

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

C.B., by and through his next friend,)
Charleston DePriest, et al.)
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)
Plaintiffs,)
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v.)
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)
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Walnut Grove Correctional)
Authority, et al.)
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Defendants.)
_____)

Civil Action No. 3:10cv663

2nd REPORT OF MONITORS
pursuant to:
CLASS ACTION
CONSENT DECREE

April 1, 2013

I. INTRODUCTION

Pursuant to Section IV of the above-referenced *Consent Decree*, the Monitors are to submit reports to counsel every four months on the defendants' compliance with provisions of the decree. This reporting requirement also includes the provisions of the *Memorandum of Agreement Mental Health-WGYCF*. This *Second Report* chronicles the Monitors' activities since October 2012, and provides observations and findings on the specific provisions of the Substantive Remedial Measures of the *Consent Decree* and the *Memorandum of Agreement Mental Health-WGYCF*.

II. METHODOLOGY

During this reporting period, the Monitors received and reviewed a constant stream of information and data provided by MDOC and WGYCF officials. Much of this material is provided through routine reports such as incident reports, staffing rosters, and inmate

classification data. Additional material has been generated at the requests of the Monitors such as information on Level of Care "C" inmates (LOC-C) and reports on inmates who are repeatedly involved in assaultive behavior at the facility. We have also reviewed the reports of inmate interviews routinely conducted by Alesha C. Judkins, Senior Advocate, Southern Poverty Law Center. In addition to review of these materials, routine and frequent conference calls/contacts occur on an almost weekly basis between the MDOC Deputy Commissioner and the two Monitors in order to stay current on compliance activities and issues related thereto.

During the course of this reporting period, the Monitors have conducted three site inspections. Two of these site inspections occurred during December 2012, with each Monitor making a separate inspection. The third inspection, conducted by both Monitors, occurred on February 7-8, 2013. During and subsequent to each of these site inspections, the Monitors made recommendations to both MDOC and WGYCF officials on a number of compliance issues, detailed below.

III. SUMMARY

WGJCF continues to be plagued with clear signs of instability as evidenced by, among other things, high rates of inmate assaults, lockdowns, contraband control issues, and management of special populations. The assault rate at WGJCF for 2012 was the highest of all the MDOC facilities. Through the first two months of 2013, assaults involving weapons continue to occur at alarming levels. During the reporting period, there have been at least two facility lockdowns related to serious group assaults at the facility. Inmates continue to routinely be found in possession of serious contraband such as cell phones, weapons, and drugs. For example, in December 2012, a cache of contraband was detected that included, among other things, eight hack-saw blades, 12 cell phones, 22 cell phone chargers, five bags of tobacco, and

one knife. Special management populations are over-represented in disruptive incidents at the facility. The Protective Custody housing unit generates some of the highest levels of disruptive incidents at the facility. LOC-C inmates are among the most active offenders charged with assaultive RVR's.

In addition, while definite gains have been made in the staffing and management of the facility, much work is left to be done in order to achieve required levels of safety for both inmates and staff. During the reporting period, MTC appointed a new warden for the facility who had just started his assignment at the time of the site inspections in December 2012. A new deputy warden for programs had also just been assigned to the facility. While these two new hires appear to be experienced correctional managers, they are still in a state of transition with respect to their supervision of the facility. While the number of line staff positions has been increased since June 2012, the EOR's reviewed for the reporting period are rife with examples of line staff supervision lapses such as allowing inmates to freely congregate in cells to which they are not assigned. Adding to the staff supervision problems, the facility population remains in a state of flux with new inmates being transferred in to a recently re-activated housing unit (Unit 3), and the transfer out of youth offenders to the newly created facility at CMCF.

While these aforementioned problems areas are alarming and no doubt require continued and more effective remedial measures, both MTC and MDOC officials are constantly seeking and adopting measures to improve facility compliance and remain very open to recommendations made by the Monitors. Among the initiatives underway, and progress achieved during the reporting period, are the following: 1) improved roster management; 2) improved housing unit supervision practices (controlled access to inmate cells during congregate activity) 3) increased out-of-cell time for the inmate population; 4) decrease in number of staff

use of force incidents; 5) appointment of a grievance coordinator; 6) improved delivery of educational programming; 7) improved inmate disciplinary procedures for inmates with mental health designations; 8) development of inmate tracking data to assist management in setting operational priorities; 9) development of more robust and timely case management plans and classification committees; 10) development of an auditing system that requires the MTC consent decree monitor to actively review classification decisions, case management plans, and housing decisions.

IV. OBSERVATIONS AND FINDINGS ON SUBSTANTIVE REMEDIAL MEASURES *(Consent Decree, Section III)*

A. Classification and Housing System

(1) The MDOC will utilize a classification system that ensures prisoners are appropriately and safely housed within WGYCF. Recommended Compliance Finding: **Partial Compliance**

Observations: As noted in the *1st Report*, the MDOC already has an external classification system that has been evaluated and validated some years ago. What is missing at the WGYCF is an effective internal classification system that ensures prisoners are properly assigned to various housing units based on their risk and security needs.

Until an internal classification system has been fully implemented the MDOC will not be able to reach full compliance with this *Consent Decree* requirement.

During the last on-site visit, the need to implement the internal classification system was discussed and accepted by both the MDOC and the facility operator (MTC). One of the issues that had been discovered by virtue of the recommendation by the Monitor that a case manager interview each inmate involved in a serious incident was that prison gangs were gaining control of certain program/work assignments and housing areas.

It was strongly recommended by the Monitors that monitoring systems be developed that would serve to ensure prison gang members were not securing control over these key areas of prison operations.

As of October 2012, there were 1,140 inmates. Of that number, 340 prisoners were classified as close custody with another 552 in medium custody and 224 in minimum custody. The average age was 21.5 years. As of February 2013, the total population was 1,265. The number of close custody inmates had decreased to 315, with 721 in medium custody and another 228 in minimum custody. The average age was 23.0 years. The trend toward fewer close custody and older inmates is part of a concerted effort to populate the WGYCF with an older and more stable inmate population.

As noted in the *1st Report*, the facility has a general housing plan that separates the youth in housing units according to their custody level and protective care needs. As shown in Table 1, there is a strong correlation between the custody levels of the inmates assigned to the various housing units with Building 3 units having the highest concentration of the close custody inmates. These same units, in general, have the highest rates of assaults and fights (see Table 2).

Getting control over these few but highly disruptive units will lead to significantly lower assaults and fights. Moreover, the vast majority of inmates (about 90 percent) have no assault or fights at WGYCF. But this will require further refinements to the existing internal classification system. It will also need to be continually audited and modified to ensure that no mishousing is occurring.

While making an on-site visit on February 7-8, 2013, the MTC provided the Monitors with a one page "Restructuring of Housing Units" document that begins to outline a new internal housing unit.

On the positive side, the new plan calls for the establishment of an orientation unit for all new arrivals in Building 8. Once established, this unit should help inmates transition from the reception center or the other facilities to the WGYCF. Other aspects of the proposed plan are being developed at this time.

During the February site visit, approximately 10 cases were audited by Dr. Austin along with an MDOC classification expert. The audit showed that the cases were being scored properly. However, it was also discovered that an over-ride was being used inappropriately that was placing prisoners in too low of a custody level. This problem is being corrected by both MTC and MDOC.

Table 1. Custody Level by Unit

Unit	CLOSE	MEDIUM	MINIMUM	Unit	CLOSE	MEDIUM	MINIMUM
3A	51	1	0	6B	1	56	2
%	96%	2%	0%	%	2%	95%	3%
3B	53	0	0	6C	0	54	0
%	100%	0%	0%	%	0%	100%	0%
3C	54	0	0	6D	1	56	3
%	100%	0%	0%	%	2%	93%	5%
3D	52	0	0	7A	0	54	5
%	100%	0%	0%	%	0%	92%	9%
4A	17	18	1	7B	0	60	0
%	47%	50%	3%	%	0%	100%	0%
4B	56	0	0	7C	1	53	3
%	100%	0%	0%	%	2%	93%	5%
4C	21	3	0	7D	0	56	1
%	88%	13%	0%	%	0%	98%	2%
4D	6	11	9	8A	0	0	40
%	23%	42%	35%	%	0%	0%	100%
5A	0	59	1	8B	0	0	55
%	0%	98%	2%	%	0%	0%	100%
5B	0	6	50	8C	0	0	50
%	0%	11%	88%	%	0%	0%	98%
5C	0	57	0	8D	0	60	0
%	0%	100%	0%	%	0%	100%	0%
5D	0	57	3	Observation	2	4	0
%	0%	95%	5%	%	33%	67%	0%
6A	0	56	2	Total	315	721	226
%	0%	97%	3%	%	25%	57%	18%

Table 2. Units Where Most Assaults and Fights Are Occurring

Unit	Average Number of Assaultative RVR's since placed at WGCF	Average Number of B8 RVR's since placed at WGCF	Total	Age	Average Number of Days in WGCF
WGCF 3A	0.1	0.1	0.2	27.3	556.1
WGCF 3B	0.4	0.1	0.5	27.0	499.7
WGCF 3C	0.4	0.4	0.8	20.5	814.1
WGCF 3D	0.4	0.3	0.7	20.4	772.3
WGCF 4A	0.6	0.7	1.3	22.4	679.4
WGCF 4B	0.3	0.1	0.4	27.5	450.9
WGCF 4C	0.6	0.7	1.3	25.3	744.3
WGCF 4D	0.9	0.6	1.5	21.9	486.7
WGCF 5A	0.1	0.1	0.2	20.9	407.6
WGCF 5B	0.0	0.1	0.1	24.7	397.7
WGCF 5C	0.1	0.1	0.2	21.2	445.7
WGCF 5D	0.0	0.0	0.0	21.2	418.3
WGCF 6A	0.0	0.1	0.1	21.7	446.3
WGCF 6B	0.1	0.1	0.1	20.9	549.6
WGCF 6C	0.1	0.1	0.1	22.6	293.9
WGCF 6D	0.1	0.1	0.2	20.8	488.9
WGCF 7A	0.1	0.0	0.1	19.8	483.8
WGCF 7B	0.0	0.1	0.1	26.4	179.5
WGCF 7C	0.1	0.1	0.1	26.1	352.4
WGCF 7D	0.1	0.1	0.1	20.3	465.4
WGCF 8A	0.0	0.0	0.0	22.3	41.7
WGCF 8B	0.0	0.0	0.1	20.7	99.5
WGCF 8C	0.1	0.1	0.2	20.2	168.1
WGCF 8D	0.0	0.0	0.0	26.6	51.3
WGCF CLOSE OBS	1.0	1.7	2.7	20.0	254.4
MEDICAL CLINIC	0.0	0.0	0.0	23.0	707.6
Total	0.2	0.1	0.3	22.8	417.7

B. Protection from Harm

(1) Reasonably Safe Living Condition. Recommended Compliance: **Non-Compliance**

Observations: A review of the EORs for October 2012 thru January 2013, reflects too many serious incidents of assaults, too much contraband, and ineffective management of special needs inmates. More alarming is the high rate of assaults occurring at WGYCF compared to other MDOC

facilities. As shown in Table 3, the WGYCF rate is over three times the rates if the major MDOC facilities. While some of this difference is due to the demographics of the WGCF population, they do not by themselves explain the higher rates. The rates at WGYCF must be reduced by at least 50 percent in order for the MDOC to reach compliance in this area of the *Consent Decree*. Management of inmates engaging in suicide gestures/thoughts continues to be problematic. Finally, it is evident that staff supervision of inmates is often lacking and the work force remains inexperienced as a result of high turnover, vacancies, and both voluntary and involuntary terminations (see below).

Table 3. Assault Rates for FY2012 by Facility

Facility	Population as of June 30th	Assaults	Assault Rate Per 100 Prisoners
State Facilities			
MSP	3,271	137	4
CMCF	3,214	237	7
SMCI	3,191	131	4
Private Facilities			
East MS CCF	1,358	246	18
Marshall CCF	998	51	5
Walnut Grove CCF	1,046	284	27
Wilkinson CCF	901	160	18
Regional Facilities			
Alcorn CCF	297	19	6
Bolivar CCF	369	18	5
Carroll CCF	279	1	0
Chickasaw CCF	300	21	7
George CCF	279	5	2
Holmes CCF	279	1	0
Issaquena CCF	274	4	1
Jefferson CCF	278	9	3
Kemper CCF	339	10	3
Leake CCF	280	0	0
Marion CCF	280	4	1
Stone CCF	280	6	2
Washington CCF	239	3	1
Winston CCF	279	4	1
Yazoo CCF	298	4	1
Overall for CY 2012	18,329	1,355	7
<i>Sources: Facility Monthly Reports, Daily Inmate Population Report - June 2012</i>			

(2) Sufficient Numbers of Adequately Trained Staff. Recommended Compliance Finding: **Partial Compliance**

Observations: While MTC has increased the number of officers assigned to housing units pursuant to their staffing plan, the number of vacancies when combined with high turnover and the infusion of recently trained academy cadets, leaves the facility with what can only be described as an inexperienced work force. Thirty-eight percent of the current officer complement has been hired since October 2012. There have been 48 terminations since October. Approximately eight percent of the work force is female. Twenty-five of the 28 recent training academy graduates were female. As of February 7, 2013, there were 19 officer vacancies. Since October 1, 2012, there have been 21 involuntary terminations. Such a profile does not constitute a stable workforce.

A review of the EORs for the months October 2012 thru January 2013 illustrates how this unstable/inexperienced staffing complement directly effects day-to-day operations. There were several incidents during the reporting period in which inmates entered the cells of other inmates and thereafter assaulted them. There were other assaults that went unreported until inmate injuries were later observed by staff.

A review of daily staffing rosters for the week of January 21, 2013, reflected too many instances in which certain zones did not have assigned officers. This was especially prevalent on the 3:00 p.m.-11:00 p.m. shift (2nd shift). For instance, the week of December 17, 2012, the 2nd shift experienced 40 vacancies for the week while the 1st shift had 14. While these numbers have been reduced for the month of January 2013, they remain too high.

During the December site inspection, a number of staffing/ supervision improvements were discussed with the executive staff, including the Warden and two Deputy Wardens. The Warden thereafter issued a set of Housing Rules for Offenders that if consistently enforced will enhance security on the housing units, e.g., cell windows must be kept free of obstructions, cell doors remain secure during congregate activity, certain areas identified as off limits to offenders. In addition, the Warden has initiated a deployment practice of assigning more experienced officers to certain shifts and housing areas in accord with periods of heightened activities. He is also assigning executive staff for two days a week to the 2nd shift. During the February site inspection, the Warden acknowledged a need to improve communication between shifts and will attempt to develop weekly sessions by shift for a combination of in-service training and timely exchange of supervision priorities, et cetera. This will serve as

an adjunct to the current system of individual officers and supervisors exchanging information during shift changes (“pass-thru”).

(3-12) Use of Force and Chemical Agents. Recommended Compliance Finding: **Partial Compliance**

Observations: In the previous report it was noted that SOP 16-23-01 Use of OC Spray, did not contain: 1) provisions to weigh chemical agent containers at the beginning and conclusion of a shift; or 2) provisions requiring staff in a planned use of force to check for medical contraindications for use of chemical agents. The Deputy Commissioner revised the SOP, and among other things, included both of these provisions.

Based on the MDOC Monthly Reports for WGJCF, use of force incidents have declined from a high of thirty-one in August 2012 to sixteen in January 2013. While this decline in staff use of force is to be commended and encouraged, a review of incidents for the reporting period reflects at least three instances in which both officers and supervisors violated various provisions of the SOPs on Use of Force and Chemical Agents. Both facility and MDOC officials are subjecting these incidents to appropriate review and investigation, thus several officers/supervisors were disciplined for these violations.

(13) MDOC Will not Utilize, Direct, or Allow Prisoners to Enforce Rules or Impose Discipline of Other Prisoners. Recommended Compliance Finding: **Compliance.**

Observation: There were no documented instances of WGJCF staff utilizing, directing, or allowing prisoners to enforce rules or discipline on other prisoners, for the reporting period. It is noted that Security Threat Groups (STG) or “gangs” operate with their own *sub rosa* system of enforcement and discipline which is being addressed through improvements to the WGJCF classification management system.

(14) Protection of Inmates from Abuse, Harassment, and Punishment on the Basis of Their Actual or Perceived Sexual Orientation, Gender Identity, and Gender Non-Conformity. Recommended Compliance Finding: **Compliance.**

Observation: There were no documented instances of inmates having been subjected to abuse, et cetera, for the reporting period.

(15) Prohibition of Forcing Inmates to Engage in Physical Exertion that Inflicts Pain or Discomfort. Recommended Compliance Finding: **Compliance.**

Observation: The ROS program no longer permits or requires any physical exercise that inflicts pain or discomfort and there have been no allegations that such impermissible exercises have occurred.

C. Long-Term Cell Confinement

- (1) MDOC will subject prisoners to long-term confinement except in conformity with this consent decree. Recommended Compliance Finding: **Compliance**
- (2) Prisoners may be held in long-term cell confinement only for the reasons specified under this section. Recommended Compliance Finding: **Compliance**
- (3) Prisoners *may not* be held in long-term cell confinement for the reasons specified under this section. Recommended Compliance Finding: **Compliance**
- (4) The MDOC must review all prisoners under long-term confinement every 90 days. Recommended Compliance Finding: **Partial Compliance**
- (5) The MDOC must maintain a list of all prisoners held in long-term confinement listing the date of admission, the reason for placement and the date of the last review. Recommended Compliance Finding: **Compliance**

Observations: As of August 27, 2012, there were five prisoners assigned to long-term cell confinement also known as long-term segregation. This number has now increased significantly to 22 inmates. A review of these cases shows that the basis for placement in long-term segregation meets the criteria set by the MDOC. The primary reason for the increase in long-term segregation was the transfer of 19 long-term segregation inmates to the WGCF from other facilities. Three of the current long-term segregation inmates were in this status at WGCF at the end of 2012. As shown in the table below, 13 of these inmates have been recently admitted to long-term segregation and have not yet become eligible for their first 90 day review. Several inmates did not have their 90-day review as required by MDOC policy.

List of Prisoners in Long-Term Segregation at WGCF

Name	MDOC#	Date Admitted	Days in Segregation	Next Review Date	Reason
[REDACTED]	[REDACTED]	1/24/2013	38	4/24/2013	Multi entries-disruptive gang activities
[REDACTED]	[REDACTED]	5/1/2012	306	11/1/2012 in draft 11/26/2012	Violent & aggressive behavior
[REDACTED]	[REDACTED]	1/24/2013	38	4/24/2013	Weapons Capable of Inflicting Death
[REDACTED]	[REDACTED]	6/18/2012	258	3/11/2013	Weapons Capable of Inflicting Death
[REDACTED]	[REDACTED]	2/15/2013	16	5/15/2013	Weapons Capable of Inflicting Death
[REDACTED]	[REDACTED]	3/9/2012	16	3/27/2013	Weapons Capable of Inflicting Death
[REDACTED]	[REDACTED]	1/24/2013	38	4/24/2013	Poss. of Contraband
[REDACTED]	[REDACTED]	11/29/2012	94	Missed 2/28/2013 review	Weapons Capable of Inflicting Death
[REDACTED]	[REDACTED]	11/29/2012	94	Missed 2/28/2013 review	Weapons Capable of Inflicting Death
[REDACTED]	[REDACTED]	2/15/2013	16	5/15/2013	Weapons Capable of Inflicting Death
[REDACTED]	[REDACTED]	2/15/2013	16	5/15/2013	Weapons Capable of Inflicting Death
[REDACTED]	[REDACTED]	10/25/2012	129	5/15/2013	Weapons Capable of Inflicting Death
[REDACTED]	[REDACTED]	2/15/2013	16	5/15/2013	Weapons Capable of Inflicting Death
[REDACTED]	[REDACTED]	4/24/2012	313	Missed 1/24/2013	Violent and Aggressive Behavior
[REDACTED]	[REDACTED]	1/23/2009	1,500	Missed 11/8/2012 review	Disruptive Gang Activity
[REDACTED]	[REDACTED]	12/21/2012	72	3/21/2013	Violent & aggressive behavior
[REDACTED]	[REDACTED]	11/29/2012	94	Missed 2/28/2013 review	Weapons Capable of Inflicting Death
[REDACTED]	[REDACTED]	2/15/2012	16	5/15/2013	Weapons Capable of Inflicting Death
[REDACTED]	[REDACTED]	10/25/2012	129	5/15/2013	Weapons Capable of Inflicting Death
[REDACTED]	[REDACTED]	12/21/2012	72	3/21/2013	Violent & aggressive behavior
[REDACTED]	[REDACTED]	2/15/2013	16	5/15/2013	Weapons Capable of Inflicting Death
[REDACTED]	[REDACTED]	12/21/2012	72	3/21/2013	Violent & aggressive
[REDACTED]	[REDACTED]	1/28/2013	34	4/28/2013	Weapons Capable of Inflicting Death
[REDACTED]	[REDACTED]	8/24/2012	249	3/24/2013	Disruptive Gang Activity

D. Programming and Behavior Management

(1) Removal of the Paramilitary Elements of the Regimented Inmate Discipline Program (RID). Recommended Compliance Finding: **Substantial Compliance** (see *1st Report*).

(2) MDOC Will Develop a Behavior Management Policy that Incorporates Graduated Sanctions for Rule Violations, and Positive Incentives for Good Behavior. Recommended Compliance Finding: **Substantial Compliance** (see *1st Report*).

Observations: In the Plaintiffs comments to the draft of the 2nd Report of Monitors, they noted that “the MDOC discipline policy that we reviewed does not appear to offer any system of positive incentives.” While MDOC and WGJCF offer a series of positive incentives as part of their management scheme, it is not offered within the context of the disciplinary rules and procedures. This approach is consistent with sound correctional practice. It is noted that currently under development by MDOC and WGJCF managers is a program that will provide a series of additional privileges to inmates who establish disciplinary free conduct while at the facility. It is also noted that pursuant to SOP 15-03-01, inmates can earn Meritorious Earned Goodtime and other privileges for successfully completing an educational/instructional programs or participating in work projects or other special incentive programs.

(3) Out-of-Cell Time and Outside Recreation. Recommended Compliance Finding: **Compliance**

Observations: As previously reported, a schedule was issued in August 2012, that if implemented would meet the requirements of this provision. At the time of the December site inspection, facility officials had developed a tracking system to document out-of-cell recreation. A review of this documentation for the reporting period indicates that inmates are generally receiving ample opportunities for both out-of-cell time, including recreation.

E. Disciplinary Due Process and Grievances

(1) Due Process for Imposition of Disciplinary Sanctions. Recommended Compliance Findings: **Compliance**

Observations: During the February site inspection, the Monitors observed disciplinary hearings and found they generally comport with SOP 1801-01. This will be subject to continued monitoring to include a review of

hearing packets. It is noted that as of February 2013, the facility implemented procedures for Mental Health Assessments for inmates on the mental health caseload who have been charged with RVRs. Given the number of inmates currently assigned to WGYCF with LOC-C designations (241 as of February 8, 2013), these assessments must be conducted as part of the disciplinary hearing process. A meeting with the Mental Health Counselor was conducted to review her understanding of the assessment process; this issue will be subject to continued monitoring.

(2) Adequate Grievance Procedures. Recommended Compliance Finding: **Deferred**

Observations: As previously reported, SOP 20-08-01 meets the requirements of this provision. Since the *1st Report*, a Grievance Coordinator has been designated (October 2012). During the site inspection, Monitor Martin met with the Coordinator to discuss her activities since her designation. This area will be subject to continued monitoring.

(3) Notification to Inmates of Facility Rules. Recommended Compliance Finding: **Compliance**

Observations: During both the December and February site inspections, the Monitors observed the posting of facility rules and regulations within the housing units. Monitors also reviewed the WGYCF Intake Checklist that requires that all incoming offenders be provided with the Offender Handbook (Revised July 2012).

F. Suicide Prevention

(1-4) Development of Suicide Prevention Policy which includes Appropriate Housing, Out-of-Cell Activity, Review Process, and Transfer for Intensive Mental Health Services. Recommended Compliance Finding: **Partial Compliance**

Observations: A review of incident reports for October 2012-January 2013 indicates frequent referrals for assessments of inmates engaging in suicidal gestures/thoughts. These assessments are conducted in a timely fashion in accord with SOP 16-30 Suicide Prevention Program. Inmates who require heightened observation as suicide risks are placed in the Close Observation Unit until they can be safely returned to their assigned units. In other cases, inmates have been transferred for more intensive mental health services.

Because the facility infirmary includes rooms/cells that could be utilized for suicide risk observation, the Monitors discussed the possibility of

utilizing this area for risk management rather than the Close Observation Unit. The facility Health Services Administrator (HSA) was receptive to this option, but emphasized the need to retrofit the rooms/cells in order to safely house such inmates. Toward this end, the Deputy Commissioner advised the Monitors on February 25, 2013, that he has already started the process to retrofit the rooms/cells in order to eliminate the housing of suicide risks in the Close Observation Unit.

G. Medical Care

(1) Provision of Adequate, Appropriate, and Timely Medical and Dental Care. Recommended Compliance Finding: **Deferred**

Observations: MDOC has contracted with an independent entity, AdminPros, to monitor the WGJCF health care contract Health Assurance, LLC (HALLC). AdminPros submitted the first monitoring report on December 13, 2012. While the AdminPros monitoring team was “very impressed with the quality of health care services” at the facility, they did identify a number of areas that will require follow-up for future monitoring such as the disruption of the transition from GEO to MTC, availability of personnel files and training records, needed clarity on understanding the staffing pattern agreed upon in the new contract with MDOC (see below discussion on Inmates with “Serious Mental Illness”).

(2) Prohibition on Housing Inmates with “Serious Mental Illness.” Recommended Compliance Finding: **Deferred**

Observations: WGJCR continues to house inmates who meet the *Consent Decree* definition of SMI. After the December site inspection, a data tracking system was created to provide monthly information on LOC-C inmates and their involvement in RVRs and EORs. Just prior to the February site inspection, this data was reviewed for January 2013. The data clearly indicated that a number of these inmates were over-represented in these events. In addition to a review of this tracking document, Monitor Austin had requested data on those inmates who were most frequently involved in assaultive RVRs. A review of this data (“Most Active Inmates”) indicated that 15 of the 20 most active inmates were LOC-C inmates. The majority of these inmates were housed on either Close Observation or Unit 4 (segregation). Moreover, the majority of these most active inmates fall within the definition of SMI.

After review of the data with facility officials, including the HSA and mental health care staff, the Monitors met with the MDOC Commissioner, the Deputy Commissioner, the Chief Medical Officer, and the General Counsel, to discuss, among other things, options to better manage the SMI

population at the facility. Among the options discussed were the following: 1) the transfer of some number of these inmates to facilities with more specialized mental health care services; 2) development of dedicated mental health housing at WGJCF (both a residential unit and a dedicated general population unit); and 3) the retention of an independent correctional mental health care expert to assess the LOC-C population in terms of services currently available, including whether there is an appropriate level of mental health care staffing available at the facility to serve the current population.

The Monitors, in the near-term, will continue to work with all parties to further the development of management strategies to address this troublesome population. The Monitors will conduct follow-up site work in March that may include site work by the aforementioned independent mental health care expert.

(3) Out-of-Cell Activity for Inmates Who Are in Need of Medical Care. Recommended Compliance Finding: **Deferred**

Observations: Since the last reporting period, HALLC adopted a Sheltered Housing Policy (12-01-12) that includes a provision for out-of-cell activity when an inmate is admitted to housing in the facility infirmary.

H. Contract Monitoring and Revisions

(1-2) Development and Implementation of Comprehensive Contract Monitoring Policies and Procedures. Recommended Compliance Finding: **Compliance**

Observations: See Section G.1. above, for monitoring of the health care provider. A review of the most recent “On-site Contract Monitoring Worksheet” (January 2013) completed by the MDOC Contract Monitor confirms active monitoring is being conducted. It is strongly recommended that the Monitor’s Reports be made available to the Contract Monitor for incorporation into her monitoring duties.

V. OBSERVATIONS ON ENFORCEMENT AND MONITORING

(Consent Decree, Section IV)

The *Consent Decree*, Section IV(3), Enforcement and Monitoring, requires the monitors within 90 days of the Court’s approval of the consent decree to collaborate in a non-binding manner with MDOC to promulgate the policies, procedures, classification, and staffing plans necessary to effectuate the terms of the *Consent Decree*. While this

collaboration has been ongoing since the inception of the monitoring term, and MDOC has promulgated a whole series of policies, procedures, classification and staffing plans to effectuate the terms of the consent decree, this process continues. In response to the draft of this 2nd Report of Monitors, the Plaintiffs counsel provided a spreadsheet identifying policies that in their view do not comply with the *Consent Decree*. The Monitors have reviewed this spreadsheet and will utilize it as an aid in the ongoing collaboration with MDOC to meet the terms of this provision.

/s/

Steve J. Martin

/s/

James Austin

CERTIFICATE OF SERVICE

I, Vanessa Carroll, one of the attorneys for Plaintiffs, hereby certify that on this date I electronically filed the Second Monitors' Report for Walnut Grove with the Clerk of the Court using the ECF system which sent notification of such filing to all counsel of record.

SO CERTIFIED this 4th day of April, 2013.

/s/Vanessa Carroll

VANESSA CARROLL, MSB #102736