

Third Monitor's Report

Review Period:
8/25/22 – 2/24/23

THE UNITED STATES OF AMERICA
v.
THE STATE OF NEW JERSEY AND
THE NEW JERSEY DEPARTMENT
OF CORRECTIONS

Prepared by Jane Parnell

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INTRODUCTION

The State of New Jersey and the United States Department of Justice (DOJ) entered into a settlement agreement on August 24, 2021. Specifically, the agreement involves a comprehensive set of provisions to ensure that prisoners housed at the Edna Mahan Correctional Facility for Women (Edna Mahan) are provided with constitutional conditions that protect them from sexual abuse. The purpose of the compliance report is to document the progress of the actions of the New Jersey Department of Correction (NJDOC) and Edna Mahan in response to the specific requirements of the provisions in the settlement. This is the third required court report, covering the time period of August 25, 2022, through February 24, 2023.

The parties agreed on the selection of Jane Parnell as an objective settlement monitor to evaluate the NJDOC and Edna Mahan level of compliance with the requirements detailed in the settlement. The Monitor began her responsibilities on August 24, 2021. The Court has the Curriculum Vitae (CV) of Ms. Parnell detailing her nearly 40 years of experience in the field of corrections.

This report will describe the level of compliance taken by NJDOC and Edna Mahan and the actions taken by the Monitor to determine compliance, as required by the settlement. The period of this evaluation is August 25, 2022 – February 24, 2023. The settlement uses three (3) levels of measurements for compliance: Substantial Compliance, Partial Compliance, and Non-Compliance. The Monitor added a fourth level of measurement, i.e., non-Applicable to the monitoring tool. The definitions for these terms are included in the compliance summary section of this report.

As in the last compliance report, the Monitor determined the use of “incarcerated person(s)” would be used throughout this and future reports to the Court. The term “prisoner(s)” will only appear when quoting policy or the settlement agreement.

Specific Actions to Evaluate Compliance

Specific actions taken by the Monitor to evaluate compliance during this reporting period were as follows:

- The Monitor conducted one site visit during this reporting period. The dates were February 28 – March 3, 2023. During this visit, the Monitor and/or her Associate conducted “official” (scheduled) interviews with approximately 60 NJDOC and Edna Mahan staff who have specific responsibilities related to NJDOC and Edna Mahan’s compliance with the settlement. The Monitor and/or her Associate also spoke with approximately 40 security and civilian staff during three staff focus groups: one from each shift (1st, 2nd, and 3rd). The Monitor spoke with several additional staff during the tour of the facility.

- The Monitor and/or her Associate conducted four incarcerated persons focus groups, comprised of approximately 30 randomly selected incarcerated persons at Edna Mahan that week, including 6 incarcerated persons at the Edna Mahan Satellite Building. The Monitor also spoke with several additional incarcerated persons during the tour of the facility.
- During the compliance visit, the Monitor and/or her Associate toured the entire facility, including all housing units, as well as the Edna Mahan Satellite Building. They also observed the Administration’s “morning briefings,” and a comprehensive education PREA Orientation. Details of these visits and observations are included in the logistics section of this report.
- The Monitor received and reviewed monthly and quarterly data specific to the operations of Edna Mahan. Examples include logbooks, search reports, documentation of supervisory rounds, staffing reports, incarcerated persons rosters, incarcerated persons education reports, cross gender pat search data, etc.
- The Monitor reviewed over one hundred different sets and/or types of NJDOC and Edna Mahan policies, post orders, logbooks, spreadsheets, meeting agendas and minutes, training curricula, PREA investigative reports, and several other types of documents, too numerous to list. All these documents were used to inform the Monitor's ratings for compliance, and included information gained during the interviews, and observations from conducting the tours of the facility.
- The Monitor participated in several conference calls with NJDOC, The United States Department of Justice, and the leadership for Edna Mahan concerning the settlement provisions and compliance requirements.

Monitoring Tool

The Monitor developed and proposed a "monitoring tool". Both NJDOC and the DOJ approved its usage. There is a section in the ‘monitoring tool’ for each paragraph of the Settlement Agreement. The top of each section identifies the specific paragraph of the Settlement Agreement and any requirements, as appropriate.

Each section lists the specific measures of compliance the Monitor uses to determine compliance for that paragraph. The measure of compliance identifies the documents, interviews, and observations used to assess compliance for that specific paragraph. Each of these measures of compliance were shared, and agreed upon, by the NJDOC and the DOJ.

The next section in the monitoring tool is titled "NJDOC Discussion: The Steps taken by NJDOC and Edna Mahan Towards Implementation". This section is drafted by NJDOC and provides the opportunity for NJDOC and Edna Mahan to describe the actions that have been taken during the reporting period to implement the Settlement Agreement.

Each paragraph includes an evaluation of the extent to which Edna Mahan has complied with the substantive provisions of the Settlement Agreement during this reporting period, by identifying the level of compliance with the requirements specified for each paragraph. There is also an opportunity for the Monitor to discuss how she determined that level of compliance. This would include the documents she reviewed, interviews she or her Associate conducted, and observations made during the compliance visit. The Monitor also described the steps taken by NJDOC and/or Edna Mahan to implement the Settlement Agreement.

Lastly, there is an opportunity for the Monitor to provide specific, non-binding recommendations, as applicable. These recommendations would establish non-binding performance expectations for Edna Mahan during the next six-month reporting period.

EXECUTIVE SUMMARY

Intent of the Report

This report is to inform the Court, and all interested parties, of the Monitor's assessment of the current progress and status of NJDOC's and Edna Mahan's compliance with the provisions and requirements of the Settlement Agreement. The Monitor completed this third report through the following actions:

- Conducting a thorough examination of the Settlement Agreement, its provisions and the specific requirements listed in the monitoring tool.
- Requesting and examining specific documents to help identify and assess the extent to which NJDOC's and Edna Mahan's actions meet the requirements of the Settlement Agreement. Examples were listed above in the "Specific Actions to Evaluate Compliance" section.
- Selecting specific NJDOC and Edna Mahan staff for compliance interviews based on the individual's overall and direct responsibilities for settlement implementation.
- Conducting focus groups with staff, incarcerated persons, and stakeholders to obtain feedback and perspective on Edna Mahan's activities and practices as related to the terms and requirements of the Settlement Agreement.

- Using routine communication practices with all parties to request additional information or seek clarification regarding NJDOC's and/or Edna Mahan's performance in meeting the terms and requirements of the Settlement Agreement.

New Jersey Department of Corrections/Edna Mahan: Updates, Progress, Strengths, Challenges, and Opportunities for Improvement

A. Updates

Moving some of the incarcerated population to a Satellite Building

NJDOC continues to use a satellite location for incarcerated persons assigned to the Edna Mahan Correctional Facility (EMCF). This Edna Mahan Satellite Building is located approximately ten minutes away from the Edna Mahan Correctional Facility for Women. This building has the capacity to house 192 individuals. The population, as of March 1, 2023, the day the Monitor visited the Satellite building, was 104.

The Monitor and the DOJ were informed that NJDOC plans to expand the population at the Satellite building which would result in the implementation of Full Minimum housing at the Edna Mahan Satellite Unit for full minimum classified persons. As a result, approximately 48% of the EMCF population will be housed at the Satellite building. The final date for this move has not been established yet. There are two infrastructure items that need to be completed prior to the move. However, it is anticipated that this move will occur within this next reporting period (February 25 - September 24, 2023).

Although the Satellite Unit provides more natural lighting, central heating, air conditioning and space, limited activities are offered to keep the population occupied. Most of the persons living in the Satellite building report being "very bored and frustrated". There simply aren't enough programming/activities to keep the incarcerated persons busy. Additionally, due to transportation issues (discussed in the "Vehicles" section of this report), the incarcerated persons reporting missing programming and classes at the Edna Mahan facility because transportation was late or unavailable. The Administration of both NJDOC and Edna Mahan are aware of this situation. They hope that with the closing of the minimum "grounds" at EMCF, more resources will be able to be housed and offered in the Satellite building. As Administrator O'Dea explains, currently Edna Mahan is staffing three different parts of the facility: the minimum "grounds", the maximum compound, and the satellite building. However, they are only funded/staffed for two parts. Commissioner Kuhn and Administrator O'Dea believe that more resources/staff will be able to be allocated to the Satellite building once the minimum "grounds" is closed.

The incarcerated persons who are minimum classification have several concerns about this move. In addition to the concerns noted above, i.e., there are not enough jobs, programs, or activities, they are concerned about moving from cells (in some instances single housing cells) to a dormitory setting. Some incarcerated persons reported that they won't feel safe from sexual abuse and/or sexual harassment when having to live with so many other incarcerated persons housed in the same area. Both NJDOC and Edna Mahan will need to address the concerns raised by the incarcerated persons prior to the scheduled move to the Satellite building.

New Administrator appointed at Edna Mahan

On October 1, 2022, Ryan O'Dea, previously the Associate Administrator at Edna Mahan, was appointed Acting Administrator at Edna Mahan. This appointment became "official" on February 11, 2023. This was a very positive appointment for Edna Mahan. Mr. O'Dea has 23 years of service with NJDOC. He started his career as a Corrections Officer, was promoted to sergeant at a youthful offender facility, was then promoted to lieutenant, and ultimately assigned to Edna Mahan Correctional Facility (EMCF). He has worked as an Assistant Superintendent at the Adult Diagnostic and Treatment Center, where he oversaw the Special Treatment Unit for the civilly committed sexual predator population. He was also an Assistant Superintendent at a correctional facility solely dedicated to Substance Use Disorders (SUD) Treatment. Mr. O'Dea was the Acting PREA Coordinator for the Agency, and, in September 2021, was appointed to the position of Associate Administrator of EMCF. Administrator O'Dea is extremely knowledgeable when it comes to working in a prison that involves a variety of different incarcerated populations.

The staff, the incarcerated persons, the EMCF Administrative team, and various other stakeholders that the Monitor spoke with are all very happy with this appointment. Administrator O'Dea has been described as "a good communicator, very available, a good leader, extremely responsive, open to discussion, invites stakeholders' input, involved, and prompt in his follow-up". The Monitor has experienced each of these attributes with Administrator O'Dea as well and believes this is a very positive assignment.

Hiring of NJDOC's PREA Coordinator

On October 22, 2022, Sandra A. Capra was hired to be the full-time PREA Coordinator for NJDOC. As noted in previous compliance reports, the former NJDOC PREA Coordinator did not have sufficient time to develop, implement, and dedicate to NJDOC's efforts to comply with the PREA standards at Edna Mahan and all of its facilities.

Ms. Sandra Capra is an attorney at law in the State of New Jersey with more than 25 years of experience. Ms. Capra has a wealth of knowledge, experience, and background in areas pertinent to PREA. She was previously a former County Prosecutor of a Special Victims Unit,

responsible for handling sexual assault, child abuse/endangerment, and internet crimes against children.

Ms. Capra most recently served as Governance/Compliance Director and acting PREA Coordinator at the Cumberland County Department of Corrections. She was a member of the Warden's Administration Team and oversaw all aspects of the jail, including but not limited to daily operations; training and development; staffing; and monitoring compliance with all federal and state codes, ordinances, standards and guidelines. Additionally, she was responsible for oversight of all litigation and legal matters. She was the liaison to internal and external counsel with regard to class action lawsuits, two Federal Consent Decrees, and all other litigated matters involving incarcerated persons and staff.

The Monitor met Ms. Capra and was very impressed. She clearly has the knowledge, background, experience, and commitment to fulfill her duties. The Monitor believes that hiring Ms. Capra as a full-time Agency PREA Coordinator is a very important step in ensuring that Edna Mahan, and all NJDOC's facilities, become more sexually safe facilities.

Weaponizing of PREA

During the last two compliance reports, the Monitor noted that the most prevalent message the Monitor heard from both staff and incarcerated persons was their concern about the "weaponizing of PREA", (i.e., when incarcerated persons threaten staff and one another with the threat of "I'm going to PREA you", meaning they are going to file a PREA complaint on that person, in some cases falsely or with regard to incidents that are not related to sexual abuse or harassment). The Monitor heard "mixed messages" specific to improvement in this area. Some staff and incarcerated persons felt that this "threat" was not used as much as it had before. Other staff and incarcerated persons stated they had not seen any improvement in this area. When confronted with the data reflecting that the number of allegations of sexual abuse or sexual harassment filed against a staff person had declined, both staff and the incarcerated population's response was that "it doesn't feel that way".

Some staff stated that "the incarcerated persons are now filing more allegations against each other". The Monitor has no way of knowing if this is accurate, since the reported number of incarcerated person-to-incarcerated person allegations is outside the scope of the Settlement Agreement. Additionally, some of the incarcerated persons in the focus groups stated that they feel like there are no consequences for someone making false allegations against either a staff person or another incarcerated person and until they are held accountable, making false allegations will continue. An incarcerated person in a focus group also made the good point that just the threat of a PREA allegation can cause disruptions or problems for the target of the threat. NJDOC and Edna Mahan have no way to track threats unless an allegation is actually made, so the Monitor has no way to know how prevalent threats truly remain, but thought the statement was worth noting.

The Monitor believes that one reason for this “mixed messages” whether there has been any improvement in this area, reflects the challenges involved in “organizational communication” and is indicative of how long it takes information to filter down through various administrative levels, to change a previously held perception. It is important that both NJDOC and Edna Mahan leadership teams continue to share the data and communicate often and repeatedly regarding the progress made in this area.

It is evident that the number of allegations of sexual abuse and sexual harassment filed has steadily decreased. During the first reporting period, there were 67 allegations of sexual abuse and/or sexual harassment filed; 32 allegations made by the same incarcerated person. During the second reporting period, there were 27 allegations of sexual abuse or sexual harassment filed; 19 allegations made by that same incarcerated person. During this reporting period, there were 22 allegations of sexual abuse and/or sexual harassment filed. The reduction in the number of filings suggests that the incarcerated persons are not filing as many false allegations for their own advantage.

Special Investigations Division Assistant Commissioner Daniels believes one of the reasons NJDOC is seeing this decrease in frivolous accusations is that NJDOC and Edna Mahan have educated the incarcerated population on what “PREA” actually is. As an example, an incarcerated person may not like the way a staff member spoke to her, but that alone does not constitute harassment or a violation of “PREA”. AC Daniels pointed out that another reason for the decrease is that an incarcerated person, who was responsible for over 50% of accusations during the last reporting period, is no longer incarcerated in a NJDOC facility. She reports, and the Monitor agrees, that this has helped the morale of both staff and the incarcerated population.

Another possible reason for the decrease in allegations of PREA violations, could be that Administrator O’Dea reviews the evidence displayed by the stationery and body-worn cameras regarding allegations of sexual abuse or harassment, before removing staff from contact with the incarcerated person making the allegation. This has helped minimize the number of false allegations made (if the allegation was made in order to have the staff removed from their position and they are not moved, it is no longer an effective strategy to make a false allegation). During this reporting period, only eight (8) officers were temporarily removed from their position during the time an allegation was being investigated.

Confidentiality

In the last compliance report, confidentiality of reporting allegations of sexual abuse and sexual harassment was identified as one of the opportunities for improvement. During this past reporting period, NJDOC, in general, and Edna Mahan, specifically, has invested a considerable amount of time changing processes and training staff in order to enhance confidentiality. The changed processes/staff training include:

- Changed the locations of the SID/SVU (Special Investigations Division/Special Victims Unit) interview spaces. The locations have many other activities/appointments occurring simultaneously, so no one is aware of the purpose of a specific interview. They also made the interview spaces ‘softer’ to promote confidentiality and provide a safe and unthreatening space.
- Changed the process of calling an incarcerated person to an interview with SID/SVU. The previous process involved calling the housing unit and asking them to send the incarcerated person to an interview with SID/SVU. The revised process involves a member of Administration (the only person who was aware of the allegation) calling the Shift Commander and asking that the incarcerated person be sent to a specific interview location. The Shift Commander calls the housing unit, who then sends the person to the designated location. One incarcerated person told the Monitor that she was told she was being required to give a urine sample and was surprised when she found out she was being interviewed by SID.
- Reduced the number of persons who are notified of an allegation of sexual abuse or sexual harassment to only those who have a “need to know”.
- Eliminated the “Executive Packet” that had been sent out to over 100 custody supervisors that provided the details of all PREA allegations.
- Discussed the importance of confidentiality in the staff newsletter.
- Discussed the importance of confidentiality in the PREA Focus Groups held with the incarcerated persons.
- Set the expectation that all supervisors discuss the importance of confidentiality with all their direct reports.
- Developed and distributed laminated “pocket cards” that identified that confidentiality is required and listed the following bullets:
 - Do not ask an IP (incarcerated person) about an investigation.
 - Do not announce in the unit if an IP is going to medical, mental health or professional interview.
 - Do not share any information you may hear from another source about an investigation.
 - Ensure you always protect privacy and confidentiality for both staff and IP as this protects physical, emotional, and sexual safety.

In the interviews with the incarcerated persons, they did not believe confidentiality has improved very much. However, the Monitor believes this reflects “outcome” versus “process,” considering how long it takes for change to happen in a large facility, such as Edna Mahan. As discussed in the last compliance report, another factor is simply the inevitability of people talking. Staff are very clear about the expectation of confidentiality, but unfortunately, knowing the expectation and abiding by it, sometimes depends on the person. Additionally, incarcerated persons talk. There is no expectation of confidentiality that they are bound to. In some cases, the alleged victims themselves have shared the allegation with others, which they are permitted to do and sometimes need someone to talk to. And this too, can add to the lack of confidentiality.

The Monitor appreciates the focus that the Edna Mahan and Special Investigations Division Administrative teams have put on this area and believes that, as noted above when discussing the “Weaponizing of PREA”, it is important that both NJDOC and Edna Mahan leadership teams continue to emphasize the importance of confidentiality. Additionally, the EMCF leadership team should take steps to actively assess whether the new measures are improving confidentiality and, if not, whether changes or new processes need to be put in place.

Retaliation

This was another area identified as an opportunity for improvement in the last compliance report. And, as discussed in that report, retaliation and confidentiality go hand-in-hand. As previously noted, one incarcerated person told us, “There would be no retaliation if the confidentiality of reporting was kept”. As with confidentiality, both NJDOC and Edna Mahan have invested a large amount of time during this past reporting period changing processes and training staff in order to eliminate retaliation. The changed processes/staff training include:

- Revised the current PREA Orientation facilitator guide to include discussing, and giving examples of, subtle retaliation.
- Revised NJDOC’s monitoring form to include asking the incarcerated person specifically if they have experienced any form of subtle retaliation.
- Discussed the definition of subtle retaliation in the staff newsletter.
- Discussed the definition, and gave examples, of subtle retaliation in the PREA Focus Groups held with the incarcerated persons.
- Set the expectation that all supervisors discuss the definition and prohibition of subtle retaliation with all their direct reports.
- Developed and distributed laminated “pocket cards” that discussed retaliation monitoring and defined ‘subtle’. The card reads:

- Retaliation monitoring is available for IP and staff for 90 days following a report of sexual abuse or harassment, or cooperation with an investigation.
- Subtle retaliation is the inappropriate behavior to retaliate against someone that is not obvious or is disguised as professional duties (e.g., assigning a non-desirable post, not getting a meal break, inconsistent rule enforcement, excessive room searches, etc.).
- Reporting abuse/harassment/retaliation
 - IP – SID; IPCM; Ombudsperson; any staff; JPAY
 - Staff – SID; Ombudsperson; Supervisor

As with confidentiality, in interviews with incarcerated persons, they did not believe the issue of subtle retaliation has improved very much. This, too, could be a reflection of “outcome” versus “process” and how long it takes for change to happen in a large facility, such as Edna Mahan. During the focus groups, the incarcerated persons used the term “retaliation” frequently. However, when the Monitor asked for specific examples, some of the examples given were not retaliation for filing an allegation of sexual abuse or sexual harassment, but for some other behavior. In one example, the incarcerated person felt they had been retaliated against for “speaking their mind” during a focus group. Another example given was that one incarcerated person was not put on the “call-out list” for an important meeting. But when the Monitor investigated the incident, it was explained that the incarcerated person’s last name had changed, and she was on the call-out list using her “old” name. Other examples some of the incarcerated persons gave happened previously and not during this reporting period.

The Monitor met individually with four incarcerated persons who had filed an allegation during this reporting period. One person felt retaliation has “gotten better”, but she also noted that she made an allegation against another incarcerated person and “staff don’t take retaliation seriously unless the allegation is against one of them”. Another incarcerated person felt like staff executes retaliation “underhandedly”. The example she gave was that she was given a bed move from a single unit to a dormitory. When she asked why, the staff person (a friend of the person she made an allegation against) had a reasonable explanation that staff accepted, but she felt the move was in retaliation for her filing an allegation. In another instance, an incarcerated person stated that friends of the alleged perpetrator tried to get her to retract her statement and say, “he didn’t do it” and she felt very intimidated. The last person the Monitor spoke with said that “although she hasn’t felt retaliated against”, she thinks most incarcerated persons don’t report because of concern that subtle retaliation happens.

As discussed in the last compliance report, subtle retaliation is very difficult to prove. All the systems are in place to monitor any type of retaliation and considerable emphasis on retaliation has been focused on subtle retaliation during this reporting period. The Monitor

encourages the Edna Mahan leadership team to continue to concentrate on this very important issue during this next, and future, reporting periods. Additionally, the EMCF leadership team should take steps to actively assess whether the new measures are improving issues related to retaliation and, if not, whether changes or new processes need to be in place.

Increased Communication with staff by Edna Mahan Leadership Team

In the last compliance report, the Monitor provided several examples of lack of and/or misunderstood information, which contributed to low staff morale. The Monitor discussed the importance of the practice of “Management by Walking Around (MBWA)” and recommended that this MBWA should be conducted with the deliberate purpose of providing accurate information, answering questions, supporting the training staff are receiving, and demonstrating a concerned presence for all incarcerated persons and staff.

Staff report considerable improvement in this area during this past reporting period. The Monitor contributes this to the example set by the new Edna Mahan Administrator. Staff described Administrator O’Dea as “very approachable, a better communicator, an engaging personality, someone who walks around the facility all the time, and works at forming good relationships”.

Some specific examples of which communication could be improved include the following. There were some staff who were not aware of the distinction of which between those cases NJDOC investigates vs which cases the Hunterdon County Prosecutor’s Office investigates, and the difference in the length of time between investigations. Staff not receiving information about the status of investigations related to PREA allegations against them, and/or the misperception that a finding of “unsubstantiated” allegations remains in the employee’s personnel file and can affect their future career opportunities, remains a concern. The Monitor was aware that these topics had been discussed in the monthly “PREA At a Glance” publication that is sent to all staff members (discussed further in the “progress” section of this report.). When staff were asked if they had read this information, some staff couldn’t recall having done so.

Clearly, there has been vast progress made in terms of increased communication from the Leadership team of Edna Mahan. The Monitor cannot stress enough the importance of continuing and increasing all avenues of communication. The type of culture change that is required at Edna Mahan cannot be achieved without repetitive, continuous, and consistent communication.

Increased coordination with Leadership of Edna Mahan

In the last compliance report, the Monitor discussed the need for more coordination with the Leadership of Edna Mahan. The monitor noted the importance of ensuring that all NJDOC

divisions are communicating and coordinating with the Edna Mahan leadership. Both NJDOC's and Edna Mahan's Leadership teams noted that the coordination of different divisions has greatly improved during this past reporting period.

Two specific reasons were noted for this improvement. One explanation is the role modeling provided by the new EMCF Administrator. As noted, before in this report, Administrator O'Dea attends meetings that had not been attended previously. Consequently, he has been able to become involved earlier in decisions that affect EMCF. Another reason given is that NJDOC has accomplished much of what was needed to be done at the beginning of the Settlement Agreement and the divisions do not feel so "frantic" now. Commissioner Kuhn explained that "things are coming together" and she, and her leadership team, are able to take more time to be thoughtful and thorough in their planning.

The one area noted during this reporting period that could use increased coordination is providing gender-specific training to new staff at Edna Mahan. The Monitor will discuss this further in the "Opportunities for Continued Progress/Improvement" section of this report.

New facility

New Jersey Governor Murphy and NJDOC Commissioner Kuhn both continue to acknowledge that the infrastructure at Edna Mahan remains challenging and, without question, requires a new facility. On Tuesday, February 28th, during the Governor's Budget Address, Governor Murphy announced a \$90 million budget appropriation for the next phase in the closure of the Edna facility. Commissioner Kuhn said that "This is not just a step in the right direction – let me be clear - this is a quantum leap in the right direction. The \$90 million investment will enable the female population to move from the Edna facility to a more central location of the State, with greater access to major roadways, public transportation (with the intent to increase visits with family and loved ones); greater access to education resources, activities, volunteers, and to allow for a more normative and rehabilitative environment".

According to Commissioner Kuhn, there will be a two-phased approach, which will include normative modular-type units in phase one. This will allow a more accelerated closure of Edna, and the ability to move the female population potentially within a 2-year period. Phase two will replace some, but not all, of the modular-type units, with more permanent "bricks & mortar" type construction. Commissioner Kuhn explained that this two-phase approach is necessary because traditional construction is estimated to take upwards of six years and because the condition of the current Edna facility is so poor. This approach will enable a timelier, and responsible exit from the Edna Mahan facility.

Volunteers Return to Edna Mahan

During this reporting period, many of Edna Mahan’s volunteers were able to return and offer their specialized services to those living at EMCF. Because of COVID, they had not been allowed to volunteer in the facility for over two years. Prior to obtaining approval to enter the facility, in addition to other clearance protocols and required orientations, all volunteers are trained on the prevention, detection and response to allegations of sexual abuse, sexual harassment and retaliation. As of February 24, 2023, EMCF had 41 trained volunteers who donate their time and expertise in areas which include, but are not limited to addiction, reintegration, and spiritual services.

B. Progress

NJDOC and Edna Mahan have continued to make steady progress during this reporting period, in areas both required, and not required, by the Settlement Agreement. Those areas of progress include:

Legacy (Strategic) Planning

In January 2023 NJDOC held its first meeting with the Legacy (Strategic) Planning Group. The purpose of this group is to assist with the development of a legacy (strategic) plan that will help guide Edna Mahan and NJDOC’s vision and services over the next 2 – 3 years. The first task of the planning group, consisting of approximately 45 members, was to develop the following Mission and Values statement:

New Jersey Department of Corrections Mission Statement:

Advancing public safety and promoting successful reintegration in a dignified, safe, secure, rehabilitative, and gender-informed environment, supported by a professional, trained, and diverse workforce, enhanced by community engagement.

New Jersey Department of Corrections Values Statement

- *Safety and Security* – The safety and security of staff, incarcerated persons, and the public is our shared responsibility and priority.
- *Trauma-Informed Services* – We safeguard the physical, mental and sexual safety of all incarcerated persons, guided by gender-informed care and trauma services to ensure parity for all persons in our custody and care.
- *Rehabilitation and Reintegration* – We provide the highest quality programs and offer a continuum of services to promote success upon reintegration into the community.

- *Employee Development, Wellness, and Mentorship* – The success of the Department and those in our care is achieved through a well-trained, professional, and engaged, fulfilled workforce.
- *Integrity and Ethics* – We uphold the highest standards through honesty, dedication, and ethical behavior in our actions and decisions.
- *Diversity, Dignity, and Respect* – We value diversity, equity, inclusion, and belonging and support all people to advance their well-being.
- *Community Engagement* – Our success is enhanced through the support of community partners and the initiatives, services, and support provided.
- *Fiscal Responsibility and Stewardship* – We operate with transparency, efficiency, and responsibility that maximizes resources to achieve the Department’s goals.

The legacy (strategic) planning committee has been divided into six different committees. Those committees and their purposes are as follows:

- *Re-integration & Programming Committee* – Focus on re-integration of women re-entering the community including focus on those in Residential Community Reintegration Programs (RCRP's) and RCRP eligibility.
- *Sentencing Reform Committee* – Focus on gender disparities in sentencing and offer recommendations, with particular attention to lengthy, mandatory sentences ad a method to reduce crime.
- *Sexual Safety Committee* – Focus on improvement recommendations, tracking, procedure recommendations for Edna Mahan’s incarcerated persons, including vulnerable and transgender individuals.
- *Incarcerated Persons Wellness (Mind, Body, Spirit) Committee* – Focus on evaluation and recommendations for Edna Mahan services, including Mental Health, Substance Use, Medical, Pregnancy, Recreation, Healthy Nutrition, Clubs and Activities, Chaplaincy, Clothing, Commissary, Incentive housing and Medication Assisted Treatment (MAT)
- *Safety and Security Committee* – Focus on evaluation and recommendations for Edna Mahan security policy review, discipline review based on gender and classification review in line with national best practices for women incarcerated people.
- *Staff Professionalism & Wellness Committee* – Focus on evaluation and recommendations regarding training utilizing a gender responsive and trauma informed lens, schedules, promotions, incentives to increase NJDOC Pride and desire to work at Edna, women officer recruitment and retention strategies and employee wellness. This

committee will also focus on enhancing communication between staff and incarcerated persons.

The Increased Emphasis on Recruitment

In the last compliance report, the Monitor spoke about the recent Civil Service Reform law enacted, allowing NJDOC to hire custody staff directly through their own hiring process instead of proceeding through the Civil Service Commission. This law provides NJDOC the ability to directly recruit, have continuing interactions with interested individuals, lead them to and through the application process, as well as have greater control over the process itself.

To aid in these efforts, an additional female sergeant was added to the recruitment unit whose main responsibility is to personally guide interested individuals through the process. In addition, the Custody Recruitment Unit has been targeting its efforts to engage female interest in the profession of a correctional police officer with the department. The Custody Recruitment unit has participated in mentoring opportunities, recruitment events and partnerships with organizations such as New Jersey Women in Law Enforcement (WLE), the National Center for Women and Policing, the National Association of Women Law Enforcement Executives, the National Organization of Black Women in Law Enforcement, and the Mid-Atlantic Association of Women in Law Enforcement, and Hispanic American Law Enforcement organization.

The unit established a focus group and adjunct recruiting team at Edna that includes 11 female custody staff members which provide input into the needs of female custody staff and how best NJDOC and Edna Mahan can meet their needs and encourage women to join the corrections profession. Please see the attached NJDOC Recruitment and Retention Plan that was written in August 2022 and updated (The items written in blue provide an update on the implementation of each strategy described in the original plan) in December 2022. (See Attachment #1)

Gender-Responsive Programming Continues

The Empowering Women Speaker Series reached its one-year anniversary during this reporting period. The purpose of this monthly speaker series is to bring the voices of powerful women throughout the State of New Jersey to the women at Edna Mahan, and for the voices of the women of Edna Mahan to be heard. The incarcerated persons report that this series is very powerful and has given them the opportunity to hear from advocates and activists, entrepreneurs, legislators, and those with prior living experience from Edna Mahan. They have had the opportunity to hear of the challenges and successes of leaving Edna Mahan and what awaits them in the community.

The trauma recovery program began its third cohort during this reporting period. Graduates of previous cohorts wanted to continue to do work on their process and requested that an alumni group be formed. The group consists of those who completed the intensive work but wish to remain engaged in trauma recovery maintenance. The alumni group meets once a month on Fridays. This opportunity created a forum for participants to practice using tools when triggered or whatever is necessary for maintaining their well-being.

Also, during this reporting period, NJDOC launched the Women in Business Entrepreneurship Training Program. This 10-week program on how to become an entrepreneur is taught on site by a nationally renowned instructor out of Babson College, a private business school in Wellesley, Massachusetts that boasts some of the world's most notable persons in business as it's alumni. Currently NJDOC has eight (8) incarcerated persons enrolled in the pilot program and all eight (8) are attending weekly. Additionally, the New Jersey Department of Corrections has now partnered with two business organizations to help the incarcerated persons at Edna Mahan. Both the New Jersey Center for Women's entrepreneurship and New Jersey Small Business Development at Rutgers University were awarded funding to expand their efforts to liberate those justice involved persons through economic freedom.

Lastly, during this reporting period, NJDOC has been able to fund Isaiah House in East Orange New Jersey which will provide temporary and short-term housing for women leaving EMCF, including up to two of their children.

Advisory Groups Continue

Members of NJDOC and Edna Mahan leadership teams continue to meet monthly with three important advisory groups; the staff, the incarcerated persons who live at Edna Mahan, and the Board of Trustees. Having a consistent presence and continuing to meet with these groups is critical to maintaining a viable connection to what is important to them, their "hot topics", and how their voices can continue to shape what NJDOC and Edna Mahan are currently doing, and influence what needs to happen in the future. Both Commissioner Kuhn and Administrator O'Dea acknowledge that discussions with the advisory groups have helped shape next steps for activities, incentive opportunities, re-entry discussions, and have helped shape modifications to the COVID protocol.

The feedback from several Board of Trustee (BOT) members is that they feel very included, involved, and empowered. They see their role as "being the eyes of the facility" and ensuring the inclusiveness, and well-being of the incarcerated persons. The BOT members appreciate the communication of, and with, Commissioner Kuhn, Assistant Commissioner Tome, and Administrator O'Dea. The BOT members also appreciate Commissioner Kuhn's, AC Tome's, and Administrator O'Dea's transparency and availability.

The Emphasis on Staff Education

Education and training are essential. These are even more impactful when delivered on an ongoing basis. Between August 25, 2022, and February 24, 2023, Edna Mahan provided 20 different training courses designed for custody staff, and eight (8) different courses designed for civilian staff. Many of these training courses were targeted as areas of needed improvement identified in the last compliance report.

The Edna Mahan PREA Compliance Manager has also expanded communication, education, and outreach with staff. She has done this, not only by being engaged and visible, along with each member of the leadership team, but also by attending PREA refresher training courses for staff and answering questions asked by participants. This strategy found that providing a routine opportunity to ask questions is essential to understanding and applying practice. The Monitor spoke with several staff who stated, specifically, that this action has helped answer a lot of questions they previously had. The PREA Compliance Manager has also initiated interactive, voluntary sexual safety education groups for staff, in order to review and discuss sexual safety protocols in depth.

Additionally, the PREA Compliance Manager develops and distributes a monthly “PREA At a Glance” publication to all staff members. This one page “At a Glance” fact sheet provides PREA information on a variety of topics. In September 2022, the fact sheet provided an update on the Special Investigation Unit. In October 2022, it discussed subtle retaliation. In November 2022, it discussed PREA terms and why they are important. The fact sheet also informed staff that in November 2022 there had only been one new PREA case that had been initiated and was pending review. The December 2022 fact sheet defined Sexual Abuse by Staff, gave examples of what sexual abuse is and what it is not. The sheet also informed staff that “there were no allegations of sexual abuse against a staff [member] from October 14, 2022, through December 2, 2022. Clearly, the numbers are trending down!” The January 2023 “At a Glance” fact sheet provided a flow chart demonstrating which cases were investigated by NJDOC’s SID and which were investigated by the Hunterdon County Prosecutor’s office. The fact sheet also provided the definitions of “substantiated”, “unsubstantiated” and “unfounded” allegations.

Each of the topics on the “At a Glance” fact sheets had been discussed in the last compliance report as examples of the lack of and/or misunderstood information by staff. The Monitor appreciates the efforts of the Edna Mahan PREA Compliance Manager to educate staff on these important topics.

C. Strengths

The New Jersey Department of Corrections (NJDOC) has built a strong foundation for continued progress in reaching all the goals outlined and required in the Settlement Agreement. Many of the strengths mentioned in previous compliance reports remain and, in most cases, have become even stronger.

Leadership from the New Jersey Department of Corrections

The leadership of the New Jersey Department of Corrections remains strong. Commissioner Kuhn's Executive Leadership Team has synergy and is establishing a culture that better supports both the staff and the incarcerated persons. Commissioner Kuhn and her leadership team continue to meet directly with staff and incarcerated persons (separately) at Edna Mahan monthly. This action demonstrates their personal commitment to "listen to" and address any issues/concerns of the incarcerated persons. It also demonstrates to both staff and the incarcerated persons their personal commitment to comply with the Settlement Agreement, and to rebuild the reputation of the New Jersey Department of Corrections, and specifically, the Edna Mahan Correctional Facility.

Leadership from the Assistant Commissioner of Women's Services

Assistant Commissioner (AC) Tome has been in her position for over eighteen months and has continued to learn about NJDOC and, specifically, Edna Mahan. Placing the PREA Unit, and the new NJDOC PREA Compliance Manager under supervision of AC Tome, has helped to better support the requirements of the Settlement Agreement. It also helps in providing leadership specific to protecting incarcerated persons from sexual abuse and sexual harassment at Edna Mahan. AC Tome is very focused on making intentional, significant improvements in terms of building positive and professional relationships between leadership, staff, stakeholders, community members, Board of Trustee Members and the persons who live at Edna Mahan. She is dedicated to providing an emotionally and physically safe environment to work and live in. She is also committed to advancing and adopting 'best-practices' that are designed to elevate the rehabilitative ideal for incarcerated women.

Leadership from the Edna Mahan Administrative Team

As noted previously, during this reporting period, Ryan O'Dea was promoted from Associate Administrator to Administrator. Additionally, Taquilia Rios was promoted from Assistant Superintendent to Associate Administrator. During the past reporting period, a new position of Assistant Superintendent was appointed as the full-time PREA Compliance Manager, and a Sergeant from Edna Mahan was promoted to another Assistant Superintendent position. Currently, there is one Assistant Superintendent position vacant. When this position is filled, the

Edna Mahan leadership team will consist of the Administrator, the Associate Administrator, and three Assistant Superintendents.

Everyone the Monitor spoke with had high praise for this current leadership team. The Assistant Commissioner for Women's Services describes it as the "best team we have ever had". AC Tome goes on to say that the team works very well together, and they are not afraid to explore new ways of doing something. AC Tome thinks it is very beneficial to have promoted staff from Edna Mahan into these leadership positions. She explained that this is not the "norm" for NJDOC and that, instead, staff usually have had to move to other facilities in order to promote. AC Tome believes promoting from within has helped the leadership team establish trust and confidence with the staff. Many of the staff have noted that the culture is changing for the better under this leadership team, and feel that the entire team is supportive, communicative, and positive.

Additionally, for the first time since the Monitor has been writing reports to the Court, all three Major positions have remained the same during this reporting period. This is seen as having a very positive influence on the facility. The Majors are the highest-ranking level of correctional staff and have considerable influence on the line-level staff. In the past, staff found it challenging to endure ongoing changes instituted by the changing of Majors. Staff explained that different Majors often had different priorities and focus. One staff person stated that "you barely get used to one style before they leave, and you then you have to start all over. There's never any consistency". Having the same Majors for six months has clearly helped establish consistency and stability for staff. It is encouraging that all three Majors told the Monitor that they enjoy working at Edna Mahan and plan to stay at the facility for a while.

Stakeholders/Partners

The Monitor continues to be impressed with the outside resources/partners that NJDOC has cultivated. The support from The Moss Group and the primary attorneys with Lowenstein Sandler LLP continues at a very engaged level and, in the Monitor's opinion, contributes to NJDOC's/EMCF's compliance with the Settlement Agreement. Additionally, as previously discussed, NJDOC/Edna Mahan staff continue to meet with the Board of Trustees monthly. Various Board members have visited the facility and participated as special speakers at the monthly "Empowering Women!" speaker series.

D. Challenges

It is noted that many of the challenges remain the same and, in most instances, are outside the influence of the NJDOC or Edna Mahan.

Language Access

Edna Mahan continues to have challenges with providing appropriate LEP language access to incarcerated persons, including not providing appropriate interpretive services in all instances. NJDOC and Edna Mahan have put significant focus on this area during this reporting period. They continued to provide refresher training for staff on the LEP policy. This training included information on the policy and availability of the telephone interpretation services (Language Line). In addition, Edna Mahan began showing the Spanish version of the PREA orientation video throughout the “main facility”. Assistant Renshaw, the Edna Mahan PREA Compliance Manager began providing one-on-one orientation and using the telephone interpretation services to provide certified translation services to Spanish speaking persons. Lastly, Assistant Superintendent Renshaw developed and distributed laminated “pocket cards” that gave the following instructions:

LEP – Language Line Directions: To reach an interpreter, call Linguistic International for translation services. The card lists the phone number and EMCF’s account number. It goes on to explain, “The staff will utilize the translator on the phone to assist the IP with communication when the IP has limited English proficiency. **Other IPs or staff should not be utilized to translate**”. The card also lists the location of all outside phone lines, which have the capacity to call Linguistic International throughout the facility, including the Satellite building.

The Monitor appreciates the effort and seriousness that the leaders at Edna Mahan took in this area during the last reporting period. However, challenges in this area remain. Those challenges will be discussed in greater detail under paragraph 90 in the monitoring tool.

Bureaucracy

Bureaucracy continues to be a challenge for the New Jersey Department of Corrections and Edna Mahan Correctional Facility for Women. NJDOC Human Resources falls under the “umbrella” of the State Civil Service Commission, which is the overall authority on hiring, promoting, etc. NJDOC is required to remain compliant with NJ Administrative Code 4A which governs Human Resources compliance to ensure consistency throughout New Jersey State government. In addition to the bureaucracy challenges noted in the last two compliance reports, the latest example is the Police Training Act and the Police Training Commission (PTC).

The NJDOC is governed by the Police Training Act and the Police Training Commission (PTC). By NJ Statutory authority, N.J.S.A. 52:10b-71, the PTC is responsible for the

development and certification of basic training courses for county and local police, sheriffs' officers, state and county corrections officers, and other law enforcement positions. It is interesting to note that this does not include the New Jersey State Police.

The PTC issues a Basic Law Enforcement Court Trainee Manual, which was last revised on January 26, 2023. In addition to other requirements, this Manual sets forth the pre-academy fitness mandates, as follows:

- a vertical jump of 15 inches or more
- 28 sit-ups in 1 minute or less
- a 300-meter run in 70.1 seconds or less
- 24 push-ups in 1 minute or less, and
- a 1.5 mile run in 15 minutes and 55 seconds, or less.

These fitness requirements are the same for all genders and all ages. Trainees have two opportunities to pass the physical requirements prior to the start of the academy. If they do not pass these pre-academy physical requirements, they are denied admission to the academy per PTC requirements.

These PTC mandated physical requirements are having a disparate impact on the ability of women to enter the NJDOC training academy. Statistical evidence from the current two NJDOC Academy classes demonstrates that the PTC requirements for push-ups and vertical leap have a disparate impact on women passing the requirements and entering the academy. For example:

- NJDOC Class 253 commenced in November 2022. At that time, the PTC permitted trainees to enter the academy prior to passing the PTC mandated physical requirements. However, they would fail the trainees during the academy if the trainees did not pass the PTC mandated physical requirements. Class 253 commenced with 73 trainees - 30 women and 43 men. As of March 15, 2023, there are 43 trainees - 14 women and 29 men.
 - Of the 30 women who entered the academy - 2 withdrew prior to the physical requirements; 14 failed the physical requirements (vertical jump and/or push-ups portions). In total, 14 of the 28, or 50%, of the women trainees were required to leave the academy due to the PTC physical requirements, primarily the vertical jump and push-ups.
 - In comparison, of the 43 males entering the academy - 5 immediately withdrew, leaving 38 candidates. Of those 38, only 5 failed the PTC physical requirements. As such, only 16% of the male candidates failed the PTC requirements, as compared to 50% of the female candidates.

- NJDOC Class 254 is scheduled to commence on April 10, 2023. This is the first class that is required to pass the PTC mandated physical fitness tests as a pre-requisite prior to attending the Academy. The initial PTC mandated physical tests were held on February 11, February 18 and February 25 of 2023. Again, the results of the PTC mandated physical fitness requirements resulted in a disparate impact on female candidates, as follows:
 - Of the 60 women that took the initial PTC mandated physical requirements, only 23% passed, with 46 women failing (77% failed) due to the vertical jump and/or push-ups.
 - By comparison, of the 138 male attendees, 69% passed, with 31% failing.

The data is concerning, and unless the PTC requirements are modified to reflect reasonable physical requirements for female applicants, the Department will continue to suffer from a lack of women staff being able to enter the NJDOC academy and advance through the ranks of the NJDOC. This situation hurts all facilities within NJDOC, but particularly impacts Edna Mahan and the requirements in the Settlement Agreement to staff the facility based on the staffing plan, and to recruit and retain women correctional officers at Edna Mahan.

Prison Facility/Location Challenges

The facility challenges noted in the last two compliance reports to the Court remain. The physical plant is over 110 years old and comes with all the problems (lack of hot water, electricity, numerous power outages, mold, etc.) inherent in an old facility. Commissioner Kuhn noted that just to keep the current, deteriorating facility simply operational, it would require greater than \$110 million. That figure is not for improvements, but simply to maintain functionality. This includes having to move the minimum classified persons to the Satellite building. As Commissioner Kuhn reminds us, “that is what happens when a population and facility are ignored for so long”.

The location of Edna Mahan continues to be a challenge. For staff who do not live in the area, it is consistently a 60-to-90-minute commute to work each way. This length of commute makes the facility less desirable to work in than other prisons in the NJDOC system. Additionally, as discussed in previous compliance reports, the “New Jersey First” law affects Edna Mahan more than other facilities in the NJDOC system, since the facility is so close to the Pennsylvania border.

Staffing

Staffing continues to be a challenge at Edna Mahan. This is due to a multitude of factors, some of which have already been discussed (e.g., the physical location of the facility, PAT for the

training academies, difficulty of hiring qualified individuals, etc.) Like most correctional agencies, NJDOC in general, and Edna Mahan specifically, face the challenge of recruiting and retaining staff. The large number of vacant positions and high sick leave usage results in mandatory overtime for staff. Some correctional staff reported working 2-3 mandatory overtime shifts per week. It is obvious that people are not at “their best” when they are working 60-70 hours a week.

Vehicles

It might seem surprising that having properly repaired and an adequate number of vehicles would impact the sexual safety of incarcerated persons. However, that link is undeniably there. The Principal Investigators from both the Special Investigations Division and the Special Victims Unit (SID/SVU) explained that their ability to interview persons during the course of an investigation, has been impacted in some cases due to a shortage of staff vehicles. Additionally, investigators indicated that sometimes the need to carpool or switch vehicles could add to a response time but, during this reporting period, no victim’s interview was delayed due to this issue.

The Monitor heard many examples of how not having enough or adequate vehicles has impacted Edna Mahan’s staff’s ability to transport incarcerated persons. The examples included not being able to transport back and forth from the main EMCF facility and the Satellite building, and/or how lack of transportation affected attendance at pre-planned medical appointments and programming. The Monitor saw vans that had doors that would not open, and, in another case, a door that could not be closed. This situation is critical enough that the Monitor is concerned that there may not be a working vehicle available for an incarcerated person who had been sexually abused and needed to be taken to the hospital for a SANE evaluation.

The Commissioner explained that the issue is not a lack of money but, rather, a lack of available vehicles to purchase due to supply chain issues. As Commissioner Kuhn noted, NJDOC has the money available to purchase vehicles, it is just that car dealerships will not sell at the discounted State rate.

E. Opportunities for Continued Progress/Improvement

Retaliation/Confidentiality

As noted in the last compliance report, retaliation and confidentiality go hand-in-hand. As discussed in the “updates” section of this report, during this past reporting period NJDOC, in general, and Edna Mahan, specifically, has spent a large amount of time changing processes and training staff in order to enhance confidentiality and inhibit retaliation. Yet, in the interviews with the incarcerated persons, they did not believe confidentiality has improved. It must be noted that all the systems are in place to monitor retaliation, and Edna Mahan leadership has

done a great deal of staff education specific to addressing ‘subtle retaliation’. Yet, most of the incarcerated persons interviewed by the Monitor reported they still feel that retaliation for reporting happens. A few persons told the Monitor they believe this type of subtle retaliation is the reason some incarcerated persons will not report incidents of sexual abuse or sexual harassment. The opportunity for continued progress is that NJDOC and Edna Mahan continue to concentrate on, and communicate about, the importance of confidentiality and prohibition of retaliation, and hold staff accountable for any acts of retaliation or breach of confidentiality.

Mandatory Gender Specific Training for all Edna Mahan Staff

Given that the incarcerated female population is unique and different from the incarcerated male population, best practice is that it is important that correctional facilities offer training specific to working with women, emphasizing gender-responsive practices, trauma-informed correctional practice, communication skills with women, operational issues with women and/or de-escalation techniques. During the last reporting period, 332 Edna Mahan staff received a two-day training entitled “Gender Responsive Approaches to Women Offenders”. The Monitor is very familiar with this gender-responsive curriculum and believes it provides an excellent foundation for all staff who work with incarcerated women.

Three divisions of NJDOC are jointly responsible to provide the two-day gender-responsive training titled, “Gender Responsive Approaches for Women Offenders” to new Edna Mahan employees. Those divisions are Operations, Training, and Women’s Services. Several staff have participated in the “train-the-trainer” training in order to deliver this two-day gender-responsive training to other staff. However, as of the writing of this report, there is no delivery of, or future planned dates to deliver this training. The concern is that, although the staff who worked at Edna Mahan, in 2022 received the two-day Gender Responsive Approaches for Women Offenders training, at the present time new employees are not receiving this training.

It should also be noted that several incarcerated persons have complained about the “new staff” talking disrespectfully to them. It is unclear what their definition of “new staff” is, but the Monitor wonders if there is a connection between new staff not receiving the two-day “Gender Responsive Approaches to Women Offenders” training and speaking in a disrespectful manner to the incarcerated persons at Edna Mahan. The Monitor is aware that other states have mandated this training within the first 30 days of any new staff working at a women’s prison facility and believes this is a best practice.

Increased Communication with Staff regarding the importance of adhering to the PREA Standards and the Settlement Agreement

It is clear that there has been vast progress of increased communication from the leadership team of Edna Mahan. There are still critical areas of staff misunderstanding that need to be

addressed. The Monitor noticed several examples of the lack of and/or misunderstood information, which contributed to low staff morale. These examples included:

- Failure to understand that many of the supervision requirements (opposite gender announcing themselves, no cross-gender pat/strip searches, etc.) are not a result of the Settlement Agreement rather than the PREA standards or other requirements (such as the Isolated Confinement Restriction Act). This is an important distinction in that the Settlement Agreement has an “end date” and other laws do not.
- Failure to thoroughly understand the importance of, and commitment to the gender-responsive principles and practices.
- Failure to understand the critical importance of ensuring that everyone in the facility feels sexually safe and is treated with respect and dignity.
- Misunderstanding that the Vulnerable Persons Act is not related to the PREA Standards or the Settlement Agreement.

As noted above, the Monitor cannot stress enough the importance of continuing and increasing all avenues of communication. The type of culture change that is required at Edna Mahan cannot be achieved without repetitive, continuous, and consistent communication.

Increased Communication with Incarcerated Persons regarding the status of their complaint:

The Monitor noted in the last compliance report that there does not appear to be any formal process to update an incarcerated person on the status of their allegation. The incarcerated persons we spoke with expressed concern about not knowing the ongoing status of their complaints. The Monitor recognizes that, if the issue is a criminal matter and is being investigated by the Hunterdon County Prosecutor’s Office, the Hunterdon County Victim Advocate has the responsibility to keep the victim updated. However, in the cases that NJDOC is investigating, the Monitor believes NJDOC should provide periodic updates. The Monitor has seen other states that provide an update on the status of the case every thirty days to the person who made the allegation of sexual harassment or sexual assault. Sometimes that update is simply “the case is still being investigated” but, at least, the individual knows the case hasn’t been ignored or forgotten. This might be good practice for Edna Mahan.

Increased Communication with Staff regarding the status of their investigation

There does not appear to be any formal process to update a staff person on the status of an investigation of a complaint made against them. The staff we spoke with expressed concern about not knowing the status of the allegations made against them. As noted above with the incarcerated persons, The Monitor recognizes that, if the issue is a criminal matter, and is being investigated by the Hunterdon County Prosecutor's Office, the Hunterdon County Prosecutor's Office would have the responsibility to provide the status of the investigation. However, in the cases that NJDOC is investigating, the Monitor believes NJDOC should provide periodic updates. The Monitor has seen other states that provide an update on the status of their case every thirty days to the staff person who made an allegation of sexual harassment or sexual assault made against them. Sometimes that update is simply "the case is still being investigated" but, at least, the individual knows the case hasn't been ignored or forgotten. As with the incarcerated person who alleges sexual abuse or harassment, this might be a good practice for staff persons at Edna Mahan who have allegations made against them.

Body Worn Cameras Remain On

The Body-Worn Camera (BWC) pilot program at Edna Mahan began in April 2021. By June 1, 2021, Edna Mahan reached full deployment with 190 BWCs in shift rotation, equipping all staff on each shift who have regular contact with incarcerated individuals. NJDOC Internal Management Procedure # CUS.001.BWC.01 states that "a custody staff member equipped with a BWC shall be required to activate the device in certain instances identified in the policy.

The Monitor believes this policy, as currently written, leaves too much discretion to the staff as to when it is required to "activate their BWC". There have been some investigations conducted in which the allegation of sexual harassment or sexual abuse had not been able to be determined, because the BWC had not been turned on. One most notable example is that an officer was sitting at the "custody staff station" in the dayroom and did not have their camera on because they were not conducting a "tour". The Monitor is aware that this Internal Management Procedure is currently being updated and strongly suggests that NJDOC require that officers activate their Body Worn Cameras whenever they are interacting, or in a space, with incarcerated individuals.

In addition, based on discussions in the staff focus groups, there seems to be some confusion about the effect of BWCs on "unannounced rounds". Some officers stated they cannot perform "unannounced rounds" because they must announce the use of their BWCs. The Monitor believes this statement may reflect a misunderstanding of the purpose of unannounced rounds. The Leadership team at EMCF should reiterate to the staff that unannounced rounds are rounds that are not regularly scheduled or announced ahead of time to staff in the housing units and are intended to ensure compliance with PREA standards.

Programming at the Satellite Building

As noted in the last compliance report, although not directly covered by the Settlement Agreement, the Monitor would be negligent not to discuss the lack of programming at the Edna Mahan Satellite Building. Every correctional professional realizes the connection between idleness and the facility's ability to function efficiently. Idleness increases tension among incarcerated persons and between incarcerated persons and staff, and fosters boredom and frustration that make prison dysfunction almost inevitable. In every conversation the Monitor, or her Associate, has had with the incarcerated persons living at the Satellite building, they complain about having nothing to do and being extremely bored. There were no additional staff added to provide programming in the separate housing unit, housing more than one hundred incarcerated persons.

Additionally, the incarcerated persons must be strip searched a total of four, or if they are visiting five, times (before they leave the Satellite building, when they arrive at Edna Mahan, after a visit, before they leave Edna Mahan, and when they arrive back at the Satellite building) when they are transported to the main institution. Some of the incarcerated persons choose not to be transported back to Edna Mahan for programming and activities because they don't want to be strip searched that frequently.

The Administration of both NJDOC and Edna Mahan are aware of this situation. They hope that with the closing of the minimum "grounds" at Edna, more resources will be able to be sent to the Satellite building. As Administrator O'Dea explains, currently Edna Mahan is staffing three different parts of the facility: the minimum "grounds", the maximum compound, and the Satellite building. But they are only funded/staffed for two parts. Commissioner Kuhn and Administrator O'Dea believe that more resources/staff will be able to be allocated to the satellite building once the minimum "grounds" part of the facility is closed.

LOGISTICS

Compliance Visit

The parties involved arranged the third compliance visit from February 28 – March 3, 2023. The purpose of this visit was for the Monitor and her Associate to conduct interviews with staff and incarcerated persons, and observe records, activities, and physical locations/buildings. In preparation for this visit, the Monitor developed a list of over 60 specific people to interview. These persons were selected by the Monitor according to the responsibilities they represented for managing and implementing various parts of the Settlement Agreement, directly or indirectly. In addition, the Monitor requested that three staff focus groups and four incarcerated persons focus groups be scheduled, with randomly selected persons to participate. The Monitor also developed a list of questions to ask, and/or topics to review during the compliance visit. Additionally, the Monitor developed a list of several

documents to review. All these documents are listed in the monitoring tool and are referred to when determining compliance.

To save time, or because of schedules, the Monitor held video meetings with staff and stakeholders prior to, during, and after the compliance visit. Those video meetings are documented below.

- Assistant Superintendent Amelia Renshaw, Edna Mahan PREA Compliance Manager
- Sexual Assault Advisory Council Members Regional Nurse Manager Theresa Hernandez, Principal Investigator Joseph Conway, Assistant Superintendent Renshaw, and Administrator O’Dea
- NJDOC Assistant Commissioner of Special Investigations Division Kelly Daniels
- Administrator Ryan O’Dea
- Board of Trustee Member Kathleen Witcher
- Board of Trustee Member Dr. Amesika Nyaku
- Board of Trustee Member LaNae Grant
- Board of Trustee Member Joanna Foster
- Board of Trustee Member Bonnie Kerness
- NJDOC Deputy Commissioner Willie Bonds
- Corrections Ombudsperson Terry Schuster
- NJDOC Assistant Commissioner Division of Training, Recruitment and Professional Development David Scott
- EMCF Volunteer Linda Story
- NJDOC Chief of Staff Kristina Chubenko

The agenda for the onsite compliance visit was as follows:

February 28:

- Morning Briefing Meeting with EMCF Leadership Team
- Ombudsperson Office Staff
- Administrator O’Dea

- Incarcerated Person Focus Group – Maximum Classification
- EMCF Training Lieutenant
- Staff Focus Group – Second Shift
- Staff Focus Group – Third Shift
- Observed the PREA Comprehensive Orientation Education for incarcerated persons
- EMCF Volunteer Jennifer Richardson
- Two LEP (Limited English Proficiency) incarcerated persons
- Tour of Maximum Compound to include Hillcrest, North and South Housing Units, and Medical Building
- EMCF Leadership Team – Administrator O’Dea, Acting Associate Administrator Rios, Assistant Superintendent Fusaro, and Assistant Superintendent Renshaw
- Tour of C Cottage (C Cottage houses three programs: Transitional Care Unit (TCU), Residential Treatment Unit (RTU) and the Stabilization Unit (SU). The TCU and RTU, together, comprise the inpatient level of care at EMCF).

March 1:

- Morning Briefing Meeting with EMCF Leadership Team
- Incarcerated Person Focus Group – Satellite Building
- An incarcerated person who has had retaliation protection measures
- NJDOC PREA Coordinator Sandra Capra
- Tour of Satellite building
- Staff Focus Group – 1st shift
- EMCF Special Investigations Principal Investigator Joseph Conway
- EMCF Special Victims Unit Principal Investigator Gregory Cirillo
- Major Ilg
- Major Zwolinski

- Major Karpew
- Assistant Commission for Women’s Services Helena Tome
- Review PREA materials/website with Institutional PREA Compliance

March 2:

- Morning Briefing Meeting with EMCF Leadership Team
- Incarcerated Person Focus Group – Minimum classification
- Incarcerated Person Focus Group – Maximum classification (2nd group)
- Two incarcerated persons who has had retaliation protection measures
- An incarcerated person who had just filed an allegation of sexual harassment
- Two additional incarcerated persons with Limited English Proficiency (LEP) prisoners
- Tour of minimum “grounds”

March 3:

- Stakeholders Meeting
- NJDOC Commission Victoria Kuhn

During the compliance visit, the Monitor and/or her Associate conducted three staff focus groups. The focus groups included a mix of male and female, racially diverse officers. The Monitor and her Associate asked the same questions of each group regarding their roles and responsibilities specific to PREA and sexual safety, and then conducted discussions with them according to their comments. Additionally, the Monitor and/or her Associate had conversations with staff regarding the same topics during their tour of the facility.

The Monitor and/or her Associate conducted four focus groups with incarcerated persons. The focus groups were racially diverse persons from different housing dorms; two groups from the maximum-security unit, one group from the Satellite building, and one group from the minimum-security complex. There were a total of 29 incarcerated persons in the four groups. The Monitor and/or her Associate asked basic questions to the incarcerated persons regarding their knowledge and awareness of PREA, their understanding of how to report an allegation, the sexual safety culture at Edna Mahan, and any other safety concerns they may

have had. Additionally, the Monitor and/or her Associate had conversations with other incarcerated persons regarding the same topics during their tour of the facility.

The Monitor's Associate observed a session of the PREA Education Orientation. The orientation, facilitated by, Associate Superintendent Amelia Renshaw, Institutional PREA Compliance Manager, consisted of the following:

- Right to serve incarcerated time free of sexual abuse and sexual harassment
- Methods of reporting
- Third party reporting
- External emotional support service
- Definitions (including retaliation and subtle retaliation)

Process of Compliance Report and Monitoring Tool

- 1) NJDOC sent a semi-annual status report to DOJ and the Monitor on February 24, 2023.
- 2) The Monitor sent the first draft report and monitoring tool to both parties on April 2, 2023. The agreement allows for a two-week period of review by both parties.
- 3) The Monitor received the comments from the Department of Justice on April 18, 2023.
- 4) The Monitor received the comments from the New Jersey Department of Correction on April 17, 2023.
- 5) The Monitor participated in conference calls with both parties on April 18 and April 21 to discuss the draft report.
- 6) The Monitor considered all the comments submitted by NJDOC and DOJ. The Monitor made some revisions and provided additional information to the parties in response to comments.
- 7) The Monitor submitted the final report to the Court on, or before, May 3, 2023.

SUMMARY OF COMPLIANCE

The settlement definitions for the three measures of compliance are as follows:

- **Substantial Compliance** indicates that NJDOC and Edna Mahan have achieved material compliance with the components of the relevant provision of the Agreement. Material compliance requires that, for each provision, NJDOC and Edna Mahan have developed and implemented any relevant policies incorporating the requirement and trained relevant personnel on the policy.
- **Partial Compliance** indicates that NJDOC and Edna Mahan have achieved material compliance on some of the components of the relevant provision of the Agreement, but significant work remains.
- **Non-compliance** indicates that NJDOC and Edna Mahan have not met the components of the relevant provision of the Agreement.

The Monitor added the following measure of compliance:

- **Non-Applicable** for the purpose of this report, the Monitor defines the term non-Applicable as “does not apply to a particular situation or expectation”. For example, if a provision in the Settlement Agreement requires an action be taken by the date of January 1, 2024, the Monitor would use “non-Applicable at this time” as the measurement for that provision in this report.

There are a total of 83 paragraphs in the monitoring tool. Some of those paragraphs have a specified date of completion listed in the Settlement Agreement. Other paragraphs had a “daily date” meaning the performance of this activity happens on a daily basis. Some paragraphs had no specific date of completion identified in the Settlement Agreement, but NJDOC and Edna Mahan set the date of February 24, 2023, or before as the date of completion (either the date set in the monitoring tool or the implementation plan). There are a majority of paragraphs, specific to Level 1 and Level 3 policies, that were granted an extension to February 24, 2024. Lastly, there are three paragraphs that had no specified date of completion identified in the Settlement Agreement.

There are a total of 68 paragraphs to be evaluated during this reported period. During this review the Monitor determined 66 paragraphs achieved a “substantial compliance” rating and 2 paragraphs (paragraphs 64 and 90) achieved a “partial compliance” rating. The specifics and rationale for each paragraph are included in the attached monitoring tool. The reminder that the Monitor would make is that the “ratings” are for this reporting period only. All requirements must continue to be focused on, and adhered to, in each of the upcoming reporting periods of the Settlement Agreement, and beyond. The problems which resulted in

the development of the Settlement Agreement are systematic and require constant effort in order to make the lasting changes needed to make Edna Mahan a safer facility.

CLOSING OBSERVATIONS

The Monitor saw continued progress again during this reporting period. The current leadership teams of NJDOC and Edna Mahan have contributed greatly to this progress. This leadership team demonstrates a very positive attitude with regards to accomplishing what is required in the Settlement Agreement and toward making Edna Mahan Correctional Facility for Women a safer place for staff to work and for the incarcerated persons to live. The Monitor recognizes that significant strides have been made in the areas of concern (specifically confidentiality and retaliation) noted in the last compliance report and it is important to remember that this work needs to continue. The belief and expectation of the Monitor is that both NJDOC and Edna Mahan will continue to work towards improvement in these specific areas.

The Monitor appreciates all the cooperation she has received from NJDOC and Edna Mahan during this reporting period. The Monitor has made numerous requests for documents or information, and all requests were received in a thorough and timely manner. The Monitor and the Department of Justice have received immediate notifications of any incident or allegations of sexual abuse or retaliation. The Monitor and DOJ have initiated a regular conference call with NJDOC to discuss current open cases and any current issues. As noted above, NJDOC and Edna Mahan implemented every recommendation the Monitor made in the last compliance report to the Court. The Monitor appreciates their willingness to review their processes and make the adjustments, as appropriate.

In conclusion, the Monitor sees a strong commitment to the successful implementation of the Settlement Agreement by The New Jersey Department of Corrections, and the Edna Mahan Corrections Facility for Women. There is a collaborative, working relationship between the NJDOC, Lowenstein Sandler, the Department of Justice, and the Monitor. All parties recognize, and have verbalized, their appreciation that each party is working toward the same goal of improved sexual safety for the persons incarcerated at Edna Mahan. The Monitor acknowledges all the hard work that has been accomplished during this last six-month reporting period and looks forward to further progress during this next reporting period.