

UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF
WISCONSIN

J.J., by and through his next friend, Sakeena Jackson, for themselves and all others similarly situated,

Plaintiffs,

v.

Case No.: 17-CV-47

JON E. LITSCHER, in his official capacity as Secretary of the Wisconsin Department of Corrections, et al.,

Defendants.

TWENTIETH REPORT OF THE MONITOR

Teresa Abreu, Monitor, hereby submits this status report.

INTRODUCTION

The nineteenth report of the Monitor was filed with the Court on April 5, 2024. The Monitor's twentieth report will focus on assessing compliance with the Consent Decree, implementation of recommendations in the February 2018 technical assistance report, and will also comment on any observations and/or updates since the nineteenth site visit which took place on March 14, 2024.

SITE VISIT

The twentieth site visit by the Monitor took place on July 11, 2024. The Monitor and Plaintiffs' counsel completed necessary interviews and information gathering via meetings prior to, during, and after the site visit. The Monitor reviewed materials provided by the Parties for the reporting period ending June 30, 2024 (March, April, May, and June 2024). Materials included but were not limited to use of force videos, video footage of units, video footage of administrative confinement, video of safety and security checks, programming materials, investigations, data, daily shift reports, program materials, all of the monthly data submitted to the Parties per this Court Order, meeting notes, employee leave data, behavior and treatment plans, mechanical restraint documentation, incident reports, and other housing documentation. Plaintiffs' counsel conducted approximately twenty-three (23) youth interviews for the site visit. The Monitoring team toured LHS/CLS and interviewed youth and staff. The Monitoring team had the opportunity to talk to many of the youth and staff present and available during the site visit. Approximately twenty (20)

youth and twenty-four (24) staff were interviewed by the Monitoring team during this site visit.

OVERALL QUALITY OF LIFE, CONDITIONS, AND ATMOSPHERE

Introduction

Sadly, during the last week of this reporting period, a tragic event occurred at LHS. Youth Counselor Corey Proulx lost his life in the line of duty in the last week of June. The Monitoring team's deepest condolences go out to his family, friends, and colleagues. The loss of Mr. Proulx has had a profound impact on staff and youth, which was evident during the July site visit. The general feel of the facility, staff, and youth was appropriately somber but still generally positive, particularly given the situation. There were some staff who were scared and angry.

The total LHS/CLS population in March of 2024 averaged mid-fifties and has stayed consistent over this reporting period. At the time of the site visit, the population was fifty-eight (58) youth. Staffing vacancy rates have increased slightly from last period. The average daily operational vacancy rate ranging from 22%-31% (which is reflective of daily unanticipated leave) remains high during this reporting period. As can be imagined, staff and youth raised significant concerns (mostly during the last week of the reporting period) which are discussed in more detail below. The number of unique uses of administrative confinement ("AC") and mechanical restraints were lower this period for LHS and CLS. From a data and compliance standpoint, LHS/CLS continued to move in a positive direction during this reporting period. However, the tragic event has led to adjustments in programming and staffing necessary to stabilize the facility during the last week of this reporting period.

Physical Plant Observations

The entrance, grounds, visitation, school, and all other areas were clean and organized. It is obvious that the facility continues to focus on providing a safe and clean environment, which is an integral part of creating a positive culture and atmosphere. All units and most youth rooms were clean and organized. The facility in general and the units were quiet and calm.

Defendants continue with the following physical plant improvements:

- All parking lots and roads have been repaved and repainted;
- Freon detection system update is completed;
- Continued implementing additional fixed cameras throughout the facility including both internal and external cameras. Additional cameras were procured during the reporting period;
- Continued to enhance the Music Arts Initiative by adding a video recording room. Also added various electronic items to help enhance the initiative;

- Updated and hooked up a score board in the large gym for youth to continue to play unit vs. unit basketball games.

Defendants continue their commitment to improving the physical plant which improves the daily lives of staff and youth. The Monitor will continue to update the Court on physical plant improvements that increase the safety and quality of life for youth and staff.

Education

There are no new educational updates from the last reporting period. (Note: education adjustments that were made in July will be discussed in the next report). Youth raised with Plaintiffs' counsel that they wished they had more time with teachers on the unit and that they had more challenging schoolwork. Youth alleged that that they only had one hour a day with teachers on the unit. Defendants need to ensure that youth are receiving adequate time with teachers and that the schoolwork is appropriate for youths' level. Youth also alleged that a teacher treated black and white students differently. Defendants have investigated this allegation.

As a reminder, for youth who are in Skills Development Program ("SDP") Pause and Step 1, the school provides a SPED teacher, and education services via electronic means (Chromebook) or with paper packets depending on youth preference. In addition, the school provides a dedicated education assistant and youth attend class in the living unit. While in an SDP unit, High School Equivalency Diploma ("HSED") and graduate youth are provided the same school options as other youth so they can fully participate in the scheduled school day. Youth placed in the SDP participate in treatment groups as assigned, but their education is self-guided either in the living unit or in their rooms with the same access to teachers aids.

For all general population youth and SDP Step 2 youth, all youth (except those who have graduated) receive educational classes daily (Monday-Friday) in the school building. Youth who are enrolled in HSED classes, participate in those specific classes as well as physical education with other youth, treatment groups, and opportunities for employment/work. Youth who are graduates are assigned work during school hours and participate in physical education and treatment groups.

Educational staff vacancy rate improved from 9 out of 22 vacant positions in the last reporting period to 7 out of 22 vacant positions. Although slightly improved, the vacancy rate is higher than the Monitor would like to see.

Living Unit Observations

The Monitoring team visited each cottage that youth were housed in during the site visit (Roosevelt, Dubois, Black Elk, Curtis, Rogers, Miller, Hughes, King, and Wells). Overall, the units, youth rooms, halls, living area, closets, and bathrooms were very clean. Youth did not complain about physical plant issues to Plaintiffs' counsel or to the Monitor.

Youth were respectful when interacting with the Monitor and facility leadership in general. All the

living units were calm. Youth were appropriately engaged with each other. During the tour, the Monitoring team observed six (6) youths were in room confinement and two (2) youths were in their rooms voluntarily.

The unit populations ranged from three (3) to eight (8) youths. The Monitoring team saw staff engaging with youth while reviewing videos on randomly selected days in the months preceding the site visit. In general staff were not as engaged with youth as last site visit. It was also notable that while most staff were more cautious toward youth and seemed to maintain more distance, they were also trying to ensure for a safe and engaging atmosphere, attempting to keep youth meaningfully engaged in various activities. As previously mentioned, the staff and youth were still reeling from the critical incident, and therefore the Monitoring team could feel the increased tension and fear for safety. With that said, it remains humbling to have seen most staff continue to focus on the safety of youth and continue to pursue positive youth development and activities. Youth seemed to be a bit less talkative to the Monitoring team than usual, again most likely a result of the recent tragedy and the overall somber atmosphere.

Since the time onsite for the Monitoring visit is limited, the Monitor always reviews videos of the living units on random days and times to get a better idea of what youth and staff do on the units and whether staff are positioned near youth and interacting with youth in a positive way. The Monitor reviewed videos during the reporting period to view living units, school, outdoor recreation, and other activities. In all instances (18 videos over several hours each) staff were engaged with youth when they were out of their rooms doing a variety of activities such as:

- Playing basketball with youth;
- Eating with youth at the tables;
- Watching television with youth;
- Playing cards with youth;
- Conducting growth meetings;
- Youth in classrooms and teachers on the unit conducting education;
- Youth interacting with social workers, CARE team, mental health, medical staff, and volunteers;
- Youth in the Douglass recreation center;
- Youth and staff were in the music lab;
- Youth were observed on telephones;
- Youth cleaning the units;
- Youth and staff doing art projects;
- Nurses completing medicine pass;
- Youth horseplaying;
- Youth eating snacks;
- Staff conducting searches.

During this site visit, the CLS youth were housed in the Wells and King Unit. There were eleven (11) youth total in CLS (including 1 off ground) at the time of the site visit. CLS units and youth rooms were clean. One (1) youth assigned to King was in administrative confinement due to an incident the previous night, but all other youth were out in the dayroom. One staff was painting

with the youths. The Wells unit had five (5) youth assigned. Most youth had positive attitudes and engaged with leadership and monitoring team. There were adequate staffing levels in CLS which included the presence of staff still in training (classified as “OJT”).

The LHS youth were housed in Roosevelt, Dubois, Black Elk, Curtis, Rogers, Miller, and Hughes. All units were clean and organized. Youth on all the units were quiet and calm. Youth were playing cards, talking with each other, eating lunch, and watching television.

The Roosevelt and Wells living units housed youth in the SDP at LHS and CLS respectively during this reporting period. The SDP is modified programming for youth who have engaged in physically aggressive behavior, have presented a danger to others, and/or have exhibited behavior that caused a major disruption to the facility. During the site visit, all LHS youth on these units were confined to their rooms. There were (5) youth assigned to Roosevelt (SDP status) at the time of the site visit.

As previously reported, Dialectical Behavioral Therapy “DBT” is provided to youth in the SDP incorporating individualized planning along with the in-person group work already assigned to youth in the SDP so that they are engaging in DBT skills and receiving feedback daily. The Program consists of three steps: (1) PAUSE, (2) Step 1, and (3) Step 2.

While on PAUSE youth must participate in all offered treatment meaningfully and to the best of their ability (determined by Treatment Team). The Treatment Team is heavily involved in the program, assisting the youth in identifying and addressing underlying motivations for anti-social or otherwise disruptive behavior, increasing insight and self-reflection, and learning/practicing skills to better respond to challenging emotions, experiences, and situations/environments. Youth will initially process the incident/behaviors that necessitated an SDP placement through the completion of any applicable Behavior Chain Analysis (BCA). This information then informs each youth’s individual treatment needs and goals created in consultation with the Treatment Team. Youth must show the ability to follow facility rules and expectations. Youth must demonstrate that they are making efforts to meet their treatment goals. Youth will be removed from Modified Programming once the Growth Team determines that the youth has demonstrated sufficient skill development to safely be removed from PAUSE.

Youth assigned to the SDP have their “Youth Plan” amended by PSU to specifically address their behavior. Youth placed in this program are evaluated by a multi-disciplinary team in conjunction with their weekly Growth Team. The Monitor observed growth meetings in video review. The Monitor saw several examples of mental health and social workers engaging with youth. Data on youth at CLS/LHS during the monitor visit shows the aggregate percentage of prosocial versus noncompliant behaviors to be 84% prosocial and 16% noncompliant which is an appropriate ratio.

Defendants need to make sure through a rigorous quality assurance process that the system is being implemented consistently and in accordance with training, policy, and procedure, especially with the number of new staff onboarding and with the number of youth complaints of inconsistency and unfair application of behavioral violations. There continues to be numerous complaints from youth and staff to the Monitoring team and Plaintiffs’ counsel around the BMS. The Monitor will have a more substantive discussion with the Defendants.

Youth Interviews

Approximately twenty (20) youth were interviewed during the site visit (formally and informally) by the Monitor and approximately twenty-three (23) youth were interviewed extensively via telephone prior to, during, and after the site visit by Plaintiffs' counsel.

In general, youth attitudes were positive yet somewhat quiet in the Monitor's opinion. None of the youth made complaints to the monitoring team. Youth stated they liked the food and LHS was "good" and "way better" than other places they had been. Youth were not very engaged with the Monitoring team.

Youth were much more vocal with Plaintiffs' Counsel. Youth have many concerns about the BMS. Youth stated that when they do complain about a grade they receive in the BMS, that they do not hear back from staff. Youth feel discouraged and feel like they cannot win with the BMS. A couple of youth also complained about receiving violations without being notified of the violation and thus, could not contest the violation. Youth felt like the violations were unwarranted. It seems fair to also note here that staff also voiced concerns with the BMS, stating they cannot hold youth accountable for repeated behaviors and that the BMS does not seem to work in its current form. Youth also said grievances were not addressed timely and did not provide details as to why the grievances were denied.

One youth complained about the portion of food received and not being able to receive another helping and another youth complained about seeing hair in the food.

Youth complained to Plaintiffs' Counsel about staff shortages on the units which required youth to remain in their rooms all day. Youth also stated that this resulted in education being on the units instead of the school. Youth also complained that staff seemed more on edge since the staff assault and staff's demeanor and mood is much different. Youth complained that the video conferencing system does not work consistently.

This is a difficult time for leadership, staff, and youth. The Monitor encourages facility leadership to be more engaged and visible on the units and to engage with staff and youth as much as possible while everyone continues to process the tragic event.

Update Type I Facility

DJC has broken ground on the new Type 1 in Milwaukee on Clinton Ave. There remains a tentative opening in the fall of 2026. The site for the second Type 1 will be in Dane County located on the adjacent property of GROW Academy in Oregon/Fitchburg Wisconsin. The Dane County site is currently being evaluated and facility design has commenced. Moving youth to smaller facilities closer to their homes will facilitate greater family involvement, and connection to school and community, and will improve outcomes for youth.

Staffing

The vacancy levels at LHS/CLS have increased during this reporting period. Employee leaves

continue to be relatively high during this reporting period at LHS/CLS and across DOC. Defendants have created significant incentives for new and existing employees to help with attracting new talent and retaining current staff. It is important to note that in the last week of June, there were significant staffing challenges as many staff were calling off. There continued to be significant call-offs on the day of the site visit. This is expected due to the grief/anger felt by staff. Defendants have provided grief counselors and other mental health services for staff. There needs to be continued focus and check in on staff’s mental health as they process the loss of their colleague and friend.

The Youth Counselor/Youth Counselor Advance staffing vacancy percentages are higher than the last reporting period (*see below*). There are 311 total positions (“FTEs”) at LHS/CLS. Approximately 122 of these positions are “direct care” staff (Youth Counselor/Youth Counselor Advanced, collectively (“YC/YCA”). There has been significant improvement in the vacancy rate for Treatment Specialists (2 out of 7 are vacant) and teachers. Treatment Specialists 2 lead DBT groups and are responsible for program PAUSES, behavior chains, other treatment responses to behavior, and participate in Growth meetings. The teacher vacancy rate is lower than the last reporting period (7 vacancies), or 32% of positions, which is still higher than the Monitor hoped. With limited educators, Defendants will have continued difficulty with increasing the quality and quantity of education for youth. These vacancies are having a negative impact on the youth. Recruiting in general is still a challenge due to the location of LHS/CLS, uncertainty as to when/if LHS/CLS will close, and for educators, the year-round school calendar and thus, hiring needs to continue.

Position	Vacancy Rate % as of April 30, 2023	Vacancy Rate % as of February 1, 2024	Vacancy Rate % as of July 1, 2024
Youth Counselor	14% (13 out of 94)	3% (3 out of 97)	8% (8 out of 97)
Youth Counselor Adv.	25% (7 out of 28)	0% (0 out of 27)	11% (3 out of 27)
Teacher	36% (8 out of 22)	40% (9 out of 22)	32% (7 out of 22)
Social Worker	0% (0 out of 6)	28.5% (2 out of 7)	14% (1 out of 7)

Recruiting efforts for this period include:

- 6/30/24- 2% general wage adjustment for all staff that have completed performance reviews and satisfactory performance reviews;
- 5/6/24- 5/10/24- Correctional Employee Appreciation Week;
- 5/2/2024- Rhinelander High School Career Fair;
- 4/16/2024- Homegrown Success Career Fair- Medford;

- 4/18/2024- Merrill High School Career Day;
- 3/28/2024- UW Stevens Point School of Education Spring 2024 Job Fair.

The Critical Incident Response Team (“CIRT”) holds a refresher meeting every quarter. Additional staff wellness activities included:

CASH Recruitment

The CASH Team staged a recruitment effort beginning March 28, 2024, looking for an outgoing, motivated team member interested in supporting staff, boosting morale, and promoting overall staff wellness. The CASH Team facilitates staff wellness activities, staff giveback/appreciation events, fundraisers, and other safety initiatives. Committee meetings are held at least quarterly, but participation can be more frequent. Potential committee members are asked that they be available at least once a month for CASH to be successful.

CASH Events occurring during the reporting period:

- March 13 & 20, 2024 St Patrick’s Day Coffee and Donuts
- May 6-10, 2024, Correctional Employee Week. All week management teams up with the CASH Team and serves goodies at four different times of the day to ensure everyone receives something.

Additional Support:

External peer supporters were arranged to provide confidential assistance to all employees post the passing of staff member Corey Proulx. Peer supporters made rounds to check-in with staff and were also available for one-on-one meetings.

In addition to outside Peer Supporters from the department being on grounds, the facility worked with an organization called the Law Enforcement Death Response (LEDR) Team. That team conducted staff debriefings at Park City Credit Union Community Room in Merrill. Employees were eligible to be in pay status, but no uniforms were necessary.

The Monitoring team spoke to over twenty-four (24) staff. As expected, the climate in general was somber during the site visit. Staff are exhausted and, in some cases, scared. Clearly, staff fear for safety has been heightened. Some staff expressed that they feel there is no accountability for youth behavior and that the BMS does not work. Staff stated that once a youth receives a violation, the youth continue to act out because staff can only give a violation one time even if behavior continues. Staff also stated that there are no programs for adult sentenced youth. During discussions between staff and the Monitoring team, many staff voiced concerns regarding their safety and made suggestions that they be provided additional defensive tactics training in addition to the Mandt physical intervention training they receive. Staff recognized that the Mandt training provides appropriate de-escalation and physical intervention techniques for planned or spontaneous uses of force, but also insisted on the need for additional defensive tactics training for

when/if they are attacked or assaulted. Defendants should explore additional options.

Defendants need to continue to make staff wellness a major focus and continue to provide the added support needed during this difficult time.

Quality Assurance (“QA”)

The Quality Assurance Program at LHS/CLS continues to be second to none. Critical information is readily available to the leadership which allows them to make proactive, data driven decisions that increases the safety of youth and staff.

Administrative Code Revisions Update

DJC’s Administrative Code committee continues moving both DOC Chapter 376 and DOC Chapter 373 forward. Changes to chapter DOC 376 of the state’s Administrative Code, which governs security in Type 1 juvenile correctional facilities, were referred to the Senate Committee on Judiciary and Public Safety and Assembly Committee on Corrections during the reporting period. The Senate held a hearing on April 10, followed by the Assembly on May 2, 2024. The Senate voted to approve a request for modifications to the rule on May 14, 2024.

A public meeting regarding changes to chapter DOC 373 of the state’s administrative code, which governs security in Type 1 juvenile correctional facilities, was held on June 3, 2024. Subsequently, changes to that chapter were referred to the Senate Committee on Judiciary and Public Safety and Assembly Committee on Corrections on June 18, 2024.

Policy Updates

The DJC Policy Committee continues to review and update policies of note to the facility. The following policies have been reviewed by the policy committee during the reporting period, but remain in draft:

300.05.05 – Mandt

300.05.02 – Use of Physical Interaction

COMPLIANCE WITH THE CONSENT DECREE AND PERMANENT INJUNCTION

Below is the Monitor’s assessment of compliance with the consent decree.

Room Confinement

1. Punitive Confinement.
 - a. Subject to the terms and provisions of Section V(C)(3)(g) effective immediately upon entry of the Court's order incorporating this Agreement, no punitive room confinement shall exceed seven days. Defendants shall calculate the seven-day period by including both

pre-hearing and post-hearing room confinement.

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE. Data shows that out of 171 administrative confinement uses reviewed, ten (10) incidents lacked sufficient detail in articulating reasons for the placement on administrative confinement, the placements were found to be non-punitive, and staff were issued formal job instructions but were not found to be punitive. Of note, seven (7) youth were transferred to MJTC and only 29% of those were transferred from the status of “AC pending transfer”, while 71% were transferred from general population which is an open day room.

Defendants need to continue to examine their use of all forms of confinement and review incidents to ensure that staff are not using any form of confinement as punitive confinement. Prior to this reporting the Defendants discontinued the practice of confinement during the PAUSE stage of the High-Risk Program. Additionally, for most of this reporting period, for youth who were confined in AC pending transfer, Defendants rotated youth in and out of their room with restraints. For the last week of this reporting period, youth were no longer rotating in and out of their rooms at all during AC pending transfer; lacked sufficient opportunity to engage in meaningful socialization or receive daily basic programming like recreation, education, showers, *etc.* following the tragic incident. The Parties will be further discussing this issue. Defendants did inform the Monitor that they will resume the practice of rotating youth in and out of their rooms. The Monitor also stated that youth should be provided with recreation, showers, phone calls, meaningful education, and additional out time when youth’s behavior allows (in consultation with mental health). Defendants need to limit any extended room confinement such as this, especially for youth with mental health needs. Defendants may be in partial compliance during the next reporting period if they continue the practices identified in this paragraph.

- b. Subject to the terms and provisions of Section V(C)(3)(g), Effective seven months after entry of the Court’s order incorporating this Agreement, punitive room confinement shall be limited to three days, including both pre-hearing and post-hearing room confinement.

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE. See, previous response.

- c. Subject to the terms and provisions of Section V(C) (3) (g), effective ten months after entry of the Court's order incorporating this Agreement, punitive room confinement shall be prohibited.

COMPLIANCE STATUS: PARTIAL COMPLIANCE. See, previous response.

- 2. Administrative Confinement. Administrative confinement may only be used for a youth who poses a serious risk of imminent physical harm to others. Subject to the terms and provisions of Section V(C)(3)(g), effective six months after entry of the Court's order incorporating this Agreement, an

initial period of administrative confinement may not exceed four hours for a youth posing a risk of imminent physical harm to others. When the youth is in room confinement to prevent a risk of imminent physical harm to others, Defendants shall engage in visual checks at least every 30 minutes, as specified in current policy, and shall provide intensive mental health services designed to return the youth safely to the general population. If at any point the youth no longer pose a risk of imminent physical harm, he or she must be immediately returned to general population. Time in administrative confinement may exceed four hours only under the following circumstances:

COMPLIANCE STATUS: PARTIAL COMPLIANCE. The use of AC was much lower for LHS and CLS in this reporting period. It should be noted, however, that use of AC per number of youths is significantly higher at CLS than at LHS. Defendants need to continue to examine use of all forms of confinement and review incidents to ensure that staff are not using any form of confinement as punitive confinement including the SDP PAUSE stage. Confinement is not appropriate during the PAUSE stage of the SDP Program unless youth's behavior warrants it. Defendants need to reconsider their practice of confining youth during the PAUSE stage of the program. Additionally, when there are extended periods of time for youth transferring to MJTC or another facility, Defendants rotated youth pending transfer in and out of their room with restraints (except during the last week of the reporting period). These are very limited circumstances; however, the Monitor recommends the parties discuss this further and that Defendants document any restraints as required by the Consent Decree.

November 2023

CLS: 12 uses of A.C. Average 125 minutes. No youth over 4 hours.

LHS: 28 uses of A.C. Average 884 minutes. Two (2) youth over 4 hours. 15, 020 minutes, 6085 minutes.

December 2023

CLS: 26 uses of A.C. Average 117 minutes. One (1) youth over 4 hours. 430 minutes.

LHS: 25 uses of A.C. Average 433 minutes. One (1) youth over 4 hours. 7871 minutes.

January 2024

CLS: 61 uses of A.C. Average 180 minutes. Six (6) youth over 4 hours. (six unique youth accounted for 61 users).

LHS: 25 uses of A.C. Average 433 minutes. One (1) youth over 4 hours (131 hours).

February 2024

CLS: 27 uses of A.C. Average 131 minutes. No youth over 4 hours.

LHS: 18 uses of A.C. Average 519 minutes. Four (4) youth over 4 hours. One (1) youth for 85 hours.

March 2024

**CLS: 14 uses of A.C. Average 176 minutes. One (1) youth over 4 hours.
LHS: 17 uses of A.C. Average 191 minutes. Two (2) youths over 4 hours.**

April 2024

**CLS: 15 uses of A.C. Average 133 minutes. Zero (0) youth over 4 hours.
LHS: 18 uses of A.C. Average 135 minutes. One (1) youth over 4 hours.**

May 2024

**CLS: 44 uses of A.C. Average 119 minutes. Four (4) youth over 4 hours.
LHS: 18 uses of A.C. Average 209 minutes. Four (4) youth over 4 hours.**

June 2024

**CLS: 24 uses of A.C. Average 126 minutes. One (1) youth over 4 hours.
LHS: 21 uses of A.C. Average 159 minutes. Six (6) youths over 4 hours.**

The Monitor was able to assess compliance with 30-minute checks as data was readily available during this site visit. 98.2%- 99.80% of checks were completed within 30 minutes during this reporting period. The Monitor reviewed video footage for random days and times (30 reviews) and Defendants were 100% compliant with completing the checks in accordance with policy. Staff did an outstanding job and should be commended for their continued diligence in ensuring youth safety while in their rooms.

- a. Administrative confinement may be extended four hours with one additional four-hour extension thereafter (for a total of up to 12 hours) when:
 - i. A psychologist, psychology associate or psychiatrist recommends continued confinement because the youth pose a risk of imminent physical harm to others, and

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE. There were nineteen (19) youth confined for over four (4) hours during this reporting period (see response in previous question). All youth during the reporting period received extension approvals, 10 of them were extended based on the recommendation of PSU, 9 were placed on AC pending transfer status based on the recommendation of PSU and the Superintendent. The number of overall placements is lower than in the last reporting period.

Defendants need to continue to focus on reducing AC overall. Defendants created excellent quality assurance measures and data.

- ii. A plan is commenced to either promptly return the youth to general population or transfer the youth to another facility.

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE. Eight (8) youth were placed on extended placement in administrative confinement pending transfer out of the facility (2 went to MJTC, 3 to Lincoln County SD, 1 juvenile commitment expired (release), 1 no longer posed a threat so although there was a plan commenced to transfer, the youth's behavior was such that he could remain at LHS, and 1 remained on AC). There were plans commenced to return the youth to general population/transfer to another facility. PSU was involved in all instances. Providing youth on AC pending transfer status with daily out of room time for programs, education, recreation, showers, etc. is important for youth wellbeing and will provide additional opportunities for the PSU to continuously reassess the AC pending transfer status for potential return to general population pending transfer.

- b. Administrative confinement time limits may be tolled from 8 pm to 8 am.

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE. Time is being tolled from 8 P.M. to 8 A.M.

- c. Administrative confinement may only be extended beyond 24 hours to effectuate transfer of the youth to another facility under a commenced plan.

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE. Eight (8) youth were placed on extended placement in administrative confinement pending transfer out of the facility (2 went to MJTC, 3 to Lincoln County SD, 1 juvenile commitment expired (release), 1 no longer posed a threat so although there was a plan commenced to transfer, the youth's behavior was such that he could remain at LHS, and 1 remained on AC). There were plans commenced to return the youth to general population/transfer to another facility. PSU was involved in all instances. Providing youth on AC pending transfer status with daily out of room time for programs, education, recreation, showers, etc. is important for youth wellbeing and will provide additional opportunities for the PSU to continuously reassess the AC pending transfer status for potential return to general population pending transfer. Defendants may be in partial compliance during the next reporting period.

- d. The provisions of this section shall apply to all situations involving room confinement of any youth based on the risk of harming others and shall supersede any rule or policy to the contrary.

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE. See above.

- 3. Youth at imminent risk of serious self-harm. Effective immediately Upon entry of the Court's order incorporating this Agreement, Defendants shall amend DJC Pol policy #500. 70.24 as set forth in Appendix A and shall treat youth at risk of self-harm in compliance with that amended

policy.

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE. DJC Clinical Observation policy 500.70.24 is being utilized. The plans developed are detailed and comprehensive. Only youth who are at imminent risk of serious self-harm to themselves/risk of self-harm will be placed in observation status. There were 49 youth in observation status this period. Youth were regularly seen by mental health per documentation. The Monitor will continue to review and monitor the practice.

4. **Conditions of Room Confinement.** Effective immediately upon entry of the Court's order incorporating this Agreement, the following conditions shall apply to youth in any form of room confinement:
 - a. Any cell designated to house youth in room confinement must be suicide resistant and protrusion free.

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE. The Monitor would not deem any room in any facility as being “suicide proof,” however there are safety and security measures that can be put into place to reduce the risk of suicides and to make the rooms more suicide resistant. All youth are housed in renovated units. Youth rooms were overall exceptionally clean. The rooms were very organized allowing staff to clearly see into the room, perform room searches more effectively, and ensure to the extent possible that there are no dangerous items in room.

As stated in every report, while not required by the Court Order, the Monitor, the JDAI standards, PREA standards, NCHC, ACA standards, and the Best Practice Model recommends increasing the frequency of safety/welfare checks to a minimum of every 15 minutes when youth are confined to their rooms, and checks must be done properly. However, based on the language of this section, Defendants are in substantial compliance.

- b. Youth in room confinement shall have prompt access to water, toilet facilities, and hygiene supplies, either in their rooms or upon request to a staff member via intercom or some other accessible and constantly monitored form of communication within approximately 15 minutes of such request.

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE. Youth did not complain to the Monitor or Plaintiffs’ counsel about access to water, regular hygiene supplies, or nighttime toilet usage. Youth made several complaints regarding room confinement to Plaintiffs’ Counsel which is detailed in the narrative section of this report. The Monitor reviewed over 200 hours of video including nighttime and staff were observed letting youth out of their rooms for the bathroom.

- c. Staff must notify a PSU staff member as soon as possible, and no later

than two hours after placement, when a youth is placed in room confinement. A youth must have access to any needed mental health treatment while in room confinement. During the time that a youth is in room confinement, staff shall engage in challenges intervention techniques designed to return the youth to general population as soon as possible. PSU interventions during this time shall not consist only of conversations with youth through a locked door.

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE. Defendants continue to properly document who from PSU was notified, time of notification, and the intervention technique utilized with the youth.

Examples of the crisis intervention techniques used with youth when confined can include, but are not limited to: processing of the incident, coping ahead/safety plans, in the moment skills coaching/practice of DBT skills including mindfulness, recommitment to goals, validation, time away from stressors or time for reflection/refusing, fostering insight, implementation of established Youth Plan, assistance problem-solving, increase self-awareness/awareness of body sensations as indicators, Behavior Chain Analysis (formal and informal) and Thinking Report, encourage self-reflection/identify vulnerabilities, consistent redirection/limits, Behavior Intervention Protocol fostering insight/skill identification/skill practice, and plans to address conflict/safety/skills practice.

Clinicians are on-site for 6 hours each Saturday and Sunday. There is PSU coverage from 0730-2000 Monday-Friday; weekends at least 6 hours per day. Youth are seen per their MH-code (per policy: MH-2 at least every two weeks; MH-1 at least once monthly); however, MH-0 youth are seen at least once monthly as well as opposed to per request as indicated by policy. Despite the minimum requirements, youth are seen far more frequently by PSU staff, for many, often daily. Youth continue to have contact with PSU at Growth Teams as well as in DBT groups. As of May 2022, additional daily rounds by PSU staff are also conducted on all units when operational confinement youth are in more than two groups. Youth in SDP are seen daily for rounds. Clinicians working on the weekend, have a priority of service provision which include assessing/meeting with youth on Administrative Confinement, meeting with youth on observation status, attending to any crises, and conducting rounds and check-ins with youth. There are typically quite a few staff referrals, and these youth are seen as well. The only time spent in non-direct contact with youth on the weekend is for documenting on the AC and observation placements (other clinical documentation is completed on Monday).

The Monitor continues to suggest that PSU increase the hours in which they are physically present on weekends and evening hours to engage youth in a meaningful way during this time. Because confinement can create or exacerbate mental health problems, treatment is going to be even more critical as the population continues to remain higher if the Defendants are confining youth to their rooms for any reason. The Monitor also suggests that specific PSU clinicians should work with the same youth to establish continuity (when possible) and should primarily work on the units. If possible, Defendants should consider putting PSU

staff offices on the unit like they did with the Supervisors' offices. This will reinforce to the youth and staff that they are "one team" servicing the youth and could be readily present to mitigate any situations. The Monitor saw many contacts with PSU during video review of random days (including weekends) of this reporting period.

- d. Any youth placed in room confinement for whom there is not already a mental health evaluation must have such an evaluation as soon as possible, and in any event no later than 24 hours after being placed in room confinement. If a youth is identified with a mental health need (a mental health code designation of MH-1, MH-2a, MH-2b, or ID), placements in room confinement will be reviewed by a PSU staff member to determine whether that placement is a contraindication to the youth's mental health or if other options will adequately protect the youth or staff.

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE. Documentation/data shows that evaluations are completed (if there is not already a mental health evaluation) within 24 hours after being placed in room confinement. Youth on operational confinement are being seen by PSU and evaluated for contraindication. The Monitor has seen documentation for youth on operational confinement and whether they are evaluated for contraindication. There were no instances of contraindication documented during this review period.

- e. Staff must visually and in person check safety of youth pursuant to current policy at least every 30 minutes in all cases, and contemporaneously record the actual time of such checks in a log kept for that purpose. Staff who fail to make such checks or who falsify such records may be subject to discipline. Any youth placed in room confinement for any period in excess of 24 hours shall receive daily contact with a mental health provider. This contact shall be face-to-face unless, due to staffing limitations, no PSU staff is personally available, in which case it may occur by phone or video conferencing.

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE: Defendants were between 98.20%- 99.80% compliant with meeting the thirty (30) minute safety and security check timeframe. Quality assurance measures are in place and when necessary, formal investigations occur. There were no formal job instructions for not completing safety and security checks. The Monitor observed safety/wellness checks being completed on various days/times on every unit during this reporting period and observed no instances in which staff did not make visual contact with youth per policy- 100% of the checks were compliant. Staff met or exceeded the 30-minute timeframe, looked into room, and the intervals were staggered.

PSU staff do visit youth daily when on site and are available 24/7 if needed by phone. The Monitor continues to encourage more on-site time in the evenings and weekends doing groups and having one-on-one sessions with youth. The Monitor also continues to recommend that PSU staff, like Supervisors, have offices on the unit and work with the same

youth when possible.

While not required by the Court Order, the Monitor continues to recommend increasing the frequency of safety/welfare checks to a minimum of every 15 minutes when youth are confined to their rooms as this is supported by JDAI standards, PREA standards, NCCHC, ACA standards, and is the Best Practice Model.

- e. Any youth in room confinement shall have property items similar to or the same as items allowed in general population. Specific items of property may be restricted as needed for safety of the youth and staff on a case-by-case basis. These restrictions will be temporary in nature until these items can be safely returned to the youth. A Supervising Youth Counselor or Unit Supervisor shall review any property restrictions on a daily basis and document the review.

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE. While youth are on operational room confinement/modified programming, regardless of level in the behavior management program or their status on SDP, the Monitor recommends that youth be provided with activities to do that would encourage physical movement in rooms, arts, crafts, music *etc.* Defendants should continue to evaluate items allowed in youth rooms to keep them occupied.

- g. Youth in room confinement shall receive:
 - 1. All regularly scheduled social worker visits, mental health services, and other health services.

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE. Social worker visits, mental health services, and other health services are provided. The Defendants created a report with underlying documentation to more efficiently assess compliance levels Defendants need to ensure there is accountability with respect to the services provided by the social workers, mental and healthcare workers.

- ii. Any rehabilitative programming (e.g., Aggression Replacement Training, Juvenile Cognitive Intervention Program, etc.) that was scheduled or in process before placement in room confinement.

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE. Defendants moved to smaller group-based treatment to youth where group participation was provided on the units. This continues. The Defendants created a report with underlying documentation to assess compliance levels more easily. Documentation showed that Defendants are in substantial compliance.

- iii. Educational services with the general population to the extent practicable. If attending educational services with the general population proves unworkable due to an immediate and substantial threat of physical harm or an unreasonable risk of significant disruption to classroom instruction, youth in room confinement shall receive alternative educational services on days that the general population receives such services. Defendants shall ensure special education services for all eligible youth.

COMPLIANCE STATUS: PARTIAL COMPLIANCE. The education consultants completed their report which included recommendations. The education department has made numerous updates during the previous reporting period to school services. There are no new updates this reporting period.

- iv. Additional "out time" for gross motor exercise and social interaction. Defendants shall permit youth to talk to peers during such "out time" unless such conversations pose an immediate and substantial threat of physical harm to another person. Sensory stimulation shall also be available during "out time," unless such activities cause immediate and substantial disruption or risk of physical harm.

COMPLIANCE STATUS: PARTIAL COMPLIANCE. Staffing levels are appropriate for most of this period minus the last week. In general, youth are regularly out of their rooms from 8 A.M. to 8 P.M. The Monitor regularly saw youth conversing with other youth during out time when the youth were on the units in the day room. When there are extended periods of time for youth transferring to MJTC or other placements, Defendants rotated youth pending transfer in and out of their room with restraints in order for them to receive their 30 hours per week and 3 hours of out times (except during program changes during the last week of the reporting period). The alternative would be for youth to be confined continuously for days pending transfer. Further discussion needs to be had around the AC pending transfer youth.

- v. Meals out of the cell, absent an immediate and substantial threat of physical harm to another person from the youth eating that meal out of the cell.

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE. There were eleven (11) documented instances of youth eating in their rooms which were staff imposed based on substantial threat of physical harm during this reporting period, which is less than the last reporting period. Defendants can track when youth eat meals in their rooms and based on reports that the Monitor reviewed, it appears these instances were justified.

vi. Minimum "out time" from the cell of at least 30 hours per week and at least 3 hours per day. Time in general population on a given day shall be credited to those hours.

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE. Defendants now track out time on an individual basis using RFID, so the Monitor can determine how many youths are not getting at least three (3) hours of out-time per day or thirty (30) hours per week independently.

CLS	Daily	Weekly
March	99.5%	100%
April	100%	100%
May	100%	100%
June	100%	100%
Total	99.875%	100%

LHS	Daily	Weekly
March	99.5%	99.6%
April	100%	100%
May	100%	100%
June	98.4%	100%
Total	99.5%	99.9%

The Monitor recommends reconsidering this practice when staffing levels allow for all youth on PAUSE to remain out of their rooms (*i.e.*, not confined on PAUSE).

5. **Notification of Rights.** Within 15 minutes of a youth's placement in room confinement, facility staff shall orally inform the youth of his or her rights regarding grievances and appeals. Within one hour of a youth's placement in room confinement, facility staff shall provide the youth with written notice of his or her rights regarding grievances and appeals.

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE. The DOC-2942A was developed and moved into J-Tracker operation designed to draw the required information for the written report directly from the incident debrief form, as soon as the SYC overseeing the incident has completed their required fields for a major incident. Once the SYC has completed their required fields, a response assignment can be generated by the SYC to the unit staff where the youth on AC is housed. Upon receipt of the response assigned, unit staff are then able to generate the DOC-2942A and deliver it to the youth. The new process and forms have been drafted into an updated Incident Debrief procedure. There is a photo uploaded showing staff giving the notice to youth with time stamp.

6. Documentation. Whenever a youth is placed in room confinement,

facility staff shall create a written report documenting the necessity of room confinement, the less restrictive measures attempted before placement in room confinement, and the length of time the youth spent in room confinement. The youth must be promptly provided with this report immediately upon its completion.

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE. The Court Order requires documentation of all forms of room confinement, and Defendants are documenting this consistently, including when less restrictive means were attempted.

B. OC-Spray and Other Chemical Agents

1. OC reduction plan. Effective immediately upon entry of the Court's order incorporating this Agreement, the Defendants shall continue to implement OC-Spray reduction plans, attached, and incorporated hereto as Append ix B, as outlined in the preliminary injunction.

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE. OC has been eliminated.

2. Prohibition on use of OC-Spray and other Chemical Agents. Subject to the terms and provisions of Section V(C) (3)(g), within twelve (12) months of entry of the Court 's order incorporating this Agreement, the use of OC spray and other chemical agents will be prohibited.

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE. OC has been eliminated.

C. Mechanical Restraints. The following provision shall be effective immediately upon entry of the Court's order incorporating this Agreement:

1. Prohibition on types and uses of mechanical restraints.
 - a. Under all circumstances, there is a presumption that youth shall not be mechanically restrained.

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE. The Monitor did not personally see any youth in mechanical restraints during site visit. The Monitor reviewed several uses of force videos and there were no inappropriate uses of mechanical restraints observed. Defendants do need to monitor any use of restraints while youth are awaiting transfer to another facility. Defendants are now tracking all uses of restraints, including those implemented for youth whose AC has been extended pending transfer.

- b. Restraints may only be used if staff determine that they are the least restrictive means of addressing an imminent threat of physical harm to self or others and must be removed immediately when the youth regain control and when the threat of harm or the safety concern has abated.

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE. Below is the number of mechanical restraints uses in LHS and CLS in the prior and current reporting periods.

Uses of mechanical restraints LHS:

June 2023:	9 uses (1 over 45 mins)
July 2023:	8 uses (2 over 45 mins)
August 2023:	10 uses (1 over 45 mins)
September 2023:	2 uses (1 over 45 mins)
October 2023:	2 uses
November 2023:	0 uses
December 2023:	4 uses
January 2024:	1 use
February 2024:	4 uses (1 over 45 mins)
March 2024:	4 uses (2 over 45 mins)
April 2024:	0 uses
May 2024:	1 use
June 2024:	3 uses.

Uses of mechanical restraints CLS

June 2023:	1 use
July 2023:	4 uses
August 2023:	0 uses
September 2023:	0 uses
October 2023:	0 uses
November 2023:	0 uses
December 2023:	1 use
January 2024:	7 uses (1 over 45 minutes)
February 2024	1 use
March 2024:	0 uses
April 2024:	2 uses
May 2024:	2 uses
June 2024:	2 uses.

Defendants have reduced the use of mechanical restraints in LHS and CLS compared to the last four-month reporting period.

- c. No mechanical restraint device other than handcuffs may be used

on youth while they are in the facility, except:

- i. Mechanical restraints may be used when ordered by PSU to attempt to prevent active self-harm.

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE. There was one (1) use of ankle restraint during this reporting period. Defendants have developed policy and procedure, training, and QA measures.

- ii. Mechanical restraints may be used if the youth poses an immediate and substantial threat of physical harm to others.

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE. There was one (1) use of ankle restraint during this reporting period. Defendants have developed policy and procedure, training, and QA measures.

- iii. During transportation, the facility may use handcuffs and, in rare instances when necessary for articulated reasons necessary to prevent an imminent threat of harm to youth and/or staff, additional restraints such as waist chains or leg restraints. When youth are being transported for release to a non-locked environment, there shall be a presumption that restraints are not used. Restraints may be used during such transportation to prevent a threat of harm to youth and/or staff.

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE. See above.

- d. Mechanical restraints shall never be used for punishment or discipline.

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE. The Monitor has not observed mechanical restraints used for punishment/discipline on site visits, review of video, or documentation reviewed.

- e. Youth may never be restrained to a fixed object, unless specifically ordered by PSU to attempt to prevent active self-harm

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE. There is no evidence of youth being restrained to a fixed object. Policies have been finalized and quality assurance measures created.

- f. Only staff who have been specifically trained in the use of physical

force and restraints and trained in proper de-escalation techniques may place a youth in mechanical restraints.

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE. All safety staff equipped with mechanical restraints are trained specifically in the use of physical force, and restraints, and in proper de-escalation techniques.

- g. Any use of mechanical restraints, except during transportation or for mental health purposes, must be authorized by a Youth Counselor, Youth Counselor Advanced, or supervisor in a living unit. No youth shall be left alone in restraints. Any use of mechanical restraints in excess of 45 minutes must be approved by the superintendent, security director or designee and approved by PSU staff, and reviewed every 45 minutes thereafter. As soon as possible and no later than 2 hours following, PSU staff shall evaluate and provide therapeutic interventions to the youth.

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE. There were two (2) instances of a youth being placed in mechanical restraints for over 45 minutes. In one instance, the youth refused to comply with allowing staff to remove the mechanical restraints and the other was approved by the Deputy Superintendent/Superintendent. Defendants have created a QA process for this section.

2. Documentation. Facility staff must document all uses of restraints in the facility, including a description of the events leading up to the use of restraints, the less restrictive alternatives attempted, and the length of time the youth spent in restraints.

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE. Mechanical restraint use has been added to the Incident Debrief process and the Incident Debrief process has been modified. The length of time youth spent in restraints and events leading up to the use is regularly documented as part of the Incident Debrief process.

- D. Strip Searches. The following provisions are effective immediately upon entry of the Court's order incorporating this Agreement.
 1. Prohibition on strip searches without probable cause. Facility staff may not conduct a strip search of any youth unless there is probable cause to believe that the individual youth possess drugs or weapons that could not be discovered through less intrusive means.

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE. There were zero (0) strip searches in this reporting period. The policy and procedure for Searches of Youth have been

finalized. A Strip Search Quarterly Training Brief was developed and shared with all supervisors to outline all the necessary criteria and documentation requirements under which a strip search may be completed. Only supervisors can authorize a strip search.

2. Strip searches with probable cause. Less intrusive searches, including using a metal detector, pat down, or allowing the youth to change into a tank top or other clothing, must be attempted before a strip search is conducted, unless it is determined by PSU in consultation with the youth that less intrusive searches, which may include physical contact, would cause greater trauma to the youth.

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE. There were zero (0) strip searches this reporting period. QA has been developed. The policy for searches has been finalized.

- a. When a strip search is conducted, staff must ensure that no unintended individuals are able to view the search, including by video or other recording device.

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE. There were (0) strip searches this reporting period.

- b. Under no circumstance may a youth be strip searched within view of another youth.

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE. There were zero (0) strip searches during this reporting period. No youth was near the youth being strip searched. QA has been developed. The policy for searches has been finalized.

- c. Strip searches may only be conducted by individuals of the same gender identity as the youth being searched unless the search is conducted by a medical professional.

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE. There were (0) strip searches conducted during this reporting period. QA has been developed. The policy for searches has been finalized.

- d. Strip searches must be conducted by staff trained in trauma-informed practices.

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE. There were (0) strip searches this period.

- e. If a youth with a known or suspected mental health diagnosis or history of sexual abuse objects to a strip search, staff must consult with mental health practitioners before conducting the search.

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE. There were zero (0) strip searches during this reporting period. Policy and procedure/QA developed.

- 4. Documentation. Facility staff must document all uses of strip searches, including the reason for the search and any drugs, weapons, or other items discovered through the search.

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE. The process for tracking and documenting all searches including the probable cause for any necessary strip search and the weapons, drugs, or other items discovered has been incorporated into J-Tracker as of September 1, 2019. Policy and Procedure have been finalized.

- E. De-escalation Training. Within three months following entry of the Court's order incorporating this agreement, all staff in the facility shall receive de-escalation training by a nationally recognized provider. De-escalation training shall be provided at least annually thereafter.

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE. Defendants do provide de-escalation training to new and current staff.

- F. Programming. Immediately upon entry of the Court's order incorporating this agreement, the Defendants shall request that the Monitor provide assistance and strategies to increase programming and reduce the hours of idle time in the facility to no more than the PbS field average. Defendants shall make reasonable efforts to implement the recommendations.

COMPLIANCE STATUS: PARTIAL COMPLIANCE/UNKNOWN. The Monitor and Defendants have had many conversations/meetings regarding increased programming and Defendants have implemented the recommendations. Defendants have attempted to obtain the PbS field average to assess compliance level, but PbS will not release this information or is not capturing the data in this manner, therefore the Monitor cannot assess compliance with part of this section.

- G. Staffing. Immediately upon entry of the Court's order incorporating this agreement, Defendants shall request that the Monitor provide assistance and strategies to improve staffing ratios, and/or use strategies identified in the February 26, 2018,

report and recommendations of Mark Soler, Michael Dempsey, Teresa Abreu, and Jennifer Lutz. Defendants shall make reasonable efforts to implement the recommendations.

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE. Defendants made significant effort in implementing the strategies suggested.

- H. Amendments to administrative code. Defendants will make all reasonable efforts to amend the administrative code to impose restrictions on any juvenile correctional facilities operated by DOC that codify the material terms of this Agreement as they relate to: (1) Room Confinement, (2) OC-Spray and Other Chemical Agents, (3) Mechanical Restraints and (4) Strip Searches.

COMPLIANCE STATUS: PARTIAL COMPLIANCE. DJC's Administrative Code committee continues moving both DOC Chapter 376 and DOC Chapter 373 forward. Changes to chapter DOC 376 of the state's Administrative Code, which governs security in Type 1 juvenile correctional facilities, were referred to the Senate Committee on Judiciary and Public Safety and Assembly Committee on Corrections during the reporting period. The Senate held a hearing on April 10, followed by the Assembly on May 2, 2024. The Senate voted to approve a request for modifications to the rule on May 14, 2024.

A public meeting regarding changes to chapter DOC 373 of the state's administrative code, which governs security in Type 1 juvenile correctional facilities, was held on June 3, 2024. Subsequently, changes to that chapter were referred to the Senate Committee on Judiciary and Public Safety and Assembly Committee on Corrections on June 18, 2024.

IV. DOCUMENTATION, REVIEW, AND QUALITY ASSURANCE.

- A. **Incident review process.** Defendants will establish a review process for any incident that involved the use of force; OC spray; room confinement; or mechanical restraints used for more than 45 minutes (excluding during transportation). The review committee will include all staff directly involved in the incident, their supervisors, the social worker assigned to the youth, PSU staff who are familiar with the youth, the facility director of security, the deputy superintendent, and the superintendent. Within 24 hours, all available members of the review committee shall meet to assess whether physical force, OC spray, room confinement, or mechanical restraints were used appropriately, to discuss less restrictive alternative strategies that staff could have used, and to provide an opportunity for staff training and/or redirection if needed. If not all members of the review committee are available for the meeting within 24 hours, the full review committee shall meet or confer as soon as possible and no later than one week after the event. The review committee shall also review all uses of strip searches weekly to ensure that all such searches were conducted only upon probable cause.

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE. The 24-hour timeline is met in the vast majority of cases absent weekends. Informal reviews occur right after an incident in majority of cases. When it has been determined lesser means could have been used, there is a corrective action plan developed but follow-up needs to occur to ensure the plans are completed (QA component). Defendants QA program is exceptional and continues to further develop the program to include compliance measures with this Court Order.

- B. Quality assurance.** The superintendent shall establish performance goals, including compliance with the terms of this settlement; shall analyze data on whether those goals are met; and shall put in place immediate corrective action to address goals that are not being met.

COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE. As discussed throughout previous reports, data driven decisions are critical to come into compliance with this Court Order and to improve the quality of life for youth and staff. Defendants have created an exceptional quality assurance program and have developed daily data to review that will automatically be available to make real-time operational decisions. Defendants developed the program to include additional compliance measures with this Court Order and created new dashboards during this reporting period.

CONCLUSION

Again, our deepest sympathies go out to the family and friends of Youth Counselor Corey Proulx. The Monitoring team recognizes the impact this incident has had on staff, youth, and the overall climate of the facility. Leadership remains focused on the progress and positive outcomes that have occurred to date while balancing responses to aggressive behaviors. Although staff's attitudes in general were mostly positive, their fear for safety was expectedly higher during the last week of this reporting period and during the site visit. Defendants need to continue to focus on staff wellness.

The population has remained consistent. Direct-care staffing vacancy rates increased slightly, and the daily operational vacancy rate remains high in this reporting period. Although the teacher vacancy rate has improved this period, it remains higher than the Monitor would like. The Monitor continues to recommend that PSU and the CARE team have a bigger presence on the units as this can mitigate any incidents of violence and subsequent use of force as well. Although it is a very small percentage of youth, the current operational practices around youth who are confined to AC while pending transfer to another facility and youth on PAUSE need to ensure that youth are getting the required out-time, programming, showers, mental health, education services and all other basic rights. Staff and youth had significant complaints about the BMS that warrant further discussion/assessment.

The Department needs to identify a long-term strategy or solution for youth committed to their care who are inappropriate for the juvenile correctional facility setting (i.e. those identified with serious mental health and/or disabilities). The Monitor continues to state in reports to the Court, there needs to be a continued focus on moving youth from LHS/CLS to more appropriate setting(s)

or diverting them from confinement entirely.

The Monitor is happy to answer any questions or address any concerns of the Court or the parties.

Respectfully Submitted,

/S/ Teresa Abreu

Teresa Abreu

Monitor