regarding the method of conducting inmate counts. This policy and procedure shall limit inmate movement during inmate counts and shall prohibit the practice of conducting inmate counts while inmates are likely to be in the shower and toilet areas	X			
H.3	ADOC and Tutwiler shall continue to implement its plan to address the architectural features that contribute to a lack of privacy for inmates while showering or using the toilet	X			
III.I REPORTING ALLEGATIONS OF SEXUAL ABUSE AND SEXUAL HARASSMENT					
I.1	ADOC and Tutwiler shall continue to comply with its policy on reporting allegations of sexual abuse and sexual harassment. Any modification of that policy shall be submitted to DOJ and the Monitor for review consistent with Section III.A.6. ADOC and Tutwiler shall provide multiple internal methods, including a grievance process and at least one confidential method, for inmates to report sexual abuse and sexual harassment, retaliation by other inmates or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents.	X			

Requirement	Description	Compliance			
		Substantial Compliance	Partial Compliance	Non-Compliance	N/A
I.2,3	2. ADOC and Tutwiler shall also provide at least one way for inmates to report abuse or harassment to a public or private entity or office that is not part of the agency, and that is able to receive and immediately forward inmate reports of sexual abuse and sexual harassment to agency officials, allowing the inmate to remain anonymous upon request. The method provided should be through a toll-free number or other method as agreed to by the Monitor and DOJ.	X			
I.4,5	3. ADOC and Tutwiler shall provide a method for staff to confidentially report sexual abuse and sexual harassment of inmates 4. Third parties shall be permitted to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse and sexual harassment, and shall also be permitted to file such requests on behalf of inmates 5. All third party reports of sexual abuse and sexual harassment shall be forwarded immediately to the Departmental PREA Coordinator and be investigated and processed in accordance with Policy. As part of this process, the Departmental PREA Coordinator will inform Tutwiler's PREA Compliance Manager of all third party reports received.	X			
I.6, 6.viii	6. Grievances: ADOC and Tutwiler shall continue to develop and submit policies and procedures for an inmate Grievance System to the Monitor and DOJ for review within three months of the effective date and, within four months of the effective date, implement the inmate Grievance System. This policy shall clearly prohibit retaliatory practices by staff against inmates who file a grievance and should include the requirements listed in III.I.6.ii-ix 6.viii ADOC and Tutwiler shall develop, submit to the Monitor and DOJ for review consistent with Section III.A.6, and implement policies and procedures for the filing of an emergency grievance where an inmate is subject to a substantial risk of imminent sexual or physical abuse	X			
I.7,8,9	7.ADOC and Tutwiler shall require all employees to report immediately: Any knowledge, suspicion, or information regarding an incident or alleged incident of sexual abuse or sexual harassment that occurred in Tutwiler, in transport vehicles, or in any off-site facilities under the control and supervision of ADOC or Tutwiler; Retaliation against inmates or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. 8.Apart from reporting to designated supervisors or officials, staff shall not reveal any information related to a sexual abuse or sexual harassment report to anyone other than to the extent necessary to make treatment, investigation, and other security and management decisions. 9.ADOC and Tutwiler shall report all allegations of sexual abuse and sexual harassment, including third party reports, anonymous reports, and inmate grievances, to Tutwiler's or ADOC's designated investigator	X			
I.10.i	Protecting Inmates and Staff from Retaliation: i.Consistent with ADOC policies, ADOC and Tutwiler shall protect all inmates and staff who report allegations of sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other inmates or staff, and shall designate Tutwiler's PREA Compliance Manager with monitoring allegations of retaliation concerning inmates. Allegations of retaliation against employees will be investigated and processed in accordance with ADOC personnel policy.	X			
III.J. OFFICIAL RESPONSE TO AN ALLEGATION OF SEXUAL ABUSE AND SEXUAL HARASSMENT					
J.1	When ADOC or Tutwiler learns that an inmate may be subject to a substantial risk of imminent sexual abuse, ADOC or Tutwiler shall take immediate action to protect the inmate.	X			

Requirement	Description	Compliance			
		Substantial Compliance	Partial Compliance	Non-Compliance	N/A
J.2	ADOC and Tutwiler shall continue to comply with Policy and Tutwiler Standard Operating Procedures to coordinate actions taken in response to an allegation of sexual abuse, among first staff responders, medical and mental health practitioners, investigators, and Tutwiler leadership, including time frames and lists of whom staff should report to in specific situations and guidelines regarding the collection of physical evidence.	X			
J.3,6	3.ADOC and Tutwiler shall respond to reports of sexual abuse and sexual harassment or threats of sexual abuse or sexual harassment without regard to an inmate's known or perceived sexual orientation or gender identity. 6.ADOC and Tutwiler shall not place in protective custody an inmate who is alleged to have suffered sexual abuse or sexual harassment solely for the purpose of protecting that inmate, unless a determination, documented in writing and reviewed by the PREA Compliance Manager or the Warden's designee within 24 hours, has been made that there is no available alternative means of separation from likely abusers.	X			
J.4,5	4.The written institutional plan shall include procedures that address how staff respond upon learning of an allegation that an inmate was sexually abused; described below 5. If the first staff responder is not a security staff member, the responder shall be required to request the alleged victim not take any actions that could destroy physical evidence, and then notify security staff.	X			
J.7	To the extent they do not already exist, ADOC and Tutwiler shall develop, submit to the Monitor and DOJ for review consistent with Section III.A.6., and implement policies and procedures to provide access to medical and mental health services to women identified as potential or actual victims of sexual abuse and sexual harassment, that occurred either at Tutwiler or elsewhere, including the following:	X			
III.K REFERRALS AND INVESTIGATIONS					
K.1,2	1.ADOC investigators shall continue to investigate allegations of sexual abuse or sexual harassment consistent with their authority as criminal investigators and consistent with Policy and Alabama law. Completed investigations of sexual abuse and sexual harassment will be referred to local prosecutors as appropriate. 2. When ADOC conducts its own investigations into allegations of sexual abuse or sexual harassment, it shall do so promptly, thoroughly, and objectively for all allegations, including third party and anonymous reports. Administrative investigations shall be completed regardless of the results of any criminal investigations and regardless of the subject's continued employment by ADOC	X			
K.4	ADOC and Tutwiler shall develop, submit to the Monitor and DOJ for review consistent with Section III.A.6., and implement guidelines for the immediate initiation of an investigation and/or review upon learning of an allegation of sexual abuse or sexual harassment and develop a process for monitoring those guidelines. The guidelines shall also ensure that investigations that include any allegations of sexual abuse or sexual harassment are properly labeled as such.	X			

Requirement	Description				
		Substantial Compliance	Partial Compliance	Non-Compliance	N/A
K.3,5,7,8,9,10	Investigators 3.The use of pre-hearing segregation shall be limited to inmates whose continuing behavior is a threat to facility safety, or who will not stop the prohibited behavior. Such pre-hearing segregation shall not be used for more than 72 hours, at which time an inmate must be afforded a disciplinary hearing, or provided a written explanation of why the hearing is postponed and when the hearing will be re-scheduled. 5.Where sexual abuse or sexual harassment is alleged, ADOC shall use investigators who have received special training in institutional sexual abuse and sexual harassment investigation. Specialized training shall include techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral. ADOC shall maintain documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations. The Department-wide PREA Coordinator and Tutwiler's PREA Compliance Manager shall not serve as investigators for sexual abuse investigations. 7.The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as inmate or staff. ADOC or Tutwiler are prohibited from offering or administering polygraph examinations or other truth-telling devices to an inmate who alleges sexual abuse or sexual harassment. 8.ADOC shall issue a written investigative report within 30 days after the conclusion of a sexual abuse or sexual harassment investigation that indicates whether the allegation is substantiated, unsubstantiated, or unfounded. The investigator may request in writing, approved by the facility designee, an extension for cause that identifies the remaining actions necessary to complete the investigation. In no case shall the investigation be unfounded solely Due to the expiration of the 30 days. The investigative report shall include an effort to determine whether staff actions or failures to act contributed to the abuse, a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings. 9.ADOC shall work with the Monitor on ensuring that an investigative summary sheet that provides an overview of the current status of an investigation is included. The summary information should include, among other things, basic information such as staff name(s), prisoner names(s), location of incident, and the time of day. 10.The departure of the alleged perpetrator or victim from the employment or control of ADOC or Tutwiler shall not provide a basis for terminating an investigation.	X			
K.11, 12, 13, 14, 15	Outside Investigations; Inmate Notification 11.When outside agencies investigate alleged incidents of sexual abuse, ADOC and Tutwiler shall cooperate with outside investigators and shall endeavor to remain informed, to the extent appropriate, about the progress of the investigation. 12.Following an investigation into an inmate's allegation that she suffered sexual abuse or sexual harassment in any ADOC facility or while within the physical custody and control of the ADOC, ADOC and Tutwiler shall inform the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded. 13.If ADOC or Tutwiler did not conduct the investigation, it shall request the relevant information from the investigative agency in order to inform the inmate. 14.Following an inmate's allegation that a staff member has committed sexual abuse or sexual harassment against the inmate, ADOC and Tutwiler shall subsequently inform the inmate whenever: (see below) 15.All such notifications or attempted notifications shall be documented.	X			

Requirement	Description	Compliance			
		Substantial	Partial	Non-	N/A
K.16,17	Investigations Review 16. A review team, including upper-level management officials at Tutwiler, with input from line supervisors, investigators, and medical and mental health practitioners, shall conduct an incident review within 30 days of the conclusion of every investigation of substantiated and unsubstantiated allegations of sexual abuse or staff-on-inmate sexual harassment. The review team shall: (see below) 17. ADOC and Tutwiler shall implement the recommendations for improvement or shall document its reasons for not doing so.	X			
K.18	Within 60 days of the Effective Date, ADOC and Tutwiler shall review all pending investigations alleging sexual abuse and sexual harassment to determine whether the investigation was conducted according to the requirements of Section III. K. of this Agreement. Within 120 days of the Effective Date, ADOC and Tutwiler will conduct a similar review of all unfounded allegations of sexual assault and sexual harassment for the past 360 days to determine whether the investigation was conducted according to the requirements of Section III. K. of this Agreement.	X			
III.L STAFF DISCIPLINARY ACTIONS					
L.1	ADOC and Tutwiler shall develop, submit to the Monitor and DOJ for review consistent with Section III.A.6., and implement policies and procedures that track staff disciplinary actions related to allegations of sexual abuse or sexual harassment, to ensure that the directives in III.L.2-III.L.6 below are met.	X			
III.M Limited English Proficient (LEP) Inmates					
M	ADOC and Tutwiler shall work with the Monitor to develop and implement a policy providing for a method of interpretation services for LEP inmates. This method may be through a language telephone line, if necessary. ADOC and Tutwiler shall not rely on other inmates or non-certified employees to translate and/or interpret for LEP inmates.	X			
IV. Quality Improvement and Data Collection					
M	A. Within one year of the Effective Date, ADOC and Tutwiler shall develop and submit to the Monitor and DOJ for review consistent with Section III.A.6., and implement, written quality improvement policies and procedures adequate to identify and address any deficiencies in ADOC and Tutwiler's prevention, detection and response to sexual abuse and sexual harassment at Tutwiler and to assess and ensure compliance with the terms of this Agreement. B. Within three months of the Effective Date, ADOC shall convene a state-wide working group to evaluate how other state and ADOC entities may contribute to Tutwiler's compliance with this Agreement. C. ADOC and Tutwiler shall establish a system wherein they routinely poll inmates regarding their perceptions of the implementation of the specific terms of this Agreement including the prevalence of staff sexual abuse and sexual harassment, inmate vulnerability to sexual abuse and sexual harassment, the investigation and discipline of staff accused of sexual abuse and sexual harassment, the efficacy of inmate education regarding sexual abuse and sexual harassment, privacy in the showers and toilets, the appropriateness of inmate classification, the levels of staff supervision, the efficacy of the reporting systems for sexual abuse and sexual harassment including grievances, and official responses to, and retaliation for, allegations of sexual abuse and sexual harassment. D. ADOC and Tutwiler shall develop, implement, and maintain, in consultation with the Monitor, a Risk Management System ("RMS") that will document and track facility trends related to: (1) sexual abuse or sexual harassment; (2) unprofessional staff conduct involving inmates, including sexually explicit, vulgar, or degrading language; and (3) use of force incidents.	X			