

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

THOMAS REMICK, et al., on behalf of	:	No.: 2:20-cv-01959-GAM
Themselves and all others similarly situated,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
CITY OF PHILADELPHIA; and BLANCHE	:	
CARNEY, in her official capacity as	:	
Commissioner of Prisons,	:	
	:	
Defendants.	:	

MONITOR’S FOURTH REPORT

Pursuant to Section 19 of the Settlement Agreement (Agreement) and Section 7 of the Monitoring Agreement and Protocols, the Monitor appointed by this Court submits the attached Monitor’s Fourth Report evaluating Defendants’ compliance with the terms of the Agreement through December 31, 2023. The Monitor prepared this report as the fourth of regular reports to be filed of record through the second settlement term ending April 30, 2026. Subsequent reports will be filed according to the following schedule:

Monitor’s Fifth Report	September 30, 2024
Monitor’s Sixth Report	March 31, 2025
Monitor’s Seventh Report	September 30, 2025
Monitor’s Final Report	March 30, 2026

I am available to answer any questions the Court may have regarding this report and Defendants’ compliance with the Agreement at such times as are convenient for the Court.

DATED: March 29, 2024

Respectfully submitted,

By: /s/ Cathleen Beltz
Monitor

The Agreement between Plaintiffs Thomas Remick, et al., on behalf of themselves and all others similarly situated (Plaintiffs), and the City of Philadelphia (City) and Blanche Carney, in her official capacity as Commissioner of Prisons (Commissioner), in *Thomas Remick et al., v. City of Philadelphia*, Case No. CV 01959-BMS (Action), requires system-wide reform of the Philadelphia Department of Prisons (PDP) as prescribed in 18 substantive provisions. The two-year Agreement was scheduled to terminate on April 12, 2024. In the initial settlement term, Defendants met the requirements for substantial compliance with Substantive Provision 15—COVID-19 Testing and Substantive Provision 16—Quarantine. Defendants also substantially complied with sub-provisions 12.3 and 12.5 (Substantive Provision 12—Locks) and 13.1 and 13.3 (Substantive Provision 13—Visiting). On January 4, 2024, the parties stipulated to a two-year extension with a new Agreement termination date of April 30, 2026.¹

The Agreement provides that the Monitor issue “regular reports to counsel and the Court” that assess Defendants’ compliance with each substantive provision of the Agreement. The Monitor will address Defendants’ implementation progress and issue “Substantial Compliance,” “Partial Compliance,” or “Non-compliance” findings for each substantive provision. Where necessary, the Monitor will make specific recommendations to improve Defendants’ compliance with the Agreement. A “Substantial Compliance” finding means Defendants “have and are reasonably expected to continue to substantially satisfy” the requirements of an Agreement provision. A “Partial Compliance” finding means that PDP has successfully completed some of the discrete tasks outlined in a substantive provision and continues to demonstrate progress toward substantial compliance. A “Non-compliance” finding means that Defendants have “not substantially satisfied” Agreement requirements by failing to complete the discrete tasks outlined in a substantive provision. Defendants will not be found in non-compliance based on “isolated or minor instances of failure [to substantially comply]” or “omissions of a technical or trivial nature.”

Where substantial compliance requires the revision of existing policies or promulgation of new ones, Defendants’ compliance will be assessed based on policy language and substance, notification and training of personnel, and policy implementation and adherence. Finally, the Monitor and Parties agree that successful reform is ultimately measured by sustained improvements to living conditions for Class Members. In issuing compliance findings, the Monitor will consider whether reforms implemented pursuant to the Agreement are durable and their benefits are expected to outlive the Agreement’s April 30, 2026, termination date. In this reporting period, the Monitoring Team utilized data tracked through December 31, 2023, and additional information received through February 28, 2024.

The Agreement requires the Monitor to conduct site inspections “at least once every three months.” In addition to at least one quarterly site visit, the Monitoring Team conducts periodic site visits with little advance notice to PDP. During site visits, the Monitor has access to conduct confidential interviews with personnel and Class Members. The Monitor also has access to all records, files, electronic files, videos, and other materials, including personnel records and

¹ On January 4, 2024, upon the agreement of the Parties, the *Remick* Court issued an order extending the Agreement through April 30, 2026. Stipulated Order, *Remick v. City of Philadelphia*, No. 2:20-cv-01959-GAM, Dkt. 197 (E.D. Pa. Jan. 4, 2024).

patient protected health information, as necessary to measure Defendants' compliance with the Agreement.

In this reporting period, the Monitoring Team continued to meet regularly with PDP Commissioner Blanche Carney (Commissioner) and her staff and received full access to facilities, personnel, and Class Members. PDP remained collaborative in identifying solutions to deficiencies that impede compliance with the Agreement. On March 25, 2024, the Commissioner announced her retirement effective April 5, 2024. The Monitoring Team thanks the Commissioner for her service and for her commitment to systemic reform despite persistent barriers.

The Remick Monitoring Agreement and Protocol requires the Monitor to "establish means of communication to enable Class Members, their families, and advocates to provide information related to implementation of and compliance with the Agreement."² In this reporting period, Deputy Monitor Grosso (Deputy Monitor) has continued to conduct site visits at least once per month to speak with Class Members on PDP housing units. Following site visits, the Deputy Monitor schedules weekly confidential virtual meetings with Class Members if more privacy is required. Since weekly two-hour tablet meetings commenced December 6, 2022, the Deputy Monitor has interviewed 247 Class Members across PDP facilities. The Monitoring Team also utilizes information provided during tablet meetings to connect with Class Members' family members who are willing to communicate with the Monitoring Team.

The Monitoring Team periodically receives complaints from Plaintiffs' co-counsel detailing specific allegations and systemic issues communicated by Plaintiffs to co-counsel. With prior authorization from Class Members, co-counsel provides the Monitoring Team with Class Members' identifying information, and the Monitoring Team follows up with individual Class Members as necessary. With prior authorization from Class Members, select complaints and systemic issues are forwarded to PDP for response or investigation, which the Monitoring Team tracks and reviews. Conditions observed and information received via these interviews and protocols are consistent with *Remick* filings and reports by PDP staff and others who work in or inspect PDP facilities.

The Monitoring Team also receives information via published reports and communications with oversight agencies, reform advocates, Plaintiffs' co-counsel, criminal defense attorneys, and others independent of PDP. This information augments the Monitoring Team's direct observations and helps shape recommendations that the Monitoring Team hopes will produce the most durable reforms. The Monitoring Team thanks these oversight partners for their continued contributions and commitment.

In this reporting period, members of the Monitoring Team completed six site visits to all PDP facilities, including Curran-Fromhold Correctional Facility (CFCF), The Detention Center (DC) and the Prison Health Services Wing (PHSW), Philadelphia Industrial Correctional Center (PICC), the Alternative and Special Detention Central Unit (ASD-CU and MOD 3), and

² Monitoring Agreement and Protocol, *Remick v. City of Philadelphia*, No. 2:20-cv-01959-BMS, Dkt. 169 at 4 (E.D. Pa. May 25, 2022).

Riverside (RCF).³ During each site visit, the Monitoring Team spoke with Class Members and personnel in every area visited regarding Agreement requirements and conditions inside PDP facilities.

The Agreement requires the Monitor to “provide to the parties those documents and reports that are secured by her office which, in her judgment, should be shared to effectuate the terms and conditions of the Agreement.” The Monitor has determined that documentation provided by Defendants and utilized by the Monitoring Team in making compliance determinations will generally be shared with Plaintiffs’ co-counsel.

The Monitoring Team has consistently reported that PDP will be unable to achieve compliance with the Agreement while its staffing deficit persists.⁴ Personnel vacancies remain the largest factor in incidence of non-compliance; nearly every substantive provision requires additional security personnel to implement. The Monitor’s First Report detailed 11 initial recommendations for immediate action that the Monitoring Team believes would begin to address staff vacancies and some of the associated deficiencies.⁵ The City authorized PDP to implement some of the recommendations, which has resulted in some improvements. For other recommendations, the City appears to have taken little or no action, without explanation, over three reporting periods.

In December 2023, the City committed to take additional action on some of the Monitoring Team’s recommendations but cited legal barriers to others. Despite progress in some areas over four reporting periods and nearly two years of compliance monitoring, the City’s efforts to reduce PDP’s dangerously high vacancy rates have failed. PDP facilities remain unsafe for both staff and Class Members. Frequent staff assaults, fights, stabbings, rampant contraband and extortion, and security breaches have been made possible or exacerbated by the staffing shortage. Any recruitment or hiring gains are negated by attrition and an expanding incarcerated population. PDP staff make noble efforts to correct deficiencies but have clearly reached their capacity, and the Monitoring Team does not anticipate additional meaningful progress without a dramatic influx of new staff.

Philadelphia is neither alone in its challenges to staff its law enforcement agencies amid a national staffing crisis nor is it ignoring its obligations under the Agreement. Its efforts, however, do not reflect the urgency and enormity of its problem and the life-threatening conditions it breeds. PDP has not received the support necessary to reach the lowest constitutional baseline, let alone the cultural transformation that sustaining any reform will require. The City has instead pursued a course of half measures steeped in bureaucratic and political rigidity with devastating consequences for Class Members and PDP staff.

³ Site visits were conducted July 28, 2023, August 30, 2023, September 27, 2023, October 27, 2023, November 6-9, 2023, and December 18, 2023.

⁴ See Monitor’s First Report, *Remick v. City of Philadelphia*, No. 2:20-cv-01959-BMS, Dkt. 181 at 10-11, 13, 15, 18-20, 22, 24, 28, 34 (Nov. 4, 2022); See also Monitor’s Second Report, *Remick v. City of Philadelphia*, No. 2:20-cv-01959-BMS, Dkt. 185 at 21, 24-29, 31-32, 35-37, 47, 58, 64 (Mar. 3, 2023); See also Monitor’s Third Report, *Remick v. City of Philadelphia*, No. 2:20-cv-01959-BMS, Dkt. 193 at 14-15, 19, 22, 27, 29, 31, 33, 39, 42-43, 47, 51, 62 (Oct. 12, 2023).

⁵ Monitor’s First Report, *supra* note 4, at 9-10, 20.

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Compliance Findings

Some of the Agreement's 18 substantive provisions contain related but discrete action items that must be completed for PDP to achieve substantial compliance with each provision. The Monitoring Team created sub-provisions for some of the 18 substantive provisions based on these discrete action items and issues separate compliance findings for each enumerated sub-provision. This provides additional clarity for Defendants as they work to implement required changes and greater specificity for the Court and Parties in distinguishing between action items that are being successfully implemented and those that require additional attention. To achieve substantial compliance with each substantive provision, PDP must first achieve substantial compliance with every sub-provision.

From the Agreement's 18 substantive provisions, 37 sub-provisions were created. In the previous reporting period, the Monitor determined that PDP had achieved substantial compliance with 9 sub-provisions, partial compliance with 21 sub-provisions, and remained in non-compliance with 7 sub-provisions. In this reporting period, PDP has achieved substantial compliance with 11 sub-provisions, partial compliance with 19 sub-provisions, and remained in non-compliance with 7 sub-provisions.

The table below reflects all provisions and current compliance ratings for each:

Provision	Requirements	Compliance Status
1	Staffing	PC
1.1	No later than April 20, 2022, the Defendants shall implement measures, including but not limited to signing and retention bonuses, to enhance the <i>hiring</i> of correctional officers.	PC
1.2	No later than April 20, 2022, the Defendants shall implement measures, including but not limited to signing and retention bonuses, to enhance the <i>retention</i> of correctional officers. . .	PC
1.3	Ensure that there are sufficient number of correctional officers to cover all posts, according to PDP post plans on each shift at each facility.	NC
1.4	These measures [1.1-1.3] will continue until achieved and thereafter to maintain the proper number of correctional officers.	NC
2	Out-of-Cell Time	PC
2.1	Upon the entry of this Agreement, and no later than May 15, 2022, Defendants shall ensure that each incarcerated person at the Philadelphia Department of Prisons (PDP), with the exception of those who are housed in a designated segregation unit, shall be provided the following out-of-cell times for the following periods: (a) no later than May 15, 2022, no less than four hours of out-of-cell time each day; and (b) no later than August 1, 2022, no less than five hours of out-of-cell time each day.	PC

Provision	Requirements	Compliance Status
2.2	The parties agree that out-of-cell times under normal operations of the PDP have ranged from 8-10 hours a day and increases of out-of-cell time should continue to be made beyond the August 1, 2022 standard, with a presumptive expected increase to six hours by October 15, 2022. The parties agree that this next step shall be based on the recommendations of the Court appointed Monitor, <i>infra</i> , para. 19, as to scope and timing. Accordingly, the Monitor shall provide recommendations to the Court, based on the Monitor's analysis of all relevant factors and proposals by the parties, on the next increase in out-of-cell time no later than October 1, 2022, and thereafter on a quarterly basis. <i>See also</i> para. 4, <i>infra</i> .	NC
3	Out-of-Cell/Segregation	PC
3.1	Defendants shall ensure that persons on segregation units shall be provided: (a) no later than May 1, 2022, thirty minutes out-of-cell time on a daily basis and (b) no later than July 1, 2022, no less than one hour each day.	NC
3.2	Defendants further agree that they will continue their practice of not placing incarcerated people in segregation units due to the lack of space or staffing on other units.	PC
4	Resume Normal Operations	NC
	By November 1, 2022, based on discussions between the parties and the Court-appointed Monitor, the parties and the Monitor shall submit to the Court a plan for a return to normal operations of the PDP (regarding out-of-cell time, programming, visits, and other services). During the period that precedes a return to normal operations, if the Monitor determines that the Defendants are not providing the agreed-upon out-of-cell time, Defendants must provide specific reasons for non-compliance to the Plaintiffs and the Monitor. The parties and the Monitor shall then engage in discussions to resolve the issues in dispute. If no agreement is reached, Defendants may move for the amendment or modification of these provisions, but only upon good cause shown, and the Plaintiffs may move for appropriate intervention by the Court, including possible contempt of court sanctions.	
5	Healthcare	PC
	The Defendants shall provide adequate and timely medical and mental health treatment to all incarcerated persons. The Defendants agree to institute the programs and measures (referred to as "the Backlog Plan") set forth by Bruce Herdman, PDP Chief of Medical Operations, at his deposition of March 21, 2022, to address the existing backlog. The "Backlog Plan" is a new, three-month effort to see backlogged patients as soon as possible. The City has allocated substantial funding to allow Corizon Health services to engage additional agency staff to augment its full-time staff to further reduce backlogs. Four agencies are contracted to provide staff towards this end. Agencies will provide additional providers, including MD/DOs, NPs, LCSWs, and RNs for this effort. Based on these programs and measures, the Defendants agree to substantially eliminate the existing backlog by August 1, 2022, and thereafter to continue addressing any remaining backlog consistent with these programs and measures. Substantial elimination shall mean reduction to a backlog of no more than ten to fifteen percent of the current backlog.	
6	Behavioral Health in Segregation	PC
	By September 30, 2022, the PDP and [YesCare] shall re-establish a mental health program for persons who are in segregation units.	
7	Law Library Access	PC

Provision	Requirements	Compliance Status
	PDP will continue to provide law library access for all incarcerated individuals. The Monitor and the parties will discuss access and scheduling matters and the Monitor shall make any recommendations on these matters by August 1, 2022.	
8	Discipline	PC
8.1	All future disciplinary proceedings at the PDP shall be held in accord with established due process rights, including the presence of the incarcerated person who is the subject of the proceeding. <i>See Wolff v. McDonnell</i> , 418 U.S. 539, 563–66 (1974); <i>Kanu v. Lindsey</i> , 739 F. App'x 111, 116 (3d Cir. 2018); <i>Stevenson v. Carroll</i> , 495 F.3d 62, 70–71 (3d Cir. 2007).	PC
8.2	The PDP shall expunge the disciplinary records for all persons who were not present at their disciplinary hearings for the period March 2020 to the current date [April 12, 2022]. . .	SC
8.3	[PDP shall] release from segregation all incarcerated persons who were not present at their disciplinary hearings but who are [on April 12, 2022] still serving a disciplinary sentence, or who are in administrative segregation following a disciplinary sentence imposed without a hearing. . .	SC
8.4	[PDP shall] cancel sanctions [imposed in hearing held between March 2020 and April 12, 2022] that require payments for damage to property or other restitution, and/or return payments made by persons who were required to pay for damage to property or other harms. Provided, however, the PDP may seek to conduct due process hearings for individuals covered by this provision who are still in segregation, but only: (a) if there is a small and discrete number of such cases, and (b) upon first providing counsel for Plaintiffs the names of those persons, the disciplinary charges, and information related to the length of placement in segregation. Nothing in this section prohibits persons subject to the disciplinary process set forth above from asserting individual legal challenges to the discipline. Defendants shall provide to counsel for plaintiffs a list of individuals and disciplinary matters subject to this exception by April 15, 2022.	SC
9	Tablets	PC
9.1	PDP has undertaken expansion efforts to increase the number of tablets available within the PDP facilities by adding eighty (80) additional tablets, according to operational capabilities and housing designs. The expansion of tablets is as follows: from four (4) to six (6) tablets on each housing unit at CFCF for a total of fifty-six (56) additional tablets; and, at RCF, expanding from six (6) to eight (8) tablets on the [first floor] (4 housing units) and expanding from eight (8) to twelve (12) tablets on the [2nd and 3rd floors] of RCF (4 larger units) for a total of twenty-four (24) additional tablets at RCF. This expansion process will be completed by May 1, 2022.	PC
9.2	The parties and the Monitor will discuss any future increases in the number of tablets based on all relevant factors, including operational feasibility and physical capacity. Further, the Monitor and the parties shall discuss whether any policies and practices are necessary to address equitable and fair individual access to available tablets, and if so, the PDP shall implement agreed upon practices.	PC
10	Phone Calls	PC

Provision	Requirements	Compliance Status
10.1	PDP agrees to maintain 15 minutes of free phone calls on a daily basis for the PDP population. Further, the Monitor and the parties shall discuss whether any policies and practices are necessary to address equitable and fair individual access to phones and, if so, the PDP shall implement agreed upon practices.	PC
10.2	Upon a return to normal operations, the PDP will revert to the provision of 10 minutes of free phone calls.	NC
11	PICC Emergency Call Systems	PC
	The Monitor and the parties shall discuss the issues unique to PICC regarding emergency call systems and access to phones and/or tablets and determine whether any policies and practices are necessary to address this matter considering all relevant factors, including operational feasibility and physical capacity.	PC
12	Locks	PC
12.1	PDP initiated the lock replacement program for PICC. . . which will be completed by June 30, 2022.	SC
12.2	PDP initiated the lock replacement program for. . .RCF, which will be completed by June 30, 2022.	SC
12.3	For the repair of call button devices in existing facilities, PDP will conduct a one-time test of all call buttons and make any necessary repairs by August 1, 2022.	SC
12.4	Any future complaints related to the operation of call buttons shall be addressed through work orders, which will be addressed and completed by Defendants in a timely manner.	PC
12.5	PDP will provide refresher training before June 1, 2022, to correctional staff on PDP practices with respect to responses to the emergency call button system.	SC
13	Visiting	PC
13.1	As of March 7, 2022, PDP reinstated in-person visitation for all vaccinated incarcerated persons with family members. PDP is in the process of increasing capacity for in-person visits by increasing the number of visits that can be accommodated during the current hourly schedule. At a minimum, current CFCF visiting shall be increased by 8 slots, PICC increased by 4 slots, and RCF increased by 2 slots.	SC
13.2	Further, the parties and Monitor shall discuss all matters related to visitation, and the monitor shall issue recommendations on these issues.	PC
13.3	PDP reaffirms that it will acknowledge and record the vaccination status of those individuals who provide information that they were vaccinated.	SC
14	Attorney Visiting	PC
14.1	PDP shall continue to follow a policy of providing attorneys with access to their clients within 45 minutes of their scheduled visit.	PC
14.2	For remote legal visits (in all formats), the PDP shall continue to ensure that the client is on the call/computer/video within 15 minutes of the scheduled start time of the appointment.	PC

Provision	Requirements	Compliance Status
14.3	For these time frames, PDP will not be responsible for delays caused by the incarcerated person or by exigent circumstances, but where a delay is caused by the incarcerated person or by exigent circumstances, PDP will inform the attorney of the delay.	NC
15	COVID-19 Testing	SC
	The PDP shall continue the present policy regarding testing of persons who are scheduled for court. Those who are housed on “green blocks” are either fully vaccinated or are not considered to have been exposed to COVID-19. They will be rapid-tested the night before court, and they will be brought to court if they receive negative test results. Those housed on a “yellow block” may have been exposed to a COVID-19-positive individual, and they will be rapid-tested twice, the night before court and the morning of court. They will be transported to court if both tests are negative. Those housed on a “red block” are COVID-19 positive and will be isolated for ten days and not brought to court during that time frame. These protocols will be maintained subject to continued cooperation from criminal justice partners and on the advice of the Philadelphia Department of Public Health. Provided, however, that the Defendants shall not unilaterally change the protocols and they shall timely notify Plaintiffs’ counsel of any change or proposed change in these protocols.	
16	Quarantine	SC
	If there becomes a need in the future for use of quarantine housing areas at PDP, CDC guidelines shall continue to be followed for those who have been exposed to COVID-19. Under current policy, <i>see Interim Guidance on Management for Correctional and Detention Centers, June 9, 2021</i> , for persons who are vaccinated and are exposed to a person with COVID-19, but test negative, they shall not be quarantined; for those who have been exposed to COVID-19, but who have not been vaccinated, and test negative, they shall be quarantined for a period of ten days and released at that time if they test negative.	
17	Sanitation	PC
17.1	Defendants agree to continue conducting the weekly General Inspection (“GI”) cleaning days with supplies provided by officers to clean cells and housing areas.	PC
17.2	[Defendants agree] to provide regular laundry services under current PDP policies.	PC
18	Use-of-Force	PC
	PDP policies and training address correctional staff’s use of force, use of pepper spray, de-escalation measures, and an incarcerated person’s non-compliance with verbal commands. The parties agree that correctional officers should follow de-escalation measures provided in PDP policies. The Monitor shall review these issues and make recommendations based on a review of all relevant material and factors. In the interim, PDP shall advise and re-train correctional officers on the proper application of the Use of Force and Restraints Policy, 3.A.8, and with respect to de-escalation requirements in accordance with the PDP policy which in part states: “Force is only used when necessary and only to the degree required to control the inmate(s) or restore order...The use of pepper spray is justifiable when the Officer’s presence and verbal command options have been exhausted and the inmate remains non-compliant or the inmate’s level of resistance has escalated....Staff will not use pepper spray as a means of punishment, personal abuse, or harassment.”	

Substantive Provision 1—Staffing

Sub-provision 1.1--No later than April 20, 2022, the Defendants shall implement measures, including but not limited to signing and retention bonuses, to enhance the hiring of correctional officers.

Compliance Rating: Partial Compliance

PDP's correctional officer vacancies increased by 79 positions or 4 percent from June 2023 to December 2023. PDP's total staff vacancy rate also increased by 4 percent between June 2023 and December 2023. The following table reflects changes in security, maintenance, human resources, and total staff vacancies since the previous reporting period:

Philadelphia Department of Prisons Vacancy Report
June 2023 and December 2023

			June 2023		December 2023			
	Position Classification	Budgeted*	Filled	Vacant	Filled	Vacant	Vacancies (+/- change)	Vacancy Rate (+/- change)
Sworn Staff	Officers*	1715	967	752	888	827	+79	48% (+4%)
	Sergeants*	118	73	56	68	50	+5	42% (-1%)
	Lieutenants*	64	52	4	53	11	-1	17% (+10%)
	Captains*	29	20	11	24	5	-4	17% (-18%)
	Custody Total	1926	1112	823	1033	893	+79	46% (+3%)
Maintenance Staff	Trades Worker I	8	4	4	5	3	-1	38% (-12%)
	Trades Worker II*	18	8	15	8	10	0	56% (-9%)
	HVAC Mechanic	3	2	1	2	1	0	33% (-34%)
	Building Engineer	1	1	0	1	0	0	0% (-100%)
	Maintenance Group Leader	1	0	1	0	1	0	100% (0)
	Total Maintenance	31	15	21	16	15	-1	48% (-16%)
Human Resources (HR) Staff	HR Professional	2	2	0	1	1	+1	50% (+50%)
	HR Program Admin	2	2	0	2	0	0	0% (0)
	HR Manager 3	1	1	0	1	0	0	0% (0)
	HR Total	5	5	0	4	1	+1	20% (+20%)
PDP TOTAL	All Positions**	2187	1311	875	1231	956	+80	44% (+4%)

*Changes in budgeted positions from June 2023 to December 2023: Officers -4; Sergeants -11; Lieutenants +8; Captains -2; Trade Worker II -5.

** "All Positions" totals include classifications not listed in the table and therefore exceed the sum of budgeted, filled, and vacant positions for each of the Sworn Staff, Maintenance Staff, and HR Staff categories.

PDP hiring and retention issues are exacerbated by the rising PDP population as reflected in the following table:

PDP Total Population Effective January 1
2021 – 2024

Date	January 1, 2021	January 1, 2022	January 1, 2023	January 1, 2024
Total Population	4395	4489	4343	4666

Between January 1, 2023, and January 1, 2024, PDP's incarcerated population increased by more than seven percent while security staffing reduced by eight percent in the same period.⁶

Available data on recruitment yields is depicted in the following table:

Philadelphia Department of Prisons Recruitment Yields
for New Hires after January 1, 2021

Certification List	Total Applicants	Total Hired	Rate (%)	List Status
2020-0210	228	36	15.8	Closed
2021-0906	758	50	6.6	Closed
2022-0221	298	16	5.4	Closed
2022-0516	245	25	10.2	Closed
2022-0905	493	34	6.9	Closed
2022-1212	422	34	8.1	Closed
2023-0306	563	32	5.7	Closed
Total Closed	3007	227	7.5	
2023-0501	436	24	5.5	In-Process
2023-0626	626	34	5.4	In-Process
2023-0724	492	N/A	N/A	In-Process
2023-0821	464	N/A	N/A	In-Process
2023-0918	402	N/A	N/A	In-Process
Total Open	2420	58	N/A	

PDP accepted more applications in 2023 than in each of 2021 and 2022, perhaps attributable in part to the City's continuous-fill hiring lists and increased recruitment advertising. Since December 2022, hiring yields have decreased from 8.3 percent to 7.5 percent, representing a 10 percent decrease.⁷ Of 3,007 applicants from 2020 through early 2023, only 227 were hired. This suggests PDP would have needed approximately 9,000 more applicants to fill the existing 893 security vacancies, and 1,500 additional applicants to address the annual attrition of 160 security staff. The current efforts are not keeping up with attrition as reflected by the increase in total

⁶ The number of filled security positions decreased from 1,120 to 1,033 or 8 percent from December 2022 to December 2023.

⁷ See Monitor's Second Report, *supra* note 4, at 13.

custody vacancies between June 2023 and December 2023, and the problem is compounded as the incarcerated population increases.

Academies and Retention

PDP successfully increased the number of academies in 2023 over 2021 and 2022, however, retention rates remain low. The table below depicts academy schedules, attendance, and graduation data for 2021, 2022, and 2023, and employee retention rates for the 2022 and 2023 academies:

Philadelphia Department of Prisons Academy Report and Retention Rates

Class Number	Class Dates	Total Cadets	Total Graduated	Still Employed June 2023	Retention Rate December 2022	Retention Rate June 2023	Retention Rate December 2023
21-01	February - May, 2021	25	23	N/A	N/A	N/A	N/A
21-02	June - September, 2021	19	15	N/A	N/A	N/A	N/A
21-03	August - November, 2021	35	30	N/A	N/A	N/A	N/A
21-04	November, 2021 - January, 2022	30	26	8	70%	50%	27%
21-05	December, 2021 - March, 2022	20	16	6	55%	40%	30%
22-01	March - June, 2022	31	25	11	58%	39%	36%
22-02	May - July, 2022	21	20	8	71%	62%	38%
22-03	August - October, 2022	18	16	8	78%	72%	44%
22-04	October, 2022 - January, 2023	26	20	17	N/A	65%	65%
23-01	January - March, 2023	21	22	13	N/A	76%	59%
23-02	February - April, 2023	17	15	13	N/A	88%	76%
23-03	April - July, 2023	20	15	10	N/A	N/A	50%
23-04	June - September, 2023	17	16	15	N/A	N/A	88%
23-05	August - October, 2023	32	30	27	N/A	N/A	87%
23-06	October - December, 2023	28	25	25	N/A	N/A	75%

In 2023, PDP operated six academies, compared to five in 2021 and four in 2022 and had a 41 percent increase in new cadets enrolled in academies from 2022 to 2023.

Of new security staff who graduated from an academy in 2022, only 40 percent remained employed with PDP as of December 2023. For new staff who graduated from an academy in 2023, the retention rate as of December 2023 was 84 percent. The Monitoring Team will revisit rates at the end of 2024 to determine whether one-year retention of the 2023 graduates improved over the 40 percent one-year retention of 2022 graduates.

To improve internal monitoring of critical issues, including staff hiring and retention, the City has authorized PDP to create a six-person data analysis unit. The analyst team can also evaluate PDP's use of segregation, out-of-cell time, access to care, grievances, use of force, and other Agreement requirements. The team is also expected to analyze outcomes of PDP's various policy changes.

Sub-provision 1.2--No later than April 20, 2022, the Defendants shall implement measures, including but not limited to signing and retention bonuses, to enhance the retention of correctional officers. . .

Compliance Rating: Partial Compliance

In 2019 and 2020, PDP lost averages of 10 and 11 officers per month respectively. In 2021 and the first eight months of 2022, average separations more than doubled to 24 and 23 per month respectively. In the last four months of 2022, after salary increases and retention bonuses went into effect, monthly average severances reduced to 11 per month. In 2023, the number of average employee separations per month increased to 13 but remained lower than 2021, suggesting salary incentives had a positive effect. The following table depicts monthly averages of PDP employees who voluntarily separated pre-retirement from January 2019 through December 2023:

Average Voluntary Separations by PDP Employees

	Pre-Arbitration Award				Post-Arbitration Award	
	2019	2020	2021	Jan-Aug 2022	Sep-Dec 2022	2023
Monthly Average	10	11	24	23	11	13

In this reporting period, PDP hired an employee wellness coordinator and reported several employee appreciation events. Without additional personnel, however, PDP will be unable to implement a meaningful employee wellness program as recommended. Improving staff morale and employee retention initially requires a safe working environment, which PDP does not currently offer.

Sub-provision 1.3--Ensure that there are sufficient numbers of correctional officers to cover all posts, according to PDP post plans on each shift at each facility.

Compliance Rating: Non-compliance

In this reporting period, PDP finalized its new system to track the number of required posts for each shift at each facility and the number of vacant posts due to staffing shortages. This was a complex project and an important accomplishment for PDP.

The following tables depict monthly average percentages of vacant posts at each facility and posts filled with overtime staff for September through December 2023:⁸

⁸ Some posts may have been filled for a portion of some shifts.

Percentage of Posts Left Vacant Due to Staffing Shortage
September – December 2023

Date	September	October	November	December	Average
RCF	42%	39%	30%	36%	37%
PICC	42%	45%	35%	42%	41%
CFCF	45%	46%	34%	41%	42%
Average	43%	43%	33%	40%	40%

Percentage of Posts Filled with Overtime Staff
September – December 2023

Facility	September	October	November	December	Average
RCF	25%	24%	21%	23%	23%
PICC	25%	27%	30%	30%	28%
CFCF	27%	22%	22%	24%	24%
Average	26%	24%	24%	26%	25%

As anticipated, the number of vacant posts is unacceptably high, and would be higher without the use of significant voluntary and involuntary overtime. From September through December 2023, an average of 40 percent of posts remained vacant and an average of 25 percent of posts were filled with overtime staff. This suggests PDP is only able to fill an average of 35 percent of necessary posts with regularly scheduled shifts.

PDP has also initiated improvements to its transportation and medical guarding of Class Member patients at outside hospitals. PDP coordinated with other local law enforcement to share guarding responsibilities for Class Members who are at outside hospitals and have not yet been processed into the jail. PDP reports it is also in contract negotiations to re-establish a secure unit at an outside hospital, which will allow PDP patients to be housed together in a single hospital wing. These improvements will reduce the number of personnel being redirected from jail posts to outside hospitals.

Sub-provision 1.4--These measures will continue until achieved and thereafter to maintain the proper number of correctional officers.

Compliance Rating: Non-compliance

A partial or substantial compliance rating with sub-provision 1.4 first requires PDP to achieve compliance with sub-provision 1.3.

Status of Recommendations, Substantive Provision 1—Staffing, from the Monitor’s First Report (November 2022):

1. Expand existing contracts to correct maintenance vacancies that severely impact conditions of confinement at ASD-CU and MOD 3, DC, and PICC.

The City has partially addressed this recommendation. In December 2023, the City reported it had accepted this recommendation and is in the process of expanding the current maintenance contract to include routine and emergency maintenance not currently being performed as a result of City maintenance vacancies. As previously reported and discussed in more detail below under Substantive Provision 17—Sanitation, the contract was temporarily expanded in April 2023, and improvements were noticeable during subsequent site visits.

PDP reports that maintenance contract expansion included the new, more effective vector control program at PICC but did not include enhanced vector control at DC/PHSW or MOD 3. These facilities continue to be managed under the City's existing, less effective vector control contract. PDP reports it has requested that the City's existing contractor increase the frequency of scheduled treatments in DC/PHSW and MOD 3, but the contractor reported it lacks capacity to scale up. PDP reports it does not have the authority to further expand the maintenance contract to include all PDP facilities outside of the City's current procurement process and must instead wait for the City's existing contract to expire.

PDP also reports the planned maintenance contract expansion does not include the completion of capital projects. A few of PDP's outstanding capital projects in populated housing units include the replacement of antiquated cell doors in some segregation units, HVAC upgrades, repair of windows and vents that cannot be secured to reduce entry ports for rodents or during inclement weather, and the construction of dayroom tables for Class Members to use during out-of-cell time.

As a result of these remaining contract and procurement issues, rodent and insect infestations are still regularly observable in some facilities, doors in some segregation units lack food ports necessary for staff safety, some units lack furniture for Class Members to sit on when not confined to their cells, and cold winter air blows through ill-fitting windows in at least two units that house elderly Class Members. The Monitoring Team, therefore, makes additional recommendations 12 and 13 below for immediate action.

2. Determine whether the current salary and benefits structures pursuant to the arbitration award and other efforts by Defendants are sufficiently competitive with other jurisdictions and agencies to attract applicants, and if not, supplement benefits accordingly.

The City has partially addressed this recommendation. In December 2023, the City provided documentation of a comparison of correctional officer salaries in local jurisdictions. The City cited this comparison as the basis for determining that PDP compensation is competitive. The City also indicated that it was conducting a Citywide compensation study with results expected in January 2024. The Monitoring Team has not received the study for review. Documentation provided gives no indication that that City also evaluated benefits structures (including pensions and other forms of compensation), whether current salary and benefits are sufficient to attract enough candidates, or whether current salary and benefits should be supplemented. This work

*may have been more appropriately performed by an outside firm with more time and specific expertise as initially recommended in the Monitor's First Report and restated under recommendation 3 below.*⁹

3. Retain a qualified recruitment firm to assist in guiding the City's efforts, which should include salary surveys in support of the previous recommendation, and other validated recruitment and retention strategies.

In December 2023, the City indicated that it would accept this recommendation and pursue additional recruitment support from a firm currently under contract with the City. The City also indicated that it intends to expand a second existing contract with another recruitment firm to include recruitment of correctional peace officers.

4. Engage an independent staffing analysis to determine true staffing needs for each facility. The analysis should be completed by someone with specific expertise in jail staffing studies. *PDP reports that the anticipated staffing study was completed and a report was received by PDP in January 2024. The City shared the report March 7, 2024.*

5. Evaluate which PDP functions currently performed by sworn personnel can be performed by civilians (information technology, records, intake and release, cashier, etc.) and identify or expand civilian employees or contracted services accordingly.

PDP reports that two arbitration hearings were scheduled in December, a third in January, and a fourth in February, all of which were canceled.

6. Simplify the City's lengthy hiring and onboarding processes that reportedly create delays in recruits reporting to PDP academies.

In December 2023, the City reported that it had reduced its hiring timeframe from two months to approximately one month, beginning in 2021. This reported change, which occurred before compliance monitoring began in 2022, is positive. The City did not indicate whether it has taken any action pursuant to this recommendation, or whether the process is now as efficient as possible or requires further refinement.

7. Establish continuous-fill civil service hiring lists during the staffing crisis.

The City has implemented back-to-back hiring lists, which essentially provides for the continuous-fill process as recommended.

8. Assess the impact of Philadelphia's employee residency requirements on PDP's hiring outcomes and consider whether permanent exemptions or modifications are appropriate.

In December 2023, the City reported that it retained a firm to complete an internal assessment of the residency requirement. The City did not indicate when the assessment was initiated or completed but reports, "[t]he assessment provided various data points and recommendations when considering changes to the residency requirements." The City asserts it cannot unilaterally change the requirement citing City of Philadelphia Home Rule Charter and collective bargaining requirements. The City did not address whether it has considered temporary modifications to or suspension of the requirements and did not provide or share findings or recommendations from the assessment.

9. PDP should implement strategies for employee retention and a robust employee wellness program.

⁹ See Monitor's First Report, *supra* note 4, at 20.

PDP has partially addressed this recommendation. PDP reports it initiated employee wellness training in 2023 and is in the process of hiring a manager to serve as the employee wellness lead.

10. The City should implement a return-to-work strategy that is tailored to the needs of PDP employees who are out on long-term leave or work-related illness.

The City has partially addressed this recommendation. In December 2023, the City reported it initiated discussions with PDP to enhance return-to-work strategies in January 2023. Strategies reportedly included prioritizing PDP's worker's compensation claims and increasing involvement of healthcare staff in the review process. The City also reportedly changed the medical panel provider and worked with PDP to develop a local light duty return-to-work strategy. The City reported that when the project began in early 2023, there were approximately 100 employees off work due to work-related injuries. That number reportedly reduced to 40 by November 2023, and another 44 employees on long-term leave were separated from PDP service. The City should ensure it makes every effort to return injured employees to work as soon as possible, if only to light duty assignments. The City should also ensure that well-trained return-to-work specialists are engaging off-work employees quickly and frequently. The Departments of Risk Management and Human Resources should also ensure they are evaluating employee injuries to improve PDP's employee safety program.

11. Retain an expert to build internal capacity to manage systems, coding, and budgetary processes associated with staffing allocations. The expert should assist PDP in identifying and retaining only the most useful database reports and discontinuing the use of non-essential or inaccurate reports.

PDP implemented this recommendation, increased internal capacity, and developed transparent systems designed to maximize limited staffing resources.

Additional recommendations for immediate action:

12. The City should authorize PDP to immediately implement an effective vector control program at DC/PHSW and MOD 3.
13. The City should expand its maintenance contract or redeploy City personnel to expedite the completion of capital projects. PDP should prioritize projects that pose health and safety risks in populated housing units.
14. Immediately authorize additional double-time pay each day of the week as necessary to staff all vacant shifts.

In December 2023, the City reported it consistently authorizes double-time pay to cover necessary posts. However, data provided by the City to support this assertion suggests double-time pay is routinely offered Thursdays and Sundays, but not Fridays and Saturdays, which consistently have higher post vacancy rates. The City suggests that employees may be rejecting additional double-time opportunities but this assertion is not supported by documentation provided. The City and PDP should immediately evaluate whether additional double-time pay would reduce post vacancies and authorize additional double-time pay and other incentives as needed to cover as many PDP posts as possible.

15. The City should establish a well-resourced team to assist with recruitment, application processing, onboarding, and supporting new staff. The team should conduct meaningful exit interviews of staff leaving PDP to determine what is needed to improve retention.

Substantive Provision 2—Out-of-Cell Time

Sub-provision 2.1--Upon the entry of this Agreement, and no later than May 15, 2022, Defendants shall ensure that each incarcerated person at the Philadelphia Department of Prisons (PDP), with the exception of those who are housed in a designated segregation unit, shall be provided the following out-of-cell times for the following periods: (a) no later than May 15, 2022, no less than four hours of out-of-cell time each day; and (b) no later than August 1, 2022, no less than five hours of out-of-cell time each day.

Compliance Rating: Partial Compliance

In this reporting period, PDP offered additional training in the proper documentation of out-of-cell time. The training appears to have improved tracking of group out-of-cell time in general population housing units. Out-of-cell trackers in this reporting period generally appear to reflect more accurate timeframes and more often denote when no out-of-cell time is offered. Although trackers are being completed more consistently, the only method of verifying reported data remains CCTV review.

In this reporting period, the Monitoring Team reviewed general population housing unit out-of-cell trackers for one week per month, July through December 2023. As previously reported, Class Members with different security classifications are often housed together in single housing units because of bed space and staffing limitations.¹⁰ Class Members with different security classifications, however, are not permitted to recreate together and are instead divided into smaller recreation groups. The numbers and sizes of recreation groups differ in each housing unit and may fluctuate significantly based on security and other operational needs.

The following tables depict average out-of-cell time that CFCF general population recreation groups received daily for one week of each month, April through June 2023, and July through December 2023:

¹⁰ Monitor's Third Report, *supra* note 4, at 19.

**General Population Average Out-of-Cell Time
Hours Per Day
CFCF, Three One-Week Periods*
April – June 2023¹¹**

Hours	Monthly Average	
	Groups	Percent (%)
0 to .9	32	26%
1 to 4.9	67	54%
≥ 5, < 6	25	20%
Total CFCF Groups	124	100%

*Weeks reviewed include: April 3-9, May 1-7, and June 5-11.

**General Population Average Out-of-Cell Time Per Day Reported for CFCF,
Six One-Week Periods*
July – December 2023**

Hours**	July-Sept 2023		Oct-Dec 2023		Monthly Average	
	Groups	%	Groups	%	Groups	%
0 to .9	35	19%	45	16%	13	17%
1 to 4.9	118	63%	229	81%	58	74%
≥ 5, < 6	33	18%	10	3%	7	9%
Total CFCF Groups	186	100%	284	100%	78	100%

*Weeks reviewed include: July 10-16, August 7-13, September 4-10, October 9-15, November 13-19, and December 18-24. From July through December 2023, not all CFCF housing units completed out-of-cell trackers, so sampled housing units include A1, A2, B1, B2, C1, C2, D1, and D2 – Pod 1 only.

**When PDP fails to log recreation time for a group, zero out-of-cell time is assumed.

Total recreation groups that received an average of five or more hours daily out-of-cell time at CFCF decreased from 20 percent in the period April through June 2023, to 18 percent in the period July through September 2023 and, again, to three percent in the period October through December 2023. However, the percentage of groups that received an average of one to five hours increased from 54 percent in the period April through June 2023 to 63 percent in the period July through September 2023 and, again, to 81 percent in the period October through December 2023. Total groups that received less than one hour daily also decreased from 26 percent in April through June 2023 to 19 percent and 16 percent in July through September 2023 and October through December 2023 respectively. CFCF remains in non-compliance with Agreement out-of-cell benchmarks and too many Class Members continue to spend at least 23 hours in their cells daily. Some of CFCF's reported changes, however, appear consistent with the Monitoring Team's recommendation to ensure more Class Members receive at least one hour out-of-cell time daily, even if it means reducing longer out-of-cell durations for others.

The following tables depict average out-of-cell time that PICC general population recreation groups received daily for one week of each month, May and June 2023, and July through December 2023:

¹¹ For detailed data for April-June 2023, *see Ibid.*

**General Population Average Out-of-Cell Time Hours Per Day
PICC, Two One-Week Periods ***
May – June 2023**

Hours	Monthly Average	
	Groups	Percent (%)
0 to .9	11	14%
1 to 4.9	41	52%
≥ 5, < 6	27	34%
Total PICC Groups	79	100%

*Weeks reviewed include: May 1-7, and June 5-11.

**Tracking system not yet implemented at PICC in April.

**General Population Average Out-of-Cell Time Per Day Reported for PICC,
Six One-Week Periods***
July – December 2023

Hours**	July-Sept 2023		Oct-Dec 2023		Monthly Average	
	Groups	%	Groups	%	Groups	%
0 to .9	20	5%	59	15%	13	10%
1 to 4.9	206	56%	189	47%	66	51%
≥ 5, < 6	145	39%	154	38%	50	39%
Total PICC Groups	371	100%	402	100%	129	100%

*Weeks reviewed include: July 10-16, August 7-13, September 4-10, October 9-15, November 13-19, and December 18-24. Lockdown days were not included for the following: week of 10/9 unit G2 (2 days); week of 11/13, unit F2 (2 days); week of 12/18, for K (3 days) and H2 (2 days).

** When PDP fails to log recreation time for a group, zero out-of-cell time is assumed.

Like CFCF, PICC initially reduced the percentage of groups receiving an average of less than one hour out-of-cell time from 14 percent in the period May through June 2023 to five percent in the period July through September 2023. However, in the period October through December 2023, groups receiving an average of less than one hour out-of-cell time increased to 15 percent. PICC also slightly increased the percentage of groups that received an average of five or more hours out-of-cell time from 34 percent in the period May through June 2023 to 39 percent and 38 percent in July through September 2023 and October through December 2023 respectively.

The following tables depict average out-of-cell time that RCF general population recreation groups received daily for one week of each month, April through June 2023, and July through December 2023:

**General Population Average Out-of-Cell Time Hours Per Day
RCF, Three One-Week Periods***
April – June 2023

Hours	Monthly Average	
	Groups	Percent (%)
0 to .9	3	3%
1 to 4.9	36	36%
≥ 5, < 6	62	61%
Total RCF Groups	101	100%

*Weeks reviewed include: April 3-9, May 1-7, and June 5-11.

**General Population Average Out-of-Cell Time Per Day Reported for RCF,
Six One-Week Periods***
July – December 2023

Hours**	July-Sept 2023		Oct-Dec 2023		Monthly Average	
	Groups	%	Groups	%	Groups	%
0 to .9	28	10%	25	9%	9	9%
1 to 4.9	72	26%	145	49%	36	38%
≥ 5, < 6	180	64%	124	42%	51	53%
Total RCF Groups	280	100%	294	100%	96	100%

*Weeks reviewed include: July 10-16, August 7-13, September 4-10, October 9-15, November 13-19, and December 18-24.

** When PDP fails to log recreation time for a group, zero out-of-cell time is assumed.

At RCF-Main Facility, the percentage of groups that received an average of five or more hours out-of-cell time daily initially increased from 61 percent in the period April through June 2023 to 64 percent in the period July through September 2023 but then decreased to 42 percent from October through December 2023. Unfortunately, the number of groups that received an average of less than one hour out-of-cell time daily increased from three percent in the period April through June 2023 to 10 percent and 9 percent in July through September 2023 and October through December 2023 respectively.

Trackers for all facilities note staffing shortages or redirection of housing unit staff (for cell searches or Class Member transportation, for example) among primary reasons for limiting out-of-cell time. PDP has implemented the Monitoring Team's recommendations regarding improved tracking of out-of-cell time. However, until PDP employs sufficient staff to fill more housing unit posts and critical support positions, it will not meet Agreement requirements.

Sub-provision 2.2--The parties agree that out-of-cell times under normal operations of the PDP have ranged from 8-10 hours a day and increases in out-of-cell time should continue to be made beyond the August 1, 2022, standard, with a presumptive expected increase to six hours by October 15, 2022. The parties agree that this next step shall be based on the recommendations of the Court appointed Monitor, infra, para. 19, as to scope and timing. Accordingly, the Monitor shall provide recommendations to the Court, based on the Monitor's analysis of all

relevant factors and proposals by the parties, on the next increase in out-of-cell time no later than October 1, 2022, and thereafter on a quarterly basis. See also para. 4, *infra*.

Compliance Rating: Non-Compliance

Substantive Provision 3—Out-of-Cell/Segregation

Sub-provision 3.1--Defendants shall ensure that persons on segregation units shall be provided: (a) no later than May 1, 2022, thirty minutes out-of-cell time on a daily basis and (b) no later than July 1, 2022, no less than one hour each day.

Compliance Rating: Non-Compliance

PDP remains in non-compliance with daily out-of-cell requirements in segregation units. There has been no improvement since the previous reporting period and PDP staff continued to struggle with documenting individual out-of-cell time in this reporting period. Failures to document out-of-cell time likely result from high staff turnover and temporary staff who are unfamiliar with tracking requirements on segregation units. Additional training in out-of-cell documentation resulted in improvements in November and December 2023, so the Monitoring Team sampled from those months in this reporting period.

The following table reflects total populations of Class Members on segregation units and the average total Class Members who were offered one hour out-of-cell time for the week of June 5 through June 11, 2023:¹²

Daily Out-of-Cell Opportunities for Class Members on Segregation Units
June 5, 2023 – June 11, 2023

	Facility	CFCF			PICC	RCF	Total
	Unit	A1P2	A1P3	A1P4	J Unit	C Unit	
	Total Stable Population*	60	29	64	3	36	192
Daily Average	Class Members Out-of-Cell	13	9	19	2	29	73
	Percent	22%	31%	30%	67%	81%	38%

*“Stable Population” refers to total Class Members who resided in segregation units for the entire week.

The following table reflects total populations of Class Members on segregation units and the average total Class Members who were offered one hour out-of-cell time for two one-week periods in November and December 2023:

¹² The same table was presented in the Monitor’s Third Report with additional detail for each day of the week. See *Id.* at 21.

**Daily Out-of-Cell Opportunities for Class Members on Segregation Units for
Two One-Week Periods
November – December 2023***

	Facility	CFCF			PICC**	RCF	Total
	Unit	A1P2	A1P3	A1P4	J/F Unit	C Unit	
November	Total Stable Population***	61	32	64	18	52	227
	Class Members Out-of-Cell Daily Average	19	9	16	11	31	86
	Percent	31%	28%	25%	61%	60%	38%
December	Total Stable Population	62	32	62	18	58	232
	Class Members Out-of-Cell Daily Average	20	8	19	3	14	64
	Percent	32%	25%	31%	17%	24%	28%
Daily Average	Class Members Out-of-Cell	20	9	18	7	23	75
	Percent	32%	27%	28%	39%	42%	33%

*Weeks reviewed include: November 13-19 and December 18-24.

**PICC J Unit, evaluated in November 2023; PICC F Unit, evaluated in December 2023.

*** “Stable Population” refers to total Class Members who resided in segregation units for the entire week.

Across the three one-week periods reviewed, the average percentage of Class Members in segregation units who received no daily out-of-cell time was 62 percent in June 2023, 62 percent in November 2023, and 72 percent in December 2023. PDP will not show meaningful compliance with this provision until there are fewer Class Members in segregated settings, sufficient staff to work in the housing units and supervisors to monitor compliance.

PDP’s new data analysis unit should conduct real-time monitoring of daily out-of-cell time. This information may assist PDP executives and supervisors in considering whether personnel should be redistributed to spare Class Members from spending days at a time isolated in single-person cells, which is their current reality.

Sub-provision 3.2--Defendants further agree that they will continue their normal practice of not placing incarcerated people in segregation units due to the lack of space or staffing on other units.

Compliance Rating: Partial Compliance

As previously reported, PDP’s segregation documentation does not identify a lack of housing space or insufficient staffing as rationales for placement or retention of Class Members in administrative segregation.¹³ Class Members’ removal from segregation units is sometimes delayed, however, because PDP does not have enough staff to conduct timely investigations, initial disciplinary hearings, and hearings for retention on administrative segregation. PDP has

¹³ Monitor’s Second Report, *supra* note 4, at 21.

redirected staff to hold more frequent hearings for retention on administrative segregation. This and other efforts have successfully reduced lengths of stay in administrative segregation and fewer total placements in administrative segregation since the first reporting period.

The following tables depict average Class Members in administrative segregation, retention reviews exceeding 30, 60, and 90 days, and average lengths of stay in administrative segregation for sample dates in three periods, July through December 2022, January through June 2023, and July through December 2023:¹⁴

**Reviews for Retention on Administrative Segregation
Exceeding 60 and 90 Days and Average Lengths of Stay
July – December 2022**

	CFCF					PICC					RCF		Total	
	Total Ad-Seg	> 60 Days	> 90 Days	% > 60 Days	Average Days in Ad-Seg	Total Ad-Seg	> 60 Days	> 90 Days	% > 60 Days	Average Days in Ad-Seg	Total Ad-Seg	Average Days in Ad-Seg	Total	Average Days in Ad-Seg
Average	95	10	12	26%	107	78	2	2	6%	64	21	66	193	79

**Reviews for Retention on Administrative Segregation
Exceeding 30 and 60 Days and Average Lengths of Stay
January – June 2023**

	CFCF					PICC					RCF		Total	
	Total Ad-Seg	> 30 Days	> 60 Days	% > 60 Days	Average Days in Ad-Seg	Total Ad-Seg	> 30 Days	> 60 Days	% > 60 Days	Average Days in Ad-Seg	Total Ad-Seg	Average Days in Ad-Seg	Total	Average Days in Ad-Seg
Average	67	10	3	3%	71	44	2	0	0%	36	14	108	126	72

¹⁴ Dates reviewed, July-December 2022 and January-June 2023, are indicated in the Monitor’s Third Report, *supra* note 4, at 23-24.

**Reviews for Retention on Administrative Segregation
Exceeding 30 and 60 Days and Average Lengths of Stay
July – December 2023**

	CFCF					PICC					RCF*		Total	
	Total Ad-Seg	> 30 Days	> 60 Days	% > 60 Days	Average Days in Ad-Seg	Total Ad-Seg	> 30 Days	> 60 Days	% > 60 Days	Average Days in Ad-Seg	Total Ad-Seg	Average Days in Ad-Seg	Total	Average Days in Ad-Seg
7-7-23	62	0	0	0%	41	13	0	0	0%	93	13	93	88	76
8-4-23	84	2	0	0%	50	28	0	0	0%	17	10	29	122	32
9-1-23	69	0	0	0%	43	17	0	0	0%	13	9	22	95	26
10-6-23	64	0	0	0%	35	20	0	0	0%	20	18	20	102	25
11-10-23	77	8	0	0%	37	7	0	0	0%	8	17	46	101	30
12-8-23	88	3	0	0%	39	10	0	0	0%	11	35	19	133	23
Average	74	2	0	0%	41	16	0	0	0%	27	17	38	107	35
Difference, Jan-June 2023 and July-Dec 2023	+10%	-80%	-100%	-100%	-42%	-64%	-100%	NA	NA	-25%	+21%	-65%	-15%	-51%

*RCF reviews were all completed within policy according to documentation reviewed.

Comparing administrative segregation data from two six-month periods, July through December 2022 and July through December 2023, the average number of Class Members in administrative segregation on select dates reduced by 45 percent, from 193 to 107. When accounting for population differences between the two periods, the reduction is even higher. Class Members in administrative segregation from July through December 2022 represented an estimated 4.4 percent of the total population. From July through December 2023, however, Class Members in administrative segregation represented an estimated 2.3 percent of the total population, reflecting an approximate 48 percent reduction.¹⁵ Average lengths of stay in administrative segregation for select dates also reduced by 56 percent, from 79 days in the last six months of 2022 to 35 days in the last six months of 2023.

PDP has made additional progress reducing timeframes for retention hearings. In the first two reporting periods, Class Members were regularly held in administrative segregation without hearings beyond 30, 60, and 90 days at all three facilities.¹⁶ In this reporting period, none of the facilities on dates reviewed held Class Members in administrative segregation without hearings beyond 60 or 90 days, and hearings exceeding 30 days were limited to CFCF and reduced by an average of 80 percent. Eleven of 13 delayed hearings at CFCF occurred in the months of November and December 2023.

¹⁵ Percentages were calculated based on monthly averages for two six-month periods, July-December 2022 and July-December 2023, as reported in the Philadelphia Prison Population Reports. See Philadelphia Prison Population Report | July 2015 – January 2024, MacArthur Safety and Justice Challenge (Feb. 13, 2024), <https://www.phila.gov/media/20240213123438/January-2024-Full-Public-Report.pdf>.

¹⁶ Monitor's Second Report, *supra* note 4, at 21; Monitor's First Report, *supra* note 4, at 13, n. 13.

PDP’s anticipated data analysis unit should be able to expand on the above findings by using representative samples and accounting for population changes. Their work could also include trend analysis or address variables such as reasons for placement, population increases, demographic changes, system-wide violence and violent segregation commitment offenses, the expansion of transitional units, and enhanced programming.

PDP has permanently discontinued the automatic placement of state sentenced Class Members into administrative segregation based solely on their state commitments.¹⁷ The Monitoring Team continues to recommend additional policy revisions to reduce automatic placements of Class Members in administrative segregation based solely on static factors such as “no bail/high bail” and “change in custody level.”

On December 29, 2023, eight Class Members remained in administrative segregation beyond 90 days. Three of the eight had been removed from segregation by mid-January 2024. Three Class Members who remained in administrative segregation as of mid-January 2024 were determined to have committed serious assaults and additional misconduct while in segregation or a serious escape attempt. One Class Member was in segregation based on protective custody status and was no longer in PDP custody as of mid-January 2024. One Class Member was in segregation at CFCF for 227 days as of December 29, 2023, for on-going disciplinary actions. This Class Member is on the Behavioral Health caseload. In the next reporting period, the Monitoring Team will evaluate behavioral healthcare records for a sample of patients on the behavioral health caseload who are in segregation.

The following tables depict total punitive segregation placements and average lengths of stay in punitive segregation for sample dates, July through December 2022, January through June 2023, and July through December 2023:

**Class Members in Punitive Segregation: Total Placements and Average Lengths of Stay
July – December 2022**

	CFCF		PICC		RCF		Total	
	Total Punitive Segregation	Average Days in Punitive Segregation	Total Punitive Segregation	Average Days in Punitive Segregation	Total Punitive Segregation	Average Days in Punitive Segregation	Total in Punitive Segregation	Average Days in Punitive Segregation
Average	61	63	49	65	45	37	154	55

¹⁷ PDP continues to periodically segregate a small number of state sentenced Class Members for short periods while they await movement to their designated housing unit. On June 3, 2022, administrative segregation reports listed 36 state sentenced Class Members in administrative segregation. Subsequent reviews on June 2, 2023 and December 29, 2023, confirmed there were zero Class Members in administrative segregation exclusively due to pending state prison transfers.

Class Members in Punitive Segregation: Total Placements and Average Lengths of Stay
January – June 2023

	CFCF		PICC		RCF		Total	
	Total Punitive Segregation	Average Days in Punitive Segregation	Total Punitive Segregation	Average Days in Punitive Segregation	Total Punitive Segregation	Average Days in Punitive Segregation	Total in Punitive Segregation	Average Days in Punitive Segregation
Average	64	21	50	23	26	14	139	19

Class Members in Punitive Segregation: Total Placements and Average Lengths of Stay
July – December 2023

	CFCF		PICC		RCF		Total	
	Total Punitive Segregation	Ave Days in Punitive Segregation	Total Punitive Segregation	Ave Days in Punitive Segregation	Total Punitive Segregation	Ave Days in Punitive Segregation	Total in Punitive Segregation	Average Days in Punitive Segregation
7-7-23	75	24	51	20	25	12	151	19
8-4-23	62	25	51	23	40	14	153	21
9-1-23	71	22	42	25	37	12	150	20
10-6-23	75	21	47	26	33	18	155	22
11-10-23	77	31	27	18	50	16	154	22
12-8-23	58	32	34	18	35	19	127	23
Average	70	26	42	22	37	15	148	21
Difference, Jan-June 2023 and July-Dec 2023	+9%	+24%	-16%	-4%	+42%	+7%	+6%	+11%

Comparing data from select dates in two six-month periods, July through December 2022 and July through December 2023, average days Class Members spent in punitive segregation reduced significantly, from 55 to 21 days or 62 percent. The total average number of Class Members in punitive segregation reduced by four percent, from 154 to 148, in the same period.

Despite overall reductions in PDP's use of punitive segregation from 2022 to 2023, both punitive segregation placements and lengths of stay increased at CFCF and RCF from the first half of 2023 to the second half of the year. Also, the total average number of Class Members in punitive segregation increased by six percent and lengths of stay increased by eleven percent. PICC, however, has consistently reduced its use of punitive segregation since 2022.

PDP's efforts to reduce its reliance on administrative and punitive segregation must remain a priority given the risks associated with isolation and PDP's non-compliance with out-of-cell

requirements. The Monitoring Team reiterates the following recommendations from the Monitor's Second Report regarding out-of-cell time in segregation units:¹⁸

1. Provide daily out-of-cell time for all Class Members, even if Agreement requirements cannot be met. PDP should reevaluate the current requirement that three officers must be present to provide out-of-cell time.
2. Ensure that current out-of-cell schedules are feasible for personnel to implement, that Class Members receive schedules in advance, and that schedules are consistently adhered to.
3. Use currently available information, including anecdotal reports from staff, supervisors, and Class Members, to identify and attend to housing units that are struggling to offer out-of-cell time.
4. Document the reasons for any failures to offer out-of-cell time.

The Monitoring Team has made the following recommendations over the course of implementation monitoring to assist PDP in reducing its reliance on punitive segregation:

5. Increase educational, therapeutic, and other positive programming in general population units.
6. Utilize sanctions that do not require isolation, such as creating loss of privilege tiers where Class Members receive out-of-cell time but access to commissary, tablets, and phones is limited or restricted.
7. Expand Therapeutic Housing Units, discussed below under Substantive Provision 6—Behavioral Health in Segregation, and develop accompanying disciplinary policies that limit the placement of patients in isolation.
8. Improve systems for behavioral health input in the disciplinary process, discussed below under sub-provision 8.1.
9. Establish an interdisciplinary committee to create behavior management plans for Class Members who cycle in and out of segregation.
10. Develop programming for Class Members in segregation units to address behavior and assist with the transition back to general population.
11. Direct the new data analysis unit to analyze punitive segregation practices and trends.
12. Revise classification policies and procedures to ensure they are designed to maximize programming and reserve segregation for those with the most serious behavioral issues for the shortest possible durations.

PDP has accepted the Monitoring Team's recommendations and makes efforts in some areas but has consistently reported it is unable to implement them with current staffing.

Substantive Provision 4—Resume Normal Operations

By November 1, 2022, based on discussions between the parties and the Court-appointed Monitor, the parties and the Monitor shall submit to the Court a plan for a return to normal operations of the PDP (regarding out-of-cell time, programming, visits, and other services). During the period that precedes a return to normal operations, if the Monitor determines that the

¹⁸ Monitor's Third Report, *supra* note 4, at 22; Monitor's Second Report, *supra* note 4, at 20.

Defendants are not providing the agreed-upon out-of-cell time, Defendants must provide specific reasons for non-compliance to the Plaintiffs and the Monitor. The parties and the Monitor shall then engage in discussions to resolve the issues in dispute. If no agreement is reached, Defendants may move for the amendment or modification of these provisions, but only upon good cause shown, and the Plaintiffs may move for appropriate intervention by the Court, including possible contempt of court sanctions.

Compliance Rating: Non-compliance

The Monitor has continued to meet with the Parties regarding areas of non-compliance. In this reporting period, meetings were held on the following dates: October 16, 2023, November 6, 2023, December 15, 2023, and February 5, 2024. Multiple deficiencies have been discussed including out-of-cell time, segregation, facility sanitation and maintenance, and use of force. The primary focus of the meetings, however, remains the City's insufficient efforts to address PDP's staffing crisis, which is the root cause of persistent non-compliance. The Parties have engaged in good faith exchanges, which have resulted in creative solutions to some operational challenges, and meetings will continue in the next reporting period.

PDP's only conceivable pathways to compliance remain some combination of population reduction and increased staffing, neither of which is within PDP's unilateral control. Absent immediate solutions to PDP's staffing crisis, the City should initiate a coordinated effort among local justice partners to pursue all opportunities for population reduction. Initial efforts should include identifying and correcting inefficiencies in Philadelphia's criminal justice process that prolong criminal cases and pre-trial detention.

As expected, PDP continues to report that it is not prepared to submit a plan for a return to normal operations that includes out-of-cell time and access to services and programs required by the Agreement.¹⁹ Due to PDP's staffing deficiencies, the Monitoring Team has consistently recommended that PDP prioritize reforms that: (1) can be initiated with existing personnel and (2) are most likely to improve the daily experiences of Class Members.

As recommendations were issued, it was unclear how much progress was possible and whether and for how long any progress achieved could be sustained. PDP acknowledged that monumental efforts were necessary given the conditions Class Members must endure and progress has exceeded expectations in several areas. Incremental improvements have been made, but PDP is far from returning to its pre-COVID-19 operations or redefining "normal operations" based on the most current evidence-based practices. Any projected timeframes for implementation of this provision would be conjecture.

As stated previously, PDP appears to have reached its capacity for interim change and will be unlikely to make additional progress or sustain improvements made thus far. If so, PDP conditions will descend further into constitutional inadequacy and Class Members' health and safety will continue to decline. Staff will remain in acute fear and the indignity of their working

¹⁹ The Monitoring Team is working with PDP to ensure that "normal operations" is defined according to evidence-based best practices at the time PDP is prepared to implement them.

conditions will remain a cultural bar to humane treatment of the 4,700 people confined in PDP facilities.

Restorative and Transitional Services

Clinical and other professional staff assigned to the Restorative and Transitional Services Division (RTS) perform case management, release planning, counseling, and other important programs and services. Based on RTS staff vacancies and reported lapses in the provision of services in the previous reporting period, the Monitoring Team recommended that PDP review RTS job descriptions to ensure it has allocated sufficient positions to offer all services consistent with policy.²⁰ In this reporting period, PDP reports it reclassified some existing RTS positions to better align with current staffing needs. Position changes and RTS vacancies in January 2024 are depicted in the table below:

Restorative and Transitional Services Division Staffing
June 2023 and January 2024

Position Category	Allocated Positions June 2023	Filled Positions June 2023	Vacancy Rate June 2024	Allocated Positions January 2024	Filled Positions January 2024	Vacancy Rate January 2024
Instructor	5	4	20%	4	1	75%
Volunteer Services Director	1	1	0%	1	1	0%
Psychologist	4	2	50%	6	4	33%
Prison Psychologist Supervisor	0	1	0%	1	1	0%
Social Work Services Trainee	0	0	0%	0	4	0%
Social Work Services Manager I	0	1	0%	1	0	100%
Social Work Services Manager 2	53	42	21%	44	33	25%
Social Work Supervisor	13	12	8%	14	11	21%
Human Services Program Administrator	2	2	0%	2	2	0%
Social Services/Housing Program Analyst	0	1	0%	2	0	100%
Prison Close Circuit TV Specialist	1	1	0%	2	1	50%
Inmate Computer-Based Education Instructor	7	6	14%	7	4	43%
Inmate Computer-Based Education Supervisor	1	1	0%	1	1	0%
Correctional Industries Assistant Director	1	1	0%	1	1	0%
Correctional Industries Director	1	0	100%	1	0	100%
Industries Shop Supervisor	14	16	-14%	16	14	13%
Education Director	1	0	100%	1	1	0%
Total	104	91	17%²¹	104	79	24%

²⁰ Monitor's Third Report, *supra* note 4, at 28.

²¹ For detailed data, *see Ibid.*

In the past six months, RTS lost twelve staff members, increasing its total vacancy rate from 17 percent in June 2023 to 24 percent in January 2024. In addition to programs and services described above, in 2023, RTS led the development of a behavioral modification unit recommended by the Monitoring Team. The goal of the behavioral modification unit is to offer individual behavior modification plans and programming for a small subset of patients who exhibit extreme maladaptive behaviors. These patients often spend extended periods in segregation, are frequently hospitalized, and require substantial security and clinical resources. Given the increase in RTS staff vacancies, the Monitoring Team reiterates its recommendation to analyze the work required of this division and the staffing needed to complete required tasks.

Substantive Provision 5—Healthcare

The Defendants shall provide adequate and timely medical and mental health treatment to all incarcerated persons. The Defendants agree to institute the programs and measures (referred to as “the Backlog Plan”) set forth by Bruce Herdman, PDP Chief of Medical Operations, at his deposition of March 21, 2022, to address the existing backlog. The “Backlog Plan” is a new, three-month effort to see backlogged patients as soon as possible. The City has allocated substantial funding to allow Corizon Health services to engage additional agency staff to augment its full-time staff to further reduce backlogs. Four agencies are contracted to provide staff towards this end. Agencies will provide additional providers, including MD/DOs, NPs, LCSWs, and RNs for this effort. Based on these programs and measures, the Defendants agree to substantially eliminate the existing backlog by August 1, 2022, and thereafter to continue addressing any remaining backlog consistent with these programs and measures. Substantial elimination shall mean reduction to a backlog of no more than ten to fifteen percent of the current backlog.

Compliance Rating: Partial Compliance

Healthcare staffing has continued to improve in this reporting period. PDP has made efforts to reduce its appointment backlogs, but reductions have been largely temporary based on data through December 2023. PDP reports the Access to Care Committee has continued to meet since it was convened in November 2022, but has been unsuccessful in reducing overall backlogs to a level approaching compliance with this provision. PDP reports in recent months delayed facility counts, which can interfere with Class Members attending scheduled appointments, have posed new challenges to the provision of healthcare services.

The table below compares on-site appointment backlogs for two four-week periods in May/June 2023, and November/December 2023:

**On-Site Appointment Backlogs for General Medical and Behavioral Healthcare
Weekly Averages, Four-week Comparison
May/June 2023 and November/December 2023**

Backlog Report Four-week Period	Weekly Average Backlogged Appointments**		Change	Percent Change (+/-)
	May-June 2023	Nov-Dec 2023		
BH Initial Psychiatric Eval.	40	82	+42	+105%
BH Medication Evaluation	42	73	+31	+74%
BH Social Work Sick Call	15	25	+10	*
BH SW SCTR	1	0	-1	*
Chronic Care Follow-up	171	268	+97	+57%
Chronic Care Initial	129	121	-8	-6%
MAT	181	129	-52	-29%
MAT Follow-up	1	0	-1	*
Provider Sick Call	66	204	+138	+209%
RN Sick Call	60	42	-18	*
Re-Entry Planning	14	46	+32	*
Total Backlog	720	989	+269	+37%

*Average percent change not calculated for average appointments <50.

**Weeks reviewed include: 5/30/23 to 6/20/23 and 11/29/23 to 12/21/23.

PDP's average four-week on-site backlog (excluding reentry planning) was 944 in November/December 2023, which exceeded the 920 average backlog reported in October/November 2022.²² Despite hiring successes and a reported increase in healthcare staff, PDP's average four-week backlog increased by 269 appointments, or 37 percent, between May/June and November/December 2023.

Weekly backlog data for September 2023 reflects a spike to an average of 1402 backlogged appointments. PDP reports the increase was caused in part by a fire at an off-site data center that houses PDP's electronic medical records, which blocked PDP's access for more than one week. Despite poor compliance reflected in data for this reporting period, PDP reports that the recent influx of additional healthcare staff reduced the September 2023 spike by approximately 400 appointments to the average 989 reported in November/December 2023. Preliminary data for February 2024 shows the backlog was further reduced to 559 appointments as a result of staff additions. This is a significant improvement in a short period of time and PDP anticipates it will sustain improvements through the next reporting period.

In November 2023, PDP initiated a pilot program offering some types of primary and chronic care appointments inside housing units rather than relying on security personnel to escort patients to on-site medical clinics. The housing unit spaces being used for patient care are not

²² Monitor's Second Report, *supra* note 4, at 26.

ideal and are not designated clinical spaces. As such, healthcare services offered in the housing units are limited to sick call triage, behavioral health sick call appointments, and other services that do not require physical contact with patients. The pilot is currently limited to CFCF and RCF because other PDP facilities reportedly lack space for clinical care.

On-Site Specialty Care

On-site specialty appointments represent nine percent of the overall backlog.²³ The on-site specialty backlog decreased by 25 percent, from 189 appointments in the previous reporting period to 141 in this reporting period. As previously reported, a single provider absence in June 2023 resulted in a backlog of 126 pap test and gynecology appointments, or 67 percent of the total on-site backlog at that time.²⁴ In this reporting period, that backlog reduced to 13 appointments, or nine percent of the total backlog. In this reporting period, provider unavailability has resulted in an increase in backlogged podiatry appointments, from 15 in June 2023 to 54 in December 2023.

PDP reports it has begun to offer on-site specialty care appointments at facility clinics rather than requiring patients to be escorted to the main clinic at DC/PHSW. Changes like this reduce reliance on security escorts but also reduce the efficiency of providers who must now move between facilities across PDP's compound to see patients.

Off-Site Specialty Care

Deficiencies in off-site specialty care are worsening. In December 2022, PDP's off-site appointment backlog was 172 scheduled appointments and 50 awaiting scheduling. In June 2023, the backlog was 187 scheduled appointments and 43 awaiting scheduling, reflecting little change. In December 2023, the backlog had grown to 375 scheduled appointments with 116 pending scheduling. The following table depicts off-site specialty appointments scheduled and attended from July through December 2023:

²³ PDP offers on-site specialty services in obstetrics, gynecology, optometry, pap testing, podiatry, physical therapy, ultrasound, and x-ray. For on-site specialty appointments, specialty providers come to PDP and treat patients on-site. The on-site specialty backlog is sensitive to minor staffing changes or provider absences.

²⁴ Monitor's Third Report, *supra* note 4, at 30.

Off-Site Specialty Appointment Summary
July – December 2023

Month	Jul	Aug	Sep	Oct	Nov	Dec	Total
# Scheduled	340	402	339	439	499	419	2438
Out of Custody	16	24	10	24	21	20	115
Out of Jurisdiction/Open Ward	7	7	3	4	10	6	37
Cancel Prior to Transport	17	12	10	23	7	21	90
COVID-19 Isolation	0	3	0	1	0	0	4
<i>Total Ineligible</i>	<i>40</i>	<i>46</i>	<i>23</i>	<i>52</i>	<i>38</i>	<i>47</i>	<i>199</i>
# Eligible to Attend Appointment	300	356	316	387	461	372	2192
Refused	28	25	30	38	46	44	211
C/O Shortage	76	132	122	160	220	193	903
Cancelled at Office	3	3	0	1	4	0	11
Scheduling Error	6	2	0	3	4	1	16
Court	6	4	5	2	1	4	22
Late to Appointment	12	3	5	8	5	6	39
Other	3	13	5	6	19	4	50
<i>Total NOT Seen</i>	<i>134</i>	<i>182</i>	<i>169</i>	<i>218</i>	<i>299</i>	<i>252</i>	<i>1254</i>
Total Seen	166	174	147	169	162	120	938
% of Eligible Patients Seen	55%	49%	47%	44%	35%	32%	43%

PDP improved patient attendance at off-site appointments from 56 percent attendance in 2022 to 62 percent attendance in the first half of 2023. Over the last six months of 2023, total patient attendance decreased to 43 percent from 62 percent attendance in the first six months of 2023.²⁵ The number of scheduled appointments in the last six months of 2023 increased by an average of almost 20 appointments per month, although the percentage of patients who made it to their appointments reduced from 55 percent to 32 percent in the same period. When patients no-show for appointments, the next available appointments are often months later, further increasing the backlog. Extended delays occur not only for patients who require routine or preventive specialty care, but also for patients with serious or life-threatening conditions.

Since monitoring began in 2022, PDP has made efforts to reduce its off-site specialty backlog. Efforts have included adjusting appointment times for greater uniformity in scheduling, batching patients together to reduce the numbers of patient transports, and seeking providers who can offer evening appointments. None of these efforts were successful. PDP data reflects security staff shortages remain the largest factor in missed appointments. In the first half of 2023, correctional officer shortages explained a monthly average of 58 missed appointments.²⁶ In the last six months of 2023, correctional officer shortages accounted for a monthly average of 151 missed appointments, or a 160 percent increase.

PDP has thus far reported limited success in attracting more specialty care physicians to offer services at PDP. Although PDP currently pays commercial rates for healthcare services, it should evaluate pay scales for both on-site and off-site specialty services and increase incentives

²⁵ *Id.* at 31.

²⁶ *Ibid.*

for providers to offer more specialty care on-site rather than transporting patients to off-site facilities. Some incentives may include: (1) offering outside providers reimbursement for travel to PDP facilities; (2) guaranteed pay for all scheduled appointments, whether patients attend or not; and (3) reimbursing off-site specialty care providers at higher rates to provide care on site rather than in their community offices.

An effective off-site specialty care program requires a dedicated healthcare escort and transportation unit. As previously reported, Class Members have cited excessive wait times for transportation as the most common reason for refusing to attend off-site medical appointments.²⁷ Because canceled appointments due to Class Member refusals and insufficient transportation staff often occur on the day of scheduled appointments, some providers have voiced frustration, which could further reduce the number of providers willing to treat PDP patients. PDP reports it has made efforts to reduce wait times for transportation to medical appointments that contributed to high refusal rates. In the first six months of 2023, an average of 48 patients per month refused off-site medical appointments.²⁸ Patient refusals reduced to an average 35 patients per month in the last six months of 2023, reflecting a 27 percent decrease. A total of 286 patient refusals in the first half of 2023 reduced to 211 patient refusals in the second half of the year.²⁹ PDP's overall physical healthcare backlog remains substantially higher than the required 238 total backlogged appointments.³⁰

Intake Screenings

PDP remains unable to meet policy guidelines for completing patient intake screenings within four hours of arrival at PDP. The following table depicts PDP's reported compliance with four-hour timeframes for each month in the second half of 2023:

Percentage of Intake Screenings Within Four Hours
Monthly Averages, July – December 2023

July	31%*
August	22%
September	19%
October	16%
November	29%
December	Not available**

*July data is incomplete reportedly due to a data collection issue.

**December data was not available reportedly due to a data collection issue.

PDP continues to struggle to meet policy timeframes for intake screenings. PDP reports it has adequate healthcare and security staffing in the intake area to meet the four-hour requirement, yet PDP's healthcare performance indicator reports suggest patients are often not escorted to the medical intake area until long after the four-hour benchmark has passed. This appears to be

²⁷ *Id.* at 31-32; Monitor's Second Report, *supra* note 4, at 27-28; Monitor's First Report, *supra* note 4, at 20.

²⁸ Monitor's Third Report, *supra* note 4, at 31.

²⁹ *Ibid.*

³⁰ As previously reported, substantial compliance requires PDP to reduce its backlog to 238 appointments, or 15 percent of 1,587. See Monitor's First Report, *supra* note 4, at 18.

another area of poor interdisciplinary coordination. Intake policy compliance is an interdisciplinary process that the Access to Care Committee, or another interdisciplinary group of healthcare and security staff should address. Once intake screenings are completed, within any timeframe, movement of Class Members from intake to housing units is also frequently delayed due to staffing shortages. Housing delays may be reduced with more focused attention but will not likely be corrected without more staff.

Mortality Information

Fourteen Class Member's died while in PDP custody in 2023. Two of the 14 deaths were ruled suicides and one was ruled a homicide. Two deaths were ruled accidental secondary to substance overdose and seven deaths were reportedly due to natural causes. Two deaths are pending causes from the medical examiner.

In September 2022, PDP implemented a process for reviewing deaths that occur in PDP custody as recommended by the Monitoring Team.³¹ The Monitoring Team observed all reviews that occurred in this reporting period. Circumstances of each death and emergency responses of healthcare and security staff were evaluated during the reviews. Reviews were interdisciplinary and attended by PDP's executive management team, security and healthcare managers, and other personnel who interacted with or treated the Class Members who died. Discussions were transparent and identified areas for corrective action. PDP reports that it intends to formalize reviews in PDP policy. The Monitoring Team has recommended that PDP also develop a process for ensuring that all corrective action is implemented and tracked, including any disciplinary action taken against individual personnel.

Behavioral Healthcare

PDP remains out of compliance with required timeframes for behavioral health referrals.³² In this reporting period, the behavioral health appointments backlog increased and now comprises 18 percent of the entire on-site non-specialist appointment backlog. Average appointment backlog totals for initial psychiatric and medication evaluations for weeks reviewed increased by 105 percent and 74 percent respectively. The following tables depict PDP's compliance with policy timeframes for behavioral health referrals, social worker sick calls, and 14-day patient evaluations for the last six months of 2023:

³¹ See Monitor's Second Report, *supra* note 4, at 28-29.

³² PDP behavioral healthcare policy prescribes the following timeframes for responding to behavioral health patient referrals: emergency referrals, within four hours; urgent referrals, within 24-hours; and routine referrals, within five days.

Percent Compliance with Behavioral Health Referral Timeframes
July – December 2023

Month	Total Completed Referrals	Total Referrals Completed within Timeframes (%)	Emergency Referrals Completed within 4 hours (%)	Emergency Referrals Completed within 24 hours (%)	Urgent Referrals Completed within 24 hours (%)	Urgent Referrals Completed within 48 hours (%)	Routine Referrals Completed within 5 days (%)
July	529	56%	70%	91%	22%	34%	46%
August	609	59%	78%	100%	24%	34%	55%
September	584	57%	73%	100%	22%	35%	44%
October	686	53%	62%	100%	20%	31%	60%
November	675	55%	64%	100%	25%	42%	54%
December	622	58%	71%	100%	23%	36%	49%

*Expectation: emergent within 4 hours, urgent within 24 hours, routine within 5 days.

Social Worker Sick Calls
July – December 2023

Month	Number Completed	Completed within 24 hours (%)
July	457	69%
August	452	72%
September	449	70%
October	495	68%
November	531	66%
December	467	58%

Compliance with 14-Day Patient Evaluations
July – December 2023

Month	Number Completed	Completed within 14 Days (%)
July	677	86%
August	849	93%
September	790	96%
October	732	96%
November	655	91%
December	592	91%

Despite salary increases averaging 13 percent for behavioral health personnel, there has been no significant increase in behavioral health staffing in this reporting period and little change in PDP's ability to comply with required referral timeframes since the previous reporting period. Like physical healthcare providers, clinicians have begun providing some services on or near

housing units to reduce the need for custody escorts. PDP cites lack of behavioral health staff, delayed institutional counts, and lack of patient movement and security escorts among primary barriers to more timely responses.

In this reporting period, behavioral health staff referrals were completed within required timeframes less than 60 percent of the time. Compliance with four-hour emergency referral timeframes ranged from 62 percent to 78 percent in the second half of 2023, reduced from the 76 percent to 88 percent range in the previous reporting period.³³ Patients who receive emergency referrals are observed one-on-one by security personnel until they are seen by clinicians. One-on-one observation is necessary for patient safety but further strains security staff resources.

Urgent and routine referrals improved slightly but not significantly in this reporting period, typically occurring within required timeframes less than 25 percent and 60 percent of the time respectively. Now that some services are being offered on housing units, PDP anticipates improvements in the next reporting period. Social work sick call requests are patient initiated and require face-to-face triaging of patients within 24 hours of receipt. Data for this reporting period shows PDP met this goal an average of 67 percent of the time, similar to the 69 percent compliance rate in the previous reporting period.³⁴

All Class Members entering PDP are referred for a 14-day evaluation by behavioral health staff. PDP has increased compliance with required timeframes over the course of monitoring, reaching an average of 97 percent compliance in the previous reporting period.³⁵ In this reporting period, 14-day evaluations were completed an average of 92 percent of the time.

Healthcare Staffing

As stated above, PDP healthcare staffing has improved since the previous reporting period. Correctional healthcare staff vacancy rates are analyzed based on the number of vacant and filled positions for a “staff vacancy” rate and a “functional vacancy” rate. The functional vacancy rate includes shifts that are filled by overtime and temporary agency hires and accounts for permanent staff who are out on leave and not reporting for duty. As previously reported, PDP and its healthcare contractor, YesCare, reviewed salaries and compensation packages and offered an average 13 percent pay increases for most healthcare positions.³⁶ Increases took effect in mid-2023 and improved healthcare staffing as a result.

PDP’s healthcare staff vacancy rates from August 2022 through May 2023 were approximately 33 percent. In this reporting period, PDP reduced the healthcare staff vacancy rate by more than half to 16 percent. The functional vacancy rate has also reduced slightly from six percent in the previous reporting period to five percent in this reporting period. The following tables depict healthcare new hires and separations for each classification in this reporting period, July through December 2023, and total healthcare vacancies for May and December 2023:

³³ See Monitor’s Third Report, *supra* note 4, at 33.

³⁴ *Id.* at 34.

³⁵ *Ibid.*

³⁶ *Id.* at 36.

Healthcare Personnel New Hires and Separations by Job Classification
July – December 2023

Job Classification	New Hires	Separations	Net (+/-)
Administration	2	0	+2
Administrative Assistant	1	1	0
Behavioral Health Nurse Practitioner	1	1	0
Behavioral Health Aide	1	0	+1
Certified Nursing Assistant	2.4	.4	+2
Licensed Practical Nurse	18.2	2.2	+16
Medical Assistant	6.0	1.4	+4.6
Medical Records Clerk	4.8	0	+4.8
Nurse Practitioner	1	1	0
Physician	0	1	-1
Radiology Technician	1	0	+1
Re-Entry Coordinator	0	1	-1
Registered Nurse	12.6	3.2	+9.4
Scheduler	1	0	+1
Social Worker	2	0	+2
Total	54	12.2	41.8

Healthcare Vacancy Report
May and December 2023

Position Category	Allocated Positions	Unfilled Positions May 2023	Vacancy Rate May 2023	Unfilled Positions December 2023	Vacancy Rate December 2023	Functional Vacancy Rate
Administration	49.0	1.0	2%	0.0	0%	6%
Behavioral Health Aide	8.4	1.8	21%	0.0	0%	-18%*
Behavioral Health Clinicians: Social Worker/Psychologist	24.0	16.6	69%	10.0	42%	45%
Behavioral Health Prescribers: Psychiatrist, NP	15.4	6.5	42%	5.4	35%	36%
Behavioral Health Professionals: BH Coun./Activity Th.	15.0	0.0	0%	1.0	7%	29%
Certified Nursing Assistant	2.8	2.4	86%	0.4	14%	23%
Dialysis RN and Dialysis Technician	1.6	0.8	50%	0.0	0%	7%
Infectious Disease Physician	2.0	0.0	0%	0.0	0%	34%
License Practical Nurse: All LPNs	68.2	27.2	40%	12.2	18%	-18%
Medical Assistant	17.0	8.8	52%	1.0	6%	1%
Medical Records Clerk	14.8	4.8	32%	0.4	3%	-3%
OB/GYN Physician	0.8	0.0	0%	0.0	0%	54%
Physical Health Clinicians: Physician, NP, PA	18.0	1.6	9%	3.6	20%	28%
Physical Therapist/Therapist Assistant	3.0	0.0	0%	0.0	0.0%	32%
Telehealth Coordinators	3.0	2.0	67%	1.0	33%	75%
Radiology Technician	2.4	1.4	58%	0.4	17%	26%
Registered Nurse: All RNs	68.8	28.1	41%	15.0	22%	-7%
Total	314.2	103.00	33%	50.40	16%	5%

*For this total, a negative functional vacancy rate reflects over-staffing in one classification in efforts to reduce the impact of vacancies in others.

PDP improved its staffing from a net gain of 11.4 full-time positions to 41.8 positions for a 267 percent increase since the previous reporting period. The influx of new staff should continue to reduce backlogs in the next reporting period. Unfortunately, salary increases have not yet improved hiring across behavioral health classifications. PDP should consider whether raises applied to behavioral health classifications are enough to attract candidates and make appropriate adjustments. Functional vacancy rates for clinicians increased from 40 percent in the previous reporting period to 45 percent in this reporting period and decreased only slightly for prescribers from 37 percent to 36 percent.

Status of Recommendations, Substantive Provision 5—Healthcare, from the Monitor’s First Report:

1. Defendants should engage an independent salary survey to assist PDP in identifying salaries and benefits that are sufficiently competitive to attract and retain full-time healthcare staff.

PDP has instituted 13 percent raises on average for almost all healthcare classifications, which has improved recruitment and retention in several classifications. A more focused recruitment strategy, which may include additional compensation increases, is necessary to reduce vacancies among behavioral health classifications.

2. Continue to explore options to provide both on and off-site appointment services via telehealth.

PDP reports that YesCare remains unsuccessful in identifying providers who are willing to provide telehealth, with the exception of limited cardiology services. In response, Subject Matter Expert (SME), Dr. Belavich, has recommended improvements to YesCare’s current engagement strategy, including salary incentives described above, that YesCare should implement to increase the likelihood of success.

3. Create an internal interdisciplinary workgroup to evaluate reasons for missed off-site appointments and develop procedures to increase efficiency in arranging and ensuring scheduled appointments occur.

The Access to Care Committee continues to meet, but some issues, such as timely intake assessments, have reportedly not been addressed in weekly meetings. Some problems will not be resolved without additional security or healthcare staff. The committee should, however, analyze new or more complex problems as they arise to ensure: (1) current operations are as efficient as possible with existing resources, and (2) plans are in place to improve operations as resources increase.

Additional recommendations for immediate action:

4. PDP should evaluate reimbursement rates for both on-site and off-site specialty services and make increases sufficient to attract necessary providers.
5. PDP should increase incentives for providers to offer specialty care on-site rather than transporting patients to off-site facilities. Some incentives may include: (1) offering outside providers reimbursement for travel time to PDP facilities; (2) guaranteed reimbursement for all scheduled appointments, whether patients attend or not; and (3) reimbursement of off-site specialty care providers at higher rates to provide care on site.
6. The City should explore contracting with outside law enforcement or private security agencies to establish a team dedicated to off-site transport details.

Substantive Provision 6—Behavioral Health in Segregation

By September 30, 2022, the PDP and Corizon shall re-establish a mental health program for persons who are in segregation status.

Compliance Rating: Partial Compliance

To achieve substantial compliance with this substantive provision, PDP must, at a minimum: (1) resume the provision of daily medical/physical health rounds for each Class Member patient placed on punitive or administrative segregation status; (2) ensure that behavioral health clearances are completed consistent with PDP policy for each Class Member patient placed on segregation status; (3) resume the provision of weekly behavioral health rounds for each Class Member patient on segregation status who is navigating serious mental illness (SMI); (4) resume the provision of group services for no fewer than 10 hours per week for each Class Member patient on segregation status; (5) establish a reliable mechanism to identify all Class Member patients on segregation status who are not housed in identified segregation units; (6) safely discontinue the use of segregation for Class Member patients due to lack of sufficient Transition Unit (TU) housing; and (7) significantly reduce the use of segregation for Class Member patients who require placement on the Behavioral Health caseload.

Requirements 1 and 3: Resume the provision of daily medical/physical health rounds for each Class Member patient placed on punitive or administrative segregation status and resume the provision of weekly behavioral health rounds for each Class Member patient on segregation status who is navigating SMI.

As previously reported, PDP completes audits of physical and behavioral healthcare rounds with patients in segregation.³⁷ Due to ongoing discrepancies in PDP's healthcare and security segregation data, also discussed below under *Requirement 2, Requirement 5*, and Substantive Provision 8—Discipline, audit findings are useful for comparison purposes but not for compliance determinations.

The most recent data from an October 2023 audit shows 94 percent of required daily *physical* health rounds occurred and every facility achieved at least 90 percent compliance. This marks a significant improvement from the March 2023 audit results reflecting 22 percent compliance with required physical health rounds. PDP attributes improvements to enhanced training and internal compliance monitoring.

As with other behavioral health markers reported above, compliance with *behavioral* health daily rounding has decreased from 96 percent compliance in March 2023 to 85 percent compliance in October 2023.³⁸ Both March and October compliance rates mark improvement from the 75 percent compliance rate reported in September 2022.

An essential part of rounding is identifying patients who show signs of decline or poor coping in segregation housing and making timely referrals for additional services or recommend removal from segregation. Behavioral healthcare staff who complete rounds in segregation housing report that they may request evaluations from higher level clinicians as needed but PDP does not currently track referrals for further assessment or recommendations for removal. The Monitoring Team has recommended that PDP begin to track this information both for quality improvement and to establish compliance with this requirement.

³⁷ Monitor's Third Report, *supra* note 4, at 39.

³⁸ *Id.* at 38.

Requirement 2: Ensure that behavioral health clearances are completed consistent with PDP policy for each Class Member patient placed on segregation status.

Healthcare clearances are required for all Class Members being considered for placement on segregation status. This requires a face-to-face evaluation by a physical healthcare provider and for those in Behavioral Health programs, a behavioral health clinician. Patients designated SMI are required to have a behavioral health clearance performed within four hours of placement in segregation. Patients who are on the Behavioral Health caseload but not identified as SMI are to receive a behavioral health clearance within 24-hours of placement.

A review of 24 physical and behavioral healthcare clearance forms (PDP 86-733) from September and October 2023 suggest that physical health sections of the clearances are still being completed consistently, as previously reported.³⁹ Issues with behavioral health clearances identified in the previous reporting period were also present in the sample reviewed in this reporting period. In multiple instances, patients on the Behavioral Health caseload, some of whom were also SMI, were not designated as such and therefore did not receive clearance evaluations. In some instances, SMI patients were mis-identified as being on the Behavioral Health caseload only. These patients would have received behavioral health clearances based on the 24-hour policy timeframe rather than the 4-hour timeframe required for SMI patients.

PDP developed a pilot project to improve the quality of mental health clinical input in disciplinary hearings and dispositions, accurate identification of the SMI populations, and ensuring staff assistant support is provided and documented. The pilot is scheduled for implementation at PICC in the next reporting period. As previously reported, the Monitoring Team determined that the threshold for diverting patients from segregation is too high and some patients are unsafe in the isolated environment. Currently, the only available alternative to segregation is inpatient hospitalization, and many patients do not meet inpatient criteria. The PICC pilot includes the option of diversion from segregation to TUs, which is the more appropriate level of care for many patients.

Requirement 4: Resume the provision of group services for no fewer than 10 hours per week for each Class Member patient on segregation status.

As previously reported, PDP developed “Positive Change/Positive Outcomes” (PC/PO), a behavioral health group treatment program for patients in segregation.⁴⁰ The program is designed to deliver group treatment for two hours, five days per week, for a total of 10 possible treatment hours each week for every program participant. PDP has begun tracking PC/PO treatment hours based on healthcare staff projections, which is now part of PDP’s monthly performance indicator report. The following table reflects total PC/PO group treatment hours possible with current Healthcare staffing versus hours offered to segregated patients from July through December 2023:

³⁹ *Ibid.*

⁴⁰ *Id.* at 40.

PC/PO Structured Group Treatment Hours in Segregation
July – December 2023

Month	Treatment Hours Possible	Treatment Hours Offered	Percent (%)
July	210	78	37%
August	260	114	44%
September	234	56	24%
October	240	60	25%
November	472*	68	14%
December	462	54	11%

*Through October, Treatment Hours Possible were measured based on both security and healthcare staffing projections. Beginning in November, Possible Hours reflect healthcare staffing projections only, which is a more accurate measure.

In the previous reporting period, preliminary data suggested that only 19 percent of available PC/PO group hours were being offered. Newer data suggests more group hours were offered most months in this reporting period, but far fewer than are possible with available healthcare personnel. PDP does not currently have a way to track the number of patients who are eligible for and participate in PC/PO groups but reports it is in the process of refining its eligibility criteria.

Requirement 5: Establish a reliable mechanism to identify all Class Member patients on segregation status who are not housed in identified segregation units.

Previously reported discrepancies in security and healthcare tracking of total patients cleared for segregation versus total patients placed in segregation persisted in this reporting period.⁴¹ PDP previously reported it was completing audits to ensure no Class Members were on segregation status outside of designated segregation areas and all patients in segregation were receiving required healthcare rounds. Audits reportedly identified the sources of some discrepancies, such as insufficient tracking and communication when housing units are converted to or from segregation units based on population fluctuations.

Despite assurances that PDP had resolved discrepancies, segregation data from December 2023 revealed the same previously reported inconsistencies. The Monitoring Team has met with PDP about this issue multiple times since 2022. The problem is convoluted but not intractable and should have been resolved sooner. PDP's failure to identify the specific sources of data discrepancies reflects poor interdisciplinary communication.

In recent months, the Monitoring Team directly facilitated discussions between security and healthcare managers. Additional solutions were identified, and January 2024 data now appears consistently collected across disciplines. Until PDP implements a new automated Jail Management System (JMS), PDP's segregation and other data must be tracked and reconciled manually. Given PDP's staffing crisis, data accuracy is not a top priority. The number of

⁴¹ *Id.* at 39; Monitor's Second Report, *supra* note 4, at 34.

patients impacted by poor segregation tracking is likely small; however, potential consequences for those who do not receive required behavioral health clearances and clinical contacts are great.

Requirement 6: Safely discontinue the use of segregation for Class Member patients due to lack of sufficient Transition Unit housing.

Dr. Belavich maintains that PDP should reduce its dependence on segregation for all Class Members, especially those on the Behavioral Health caseload, and discontinue its use altogether for SMI patients unless no alternatives exist.⁴² PDP's TU housing provides an alternative to segregation housing in a more therapeutic setting for the mentally ill. Pre-COVID-19, PDP reserved 128 TU beds for women and 200 for men. During the COVID-19 lockdown, PDP reduced its available TU beds and, by August 2022, 134 beds remained including 22 for women and 112 for men.

The women's TU currently has 19 patients enrolled in a 34-patient program. The women's TU is housed in PICC D-unit, which has a 128-bed capacity. As previously reported, women with various security classifications are also housed in the unit, which limits out-of-cell and therapeutic programming time.⁴³ PDP acknowledges that current TU space is inappropriate for this program and has committed to activating a 100-bed women's TU. The City initially committed to expansion by March 2024, however, that has not occurred.

In February 2023, PDP moved the men's TU to a larger, 128-bed unit at RCF. As of June 2023, approximately 50 patients resided in the TU. PDP reported it was having difficulty identifying eligible patients to fill the program and, in October 2023, moved the program to a smaller 64-bed unit. Dr. Belavich generally supports the idea of smaller units as more effective therapeutically. However, as of January 2024, only 51 patients resided in the 64-bed TU. PDP's population consists of approximately 1,600 patients on the Behavioral Health caseload, 340 of whom experience SMI. PDP has not finalized a sound interdisciplinary process for patient referrals to the TU or appropriate eligibility criteria. PDP recognizes it is implausible that only 51 of 1,600 patients can benefit from the program and is working with Dr. Belavich on formalized, less restrictive eligibility criteria and an effective referral process.

The small TU patient population has consistently reported to the Monitoring Team during site visits in February 2023, November 2023, and January 2024 that they are benefitting from treatment offered and enjoy several hours of out-of-cell time daily. PDP confirms its goal is to improve care for the mentally ill by diverting as many patients as possible from segregation to TUs and offering at least 10 hours of PC/PO group treatment for patients in segregation. There is, however, no definitive plan in the near term to expand TUs or increase PC/PO group hours.

Requirement 7: Significantly reduce the use of segregation for Class Member patients who require placement on the behavioral health caseload.

Behavioral Health patients have been consistently overrepresented in segregation over three reporting periods. Segregation data from select dates in December 2022, June 2023, and January

⁴² Monitor's Third Report, *supra* note 4, at 40.

⁴³ *Id.* at 40; Monitor's Second Report, *supra* note 4, at 37.

2024, shows that patients on the Behavioral Health caseload totaled between 35 and 37 percent of PDP's overall population yet represented 44 percent of the segregation population in 2022, 38 percent in June 2023, and 40 percent in January of 2024.⁴⁴

SMI patients have reduced from 12 percent of PDP's total population in 2022 to 10 percent in June 2023 to 8 percent in January 2024. SMI patients are not overrepresented in segregation and PDP has successfully reduced their percentages of the total segregation population in each reporting period from 12 percent in 2022 to 8 percent in June 2023 to 5 percent in January 2024. This data is reflected in the following table, which depicts SMI and Behavioral Health patients in segregation housing on specific dates in December 2022, June 2023, and January 2024.⁴⁵

SMI and Behavioral Health Class Members in Segregation
December 30, 2022, June 9, 2023, and January 12, 2024

	December 30, 2022		June 9, 2023		January 12, 2024	
	Count	Percent of PDP Population	Count	Percent of PDP Population	Count	Percent of PDP Population
PDP Census	4401	100%	4565	100%	4455	100%
Number of SMI	516	12%	439	10%	342	8%
Number on BH Caseload	1546	35%	1653	36%	1633	37%
Number in Segregation	311	7%	268	6%	280	6%
		Percent of Segregation Population		Percent of Segregation Population		Percent of Segregation Population
Number of SMI in Segregation	36	12%	21	8%	15	5%
Number of BH in Segregation	138	44%	102	38%	113	40%

PDP continues to report that it has not finalized a system to track when patients are diverted from segregation to PHSW or a TU. Once PDP develops and implements recommended policies to divert those on the Behavioral Health caseload or with SMI to TUs, the number of mentally ill in segregation should reduce.

Status of Recommendations, Substantive Provision 6—Behavioral Health in Segregation, from the Monitor's Second Report:

1. PDP should reexamine its behavioral health policies and practices for segregation clearances and rounding, with particular focus on thresholds for diversion or removal from segregation based on patient acuity.

⁴⁴ Monitor's Second Report, *supra* note 4, at 37; Monitor's Third Report, *supra* note 4, at 41.

⁴⁵ As discussed above under *Requirement 5*, PDP's December 2023 data contained inconsistencies. Dr. Belavich was able to verify PDP had reconciled the data by January 12, 2024 and, therefore, selected that date for analysis.

PDP reports it is piloting a new procedure at PICC in the next reporting period, which will improve practices for segregation clearances.

2. PDP should make additional progress in identifying custody personnel to staff Positive Change, Positive Outcome treatment groups and fill Transition Units with only Transition Unit patients or others who can safely program in common spaces with them.

PDP reports it is unable to implement this recommendation without additional security staff.

Substantive Provision 7—Law Library Access

PDP will continue to provide law library access for all incarcerated individuals. The Monitor and the parties will discuss access and scheduling matters and the Monitor shall make any recommendations on these matters by August 1, 2022.

Compliance Rating: Partial Compliance

PDP remains unable to provide consistent law library access. PDP has attempted to implement an equitable rotation schedule but evaluating compliance with the schedule was not possible in this reporting period because documentation is incomplete.

As recommended, PDP maintains a law library schedule for all non-segregation housing units that provides for access at varying times each week. Also as recommended, PDP instituted a sign-up process that tracks who requests access, whether Class Members attend, and durations of time spent in the law library. The schedule and roster were intended to serve as interim compliance tools for PDP executives and the Monitoring Team until a computerized system can be implemented.

Too many sign-up sheets are missing from documentation provided for randomly sampled weeks from July through December 2023 to measure compliance.⁴⁶ In the previous reporting period, an estimated 32 percent of scheduled law library timeslots were filled.⁴⁷ Limited documentation for sampled weeks suggests that system-wide compliance reduced in this reporting period, but this cannot be verified without more complete documentation. In this reporting period, PICC's documentation was more complete than other facilities and it, therefore, appears to have achieved greater compliance, but this also cannot be verified.

Law library access in segregation units remains highly restricted largely because Class Members frequently spend entire days inside their cells. PDP's goals of ensuring law library access and effectively tracking access will not likely be met without more staff.

In November 2023, PDP assigned a sergeant to conduct monthly audits of law library access. Audits track whether law libraries are open as scheduled, schedules are posted on housing

⁴⁶ The weeks reviewed were as follows: July 17-23, 2023; August 14-20, 2023; September 18-24, 2023; October 16-22, 2023; November 13-19, 2023; and December 11-17, 2023.

⁴⁷ Monitor's Third Report, *supra* note 4, at 43.

units, and sign-up sheets are being used.⁴⁸ Law library documentation appears to have improved in November and December as a result of internal monitoring. However, it is unlikely that PDP supervisors will be able to monitor and ensure consistent documentation of law library access in the next reporting period.

Based on out-of-cell data, Class Member complaints, and reports from housing unit personnel and supervisors, PDP is far from substantial compliance with this provision. Class Member grievances submitted via tablets in this reporting period frequently cite insufficient staff as rationales provided for law library closures.

PDP tracks maintenance of law library printers and computers via monthly audits. Audits in this reporting period reflect no issues for dates sampled as depicted in the following table:

PDP Internal Law Library Equipment Audit
July – December 2023

Month	Equipment	CFCF	DC	PICC	RCF	Total Issues Documented	Housing Unit Audit Dates	Repairs Completed
Jul 2023	Computers	0	0	0	0	0	7/18/23, 7/31/23, 8/1/23	NA
	Printers	0	0	0	0	0		
Aug 2023	Computers	0	0	0	0	0	8/8/23, 8/16/23, 8/22/23	NA
	Printers	0	0	0	0	0		
Sept 2023	Computers	0	0	0	0	0	9/26/23- 9/27/23	NA
	Printers	0	0	0	0	0		
Oct 2023	Computers	0	0	0	0	0	10/23/23- 10/31/23	NA
	Printers	0	0	0	0	0		
Nov 2023	Computers	0	0	0	0	0	11/16/23- 11/28/23	NA
	Printers	0	0	0	0	0		
Dec 2023	Computers	0	0	0	0	0	12/15/23- 12/21/23	NA
	Printers	0	0	0	0	0		
Total		0	0	0	0	0		

Numerous tablet grievances filed in December 2023 reported a broken printer at PICC. PDP reports the issue was resolved.

Substantive Provision 8—Discipline

Sub-provision 8.1--All future disciplinary proceedings at the PDP shall be held in accord with established due process rights, including the presence of the incarcerated person who is the subject of the proceeding. See Wolff v. McDonnell, 418 U.S. 539, 563–66 (1974); Kanu v.

⁴⁸ Examples include: CFCF, November 6, 2023, law library suspended pending investigation; PICC, November 13, 2023, law library suspended due to search; PICC, November 21, 2023, medium law library closed, reasons not documented; PICC, November 17, 2023, law libraries closed, reasons not documented. PICC generally had posted schedules. RCF and CFCF postings varied by unit and date.

Lindsey, 739 F. App'x 111, 116 (3d Cir. 2018); *Stevenson v. Carroll*, 495 F.3d 62, 70–71 (3d Cir. 2007).

Compliance Rating: Partial Compliance

The following tables depict PDP's disciplinary hearing data in six-month periods for July through December 2022 and January through June 2023, as well as each month, July through December 2023, including totals for disciplinary sanctions issued, "not guilty" findings, dismissals, and discipline imposed despite Class Members' absence without waiver:

PDP Disciplinary Hearings

July – December 2022⁴⁹

Six-month Total	Total Discipline Issued	Total Not Guilty		Dismissed		SMI		Guilty without a hearing - excludes refusals	
	n	n	%	n	%	n	%	n	%
Average/Average %	268	19	7%	30	11%	24	9%	6	2%

PDP Disciplinary Hearings⁵⁰

January – June 2023

Six-month Total	Total Discipline Issued	Total Not Guilty		Dismissed		SMI		Guilty without a hearing - excludes refusals	
	n	n	%	n	%	n	%	n	%
Average/Average%	303	23	8%	34	11%	30	10%	0	0

⁴⁹ Monthly totals included in the Monitor's Second Report. See Monitor's Second Report, *supra* note 4, at 40.

⁵⁰ Monthly totals included in the Monitor's Third Report. See Monitor's Third Report, *supra* note 4, at 45.

PDP Disciplinary Hearings

July – December 2023

Month	Total Discipline Issued	Total Not Guilty		Dismissed		SMI		Guilty without a hearing - excludes refusals	
	n	n	%	n	%	n	%	n	%
July	279	27	10%	25	9%	26	9%	0	0
August	381	22	6%	31	8%	26	7%	0	0
September	309	15	5%	39	13%	28	9%	0	0
October	285	21	7%	30	11%	20	7%	0	0
November	277	22	8%	11	4%	18	6%	0	0
December	401	28	7%	45	11%	25	6%	0	0
Average/Average%	322	23	7%	30	9%	24	7%	0	0

PDP's practice of holding disciplinary hearings without affording the subject Class Member the opportunity to be present has not recurred since December of 2022. PDP remains in compliance with this aspect of the sub-provision.

In the second reporting period, the Monitoring Team recommended that PDP revise its disciplinary policies, hearing documentation, and training materials to comply with due process and Agreement requirements.⁵¹ The 24 completed disciplinary cases reviewed in this reporting period revealed no meaningful improvements from the previous reporting period. Challenges identified previously continued through this reporting period. Some examples include failure to document when interpreters are provided for non-English speaking Class Members and staff assistants for Class Members with disabilities, inconsistent documentation of the behavioral health and SMI population, and inadequate input from the clinical personnel regarding behavioral health Class Members.

Disciplinary actions reviewed in this reporting period showed little improvement in the quality of mental health assessments in the disciplinary process or the accuracy by which Class Members were designated SMI.⁵² As previously reported, Behavioral Health staff are required to complete an assessment form (PDP 86-733) prior to placement of each Class Member into a segregated setting.⁵³ The form contains a section for treating clinicians to note any behavioral health contraindication to placement in segregation and to document whether a Class Member is able to participate in the hearing process and present a defense. It also denotes whether a Class Member's mental illness should be considered a mitigating factor in any discipline imposed.

⁵¹ Monitor's Second Report, *supra* note 4, at 39-40.

⁵² PDP reported that deficiencies noted in the September/October samples were not corrected by December 31, 2024, so the review was not replicated later in the reporting period.

⁵³ Monitor's Third Report, *supra* note 4, at 46. Also discussed in the Substantive Provision 6—Behavioral Health in Segregation section of this report, *infra* at 41.

However, in addition to frequent misidentification of patients' mental health status, hearing officers have not begun to document consideration of notes from the mental health assessment form (PDP 86-733) in their findings.

Correctly identifying Class Members with SMI or on the Behavioral Health caseload and consideration of those factors in disciplinary hearings is critical to ensuring Class Members' rights are protected. PDP's pilot project discussed above under Substantive Provision 6—Behavioral Health in Segregation, *Requirement 2*, will begin to address these issues and some of the Monitoring Team's other recommendations.

Sub-provision 8.2--The PDP shall expunge the disciplinary records for all persons who were not present at their disciplinary hearings for the period March 2020 to the current date [April 12, 2022]. . .

Compliance Rating: Substantial Compliance (March 3, 2023, monitoring discontinued)

Sub-provision 8.3--[PDP shall] release from segregation all incarcerated persons who were not present at their disciplinary hearings but who are [on April 12, 2022] still serving a disciplinary sentence, or who are in administrative segregation following a disciplinary sentence imposed without a hearing. . .

Compliance Rating: Substantial Compliance (October 12, 2023, monitoring discontinued)

Sub-provision 8.4--[PDP shall] cancel sanctions [imposed in hearing held between March 2020 and April 12, 2022] that require payments for damage to property or other restitution, and/or return payments made by persons who were required to pay for damage to property or other harms. Provided, however, the PDP may seek to conduct due process hearings for individuals covered by this provision who are still in segregation, but only: (a) if there is a small and discrete number of such cases, and (b) upon first providing counsel for Plaintiffs the names of those persons, the disciplinary charges, and information related to the length of placement in segregation. Nothing in this section prohibits persons subject to the disciplinary process set forth above from asserting individual legal challenges to the discipline. Defendants shall provide to counsel for plaintiffs a list of individuals and disciplinary matters subject to this exception by April 15, 2022.

Compliance Rating: Substantial Compliance (March 3, 2023, monitoring discontinued)

Substantive Provision 9—Tablets

Sub-provision 9.1--PDP has undertaken expansion efforts to increase the number of tablets available within the PDP facilities by adding eighty (80) additional tablets, according to operational capabilities and housing designs. The expansion of tablets is as follows: from four (4) to six (6) tablets on each housing unit at CFCF for a total of fifty-six (56) additional tablets;

and, at RCF, expanding from six (6) to eight (8) tablets on the [first floor] (4 housing units) and expanding from eight (8) to twelve (12) tablets on the [2nd and 3rd floors] of RCF (4 larger units) for a total of twenty-four (24) additional tablets at RCF. This expansion process will be completed by May 1, 2022.⁵⁴

Compliance Rating: Partial Compliance

PDP reports that it continues to maintain an inventory of tablets consistent with this sub-provision. PDP's total tablet inventory meets Agreement requirements but Class Member access to tablets does not.

PDP previously miscalculated, and the Monitor erroneously reported, that PDP maintained 421 tablets in populated housing units in June 2023.⁵⁵ The reported 421 included tablets reserved for attorney visiting and other purposes that are not contemplated in this Agreement provision. The correct number of tablets issued to housing units in June 2023 was 368. PDP's inventory for January 2024 reflects 392 tablets were issued to housing units. In the previous reporting period, PDP reserved an additional 187 tablets for educational programming. That number reduced to 113 in this reporting period. PDP reports that it redirected 74 underutilized tablets to housing units to replace broken or missing tablets. The following table reflects current tablet totals at each PDP facility based on documentation provided:

Tablet Availability at Each PDP Facility
June 2023 and January 2024

Facility/Housing Unit	Total Tablets June 2023	Total Tablets January 2024	Difference
ASD Total*	12	0	-12
MOD 3 Total	12	12	0
CFCF Total	159	188	+29
DC Total	51	52	+1
PICC Total	50	61	+11
RCF Total	84	79	-5
Total	368	392	+24

*ASD was closed and the 12 remaining tablets were reportedly redistributed.

⁵⁴ The Agreement, as written, requires the expansion of tablets at RCF “from six (6) to eight (8) tablets on the 2nd and 3rd floor (4 housing units) and expanding from eight (8) to twelve (12) tablets on the 1st floor of RCF (4 larger units) . . .”. In fact, RCF's larger units are located on the 2nd and 3rd floors and the smaller units are located on the 1st floor, suggesting that the numbers of tablets required were inadvertently reversed. To correct this small oversight in the Agreement's drafting, PDP must instead increase tablets from eight to twelve on the second and third floor housing units and from six to eight on the first-floor housing units in order to achieve substantial compliance with this aspect of the substantive provision.

⁵⁵ Monitor's Third Report, *supra* note 4, at 49. Previously, PDP likewise erroneously reported that there were 427 tablets in populated housing units in December 2022. See Monitor's Second Report, *supra* note 4, at 44.

During the November 2023 site visit, the Monitoring Team frequently observed units with empty docking stations, and staff and Class Members continue to report that tablets are frequently broken, not charged, or otherwise not issued for use. There were seven grievances filed via the tablet grievance system in this reporting period alleging limited tablet access.

In this reporting period, PDP provided additional staff training, reiterated expectations, updated post orders regarding tablet access, and, in November 2023, dispatched a team to complete internal tablet audits. Initial audit results cannot be verified due to poor or inconsistent audit methods, but findings generally confirm that some tablets listed on PDP inventories were not available for use in housing units on audit days.

As previously reported, PDP has committed to the use of tablets for Class Members to initiate sick call requests.⁵⁶ PDP reports it has procured 170 tablets for this purpose, but patient confidentiality issues are creating unanticipated delays to its initial December 2023 pilot date.

Despite PDP's best efforts, it is unlikely to achieve substantial compliance with this substantive provision without more staff to monitor functionality of and access to tablets.

Sub-provision 9.2--The parties and the Monitor will discuss any future increases in the number of tablets based on all relevant factors, including operational feasibility and physical capacity. Further, the Monitor and the parties shall discuss whether any policies and practices are necessary to address equitable and fair individual access to available tablets, and if so, the PDP shall implement agreed upon practices.

Compliance Rating: Partial Compliance

PDP continues to report that it plans to provide tablets to all eligible Class Members as part of its next telephone contract procurement. This is positive, but due to the City's complex procurement process and necessary physical plant infrastructure changes, it is not likely tablets will be issued to Class Members until at least mid-2025.

PDP's pilot initiative to allow for the filing of grievances on tablets was expanded to all PDP facilities by September 2023. An average of 801 grievances were filed by Class Members via tablet each month from September to December, the majority of which relate to commissary and food items purchased through a third-party vendor. Smaller numbers of grievances were filed regarding access to medical and mental healthcare, allegations against staff, and out-of-cell time. The following table depicts total monthly and average grievances for the two largest categories of complaints and "others" submitted via tablet for the period September through December 2023:

⁵⁶ Monitor's Third Report, *supra* note 4, at 50; Monitor's Second Report, *supra* note 4, at 46.

Monthly Tablet Grievances
September – December 2023

Month	September	October	November	December	Average
Commissary	426	420	632	449	482
Food Vendor	63	100	124	185	118
Other	234	192	302	75	201
Total	723	712	1058	709	801

As anticipated, the challenge for PDP going forward will be providing timely and meaningful responses to significant increases in requests and grievances. PDP will need mechanisms for triaging emergent grievances and requests, as well as managing administrative issues like duplicate requests. PDP will also need to ensure Class Members are able to obtain evidence of their filed grievances, appeals, and any responses. Finally, PDP should ensure all Class Members have access to paper grievance forms at all times, and that they may choose the methods by which grievances are submitted. The Monitoring Team has recommended that PDP management and executives regularly review grievance information to identify and address areas of non-compliance and will work with PDP in the next reporting period to improve data analysis of grievances filed both in paper form and via tablets. Grievance analysis is another key area for the new data analysis unit to explore when it is established. Much can be learned from reviewing grievances as trends emerge that warrant executive support to resolve.

Substantive Provision 10—Phone Calls

Sub-provision 10.1--PDP agrees to maintain 15 minutes of free phone calls on a daily basis for the PDP population. Further, the Monitor and the parties shall discuss whether any policies and practices are necessary to address equitable and fair individual access to phones and, if so, the PDP shall implement agreed upon practices.

Compliance Rating: Partial Compliance

When Class Members in general population units have access to dayrooms, PDP continues to provide free 15-minute phone calls. However, during site visits in this reporting period, Class Members continued to report to the Monitoring Team that restricted phone access continues to exacerbate housing unit tension and, at times, causes fights. As a result, phone time remains a form of dangerous jail currency, which ensures inequitable access. PDP is unlikely to achieve substantial compliance with this substantive provision without additional staff.

Sub-provision 10.2--Upon a return to normal operations, the PDP will revert to the provision of 10 minutes of free phone calls.

Compliance Rating: Non-compliance

As reported above under Substantive Provision 4—Return to Normal Operations, PDP does not have a plan for the return to normal operations and therefore remains in non-compliance with this sub-provision.

Substantive Provision 11—PICC Emergency Call Systems

The Monitor and the parties shall discuss the issues unique to PICC regarding emergency call systems and access to tablets and/or phones and determine whether any policies and practices are necessary to address these matters considering all relevant factors, including operational feasibility and physical capacity.

Compliance Rating: Partial Compliance

The Monitoring Team continues to recommend against the expansion of a call button system at PICC and instead recommends significant improvements to security check protocols and accountability.

In the previous reporting period, PDP attempted to use CCTV to assess the quality and timeliness of security checks at PICC, but outdated technology, excessive download times, and limited staffing reportedly prevented a thorough review.⁵⁷ In July 2022, the Monitoring Team recommended that PDP install a unified CCTV system that will give supervisors, managers, and executives direct terminal access to real-time and historical CCTV footage. In December 2023, the City reported it is exploring procurement options and developing a project plan consistent with this recommendation. The City has not provided subsequent updates or project timelines, but upgrades will not likely be introduced in 2024.

As previously reported, physical plant limitations prevent PICC from installing additional phones and tablet docking stations.⁵⁸ PDP's plan to provide every eligible Class Member with a tablet would be an appropriate alternative if implemented. In December 2023, the City indicated its goal is to issue tablets to Class Members in fiscal year 2025. The Monitoring Team recommends that PDP prioritize PICC for tablet issuance if it does not interfere with other aspects of the project timeline.

Regarding the May 2023 escape from PICC, PDP reports that it received the final security assessment completed by the Pennsylvania Department of Corrections in December 2023. In January 2024, the Monitoring Team toured PDP's compound and observed several security upgrades pursuant to its findings. The Monitoring Team has consistently requested the final report for review. To date, neither the report nor a summary of its findings or recommendations have been provided. The City's failure to promptly produce requested documentation that directly intersects with Agreement provisions marks an unfortunate deviation from the transparency Defendants demonstrated through most of the initial settlement term.

⁵⁷ See Monitor's Third Report, *supra* note 4, at 52.

⁵⁸ See Monitor's Second Report, *supra* note 4, at 48.

Substantive Provision 12—Locks

Sub-provision 12.1--PDP initiated the lock replacement program for PICC. . . which will be completed by June 30, 2022.

Compliance Rating: Substantial Compliance

PDP initiated the lock replacement project at PICC and RCF in 2022. In June 2023, PDP reported approximately 95 percent of the locks at PICC had been replaced.⁵⁹ The remaining locks needing replacement were in cells that required additional renovation. Those cells were decommissioned pending renovation and lock replacement. PDP reports as of January 2024, all required locks were replaced. PDP has completed additional training on requirements to conduct lock safety checks when officers assume their posts and to immediately notify a supervisor of any lock malfunctions. Finally, PICC updated staff post orders to include direction on lock inspections, as well as the responsibility to deactivate cells and submit work orders for inoperable locks. PDP has, therefore, achieved substantial compliance with this sub-provision, and the Monitoring Team will discontinue monitoring this aspect of the substantive provision.

Sub-provision 12.2--PDP initiated the lock replacement program for. . .RCF, which will be completed by June 30, 2022.

Compliance Rating: Substantial Compliance

As previously reported, lock replacement and initial staff training at RCF were completed in May 2022.⁶⁰ PDP provided additional training on lock security and updated post orders in this reporting period. PDP has, therefore, achieved substantial compliance with this sub-provision, and the Monitoring Team will discontinue monitoring this aspect of the substantive provision.

Though not subject to the Agreement, PDP reports all locks at CFCF have now also been replaced.

Sub-provision 12.3--For the repair of call button devices in existing facilities, PDP will conduct a one-time test of all call buttons and make any necessary repairs by August 1, 2022.

Compliance Rating: Substantial Compliance (March 3, 2023, monitoring discontinued)

Sub-provision 12.4--Any future complaints related to the operation of call buttons shall be addressed through work orders, which will be addressed and completed by Defendants in a timely manner.

Compliance Rating: Partial Compliance

⁵⁹ Monitor's Third Report, *supra* note 4, at 52.

⁶⁰ Monitor's First Report, *supra* note 4, at 28-29.

PDP provided copies of 37 call-button work orders completed at CFCF and RCF from July through December 2023. Twenty-nine or 78 percent of repairs were documented as completed within one working day. Remaining work orders were documented as completed within an average of one week. PDP's efficient maintenance contractor also completed tamper-proof upgrades to call-button plates in the cells at CFCF in this reporting period.⁶¹ The Monitoring Team will review work orders in the next reporting period to verify consistency in timeliness of repairs and determine whether the call-button upgrades at CFCF reduced the volume of required repairs.

As recommended, PDP updated its post orders in this reporting period to include requirements to submit work orders and ensure quality security checks if call buttons are inoperable, and to depopulate cells if damage to the call-button systems becomes dangerous (with exposed wires, for example).

Sub-provision 12.5--PDP will provide refresher training before June 1, 2022, to correctional staff on PDP practices with respect to responses to the emergency call button system.

Compliance Rating: Substantial Compliance (March 3, 2023, monitoring discontinued)

Substantive Provision 13—Visiting

Sub-provision 13.1--As of March 7, 2022, PDP reinstated in-person visitation for all vaccinated incarcerated persons with family members. PDP is in the process of increasing capacity for in-person visits by increasing the number of visits that can be accommodated during the current hourly schedule. At a minimum, current CFCF visiting shall be increased by 8 slots, PICC increased by 4 slots, and RCF increased by 2 slots.

Compliance Rating: Substantial Compliance (March 3, 2023, monitoring discontinued)

Sub-provision 13.2--Further, the parties and Monitor shall discuss all matters related to visitation, and the monitor shall issue recommendations on these issues.

Compliance Rating: Partial Compliance

PDP acknowledges previously reported weaknesses in its visiting program and reports it has not made meaningful progress in this reporting period. PDP made initial progress in the previous reporting period by soliciting feedback from visitors and Class Members.⁶² PDP reports it intends to incorporate feedback into a visiting improvement plan scheduled for completion in the next reporting period but is currently unable to commit to changes based on specific feedback received.

⁶¹ The four-person temporary cells were not included in the upgrade. PDP will assess future renovation needs based on the outcome of the current project.

⁶² See Monitor's Third Report, *supra* note 4, at 54.

The Monitoring Team remains unable to make informed recommendations for new or additional visiting timeslots without a reliable baseline of scheduled, attended, canceled, and refused visits. PDP reports it will be unable to augment its current visiting schedule without additional staff. The Monitoring Team previously made interim recommendations for improvement based on anecdotal information and observations during site visits, including: (1) analyzing filled versus unfilled in-person visiting timeslots and making any necessary scheduling adjustments (consistent with the evening visiting request above); (2) ensuring family visiting spaces in all facilities are regularly sanitized; and (3) ensuring family visiting areas are stocked with age and culturally appropriate activities for youth.⁶³

Sub-provision 13.3--PDP reaffirms that it will acknowledge and record the vaccination status of those individuals who provide information that they were vaccinated.

Compliance Rating: Substantial Compliance (October 12, 2023, monitoring discontinued)

Substantive Provision 14—Attorney Visiting

Sub-provision 14.1--PDP shall continue to follow a policy of providing attorneys with access to their clients within 45 minutes of their scheduled visit.

Compliance Rating: Partial Compliance

As in previous reporting periods, the requirement that attorneys receive access to their clients within 45 minutes of scheduled visits was not possible to measure because attorney visits are not scheduled and current systems are not designed to track attorney arrival and wait times.⁶⁴ Because data is limited, the Monitoring Team has relied largely on reports from PDP, Class Members, the Defender Association of Philadelphia (Defender Association), members of the private bar, and *Remick* class counsel in assessing deficiencies. By all accounts, delays in official visiting continue but have reduced both in frequency and duration since 2022.

Delayed population counts, institutional lockdowns, and other operational emergencies have been the most common reasons cited for visiting delays or cancelations. Attorneys have also reported lengthy delays between clients during back-to-back visits and that visiting rooms are left unoccupied during high-traffic hours.

In the third reporting period, the Monitor requested that PDP Deputy Commissioner of Administration and the Warden of CFCF work directly with the Defender Association to strategize mutually agreeable solutions to official visiting delays. As a result of these efforts, PDP has instituted or agreed to the following changes:

- On September 18, 2023, PDP adjusted tablet visiting schedules at CFCF to begin at 12 pm rather than during morning high-traffic hours. Tablet visits occur in the same rooms

⁶³ *Id.* at 55; Monitor's Second Report, *supra* note 4, at 51-52; Monitor's First Report, *supra* note 4, at 29-30.

⁶⁴ See Monitor's Third Report, *supra* note 4, at 55; See also Monitor's Second Report, *supra* note 4, at 52-53.

as in-person visits, so this schedule change increased available space for in-person visits during peak hours.

- In October 2023, PDP modified institutional count times at CFCF to reduce the likelihood that clearance delays will interfere with peak official visiting hours.
- In November 2023, PDP began utilizing two additional rooms for official visits with all Class Members that had previously been reserved exclusively for visits with Class Members in segregation or protective custody at CFCF. The Defender Association has also agreed to allow afternoon official visits to take place in a room typically reserved for Defender Association personnel only.
- In March 2024, PDP reported it began utilizing an additional room for official visits that had previously been reserved exclusively for First Judicial District of Pennsylvania hearings. This room is reportedly available for visits each day when proceedings adjourn, typically in the early afternoon.
- PDP has agreed to permit the use of City-issued internet hotspots in the visiting area.

The Monitoring Team is still awaiting determinations regarding additional proposals, but PDP's proactivity in this reporting period has resulted in marked improvements. PDP reports that staffing deficiencies continue to cause delays with some frequency, which is consistent with ongoing issues reported by the Defender Association and other counsel. PDP's efforts to improve efficiency and Class Members' access to counsel are commendable; however, PDP will be unlikely to comply with all policy revisions without additional personnel.

The Monitoring Team will track the durability of improvements in the next reporting period and incorporate findings into policy recommendations that PDP will use as the basis for policy changes in subsequent reporting periods. Compliance with Substantive Provision 14—Visiting will then be measured based on PDP's compliance with its revised policies.

Sub-provision 14.2--For remote legal visits (in all formats), the PDP shall continue to ensure that the client is on the call/computer/video within 15 minutes of the scheduled start time of the appointment.

Compliance Rating: Partial Compliance

PDP reports it is not approaching compliance with the 15-minute requirement for remote legal visits due to staffing shortages. This is consistent with delays tracked by the Monitoring Team. As previously reported, PDP tracks delays for completed calls but does not track calls that are scheduled but not completed, which will pose methodological challenges once PDP is ready for a compliance audit. For now, the Monitoring Team will continue to use its own tablet visiting data to assess progress.

From September 1, 2023, through December 31, 2023, 63 of 77 or 82 percent of the Deputy Monitor's scheduled tablet visits were attended by Class Members. This reflects a good attendance rate and is consistent with the second and third reporting periods. However, 14 of the 77 visits were no-shows and another 18 were delayed beyond the 15-minute compliance window, suggesting a 58 percent compliance rate for sub-provision 14.2 in this reporting period.

Currently, all tablet meetings are scheduled in one-hour time slots. The Monitoring Team previously recommended that PDP increase efficiency by also offering 30-minute time slots for tablet visits.⁶⁵ In February 2024, PDP confirmed with the third-party vendor that it is capable of offering 30-minute time slots. As a result, PDP reports that it anticipates implementing a pilot program when operationally feasible in the next reporting period. However, like in-person visits, delays and problems are likely to persist without additional staff.

Sub-provision 14.3--For these time frames, PDP will not be responsible for delays caused by the incarcerated person or by exigent circumstances, but where a delay is caused by the incarcerated person or by exigent circumstances, PDP will inform the attorney of the delay.

Compliance Rating: Non-compliance

As previously reported, PDP's current policy does not require notification to attorneys when visits are delayed or canceled, and PDP has not issued an interim directive regarding this requirement.⁶⁶ Personnel have been instructed to notify attorneys of delays, cancelations, or refusals; however, they may not be held accountable for failures to comply until policies and post orders have been revised and personnel have been trained. The Monitoring Team does not anticipate meaningful progress toward implementation of this sub-provision in the next reporting period.

Substantive Provision 15—COVID-19 Testing

The PDP shall continue the present policy regarding testing of persons who are scheduled for court. Those who are housed on "green blocks" are either fully vaccinated or are not considered to have been exposed to COVID-19. They will be rapid-tested the night before court, and they will be brought to court if they receive negative test results. Those housed on a "yellow block" may have been exposed to a COVID-19-positive individual, and they will be rapid-tested twice, the night before court and the morning of court. They will be transported to court if both tests are negative. Those housed on a "red block" are COVID-19 positive and will be isolated for ten days and not brought to court during that time frame. These protocols will be maintained subject to continued cooperation from criminal justice partners and on the advice of the Philadelphia Department of Public Health. Provided, however, that the Defendants shall not unilaterally change the protocols and they shall timely notify Plaintiffs' counsel of any change or proposed change in these protocols.

Compliance Rating: Substantial Compliance (October 12, 2023, monitoring discontinued)

Substantive Provision 16—Quarantine

If there becomes a need in the future for use of quarantine housing areas at PDP, CDC guidelines shall continue to be followed for those who have been exposed to COVID-19. Under

⁶⁵ Monitor's Third Report, *supra* note 4, at 57.

⁶⁶ *Id.* at 57; Monitor's Second Report, *supra* note 4, at 54.

current policy, see Interim Guidance on Management for Correctional and Detention Centers, June 9, 2021, for persons who are vaccinated and are exposed to a person with COVID-19, but test negative, they shall not be quarantined; for those who have been exposed to COVID-19, but who have not been vaccinated, and test negative, they shall be quarantined for a period of ten days and released at that time if they test negative.

Compliance Rating: Substantial Compliance (October 12, 2023, monitoring discontinued)

Substantive Provision 17—Sanitation

Sub-provision 17.1--Defendants agree to continue conducting the weekly General Inspection (“GI”) cleaning days with supplies provided by officers to clean cells and housing areas.

Compliance Rating: Partial Compliance

As with previous reporting periods, sanitation quality in this reporting period varied among PDP facilities and housing units. Facility wardens and staff remain responsive to issues brought to their attention and make noticeable efforts to improve between site visits. Despite incremental systemic improvements and intermittent unit-specific improvements, nearly every sanitation issue reported in the first three reporting periods persisted to an unacceptable degree in this reporting period.

In November 2023, the Commissioner implemented internal sanitation inspections consistent with some of the Monitoring Team’s recommendations. Initial audits included 10 inspections in November 2023. Findings were provided for review and largely mirror deficiencies observed by the Monitoring Team. Examples include:

- An initial inspection at CFCF identified units lacked cleaning supplies. At that time, trash was noted as routinely collected but showers required deep cleaning.⁶⁷ Although sample sizes were not noted, an estimated 80 to 90 percent of Class Members interviewed reported they do not consistently receive clean clothing and linen. Thirty percent of those interviewed reported not having a second set of outer wear, 50 percent reported not consistently receiving soap, and 30 percent reported not having toilet paper. Follow-up inspections completed later in November 2023, again, noted a lack of cleaning supplies, unsatisfactory shower cleaning, inadequate clothing/linen exchange, and inconsistent distribution of cleaning supplies. Also, trash was uncollected and overflowing at the time of the follow-up inspection.⁶⁸
- At RCF and DC housing units, auditors noted serious facility maintenance issues, vector control concerns, and lack of access to cleaning supplies and clean clothing.⁶⁹

⁶⁷ PDP Audit – CFCF – November 6, 2023.

⁶⁸ PDP Audit – CFCF – November 20, 2023.

⁶⁹ PDP Audit RCF Detention Facility – November 13, 2023.

- At PHSW, auditors noted unresolved maintenance issues and damaged, inoperable cells.⁷⁰
- At RCF-Main Facility, the findings were generally more positive, which is consistent with conditions observed during site visits.⁷¹
- At MOD 3, youth reported access to laundry, cleaning supplies, and linen. The unit was determined to be in satisfactory condition.⁷²
- In PICC units, Class Members reported having sufficient access to cleaning supplies, and most units were noted as being in acceptable condition. No vector control issues were noted, and Class Members interviewed stated they were generally receiving clean clothing. An estimated 20 percent of Class Members interviewed reported only one set of outerwear. Approximately 50 percent of Class Members interviewed raised issues with insufficient supplies of toilet paper and/or soap.⁷³ The auditors conducted a follow-up review at PICC later in the month and reported improved compliance with outer wear but new complaints regarding clean linens. In general, the follow-up review found that trash was collected, showers were clean, vector control was sustained, and Class Members interviewed reported adequate access to toilet paper, soap, and cleaning supplies.⁷⁴

Audit reporting methods were not consistent across facilities and will require refinement in the next reporting period. It appears that small samples of Class Members were interviewed, so percentages reported may be misleading; however, findings reflect critical, transparent self-assessment and internal audits should continue. Additional improvements were observable during subsequent site visits in January and February, presumably resulting from closer internal monitoring.

Initial expansion of PDP's maintenance contract resulted in the completion of nearly 80 projects at PICC and an apparent reversal of that facility's extreme rodent and insect infestations. In previous reporting periods, PICC was inappropriately restricting Class Members' access to feminine hygiene products.⁷⁵ In September 2023, PICC's leadership team met with Class Members who reportedly requested a set distribution schedule for feminine hygiene products. In response, the Warden directed facility lieutenants to ensure each Class Member received packets three times per week containing two rolls of toilet paper, eight sanitary pads, four tampons, and one bar of soap. During site visits in November 2023 and January 2024, the Warden reported that staffing shortages were impacting compliance with the schedule and Class Members, again, reported inconsistent supplies. In February 2023, the Warden reported improved compliance with the feminine hygiene distribution schedule. On March 26, 2023, PDP installed dispensers in all women's housing units, which provide Class Members with direct access to tampons free of charge. This reported change is consistent with the Monitoring Team's recommendations and

⁷⁰ PDP Audit RCF PHSW – November 13, 2023.

⁷¹ PDP Audit RCF Main – November 13, 2023.

⁷² PDP Audit RCF MOD 3 – November 15, 2023. Mod 3 is an old unit and the housing environment and program offerings do not meet current youth confinement standards.

⁷³ PDP Audit – PICC – November 9, 2023.

⁷⁴ PDP Audit – PICC – November 24, 2023.

⁷⁵ See Monitor's Third Report, *supra* note 4, at 62.

marks important progress for a facility that struggled more than others through most of the initial settlement term.

Many managers and staff in all PDP facilities are also committed to higher cleanliness standards and should be acknowledged for their efforts. However, PDP's sanitation issues are long standing, progressive, and deeply systemic. They intersect with dilapidated facilities and inconsistent maintenance and vector control programs that have rendered some neglected units unlivable. Class Members simply cannot be forced to reside in unsanitary, poorly maintained 7-by-13-foot spaces with only periodic relief during limited out-of-cell time. Conditions will not be corrected system-wide with less than half of necessary security staff and require immediate, focused intervention.

Sub-provision 17.2--[Defendants agree] to provide regular laundry services under current PDP policies.

Compliance Rating: Partial Compliance

There have been no reported improvements in laundry distribution in this reporting period.

Status of Recommendations, Substantive Provision 17—Sanitation, from the Monitor's Third Report:

1. PDP should modify schedules to increase the frequency of deep cleaning rounds.
PDP reports it was unable to implement this recommendation due to insufficient staffing. The Monitoring Team therefore makes additional recommendation 7 below for immediate action.
2. PDP should provide Class Members with secure, rodent-proof containers for their belongings.
PDP has not implemented this recommendation.
3. PDP should expedite procurement of sufficient undergarments to meet the needs of all Class Members.
In January 2024, PDP reported it has procured a consistent supply of undergarments for all female Class Members. This should be expanded to include the provision of undergarments to all Class Members.
4. PDP jail managers should conduct thorough assessments in every facility to identify specific deficiencies in the areas of general sanitation and vector control, clothing and linen exchange, and issuance of hygiene supplies.
Internal audits are being completed and PDP has committed to refining the audit process in the next reporting period.
5. PDP should revise its post orders to reflect operational nuances at each facility. Post orders should account for the needs of unique populations, such as women, youth, and those navigating mental illness or other disabilities.
PDP reports revisions are in progress.
6. PDP executives and facility leadership should develop plans to increase guidance for unit personnel in meeting expectations for general sanitation and vector control, clothing and

linen exchange, and the issuance of cleaning and hygiene supplies. Plans should include effective monitoring via audits or other modes of verification and specific acknowledgement of personnel who meet expectations and support or discipline, as appropriate, of those who do not.

Internal audits have been initiated but this recommendation is unlikely to be fully implemented with current staff.

Additional recommendation for immediate action:

7. The City should authorize the emergency procurement of outside contractors to deep clean housing units on a regular schedule, similar to its approach in medical and mental health housing units, which have shown improvement as a result. The contract should include entire housing units, showers, and all biohazardous cells prior to re-occupancy.

Substantive Provision 18—Use-of-Force

PDP policies and training address correctional staff's use of force, use of pepper spray, de-escalation measures, and an incarcerated person's non-compliance with verbal commands. The parties agree that correctional officers should follow de-escalation measures provided in PDP policies. The Monitor shall review these issues and make recommendations based on a review of all relevant material and factors. In the interim, PDP shall advise and re-train correctional officers on the proper application of the Use of Force and Restraints Policy, 3.A.8, and with respect to de-escalation requirements in accordance with the PDP policy which in part states: "Force is only used when necessary and only to the degree required to control the inmate(s) or restore order...The use of pepper spray is justifiable when the Officer's presence and verbal command options have been exhausted and the inmate remains non-compliant or the inmate's level of resistance has escalated....Staff will not use pepper spray as a means of punishment, personal abuse, or harassment."

Compliance Rating: Partial Compliance

As anticipated, deficiencies with PDP's use of force policies and practices outlined in the Monitor's second and third reports persisted in this reporting period.⁷⁶ Procurement of technology-based upgrades such as an early warning system, body-worn cameras, and unified CCTV is slow and upgrades are not anticipated in 2024. Procurement delays notwithstanding, implementation of these technologies would require personnel resources that PDP does not currently have. Insufficient staff at all security levels remains PDP's greatest barrier to correcting deficiencies and PDP appears to lack internal capacity to manage a use of force reform project of this scope and complexity. Until additional staff are hired and trained, and policies are updated and implemented, PDP's use of force practices will continue to pose high risk for injury and abuse with limited compliance and accountability.

In the previous reporting period, the Commissioner reiterated her expectations for use of force reporting and established a Use of Force Review Team (UFRT) by redirecting one captain, two

⁷⁶ See *Id.* at 64; See Monitor's Second Report, *supra* note 4, at 61-62.

lieutenants, and one analyst to assess designated incidents. The Commissioner correctly predicted the five-person team would be too small to spur meaningful change and that any change would be slow. Findings in this reporting period generally support this prediction and confirm negative findings from previous reporting periods. PDP has shown improvement in this reporting period in the area of critical use of force analysis. Because unconstitutional use of force practices are so destructive, and because each small improvement lays the foundation for reform, efforts to improve should be acknowledged and must continue. PDP's staffing crisis continues to prevent timely, quality completion and review of use of force cases at every step in PDP's chain of command, and many policy and training issues identified remain unaddressed.

In this reporting period, SME Terri McDonald (SME McDonald) focused on establishing the Monitoring Team's expectations for quality reviews of use of force incidents. She sampled 49 use of force cases from July and August 2023, notified PDP which cases would be reviewed, and scheduled frequent technical support meetings with the UFRT and/or facility wardens and PDP executives throughout the reporting period. By September 2023, the UFRT had reviewed 14 of the 49 sampled cases. SME McDonald highlighted deficiencies in initial reviews, reemphasized expectations for warden and UFRT-level reviews, and encouraged the UFRT to focus on correcting previously highlighted deficiencies in the remaining 35 cases. The quality of subsequent UFRT reviews improved and, by January 2024, the UFRT had completed another 22 reviews, for a total of 36 of 49 cases reviewed in this reporting period.

The quality of UFRT and warden-level reviews showed improvement in this reporting period. Examples include:

- The UFRT identified failures to de-escalate and employ planning procedures during non-emergent incidents, such as requesting assistance from mental health staff and video recording of pre-force interactions.
- The UFRT identified canned, conflicting, or otherwise poor report writing.
- The UFRT identified and is tracking gaps in CCTV coverage.
- The UFRT flagged reports and reviews that were not completed within required timeframes.
- Every UFRT review identified the need for additional training.

UFRT reviews typically occur after warden-level reviews and many of the issues identified above were not captured in warden-level reviews in this reporting period. There were, however, improvements noted in warden-level reviews as well. In previous reporting periods, warden-level reviews consistently failed to document training issues, policy violations, or unnecessary or excessive uses of force.⁷⁷ In this reporting period, multiple warden-level reviews documented one or more of these issues. PICC's reviews, for example, are more thorough and show a marked improvement from previous reporting periods. PICC's warden-level reviews were also completed within required timeframes more consistently, resulting in more timely UFRT reviews.

⁷⁷ See Monitor's Second Report, *supra* note 4, at 62.

PDP reports increased efforts in issuing internal corrective action, which may have supported the following additional improvements noted in SME McDonald's review:

- The sample contained fewer incidents of unnecessary force against Class Members who refuse to follow orders but do not present an immediate threat.
- Sampled cases showed more correctional officers sought assistance from supervisors before using force.
- The sample contained examples of effective post-force restraint of combative Class Members, which decreases the likelihood of additional or more serious force during incidents.
- Sampled cases reflect slight improvements in report quality.
- CCTV of sampled cases suggests staff are more frequently maintaining radios on their person and using them when backup is needed. The Monitoring Team has recommended personal alarm devices to rapidly summon back-up to critical incidents.⁷⁸ This recommendation is particularly important given PDP's dangerous staffing crisis.

Despite important progress noted above, sample cases reflect the following ongoing issues, some of which were identified in PDP's internal reviews:

- Use of force reports continue to lack specificity and information necessary to evaluate decision making of involved personnel.
- Correctional officers and supervisors too frequently use force prematurely, with insufficient effort to de-escalate, against Class Members who are secured behind locked doors or otherwise pose little immediate threat.
- PDP staff and supervisors too often fail to request assistance from mental health personnel in efforts to de-escalate and prevent force.
- In some cases, it appears that Class Members attempt to comply with commands but are not given the opportunity before force is used against them.
- Some cases that should have been referred for investigation for inappropriate or excessive force are not, and some disciplinary action does not reflect the seriousness of the misconduct.

PDP's staffing shortage results in overcrowding, delayed and withheld services, and extended periods of cell confinement and is too often the root cause of force incidents. The staffing shortage often increases the length and size of disturbances, the severity of force used, and resulting injury to Class Members and staff. PDP supervisors and managers are generally not exposed to evolving national standards for jail use of force and some lack the skills necessary to properly mentor their staff. They are unlikely to receive additional training as long as PDP lacks coverage to relieve them from their posts.

PDP requires additional managers to identify necessary policy revisions, thoroughly review incidents, and issue appropriate corrective action, it requires additional supervisors to guide and instruct staff during use of force incidents and in after-action reviews, and it requires enough

⁷⁸ *Id.* at 64.

line-level staff to ensure coverage in all housing units to meet basic safety standards. PDP cannot be expected to correct deficiencies through force review, briefings, and discipline alone and will require additional staff to achieve substantial compliance with this substantive provision.