

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

UNITED STATES OF AMERICA, )  
 )  
 PLAINTIFF, )  
 )  
 v. )  
 )  
 THE STATE OF ALABAMA AND THE )  
 ALABAMA DEPARTMENT OF )  
 CORRECTIONS, )  
 )  
 DEFENDANTS )

Civil No. 02:15cv368-MHT

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**Monitor's Fifth Compliance Report**

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## **Introduction**

The State of Alabama and the United States Department of Justice (DOJ) entered into a settlement agreement on May 28, 2015. The agreement involves a comprehensive set of provisions regarding the safety and security of the women offenders housed at the Tutwiler Prison for Women (Tutwiler). The purpose of the compliance report is to document the progress of the actions of the Alabama Department of Corrections (ADOC) and Tutwiler in response to the specific requirements of the provisions in the settlement. This is the fifth required court report, due February 28, 2018, submitted by independent Monitor Kathleen Dennehy. This court approved Ms. Dennehy as monitor on August 26, 2016.

Ms. Dennehy conducted a compliance visit December 3-8, 2017. This report describes the actions taken by the monitor to determine compliance, and uses the time frame July 1, 2017 through December 31, 2017 as the "reporting period."

The settlement uses four levels to measure compliance: Substantial Compliance, Partial Compliance, Non-Compliance, and Not Applicable (N/A). The Summary of Compliance section of this report at page 56 includes a chart summarizing the compliance status for each provision.

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

The monitor took the following specific actions to evaluate compliance:

- 1) During Monitor Dennehy's December 2017 compliance visit with the Alabama Department of Correction (ADOC) and Tutwiler, she interviewed central office ADOC staff, including executive leadership and section

managers, who have responsibilities related to the ADOC 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 PREA Compliance Manager. The monitor handpicked some staff for interviews and randomly selected other uniform staff from employee rosters for one-on-one interviews. These staff members were diverse in gender and race. The monitor conducted two inmate focus groups comprised of women randomly selected from housing unit lists. The monitor also met individually with five women who had previously corresponded with her for the purpose of following up on their issues. In addition to these formal interviews, the monitor was afforded open access to staff and inmates during the monitoring visit and had many opportunities to question and engage in conversations with both staff and inmates while touring housing and program areas and the monitor was provided meeting space to engage in private one-on-one conversations with inmates and staff.

- 2) The monitor reviewed multiple ADOC and Tutwiler documents during this reporting period. These documents included previously promulgated ADOC and Tutwiler policies, ADOC and Tutwiler policy drafts, and training curricula and materials. Prior to the December compliance visit, the monitor requested documents, including inmate polling results, and inmate grievances to prepare for a tour of the facility and staff and inmate interviews. During the tour, the ADOC allowed the monitor access to

investigations, training files, staff rosters, and shift reports. The ADOC provided full access to records maintained by the Institutional PREA Compliance Manager, Lt. Yvette Young; Grievance Coordinator, Lt. Brian Coleman; and Settlement Compliance Manager, Warden Lagreta McClain. After the compliance visit, the monitor requested and received additional documents to substantiate and assess the progress of the work and actions taken by the ADOC and Tutwiler in response to the requirements of each section of the settlement.

- 3) Tutwiler has a notice posted throughout the facility, with correspondence addresses for the monitor. During this reporting period, the monitor received correspondence from two third parties. One e-mail was from an inmate's daughter and she questioned the facility's rules regarding her mother's hair style. This was referred to Warden Wright. The second letter was from a community based program provider who was worried that her friend who is incarcerated at Tutwiler may not be getting adequate medical care. This correspondence was also referred to Warden Wright who provided the monitor documentation that the inmate's issues had been addressed. In addition, the monitor received correspondence from thirteen Tutwiler inmates. These letters addressed a wide range of allegations, including racial discrimination against white inmates, inadequate medical treatment, delays in medical treatment, officers using unprofessional language in communication with inmates, an increased availability of contraband drugs throughout Tutwiler, the need for more facility

maintenance, especially in the plumbing department, maggots in food served to Tutwiler inmates, and delays in the process for identifying and accommodating the needs of inmates diagnosed with gender dysphoria. One inmate wrote at length about her alleged conversations with correctional officers regarding how unsafe staff felt at Tutwiler and why they were going to leave ADOC employment. The monitor reviewed each letter and requested additional information from ADOC officials to better assess the contents of the correspondence and to request follow-up action where appropriate. In each instance, the ADOC provided timely and appropriate responses. During the compliance tour, the monitor met with some of the women who had written to her. While drafting this report, the monitor had also referred issues raised in three additional letters received by her after the December compliance visit. One woman alleged a delay in the receipt of some medical test results. The monitor was provided a detailed update on this woman's medical issues and condition by ADOC and Tutwiler staff. Based upon the information provided to the monitor, it appears this woman's issues were addressed appropriately and timely. Another inmate alleged that she was jumped by four other inmates as a result of a correction officer suggesting that she had identified others for drug testing. The monitor has asked that an investigation be initiated in this case. This inmate's allegations will be investigated and a summary of that investigation and findings will be provided to the DOJ and the monitor. The third inmate is transgender and claims officers encourage

other inmates and staff to make fun of him and harass him. The monitor requested to receive and reviewed all grievances filed by this inmate and notes staff have been counseled regarding proper procedures and advised to use appropriate pronouns when addressing this individual. The monitor will continue to closely monitor any grievances/complaints filed by this individual.

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

## **Executive Summary**

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

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

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

#### **Progress**

During this reporting period, the monitor observed steady, continuing progress by

the ADOC and Tutwiler towards reaching full compliance<sup>1</sup> with the terms of the settlement agreement. In this fifth compliance report, the monitor has determined that Tutwiler and the ADOC have achieved "substantial compliance" with 40 sections, and have achieved "partial compliance" with 3 sections of the agreement.<sup>2</sup> Attachment C provides a detailed summary of the monitor's compliance determinations.

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

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

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<sup>1</sup> The definitions of degrees of compliance are addressed in the Summary of Compliance section of this report at page 48.

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

*General Policies and Procedures*

The ADOC and Tutwiler continue to maintain written policies to prevent sexual abuse and sexual harassment. The current policy in place at Tutwiler that contains Prison Rape Elimination Act (PREA) provisions is Standard Operating Procedure (SOP) 8-12, *Inmate Sexual Abuse and Sexual Harassment*. This procedure incorporates recommendations previously made by the DOJ and the monitor.

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

On September 28, 2017, the ADOC forwarded the final version of SOP 8-30, *Behavior Intervention & Discipline Policy* to the DOJ and the monitor. The title of this SOP has changed a couple of times. The most recent name for this SOP was the *Inmate Discipline Policy*. The current title more accurately reflects the goals of the policy and the underlying gender responsiveness concepts. Although Warden Wright signed off on the policy in September, a commitment was made to not publish or disseminate the new policy until Tutwiler completed all the required staff training and inmate education on the new policy. An implementation plan and a Disciplinary SOP Training Facilitator's Guide was sent to the DOJ and the monitor on October 6, 2017 for review and comment. On October 24, 2017 the ADOC submitted a revised implementation plan for the *Behavior Intervention and Discipline Policy* in response to the DOJ and the monitor's

comments. A finalized draft of the implementation plan, as well as ADOC responses to the DOJ and the monitor's comments, was provided to the DOJ and the monitor. On October 30, 2017, the ADOC submitted a revised Disciplinary SOP Training Facilitator's Guide in response to the DOJ and the monitor's comments. Staff training was being conducted during the December 2017 monitoring visit and the Deputy Commissioner for Women's Services has certified that this training was completed on December 15, 2017. All ADOC staff working at Tutwiler, as well as staff who work for the contracted inmate mental health and medical services providers were required to attend this training. This policy became effective January 1, 2018.

One required SOP remains outstanding: SOP 8-24 *Disciplinary Segregation*. The finalization of this policy was contingent on the finalization of SOP 8-30, *Behavior Intervention & Discipline Policy* as the final version of SOP 8-24 *Disciplinary Segregation* will align with changes made to the SOP 8-30.

The draft revisions of SOP 8-24 *Disciplinary Segregation* and the training curriculum for this policy will also be sent to the DOJ and monitor for review. This is the last of the SOP's required to be finalized in accordance with the settlement agreement. All other SOP's and Post Orders have been developed and implemented.

The monitor has determined that ADOC and Tutwiler remain in "Partial Compliance" with this provision. "Substantial Compliance" is expected in 2018, after a period of full implementation of SOP 8-30 is observed, and after SOP 8-24 *Disciplinary Segregation* has been published, staff trained and full implementation has been observed and documented.

### *Camera Management*

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

ADOC and Tutwiler conducted their second annual camera review meeting on November 7, 2017. Several issues were identified, including: the expiration of the contract with Montgomery Technology Services and the need to establish another contract; seven cameras were identified as being out of operation; the need to add cameras to other targeted locations; the need to explore leasing versus buying equipment; the need to review the location and possible relocation of several facility cameras; the need to maintain the air conditioner unit for the camera system; the need to increase video storage capacity to 45 days, and the need to clean air filters and the cameras. It was also advised that load back tests be conducted as they are required by code. Diesel run generators should be tested every 6 months and gas/propane operated generators should be tested yearly. It is clear the state contract may have to be changed by adding language that includes the requirement of yearly checks. ADOC and Tutwiler developed an action plan to address these issues. The Monitor has reviewed the plan and notes that everything, with the exception of two items, has been addressed. A number of reviews and approvals external to the agency must be secured before the additional cameras are placed. While a maintenance contract has not been established, a plan is in place to repair the equipment when required. The absence of a maintenance agreement does not prevent camera repairs from taking place, it only impacts the payment terms of services rendered. The ADOC Engineering Division continues to work with the Department of Finance and

the Building Commission to finalize a maintenance agreement in the near future.

### *Staffing*

ADOC and Tutwiler expended considerable funds to have a Staffing Analysis conducted at Tutwiler by nationally recognized experts to research and develop a gender-responsive staffing plan for Tutwiler. This staffing plan was informed by gender-responsive principles identified by the National Institute of Corrections (NIC), Prison Rape Elimination Act (PREA) requirements, U.S. Department of Justice (DOJ) settlement agreement requirements, and emerging correctional practice.

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

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

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

The monitor recognizes that a solid staffing analysis and plan is fundamentally important as a tool to determine the number and type of employees needed to staff Tutwiler. It is a dynamic document that examines the nature of the work to be done in terms of volume, location, and duration. A solid analysis of staff requirements is instrumental to identifying the knowledge, skills and abilities needed for a gender-responsive, trauma-informed Tutwiler workforce. This a complex and challenging task, complicated by a high percentage of position vacancies, a high rate of staff call outs and critical posts being filled by mandating overtime for officers, assigning supervisors to line posts or doubling up officer posts. It is important to note, that at this juncture, there is no national model of a gender-specific staffing plan. Given the complexity of this task, both the ADOC and the DOJ agreed that additional time was needed for ADOC to work through the DOJ and the monitor's comments and finalize the plan, and Monitor Dennehy approved an extension to June 1, 2017.

The ADOC continued to work with the monitor and DOJ towards developing a final approved staffing analysis to ensure it effectively incorporated the gender responsive principles required in the Settlement Agreement. The monitor approved an additional extension to September 1, 2017 to allow ADOC sufficient time to review and respond to each recommendation made by the DOJ and the monitor.

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

and the DOJ's recommendations. The monitor requested ADOC and Tutwiler provide two periodic progress updates on the development of an implementation plan for the staffing plan. The first update was submitted to the monitor on October 30, 2017 and the second was submitted on December 1, 2017. The monitor recognizes the implementation of the staffing plan is ongoing and will continue to request these periodic implementation progress updates. In addition to the periodic implementation progress reports ADOC and Tutwiler must submit a staffing report to the monitor and the DOJ covering the six-month period of time after the development of the staffing plan. This staffing report will cover the timeframe from July 26, 2017 to January 26, 2018, and will be submitted to the DOJ and the monitor for review once it is compiled. The monitor, while appreciating the ADOC's enhanced recruitment efforts, remains concerned about the staffing levels at Tutwiler. In October 2017, Tutwiler had only 56 officers on staff. The entrance level salary for a corrections officer is \$29,954. Starting pay is 5% higher with an associate's degree and 10% higher with a bachelor's degree. As of December 31, 2017, there were 54 correction officers on staff (36 females and 18 males). Since 2015, the correction officer vacancy rate has steadily increased. In December 2017, only 34% of Tutwiler's correction officer positions were filled. In contrast, 89% of supervisor positions were filled and 76% of non-uniform staffing was filled. Supervisors are often pulled from their assignments to perform correction officer duties.

The monitor also appreciates the efforts Tutwiler has taken to mitigate the issues resulting from understaffing. Those steps have included a reliance on overtime and using employees who are not fully certified correction officers for certain jobs, such as monitoring the prison's camera system, placing supervisors in line posts when needed to

maintain operations and doubling up correction officer housing posts. The ADOC continues the practice of allowing officers from other ADOC facilities to work overtime or otherwise be temporarily assigned at Tutwiler only after those officers have been trained as required by the settlement agreement. The monitor cross-referenced staff training attendance records with the names of officers on overtime rosters to verify this training requirement is being met. The Tutwiler staffing plan calls for one officer to be assigned to each dorm. It has become the norm that some posts must be doubled each shift as a result of low staffing levels. When this occurs, one officer must cover two dorms, however, video surveillance is constant in all dorms. While these efforts may be workable in the short term, they do not, in the monitor's opinion, present a long term solution to the chronic staffing shortage.

Going forward, the monitor recognizes that the staffing plan is evolving and will need to be revisited periodically as the facility schedule, programming changes and dorm reconfigurations are made to support critical changes to the gender responsive classification process. For example, the staffing plan should be updated to reflect the newly established eight-hour shifts, and the monitor expects the ADOC and Tutwiler to submit these substantive revisions when made to the monitor and the DOJ for review.

The ADOC and Tutwiler have committed to conducting another staff survey in 2018. This exercise may provide some much needed insights into the difficulties the ADOC and Tutwiler experience recruiting and retaining qualified staff, especially female correctional officers. The monitor encourages ADOC and Tutwiler to include questions for staff that explore these issues.

In addition, ADOC is currently engaged in two promising efforts to increase

correctional staff. Troy University's Center for Public Service is conducting a comprehensive analysis of the compensation and benefits offered by ADOC to correctional staff. This will include a comparison of ADOC compensation and benefits for correctional staff to the compensation and benefits afforded by law enforcement agencies at the state, county, and local level. This analysis will result in short-term and long-term recommendations for ADOC concerning compensation and benefits of correctional staff. The second effort involves a comprehensive analysis to be conducted by the firm of Warren Averett. This firm will conduct an analysis of ADOC's policies, practices, and procedures relating to or affecting the recruitment, employment, and retention of correctional staff. Warren Averett will make short-term and long-term recommendations for ADOC concerning recruiting, hiring, and retention of correctional staff.

### *Training*

Tutwiler's training team began providing the required annual refresher training regarding sexual abuse and sexual harassment in March 2017. The Tutwiler training team are qualified instructors as they had previously received specialized refresher facilitator training on custodial sexual abuse in September 2016 by the agency's nationally recognized consultant. The facilitator's guide for the refresher training curriculum was reviewed and commented upon by the DOJ and the monitor, consistent with Section III.A.6 of the Agreement. Additional training on gender-responsive and trauma-informed use of force has been incorporated into the ongoing refresher training. As part of the refresher training, all staff were again expected to demonstrate proficiency through a

post-testing process.

As of July 29, 2017, Tutwiler staff, volunteers, and contracted employees had all completed the refresher training. The completion of the annual training was certified by Deputy Commissioner Williams and reported to the monitor and the DOJ on July 29, 2017. The monitor was very impressed with the documentation of staff attendance at training maintained by both Warden McClain and Lt. Young. These records are well organized and easily retrievable and demonstrate careful tracking of any pending attendance requirements.

The ADOC, and ADOC's contracted inmate health care providers, MHM and Corizon, also maintain excellent records documenting their staff's attendance at the required training.

#### *Dorm A and Overcrowding*

Ongoing efforts to evaluate methods to decrease or eliminate use of Dorm A for a period that exceeds 48 hours have resulted in both an overall reduced unit count and overall shorter lengths of stay in the unit. On December 6, 2017 while the monitor was touring the unit, 44 of the unit's 80 beds were filled. At the end of the day, the Dorm A count reduced to 38, a result of daily movement out of the unit. The monitor requested a review of Dorm A's Receiving Log for the reporting period. During the months of July 1 thru December 31, 2017, the average length of stay in the unit was 6 days. The length of stay in the unit ranged from a low of 1 day to a high of 25 days. Of the 765 placements tracked, 300 inmates stayed in the unit for longer than 6 days.

More significantly, the decrease in Dorm A population reflects a decrease in

Tutwiler's overall population. Since May 2017, ADOC and Tutwiler executive staff have worked closely with the Alabama Board of Pardon and Parole from May 2017 to design and implement new parole guidelines that have resulted in the release of more women. This reduction in the overall inmate population has provided some relief for Tutwiler in housing placement options and staffing deployments.

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

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

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

The pace of implementation was delayed as a result of several factors. The primary reasons for a delay included the: 1) lack of software automation to support

WRNA; 2) time delays in hiring new positions required to assist with the implementation process; and 3) slower than expected pace of administering the WRNA to the Tutwiler population.

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

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

different than those for men. The monitor expects to continue to see shifts in the distribution of custody levels of the women at Tutwiler.

On August, 2017, ADOC formed a committee to develop a Request for Proposal for a researcher to conduct a validation study of the WRNA classification instrument. The ADOC reports that they expect to have a researcher on contract in Summer 2018. The validation study will begin once a contract is in place. The study is expected to take three years.

A gender responsive program committee was convened in October 2016 to research and develop a proposal for review by the Deputy Commissioner for Women's Services and the Associate Commissioner for Plans and Programs. The contracted expert facilitated the committee's work. They focused on identifying and developing evidence-based programs that are gender specific and responsive to the programming needs identified by the WRNA. The initial proposal was forwarded to the DOJ and the monitor for review in April 2017. The final proposal that addressed the DOJ's and the monitor's feedback was forwarded to the monitor and the DOJ on July 31, 2017. Programming was selected based upon which programs addressed the women's identified needs, had research to support their use, and could be implemented within ADOC's facilities. If there were more than one program which fit this criteria, programs were selected based upon cost and ability to acquire any training needed by staff. Development of the programs began immediately following the finalization of the proposal. Several new gender-responsive programs will begin at Tutwiler in January 2018. **The Getting Ahead While Getting Out** program is a re-entry program designed to engage the offender, her family, volunteers, community and staff in problem solving for a successful transition to the

community. This program will be implemented in February 2018. The **Helping Women Recover** program is designed to treat addiction and utilizes the theories of women's psychological development and trauma. It addresses triggers for relapse, relationships, domestic violence, trauma, family issues and self-esteem. This program will be implemented in March 2018. The **Beyond Trauma** incorporates the latest research in neuroscience, trauma and post-traumatic stress disorder. It also incorporates cognitive behavioral techniques, mindfulness, expressive arts, and body oriented exercises. This program will be implemented in March 2018. The **Beyond Violence Program** focuses on emotional regulation of anger. It addresses both violence and trauma that women have experienced, and the violence they have perpetuated. This program will also be implemented in March 2018. **Active Adult Relationships** will be implemented in June 2018. This program teaches participants skills to include: communication, conflict resolution, emotion management, making budgets, wise choices for friends, dating and marriage, recognizing personal strengths, and future planning. The evidence-based curriculum was written by Kelly Simpson at the Active Relationships Center. **Parenting Inside Out** will be implemented in September 2018. This program was developed by Dr. J. Mark Eddy and colleagues at the Oregon Social Learning Center and it is evidence-based. The program teaches parent management skills to incarcerated parents. It helps to promote healthy child adjustment, prevent problem behavior, and stop the intergenerational cycle of criminal justice involvement. **Moving On: A Program for At Risk Women** will be implemented in December 2018. This evidence-based curriculum was written by Dr. Marilyn Van Dietsen at Orbis Partners, Inc. The program leverages both educational and cognitive skill building approaches to help women at risk of future

criminal justice involvement find alternatives to criminal activity. The program supports women as they mobilize and build personal strategies, natural supports, and community resources. **Family Days** are being planned for January 2019. This will involve extended visitation by family members combined with series of seminars about the programs the inmates are participating in. ADOC and Tutwiler will begin an evaluation of the new programming in Spring 2018.

#### *Inmate Education*

Incoming inmates receive the comprehensive orientation education within 14 days of admission to Tutwiler. The Institutional PREA Compliance Manager maintains comprehensive records of inmate attendance at these orientation sessions. The monitor attended this orientation during her December 2017 compliance visit.

#### *Inmates' Right to Privacy*

During this reporting period, the monitor received no complaints from inmates of inappropriate cross gender viewing or searching. Appropriate privacy panels and shower curtains were in use in the shower and bathroom areas in inmate housing units. While touring during the December 2017 compliance visit, the monitor witnessed staff consistently announce the presence of a male officer on the unit when needed.

#### *Inmate Polling*

The ADOC and Tutwiler established a system to routinely poll inmates regarding their perceptions of the implementation of the specific terms of the settlement agreement

including: the prevalence of staff sexual abuse and sexual harassment; inmate vulnerability to sexual abuse and sexual harassment; the investigation and discipline of staff accused of sexual abuse and sexual harassment; the efficacy of inmate education regarding sexual abuse and sexual harassment; privacy in the showers and toilets; the appropriateness of inmate classification; the levels of staff supervision; the efficacy of the reporting systems for sexual abuse and sexual harassment including grievances; and official responses to and retaliation for, allegations of sexual abuse and sexual harassment. As agreed upon by the monitor, the DOJ, and the ADOC, The Moss Group, Inc. initially administered the survey quarterly for the ADOC. The initial inmate polling was conducted in July 2016, the Second Quarter Inmate Polling was held in October 2016, the Third Quarter survey was administered in January 2017, and the Fourth Quarter survey was administered April 26-28, 2017. Overall, the Fourth Quarter polling data reflects improvements when comparing inmate perceptions over the first four quarterly polls. In this poll, a total of 83% of the women agreed that "inmates feel safe from staff sexual harassment", and 87% report "inmates feel safe from staff sexual abuse". These results are encouraging and reflect the important work the ADOC and Tutwiler staff have done. That said, only 36% of women agree that "staff treat inmates with respect". It is important that the Quality Improvement Team remain active in reviewing any incidents, problematic areas in the facility, and any allegations of sexual abuse, sexual harassment or the use of unprofessional language by staff.

ADOC entered into a Memorandum of Understanding (MOU) with Auburn University on August 9, 2017 for the University to provide long term assistance with the administration of this survey. A copy of the MOU was provided to the DOJ and

the monitor as was the University's draft protocol. Both the DOJ and the monitor reviewed and offered feedback on the protocol the University proposed using. Auburn administered the First Quarter survey of the second year of the poll's administration in November 2017. Going forward, this arrangement will institutionalize the inmate polling survey as a valuable tool for ADOC and Tutwiler in the future. The monitor fully supports this action.

The November survey results have not been compiled or shared with the monitor or the DOJ to date. The monitor is especially interested in the number of women who report feeling safe filing reports, and the women's perceptions of the degree of staff verbal abuse as compared to the results from earlier surveys. The monitor hopes the data reflects a reduction in the report of staff verbal abuse of inmates.

#### *Quality Improvement and Data Collection*

Quality Improvement monthly meetings began in August 2016 and will continue indefinitely. Meeting minutes were made available for the monitor's review.

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 sexually explicit, vulgar, or degrading language; and (3) use of force incidents.

RMS data are reviewed and aggregated on a quarterly basis by the Warden at Tutwiler and the Deputy Commissioner for Women's Services. A quarterly review is conducted to assess and improve the effectiveness of its sexual abuse and sexual harassment prevention, detection, and response policies, practices, and training. The

quarterly reviews allow for: (a) the identification of potential patterns, changes, and problem areas, which includes problems in staffing levels, policies, practices, staff discipline system, and staff and inmate training/education; (b) the identification of staff or supervisors in need of retraining, performance plans and discipline; (c) the development of an array of intervention options to facilitate an effective response to problems; (d) taking corrective action on an ongoing basis; and (e) preparing bi-annual reports of its findings and corrective actions, including a comparison of the findings in previous reports to assess progress. To date, ADOC has provided the monitor and the DOJ two bi-annual reports listing all staff members identified through the RMS and any corrective action taken. On October 23, 2017, the ADOC provided the monitor and the DOJ with a list of all staff members identified through the RMS and the corrective action taken, if any. The report covered the time period from November 27, 2016 to May 26, 2017. RMS documented 20 staff member incidents. Of these twenty staffers, eighteen had been identified by the system as having engaged in using profane, degrading, or insensitive language with inmates. Each incident involving an allegation of the use of profane or abusive language was reviewed, tracked, and corrective action was taken. Two staff members received written reprimands and the others were counseled verbally.

The monitor reviewed the RMS reports and attests that the ADOC and Tutwiler staffs have already demonstrated good use of RMS data and the results of the inmate polling survey. Both instruments document that a small number of Tutwiler staff use abusive and profane language towards the inmate population that undermines efforts to build a gender responsive and trauma informed environment. In the Second, Third and Fourth Compliance Reports, the monitors recognized the need for staff interventions

regarding the requirements for using professional language while addressing inmates, Warden Wright developed an interim intervention plan to eliminate “the unprofessional staff conduct involving inmates, including sexually explicit, vulgar, degrading, or racially insensitive or offensive language”.

Deputy Commissioner Williams and the monitor have discussed the need for Warden Wright to continue to aggressively investigate these allegations and to hold staff accountable using progressive discipline, increased supervision and re-training.

An analysis of the RMS data provides important insights into cultural and operation issues. For example, during the most recent quarter, there were seven allegations involving staff, and five of these involved allegations of sexual abuse. All seven cases were unfounded. Three of the allegations involved female supervisors and officers, and four of the allegations involved male sergeants. All staff involved in the allegations were African American. Five of the inmates making these false allegations were Caucasian, and the other two inmates were African American. This suggests a pattern of false allegations by Caucasian inmates involving African American staff. This is consistent with many of the grievances received from Caucasian inmates alleging racial bias exhibited by African American staff towards Caucasian inmates. Many inmates report racial tensions between staff and inmates. Both Caucasian and African American inmates alleged that African American staff are less strict with African American inmates. This creates a perception of favoritism that creates tensions along racial lines, especially when, as of February 12, 2018, fifty-two of the fifty-eight officers working at Tutwiler are African American and sixteen of the seventeen sergeants are African Americans. Also, many Caucasian women reported that more verbal abuse was directed

at them by African American staff than is directed toward African American inmates.

During the 2018 training year, all staff at Tutwiler will attend Racial Intelligence Training and Engagement (RITE). This training will be conducted by the ADOC Training Division, and the model includes emotional intelligence combined with social intelligence designed to unlock an individual's racial intelligence. This training was recommended by the Florida Department of Law Enforcement as a means of creating more professional officer/inmate relationships. The monitor looks forward to reviewing staff's evaluation of this training.

Data regarding the use of profane or abusive language by staff will be reviewed at upcoming Quality Improvement Meetings and the monitor looks forward to receiving an update from ADOC and Tutwiler's about their continuing efforts to eliminate the use of offensive and abusive language by staff.

Pursuant to the settlement agreement, on an annual basis, ADOC and Tutwiler shall conduct a documented review of the RMS to ensure that it has been effective in identifying concerns regarding policy, training, or the need for discipline. On July 31, 2017, the ADOC and Tutwiler convened a panel to conduct an annual review of the RMS. The first annual review covers data from May 28, 2016 - May 26, 2017. The committee published its comprehensive fifty-two page report on December 27, 2017 and shared their findings with the DOJ and the monitor. Overall, the RMS data reflects positive trends in the majority of areas that are tracked, but a total of 35 staff members were alleged to have used "sexually explicit, vulgar, degrading or racially insensitive or offensive language" towards inmates. Addressing this issue is a top priority for the facility wardens.

The RMS is just one element of the Tutwiler Quality Improvement process. Tutwiler and ADOC continue to gather relevant data from many sources that are critical to documenting and tracking facility trends relating to: sexual abuse or sexual harassment; unprofessional staff conduct involving inmates, including sexually explicit, vulgar, or degrading language; and use of force incidents. The challenge for the administration is to integrate and analyze all of this data in a timely manner. When an incident takes place at the facility involving any of the behaviors outlined in the Settlement Agreement, there is an immediate investigation/response by facility leadership. The Quality Improvement Group meets monthly and holds additional discussion and conducts analysis of all the incidents occurring over the previous thirty days, including any action plans that were developed. Warden Wright and Deputy Commissioner for Women's Services Williams conduct a quarterly review of the same incidents and RMS data. A bi-annual review is conducted and names of staff identified in the RMS are provided to the DOJ and the Monitor. An annual review is conducted by the Deputy Commissioner and committee. The automation of the RMS system would support a more timely and robust review of the RMS data and trends.

#### *Sexual Abuse/Sexual Harassment Allegations*

The monitor met with Mr. Arnaldo Mercado, Director of the ADOC's Investigation and Intelligence Division (I & I) to discuss and review completed sexual abuse and sexual harassment investigations that occurred during this reporting period. There were fourteen completed staff related PREA investigations during this reporting period. Twelve cases were determined to be unfounded as evidence did not support the

allegation and two were unsubstantiated. There were no PREA related incidents referred to the District Attorney during this reporting period. Though not required by the settlement agreement, the Monitor did review a Sexual Abuse Review Panel Report for one of the unfounded cases. Also, there were three investigations into allegations of inmate-on-inmate sexual abuse. Two of these cases were unsubstantiated and the third was unfounded. In each case reviewed, the monitor determined the investigations had been conducted in accordance with AR 454 and SOP 8-12, *Inmate Sexual Abuse and Sexual Harassment*. In inmate focus groups and in individual, informal discussions with the monitor, the inmates expressed their confidence in Investigator Kelley Smith who conducts investigations into allegations of staff-on-inmate sexual abuse and sexual harassment as well as inmate-on-inmate sexual abuse, and the Institutional PREA Compliance Manager, Lt. Young who conducts investigations into inmate-on-inmate sexual harassment allegations.

The monitor reviewed the facility response to allegations and the management of the reporting inmates and alleged perpetrators. When appropriate, an adjustment of inmate housing and job assignments was considered to ensure the safety of all involved. Both staff and inmates were held accountable for their actions. In addition, Lt. Young closely monitors and documents any allegations of retaliation against those who report allegations.

The monitor notes there are multiple, effective means of reporting allegations of inmate sexual abuse and sexual harassment, including a grievance process and at least one confidential method. During this reporting period, a total of 934 grievances were filed. Of these, four women filed emergency grievances that were PREA related. Two

involved allegations of inmate-on-inmate sexual harassment. One involved an allegation of staff-on-inmate sexual harassment and the other involved an allegation of staff-on-inmate sexual abuse of another inmate. The monitor reviewed each of these grievances, completed investigations and findings. ADOC and Tutwiler policy was followed and appropriate action taken, including the referral of the allegation of staff-on inmate sexual abuse to the ADOC Intelligence and Investigations Unit .

The inmates can use a toll free number to call the Alabama Coalition Against Rape (ACAR) for reporting. The agreement between the ACAR and the ADOC is that all calls are confidential, per ACAR policy. The ACAR agreed to suggest/encourage the inmates to use the ADOC and Tutwiler methods of reporting if their call was regarding an allegation of sexual abuse or sexual harassment. There is no requirement for the ACAR to report to the ADOC, so the number of calls for this reporting period is unknown.

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

The monitor reviewed the ADOC website link for the public regarding the ability

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

Inmates have at least one way to report abuse or harassment to a public or private entity or office that is not part of the agency, and that is able to receive and immediately forward inmate reports of sexual abuse and sexual harassment to agency officials. The ADOC entered into an agreement with the Alabama Department of Economic and Community Affairs (ADECA) to take these reports. Inmates may make a report by dialing #66 and this can be done anonymously. The monitor reviewed the call log for the entire reporting period to review the nature of each call and the ADOC's response. A total of 42 calls were made to ADECA's hotline during this reporting period. Many of the complaints made were not related to sexual abuse or sexual harassment. In each instance, the Tutwiler administration followed up on the allegations/complaints and the response was appropriate. The monitor has requested that the form currently in use to track the nature of these calls be expanded to include more information detailing the actions taken by facility management.

During the December 2017 compliance visit, the monitor met with the ADECA Hotline Administrator at the ADOC Central Office to confirm the full implementation of hotline procedures as agreed to with the ADOC.

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

### **Alabama Strengths**

The monitor believes Alabama has a strong foundation for continued progress in

reaching all of the goals outlined and compliance terms required in the settlement agreement. That strong foundation is a result of the following organizational strengths.

*Leadership from the Alabama Department of Correction*

The monitor believes Commissioner Dunn continues to provide the agency leadership for his staff and Tutwiler, directing and supporting successful implementation of the settlement agreement. In particular, ADOC central office leadership has played an important role working with Alabama's Parole Board to reduce the average daily count at Tutwiler by identifying appropriate candidates for release on parole. In addition, Commissioner Dunn is strategically focused on developing the capacity of agency and facility leadership as a means to sustain and advance the progress made to date. Previously, Tutwiler's leadership team had participated in a leadership development program. Tutwiler's former Warden I, Adrienne Givens has been promoted to Warden II at Montgomery's Women's Facility and Tutwiler's former Captain Lagreta McClain has been promoted to Warden I at Tutwiler. The monitor is pleased that Warden McClain will retain her duties and responsibilities as the Settlement Coordinator for this Agreement. Both women have benefited from the Commissioner's focus on developing facility leadership and from Deputy Commissioner Williams' mentorship of them.

In June 2017, the monitor was advised by Associate Commissioner Matt Brand (Training and Development) that a regional training center dedicated for the training of line staff working in the women's facilities is being created in recognition of the gender-specific training agenda and curricula necessary for staff who work with women inmates. The ADOC is in the final steps of the hiring process to identify the personnel who will staff this facility. It is scheduled to become operational on April 1, 2018.

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

In addition to Commissioner Dunn and Deputy Commissioner Williams, ADOC central office staff consistently demonstrated working knowledge of their settlement related responsibilities during their interviews with the monitor.

#### *Tutwiler Leadership*

The monitor continued to observe outstanding leadership by the facility wardens and the executive team at Tutwiler during this reporting period. The Institutional PREA Compliance Manager, Lieutenant Young, performed her responsibilities consistently and documented all of her required responsibilities. Feedback from the inmates about Lieutenant Young's performance was overwhelmingly positive. She has the respect and trust of the inmate population. She has earned a reputation for being professional, holding people accountable and being respectful and responsive to inmates' needs. The monitor was repeatedly told by inmates that Lt. Young follows up on her interactions with them, which the inmates appreciate, even when they don't receive their desired outcomes. The Tutwiler leadership team's actions are well documented throughout this monitoring report.

During the monitoring visit, Warden Wright provided an opening presentation to the monitor and announced staff promotions. Warden Wright then led the tour of the facility, participated in both formal and informal discussions with the monitor and demonstrated her leadership at Tutwiler during observed interactions with staff and inmates.

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

#### *ADOC Consultants*

The ADOC and Tutwiler continued to draw on and benefit from consultants' expertise in several specific areas. Specifically, expert consultants have participated with the ADOC in the development of the gender based classification plan and programming, the staffing analysis, the inmate polling/survey process, data collection, and the gender responsive review of draft policies and the provision of staff training and inmate education.

#### *ADOC Strategic Planning Committee*

The ADOC Strategic Planning Committee continues to meet once a quarter to review and guide the ADOC and Tutwiler's efforts for creating sustainability models/practices/tools for their operations, future plans and mission for women offenders in Alabama.

#### *Tutwiler Sexual Safety Culture*

Staff and inmates report to the monitor a respect for the settlement-related policies

and practices and are knowledgeable about them. Most importantly, during formal interviews and informal conversations with the monitor, the women say they trust that leadership will act in their behalf if an incident of sexual abuse or sexual harassment occurs.

### **Alabama Challenges**

#### *Tutwiler Facility*

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

#### *Population Capacity*

Tutwiler's original design had an operating capacity of 350 and the annex was rated at 128. The daily count has historically been nearly double the facility's original capacity. Currently, the operational capacity is 700 for the main campus and 250 at the annex. On December 4, 2017 Tutwiler's total inmate population count was 867. At main Tutwiler, 619 beds were filled. At Tutwiler's annex, 248 beds were filled.

While a population reduction has provided relief for Dorm A, the overall level of

chronic population overcrowding continues to present challenges. Both the settlement requirement for the development of a gender based classification system and the development and implementation of gender-based programs at Tutwiler will be impacted by the overcrowding issues at Tutwiler. Specifically, plans will require the development of various housing options for separating groups of inmates, via the classification review process, that will be difficult to maintain as bed space must be allocated according to new placement criteria as it is implemented. In addition, the classification system will prescribe a number of program offerings that should be available for the inmates, based on a needs assessment. Currently, the space available for inmate programming is very limited. The staff have been creative and have converted and renovated every space possible to provide additional room for expanded programming. The Tutwiler maintenance team is creative and hard-working.

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

The monitor notes that the chronic, ongoing number of staff vacancies at Tutwiler presents a serious concern for leadership, staff and inmates, and could possibly impact impact the safety and security of the facility. In the first court report, the monitor noted a vacancy rate of almost 50% of authorized, funded positions. The recruitment and retention problems that lead to the high vacancy rate have continued. At the end of calendar year 2016, correction officers were at 41.8% staffing level and correctional supervisors were at 89.1% staffing level. In comparison, the non-uniform staff was at 55.8 % staffing level. As of June 30, 2017, correction officers were at 38% staffing level and supervisors were at 95% staffing level. The non-uniform staff was at 55%. As of December 31, 2017 correction officers were at 34% staffing level and supervisors were at

89% staffing level.

To ensure adequate staff to fill key posts, Tutwiler leadership implemented a mandatory overtime policy at the end of 2016 to address critical vacancies because key posts must be staffed. Tutwiler relies on mandatory overtime to maintain functions. Correction officers, especially single parents, face challenges balancing family obligations with unscheduled, forced overtime demands. This can lead to an increase in staff members "calling out" sick as a means to obtain the needed time off. The reliance on overtime to staff critical functions is not a long term solution to the staffing shortfall.

Previously, the monitors have reported that this mandated overtime policy has caused stress and concern among the officers interviewed by the monitors during compliance visits. This situation continues to be an area of deep concern for staff, and according to staff interviewed during this and prior monitoring visits, it is adversely impacting staff morale. During many of the monitor's interviews, uniformed security staff expressed concern about the impact of staff shortages, overtime and staff scheduling on staff morale.

A decision was made to transition to the 8-hour shifts effective June 3, 2017. ADOC. Tutwiler reports some initial improvement in post coverage since transitioning to 8-hour shifts. It is too early to assess any trends as a result of the change in shifts. The data are being monitored .

The settlement requires the development of a professional staffing analysis (C.2), and for a plan to be presented to the ADOC and Tutwiler. The monitor has already discussed this analysis and draft plan in detail earlier in this report. The consultant's draft report noted the current vacancy rate has a significant impact on the development and

implementation of a staffing plan.

Overall, recruitment and retention of women correction officer trainees remain a concern. As requested, the monitor was provided with recruitment and retention data compiled as of November 2017. The recruitment and hiring data underscore a system-wide issue with the application of the Alabama Peace Officers' Standards and Training Commission (Commission) physical standards to women candidates. Commissioner Dunn took an important first step in his outreach to the Commission by requesting them to consider a request to modify the administration of the Physical Agility/Ability Test (PAAT) academy training requirements for State Corrections Officer applicants. It was encouraging that the Commission approved the Commissioner's request to modify the administration of the PAAT which became effective January 2017. The revised Commission rules pushed the last PAAT attempt from the first week of the Academy training to week eight of the program. Because the PAAT had been moved to the end of the Academy, the ADOC discontinued the physical fitness assessments that were conducted on all correctional officer trainees during their pre-Academy assignment. The basic training academy Class 17-01, which began in February 2017, was the first class to enter the academy under the new Commission rules regarding the physical agility/ability requirements. At the time, this change reportedly produced some promising results. The trainees who could not pass the PAAT in week one, including one of the women, all passed the test by week eight and all successfully graduated the Academy in May. This was the first time in recent memory that no one, male or female, was removed from the basic training course for a PAAT failure. Despite, this promising development, during the monitor's December 2017 compliance visit, the DOJ and the monitor were advised that

APOSTC was reverting back to having the test in the first week. The Commission has agreed to allow ADOC to continue the eight-week administration through 2018. Absent any changes before this, ADOC will have to resume pass/fail PAAT testing during the first week.

The Commission contracted with Auburn University at Montgomery (AUM) for the review of the validation study of their PAAT standards and to assess any disparate impact on women candidates. The Monitor and the DOJ received a copy of Auburn University's assessment from the ADOC on January 2, 2018. The report details several deficiencies in the 18 year old validation study. The Monitor remains unconvinced that there is a direct correlation between PAAT performance and job performance or other *current* job outcomes for corrections staff. Until such time as the validation of these standards for correction officers and evidence that the standards have been examined for the necessity of gender-norming certain components is addressed, the Monitor determines "partial compliance" with this provision. The Auburn Report suggests an alternative validation approach may be warranted if adverse impact is ever a problem. The researcher argues that when women elect to retest, there is no adverse impact against them because "the pass rate improves when the number of attempts is very high. When given enough attempts it appears that almost every candidate who attempts every test will eventually pass one." Very little, if any, consideration appears to have been given to (a) the differences between police officer and correction officers jobs, (b) the extent to which job duties have changed in the last 18 years, and (c) the extent to which women candidates for correction officer positions engage in repeated retesting.

As the Monitor has opined previously, to the extent the ADOC could have helped

shape AUM's review, the researchers should have been encouraged to review the physical training standards set for correction officers in other states/jurisdictions and gather information about Academy training standards, broken down by gender, as it relates to bono fide occupational qualifications for correction officers, rather than focusing solely on police officers. To the monitor's knowledge, AUM did not review the physical training standards set for other correction officers in other state jurisdictions.

The monitor discussed these chronic staffing issues with Associate Commissioner Brand, Deputy Commissioner Williams and Director Lawley. Associate Commissioner Matt Brand continues to assess the correctional officer training and hiring processes, in addition to the physical fitness screening processes already discussed. Captain Mark Loman continues in the role of Recruiting Unit Director for the ADOC, working directly for Director of Training, Elliot Sanders. The ADOC recruitment strategies are clearly not gender specific. The monitor continues to urge the ADOC to develop a specific recruitment plan for the recruitment and retention of women and to explore every available method of enhancing hiring and retention of female officers at Tutwiler.

## **Logistics**

### ***Compliance Visit***

The purpose of this December 2017 compliance visit was for the monitor to acquire information and observations to inform the fifth court compliance report. The monitor and Deputy Commissioner Williams worked together to finalize the tour agenda and interview schedule.

*Introductory Meeting /Presentation by Warden Wright*

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

*Compliance Visit Interviews*

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

*Alabama Department of Correction*

- ADOC Commissioner Jefferson Dunn
- Dr. Wendy Williams, Deputy Commissioner for Women's Services
- Dennis Stamper, Deputy Commissioner Special Projects
- Matt Brand, Associate Commissioner for Training and Development
- Ruth Naglich, Associate Commissioner for Health Services
- Dr. David Tytell, ADOC Chief Psychologist
- Dr. Hugh Hood, Regional Medical Director
- Ms. Lynn Brown, ADOC Regional Manager
- Anne Hill, General Counsel
- Mary Coleman-Butler, ADOC Counsel
- Arnaldo Mercado, Director of ADOC's Investigations and Intelligence Division (I & I)
- Kelley Smith, I&I's Tutwiler investigator

- Mr. William Lawley, ADOC Personnel Director

Tutwiler Prison for Women

- Deidra Wright, Warden II
- Lagretta McClain, Warden I and Settlement Compliance Manager
- Lieutenant Yvette Young, Institutional PREA Compliance Manager
- Lieutenant Brian Coleman, Institutional Grievance Coordinator
- Jeffrey Burt, Acting Classification Supervisor
- Ms. Tenesha Williams, Classification
- Sgt. Emily Abbott, Segregation Supervisor
- Ms. Tina Tyler, ADA Coordinator/Inmate Grievances
- Ms. Felicia Greer, Tutwiler MHM Mental Health Site Administrator
- Dr. Robert Hunter, M.D, Medical Director MHM Alabama
- Ken Dover, Vice President-Operations, Corizon Health

Community-Based Partners

Ms. Wendy Hester, ADECA Hotline Administrator

The monitor also selected line staff members from each shift for individual interviews. These staff members were diverse in race and gender. In general, the monitor asked about their awareness of the PREA reporting structure, investigations, the inmate grievance system and their recent PREA and gender responsive training, occurring this reporting period. All were interested in discussing staffing challenges and workforce morale. These concerns are addressed in the ADOC challenges section of this report.

The monitor selected inmates, from various housing dorms, for two separate focus groups. The monitor used a set of questions regarding their knowledge of PREA policies, reporting of allegations, the grievance system, staff/inmate professional relationships, and the availability of reporting allegations using various phone lines. The women discussed incidents they observed of unprofessional conduct, their use of the grievance system, impressions of the classification system, and their overall feeling of safety at Tutwiler. Their responses are documented in the monitor discussion in various sections of the compliance report. Four topics were repeatedly raised by several of the women. They complained of a small group of officers using vulgar, degrading, or racially insensitive or offensive language. They also complained about access to medical and dental care and delays in the provision of medical treatment. In the focus groups, the women expressed a great deal of frustration over the lack of consistency in practice between shift officers, especially in the housing units. The women in the focus groups expressed a perception that racism was an issue and that officers treated inmates differently based upon race. The majority of the prison staff is African American and the majority of the inmate population is Caucasian. The women claim that African American inmates get preferential treatment. The monitor recognizes these issues are deeply embedded in culture.

#### *Facility Tours*

During the tour of the facility during the compliance visit, the monitor noted improvements to the physical plant. The management team has creatively repurposed or rehabbed every space possible to be used as program space. As programming options for the women expand, leadership will be challenged to maximize the use of available,

appropriate space.

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

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

Appreciating that the institutional climate and culture can be different shift to shift, the monitor and Dr. Williams conducted an unannounced night visit to the facility for the purpose of observing operations during the evening shift when top facility leadership are generally not on site. This visit was conducted on December 6, 2017.

During the December 2017 monitoring visit, the monitor also visited:

- the Annex
- Dorm A, and had individual discussions with many inmates
- various other housing units, including the Mental Health Unit
- death row, and had an opportunity to meet with these women and discuss their individual awareness of policies addressing sexual abuse and sexual harassment how to report allegations, and the use of the grievance system

- the segregation unit and talked with all the inmates housed there
- the mental health stabilization unit and spoke with all the inmates housed there
- housing areas and spoke with inmates housed there
- the infirmary, clinic area and Assisted Living Unit
- shift commander's office
- many administrative offices
- program space and
- the video operations in the camera room and discussed the operation with the operator on duty.

While work on the youthful offender trailer was completed on October 20, 2016 making it ready for occupancy and providing designated placement for this specialized population, Tutwiler did not receive any youthful offenders during this reporting period, so this unit was again vacant during the monitor's December 2017 visit.

#### *Document Review*

In addition to the interviews and discussions with staff and the tours of Tutwiler, the monitor reviewed a wide variety of documents, correspondence, records and staff reports. These documents are listed in the "Measures of Compliance" box in the audit tool for each section. The monitor reviewed most of these documents prior to her visit, and reviewed some documents on-site during the visit. In addition, the monitor made additional follow-up requests for documents and these were sent to her after the visit. Attachment A to this report lists documents reviewed by the monitor prior to, during,

and after the compliance visit.

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

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

#### *Exit Debriefing with ADOC Leadership*

The monitor and Deputy Commissioner Williams had debriefed each day of the compliance visit, so Deputy Commissioner Williams and the monitor agreed a formal exit meeting was not needed during this visit, as all major issues had already been identified and discussed.

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

The parties had previously agreed on a "monitoring tool" format for each of the settlement provisions and their subsections. The front page of each provision in the tool includes both the specific requirements for that section and the dates for the ADOC's compliance. The settlement provides, for most requirements, that the ADOC: create a policy; train staff in that policy; and implement the policy in the regular activities at Tutwiler and the ADOC. Specifically, an approved ADOC policy must first be published for operational practice in a facility. At Tutwiler, the facility will develop a written

"Standard Operating Procedure" (SOP) to apply the ADOC policy to direct specific operational practices at the prison. The second step is to train all staff subject to the policy and SOP using an approved training curriculum. The third step is to then implement and document compliance with these policies and SOP's in the actual practice of the directives at the facility.

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

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

- 1) Examining the settlement agreement, its provisions, and the specific

requirements listed in the monitoring tool.

- 2) Requesting and examining specific documents to identify and assess the extent of the ADOC and Tutwiler actions in response to the agreement requirements. Examples include: ADOC policies and Tutwiler standard operating procedures; training curricula; staff rosters for training; staff reports and spreadsheets to document actions; inmate grievances; investigations; and meeting minutes.
- 3) Selecting specific ADOC and Tutwiler staff for compliance interviews based on the individual's overall and direct responsibilities for settlement implementation.
- 4) Conducting interviews with selected line staff to obtain feedback and perspective on Tutwiler activities and practices related to the settlement terms and requirements.
- 5) Conducting focus groups and individual interviews with selected inmates to obtain feedback and perspective on Tutwiler activities and practices related to the settlement terms and requirements.
- 6) Engaging in spontaneous, private conversations with both staff and inmates in housing and program areas during monitoring visits.
- 7) Reviewing letters submitted confidentially to the monitor from inmates and conducting interviews with five inmates to follow-up on issues raised in their correspondence received by the monitor.
- 8) Using routine communication with the parties, prior to, during, and after the visit to ask for more information or clarification regarding the settlement, its

terms and requirements and determinations of compliance.

9) The monitor sent the first draft report to both parties on January 24, 2018.

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

10) The monitor will submit the completed set of audit tool report, the narrative summary and attachments, to the court by February 28, 2018.

### **Summary of Compliance**

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

### **Closing Observations**

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

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

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

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

- Inmate Survey and Polling Plan
- First Quarter Inmate Survey Results
- Second Quarter Inmate Survey Results
- Third Quarter Inmate Survey Results
- Fourth Quarter Inmate Survey Results
- Auburn University's MOU with ADOC
- Auburn University's Polling Proposal (draft)
- Tutwiler PREA Incident Review Committee reports, July-December 2017
- Tutwiler Risk Management System spreadsheet, July-December 2017
- Risk Management System Summary
- Quarterly Risk Management System Data Review
- Spreadsheet of Staff Identified in Risk Management System -Corrective Action Taken
- Annual assessment of the Risk Management System, December 2017
- Log of unannounced rounds by supervisors
- Monthly Grievances, July-December 2017 -randomly selected
- All PREA-related inmate grievances, July-December 2018
- Tutwiler spreadsheets documenting inmate disciplinary infractions, July-December, 2017
- Gender Responsive Classification Policy
- ADOC Women's Services Classification Instruction Manual (draft)
- Tutwiler PREA risk factors checklists
- Tutwiler PREA risk re-assessments checklists (30-day reassessment)
- Tutwiler ADOC mental health referrals to MHM for PREA assessments
- Tutwiler mental health treatment notes for initial PREA assessments
- Spreadsheets/logs for the classification checklists
- Update on progress of the pilot administration of the WRNA and any data collected.
- WRNA Validation Committee's agenda, notes, and PPT
- WRNA Validation Project Proposal
- Dorm A inmate movement sheets
- Dorm A Receiving Log
- Dorm A quarterly workgroup meeting minutes
- Dorm Representatives Meeting Minutes
- Tutwiler Bed Count Roster for December 3-8, 2017
- ADOC's Classification PREA risk referral log
- Corizon new employee orientation Manual
- Corizon new Staff Orientation "On-boarding" training curriculum and manual

- Corizon staff training records, including post tests for oldest and newest employees.
- MHM PREA policy
- MHM staff training records
- MHM's CQI Management Occurrence Report
- MHM's evaluations of sexual abuse allegations.
- MHM's staff meeting minutes
- MHM's PREA sexual assault allegations log
- MHM's PREA inmate evaluation log
- MHM's inmate grievance log, July-December 2017
- Tutwiler ADOC and MHM mental health staff meetings minutes -July-December 2017
- Tutwiler Classification PREA Risk Referral Log
- Draft Administrative Regulation 637-Gender Dysphoria Disorder
- Minutes to Gender Identify Committee Review Meeting
- Completed and published PREA audit, May 2016
- Communications log maintained by Lt. Young, regarding calls, emails, etc. with ADOC PREA Coordinator Vincent
- ADOC PREA Coordinator Vincent's communication log
- Bi-monthly PREA reports from Lt. Young to ADOC PREA Coordinator Vincent
- PREA #66 hotline calls log, maintained by Lt. Young, July-December 2017
- Monthly spreadsheet of calls made to ADECA
- Notification to inmate population regarding availability of hotline
- Copies of Random Inmate Interviews conducted by Lt. Young to monitor reporting culture for July-December 2017
- Training rosters maintained by Lt. Young for July-December 2017
- PREA training documentation for the private transport security staff
- Training documentation for Tutwiler staff, contractors, volunteers, overtime staff in SOPs
- PREA & Gender Responsive Refresher Training Facilitator Guide
- Randomly selected training evaluations from Tutwiler staff attending the required PREA (SOP 8-12) and gender responsive training
- Log of Pregnant Inmate Intake maintained by Institutional PREA Compliance Manager
- Pregnant Inmate Intakes Statements maintained by Institutional PREA Compliance Manager
- Tutwiler "inmate on inmate harassment" allegation investigations, completed by Lt Young, July-December 2017
- Tutwiler inmate education session attendance logs July-December 2017
- Final Inmate Orientation Guide
- Certification of completion of inmate education on the new Women's Services Classification Manual
- Engaging Women in Trauma-informed Peer Support: A Guidebook
- Copies of Gender Responsive Women's Programs Work Group agenda, notes and

PowerPoint presentation

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

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

This is a listing of all of the ADOC and Tutwiler policies provided to the monitors to date. During the previous reporting period, the initial monitor received and reviewed 63 new and revised SOP's for Tutwiler. The monitor reviewed the drafts, provided comments on each to ADOC and received the final ADOC published copies.

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

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

**Attachment C: Summary of Compliance**

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

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

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

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

Requirement	Description	Substantial Compliance	Partial Compliance	Non-Compliance	N/A
J.4,5	<p>4. The written institutional plan shall include procedures that address how staff respond upon learning of an allegation that an inmate was sexually abused; described below</p> <p>5. If the first staff responder is not a security staff member, the responder shall be required to request the alleged victim not take any actions that could destroy physical evidence, and then notify security staff.</p>	X			
J.7	<p>To the extent they do not already exist, ADOC and Tutwiler shall develop, submit to the Monitor and DOJ for review consistent with Section III.A.6., and implement policies and procedures to provide access to medical and mental health services to women identified as potential or actual victims of sexual abuse and sexual harassment, that occurred either at Tutwiler or elsewhere, including the following:</p>	X			
<b>III.K REFERRALS AND INVESTIGATIONS</b>					
K.1,2	<p>1. ADOC investigators shall continue to investigate allegations of sexual abuse or sexual harassment consistent with their authority as criminal investigators and consistent with Policy and Alabama law. Completed investigations of sexual abuse and sexual harassment will be referred to local prosecutors as appropriate.</p> <p>2. When ADOC conducts its own investigations into allegations of sexual abuse or sexual harassment, it shall do so promptly, thoroughly, and objectively for all allegations, including third party and anonymous reports. Administrative investigations shall be completed regardless of the results of any criminal investigations and regardless of the subject's continued employment by ADOC</p>	X			
K.4	<p>ADOC and Tutwiler shall develop, submit to the Monitor and DOJ for review consistent with Section III.A.6., and implement guidelines for the immediate initiation of an investigation and/or review upon learning of an allegation of sexual abuse or sexual harassment and develop a process for monitoring those guidelines. The guidelines shall also ensure that investigations that include any allegations of sexual abuse or sexual harassment are properly labeled as such.</p>	X			

Requirement	Description	Substantial Compliance	Partial Compliance	Non-Compliance	N/A
<p>Investigators</p> <p>3. The use of pre-hearing segregation shall be limited to inmates whose continuing behavior is a threat to facility safety, or who will not stop the prohibited behavior. Such pre-hearing segregation shall not be used for more than 72 hours, at which time an inmate must be afforded a disciplinary hearing, or provided a written explanation of why the hearing is postponed and when the hearing will be re-scheduled.</p> <p>5. Where sexual abuse or sexual harassment is alleged, ADOC shall use investigators who have received special training in institutional sexual abuse and sexual harassment investigation. Specialized training shall include techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral. ADOC shall maintain documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations. The Department-wide PREA Coordinator and Tutwiler's PREA Compliance Manager shall not serve as investigators for sexual abuse investigations.</p> <p>7. The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as inmate or staff. ADOC or Tutwiler are prohibited from offering or administering polygraph examinations or other truth-telling devices to an inmate who alleges sexual abuse or sexual harassment.</p> <p>8. ADOC shall issue a written investigative report within 30 days after the conclusion of a sexual abuse or sexual harassment investigation that indicates whether the allegation is substantiated, unsubstantiated, or unfounded. The investigator may request in writing, approved by the facility designee, an extension for cause that identifies the remaining actions necessary to complete the investigation. In no case shall the investigation be unfounded solely due to the expiration of the 30 days. The investigative report shall include an effort to determine whether staff actions or failures to act contributed to the abuse, a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.</p> <p>9. ADOC shall work with the Monitor on ensuring that an investigative summary sheet that provides an overview of the current status of an investigation is included. The summary information should include, among other things, basic information such as staff name(s), prisoner name(s), location of incident, and the time of day.</p> <p>10. The departure of the alleged perpetrator or victim from the employment or control of ADOC or Tutwiler shall not provide a basis for terminating an investigation.</p>	<p>K. 3, 5, 7, 8, 9, 10</p>	<p>X</p>			
<p>Outside Investigations: Inmate Notification</p> <p>11. When outside agencies investigate alleged incidents of sexual abuse, ADOC and Tutwiler shall cooperate with outside investigators and shall endeavor to remain informed, to the extent appropriate, about the progress of the investigation.</p> <p>12. Following an investigation into an inmate's allegation that she suffered sexual abuse or sexual harassment in any ADOC facility or while within the physical custody and control of the ADOC, ADOC and Tutwiler shall inform the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.</p> <p>13. If ADOC or Tutwiler did not conduct the investigation, it shall request the relevant information from the investigative agency in order to inform the inmate.</p> <p>14. Following an inmate's allegation that a staff member has committed sexual abuse or sexual harassment against the inmate, ADOC and Tutwiler shall subsequently inform the inmate whenever (see below)</p> <p>15. All such notifications or attempted notifications shall be documented.</p>		<p>X</p>			
<p>Investigations Review</p> <p>16. A review team, including upper-level management officials at Tutwiler, with input from line supervisors, investigators, and medical and mental health practitioners, shall conduct an incident review within 30 days of the conclusion of every investigation of substantiated and unsubstantiated allegations of sexual abuse or staff-on-inmate sexual harassment. The review team shall: (see below)</p> <p>17. ADOC and Tutwiler shall implement the recommendations for improvement or shall document its reasons for not doing so.</p>		<p>X</p>			

Requirement	Description	Substantial Compliance	Partial Compliance	Non-Compliance	N/A
K.18	<p>Within 60 days of the Effective Date, ADOC and Tutwiler shall review all pending investigations alleging sexual abuse and sexual harassment to determine whether the investigation was conducted according to the requirements of Section III. K. of this Agreement.</p> <p>Within 120 days of the Effective Date, ADOC and Tutwiler will conduct a similar review of all unfounded allegations of sexual assault and sexual harassment for the past 360 days to determine whether the investigation was conducted according to the requirements of Section III. K. of this Agreement.</p>	x			
<b>III.L STAFF DISCIPLINARY ACTIONS</b>					
L.1	ADOC and Tutwiler shall develop, submit to the Monitor and DOJ for review consistent with Section III.A.6., and implement policies and procedures that track staff disciplinary actions related to allegations of sexual abuse or sexual harassment, to ensure that the directives in III.L.2.-III.L.6 below are met.	x			
<b>III.M Limited English Proficient (LEP) Inmates</b>					
M	ADOC and Tutwiler shall work with the Monitor to develop and implement a policy providing for a method of interpretation services for LEP inmates. This method may be through a language telephone line, if necessary. ADOC and Tutwiler shall not rely on other inmates or non-certified employees to translate and/or interpret for LEP inmates.	x			
<b>IV. Quality Improvement and Data Collection</b>					
M	<p>A. Within one year of the Effective Date, ADOC and Tutwiler shall develop and submit to the Monitor and DOJ for review consistent with Section III.A.6., and implement, written quality improvement policies and procedures adequate to identify and address any deficiencies in ADOC and Tutwiler's prevention, detection and response to sexual abuse and sexual harassment at Tutwiler and to assess and ensure compliance with the terms of this Agreement.</p> <p>B. Within three months of the Effective Date, ADOC shall convene a state-wide working group to evaluate how other state and ADOC entities may contribute to Tutwiler's compliance with this Agreement.</p> <p>C. ADOC and Tutwiler shall establish a system wherein they routinely poll inmates regarding their perceptions of the implementation of the specific terms of this Agreement including the prevalence of staff sexual abuse and sexual harassment, inmate vulnerability to sexual abuse and sexual harassment, the investigation and discipline of staff accused of sexual abuse and sexual harassment, the efficacy of inmate education regarding sexual abuse and sexual harassment, privacy in the showers and toilets, the appropriateness of inmate classification, the levels of staff supervision, the efficacy of the reporting systems for sexual abuse and sexual harassment including grievances, and official responses to, and retaliation for, allegations of sexual abuse and sexual harassment.</p> <p>D. ADOC and Tutwiler shall develop, implement, and maintain, in consultation with the Monitor, a Risk Management System ("RMS") that will document and track facility trends related to: (1) sexual abuse or sexual harassment; (2) unprofessional staff conduct involving inmates, including sexually explicit, vulgar, or degrading language; and (3) use of force incidents.</p>	x			