

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

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

**THE PARTIES’ JOINT STATEMENT PURSUANT
TO THE COURT’S MARCH 29, 2022, ORDER AND THE
ORDER REGARDING THE RESIGNATION OF THE MONITOR**

Plaintiff, the United States of America, and Defendants, the State of Alabama and the Alabama Department of Corrections (“ADOC” and, together with the State of Alabama, the “State”), hereby submit this joint statement pursuant to the Court’s March 29, 2022 Order to provide the Court a status update concerning compliance with the Consent Decree, including, “how [the Parties’] are progressing with regard to the benchmark deadlines discussed in their most recent joint status report (Doc. 62).” Doc. 64; and the Court’s October 12, 2022 Order “to file a joint report on what should be done in light of the resignation letter from the monitor.” Doc. 81.

- I. THE STATE’S COMPLIANCE WITH THE CONSENT DECREE**
 - A. STATUS OF COMPLIANCE WITH THE CONSENT DECREE.**

According to the Monitor’s Fourteenth Compliance Report, as a result of the hard work and determination of the staff at Tutwiler, ADOC continued to maintain substantial compliance in forty-one (41) of forty-four (44) sections of the Compliance Assessment Chart. Doc. 78-1 at 12. Only three (3) sections remain in partial compliance: 1) section III(C)(1) (including staff recruitment, training, selection, and hiring); 2) section III(C)(2) (including staffing issues, staffing updates, use of overtime, staff attendance, and staff retention); and 3) section III(F) (the on-going validation study of the Woman’s Risk Need Assessment). *Id.* at 12-13. In an effort to address these concerns, the ADOC continues to work to update the staffing analysis (as described in more detail below), and ensure completion of the validation of the Woman’s Risk Need Assessment (“WRNA”).

In response to sections III(C)(1) and (2), the Monitor indicated monitoring should continue related to staffing to ensure the completion and implementation of the new staffing analysis occurs. Doc. 78-1 Attachment A. Starting in January 2022, with the creation of the Resource Planning Unit (the “Unit”), ADOC focused on updating the staffing analyses for all major facilities, including Tutwiler. In an effort to understand the methods utilized by the Unit to update the staffing analysis, as it relates to Tutwiler, the Monitor held a conference with the Unit Coordinator Cheryl Price, the Savages, and Deputy Commissioner of Women’s Services, Dr. Kelley Mautz. The Unit continues its efforts to complete the updated staffing analysis by

November 1, 2022. The Parties agree to continue monitoring of sections III(C)(1) and (2).

Additionally, with regard to the final section remaining in partial compliance, III(F)(2), ADOC contracted with the University of Alabama and Auburn University to conduct a study on the WRNA and Women's Services Classification Manual for validation. Doc. 78-1 at 48-49. The universities continue to work on the study, with validation of study anticipated by March 2024. *Id.* at 50. The Parties agree to continue monitoring section III(F)(2).

B. INFORMAL BENCHMARK DEADLINES AND TIMETABLE.

In the Parties' Joint Statement Pursuant to this Court's September 30, 2021, Order (Doc. 60), the State identified certain activities and a timetable related to correctional staffing and conducting an updated staffing analysis. Doc. 62 at 5-7. The State reiterates the "internal and informal benchmarks" represent targets for the State regarding the correctional staffing analysis, and do not represent mandatory deadlines. Further, the informal benchmarks do not control the State's ability to reach partial or substantial compliance or otherwise to obtain a modification or termination of the Consent Decree. As an update regarding the informal benchmarks, the State reports the following:

1. March 28, 2022: Develop ADOC's policy related to correctional staffing analyses.
 - a. ADOC timely completed this benchmark by initiating

development of a policy related to conducting and maintaining a correctional staffing analysis before March 28, 2022.

2. April 1, 2022: Begin the collection of information from ADOC's major facilities (including Tutwiler) for updating the existing staffing analyses.
 - a. ADOC timely completed this benchmark by initiating the collection of information from the major facilities before April 1, 2022.
3. May 16, 2022 to July 15, 2022: The Unit will participate in the training program on correctional staffing analysis taught by the National Institute of Corrections ("NIC").
 - a. NIC could not accommodate ADOC's request to attend the May 16, 2022 to July 15, 2022 training program. In response, ADOC supplemented this training by arranging for Merle and Margaret Savage (nationally known experts in correctional staffing) (the "Savages") to conduct staffing analysis training for the Unit. The Savages conducted hands-on, in-person training on May 4-6, 2022, at Easterling and Ventress. The Savages provided additional follow-up training for the Unit on June 23-24, 2022, at Holman and Fountain. Further, the NIC notified ADOC in September 2022 that the Unit could attend training beginning on November 1, 2022.
4. May 23, 2022: Begin visiting ADOC's major facilities (including Tutwiler) to gather information for updating the existing staffing analyses.
 - a. ADOC timely completed this benchmark. ADOC began conducting site visits of ADOC's major facilities on May 4, 2022.
5. June 30, 2022: Provide the *Tutwiler* Monitor with the status of these activities insofar as they related to Tutwiler.
 - a. The Unit completed site visits at Tutwiler on June 28, 2022. Further ADOC facilitated an interview by the Monitor with the Unit's Coordinator, Cheryl Price, on July 11, 2022.

6. By July 15, 2022, the State obtained information from approximately half of ADOC's major facilities (including Tutwiler) for updating the existing staffing analyses.
 - a. ADOC timely completed this benchmark by collecting documents from all fourteen (14) major facilities, including Tutwiler, and conducting site visits of twelve (12) major facilities, including Tutwiler, before July 15, 2022.

The following benchmarks remain on the State's timetable for completion:

7. November 1, 2022: Complete the update of the existing staffing analyses.
 - a. The State remains on schedule to complete the staffing analysis by November 1, 2022.
8. December 31, 2022: Develop internal and informal benchmarks (e.g., numbers, percentages, or rates such as fill/vacancy rate) for correctional staffing at Tutwiler.
 - a. The State remains on schedule to develop the internal and informal benchmarks on or before December 31, 2022.
9. January 21, 2023: Provide the *Tutwiler* Monitor with the status of any internal and informal benchmarks established for Tutwiler.
 - a. The State remains on schedule to provide the internal and informal benchmarks to the Monitor by January 21, 2023.

II. RESPONSE TO RESIGNATION OF THE MONITOR

The Parties received notice on October 7, 2022, of Dr. Kathleen Dennehy's intention to resign as the Monitor of the Consent Decree, effective following her submission of the Fifteenth Monitor's Report on or before February 28, 2023. The Parties' appreciate all of the work Dr. Dennehy has done for this matter and her willingness to remain monitor for one final report.

Prior to the notice of resignation, the Parties had initiated discussions concerning the scope of monitoring of the Consent Decree required in light of ADOC's continued meeting of substantial compliance in forty-one (41) of forty-four (44) sections of the Compliance Assessment Chart. See Doc. 78-1 at 12. Pursuant to the Consent Decree, "[t]his Agreement shall terminate when ADOC and Tutwiler have achieved substantial compliance with all of the substantive provisions of this Agreement in three consecutive Compliance Reports." Doc. No. 11 at § X(B). The Parties continue to explore avenues to modify the monitoring requirements to allow the State and Plaintiff to focus on the three (3) sections in partial compliance while maintaining oversight of the other forty-one (41) sections.

Due to Dr. Dennehy's recent resignation, the Parties need additional time to discuss a proposal for continued monitoring of the Consent Decree. The Parties intend to discuss the viability of ADOC conducting monitoring through an internal monitoring team, including specific document production to Plaintiff's counsel; or a process and timeline for identifying and retaining a new external monitor with a revised scope of external monitoring. In order to facilitate these discussions, the Parties request an additional thirty (30) days to develop and submit a proposal to the Court on continued monitoring of the Consent Decree.

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

to this Joint Statement.

Respectfully submitted this 17th day of October, 2022.

/s/ Joshua C. Delaney

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