

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	)	

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**Monitor’s Seventh Compliance Report**

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## **Introduction**

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

Ms. Dennehy conducted a compliance visit December 2-6, 2018. This report describes the actions taken by the monitor to determine compliance and uses the time frame July 1, 2018, through December 31, 2018, as the "reporting period."

The settlement uses four levels to measure compliance: substantial compliance, partial compliance, non-compliance, and not applicable (N/A). The Summary of Compliance section of this report at page 70 includes a chart summarizing the compliance status for each provision.

### ***Specific Actions to Evaluate Compliance***

The monitor took the following specific actions to evaluate compliance:

- 1) **Compliance Visit:** During Monitor Dennehy's December 2018 compliance visit with the ADOC and Tutwiler, she interviewed central office staff, including executive leadership and section managers, who have

responsibilities related to ADOC duties and Tutwiler compliance with the settlement. Monitor Dennehy also interviewed ADOC staff assigned to Tutwiler, including the facility's top leadership, staff with specific settlement responsibilities, and the Institutional Prison Rape Elimination Act Compliance Manager (IPCM). The monitor also conducted a private group interview of the captains and selected a cross-section of staff for participation in a small group discussion about recent policy implementation. The monitor met individually with three prisoners who had corresponded with her during this reporting period for the purpose of obtaining additional information and determining if additional follow up on their issues was needed. In addition, the monitor sought out two other women who had previously met with her to verify that the inmates' issues had been addressed. Throughout the compliance visit, the monitor was provided meeting space to engage in private conversations with these staff and inmates. In addition to these formal, private interviews, the monitor was afforded open access to staff and inmates during the monitoring visit and had many opportunities to question and engage in conversations with both staff and inmates while touring the housing and program areas. These staff members were diverse in gender, race, and years of experience in corrections.

- 2) **Documents:** The monitor reviewed multiple ADOC and Tutwiler documents during this reporting period. These documents included previously promulgated ADOC and Tutwiler policies, ADOC and Tutwiler

policy drafts, training curricula, and attendance records and materials. Prior to the December compliance visit, the monitor requested and received many documents, including inmate polling results; randomly selected inmate grievances; the one, sole PREA related grievance; as well as an update on the activities of the Gender Dysphoria Committee, to prepare for a tour of the facility and staff and inmate interviews. During the tour, the ADOC allowed the monitor access to investigations, training files, staff rosters, and shift reports. The ADOC provided full access to records maintained by the IPCM, Lt. Felisha Blanding; Grievance Coordinator, Ms. Tina Tyler; and Settlement Compliance Manager, Warden Lagreta McClain. After the compliance visit, the monitor requested and received additional documents to substantiate and assess the progress of the work and actions taken by the ADOC and Tutwiler in response to the requirements of each section of the settlement agreement.

- 3) **Correspondence:** Tutwiler has a notice posted throughout the facility, with correspondence addresses for the monitor. During this reporting period, the monitor did not receive any correspondence from third parties. The monitor did receive correspondence from fifteen Tutwiler inmates prior to the monitoring visit. These letters addressed a wide range of complaints and allegations, including perceived racial discrimination against Caucasian inmates; staff's inconsistent adherence to policy; specific allegations of unprofessional conduct by some staff members, including excessive use of force; a delay in the receipt of medical services;

and requests for the monitor to intervene in the disciplinary process on their behalf. Some of the letters focused on issues that are beyond the scope of the settlement agreement, raising issues about sentencing laws, parole policy, and immigration status. Some letters included complaints about the actions of other inmates, including the women who use PREA allegations to manipulate their own housing assignments or in an attempt to have targeted inmates removed from their units. The monitor is quite familiar with the potential manipulation of PREA allegations by inmates against other inmates or staff. To Tutwiler and ADOC's credit, it appears to the monitor that all allegations are appropriately investigated. Tutwiler has been very cautious responding to allegations that are determined to be unfounded. Staff have balanced the need to hold inmates accountable for their actions against the risk of discouraging the active reporting of legitimate allegations by others. The monitor reviewed each letter and requested additional information from ADOC officials to better assess the contents of the correspondence and to request follow-up action where appropriate. In each instance, the ADOC provided timely and appropriate responses.

- a. While on site, the monitor reviewed the video tape and documentation of the allegation of excessive use of force made by an inmate in her correspondence to the monitor. It appeared to the monitor that rather than trying to de-escalate the situation with the inmate who was refusing a direct order, the officer was quick to attempt to handcuff her and in so

doing they were off balance and fell to the floor. The Warden had already reviewed the video and use of force documentation and had counseled the officer about de-escalation techniques.

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

## **Executive Summary**

### ***Intent of the Report***

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

### ***Alabama Department of Corrections: Progress, Strengths and Challenges***

#### **Progress**

As in prior reporting periods, the monitor observed steady, continuing progress by the ADOC and Tutwiler towards reaching full compliance<sup>1</sup> with the terms of the

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<sup>1</sup> The definitions of degrees of compliance are addressed in the Summary of Compliance section of this report at page 56.

settlement agreement. In this seventh compliance report, the monitor has determined that Tutwiler and the ADOC have achieved "substantial compliance" with 41 sections and "partial compliance" with 2 sections of the agreement.<sup>2</sup> Attachment C provides a detailed summary of the monitor's compliance determinations.

The narrative that supports the compliance ratings in this seventh compliance report illustrates Tutwiler and the ADOC's continued progress under the settlement agreement. In the first court report filed February 24, 2016, the monitor found the ADOC and Tutwiler in "substantial compliance" with 12 sections of the settlement agreement. In the second report filed August 25, 2016, the monitor found the ADOC and Tutwiler in "substantial compliance" with a total of 37 sections of the agreement. In the third report filed March 28, 2017, the monitor determined "substantial compliance" in 39 sections and "partial compliance" in 4 sections of the agreement. In the fourth, fifth, and sixth compliance reports, the monitor determined "substantial compliance" with 40 sections and "partial compliance" with 3 sections of the agreement.

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

#### *General Policies and Procedures*

The ADOC and Tutwiler continue to maintain written policies to prevent sexual abuse and sexual harassment. The current policy in place at Tutwiler that contains Prison

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<sup>2</sup> One settlement agreement provision is not subject to compliance assessment until March 2019.



Rape Elimination Act (PREA) provisions is Standard Operating Procedure (SOP) 8-12, *Inmate Sexual Abuse and Sexual Harassment*. This procedure incorporates recommendations previously made by the DOJ and monitor.

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

On September 28, 2017, the ADOC forwarded the final version of SOP 8-30, *Behavior Intervention & Discipline Policy*, to the DOJ and monitor. Although Warden Wright signed off on the policy in September, a commitment was made to not publish or disseminate the new policy until Tutwiler completed all the required staff training and inmate education on the new policy. An implementation plan and a Disciplinary SOP Training Facilitator's Guide were developed and reflected a thoughtful implementation plan for this policy. Staff training was being conducted during the December 2017 monitoring visit and the Deputy Commissioner for Women's Services certified that this training was completed on December 15, 2017. All ADOC staff working at Tutwiler, as well as staff who work for the contracted inmate mental health and medical services providers, were required to attend this training. This policy became effective January 1, 2018. While the policy was developed and training had been conducted, in the monitor's opinion it was too soon, during the sixth compliance assessment, to declare this culture shifting policy as implemented. This policy seeks to establish a disciplinary structure and

process that is evidence-based, strength-based, gender-responsive, and trauma-informed, and that reinforces a safe facility culture by motivating inmate behavior and encouraging self-management. The goal is to hold inmates accountable for their behaviors and actions utilizing mediation, cognitive behavioral interventions, and the lowest possible disciplinary sanction to address rule violations. Employees may respond to low-level misconduct by verbal re-direction, which may include helping the inmate to refocus on more productive behavior and positive tasks, collaborative problem solving with the inmate, and engaging inmates through motivation strategies. The Behavior Intervention Program was developed for those inmates who have already engaged with employees on the verbal redirect level and continue to violate rules, or for those who violate a medium-level misconduct rule and verbal redirection is not appropriate. Appropriate strategies to address behaviors or specific rule violations are recommended by the charging official and approved by the shift supervisor. Examples of these kinds of interventions include: journaling, book reading assignments and book reports, restorative actions, or a referral to a counselor or case manager. The traditional, formal disciplinary process is reserved for instances when verbal redirection and the behavior intervention program have been unsuccessful, or a serious incident has occurred. The new policy provides guidelines but allows for staff discretion based upon the circumstances.

During the June 2018 compliance visit, Warden Wright provided the monitor with an interim report on the implementation of SOP 8-30. From January 1, 2018, through May 31, 2018, a total of 300 verbal redirections were issued and 37 behavior interventions were employed. Only a total of 153 formal disciplinary reports were issued. By all accounts, the new policy had been met with mixed reviews by both staff and

inmates as expected because implementation of this policy requires a significant shift in both the inmate and staff cultures. All agreed, this culture shift requires sustained supervision, on-going monitoring of the implementation of this policy, and additional staff training and inmate education as needed.

As requested by the monitor, Warden Wright provided an updated progress report on the implementation of SOP 8-30 during the December 2018 compliance visit. From July 2018 through November 2018, a total of 123 verbal redirections were issued and 34 behavioral interventions were employed. A total of 119 disciplinary reports were written for behavior including, but not limited to: fighting without a weapon; assault on an inmate; insubordination; use of alcohol, narcotics, or other intoxicants; and creating a security, safety, or health hazard. Behavior intervention strategies include: completing a "taking responsibility questionnaire"; engaging in a stress management activity; completing an anger management worksheet; completing a hygiene worksheet; or engaging in an activity focused on listening and getting along with others. During the agenda setting for this compliance visit, the monitor advised the Deputy Commissioner for Women Services that she would convene a group of staff members to discuss the implementation of SOP 8-30 while on-site at Tutwiler.

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. On May 7, 2018, SOP 8-24 was submitted to the DOJ and monitor for review and comments, which were provided to ADOC and Tutwiler prior to the June 2018 compliance visit. These two policies were the last SOP's that were required to be finalized in accordance with the

settlement agreement. All other SOP's and Post Orders had been developed and implemented. At the close of the June 2018 compliance visit, the monitor expected to make a determination of "Substantial Compliance" during the next compliance visit, after a period of full implementation of SOP-24 and SOP 8-30 had been observed. The monitor is now satisfied that both policies have been fully implemented but encourages Tutwiler's administration to continue to provide sustained monitoring of the application of these two SOP's and to provide additional staff training and inmate education to reinforce the intent and requirements of this policy. It is critically important that mid-level managers and supervisors exercise leadership and supervision and demonstrate support of this culture change when interacting with their direct reports.

On November 13, 2018, ADOC provided the DOJ and monitor with a draft copy of a new SOP describing a proposed Structured Living Unit (SLU). This unit, which is under consideration, would replace Tutwiler's Restrictive Housing Unit (RHU). If the SOP is implemented in its current format, as proposed,, Tutwiler would no longer operate a RHU and would only operate a SLU, a Residential Treatment Unit, and a Stabilization Unit. The SLU would house "persons with serious mental illness or who are otherwise found to be inappropriate for restrictive housing placement". Tutwiler would also place inmates with a "disciplinary segregation" sanction in the SLU to serve a specified number of days as needed, in effect, creating a "disciplinary structured-living placement". The DOJ and monitor have provided their comments on the proposed SOP for ADOC's review.

For the reasons cited, the monitor has determined that ADOC and Tutwiler are now in "substantial compliance" with this provision.

### *Camera Management*

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

ADOC and Tutwiler conducted their second annual camera review meeting in November 2017. The third annual camera review meeting was held December 13, 2018, and the ADOC PREA Coordinator attended as recommended by the monitor. The monitor reviewed the minutes from this meeting and the resulting action plan, which addressed recommended camera adjustments and the repair of some connection failures. During this monitoring visit, the monitor visited the camera operations room and remains quite impressed with the cameras' capabilities, as well as the staff's maintenance of the equipment. The on-duty staff were fully attentive and engaged in their duties.

The video surveillance system has additional capabilities that are not yet activated. Tutwiler submitted a spending request to support the activation of all the video surveillance system capabilities.

### *Staffing*

The settlement agreement requires the development of a professional staffing analysis and for a plan based on this analysis to be presented to the ADOC and Tutwiler. ADOC and Tutwiler expended considerable funds to have a staffing analysis conducted at Tutwiler by nationally recognized experts to research and develop a gender-responsive staffing plan for Tutwiler. This staffing plan was informed by gender-responsive

principles identified by the National Institute of Corrections (NIC), PREA requirements, DOJ settlement agreement requirements, and emerging correctional practice.

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

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

During the December 2016 compliance visit, the ADOC asked the new monitor to review the draft staffing plan and the DOJ's comments in an attempt to clarify all comments for ADOC's review and response. On January 30, 2017, Monitor Dennehy provided ADOC with extensive feedback.

The monitor recognizes that a solid staffing analysis and plan is fundamentally important as a tool to determine the number and type of employees needed to staff Tutwiler. The plan is a dynamic document that examines the nature of the work to be done in terms of volume, location, duration, and gender restrictions. A solid analysis of staff requirements is instrumental to identifying the knowledge, skills, and abilities needed for a gender-responsive, trauma-informed Tutwiler workforce. This a complex

and challenging task, complicated by a high percentage of position vacancies, a high rate of staff call outs, critical posts being filled by mandating overtime for officers, assigning supervisors to work line posts, and doubling up officer posts. The consultant's draft report noted the current vacancy rate has a significant impact on the development and implementation of a staffing plan. Given the complexity of this task, both the ADOC and the DOJ agreed that additional time was needed for ADOC to work through the DOJ and monitor's comments and finalize the plan. Monitor Dennehy approved an extension to June 1, 2017.

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

On July 26, 2017, the ADOC provided the DOJ and monitor a copy of the finalized staffing plan and a matrix listing every comment and suggestion previously provided to the ADOC by the DOJ and monitor, together with an explanation for what was modified and what was not included in the final plan issued by the ADOC. The monitor reviewed the staffing plan and ADOC's documented consideration of the monitor and DOJ's recommendations.

ADOC and Tutwiler are balancing several record production and reporting requirements. The monitor requested ADOC and Tutwiler provide periodic progress updates on the implementation plan addressing the recommendations made in the staffing plan. Warden Wright provided the monitor an update during this compliance

visit. As of December 2, 2018, Tutwiler had implemented 17 of 22 recommendations in the staffing plan. Tutwiler expects full implementation of the outstanding recommendations to be completed by Spring 2019. Tutwiler has explored moving breakfast later by 90 to 120 minutes and adjusting subsequent activities to increase staffing efficiency to lower peak staffing demands and to provide inmates with more hours to sleep. Second, Tutwiler has also considered adjusting the timing of other intermittent activities to lower the level of peak staffing demands. These changes are expected to be implemented in February 2019. The monitor recognizes the implementation of the staffing plan is ongoing and will continue to request these periodic implementation progress updates.

In addition to the aforementioned reports, in compliance with Section III.C.2.vi of the Settlement Agreement, ADOC and Tutwiler are required to submit quarterly staffing reports to the monitor and DOJ. These reports account for new employees, transfers, resignations, and retirements. During this reporting period, the monitor received these reports on September 4, 2018, and December 10, 2018.

The settlement agreement also requires ADOC and Tutwiler to submit a biannual staffing report covering the six-month period after the development of the staffing plan. This first report covered the timeframe July 26, 2017, through January 26, 2018, and was submitted to the DOJ and monitor on March 13, 2018. On September 4, 2018, ADOC and Tutwiler provided the DOJ and monitor with the second biannual staff report, which analyzes staffing during the period January 27, 2018, through July 27, 2018. These reports show that, overall, there has been a 5 percent increase in current staffing capacity since January 2018; however, this report also documents the



continuing need for an additional 60 positions and identifies those posts that are deemed gender-specific. Compared to the first biannual staffing report, this report does not include an accounting of overtime hours utilized by supervisors, so a comparison of overtime usage by the monitor was not possible.

Going forward, an annual staffing report will be provided to the DOJ and monitor, beginning in August 2019 and thereafter until termination of the Agreement.

The monitor remains concerned about the correction officer staffing levels at Tutwiler. As of December 31, 2018, there were 67 correction officers on staff (36 females and 31 males). This translates into only 42% of Tutwiler's correction officer positions were filled. In contrast, 88% of supervisor positions were filled and 76% of non-uniformed positions were filled. By way of comparison, at the close of the last reporting period, 40% of the authorized correction officer positions were filled. As of June 30, 2018, 40% of Tutwiler's correctional officer positions were filled, not including seven part-time, retired officers.

The monitor also appreciates the efforts Tutwiler has taken to mitigate the issues resulting from understaffing. Those steps have included a reliance on overtime and using employees who are not fully certified correction officers for certain jobs, such as monitoring the prison's camera system, placing supervisors on line posts when needed to maintain operations, and doubling up correction officer housing posts. The ADOC continues the practice of allowing officers from other ADOC facilities to work overtime, or otherwise be temporarily assigned at Tutwiler, only after those officers have been trained as required by the settlement agreement. The monitor cross-referenced staff training attendance records with the names of officers on overtime rosters, and has

verified that this training requirement is being met. The Tutwiler staffing plan calls for one officer to be assigned to each dorm. It has become the norm that some posts must be doubled each shift as a result of low staffing levels. When this occurs, one officer must cover two dorms; however, video surveillance is constant in all dorms. Occasionally, supervisors are pulled from their assignments to perform correction officer duties. While these efforts may be workable in the short term, they do not, in the monitor's strongly held opinion, present a long term solution to the chronic staffing shortage. As such, the recruitment and retention of qualified staff is critically important and will be addressed later in this report.

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

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

### *Training*

Tutwiler's training team began providing the required annual refresher training regarding sexual abuse and sexual harassment in March 2017. As of July 29, 2017, Tutwiler staff, volunteers, and contracted employees had all completed the refresher training. This year's annual refresher training commenced on May 7, 2018. The completion of this year's annual training on December 7, 2018, was certified by Deputy

Commissioner Williams and reported to the monitor and DOJ. As part of the refresher training, all staff were again expected to demonstrate proficiency through a post-testing process.

The Tutwiler training team are qualified instructors, as they had previously received specialized refresher facilitator training on custodial sexual abuse in September 2016 by the agency's nationally recognized consultant. The facilitator's guide for the refresher training curriculum was reviewed and commented upon by the DOJ and monitor, consistent with Section III.A.6 of the settlement agreement. Additional training on gender-responsive and trauma-informed use of force has been incorporated into the ongoing refresher training.

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

The ADOC, and ADOC's previously contracted inmate health care providers, MHM and Corizon, maintained excellent records documenting their staff's attendance at the required training. Wexford assumed the role of current provider in April 2018 and retained the Tutwiler Mental Health Site Administrator and Health Services Administrator, so the quality and timeliness of these staff training records is expected to be sustained.

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. When questioned by the monitor, on-site medical staff could not articulate what

specialized training had been provided to medical staff. While on-site, the monitor reviewed the medical and mental health staff's policy manual and PREA staff training curriculum. The monitor offered suggestions to enhance the sections of the policy and curriculum that address PREA generally and sexual harassment specifically. The provider has since revised the policy and curriculum. These revisions were received by the Monitor outside the timeframe of this report and will be addressed in the next report to the court.

#### *Intake Dorm and Overcrowding*

In July 2015, the Deputy Commissioner for Women's Services convened a work group to evaluate methods to decrease or eliminate use of Dorm A (the intake unit) for a period that exceeds 48 hours. Upon entry into the facility, all new admissions are processed and placed in the Intake Unit as they await the results of their medical and mental health screens. Unfortunately, inmates may stay longer than necessary in this unit due to the limited availability of bed space within the ADOC women's facilities. Tutwiler's initial efforts resulted in both an overall reduced unit count and overall shorter lengths of stay in the unit. More significantly, the decrease in the Intake Unit's population reflected a decrease in Tutwiler's overall population. This reduction in the overall inmate population provided some relief for Tutwiler in housing placement options and staffing deployments. To improve the facility's overall bed management, in January 2018, Tutwiler relocated the intake dorm from Dorm A to Dorm K, a smaller unit. The average length of stay for each inmate in Dorm K is now 3-4 days, compared to the starting point of an average stay of 10-13 days.

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

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

An implementation workgroup was created and includes a cross section of key ADOC and Tutwiler staff members. The Women's Risk Needs Assessment (WRNA) and Women's Services Classification Manual were implemented on August 15, 2016, with the expectation that during a six-month "pilot" program all the women at Tutwiler would have an assessment completed on them. The pilot program period was to end February 15, 2017. Following the pilot period, a validation assessment, which was initially anticipated to take two years, was expected to commence. This original timeframe was expected to yield Alabama Women's Risk Need Assessment validation results by March 28, 2019, when an assessment of compliance with the agreement is due. As a result of a slower than expected pace of implementation, the pilot end date had to be extended to August 2017.

The pace of implementation was delayed as a result of several factors. The primary reasons for a 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.

After an exhaustive request for proposal process, the ADOC contracted with a

technology company to create the software automation for WRNA. The company established a deliverable date for July 2017. The software company provided the necessary staff training. In addition, Tutwiler had nine new positions allocated and created, and as of July 1, 2017, all the positions were filled. The pace of administering the WRNA accelerated under the leadership of the new classification supervisor. As of mid-July 2017, all the Tutwiler inmates had been classified using the WRNA.

The new classification system incorporates gender-responsive principles and addresses the needs of women inmates at Tutwiler including: housing safety; mental health (depression/anxiety/psychosis); abuse and trauma; family conflict; relationship dysfunction; and parental stress. The system focuses on strength and resiliency factors including educational assets, family support, and self-efficacy. The use of “restricted status” for female inmates was abolished in September 2016 pursuant to the new classification system. A comparison of classification levels of Tutwiler inmates on August 1, 2016, November 1, 2017, and November 1, 2018, documents the impact of the new classification system. In 2016, 47% of the women were classified as minimum custody. In 2017, this rose to 62%. In 2018, this figure increased to 70%. In 2016, 30% of the women had been classified as medium custody, that number reduced to 25% in 2017, and 20% in 2018. These numbers reflect that many women's custody levels were historically over classified due to a reliance on classification instruments and processes designed for male prisoners. Women offenders' pathways to incarceration are different than those for men, so their risks and needs differ. The monitor expects to see continuing shifts in the distribution of custody levels of the women at Tutwiler.

In October 2016, ADOC formed a WRNA validation committee. The final

validation plan was provided to the DOJ and monitor on July 28, 2017. ADOC prepared a request for proposal to conduct this study and it was disseminated to potential researchers in June 2018. In October 2018, the ADOC awarded the validation study contract to the University of Alabama. Auburn University will partner with the University of Alabama on this project. The project will begin once a contract is in place. The entire validation process is expected to take three years and six months to complete once the process begins. The applicable provision in the settlement agreement is not subject to a compliance assessment until March 2019. This date will need to be renegotiated and revised.

#### *Programming*

A gender-responsive program committee was convened in October 2016 to research and develop a proposal for review by the Deputy Commissioner for Women's Services and the Associate Commissioner for Plans and Programs. The contracted expert facilitated the committee's work. The committee focused on identifying and developing evidence-based programs that are gender specific and responsive to the programming needs identified by the WRNA. The initial proposal was forwarded to the DOJ and monitor for review in April 2017. The final proposal that addressed the DOJ's and monitor's feedback was forwarded to the monitor and DOJ on July 31, 2017. Programming was selected based upon which programs addressed the women's identified needs, had research to support their use, and could be implemented within ADOC's facilities. If there were more than one program which fit this criteria, programs were selected based upon cost and ability to acquire any training needed by staff. Development of the resources to support the programs began immediately following the

finalization of the proposal.

Four new gender-responsive programs were implemented at Tutwiler in February 2018. The **Getting Ahead While Getting Out** program is a re-entry program designed to engage the offender, her family, volunteers, community and staff in problem solving for a successful transition to the community. As of December 2, 2018, this program had produced 89 graduates with an additional 18 women enrolled in the current program cycle. The **Helping Women Recover** program is designed to treat addiction and utilizes the theories of women's psychological development and trauma. It addresses triggers for relapse, relationships, domestic violence, trauma, family issues and self-esteem. As of December 2, 2018, a total of 309 women had graduated from this program with another 60 currently enrolled. The **Beyond Trauma Program** incorporates the latest research in neuroscience, trauma, and post-traumatic stress disorder. It also incorporates cognitive behavioral techniques, mindfulness, expressive arts, and body oriented exercises. This program has graduated 228 women and another 68 are set to graduate at the completion of the current program cycle. The **Beyond Violence Program** focuses on emotional regulation of anger. It addresses both violence and trauma that women have experienced, and the violence they have perpetuated. This program has graduated 145 women and 29 more will graduate at the end of this program cycle.

Two additional programs have also been implemented at Tutwiler. **Active Adult Relationships** was implemented in June 2018. This 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. As of December 2, 2018, this program has produced 107 graduates and 44



women are currently enrolled. **Moving On** began in October 2018. The program leverages both educational and cognitive skill building approaches to help women at risk of future criminal justice involvement find alternatives to criminal activity. The program supports women as they mobilize and build personal strategies, natural supports, and community resources. As of December 2, 2018, 13 women were enrolled in the initial program cycle. The monitor was advised that **Parenting Inside Out** was implemented later in the month of January 2019. At the time of the compliance visit, program staff were in the training phase. The program teaches parent management skills to incarcerated parents. It helps to promote healthy child adjustment, prevent problem behavior, and stop the intergenerational cycle of criminal justice involvement. **Family Days** are planned to begin in June 2019. This will involve extended visitation by family members combined with a series of seminars about the programs the inmates are participating in and ways to support inmates during and after incarceration. In July 2018, a consultant to ADOC and Tutwiler began an evaluation of the new programming.

To accommodate this program expansion, several facility projects are in progress. Renovations are underway by the Central Office Engineering Division. The monitor observed the contracted workmen constructing additional classroom space. In addition, upgrades are being made to the inmate visiting room.

The Alabama Prison Birth Project has been providing doula support to pregnant prisoners at Tutwiler and recently partnered with the ADOC and Tutwiler to create a lactation room. Women are allowed to leave their dorms for the privacy of the lactation room whenever they need to pump breast milk. The milk is logged, labeled, and stored in a deep freezer. Once a week, a certified lactation counselor retrieves the bottles of milk

from the prisons, packs them in dry ice and ships them to where the mothers' babies are living. The room is called "Serene Expression" and inmates painted the pastel colored room and decorated the walls with artwork.

#### *Inmate Education*

Incoming inmates receive comprehensive orientation education within 14 days of admission to Tutwiler. The IPCM maintains records of inmate attendance at these orientation sessions. The monitor has attended this orientation during previous compliance visits as scheduling permits. The curriculum and training aids are well designed.

The monitor encourages Tutwiler to consider expanding translation services beyond the use of Google Translate for Limited English Proficiency inmates.

#### *Inmates' Right to Privacy*

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

While touring during the December 2018 compliance visit, the monitor observed that appropriate privacy panels and shower curtains were in use in the shower and bathroom areas in inmate housing units. The monitor also witnessed staff consistently announce the presence of a male officer on the unit when needed.

Transgender inmates are now showering 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 including: the prevalence of staff sexual abuse and sexual harassment; inmate vulnerability to sexual abuse and sexual harassment; the investigation and discipline of staff accused of sexual abuse and sexual harassment; the efficacy of inmate education regarding sexual abuse and sexual harassment; privacy in the showers and toilets; the appropriateness of inmate classification; the levels of staff supervision; the efficacy of the reporting systems for sexual abuse and sexual harassment including grievances; and official responses to and retaliation for, allegations of sexual abuse and sexual harassment. As agreed upon by the monitor, DOJ, and ADOC, The Moss Group, Inc. initially administered the survey quarterly for the ADOC. The initial inmate polling was conducted in July 2016, the Second Quarter Inmate Polling was held in October 2016, the Third Quarter survey was administered in January 2017, and the Fourth Quarter survey was administered in April 2017.

ADOC entered into a Memorandum of Understanding (MOU) with Auburn University on August 9, 2017, for the University to provide long term assistance with the administration of this survey. A copy of the MOU was provided to the DOJ and monitor, as was the University's draft protocol. This arrangement serves to institutionalize the inmate polling survey as a valuable tool for ADOC and Tutwiler in the future.

Both the DOJ and monitor reviewed and offered feedback on the initial protocol the University proposed using. This protocol was finalized on October 24, 2017. On July 30, 2018, ADOC provided the DOJ and monitor with Auburn's revised

protocol intended to guide surveys conducted in 2019. Both the DOJ and monitor provided feedback. On October 4, 2018, the ADOC issued the final protocol and responded to the feedback provided by the DOJ and monitor.

Auburn administered the First Quarter (Year Two) survey of the poll's administration in November-December 2017. The report for this polling was submitted to the monitor and DOJ on March 5, 2018. The Second Quarter (Year Two) survey was conducted in March 2018. The report for this polling was submitted on May 15, 2018. The Third Quarter (Year Two) survey was conducted in May 2018. The results of that polling were sent to the monitor and DOJ on July 23, 2018. The Fourth Quarter (Year Two) polling, the final polling survey for the second year cycle, was conducted in July 2018 and the results were reported to the DOJ and monitor on August 6, 2018.

The report of the Fourth Quarter (Year Two) polling survey is rich in data and much of the feedback is supported by what the monitor has observed in correspondence from inmates, a review of grievances, and a review of PREA-related investigations. For example:

- The majority of the women respondents were not aware of staff members, contractors, or volunteers sexually harassing or sexually abusing inmates. However, 54% of participants reported an awareness of verbal abuse by staff towards inmates. This is up from 39% as reported in the First Quarter polling survey. Based upon survey results, inmate grievances, and feedback provided by the women to the monitor, it appears verbal abuse by staff of inmates is a chronic issue. The monitor, Deputy Commissioner Williams and Warden Wright discussed this issue and the need for additional strategies to address this problem.
- When asked if sexual relations between inmates and staff members continue to occur: 25% of respondents agreed, 44% disagreed, and 30% neither agreed nor disagreed.
- The overwhelming majority of the women who responded to this survey

indicated they understood the PREA rules (84%) and their rights (90%) associated with sexual safety and abuse. This demonstrates that the inmate education piece has been effective.

- Fifty-one percent of respondents agreed there is adequate privacy in the toilet and shower areas. Based upon the feedback from both staff and inmates, it is evident to the monitor that the showers are the "hotspot" for inmate smoking, use of drugs, and sexual contact between inmates. As such, it is not unexpected that 40% of respondents reported they disagreed that there is adequate privacy in the toilet and shower areas.
- When asked if the programs and classes they have taken are useful, 65% of the women responding to the survey agreed, while 10% disagreed. The women appear to appreciate the value of the new programming. This is consistent with the monitor's communications with inmates.
- When asked if there was enough staff available so they can get to their work, program, or other assignments on time, 45% disagreed on enough staff being available. In another question about availability of staff members in the dorms, 42% of the respondents disagreed on enough staff being available.
- A total of 35% of the respondents report having trust in the grievance system, while 40% disagree that they trust the grievance system. This survey result is supported by the monitor's communications with inmates.
- When asked if inmates are disciplined consistently for violating rules about relationships with other inmates, 35% of respondents disagreed, compared to 50% of respondents in the First Quarter polling. In conversations with the monitor, some inmates do assert that some staff turn a blind eye to some inmate relationships based upon the race of the staff and inmates. The monitor saw no evidence to support this perception.
- The number of women who perceive that staff members are held accountable when they violate rules related to sexual abuse and sexual harassment has increased to 44% from 31% established during the First Quarter polling.
- When asked if they had noticed positive changes at Tutwiler in the last year, 48% agreed they had and 24% disagreed, with 29% neither agreeing or disagreeing. In the monitor's conversations with inmates, it is a rare occurrence for a woman to disagree that there has been positive change at Tutwiler. In this instance, the survey data is at odds with the monitor's observations and random communication with inmates.
- When asked if inmates use PREA to falsely report incidents against staff, 49% agreed and 16% disagreed, with 34% neither agreeing or disagreeing. This allegation about the actions of other inmates has been brought to the attention of

the monitor during conversations and correspondence with the women and during the review of investigations. The monitor is also aware that upon occasion inmates do lodge allegations in an effort to get experienced, effective officers removed from their housing units.

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

The *Tutwiler Tribune* is the inmates' newspaper. It includes essays, poems, and interviews with staff, puzzles, horoscopes, etc. The May 2018 edition included a summary of some key results from the inmate survey. The monitor applauds the administration's sharing of the survey results with the inmate population.

The latest inmate polling survey was conducted in October 2018 and the monitor looks forward to receiving and reviewing the results of that survey.

#### *Quality Improvement and Data Collection*

Quality improvement meetings began in August 2016 and meet monthly and hold additional discussion and conduct analysis of all the incidents occurring over the previous thirty days, including any action plans that were developed. Meeting minutes are made available for the monitor's review. The monitor reviewed the minutes for the December 11, 2018 meeting.

The monitor and DOJ attorneys attended the quality improvement meeting held on June 7, 2018. The meeting was expertly chaired by Warden Wright, who guided a

cross-section of Tutwiler staff through a comprehensive agenda that included in-depth analysis of all incident reports involving inmates as alleged victims of excessive use of force; allegations of sexual abuse or sexual harassment; video reviews of incidents; a video review summary of at least four randomly chosen shifts for a spot check of staff posting and work expectations; staff polling results; an update on staff to include gender of staff and posts assigned; a review of overtime usage; the use of leave time; reasons for any staff resignations; a review of any documented variations from the facility staffing plan; a review of inmate grievances; a review of medical and mental health grievances; and a review of inmate disciplinary reports. The monitor was especially impressed with Warden Wright's facilitation of the meeting and her assignment and tracking of outstanding issues and staff responsibilities; the frank discussion and input from the captains and other key staff; and the inter-disciplinary collaborative problem solving involving the medical, mental health and correctional staff. The Quality Improvement Team demonstrated they are using the enormous amount of data that is collected and they are digging deep into it to identify opportunities to make improvements.

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

In addition to the RMS data being reviewed at monthly quality improvement meetings, these data are reviewed and aggregated on a quarterly basis by Warden McClain and the Deputy Commissioner for Women's Services. A quarterly review is conducted to assess and improve the effectiveness of sexual abuse and sexual harassment

prevention, detection, and response policies, practices, and training. The quarterly reviews allow for: (a) the identification of potential patterns, changes, and problem areas, which includes problems in staffing levels, policies, practices, staff discipline system, and staff and inmate training/education; (b) the identification of staff or supervisors in need of retraining, performance plans, and discipline; (c) the development of an array of intervention options to facilitate an effective response to problems; (d) taking corrective action on an ongoing basis; and (e) preparing bi-annual reports of its findings and corrective actions, including a comparison of the findings in previous reports to assess progress. The challenge for the administration is to integrate and analyze all data in a timely manner. Automation of the RMS system, including mapping capabilities, would support a more timely and robust review of the RMS data and trends.

During this reporting period, ADOC provided the monitor and DOJ one biannual report listing all staff members identified through the RMS and any corrective action taken. The report covered the time period from November 29, 2017 - May 28, 2018, and was submitted to the monitor and DOJ on August 9, 2018. This RMS report documented twenty-eight allegations against staff members for engaging in the use of profane, degrading, unprofessional, threatening, or insensitive language with inmates. Each of these incidents was tracked and investigated. No corrective action was taken when the allegation was disproved and determined to be unfounded. In most instances, the inmate's allegation could not be proved or disproved, so the allegations were determined to be unsubstantiated. Corrective action taken for unsubstantiated cases ranged from verbal counseling, issuing a formal memo for the record, and issuing a policy re-iteration memo. Nevertheless, in all instances of an unsubstantiated allegation,



a supervisor met with each staff member and reiterated Tutwiler policy and performance expectations. In the absence of conclusive proof, this administrative response is appropriate. Going forward, the monitor will work with the ADOC and Tutwiler to develop alternative management strategies for addressing the small number of employees who are the subject of multiple allegations.

The monitor reviewed the RMS reports and attests that the ADOC and Tutwiler staffs have already demonstrated good use of RMS data and the results of the inmate polling survey. Both instruments document that some Tutwiler staff allegedly use abusive and profane language towards the inmate population that undermines efforts to build a gender responsive and trauma informed environment. In previous reports, the monitors have recognized the need for staff interventions regarding the requirements for using professional language while addressing inmates. Addressing this issue is a top priority for the facility wardens. Warden Wright developed an interim intervention plan to eliminate "the unprofessional staff conduct involving inmates, including sexually explicit, vulgar, degrading, or racially insensitive or offensive language". In that many allegations of this kind of behavior cannot be substantiated due to the lack of corroboration by others, the plan included the use of policy re-iteration memos. A supervisor meets with the staff accused of using inappropriate or abusive language and uses the meeting as an opportunity to reinforce Tutwiler policy and provide supervisory coaching. The employee is reminded in writing of policy requirements. Overall, this strategy does not seem to be shifting behavior, as verbal abuse by a small number of staff continues to be an issue. The monitor is also aware, however, that there are inmates who make allegations of this nature in an effort to retaliate against staff who hold inmates

accountable. For those officers, repeated receipt of a policy re-iteration memo may be demoralizing and impact an employee's retention.

Deputy Commissioner Williams and the monitor have discussed the need for Warden Wright to continue to aggressively investigate these allegations and to hold staff accountable using progressive discipline, increased supervision, re-assignments, and re-training. The monitor looks forward to receiving an update from ADOC and Tutwiler about their continuing efforts to eliminate the use of offensive and abusive language by staff.

Some of the Caucasian inmates who speak or write to the monitor allege that African American staff are less strict with African American inmates. This creates a perception of favoritism that may create tensions along racial lines, especially when, as of June 30, 2018, fifty-nine of the sixty-seven officers working at Tutwiler are African American and eighteen of the nineteen sergeants are African Americans. Also, some Caucasian women alleged that more verbal abuse is directed at them by African American staff than is directed toward African American inmates.

In response to inmates' allegations of racial discrimination, the ADOC and Tutwiler arranged for staff to attend some specialized training. During the 2018 training year, all staff at Tutwiler attended **Racial Intelligence Training and Engagement (RITE)**. This training began in May 2018 and was conducted by the ADOC Training Division, and the model includes emotional intelligence combined with social intelligence designed to unlock an individual's racial intelligence. The monitor looks forward to reviewing staff perceptions of this training.

Pursuant to the settlement agreement, on an annual basis, ADOC and Tutwiler

shall conduct a documented review of the RMS to ensure that it has been effective in identifying concerns regarding policy, training, or the need for discipline. The ADOC and Tutwiler convened a panel to conduct the second annual review of the RMS data tracked from May 27, 2017 - May 28, 2018. On November 26, 2018 ADOC provided the DOJ and monitor a copy of the report for review.

*Sexual Abuse/Sexual Harassment Allegations*

The monitor met with Mr. Arnaldo Mercado, Director of the ADOC's Investigation and Intelligence Division (I & I) and Investigator Kelley Smith to discuss and review completed investigations into allegations of staff-on-inmate sexual abuse/sexual harassment and inmate-on-inmate sexual abuse investigations that occurred during this reporting period. There were seven staff related PREA investigations completed during this reporting period. Of the five alleged staff-on-inmate sexual abuse cases, three were determined to be unfounded, as evidence did not support the allegation. Two were unsubstantiated, although one of these cases generated an additional administrative investigation, which is still pending. The two allegations of staff-on-inmate sexual harassment were deemed unsubstantiated, as there was no corroborating evidence to support the allegations.

There were six investigations into allegations of inmate-on-inmate sexual abuse. Two of these cases were unsubstantiated, as no corroborating evidence surfaced, but based upon conflicting witness statements, one of the unsubstantiated claims was referred to the local prosecutor for review. Three of the allegations of inmate-on-inmate sexual abuse were determined to be unfounded. One inmate-on-inmate sexual abuse

allegation was substantiated as sexual harassment, with a recommendation that the case be handled administratively due to the mental health status of the subject of the investigation. Finally, an allegation of a group physical assault of an inmate was made in August 2018 and a criminal investigation into the unlawful act by a prisoner was initiated by I & I. Evidence developed shortly after opening the investigation indicated that the incident met the statutory definition of PREA sexual abuse. In early October 2018, the case was closed with the allegation of an unlawful act by a prisoner being sustained and a felony case being referred to the Elmore County District Attorney. At the same time, a recommendation was made that the I & I Division initiate an administrative investigation of a PREA inmate-on-inmate sexual abuse violation; that investigation was still pending at the close of this reporting period.

While several allegations appear to have been appropriately determined to be unfounded or unsubstantiated, the monitor notes that on occasion staff demonstrate questionable professional boundaries. The monitor has shared her specific observations with the Deputy Commissioner for Women's Services.

In all but one case reviewed, the monitor determined the investigation had been conducted in accordance with AR 454 and SOP 8-12, *Inmate Sexual Abuse and Sexual Harassment*. The monitor will carefully review the outcome of the still outstanding administrative investigation to assess compliance with applicable policy and procedures. In conversations with the monitor, inmates expressed confidence in Investigator Kelley Smith who conducts investigations into allegations of staff-on-inmate sexual abuse and sexual harassment as well as inmate-on-inmate sexual abuse, and the IPCM, Lt. Blanding, who conducts investigations into inmate-on-inmate sexual

harassment allegations. During this reporting period, Lt. Blanding investigated four allegations of inmate-on-inmate sexual harassment. Three cases were unsubstantiated and one was determined to be unfounded.

The monitor reviewed the facility response to allegations and the management of the reporting inmates and alleged perpetrators to determine if an adjustment of inmate housing and job assignments was considered to ensure the safety of all involved. The monitor requested and received additional information about the housing decisions involving the victim and alleged perpetrators in the group inmate-on-inmate assault. Lt. Blanding closely monitors and documents any allegations of retaliation against those who report allegations.

The monitor notes there are multiple, effective means of reporting allegations of inmate sexual abuse and sexual harassment, including a grievance process and at least one confidential method. During this reporting period, a total of 771 grievances were filed. Of these, one was PREA related. The inmate whose name appears in the signature block of the grievance denied that she submitted the rambling report and denied the substance of the allegation. Nevertheless, the incident associated with this grievance was investigated by I & I and the allegation was determined to be unfounded. The monitor reviewed this grievance and the administration's response and determined the ADOC and Tutwiler policy was followed and appropriate action was taken.

The inmates can use a toll-free number to call the Alabama Coalition Against Rape (ACAR) for reporting. The agreement between the ACAR and the ADOC is that all calls are confidential, per ACAR policy. The ACAR agreed to suggest and/or encourage the inmates to use the ADOC and Tutwiler methods of reporting if their call

was regarding an allegation of sexual abuse or sexual harassment. There is no requirement for the ACAR to report to the ADOC, so the number of calls for this reporting period is unknown.

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

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

Inmates have at least one way to report abuse or harassment to a public or private entity or office that is not part of the agency, and that is able to receive and immediately forward inmate reports of sexual abuse and sexual harassment to agency officials. 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 #66, 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 17 calls were made to ADECA's hotline during this reporting period. Many of the

complaints made were not related to sexual abuse or sexual harassment. In each instance, the Tutwiler administration followed up on the allegations/complaints and the response was appropriate. At the monitor's request, the form used to track the nature of these calls was expanded to include more information detailing the actions taken by facility management.

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

### **Alabama Strengths**

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

#### *Leadership from the Alabama Department of Correction*

The monitor believes Commissioner Dunn continues to provide the agency leadership for his staff and Tutwiler, directing and supporting successful implementation of the Tutwiler settlement agreement. In Summer 2018, the ADOC leadership began a collaboration with Alabama Pardons & Parole Board and the Alabama Sentencing Commission for the purpose of updating key agencies regarding the changes in the classification system and inmate programming at Tutwiler, as this information may inform the work of these two agencies. In addition, Commissioner Dunn is strategically focused on developing the capacity of agency and facility leadership as a means to sustain and advance the progress made to date. Tutwiler's executive leadership team has participated in a leadership development program and is now focused on providing

leadership training for Tutwiler's mid-level managers and supervisors. In May 2018, an initial leadership development course was presented for Tutwiler's mid-level supervisors. In October 2018, Tutwiler presented a leadership development refresher session for Tutwiler's supervisory staff.

Previously, Tutwiler's former Warden I, Adrienne Givens, was promoted to Warden II at Montgomery's Women's Facility and Tutwiler's former Captain, Lagreta McClain, was promoted to Warden I at Tutwiler. To ensure consistency in the on-site monitoring of the settlement agreement, Warden McClain retained her duties and responsibilities as the Settlement Coordinator for this agreement during her transition to the role of Warden. Warden McClain has been training staff to transition some of the Settlement Coordinator duties to others. In addition, Warden II Deidra Wright, who has been serving as the interim Warden III at Tutwiler, was promoted to that position in September 2018. All three women have benefited from the Commissioner's focus on developing facility leadership and from Deputy Commissioner Williams' mentorship of them.

In June 2017, the monitor was advised by Associate Commissioner Matt Brand (Training and Development) that a regional training center dedicated for the training of line staff working in the women's facilities was being created in recognition of the gender-specific training agenda and curricula necessary for staff who work with women inmates. It became operational in May 2018. This allocation of resources by Central Office signifies a significant commitment to the need for specialized training for those who work with female offenders. During the June 2018 compliance visit, the monitor and DOJ attorneys toured the new ADOC Women's Services Training Center. The



ADOC repurposed a state-owned building, conveniently located next to Tutwiler, to create this training center. It provides a professional and appropriate setting for staff training. The monitor and DOJ attorneys had an opportunity to sit in on a staff training program. All commented on the skill and enthusiasm of the trainer. Overall, Tutwiler is equipped with a solid training curriculum and the appropriately credentialed staff to deliver this training.

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

During previous compliance visits, the monitor has met with Ms. Christy Vincent, ADOC's PREA Coordinator, who oversees the work of the IPCMs, to discuss her oversight mechanisms, and the training she provides to the IPCM's. Ms. Vincent also works with central office and facility staff to coordinate and schedule the facility PREA audits. Tutwiler's initial PREA audit was conducted in May 2016. Tutwiler's second PREA audit is scheduled to be conducted January 22-24, 2019. Preparations for the audit were underway at the time of this compliance visit.

In addition to meeting with Commissioner Dunn and Associate Commissioner Matt Brand, the monitor met with Mr. Arnaldo Mercado, Director of ADOC's I & I Division; Ms. Kelley Smith, Tutwiler's investigator; Ms. Lynn Brown, Office of Health

Services; and Mr. William Lawley, ADOC's Personnel Director. All ADOC central office staff consistently demonstrated working knowledge of their settlement related responsibilities during their interviews with the monitor.

#### *Tutwiler Leadership*

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

As previously acknowledged, upon her promotion from captain to warden, Warden McClain retained her duties as Settlement Coordinator. The monitor interviewed Warden McClain in the privacy of her office and reviewed the settlement agreement documentation retained in her office. Warden McClain plays a critical role in tracking Tutwiler's compliance, maintaining documentation, and organizing the RMS. She is very well organized and her follow through on issues is exceptional.

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

Lt. Felisha Blanding assumed the role of Tutwiler's IPCM on May 16, 2018. Lt. Blanding was one of the original ADOC Regional PREA Coordinators for the ADOC from 2009 to 2013, and she served in that capacity for the female inmate population. She had been serving in the ADOC Training Division as a training supervisor for the last five

years, where she continued to conduct staff training and education on PREA and related topics. Lt. Blanding attended IPCM's training conducted by ADOC's PREA Coordinator in January 2018. She also attended PREA audit preparation training on April 30, 2018 with the Assistant ADOC PREA Coordinator. Ms. Christy Vincent, ADOC's PREA Coordinator, also provided additional PREA training for Lt. Blanding on May 30, 2018. The administration has ensured continuity of services is maintained in this critical role. Lt. Blanding was fully available to the monitor during the December 2018 compliance visit to ensure a comprehensive review of documentation she maintains and to address all the monitor's questions. The monitor met privately with Lt. Blanding in her office to review documentation and was impressed with Lt. Blanding's tracking system and record-keeping. Sgt. Emily Abbott, who had previously served in this important role, will continue to serve as the back-up IPCM for Tutwiler.

Ms. Tina Tyler, the Institutional Grievance Coordinator, also fills a critical leadership role at Tutwiler. Ms. Tyler, a civilian, has been serving as Tutwiler's American with Disabilities Administrator. The monitor also met privately with Ms. Tyler in her office to review specific grievances. Ms. Tyler's documentation is excellent and her follow-through on issues is exemplary. The administration has ensured continuity in the performance of this critical function.

#### *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, and the gender

responsive review of draft policies, validation of the WRNA, and the provision of staff training and inmate education.

*ADOC Strategic Planning Committee*

The ADOC Strategic Planning Committee continues to meet once a quarter to review and guide the ADOC and Tutwiler's efforts for creating sustainability models/practices/tools for their operations, future plans and mission for women offenders in Alabama. The monitor reviewed the minutes from the committee's meeting of October 29, 2018.

*Tutwiler Sexual Safety Culture*

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

Tutwiler currently uses SOP 8-12, *Form A, PREA Risk Factors Checklist*, to screen all inmates for risk of victimization or abusiveness. This form was originally created in May 2014. After consultation with other states to get input on risk factors checklists in use elsewhere, the form was revised in January 2016. All inmates are screened within 72 hours of arrival. The process is conducted by the classification staff. If an inmate is assessed as being at risk of sexual abuse or of being sexually abusive toward other inmates, a mental health referral is completed by the classification specialist, and that inmate will be interviewed by a mental health practitioner that day. Inmates are

reassessed within 30 days of their arrival. The monitor met with Ms. Felicia Greer, Tutwiler's Mental Health Site Administrator, to review her tracking system and her documentation. Ms. Greer maintains impressive records of inmate referrals and attendance of staff at required training programs.

The IPCM and Psychological Services actively follow up with any inmate who presents at risk of being sexually abused or sexually aggressive toward inmates. Consideration is given to the respective inmate's housing, bed, work, education, and program assignments. Placement and programming assignments for an inmate at high risk of sexual victimization are reassessed at least twice a year. Tutwiler has been in communication with The Moss Group, Inc. about working with the principle researchers at the University of Nebraska, who worked on the PREA risk screening tools for the Iowa Department of Corrections, with the goal of revising Tutwiler's *PREA Risk Factors Checklist* to incorporate gender-responsive weights and measures into the screening tool.

### **Alabama Challenges**

#### *Tutwiler Facility*

The monitor continues to note the challenges that the prison's aging infrastructure presents for leadership. Specifically, options for program space, medical and mental health screening and treatment, housing placements, and the day room areas are severely limited by the old design, aging infrastructure and overcrowding. The physical plant also impacts staffing requirements, as it has a direct bearing on operations and the location of officer posts. The physical plant is sprawling and some housing and program areas are isolated and poorly lit, impacting the number of posts and staff needed to support safe

and secure operations.

### *Population Capacity*

Tutwiler's original design had an operating capacity of 350 and the annex was rated at 128. The daily count has historically been nearly double the facility's original capacity. Currently, the operational capacity is 700 for the main campus and 250 at the annex. On December 3, 2018, Tutwiler's total inmate population count was 876. At main Tutwiler, 630 beds were filled. At Tutwiler's annex, 246 beds were filled.

While a population reduction has provided relief for the intake dorm, the overall level of chronic population overcrowding continues to present challenges. Both the settlement requirement for the development of a gender based classification system and the development and implementation of gender-based programs at Tutwiler will be impacted by the overcrowding issues at Tutwiler. Specifically, plans will require the development of various housing options for separating groups of inmates, via the classification review process, that will be difficult to maintain as bed space must be allocated according to new placement criteria as it is implemented. In addition, the classification system will prescribe a number of program offerings that should be available for the inmates, based on a needs assessment. Currently, the space available for inmate programming is very limited. The staff have creatively converted and renovated every space possible to provide additional room for expanded programming. Central Office staff has worked with Deputy Commissioner Williams to provide support by allocating resources for capital improvements.

### *Staffing Challenges-Overall Vacancies and Recruitment and Retention of Women*

The monitor notes that the chronic, ongoing number of staff vacancies at Tutwiler presents a serious concern for leadership, staff and inmates, and could possibly impact the safety and security of the facility. In the first court report, the monitor noted a vacancy rate of almost 50% of authorized, funded positions. At the end of calendar year 2016, correction officers were at 41.8% staffing level. As of June 30, 2017, correction officers were at 38% staffing level. On March 13, 2018 correction officers were at 33% staffing level. As of June 30, 2018, 40% of correction officer positions were filled. On December 31, 2018, 42 % of correction officer 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. Correction officers, especially single parents, face challenges balancing family obligations with unscheduled, forced overtime demands. This can lead to an increase in staff members "calling out" sick as a means to obtain needed time off. The reliance on overtime to staff critical functions is not a long term solution to the staffing shortfall.

Previously, the monitors have reported that this mandated overtime policy has caused stress and concern among the officers interviewed by the monitors during compliance visits. This situation continues to be an area of deep concern for staff, and according to staff interviewed during this and prior monitoring visits, it is adversely impacting staff morale. During some of the monitor's interviews, uniformed security staff expressed concern about the impact of staff shortages, overtime and staff scheduling on staff morale. A decision was made to transition to the 8-hour shifts effective June 3, 2017.

The monitor discussed these chronic staffing issues with Associate Commissioner Brand, Deputy Commissioner Williams and Director Lawley. Associate Commissioner Brand continues to oversee the correction officer training and hiring processes, including the physical fitness screening process, but the Alabama Merit System determines the minimum qualifications, administers examinations, and establishes employment resisters for all positions within the classified services. ADOC does not have control or oversight over these functions.

*Recruitment and Retention*

*Physical Agility/Ability Test (PAAT)*

Overall, the recruitment and retention problems that lead to the high vacancy rate remain a concern. The recruitment and hiring data underscore a system-wide issue with the application of the Alabama Peace Officers' Standards and Training Commission (Commission or APOSTC) physical standards to women candidates. Commissioner Dunn took an important first step in his outreach to the Commission by submitting a request to modify the administration of the PAAT academy training requirements for state correction officer applicants. It was encouraging that the Commission approved the Commissioner's request to modify the administration of the PAAT, which became effective January 2017. The revised Commission rules pushed the 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. Because the PAAT had been moved to the end of the academy, the ADOC discontinued the physical fitness assessments that were conducted on all correctional officer trainees during their pre-academy assignment. The basic training academy Class 17-01, which began in February 2017, was the first class to



enter the academy under the new Commission rules regarding the physical agility/ability requirements. At the time, this change reportedly produced some promising results. The trainees who could not pass the PAAT in week one, including one of the women, all passed the test by week eight and all successfully graduated the academy in May 2017. This was the first time in recent memory that no one, male or female, was removed from the basic training course for a PAAT failure.

Unfortunately, the Monitor and the DOJ were notified during the June 2018 Compliance Visit, that APOSTC was reverting back to its original practice of administering the test during the first week of training and that the Commission had agreed to allow ADOC to continue the eight-week administration through calendar year 2019. During the December 2018 Compliance Visit, the Monitor was advised that, based upon some preliminary discussions, the APOSTC may look favorably on extending the waiver that allows the ADOC to physically test trainees in week eight instead of week one. The ADOC plans to formally request an extension to the waiver in 2019 at an APOSTC meeting. In addition, the Monitor is advised by ADOC that APOSTC has agreed in principle to support a two-part corrections academy that would help ADOC to develop a new "non-APOSTC" correctional officer position to work basic correction posts such as a "population dorm". Candidates for this "non-APOSTC" officer would attend Part 1 of the training academy, and graduate as a "basic" correctional officer and be authorized to work on posts that do not require firearms or any other specialized training. This new category of officers would have to pass an occupational fitness test, but would not be required to meet current APOSTC physical fitness standards, including the 1.5 mile timed run and 22 pushups that often eliminate prospective trainees. The

Monitor and DOJ expressed a cautionary note of concern that this proposed new category of officers could be filled disproportionately by women, creating a lesser role, with very limited career advancement.

Under the terms of the settlement agreement, ADOC and Tutwiler are to continue to work with the APOSTC in the screening, selecting, or hiring of applicants for entry-level corrections officer positions until such standards, or any other physical test employed, are both validated for a corrections environment and examined for the necessity of gender-norming certain components.

The Commission contracted with Auburn University at Montgomery (AUM) for the review of the validation study of their PAAT standards and to assess any disparate impact on women candidates. The monitor and DOJ received a copy of AUM's assessment from the ADOC on January 2, 2018. The report details several deficiencies in the eighteen year old validation study. The monitor remains unconvinced that there is a direct correlation between PAAT performance and job performance or other current job outcomes for corrections staff. Until such time as the validation of these standards for correction officers and evidence that the standards have been examined for the necessity of gender-norming certain components is addressed or the terms of the agreement modified, the monitor determines "partial compliance" with this provision. The AUM Report suggests an alternative validation approach may be warranted if adverse impact is ever a problem. The researcher argues that when women elect to retest, there is no adverse impact against them because "the pass rate improves when the number of attempts is very high. When given enough attempts it appears that almost every candidate who attempts every test will eventually pass one." The Commission appears to have

given very little, if any, consideration to (a) the differences between police officer and correction officers jobs, (b) the extent to which job duties have changed in the last eighteen years, and (c) the extent to which women candidates for correction officer positions engage in repeated retesting.

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

The monitor has requested the ADOC compile a report detailing their interactions with APOSTC and the barriers they face validating the APOSTC standards for a corrections environment and for the necessity of gender-norming certain components of those standards.

#### *Recruitment Initiatives*

On July 1, 2018, Captain Karen Williams assumed the role of Recruiting Unit Director for the ADOC. Currently Captain Williams reports directly to Mr. Lawley, the ADOC's Director of Personnel. As previously described, 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. ADOC now has three full time recruiters working with Captain Williams. 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. While the recruitment effort is aimed at all races and genders, special outreach to historically African-American colleges and female institutions of learning have been initiated.

Effective July 1, 2018, the differential pay incentive for Tutwiler was increased from 5% to 10%, and effective September 1, 2018, a 3% cost-of-living adjustment was added to the base pay of all state employees. The entrance level salary is \$29,730.80 for a Tutwiler corrections officer, \$31,217.34 for an officer with an associate's degree, and \$32,703.88 for an officer with a bachelor's degree. It is hoped this adjusted differential will enhance both recruitment and retention of security staff.

ADOC has engaged in two promising efforts to increase correctional staff. Troy University's Center for Public Service concluded a comprehensive analysis of the compensation and benefits offered by ADOC to correctional staff. Their final report included a comparison of ADOC compensation and benefits for correctional staff to the compensation and benefits afforded by law enforcement agencies at the state, county, and local level. The monitor was advised that this analysis resulted in short-term and long-term recommendations for ADOC concerning compensation and benefits of correctional staff. The second effort involves a comprehensive analysis conducted by the firm of Warren Averett. This firm conducted an analysis of ADOC's policies, practices, and procedures relating to or affecting the recruitment, employment, and retention of correctional staff. Warren Averett also made short-term and long-term recommendations

for ADOC concerning recruiting, hiring, and retention of correctional staff. The monitor requested to review these two reports and was advised by ADOC that they are currently under court seal as part of other litigation. The monitor looks forward to reviewing these reports when they are made available.

The monitor was also advised that ADOC would soon be contracting with a company that specializes in recruitment marketing to assist the ADOC and all facilities, including Tutwiler in this area.

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

Tutwiler has also distributed job satisfaction surveys on a bi-annual basis. The first survey was administered in Spring 2017. The ADOC and Tutwiler committed to another staff survey in 2018. A draft survey was provided to the DOJ and monitor on April 2, 2018. The instrument was modified based upon feedback, and it launched on May 15, 2018. Employees had until June 8, 2018, to complete the survey on line. The results of the survey were provided to the DOJ and monitor on July 16, 2018, and provided some insights about employees' perceived training needs, communication issues, relationships with supervisors, and staff morale. Nearly 75% of respondents expressed satisfaction with their jobs, while 25% disagreed. Almost 83% of the survey takers plan on working for ADOC for at least another year, while 17% do not. When asked if they feel committed to the vision for ADOC's Women's Services, 73%

responded affirmatively, nearly 20% responded "somewhat" and 7% chose "not at all" as their response. While much work remains to be done, the results of this survey are encouraging.

Tutwiler is also committed to supporting those who work in the Women's Services Division, specifically. Tutwiler is exploring strategies to increase workplace health and wellness for staff. There are plans to open an employee gym at the new Women's Division Training Center for use by staff. Space is currently being renovated to house an employee break room and a new parking lot is planned, which will address the extreme shortage of on-site parking space.

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

## **Logistics**

### ***Compliance Visit***

The purpose of this December 2018 compliance visit was for the monitor to acquire information and observations to inform the seventh court compliance report. The monitor and Deputy Commissioner Williams worked together to finalize the tour agenda and interview schedule.

*Introductory Meeting /Presentation by Warden Wright*

Warden Wright provided an overview of progress made at the facility to the monitor and DOJ (via telephone conferencing) at an opening meeting attended by Deputy Commissioner Williams and key members of Warden Wright's management team.

*Compliance Visit Interviews*

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

*Alabama Department of Correction*

- ADOC Commissioner Jefferson Dunn
- Dr. Wendy Williams, Deputy Commissioner for Women's Services
- Mr. Matt Brand, Associate Commissioner for Administrative Services
- Ms. Lynn Brown, Office of Health Services
- Ms. Carrie McCollum, ADOC General Counsel
- Ms. Mary-Coleman Roberts, ADOC Counsel
- Mr. Arnaldo Mercado, Director of ADOC's I&I Division
- Ms. Kelley Smith, I&I's Tutwiler investigator
- Mr. William Lawley, ADOC Personnel Director

*Tutwiler Prison for Women*

- Ms. Deidra Wright, Warden III
- Ms. Lagretta McClain, Warden I and Settlement Compliance Manager

- Lieutenant Felisha Blanding, IPCM
- Sergeant Emily Abbott, Segregation Supervisor
- Ms. Tina Tyler, ADA Coordinator/Inmate Grievance Coordinator
- Ms. Constance Johnson, Wexford's Tutwiler Medical Site Administrator
- Ms. Felicia Greer, Wexford's Tutwiler Mental Health Site Administrator
- Ms. Lynda Jackson, Wexford 's Tutwiler Director of Nursing

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

During interactions with inmates from various housing dorms, the monitor used a set of questions regarding their knowledge of PREA policies, reporting of allegations, the grievance system, staff/inmate professional relationships, and the availability of reporting allegations using various phone lines. The women discussed incidents they observed of unprofessional conduct, their use of the grievance system, impressions of the new behavior intervention and inmate discipline program, and their overall feeling of safety at Tutwiler. Their responses are documented in the monitor's discussion in various sections of the compliance report. Several topics were repeatedly raised by the women. They made allegations against a small number of officers using vulgar, degrading, or racially insensitive or offensive language. Some women expressed a great deal of frustration over the lack of consistency in practice between shift officers, especially in the housing units.



In several housing units, inmates expressed their concern about the amount of smoking that takes place in the shower areas. In several units, the monitor could smell what appeared to be cigarette smoke. Others alleged a perception that racism was an issue and that officers treated inmates, specifically same-sex couples, differently based upon race. The specific issue of perceived racial discrimination, though raised during this visit, was brought up far less often than it was during the previous monitoring visit. The majority of the prison staff is African American, and the majority of the inmate population is Caucasian. The women allege that African American inmates get preferential treatment. The monitor recognizes these issues are deeply embedded in culture and the past experiences of the women pre-incarceration.

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

#### *Facility Tours*

During the tour of the facility during the compliance visit, the monitor noted improvements to the physical plant and to the overall cleanliness of the physical plant.

The management team creatively repurposed or rehabbed many areas of the facility to be used as program space. The monitor observed several on-going renovation projects while touring the facility. As programming options for the women expand, leadership will be challenged to maximize the use of all available, appropriate space.

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

Throughout the tour, ADOC and Tutwiler staff afforded the monitor the time, space, and many opportunities to engage in private conversations with both staff and inmates in housing and program units. Staff consistently demonstrated knowledge of sexual safety and their individual roles and responsibilities in this area. Generally, the inmates acknowledged and expressed appreciation for the positive changes at the facility. Feedback from the long termers underscored that many women feel much safer at Tutwiler today.

Appreciating that the institutional climate and culture can differ shift to shift, the monitor and Deputy Commissioner Williams conducted an unannounced night visit to the facility for the purpose of observing operations during the evening shift, when top facility leadership are generally not on-site. This visit was conducted on the evening of December 2, 2018. The facility climate was very quiet and low-key.

During the December 2018 monitoring visit, the monitor also visited:

- Dorm K
- various other housing units, including the Mental Health Unit

- death row, and had an opportunity to meet with these women and discuss their individual awareness of policies addressing sexual abuse and sexual harassment, how to report allegations, and the use of the grievance system
- the segregation unit and talked with the two inmates housed there
- the mental health stabilization unit and spoke with some of the inmates housed there
- the infirmary, clinic area
- shift commander's office
- many administrative offices
- program space
- the video operations in the camera room and discussed the operation with the operator on duty
- Annex

While work on the youthful offender trailer was completed on October 20, 2016, making it ready for occupancy and providing designated placement for this specialized population, Tutwiler did not receive any youthful offenders during this reporting period, so this unit was again vacant during the monitor's December 2018 visit.

#### *Document Review*

In addition to the interviews and discussions with staff and the tours of Tutwiler, the monitor reviewed a wide variety of documents, correspondence, records, and staff reports. These documents are listed in the "Measures of Compliance" box in the audit tool for each section. The monitor reviewed most of these documents prior to her visit

and reviewed some documents on-site during the visit. In addition, the monitor made several additional follow-up requests for documents and these were sent to her after the visit. Attachment A to this report lists documents reviewed by the monitor prior to, during, and after the compliance visit.

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

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

#### *Exit Debriefing with ADOC Leadership*

The monitor and Deputy Commissioner Williams debriefed each day of the compliance visit, so Deputy Commissioner Williams, the monitor, and DOJ (one attorney on site, the other via teleconference) conducted an abbreviated exit meeting at the conclusion of the compliance visit, where the monitor made a request for some additional documents and data.

#### ***Monitoring Tool***

The parties had previously agreed on a "monitoring tool" format for each of the settlement provisions and their subsections. The front page of each provision in the tool includes both the specific requirements for that section and the dates for the ADOC's compliance. The settlement provides, for most requirements, that the ADOC: create a

policy; train staff on that policy; and implement the policy in the regular activities at Tutwiler and the ADOC. Specifically, an approved ADOC policy must first be published for operational practice in a facility. At Tutwiler, the facility develops written SOP's 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 SOP's in the actual practice of the directives at the facility.

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

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

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

their correspondence received by the monitor.

8) Using routine communication with the parties, prior to, during, and after the visit to ask for more information or clarification regarding the settlement, its terms and requirements and determinations of compliance.

9) The monitor sent the first draft report to both parties on February 8, 2018.

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

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

### **Summary of Compliance**

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

requirement, trained relevant personnel on the policy, and relevant personnel are complying with the requirement in actual practice.

### **Closing Observations**

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

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



**Attachment A:**  
**List of Documents Used for Compliance Report**

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

- Inmate Survey and Polling Plan
- First Quarter Inmate Survey Results
- Second Quarter Inmate Survey Results
- Third Quarter Inmate Survey Results
- Fourth Quarter Inmate Survey Results
- First Quarter Inmate Survey Results (Year Two)
- Second Quarter Inmate Survey Results (Year Two)
- Third Quarter Inmate Survey Results (Year Two)
- Fourth Quarter Inmate Survey Results (Year Two)
- Auburn University's MOU with ADOC
- Auburn University's Polling Proposal
- Tutwiler PREA Incident Review Committee reports, July-December 2018
- Tutwiler Risk Management System spreadsheet, July-December 2018
- Risk Management System Summary
- Quarterly Risk Management System Data Review
- Spreadsheet of Staff Identified in Risk Management System -Corrective Action Taken
- Annual assessment of the Risk Management System, December 2017
- Annual assessment of the Risk Management System, November 2018
- Log of unannounced rounds by supervisors
- Monthly Grievances, July-December 2018-randomly selected
- All PREA-related inmate grievances, July-December 2018
- Tutwiler spreadsheets documenting inmate disciplinary infractions, July-December 2018
- Gender Responsive Classification Policy
- ADOC Women's Services Classification Instruction Manual
- Tutwiler PREA risk factors checklists
- Tutwiler PREA risk re-assessments checklists (30-day reassessment)
- Tutwiler ADOC mental health referrals to Wexford for PREA assessments
- Tutwiler mental health treatment notes for initial PREA assessments
- Spreadsheets/logs for the classification checklists
- Update on progress of the pilot administration of the WRNA and any data collected.
- WRNA Validation Committee's agenda, notes, and PPT
- WRNA Validation Project Proposal
- Intake Unit inmate movement sheets
- Intake Unit Receiving Log
- Intake Unit quarterly workgroup meeting minutes

- Dorm Representatives Meeting Minutes
- Tutwiler Bed Count Roster for December 5, 2018
- ADOC's Classification PREA risk referral log
- Wexford new employee orientation Manual
- Wexford new Staff Orientation "On-boarding" training curriculum and manual
- Wexford staff training records, including post tests for oldest and newest employees.
- Wexford PREA policy
- Wexford staff training records
- Wexford PREA sexual assault allegations log
- Wexford PREA inmate evaluation log
- Wexford inmate grievance log
- Tutwiler ADOC and Wexford mental health staff meetings minutes -July-December 2018
- Tutwiler Classification PREA Risk Referral Log
- Draft Administrative Regulation 637-Gender Dysphoria Disorder
- Gender Identify Committee Review Meeting, Tracking Log
- Completed and published PREA audit, May 2016
- Communications log maintained by Lt. Blanding, regarding calls, emails, etc. with ADOC PREA Coordinator Vincent
- Bi-monthly PREA reports from Lt. Blanding to ADOC PREA Coordinator Vincent
- PREA #66 hotline calls log, maintained by Institutional PREA Compliance Manager for July-December 2018
- Monthly spreadsheet of calls made to ADECA
- Notification to inmate population regarding availability of hotline
- Copies of Random Inmate Interviews conducted by Lt. Blanding to monitor reporting culture for July-December 2018
- Training rosters maintained by Lt. Blanding for July-December 2018
- PREA training documentation for the private transport security staff
- Training documentation for Tutwiler staff, contractors, volunteers, overtime staff in SOPs
- PREA & Gender Responsive Refresher Training Facilitator Guide
- Randomly selected training evaluations from Tutwiler staff attending the required PREA (SOP 8-12) and gender responsive training
- Log of Pregnant Inmate Intake maintained by Lt. Blanding
- Pregnant Inmate Intakes Statements maintained by Lt. Blanding
- Tutwiler "inmate on inmate harassment" allegation investigations, completed by Lt. Blanding July-December 2018
- Tutwiler inmate education session attendance logs for July-December 2018
- Final Inmate Orientation Guide
- Certification of completion of inmate education on the new Women's Services Classification Manual
- Engaging Women in Trauma-informed Peer Support: A Guidebook

- Copies of Gender Responsive Women's Programs Work Group agenda, notes and PowerPoint presentation
- Women's Services Handbook
- Tutwiler camera room surveillance logs, July-December 2018
- Tutwiler annual assessment of the camera operations - November 2017 & December 13, 2018
- Tutwiler Gender Responsive Staffing Analysis and plan
- Tutwiler staffing updates for July-December 2018
- ADOC Recruitment and Retention data, July-December 2018
- Auburn University's study of Physical Agility Ability Testing (PAAT) ,conducted for the Alabama Peace Officers' Standards and Training Commission, December 2017
- Tutwiler staff discipline: July-December 2018
- Abusive and Profane Language Intervention Plan
- Tutwiler shift duty rosters (noting overtime staff)
- Tutwiler list of currently approved overtime employees
- Periodic Staff Overtime Reports
- Social Service Caseworker lateral transfer announcement approving the filling of positions
- Randomly selected Tutwiler shift dorm assignment logs
- Correctional Officer Trainee, "Physical Fitness training "assessments/ reports, July-December 2018
- ADOC reports for the staff physical fitness exams results, from the academy, for July-December 2018 broken down by gender
- Inmate correspondence received by the monitor during July-December 2018
- PREA-related investigations, completed by ADOC Investigations & Intelligence July-December 2018
- SOP 8-30, *Behavior Intervention and Inmate Discipline (draft)*
- Implementation plan for SOP 8-30 *Behavior Intervention and Inmate Discipline*
- Curriculum for the specialized "investigator " training
- SOP 8-24 *Disciplinary Segregation*
- Draft SOP *Structured Living Unit*
- Women's Services, Retention and Recruitment Plan, July 2018

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

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

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

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

**Attachment C: Summary of Compliance**

Requirement	Description	Substantial Compliance	Partial Compliance	Non-Compliance	N/A
<b>III.A. GENERAL POLICIES AND PROCEDURES</b>					
A.1	ADOC and Tutwiler shall comply with all provisions of PREA.  ADOC and Tutwiler shall continue to comply with the ADOC's written policies and procedures mandating zero tolerance toward all forms of sexual abuse and sexual harassment.  This agreement takes precedence over any ADOC and/or Tutwiler policy governing the operation of Tutwiler that may conflict with this agreement.	X			
A.2	Shall develop; submit to the Monitor and DOJ for review consistent with III.A.6; and Implement policies and procedures regarding the management of lesbian, gay, bisexual, transgender, intersex, and gender nonconforming inmates. The policy shall emphasize the rights of lesbian, gay, bisexual, transgender, intersex, gender nonconforming and gender dysphoric inmates to a safe, non-discriminatory and respectful environment.	X			
A.3	Continue to comply with ensuring women receive essential supplies, including hygiene and feminine hygiene products, tampons and pads; linens; and uniforms by making them available on a monthly basis or more frequently as needed. The policy will continue to require the tracking and distribution of these products. ADOC and Tutwiler will continue to ensure that both tampons and sanitary pads are readily available, free of charge, to Tutwiler inmates.	X			
A.4	Shall develop and implement policies and procedures that incorporate gender-responsive strategies, including policies and procedures governing the use of force against women inmates and discipline of women inmates	X			
A.5	Shall continue to develop, submit to the Monitor and DOJ for review consistent with III.A.6, and implement facility-specific policies and operational practices specific to Tutwiler's population regarding the supervision and monitoring necessary to prevent inmates from being exposed to unreasonable risk of harm from sexual abuse and harassment.	X			
<b>III.B. CAMERA MANAGEMENT</b>					
B.1	Camera management policies and procedures will remain in effect at Tutwiler	X			
B.2	Camera management policies and procedures, including the locations where cameras have been placed, will be reviewed at least annually to ensure they are serving their goal of maximum supervision.	X			
<b>III.C. STAFFING</b>					
C.1(i)	ADOC and Tutwiler shall continue to develop, submit to the monitor and DOJ to assess for compliance with this agreement and implement its plan to recruit women correctional officers at Tutwiler		X		
C.2	In order to address low staffing levels and the need for more women officers, ADOC and Tutwiler shall ensure that correctional staffing and supervision is sufficient to adequately supervise inmates and staff and allow for the safe operation of Tutwiler.		X		
<b>III.D. TRAINING</b>					
D.1	ADOC and Tutwiler shall train all staff who may have contact with inmates with the following:	X			
D.2	Within six months of the Effective Date, all staff shall have received training as set out in Section III.D.1	X			
D.3	ADOC and Tutwiler shall provide annual refresher training to all staff	X			
D.4	The Monitor will work with ADOC and Tutwiler in drafting new training materials and/or revising current training materials set out in III.D.1 and III.D.3	X			
D.5	ADOC shall certify and document to Tutwiler's PREA Compliance Manager, the Department-wide PREA Coordinator, the Monitor, and DOJ, that all staff have been trained	X			
<b>III.E INMATE EDUCATION</b>					

Requirement	Description	Substantial Compliance	Partial Compliance	Non-Compliance	N/A
E.1,3,6,7	(Inmate Education: Intake) 1. ADOC and Tutwiler shall ensure that, during the intake process, all inmates receive information regarding the following (listed below): 3. Current Tutwiler inmates will receive the information and education described in III.E.1 within three months of the Effective Date (by August 28, 2015). 6. Consistent with current policy, ADOC and Tutwiler shall ensure that the information outlined in III.E.1 is conveyed and made available in formats accessible to all inmates, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled as well as to inmates who have limited reading skills. 7. ADOC and Tutwiler shall provide the Monitor and DOJ for their review consistent with Section III.A.6 any materials or curriculum utilized to satisfy the requirements of III.E.1	X			
E.2,3,4,5,6,7,8	(Inmate Education: Comprehensive) 2. Within 14 days of intake, ADOC and Tutwiler shall provide comprehensive orientation education to inmates either conducted in-person or through a video presented by an in-person facilitator regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding their policies and procedures for responding to such incidents. 3. Current Tutwiler inmates will receive the information and education described in III.E.2 within three months of the Effective Date (by August 28, 2015). 4. ADOC and Tutwiler shall ensure that the individual conducting or facilitating the comprehensive inmate educational orientation is trained on Tutwiler's and ADOC's policies and procedures related to sexual abuse and sexual harassment, the PREA standards, and this Agreement. 5. The individual conducting or facilitating the comprehensive inmate orientation education shall remain in the room during the entire orientation and shall monitor the inmates for reactions to and understanding of the information. A mental health practitioner will serve as an advisor to the orientation process and services will be available during the orientation process if indicated. 6. Consistent with current policy, ADOC and Tutwiler shall ensure that the information outlined in III.E.2 is conveyed and made available in formats accessible to all inmates, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled as well as to inmates who have limited reading skills. 7. ADOC and Tutwiler shall provide the Monitor and DOJ for their review consistent with Section III.A.6 any materials or curriculum utilized to satisfy the requirements of III.E.1 8. ADOC and Tutwiler shall maintain documentation of inmate participation in the education sessions required by III.E.2.	X			
<b>III.F. GENDER-RESPONSIVE CLASSIFICATION</b>					
F.1	Within two months of the Effective Date, ADOC and Tutwiler shall convene a working group to evaluate methods to decrease or eliminate Tutwiler's use of Dorm A for a period of time that exceeds 48 hours while screenings are completed, including an examination of the necessity of PAP test and/or other medical, mental health, or intellectual test results prior to classification and failures to provide adequate continuity in medical and mental health care to Dorm A residents	X			
F.2	Within six months of convening of the working group, ADOC and Tutwiler shall retain an expert in gender responsive assessment and classification.	X			
F.3,4	3. The approved plan for implementation of the classification system shall be managed by an implementation workgroup and completed within two years of the approval of plan 4. The system shall provide programs that incorporate gender responsive principles and address the needs of women inmates at Tutwiler, including those addressing sexual abuse, sexual harassment, and trauma; domestic violence; dating violence; and medical and mental health care.				X (not due until 3/28/2019)
<b>III.G RISK ASSESSMENT</b>					
G.1	ADOC and Tutwiler shall continue to utilize a risk assessment instrument to screen for risk of victimization and abusiveness	X			



Requirement	Description	Substantial Compliance	Partial Compliance	Non-Compliance	N/A
G.2,3	<p>2. Inmates at high risk for sexual victimization shall not be placed in involuntary segregation housing due to their high risk of victimization unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers. Such an assessment and determination shall be documented, explain the basis for Tutwiler's concern for the inmate's safety and the reason why no alternative means of separation can be arranged. A review of such determination must be afforded each inmate at least every 30 days to determine whether there is a continuing need for separation from the general population.</p> <p>3. Inmates placed in segregated housing Due to potential victimization shall, to the extent possible, have full access to programs, privileges, education, and work opportunities as inmates in general population housing.</p>	X			
<b>III.H. INMATES' RIGHT TO PRIVACY</b>					
H.1	Cross-Gender Searches : ADOC and Tutwiler shall continue to comply with its policy regarding cross-gender pat and strip searches	X			
H.2	<p>2.i Cross- Gender Viewing: ADOC and Tutwiler shall develop, submit to the Monitor and DOJ for review consistent with Section A.III.6, and implement policies and procedures that enable inmates to perform bodily functions – such as showering, bathing, and using the toilet – and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances of when such viewing is incidental to routine cell checks</p> <p>2.ii ADOC and Tutwiler shall develop, submit to the Monitor and DOJ for review consistent with Section III.A., and implement policies and procedures regarding the method of conducting inmate counts. This policy and procedure shall limit inmate movement during inmate counts and shall prohibit the practice of conducting inmate counts while inmates are likely to be in the shower and toilet areas</p>	X			
H.3	ADOC and Tutwiler shall continue to implement its plan to address the architectural features that contribute to a lack of privacy for inmates while showering or using the toilet	X			
<b>III.I. REPORTING ALLEGATIONS OF SEXUAL ABUSE AND SEXUAL HARASSMENT</b>					
I.1	ADOC and Tutwiler shall continue to comply with its policy on reporting allegations of sexual abuse and sexual harassment. Any modification of that policy shall be submitted to DOJ and the Monitor for review consistent with Section III.A.6. ADOC and Tutwiler shall provide multiple internal methods, including a grievance process and at least one confidential method, for inmates to report sexual abuse and sexual harassment, retaliation by other inmates or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents.	X			
I.2,3	<p>2. ADOC and Tutwiler shall also provide at least one way for inmates to report abuse or harassment to a public or private entity or office that is not part of the agency, and that is able to receive and immediately forward inmate reports of sexual abuse and sexual harassment to agency officials, allowing the inmate to remain anonymous upon request. The method provided should be through a toll-free number or other method as agreed to by the Monitor and DOJ.</p> <p>3. ADOC and Tutwiler shall provide a method for staff to confidentially report sexual abuse and sexual harassment of inmates</p>	X			
I.4,5	<p>4. Third parties shall be permitted to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse and sexual harassment, and shall also be permitted to file such requests on behalf of inmates</p> <p>5. All third party reports of sexual abuse and sexual harassment shall be forwarded immediately to the Departmental PREA Coordinator and be investigated and processed in accordance with Policy. As part of this process, the Departmental PREA Coordinator will inform Tutwiler's PREA Compliance Manager of all third party reports received.</p>	X			

Requirement	Description	Substantial Compliance	Partial Compliance	Non-Compliance	N/A
I.6, 6.viii	<p>6. Grievances: ADOC and Tutwiler shall continue to develop and submit policies and procedures for an inmate Grievance System to the Monitor and DOJ for review within three months of the effective date and, within four months of the effective date, implement the inmate Grievance System. This policy shall clearly prohibit retaliatory practices by staff against inmates who file a grievance and should include the requirements listed in III.I.6.ii-ix</p> <p>6.viii ADOC and Tutwiler shall develop, submit to the Monitor and DOJ for review consistent with Section III.A.6, and implement policies and procedures for the filing of an emergency grievance where an inmate is subject to a substantial risk of imminent sexual or physical abuse</p>	X			
I.7,8,9	<p>7.ADOC and Tutwiler shall require all employees to report immediately: Any knowledge, suspicion, or information regarding an incident or alleged incident of sexual abuse or sexual harassment that occurred in Tutwiler, in transport vehicles, or in any off-site facilities under the control and supervision of ADOC or Tutwiler; Retaliation against inmates or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.</p> <p>8.Apart from reporting to designated supervisors or officials, staff shall not reveal any information related to a sexual abuse or sexual harassment report to anyone other than to the extent necessary to make treatment, investigation, and other security and management decisions.</p> <p>9.ADOC and Tutwiler shall report all allegations of sexual abuse and sexual harassment, including third party reports, anonymous reports, and inmate grievances, to Tutwiler's or ADOC's designated investigator</p>	X			
I.10.i	<p>Protecting Inmates and Staff from Retaliation:</p> <p>i.Consistent with ADOC policies, ADOC and Tutwiler shall protect all inmates and staff who report allegations of sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other inmates or staff, and shall designate Tutwiler's PREA Compliance Manager with monitoring allegations of retaliation concerning inmates. Allegations of retaliation against employees will be investigated and processed in accordance with ADOC personnel policy.</p>	X			
<b>III.J. OFFICIAL RESPONSE TO AN ALLEGATION OF SEXUAL ABUSE AND SEXUAL HARASSMENT</b>					
J.1	When ADOC or Tutwiler learns that an inmate may be subject to a substantial risk of imminent sexual abuse, ADOC or Tutwiler shall take immediate action to protect the inmate.	X			
J.2	ADOC and Tutwiler shall continue to comply with Policy and Tutwiler Standard Operating Procedures to coordinate actions taken in response to an allegation of sexual abuse, among first staff responders, medical and mental health practitioners, investigators, and Tutwiler leadership, including time frames and lists of whom staff should report to in specific situations and guidelines regarding the collection of physical evidence.	X			
J.3,6	<p>3.ADOC and Tutwiler shall respond to reports of sexual abuse and sexual harassment or threats of sexual abuse or sexual harassment without regard to an inmate's known or perceived sexual orientation or gender identity.</p> <p>6.ADOC and Tutwiler shall not place in protective custody an inmate who is alleged to have suffered sexual abuse or sexual harassment solely for the purpose of protecting that inmate, unless a determination, documented in writing and reviewed by the PREA Compliance Manager or the Warden's designee within 24 hours, has been made that there is no available alternative means of separation from likely abusers.</p>	X			
J.4,5	<p>4.The written institutional plan shall include procedures that address how staff respond upon learning of an allegation that an inmate was sexually abused; described below</p> <p>5. If the first staff responder is not a security staff member, the responder shall be required to request the alleged victim not take any actions that could destroy physical evidence, and then notify security staff.</p>	X			

Requirement	Description	Substantial Compliance	Partial Compliance	Non-Compliance	N/A
J.7	To the extent they do not already exist, ADOC and Tutwiler shall develop, submit to the Monitor and DOJ for review consistent with Section III.A.6., and implement policies and procedures to provide access to medical and mental health services to women identified as potential or actual victims of sexual abuse and sexual harassment, that occurred either at Tutwiler or elsewhere, including the following:	X			
<b>III.K REFERRALS AND INVESTIGATIONS</b>					
K.1,2	1.ADOC investigators shall continue to investigate allegations of sexual abuse or sexual harassment consistent with their authority as criminal investigators and consistent with Policy and Alabama law. Completed investigations of sexual abuse and sexual harassment will be referred to local prosecutors as appropriate. 2. When ADOC conducts its own investigations into allegations of sexual abuse or sexual harassment, it shall do so promptly, thoroughly, and objectively for all allegations, including third party and anonymous reports. Administrative investigations shall be completed regardless of the results of any criminal investigations and regardless of the subject's continued employment by ADOC	X			
K.4	ADOC and Tutwiler shall develop, submit to the Monitor and DOJ for review consistent with Section III.A.6., and implement guidelines for the immediate initiation of an investigation and/or review upon learning of an allegation of sexual abuse or sexual harassment and develop a process for monitoring those guidelines. The guidelines shall also ensure that investigations that include any allegations of sexual abuse or sexual harassment are properly labeled as such.	X			
K.3,5,7,8,9,10	Investigators 3.The use of pre-hearing segregation shall be limited to inmates whose continuing behavior is a threat to facility safety, or who will not stop the prohibited behavior. Such pre-hearing segregation shall not be used for more than 72 hours, at which time an inmate must be afforded a disciplinary hearing, or provided a written explanation of why the hearing is postponed and when the hearing will be re-scheduled. 5.Where sexual abuse or sexual harassment is alleged, ADOC shall use investigators who have received special training in institutional sexual abuse and sexual harassment investigation. Specialized training shall include techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral. ADOC shall maintain documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations. The Department-wide PREA Coordinator and Tutwiler's PREA Compliance Manager shall not serve as investigators for sexual abuse investigations. 7.The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as inmate or staff. ADOC or Tutwiler are prohibited from offering or administering polygraph examinations or other truth-telling devices to an inmate who alleges sexual abuse or sexual harassment. 8.ADOC shall issue a written investigative report within 30 days after the conclusion of a sexual abuse or sexual harassment investigation that indicates whether the allegation is substantiated, unsubstantiated, or unfounded. The investigator may request in writing, approved by the facility designee, an extension for cause that identifies the remaining actions necessary to complete the investigation. In no case shall the investigation be unfounded solely Due to the expiration of the 30 days. The investigative report shall include an effort to determine whether staff actions or failures to act contributed to the abuse, a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings. 9.ADOC shall work with the Monitor on ensuring that an investigative summary sheet that provides an overview of the current status of an investigation is included. The summary information should include, among other things, basic information such as staff name(s), prisoner names(s), location of incident, and the time of day. 10.The departure of the alleged perpetrator or victim from the employment or control of ADOC or Tutwiler shall not provide a basis for terminating an investigation.	X			

Requirement	Description	Substantial Compliance	Partial Compliance	Non-Compliance	N/A
K.11,12,13,14, 15	<p>Outside Investigations; Inmate Notification</p> <p>11.When outside agencies investigate alleged incidents of sexual abuse, ADOC and Tutwiler shall cooperate with outside investigators and shall endeavor to remain informed, to the extent appropriate, about the progress of the investigation.</p> <p>12.Following an investigation into an inmate's allegation that she suffered sexual abuse or sexual harassment in any ADOC facility or while within the physical custody and control of the ADOC, ADOC and Tutwiler shall inform the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.</p> <p>13.If ADOC or Tutwiler did not conduct the investigation, it shall request the relevant information from the investigative agency in order to inform the inmate.</p> <p>14.Following an inmate's allegation that a staff member has committed sexual abuse or sexual harassment against the inmate, ADOC and Tutwiler shall subsequently inform the inmate whenever: (see below)</p> <p>15.All such notifications or attempted notifications shall be documented.</p>	X			
K.16,17	<p>Investigations Review</p> <p>16.A review team, including upper-level management officials at Tutwiler, with input from line supervisors, investigators, and medical and mental health practitioners, shall conduct an incident review within 30 days of the conclusion of every investigation of substantiated and unsubstantiated allegations of sexual abuse or staff-on-inmate sexual harassment. The review team shall: (see below)</p> <p>17.ADOC and Tutwiler shall implement the recommendations for improvement or shall document its reasons for not doing so.</p>	X			
K.18	<p>.Within 60 days of the Effective Date, ADOC and Tutwiler shall review all pending investigations alleging sexual abuse and sexual harassment to determine whether the investigation was conducted according to the requirements of Section III. K. of this Agreement.</p> <p>Within 120 days of the Effective Date, ADOC and Tutwiler will conduct a similar review of all unfounded allegations of sexual assault and sexual harassment for the past 360 days to determine whether the investigation was conducted according to the requirements of Section III. K. of this Agreement.</p>	X			
<b>III.L STAFF DISCIPLINARY ACTIONS</b>					
L.1	ADOC and Tutwiler shall develop, submit to the Monitor and DOJ for review consistent with Section III.A.6., and implement policies and procedures that track staff disciplinary actions related to allegations of sexual abuse or sexual harassment, to ensure that the directives in III.L.2-III.L.6 below are met.	X			
<b>III.M Limited English Proficient (LEP) Inmates</b>					
M	ADOC and Tutwiler shall work with the Monitor to develop and implement a policy providing for a method of interpretation services for LEP inmates. This method may be through a language telephone line, if necessary. ADOC and Tutwiler shall not rely on other inmates or non-certified employees to translate and/or interpret for LEP inmates.	X			
<b>IV. Quality Improvement and Data Collection</b>					

Requirement	Description	Substantial Compliance	Partial Compliance	Non-Compliance	N/A
M	<p>A. Within one year of the Effective Date, ADOC and Tutwiler shall develop and submit to the Monitor and DOJ for review consistent with Section III.A.6., and implement, written quality improvement policies and procedures adequate to identify and address any deficiencies in ADOC and Tutwiler's prevention, detection and response to sexual abuse and sexual harassment at Tutwiler and to assess and ensure compliance with the terms of this Agreement.</p> <p>B. Within three months of the Effective Date, ADOC shall convene a state-wide working group to evaluate how other state and ADOC entities may contribute to Tutwiler's compliance with this Agreement.</p> <p>C. ADOC and Tutwiler shall establish a system wherein they routinely poll inmates regarding their perceptions of the implementation of the specific terms of this Agreement including the prevalence of staff sexual abuse and sexual harassment, inmate vulnerability to sexual abuse and sexual harassment, the investigation and discipline of staff accused of sexual abuse and sexual harassment, the efficacy of inmate education regarding sexual abuse and sexual harassment, privacy in the showers and toilets, the appropriateness of inmate classification, the levels of staff supervision, the efficacy of the reporting systems for sexual abuse and sexual harassment including grievances, and official responses to, and retaliation for, allegations of sexual abuse and sexual harassment.</p> <p>D. ADOC and Tutwiler shall develop, implement, and maintain, in consultation with the Monitor, a Risk Management System ("RMS") that will document and track facility trends related to: (1) sexual abuse or sexual harassment; (2) unprofessional staff conduct involving inmates, including sexually explicit, vulgar, or degrading language; and (3) use of force incidents.</p>	X			