

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

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

Monitor's Thirteenth Compliance Report

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Introduction

The State of Alabama and the United States Department of Justice (DOJ) entered into a settlement agreement on May 28, 2015. The agreement involves a comprehensive set of provisions regarding the safety and security of the women offenders housed at the Julia Tutwiler Prison for Women (Tutwiler). The purpose of this compliance report is to document the progress of the actions of the Alabama Department of Corrections (ADOC) and Tutwiler in response to the specific requirements of the provisions in the settlement. The settlement provides, for most requirements, that the ADOC: create a policy; train staff on that policy; and implement the policy in the regular activities at Tutwiler and the ADOC. Specifically, an approved ADOC policy must first be published to direct operational practice in a facility. At Tutwiler, the facility develops written standard operating procedures (SOPs) to apply the ADOC policy to direct specific operational practices at the prison. The second step is to train all staff subject to the policy and SOP using an approved training curriculum. The third step is to then implement and document compliance with these policies and SOPs in the actual practice of the directives at the facility.

This is the thirteenth required court report, due February 28, 2022, submitted by independent monitor Kathleen Dennehy, Ph.D. This Court approved Dr. Dennehy as the second monitor on August 26, 2016.

The Consent Decree requires the monitor to conduct an on-site visit and issue a compliance report every six months (Consent Decree, VIII.C.1., DKT 12). Dr. Dennehy last conducted an on-site compliance visit December 1-4, 2019. The next visit had been scheduled to be conducted the week of June 1, 2020. All parties concurred that the challenges presented by the COVID-19 pandemic warranted a postponement of the every six months scheduled on-site visit. In May 2020, the court approved the notice to court of parties' joint agreement to postpone the

June 2020 compliance tour. It was also agreed that the monitor would submit an interim narrative report in lieu of the report that would ordinarily be issued, and the interim report would be informed by information gathered by the monitor, but not include the usual observations from an on-site visit.

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

During previously conducted on-site compliance visits, the monitor had been provided meeting space to engage in private conversations with staff and inmates. In addition to these formal interviews, the monitor had been afforded open and unimpeded access to staff and inmates during the monitoring visit and had many opportunities to question and engage in informal, private conversations with both staff and inmates while touring the housing and program areas. Absent the monitor's ability to tour the facility and benefit from first-hand on-site observations and informal discussions with staff and inmates it was understood by all parties that this interim report would not cover every requirement of the Consent Decree. It was also

understood that the monitoring tool used to document compliance with all requirements contained in the settlement would not accompany this report. The use of the tool will resume during the monitor's next full on-site compliance visit when direct observations and informal, private conversations resume.

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

This report describes the actions taken by the monitor to determine compliance and uses the time frame July 1, 2021, to December 31, 2021, as the "reporting period."

Specific Actions to Evaluate Compliance

This report is based on written data and information that the monitor has received, reviewed, and analyzed, which the monitor has requested and ADOC and Tutwiler submits to the monitor as a matter of course during the monitoring period. In addition, this report is informed by interviews of administrators, line staff, and inmates conducted by the monitor via video conferencing, correspondence from inmates and advocates, and follow-up document requests and reviews.

The monitor took the following specific actions to evaluate compliance:

- 1) Notice to Inmates and Staff:** The monitor and the ADOC Deputy Commissioner

of Women's Services worked together to draft a notice posted to inmates and staff explaining the rescheduling of the monitor's on-site visit due to the COVID-19 pandemic and advising anyone with settlement-related issues to contact the monitor via U.S. mail or via the monitor's designated e-mail account. Notices were posted in the dorms and throughout the facility.

- 2) **Document Requests and Review:** The monitor reviewed multiple ADOC and Tutwiler documents during this reporting period. These documents included but were not limited to previously promulgated ADOC and Tutwiler policies; ADOC and Tutwiler policy drafts, inmate grievances, investigations, and staffing reports. As requested by the monitor, ADOC and Tutwiler provided additional documents to substantiate and assess the progress of the work and actions taken by them in response to requirements of the settlement agreement.
- 3) **Staff Meetings/Interviews:** Several key changes in ADOC and Tutwiler leadership roles took effect in early January 2022. On December 7, 2021 Governor Kay Ivey announced that Commissioner Jefferson Dunn was stepping down and John Q. Hamm would assume the role of Commissioner effective January 1, 2022. Commissioner Hamm made significant staffing changes in the executive team. Dr. Wendy Williams, Deputy Commissioner of Women's Services was appointed Deputy Commissioner of Operations, assuming this key role department-wide. Dr. E. Kelley Mautz was named the new Deputy Commissioner of Women's Services. At Tutwiler, Warden III Deidra Wright retired December 31, 2021. On December 21, 2021, Warden II Lagreta McClain was named as Tutwiler's interim Warden III. Her promotion to Warden III was

effective February 1, 2022.

On January 24, 2022, the monitor and DOJ attorneys conducted an introductory meeting with Commissioner John Hamm and Chief Deputy Commissioner Greg Lovelace attended this meeting. The purpose of this meeting was to introduce the new Commissioner, and the monitor and DOJ attorneys assigned to oversee this case. Virtual Meetings with Tutwiler staff began on December 9, 2021 with Warden Deidra Wright, who then provided a progress update and answered questions posed by the monitor and DOJ attorneys. Warden Wright's update included data the monitor had requested be addressed during this overview. The monitor also interviewed central office staff including executive leadership and section managers, who have responsibilities related to ADOC duties and Tutwiler compliance with the settlement. The monitor also interviewed ADOC staff assigned to Tutwiler, including the facility's top leadership, staff with specific settlement responsibilities, including the Institutional Prison Rape Elimination Act (PREA) Compliance Manager (IPCM), and supervisory staff. The monitor conducted interviews with staff and inmates via video conferencing on December 2 and 9, 2021, and January 11 and 18, 2022.

The following individuals were interviewed:

Alabama Department of Corrections

- Dr. E. Kelley Mautz, Deputy Commissioner for Women's Services
- Mr. Arnaldo Mercado, Director of ADOC's Law Enforcement Services Division (LESD) (formerly named the Intelligence and Investigations Division)
- Ms. April Bickhaus, LESD Deputy Director

- Ms. Kelley Smith, LESD Senior Agent
- Ms. Elizabeth Pilgreen, LESD Investigative Agent
- Mr. William Lawley, Associate Commissioner of Administrative Services
- Captain Napoleon Goodson, ADOC Recruiting Director
- Mr. Elliott Sanders, ADOC Training Director

Tutwiler Prison for Women

- Ms. Deidra Wright, formerly Warden III, now retired
- Ms. Lagreta McClain, formerly Warden II and former Settlement Compliance Manager, now Interim Warden III

Warden McClain, who previously served as the Tutwiler Settlement Compliance Manager, has delegated most of the related compliance documentation and oversight tasks to Captain Blanding. Warden McClain provided Captain Blanding on-the-job training and continues to provide oversight of compliance-related tasks. The monitor recognizes and appreciates the time and commitment expended to maintain the level of detailed documentation required to demonstrate compliance. Based upon the documents received to date by the monitor, the ADOC and Tutwiler team continues to maintain impressive records.

- Captain Felisha Blanding, Compliance Captain
- Captain Blanding, who had previously served, as a Lieutenant, in the position of Institutional PREA Compliance Manager (IPCM), was called upon to function in that role in an acting capacity as needed during recruitment and orientation efforts to fill the vacancy in the critical role of IPCM. In the event of staff turnover or staff absence, Captain Blanding has periodically been called upon to

support and coach new IPCMs during their transition. A new IPCM, Ms. Suzanne Hamm, was appointed in February 2021, and Captain Blanding supported Ms. Hamm in her transition to her new role.

- Ms. Tina Tyler, Americans with Disabilities Act (ADA) Coordinator/Inmate Grievance Coordinator
- Staff selected by the monitor from the day's on-duty roster.

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

- 4) **Correspondence:** During this reporting period, the monitor received correspondence from one inmate. The woman's letter raised concerns about her mental health status and the monitor referred the correspondence to then Deputy Commissioner Williams.
- 5) **Inmate Interviews:** The monitor conducted individual interviews with inmates via video conferencing. Interviewees were selected from a list of inmate dorm representatives who have been chosen by their peers to regularly meet with administrators and raise issues of concern to the incarcerated population.
- 6) **Communication:** The monitor had multiple communications with then Deputy Commissioner Wendy Williams during the reporting period and follow-up

communications with current Deputy Commissioner E. Kelley Mautz to investigative questions about staffing, grievances, investigations, and other documents reviewed by the monitor. The ADOC and Tutwiler administrators have consistently provided 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 interim assessment of the current progress and status of ADOC and Tutwiler compliance, focusing on those settlement provisions and requirements the monitor has not yet determined to be in full compliance. The monitor provides feedback for the ADOC and Tutwiler in some sections. In other sections of the report, the monitor includes recommendations for actions by the ADOC and Tutwiler over the next reporting period.

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

Alabama Department of Corrections: Progress, Strengths and Challenges

Progress

As of December 31, 2021, the end of this reporting period, with the exception of three settlement requirements determined to be in "partial compliance", the monitor's expectation and interim assessment is that ADOC and Tutwiler remain in substantial compliance with requirements they have consistently met during previous compliance visits. As previously stated, absent the benefit of on-site observations and the ability to make unannounced tours of the facility, the monitor's assessment is informed by on-going document reviews, virtual staff and inmate interviews, and inmate correspondence. The three requirements assessed by the monitor to be in "partial compliance" focus on staffing, recruitment, and the need to validate and gender-norm the physical training requirements Correctional Officer Trainees must meet to graduate from the academy, and the validation of the gender-responsive classification instrument. *See* III(C)(1); III(C)(2); III(F)(4).

Policies and Procedures

The ADOC and Tutwiler continue to maintain written policies to prevent sexual abuse and sexual harassment. The current policy in place at Tutwiler that contains Prison Rape Elimination Act (PREA) provisions is Standard Operating Procedure (SOP) 8-12, *Inmate Sexual Abuse and Sexual Harassment*. Facility staff members have consistently demonstrated on-the-job knowledge of the policies and procedures on which they have been trained. This knowledge is demonstrated in the handling and responses to grievances, incident reports, and investigations, as well as by the staff and inmates interviewed for this report.

SOP 8-30, *Behavior Intervention & Discipline Policy* became effective January 1, 2018, and seeks to establish a disciplinary structure and process that is evidence-based, strength-based, gender-responsive, and trauma-informed, and that reinforces a safe facility culture by motivating positive inmate behavior and encouraging self-management. The stated goal is to hold inmates accountable for their behaviors and actions utilizing mediation, cognitive behavioral interventions, and the lowest possible disciplinary sanction to address rule violations. Employees may respond to low-level misconduct by verbal re-direction, which may include helping the inmate to refocus on more productive behavior and positive tasks; collaborative problem solving with the inmate; and engaging inmates through motivation strategies. The Behavior Intervention Program was developed for those inmates who have already engaged with employees on the verbal redirect level and continue to violate rules, or for those who violate a medium-level misconduct rule and for whom verbal redirection is not appropriate. Appropriate interventions, pursuant to SOP 8-30 *Behavior Intervention & Discipline Policy*, to address behaviors include journaling; book reading assignments and book reports; restorative actions; and/or a referral to a counselor or case manager. The traditional, formal disciplinary process is reserved for instances when verbal redirection and the Behavior Intervention Program have been unsuccessful, or a serious incident has occurred. This policy provides guidelines but allows for staff discretion based upon the circumstances.

During prior compliance visits/assessments and this interim compliance assessment both staff and inmates continue to express mixed reviews of this policy and approach. Older and longer-term inmates, in particular, have expressed concern that some inmates are allegedly not being held accountable for rule infractions. During interviews conducted by the monitor with inmates and staff in January 2022, it appears there is still a lack of full support and understanding

of the intent and objectives of the Behavior Intervention Program among both inmates and staff. Some inmates and staff members have expressed their belief that some inmates are now manipulating the system to avoid disciplinary sanctions and expressed their frustration at the perception that discipline has gotten lax, and some inmates are not being held accountable for their conduct. Some staff expressed concern that some inmates are very inappropriate and insubordinate in verbal interactions with staff because they believe they will not receive a disciplinary report. Most staff express understanding of the overall goals of introducing a gender-responsive philosophy at Tutwiler, but some staff and inmates continue to express dissatisfaction with some aspects of the SOP 8-30 *Behavior Intervention & Discipline Policy*.

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

Continued inmate resistance is understandable, in as much as inmates are not privileged to see the outcome of another inmate's disciplinary charge, behavior intervention strategy, or lack knowledge of an inmate's mitigating mental health status. Absent a high-profile placement in the disciplinary segregation unit, an inmate would not be able to determine another inmate's sanction or placement with certainty. As for staff feedback, some staff, in both recent interviews with the monitor and in response to the staff survey feedback summarized in January 2021, expressed their perceptions that the facility is not being run like "a real prison" and some officers feel they cannot hold inmates accountable, indicating they may not support a gender-responsive approach to inmate accountability. The most recent staff survey was conducted from December 1-December 17, 2021. The results are currently being analyzed by Tutwiler and ADOC. The monitor looks forward to reviewing the results once compiled.

Based upon this prior feedback and recent staff interviews, it is clear that Tutwiler's administration must continue to closely monitor implementation of this policy to ensure *consistent and sustained* application. The implementation of this policy requires a significant shift in both the inmate and staff cultures. A culture shift of this magnitude requires sustained staff supervision, on-going internal monitoring to ensure additional staff training, and inmate education to reinforce the intent and requirements of this policy. It is also critically important that mid-level managers and supervisors exercise leadership and supervision by demonstrating support of this culture change when interacting with their direct reports and inmates.

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

In September 2018, the DOJ and monitor were provided a copy of a proposed SOP 5-25, *Structured Living Unit* (SLU) for review and comment. This SOP established the protocols for a SLU located in Dorm K. The unit was designed to house those inmates, whether on a mental health caseload or not, whose behavior indicated a need for a more structured living environment than is provided in general population units. The SLU was intended as a diversionary unit to be used in lieu of restrictive housing placement. Inmates would sign a behavior contract with the Unit Review Team, comprised of at least a licensed counselor, psychologist, classification supervisor, and a security representative designated by the Warden. DOJ and the monitor's comments/suggestions were received and reviewed by ADOC. The project was placed on hold. In June 2020, ADOC provided responses to DOJ and the monitor based upon the feedback they had received and ADOC shared the final SOP. The unit opened in June 2020 with an initial capacity of thirty.

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

During the January 2021 compliance visit overview, DOJ and the monitor were provided an update on the review of the SLU and recommendations. Among the changes that were recommended by the ADOC review team were: a) rename the unit to the Rehabilitative Needs Unit (ReNU); b) relocate the unit to an area more conducive to the mission of the unit; and c) work with the ADOC Office of Health Services and contracted mental health provider to incorporate additional changes to modify the operation of the unit and encompass feedback received from DOJ and the monitor.

On May 5, 2021, ADOC forwarded a draft of SOP 5-25 *Rehabilitative Needs Unit* (ReNU) which will take the place of the SLU. Both the monitor and DOJ provided extensive comments and feedback which were reviewed by ADOC. ReNU was designed to provide the institution with flexibility to use less restrictive housing while providing a programmatic approach to addressing aggressive, assaultive, or maladaptive behaviors. ReNU is intended to

provide alternative housing and programming for identified inmates facing disciplinary sanctions. The unit is intended to serve as an intervention within the context of SOP 8-30 *Behavior Intervention & Discipline Policy*, as a means to aid inmates in achieving behavior change prior to considering any placement in a restricted housing unit. The monitor has been advised the transition and relocation of the SLU to the new ReNU location will occur in early 2022.

Staffing

The settlement agreement required the development of a professional staffing analysis and for a plan based on this analysis to be presented to the ADOC and Tutwiler. ADOC and Tutwiler expended considerable funds to have a staffing analysis conducted at Tutwiler by nationally recognized experts to research and develop a gender-responsive staffing plan for Tutwiler. This staffing plan was informed by gender-responsive principles identified by the National Institute of Corrections (NIC), PREA requirements, DOJ settlement agreement requirements, and emerging correctional best practice. On July 26, 2017, the ADOC provided the DOJ and monitor a copy of the finalized staffing plan. The monitor recently reviewed the list of current gender-specific posts at Tutwiler to verify that the plan had been updated to support changing operational practice and repurposing of housing units. Since its inception, Tutwiler has made the appropriate gender-responsive adjustments to the plan.

Since the staffing analysis was conducted in 2016 by consultants, several new position classifications have been implemented, including Correctional Cubicle Officer (CCO) Correctional Security Guard known as Basic Correctional Officer (BCO), and Senior Correctional Officer. CCO's are assigned to work critical posts (cubicles) and do not have direct

contact with the inmate population. A job classification for BCO, formally titled Correctional Security Guard, was approved, and announced on May 1, 2019, by the State Personnel Department. Unlike Correctional Officers, BCOs are not certified by the Alabama Peace Officers' Standards and Training Commission (APOSTC). They are appointed at the institutions and receive six weeks of intensive training at the Academy in Selma or at a satellite location. They are required to pass an occupational fitness test before graduation. The occupational test includes satisfactory completion of defensive tactics. They graduate as a "basic" Correctional Officer and are "ADOC certified". BCOs are not APOSTC certified, as such they are authorized to work on posts that do not require the use of firearms or any other specialized training. There are some restrictions on post assignments BCOs may cover, including perimeter patrols, security coverage of inmates who have been admitted to outside hospitals, and towers. There are also some restrictions on a BCO's role in emergency transportation of an inmate. Following adequate training, BCOs can transport inmates to a hospital if accompanied by an APOSTC officer. Currently, APOSTC officers must remain with the inmate during the hospital stay--for minimum custody inmates one APOSTC officer is required, for medium or higher custody inmates, two APOSTC officers are required. Depending on the custody of the inmate, the BCO will either be relieved by another APOSTC officer or just return to the facility with no replacement. If desired by BCOs, they are encouraged to seek further certification as a Correctional Officer by attending the ten-week residential correctional academy at the ADOC Training Center within one year of their initial appointment. The BCO position is a focus in recruitment efforts. The creation of the position of BCO, specifically, has helped the ADOC to recruit and fill chronic staffing shortages at Tutwiler.

The monitor requested ADOC and Tutwiler provide periodic status updates on the implementation plan addressing the recommendations made in the staffing plan. As of December 31, 2021, Tutwiler had implemented twenty-one of twenty-two recommendations in the staffing

plan. Examples of staffing recommendations successfully implemented include moving the inmates' breakfast meal by one and one-half hours to two hours and adjusting subsequent activities to increase staffing efficiency to lower peak staffing demands and to provide inmates with more hours to sleep. As of December 31, 2021, only one recommendation remained outstanding. The remaining recommendation addresses Tutwiler's camera system. Tutwiler's camera system does not currently have audio recording capacity, but the video surveillance system has additional capabilities that could be activated to include audio capabilities. In many allegations of either staff or inmate misconduct, the issue at hand is the language spoken, not the physical actions of a staff member or an inmate. Tutwiler has submitted a funding request to support the activation of audio capabilities for some cameras. Implementation of this final recommendation is contingent upon funding. Should funding and the opportunity present itself, the monitor also encouraged consideration of initiating a pilot body camera program for Tutwiler's security staff.

Funding has been made available to implement a software upgrade improving the camera operating system. The targeted timeframe for this upgrade was initially set for late Spring 2022. While this will not add audio capabilities, it will improve camera operations. In addition, Tutwiler had received a commitment for grant-funded body-worn cameras with audio capability once the ADOC receives a shipment. During the drafting of this compliance report, the monitor was advised the newly appointed ADOC Commissioner has placed this project on hold until the current administration has time to review grants requiring a financial commitment from the ADOC. In the monitor's opinion, it is understandable for the new administration to conduct a review and assessment of department resource allocations and agency priorities.

On December 9, 2021, Warden Wright convened the annual camera assessment meeting.

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

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 callouts, critical posts being filled by mandating overtime for officers, assigning supervisors to work line posts, and doubling up officer posts, such that one staff member covers two posts. These issues are reflected in the staffing plan.

The monitor recognizes the full implementation of the staffing plan is ongoing and will continue to request periodic implementation progress updates. In addition to the aforementioned reports in compliance with Section III.C.2.vi of the settlement agreement, ADOC and Tutwiler are required to submit quarterly staffing reports to the monitor and the DOJ. These reports include the following information: (a) a listing of staff hired at Tutwiler, by gender and positions

filled; and (b) a listing of staff who ended their employment at Tutwiler, including gender, position, and the reason for separation. During this reporting period, two quarterly reports were forwarded to the DOJ and the monitor. The first was forwarded on September 27, 2022 and covered the time period May 29-August 28, 2021. This list reflected eight new employees. Of the new employees, five were hired as BCOs. Six employees transferred out of Tutwiler; fifteen employees resigned, thirteen of whom were BCOs; three staffers retired; and three employees were separated during their probationary periods. Overall, this report reflected a net loss of nineteen security staff members.

The second quarterly report was received by the DOJ and monitor on January 27, 2022 and covered the period August 29-November 28, 2021. Seven new employees were listed. Three staff members transferred or were promoted to positions in other ADOC facilities. Thirteen uniform staff resigned and three were separated. Overall, this report documented a net loss of nine security staff.

In both quarters, the number of new employees did not keep pace with the total number of staff who either transferred, resigned, retired, or were separated. The monitor has requested to review the exit interview forms of several employees to explore any barriers to staff retention and the reasons cited for resignation of staff who left between August 29, 2021-November 28, 2021. It is important to note that exit interviews are not conducted with staff who transfer or promote to other facilities. In addition, some employees may elect not to participate in an exit interview or refuse to answer specific questions. Based upon the monitor's experience with recruitment, hiring, staff training, and activating facilities, it is recognized that work in correctional settings is not for everyone. The monitor was pleased to note the separation/demotion of employees during their probationary period-a healthy indication that staff

are being held accountable for their performance and adherence to policy and procedure.

Section III.C.2.vii of the settlement agreement requires Tutwiler to provide to the monitor and the DOJ a staffing report every six months in the first year after the effective date of the settlement agreement, and yearly thereafter. In accordance with the agreement, this staffing report is now provided on an annual basis until termination of the agreement. The latest staffing report for the period July 29, 2020-July 28, 2021, was forwarded to the DOJ and the monitor on November 2, 2021.

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

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

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

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

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

The data presented for December 31, 2020, does not include CCOs. ADOC has since revised the reporting format for Tutwiler's Security Staffing Report. These changes are reflected in **Tables 2 and 3**. The reports now also include CCOs, another relatively new job classification. Their official title is Security Guard I. Previously the numbers of "cube" officer vacancies and filled positions were listed on non-security/support staff rosters. CCOs are assigned to the glassed-in secure cubicle areas throughout the facility. They do not have direct contact with inmates, and they are restricted to their assigned control rooms. They receive four weeks of training prior to assuming their posts. In effect the BCOs and CCOs, when compared to APOSTC certified Correctional Officers, each have restrictions on the duties they can perform, and each has different training requirements. The monitor agrees that the number of all filled and vacant positions should be reflected on periodic staffing reports, however, the security staffing allocations are presented in an aggregated number, not reported by individual job categories. In

the monitor's opinion, this raises questions about how staffing decisions are made and if internal reallocations are regularly changing. Neither the BCO or CCO positions existed at the time the original staffing analysis was conducted, and, in the monitor's, opinion need to be reflected in the staff plan. Deployment of staff and post assignments may change based on job duty restrictions that may apply to these new job titles.

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

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

Position	Actual Count	Vacancy Rate	Black Male	White Male	Black Female	White Female
CORRECTIONAL CPT. (Authorized = 3)	3	0%	2	0	1	0
CORRECTIONAL LT. (Authorized = 10)	9	10%	4	1	4	0
CORRECTIONAL SGT. (Authorized = 21)	13	38%	7	1	5	0
SENIOR CORR. OFFICER	45	21.60%	15	3	25	2
CORRECTIONAL OFFICER	3		0	0	3	0
BASIC CORRECTIONAL OFFICER	70		2	0	64	4
CORRECTIONAL CUBICLE OFFICER (Authorized = 162)	9		1	0	7	1

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

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

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

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

The monitor is less concerned with the length of an abbreviated training program for BCOs than the level of on-the-job training and direct supervision provided to all new employees, regardless of job title. According to the ninety-nine staff who responded to the January 2021 employee survey results, a total of forty-five had less than three years experience. It is a relatively young staff, in need of direction and support, so the recruitment and retention of

experienced, qualified supervisors remains a priority. The vacancy rate in the ranks of Correctional Sergeant was 40% in December 2020, 38% in June 2021, and at the end of this reporting period it had increased to 52.4%.

The Division of Women's Services continues to provide development opportunities for supervisors and Wardens. All Wardens, Captains, and select mid-level supervisors have an assigned coach they communicate with monthly. Each coach is a consultant with The Moss Group, Inc. and provides one-on-one coaching for emerging leaders. Professional development activities include the use of leadership assessment tools and discussions around opportunities for growth and succession planning. In addition, the ADOC began developing a field-training-officer (FTO) program in January 2021. The goal is to provide on-the-job training to new graduates for a minimum of twelve months following academy completion. The Women's Services FTO manual has been developed and is currently under final review. This effort was led by the ADOC Training Director and leadership and staff of Women's Services. The target date for finalization is Spring 2022 and the manual will then be sent to the DOJ and the monitor for review and comment. Once finalized FTOs will be selected from Tutwiler's top performing uniform staff and will receive training from the ADOC's regional training staff. In the monitor's opinion, the creation of a FTO program is exactly what is needed to support new staff, improve supervision, and support the retention of officers.

Tutwiler support staff also play an important role in maintaining critical functions. As of June 30, 2021, out of ninety authorized support services positions, fifty-eight were filled, producing a vacancy rate of thirty-six percent. As of December 31, 2021, fifty-four of the authorized support staff positions were filled, resulting in a vacancy rate of 40%. Examples of support services staff include social service caseworkers, drug treatment counselors, plant

maintenance workers, cooks, and classification specialists. Any recruitment plans should include addressing vacancies within the various categories of support services staff.

The monitor appreciates the efforts Tutwiler has taken to mitigate the issues resulting from long standing staffing challenges. Those steps have included a reliance on mandated overtime and utilizing employees who are non-APOSTC Correctional Officers for certain jobs, such as monitoring the prison's camera system and manning control rooms. Other mitigating strategies have included retaining the part-time services of retired uniform staff, placing supervisors in line posts when needed to maintain operations, doubling up Correctional Officer housing posts, and utilizing CCOs to man control rooms. The ADOC continues the practice of allowing officers from other ADOC facilities to work overtime, or otherwise be temporarily assigned at Tutwiler, only after those officers have been trained as required by the settlement agreement. The Tutwiler staffing plan calls for one officer to be assigned to each dorm. It has become the norm that some posts must be doubled each shift to cover vacancies as a result of staffing levels. When this occurs, one officer must cover two dorms; however, video surveillance is constant in most areas of the facility. During the January 2022 interview with the monitor, one staff member reported covering three dorms, though small, at once. Occasionally, supervisors are pulled from their assignments to perform Correctional Officer duties. While these efforts may be workable in the short term, they do not, in the monitor's strongly held opinion, present a long-term solution to the chronic staffing shortage. This situation is no doubt exacerbated by the current COVID-19 pandemic as staff call out sick and some must be quarantined after testing positive in a community-based test. Since the advent of the COVID-19 pandemic, the monitor notes the Wardens and Captains at Tutwiler have, upon occasion, worked on weekends and after hours to ensure posts were filled. They have led by example. Given these challenges, the on-

going recruitment and retention of qualified staff remains critically important and will be addressed later in this report.

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

On January 26, 2022, the NIC announced an upcoming virtual training to be held May 16-July 15, 2022 for five member teams to follow a systematic approach and an industry-recognized process, to analyze staffing requirements. Teams will compile and analyze the data necessary to recognize where they can make efficiencies; establish or modify policies that affect staffing and provide justification for current or future staffing needs. The monitor suggested ADOC consider filing an application by March 18, 2022. This training program would build an in-house capability to conduct and review staffing plans instead of relying upon the hiring of outside consultants. The monitor has been advised that ADOC is preparing an application to submit to NIC for this technical support.

Recruitment Initiatives

Recognizing the critical roles recruitment and retention play in overall staffing, the monitor had pressed for some time for the ADOC Office of Administrative Services to develop a Tutwiler specific plan to support the facility staff's efforts to address staff recruitment and retention. On August 14, 2020, the monitor was pleased to receive a plan prepared by the then Associate Commissioner that included short-and long-range recruitment and retention strategies specific to Tutwiler. On October 1, 2021, the monitor was provided with the most recent

progress update and looks forward to the next progress report, expected in early 2022.

The monitor fully understands the COVID-19 pandemic has created challenges that have inhibited recruitment efforts. Another factor complicating hiring is that many potential applicants who had been laid off from other jobs began receiving extra federal unemployment compensation. It may be possible that some applicants remained on the sidelines for several months until their unemployment benefits ended. "On-site" job fairs at ADOC facilities for BCOs were temporarily suspended for some time in 2020, but ADOC implemented an on-line application process so hiring did not come to a full stop. The Warren Averett Consulting Firm developed a "landing page" for officer recruits. An officer candidate provides information on-line and ADOC recruiters enroll the applicant for processing. ADOC's marketing partner, Markstein, is coordinating advertising "surges" to coincide with ADOC's various on-site hiring events. The on-site hiring in the Tutwiler region takes place at Staton Correctional Facility. ADOC also instituted BCO-only hiring events providing a venue for a one-stop application process. Applicants can conveniently complete urinalysis screening, background interviews, and all applicant paperwork at one stop. Between July 1, 2021 and October 1, 2021, only two applicants expressed an interest in working at Tutwiler.

On April 6, 2021, the then ADOC Personnel Director, ADOC Training Director, and the then Deputy Commissioner for Women's Services began conducting quarterly meetings with Tutwiler's leadership team to assess staffing, training, and retention needs, as well as other personnel matters. The intent of these meetings is to ensure that Tutwiler's short-term recruiting and retention issues are on the "radar" of these key internal stakeholders. At these meetings, the leadership team, in response to then Warden Wright, discussed the female to male officer ratio at Tutwiler. At the time of the meeting, about eighty percent of the officers were women. While the

process of diverting female applicants to Tutwiler based upon staffing needs will continue, the Personnel Director did agree to deploy several male candidates for officer positions to balance the gender breakdown of the staff. Based upon an October 1, 2021, recruiting and retention progress update provided to the monitor, the Office of Administrative Services efforts to address this request are ongoing.

The Associate Commissioner for Administrative Services, recently promoted from his former position of Director of Personnel, and the Deputy Commissioner of Women's Services continue to review Tutwiler exit survey information on a quarterly basis to analyze the reasons that staff are leaving Tutwiler. The results of the ADOC employee annual survey conducted within the Division of Women's Services are also reviewed as they become available.

Physical Agility/Ability Test (PAAT)

Historically, ADOC's recruitment and hiring data have underscored a system-wide issue with the application of the APOSTC physical standards to women candidates for Correctional Officer positions. For example, the Correctional Officer Training Class 2020-01 PAAT summary documents that thirty-eight officer candidates (thirty-one males, seven females) attempted the PAAT. Twenty-eight of the men passed the test as did four females. In the event a candidate fails the APOSTC test, that individual may be recommended for the BCO, non-APOSTC certified position.

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

entrance physical standards for BCOs have facilitated the hiring of women into this position.

Under the terms of the settlement agreement, ADOC and Tutwiler are to continue to work with the APOSTC in the screening, selecting, or hiring of applicants for entry-level Correctional Officer positions **until** such standards, or any other physical test employed, are both validated for a corrections environment and examined for the necessity of gender-norming certain components. (Section III.C. 1. (i)) The monitor understands the ADOC does not have the statutory authority to 1) set APOSTC training standards, 2) require APOSTC to validate the testing for a correction, rather than a policing environment, or 3) require APOSTC to examine the testing for the necessity of gender-norming certain components.

With the intent of providing some historical context, the following information is provided. APOSTC had contracted with Auburn University at Montgomery (AUM) for the review of the 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. This report detailed several deficiencies in the eighteen-year-old validation study. The monitor remains unconvinced that there is a direct correlation between PAAT performance and job performance or other current job outcomes for correctional staff. The AUM Report suggests an alternative validation approach may be warranted if adverse impact is ever a problem. The researcher argued that when women elect to retest, there is no adverse impact against them because "the pass rate improves when the number of attempts is very high. When given enough attempts it appears that almost every candidate who attempts every test will eventually pass one." The APOSTC appears to have given very little, if any, consideration to (a) the differences between police officer and Correctional Officers jobs, (b) the extent to which job duties have changed in the last eighteen years, and (c) the extent to which women candidates for

Correctional Officer positions engage in repeated retesting or withdraw from the academy.

As the monitor has opined previously the researchers retained by APOSTC should have reviewed the physical training standards set for Correctional Officers in other states and gathered information about academy training standards, broken down by gender, as it relates to *bona fide* occupational qualifications for Correctional Officers, rather than focusing solely on standards that apply to police officers. To the monitor's knowledge, AUM did not review the physical training standards established for other Correctional Officers in other state jurisdictions.

Although not a requirement in the Agreement, the ADOC has entered into an interdepartmental agreement with Troy University's Department of Kinesiology and Health Promotion. The ADOC commissioned Troy University to conduct a study of a new PAAT that is based on the specific duties of Correctional Officers. The ADOC began conducting incumbent testing in May 2021 to provide testing data to Troy University for analysis. The incumbent staff physical ability testing has been accomplished and the results submitted to Troy University on September 29th, 2021. Troy will provide an examination of the necessary physical tasks associated with the ADOC's Correctional Officers, as well as develop and validate a testing battery to assess the physical fitness status of officers and officer candidates. It is expected that Troy University will utilize the results of these incumbents' tests to recommend a modified PAAT that is validated for a correctional environment. It is expected that the study will be completed and provided to the ADOC within the first quarter of 2022. Once the study is completed, the Office of Administrative Services plans to meet with APOSTC within the second quarter of 2022. and present the study findings. The monitor requested and received a copy of the interdepartmental agreement to review the specific performance expectations assigned to Troy. While the update provided to the monitor describes efforts to develop a PAAT for a correction,

not policing environment, it does not address the gender-norming requirements of the settlement agreement.

ADOC will review the results of the Troy University study to determine if the proposed assessment is a more relevant physical screening tool to assess minimum physical standards for Correctional Officers. If so, the ADOC will request an official change to the APOSTC correctional certification to replace the current PAAT with a new screening process.

On April 23, 2021, Ms. Carrie Shaw, Assistant Attorney General for ADOC, facilitated a conversation with Director Sanders and Troy University researchers regarding the PAAT study that is underway. The researchers advised that in September 2021, after they have reviewed the data collected to date, they would determine if the data would allow them to critically look at the necessity for gender-norming certain components of the PAAT or if they need to do more testing.

Until such time as the validation of these standards for Correctional Officers and evidence that the standards have been examined for the necessity of gender-norming certain components, or the terms of the agreement modified, the monitor determines "partial compliance" with the staffing (Section III.C.2) and recruitment (Section III.C.1(i)) provisions of the settlement agreement.

Staff Retention Initiatives

Another major effort in the past year to create new ways to address staffing and retention has been the implementation of the Women's Services Strategic Plan. The plan includes specific goals that target staff physical and mental health and wellness, as well as strategies and incentives to promote employee retention. Some of the initiatives to date, have

included:

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

Staff have expressed appreciation for these developments.

Staff Survey

The latest survey of Tutwiler staff launched on December 1-17, 2021. As previously stated, the results are currently being analyzed. Upon completion, the DOJ and the monitor will be provided the summary report to review. The most recent data reported are from the survey that launched on December 7, 2020, and closed on January 8, 2021. Of the ninety-nine staff members who responded then, forty-five percent had worked for the ADOC for zero to three years and over one-half of respondents had worked in ADOC Women's Services for zero to three years. The relative inexperience of these staff members underscores the need for consistent,

experienced, quality supervision.

Some of the highlights from the survey results reported in January 2021 follow. Nearly eighty-four percent of respondents planned on working for ADOC the following year. Ninety-two percent of respondents are proud of the work they do. Sixty-two percent feel valued for the work they do. Seventy percent of respondents say they would refer other people to work at Tutwiler, which is important because staff recruitment often results from word-of-mouth feedback from friends and neighbors. Eighty-nine percent of respondents feel committed to the mission of Women's Services. Eighty-eight percent believe they are making a positive difference in the lives of women offenders. Sixty-two percent of respondents see staffing challenges being addressed. From a culture change perspective, these are encouraging data points. The monitor anticipates that the narrative answers provided by staff respondents in the most recent staff survey may inform the further development of retention strategies.

Training

During all previous on-site compliance visits, the monitor has been very impressed with the documentation of staff attendance at training. These records are well organized and demonstrate careful tracking of any pending attendance requirements. On February 6, 2021, Deputy Commissioner Mautz certified that all active ADOC staff had completed the required PREA and gender-responsive training for 2021. Two employees who were military activated at the time of the required training will be required to complete the training at the next event scheduled for April 25, 2022.

Due to COVID-19, classroom refresher training was temporarily suspended. A virtual training program, on Prison Rape Elimination Act (PREA) and Gender-Responsive Practices,

was developed. The training was accomplished with a workbook that was disseminated to all employees. On December 2, 2020, the monitor and DOJ received links to six videos prepared for the virtual training. The videos focus on facility culture; gender-responsive and trauma-informed principles; PREA overview; first responder roles and responsibilities; and professional and respectful communication between staff and inmates. These videos are very well done. The monitor has suggested Tutwiler share these materials with the PREA Resource Center (PRC) as other practitioners would benefit from these materials. Classroom-based in-service training for Tutwiler staff resumed in April 2021 and is ongoing. A gender-responsive train-the-trainer session was held in May 2021. Also, four full body scanners, used to search inmates for contraband, were installed at Tutwiler, and staff training was conducted.

Medical and mental health staff are expected to receive specialized PREA training, in addition to that which is provided by the ADOC and Tutwiler for correctional staff. During all previous on-site compliance visits, the monitor has been very impressed with the documentation of staff attendance at training maintained by the medical provider. During the next on-site compliance visit, the monitor will pull individual medical staff members' records to verify that the documentation is being maintained.

Intake Dorm and Overcrowding

As a result of the COVID-19 pandemic, Tutwiler relocated the inmate intake unit and modified guidelines and procedures for receiving and orientation of new inmates for the purpose of preventing the introduction or spread of COVID-19 into Tutwiler. Overall, the facility appears to have managed COVID as well as can be expected. The facility repurposed and renovated a property adjacent to Tutwiler. A SOP was developed for this new unit—The Julia Tutwiler

Prison for Women Quarantine Intake Facility (QIF). This unit requires gender specific posts and cameras were installed in this new unit to enhance supervision. Both DOJ and the monitor reviewed and offered feedback and suggestions for this new SOP. With the ADOC and counties' coordination, initial cohorts of up to twenty-five inmates were brought in through intake every two weeks. The number of cohorts fluctuates and may get bigger as the COVID numbers decline across the state. The modified intake procedures consist of shortened processes because the focus is on health assessments to implement a fourteen-day quarantine period for each inmate cohort. By modifying the intake process, Tutwiler can more easily facilitate inmate quarantine or isolation if needed. Inmates arriving from the county jails are expected to follow the Centers for Disease Control and Prevention's guidelines for social distancing. Upon arrival to the QIF, inmates on the van are provided masks before disembarking the van. Individually, inmates step off the van for a temperature check. Asymptomatic inmates proceed to the intake holding area, maintaining social distance. Symptomatic inmates are escorted individually to the medical screening area and placed in the Quarantine Unit directly after screening is completed.

A health screening and health assessment is then performed while the inmate is at the QIF. In addition, an Intake PREA Risk Screening, Intake Mental Health Screening, and a Suicide Risk Assessment are conducted. After screening, inmates are housed in one of three quarantine areas. Watchful Waiting housing is designated for asymptomatic inmates where they are monitored for signs and symptoms of COVID-19 for fourteen days. The Quarantine Unit is for symptomatic inmates, awaiting COVID-19 testing results while monitoring symptoms for fourteen days. The Isolation Unit houses inmates who need to rest and recover from COVID-19 for fourteen to twenty-one days per medical orders. If an inmate from the QIF cohort requires hospitalization, the inmate is taken to a local hospital as determined by a medical professional.

Upon completion of the assigned quarantine period, asymptomatic inmates are transferred to Tutwiler where all formal intake and classification procedures will be completed. After a cohort's stay is completed, Tutwiler coordinates with the counties for scheduling of another cohort of new admissions.

In total, allowing for appropriate social distancing, the unit can support thirty-one inmates at a time. Inmates are provided two cloth masks to wear and are expected to launder them. Captain Blanding, the IPCM, and the Grievance Coordinator are accessible to the women in the QIF.

The above description of the QIF reflects the procedures included in the SOP. The monitor found the procedures acceptable but has not had the benefit of on-site observation of unit operations for this report.

Gender-Responsive Risk/Needs Assessment, Classification and Programming

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

An implementation workgroup was created and includes a cross section of key ADOC and Tutwiler staff members. The Women's Risk Needs Assessment (WRNA) and Women's Services Classification Manual were implemented with the expectation that following a pilot period, a validation of the assessment would commence. The pace of implementation was initially delayed, as a result of several factors. The primary reasons for the delay included the: 1) lack of software automation to support WRNA; 2) time delays in hiring new positions required to assist with the implementation process; and 3) slower than expected pace of administering the

WRNA to the Tutwiler population. As a result, the estimated end date for the pilot program had to be extended, thereby extending the timeframes for the validation project. From the start, it has been anticipated that the validation process would take three or more years after initiation to complete.

After an exhaustive request for proposal process, the ADOC contracted with a technology company to create the software automation for WRNA and provide the necessary staff training to effectively use the new software. In addition, Tutwiler had nine new classification positions allocated and created, and filled. The pace of administering the WRNA then accelerated. As of mid-July 2017, all the Tutwiler inmates had been classified using the WRNA. The pilot period was completed, and the Women's Services Classification Manual was finalized. In May 2019, the final version of the Women's Services Classification Manual was revised and published to reflect changes in policy and practice, and to streamline the manual's format.

The new classification system incorporates gender-responsive principles and addresses the needs of women inmates at Tutwiler, including housing safety; mental health (depression/anxiety/psychosis); abuse and trauma; family conflict; relationship dysfunction; and parental stress. The system focuses on strength and resiliency factors including educational assets, family support, and self-efficacy. The use of "restricted status" for female inmates was abolished in September 2016 pursuant to the new classification system. Restricted status was used to denote those offenders with certain violent offenses that barred them from custody and placement less than minimum-in. Inmates classified to minimum-out status may work in the community under ADOC supervision. Those classified as minimum-in can work on state property under ADOC supervision.

A comparison of classification levels of Tutwiler inmates on August 1, 2016, June 29,

2020, December 31, 2020, May 31, 2021, and December 31, 2021 is documented in **Table 4** and tracks the impact of the new classification system.

Table 4: Results of Tutwiler Gender-Responsive Classification by Custody Level

	8/1/16	6/29/20	12/31/20	5/31/21	12/31/21
Medium	30%	17%	19%	17%	17%
Minimum	47%	71%	67%	70%	68%
Community	23%	12%	14%	13%	15%

It is clear that the adoption of the new classification system has resulted in many more women not being over classified to the medium custody level. The changes also have resulted in a significant increase in women being classified to minimum custody. These data reflect that many women's custody levels were historically over classified due to a reliance on classification instruments and processes designed for male inmates. Women offenders' pathways to incarceration are different than those for men, so their risks and needs differ which impacts their classification levels.

The ADOC formed a WRNA validation committee and prepared a request for proposal to conduct this study. Validation of the instrument is a requirement of the settlement agreement (Section III.F.2). In October 2018, the ADOC awarded the validation study contract to the University of Alabama. Auburn University is partnering with the University of Alabama on this project. A contract was finalized in January 2019.

The University of Alabama and Auburn University obtained Institutional Review Board

approval from their respective institutions in October 2019. The validation study began on November 1, 2019. The validation process includes three separate studies of the: 1) Intake Instrument 2) Reclassification Instrument; and 3) Pre-release Instrument. The studies of the Intake Instrument and the Pre-release Instrument involve: 1) obtaining participant consent; 2) assessing the reliability of the WRNA assessment; 3) data collection, including infraction and recidivism data as applicable at the milestones of six months, twelve months, and eighteen months. 4) coding the data; and 5) data analysis and reporting. The total target sample size for all aspects of this study is one thousand five hundred women: five hundred in intake, four hundred in reclassification, and six hundred in pre-release.

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

The monitor requested and received a copy of the research code books being utilized to enter and analyze the data collected and can attest to the thoughtful and high-quality work underpinning these studies. The monitor has also requested periodic updates on the study and projected timeframes from the University of Alabama researchers working on this project. As of now, the WRNA Validation study is scheduled to be completed by March 2024. On December 21, 2021, DOJ and the monitor were provided with the most recent quarterly update of the progress made for each of the three studies as follows. In this briefing, the study team committed to providing a preliminary report following the initial milestones of the intake sample to include six months of infraction data toward an eighteen month observation period. The six month

infraction dataset was provided to the study team on February 17, 2022.

Validation Study of the Intake Instrument

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

The collection of disciplinary infraction data for the intake sample is ongoing. The research team will continue to collect infraction data until the full sample reaches the milestones of twelve months and eighteen months post-administration of the instrument. After each milestone, researchers will clean the data, conduct statistical analyses, and prepare preliminary reports.

Validation Study of the Reclassification Instrument

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

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

records for the required sample size had been collected. All four hundred records have been coded by the research team.

The reclassification sample reached the six-month point after the last needed WRNA administration on October 23, 2021. The research team has collected and coded disciplinary infraction data for this sample's six months post-administration milestone. The full sample will reach the twelve month milestone in April 2022.

Validation Study of the Pre-release Instrument

The inter-rater reliability of this instrument was established in October 2020. The data collection for this portion of the study has not been completed, and the collection of pre-release recidivism data has not commenced. A total of two hundred twenty-five records have been transferred to the research team. The team will begin the coding of this data once the coding of intake and reclassification disciplinary infraction data are complete.

Overall, the research team has had to deal with the delays resulting from the challenges presented by COVID. Due to COVID-19 restrictions, the research team could not return to Tutwiler or other women's facilities within the ADOC Women's Services Division to conduct either inter-rater or test-retest reliability data collection. Two additional complicating factors were some understaffing in the Classification Unit which was due to sudden turnover and hiring delays resulting from restrictions due to COVID-19, and the new COVID-19 inmate intake protocol. Due to COVID-19, some study timelines and targets had to be adjusted. To mitigate COVID-19 risks, inter-rater reliability data collection was facilitated via *Zoom* teleconferencing in January and February 2021. The research team did encounter difficulties trying to recruit the necessary sample size for the pre-release project but expanded the inclusion criteria to reach the

necessary sample size, so they could proceed.

ADOC has fully met all requirements regarding the development of a gender-based classification system except the required validation of the instrument which is underway. Overall, the work done to date is impressive and when completed it will put Tutwiler on the map as one of very few women's facilities with objective, reliable, and validated assessment tools. Although much work has been done, much work remains to be done, so the monitor determines ADOC, and Tutwiler remain in "partial compliance" with this settlement requirement. The University of Alabama, Auburn University, and Dr. Mautz, the now Deputy of Women's Services are to be commended for the progress made to date, especially during a pandemic.

Programming

Facilitated by a contracted expert, a gender-responsive program committee was convened in October 2016 to focus on identifying and developing evidence-based programs that are gender specific and responsive to the programming needs identified by the WRNA. Programming was selected based upon which programs addressed the women's identified needs, had research to support their use, and could be implemented within ADOC's facilities. A brief description of the new programs developed follow. **The Getting Ahead While Getting Out** program is a twelve-week re-entry program designed to engage the offender, her family, volunteers, community, and staff in problem solving for a successful transition to the community. The **Helping Women Recover** program is a seven-week program designed to treat addiction and utilizes the theories of women's psychological development and trauma. It addresses triggers for relapse, relationships, domestic violence, trauma, family issues and self-esteem. The **Beyond Trauma Program** incorporates the latest research in neuroscience, trauma, and post-traumatic stress disorder. This six-week program also incorporates cognitive behavioral techniques, mindfulness, expressive

arts, and body-oriented exercises. 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. **Active Adult Relationships** program teaches participants skills to include communication; conflict resolution; emotion management; making budgets; wise choices for friends, dating and marriage; recognizing personal strengths; and future planning. **Moving On** provides both educational and cognitive skill building approaches to help women at risk of future criminal justice involvement find alternatives to criminal activity. This twelve-week program supports women as they mobilize and build personal strategies, natural supports, and community resources. **Parenting Inside Out** 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. Only one **Family Day** was held in November 2019 before the program was suspended due to COVID-19 restrictions. This program involves extended visitation by family members combined with a series of seminars about the programs the inmates are participating in and ways for family members to support inmates during and after incarceration. Family Days are being planned for 2022. Due to COVID-19, some programs and activities had to be suspended for two months. Programming was approved to resume (following COVID delays) on May 11th, and by July 6th, all programs, except **Family Days** had resumed. Program restarts were staggered between May 11th and July 6th. In-person visitation has resumed, and video visitation became available in November 2020 and is still an option.

To accommodate this impressive program expansion, several facility renovations were initiated with the support of the Central Office Engineering Division. Five additional classrooms were constructed and provide a professional learning environment for the new programs. The

facility has also renovated the old dining room to use as a visiting room and activities center. In addition to a common area for visits, the area includes two small rooms designated for activities. An outdoor play area for children is expected to be added later. The ribbon cutting for the new Activity Center was held March 2020. Programs include, but are not limited to: Yoga-prison Project, Literacy, Music Education, Journalism, Study Hall, Poetry, Grief/Loss, Arts and Crafts, Art Therapy, Bingo, etc. In addition, the beauty salon was expanded and upgraded. In September 2020, Auburn University proposed a four-year degree program and began the planning process. As of the first week in February 2022, acceptance letters for fifteen women were delivered. Orientation was held on February 14, 2022, and classes commenced on February 22nd. Access to correspondence courses began in August 2020 and has been on-going. Tutwiler has also introduced Personal Education Devices to facilitate a distance learning program.

During the administration of the most recent Inmate Polling in July 2021, the results of which were shared with the DOJ and the monitor in November 2021, respondents were asked to assess this statement: *"The programs and classes I have taken are useful."* More than half (fifty-nine percent) agreed they were, down from seventy-eight percent of respondents who agreed the programs were useful in the February 2021 polling, and four percent disagreed, down from the twenty-one percent who disagreed in the February 2021 polling. A total of thirty-seven percent of respondents neither agreed/disagreed. In the monitor's opinion this may be related to the restrictions resulting from the pandemic. Consistently in the past, the new gender-responsive programming has been well received by the inmates.

Inmates' Right to Privacy

During the current reporting period the monitor received no complaints from inmates in

correspondence or interviews of inappropriate cross gender viewing or searching by staff.

Slightly less than half of the one hundred twenty-four respondents to the February 2021 inmate survey agreed that there is adequate privacy in the toilet and shower areas and over half disagreed. In response to the July 2021 polling, forty percent of respondents agreed there is adequate privacy in the toilet and shower areas, but forty-seven percent disagreed. In one-on-one interviews women alleged that the bathrooms are the "hotbeds" for unauthorized smoking, drug dealing and usage, and inmate-on-inmate sexual activity. Of course, there are no cameras in the bathrooms due to privacy concerns and only one officer is assigned to each unit. If an officer is busy at one end of the unit or responds to another inmate who is creating a diversion to take attention off the bathroom area, there is no one posted by the entrance to the shower. Staff cite this reality as a basis for assigning two officers, rather than one, to the larger housing units. The monitor suggests ADOC Women's Services explore reasonable and cost-effective solutions to address unauthorized activities in the bathrooms. Establishing a firm schedule for inmate showers, staggered by unit, and ensuring an officer roving between units for shower coverage is posted at the entrance to the bathrooms would serve to inhibit some of the prohibited activities.

Transgender inmates shower privately in the Health Services Unit.

Inmate Polling

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

sexual abuse and sexual harassment; privacy in the showers and toilets; the appropriateness of inmate classification; the levels of staff supervision; the efficacy of the reporting systems for sexual abuse and sexual harassment including grievances; and official responses to, and retaliation for, allegations of sexual abuse and sexual harassment.

ADOC entered into a Memorandum of Understanding (MOU) with Auburn University on August 9, 2017, for the University to provide long term assistance with the administration of this survey. This agreement serves to institutionalize the inmate polling survey as a management tool for ADOC and Tutwiler in the future. The protocol, after review by the DOJ and monitor, was finalized on October 24, 2017. Since then, Auburn University has administered the inmate polling surveys. All questions, except those addressing basic demographics, use a five-point Likert scale (strongly disagree, somewhat disagree, neither agree nor disagree, somewhat agree, strongly agree).

After a year of conducting polling activity, Auburn University changed the participation protocol from random sampling to a more structured dorm-by-dorm selection method. This was a result of the research team's attempt to increase inmate participation in the survey, reduce the probability of inmates being randomly selected more than one time, and reduce disruption of inmates' daily program/work assignments unnecessarily. The goal is to provide all female inmates housed at ADOC women's facilities over a one-year period an opportunity to complete the poll. ADOC and Tutwiler forwarded the results of polling conducted at Tutwiler in July 2021 to the monitor and the DOJ on November 29, 2021.

The polling administration invited approximately two hundred forty-three women to participate in this survey. Only ninety-two women completed the poll yielding a thirty-eight percent response rate. In response to the February 2021 polling exercise, there was a forty-

three percent response rate. There is a great deal of time, energy, and resources involved in conducting these polling activities. Survey responses are sometimes supported by what the monitor has observed in correspondence from inmates, a review of inmate grievances, a review of PREA-related investigations, and inmate interviews: sometimes the responses are at odds with the other data sources. The monitor notes the increasingly lower response rate, as well as the increasing numbers of respondents who neither agree nor disagree with statements presented in the survey. Some of the results from the July 2021 survey include:

- In the area of inmate interactions with staff, contractor, or volunteer, fifty-nine percent of respondents reported they are not aware of sexual harassment by staff members, contractors, or volunteers. A total of sixty-six percent reported they are not aware of sexual abuse by staff. Forty-five percent indicated they are aware of verbal abuse by staff, with thirty-eight percent reporting they are not aware of this kind of behavior.
- When asked if sexual relations between inmates and staff members continue to occur, fifty-six percent disagreed, with only eight percent agreeing. A total of thirty-five percent neither agreed nor disagreed.
- When asked if they were aware of inmates sexually harassing other inmates, twenty-three percent agreed, and fifty percent disagreed. Regarding verbal abuse between inmates, fifty-four percent agreed this is happening, twenty-eight percent disagreed, and twenty-six percent neither agreed nor disagreed.
- When asked if PREA incidents against inmates were investigated in a timely manner, forty-nine percent agreed they were, nineteen percent strongly disagreed, two percent reported somewhat disagreeing, and thirty percent neither agreed nor disagreed. An inventory of completed investigations does not support the inmate survey results. When asked about the fairness of these investigations, forty-six percent agreed they were conducted fairly, with eighteen percent disagreeing.
- When respondents were asked if they understood PREA rules, an overwhelming majority, ninety percent agreed, four percent disagreed. These results are consistent with the feedback the monitor obtained in interviews.
- Findings across three questions designed to collect women's perceptions of three dimensions of safety: sexual, emotional, and physical are summarized as follows. When asked about feelings of safety at the facility, seventy-one percent agreed they felt sexually safe, while ten percent disagreed that they felt sexually safe, with twenty percent neither agreeing nor disagreeing. In the area of emotional safety, fifty-nine percent agreed they felt emotionally safe, while twenty-four percent disagreed, and seventeen percent neither disagreed nor agreed. In the area of physical safety, sixty-four percent agreed they felt

physically safe, while eighteen percent disagreed and nineteen percent neither disagreed nor agreed. In both current and previous interviews with the monitor, inmates repeatedly reported feeling safe from sexual abuse.

- When asked if staff are available so inmates can get to work, program, and other assignments on time, only forty-two percent agreed, thirty-eight percent disagreed, while twenty percent neither agreed nor disagreed.
- When asked if there are enough staff members in the dorms to keep them safe, forty-one percent agreed, thirty-nine percent disagreed, while twenty percent neither agreeing nor disagreeing.
- When asked if cameras were used to keep inmates safe, fifty-one percent agreed they were used for safety purposes, while thirty-three percent disagreed.
- When asked if cameras are used to get inmates in trouble, thirty-seven percent of respondents agreed they were used for that purpose, while thirty-five percent disagreed, and twenty-eight percent neither agreed nor disagreed.
- When respondents were asked if they knew how to report issues of sexual harassment and abuse, eighty-nine percent knew how to report and only a small percentage (three percent) reported not knowing.
- When asked if participants use PREA to falsely report incidents against staff, forty-five percent agreed, sixteen percent disagreed, while thirty-eight percent neither agreed nor disagreed. When asked if inmates use PREA to falsely report incidents against other inmates, fifty-six percent agreed, ten percent strongly disagreed, while thirty-four percent neither agreed nor disagreed. In previous interviews with the monitor inmates have referred to these false accusations as "being PREA'd" noting that some women openly threaten staff and other inmates by saying "I'm gonna PREA you". The monitor is fully aware, as are the inmates, that upon occasion inmates do lodge allegations in bad faith in an effort to get experienced, effective officers removed from their housing units or to manipulate inmate housing assignments to be near friends and partners. The monitor is aware staff at the PRC, at the urging of the field, is reviewing this issue and attempting to develop strategies that discourage this behavior. The monitor reached out to the PRC and arranged a call to connect ADOC leadership and the PRC staff. The monitor recognizes it is a balancing act. If correctional facilities punish inmates for filing claims deliberately made in bad faith, that holds the potential to discourage some inmates who have been abused or harassed from speaking up. However, many staff and inmates want to see inmates held accountable for making allegations in bad faith to advance personal agendas. On December 1, 2021 the monitor, leadership of the ADOC's Women's Services and the staff at the PRC held a conference call to explore this issue and possible remedies.
- When participants were asked if they trusted the grievance system, forty-seven percent agreed they did, thirty percent disagreed, while twenty-three percent neither agreed nor disagreed.

Overall, the survey results are mixed. It is important that the Tutwiler Quality

Improvement Team, which meets monthly and is chaired by the Warden, review the survey results and any incidents related to problematic areas in the facility, and any allegations of sexual abuse, sexual harassment, or the use of unprofessional language by staff. The team is encouraged to use the polling results to hold deeper discussions about the kinds of changes in the grievance, investigations, disciplinary, and classification processes that are needed so that inmates consistently view these processes as useful and credible.

In addition, the monitor continues to encourage leadership to work with the Auburn University researchers to explore why the respondent response rate is low, and why in so many categories, the percentage of inmates neither agreeing nor disagreeing with survey questions is rather large. The monitor is advised ADOC, and the researchers have explored this, and the women report they often mark "neither agree nor disagree" because they have not personally experienced what the question is regarding. The monitor suggests, where appropriate, an additional response choice indicating no personal experience with the issue in question be added to the response selections. The monitor also suggests, whenever inmates' opinions have shifted significantly from earlier surveys, topics be identified to be explored in the context of Dorm Representative Meetings or in round table discussions with carefully selected participants.

In addition to the quantitative polling activities, the Auburn University research team collected qualitative data from structured interviews with Tutwiler inmates in April and June 2021 via *Zoom* video conferencing. A total of thirty inmates were randomly selected to participate in these interviews. Results from these interviews were forwarded to the DOJ and the monitor on November 29, 2021.

Risk Management System

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

In compliance with Section IV.D.6. of the settlement agreement, ADOC and Tutwiler provide the monitor and DOJ the list of all staff members identified through the RMS, and any corrective action taken. The most recent bi-annual report covers the period of November 29, 2020 thru May 28, 2021, and was provided to the monitor and the DOJ on October 18, 2021. These reports include the name and title of the staff members against whom allegations have been made; the date of the incident under review; a summary of the incident/allegation; the incident report or inmate grievance number; supervisory action taken; and a summary of any disciplinary action taken.

The RMS summary reports include a great deal of detail and require a significant amount of staff time to compile and present. The RMS system is not automated, so there is considerable delay between the dates of the allegations being made, tracked, investigated, and the date of the publication of the report. All the incidents listed in this current report occurred during the previous two compliance monitoring reporting periods. Some occurred in December 2020, while others occurred in the first half of 2021. The monitor has found it far more timely and helpful to review investigations, grievances, and correspondence generated within the timeframes of a current reporting cycle.

The RMS has consistently documented 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. Addressing this issue must remain a top priority for Warden McClain and her management team. In response to an earlier inmate survey, then Warden Wright developed an intervention plan to address staff's unprofessional use of sexually explicit, vulgar, degrading, or racially insensitive or offensive language. In that many allegations of this kind of behavior cannot be substantiated due to the lack of corroboration by others, the plan included the use of policy reiteration memos for those instances when allegations cannot be substantiated. A supervisor meets with the staff member accused of using inappropriate or abusive language and uses the meeting as an opportunity to reinforce Tutwiler policy and provide additional supervision and coaching. The employee is reminded in writing of policy requirements.

The monitor and the Tutwiler administration have discussed the need to continue to aggressively investigate these allegations and to hold staff accountable using progressive discipline, increased supervision, reassignments, and retraining. Acquiring audio capability on either some cameras mounted on the walls, or the use of body cameras with audio capabilities would greatly assist management's ability to hold staff accountable for their language when addressing the women. The monitor encourages Warden McClain and her executive team to develop a plan to immediately introduce the use of on-body cameras that have audio capability when they become available at Tutwiler. This technology may serve to create less opportunity for harassment of inmates, while also addressing false allegations and expediting investigations of accused staff.

Pursuant to the settlement agreement, on an annual basis, ADOC and Tutwiler shall also conduct a documented review of the RMS to ensure that it has been effective in identifying concerns regarding policy, training, or the need for discipline (Section IV.D.6.). The ADOC and

Tutwiler convened a panel to conduct the fifth annual review of the RMS covering data tracked from May 29, 2020-May 28, 2021. The monitor and DOJ received this report on December 16, 2021. during this time period, no staff were disciplined for sexual abuse or sexual harassment allegations.

Overall, the use of force incidents have been trending upwards or maintaining higher numbers since 2017. Forty percent of the use of force incidents involved the application of restraints, eighteen percent involved staff separating two or more inmates fighting, and forty-two percent involved staff intervening to physically restrain a resisting inmate or redirect the inmate. Of the total use of force incidents, twenty-four percent involved inmates in the mental health unit, and seventeen percent involved inmates in the structured living unit. Tutwiler's administration recognized that this trend requires some targeted work in partnership with the mental health staff to improve the overall management and prevention of conduct that could result in a use of force. A Use of Force Review Committee convenes once a week to provide oversight. The committee does consider any preventative measures that could have been employed and possible corrective actions. Nineteen staff members were disciplined between May 2020 and May 2021 for unnecessary or unreasonable force or for not following use of force policy. This is an increase compared to the thirteen staff members disciplined in the previous year. There were forty-seven allegations of staff using "sexually explicit, vulgar, degrading, or racially insensitive or offensive language", compared to the sixty-five allegations reported the previous year. Six staff members were identified as allegedly using this language on a frequent or repeated basis.

Sexual Abuse/Sexual Harassment Allegations

The monitor and DOJ attorneys interviewed Mr. Arnaldo Mercado, Director of ADOC's LESD, Deputy Director April Bickhaus, Senior Agent Kelley Smith, and Investigations Agent Elizabeth Pilgreen to discuss and review completed investigations into PREA-related allegations that occurred at Tutwiler during this reporting period. Agent Smith had been the primary investigator at Tutwiler for some time, and is now transitioning to a promotional position, but based upon her familiarity with Tutwiler-based allegations, she provided background for these allegations and investigations. Agent Smith conducted the investigations into allegations of staff-on-inmate sexual abuse and sexual harassment as well as inmate-on-inmate sexual abuse. The IPCM conducts investigations into inmate-on-inmate sexual harassment allegations and closely monitors the management of reporting inmates and documents any allegations or instances of retaliation against those who report allegations.

Director Mercado has assigned an additional female investigator to Tutwiler. The monitor has reviewed the training records of those who have conducted investigations at Tutwiler and verified that they have attended the required specialized training for investigating sexual abuse in a confinement setting, as well as training for responding to sexual abuse.

There were seventeen allegations alleging staff-on-inmate sexual abuse during this reporting period. Seven were determined to be unfounded, and ten were unsubstantiated.

There were thirty-eight allegations of inmate-on-inmate sexual abuse. Five cases were determined to be unsubstantiated, and twenty-nine cases were unfounded. Four allegations were substantiated. In addition, eight claims of inmate-on-inmate sexual harassment were investigated by the IPCM. Five were unfounded, and three were unsubstantiated.

Overall, there was a significant increase in PREA related allegations of both staff-on-inmate sexual abuse and inmate-on-inmate sexual abuse during this reporting period. Of the total

fifty-five investigations documented, thirty were initiated by anonymous parties making allegations about other inmates forcing themselves on others. In one instance of a staff-on-inmate allegation, a woman alleged she was pregnant by an unknown officer. She was not.

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

The monitor notes there are multiple, effective means of reporting allegations of inmate sexual abuse and sexual harassment, including a grievance process and at least one confidential method.

On a monthly basis, the monitor randomly selects grievances for review. During this reporting period, five hundred ninety-three grievances were filed, addressing a wide variety of issues, including issues with the Personal Learning Devices (tablets), property, physical plant maintenance, and availability of snack lines. The inmates want a set time for tablet charging. For inmates sent to Tutwiler from another ADOC facility due to medical or mental health needs, they are outgated to Tutwiler, but remain assigned to the sending facility. Once inmates are outgated to Tutwiler for a period of ten days, their property is sent to Tutwiler. Other grievances addressed medical issues and those grievances are consistently referred to the medical staff. The narratives of the issues raised in grievances do raise some operational concerns. The monitor notes that upon occasion, inmates allege that other inmates have been out of place by leaving their assigned units to enter another unit. Any uncontrolled inmate movement has the potential to enable a predator to seek out a targeted victim in another unit. These allegations, while not widespread,

continue to be of concern to the monitor. In addition, in at least one reported incident, an inmate reportedly moved her bed to avoid contact with another inmate.

The monitor notes there was a two hundred percent increase in the number of PREA-related grievances. During the last reporting period, only five grievances were identified as PREA-related and were referred by Ms. Tyler to ADOC's LESD. Two of these grievances were filed anonymously. During this reporting period fifteen PREA-related grievances were filed, and fifteen emergency grievances were filed. One PREA-related grievance stood out to the monitor, the inmate made vague PREA allegations against a staff member, stating it was her understanding that the staff member would now be placed in a tower or a perimeter vehicle and removed from the main hallway. This woman's property had just been subjected to a search and it appeared to the monitor that she wanted the officer involved in the search removed. This may be an example of what the women refer to as "being PREA'd". Pending the completion of an investigation the staff member in question was not allowed into the hallway to restrict inmate contact. It seems every effort was made by the facility to adhere to policy.

With regard to the emergency grievances, while many of the claims appear to the monitor to be without merit, two in particular stood out to the monitor. An inmate and a Correctional Sergeant reportedly had a heated verbal exchange, as the inmate described it, both were engaged in "trash talk". While the inmate's behavior appears to have been unacceptable, so was the officer's conduct. The inmate threw water at the officer and while there is no video of the incident, the officer did admit to punching the woman in the face and witnesses confirmed the details of the incident. She reportedly sustained a bloody nose and a chipped tooth. As the officer was about to be disciplined, he resigned and was placed on the ADOC "do not hire" list. This staff member happened to be serving as the shift commander at the time. It is the monitor's firm

belief that responsibility augments with position and believes the Correctional Sergeant in question should have been terminated upon his admission to having stuck the inmate. The monitor also recognizes that state personnel departments have due process procedures that apply to all state agencies. The monitor has requested a briefing of the process for employee resignations and terminations, and questions if ADOC has the ability to place an employee on either paid or unpaid leave pending the results of the employee disciplinary process. While placing a former employee on the agency's "no hire list" may prevent that individual from working in the future at another ADOC facility, it does not prevent the individual from being hired in another jurisdiction.

Another inmate alleged she was pushed into a closet by an officer. The officer was responding to the inmate's resistance to following orders. It seems this staff action was because handcuffs had not been distributed to the officers at roll call. While this response was a result in a lapse in practice, the officer response was driven by the inmate's refusal to follow orders. There were other issues associated with this incident the monitor found of concern. At least two officers when asked to write reports on their observations, if any, of the event, they refused to make a statement and responded on the record with 'no comment'. In the monitor's opinion, these responses are unacceptable, if these two officers witnessed the incident. In the monitor's opinion, the officers refusal to comment reflects the "code of silence" which can occur in corrections and other public safety occupations. Also, from a safety and security perspective, best practice would require cleaning closets to be secured during general population movement. The monitor has suggested that ADOC seek specialized technical assistance from NIC to assess Tutwiler's systemic response to uses of forces-both routine and spontaneous.

In another case, an officer appropriately told an inmate to get off the officer's desk, stop

smoking and put on clothes. In response, reportedly the inmate dropped ashes on the officer's pants and pulled the officer's hair. The inmate and staff member then scuffled. Staff responded to separate the inmate and staff member. The inmate had a swollen right upper eye lid. Although the officer, who had had a contentious encounter with the inmate earlier in the day should have asked to be removed from the unit after the first incident to deescalate the tension, the conduct of the inmate raises questions about the degree and quality of staff supervision in the units.

Based upon the monitor's review of Tutwiler's responses to grievances and investigations conducted during this reporting period, the monitor continues to appreciate the significant role cameras play in the prevention of sexual abuse and the important role the camera footage plays in investigations and in holding both staff and inmates accountable. In addition, the Wardens works closely with Ms. Tyler and follow up on issues that may require changes in policy or practice.

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

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

contains allegations of inmate-on-inmate sexual harassment, the IPCM will investigate.

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

Inmates have at least one way to report sexual abuse or sexual harassment to a public or private entity or office that is not part of the agency, and that is able to receive and immediately forward inmate reports of such abuse and harassment to agency officials. The ADOC entered into an agreement with the Alabama Department of Economic and Community Affairs (ADECA) to take these reports. Inmates may make a report by dialing *6611, and this can be done anonymously. The monitor reviewed the call log for the entire reporting period to review the nature of each call and the ADOC's response. A total of twenty-four calls were made to ADECA's hotline during this reporting period. Some of the complaints made were not related to sexual abuse or sexual harassment. In each instance, the Tutwiler administration followed up on the allegations/complaints and the response was appropriate. Previously, at the monitor's request, the form used to track the nature of these calls was expanded to include more information detailing any actions taken by facility management.

Alabama Strengths

The monitor believes ADOC has a strong foundation in the leadership of both ADOC's Women's Services and Tutwiler for continued progress in reaching all of the goals outlined and compliance terms required in the settlement agreement. That strong foundation is a result of the following organizational strengths.

Leadership from the Alabama Department of Corrections

Former Deputy Commissioner Wendy Williams provided steady leadership for the Women's Services Division and Tutwiler staff, directing, and supporting successful implementation of the Tutwiler settlement agreement. In addition, former Deputy Commissioner Williams and former Warden Wright were strategically focused on developing the capacity of agency and facility leadership, to sustain and advance the progress made to date. In all these efforts Dr. Williams was supported by Dr. E. Kelley Mautz, the then Women's Services Administrator and Warden Wright was supported by Warden McClain. In the monitor's estimation, both Dr. Mautz and Warden McClain have the skill sets, abilities, vision, and commitment to assume their new roles.

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

Two years ago, ADOC repurposed a state-owned building, conveniently located next to Tutwiler, to create a regional training center dedicated for the training of line staff working in the women's facilities. It became operational in May 2018 and provides a professional and appropriate setting for Women's Services staff training. Overall, Tutwiler is equipped with a solid training curriculum and the appropriately credentialed staff to deliver this training. This

allocation of resources by Central Office signaled a significant commitment to provision of specialized training for those who work with female offenders.

The monitor worked closely with Deputy Commissioner Williams who oversaw the ADOC's Women's Services Division. Dr. Williams communicated regularly with the monitor regarding any developments of note occurring at Tutwiler relevant to the settlement's requirements. The monitor commends Deputy Commissioner Williams for her consistent and thoughtful leadership, actions taken, and support she provided to the Wardens and staff at Tutwiler. Dr. Williams was the pivotal leader for the ADOC in managing compliance with this settlement agreement. The monitor has a high degree of confidence in Dr. Mautz assuming Dr. Williams former role. Dr. Mautz has worked in partnership with Dr. Williams and is well prepared.

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

Tutwiler Leadership

All three of Tutwiler's Warden positions were filled. Ms. Deidra Wright served as Warden III at Tutwiler. Ms. Lagreta McClain as Warden II, and Mr. Kenneth Drake as Warden I.

Like Warden Wright, Warden McClain has demonstrated her commitment to the provision of leadership training for Tutwiler's management team. As individuals and as a team, the Wardens consistently demonstrated solid management skills, teamwork, and led by example. The monitor observed outstanding leadership by the facility Wardens and the executive team at Tutwiler during this reporting period, especially as they dealt with the operational impacts of COVID-19. Warden Wright retired as of December 31, 2021 and Warden McClain assumed the role of Interim Warden. Warden McClain had served through several compliance monitoring visits as Tutwiler's Settlement Compliance Administrator. As such, she is very familiar with the requirements of the settlement agreement. It is the monitor's hope that, at some point, all three Warden positions will again be filled.

Presently, all three Captain positions are filled. In addition to Captain Blanding, Compliance Captain, Captain Brian Coleman serves as the Security Captain, and Captain Brandon Knowlton serves as the Administrative Captain.

In September 2020, the then IPCM, left the department to pursue another job opportunity. Tutwiler had to wait for the State Personnel Department to update the applicant register for that position. Once the register was available, a new IPCM was selected. In the interim, Captain Blanding once again assumed the IPCM duties. A new IPCM, Ms. Suzanne Hamm, was hired and was in place as of February 1, 2021. Captain Blanding is available to provide assistance and support to Ms. Hamm.

Ms. Tina Tyler, the Institutional Grievance Coordinator, also fills a critical leadership role at Tutwiler. Ms. Tyler, a civilian, also serves as Tutwiler's ADA Administrator. It has been the monitor's observation that Ms. Tyler does an exceptional job. Her investigations of allegations and complaints, and her documentation and follow through on issues are detailed and

thorough. In response to the high volume of work Ms. Tyler handles, an assistant's position was created for that office. This position was filled but that individual recently relocated out-of-state. Tutwiler has hired a replacement to work with Ms. Tyler. This individual has since relocated to another state. Ms. Clarissa Adams has been hired as Ms. Tyler's new assistant. Ms. Adams began her employment on February 1, 2022.

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

ADOC Consultants

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

ADOC Women's Services Division Strategic Planning Committee

The ADOC Women's Services Strategic Planning Committee continues to meet once a quarter to review and guide the ADOC and Tutwiler's efforts for creating sustainable

models/practices/tools for their operations, future plans and mission for women offenders in Alabama.

Tutwiler Sexual Safety Culture

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

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

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

ADOC Women's Services staff worked with a team of experts to revise the PREA Risk Screening Tool currently in use at Tutwiler. The expert team consisted of representatives of The Moss Group, Inc. with assessment experience, as well as authors of a similar tool previously piloted in the State of Iowa. The revision process involved: 1) the review of incident records, 2) consultation with ADOC staff who routinely complete assessments with inmates, including the current PREA Risk Screening Tool and Women's Risk Needs Assessment, 3) identification of existing data to include for a more comprehensive assessment of risk, and 4) a comparative

review of revisions of the tool with PREA Standards. ADOC Women's Services Staff also attended a webinar entitled "Considerations for Objective Risk Screening Instruments/PREA" on December 7, 2021, to gain additional information from national PREA experts on recent guidance offered in response to questions frequently asked about this topic to better inform final revisions. Currently, a draft of the revised ADOC PREA Risk Screening Tool is undergoing final internal review. The next step will be to share the final draft of the revised tool with the DOJ and the monitor for review before the instrument is piloted with the inmate population. Training for staff on how to conduct the revised assessment is in planning stages. Initial trainers have been identified as a consultant with The Moss Group, Inc. and an academic from Central Washington University, both of whom had involvement in the development of the State of Iowa tool and pilot project which was funded by the Bureau of Justice Assistance as a PREA demonstration grant.

The Tutwiler PREA Audit is scheduled to be conducted by a trained, certified PREA auditor on February 28–March 1, 2022.

Alabama Challenges

Tutwiler Facility

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

Population Capacity

Tutwiler's original design had an operating capacity of three hundred-fifty, and the annex was rated at one hundred twenty-eight. The daily count has historically been nearly doubled the facility's original capacity. Currently, the operational capacity is seven hundred nineteen for the main campus, two-hundred fifty at the annex and fifty-six at the QIF. The Tutwiler inmate count on December 31, 2021, was:

- Tutwiler physical count: 446
- Annex physical count: 186
- Quarantine Intake Facility: 45
- Total: 677

There has been an increase of over one hundred inmates since December 2020.

Tutwiler's previous success at limiting the amount of time a new admission spends in the intake unit has been undermined by the pressing need presented by the pandemic to develop emergency procedures to keep staff and inmates safe and healthy by quarantining new admissions for a minimum of fourteen days.

Both the settlement requirement for the development of a gender-based classification system and the development and implementation of gender-based programs at Tutwiler have been impacted by the overcrowding and physical plant issues. Specifically, plans will require the development of various housing options for separating groups of inmates, via the classification review process, which will be difficult to maintain as bed space must be allocated according to new placement criteria as it is implemented. In addition, the classification system will prescribe several program offerings that should be available for the inmates, based on a needs assessment. Tutwiler completed some physical plant renovations to add much needed space for programs and activities. The staff have creatively converted

and renovated every space possible to provide additional room for expanded programming. The administration has proven very adept at repurposing unit missions to accommodate the need for maximizing bed space utilization. The old dining hall was recently renovated and converted into an activity center which can be utilized for visits and programming. Central Office staff has worked with Women's Services to provide support by allocating resources for capital improvements.

Staffing Challenges-Overall Vacancies and Recruitment and Retention of Women

The monitor notes that any 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, and operations of the facility.

In the first court report, the initial settlement agreement monitor noted a vacancy rate of almost fifty percent of authorized, funded positions. As of June 30, 2020, the combined rate of Correctional Officer and BCO vacancies was thirty-six percent. As of December 31, 2020, the combined vacancy rate of Senior Correctional Officers, Correctional Officers, and BCOs was nearly thirty-four percent. As of June 30, 2021, the ADOC's recorded combined vacancy rate of Senior Correctional Officers, Correctional Officers, BCOs and CCOs was nearly twenty-two percent. In comparison, on December 31, 2021, the combined vacancy rate of these positions was thirty-one percent. When CCOs are excluded from this calculation, the combined vacancy rate increases.

The monitor has expressed concerns about the vacancy rates in other job titles. Vacancies, especially in the ranks of supervisors are critical, especially when supervisors are asked to work line posts. Supervisors play an important role in training staff, ensuring

consistency of practice between officers, and holding staff accountable. As of June 30, 2021, only thirteen of twenty-one allotted Correctional Sergeant positions were filled, resulting in a vacancy rate of thirty-eight percent. That vacancy rate has since increased to fifty-two percent. As of December 31, 2021, only ten of the twenty authorized Correctional Sergeant positions were filled.

At the end of June 2021, nine of the ten authorized Correctional Lieutenant positions were filled, leaving only a ten percent vacancy rate in the ranks of that position. This number has held steady.

To ensure adequate staff to fill key posts, Tutwiler leadership implemented a mandatory overtime policy at the end of 2016 to address critical vacancies because key posts must be staffed. Tutwiler relies on mandatory overtime to maintain functions. Staff, especially single parents, face challenges balancing family obligations with unscheduled, forced overtime demands. This can lead to an increase in staff members "calling out" sick, as a means to obtain needed time off. The reliance on overtime to staff critical functions is not a long-term solution to the staffing shortfall. While the monitor was provided a breakdown of the overtime used during this reporting period, the facility does not track how many of those hours represent forced overtime.

Previously, the monitor reported that this mandated overtime policy has caused stress and concern among the officers interviewed during compliance visits. This situation continues to be an area of concern for staff, and can, adversely impact staff morale. In more than one exit interview of staff who resigned, forced overtime was cited as the precipitating factor. A decision was made to transition from twelve hour shifts to eight hour shifts effective June 3, 2017. This change was especially helpful to single mothers who relied upon daycare. In Alabama children

are prohibited from spending more than ten hours a day in daycare. This was a challenge for working mothers who lacked a support system of family members and friends who could assist them. After consultation with staff, then Warden Wright amended Tutwiler's forced overtime practices such that staff could elect and anticipate which days of the week they might be required to work overtime. Staff seem appreciative of this adjustment in practice. Appreciation for this change in practice was expressed by staff in interviews with the monitor. In the narrative responses to the employee survey results reported in January 2021 several staff cited staffing challenges, staff shortages, mandatory overtime, the need to reduce callouts, and the inability to properly staff the facility as things they did not like about their jobs.

The monitor had discussed these chronic staffing issues with then Deputy Commissioner Williams and Dr. Mautz, and then Personnel Director Lawley. It is important to note the Alabama Merit System determines the minimum qualifications, administers examinations, and establishes employment registers for all positions within the classified services. ADOC does not have control or oversight over these functions.

Physical Agility/Ability Test (PAAT)

As has already been discussed, ADOC's recruitment and hiring data have underscored a system-wide issue with the application of the APOSTC physical standards to women candidates. Overall, the recruitment and retention problems that contribute to the high vacancy rate remain a concern. The former Commissioner took an important first step in his outreach to the Commission by submitting a request to modify the administration of the PAAT academy training requirements for state Correctional Officer applicants. It was encouraging that the Commission approved the Commissioner's request to modify the administration of the PAAT, which became

effective January 2017. The revised APOSTC rules pushed a Correctional Officer Trainee's last PAAT attempt from the first week of the academy training to week eight of the program, affording candidates more time to get in shape and meet the physical training standards. At that time, this change reportedly produced some promising results. The trainees who could not pass the PAAT in week one, including one of the women, all passed the test by week eight and all successfully graduated the academy in May 2017. As reported to the monitor, this was the first time in recent memory that no one, male or female, had been removed from the basic training course for a PAAT failure.

Unfortunately, the monitor and the DOJ were notified during the June 2018 compliance visit, that APOSTC was reverting back to its original practice of administering the test during the first week of training and that the APOSTC had agreed to allow ADOC to continue the eight-week administration through calendar year 2019. The monitor was initially advised that APOSTC might look favorably on extending the waiver that allowed the ADOC to physically test trainees in week eight instead of week one. ADOC formally requested APOSTC to grant an extension to the waiver and the request was denied. Therefore, beginning, January 1, 2020, all APOSTC academy trainees were again required to complete the PAAT during the first week of the Academy.

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

Regarding the position of Correctional Officer, the monitor was provided a copy of the knowledge, skills, and abilities task statements and a copy of a job posting for that position. Although the job posting notes applicants must complete APOSTC correctional requirements, the Correctional Officer knowledge, skill, and ability statement notes that officers require the "Ability to possess sufficient physical fitness, strength, stamina, mobility, and agility as needed to drive a vehicle, operate equipment, defend oneself and others, wield weapons, restrain inmates, patrol assigned area, remain alert, combat stress, and apply restraints." This standard certainly justifies APOSTC's requirement that officer candidates attend defensive tactics and a firearms course. The monitor requested and received a copy of an outline of APOSTC's physical agility/ability test. The general statement for the physical agility component of the test states "it simulates any number of job-related activities such as the removal of a stalled vehicle, jumping down from porches, climbing stairs, walking along walls, rafters, pipes, or beams while in foot pursuit or while checking buildings for suspects." For example, one event requires pushing a standard size patrol vehicle a distance of fifteen feet on a paved, level surface with the gear in neutral. Other activities involved climbing fences, successfully completing a window entry, a weight drag of a dummy, and running a distance of twenty-five yards and then surmounting a six inch by six-inch beam suspended one foot in the air and walking a distance of fifteen feet. Based upon prior work experience as an Institutional Director of Personnel and Training and the Director of three statewide correctional training academies, the monitor remains unconvinced of the relevance of many aspects of the APOSTC test to the job of Correctional Officer. Even if the relevance of APOSTC's requirements to corrections were accepted, it is important to note there are no ongoing ADOC physical agility or ability requirements for uniformed staff to maintain these standards once they assume their positions in correctional facilities. The APOSTC

document also verifies the absence of any gender-norming for the physical ability testing which includes timed push-ups, timed sit-ups and the one and one-half mile run. The APOSTC test outline states, "Failure to successfully complete any part of phase one or two means failure of the entire physical agility and ability test. If the applicant fails any part of the exam, he/she will be given an opportunity for one retest." That retest must take place in not less than forty-eight hours and not more than seventy-two hours.

On December 21, 2021, ADOC provided the DOJ and the monitor with a summary of physical training screening test results held at ADOC facilities from July 2-December 3, 2021. Overall, the combined total of male and female applicants was one hundred forty-nine. Of the ninety-seven males who participated in the physical ability test, forty-seven of the male candidates passed the test and fifty failed. Of the fifty-two women who participated in the physical ability test, only seven of them passed the test and forty-five failed. In each category, men and women, the majority of candidates failed the physical training test. Many of these applicants were then recommended for the non-APOSTC certified BCO positions.

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

Recruitment Initiatives

The ADOC has increased recruiting efforts through advertising, the use of social media, and collaboration with the Alabama Department of Labor and other state agencies to promote career opportunities in the ADOC. The advertising budget was increased to create a greater advertising presence on television, radio, newspapers, and public billboards. ADOC announces

upcoming tests on the department's website and via employee e-mail.

A Recruiting Unit for ADOC remains operational and falls directly under the oversight of Mr. William Lawley, Associate Commissioner of Administration. Captain Napoleon Goodson is the ADOC's Recruiting Director. There are three full-time recruiters and a recruiting coordinator who exclusively recruit correctional staff throughout Alabama.

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

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

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

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

This bill was signed into law by Governor Ivy and authorized significant salary increases for newly hired Correction Officers and provides moderate compensation increases for all officers and supervisors in the Department. Comprehensive pay compensation legislation provided for many changes to the compensation structure for the ADOC security workforce, to include but not limited to the following:

- Effective July 31, 2019, ADOC employees with a performance appraisal score of “meets standards” received a five percent pay increase (an increase of the previous rate of two and one-half percent).
- Beginning August 2019, existing Correctional Officer Trainees and Correctional Officers became eligible to earn bonuses tied to Academy completion, classification status, and work performance, ranging from \$4,500 to \$7,500. Existing supervisory personnel were also eligible for the same amount.
- All state employees received a two percent cost-of-living-adjustment effective September 1, 2019.
- All ADOC security classifications received a five percent salary increase effective October 1, 2019; in addition, all security classifications pay grades were increased by two and one-half percent to ten percent, depending upon the job classification. This raised the upper limit of compensation for each job class.
- Effective January 1, 2020, ADOC employees in positions requiring APOSTC certification became eligible to receive payment for up to eighty hours of excess annual leave.
- Provisional appointments to Senior Correctional Officer (for those eligible) took place on February 1, 2020, accompanied with a five percent pay increase. The start of the six-month probationary period was delayed due to the State Personnel Department not getting the promotional register created. Therefore, the effective date of the actual promotions was August 16, 2020. The probationary period is six-months, meaning permanent status as a Senior Correctional Officer was in February 2021, to include another five percent increase in pay. Bonuses for Senior Correctional Officers were also delayed. The first bonus was in February 2021, followed by a second bonus planned for March 2022.

New Correctional Officer Trainees hired before October 1, 2019, essentially received up to a forty-one percent salary increase in less than three years, plus bonuses. New Correctional Officer Trainees hired after October 1, 2019, are essentially receiving a thirty-four percent salary increase in less than three years, plus bonuses.

As previously discussed, ADOC's 2019-2022 Strategic Plan has four primary focus areas: staffing, infrastructure, programming, and culture. The goal of the staffing focus area is to be fully staffed with high-quality professionals working in the security, medical and other non-security fields of the ADOC. This area of the plan focuses on ways to recruit, retain, and grow the ADOC workforce through better compensation and improved workplace conditions.

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

ADOC also engaged in another promising effort to increase correctional staff. Troy University's Center for Public Service conducted a comprehensive analysis of the compensation and benefits offered by ADOC to correctional staff, including a comparison of ADOC compensation and benefits for correctional staff to the compensation and benefits afforded by

law enforcement agencies at the state, county, and local level. This analysis was intended to result in short-term and long-term recommendations for ADOC concerning compensation and benefits of correctional staff. A copy of this analysis was shared with the DOJ and the monitor on May 20, 2019. Combined, these initiatives went a long way to making ADOC's salaries competitive with other local criminal justice and law enforcement organizations and improving recruitment and retention results.

Tutwiler is also focusing on addressing employee recruitment and retention. The Moss Group, Inc. worked with the ADOC Women's Services strategic planning sub-committee to develop a recruitment and retention plan for ADOC Women's Services. The plan is organized into two sections: **1) Retention: Re-recruiting Staff** and **2) Recruitment: Making the Most of the market**. The plan includes many practical and actionable strategies and objectives. Small, task-specific committees have been established to implement approved recommendations at the facility level.

Previously the monitor suggested additional targeted recruitment strategies for consideration. Given promising developments, including recent legislation to increase compensation; the creation of the BCO position, which requires a lesser degree of demonstrated physical fitness and a shorter length of time in the training academy; and the change in shift length and revisions to the forced overtime practice to afford staff more control over their schedules; the monitor suggested strategic outreach to those men and women who may have previously left the academy as a result of not being able to meet all the fitness requirements. The creation of the BCO position may now afford them an opportunity to work for the ADOC. Another potential target group for recruitment includes staff who resigned from Tutwiler in the last few years, as a result of the amount and unpredictability of forced overtime hours. These

individuals have already attended the training academy and would require very little training before being placed back on a roster. Retirees also represent a potential source of re-hires, as they are allowed to work part-time hours post-retirement.

Logistics

Compliance Assessment

The purpose of the modified December 2021 compliance assessment was for the monitor to acquire information and observations to inform the interim, modified thirteenth compliance report for the Court. The monitor and both Deputy Commissioner Williams prior to her transition to her new role, and recently appointed Deputy Commissioner Mautz worked together to finalize the agenda, interview schedules, and document reviews.

In a PowerPoint, Warden Wright documented a detailed overview of progress made at the facility and provided it to the monitor and the DOJ attorneys. This briefing included both inmate and staff COVID-19 statistics. Two staff members have died, and three inmates have passed away. The monitor appreciates that COVID has had many personal and operational impacts on the staff, inmates, and facility. As of December 2021, statewide in-person visitation and work releases resumed. A volunteer entry limit was also lifted in December 2021.

Monitor's Actions to Conduct This Modified Compliance Assessment

The monitor completed this modified, interim report through the following actions:

- 1) Examining the settlement agreement, its provisions, and the specific requirements listed in the monitoring tool.
- 2) Requesting and examining specific documents to identify and assess the extent of

the ADOC and Tutwiler actions in response to the agreement requirements. Examples include but are not limited to: ADOC policies and Tutwiler standard operating procedures; staff rosters, staff reports and spreadsheets to document actions; inmate grievances; and investigations.

- 3) Selecting specific ADOC and Tutwiler staff for compliance interviews based on the individual's overall and direct responsibilities for settlement implementation.
- 4) Reviewing correspondence submitted to the monitor from inmates, and communication with advocates during the reporting period, and then requesting information, documents, and investigations to review inmates' concerns/allegations.
- 5) Conducting one-on-one interviews with inmates.
- 6) Using routine communication with the parties, prior to and after the assessment to ask for more information or clarification regarding the settlement, its terms and requirements and determinations of compliance.
- 6) The monitor sent the first draft report to both parties on February 8, 2022. 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.
- 7) The narrative summary will be submitted to the court on February 28, 2022.

Closing Observations

The monitor appreciates the high level of cooperation she received during the conduct of this interim and modified compliance report from Dr. Williams, the previous Deputy

Commissioner for Women's Services; Dr. Mautz, the recently appointed Deputy Commissioner for Women's Services; Mr. William Lawley, the recently appointed Associate Commissioner of Administrative Services; Ms. Carrie Shaw, Assistant Attorney General; and the ADOC Legal Division. The monitor appreciates their efforts, especially while Alabama and the ADOC deal with the complications that accompany the COVID-19 pandemic. The monitor also appreciates the level of cooperation and responsiveness of the ADOC and Tutwiler staff during this entire reporting period. The monitor made requests for documents or information and the responses were always helpful and thorough. The monitor continues to be impressed by leadership's commitment to fully implement the settlement agreement and evidence-based gender specific practices at Tutwiler. Leadership has also demonstrated a strong commitment to quality improvement. The monitor recognizes the time and commitment needed to maintain the level of detailed documentation required to demonstrate compliance. Leadership continues to use this information and data to monitor and improve practice and create a culture at Tutwiler that reflects awareness of policies designed to address sexual abuse and sexual harassment, with the inmates respecting the accountability practices demonstrated by the leadership and staff.