

OFFICE OF COMPLIANCE CONSULTANTS

15 West 5<sup>th</sup> St. - High Impact Compound, Mercado Trailer - East Elmhurst, NY 11370

2024

# Report on Environmental Conditions

BENJAMIN V. MAGINLEY-LIDDIE, 75 CIV. 3073 (LAP)  
PROGRESS REPORT  
JANUARY–APRIL 2024

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## I. INTRODUCTION

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The Office of Compliance Consultants (“OCC”) is authorized to monitor the Defendants’—the City of New York’s (“NYC”) and the NYC Department of Correction’s (“DOC” or the “Department”)—compliance with the Court’s mandates contained in various orders: the Order re: Fire Safety, dated November 13, 1998; the Order on: Environmental Conditions (the “Environmental Order”), dated April 26, 2001; the Order re: Testing and Repair of Ventilation Systems (the “Ventilation Order”), dated November 14, 2003; the Amended Supplementary Order re: Repair and Renovation of Ventilation Systems (the “Am. Supp. Ventilation Order”), dated February 11, 2009; the Amended Order re: Lighting Conditions (the “Am. Lighting Order”), dated October 7, 2010; the “so ordered” Stipulation concerning withdrawal of sanitation motions and steps to improve sanitation (the “Sanitation Stipulation”), dated October 14, 2010; the Supplemental Order re: Construction Projects Required by Amended Supplementary Ventilation Order, dated October 20, 2011; the Second Supplemental Order re: Construction Projects Required by Amended Supplementary Ventilation Order, dated December 18, 2012; the Order re: Ventilation Reports, dated November 18, 2021; the Order re: Monthly Ventilation Report Schedule, dated May 23, 2022; and the Order re: Ventilation Certification, also dated May 23, 2022.

This report summarizes the status of sanitation, heating and ventilation, lighting, and fire safety within various New York City jails as reviewed by OCC during January–April 2024 (the “monitoring period”). A summary of complaints reported to OCC by

The Legal Aid Society’s Prisoners’ Rights Project (“LAS” or “Plaintiffs,” sometimes “Plaintiffs’ counsel”) conclude this report. As required by the Revised Order re: Timetable for Submission of OCC Progress Reports, dated January 14, 2021, a draft of this report was circulated to the parties for review and comment. The Court granted the Defendants’ request for an extension to the deadline to provide OCC with the parties’ comments to the draft report, which changed the deadline from June 5, 2024 to June 12. In accordance with longstanding practice, the parties’ comments to the draft report (“Defs.’ resp.” and “Pltfs.’ resp.”) are incorporated into and appended to this final version of the report.

## II. MONITORING OBSERVATIONS

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### A. SANITATION

#### 1. DOC SANITATION REPORTS

##### a. Defendants' Obligations

The Department's Environmental Health Officers and Public Health Sanitarians are required to inspect and report on the sanitation conditions within the jails. An Environmental Health Officer is a specially trained<sup>1</sup> captain who conducts regular sanitation inspections of common areas at a designated facility and is required to "submit . . . reports of all such inspections, including a description of any ameliorative actions taken, planned[,] or recommended." *Id.* ¶ 3c. The Environmental Order requires Environmental Health Officers to "make a thorough inspection of the entire institution in the course of the week and [to] make more frequent inspections when necessary to respond to particular problems—e.g., inmate complaints." ¶ 3b.

The Department assigns Environmental Health Officers to be "[d]irectly responsible for maintaining satisfactory sanitation and environmental standards in compliance with departmental policies and the requirements of applicable health codes, laws, and court orders, throughout the command." DOC Directive #3900R. The Environmental Health Officers are trained by the Department's Environmental Health Unit, which is staffed by Public Health Sanitarians, civilians who are themselves required to complete "weekly inspections of all facilities as well as

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<sup>1</sup> "The environmental health officers shall have had or shall be provided with appropriate training and experience in environmental health and maintenance, and shall have completed the EHO certification course referred to in Directive [3900R]." Environmental Order ¶ 3a.

weekly reports of deficiencies” and “provide reports on a regular basis to [OCC] with respect to environmental conditions that are the subject of [the Environmental] Order.” *Id.* ¶ 4. Generally, an Environmental Health Officer inspects the assigned facility over the course of one week and a Public Health Sanitarian inspects the facility over one month.

b. Defendants’ Performance

During this monitoring period, OCC received redacted Public Health Sanitarian (“PHS”) reports and Environmental Health Officer (“EHO”) reports from the Environmental Health Unit (“EHU”) intermittently from January 5, 2024–April 26, 2024. The PHS reports consisted of inspections conducted December 11, 2023–April 12, 2024 and the EHO reports consisted of inspections conducted December 3, 2023–April 13, 2024. The PHS reports are batched and submitted as a work week’s individual inspections of intake and living areas carried out on a specified date. The EHO reports, in comparison, are not comprised of individual inspection areas, but include several areas on each inspection report, dated for a specific date or several dates depending on the facility, and submitted as a batch for a calendar week. The PHS and EHO reports are provided to OCC as selected pages from larger reports instead of complete reports since certain of the inspections involve matters or locations that are not currently subject to *Benjamin* monitoring. For example, OCC does not monitor staff areas, clinics and medical locations, and pantries. Apparently, some of the report pages provided to OCC are redacted or omitted for the same reasons.

The PHS and EHO reports, collectively, should provide a snapshot of the conditions observed by the Sanitarians and Officers at a given time and aid in the ongoing assessment of the sanitation conditions within the jails; however, reports were not submitted for some facilities for certain weeks, e.g., RMSC for January 7–13 and January 14–20; OBCC for February 11–17 and RNDC for the same period; WF for March 10–16 and March 17–23. For RMSC and WF, the EHU noted staffing as an issue.<sup>2</sup>

As raised continually by OCC, the PHS and EHO reports are formatted differently and there remain significant reporting differences among the individual facilities in the EHO reports. Consequently, it is difficult to discern violations, locations, and dates in the latter reports, with the reporting covering multiple areas in a day in some facilities versus one week in others. Despite, reported EHO training<sup>3</sup>, taking place as recently as December 2023, the facility reporting practices have not changed and still indicate varying skill levels among the Officers. At this time, generalized training may not be sufficient and it may be more appropriate to undertake additional training or remedial training with individual EHOs, addressing their specific shortcomings. The reporting differences and varying skill levels continue to make it

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<sup>2</sup> The Department has repeatedly reported “staffing issues” as the reason for EHO inspections not taking place in various facilities during the past few years despite the fact that “[e]ach facility must assign an Environmental Health Officer at the rank of captain. . . . In the event that a facility staffing need prohibits the assignment of a certified captain to function as the EHO, a non-certified captain can be temporarily assigned as EHO.” DOC Directive #3900R. The temporarily assigned captain would be allowed to remain in the position until the next available certification course, which must be completed to retain the position. *Id.*

<sup>3</sup> On March 22, 2024, the Defendants submitted EHO training records and sanitation directives earlier requested by Plaintiffs’ counsel.



unfeasible to undertake a comprehensive review and, further, the EHO reports are not formatted for *Benjamin* compliance rating, which would take an inordinate amount of time for OCC to reformat and calculate compliance based on these reports. Moreover, the extensive variability in what is reported by the EHOs and how, means that adequate data is simply not available for review and inclusion in the compliance calculations. EHOs are required to conduct inspections and produce reports to support compliance with court orders and their reports should align with the requirements of the Environmental Order, yet the Defendants persistently plead their lack of skill in comparison to PHSs. Be that as it may, it is the Defendants' responsibility to bring the EHOs' skill level up to an acceptable standard. Given the wide-ranging reporting and formatting differences between the PHS and EHO reports, OCC has used the PHS reports to calculate *Benjamin* compliance while using a combination of the PHS and EHO reports to summarize inspection findings. In so doing, certain facilities are referenced more than others, which should not be interpreted as one being in better compliance than another, and inspection periods are presented as a calendar week—the way they are in the most complete EHO reports—to cover the variability caused by reports that also use a work week range and a single day and date.

c. Defendants' Compliance

The Court requires that “[s]hower facilities, janitor’s closets, laundry areas, and toilets, washbasins, sinks and other personal hygiene and sanitation facilities . . . be thoroughly cleaned and sanitized at least once daily and more often if necessary.”

Environmental Order ¶ 11a.<sup>4</sup> The Department has removed most laundry areas, but the other types of hygiene/sanitation facilities remain and are present in intake and living areas. “Every living area (cells, dormitory, and modular sleeping areas, and showers/bathrooms and dayrooms in each of these units) shall be thoroughly cleaned and sanitized each week.” Environmental Order ¶ 11c. The Defendants are not in substantial compliance with the Court’s sanitation mandates.

Eighty percent with zero housekeeping management violations is the agreed upon minimum compliance percentage for the Department to meet accepted sanitation standards in intake and living areas.<sup>5</sup> OCC’s analysis of the PHS reports indicates the EHU determined 64% of intake and living areas were compliant during the monitoring period—an increase from 61% during the preceding monitoring period. Overall, the Department failed 4% of inspections due to management violations.

Overwhelmingly, the Department was noncompliant due to housekeeping violations, which accounted for the remaining 32% of all failed inspections; therefore, the Department would have been noncompliant regardless of the automatic failure triggered by management violations.

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<sup>4</sup> This provision of the Environmental Order also requires that showers be power washed with a bleach solution on a quarterly basis. By Order re: Power Washing, dated December 14, 2010, the Court suspended this mandate and permitted the Department to steam clean or use less-damaging measures in an effort to preserve tile work.

<sup>5</sup> After considerable discussion, [the parties’ experts and OCC’s expert] adopted the 80% score with no sanitation management citations as the scoring criteria to determine a units (sic) pass or failure. The Department felt that a housekeeping score of 80% was easily achievable. The group felt that no sanitation management issues should exist, as these constitute the highest threat to human health.

2013 Environmental Health Inspections for New York City Jail Facilities at Rikers Island at 3.

As noted in each progress report, there is a final step in the calculation of compliance rates, which the Defendants disagree with and have not implemented, so the Department's reported compliance does not include locations that fail inspections due to the triggering of management violations based on the frequency of unclean to sight, surfaces (not) smooth and easily cleanable, and organic soil accumulations in a unit. Such observations, "over [two] times in any one unit is evidence of a general failure in following cleaning procedures prior to the sanitation step." 2013 Environmental Health Inspections for New York City Jail Facilities at Rikers Island at 7. During the current monitoring period, 51% of the passing inspections were in areas found to be unclean to sight three–eight times during one inspection—a decrease from 67% during the preceding period. "Unclean to Sight" findings include the presence of loose filth and garbage; dust and dirt accumulation; soiling of touch points and/or high (common) touch surfaces; soiled bed frames and dayroom furnishings; soiled utility (janitor's) closet; and soil imbedded at transition areas such as edges of spalled tile, floor to wall junctions, door jambs and furnishing floor anchors. Were the final step applied to the PHS inspections, the Defendants' compliance would be significantly lower. It should be noted that even without incorporating the final step in compliance calculations, were the EHO findings incorporated into the overall compliance findings, the foregoing results would be different. Lastly, and as raised previously, the observations and component scores (whether accepted standards or requirements are met) are still not consistently

applied by the PHSs during the inspections, which ultimately affects the compliance ratings.

- Intake Areas

Compliance ratings ranged from 76.2<sup>6</sup> to 97.4<sup>7</sup> in the intake areas of EMTC, GRVC, NIC, OBCC, RESH, RMSC, RNDC, and WF. Of the nine intake areas inspected during this monitoring period, the EHU found that seven demonstrated compliance during every inspection—EMTC Intake, GRVC Main Intake, NIC Annex Intake and Main Intake, OBCC Main Intake, RESH Intake and RMSC Intake. The GRVC Main Intake, NIC Annex Intake, NIC Main Intake, and RMSC Intake also passed all inspections during the preceding monitoring period and are joined this monitoring period by OBCC and RESH, which showed improvement by now passing all their inspections. The RNDC Intake and WF Main Intake passed some of their respective inspections and failed the others. As reported in the previous monitoring report, the Department implemented a cleaning and sanitizing program through a vendor that has proven effective in intake areas. (A list of the intake and living areas that were reviewed by OCC during this monitoring period was provided to the parties with the draft of this report.)

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<sup>6</sup> WF Intake (3/17/24–3/23/24 and 3/24/24–3/30/24)—a decrease from 77.08 (EMTC Intake) during the prior monitoring period.

<sup>7</sup> EMTC Intake (2/18/24–2/24/24)—a slight decrease from 97.92 (GRVC Main Intake) during the prior monitoring period.

- Living Areas

In living areas, compliance ratings ranged from 53.8<sup>8</sup> to 98.2<sup>9</sup> in EMTC, GRVC, NIC, OBCC, RESH, RMSC, RNDC, and WF. Of the 187 living areas reviewed for compliance, the EHU found 81 were compliant during every inspection and assessed the remaining 106 as noncompliant during one or more inspections. Forty of the latter areas failed every inspection. Throughout the monitoring period, living areas were documented to be generally unsanitary, with dirty janitor’s closets, vermin, insufficient cleaning products, missing cleaning equipment, poorly maintained ventilation, and uncorrected deficiencies despite submitted and resubmitted work orders.

- Vacant Cells

The Defendants, additionally, remain noncompliant in cleaning and maintaining vacant cells in accordance with the Court’s mandate that “[e]very cell shall be thoroughly cleaned and sanitized upon becoming vacant, shall be kept clean of garbage and debris while vacant, and shall be inspected prior to re-occupancy to ensure that it is cleaned and sanitized.” Environmental Order ¶ 11c. To effectuate the Court’s order, the Department requires:

The vacant cell shall be cleaned and sanitized on the tour it becomes vacant or early in the next tour if the cell is vacated late in the tour. The vacant cells shall be maintained in a clean and sanitary manner. If necessary, the vacant cell shall be cleaned and sanitized a second time. For instance, if the floor becomes dirty or the ledges become dusty, the cell must be cleaned again.

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<sup>8</sup>NIC 3B (2/25/24–3/2/24)—a decrease from 60.78 (RESH B12) during the preceding monitoring period.

<sup>9</sup> RNDC 1UN (4/7/24–4/13/24)—a decrease from 100.00 (RMSC Nursery) during the preceding monitoring period.

DOC Directive #3901R-B, Housekeeping Procedures at 9. OCC reviewed the observations and findings related to 208 vacant cells, of which 14 were inspected two times resulting in 222 cell inspections. Only 34 (15%) inspections indicated compliance.<sup>10</sup> The remaining 188 (or 85%) inspections found deficiencies including organic soil accumulations, uneven and not easily cleanable surfaces, unclean and unsanitary conditions, ventilation issues, and vermin indicators.

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<sup>10</sup> None of the cells inspected two times were compliant during both inspections—one cell was compliant during one of its two inspections and the others were noncompliant during each of their inspections.

*i. Benjamin Inspection Protocol*

During PHS inspections, compliance is assessed in eleven categories, discussed below, using a binary scoring method of “0” if the location meets accepted standards or requirements and “1” if the location does not in the particular category. This binary system means that a score can be placed in the applicable field only if an assessment was made. Scoring a location in a category for which it was not assessed skews the compliance rating and makes it inaccurate. (The effect is similar when non-*Benjamin* locations (such as staff areas and clinics and medical locations) are included in inspections for this litigation.) An example of the inspection form is included, immediately below, for reference. The sum of scores of each location in an intake or housing area is then calculated to produce a component trend score, for which “reduced sampling scoring must be 3 or less for the housing component to be considered to have met sanitary standards or requirements on all rows except the General, Day Room Furnishings, and Dormitory Bed rows which must be 2 or less.”

The compliance percentages are automatically calculated when the electronic inspection reporting form is used because the formula is embedded in the form, an Excel spreadsheet. Manually, the compliance percentages can be calculated as follows:

$$\frac{\text{the sum of the component trend scores}}{\text{the count of scores}} - 1$$

The compliance percentage must be 80.00 or higher for an intake or living area to be compliant; however, if there is at least one observation of cleaning and sanitizing procedures not being followed, lack of cleaning chemicals, inadequate cleaning equipment and equipment sanitation, or inadequate water facilities, the area fails the inspection, regardless of score. An example of this protocol is seen in the sample inspection form below: the area’s housekeeping compliance is 81.36%, but it does not pass the inspection because cleaning and sanitizing procedures were not followed in at least one instance.

NEW YORK CORRECTION DEPARTMENT  
NEW YORK CITY JAILS  
Facility Name: \_\_\_\_\_  
Date of Inspection: \_\_\_\_\_

Unit: \_\_\_\_\_  
Type: \_\_\_\_\_

Unit Component	Management/Sanitation						Housekeeping						INSPECTION NOTES (Place X in box)
	CLEANING & SANITIZING PROCEDURES FOLLOWED	LACK OF CLEANING CHEMICALS	INADEQUATE CLEANING EQUIP & EQUIP SANITATION	ADEQUATE WATER FACILITIES PROVIDED	PRESENCE OF VERMIN OR INDICATOR ORGANISMS	UNCLEAN TO SIGHT	ORGANIC SOIL ACCUMULATIONS	SURFACES SMOOTH & EASILY CLEANABLE	PRESENCE OF ODOORS	INADEQUATE LIGHTING	Ventilation	COMPONENT TREND SCORE	
GENERAL	1	0	0	0	0	0						1	
Showers						1	0	1	0	0	0	2	
Toilet Area						1	0	0	0	0	0	1	
Day Room (general)						0	0	0	0	0	0	0	
Day Room (toilet)						1	0	1	0	1	0	3	
Day Room (furnishings)						0	0	0				0	
Utility/Janitor Room						0	0	0	0	1	0	1	
Storage						0	0	0	0	0	0	0	
Cell ( Cell # : )												0	
Cell ( Cell # : )												0	
Cell ( Cell # : )												0	
Cell ( Cell # : )												0	
Sleeping Area (General)						0	0	0	0	0	0	0	
Dormitory Beds						1	0	0	0			1	
Common Area						0	0	1	0	0	0	2	
UNIT COMPONENT TOTALS:	1	0	0	0	1	4	0	3	0	2	0		
Management/Sanitation Compliance Score:	1.00	Scoring Yes= Met standard or requirements. X= see inspection notes											
Housekeeping Compliance Percentage:	81.36%	1= Does not meet accepted standards or requirements. 0= Meets accepted standards or requirements.											
Housekeeping Compliance:	YES	No= Has not met standard or requirements. Blank = Not Applicable											
Total Unit Compliance:	NO	Unit must have a yes in this box to be in compliance											

Component Trend Score: Reduced Sampling scoring must be 3 or less for the housing component to be considered to have met sanitary standards or requirements on all rows except the General, Day Room Furnishings, and Dormitory Bed rows which must be 2 or less.

Note: Housekeeping passes with >80 % but Unit fails on sanitation



*ii. Discussion of Findings*

Inspections conducted during this monitoring period recorded thousands of violations distributed across all facilities as relayed through the categories listed in the table immediately below. The details of the violations within each category are summarized in the discussion or were provided to the parties with the draft of this report. (Two subsets of the “Cleaning and Sanitizing Procedures [not] Followed” category are carved out from the overall category in the table to give added specificity to the violations observed during the inspections. Similarly, two subsets of “Organic Soil Accumulations” are carved out of that category to differentiate the chronically wet observations and partially occluded/clogged drains from those of mold and mildew or other such accumulations.) The inspection observations and findings are discussed in terms of the housekeeping inspection matrix developed by the expert sanitarians.

VIOLATION CATEGORY
<b>cleaning and sanitizing procedures [not] followed</b>
*lack of adherence to established policies and procedures
*absence of training materials or instructional postings in critical housekeeping areas
<b>lack of cleaning chemicals</b>
<b>inadequate cleaning equipment and equipment sanitation</b>
<b>inadequate water facilities</b>
<b>presence of vermin and indicator arthropods</b>
<b>unclean to sight</b>
<b>organic soil accumulations</b>
**chronic pooling of water/chronically wet walking surfaces
**partially occluded/clogged drains
<b>surfaces [not] smooth and easily cleanable</b>
<b>inadequate lighting</b>
<b>presence of malodors</b>
<b>ventilation</b>

\*finding is a subset of the “cleaning and sanitizing procedures not followed” category, which requires more than one observation to trigger a management violation

\*\*finding is a subset of organic soil accumulations

The following evaluative housekeeping criteria, taken directly from the sanitation inspection training material, are used to assess compliance during sanitation inspections and apply to all the PHS inspections undertaken during this monitoring period, but the discussion details are limited to the inspections surveyed by OCC.

The following discussion also includes findings from inspections conducted by EHOs, who do not use the *Benjamin* inspection protocol during inspections; however, their observations fit within the discussion categories and as with the PHS inspections do not represent all inspections undertaken during the current monitoring period. A note about repeated observations: the recording of repeated observations (indicated by “R”) is not chronological where noted in this report partly because such observations are not always accurately recorded and some observations that span monitoring periods are noted with a higher observation count.

ADMINISTRATIVE and MANAGERIAL OBSERVATIONS – The following five management categories apply to all areas, and at least one observation of any of the first four causes the area to fail the inspection.

➤ *Cleaning and Sanitizing Procedures [not] Followed*

- a) uniform sanitary procedures as detailed in policies and procedures not followed
- b) cleaning frequency inadequate to maintain proper sanitation
- c) policy is inadequate to address soiling of the unit
- d) no evidence of training of inmates to housekeeping policy
- e) disposable gloves and other personal protective equipment not available, provided or used as per manufacturer’s label requirements and/or institutional policy

Verification of these criteria is by indicating two or more of the following:

- lack of adherence to established policies and procedures
- no notation in unit log (schedule or frequency)
- absence of training materials or instructional postings in critical housekeeping areas
- direct chemical test of finished disinfectant solution
- negative responses to inmate and/or staff interviews

The ongoing failure to follow cleaning and sanitizing procedures and enforce policies and mandates at all levels remains manifest in the Department’s inability to achieve substantial compliance with the sanitation orders despite adequate policies and procedures. The Department’s directives outline the environmental health roles and responsibilities of its staff from correction officers to the deputy chief of the Department yet there remains a lack of adherence to policies and procedures, which the Department, to its credit, has acknowledged.

The Cleaning and Sanitizing Procedures [not] Followed category is triggered by two or more observations, and there were numerous such twofold observations during this monitoring period. Among the ongoing issues:

- Dirty, used sponges and scouring pads were placed on surfaces instead of being cleaned and sanitized.
- The Diversey dispenser was found to be missing labels for cleaning chemicals.
- English and Spanish sanitation posters were missing.
- Safety glasses (referred to colloquially as “goggles”) and gloves are required to be worn particularly when using the sanitizer, per the manufacturer’s instructions; yet goggles and gloves were not available during many inspections, and sometimes were still not available during subsequent inspections.
- Sanitation implements and equipment (including but not limited to brooms, dust pans, mops, mop wringers, buckets, sponges, scrub brushes and other types of brushes) were missing or not being provided for the clean and sanitary upkeep of intake and living areas.

See the table immediately below for illustrative examples.

**Benjamin v. Maginley-Liddie**  
75 Civ. 3073 (LAP)

**Environmental Conditions**  
January–April 2024

**Table 1 Cleaning and Sanitizing Procedures not Followed - Examples**

WEEK ENDING	FACILITY	AREA	LOCATION	OBSERVATION
4/6/24	EMTC	2U	janitor's closet	missing brooms and mops
4/6/24	EMTC	3M	janitor's closet	missing brooms and mops
4/6/24	EMTC	3U	janitor's closet	missing brooms and mops
4/13/24	GRVC	10A	janitor's closet	goggles and gloves missing from closet
4/13/24	GRVC	10A	janitor's closet	sponge and green pads missing from closet
4/13/24	GRVC	10B	janitor's closet	goggles and gloves missing from closet
4/13/24	GRVC	10B	janitor's closet	sponge and green pads missing from closet
1/13/24	GRVC	11A	janitor's closet	sponges not provided and scouring pads not provided
1/13/24	GRVC	11B	janitor's closet	sponges not provided and scouring pads not provided
1/13/24	GRVC	15A	janitor's closet	sponges not provided and scouring pads not provided
1/13/24	GRVC	17A	janitor's closet	sponges not provided and scouring pads not provided
1/13/24	GRVC	2A	janitor's closet	goggles missing from closet and gloves missing from closet
1/13/24	GRVC	2A	janitor's closet	sponges missing from closet and green pads missing from closet
4/13/24	GRVC	2A	janitor's closet	goggles and gloves missing from closet
4/13/24	GRVC	2A	janitor's closet	sponge and green pads missing from closet
1/13/24	GRVC	3A	janitor's closet	sponges not provided and scouring pads not provided
1/13/24	GRVC	3B	janitor's closet	sponges not provided and scouring pads not provided
4/13/24	GRVC	4A	janitor's closet	goggles and gloves missing from closet
4/13/24	GRVC	4A	janitor's closet	sponge and green pads missing from closet
4/13/24	GRVC	4B	janitor's closet	goggles and gloves missing from closet
4/13/24	GRVC	4B	janitor's closet	sponge and green pads missing from closet
1/13/24	GRVC	5A	janitor's closet	sponges not provided and scouring pads not provided
1/13/24	GRVC	5B	janitor's closet	sponges not provided and scouring pads not provided
1/27/24	OBCC	1 N	janitor's closet	missing brooms and missing deck brush
2/3/24	OBCC	3 S	A-post and janitor's closet	no sanitation manual and no English and Spanish sanitation posters
4/6/24	OBCC	5W	A-post and janitor's closet	no sanitation manual and no English and Spanish sanitation posters
1/27/24	RNDC	1 UN	janitor's closet	no goggles and no yellow sponges
1/27/24	RNDC	1 UN	janitor's closet	missing one floor broom and one long-handled deck brush
4/6/24	RNDC	6 U S	janitor's closet	missing two long-handled deck brushes and no scrub brushes
3/2/24	RNDC	Mod 2 S	janitor's closet	missing one floor broom and missing one mop head
3/2/24	RNDC	Mod 2 S	janitor's closet	missing mop stick and one long-handled deck brush
2/24/24	RNDC	Mod 3LN	dayroom and sleeping area	dry, dirty, used yellow sponge on TV; not in sanitizer and two mold and mildew spray bottles on floor
3/30/24	RNDC	Mod 3UN	janitor's closet	dirty, used green pad and dry yellow sponge on "dust-laden Diversey dispenser case" and both push buttons of Diversey dispenser inoperable (was 3/7/24)
3/23/24	WF	18LA	janitor's closet and A-post	sanitation posters not provided and no sanitation manual at A-post
3/23/24	WF	18LA	janitor's closet and A-post	sanitation posters not provided and no sanitation manual at A-post
3/23/24	WF	18UB	janitor's closet	no sanitation posters provided and no chemical labels on Diversey dispenser

As seen in the examples in the table above, cleaning supplies and implements were often not provided or were missing from the janitor’s closet even though the Department established levels, below, at which supplies must be replenished.

*PAR Levels*

ITEM	QUANTITY
<b>Diversey General Cleaner 15</b>	1 bottle in dispenser - Extra concentrated chemical shall not be stored in housing area
<b>Diversey Virex 256</b>	1 bottle in dispenser - Extra concentrated chemical shall not be stored in housing area
<b>Diversey Stride Neutral Floor Cleaner</b>	1 bottle in dispenser - Extra concentrated chemical shall not be stored in housing area
<b>mop buckets with wringers</b>	2
<b>mop heads and sticks</b>	2
<b>brooms</b>	2
<b>dust pan</b>	1
<b>sponges</b>	4
<b>green scouring pads</b>	6
<b>Corcraft Mold and Mildew Cleaner</b>	1 bottle
<b>Gentle Scrub Cleaner Without Grit</b>	1 bottle
<b>garbage can with tight fitting lid</b>	2
<b>scrub brushes (held in hand)</b>	2
<b>deck brushes (long handled)</b>	2

*Source: NYC DOC Cleaning and Sanitizing Manual*

The Department’s PAR (periodic automatic replenishment) level policy requires “[t]he Correction Officer [to] notify the Area Captain if less than the par (sic) levels of sanitation supplies are present in the janitor closet. If the EHO is not available to replenish the supplies, the Area Captain shall notify the Tour Commander. The Tour Commander shall ensure that the supplies were replenished.” DOC Cleaning and Sanitizing Manual at 20. *At all times*, the designated quantity of each item *shall* be available in each janitor’s closet and if the closet is shared by two areas, the quantities *must* be doubled. The repeated instances of missing or unprovided

supplies and equipment indicate the Department’s cleaning and sanitizing procedures were not followed at any level of its command. This is not news to the Defendants:

During the latest expert sanitation inspection, “[i]n 80.4% of the inspected areas, an adequate amount of cleaning supplies was not provided or the supplies were not properly maintained [and] [i]n 69.5% of the inspected areas[,] cleaning and sanitizing procedures were not followed.” Department of Correction Response to R.W. Powitz & Assoc. Report of January 31, 2023 at 12. “There is, and has been, an adequate amount of sanitation supplies in the Department’s storehouse, yet 41.5% of the inspected areas did not have an adequate amount of equipment in the janitor closets or “A” stations [during the latest sanitation inspection] because managers did not prioritize the delivery of the supplies.” *Id.* at 14.

OCC Report on Environmental Conditions, September–December 2023 at 20. As noted above, the determination that an inspected area is not following the cleaning and sanitizing procedures requires at least two indicators during an inspection and single instances do not trigger the overall category of Cleaning and Sanitizing Procedures [not] Followed. Nonetheless, individual instances contribute to violations of the *Benjamin* sanitation orders and, as such, are noted herein, and examples are listed in the table immediately below (along with the observations that triggered the subcategory), resulting in the absence of training materials in critical housekeeping areas and the repeated and ongoing lack of adherence to established policies and procedures.

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**Table 2 Absence of Training Materials in Critical Areas – Examples**

FACILITY	AREA	LOCATION	OBSERVATION	WEEK ENDING
OBCC	1 L	janitor's closet	Spanish poster missing - R2	1/20/24
			Spanish poster missing - R3	2/10/24
	1 S	janitor's closet	English sanitation poster not provided	3/16/24
1 U	janitor's closet	English and Spanish sanitation posters not provided	1/27/24	
		sanitation posters not provided	2/10/24	
2 L	janitor's closet	missing English sanitation poster	1/27/24	
		missing English sanitation poster	2/10/24	
2 S	A-post	no sanitation manual	3/16/24	
2 U	janitor's closet	no English and Spanish sanitation posters	4/13/24	
3 S	janitor's closet	no English and Spanish sanitation posters	3/9/24	
		no Spanish sanitation poster	1/13/24	
3U	janitor's closet	sanitation posters not provided	3/16/24	
4 U	janitor's closet	English sanitation poster not provided	2/10/24	
		English sanitation poster not provided	4/13/24	
		sanitation posters not provided	1/27/24	
4U	janitor's closet	sanitation posters not provided	3/16/24	
5 U	janitor's closet	no Spanish sanitation poster	4/13/24	
		Spanish sanitation poster not provided	3/16/24	
6 L	janitor's closet	Spanish poster not provided	1/20/24	
		Spanish poster not provided	2/10/24	
6 U	janitor's closet	English sanitation poster not provided	3/16/24	
		missing English sanitation poster	4/13/24	
7 U	janitor's closet	damaged English poster	1/13/24	
7U	janitor's closet	Spanish sanitation poster not provided	3/16/24	
8 L	janitor's closet	no sanitation posters	4/13/24	
8 U	janitor's closet	sanitation posters not provided	3/16/24	
8U	janitor's closet	English and Spanish sanitation posters not provided	2/10/24	
		English and Spanish sanitation posters not provided	4/13/24	
Main Intake	janitor's closet	English and Spanish sanitation posters not provided	2/17/24	
		no sanitation posters	3/9/24	
		no sanitation posters - R2	4/13/24	
		sanitation posters not provided	3/2/24	
		sanitation posters not provided	3/16/24	
RMSC	B 3	janitor's closet	English and Spanish sanitation posters not provided	1/27/24
			English and Spanish sanitation posters not provided - R1	2/24/24
	B 7	janitor's closet	English and Spanish sanitation posters not provided	2/24/24
RNDC	3 US	janitor's closet	outdated English and Spanish sanitation posters	1/13/24
			outdated English and Spanish sanitation posters	2/10/24
WF	17LA	A-post	no sanitation manual	3/23/24
	17UA	A-post	no sanitation manual	3/23/24
			no sanitation manual	4/13/24
Main Intake	A-post	no sanitation manual	1/13/24	
		no sanitation manual	1/27/24	
		no sanitation manual	2/3/24	
		no sanitation manual	3/9/24	
		no sanitation manual	3/23/24	
		no sanitation manual	4/13/24	
	Spr 11	A-post	no sanitation manual	1/6/24

FACILITY	AREA	LOCATION	OBSERVATION	WEEK ENDING
			no sanitation manual	3/2/24
	Spr 6	A-post	no sanitation manual	1/6/24

Table 3 Lack of Adherence to Established Policies and Procedures - Examples

FACILITY	AREA	LOCATION	OBSERVATION	WEEK ENDING
EMTC	10 Lower	janitor's closet	deck brushes missing	4/6/24
EMTC	10 Main	janitor's closet	deck brushes missing	4/6/24
EMTC	11 Main	janitor's closet	missing deck sticks	4/6/24
EMTC	9 Main	janitor's closet	missing one broom	4/6/24
OBCC	5W	janitor's closet	no labels on Diversey dispenser; unable to see which solutions are present	2/3/24
RNDC	1 UN	janitor's closet	no scrub brushes	1/27/24
RNDC	6 US	Janitor's closet	missing one floor broom	4/6/24
RNDC	Intake	janitor's closet	missing one goggle	1/13/24
RNDC	Mod 3 LN	janitor's closet	dirty, dry, used yellow sponge on organizer (not in sanitizer)	3/30/24
RNDC	Mod 3 US	dayroom	used, dirty, dry yellow sponge stored in container by sink (not in sanitizer)	3/30/24
RNDC	Mod 4 US	dayroom	dirty, used yellow sponge on window ledge (not in sanitizer)	3/30/24

As mentioned earlier in this report, Unclean to Sight, Organic Soil Accumulations, and Surfaces [not] Smooth and Easily Cleanable are the three housekeeping categories that also trigger the Cleaning and Sanitizing Procedures [not] Followed management category because “over [two] times in any one unit is evidence of a general failure in following cleaning procedures prior to the sanitation step.” 2013 Environmental Health Inspections for New York City Jail Facilities at Rikers Island at 7. A surface cannot be sanitized if it is not clean or cleanable. This is clearly noted in the Department’s policies and procedures; however, the Department still rated areas as compliant that had up to eight observations of unclean to sight, e.g., RNDC 4 LS (1/23/24), RNDC 5 CS (3/4/24), and OBCC 3N (1/2/24); four observations of organic soil accumulations, e.g., OBCC Main Intake (1/26/24, 1/30/24, and 3/15/24) and OBCC 3S (3/5/24); and up to six observations of surfaces that were not smooth and easily cleanable, e.g., EMTC 8 Main (3/25/24) and WF Main Intake (3/7/24). The



most commonly cited direct observation violations during this monitoring period were in the Unclean to Sight and Surfaces [not] Smooth and Easily Cleanable categories followed by Organic Soil Accumulations.

➤ *Lack Of Cleaning Chemicals*

- a) cleaning chemicals not provided at the unit
- b) PAR levels not appropriate to the unit

Verification of the deficiency is by any one of the following:

- boundary markers in inventory levels that signal replenishment is necessary not established, or,
- amount or level considered to be adequate, not maintained, or,
- absence of a standard quantity as established by policy

The Department has maintained its improvement from the preceding monitoring period with its provision of Gentle Scrub and Corcraft Mold and Mildew Cleaner.

Gentle Scrub is used “to clean the sink, urinal, bath tub, and toilet” and upon application to the surface being cleaned “must be manually scrubbed with a green pad or scrub brush” and scrubbed again during rinsing. DOC Cleaning and Sanitizing Manual at 3. The mildew cleaner must “be applied to shower/bathroom surfaces” and requires scrubbing with a green pad or scrub brush. *Id.* at 1. Notwithstanding overall improvement with providing cleaning chemicals, there remains a problem with the availability of chemicals at the Diversey dispensers. The Department provides General Cleaner, Virex sanitizing solution, and Stride floor cleaner via the dispenser<sup>11</sup>; however, the containers were sometimes found to be “completely

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<sup>11</sup> A dispenser shall be provided in the janitor’s closet to dispense the general cleaner, the disinfectant, and a neutral floor cleaner. The neutral floor cleaner shall be used only on the shower floor. The concentrated chemical shall be installed in the dispenser. The dispenser shall be secured once the concentrated chemical are placed in the dispenser and at all times thereafter. The work detail shall dial the dispenser to the chemical that is to be utilized. The dial shall be set to the general cleaner, the disinfectant, or the neutral floor cleaner. The work detail shall push the button and the dispenser shall dispense the diluted chemical at the proper use concentration. There is no

empty” during inspections. “The general cleaner removes all dirt, dust, grime, soap scum, food splatter or other substances found on the surface. This is a critical step in the cleaning and sanitizing program.” *Id.* A surface must be clean before it can be sanitized. “The final step in the cleaning and sanitizing process is the application of the sanitizing solution. This step removes disease-causing organisms from the surface.” *Id.* at 3. Without the adequate supply and replenishment of cleaning chemicals, the facilities cannot be “thoroughly cleaned and sanitized at least once daily” as required by the Environmental Order ¶ 11a. Examples of a lack of cleaning chemicals during this monitoring period include “missing Milcide and Diversey chemicals” in EMTC 3 Main and at the shared janitor’s closet of EMTC 2 Upper and 3 Upper during the week ending 4/6/24; “empty . . . Virex solution” in the Diversey dispenser in OBCC 3 North during the week ending 4/6/24; “missing Blue Virex solution” in the OBCC Main Intake during the week ending 2/3/24; “completely empty sanitizer container” in the Diversey dispenser in RESH B15 during the week ending 2/24/24; “no Gentle Scrub and no Milcide spray bottles” in RNDC 1 UN during the week ending 1/27/24; “no floor cleaner” in the Diversey dispenser in RNDC Mod 3UN during the week ending 1/27/24; and an “empty Virex container inside the Diversey dispenser” in WF Sprung 11 during the week ending 1/6/24.

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need for the inmate work detail to add water to the solution in the bucket. The inmate work detail member shall then begin cleaning in accordance with the directions in the Cleaning and Sanitizing Manual.

Directive 3901R-B, Housekeeping Procedures

Cleaning chemicals were not available during several inspections this monitoring period including those listed below.

Table 4 Inspections with a Lack of Cleaning Chemicals - Examples

FACILITY	AREA	DATE	FACILITY	AREA	DATE	FACILITY	AREA	DATE
GRVC	5A	2/6/24	RESH	B16	2/21/24	RNDC	Mod 2 S	2/26/24
GRVC	5A	3/4/24	RMSC	East 1B	4/10/24	RNDC	Mod 3UN	1/26/24
GRVC	5B	2/6/24	RMSC	East 4A	1/4/24	WF	17UB	1/23/24
GRVC	5B	3/4/24	RMSC	East 4A	3/6/24	WF	18LA	1/10/24
GRVC	7A	2/6/24	RMSC	South 2A	4/10/24	WF	18UB	3/13/24
GRVC	7A	3/4/24	RMSC	South 4A	3/6/24	WF	19LB	3/13/24
GRVC	7B	2/6/24	RMSC	South 5A	3/6/24	WF	Spr 7	1/3/24
GRVC	7B	3/4/24	RNDC	1 CS	1/22/24	WF	Spr 8	1/3/24
GRVC	9A	3/4/24	RNDC	1 LN	1/22/24	WF	Spr 10	1/3/24
GRVC	9B	3/4/24	RNDC	1 LS	1/22/24	WF	Spr 11	1/3/24
RESH	B14	3/20/24	RNDC	1 UN	1/22/24			
RESH	B15	2/21/24	RNDC	1 US	1/22/24			

➤ *Inadequate Cleaning Equipment and Equipment Sanitation*

- a) cleaning equipment in poor repair or worn
- b) cleaning equipment is visibly dirty and possibly malodorous
- c) inadequate storage of housekeeping equipment
- d) cleaning equipment storage appurtenances not available for the sanitary and safe storage of mops, brooms and brushes
- e) PAR levels inappropriate to the facility or not established to meet cleaning needs

There were several observations of inadequate cleaning equipment and equipment sanitation recorded during the current monitoring period, consisting mostly of broken and damaged equipment, improperly stored and visibly dirty cleaning equipment, and inoperable Diversey chemical dispensers. Examples of inadequate cleaning equipment and equipment sanitation include dirty mop heads (OBCC 1N week ending 1/27/24 and OBCC 3SW week ending 4/13/24) and dirty mop wringers (GRVC 15B week ending 2/17/24); broken mop and broom sticks (EMTC 9 Upper and

12 Upper week ending 4/6/24); inoperable Diversey dispensers (GRVC 10A week ending 1/27/24 and 2/24/24, OBCC 1N week ending 1/6/24, OBCC 3W week ending 1/6/24, OBCC 5SW week ending 3/9/24, and OBCC 7U week ending 1/13/24, 2/10/24, and 3/16/24); inoperable door of Diversey dispenser (RMSC B7 week ending 1/27/24); and “pipe” attachment missing from the Diversey dispenser (OBCC 1 SW week ending 1/27/24). Diversey dispensers house concentrated General Cleaner, Virex sanitizing solution, and Stride floor cleaner, which are mixed with water and used directly from the dispenser. If the dispenser is inoperable, the Department’s policy requires the Correction Officer to get chemical solutions from a nearby dispenser. Some areas share a janitor’s closet so an inoperable dispenser in one closet can affect more than one area. Inspections during which inadequate cleaning equipment/equipment sanitation were observed include but are not limited to those listed in the table below.

Table 5 Inspections with Inadequate Cleaning Equipment and Equipment Sanitation - Examples

FACILITY	AREA	DATE	FACILITY	AREA	DATE	FACILITY	AREA	DATE
GRVC	10A	1/22/24	OBCC	7 U	3/12/24	RNDC	Intake	4/11/24
GRVC	10A	2/21/24	OBCC	7 U	4/9/24	RNDC	Mod 1N	1/30/24
GRVC	10A	3/27/24	RMSC	B 7	1/25/24	RNDC	Mod 1N	2/26/24
GRVC	10B	1/22/24	RMSC	South 5A	3/6/24	RNDC	Mod 1S	1/30/24
GRVC	15B	2/13/24	RNDC	1 CS	1/22/24	RNDC	Mod 1S	2/26/24
GRVC	19B	1/16/24	RNDC	1 LN	1/22/24	RNDC	Mod 2 N	3/27/24
GRVC	19B	4/9/24	RNDC	1 LS	1/22/24	RNDC	Mod 2 S	1/30/24
GRVC	3A	4/9/24	RNDC	1 UN	1/22/24	RNDC	Mod 2 S	2/26/24
GRVC	4A	1/22/24	RNDC	1 US	1/22/24	RNDC	Mod 2 S	3/27/24
GRVC	4A	2/21/24	RNDC	3 C N	4/9/24	RNDC	Mod 3LS	3/26/24
GRVC	4A	3/27/24	RNDC	3 L S	4/8/24	RNDC	Mod 3UN	1/26/24
GRVC	4B	1/22/24	RNDC	4 U N	4/9/24	RNDC	Mod 3UN	2/22/24
GRVC	4B	2/21/24	RNDC	4 U S	4/9/24	RNDC	Mod 3UN	3/26/24
GRVC	4B	3/27/24	RNDC	5 C S	4/1/24	RNDC	Mod 3US	3/26/24
OBCC	1 N	1/3/24	RNDC	5 L N	4/1/24	RNDC	Mod 4LN	3/27/24
OBCC	3 W	1/2/24	RNDC	5 U N	1/2/24	RNDC	Mod 4US	3/27/24
OBCC	5 SW	3/5/24	RNDC	5 US	4/1/24	WF	17LB	1/23/24
OBCC	7 U	1/9/24	RNDC	6 U S	4/2/24	WF	19UB	1/10/24
OBCC	7 U	2/6/24	RNDC	Intake	3/28/24	WF	19UB	2/26/24

FACILITY	AREA	DATE
WF	19UB	3/13/24

➤ *Adequate Water Facilities Provided*

- a) utility sink not readily available and/or accessible
- b) hot and cold water of adequate flow and pressure not provided
- c) absence of a free-flowing drain

There were no reported instances of inadequate water facilities during this monitoring period.

➤ *Presence Of Vermin Including Indicator Arthropods*

Unlike the other four management categories, observations in this category do not cause an area to automatically fail inspection.

This criterion is listed under the management section because the presence of vermin or indicator organisms requires subsequent action by the correctional staff in reporting the observable condition. However, no further action on their part is necessary unless so directed. If an observation is made, that observation is informational only and does not factor into the overall unit compliance unless it remains unreported or uncorrected.

“Housekeeping Inspection Matrix,” at 12. The Sanitarians observed vermin in all facilities during the inspections listed in the table below.

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**Table 6 Inspections with the Presence of Vermin Including Indicator Arthropods**

FACILITY	AREA	DATE	FACILITY	AREA	DATE	FACILITY	AREA	DATE
EMTC	1 Main	2/23/24	OBCC	6 U	3/12/24	RNDC	Mod 2 N	3/27/24
EMTC	11 Main	4/8/24	OBCC	1 U	2/7/24	RNDC	1 CS	1/22/24
EMTC	5 Lower	2/6/24	OBCC	4 U	3/12/24	RNDC	1 UN	2/12/24
EMTC	6 Lower	4/2/24	OBCC	5 U	1/9/24	RNDC	6 U S	1/9/24
EMTC	7 Main	1/24/24	OBCC	6 U	4/9/24	RNDC	6 U S	2/2/24
EMTC	11 Main	3/14/24	OBCC	7 U	2/6/24	RNDC	6 U S	3/11/24
EMTC	5 Lower	1/8/24	OBCC	1 L	2/7/24	RNDC	Mod 2 S	3/27/24
EMTC	5 Main	1/8/24	OBCC	1 L	3/25/24	RNDC	1 LN	1/22/24
EMTC	10 Lower	1/18/24	OBCC	6 U	1/9/24	RNDC	1 LS	2/12/24
EMTC	5 Main	3/5/24	OBCC	7 U	1/9/24	RNDC	3 C N	4/9/24
GRVC	5A	3/4/24	OBCC	7 U	4/9/24	RNDC	3 L S	4/8/24
GRVC	4A	1/22/24	OBCC	1 U	1/22/24	RNDC	5 L N	4/1/24
GRVC	19B	1/16/24	OBCC	7 U	3/12/24	RNDC	6 U S	4/2/24
GRVC	5A	2/6/24	OBCC	2 L	2/7/24	RNDC	6 U N	3/11/24
GRVC	10A	1/22/24	OBCC	2 L	3/25/24	RNDC	Mod 3US	1/26/24
GRVC	19B	3/11/24	OBCC	4 U	4/9/24	RNDC	Mod 4LN	1/30/24
GRVC	2A	2/26/24	OBCC	8 U	4/9/24	RNDC	4 LN	1/23/24
GRVC	13A	2/13/24	OBCC	2 U	1/22/24	RNDC	6 U N	1/9/24
GRVC	13B	2/13/24	OBCC	3 L	3/25/24	RNDC	Mod 3US	3/26/24
GRVC	4A	2/21/24	OBCC	8 U	3/12/24	RNDC	3 U N	3/12/24
GRVC	5A	4/1/24	OBCC	2 U	2/7/24	RNDC	Mod 3US	2/22/24
GRVC	7A	3/4/24	OBCC	3 S	4/2/24	RNDC	Mod 4LN	3/27/24
GRVC	13A	3/18/24	OBCC	3 L	1/22/24	RNDC	4 U S	2/20/24
GRVC	11B	1/8/24	OBCC	3 U	1/22/24	RNDC	3 L S	2/5/24
GRVC	11B	2/13/24	OBCC	4 L	3/27/24	RNDC	3 U S	1/11/24
GRVC	15A	3/18/24	OBCC	6 L	2/5/24	RNDC	4 LN	3/18/24
GRVC	5B	2/6/24	OBCC	8 U	1/9/24	RNDC	4 U S	4/9/24
GRVC	19A	4/9/24	OBCC	3 L	2/7/24	RNDC	5 L S	4/1/24
GRVC	11A	2/13/24	OBCC	7 L	2/5/24	RNDC	Intake	3/28/24
GRVC	13A	4/8/24	OBCC	1 S	4/8/24	RNDC	Mod 4LN	2/26/24
GRVC	13B	1/8/24	RESH	B14	1/24/24	RNDC	4 U S	1/23/24
GRVC	15A	2/13/24	RMSC	East 2B	3/13/24	RNDC	4 U S	3/18/24
GRVC	19A	3/11/24	RMSC	East 3A	2/15/24	RNDC	2 C S	3/25/24
GRVC	Main Intake	2/14/24	RMSC	South 4B	3/6/24	WF	18LA	3/19/24
GRVC	15A	4/8/24	RMSC	South 4B	1/4/24	WF	18LB	4/10/24
NIC	Annex Intake	2/1/24	RNDC	Mod 1N	1/30/24	WF	18LB	3/19/24
NIC	Dorm 1	3/13/24	RNDC	Mod 3UN	2/22/24	WF	19LA	4/3/24
NIC	Dorm 2B	4/10/24	RNDC	Mod 1N	2/26/24	WF	17UA	2/28/24
OBCC	5 U	2/6/24	RNDC	Mod 1N	3/26/24	WF	17UA	4/10/24
OBCC	5 U	3/12/24	RNDC	Mod 2 S	1/30/24	WF	17UB	4/10/24
OBCC	5 U	4/9/24	RNDC	1 LS	1/22/24	WF	18LA	4/3/24
OBCC	1 L	1/17/24	RNDC	1 UN	1/22/24	WF	17LA	3/19/24
OBCC	6 U	2/6/24	RNDC	Mod 2 S	2/26/24	WF	17UA	3/19/24

There remains an underrepresentation of observations of vermin and indicator arthropods since vermin indicators are not noted on the EHOs' reports despite their long-established duty to monitor for such indicators. Per, DOC Directive #4005R-A Environmental Health: Control of Vermin/Pest, "the Environmental Health Officer (EHO) shall ensure: a. The mandated weekly inspection of the facility occurs in a timely fashion and note any signs of vermin/pest infestation, any vermin entry points, water sources, and any other conditions conducive to harborage." According to the Defendants, "these are actually cited in the EHO report; however, it is not included in the pages forwarded to OCC, since vermin is no longer a part of the court order." Defs.' June 12, 2023 resp. to OCC's Jan–Apr 2023 Report at 6. "DOC is willing to reconsider whether it would be more efficient to include these findings, notwithstanding the status of the Order." *Id.* at FN2. To date, the Defendants have not provided OCC with EHO reports that include vermin observations.

In noting that the weekly EHO reports do cite vermin observations--and DOC continues to note that the former vermin provisions of the original consent decree have been terminated--OCC asks again for DOC to include those observations. (citation removed). As further noted by OCC, we informed the parties in our June 12, 2023 response, that DOC had been considering whether it would be helpful to do so. After further consideration, the Department has determined that it will continue the current practice of redacting parts of the EHO reports that are no longer under monitoring, given that OCC does not use the EHO reports to calculate compliance.

Defs.' resp. at 6. The Department's response is not only disappointing, it is puzzling. The Department gives the fact that OCC cannot use the EHO reports for compliance calculation as the reason for not providing the pertinent vermin data! It is the Department that has continually refused to update the EHO reports for compliance calculation despite OCC's repeated recommendation that the reports should be

updated. Moreover, the Department’s own consultant, Strategic Health Advisers,—referenced in the Defendants’ response (at 2): “issued various recommendations that . . . included revising the matrix and instituting other changes to various protocols.”—among them, that the EHOs should use the PHS form, which is used in calculating compliance.

As previously noted, Plaintiffs also “request that the Department produce to OCC the pages of the EHO reports concerning vermin—both because those findings are part of *Benjamin’s* scope and because they will provide OCC with a fuller picture of the overall sanitation in the City jails.” Pltfs.’ October 13, 2023 resp. to OCC’s May–Aug 2023 Report at 2. “DOC withholds from OCC the sections of the EHO report that note ‘any signs of vermin/pest infestation, any vermin entry points, water sources, and any other conditions conducive to harborage,’ arguing that vermin is not part of the court order, even though the parties agreed in 2011 that ‘integrated pest management is an integral part of an effective housekeeping program.’” Pltfs.’ resp. at 2-3.

Per, the “Inspection Matrix” (at 2) that was developed by Mr. Eugene Pepper and the parties’ experts in 2011 and currently used by the Department during its facility inspections:

This observation was included because housekeeping is a major component of integrated pest management. As such, it is integral to an effective housekeeping program. Because the actual pest eradication is coordinated by a professional pest control technician, who is not under the direct supervision of inmate management administration, it is not controlled as other components of the housekeeping program. Even though this observation is essential in the health and wellbeing of the inmates and staff, it does not factor into the compliance score, but is included as an informational component that requires immediate action when noted.



Despite not factoring into the compliance score, the continued observations of vermin and the repeated sightings in specific locations indicate an ongoing issue of noncompliance with the *Benjamin* sanitation mandates. “[T]he Department [does not] agree that vermin observations themselves are a sign of non-compliance. Many of the facilities are older structures, food is consumed there, and detainees are permitted to keep food in their cells and housing area.” Defs.’ June 12, 2023 resp. to OCC’s Jan–Apr 2023 Report on Environmental Conditions at 6. OCC reminds the Department: “An effective sanitation program decreases the food supply and provision of shelter necessary for the habitation of vermin and pests.” DOC Directive #4005R-A, Environmental Health: Control of Vermin/Pest at 2. The inspections listed above wherein vermin indicators were observed do not detail the actual counts since the observations are grouped together during an inspection accordant with the binary protocol. The actual frequency of observations of vermin in areas that are visited once per month at most, suggests an ineffective sanitation program and, ultimately, noncompliance with the *Benjamin* sanitation mandates. Mice, ants, flies, roaches, gnats, and drain flies were among the vermin observed repeatedly in all areas of the facilities, but mostly in shower areas, janitor’s closets, and common areas. Cells, both occupied and vacant, were observed with ants, gnats, and mouse droppings. To illustrate, instances of vermin indicators observed during the inspections include but are not limited to:

**Table 7 Presence of Vermin and Indicator Arthropods - Examples**

<b>FACILITY</b>	<b>AREA</b>	<b>DATE</b>	<b>LOCATION</b> (o=occupied, v=vacant)	<b>OBSERVATION</b> (wos=work order submitted)
EMTC	11 Main	3/14/24	common area	mouse droppings at junctions

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EMTC	11 Main	4/8/24	common area	mouse droppings at corners
EMTC	11 Main	4/8/24	common area	mouse droppings at junctions
EMTC	11 Upper	3/14/24	common area	gnats in area
EMTC	6 Lower	4/2/24	janitor's closet	"large roaches"
GRVC	10A	1/22/24	shower area	"small worms . . . coming out from the crevices"
GRVC	15A	4/8/24	shower area	shower #2 with drain flies - R 1
GRVC	15A	4/8/24	shower area	shower #4 with drain flies - R 1
GRVC	19A	4/9/24	shower area	fruit flies - R 1
GRVC	19A	4/9/24	shower area	drain flies - R 1
GRVC	5A	4/1/24	shower area	drain flies - R 2
GRVC	Main Intake	2/14/24	pen #11	fruit flies by sink
GRVC	Main Intake	2/14/24	pen #13	fruit flies by toilet
NIC	Annex Intake	2/1/24	common area	gnats in area
NIC	Dorm 1	3/13/24	toilet area	gnats in area
NIC	Dorm 2B	4/10/24	toilet area	gnats in area
OBCC	1 L	1/17/24	shower area	fruit flies noted
OBCC	1 L	1/17/24	janitor's closet	fruit flies noted
OBCC	1 L	1/17/24	toilet area	dead roach in light shield - R 4 (wos 12/22/23)
OBCC	1 L	2/7/24	shower area	fruit flies noted
OBCC	1 L	2/7/24	janitor's closet	fruit flies noted
OBCC	1 L	2/7/24	toilet area	dead roach in light shield - R 5 (wos 12/22/23)
OBCC	1 S	4/8/24	shower area	fruit flies noted
OBCC	1 U	1/22/24	shower area	fruit flies noted
OBCC	1 U	1/22/24	janitor's closet	fruit flies noted
OBCC	1 U	2/7/24	shower area	drain flies
OBCC	2 L	2/7/24	shower area	drain flies
OBCC	2 L	2/7/24	janitor's closet	drain flies
OBCC	3 S	4/2/24	janitor's closet	drain flies
OBCC	4 U	3/12/24	janitor's closet	drain flies
OBCC	4 U	4/9/24	janitor's closet	drain flies
OBCC	5 U	3/12/24	janitor's closet	drain flies
OBCC	5 U	3/12/24	shower area	drain flies
OBCC	5 U	4/9/24	shower area	drain flies - R (wos 3/1/24)
OBCC	6 L	2/5/24	janitor's closet	drain flies
OBCC	6 U	3/12/24	janitor's closet	drain flies
OBCC	6 U	3/12/24	shower area	drain flies
OBCC	6 U	3/12/24	toilet area	drain flies
OBCC	6 U	4/9/24	shower area	drain flies - R (wos 3/1/24)
OBCC	6 U	4/9/24	janitor's closet	drain flies - R (wos 3/1/24)
OBCC	6 U	4/9/24	toilet area	drain flies - R (wos 3/1/24)
OBCC	7 U	1/9/24	shower area	fruit flies noted
OBCC	7 U	1/9/24	janitor's closet	fruit flies noted
OBCC	7 U	2/6/24	shower area	drain flies
OBCC	7 U	2/6/24	toilet area	drain flies
OBCC	7 U	2/6/24	janitor's closet	drain flies
OBCC	7 U	3/12/24	shower area	drain flies
OBCC	7 U	4/9/24	janitor's closet	drain flies
OBCC	7 U	4/9/24	shower area	drain flies

FACILITY	AREA	DATE	LOCATION (o=occupied, v=vacant)	OBSERVATION (wos=work order submitted)
OBCC	8 U	1/9/24	janitor's closet	fruit flies noted
OBCC	8 U	3/12/24	janitor's closet	drain flies
OBCC	8 U	4/9/24	janitor's closet	drain flies
OBCC	8 U	4/9/24	shower area	drain flies
RMSC	East 2B	3/13/24	toilet area	fruit flies in area
RMSC	South 4B	3/6/24	toilet area	fruit flies
RNDC	2 CS	3/30/24	janitor's closet	three live large water bugs (wos 3/25/24)
RNDC	3 CN	4/9/24	cell #20 (o)	mouse droppings
RNDC	3 CN	4/9/24	cell #11 (o)	mouse droppings
RNDC	3 LS	4/8/24	cell #19 (o)	mouse droppings under radiator cover (wos 3/30/24)
RNDC	3 UN	3/12/24	cell #2 (o)	mouse droppings on floor under radiator cover
RNDC	3 UN	3/12/24	cell #2 (o)	dead roach on floor near toilet
RNDC	3 US	1/11/24	cell #12 (v)	mouse droppings under radiator cover
RNDC	Mod 4 LN	3/27/24	sleeping area	mouse droppings at junctions - R2
RNDC	4 US	4/9/24	dayroom toilet	dead roach inside light shield - R 3 (wos 1/23/24, 2/20/24, 3/18/24, and 4/9/24)
RNDC	5 LN	4/1/24	cell #10 (v)	mouse droppings at junctions (wos 3/17/24)
RNDC	5 LS	4/1/24	cell #6 (v)	mouse droppings under radiator (wos 3/17/24)
RNDC	5 LS	4/1/24	cell #18 (o)	mouse droppings under radiator (wos 3/17/24)
RNDC	6 UN	3/11/24	cell #24 (o)	mouse droppings at corners under radiator cover
RNDC	6 US	3/11/24	dayroom toilet	dead house fly in light shield - R1 (wos 3/11/24)
RNDC	6 US	4/2/24	dayroom	mouse droppings at corners
RNDC	6 US	4/2/24	dayroom toilet	house fly in light shield - R 2 (wos 3/11/24)
WF	17UA	4/10/24	shower area	drain flies
WF	17UA	4/10/24	janitor's closet	drain flies
WF	17UA	4/10/24	toilet area	fruit flies
WF	17UB	4/10/24	shower area	drain flies
WF	18LA	4/3/24	shower area	drain flies
WF	18LA	4/10/24	shower area	drain flies
WF	19LA	4/3/24	shower area	drain flies

The Department provides vermin proof “blue buckets” for food storage; however, those buckets are not always available, as in EMTC new admission (NA), mental observation (MO) and medical areas during the following inspections:

- EMTC 2 Upper (MO) week ending 4/6/24
- EMTC 3 Upper (MO) week ending 4/6/24
- EMTC 3 Main (med) week ending 4/6/24
- EMTC 6 Lower (NA) week ending 4/13/24
- EMTC 7 Main (NA) week ending 1/20/24
- EMTC 7 Main (NA) week ending 1/27/24
- EMTC 7 Main (NA) week ending 4/13/24
- EMTC 7 Upper (NA) week ending 1/13/24
- EMTC 7 Upper (NA) week ending 4/13/24
- EMTC 8 Lower (NA) week ending 1/20/24
- EMTC 8 Lower (NA) week ending 1/27/24
- EMTC 8 Main (NA) week ending 1/13/24
- EMTC 8 Main (NA) week ending 1/20/24
- EMTC 8 Main (NA) week ending 2/10/24
- EMTC 8 Main (NA) week ending 2/17/24

“[P]eople in custody are encouraged to store foods items in vermin proof containers” per the Defendants’ October 13, 2023 response to OCC’s May–August 2023 draft report at 4. Notwithstanding that sound advice, the Defendants now seem uninterested that the necessary buckets are not available as needed, stating: “These buckets are routinely provided to all incoming individuals, and each receives several buckets for their personal use. In any event, DOC reminds OCC that the Environmental Order’s provision on food storage containers was terminated in 2008, thereby making OCC’s continued reporting on their availability unnecessary.” Defs.’ resp. at 6. (OCC clarifies that the “several buckets” individuals receive are not all commissary buckets and some do not have tight fitting lids.)

The Department is currently working with a vendor for pest control services, which, hopefully, will result in a sustained reduction in vermin activity in the facilities.

HOUSEKEEPING OUTCOME OBSERVATIONS – the following six criteria are direct observations of physical housekeeping conditions.

➤ *Unclean to Sight*

- presence of loose filth and garbage
- dust and dirt accumulation
- soiling of touch points and/or high (common) touch surfaces
- soiled bed frames and dayroom furnishings
- soiled utility (janitor’s) closet
- soil imbedded at transition areas such as edges of spalled tile, floor to wall junctions, door jambs, and furnishing floor anchors

Per the Department, “All floors, walls, ceilings, plumbing fixtures, and common touch surfaces shall be inspected for the presence of dirt, dust, soap scum, and/or mildew.

Special attention shall be paid to light shields, vents, window ledges, and floor/wall

junctions.” DOC Directive 3901R-B, Housekeeping Procedures at 13. Further, “[a]ll floors located in common areas of the housing area shall be swept and washed three (3) times a day, and kept dry and free of hazardous materials.” *Id.* at 8. And, as required by the Court and the Department’s directive, “[janitor’s] closets shall be cleaned and sanitized once daily and more often if necessary.” *Id.* at 9. During this monitoring period, the observations were similar to those of prior periods and again consisted principally of dirty janitor’s closets and equipment; soap scum and dirt build-up in shower areas; dirty floors, corners, and junctions; dirty walls; dirty/dusty window screens and ledges; and dirty light shields. Examples were provided to the parties as an attachment to the draft of this report to illustrate the observations during this monitoring period, which underscore an ongoing lack of compliance.

➤ ***Organic Soil Accumulations in Wet and Moist Areas***

- organic debris accumulation in and around toilets, urinals, utility sinks, lavatories and showers
- drain screens<sup>12</sup> not cleaned of hair and debris; partially occluded drains resulting in temporary pooling of water
- chronic pooling of water and/or presence of chronically wet walking surfaces

The Department requires surfaces to be inspected for mildew, among other things, and when observed, the correction officer is responsible for ensuring its removal. To remove mildew, mildew remover must be applied to the surface and left there for fifteen minutes before manually scrubbing and thoroughly rinsing it off the surface.

Mildew and other organic debris were observed mostly in shower and toilet areas,

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<sup>12</sup> Per the Housekeeping Matrix, “If the floor drain is occluded or partially occluded with organic deposits below the drain screen, it cannot be cleaned using regular housekeeping methods. Therefore, it is not considered a non-compliance issue and a notation of the observation should be made in the comments section on the inspection report.”

janitor’s closets, and cells. Some examples from the hundreds of observations in this category were provided to the parties as an attachment to the draft of this report.

Within the category of organic soil accumulations, the Department requires that “[a]ll drains shall have covers that shall be cleaned daily in order to prevent clogging and defective drainage.” Directive 3901R-B, Housekeeping Procedures at 9. Some examples, illustrative of the fact that the drains are not being cleaned as required, are listed in the table below.

Table 8 Dirty and Clogged Drains - Examples

WEEK ENDING	FACILITY	AREA	LOCATION	OBSERVATION
2/17/24	GRVC	15B	janitor's closet	dirty sink drain
3/30/24	GRVC	2A	cell #9 (o)	sink “with clogged water”
3/30/24	GRVC	8B	cell #14 (o)	sink “with clogged water”
3/30/24	NIC	2D	janitor’s closet	“stagnate dirty water” in sink – R1
1/27/24	NIC	3B (shared jc and storage)	janitor's closet	“stagnated, murky water” in sink
1/13/24	RNDC	3 C N	janitor's closet	dirty floor drain

Further, within the category of organic soil accumulations, there were also numerous instances of chronic pooling of water and chronically wet walking surfaces. As with the other subcategory in this grouping, illustrative examples are provided herein.

Table 9 Ponded, Pooled, and Standing Water - Examples

WEEK ENDING	FACILITY	AREA	LOCATION	OBSERVATION
2/24/24	GRVC	10A	shower area	shower #5 - standing water on floor
3/30/24	GRVC	8B	shower area	shower #6 – floor “flooded”
3/2/24	NIC	3B (shared jc and storage)	common area	ponded water on floor
4/6/24	OBCC	1N	cell #16 (unk)	“observed with ponded” water
4/13/24	OBCC	1N	shower area	ponded water in area
4/6/24	OBCC	2S	shower area	ponded water in area
4/13/24	OBCC	3L	shower area	dirty ponded water in area
4/13/24	OBCC	3U	not specified	ponded water at sink area
4/6/24	OBCC	4U	shower area	shower #4 - standing water on floor
4/6/24	OBCC	8L	shower area	shower #1 - standing water on floor (wos – date not specified)
4/6/24	OBCC	Main Intake	shower area	ponded water on floor of decontamination shower
4/13/24	OBCC	Main Intake	pen #1	ponded water on floor
2/24/24	RMSC	B 3	cell #12 (v)	puddle of water by sink area

WEEK ENDING	FACILITY	AREA	LOCATION	OBSERVATION
1/27/24	RMSC	B 7	shower area	standing water on floor
2/24/24	RMSC	B 7	shower area	shower #3L - standing water on floor
3/30/24	RMSC	B 7	shower area	standing water on vestibule floor

➤ *Surfaces (not) Smooth and Easily Cleanable*

- structural surfaces in poor repair; porous; uneven/irregular/jagged, for example: wall-floor junctions not smooth, rounded, or sealed; cracks, joints and tile grouting not sealed or in good repair
- beds and/or dayroom furnishings in poor repair

The Department defines cleanable surfaces as “[c]apable of being cleaned” and exemplifies that definition as “[s]urfaces that are made of smooth, hard, durable, and non-porous substances.” DOC Cleaning and Sanitizing Manual at 2.

There are maintenance conditions that must be reported and repaired to ensure that all surfaces are cleanable. Missing tiles, plumbing leaks, missing/loose cove base, and trip/fall hazards must be reported expeditiously through the work order system. Any wooden patches must be painted prior to the installation of the wooden patches. If there are unpainted wooden patches in the housing area, the area captain must be notified. The area captain shall inform the environmental health captain who will ensure that patch is painted.

*Id.* at 12.

As with prior monitoring periods, there are hundreds of instances of surfaces that are not smooth and easily cleanable throughout all facilities; however, these deficiencies, although reported repeatedly, largely remain unrepaired. Numerous examples of surfaces that were not smooth and easily cleanable were provided to the parties as an attachment to the draft of this report. As before, in certain instances, work orders were submitted and resubmitted with deficiencies lasting across monitoring periods. “Failure to comply with the mandates of Directive #3910RB entitled ‘Work Order Procedures’ explains why there are numerous deficiencies for missing tiles, spalling

surfaces, and inoperable lights.” Department of Correction Response to R.W. Powitz

& Assoc. Report of January 31, 2023 at 13. Per, OCC’s former expert sanitarian,

Eugene Pepper:

[E]ven if proper procedures are followed, the impact of poor surface conditions is impacting cleaning and sanitizing negatively. Despite sometimes heroic efforts by staff, damaged surfaces cannot be properly cleaned, yet when repairs are made . . . the staff generally are capable of maintaining them in a safe and clean condition.

2013 Environmental Health Inspections for New York City Jail Facilities at Rikers Island

at 9.

➤ <i>Inadequate Lighting</i>
<ul style="list-style-type: none"> <li>• less than 10 foot-candles, measured at three feet from the target horizontal surface, or,</li> <li>• less than optimal lighting from an existing and operational luminary—this includes observable conditions such as dimming or flickering and/or the presence of blackened ends of fluorescent light bulbs</li> </ul>

The instances of inadequate lighting during this monitoring period were recorded in the janitor’s closets, showers, toilet areas, and dayroom toilets of EMTC, NIC, OBCC, RMSC, RNDC, and WF. EHOs are in the facilities daily but do not record light readings, so there is no accurate count of inadequate lighting. In certain cases, the inadequate lighting violation remained unabated after the initial report. Examples, many showing repeated violations, are provided in the table below.

**Table 10 Inadequate Lighting - Examples**

FACILITY	AREA	LOCATION	FOOT CANDLES (fc)	DATE
EMTC	12 Upper	janitor's closet	1.5 (light fixture inoperable)	2/12/24
NIC	3C	shower area	7.7	2/28/24
OBCC	1 L	janitor's closet	6.8	1/17/24
			6.8	2/7/24
			6.8	3/25/24
	1 N	janitor's closet	0.3	2/1/24
			0.3	3/4/24
			0.3	4/1/24



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FACILITY	AREA	LOCATION	FOOT CANDLES (fc)	DATE
	1 W	janitor's closet	0.3	1/3/24
			0.4	2/1/24
			0.4 (wos 3/2/24)	3/4/24
			0.4 (wos 3/2/24)	4/1/24
	1S	janitor's closet	0.4 (wos 11/23/23)	1/9/24
			0.4 (wos 11/23/23)	2/5/24
			0.4 (wos 11/23/23)	3/11/24
			0.4 (wos 11/23/23)	4/8/24
	2 SW	janitor's closet	0.7	1/17/24
			0.7	2/5/24
			0.7	3/11/24
			0.7	4/8/24
	3 S	janitor's closet	0.6	1/8/24
			0.6 - R 6 (light inoperable)	2/2/24
			0.6 - R 7 (wos 12/9/23)	3/5/24
			0.6 - R 8 (wos 12/9/23)	4/2/24
	3 SW	janitor's closet	0.6	1/8/24
			0.6	2/2/24
			0.6	3/5/24
			0.6 - R (wos 3/16/24)	4/2/24
	3 W	janitor's closet	0.6	1/2/24
	4 S	shower area	0.4	1/8/24
	5 N	janitor's closet	0.7	1/2/24
			0.9	2/1/24
			0.9	3/4/24
			0.9	4/1/24
	5 S	janitor's closet	0.8	1/8/24
0.4			2/2/24	
0.4			3/5/24	
0.4			4/2/24	
5 SW	janitor's closet	0.7	2/2/24	
5 W	janitor's closet	5.2	1/2/24	
5SW	janitor's closet	0.6	1/8/24	
7 U	janitor's closet	7.3	1/9/24	
		7.3	2/6/24	
		7.3 (wos 2/26/24)	3/12/24	
RMSC	B 7	janitor's closet	4.3	1/25/24
	Nursery	janitor's closet	6.2	3/7/24
			7.8	3/20/24
			6.2	4/4/24
	South 2A	shower area	6.8	1/18/24
			6.5	2/22/24
4.8			4/10/24	
RNDC	1 UN	shower area	light fixture inoperable (wos 1/7/24 - fc affected by sun)	1/22/24
			light fixture inoperable (wos 1/7/24 and 2/12/24)	2/12/24
	5 C S	shower area	light inoperable	2/1/24
			inoperable	3/4/24

FACILITY	AREA	LOCATION	FOOT CANDLES (fc)	DATE
			inoperable - R 1	4/1/24
	6 L S	dayroom toilet	1.2 (no light fixture)	1/9/24
			3.9	2/2/24
	6 U N	janitor's closet	0.9 (light inoperable)	2/2/24
			0.7 - R 1 (light inoperable)	3/11/24
	6 U S	janitor's closet	0.9 (light inoperable)	3/11/24
	Mod 1S	shower area	8.6	2/26/24
			9.1	3/26/24
	Mod 3LN	shower area	9.2 (light inoperable)	1/26/24
			9.1 (light inoperable)	2/22/24
			9.2 (light inoperable)	3/26/24
	Mod 3UN	janitor's closet	9.1 (light inoperable)	1/26/24
			9.2 (light inoperable)	2/22/24
			9.1 (light inoperable)	3/26/24
WF	Spr 5	janitor's closet	4.2	1/4/24
			4.2	1/11/24
			4.2	1/18/24
			4.2	1/25/24
			4.2	1/29/24
			5.1	2/22/24
			4.2	3/7/24
			4.2	3/14/24
			4.2	3/21/24
			4.2	3/28/24
			4.2	4/4/24
			4.2	4/11/24
	Spr 6	shower area	1.0	3/26/24
	Spr 11	shower area	3.9	2/27/24

OCC continues to believe that repeat occurrences in the same location should be cause for concern as deficiencies that directly affect sanitation and compliance with the *Benjamin* orders are clearly being ignored even after repeated reporting by the PHS despite the Department’s requirement that, “[t]he Commanding Officer shall ensure that all sanitation related deficiencies cited on the Public Health Sanitarian reports and other regulatory agency and oversight agency reports are abated expeditiously.” DOC Directive #3901R-B, Housekeeping Procedures at 2. Directives are not being followed.

## ➤ Presence of Malodors

- Malodors are those that are classified as those that are distinctly septic, putrefactive, or body odors.

The increase in instances of malodors during the two preceding monitoring periods was not maintained during the current monitoring period despite the number of affected facilities increasing from three facilities to five. The observations were concentrated in EMTC, GRVC, NIC, OBCC, and WF, with the malodors detected mostly in shower and toilet areas, janitor's closets, and vacant cells. Examples are provided in the table below.

Table 11 Presence of Malodors - Examples

WEEK ENDING	FACILITY	AREA	LOCATION
2/24/24	EMTC	4 Upper	toilet area
2/17/24	GRVC	13A	common area
2/17/24	GRVC	13B	cell #3 (v)
4/13/24	GRVC	19B	janitor's closet
4/13/24	GRVC	19B	cell #36 (v)
1/20/24	GRVC	3A	janitor's closet - R1
1/27/24	GRVC	4A	common area
2/10/24	GRVC	9B	janitor's closet
1/27/24	NIC	2A	janitor's closet
2/3/24	OBCC	3 SW	janitor's closet
4/6/24	OBCC	3 SW	janitor's closet
3/23/24	WF	17UB	shower area
4/13/24	WF	17UB	shower area

**➤ Ventilation**

- exhaust ventilation in toilets, showers and utility closets not working
- exhaust ventilation grilles occluded with dust, dirt or sealed with paint

Observations of ventilation deficiencies were reported in all facilities and reflect an ongoing issue with the cleaning, maintenance, and repair of vents. Examples were provided to the parties as an attachment to the draft of this report. The deficiencies consisted principally of dirty/dusty vents and partially or fully occluded vents as in GRVC 1A cell #1, cell #4, and cell #10, which were observed to be “clogged” and with “low air flow” during the week ending 4/6/24. Work orders had been submitted on 3/4/24 for cell #1 and on 3/27/24 for cell #4 and cell #10. In numerous other instances, the condition was not abated and the same violation was reported repeatedly.

## 2. DOHMH INSPECTION REPORTS

The Environmental Order requires the NYC Department of Health and Mental Hygiene’s Division of Environmental Health, hereinafter “DOHMH,” (formerly DOH) to “thoroughly inspect each jail at least once every month[,] . . . submit to [OCC] . . . reports of all such inspections, and the [DOC] shall provide [OCC] with a description of any ameliorative actions taken, planned or recommended.” Environmental Order ¶ 6–6a. The DOHMH submitted reports for October–November 2023 and January–February 2024 during this monitoring period. Despite repeated requests, the December 2023 reports were not produced, and reports have not been submitted for March and April 2024. The discussion is limited to the reports for the current monitoring period.

In format, the DOHMH reports specify the areas to be inspected, those that could not be inspected (for reasons including consolidation or closing of housing areas), areas in which no violations were observed, and areas in which violations were observed. The standardized reports are completed with a violation checklist cover page for the categories specified in the table below, which are explained on its reverse as in the “violation subcategories” column of the table, and the details of each violation are explained in narrative form.

- DOHMH Observations

Unlike the reports provided by the Defendants, the DOHMH reports are not redacted; however, OCC has not considered non-*Benjamin* matters when undertaking its reviews. Relatedly, OCC did not consider such matters in analyzing the types and frequencies of reported violations, and areas with matters that are not currently

subject to *Benjamin*, e.g., clinic, were excluded from review. Additionally, violations reported in areas that are subject to *Benjamin*, but have violations not under OCC's purview are coded as non-*Benjamin* violations for statistical purposes and not included in the discussion. As a reminder, DOHMH's focus and standardized reporting of violations differ from DOC but have some overlap with the *Benjamin* mandates.

The January and February 2024 reports are summarized below and the Department's response with generic descriptions of recommended ameliorative actions, which was submitted to OCC on June 12 along with Defendants' overall response to the draft of this report, is appended to this report. OCC notes that the comments are identical (verbatim) to those submitted to OCC for the May–August 2023 Report on Environmental Conditions, which is on file with the court. The areas scheduled for inspection by DOHMH but not inspected and the reasons are listed below.

- GRVC 13A 1/30/24 "medical emergency"
- GRVC 13B 1/30/24 "medical emergency"
- GRVC 15A 1/30/24 "medical emergency"
- GRVC 15B 1/30/24 "medical emergency"
- OBCC 3N 1/29/24 "unable to be inspected due to spraying of mace and incident amongst inmates"
- OBCC 3W 1/29/24 "unable to be inspected due to spraying of mace and incident amongst inmates"
- RESH B13 2/26/24 no notes
- RESH B9 1/29/24 "utilized only by staffs for uniforms and equipments (sic)"
- RESH B9 2/26/24 no notes
- RMSC B2 2/26/24 "not open"
- RMSC B4 2/26/24 "not open"
- RNDC 2UN 1/29/24 closed
- WF Spr 13 1/29/24 "off limits"
- WF Spr 14 1/29/24 "off limits"
- WF Spr 15 1/29/24 "off limits"
- WF Spr 16 1/29/24 "off limits"

Areas inspected by DOHMH with no *Benjamin* violations are listed below.

- EMTC Intake 1/29/24
- GRVC 11B 1/30/24
- GRVC 19B 1/30/24
- NIC Annex Intake 1/29/24
- RESH B10 2/26/24
- RESH B15 2/26/24
- RESH B16 1/29/24
- RESH Intake 2/26/24
- RNDC 2US 2/26/24
- RNDC 3CN 1/29/24
- RNDC 4CN 2/26/24
- RNDC 4CS 2/26/24
- RNDC 4UN 2/26/24
- RNDC Intake 1/29/24

The DOHMH standards for which violations were reported during the January–April 2024 monitoring period include those in the table below, which are also *Benjamin* violations. Similar to the *Benjamin* sanitation inspection protocol, the forty-nine occurrences represented in the table do not reflect individual instances, but groups of instances.

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DOHMH Violation Category	Violation Subcategories	Subcategory Occurrences Cited by DOHMH	Related <i>Benjamin</i> Mandate
Air Quality	<i>Dust or odor create nuisance.</i>	0	Environmental Order ¶ 11, Sanitation Stipulation ¶ 5.A.
	<i>Existence of mold or mildew creates nuisance.</i>	1	Environmental Order ¶ 15, Sanitation Stipulation ¶ 5.A.
	<i>Ambient air temperature not maintained at required level.</i>	1	Heat Orders re: Adequate Cooling in Punitive Segregation Areas
	<i>Ventilations system not provided, inadequate, not adequately maintained, or in disrepair.</i>	2	Environmental Order ¶ 15, Am. Supp. Ventilation Order, Sanitation Stipulation ¶ 5.A.
Chemicals and Waste Management	<i>Waste receptacles not provided or inadequate. Storage area not properly constructed or maintained, grinder or compactor dirty.</i>	0	Environmental Order ¶ 11
Construction and Equipment	<i>Floor, wall, ceiling, door, or window improperly constructed, not adequately maintained or in disrepair.</i>	16	Sanitation Stipulation ¶ 2
	<i>Toilet, lavatory, or shower not provided, inadequate in number, not adequately maintained or in disrepair.</i>	8	Sanitation Stipulation ¶ 5.C.
	<i>Adequate lighting not provided.</i>	2	Environmental Order ¶ 17, Amended Lighting Order, Sanitation Stipulation ¶ 5.D.
	<i>Equipment/utensil not clean, in good repair, washed, rinsed, disinfected, sanitized or sterilized as required.</i>	3	Environmental Order ¶ 11, Sanitation Stipulation ¶ 5.A.
Plumbing	<i>Hot water not provided.</i>	2	Sanitation Stipulation ¶ 5.A.
	<i>Plumbing system not properly installed or maintained. System pressure inadequate.</i>	4	Sanitation Stipulation ¶ 2
	<i>Sewage or liquid waste on ground accessible to occupants. Sewage disposal system improper, unapproved or defective. Surface drainage inadequate. Facility or equipment contaminated by sewage.</i>	2	Sanitation Stipulation ¶ 2
Vermin and Weed Control	<i>Vermin control inadequate. Harborage or conditions conducive to vermin exist.</i>	8	Sanitation Stipulation ¶ 5.A.



Within the groups of violations, the DOHMH inspectors noted 230 violations in the following *Benjamin* categories:

<i>Benjamin</i> Finding Category	Count of Violation
dirty or clogged drain	13
fire safety	6
fixture constantly running/dripping	3
organic soil accumulations	36
ponded, pooled, or standing water	3
surfaces not smooth and easily cleanable	100
unclean to sight	16
ventilation	28
vermin	22
violation not specified	3

<i>Benjamin</i> Finding Category	Facility	Area	Violation	Date
<i>dirty or clogged drain</i>	GRVC	17B	"clogged" shower #3	1/30/24
			"clogged" shower #4	1/30/24
	OBCC	2 Southwest	shower stall #4 drain clogged	2/26/24
			3 South	shower stall #4 drain clogged
		3 Southwest	clogged floor drain in shower stall #5	2/26/24
			clogged floor drain in shower stall #6	2/26/24
			clogged floor drain in shower stall #7	2/26/24
			clogged floor drain in shower stall #8	2/26/24
	4 Southwest	clogged floor drain in shower stall #8	2/26/24	
	RMSC	East 2B	clogged drain in shower area	2/26/24
	RNDC	3 Lower North	"sewer line clogged"	1/29/24
			occupied cell #21 toilet clogged and with brown water	1/29/24
		3 Upper North	clogged sink in dayroom bathroom	1/29/24
<i>fire safety</i>	RESH	Bldg. 15	"fire markings" in cell #27	1/29/24
			"fire markings" in cell #34	1/29/24
			"fire markings" in cell #38	1/29/24
	RNDC	4 Upper South	"fire damage" on ceiling in front of cell #22	2/26/24
	WF	Intake	pen #545 "black burn stains" on floor tile	1/29/24
			pen #545 "black burn stains" on wall	1/29/24
<i>fixture constantly running/dripping</i>	EMTC	1 Upper	"dripping hot water above bed #50"	1/29/24
	OBCC	3 Southwest	"liquid waste observed dripping from ceiling" in janitor's closet	2/26/24
	RNDC	3 Upper South	shower #1 constantly running	1/29/24
<i>organic soil accumulations</i>	EMTC	9 Upper	mildew in janitor's closet	2/26/24
			mildew on dayroom ceiling	2/26/24
	GRVC	10A	"heavy accumulation of mold in slop sink area"	1/30/24
			"heavy accumulation of molds buildup" - shower #1	1/30/24
		"heavy accumulation of molds buildup" - shower #2	1/30/24	

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<b>Benjamin Finding Category</b>	<b>Facility</b>	<b>Area</b>	<b>Violation</b>	<b>Date</b>
			"heavy accumulation of molds buildup" - shower #3	1/30/24
			"heavy accumulation of molds buildup" - shower #4	1/30/24
			"heavy accumulation of molds buildup" - shower #5	1/30/24
	10B		"heavy accumulation of mold buildup" - shower #1	1/30/24
			"heavy accumulation of mold buildup" - shower #2	1/30/24
			"heavy accumulation of mold buildup" - shower #3	1/30/24
			"heavy accumulation of mold buildup" - shower #4	1/30/24
			"heavy accumulation of mold buildup" - shower #5	1/30/24
			"heavy accumulation of mold buildup" - shower #6	1/30/24
	11A		"heavy accumulation of mold buildup" - shower #1	1/30/24
			"heavy accumulation of mold buildup" - shower #2	1/30/24
	17A		"mold buildup" in shower stall #2	1/30/24
	17B		"accumulation of mold buildup" - shower #2	1/30/24
			"accumulation of mold buildup" - shower #3	1/30/24
			"accumulation of mold buildup" - shower #4	1/30/24
	NIC	6 North	"mold" on dorm ceiling	1/29/24
		6 South	"mold" on dorm ceiling	1/29/24
		Dorm 1	"mold" on bathroom ceiling	1/29/24
		Dorm 2C	"mold" on dayroom ceiling	1/29/24
	OBCC	2 South	"mold" on shower stall #4 walls	2/26/24
		2 Southwest	"mold" on shower stall #3 walls	2/26/24
			"mold" on shower stall #4 walls	2/26/24
		3 North	"mold observed in all the showers in shower areas"	2/26/24
		3 South	"heavy accumulation of mold" on walls in janitor's closet	2/26/24
			"mold" on shower stall #5 walls	2/26/24
			"mold" on shower stall #6 walls	2/26/24
			"mold" on shower stall #7 walls	2/26/24
			"mold" on shower stall #8 walls	2/26/24
		3 Southwest	"heavy accumulation of mold" on walls in shower stall #3	2/26/24
		4 Southwest	"heavy accumulation of mold" on walls in shower stall #7	2/26/24
	RESH	Bldg. 11	"moldy" shower ceiling	2/26/24
<b>ponded, pooled, or standing water</b>	GRVC	10A	"heavy accumulation of cloudy standing water" throughout slop sink area	1/30/24
	RNDC	3 Lower North	"pools of brown water" in front of cells #12, #13, #21, #27, and #28	1/29/24
		4 Lower North	cell #26 "flooded with standing water"	2/26/24
<b>surfaces not smooth and easily cleanable</b>	EMTC	1 Main	peeling paint on dorm ceiling	1/29/24
		1 Upper	peeling paint on dorm ceiling	1/29/24
		4 Upper	peeling paint on dorm ceiling	1/29/24
		5 Lower	peeling paint on dorm ceiling	1/29/24
		5 Upper	missing shower floor tiles	1/29/24
		6 Lower	peeling paint on dorm ceiling	1/29/24
		6 Main	peeling paint on dorm ceiling	1/29/24
		6 Upper	peeling paint on dorm ceiling	1/29/24
		7 Lower	peeling paint on dayroom ceiling	2/26/24
			peeling paint on sleeping area ceiling	2/26/24
		7 Main	peeling paint on dayroom ceiling	2/26/24

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<b>Benjamin Finding Category</b>	<b>Facility</b>	<b>Area</b>	<b>Violation</b>	<b>Date</b>
			peeling paint on radiators	2/26/24
			shower area missing floor tiles	2/26/24
	9 Lower		peeling paint on sleeping area ceiling	2/26/24
	9 Main		peeling paint on wall at telephone area	2/26/24
	9 Upper		peeling paint on dayroom ceiling	2/26/24
			peeling paint on sleeping area ceiling	2/26/24
	Intake		missing floor tiles in pen #9	2/26/24
			peeling paint on ceiling at pens #1 - #3	2/26/24
GRVC	10A		"heavy accumulation of rust" on shower walls	1/30/24
			"heavy accumulation of rusts" on walls in slop sink area	1/30/24
			"multiple" broken wall tiles - shower #1	1/30/24
			"multiple" broken wall tiles - shower #2	1/30/24
			"multiple" broken wall tiles - shower #3	1/30/24
			"multiple" broken wall tiles - shower #4	1/30/24
			"multiple" broken wall tiles - shower #5	1/30/24
			peeling paint on cell door #19	1/30/24
			peeling paint on cell door #22	1/30/24
	10B		peeling paint on ceiling in shower area	1/30/24
			peeling paint on walls in shower area	1/30/24
	11A		peeling paint on wall in common area	1/30/24
	17A		peeling paint in shower	1/30/24
	1A		peeling paint on ceiling at cell #16	2/26/24
NIC	2D		peeling paint on common area ceiling	2/26/24
	6 North		peeling paint on dorm ceiling	1/29/24
			rusted shower ceiling	1/29/24
	6 South		"water damage" above bed #27	1/29/24
			"water damage" above bed #29	1/29/24
			2'x1' hole above phones	1/29/24
	Dorm 1		"water damage" on bathroom ceiling	1/29/24
	Dorm 2C		"water damage" on dayroom ceiling	1/29/24
	Dorm 3		broken wall tiles in shower area	1/29/24
			missing wall tiles in shower area	1/29/24
			peeling paint on dorm wall	1/29/24
	Main Intake		"large hole" behind toilet in pen #3	2/26/24
			"water damage" on hallway ceiling	1/29/24
			peeling paint on hallway ceiling	1/29/24
OBCC	1 North		gap in ceiling in lower tier shower area	1/29/24
			two holes in wall in lower tier shower area	1/29/24
	1 West		gap in ceiling in lower tier shower area	1/29/24
			hole in dayroom wall	1/29/24
	2 South		peeling paint on shower stall #2 walls	2/26/24
			peeling paint on shower stall #3 walls	2/26/24
			peeling paint on shower stall #4 walls	2/26/24
	2 Southwest		peeling paint on shower stall #3 walls	2/26/24
			peeling paint on shower stall #4 walls	2/26/24
	3 South		"hole approximately 3 inches in diameter" in janitor's closet ceiling	2/26/24
	3 West		rust on shower stall ceiling	2/26/24
	4 Southwest		broken floor tiles in shower stall #4	2/26/24
			peeling paint in shower stall #4	2/26/24
	5 North		peeling paint on door between cells #10 and #11	1/29/24

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**Environmental Conditions**  
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<b>Benjamin Finding Category</b>	<b>Facility</b>	<b>Area</b>	<b>Violation</b>	<b>Date</b>
		5 West	peeling paint on floor in shower stall #2	1/29/24
			peeling paint on floor in shower stall #4	1/29/24
		8 Lower	peeling paint on wall near bathroom	1/29/24
		8 Upper	cracked floor tile in dayroom	1/29/24
			two holes in wall in dayroom	1/29/24
		Main Intake	2 holes around pipes in storage room	2/26/24
RESH	Bldg. 12		cell #10 "needs repair and painting"	1/29/24
			cell #11 "needs repair and painting"	1/29/24
			cell #13 "needs repair and painting"	1/29/24
			cell #28 "needs repair and painting"	1/29/24
			cell #32 "needs repair and painting"	1/29/24
			cell #33 "needs repair and painting"	1/29/24
			cell #35 "needs repair and painting"	1/29/24
			cell #37 "needs repair and painting"	1/29/24
			cell #41 "needs repair and painting"	1/29/24
			cell #48 "needs repair and painting"	1/29/24
			cell #8 "needs repair and painting"	1/29/24
			cell #9 "needs repair and painting"	1/29/24
RMSC	Bldg. 1		"peeling" shower ceiling	2/26/24
			rusty shower ceiling	2/26/24
	Bldg. 3		"peeling" shower ceiling	2/26/24
			cracked corridor floor	2/26/24
			rusty radiator in shower	2/26/24
			rusty shower ceiling	2/26/24
	East 2A		rusty ceiling in shower	2/26/24
	East 2B		"peeling" dorm wall	2/26/24
			rusty ceiling in shower	2/26/24
RNDC	3 Lower South		peeling paint on dayroom ceiling	1/29/24
WF	Sprung 11		four broken floor tiles near B-post	2/26/24
	Sprung 12		broken floor tiles near B-post	2/26/24
			missing floor tiles near B-post	2/26/24
	Sprung 6		counter "cracked"	1/29/24
	Sprung 7		broken floor tiles	1/29/24
			cell #702 missing floor tiles	1/29/24
			cell #703 missing floor tiles	1/29/24
			cell #770 missing floor tiles	1/29/24
			missing floor tiles	1/29/24
	Sprung 9		missing floor tiles in front of cell #912	2/26/24
<b>unclean to sight</b>	GRVC	17B	"heavy accumulation of dust buildup" at vents in common area	1/30/24
		1A	dusty fan covers at cell #9	2/26/24
NIC	Annex Intake		inoperable sink in pen #1	2/26/24
OBCC	1 West		"accumulation of old food spillage" in garbage bin	1/29/24
RMSC	Bldg. 1		dusty light shield at "hall ceiling"	2/26/24
			dusty top tier	2/26/24
	East 1B		wall stains	2/26/24
RNDC	4 Lower South		dayroom toilet inoperable	2/26/24
WF	Sprung 6		cell #613 "dirty black stains" on ceiling	1/29/24
			cell #613 "dirty black stains" on wall	1/29/24
	Sprung 7		cell #707 "floor stains"	1/29/24
			cell #707 door dirty	1/29/24

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<b>Benjamin Finding Category</b>	<b>Facility</b>	<b>Area</b>	<b>Violation</b>	<b>Date</b>
		Sprung 8	cell #803 "door stains"	1/29/24
			cell #803 "floor dirty"	1/29/24
			cell #804 "door stains"	1/29/24
			cell #804 "floor dirty"	1/29/24
<b>ventilation</b>	NIC	2A	dusty ceiling vent in shower area	2/26/24
		2D	dusty ceiling vent in shower area	2/26/24
	OBCC	8 Lower	dusty ceiling vent in dayroom	1/29/24
		8 Upper	dusty ceiling vent in dayroom	1/29/24
			dusty ceiling vent near water dispenser	1/29/24
		Main Intake	dusty ceiling vent near pens #6, #7, and #15	1/29/24
			two dust-laden vents	2/26/24
	RESH	Bldg. 11	dusty ceiling vents in shower area	2/26/24
		Bldg. 12	dust accumulation at shower ceiling vents	2/26/24
		Bldg. 14	dust accumulation at shower ceiling vents	2/26/24
		Bldg. 16	heavy dust accumulation at shower ceiling vents	2/26/24
	RMSC	Infirmary	"accumulation of dust" at ceiling vent	1/29/24
			dusty ceiling vent	2/26/24
		Intake	"accumulation of dust" at ceiling vent in pen #3	1/29/24
		South 4A	"accumulation of dust" at ceiling vent in janitor's closet	1/29/24
		South 4B	"accumulation of dust" at ceiling vent in janitor's closet	1/29/24
		South 5B	"accumulation of dust" at ceiling vent in shower area	1/29/24
	RNDC	4 Lower South	dusty vents in bathroom	2/26/24
	WF	Sprung 10	dusty ceiling vents near cells #1001 and #1006	2/26/24
			dusty ceiling vents near cells #1009 and #1014	2/26/24
			dusty vents at B-post	2/26/24
		Sprung 11	dusty ceiling vents near cells #1101 and #1106	2/26/24
			dusty ceiling vents near cells #1109 and #1114	2/26/24
			dusty vents at B-post	2/26/24
		Sprung 12	dusty ceiling vents near cells #1201 and #1206	2/26/24
			dusty ceiling vents near cells #1209 and #1214	2/26/24
		Sprung 9	dusty ceiling vents near cells #904 and #914	2/26/24
			dusty vents at B-post	2/26/24
<b>vermin</b>	EMTC	1 Main	drain flies on shower walls	1/29/24
		4 Main	drain flies on shower walls	1/29/24
		4 Upper	drain flies in shower	1/29/24
		5 Lower	drain flies in shower	1/29/24
		5 Main	drain flies in shower	1/29/24
		5 Upper	flies in shower	1/29/24
		6 Lower	drain flies on shower walls	1/29/24
	GRVC	10A	2 fruit flies in shower #3	1/30/24
			30 drain flies on shower walls	1/30/24
			5 fruit flies on walls in slop sink area	1/30/24
			6 drain flies in shower #3	1/30/24
		10B	16 drain flies in shower area	1/30/24
			4 house flies in shower stall #6	1/30/24
		11A	2 house flies in shower area	1/30/24
		13A	flies on wall in shower area	2/26/24
		15A	fruit flies in bottom shower area	2/26/24
	NIC	Dorm 2B	flies in bathroom	1/29/24

<i>Benjamin Finding Category</i>	<i>Facility</i>	<i>Area</i>	<i>Violation</i>	<i>Date</i>
	OBCC	1 West	3 house flies near window	1/29/24
			5 fruit flies on wall near window	1/29/24
		3 Southwest	28 drain flies on walls in janitor's closet	2/26/24
	RESH	Bldg. 14	flies on walls of janitor's closet	2/26/24
	RMSC	South 4A	fruit flies in bathroom	1/29/24
<i>violation not specified</i>	RESH	Bldg. 10	"cell #31 needs painting"	1/29/24
			"cell #42 needs painting"	1/29/24
		Bldg. 14	"cell #30 needs painting"	1/29/24

Per DOC Directive #3900R, EHOs “[c]oordinate visits of the DOHMH Public Health Sanitarian to the facility and escorts sanitarian during scheduled visits”; “[p]repare draft responses to the monthly DOHMH sanitarian report”; and “[m]aintains a permanent file of all required reports, including but not limited to . . . Monthly Department of Health and Mental Hygiene Sanitary Report and Response as required by Directive #3905R, Environmental Health: Inspection & Report Protocol.” As mentioned earlier, the Department provided a copy of generic responses to the violations listed in the DOHMH reports. This is not in accordance with the directions of the directives; neither is it within the spirit of the Environmental Order.

The DOHMH observations, when viewed along with the PHS and EHO observations, emphasize a lack of adherence to cleaning and sanitizing policies and procedures required by the *Benjamin* orders and the Department’s directives. Only the PHS inspections factor into compliance scoring, and based on PHS reports of those inspections, the Department failed 4% of inspections due to management violations. The remaining 32% of all failed inspections were due to housekeeping violations; however, those violations are a result of the failure to follow long established cleaning and sanitizing policies and procedures—a management violation.

Consequently, although the Department would have been noncompliant regardless

of the automatic failure triggered by management violations, the Department's noncompliance is rooted in managerial failures.

### 3. OCC RECOMMENDATIONS

The Department's performance continues to improve; nevertheless, there remains ongoing noncompliance from the failure to follow policies and procedures derived from the sanitation orders. The core issues have not changed, and for that reason, OCC reiterates some of its recommendations from prior monitoring periods and continues to urge their implementation as practical and beneficial.

- **Amend the EHO reports to align with the PHS reports.** The EHO course incorporates the *Benjamin* sanitation orders, and the PHS reports, developed pursuant to the *Benjamin* litigation, are shared with the EHO; yet, the reports are not aligned to determine compliance. OCC believes the parties will get a more accurate reflection of the sanitation conditions through a unified effort by the Department's inspectors. Whereas the PHS inspections of a facility generally take place over the course of a month, the EHO inspections are conducted weekly and should be incorporated at least in part, into the compliance scoring of the PHS reports. These combined reports should then be submitted to OCC instead of the separate reports.
- **Refocus the in-service training for EHOs and PHSs with an increased focus on the *Benjamin* sanitation inspections and report writing.** There continues to be improvement with the inspection and reporting of *Benjamin* deficiencies by the EHOs in some facilities; however, there remains a significant disparity in the quality of work produced by the various EHOs; moreover, the reports

do not align with the Environmental Order at ¶ 3a-c, which requires EHOs to “be provided with appropriate training and experience,” to inspect facilities, and to “submit . . . reports of all such inspections, including a description of any ameliorative actions taken, planned[,] or recommended.” Additionally, the PHS reports still reflect inconsistent reporting of *Benjamin* violations among PHSs and sometimes by the same PHS across inspections.

Consequently, the PHS reports also do not align with the protocols outlined in DOC Directive #3905R – Environmental Health: Inspection and Report Protocol, which sets forth DOC’s policy “to establish and maintain procedures for environmental health inspections and procedures for responses to inspection reports, which are consistent with consent decree mandates, court orders, laws, and regulations.”

- **Ensure that work orders are submitted as required by DOC Directive #3910R – Work Order Procedures and that corrective action is taken timely.** The Department must make certain that work orders are submitted for all maintenance related violations as required by the Environmental Order (at ¶ 5) and should provide an updated work order summary to OCC with the combined PHS/EHO reports. The Defendants long ago reported that these will be provided. Defs.’ July 5, 2022 resp. to OCC Jan-April 2022 Report at 7. However, neither the work order summary nor the combined reports have been submitted to date.



- **Provide ameliorative action responses to the DOHMH reports, pursuant to the Environmental Order.** OCC requests that the Department provide responses of what it actually did to abate the specific violation reported by DOHMH and when, or note that the violation was not abated at all.

## B. HEATING and VENTILATION

### 1. DEFENDANTS' HEATING CERTIFICATION

#### a. Defendants' Obligations

The Environmental Order ¶ 16a mandates that prior to October 15 of each year, the Department “shall inspect, test, and repair or replace to working order all heating systems” in the various facilities, and—shall certify to the Court, with copies to its counsel, OCC, and Plaintiffs that these tasks have been completed. Thereafter, the systems are to be maintained in working order.

#### b. Defendants' Performance

The Department submitted its annual heating certification (covering EMTC, GRVC, NIC, OBCC, RMSC, RNDC, and VCBC (recently closed)) to its counsel, OCC, and Plaintiffs' counsel, on October 17, 2023, reporting that the majority of equipment was operational. Some of the inoperable equipment had dates prior to the Department's submission, and there were no updates to certify that any of the inoperable equipment had been repaired or replaced. OCC requested that the Department certify that all equipment reported inoperable is now operational, and within the Defendants' response the Department reported that the majority of equipment has since been repaired with only one piece of equipment still requiring

service; however, “this is a redundant piece of equipment and the heating systems as a whole were not adversely affected during the heating season.” Defs.’ resp. at 7.

c. Defendants’ Compliance

The Defendants are in compliance with the inspection, testing, and submission provisions of the ventilation certification requirements of the Environmental Order.

## 2. VENTILATION REPORTS

a. Defendants’ Obligations

The November 14, 2003 Ventilation Order ¶ 3 mandates that “[c]opies of [airflow reports], and of any correspondence or documentation made in response to them by the jails’ stationary engineers, by the Director of Environmental Health, or by any other employee or agent of the Defendants, shall be provided to [OCC] and to Plaintiffs’ counsel on a monthly basis.” The February 11, 2009 Am. Supp. Ventilation Order ¶ 4b further mandates that “[t]he Monthly Intake Ventilation Reports, Heating and Ventilation Certification Reports, and Monthly [Airflow] Reading Reports produced by the [Ventilation Task Force teams must] be produced to OCC and Plaintiffs’ counsel on a quarterly basis.” After years of unproduced or delayed reports, on November 18, 2021, the Court issued a remedial order mandating that “[p]rior unproduced airflow reports from January 2019 to the present will be provided on a rolling basis to be completed no later than January 18, 2022.” Order re: Ventilation Reports ¶ 3. By further order dated May 23, 2022, the Court modified the Defendants’ production schedule to coincide with OCC reporting periods. See Order re: Monthly Ventilation Report Schedule.

## b. Defendants' Performance

*i. Quarterly Mechanical Equipment Inspection Reports*

Mechanical equipment inspection reports relay the Department's findings regarding required inspections of heating and ventilation equipment at covered facilities and include each facility's stationary engineer's and/or oiler's evaluation as to whether every piece of equipment is operational. Where applicable the stationary engineer further assesses whether:

- belts are in good condition
- flex collars are ripped
- air filters are clean
- heating and cooling coils are clean
- dampers are operable
- temperature controls are operational

If a piece of equipment is inoperable or the response to any of the foregoing suggests a deficiency, the stationary engineer should provide an anticipated abatement date as well as an actual abatement date.

On January 17, 2024, the Defendants submitted May–July 2023 mechanical inspection reports for AMKC, EMTC, GRVC, NIC, RMSC, RNDC, and VCBC. August and September 2023 reports have not yet been submitted; however, the Defendants, on February 16, 2024, submitted October–December 2023 mechanical inspection reports for EMTC, GRVC, NIC, OBCC, RMSC, and RNDC. During the 2023 calendar year, AMKC and VCBC closed while OBCC reopened accounting for some of the disparity with the submission of facility reports. To illustrate, the 2023 reports and the dates received by OCC are noted in the table immediately below. The Defendants have not distributed reports for 2024, as yet.

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2023	January	February	March	April	May	June	July	August	September	October	November	December
AMKC	5/4/23	5/4/23	5/4/23	6/28/23	1/17/24	1/17/24	1/17/24	closed	closed	closed	closed	closed
EMTC	missing	5/4/23	5/4/23	6/28/23	1/17/24	1/17/24	1/17/24	missing	missing	2/16/24	2/16/24	2/16/24
GRVC	5/4/23	5/4/23	5/4/23	6/28/23	1/17/24	1/17/24	1/17/24	missing	missing	2/16/24	2/16/24	2/16/24
NIC	5/4/23	5/4/23	5/4/23	6/28/23	1/17/24	1/17/24	1/17/24	missing	missing	2/16/24	2/16/24	2/16/24
OBCC	closed	closed	closed	closed	closed	closed	9/6/23	missing	missing	2/16/24	2/16/24	2/16/24
RESH/RMSC	5/4/23	5/4/23	5/4/23	6/28/23	1/17/24	1/17/24	1/17/24	missing	missing	2/16/24	2/16/24	2/16/24
RNDC	5/4/23	5/4/23	5/4/23	6/28/23	1/17/24	1/17/24	1/17/24	missing	missing	2/16/24	2/16/24	2/16/24
VCBC*	n/a	n/a	n/a	n/a	1/17/24	1/17/24	1/17/24	closed	closed	closed	closed	closed
WF*	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a

\*Reports for VCBC and WF are not required by the Ventilation Orders.

Overall, the collective reports indicate that most of the mechanical equipment was operational during the inspections. OCC reached out to the Department for updates regarding the repair statuses of the inoperable equipment at RNDC during November and December 2023 inspections. Per the Department, the deficiencies noted during the November inspections were for “obsolete” equipment and the attendant anticipated abatement dates were “generated in error and the equipment will be removed from future reports.” The inoperable pump noted on the December report was repaired on January 15, 2024.

*ii. Monthly Airflow Reading Reports*

Airflow readings are required to be taken by the assigned PHS in intakes and fifteen percent of housing areas in EMTC, GRVC, NIC, OBCC, RESH/RMSC, and RNDC (formerly ARDC), pursuant to the November 14, 2003 Ventilation Order.<sup>13</sup> If the airflow reading (recorded in cubic feet per minute (cfm)) is below the design specifications then a violation exists. In cases where the Department does not have the design specification, it counts a reading of below 50 cfm as a violation. The

<sup>13</sup> The Order re: Testing and Repair of Ventilation Systems also lists AMKC, GMDC, and MDC as facilities to be inspected; however, those facilities are closed to the *Benjamin* class. The Order mandates, “Any jail that is presently closed, will, if reopened, be subject to this order 30 days after reopening.”

November 2023 airflow reading reports were submitted on January 10, 2024 and the December 2023 reports were submitted on February 16, 2024.<sup>14</sup> Violations were distributed across facilities as noted in the table below. (Reports reviewed during this monitoring period are represented in bold font.)

**Table 12 Ventilation Violations Summary**

Facility	Airflow Reading Reports (Months)	Locations Inspected (Count)	Violations (Count)	Violations (Percentage)
AMKC*	January–April	305	133	44%
	May–June	198	94	47%
EMTC	April	20	15	75%
	May–August	65	24	37%
	September–October	35	18	51%
	<b>November–December</b>	<b>37</b>	<b>13</b>	<b>35%</b>
GRVC	January– April	260	66	25%
	May–August	282	130	46%
	September–October	179	87	49%
	<b>November–December</b>	<b>203</b>	<b>60</b>	<b>30%</b>
NIC	January–April	73	13	18%
	May–August	68	8	12%
	September–October	23	2	9%
	<b>November–December</b>	<b>40</b>	<b>9</b>	<b>23%</b>
OBCC**	May–August	46	15	33%
	September–October	128	57	45%
	<b>November–December</b>	<b>151</b>	<b>32</b>	<b>21%</b>
RESH	May–August	16	2	13%
	September–October	16	6	38%
	<b>November–December</b>	<b>80</b>	<b>13</b>	<b>16%</b>
RMSC	January– April	153	83	54%
	May–August	191	49	26%
	September–October	145	34	23%

<sup>14</sup> Previously, the May–July 2023 monthly airflow reading reports were submitted on August 29, 2023, and the August–October 2023 monthly airflow reading reports were submitted on December 5, 2023 for all open facilities. To illustrate, the 2023 reports and the dates received by OCC are noted in the table immediately below.

2023	January	February	March	April	May	June	July	August	September	October	November	December
AMKC	5/4/23	5/4/23	5/4/23	6/28/23	8/29/23	8/29/23	8/29/23	closed	closed	closed	closed	closed
EMTC	missing	missing	missing	6/28/23	8/29/23	8/29/23	8/29/23	12/5/23	12/5/23	12/5/23	1/10/24	2/16/24
GRVC	5/4/23	5/4/23	5/4/23	6/28/23	8/29/23	8/29/23	8/29/23	12/5/23	12/5/23	12/5/23	1/10/24	2/16/24
NIC	5/4/23	5/4/23	5/4/23	6/28/23	8/29/23	8/29/23	8/29/23	12/5/23	12/5/23	12/5/23	1/10/24	2/16/24
OBCC	closed	closed	closed	closed	closed	closed	closed	12/5/23	12/5/23	12/5/23	1/10/24	2/16/24
RESH/RMSC	5/4/23	5/4/23	5/4/23	6/28/23	8/29/23	8/29/23	8/29/23	12/5/23	12/5/23	12/5/23	1/10/24	2/16/24
RNDC	5/4/23	5/4/23	5/4/23	6/28/23	8/29/23	8/29/23	8/29/23	12/5/23	12/5/23	12/5/23	1/10/24	2/16/24
VCBC	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
WF	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a

Facility	Airflow Reading Reports (Months)	Locations Inspected (Count)	Violations (Count)	Violations (Percentage)
	<b>November–December</b>	<b>84</b>	<b>34</b>	<b>40%</b>
RNDC	January– April	227	8	4%
	May–August	197	19	10%
	September–October	92	14	15%
	<b>November–December</b>	<b>85</b>	<b>17</b>	<b>20%</b>

\*AMKC closed during the May–August 2023 monitoring period. \*\*OBCC reopened during the May–August 2023 monitoring period.

As with prior monitoring periods, the majority of violations included vents that were excessively dirty, dusty, dust-laden, or clogged (with dirt or paint), and in some cases, no vent was provided or was obstructed. The Defendants have not distributed reports for 2024, as yet.

### *iii. Airflow Deficiency Reports*

The Defendants are required to provide airflow deficiency reports, which correspond to the monthly airflow reports, pursuant to the Ventilation Order ¶ 3. The monthly airflow reading reports differ from the monthly airflow deficiency reports in that the former reports convey the entirety of the findings as observed by the EHU Sanitarians and the respective facility engineer or oiler while the latter reports focus only on the deficiencies and their abatement.

The May–August 2023 reports were submitted on January 17, 2024 for AMKC (May and June only), EMTC, GRVC, NIC, OBCC (August only), RMSC, and RNDC; October 2023 reports (excluding AMKC) were submitted on February 16, 2024; and September, November, and December reports were submitted on March 28, 2024 for all open covered facilities. To illustrate, the 2023 reports and the dates received by OCC are noted in the table immediately below. The Defendants have not distributed reports for 2024, as yet.

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2023	January	February	March	April	May	June	July	August	September	October	November	December
AMKC	5/4/23	5/4/23	5/4/23	6/28/23	1/17/24	1/17/24	closed	closed	closed	closed	closed	closed
EMTC	missing	missing	missing	6/28/23	1/17/24	1/17/24	1/17/24	1/17/24	3/28/24	2/16/24	3/28/24	3/28/24
GRVC	5/4/23	5/4/23	5/4/23	6/28/23	1/17/24	1/17/24	1/17/24	1/17/24	3/28/24	2/16/24	3/28/24	3/28/24
NIC	5/4/23	5/4/23	5/4/23	6/28/23	1/17/24	1/17/24	1/17/24	1/17/24	3/28/24	2/16/24	3/28/24	3/28/24
OBCC	closed	closed	closed	closed	closed	closed	closed	1/17/24	3/28/24	2/16/24	3/28/24	3/28/24
RESH/RMSC	5/4/23	5/4/23	5/4/23	6/28/23	1/17/24	1/17/24	1/17/24	1/17/24	3/28/24	2/16/24	3/28/24	3/28/24
RNDC	5/4/23	5/4/23	5/4/23	6/28/23	1/17/24	1/17/24	1/17/24	1/17/24	3/28/24	2/16/24	3/28/24	3/28/24
VCBC	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
WF	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a

As with prior monitoring periods, the majority of violations included vents that were excessively dirty, dusty, dust-laden, or clogged (with dirt or paint), and in several instances, this resulted in an airflow reading of 0 cfm, as noted in the examples in the table below.

**Table 13 Dirty/Clogged Vents - 0 cfm examples**

Facility	Housing Area (inspection date)	Location	Airflow Reading (cfm)	Design Specs	Deficiency	Corrective Action	Date of Completion	New Reading (cfm)
GRVC	Bldg. 10B (8/22/23)	cell #46 exhaust	0	70	vent dust laden	cleaned/adjusted louver	9/20/23	70.5
EMTC	4 Upper (10/25/23)	shower exhaust	0	50	vent dusty	clean vent	12/21/23	237
EMTC	4 Upper (10/25/23)	toilet exhaust	0	50	vent dusty	clean vent	12/21/23	237
GRVC	Bldg. 19B (11/28/23)	cell #39 exhaust	0	70	clogged w/dust	cleaned	2/26/24	92

In other instances, an airflow reading of 0 cfm was due to deficiencies with the mechanical equipment as illustrated in the table below.

**Table 14 Mechanical Equipment Deficiencies - 0 cfm examples**

Facility	Housing Area (inspection date)	Location	Airflow Reading (cfm)	Design Specs	Deficiency	Corrective Action	Date of Completion	New Reading (cfm)
RNDC	5 Upper South (6/29/23)	cell #4 exhaust	0	65	broken fan belt	replaced fan belt	7/10/23	274.6
GRVC	Bldg. 4B (7/25/23)	shower exhaust	0	80	access door open/damper	secured door/adjusted	8/8/23	77.08
GRVC	Bldg. 4A (7/25/23)	shower exhaust	0	80	closed damper	secured	8/8/23	83.11
GRVC	Bldg. 4A (7/25/23)	cell #32 supply	0	70	supply vent covered	removed	8/8/23	76.5
GRVC	Bldg. 7B (7/25/23)	janitor exhaust	0	50	upper damper partially closed	adjusted	8/7/23	53
GRVC	Bldg. 7B (7/25/23)	cell #4 exhaust	0	70	fire damper closed	secured	8/7/23	73.5
GRVC	Bldg. 7B (7/25/23)	cell #35 exhaust	0	70	fire damper closed	secured	8/7/23	73.125
GRVC	Bldg. 7B (7/25/23)	cell #47 exhaust	0	70	louver closed	adjusted	8/7/23	75.75
GRVC	Bldg. 7B (7/25/23)	cell #31 exhaust	0	70	fire damper closed	secured	8/7/23	75.325

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Facility	Housing Area (inspection date)	Location	Airflow Reading (cfm)	Design Specs	Deficiency	Corrective Action	Date of Completion	New Reading (cfm)
GRVC	Bldg. 7A (7/25/23)	shower exhaust	0	80	damper closed	secured	8/7/23	80.88
GRVC	Bldg. 7A (7/25/23)	cell #19 exhaust	0	70	fire damper closed	secured	8/7/23	74.625
GRVC	Bldg. 7A (7/25/23)	cell #17 exhaust	0	70	fire damper closed	secured	8/7/23	73.875
GRVC	Bldg. 7A (7/25/23)	cell #30 exhaust	0	70	fire damper closed	secured	8/7/23	74.625
GRVC	Bldg. 7A (7/25/23)	cell #27 exhaust	0	70	fire damper closed	secured	8/7/23	75
GRVC	Bldg. 9A (7/25/23)	cell #30 exhaust	0	70	fire damper closed	secured	8/14/23	75
GRVC	Bldg. 9A (7/25/23)	cell #2 exhaust	0	70	fire damper	secured	8/14/23	73.875
GRVC	Bldg. 9B (7/25/23)	shower exhaust	0	80	damper closed	secured	8/14/23	81.33
GRVC	Bldg. 9B (7/25/23)	cell #4 exhaust	0	70	fire damper	secured	8/14/23	74.625
GRVC	Bldg. 9B (7/25/23)	cell #11 exhaust	0	not noted	fire damper	secured	8/14/23	73.125
GRVC	Bldg. 10A (8/22/23)	cell #7 exhaust	0	70	fire damper	secured	9/20/23	73.5
GRVC	12 Main? (8/22/23)	cell #8 exhaust	0	70	exhaust fan out	repaired	9/4/23	162
RMSC	Nursery (9/27/23)	cell #2 exhaust	0	50	motor failed	replaced motor	10/4/23	74.8
RMSC	Nursery (9/27/23)	cell #1 exhaust	0	50	motor failed	replaced motor	10/4/23	76.1
RMSC	Nursery (9/27/23)	cell #3 exhaust	0	50	motor failed	replaced motor	10/4/23	72.9
RMSC	Nursery (9/27/23)	cell #4 exhaust	0	50	motor failed	replaced motor	10/4/23	78.1
EMTC	2 Upper (10/25/23)	cell #21 exhaust	0	50	damper closed	open damper	12/6/23	128
EMTC	2 Upper (10/25/23)	cell #24 exhaust	0	50	damper closed	open damper	12/6/23	137
EMTC	2 Upper (10/25/23)	cell #13 exhaust	0	50	damper closed	open damper	12/6/23	141
EMTC	3 Upper (10/25/23)	cell #22 exhaust	0	50	worn belt	replace belt	12/6/23	158
EMTC	3 Upper (10/25/23)	cell #8 exhaust	0	50	worn belt	replace belt	12/6/23	165
EMTC	3 Upper (10/25/23)	cell #25 exhaust	0	50	worn belt	replace belt	12/6/23	114
EMTC	4 Main (10/25/23)	toilet exhaust	0	50	broken belt	replace belt	12/21/23	197
GRVC	Bldg. 17B (11/28/23)	cell #22 exhaust	0	70	fire damper	secured	2/26/24	98
GRVC	Bldg. 119A (11/28/23)	cell #6 exhaust	0	70	fire damper	secured	2/26/24	88
EMTC	8 Lower (12/27/23)	janitor exhaust	0	50	broken belt	replaced belt	1/19/24	147
GRVC	Bldg. 7A (12/21/23)	cell #47 exhaust	0	70	damper closed	opened	3/22/24	74
GRVC	Bldg. 10B (12/21/23)	cell #28 exhaust	0	70	fire damper closed	fixed	3/25/24	72

As seen in the table above, GRVC had the most instances of 0 cfm resulting from mechanical equipment deficiencies. Additional GRVC instances are in the snapshots immediately below.



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GRVC		SEPTEMBER AIR FLOW DEFICIENCY REPORT DATE OF INSPECTION: SEPTEMBER 19, 2023						
FACILITY AREA	SPECIFIC LOCATION	AIRFLOW READING CFM	DESIGN SPECS	DEFICIENCY	CORRECTIVE ACTION	ANTICIPATED ABATEMENT DATE	DATE OF COMPLETION	NEW CFM READINGS
MAIN INTAKE	JANITOR EXHAUST	39.722	50	This is a 6X6 Vent	Cleaned	10/10/2023	2/16/2024	78
MAIN INTAKE	PEN 9 EXHAUST	0	50	Fire Alarm	Reset at control room	10/10/2023	2/16/2024	122
MAIN INTAKE	PEN 2 EXHAUST	0	50	Fire Alarm	Reset at control room	10/10/2023	2/16/2024	119
BLDG 1A	CELL 2 SUPPLY	0	70	Fire Alarm	Reset at control room	10/10/2023	2/16/2024	92
BLDG 1A	CELL 2 EXHAUST	0	70	Suicied grills clogged paint/dust	Attempted cleaning	10/10/2023	2/16/2024	70
BLDG 1A	CELL 9 SUPPLY	0	70	Fire Alarm	Reset at control room	10/10/2023	2/16/2024	89
BLDG 1A	CELL 12 SUPPLY	0	70	Fire Alarm	Reset at control room	10/10/2023	2/16/2024	85
BLDG 1B	JANITOR EXHAUST	41.889	50	Dusty	Cleaned	10/10/2023	2/16/2024	58
BLDG 1B	CELL 2 SUPPLY	0	70	Fire Alarm	Reset at control room	10/10/2023	2/16/2024	96
BLDG 1B	CELL 11 SUPPLY	0	70	Fire Alarm	Reset at control room	10/10/2023	2/16/2024	87
BLDG 1B	CELL 6 SUPPLY	0	70	Fire Alarm	Reset at control room	10/10/2023	2/16/2024	92
BLDG 3A	SHOWER EXHAUST	0	80	Belts/filters defective	Belts/Filters changed	10/10/2023	2/23/2024	87
BLDG 3A	JANITOR EXHAUST	0	50	Belts/filters defective	Belts/Filters changed	10/10/2023	2/23/2024	52
BLDG 3A	CELL 2 EXHAUST	0	70	Belts/filters defective	Belts/Filters changed	10/10/2023	2/23/2024	76
BLDG 3A	CELL 18 EXHAUST	0	70	Belts/filters defective	Belts/Filters changed	10/10/2023	2/23/2024	71
BLDG 3A	CELL 37 EXHAUST	0	70	Belts/filters defective	Belts/Filters changed	10/10/2023	2/23/2024	72
BLDG 3A	CELL 36 EXHAUST	0	70	Belts/filters defective	Belts/Filters changed	10/10/2023	2/23/2024	76
BLDG 3A	CELL 34 SUPPLY	49.781	70	Duct cover opened	Secured	10/10/2023	2/23/2024	81
BLDG 3A	CELL 34 EXHAUST	0	70	Belts/filters defective	Belts/Filters changed	10/10/2023	2/23/2024	73
BLDG 3A	CELL 35 EXHAUST	0	70	Belts/filters defective	Belts/Filters changed	10/10/2023	2/23/2024	75
BLDG 3A	CELL 23 EXHAUST	0	70	Belts/filters defective	Belts/Filters changed	10/10/2023	2/23/2024	71
BLDG 3B	SHOWER EXHAUST	0	80	Belts/filters defective	Belts/Filters changed	10/10/2023	2/23/2024	85
BLDG 3B	CELL 33 EXHAUST	0	70	Belts/filters defective	Belts/Filters changed	10/10/2023	2/23/2024	73
BLDG 3B	CELL 32 EXHAUST	0	70	Belts/filters defective	Belts/Filters changed	10/10/2023	2/23/2024	74
BLDG 3B	CELL 37 EXHAUST	0	70	Belts/filters defective	Belts/Filters changed	10/10/2023	2/23/2024	76
BLDG 3B	CELL 40 EXHAUST	0	70	Belts/filters defective	Belts/Filters changed	10/10/2023	2/23/2024	72
BLDG 3B	CELL 42 EXHAUST	0	70	Belts/filters defective	Belts/Filters changed	10/10/2023	2/23/2024	74
BLDG 3B	CELL 6 EXHAUST	0	70	Belts/filters defective	Belts/Filters changed	10/10/2023	2/23/2024	74
BLDG 5A	SHOWER EXHAUST	62.222	80	Dusty	Cleaned	10/10/2023	2/23/2024	81
BLDG 5A	JANITOR EXHAUST	0	50	Dampers closed	Adjusted	10/10/2023	2/23/2024	56
BLDG 5A	CELL 9 EXHAUST	0	70	Dampers closed/dusty	Adjusted	10/10/2023	2/23/2024	77
BLDG 5A	CELL 10 EXHAUST	31.875	70	VENT DUST LADEN	Cleaned	10/10/2023	2/23/2024	75
BLDG 5A	CELL 37 EXHAUST	62.438	70	VENT DUST LADEN	Cleaned	10/10/2023	2/23/2024	78
BLDG 5A	CELL 42 EXHAUST	0	70	VENT DUST LADEN	Cleaned	10/10/2023	2/23/2024	76
BLDG 5A	CELL 35 EXHAUST	26.719	70	VENT DUST LADEN	Cleaned	10/10/2023	2/23/2024	78
BLDG 5A	CELL 26 EXHAUST	0	70	VENT DUST LADEN	Cleaned	10/10/2023	2/23/2024	74
BLDG 5B	SHOWER EXHAUST	0	80	Exhaust fan belt defective	Replaced	10/10/2023	2/23/2024	87
BLDG 5B	JANITOR EXHAUST	0	50	Exhaust fan belt defective	Replaced	10/10/2023	2/23/2024	54
BLDG 5B	CELL 20 EXHAUST	0	70	VENT CLOGGED w/ TISSUE	Cleaned	10/10/2023	2/23/2024	71
BLDG 5B	CELL 6 EXHAUST	0	70	VENT CLOGGED w/ DUST	Cleaned	10/10/2023	2/23/2024	70
BLDG 5B	CELL 40 SUPPLY	55.781	70	Louver partially closed	Adjusted	10/10/2023	2/23/2024	79
BLDG 5B	CELL 40 EXHAUST	0	70	VENT CLOGGED w/ TOOTHPASTE	Cleaned	10/10/2023	2/23/2024	72
BLDG 5B	CELL 42 EXHAUST	31.781	70	VENT CLOGGED w/ DUST	Cleaned	10/10/2023	2/23/2024	77
BLDG 5B	CELL 41 EXHAUST	43.219	70	VENT DUST LADEN	Cleaned	10/10/2023	2/23/2024	79
BLDG 5B	CELL 26 SUPPLY	58.594	70	VENT CLOGGED w/ TISSUE	Cleaned	10/10/2023	2/23/2024	119
BLDG 5B	CELL 26 EXHAUST	39.281	70	VENT DUST LADEN	Cleaned	10/10/2023	2/23/2024	76

COMMENTS: The alarm reset for building 1A/B happened before 02/16/2024 as were the belts and filter changes for buildings 3A/B before 02/23/2024

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**Environmental Conditions**  
 January–April 2024

GRVC OCTOBER AIR FLOW DEFICIENCY REPORT DATE OF INSPECTION: NOVEMBER 14, 2023								
FACILITY AREA	SPECIFIC LOCATION	AIRFLOW READING CFM	DESIGN SPECS	DEFICIENCY	CORRECTIVE ACTION	ANTICIPATED ABATEMENT DATE	DATE OF COMPLETION	NEW CFM READINGS
MAIN INTAKE	JANITOR EXHAUST	35,056	50	Vent Dusty	Cleaned	11/30/2024	2/2/2024	63
BLDG 2A	SHOWER EXHAUST	55,125	80	Vent Dusty	Cleaned	11/30/2024	2/2/2024	169
BLDG 2A	JANITOR EXHAUST	34,694	50	Vent Dusty	Cleaned	11/30/2024	2/2/2024	91
BLDG 2A	CELL 3 SUPPLY	39	70	Suicied grills clogged w/paint	Vents grills need replaced	11/30/2024	2/2/2024	No change
BLDG 2A	CELL 3 EXHAUST	0	70	Suicied grills clogged w/paint	Vents grills need replaced	11/30/2024	2/2/2024	No change
BLDG 2A	CELL 4 EXHAUST	41,719	70	Suicied grills clogged w/paint	Vents grills need replaced	11/30/2024	2/2/2024	No change
BLDG 2A	CELL 2 SUPPLY	16.5	70	Suicied grills clogged w/paint	Vents grills need replaced	11/30/2024	2/2/2024	No change
BLDG 2A	CELL 2 EXHAUST	0	70	Suicied grills clogged w/paint	Vents grills need replaced	11/30/2024	2/2/2024	No change
BLDG 2A	CELL 5 EXHAUST	30,094	70	Suicied grills clogged w/paint	Vents grills need replaced	11/30/2024	2/2/2024	No change
BLDG 2B	CELL 2 EXHAUST	55,313	70	Suicied grills clogged w/paint	Vents grills need replaced	11/30/2024	2/2/2024	No change
BLDG 2B	CELL 10 EXHAUST	44,156	70	Suicied grills clogged w/paint	Vents grills need replaced	11/30/2024	2/2/2024	No change
BLDG 2B	CELL 5 SUPPLY	58,694	70	Suicied grills clogged w/paint	Vents grills need replaced	11/30/2024	2/2/2024	No change
BLDG 2B	CELL 5 EXHAUST	45,563	70	Suicied grills clogged w/paint	Vents grills need replaced	11/30/2024	2/2/2024	No change
BLDG 8A	SHOWER EXHAUST	36,778	80	Damper needed adjustment	Adjusted	11/30/2024	2/2/2024	86
BLDG 8A	JANITOR EXHAUST	0	50	Vent Dusty	Cleaned	11/30/2024	2/2/2024	54
BLDG 8A	CELL 5 EXHAUST	0	70	Suicied grills clogged w/paint	Vents grills need replaced	11/30/2024	2/2/2024	No change
BLDG 8A	CELL 10 EXHAUST	0	70	Suicied grills clogged w/paint	Vents grills need replaced	11/30/2024	2/2/2024	No change
BLDG 8A	CELL 12 EXHAUST	0	70	Suicied grills clogged w/paint	Vents grills need replaced	11/30/2024	2/2/2024	No change
BLDG 8A	CELL 13 EXHAUST	0	70	Suicied grills clogged w/paint	Vents grills need replaced	11/30/2024	2/2/2024	No change
BLDG 8A	CELL 15 EXHAUST	0	70	Suicied grills clogged w/paint	Vents grills need replaced	11/30/2024	2/2/2024	No change
BLDG 8A	CELL 35 SUPPLY	69,281	70	Suicied grills clogged w/paint	Vents grills need replaced	11/30/2024	2/2/2024	73
BLDG 8A	CELL 35 EXHAUST	56,344	70	Suicied grills clogged w/paint	Vents grills need replaced	11/30/2024	2/2/2024	No change
BLDG 8A	CELL 38 EXHAUST	0	70	Suicied grills clogged w/paint	Vents grills need replaced	11/30/2024	2/2/2024	No change
BLDG 8B	SHOWER EXHAUST	36	80	Damper needed adjustment	Adjusted	11/30/2024	2/2/2024	91
BLDG 8B	CELL 2 SUPPLY	0	70	Suicied grills clogged w/paint	Vents grills need replaced	11/30/2024	2/2/2024	No change
BLDG 8B	CELL 2 EXHAUST	0	70	Suicied grills clogged w/paint	Vents grills need replaced	11/30/2024	2/2/2024	No change
BLDG 8B	CELL 15 EXHAUST	52,031	70	Suicied grills clogged w/paint	Vents grills need replaced	11/30/2024	2/2/2024	No change
BLDG 8B	CELL 14 EXHAUST	0	70	Suicied grills clogged w/paint	Vents grills need replaced	11/30/2024	2/2/2024	No change
BLDG 8B	CELL 11 EXHAUST	0	70	Suicied grills clogged w/paint	Vents grills need replaced	11/30/2024	2/2/2024	No change
BLDG 8B	CELL 38 EXHAUST	0	70	Suicied grills clogged w/paint	Vents grills need replaced	11/30/2024	2/2/2024	No change
BLDG 8B	CELL 34 EXHAUST	0	70	Suicied grills clogged w/paint	Vents grills need replaced	11/30/2024	2/2/2024	No change
BLDG 8B	CELL 32 EXHAUST	0	70	Suicied grills clogged w/paint	Vents grills need replaced	11/30/2024	2/2/2024	No change
BLDG 13A	CELL 26 EXHAUST	69,688	70	Dusty/Dirt	Cleaned	11/30/2024	2/2/2024	74
BLDG 13B	JANITOR EXHAUST	32,833	50	Dusty	Cleaned	11/30/2024	2/2/2024	78
BLDG 13B	CELL 2 EXHAUST	46,313	70	Dusty/Dirt	Cleaned	11/30/2024	2/2/2024	75
BLDG 13B	CELL 4 EXHAUST	48	70	Dusty/Dirt	Cleaned	11/30/2024	2/2/2024	76.5
BLDG 13B	CELL 9 EXHAUST	49,375	70	Dusty/Dirt	Cleaned	11/30/2024	2/2/2024	73.25
BLDG 13B	CELL 22 EXHAUST	57,875	70	Dusty/Dirt	Cleaned	11/30/2024	2/2/2024	81
BLDG 13B	CELL 23 EXHAUST	47,188	70	Dusty/Dirt	Cleaned	11/30/2024	2/2/2024	78.25

COMMENTS: The vent grills in Building 2A/B, 8A/B are suicied grills that were dusty and then painted over. Grills need to be replaced or chemically cleaned. Airflows taken from Duct access covers show that airflows are in and above range.

As seen in the GMDC snapshots immediately above, some vents were obstructed; however, the condition is not limited to GRVC, and in other facilities vents were not provided in some areas. Those cases have been reported across monitoring periods and work orders have been submitted and resubmitted; yet, many of the deficiencies remain unabated as listed in the table below.

Table 15 Vent Obstructed/not Provided

FACILITY	AREA	LOCATION	FACILITY	AREA	LOCATION
EMTC	1 Main	shower area	EMTC	7 Upper	sleeping area
EMTC	1 Main	toilet area	EMTC	8 Lower	sleeping area
EMTC	10 Lower	sleeping area	EMTC	8 Main	sleeping area
EMTC	10 Main	sleeping area	EMTC	9 Lower	sleeping area
<b>ABATED: EMTC 10 Main janitor's closet vent installed 8/9/23</b>			EMTC	9 Lower	janitor's closet
<b>ABATED: EMTC 10 Upper janitor's closet vent installed 8/9/23</b>			EMTC	9 Upper	sleeping area
EMTC	12 Main	sleeping area	EMTC	Intake	pen #6
EMTC	12 Main	janitor's closet	EMTC	Intake	pen #7
EMTC	12 Upper	sleeping area	EMTC	Intake	pen #8
EMTC	2 Upper	janitor's closet	NIC	2A	storage
EMTC	3 Main	janitor's closet	NIC	2C	storage
EMTC	3 Upper	janitor's closet	NIC	3A	storage
EMTC	4 Main	sleeping area	NIC	3B	storage
EMTC	4 Main	toilet area	NIC	3C	storage
EMTC	4 Upper	sleeping area	NIC	4 South	storage
EMTC	5 Lower	sleeping area	NIC	5 North	storage
EMTC	5 Main	sleeping area	NIC	6 North	storage
EMTC	5 Upper	sleeping area	NIC	6 South	storage
EMTC	6 Lower	sleeping area	NIC	Dorm 1	janitor's closet
EMTC	6 Main	sleeping area	<b>ABATED: NIC Dorm 1 Shower "cut out section" of plexiglass that covered vent 10/27/23</b>		
EMTC	7 Lower	sleeping area	NIC	Dorm 2B	janitor's closet
EMTC	7 Main	sleeping area	<b>ABATED: NIC Dorm 2B shower "cut out section" of plexiglass that covered vent 11/20/23</b>		
			RNDC	5 C N	janitor's closet

Violations such as these are reported inconsistently during PHS inspections, which affects compliance scoring, and are unreliably addressed by facility staff, which contributes to the ongoing deficiencies. Further, there seems to have been some confusion as to corrective action for missing vents. The PHS reported violations at NIC Dorm 1 and Dorm 2B for “no vent” in the janitor’s closets and showers of both areas during the October 2023 inspections; however, the facility responded “Dorm 1 has no vent so there is no deficiency” despite the Department’s longstanding policy:

If the report indicates that there is “No vent,” the date for the installation of the required mechanical ventilation *must* be provided. The facility *must* submit a response for all violations noted on the [airflow] report. The facility response *must* include the violation, the deficiency identified by the stationary engineer/oiler causing the restricted [airflow], the corrective

action taken to abate the deficiency, and the abatement date or expected completion date (emphasis added throughout).

Moreover, the Environmental Order ¶ 15c requires Defendants to “ensure that all bathroom and shower areas are provided with functioning mechanical ventilation at all times.” Encouragingly, the facility removed the obstruction in each shower area by cutting a “section” into the plexiglass that covered the respective vent. After years of reporting on such deficiencies, OCC believes progress is being made.

*iv. Monthly Intake Ventilation Reports*

During this monitoring period, the Defendants submitted the monthly intake ventilation reports described below for AMKC, EMTC, GRVC, NIC, OBCC, RESH/RMSC, RNDC, and VCBC, pursuant to the Am. Supp. Ventilation Order ¶ 4b.

- *Intake Ventilation Mechanical Equipment Inspection Reports*

The intake equipment inspection reports record the findings of inspections of intake mechanical equipment, identify corrective action needed to abate deficiencies, and provide the results of the corrective action. Reports for May–August were submitted for all open facilities on January 17, 2024 and September–December were submitted on February 16, 2024. Overall, the intake mechanical equipment at the facilities were maintained in working condition. OBCC, however, reported inoperable temperature controls “with NO communication to maintain HEAT” (emphases in original) at the Main Roof RTU #1 from September through December and no abatement date was provided. OCC requested the Department’s responses as to whether the equipment has been repaired and the overall impact on heating. Per the Department’s May 9, 2024 reply, “[T]he unit was providing heat all winter, although it was required to be manually

adjusted. The OEM controllers and sensors were removed, and new ones installed the week of 22 January 2024.”

- *Intake Airflow Deficiency Reports*

Intake airflow deficiency reports note airflow deficiencies in intake areas, the corrective action taken for each deficiency, the date of completion, and the new airflow reading (cfm). Per DOC policy, “The facility shall also ensure that any deficiencies noted in the intake during the [airflow] inspection are also included in the monthly intake ventilation report.” The intake airflow deficiency reports are submitted as a counterpart to the intake mechanical equipment inspection reports discussed above; accordingly, reports for May–August were submitted for all open facilities on January 17, 2024 and September–December were submitted on February 16, 2024.

The facilities reported no intake airflow deficiencies; however, the deficiencies are found on the aforementioned airflow deficiency reports. As illustrated in the table below, the majority of deficiencies were due to mechanical equipment issues, such as loose and worn belts, closed and tripped dampers, followed by dusty and clogged vents. In a few instances, the facility reported that there was no actual deficiency and the incorrect vent size was used in the calculations.

**Table 16 Intake Airflow Deficiencies**

Month	Inspection Date	Facility	Location	Original cfm	Deficiency	Corrective Action	Completion Date	New cfm
May	5/31/23	RMSC Intake	janitor exhaust	48.125	loose belt	replace belt	6/25/23	56.7
June	6/21/23	AMKC Main Intake	janitor exhaust	39.193	dusty vent	cleaned vents	7/11/23	67.29
June	6/20/23	GRVC Main Intake	janitor exhaust	22.028	vent is 6x6 (49.56 cfm)	cleaned	7/7/23	52.5
July	7/19/23	EMTC Intake	pen #2 exhaust	9.0625	clogged vent	cleaned vent	8/9/23	92
July	7/25/23	GRVC Intake	janitor exhaust	36.528	no deficiency	vent is 6x6	8/1/23	55
July	7/25/23	GRVC Intake	pen #11 supply	0	damper closed	secured	8/1/23	224
July	7/27/23	RESH Intake	shower exhaust	23.524	loose belt	replace belt	9/5/23	55.4
July	7/27/23	RESH Intake	janitor exhaust	44.188	loose belt	replace belt	9/5/23	54.7

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Month	Inspection Date	Facility	Location	Original cfm	Deficiency	Corrective Action	Completion Date	New cfm
August	8/29/23	EMTC Intake	shower exhaust	26.797	vent dusty	install new vent?	9/19/23	127
August	8/29/23	EMTC Intake	pen #2 exhaust	22.031	vent dusty	install new vent?	9/19/23	115
August	8/29/23	EMTC Intake	pen #1 exhaust	23.516	vent dusty	install new vent?	9/19/23	119
August	8/17/23	RMSC Intake	janitor exhaust	44.792	dust laden	clean vent	9/21/23	54.3
September	9/27/23	EMTC Intake	pen #2 exhaust	6.0938	worn belt	replaced belt	10/11/23	136
September	9/27/23	EMTC Intake	pen #3 exhaust	21.219	worn belt	replaced belt	10/11/23	125
September	9/19/23	GRVC Main Intake	janitor exhaust	39.722	6x6 vent	cleaned	2/16/24	78
September	9/19/23	GRVC Main Intake	pen #9 exhaust	0	fire alarm	reset at control room	2/16/24	122
September	9/19/23	GRVC Main Intake	pen #2 exhaust	0	fire alarm	reset at control room	2/16/24	119
September	10/6/23	OBCC Main Intake	shower exhaust	37.375	damper tripped	damper rest	10/26/23	61
September	10/6/23	OBCC Main Intake	toilet exhaust	27.813	damper tripped	damper rest	10/26/23	59
September	10/6/23	OBCC Main Intake	janitor exhaust	38.063	damper tripped	damper rest	10/26/23	54
September	9/27/23	RMSC Intake	janitor exhaust	30.469	loose belt	replace belt	11/15/23	53.6
September	9/27/23	RESH Intake	shower exhaust	0	damper failed	open damper	10/2/23	53.4
September	9/27/23	RESH Intake	janitor exhaust	0	damper failed	open damper	10/2/23	52.7
September	9/27/23	RESH Intake	pen #5 exhaust	0	damper failed	open damper	10/2/23	74.6
September	9/27/23	RESH Intake	pen #6 exhaust	0	damper failed	open damper	10/2/23	73.9
September	9/27/23	RESH Intake	pen #8 exhaust	0	damper failed	open damper	10/2/23	74.1
October	11/24/23	GRVC Main Intake	janitor exhaust	35.056	vent dusty	cleaned	2/2/24	63
October	10/31/23	RMSC Intake	pen #3 supply	3.1111	loose belt	replace belt	12/6/23	75.8
October	10/31/23	RESH Intake	shower exhaust	73.125	dust laden	clean vent	12/6/23	129.1
November	11/29/23	EMTC Intake	shower exhaust	16.078	vent dusty	cleaned vent	1/12/24	942
November	11/29/23	EMTC Intake	toilet exhaust	37	belt worn	replaced belt	1/12/24	980
November	11/29/23	EMTC Intake	janitor exhaust	7.4219	belt worn	replaced belt	1/12/24	285
November	11/29/23	EMTC Intake	pen #2 exhaust	24.453	vent clogged	cleaned vent	1/12/24	151
November	11/28/23	GRVC Main Intake	janitor exhaust	37.056	no deficiency 6x6 vent	n/a	2/26/24	73
November	12/13/23	OBCC Main Intake	shower exhaust	41.688	damper closed	adjusted damper	12/28/23	54
November	12/13/23	OBCC Main Intake	toilet exhaust	29.5	damper closed	adjusted damper	12/28/23	51
November	12/13/23	OBCC Main Intake	janitor exhaust	39.25	damper closed	adjusted damper	12/28/23	56
November	12/29/23	RESH Intake	shower exhaust	37.326	loose belt	replace belt	1/15/24	55.7
December	12/27/23	EMTC Intake	janitor exhaust	0	vent partially clogged	cleaned vent	1/19/24	131
December	12/27/23	EMTC Intake	bathroom exhaust	0	broken belt	replaced belt	1/19/24	185
December	1/4/24	OBCC Main Intake	shower exhaust	38.125	dusty vent	cleaned vent	2/9/24	54
December	1/4/24	OBCC Main Intake	toilet exhaust	40.375	dusty vent	cleaned vent	2/9/24	52
December	12/28/23	RMSC Intake	janitor exhaust	38.281	loose belt	replace belt	1/12/24	57.1
December	12/28/23	RMSC Intake	pen #10 exhaust	0	loose belt	replace belt	1/12/24	55.7
December	12/28/23	RMSC Intake	pen #2 exhaust	0	loose belt	replace belt	1/12/24	58.1
December	12/28/23	RESH Intake	shower exhaust	0	loose belt	replace belt	1/12/24	57.3
December	12/28/23	RESH Intake	janitor exhaust	0	loose belt	replace belt	1/12/24	56.5
December	12/28/23	RESH Intake	pen #3 supply	0	clog vent	clean vent	1/12/24	54.7
December	12/28/23	RESH Intake	pen #3 exhaust	0	loose belt	replace belt	1/12/24	55.5
December	12/28/23	RESH Intake	pen #5 exhaust	45.936	loose belt	replace belt	1/12/24	52.7

Month	Inspection Date	Facility	Location	Original cfm	Deficiency	Corrective Action	Completion Date	New cfm
December	12/28/23	RESH Intake	pen #10 exhaust	0	loose belt	replace belt	1/12/24	53.1

c. Defendants' Compliance

The Defendants submitted the majority of outstanding 2023 reports during this monitoring period. OCC's review of the reports indicates that there is improved compliance with providing functioning mechanical ventilation; however, there remains unexplained delays in completing basic maintenance tasks such as cleaning vents and replacing belts, which are to be cleaned weekly pursuant to the Environmental Order ¶ 15f. Per Department policy, "It is imperative that all deficiencies noted are abated expeditiously to ensure compliance with the existing order." (emphasis in original). In addition to the foregoing, the Department's reports are incomplete. Conspicuously absent from the Department's ventilation report is any mention of NIC's malfunctioning Building Management System (BMS), which controls and monitors the HVAC system in the facility. The BMS problem at NIC is an ongoing issue that has spanned monitoring periods, and commenting on the May–August 2023 progress report, Defendants stated, "The Department has been working with the Department of Citywide Administrative Services ("DCAS") to upgrade several areas and install new BMSs. The work is scheduled to begin in January 2024." The defective BMS is noted, however, on the monthly fire safety HVAC reports for the current monitoring period (discussed in the fire safety section of this report) indicating that the BMS is still nonfunctional.

Plaintiffs summarize their thoughts as follows:

Unfortunately, we do not know the full scale of the ventilation problems because of DOC's continuing failure to provide complete and timely productions of the reports mandated by the ventilation orders. Plaintiffs have endeavored for years

to find a schedule under which DOC could produce these reports in time for OCC to evaluate them and report on them in the corresponding progress report. DOC has insisted that certain reports require levels of approval that prevent their production within three months of the inspection dates they reflect. Plaintiffs remain skeptical. And DOC continues to produce the reports mandated by the ventilation orders with significant delay.

For example, DOC is producing quarterly mechanical equipment inspection reports, which assess whether the ventilation equipment is operational, at a several month delay, with no 2024 reports yet produced. The quarterly mechanical inspection reports for the months of August and September are inexplicably missing. DOC produced some of the monthly airflow reading reports, which evaluate whether airflow meets the design specifications, after a two-month delay, but the most recent reports it provided are for December 2023; as with the mechanical equipment inspection reports, no reports have been produced for 2024. No airflow deficiency reports or monthly intake ventilation reports from 2024 have been produced either. (citation removed). And OCC provides evidence that DOC's reports are incomplete in other ways, noting the complete lack of attention provided in the reports to a malfunctioning building management system, which controls and monitors the HVAC system in the facility, at the North Infirmary Control facility. (citation removed).

Plaintiffs are of course more concerned with the state of ventilation in the jails than with the production of timely reports. The concern is that by producing reports several months later, in subsequent reporting periods, we are not getting a true and complete picture of the current state of the jails. In general, as with sanitation, DOC seems more concerned with finding ways to obfuscate and manipulate the data than with improving compliance and performing the tasks required to achieve adequate, proper ventilation.

Pltfs.' resp. at 3-4. Defendants disagree and "The Department believes that it is in full compliance with the ventilation requirement, and is planning on an expert ventilation inspection this year." Defs.' resp. at 7. DOC advised that once the paperwork to contract with OCC's recently selected ventilation expert is finalized, an inspection can be scheduled; however, WF, which is not a part of the ventilation orders was erroneously included in the scope of work. *See id.* OCC was aware at the time the proposal from its expert was submitted that it had an inconsequential error, which will easily be corrected once DOC assigns a contract specialist to the matter, and urges the Department to act expeditiously.



## 3. OPERATIONAL WINDOWS

## a. Defendants' Obligations

In addition to mechanical ventilation, "Defendants shall ensure that all windows that are designed to be opened are operational." Environmental Order ¶ 15e.

## b. Defendants' Performance

During the monitoring period, hundreds of windows were found to be inoperable with assorted deficiencies. Many of the inoperable windows remained unrepaired despite repeated reports of the same deficiency and resubmitted work orders, indicating significant delays in making repairs. Moreover, some of the deficiencies span monitoring periods, including some of those listed in the examples below.

Table 17 Inoperable Windows - Examples

FACILITY	AREA	LOCATION (unk=unknown occupancy)	OBSERVATION (wos=work order submitted)	WEEK ENDING
EMTC	1 Main	sleeping area	inoperable windows (wos - date not specified)	1/27/24
	4 Upper	sleeping area	inoperable windows (wos - date not specified)	1/27/24
	6 Lower	sleeping area	inoperable windows (wos - date not specified)	1/27/24
GRVC	10B	cell #7 (unk)	inoperable window (wos 3/12/24)	4/6/24
OBCC	4 SW	common area	"drafty rear windows, area cold"	1/27/24
	6 U	sleeping area	window inoperable (wos - date not specified)	4/13/24
RNDC	2 C S	dayroom toilet	window inoperable (wos - date not specified)	2/3/24
	4 C N	cell #13 (unk)	inoperable window (wos - date not specified)	2/3/24
	5 C S	cell #5 (unk)	window inoperable (wos - date not specified)	1/13/24
			window inoperable (wos - date not specified)	1/27/24
		cell #9 (unk)	window inoperable (wos - date not specified)	1/13/24
			window inoperable (wos - date not specified)	1/27/24
	5 L S	dayroom toilet	window inoperable (wos - date not specified)	1/13/24
			window inoperable (wos - date not specified)	1/27/24
		shower area	window inoperable (wos - date not specified)	1/13/24
			window inoperable (wos - date not specified)	1/27/24
	6 L S	cell #15 (unk)	window inoperable (wos - date not specified)	2/3/24
		cell #16 (unk)	window inoperable (wos - date not specified)	2/3/24
		cell #17 (unk)	window inoperable (wos - date not specified)	2/3/24
	cell #18 (unk)	window inoperable (wos - date not specified)	2/3/24	
	cell #19 (unk)	window inoperable (wos - date not specified)	2/3/24	
	cell #20 (unk)	window inoperable (wos - date not specified)	2/3/24	
	Mod 4LN	dayroom	windows missing part (wos - date not specified)	4/6/24

Despite an extensive survey and years of follow-up reporting on inoperable windows including repeated observations that span more than a decade, Defendants now claim that OCC “does not provide any concrete detail to explain how that conclusion as (sic) reached or explain which facilities were included in its review.” Defs.’ resp. at 8. The Defendants further seem to take issue with the number of examples provided noting, “the sheer number of windows Department-wide necessitates consideration in this regard.” *Id.*

Given the limited details of the deficiencies and the repetitiveness of the generic descriptions provided to OCC by the Department, OCC opted to limit the examples to illustrate the long-standing issue. The facilities included in the review are EMTC, GRVC, NIC, OBCC, and RNDC as listed in the additional examples below, which hopefully helps the Department to identify locations with deficiencies. Counsel for the Department receives the same reports as OCC and should be able to calculate the exact number of deficiencies or any additional information should a more precise enumeration be required.

**Inoperable Windows - Additional Examples**

<b>WEEK ENDING</b>	<b>FACILITY</b>	<b>HOUSING AREA</b>	<b>LOCATION</b> (unk=unknown occupancy)	<b>OBSERVATION</b> (wos=work order submitted)
1/13/24	RNDC	5 C S	cell #5 (unk)	window inoperable (wos - date not specified)
1/13/24	RNDC	5 C S	cell #9 (unk)	window inoperable (wos - date not specified)
1/27/24	EMTC	6 Lower	sleeping area	inoperable windows (wos - date not specified)
1/27/24	RNDC	5 C S	cell #5 (unk)	window inoperable (wos - date not specified)
1/27/24	RNDC	5 C S	cell #9 (unk)	window inoperable (wos - date not specified)
1/27/24	RNDC	5 L S	shower area	window inoperable (wos - date not specified)
1/27/24	RNDC	5 L S	dayroom toilet	window inoperable (wos - date not specified)
2/3/24	RNDC	2 C S	dayroom toilet	window inoperable (wos - date not specified)
2/3/24	RNDC	6 L S	cell #15 (unk)	window inoperable (wos - date not specified)
2/3/24	RNDC	6 L S	cell #16 (unk)	window inoperable (wos - date not specified)
2/3/24	RNDC	6 L S	cell #17 (unk)	window inoperable (wos - date not specified)
2/3/24	RNDC	6 L S	cell #18 (unk)	window inoperable (wos - date not specified)
2/3/24	RNDC	6 L S	cell #19 (unk)	window inoperable (wos - date not specified)

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WEEK ENDING	FACILITY	HOUSING AREA	LOCATION (unk=unknown occupancy)	OBSERVATION (wos=work order submitted)
2/3/24	RNDC	6 L S	cell #20 (unk)	window inoperable (wos - date not specified)
3/16/24	EMTC	10 Main	sleeping area	inoperable windows wos/maintenance notified
3/16/24	EMTC	10 Upper	dayroom	inoperable windows wos/maintenance notified
3/16/24	EMTC	10 Upper	sleeping area	inoperable windows wos/maintenance notified
3/16/24	EMTC	4 Main	sleeping area	inoperable windows wos/maintenance notified
3/16/24	EMTC	5 Lower	sleeping area	inoperable windows wos/maintenance notified
3/16/24	EMTC	5 Lower	dayroom	inoperable windows wos/maintenance notified
3/16/24	EMTC	5 Upper	sleeping area	inoperable windows wos/maintenance notified
3/16/24	EMTC	5 Upper	dayroom	inoperable windows wos/maintenance notified
3/16/24	EMTC	6 Lower	sleeping area	inoperable windows wos/maintenance notified
3/16/24	EMTC	6 Main	sleeping area	inoperable windows wos/maintenance notified
3/16/24	EMTC	6 Main	dayroom	inoperable windows wos/maintenance notified
3/16/24	EMTC	7 Main	dayroom	inoperable windows wos/maintenance notified
3/16/24	EMTC	7 Main	sleeping area	inoperable windows wos/maintenance notified
3/16/24	EMTC	7 Upper	dayroom	inoperable windows wos/maintenance notified
3/16/24	EMTC	7 Upper	sleeping area	inoperable windows wos/maintenance notified
3/16/24	EMTC	8 Lower	dayroom	inoperable windows wos/maintenance notified
3/16/24	EMTC	8 Lower	sleeping area	inoperable windows wos/maintenance notified
3/16/24	EMTC	8 Main	dayroom	inoperable windows wos/maintenance notified
3/16/24	EMTC	8 Main	sleeping area	inoperable windows wos/maintenance notified
3/16/24	EMTC	9 Lower	dayroom	inoperable windows wos/maintenance notified
3/16/24	EMTC	9 Lower	sleeping area	inoperable windows wos/maintenance notified
3/16/24	GRVC	10B	cell #7 (unk)	inoperable windows wos (3/12/24)
3/16/24	RNDC	4 C N	cell #13(unk)	inoperable window
3/16/24	RNDC	5 C S	cell # 5 (unk)	inoperable window (wos - date not specified)
3/16/24	RNDC	5 C S	cell #9 (unk)	inoperable window (wos - date not specified)
3/16/24	RNDC	5 L S	shower area	inoperable window (wos - date not specified)
3/16/24	RNDC	5 L S	dayroom toilet	inoperable window (wos - date not specified)
3/16/24	RNDC	6 L S	cell #15 (unk)	inoperable window (wos - date not specified)
3/16/24	RNDC	6 L S	cell #20 (unk)	inoperable window (wos - date not specified)
3/16/24	RNDC	M 4 L N	dayroom	window- missing parts
3/23/24	EMTC	10 Main	sleeping area	inoperable window (wos - date not specified)
3/23/24	EMTC	10 Upper	dayroom	inoperable window (wos - date not specified)
3/23/24	EMTC	10 Upper	sleeping area	inoperable window (wos - date not specified)
3/23/24	EMTC	5 Lower	sleeping area	inoperable window (wos - date not specified)
3/23/24	EMTC	5 Lower	dayroom	inoperable window (wos - date not specified)
3/23/24	EMTC	5 Upper	sleeping area	inoperable window (wos - date not specified)
3/23/24	EMTC	5 Upper	dayroom	inoperable window (wos - date not specified)
3/23/24	EMTC	6 Lower	sleeping area	inoperable window (wos - date not specified)
3/23/24	EMTC	6 Main	sleeping area	inoperable window (wos - date not specified)
3/23/24	EMTC	6 Main	dayroom	inoperable window (wos - date not specified)
3/23/24	EMTC	7 Main	sleeping area	inoperable window (wos - date not specified)
3/23/24	EMTC	7 Main	dayroom	inoperable window (wos - date not specified)
3/23/24	EMTC	7 Upper	sleeping area	inoperable window (wos - date not specified)
3/23/24	EMTC	7 Upper	dayroom	inoperable window (wos - date not specified)
3/23/24	EMTC	8 Main	dayroom	inoperable window (wos - date not specified)
3/23/24	EMTC	8 Main	sleeping area	inoperable window (wos - date not specified)
3/23/24	EMTC	9 Lower	dayroom	inoperable window (wos - date not specified)

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3/23/24	EMTC	9 Lower	sleeping area	inoperable window (wos - date not specified)
3/23/24	NIC	4 South	dayroom	inoperable window (wos 3/22/24)
3/23/24	OBCC	1 N	cell #1 (unk)	inoperable window
3/23/24	RNDC	5 C S	cell #5 (unk)	inoperable window (wos - date not specified)
3/23/24	RNDC	5 C S	cell #9 (unk)	inoperable window (wos - date not specified)
3/30/24	EMTC	4 Main	sleeping area	inoperable window (wos - date not specified)
3/30/24	EMTC	5 Lower	sleeping area	inoperable window (wos - date not specified)
3/30/24	EMTC	5 Upper	sleeping area	inoperable window (wos - date not specified)
3/30/24	EMTC	6 Lower	sleeping area	inoperable window (wos - date not specified)
3/30/24	EMTC	6 Main	sleeping area	inoperable window (wos - date not specified)
3/30/24	EMTC	7 Main	dayroom	inoperable window (wos - date not specified)
3/30/24	EMTC	7 Main	sleeping area	inoperable window (wos - date not specified)
3/30/24	EMTC	7 Upper	dayroom	inoperable window (wos - date not specified)
3/30/24	EMTC	7 Upper	sleeping area	inoperable window (wos - date not specified)
3/30/24	EMTC	7 Upper	dayroom	inoperable window (wos - date not specified)
3/30/24	EMTC	7 Upper	sleeping area	inoperable window (wos - date not specified)
3/30/24	EMTC	8 Lower	dayroom	inoperable window (wos - date not specified)
3/30/24	EMTC	8 Lower	sleeping area	inoperable window (wos - date not specified)
3/30/24	EMTC	8 Main	dayroom	inoperable window (wos - date not specified)
3/30/24	GRVC	10B	cell #7(unk)	inoperable window (wos 3/12/24)
3/30/24	RNDC	5 C S	cell #5 (unk)	inoperable window (wos - date not specified)
3/30/24	RNDC	5 C S	cell #9 (unk)	inoperable window (wos - date not specified)
4/6/24	EMTC	10 Main	sleeping area	inoperable window (wos - date not specified)
4/6/24	EMTC	10 Upper	dayroom	inoperable window (wos - date not specified)
4/6/24	EMTC	10 Upper	sleeping area	inoperable window (wos - date not specified)
4/6/24	EMTC	5 Lower	sleeping area	inoperable window (wos - date not specified)
4/6/24	EMTC	5 Upper	sleeping area	inoperable window (wos - date not specified)
4/6/24	EMTC	6 Lower	sleeping area	inoperable window (wos - date not specified)
4/6/24	EMTC	6 Lower	sleeping area	inoperable window (wos - date not specified)
4/6/24	EMTC	6 Main	sleeping area	inoperable window (wos - date not specified)
4/6/24	EMTC	7 Main	dayroom	inoperable window (wos - date not specified)
4/6/24	EMTC	7 Main	sleeping area	inoperable window (wos - date not specified)
4/6/24	EMTC	7 Upper	dayroom	inoperable window (wos - date not specified)
4/6/24	EMTC	7 Upper	sleeping area	inoperable window (wos - date not specified)
4/6/24	EMTC	8 Lower	dayroom	inoperable window (wos - date not specified)
4/6/24	EMTC	8 Lower	sleeping area	inoperable window (wos - date not specified)
4/6/24	EMTC	8 Main	dayroom	inoperable window (wos - date not specified)
4/6/24	EMTC	8 Main	sleeping area	inoperable window (wos - date not specified)
4/6/24	EMTC	9 Lower	dayroom	inoperable window (wos - date not specified)
4/6/24	EMTC	9 Lower	sleeping area	inoperable window (wos - date not specified)
4/13/24	EMTC	10 Main	dayroom	inoperable windows (wos - date not specified)
4/13/24	EMTC	10 Main	sleeping area	inoperable windows (wos - date not specified)
4/13/24	EMTC	10 Upper	dayroom	inoperable windows (wos - date not specified)
4/13/24	EMTC	10 Upper	sleeping area	inoperable windows (wos - date not specified)
4/13/24	EMTC	7 Main	dayroom	inoperable windows (wos - date not specified)
4/13/24	EMTC	7 Main	sleeping area	inoperable windows (wos - date not specified)
4/13/24	EMTC	7 Upper	dayroom	inoperable windows (wos - date not specified)
4/13/24	EMTC	7 Upper	sleeping area	inoperable windows (wos - date not specified)

WEEK ENDING	FACILITY	HOUSING AREA	LOCATION (unk=unknown occupancy)	OBSERVATION (wos=work order submitted)
4/13/24	EMTC	8 Lower	dayroom	inoperable windows (wos - date not specified)
4/13/24	EMTC	8 Lower	sleeping area	inoperable windows (wos - date not specified)
4/13/24	EMTC	8 Main	dayroom	inoperable windows (wos - date not specified)
4/13/24	EMTC	8 Main	sleeping area	inoperable windows (wos - date not specified)
4/13/24	EMTC	9 Lower	sleeping area	inoperable windows (wos - date not specified)
4/13/24	EMTC	9 Lower	sleeping area	inoperable windows (wos - date not specified)
4/13/24	EMTC	9 Upper	dayroom	inoperable windows (wos - date not specified)
4/13/24	OBCC	6 U	dayroom	inoperable window (wos - date not specified)
4/20/24	EMTC	10 Main	sleeping area	inoperable windows (wos - date not specified)
4/20/24	EMTC	10 Main	dayroom	inoperable windows (wos - date not specified)
4/20/24	EMTC	10 Upper	dayroom	inoperable windows (wos - date not specified)
4/20/24	EMTC	10 Upper	sleeping area	inoperable windows (wos - date not specified)
4/20/24	EMTC	5 Upper	sleeping area	inoperable windows (wos - date not specified)
4/20/24	EMTC	6 Lower	sleeping area	inoperable windows (wos - date not specified)
4/20/24	EMTC	6 Main	sleeping area	inoperable windows (wos - date not specified)
4/20/24	EMTC	7 Main	dayroom	inoperable windows (wos - date not specified)
4/20/24	EMTC	7 Main	sleeping area	inoperable windows (wos - date not specified)
4/20/24	EMTC	7 Upper	dayroom	inoperable windows (wos - date not specified)
4/20/24	EMTC	7 Upper	sleeping area	inoperable windows (wos - date not specified)
4/20/24	EMTC	8 Lower	dayroom	inoperable windows (wos - date not specified)
4/20/24	EMTC	8 Lower	sleeping area	inoperable windows (wos - date not specified)
4/20/24	EMTC	8 Main	dayroom	inoperable windows (wos - date not specified)
4/20/24	EMTC	8 Main	sleeping area	inoperable windows (wos - date not specified)
4/20/24	EMTC	9 Lower	dayroom	inoperable windows (wos - date not specified)
4/20/24	EMTC	9 Lower	sleeping area	inoperable windows (wos - date not specified)
4/20/24	RNDC	2 C S	dayroom	inoperable windows (wos - date not specified)
4/20/24	RNDC	5 C S	cell #5 (unk)	inoperable windows (wos - date not specified)
4/20/24	RNDC	5 C S	cell #9 (unk)	inoperable windows (wos - date not specified)

## c. Defendants' Compliance

The Defendants are not in compliance with the Court's mandate to ensure that "all windows that are designed to be opened are operational."

## C. LIGHTING

## a. Defendants' Obligations

"Defendants shall ensure that in all cells and dormitory areas . . . no less than 20 foot-candles of light will be provided at bed or desk level for each inmate . . ." Am. Lighting Order ¶ 1. "In areas in which the Defendants believe it will be unduly burdensome to comply with the 20 foot-candle requirement, the Defendants may provide no less than

15 foot-candles of light at bed or desk level for *each* inmate (emphasis supplied).

However, Defendants will make reasonable good faith efforts to provide a higher minimum amount of foot-candles . . . .” *Id.* ¶ 2.

“In dormitories where Defendants cannot provide 15 foot-candles of light because of the positions of the lighting fixtures and dormitory beds, each dormitory will have at least one table in a dayroom where there is 20 foot-candles of light, and inmates will be advised of where the maximum lighting area is located—unless readings below 15 foot-candles are isolated and sporadic instances in that dormitory.” *Id.* ¶ 15. Additionally, the Am. Lighting Order requires timely repair and maintenance of lighting by the Defendants (¶¶ 3–5 and ¶¶ 16–17) and conformity of DOC internal policies (¶ 6) with the requirements of the Order.

b. Defendants’ Performance

As with the prior monitoring periods, a review of inspection reports for the current monitoring period indicates hundreds of references to the lighting not being maintained and, as before, there was limited information on the status of work orders for the deficiencies observed during the monitoring period. Examples of the deficiencies are listed in the table below.

**Table 18 Lighting not Maintained - Examples**

WEEK ENDING	FACILITY	HOUSING AREA	LOCATION (unk=unknown occupancy)	OBSERVATION (wos=work order submitted)
2/3/24	GRVC	15A	cell #21 (unk)	light inoperable (wos 2/1/24)
4/6/24	GRVC	17A	cell #28 (unk)	cell light inoperable (wos 2/21/24)
4/13/24	GRVC	3A	cell #22 (unk)	cell light flickering (wos 4/8/24)
4/13/24	GRVC	3A	cell #29 (unk)	cell light inoperable (wos 4/8/24)
2/3/24	GRVC	7B	cell #37 (unk)	light inoperable (wos 2/1/24)
2/3/24	GRVC	7B	cell #8 (unk)	light inoperable (wos 2/1/24)
2/3/24	GRVC	7B	cell #22 (unk)	light inoperable (wos 2/1/24)
2/3/24	GRVC	7B	cell #30 (unk)	light inoperable (wos 2/1/24)

WEEK ENDING	FACILITY	HOUSING AREA	LOCATION (unk=unknown occupancy)	OBSERVATION (wos=work order submitted)
2/3/24	GRVC	7B	cell #39 (unk)	light inoperable (wos 2/1/24)
1/6/24	GRVC	9B	cell #9 (unk)	cell light inoperable (wos 1/4/24)
2/3/24	GRVC	9B	cell #31 (unk)	light inoperable (wos 2/1/24)
4/6/24	OBCC	1W	cell #4 (unk)	light inoperable (wos – date not specified)
4/13/24	OBCC	5SW	cell #43 (unk)	light inoperable (wos – date not specified)
4/13/24	OBCC	8U	dayroom	light inoperable (wos – date not specified)
4/6/24	RMSC	East 4B	dayroom	two inoperable light fixtures
4/6/24	RMSC	South 4A	dayroom	two inoperable light fixtures
1/6/24	WF	Spr 11	cell #1102 (o)	two inoperable light fixtures
1/6/24	WF	Spr 11	cell #1113 (o)	three inoperable light fixtures
1/6/24	WF	Spr 6	cell #610 (v)	inoperable light fixture

The department takes issue with the number of examples provided by OCC, stating:

Not only does OCC fail to provide the total number of deficiencies noted, it fails to provide any detail regarding how it reached its conclusion, except to list 13 examples, supposedly representative of the entire Department. However, more importantly OCC fails to evaluate the Department in the proper context. In the covered facilities (GRVC, NIC, OBCC, and RMSC) *there are more than 10,297 light fixtures that require maintenance on a daily basis*. Surely, one cannot say it is not reasonable that with so many light fixtures, that there will always be a small percentage of deficiencies found.

Defs.’ resp. at 9. Foremost, the Department is well aware that the examples (above) as provided in the draft report are in no way reflective of the entire Department. Second, it is telling that the Department can calculate the number of light fixtures in the facilities, yet cannot specify the number of fixtures that are without deficiencies. OCC provided a limited number of examples to illustrate the issue given that the deficiencies are long-standing and largely repetitive throughout facilities. The reports provided to OCC by the Department do not detail the deficiencies beyond generic descriptions; indeed, the EHOs and PHSs are not qualified to assess such deficiencies and are not expected to give such details. Additionally, OCC cannot “provide the total number of deficiencies noted” because of the inconsistencies in reporting by the EHOs and PHSs. Some inspectors do not record the number of

observations when citing deficiencies only writing “lights” to represent any number of lights. In other instances, some document fixtures while others document individual lights or lightbulbs. In any event, as requested by the Department, OCC provides additional examples below for review from the facilities specified by DOC, limiting the examples in the interest of space.

## Lighting Not Maintained – Additional Examples

WEEK ENDING	FACILITY	HOUSING AREA	LOCATION (o=occupied, unk=unknown occupancy)	OBSERVATION (wos=work order submitted)
3/16/24	GRVC	10A	cell #20 (unk)	inoperable lighting (wos (#1156263) 2/21/24)
3/16/24	GRVC	10A	cell #35 (unk)	inoperable lighting (wos (#1156261) 2/21/24)
3/16/24	GRVC	10A	cell #45 (unk)	inoperable lighting (wos (#115656260) 2/21/24)
3/16/24	GRVC	10B	cell #21 (unk)	inoperable lighting (wos 2/21/24)
3/16/24	GRVC	10B	cell #8 (unk)	inoperable lighting (wos (#1157664) 2/27/24)
3/16/24	GRVC	15A	cell #30 (unk)	inoperable light (wos (#1156266) 2/21/24)
3/16/24	GRVC	17A	cell #23 (unk)	one inoperable light (wos 2/20/24)
3/16/24	GRVC	17A	cell #28 (unk)	inoperable light (wos (#1156273) 2/21/24)
3/16/24	GRVC	17B	cell #10 (unk)	one inoperable light (wos 2/20/24)
3/16/24	GRVC	3A	cell #34 (unk)	one inoperable light (wos 2/20/24)
3/16/24	GRVC	5B	cell #2 (unk)	one inoperable light (wos 2/9/24)
3/16/24	GRVC	7B	cell #46 (unk)	inoperable light switch (wos (#1156267) 2/21/24)
3/16/24	OBCC	5 U	dayroom	light shield covered with paper
3/23/24	GRVC	10A	cell #20 (unk)	inoperable light fixture (wos #1156263) 2/21/24)
3/23/24	GRVC	10A	cell #35 (unk)	inoperable light fixture (wos (#1156261) 2/21/24)
3/23/24	GRVC	10A	cell #45 (unk)	inoperable light fixture (wos (#1156260) 2/21/24)
3/23/24	GRVC	10B	cell #21 (unk)	inoperable light fixture (wos 2/23/24)
3/23/24	GRVC	10B	cell #32 (unk)	inoperable light fixture (wos (#1151597) 3/21/24)
3/23/24	GRVC	10B	cell #7 (unk)	inoperable light fixture (wos 3/12/24)
3/23/24	GRVC	10B	cell #8 (unk)	inoperable light fixture (wos (#1157664) 2/27/24)
3/23/24	GRVC	13B	cell #9 (unk)	inoperable light fixture (wos 3/18/24)
3/23/24	GRVC	15A	cell #30 (unk)	inoperable light fixture (wos (#1156266) 2/21/24)
3/23/24	GRVC	15B	cell #25 (unk)	inoperable light fixture (wos (#1161864) 3/21/24)
3/23/24	GRVC	15B	cell #36 (unk)	inoperable light fixture (wos (#1161864) 3/21/24)
3/23/24	GRVC	15B	cell #37 (unk)	inoperable light fixture (wos (#1161865) 3/21/24)
3/23/24	GRVC	15B	cell #50 (unk)	inoperable light fixture (wos (#1161865) 3/21/24)
3/23/24	GRVC	17A	cell #10 (unk)	inoperable light fixture (wos 2/20/24)
3/23/24	GRVC	17A	cell #23 (unk)	inoperable light fixture (wos 2/20/24)
3/23/24	GRVC	17A	cell #28 (unk)	inoperable light fixture (wos (#1156273) 2/21/24)
3/23/24	GRVC	3A	cell #34 (unk)	inoperable light fixture (wos 2/20/24)
3/23/24	GRVC	5A	unspecified cell	inoperable light fixture (wos (#1161857) 3/21/24)
3/23/24	GRVC	5B	cell #2 (unk)	inoperable light fixture (wos 2/9/24)
3/23/24	GRVC	7A	cell #16 (unk)	inoperable light fixture (wos #1161613) 3/21/24)
3/23/24	GRVC	7A	cell #36 (unk)	inoperable light fixture (wos (#1161859) 3/21/24)
3/23/24	GRVC	7B	cell #46 (unk)	inoperable light switch (wos (#1156267) 2/21/24)



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3/23/24	NIC	5 North	dayroom	inoperable light fixture (wos 3/22/24)
3/23/24	NIC	5 North	sleeping area	inoperable light fixture (wos 3/22/24)
3/23/24	NIC	5 South	sleeping area	inoperable light fixture (wos)
3/23/24	NIC	6 South	sleeping area	two inoperable light fixtures (wos 3/22/24)
3/23/24	NIC	6 South	sleeping area	inoperable light fixture (wos)
3/23/24	RMSC	East 2A	dayroom	inoperable light fixture (wos)
3/30/24	GRVC	10A	cell #20 (unk)	inoperable lighting (wos 2/23/24)
3/30/24	GRVC	10A	cell #35 (unk)	inoperable lighting (wos (#1156263) 2/21/24)
3/30/24	GRVC	10A	cell #45 (unk)	inoperable lighting (wos (#1156261) 2/21/24)
3/30/24	GRVC	10B	cell #21 (unk)	loose/unsecure light shield (wos 2/27/24)
3/30/24	GRVC	10B	cell #32 (unk)	inoperable lighting (wos (#1161861) 3/21/24)
3/30/24	GRVC	10B	cell #8 (unk)	inoperable ceiling light (wos 2/27/24)
3/30/24	GRVC	13B	cell #9 (unk)	inoperable lighting (wos)
3/30/24	GRVC	15A	cell #30 (unk)	inoperable light (wos 2/21/24)
3/30/24	GRVC	15B	cell #25 (unk)	inoperable night light (wos 3/21/24)
3/30/24	GRVC	15B	cell #36 (unk)	inoperable night light (wos 3/21/24)
3/30/24	GRVC	15B	cell #37 (unk)	inoperable night light (wos 3/21/24)
3/30/24	GRVC	15B	cell #50 (unk)	inoperable night light (wos 3/21/24)
3/30/24	GRVC	17A	cell #16 (unk)	inoperable lighting (wos 3/21/24)
3/30/24	GRVC	17A	cell #16 (unk)	inoperable lighting (wos 3/21/24)
3/30/24	GRVC	17A	cell #28 (unk)	inoperable light (wos 2/21/24)
3/30/24	GRVC	17B	cell #10 (unk)	inoperable light (wos 2/20/24)
3/30/24	GRVC	3A	cell #34 (unk)	inoperable light (wos 2/20/24)
3/30/24	GRVC	5A	unspecified cell	inoperable lighting (wos 3/21/24)
3/30/24	GRVC	5B	cell #1 (unk)	inoperable lighting (wos 3/4/24)
3/30/24	GRVC	5B	cell #2 (unk)	inoperable light (wos 2/14/24)
3/30/24	GRVC	5B	cell #2 (unk)	inoperable lighting (wos 3/4/24)
3/30/24	GRVC	7B	cell #46 (unk)	inoperable light switch (wos 3/4/24)
3/30/24	OBCC	3 L	dayroom	light inoperable (wos)
3/30/24	OBCC	5 W	cell #28 (unk)	inoperable light (wos)
3/30/24	RMSC	East 3A	dayroom	inoperable light (wos)
3/30/24	RMSC	East 3B	dayroom	inoperable light (wos)
4/6/24	GRVC	10A	cell #45 (unk)	inoperable light (wos 4/3/24)
4/6/24	GRVC	10B	cell #21 (unk)	light shield loose/unsecure (wos 2/27/24)
4/6/24	GRVC	10B	cell #32 (unk)	inoperable light (wos)
4/6/24	GRVC	10B	cell #7 (unk)	inoperable light (wos 3/12/24)
4/6/24	GRVC	15A	cell #30 (unk)	inoperable light (wos 2/21/24)
4/6/24	GRVC	17A	cell #23 (unk)	inoperable light (wos 2/20/24)
4/6/24	GRVC	17B	cell #10 (unk)	inoperable light (wos 2/20/24)
4/6/24	GRVC	3A	cell #34 (unk)	inoperable light (wos 2/20/24)
4/6/24	GRVC	5B	cell #2 (unk)	inoperable light (wos 2/14/24)
4/6/24	GRVC	8B	cell #12 (unk)	inoperable light (wos 4/2/24)
4/6/24	GRVC	8B	cell #22 (unk)	inoperable light (wos 4/2/24)
4/6/24	GRVC	8B	cell #4 (unk)	light fixture broken (wos 4/2/24)
4/6/24	OBCC	5U	sleeping area	inoperable lighting (wos)
4/13/24	GRVC	10B	cell #31 (unk)	light flickering (wos 4/11/24)
4/13/24	GRVC	9A	cell #13 (unk)	inoperable lighting (wos 4/10/24)
4/13/24	GRVC	9A	cell #26 (unk)	inoperable lighting (wos 4/10/24)

WEEK ENDING	FACILITY	HOUSING AREA	LOCATION (o=occupied, unk=unknown occupancy)	OBSERVATION (wos=work order submitted)
4/13/24	GRVC	9B	cell #23 (unk)	inoperable lighting (wos 4/10/24)
4/13/24	GRVC	9B	cell #38 (unk)	inoperable lighting (wos 4/10/24)
4/13/24	GRVC	9B	cell #45 (unk)	inoperable lighting (wos 4/10/24)
4/13/24	GRVC	9B	cell #8 (unk)	inoperable lighting (wos 4/10/24)
4/13/24	NIC	5 North	dayroom	inoperable light fixture
4/13/24	NIC	5 South	sleeping area	inoperable light fixture
4/13/24	OBCC	8 U	sleeping area	inoperable light (wos)
4/13/24	RMSC	East 2A	sleeping area	inoperable light (wos)
4/13/24	RMSC	East 2B	sleeping area	inoperable light (wos)
4/20/24	GRVC	10B	cell #5 (o)	light switch cover missing-exposed wires
4/20/24	GRVC	1A	cell #10 (unk)	inoperable light (wos 4/8/24)
4/20/24	GRVC	1A	cell #5 (unk)	inoperable light (wos 4/8/24)
4/20/24	GRVC	3A	cell #22 (unk)	inoperable light (wos 4/8/24)
4/20/24	GRVC	3A	cell #29 (unk)	inoperable light (wos 4/8/24)
4/20/24	GRVC	5A	cell #27 (unk)	inoperable light (wos 4/10/24)
4/20/24	GRVC	9A	cell #13 (unk)	inoperable light (wos 4/10/24)
4/20/24	GRVC	9A	cell #26 (unk)	inoperable light (wos 4/10/24)
4/20/24	GRVC	9B	cell #23 (unk)	inoperable light (wos 4/10/24)
4/20/24	GRVC	9B	cell #38 (unk)	inoperable light (wos 4/10/24)
4/20/24	GRVC	9B	cell #45 (unk)	inoperable light (wos 4/10/24)
4/20/24	GRVC	9B	cell #8 (unk)	inoperable light (wos 4/10/24)
4/20/24	NIC	5N	dayroom	inoperable light (wos 3/22/24)
4/20/24	NIC	5S	sleeping area	inoperable light (wos 3/22/24)
4/20/24	NIC	6S	sleeping area	inoperable light (wos 3/22/24)
4/27/24	GRVC	10B	cell #19 (unk)	inoperable cell light (wos 4/25/24)
4/27/24	GRVC	8A	cell #33 (unk)	inoperable cell light (wos 4/25/24)
4/27/24	OBCC	1 L	dayroom	inoperable lighting (wos)
4/27/24	OBCC	2 U	dayroom	inoperable lighting (wos)

Lastly, the Department did not previously house detainees in all the open facilities; therefore, there was no opportunity for the court to consider facilities such as EMTC and WF for inclusion in the lighting orders. Further, the Am. Lighting Order provides that “the Department will take the necessary measures to come into compliance with the pertinent provisions of the Order prior to reopening [closed facilities].” The Department has since closed some facilities that were previously open and numerated in the Order, e.g. BBKC/MDC, GMDC, and VCBC, moving those incarcerated individuals to EMTC and WF, which, again, did not previously house detainees and were

consequently not included in the Order. What is more, the Defendants include these same facilities in other areas of the *Benjamin* litigation, e.g. ventilation and fire safety, now that they house detainees on a daily basis.

DOC disagrees that EMTC and WF should be included in the reporting of deficiencies, claiming that the Amended Lighting Order’s provision that “the Department will take the necessary measures to come into compliance with the pertinent provisions of the Order prior to reopening [closed facilities]” . . . is aimed at preventing the Department from closing a facility and then reopening it in order to circumvent the requirements of the Order, rather than transferring OCC’s monitoring jurisdiction from a closed facility to one that is not enumerated in the Order. Defs.’ resp. at 8-9. OCC maintains its position and notwithstanding the Defendants’ narrow interpretation of the provision, lighting in EMTC and WF are in need of repair and maintenance. For example, EMTC, which housed approximately 1115 detainees at the end of the monitoring period, had numerous lighting deficiencies, including but not limited to those listed immediately below. Again, the following is for illustrative purposes; so, a more thorough list is not included.

#### Lighting Not Maintained – Additional EMTC Examples

WEEK ENDING	FACILITY	HOUSING AREA	LOCATION (o=occupied, unk=unknown occupancy)	OBSERVATION (wos=work order submitted)
3/16/24	EMTC	12 Main	dayroom	inoperable lighting wos/maintenance notified
3/16/24	EMTC	4 Upper	dayroom	inoperable light fixture
3/16/24	EMTC	5 Main	sleeping area	inoperable lighting wos/maintenance notified
3/16/24	EMTC	6 Lower	sleeping area	inoperable lighting wos/maintenance notified
3/23/24	EMTC	1 Main	sleeping area	inoperable light fixture near bed #32 (wos)
3/23/24	EMTC	12 Main	sleeping area	inoperable light fixture (wos-date not specified)
3/23/24	EMTC	12 Upper	sleeping area	inoperable light fixture (wos-date not specified)
3/23/24	EMTC	4 Main	sleeping area	four inoperable light fixtures (wos)
3/23/24	EMTC	4 Upper	sleeping area	inoperable light fixture (wos-date not specified)
3/23/24	EMTC	7 Lower	dayroom	inoperable light fixture (wos-date not specified)

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WEEK ENDING	FACILITY	HOUSING AREA	LOCATION (o=occupied, unk=unknown occupancy)	OBSERVATION (wos=work order submitted)
3/23/24	EMTC	8 Main	sleeping area	inoperable light fixture (wos-date not specified)
3/23/24	EMTC	9 Lower	dayroom	inoperable light fixture (wos-date not specified)
3/23/24	EMTC	9 Lower	sleeping area	inoperable light fixture (wos-date not specified)
3/30/24	EMTC	1 Main	sleeping area	inoperable light fixture
3/30/24	EMTC	10 Lower	sleeping area	inoperable lighting (wos)
3/30/24	EMTC	10 Main	sleeping area	inoperable lighting (wos)
3/30/24	EMTC	10 Main	sleeping area	inoperable lighting (wos)
3/30/24	EMTC	10 Upper	dayroom	inoperable lighting (wos)
3/30/24	EMTC	10 Upper	sleeping area	inoperable lighting (wos)
3/30/24	EMTC	12 Main	sleeping area	inoperable lighting (wos)
3/30/24	EMTC	12 Upper	sleeping area	inoperable lighting (wos)
3/30/24	EMTC	2 Upper	cell #5 (unk)	inoperable light fixture
3/30/24	EMTC	2 Upper	cell #11 (unk)	inoperable light fixture
3/30/24	EMTC	2 Upper	cell #23 (unk)	inoperable light fixture
3/30/24	EMTC	3 Upper	cell #9 (unk)	inoperable light fixture
3/30/24	EMTC	3 Upper	cell #15 (unk)	inoperable light fixture
3/30/24	EMTC	3 Upper	cell #34 (unk)	inoperable light fixture
3/30/24	EMTC	4 Main	sleeping area	inoperable light fixture
3/30/24	EMTC	7 Lower	dayroom	inoperable lighting (wos)
3/30/24	EMTC	7 Upper	sleeping area	one inoperable light fixture
3/30/24	EMTC	7 Upper	dayroom	inoperable light fixture
3/30/24	EMTC	7 Upper	sleeping area	inoperable light fixture
3/30/24	EMTC	7 Upper	sleeping area-	inoperable light fixture near bed #10 (wos)
3/30/24	EMTC	8 Lower	dayroom area	multiple inoperable light fixtures
3/30/24	EMTC	8 Lower	dayroom	inoperable light fixture (wos)
3/30/24	EMTC	8 Main	sleeping area	inoperable lighting (wos)
3/30/24	EMTC	9 Lower	dayroom	inoperable lighting (wos)
3/30/24	EMTC	9 Lower	sleeping area	inoperable lighting (wos)
3/30/24	EMTC	9 Upper	dayroom	inoperable lighting (wos)
4/6/24	EMTC	10 Upper	dayroom	inoperable lighting (wos)
4/6/24	EMTC	12 Main	dayroom	inoperable lighting (wos)
4/6/24	EMTC	4 Upper	sleeping area	inoperable light (wos)
4/6/24	EMTC	5 Main	dayroom	inoperable lighting (wos)
4/6/24	EMTC	6 Main	sleeping area	inoperable lighting (wos)
4/6/24	EMTC	6 Upper	dayroom	inoperable lighting (wos)
4/6/24	EMTC	7 Lower	dayroom	inoperable lighting (wos)
4/6/24	EMTC	8 Main	sleeping area	inoperable lighting (wos)
4/6/24	EMTC	9 Lower	dayroom	inoperable lighting (wos)
4/6/24	EMTC	9 Lower	sleeping area	inoperable lighting (wos)
4/13/24	EMTC	2 Upper	cell #5 (unk)	inoperable lighting (wos)
4/13/24	EMTC	2 Upper	cell #11 (unk)	inoperable lighting (wos)
4/13/24	EMTC	2 Upper	cell #23 (unk)	inoperable lighting (wos)
4/13/24	EMTC	4 Main	sleeping area	inoperable lighting (wos)
4/13/24	EMTC	4 Main	dayroom	inoperable lighting (wos)
4/13/24	EMTC	5 Upper	dayroom	inoperable lighting (wos)
4/13/24	EMTC	5 Upper	sleeping area	inoperable lighting (wos)
4/13/24	EMTC	6 Lower	sleeping area	inoperable lighting (wos)
4/13/24	EMTC	6 Main	sleeping area	inoperable lighting (wos)

WEEK ENDING	FACILITY	HOUSING AREA	LOCATION (o=occupied, unk=unknown occupancy)	OBSERVATION (wos=work order submitted)
4/13/24	EMTC	6 Main	sleeping area	inoperable lighting (wos)
4/13/24	EMTC	7 Upper	dayroom	inoperable lighting (wos)
4/13/24	EMTC	8 Main	sleeping area	inoperable lighting (wos)
4/20/24	EMTC	10 Main	sleeping area	inoperable lighting (wos)
4/20/24	EMTC	2 Upper	cell #5 (unk)	inoperable lighting (wos)
4/20/24	EMTC	2 Upper	cell #11 (unk)	inoperable lighting (wos)
4/20/24	EMTC	2 Upper	cell #23 (unk)	inoperable lighting (wos)
4/20/24	EMTC	3 Upper	cell #11 (unk)	inoperable lighting (wos)
4/20/24	EMTC	3 Upper	cell #23 (unk)	inoperable lighting (wos)
4/20/24	EMTC	3 Upper	cell #34 (unk)	inoperable lighting (wos)
4/20/24	EMTC	4 Main	sleeping area	inoperable lighting (wos)
4/20/24	EMTC	4 Main	dayroom	inoperable lighting (wos)
4/20/24	EMTC	4 Main	sleeping area	inoperable lighting (wos)
4/20/24	EMTC	5 Upper	sleeping area	inoperable lighting (wos)
4/20/24	EMTC	5 Upper	dayroom	inoperable lighting (wos)
4/20/24	EMTC	7 Upper	dayroom	inoperable lighting (wos)
4/20/24	EMTC	8 Main	sleeping area	inoperable lighting (wos)
4/27/24	EMTC	4 Main	sleeping area	inoperable lighting (wos)
4/27/24	EMTC	4 Main	dayroom	inoperable lighting (wos)
4/27/24	EMTC	4 Main	sleeping area	four inoperable light fixtures (wos)
4/27/24	EMTC	5 Upper	dayroom	inoperable lighting (wos)
4/27/24	EMTC	6 Main	sleeping area	inoperable lighting (wos)
4/27/24	EMTC	6 Main	dayroom	inoperable lighting (wos)
4/27/24	EMTC	6 Upper	sleeping area	inoperable lighting (wos)

OCC and the Defendants are in discussion to monitor the facilities, pursuant to the Amended Lighting Order. OCC does not intend to monitor lighting in EMTC and WF without explicit direction.

c. Defendants' Compliance

The Defendants remain out of compliance with the maintenance and repair provisions of the Am. Lighting Order as indicated by the hundreds of instances wherein inoperable lighting in cells, dormitory sleeping areas, and dayrooms were reported, sometimes repeatedly, but not repaired timely.

**D. FIRE SAFETY**

OCC's fire safety expert Mario Antonetti reviews fire safety documents and corresponds with the Defendants' fire safety experts as well as Plaintiffs' recently retained expert. Periodically, Mr. Antonetti submits reports of his reviews, which are then included in OCC's reports to the Court. Mr. Antonetti is currently working on a report summarizing his review of the documents submitted during this monitoring period, and upon receipt, the report will be shared with the parties for review and comment as has been OCC's long-established practice.

- Fire Safety Observations

Throughout the monitoring period, as in previous periods, there have been observations of the remnants of fires across the Department in sleeping and common areas. For example:

**Table 19 Fire Remnants - Examples**

WEEK ENDING	FACILITY	AREA	LOCATION (v=vacant), o=occupied, unk=unknown)	OBSERVATION (R=repeat)
4/6/24	GRVC	10B	dayroom	soot on walls
4/13/24	GRVC	17A	common area	corridor floor "with fire marks"
4/13/24	GRVC	17A	common area	wall "with fire marks"
2/10/24	GRVC	Main Intake	pen #15	soot on wall
2/10/24	GRVC	Main Intake	pen #15	soot on ceiling
3/2/24	GRVC	Main Intake	pen #2	soot on ceiling
4/6/24	GRVC	Main Intake	pen #10	ceiling "with fire marks"
4/6/24	GRVC	Main Intake	pen #10	wall "with fire marks"
4/6/24	GRVC	Main Intake	pen #10	sink "with fire marks"
1/20/24	OBCC	1 L	sleeping area	soot on high wall at electric outlet - R4
1/20/24	OBCC	1 L	sleeping area	soot on ceiling - R4
2/10/24	OBCC	1 L	sleeping area	soot on high wall at electric outlet - R5
2/10/24	OBCC	1 L	sleeping area	soot on ceiling - 5
2/10/24	OBCC	7 U	janitor's closet	"burnt" English sanitation poster
1/13/24	RESH	B12	common area	corridor - soot on cell door #8 - R1
1/13/24	RESH	B12	common area	corridor - soot on cell door #13 - R1
2/10/24	RESH	B12	common area	corridor - soot on cell door #8 - R2
2/10/24	RESH	B12	common area	corridor - soot on cell door #13 - R2

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WEEK ENDING	FACILITY	AREA	LOCATION (v=vacant, o=occupied, unk=unknown)	OBSERVATION (R=repeat)
1/13/24	RNDC	3 C N	common area	corridor soot on ceiling
1/13/24	RNDC	3 C N	cell #12 (o)	excessive soot on wall
1/13/24	RNDC	3 C N	cell #12 (o)	excessive soot on ceiling
1/13/24	RNDC	3 C N	cell #12 (o)	excessive soot on wall vent
2/10/24	RNDC	3 C N	common area	corridor soot on ceiling - R1
4/6/24	RNDC	5 L N	common area	soot on corridor ceiling - R3
4/6/24	RNDC	5 L N	cell #24 (v)	soot on walls
4/6/24	RNDC	5 L N	cell #24 (v)	soot on ceiling
4/6/24	RNDC	5 L S	cell #6 (v)	excessive soot on ceiling
4/6/24	RNDC	5 L S	cell #6 (v)	excessive soot on wall
4/6/24	RNDC	5 L S	cell #24 (o)	soot on ceiling
4/6/24	RNDC	5 L S	cell #24 (o)	soot on wall
4/6/24	RNDC	6 C S	cell #9 (o)	excessive soot on ceiling
4/6/24	RNDC	6 C S	cell #9 (o)	excessive soot on wall
4/6/24	RNDC	6 U N	cell #24 (o)	soot on ceiling
4/6/24	RNDC	6 U S	cell #24 (o)	soot on wall
4/6/24	RNDC	6 L S	cell #22 (o)	soot on wall
1/13/24	RNDC	Intake	pen #9	soot on walls
2/3/24	RNDC	Mod 2 N	toilet area	soot on ceiling
2/3/24	RNDC	Mod 2 N	toilet area	"traces of previous burn" on dividers
2/3/24	RNDC	Mod 2 N	toilet area	"traces of previous burn" on floor
3/2/24	RNDC	Mod 2 N	toilet area	soot on ceiling
3/2/24	RNDC	Mod 2 N	toilet area	"traces of previous burn" on dividers
3/2/24	RNDC	Mod 2 N	toilet area	"traces of previous burn" on floor
3/30/24	WF	Spr 9	common area	soot and fire residue on ceiling
3/30/24	WF	Spr 9	common area	soot and fire residue on doors

As reported in the previous monitoring report, such remnants of smaller fires have been evident for years yet the Fire Safety Unit failed to carry out required inspections. To date, the Department has not satisfied OCC's request for Weekly Facility Fire Safety Inspection reports, which should show the findings of a thorough review of potential serious fire conditions in each facility including those arising from indiscriminate burning of flammable materials (as in the instances in the table above) among other related issues.

DOC acknowledges that cell fires regrettably occur with some regularity, and are most often set by individuals in custody. The purpose of OCC including a list of "Fire Remnants" is, unclear, as such observations are not in and of themselves, violations. But DOC takes strong exception to the suggestion that the fires or the

after-effects can in any way be attributable to DOC's Fire Safety Unit ("FSU"). As OCC will recall, the FSU is now headed by a distinguished former Battalion Chief of the FDNY, Robert Bohack, Jr., and the FSU will continue to respond to all issues within its purview.

Defs.' resp. at 10. DOC may be aware that cell fires occur with "regularity," but the court and Plaintiffs' counsel are not aware of such occurrences, and the examples provided by OCC indicate that the fires are not limited to cells. The inclusion of a list of fire remnants serves to draw attention to the frequency with which fires occur in cell, dormitory, and common areas—underscoring the need for adequate fire safety measures and the importance of required fire safety inspections. Hopefully, the FSU will now be a regular presence in the facilities, carrying out the required inspections and reducing fire hazards.

- Fire Safety Reports

Throughout the past few monitoring periods continuing into the current period, Plaintiffs' counsel and OCC have sought reports of DOC's required fire safety inspections among other records. OCC has not yet received weekly inspection reports for the facilities and the monthly and annual reports that have been submitted are incomplete. There have been no updates to the reports for annual inspections, which were carried out sporadically throughout the years and typically without any indication that the facility reviewed the findings, responded to the recommendations, and/or abated the violations. Like OCC, Plaintiffs' counsel's requests have been addressed, in part, and Defendants are still working on providing additional documents and responses. As a reminder, Defendants have not yet responded to Plaintiffs' findings of deficiencies and



what appears to be the frequently abandoned fire watch post<sup>15</sup> during the follow-up review of the West Facility Fire Watch logbooks on May 31, 2023. “DOC takes issue with OCC’s adoption of Plaintiffs’ unfounded characterization of West Facility fire watch posts as ‘frequently abandoned.’” Defs.’ resp. at 10. OCC has not adopted Plaintiffs’ characterization and is awaiting Defendants’ refutation to the proof provided by Plaintiffs more than one year ago.

In the previous report, OCC noted that the Defendants submitted a January 4, 2024 document production comprised of hundreds of pages, most of which were monthly reports and annual report logs.<sup>16</sup> The reports in that submission were incomplete and indicated that inspections were infrequently conducted. On April 17, 2024, the Defendants submitted another document production of hundreds of pages, also including monthly Fire Safety Inspection Reports and monthly HVAC Fire Safety Inspection Reports for almost all facilities.<sup>17</sup> Reports were not submitted for OBCC. Further, weekly reports, which are required by Directive #1248 were not submitted for any facility despite OCC’s long-pending request. DOC Directive #1248 was promulgated “[t]o identify and correct all fire hazards and deficiencies within a facility.” It requires

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<sup>15</sup> Fire Watch Post – A post, which is activated when certain fire prevention equipment, partially or totally, is inoperable or when a building/maritime facility is unoccupied. It is the responsibility of the Officer assigned to a fire watch post to patrol and watch for a smoke/fire condition within a building/maritime facility, occupied or unoccupied. If a smoke/fire condition exists, the fire watch post officer shall immediately alert all affected occupants, a supervisor and the facility central control room. The control room supervisor shall notify the New York City Fire Department and the Rikers Island Special Operations Division Central Desk.

DOC Directive 18/07 Activation of Fire Watch Posts, effective December 14, 2007.

<sup>16</sup> On January 9, 2024, the Defendants submitted a letter identifying the documents submitted in the January 4 data dump. Per the letter, the monthly reports are for EMTC, GRVC, and NIC.

<sup>17</sup> The remainder of the document production consisted of training material and attendance records. OCC’s expert is still reviewing the documents and will follow up as needed.

that staff conduct weekly and monthly fire safety inspections of all areas “to determine whether any fire hazards exist.” The weekly fire safety inspections involve an assessment of general conditions including:

- regular removal of accumulated combustible refuse or rubbish, the clean and orderly maintenance of storage areas, and the proper storage of flammable or combustible agents;
- a review of the fire evacuation plans including their posting and institutional orders applicable to the specific facility;
- a survey of exit areas to ensure they are not obstructed, verification that signs are illuminated, and that keys are readily accessible;
- and the checking of cooking equipment for accumulated grease as well as the placement of regularly inspected automatic extinguishers.

Electrical equipment is likewise checked during weekly inspections to ensure they are in good condition and covered (e.g., electrical switches) or closed (e.g., fuse boxes) as the case may require. Additionally, an assessment of the storage and handling of flammable liquids is undertaken to ensure there are no possible ignition sources and that the correct types of fire extinguishers are present; and, lastly, a review of fire protection measures such as easily accessible fire extinguishers in all areas that need them and the availability of keys for pull boxes and hose cabinets.

The monthly fire safety inspections further review fire protection measures, specifically sprinkler systems and their functioning, fire hoses, standpipes, fire alarm systems, and smoke detectors. In addition, HVAC fire safety inspections are required to be completed

monthly by the facility Stationary Engineer, who inspects the heating, ventilation, and air conditioning systems in view of fire safety. For all reports, where deficiencies are found, “the inspector(s) must complete the top portion of the Fire Safety Corrective Action Report, being careful to list each and every fire hazard/deficiency observed and the respective locations.” DOC Directive #1248 at 2.

The monthly fire safety inspection and HVAC fire safety inspection reports submitted in the April 17, 2024 document production are summarized in the table below.

Table 20 Monthly Fire Safety Reports

FACILITY	REPORT	DATE	PAGES	INSPECTOR	DEFICIENCY	OCC NOTE(S)	BATES NUMBER
EMTC	HVAC monthly	1/31/24	2	Francis Perrotta	#1(b) manual emergency switch not conveniently located	required details not provided	BenFireTraining_000554
EMTC	HVAC monthly	1/31/24	2	Francis Perrotta	#1(b) manual emergency switch not conveniently located	required details not provided	BenFireTraining_000550
EMTC	HVAC monthly	2/29/24	2	Francis Perrotta	#1(b) manual emergency switch not conveniently located	required details not provided	BenFireTraining_000548
EMTC	HVAC monthly	3/22/24	2	Francis Perrotta	#1(b) manual emergency switch not conveniently located	required details not provided	BenFireTraining_000552
not specified - EMTC?	Fire Safety monthly	1/31/24	2	Francis Perrotta	#1(b) sprinklers obstructed; multiple sprinklers have paint on them; #2 fire hose and nozzle on interior standpipes not in good condition	no details re #2	BenFireTraining_000502
not specified - EMTC?	Fire Safety monthly	2/28/24	2	Francis Perrotta	#1(b) sprinklers obstructed; multiple sprinklers have paint on them; #2 fire hose and nozzle on interior standpipes not in good condition	no details re #2	BenFireTraining_000500
not specified - EMTC?	Fire Safety monthly	3/22/24	2	Francis Perrotta	#1(b) sprinklers obstructed; multiple sprinklers have paint on them; #2 fire hose and nozzle on interior standpipes not in good condition	no details re #2	BenFireTraining_000504

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GRVC	Fire Safety monthly	1/26/24	2	Thomas Glackin	1(g) FD sprinkler connection painted yellow instead of green; #4 FD standpipe connection painted yellow instead of red; 11A & 11B (riser impairment) sprinkler systems down	none	BenFireTraining_000546
GRVC	Fire Safety monthly	2/29/24	2	Thomas Glackin	1(g) FD sprinkler connection painted yellow instead of green; #4 FD standpipe connection painted yellow instead of red	none	BenFireTraining_000542
GRVC	HVAC monthly	1/26/24	2	Thomas Glackin	no deficiencies - inspected weekly	none	BenFireTraining_000544
GRVC	HVAC monthly	2/29/24	2	Thomas Glackin	no deficiencies - inspected weekly	none	BenFireTraining_000540
NIC	Fire Safety monthly	12/31/23	2	Christopher Cronin	#1(b) sprinklers obstructed in MER; "bad steam traps, condensate corroding sprinkler heads"; #2 fire hose and nozzle on interior standpipes not in good condition; #4 FD standpipe painted yellow instead of red; #7 smoke detectors not in proper working order	some details not provided re #2 and #7	BenFireTraining_000508
NIC	Fire Safety monthly	1/31/24	2	Christopher Cronin	#1(b) sprinklers obstructed in MER; "bad steam traps, condensate corroding sprinkler heads"; #1(g) FD sprinkler heads painted yellow instead of green; #4 FD standpipe painted yellow instead of red	none	BenFireTraining_000516
NIC	Fire Safety monthly	2/29/24	2	Christopher Cronin	#1(b) sprinklers obstructed in MER; "bad steam traps, condensate corroding sprinkler heads"; #1(g) FD sprinkler heads painted yellow instead of green; #4 FD	none	BenFireTraining_000512

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					standpipe painted yellow instead of red		
NIC	HVAC monthly	12/31/23	2	Christopher Cronin	#1(a) no automatic device for stopping fan in case of fire; BMS needs service	is there no boiler room door? "n/a" marked for location	BenFireTraining_000506
NIC	HVAC monthly	1/31/24	2	Christopher Cronin	#1(a) no automatic device for stopping fan in case of fire; BMS needs service	is there no boiler room door? "n/a" marked for location	BenFireTraining_000514
NIC	HVAC monthly	2/29/24	2	Christopher Cronin	#1(a) no automatic device for stopping fan in case of fire; BMS needs service	is there no boiler room door? "n/a" marked for location	BenFireTraining_000510
OBCC	HVAC monthly				not submitted		
OBCC	Fire Safety monthly				not submitted		
RMSC 800 bed	Fire Safety monthly	1/31/24	2	Chris Sweeney	no deficiencies	"COMBO"? Marked for #1(g) and #7	BenFireTraining_000524
RMSC 800 bed	Fire Safety monthly	2/29/24	2	Chris Sweeney	no deficiencies	"COMBO"? Marked for #1(g) and #4	BenFireTraining_000526
RMSC 800 bed	Fire Safety monthly	3/29/24	2	Chris Sweeney	no deficiencies	"COMBO"? Marked for #1(g) and #7	BenFireTraining_000520
RMSC Main	Fire Safety monthly	1/31/24	2	Chris Sweeney	#2 fire hose and interior standpipes not in good condition; main fire pump running on emergency power and controller will not switch to normal power; fire jockey pump doesn't start automatically to maintain system pressure causing main fire pump to run periodically to maintain system pressure	"COMBO"? Marked for #1(g) and #6	BenFireTraining_000522
RMSC Main	Fire Safety monthly	2/29/24	2	Chris Sweeney	#2 fire hose and interior standpipes not in good condition; main fire pump running on emergency power and controller will not switch to normal power; fire jockey pump doesn't	"COMBO"? Marked for #1(g) and #5	BenFireTraining_000528

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FACILITY	REPORT	DATE	PAGES	INSPECTOR	DEFICIENCY	OCC NOTE(S)	BATES NUMBER
					start automatically to maintain system pressure causing main fire pump to run periodically to maintain system pressure		
<b>RMSC Main</b>	Fire Safety monthly	3/29/24	2	Chris Sweeney	#2 fire hose and interior standpipes not in good condition; main fire pump running on emergency power and controller will not switch to normal power; fire jockey pump doesn't start automatically to maintain system pressure causing main fire pump to run periodically to maintain system pressure	"COMBO"? Marked for #1(g) and #6	BenFireTraining_000518
<b>RNDC</b>	Fire Safety monthly	1/31/24	1	Gregory Coley	"Facility wide fire alarm replacement is required and pending contractor scheduling" 1(b) Mod 9 sprinkler heads painted - to be replaced by FMRD fitters; "Electronic devices may not detect or annunciate due to system obselece (sic) and state of construcion (sic), however standpipe and sprinkler systems are functioning." Unoccupied Sprungs units 2 messhall, mod 7: systems down "due to pipe freezing/breaks"; #5 fire alarm system is not in working order- fire alarm is monitored by FSU; #6 direct link to FD not operational? fire alarm is monitored by	n/a marked for #2 fire hose and nozzle on interior standpipes in good condition; n/a marked for #5 fire alarm system in proper working order; n/a marked for #6 direct link to FD operational; n/a marked for #7 are smoke detectors in proper working order	BenFireTraining_000533

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FACILITY	REPORT	DATE	PAGES	INSPECTOR	DEFICIENCY	OCC NOTE(S)	BATES NUMBER
					FSU; #7 smoke detectors are not in working order? fire alarm system is monitored by FSU		
RNDC	Fire Safety monthly	2/28/24	1	Gregory Coley	"Facility wide fire alarm replacement is required and pending contractor scheduling" 1(b) Mod 9 sprinkler heads painted - to be replaced by FMRD fitters; "Electronic devices may not detect or annunciate due to system obselence (sic) and state of construcion (sic), however standpipe and sprinkler systems are functioning." Unoccupied Sprungs units 2 messhall, mod 7: systems down "due to pipe freezing/breaks"; #5 fire alarm system is not in working order- fire alarm is monitored by FSU; #6 direct link to FD not operational? fire alarm is monitored by FSU; #7 smoke detectors are not in working order? fire alarm system is monitored by FSU	n/a marked for #2 fire hose and nozzle on interior standpipes in good condition; n/a marked for #5 fire alarm system in proper working order; n/a marked for #6 direct link to FD operational; n/a marked for #7 are smoke detectors in proper working order	BenFireTraining_000530
RNDC	Fire Safety monthly	3/28/24	1	Gregory Coley	"Facility wide fire alarm replacement is required and pending contractor scheduling" 1(b) Mod 9 sprinkler heads painted - to be replaced by FMRD fitters; "Electronic devices may not detect or annunciate due to system obselence (sic) and state of construcion	n/a marked for #2 fire hose and nozzle on interior standpipes in good condition; n/a marked for #5 fire alarm system in proper working order; n/a marked for #6 direct link to FD operational; n/a marked for #7 are smoke	BenFireTraining_000498



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FACILITY	REPORT	DATE	PAGES	INSPECTOR	DEFICIENCY	OCC NOTE(S)	BATES NUMBER
					(sic), however standpipe and sprinkler systems are functioning." Unoccupied Sprungs units 2 messhall, mod 7: systems down "due to pipe freezing/breaks"; #5 fire alarm system is not in working order- fire alarm is monitored by FSU; #6 direct link to FD not operational? fire alarm is monitored by FSU; #7 smoke detectors are not in working order? fire alarm system is monitored by FSU	detectors in proper working order	
<b>RNDC</b>	HVAC monthly	1/31/24	1	Gregory Coley	#3 proper type of fire extinguisher near boiler room door "not present"	is there no boiler room door? "n/a" marked for location	BenFireTraining_000532
<b>RNDC</b>	HVAC monthly	2/28/24	1	Gregory Coley	#3 proper type of fire extinguisher near boiler room door "not present"	is there no boiler room door? "n/a" marked for location	BenFireTraining_000531
<b>RNDC</b>	HVAC monthly	3/28/24	1	Gregory Coley	#3 proper type of fire extinguisher near boiler room door "not present"	is there no boiler room door? "n/a" marked for location	BenFireTraining_000499
<b>WF</b>	Fire Safety monthly	1/30/24	2	Roman Raczy	#1(c) spare sprinkler heads and sprinkler wrench not kept in reserve; #5 fire alarm not in working order	required details not provided	BenFireTraining_000536
<b>WF</b>	Fire Safety monthly	2/28/24	2	Roman Raczy	#1(c) spare sprinkler heads and sprinkler wrench not kept in reserve; #5 fire alarm not in working order	required details not provided	BenFireTraining_000534
<b>WF</b>	Fire Safety monthly	3/28/24	2	Roman Raczy	#1(c) spare sprinkler heads and sprinkler wrench not kept in reserve; #5 fire alarm not in working order	required details not provided	BenFireTraining_000538



Fire Safety Corrective Action reports were not submitted, so there has been no indication of correction actions planned to correct the deficiencies noted on the reports. (A copy of the form is shown below.) Per Directive #1248, the reports must be reviewed and endorsed by a commanding officer who “shall promptly initiate the necessary actions to eliminate the noted fire hazard and/or deficiency.” Those actions must be documented on the Fire Safety Corrective Action Report and include attachments such as applicable work orders. Further, the Fire Safety Corrective Action Report requires the facility to indicate whether the deficiency was previously reported and not corrected. In almost all instances, the reports list the same deficiency month after month, indicating that corrective action has not yet been taken. Indeed, some deficiencies have existed across monitoring periods.

	<b>CORRECTION DEPARTMENT CITY OF NEW YORK</b>	FORM NO. 1248D EFF. 06/08/99 REF. DIR. 1248	Page 1 of 2 Pages	
<b>FIRE SAFETY CORRECTIVE ACTION REPORT</b>				
Command :			Date :	
Please note that the : <ul style="list-style-type: none"> <li><input type="checkbox"/> WEEKLY FACILITY FIRE SAFETY INSPECTION REPORT</li> <li><input type="checkbox"/> MONTHLY FACILITY FIRE SAFETY INSPECTION REPORT</li> <li><input type="checkbox"/> MONTHLY FACILITY H.V.A.C. FIRE SAFETY REPORT</li> </ul>				
Conducted on _____ Date(s) revealed the existence of fire hazard(s) and/or deficiencies.				
A. Description of fire hazard and/or deficiency and location : (To be completed by member performing the inspection)				
		Deficiency was previously noted & not corrected:		
1.	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
2.	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
3.	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
4.	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
5.	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
6.	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
7.	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
8.	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
9.	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
10.	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
"Over"				

	<b>CORRECTION DEPARTMENT CITY OF NEW YORK</b>	FORM NO. 1248D EFF. 06/08/99 REF. DIR. 1248	Page 2 of 2 Pages	
<b>FIRE SAFETY CORRECTIVE ACTION REPORT</b>				
<p><b>B. Description of corrective action taken and date such action was initiated :</b></p> <p>(When a deficiency is being noted for a 2nd time or more, the <u>status</u> of the corrective action must be indicated)</p> <p>(To be completed by the Commanding Officer)</p> <ol style="list-style-type: none"> <li>1. _____</li> <li>2. _____</li> <li>3. _____</li> <li>4. _____</li> <li>5. _____</li> <li>6. _____</li> <li>7. _____</li> <li>8. _____</li> <li>9. _____</li> <li>10. _____</li> </ol>				
Reported By (Print) _____		Date _____		
Commanding Officer				
(Signature) _____				
Commanding Officer				
Copies :	Original Copies	Facility File Borough Facilities - Bureau Chief of Custody Management On-Island Facilities - Assistant Chief Division I or II Assistant Chief, I.S.C.D. Fire and Safety Unit		

Noticing the same issues as OCC, Plaintiffs’ counsel, on May 7, 2024, submitted a letter to counsel for the Defendants requesting responses and explanations for “the Department of Correction’s ongoing failure to complete fire safety inspection reports consistent with agency policy.” The letter is appended hereto and OCC is awaiting the Defendants’ reply. Plaintiff’s May 7 letter (at 2) further requested a response to the question originally raised on March 22, 2024 by Plaintiffs (via email) as to how long the issue of not conducting required inspections has been going on and citing a State Commission of Correction’s [2020] evaluation:

“Commission staff also found that Fire Safety Weekly Inspection reports were not being reviewed and signed by Tour Commander as required by Departmental Directive #1248, entitled ‘Facility Fire Safety Inspections and Reports.’ In response, DOC told SCOC, “[t]he Fire Safety Unit is working with the facility-based fire safety officers to ensure that their weekly fire safety inspections properly identify fire safety violations and include plans for corrective action.” DOC also asserted, “the Fire Safety Unit is reviewing the weekly fire safety inspection reports conducted by the facility fire safety officers to verify that such inspections are thoroughly documented, conducted at the required intervals, and that the inspections are thorough and complete.” Although the SCOC’s evaluation focused on weekly inspection reports as opposed to the monthly reports described above, the imperative is the same, and this evaluation from SCOC should have caused DOC to immediately rectify all failures to complete the weekly, monthly, and annual inspection reports in a manner consistent with agency policy.

OCC renews its requests for the required reports and joins in Plaintiffs’ request for “a written explanation of steps taken and being taken to ensure compliance with agency policies requiring annual, monthly, and weekly inspections, along with all trainings implementing those policies. *Id.* at 3.

In Defendants’ response to the draft of this report, DOC raised the issue of a request to visit WF made by Plaintiffs after discussions with Mr. Antonetti and Plaintiffs’ newly retained fire safety expert, Scott Golly, stating “in response to the questions raised by

Mr. Antonetti to Mr. Golly, DOC directs both OCC and Plaintiff's to documents sent on January 9, 2024, entitled BENFIRE/SAN000315-366 detailing the open BACnet fire alarm system currently being installed at WF." Defs.' resp. at 11. Foremost, Mr. Antonetti strongly rejects Defendants' characterization of his discussions with Mr. Golly as "speculative conversation" (see *id.*) and reports that he reviewed the documents submitted by DOC but has not yet received the requested information for the WF fire alarm system. Per Mr. Antonetti:

We requested the shop drawings; catalog sheets of the equipment being "Installed".

Instead, OCC received the catalog sheets some marked "DRAFT" and a riser diagram "Issued for Approval Not for Construction until Engineer of Record (EOR) approves the drawings".

The drawings were for Sprungs 1 & 2.

On drawings FA-000 the height of devises is a "suggestion for mounting". The Engineer of Record (EOR) and applicable authorities is referred to for the exact locations.

The riser diagram drawing FA-101 is not complete. There are comments that the Engineer of Record Fletcher Thompson must design the 120-volt electrical supply to the Fire Alarm Control Panel based on FDNY Industry reference sketch.

On drawing FA-101 a Workstation is to be provided but no catalog sheet was provided. On the same sheet there is a "Note: Workstation is to be backed up by UPS" but not who is going to provide or size the UPS.

Again, on FA101, there are 41 addresses with only one isolation modules. The catalog sheet ISO-X indicates there should be one every 25 devises.

The catalog sheet for the battery cabinet indicates that a BP-5 plate is required to install the batteries, but the "Equipment List" on drawing FA-101 does not indicate this part number.

The "Equipment List" on FA-101 indicates that the fire alarm annunciator will be an RLD, but the catalog sheets indicate two different fire alarm annunciators The RLD and the ACM-30.

Will the ACM-30 be used in another Sprung?

The manual pull station RMS-1T-KO is key operated. The key for the pull station should meet the requirements of all the pull station on the island.

Presently they are all the same no matter what the facility.

The fire alarm control panel on the catalog sheet is N16E-R but the equipment list leaves out the "R".

The "R" indicates that the exterior will be red. Without the "R" the outside is black.

The contractor wants to maintain the solenoids inoperative until the system is 100% completed. Sprungs 11 & 12 referred to supposedly had the pre-action

sprinkler valve replaced with a shot gun riser valve (make the system a wet riser and not a pre-action system.)  
This information was provided by the Mr. Christopher Currenti before he left .  
This should be confirmed during the site visit.  
OCC did not obtain from DOC what they requested.  
A site visit should be made before the fire alarm is completed in the West Facility.  
I did not find the BACnet description in the fire alarm information unless this refers to the CLSS Gateway .

Text of June 28, 2024 internal OCC email from Mario Antonetti (shared with his consent). Mr. Antonetti also wishes to correct Plaintiffs' comment that "most of OCC's reports about the state of fire safety are quite dated, with many facilities having not been assessed in writing by OCC in over a decade." Pltfs.' resp. at 4. Mr. Antonetti, in coordination with the Defendants' fire safety experts, completed updated fire and life safety reports for EMTC, GRVC, NIC, RMSC, and VCBC in 2022. Those reports were shared with the parties contemporaneously with their publishing.  
OCC is hoping to discuss the issues reported herein with the parties as soon as practicable.

### III. COMPLAINTS

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In addition to OCC's general monitoring responsibilities, OCC is tasked with investigating and responding to *Benjamin* related complaints from incarcerated individuals and their representatives. As noted in prior progress reports, traditionally, OCC investigated complaints independently of the Department and received detailed findings from DOC for the same complaints; however, OCC did not have staff to independently investigate complaints and relied on responses from DOC. On April 8, 2024, a DOC correction officer was transferred to OCC. That officer has not yet been granted access to the Department's complaint system, and so has been unable to review and compile environmental complaint data—the core part of his duties.

OCC's Deputy Director was granted access to the Department's complaint system on February 29, 2024; however, that access is view only, meaning the thousands of complaints found with the keyword "environmental" cannot be opened in an Excel spreadsheet for analysis or even printed for manual tracking. The Department's network requires a DOC account to perform any functions beyond viewing; therefore, OCC's correction officer needs access to the database for OCC to compile and assess *Benjamin* complaints.

In the meanwhile, the correction officer has, however, investigated the two complaints that the Legal Aid Society's Prisoners' Rights Project included OCC on since his transfer. Those complaints alleged the presence of vermin, dirty and dusty vents, the presence of mold or mildew, malodors, and generally unsanitary living conditions. During one investigation, OCC's correction officer observed vermin (no exterminator visits or

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related work orders were found) entering through a cracked surface and inadequate vermin-proof storage bins in the area; mildew, peeling paint, malodors, ponded water, dusty vents, and dirty, improperly stored mop heads in the janitor’s closet; soap scum build-up, mildew, dirty light shields, and multiple missing wall and floor tiles in the shower area.

At the other complaint, the officer did not observe the reported vermin. Due to the complainant’s security classification, the officer did not enter the complainant’s cell, but was able to see evidence of fallen plaster from the ceiling and walls of the cell along with indications of water damage to the cell. No active leaks were visible, but DOC staff confirmed flooding of the tier when it rains. DOC records indicate roof repairs were undertaken directly over the housing area approximately one week earlier. The complainant refused the area supervisor’s offer of a transfer to another cell.

This concludes OCC’s summary of the January–April 2024 monitoring period.

REPORT ON ENVIRONMENTAL CONDITIONS

January–April 2024

Dated this 5<sup>th</sup> day of July 2024

Prepared and submitted by:

  
\_\_\_\_\_  
Nicole N. Austin-Best  
Deputy Director  
Office of Compliance Consultants