

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.

TWENTY-FIRST REPORT OF THE MONITOR

Teresa Abreu, Monitor, hereby submits this status report.

INTRODUCTION

The twentieth report of the Monitor was filed with the Court on August 27, 2024. The Monitor's twenty-first 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 twentieth site visit which took place on July 11, 2024.

SITE VISIT

The twenty-first site visit by the Monitor took place on October 7, 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 September 30, 2024 (July, August, and September 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, 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 thirty-six (36) youth interviews for the site visit both remotely and in-person. 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-seven (27) youth and twenty-two (22) staff were interviewed by

the Monitoring team during this site visit.

OVERALL QUALITY OF LIFE, CONDITIONS, AND ATMOSPHERE

Introduction

The total LHS/CLS population in August of 2024 averaged high-fifties and has stayed consistent over this reporting period. The average daily operational vacancy rate ranging from 32%-44% (which is reflective of daily unanticipated leave) is higher during this reporting period than last. The number of unique uses of administrative confinement (“AC”) were lower this period for LHS and CLS. Mechanical restraint usage was higher for CLS but slightly lower for LHS youth (this is excluding mechanical restraints used for youth on AC pending transfer status during their out time). The tragic death of Youth Counselor Corey Proulx has led to Defendants adjusting programming and staffing in which Defendants deemed necessary to stabilize the facility during the last week of the previous reporting period and during this reporting period. Due to these changes, there has been a dip from a data and compliance standpoint. However, the atmosphere and youth and staff attitudes were significantly more positive during this site visit than the July visit, and the overall fear for safety seemed to be less.

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. The one noticeable problem was a seasonal influx of flies in all areas of facilities including living units and staff offices. The Monitor is told that this occurs during this time of the year and efforts are made to eradicate the problem. At the time of the site visit, the problem very much existed. Youth and staff complained about the flies, including that youth complained it prevented them from accessing recreation and other spaces. Defendants should explore different options for eradicating the influx because it is significant.

Defendants continue with the following physical plant improvements:

- Asphalt project completed;
- Freon detection project completed;
- Abatement of Roosevelt basement completed (remodeling of the basement for additional training area);
- Krueger Living Unit: new toilets and sinks installed, new safety windows in the control booth installed;
- Power upgrade at the water wells completed;
- Water tower level system replacement started;
- Update to Horseshoe Lake deck and handicap entrance project started.

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 significant educational updates from the last reporting period. During the reporting period, for youth who do not physically attend class in the school, Defendants introduced age-appropriate puzzles designed to fit the youth's in-room desk space, along with word searches, sudoku, journaling and drawing materials. Youth who have education on the units made several complaints to Plaintiffs' counsel, including that teachers only spent 40 minutes on the units per day, youth could only use un-usable rubber pencils while completing education in rooms, requests for teacher assistance were denied, and that they only received ineffective paper packet work or did not receive packets at all. During the site visit and during random video review, the Monitor observed teachers on units providing education. During the site visit, youth were engaged while in classrooms in the school. Youth were also playing basketball in the gym, reading in the library, and working on projects in wood shop. Sadly, the welding instructor position is vacant. Youth really enjoyed the welding program and regularly created phenomenal projects. The Monitor hopes Defendants can recruit and retain someone for the role. Educational staff vacancy rate improved slightly from 7 out of 22 vacant positions in the last reporting period to 6 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) and the school. Overall, the units, youth rooms (except a couple on Wells and Roosevelt), halls, living area, closets, and bathrooms were very clean. Youth did complain and the Monitor observed a significant fly issue in all areas of the facility including administrative offices.

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 four (4) youths in room confinement in Wells and Roosevelt.

The unit populations ranged from four (4) to nine (9) youths. In general staff were engaged with youth more than on the last site visit. During the site visit, the Monitoring team observed youth in school, eating lunch on units, working with social workers and PSU, sitting with peers and staff, making phone calls, playing cards, watching television, working their jobs, doing homework in their rooms, playing outside, and many youth laughing with each other. Youth and staff seemed calmer and more relaxed compared to the last site visit. Youth were more talkative to the Monitoring team. The facility atmosphere was improved compared to the last visit.

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 (13 videos over several hours each) staff were engaged with youth when they were out of their rooms doing a variety of activities such as:

- Youth participating in the Ropes Course;
- Playing basketball with youth;
- Eating with youth at the tables;
- Watching television with youth;
- Playing cards with youth;
- Lifting weights;
- Youth in classrooms and teachers on the unit conducting education;
- Youth interacting with social workers, mental health, and medical staff;
- Youth in the Douglass recreation center playing ping pong, corn hole, darts, and video games;
- Youth and staff were in the music lab;
- Youth were observed on telephones;
- Youth cleaning the units;
- Nurses completing medicine pass;
- Youth outside.

During this site visit, the CLS youth were housed in the Wells and King Unit. There were fifteen (15) youth in total in CLS at the time of the site visit. CLS units and youth rooms were clean except one room. Two CLS youth were on observation status, and three youth were on AC pending transfer status. Youth were respectful, talkative, in good moods and staff were engaged and pleasant. There were adequate staffing levels in CLS.

The LHS youth were housed in Roosevelt, Dubois, Black Elk, Curtis, Rogers, Miller, and Hughes. The Monitor did not speak to the youth on Black Elk because the youth went back to school and the Monitor did not want to pull them out of class. All units were clean and organized in general except a couple of rooms. Youth on all the units were calm and talkative with the monitoring team and each other. Youth were playing cards, talking with each other, eating lunch, and watching television. A couple of youths were in their rooms sleeping.

The Roosevelt and Wells living units housed youth in the SDP at LHS and CLS respectively during this reporting period. Youth have not returned to the Krueger unit since the tragic loss of staff member Corey Proulx which occurred last reporting period. As a reminder, 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, six (6) youth were housed on Wells. Wells youth were doing homework and chatting with each other, staff, monitoring team, and leadership. Two youth were in their rooms on observation status (placed by PSU). Six (6) LHS youth were housed on Roosevelt and unlike during the last site visit, the majority of youth were out of their rooms. The Monitor observed Roosevelt youth sitting with PSU, one youth was outside with staff, one youth was doing homework, a few youth were playing cards with staff, and one youth was in room sleeping. All youth were very calm.

Most youth on Roosevelt were in restraints (wrist, leg, and waist) when out of their rooms. Some

youth on “AC pending transfer” status have been on that status for weeks and months, in part because Defendants have faced difficulties transferring them out of LHS. For these youth, this means that they have not been out of their rooms without restraints for weeks or months—barring any individual exceptions made by Defendants.

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.

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 continue to be numerous complaints from youth to Plaintiffs’ counsel around the Behavior Management System (BMS), and specifically that youth are not being informed of violations.

Youth Interviews

Approximately twenty-seven (27) youth were interviewed during the site visit (formally and informally) by the Monitor and approximately thirty-six (36) youth were interviewed extensively via telephone and in person prior to, during, and after the site visit by Plaintiffs’ counsel.

In general, youth attitudes were positive in the Monitor’s opinion. Youth were much more talkative during this site visit. All youth were respectful and polite to the Monitoring team. Many youth were laughing with their peers, staff, and Monitoring team. One youth complained about one staff member. A couple of the youths stated that staff made them clean in anticipation of the site visit while others said the units are always as clean as they were on the site visit (video review supports this). Several youth said they liked the staff. One youth mentioned he liked working in the kitchen and another youth loved working in the laundry department. The graduates did state that they wished there were more vocational and college opportunities for them. Youth also expressed their desire to have more programming like Grandparents, crocheting, and any other program that would keep them busy. Some youth stated they wanted better food. One youth complained about being on AC pending transfer status and felt it was undeserved. This youth complained about receiving phone calls and showers only two times per week. Another youth on AC pending transfer complained about the lack

of activities such as puzzles and books to occupy time while in his room. As previously stated, youth also complained about the influx of flies in all indoor areas.

It is important to note that there is not currently a volunteer coordinator. Defendants should assess whether another person could assume these responsibilities or hire someone to fulfill the role since it is so critical to the daily lives of youths.

Youth were very vocal with Plaintiffs' Counsel prior, during, and after the site visit. Several youth on AC pending transfer status complained about being confined to their rooms for several weeks straight (which was true). Youth on AC pending transfer status stated that they were not allowed in person visits or virtual visits, were only allowed two phone calls per week, were only allowed two showers per week, and have very little to do in their rooms or outside because they are in wrist, waist, and leg restraints. Youth who had to complete education on units said the paper packets were useless and they were not receiving much instruction by teachers, and that they were unable to use pencils provided. A few youths complained that their rooms were filthy and smelled of urine/feces and had blood and mucous on the walls. LHS youth also stated that they were told they would remain on AC pending transfer status until a place could be found for them. Youth on this status feel hopeless as there is nothing they feel they can do to get off the status. Several CLS youth stated they were told they could come off AC pending transfer status if they had three weeks without a violation but complained that was not possible because they kept receiving unfair violations. Youth also do not like being in restraints, particularly the waist belts while out of their rooms as their movement is significantly restricted. Several youth complained about the BMS program, specifically receiving unfair violations, and not being informed when violations are received. A couple of youth stated that they requested to call their attorneys and were denied. Some youth complained that staff invaded their personal space. Many youth complained of the grievance process, stating that their grievances are always denied and sometimes ignored without a response.

After the tragic loss of Corey Proulx, Defendants made changes to managing youths' behavior who made perceived threats of violence or who were violent including confining to room for long periods of time (including on an "AC pending transfer" status), limiting out time, socializing, showers, education with teachers, recreation, telephone calls and visitation. Various youth complained that they were placed on this status even without any violent threat or incident. Defendants also increased the number of staff on the units. This was and continues to be a difficult time for leadership, staff, and youth. The Monitor encourages facility leadership to continue to be more engaged and visible on the units and to engage with staff and youth as much as possible in order to ensure the climate of the facility continues to improve. Although the Monitor recognizes why Defendants made changes to manage behavior, there will be areas of the consent decree that will move from substantial to partial compliance for this reporting period.

Update Type I Facility

No new update to this section in this reporting period.

Staffing

The Youth Counselor/Youth Counselor Advance staffing vacancy percentages are lower than the last reporting period (*see below*). 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 the last reporting period, there were significant staffing challenges as many staff were calling off. There continued to be significant call-offs in the beginning of this reporting period. Defendants have provided grief counselors and other mental health services for staff. Additionally, Defendants increased staffing ratios for the majority of this reporting period in response to increased fear for safety.

Defendants reclassified some positions as seen below (more YCs, less YCAs). The Youth Counselor/Youth Counselor Advance staffing vacancy percentages are lower than the last reporting period (*see below*). There are 311 total positions (“FTEs”) at LHS/CLS. Approximately 128 of these positions are “direct care” staff (Youth Counselor/Youth Counselor Advanced, collectively (“YC/YCA”). The vacancy rate for Treatment Specialists (4 out of 7 are vacant) has increased in this reporting period. 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 (6 vacancies), or 27% 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 especially on SDP units. 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 June 30, 2024	Vacancy Rate % as of September 30, 2024
Youth Counselor	14% (13 out of 94)	8% (8 out of 97)	6% (6 out of 106)
Youth Counselor Adv.	25% (7 out of 28)	11% (3 out of 27)	4% (1 out of 24)
Teacher	36% (8 out of 22)	32% (7 out of 22)	27% (6 out of 22)
Social Worker	0% (0 out of 6)	14% (1 out of 7)	43% (3 out of 7)

Recruiting efforts for this period included:

- 9/19/2024- UW Stevens Point Career Fair
- Upcoming- 10/18/2024- UW Stevens Point Education Fair

The Monitoring team spoke to over twenty-two (22) staff. The climate in general was improved

during the site visit. Staff seemed less exhausted, and staff did not verbally express a fear for their safety. When asked if staff had any concerns, they had no complaints to the monitoring team. Staff were generally very pleasant and positive. Defendants need to continue to make staff wellness a major focus.

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

On March 5, 2024, the Department of Corrections submitted CR 24-003, relating to Safety in Type 1 Secured Correctional Facilities. On May 14, 2024, the Senate Committee on Judiciary and Public Safety requested modifications to this rule. On August 2, 2024, the Department of Corrections resubmitted CR 24-003 with the requested modifications. On August 15, 2024, the Senate Committee took executive action to request additional modifications to the rule. September 18, 2024, the Department of Corrections resubmitted CR 24-003, a proposed rule with additional modifications, pursuant to s. 227.19(4)(b) 2, Wis. Stats.

The statement of scope for this rule was approved by the Governor on August 26, 2021 published as Scope Statement No. SS 078-21 in Register No. 789A2 on September 13, 2021, and approved by former Secretary Kevin Carr on September 29, 2021.

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.

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. The rule was submitted after 376, which is now being reviewed closely by the Joint Committee so a timeline for adoption of 373 is difficult to predict.

Policy Updates

The DJC Policy Committee continues to review and update policies of note to the facility. No significant policy updates this period.

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: PARTIAL COMPLIANCE. After the tragic loss of Corey Proulx, Defendants made changes to managing youths' behavior when they made perceived threats of violence or were violent. 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. Near the end of last reporting period, some youth were no longer rotating in and out of their rooms at all during AC pending transfer and lacked sufficient opportunity to engage in meaningful socialization or receive daily basic programming like recreation, education, showers, *etc.* Defendants informed the Monitor that they would resume the practice of rotating youth in and out of their rooms and did so during the reporting period. As procedures, training, and physical improvements were adopted in Roosevelt to allow for additional security during out time with the use of restraints, Defendants progressively allowed for additional out time and privileges for youth on this status. The Monitor 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), which Defendants must continuously reassess. Additionally, Defendants have agreed to continue to allow for youth on this status to have additional resources including daily showers and phone calls. When a teacher or educational assistant is unavailable, youth should have the option of utilizing Chromebooks to access Edgenuity instead of only paper packets containing schoolwork. Defendants still need to limit any extended room confinement. This was and continues to be a difficult time for leadership, staff, and youth.

Of note, twelve (12) youth were transferred to MJTC, 50% of those were transferred from the status of "AC pending transfer", while 50% were transferred from general population which is an open day room. Also, any youth on AC Pending Transfer had out time with other youth to watch television as of September 1, 2024. As of October 15, 2024, these same youth were offered daily showers and phone calls.

- 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: PARTIAL 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 traditional AC was significantly lower for LHS and CLS in this reporting period. 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.

Defendants are not continually re-assessing whether the youth on AC pending transfer no longer poses a risk of imminent physical harm and returning them to the general population.

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.**

July 2024

**CLS: 26 uses of A.C. Average 443 minutes. Fourteen (14) youth over 4 hours.
LHS: 13 uses of A.C. Average 175 minutes. One (1) youth over 4 hours.**

August 2024

**CLS: 15 uses of A.C. Average 427 minutes. Seven (7) youth over 4 hours.
LHS: 7 uses of A.C. Average 294 minutes. Two (2) youth over 4 hours.**

September 2024

**CLS: 6 uses of A.C. Average 256 minutes. Three (3) youth over 4 hours.
LHS: 4 uses of A.C. Average 515 minutes. Three (3) youths over 4 hours.**

The Monitor was able to assess compliance with 30-minute checks as data was readily available during this site visit. 98.6%- 99.67% 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 92% compliant with completing the checks in accordance with policy.

- 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 thirty-one (31) 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, based on the recommendation of PSU. Twelve (12) were placed on AC pending transfer status based on the recommendation of PSU and the Superintendent.

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. Twenty-one (21) youth were placed on extended placement in administrative confinement pending transfer out of the facility (6 went to MJTC, 1 to Lincoln County SD, 1 juvenile commitment expired (release), 2 were released to community supervision, 2 transferred to the Division of Adult Institutions, 4 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 5 remained on AC pending transfer status). 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.

- 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. Twenty-one (21) youth were placed on extended placement in administrative confinement pending transfer out of the facility (6 went to MJTC, 1 to Lincoln County SD, 1 juvenile commitment expired (release), 2 were released to community supervision, 2 transferred to the Division of Adult Institutions, 4 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 5 remained on AC pending transfer status). 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.

- 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 30 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, though some youth reported to Plaintiffs' counsel that their rooms had bodily fluids on the walls that were only cleaned in advance of the Monitor's visit. 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, NCCHC, 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.

- 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 98.60%- 99.67% 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 one staff member who did not make visual contact with youth per policy- 92% of the checks were compliant.

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 or AC pending transfer, the Monitor recommended 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. Defendants enhanced their data collection process for education records during confinement during this reporting period, but the enhancement of quality assurance is still in progress. There are no new updates this reporting period. Youth who have education on the units complained about the quality and quantity of education received.

- 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. 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 previous

reporting period and part of this reporting period). The alternative would be for youth to be confined continuously for days pending transfer. Further discussions were had around the AC pending transfer youth, but more conversations need to occur.

- 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 eight (8) 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: PARTIAL 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 Percentage Achieving 3 Hours	Weekly Percentage Achieving 30 hours
July	91.5	95.0
August	82.3	83.6
September	91.6	85.0
Total	88.5	87.9

LHS	Daily Percentage Achieving 3 Hours	Weekly Percentage Achieving 30 hours
July	88.2	86.5
August	92.6	91.8
September	94.5	89.7
Total	91.8	89.3
Total	99.5%	99.9%

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 besides youth on AC pending transfer status who would otherwise be confined to their rooms. The Monitor reviewed several uses of force videos and there were no inappropriate uses of mechanical restraints observed. Defendants do 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. The Monitor recommended a different type of restraint to use that would allow for more movement for youth. Further discussion needs to occur between the Parties regarding the use of mechanical restraints for youth who are on AC 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 as a result of an incident for LHS and CLS in the prior and current 2024 reporting periods.

Uses of mechanical restraints LHS:

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
July 2024:	3 uses
August 2024:	0 uses
September 2024:	0 uses.

Uses of mechanical restraints CLS

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.
July 2024:	4 uses
August 2024:	4 uses
September 2024:	1 use.

Mechanical restraints, including waist and leg shackles, are used of youth on AC pending transfer status when they are out of their rooms. This is tracked separately from restraints due to an incident. Defendants' proposed alternative would be for youth to be confined continuously for days pending transfer. The Parties need to continue discussing this issue. Defendants must also ensure standards for use of mechanical restraints are met before using them on any youth, including youth on "AC pending transfer." At a minimum, Defendants must continually assess and document whether there is an imminent threat of harm to self or others and immediately remove the restraints when the threat has abated.

- 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. Defendants must ensure standards for use of mechanical restraints are met before using them on any youth, including youth on “AC pending transfer,” and must continuously re-assess whether youth continue to pose a threat or not.

- 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 no instances of a youth being placed in mechanical restraints for over 45 minutes (outside of youth in AC pending transfer status). 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. 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. This section may need to be modified since the PbS average cannot be obtained. The Monitor and Defendants have had many conversations/meetings regarding increased programming and Defendants have implemented the recommendations. The Monitor also suggested additional in room activities to occupy youth who are confined to their rooms. On random review of unit activities via video, the Monitor regularly observed various programming occurring.

- 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. On March 5, 2024, the Department of Corrections submitted CR 24-003, relating to Safety in Type 1 Secured Correctional Facilities. On May 14, 2024, the Senate Committee on Judiciary and Public Safety requested modifications to this rule. On August 2, 2024, the Department of Corrections resubmitted CR 24-003 with the requested modifications. On August 15, 2024, the Senate Committee took executive action to request additional modifications to the rule. September 18, 2024, the Department of Corrections resubmitted CR 24-003, a proposed rule with additional modifications, pursuant to s. 227.19(4)(b) 2, Wis. Stats.

The statement of scope for this rule was approved by the Governor on August 26, 2021, published as Scope Statement No. SS 078-21 in Register No. 789A2 on September 13, 2021, and approved by former Secretary Kevin Carr on September 29, 2021.

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.

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. The rule was submitted after 376, which is now being reviewed closely by the Joint Committee so a timeline for adoption of 373 is difficult to predict.

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

The Monitoring team recognizes the impact that the death of Youth Counselor Corey Proulx has had on staff, youth, and the overall climate of the facility. Although leadership remains focused on the progress and positive outcomes that have occurred to date, responses to aggressive behaviors and threats of aggressive behaviors changed in the last week of the previous reporting period and during this reporting period. Due to these changes, some provisions have moved from substantial to partial compliance. The Monitor is confident that Defendants can continue to make progress in all sections of this Agreement while balancing responses to youth behavior.

It is important to note that staff's attitudes in general were positive and their fear for safety seems to be less during this reporting period and during the site visit. Defendants increased staffing ratios for the majority of this reporting period in response to increased fear for safety. Defendants need to continue to focus on staff wellness.

The population has remained consistent. 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. Defendants need to focus on improving the quality and quality of education for those youth who cannot go to school for instruction. 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, subsequent use of force, and decrease fear for safety by all as well. The current operational practices around youth who are confined to AC while pending transfer to another facility 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