

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-SECOND REPORT OF THE MONITOR

Teresa Abreu, Monitor, hereby submits this status report.

INTRODUCTION

The twenty-first report of the Monitor was filed with the Court on November 25, 2024. The Monitor's twenty-second 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 twenty-first site visit which took place on October 7, 2024.

SITE VISIT

The twenty-second site visit by the Monitor took place on March 20, 2025. 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 February 28, 2025 (October, November, December 2024, January, and February 2025). Materials included but were not limited to use of force videos, video footage of units, video footage of administrative confinement, body camera footage, 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-eight (38) 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 thirty-seven (37) youth and twenty-eight (28) staff were interviewed by the Monitoring team during this site visit.

OVERALL QUALITY OF LIFE, CONDITIONS, AND ATMOSPHERE

Introduction

The total LHS/CLS population is significantly higher during this reporting period compared to the last site visit in October 2024 (81 youth v 58 youth- increase of 38%). The average daily operational staff vacancy rate ranging from 16%-40% (which is reflective of daily unanticipated leave) is lower during this reporting period. With this reporting period being five (5) months, which is longer than any previous reporting period, and the significant population increase, the Monitor will not compare overall data for this period to last. Defendants need to continue to focus on assessing youth who are in administrative confinement, especially for youth pending transfer to another facility. The Monitor was happy to hear that by the end of this reporting period, youth transferring to Mendota Juvenile Treatment Center (“MJTC”) were doing so on a timely basis. Thus, for the last couple of months, youth have not lingered on “Administrative Confinement Pending Transfer” (“ACPT”) status for as long as they had previously. However, multiple LHS and CLS youth were still on ACPT for weeks, and some even months, this reporting period, which Defendants will need to continue to improve moving forward. Defendants also need to ensure that the behavioral motivation system (“BMS”) is being applied consistently and fairly. There were many complaints about the BMS during this period.

Although the population is much higher than it has been over the last couple of years, education, staff, and programming have adjusted accordingly. The atmosphere is calm, staff and youth have good overall attitudes and the overall fear for safety seems to be less than the last couple of periods.

Physical Plant Observations

The entrance, grounds, visitation, school, music lab, recreational unit, and all other areas were very clean. 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 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:

- Replaced the heat exchanger in the small gym;
- Updated freezers in Main K area – more will be updated;
- Deck upgrade at training facility in progress;
- Updated training space in Roosevelt basement;
- Upgraded TV in Douglass Rec Unit;
- Increase Wi-fi strength in the school and order additional for the living units for youth tablets.

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

The school provides youth in confinement with a Special Education (SPED) teacher in addition to a general education teacher. The units housing the Skills Development Programs now have an upper day classroom dedicated to school classes where licensed SPED teachers are placed for specific social/emotional learning (SEL) support. These teachers also attend youth growth team meetings with other unit staff and work closely with PSU as discussed in more detail below.

A spreadsheet has been created that monitors AC placements for youth as an indicator for potential IEP updates. 10 days/60 hours of AC during school hours triggers a manifestation determination meeting. A manifestation determination meeting is meant to help determine if the youth's recent behavior is being caused by their disability, and/or if there are modifications to the youth's IEP and its delivery that could help the student be more successful.

The education department has partnered with the QA Team to ensure alternative and special education services are being delivered as specified in the consent decree when a youth attending school with the general population is unworkable due to an immediate and substantial threat of physical harm or an unreasonable risk of significant disruption to classroom instruction.

The QA Team can assess compliance with the education provision, particularly as it pertains to special education. However, these efforts need to be sustained. Review of data collection practices and quality assurance will help continue to improve the QA surrounding education during the upcoming data collection period. The Monitor anticipates that Defendants will be in substantial compliance with the education provision in the next reporting period.

Youth who have education on the units (as opposed to in the school building) made complaints to Plaintiffs' counsel, including that teachers were not on the units most of the time and that they only received paper packet work or Chromebooks. During the site visit and during random video review, the Monitor observed teachers on units providing education. During the review of the school building, youth were engaged while in classrooms in the school. Youth were also playing kickball in the gym and in the music lab. Unfortunately, the welding instructor position remains 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 is higher from 7 out of 22 vacant positions in the last reporting period to 10 out of 22 vacant positions. The vacancy rate is higher than the Monitor would like to see especially with the significant increase in population.

Living Unit Observations

The Monitoring team visited all but one (Curtis) of the cottages that youth were housed in during the site visit (Dubois, Black Elk, Addams, Miller, Hughes, King, and Wells), the school area (classrooms, gym, music lab, library, etc.) Overall, the units, youth rooms, halls, living area,

closets, and bathrooms were very clean.

Youth were respectful when interacting with the Monitor, facility leadership, and counsel. All the living units were calm except for a small period of time on Curtis. For that reason, the Monitoring Team chose not to visit Curtis. Youth were appropriately engaged with each other. During the tour, the Monitoring team did not observe any youth confined to their rooms. In fact, there were no youth on Administrative Confinement.

The unit populations ranged from three (3) to twelve (12) youths. Due to the increased population in LHS, the units averaged twelve (12) youth. In general staff were engaged with youth at all times. During the site visit, the Monitoring team observed youth in classrooms, gym, doing laundry and other work assignments, eating lunch on units, sitting with peers and staff, making phone calls, playing cards, watching television, and many youth laughing with each other. Youth and staff seemed calm and relaxed. Youth were quite talkative to the Monitoring team, facility leadership, and counsel. The facility atmosphere is 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 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;
- Staff basic training;
- Youth outside;
- 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 various games;
- Youth playing video games on the units;
- Youth doing arts and crafts;
- Growth team meetings;
- Youth braiding hair;
- Youth and staff were in the music lab;
- Youth were observed on telephones;
- Youth cleaning the units;
- Nurses completed medicine pass.

During this site visit, the CLS youth were housed in the Wells and King Units. There were only seven (7) youth in total in CLS at the time of the site visit. CLS units and youth rooms were clean. All youth were out of their rooms. 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 Dubois, Black Elk, Curtis, Addams, Miller, and Hughes. The Monitor did not speak to the youth on Curtis because the youth were a little rambunctious and the Monitor did not want to further dysregulate the unit. All units were clean and organized in general. 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, making phone calls, and watching television. No LHS youth were confined on ACPT during the site visit.

The Roosevelt and Wells living units housed youth in the Skills Development Program (“SDP”) at LHS and CLS respectively during this reporting period. For a small period of time during this reporting period, there were three (3) CLS units operating (two general population and one SDP/ACPT). 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, three (3) youth were housed on Wells. Two (2) Wells youth were eating lunch and chatting with each other, staff, monitoring team, and leadership. LHS’s SDP/ACPT unit, Roosevelt, was closed during the site visit because there were no LHS youth on SDP/ACPT.

Although there were no youth on the Roosevelt unit during the site visit, there were during other times in this reporting period. The Monitor reviewed video of the unit on various days to get an idea of the atmosphere. Most youth on Roosevelt were in restraints (wrist, leg, and waist) when out of their rooms. In the last few months, Defendants have not faced difficulties transferring youth out of LHS and CLS. MJTC began accepting girls which has allowed the population in CLS to be reduced in half and the boys have been able to transfer quicker than in previous months. The Monitor hopes this trend continues.

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 BMS 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. Defendants must effectively communicate the expectations and individualized plan set out to each youth. There continues to be numerous

complaints from youth to Plaintiffs' counsel and the Monitor around the BMS, and specifically that youth are not being informed of violations or are placed on PAUSE unjustly.

Youth Interviews

Approximately thirty-seven (37) youth were interviewed during the site visit (formally and informally) by the Monitor and approximately thirty-eight (38) 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. Several youth asked to speak to "ACLU". Youth enjoyed the Music Lab and liked the food in general, especially the new menu items. However, youth complained to the Monitor and Plaintiffs' counsel about the portion size of food. Youth like having jobs to do. CLS youth wished there were more jobs available to them. Currently, CLS youth are only able to do laundry as a job while LHS youth have more job options. Defendants are going to consider options for additional jobs for the CLS youth. Youth like recreation but complained about the kickball unit being too long. They would rather play basketball. Youths' opinion of staff varied. Some youth stated that staff were abusive, and some youth really liked the staff and said they treated them well. Youth took pride in how clean their rooms and units were. However, many youth told Plaintiffs' counsel that the units are usually very dirty, and youth were forced to clean specifically for the site visit. On video review of the units on various days, the dayrooms appeared to be clean.

Youth were very vocal with Plaintiffs' Counsel prior to and during the site visit. Youth complained that when they asked to speak to counsel, they were denied the opportunity. Once this was brought to Defendants' attention at the site visit, a communication went out to staff to remind them of the requirement to let them speak to counsel.

Several youth on ACPT complained that they do not like being in restraints, particularly the waist belts while out of their rooms as their movement is restricted and that they are not allowed to stand or walk without staff escort while in restraints. Because of this, youth on ACPT repeatedly refused out time for meals, school, and recreation.. Several youth complained about the BMS program, specifically receiving unfair violations, not being informed when violations are received, that it is hard to make their way back up, but they are quick to fall several levels when a major incident occurs. CLS youth raised concerns about being able to speak freely about PREA issues.

Update Type I Facility

Type 1 Facility in Milwaukee County

DOC received funding in 2022 to move forward with a new state-run juvenile correctional facility in Milwaukee. Land was approved on West Clinton Avenue, and the design is now finalized. Work began on the facility in the summer of 2024, with a project completion date in late 2026. This 32-bed facility for males embraces the regional model and will primarily serve youth in the southeastern portion of the state.

Type 1 Facility in Dane County

Using DOC land near the Grow Academy, Oregon Correctional Center, and Bureau of Correctional Enterprises Farm Campus, the DOC is currently designing a second Type 1 facility that will serve 32 male youth and 8 female youth. The DOC has requested full funding in the current bi-annual state budget for the Dane County Type 1.

Staffing

The Youth Counselor vacancy percentages are lower than the last reporting period, while the vacancy rate among Youth Counselors-Advanced ticked up slightly.. Employee leaves continue to be relatively high during this reporting period at LHS/CLS and across DOC.

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 (2 out of 7 are vacant) has decreased 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 higher than the last reporting period (10 vacancies), or 45% of positions, which is 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. 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. Below are the job fairs that occurred during this reporting period:

- October 18, 2024 - UW Stevens Point Education Fair
- October 30, 2024 - Rhinelander Job Center Job Fair
- February 11, 2025 - UW Stevens Point Spring 2025 All-Major Career Fair

The Monitoring team spoke to over twenty-eight (28) staff. The climate in general was improved during the site visit. Every staff member the monitoring team talked to was in good spirits, relaxed, and had very positive attitudes. The only complaints some staff had were being mandated a lot. 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 increase the safety of youth and staff.

Administrative Code Revisions Update

On March 5, 2024, the Department of Corrections submitted CR 24-003, relating to security in Type 1 secured correctional facilities, pursuant to s. 227.19(2), Wis. Stats. On May 14, 2024, the Senate Committee on Judiciary and Public Safety requested modifications to this rule. On August 2, 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 modifications, pursuant to s. 227.19(4)(b) 2, Wis. Stats.

After it passed legislative review, the text of the rule was sent to the Legislative Reference Bureau for publication on January 14, 2025. The Governor approved the text of the rule on February 22, 2025, and it was published with an effective date of March 1, 2025.

Changes to chapter 373 were on a similar path slightly behind 376 being referred to the Senate Committee on Judiciary and Public Safety and Assembly Committee on Corrections on June 18, 2024. Just behind 376 in getting to the legislature, it was still able to be entered into the register for the same legislative session as 376. The changes to 373 are not sweeping in nature, so absent any unforeseen delays or rewrites, 373 should also pass this legislative session.

Policy Updates

The DJC Policy Committee continues to review and update policies of note to the facility.

Policies approved between 10.01.24 and 02.28.25

- 100.10.01 – Volunteers
- 200.05.03 – Transporting Youth - Field
- 300.01.05 – Staff Personal Property in Secure DJC Facilities
- 300.01.06 – Visits
- 300.02.11 – Food Service Standards
- 300.04.01 – Assaults by Youth Protocol
- 300.04.04 – Notary Services to Youth
- 300.05.02 – Use of Physical Interaction
- 300.05.08 – Staff Safety During Room Entry
- 300.05.19 – Protection, Gathering, and Preservation of Evidence
- 500.10.01 – Medical Autonomy
- 500.10.02 – Health Services Policy and Procedure Development and Revisions
- 500.10.03 – Health Care Administrative Meetings and Reports
- 500.30.72 – Nursing Vital Signs Referral Parameters
- 500.70.10 – Mechanical Restraints

900 Procedures approved between 10.01.24 and 02.28.25

- 900.02.08 – Employee Meals Sold
- 900.04.01 – Guardian Usage
- 900.05.07 – Observation Special Status

On January 27, 2024, DJC kicked off the first monthly meeting for policy sub-committees. Sub-committee members consist of six Program & Policy Analysts from all DJC's facilities, field offices, and central office and subject matter experts particularly in professional or specialty roles. The sub-committee's goal is to expedite policy revisions by performing research and proposing the creation and revision of policies and facility procedures.

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. There were zero (0) youth confined continuously to their room for 7 days for any reason. Defendants have continued to examine their use of all forms of confinement. All confinement is thoroughly documented and reviewed for quality assurance. DJC reviews placement justifications and incident reports to ensure that confinement is reserved solely for instances where a youth poses a serious risk of imminent physical harm. No youth under any circumstances remained in confinement for a period longer than three (3) days. Between October 1, 2024 - and February 28, 2025, eleven (11) youth were placed on ACPT, and there were nineteen (19) total youth on ACPT as eight (8) youth had been placed on ACPT prior to the reporting period. Three (3) of these eleven (11) youth returned to General Population.

Prior to the beginning of the reporting period on October 1, 2024, youth on ACPT had resumed rotating in and out of their rooms to encourage engagement in meaningful socialization and to receive daily basic programming like recreation, education, and treatment programming. Defendants also moved forward with allowing youth out time in a minimum of pairs on this status as well as additional resources including daily showers and phone calls. Youth on ACPT had out time with other youth to watch television as of September 1, 2024. As of October 15, 2024, these same youth were offered once daily showers and phone calls.

Throughout the reporting period, living units resumed regular operation and specialty programs. Youth on ACPT are provided with all meals in the day room (though youth repeatedly refused to eat meals outside of their rooms, in large part because they did not want to be in restraints), and large motor movement opportunities are offered daily (dedicated space with exercise equipment provided for youth with freedom of movement). Youth are offered more than the minimally required out-time of at least thirty hours per week and at least three hours per day. The unit schedule will offer daily opportunities for youth to engage in structured social interactions with their peers while out of their rooms. Safety staff will support implementation and potential modification of the Youth Plans in collaboration with PSU and SDP Unit Manager and staff will document significant incidents

and additional data elements for quality assurance review.

PSU offers intensive mental health services as deemed clinically necessary and appropriate. Youth who are pending transfer and remain on AC have received daily contact with PSU throughout the reporting period, and DOC has moved to requiring PSU to perform and document comprehensive face-to-face clinical risk assessments twice daily in consultation with safety staff (e.g., behavior modification demonstration, continued level of risk, and behavioral history). These assessments are intended to review the youth's potential for a return to GP and to allow for reassessing the youth's individualized plan. Assessments documented in J-Tracker are to include needed/provided intensive mental health services, behavioral data, and justifications to support the individual Youth Plans.

Of note, (16) youth were transferred to MJTC, 44% (7) of those were transferred from the status of "AC pending transfer", while 56% (9) were transferred from general population which is an open day room.

- 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. There were zero youth confined to their rooms continuously for 3 days for any reason. Also, 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. Defendants need to continue to focus on reducing AC and ACPT overall.

- 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 CLS and higher for LHS in this reporting period due to 48 uses of AC in February alone. Defendants have continued to examine their use of all forms of confinement. All confinement is thoroughly documented and reviewed for quality assurance.

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.

October 2024

CLS: 1 uses of A.C. Average 156 minutes. Three (0) youth over 4 hours.

LHS: 2 uses of A.C. Average 198 minutes. Three (0) youths over 4 hours.

November 2024

CLS: 21 uses of A.C. Average 365 minutes. Seven (7) youth over 4 hours.

LHS: 0 uses of A.C. Average 0 minutes. Three (0) youths over 4 hours.

December 2024

CLS: 8 uses of A.C. Average 170 minutes. Three (1) youth over 4 hours.

LHS: 10 uses of A.C. Average 145 minutes. One (1) youths over 4 hours.

January 2025

CLS: 4 uses of A.C. Average 190 minutes. Zero (0) youth over 4 hours.

LHS: 9 uses of A.C. Average 288 minutes. Three (3) youths over 4 hours.

February 2025

CLS: 2 uses of A.C. Average 145 minutes. Zero (0) youth over 4 hours.

LHS: 48 uses of A.C. Average 198 minutes. Three (5) youths over 4 hours.

The Monitor was able to assess compliance with 30-minute checks as data was readily available during this site visit. 98.00% - 99.90% of checks were completed within 30 minutes during this reporting period. The Monitor reviewed video footage for random days and times

and Defendants were 96% 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 seventeen (17) 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. Three (3) youth were released before eight (8) hours, two (2) before twelve (12) hours, and 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 and ACPT 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. Eleven (11) youth were placed on extended placement in administrative confinement pending transfer out of the facility during the reporting period (5 transferred to MJTC, 3 no longer posed a threat so the plan to transfer was terminated and the youth returned to general population, one transferred to DAI, one went to Lincoln County Sheriff's Department, and one remained on ACPT beyond February 28, 2024).

There were plans commenced to return the youth to general population/transfer to another facility. PSU was involved in all decisions to place youth on ACPT, transfer youth out of CLS/LHS, and return youth to general population (for the limited instances where youth returned to general population). Providing youth on ACPT with daily time out of their rooms for programs, education, recreation, showers, etc. is important for youth wellbeing. DJC has implemented a process that will provide additional opportunities for PSU to continuously reassess the ACPT 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 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. Eleven (11) youth were on extended placement in administrative confinement pending transfer out of the facility during the reporting period (5 transferred to MJTC, 3 no longer posed a threat so the plan to transfer was terminated and the youth returned to general population, one transferred to DAI, one went to the Lincoln County Sheriff's Department, and one remained on ACPT beyond February 28, 2024).

There were plans commenced to return the youth to general population or transfer to another facility (usually the latter). PSU was involved in all instances. Providing youth on ACPT with daily time out of their rooms for programs, education, recreation, showers, etc. is important for youth wellbeing. DJC has implemented a process that will provide additional opportunities for PSU to continuously reassess the ACPT 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 72 (9-LHS and 63 CLS) 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, 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 about not having prompt access to water, toilet facilities, and hygiene supplies. Some youth did complain to the Plaintiffs’ counsel that it took over two hours to be let out of the room to use 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. All youth are seen by PSU staff, at minimum, on a weekly basis. Many youth are met daily by PSU staff. 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 receive face-to-face clinical risk assessments twice daily in consultation with safety staff. Clinicians working on the weekend have a priority of service provision which includes 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 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 suggested that specific PSU clinicians should work with the same youth to establish continuity (when possible) and should primarily work on the units. This is now happening. 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 98.00%- 99.90% 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.

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 several reporting periods ago. The education department has made numerous updates during the previous reporting periods 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. Youth who have education on the units complained about the quality and quantity of education received.

Defendants continued to enhance their data collection and quality assurance process surrounding provision of alternative educational services to youth on confinement. SPED service requirements are observed and met for any youth on AC or ACPT. Reports are now available with supporting documentation that demonstrate DJC's compliance with this

provision.

The education department has partnered with the QA Team to ensure alternative and special education services are being delivered as specified in the consent decree when a youth attending school with the general population is unworkable due to an immediate and substantial threat of physical harm or an unreasonable risk of significant disruption to classroom instruction.

The QA Team can assess compliance with this provision, particularly as it pertains to special education. However, these efforts need to be sustained. Review of data collection practices and quality assurance will help continue to improve the QA surrounding education during the upcoming data collection period. The Monitor anticipates Defendants will be in substantial compliance in the next 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. 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. The facility wide average for weekly out times was 76.6 hours per week for LHS and 69.9 hours per week for CLS. Defendants are close to reaching substantial compliance.

- 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 forty (40) documented instances of youth eating in their rooms which were staff imposed based on substantial threat of physical harm during this 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 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 and thirty (30) hours per week independently. The data shows that all youth in ACPT status were often offered their out-time. Some lack of out time can be attributed to youth who stated that they refused their out-time because they did not like being in restraints.

Below is the percentage for the overall population:

CLS	Daily Percentage Achieving 3 Hours	Weekly Percentage Achieving 30 hours
October	94.2%	86.1%
November	97.3%	95.1%
December	99.8%	100%
January	99.3%	100%
February	100%	100%
Total	98.2%	96.5%

LHS	Daily Percentage Achieving 3 Hours	Weekly Percentage Achieving 30 hours
October	97.3%	89.5%
November	99.4%	95.6%
December	99.9%	100%
January	100%	100%
February	99.8%	99.7%
Total	99.3%	97.2%

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 Appendix 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 monitor any use of restraints while youth are awaiting transfer to another facility. Defendants are 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 ACPT.

- 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 restraint uses as a result of an incident for LHS and CLS in the prior and current reporting periods.

Uses of mechanical restraints LHS:

June 2024:	3 uses
July 2024:	3 uses
August 2024:	0 uses
September 2024:	0 uses
October 2024:	1 use
November 2024:	0 uses
December 2024:	1 use
January 2025:	1 use
February 2025:	5 uses.

Uses of mechanical restraints CLS

June 2024:	2 uses
July 2024:	4 uses
August 2024:	4 uses
September 2024:	1 use
October 2024:	1 use
November 2024:	1 use
December 2024:	0 use
January 2025:	1 use
February 2025:	2 uses.

Mechanical restraints, including waist and leg shackles, are used for youth on AC pending transfer status when they are out of their rooms generally. 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. Plaintiffs' counsel believes that continuous room confinement is a violation of the consent decree. 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. Defendants will be implementing a strategy for ACPT youth during the next 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. 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. 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 ACPT 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 have been 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. Any uses of mechanical restraints over 45 minutes were approved according to this section and documented. 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: SUBSTANTIAL COMPLIANCE/UNKNOWN. 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. Youth did not complain about being bored or having nothing to do.

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 which is why the Monitor had to rate this substantial/unknown.

- 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 security in Type 1 secured correctional facilities, pursuant to s. 227.19(2), Wis. Stats. On May 14, 2024, the Senate Committee on Judiciary and Public Safety requested modifications to this rule. On August 2nd, 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 modifications, pursuant to s. 227.19(4)(b) 2, Wis. Stats.

After it passed legislative review, the text of the rule was sent to the Legislative Reference Bureau for publication on January 14, 2025. The Governor approved the text of the rule on February 22, 2025, and it was published with an effective date of March 1, 2025.

Changes to chapter 373 were on a similar path slightly behind 376 being referred to the Senate Committee on Judiciary and Public Safety and Assembly Committee on Corrections on June 18, 2024. Just behind 376 in getting to the legislature, it was still able to be entered into the register for the same legislative session as 376. The changes to 373 are not sweeping in nature, so absent any unforeseen delays or rewrites, 373 should also pass this legislative session.

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 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 that there needs to be a continued focus on moving youth from LHS/CLS to more appropriate setting(s)

or diverting them from confinement entirely. This is especially critical now that the population is significantly higher and will most likely continue to increase as there are more adult commits being housed at the facility.

It is important to note that staff's attitudes were positive and their fear for safety seems to be less during this reporting period, which has led to a calm atmosphere. Defendants need to continue to focus on staff wellness.

The Monitor recommended in previous reports 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 Monitor was happy to see that Defendants have made these adjustments. 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/quality assurance.

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