

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF  
WISCONSIN

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**J.J.**, by and through his next friend, Sakeena Jackson, for themselves and all others similarly situated,

Plaintiffs,

v.

Case No.: 17-CV-47

**JON E. LITSCHER**, in his official capacity as Secretary of the Wisconsin Department of Corrections, et al.,

Defendants.

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SIXTH REPORT OF THE MONITOR

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Teresa Abreu, Monitor, hereby submits this status report.

**INTRODUCTION**

The Fifth Report of the Monitor was filed with the Court on March 5, 2020. The Monitor's sixth report will focus on assessing compliance with the Consent Decree, implementation of recommendations in the February 2018 technical assistance report, and comment on any observations and/or updates from the fifth site visit which took place on February 6 through February 8, 2020.

**SITE VISIT**

The sixth site visit by the Monitor took place on May 15, 2020. Due to the recent pandemic, the Monitor limited onsite time to one day and completed necessary interviews/information gathering via virtual meetings over the following two weeks after the site visit. The Monitor reviewed materials provided by the parties prior to and after the site visit for the reporting period ending May 31, 2020. Materials included but were not limited to: Covid-19 related memos, directives and plans, programming materials, PbS data, project plans, grievances, counselor logs, various staff memos, daily shift reports, all of the monthly data submitted to the parties per this Court Order, updated unit rules, work rules, employee leave data, behavior and treatment plans, mechanical restraint documentation, incident reports, and other housing documentation. Due to Covid-19 (reducing visitors during this time), only the monitoring team were on site during this site visit.

Plaintiffs' counsel conducted several youth interviews virtually (via video calls) and participated in the various virtual calls with the Agency and facility staff. The Monitor took photographs, toured LHS/CLS, and interviewed youth and staff. The Monitor had the opportunity to talk to the majority of youth and staff present during the site visit. Approximately sixty-two (62) youth and forty-one (41) staff were interviewed formally and informally by the Monitor during this site visit.

## **Overall Quality of Life, Conditions, and Atmosphere**

### **Introduction**

It is important to note that during most of the evaluation period, the pandemic, Covid-19, impacted the world. Just as the entire country had to make systemic changes in order to stop the spread of this infectious disease, so did correctional institutions around the country. LHS/CLS as well as other institutions developed an emergency operation plan with the goal of mitigating any potential exposures to Covid-19. The Monitor understands that the priority of the Agency was to mitigate the chances of exposure to Covid-19 (youth or staff) in LHS/CLS. LHS/CLS is fortunate to be pretty isolated geographically. The Governor put a temporary transfer hold in which LHS/CLS has not received new admissions since March 26, 2020. Not only did this mitigate any chances of outside exposures, it significantly reduced the population to the lowest the Monitor has seen (76 youth). In addition, due to a combination of not admitting new youth and working to get youth out more quickly, the total LHS/CLS population declined to below 80 youth. It is significant to note that DOC reports (and the PbS data indicate) that this decline was accompanied by a reduction in incidents and misbehavior by youth. The population reduction allowed more individualized attention, and there was more stability in the units. This positive outcome is important and something that should be addressed and continued: *i.e.*, that having fewer youth and keeping them together with consistent and individualized staffing can reduce incidents and benefit youth and staff alike. Program modifications had to be made due to the pandemic including, but not limited to: no in person visitation (virtual visitation occurred frequently-discussed in more detail below), education moved to "e-learning" like the rest of the country, grandparents programming was halted, tournaments etc. had to change so the units did not comingle, PSU, teachers, social workers, and other staff rotated and conducted services virtually when they could not be done in-person. Overall, even during this difficult time, youth and staff had very good attitudes and adjusted to the many changes implemented during this crisis.

### **Physical Plant**

The general areas of the facility were very clean and orderly. The atmosphere in general was very calm throughout LHS/CLS. The Monitor noted in the last report that the recommendations as to the physical plant modifications made in previous Monitor reports and the February 2018 technical assistance report have been implemented and/or were progressing. Due to Covid-19, remaining physical plant projects had to be put on hold. However, seven (7) of the twelve (12) cottages have been remodeled to date (Wells, Miller, Dubois, Curtis, King, Black Elk, Roosevelt) and the new staff breakroom has been completed. Additional projects not yet completed are the camera upgrade, electrical upgrade, and remaining cottage remodels. The Monitor will continue to update the Court on physical plant improvements that increase the safety and quality of life for youth and staff.

The entrances into the units were very clean and orderly, the day rooms were very clean, and most of the bathrooms in the cottages were clean. The units were more orderly and cleaner in general than during the last visit. The level of cleanliness of youth rooms varied throughout the cottages (described in more detail below) but were generally cleaner than the last visit. Youth and staff should be commended.

The Monitor previously recommended that searches of all buildings be conducted to remove excessive objects, materials, equipment, furniture, etc., to enhance the safety and security of the units/buildings and to maintain a more orderly and safer environment. Defendants regularly conduct and document searches and there was no evidence of excessive objects, furniture, etc. in the living units or classrooms. However, search procedures were modified due to Covid-19 emergency procedures. The Monitor suggests that pre-Covid-19 search procedures continue.

#### School/Living Units Observations

The Monitor visited each cottage and toured the school during the site visit. The school continues to have positive messages through out and artwork is displayed. The classrooms and the general school area were very clean. However, it must be noted that no youth were present in school due to educational services being held virtually and on the units. On March 24, 2020, the schools began providing education on the units with most education staff working off-site, and this is ongoing. The schedule was distributed with a training brief assisting with Chromebooks and logging into Edgenuity (on-line learning tool). Teachers were on-site once a week. Music, art, and recreation still occurred. Students had Zoom meetings with teachers when needed. Teachers checked in regularly with unit staff and students and are able to monitor youth's progress through Edgenuity. Of course, e-learning is not the preferred format for teaching, but during the pandemic, many learning institutions have taken this approach. However, a number of youth did complain to Plaintiffs' counsel about dislike of and difficulties with this format, especially the lack of personal attention and real time feedback from teachers. The change in educational format at LHS/CLS is consistent with what many other schools throughout the country implemented during Covid-19. The Monitor spoke to the educators present during the site visit and reviewed the e-learning tool.

The Monitor previously recommended that the Defendants should retain an education expert to complete an assessment of the educational program at LHS/CLS. The expert was retained and provided initial observations. The expert returned in November to further assess the education department's operations and make specific recommendations. The Monitor recommends that the Defendants engage the consultant further and work to address the concerns raised – including the need for more deep and meaningful teacher interaction with youth, enhancing or expanding the daily education hours, which is only about three (3) hours per day - and implement the recommendations made by the consultant and the Monitor with respect to staffing and the educational program for LHS/CLS. The Monitor was told that retaining the educational consultant has been put on hold. The Monitor encourages the Defendants to reengage.

There were more than adequate staffing levels on the living units. The Monitor saw some staff engaging with youth, although less than last visit (partly due to attempts at social distancing). Youth attitudes overall were very good during this site visit. All the youth that the Monitor interacted with were respectful and very interested in interacting with the monitoring team. The Monitor had an opportunity to talk to almost all of the youth present in the day rooms. The fact that only the

monitoring team came onto the units was less intimidating than when facility/agency leadership are present. Due to the positive and more in-depth conversations with youth, the Monitor will continue to conduct future site visits in this manner.

Safety/welfare checks are no longer being completed on paper because the new RFID system has been implemented as of January 2020. As a reminder, the RFID system measures staff performance on safety/security checks in real time, which will help manage compliance with the various requirements of the Court Order and other standards. The Monitor observed staff completing the rounds on all units. Small recommendations made by the Monitor during the last visit were for the new RFID system to change the word "inmate" to "youth" and replace the icon with the hands in the cell image for another one (if possible). The Monitor is told that this has been communicated to the vendor and is being developed. As of April, a youth is scanned when (s)he enters and exits his/her room in an effort to align the RFID's capabilities with DJC's ongoing PbS data collection work. DJC continues to work on creating and refining reports regarding various outcomes including youth confinement by date, type, and youth, track length of confinement and reasons for confinement. The new RFID has many capabilities and the Monitor suggested continuing to use and develop (if needed) other measures in the system.

During this site visit, the girls were split between King and Wells cottages. Hughes cottage was being utilized as the female quarantine. One youth was on the Hughes unit as she had to go offsite previously for medical attention. The atmosphere on the girls' units were extremely positive. This is an improvement from the last site visit. Youth were laughing with each other. On King, some of the girls were outside drawing pictures with chalk, several girls were gardening, and other youth were interacting with each other on the unit. The social worker was present on the unit and the some of the girls were going to weaving class. The girls were in very good spirits and liked having school on the units. The rooms on the unit were generally clean and orderly with beds made. No one was confined to their rooms, but one youth voluntarily was in her room sleeping. The Monitor observed staff redirecting youth appropriately and youth following staff direction. Staff were completing their safety/security rounds and observing the youth throughout the unit. It was a very calm and happy unit. Staff expressed their difficulty with managing and helping the youth with education (something that has increasingly occurred because, as noted above, the online education system has not been providing adequate support for a number of the youth).

Wells was clean and very beautifully decorated. Some girls were making Origami with staff. Two girls created a song and dance about how to stay safe during Covid-19 which they performed for the Monitor. The staff were engaged with the youth and the atmosphere was very positive. The rooms in general were clean and the unit itself was clean and orderly. Two youth were in their rooms voluntarily.

The girls were very engaged with the Monitor. The girls complained that they did not have as many paid jobs as the boys (and wanted more) and that there were phone restrictions for non-phone related behaviors. They understood the programming changes due to Covid-19. At this time, the girls liked having school on the units and were not upset about not going to the school area. Once the youth are allowed back in the regular school, it is important for the girls to also go back into the main school, which has superior facilities and resources. They liked arts and crafts and enjoyed sewing masks as a project. They also missed visitations but liked the Zoom calls with their families.

With respect to the boys' cottages, generally, the cottages themselves were clean. Youth told the Monitor that they had to clean due to the Monitor visit. The Monitor recommended during the last couple of site visits that staff adjust their placement since youth can more freely move around the unit (some youth in day room, outside, in and out of their rooms, and bathroom). Staff were appropriately placed around the units from a safety perspective. During this site visit, staff in general were not interacting with the youth as much as the Monitor observed in previous visits but this could be due to social distancing practices.

In Krueger, the walkway and unit were clean. Youth rooms were dirty and had graffiti as observed during the last two site visits. Nine (9) youth were out in the day room and three (3) staff were present on the unit. Youth exhibited good peer relations and were respectful to the Monitor and staff. The unit was dark for some reason. Staff were positioned around the unit. Youth were making calls and sitting on the unit talking with each other. Youth complained about wanting more activities to do (bored), wanted playing cards, wanted MP3 players, and stated there were still issues with getting canteen, and the food served is not good. On a positive note, the Monitor observed that additional phones have been installed in all of the units to make phones calls more accessible to youth.

In Addams, the living unit and bathroom was clean. There was still a lot of graffiti. Not a single youth was confined. Youth were doing homework, making telephone calls, and playing cards. Youth rooms were very clean and orderly. Unit was calm. Staff were engaged with youth and helping with schoolwork. There were nine (9) youth on the unit and three (3) staff. Youth openly talked with the Monitor. They did not like that they had to see barbed wire outside their unit which was just a constant reminder that they were "locked up." They also said they did not like most of food served but loved the barbeque chicken. They said they would like to make masks too. They complained about having nothing to do.

In Black Elk, the youth rooms and unit were very clean. One (1) youth was confined. Eight (8) youth were out in the day room. The atmosphere was calmer than the last visit. Youth were out in the day room interacting with each other. All of the youth talked were very talkative with the Monitor. Youth talked to the Monitor about staff (ones they liked and ones they did not), discussed issues with canteen, wanting MP3 players, complained that their RFID bracelets were uncomfortable, wanting more things to do, and they missed going down to school and participating in other activities. They did enjoy Zoom calls with family but miss visitation.

The Rogers unit (TIP) was clean. Bathrooms and rooms were cleaner than last visit. All youth were out of their rooms (no confinement). Youth were about to eat lunch out in the day room. There were three (3) staff on the unit and six (6) youth. Staff were positioned around the unit. The unit was calm. Youth were very quiet and did not want to engage much with the Monitor. They did mention that there were issues with canteen, would like to make masks if offered the opportunity, and missed the teachers and going to the school area.

The Curtis Unit was clean and quiet. Half of the youth rooms were clean. There were twelve (12) youth on the unit. When asked, staff could not tell me how many youths were in their rooms (2 youth were confined). Youth were out in day room talking with each other. Youth talked with the Monitor. Youth complained about canteen and the food. They also mentioned phone restrictions and restricted out time due to Covid-19. They would like to cook more food. They did complain about one

particular staff which the Monitor brought to management's attention. Youth want more activities to do and more games. They would like to make masks.

The Miller unit and youth rooms was clean. Eight (8) youth were in the day room and no one was confined. Two (2) staff were working on the unit. Youth were eating lunch or doing chores. Overall, the unit was calm. All of the youth talked with the Monitor. Youth's favorite meal is the barbeque chicken and macaroni and cheese. Their least favorite meals were Salisbury steak, meatloaf, and stir fry. They complained about the canteen. They stated they had phone restrictions. They missed going to school. They also stated that they did not get to order anything or do anything special for Mother's Day which was disappointing. They missed the "grandma" snacks.

The Dubois unit was very clean. Some youth rooms were clean. Youth just finished eating and were cleaning up. There were fifteen (15) youth on the unit. Two youth were doing homework and one youth was in his room (voluntarily) watching a show. There was a total of five (5) staff on the unit (two nurses were on the unit providing medication to youth as needed). The Monitor spoke to 9 of the 15 youth. Youth did not complain of phone restrictions. They would like more to do and have more board games to play (some of theirs were pretty destroyed). They would like to make face masks if offered and missed being in school. They would like more bikes. Youth also wanted more assistance with note taking as e-learning and lack of in person 1 on 1 teacher support was difficult. The Monitor suggested having groups in the units on how to take effective notes.

In March, the Foster Grandparents asked if they could work with youth to make facemasks for the youth and staff at CLS/LHS. This started out as a kind gesture to provide a few masks with a group of youth that had did not have previous experience with sewing. To date the team of staff and youth have made hundreds of masks for our staff and youth. They have also taught our youth an amazing skill and the opportunity to give back to the facility and community. However, that skill and opportunity has been limited to the girls; many boys expressed interest in doing this and the opportunity should be expanded to them.

The Monitor was happy to see that the recreation schedule (Music, Art & Physical Recreation programs) were maintained to provide youth programming and activities during COVID-19. Some youth told Plaintiffs' counsel that they did not feel they received enough of this kind of programming and would like the opportunity to have music, art and physical recreation daily, not to have to choose among those activities. Youth Activity's Committee has started STEM projects with the youth. Youth are continuing to paint canvases to be displayed on the units.

Because in person visitation had to stop due to Covid-19, Zoom visits began March 26. As of May 11, 384 visits had been facilitated with 94 unique youth participating. All youth indicated they have been offered Zoom visits. Twenty-nine (29) Youth completed a survey and 41% of respondents indicated they had not previously received an in-person visit. Youth did tell Plaintiffs' counsel that they would like more frequent Zoom calls.

Youth were asked what they liked about the newly instituted Zoom visits. Below are the Qualitative Highlights for "What I like about Zoom / Positive Experience with Zoom":

*"Seeing mom. They make happy and better days"*



*“Seeing my dog and family at home”*

*“Seeing my family’s faces”*

*“It allows me to see home and how my families are living.”*

*“See my baby brother tell me his age”*

*“I love seeing my grandma”*

*“I’ve been locked up 19 months and haven’t seen my family since then because they live in Texas, but Zoom let me get a visit”*

*“I saw my nephew”*

*“I seen my niece”*

*“Seeing my little sister smile”*

*“Seeing my house again”*

*“Everything”*

Due to the positive response to these Zoom calls, Defendants are going to try and keep these going even when in person visitation resumes. This will be a great addition due to visitation being difficult due to the geographic location of LHS/CLS.

There continues to be food incentives for youth. The food service department processes requests for pizza parties and incentive snacks for youth incentives almost every day most weeks and since March 1, the CLS/LHS has served a total 762 individual food incentives to youth (not including the popcorn and soda on Saturday nights for movie night, and not including the incentive food that is purchased for youth from local restaurants and stores).

DJC continues to explore and expand the use of technology, especially in light of COVID-19. Starting Friday, March 13, movies were broadcasted to every living unit and personal television at set times during the weekend. A feature movie that is brand new will be shown every Saturday night at 6:00 pm, and then that movie will be available for order from the movie library. This will give everyone an opportunity to watch the new movies at the same time. Popped popcorn will be sent down to the units on Saturday with the dinner meal to be served during the movie that evening.

Additionally, DJC is now able to use Channel 2 with a network computer connection/display. This means we are able to display a YouTube video to the entire facility at once. Implementing use of this technology, a pre-recorded religious service video on Channel 2 can be displayed on Sundays. As with movies, all living units will need to have the dayroom TVs turned on (to Channel 2) for any youth would choose to view this during this time. This is in addition to youth being able to view the same service/video from their own rooms on Channel 2 if they have a personal TV. Following the religious services videos there may also be a few other videos shown carrying positive messaging involving some well-known celebrities.

There is still a need for additional structured programming overall. The Monitor understands that Covid-19 has required some programming to change/cease, but there still could be more activities for the youth to do. While youth are out of their rooms there should be engaging activities. As previously mentioned, youth are bored and while being out of their rooms is certainly an improvement, more meaningful activities and weekend programs would also help reduce the risk of youth engaging in anti-social behaviors when they have little else to do – particularly during Covid-19 when so many interactions with other youth, family, staff, and educators are now being

done virtually. Youth need more to do than simply sitting in the dayroom area watching television or playing cards. There needs to be a bigger focus on reducing youth idleness and more structured programming should be put into place. In response to needing more structured, gender and culturally relevant programming, Defendants have created a new position of “Program Director.” The job description is being finalized and posting and recruiting will occur soon after.

### Staffing

During this reporting period, there have been a few key staffing changes. The Superintendent of LHS/CLS is transferring back to the adult system. The Monitor wants to thank the Superintendent for all of his hard work and dedication to improving the conditions for youth and staff in his care. He had an amazing rapport with staff and youth and worked diligently implementing the suggested changes made by the Monitor and this Court Order. He graciously delayed his transfer in order to ensure that LHS/CLS had consistency in leadership during the pandemic. Posting and recruiting for the Superintendent position occurred and an internal candidate has been recently selected. The Monitor looks forward to working with this individual. Additionally, one out of the two Psychologist Supervisor positions remains vacant. The Defendants are actively recruiting for her replacement. Two new Unit Supervisor positions have been created which will allow for the Unit Supervisors to supervise two units.

It is important to note that there is a hiring freeze due to budget restraints. Some positions are not able to be filled such as the Chaplain and Educational Assistant. The Monitor hopes there can be exceptions made for any key position hires at LHS/CLS in order to meet the requirements of this Court Order.

Direct-care staffing vacancy percentage significantly improved over the last year. There have been fifteen (15) new direct-care staff hired during this reporting period. There are 311 total positions (“FTEs”) at LHS/CLS. Previously, based on population, Defendants determined that they need three (3) fewer teacher FTEs and thus moved the FTEs to other critical positions. Approximately 153 of these positions are “direct-care” staff (Youth Counselor/Youth Counselor Advanced (“YC/YCA”). The teacher vacancy rate remains high (8 vacancies). Hiring has not occurred during this reporting period due to Covid-19 and education being online. The Monitor encourages continuing to recruit teachers despite the reduced population and challenges with Covid-19. Recruiting is still a challenge due to the location of the facility, overall teacher shortages, relatively low compensation, and the year-round school calendar and thus, hiring needs to continue. As previously mentioned, the entire educational program at LHS/CLS needs to be evaluated and improved.

<b>Position</b>	<b>Vacancy Rate % as of May 31, 2019</b>	<b>Vacancy Rate % as of Sept. 6, 2019</b>	<b>Vacancy Rate % as of January 30, 2020</b>	<b>Vacancy Rate % as of May 13, 2020</b>
Youth Counselor	11.5% (12 out of 105)	14% (15 out of 105)	7% (8 of 115)	8.6% (10 out of 115)



Youth Counselor Adv.	50% (25 out of 50)	7% (3.5 out of 50)	15% (5.5 of 37.5)	13% (5 out of 37.5)
Teacher	43% (12 of 28)	36% (10 of 28)	32% (8 of 25)	32% (8 out of 25)
Social Worker	0% (14 of 14)	21.5% (3 of 14)	21 % (3 of 14)	21% (3 out of 14)

There has not been a data driven analysis of the 12-hour shift (which began in Nov. 2019) to date, but now that there are six (6) months of data available, the Office of Budget and Programs will be conducting an analysis of the 12-hour shift. A second comprehensive staff survey was completed. Every staff person the Monitor spoke to said they absolutely love the new schedule except one. In the recent survey conducted, some staff reported that they work fewer hours and are not ordered to work extra shifts as much as they used to be, but this seems to be dependent on which shift and which cottage they work in. It appears that more staff than not like the schedule. However, the overall positive comments are somewhat less than in the previous survey.

The Monitor spoke to over forty-one (41) staff and the majority of staff seemed happy. The vast majority of staff again expressed the desire to have more programming for youth. Every staff person the Monitor spoke to and observed were proficient with the RFID system. Staff were not as engaged with the youth this visit (except the staff on the girls' units). Perhaps staff were trying to social distance during Covid-19. Staff were somewhat frustrated with the lack of support with e-learning. Some had difficulty trying to assist youth while completing their other responsibilities and some had difficulty with certain subject matters. Staff were excited about the new break room. They had not used it yet due to Covid-19, but the staff break room is beautiful. The atmosphere is relaxing, and the leadership took the staff's recommendations with respect to how they wanted the room to look and the items that they wanted in the room. The staff break room exceeded the Monitor's expectation.

The Defendants have implemented almost all of the recommendations for staff wellness including increased training, staff recognition program, engaging staff in developing programming and policy changes, actively participating in youth and family council meetings, reducing ordering of staff (mandated overtime), and constructing a relaxing staff lounge. Other staff incentives implemented were:

- Staff recognition board
- Staff have been able to wear jeans throughout COVID-19.
- Staff treat bags for correctional employee appreciation week.
- March - Luck of the Lincoln staff giveback for St. Patrick's Day. Soda and candy then staff could pick a small scratch card to see if they won an additional prize.
- February - handed out granola bars and Rice-Krispies treats.
- January - festive mugs with hot cocoa and candy.

The Monitor continues to stress the need to continue making staff wellness a major focus moving forward.

As part of the agency and facility's desire to improve conditions for both staff and youth, they are

continuing to engage in the Youth in Custody Practice Model (“YICPM”), which was explained in the previous Monitor reports. The third YICPM site visit took place November 14-15, 2019. As of April 6, 2020, DJC planned the next steps with YICPM. In place of in-person meetings during COVID-19, the plan for continued collaboration on YICPM was decided to be the following:

- YICPM consultants will record webinars on practice model content areas and forward to DJC when completed. The initial webinar will focus on the practice model content areas of Case Planning, Re-entry, and Community Supervision.
- DJC can then view each webinar either as a group or individually.
- After viewing the webinar DJC will schedule Zoom meetings to discuss the webinar content and complete associated checklists as a team.
- Following internal discussion, DJC will then schedule Zoom calls with YICPM to share our checklists and plot out next steps with them.

Since the last meeting, all new youth admitted to LHS/CLS are utilizing a new Growth Plan. The Monitor continues to look forward to the agency implementing these plans to improve conditions of confinement for youth and well-being of staff.

The Defendants are also collaborating with Massachusetts Department of Youth Services to explore Dialectical Behavioral Therapy (“DBT”) as a behavior management system. DJC has proposed hiring a DBT contractor to assist with implementation of DBT as a behavioral motivation approach. The Monitor was informed that the consultant has been retained and planning has begun. The Monitor looks forward to working with the consultant. In addition to obtaining the consultant, PSU has recently conducted a DBT readiness self-assessment. Information gathered from the self-assessment will assist the division once they begin implementing the strategic framework for DBT.

The Monitor was informed that due to Covid-19, contracting with a mental health consultant was postponed. The Monitor continues to recommend that the facility obtain a mental health expert to evaluate the programming, staffing, and services that exist at LHS/CLS – including for youth with significant mental health needs - and make recommendations on how to address the issues raised and improve treatment and services for youth at LHS/CLS.

The Monitor previously suggested modifying the mental health (PSU) and recreational staff work schedules to include more evening and weekend hours, especially given the lack of sufficient other structured activities during those times. PSU staff work until 8 P.M. during the week and are on-call 24/7. The Defendants should continue to involve PSU staff, especially leadership, in making improvements at the facility (such as improvements to incentives, consequences, and working with the OJOR system). Currently, there is a PSU staff member who comes in each weekend to perform rounds, meet with youth on AC and observation status, attend to any crises, finish notes, and intakes and will report to the facility as needed. However, there are no groups or programming involving PSU on the weekends. The Monitor recommends that scheduling of PSU be reconsidered (rotate staff if need be, alternating weekends, etc.) or if this is not possible, then hire additional PSU staff to work nights and weekends. Weekends are when there is the most idle time and need for additional meaningful programming. Adding weekend programming will also have a positive impact on reducing incidents of violence and other behavioral incidents related to

boredom and lack of activities. There really is a missed opportunity for PSU involvement during this period and particularly during Covid-19 when engagement with family, staff, and other youth are reduced.

### Quality Assurance (“QA”)

As stated in the last report, a framework for identified outcome measures was developed to align with PbS national benchmarks. PbS data collection cycles occur twice annually, and the most recent cycle was in April 2020. Facility Improvement Plans (“FIP”) have been created after the most recent PbS Coach Site Visit and has been forwarded to the Monitor. As a reminder, PbS is a continuous data-driven improvement model grounded in research that holds juvenile justice agencies, facilities and residential care providers to the highest standards for operations, programs and services. The FIPs are the vehicles for jurisdictions to continuously bring about meaningful change. They bridge the gap between understanding and actions to improve the conditions of confinement at a facility, beginning with identifying the specific outcome measure(s) a facility want to improve. The FIP process provides the facility with the ability to track progress towards identified outcome goals, and receive scores based on that performance and identified FIP goals.

Since the last reporting period, the following action steps, have been implemented to improve overall conditions of confinement, operational services, programs and/or facility culture:

1. Both schools continue to update PbS boards in the main lobby of the schools.
2. Sent in Award Applications for (LHS):
  - 1 Youth for scholarship.
  - 1 staff Department of Education scholarship.
  - 4 Art Contest.
  - 2 Kids Got Talent (waiting on consent forms from parent/guardians).
  - 1 Barbara Allen Hagen Award- Removing OC.
3. Sent in Award Applications for (CLS):
  - 2 Art Contests.
  - 2 Kids Got Talent (waiting on consent forms from parent/guardians).
4. An introduction to PbS has become a part of new staff orientations & the new Youth Counselor/Youth Counselor Advanced academy.
5. Added a Supervisor of the Month to the Employee of the Month recognitions.
6. REC schedule (Music, Art & Physical Recreation programs) maintained to provide youth programming and activities during COVID-19. Evening programming continues and is popular with youth although a number of youth requested that these opportunities be increased

7. Youth Activity's Committee has started STEM projects with the youth.
8. Youth continuing to paint canvases to be displayed on the units.
9. FY17-FY19 Workers Compensation claims were evaluated to look for patterns and trends.
10. Ten (10) staff completed Verbal Judo Instructor training.
11. A multi-disciplinary committee was created to review the Case Planning process.
12. School Updates: Student Honor Roll is being recognized at the school. CR2EW developed to monitor and support student progress in addition to advocating throughout academic and social circumstances.
13. HSU continues targeted monthly educational activities for the youth.
14. Began a Field Training Officer program for non-security staff.

### **FIP Action Steps**

PbS offers a 7-action step tool, driven by a research-informed improvement model, to support and guide PbS participating agencies and facilities as they work to achieve both incremental and sustainable change. The action steps entered into the PbS website make up the team's concrete plan to attain the improvement the facility is seeking.






1. **Analysis of Performance**
  - Pinpoint the causes of your outcome performance.
2. **Creating Buy-In**
  - Identify how you will engage those whose support you need to improve the targeted outcome or area of change.
3. **Setting Outcome Measure Goal**
  - Create short, interim & long-term goals that provide benchmarks and a vision to work toward.
4. **Improvement Process Action Steps**
  - Develop concrete, measurable actions to address the factors that contributed to your outcome performance.
5. **Interim Measures**
  - Identify how you will monitor your progress toward your goals to see what is working and adjust your strategies, as necessary.
6. **Sustaining Performance**
  - Identify strategies that will support what is working to ensure sustainable change.
7. **Performance Recognition**
  - Determine how you will formally and informally recognize staff, youth, and other stakeholders for their contribution to the improvement process; celebrate successes!

The following outcome measures were selected for these FIPs based on input from the PbS Coach

and facility outcome:


**LHS Facility Improvement Plan #1010**

Outcome Measure
Safety 02 Injuries to youths per 100 person-days of youth confinement.
Safety 03 Injuries to staff per 100 staff-days of employment.
Safety 04 Injuries to youths by other youths per 100 person-days of youth confinement.
Safety 11 Assaults and fights on youth per 100 person-days of youth confinement.
Safety 12 Assaults on staff per 100 person-days of youth confinement.

Outcome Measure	Original Value	Current Value	Average Value	Goal	
Safety 02 Injuries to youths per 100 person-days of youth confinement.	64.00	53.00	18.70	48.00	
Safety 03 Injuries to staff per 100 staff-days of employment.	19.00	3.00	3.20	14.00	
Safety 04 Injuries to youths by other youths per 100 person-days of youth confinement.	17.00	2.00	4.29	12.00	
Safety 11 Assaults and fights on youth per 100 person-days of youth confinement.	38.00	9.00	12.50	28.50	
Safety 12 Assaults on staff per 100 person-days of youth confinement.	9.00	4.00	4.29	6.75	

**CLS Facility Improvement Plan # 1009**

Outcome Measure
Order 08 Isolation, room confinement, segregation/special management unit use per 100 person-days of youth confinement.

Outcome Measure	Original Value	Current Value	Average Value	Goal	
Order 08					
Isolation, room confinement, segregation/special management unit use per 100 person-days of youth confinement.	29.00	69.00	14.06	15.00	

A thorough and in-depth review was conducted of the April 2020 PbS data collection for both LHS and CLS. During the review, outcome measure data clarification and input was sought from both the facility PbS State and Site Coordinators and the assigned PbS Coach. As a result of the review, the following highlights and outcomes are noted:

**PbS Data Quality** – In the previous report, some issues were identified as to the quality of the data entered for some outcome measures, including outcomes measuring around daily activity durations. Through the review of the April data reports, the Monitor is pleased to report that those issues appear to have been resolved. More importantly, the new Guardian RFID system was used to record much of the data inputted for the daily Unit Log activity data. This permitted the facility to accurately report the daily activity for all youth, including education, facility programs, recreation, leisure time, and “in sleeping rooms” (room confinement), and finally sleeping time. Using the Guardian RFID system also allowed for the tracking of daily activity over the entire data collection month, rather than a simple week snapshot that was reported during the previous report for the October date collection cycle. This allowed for much more accurate data over the course of the entire month. With the improved data collection, we can now get a better sense for the progress being made, which is commendable. Before the Monitor begins to outline areas for improvement, it is important to recognize the efforts and positive steps forward in regard to the quality of the PbS data and the overall progress in many of the outcome measures. It is important to remember that PbS is a “continuous facility improvement program”, therefore overall progress is measured over the period of years and numerous data collection cycles. The trend line of the outcome measures is what is most important as it reflects the direction of the facility over time. The April data clearly shows progress trends moving in the right direction for many of the outcome measures.

It is important to note that the April data collection took place in the middle of the pandemic, which certainly made facility operations much more challenging, particularly around the issue of reducing room confinement. In these circumstances, the easy approach would have been to put youth in their rooms as much as possible to promote social distancing and reduce the risk of infection. The Monitor is happy to report that this did NOT occur at LHS or CLS. It certainly appears that the facility made every attempt to maintain facility operations as best possible under these challenging conditions. This is highly commendable and reflects the agency and facility leadership commitment to improving conditions of confinement.



With all that said, there are a couple of outcome measures that bear attention. First and foremost, is what is unquestionably a high rate of “self-requested” confinement, which is when youth ask to be in their rooms. The data reflects 838 incidents during the month of April for self-requested confinement, representing 76% of all confinement for the facility during the month. Second to that are 213 incidents (19% of all confinement) where youth “declined to participate in program”. Program refusals typically result in room confinement which is something not contemplated or allowed by the Court Order. These two categories alone represent 95% of all confinement for the month of April. On one hand, this is a positive as very little confinement is a result of behavior issues. On the other hand, it is also a reflection of the culture, atmosphere and environment which results in such self-selected confinement. Focusing on improvement on these particular areas of confinement will certainly have an immediate and positive impact on reducing overall confinement numbers.

It is also a positive trend that behavioral related confinement only represents 5% of all confinement (2% to “protect youth from other youth,” 2% to “give youth time to cool off,” 1% for “other response to misbehavior” and 1% “other response to misbehavior” and “not recorded”). To illustrate this point differently, at LHS, there were 1,051 incidents of confinement unrelated to behavior (838 self-requested and 213 for program refusal) compared to 46 incidents related to behavior. Similar disparity is seen at CLS, where there were 211 confinement incidents unrelated to behavior (148 self-requested and 63 for program refusal) compared to 20 behavior related incidents (11 for mental health related issues; 3 to protect other youth or staff; 2 for time to cool off; 1 medical; 1 rule violation; and 2 other). Focus on reducing these types of confinement through improving the overall atmosphere and environment as well as tying program participation into the incentive and rewards program should have a positive effect. The overall effort of the facility improvement plans as well as the focus issues of the settlement agreement should also have a positive impact on these issues.

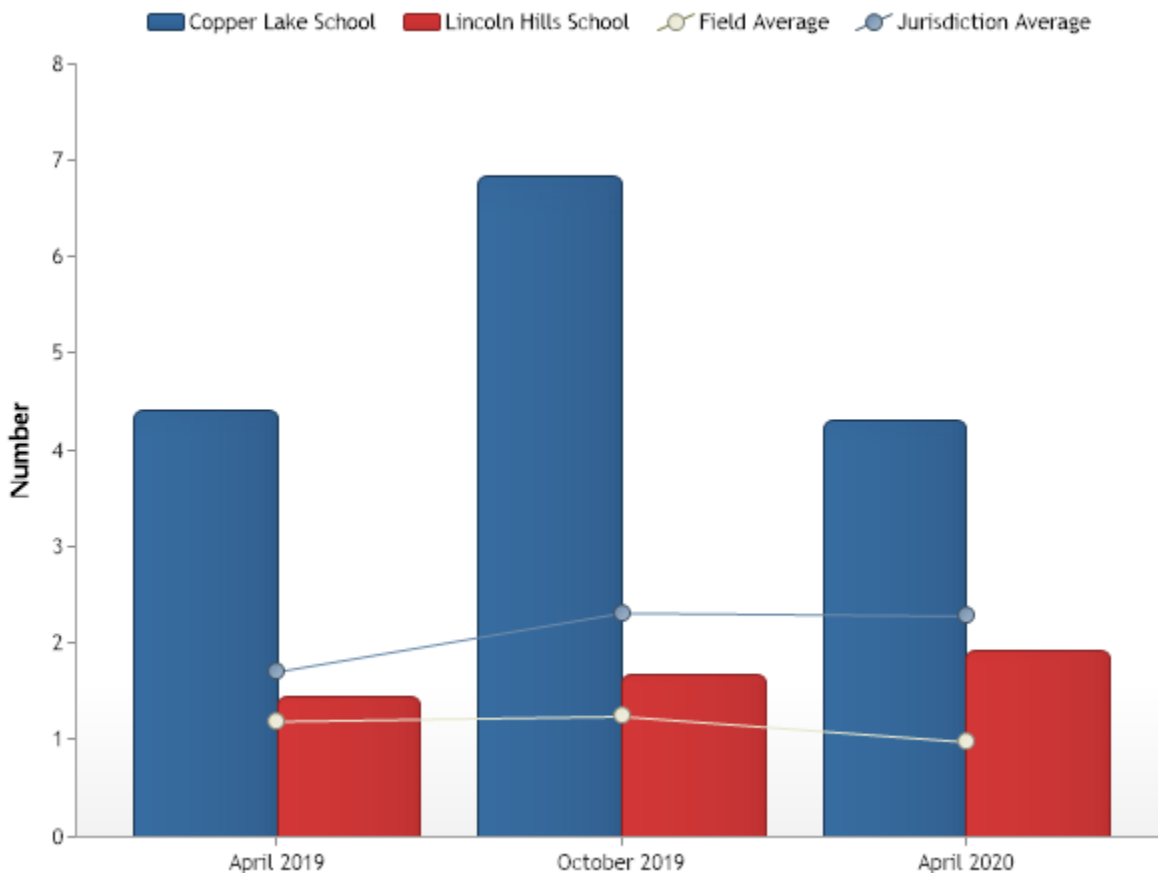
Additionally, the previous report discussed that the unit activity record for the Krueger Unit reflected that youth were spending approximately 20.64 hours per day in their rooms (10.5 hours reflected as sleeping time and 10.14 hours reflected as “in sleeping rooms,” room confinement). The activity log for the Krueger Unit also did not reflect any hours for education. This issue seems to have been resolved. The April activity log for the Krueger Unit reflects that youth are spending 2.27 hours per day in education programming; 5.20 hours per day in leisure activity; 2.57 hours per day in operational activity; 10.73 hours per day in rooms for sleeping; 2.83 hours per day in rooms (operational confinement); with the remainder of time identified as 0.07 facility programming; and 0.33 recreation.

Finally, the Monitor encourages the facility to closely review all of the PbS data and outcome measures as a means to better understand the impacts generated from the many changes occurring within the facility. Agency and facility leadership should make it a point to review the PbS data with staff at all levels, perhaps during monthly all staff briefing meetings. This is an opportunity to show the positive outcomes being achieved through the various changes and efforts to reduce incidents of violence, confinement, and use of restraint. As a result, while much work remains to be done, the data clearly shows that trend lines are moving in the right direction and providing a safer environment for staff and youth.

**Use of Restraint Outcome Measures** - Both LHS and CLS show “0” incidents of use of chemical agents (Order 6) during the April 2020 data collection cycle, which is commendable and per the Settlement Agreement. However, the rate of physical restraints (Order 3 – Physical Restraint Use per 100 person days of confinement) at LHS and CLS remains high and significantly above the national average as does the rate of mechanical restraints (Order 4 – Mechanical Restraint use per 100 person days of confinement) usage incidents. While the rate of physical and mechanical restraint use declined at CHS, it rose slightly at LHS during the April data cycle compared to the October 2019 cycle. This is very typical of a facility transition from and eliminating the use of OC (pepper spray) as staff develop new skills for de-escalation and behavior response techniques. As mentioned earlier, this is a continuous facility improvement process which involves complex operational issues. The following two charts reveal that overall, the trends lines for both physical and mechanical restraint use is on a downward trend and moving in the right direction from the April 2019 data collection cycle.

### Order 03

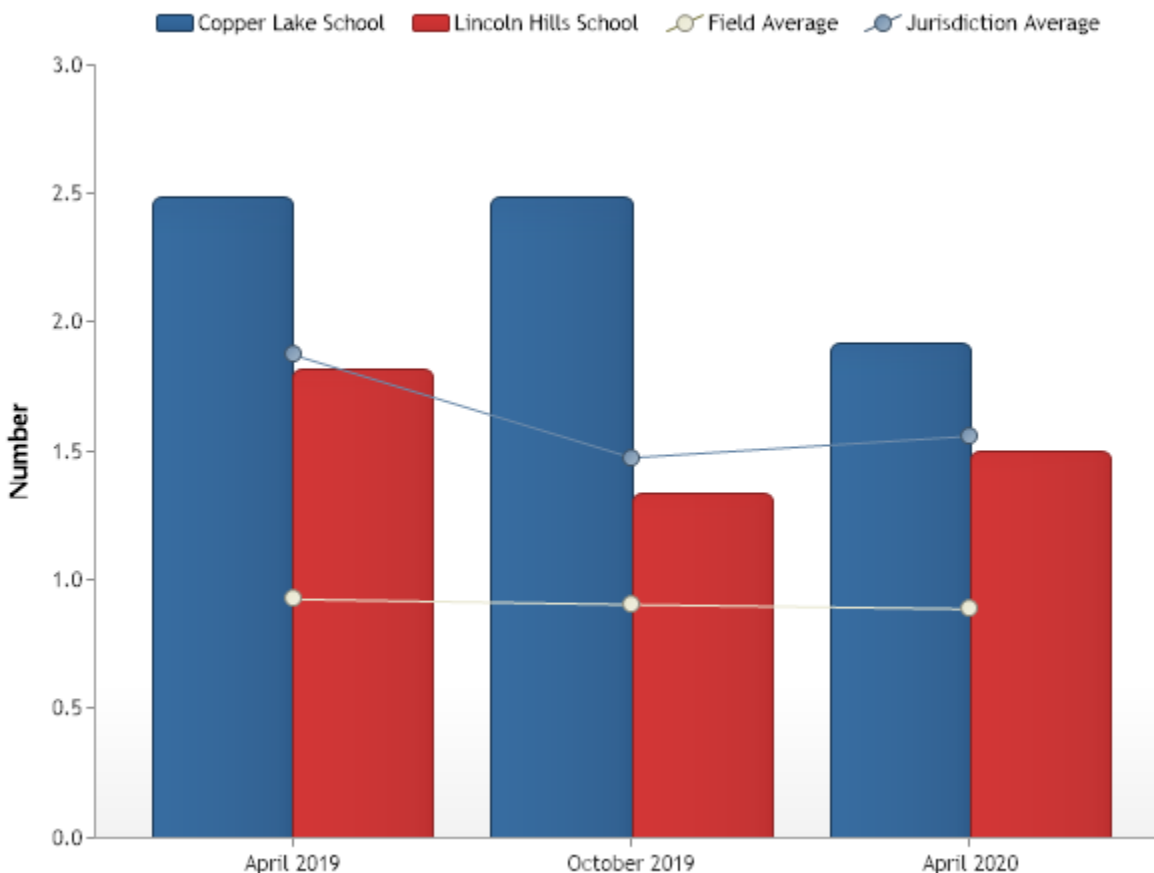
Physical restraint use per 100 person-days of youth confinement.



(Note: PbS defines Physical Restraints as facility authorized and trained holds used by staff to subdue an otherwise uncontrollable youth in order to prevent the youth from injuring him or herself, or others.)

## Order 04

Mechanical restraint use per 100 person-days of youth confinement.



(Note: PbS defines Mechanical Restraints as Mechanical Devices (such as handcuffs) used to prevent an uncontrollable youth from injuring him or herself or others. Mechanical restraints may only be used for short periods of time and must be used under medical supervision.)

The previous Monitoring report discussed issues around the reduced use of the Care Teams which resulted in a higher number of restraint-usage incidents. Care Teams are designed precisely to reduce the need for the use of restraints and have been effectively shown to work at facilities across the country and have been shown to be effective at LHS and CLS as well. A review of various incident reports shows multiple situations where use of a Care Team might well have been able to avoid escalation of the situation. The Agency and facility should continue to expand the use of the Care Team concept and ensure that direct care staff are training to properly use the Care Team as a de-escalation and use of restraint avoidance response. Unfortunately, some staff appear to incorrectly equate 'de-escalation' with verbally repeating the same order to a youth, rather than trying to engage the youth and resolve problems. As noted below in the PbS data, verbal de-escalation is also the training most frequently requested by staff. It is critical that direct care staff develop skills around total awareness in order to recognize the early signs of pending behavior and

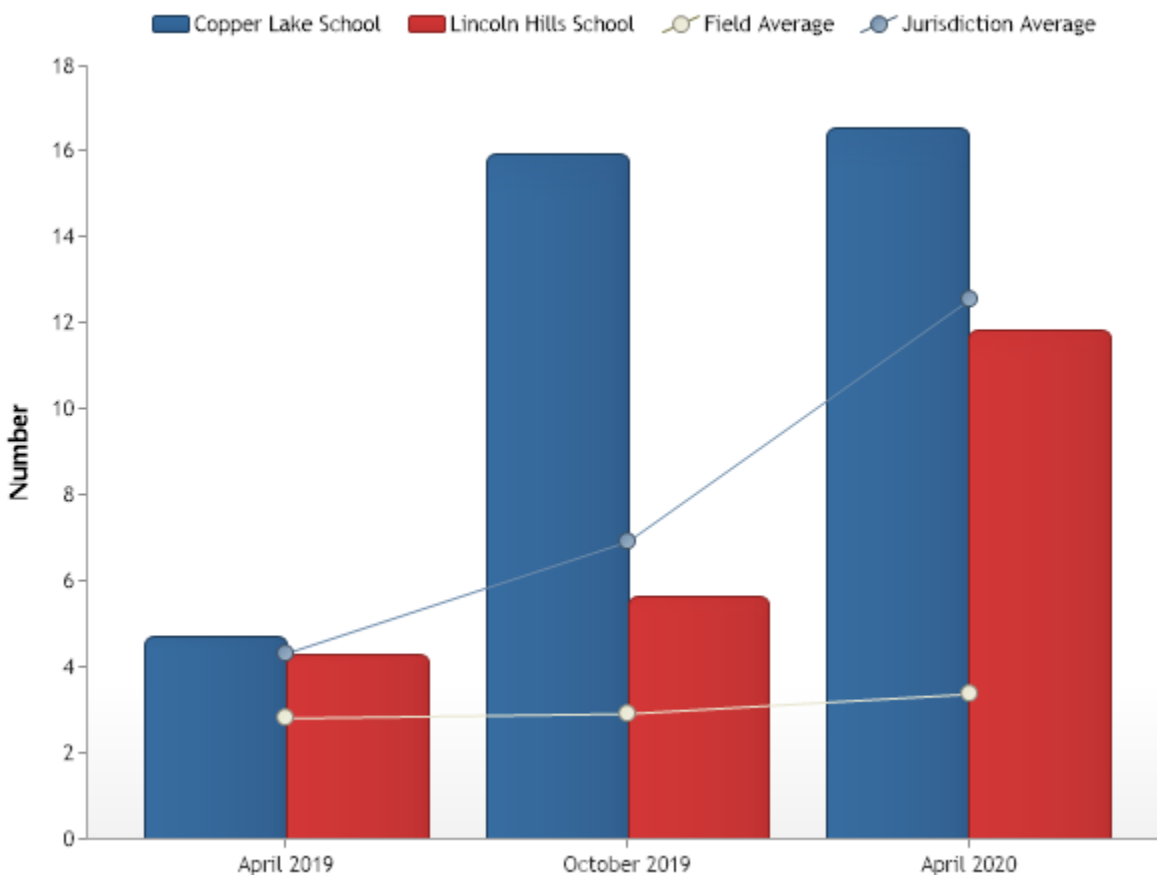
incidents in order to engage the Care Team members at the earliest possible opportunity. This in turn increases the opportunities for de-escalation and resolution of situations in a more restrained and effective manner. with the use of restraint.

The Department should continue to implement the core principles of the Care Team model by utilizing an agency strategic plan process that involves additional staff training in de-escalation techniques; include Care Team deployment information in shift debriefings in order to review the process and provide on-going situational training for staff; implement a Care Team response incident report that also reflects the outcome of the response in order to better track outcomes from Care Team deployments; implement the S.O.D.A.S model (Situation, Options, Disadvantages, Advantages, Solution) into the Care Team model; and, finally, the facility leadership team should incorporate daily/weekly review of all use of force/restraint incidents to evaluate if and when the Care Team should have been activated to help de-escalate a situation. This should be used as a staff training and awareness process to help staff build new skills and to help change their mindsets in how they first react to certain types of youth behaviors.

**Isolation, Room Confinement and Segregation Measures** – Overall, the PbS outcome measures around isolation and room confinement are improved over the October 2019 PbS data collection cycle reflecting that 97.07% of room confinements are terminated in under eight hours, and slightly fewer in under four hours, 93.88%. These are both very commendable achievements, and both are slightly better than the national field averages for these outcome measures. These rates also reflect an increase from the October 2019 rates. While these rates are commendable, we continue to see a high rate of initial confinements (room confinements for self-requested, program refusal or behavior related incidents, typically ended in under four hours) reflected in Order 8, which remains significantly higher than the national field average.

## Order 08

Isolation, room confinement, segregation/special management unit use per 100 person-days of youth confinement.



There remains an issue around Order 13 – Isolation, Room Confinement for reasons *not related to behavior*. These appear to primarily be incidents where youth are refusing to participate in programs and education. As you can see from the following chart, self-requested and declined to participate in programs involves 95% of the non-behavior related confinement incidents at LHS and 91% of confinement incidents at CLS.

Why confinement was used	Lincoln Hills		Copper Lake	
	Count	Percent	Count	Percent
Self-requested	838	76%	148	64%
Declined to participate in program	213	19%	63	27%
Mental Health			11	5%
Protect other youths or staff	25	2%	3	1%
Give youth time to cool off	20	2%	2	1%

Value	Count	Percent	Count	Percent
Other response to misbehavior	1	0%	2	1%
Not recorded	1	0%		

The PbS Incident reporting data for April 2020 reflects the following important data points:

- 25% of the incidents occurred in the DuBois Unit;
- 99% of all incidents occurred within a living unit;
- 71% of incidents involved “failure to comply.”

**LHS Did the incident occur in a living unit?**

Value	Count	Percent
Yes	876	99%
No	11	1%

**CLS Did the incident occur in a living unit?**

Value	Count	Percent
Yes	149	97%
No	4	3%

**LHS Incident location (living units):**

Value	Count	Percent
DuBois	223	25%
Black Elk	135	15%
Miller	135	15%
Rogers	116	13%
Curtis	103	12%
Krueger	84	10%
Addams	80	9%

**CLS Incident location (living units):**

Value	Count	Percent
Wells	96	64%



Value	Count	Percent
Hughes	42	28%
King	11	7%

**Youth and Staff Climate Surveys** – Both youth and staff appear to be more responsive in utilizing the youth and staff climate surveys. It is strongly recommended that both department and facility leadership take the time to thoroughly review the agency/jurisdiction count summaries for both the youth and staff climate surveys. The results can be very insightful and useful for leadership. Below are some of the survey results that the Monitor found most useful to be included in this report.

### Staff Climate Survey Results:

**In your opinion, what would make this facility safer?**

Value	Count	Percent
Training	49	53%
Safety equipment	45	48%
More staff	42	45%
Other	35	38%
Less overcrowding	15	16%

In regard to the above chart, the following are the top ten most requested training that staff felt would make the facility safer:

**What training would you like to see?**

Value	Count	Percent
Verbal de-escalation	46	48%
General behavior management	36	38%
Communication	34	36%
Appropriate staff/youth relationships	31	33%
Gang training	29	31%
Safety and security	27	28%
Juvenile rights	23	24%
Cultural diversity and awareness	23	24%
Agency policies and procedures	21	22%

Value	Count	Percent
Adolescent development	20	21%

#### **April 2020 PbS Staff Climate Survey Results:**

- 51% of staff responses reported they fear for their safety, down from 79% reported in the October 2019 surveys;
- 48% of responses reported they believe the facility is unsafe or very dangerous, this too is down from 83% reported in the October 2019 surveys;
- 77% of responses indicate that staff believe they do not have authority to discipline youth appropriately, slightly better than the previous data cycle of 83%.

#### **Youth Climate Survey Results:**

##### **Do you fear for your safety in this facility?**

Value	Count	Percent
No	15	48%
Yes	9	29%
Refuse to answer	4	13%
Not recorded	3	10%

In comparison, the youth fear for safety measure, Safety 13, has steadily improved from the previous data collection cycles. The rate still remains higher than the national field average but is improving.

##### **Within the last six months at this facility, have you been beaten up or threatened with being beaten up?**

Value	Count	Percent
No	16	52%
Yes	10	32%
Not recorded	3	10%
Refuse to answer	2	6%

- 45% of youth responded that they do not understand their legal rights, which is slightly better from the previous surveys;
- 90% responded that they know and understand the behavior management points system and know their levels;
- 42% reported have received a family visit. (It should be noted that the pandemic and restrictions

around visitation impacted these results. The facility did increase the use of technology for video visitations.)

Defendants should continue to pay particular attention to each Facility Improvement Plan as each FIP includes a section for comments relating to the implementation status of each action step completed by the PbS Site Coordinator or assigned staff member. Ongoing FIP review comments are entered by Facility Administrators, Agency Directors, and the assigned PbS Coach. This is an excellent way for the agency and facility leadership to monitor on-going progress with each of the FIP goals and to provide input, guidance, and direction during the process.

#### Policies and Procedures

There have not been any revisions made to policy and procedure since the last site visit.

#### Youth Interviews

The Monitor conducted several youth interviews. Approximately sixty-two (62) youth were interviewed during the site visit (formally and informally). About a half-dozen youth were interviewed by Plaintiffs' counsel by video call. There were significantly fewer requests to talk to Plaintiffs' counsel. During the last site visit, by far the biggest complaint by the youth was being bored, the quality of the food and frequency of the same meals being served. The Defendants stated that they would address this issue and consider a 4-6-week menu. The Monitor did review the new four-week menu prepared which is consistent with the Monitor's recommendation. Defendants have assessed the menu and added more items that the youth like such as: burritos, pizza patties, pizza, corn dogs, chicken alfredo, chili dogs, and Mexican lasagna. Staff reported that least favored items such as meatballs and gravy, chicken and gravy, turkey ala king, Salisbury steak, and meatloaf have been removed. Corn on the cob has been added to the menu and they modified the vegetables to make them more appealing. The Defendants should continue to discuss the menus in the youth advisory committees to continue to receive input from youth as most youth continue to complain.

The second most common complaint last visit was that when selected canteen items were unavailable there was no communication with or warning to the youth. Thus, the youth could not get canteen as deserved. Had communication occurred, they could have picked alternative items. The Monitor suggested that LHS/CLS leadership continue to work with the vendor and the business office to fix this communication problem and also consider an on-site mini canteen of items that youth desire should their canteen order be unavailable. The youth work hard to earn points and in turn, earn canteen privileges. The issues with canteen have been going on long enough and should be fixed immediately.

The third most common complaint last time was that the RFID bands were uncomfortable (they are on the thicker side). The Monitor suggested speaking with the vendor to see if there are any tweaks that can be made. Unfortunately, the bands cannot be changed. However, there were less complaints this visit. Perhaps the youth are adapting to the bands. The overwhelming majority continue to report that they are rarely confined, if at all, were not restrained that much, and were not strip searched.

The biggest complaints from youth this visit was the food, canteen out of stock items, being bored, missing school, and phone restrictions. Youth in general did not frequently complain to the Monitor about confinement, restraints, being unfairly treated by staff, or feeling unsafe. Previously, defendants have done an excellent job of essentially eliminating phone restrictions as recommended but there were phone restrictions during this review period. The Monitor requested data as it relates to phone restrictions and the data shows that in CLS there were 22 one-day phone limitations in which youth could only make one phone call per day. Of the 22 youth who had restrictions, 14 of them were able to make Zoom calls. Most boys in LHS complained of having phone restrictions, yet the data does not show there were not any restrictions during this period. Previously the Monitor – and PSU staff – had recommended that phone restrictions not be used at all as a punishment except for phone-related violations, and that had improved at the last visit. It is not clear why those restrictions have been reinstated. The Monitor suggests that phone restrictions should not be used as a behavior management tool at all, and –especially now since there is limited interaction due to the pandemic.

Covid-19 required several changes to programming and the general day to day with youth; not just at LHS/CLS but in every juvenile facility. Hopefully, regular programming can resume soon, but time will tell as Covid-19 continues to impact everyone’s lives. Defendants are and should continue to identify more resources and continue to implement the programs as recommended by the retained experts. The Defendants should take advantage of the reduced population and the available staff in planning for the future and developing programs for youth and continuing to offer more creative and other activities for youth while in-person interaction is limited.

## **COMPLIANCE WITH THE CONSENT DECREE AND PERMANENT INJUNCTION**

Below is the Monitor’s assessment of compliance with the consent decree. As previously stated, there is a challenge with adequacy of data for many areas (documentation, accuracy, consistency, and analysis) thus, some sections do not contain a detailed narrative.

### Room Confinement

1. Punitive Confinement.
  - a. Subject to the terms and provisions of Section V(C)(3)(g) effective immediately upon entry of the Court's order incorporating this Agreement, no punitive room confinement shall exceed seven days. Defendants shall calculate the seven-day period by including both pre-hearing and post-hearing room confinement.

**COMPLIANCE STATUS: PARTIAL COMPLIANCE. There is no evidence either in data or youth interviews that indicate youth are being confined for seven days. If Defendants improve their quality of data and documentation and incorporate the Court Order into policy and procedure –and if this improvement is sustained - they will reach substantial compliance.**

- b. Subject to the terms and provisions of Section V(C)(3)(g), Effective seven months after entry of the Court's order incorporating this Agreement, punitive room confinement shall be limited to three days, including both pre-hearing and post-hearing room confinement.

**COMPLIANCE STATUS: PARTIAL COMPLIANCE. Based on data and youth interviews, most youth are not being confined for three days, although there appear to be some isolated examples of this occurring. If Defendants improve their quality of data and documentation and incorporate the Court Order into policy and procedure – and if and if they ensure that no youth are being confined for three or more days, they will reach substantial compliance.**

- c. Subject to the terms and provisions of Section V(C) (3) (g), effective ten months after entry of the Court's order incorporating this Agreement, punitive room confinement shall be prohibited.

**COMPLIANCE STATUS: PARTIAL COMPLIANCE. The data shows that there are frequent confinements for refusing to participate in programming. Those confinements do not meet the criteria for Administrative Confinement – there is no risk of imminent physical harm- and appear to impermissibly constitute punitive confinements. The Monitor recommended creating a policy which clearly outlines the criteria for administrative confinement so that staff cannot punitively confine youth. Defendants are working on said policy. Defendants also need to reconsider consequences for not participating in various programming.**

- 2. Administrative Confinement. Administrative confinement may only be used for a youth who poses a serious risk of imminent physical harm to others. Subject to the terms and provisions of Section V(C)(3)(g), effective six months after entry of the Court's order incorporating this Agreement, an initial period of administrative confinement may not exceed four hours for a youth posing a risk of imminent physical harm to others. When the youth is in room confinement to prevent a risk of imminent physical harm to others, Defendants shall engage in visual checks at least every 30 minutes, as specified in current policy, and shall provide intensive mental health services designed to return the youth safely to the general population. If at any point the youth no longer poses a risk of imminent physical harm, he or she must be immediately returned to general population. Time in administrative confinement may exceed four hours only under the following circumstances:

**COMPLIANCE STATUS: PARTIAL COMPLIANCE. During this reporting period, there were instances in which administrative confinement was being used for youth who did not pose a serious risk of imminent physical harm especially in March (see data below). The Monitor suggested how to document this requirement in policy and in forms as well as made suggestions to place youth in the day room once they no longer pose a serious risk of**

**imminent physical harm to others.**

**February 2020**

**CLS: 9 uses of AC. Average of 152 Minutes. 1 youth went over four hours.**

**LHS: 59 uses of AC. Average of 168 minutes. 2 youth over four hours.**

**March 2020**

**CLS: 7 uses of AC. Average of 175 minutes.**

**LHS: 69 uses of AC. Average of 240 minutes.**

**15 youth over four hours (as high as 1300 minutes)**

**April 2020**

**CLS: 3 uses of AC. Average of 142 minutes. 1 youth over four hours**

**LHS: 40 uses of AC: Average of 191 minutes. No youth over four hours**

**May 2020**

**CLS: 5 uses of AC. Average of 182 minutes. No youth over four hours**

**LHS: 37 uses of AC: no youth over four hours.**

**As stated in the previous report, the Krueger Program (which is used for youth who are seen to have more anti-social behaviors) has been modified based on some of the Monitor's recommendations. Since the last report, each youth who comes to Krueger and who is also enrolled in treatment programming has had a treatment specialist provide one-on-one services in order to keep them current with their assigned treatment groups. Youth at every phase of the Krueger Program are afforded these services. Although youth have behavioral plans developed, the program needs to be improved to include more robust behavioral plans and the plans need to be revisited with more frequency should a youth not be able to return to the home unit in an appropriate period of time. The Monitor also suggested that the Defendants evaluate the length of time it takes for a youth to move through levels 1 and 2 and that the policy and procedure clearly outlines the criteria for referral into the program as well as criteria for exiting the program and ensure that youth clearly understand why they are being placed in Krueger and what they specifically need to do to move through the levels. The Monitor also suggested allowing youth on levels 1 and 2 to attend school in the school area (once education resumes in the school area) and participate in other programming if their behavior warrants.**

**Data compiled from the Krueger Living Unit continues to be requested and evaluated by Unit Managers and SYC's. An overview of data compiled from the Krueger Living Unit during January through April shows:**

**Youth Referred: 124**

**Youth Not Placed: 70 (56%)**

**Youth Placed: 54 (44%)**

**Youth Placed 1 Time: 48**

**Youth Placed 2 Times: 5**



**Youth Placed 3 Times: 1**

**Jan-Apr 2020 (Average Number of Days for Placed Youth)**

**Phase 1: 15**

**Phase 2: 4**

**Phase 3: 3**

The Monitor spent time (virtually) with PSU and discussed providing “intensive mental health services designed to return the youth safely to the general population.” The team did develop a detailed operational definition and the Monitor reviewed documentation of services provided. DBT groups have not been running because of Covid-19 but youth are receiving weekly individual DBT sessions. The Sex Offender Treatment group was not interrupted and is continuing. The Monitor suggested that the Defendants retain a mental health expert to evaluate the program and make recommendations to, among other things, ensure these services are being provided, including while youth are in AC. A tracking spreadsheet that identifies the treatment group that youth who enter the Krueger Program are engaged in at the time of their transfer into Krueger. The tracking sheet is updated in cooperation with all the treatment specialists to ensure the information is communicated across the different staff classifications involved. Policy and procedure and a quality assurance review process needs to be implemented, and documentation needs to be streamlined.

Due to the lack of data available, the Monitor is unable assess compliance as to the 30-minute safety/security checks.

- a. Administrative confinement may be extended four hours with one additional four-hour extension thereafter (for a total of up to 12 hours) when:
  - i. A psychologist, psychology associate or psychiatrist recommends continued confinement because the youth poses a risk of imminent physical harm to others, and

**COMPLIANCE STATUS: PARTIAL COMPLIANCE.** There were youth confined for over four (4) hours this reporting period however, the number of youth confined for over 4 hours is less than the last reporting period (see response in previous question). March had a significant number of youth confined over 4 hours without meeting the requirements of this section of the Consent Decree. This also occurred in other months. Some of these confinements reported and documented that youth remained on AC were not recommended by PSU, which also is a violation of the requirements.

With this said, Defendants are accurately capturing confinement time, number total placements, average confinement time per month, and number of days without AC placements. Defendants now need to continue to focus on reducing AC overall, ensuring they are following this Court Order, draft policy, and procedure with AC placement criteria, and continue to QA this data.

- ii. A plan is commenced to either promptly return the youth to general population or transfer the youth to another facility.

**COMPLIANCE STATUS: PARTIAL COMPLIANCE.** Most youth serve the administrative confinement on their home unit. Some youth are serving their confinement on Krueger and are referred to the “Krueger Program.” Although youth have behavioral plans developed, the program needs to be improved to include more robust behavioral plans and the plan needs to be revisited with more frequency should a youth not be able to return to general population promptly.

The Monitor also suggested that the Defendants evaluate the length of time it takes for a youth to move through levels 1 and 2 and that the policy and procedure clearly outlines the criteria for referral into the program. Defendants’ data and documentation has improved (see above Krueger data). Defendants need to incorporate the court order into policy and procedure and train staff accordingly.

- b. Administrative confinement time limits may be tolled from 8 pm to 8 am.

**COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE.** Time is being tolled from 8 P.M. to 8 A.M.

- c. Administrative confinement may only be extended beyond 24 hours to effectuate transfer of the youth to another facility under a commenced plan.

**COMPLIANCE STATUS: PARTIAL COMPLIANCE.** There were no instances in April and May of youth being confined for over 24 hours. There were two instances in March where two youths were confined beyond 24 hours. Both youth were transferred to other facilities. Defendants need to improve their quality of data and documentation with respect to the “commenced plan” and incorporate the Court Order into policy and procedure. Defendants are close to being in substantial compliance.

- d. The provisions of this section shall apply to all situations involving room confinement of any youth based on the risk of harming others and shall supersede any rule or policy to the contrary.

**COMPLIANCE STATUS: PARTIAL COMPLIANCE. See above.**

- 3. Youth at imminent risk of serious self-harm. Effective immediately Upon entry of the Court's order incorporating this Agreement, Defendants shall amend DJC Policy #500.70.24 as set forth in Appendix A and shall treat youth at risk of self-harm in compliance with that amended policy.

**COMPLIANCE STATUS: PARTIAL COMPLIANCE.** DJC Clinical Observation policy 500.70.24 was updated. The plans developed are very detailed and comprehensive. A quality assurance mechanism needs to be finalized.

4. **Conditions of Room Confinement.** Effective immediately upon entry of the Court's order incorporating this Agreement, the following conditions shall apply to youth in any form of room confinement:
  - a. Any cell designated to house youth in room confinement must be suicide resistant and protrusion free.

**COMPLIANCE STATUS: PARTIAL COMPLIANCE.** As previously stated, the Monitor would not deem any room in any facility as being “suicide proof,” however there are safety and security measures that can be put into place to reduce the risk of suicides and to make the rooms more suicide resistant. The Monitor recommended that Defendants replace the existing room furniture with furniture that is specifically designed and engineered for secure environments. The Defendants have completed the renovations in seven living units with a plan for completion of the other cottages by July 2021. The new replacement furniture is consistent with what the Monitor would expect to see in a secure facility and should certainly reduce the opportunity for suicidal incidents within the youth rooms. This is a huge investment by Defendants and shows their commitment to complying with this provision.

The Monitor did not observe rooms with multiple blankets/sheets covering large areas of the room. Staff can clearly see the youth through the window. Room searches are not taking place as often as before due to a change in Covid-19 procedures. The Monitor recommended that searches continue to be completed and documented. There are youth who still have blankets over their heads when they nap/sleep in room and staff need to continue to redirect youth and ensure that the youth are responsive when they do their safety/welfare checks.

Due to the lack of data available, the Monitor is unable assess compliance as to the 30-minute safety/security checks. Defendants have purchased, installed, and are using the new electronic system in all the units. Staff have adjusted to the new system very well. Defendants need to modify their policy and procedure related to safety/welfare checks.

As stated in every report, while not required by the Court Order, the Monitor continues to recommend increasing the frequency of safety/welfare checks to a minimum of every 15 minutes when youth are confined to their rooms as this is supported by JDAI standards, PREA standards, NCCHC, ACA standards, and is the Best Practice Model. Defendants should be commended for the vast improvement on these safety/welfare checks and for investing in the technology needed.

- b. Youth in room confinement shall have prompt access to water, toilet facilities, and hygiene supplies, either in their rooms or upon request to a staff member via intercom or some other accessible and constantly monitored form of communication within approximately 15 minutes of such request.

**COMPLIANCE STATUS: PARTIAL COMPLIANCE. Most youth did not complain about access to water, hygiene supplies, or nighttime toilet usage. If Defendants improve their quality of data and documentation, and incorporate the Court Order into policy and procedure, they will be in substantial compliance.**

- c. Staff must notify a PSU staff member as soon as possible, and no later than two hours after placement, when a youth is placed in room confinement. A youth must have access to any needed mental health treatment while in room confinement. During the time that a youth is in room confinement, staff shall engage in crisis intervention techniques designed to return the youth to general population as soon as possible. PSU interventions during this time shall not consist only of conversations with youth through a locked door.

**COMPLIANCE STATUS: PARTIAL COMPLIANCE. Documentation has been improved as to who from PSU was notified and time of notification. The crisis intervention technique is being documented but when PSU responded is not documented in a way that makes it easy to assess compliance. Also, since PSU staff are not physically present on weekends and some evening hours outside of the four hours they are required to do (although they averaged around 6.6 hours on weekends this period), it is difficult for PSU staff to engage youth in a meaningful way during this time. A quality assurance program needs to be developed and documentation should be streamlined. As previously stated, the Monitor suggests that the Defendants consider utilizing an expert in order to further develop the mental health program at LHS/CLS.**

- d. Any youth placed in room confinement for whom there is not already a mental health evaluation must have such an evaluation as soon as possible, and in any event no later than 24 hours after being placed in room confinement. If a youth is identified with a mental health need (a mental health code designation of MH-1 , MH-2a, MH-2b, or ID), placements in room confinement will be reviewed by a PSU staff member to determine whether that placement is a contraindication to the youth 's mental health or if other options will adequately protect the youth or staff.

**COMPLIANCE STATUS: PARTIAL COMPLIANCE. The Monitor requested any documentation indicating that confinement is contraindicated and there were no**

**instances documented during this review period. There is a form “Psychology Input for Security Decision” which is where the contraindication would be documented and there is a policy (Policy 500.70.04).**

e. Staff must visually and in person check safety of youth pursuant to current policy at least every 30 minutes in all cases, and contemporaneously record the actual time of such checks in a log kept for that purpose. Staff who fail to make such checks or who falsify such records may be subject discipline. Any youth placed in room confinement for any period in excess of 24 hours shall receive daily contact with a mental health provider. This contact shall be face-to-face unless, due to staffing limitations, no PSU staff is personally available, in which case it may occur by phone or video conferencing.

**COMPLIANCE STATUS: Due to the lack of data available, the Monitor is unable assess compliance as to the 30- minute safety/security checks. The agency implemented an electronic, software-based rounds checking system- RFID. There continues to be regular quality assurance reviews in order to increase compliance. Following an internal review of documentation, random days and times across all units and shifts are selected each month to perform auditing. Any discrepancies are entered into the “Accountability Tracking” spreadsheet to help identify staff who need more training/assistance/discipline. There was no formal discipline or “Letters of Expectation” during this reporting period. There were 3 job instructions (down from 16) given during this reporting period. PSU staff do visit youth daily when on site and are available 24/7 if needed by phone.**

**While not required by the Court Order, the Monitor continues to recommend increasing the frequency of safety/welfare checks to a minimum of every 15 minutes when youth are confined to their rooms as this is supported by JDAI standards, PREA standards, NCCHC, ACA standards, and is the Best Practice Model. Defendants should be commended for the vast improvement on these safety/welfare checks and for implementing the electronic system as quickly as they did. Staff should also be commended for embracing this new system.**

f. Any youth in room confinement shall have property items similar to or the same as items allowed in general population. Specific items of property may be restricted as needed for safety of the youth and staff on a case-by-case basis. These restrictions will be temporary in nature until these items can be safely returned to the youth. A Supervising Youth Counselor or Unit Supervisor shall review any property restrictions on a daily basis and document the review.

**COMPLIANCE STATUS: PARTIAL COMPLIANCE. Property restrictions are most commonly applied by PSU for safety reasons, however forms and process for documenting any potential property restrictions need to be created and implemented.**

- g. Youth in room confinement shall receive:
  - 1. All regularly scheduled social worker visits, mental health services, and other health services.

**COMPLIANCE STATUS: PARTIAL COMPLIANCE.** There is a lack of documentation as to this provision. Social worker visits, mental health services, and other health services are provided in general. Documentation, quality assurance, and policy and procedure need to be improved/completed in order for the Monitor to fully assess compliance.

- ii. Any rehabilitative programming (e.g., Aggression Replacement Training, Juvenile Cognitive Intervention Program, etc.) that was scheduled or in process before placement in room confinement.

**COMPLIANCE STATUS: PARTIAL COMPLIANCE.** Youth's participation in Skills Streaming is tracked across sessions and reported to the youth's Social Worker and OJOR for consideration, but there is an overall lack of documentation as to specific programming that occurs daily. Staff did confirm that youth in Krueger levels 1 and 2 do not receive rehabilitative programming that was scheduled or in process which is a violation of the Agreement. Instead, these youths are limited to PSU-led small group sessions and evidence-based cognitive behavioral treatment in the form of Skills Streaming. Skills Streaming is designed to support the youth's ability to successfully re-engage in treatment programming while on Krueger phase 3 and subsequently complete their other assigned programs. In addition, the PbS data shows that youth in Krueger average only 0.09 hours (just a few minutes) per day in programming.

**DBT groups have not been running because of Covid-19 but youth are receiving weekly individual DBT sessions. The Sex Offender Treatment group was not interrupted and is continuing. The Monitor suggested that the Defendants retain a mental health expert to evaluate the program and make recommendations to, among other things, ensure these services are being provided.**

- iii. Educational services with the general population to the extent practicable. If attending educational services with the general population proves unworkable due to an immediate and substantial threat of physical harm or an unreasonable risk of significant disruption to classroom instruction, youth in room confinement shall receive alternative educational services on days that the general population receives such services. Defendants shall ensure special education services for all eligible youth.

**COMPLIANCE STATUS: PARTIAL COMPLIANCE.** Covid-19 has changed how the educational services are being provided to youth at LHS/CLS. During the week of March 16,



2020, school and treatment staff began planning for virtual/on-line education services to be delivered to youth on the unit with staff working off-site. The educational format has been approved by DPI and is consistent with what other schools throughout the country have implemented during COVID-19. On March 24, the schools began providing education on the units with most education staff working off-site. The schedule has been distributed along with a training brief assisting with Chromebooks and logging into Edgenuity. Applicable staff continue to be monitoring e-mail, conducting phone calls, and performing Zoom/video calls.

In general (prior to Covid-19) educational services for general population occurred in the classrooms in the school area. Youth in the Targeted Intervention Program (“TIP”) attend classes in the school area but separate from the general population. Youth in Krueger do not receive educational services in the school area (except for youth on Phase 3) but remain on the living unit. The PbS data also showed approximately 2.27 hours of schooling for youth in Krueger, which is slightly fewer than the average daily hours of instruction for other units. Unfortunately, the average daily duration of education hours remains low for both LHS and CLS, at around 3 hours per day. The Monitor feels that the facility needs to increase the daily education hours as best possible as this will have a positive impact on meaningful programs and reduce youth idleness.

The Monitor recommends that all youth regardless of status have education in the school area. The Defendants should further engage the education expert to make further recommendations that should be implemented, including an assessment of the quality and benefits of the online education system Defendants are using. Defendants should implement the recommendations made by the educational consultant, including those in the June 1, 2019 memorandum to LHS/CLS. The Defendants also need to focus on bringing more programming into LHS/CLS, especially programming culturally relevant and specific to the race and genders of the youth who are at the facility.

- iv. Additional "out time" for gross motor exercise and social interaction. Defendants shall permit youth to talk to peers during such "out time" unless such conversations pose an immediate and substantial threat of physical harm to another person. Sensory stimulation shall also be available during "out time," unless such activities cause immediate and substantial disruption or risk of physical harm.

**COMPLIANCE STATUS: PARTIAL COMPLIANCE.** “Out time” has significantly improved over the last year. In general, youth are out of their rooms from 8 A.M. to 8 P.M. (with the exceptions in Krueger discussed previously) and for youth in quarantine due to Covid-19 safety measures implemented by Defendants. The Monitor regularly saw youth conversing with other youth and staff during out time. In youth interviews, youth stated that they are not really confined to their rooms at all. Youth are self-confining at a higher rate than the Monitor would like to see. Youth still want more structured activities when they are



out of their rooms and feel they do not really do anything, which continues to be a significant problem and could lead to self-confining. Enhancing programs and meaningful activities for the Krueger program should have a positive impact and allow for youth to return to their home cottages more quickly.

- v. Meals out of the cell, absent an immediate and substantial threat of physical harm to another person from the youth eating that meal out of the cell.

**COMPLIANCE STATUS: PARTIAL COMPLIANCE.** Most meals take place out of the room. Meals are now being documented for all youth. Staff are now able to document when the meal is eaten in their room voluntarily or staff imposed. The Monitor did not witness youth eating in their rooms but has reviewed documentation in which youth are eating meals in their room. Documentation has improved from the last site visit and will further improve with the RFID system. Policy and procedure need to incorporate this section of the Court Order and youth should be eating out of their rooms unless there is a substantial threat of physical harm.

- vi. Minimum "out time" from the cell of at least 30 hours per week and at least 3 hours per day. Time in general population on a given day shall be credited to those hours.

**COMPLIANCE STATUS: PARTIAL COMPLIANCE.** Logs indicate that youth are receiving much more than the 3 hours of "out time" per day or 30 hours per week in a large majority of the time. PbS Unit log data, which is now tied to the Guardian RFID system, reflects 9.85 hours of in rooms for "sleeping" time and only 1.68 hours for "in sleeping rooms" (operational confinement), leaving 12.76 hours out of room for other programs and activities. This represents a significant increase in out of room time now that room confinement for operational activities such as split halls, confinement for shift change, counts, and medicine pass were discontinued. Similar data is also reflected in the Krueger Unit, indicating that the youth assigned to the Krueger program are also spending much more time out of their rooms than in previous monitoring periods.

- 5. **Notification of Rights.** Within 15 minutes of a youth's placement in room confinement, facility staff shall orally inform the youth of his or her rights regarding grievances and appeals. Within one hour of a youth's placement in room confinement, facility staff shall provide the youth with written notice of his or her rights regarding grievances and appeals.

**COMPLIANCE STATUS: PARTIAL COMPLIANCE.** There is a box on the incident debriefing form that is checked if staff informed the youth of his or her rights regarding grievances and appeals and time of notification. The Monitor suggested that staff ask the youth to sign off that they were informed of their rights and were provided with written

notice of his/her rights. Youth continue to receive their notification of rights/grievance procedures when they are placed in administrative confinement. The process for obtaining a youth signature (or two staff signatures in the event of a refusal) has been proposed as a part of youth receiving PSU thinking chain reports during the first stage of the administrative confinement process. However, the process and forms need to be enacted and written into policy.

6. Documentation. Whenever a youth is placed in room confinement, facility staff shall create a written report documenting the necessity of room confinement, the less restrictive measures attempted before placement in room confinement, and the length of time the youth spent in room confinement. The youth must be promptly provided with this report immediately upon its completion.

**COMPLIANCE STATUS: PARTIAL COMPLIANCE.** The Court Order requires documentation of all forms of room confinement, and Defendants are now documenting this more consistently. Documentation needs to continue to be completed and consistently applied to all situations. Documentation, data collection and reliability, and quality assurance needs to continue to be improved. Also, documentation needs to be created that prove a youth was promptly provided with the report upon the completion of room confinement.

B. OC-Spray and Other Chemical Agents

1. OC reduction plan. Effective immediately upon entry of the Court's order incorporating this Agreement, the Defendants shall continue to implement OC-Spray reduction plans, attached, and incorporated hereto as Appendix B, as outlined in the preliminary injunction.

**COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE.** OC has been completely eliminated during the previous reporting period. There needs to be continued focus on training, skills development and coaching, programming, and continued focus on overall atmosphere.

2. Prohibition on use of OC-Spray and other Chemical Agents. Subject to the terms and provisions of Section V(C) (3)(g), within twelve (12) months of entry of the Court 's order incorporating this Agreement, the use of OC spray and other chemical agents will be prohibited.

**COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE.** OC has been eliminated during the previous reporting period. There needs to be continued focus on training, skills development and coaching, programming, and continued focus on overall atmosphere.

C. Mechanical Restraints. The following provision shall be effective immediately

upon entry of the Court's order incorporating this Agreement:

1. Prohibition on types and uses of mechanical restraints.
  - a. Under all circumstances, there is a presumption that youth shall not be mechanically restrained.

**COMPLIANCE STATUS: PARTIAL COMPLIANCE.** The Monitor did not personally see any youth in mechanical restraints during site visit, but data and documentation show that there was an overall increase in use of mechanical restraints during this reporting period. Incident reports also show uses of physical restraints when alternatives, such as the use of CARE teams, may have been possible. Defendants need to focus on reducing the use of mechanical (as well as physical) restraints. Defendants need to document and establish that there were not less restrictive means available and quality assurance measures and final policy and procedure are in place.

- b. Restraints may only be used if staff determine that they are the least restrictive means of addressing an imminent threat of physical harm to self or others and must be removed immediately when the youth regains control and when the threat of harm or the safety concern has abated.

**COMPLIANCE STATUS: PARTIAL COMPLIANCE.** The use of mechanical restraints has decreased in CLS and increased in LHS over the last four months. Population is significantly lower over the last few months (average population of LHS/CLS December of 2019 was 116.5 and in May 2020 it was 86.8)

**Uses of mechanical restraints LHS:**

<b>October 2019:</b>	<b>36 uses</b>
<b>November 2019:</b>	<b>21 uses</b>
<b>December 2019:</b>	<b>33 uses</b>
<b>January 2020:</b>	<b>25 uses</b>
<b>February 2020:</b>	<b>37 uses</b>
<b>March 2020:</b>	<b>38 uses</b>
<b>April 2020:</b>	<b>37 uses</b>
<b>May 2020:</b>	<b>27 uses</b>

**Uses of mechanical restraints CLS**

<b>October 2019:</b>	<b>10 uses</b>
<b>November 2019:</b>	<b>11 uses</b>
<b>December 2019:</b>	<b>5 uses</b>
<b>January 2020:</b>	<b>8 uses</b>
<b>February 2020:</b>	<b>2 uses</b>
<b>March 2020:</b>	<b>7 uses</b>
<b>April 2020:</b>	<b>6 uses</b>

May 2020: 0 uses

**Documentation needs to be improved to document that an imminent threat of physical harm existed, and when and how that decision is reviewed. Defendants do have critical outcome measures for restraints. Defendants need to continue to work towards reducing the use of mechanical restraints, develop better documentation and quality assurance measures.**

- c. No mechanical restraint device other than handcuffs may be used on youth while they are in the facility, except:
  - i. Mechanical restraints may be used when ordered by PSU to attempt to prevent active self-harm.

**COMPLIANCE STATUS: PARTIAL COMPLIANCE. With better documentation, policy revisions, and quality assurance measures, Defendants may be close to achieving substantial compliance with this provision.**

- ii. Mechanical restraints may be used if the youth poses an immediate and substantial threat of physical harm to others.

**COMPLIANCE STATUS: PARTIAL COMPLIANCE. Documentation has improved relative to when restraints have been used and the rationale for usage. However, as noted above, restraints are being used more frequently than they should be. With quality assurance measures and continuing to focus on reducing the use of restraints, Defendants may be close to achieving substantial compliance with this provision.**

- iii. During transportation, the facility may use handcuffs and, in rare instances when necessary for articulated reasons necessary to prevent an imminent threat of harm to youth and/or staff, additional restraints such as waist chains or leg restraints. When youth are being transported for release to a non-locked environment, there shall be a presumption that restraints are not used. Restraints may be used during such transportation to prevent a threat of harm to youth and/or staff.

**COMPLIANCE STATUS: PARTIAL COMPLIANCE. With policy revisions and quality assurance measures, Defendants will be close to achieving substantial compliance with this provision.**

- d. Mechanical restraints shall never be used for punishment or discipline.

**COMPLIANCE STATUS: PARTIAL COMPLIANCE. With better documentation, policy revisions, and quality assurance measures, Defendants will be close to achieving substantial compliance with this provision.**

- e. Youth may never be restrained to a fixed object, unless specifically ordered by PSU to attempt to prevent active self-harm.

**COMPLIANCE STATUS: PARTIAL COMPLIANCE. There is no evidence of youth being restrained to a fixed object. With better documentation, policy revisions, and quality assurance measures, Defendants will be close to achieving substantial compliance with this provision.**

- f. Only staff who have been specifically trained in the use of physical force and restraints and trained on proper de-escalation techniques may place a youth in mechanical restraints.

**COMPLIANCE STATUS: PARTIAL COMPLIANCE. Training records indicate that the large majority of staff have received training in physical force, restraints, and trained in proper de-escalation. However, de-escalation training needs to be completed more often (regular, informal, refreshers) so that staff can continue to develop this skill. These skills are also important to help staff identify and prevent situations which might lead to disruption or altercations before such incidents occur Proper de-escalation cannot be trained only once, or even only once a year. The Monitor continues to suggest having staff who are very good at de-escalation work with staff who could use a refresher or with new staff especially since a large majority are new. Staff continue to want additional training on de-escalation.**

- g. Any use of mechanical restraints, except during transportation or for mental health purposes, must be authorized by a Youth Counselor, Youth Counselor Advanced, or supervisor in a living unit. No youth shall be left alone in restraints. Any use of mechanical restraints in excess of 45 minutes must be approved by the superintendent, security director or designee and approved by PSU staff, and reviewed every 45 minutes thereafter. As soon as possible and no later than 2 hours following, PSU staff shall evaluate and provide therapeutic interventions to the youth.

**COMPLIANCE STATUS: PARTIAL COMPLIANCE. There is no evidence that youth were placed in mechanical restraints in excess of 45 minutes during this reporting period. With policy revisions and quality assurance measures, Defendants may be close to achieving substantial compliance with this provision.**

2. Documentation. Facility staff must document all uses of restraints in the facility, including a description of the events leading up to the use of restraints, the less restrictive alternatives attempted, and the length of time the youth spent in restraints.

**COMPLIANCE STATUS: PARTIAL COMPLIANCE. Mechanical restraint use has been added to the Incident Debrief process and the Incident Debrief process itself is being analyzed for improvement. The length of time youth spend in restraints is now being documented as part of the Incident Debrief process. If Defendants maintain this, they will be close to achieving substantial compliance.**

- D. Strip Searches. The following provisions are effective immediately upon entry of the Court's order incorporating this Agreement.
  1. Prohibition on strip searches without probable cause. Facility staff may not conduct a strip search of any youth unless there is probable cause to believe that the individual youth possesses drugs or weapons that could not be discovered through less intrusive means.

**COMPLIANCE STATUS: PARTIAL COMPLIANCE. Documentation shows that there were two (2) strip searches in the month of March and no strip searches in the months of April and May. The two strip searches conducted were approved by PSU for contraband/self-harm reasons. The policy for searches needs to be finalized and QA developed. Defendants are very close to being in substantial compliance.**

2. Strip searches with probable cause. Less intrusive searches, including using a metal detector, pat down, or allowing the youth to change into a tank top or other clothing, must be attempted before a strip search is conducted, unless it is determined by PSU in consultation with the youth that less intrusive searches, which may include physical contact, would cause greater trauma to the youth.

**COMPLIANCE STATUS: PARTIAL COMPLIANCE. Documentation shows that there were two (2) strip searches in the month of March and no strip searches in the months of April and May. The two strip searches conducted were approved by PSU for contraband/self-harm reasons. The policy for searches needs to be finalized and QA developed. Defendants are very close to being in substantial compliance.**

- a. When a strip search is conducted, staff must ensure that no unintended individuals are able to view the search, including by video or other recording device.

**COMPLIANCE STATUS: PARTIAL COMPLIANCE. Documentation shows that there were two (2) strip searches in the month of March and no strip searches in the months of**

April and May. The two strip searches conducted were approved by PSU for contraband/self-harm reasons. Documentation needs to be improved as to how staff are ensuring that unintended individuals cannot view the search (detail the area where search is occurring, state that there are no recording devices, and document who is present in the area, etc.) If documentation and policy revisions are made, substantial compliance will be obtained.

- b. Under no circumstance may a youth be strip searched within view of another youth.

**COMPLIANCE STATUS: PARTIAL COMPLIANCE.** Documentation shows that there were two (2) strip searches in the month of March. Documentation needs to be improved detailing the area where search is conducted and how other youth cannot view the youth being strip searched. If documentation and policy revisions are made, substantial compliance can be obtained.

- c. Strip searches may only be conducted by individuals of the same gender identity as the youth being searched unless the search is conducted by a medical professional.

**COMPLIANCE STATUS: PARTIAL COMPLIANCE.** Documentation shows that there were two (2) strip searches in the month of March. Documentation needs to be improved as to the gender identity of the staff conducting the search because the search is being conducted by someone other than a medical professional. The Monitor previously recommended form changes for documentation purposes.

- d. Strip searches must be conducted by staff trained in trauma-informed practices.

**COMPLIANCE STATUS: SUBSTANTIAL COMPLIANCE.** Training records indicate that staff have been trained in trauma informed care.

- e. If a youth with a known or suspected mental health diagnosis or history of sexual abuse objects to a strip search, staff must consult with mental health practitioners before conducting the search.

**COMPLIANCE STATUS: PARTIAL COMPLIANCE.** The Monitor is told by direct care staff that PSU is consulted. Documentation needs to be improved.

- 4. Documentation. Facility staff must document all uses of strip searches, including the reason for the search and any drugs, weapons, or other items discovered through the search.

**COMPLIANCE STATUS: PARTIAL COMPLIANCE.** The process for tracking and



**documenting all searches including the probable cause for any necessary strip search and the weapons, drugs, or other items discovered has been incorporated into J-Tracker as of September 1, 2019. With continued practices and QA developed, Defendants will be in substantial compliance.**

- E. De-escalation Training. Within three months following entry of the Court's order incorporating this agreement, all staff in the facility shall receive de-escalation training by a nationally recognized provider. De-escalation training shall be provided at least annually thereafter.

**COMPLIANCE STATUS: PARTIAL COMPLIANCE. Most staff have been trained in MANDT and other training which includes de-escalation skills training. Several training sessions have occurred during this reporting period. The Monitor recommends increasing the training frequency for staff to increase their experience and skill levels in managing and de-escalating situations before they result in the use of force, restraint and/or isolation. The use of force review process continues to improve. It continues to be more thorough, comprehensive, and timely. Corrective action plans when force was used where it could have been avoided are being done in most cases. The Monitor recommended in instances where de-escalation was successful, those examples should be used as a training tool for other staff including having other staff view the videos.**

- F. Programming. Immediately upon entry of the Court's order incorporating this agreement, the Defendants shall request that the Monitor provide assistance and strategies to increase programming and reduce the hours of idle time in the facility to no more than the PbS field average. Defendants shall make reasonable efforts to implement the recommendations.

**COMPLIANCE STATUS: PARTIAL COMPLIANCE. The Monitor understands that changes had to be made during the pandemic. The Monitor's recommendations are the same as last report. Many of the recommendations that were made in the February 2018 technical assistance report have been implemented such as family events, yoga/Zumba, increased tournaments, dog therapy, more arts and music, writing contests, living unit decorating contests, CREW. Youth advisory and family councils have been implemented, regularly scheduled, and the Monitor's recommendations have been incorporated into the process (agendas, minutes, frequency, and increased staff involvement). Recreation leaders focus on art and music. There have been musical instruments purchased and music lab enhanced. Although there were more activities for youth during this reporting period, there is still a significant and excessive amount of idle time. Now that youth are basically out of their rooms from 8 a.m. to 8 p.m., there is a need for more activities/programming. These activities/programming should be in addition to school, not as a substitute for education.**

**As recommended previously, counselors, recreation workers, social workers, PSU staff, and volunteers can be utilized in creating and leading programming for youth. There has been an activities committee established. Administration needs to increase meaningful/structured program and activity hours to further reduce youth idleness hours. As mentioned previously,**

**increasing education hours, including for youth who have obtained a diploma or HSED, can greatly assist in reducing idleness time and provide positive youth development strategies through meaningful education and vocational programming.**

- G. Staffing. Immediately upon entry of the Court's order incorporating this agreement, Defendants shall request that the Monitor provide assistance and strategies to improve staffing ratios, and/or use strategies identified in the February 26, 2018 report and recommendations of Mark Soler, Michael Dempsey, Teresa Abreu and Jennifer Lutz. Defendants shall make reasonable efforts to implement the recommendations.

**COMPLIANCE STATUS: PARTIAL COMPLIANCE.** Defendants have clearly made staff wellness a priority and this is evident in my interactions with staff. Defendants should continue to focus on training and developing staff in order for them to feel safe and actively engage with youth. Even though education had to change due to the pandemic, there is an urgent need to address the teacher vacancy rate. A plan needs to be developed that will provide mandated education to youth on a daily basis (certifying security staff, combining classrooms, increasing student ratios than currently, reducing the number of teachers on leave or vacation, reaching out to community schools/substitutes etc.)

Although the population is lower at LHS/CLS due to Covid-19, the agency needs to develop meaningful methods for reducing youth populations post-Covid-19. Even though there were no intakes during the majority of this reporting period, there was still a significant reduction in population. An analysis should be completed to understand how the population was reduced (not including lack of intakes) and determine how the Agency can continue to reduce population at LHS/CLS.

As stated in previous reports, this might include expediting the OJOR process and evaluating youth for placement under community supervision, including intensive community supervision, as permitted by state law. Defendants need to continue to work towards developing smaller, geographically located Type 1 facilities and also to evaluate whether there are alternative kinds of facilities and/or intensive community services to which youth could be released. In October 2019, the Agency submitted a request to the Joint Committee on Finance requesting the authority to construct two Type 1 facilities, as well as necessary funding required to construct the facilities. There does not seem to be any more progress made as this section. This needs to be a priority or Defendants will not be able to come into substantial compliance with this Court Order.

- H. Amendments to administrative code. Defendants will make all reasonable efforts to amend the administrative code to impose restrictions on any juvenile correctional facilities operated by DOC that codify the material terms of this Agreement as they relate to: (1) Room Confinement, (2) OC-Spray and Other Chemical Agents, (3) Mechanical Restraints and (4) Strip Searches.

**COMPLIANCE STATUS: PARTIAL COMPLIANCE.** There are no new updates. As previously reported, DOC has identified sections of the Administrative Code that need to be modified, but significant revisions have not yet occurred. Defendants need to continue drafting interim policies for LHS/CLS while also developing final Code revisions.

#### **IV. DOCUMENTATION, REVIEW, AND QUALITY ASSURANCE.**

**A. Incident review process.** Defendants will establish a review process for any incident that involved the use of force; OC spray; room confinement; or mechanical restraints used for more than 45 minutes (excluding during transportation). The review committee will include all staff directly involved in the incident, their supervisors, the social worker assigned to the youth, PSU staff who are familiar with the youth, the facility director of security, the deputy superintendent, and the superintendent. Within 24 hours, all available members of the review committee shall meet to assess whether physical force, OC spray, room confinement, or mechanical restraints were used appropriately, to discuss less restrictive alternative strategies that staff could have used, and to provide an opportunity for staff training and/or redirection if needed. If not all members of the review committee are available for the meeting within 24 hours, the full review committee shall meet or confer as soon as possible and no later than one week after the event. The review committee shall also review all uses of strip searches weekly to ensure that all such searches were conducted only upon probable cause.

**COMPLIANCE STATUS: PARTIAL COMPLIANCE.** There has been an improvement in meeting the 24-hour timeline. Informal reviews occur right after an incident in majority of cases. When it has been determined lesser means could have been used, there is a corrective action plan developed but follow up needs to occur to ensure the plans are completed (QA component). A framework for other QA measures relating to the consent decree was being created but has not been completed.

**B. Quality assurance.** The superintendent shall establish performance goals, including compliance with the terms of this settlement; shall analyze data on whether those goals are met; and shall put in place immediate corrective action to address goals that are not being met.

**COMPLIANCE STATUS: PARTIAL COMPLIANCE.** The Monitor reviewed sample performance goals, reviewed PbS in great detail, and made suggestions for monthly performance measures and how to incorporate into policy. As discussed throughout this report, data driven decisions are critical to come into compliance with this Court Order and to improve the quality of life for youth and staff. The Monitor remains confident that the Defendants will create a competent quality assurance program especially with the addition of the new RFID system and dedicated personnel.

## CONCLUSION

The Covid-19 pandemic has changed everyone's daily life. LHS/CLS youth and staff are no exception. Significant emergency plans were developed and put into place in March of 2020. Education, programming, population, activities, and visitations had to drastically change due to the pandemic. Many in-person activities had to change to "virtual". Despite the drastic changes, the youth and staff have adjusted quite well. As previously reported, the overall atmosphere today has vastly improved from a year ago. The population has significantly been reduced during this reporting period. The Monitor recognizes that some of this is due to intakes being stopped due to Covid-19, but the lack of intakes does not account for most of the reduction. The Monitor encourages the Agency to look at changes put into place due to Covid-19 to see if these population reduction measures can be continued. Agency and facility leadership are to be commended for their commitment to maintaining operational activities as best possible during the Covid-19 response and remaining focused on reducing room confinement as best possible. This obviously required increased attention on programming, social distancing and cleanliness in order to reduce risk of infection within the facility while ensuring that the answer to the operational concerns was not through the use of "room confinement".

The Monitor feels that the facility can benefit from further implementation of the Care Team model. As noted throughout the report, the facility would also benefit from utilizing a mental health expert to evaluate the mental health program and reengaging the educational expert.

The facility would also benefit from an increased focus on reducing idleness and increasing meaningful activities, particularly during weekends and evening hours. This is even more important during the changes to daily life due to Covid-19. The facility should continue to work on improving the behavior management system, continue with their progress in implementing DBT, providing improved and increased youth incentives that will help in reducing many behavioral incidents and reduce the high number of self-requested confinements and program refusals.

Continued efforts need to be made to further engage the educational expert, reduce teacher vacancies, and increase educational time and quality. Regular training in de-escalation and physical restraint techniques need to continue to occur. Policies and procedures for LHS/CLS need to continue to be developed as well as administrative code. Continued implementation of the new quality assurance program needs to remain a primary goal. Much progress has been made with respect to data and quality assurance measures. It is clear that the PbS data much more accurately reflects the unit activities using the RFID as a means to better track these outcome measures. The RFID system has been an important facility upgrade, particularly as it relates to data measures, but more importantly, to ensuring for a verifiable and easier means of tracking the youth safety and wellness checks when youth are in their rooms. The physical plant improvements need to continue as scheduled. Although there are improvements to be made, the Defendants continue to make progress- even during this difficult time.

The Monitor is happy to answer any questions or address any concerns by the Court or the parties.

Respectfully Submitted,

/S/ Teresa Abreu  
Teresa Abreu  
Monitor