

***Babu v. Ahern***  
**Consent Decree Fifth Status Report**  
**Case No. 5:18-cv-07677-NC**  
**James Austin, Ph.D.**  
**October 2024**

The following is the compliance assessment of Consent Decree provisions assigned to James Austin for monitoring as of October 2024. For each provision, this Joint Expert’s methods for assessment, findings and recommendations are provided. These assessments take into account comments received from the Alameda County Sheriff’s Office (ACSO), Class Counsel and Defendants’ Counsel based on an earlier draft.

The below summary chart reflects an overview of the specific provisions, utilizing the following codes:

SC	Substantial Compliance
PC	Partial Compliance
NC	Non-Compliance

As noted below, the ACSO is now in substantial compliance with all of the 24 classification related requirements. Moreover, the ACSO has, through its Classification Unit, demonstrated the capacity to continuously monitor and assess compliance with these provisions going forward. It is recommended that these 24 provisions of the Consent Decree be removed and no longer be subject to future monitoring reports.

## Classification and Restrictive Housing Consent Decree Summary Ratings

Requirement	Compliance Rating
300. Implement a new classification system within 3 months of the Effective Date.	SC
301. All initial classification interviews at intake shall include a face-to-face, in- person, interview	SC
302. All re-classifications performs every 60 days with face-to-face interview for medium and higher custody levels, or, if an inmate is being reclassified from minimum to a higher level .	SC
303. Individuals are assigned to the General Population or to Administrative Housing	SC
304. Development and implementation of a formal process for the admission, review and release of individuals to and from Administrative Housing	SC
305. Development and implementation of a Restrictive Housing Committee (“RHC”)	SC
306. Individuals shall not be placed in Restrictive Housing unless they are referred to the RHC for review.	SC
307. The RHC shall conduct a formal review of referrals within seven (7) calendar days with face-to-face interviews with the RHC	SC
308 The RHC meets at least weekly to review referrals and reviews of placements and maintain records of their meetings	SC
309. Individuals shall be moved from Step 1 to Step 2, and from Step 2 to General Population, based on clearly outlined, written criteria to include an absence of serious assaultive behavior and no major disciplinary reports during the period of placement	SC
310. Individuals with SMI shall not be placed in Restrictive Housing, Recreate Alone Status (“Step 1”) unless the criteria outlined in Section III(D)(1) has been met	SC
311. ACSO notifies AFBH with 24 hours of a BHI patient placed in Restrictive Housing	SC
314. Classification approves all cell transfers	SC
315. Protective Custody policies	SC
316. Development and implementation of policies and procedures on double celling	SC
317 Development and implementation of step-down protocols for RHU and THU	SC
318. Development and implementation of policies and procedures for inmates with disabilities	SC
319 Produce reports of: (1) of class members with SMI who have a release date within the next 12-36 hours and (2) regarding lengths of stay for people in restrictive housing,	SC
320. The RHC shall review reports regarding length of stay on a quarterly basis	SC
321. Appropriate due process in classification decisions	SC
322. Complete training for custody staff on the new classification system and policies	SC
400. Implement a new classification system, as outlined in Section III(C).	SC
401 - Restrictive Housing, Recreate Alone Status (“Step 1”):	SC
408 - Step 2 individual Initial and Re-evaluations	SC

24 Substantial Compliance - 0 Partial Compliance - 0 Non Compliance

**300. Defendants shall implement a new classification system, based upon the findings and recommendations contained in Dr. Austin’s expert report (Dkt. 111), within three (3) months of the Effective Date. The new classification system shall be approved by Dr. Austin prior to implementation. To the extent COVID-19 related measures require an individual to be temporarily housed in a more restrictive setting, such as a celled setting instead of a dorm for Medical Isolation or Quarantine purposes, they shall be returned to housing commensurate with their classification level as soon as deemed medically appropriate. This system shall, at a minimum, incorporate and/or include the concepts, processes, and/or procedures listed below.**

**Finding:** Substantial Compliance

**Policies:** 12.01 Intake Classification, 12.02 Reclassification, 12.04 Housing Plan

**Training:** Staff have been trained in the use of the new classification system including the initial and reclassification forms. This was accomplished during the time the new system was being pilot tested. All classification staff must complete training in the Document Management System (DMS) which requires staff to read and acknowledge their understanding of the new or revised policy. This is followed up during the Classification Unit weekly staff meetings during which new policies (and other matters) are reviewed and discussed with staff. Classification staff receive further guidance in classification practices via the weekly staff meetings.

When new staff are assigned to the classification unit, they undergo a rigorous training program that can last 60 days. Basically, one of two classification training officers are assigned to the new classification staff person who personally trains and then monitors the new staff’s work. There is a five page assessment of the trainee’s weekly performance that covers 14 subject matters. Once the new staff person has demonstrated competency in all aspects of the classification system, the training and monitoring work is concluded. This is the most comprehensive training system I have witnessed.

**Metrics:** Interviews with the Classification Unit staff.

Analysis of the snapshot data file to verify that the entire jail population, absent people who have not completed the intake process, have been classified either under the initial or reclassification instruments, and are housed according to the current classification system.

Observations of the intake and reclassification process.

Reliability test by the Monitor of a random sample of 25 inmates to verify they have been properly classified and that they were interviewed by classification staff.

Review of the above referenced classification policies to determine if they have been updated as of September 2024 to reflect the procedures required for the new classification system.

Review of all grievances filed by inmates between January 1, 2024 and August 10, 2024 that were related to the classification system.

**Assessment:** ACSO continues to operate the key components of a reliable and valid classification system. Classification staff have been using the initial and reclassification forms for a) new admissions and b) those inmates who have to be reclassified every 60 days or due to new information that would trigger a reclassification instrument. All new admissions are being interviewed by staff who are trained in the new system. Reclassifications are also being completed in a timely manner and with the benefit of a face to face interview.

The Monitor continues to receive the requested inmate population snapshot with the requested data. It is still not possible to receive a data file showing the detailed scoring of the initial or reclassification record.

This year continues to show a significant reduction in the jail population. This reduction seems to be linked to a reduction in jail bookings and the Length of Stay (LOS) that has declined from 30 to 23 days (Table 1). Jail population reductions reduce issues related to classification and basic jail operations (e.g., staff supervision, out of cell time, etc.) by increasing the security staff to jail population ratio.

Table 2 shows the distribution of the current jail population (August 2024) by the major classification categories. There is a significant number of inmates who are in a variety of special population statuses (46% of the total jail population). The largest non-general population categories are inmates assigned to protective custody (260 or 17%) with another 82 (5%) assigned to the THI but under a Protective Custody status.

**Table 1. Alameda County Jail Average Daily Population, Bookings and Length of Stay  
2017- 2024**

Year	ADP	Bookings	LOS in days
2017	2,078	34,908	22
2018	2,150	30,349	26
2019	2,372	34,115	25
2020	2,094	24,288	31
2021	2,145	24,550	32
2022	2,165	26,310	30
2023	1,606	25,829	23
August 2024	1,580		

**Table 2. Alameda County Jail Population Classification Levels – July 2024**

Class Level	Population	%
Unclassified	14	1%
Non-General Population	424	27%
Border Brothers	12	1%
Sureños	20	1%
Protective Custody	260	17%
Protective Custody THI	82	5%
RHP	32	2%
SSI/SSU	18	1%
Gen Pop	837	54%
Max	185	12%
Med	346	22%
Min	306	20%
THI	278	18%
Total	1,560	100%

Federal inmates housed in the jail as of August 30, 2024. A sizeable proportion of these inmates are classified as minimum, medium or PC. Removing these federal inmates would allow closure of a few housing units and probably reduce jail violence by having higher staffing levels in the housing units that remain open.

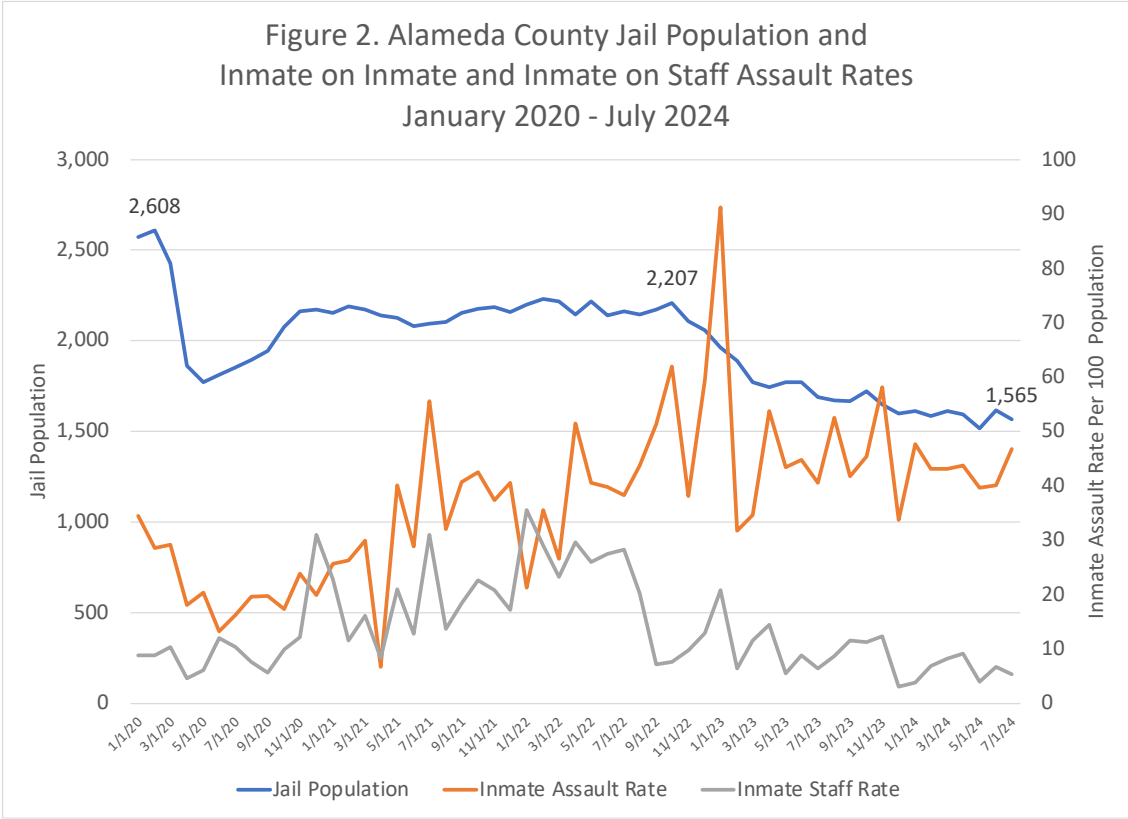
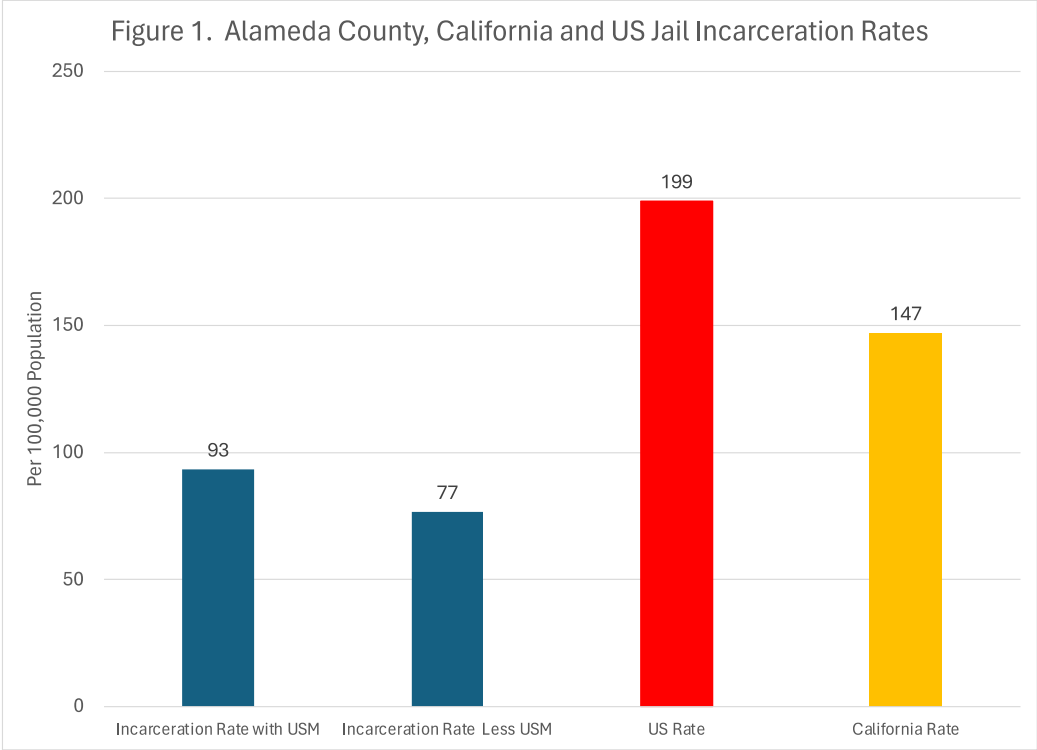
**Table 3. Federal Cases by Classification Level August 30, 2024**

Classification	Number	%
Unclassified	1	0.4%
Civil	2	0.7%
Gangs	13	4.6%
PC	38	13.5%
Maximum	26	9.3%
Medium	51	18.1%
Minimum	137	48.8%
RHP	2	0.7%
SSI	5	1.8%
THI	6	2.1%
Total	281	100.0%

Nevertheless, the significant reductions in the jail population have significantly reduced the incarceration rate to 93 per 100,000 population which is well below the California jail rate of 147 and the national jail rate of 199 per 100,000. The rate would be even lower (77 per 100,000) if one excludes the Federal detainee population.

The number of inmate-on-inmate and inmate-on-staff assaults are also being tracked. As shown in Figure 2, the number of such assaults steadily increased up until 2023 but have now declined. Part of the numeric decline is due to the above noted decline in the jail population. If one computes an assault rate per 100 jail population, one can see there has been a steady decline since June 2022 in the inmate on staff assault rate and stabilization in the inmate on inmate rate.

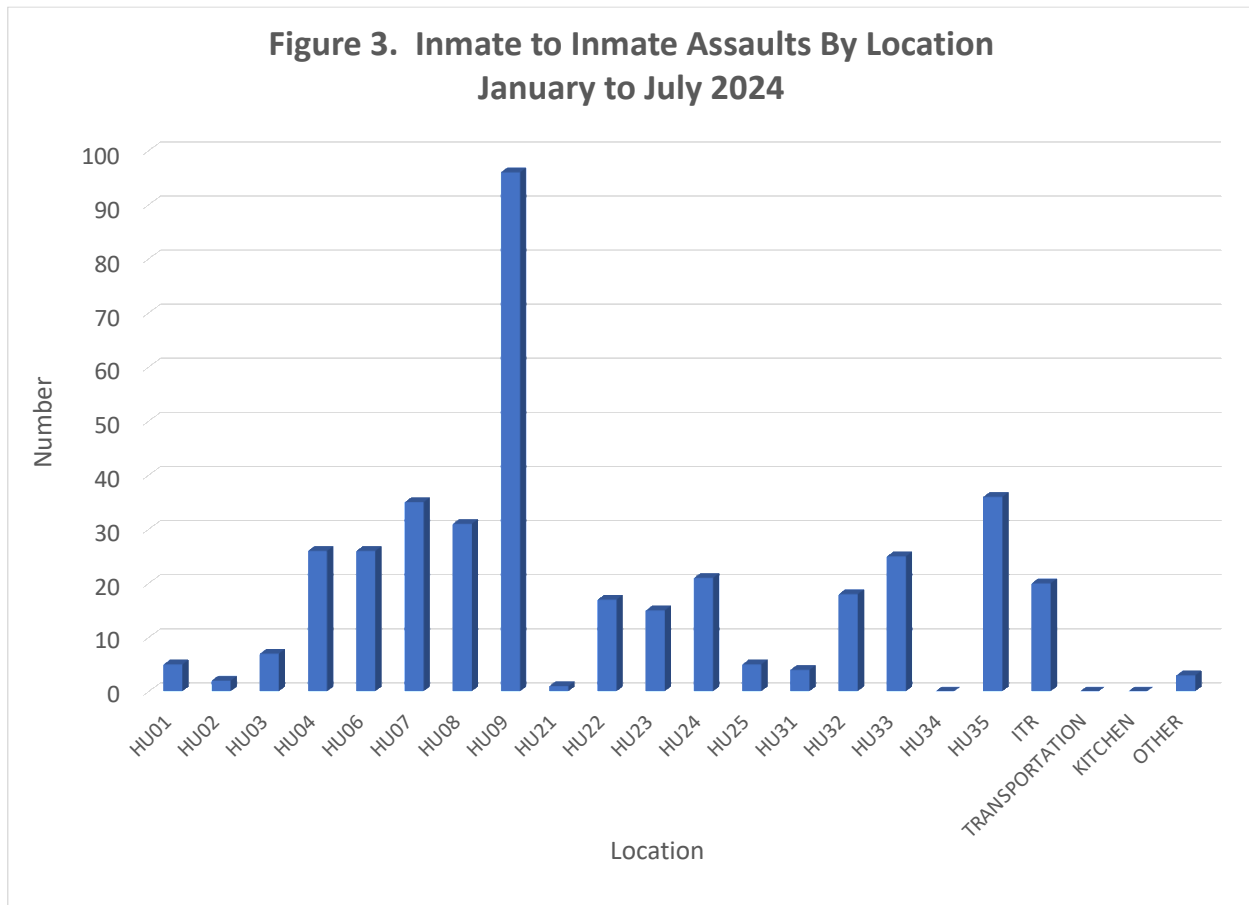
A closer examination of these assaults shows that the vast majority of them are labeled as “minor” with no injury to the inmate or staff person (Table 4). In terms of the types of inmates who are involved in these assaults, about 40% of the inmate on inmate assaults are occurring in the BHI/THU units (Table 4 and Figure 3). About 90% of the inmate on staff assaults are being committed by BHI clients. The numbers are quite low for Housing Units 1, 2 and 3 where the Restrictive Housing Program (RHP) and other maximum custody inmates are housed.



**Table 4. Inmate Assaults by Type of Injury and Location**

Injury Level	Assaults	%
Total	402	100%
Type of Injury		
None	81	20%
Minor/No Hospital	301	77%
Minor/Hospital	10	3%
Moderate/Hospital	10	3%
Location		
Unit 9- THI		

**Figure 3. Inmate to Inmate Assaults By Location  
January to July 2024**



The Monitor did complete a reliability test on the classification scoring process that consisted of auditing 25 randomly selected Initial classification and reclassification cases. The results showed that there were two persons who were not properly classified and/or housed., One person was originally assigned to general population minimum custody but should have been assigned to general population medium custody. The second person was assigned to general population



medium custody but should have been assigned to maximum custody general population. These are acceptable levels of errors (less than 10%) and did not show a housing error (minimums can be housed with mediums and mediums with maximum). Further, the Classification Unit has now instituted a similar random sampling process that will be conducted every 90 days by the training staff to help minimize future errors..

Classification policies 12.01, 12.02 and 12.04 are now published and in practice.

Relative to classification related grievances, there were a total of 90 filed or about 5% of the average daily population. Given that there are about 25,000 bookings per year or about 2,100 per month there were about 15,000 inmates who experienced the jail between January 1, 2024 and August 10, 2024, From this perspective, less than the 1% of these 15,000 inmates filed a classification related grievance.

Of the 90 grievances filed, only one was affirmed. Most (66) were denied, 15 were resolved while another two were withdrawn.

To get a better perspective on these grievances, a random sample of 20 cases were selected by the Monitor. Only one case contested the accuracy of the scoring process (this grievance was labeled as “resolved”). Most of the other grievances centered on disagreements on housing and cellmate assignments. In several cases the Classification Unit staff met with the inmate to discuss the issues raised but in most of the cases, the inmate received a written response. These written responses were fairly detailed and offered advice on how to avoid the issue(s) in the future.

**Recommendation:** None

**301. All initial classification interviews at intake shall include a face-to-face, in-person, interview with the incarcerated individual in addition to review of any relevant documents.**

**Finding:** Substantial Compliance

**Policies:** 12.01 Intake Classification

**Training:** Staff have been trained on how to use the initial classification instrument.

**Metrics:** Observation of the initial classification process during site visit.

Interviews with the Classification Unit staff.

Statistical analysis of the snapshot data files to verify all inmates have a completed classification record in a timely manner.

**Assessment:** Inmates continue to receive an initial classification interview and are being scored on the new initial instrument in a timely manner.

**Recommendation:** None.

**302. Development and implementation of new policies regarding classification, including replacing the prior scoring system with an updated additive point system that mirrors the National Institute of Corrections Objective Jail Classification system, and which requires a classification review including a face-to-face interview of all General Population Inmates in Medium or Maximum settings every sixty (60) days. If it appears an inmate in a Minimum General Population setting may be placed in a higher classification, a face-to-face interview shall be conducted.**

**Finding:** Substantial Compliance

**Policies:** 12.01 Intake Classification, 12.02 Reclassification, 12.04 Housing Plan.

**Training:** All staff have been trained in the use of the new classification forms (initial and reclassification) which also have been automated. Verification that staff have been fully trained on Policy 12.01 has been received.

**Metrics:** Interviews with Classification Unit staff.

Review of updated classification policies.

Conduct a random sample of 25 inmates who are in the snapshot data file to verify accuracy of classification scoring process (reliability test).

Analysis of the current jail population data file that contains each inmate's current classification level.

**Assessment:** As indicated above all newly admitted inmates are being assessed based on the new system. All inmates who have been in custody for 60 days or more have been reclassified. Face-to-face interviews are being completed for all new admissions and for the reclasses of inmates who are not assigned to minimum custody.

Policies 12.01 (intake classification), 12.02 (reclassification) and 12.04 (housing) have been reviewed by all parties and published. Collectively, these three policies require housing movements be approved by the Classification Unit as well as proper justification and documentation. They are also based on the housing detail document that determines what types of inmates can be housed in what units. It is also the practice for classification to respond to housing units as needed to explain to inmates why they are being moved from one section to another section due to changing classification levels. For a classification level to be changed it requires classification to interview the inmate prior to such a change.

**Recommendation:** None.

**303. Individuals will either be assigned to the General Population or to Administrative Housing, which includes: Protective Custody, Incompatible Gang Members, Restrictive Housing, Therapeutic Housing, or the Medical Infirmary. Regardless of their population assignment, all incarcerated persons will also be assigned a custody level (Minimum, Medium or Maximum) as determined by either the initial or reclassification process.**

**Finding:** Substantial Compliance

**Policies:** 9.02. Restrictive Housing, 9.03 Protective Custody, 12.01 Intake Classification, 12.02 Reclassification, 12.04 Housing Plan

**Training:** Staff have been trained in the use of the new classification system including the initial and reclassification forms. This was accomplished during the time the new system was being pilot tested. As current policies are modified, classification staff will need to be trained on any changes in current classification policies using the DMS system and briefings conducted as part of the weekly staff meetings. Newly assigned staff to the Classification Unit undergo a rigorous 60 day training and monitoring process to ensure they understand classification policies and practices.

**Metrics:** Interviews with Classification Unit staff.

Observation of initial and reclassification process during site visit.

Review of monthly housing plan.

Statistical analysis of the snapshot data file to verify each inmate (with the exception of recent bookings) are classified under the new system.

**Assessment:** Classification staff statements, an analysis of the snapshot data files, and the reliability test results listed above all show that inmates are now classified under the new system as required by the Consent Decree. Inmates are housed according to the housing matrix.

**Recommendation:** None.

**304. Development and implementation of a formal process for the admission, review and release of individuals to and from Administrative Housing, including sufficient due process and transparency to provide the incarcerated person with a written basis for the admission within seventy-two (72) hours, explanation of the process for appealing placement in the unit, conditions of confinement in the unit, an ongoing 30-day review process, and the basis for release to the general population.**

**Finding:** Substantial Compliance

**Policies:** 9.02 Restrictive Housing and 9.06 High Profile Inmates.

**Training:** Training of Classification staff has been completed on the updated policy 9.02 via the DMS process and muster training meetings. The RHC members have received an orientation to the RHC procedures and policies prior to implementation of the RHC process.

**Metrics:** Review of revised ACSO policies governing Restrictive Housing.

Review of weekly cases referred to the Restricted Housing Committee (RHC) to determine if the due process requirements have been met.

Observation of RHC Referral decision notifications being delivered to each inmate at cell side and before the Restrictive Housing Committee (RHC).

Interviews with the Classification Unit and RHC members.

Observations of the RHC meetings while on site.

Tour of the RH units.

Reviews of the weekly RH Census Report.

**Assessment:** For this provision it has been agreed by the Monitors that Dr. Austin's report will only focus on the RHC and Dr. Montoya will address the Therapeutic Housing Committee (THC).

RHC meetings are being conducted on a weekly basis to determine whether inmates meet the criteria to be assigned to Step 1 or Step 2 or released from Restrictive Housing. This committee consists of members from AFBH of a supervisory level or higher, an ACSO Sergeant, and a Classification deputy in charge of the Restrictive Housing program. A Classification Sergeant or Lieutenant is present and serves as the Committee Chair.

All inmates referred to RH are reviewed by the restrictive housing classification deputy to ensure they meet the initial admission criteria. The referral is then forwarded to the RHC for its weekly meeting.

The RHC Referral form has been modified to provide better documentation as to why placement in RH Step 1 is contraindicated and that such a determination has been made by AFBH via an interview (and that a confidential setting was offered).

All protective custody (PC) inmates who are initially placed into PC are placed in to a seventy-two-hour review queue. This is then reviewed by the classification deputy assigned to managing the PC population. These placements require a signature on a PC request form which means all PC placements are interviewed by a classification deputy to determine a root cause to the request and proper placement into the restrictive housing setting. This process is overseen and approved by a Sergeant.

The protective custody refusal form has been modified and improved. It is used when an inmate declines protective custody despite the recommendation of Classification. These inmates will be placed into a mainline housing unit as result of their refusal. The following questions added to the form are as follows:

1. Do you understand the protective custody program?
2. You understand that by declining PC you may be housed in a general /non protective environment?
3. Do you understand that per Policy 9.03 - placement in P/C is voluntary and can be declined/revoked at any time if you are a threat to the Protective Custody population.
4. If you change your mind regarding Protective Custody, contact the Classification Unit via message request.

The Body Worn Camera is activated for all refusals.

Quarterly reports assessing the length of stay identify: (1) any individuals who have been in restrictive housing for thirty (30) or ninety (90) days or longer and (2) any patterns regarding classification members' placement and/or discharge continue to be produced on a regular basis. The Classification Lieutenant and Sergeant constantly review the daily roster to keep track of particular inmates who are having difficulties progressing through the program.

A well-structured notification process is used where the classification staff assigned to the RHC notifies the inmate via an interview at cell side of both the RHC referral and subsequent placement decision. A similar process exists for the 30 day reviews.

A Special Security Unit (SSU) pod has been created in Housing Unit 1 which replaces the SSI unit. People currently housed in that unit are those who have successfully completed the RHP but cannot be safely placed in the General Population, At the time of this report there are only three inmates in the SSU – all three have murdered other inmates while incarcerated. They are all single celled. A new policy governing the SSU has been drafted, reviewed by the Joint Experts, and is being reviewed by the Class Counsel.

Finally, it should be noted that the RHP program population has declined significantly due to the following incentives created within the program that encourage inmates to comply with the program requirements:

1. **Weapon Possession:** Inmates found in possession of a weapon are eligible for release from RH within 30 days, provided it is their first offense and they complete the Step 1 program without incident.

2. **Step 2 Cell Doubling:** Inmates who double up in a cell during Step 2 are eligible for release after 15 days, instead of the standard 30 days, as long as they maintain a clean disciplinary record.
3. **Liaison Support:** Inmates who struggle to complete the RH program will be assigned a staff liaison with whom they have developed rapport. This liaison will guide and support the inmate toward successfully completing program.
4. **Completion Incentives:** Inmates who successfully complete the RH program but are hesitant to leave will be offered a significant reduction in Loss of Privileges (LOP) if they exit RH and do not return.
5. **Temporary LOP Suspension:** Inmates who are extremely problematic but show improvement in behavior may receive a temporary suspension of their Loss of Privileges (LOP), with a range of 1 to 7 days, as a reward for good behavior.

**Recommendation:** The SSU reflects a new and positive feature of the overall classification system that postdates the Consent Decree. It is expected that further adjustments to the classification to improve the overall system will occur which would not negate a substantial compliance rating.

**305. The formal process for admission to and discharge from the Restrictive Housing units shall require the development and implementation of a Restrictive Housing Committee (“RHC”) that shall approve all placements. The RHC shall be chaired by a sergeant or higher from the Classification Unit and include an AFBH representative at the supervisory level or higher and an ACSO representative from outside the Classification Unit at the sergeant level or higher.**

**Finding:** Substantial Compliance

**Policies:** 9.02 Restrictive Housing

**Training:** RHC members have received an orientation to the existing policies. Training of Classification staff who participate in the RHC has been completed on the updated policy 9.02 via the DMS process and muster training meetings.

**Metrics:** Review of revised ACSO policy 9.02.

Interviews with the Classification Unit staff and RHC members.

Observation of the RHC meetings.

Tours of the RH units.

Review of Minutes of the RHC meeting.

Review of RHC current and revised RH referral forms.

**Assessment:** The RHC meetings are being held on a regular basis with the appropriate people assigned to the RHC. Copies of completed referrals and Committee minutes were forwarded to

the Monitor for review. Observations of the RHC meetings were also conducted by the Monitor as well as other interested parties. A recent review of the RHC referral forms has found that they are being properly completed. Policy 9.02 has been updated, reviewed by all parties and published. Relevant Classification staff have been trained in the policy via the DMS process and muster staff meetings.

**Recommendation:** None.

**306. Individuals shall not be placed in Restrictive Housing unless they are referred to the RHC for review. Individuals may be referred based on the following circumstances: (1) recent assaultive behavior resulting in serious injury; (2) recent assaultive behavior involving use of a weapon; (3) repeated patterns of assaultive behavior (such as gassing); (4) where they pose a high escape risk; or (5) repeatedly threatening to assault other incarcerated persons or Staff. All referrals shall clearly document the reason for the referral in the form attached to the Consent Decree as Exhibit B. Incarcerated individuals shall not be referred to Restrictive Housing for rule violations beyond the five categories enumerated herein.**

**Finding:** Substantial Compliance

**Policies:** Policy 9.02 Restrictive Housing.

**Training:** Classification Staff and the RHC members have been trained in the use of the referral process.

**Metrics:** Interview with Classification Unit staff.

Observations (recorded and actual) of the inmate notification process at cell side by the Classification officer.

Review of RHC meeting minutes and completed RHC referral forms.

**Assessment:** As noted above, based on the RHC meeting minutes and a review of completed referral forms the RHC is functioning as required by the Consent Decree. To meet the face to face requirement, the Classification unit continues a process whereby the inmate is notified via an interview at cell side that a referral to the RHC has been made and the reason(s) for the referral. A copy of the referral form is given to the inmate. The inmate is told that they can submit in writing any relevant information to the RHC. Once the RHC decision is made, the Classification officer conducts another face to face cell side interview to inform the inmate of the RHC decision. A copy of the RHC decision form is given to the inmate and is told that an appeal can be made. Observations of this process both recorded via bodycam and while on site showed that this process is done very professionally by the Classification deputy. Efforts are made to ensure the inmates understand the RHC referral and decision process.

Policy 9.02 has been updated and published. Relevant Classification staff and other RHC members have been trained on the requirements of Policy 9.02 via the DMS system and muster staff training sessions.

As noted earlier under Provision 304, there has been considerable discussion about the criteria for excluding people from the RHP due to their mental health status. An adjusted process is now in place to ensure people who are contraindicated for placement in Step 1 of the RHP as determined by AFBH are being appropriately housed. Specifically, the AFBH must indicate on the form that a face-to-face interview has been attempted to make such an assessment.

**Recommendation:** None.

**307. After receiving a referral, the RHC shall conduct a formal review within seven (7) calendar days to assess whether the individual meets the above criteria for placement in restrictive housing. The RHC shall base this review on a face-to-face interview with the incarcerated individual and a review of relevant documents including any documents provided by the incarcerated person in response to the referral. Incarcerated individuals can request an opportunity to have witnesses heard regarding factual disputes in response to the referral, to be permitted at the RHC's discretion. If the RHC determines, based on this review, that the incarcerated individual meets the criteria for restrictive housing, they will assign the individual for placement in Restrictive Housing Step 1 or Restrictive Housing Step 2 as appropriate.**

**Finding:** Substantial Compliance

**Policies:** 9.02 Restrictive Housing.

**Training:** The RHC members are well versed in this provision and its requirements.

**Metrics:** Review of RHC referrals.

Interviews with ACSO and AFBH RHC members.

Observations of the RHC weekly meetings.

Observations of RHC representative interviewing inmates who appeared before the RHC.

Review of classification related grievances between January 1, 2024 and August 10, 2024.

**Assessment:** As noted above, reviews are being completed by the RHC and inmates are interviewed prior to and after the RHC makes its decisions. During the interview, the deputy explains the reasoning for the placement, the restricted housing process, and explains to the inmate how to get out of restricted housing. During these post RHC interviews, the inmate can raise any factual issues regarding the basis for the RHC decision including the right to list



witnesses who can offer factual information regarding the basis for the RHC referral. Legal counsel for the parties have determined that this process satisfies the original requirement inmate to be physically present during the RHC.

A review of a random sample of 20 grievances filed between January 1, 2024 and August 10, 2024 located three grievances that were related to the RHP and RHC decisions. One grievance centered on the decision to be placed in the RHP (denied). Another had to do with promotion from Step 1 to Step 2 (resolved by promoting to Step 2). The third also questioned RHC decision to place the person in the RHP (resolved by releasing the person to the general population). These reviews of the grievances were completed within a few days of being filed.

**Recommendation:** None.

**308. The RHC shall meet at least weekly to review referrals, conduct scheduled reviews of individual placements as outlined in Section III(D)(1) (Out-of-Cell Time Section), and, in their discretion, review any requests for re-evaluation received from incarcerated individuals currently in Restrictive Housing. The RHC shall document these meetings in written notes including how many requests and/or referrals were reviewed, how many individuals were admitted to, released from, or moved between Steps in the Restrictive Housing Settings, and the reasons for the RHC's decisions as to each.**

**Finding:** Substantial Compliance

**Policies:** 9.02 Restrictive Housing

**Training:** There was an orientation meeting held in 2023 with the designated RHC members prior to the start of the RHC formal meetings. The RHC members have completed the DMS process and are well versed in this provision and its requirements. There has been no turnovers in the people assigned to the RHC.

**Metrics:** Interview with ACSO and AFBH members of the RHC.

Review of the RHC weekly minutes.

Review of the completed RHC referral forms.

**Assessment:** The RHC continues to function properly. It is meeting on a weekly basis and is keeping minutes of its meetings which include the disposition of each case. Notes are taken during the meeting and records of both are maintained by the county. These minutes and the associated referral form are being forwarded to the Monitor for review on a weekly basis. The referral reasons and final decisions of the RHC are being effectively communicated to each inmate with copies of the referral form and subsequent decisions.

There have been grievances filed by some inmates questioning their initial placement in the RHP. My review of these grievances found that each one was properly addressed by the RHPC and or the Classification unit. There was one grievance that questioned the placement of the inmate in the RHP which was sustained and the person was released from the RHP. But the others were denied.

The existing policy 9.02 has been updated, reviewed by all parties and published. It contains all of the specific requirements as set forth in the Consent Decree and is being practiced.

**Recommendation:** None.

**309. Individuals shall be moved from Step 1 to Step 2, and from Step 2 to General Population, based on clearly outlined, written criteria to include an absence of serious assaultive behavior and no major disciplinary reports during the period of placement immediately prior to the review. The presumption shall be that individuals are to be released as quickly as possible back into General Population, consistent with safety and security needs. The RHC has the authority to release any individual at any time to a General Population setting or to move an individual from Step 1 to Step 2 or Step 2 to Step 1 in accordance with the policies and procedures, set forth herein.**

**Finding:** Substantial Compliance

**Policies:** 9.02 Restrictive Housing

**Training:** RHC members were trained prior to the start of the formal RHC meetings beginning in 2022. The RHC members have completed the DMS process and are well versed in this provision and its requirements.

**Metrics:** Observations of the RHC review hearings while on site and those videos recorded.

Review of the weekly minutes and review of the completed RHC review forms.

Review of RHC referral and review forms.

**Assessment:** The ACSO uses a one page pamphlet in both English and Spanish that clearly outlines the RH placement process and indicates how the inmate can progress from Step 1 to Step 2 and back to the General Population. This document, which is signed by the inmate, indicates that if one a) receives no major disciplinary reports and in the absence of serious assaultive behavior during the period of placement immediately prior to the review or b) other serious misconduct such as disobeying a direct order he/she shall be moved to Step 2.

When inmates are initially placed into restrictive housing, they are reviewed by classification deputies within 72 hours to ensure they meet the criteria for such initial placement. The RHC

then meets to determine if the person should be formally placed in RH. If the RHC determines placement in RH is appropriate, the inmate is then interviewed a classification deputy on the criteria for being promoted to Step 2 and eventual release from RH.

The ACSO reports that inmates who have no documented incidents for 30 days are moved to a less restrictive setting (either Step 1 to Step 2 or out of restrictive housing altogether) depending on the severity of the disciplinary behavior that placed them in RH). This is noted in the RHC minutes and review forms.

The existing policy 9.02 has been updated, published, and contains all of the specific requirements established for this provision of the Consent Decree.

**Recommendation:** None

**310. Individuals with SMI shall not be placed in Restrictive Housing, Recreate Alone Status ("Step 1") unless the criteria outlined in Section III(D)(1) has been met and subject to the safeguards contained in that section.**

**Finding:** Substantial Compliance

**Policies:** 9.02 Restrictive Housing.

**Training:** There was an orientation meeting held in February 2022 with the designated RHC members prior to the start of the RHC formal meetings in March 2022. The RHC members have completed the DMS process and are well versed in this provision and its requirements.

**Metrics:** Interview with Classification Unit staff.

Assessment of the snapshot data file.

**Assessment:** Using the snapshot data files there are several inmates in the RH that have been designated as SMI. As of October 2, 2024, there were two males designated a SMI both assigned to Step 1. All of these SMI patients have been approved by the AFBH for being assigned to RH and to the specific RH Step.

It's also clear from the observations of the RHC meetings, with representation from the AFBH, the RHC continues to carefully review people who fit the profile of an SMI and does not allow them to be housed in the RHP if the patient's mental health status contraindicates such a placement. There are a number of referrals that are rejected for placement in the RHP due to their mental illness(es).

The existing policy 9.02 has been updated, published and contains all of the specific requirements established for this Consent Decree provision.

I have also conferred with Dr. Montoya who continues to indicate that the SMI definition is being properly applied to the jail population.

**Recommendation:** None.

**311. ACSO shall notify and consult with AFBH clinical staff, as appropriate, within twenty-four (24) hours of placing any Behavioral Health Clients in Restrictive Housing at which time AFBH shall assess the individual to determine whether such placement is contraindicated due to mental health concerns. AFBH shall offer to conduct this assessment in a confidential setting. This assessment shall be documented and, if placement is contraindicated, ACSO shall work with AFBH to identify and implement appropriate alternatives and/or mitigating measures.**

**Finding:** Substantial Compliance

**Policies:** 9.02 Restricted Housing.

**Training:** There was an orientation meeting held in February with the designated RHC members prior to the start of the RHC formal meetings in March. The RHC members have completed the DMS process and are well versed in this provision and its requirements.

**Metrics:** Interview with Classification Unit staff.

Review of RHC minutes and copies of completed referral forms and the newly implemented AFBH Restrictive Suitability Review Form.

Documentation by AFBH that their assessments prior to the RHC meetings are being conducted in a private setting.

**Assessment:** All inmates who are referred to the RHC for possible placement in the RH are referred to AFBH prior to the RHC meeting. This requirement is reflected in the Policy 9.02 which has been reviewed by all parties and has been published. Observations of the RHC meetings showed that the AFBH representative is familiar with the inmate's current mental health status and communicates same to the full RHC.

The AFBH is now providing documentation on the RHC referral form that their assessments are based on offering a face-to-face interview prior to the RHC meeting and that they are offering to conduct such interviews in a private/confidential setting. As noted earlier, it is also true that many inmates are declining to be interviewed or they pose such a security risk to AFBH staff which precludes a confidential interview from occurring.

**Recommendation:** None.

**314. Development and implementation of policies and procedures requiring the Classification Unit to formally approve all intra-and inter-housing unit cell transfers.**

**Finding:** Substantial Compliance

**Policies:** 12.01 Intake Classification, 12.02 Reclassification and 12.04 Housing Plan.

**Training:** As indicated above, training has been completed for the newly published policies 12.02 and 12.04 via the DMS process and weekly staff briefings. Classification Unit officials have indicated that similar training was completed for the newly published policy 12.01.

**Metrics:** Interviews with Classification Unit staff.

Review of published ACSO policy 12.01.

Audit of selected cases where internal transfers were completed.

**Assessment:** Policy 12.01 Reclassification has been updated and published. Training was completed for all Classification Unit staff to explain this change in policy. This has also been enforced by ACSO command staff and is now standardized throughout the jail.

**Recommendation:** None.

**315. Development and implementation of policies and procedures regarding continuation and discontinuation of protective custody status, including due process for releasing incarcerated persons who do not meet the requirements for protective custody status into general population status.**

**Finding:** Substantial Compliance

**Policy:** 9.03 Protective Custody/ Gang Drop-out Inmates

**Training:** Training of classification staff has been completed on Policy 9.03

**Metrics:** Interviews with Classification Unit staff.

Review of Policy 9.03.

Audit of random sample (19) of current protective custody population.

**Assessment:** Policy 9.03 was published in September 2023 and staff trained via the DMS and muster meetings. During the past monitoring tour and as part of the 25 random sample, eight who were assigned to the Protective Custody population were audited to verify compliance with Policy 9.03. For those cases, the Classification Unit had properly documented the referral for Protective Custody and are monitoring their current placement in Protective Custody.

Classification Unit administrators continue to report that Classification staff must complete a formal review of the need for PC status as part of the formal 60 day reclassification event. This means that all inmates are being re-assessed for the need for PC and whether Protective Custody is needed every 60 days.

There was one grievance that was related to not being assigned to PC. In this one case the inmate first refused to sign the PC request form but later did and was housed in a PC unit. Finally, as shown in Table 2 there is a large number (about 22%) of the jail population is assigned to PC which further indicates people who require PC are being so classified and housed in specialized units.

**Recommendation:** None.

**316. Development and implementation of policies and procedures on double celling that takes into consideration criminal history/sophistication, willingness to accept a cellmate, size and age of the incarcerated persons in comparison to each other and reason for placement and in which cell assignments must be reviewed and approved by the Classification Unit with input from housing unit staff.**

**Finding:** Substantial Compliance

**Policy:** Policies 12.01 (Intake Classification) and 12.02 (Reclassification).

**Training:** Staff have been trained in the documentation process for allowing a single cell assignment.

**Metrics:** Interviews with Classification staff.

Review of policies 12.01 (Intake) and 12.02 (reclassification).

Review of Plaintiffs' Letter dated November 21, 2023.

**Assessment:** Based on interviews with Classification staff there is not a formal policy that narrowly addresses the use of double celling. But Policy 12.01 does contain the following guidelines and requirements:

- a. All inmates, regardless of their required security level, will be appropriately classified with the intent of double occupancy.
- b. If following the classification interview it is determined the inmate requires a single cell placement, documentation explaining the need to single cell assignment is required. A Sergeant assigned to the Classification Unit, or the on-duty watch commander in the absence of the Classification Sergeant, shall approve the single cell assignment."

The Classification Unit controls single and double celling and documents when a single cell is required. As noted above in policy 12.01, the assumption is that all inmates are eligible for double celling unless there is a contraindication for the need to be single celled.

Currently, the only official exception to double celling is for inmates who are in the Restricted Housing Program or the Special Security Unit (SSU). There are currently 38 inmates who are "single celled" with 28 located in the RHP for males, four in the RHP for females, and six in the SSU.

A single cell flag has been added to the ATIMS that will need a classification Sergeant or higher approval going forward. There may be others in the jail population who are single celled, but this is due to cell vacancies and not a designated security need for such placement. The Classification Unit cell assignment process is designed to ensure double-celled inmates are compatible with each other.

**Recommendation:** None

**317. Development and implementation of step-down protocols for the Restrictive Housing Units and Therapeutic Housing Units that begin integration and increase programming opportunities with the goal to safely transition incarcerated individuals to the least restrictive environment as quickly as possible.**

**Finding:** Substantial Compliance

**Policy:** None is required as it is part of the overall RHU and THU process.

**Training:** No formal training has been completed as there is no formal policy in place.

**Metrics:** Interviews with Classification staff.

Review of RHC meetings and minutes.

Consultation with Dr. Montoya.

**Assessment:** The RHC continues to take into consideration the AFBH case plan and classification security needs of the inmate when determining where to house the individual upon release from RH. AFBH is consulted from the very first RHC meeting through the last which generates the RH release. There are several inmates who are classified as an SSU inmate and are being transferred to the SSU. These are people who have completed the requirements of RH but cannot be safely released to the General Population, or who refuse to be moved to a General Population unit. Such decisions are made by the RHC and Classification Unit on a case by case basis and in consultation with the AFBH.

**Recommendation:** None

**318. Development and implementation of policies and procedures to ensure that inmates with disabilities (including but not limited to SMI) are not over-classified and housed out-of-level on account of their disability, including that an individual's Psychiatric Disability shall not be considered as a basis for classification decisions outside of the process for placing individuals in an appropriate Therapeutic Housing Unit consistent with their underlying classification level.**

**Finding:** Substantial Compliance

**Policy:** 1.14 Americans with Disabilities Act (ADA) effective October 31, 2019.

**Training:** Classification staff has been trained on this policy.

**Assessment:** As of September 1, 2024, there were 137 inmates identified as having a disability under the ADA. These included people 54 labeled as SMI, 64 with physical mobility issues, 11 with impaired vision, and eight with IDI.

I continue to not find any evidence that the ACSO is over-classifying or mis-housing ADA inmates. Accommodations are listed for each inmate based on their ADA designation. For the SMI inmates all have been referred to the AFBH for appropriate treatment and monitoring. There is an Inmate Disability Evaluation Form that has been completed on each ADA inmate that requires the Classification Unit to review and complete.

Class Counsel has disagreed in the past with this rating arguing that until Policy 1.14 is revised, published and staff are trained in the revised policy, a substantial compliance rating cannot be made. The ACSO and the Monitors overseeing the ADA provisions of the Consent Decree have completed extensive redrafting of Policy 1.14 and have both approved the current version. The Plaintiffs have not yet indicated if they approve of the current draft. However, this does not negate the fact that classification staff are in practice adhering to the requirements of Policy 1.14.

Classification staff report that there are a sufficient number of ADA cells that are designed to mitigate any physical disabilities. There is no indications that the Classification Unit is over-classifying and housing ADA inmates out-of-level on account of their disability. My review of the grievances filed did not find any related to being overclassified or mishoused due to one's disabilities.

**Recommendation:** In my past report, I indicated that the ACSO needs to finalize its proposed revisions to Policy 1.14 and staff trained on it. If this was not completed in the next monitoring period, the substantial compliance rating would be lowered to partial compliance. As indicated above the policy has been revised approved by the ACSO and the ADA Monitors. The Plaintiff's need to expedite their review so the policy can be formally approved and published. But because the current draft of Policy 1.14 is being practiced a substantial compliance rating is made.



**319. Implementation of a system to produce reports: (1) of class members with SMI who have a known release date within the next 12-36 hours for use in discharge planning and (2) regarding lengths of stay for class members in restrictive housing, particularly with respect to class members with SMI.**

**Finding:** Substantial -Compliance

**Policies:** There are no specific policies that address this requirement as set forth in the Consent Decree. But the ACSO has implemented the practice of submitting a report that lists SMI patients within 12-36 hours of a known release date.

**Training:** There is no policy in place to train staff on.

**Metrics:** Review of ACSO reports on SMI class members who are within 12-36 hours of a known release date.

Consultation with Dr. Montoya.

**Assessment:** The ACSO and the AFBH have an active list of all people with an SMI designation. Each week the Monitor receives a list of the SMIs in custody and whether they have a known release date. As reported before, none of these people have known release dates as they are in pretrial status. Unless sentenced, these people will not receive a release date until they return from a court hearing during which the court issues a release order.

The Classification Unit continues to produce a detailed weekly census of the current RHP population that shows the SMI status of each person, their booking date, RHC referral date, RHC admit date, Step 1 admit date, Step 2 admit date, and length of stay in RH to date.

**Recommendation:** None.

**320. The RHC shall review reports regarding length of stay on a quarterly basis to identify: (1) any individuals who have been in Restrictive Housing for thirty (30) days or longer and (2) any patterns regarding class members' placement and/or discharge. Defendants shall take any corrective actions needed, including revising policies and looking into individuals' cases to identify interventions aimed at reducing their length of stay in Restrictive Housing. Individuals who have been in Restrictive Housing for more than ninety (90) days shall have their placement reviewed by an AFBH manager and by the ACSO Classification Lieutenant or higher.**

**Finding:** Substantial -Compliance

**Policy:** 9.02 Restricted Housing (effective August 25, 2023)

**Training:** Relevant Classification Staff had been trained in the requirements of this provision.

Metrics: Interview with Classification staff

Production of daily RHP census reports

**Assessment:** The ACSO produces a Restrictive Housing census report that is updated daily and meets the requirements of this Consent Decree provision. This report lists the length of stay in the both the RHP as well as the total time in the jail system. The Classification Unit Lt. and Sgt. are continuously reviewing the status of each person in the RHP on a weekly basis which includes those people who have been in the program for more than 90 days.

As of September 30, 2024 there were only two inmates who have been in the RHP for more than 90 days. Both have been reported for continuing to commit violent offenses while assigned to the RHP.

Formal training of the Classification staff on the updated policy 9.02 has been completed via the DMS system and weekly staff meetings.

**Recommendation:** None.

**321. Appropriate due process in classification decisions as well as oversight including methods for individuals to grieve and/or otherwise appeal classification-related decisions. This shall include the ability to appeal classification decisions directly to the Classification Supervisor on the basis of lack of due process, for example failure to conduct a required face-to-face interview, or based on factual error such as the use of incorrect information regarding the individual's identity, charges, gang affiliation, and/or correctional history, or other errors. The Classification Supervisor shall respond within seven (7) days from receiving the appeal and shall correct any factual errors and/or request additional information as appropriate.**

**Finding:** Substantial Compliance

**Policies:** 12.01 Intake Classification and 12.02 Reclassification.

**Training:** Classification staff have been trained in in the use of the new classification system including the initial and reclassification forms. This was accomplished during the time the new system was being pilot tested. They have also been trained in the overall requirements of this Consent Decree provision.

**Metrics:** Interview with Classification staff.

Reliability test of 25 randomly selected inmates.

Review of grievances filed between January 1, 2024 and August 10, 2024 that contest classification and housing decisions.

**Assessment:** Since the prior review, the number of classification deputies assigned to the Classification Unit has been maintained and is sufficient to conduct face-to-face interviews every 60 days. A review of the monthly snapshots show that all but very recently admitted inmates have been classified.

During the August tour I observed several reclassification events during which a face-to-face interview was conducted, and the results of the reclassification decision were carefully explained to the inmate. Where an interpreter was required, it was provided.

The reliability test of 25 cases also found a high degree of accuracy in the scored and final classification level.

As noted earlier, a review of the classification grievances are relatively small in numbers and are being addressed within the seven day limitation.

**Recommendation:** None.

**322. Training for custody staff on the new classification system and policies listed above as outlined in Section IV(A).**

**Finding:** Substantial Compliance

**Policy:** There is no relevant policy(s) for this Consent Decree provision.

**Training:** Classification staff have been formally trained on the new classification system

**Metrics:** Interviews with Classification staff

Observation of Initial and Reclassification events

**Assessment:** Classification staff have been fully trained in the current classification system and existing policies.

**Recommendation:** None.

**400. Defendants have agreed to implement a new classification system, as outlined in Section III(C). This new classification system is designed to produce two objective classification decisions that will guide the housing of each incarcerated person: (1) custody level (Minimum, Medium, and Maximum), and (2) population assignment (e.g., General Population, Incompatible Gang Member, Protective Custody, Behavioral Health, Medical, or Restrictive Housing).**

**Finding:** Analysis and a rating of Substantial Compliance has already been covered under Consent Decree Provision #300.

**401 - Restrictive Housing, Recreate Alone Status (“Step 1”):** (i) This is the most restrictive designation. Individuals with SMI should not be placed in Step 1 except where: (1) the individual presents with such an immediate and serious danger that there is no reasonable alternative as determined by a Classification sergeant using the following criteria; whether the individual committed an assaultive act against someone within the past seventy-two (72) hours or whether the individual is threatening to imminently commit an assaultive act; and (2) a Qualified Mental Health Professional determines that: (a) such placement is not contraindicated, (b) the individual is not a suicide risk, and (c) the individual does not have active psychotic symptoms. If an incarcerated person with SMI placed in Step 1 suffers a deterioration in their mental health, engages in self-harm, or develops a heightened risk of suicide, or if the individual develops signs or symptoms of SMI that had not previously been identified, the individual will be referred for appropriate assessment from a Qualified Mental Health Professional within twenty-four (24) hours, who shall recommend appropriate housing and treatment. The Qualified Mental Health Professional will work with Classification to identify appropriate alternate housing if deemed necessary and document the clinical reasons for the move and the individual’s treatment needs going forward. Classification shall ensure that the person is moved promptly and document the move.

**Finding:** Substantial Compliance

**Policy:** 9.02 Restrictive Housing

**Assessment:** As indicated above, the RHC and the Restrictive Housing Program are functioning well. Classification has implemented a “RHP STEP 1” hazard flag to indicate which inmates are “Recreate Alone Status”.

Policy 9.02 has been modified by the ACSO, reviewed by the parties and published effective November 21, 2023.

The AFBH is properly screening candidates prior to placement in RH and determining whether there are people where placement in RH is contraindicated.

There are also examples where an inmate whose mental health condition has deteriorated in the RHP has been transferred to the THU so that monitoring process appears to be working.

**Recommendation:** None.

**408. Step 2 individuals who already received an initial review within fourteen (14) days (while in Step 1) shall be reevaluated for placement in the general population at least every thirty (30) days. Step 2 individuals who have not received an initial review shall receive an initial review within fourteen (14) days of placement in Step 2.**

**Finding:** Substantial Compliance

**Policy:** 9.02. Restrictive Housing

**Training:** Classification staff are trained in the requirements of this Consent Decree provision.

**Metrics:** Interview with Classification staff.

Observation of the RHC meetings.

Review of RHC minutes.

Review of several RHP census data files.

**Assessment:** Based on interviews with Classification Unit staff, all people placed in Restrictive Housing Step 2 continue to be screened by AFBH staff prior to admission and have been cleared for such a placement and are being reviewed every 30 days. While there is not a formal 14 day review by the RHC, the Classification Deputies make weekly visits to the housing units as part of their normal duties. The Classification Lt. and Sgt. review also review the RH population on a continuous basis with an emphasis on any changes to the person's LOC, whether placement has been contraindicated by the AFBH staff, any disciplinary incidents that triggered the RH placement have subsequently been dismissed since being placed in RH, any inmate grievances contesting placement after they were admitted into Step 1, and current lengths of stay in RH.

This Monitor did consult with the Mental Health Monitor to verify that the SMI label is being properly assigned to the jail population.

Formal training of the Classification staff on the updated policy 9.02 has been completed via the DMS system and muster staff meetings.

**Recommendation:** None.