

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 Fourteenth 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 Julia 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. 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 to direct operational practice in a facility. At Tutwiler, the facility develops written standard operating procedures (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.

This is the fourteenth required court report submitted by independent monitor Kathleen Dennehy, Ph.D. This Court approved Dr. Dennehy as the second monitor on August 26, 2016.

The Consent Decree requires the monitor to conduct an on-site visit and issue a compliance report every six months (Consent Decree, VIII.C.1., DKT 12). Dr. Dennehy last conducted an on-site compliance visit December 1-4, 2019. This visit is documented in the monitor's ninth compliance report. The next visit had been scheduled to be conducted the week of June 1, 2020. All parties

concurred that the challenges presented by the coronavirus (COVID-19) pandemic warranted a postponement of the "every six months" scheduled on-site visit. In May 2020, the court approved the notice to court of parties' joint agreement to postpone the June 2020 compliance tour. It was also agreed that the monitor would submit an interim narrative report in lieu of the report that would ordinarily be issued, and the interim report would be informed by information gathered by the monitor, but not include the usual observations from an on-site visit. Thus, some Consent Decree requirements could not be properly monitored and assessed for full compliance.

The COVID-19 pandemic continued, as did the specific challenges associated with conducting an on-site compliance assessment visit including: the uncertainty of the extent of the spread of the original virus and more recent variants of the virus in the State of Alabama and the home states of the monitor and members of the DOJ team; the uncertain logistics of interstate travel by the monitor and the DOJ team; compliance with the Centers for Disease Control and Prevention's guidance on the management of COVID-19 in correctional and detention facilities; and the risk that asymptomatic individuals, including the monitor, attorneys, ADOC staff, and inmates, could unintentionally spread the infection. The December 2020, June 2021, and December 2021 compliance assessments consequently relied upon staff and inmate interviews conducted via video conferencing and on-going document reviews. These interim compliance assessments are documented respectively in the monitor's tenth, eleventh, twelfth, and thirteenth reports. The parties agreed that on-site visits would continue every six months from the time of the next rescheduled on-site visit.

During previously conducted on-site compliance visits, the monitor had been provided meeting space to engage in private conversations with staff and inmates. In addition to these formal interviews, the monitor had been afforded open and unimpeded

access to staff and inmates during the monitoring visit and had many opportunities to question and engage in informal, private conversations with both staff and inmates while touring the housing and program areas. Absent the monitor's ability to tour the facility and benefit from first-hand on-site observations and informal discussions with staff and inmates it was understood by all parties that these interim reports would not cover every requirement of the Consent Decree. It was also understood that the monitoring tool used to document compliance with all requirements contained in the settlement would not accompany these interim reports. The use of the tool would resume during the monitor's next full on-site compliance visit when direct observations and informal, private conversations were possible.

For purposes of the interim monitoring compliance assessments, the monitor expressed her intent to first focus on the three settlement requirements that remained in "partial compliance". These topics relate to staff recruitment, training, selection, and hiring (III(C)(1)); overall staffing issues, staffing updates, use of overtime, staff attendance, and staff retention (III(C)(2)); and the on-going validation study of the Woman's Risk Need Assessment (III(F)(4)). These requirements, while being addressed by ADOC and Tutwiler, had not yet been determined to be in full compliance. In addition, it was agreed the interim reports would address any other additional areas that the monitor deemed appropriate and significant, based upon information she had received during the reporting period.

During a status hearing before Judge Myron Thompson held on March 28, 2022, the parties expressed their intent to resume on-site monitoring visits. The monitor proposed and the parties agreed to a two-part, on-site monitoring visit. The focus of the first part of the compliance assessment in June, would be conducting a document review to verify Tutwiler's continued compliance during

the time period January 1, 2020, through June 30, 2022 when the COVID pandemic prevented on-site visits. The second part of the monitoring visit in July would focus on those areas remaining in partial compliance. The monitor advanced the possibility of amending the Consent Decree for the purpose of reducing the number of requirements subject to on-going monitoring wherein it is clear to the monitor that the organizational structure, policy, practice, and training required to sustain compliance are now deeply embedded in Tutwiler's culture and operations. The monitor prepared a draft report to that end and shared it with the DOJ and ADOC for review and comment. After a closer read of the Consent Decree, it is silent on the possibility of peeling away requirements. A request for an extension for ADOC's review and response to the draft report was requested so that the new Commissioner could familiarize himself with the settlement. The monitor was also advised that ADOC's response would not be presented in the same format as the thirteen previous reports. The monitor expected to receive a letter from Commissioner Hamm, instead the monitor received a nine page letter from ADOC's General Counsel. While the monitor cannot speak for either the ADOC or the DOJ, the General Counsel's correspondence suggests that some requirements were eligible to be peeled away after the Monitor's Third Compliance Report. The monitor notes that the Consent Decree does include the following language: "This Agreement shall terminate when ADOC and Tutwiler have achieved substantial compliance with all of the substantive provisions of this Agreement in three consecutive Compliance Reports." (X, B).

It is clear to the monitor any further discussions on this topic belong between the State of Alabama, the ADOC, the DOJ, and the Court. As such, the monitor has amended the draft report to reflect a current assessment of compliance with each Consent Decree requirement. While the tool is cumbersome to both produce and read, note that at the end of detailed discussions for each requirement,

there is a section for the monitor's recommendations.

The monitor conducted the first visit June 12-16, 2022. The monitor was on-site at Tutwiler with DOJ on July 11-12, 2022, and conducted additional hard-copy document reviews on both July 10 and July 13.

This fourteenth report addresses all requirements of the Consent Decree and includes the use of the monitoring tool. For each Consent Decree requirement, the monitor offers a finding of the degree of current compliance. Attachment A is a list of each requirement documenting these findings. The Consent Decree uses four levels to measure compliance: substantial compliance, partial compliance, non-compliance, and not applicable. At this juncture, all settlement requirements are applicable. This report describes the actions taken by the monitor to determine compliance and uses the time frame January 1, 2022, to June 30, 2022, as the "reporting period." The ADOC submitted some documentation right up to mid-September.

Specific Actions to Evaluate Compliance

The monitor took the following specific actions to evaluate compliance:

- 1) **Notice to Inmates and Staff:** The monitor requested the ADOC Deputy Commissioner of Women's Services post a notice to inmates and staff advising them of the upcoming visits. Notices were posted in the dorms and throughout the facility.
- 2) **Compliance Visit:** During the monitor's June 2022 compliance visit with the ADOC and Tutwiler, she had the opportunity to have a face-to-face meeting with Commissioner Hamm, and interview central office staff including executive leadership and section managers, who have responsibilities related to ADOC duties and Tutwiler compliance

with the settlement. Commissioner Hamm was most helpful in ensuring the monitor receive some requested documentation. Monitor Dennehy also interviewed ADOC staff assigned to Tutwiler, including the facility's top leadership, staff with specific settlement responsibilities, and the newly appointed Institutional Prison Rape Elimination Act Compliance Manager (IPCM). Throughout the compliance visit, the monitor was 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 conducting document reviews and a brief tour of the facility. These staff members were diverse in gender, race, and years of experience in corrections. An extended tour, and interviews with inmates, were deferred to the July 2022 visit. During the July visit, the monitor and the DOJ were afforded the opportunity to speak with staff and inmates while touring the housing and program areas. The monitor and the DOJ interviewed members of the executive staff, as well as department heads. The focus of these interviews was staffing and investigations. As the DOJ continued the tour of the facility, the monitor conducted private interviews with randomly selected inmates. The inmates were diverse in age, housing placements, length of sentence, and time already served at Tutwiler.

The following staff members were interviewed:

Alabama Department of Corrections

- Dr. E. Kelley Mautz, Deputy Commissioner for Women's Services

- Dr. Abbey Holder, Planning and Evaluation Manager
- Mr. Arnaldo Mercado, Director of ADOC's Law Enforcement Services Division (LESD)
- Ms. April Bickhaus, LESD Deputy Director
- Ms. Kelley Smith, LESD Senior Agent
- Ms. Elizabeth Pilgreen, LESD Investigative Agent
- Mr. William Lawley, Associate Commissioner of Administrative Services
- Captain Napoleon Goodson, ADOC Recruiting Director
- Mr. Elliott Sanders, ADOC Training Director
- Dr. Timothy Stone, Wexford, Co-chair of the Gender Dysphoria Management Committee
- Ms. Christy Vincent, ADOC PREA Director
- Ms. Cheryl Price, Staffing Unit Coordinator

Tutwiler Prison for Women

- Ms. Lagreta McClain, Warden III, Settlement Compliance Manager
- Mr. Kenneth Drake, Warden II
- Ms. Felisha Blanding, Warden I
- Ms. Tina Tyler, Americans with Disabilities Act (ADA) Coordinator/Inmate Grievance Coordinator
- Ms. April James, Institutional PREA Manager (IPCM)
- Ms. Tenesha Williams, Classification Supervisor
- Mr. Jeffry Burt, Classification Supervisor
- Lt. Berda Nelson, Housekeeping Officer
- Ms. Cynthia Allison, Mental Health Site Manager, Wexford Health
- Ms. Willoughby, Wexford Health
- Staff selected by the monitor from the day's on-duty roster.

Consistent with past practice during previous compliance assessments, the monitor conducted private interviews with line staff and inmates outside of both ADOC and DOJ's presence. The monitor recognizes that the presence of multiple DOJ attorneys, ADOC staff attorneys, ADOC's outside counsel, and ADOC administrators can be very intimidating to line staff who are not accustomed to direct interaction with individuals in these roles. The monitor's intent was to illicit

frank feedback from staff and obtain information to inform this report. For privacy purposes, the monitor does not identify these line staff members by name.

- 3) **Documents:** The monitor reviewed multiple ADOC and Tutwiler documents during and after 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 June 2022 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 Management Committee, to prepare for a tour of the facility and staff and inmate interviews. During the visits, the ADOC allowed the monitor access to investigations, training files, staff rosters, and shift reports. The ADOC provided full access to records maintained by Ms. April James, IPCM; Warden Blanding; Grievance Coordinator, Ms. Tina Tyler; and Settlement Compliance Manager, Warden Lagreta McClain. While Warden McClain will continue as the Settlement Compliance Manager, Warden Blanding 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.
- 4) **Correspondence:** A notice is posted throughout the Tutwiler facility, noting the correspondence addresses for the monitor. During this reporting period, the monitor did not receive any correspondence from third parties. The monitor

received eight letters from Tutwiler inmates prior to and after the monitoring visit. These letters addressed a diverse range of issues, including: an allegation of favoritism by staff in dispensing disciplinary sanctions; complaints about the poor ventilation in the facility; concern about an increase in the filing of false PREA allegations; questioning why some couples are allowed to live in the same dorm and others are not; and concern about what is alleged to be open drug dealing and use by inmates, especially in the bathrooms and at the back of the dorms out of sight of staff. The monitor reviewed each letter and as needed, 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.

- 5) **Communication:** The monitor had multiple communications with Deputy Commissioner Mautz during this reporting period to request documentation and to address questions about inmate correspondence, grievances, or other documents reviewed by the monitor. The ADOC and Tutwiler administrators have provided responses for information requests 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. In the tool, 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.

"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 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.

Alabama Department of Corrections: Progress, Strengths, and Challenges

Progress

As of June 30, 2022, the end of this reporting period, with the exception of three settlement requirements determined to be in "partial compliance", the ADOC and Tutwiler have made progress and have maintained "substantial compliance" with the vast majority of the requirements. The three requirements assessed by the monitor to be in "partial compliance" focus on: (1) staffing and recruitment, and (2) the need to validate and gender-norm the physical training requirements Correctional Officer Trainees must meet to graduate from the academy, and (3) the validation of the gender-responsive classification instrument. See III(C)(1); III(C)(2);

III(F)(4).

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*. In formal 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.

SOP 8-30, *Behavior Intervention & Discipline 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 positive inmate behavior and encouraging self-management. The stated 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 interventions, pursuant to SOP 8-30 *Behavior Intervention & Discipline Policy*, to address behaviors, 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. This policy provides guidelines, but allows for staff discretion based upon the circumstances. During prior compliance visits/assessments and this compliance assessment both staff and inmates continue to express mixed reviews of this policy and approach. Older and longer-term inmates, in particular, have expressed concern that some inmates are allegedly not being held accountable for rule infractions. During interviews conducted by the monitor with inmates and staff in June and July 2022, it appears while there may be support for the intent and objectives of the Behavior Intervention Program among both inmates and staff, some question the implementation and outcomes of this policy. Some inmates and staff members have expressed belief that some inmates are now manipulating the system to avoid disciplinary sanctions and inmates are not being held accountable for their conduct. Every line staff member and inmate interviewed during July 2022 expressed their belief and frustration that there are no, or little, consequences for inmates who knowingly make false PREA allegations. Most staff express understanding of the overall goals of introducing a gender-responsive philosophy at Tutwiler, but some staff continue to express dissatisfaction with some aspects of the implementation of SOP 8-30 *Behavior Intervention & Discipline Policy*.

Continued inmate resistance to SOP 8-30 *Behavior Intervention & Discipline Policy* is understandable, in as much as inmates are not privileged to see the outcome of another inmate's disciplinary charge, behavior intervention strategy, or lack knowledge of an

inmate's mitigating mental health status. Absent a high-profile placement in the disciplinary segregation unit, an inmate would not be able to determine another inmate's sanction or placement with certainty.

As for staff feedback, some security staff, in response to the employee survey feedback summarized in January 2021, expressed their perceptions that the facility is not being run like "a real prison" and some officers feel they cannot hold inmates accountable. Of the ninety-nine responding employees to this survey, nearly 63% self-identified as security.

A more recent staff survey was summarized in January 2022. Only thirteen of the forty-six respondents self-identified as security staff. The vast majority of responders self-identified as support staff (clerical, classification, case managers, case workers, maintenance, canteen, steward), medical staff, or mental health staff. Thus, the feedback in this survey does not provide much insight into security staff's perceptions.

Based upon this prior feedback and staff interviews conducted during the June and July 2022 visits, it is clear that Tutwiler's administration must continue to closely monitor implementation of this policy to ensure *consistent and sustained* application. The implementation of this policy requires a significant shift in both the inmate and staff cultures. A culture shift of this magnitude requires sustained staff supervision, on-going internal monitoring to ensure additional staff training, and inmate education to reinforce the intent and requirements of this policy. It is also critically important that mid-level managers and supervisors exercise leadership and supervision by demonstrating support of this culture change when interacting with their direct reports and inmates. The monitor recommends that leadership develop an expanded range of sanctions and consequences, including short stays in segregation for inmates when it is proven they knowingly made false PREA allegations. Inmates should be made aware of an expanded list of

sanctions, so they clearly know what the consequences of their actions will be. The perception among staff and inmates is that the current range of sanctions for filing a PREA allegation made in bad faith is too lenient and does not present a deterrent. Given the seriousness of an inmate knowingly filing a false PREA allegation, the monitor shares these concerns.

Additional training sessions with staff on the Behavior Intervention Program are now included in Tutwiler's annual staff refresher training, which has resumed. Staff participate in a four-hour block of instruction titled, *Behavior Intervention and Management*.

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.

For those few women placed in segregation due to disciplinary issues, the average number of days spent in pre-hearing status for this reporting period was only 2.9 days.

In September 2018, the DOJ and monitor were provided a copy of a proposed SOP 5-25, *Structured Living Unit* (SLU) for review and comment. This SOP established the protocols for a SLU located in Dorm K. The unit was designed to house those inmates, whether on a mental health caseload or not, whose behavior indicated a need for a more structured living environment than is provided in general population units. The SLU was intended as a diversionary unit to be used in lieu of restrictive housing placement. Inmates would sign a behavior contract with the Unit Review Team, comprised of at least a licensed counselor, psychologist, classification

supervisor, and a security representative designated by the Warden. DOJ and the monitor's comments/suggestions were received and reviewed by ADOC. The project was then placed on hold. In June 2020, ADOC provided responses to DOJ and the monitor based upon the feedback they had received and ADOC shared the final SOP. The unit opened in June 2020 with an initial capacity of thirty.

During the July 2020 compliance visit interviews, the final SLU SOP was discussed and ADOC agreed to review additional feedback from DOJ and the monitor. ADOC then completed a review of this feedback. In December 2020, ADOC conducted a review of the pilot opening of the SLU, identifying what had worked well and lessons learned. As of December 7, 2020, twenty-seven inmates had been served in this unit, nineteen had been identified as having a serious mental illness (SMI) and eight had been identified as non-SMI. The majority of the women housed in this unit had been on a mental health caseload with ongoing behavior management issues. The data demonstrated that the primary reasons for placement in this unit were assaultive behavior and/or institutional violations resulting in close custody status. Tutwiler has demonstrated a commitment to quality improvement and has maintained tracking data to assess implementation of changes in policy and procedure.

During the January 2021 compliance visit overview, DOJ and the monitor were provided an update on the review of the SLU and recommendations. Among the changes that were recommended by the ADOC review team were: a) rename the unit to the Rehabilitative Needs Unit (ReNU); b) relocate the unit to an area more conducive to the mission of the unit; and c) work with the ADOC Office of Health Services and contracted mental health provider to incorporate additional changes to modify the operation of the unit and encompass feedback received from DOJ and the monitor. The final version of the policy was shared with the DOJ and the monitor on June 8, 2022. During the 2022 on-site visits, both the monitor and the DOJ toured the newly renovated unit. The unit is

located one-quarter mile from the main Tutwiler campus in a renovated building. The monitor has two concerns. First, the unit census will include women of varying custody levels outside the confines of the main prison compound. The second concern is that the ReNU unit is far more comfortable than housing on the main compound. The unit is airconditioned, clean and bright. These features may provide an incentive for women to want to stay on the unit. The unit is currently vacant, but the SLU, under the name ReNU, was expected to relocate to the new unit in Summer 2022. The opening has since been delayed due to physical plant issues. To date, the SLU continues to operate in Dorm K.

In early April 2020, a new SOP was developed in response to COVID-19. On April 23, 2020, SOP 11-2 *Julia Tutwiler Prison for Women Quarantine Intake Facility* was shared with the monitor and DOJ for review and comment. The final version of this SOP was published on May 4, 2020. This unit is located one-quarter mile from the main facility in a renovated building and has since been re-named the Julia Tutwiler Prison for Women Intake Center. Based upon a comparison with outbreaks in other state prisons in the United States, comparatively low numbers of inmates contracted COVID while at Tutwiler. The unit appears to have been quite effective in containing the virus and is still operational at Tutwiler.

Tutwiler's previous success at limiting the amount of time a new admission spends in the intake unit has been undermined by the pressing need presented by the pandemic to develop emergency procedures to keep staff and inmates safe and healthy by quarantining new admissions for a minimum of fourteen days. The mean average of the length of stay in intake housing is now twenty-one days.

Staffing

The settlement agreement required the development of a professional staffing analysis and for a staffing plan based on this analysis to be presented to the ADOC and Tutwiler. The ADOC and Tutwiler expended considerable funds to have an initial staffing analysis conducted at Tutwiler by nationally recognized experts to research and develop a gender-responsive staffing plan for Tutwiler. This 2016 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. On July 26, 2017, the ADOC provided the DOJ and monitor a copy of the finalized initial staffing plan.

Since the staffing analysis was conducted in 2016, several new position classifications have been implemented, including Correctional Cubicle Officer (CCO), Correctional Security Guard known as Basic Correctional Officer (BCO), and Senior Correctional Officer. CCOs are assigned to work critical posts (cubicles) and do not have direct contact with the inmate population. A job classification for BCO, formally titled Correctional Security Guard, was approved, and announced on May 1, 2019, by the State Personnel Department. Unlike Correctional Officers, BCOs are not certified by the Alabama Peace Officers' Standards and Training Commission (APOSTC). They are appointed at the institutions and receive six weeks of intensive training at the Academy in Selma or at a satellite location. They are required to pass an occupational fitness test before graduation. The occupational test includes satisfactory completion of defensive tactics. They graduate as a "basic" Correctional Officer and are "ADOC certified". Because BCOs are not APOSTC certified, they are only authorized to work on posts that do not require the use of firearms or any other specialized training. There are some restrictions on post assignments BCOs may cover, including perimeter patrols, and sole security

coverage of inmates who have been admitted to outside hospitals, and towers. There are also some restrictions on a BCO's role in emergency transportation of an inmate. Following additional training, BCOs can transport inmates to a hospital if accompanied by an APOSTC-certified officer. Currently, APOSTC-certified officers must remain with the inmate during the hospital stay. For minimum custody inmates, one APOSTC officer is required. For medium or higher custody inmates, two APOSTC officers are required. Depending on the assigned custody- level of the inmate, the BCO will either be relieved by another APOSTC officer or just return to the facility with no replacement. If desired by BCOs, they are encouraged to seek further certification as a Correctional Officer by attending the ten-week residential correctional academy at the ADOC Training Center within one year of their initial appointment. The BCO position is a focus of the ADOC's recruitment efforts. The creation of the position of BCO, specifically, has helped the ADOC to recruit and fill chronic staffing shortages at Tutwiler.

The monitor requested the ADOC and Tutwiler provide periodic status updates on the implementation plan addressing the recommendations made in the staffing plan. As of December 31, 2021, Tutwiler had implemented twenty-one of twenty-two recommendations in the staffing plan. Examples of staffing recommendations successfully implemented include moving the inmates' breakfast meal by one and one-half hours to two hours and adjusting subsequent activities to increase staffing efficiency to lower peak staffing demands and to provide inmates with more hours to sleep. As of June 30, 2022, only one recommendation remained outstanding. The remaining recommendation addresses Tutwiler's camera system. Tutwiler's camera system does not currently have audio recording capacity, but the video surveillance system has additional capabilities that could be activated to include audio capabilities. 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 funding request to support the activation of audio capabilities for some cameras. Implementation of this final recommendation is contingent upon funding. Should funding and the opportunity present itself, the monitor also encourages consideration of initiating a pilot body camera program for Tutwiler's security staff.

Funding has been made available to implement a software upgrade improving the camera operating system. While the upgrade does not add audio capabilities, it improves camera operations. In addition, Tutwiler had received a commitment for grant-funded body-worn cameras with audio capability once the ADOC received a shipment. This grant required matching funds, and Commissioner Hamm placed this project on hold until the current administration had time to review grants requiring a financial commitment from the ADOC. After consideration, the ADOC opted not to participate in the body-worn camera grant. In the monitor's opinion, it was expected that the new administration would conduct a review and re-assessment of department resource allocations and agency priorities.

On December 9, 2021, Warden Wright convened the annual camera assessment meeting. Recent camera placements were reviewed. In 2021, some aging cameras were replaced in targeted areas, an additional twenty-six cameras were installed in the Quarantine Intake Facility, and thirty-four cameras were placed in preparation for the relocation of the ReNU unit. The resulting action items were identified and have been addressed. A power surge and backup battery has been placed in the camera monitoring room. In addition, mirrors were added to the corner areas in C-Dorm and a request was made for additional cameras for other locations. While it is understood that cameras and other technologies do not replace the need for staff on posts, these tools do enhance the safety and security of both staff and inmates and provide an important resource for investigators and the review of allegations

made in inmate grievances.

The monitor recognizes that a solid up-to-date staffing analysis 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. This document should be reviewed on a regular basis. A solid analysis of staff requirements is instrumental to identify the knowledge, skills, and abilities needed for a gender-responsive, trauma-informed Tutwiler workforce. The calculation of an institution specific relief factor is needed to determine the number of staff needed to fill mandatory posts. This is a complex and challenging task, complicated by a high percentage of position vacancies; a high rate of staff callouts; critical posts being filled by mandating overtime for officers or utilizing retirees or officers from other facilities; assigning supervisors to work line posts; and doubling-up officer posts, such that one staff member covers two posts.

In advance of the last court status hearing, when reviewing court documents related to another matter before this Court to determine any intersections with the Tutwiler Consent Decree, the monitor became aware that a new staffing analysis would be conducted at Tutwiler under the supervision of a newly created central office unit, the Resource Planning Unit. This information had not been shared with the monitor. Based upon a previously filed parties' joint statement pursuant to this court's September 30, 2021 court (document 62 filed March 21, 2022), the ADOC committed to complete this staffing analysis by November 1, 2022. The monitor is advised that ADOC is on target to meet this benchmark. By June 30, 2022, ADOC was to provide the monitor with the status of the activities listed in this joint filing. The monitor did not receive this update.

During the July 2022 visit, the monitor requested to meet with the newly appointed Resource Planning Unit Coordinator, Ms.

Cheryl Price to discuss the staffing analysis process. The monitor wants to ensure any newly developed Tutwiler staffing analysis and plan meets the requirements spelled out in the Consent Decree in sections III c.2.i-III C.2x and the PREA regulations for adult prisons and jails. Specifically, ADOC and Tutwiler are required to develop, document, and implement a staffing plan, based on gender responsive principles and PREA requirements, that provides for adequate staffing levels and, where, applicable, video monitoring to protect inmates against sexual abuse and sexual harassment. A staffing plan is to be provided to the monitor and DOJ and must include the following:

- Identification of all posts and positions at Tutwiler, including any gender-specific posts required for the safe operation of the facility;
- Shift relief factor for Tutwiler;
- Policies and procedures for reviewing and amending Tutwiler's staffing plan.

In calculating adequate staffing levels, ADOC and Tutwiler shall, as part of a staffing analysis, consider the following factors as detailed in the "monitoring tool" developed at the inset of this Consent Decree. This list also reflects factors required for consideration by PREA regulations (PREA Section 115.13 Supervision and Monitoring- Adult Prisons):

- Generally accepted detention and correctional practices;
- ADOC and Tutwiler's determination of which necessary duties will be handled by Tutwiler staff, ADOC staff, or outside agencies;
- Any findings of inadequacy from any investigative agencies within ADOC;
- Any findings of inadequacy from internal or external oversight bodies;
- The camera management plan and all components of the facility's physical plan;
- The composition of the inmate population;
- The number and placement of supervisory staff;
- Institution programming and options for supervision of inmates;

- A Tutwiler specific shift relief-factor;
- Any applicable state or local laws, regulations, or standards; and
- The prevalence of substantiated and unsubstantiated incidents of sexual abuse
- and sexual harassment.
- Any other relevant factors

Pursuant to discussions during the March 2022 status hearing convened by Judge Myron Thompson, the ADOC was to facilitate the monitor having a discussion with the outside expert consultants who have been hired to train the ADOC personnel in how to conduct a staffing analysis. During the June 2022 monitoring visit, the monitor learned the training by the Savages had already occurred and Ms. Tina Tyler, Tutwiler's Institutional Grievance Coordinator, had attended that training and was assigned the responsibility to gather Tutwiler specific data regarding staffing to submit to Ms. Price. Although this Court gave direction for the monitor to be afforded the opportunity to have a direct conversation with the Savages during the March status conference, this did not occur prior to the monitor's on-site visits or the drafting of this report. The monitor stressed to ADOC that this meeting should occur before the next scheduled Court status hearing. On September 20, 2022, the monitor was notified that out-side counsel had arranged a meeting via teleconference for October 13, 2022 prior to the next Court status hearing.

The monitor also became aware that a pilot program in three facilities has been conducted which tracked data to determine the frequency of mandatory posts going unfilled. Tutwiler was one of those pilot facilities. The monitor has repeatedly requested the data collected at Tutwiler be shared with her. As of the filing of this report, this request is still pending with the ADOC. The monitor was advised that ADOC had to check to make sure this information was not under court seal.

The monitor recognizes the development of an updated staffing analysis and corresponding staffing plan are complicated tasks. The monitor will continue to request periodic implementation progress updates.

As required by Section III.C.2.vi of the settlement agreement, the 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. During this reporting period, two quarterly reports were forwarded to the DOJ and the monitor. The first was forwarded on January 27, 2022 and covered the time period August 29, 2021 through November 28, 2021. The list reflected seven new employees. Of the new employees, five were hired as security staff. Of the employees who ended employment at Tutwiler, one security staff member was promoted out of Tutwiler; twelve security employees resigned; and three security employees were separated from employment. Overall, this report reflected a net loss of eleven security staff members.

The second quarterly report was received by the DOJ and monitor on June 7, 2022 and covered the period November 29, 2021 through February 28, 2022. Nine new employees were listed, including three security staff. Nine security staff resigned. One security staff member was separated from employment. Overall, this report documented a net loss of seven security staff.

In both quarters, the number of new employees did not keep pace with the total number of staff who either transferred, resigned, retired, or were separated. The monitor has requested to review the exit interview forms of several employees to explore any barriers to staff retention and the reasons cited for resignation of staff who left between November 29, 2021 through February 28, 2022. The monitor received these documents on September 19, 2022. It is important to note that exit interviews are not conducted with

staff who transfer or promote to other facilities. In addition, some employees may elect not to participate in an exit interview or refuse to answer specific questions. Based upon the monitor's experience with recruitment, hiring, staff training, and activating facilities, it is recognized that work in correctional settings is not for everyone. The monitor was pleased to note the separation of employees as a healthy indication that staff are being held accountable for their performance and adherence to policy and procedure.

The next quarterly report will cover the period March 1, 2022 through June 30, 2022.

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 of the settlement agreement, and yearly thereafter. In accordance with the agreement, this staffing report is now provided on an annual basis until termination of the agreement. The latest staffing report for the period July 29, 2020 through July 28, 2021, was forwarded to the DOJ and the monitor on November 2, 2021. The next annual staffing report will cover the period July 29, 2021 through July 28, 2022.

The monitor remains concerned about Correctional Officer staffing levels at Tutwiler. These concerns are also reflected in the qualitative staff comments collected and analyzed in the January 2021 summary of last year's survey of Tutwiler staff. Then, concerns cited by staff included: mandatory overtime, staff shortages, the impact of coworkers calling out from work, and not having enough staff to prevent incidents from occurring in all housing units.

According to inmates, the absence of staff has impacted some inmate services. For example, internal transports between the Annex and the Factory and the Annex and the main compound may be delayed. Staffing also impacts the availability of the snack line for inmates at the Trade School. Staffing also results in a reduction in access to recreation time and outdoor smoking sessions.

Despite the initial impact of the COVID-19 pandemic, Tutwiler's *total* staffing on June 30, 2021, had improved when compared to the December 31, 2020 data. Analyzing the June 30, 2021, vacancy rate of all security positions, when aggregated, yielded a 21.60% vacancy rate as a result of a significant shift in the distribution of filled positions between the Correctional Officer and the BCO positions. The aggregated breakdown of Correction Officer staff on December 31, 2021, yielded an increase in the vacancy rate to 31.5%. The most recent aggregated breakdown of Correction Officer staff on June 30, 2022, yielded an increase in the vacancy rate to 38.8%. The staffing breakdowns on December 31, 2020, June 30, 2021, December 31, 2021, and June 30, 2022, are summarized in the following **Tables 1, 2, 3 and 4**.

Table 1: Tutwiler security staffing as of December 31, 2020

Position	Actual Count	Vacancy Rate	Black Male	White Male	Black Female	White Female
CORRECTIONAL CPT. (Authorized = 3)	3	0%	2	0	1	0
CORRECTIONAL LT. (Authorized = 10)	7	30%	2	1	4	0
CORRECTIONAL SGT. (Authorized = 20)	12	40%	6	1	5	0
SENIOR CORR. OFFICER	52	33.75%	14	3	33	2
CORRECTIONAL OFFICER	2		1	0	1	0
BASIC CORRECTIONAL OFFICER (Authorized = 160)	52		2	1	48	1

Forty-nine of the fifty-two BCO positions were filled by women.

It is important to note, the data presented for December 31, 2020, does not include CCOs. ADOC revised their reporting format for Tutwiler's Security Staffing Reports. These changes are reflected in **Tables 2, 3, and 4**. The reports now also include CCOs, another relatively new job classification. Their official title is Security Guard I. Previously the numbers of "cube" officer vacancies and filled positions were listed on non-security/support staff reports. They are now included in the security staffing numbers. CCOs are assigned to the glassed-in secure cubicle areas throughout the facility. They do not have direct contact with

inmates, and they are restricted to their assigned control rooms. They receive four weeks of training prior to assuming their posts. In effect the BCOs and CCOs, when compared to APOSTC certified Correctional Officers, each have restrictions on the duties they can perform, and each has different training requirements. The monitor agrees that the number of all filled and vacant positions should be reflected on periodic staffing reports. However, the security staffing allocations are presented in an aggregated number, not reported by individual job categories. In the monitor's opinion, this raises questions about how staffing decisions are made and if internal reallocations are regularly changing. Neither the BCO or CCO positions existed at the time the original staffing analysis was conducted, and, in the monitor's opinion, these positions need to be reflected in Tutwiler's staffing plan. Deployment of staff and post assignments may change based on job duty restrictions that may apply to these new job titles.

As of June 30, 2021, sixty-eight of the seventy filled BCO positions were women. These data are presented in **Table 2**.

Table 2: Tutwiler security staff staffing as of June 30, 2021

Position	Actual Count	Vacancy Rate	Black Male	White Male	Black Female	White Female
CORRECTIONAL CPT. (Authorized = 3)	3	0%	2	0	1	0
CORRECTIONAL LT. (Authorized = 10)	9	10%	4	1	4	0
CORRECTIONAL SGT. (Authorized = 21)	13	38%	7	1	5	0

SENIOR CORR. OFFICER	45		15	3	25	2
CORRECTIONAL OFFICER	3		0	0	3	0
BASIC CORRECTIONAL OFFICER	70	21.60%	2	0	64	4
CORRECTIONAL CUBICLE OFFICER (Authorized = 162)	9		1	0	7	1

Table 3: Tutwiler security staffing as of December 31, 2021

Position	Actual Count	Vacancy Rate	Black Male	White Male	Black Female	White Female
CORRECTIONAL CPT. (Authorized = 3)	3	0%	2	0	1	0
CORRECTIONAL LT. (Authorized = 10)	9	10%	4	2	3	0
CORRECTIONAL SGT. (Authorized = 21)	10	52.4%	4	2	4	0
SENIOR CORR. OFFICER	44	31.5%	15	2	25	2
CORRECTIONAL OFFICER	0		0	0	0	0
BASIC CORRECTIONAL OFFICER	58		3	0	52	3
CORRECTIONAL CUBICLE OFFICER (Authorized = 162)	9		0	0	8	1

As of December 31, 2021, there were no Correctional Officers and fifty-eight BCOs on staff. The aggregated officer staff vacancy rate increased to 31.5%.

The position of Senior Correctional Officer affords financial incentives to Correctional Officers, creating an incentive for staff retention. As of December 31, 2021, there were forty-four Senior Correctional Officers. In comparison, as of December 31, 2020, there were fifty-two Senior Correctional Officers.

Table 4: Tutwiler security staffing as of June 30, 2022

Position	Actual Count	Vacancy Rate	Black Male	White Male	Black Female	White Female
CORRECTIONAL CPT. (Authorized = 3)	2	33%	2	0	0	0
CORRECTIONAL LT. (Authorized = 10)	10	0%	5	2	3	0
CORRECTIONAL SGT. (Authorized = 21)	11	47.6%	5	2	4	0
SENIOR CORR. OFFICER	40	38.8%	15	2	21	2
CORRECTIONAL OFFICER	0		0	0	0	0
CORRECTIONAL OFFICER TRAINEE	4		2	0	2	0
BASIC CORRECTIONAL OFFICER	45		3	0	41	1
CORRECTIONAL CUBICLE OFFICER (Authorized = 162)	10		2	1	7	0

As of June 30, 2022, the end of this reporting cycle, there were no Correctional Officers, and forty-five BCOs on staff. The category of Correctional Officer Trainee was added, as four BCOs are pursuing the additional academy training to become APOSTC-certified Correctional Officers. As of June 30, 2022, the aggregated officer staff vacancy rate had increased to 38.8%.

The monitor is less concerned with the length of an abbreviated training program for BCOs than the level of on-the-job

training and direct supervision provided to all new employees, regardless of job title. According to the ninety-nine staff who responded to the January 2021 employee survey results, a total of forty-five had less than three years' experience. It is a relatively young staff, in need of direction and support. Thus, the recruitment and retention of experienced, qualified supervisors remains a priority. The vacancy rate in the ranks of Correctional Sergeant was 40% in December 2020, 38% in June 2021, 52.4% in December 2021, and at the end of this reporting period it had decreased to 47.6%. The vacancy rate in the ranks of Correctional Lieutenant was 30% in December 2020, 10% in June 2021, 10% in December 2021, and at the end of this reporting period it had decreased to 0%. A request to increase the number of allocated Captain positions from three to four has been approved. The addition of these supervisory positions is a very positive sign.

The Division of Women's Services continues to provide developmental opportunities for supervisors and Wardens. All Wardens, Captains, and select mid-level supervisors have an assigned coach they communicate with monthly. Each coach is a consultant with The Moss Group, Inc. and provides one-on-one coaching for emerging leaders. Professional development activities include the use of leadership assessment tools and discussions around opportunities for growth and succession planning. In addition, the ADOC began developing a field-training-officer (FTO) program in January 2021. The goal is to provide on-the-job training to new graduates for a minimum of twelve months following academy completion. The Women's Services FTO manual has been developed and undergone internal review. This effort was led by the ADOC Training Director and leadership and staff of Women's Services. A Women's Services committee is working to finalize training materials. Upon completion, the training materials will be sent to the DOJ and the monitor for review and comment. Once finalized FTOs will be selected from Tutwiler's top performing uniform staff and will

receive training from the ADOC's regional training staff. In the monitor's opinion, the creation of a FTO program is exactly what is needed to support new staff, improve supervision, and support the retention of officers.

Tutwiler support staff also play an important role in maintaining critical functions. As of June 30, 2021, out of ninety authorized support services positions, fifty-eight were filled, producing a vacancy rate of 36%. As of December 31, 2021, fifty-four of the authorized support staff positions were filled, resulting in a vacancy rate of 40%. As of June 30, 2022, out of one-hundred-three positions, forty-four positions were filled, producing an increase to a 42.7% vacancy rate. Examples of support services staff include social service caseworkers, drug treatment counselors, plant maintenance workers, cooks, and classification specialists. Any recruitment plans should include addressing vacancies within the various categories of support services staff. While the monitor was on-site, Captain Goodson, the Director of ADOC's Recruitment Unit advised that the recruitment of programs and treatment staff was also a target of the next job fair. On September 21, 2022, the monitor was advised that a Job Fair was held at the Wetumpka Civic Center on August 10, 2022 and yielded eleven potentially interested applicants. The monitor has asked if it is possible for the Personnel Dept. to take how many of these individuals followed through with applications and were hired.

The monitor appreciates the efforts Tutwiler has taken to mitigate the issues resulting from long standing staffing challenges. Those steps have included a reliance on mandated overtime and utilizing employees who are non-APOSTC Correctional Officers for certain jobs, such as monitoring the prison's camera system and manning control rooms. Other mitigating strategies have included retaining the part-time services of retired uniform staff, placing supervisors in line posts when needed to maintain operations, doubling up Correctional Officer housing posts, and utilizing CCOs to staff control rooms. 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 Tutwiler staffing plan calls for one officer to be assigned to each dorm. Staff who were interviewed by the monitor expressed their opinion that one officer was not enough for the larger dorms. It has become the norm that some posts must be "doubled-up" each shift to cover vacancies as a result of staffing levels. When this occurs, one officer must cover two dorms; however, video surveillance is constant in most areas of the facility. During the June 2022 visit, the monitor observed one officer covering three units, though small, at once. 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. This situation is no doubt exacerbated by the current COVID-19 pandemic as staff call out sick and some must be quarantined after testing positive in a community-based test. Given these challenges, the on-going recruitment and retention of qualified staff remains critically important and will be addressed later in this report.

Going forward, the monitor recognizes that once the new staffing analysis and resulting new staffing plan are in place, ADOC and Tutwiler will need to revisit the plan periodically as any changes to the facility schedule, programming changes, and dorm reconfigurations are made to support operational changes.

Recruitment Initiatives

Recognizing the critical roles recruitment and retention play in overall staffing, the monitor had pressed for some time for the

ADOC Office of Administrative Services to develop a Tutwiler specific plan to support the facility staff's efforts to address staff recruitment and retention. On August 14, 2020, the monitor was pleased to receive a plan prepared by the then Associate Commissioner that included short-and long-range recruitment and retention strategies specific to Tutwiler. Since then, the monitor has requested and received periodic progress reports. On August 1, 2022, the monitor was provided with the most recent progress update for January through June, 2022, activities and looks forward to the next progress report, expected in early 2023.

The monitor fully understands the COVID-19 pandemic created challenges that have inhibited recruitment efforts. "On-site" job fairs at ADOC facilities for BCOs were temporarily suspended for some time in 2020, but ADOC implemented an on-line application process so hiring did not come to a full stop. A "landing page" for officer recruits was developed and implemented. An officer candidate provides information on-line and ADOC recruiters enroll the applicant for processing. ADOC's marketing partner, Markstein, coordinates advertising "surges" to coincide with ADOC's various on-site hiring events. The on-site hiring in the Tutwiler region takes place at Staton Correctional Facility. ADOC also instituted BCO-only hiring events providing a venue for a one-stop application process. Applicants can conveniently complete urinalysis screening, background interviews, and all applicant paperwork at one stop.

The process of diverting applicants to Tutwiler based upon staffing needs continues. During January 1 through June 30, 2022, a total of eleven security personnel were added to Tutwiler's staffing. During January 1 through June 30, 2022, ten hiring events were conducted statewide. In total, eighteen applicants expressed interest in working at Tutwiler. This degree of initial interest in Tutwiler is

encouraging. Again, the monitor has asked if the Personnel Department could provide outcome data as to how many interested job fair attendees went on to apply and he hired. This request is pending.

The Associate Commissioner for Administrative Services and the Deputy Commissioner of Women's Services continue to review Tutwiler exit survey information on a quarterly basis to analyze the reasons that staff leave Tutwiler. The reasons employees cite for leaving Tutwiler remain unchanged and include fatigue associated with overtime requirements, acceptance of other career opportunities, and childcare challenges. The results of the ADOC employee annual survey conducted within the Division of Women's Services are also reviewed by the ADOC as they become available.

Physical Agility/Ability Test (PAAT)

Historically, 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. For example, the Correctional Officer Training Class 2020-01 PAAT summary documents that thirty-eight officer candidates (thirty-one males, seven females) attempted the PAAT. Twenty-eight of the men passed the test as did four females. In the event a candidate fails the APOSTC test, that individual may be recommended for the BCO, non-APOSTC certified position.

During past and present interviews, female staff point out that one of the major attractions of the new BCO position, compared to the Correctional Officer position, is that APOSTC's one and one-half mile run in 15:28 minutes requirement does not apply to the BCO position nor are candidates required to pass sit-up and push-up testing. The modifications of the entrance physical standards for

BCOs have facilitated the hiring of women into this position.

Under the terms of the settlement agreement, ADOC and Tutwiler are to continue to work with the APOSTC "in the screening, selecting, or hiring 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." (Section III.C. 1. (i)) ADOC does not have the statutory authority to 1) set APOSTC training standards, 2) require APOSTC to validate the testing for a correction, rather than a policing environment, or 3) require APOSTC to examine the testing for the necessity of gender-norming certain components.

With the intent of providing some historical context, the following information is provided. APOSTC had contracted with Auburn University at Montgomery (AUM) for the review of the eighteen-year-old validation study of the PAAT standards and to assess any disparate impact on women candidates. The AUM Report suggested an alternative validation approach may be warranted *if* adverse impact is ever a problem. The AUM 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." In the monitor's opinion, the APOSTC appeared to have given very little, if any, consideration to (a) the differences between police officer and Correctional Officers jobs and bona fide occupational qualifications for Correctional Officers (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 withdraw from the academy. The monitor remained unconvinced that there is a direct correlation between PAAT performance and job performance or other current job

outcomes for correctional staff.

The ADOC entered into an interdepartmental agreement with Troy University's Department of Kinesiology and Health Promotion. The ADOC commissioned Troy University to a) conduct a study of the necessary physical tasks associated with the job of ADOC Correctional Officers, b) develop and validate a testing battery to assess the physical fitness status of officers and officer candidates and c) to propose a new modified PAAT that is validated for the correctional environment. The ADOC began conducting incumbent staff physical ability testing in May 2021 to provide testing data to Troy University for analysis. The results were submitted to Troy University on September 29, 2021.

Troy provided an examination of the necessary physical tasks associated with the ADOC's Correctional Officers and issued a report to the ADOC. The ADOC reviewed the results of the Troy University study in March 2022 and determined the proposed assessment is a more relevant physical screening tool to assess minimum physical standards for Correctional Officers than is the current PAAT. The proposed revisions are designed to allow candidates to make up for deficiencies in one area by exceeding expectations in another. This is a significant change from the prior standards which resulted in failure for anyone who failed to meet any single element of the PAAT.

On May 24, 2022, Commissioner Hamm sent a letter to Chief Benefield, APOSTC's Executive Secretary, and submitted a proposal to update the PAAT with a correction's specific PAAT. An ADOC team led by Elliott Sanders, ADOC Director of Training, presented Troy's recommendations and the ADOC's requests for standards changes to APOSTC in early June.

The APOSTC Commission members voted unanimously to approve ADOC's request to modify the PAAT for ADOC Correctional

Officer Trainees and gave their conditional approval of the proposal effective with APOSTC Academies commencing October 1, 2022 and beyond. The changes were approved for a period of a three-year pilot, or the completion of the testing of 200 Correctional Officer Trainees, whichever comes first. After which, the Commission and ADOC will review the testing procedure. Additionally, the statistical test data is to be reported to APOSTC's Executive Secretary annually, at the end of each calendar year, by the ADOC Director of Training. Chief Benefield wrote to Commissioner Hamm on June 15, 2022, documenting this decision.

The monitor provided ADOC with written feedback regarding Troy's study on August 13, 2022. The monitor believes there are methodological flaws in the study. While the monitor falls short of endorsing the study as having validated the proposed standards, the monitor does, as a practical matter, support the pilot and believes the proposed assessment is a more relevant physical screening tool to assess minimum physical standards for Correctional Officers than is the current PAAT. Even though the monitor does not believe Troy accomplished the task of validating the proposed standards, the monitor does applaud the good use ADOC made of the study. The end result is APOSTC is now working with the ADOC and has made a commitment to engage in piloting the new assessment. The pilot results should be monitored and the impact on recruitment, hiring, and successful completion of an Academy well documented in the event APOSTC decides to revisit their commitment during the pilot program.

Staff Retention Initiatives

Another major effort has been to create new ways to address staffing and retention. The Women's Services Strategic Plan includes specific goals that target staff physical and mental health and wellness, as well as strategies and incentives to promote

employee retention. Some of the initiatives to date, have included:

- Initiated a wellness committee to regularly develop ideas and initiatives that support staff wellness.
- Implemented a staff yoga program.
- Provided health and wellness information to all staff, including the posting of information and workshops on health-related topics.
- Completed the staff wellness center within the new Women's Services Regional Training Center by installing physical fitness equipment.
- Implemented mandatory debriefs for all critical incidents.
- Maintained a process to manage mandatory overtime.
- Administered job satisfaction surveys to staff members and used that feedback to guide decisions regarding staff retention.
- Conducted supervisory workshops that included content addressing recruitment and retention strategies specific to the Women's Services Division.
- Maintained break away areas which allow staff to gather, in private, away from inmates.
- Maintained an area for employees to provide shift updates.
- Continued employee recognition activities quarterly (at a minimum).
- Continued to identify higher leadership opportunities for non-security personnel.
- Constructed a new parking lot to address the extreme shortage of on-site parking for employees.

Staff have expressed appreciation for these developments, especially the new parking lot.

Staff Survey

The latest survey of Tutwiler staff launched on December 1-17, 2021. There were only forty-six responses, with only thirteen self-identifying as security staff. Unlike previous surveys, the vast majority of respondents to this survey were non-security staff. In total, 72% of the responses were provided by clerical, maintenance, programs, and treatment staff, and contracted medical/mental

health staff. Nearly 83% of these respondents plan on working for the ADOC a year from now. When asked if they are proud of the work they do, forty-four out of forty-six are proud. These are very healthy indicators with respect to retention of program and treatment staff. When asked if they would refer other people to work here, seventeen out of forty-six disagreed. The monitor encourages that this data point be explored in employee coffee chats with the Warden, formal and informal forums, and revisions to the survey questions in an effort to gain more information. Word-of-mouth recruitment is potentially a powerful tool, so it would be useful to explore employees' hesitation to make job referrals.

In an earlier survey launched on December 7, 2020, and closed on January 8, 2021, of the ninety-nine staff members who responded then, 45% had worked for the ADOC for zero to three years and over one-half of respondents had worked in ADOC Women's Services for zero to three years. A total of 63% of the respondents self-identified as security staff. The relative inexperience of these staff members underscores the need for consistent, experienced, quality supervision.

Training

During all on-site compliance visits conducted to date, the monitor has been very impressed with the documentation of staff attendance at training. These records are well organized and demonstrate careful tracking of any pending attendance requirements. On June 7, 2022, Deputy Commissioner Mautz certified that attendance at all required training is current.

Due to COVID-19, classroom refresher training was temporarily suspended. A virtual training program, on the Prison Rape Elimination Act (PREA) and gender-responsive practices, was developed. The training was accomplished with a workbook that was

disseminated to all employees. On December 2, 2020, the monitor and DOJ received links to six videos prepared for the virtual training. The videos focus on facility culture; gender-responsive and trauma-informed principles; PREA overview; first responder roles and responsibilities; and professional and respectful communication between staff and inmates. Classroom-based in-service training for Tutwiler staff resumed in April 2021 and is ongoing.

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. During all previous on-site compliance visits, the monitor has been impressed with the documentation of staff attendance at training maintained by the current medical provider. Should the ADOC transition to another medical provider during the life of this Consent Decree, compliance with this PREA training requirement should be closely monitored.

Intake Dorm and Overcrowding

As a result of the COVID-19 pandemic, Tutwiler relocated the inmate intake unit and modified its guidelines and procedures for receiving and orientation of new inmates for the purpose of preventing the introduction or spread of COVID-19 into Tutwiler. Overall, the facility appears to have managed COVID very well. The facility repurposed and renovated a property adjacent to Tutwiler. A SOP was developed for this new unit—The Julia Tutwiler Prison for Women Quarantine Intake Facility (QIF). This unit requires gender specific posts and cameras were installed in this new unit to enhance supervision. Both DOJ and the monitor reviewed and offered feedback and suggestions for this new SOP. With the ADOC and counties' coordination, initial cohorts of up to twenty-five inmates were brought in through intake every two weeks. The number of cohorts fluctuates and may get bigger as the COVID

numbers decline across the state. The modified intake procedures consist of shortened processes because the focus is on health assessments to implement a quarantine period for each inmate cohort. By modifying the intake process, Tutwiler can more easily facilitate inmate quarantine or isolation if needed. Inmates arriving from the county jails are expected to follow the Centers for Disease Control and Prevention's guidelines for social distancing. Upon arrival to the QIF, inmates on the van are provided masks before disembarking the van. Individually, inmates step off the van for a temperature check. Asymptomatic inmates proceed to the intake holding area, maintaining social distance. Symptomatic inmates are escorted individually to the medical screening area and placed in the Quarantine Unit directly after screening is completed.

A health screening and health assessment is then performed while the inmate is at the QIF. In addition, an Intake PREA Risk Screening, Intake Mental Health Screening, and a Suicide Risk Assessment are conducted. After screening, inmates are housed in one of three quarantine areas. Watchful Waiting housing is designated for asymptomatic inmates where they are monitored for signs and symptoms of COVID-19 for fourteen days. The Quarantine Unit is for symptomatic inmates, awaiting COVID-19 testing results while monitoring symptoms for fourteen days. The Isolation Unit houses inmates who need to rest and recover from COVID-19 for fourteen to twenty-one days per medical orders. If an inmate from the QIF cohort requires hospitalization, the inmate is taken to a local hospital as determined by a medical professional. Upon completion of the assigned quarantine period, asymptomatic inmates are transferred to Tutwiler where all formal intake and classification procedures will be completed. After a cohort's stay is completed, Tutwiler coordinates with the counties for scheduling of another cohort of new admissions. The description of the QIF reflects the procedures included in the SOP.

Gender-Responsive Risk/Needs Assessment, Classification and Programming

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.

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 with the expectation that following a pilot period, a validation of the assessment would commence. The pace of implementation was initially 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, the estimated end date for the pilot program had to be extended, thereby extending the timeframes for the validation project. From the start, it has been anticipated that the validation process would take three or more years after initiation to complete.

After an exhaustive request for proposal process, the ADOC contracted with a technology company to create the software automation for WRNA and provide the necessary staff training to effectively use the new software. In addition, Tutwiler had nine new classification positions allocated, created, and filled. The pace of administering the WRNA then accelerated. 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 final version of the Women's Services Classification Manual was revised and published to

reflect changes in policy and practice, and to streamline the manual's format.

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. Restricted status was used to denote those offenders with certain violent offenses that barred them from custody and placement less than minimum-in. Inmates classified to minimum-out status may work in the community under ADOC supervision. Those classified as minimum-in can work on state property under ADOC supervision.

A comparison of classification levels of Tutwiler inmates on August 1, 2016, November 26, 2019, December 31, 2020, December 31, 2021, and June 30, 2022 is documented in **Table 5 and** tracks the impact of the new classification system.

Table 5: Results of Tutwiler Gender-Responsive Classification by Custody Level

	8/1/16	11/26/19	12/31/20	12/31/21	6/30/22
Medium	30%	16%	19%	17%	29%
Minimum	47%	73%	67%	68%	67%
Community	23%	11%	14%	15%	4%

The adoption of the new classification system has resulted, until June 30, 2022 in fewer women being over-classified to the medium custody level. In the monitor's opinion, this increase in women classified to medium custody may not represent a trend. These data will need to be monitored. The changes also have resulted in a significant increase in women being classified to minimum custody. These data reflect that many women's custody levels were historically over classified due to a reliance on classification instruments and processes designed for male inmates. Women offenders' pathways to incarceration are different than those for men, so their risks and needs differ which impacts their classification levels. The recent reduction in community-based placements appears to be due to the continued management of COVID-19 that impacts inmates' movement, program participation, and work release. When ADOC reopened work release after COVID, a majority of minimum-community inmates were moved from Tutwiler to the Birmingham work release site because there were a lot of requests from employers in the Birmingham area for workers. The monitor is advised that there is a larger number than usual within the current population who have: felony detainers, do not have a ninety day clear disciplinary/incident record, and/or have been convicted of violent offenses and are not within four years of their expiration of sentence or parole consideration date.

The ADOC formed a WRNA validation committee and prepared a request for proposal to conduct this study. Validation of the instrument is a requirement of the settlement agreement (Section III.F.2). 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 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. The validation process includes three separate studies of the: 1) Intake Instrument 2) Reclassification Instrument; and 3) Pre-release Instrument. The studies of the Intake Instrument and the Pre-release Instrument involve: 1) obtaining participant consent; 2) assessing the reliability of the WRNA assessment; 3) data collection, including infraction and recidivism data as applicable at the milestones of six months, twelve months, and eighteen months. 4) coding the data; and 5) data analysis and reporting. The total target sample size for all aspects of this study was one thousand five hundred women: five hundred in intake, four hundred in reclassification, and six hundred in pre-release. The consequences of the COVID pandemic has made the sample size of six hundred women for the pre-release study impractical and unnecessary. Due to the pandemic, 1) fewer women have entered Tutwiler from the county jails and 2) fewer women have been released from state facilities. These two factors led to a much smaller population of inmates eligible for pre-release WRNA administration. Given the smaller population of women becoming eligible for pre-release administration, it was decided that a smaller sample of four hundred for the pre-release study would be sufficient.

Reliability is a critical component of any risk assessment process. Absent consistent administration of instruments, the predictive value of any assessment is open to question. Two reliability studies have been conducted to first test inter-rater reliability to determine the consistency of administration *across* raters and second to examine test-retest reliability to determine the consistency of administration *across two points in time*. Reliability of the instrument has been established.

The monitor requested and received a copy of the research code books being utilized to enter and analyze the data collected and can attest to the thoughtful and high-quality work underpinning these studies. The monitor has also requested periodic updates on

the study and projected timeframes from the University of Alabama researchers working on this project. As of now, the WRNA Validation study is scheduled to be completed by March 2024. On June 3, 2022, DOJ and the monitor were provided with the most recent quarterly update of the progress made for each of the three studies as follows. During the July 2022, on-site visit, Dr. Abbey Holder, ADOC Women's Services Planning and Evaluation Manager, presented an overview of the study and progress made to date to the monitor and the DOJ.

Validation Study of the Intake Instrument

The necessary sample size for this study is intake records for five hundred women admitted on or after February 1, 2020. The last intake to reach 100% of the necessary sample size was administered on August 16, 2021. Twelve months was originally allotted for intake data collection. On-going staff turnover and a reduction in the number of women entering the facility due to COVID-19 impacted the original timeline targets. Data collection of intake records for this study has been completed and the research team has coded all of these five hundred records.

The collection of disciplinary infraction data for the intake sample is ongoing. The research team will continue to collect infraction data until the full sample reaches the milestones of twelve months and eighteen months post-administration of the instrument. After each milestone, researchers will clean the data, conduct statistical analyses, and prepare preliminary reports. The research team did share preliminary intake data for the prediction of commission of infractions within six months of administration of the WRNA. Based upon the first six months worth of data, there was no significant correlations between the total WRNA score and

the number of infractions that an inmate committed within the first six months of the intake WRNA's administration. As a result of the low base rate of infractions, it is not surprising that as of this juncture, there is no evidence that the WRNA instrument is a valid predictor of infraction counts such that inmates classified as high risk exhibit greater levels of misconduct than those classified as low risk. It is understood that the base rate will increase over time, so it is expected that the magnitude of their correlations with the WRNA scale will increase. The monitor has raised the question that pursuant to the SOP 8-30 *Behavior Intervention & Discipline Policy*, fewer formal disciplinary actions are taken at Tutwiler. Only the data regarding formal disciplinary actions are being considered for predictive validation purposes. The behavioral interventions are not factored into the predictive calculus. The monitor is looking forward to reviewing the data analysis at the twelve-month period.

Validation Study of the Reclassification Instrument

No reliability assessment of this instrument is needed, as it is the same instrument used as the Intake Instrument. As such, the reliability of this instrument has already been determined. Work on the validation of this instrument is on-going.

The necessary sample size for this study is reclassification records for four hundred women admitted on or after February 1, 2020. This smaller required sample size was not impacted by COVID-driven delays, so data collection was completed on April 23, 2021. The records for the required sample size have been collected. All four hundred records have been coded by the research team.

The reclassification sample reached the six-month point after the last needed WRNA administration on October 23, 2021. The research team has collected and coded disciplinary infraction data for this sample's six months post-administration milestone. The data

is being cleaned and made ready for analysis.

Validation Study of the Pre-release Instrument

The inter-rater reliability of this instrument was established in October 2020. The data collection for this portion of the study has not been completed, and the collection of pre-release recidivism data continues. The original study design involved the use of National Crime Information Center (NCIC) data. Due to technical governmental restrictions, this data cannot be made available to the university researchers. Alternative sources of national recidivism data are being explored to enable a validity assessment of the WRNA pre-release instrument. Incomplete recidivism data, which does not capture both in and out of state crimes will understate recidivism thereby undermining the accuracy of validity analysis of the WRNA pre-release instrument. A total of two hundred twenty-five records have been transferred to the research team. The target sample size is 400 participants. The team will begin the coding of this data once the coding of intake and reclassification disciplinary infraction data are complete.

Overall, the research team has had to deal with the delays resulting from the challenges presented by COVID. Due to COVID-19 restrictions, the research team could not return to Tutwiler or other women's facilities within the ADOC Women's Services Division to conduct either inter-rater or test-retest reliability data collection. Two additional complicating factors were some understaffing in the Classification Unit which was due to sudden turnover and hiring delays resulting from restrictions due to COVID-19, and the new COVID-19 inmate intake protocol. Due to COVID-19, some study timelines and targets had to be adjusted. To mitigate COVID-19 risks, inter-rater reliability data collection was facilitated via *Zoom* teleconferencing in January and February

2021. The research team did encounter difficulties trying to recruit the necessary sample size for the pre-release project but expanded the inclusion criteria to reach the necessary sample size, so they could proceed.

ADOC has fully met all requirements regarding the development of a gender-based classification system except the required validation of the instrument which is underway. Validation is a critically important task to prove the WRNA really does accomplish its intended purpose. Is the instrument doing what it was designed to do? Overall, the work done to date is impressive and when completed it will put Tutwiler on the map as one of very few women's facilities with objective, reliable, and validated assessment tools. Although much work has been done, much work remains to be done, so the monitor determines ADOC, and Tutwiler remain in "partial compliance" with this settlement requirement. The University of Alabama, Auburn University, and Dr. Mautz, the now Deputy of Women's Services, and Dr. Abbey Holder, ADOC Women's Services Planning and Evaluation Manager, are to be commended for the progress made to date, especially during a pandemic.

Programming

Facilitated by a contracted expert, a gender-responsive program committee was convened in October 2016 to focus on identifying and developing evidence-based programs that are gender specific and responsive to the programming needs identified by the WRNA. 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. A brief description of the new programs developed and level of inmate participation follows. **The Getting Ahead While Getting Out** program is a twelve-week re-entry program designed to engage the

offender, her family, volunteers, community, and staff in problem solving for a successful transition to the community. Currently six women are enrolled, and six women graduated during this reporting period. The **Helping Women Recover** program is a seven-week program 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. Fifty-two women graduated during this reporting period and twenty-six are currently enrolled. The **Beyond Trauma Program** incorporates the latest research in neuroscience, trauma, and post-traumatic stress disorder. This six-week program also incorporates cognitive behavioral techniques, mindfulness, expressive arts, and body-oriented exercises. Twenty-three have graduated and six are currently participating. 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. Ten women have graduated from this ten week program in this reporting period. Currently, there are no enrollees. **Active Adult Relationships** program 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. Forty-seven women have graduated from this six-week program during this reporting period and another eighteen are currently enrolled. **Moving On** provides both educational and cognitive skill building approaches to help women at risk of future criminal justice involvement find alternatives to criminal activity. This twelve-week program supports women as they mobilize and build personal strategies, natural supports, and community resources. Three women are currently enrolled, while two graduated recently. **Parenting Inside Out** teaches parent management skills to incarcerated parents. This twelve- week program helps to promote healthy child adjustment, prevent problem behavior, and stop the intergenerational cycle of criminal justice involvement. Three women have graduated this

program during this reporting period. There are no current enrollees. To accommodate this impressive program expansion, several facility renovations were initiated with the support of the Central Office Engineering Division. Five additional classrooms were constructed and provide 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 includes two small rooms designated for activities. An outdoor play area for children is expected to be added. Programs include, but are not limited to: Yoga-prison Project, Literacy, Music Education, Journalism, Study Hall, Poetry, Grief/Loss, Arts and Crafts, Art Therapy, Bingo, etc. In addition, the beauty salon was expanded and upgraded. In September 2020, Auburn University proposed a four-year degree program and began the planning process. In February 2022, acceptance letters for fifteen women were delivered. Orientation was held on February 14, 2022, and classes commenced on February 22nd. The monitor had an opportunity to visit one of the classes during her July 2022 on-site visit.

In addition, access to correspondence courses began in August 2020 and has been on-going. Tutwiler has also introduced Personal Education Devices to facilitate a distance learning program.

During the administration of the most recent Inmate Polling in May 2022, the results of which were shared with the DOJ and the monitor on July 27, 2022, respondents were asked to assess this statement: *"The programs and classes I have taken are useful."* Seventy percent agreed they were, and eight percent disagreed. A total of twenty-three percent of respondents neither agreed/disagreed. Consistently in the past, the new gender-responsive programming has been well received by the inmates.

Inmates' Right to Privacy

During the current reporting period the monitor received no complaints from inmates in correspondence or interviews of inappropriate cross gender viewing or searching by staff.

Forty-nine percent of the one hundred twenty-three respondents to the May 2022 inmate survey agreed that there is adequate privacy in the toilet and shower areas and forty-eight percent disagreed. Many inmates no doubt want even more privacy in the bathrooms, so they can engage in misconduct. In one-on-one interviews women alleged that the bathrooms are the "hotbeds" for unauthorized smoking, drug dealing and usage, and inmate-on-inmate sexual activity. Of course, there are no cameras in the bathrooms due to privacy concerns and only one officer, at most, is assigned to each unit. If an officer is busy at one end of the unit or responds to another inmate who is creating a diversion to take attention off the bathroom area, there is no one posted by the entrance to the shower. Staff cite this reality as a basis for their belief that assigning two officers, rather than one, to the larger housing units is necessary. The monitor suggests the ADOC Women's Services explore reasonable and cost-effective solutions to address unauthorized activities in the bathrooms. Establishing a firm schedule for inmate showers, staggered by unit, and ensuring an officer roving between units for shower coverage is posted at the entrance to the bathrooms would serve to inhibit some of the prohibited activities.

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.

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. This agreement served to institutionalize the inmate polling survey as a management tool for ADOC and Tutwiler in the future. The protocol, after review by the DOJ and monitor, was finalized on October 24, 2017. Since then, Auburn University has administered the inmate polling surveys. All questions, except those addressing basic demographics, use a five-point Likert scale (strongly disagree, somewhat disagree, neither agree nor disagree, somewhat agree, strongly agree).

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 reduce disruption of inmates' daily program/work assignments unnecessarily. The goal is to provide all female inmates housed at ADOC women's facilities over a one-year period an opportunity to complete the poll. ADOC and Tutwiler forwarded the results of polling conducted at Tutwiler

to the monitor and the DOJ in May 2022.

The polling administration invited four hundred sixty-five women to participate in this survey. Only one hundred twenty-three women completed the poll yielding a twenty-six percent response rate. There is a great deal of time, energy, and resources involved in conducting these polling activities. Survey responses are sometimes supported by what the monitor has observed in correspondence from inmates, a review of inmate grievances, a review of PREA-related investigations, and inmate interviews; sometimes the responses are at odds with the other data sources. The monitor notes the increasingly lower survey response rate, as well as the increasing numbers of respondents who neither agree nor disagree with statements presented in the survey. The monitor questions the overall value of these surveys. Some of the results from the May 2022 survey include:

- In the area of inmate interactions with staff, contractor, or volunteer, sixty-three percent of respondents reported they are not aware of sexual harassment by staff members, contractors, or volunteers. A total of 64% reported they are not aware of sexual abuse by staff. Fifteen percent indicated they are aware of verbal abuse by staff.
- When asked if sexual relations between inmates and staff members continue to occur, 53% disagreed, with only 27% agreeing. A total of 20% percent neither agreed nor disagreed.
- When asked if they were aware of inmates sexually harassing other inmates, 38% agreed, and 48% disagreed. Regarding verbal abuse between inmates, 74% agreed this is happening, 21% disagreed.
- When asked if PREA incidents against inmates were investigated in a timely manner, 51% agreed they were, 22% strongly disagreed. An inventory of completed investigations does not support the inmate survey results. When asked about the fairness of these investigations, 51% agreed they were conducted fairly, with 22% disagreeing.
- When respondents were asked if they understood PREA rules, an overwhelming majority, 96% agreed, with 2% disagreeing. These results are consistent with the feedback the monitor obtained in interviews.
- Findings across three questions designed to collect women's perceptions of three dimensions of safety: sexual, emotional, and physical are summarized as follows. When asked about feelings of safety at the facility, 81% agreed they felt sexually safe, while 9% disagreed that they felt sexually safe, with 10% neither agreeing nor disagreeing. In the area of emotional safety, 56% agreed they felt emotionally safe, while 34% disagreed, and 11% neither disagreed nor agreed. In the area of physical

safety, 59% agreed they felt physically safe, while 30% disagreed and 11% percent neither disagreed nor agreed. In both current and previous interviews with the monitor, inmates repeatedly reported feeling safe from sexual abuse.

- When asked if staff are available so inmates can get to work, program, and other assignments on time, only 35% agreed, 48% disagreed, while 17% neither agreed nor disagreed.
- When asked if there are enough staff members in the dorms to keep them safe 45% of the respondents agreed, 42% disagreed, while 13% neither agreeing nor disagreeing.
- When asked if cameras were used to keep inmates safe, 53% agreed they were used for safety purposes, while 32% disagreed.
- When asked if cameras are used to get inmates in trouble, 47% of respondents agreed they were used for that purpose, while 31% disagreed, and 23% neither agreed nor disagreed.
- When respondents were asked if they knew how to report issues of sexual harassment and abuse, 91% knew how to report and only a small percentage (2%) reported not knowing.
- When asked if participants use PREA to falsely report incidents against staff, 70% agreed, 7% disagreed, while 24% neither agreed nor disagreed. In interviews with the monitor, inmates have referred to these false accusations as "being PREA'd" noting that some women openly threaten staff and other inmates by saying "I'm gonna PREA you". The monitor is fully aware, as are the inmates and staff, that with increasing frequency, inmates lodge false allegations in an effort to get experienced, effective officers removed from their housing units or to manipulate inmate housing assignments to be near friends and romantic partners. The monitor recognizes ADOC is faced with a balancing act. If correctional facilities punish inmates for filing claims deliberately made in bad faith, that holds the potential to discourage some inmates who have been abused or harassed from speaking up. However, many staff and inmates want to see inmates held accountable for making allegations in bad faith to advance personal agendas. The monitor will work with ADOC to develop strategies to address this issue.
- When participants were asked if they trusted the grievance system, 47% agreed they did, 35% disagreed, while 21% neither agreed nor disagreed.

Overall, the survey results are mixed. Given the relatively low response rate and the number of respondents who neither agree nor disagree with assessments, the monitor questions the usefulness of these surveys. The facility's Quality Improvement Team, which meets monthly and is chaired by the Warden is not dependent upon the results of this survey. The Team already reviews any incidents related to problematic areas in the facility, and any allegations of sexual abuse, sexual harassment, or the use

of unprofessional language by staff.

Risk Management System

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 compliance with Section IV.D.6. of the settlement agreement, ADOC and Tutwiler provide the monitor and DOJ the list of all staff members identified through the RMS, and any corrective action taken. The most recent bi-annual report covers the period of May 29, 2021 through November 28, 2021, and was provided to the monitor and the DOJ eight months later on July 4, 2022. These reports include the name and title of the staff members against whom allegations have been made; the date of the incident under review; a summary of the incident/allegation; the incident report or inmate grievance number; supervisory action taken; and a summary of any disciplinary action taken.

The RMS bi-annual summary reports include a great deal of detail and involves a significant amount of staff time to compile and present. The RMS system is not automated, so there is considerable delay between the dates of the allegations being made, tracked, investigated, and the date of the publication of the report. The incidents listed in the most recent bi-annual report occurred during the previous two compliance monitoring reporting periods. Some occurred over a year ago while others occurred in the last half of 2021. Overall, the monitor does not find the bi-annual reports to be helpful. The monitor has found it far more timely and helpful to

review the RMS quarterly summaries, and investigations, grievances, and correspondence generated within the timeframes of a current reporting cycle.

The RMS has consistently documented that some Tutwiler staff allegedly continue to engage in the unprofessional use of sexually explicit, vulgar, degrading, or racially insensitive or offensive language towards the inmate population that undermines efforts to build a gender-responsive and trauma-informed environment. This conduct meets the definition of sexual harassment in the PREA regulations. Addressing this issue must remain a top priority for Warden McClain. In that many allegations of this kind of behavior cannot be substantiated due to the lack of corroboration by others, the plan includes the use of policy reiteration memos for those instances when allegations cannot be substantiated. 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 additional supervision and coaching. The employee is reminded in writing of policy requirements.

Acquiring audio capability on either some cameras mounted on the walls, or the use of body cameras with audio capabilities would greatly assist management's ability to hold staff accountable for their language when addressing the women. The monitor encourages Warden McClain and her executive team to continue to advocate for the use of on-body cameras that have audio capability. This technology may serve to create less opportunity for harassment of inmates, while also addressing false allegations made against staff and expediting investigations of accused staff.

Pursuant to the settlement agreement, on an annual basis, ADOC and Tutwiler shall also 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 (Section IV.D.6.).

The ADOC and Tutwiler convened a panel to conduct the sixth annual review of the RMS covering data tracked from May 29, 2021 through May 28, 2022. While on-site in July 2022, the monitor was advised the review was well underway. The report was submitted to the monitor and the DOJ on September 23, 2022.

On August 26, 2022, the monitor received an update on uses of force at Tutwiler. Overall, the number of uses of force incidents has held steady over the last three quarterly reviews. Twenty percent of the use of force incidents involved the application of restraints, 31% involved staff separating two or more inmates fighting, and 46% involved staff intervening to physically restrain a resisting inmate or redirect the inmate. Of the total use of force incidents, 20% involved inmates in the mental health unit, and 12% involved inmates in the Structured Living Unit. A Use of Force Review Committee convenes once a week to provide oversight. The committee does consider any preventative measures that could have been employed and possible corrective actions.

During the period November 29, 2021 through February 28, 2022, there were fifteen allegations of staff using "sexually explicit, vulgar, degrading, or racially insensitive or offensive language", compared to the eight allegations reported in the previous quarter. Of these fifteen allegations, nine involved vulgar or profane language, four were allegations of offensive language, one alleged degrading language, and one alleged sexually explicit language.

Sexual Abuse/Sexual Harassment Allegations

The monitor and DOJ attorneys interviewed Mr. Arnaldo Mercado, Director of ADOC's LESD, Deputy Director April Bickhaus, Senior Agent Kelley Smith, and Investigative Agent Elizabeth Pilgreen to discuss and review completed investigations into

PREA-related allegations that occurred at Tutwiler during this reporting period. Agent Smith had been the primary investigator at Tutwiler for some time, and has transitioned to a promotional position, but based upon her familiarity with Tutwiler-based allegations, she provides supervision to Agent Pilgreen. LESD conducts the investigations into allegations of staff-on-inmate sexual abuse and sexual harassment as well as inmate-on-inmate sexual abuse. The IPCM conducts investigations into inmate-on-inmate sexual harassment allegations and closely monitors the management of reporting inmates and documents any allegations or instances of retaliation against those who report allegations.

The monitor has reviewed the training records of those who have conducted investigations at Tutwiler and verified that they have attended the required specialized training for investigating sexual abuse in a confinement setting, as well as training for responding to sexual abuse. Although not technically required, the monitor recommends attendance at refresher training, especially for those who attended investigation training back in 2016.

There were eighteen allegations alleging staff-on-inmate sexual abuse during this reporting period. Thirteen were determined to be unfounded, and five were unsubstantiated. This compares to seventeen allegations made during the last reporting period.

There were seventy allegations of inmate-on-inmate sexual abuse. Five cases are still pending, one was substantiated, fifty-three were unfounded, and eleven unsubstantiated. The number of "unfounded" allegations of inmate-on-inmate sexual abuse is alarming. These are allegations that were determined to be made in bad faith and were disproven. This is significantly higher than the thirty-eight inmate-on-inmate sexual abuse allegations made during the last reporting period. In addition, fifteen claims of inmate-on-inmate sexual harassment were investigated by the IPCM. Thirteen were unfounded, and two were unsubstantiated. This is an increase

over the eight allegations of inmate-on-inmate sexual harassment made last reporting period.

Overall, there was a significant increase in PREA related allegations of inmate-on-inmate sexual abuse during this reporting period. Many of the allegations were made by anonymous parties making allegations about other inmates forcing themselves on others.

Based upon the information received to date, the monitor determined that the allegations appear to have been appropriately determined to be either unfounded, unsubstantiated, or substantiated and the investigations were conducted in accordance with AR 454 and SOP 8-12, *Inmate Sexual Abuse and Sexual Harassment*. The review of investigations by the monitor is an on-going process.

When an inmate-on-inmate PREA allegation is made, the administrative response is to separate the alleged victim and alleged perpetrator. It is predictable that the alleged perpetrator will be relocated to another unit. As such, filing a PREA allegation is a sure-fire way to have a romantic rival removed from a unit. As previously stated, every single staff member and inmate interviewed privately raised this as a major concern. Some women expressed concern that a false allegation could potentially derail their program participation. For example, an inmate in the Honors Dorm, if accused of a PREA violation, could be relocated to a general population dorm. When staff-on-inmate allegations are made, the staff member is removed from the unit pending an investigation. This potentially sets up a scenario wherein an officer does not fully enforce policy out of fear that an inmate will file a false PREA accusation in retaliation and the officer is removed from the post. A few inmates, in interviews with the monitor, expressed how they did not want to see good correctional officers targeted in retaliation for doing their jobs.

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.

On a monthly basis, the monitor randomly selects grievances for review. During this reporting period, seven hundred-twenty-eight were filed, addressing a wide variety of issues, including issues associated with staffing. For example, it was alleged that an officer complained to inmates that she was unable to give inmates showers because she had no staff assistance. Many inmates complained about their smoke breaks being abbreviated due to staffing. In interviews with the monitor, many inmates complained that recreational time was reduced. Other grievances addressed medical issues and those grievances are consistently referred to the medical staff. For example, in the "pill line" inmates who cannot stand in line for a prolonged period of time are issued by medical what is referred to as a "gold slip" which entitles the bearer to move to the head of the pill line. Some inmates claim that bullying between inmates is on-going during medication administration time. They claim that some inmates strong arm their way to the front of the line and security staff do not make these women show their special passes. These allegations were confirmed by a review of video footage. In another grievance, an inmate complained that other inmates are having someone save their place in the pill line, so rules are not being enforced consistently by staff. The narratives of the issues made in grievances do raise some operational concerns. The monitor notes that upon occasion, inmates allege that other inmates have been out of place by leaving their assigned units to enter another unit. Any uncontrolled inmate movement has the potential to enable a predator to seek out a targeted victim in another unit. These allegations, while not widespread, continue to be of concern to the monitor. In addition, in at least one reported incident, an inmate reportedly moved her bed to avoid contact with another inmate. Inmates report seeing two women in the same bed and claim the officer did nothing to separate them. Inmates allege that inmates openly smoke while they are in bed. The monitor feels strongly that

one officer in a dorm is not adequate staffing, especially in the larger dorms.

The monitor notes there has been an increase in the number of PREA-related grievances. During the last reporting period, fifteen grievances were identified as PREA-related and were referred by Ms. Tyler to ADOC's LESD. During this reporting period, thirty PREA-related grievances were filed. Eight of the thirty filed involved the same inmate.

With regard to the emergency grievances, ten emergency grievances were filed during this reporting period. Many of these claims appeared to the monitor to be without merit. Based upon the monitor's review of Tutwiler's responses to grievances and investigations conducted during this reporting period, the monitor continues to appreciate 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. In addition, the Wardens work closely with Ms. Tyler and follow up on issues that may require changes in policy or practice. In total, Ms. Tyler referred twenty-one grievances to LESD for investigation.

The inmates can use a toll-free number to call the Alabama Coalition Against Rape (ACAR) for confidential counseling support. 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.

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 ADOC's LESD will investigate the allegation. If the grievance contains allegations of inmate-on-inmate sexual harassment, the IPCM will investigate.

The monitor has reviewed the ADOC website link to assess the public's ability to file a PREA report via the Internet. The website 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 forty-four calls were made to ADECA's hotline during this reporting period. Some 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.

Alabama Strengths

The monitor believes ADOC has a strong foundation in the leadership of both ADOC's Women's Services and Tutwiler 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

Former Deputy Commissioner Wendy Williams provided long-term steady leadership for the Women's Services Division and Tutwiler staff, directing, and supporting successful implementation of the Tutwiler settlement agreement. In addition, former Deputy Commissioner Williams and Tutwiler's former Warden Wright were strategically focused on developing the capacity of agency and facility leadership, to sustain and advance the progress made to date. In all these efforts Dr. Williams was supported by Dr. E. Kelley Mautz, the then Women's Services Administrator, and Warden Wright was supported by Warden McClain. Deputy Commissioner Williams has transferred to another role in the agency, and Warden Wright has retired. Dr. Mautz was promoted to the role of Deputy Commissioner of Women's Services and Warden McClain has been promoted to the Warden III position and will retain her role as Tutwiler's Settlement Compliance Manager. In the monitor's estimation, both Dr. Mautz and Warden McClain have the skill sets, abilities, vision, and commitment to assume their new roles.

In May 2019, the ADOC rolled out a new 2019-2022 agency strategic plan with four primary focus areas: staffing, infrastructure, programming, and culture. This plan detailed a strategy that will create an environment supportive of positive offender change and rehabilitation, and where proactive assessment-driven case management connects inmates to programs and services. In response, the ADOC Women's Services Division developed a Strategic Plan that focuses on implementation of the ADOC Strategic

Plan, specific to the Women's Services Division, emphasizing the commitment to create a culture that is gender-responsive, and trauma-informed. All Tutwiler staff receive training on these topics annually.

Several years ago, ADOC repurposed a state-owned building, conveniently located next to Tutwiler, to create a regional training center dedicated for the training of line staff working in the women's facilities. It became operational in May 2018 and provides a professional and appropriate setting for Women's Services staff training. Overall, Tutwiler is equipped with a solid training curriculum and the appropriately credentialed staff to deliver this training. This allocation of resources by Central Office signaled a significant commitment to provision of specialized training for those who work with female offenders.

The monitor works closely with Deputy Commissioner Mautz who oversees the ADOC's Women's Services Division. Dr. Mautz and the monitor communicate regularly regarding any developments of note occurring at Tutwiler relevant to the settlement's requirements. Dr. Mautz is the pivotal leader for the ADOC in managing compliance with this settlement agreement.

As a result of the vacancy on the ADOC executive team, Mr. William Lawley, ADOC's former Personnel Director, was promoted to Associate Commissioner of Administration. Upon the resignation of the former Associate Commissioner, Mr. Lawley assumed a more active role in coordinating the Personnel Department's efforts to support Tutwiler in meeting all relevant settlement requirements. Now that Mr. Lawley has been promoted and assumed both more responsibilities and more authority, it is clear to the monitor that there is improved agency attention and support of the Women's Services Division's efforts to focus specifically on the recruitment and retention of Tutwiler employees.

Tutwiler Leadership

Ms. Lagreta McClain serves as Warden III at Tutwiler. Warden McClain served through several compliance monitoring visits as Tutwiler's Settlement Compliance Administrator. As such, she is very familiar with the requirements of the settlement agreement.

Until recently Mr. Kenneth Drake served as Warden II. He has moved to the Montgomery Women's Facility. Ms. Katrina Brown, who previously worked at Tutwiler as a Warden, has joined the staff as Warden II. Ms. Felisha Blanding serves as Warden I. Warden Blanding, in her previous roles as IPCM and Compliance Captain, has in-depth knowledge of PREA requirements and is a source of administrative support to the new IPCM.

Warden McClain has demonstrated her commitment to the provision of leadership training for Tutwiler's management team. As individuals and as a team, the Wardens consistently demonstrate solid management skills, teamwork, and have led by example. The monitor observed outstanding leadership by the facility. Wardens and the executive team at Tutwiler during this reporting period, especially as they dealt with the operational impacts of COVID-19. Warden McClain served through several compliance monitoring visits as Tutwiler's Settlement Compliance Administrator. As such, she is very familiar with the requirements of the settlement agreement.

Presently, two Captain positions are filled and a fourth Captain position has been requested and approved. In addition to Captain Brian Coleman who serves as the Security Captain, Captain Brandon Knowlton serves as the Administrative Captain.

A new IPCM, Ms. Suzanne Hamm, was hired and was in place as of February 1, 2021. Ms. Hamm now works elsewhere in the ADOC and was replaced by Ms. April James in March 2022. Warden Blanding provides assistance and support to Ms. James. Over

the last few years, there has been turnover in the IPCM role.

Ms. Tina Tyler, the Institutional Grievance Coordinator, also fills a critical leadership role at Tutwiler. Ms. Tyler, a civilian, also serves as Tutwiler's ADA Administrator. It has been the monitor's observation that Ms. Tyler does an exceptional job. Her investigations of allegations and complaints, and her documentation and follow through on issues are detailed and thorough. In response to the high volume of work Ms. Tyler handles, an assistant's position was created for that office. Ms. Clarissa Adams has been hired as Ms. Tyler's new assistant. Ms. Adams began her employment on February 1, 2022.

It is not surprising that Tutwiler has been selected by the nationally recognized Urban Institute as one of five case study sites to highlight promising practices and programs addressing incarcerated women and their experiences with past trauma and victimization. This recognition is a result of ADOC and Tutwiler leadership's vision, commitment, strategic planning skills, and ability to motivate staff and the support of several talented consultants.

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

ADOC Women's 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 sustainable models/practices/tools for their operations, future plans and mission for women offenders in Alabama.

Tutwiler Sexual Safety Culture

Tutwiler currently uses SOP 8-12, *Form A, PREA Risk Factors Checklist*, to screen all inmates for risk of sexual victimization or abusiveness.

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 is interviewed by a mental health practitioner that day. Inmates are reassessed within thirty days of their arrival.

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.

ADOC and Tutwiler had made a commitment to the monitor and to DOJ to revise the risk assessment instrument to enhance its gender-responsiveness. ADOC Women's Services staff worked with a team of experts to revise the PREA Risk Screening Tool

currently in use at Tutwiler. The expert team consisted of representatives of The Moss Group, Inc. with assessment experience, as well as authors of a similar tool previously piloted in the State of Iowa. The revision process involved: 1) the review of incident records, 2) consultation with ADOC staff who routinely complete assessments with inmates, including the current PREA Risk Screening Tool and Women's Risk Needs Assessment, 3) identification of existing data to include for a more comprehensive assessment of risk, and 4) a comparative review of revisions of the tool with PREA Standards. ADOC Women's Services staff also attended a webinar entitled "Considerations for Objective Risk Screening Instruments/PREA" on December 7, 2021, to gain additional information from national PREA experts on recent guidance offered in response to questions frequently asked about this topic to better inform final revisions. The monitor has been advised a draft of the revised PREA Risk Screening Tool is currently undergoing final ADOC internal review. The next step will be to share the final draft of the revised tool with the DOJ and the monitor for review before the instrument is piloted with the inmate population. Training for staff on how to conduct the revised assessment is in the planning stages. Initial trainers have been identified as a consultant with The Moss Group, Inc. and an academic from Central Washington University, both of whom were involved in the development of the State of Iowa tool and pilot project which was funded by the Bureau of Justice Assistance as a PREA demonstration grant.

The Tutwiler PREA Audit was conducted by a trained, certified PREA auditor on February 27 through March 1, 2022. A copy of the final audit report was forwarded to the monitor and the DOJ on June 3, 2022.

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 number and location of officer posts. The physical plant is aging and 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. It is not uncommon for several toilets and showers to be taken offline awaiting repairs. In the month of June 2022, there were twenty-two grievances filed about the excessive heat in C Dorm.

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 doubled the facility's original capacity. Currently, the operational capacity is seven hundred nineteen for the main campus, two-hundred fifty at the annex and fifty-six at the QIF. The Tutwiler inmate count on July 11, 2022 was:

- Tutwiler physical count: 545 up from 446 last reporting period
- Annex physical count: 203 up from 186 last reporting period
- Quarantine Intake Facility: 48 up from 45 last reporting period
- Total: 796 up from 677 last reporting period

There has been an increase of over one hundred inmates during this reporting period.

Both the settlement requirement for the development of a gender-based classification system and the development and implementation of gender-based programs at Tutwiler have been impacted by the overcrowding and physical plant issues. Specifically, plans will require the development of various housing options for separating groups of inmates, via the classification review process, which 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 several program offerings that should be available for inmates, based on a needs assessment. Tutwiler 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. The administration has proven very adept at repurposing unit missions to accommodate the need for maximizing bed space utilization. The old dining hall was renovated and converted into an activity center which can be utilized for visits and programming. Central Office staff has worked with Women's Services to provide support by allocating resources for capital improvements.

Tutwiler has also renovated and repurposed abandoned state property near the Women's Facilities Training Center to house the Quarantine Unit and the soon-to-open ReNU unit.

Staffing Challenges-Overall Vacancies and Recruitment and Retention of Women

The monitor notes that the chronic, ongoing, and increasing number of staff vacancies at Tutwiler presents a serious concern

for leadership, staff, and inmates, and impacts the safety and security, and operations of the facility.

In the first court report, the initial settlement agreement monitor noted a vacancy rate of almost 50% of authorized, funded positions. As of June 30, 2020, the combined rate of Correctional Officer and BCO vacancies was 36% percent. As of December 31, 2020, the combined vacancy rate of Senior Correctional Officers, Correctional Officers, and BCOs was nearly 33.75%. As of June 30, 2021, the ADOC's recorded combined vacancy rate of Senior Correctional Officers, Correctional Officers, BCOs and CCOs was nearly 21.60%. In comparison, on December 31, 2021, the combined vacancy rate of these positions was 31.5%. As of June 30, 2022, this vacancy rate was 38.8% .

The monitor has also expressed concerns about the vacancy rates in other job titles. Vacancies, especially in the ranks of supervisors are critical, especially when supervisors are asked to work line posts. Supervisors play an important role in training staff, ensuring consistency of practice between officers, and holding staff accountable. As of December 31, 2021, only ten of twenty-one allotted Correctional Sergeant positions were filled, resulting in a vacancy rate of 52.4%. During this reporting period, with the addition of one filled position, the vacancy rate has since decreased to 47.6%. As of June 30, 2022, only eleven of the twenty-one authorized Correctional Sergeant positions were filled.

At the end of December 31, 2021, nine of the ten authorized Correctional Lieutenant positions were filled, leaving only a 10% vacancy rate in the ranks of that position. As of June 30, 2022, all ten authorized Lieutenant positions were filled.

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. Staff,

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 on-going reliance on overtime to staff critical functions is not a long-term solution to the staffing shortfall. While the monitor was provided a breakdown of the overtime used during this reporting period, the facility does not track how many of those hours represent forced overtime.

Previously, the monitor reported that this mandated overtime policy has caused stress and concern among the officers interviewed during compliance visits. This situation continues to be an area of concern for staff, and can adversely impact staff morale. In more than one exit interview of staff who resigned, forced overtime was cited as the precipitating factor. A decision was made to transition from twelve hour shifts to eight hour shifts effective June 3, 2017. This change was especially helpful to single mothers who relied upon daycare. In Alabama, children are prohibited from spending more than ten hours a day in daycare. This was a challenge for working mothers who lacked a support system of family members and friends who could assist them. After consultation with staff, Tutwiler's forced overtime practices were amended such that staff could elect and anticipate which days of the week they might be required to work overtime. Staff seem appreciative of this adjustment in practice. Appreciation for this change in practice was expressed by staff in interviews with the monitor. In the narrative responses to the employee survey results reported in January 2021, several security staff cited staffing challenges, staff shortages, mandatory overtime, the need to reduce callouts, and the inability to properly staff the facility as things they did not like about their jobs.

The monitor had discussed these chronic staffing issues with then Deputy Commissioner Williams and Dr. Mautz, and then Personnel Director Lawley. 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)

As has already been discussed, the ADOC's recruitment and hiring data have underscored an historical system-wide issue with the application of the APOSTC physical standards to women candidates. Overall, the recruitment and retention problems that contribute to the high vacancy rate remain a concern. The former Commissioner took an important first step in his outreach to APOSTC 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 APOSTC 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 physical training standards. At that 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 APOSTC had agreed to allow ADOC to

continue the eight-week administration through calendar year 2019. The monitor was initially advised that APOSTC might look favorably on extending the waiver that allowed the ADOC to physically test trainees in week eight instead of week one. ADOC formally requested APOSTC to grant an extension to the waiver and the request was denied. Therefore, beginning, January 1, 2020, all APOSTC academy trainees were again required to complete the PAAT during the first week of the Academy.

The monitor requested copies of the current job task analyses of BCOs and Correctional Officer positions. The monitor was advised that the BCO job classification is a direct appointment job classification that does not require written testing or a certified promotional register to appoint someone. Given the type of position this is, the State Personnel Department does not create a knowledge, skills, and abilities task statement for this job classification. Applicants for the BCO position apply for employment directly to the ADOC.

Regarding the position of Correctional Officer, the monitor was provided a copy of the knowledge, skills, and abilities task statements and a copy of a job posting for that position. Although the job posting notes applicants must complete APOSTC correctional requirements, the Correctional Officer knowledge, skill, and ability statement notes that officers require the "Ability to possess sufficient physical fitness, strength, stamina, mobility, and agility as needed to drive a vehicle, operate equipment, defend oneself and others, wield weapons, restrain inmates, patrol assigned area, remain alert, combat stress, and apply restraints." This standard certainly justifies APOSTC's requirement that officer candidates attend defensive tactics and a firearms course. The monitor requested and received a copy of an outline of APOSTC's physical agility/ability test. The general statement for the physical agility component of the test stated, "it simulates any number of job-related activities such as the removal of a stalled vehicle, jumping down

from porches, climbing stairs, walking along walls, rafters, pipes, or beams while in foot pursuit or while checking buildings for suspects." For example, one event required pushing a standard size patrol vehicle a distance of fifteen feet on a paved, level surface with the gear in neutral. Other activities involved climbing fences, successfully completing a window entry, a weight drag of a dummy, and running a distance of twenty-five yards and then surmounting a six inch by six-inch beam suspended one foot in the air and walking a distance of fifteen feet. Based upon prior work experience as an Institutional Director of Personnel and Training and the Director of three statewide correctional training academies, the monitor remained unconvinced of the relevance of many aspects of the APOSTC test to the job of Correctional Officer. Even if the relevance of APOSTC's requirements to corrections were accepted, it is important to note there are no ongoing ADOC physical agility or ability requirements for uniformed staff to maintain these standards once they assume their positions in correctional facilities. The APOSTC document also verified the absence of any gender-norming for the physical ability testing which included timed push-ups, timed sit-ups and the one and one-half mile run. The APOSTC test outline stated, "Failure to successfully complete any part of phase one or two means failure of the entire physical agility and ability test. If the applicant fails any part of the exam, he/she will be given an opportunity for one retest." That retest must take place in not less than forty-eight hours and not more than seventy-two hours.

On July 27, 2022, the ADOC provided the DOJ and the monitor with a summary of physical training screening test results held at ADOC facilities from November 29, 2021 through May 28, 2022. Overall, the combined total of male and female applicants who participated in the physical ability test was ninety-two. Of the sixty-five men who participated in the physical ability test, thirty-eight (58.4%) passed the test and thirty-two (49.2%) of the male candidates failed the test. Of the twenty-seven women who participated in

the physical ability test, only ten (37.0%) of them passed the test and seventeen (62.9%) failed. The majority of women candidates failed the physical training test. Many of these applicants were then recommended for the non-APOSTC certified BCO positions.

The monitor is hopeful that the newly agreed upon APOSTC PAAT pilot program will remove a barrier to hiring both male and female correctional officer trainees.

In addition, APOSTC has amended policy to now require all academy applicants to submit to a psychological evaluation conducted by a licensed behavioral health professional, effective January 1, 2021.

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.

A Recruiting Unit for ADOC remains operational and falls directly under the oversight of Mr. William Lawley, Associate Commissioner of Administration. Captain Napoleon Goodson is the ADOC's Recruiting Director. There are three full-time recruiters and a recruiting coordinator who exclusively recruit correctional staff throughout much of the agency's recruiting efforts. Markstein, an agency in Birmingham, AL has been providing some marketing support to the ADOC., ADOC also 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 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 about recruiting strategies. Consultants assist with State Personnel Department staffing requests and have advised extensively on how to improve ADOC on-site testing for Correctional Officers and BCOs to make them more appealing for applicants.

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. The former Commissioner was a strong advocate for the legislative action necessary to enhance compensation for security staff to improve staff recruitment and retention efforts.

This bill was signed into law by Governor Ivy and authorized significant salary increases for newly hired Correctional 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 5% pay increase (an increase of the previous rate of 2.5%).

- Beginning August 2019, existing Correctional 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 2% cost-of-living-adjustment effective September 1, 2019.
- All ADOC security classifications received a 5% salary increase effective October 1, 2019; in addition, all security classifications pay grades were increased by 2.5% percent to 10%, 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 became eligible to receive payment for up to eighty hours of excess annual leave.
- Provisional appointments to Senior Correctional Officer (for those eligible) took place on February 1, 2020, accompanied with a 5% pay increase. The start of the six-month probationary period was delayed due to the State Personnel Department not getting the promotional register created. Therefore, the effective date of the actual promotions was August 16, 2020. The probationary period is six-months, meaning permanent status as a Senior Correctional Officer was in February 2021, to include another 5% increase in pay. Bonuses for Senior Correctional Officers were also delayed. The first bonus was in February 2021, followed by a second bonus planned for March 2022.

New Correctional Officer Trainees hired before October 1, 2019, essentially received up to a 41% salary increase in less than three years, plus bonuses. New Correctional Officer Trainees hired after October 1, 2019, are essentially receiving a 34% salary increase in less than three years, plus bonuses.

As previously discussed, ADOC's 2019-2022 Strategic Plan has 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 monitor previously requested copies of the contracts with both Warren Averett and Markstein for the purpose of reviewing the contractual expectations to ensure that recruitment efforts specific to Tutwiler had been addressed. The monitor was told by ADOC's Legal Division that an attorney at Maynard Cooper Gale, the firm that has the letters of engagement with both Warren Averett and Markstein, had advised that there is nothing outside of their work-product privilege to provide to the monitor. ADOC did volunteer to pay for a report to be created for the monitor but acknowledged it would likely contain the same information already provided to the monitor by ADOC staff during interviews regarding pay raises, the new BCO position, and the consultants' efforts to move recruitment to online engagement. The monitor declined this offer as it would be duplicative and place a burden on ADOC staff.

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 other law enforcement and criminal justice 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 went a long way to making ADOC's salaries competitive with other local criminal justice and law enforcement organizations and improving recruitment and retention results.

At the facility level, Tutwiler is also focusing on addressing employee recruitment and retention. 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 sections: **1) Retention: Re-recruiting Staff** and **2) Recruitment: Making the Most of the**

market. The plan includes many practical and actionable strategies and objectives. Small, task-specific committees have been established to implement approved recommendations at the facility level.

Previously the monitor suggested additional targeted recruitment strategies for consideration. Given promising developments, including legislation to increase compensation; the creation of the BCO 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 BCO position, and the revised PAAT for Correctional Officers, may now 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 Assessment

The purpose of the June through July, 2022 compliance assessment was for the monitor to acquire information and observations to inform the fourteenth compliance report for the Court. The monitor and Deputy Commissioner Mautz worked together

to finalize the agenda, interview schedules, and document reviews.

The monitor appreciates that COVID has had many personal and operational impacts on the staff, inmates, and facility. As of December 2021, statewide in-person visitation and work releases resumed. A volunteer entry limit was also lifted in December 2021.

Monitor's Actions to Conduct This Compliance Assessment

The monitor completed this assessment report 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 but are not limited to: ADOC policies and Tutwiler standard operating procedures; staff rosters, staff reports and spreadsheets to document actions; inmate grievances; and investigations.
- 3) Selecting specific ADOC and Tutwiler staff for compliance interviews based on the individual's overall and direct responsibilities for settlement implementation.
- 4) Reviewing correspondence submitted to the monitor from inmates, and then requesting information, documents, and investigations to review inmates' concerns/allegations.
- 5) Conducting one-on-one interviews with inmates.
- 6) Using routine communication with the parties, prior to and after the assessment to ask for more information or

clarification regarding the settlement, its terms and requirements and determinations of compliance.

- 6) The monitor sent the first draft of the monitoring tool to all parties on August 19, 2022. The monitor sent the first draft of the narrative report to all parties on August 31, 2022.

The agreement allows for a 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.

- 7) The narrative summary will be submitted to the court on September 30, 2022. In the past, the monitor has had approximately twelve weeks between the on-site visit and filing of the report to author a monitoring report. In this instance, the monitoring visit was divided into two parts with the second part conducted mid-July. As such, the monitor has had six and one-half weeks to collect up-to-date data and author this report.

Closing Observations

The monitor appreciates the high level of cooperation she received during the conduct of this interim and modified compliance report from Dr. Mautz, Deputy Commissioner for Women's Services; Mr. William Lawley, Associate Commissioner of Administrative Services; and Warden McClain and her team. The monitor appreciates their efforts, especially while Alabama and the ADOC deal with the complications that accompany the COVID-19 pandemic. The monitor also appreciates the level of cooperation and responsiveness of the ADOC Women's Services Division and Tutwiler staff during this entire reporting period. The monitor made

requests for documents or information and the responses were helpful and thorough. The monitor continues to be impressed by leadership's commitment to fully implement the settlement agreement and evidence-based gender specific practices at Tutwiler. Leadership has also demonstrated a commitment to quality improvement. The monitor recognizes the time and commitment needed to maintain the level of detailed documentation required to demonstrate compliance with the requirements in the Consent Decree. Leadership continues to use this information and data to improve practice and create a culture at Tutwiler that reflects awareness of policies designed to address sexual abuse and sexual harassment.

The attachment to this report summarizes the monitor's compliance determinations. Tutwiler has demonstrated sustained compliance with many settlement requirements. It is clear to the monitor that some requirements have been institutionalized. For example, the staff training and inmate educational requirements are now deeply imbedded in the facility's operations and culture.

Attachment A: Compliance Assessment Chart



Tutwiler Fourteenth
Compliance Report S