

Fourth Monitor's Report

Review Period:
2/25/23 – 8/24/23

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

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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 incarcerated persons housed at the Edna Mahan Correctional Facility for Women (EMCF), including the Satellite building, are provided with constitutional conditions that protect them from sexual abuse. The purpose of this compliance report is to document the progress of the actions of the New Jersey Department of Correction (NJDOC) and EMCF in response to the specific requirements of the provisions in the settlement. This is the fourth required court report, covering the time period of February 25, 2023, through August 24, 2023.

The parties agreed on the selection of Jane Parnell as an objective settlement monitor to evaluate the NJDOC and EMCF's 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 EMCF and the actions taken by the Monitor to determine compliance, as required by the settlement agreement. The period of this evaluation is February 25, 2023 – August 24, 2023. The settlement addresses 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.

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:

- Prior to the on-site compliance visit, the Monitor conducted virtual interviews with 37 different individuals who have specific responsibilities related to NJDOC and/or EMCF's compliance with the settlement.
- The Monitor and her Associate conducted an on-site visit during this reporting period. The dates were September 18 – 22, 2023. During this visit, the Monitor and/or her Associate met with approximately 40 security and civilian staff. These focus groups included staff from each shift (1st, 2nd, and 3rd). The

Monitor also spoke with several additional staff during her tour of the facility.

- The Monitor and/or her Associate conducted two focus groups with fourteen (14) medical and mental health staff from Rutgers University and substance abuse treatment staff from Gateway. Rutgers is the contracted medical/mental health services provider for NJDOC/Edna Mahan Correctional Facility. Gateway contracts with NJDOC to provide substance abuse treatment for incarcerated persons. The Monitor also spoke with several additional Rutgers and Gateway staff during her 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 EMCF that week, including 6 incarcerated persons at the EMCF Satellite Building. The Monitor also spoke with several additional incarcerated persons during her tour of the facility.
- The Monitor and/or her Associate spoke with eight (8) incarcerated persons (IP's) whose primary language is something other than English, also known as Limited English Proficiency (LEP) incarcerated persons. The purpose of these interviews was specifically to explore how staff communicate with these IP's.
- The Monitor and/or her Associate spoke with seven (7) incarcerated persons who had recently submitted an allegation of sexual harassment or sexual abuse. The purpose of these interviews was specifically to determine if these IP's felt they had been retaliated against for filing the allegation.
- During the compliance visit, the Monitor and/or her Associate toured the entire facility, including all housing units, as well as the EMCF 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 EMCF. 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 EMCF 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 calculate the Monitor's ratings for compliance. Compliance evaluations 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 EMCF 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 the section that details the steps taken by NJDOC and EMCF towards implementation. This section is drafted by NJDOC and provides the opportunity for NJDOC and EMCF 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 EMCF 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 determination of compliance 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 EMCF 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 EMCF 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 EMCF's compliance with the provisions and requirements of the Settlement Agreement.

New Jersey Department of Corrections/Edna Mahan Correctional Facility: 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 EMCF 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 August 24, 2023, the last day of this reporting period, was 97.

According to directives established by Commissioner Kuhn, by the end of October 2023, all incarcerated persons living in the minimum custody grounds at EMCF been moved to the Satellite building. This will result in half of the physical facility (specifically what is referred to as the grounds unit) at EMCF being closed. The exception is the use of the EMCF Hall for certain vocational programs.

The Satellite Unit provides more natural lighting, central heating, air conditioning and space. Currently, limited programming activities are offered to keep the population occupied. Consequently, persons whom the Monitor interviewed living in the Satellite building reported being "very bored and frustrated". There simply aren't enough programming/activities to keep the incarcerated persons busy. This concern will be discussed in more detail in the "opportunities for improvement" section of this report.

Incarcerated persons who are considered 'minimum classification' have expressed several concerns about the move to the satellite facility. In addition to the lack of 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. On July 24, 2023, 78 incarcerated persons, who were living on the

minimum grounds compound at that time, sent a letter to New Jersey Governor Murphy stating their objections to the move. Administrator O’Dea is aware of their objections and has worked hard to provide information that will alleviate many of their concerns.

Weaponizing of PREA

During the last three compliance reports, the Monitor noted that the most prevalent message the Monitor heard from both staff and incarcerated persons was their concern regarding 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). This situation has improved greatly, at least in terms of the number of incarcerated persons making false allegations against staff.

It is evident that the number of allegations of sexual abuse and/or sexual harassment filed at EMCF 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 the third reporting period, there were 22 allegations of sexual abuse and/or sexual harassment filed. During this reporting period, there were 16 allegations made by 13 complainants. Three of those 13 complainants made 2 allegations each. The reduction in the number of filings suggests that the incarcerated persons are not filing as many false allegations strictly for their own advantage.

Some of the incarcerated persons in the focus groups stated that they believe the number of allegations of sexual abuse and sexual harassment filed by an incarcerated person against another incarcerated person is still high. 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 that until those individuals are held accountable, making false allegations will continue.

Confidentiality

In the last compliance report, it was noted that during that reporting period (August 25, 2022 – February 24, 2023), NJDOC and EMCF had invested a considerable amount of time refining processes and training staff in order to enhance confidentiality. During the compliance visit in September 2023, the Monitor and/or her Associate spoke with over 50 staff; most of

whom confirmed that they believe that confidentiality has greatly improved in the past two reporting periods. Custody staff reported that “only those who need to know, know about any allegations of sexual misconduct”. According to them, that is very different than it was previously.

However, in the interviews with the incarcerated persons, they did not believe confidentiality has improved very much. Nearly every incarcerated person the Monitor interviewed stated that they have the perception that “everyone knows” when there has been an allegation of sexual abuse or sexual harassment. They explained that there are two main reasons for this: The first is a result of the systems in place for protecting and interviewing the alleged victim. After someone reports an allegation of sexual abuse or sexual harassment, they are taken to a holding cell outside of their housing unit while staff complete the required notifications. Then the alleged victim is seen by medical and mental health staff and then interviewed by SID’s Special Victims Unit (SVU) staff. Depending on when the allegation was made, (graveyard shift, weekends, holidays, etc.), the alleged victim can be held in this area for several hours, waiting for staff to arrive at the institution. The incarcerated persons noted that when a person is gone for a long period of time, everyone knows they probably filed a PREA allegation.

This is especially true when the alleged perpetrator is moved away from the reporting incarcerated person. As one incarcerated person said, “It’s not hard to figure out that when an incarcerated person is gone for a while, and the staff member or another incarcerated person is moved away from that person, they filed a PREA allegation”.

Additionally, incarcerated persons living in the maximum compound can see when a SVU staff come onto the maximum compound, which includes the area where they interview the alleged victim. An incarcerated person in the maximum compound noted, “We see them come through the screening gate wearing their SID/SVU shirts. We know who they are and why they’re here. As soon as they come through the gate, and then someone is called out, it’s easy to figure out what’s going on”.

The second reason is that “people talk”. Staff are very clear about the expectation of confidentiality, but unfortunately, knowing the expectation and abiding by the expectation 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 they feel the need to talk to with someone. This too, can contribute to the lack of confidentiality.

I believe that NJDOC and EMCF have done a good job of focusing on this area of concern. Unfortunately, given the nature of the prison environment and the systems necessary to support that environment, it is likely that complete confidentiality will never being achieved. It is important however, that both NJDOC and EMCF leadership teams continue to emphasize the

importance of confidentiality. Additionally, as part of their ongoing quality improvement process, 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 an area identified as an opportunity for improvement in the last compliance report. Clearly, NJDOC and EMCF have invested significant time and focus on the area of subtle retaliation, in a variety of ways. Those ways included:

- Modifying and continuing to disseminate the “At a Glance Cards” to staff regarding subtle retaliation.
- Revising the power point presentation for the PREA Education Orientation, for the incarcerated persons, which provides more thorough education about subtle retaliation.
- The Institutional PREA Compliance Manager meeting face to face with all incarcerated persons who filed an allegation of sexual abuse or sexual misconduct and asking them specifically if they had experienced any incidents of subtle retaliation or other concerns of retaliation.
- Administrators touring the facility and having discussions with line staff, especially custody staff, about their familiarity with subtle retaliation and giving examples, providing scenarios and asking if that would be considered subtle retaliation, and clarifying any questions.
- Sending out newsletters to all staff educating them about prohibiting all forms of retaliation, including subtle retaliation, against any incarcerated person or staff who reports an allegation of sexual abuse or sexual harassment.

The Monitor recognizes and appreciates this attention and focus. All necessary policies and procedures are in place for retaliation monitoring. Additionally, EMCF’s PREA Compliance Manager does monitor allegations of retaliation concerning incarcerated persons. The Monitor and/or her Associate interviewed staff during the onsite compliance visit and asked what their definition of “subtle retaliation” was. Everyone we spoke with was aware of what subtle retaliation meant and that it is prohibited. They were also able to give concrete examples of subtle retaliation (i.e., holding the reporting person to a “higher standard” of following the rules, making comments to the incarcerated person about their report, increasing the number of bed/cell searches, etc.). The custody staff were all very clear that they do not believe any type of retaliation, including subtle retaliation, occurs. Custody staff pointed out that, protective measures have been put in place to enhance confidentiality. They also stated that often times, they do not know when an incarcerated person has filed an allegation of sexual abuse or sexual harassment. In those instances that they might be aware of an allegation (for example if they were interviewed by the Special Victims Unit), custody staff report that they are professional and

understand that this is part of working in a prison setting. No custody staff said they had seen or heard of any instances of retaliation against an incarcerated person for making a PREA report.

In addition, two incarcerated persons the Monitor interviewed reported they were sorry they had made a PREA complaint. It is hard for the Monitor to know if there was actual retaliation during this reporting period or if it is “hearsay” and reflected “old perceptions” of the incarcerated persons. It is also hard to know if, from the incarcerated persons’ point of view, retaliation will ever not exist. The Monitor recognizes that, during this past reporting period, there was not one incident of retaliation reported to the Special Investigations Unit or Special Victims Unit. Additionally, the Monitor spoke with every available incarcerated person who reported an allegation of staff-on-I/P during this reporting period. Every incident of retaliation reported to the Monitor was investigated, and explained. (refer to the monitoring tool, paragraph 64 for more specifics). However, the Monitor would be remiss if she didn’t “hear” the fears of the incarcerated persons, specific to retaliation.

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

Language Access

EMCF continues to have challenges with providing appropriate language services to Limited English Proficient (LEP) incarcerated persons, including not providing appropriate interpretive services in all instances. Similar to the concerns of retaliation, NJDOC and EMCF have invested significant time and focus on the area of LEP language access during this reporting period. They continued to provide refresher training for staff on the LEP policy. This training includes information on the policy and availability of the telephone interpretation services (Language Line). Custody staff appeared well educated regarding where to find outside lines they could use to call the telephone interpretation services. Additionally, the sergeants, lieutenants, and majors discussed how to use the telephone interpretation services with their chain-of-command custody staff. Likewise, most supervisors knew how to make calls to the language line.

The person who had been providing translation services at EMCF in the past, Veronica Gil, became a certified bilingual employee on August 27, 2022. The result of this certification is that EMCF now has a certified bilingual employee. Ms. Gil provides PREA orientation to LEP

incarcerated persons who are new to the facility, and provides translations services, as needed, during classification for Spanish speaking persons.

During this reporting period, Ms. Rios, the Associate Administrator, became the “LEP Liaison” for the facility. This provided focus, as well as acknowledged the importance and responsibility of this issue at the highest level of the facility. In August, Ms. Rios conducted an audit of the use of the language line by all departments of the facility and implemented immediate policies and procedures designed to facilitate use of the language line.

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.

New facility

New Jersey Governor Murphy signed the new budget, effective July 1, 2023, and with the support of the Senate and Assembly, NJDOC has been awarded \$90 million for Phase 1 for the building of a new female corrections facility. This is a significant step in the right direction, and once constructed will enable NJDOC to:

- Close the Edna Mahan Correctional Facility in its entirety,
- Move to a more central location that will enable better family unification (near major roadways, public transportation),
- Provide a more modern experience for the women (and for staff) - with modern housing areas, programming space, family unification space, honors housing, medical areas, etc.
- Build and create the first facility in New Jersey dedicated to being gender-informed from the ground-up.

The NJDOC has joined forces with various other departments and agencies necessary for such a significant project to begin. There is a “Female Facility Working Group” that is meeting regularly to keep the project moving through the many phases of review and construction. As noted in the last compliance report Commissioner Kuhn reports that this project will be a two-phased approach, which will include normative modular-type units in phase one. This will allow a more accelerated closure of EMCF, and conceivably the ability to move the female population 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 physical condition of the current EMCF is so poor. This approach will enable a more timely, and responsible exit from the facility.

B. Progress

NJDOC and EMCF 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:

Women's Correctional Safety Scales Survey (WCSS) Completed

The Women's Correctional Safety Scales Survey (WCSS) is a validated survey tool utilized by the National Institute of Corrections. Opting to conduct the WCSS was a deliberate decision by NJDOC, driven by the understanding that even negative results can trigger meaningful changes. Outcomes of a point-in-time survey quickly gauge the perceptions of incarcerated persons on safety and well-being and pinpoint areas needing intervention. The survey also offers a data-backed basis for strategic planning and provides a snapshot of conditions, making it valuable for immediate analysis and action. To ensure maximum participation, the survey was distributed across all housing units at EMCF. Orientation sessions were coordinated by the survey administration team and unit staff, where the incarcerated persons could voluntarily choose to participate in the survey. Conducted on March 28-29, 2023, the Women's Correctional Safety Scales (WCSS) survey evaluated safety and risk perceptions among 354 incarcerated persons across 11 housing units at EMCF. A total of 284 surveys were completed voluntarily. The full report is currently under review.

PREA Audit Conducted

A Prison Rape Elimination Act audit was performed at EMCF from July 10-14, 2023. Although the finalized report is not yet available, the auditor, who was also responsible for EMCF's last audit, noticed significant improvements since the last audit. The auditor's feedback was very encouraging. NJDOC and EMCF are awaiting the full report.

Programming Continues

NJLEAD (New Jersey Locally Empowered, Accountable, and Determined) establishes coordinated and collaborative systems to ensure a continuum of care and treatment from prison to the community. This program is designed to promote evidence-informed and effective reentry processes for those maxing out (completing their incarceration period) or paroling from Edna Mahan. The goal is to ensure that the rehabilitative work, academic pursuit, and vocational training implemented inside the facility continue immediately upon release. On March 30, 2023, eight (8) incarcerated persons graduated from the Reentry Ventures NJLEAD program. On May 11, 2023, fourteen NJLEAD partners conducted a reentry fair, introducing 24 incarcerated persons to this program. And on June 15, 2023, NJLEAD partners provided scholarships to three (3) women in Fenwick House, a community release program, to reenroll in the Branford Institute Phlebotomy Technician Program. All three have since graduated from the course.

The ongoing monthly activities at the facility continue, including Bingo (available to all incarcerated persons who did not receive an infraction for 30 days), 30 day No Pink Sheet Sweets (available to all incarcerated persons who did not receive a “pink sheet” for 30 days), Paint and Sip (available to all incarcerated persons who did not receive an infraction for 9 months), peer run clubs (including book clubs in both English and Spanish), crochet, card club, Zen coloring, aerobics, yoga, themed bulletin board contests with prizes, and the Empowering Women! speaker series. Additionally, there were monthly events, including:

- **March:** Art Contest “Wear Your Crown” - 2 winners will have their art framed to be hung in the commissioner’s office.
- **April:** Sexual Assault Awareness Month, partnered with SAFE in Hunterdon for a psychoeducational circle discussion.
- **May:** Four separate Mother’s Day Jazz Festivals were held in May 2023 – 93 attendees.
- **June- Ongoing-** Monthly Yoga and Sound Meditations sessions.
- **July-** Designed and implemented the peer support *Orientation Mentorship Committee* with the new location of Hillcrest wing. This will be an ongoing program in which six mentors help new IPs adjust to the environment.
- **July-** EMCF Newsletter Committee formed.

Advisory Groups Continue

Members of NJDOC and EMCF leadership teams continue to meet monthly with two very important advisory groups: the staff, and the incarcerated persons who live at EMCF. Having a consistent presence, and continuing to meet with the women and the staff at the facility, is essential to having a continuing connection to what is important,

and how their ideas can continue to shape where NJDOC/EMCF is currently and where they are going. Both Commissioner Kuhn and Administrator O’Dea acknowledge that discussions with the advisory groups continue to shape next steps for activities, incentive opportunities, re-entry discussions, facility operations, and for overall accountability.

The feedback from several Board of Trustee (BOT) members is that they feel very included, involved, and empowered. The BOT members appreciate the communication 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

As part of EMCF’s ongoing commitment to transparency and education, the PREA Compliance Manager continues to develop and distribute a monthly PREA-related newsletter. This publication serves as a platform for disseminating essential information, resources, and updates to all staff members.

This one page “At a Glance” fact sheet provides PREA information on a variety of topics. In March 2023, the staff newsletter discussed additional steps that have been added at EMCF to improve confidentiality. In April the focus was on PREA Standard 115.61, the requirement for staff to report any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment. The May fact sheet focused on the number of PREA allegations that had been submitted in April and May and a reminder that “it is imperative that staff do not confront, comment, or take any action towards the IP as that can be perceived as intimidation and retaliation” following the disposition of any allegation. In June, the discussion was specific to actions to take as a first responder, and how to be trauma informed in those actions. July’s fact sheet gave the update that the PREA audit had been completed, and discussed PREA Standard 115.51, the importance of receiving reports of sexual abuse or sexual harassment. And, finally, in August, the fact sheet compared the number of allegations of sexual abuse and sexual harassment for June, July, and August 2022 to June, July, and August 2023. It also reminded staff to continue to use their body worn cameras when having any interaction with incarcerated persons. The Monitor appreciates the efforts of the EMCF PREA Compliance Manager to educate staff on these important topics.

Staff development is an investment in the people that work at EMCF and, by extension, in the people they support and supervise. Effective training transforms the workplace culture, fosters positive relationships, and sets the stage for both professional and personal growth. During this past reporting period, EMCF provided 24 different training courses specifically designed for custody staff. For the non-custody staff, volunteers, and contractors, six specialized

courses were provided. AC Tome noted that this fact underscores her belief that every staff member, regardless of their role, is responsible for the welfare, safety, and rehabilitation of incarcerated women at EMCF.

Cameras

Body Worn Cameras (BWC) remain in full operation at EMCF and are deployed on all three shifts. As of September 6, 2023, 249,031 BWC videos have been created, accounting for approximately 21,000 hours of video recordings. Edna Mahan currently averages approximately 975 BWC videos and 84 hours of videos per day. In addition to the body-worn cameras, EMCF maintains 373 total stationary cameras. Although the BWC is an excellent tool, there are opportunities for refining the pilot. Please note the Monitor's comments under "Opportunities for Improvement" in this report.

Video Visiting

In order to encourage continued family reunification and maintain strong relationships between incarcerated persons and their families, EMCF supports a video visitation system. Video visits are available five days per week for 30 minutes, and the incarcerated persons are permitted one video visit per week, to ensure all IPs can access the kiosk.

Publication of the First Newsletter Titled "Perceptions Reimagined"

In July 2023, EMCF took a very meaningful step by empowering the women at EMCF to create their own newsletter. AC Tome describes it as a project "for the incarcerated persons at EMCF by the incarcerated persons at EMCF". This inaugural 22-page issue entitled "Perceptions Reimagined" has contributions from 19 different persons capturing diverse voices within the EMCF community. The Monitor received and read a copy of this newsletter and believes it fosters a culture of respect and safety through the voices of incarcerated persons at EMCF. It is also interesting to note that the incarcerated persons developed the name of the newsletter, "Perceptions Reimagined".

Celebration for Positive Behavior

EMCF continues to celebrate positive behavior through incentive-based activities and special events. This is recognized throughout the corrections field as a "best practice" to support positive behavior. In June 2023, EMCF conducted their first celebration to appreciate and reward all incarcerated persons who have remained infraction-free since entering the facility. The Monitor spoke with several of the incarcerated persons who participated in this celebration, and all noted how much they appreciated being recognized for their positive behavior. The Monitor believes such celebrations send the message that personal growth does not go unnoticed, and that EMCF is invested in individuals' journey toward rehabilitation.

C. Strengths

The New Jersey Department of Corrections (NJDOC) has built a strong foundation for continued progress in reaching all the goals required in the Settlement Agreement. These strengths were mentioned in previous compliance reports but remain strong and worth mentioning again.

Leadership from the New Jersey Department of Corrections

The leadership of the New Jersey Department of Corrections remains strong. Commissioner Kuhn and her leadership team continue to meet directly with the incarcerated persons at EMCF 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 NJDOC Leadership’s 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 two years and continues to be a strong leader for Women’s Services. Placing the PREA Unit, and the NJDOC PREA Compliance Manager under the 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 EMCF. AC Tome reports that she is committed to cultivating positive, professional relationships, creating an emotionally and physically secure environment for staff and incarcerated persons, and implementing best practices aimed specifically at the unique rehabilitative needs of incarcerated women.

Leadership from the Edna Mahan Correctional Facility Administrative Team

Administrator Ryan O’Dea continues to provide strong leadership for the staff at Edna Mahan. Associate Administrator Taquila Rios, Assistant Superintendent, and full-time PREA Coordinator, Amelia Renshaw, and Assistant Superintendent Bryan Fusaro continue to grow in their positions. During this past reporting period, Tiffany Thompson was appointed to the vacant position of Assistant Superintendent. Assistant Superintendent Thompson had worked previously at EMCF and is a welcome addition to the EMCF Administrative Team.

Most of the staff and IPs the Monitor spoke with had high praise for this current leadership team. As noted in the previous reporting period, AC Tome thinks it is very beneficial to have promoted staff from EMCF 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. Staff report that the culture continues to change for the better under this leadership team, and feel that the entire team is supportive, communicative, and positive.

Additionally, all three Major positions remained the same during this reporting period. This is seen as having a very positive influence on the facility. Having the same Majors for a year has clearly helped establish consistency and stability for staff.

To help improve morale, the Administrative Team embarked on a search for a facility slogan to adopt and promote as a symbol of commitment and dedication to the facility. The winning slogan is, “*One T Edna A Mahan, one Family, we are 1600 STRONG*” (1600 is the number of the facility). The Administrative Team also enhanced the efforts of the facility’s staff wellness committee. During this reporting period, the Staff Wellness Committee facilitated an abundance of activities and recognition for staff. Some of those activities included a Multi-Cultural and Inclusivity Potluck Festival in celebration of Zero Discrimination Day. There were also recognitions for St Patrick’s Day, Social Worker Appreciation Month, Officer Appreciation Week, National Nurse Week, Mother’s Day, Father’s Days, and Women’s History Month. Other activities included: Bring your Child to Work Day, a blood drive, Custody Photo Collage Presentation, Memorial Day Fish Fry, “Packed and Ready” donations for the backpack and school supply collection drive, Military Service Liaison Committee Institutional Tour, Wall of Remembrance Ceremony and Correctional Officer Day Staff Carnival. The efforts of the Administrative Team and the Wellness Committee are being well received and the Monitor sees a considerable increase in staff morale since the beginning of the Settlement Agreement, August 2021.

Communication from the Edna Mahan Administrative Team

Administrator O’Dea recognizes the critical importance of communication in a correctional setting. In his words, “communication in a correctional setting is crucial for several reasons:

- Safety: Effective communication among staff, inmates, and visitors is essential to maintain a safe environment and prevent conflicts or violence.
- Rehabilitation: Communication aids in the rehabilitation process by facilitating counseling, educational programs, and reintegration efforts.
- Conflict Resolution: Good communication can de-escalate conflicts and prevent confrontations between incarcerated persons and staff.

- Legal Rights: Incarcerated persons need to understand their rights and the rules, which requires clear communication.
- Information Sharing: Vital information about behavior, medical issues, or security concerns must be shared promptly.
- Staff Coordination: Correctional staff must communicate to coordinate activities and respond to emergencies.”

During this past reporting period, EMCF’s Administrative Team has deployed a layered, formal approach to their communication efforts that included staff focus groups, incarcerated person focus groups, meetings with incarcerated person elected liaison’s, staff newsletters, “hot boards” throughout the facility containing recent policy changes and facility updates, JPay communication blasts with the entire population, Labor Union meetings, and the administrative team walking around the facility and talking with staff and incarcerated persons about specific identified topics. Additionally, the Administrative Team recently developed “Think Pad” technology for the staff to deliver daily activity reports. These laptops are located in the office’s break room so they can receive the most current information at their leisure.

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, the Board of Trustees is strong and interacts well with both NJDOC and EMCF administrative teams. Various board members have visited the facility and participated in 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 EMCF.

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 bureaucratic challenges noted in the last two compliance reports, the latest example is the Police Training Act and the Police Training Commission (PTC).

The Monitor spoke about this situation in the last compliance report, but it is so critical, it is worth repeating. 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 an impact on the ability of women to enter the NJDOC training academy. Statistical evidence from the last two NJDOC Academy classes demonstrates that the PTC requirements for push-ups and vertical leap have a harmful impact on women passing the requirements and entering the academy. For example, in NJDOC Class 253, 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 NJDOC Class 254, 77% failed due to the vertical jump and/or push-ups.

The application process for the current class, Class 255, was conducted differently than was done for prior classes. For Class 255, an initial Physical Requirement (PR) assessment was given prior to application submission and processing. The applicant did not have to pass the initial assessment but needed to demonstrate that they were likely to pass prior to the Academy start date with training or continued exercise. If an applicant did not move onto the application submission on that date, they were not precluded from attending future processing dates to again attempt the initial PT assessment. With this change in process, 58% of females failed the assessment process. The numbers of failures for each of the requirements are as follows: Vertical Jump - 27 failed, Push-ups 85 - failed, Sit-Ups 49 - failed, 300m 45 - failed, 1.5 Mi 76 – failed.

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 EMCF 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 EMCF.

Prison Facility/Location Challenges

The facility challenges noted in the last three 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, would require more 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.

The location of EMCF 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 EMCF 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 EMCF. 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.) However, during this reporting period, the Monitor became aware of a situation that, like the PTC mandated physical requirements discussed above, is controlled by an agency outside of NJDOC but which severely impacts the staffing levels at the facility.

On January 11, 2021, there was an incident at EMCF where custody staff forcibly extracted incarcerated persons from their cells in the Restricted Housing Unit. These extractions resulted in several incarcerated persons suffering serious injuries and some having to be taken to the hospital. Ultimately, fourteen (14) correctional staff were indicted for this incident. However, to date, there are a total of 31 correctional staff, eight (8) supervisors and 23 officers that are still being investigated and are, subsequently, out on administrative leave. The investigations are being conducted by the New Jersey Office of Public Integrity and Accountability (OPIA). The Monitor is not suggesting that these investigations are not important. However, it has been nearly three years since the incident happened and for all of these three

years, these 31 correctional staff have not been available to work at EMCF or other NJDOC facilities. Encouraging OPIA to complete these investigations would certainly assist in bringing whatever number of these staff are deemed appropriate back to work at NJDOC/Edna Mahan.

It is important to note that in addition to the 31 custody staff members placed on administrative leave, as of September 21, 2023, there were an additional 33 custody staff not able to work for a variety of reasons. Those reasons include suspensions, workers compensation, injuries, pending resignations, medical issues, etc. The result is a total of 64 custody staff whose salaries are still being paid by NJDOC/EMCF, but who are not available to work. The large number of vacant positions and high sick leave usage results in mandatory overtime for the remaining staff. Some correctional staff reported working 3-4 mandatory overtime shifts per week (this is most difficult for the staff that work the graveyard shift. This shift has the smallest number of staff and is the shift that is most often required to “fill” the vacant positions on the first shift, one of the largest shifts.) It is obvious that people are not at “their best” when they are working 60-70 hours a week.

E. Opportunities for Continued Progress/Improvement

Retaliation

As discussed in the “updates” section of this report, during this past reporting period NJDOC, in general, and EMCF, specifically, has spent a large amount of time improving processes and training staff in order to prevent retaliation. All the systems are in place to monitor retaliation, and EMCF leadership has done a great deal of staff education specific to addressing ‘subtle retaliation’. Yet, most of the incarcerated persons interviewed by the Monitor and/or her Associate, reported they still believe that retaliation for reporting sexual abuse or harassment happens. A few incarcerated 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. Please see paragraph 64 of the monitoring tool for more specific information about this area of concern. The opportunity for continued progress in this area for NJDOC and EMCF is evident. This represents an area in need of continued focus, communication, and staff accountability for any acts of retaliation.

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

The Monitor noted in the last two compliance reports that there does not appear to be any formal process to update an incarcerated person on the status of their allegation nor to provide IPs with a record confirming receipt of the complaint should she want to have it. 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 those 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 may simply be "the case is still being investigated" but, at least the individual knows the case hasn't been ignored or forgotten. During the onsite visit in September 2023, the Monitor noted that the incarcerated persons were still not receiving notifications on the status of their allegations. The Institutional PREA Compliance Manager (IPCM) immediately made these notifications. The Monitor hopes this notification process continues.

Body Worn Cameras Remain On

The Body-Worn Camera (BWC) pilot program at Edna Mahan began in April 2021. By June 1, 2021, EMCF 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 draft policy, as currently written, leaves too much discretion to the staff as to when 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 activated. The Monitor has had discussions with NJDOC's Directors of Operations and understands the financial and operational difficulties in having Body-Worn Cameras activated 100% of the time. However, there is certainly an opportunity to "meet in the middle", requiring the BWC be activated in "clearly defined instances" rather than having them activated 100% of the time. The BWC Internal Management Procedure remains under review by NJDOC and will not be finalized until NJDOC, the Monitor, and the Department of Justice have agreed on its terms.

Programming at the Satellite Building

As noted in the last two compliance reports, although not directly covered by the Settlement Agreement, the Monitor would be negligent not to discuss the lack of programming at the EMCF Satellite Building. Every correctional professional realizes the connection between idleness and the facility's ability to function efficiently and safely. Idleness increases tension among incarcerated persons and between incarcerated persons and staff. It fosters boredom and frustration that make prison dysfunction almost inevitable. In every conversation the Monitor, or her Associate, had with the incarcerated persons living at the Satellite building, they complain

about having nothing to do and being extremely bored. There have been no additional staff added to provide programming in the separate housing unit, housing nearly one hundred incarcerated persons.

Additionally, as noted previously, the incarcerated persons could be strip searched a total of up to four, or if they are visiting with family members, up to five times when traveling between the Satellite building and EMCF, depending on their custody level. These searches are required when IPs arrive at EMCF, after a visit, before they leave the facility, when they arrive back at the Satellite building, and when they are transported to the main institution. Some of the incarcerated persons subsequently chose not to be transported back to EMCF for programming and activities because they simply don't want to be strip searched that frequently. More recently, this process has been streamlined to reduce the number of strip searches where possible.

The Administration of both NJDOC and EMCF are aware of this situation. They hope that with the closing of the minimum "grounds" at Edna (planned in October 2023), more resources will be able to be provided at the Satellite building. As Administrator O'Dea explains, currently EMCF 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 fourth compliance visit from September 18 – 22, 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 people 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 custody staff focus groups, two medical, mental health, and substance abuse 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 or after the compliance visit. Those video meetings are documented below.

- Assistant Superintendent Amelia Renshaw, EMCF PREA Compliance Manager
- Sexual Assault Advisory Council Member Dr. Cassidy
- Sexual Assault Advisory Council Member Custody Representative
- NJDOC Assistant Commissioner of Special Investigations Division Kelly Daniels
- Administrator Ryan O’Dea
- Assistant Superintendent Tiffany Thompson
- Board of Trustee Member Bonnie Kerness
- Board of Trustee Member Tia Ryans
- Board of Trustee Member Dr. Johanna Foster
- NJDOC Acting Assistant Commissioner Division of Operations Erin Nardelli
- Corrections Ombudsperson Terry Schuster
- NJDOC Chief of Staff Kristina Chubenko
- Ombudsperson Office Staff Roshunda Simmons
- EMCF Religious Volunteer Andrea Kelly
- NJDOC PREA Coordinator Sandra Capra
- Special Investigations Deputy Chief Investigator Chyme Jones
- EMCF Special Victims Unit Principal Investigator Gerald Charles
- EMCF Special Victims Unit Previous Principal Investigator Joseph Conway
- EMCF Mental Health Supervisor Dr. Skibbee
- Major Christopher Ilg

- Major Thomas Zwolinski
- Major Robert Karpew
- Assistant Commission for Women’s Services Helena Tome
- Rutgers Regional Nursing Manager Theresa Hernandez
- NJDOC Commission Victoria Kuhn
- EMCF Leadership Team – Administrator O’Dea, Associate Administrator Rios, Assistant Superintendent Fusaro, Assistant Superintendent Renshaw,
- Sam Winslow - EMCF LED and Volunteer Coordinator
- Ms. Gill – Certified Bilingual Employee
- 3 Lieutenants from EMCF, including one from the Satellite building
- 5 Sergeants from EMCF, including one from the Satellite building

The agenda for the onsite compliance visit was as follows:

September 18, 2023:

- Morning Briefing Meeting with EMCF Leadership Team
- Interview with LEP Incarcerated Person
- Interview with Incarcerated Person who filed PREA allegation during this reporting period
- Interview with Incarcerated Person who filed PREA allegation during this reporting period
- Interview with Incarcerated Person who filed PREA allegation during this reporting period
- Interview with Incarcerated Person who filed PREA allegation during this reporting period
- Interview with Incarcerated Person who filed PREA allegation during this reporting period
- Interview with Incarcerated Person who filed PREA allegation during this reporting period

- Interview with LEP Incarcerated Person
- Interview with LEP Incarcerated Person
- Interview with LEP Incarcerated Person
- Interview with Incarcerated Person who filed PREA allegation during this reporting period
- Interview with LEP Incarcerated Person

September 19, 2023:

- Morning Briefing Meeting with EMCF Leadership Team
- Meeting with NJDOC SID to review “109 cases”
- Incarcerated Person Focus Group – Maximum Compound
- EMCF LEP Coordinator Sam Winslow (second part of interview)
- Observed the PREA Comprehensive Orientation Education for incarcerated persons
- Review PREA materials/website with Institutional PREA Compliance Manager
- EMCF Volunteer Nora Klippstein
- Tour of Maximum Compound to include Hillcrest, North and South Housing Units, and Medical Building
- EMCF Training Lieutenant
- Contract Staff Focus Group – 2nd shift
- Staff Focus Group – 3rd shift

September 20, 2023:

- Tour of minimum “grounds”, including buildings that are no longer in use
- Custody Staff Focus Group – 1st shift
- Incarcerated Person Focus Group – Satellite Building
- Interview with LEP Incarcerated Person
- Interview with LEP Incarcerated Person who had intake during this reporting period

- Interview with LEP Incarcerated Person who had intake during this reporting period
- Tour of Satellite building

September 21, 2023:

- Morning Briefing Meeting with EMCF Leadership Team
- Incarcerated Person Focus Group – Minimum classification
- Incarcerated Person Focus Group – Maximum classification (2nd group)
- Contract Staff Focus Group – 1st shift
- Mental Health and Gateway (Substance Abuse) Staff
- Special Victims Staff Ian Koscuizka and Acquenettea McKenzie

September 22, 2023:

- Stakeholders Meeting
- NJDOC Commission Victoria Kuhn

September 27, 2023:

- Assistant Commissioner Helena Tome

During the compliance visit, the Monitor and/or her Associate conducted three staff focus groups and two staff medical, mental health, and substance abuse staff focus groups. The focus groups included a mix of male and female, racially diverse staff. 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 was a total of 28 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 August 24, 2023.
- 2) The Monitor sent the first draft report and monitoring tool to both parties on October 20, 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 November 6 and 7, 2023.
- 4) The Monitor received the comments from NJDOC on November 3, 2023.
- 5) The Monitor participated in conference calls with both parties on November 8, 2023 and November 13, 2023 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 November 20, 2023.

SUMMARY OF COMPLIANCE

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

- **Substantial Compliance** indicates that NJDOC and EMCF 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 EMCF 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 EMCF 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 69 paragraphs to be evaluated during this reported period. During this review the Monitor determined 67 paragraphs achieved a “substantial compliance” rating and 2 paragraphs (paragraphs 64 and 90) achieved a “partial compliance” rating. It should be noted that those two paragraphs are the same two paragraphs that achieved partial compliance’ in the last reporting period. 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

EMCF a safer facility.

CLOSING OBSERVATIONS

The Monitor saw continued progress again during this reporting period. The current leadership teams of NJDOC and EMCF demonstrate very positive attitudes with regards to accomplishing what is required in the Settlement Agreement and towards 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 retaliation and communication with LEP incarcerated persons) 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 EMCF will continue to work towards improvement in these specific areas.

The Monitor appreciates all the cooperation she has received from NJDOC and EMCF 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.

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 EMCF. 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.