Exhibit 1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA, Plaintiff, v. CUMBERLAND COUNTY, NEW JERSEY; CUMBERLAND COUNTY DEPARTMENT OF CORRECTIONS, Defendants.	))))))))))	Civil Action No. 1:23-cv-02655

CONSENT DECREE

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I. INTRODUCTION

1. This matter involves the protection of incarcerated persons under the custody of Cumberland County, New Jersey and the Cumberland County Department of Corrections (collectively, "the County") detained at the Cumberland County Jail ("CCJ" or "the Jail" as defined herein) from serious harm, including self-harm and suicide, by providing appropriate treatment for incarcerated persons experiencing opiate withdrawal, providing adequate mental health care, and otherwise taking reasonable measures to prevent self-harm and suicide by incarcerated persons.

2. On June 15, 2018, the United States Department of Justice, ("DOJ") initiated an investigation pursuant to the Civil Rights of Institutionalized Persons Act (CRIPA), 42 U.S.C. § 1997. The investigation focused on whether the CCJ provided adequate mental health care and took reasonable measures to prevent incarcerated persons from committing suicide.

3. On January 14, 2021, pursuant to CRIPA, the United States issued a findings report ("CRIPA Findings Report") to the County and the CCJ, concluding that there is reasonable cause to believe, based on the totality of the conditions, practices, and incidents discovered, that the conditions at the CCJ violate the Eighth and Fourteenth Amendments to the United States Constitution through the County's failure to (1) address the heightened risk of self-harm and suicide for incarcerated persons experiencing unmedicated opiate withdrawal; (2) provide sufficient screening to identify incarcerated persons at risk of self-harm or in need of mental health care for a serious mental health condition; and (3) provide sufficient mental health care to incarcerated persons when clinically indicated. The United States concluded that these violations are pursuant to the County's pattern or practice of resistance to the full enjoyment of rights protected by the Eighth and Fourteenth Amendments.

4. The United States and the County (collectively, "the Parties") are committed to remedying the conditions identified in the CRIPA Findings Report. The purpose of this Consent Decree is to ensure the conditions at the CCJ respect the rights of incarcerated persons under the County's custody. The County will protect incarcerated persons from serious risk of harm, including self-harm and suicide by ensuring that the conditions at the CCJ meet constitutional requirements in accordance with the provisions of this Consent Decree. The Parties agree that achieving the goals of this Consent Decree will require enhanced policies and procedures with respect to (1) treating incarcerated persons experiencing withdrawal from alcohol, sedatives, opioids, and/or other substances , (2) providing sufficient screening to identify incarcerated persons at risk of self-harm or in need of mental health care for a serious mental health condition; and (3) providing sufficient mental health care to incarcerated persons when clinically indicated.

5. In order to resolve the issues pending between the Parties without the expense, risks, delays, and uncertainties of litigation, the Parties agree to the terms of this Consent Decree as stated below. This Consent Decree, once approved and entered by the Court, resolves the United States' investigation of the CCJ's alleged constitutional violations.

6. The Parties agree and the Court finds that this Consent Decree complies in all respects with the Prison Litigation Reform Act, 18 U.S.C. § 3626(a). The Parties agree and the Court finds that the requirements of this Consent Decree are narrowly drawn, extend no further than necessary to correct the violations of federal rights as set forth by the United States in its Complaint and January 14, 2021 CRIPA Findings Report, are the least intrusive means necessary to correct these violations, and will not have an adverse impact on public safety or the operation of a criminal justice system.

II. DEFINITIONS

7. "Cumberland County Jail" (the "CCJ" or the "Jail") is an "institution," as defined by CRIPA, 42 U.S.C. § 1997(1), that comprises the jail facility operated by Cumberland County, New Jersey through the Cumberland County Department of Corrections or the Cumberland County Board of Freeholders, and includes any building that may be used to detain individuals remanded to the custody of Cumberland County and the Cumberland County Department of Corrections.

8. "Adequate" shall mean that level of service required for compliance with the Constitution of the United States.

9. "Effective Date" means the date the Court signs and enters the Consent Decree as an Order of the Court.

10. "Correction staff" means all CCJ employees and contractors, irrespective of job title, whose regular duties include the supervision of incarcerated persons at the CCJ.

11. "Implement" or "implementation" means putting a policy, procedure, or remedial measure into effect, including informing, instructing, or training impacted staff and ensuring that staff in fact follow the policy, procedure, or remedial measure.

12. "Implementation Plan" refers to a document that enumerates the tasks the Jail will undertake to fulfill its obligations under this Consent Decree and includes deadlines and responsible individuals for each task.

13. The terms "incarcerated person" or "incarcerated persons" shall refer to one or more individuals sentenced to, incarcerated in, detained at, or otherwise confined at the Cumberland County Jail or remanded to the custody of the Cumberland County Department of Corrections.

14. "Medication-Assisted Treatment" or "MAT" is the standard of care for treating substance abuse disorders and for preventing serious harm resulting from unmedicated opiate withdrawal. MAT combines behavioral treatment and FDA-approved medications, such as methadone, naltrexone, or buprenorphine, to treat substance abuse disorders.

15. "Quality Assurance" means a system of self-audit and improvement to assess the implementation and effectiveness of remedies instituted pursuant to this Settlement Consent Decree, to identify deficits that exist, and to effectuate new measures to cure deficits identified.

16. "Qualified health professional" means a physician, physician assistant, nurse practitioner, a registered nurse, a practical nurse, an EMT, and others who are currently permitted by New Jersey state law to deliver those health services he or she has undertaken to provide.

17. "Qualified mental health professional" means a psychiatrist, a psychologist, psychiatric social worker, psychiatric nurse or other individuals who by their education, training, credentials, and experience are currently permitted by New Jersey state law to provide mental health evaluations, assessments, treatment plans, or other mental health services he or she has undertaken to provide.

18. "Qualified mental health staff" shall refer to individuals with a minimum of a bachelor's degree and one year of experience providing mental health services.

19. "Remedial Measure" includes each and every measure detailed in the substantive provisions of this Consent Decree geared toward achieving the Consent Decree's goals, including new policies, procedures, training curricula, and outcome measures. However, the term does not refer to specific operational decisions.

20. "Self-harm" is an act by an incarcerated person that inflicts damage to, or threatens the integrity of, his or her body. Such acts include, but are not limited to, hanging, self-strangulation, asphyxiation, cutting, self-mutilation, ingestion of a foreign body, insertion of a foreign body, head banging, drug overdose.

21. A "sentinel event" is an unexpected occurrence involving death or life threatening physical or psychological injury, or the imminent risk thereof.

22. "Serious injury" means any injury that involves substantial risk of death, unconsciousness, extreme physical pain, protracted or obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

23. Serious Mental Illness ("SMI") means one or more mental, emotional, or behavioral disorders that meet the criteria of the current Diagnostic and Statistical Manual of Mental Disorders and that results in functional impairment or that substantially interferes with or limits one or more major life activities. Those disorders include, but are not limited to, Neurodevelopmental Disorders, Schizophrenia Spectrum Disorders, other Psychotic Disorders, Bipolar Related Disorders, and Major Depressive Disorders.

24. "Serious suicide attempt" means a suicide attempt that is either potentially life-threatening or that requires medical treatment or hospitalization.

25. “Suicide Precautions” means any level of watch, observation, or measures to prevent self-harm, including where an incarcerated person self-reports suicidal ideations or suicide risk or is identified by a corrections staff, qualified health professional, or qualified mental health professional.

26. “Train” means to instruct in skills to a level that the trainee has demonstrated proficiency by testing to implement those skills as and when called for. “Trained” means proficient in the skills.

27. A “treatment plan” is a series of written statements specifying a patient’s particular course of therapy and the roles of qualified mental health professionals in carrying it out. Such a plan is individualized, may be multidisciplinary, and is based on an assessment of the patient’s needs. It contains a statement of short-and long-term goals as well as the methods by which those goals will be pursued. This includes consideration of cultural and language differences.

III. SUBSTANTIVE PROVISIONS

A. Evidence-Based Protocols for the Assessment of Opiate Withdrawal and Provision of Medication-Assisted Treatment of Opiate Withdrawal

Consistent with constitutional standards, the CCJ must take reasonable measures to address the heightened risk of self-harm and suicide for incarcerated persons experiencing opiate withdrawal by taking reasonable measures to ensure that incarcerated persons at risk of experiencing opioid withdrawal are identified and assessed and, where clinically indicated, provided adequate opioid withdrawal treatment. To that end, the CCJ agrees to the following:

28. CCJ shall develop, implement, and maintain adequate policies and procedures regarding the assessment of opioid withdrawal and provision of MAT to incarcerated persons who have Opioid Use Disorder or are at risk of opiate withdrawal. To meet this requirement, the CCJ agrees to take the following specific steps:

    a. Conduct an intake screening upon admission to the Jail to identify whether any incarcerated person is currently prescribed MAT medications, has a history of an Opioid Use Disorder or other substance abuse disorder, or is experiencing opiate withdrawal;
    b. Ensure that any incarcerated person who had been prescribed a particular medication to treat a substance use disorder or opiate withdrawal continues to receive that medication upon admission to the Jail except where a qualified healthcare professional makes an individualized determination that the treatment is no longer medically appropriate based on the person’s current condition;
    c. Ensure that any incarcerated person who, upon admission to the Jail, has a substance use disorder or may be experiencing opiate withdrawal will be immediately examined (within thirty (30) minutes) by a qualified healthcare professional for an individualized determination, based on evidence-based

protocols, such as the Clinical Opiate Withdrawal Scale, as to whether that person should be prescribed medication for the treatment of that substance use disorder or opiate withdrawal, or placed in holding cell with staggered checks not to exceed 15 minutes augmented by constant video monitoring; and

d. Ensure that the Jail staff will support the implementation of clinical decisions regarding the particular medication used to treat a substance use disorder or opiate withdrawal.

B. Medication-Assisted Treatment Training

29. CCJ shall implement MAT training. The MAT training will be provided annually and will include the following:

a. The chief medical officer or his or her delegate will train qualified health professional staff and qualified mental health professional staff on substance abuse disorders, opiate withdrawal, withdrawal from other substances, and the use of MAT to treat substance use disorder, opiate withdrawal, and withdrawal from other substances.

b. The MAT training will provide training for qualified health professionals on proper medication administration practices, including the provision of MAT, to treat substance use disorders and opiate withdrawal.

c. The MAT training will provide training for qualified mental health professionals in providing incarcerated persons with timely referral to a qualified psychologist or psychiatrist, as appropriate.

d. The MAT training will provide training for corrections staff on how to recognize whether an incarcerated person is experiencing opiate withdrawal.

e. The MAT training will include training to corrections staff, qualified health professionals and qualified mental health professionals on CCJ's MAT policies and procedures.

30. CCJ will document the MAT training of corrections staff, qualified health professionals, and qualified mental health professionals.

C. Mental Health Care and Suicide Prevention

31. ***Policies, procedures, and training:*** CCJ shall develop and implement adequate mental health policies, procedures, forms, protocols and training to fulfill the substantive requirements of this Consent Decree.

32. ***Staffing:*** To meet the requirements of this Consent Decree and ensure that incarcerated persons receive constitutionally adequate mental health care, CCJ shall include an adequate number of qualified mental health professionals and mental health staff—as determined by an annual staffing analysis conducted by CCJ—to enable it to address the serious mental health needs of incarcerated persons with timely and adequate mental health care. This staffing analysis also shall consider correctional officer staffing required to facilitate inmate transport, supervision, and other security services necessary for the provision of mental health services. In addition to the annual staffing analysis, the Jail shall re-evaluate its staffing needs by conducting a staffing analysis whenever a significant change in population size, measured as a change of 20% or more of the Jail's average daily population on the date of the change as compared to the average daily population for the preceding month, occurs.

33. ***Psychology and Psychiatry Hours:*** CCJ shall ensure that at least one psychiatrist or nurse practitioner with prescriptive authority provides an adequate number of hours of services every week, including onsite services, as determined by the staffing analysis in Paragraph 33 above. CCJ shall also ensure that a psychologist provides an adequate number of hours of onsite services at the Jail, as determined by the staffing analysis in Paragraph 33 above. These hours shall be clearly documented and logged.

34. ***Multidisciplinary Collaboration:*** The mental health staff and healthcare staff will collaborate together for mental health services and clinical treatment and will communicate any problems and resource needs with the Warden or their designee and Health Services Administrator.

35. ***Screening:*** CCJ shall utilize qualified mental health staff or a qualified health professional with documented mental health screening training to administer a timely mental health/suicide screen for all incarcerated persons no later than 8 hours of their arrival at the Jail. The screening form shall provide for the identification and assessment of the following factors:

A. A history of:
   i. Mental health treatment, symptoms, or hospitalization
   ii. Substance abuse, including the amount, time of last use, and pattern of use
   iii. Substance use hospitalization
   iv. Drug withdrawal symptoms, such as agitation, tremors, seizures, hallucinations, or delirium tremens
   v. Detoxification and outpatient treatment
   vi. Suicidal behavior (i.e., ideation, attempt, placement(s) on suicide watch or observation during any prior confinement to include family members or close friends)
   vii. Violent behavior
   viii. Victimization
   ix. Special education placement
   x. Cerebral trauma
   xi. Sexual abuse
   xii. Sex offenses

B. The status of:

i. Psychotropic medications
ii. Suicidal ideation, threat or plan (noting any observations by the transporting officer, court, transferring agency, or similar individuals regarding the incarcerated person's potential suicidal risk or mental health)
iii. Drug or alcohol use
iv. Drug or alcohol withdrawal or intoxication (noting any physical observations by the screener, such as shaking, seizing, or hallucinating)
v. Orientation to person, place, and time
vi. Emotional response to incarceration
vii. Screening for intellectual functioning (i.e., mental retardation, developmental disability, learning disability)
viii. Recent significant loss such as the death of a family member of close friend

36. ***Prior Health Records:*** The Jail will ensure that an incarcerated person's health records from a prior Jail admission are reviewed during screening and assessment and will ensure that all reasonable efforts are made to obtain an incarcerated person's health records from the most recent service encounter with community providers.

37. ***Medication Continuity:*** The Jail shall ensure that reported medications are verified within 8 hours of arrival at the Jail. The Jail also will ensure that incarcerated persons entering the Jail continue to receive, without unreasonable delay, previously prescribed medications or acceptable alternate medications, unless the Jail psychiatrist or physician makes and documents an alternative clinical judgment.

38. ***Medical or Mental Health Request/Sick Call Process:*** The Jail will ensure that the sick call process provides incarcerated persons with adequate access to medical and mental health care. This process will include:

a. Collection: a confidential collection method in which designated staff members collect sick call requests every day to ensure they are triaged.

b. Triage: a Registered Nurse, trained in mental health needs, triages the sick call requests based upon the seriousness of the medical or mental health issue as described below in Medical and Mental Health Assessments: Emergent; Urgent; or Routine. The Jail will ensure that medical or mental health requests submitted in the form of a grievance or through another mechanism are appropriately triaged, even if submitted through improper channels.

c. Tracking: a logging and tracking system that includes the date the incarcerated person was examined and treated by the Medical Provider (which includes psychiatrists and psychiatric nurse practitioners) if it was clinically appropriate for the incarcerated person to be treated by a Medical Provider. This tracking will be regularly audited to ensure compliance with this process.

d. Sick Call Oversight: a sick call oversight system, periodically reviewed by

physicians, with nursing protocols and clinical assessment forms that guide the nurses performing sick call through utilization review.

39. ***Mental Health Assessments:*** In order to provide incarcerated persons timely access to a Qualified Mental Health Professional as is clinically appropriate, the Jail will refer incarcerated persons for mental health assessments based on the results of the mental health intake or sick call process set forth above and in accordance with the following:

40. ***Emergent Mental Health Assessments:*** The Mental Health Director and lead psychiatrist will develop protocols identifying potentially life-threatening mental health emergencies that require immediate consultation with a Qualified Mental Health Professional or referrals to an acute care community service provider or transfer to a hospital emergency room.

a. These protocols will include, but are not limited to: incarcerated persons who report any current suicidal ideation or intent, or who attempt to harm themselves; incarcerated persons about whom the transporting officer reports a threat or attempt to harm themselves; incarcerated persons who are exhibiting severe or life-threatening signs of drug or alcohol withdrawal; incarcerated persons who exhibit an inability to respond to basic requests or give basic information; or incarcerated persons who are so psychotic they are at imminent risk of harming themselves.

41. ***Urgent Mental Health Assessments:*** A mental health assessment will be provided by a Qualified Mental Health Professional within a working shift (which as of the Effective Date of this Consent Decree is 12 hours) for each incarcerated person whose mental health intake or sick call process includes one of the factors below. Note that on weekends, the timeframe may be within 16 hours to account for overnight. These incarcerated persons will be placed in a setting with adequate monitoring pending the assessment and the assessment itself will take place in a private, confidential space.

a. signs and symptoms of acute mental illness;

b. disorientation/confusion; or

c. suicide attempt within the past 30 days or any history of attempt in a jail/prison setting.

42. ***Urgent Mental Health Needs:*** A mental health assessment will be provided by a Mental Health Professional within 72 hours for each incarcerated person whose mental health screening includes one of the following factors:

a. an SMI diagnosis, as defined above;

b. a request to see mental health;

c. jail history of placement on mental health units;

d. past suicide attempt; or

e. suicidal ideation, with intent or plan within the past 30 days.

43. ***14-Day Mental Health Check-in Following Intake:*** All incarcerated persons who were not assigned to the mental health caseload following intake, will be briefly assessed by a Mental Health Professional within 14 days of intake to identify any mental health issues that could have developed since intake. The Mental Health Director and lead psychiatrist will develop protocols to implement this provision.

44. ***Routine Mental Health Assessments (Sick Call):*** All other incarcerated persons who are identified as needing a mental health assessment through the sick call process but do not require an Emergent or Urgent assessment will receive a mental health assessment conducted by a Mental Health Professional within 5 calendar days.

45. ***Nature of Mental Health Assessment:*** All mental health assessments will include a structured, face-to-face interview with inquiries into the following:

a. a history of psychiatric diagnoses and treatment, including hospitalization, psychotropic medication, and outpatient treatment;

b. history of substance abuse, including patterns of use, last use, and treatment;

c. history of suicidal behavior; violent behavior; victimization; and sex offenses;

d. history of head injury and seizures;

e. family history of mental illness, substance abuse, and suicide

f. the current status of mental health symptoms and psychotropic medications; suicidal ideation; drug or alcohol abuse;

g. psychosocial stressors (e.g., recent significant loss such as the death of a family member or close friend);

h. emotional response to incarceration; and

i. a mental status exam, including an assessment of orientation and cognitive functioning and inquiry into prior special educational needs.

46. ***Mental Health Treatment Plans:*** The Jail will ensure that appropriate, individualized treatment plans are developed for incarcerated persons with mental health needs.

47. ***Timing for initial treatment plan:*** Mental health treatment plans shall be developed for incarcerated persons with mental health needs at the time of their initial

mental health assessments, in accordance with the timeframes for emergent, urgent, or routine referrals. A Qualified Mental Health Professional must approve the plan.

48. ***Timing for treatment plan review:*** The Director of Mental Health will provide guidelines for individual treatment plan review, which will occur with at least the following frequency:

a. For incarcerated persons with serious mental illness, within 30 calendar days of an incarcerated person's mental health assessment, a multidisciplinary team will update the incarcerated person's mental health treatment plan. This multidisciplinary team will include a Mental Health Professional, a security staff member, and when applicable, a social worker or substance use staff member. For incarcerated persons on medications prescribed by a psychiatrist or psychiatric nurse practitioner, a psychiatrist or psychiatric nurse practitioner and a nurse must be a part of the multidisciplinary team. When possible, the Jail will include a community mental health provider representative in the development of the plan and inform that representative of the plan during the discharge process, and will document its efforts to do so.

b. For incarcerated persons whose medication (prescribed by a psychiatrist or psychiatric nurse practitioner) is stable, every 90 calendar days, or whenever there is a substantial change in mental health status;

c. for all other incarcerated persons on medication (prescribed by a psychiatrist or psychiatric nurse practitioner) whose medication is not yet stable, every 30 calendar days.

49. A Qualified Mental Health Professional must approve the plan. This process is required for incarcerated persons newly admitted to the Jail after the Effective Date, and the Jail will make its best efforts to convene multidisciplinary teams when updating mental health treatment plans for incarcerated persons housed at the Jail prior to the Effective Date.

50. ***Requirements for treatment plan:*** Individualized mental health treatment plans will be developed for each incarcerated person with SMI. Each plan will include treatment goals and objectives. Specific components will include:

a. documentation of involvement/discussion with the incarcerated person in developing the treatment plan, including documentation if the incarcerated person refuses involvement;

b. frequency of follow-up for evaluation and adjustment of treatment modalities;

c. adjustment of psychotropic medications, if indicated;

d. when clinically indicated, referrals for psychological testing, medical testing and evaluation, including blood levels for medication monitoring as required;

e. when appropriate, instructions about diet, exercise, personal hygiene issues, and adaption to the correctional environment;

f. documentation of treatment goals and notation of clinical status progress (stable, improving, or declining); and

g. adjustment of treatment modalities, including behavioral plans.

51. ***Mental Health Treatment:*** The Jail will ensure that incarcerated persons with serious mental health needs will receive treatment that adequately addresses their serious mental health needs in a timely and appropriate manner, in a clinically appropriate setting.

52. ***Mental Health Therapy:*** The Jail will ensure that all incarcerated persons with SMI receive regular, consistent therapy and counseling, in group and individual settings, as clinically appropriate.

53. ***Mental Health Inpatient Care/Psychiatric Hospitalization:*** The Jail will initiate a Temporary Detention Order or transfer to a hospital offering the needed services when an incarcerated person is in need of an inpatient level of care.

54. ***Confidential Mental Health Treatment:*** The Jail will ensure that conversations between mental health professionals and incarcerated persons are conducted in a confidential setting to allow for effective information sharing and treatment.

55. ***Medication Administration:*** CCJ will develop and implement policies and procedures to ensure that all medications are appropriately prescribed, stored, controlled, dispensed, and administered in accordance with all applicable laws and through the following:

a. ensuring that initial doses of prescribed medications are delivered to incarcerated persons within 48 hours of the prescription, unless it is clinically required to deliver the medication sooner;

b. ensuring that incarcerated persons entering the Jail continue to receive previously prescribed medications or acceptable alternate medications, within 24 hours of entry, unless the facility physician makes an alternative clinical judgment;

c. ensuring that medical staff who administer medications to incarcerated persons document in the incarcerated person's Medication Administration Record (1) name and dosage of each dispensed medication, (2) each date and time medication is administered, and (3) the date and time for any refusal of medication;

d. ensuring timely referrals to a psychiatrist or nurse practitioner upon refusal of meds (e.g., 3 missed doses);

e. ensuring that under no circumstances is medication administered or dispensed to an incarcerated person without that individual's informed and express consent or in the absence of a valid court order; and

f. ensuring that the incarcerated person's unified health record is updated within one week of the end of each month to include a copy of the incarcerated person's Medication Administration Record for that month.

56. ***Management of Behavioral Health Emergencies***: No disciplinary action shall be taken in instances of self-injurious behavior or destruction of property occurring during a behavioral health emergency. CCJ shall ensure that incarcerated persons with SMI who are experiencing behavioral health emergencies are assessed by a qualified mental health professional to determine the extent to which the behavior may be a manifestation of mental illness and provide necessary treatment and monitoring.

57. ***Restraints:*** The Jail shall avoid the unnecessary use of restraints—to include mechanical as well as chemical restraints—on incarcerated persons experiencing behavioral health emergencies or in mental health crisis. Incarcerated persons experiencing behavioral health emergencies or in mental health crisis will not be restrained when removed from their cells unless there is an exigent circumstance (*i.e.*, imminent or immediate threat to safety of the incarcerated person or staff). The use of restraints in these circumstances shall require a clinical order of the psychiatrist, nurse practitioner, or PhD level psychologist. Restraints shall be limited to 4 hours, with 15-minute checks for vitals and circulation. The psychiatrist, nurse practitioner, or PhD level psychologist must issue a new restraint order for any additional period of restraints. All orders shall document the clinical bases for the use of restraints.

58. ***Suicide Prevention:*** CCJ shall ensure that suicide prevention measures are in place at the Jail and shall also develop and implement adequate written policies, procedures¸ and training on suicide prevention and the treatment of incarcerated persons with special needs.

a. These procedures shall include provisions for constant direct supervision of actively suicidal incarcerated persons when necessary and close supervision of incarcerated persons with special needs at lower levels of risk (staggered, unpredictable intervals of no more than 15 minutes). Officers shall document their checks.

b. Suicide prevention policies shall include procedures to ensure the safe housing and supervision of incarcerated persons based on the acuity of their mental health needs.

c. In accordance with Paragraph 41 above, CCJ shall develop and implement an adequate suicide screening instrument that includes adequate screening for

suicide risk factors and protocols that identify any history or behavior that should trigger a mental health assessment.

d. A risk management system shall identify levels of risk for suicide and self-injurious behavior that requires intervention in an adequate and timely manner to prevent or minimize harm to incarcerated persons. The system shall include but not be limited to the following processes:

    i. Incident reporting, data collection, and data aggregation to capture sufficient information to formulate reliable risk assessment at the individual and system levels regarding incarcerated persons with mental illness and developmental disabilities.

        1. Incidents involving pill hoarding or razor blades and injuries involving pills or razor blades shall be tracked and analyzed by CCJ on a quarterly basis.

        2. Incidents involving weapons, self-harm, use of force, suicide, suicide attempts, or assaults between incarcerated persons shall be tracked and analyzed by CCJ on a quarterly basis.

        3. All such incidents shall be reviewed, including a psychological reconstruction for suicides, as part of a regularly scheduled suicide prevention committee composed of security, nursing, medical staff, and qualified mental health staff. CCJ shall develop a corrective action plan where appropriate, and the Staff's response shall be clearly documented.

    ii. Identification of at-risk incarcerated persons in need of clinical or multidisciplinary review or treatment.

    iii. Identification of situations involving at-risk incarcerated persons that require review by a multidisciplinary team and/or systemic review.

    iv. A hierarchy of interventions that corresponds to levels of risk.

    v. Mechanisms to notify multidisciplinary teams and the risk management system of the efficacy of interventions.

    vi. Development and implementation of interventions that adequately respond appropriately to trends.

e. CCJ shall ensure that placement on suicide precautions is made only pursuant to adequate, timely (within four (4) hours of identification, or sooner if clinically indicated), and confidential mental health assessment and is documented, including level of observation, housing location, and conditions of the precautions. In the case of an emergency, CCJ may place an incarcerated person

on suicide watch without such prior assessment. In the event that Jail Staff place an incarcerated person on suicide watch in an emergency situation, they shall immediately notify the Shift Commander or Supervisor, who will then notify health services. CCJ shall ensure that such assessment and clinical order is made within four (4) hours of placement on suicide watch.

f. Incarcerated persons requiring a higher level of mental health care will be seen by a qualified mental health care professional within 4 hours of being placed on suicide precautions if during normal business hours, or within 24 hours if outside of normal business hours. The on-call qualified mental health professional must be notified immediately of one's placement on suicide precautions and shall advise with regard to course of treatment, housing, observation, medication, property restriction, and other appropriate care within four (4) hours of placement.

g. CCJ shall develop and implement an adequate system whereby incarcerated persons, upon evaluation and determination by a qualified mental health professional, may, where clinically appropriate, be released gradually from more restrictive levels of supervision to less restrictive levels for an appropriate period of time prior to their discharge from suicide precautions. Step-down placements should continue to be suicide-resistant and located in such a way as to provide full visibility to staff. CCJ shall ensure that incarcerated persons are placed on a level of observation that is not unduly restrictive.

h. The conditions (jail attire, showers, property, privileges, out-of-cell activities) for incarcerated persons in mental health crisis placed on suicide precautions will be based upon their clinical acuity, whether the specific condition has the potential to hurt or help them, and on how long they have been subjected to suicide precautions.

    i. Jail Attire: Throughout the incarcerated person's time on suicide precautions, a Qualified Mental Health Professional will make and document individualized determinations regarding the incarcerated person's jail attire using the following standards:

        1. Incarcerated persons on suicide precautions will be permitted their jail attire unless there are clinical contraindications, which must be documented and reviewed every six hours to see if those contraindications remain;

        2. Removal of an incarcerated person's jail attire (excluding belts and shoelaces) and placement in a safety smock (or similar gown) should be avoided whenever possible and only utilized as a last resort for periods in which the incarcerated person has demonstrated that he or she will use their jail attire in a self-destructive manner;

3. If an incarcerated person's jail attire is removed, a Qualified Mental Health Professional will document individual reasons why jail attire is contraindicated to their mental health, and it is presumed that no incarcerated person should be placed in a safety smock for 24 hours or more; and

4. 48 hours after an incarcerated person's placement on suicide precautions, the psychiatrist, psychologist, or psychiatric advanced practice nurse (APN) will be consulted for approval or disapproval of the return of the incarcerated person's jail attire. If the return of the incarcerated person's jail attire is disapproved, the psychiatrist or psychologist must document in their Mental Health Crisis Treatment Plan individual reasons why jail attire is contraindicated to their mental health.

ii. Showers: If an incarcerated person has been on suicide precautions for 72 hours and has not been offered a shower, a Qualified Mental Health Professional will document individual reasons why a shower is contraindicated to their mental health. Similarly, if an incarcerated person has been on suicide precautions for longer than 72 hours and has not been offered a shower approximately every two days, a Qualified Mental Health Professional will document individual reasons why a shower is contraindicated to their mental health.

iii. Property: Throughout the incarcerated person's time on suicide precautions, a Qualified Mental Health Professional will make and document individualized determinations regarding the incarcerated person's property, and restrictions should be the least restrictive possible, consistent with safety.

iv. Privileges: Throughout the incarcerated person's time on suicide precautions, a Qualified Mental Health Professional will make and document individualized determinations regarding the incarcerated person's privileges (*e.g.*, radio, TV, reading and writing material).

v. Out of Cell Activities: Incarcerated persons on suicide precautions shall be provided out-of-cell time for clinically appropriate structured activities. Throughout the incarcerated person's time on suicide precautions, a psychiatrist, psychologist, or psychiatric APN will make and document individualized determinations regarding the incarcerated person's out-of-cell activities using the following standards:

1. Incarcerated persons will be allowed all routine activities, including visitation, telephone calls, and recreation/exercise. If an incarcerated person is not allowed a particular activity

during a day, a psychiatrist, psychologist, or psychiatric APN will document individual reasons why that particular activity is contraindicated to their mental health each day and repeat that same process and documentation each and every day.

i. Mental Health Crisis Assessment and Treatment Plans: Qualified mental health professional shall assess and evaluate incarcerated persons on suicide precautions on a daily basis and shall provide adequate treatment to such incarcerated persons. Such assessment and treatment shall occur in a confidential setting. If cell-side assessment and/or treatment is required, qualified mental health staff will document, in the incarcerated person's health record, individual reasons why it could not be conducted in a confidential setting. When cell-side assessments are required, health staff take extra precautions to promote private communications. All staff must also maintain privacy when they are present and observe the exchange of protected health information either written or verbally.

1. Mental Health Crisis Assessment: Within a working shift or 12 hours after the crisis call/placement in suicide precautions, a Qualified Mental Health Professional shall conduct an mental health crisis assessment and evaluation that will include, but not be limited to, a documented assessment of the following:

    i. Incarcerated person's mental status;
    ii. Incarcerated person's self-report and reports of others regarding Self-Injurious Behavior;
    iii. Current suicidal risk, ideation, plans, lethality of plan, recent stressors, family history, factors that contributed to any recent suicidal behavior and mitigating changes, if any, in those factors, goals of behavior;
    iv. History of suicidal behavior/ideation - how often, when, method used or contemplated, why, consequences of prior attempts/gestures;
    v. Incarcerated person's report of his/her potential/intent for Self-Injurious Behavior; and
    vi. Incarcerated person's capacity to seek mental health help if needed and expressed willingness to do so.
    vii. If the Qualified Mental Health Professional performing the mental health crisis assessment is not a psychiatrist, then during the assessment/evaluation, the Qualified Mental Health Professional will consult with the psychiatrist as clinically indicated.
    viii. The Mental Health Crisis Assessment/Evaluation will be documented in the incarcerated person's mental health progress note using the Subjective/Objective/ Assessment/Plan (SOAP) or Description/Assessment/Plan (DAP) format.

2. Daily Mental Health Crisis Assessment: Following the mental health crisis assessment/evaluation, a Qualified Mental Health Professional will conduct daily out-of-cell mental health assessments consistent with Paragraph 59.i.1 above for each day that an incarcerated person remains on suicide precautions. Such assessment/evaluation also shall document when and why an incarcerated person requests the assessment cell-side or refuses the assessment, be offered at different times of the day, and document follow-up attempts to meet with an incarcerated person who refuses an out-of-cell daily assessment.

    i. Each day, the Qualified Mental Health Professional or psychiatric APN must update the suicide precautions conditions (listed above) on a Mental Health Watch form to communicate with Security staff and complete a mental health progress note.

3. Mental Health Crisis Treatment Plans: A Qualified Mental Health Professional will develop a separate individualized crisis treatment plan for incarcerated persons who attempt suicide or engage in self-injurious behavior. A Qualified Mental Health Professional will document the individualized crisis treatment plan in the incarcerated person's health record. This plan shall be updated frequently and when clinically appropriate as interventions are attempted and will address the following:

    a. precipitating events that resulted in the reason for the watch;
    b. historical, clinical, and situational risk factors;
    c. protective factors;
    d. the level of watch indicated;
    e. any restrictions to jail attire, showers, property, privileges, or out-of-cell activities;
    f. discussion of current risk;
    g. measurable objectives of crisis treatment plan;
    h. strategies to manage risk;
    i. strategies to reduce risk;
    j. the frequency of contact;
    k. staff interventions; and
    l. medications proven to reduce suicide risk.

j. CCJ shall ensure that incarcerated persons are discharged from suicide precautions or crisis level care as early as possible. CCJ shall ensure that all

incarcerated persons discharged from suicide precautions or crisis level of care continue to receive timely and adequate follow-up assessment and care, specifically at a minimum of within 24 hours and 7 days following discharge. A qualified mental health professional may schedule additional follow-ups within the first 7 days of discharge if clinically indicated. A qualified mental health professional will develop a treatment plan within 7 days following discharge.

59. ***Morbidity/Mortality Reviews:*** The Jail will conduct timely and adequate multidisciplinary morbidity-mortality reviews for all deaths of incarcerated persons, including suicides, and all sentinel events and serious suicide attempts (i.e., suicide attempts requiring medical hospital admission). The review shall result in a written interdisciplinary report within thirty (30) days of the incident that shall include a corrective action plan with timetables for completion.

60. The Morbidity and Mortality Review Committee will include one or more members of Jail operations, the medical department, the mental health department, and related clinical disciplines as appropriate. The Morbidity and Mortality Review Committee will:

a. ensure the following are completed, consistent with National Commission of Correctional Health Care standards, for all deaths of incarcerated persons and serious suicide attempts:

i. a clinical mortality/morbidity review (an assessment of the clinical care provided and the circumstances leading up to the death or serious suicide attempt) is conducted within 30 days;

e.

ii. an administrative review (an assessment of the correctional and emergency response actions surrounding the death of an incarcerated person or serious suicide attempt) is conducted in conjunction with corrections staff;

f.

iii. a psychological autopsy (a written reconstruction of an individual's life with an emphasis on factors that led up to and may have contributed to the death or serious suicide attempt) is performed on all deaths by suicide or serious suicide attempts within 30 days;

g.

iv. treating staff are informed of pertinent findings of all reviews;

h.

v. a log is maintained that includes:

a. patient name or identification number;
b. age at time of death or serious suicide attempt;
c. date of death or serious suicide attempt;
d. date of clinical mortality review;
e. date of administrative review;

f. cause of death (e.g., hanging, respiratory failure) or type of serious suicide attempt (e.g., hanging, overdose);
g. manner of death, if applicable (e.g., natural, suicide, homicide, accident);
h. date pertinent findings of review(s) shared with staff; and
i. date of psychological autopsy, if applicable; and

b. ensure that the Jail takes action to address systemic problems identified during the reviews.

61. CCJ shall ensure that the senior Jail staff have access to all such reviews conducted by the Jail's medical or mental health provider.

62. ***Discharge Planning:*** Incarcerated persons with serious mental illness or Opioid Use Disorder shall be provided adequate discharge planning, including a sufficient amount of prescribed medications and appropriate referrals to community mental health services. The Jail shall develop relationships with and solicit input from community mental health organizations and providers regarding incarcerated persons' mental health needs in the Jail and upon discharge from the Jail. Discharge planning shall include services for incarcerated persons in need of further MAT at the time of transfer to another institution or discharge to the community. These services should include the following:

a. Arranging an appointment with community providers for all incarcerated persons with serious mental illness or Opioid Use Disorder, and ensuring, to the extent possible, that incarcerated persons meet with that community provider prior to or at the time of discharge;

b. Providing referrals for incarcerated persons with Opioid Use Disorder who require ongoing MAT post-release;

c. Notifying reception centers at state prisons when incarcerated persons with Opioid Use Disorder are going to arrive and ensuring the timely transfer of incarcerated persons' complete medical records to state prisons;

d. Arranging with local pharmacies or other community providers to have prescriptions for incarcerated persons with Opioid Use Disorder renewed to ensure that they have an adequate supply of any prescriptions that form part of their MAT to last through their next scheduled appointment.

e. Providing, as clinically indicated, a long-lasting or injectable dose of medication [e.g., Vivitrol] for individuals with Opioid Use Disorder.

63. ***Confidentiality & Clinical Autonomy:*** CCJ shall ensure that discussion of patient information and clinical encounters are conducted with adequate sound privacy in an office-like setting and carried out in a manner designed to encourage subsequent use of

health services. All assessments shall be confidential. Because it may be necessary that Custody staff be present during some clinical encounters, CCJ shall ensure that Custody staff receives adequate and documented training on how to maintain patient confidentiality and clinical autonomy. Custody staff shall not interfere with a clinician's assessment or treatment of an incarcerated person; Custody staff shall support the implementation of clinical decisions.

64. ***Health Records:*** CCJ shall maintain complete, legible, confidential, and well-organized mental health records as part of the medical records at the Jail, separate from the incarcerated person's record.

a. Access to individual mental health records of incarcerated persons shall be restricted to medical and mental health personnel, and mental health information shall be shared with jail officers only when the medical or mental health staff believes this is necessary or in the event of investigation of a critical incident.

b. Jail Staff shall be instructed not to divulge an incarcerated person's mental health information to other incarcerated persons and shall receive training on how to maintain protect the confidentiality of health information.

65. ***Quality Assurance:*** Cumberland County shall develop and implement, with the technical assistance of the United States and the Monitor, a quality assurance plan to regularly assess and take all necessary measures to ensure compliance with the terms of this Consent Decree. The quality assurance plan shall include, but is not limited to, the following:

a. creation of a multi-disciplinary review committee;

b. periodic review of screening, assessments, use of psychotropic medications, emergency room visits and hospitalizations for incarcerated persons with SMI,

c. periodic review of housing of incarcerated persons with SMI;

d. tracking and trending of data on a quarterly basis;

e. morbidity and mortality reviews with critical analyses of causes or contributing factors, recommendations, and corrective action plans with timelines for completion, identification of parties responsible for completion, and a method to evaluate successful completion; and

f. corrective action plans with timelines for completion to address problems that arise during the implementation of this MOA and prevent those problems from reoccurring.

IV. IMPLEMENTATION

66. The CCJ shall make all good faith efforts to immediately implement and achieve substantial compliance with all substantive requirements of this Consent Decree.

67. Within 30 days of the Effective Date, the CCJ will designate an Consent Decree Coordinator to coordinate compliance with this Consent Decree and to serve as a point of contact for the Parties.

68. All policies, procedures, plans, protocols, analyses, and training required by, or referenced in, this Consent Decree shall be consistent with the Consent Decree's substantive terms. The CCJ shall submit all policies, procedures, plans, protocols, analyses, and training required by, or referenced in, this Consent Decree to the United States for its review and approval. The United States shall review and comment on any such plans, policies, procedures, protocols, analyses (including staffing analyses) or training submitted under this provision. The United States shall not unreasonably withhold approval. Absent unforeseen circumstances beyond the Parties' control, if the United States does not provide a written objection to said materials within 60 days of receipt, the materials will be deemed approved by the United States.

69. Within 60 days of the Effective Date, the CCJ will provide an Implementation Plan to the United States that describes the actions it will take to fulfill its obligations under this Consent Decree. This and any revisions to the Implementation Plan must be approved by the United States.

70. In its Implementation Plan, the CCJ will develop a specific schedule and deadlines to: (a) draft or revise policies and procedures; (b) complete a staffing plan; (c) develop and deliver training to CCJ staff and providers concerning the provisions of this Consent Decree and CCJ's commitment to fulfilling its obligations under the Constitution; (d) develop and implement develop a Quality Improvement Committee; and (e) develop and implement monthly quality assurance mechanisms to report on aggregate relevant data to prevent or minimize harm to incarcerated persons.

71. The United States will provide comments regarding the Implementation Plan (and any further Implementation Plans) within 30 days of receipt. The CCJ will timely consider comments from the United States; the Parties will meet and consult as necessary and shall finalize the Implementation Plan within 120 days of the Effective Date.

72. The CCJ will make a summary of the Implementation Plan publicly available, including by posting a summary of the Plan on the CCJ website.

73. The CCJ, in conjunction with DOJ and the Monitor, will supplement or revise the Implementation Plan as needed and at least annually, to focus on and provide additional detail regarding implementation activities. The CCJ will address in its updated Implementation Plans any areas of non-compliance or other recommendations identified by the Monitor in his or her reports.

74. CCJ will maintain sufficient records and data to fully document that the requirements of this Consent Decree are being properly implemented. The CCJ shall produce such records or provide a written response as to when the requested records will be produced within 5 business days of the United States' request. Such action is not intended, and will not be construed, as a waiver, in litigation with third parties, of any applicable statutory or common law privilege associated with such information. Other than to carry out the express functions as set forth herein, the United States and will hold such information in strict confidence to the greatest extent possible.

75. The CCJ shall immediately notify the United States and the Monitor of any misrepresentations or inaccuracies, whether deliberate or inadvertent, that it discovers staff to have made or implied to the United States and shall provide updated information.

76. The CCJ will promptly (within 48 hours) notify the United States and the Monitor upon the death of any incarcerated person or sentinel event. Should any such incident occur, the CCJ will provide the United States any related documentation.

V. COMPLIANCE MONITORING

77. The Parties will jointly select a Monitor to oversee implementation of the Consent Decree.

78. The Parties agree that Homer D. Venters, M.D. shall serve as Monitor of this Consent Decree.

79. Subject to the review and approval of the Parties, the Monitor may consult with other persons or entities to assist in the evaluation of compliance. Should the Monitor need to replace any such subject-matter expert, the Monitor will submit names of potential replacements to the Parties for their review and approval prior to their selection. Any subject-matter expert consulting under this Consent Decree shall be subject to the same rights and limitations granted or imposed on the Monitor. The Monitor is ultimately responsible for any compliance assessments made under this Consent Decree.

80. Neither Party, nor any employee or agent of either Party, shall have any supervisory authority over the Monitor's activities, reports, findings, or recommendations. The cost for the Monitor's fees and expenses shall be borne by Defendants. The selection of the Monitor shall be conducted solely pursuant to the procedures set forth in this Consent Decree, and will not be governed by any formal or legal procurement requirements.

81. The Monitor will be appointed for a period of three years from the Effective Date or date of the Monitor's appointment by the Court, whichever is later, subject to an evaluation by the Court to determine whether to renew the Monitor's appointment until the termination of this Consent Decree. In evaluating the Monitor, the Court will consider the Monitor's performance under this Consent Decree, including whether the Monitor is completing its work in a cost-effective manner and on budget, and is working effectively with the Parties to facilitate the Jail's efforts to comply with the Consent Decree's terms,

including by providing technical assistance to the Jail. The Monitor may be removed for good cause by the Court at any time, on motion by any of the Parties or the Court's own determination.

82. The CCJ will contract with the Monitor and any duly selected subject-matter matter expert(s) with whom the Monitor consults and pay all reasonable invoices submitted under these contracts for performing all of the Monitor's duties under this Consent Decree. The Jail will ensure that the United States has an opportunity to review any proposed contract and will address any objection by the United States that the contract is not sufficient to ensure adequate monitoring of this Consent Decree.

83. The Monitor will only have the duties, responsibilities, and authority conferred by this Consent Decree. The Monitor will be subjected to the supervision and orders of the Court.

84. The Monitor and the United States (and its agents) will have full access to persons, employees, facilities, buildings, programs, services, documents, data, records, materials, and things that are necessary to assess the CCJ's progress and implementation efforts with this Consent Decree. Access will include departmental or individual medical and other records. The United States and/or the Monitor will provide reasonable notice of any visit or inspection. Advance notice will not be required if the Monitor or the United States has a reasonable belief that an incarcerated person faces a risk of immediate and serious harm. Access is not intended—and shall not be construed—as a waiver in litigation with third parties of any applicable statutory or common law privilege associated with information disclosed to the Monitor or the United States under this paragraph.

85. In completing their responsibilities, the Monitor may require written reports and data from the CCJ concerning compliance, as outlined in the Consent Decree. The CCJ will provide to the Monitor and the United States a confidential, bi-annual Status Report detailing progress at the Jail, until the Consent Decree is terminated, the first of which shall be filed within 30 days of the Effective Date. Status Reports shall make specific reference to the Consent Decree provisions being implemented. The report shall also summarize audits and continuous improvement and quality assurance activities, and contain findings and recommendations that would be used to track and identify data trends.

86. Within 60 days of the Monitor's appointment, the Monitor will conduct a baseline site visit of the CCJ to become familiar with the CCJ and this Consent Decree.

87. Within 90 days of the Monitor's appointment, the Monitor will provide his or her preliminary observations and recommendations in a baseline Monitoring Report. A draft form of the report will be provided to the CCJ and the United States for review and comment at least 30 days prior to its issuance. The CCJ and the United States will provide comments, if any, to the Monitor within 15 days of receipt of the draft report. The Monitor will consider the responses of the CCJ and the United States and make appropriate changes, if any, before issuing the final report.

88. The Monitor will conduct an on-site inspection and issue a Monitoring Report for the CCJ three (3) months after the baseline Monitoring Report, and then every three (3) months thereafter until all substantive provisions are in at least Partial Compliance. Thereafter, the Monitor shall conduct on-site inspections and issue corresponding Monitoring Reports every six (6) months, which will follow the same draft and comment process as in Paragraph 85.

89. The Monitoring Reports will describe the steps taken by the CCJ to implement this Consent Decree and evaluate the extent to which the CCJ has complied with each substantive provision of the Consent Decree.

90. Each Monitoring Report:

a. Will evaluate the status of compliance for each relevant provision of the Consent Decree. The Monitor will review a sufficient number of pertinent documents and interview a sufficient number of staff and incarcerated persons to accurately assess current conditions;

b. Will describe the steps taken by the Monitor and each member of the monitoring team, if applicable, to analyze conditions and assess compliance, including documents reviewed, individuals interviewed, and the factual basis for each of the Monitor's findings;

c. Will contain the Monitor's independent verification of representations from the CCJ regarding progress toward compliance, and examination of supporting documentation; and

d. Will provide recommendations for each of the provisions in the Consent Decree outlining proposed actions for at least the next reporting period for the CCJ to complete toward achieving compliance with the particular provision.

91. The following terms will be used when discussing compliance:

a. "Substantial Compliance" indicates that the CCJ has complied with all material components of the relevant provision of the Consent Decree and that no significant work remains to accomplish the goal of that provision.

b. "Partial Compliance" indicates that the CCJ has complied with some components of the relevant provision of the Consent Decree and that significant work remains to reach substantial compliance.

c. "Noncompliance" indicates that the CCJ has not complied with most or all of the components of the relevant provision of the Consent Decree and that significant work remains to reach partial compliance.

d. "Unratable" shall be used to assess compliance of a provision for which the factual circumstances triggering the provision's requirements have not yet arisen to allow for meaningful review through no fault of the CCJ. Provisions assessed as "unratable" shall not be held against the CCJ in determining overall substantial compliance with this Consent Decree in accordance with the termination procedures outlined below.

92. These Monitoring Reports will be filed with the Court on its public docket and will be written with due regard for the privacy interests of individuals and will not include any information that could jeopardize the institutional security of the CCJ, or safety of the CCJ staff or incarcerated persons. No attempt will be made to file a Monitoring Report under seal absent prior court order authorizing such filing. The Monitoring Reports provide relevant evidence regarding compliance. The Court determines the facts regarding compliance and the status of compliance pursuant to Section VI of the Consent Decree.

93. Nothing in this Section prohibits the Monitor from issuing interim letters or reports to the United States, the CCJ or the Court in this case should the Monitor deem it necessary.

94. In completing his or her responsibilities, the Monitor may testify in enforcement proceedings regarding any matter relating to the implementation, enforcement, or dissolution of the Consent Decree, including, but not limited to, the Monitor's observations, findings, and recommendations in this matter.

95. The Monitor, and any staff or consultants retained by the Monitor, will not: (a) be liable for any claim, lawsuit, or demand arising out of their activities under this Consent Decree (this paragraph does not apply to any proceeding for payment under contracts into which they have entered in connection with their work under the Consent Decree); (b) be subject to formal discovery in any litigation involving the services or provisions reviewed in this Consent Decree, including, but not limited to, deposition(s), request(s) for documents, and request(s) for admissions, interrogatories, or other disclosure; (c) unless ordered by a court or otherwise authorized by law, testify in any other litigation or proceeding with regard to any act or omission of the CCJ or any of the CCJ's agents, representatives, or employees related to this Consent Decree, nor testify regarding any matter or subject that he or she may have learned as a result of his or her performance under this Consent Decree, nor serve as a non-testifying expert regarding any matter or subject that he or she may have learned as a result of his or her performance under this Consent Decree.

96. The Monitor will not enter into any additional contract with the CCJ while serving as the Monitor. If the Monitor resigns from his or her position as Monitor, the former Monitor may not enter any contract with the CCJ or the United States on a matter related to this Consent Decree without the written consent of the other Party while this Consent Decree remains in effect. The CCJ will not otherwise employ, retain, or be affiliated with the Monitor, or professionals retained by the Monitor while this Consent

Decree is in effect, and for a period of at least one year from the date this Consent Decree terminates, unless the United States gives its written consent to waive this prohibition.

97. The Monitor will be permitted to engage in ex parte communications with the Jail, the United States, and the Court regarding this Consent Decree.

98. In the event the Monitor is no longer able to perform its functions, is removed, or is not extended, within 60 days thereof, the Parties will together select and advise the Court of the selection of a replacement Monitor, acceptable to both. If the Parties are unable to agree on a Monitor, each Party will submit the names of up to two candidates, along with the resumes and cost proposals, to the Court, and the Court will select and appoint from among the qualified candidates.

99. Should a Party to this Consent Decree determine that the Monitor has exceeded its authority or failed to satisfactorily perform the duties required by the Consent Decree, the Party may petition the Court for such relief as the Court deems appropriate, including replacement of the Monitor, and/or any individual members, agents, employees, or independent contractors of the Monitor. In addition, the Court, on its own initiative and in its sole discretion, may replace the Monitor or any member of the Monitor's team for failure to adequately perform the duties required by this Consent Decree.

VI. ENFORCEMENT AND TERMINATION

100. The Parties consent to the jurisdiction of the United States District Court for the District of New Jersey for the purposes of this matter. The United States District Court for the District of New Jersey will retain jurisdiction over this matter for the purposes of enforcing this Consent Decree as an order of this Court.

101. During the period that the Consent Decree is in force, if the United States determines that the CCJ has not made material progress toward substantial compliance with a significant obligation under the Consent Decree, the United States may initiate enforcement proceedings against the CCJ in Court for an alleged failure to fulfill its obligation under this Consent Decree.

102. If the United States believes that the CCJ has failed to comply with any obligation under this Consent Decree, the United States will, prior to pursuing an enforcement action, give the CCJ written notice of the failure. The Parties shall engage in good-faith negotiations to attempt to resolve the dispute. These negotiations will last for a maximum of 30 days from the date of the United States' written notice, unless both parties agree to extend the negotiations period. The United States commits to work in good faith with the CCJ to avoid enforcement actions. However, in the case of an emergency posing an immediate threat to the health and safety of incarcerated persons, the United States may seek enforcement action without regard to the notice and negotiation requirements herein.

103. Except where otherwise agreed to under a specific provision of this Consent Decree, CCJ will implement all provisions of this Consent Decree within 1 year of the Effective Date.

104. This Consent Decree shall terminate in five (5) years, or earlier, if the Parties agree that CCJ has attained substantial compliance with all provisions of this Consent Decree and maintained that substantial compliance with all provisions of this Consent Decree for one year ("Sustained Substantial Compliance"), unless good cause exists to extend the Consent Decree. If this Consent Decree has been extended for good cause shown beyond five years , CCJ may request a hearing to demonstrate Sustained Substantial Compliance with the Consent Decree or, alternatively, the particular substantive sections of the Consent Decree with which it has attained and maintained substantial compliance for one year. For provisions that the Court does not find to have maintained substantial compliance for one year, this hearing will solidify a plan and timeline for the CCJ to reach Sustained Substantial Compliance. The Court will retain jurisdiction to conduct additional proceedings pursuant to this Paragraph, and the Court's jurisdiction will end upon an order of termination of this Consent Decree.

105. CCJ may seek termination of any substantive section (*i.e.*, any section designated by a capitalized letter, such as "Medication-Assisted Treatment Training") by filing with the Court a motion to terminate that section. The burden will be on CCJ to demonstrate that it has attained and maintained substantial compliance as to that section for at least one year.

106. Non-compliance with mere technicalities, or temporary failure to comply during a period of otherwise sustained compliance, will not constitute failure to achieve Sustained Substantial Compliance. At the same time, temporary compliance during a period of sustained non-compliance will not constitute substantial compliance.

107. In any dispute regarding compliance with any provision of this Consent Decree, CCJ will bear the burden of demonstrating that it is in substantial compliance.

108. The Parties agree to work collaboratively to achieve the purpose of this Consent Decree. In the event of any dispute over the language, requirements or construction of this Consent Decree, the Parties agree to meet and confer in an effort to achieve a mutually agreeable resolution.

109. This Consent Decree will constitute the entire integrated Consent Decree of the Parties.

110. Any modification of this Consent Decree will be executed in writing by the Parties, will be filed with the Court, and will not be effective until the Court enters the modified Consent Decree and retains jurisdiction to enforce it.

111. Should any provision of this Consent Decree be declared or determined by any court to be illegal, invalid, or unenforceable, the validity of the remaining parts, terms, or provisions will not be affected. The Parties will not, individually or in combination with

another, seek to have any court declare or determine that any provision of this Consent Decree is invalid.

112. The United States and the CCJ will each bear the cost of their own fees and expenses incurred in connection with this case.

113. All services mentioned or described in this Consent Decree are subject to reasonableness standards and nothing herein will be interpreted to mean that the provision of services is unlimited in amount, duration or scope.

VII. GENERAL PROVISIONS

114. This Consent Decree is binding on all successors, assignees, employees, agents, contractors, and all others working for or on behalf of CCJ to implement the terms of this Consent Decree. This Consent Decree is enforceable only by DOJ and Cumberland County. This Consent Decree and any reports drafted, compiled, completed, or filed as a result of this Consent Decree are not intended to impair or expand the right of any person or organization to seek relief against the CCJ for its conduct or the conduct of CCJ employees; accordingly, they do not alter legal standards governing any such claims, including those under New Jersey law. This Consent Decree and any reports drafted, compiled, completed, or filed as a result of this Consent Decree do not authorize, nor shall they be construed to authorize, access to any documents created by or in the possession of CCJ or DOJ by persons or entities not parties to this Consent Decree.

115. The Parties agree that, as of the Effective Date of this Consent Decree, litigation between Cumberland County and DOJ is not "reasonably foreseeable" concerning the matters described in this Consent Decree. To the extent that any Party previously implemented a litigation hold to preserve documents, electronically stored information, or things related to this litigation, the Party is no longer required to maintain such a litigation hold. Nothing in this paragraph relieves any Party of any other obligations imposed by this Consent Decree, including the document creation and retention requirements described herein. Nothing in this paragraph relieves the Parties of any document retention or litigation hold obligations in any other pending or reasonably foreseeable future litigation.

116. CCJ will not retaliate against any person because that person has filed or may file a complaint, provided assistance or information, or participated in any other manner in the United States' investigation related to this Consent Decree. CCJ will timely and thoroughly investigate any allegations of retaliation in violation of this Consent Decree and take any necessary corrective actions identified through such investigations.

117. Failure by any Party to enforce this entire Consent Decree or any provision thereof with respect to any deadline or any other provision herein will not be construed as a waiver, including of its right to enforce other deadlines and provisions of this Consent Decree.

118. The Parties will promptly notify each other of any court or administrative challenge to this Consent Decree or any portion thereof.

119. The Parties represent and acknowledge this Consent Decree is the result of extensive, thorough, and good faith negotiations. The Parties further represent and acknowledge that the terms of this Consent Decree have been voluntarily accepted, after consultation with counsel, for the purpose of making a full and final compromise and settlement of the allegations set forth in the Department of Justice's CRIPA Findings Notice dated January 14, 2021. Each Party to this Consent Decree represents and warrants that the person who has signed this Consent Decree on behalf of a Party is duly authorized to enter into this Consent Decree and to bind that Party to the terms and conditions of this Consent Decree.

120. This Consent Decree may be executed in counterparts, each of which will be deemed an original, and the counterparts will together constitute one and the same Consent Decree, notwithstanding that each Party is not a signatory to the original or the same counterpart.

121. The performance of this Consent Decree will begin immediately upon the Effective Date.

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/s John G. Carr
JOHN G. CARR
County Counsel
Cumberland County, New Jersey

/s Charles Albino
CHARLES ALBINO
Director, Cumberland County Jail
Cumberland County Department of Corrections

SO ORDERED, this ______ day of ________________________, 2023.

____
NOEL L. HILLMAN
United States District Court Judge
District of New Jersey