

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

|                           |   |                                        |
|---------------------------|---|----------------------------------------|
| UNITED STATES OF AMERICA, | ) |                                        |
|                           | ) |                                        |
| Plaintiff,                | ) |                                        |
|                           | ) |                                        |
| v.                        | ) | Civil Action No. 2:15-cv-00368-MHT-SRW |
|                           | ) |                                        |
| STATE OF ALABAMA AND      | ) |                                        |
| ALABAMA DEPARTMENT OF     | ) |                                        |
| CORRECTIONS,              | ) |                                        |
|                           | ) |                                        |
| Defendants.               | ) |                                        |

**PARTIES’ JOINT STATEMENT**  
**PURSUANT TO THIS COURT’S MARCH 29, 2022 ORDER**

Come now the Plaintiff, the United States of America, and Defendants, the State of Alabama and the Alabama Department of Corrections (“ADOC” and, together with the State of Alabama, the “State”), and provide this joint statement pursuant to the Court’s Order of March 29, 2022. Doc. No. 64. The Court’s Order directed, in part, the “parties, with input from the Monitor, [to file] . . . a joint statement defining the APOSTC issue.” *Id.*

Pursuant to the Consent Decree staffing provisions, the State “shall continue to develop, . . . and implement its plan to recruit women correctional officers at Tutwiler. To this end, ADOC shall: 1. Continue working with the Alabama Peace Officers Standards and Training Commission (APOSTC) in screening, selecting, or hiring applicants for the entry-level corrections officer positions *until such standards, or any other physical test employed are:* (a) Validated for a corrections environment; and (b) Examined for the necessity of gender-norming certain components.” Doc. No. 11 at 31, section III.C.1.i.1(a)(b) (emphasis added).

According to the Monitor, “ADOC’s recruitment and hiring data have underscored a system-wide issue with the application of the APOSTC physical standards to women candidates

for Correctional Officer positions.” Doc. No. 61-1 at 29 (Thirteenth Monitor Report). The Parties acknowledge that the Consent Decree’s language, as written, creates two pathways for implementing validated and gender-normed entry standards for correctional officers, either by successfully advocating for the change of the APOSTC standards, or employing a different, validated and gender-normed, physical entry test for correctional officer candidates at Tutwiler. Doc. No. 11 at 31, section III.C.1.i.1. However, the Parties also acknowledge that only one path, pursuing a validated and gender-normed APOSTC physical entry test, is a plausibly viable option for hiring reform at this time. This is because the Parties understand that the APOSTC’s certification process for law enforcement personnel (including correctional officers) in the State of Alabama, is required to receive certain pension benefits and promotional opportunities, and maintain the morale and legitimacy of the profession for certified officers.

The Parties acknowledge that ADOC does not have the authority unilaterally to compel the APOSTC to validate and gender-norm the Physical Agility/Ability Test (PAAT). According to Rule 650-X-1-.03 of the Alabama Administrative Code, the “Commission is composed of seven members, each of whom must be a qualified elector of the State who is over the age of 19 years. The State Fraternal Order of Police shall designate one member of the Commission to serve for a term of four years; the Alabama Peace Officers Association shall designate one member to serve for a term of four years; the Law Enforcement Planning Association shall designate one member to serve for a term of four years; and the Governor shall designate four [of the seven] members to serve for terms of four years.”<sup>1</sup>

ADOC has engaged in multiple efforts to work with the APOSTC on its standards, and to

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<sup>1</sup> See <https://www.apostc.alabama.gov/wp-content/uploads/2019/12/Chapter-1.pdf>.

increase the hiring of women correctional officers and correctional officers overall. These efforts include: (1) advocating that APOSTC modify the administration of the PAAT from the first week of the correctional officer trainee academy, to week eight of the program, after the trainees have had more time to prepare for the physical fitness requirements; (2) implementing, with the support of the APOSTC, “a two-part corrections academy that would help ADOC to develop a new ‘non-APOSTC’ correctional officer position to work basic correctional posts;” and (3) working with the APOSTC to encourage a shift in certification requirements for correctional officers that focus on the job-specific tasks of a correctional officer, instead of tasks associated with a policing environment. In addition to the above efforts, and beyond the requirements of the Consent Decree, ADOC is strengthening its position to advocate for alternate APOSTC PAAT certification requirements, by contracting with Troy University to develop and validate an entry test designed with the job requirements of correctional officers at the forefront, to present to APOSTC for consideration and implementation.

In the absence of modified PAAT standards, ADOC implemented “a two-part corrections academy that would help ADOC to develop a new ‘non-APOSTC’ correctional officer position to work basic correctional posts.” Doc. No. 39-1 at 52 (Ninth Monitor Report). This new job classification, formally titled Correctional Security Guard, and informally referred to as a Basic Correctional Officer (BCO), was approved and announced on May 1, 2019, by the State Personnel Department. *Id.* Candidates for the BCO position are not required to pass the APOSTC PAAT requirements, and are authorized to work on posts that do not require the use of firearms. *Id.* While this initiative has improved ADOC and Tutwiler’s recruitment efforts of women officers (“[a]s of June 30, 2021, sixty-eight of the seventy filled BCO positions were women’), see Doc. 61-1 at 23, the Monitor and DOJ have expressed concern that this proposed new category of

officers could be filled disproportionately by women, creating a lesser role with very limited career advancement. Doc. No. 39-1 at 52 (Ninth Monitor Report). For example, BCOs are not eligible for direct promotion to Correctional Officer or Senior Correctional Officer positions, absent completion of the APOSTC PAAT. The State understood this theoretical concern expressed in the Ninth Monitor Report; however, from its perspective, over the past nearly three (3) years, ADOC neither experienced a disproportionate number of women hired as BCOs nor experienced a disproportionate number of female BCOs missing opportunities for career advancement on a systemwide basis. At Tutwiler, as of December 31, 2021, BCOs were largely comprised of women, there were no “Correctional Officers,” and 27 of the 44 Senior Correctional Officer positions were held by women. Doc. No 61-1 at 24 (Thirteenth Monitor Report). ADOC encourages Tutwiler BCOs to work towards APOSTC certification and provides opportunities for BCOs to achieve advancement once certification is achieved.

Overall, the Monitor concludes that “[u]ntil 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, or the terms of the agreement modified, the monitor determines ‘partial compliance’ with the staffing . . . and recruitment . . . provisions of the settlement agreement.” Doc. No. 61-1 at 32 (Thirteenth Monitor Report).

In compliance with CM/ECF Civil Administrative Procedure II.C.3., the parties hereby certify that they have agreed to have their names electronically signed to this Joint Statement.

Respectfully submitted this 4th day of April, 2022.

/s/Samantha R. Miller

Samantha R. Miller  
Assistant United States Attorney  
United States Attorney's Office | Middle District  
of Alabama  
131 Clayton Street  
Montgomery, AL 36104  
Office: (334) 551-1710  
Email: samantha.miller@usdoj.gov

Steven H. Rosenbaum  
Chief, Special Litigation Section  
Civil Rights Division

Laura L. Cowall  
Deputy Chief, Special Litigation Section  
Civil Rights Division

Joshua C. Delaney  
U.S. Department of Justice  
Special Litigation Section  
Civil Rights Division  
950 Pennsylvania Avenue NW  
Washington DC 20530  
Telephone: (202) 616-2446  
Email: joshua.delaney@usdoj.gov

**Attorneys for Plaintiff**

/s/ Matthew B. Reeves

Carrie Ellis McCollum (ELL037)  
Alabama Department of Corrections  
General Counsel  
301 South Ripley Street  
P.O. Box 301501  
Montgomery, AL 36130-1501  
Telephone: (334) 353-3886  
Email: carrie.mccollum@doc.alabama.gov

Bart G. Harmon (HAR127)  
Alabama Department of Corrections  
Assistant Attorney General  
301 South Ripley Street  
P.O. Box 301501  
Montgomery, AL 36130-1501  
Telephone: (334) 353-3859  
Email: bart.harmon@doc.alabama.gov

Carrie G. Shaw (GRA133)  
Alabama Department of Corrections  
Assistant Attorney General  
301 South Ripley Street  
P.O. Box 301501  
Montgomery, AL 36130-1501  
Telephone: (334) 353-3884  
Email: carrie.shaw@doc.alabama.gov

William R. Lunsford  
Matthew B. Reeves  
Maynard, Cooper & Gale, P.C.  
655 Gallatin Street, S.W.  
Huntsville, AL 35801  
Telephone: (256) 551-0171  
Email: blunsford@maynardcooper.com  
mreeves@maynardcooper.com

**Attorneys for the Defendants**

**CERTIFICATE OF SERVICE**

I hereby certify that on April 4, 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all participants.

/s/ Matthew B. Reeves  
Of Counsel