

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 Fifteenth 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), a maximum-security facility operated by the Alabama Department of Corrections (ADOC) in Wetumpka, Alabama. The purpose of this compliance report is to document the progress of the actions of the 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 fifteenth required court report submitted by independent monitor Kathleen Dennehy, Ph.D. This Court approved Dr. Dennehy as the second monitor on August 26, 2016. In letters dated October 7, 2022, Dr. Dennehy notified the court, ADOC, and the DOJ of her intent to resign her position as the independent monitor after the reporting requirements are met for the fifteenth monitoring report originally due to the court on February 28, 2023. On November 28, 2022, pursuant to the Court's October 28, 2022, Order, the ADOC and DOJ filed their joint proposed transition plan for future monitoring in

light of the current monitor's pending resignation. In addition, as directed by the Court, the monitor's list of outstanding information requests and recommendations, and updates on the Tutwiler staffing benchmarks previously submitted to the Court were also filed on November 28, 2022.

On January 10, 2023, based on the monitor's resignation and the implementation of a monitoring transition plan, the ADOC and DOJ filed a joint motion for extension of time to submit the monitor's report. The Court granted this motion and ordered that the report be due by April 21, 2023.

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). These requirements were impacted by the coronavirus (COVID-19) pandemic. Prior to COVID-19, Dr. Dennehy's last on-site compliance visit was conducted December 1-4, 2019. This visit was documented in the monitor's ninth compliance report. The next on-site visit had been scheduled to be conducted the week of June 1, 2020.

During all 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. The COVID-19 restrictions on Tutwiler's operations and activities created barriers to the monitor having unimpeded access to both staff and inmates. All parties concurred that the challenges presented by COVID-19 warranted a postponement of the "every six months" on-site visit.

In May 2020, the Court approved the notice to court of parties' joint agreement to postpone the June 2020 on-site compliance tour. Absent the monitor's ability to tour the facility and benefit from first-hand on-site observations and informal discussions with staff and inmates, the monitor's assessment of compliance with some Consent Decree requirements was made based upon the information and data obtained via the monitor's information requests; documents responsive to the monitor's requests; correspondence with inmates and third parties; staff and inmate interviews conducted via video conferencing, and on-going communication with the Deputy Commissioner of Women's Services.

It was also agreed by the parties 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. It was understood by all parties that these interim reports would not fully cover every requirement of the Consent Decree.

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

In addition to the monitor's narrative report summarizing key developments, the parties had previously agreed on the format for an accompanying "monitoring tool" to document the monitor's compliance assessment of each of the provisions and subsections contained in the settlement. The front page of each provision in the tool includes the specific requirements for that section of the settlement agreement. The first and current monitors established the "Measures of Compliance" for each provision in the tool. The monitor's evaluation of compliance with each section and its specific requirements is informed by interviews, document reviews, tours of the facility, on-site observations, and communication with the parties through phone calls and emails. The monitor documents her findings for each section in the box titled "Monitor's Discussion." It was understood by all parties that the monitoring tool would not accompany the monitor's interim compliance assessment narrative reports, but its use would resume when direct observations of practice, and informal, private conversations were again possible.

The COVID-19 pandemic continued, as did the specific challenges associated with conducting an on-site compliance assessment visit including: the uncertainty of the extent of the spread of the original virus and more recent variants of the virus in the State of Alabama and the home states of the monitor and members of the DOJ team; the uncertain logistics of interstate travel by the monitor and the DOJ team; compliance with the Centers for Disease Control and Prevention's guidance on the management of COVID-19 in correctional and detention facilities; and the risk that asymptomatic individuals, including the monitor, attorneys, ADOC staff, and inmates, could unintentionally spread the infection. Consequently, four interim compliance assessments were conducted remotely. These interim compliance assessments were documented respectively in the monitor's tenth,

eleventh, twelfth, and thirteenth reports. The parties agreed that on-site visits would continue every six months from the time of the next rescheduled on-site visit.

During a status hearing before Judge Myron Thompson held on March 28, 2022, the parties expressed their intent to resume on-site monitoring visits. The monitor proposed and the parties agreed to a two-part, on-site monitoring visit for the upcoming compliance assessment. The monitor's focus during the first part of the compliance assessment in June 2022 would be conducting a document review to verify Tutwiler's continued compliance during the time period January 1, 2020, through June 30, 2022, when the COVID pandemic prevented on-site visits. The second part of the monitoring visit in July would focus on those settlement requirements remaining in partial compliance. The Consent Decree is silent on the possibility of peeling away monitoring requirements. The monitor advanced the possibility of amending the Consent Decree for the purpose of reducing the number of requirements subject to on-going monitoring wherein it is clear to the monitor that the organizational structure, policy, practice, and training required to sustain compliance are now deeply embedded in Tutwiler's culture and operations. The monitor prepared a draft report to that end and shared it with the DOJ and ADOC for review and comment. ADOC requested an extension for their review and response to the draft report so the new Commissioner could familiarize himself with the settlement agreement. The monitor was advised that ADOC's response to the monitor's draft report would not be presented in the same format as it was in the thirteen previous reports. The monitor expected to receive a letter from Commissioner Hamm, instead the monitor received a nine page letter from ADOC's General Counsel. While the monitor cannot speak for either the ADOC or the DOJ, the General Counsel's correspondence suggests that some requirements were eligible to

have been peeled away after the Monitor's Third Compliance Report which covered the June-December 2016 reporting period. The monitor notes that the Consent Decree includes the following language: "This Agreement shall terminate when ADOC and Tutwiler have achieved substantial compliance with all of the substantive provisions of this Agreement in three consecutive Compliance Reports" (X. (B)).

It is clear to the monitor any further discussions on this topic belong between the State of Alabama, the ADOC, the DOJ, and the Court. As such, the monitor amended the draft report to reflect a current assessment of compliance with each Consent Decree requirement. At the end of detailed discussions for each requirement, there is a section for the monitor's recommendations.

On-site monitoring visits resumed June 12-16, 2022. A second on-site monitoring visit was conducted July 11-12, 2022. The monitor conducted additional hard-copy document reviews on both July 10 and July 13, 2022.

This fifteenth report addresses all requirements of the Consent Decree and includes the use of the monitoring tool. For each Consent Decree requirement, the monitor offers a finding of the degree of current compliance. Attachment A is a list of each requirement documenting these findings. The Consent Decree uses four levels to measure compliance: substantial compliance, partial compliance, non-compliance, and not applicable. At this juncture, all settlement requirements are applicable. This report describes the actions taken by the monitor to determine compliance and uses the time frame July 1, 2022, to December 31, 2022, as the "reporting period." The ADOC submitted documentation responsive to the monitor's information requests right up to the court filing of this report.

Specific Actions to Evaluate Compliance

The monitor took the following specific actions to evaluate compliance:

- 1) **Notice to Inmates and Staff:** The monitor requested the ADOC Deputy Commissioner of Women's Services post a notice to inmates and staff advising them of the upcoming visit. Notices were posted in the dorms and throughout the facility.
- 2) **Compliance Visit:** During the monitor's January 30-February 1, 2023, compliance visit with the ADOC and Tutwiler, she had the opportunity to meet with Commissioner Hamm, and interview central office staff including executive leadership and section managers, who have responsibilities related to ADOC duties and Tutwiler compliance with the settlement. Monitor Dennehy also interviewed ADOC staff assigned to Tutwiler, including the facility's top leadership, staff with specific settlement responsibilities, and the Institutional Prison Rape Elimination Act Compliance Manager (IPCM). Throughout the compliance visit, the monitor was provided meeting space to engage in private conversations with staff and inmates. In addition to these formal, private interviews, the monitor was afforded open access to staff and inmates during the monitoring visit and had many opportunities to question and engage in conversations with both staff and inmates while conducting document reviews and touring the facility during both the day and evening shifts. These staff members were diverse in gender, race, and years of experience in corrections. The inmates were diverse in age, housing placements, length of sentence, and time already served at Tutwiler.

The following staff members were interviewed:

Alabama Department of Corrections

- Dr. E. Kelley Mautz, Deputy Commissioner for Women's Services
- Dr. Abbey Holder, Planning and Evaluation Manager for Women's Services
- Mr. Arnaldo Mercado, Director of ADOC's Law Enforcement Services Division (LESD)
- Ms. Charday Jackson, Agent (LESD)
- Ms. April Bickhaus, Acting Inspector General (IG)
- Ms. Kelley Smith, Supervisory Agent
- Ms. Elizabeth Pilgreen, Special Agent
- Captain Napoleon Goodson, ADOC Recruiting Director
- Mr. Elliott Sanders, ADOC Training Director
- Ms. Kimberly Weary, ADOC Personnel Director
- Ms. Christy Vincent, ADOC PREA Director
- Ms. Elizabeth Lambert, ADOC Resource Planning Unit Coordinator

Tutwiler Prison for Women

- Ms. Lagreta McClain, Warden III, Settlement Compliance Manager
- Ms. Katrina Brown, Warden II
- Ms. Felisha Blanding, Warden I
- Ms. Tina Tyler, Americans with Disabilities Act (ADA) Coordinator/Inmate Grievance Officer
- Ms. April James, Institutional PREA Manager (IPCM)
- Ms. Sharona Edwards, Social Service Caseworker
- Mr. Jeffry Burt, Classification Supervisor
- Lt. Berda Nelson, Housekeeping Officer
- Ms. Cynthia Allison, Mental Health Site Program Manager, Wexford Health
- Ms. Aletha Willoughby, Mental Health Site Program Manager, Wexford Health
- Staff selected by the monitor from the day's on-duty roster
- Staff interviewed while on tour of the facility

Consistent with past practice during previous compliance assessments, the monitor conducted private interviews with line staff and inmates outside of both ADOC and DOJ's presence. The monitor recognizes that the presence of multiple DOJ attorneys, ADOC staff attorneys, ADOC's outside counsel,

and ADOC administrators can be very intimidating to line staff who are not accustomed to direct interaction with individuals in these roles. The monitor's intent was to illicit frank feedback from staff and obtain information to inform this report. For privacy purposes, the monitor does not identify these line staff members or inmates by name.

- 3) **Documents:** The monitor reviewed multiple ADOC and Tutwiler documents during and after this reporting period. These documents included: previously promulgated ADOC and Tutwiler policies; ADOC and Tutwiler policy drafts; and training curricula, attendance records, and reports. Prior to the January 30-February 1, 2023, compliance visit, the monitor requested and received many documents, including but not limited to sexual abuse review panel reports, randomly selected inmate grievances, meeting minutes, and progress reports to prepare for a tour of the facility and staff and inmate interviews. During the visits, the ADOC allowed the monitor access to investigations, training files, staff rosters, and shift reports. The ADOC provided full access to records maintained by Ms. April James, IPCM; Warden Blanding; Grievance Coordinator, Ms. Tina Tyler; and Settlement Compliance Manager, Warden Lagreta McClain. While Warden McClain continues as the Settlement Compliance Manager, Warden Blanding has assumed more responsibility for the maintenance of settlement agreement documentation. After the compliance visit, the monitor requested and received many additional documents to substantiate and assess the progress

of the work and actions taken by the ADOC and Tutwiler in response to the requirements of each section of the settlement agreement.

- 4) **Third-party Correspondence:** A notice is posted throughout the Tutwiler facility, noting the correspondence addresses for the monitor. During this reporting period, two third-parties communicated with the monitor. One individual alleged that an inmate had sustained injuries during an altercation with a correction officer. Upon investigation, it was determined the incident involved a failure to obey a direct order resulting in a use of force. The other individual alleged that an inmate had been attacked and injured by two other inmates and no staff came to her aid due to staffing shortages. An investigation documented staff's response and action taken to separate the inmates.
- 5) **Inmate Correspondence:** The monitor received two letters from Tutwiler inmates prior to the monitoring visit. These letters included an allegation of staff using unprofessional language and a concern about internal housing assignments, and staff's preferential treatment of inmates based upon race. The monitor reviewed the letters and as needed, requested additional information from ADOC officials to better assess the contents of the correspondence and to request follow-up action where appropriate. In each instance, the ADOC provided timely and appropriate responses to the monitor. The monitor received another letter from an inmate after the monitoring visit. The woman requested a copy of the Tutwiler settlement agreement, claiming one was not available for review by the inmates. Once

the facility staff became aware, the IPCM immediately put a replacement copy in the law library and the monitor advised the inmate of this.

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

Executive Summary

Intent of the Report

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

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

"Material compliance" requires that, for each provision, the ADOC and Tutwiler developed and implemented a policy incorporating the requirement, trained relevant personnel on the policy, and relevant personnel are complying with the requirement in actual practice. As directed in the agreement "Compliance with the agreement will be measured both by whether the technical provisions are implemented and whether women at Tutwiler are provided a safe and secure environment free from sexual abuse and sexual harassment as required by the United States Constitution (III. Substantive Provisions).

Alabama Department of Corrections: Progress, Strengths, and Challenges

Progress

As of December 31, 2022, the end of this reporting period, three requirements were assessed by the monitor to remain in "partial compliance." These requirements focus on: (1) staffing and, recruitment, and (2) the need to validate and gender-norm the physical training requirements Correctional Officer Trainees must meet to graduate from the academy, and (3) the validation of the gender-responsive classification instrument (III(C)(1); III(C)(2); III(F)(4)). The monitor has determined that ADOC and Tutwiler have maintained "substantial compliance" with the balance of the requirements of the Consent Decree, while taking note of five recent developments that warrant close monitoring during the next reporting period to ensure that any temporary non-compliance has been corrected. First, the overall vacancy rate of correctional officer positions increased from June 30, 2022, to December 31, 2022. The most recent staffing update received by the monitor and DOJ on April 30, 2023, indicates the vacancy rate continued to increase through the end of February 2023. Second, inmates in two housing units reported what appeared to the monitor to be a temporary disruption in the availability of a feminine product. Third, in November 2022,

ADOC implemented a revised approach to conducting PREA investigations without the required policy and document disclosures and review by the DOJ and monitor. Fourth, while the required annual camera management assessment was conducted, it is unclear to the monitor if follow-up action was initiated within thirty days of the development of the required action plans. The monitor is awaiting confirming documentation from ADOC. Fifth, on a more positive note, significant salary increases have been announced which may improve recruitment and retention efforts. with the exception of three settlement requirements determined to remain in "partial compliance." Each of these developments is discussed later in this report.

Policies and Procedures

This section of the report includes an update on policies that have been the focus of the monitor's recent review, including:

- SOP 8-12, *Inmate Sexual Abuse and Sexual Harassment*
- SOP 8-30, *Behavior Intervention & Discipline Policy*
- SOP 8-24, *Disciplinary Segregation*
- SOP 5-25, *Structured Living Unit (SLU)*
- SOP 11-2, *Julia Tutwiler Prison for Women Quarantine Intake Facility*

The ADOC and Tutwiler continue to maintain written policies to prevent sexual abuse and sexual harassment. The current policy in place at Tutwiler that contains Prison Rape Elimination Act (PREA) provisions is Standard Operating Procedure (SOP) 8-12, *Inmate Sexual Abuse and Sexual Harassment*. In formal interviews, informal discussions, and interactions and observations while touring, staff members consistently demonstrated to the monitor an awareness of their responsibilities regarding reporting allegations of sexual abuse and sexual harassment, safety for inmates, and investigative processes. Staff

consistently demonstrated on-the-job knowledge of the policies and procedures on which they have been trained.

SOP 8-30, *Behavior Intervention & Discipline Policy* became effective January 1, 2018, and seeks to establish a disciplinary structure and process that is evidence-based, strength-based, gender-responsive, and trauma-informed, and that reinforces a safe facility culture by motivating positive inmate behavior and encouraging self-management. The stated goal is to hold inmates accountable for their behaviors and actions utilizing mediation, cognitive behavioral interventions, and the lowest possible disciplinary sanction to address rule violations. Employees may respond to low-level misconduct by verbal redirection, 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 staff 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 this current monitoring compliance visit as well as during prior compliance visits/assessments both staff and inmates continue to express mixed reviews of this policy and approach. Both older and longer-term inmates, in particular, have

expressed concern that some women are allegedly not being held accountable for rule infractions. During interviews conducted by the monitor with inmates and staff it appears while there may be support for the intent and objectives of the Behavior Intervention Program among both inmates and staff, almost all question the implementation and outcomes of this policy. Inmates and staff alike have expressed belief that some inmates are now manipulating the system to avoid disciplinary sanctions and inmates are not being held accountable for their conduct. In particular, every line staff member and all but one inmate interviewed during the January-February 2023 monitoring visit expressed their belief and frustration that there are no, or little, consequences for inmates who knowingly make false PREA allegations. While most staff express understanding of the overall goals of introducing a gender-responsive philosophy at Tutwiler, staff continue to express dissatisfaction with some aspects of the implementation of SOP 8-30 *Behavior Intervention & Discipline Policy*.

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

The most recent comprehensive staff survey was administered in December 2021 and the results were summarized in January 2022. Only thirteen of the forty-six respondents self-identified as security staff. The vast majority of responders self-identified as support staff (clerical, classification, case managers, case workers, maintenance, canteen, steward),

medical staff, or mental health staff. Thus, the feedback in this survey does not specifically provide much insight into security staff's perceptions.

In the survey previously conducted a year before in December 2020 and summarized in January 2021 some security staff expressed their perceptions that the facility is not being run like "a real prison" and some officers expressed their belief that they cannot hold inmates accountable. Of the ninety-nine responding employees to this earlier survey nearly 63% self-identified as security.

Based upon the feedback obtained in previously conducted surveys and the interviews conducted during the January-February 2023 monitoring visit, it is clear that Tutwiler's administration must continue to closely monitor implementation of the *Behavior Intervention and Management* policy to ensure *consistent and sustained* application and practice. 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. Four-hour training sessions with staff on the Behavior Intervention Program are now included in Tutwiler's annual staff refresher training. 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.

Over the previous monitoring reporting period, the administration, LESD investigators, and Tutwiler's IPCM identified a significant increase in unfounded PREA allegations, especially among those allegations that were filed anonymously. An unfounded allegation is one that has been proven not to have occurred. This increase in false allegations

diverts already stretched staff and investigative resources from responding to and investigating other complaints and allegations and is disruptive to facility operations. In interviews and conversations with the monitor, staff and inmates shared their perception that the current application of sanctions for filing a PREA allegation made in bad faith is too lenient and does not provide a deterrent. The monitor shares the concerns expressed by staff and inmates.

The monitor regards the making of an intentional and knowingly false PREA allegation as a serious incident. False PREA allegations have been made by inmates with the expectation of having a staff member removed from their post pending the outcome of an investigation in retaliation for the officer having issued a disciplinary report or some other means of holding the inmate accountable, or to affect the transfer of another inmate from a housing unit, often because the targeted inmate is viewed as a romantic rival. These false allegations undermine Tutwiler's operations and rehabilitative programming. The monitor has previously recommended that leadership apply more severe sanctions and consequences than counseling and the issuance of warnings for inmates when it is proven they knowingly and intentionally made false PREA allegations in bad faith. Inmates should be made aware of any expanded list of sanctions, so they clearly know what the consequences of their actions will be prior to filing a false allegation made in bad faith. The monitor is aware that clear communication of any actions taken to address the increase in false allegations knowingly made in bad faith is necessary to prevent any chilling effect on the reporting of PREA violations made in good faith.

ADOC's position (Court Document 91, Filed November 28, 2022) is that it needs to better use the existing sanctions and consequences when an inmate files a false PREA

report. ADOC is reluctant to make its sanctions and consequences any more severe to avoid negatively affecting the willingness and ability of inmates to report sexual abuse and harassment in good faith based upon a responsible belief that the alleged conduct occurred. The monitor remains concerned about the trauma and frustration false allegations and the immediate actions taken in response to these allegations inflict on both inmates and staff who are falsely accused.

During the July 2022 monitoring visit, LESD Deputy Director Bickhaus presented the monitor and DOJ with a proposal to revise the LESD investigative process for "investigating unfounded PREA cases by third party anonymous complaints at Tutwiler." The monitor and DOJ advised ADOC that they would review the proposal and cautioned that prior to any changes being made to the process, several documents would require revisions by the ADOC and review by the monitor and DOJ including: curriculum for staff training, the job descriptions of the ADOC PREA Director and the Tutwiler IPCM, and several policies addressing investigations and the implementation of PREA. DOJ advised piloting any changes for three months to provide an opportunity to assess changes to the process and impact on outcomes.

Upon review of the proposal, and cross-referencing the proposed process to both the Consent Decree and the PREA standards, the monitor and the DOJ identified several concerns. In the monitor's independent opinion, as worded, the proposal appeared to rely on a pre-judgment of an allegation as unfounded prior to the initiation of an investigation. Further and most importantly, the proposal did not distinguish between inmate-on-inmate sexual harassment and sexual abuse, and staff-on-inmate sexual harassment and sexual abuse. While the monitor and DOJ shared the goal of mitigating the impact of an increasing

number of anonymously filed PREA allegations made in bad faith, the proposal appeared to be in conflict with some PREA requirements, notably Standard 115.71, Criminal and Administrative Agency Investigations. PREA requires that all allegations be investigated, so the monitor cannot support any "pre-screening" process that may result in something else. PREA standard 115.71 requires that when "an agency conducts its own investigations into allegations of sexual abuse and sexual harassment, it shall do so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports." As such, the monitor and DOJ crafted a recommended alternative proposal to mitigate harm from bad-faith PREA allegations at Tutwiler. This proposal was shared with ADOC on November 22, 2022. Again, the monitor advised the ADOC that prior to any changes being made to the process, several documents required revisions by the ADOC and review by the monitor and DOJ.

In November 2022, LESD Deputy Director Bickhaus, who had presented the LESD proposal moved to the IG's office as the Deputy IG, and soon after the retirement of the IG, she was elevated to Acting IG. Both the principal LESD investigator and supervising agent handling Tutwiler cases also moved to the IG's office.

The monitor and DOJ did not receive any feedback to their alternative proposal. On January 18, 2023, the monitor received a copy of a memo to staff, dated December 7, 2022, announcing a change in the investigatory process of administrative PREA allegations. This memo served as an interim directive pending the issuance of a formally revised policy. This memo was sent to, among others, the ADOC wardens and the IPCMs notifying them that the current IPCMs, who were not already classified as Special Investigators/IPCMs would be replaced with Special Investigator/IPCMs. Fortunately, Tutwiler's IPCM, by virtue of her

classification as Special Investigator/IPCM did not have to be relieved of her IPCM duties and replaced with another person hired as a Special Investigator/IPCM. According to the directive for "facilities with a Special Investigator/IPCM, that individual will serve as both the facility IPCM and as the administrative PREA investigator, in lieu of LESD personnel." It is clearly stated on page 2 of this directive that a new administrative investigations PREA process was already in effect at Tutwiler.

Despite two reminders to hold off on any changes until all the documents in need of revision were reviewed by the monitor and DOJ, it is clear that the new process was implemented. Neither the monitor nor DOJ had received timely notification of these significant developments. Further, neither DOJ nor the monitor were provided the revised policy to review and comment upon in violation of Consent Decree requirements.

On January 31, 2023, the Monitor and the DOJ met with the Deputy IG to be updated on the status of the proposal. At this meeting Acting IG Bickhaus provided the monitor and DOJ with a binder containing the December 7th policy directive, an updated Special Investigator/IPCM job description, and organization charts of the IG's office. In addition, this re-organization included a distinction between those who filled IPCM roles and those who filled Special Investigator/IPCM roles. As reflected on the organization chart provided to the monitor and DOJ, the Tutwiler IPCM is listed as a Special Investigator/IPCM reporting directly to the Supervising Agent, Administrative PREA Supervisor. This change in the IPCM's reporting relationship is in direct conflict with the Consent Decree (III.C.2.v.) which requires that ADOC and Tutwiler designate a full-time IPCM "who has no other duties within ADOC or Tutwiler and who is assigned to oversee PREA compliance at Tutwiler." Further, it is required that the IPCM report directly to the

Warden or the ADOC PREA Director (III.C.2.v.1.). Also, the Department PREA Manager and IPCMs are explicitly prohibited from serving as investigators for sexual abuse investigations (III.3.K.5.). The Consent Decree also spells out the requirement for the development, in policy, of a job description for Tutwiler's IPCM and the submission of this policy to the monitor and DOJ for review before operationalizing such policy, consistent with Section III.A.6.

On the organizational charts, the ADOC PREA Director reported to the Deputy IG and the Tutwiler IPCM reported to the Supervisory Agent, who in turn reported to the Deputy IG. The ADOC PREA Director, through a separate chain-of-command, reported to the Deputy IG. In the monitor's opinion, this re-organization appeared to reduce the role of the ADOC PREA Director, the very individual charged with ensuring agency-wide compliance with PREA.

In addition, a chart listing thirteen Tutwiler cases which had been handled by the IG's office documented that the new process had been implemented as of November 15, 2023, prior to ADOC's receipt of DOJ's alternative proposal. In addition, if a pilot program was initiated, no results have been shared with the monitor or DOJ. While providing feedback to the draft of this report, ADOC advised the monitor that a pilot is underway, but the data have not yet been analyzed. The monitor has requested a verbal briefing at the next scheduled monthly check-in call to review whatever preliminary data are available.

Overall, it appeared to the monitor that those involved in the development of the ADOC's proposal were either unfamiliar with the requirements of PREA and the Consent Decree, or they were familiar and disregarded the requirements. Since sexual abuse and sexual harassment of inmates at Tutwiler was the causal factor for DOJ's investigation and

resulting litigation against the State of Alabama and ADOC, ADOC's non-compliance with the requirements of the Consent Decree and PREA in this instance raises serious issues and has implications for future monitoring efforts. After further discussion with Dr. Mautz, Deputy Commissioner for Women's Services, the monitor was advised that the previous process for handling PREA allegations and investigations at Tutwiler would be reinstated and while the new process would apply to the rest of the department facilities, it would not apply to Tutwiler. While the monitor considered reducing the compliance assessment of related Consent Decree requirements to "partial compliance" from "substantial compliance", Dr. Mautz's representation to the monitor gives pause to this action. However, the monitor is very concerned about ADOC's disregard for DOJ and the monitor's feedback and requests, the lack of notification about changes being implemented as far back as November 15, 2022, as well as the absent or late notifications made to the monitor and DOJ regarding significant developments. The monitor lacks full confidence in the sustainability of the assurance that Tutwiler will resume and sustain its former process. While the monitor elects to hold off reducing the assessed degree of compliance at this juncture, the ADOC is directed to formally rescind and re-issue all supporting documents making clear that Tutwiler will revert to the former policy and practice. The monitor notes that because the revised process will be in effect for the balance of the department's facilities, there would be much potential for confusion among both inmates and staff transferring from other women's facilities to Tutwiler. The Deputy Commissioner of Women's Services has advised the monitor that all facilities within Women's Services will revert to the former policy and practice. Going forward, these issues warrant close monitoring. The monitor requested

copies of three investigations handled by the IG's office during this reporting period for her review. These documents are currently under review.

The finalization of SOP 8-24, *Disciplinary Segregation*, was contingent on the implementation of SOP 8-30, *Behavior Intervention & Discipline Policy*, as the final version of SOP 8-24 had to align with changes made to SOP 8-30. The implementation of these two SOPs has contributed to a significant reduction in both the number of placements and the length of time spent in Disciplinary Segregation. This is reflected in the unit's logs. For those few women placed in segregation due to disciplinary issues, the average number of days spent in pre-hearing status for this reporting period was only three days.

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

During the July 2020 compliance visit interviews, the final SLU SOP was discussed and ADOC agreed to review additional feedback from DOJ and the monitor. ADOC

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. By means of comparison, there were a total of fifty-seven SLU participants during the July 1-December 31, 2022, reporting period. Of these, fifty qualified as SMI and seven were identified as non-SMI. The majority of the women housed in this unit have been on a mental health caseload with ongoing behavior management issues. Data demonstrates that the primary reasons for placement in this unit are assaultive behavior and/or institutional violations resulting in close custody status.

During the January 2021 compliance visit overview, DOJ and the monitor were advised that the following changes to the SLU would be made: a) renaming the unit to the Rehabilitative Needs Unit (ReNU); b) relocating the unit to an area more conducive to the mission of the unit; and c) working with the ADOC Office of Health Services and contracted mental health provider to incorporate additional changes to modify the operation of the unit and encompass feedback received from DOJ and the monitor. The final version of the policy was shared with the DOJ and the monitor on June 8, 2022. During the June and July, 2022 on-site visits, both the monitor and the DOJ toured the newly renovated unit. The unit is located one-quarter mile from the main Tutwiler campus in a renovated building. The monitor expressed two concerns. First, the unit census will include women of varying custody levels outside the confines of the main prison compound. The second concern is that the ReNU unit provides far more comfortable housing than the units on the main compound. The unit is air-conditioned, clean, and bright. These features may provide an incentive for women to want to stay on the unit. The SLU, under the new name ReNU, was

expected to relocate to the new unit in Summer 2022. Reasons given for the delay in opening the ReNU unit have included physical plant and staffing issues. The new unit remains vacant. As of the January-February 2023 monitoring visit, the SLU continues to operate in Dorm K.

A new SOP was developed in response to COVID-19. On April 23, 2020, SOP 11-2, *Julia Tutwiler Prison for Women Quarantine Intake Facility* was shared with the monitor and DOJ for review and comment. The final version of this SOP was published on May 4, 2020. This unit is located one-quarter mile from the main facility in a renovated building and has since been re-named the Julia Tutwiler Prison for Women Intake Center. The monitor and DOJ have been advised that the unit appears to have been quite effective as an intake unit and at containing the virus, and the unit will remain operational at Tutwiler.

Tutwiler's previous success at limiting the amount of time a new admission spends in the intake unit has been undermined by the need presented by the COVID-19 pandemic to develop emergency procedures to keep staff and inmates safe and healthy by quarantining new admissions. The mean average of the length of stay for inmates in intake housing during the reporting period January 30-February 2, 2020, was eleven days.

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.

The Consent Decree (III.G.1) requires the development of a gender specific tool to assess the risk of being a victim or perpetrator of sexual abuse. ADOC and Tutwiler were determined to be in compliance with this requirement in June 2016. As the practice in the field of corrections evolved, ADOC and Tutwiler made a commitment to the monitor and to DOJ to revise the risk assessment instrument to ensure its gender-responsiveness kept pace with developments and practice. ADOC Women's Services staff worked with a team of experts and researchers to revise the PREA Risk Screening Tool currently in use at Tutwiler. The expert team consisted of representatives of The Moss Group, Inc. with assessment experience, as well as authors of a similar tool previously piloted in the State of Iowa. The revision process involved: 1) the review of incident records, 2) consultation with ADOC staff who routinely complete assessments with inmates, including the current PREA Risk Screening Tool and Women's Risk Needs Assessment, 3) identification of existing data to include for a more comprehensive assessment of risk, and 4) a comparative review of revisions of the tool with PREA Standards. ADOC Women's Services staff also attended a webinar entitled "Considerations for Objective Risk Screening Instruments/PREA" on

December 7, 2021, to gain additional information from national PREA experts on recent guidance offered in response to questions frequently asked about this topic to better inform final revisions.

The monitor and DOJ were provided a copy of a draft tool for review and comment. Feedback was provided to ADOC in March 2022. The monitor has been advised a final draft of the revised PREA Risk Screening Tool is currently undergoing ADOC internal review. The next step will be to share the final draft of the revised tool with the DOJ and the monitor for review before the instrument is piloted with the inmate population. Training for staff on how to conduct the revised assessment is in the planning stages. Initial trainers have been identified including a consultant with The Moss Group, Inc. and an academic from Central Washington University, both of whom were involved in the development of the State of Iowa tool and pilot project which was funded by the Bureau of Justice Assistance as a PREA demonstration grant. The next steps are to pilot the new tool in conjunction with the current tool and assess the effectiveness.

In response to a survey of inmates administered to obtain feedback regarding Tutwiler's progress towards meeting the requirements of the Consent Decree and PREA requirements, the women were asked about their feelings of safety at the facility. When asked about feeling sexually safe, 81% agreed they felt sexually safe, while 9% disagreed with 10% neither agreeing nor disagreeing. In both current and previous interviews with the monitor, inmates repeatedly reported feeling safe from sexual abuse.

The Tutwiler PREA Audit was conducted by a trained, DOJ-certified PREA auditor on February 27 through March 1, 2022. Tutwiler was found to be in full compliance with

PREA requirements. A copy of the final audit report was forwarded to the monitor and the DOJ on June 3, 2022, and is posted on the ADOC website.

Staffing

The settlement agreement requires the development of a staffing analysis and staffing plan, based on gender-responsive principles and PREA requirements, that provides for adequate staffing levels and, where applicable, video monitoring, to protect inmates against sexual abuse and sexual harassment (C.2.i). The ADOC and Tutwiler expended considerable funds to have an initial staffing analysis conducted at Tutwiler by nationally recognized experts to research and develop a gender-responsive staffing plan for Tutwiler. This 2016 staffing plan was informed by gender-responsive principles identified by the National Institute of Corrections (NIC), PREA requirements, DOJ settlement agreement requirements, and emerging correctional best practice. On July 26, 2017, the ADOC provided the DOJ and monitor a copy of the finalized initial staffing plan.

Subsequent to the staffing analysis being conducted in 2016, several new position classifications were implemented within the ADOC, including Correctional Cubicle Officer (CCO), Correctional Security Guard known as Basic Correctional Officer (BCO), and Senior Correctional Officer. CCOs are assigned to work critical posts (cubicles) and do not have direct contact with the inmate population. A job classification for BCO, formally titled Correctional Security Guard, was approved, and announced on May 1, 2019, by the State Personnel Department. Unlike Correctional Officers, BCOs are not certified by the Alabama Peace Officers' Standards and Training Commission (APOSTC). They are appointed at the institutions and receive six weeks of intensive training at the Academy in Selma or at a

satellite location. They are required to pass an occupational fitness test before graduation. The occupational test includes satisfactory completion of defensive tactics. They graduate as a "basic" Correctional Officer and are "ADOC-certified". Because BCOs are not APOSTC-certified, they are only authorized to work on posts that do not require the use of firearms or any other specialized training. Restrictions on post assignments BCOs may cover include perimeter patrols, towers, and security coverage of inmates who have been admitted to outside hospitals. There are also some restrictions on a BCO's role in emergency transportation of an inmate. In January 2022, a two hour training for BCOs covering initial application of restraints and transport of inmates was authorized as an emergency action to give initial training to incumbent BCOs so they could begin to assist with inmate transportation. BCOs also received eight hours of additional training and proficiency testing during the 2022 in-service training. BCOs may transport inmates to a hospital if accompanied by an APOSTC-certified officer. Currently, APOSTC-certified officers must remain with the inmate during the hospital stay. For minimum custody inmates, one APOSTC officer is required to stay with the inmate at the hospital, and two APOSTC officers are required for medium or higher custody inmates. Depending on the assigned custody level of the inmate, the BCO will either be relieved by another APOSTC officer or just return to the facility with no replacement.

If desired by BCOs, they are encouraged to seek further certification as a Correctional Officer by attending the ten-week residential correctional academy at the ADOC Training Center within one year of their initial appointment. The BCO position has been a focus of the ADOC's recruitment efforts. The creation of the position of BCO, specifically, has helped the ADOC to recruit and fill chronic staffing shortages at Tutwiler.

The monitor requested the ADOC and Tutwiler provide periodic status updates on the implementation plan addressing the recommendations made in the 2016 staffing plan.

As of December 31, 2021, Tutwiler had implemented twenty-one of the consultants' twenty-two recommendations in the staffing plan. Examples of staffing recommendations successfully implemented include moving the scheduling of inmates' breakfast meal by one and one-half hours to two hours and adjusting subsequent activities to increase staffing efficiency to lower peak staffing demands and to provide inmates with more hours to sleep. As of June 30, 2022, only one recommendation remained outstanding. The remaining recommendation addressed Tutwiler's camera system. Many inmate allegations of sexual abuse or sexual harassment by staff are determined to be unsubstantiated. An unsubstantiated allegation means an allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred. An unsubstantiated finding often occurs when no witnesses or camera footage or other evidence is available to corroborate the alleged victim or perpetrator's version of events. Even when camera footage is available, the visual recording alone may not be sufficient to render a determination. 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. Audio recordings would provide additional important evidence regarding the language used during an incident. Implementation of this final recommendation was and remains contingent upon funding. In the monitor's opinion, the availability of audio recordings would serve as a deterrent to both staff and inmate misconduct, and assist in holding both staff and inmates accountable for their actions.

Some funding was made available to implement a software upgrade improving the camera operating system. While the upgrade did not add audio capabilities, it reportedly improved camera operations. During the previous ADOC's administration, Tutwiler had received a Central Office commitment for grant-funded body-worn cameras with audio capability once the ADOC received a shipment of this equipment. This grant required matching funds by the ADOC. As the new agency head, Commissioner Hamm placed this project on hold until the new administration had time to review grants requiring a financial commitment from the ADOC. After consideration, the Commissioner opted not to participate in the body-worn camera grant. While review and re-assessment of department resource allocations and agency priorities by the new administration was to be expected, the monitor continues to strongly encourage the pursuit of the funding necessary to initiate a pilot body camera program or alternative for Tutwiler's security staff.

While the use of any video monitoring system, electronic surveillance system, or other monitoring technology does not replace the need for staff on posts, the use of this technology can enhance the safety and security of both staff and inmates and provide an important resource for investigators and the review of allegations made in inmate grievances.

The goal of camera management policies and procedures is to maximize supervision. Section III.B. 1-2. of the Consent Decree addresses camera management. On January 17, 2023, Warden McClain convened the annual camera assessment meeting. As identified in the meeting minutes, the following topics were discussed and action plans developed:

- Four blind spots in the facility were identified. The action plan directed the placement of mirrors in two of the four locations. No action plan for the other two locations was provided. The monitor was advised that mirrors were ordered, but the wrong mirrors were sent and had to be returned and

reordered. The correct mirrors were received on April 6, 2023. The recommended area is being reassessed for installation to ensure proper placement. The monitor has asked to confirm the projected installation date.

- Fifty-eight cameras were identified as inoperable. They were not recording. The needed repairs were due to a power outage. Some cameras were not storing recordings for a thirty day time frame. According to the ADOC, the cameras identified as inoperable were either replaced or repaired after ADOC Security Technologies assessed and identified the best solution. The hard drives were received, however, the system is having difficulty recognizing the new equipment ADOC has scheduled an on-site visit with the vendor during the week of April 17, 2023, to address this issue.
- Specific issues with twelve cameras were identified. The issues included connection failures and problems with monitors. The action plan called for ADOC Security Technologies Division to assess for needed repairs and make recommendations. The fiber optic needs to be replaced. The monitor has been advised that assessments have been conducted and repairs made when possible. For issues that have not been rectified, ADOC Security Technologies will be working with the vendor for a solution or conducting further ongoing assessment as needed. The monitor has asked to confirm how many of the twelve cameras have been repaired to date.
- Three areas of the facility were identified for the addition of new cameras. ADOC Security Technologies has ordered and received the additional cameras and is in the process of scheduling a time to install. The monitor has requested confirmation of the installation date.
Other suggestions for improving camera operations were discussed and for security reasons will not be detailed in this report. The resulting action plan for these suggestions directed that analytics be reviewed before any upgrades were completed. ADOC Security Technologies is evaluating the system and will make recommendations on available options.

The monitor inquired about when staff training was last conducted to ensure sustainability and effective operation of the camera system. ADOC advises that training will follow the successful installation of the new hardware and components.

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

In advance of the Court's March 28, 2022, status hearing, while reviewing court documents related to another matter before this Court to determine any intersections with the Tutwiler Consent Decree, the monitor became aware that a new staffing analysis would be conducted at Tutwiler under the supervision of a newly created central office unit, the Resource Unit, which had been created on January 10, 2022. In a joint statement filed by the parties on March 21, 2022 (Document 62), the monitor learned consultant experts, Russ and Meg Savage, were retained to work with the unit to update existing staffing analyses for ADOC facilities, including Tutwiler. In addition, the Savages were to provide training for the new unit on correctional staffing analyses, including the process for collecting information and completion of documentation related to a correctional staffing analysis. The

ADOC identified November 1, 2022, as the target date for completing a new Tutwiler staffing analysis.

During the March 2022 status hearing, the monitor requested to meet with the Savages to ensure their knowledge of the Consent Decree (III C.2.i-III C.2x) and PREA requirements regarding the upcoming Tutwiler staffing analysis. The ADOC was to facilitate the opportunity for the monitor to have a discussion with the Savages. During the June 2022 monitoring visit, the monitor learned the training by the Savages had already occurred and Ms. Tina Tyler, Tutwiler's Institutional Grievance Coordinator, had attended that training and was assigned the responsibility to gather Tutwiler specific data regarding staffing to submit to the Resource Unit. After repeated requests to meet with the Savages prior to the next status hearing, the monitor was notified on September 20, 2022, that outside counsel had arranged for the monitor to meet with the Savages via teleconference on October 13, 2022. The monitor apprised the consultants of the requirements spelled out in the Consent Decree and PREA. The consultants gave assurances that they were very familiar with PREA requirements.

During the July 2022 visit, the monitor requested to meet with the newly appointed Resource Unit Coordinator, Ms. Cheryl Price, to discuss the staffing analysis process. The monitor wanted to ensure the newly developed Tutwiler staffing analysis and resulting staffing plan met the requirements spelled out in the Consent Decree in sections III C.2.i-III C.2x and the PREA regulations for adult prisons and jails. Specifically, ADOC and Tutwiler are required to develop, document, and implement a staffing plan, based on gender responsive principles and PREA requirements, that provides for adequate staffing levels and, where applicable, video monitoring to protect inmates against sexual abuse and sexual

harassment. A staffing plan is to be provided to the monitor and DOJ and must include the following:

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

In calculating adequate staffing levels, ADOC and Tutwiler shall, as part of a staffing analysis, consider the following factors (III.2.ii.):

- Generally accepted detention and correctional practices;
- ADOC and Tutwiler's determination of which necessary duties will be handled by Tutwiler staff, ADOC staff, or outside agencies;
- Any findings of inadequacy from any investigative agencies within ADOC;
- Any findings of inadequacy from internal or external oversight bodies;
- The camera management plan and all components of the facility's physical plant;
- The composition of the inmate population;
- The number and placement of supervisory staff;
- Institution programming and options for supervision of inmates;
- A Tutwiler specific shift relief-factor;
- Any applicable state or local laws, regulations, or standards; and
- The prevalence of substantiated and unsubstantiated incidents of sexual abuse and sexual harassment.

The following are factors required for consideration by PREA regulations (PREA Section 115.13 Supervision and Monitoring- Adult Prisons):

- Generally accepted detention and correctional practices;
- Any judicial findings of inadequacy;
- Any findings of inadequacy from Federal investigative agencies;
- Any findings of inadequacy from internal or external oversight bodies;
- All components of the facility's physical plant (including "blind spots" or areas where staff or inmates may be isolated);
- The composition of the inmate population;
- The number and placement of supervisory staff;
- Institution programs occurring on a particular shift;
- Any applicable state or local laws, regulations, or standards; and
- Any other relevant factors.

The monitor also became aware that a pilot program in three facilities had been conducted to determine the frequency of mandatory posts going unfilled. Tutwiler was one

of those pilot facilities. The monitor repeatedly requested the data collected at Tutwiler be shared with her. It was not. ADOC advised that this information was under seal in other litigation (*Braggs*) before the Court. The ADOC did volunteer to provide a summary of the findings, but advised it would summarize information the monitor already had, so the monitor declined. In the monitor's opinion, this data should be tracked on a shift by shift basis to determine how often a mandatory post must be filled via overtime or through other means, and how often a posts are left vacant.

As required by Section III.C.2.vi of the settlement agreement, the ADOC and Tutwiler are required to submit quarterly staffing reports to the monitor and the DOJ. These reports include the following information: (a) a listing of staff hired at Tutwiler, by gender and positions filled; and (b) a listing of staff who ended their employment at Tutwiler, including gender, position, and the reason for separation. During this reporting period, one quarterly report was forwarded to the DOJ and the monitor. This report was forwarded on January 26, 2023 and covered the time period August 29, 2022 through November 28, 2022. The list reflected nine new employees. Of the new employees, six were hired as security staff. Three employees transferred out of Tutwiler. Seven of the ten employees who resigned were security staff and three were social services staff members. Overall, this report reflected a net loss of two security staff members and two social service staff members. The number of new employees did not keep pace with the total number of staff who either transferred, resigned, retired, or were separated. On April 19, 2023, the monitor and DOJ received a quarterly report covering the period November 29, 2022 thru February 28, 2023. The monitor has requested clarification from ADOC regarding some of these data.

The monitor reviewed the exit interview forms of several employees to explore the reasons they cited for leaving employment at Tutwiler between August 29, 2022 through November 28, 2022 and to identify any potential barriers to staff retention. The reasons employees cite for leaving Tutwiler included: acceptance of other work opportunities offering more money or freedom; the ability to work from home or be located closer to home; the desire for weekends and holidays off; and childcare challenges. Two individuals left employment without having secured another job and both cited stress as the reason. When these exiting employees were asked why they decided to leave, responses included: stress, location, work schedule, childcare, communication issues with staff, and personal issues, including the desire to work with youth. When asked what they disliked about the facility/organization, responses addressed a lack of structure; unprofessional conduct by other staff; lack of respect from both staff and inmates; the impact co-workers' failure to report to work or to report late has on others; rude people; and how inmates communicate to staff. When asked what they valued about the facility/organization, the reasons cited included: the employees; the experience gained; most of the supervisors; health benefits; and the salary. Three employees reported not valuing anything. Regarding the quality of staff supervision, it was suggested that supervisors not show favoritism and be more hands-on, especially with new staff. Overall, most described their relationships with supervisors as "okay", "good", and "great." The monitor suggests adding two other questions to the exit interview questionnaire. Specifically, it would be helpful to ask exiting employees for their suggestions to improve the recruitment and retention of staff.

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 and personal factors in individuals' lives impact their employment decisions. While reviewing exit interviews, the monitor focuses on exiting employees' comments that speak to Tutwiler's institutional culture and operational practice.

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 annual staffing report for the period July 29, 2021, through July 28, 2022, was forwarded to the DOJ and the monitor on January 14, 2023. There is an eight month time lag between the end of the reporting period and the publication of the data. The next annual staffing report will cover the period July 29, 2022, through July 28, 2023, and should be reviewed closely as soon as it is available.

The monitor's on-going concern about Correctional Officer staffing levels at Tutwiler has increased due to the December 31, 2022, staffing data. These concerns are also reflected in the qualitative staff comments collected and analyzed in the January 2021 summary of the survey of Tutwiler staff. The concerns cited by staff included: mandatory overtime, staff shortages, the impact of co-workers calling out from work, and not having enough staff to prevent incidents from occurring in all housing units.

According to inmates, the absence of staff has impacted the provision of some inmate services. For example, internal transports between the Annex and the Factory and

the Annex and the main compound may be delayed. Staffing also impacts the availability of the snack line for inmates at the Trade School, and access to recreation time.

Despite the initial impact of the COVID-19 pandemic, Tutwiler's *total* correctional officer staffing on June 30, 2021, had improved when compared to the December 31, 2020, data. Analyzing the June 30, 2021, vacancy rate of all officer positions, when aggregated, yielded a 21.60% vacancy rate as a result of a significant shift in the distribution of filled positions between the Correctional Officer and the BCO positions. The aggregated breakdown of officer positions on December 31, 2021, yielded an increase in the vacancy rate to 31.5%. The aggregated breakdown of officers on June 30, 2022, yielded an increase in the vacancy rate to 38.8%. The most recent data provided to the monitor documents an aggregated breakdown of officer staff on December 31, 2022, and an increase in the vacancy rate to 45.7%. There were eleven fewer filled officer positions compared to June 30, 2022.

The staffing breakdowns on December 31, 2020, June 30, 2021, December 31, 2021, June 30, 2022, and December 31, 2022 are summarized in the following **Tables 1, 2, 3, 4, and 5**.

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

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

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

It is important to note, the security staffing data presented for December 31, 2020, did not include CCOs or Correctional Officer Trainees. As of June 30, 2022, ADOC revised the Tutwiler's Security Staffing Reports to include CCOs, whose official title is Security Guard I. This change is reflected in **Tables 2, 3, 4, and 5**. Previously the numbers of "cube" officer vacancies and filled positions were listed on non-security/support staff reports. They are now included in the security staffing numbers. CCOs are assigned to the glassed-in secure cubicle areas throughout the facility. They do not have direct contact with inmates, and they are restricted to their assigned control rooms. They receive four weeks of training prior to assuming their posts. In effect the BCOs and CCOs, when compared to APOSTC-certified Correctional Officers, each have restrictions on the duties they can perform, and each has different training requirements.

The monitor notes that while all the officer positions are not equivalents, the number of authorized security officer positions is presented in an aggregated number, and not reported by individual job categories. In the monitor's opinion, this raises questions about how staffing decisions and internal reallocations are made. Deployment of staff to specific post assignments may be impacted by job duty restrictions that apply to BCOs and CCOs.

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

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

Position	Actual Count	Vacancy Rate	Black Male	White Male	Black Female	White Female
CORRECTIONAL CPT. (Authorized = 3)	2	33.3%	2	0	0	0
CORRECTIONAL LT. (Authorized = 10)	10	0%	5	2	3	0
CORRECTIONAL SGT. (Authorized = 21)	11	47.6%	5	2	4	0
SENIOR CORR. OFFICER	40	38.9%	15	2	21	2
CORRECTIONAL OFFICER	0		0	0	0	0
CORRECTIONAL OFFICER TRAINEE	4		2	0	2	0
BASIC CORRECTIONAL OFFICER	45		3	0	41	1
CORRECTIONAL CUBICLE OFFICER (Authorized = 162)	10		2	1	7	0

As of June 30, 2022, there were no Correctional Officers, and forty-five BCOs on staff. The category of Correctional Officer Trainee was added to the reporting, as four BCOs were pursuing the additional training at the residential academy to become APOSTC-

certified Correctional Officers. As of June 30, 2022, the aggregated officer staff vacancy rate had increased to 38.9%. Overall, women filled 74.7% of officer positions.

Table 5: Tutwiler security staffing as of December 31, 2022

Position	Actual Count	Vacancy Rate	Black Male	White Male	Black Female	White Female
CORRECTIONAL CPT. (Authorized = 3)	2	33.3%	2	0	0	0
CORRECTIONAL LT. (Authorized = 10)	11	0%	6	2	3	0
CORRECTIONAL SGT. (Authorized = 21)	10	52.4%	5	2	4	0
SENIOR CORR. OFFICER	36	45.7%	16	2	17	1
CORRECTIONAL OFFICER	3		1	0	2	0
CORRECTIONAL OFFICER TRAINEE	8		1	0	7	0
BASIC CORRECTIONAL OFFICER	33		1	0	31	1
CORRECTIONAL CUBICLE OFFICER (Authorized = 162)	8		1	0	7	0

As of December 31, 2022, there were three Correctional Officers, and thirty-three BCOs on staff. There were eight in the category of Correctional Officer Trainee. It is unclear if the Trainees were new hires off the street or if they were BCOs taken off-line to attend the residential academy to become APOSTC-certified Correctional Officers. As of December 31, 2022, the aggregated officer staff vacancy rate had increased to 45.7%. In total, women filled 75% of the officer positions and Black staff comprised 95.5% of all filled officer positions.

While there is a difference in the training requirements for each officer job title, 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 previously referenced January 2021 employee survey results, a total of forty-five had less than three years' experience. It is a relatively young staff, in need of direction and support. Thus, the recruitment and retention of experienced, qualified supervisors remains a priority. The vacancy rate in the ranks of Correctional Sergeant was 40% in December 2020, 38% in June 2021, 52.4% in December 2021, 47.6% in June 2022, and at the end of this reporting period it had increased to 52.4%. The vacancy rate in the ranks of Correctional Lieutenant was 30% in December 2020, 10% in June 2021, 10% in December 2021, 0% in June 2022 and December 2022. The monitor is advised that a request to increase the number of authorized Captain positions from three to four has been approved, but this added position is not reflected in the staffing totals provided to the monitor December 31, 2022.

The Division of Women's Services continues to provide developmental opportunities for supervisors and Wardens. All Wardens, Captains, and select mid-level supervisors have an assigned coach they communicate with monthly. Each coach is a consultant with The Moss Group, Inc. and provides one-on-one coaching for emerging leaders. Professional development activities include the use of leadership assessment tools and discussions around opportunities for growth and succession planning. In addition, the ADOC began developing a field-training-officer (FTO) program in January 2021. The goal is to provide on-the-job training to new graduates for a minimum of twelve months following academy completion. The Women's Services FTO manual has been developed and is undergoing

internal review. This effort was led by the ADOC Training Director and leadership and staff of Women's Services. A steering committee made up of Women's Services facility and training staff is currently reviewing the training materials and developing a pilot implementation plan. While some draft materials have been shared with the monitor, once ADOC's internal review of the training materials is completed, the materials will be sent to the DOJ and the monitor for review and comment. The 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 provide on-the-job training and support to 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 35.5%. As of December 31, 2021, fifty-four of the authorized support staff positions were filled, resulting in a vacancy rate of 40%. As of June 30, 2022, out of one-hundred-three positions, forty-four positions were filled, increasing the vacancy rate to 42.7%. As of December 31, 2022, out of one hundred-seven authorized positions, sixty-two were vacant increasing the vacancy rate to 57.9%. 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 urges development of specialized recruitment efforts for treatment and programming staff. Tutwiler has taken efforts to mitigate the issues resulting from long standing staffing shortages. Those steps have included a reliance on mandated overtime and

utilizing employees who are non-APOSTC Correctional Officers for certain jobs, such as monitoring the prison's camera system and manning control rooms. Other mitigating strategies have included retaining the part-time services of retired uniform staff, placing supervisors in line posts when needed to maintain operations, doubling up Correctional Officer housing posts, and utilizing CCOs to staff control rooms. The ADOC continues the practice of allowing officers from other ADOC facilities to work overtime, or otherwise be temporarily assigned at Tutwiler, only after those officers have been trained as required by the settlement agreement. The 2016 Tutwiler staffing plan called for one officer to be assigned to each dorm. Staff who were interviewed by the monitor expressed their opinion that one officer was not enough for the larger dorms. Also, it has become the norm that some posts must be "doubled-up" each shift to cover vacancies as a result of staffing levels. When this occurs, one officer must cover two dorms; however, video surveillance is not available in every area of the facility. During the June 2022 visit, the monitor observed one officer covering three units, though small, at once. Occasionally, supervisors are pulled from their assignments to perform Correctional Officer duties. While these efforts may be workable in the short term, they do not, in the monitor's strongly held opinion, present a long-term solution to the chronic staffing shortage. This situation has no doubt been exacerbated by COVID-19 as staff call out sick and some must be quarantined after testing positive in a community-based test. Given these challenges, the on-going recruitment and retention of qualified staff remains critically important and will be further addressed later in this report.

On November 22, 2022, ADOC's counsel provided the monitor and DOJ with a link to a new Administrative Regulation (AR 238, Resource Planning) concerning ADOC

conducting and maintaining a staffing analysis. This new policy was dated October 21, 2022, and signed by Commissioner Hamm indicating it had already been promulgated. Neither the monitor nor DOJ had been provided any draft copies to review and offer comment prior to it being promulgated, as the Consent Decree requires. Nevertheless, the monitor and DOJ offered feedback on December 7, 2022. On January 27, 2023, ADOC's counsel responded to the monitor and DOJ's feedback. A redacted copy of the 2022 Staffing Analysis and Facilities Relief Requirements for the ADOC, dated October 31, 2022, was also available for the monitor and DOJ's review via the same link provided on November 22, 2022. The follow chronology tracks the history of the key steps involved in the development of the Tutwiler staffing analysis.

- **January 10, 2022**-The creation of the agency staffing unit was finalized and Ms. Price was appointed to serve as the Resource Planning Coordinator.
- **March 28, 2022**-The ADOC initiated the development of agency policy related to correctional staffing analysis and the collection of information and data from ADOC's major facilities, including Tutwiler.
- **April 1, 2022**-Facility representative begins the collection of information from Tutwiler.(Document 62). Exact dates unknown.
- **May 4-6, 2022**-the Savages who had been contracted to provide training to the members of the Resource Planning Unit and twenty individuals selected from ADOC facilities to assist with collecting documents and conducting facility tours.
- **June 22-23, 2022**-The Savages conducted additional training.
- **June 28, 2022**-The assigned teams from the Resource Planning Unit, along with the Savages, toured Tutwiler.
- **Unknown date(s)**-Data collection at Tutwiler by facility representative.
- **October 13, 2022**-The monitor met with the Savages via teleconference.
- **October 21, 2022**-NewAdministrative Regulation (AR 238, Resource Planning) signed by Commissioner Hamm, dated
- **October 31, 2022**-Date of staffing analysis report.
- **November 22, 2022**-Copies of the already promulgated AR 238, Resource Planning and a redacted copy of the completed staffing analysis were made available to the monitor and DOJ via a link provided by ADOC counsel.
- **December 7, 2022**-Monitor submits combined monitor and DOJ comments on AR 238 to ADOC and ADOC counsel.
- **January 27, 2023**-ADOC counsel responds to DOJ and Monitor's feedback.

- **March 7, 2023**-ADOC counsel provides DOJ and the monitor with a copy of the Updated Staffing Analysis, dated February 17, 2023, and responds to request for the calculation of the Tutwiler-specific relief factors.

On March 7, 2023, ADOC counsel advised the monitor and DOJ that, as part of the *Braggs* lawsuit, ADOC had updated the Tutwiler staffing analysis on February 17, 2023. Compared to the October 31, 2022, staffing analysis, for the updated analysis ADOC had adjusted the dorm capacities for F, G, and I dorms, reducing F-Dorm by three beds and reassigned those beds by increasing G-dorm by two beds, and increasing I-Dorm by one bed. The ADOC's agency-wide staffing model calls for two officer posts in open bay general population units with a census of over 150, for those with a census under 150, only one officer post would be assigned. It appears ADOC is applying the same staff/inmate ratio as applied in the male facilities, despite the gendered differences between male and female offender populations. Notably, the women have a higher incidence of mental illness and different medical issues than male offenders. This requires a different degree of direct staff supervision.

While providing feedback to the draft of this narrative, ADOC advised the monitor that the number of officers in F-Dorm resulted from the *Braggs* litigation. At Tutwiler, F-Dorm is the largest Dorm, and based upon feedback from staff and inmates, as well as the monitor's independent observations, more than one officer post is needed in this unit. In the monitor's opinion, reducing the bed count by three in F-Dorm does not begin to address the issues. One officer cannot enforce inmate movement restrictions, deal with diversions intentionally created by inmates to divert an officer's attention to the other end of a unit, and keep an eye on the bathroom areas which are the hotbeds for drug use and dealing, and sexual abuse and sexual harassment. Any uncontrolled inmate movement has the potential

to enable a predator to seek out a targeted victim in another unit. This problem has been documented in investigations, and incident reports. In addition, the dated architecture of the facility creates sight-line issues. The monitor believes these realities justify the addition of another officer post in F- Dorm . The monitor believes, based upon her direct observations, that the floor officer posts per unit for the open bay dorms in the Annex should also be revisited and the addition of posts be considered.

After repeated requests for the information, on February 1, 2023, during a meeting with the Resource Planning Coordinator, the monitor and DOJ were advised of the Tutwiler-specific relief factor and requested written verification of this calculation. On March 7, 2023, the monitor and DOJ were advised that the Resource Planning Unit had calculated the relief factor for Tutwiler, as 1.69 for seven day posts and 1.20 for five day posts. The statewide relief factor equaled 1.7 for seven day posts and 1.21 for five day posts. Based upon the lack of any significant difference in the Tutwiler-specific and the agency-wide relief factor, ADOC applied the statewide relief factor in the staffing analysis for all facilities including Tutwiler. In the monitor's opinion, this approach seems reasonable. The issue for the monitor remains the number of posts.

The monitor is very concerned about the lack of notification about changes being implemented, as well as the absent or late notifications made to the monitor and DOJ regarding significant developments related to staffing.

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

Recruitment Initiatives

Captain Goodson, the Director of ADOC's Recruitment Unit organized job fairs focusing on the recruitment of programs and treatment staff. The monitor receives periodic updates on the short- and long-range recruitment and retention strategies outlined in the Office of Administrative Services (OAS) recruiting and retention strategic plan for Tutwiler. During this reporting period, OAS participated in eleven hiring events throughout the state. These hiring events provide a convenient "one-stop-shop" application process, where applicants can apply, complete the urinalysis screening, background interview, and all applicant paperwork at one time. Applicants can conveniently complete urinalysis screening, background interviews, and all applicant paperwork at one stop.

On March 28, 2023, the monitor was advised by ADOC counsel that starting this month, the ADOC opened four locations across the state to accept applications, conduct the PAAT test, fingerprint, and interview potential officers. The locations include Atmore, Wetumpka, Birmingham, and Decatur. This allows individuals to apply without having to wait on an on-site event, but the Department does continue to host on-site events. Additionally, the Department is in the process of purchasing an Application Tracking System that will allow the Department to monitor, track and respond to applications electronically. These initiatives all sound promising. Lastly, the monitor has just been advised that the Department issued a bid for non-inmate contact contract employees to temporarily fill non-contact posts (towers, cubical officers, etc...) through the use of vendors supplying properly credentialed employees. Further, the monitor is advised that the language has changed from "non-contact" to "limited" These developments prompt several

follow-up questions. How is "limited contact" defined? What PREA training requirements will be applied to these contract employees? Some non-contact posts, such as tower assignments, require APOSTC certification. What training and certification requirements have been established? As this initiative is implemented, the response to these questions should be reviewed.

Out of three hundred thirty-six attendees at ADOC hiring events, seventeen expressed an interest in working at Tutwiler. In addition, a local Job Fair was conducted at the Wetumpka Civic Center on August 10, 2022 and yielded eleven potentially interested applicants. The monitor has asked if it is possible for the Personnel Department. to track how many individuals attended job fairs or hiring events, expressed an interest in working at Tutwiler, and then followed through and were hired. From a recruitment perspective it would seem important to identify why a potential applicant would be willing to attend a Job Fair or a hiring event but not interested enough to follow through with the hiring process. This information may provide some insight into the development of additional recruitment strategies. The new Application Tracking system will enable these data to be tracked. The monitor has asked if the analysis of these data will be Tutwiler-specific or a department-wide aggregate.

Recognizing the critical roles recruitment and retention play in overall staffing, the monitor 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. After repeated requests, on August 14, 2020, the monitor was pleased to receive a plan prepared by the then Associate Commissioner that included short-and long-range recruitment and retention strategies specific to Tutwiler. Since then, the monitor has

requested and received very timely and helpful periodic progress reports. On January 26, 2023, the monitor was provided with the most recent progress update for September 1, 2022-December 31, 2022, recruitment activities.

The COVID-19 pandemic created challenges that inhibited recruitment efforts. "On-site" job fairs at ADOC facilities for BCOs were temporarily suspended for some time in 2020, but ADOC implemented an on-line application process so hiring did not come to a full stop. A "landing page" for officer recruits was developed and implemented so that an officer candidate can provide information on-line and ADOC recruiters then enroll the applicant for processing. ADOC's marketing partner, Markstein, coordinates advertising "surges" to coincide with ADOC's various on-site hiring events. The on-site hiring in the Tutwiler region takes place at Staton Correctional Facility. The 2023 schedule includes four hiring events scheduled to be held at Staton on January 27, 2023, April 14, 2023, August 18, 2023, and November 17, 2023.

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 failed the APOSTC test, that individual may have been 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. Having different entrance physical standards for BCOs facilitated the hiring of women into this position which has been a major recruitment goal.

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

With the intent of establishing some historical context, the following information is provided. APOSTC had contracted with Auburn University at Montgomery (AUM) for the review of the eighteen-year-old validation study of the PAAT standards and to assess any disparate impact on women candidates. The AUM Report suggested an alternative validation approach may be warranted *if* adverse impact is ever a problem. The AUM researcher argued that when women officer candidates elect to retest, there is no adverse impact against them because "the pass rate improves when the number of attempts is very high. When given enough attempts it appears that almost every candidate who attempts every test will eventually pass one." In the monitor's opinion, the APOSTC appeared to

have given very little, if any, consideration to (a) the differences between police officer and Correctional Officers jobs and bona fide occupational qualifications for Correctional Officers (b) the extent to which Correctional Officer 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. After reviewing the relevant job descriptions and PAAT requirements, the monitor remained unconvinced that there is a direct correlation between PAAT performance and job performance or other current job outcomes for correctional staff.

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

Troy provided an examination of the necessary physical tasks associated with the ADOC's Correctional Officers and issued a report to the ADOC including a proposed new modified PAAT. The ADOC reviewed the results of the Troy University study in March 2022 and determined the proposed assessment was a more relevant physical screening tool to assess minimum physical standards for Correctional Officers than the then-current PAAT. The proposed revisions to the PAAT were designed to allow candidates to make up for deficiencies in one performance area by exceeding expectations in another. This

represented a significant change from the prior standards which had resulted in failure for anyone who could not meet any single element of the PAAT.

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

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

The monitor provided ADOC with written feedback regarding Troy's study on August 13, 2022. The monitor believes there are methodological flaws in the study. While the monitor falls short of endorsing the study as having validated the proposed standards, the monitor does, as a practical matter, support the pilot and believes the revised assessment is a more relevant physical screening tool to assess minimum physical standards for Correctional Officers. Even though the monitor does not believe Troy accomplished the task of validating the proposed standards, the monitor does applaud the good use ADOC made of

the study. The end result is APOSTC is now working with the ADOC and has made a commitment to engage in piloting the new assessment.

During the monitoring visit on January 31, 2023, the monitor requested to review some interim testing data for the Academy classes conducted since the implementation of the modified PAAT to assess if the revisions are having any impact on the failure rate overall and by the gender of the applicant. So far, the new requirements have only applied to one class in this reporting period. The new PAAT was applied to the October 10, 2022 academy class. Only two trainees failed the physical fitness requirements and as a result did not graduate. Both were women. While this preliminary data is very limited, it offers some promise. The current class began on January 23, 2023 and will end on April 6, 2023. Twenty-six recruits are enrolled in this class and so far, two have failed the PAAT. Both recruits were women.

The monitor is advised that ADOC has requested the Commission to extend the PAAT re-testing period for those who fail the initial test. Currently a candidate who fails the entrance PAAT at the Academy must re-test within forty-eight to seventy-two hours of the failure. The ADOC has requested that the re-test be deferred to six weeks after the failed attempt. If approved, this change would not retroactively apply to the current class, but would begin with the next class. The monitor advises that documentation of the Commission's decision, when made, be forwarded to the monitor and DOJ. In the interim, the pilot results should be monitored and the impact on recruitment, hiring, and successful completion of an Academy well documented in the event APOSTC decides to revisit their commitment during or at the end of the three-year pilot program.

Staff Retention Initiatives

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

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

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

Staff Survey

The latest survey of Tutwiler staff launched on December 1-17, 2021. There were only forty-six responses, with only thirteen self-identifying as security staff. Unlike

previous surveys, the vast majority of respondents to this survey were non-security staff. In total, 72% of the responses were provided by clerical, maintenance, programs, and treatment staff, and contracted medical/mental health staff. Nearly 83% of these respondents planned on working for the ADOC in a year. When asked if they are proud of the work they do, forty-four out of forty-six reported being proud. These are very healthy indicators with respect to retention of program and treatment staff. When asked if they would refer other people to work here, seventeen out of forty-six disagreed. The monitor encourages exploration of this data point in employee coffee chats with the Warden, formal and informal forums, and revisions to the survey questions in an effort to gain more information. Word-of-mouth recruitment is potentially a powerful tool, so it would be useful to explore employees' hesitation to make job referrals.

In an earlier survey launched on December 7, 2020, and closed on January 8, 2021, of the ninety-nine staff members who responded, 63% self-identified as security staff. 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.

On March 3, 2023, the monitor was advised that no annual staff survey was administered in December 2022 due to the implementation in June 2022 of a new weekly staff survey application called RippleWorx. This is a cross-industry analytics platform for organizations looking to identify and impact work force opportunities. It was reported to the monitor that it was decided not to saturate staff with multiple surveys, so Tutwiler will conduct a comprehensive staff survey at a later time. Rather than having to utilize the

ADOC mail system or facility-based computer to participate in a survey, employees can download the RippleWorx application to cell phones and access a weekly survey. The application is very easy to use and very accessible. The expectation is that given this degree of accessibility, this platform will increase staff participation in surveys. Some of the initial questions posed to staff address general wellness and workplace issues. As the questions evolve and become more targeted, the data will be captured over time to be analyzed with the goal of improving recruitment and retention of the workforce. The monitor requested to review the results of a sampling of the initial RippleWorx surveys. Those results were shared with the monitor on March 27, 2023. Many of the questions focused on personal wellness and it is unclear to the monitor if the results provided to here were Tutwiler specific. The monitor has been advised that the primary benefits to utilizing RippleWorx are easy accessibility and the ability to more quickly analyze results. . While providing feedback to this draft narrative, ADOPC provided some bulleted summary of responses. This update prompted several follow-up questions regarding the content of the survey, survey methodology, and the number of Tutwiler respondents, which the monitor has directed to ADOC.

Training

During all on-site compliance visits conducted to date, the monitor has been very impressed with the documentation of staff attendance at training. These records are well organized and demonstrate careful tracking of any pending attendance requirements. On March 2, 2022, Deputy Commissioner Mautz certified that attendance at all required training is current.

Due to COVID-19, classroom refresher training was temporarily suspended. A virtual training program, on the Prison Rape Elimination Act (PREA) and gender-responsive practices, was developed. The training was accomplished with a workbook that was disseminated to all employees. On December 2, 2020, the monitor and DOJ received links to six videos prepared for the virtual training. The videos focus on facility culture; gender-responsive and trauma-informed principles; PREA overview; first responder roles and responsibilities; and professional and respectful communication between staff and inmates. Classroom-based in-service training for Tutwiler staff resumed in April 2021 and is ongoing.

Medical and mental health staff are expected to receive specialized PREA training, in addition to that which is provided by the ADOC and Tutwiler for correctional staff. During all previous on-site compliance visits, the monitor has been impressed with the documentation of staff attendance at training maintained by the current medical provider. The ADOC just transitioned to a new inmate health care contract provider, so compliance with this PREA training requirement should be closely monitored as new staff are onboarded.

Intake Dorm and Overcrowding

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

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

A health screening and health assessment is then performed while the inmate is at the QIF. In addition, an Intake PREA Risk Screening, Intake Mental Health Screening, and a Suicide Risk Assessment are conducted. After screening, inmates are housed in one of three quarantine areas. Watchful Waiting housing is designated for asymptomatic inmates where they are monitored for signs and symptoms of COVID-19. The Quarantine Unit is for symptomatic inmates, awaiting COVID-19 testing results while monitoring symptoms for COVID-19. The Isolation Unit houses inmates who need to rest and recover from COVID-19 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. A standing Intake Committee comprised of Central Office, Tutwiler, and contracted medical managers meets quarterly to review Tutwiler's intake data and provide updates on issues related to the intake schedule, Covid-19, initial classification, and medical and mental health evaluations. The monitor has reviewed the most recent meeting minutes and resulting action items. A total of three hundred-eight inmates were received from July 1, 2022 to December 31, 2022.

As the COVID numbers declined across the state, the size of the incoming cohorts from the counties expanded to fifty. The same group stays together until PCR testing is complete. In the event a single intake is added to a cohort, the watchful wait time restarts for the entire group. The average length of stay for inmate cohorts during this reporting period was eleven days.

Gender-Responsive Risk/Needs Assessment, Classification and Programming

Historically correctional systems have tended to over-classify women offenders 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 criminogenic risks and programmatic and treatment needs differ impacting their classification levels, placements, and programming. Criminogenic needs are factors in an offender's life that are directly related to recidivism.

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 revising the timeframes for the validation project. From the start, it has been anticipated that the validation process would take three or more years after initiation to complete.

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

The classification system now 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 custody levels of Tutwiler inmates at periodic intervals from August 1, 2016, to December 31, 2022, is presented in **Table 6 and** tracks the impact of the new classification system.

Table 6: Periodic Results of Tutwiler Gender-Responsive Classification by Custody Level

	8/1/16	11/1/18	11/26/19	12/31/20	5/31/21	12/31/21	5/31/22	6/30/22	12/31/22
Medium	30%	20%	16%	19%	17%	17%	30%	29%	32%
Minimum	47%	0%	73%	67%	70%	68%	67%	67%	64%
Community	23%	10%	11%	14%	13%	15%	3%	4%	3%

Table 6 reflects inmates classified to Medium, Minimum (includes Minimum-In and Minimum-Out) and Minimum Community. The numbers do not include inmates classified as Close Custody or as yet unclassified due to their recent admissions. Compared to the last

reporting period ending June 30, 2022, the number of medium custody inmates has increased, while minimum custody and community custody numbers have decreased.

The adoption of the new classification system resulted, until the onset of COVID-19, in fewer women being classified to the medium custody level. The data for those classified to medium custody at different points in time has fluctuated. from a low of 16% to a high of 32%. The fluctuation in medium custody level may be due in part to the continued management of COVID-19 which impacts inmate's movement, program participation, and work release. The data for those classified to minimum has also fluctuated. In August 2016 only 47% of Tutwiler inmates were classified to minimum, as of the close of this reporting period 64% were classified to minimum. As of December 31, 2022, only 3% of Tutwiler inmates were classified as minimum-community. The recent reduction in community-based placements appears to be due to the continued management of COVID-19. The availability of work release placements is driven by the number of requests from employers in the Birmingham area for workers. COVID-19 is a factor impacting worker demand. The monitor is mindful that while some women may be "suitable" for placement in lower custody levels, they may not be "eligible". Factors limiting eligibility include: felony detainers; a disciplinary/incident record within the preceding ninety days; a conviction for a violent offense; or not being within four years of the expiration of sentence or parole consideration date. An inmate must be both suitable and eligible for a custody status.

Forty-one percent of the one hundred twenty-three respondents to the May 2022 inmate survey felt their WRNA score was accurate while eleven percent disagreed. The majority of respondents neither agreed nor disagreed.

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

The University of Alabama and Auburn University obtained Institutional Review Board approval from their respective institutions in October 2019. The validation study began on November 1, 2019. The validation process includes three separate studies of the: 1) Intake Instrument 2) Reclassification Instrument; and 3) Pre-release Instrument. The studies of the Intake Instrument and the Pre-release Instrument involve: 1) obtaining participant consent; 2) assessing the reliability of the WRNA assessment; 3) data collection, including infraction and recidivism data as applicable at the milestones of six months, twelve months, and eighteen months. 4) coding the data; and 5) data analysis and reporting. The total target sample size for all aspects of this study was one thousand five hundred women: five hundred in intake, four hundred in reclassification, and six hundred in pre-release. The consequences of the COVID pandemic made the sample size of six hundred women for the pre-release study impractical and unnecessary. Due to the pandemic, 1) fewer women entered Tutwiler from the county jails and 2) fewer women were released from state facilities. These two factors led to a much smaller population of inmates eligible for pre-release WRNA administration. Given the smaller population of women becoming eligible for pre-release administration, it was decided that a smaller sample of four hundred for the pre-release study would be sufficient.

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

The monitor and DOJ received a copy of the research code books being utilized to enter and analyze the data collected and the monitor can attest to the thoughtful and high-quality work underpinning these studies. The monitor requested and has received quarterly updates of the progress made for each of the three studies and projected timeframes from the University of Alabama researchers working on this project. On January 13, 2023, DOJ and the monitor were provided with the most recent quarterly update of the progress made for each of the three studies. On January 30, 2023, Dr. Abbey Holder, ADOC Women's Services Planning and Evaluation Manager, presented an overview of the progress made for each of the three studies to the monitor and the DOJ.

Validation Study of the Intake Instrument

This study will assess if the WRNA risk/needs scale is a valid predictor of infraction counts such that inmates classified as high risk predictably exhibit greater levels of misconduct than those classified as low risk. The necessary sample size for this study is intake records for five hundred women admitted on or after February 1, 2020. The last intake to reach 100% of the necessary sample size was administered on August 16, 2021. Twelve months was originally allotted for intake data collection. On-going staff turnover

and a reduction in the number of women entering the facility due to COVID-19 impacted the original timeline targets. Data collection of intake records for this study has been completed and the research team has coded all of these five hundred records.

The data for the six and twelve month milestones has already been collected and coded. The collection of eighteen month disciplinary infraction data for the intake sample is ongoing with an anticipated completion date of February 16, 2023. Researchers will then clean the data, conduct statistical analyses, and prepare a preliminary report. The research team did share a very preliminary analysis based upon the first six months worth of data. There were no significant correlations between the total WRNA score and the number of infractions that an inmate committed within the first six months of the administration of the intake WRNA. As a result of the low base rate of infractions, it is not surprising that as of the six month juncture, there was no evidence that the WRNA instrument is a valid predictor of infraction counts. It is understood that the base rate of infractions will increase over time, so it is expected that the magnitude of their correlations with the WRNA scale will increase. The monitor has raised the point that pursuant to the SOP 8-30 *Behavior Intervention & Discipline Policy*, fewer formal disciplinary actions are taken at Tutwiler. Only the data regarding formal disciplinary actions are being considered for predictive validation purposes. The behavioral interventions, as opposed to the issuance of formal disciplinary reports, are not factored into the predictive calculus. Going forward, the results of the data analysis at the twelve-month and eighteen-month periods should be monitored closely.

The estimated completion date for the final report for this study is May 16, 2023. The report will be submitted to the monitor and DOJ.

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 and these records have been coded.

The reclassification sample reached the six-month point after the last needed WRNA administration on October 23, 2021. The full sample reached the twelve month data collection mark in April 2022 and reached the eighteenth month mark in October 2022. These data have been coded. ADOC's current efforts are focused on providing the remainder of the infraction data for this phase of the study to the researchers. Upon completion of this phase of data collection, researchers will clean the data, conduct statistical analyses, and prepare a preliminary report.

At this juncture, based upon preliminary analysis, the reclassification instrument appears to outperform the intake instrument. The estimated final completion date for this study was estimated to be January 23, 2023. The research team has elected to wait for completion of the intake and reclassification infraction samples and submit a combined report on May 16, 2023. Upon completion, the report will be shared with the monitor and DOJ.

Validation Study of the Pre-release Instrument

A total of two hundred twenty-five records have been transferred to the research team. The target sample size is 400 participants. The inter-rater reliability of this instrument was established in October 2020. The data collection for this portion of the study has not been completed. Collection of the eighteen month infraction data and pre-release recidivism data is still underway. The original study design involved the use of National Crime Information Center (NCIC) data. Due to technical governmental restrictions, this data cannot be made available to the university researchers. Alternative sources of national recidivism data were explored to enable a validity assessment of the WRNA pre-release instrument. In place of the NCIC data, the ADOC will provide the researchers with data from the Alabama Sentencing Commission. It is important to note, the use of the Alabama Sentencing Commission data will limit the ability to validate the pre-release WRNA. These data only capture highest-level felony re-arrests, reconvictions, and re-incarcerations that occur in State of Alabama courts. If lesser charges are included in the conviction, these are not captured nor reported in the Sentencing Commission data. Incomplete recidivism data, which does not capture both in and out of state crimes will understate recidivism thereby undermining the accuracy of validity analysis of the WRNA pre-release instrument. The team will begin the coding of these 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. At the height of the COVID-19 pandemic, 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. The completion of eighteen month infraction data collection is projected for October 2023. At that juncture, a follow-up analysis will be conducted and a report issued. The estimated date for the final report for this study is January 25, 2024.

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

Programming

Facilitated by a contracted expert, a Women Service's 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 ones addressed the women's identified needs, had research to support their use, and could be implemented within ADOC's facilities. A brief description of the new programs developed and current level of inmate participation follows. **The Getting Ahead While Getting Out** program is a twelve-week re-entry program designed to engage the offender, her family, volunteers, community, and staff in problem solving for a successful transition to the community. Currently seven women are enrolled, and seven women graduated during this reporting period. The **Helping Women Recover** program is a seven-week program designed to treat addiction and utilizes the theories of women's psychological development and trauma. It addresses triggers for relapse, relationships, domestic violence, trauma, family issues and self-esteem. Fifty-two women graduated during this reporting period and sixteen are currently enrolled. The **Beyond Trauma Program** incorporates the latest research in neuroscience, trauma, and post-traumatic stress disorder. This six-week program also incorporates cognitive behavioral techniques, mindfulness, expressive arts, and body-oriented exercises. Seventeen graduated and no one is currently enrolled. 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. Seven women graduated from this ten week program in this reporting period. Currently, there are five enrollees. **Active Adult Relationships** program teaches participants skills to include communication; conflict resolution; emotion management; making budgets; wise choices for friends, dating and

marriage; recognizing personal strengths; and future planning. Twenty-six women graduated from this six-week program during this reporting period and another two are currently enrolled. During the last reporting period, a total of forty-seven women graduated and twenty were enrolled. No one specific reason has been identified for the drop in enrollment. Tutwiler is committed to monitoring these data and working to increase participation in this particular program. **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. Five women are currently enrolled, while twelve graduated recently. **Parenting Inside Out** teaches parent management skills to incarcerated parents. This twelve-week program helps to promote healthy child adjustment, prevent problem behavior, and stop the intergenerational cycle of criminal justice involvement. Four women graduated this program during this reporting period. There are no current enrollees. To accommodate this impressive program expansion, several facility renovations were initiated with the support of the Central Office Engineering Division. Five additional classrooms were constructed and provide a professional learning environment for the new programs. The facility 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 now includes two small rooms designated for activities. An outdoor play area for children was added. Programs include, but are not limited to: Yoga-prison Project, Literacy, Music Education, Journalism, Study Hall, Poetry, Grief/Loss, Arts and Crafts, Art Therapy, Bingo, etc. In addition, the beauty salon was expanded and upgraded. In September 2020, Auburn University proposed a four-year degree program and

began the planning process. In February 2022, acceptance letters for fifteen women were delivered. Orientation was held on February 14, 2022, and classes commenced on February 22nd. The monitor had an opportunity to visit one of the classes during her July 2022 on-site visit and witnessed first-hand how engaged the instructor and the women were.

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

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

Inmates' Right to Privacy

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

Forty-nine percent of the one hundred twenty-three respondents to the May 2022 inmate survey agreed that there is adequate privacy in the toilet and shower areas and forty-eight percent disagreed. Many inmates no doubt want even more privacy in the bathrooms, so they can engage in misconduct. In one-on-one interviews women alleged that the bathrooms are the "hotbeds" for unauthorized smoking, drug dealing and usage, and inmate-

on-inmate sexual activity. Of course, there are no cameras in the bathrooms due to privacy concerns and only one officer, at most, is assigned to each unit. If an officer is busy at one end of the unit or responds to another inmate who is creating a diversion to take attention off the bathroom area, there is no one posted by the entrance to the shower as a deterrent to inmate misconduct. Staff cite this reality as a basis for their belief that assigning two officers, rather than one, to the larger housing units is necessary. The monitor agrees. The monitor suggests the ADOC Women's Services explore reasonable and cost-effective solutions to address unauthorized activities in the bathrooms. Establishing a firm schedule for inmate showers, staggered by unit, and ensuring an officer roving between units for shower coverage is posted at the entrance to the bathrooms would serve to inhibit some of the prohibited activities.

Transgender inmates shower privately in the Health Services Unit.

Inmate Polling

The Consent Decree includes a provision (IV, C) that ADOC and Tutwiler establish a system wherein inmates are routinely polled regarding their perceptions of the implementation of the specific terms of the agreement. The ADOC and Tutwiler established a system of conducting routine inmate polling. The subject matter areas include: the prevalence of staff sexual abuse and sexual harassment; inmate vulnerability to sexual abuse and sexual harassment; the investigation and discipline of staff accused of sexual abuse and sexual harassment; the efficacy of inmate education regarding sexual abuse and sexual harassment; privacy in the showers and toilets; the appropriateness of inmate classification; the levels of staff supervision; the efficacy of the reporting systems for sexual abuse and

sexual harassment including grievances; and official responses to, and retaliation for, allegations of sexual abuse and sexual harassment.

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

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

On July 27, 2022, ADOC and Tutwiler forwarded the results of polling conducted at Tutwiler in May 2022 to the monitor and the DOJ. The polling administration invited four hundred sixty-five women to participate in this survey. Only one hundred twenty-three women completed the poll yielding a twenty-six percent response rate. There is a great deal of time, energy, and resources involved in conducting these polling activities. Survey responses are sometimes supported by what the monitor has observed in

correspondence from inmates, a review of inmate grievances, a review of PREA-related investigations, and inmate interviews; sometimes the responses are at odds with the other data sources. The monitor notes the increasingly lower survey response rate, as well as the increasing numbers of respondents who neither agree nor disagree with statements presented in the survey. The monitor questions the overall value of these surveys. Some of the results from the May 2022 survey include:

- In the area of inmate interactions with staff, contractor, or volunteer, 63% of respondents reported they are not aware of sexual harassment by staff members, contractors, or volunteers. A total of 64% reported they are not aware of sexual abuse by staff. Fifteen percent indicated they are aware of verbal abuse by staff. Fifty-seven percent of respondents agreed they were aware of verbal abuse.
- When asked if sexual relations between inmates and staff members continue to occur, 53% disagreed, with only 27% agreeing. A total of 20% percent neither agreed nor disagreed.
- When asked if they were aware of inmates sexually harassing other inmates, 38% agreed, and 48% disagreed. Regarding verbal abuse between inmates, 74% agreed this is happening, 21% disagreed.
- When asked if they were aware of inmates sexually abusing other inmates, 30% agreed and 53% disagreed.
- When asked if PREA incidents against inmates were investigated in a timely manner, 51% agreed they were, 22% strongly disagreed. An inventory of completed investigations does not support the inmate survey results. When asked about the fairness of these investigations, 51% agreed they were conducted fairly, with 22% disagreeing.
- When respondents were asked if they understood PREA rules, an overwhelming majority, 96% agreed, with 2% disagreeing. These results are consistent with the feedback the monitor obtained in interviews.
- Findings across three questions designed to collect women's perceptions of three dimensions of safety: sexual, emotional, and physical are summarized as follows. When asked about feelings of safety at the facility, 81% agreed they felt sexually safe, while 9% disagreed that they felt sexually safe, with 10% neither agreeing nor disagreeing. In the area of emotional safety, 56% agreed they felt emotionally safe, while 34% disagreed, and 11% neither disagreed nor agreed. In the area of physical safety, 59% agreed they felt physically safe, while 30% disagreed and 11% percent neither disagreed nor agreed. In both current and previous interviews with the monitor, inmates repeatedly reported feeling safe from sexual abuse.

- When asked if staff are available so inmates can get to work, program, and other assignments on time, only 35% agreed, 48% disagreed, while 17% neither agreed nor disagreed.
- When asked if there are enough staff members in the dorms to keep them safe 45% of the respondents agreed, 42% disagreed, while 13% neither agreeing nor disagreeing.
- When asked if cameras were used to keep inmates safe, 53% agreed they were used for safety purposes, while 32% disagreed.
- When asked if cameras are used to get inmates in trouble, 47% of respondents agreed they were used for that purpose, while 31% disagreed, and 23% neither agreed nor disagreed.
- When respondents were asked if they knew how to report issues of sexual harassment and abuse, 91% knew how to report and only a small percentage (2%) reported not knowing. Clearly, the inmate education program has been effective.
- When asked if participants use PREA to falsely report incidents against staff, 70% agreed, 7% disagreed, while 24% neither agreed nor disagreed. In interviews with the monitor, inmates have referred to these false accusations as "being PREA'd" noting that some women openly threaten staff and other inmates by saying "I'm gonna PREA you". The monitor is fully aware, as are the inmates and staff, that with increasing frequency, inmates have lodged false allegations in an effort to get experienced, effective officers removed from their housing units or to manipulate inmate housing assignments to be near friends and romantic partners. The monitor recognizes ADOC is faced with a balancing act. If correctional facilities punish inmates for filing claims deliberately made in bad faith, that holds the potential to discourage some inmates who have been abused or harassed from speaking up. However, many staff and inmates want to see inmates held accountable for making allegations in bad faith to advance personal agendas. The monitor will work with ADOC to develop strategies to address this issue.
- When asked if participants knew how to file a grievance, 94% agreed they knew, with only 2% disagreeing.
- When participants were asked if they trusted the grievance system, 47% agreed they did, 35% disagreed, while 21% neither agreed nor disagreed.
- When asked if discipline is consistent for violating rules about relationships with other inmates, only 21% agreed, and 51% disagreed. This feedback is consistently reinforced in the monitor's formal and informal interviews with inmates.
- When asked if there has been an increase in the number of times staff are verbally abusive, use racially insensitive/offensive language, or profane/vulgar language, 44% agreed, and 28% disagreed.
- When asked if inmates receiving special privileges has increased, 66% agreed, and 14% disagreed. This issue surfaces in the monitor's conversations with inmates.

Inmates have reported to the monitor their perception that African American women receive special treatment.

- When asked if staff members treat inmates with respect, 43% agreed, and 40% disagreed. The issue of verbal disrespect of inmates by staff surfaces in the monitor's conversations with inmates and in inmate grievances.
- When asked if inmates treat staff members with respect, 31% of respondents agreed, and 54% disagreed. This aligns with the monitor's experience in corrections. Women offenders, compared to men, tend to incur disciplinary reports for insubordination and disrespect.

Overall, the survey results are mixed. Given the relatively low response rate and the number of respondents who neither agree nor disagree with assessments, the monitor questions the usefulness of these surveys. The facility's Quality Improvement Team, which meets monthly and is chaired by the Warden is not entirely dependent upon the results of this survey. By the time the survey results are published, the Team has already reviewed 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 latest inmate polling was conducted February 23-24, 2023. The monitor and DOJ just received the results of this survey on April 19, 2023. The ADOC is again utilizing The Moss Group, Inc. to administer the survey. The monitor is in the process of verifying whether the survey protocols and methodology previously reviewed by the monitor and DOJ have been maintained or changed. In the interim, a notice to inmates has been drafted to post around the facility to share the results with the women. Some highlights in the posted notice include:

- A total of two hundred seventy-seven inmates participated in the survey.
- Thirty-nine percent of respondents reported feeling emotionally safe.
- Forty-five percent feel physically safe.
- Sixty-five percent of respondents feel sexually safe.
- Sixty percent of respondents believe inmates use PREA to falsely report incidents against staff.

- Sixty-eight percent of respondents believe inmates use PREA to falsely report incidents against other inmates.

In addition to the routine Likert-scale surveys, ADOC and Tutwiler established a system for an additional research project involving structured interviews of inmates and a qualitative analysis of the responses. Researchers developed ten open-ended questions to use for conducting confidential one-on-one interviews which consisted of one inmate from Tutwiler and a researcher from Auburn University. On November 5, 2022, the monitor and the DOJ received a Structured Interview Report summarizing the results of interviews conducted July 18-20, 2022. In total, twenty-four interviews were conducted. The interviews were recorded and transcribed, and the transcripts were used for data analysis. Inmate responses to these questions were analyzed using qualitative analyses, specifically the constant comparative method for transcript analysis was utilized.

The monitor finds the feedback obtained in these interviews to be very helpful in affirming her previously documented observations and building a deeper understanding of inmates' perceptions regarding the implementation of PREA. The issues identified in this report align with the feedback obtained in inmates' discussions with the monitor during the previous and present monitoring site visits. Most of the interviewees demonstrated an understanding of PREA, and some made positive comments about the use of cameras and the investigative process. Most interviewees shared a perception that if a PREA complaint is made, some action will be taken for example, that the alleged perpetrator and victim would be separated. They reported abuse of the process by inmates and a belief that PREA has not been used according to its intended process. Participants reported that PREA can be helpful when used and investigated in the right way, but many reported PREA being

"weaponized", "abused" and used as a mechanism to get other inmates and/or staff in trouble and/or moved out of their current dorm, or for "retaliation". Several inmates mentioned that PREA related incidents are tied to attempts to gain specific results, examples shared included illegal substances, commissary items, food items, especially for those inmates with little or no financial support from the "outside".

The majority of inmates reported that abuse occurs mainly in the bathroom/shower areas and in the back area of the dorms, especially during third shift when fewer female staff are on duty. As one woman said: "I don't have to worry about what an officer's going to do to me. I got to worry about what the inmates, what the 'princesses' think of me or what they're going to do." The women were asked to make recommendations and suggestions to change the system. According to the researchers, the women "did not hold back" and provided a lengthy list. The following were among the list of suggestions and align with the monitor's previous and current observations and recommendations:

- The need for aggressive follow-up and disciplinary action for those who make false allegations or engage in sexual abuse, use/abuse of drugs, general misconduct, physical and/or mental abuse.
- Mental health care for inmates and staff.
- Drug rehabilitation and withdrawal management.
- Limiting/stopping the influx of drugs.
- Use of service dogs and emotional support animals.
- Need equal numbers of male/female officers to do surprise checks/walk-through at random times.
- Pay extra attention to problem areas/times, including late night on 3rd shift; bathroom/shower areas and back areas of the housing dorms when fewer female Correctional Officers are on shift.

Now that ADOC has changed researchers contracted to conduct these surveys, the monitor hopes the administration of the structured interview surveys will continue. In the monitor's opinion, these interviews provide valuable qualitative data.

Risk Management System

In compliance with Section IV.D.6. of the Consent Decree, 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.

Section IV.D.3. requires DOC and Tutwiler to aggregate the RMS data collected on a quarterly basis. The quarterly reports are very well organized and include thoughtful analyses of trends and patterns. Based upon the quarterly reports included in the last bi-annual report, it can take anywhere from three to nine months each quarter to put together these quarterly reports. In the monitor's opinion, the possible usefulness of all the data collected is compromised by the delay involved in the manual assembly of the reports.

Section IV.D.6 of the Consent Decree requires ADOC and Tutwiler to provide the monitor and DOJ a bi-annual list of all staff members identified through the RMS, and any corrective action taken. On October 21, 2022, the monitor and DOJ received the bi-annual list covering the period of November 29, 2021-May 28, 2022. While the period covered by this report predates the reporting period for this report, it was received for review during this reporting period. On March 10, 2023, the monitor and DOJ received the bi-annual list covering the period of May 29, 2022-November 29, 2022. The period covered by this report falls within this monitoring reporting period. 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. Even

though the information in these summary reports is dated, the reports do provide historical documentation and help to identify trends and patterns of practice. An automated system would produce real-time data analytics and response. Upon review of the most recent data, the monitor identified issues warranting further inquiry. Out of thirty-four incidents included in this report, eight involved incidents of attendance related issues ranging from job abandonment, failure to report to work, refusal of a supervisor's instruction to remain on duty due to mandation, and leaving an assigned post without proper relief. Given the on-going staffing shortages, these infractions are of deep concern. Another areas of concern included allegations of officers physically pushing inmates. Of the thirty-four incidents, eighteen required staff discipline ranging from written reprimands up to and including termination. The on-going number of allegations involving the use of degrading, profane, racially insensitive language remains an issue. The monitor recommends that these topics be on the agenda for the next monthly check-in call with the monitor, ADOC, ADOC counsel, and the DOJ to explore alternative strategies to addressing these issues.

The RMS bi-annual summary reports include a great deal of detail and involves a significant amount of staff time to compile and present. The RMS system is not automated, so there is considerable delay between the dates of the allegations being made, tracked, investigated, and the date of the publication of the report. In the monitor's opinion, the possible usefulness of all the data collected is compromised by the delay involved in the manual assembly of the reports. An automated system would produce real-time data analytics and administrators' responses.

Overall, the monitor does not view the bi-annual reports to be that informative. The monitor has found it far more timely and helpful to review incident reports, investigations,

grievances, and any inmate correspondence generated as they occur within the timeframes of a current reporting cycle.

The RMS has consistently documented that some Tutwiler staff allegedly continue to engage in the unprofessional use of sexually explicit, vulgar, degrading, or racially insensitive or offensive language towards the inmate population that undermines efforts to build a gender-responsive and trauma-informed environment. This conduct meets the definition of sexual harassment in the PREA regulations. The issue of some staff using unprofessional language is on-going and is a frequent topic in on-site discussions and correspondence with the monitor, and in inmate grievances. Addressing this issue must remain a top priority for Warden McClain. In that many allegations of this kind of behavior cannot be substantiated due to the lack of corroboration by others, the response plan includes the use of policy reiteration memos for those instances when allegations cannot be substantiated. A supervisor meets with the staff member accused of using inappropriate or abusive language and uses the meeting as an opportunity to reinforce Tutwiler policy and provide additional supervision and coaching. The employee is reminded in writing of policy requirements.

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

Pursuant to the Consent Decree, 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 (V.D.6.).

On March 25, 2023, the monitor received an update on uses of force at Tutwiler. Overall, the number of uses of force incidents has held steady over the last three quarterly reviews. Forty percent of the use of force incidents involved the application of restraints. Twenty-two percent involved staff separating two or more inmates fighting. Thirty-eight percent involved staff intervening to physically restrain a resisting inmate or redirect the inmate. Of the total use of force incidents, 17% involved inmates in the mental health unit, and 15% involved inmates in the Structured Living Unit. From the last reporting period to the current one, there has been a 20% increase in use of force involving the application of restraints. 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. The monitor recommends the committee review the current application of restraint staff training curriculum and assess if additional training is needed, especially for newer officers.

Sexual Abuse/Sexual Harassment Allegations

The monitor and DOJ attorneys interviewed Mr. Arnaldo Mercado, Director of ADOC's LESD, and agent Charday Jackson, Acting IG April Bickhaus, Supervising Agent Kelley Smith, and Special Agent Elizabeth Pilgreen to discuss and review completed investigations into PREA-related allegations that occurred at Tutwiler during this reporting period. LESD conducts the investigations into allegations of staff-on-inmate sexual abuse

and sexual harassment as well as inmate-on-inmate sexual abuse. The IPCM conducts investigations into inmate-on-inmate sexual harassment allegations and closely monitors the management of reporting inmates and documents any allegations or instances of retaliation against those who report allegations.

The Consent Decree includes annual requirements for refresher training for line staff. In addition to attending the same annual training required of all staff, the applicable PREA standard for prisons requires *specialized* training for both medical and mental health care staff, and investigators. 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. The Consent Decree is silent on any expectation of refresher training for these specialized staff. Although not technically required, the monitor urges ADOC to consider instituting periodic specialized refresher training for investigators handling PREA cases, especially for those who attended investigation training seven years ago in 2016.

There were fourteen allegations claiming staff-on-inmate sexual abuse during this reporting period compared to eighteen allegations made during the previous reporting period. Of the current allegations, eleven were determined to be unfounded, and three were unsubstantiated.

There were thirty-nine allegations of inmate-on-inmate sexual abuse made during this reporting period. This is significantly fewer cases than the seventy allegations filed during the previous reporting period. One case is still pending, one was substantiated, twenty-eight were unfounded, and nine unsubstantiated. An unfounded allegation is one

that, after investigation, is disproven. Additionally, some of those allegations that are disproven may have been knowingly and maliciously made in bad faith to accomplish some secondary gain. During the previous reporting period, fifty-three of the seventy allegations were determined to be unfounded. The drop in the total number of allegations of inmate-on-inmate sexual abuse and the number of "unfounded" allegations is encouraging. Warden McClain attributes this reduction to the IPCM's creative educational outreach. Ms. James provides a lot of PREA education using creative activities like PREA Bingo. She provides inmate education in addition to the routine orientation provided during the admission process.

In addition, ten claims of inmate-on-inmate sexual harassment were investigated by the IPCM. Five were unfounded, and five were unsubstantiated. This is a decrease from the fifteen allegations of inmate-on-inmate sexual harassment made last reporting period.

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

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

When an inmate-on-inmate PREA allegation is made, the administrative response is to separate the alleged victim and alleged perpetrator. It is predictable that the alleged

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

On a monthly basis, the monitor randomly selects grievances for review. During this reporting period, eight hundred thirty-one were filed, an increase of one hundred three over the previous reporting period. The monitor notes that in some instances, multiple grievances were filed for the same incident. The grievances addressed a wide variety of issues, including requesting changes in bed or dorm assignments, problems with tablets and phone pin numbers, and the conduct of other inmates, other grievances addressed medical issues and were routinely re-directed to the separate medical grievance process maintained by medical staff. For example, as was the case in the previous reporting period, the narratives of the complaints 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 unit to enter another unit. One grievant wrote about staff use of force, but the monitor notes

the incident started because an inmate was in an unauthorized dorm. Another grievance was about an assault that occurred because an inmate was in an unauthorized dorm. 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. Twenty grievances filed by inmates about other inmates' conduct address the use and selling of illicit drugs. This issue was also a re-occurring theme in the monitor's conversation with inmates. Several reports reference unauthorized movement of inmates during court. Given the size and configuration of Tutwiler's dorms, the monitor feels strongly that one officer, especially in the large dorms, is not adequate to provide the level of staff supervision necessary to prevent many security-related issues.

The monitor notes there has been a very light increase in the number of PREA-related grievances. During the last reporting period, thirty grievances were identified as PREA-related. During this reporting period, thirty-three PREA-related grievances were filed.

With regard to the emergency grievances, twenty-three emergency grievances were filed during this reporting period. Many of these claims appeared to the monitor to be without merit.

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

grievances to LESD for investigation and one to the Office of the IG. The monitor commends Ms. Tyler for her excellent record keeping and follow-through as she investigated each grievance.

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.

Inmates should have unfettered ability and multiple avenues to report allegations of sexual abuse and sexual harassment in good faith without risk or fear of retaliation. 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 access 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-six calls were made to ADECA's hotline during this reporting period compared to the forty-four calls made during the previous reporting period. It is clear from the investigations of the allegations made, there were at least seven instances of callers using the name of another inmate. When interviewed the alleged victims denied the allegations, but identified those who had a motive for making an unfounded allegation. Some of the complaints made were not related to sexual abuse or sexual harassment. For each call, 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.

Access to Feminine Products and Toilet Paper

The ready availability of both tampons and sanitary pads is required in the Consent Decree (III, A.3). In July 2022, a few women did complain about a shortage of tampons. At

the time, staff attributed this to temporary supply chain issues, not uncommon during the COVID-19 pandemic. Between July 2022 and January 2023 no additional complaints of this nature surfaced in correspondence to the monitor, a review of grievances, or in the summary of trending grievances prepared for the monitor by the Grievance Coordinator. During the monitor's January 2023 tour of F-Dorm, Tutwiler's largest housing unit, several inmates complained about a lack of both toilet paper and tampons. A DOJ attorney reported having heard similar complaints from women in C-Dorm, Tutwiler's second largest housing unit. Regarding the feminine products specifically, the monitor did note that while tampons were reportedly not readily available, sanitary pads were. After discussion with inmates and staff, and the monitor's first-hand observations, there appeared to the monitor to be a temporary issue with the internal distribution of toilet paper and tampons within F-Dorm.

During a follow-up visit to the unit, the monitor witnessed boxes of toilet paper being delivered to the F-Dorm bathroom by someone other than the long-time Housekeeping Officer. Some inmates rushed to the bathroom to grab multiple roles of toilet paper depleting the supply. It appeared to the monitor that there was stockpiling of these products by some inmates. Only one housing officer was assigned to the unit and that officer was occupied performing other duties. When this was brought to her attention, Warden McClain immediately initiated corrective action. New toilet dispensers were ordered to affix to each individual restroom stall along with the specialized paper to fill these new dispensers. On each shift, assigned staff must now complete a new inspection sheet verifying the amount of supplies for both toilet paper and feminine hygiene products in each dorm. This process is in addition to continuing to maintain community supplies of toilet paper and feminine hygiene products routinely and as requested to ensure inmates are provided a personal supply of

these items. No new inmate complaints about access to either tampons or toilet paper have been brought to the monitor's attention since Warden MCCLain instituted corrective measures. The long-time Housekeeping Officer has since resumed that role. The monitor acknowledges that there have been two instances of complaints about the availability of tampons - one in July 2022, and another in January 2023. The monitor does regard the complaints of January 2023 to indicate a temporary failure to comply with the terms of the Consent Decree during an otherwise period of sustained compliance. As such, the monitor finds ADOC and Tutwiler to remain in "substantial compliance" with the relevant Consent Decree requirement. Monitoring of the continued availability of feminine products should be prioritized.

Alabama Strengths

The monitor believes ADOC has a strong foundation in the leadership of both ADOC's Women's Services and Tutwiler for maintaining full compliance with Consent Decree requirements previously determined as such. That strong foundation is a result of the following organizational strengths.

Leadership from the Alabama Department of Corrections

As reported in an ADOC media release, dated March 7, 2023, Commissioner Hamm's priority projects include, but are not limited to: building new prison facilities; implementing a modern inmate management system; streamlining the correctional officer hiring, retention, and training processes; and actively supporting the reinstatement of Tier 1 retirement benefits for all employees. Progress in these areas will go a long way to support

Tutwiler's site-specific challenges meeting the balance of two of the three Consent Decree requirements remaining in partial compliance.

Former Deputy Commissioner Wendy Williams provided long-term steady leadership for the Women's Services Division and Tutwiler staff, directing, and supporting successful implementation of the Tutwiler settlement agreement. In addition, Deputy Commissioner Williams and former Tutwiler Warden Wright were strategically focused on developing the capacity of facility leadership and developing the policy and practice to sustain and advance the progress made to date. In all these efforts Dr. Williams was supported by Dr. E. Kelley Mautz, the then Women's Services Administrator, and Warden Wright was supported by Warden McClain. Deputy Commissioner Williams transferred to another role in the agency, and Warden Wright retired. Dr. Mautz was then promoted to the role of Deputy Commissioner of Women's Services and Warden McClain was promoted to the Warden III position, while retaining her role as Tutwiler's Settlement Compliance Manager. In the monitor's estimation, both Dr. Mautz and Warden McClain have the knowledge, skills, abilities, and commitment to lead Tutwiler to full compliance with the requirements of the Consent Decree. Both Dr. Mautz and Warden McClain have been deeply involved in the development and implementation of the Women's Services Division's Strategic Plan which emphasizes a commitment to create a culture that is gender-responsive, and trauma-informed.

ADOC's commitment is also manifested in the agency's investment in staff training. Several years ago, ADOC repurposed a state-owned building, conveniently located next to Tutwiler, to create a regional training center dedicated for the training of line staff working in the women's facilities. It became operational in May 2018 and continues to provide 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 providing specialized training for those who work with female offenders.

The monitor works closely with Deputy Commissioner Mautz who oversees the ADOC's Women's Services Division and in her role has the primary responsibility for managing compliance with the Consent Decree. Dr. Mautz and the monitor communicate regularly regarding developments of note occurring at Tutwiler relevant to the settlement's requirements. Dr. Mautz has been most responsive to the monitor's inquiries and input, as was her predecessor.

At the time of the monitor's recent visit, two key members of the ADOC executive team had just retired, so the positions of Inspector General and Associate Commissioner of Administration were vacant. The Associate Commissioner of Administration's role is an important one, as that incumbent oversees functions directly related to staffing, and recruitment and retention. On March 29, 2023, the monitor was advised that Mr. Stan Goolsby was appointed Deputy Commissioner of Administration, effective March 16, 2023. His direct reports include: Personnel, Training, Recruitment, IT and Central Records.

Tutwiler Leadership

Ms. Lagreta McClain currently serves as Warden III at Tutwiler and prior to her promotion to that role, she served as Warden II and was responsible for coordinating many of Tutwiler's efforts to comply with the terms of the Consent Decree. As such, she is very

familiar with the requirements of the settlement agreement and played an instrumental role in the development of the facility's compliance tracking systems.

Ms. Katrina Brown serves as Tutwiler's Warden II and has the benefit of having previously worked at Tutwiler. Ms. Felisha Blanding serves as Warden I. In her previous roles as Tutwiler's IPCM and Compliance Captain, she demonstrated her in-depth knowledge of PREA requirements and is a source of administrative support to Tutwiler's IPCM.

As individuals and as a team, the Wardens consistently demonstrate solid management skills, teamwork, and have led by example. Warden McClain has demonstrated her commitment to the provision of leadership training for Tutwiler's management team.

Presently, three Captain positions are filled and a fourth Captain position has been requested and approved. In addition to Captain Brian Coleman who serves as the Security Captain, Captain Brandon Knowlton serves as the Administrative Captain and Mr. Brandon Thornton was recently promoted to Compliance Captain. The fourth Captain will oversee the Intake and ReNU units. This position will be filled when ReNU opens.

Since 2016, there have been five IPCMs. Most recently, Ms. April James assumed the role in March 2022. Warden Blanding provides assistance and support to Ms. James. Ms. James had a background as an investigator prior to assuming the IPCM's role. This background is proving helpful in her new role.

Ms. Tina Tyler, the Institutional Grievance Coordinator, also fills a critical leadership role at Tutwiler. Ms. Tyler, a civilian, concurrently serves as Tutwiler's ADA Administrator. It has been the monitor's independent 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.

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

ADOC Consultants

The ADOC and Tutwiler continue to draw on and benefit from consultant expertise in several specific areas. Specifically, expert consultants have participated with the ADOC and Tutwiler 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; the development of a staff recruitment and retention plan; and the provision of staff training.

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

- Annex physical count: 195 down from 203 on July 11, 2022
- Quarantine Intake Facility: 51 up from 48 on July 11, 2022
- Total 720 down from 796 on July 11, 2022

There has been a decrease of seventy-six inmates during this reporting period.

Both the settlement requirement for the development of a gender-based classification system (III.F.1-3) and the development and implementation of gender-based programs (III.F.4) 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 prescribes several program offerings that should be available for inmates, based on a needs assessment. Tutwiler completed some physical plant renovations to add much needed space for programs and activities. The staff have creatively converted and renovated every space possible to provide additional room for expanded programming. The administration has proven very adept at repurposing unit missions to accommodate the need for maximizing bed space utilization. The old dining hall was renovated and converted into an activity center which can be utilized for visits and programming. Central Office staff has worked with Women's Services to provide support by allocating resources for capital improvements.

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

Staffing Challenges-Overall Vacancies and Recruitment and Retention of Women

The monitor notes that the chronic, ongoing, and increasing number of staff vacancies at Tutwiler presents a serious concern for leadership, staff, and inmates, and negatively impacts the safety and security, and operations of the facility.

In the first court report, the initial settlement agreement monitor noted a vacancy rate of almost 50% of authorized, funded positions. As of June 30, 2020, the combined rate of Correctional Officer and BCO vacancies was 36% percent. As of December 31, 2020, the combined vacancy rate of Senior Correctional Officers, Correctional Officers, and BCOs was nearly 33.75%. On June 30, 2021, the ADOC's recorded combined vacancy rate of Senior Correctional Officers, Correctional Officers, BCOs and CCOs was nearly 21.60%. In comparison, on December 31, 2021, the combined vacancy rate of these positions was 31.5%. As of June 30, 2022, this vacancy rate was 38.8% and it rose to 45.7% on December 31, 2022.

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

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

December 31, 2022, all ten, plus one, for a total of eleven authorized Lieutenant positions were filled.

To ensure adequate staff to fill key posts, Tutwiler leadership implemented a mandatory overtime policy at the end of 2016 to address critical vacancies because certain posts must be staffed. Tutwiler continues to rely 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. As evidenced in the RMS system, some staff refuse direct orders to work overtime, and some have left their posts without proper relief. The on-going reliance on overtime to staff critical functions is not a long-term solution to the staffing shortfall. The monitor was provided a breakdown of the overtime used by line staff and by supervisors for this reporting period. A total of 31,753.00 hours was used. The use of overtime for supervisors has increased to a high of 7,589.75 hours this reporting period, whereas the utilization of overtime by line correctional staff has not varied significantly. The facility does not track how many hours represent forced overtime, but in the monitor's opinion, would be important data to track.

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 has been cited as the precipitating factor. A decision was made to transition from twelve hour shifts to eight hour shifts effective June 3, 2017. This change was especially helpful to single mothers who relied upon daycare. In Alabama, children are prohibited from spending more than ten hours

a day in daycare. This was a challenge for working mothers who lacked a support system of family members and friends who could assist them. After consultation with staff, Tutwiler's forced overtime practices were amended such that staff could elect and anticipate which days of the week they might be required to work overtime thereby allowing some degree of planning around when staff might be held over on another shift. Staff have expressed appreciation for this change in practice in interviews with the monitor. In the narrative responses to the employee survey results reported in January 2021, several security staff cited staffing challenges, staff shortages, mandatory overtime, the need to reduce callouts, and the inability to properly staff the facility as things they did not like about their jobs.

The monitor had discussed these chronic staffing issues with ADOC and Tutwiler leadership. 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)

Overall, the recruitment and retention problems that contribute to the high vacancy rate remain a concern. The long-standing APOSTC physical standards have been an entrance barrier to recruitment and hiring.

As has already been discussed, the ADOC's recruitment and hiring data have underscored an historical system-wide issue with the application of the APOSTC physical standards to women candidates, in particular. The former Commissioner took an important first step in his outreach to APOSTC by submitting a request to modify the administration of

the PAAT academy training requirements for state Correctional Officer applicants. At that time, 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. Immediately, 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 staff's 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 by ADOC leadership 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, but seemingly the request was surprisingly 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 official 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. Applicants for the BCO position apply for employment directly to the ADOC. Given the type of position this is, the State Personnel Department did not create a knowledge, skills, and abilities task statement for this job classification. Applicants for the BCO position apply for employment directly to the ADOC.

Regarding the position of Correctional Officer, the monitor was provided a copy of the knowledge, skills, and abilities task statements and a copy of a job posting for that position. Although the job posting notes applicants must complete APOSTC correctional requirements, the Correctional Officer knowledge, skill, and ability statement notes that officers require the "Ability to possess sufficient physical fitness, strength, stamina, mobility, and agility as needed to drive a vehicle, operate equipment, defend oneself and others, wield weapons, restrain inmates, patrol assigned area, remain alert, combat stress, and apply restraints." This standard certainly justifies APOSTC's requirement that officer candidates attend defensive tactics and a firearms course. The monitor requested and received a copy of an outline of APOSTC's physical agility/ability test. The general statement for the physical agility component of the test stated, "it simulates any number of job-related activities such as the removal of a stalled vehicle, jumping down from porches, climbing stairs, walking along walls, rafters, pipes, or beams while in foot pursuit or while checking buildings for suspects." For example, one event required pushing a standard size patrol vehicle a distance of fifteen feet on a paved, level surface with the gear in neutral. Other activities involved climbing fences, successfully completing a window entry, a weight drag of a dummy, and running a distance of twenty-five yards and then surmounting a six inch by six-inch beam suspended one foot in the air and walking a distance of fifteen feet.

Based upon prior work experience as an Institutional Director of Personnel and Training and the Director of three statewide correctional training academies, the monitor remained unconvinced of the relevance of many aspects of the APOSTC test to the job of Correctional Officer. Even if the relevance of APOSTC's requirements to corrections were accepted, it is important to note there are no ongoing ADOC physical agility or ability requirements for uniformed staff to maintain these standards once they assume their positions in correctional facilities. The fact that staff are not required to maintain entrance physical fitness standards calls into question the validity and relevance of those standards to correctional officers. The APOSTC document also verified the absence of any gender-norming for the physical ability testing which included timed push-ups, timed sit-ups, and the one and one-half mile run. The APOSTC test outline stated, "Failure to successfully complete any part of phase one or two means failure of the entire physical agility and ability test. If the applicant fails any part of the exam, he/she will be given an opportunity for one retest." That retest must take place in not less than forty-eight hours and not more than seventy-two hours.

On July 27, 2022, the ADOC provided the DOJ and the monitor with a summary of physical training screening test results held at ADOC facilities from November 29, 2021, through May 28, 2022. Overall, the combined total of male and female applicants who participated in the physical ability test was ninety-two. Of the sixty-five men who participated in the physical ability test, thirty-eight (58.4%) passed the test and thirty-two (49.2%) of the male candidates failed the test. Of the twenty-seven women who participated in the physical ability test, only ten (37.0%) of them passed the test and seventeen (62.9%) failed. The majority of women candidates failed the physical training test. Many of these applicants were then recommended for the non-APOSTC-certified BCO positions.

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

In addition, APOSTC has amended policy to now require all academy applicants to submit to a psychological evaluation conducted by a licensed behavioral health professional, effective January 1, 2021. These evaluations were conducted by ADOC's Office of Health Services. The monitor has been advised that the ADOC just began outsourcing these services to a vendor. The monitor has asked if this duty has been assigned to the new inmate medical services provider or to another vendor?

Recruitment Initiatives

Over recent years, 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 on the ADOC organizational chart falls directly under the oversight of the new Deputy Commissioner of Administration. Captain Napoleon Goodson is the ADOC's Recruiting Director. There are three full-time recruiters and a recruiting coordinator who exclusively recruit correctional staff throughout much of the agency's recruiting efforts. Markstein, an agency in Birmingham, AL has been providing some marketing support to the ADOC. Warren Averett, another organization, was

also contracted 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.

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.

Warren Averett provided four contract recruiters to assist the ADOC Recruiting Division and conducted an analysis of ADOC's policies, practices, and procedures relating to or affecting the recruitment, employment, and retention of correctional staff. One consultant works with the Correctional Officer hiring division in the ADOC's Central Office and the other three are in Birmingham. The contracted recruiters primarily make initial and follow up phone calls to potential and current applicants. In addition, they provide consulting assistance to ADOC about recruiting strategies. Consultants assist with State Personnel Department staffing requests and have advised extensively on how to improve

ADOC on-site testing for Correctional Officers and BCOs to make them more appealing for applicants.

The lead Warren Averett consultant worked extensively with ADOC's then Personnel Director, to draft a legislative proposal inclusive of pay raise incentives for correctional staff. The former Commissioner was a strong advocate for the legislative action necessary to enhance compensation for security staff to improve staff recruitment and retention efforts.

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

- Effective July 31, 2019, ADOC employees with a performance appraisal score of "meets standards" received a 5% pay increase (an increase of the previous rate of 2.5%).
- Beginning August 2019, existing Correctional Officer Trainees and Correctional Officers became eligible to earn bonuses tied to Academy completion, classification status, and work performance, ranging from \$4,500 to \$7,500. Existing supervisory personnel were also eligible for the same amount.
- All state employees received a 2% cost-of-living-adjustment effective September 1, 2019.
- All ADOC security classifications received a 5% salary increase effective October 1, 2019; in addition, all security classifications pay grades were increased by 2.5% percent to 10%, depending upon the job classification. This raised the upper limit of compensation for each job class.
- Effective January 1, 2020, ADOC employees in positions requiring APOSTC certification became eligible to receive payment for up to eighty hours of excess annual leave.

- Provisional appointments to Senior Correctional Officer (for those eligible) took place on February 1, 2020, accompanied with a 5% pay increase. The start of the six-month probationary period was delayed due to the State Personnel Department not getting the promotional register created. Therefore, the effective date of the actual promotions was August 16, 2020. The probationary period is six-months, meaning permanent status as a Senior Correctional Officer was in February 2021, to include another 5% increase in pay. Bonuses for Senior Correctional Officers were also delayed. The first bonus was in February 2021, followed by a second bonus planned for March 2022.

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

ADOC also engaged in another promising effort to increase correctional staff. Troy University's Center for Public Service conducted a comprehensive analysis of the compensation and benefits offered by ADOC to correctional staff, including a comparison of ADOC compensation and benefits for correctional staff to the compensation and benefits afforded by other law enforcement and criminal justice agencies at the state, county, and local level. This analysis was intended to result in short-term and long-term recommendations for ADOC concerning compensation and benefits of correctional staff. A copy of this analysis was shared with the DOJ and the monitor on May 20, 2019. Combined, these initiatives went a long way to making ADOC's salaries more competitive with other local criminal justice and law enforcement organizations and improving recruitment and retention results.

At the facility level, Tutwiler is also focusing on addressing employee recruitment and retention. The Moss Group, Inc. worked with the ADOC Women's Services strategic planning sub-committee to develop a recruitment and retention plan for ADOC Women's

Services. The plan is organized into two sections: **1) Retention: Re-recruiting Staff** and **2) Recruitment: Making the Most of the market.** The plan includes many practical and actionable strategies and objectives. Small, task-specific committees have been established to implement approved recommendations at the facility level.

Previously the monitor suggested additional targeted recruitment strategies for consideration. Given promising developments, including legislation to increase compensation; the creation of the BCO position, which requires a lesser degree of demonstrated physical fitness and a shorter length of time in the training academy; and the change in shift length and revisions to the forced overtime practice to afford staff more control over their schedules; the monitor suggested strategic outreach to those men and women who may have previously left the academy as a result of not being able to meet all the fitness requirements. The creation of the BCO position, and the revised PAAT for Correctional Officers, may now afford them an opportunity to work for the ADOC. Another potential target group for recruitment includes staff who resigned from Tutwiler in the last few years, as a result of the amount and unpredictability of forced overtime hours. These individuals have already attended the training academy and would require very little training before being placed back on a roster. Retirees also represent a potential source of re-hires, as they are allowed to work part-time hours post-retirement.

As part of Commissioner Hamm's plan to strengthen the department's recruiting and retention efforts, pay increases and new pay grades for correctional officers statewide were announced on March 7, 2023. The ADOC worked closely with the State Personnel Department to overhaul salaries paid to existing and prospective employees in the ADOC's

Correctional Officer classification series. The key features of this overhaul impacting Tutwiler include:

- Increase in starting salary for correctional officer trainees at maximum security facilities to \$55,855.20
- Pay grade/salary increases for current correctional officers - the new pay grade allows for additional steps in pay progression
- New promotional classification established - Correctional Security Guard Senior is a newly established promotional classification
- Expanded location differentials now support staff in addition to correctional officers

The following **Table 7** lists the revised salaries for those working at maximum security facility and apply to Tutwiler.

Table 7: Annual Salary for those working in the correctional officer classification series at maximum security facilities.

CLASS	ANNUAL SALARY	SALARY PROGRESSION EXPLANATION
Correctional Officer Trainee	\$55,855.20	Starting Salary
Correctional Officer Trainee	\$58,692.00	Completion of COT Probationary Period (6 months)
Correctional Officer	\$61,660.80	Promotion to CO (after COT Probationary Period)
Correctional Officer	\$64,735.20	Completion of CO Probationary Period (6 month
Correctional Officer Senior	\$67,972.80	Promotion to CO Senior (after CO Probationary Period)
Correctional Officer Senior	\$71,412.00	Completion of CO Senior Probationary Period (6 months)

Because Tutwiler is a maximum security facility, a ten percent location differential will also be applied.

The monitor is aware, based upon an ADOC press release, dated March 7, 2023, Commissioner Hamm's agenda, going forward, includes: building new prison facilities; implementing a modern inmate management system, streamlining the correctional officer

hiring retention, and training processes; and actively supporting the reinstatement of Tier I retirement benefits for all employees.

Logistics

Compliance Assessment

The purpose of the January 30-February 1, 2023, compliance assessment was for the monitor to acquire information and observations to inform the fifteenth compliance report for the Court. The monitor and Deputy Commissioner Mautz worked together to finalize the agenda, interview schedules, and document reviews.

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

Monitor's Actions to Conduct This Compliance Assessment

The monitor completed this assessment report through the following actions:

- 1) Examining the settlement agreement, its provisions, and the specific requirements listed in the monitoring tool.
- 2) Requesting and examining specific documents to identify and assess the extent of the ADOC and Tutwiler actions in response to the agreement requirements. Examples include but are not limited to: ADOC policies and Tutwiler standard operating procedures; staff rosters, staff reports and spreadsheets to document actions; inmate grievances; and investigations.

- 3) Selecting specific ADOC and Tutwiler staff for formal and informal compliance interviews based on the individual's overall and direct responsibilities for settlement implementation.
- 4) Reviewing correspondence submitted to the monitor from inmates, and then requesting information, documents, and investigations to review inmates' concerns/allegations.
- 5) Conducting one-on-one formal and informal 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.
- 7) The monitor sent the first draft of the narrative report to all parties on March 29, 2023 and the first draft of the monitoring tool to all parties on April 3, 2023. The agreement allows for a period of review by both parties. The monitor received comments from the DOJ and ADOC and reviewed the comments of both parties and took them into consideration in her final revisions to the report.
- 8) The narrative summary and tool were submitted to the court on April 21, 2023.

Closing Observations

The monitor appreciates the cooperation she received during the conduct of this compliance assessment report from Dr. Mautz, Deputy Commissioner for Women's Services, and Warden McClain and her team. The monitor also appreciates the level of cooperation and responsiveness of the ADOC Women's Services Division and Tutwiler staff

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

Monitor's Priority Recommendations

In closing, the monitor recommends prioritized monitoring of the following initiatives and documents during the transition in responsibilities for monitoring the Tutwiler Consent Decree:

- Replacing the current monitor's contact information posted throughout the facility with the new monitor's contact information.
- The next annual staffing report covering the period July 29, 2022 through July 28, 2023.
- Revision of all related documents to ensure reversion to the former role of the IPCM in PREA investigations.
- Staff and inmate resistance to the implementation of SOP 8-30, *Behavior Intervention & Discipline Policy as reflected in interviews and correspondence*.
- Frequency of false PREA allegations knowingly made in bad faith.
- The results of any implementation pilot studies involving Tutwiler- e.g., RippleWorx, the new PREA Risk Tool, and APOSTC's PAAT pilot program.
- Confirm completion of action plans resulting from the annual camera management meeting.
- The opening of the ReNU unit when it comes on-line.
- The use of technology as a means to create less opportunity for harassment of inmates, addressing false allegations made against staff, and expediting investigations of accused staff.

- APOSTC's PAAT pilot results and the impact on recruitment, hiring, and successful completion of an Academy.
- Compliance with the PREA specialized training requirement by the new medical and mental health provider.
- The intersection of drug use/dealing with PREA allegations, for example debt collections.
- Use of force trends.
- Implementation of the recent staffing analysis.
- Review of a new staffing plan once finalized, including the on-boarding of any newly authorized positions.
- Analysis of the annual RMS evaluation.
- Impact of any new recruitment strategies on hiring.
- Trends in inmate grievances.
- Overall sustainability of internal tracking systems.

The attachment to this report summarizes the monitor's compliance determinations.

Attachment A: Compliance Assessment Chart



Tutwiler Fifteenth
Compliance Report St