

**Fifth Monitor's Report**

Review Period:  
8/25/23 – 2/24/24

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 Corrections (NJDOC) and EMCF in response to the specific requirements of the provisions in the settlement. This is the fifth required court report, covering the time period of August 25, 2023, through February 24, 2024.

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 August 25, 2023 - February 24, 2024. 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.

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

### **Specific Actions to Evaluate Compliance**

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

- Prior to, and after, the on-site compliance visit, the Monitor conducted virtual interviews with 41 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 February 26 – March 1, 2024. 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 (1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup>). The Monitor also spoke with several additional staff during her tour of the facility.

- Note: On Wednesday, February 28, due to an illness, the Monitor’s Associate was not able to participate in two focus groups: one with custody staff and one with civilian staff. A representative from the Department of Justice and a representative from the law firm of Lowenstein Sandler facilitated these focus groups and the notes from these meetings were shared with the Monitor.
- Additionally, a representative from the Department of Justice and a representative from the law firm of Lowenstein Sandler facilitated a focus group with six (6) 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/EMCF. Gateway contracts with NJDOC to provide substance abuse treatment for incarcerated persons. As mentioned above, the notes from this meeting were shared with the Monitor. 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 (IP) focus groups, comprised of approximately 34 randomly selected incarcerated persons at EMCF that week, including two focus groups at the EMCF Satellite Building. The Monitor also spoke with several additional incarcerated persons during her tour of the facility.
- The Monitor spoke with three (3) incarcerated persons (IP’s) whose primary language is other than English, also known as Limited English Proficiency (LEP) incarcerated persons who came into the facility during this reporting period. Two persons spoke Spanish and one IP spoke Mandarin as their primary language. The purpose of these interviews was specifically to explore how staff communicate with these IP’s.
- The Monitor spoke with nine (9) incarcerated persons who had recently submitted an allegation of sexual harassment or sexual abuse. The purpose of these interviews was specifically to determine how the IP’s were treated during the investigation and to ask if these IP’s felt they had been retaliated against for filing the allegation.
- The Monitor spoke with two (2) LEP incarcerated persons who had participated in a disciplinary hearing during this reporting period and two (2) LEP incarcerated persons who had spoken with a Special Investigations staff member during this reporting period.
- 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 seventy 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 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 minimum security incarcerated population to a Satellite Building*

The closure of the EMCF Full Minimum (“FM”) housing units were necessary to provide the individuals housed in the minimum complex with a more modern and improved facility – on an interim basis – while a new women’s correctional facility is constructed. As reported in the last compliance report, in July 2022, due to infrastructure issues, the first group of incarcerated persons were transferred from Stowe Building at EMCF to the EMCF Satellite Unit.

On October 18, 2023, 71 IPs housed at EMCF “Grounds” in Full Minimum Status. were transferred to Building 2 at the EMCF Satellite Unit, which has an operational capacity of 192 IPs. This transfer signals the closure of the EMCF full minimum housing units, leaving only a higher security unit and a mixed-use space on the original EMCF grounds.

During the planning for the move, priority attention was made to ensure the needs of the IPs at the Satellite Unit were enhanced, including:

- Improved housing conditions, including temperature control.
- Creation of an “Honors” dorm.
- Visitation in compliance with the Dignity for Incarcerated Primary Caretaker Parents Act.
- Medical and mental health care.
- Substance abuse treatment.
- Education and social services.
- Various activities.
- Preparation for reentry into the community; and
- Ensuring the overall safety and security of incarcerated persons and staff.

As noted above, the Satellite Unit includes Honors Housing, as an incentive for the incarcerated population to maintain good behavior. The Honors Housing, which has a capacity of 24 persons, includes:

- A ratio of approximately 1 toilet to 8 IPs; 1 shower to 4 IPs; 1 sink to 4 IPs.
- Normative furniture for sleeping area.
- Doors installed on 3 housing pods for additional privacy and noise reduction.
- Doors installed on 3 program pods for additional privacy and noise reduction.
- Access to preferred job details.

These additions offer more privacy, personal control of the environment, and a pro-social setting appropriate for enhanced Honors Housing.

The EMCF Satellite Unit is a short distance (approximately 4 miles) from the EMCF main compound. In the new arrangement at the Satellite Unit, providers such as medical clinicians, social workers, and educational staff have office spaces on the housing unit, thus alleviating the need for the population to transfer back to the main campus to receive those services.

### Confidentiality

In the previous compliance report, it was observed that between August 25, 2022, and February 24, 2023, both NJDOC and EMCF dedicated significant effort to refining operational procedures and training their staff to improve confidentiality. During the most recent compliance visit, the Monitor and/or her Associate engaged with over 50 staff members, the majority of whom expressed that they have seen a notable enhancement in confidentiality over the past three reporting periods. Additionally, the Monitor and/or her Associate conversed with over 60 incarcerated persons, with the majority confirming an improvement in confidentiality, although it should be noted that this assessment was not unanimously agreed upon by all IP's.

As highlighted in the previous compliance report, achieving complete confidentiality in a prison setting, with its inherent complexities, may be unattainable. However, the Monitor acknowledges that NJDOC and EMCF have diligently focused on this area and have implemented all necessary adjustments effectively.

### Retaliation

The Monitor acknowledges and values the attention and dedication given to this matter. All essential policies and procedures for monitoring retaliation are firmly established. Additionally, EMCF's PREA Compliance Manager diligently oversees allegations of retaliation involving incarcerated persons. During the onsite compliance visit, the Monitor and/or her Associate conducted interviews with both staff and incarcerated persons, exploring their understanding of "subtle retaliation." Both groups expressed awareness of the importance of preventing retaliation. Specific examples of retaliation were discussed however, to include subjecting the reporting individual to stricter adherence to rules, making disparaging comments about the report, or increasing the frequency of bed/cell searches.

Throughout the past reporting period, five incarcerated persons lodged allegations of retaliation. One allegation was substantiated, one was deemed unsubstantiated, and three are currently under investigation. The Monitor views the submission of these allegations positively—not because of the occurrence of retaliation, but because it indicates that incarcerated persons recognize the importance of preventing retaliation and understand the process for reporting such behavior.

Comparable to the challenges of achieving complete confidentiality in a prison environment, addressing retaliation, given its inherent complexities, may also prove to be an elusive goal. However, it's important to note that the Monitor recognizes NJDOC and EMCF's diligent focus on this issue and their implementation of necessary practices to discourage retaliation.

### Language Access

Similar to the attention given to concerns about retaliation, NJDOC and EMCF have dedicated significant time and effort to improving access for LEP IPs during this reporting period. Designating the Associate Administrator as the "LEP Liaison" for the facility has elevated the importance and responsibility of promoting language access to the highest level.

The progress made in this area during the reporting period is evident. One clear indicator of progress is the substantial improvement in the use of the language line and translation services. There has been a demonstrated 282% increase in the use of interpretation services and a 400% increase in translation services, as compared to the previous reporting period, extending up to January 31, 2024.

Staff demonstrated a working understanding of how to access outside lines for telephone interpretation services. Furthermore, sergeants, lieutenants, and majors discussed the utilization of these services with their chain-of-command custody staff. Similarly, most supervisors spoke knowledgeably about the process of initiating calls using the language line.

EMCF Administration circulated a memo to healthcare and mental health contract staff, outlining expectations for interactions with LEP IPs. The memo emphasized strict adherence to specific protocols to ensure effective communication during medical, mental health, and SUD treatment encounters. Additionally, a mental health care provider obtained certification as bilingual and is now capable of conducting mental health treatment in Spanish.

Medical staff enhanced their procedures by adding LEP status to the "alerts" section of electronic medical files and developing a policy where LEP patients are automatically offered access to the language line. These measures reflect significant improvements and a heightened focus on enhancing communication with LEP incarcerated persons.



As emphasized in paragraph 90 of the monitoring tool, there are still outstanding matters to address regarding language access. Specifically, the Monitor observed a concerning practice: when a Limited English Proficiency (LEP) incarcerated person faces a disciplinary charge, they receive written documentation outlining the alleged rules violation and their rights and privileges during the hearing. However, this information is provided only in English, rendering it unreadable for them. The Monitor was surprised and concerned to learn that this is a common statewide practice. Furthermore, consistent utilization of the language line during disciplinary hearings is lacking, and in some cases, it's not even offered to the incarcerated person. In some cases, it appears that during this reporting period, EMCF relied on other IPs acting as disciplinary hearing “liaisons” to provide interpretation services to LEP IPs facing disciplinary charges.

Another concern arises from custody staff's ongoing reliance on other incarcerated persons for interpretation. While it's acceptable if the LEP incarcerated person, having been offered telephonic or live interpretation from a qualified interpreter, instead requests another individual to interpret for them, it becomes problematic if custody staff actively seek out another incarcerated person to interpret for the LEP individual. The crucial difference lies in the first scenario, where it's the incarcerated person's choice. Incarcerated persons are likely to select individuals they are familiar with and trust that person to accurately interpret for them, recognizing however that there may still be some risk of inaccuracies in interpretation. In contrast, when staff members recruit someone to interpret, they may lack insight into the relationship dynamics and risk breaching privacy by sharing sensitive information (such as medical appointment details). Furthermore, staff members may not accurately ascertain whether the incarcerated person they enlist for interpretation possesses the requisite skills, motivation, and reliability to interpret accurately.

Lastly, it was disheartening and concerning for the Monitor to note that most of the programming remains inaccessible to LEP IPs. This concern was previously highlighted in the compliance report. Specifically, Cognitive Behavior, Psychoeducational, Psychotherapeutic, and Volunteer programs like Alcoholics Anonymous are offered exclusively in English. Even programs recommended by the Parole Board lack accommodations for LEP individuals. Although during this reporting period, there was a "Thinking for a Change" class being offered to seven Spanish-speaking IPs. However, this represents more of an exception than a standard practice. For example, this is the first instance of a Cognitive Behavior class being conducted in Spanish. Moreover, notices for class registration and appointments with Social Workers are available exclusively in English.

In fairness, on March 5, 2024, immediately after the compliance visit when the Monitor noted her concerns around language access for all programs, the NJDOC Division of Programs and Reintegration Services developed an action plan to increase LEP IPs' access to programming. The action plan included:

- Hiring an English as a Second Language (ESL) teacher for EMCF to begin offering ESL classes for IP's who want to learn English.
- Hire an emergency translator to provide short-term and long-term translator services for psychoeducational programming, school, and worship services. Note: For the short-term interpreter services, the plan is to hire through a temp agency. The Scope of Work that was provided to the temp agency for interpreters was: *Provide English to Spanish and Mandarin interpreter services for both NJDOC Programs and Support Services Unit and the Office of Educational Services between professional staff and the incarcerated population in the correctional facility setting.* DOC received 48 resumes for Spanish-language Interpreter Services and three for Mandarin-language Interpreter Services. They are currently in the process of interviewing candidates.
- The current plan includes checking in every Monday, Wednesday, and Friday at 9:00 a.m. with the LEP IP at EMCF who speaks Mandarin to ensure she is getting her needs met.
- It also includes exploring technology enhancements to aid an LEP IP to participate in psychoeducational programming, school, and worship services.
- Two Assistant Commissioners and one Director were assigned to follow up on specific tasks and spearhead implementation of LEP action items at various facilities, including EMCF.

The Monitor acknowledges the effort and commitment demonstrated by the leadership at Edna Mahan in addressing this issue during the last reporting period. However, challenges persist in this area, which are elaborated in paragraph 90 of the monitoring tool.

### New facility

During the previous reporting period, it was announced that Governor Murphy, with support from the Senate and Assembly, had provided initial funding to begin construction efforts for a new correctional facility for women. Subsequently, a "State Female Facility Working Group" was formed to oversee the project's progress from planning to construction. This group includes key stakeholders from various state departments such as the Department of Treasury, Division of Property Management and Construction (DPMC), New Jersey Department of Environmental Protection (NJDEP), New Jersey Department of Community Affairs (DCA), and the NJDOC.

Recognizing the importance of fully closing the Edna Mahan facility, it is crucial to move forward with the opportunity to develop New Jersey's first purpose-built and gender-informed facility. Currently, the next steps for the project involve finalizing the publication of the Request for Proposal and Scope of Work for the Architect and Engineer. The full process of closing EMCF, building a new facility, and transferring IPs could take years to complete.

Additionally, plans were announced during the previous reporting period for the closure of half of the physical facility at EMCF (the grounds/minimum compound) and the opening of a temporary satellite unit. In October 2023, the first phase of the EMCF closure was completed,

resulting in the closure of half of the physical facility at Edna Mahan, specifically the minimum facility (also known as the “grounds”).

The Edna Mahan Satellite facility offers better overall physical conditions, including air conditioning and abundant natural light, and provides a range of services such as social services, education services, various activities, and essential medical services. Despite its advantages, including the opening of the Honors Housing Unit to promote positive behavior and community-building, the facility can only accommodate about half of the population due to various limiting factors. This highlights the necessity of a purpose-built facility to fully meet the needs of incarcerated persons and ensure a safe and conducive environment for rehabilitation and reintegration.

#### *Programming at the Satellite Building:*

In the past two compliance reports, the Monitor highlighted the lack of available programs at the Satellite building. Every time the Monitor or her Associate spoke with the incarcerated persons residing there, they consistently expressed dissatisfaction with the lack of activities and stated that they were extremely bored. When the first group of incarcerated persons were transferred to the Satellite building in March – June 2022, no additional staff were assigned to provide programs.

During that period, the incarcerated persons were shuttled back and forth between the Satellite building and EMCF for various activities, including programming, visits, medical and mental health appointments, and some educational classes. Depending on their custody level, an incarcerated person could undergo up to four strip searches, or up to five if they were visiting with family members, during these trips.

Both the NJDOC and EMCF administrations were aware of this issue and anticipated that with the closure of the minimum "grounds" at EMCF, more resources could be allocated to the Satellite building. At the time, EMCF was responsible for staffing three different areas: the minimum "grounds," the maximum compound, and the Satellite building. However, they were only funded and staffed for two of these areas. It was expected that additional resources and staff would be allocated to the Satellite building once the minimum "grounds" section of the facility was closed.

As previously mentioned, on October 18, 2023, all incarcerated persons housed in the EMCF "Grounds" under Full Minimum Status were relocated to the EMCF Satellite Unit. This relocation signifies the closure of the full minimum housing units at EMCF, leaving only individuals housed in the maximum compound. Consequently, the programs previously available at the minimum grounds on the main campus have been moved to the Satellite buildings. Both buildings in the Satellite facility now provide medical and mental health services, visiting

opportunities, social services, and a wide array of programming. In fact, the only programs that incarcerated persons need to return to the main campus for are Carpentry, Cosmetology, and the New Jersey Scholarship and Transformative Education Program (NJSTEP) college courses. Accordingly, the frequency of strip searches has significantly decreased.

## **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:

### *Special Investigations Division (SID):*

During the recent reporting period, eight (8) new allegations of sexual abuse were reported to both the Monitor and the Department of Justice (DOJ). This marks a decrease from the 16 allegations reported in the previous period.

Additionally, three new policies were finalized by the Special Investigations Division (SID) during this reporting period. All staff members from the Special Victims Unit, EMCF, and SID PREA liaisons have received training on these three (3) policies.

On Wednesday, January 24, 2024, New Jersey's Special Investigations Unit organized a meeting involving representatives from the NJDOC (including SID staff, Women's Services Staff, and Edna Mahan Administration), the Hunterdon County Prosecutor's Office (with three representatives), and SAFE in Hunterdon (with two representatives). The meeting facilitated an open and productive discussion among all parties on improving services for incarcerated persons who are alleged victims of sexual assault. During the meeting, an Assistant Prosecutor from the Hunterdon County Prosecutor's Office reiterated that the office grants New Jersey's Special Investigation Division full authority to investigate allegations of sexual contact and harassment. Moreover, it was emphasized that if an investigation reveals potential criminal liability on the part of a Correctional Officer, SID is empowered to press criminal charges without prior approval from the Hunterdon County Prosecutor's Office.

Furthermore, the Assistant Prosecutor, Detective Sergeant, and victim advocate coordinator from the Hunterdon County Prosecutor's Office (HCPO) commended SID's reports as "excellent," noting their thoroughness and level of detail. The HCPO indicated that upon receiving a completed report from SID, follow-up actions are rarely necessary. The Detective Sergeant also praised SID's evidence room, describing it as "perfect" and expressing deep admiration. This feedback is significant as it aligns with the purpose of the settlement agreement, ensuring that all allegations of sexual abuse undergo comprehensive and credible investigation, reflecting positively on SID's performance.

### Prison Rape Elimination Act Audit Conducted

A Prison Rape Elimination Act (PREA) audit was performed at EMCF from July 10-14, 2023. The final report was officially filed on March 15, 2024. EMCF was found in full compliance and exceeded in 2 standards 115.11 & 115.33. 115.11 mandates “Zero tolerance of sexual abuse and sexual harassment; appoint an identified PREA coordinator. An agency shall have a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment. The policy should further outline the agency’s approach to preventing, detecting, and responding to sexual abuse and sexual harassment.” 115.33 requires that incarcerated persons receive information regarding the agency’s sexual abuse and sexual harassment prevention policies and procedures during the intake process. It further requires comprehensive inmate education regarding sexual abuse and harassment prevention and response mechanisms within 30 days of intake.

### Agency’s Focus on Policy Writing

During this past reporting period, all Level 1 (agency-wide) policies relevant to the topics in the Settlement Agreement have been thoroughly revised and officially adopted by the New Jersey Department of Corrections (NJDOC) after approval by the Federal Monitor, the Department of Justice (DOJ), and NJDOC. NJDOC has revised, finalized, and adopted the following Level 1 policies:

- ADM.010.004 - Staff/Incarcerated Person Over Familiarity
- CUS.001.CRP.01 - Camera Review Procedures
- CUS.001.SEA.001 - Searches of Incarcerated Persons and Correctional Facilities
- PCS.001.008 - Prevention, Detection and Response of Sexual Abuse and Harassment
- SID IMP #14
- SID IMP #35
- SID IMP #48
- ADM.019.003 - Close Custody Units
- CUS.001.011 – Policy Statement - Searches of Incarcerated Persons and Correctional Facilities
- IMM.001.004 - Zero Tolerance Policy: Prison Sexual Abuse and Sexual Harassment
- IMM.004.RHU.03 - Amenities and Privileges Two-Level Program
- ADM.019.003.ADJU - Adjustment Unit
- ADM.019.003.EMCT - Emergency Confinement
- CUS.001.BWC.011 – Body Worn Cameras

Level 3 policies (specific to EMCF) remain under revision, as they rely in large part on the Level 1 policies. New Level 3 policies have also been recently developed due to the depopulation of the Minimum-Security Unit at EMCF and the move of those incarcerated persons to the Satellite Facility.

Through the development of these new policies, the agency aims to enhance clarity, promote teamwork, and ensure consistent service for incarcerated persons. This collective endeavor demonstrates the agency's proactive stance in tackling emerging challenges, simplifying processes, and cultivating a culture of accountability and transparency.

### Advisory Groups Continue

NJDOC and EMCF leadership teams continue to maintain regular meetings with three crucial advisory groups: staff members, incarcerated persons residing at EMCF, and the Board of Trustees (BOT). Sustaining a consistent presence and ongoing engagement with both the women and the staff within the facility is vital for maintaining a strong connection to their concerns and ensuring that their input shapes the present and future direction of NJDOC/EMCF. Commissioner Kuhn and Administrator O'Dea recognize that these discussions with advisory groups play a pivotal role in determining the next steps for various activities, incentive programs, re-entry initiatives, facility operations, and overall accountability measures.

Multiple members of the Board of Trustees (BOT) have expressed feeling highly included, engaged, and empowered within their roles. They value the open lines of communication maintained with Commissioner Kuhn, Assistant Commissioner Tome, and Administrator O'Dea. Moreover, they appreciate the transparency and accessibility demonstrated by these officials.

### **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 NJDOC under Commissioner Kuhn's guidance remains robust. Commissioner Kuhn and her leadership team maintain monthly meetings directly with incarcerated persons at EMCF, showcasing their personal dedication to attentively address any concerns raised by the incarcerated population. This ongoing engagement not only signifies the leadership's commitment to adhere to the Settlement Agreement but also underscores their determination to restore the reputation of both the NJDOC, and particularly the Edna Mahan Correctional Facility, in the eyes of staff, incarcerated persons, and the public.

### Leadership from the Assistant Commissioner of Women's Services

Assistant Commissioner (AC) Tome has been serving in her role for almost three years, demonstrating consistent strong leadership in Women's Services. By placing the PREA Unit and the NJDOC PREA Compliance Manager under AC Tome's supervision, there has been enhanced support for meeting the requirements of the Settlement Agreement. This organizational structure also facilitates focused leadership in safeguarding incarcerated persons from sexual abuse and harassment at EMCF. AC Tome emphasizes her commitment to fostering positive, professional relationships, establishing a secure environment—both emotionally and physically—for staff and incarcerated persons, and implementing best practices tailored to address the distinct rehabilitative needs of incarcerated women.

### Leadership from the Edna Mahan Correctional Facility Administrative Team

Administrator Ryan O'Dea continues to provide effective 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 are all making strides in their respective roles. Tiffany Thompson was recently appointed to the position of Assistant Superintendent and has quickly become an integral part of the leadership team. Furthermore, the retention of all three Major positions during this reporting period has had a notably positive impact on the facility. Maintaining consistency in these roles for a year has contributed to establishing stability and reliability for the staff.

The Monitor cannot overstate the critical importance of having a strong leadership team in place. Effective leadership establishes the atmosphere for the entire facility, cultivating a culture of accountability, professionalism, and respect among both staff and incarcerated persons. Under Administrator O'Dea's leadership, the team provides clear direction, ensuring consistent implementation and adherence to policies and procedures outlined in the Settlement Agreement. Moreover, the current leadership at EMCF fosters staff morale and retention by offering support, guidance, and avenues for professional growth. Many staff members have expressed appreciation for the leadership provided during this challenging period of significant change at the facility.

### Stakeholders/Partners

The Monitor remains impressed by the external resources and partnerships that NJDOC has developed. The ongoing support from the Moss Group and the primary attorneys at Lowenstein Sandler LLP, in the Monitor's view, contributes significantly to NJDOC's and EMCF's compliance with the Settlement Agreement. Moreover, as mentioned previously, the Board of Trustees demonstrates strength and effective interaction with both NJDOC and EMCF administrative teams. Several board members have visited the facility and actively participated in the monthly "Empowering Women!" speaker series.

## D. Challenges

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

### Police Training Act and the Police Training Commission

The New Jersey Department of Corrections and Edna Mahan Correctional Facility for Women continue to face significant bureaucratic challenges. One of these challenges involves the Police Training Act and the Police Training Commission (PTC). Despite being addressed in the last two compliance reports by the Monitor, there has been no resolution over the past year. This issue is sufficiently crucial that it warrants emphasis once again.

It's important to understand that the NJDOC operates under the authority of the Police Training Act and the Police Training Commission (PTC). According to N.J.S.A. 52:10b-71, the PTC is tasked with developing and certifying basic training courses for various law enforcement positions, excluding the New Jersey State Police.

The PTC issues a Basic Law Enforcement Course Trainee Manual, last revised on January 26, 2023. This manual outlines pre-academy fitness requirements, which are uniform across genders and age groups. Trainees have two attempts to meet these physical standards before beginning the academy. Failure to meet these requirements results in denial of admission, as per PTC regulations.

These mandated physical requirements set by the PTC are affecting the enrollment of women in the NJDOC training academy. Data from the last three NJDOC academy classes reveals that criterion such as push-ups and vertical leap disproportionately hinder women from passing and entering the academy. In one academy offering, 58% of female applicants 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 run	45 failed
1.5 Mile run	76 failed

As repeatedly emphasized, this data is troubling. Unless the PTC adjusts its requirements to establish reasonable physical standards for female applicants, the Department will continue to face challenges in recruiting and advancing women correctional officers within the NJDOC. This issue not only affects all NJDOC facilities but has a particularly significant impact on EMCF, given the staffing requirements outlined in the Settlement Agreement and the need to recruit and retain female correctional officers at the facility.



Another challenge faced by the New Jersey Department of Corrections (NJDOC), operating under the authority of the Police Training Act and the Police Training Commission (PTC), is the limitation imposed by the PTC on the locations and dates of the Academies. This restriction significantly curtails the number of academies NJDOC can offer. The Academy typically spans 19 weeks in duration. Presently, NJDOC is constrained to conducting only one academy at a time. Considering time off for holidays and breaks between academies, NJDOC manages to offer an average of only two academies annually.

The most recent academy saw the highest number of graduates ever, totaling 86. With efforts from the Recruitment and Retention team potentially yielding more recruits, there's hope for this number to increase. Even if the number of graduates were to reach 100—an ambitious 16% increase—this would still amount to just 200 new staff per year. Historically, NJDOC has experienced an average monthly loss of 46 staff, totaling 552 staff annually. However, this trend has recently improved, with a reduced monthly loss of 26 staff, totaling 312 staff annually. Whichever figure is considered, it's evident that offering academies only twice a year will continue to result in NJDOC losing more staff annually than they are able to gain.

#### Prison Facility/Location Challenges

The facility challenges highlighted in the last four compliance reports to the Court persist. The physical infrastructure is over 110 years old, leading to various issues such as inadequate hot water, electrical disruptions, frequent power outages, and mold infestations. Commissioner Kuhn emphasized that sustaining the current deteriorating facility in its basic operational state would necessitate an investment exceeding \$110 million. It's important to note that this amount is solely for maintaining functionality, not for implementing improvements.

Moreover, the location of EMCF remains a significant hurdle. Staff members who don't reside in the vicinity face a consistently lengthy commute of 60 to 90 minutes each way. Such an extended commute makes working at the facility less appealing compared to other employment opportunities within the New Jersey Department of Corrections system.

#### Staffing

Staffing remains a persistent challenge at EMCF, stemming from various factors previously discussed such as the facility's physical location, requirements of the Police Training Act for the training academies, difficulties in hiring qualified personnel, and the number of graduates from the Academy. Regardless of the specific reasons, research underscores that understaffing in prisons significantly heightens the risk of sexual abuse incidents. With limited personnel available to supervise incarcerated persons, opportunities for predatory behavior escalate substantially. Studies indicate that overcrowded facilities and understaffed shifts create an environment where staff may struggle to adequately oversee interactions, leaving vulnerable individuals prone to victimization.

During the drafting of the Settlement Agreement, staffing emerged as a significant concern at EMCF. Section "D" of the Settlement Agreement, focusing on Staffing, constitutes the largest portion of the Agreement. Specifically, six paragraphs within the section emphasize the importance of developing and adhering to a staffing plan that ensures adequate security staffing levels to protect incarcerated persons from sexual abuse. However, over the 2 ½ years since the Settlement Agreement took effect, staffing levels have declined by 32 officers. As of December 1, 2023, EMCF had 239 filled positions out of 279 total positions, including paid leaves.

While the numbers paint a bleak picture, they only scratch the surface of the issue. During the compliance visit, discussions with both staff and incarcerated persons revolved mainly around the excessive overtime endured by correctional officers. One staff member recounted that a week with only three days of overtime was considered relatively light. Many staff members reported being required to work overtime if their shifts fell on Thursdays, Fridays, Saturdays, or Sundays. Third shift (10 PM to 6 AM) workers, in particular, face severe challenges, as their shift is the smallest while the following shift is the largest, resulting in potential overtime obligations up to five times a week. This relentless schedule leaves third shift staff exhausted, disheartened, and completely burnt out. While acknowledging their receipt of overtime pay, most staff with whom the Monitor spoke reported that, as one person put it, "the financial compensation is not worth the sacrifices made in terms of spending time away from family."

It should be further noted that the incarcerated persons talked about the amount of overtime correctional staff are working. There were two main themes that comprised these conversations. The first was empathy from the incarcerated persons for the staff having to work so many extended hours, recognizing the detrimental impact on their well-being and job performance. The second theme was the concern that the fatigue resulting from overtime work compromises the safety and security of both officers and the incarcerated persons. They expressed concerns about compromised safety and security due to staff fatigue, noting instances where tired officers may be less vigilant and responsive to emergencies. Some incarcerated persons reported that they refrain from seeking assistance from tired staff to avoid burdening them further. There's a common concern among incarcerated persons that staff fatigue could lead to lapses in supervision, jeopardizing their safety.

In fact, several incarcerated persons told the Monitor that they are hesitant to ask staff for anything, because they don't want to make their work more difficult because they know the staff are so tired. One IP voiced concern that if an incident were to occur while she's in her cell, staff might not be aware because they are less vigilant during their fourteenth, fifteenth, and sixteenth hours of work. Lastly, many of the incarcerated persons with whom the Monitor spoke believe that extended work hours lead to physical and mental fatigue, which can impair decision-making abilities and job performance.

The Monitor was discouraged to learn that none of the 86 graduates from the recent academy were assigned to work at EMCF. Decision-makers at NJDOC clarified that, over the past six months, increased staffing was prioritized at NJ State Prison, Northern State Prison, and Garden State Correctional Facility due to their higher security levels and frequency of violent incidents involving both staff and incarcerated persons. Additionally, Garden State Correctional Facility serves as a reception facility and houses youthful, incarcerated persons, further justifying the prioritization of staffing there. Furthermore, those responsible for assigning recruits explained that, to prioritize officer well-being, officers are not assigned to facilities more than 1.5 hours away from their homes. They also mentioned that nine (9) staff members, who had been on administrative leave since January 2021, would be returning to EMCF on March 1, 2024. This information played a role in their decision-making regarding the assignment of the 86 graduating recruits.

Data shows that physical violence rates are typically lower in women's correctional facilities compared to men's. Consequently, there's often a perception that female facilities need fewer security personnel. However, this assumption is incorrect. In reality, addressing complex, relationship-based issues among female incarcerated persons often requires more staff intervention. This involves dedicating time to understanding and addressing women's concerns, thereby resolving conflicts.

Moreover, incarcerated women frequently request more access to medical and mental healthcare services, reflecting higher rates of mental health issues compared to male counterparts. The operational implications of this include increased frequency of medical appointments, longer wait times for medication distribution, extended appointment durations, heightened movement within the facility, more interaction with civilian service providers, and increased transportation for specialized services.

Research also indicates that incidents of sexual misconduct, both among incarcerated persons and involving staff, are more prevalent in women's facilities than in men's. This underscores the need for heightened supervision and vigilance to effectively prevent and address instances of sexual abuse.

The NJDOC acknowledges the unique needs and challenges experienced by women in Edna Mahan. This acknowledgment, however, should translate into increased staffing levels to guarantee the safety and well-being of females during their incarceration.

It is also crucial for NJDOC to understand that inadequate staffing can lead to rushed and incomplete security checks. This creates opportunities for perpetrators to exploit security gaps and commit acts of sexual abuse without being detected. As shown earlier, insufficient staffing erodes the trust of incarcerated persons in the system's ability to protect them. Therefore, it's

essential for NJDOC to address the issue of understaffing at EMCF to reduce the prevalence of sexual abuse and ensure the safety and well-being of staff as well as those in custody.

## **E. Opportunities for Continued Progress/Improvement**

### *Communicating with Limited English Proficiency Incarcerated Persons.*

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 specific to communicating with incarcerated persons with Limited English Proficiency (LEP). Yet, as discussed in paragraph 90 of the Monitoring Tool, there are five areas for continued improvement:

- Develop and implement Level 3 policies, which incorporate and document the changes/requirements they have recently implemented. (Note: this recommendation was made in the last monitoring tool report)
- The practice of custody staff depending on other incarcerated persons interpreting for them be discontinued, unless explicitly requested by the incarcerated person for such interpretation.
- All written documentation outlining the rules allegedly violated by incarcerated persons, as well as detailing their rights and privileges during disciplinary hearings, be provided in a language that LEP incarcerated persons can read and understand.
- Ensure that a qualified interpreter is present at or available for all disciplinary proceedings involving LEP incarcerated persons.
- Both NJDOC and Edna Mahan ensure that Cognitive Behavior Programming and volunteer programs are offered and conducted in languages other than English.

### *Writing Level 3 Policies*

During the recent reporting period, all Level 1 policies pertinent to the topics outlined in the Settlement Agreement have undergone comprehensive revisions and official adoption by the New Jersey Department of Corrections (NJDOC), following approval from the Federal Monitor, the Department of Justice (DOJ), and NJDOC. A total of 14 Level 1 policies have been revised, finalized, and adopted.

The subsequent task involves the development of Level 3 policies, which are specific to the Edna Mahan Correctional Facility (EMCF). These Level 3 policies heavily rely on the groundwork laid by the Level 1 policies. Additionally, new Level 3 policies have been recently formulated due to the depopulation of the Minimum-Security Unit at EMCF and the relocation of the incarcerated persons to the Satellite Facility.

Within a prison environment, the significance of establishing written policies cannot be overstated as they form the bedrock for maintaining order and ensuring safety. These policies provide clear guidelines for behavior, delineate expectations, and offer a framework for decision-

making. Furthermore, they play a pivotal role in fostering transparency, consistency, and fairness. By serving as a point of reference for staff, written policies ensure that everyone is aware of their responsibilities and the consequences associated with their actions. Moreover, these policies serve as a mechanism for oversight, evaluation, and enhancement of prison operations. Regular review and updates enable Edna Mahan to adapt to evolving circumstances, integrate best practices, and effectively address emerging challenges.

### Training Staff to Level 1 and Level 3 Policies

In accordance with the Settlement Agreement, a staff training plan that addresses the training needs associated with each revised policy or procedure is required to be completed within 18 months of adoption of each policy. Each training plan must clearly outline which staff members require training on the new policy or procedure and specify the planned date(s) for the training sessions.

Ensuring that correctional staff at Edna Mahan are trained on new policies and procedures will be crucial for effective implementation and adherence. As frontline implementers, staff members' comprehension and proficiency directly impact the safety, security, and well-being of both staff and incarcerated persons. Through comprehensive training sessions, Edna Mahan can equip its staff with the necessary knowledge and skills to navigate the complexities of the updated policies and procedures. This training not only acquaints them with the content but also underscores the rationale behind the changes, fostering a deeper understanding and garnering support from the staff.

### Develop and Implement a Quality Improvement Program

The Settlement Agreement mandates that both NJDOC and Edna Mahan Correctional Facility develop, implement, and maintain a Risk Management System (RMS) to document and track facility trends regarding allegations of sexual abuse, sexual harassment, and retaliation for reporting such allegations. This RMS must ensure the timely identification and correction of trends and incidents related to sexual abuse and harassment. Additionally, the RMS is tasked with collecting, consolidating, analyzing, tracking, and utilizing data to aid in the prevention of sexual abuse and harassment.

It is imperative for Edna Mahan to establish a robust risk management system to proactively identify, assess, and mitigate potential threats that could compromise safety, security, and operations. Such a system empowers administrators to anticipate and address risks before they escalate, while also pinpointing vulnerabilities in infrastructure, procedures, and the behavior of both staff and incarcerated persons. Implementing targeted interventions at Edna Mahan can minimize risks effectively.

A well-executed risk management system cultivates a culture of accountability and continuous improvement within Edna Mahan. Clear protocols for risk identification, reporting, and response empower staff at all levels to actively engage in risk mitigation efforts. Ultimately, this comprehensive approach not only enhances the facility's safety and security but also contributes to its overall effectiveness and efficiency in fulfilling its mission objectives.

The development of such a Risk Management System must be a focus during this upcoming reporting period.

## LOGISTICS

### Compliance Visit

The parties involved arranged the fifth compliance visit from February 26 – March 1, 2024. 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, Edna Mahan PREA Compliance Manager
- NJDOC Assistant Commissioner of Special Investigations Division Kelly Daniels
- Administrator Ryan O’Dea
- Associate Administrator and LED Coordinator Ms. Rios
- Board of Trustee Member Kathleen Witchre
- Board of Trustee Member La’nae Grant
- Board of Trustee Member Bonnie Kerness
- Board of Trustee Member Johanna Foster
- NJDOC Deputy Commissioner Erin Nardelli
- Corrections Ombudsperson Terry Schuster
- EMCF Ombudsperson Office Staff Roshunda Simmons
- NJDOC Chief of Staff Kristina Chubenko
- Two EMCF Volunteers

- NJDOC PREA Coordinator Sandra Capra
- EMCF Special Investigations Principal Investigator Gerald Charles
- EMCF Special Victims Unit Principal Investigator Gregory Cirillo
- SID Special Victims Staff assigned to EMCF
- EMCF Major Ilg
- EMCF Major Karew
- EMCF Major Zwolinski
- Assistant Commission for Women’s Services Helena Tome
- NJDOC Commission Victoria Kuhn
- EMCF Leadership Team:
  - Administrator O’Dea, Acting Associate
  - Administrator Rios, Assistant Superintendent Fusaro
  - Assistant Superintendent Renshaw
  - Assistant Superintendent Thompson
- Amber Wagner, Gateway Program Supervisor
- Ms. Gil – Certified Bilingual Employee
- 3 Lieutenants from EMCF, including one from the Satellite building
- 5 Sergeants from EMCF, including one from the Satellite building
- 5 Sergeants (one from the Satellite bldg.)
- EMCF Inpatient Mental Health Supervisor Dr. Skibbee
- EMCF Outpatient Mental Health Supervisor and Sexual Assault Advisory Council Member Dr. James Cassidy
- Rutgers Regional Nursing Manager and Sexual Assault Advisory Council Member Theresa Hernandez
- Chief of Programs and Reintegration Services Dr. Darcella Sessomes
- Assistant Commissioner Division of Human Resources and Labor Relations Elizabeth Whitlock

The agenda for the onsite compliance visit was as follows:

Monday, February 26, 2024:

- Morning Briefing Meeting with EMCF Leadership Team
- Interview with LEP Incarcerated Person who had intake during this reporting period
- Interview with LEP Incarcerated Person who had intake during this reporting period
- Interview with LEP who spoke with SID/SVU during this reporting period
- Review the Linguistica bills for the month of January
- Interview with LEP Incarcerated Person who had intake during this reporting period
- Interview with LEP Incarcerated Person who had a disciplinary hearing
- Observe PREA Comprehensive Orientation Education for incarcerated persons
- Custody Staff Focus Group – 1<sup>st</sup> shift
- Tour of Satellite building #1
- Review PREA materials/website with Institutional PREA Compliance Manager
- IP Focus Group – Satellite Building #1

Tuesday, February 27, 2024:

- Morning Briefing Meeting with EMCF Leadership Team

- Interview with LEP Incarcerated Person who had a disciplinary hearing and who had filed allegation against staff during this reporting period
- Interview with IP who filed allegation against staff during this reporting period
- Tour of Maximum grounds
- Tour of South Hall Dorm
- Observe Classification Meeting
- IP Focus Group – Maximum #1
- IP Focus Group – Maximum #2
- Custody Staff Focus Group – 3<sup>rd</sup> shift

Wednesday, February 28, 2024:

- Morning Briefing Meeting with EMCF Leadership Team
- IP Focus Group – Satellite Building #2
- Tour of Satellite Building #2
- Interview with IP who filed allegation against staff during this reporting period
- Interview with IP who filed allegation against staff during this reporting period
- Contract Staff Focus Group
- Civilian Staff Focus Group
- Custody Staff Focus Group – 2<sup>nd</sup> shift

Thursday, February 29, 2024:

- Morning Briefing Meeting with EMCF Leadership Team
- Interview with IP who filed allegation against staff during this reporting period
- Interview with IP who filed allegation against staff during this reporting period
- Interview with IP who filed allegation against staff during this reporting period
- Interview with Training Lieutenant
- Interview with Back-up Volunteer Coordinator and LED coordinator
- Policy Discussion
- Close out

Friday, March 1, 2024:

- Stakeholders Meeting

During the compliance visit, the Monitor and/or her Associate conducted three staff focus groups, one contract staff group including medical, mental health, and substance abuse staff, and one civilian staff group, including administrative and education staff. 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 and two groups from the Satellite building. There was a total of 34 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)

The Monitor's Associate also attended a classification meeting involving around 25 incarcerated persons. This meeting covered various aspects including initial classifications, such as determining classification levels and assigning initial job roles. Additionally, incarcerated persons convened with the classification committee for their regularly scheduled annual classification meeting. During this session, discussions encompassed topics such as programming, disciplinary matters, and reentry planning.

#### *Process of Compliance Report and Monitoring Tool*

- 1) NJDOC sent a semi-annual status report to DOJ and the Monitor on February 26, 2024.
- 2) The Monitor sent the first draft report and monitoring tool to both parties on April 10, 2024. The agreement allows for a two-week period of review by both parties.
- 3) The Monitor received the comments from the Department of Justice on April 26, 2024
- 4) The Monitor received the comments from NJDOC on April 25, 2024
- 5) The Monitor participated in conference calls with both parties on April 29 and April 30, 2024, 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 May 10, 2024.

## 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, 2025, the Monitor would use “non-Applicable at this time” as the measurement for that provision in this report.

The monitoring tool comprises a total of 84 paragraphs. Among these, certain paragraphs in the Settlement Agreement stipulate a specified completion date. Others are designated with a "daily date," indicating that the activity is performed on a daily basis. Additionally, some paragraphs lack a specific completion date as outlined in the Settlement Agreement, but NJDOC and Edna Mahan have set February 24, 2024, or an earlier date, as the target completion date (either aligning with the monitoring tool or the implementation plan). Finally, three paragraphs have no specified completion date outlined in the Settlement Agreement.

There are a total of 78 paragraphs to be evaluated during this reported period. During this review, the Monitor determined 71 paragraphs achieved a “substantial compliance” rating. And seven (7) paragraphs (paragraphs 10, 11, 55, 90, 91,92, and 93) achieved a “partial compliance” rating.

Among the partially compliant paragraphs, two (paragraphs 10 and 11) were related to drafting Level 3 policies for Edna Mahan. Three paragraphs (91, 92, 93) focused on the Risk Management System, while another addressed LEP issues (paragraph 90). Paragraph 55 had previously been compliant but transitioned to partial compliance due to the discovery of a housing unit with recurring privacy concerns regarding shower and toilet curtains for

incarcerated persons. Detailed explanations and justifications for each paragraph can be found in the attached monitoring tool.

It's crucial to remember that the ratings provided are applicable only to this reporting period. All requirements outlined in the Settlement Agreement must remain a primary focus and adhere to in subsequent reporting periods and beyond. The challenges that led to the creation of the Settlement Agreement are systemic and demand ongoing efforts to effect lasting changes necessary to improve the safety of EMCF.

## **CLOSING OBSERVATIONS**

During this reporting period, the Monitor observed ongoing progress. The current leadership teams of NJDOC and EMCF exhibit highly positive attitudes towards fulfilling the requirements outlined in the Settlement Agreement and towards enhancing the safety of Edna Mahan Correctional Facility for Women for both staff and incarcerated persons. The Monitor acknowledges significant advancements in addressing concerns highlighted in the previous compliance report, particularly in areas such as retaliation and communication with Limited English Proficiency (LEP) incarcerated persons. However, it's crucial to recognize that there is still work to be done, particularly in improving communication with LEP incarcerated persons. Additionally, efforts are needed to develop Level 3 policies, train staff on revised Level 1 and 3 policies at the required time and establish a Risk Management System. The Monitor expects and believes that both NJDOC and EMCF will continue their efforts towards improvement in these specific areas.

The Monitor expresses gratitude for the cooperation extended by NJDOC and EMCF throughout this reporting period. Numerous requests for documents or information were made, and all were promptly and comprehensively fulfilled. Immediate notifications of any incidents or allegations of sexual abuse or retaliation were provided to both the Monitor and the Department of Justice (DOJ). Additionally, regular conference calls have been initiated between the Monitor, DOJ, and NJDOC to discuss ongoing cases and address any current issues promptly.

In summary, the Monitor perceives a robust commitment from both the New Jersey Department of Corrections and the Edna Mahan Correctional Facility for Women towards the successful execution of the Settlement Agreement. There exists a collaborative and productive relationship among NJDOC, Lowenstein Sandler, the Department of Justice, and the Monitor. Each party has openly expressed their appreciation for the shared objective of enhancing sexual safety for incarcerated persons at EMCF. The Monitor commends the collective efforts made during the preceding six-month reporting period and anticipates continued progress in the forthcoming reporting period.