

**South Carolina Department of Corrections  
Implementation Panel Report of Compliance  
March 2019**

Executive Summary

This is the 9th report presented by the Implementation Panel (IP) regarding the South Carolina Department of Corrections' (SCDC's) compliance with the Settlement Agreement enacted in May 2016. The IP was created by the Court based on agreement by the parties with oversight by the mediator, Judge William Howard. In our previous site visits, the IP has reviewed the SCDC compliance with the Settlement Agreement (SA) by review of systems, documents and onsite visits to specific SCDC facilities. The terms of the SA require that there be three visits for the first three years and two visits for the last year of the four year term of the Settlement Agreement. At the end of that term, if full substantial compliance has not been met in the designated criteria, the parties are to follow the Settlement Agreement directives with regard to further action.

This report will differ from past reports in that the IP, based on discussions and agreement by the parties, conducted an intensive review of inmates with a mental health designation housed in Restrictive Housing Units (RHUs) at the Broad River Correctional Institution (BRCI) and Lee Correctional Institution (LCI). Also by agreement of the parties, SCDC was not required to submit the full volume of documents and materials usually requested prior to this particular site visit but rather to select submission of those documents for which SCDC believed it was recommending change in compliance from non-compliance to partial or substantial compliance and/or from partial compliance to substantial compliance. SCDC submitted one clinical/mental health item in which they believed there has been improvement in their level of compliance, and several items from operations/security. These items were reviewed and their levels of compliance will be detailed further in this report.

The Implementation Panel (IP) reviewed Restrictive Housing Unit (RHU) operations for the South Carolina Department of Corrections (SCDC) Broad River Correctional Institution (BRCI) and Lee Correctional Institution (LCI) focusing on inmates with a mental health designation during the site visit. The operations review was conducted with the assistance of SCDC QIRM (Quality Improvement and Risk Management) staff. IP and QIRM interviews conducted with BRCI and LCI RHU inmates with a mental health designation revealed the majority are inappropriate for RHU confinement. Inmates are being held in Security Detention (SD) for reasons that do not require RHU confinement for more than 60 days. Inmates are held in Short Term (ST) Status without the required justification and for longer than the mandatory (60) days. Inmates recommended for alternative RHU residential programs (Awaiting Placement-AP) are remaining in RHU for months after an alternative program is recommended. The RHU and SD Behavior Level System has not been implemented. BRCI and LCI inmates with a mental health designation confined in RHU are subjected to unacceptable and harsh conditions of confinement. Inmates self-reported receiving weekly showers; however, SCDC documentation indicated showers are not provided to inmates the required (3) times per week. Staff and inmates reported inmates do not receive out of cell recreation (1) hour per day (5) days a week. In fact, the majority of inmates have not received out of cell recreation since their RHU placement. Both

BRCI and LCI routinely fail to conduct the required RHU 30-minute inmate welfare checks and the time between welfare checks far exceeded 30-minutes. BRCI is not providing RHU inmates with laundry services. BRCI and LCI are not providing inmates the opportunity to clean their cells 2 times a week as required by policy. Since the last site visit conducted in November 2018, there has been one reported completed suicide within SCDC which was reviewed on-site. Recommendations were made by the IP with regard to the mortality and morbidity review process regarding the death of this inmate.

The mental health review of the RHUs at BRCI and LCI consisted of 83 inmates who were examined clinically by the four examiners. Of the 83 inmates, 33 (40%) were SMI, 47 (57%) were not SMI and 3 (4%) were unclear. Thirty-three inmates (40%) were recommended for a higher LOC classification and 2 (3.4%) were recommended for a lower LOC classification. Seven referrals (8.4%) were made, each to GPH/CSU or ICS(HAB), and 16 (19.3%) to BMU's. These numbers are striking as indicators of the excessive number of inmates in need of mental health services not being provided by SCDC.

The Kirkland Correctional Institution (KCI) and Camille Graham Correctional Institution (CGCI) were also reviewed during this site visit. The improvements at KCI and CGCI appear to be largely because of administrative leadership's efforts to implement requirements of the Settlement Agreement as well as recommendations that have been made by the Implementation Panel. Many of these recommendations have also been made by QIRM and Health Services internally for improvement of services to persons on the mental health caseload. It appears that when those recommendations (made both internally and externally) have been supported by administrative leadership at the local and regional levels, improvements have been accomplished. However, it cannot be overstated that the need for increased correctional officer staffing as well as mental health staffing and nursing staffing is essential for SCDC to come into compliance with the Settlement Agreement requirements for adequate mental health care for their inmates. There is no "magic" to these necessities but rather identification of the necessary staffing requirements and commitment by SCDC leadership to identify and obtain the budgetary and other resources necessary to implement the requirements of the Settlement Agreement. The requirements are for basic mental health services and do not include excessive or unnecessary service provisions.

Unfortunately, despite repeated recommendations regarding mechanisms to achieve compliance with the Settlement Agreement, at the end of three years of monitoring SCDC has not achieved substantial compliance as required in the majority of criteria. Inmates housed in SCDC living with mental illness continue to suffer harm, much of which was identified during trial, and has been continuously identified for the past three years.

The findings of the IP with regard to compliance on the various components as of March 8, 2019 are as follows:

1. Substantial compliance—21
2. Partial Compliance—33
3. Non-Compliance—5

## **Introduction**

The Implementation Panel (IP) reviewed Restrictive Housing Unit (RHU) operations for the South Carolina Department of Corrections (SCDC) Broad River Correctional Institution (BRCI) and Lee Correctional Institution (LCI) March 4, through 6, 2019 focusing on inmates with a mental health designation. The operations review was conducted with the assistance of SCDC QIRM staff. SCDC provided the IP with background information for all inmates with a mental health designation confined in the BRCI and LCI RHUs. The background information included:

- Inmate Name and SCDC Number
- Medical Classification
- Mental Health Classification
- Date of Last Annual Classification Review
- Reason for RHU Placement
- RHU Status
- Date of Placement
- RHU Supervision Plan
- Days in RHU
- RHU Behavior Level
- RHU Disciplinary History
- Number of Use of Force Incidents
- Number of Management Information Notes (MINS)

Prior to the March IP Site Visit, SCDC QIRM compiled information for the identified inmates regarding their access to showers, out of cell recreation and whether the required 30 minute RHU welfare checks were being conducted. The responsible IP Member and QIRM staff interviewed BRCI and LCI inmates during the site visit to determine their appropriateness for RHU confinement. Once the interview with each inmate was completed, QIRM staff conducted an inspection of each inmate's cell and personal property and made a determination if the evaluated items were acceptable or unacceptable and if cell fixtures were operational.

The interview with each inmate consisted of obtaining self-reported information on why the individual was in RHU, his RHU adjustment, and access to staff, services and programs. The interviewer then assessed the available information and made a determination if the inmate was appropriate or inappropriate for his present RHU Status.

## **Findings**

The responsible IP member and QIRM staff interviewed 70 RHU inmates with a mental health designation at BRCI (43 inmates) and LCI (27 inmates). Documentation revealed the majority of the inmates in RHU with a mental health designation were inappropriate. BRCI had 26 inmates with a mental health designation in RHU that were inappropriate and 17 that were appropriate. LCI had 13 inmates with a mental health designation in RHU that were inappropriate and 14 that were appropriate. Interviews revealed 17 of the 31 inmates assessed as appropriate had been in RHU for over 60 days. The Settlement Agreement and SCDC Policies

prohibit inmates with a mental health designation from remaining in RHU for over 60 days; therefore, the actual number identified as inappropriate for RHU was 56 of the 70 inmates.<sup>1</sup>

(Documentation and Inmate Interviews)

The SCDC Form 19.67 is used to provide an inmate notice of placement in RHU and extend his RHU stay. The form does not provide the necessary details on why an inmate is being placed in RHU. The RHU Extension Section only requires the extension reason and the length of the extension (up to 10 days). Notice of RHU Placement only requires one or more of the following reasons:

- Current Escape Risk
- Maintain the Integrity of an Investigation
- Protective Concerns
- Threat to the Physical Safety of Other Inmates or Staff
- Inmate's Presence in the Population Would Create a Threat to the Safety and/or Order of the Institution

SCDC Form 19.67 fails to identify the institution, custody, medical and mental health classification of an inmate placed in RHU. Neither the Notice of RHU nor RHU Extension has a section to document details on why an inmate is or has been placed in RHU. The inmate can remain in RHU for (7) days before he/she appears before an Institutional Classification Committee (ICC). The form does not have a section for medical and mental health authorities to indicate whether the inmate is appropriate for RHU placement based on his medical and mental health condition.

IP and QIRM interviews conducted with BRCI and LCI RHU inmates with a mental health designation revealed the majority are inappropriate for RHU confinement. Inmates are being held in Security Detention (SD) for reasons that do not require RHU confinement for more than 60 days. There were inmates in RHU on SD Status for almost a year to investigate their involvement in the April 2018 Lee CI Incident that resulted in multiple assaults and seven (7) inmate deaths. It appears from inmate interviews and SCDC records the inmates have not been interviewed by investigators and do not understand why they remain in RHU. Inmates are held in Short Term (ST) Status without the required justification and for over the mandatory (60) days. Inmates recommended for alternative RHU residential programs (Awaiting Placement-AP) are remaining in RHU for months after an alternative program is recommended. The RHU and SD Behavior Level System has not been implemented. There were inmates found to have an RHU Behavior Level; however, staff and inmates are not familiar with the behavior level system. Failure to utilize the SCDC RHU and SD Behavior Level impacts the safety and security of staff and inmates. Positive behavior is not rewarded and there are no consequences for negative behavior. Most concerning was a finding that Wardens have the authority to disregard a Classification and/or Mental Health official's recommendation and continue an inmate in RHU without the necessary justification. A QIRM Study revealed system-wide the Institution Mental

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<sup>1</sup> Appendix A documents the individual findings for each of the BRCI and LCI inmates interviewed and confined in RHU with a mental health designation.

Health Disciplinary Treatment Teams (MHDTT) rarely mitigate the RHU Disciplinary Detention (DD) time assessed by the SCDC Disciplinary Hearing Officer (DHO) for inmates with a mental health designation. A review of records revealed that Classification Counselors make rounds in RHU; however, sessions with RHU inmates are conducted cell front and are not recorded in the inmate's individual record. A significant number of inmates were found without a current annual classification review.

(Conditions of Confinement)

BRCI and LCI inmates with a mental health designation confined in RHU are subjected to unacceptable and harsh conditions of confinement. Inmates self-reported receiving weekly showers; however, SCDC documentation indicated showers are not provided to inmates the required (3) times per week. Staff and inmates reported inmates do not receive out of cell recreation (1) hour per day (5) days a week. The majority of inmates have not received out of cell recreation since their RHU placement. Both BRCI and LCI routinely fail to conduct the required RHU 30-minute inmate welfare checks and the time between welfare checks far exceeded 30 minutes. BRCI is not providing RHU inmates with laundry services. BRCI and LCI are not providing inmates the opportunity to clean their cells 2 times a week as required by policy. It was discovered BRCI recently started issuing powdered bleach to RHU inmates. Inmates possessing powdered bleach without direct staff supervision is a serious breach of security and a safety concern, particularly in a high security housing unit. It was reported this practice was discontinued prior to end of the IP site visit. QIRM's BRCI and LCI RHU cell inspections during the IP site visits and while inmate interviews were being conducted revealed serious deficiencies.

**BRCI MH Inmate Cell Findings:**

Lights 52% non-operational  
Walls 76% unacceptable  
Vents 81% Unacceptable

**LCI MH Inmate Cell Findings:**

Lights 59% non-operational  
Walls 93% unacceptable  
Vents 72% unacceptable

Previously, SCDC began an initiative to provide inmates in RHU with crank radios. Officials acknowledged issues maintaining accountability of the RHU crank radios and do not have the means to order additional crank radios. RHU cell inspections found 38 percent of the BRCI MH inmates had a crank radio. The LCI RHU cell inspections found 42 percent of the RHU inmates had a crank radio.<sup>2</sup>

BRCI RHU inmates complained the RHU Law Library computer was not operational from April 2018 until February 2019. SCDC officials investigated the complaint and confirmed the Law Library computer was not operational for several months. This restricted BRCI RHU inmates' access to the Courts. The IP also has a serious concern regarding the SCDC Inmate Grievance System. Frequently, inmate grievances are returned to inmates for minor technicalities without

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<sup>2</sup>Appendix B RHU Conditions of Confinement.

meeting with the inmate. Inmates are required to attempt an informal resolution before submitting a grievance. Access to the housing unit kiosk is necessary for general population inmates to meet the informal resolution exhaustion requirement. When SCDC is on lockdown, inmates do not have access to the kiosk. Since April 2018, a number of SCDC institutions have been on extended lockdown.

A Lee CI RHU inmate complained the RHU cell tray slots were a safety hazard because the design did not have a mechanism to prevent the closure from dropping while open to provide services. The closure dropping could cause serious injury to a staff and/or inmate's arm and hand. The responsible IP member and Operations Assistant Deputy Director verified the safety hazard existed.

### **Recommendations:**

1. Immediately remove SD, AP and SP and any other inmates over 60 days in RHU with a mental health designation beginning with the higher levels of care.
2. Establish additional quality controls to prevent placement of inmates in SD status that do not meet the criteria.
3. Establish quality controls to prevent housing of inmates in ST status over 60 days.
4. Establish quality controls to ensure policies and procedures are followed when placing, retaining and releasing inmates from RHU. Revise the SCDC Form 19.67 Inmate RHU Placement and Inmate RHU Extension.
5. Establish that Mental Health and Classification is the authority for placement and removal of inmates in RHU with a mental health designation.
6. Fully implement the RHU and SD Inmate Behavior Level System. Provide training to staff and orientation to the RHU inmates to ensure both understand and are familiar with the RHU and SD Behavior Level System.
7. Develop and Implement the RHU SD Step Down Policy. Provide training to staff and orientation to the RHU inmates to ensure both understand and are familiar with the RHU SD Step Down Policy.
8. Establish controls to ensure the Mental Health Disciplinary Treatment Teams (MHDTT) appropriately review and, where warranted, mitigate Disciplinary Detention time for inmates with a mental health designation.
9. Develop and implement a Corrective Action Plan to address the identified RHU Conditions of Confinement and Cell Physical Plant deficiencies. Develop and implement a Preventive Maintenance Plan to ensure RHU physical plants are maintained.

### **Review of Select Components of the Settlement Agreement:**

#### **Use of Force**

The main focus of the March 2019 IP Site Visit was to review BRCI and Lee CI RHU inmates with a mental health designation. However, a limited review of Settlement Agreement Use of Force provisions was also completed.

#### **2.c. Use of Force:**

##### **2.c.i. Development and implementation of a master plan to eliminate the disproportionate**

**use of force, including pepper spray and the restraint chair, against inmates with mental illness;**

*Implementation Panel March 2019 Assessment:* partial compliance

*March 2019 Implementation Panel findings:* The MH UOF Coordinator is conducting a Mental Health Case Review to include a review of documentation in the AMR and/or NextGen records. The Coordinator reviews recent Psychiatry visits to determine if Psychiatry visits are occurring every 90 days or more as clinically indicated. If he determines Psychiatry visits are not occurring as prescribed by the inmate's level of care, the Coordinator will contact Clinical Supervisor for resolution. The Coordinator utilizes Excel spreadsheets to track Qualified Mental Health Professional follow-up (or lack thereof) on uses of force involving inmates on the Mental Health Caseload. Operations is developing a process to conduct and document an After-Action Debriefing after a use of force. The plan is to implement this process in April 2019.

*March 2019 Implementation Panel Recommendations:*

1. SCDC continue to monitor all Use of Force incidents to identify and address the reasons for disproportionate Use of Force involving inmates with mental illness;
2. SCDC formalize the draft policy to review inmates with a mental health designation that are involved in use of force incidents.
3. The Division of Operations Administrative Regional Director and Division of Mental Health UOF Coordinator collaboratively work together to address issues and concerns that contribute to disproportionate UOF involving mentally ill inmates;
4. Provide Training to Division of Mental Health Staff on the policy regarding review of inmates with a mental health designation involved in use of force incidents once the policy is finalized.

**2.c.ii. The plan will further require that all instruments of force, (eg., chemical agents and restraint chairs) be employed in a manner full consistent with manufacturer's instructions, and track such use in a way to enforce such compliance.**

*Implementation Panel March 2019 Assessment:* partial compliance

*March 2019 Implementation Panel findings:* QIRM staff continues to meet weekly with Operations leadership to discuss UOF and other relevant issues. QIRM UOF Reviewers continue to produce and distribute a monthly report detailing:

- Agency Use of Force by Type
- Automated Use of Force Review
- Grievances Related to Use of Force
- Grievances
- Grievances Filed by Inmates with a Mental Health Classification
- Exception Reports which includes those Use of Force MINS that have been entered into the mainframe but have not been entered into the automated use of force application.

QIRM prepared a UOF Report using the months September 2018 through December 2018. The UOF Report was provided the IP prior to the March 2019 Site visit. SCDC has revised the MINs Electronic Form to include the Mental Health Classification of inmates involved in UOF.

*March 2019 Implementation Panel Recommendations:*

1. Operations, the MH UOF Coordinator and QIRM continue to review use of force incidents through the automated system to ensure instruments of force are fully consistent with the manufacturer's instructions;
2. Operations and QIRM begin tracking the amount of time inmates remained in hard restraints and perform assessments to determine if SCDC guidelines for hard restraint use are followed;
3. QIRM continue to meet weekly with Operations leadership and the MH UOF Coordinator to discuss UOF and other relevant issues;
4. Revise Housing Unit Post Orders requiring *Cover Teams* to use MK-9 consistent with manufacturer's instructions;
5. RIM include a canine use of force incident category in existing use of force reports.
6. Revise the SCDC UOF policy and require an annual review of the Agency List of approved UOF instruments and munitions;
7. All required Staff complete Use of Force Training in Calendar Year 2019.

**2.c.iii. Prohibit the use of restraints in the crucifix or other positions that do not conform to generally accepted correctional standards and enforce compliance;**

*Implementation Panel March 2019 Assessment:* compliance 7/14/17

*March 2019 Implementation Panel findings:* There were no documented reports from September- December 2018 of inmates being placed in the crucifix or other positions that do not conform to generally acceptable correctional standards.

*March 2019 Implementation Panel Recommendations:*

Operations and QIRM staff continue to review and monitor use of force incidents through the automated system to ensure restraints are not used to place inmates in the crucifix or other positions that do not conform to generally accepted correctional standards. Pursue corrective action when violations and/or issues are identified.

**2.c.iv. Prohibit use of restraints for pre-determined periods of time and for longer than necessary to gain control, and track such use to enforce compliance;**

*Implementation Panel March 2019 Assessment:* compliance

*March 2019 Implementation Panel findings:*

There was one identified restraint chair incident in SCDC Institutions during the period of 1 September-31 December 2018. This incident involved the Restraint Chair at the Broad River Correctional Institution. The Restraint Chair use followed required guidelines except minor documentation issues. The inmate was in the restraint chair for less than one hour. QIRM conducted a review of the incident and prepared a Restraint Chair Report (SCDC Appendix I). An SCDC report on the use of hard restraints was not included in the SCDC provided documentation.

*March 2019 Implementation Panel Recommendations:*

QIRM continues to track and monitor compliance with use of the restraint chairs. Inmates placed in hard restraints should be monitored and tracked by QIRM in addition to restraint chairs to include: compliance with guidelines and the amount of time in hard restraints before release.

**2.c.v. The collection of data and issuance of quarterly reports identifying the length of time and mental health status of inmates placed in restraint chairs;**

*Implementation Panel March 2019 Assessment:* compliance 12/08/17

*March 2019 Implementation Panel findings:* See above 2.c.iv.

*March 2019 Implementation Panel Recommendations:*

QIRM continues to prepare a Restraint Chair Report for each monitoring period.

**2.c.vi. Prohibit the use of force in the absence of a reasonably perceived immediate threat;**

*Implementation Panel March 2019 Assessment:* partial compliance

*March 2019 Implementation Panel findings:*

SCDC Use of Force MINS for October 2018 through January 2019:

October 2018	128
November 2018	101
December 2018	118
January 2019	102

(Inmate UOF Grievances)

In October and November 2018, 162 grievances related to UOF were filed across SCDC institutions. The grievances involved alleged physical abuse (28 or 17% of grievances), excessive UOF (27 or 17% of grievances) and unprofessional conduct (107 or 66% of grievances). Thirty-three percent (33%) of 162 filed Grievances during October and November were processed as active grievances. Sixty-three percent (63%) of Grievances were processed and returned to inmates for reasons allowed in policy. QIRM made recommendations based on their Inmate Grievance CQI Study:

1. The Grievance Branch audit should review a sample of inmate grievances to evaluate if appropriate grievance determinations are being made.
2. Evaluate whether the informal resolution attempt requirement before an inmate can submit a grievance is negatively impacting the grievance process.
3. Conduct inmate focus groups to improve the inmate grievance process.

(QIRM Identified Policy Violations related to UOF)

QIRM identified 66 policy violations, with 75 recommendations/actions taken by the Office of Operations. The recommendations/actions were:

- Use of Force training for Staff (34 instances).
- Corrective Action (5 instances), one of which the Warden initiated prior to compliance review.
- Discussion with the Warden/Institutional Executive Staff (19 instances).
- Concurrence with findings of Use of Force reviewer but action not documented in Automated Use of Force System (AUOF) (12 instances).
- Inmate discipline (2 instances).
- As of 8 February 2019, 3 instances have not been reviewed.
- Two actions were taken/recommended by the Office of Operations (9 instances).

(Police Services Referrals)

There were a total of 28 referrals to SCDC Police Services related to use of force and assault of an inmate by employee during the reporting period.

14 were opened for an investigation

14 were referred back to the Inmate Grievance Branch

The responsible IP member met with the SCDC Director of Police Services to discuss tracking of grievances referred to Police Services.

*March 2019 Implementation Panel Recommendations:*

1. Operations, the MH UOF Coordinator and QIRM continue to review use of force incidents utilizing the automated system to identify use of force violations;
2. QIRM, the MH UOF Coordinator and Operations leadership continue weekly meetings to discuss UOF and other relevant issues;
3. IP continue to review SCDC Use of Force reports and monthly Use of Force MINS Narratives and provide SCDC feedback;
4. The IP Use of Force Reviewer, QIRM, the MH UOF Coordinator and SCDC Operations Leadership continue to jointly review Monthly Use of Force MINS to discuss issues and attempt to reduce the inappropriate use of force;
5. QIRM and the Agency Grievance Coordinator continue to QI Inmate Grievances related to UOF and Physical Abuse;
6. QIRM QI incidents and grievances referred to Police Services related to UOF and Physical Abuse;

7. Police Services begin tracking the number of referrals received for UOF and Physical Abuse and document the reasons an investigation is not opened;
8. Implement the QIRM recommendations to improve the Inmate Grievance System;
9. Remedy the high percentage of employees not receiving annual Use of Force Training; and
10. Require meaningful corrective action for employees found to have committed use of force violations;

**2.c.vii. Prohibit the use of crowd control canisters, such as MK-9, in individual cells in the absence of objectively identifiable circumstances set forth in writing and only then in volumes consistent with manufacturer's instructions;**

*Implementation Panel March 2019 Assessment:* partial compliance

*March 2019 Implementation Panel findings:*

The QIRM Use-of-Force staff reviewed 239 use-of-force incidents that involved MK-9 use from June 1, 2017 through December 31, 2018:

- There were 139 (58%) use of force incidents in which the officer's actions were justifiable based on circumstances set forth in agency policy OP-22.01 Use of Force.
- There were 138 (58%) incidents where the crowd control devices were used appropriately under objectively identifiable circumstances in writing.
- There were 144 (60%) incidents where the crowd control devices were used consistent with manufacturer's instructions.

SCDC officials are addressing staff MK9 use issues; however additional improvement is needed.

*March 2019 Implementation Panel Recommendations:*

1. Operations and QIRM continue to review use of force incidents utilizing the automated system to identify use of force violations;
2. QIRM Use of Force Reviewers continue to generate reports involving crowd control canisters including MK-9;
3. QIRM and Operations leadership continue weekly meetings to discuss UOF and other relevant issues;
4. IP continue to review SCDC Use of Force reports and monthly Use of Force MINS Narratives and provide SCDC feedback;
5. The IP Use of Force Reviewer and SCDC Operations Leadership continue jointly reviewing Monthly Use of Force MINS to discuss issues and attempt to reduce the inappropriate use of crowd control canisters including MK-9;
6. Revise Housing Unit Post Orders as they pertain to *Cover Teams* to qualify that MK-9 use will be consistent with manufacturer's instructions; and
7. Provide correctional staff additional training on the proper use of MK9.

**2.c.viii. Notification to clinical counselors prior to the planned use of force to request assistance in avoiding the necessity of such force and managing the conduct of inmates with mental illness;**

*Implementation Panel March 2019 Assessment:* partial compliance

*March 2019 Implementation Panel findings:* SCDC institutions contacting a clinical counselor prior to planned use of force to request assistance in avoiding force and managing the conduct of inmates with a mental illness remains problematic. The MH Reviewer and QIRM Reports on the number of times attempts were made to contact a mental health counselor prior to a planned use of force provided different findings. Nevertheless, in December 2018, the MH Reviewer and QIRM reported that QMHPs were contacted less than 50 percent of the time before a planned UOF.

*March 2019 Implementation Panel Recommendations:*

As identified in previous reports, additional training of Operations Supervisory and Mental Health Staff on their duties and responsibilities in a planned use of force is needed. Employees must be held accountable when the required assistance from QMHPs is not requested prior to a planned UOF incident involving mentally ill inmates. When operations employees notify mental health staff of a planned UOF, the mental health staff must complete a face to face interaction to assist or document reasons the interaction was not completed.

**2.c.xi. The development of a formal quality management program under which use of force incidents involving mentally ill inmates are reviewed.**

*Implementation Panel March 2019 Assessment:* partial compliance

*March 2019 Implementation Panel findings:*

See 2.c.i. The provision remains in partial compliance. The policy regarding review of inmates with a mental health designation involved in use of force has not been finalized. The policy is a critical component of having a formal quality management program under which use of force incidents are reviewed. Substantial compliance cannot be obtained until the policy is finalized and successful implementation is verified with conducting CQI studies.

*March 2019 Implementation Panel Recommendations:*

Once the policies and procedures are approved, responsible Behavioral Health staff should receive training on the policy. QIRM should perform QI studies assessing the Department of Behavioral Health's review of UOF incidents involving inmates with a mental health designation. The IP Mental Health Experts will need to review the policy before final approval. SCDC should continue monitoring inmates with a mental health designation identified as high risk for use of force and repeat the High Risk UOF Case Study for each relevant period. Responsible officials should diligently strive to place recommended RHU inmates in a BMU Program and track their status while awaiting placement.

Further this site visit was managed differently in that the first three and one-half days were spent by the IP reviewing the SCDC recommendations regarding changes since the last site visit, and the in-depth interviews in the RHUs as described above. The fourth day was spent in reviewing specific programs at Kirkland Correctional Institution and Camille Graham Correctional Institution which will be described further below.

### **5.b Require a higher degree of accountability for clinicians responsible for completing and monitoring MARs;**

*Implementation Panel March 2019 Assessment:* partial compliance

*March 2019 Implementation Panel findings:* SCDC recommended that because they were no longer administering medications under the doors of inmates housed in specific housing units, the rating of medication compliance with component 5(b) should be elevated from non-compliance to partial compliance. Based on this recommendation and observations on-site, and despite there being ongoing difficulties with medication administration and medication management, including (a) the writing of 180 days rather than 90 days medication orders for psychotropic medications, (b) delays in medications because of inadequate nursing staffing and (c) failure to implement system-wide administration of hs (hour of sleep) medications at reasonable hours rather than at three or four p.m. in the afternoon, the IP is changing the assessment to partial compliance because the component relates to issues under the control of nurses (“clinicians responsible for completing and monitoring MARs”) and the problems identified above are not under their control.

### **Conclusions and Recommendations**

There have been very clear demonstrations of improvement at KCI and CGCI in specific areas and in response to prior recommendations internally by administration and staff, QIRM, and by the IP. The staff at both facilities beginning with the Wardens and their administrative staff and continuing with the treatment and custodial staff as well as support services, certainly deserve recognition for their sustained efforts to improve services in those areas identified in the body of this report.

In summary, the IP is extremely concerned about the very serious deficiencies in mental health care specifically with regard to inmates who are housed in RHUs and the resultant very serious and continuing harm. The very basis of the Settlement Agreement has largely to do with the mistreatment or lack of treatment of inmates who are housed in RHUs and there has been development of policies and procedures as well as post orders to attempt to remedy these conditions. The IP psychiatrists, Drs. Raymond Patterson and Jeffrey Metzner, Chief Psychiatrist for SCDC Dr. Beverly Wood, and Psychiatric Consultant to SCDC Dr. Sally Johnson conducted evaluations referenced in this report as detailed in the appendices. The results of these interviews indicate SCDC has not achieved substantial compliance with the majority of the Settlement Agreement criteria.

The failures to achieve sustained substantial compliance have been fundamentally based on inadequate resources, including security, mental health and nursing staffing as well as space constraints for mental health programs. The other problematic areas of concern have been identified in this and past reports, including the impact of the conditions of confinement and lack of basic services. The IP acknowledges the improvements at several institutions in specific areas, however the systemic failures continue and require implementation of the recommendations made by SCDC staff, consultants and the Implementation Panel.

Sincerely,



Raymond F. Patterson, MD

Implementation Panel Member

On behalf of himself and:

Emmitt Sparkman

Implementation Panel Member

Attached Appendices:

Appendix A--Individual findings for each of the BRCI and LCI inmates interviewed and confined in RHU with a mental health designation.

Appendix B--RHU Conditions of Confinement

Appendix C1—Notes of Beverly Wood, MD regarding interviews at BRCI and LCI

Appendix C2—Notes of Sally Johnson, MD regarding interviews at BRCI and LCI

Appendix C3—Notes of Jeffrey Metzner, MD regarding interviews at BRCI and LCI

Appendix C4—Notes of Raymond Patterson, MD regarding interviews at BRCI and LCI

Appendix D—Summary chart regarding findings of clinical reviewers