

***C. Babu v. Ahern***  
**Consent Decree Fifth Confidential Status Report**  
*Case No. 5:18-cv-07677-NC*  
**Terri McDonald Consulting LLC**  
**Sacramento, CA**  
**XXXXXXXXXXXX**

The following are excerpts from the Consent Decree provisions assigned to Terri McDonald for monitoring. This document will have a summary of those provisions followed by the specific provision language and this Joint Expert’s findings and recommendations. Connected provisions have been combined for this status report; however, several will likely be separated in future reports as the County increases compliance. Additional recommendations may also be added in subsequent reports as additional information is gleaned during implementation. While this report is dated **XXXXXXX**, only information provided through June 30, 2024, has been included in this reporting period.

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

- SC-DC            Substantia Compliance – Recommend Discontinuation of Monitoring
- SC                Substantial Compliance
- PC                Partial Compliance
- NC                Non-Compliance
- INYR-N/A        Implementation Not Yet Required – Not Applicable

**Summary of Ratings**

<b>Requirement</b>	<b>Current Rating</b>	<b>Prior Rating</b>
200. Sufficient Custody Staff to Comply with Consent Decree	PC	PC
201. Filling Custody Positions	PC	PC
202. Creation of Behavioral Health Access Team	PC	PC
203. Creation of Emergency Health Care Access Team and Clinic Deputy Escorts	PC	PC
402. Out of Cell Time for Recreate Alone (Step 1) Populations Following Yard Capacity Expansion.	INYR – N/A	INYR – N/A
403. Structured Activity Time for Recreate Alone (Step 2) Populations Following Yard Capacity Expansion.	INYR – N/A	INYR – N/A
405. Out of Cell Time for Step 2 Populations Following Yard Capacity Expansion,	INYR – N/A	INYR – N/A
407. Structured Activity Time for Step 2 Populations Following Yard Capacity Expansion.	INYR – N/A	INYR – N/A
409. Out of Cell Time for General Population – Celled Housing	PC	PC
410. Structured Activity Time for General Population – Celled Housing	PC	PC
411. Out of Cell Time and Structured Activity for Step 1 and Step 2 Populations Effective immediately	PC	PC

<b>Requirement</b>	<b>Current Rating</b>	<b>Prior Rating</b>
412. Out of Cell Time and Structured Activity for Step 1 and Step 2 Populations Beginning on the fourth month after the Effective Date of the Consent Decree	PC	PC
414. Reconfiguration of Recreation Spaces Within Twenty-four(24) Months of the Effective Date of the Consent Decree	PC	PC
415. Access to Bathroom Facilities During Out of Cell Time Activities	SC - DC	SC - DC
417. Documenting Exceptions to Out of Cell Activities due to Unusual Circumstances	PC	PC
418. Procurement and Activation of Electronic Information System to Track Out of Cell Time	PC	PC
419. Notification of Mental Health Staff When Incarcerated Person Repeatedly Refuse to Exit Cell or Neglect Basic Care	PC	PC
420. Development of Plan to Reconfigure Recreation Spaces	PC	PC
421. Maximize Outdoor Recreational Time	PC	PC
422. Behavioral Health Clients Involvement in Programming and Evaluation of Available Work Assigns to Increase Opportunities	PC	PC
423. Equal Access to Programming for Behavioral Health Clients and Alternative Custody Opportunities.	PC	PC
424. Evaluation of Potential Expansion for Programming Space.	PC	PC
500. Update to Use of Force Policies and Training	PC	PC
501. Use of Force Policy to Include Specific Mandates.	PC	PC
502. Mental Health Staff Role in Pre-Planned Use of Force Incidents	PC	PC
503. Use of Force Reviews and Expansion of Fixed Cameras	PC	PC
504. On-Going Refinement of Use of Force Policies and Training	SC	SC
505. Utilization of Special Restraints and Discontinuation of the WRAP device.	PC	PC
506. Medical and Mental Health Staff Role When Specialized Restraints are Used	PC	PC
507. Updates to the Special Restraint Policies and Training.	PC	PC
600. Access to Grievances and Grievance Trend .	PC	PC
712. Alert System to Address Delays in Intake Processing	PC	PC
749. Cleaning of Safety Cells.	SC - DC	SC
751. Working Call Buttons in Living Units	SC	PC
754. Emergency Response Equipment and Access to Cut Down Tools.	SC - DC	SC - DC
760. Clinicians Role in Restricting Property and Privileges Associated with Suicide Precautions.	PC	PC
761. Training in Security Checks and Emergency Response to Suicide Attempts	PC	PC
763. Supervisor Review of Security Checks.	SC	SC

Requirement	Current Rating	Prior Rating
768. Out of Cell Time in Therapeutic Housing Units	PC	PC
773. De-escalation Training	PC	PC
800. Establishment of Incarcerated Person Advisory Council and Ombudsperson Program	PC	PC
1200. Development of Consent Decree Implementation Plan.	PC	PC

### Commonly Used Acronyms

ACSO	Alameda County Sheriff’s Office
AFBH	Adult Forensic Behavioral Health
BH	Behavioral Health
BHI	Behavioral Health Incarcerated Person
DC	Detention and Corrections Division - ACSO
GO	General Order – ACSO Policy
IOL	Intensive Observation
IP	Incarcerated Person
ITR	Intake, Transfer and Release
NA	Not Applicable
RFID	Radio Frequency Identification Device
RH	Restricted Housing
SRJ	Santa Rita Jail
THU	Therapeutic Housing Unit
UNK	Unknown

### Associated Policies

The vast majority of the Provisions require an update to policies, forms, post orders and training. The Incarcerated Person Handbook requires updates to comply with the Consent Decree as well. Additionally, each entity<sup>1</sup> responsible for a provision may need their post orders, job descriptions or duty statements updated to comply. The following list of documents is not exhaustive but represents the status of pending or recently updated policies that apply to at least one provision in this report:

1.05 (GO) <sup>2</sup>	Use of Force
1.20 (GO)	Taser X-2
1.21 (GO)	Less Lethal Weapons Systems
3.10 (DC)	Daily Attendance Report – Requires Update
3.21 (DC)	Personnel Selection, Promotions, Retention and Staffing – <i>Published November 21, 2023</i>
3.27 (DC)	Position Control – <i>Published November 21, 2023</i>
3.29 (DC)	Special Management Unit Staffing – <i>Published November 21, 2023</i>

<sup>1</sup> Includes ACSO, AFBH and Wellpath.

<sup>2</sup> General Orders 1.05, 1.20 and 1.21 are departmental policies with no recommended updates at this time. This could change depending on future reviews of custody use of force incidents.

3.30 (DC)	Mandatory and Voluntary Overtime Assignments – Requires Update
4.02 (GO)	Training - <b><i>Published November 21, 2023</i></b>
4.01 (DC)	Facility Training Plans – <b><i>Published November 21, 2023</i></b>
4.02 (DC)	Facility Personnel Training - <b><i>Updated February 25, 2023</i></b>
5.69 (GO)	WRAP Device – <b><i>Updated and Approved</i></b>
6.01 (DC)	Repair and Minor Construction ACSO – <b><i>Updated October 10, 2022</i></b>
6.02 (DC)	Facility Plant Maintenance – <b><i>Updated October 10, 2022</i></b>
7.01 (DC)	Fire Safety – <b><i>Published January 26, 2024</i></b>
7.03 (DC)	Emergency Alarm Response – <b><i>Updated March 10, 2023</i></b>
7.14 (DC)	Infectious Disease Control – <b><i>Updated April 5, 2023</i></b>
8.09 (DC)	Transportation/Movement and Use of Restraints – Requires Update
8.11 (DC)	Emergency Medical Transportation – <b><i>Updated January 26, 2024</i></b>
8.12 (DC)	Incarcerated Person Observation and Direct Visual Supervision – <b><i>September 5, 2023</i></b>
8.13 (DC)	Use of Safety Cell – <b><i>Updated April 6, 2023</i></b>
8.17 (GO)	Body Worn Cameras – Pending Further Review
8.26 (DC)	Use of Special Restraints – <b><i>Updated February 24, 2024</i></b>
8.28 (DC)	Resistant Incarcerated Person Management – Requires Update
8.29 (DC)	Positional Asphyxia – Pending Further Review
8.31 (DC)	Selection of Housing Unit Inmate Workers – Requires Update
9.01 (DC)	Disciplinary Isolation – <b><i>Archived</i></b>
9.02 (DC)	Restrictive Housing – <b><i>Updated November 21, 2023</i></b>
9.03 (DC)	Protective Custody – <b><i>Updated September 25, 2023</i></b>
9.04 (DC)	Therapeutic Housing Policy – In Review Process
9.07 (DC)	Deprivation of Authorized Items or Activities – Requires Update
9.08 (DC)	Contract Agency Inmates – <b><i>January 27, 2023</i></b>
9.09 (DC)	Special Incarcerated Person Management Plan – Requires Update
9.10 (DC)	Max Separation Incarcerated persons – <b><i>Archived</i></b>
9.11 (DC)	Effective Communication – <b><i>Published February 6, 2024</i></b>
10.01 (DC)	General Security Post Order – Requires Update
10.02 (DC)	Lieutenant/Watch Commander Post Order – <b><i>Updated October 20, 2023</i></b>
10.03 (DC)	Sergeant/Shift/Supervisor Post Order – <b><i>Updated May 3, 2023</i></b>
10.04 (DC)	Intake Deputy Post Order – Requires Update
10.05 (DC)	Housing Unit Deputy Post Orders – <b><i>Updated October 31, 2023</i></b>
10.08 (DC)	Clinic Officer Post Orders – <b><i>Updated March 16, 2023</i></b>
10.09 (DC)	Kitchen Officer Post Orders – <b><i>Updated October 24, 2023</i></b>
10.11 (DC)	Intake, Transfer, Release (ITR) Technician Post Order – <b><i>Updated May 23, 2023</i></b>
10.12 (DC)	Housing Control Post Orders – <b><i>Updated June 28, 2023</i></b>
10.18 (DC)	Yard Deputy Post Order – <b><i>Updated June 26, 2023</i></b>
10.22 (DC)	Special Projects Deputy Post Order – Requires Update
10.30 (DC)	BHAT Deputy Post Orders – Requires Update
10.32 (DC)	ADA Officer Post Orders – <b><i>Updated August 28, 2023</i></b>
11.01 (DC)	Intro to Intake – Requires Update
11.02 (DC)	Intake Procedure – Requires Update
12.01 (DC)	Intake Classification – <b><i>Published January 23, 2024</i></b>
12.02 (DC)	Reclassification – <b><i>Updated March 22, 2023</i></b>
12.08 (DC)	Incarcerated Person Work Program – Requires Update
13.01 (DC)	Medical and Behavioral Health Care – Requires Update
13.02 (DC)	Access to Care Policy – Requires Update
13.06 (DC)	Suicide Prevention – <b><i>Updated June 30, 2023</i></b>

- 13.12 (DC) Behavioral Health Referral Form – Requires Update
- 15.01 (DC) Sanitation Schedule – Requires Update
- 15.02 (DC) Safety and Sanitation Inspection – Requires Update
- 16.01 (DC) Incarcerated Person Discipline – **Updated July 11, 2023**
- 16.02 (DC) Incarcerated Person Rules and Information – **Updated June 21, 2023.**  
Incarcerated Person Handbook – **Updated June 21, 2023**
- 16.03(DC) Incarcerated person Grievance Procedure – In Review Process
- 17.02 (DC) Visiting – **Updated October 24, 2023**
- 18.01 (DC) Intro to Incarcerated person Services – Requires Update
- 18.02 (DC) Incarcerated person Operational Programs – Requires Update
- 18.05 (DC) Volunteer Services and Programs – Requires Update
- 18.07 (DC) Religious Services – Requires Update
- 18.09 (DC) Educational Program Planning – Requires Update
- 18.10 (DC) Vocational Training Programs – Requires Update
- 18.11 (DC) Social Services Programs – Requires Update
- 18.12 (DC) Recreation and Incarcerated person Activity Program – **Updated March 9, 2023**
- 18.14 (DC) Tablet Access – **Updated February 29, 2023**
- 18.17 (DC) Parenting Program – **Published November 21, 2023**
- 8.18 (DC) Inmate Death – **Updated June 26, 2023**
- 20-02 Santa Rita Jail Mandatory Overtime Program – January 2020
- 20-17 Mandatory Overtime Frequently Asked Questions – October 2020
- 21.01.01 (DC) Use of Force Addendum In-Custody Use of Force – **Updated March 14, 2023**
- 21.01.02 (DC) Controlled Response to Resistant Inmate – **Updated October 4, 2024**
- 21.03.01(DC) Force Training and Compliance Unit – **Instituted July 1, 2022**
- 21.03.02 (DC) Force Training and Compliance Unit Force Incident Review and Routing – **Instituted March 14, 2023**

## FINDINGS

*(200) Defendants shall maintain sufficient mental health and custody staff to meet the requirements of this Consent Decree, including maintaining sufficient mental health clinical staffing to provide for adequate 24-hour coverage, seven days a week, and sufficient custodial staff to ensure that programming, recreation, transportation and movement, out-of-cell and outdoor time and all other jail functions can proceed safely. To the extent possible, Custody staff assigned to positions where mental health training is required, including staff assigned to the Therapeutic Housing Units, shall be strongly encouraged to serve in these roles for at least three years to provide for consistency and to maximize the benefit of the training and expertise of the staff assigned to these areas.*

**Finding:        *Partial Compliance*<sup>3</sup>**

The ACSO has shown no significant improvement to the number of custody staff assigned on duty. However, the ACSO slightly increased the daily staffing target goal since the last reporting period – previously requiring that five (5) sergeants and sixty (60) deputies are working on dayshift and five (5) sergeants and fifty-six (56) deputies are on post on the overnight shift for a total of 115 deputies. Pursuant to ACSO’s 2024 Annual Staffing Certification, the target for deputies on the dayshift increased to sixty-three (63) deputies and for the overnight shift it has been increased to fifty-seven (57) for a total of 120

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<sup>3</sup> The Mental Health Expert will report on mental health hiring and staffing.

deputies.<sup>4</sup> The chart below will show that the ACSO has not able to achieve that goal as the system is averaging under fifty-five (55) deputies on both the day and overnight shifts. As with the last report, staffing levels change throughout the shift as staff are redirected for medical guarding/transportation or have to leave work without relief coverage. The County does not have a sophisticated staffing report to capture the frequency of this occurrence, so the statistics for this report are reliant on a sample analysis of daily activity reports that do not document when staff leave the jail for any reason during their assigned post. As a result, the County is reporting the best case scenario, which overstates the number of staff on duty throughout the shifts.

The following table shows the daily average number of posts filled and overtime utilization for the first week of each month during the period of January 2023 through June 2024:

**Average Daily Deputy and Technician Coverage  
Teams A, B, C, D**

Period	Shift	Deputies on Duty	Deputies on Overtime	% Deputies on Overtime	Technicians on Duty	Technicians on Overtime	% Technicians on Overtime
January - June 2023	Dayshift	59	26	44%	35	6	17%
	Over Night	55	28	51%	34	6	18%
July- December 2023	Dayshift	60	29	48%	33	5	15%
	Over Night	55	21	38%	32	5	17%
January - June 2024	Dayshift	54.5	28	51%	27	6	18%
	Over Night	54.5	22	40%	28.5	5.5	16%

In analyzing daily shift reports for the one-week sample period each month from January through June 2024, it is evident that the number of *deputies* working in the jails during the dayshift reduced slightly from the last monitoring period as did *technicians* working day and overnight shifts. The average number of *deputies* working dayshift and overnight during this period was 54.5 per shift. This represents a 5% reduction from the Fourth Monitoring Report. The *technician* classification on duty reduced this monitoring period by an average of 9.5 *technicians* in a 24-hour period, representing a 15% decrease. This is the second consecutive report identifying a reduction in the *technicians* on duty.

The County continues to rely on the use of overtime to address the overall need. During this period, the percentage of *deputy* posts filled by overtime was 51% on dayshift and 40% on overnight shift. This is higher than the previous report of 48% of *deputy* posts filled by overtime on dayshift and 38% on nightshift. The *technicians*' overtime increased from the previous report by 3% on dayshift but reduced by 1% on the overnight shifts.

<sup>4</sup> Annual Staffing Certification April 1, 2024

A more complete discussion of staffing can be found in the Fourth Monitoring report<sup>5</sup> but essentially the County has shown no substantial improvement in the number of staff working in the jails and the staffing shortages are one of the primary reasons the County cannot achieve substantial compliance with the Consent Decree. As will be discussed in this report, the County is demonstrating improvement in many areas but continues to be hampered from achieving full compliance by insufficient staffing and physical plant issues and will not achieve substantial compliance with many provisions until resolved.

It is noted the Alameda County Sheriff's Office (ACSO) is moving forward with modification to the contract to house federal prisoners in the Alameda County jail. The modification will allow ACSO to pre-screen proposed federal inmates and reject or return those with high needs or who will require specialized housing. While the remaining federal contract will add to the staffing crisis, the screening criteria represents positive movement.

It is also noted that the ACSO has made the decision to reduce the population levels in the male restricted housing units to reduce tensions in the units and improve the populations access to programming and services. This is a very positive step. It is recognized the ACSO could have continued to operate those units at 100% occupancy to reduce the overall staffing needs in the jail but made the decision to reduce the population levels, which has resulted in significant reductions to incidents and tension in the units. The tone and tenor of the male restricted housing units was much calmer during the August 2024 monitoring tour.

#### **Recommendations:**

1. \*<sup>6</sup>Continue hiring associated with Provision 201.
2. \*Consider ending the contract to house federal inmates in the jail.
3. \*Evaluate non-Custody divisions of the Sheriff Office to redirect staff into the jails until such time as hiring can increase.
4. \*Create a metrics report that trends daily staffing for all shifts and identifies any barriers that the number of available posts, vacancies or redirects have on programming or compliance with the Consent Decree.<sup>7</sup> Work with the Joint Experts to prioritize available resources should that be the case.
5. \*Work with the Joint Experts concerning how hiring additional Technicians or Custody Deputies pursuant to Penal Code Section 850.2 and 850.5 could assist in the role of security checks and other jail operations.

*(201) Defendants further agree to implement the recommendations contained in the Staffing Report, including: (1) making best efforts to hire a total of two hundred fifty-nine (259) sworn staff and seventy-two (72) non-sworn staff over a three-year period to work in the Jail in order to reach the minimum staffing levels required to safely operate the Jail without employing mandatory overtime, these positions shall be*

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<sup>5</sup> April 14, 2024, pg. 7

<sup>6</sup> All recommendations that begin with an asterisk were noted in prior report(s).

<sup>7</sup> The Joint Experts and/or the National Institute of Corrections (NIC) can assist.

*devoted solely to staffing the Jail, and the Sheriff shall certify annually that these positions are used solely for the Jail;*<sup>8</sup>

**Finding:** *Partial Compliance*

**Assessment:**<sup>9</sup>

During this rating period, the County temporarily reduced the hiring goal for *deputy* positions. This target pursuant to the Settlement Agreement is the employment of 656 *deputies* and 285 *technicians* which were to be filled by August 2024. However, according to the June 2024 Bi-Weekly Staffing report, the number of authorized *deputies* was reduced to 648 positions, or a loss of eight (8) authorized *deputy* positions. The ACSO reports this is a temporary redirect of position authority to support units within ACSO to assist with jail operations by increasing training, background, recruitment and internal affairs staff.<sup>10</sup> This is a reasonable approach to support jail operations and will be reviewed as ACSO is closer to filling all jail deputy positions.

From the last report, the *deputy* vacancies increased from the Fourth Monitoring Report<sup>11</sup> which represented there were 297 *deputy* vacancies as of December 24, 2023; the June 22, 2024 staffing report reflects there were 313 *deputy* vacancies as of June 22, 2024 (48% vacancy rate).<sup>12</sup> The County increased the number of *technicians* by five staff members, representing an unchanged 25% vacancy rate in the *technician* classification.

**Bi-Weekly Staffing Report  
Ending June 22, 2024**

	<b>4/4/20</b>	<b>1/6/24</b>	<b>6/22/24</b>	<b>Change from April 4, 2020</b>	<b>Change from January 6, 2024</b>
<b>Authorized Badge Positions</b>	404	656	648	244	-8
<b>Authorized Non-Badge Positions</b>	211	285	285	74	0
<b>Badge On-Site</b>	278	359	343	65	-16
<b>Non-Badge On-Site</b>	182	210	215	33	5
<b>Background Investigators</b>	4	11.5	13.5	9.5	2

<sup>8</sup> Note due to the complexity of this provision, the provision has been separated into five (5) subsections with the Finding documented below Provision (201)(1) and the Recommendations below in Provision (201)(5)

<sup>9</sup> These findings are specific to custody positions as mental health staffing analysis will be conducted by the Mental Health Expert.

<sup>10</sup> ~~Positions 404113 and 404114 to Internal Affairs; 404115 and 404116 to Regional Training; 404117 and 404118 to Recruitment and 404119 and 404120 to Backgrounds.~~

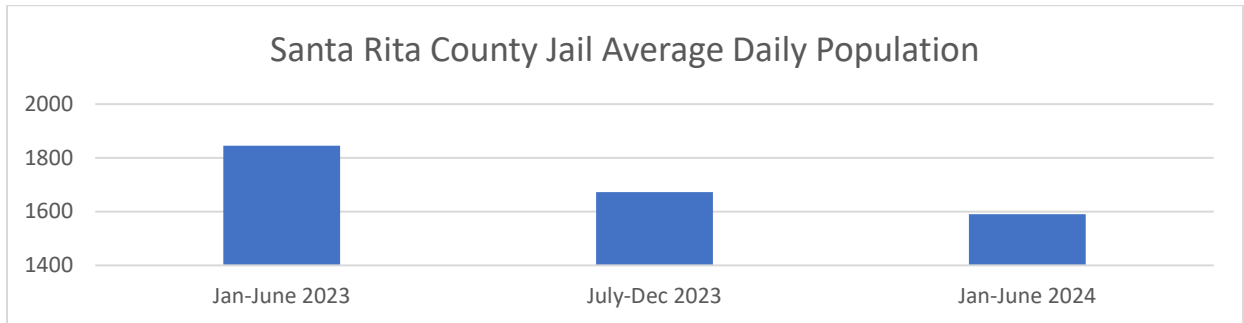
<sup>11</sup> Page 8.

<sup>12</sup> For calculation, the total required deputies per the Consent Decree is 656, not the currently authorized 648 positions.



To aid hiring, the ACSO added additional recruitment staff and background investigators. While it is too soon to report, the ACSO believes the current recruitment efforts will yield additional staff in late 2024, reporting there were approximately 70 deputies in the hiring process or academy during the August 2024 tour.

It is helpful that the ACSO continues to realize a population reduction reducing the strain on staffing. The County realized a reduction in population from the last six months in 2023 to the first months in 2024. The average daily population (ADP) for the period of July – December 2023 was 1673 incarcerated persons. The ADP dropped to 1590 incarcerated persons during the January – June 2024 period, representing a five percent reduction.



The County continues to transparently and accurately document the staff assigned to custody on the custody staffing rosters. This transparency allows for an independent position reconciliation to confirm the staff assigned to custody are actually working in custody. A full reconciliation will be completed again in the next monitoring period.

The following represents recommendations from prior reports:

- (1) Ensure salary and benefits are competitive to lure qualified candidates.
- (2) Ensure a strong recruitment strategy with well-resourced hiring teams available to expedite hiring in a hyper competitive market.
- (3) Cancel contracts not critical to the County and ACSO’s mission.
- (4) Continue in robust and aggressive alternative to custody efforts with the Criminal Justice and community provider partners.
- (5) Carefully evaluate all functions performed by deputies and technicians to determine if civilianization of those functions can occur.
- (6) Evaluate medical guarding and medical transportation practices to bring more services into the jail and cluster hospital guarding into a secure community setting.
- (7) Engage in robust return-to-work and employee wellness strategies.

*(201)(2) cease the practice of carrying out-of-division vacancies in the Detentions & Corrections division;*

A position reconciliation was not completed this reporting period as one had been completed during the Fourth Monitoring report. A reconciliation will be completed at the end of 2024. There is no information, however, to suggest that the ACSO is not in compliance with this sub provision.

*(201)(3) establish and implement a Compliance Unit consisting of at least one sergeant, two lieutenants, and one captain, to oversee the following subject areas: ADA, Grievance and Appeals, the Prison Rape Elimination Act, revisions to and implementation of updated policies and procedures, Litigation Compliance/Internal Compliance including COVID-19 related issues, and Multi-Service Deputies;*

As previously reported, the County increased the Compliance Unit to (1) captain, one (1) lieutenant, three (3) sergeants, two (2) deputies and six (6) sheriff's technicians. The County also reassigned the initial Compliance Lieutenant and replaced him during this rating period, so the new lieutenant has been required to familiarize himself with the Consent Decree and the role of the Compliance Unit.

The monitoring team observed notable improvements in operations during the August 2024 monitoring tour, suggesting the slight increase in staff to the Compliance Unit has been helpful. However, the monitoring team continues to be concerned that the unit is insufficient to support full implementation of the Consent Decree.

*(201)(4) provide an annual written certification, each year from the Effective Date, to be sent to Class Counsel pursuant to the Protective Order, by the Sheriff certifying the total number of authorized positions for the Jail, including a breakdown by rank and duties, and the total number of positions filled on an average basis over the past calendar year, including an explanation for any vacancies lasting longer than ninety (90) days; and*

The County submitted the annual certification on April 1, 2024, to Class counsel. The written certification is consistent with the findings documented in this report.

*(201)(5) within six (6) months from the Effective Date, creating a plan to transition to a direct supervision staffing model for all Restrictive Housing Units and Therapeutic Housing Units. The Compliance Captain will be strongly encouraged to serve a minimum assignment of three (3) years.*

There has been no change to this sub provision since the last report. Refer to Provision 414 concerning the timeline for the installation of deputy workstations in the living areas to support a direct supervision model.

### **Recommendations:**

1. \*Continue with hiring plan and utilization of retired annuitants and overtime to fill vacant posts.<sup>13</sup>
2. \*Continue to retain Background Unit personnel and augment with retired annuitants as workload dictates.
3. \*Continue with aggressive recruitment and retention strategies.
4. \*If meeting hiring goals remains elusive, evaluate viability of some percentage of sworn personnel to be hired under Penal Code sections 830.2, 830.5, *et seq.* to be authorized to work only in custodial functions, including custody transportation.
  - a. Continue the process of retaining supervisors in custody, rather than transferring to patrol, to allow for consistency and skill development for the sergeants.
5. \*Review workload of deputy and technician personnel to determine if any of existing deputy assignments can be effectively performed by non-sworn staff.

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<sup>13</sup> It is noted that retired annuitants are not currently utilized to work in housing units but do assist with transportation, which lessens the impact on the redirection of housing unit staff and involuntary overtime. The County is encouraged to consider the use of retired annuitants in housing units as well if that would assist with the vacancy challenges.

6. \*Continue to designate deputy posts that are best filled by regularly assigned staff, keeping reliance on overtime in higher risk units to a lower percentage than the medium and low risk units.
7. \*Implement the measures described above to address the shortage of staff, including:
  - Ensure salary and benefits are competitive to lure qualified candidates.
  - Ensure a strong recruitment strategy with well-resourced hiring teams available to expedite hiring in a hyper competitive market.
  - Cancel contracts not critical to the County and ACSO's mission.
  - Continue in robust and aggressive alternative to custody efforts with the Criminal Justice and community provider partners.
  - Carefully evaluate all functions performed by peace officer and technicians to determine if civilianization of those functions can occur.
  - Evaluate medical guarding and medical transportation practices to bring more services into the jail and cluster hospital guarding into a secure community setting.
  - Engage in robust return-to-work and employee wellness strategies.

*(202) Defendants have created a dedicated Behavioral Health Access Team ("BHAT"). Custody staff assigned to the BHAT shall be strongly encouraged to serve at least a three (3) year assignment to provide for consistency and to maximize the benefit of the training and expertise of the Custody staff assigned to this unit. The BHAT shall directly work with AFBH to facilitate: (a) clinical interactions in individual and group settings, (b) assist in facilitating evaluations in the Intake, Transfer, and Release Unit, and (c) group programs. Deputies assigned to the BHAT shall be provided with comprehensive Crisis Intervention/Behavioral Health training developed in coordination with AFBH regarding working with Behavioral Health Clients, including training on de-escalation techniques, problem solving, and particular issues that may be raised when interacting with Behavioral Health Clients. The duration and topics for the training shall be mutually agreed upon by the Parties within sixty (60) days of the Effective Date of the Consent Decree and may be combined with the trainings of all Staff to be conducted pursuant to Section IV(A). Deputies assigned to the BHAT will complete this training prior to beginning their BHAT assignment. Current BHAT deputies shall further receive an annual refresher training on the topics, the duration of which shall be mutually agreed upon by the Parties within sixty (60) days of the Effective Date.*

**Finding:            Partial Compliance**

**Assessment:**

The County continues to maintain a BHAT program. The County has also reported that it has been able to maintain the number BHAT deputies in this monitoring period with up to four deputies which has been confirmed by reviewing the daily BHAT tracking report. These four deputies are not all on duty at the same time as ACSO averages 2.25 BHAT deputies per day, excluding weekends and holidays. In reviewing the BHAT daily report for the period of January through June 2024, with the exception of one day,<sup>14</sup> at least one BHAT deputy was available to assist clinical personnel, which is an improvement over the seven unfilled days reported in the last monitoring period.

In reviewing BHAT deputy statistics for this review period, the number of escorts has increased slightly from the July - December 2023 review period. In the first six months of 2024 (Q1/Q2), the County averaged

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<sup>14</sup> June 14, 2024

400 completed BHAT escorts, a 2% increase over the July-December 2023 reporting period. The refusal rate for appointments remained at 8% of appointments.

The following table reflects the average monthly BHAT escorts for the period of July through December 2023 (Q3/Q4 2023) followed by the average monthly BHAT escort statistics for the January through June 2024 period (Q1/Q2 2024):

**BHAT Monthly Escort Statistics  
January-June 2024**

	<b>Completed Escorts</b>	<b>Refused Escorts</b>	<b>% Appts Refused</b>	<b>Groups</b>
<b>Q3/Q4 2023 Average</b>	394	30	8%	88
JAN 2024	436	40	9%	93
FEB 2024	365	18	5%	83
MAR 2024	389	31	8%	89
APRIL 2024	440	32	7%	91
MAY 2024	405	43	11%	78
JUNE 2024	367	19	5%	66
<b>Q1/Q2 2024</b>	<b>400</b>	<b>31</b>	<b>8%</b>	<b>83</b>
<b>Difference</b>	<b>+2%</b>	<b>+2%</b>	<b>N/C</b>	<b>-5%</b>

Consistent with the recommendation of the Mental Health Expert, ACSO will need to allocation additional deputies to the BHAT team to assist the clinicians with providing services. The County reports that as of August 2024, eight (8) deputies were assigned but that will be evaluated in the next monitoring period.

The Crisis Communications for Corrections (CCC)<sup>15</sup> lesson plan was finalized, and the training began in March 2024. The BHAT deputies were among the first staff to attend the training.

**Recommendations:**

1. \*Continue tracking metrics for BHAT deputies to determine if the existing cohort is sufficient to meet the needs of the jail system. Ensure the metrics are coordinated with AFBH to ascertain the need as clinical resources are increased.
2. \*Determine how BHAT deputy assignments will interplay in the THU and other specialized housing units.

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<sup>15</sup> Previously referred to Crisis Intervention Training (CIT)

*(203) ACSO also maintains a team of deputies who are assigned to the clinics (“Clinic Deputies”) to transport incarcerated persons between the housing units and the clinic for medical, dental, and some behavioral health appointments. Further, within six (6) months of the Effective Date, ACSO shall develop a team of five (5) deputies per shift who shall be responsible for emergency, medical, and other off-base transportation for incarcerated persons on an as-needed basis (“Emergency Health Care Access Team”). These deputies shall receive training regarding interacting with Behavioral Health Clients.*

**Finding:            Partial Compliance**

**Assessment:**

There has been no change to this provision since the last monitoring period. The County’s daily shift schedule designates five (5) ECHATs deputies pursuant to the *Emergency Medical Inmate Transportation Policy (8.11)*. Yet the Watch Commanders do not consistently document when or if the EHCATs deputies are deployed, inhibiting the ability to monitor compliance. The ACSO also has not demonstrated the ECHAT’s deputies have all received CCC or similar training as required for this provision.

The County continues to maintain seven (7) deputies who supervise clinics and assist with escorting Class Members from their living units to medical appointments in the clinics.

The recommendations from the last report stand:

*The County has established a policy for ECHATs, consistently designates EHCATs deputies, and documents deployment for two of four teams. Assuming the County can standardize the Watch Commander’s end of shift reports to document EHCATs’ deployments each shift and train the EHCATs deputies in CCC, the County can reach substantial compliance assuming the EHCATs deputies remain stable and are not constantly rotated to include non-CCC trained staff.*

**Recommendations:**

1. \*Fully implement the Crisis Communications for Corrections training and begin training staff assigned for EHCAT duties.
2. \*Create a standardized Watch Commander Report for all Teams to assist with establishing the number of staff redirected on a daily basis from the jail for emergency transportation or hospital guarding.

*(402) [Following reconfiguration of recreation space] Individuals who are on “Recreate Alone” status (meaning they cannot recreate with other incarcerated persons) [Step 1] shall be offered at least fourteen (14) hours per week of out-of-cell time, which shall include at least some amount of Structured Time, as set forth below. ACSO shall use best efforts to offer individuals two (2) hours of out-of-cell time per day.<sup>16</sup>*

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<sup>16</sup> This Provision refers to Step 1 populations in restricted or administrative separation housing. See Provision 411. This may not be achievable until reconfiguration of recreational space.

*(403) [Following reconfiguration of recreation space, Step 1] Defendants shall use best efforts to provide at least five (5) hours per week of Structured Time (which includes therapeutic, educational, substance abuse, self-help, religious or other structured programming), which will count towards the total out-of-cell time. Incarcerated persons may participate in these programs in handcuffs or other appropriate restraints only if necessary to ensure the safety and security of the Jail. If ACSO is unable to meet this requirement, the Parties agree to meet and confer regarding the reasons why and to examine methods of increasing the amount of Structured Time.<sup>17</sup>*

*(405) [Following reconfiguration of recreational space, Step 2 ] Individuals shall be offered at least twenty-one (21) hours per week of out-of-cell time, which shall include at least some amount of Structured Time, as set forth below. ACSO shall use best efforts to offer individuals three (3) hours of out of cell time per day.<sup>18</sup>*

*(407) [Following reconfiguration of recreational space] Defendants shall use best efforts to provide at least eleven (11) hours per week of Structured Time [for the Step 2 population], which will count towards the total out-of-cell time. Incarcerated persons will participate in Structured Time programs in restraints if necessary to ensure the safety and security of the Jail. Incarcerated persons may participate in these programs in handcuffs or other appropriate restraints only if necessary to ensure the safety and security of the Jail. If ACSO is unable to meet this requirement, the Parties agree to meet and confer regarding the reasons why and to examine methods of increasing the amount of Structured Time.<sup>19</sup>*

**Finding: Implementation Not Yet Required – Rating N/A**

Refer to the findings in the Second Monitoring Report as this provision is not yet subject to rating.

**Recommendations:**

1. Refer to Provisions 411, 412 and 414.

*(409) Individuals shall be offered at least twenty-eight (28) hours per week of out-of-cell time, which shall include at least some amount of Structured Time, as set forth below. ACSO shall use best efforts to offer individuals four (4) hours of out of cell time per day.*

*(410) Defendants shall use best efforts to provide at least fourteen (14) hours per week of Structured Time, which will count towards the total out-of-cell time. If ACSO is unable to meet this requirement, the Parties agree to meet and confer regarding the reasons why and to examine methods of increasing the amount of Structured Time.*

**Finding: Partial Compliance**

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<sup>17</sup> This Provision refers to Step 1 populations in restricted or administrative separation housing. See Provision 411. This may not be achievable until reconfiguration of recreational space.

<sup>18</sup> This Provision refers to Step 2 populations in restricted or administrative separation housing. See Provision 411. This may not be achievable until reconfiguration of recreational space.

<sup>19</sup> This Provision refers to Step 2 populations in restricted or administrative separation housing. See Provision 411. This may not be achievable until reconfiguration of recreational space.

**Assessment:**

The following introduction is repeated from the Fourth Monitoring Report:<sup>20</sup>

There are essentially two types of non-restricted housing units – those units where the majority of the population are compatible and program together; and those units where the classifications of the Class Members are complex, requiring small group activities in the unit, versus allowing the upper tier, lower tier or entire unit out of the cell together. While the classification of housing units can and does change during monitoring periods, in general the housing units in which large groups are compatible include Housing Units 21,<sup>21</sup> 22, 25, 31, 33 and 34. The housing units with mixed and diverse populations, often not compatible for out-of-cell activities included: Housing Units 2, 7, 8 and 24.<sup>22</sup> The analysis of this provision will focus on the complex units for this report.<sup>23</sup>

The County continues to struggle to maintain tracking utilizing the Guarding RFID system, requiring additional training on the system. As a result, the averages in this report includes information from the Guardian RFID system and the technician log books for weeks when the deputies did not utilize the Guardian system.<sup>24</sup> Similarly, during the last review, the deputies had difficulty accurately capturing the out-of-cell time, as a result, only December 2023 was utilized to set a baseline for general population Housing Units 2, 7, 8 and 24. The following chart reflects those units’ weekly average out-of-cell time:

**December 2023 Weekly Average Out-of-Cell Time**

<b>Housing Unit</b>	<b>2</b>	<b>7</b>	<b>8</b>	<b>24</b>
<b>Unit Average</b>	27.25	24.75	18	16

During this review period, similarly a sample week was analyzed for Housing Units 2, 7, 8 and 24 to measure the average weekly out-of-cell time as well as the percentage of incarcerated persons who were offered at least 28 hours per week of out-of-cell time.<sup>25</sup>

**Weekly Average Out-of-Cell Time  
January through June 2024**

<b>Housing Unit</b>	<b>2</b>	<b>7</b>	<b>8</b>	<b>24</b>
<b>A Pod</b>	14	42	27.5	18.75
<b>B Pod</b>	54.5	41.25	28.5	19.25
<b>C Pod</b>	22	40.75	26.75	18.5
<b>D Pod</b>	17.5	42	27.75	13.5
<b>E Pod</b>	16.15	42	27.5	14.5
<b>F Pod</b>	14.5	42	13	10
<b>Combined</b>	<b>23.75</b>	<b>41.5</b>	<b>25.5</b>	<b>17.25</b>

<sup>20</sup> Refer to pages 15-20.

<sup>21</sup> Housing Unit 21 was temporarily designed for complex female populations to allow for renovation in Housing Unit 24.

<sup>22</sup> Housing Units 9 and 35 are addressed in Provision 768.

<sup>23</sup> Housing Unit 2 was deactivated and depopulated in October 2024, after this review period.

<sup>24</sup> Technician Logs: HU 7 May 2024 – June 2024 excluded from average; HU 24 February and June 2024.

<sup>25</sup> The hours reflected in the table below represent only the dayroom and recreation yard as the deputies are not yet capturing structured activities in the RFID system

<b>Change from December 2023</b>	<b>-3.5 hours</b>	<b>+16.75</b>	<b>+7.5 hours</b>	<b>+1.25</b>
<b>% 28 hours +</b>	<b>30%</b>	<b>100%</b>	<b>53%</b>	<b>0%</b>

The following sections provides specific detail for each housing unit assessed.

**Housing Unit 2**  
**Weekly Out-of-Cell Activity**  
**Unstructured Activities - 28 Hours**  
*Sample Weeks Months of January-June2024*

<b>Pod</b>	<b>1/7-1/13</b>	<b>2/4-2/10</b>	<b>3/3-3/9</b>	<b>4/7-4/13</b>	<b>5/12-5/18</b>	<b>6/2-6/11</b>	<b>Average</b>
<b>A</b>	9.25	15	11.25	14.75	17.75	15.5	<b>14</b>
<b>B</b>	34	43.5	39.5	83	63	63.25	<b>54.5</b>
<b>C</b>	21.75	21.25	25.25	20.5	28.5	14	<b>22</b>
<b>D</b>	20.5	15	19.5	17.25	15.75	16.75	<b>17.5</b>
<b>E</b>	21	15.5	14.25	13.25	16.75		<b>16.15</b>
<b>F</b>	11.5	12.25	14.5	17.25	14	17.75	<b>14.5</b>
<b>Average Weekly OOC</b>	<b>20</b>	<b>21.25</b>	<b>21.5</b>	<b>27.5</b>	<b>27</b>	<b>24.5</b>	<b>23.75</b>
>28 hours	24	28	25	25	22	5	
<b>%28 + hours</b>	<b>33%</b>	<b>22%</b>	<b>34%</b>	<b>34%</b>	<b>35%</b>	<b>19%</b>	<b>30%</b>

The weekly average for unstructured out-of-cell time for Housing Unit (HU) is 23.75 hours, a thirteen percent (13%) reduction from the prior monitoring report. It is important to note only 30% of the population received at least 28 hours per week of unstructured activities during the sample weeks. Other than B Pod where the Class Members are all compatible, the individual pods in HU 2 are complex, housing mixed classifications, special security inmates (SSI) and Class Members who are awaiting consideration for placement in a restricted housing unit. Most of the HU 2 pods provide less out-of-cell time per week than is required for the restricted housing Step 2 population.



**Housing Unit 7**  
**Weekly Out-of-Cell Activity**  
**Unstructured Activities - 28 Hours per Week**  
*Sample Weeks Months of January-June2024*

<b>Pod</b>	<b>1/7-1/13</b>	<b>2/4-2/10</b>	<b>3/3-3/9</b>	<b>4/7-4/13</b>	<b>5/12-5/18</b>	<b>Average</b>
<b>A</b>	38.25	41.75	34.75	44.75	50.25	<b>41.95</b>
<b>B</b>	33.75	42	34.5	45.75	50.25	<b>41.25</b>
<b>C</b>	38.75	44.5	35.25	34	51.25	<b>40.75</b>
<b>D</b>	37.5	42.5	34.5	45	50.25	<b>41.95</b>
<b>E</b>	36.75	42.5	35.25	44.75	51.25	<b>42.1</b>
<b>F</b>	37.75	41.75	35	44.25	50.25	<b>41.8</b>
<b>Average Weekly OOC</b>	<b>37.25</b>	<b>42.5</b>	<b>34.75</b>	<b>43</b>	<b>50.5</b>	<b>41.6</b>
>28 hours	0	0	0	0	0	
<b>% 28+ hours</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Housing Unit 7 has shown an improvement in the provision of out-of-cell time, but the deputies struggled to consistently utilize the Guardian RFID system to track unstructured activities. The County also provides programming in HU 7 but those activities are not adequately captured to include in the weekly averages. While the out-of-cell hours exceed the provision requirement, this will not conform with the 14 hours of structured activities required by the Provision.

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**Housing Unit 8**  
**Weekly Out-of-Cell Activity**  
**Unstructured Activities - 28 Hours Per Week**  
*Sample Weeks Months of January-June 2024*

<b>Pod</b>	<b>1/7-1/13</b>	<b>2/4-2/10</b>	<b>3/3-3/9</b>	<b>4/7-4/13</b>	<b>5/12-5/18</b>	<b>6/2-6/11</b>	<b>Average</b>
<b>A</b>	10.25	28.5	25.5	25.75	46.25	29.25	<b>27.5</b>
<b>B</b>	13.25	28.5	28.75	24.75	46	30.25	<b>28.5</b>
<b>C</b>	10	28.5	23.25	23.75	45.5	30	<b>26.75</b>
<b>D</b>	10.25	28.25	29.5	23.25	45.5	30	<b>27.75</b>
<b>E</b>	10	28	28.5	23.25	45.25	29.5	<b>27.5</b>
<b>F</b>	N/A	26.75	11	8.5	17.25	14.75	<b>13</b>
<b>Average Weekly OOC</b>	<b>10.75</b>	<b>28.25</b>	<b>24.5</b>	<b>21.5</b>	<b>41.25</b>	<b>27.25</b>	<b>25.5</b>
>28 hours	86	90	46	1	88	72	
<b>% 28+ hours</b>	<b>0%</b>	<b>95%</b>	<b>49%</b>	<b>1%</b>	<b>87%</b>	<b>82%</b>	<b>52%</b>

Housing Unit 8 realized an increase in the average out-of-cell unstructured time for this reporting period (increase from 18 hours per week on average to 25.5 hours per week). In the last reporting period, concerns were also raised concerning the accuracy of reporting and that appears to have been addressed and resolved. The County is near the 28 hour per week requirement but in reviewing individual out-of-cell time, only 52% of the population was provided 28 hours per week out-of-cell, and F Pod is not being adequately addressed. It is noted that programming is provided in HU 8 but those activities are not adequately captured to include in the weekly averages and the overall averages will not conform with the 14 hours of structured activities required by the Provision.

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**Housing Unit 24 General Population**  
**Weekly Out-of-Cell Activity**  
**Unstructured Activities - 28 Hours Per Week**  
*Sample Weeks Months of January-June2024*

<b>Pod</b>	<b>1/7-1/13*</b>	<b>2/4-2/10**</b>	<b>3/3-3/9</b>	<b>4/7-4/13</b>	<b>5/12-5/18</b>	<b>6/2-6/11**</b>	<b>Average<sup>^</sup></b>
<b>A</b>	24.5	16.25	14.25	18.25	19.25	14.25	<b>18.75</b>
<b>B</b>	24.5	16.25	17	18.25	19.25	14.25	<b>19.25</b>
<b>C</b>	24.5	16.25	12	18	19.25	14.25	<b>18.5</b>
<b>D</b>	13.5	11.75					<b>13.5</b>
<b>E</b>	7.25	16.75	17				<b>14.5</b>
<b>F</b>	6.5	11.25			9.25		<b>10</b>
<b>Average Weekly OOC</b>	<b>16.75</b>	<b>14.75</b>	<b>15</b>	<b>18.25</b>	<b>19</b>	<b>14.25</b>	<b>17.25</b>
>28 hours	0	0	0	0	0	0	0
<b>% 28+ hours</b>	<b>0%</b>	<b>0%</b>	<b>0%</b>	<b>0%</b>	<b>0%</b>	<b>0%</b>	<b>0%</b>

\*1/7-1/13- Utilized population snapshot to identify GP, THU and restricted housing populations

\*\*Utilized Technician Log for Feb through June analysis due to poor Guardian tracking

<sup>^</sup> Added 1-hour large yard activity per week to average

Housing Unit 24 showed a slight increase this reporting period from the Fourth Monitoring Report (up from 16 hours to an average of 17.25 hours per week) but continues to struggle in providing and/or documenting unstructured out-of-cell time. It is not clear that out-of-cell time is being adequately tracked but Housing Unit 24 is one of the most complex units in the system due to the fact there are fewer housing units for females, requiring a blending of various classifications into one housing unit. This unit houses general population, protective custody, therapeutic housing unit (THU), restricted housing populations and all classification levels. To meet compliance, the unit must have more spaces to program the population, more staff to escort and provide security to those locations and improved documentation of structured activity hours. The general population females are able to attend glasses in the Sandy Turner Center and programming is provided on the unit. However, those activities are not adequately captured to measure whether or not the average is near the fourteen hours of structured activities required by the provision or how those activities augment the unstructured out-of-cell hours.

## Summary

The County continues to struggle with providing and documenting the provision of unstructured and structured out-of-cell activities to comply with this provision. Complaints continue regarding out-of-cell offering for the general populations housed in HUs 2, 6, 8 and 24. These challenges will only be addressed by increased custody staff, increased structured activities and additional space for out-of-cell opportunities. The County is encouraged to engage in more meaningful and timely internal review and to continue to focus on improving documentation to assist with measuring compliance.

### Recommendations:

1. \*Work with the Custody Expert to develop a monthly report tracking combined structured and unstructured activities for these units.
2. \*Utilize the grievance logs and the monthly program report to evaluate areas for improvement.
3. \*Continue to address barriers to yard access, both the large yard and quasi-yards.
4. \*Update associated policies and the incarcerated persons' handbook to list the amount of activity required in these provisions.
5. \*Recommendations from Provisions 411-412 will assist with compliance with this provision.

*(411) The above minimum out-of-cell times for individuals placed in Step 1 and Step 2 may not be fully achievable until reconfiguration of the Recreation Space (defined to include all outdoor recreation spaces and any interior space within the housing units that will need to be modified to ensure the provision of out-of-cell time), described below in subsection III(D)(2), is completed. Defendants agree to offer at least the following out-of-cell time minimums for the first three months following the Effective Date: (1) seven (7) hours of out-of-cell time, including structured and un-structured time to Restrictive Housing incarcerated persons on Rec-Alone status (Step 1) per week; and (2) fourteen (14) hours of out-of-cell time, including structured and unstructured time to Restrictive Housing incarcerated persons on Co-Recreation status (Step 2) per week.*

*(412) Beginning on the fourth month after the Effective Date, Defendants agree to offer the following out-of-cell time minimums: (1) ten (10) hours of out-of-cell time, including structured and un-structured time to Restrictive Housing incarcerated persons on Rec-Alone status (Step 1) per week; and (2) seventeen (17) hours of out-of-cell time, including structured and unstructured time to Restrictive Housing incarcerated persons on Co-Recreation status (Step 2) per week.*

**Finding:**        **411     Superseded by Provision 412 – Partial Compliance**  
                      **412     Partial Compliance**

### Assessment:

As of June 7, 2022, the requirements for out-of-cell time in restrictive housing units are as follows:

Step 1            Ten (10) Hours to include structured and unstructured time.  
Step 2            Seventeen (17) Hours to include structured and unstructured time.

Housing Unit 1 is the primary male restricted housing, but the county has housed restricted housing populations in Housing Unit 2 during this reporting period. Housing Unit 24 utilized Pods D, E and F for placement of the restricted housing female population.

**Restricted Housing Males  
Housing Units 1 and 2**

During this monitoring period, the County improved on the tracking for out-of-cell time for the Step 1 and Step 2 restricted housing populations, demonstrating a profound improvement from all prior reports. While it was difficult to confirm the out-of-cell time during the previous monitoring period, for the period of October to December 2023, based on documentation provided the County, it appears the restricted housing male population averaged less than eight (8) hours of out-of-cell for the Step 1 and less than twelve (12) hours for the Step 2 populations.<sup>26</sup>

During this monitoring report, it was possible to measure not only the average out-of-cell time for incarcerated persons who were in restricted housing for an entire week, but also to measure the percentage of the population who met the minimum hours and who had documented time of being offered outside yard activity in the quasi-yard.

The table reflecting the Step 1 population out of cell time is contained on the next page:

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<sup>26</sup> Refer to Fourth Monitoring Report, pages 20-24.

**Weekly Out-of-Cell Activity - Step 1**  
**Sample Weeks January - June 2024**  
**Step 1 – Required 10 Hours Per Week**

<b>Pod</b>	<b>1/7-1/13</b>	<b>2/4-2/10</b>	<b>3/3-3/9</b>	<b>4/7-4/13**</b>	<b>5/12-5/18**</b>	<b>6/2-6/11**</b>	<b>Average</b>
HU 1A	7.5					13.5	<b>10.5</b>
HU 1B		29.75	35.25				<b>32.5</b>
HU 1C		14.25	13.25	13.75			<b>13.75</b>
HU 1D	8.75	10.25	9.25	16	17.25	10.25	<b>12</b>
HU 1E	10.5	10.25	12.5	15.75	12.75	14.75	<b>12.75</b>
HU 1F	5.5	11.25	9.25	14.25	9.5	10.5	<b>10</b>
HU2*	8.25	8.75		11		11.25	<b>9.75</b>
<b>Average</b>	<b>7.75</b>	<b>13.25</b>	<b>12.25</b>	<b>15</b>	<b>12.25</b>	<b>11.25</b>	<b>12</b>
10+ hours	6	15	11	16	14	15	
<b>% 10+ hours</b>	<b>24%</b>	<b>79%</b>	<b>61%</b>	<b>100%</b>	<b>74%</b>	<b>63%</b>	<b>67%</b>
Offered Yard	7	8	9	2	9	16	
<b>% Offered yard in week</b>	<b>28%</b>	<b>42%</b>	<b>50%</b>	<b>13%</b>	<b>47%</b>	<b>67%</b>	<b>41%</b>

\*Jan = E Pod 3 IPs; Feb = F Pod 2 IPs; April = E Pod 1 IP; June E Pod 3 IPs, F Pod, 1 IP

For the months of January through June 2024, the average out-of-cell time for Step 1 rose from the previous reporting period of less than eight hours to twelve hours per week on average, representing a fifty percent (50%) increase and exceeding the provision requirement. While this is positive, only two-thirds (67%) percent of the population actually achieved the 10 hours per week and only forty-one percent (41%) were offered access to the yard. It will be important for ACSO to improve in both of those areas in the next reporting period.

As with the Step 1 male population, information provided reflects the Step 2 population also received a higher number of out-of-cell hours per week as represented in the table below:

**Weekly Out-of-Cell Activity - Step 2**  
**Sample Weeks January - June 2024**  
**Step 2 - Required 17 Hours Per Week**

<b>Pod</b>	<b>1/7-1/13</b>	<b>2/4-2/10</b>	<b>3/3-3/9</b>	<b>4/7-4/13</b>	<b>5/12-5/18</b>	<b>6/2-6/11</b>	
<b>HU 1A</b>	15			13.75	30	14.5	<b>18.25</b>
<b>HU 1B</b>	12					65	<b>38.5</b>
<b>HU 1C</b>		10.75	15.25	16.75	17.5	51.75	<b>22.5</b>
<b>HU 1D</b>	9.5	11.25	12.5				<b>11</b>
<b>HU 1E</b>		25.25	15.25	21.25		13.25	<b>18.75</b>
<b>HU 1F</b>	1.75	7.75	7.5		12.5		<b>7.5</b>
<b>HU2*</b>	8.25	6.75		9.5			<b>8.25</b>
<b>Average</b>	<b>8.25</b>	<b>11.25</b>	<b>13</b>	<b>13.75</b>	<b>20.25</b>	<b>25.75</b>	<b>15.5</b>
<b>17+ hours</b>	0	3	1	5	6	7	
<b>% 17+ hours</b>	<b>0%</b>	<b>19%</b>	<b>17%</b>	<b>42%</b>	<b>60%</b>	<b>64%</b>	<b>33%</b>
<b>Offered Yard</b>	2	7	4	3	4	6	
<b>% Offered yard in week</b>	<b>15%</b>	<b>44%</b>	<b>67%</b>	<b>25%</b>	<b>40%</b>	<b>55%</b>	<b>41%</b>

\*Jan = E Pod 3 IPs; Feb = F Pod 2 IPs; April = E Pod 1 IP

Similar to the Step 1 population, the average number of Step 2 out-of-cell hours for the period of January through June 2024 increased to 15.5 hours per week, up from the prior report period of 12 hours, representing a twenty-nine percent(29%) increase. However, only one-third (33%) of Step 2 population were offered the required 17 hours per week and similar to the Step 1 cohort, only forty-one percent (41%) are documented as being offered outdoor recreation.

**Restricted Housing Females  
Housing Unit 24**

The County continues to struggle with providing and documenting out-of-cell time in the women’s housing unit. The tracking reports do not consistently list when an incarcerated female is on restricted housing status, requiring this Expert to cross reference other available reports in an attempt to identify the restricted housing female population to measure compliance with this provision.

As referenced in the Fourth Monitoring Report, the only month that could be evaluated in the previous monitoring period was December 2023, with the following information documented in that review:<sup>27</sup>

Step 1 Average out-of-cell:	6.5 Hours
Step 2 Average out-of-cell:	6.5 Hours
Average offered yard:	35%

During this monitoring period, the County continued to struggle with documentation and meeting the out-of-cell requirement in HU24. If the data is to be trusted, the Step 1 population was provided 8.5 hours per week on average, representing a thirty-one percent (31%) increase from December 2023. There was only one female identified as Step 2 on the sample week out-of-cell trackers and she was documented as receiving only two hours of out-of-cell time, which could be contributed to on-going challenges with deputies documenting out-of-cell time.

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<sup>27</sup> Fourth Monitoring Report, pages 23-24.



The following table combines the female Step 1 and Step 2 population for the sample weeks during the months of January through June 2024:

**Housing Unit 24 - Female Ad Seg**  
**Sample Weeks January - June 2024**  
**Step 1 – Required 10 Hours Per Week**  
**Step 2 – Required 17 Hours Per Week**

	1/7-1/13	2/4-2/10	3/3-3/9	4/7-4/13*	5/12-5/18**	6/2-6/11*	Average
<b>Step 1</b>	9.25	3.25	14.75	N/A	6.25	N/A	<b>8.5</b>
10+ hours (Step 1)	2	0	2	N/A	0	N/A	N/A
<b>% 10+ hours</b>	<b>29%</b>	<b>0%</b>	<b>67%</b>	<b>N/A</b>	<b>0%</b>	<b>N/A</b>	<b>31%</b>
Offered Yard	2	0	2	N/A	0	N/A	N/A
<b>% Offered yard in week</b>	<b>29%</b>	<b>0%</b>	<b>67%</b>	<b>N/A</b>	<b>0%</b>	<b>N/A</b>	<b>31%</b>
<b>Step 2</b>	2	N/A	N/A	N/A	N/A	N/A	<b>2</b>
17+ Hours (Step 2)	0	N/A	N/A	N/A	N/A	N/A	N/A
<b>%17+ hours</b>	<b>0%</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>0%</b>
Offered Yard	0	N/A	N/A	N/A	N/A	N/A	N/A
<b>% Offered yard in week</b>	<b>0%</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>0%</b>

\*No noted restricted housing. Utilized population report to cross reference.

The County must focus on the female housing unit to either resolve the lack of documentation in the provision of out-of-cell time and/or provide support to the unit to increase out-of-cell time for the restricted housing female population. The County should consider submitting a report with the out-of-cell tracker in circumstances where there are no females on restricted housing status during the week, which is certainly possible. The County should also continue to evaluate methods to track and report structured activity for the restricted housing females to capture all out-of-cell time.

## Summary

The staff are gaining a greater understanding of utilizing the Guardian Radio Frequency Device (RFID) to track unstructured dayroom and outdoor recreation but is not yet capturing structured activity in the system. During the August 2024 tour, the male population in the restricted housing pods had been reduced, creating greater opportunity for each incarcerated person to utilize the dayroom and yard more frequently. As result, there were far fewer complaints received from the male segregation population during the tour concerning ACSO not facilitating out-of-cell time. The female population has not reduced in the restricted housing pods, and the complaints lack of out-of-cell time in the female unit were consistent with prior monitoring tours.

### Recommendations:

1. \*Continue to evaluate the population to safely reduce the number of incarcerated persons in restricted housing.<sup>28</sup>
2. \*Safely continue to reduce the number of Step 1 incarcerated persons and continue to allow small group activity with the Step 2 population where safe to do so.
3. \*Conduct an analysis and workload study for the Housing Unit pods that are struggling to meet the 10- and 17-hour requirements.
4. \*ACSO to work with AFBH and the program staff to develop a standardized daily and weekly activity plan to increase out-of-cell structured programming. This should be documented in a master schedule of activities in the restricted housing units and ensure Sergeants are monitoring and addressing non-compliance with the schedule.
5. \*Expedite the construction projects associated with expanding yard opportunities as noted in Provision 414.
6. \*Seek approvals as necessary to rapidly split the Quasi yards with the proposed installation of temporary bathroom fixtures and a security fence.
7. \*To expand out-of-cell opportunities, evaluate the available space in the unit program spaces, currently not being utilized for groups, even if that requires the procurement of programming chairs/tables. Examples include the dining areas and group units inside the housing units.
8. \*Conduct an internal staffing assessment to determine if sufficient posts have been activated to ensure maximum utilization of existing and easily expanded space and redirect staff, as necessary.
9. \*Update policies, procedures, forms, post orders and training to reflect provision requirements.

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<sup>28</sup> Refer to Classification Joint Expert Dr. Austin's Monitoring report.

*(414) Reconfiguration of all Recreation Spaces shall be completed no later than twenty-four (24) months from the Effective Date. The Parties agree to meet and confer within three (3) months of the Effective Date regarding interim timelines for completion of the following: (1) Installation of custody-grade security desks in Step 1 Housing Unit day rooms; (2) Reconfiguration of Quasi-Yard space, including in Step 1 and Step 2 Housing Units; (3) Creation of outdoor recreation space; and (4) any other reconfiguration projects necessary to effectuate the terms of this Consent Decree.*

**Finding:        *Partial Compliance***

**Assessment:**

The County is delayed in various construction projects but has sustained the timelines reported in the Fourth Monitoring report.<sup>29</sup> The County contributes progress to improved internal collaboration and the establishment of a dedicated project team focused on job completion, which has contributed to the County moving forward with all projects except the proposed Mental Health Facility.

While on tour in August 2024, the yard construction projects were underway. The County reports that the yard expansion projects will be complete by April 2025, which will vastly improve the ability for the County to comply with the out-of-cell time provisions, assuming sufficient custody personnel are available to supervise the yards and provide escorts. The construction of additional private interview space for clinical contacts and the installation of custody observation desks in the housing units are on schedule for completion in early 2026. A more targeted completion date should be provided by the County in 2025.

There are two projects without a specifically articulated date: the installation of programming chairs in restricted housing and the creation of sufficient mental health treatment space. The County reports that the therapeutic treatment chairs have been incorporated into an overall design plan, which is creating further unnecessary delay and impacting the ability for the mental health treatment staff to provide services and groups in a confidential setting for the population most in need of clinical support. The County continues to be encouraged to install chairs which can be easily procured and installed.

As documented in the Fourth Monitoring Report, the State Public Works Department pulled the proposed mental health building project from consideration. In response, the County intends to repurpose underutilized housing unit space, which is available due to reduced population. This is an appropriate response assuming that the space is redesigned to be an appropriate and effective programming space, including opportunities for both individual and group confidential engagements. The County has not provided a comprehensive plan or timeline for this project and one would be expected in the next reporting period for the Experts and Class Counsel to review.

Below are the various projects underway with the current status.

(1)        Installation of custody-grade security desks and observation platforms. Due date August 22, 2023.

*Updated Status – No change in status. Completed construction is estimated early 2026.*

(2)        Reconfiguration of Large Yard Space. Due date August 22, 2023.

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<sup>29</sup> Pg 24-26.

*Updated Status – No change in status. Final completion is estimated April 2025.*

- (3) Quasi-Yard construction projects. Due date August 22, 2023.

*Updated Status - No change in status. Final completion is estimated April 2025.*

- (4) Confidential interview spaces. Due date August 22, 2023.

*Updated Status – No change in status. Final completion is estimated to be early 2026.*

- (5) Cell softening project to reduce suicide hazards and improve overall cell conditions.

*Construction completed January 2024.*

- (6) Security Screen Project – Add additional security screening to upper tier of high-risk housing units.

*Construction completed April 2023.*

- (7) Accessibility Upgrade – In Construction. Refer to the ADA Expert Report for additional information.

*No change in status. - Final Completion is estimated Fall 2026.*

- (8) Camera Expansion – Construction began late 2023

*No change in status. - Final completion is estimated to be late 2026.*

- (9) Mental Health Facility (SB 863) –Completion was estimated to be early 2028.

*Updated Status - The project was pulled by the Department of State Public Works with no updated status provided at this time. The County has proposed utilizing vacant housing units as an alternative but no formal plans, estimated time, renovation concepts, etc. provided for consideration.*

Status updates to all projects will be required for the next monitoring report.

**Recommendations:**

1. The County must present a tangible plan for the repurposing of vacant housing units to create a mental health treatment unit.
2. \*The ACSO, AFBH and GSA continue to maintain a comprehensive and deliverable project plan to meet compliance with this provision.
3. \*The County should evaluate its ability to expedite construction through waivers, sole source and other commonly used strategies for complete priority and emergency projects.
4. \*The project overview should continue to be updated and provided to Joint Experts and Class Counsel quarterly.

*(415) Individuals engaged in Out-of-Cell Activities, including, but not limited to, pod time, structured and unstructured time (including all out-of-cell programming), education, work, vocational training, and yard time (including quasi yard time), shall be provided reasonable access to bathroom facilities as needed.*

**Finding:**        ***Substantial Compliance – Consider Discontinuation of Monitoring***

**Assessment:**

The County remains in Substantial Compliance with this provision. While there were two grievances reviewed during this rating period, interviews with custody staff and incarcerated persons alike reflect that access to the bathroom is afforded when incarcerated persons are on the yard, classrooms or the dayrooms.

Of the two grievances filed related to bathroom access – both were associated with access to the restroom during pod time. In the first,<sup>30</sup> the Class Member reported the technician would not allow access to the bathroom and the response encouraged the incarcerated person to seek support of a deputy on security checks if restroom access is needed and resolved the grievance. In the second,<sup>31</sup> the Class Member wrote that he requested the Control Booth Technician allow him access to the restroom due to a medical issue. The Technician denied being aware of the request and in the response advised the grievant of the policy of requesting restroom access during the deputy security rounds. The Grievance Unit also denied the grievance but could have done additional review of the issue and provided greater direction to the grievant and the unit staff. Training was provided concerning a more appropriate response and resolution.

Policies have been updated, all staff interviewed are clear about the requirement and incarcerated persons interviewed stated they have access when needed. There is a grievance process in place for complaints if a staff member does not allow access and the responses to those grievances have generally been fair and responsive. The County has systems in place to maintain compliance, therefore this provision should be considered for discontinuation of monitoring.

**Recommendations:**

1. \*Continue to comply with provision and monitor grievances for any issues that may arise.
2. Discontinue monitoring.

*(417) These minimum requirements for out-of-cell time are subject to exceptions including, but not limited to, disturbances that require staffing to be re-directed to other areas of the Jail on an emergency and temporary basis, healthcare emergencies, natural disasters, and any other emergencies that restrict movement and out-of-cell time of incarcerated persons to preserve the safety and security of incarcerated persons and staff. Any limits on out-of-cell time due to the aforementioned exceptions shall be documented (to include the reason and length of the time limit), and the limits will last only as long as necessary to address the underlying reason for the exception and shall be approved and reviewed by the Watch Commander. Individuals in Restrictive Housing who are unable to safely participate in out-of-cell time because they are violent, combative, and/or assaultive are not subject to the minimum out-of-cell time requirements described in this section for such period of time as they are determined to be unsafe outside of their cell. This determination shall be documented and approved by the Restrictive Housing Committee and shall be revisited on a weekly basis. Individuals engaged in Out-of-Cell Activities, including, but not*

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<sup>30</sup>-24-0301

<sup>31</sup>-24-1613

*limited to, pod time, structured and unstructured time (including all out-of-cell programming), education, work, vocational training, and yard time (including quasi yard time), shall be provided reasonable access to bathroom facilities as needed.*

**Finding:**        **Partial Compliance**

**Assessment:**

This is a provision where improvement has not been consistent. The County developed a standardized form for the Watch Commanders to complete when out-of-cell time is restricted either for the entire facility or for individual units. However, the County reports that Watch Commanders do not consistently utilize the form but do document facility wide lockdowns on the end of shift report.<sup>32</sup> To resolve the inconsistency, this Expert will work with the County in the next reporting period to revamp and standardize the Watch Commander report and attachments relative to restricted movement documentation.

During this rating period, the grievance unit processed a monthly average of 1.5-yard access grievances and 12.5 dayroom access grievances. In cross referencing the grievance responses, out-of-cell logs and watch commander reports, it is clear there is a significant inconsistency in tracking and reporting lack of out-of-cell access due to unit or facility wide lockdowns and restricted movement.

There were no incarcerated persons in restricted housing who were routinely denied out-of-cell time identified in this reporting period. It is positive that during this reporting period, the Restricted Housing Committee developed (RHC) a treatment plan to assist an incarcerated person<sup>33</sup> who was struggling to maintain his behavior necessitating the use of restraint devices when he was out of his cell. After significant effort, this Class Member has been engaged in out-of-cell time with another person and has not required the use of restraint during recreational periods or been involved in critical incidents. It is expected the RHC will continue to use this protocol when encountering a similar situation in the future. However, the lack of programming chairs, as discussed in provision 414 is limiting clinical encounters and groups for the most unpredictable population and this must be remedied before this provision can reach substantial compliance.

Access to bathrooms while in programming has been facilitated and is discussed further in Provision 415.

**Recommendations:**

1. Work with this Expert to refine the Watch Commander end of shift report to improve consistency in reporting and documenting restricted movement and lockdowns.
2. \*Update all relevant policies, post orders, forms and training to comply with this provision.
3. \*Update Restrictive Housing Committee (RHC) policies and forms to comply with this provision.
  - a. Collaborate with other Joint Experts to ensure that the RHC has a process for referral of routine refusals and ensuring documentation of clinical interventions is occurring and tracked.
4. \*Continue to maintain master yard and dayroom schedule and create system for daily monitoring of compliance with mandatory documentation when there is significant deviation from the master schedule.
  - a. Consistently include documentation in Watch Commander End of Shift or other location to ensure standardization in documenting deviation.

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<sup>32</sup> Example March 6, 2024.

<sup>33</sup> Mr. St. Ange

5. Finalize the installation of therapeutic chairs to support the RHC in treatment planning for the most unpredictable population.

*(418) In order to properly track out-of-cell time, Defendants shall replace the prior practice of using paper logs with an electronic information technology system to allow for comprehensive tracking of out-of-cell time and refusals within twelve (12) months of the Effective Date. In the interim, Defendants shall develop and implement a process for tracking out-of-cell time in the restrictive housing units including a paper for each person incarcerated on the unit showing out-of-cell time including program hours, showers, dayroom, outdoor recreation times, and visiting for a period of no less than one week at a time. These logs, and the information technology system once implemented, are intended to assist ACSO and AFBH Staff in evaluating socialization needs and identifying persons who are isolating or at risk of mental health decompensation. ACSO Supervisors shall also review programming and out-of-cell logs in the administrative separation units and any other Restrictive Housing Units and Therapeutic Housing Units to determine whether any incarcerated persons are not being afforded out-of-cell time opportunities pursuant to policy or whether routine refusals are occurring. Defendants shall further update their policies and training to include a requirement that staff must attempt more than once to meaningfully communicate the importance of out-of-cell time where individuals initially refuse to come out of their cells.*

**Finding:**        **Partial Compliance**

**Assessment:**

The County continues to utilize the Guardian RFID system to track out-of-cell activity, but the vendor has not yet assisted the ACSO in developing reports and notification to assist with real time monitoring of activities. The Compliance Unit continued to train staff during this reporting period on the use of the system as internal auditing and review of the Guardian reports showed underreporting of out-of-cell time. The County is not yet utilizing the Guardian system to track all out-of-cell time or for structured activities. The AFBH does have reporting systems that can assist but the AFBH system and the Guardian system are not integrated and the ACSO Supervisors do not have access to the AFBH system for monitoring.

The County has developed a reporting system for the Custody staff to notify AFBH when they are aware of isolation of an incarcerated person. Additionally, the AFBH has increased clinical presence in the restricted housing units and THUs during this reporting period, which results in a verbal notification which may not show up on a tracking device. When reviewing the out-of-cell reports for the restricted housing units and the THUs, it is rare when an incarcerated person does not leave their cell for a three-day period and when that occurred, the clinicians are aware of the issue.

As stated in the previous report, a trackable system to document that an ACSO team member has advised AFBH when a Class Member is isolating in their cells has not been developed. The county has not yet updated the recreational policy or associated post orders to reflect the process and notification requirements when a Class Member is refusing to leave their cells and has not incorporated guidance on encouraging socialization when a Class Member is isolating. The County has begun the use of incentives to assist with treatment and is showing improvements, but the systems must be anchored in policy, training and auditing to meet substantial compliance.

## **Recommendations:**

1. \*Continue the RFID refinement and training program.
2. \*Update the recreational policy and/or associated post orders to ensure clarity on more than one staff encouraging out-of-cell time when a Class Member is isolating in their cell.
3. \*Develop and implement a formal process for notification to AFBH when a Class Member has not left their cell in three days despite encouragement from custody. The new policy should integrate proof of practice for internal and external monitoring.
  - a. AFBH will also require a policy for clinicians' role when referrals are received, including timelines for evaluation and support.
4. \*Continue to update relevant policies, post orders and training to reflect the out-of-cell requirements for each category of incarcerated individuals.
5. \*Establish a formal process to conduct supervisory and managerial reviews of the tracking reports prepared by the Compliance Unit.
6. \*Develop a system to track out-of-cell time for all out-of-cell activity, including structured activities.

*(419) Defendants shall also develop and implement policies requiring ACSO Staff to notify supervisors and AFBH Staff when incarcerated persons are, on a repeated basis, refusing to come out of their cells, refusing to shower, or are clearly neglecting other basic care and grooming and where they visually appear to be depressed, withdrawn or delusional. Once notified, AFBH Staff shall follow-up with the incarcerated person within twenty-four (24) hours of receiving the initial notification or change in status. Defendants shall also ensure there is sufficient supervisory presence in all housing units and that supervisors play a pronounced role in monitoring out-of-cell and program activities and are visibly present in the units.*

## **Finding: Partial Compliance**

Since the last report, the County continues to have a strong supervisory presence in the most complex housing units, such as Housing Units 1, 2, 7, 8, 9 and 24. As with the previous monitoring period, Sergeants are observed in the housing units during tours and most importantly when observing critical incidents that resulted in a use of force. Additionally, AFBH continues to increase clinical presence in Housing Units 1, 2, 8, 9, 24 and 35. These are the units where incarcerated persons are most likely to decompensate, isolate and fail to maintain personal care.

During the August 2024 tour, there were few cells where the living conditions had eroded and in each of those situations, the sergeant and clinicians were aware of the issue and articulated actions taken and planned. The collaboration between custody and the clinical team continues to improve but there is no internal compliance tracking on this provision.

The County will need to develop a monthly auditing system where the ACSO and AFBH leadership review incidents of isolation and decompensation, track notification to AFBH and review response times to meet the 24-hour review period. The County will also need to update policies and training to reach substantial compliance with the provision.

## **Recommendations:**

1. \*The County should collaborate with the Joint Experts to formalize the notification process for repeated refusals with follow-up by AFBH.



- a. \*The process should be formalized in ACSO and AFBH policy, with a formal notification process and documentation from AFBH within 24 hours regarding the treatment plan to assist with increasing socialization.
2. \*The Compliance Unit should develop an auditing process to evaluate compliance.
3. \*Policies, forms, post orders and training should be updated as appropriate.

*(420) Defendants shall provide Class Counsel their plan to reconfigure the Recreation Space within six (6) months of the Effective Date and meet and confer with Class Counsel regarding the plan and any additional methods of expediting construction and/or maximizing out-of-cell time in the interim, in accordance with the terms of this Consent Decree. The plan shall include a timeline for reconfiguring the large yard within twenty-four (24) months of the Effective Date. Due to the urgency of reconfiguring the Recreation Space, the County shall take all steps necessary to expedite all planning and construction activities. Reconfiguration of the Recreation Space shall include, but not be limited to, dividing Recreation Space to allow for multiple incarcerated persons to recreate simultaneously, increasing lighting for evening recreation, and using recreational therapists or other clinicians for Behavioral Health Clients. In the absence of conditions that would preclude outdoor access, including, but not limited to, severe or unsafe inclement weather, disturbances (as defined above), healthcare emergencies, natural disasters, and any other emergencies that restrict movement and out-of-cell time of incarcerated persons to preserve the safety and security of incarcerated persons and staff, all incarcerated persons shall be provided access to outdoor recreation. Any limits on out-of-cell time due the aforementioned exceptions will last only as long as necessary to address the underlying reason for the exception and shall be documented and approved by the Watch Commander.*

***Finding: Refer to Provisions 414 and 417 for assessment and recommendations***

**Assessment:**

The reconfiguration of recreation space is addressed in Provision 414. Cancellation of yard and the role of the watch commander is addressed in Provision 417. Further assessments and recommendations will be included when the reconfiguration of the recreations spaces is more viable.

*(421) Outdoor recreation time is included within the minimum amount of out-of-cell time listed above. Defendants shall implement policies and procedures to ensure that outdoor recreation time is maximized to the extent feasible for all people including those in restrictive housing.*

***Finding: Partial Compliance***

**Assessment:**

The County continues to track the use of the large group yards and use of housing unit quasi yards but has not yet demonstrated the maximization utilization of the various recreation yards due to staffing shortages. For example, as with the previous report, the large group yards do not operate seven days a week and only operate up to eight hours on the day the yards when available. There has been a slight improvement in the use of quasi-yards but in reviewing out-of-cell tracking reports for units that contain a quasi-yard, none of them demonstrate that the deputies or unit sergeants are ensuring maximum utilization. This may be a

failure of staff tracking utilization, but the ACSO is far enough along in monitoring, staff should be consistently documenting. A well-resourced compliance unit could help resolve this issue by engaging in timely monitoring until such time as the deputies are consistently demonstrating compliance with documentation.

The following chart represents the average weekly utilization of the large group yards and the average number of incarcerated persons who utilized the yard during the week. It is noted, there is no difference in the number of hours the yard operated per week from the previous report, but ACSO documented an increase in the number of incarcerated persons who were able to utilize the large group yard, which is positive.

**Average Available Hours and Utilization of the Large Group Yard**

*January-June 2024*

<b>Month Q1/Q2 2024</b>	<b>Average Weekly Hours</b>	<b>Average Weekly Participants</b>
Jan	23.5	230.5
Feb	24	331.25
March	25.25	365.5
April	24	435
May	21.75	318
June	26.5	389.75
<b>Monthly Average</b>	<b>24</b>	<b>340</b>
Q3/Q4 2023	24	168
<b>Difference</b>	<b>0</b>	<b>+49%</b>

The County will not reach substantial compliance until the yards are utilized to the maximum reasonable level and the expanded yards are constructed as discussed in Provision 414.

**Recommendations:**

1. \*Conduct an in-depth evaluation of all available outdoor recreation spaces and create a master schedule that can be implemented and monitored daily by supervisors.
2. \*Require the Watch Commander and Sergeants to monitor daily utilization and address any barriers to yard access every shift.
3. \*Create a formal report to the Compliance Unit documenting the reason the outdoor recreation area was not used and all efforts to return to normal operations.
4. \*Provide training and corrective follow-up to ensure compliance.

*(422) Defendants shall provide programming within the facility consistent with classification level, including providing access to the Sandy Turner Education Center and Transition Center services for Behavioral Health Clients, as a means of suicide/self-harm prevention and in order to provide equal access to incarcerated persons with disabilities. AFBH will designate an individual to coordinate identification and implementation of internal and external group resources and partnerships. In evaluating current and*

*future programming and work opportunities for incarcerated persons, Defendants shall evaluate worker assignments for incarcerated individuals to determine whether additional work opportunities could be created to assist with facility improvements and programming, such as creating programs for deep cleaning, student tutor/merit masters, and access to program support aides. Defendants shall further establish a daily tracking system for programs provided and incarcerated individuals who attended.*

*(423) When appropriate and consistent with individual clinical input, Behavioral Health Clients shall have equal access and opportunity to participate in jail programming, work opportunities, and education programming for which they are qualified. Similarly, Behavioral Health Clients shall further receive, at minimum, privileges consistent with their classification level regardless of where they are housed. Defendants shall review and update any policies and practices related to program eligibility to maximize the number of persons eligible for programming. Defendants shall consult with various incarcerated person services providers, including educational providers, faith-based providers, and mental health providers, to evaluate and expand program offerings throughout the Jail. ACBH, including AFBH, shall continue to cooperate with the Alameda County Behavioral Mental Health Court and to seek options for alternatives to custody through community-based organizations and treatment providers.*

**Finding:            Partial Compliance**

**Assessment:**

The County continues to provide programming services and limited work opportunities for the Behavioral Health Class Members but has not yet updated associated policies or post orders. Behavioral Health Class members housed in low to medium security settings are more likely to be involved in programming off of their units and those in the THU and higher security housing units generally receive programming in the housing units. Incarcerated persons housed in restricted housing units are not yet receiving meaningful programming, but this circumstance is not unique to Behavior Health Class Members housed in restricted housing units.

There are Class Members on the behavioral health caseload who are assigned to a job, but as with the programming opportunities, those jobs opportunities are limited in the high security units and are restricted to pod worker assignments (this includes all populations and not just behavioral health). For example, the THU pod workers are assigned from the THU populations, which is positive. The THU population in Housing Unit 35 are able to go off unit for programming and work. Classes are also provided on unit for the behavioral health populations who are and are not able to leave other units for programming.

The County currently tracks daily attendance for programming, but the reporting system is not summarized into a comprehensive report. As a result, staff are required to incorporate the housing and behavioral health information of the students, which is exceedingly labor intensive. During this review period, the daily programming snapshots and interviews with class members were relied upon to confirm that Class Members on the behavioral health caseloads were able to attend programming, but a comprehensive review of daily programming and the location for all programming was not conducted this review period as occurred in the last two reports.<sup>34</sup> The next report will resume the comparison of the percentage of behavioral health Class Members assigned to various programs as contained in prior reports. To assist with

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<sup>34</sup> ~~Note the employee who completes the report was off work for medical reasons and would have required considerable time to create the reports for the period for January—June 2024. A decision was made to focus on July 2024 and beyond as there has not been substantial change noted on these two provisions.~~

creating manageable reports, the County is encouraged to continue to explore how the RFID system, or an update to ATIMS, may help with compliance reporting.

The following table reflects program day slots reported by the County for calendar year 2023 as previously mentioned in the Fourth Monitoring Report.<sup>35</sup>

**Program Participation<sup>36</sup>**  
**2023**  
**One Week Sample**

2023	Housing Unit Programming			Off Unit Programming			Distance Learning			Transition Center			Total		
	All	BHI	%	All	BHI	%	All	BHI	%	All	BHI	%	All	BHI	%
Jan-June	360	171	39%	289	174	48%	68	31	37%	20	5	25%	736	380	42%
July – Dec	470	140	30%	283	56	20%	19	4	23%	0	0	0	773	200	26%

The County continues to demonstrate a commitment toward providing programming and services for the behavioral health caseload and a comparative analysis of the percentage of the program slots filled by those on the behavioral health caseload will resume the next reporting period. As reflected in the Mental Health Monitor’s report, AFBH is encouraged to continue to expand services and assist with the overall program plan for the behavioral health population.

The County reports alternative to custody activities but has not yet provided a comprehensive report to quantify and verify activities.

**Recommendations:**

1. \*Continue the refinement of program tracking and include the housing locations where those programs are offered or the location where the IP participants reside.
2. \*Work with the Joint Experts to standardize monthly reports for all programming and work assignments occurring in the jail.
3. \*Begin to highlight or identify the workers in the monthly worker report who are assigned to the behavioral health caseload.
4. \*The Compliance Unit should begin the process of evaluating monthly trends regarding programs offered and work assignments afforded to show growth over time.
5. \*The County should begin to report on alternatives to custody efforts for the behavioral health populations.
6. \*Previous recommendations from the First Monitoring Report are noted but deferred to focus on refining data and baselining programming.
7. Update associated policies, post orders, training and orientation information to comply with provisions.
8. Prepare a quarterly report that reflects attempts to expand services in the facilities.

<sup>35</sup> The first full week of each month was used as a sample.

<sup>36</sup> This is measured by the number of class slots filled each day, which will not imply the total number of class members served that week, because one class member may be counted more than once that week as they attend another class or the same class more than one time in the seven day period.

*(424) Defendants shall ensure there is adequate space for program offerings including evaluating whether additional classroom capacity can be created through modular construction or other means, such as relocating administrative space.*

**Finding:           Partial Compliance**

**Assessment:**

There was no significant expansion of program space in this rating period, but the County has explored options for creating additional programming utilizing empty housing units. The County has not engaged in an overall needs assessment but is committed to repurposing empty pods and common area for space. This will require renovations and creativity to reimagine the space for clinical utilization but is a reasonable approach as the units are empty, can program numerous groups at once and are secure. While it was documented in the Fourth Monitoring Report that failure to develop a plan could result in a non-compliance rating in this report, the County's movement towards repurposing existing space is a positive step. However, if progress stalls on this concept, this provision will be rated as non-compliant in the next report.

**Recommendations:**

1. \*Continue to refine the daily program offering report the County developed since the last reporting period. The report reflects the location for the programming, which is excellent.
2. \*Conduct an existing space assessment to determine if the opportunity exists to expand programming in underutilized spaces, such as the classroom space in the various housing units.
3. \*Conduct space needs assessment based on current status of the mental health treatment building being on hold.
4. Implement the County's strategy to repurpose empty housing units to utilize as programming space.

*(500) Defendants shall work with the agreed-upon joint subject matter expert, as discussed in Section IV(A), to develop and implement an updated written use-of-force policy, and any necessary forms as well as associated training materials, for those persons incarcerated at the Jail, within six (6) months of the Effective Date. The updated use-of-force policy shall address the issues identified in the McDonald expert report for all uses of force both planned and un-planned. Under that policy, use of force shall only be authorized in the type, amount, manner, and circumstances authorized by that policy. When force must be used, ACSO staff shall only use that amount of force that is objectively reasonable and appears necessary to control the situation or stop the threat, and the force must be in the service of a legitimate correctional objective. Staff shall be trained on any and all updated policies and forms as detailed in Section IV(A) and Defendants shall consult with joint expert Terri McDonald on the content and provider of de-escalation training to address and reduce ACSO staff using force, to include striking and kneeling during use-of-force scenarios at the Jail.*

*(501) The use-of-force policy shall include at least the following components: (1) reiterate supervisory and managerial responsibility to address tactical mistakes or unnecessary or excessive force in a steadfast and unapologetic manner; (2) require consistent use of the ACSO Personnel Early Intervention System ("PEIS"), which has the capability to track use of force and prevalence rates as one of the metrics evaluated in a use of force review; (3) require clinical engagement by AFBH where appropriate in developing*

*behavior plans with incarcerated individuals who are engaged in multiple force incidents; (4) be clear that incarcerated individuals shall not be hit on the head or face nor kneed or kicked absent extenuating circumstances where there is a deadly threat or assaultive behavior, defined consistent with Section 240 of the California Penal Code as intent coupled with the present ability to inflict violent injury; (5) address the pre-planned use of force on individuals with known Psychiatric Disabilities, including coordinating with AFBH on de-escalation measures, such as use of cooling down periods or other appropriate methods, to avoid or otherwise limit the use of force as much as possible; and (6) training on best practices for staff who conduct use of force reviews.*

**Finding:        *Partial Compliance***

**Assessment:**

As reflected in the Second Monitoring Report, the County updated the emergent use of force policy for custody staff (21.01.01) and provided initial training to the staff on that policy. During this monitoring period, the County finalized the pre-planned use of force policy (21.01.02) and provided training. The lesson plan was reviewed and approved by Class Counsel and Experts reflecting that all policies and training have been approved and implemented.

Based on the policy updates and training, the staff are improving in their compliance with policies and utilizing de-escalation and force techniques that are less extreme than when monitoring begin. It was recommended in the Third Monitoring report that training focus on the following areas. The current status is italicized below the recommendation:

- Situations where the incarcerated person will not permit the securing of the cell door food port.
  - *There were no incidents identified this reporting period where staff struggled with a Class Member through a food port. This training topic will be removed from future reports.*
- In-cell decontamination protocols.
  - *The County has not demonstrated improvement in this provision.*
- Non-compliant and agitated incarcerated person in non-controlled area, such as a dayroom.
  - *The County has shown a profound improvement in this area. During this rating period, sixteen pre-planned incidents were reported and reviewed, a significant increase from the five (5) reported in the Fourth Monitoring Report. This increase should be viewed as staff slowing down and attempting to resolve issues without force rather than taking it upon themselves to remove agitated class members from dayrooms without the support of AFBH and a supervisor.*
- Escort techniques and restraint removal for non-compliant incarcerated person.
  - *The County continued to show good decision making relative to escorting restrained persons and escort techniques. This training topic will be removed from future reports.*

The FTC has continued the high-level analysis of force incidents. From the FTC's internal reviews, 74% of the force incidents during 2023 were Category 1 incidents<sup>37</sup>, which is similar to prior reports. The most

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<sup>37</sup> Category I use of force incidents are generally physical force and ground takedowns; Category II is generally use of personal body weapons, chemical agents, impact weapons, group incidents involving more than five (5) IPs or injuries to staff or IPs as a result of force not considered a serious bodily injury; Category III are serious bodily injuries due to the incident, impact weapons strikes to the head or other head strikes likely to cause serious bodily injury; use of impact weapons, chemical agents or strikes on a restrained IP.

serious use of force incidents during the first six months of 2023, Category III, continued to represent two percent of the incidents. The following table represents the incidents by category for 2023:

**Use of Force Categories**  
*Calendar Year 2023*

	Q1 (Jan-Mar)	Q2 (Apr-June)	Q3 (July-Sept)	Q4 (Oct-Dec)	Average	Percentage
Cat I	96	99	100	97	96	74%
Cat II	43	21	32	25	30	23%
Cat III	3	2	2	4	3	2%
<b>Total</b>	<b>142</b>	<b>122</b>	<b>134</b>	<b>126</b>	<b>129</b>	

For the first six months of 2024, the County reduced the average number of use of force incidents by five per month, representing a four percent (4%) reduction in total force. It is noted there was a slight increase in Category I force incidents in the first six months of 2024 from the prior year and a reduction in Category II incidents. The County continues to categories approximately two percent (2%) of the incidents as the most serious, Category III. The following table represents the incidents by category for the period of January – June 2024:

**Use of Force Categories**  
*January – June 2024*

	Q1 (Jan-Mar)	Q2 (Apr-June)	Average	Difference from 2023	Percentage	Difference from 2023
Cat I	93	98	96	N/C	77%	+3%
Cat II	16	37	26	-4	21%	-2%
Cat III	1	3	2	-1	2%	N/C
<b>Total</b>	<b>110</b>	<b>138</b>	<b>124</b>	<b>-5</b>		

The County also tracks the types of force used for each incident. It is important to understand that a single force incident could include the use of more than one force option. For example, in an incident one staff may use oleoresin capsicum (OC Spray) followed with a control hold or ground controls and another utilize a taser. The County will measure four force options in this scenario – Taser, OC Spray, ground control and control hold. The following tablets depict force options that were employed during calendar year 2023 followed by the force options utilized in the first six months in 2024.

**Types of Force Utilized**  
*Calendar Year 2023*

	Q1 (Jan-Mar)	Q2 (Apr-June)	Q3 (July-Sept)	Q4 (Oct-Dec)	Average	Percentage
Control Hold	98	90	71	69	82	63%
Ground Control	82	66	112	90	87.5	67%
OC	11	3	5	8	6.75	5%
Taser	9	3	6	6	6	5%

Personal Body Weapons (Strikes)	19	10	16	12	14.25	11%
Batons	0	0	0	0	0	0%
Projectiles	0	0	1	1	0.5	>1%
<b>Total Types of Force Utilized</b>	<b>142</b>	<b>122</b>	<b>134</b>	<b>126</b>	<b>131</b>	<b>NA</b>

**Types of Force Utilized**  
*January-June 2024*

	Q1 (Jan-Mar)	Q2 (Apr-June)	Average	Percentage
Control Hold	60	79	69.5	42%
Ground Control	92	67	79.5	48%
OC	3	5	4	2%
Taser	2	2	2	1%
Personal Body Weapons (Strikes)	10	11	10.5	6%
Batons	1	0	0	0%
Projectiles	0	0	0	0%
<b>Total Types of Force Utilized</b>	<b>168</b>	<b>164</b>	<b>166</b>	

As with the previous reports, the majority of force incidents involved staff utilizing control holds or taking a Class Member to the ground to gain control. The deputies continue to utilize striking either in self-defense or when a Class Member violently resists but also in instances where striking appears inappropriate. There were three incidents during this review period referred to internal affairs for formal investigation in what appeared to be a violation of the force policies, although not all may have been associated with the use of personal body weapons. The custody expert also identified other instances where formal discipline appeared warranted, or at least an investigation into the incident (Refer to Provision 503). Less lethal options (Taser and OC) were utilized in approximately five percent of the force incidents and no impact weapons were utilized.

Custody has continued to identify the housing units with the highest prevalence of force. The following tables reflect the highest force utilization units per quarter for the calendar year 2023 followed by a table reflecting force options used in the first six months of 2024:

**Use of Force Locations**  
*Calendar Year 2023*

	Q1 (Jan-Mar)	Q2 (Apr-June)	Q3 (July-Sept)	Q4 (Oct-Dec)	Average	Percentage of high use units
Intake Area	20	21	19	26	22	24%



Housing Unit 1	21	19	21	19	20	22%
Housing Unit 2	6	8				
Housing Unit 9	22	29	24	25	25	27%
Housing Unit 21			18	10	14	15%
Housing Unit 23	10	5				
Housing Unit 24	10	11	12	10	11	12%

**Use of Force Locations  
January – June 2024**

	Q1 (Jan-Mar)	Q2 (Apr-June)	Average	Percentage of high use units	Difference from 2023
Intake Area	23	24	23	35%	+1
Housing Unit 1	9	14	12	19%	-8
Housing Unit 2	8	11	10	15%	+3
Housing Unit 8		11	11		N/A
Housing Unit 9	17	23	20	31%	-5
Housing Unit 24	12		12		N/A
Housing Unit 35		10	10		N/A

It is also important to note the housing units with only one or no force incidents during a quarter:<sup>38</sup>

**2023**

First Quarter           Housing Units: 7, 21, 25, 31, 32  
Second Quarter       Housing Units: 6, 7, 22, 25, 31, 32  
Third Quarter         Housing Units: 6, 7, 8, 25, 31, 32  
Fourth Quarter        Housing Units: 3, 6, 8, 23, 25, 31, 32

**2024**

First Quarter           Housing Units: 3, 21, 23, 25, 31, 32  
Second Quarter        Housing Units: 21, 23, 31, 32

This information should be used to support the County in their training and resource allocation needs. It is noted that locations that have high percentages of mentally ill and restricted housing Class Members have higher instances of force utilization. This reinforces the requirements for behavioral health clinicians in the units and consistent, sufficient and well-trained deputies working together to address the underlying factors that contribute to force incidents, such as untreated mental health conditions and idleness.

**Recommendations:**

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<sup>38</sup> It is recognized that units may have been unoccupied during periods in the quarter due to population fluctuations.

1. \*Continue to work collaboratively to update all custody use of force policies, forms and associated training as trends emerge.
  - a. \*Continue to work with AFBH to address complex incarcerated persons to develop meaningful behavioral plans.
2. \*Continue to focus on supervisory review of incidents, which will result in improved outcomes by providing direct and focused feedback to assist staff in decision making and de-escalation as well as informing policy and training revisions that are necessary.
3. \*Continue to ensure policy and training reviews are an aspect of the supervisory review to continue to refine as trends and concerns arise.
4. \*See Provisions 502-504 for additional recommendations.

*(502) Defendants shall ensure AFBH clinical staff is present in advance of all pre-planned use-of-force incidents so that they may attempt to de-escalate the situation. Defendants shall document all de-escalation attempts. To the extent possible, AFBH staff shall not be present during the actual use of force, in accordance with their MOU.*

**Finding:**        *Partial Compliance*

**Assessment:**

The County continues to increase the incidents in which AFBH is summoned to assist in controlled incidents but does not document when those incidents resolve without force, so it is difficult to give credit for AFBH responding and helping resolve without force. The pre-planned force policy was implemented this review period and of the sixteen (16) pre-planned for incidents, AFBH was summoned and responded in all but three incidents.<sup>39</sup> The AFBH clinicians do not generally remain in the location if force is used but ACSO and AFBH are encouraged to have a debrief between a clinician and the Class Member when appropriate.

The staff have improved substantially as it evidenced by the substantial increase in the number of pre-planned force incidents. The County is encouraged to begin providing documentation of incidents in which AFBH is summoned and the situation is resolved without force. Reportedly that occurs frequently but absent documentation, this Expert cannot give credit for the activity. Once that occurs, this provision should reach Substantial Compliance. It is noted that the County began the process of documenting when a potential controlled incident is resolved without force in June 2024, demonstrating the documentation process is underway.<sup>40</sup>

**Recommendations:**

1. \*The Force Training and Compliance Unit (FTC) should improve evaluation of AFBH involvement in de-escalation and elevate non-compliance issues by AFBH-to-AFBH leadership.
  - a. The quality of those clinical engagements should be assessed by AFBH leadership, and the Clinical Expert has been engaged in a review of several incidents where it appeared additional training is warranted for AFBH clinicians.

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<sup>39</sup> Refer to Provision 503

<sup>40</sup> ~~Examples 24-008239 and 24-008599~~

2. \*AFBH and ACSO leadership should engage in a monthly review of these types of incidents with the intention of determining the type of clinical support needed to reduce these numbers of cell extractions involving people in mental health crisis.

*(503) Defendants shall further: (a) ensure there is supervisory review of all use-of-force incidents; (b) develop an independent custodial use-of-force review team within the Compliance Unit to identify and address systems and training issues for continuous quality improvement to include de-escalation techniques; (c) work with ACSO Support Services to regularly review the use-of-force policy with respect to the circumstances when less lethal impact weapons are warranted and to determine when chemical agents may be used in cell extractions; and (d) ensure fixed cameras are placed throughout the Jail for security and monitoring purposes with priority for cameras to be placed in intake areas and areas with highest prevalence of force.*

**Finding:            Partial Compliance**

**Assessment:**

This is a complex provision, best broken down by the various elements:

*(a) ensure there is supervisory review of all use-of-force incidents;*

The County continues to comply with this subsection of the provision and has provided proof of practice on reviews of requested use of force packages. The quality of those reviews is addressed in *(b)*.

*(b) develop an independent custodial use-of-force review team within the Compliance Unit to identify and address systems and training issues for continuous quality improvement to include de-escalation techniques;*

The County continues to maintain the FTC, comprised of one (1) lieutenant, three (3) sergeants and (1) analyst. The staff in the unit have been stable and continue to build their internal capacity and grow in their understanding of force reviews. The FTC is able to complete force reviews in an acceptable time frame and continues to refine their monthly report analyzing force incidents. Sections of the FTC's internal analysis on force are included in this report.

As described in the Second and subsequent Monitoring reports, the Unit Sergeant and Unit Lieutenant utilize the Blue Team software to conduct reviews of all force incidents and are the reviewer of most Category I incidents.<sup>41</sup> The FTC has a responsibility for independently reviewing all Category II and III incidents as well as no less than 10% of Category I incidents. During this rating period, the Custody Expert reviewed a random sample of Category I incidents, and all completed Category II and Category III incidents.

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<sup>41</sup> Category I use of force incidents are generally physical force and ground takedowns; Category II is generally use of personal body weapons, chemical agents, impact weapons, group incidents involving more than five (5) IPs or injuries to staff or IPs as a result of force not considered a serious bodily injury; Category III are serious bodily injuries due to the incident, impact weapons strikes to the head or other head strikes likely to cause serious bodily injury; use of impact weapons, chemical agents or strikes on a restrained IP.

The overall process continues to improve. The initial review sergeants continue to refine their ability to identify serious violations of policy and are more thorough in their assessments and feedback to the staff regarding training issues. The challenge of the reviewing sergeant also being involved in the force incident appears to have been addressed. During this review period, there were several incidents that will be discussed in Provision 503 where the reviewing sergeant appropriately identified issues of non-compliance but was overruled by a manager. That issue has been discussed with the Sheriff and the Jail Command staff with the goal to better align all reviews to comply with the policy in an unapologetic and fearless manner.

For this review period, the Custody Expert has requested and received a total of sixty-eight (68) completed use of force packages for the period of November 2023 to April 2024 to allow time for the packages to complete the review process. In assessing whether the County is engaged in thoughtful analysis of their use of force review process, it is important to assess the concurrence rate between the unit supervisors who conduct the Blue Team review and the findings of the FTC. During this rating period, the FTC continued to internally track concurrence rates between the Blue Team Review and the FTC, providing information for calendar year 2023 through June 2024 as reflected below:

**Concurrence Rate Between First Line Supervisor and FTC<sup>42</sup>**  
*Calendar Year 2023*

	<b>Concur</b>	<b>Not Concur</b>	<b>Total Reviewed</b>	<b>Concurrence Rate</b>
First Quarter 2023	44	11	55	80%
Second Quarter 2023	29	8	37	78%
Third Quarter 2023	45	7	52	87%
Fourth Quarter 2023	32	6	38	84%
<b>Total</b>	<b>150</b>	<b>32</b>	<b>182</b>	<b>82%</b>

**Concurrence Rate Between First Line Supervisor and FTC**  
*January - June 2024*

	<b>Concur</b>	<b>Not Concur</b>	<b>Total Reviewed</b>	<b>Concurrence Rate</b>	Difference from 2023
First Quarter 2024	27	4	31	87%	
Second Quarter 2024	40	5	45	89%	
<b>Total July - December 2023</b>	<b>67</b>	<b>9</b>	<b>76</b>	<b>88%</b>	+6% Concur

Similarly, the Custody Expert assesses unit sergeant reviews of Category I incidents not reviewed by the FTC as well as completed FTC reviews. During this rating period, the Custody Expert concurred with the final findings half (50%) of the reviews, partially concurred in a quarter (24%) and did not concur with an important finding in twenty-six percent (26%) of the reviews, which is a slight reduction from the Fourth

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<sup>42</sup> The FTC concurrence rate does not capture all recommendations in their findings but rather reflects when the reviewing supervisor missed a critical issue during the initial review. This does not mean that the force was determined outside of policy, but some aspect of the incident was not adequately addressed by the initial reviewing sergeant.

Monitoring Report where the Custody Expert did not concur with twenty-eight percent of the overall findings. It is important to understand that the non-concurrence may not have been surrounding the need for or the level of force used but is more significant in nature. A brief description of the non-concurrence will follow the table below depicting the monthly reviews by the Custody Expert:

**Custody Expert Review of Completed Force Review Packages**  
*May 2023 – October 2023*

Month	Requested	Reviewed	Category			Reviewer <sup>^</sup>		Concur		Disagree	
			I	II	III	Sgt.	FTC	Overall	Partial	BT	FTC
<b>Oct 22-Apr 23</b>		16						36%	30%	34%	
<b>May 23-Oct 23</b>		13						33%	39%	28%	
Nov 2023	8	8	4	4		4	4	5	1	1	1
Dec 2023	9	9	3	6		4	5	2	4	1	2
Jan 2024	7	7	4	4		2	5	2	3	.	2
Feb 2024*	12	12	3	9		4	8	8		2	1
Mar 2024	15	15	11	4		7	8	9	5		1
Apr 2024**	17	17	6	9	2	8	9	8	3	4	1
<b>Ave</b>		<b>11</b>				<b>43%</b> <b>(n=29)</b>	<b>57%</b> <b>(n=39)</b>	<b>50%</b> <b>(n=34)</b>	<b>24%</b> <b>(n=16)</b>	<b>26%</b> <b>(n=18)</b>	

<sup>^</sup> The reviewer is the final review in the process. BT = Blue Team review by the Unit Sergeant and Unit Lieutenant. FTC = Force Training and Compliance Team

~~● Incident 24 2377 Disagree with final Captain/Commander determination, which overruled the FTC review.~~

~~● \*\* Incident 24 4542 inconclusive; Incident 24 4645 disagree with final Captain/Commander determination.~~

**Comments on Non-concurrence with Final Review<sup>43</sup>**

**November 2023**

- The force was within policy, but the review failed to identify lack of medical attention immediately following the force and need for mental health intervention that was not provided.<sup>44</sup>
- An incarcerated person in a mental health crisis is processed through intake without a review by AFBH when it appears he may have met the criteria for a 5150 assessment. Force was used in two separate areas involving poor tactics and planning.<sup>45</sup>

**December 2023**

<sup>43</sup> Unless stated, the disagreement does not involve the use of force, level of force or force options but rather an adjacent issue that may have contributed to the need to use force.

<sup>44</sup> ~~23-16444~~

<sup>45</sup> ~~23-16772~~

- An incarcerated person refuses to exit the intake area following processing. Staff engage in an extraction with the use of OC. Staff failed to ensure timely and appropriate decontamination and medical assessment after the force and prior to placement into a different cell.<sup>46</sup>
- A behavioral health incarcerated person requires placement on IOL status but refuses to exit cell. He is extracted with the use of OC. Staff failed to ensure timely and appropriate decontamination and medical assessment prior to placement into a different cell.<sup>47</sup>
- A behavioral health incarcerated person requires transport for a 5150 hold but refuses to exit his cell. He is extracted with the use of OC. Staff fail to decontaminate post exposure, and it appears that the medical assessment is insufficient.<sup>48</sup>

## January 2024

- Two incidents involving mentally ill incarcerated persons where the staff failed to demonstrate compliance with the controlled use of force policy. In both scenarios, AFBH was not summoned to assist and the staff acted with unnecessary urgency.<sup>49</sup>

## February 2024

- An intake incarcerated person refuses to submit to an unclothed body search for movement to the THU. At 0230, without summoning AFBH or articulating adequate urgency to move the incarcerated person, the sergeant authorizes an extraction to move him. The same sergeant conducts the force review and miscategorized the force as Category I.<sup>50</sup>
- A behavioral health incarcerated person was out for pod time and refused to return to his cell. A cell extraction occurred that included the use of a straight baton. The manner in which the straight baton was utilized appeared outside of policy and not warranted for the circumstances.<sup>51</sup>
- A deputy utilizes force that does not appear objectively reasonable as determined by the FTC with concurrence from this Expert. The reviewing Captain and Commander disagree with the FTC and justify the force utilization.<sup>52</sup>

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<sup>46</sup>-23-17933

<sup>47</sup>-23-18805

<sup>48</sup>-23-19092

<sup>49</sup>-24-00065 and 24-01415

<sup>50</sup>-24\*01605

<sup>51</sup>-24-02245

<sup>52</sup>-24-03338

## March 2024

- An incarcerated person is in a holding cell pending transfer to restricted housing. The incarcerated person refuses to submit to restraint, so the deputy opens the door and ultimately enters the cell and uses force. The deputy's actions were in violation of the pre-planned force policy.<sup>53</sup>

## April 2024

- A behavioral health incarcerated person is acting out in the shower. The deputies respond and engage in a forcible removal from the shower that included violation of the force policy and engage in unprofessional behavior. The FTC identifies legitimate concerns that are not supported by the reviewing Captain and Commander.<sup>54</sup>
- A behavioral health incarcerated person is in the dorm and goaded a deputy to enter the dorm by tampering with the dorm phone. The deputy entered the dorm when he should not have and utilized minor force. The review fails to identify that the deputy's report justifying the force does not match the video and force was potentially avoidable.<sup>55</sup>
- A behavioral health incarcerated person refuses to exit his restricted housing cell for a cell move. Staff attempt to gain compliance and ultimately enter the cell and use force in violation of the controlled use of force policy. The initial review sergeant appropriately identifies the policy violation but is not supported by the reviewing Captain and Commander.<sup>56</sup>
- A behavioral health incarcerated person is in the dayroom and appears agitated. The deputy approaches him in a counterproductive manner and an escalation ensues, requiring force. The force was likely preventable had the deputy demonstrated proper communication and de-escalation techniques.<sup>57</sup>
- An incarcerated person confronts a deputy, and the deputy directs the incarcerated person to submit to restraint, but he refuses. Responding staff arrive to assist in restraint and deliver a body strike to the chest area that did not appear warranted. The review sergeant identified the policy violation but was not supported by the FTC and above.<sup>58</sup>

### Improvements noted this monitoring period:

- All of the improvements noted in the Third and Fourth Monitoring reports<sup>59</sup> have been maintained.
- The FTC began tracking training issues and employee corrective actions to determine trends and requirements for updates to policy or training.
- When following the pre-planned force policy, the cell extractions are beginning to comply with industry standards and are conducted professionally with the goal of force minimization and de-escalation.<sup>60</sup>
- Inclusion of de-escalation video in the use of force packages to assist with review.

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<sup>53</sup>-24-04472

<sup>54</sup>-24-04645

<sup>55</sup>-24-04834

<sup>56</sup>-24-04907

<sup>57</sup>-24-05542

<sup>58</sup>-24-05653

<sup>59</sup>-Third Monitoring Report, pages 36-37; Fourth Monitoring Report page 45.

<sup>60</sup>-Examples 23-16645; 23-16689; 23-18243; 23-18785; 24-04015; 24-05421; 24-05473

- There continue to be examples of staff utilizing patience and de-escalation techniques.
  - Deputies on hospital supervision demonstrate excellent de-escalation techniques when a mentally ill incarcerated person is attempting to leave the hospital.<sup>64</sup>
  - In the intake area, an incarcerated person who appears intoxicated refuses to enter the cell. The staff remain calm and utilize excellent communication skills in an attempt to avoid and minimize force.<sup>62</sup>
  - A THU incarcerated person in housing unit 35 threatens staff with a spork. The staff remain calm, attempt to de-escalate and use minimal force to gain compliance. Rather than placing the incarcerated person in restricted housing, he is moved to housing unit 9 for a higher level of care.<sup>63</sup>
  - A THU incarcerated person engages in an unprovoked attack on staff. The deputies are able to restrain him while he is actively resisting. One deputy demonstrates outstanding de-escalation and calming communication during the incident by getting down on the floor and trying to make eye contact with the Class Member.<sup>64</sup>
  - In one incident when the initial staff acted intemperately, a responding deputy demonstrated extreme leadership in attempting to de-escalate the situation and calm the incarcerated person.<sup>65</sup>
  - In the community mental health hospital, deputies work with the clinical team in a team approach to convince an inmate/patient to take medication and work together to contain him when de-escalation proves ineffective.<sup>66</sup>
- AFBH is summoned and is assisting as situations appear to be escalating. Of the sixteen (16), AFBH was summoned in all but three incidents and responded to all incidents when requested.<sup>67</sup>

The following areas for improvement were documented in the Fourth Monitoring Report followed by the current status in italics:

- There remains a hesitancy to provide formal written correction on serious errors of judgement regarding force. This is not an “unapologetic” approach. Too much reliance on training as the sole approach toward employee unacceptable behavior or mistakes.

*The ACSO has increased formal documented corrective action during this rating period and began tracking all final outcomes identified during use of force reviews.*

- Insufficient de-escalation in several situations reflecting the urgency to fully implement the CCC training.

*While there are incidents where staff are utilizing de-escalation techniques, there continue to be acts of intemperance or poor planning informing that the CCC training is critical. That training has begun, which is positive. The units have also begun calling the BHAT team for support and the BHAT team is documenting the number of responses per month. For the months of May and*

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<sup>64</sup>-23-16931

<sup>62</sup>-24-00103

<sup>63</sup>-24-02089

<sup>64</sup>-24-04038

<sup>65</sup>-24-04804

<sup>66</sup>-24-05273



*June 2024, the BHAT team documented responding to forty-three (43) events for the purpose of “De-escalation, Preventative or Critical Incident.” This is an excellent use of the staff who have been trained but the report lacks detail to fully understand the circumstances the BHAT is responding to and whether that response resulted in resolving the issue without force.*

- Inappropriate deployment of OC through food slots and poor in-cell decontamination protocols or documentation.

*One incident noted and not addressed in UOF review.<sup>68</sup>*

- Staff entering cells and holding areas when there is no urgency to do so and there is time to summon a supervisor and AFBH.

*While improving, this continues to be an area of concern, particularly when the staff failure to summon a supervisor and AFBH is not addressed in the use of force review.*

- Lack of appropriate equipment for resisted transports, such as foldable gurneys and gurneys with wheels.

*The staff have done a good job of bringing a wheelchair to provide transport for a resistive person. The ACSO still requires transport equipment for upper tier movement of resistive and incapacitated persons.*

- Failure to develop a policy to address incarcerated person allegations of unnecessary or excessive force. Failure to develop policy or protocol for consideration to redirect staff who are subject to internal affairs investigation for potential excessive or unnecessary force.

*No action taken this rating period.*

- Sergeants fail to provide custodial leadership in several situations, either due to cultural behavior of allowing the deputies to lead or due to insufficient training in correctional practices.

*Sergeants are routinely observed in force videos and observed taking command when appropriate.*

- The tray slots in the restricted housing units require different locking mechanisms.

*No action taken this rating period.*

The following are additional areas that require focused attention:

- Managers overruling or not supporting non-compliance findings by the initial reviewing supervisors and/or FTC.
- Failure to ensure medical assessment is completed immediately after force utilization and prior to rehousing.
- Failure to ensure appropriate de-contamination prior to rehousing.

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<sup>68</sup>-24-03279

While the system continues to improve, for the reasons stated above, on-going monitoring is required.

*(c) work with ACSO Support Services to regularly review the use-of-force policy with respect to the circumstances when less lethal impact weapons are warranted and to determine when chemical agents may be used in cell extractions; and*

All use of force incidents are reviewed and those involving less lethal impact weapons and cell extractions are also reviewed by the FTC. The FTC and Custody Expert reviewed all incidents categorized as cell extraction, including the force options deployed during those extractions. Of the sixteen (16) cell extractions reviewed during this rating period, two utilized less lethal options as described below.

- A Class Member who has a significant history of staff assaults was acting out in the dayroom, broke the unit phone and was threatening to assault staff who entered the dayroom. AFBH was summoned and a supervisor arrived on scene, but they were not able to gain compliance. The Class Member utilized a broken piece of the phone to create a weapon and threw hard objects at the window where staff were standing. Initially staff deployed OC into the dayroom, which provided ineffective as the Class Member retreated to the back of the dayroom. Staff fired one (1) direct impact round at the Class Member from the FN 303 without effect. The staff then entered the dayroom and deployed a second round of OC, which proved effective. The force was in alignment with policy and matched the threat.<sup>69</sup>
- A mentally ill Class Member is in the dayroom and refused to return to his cell. AFBH and a supervisors respond to assist but could not gain compliance. A cell extraction team enters the dayroom, and the Class Member rushes at the shield team member. Physical force and a straight baton were used to restrain the Class Member. This incident was previously mentioned on page 45 as the use of the baton did not appear within policy or objectively reasonable when utilized – this was not captured by the UOF review.<sup>70</sup>

There was one additional incident involving the use of a baton on a Class Member at the outside behavioral health hospital. The deputies and clinical staff used communication skills and attempted to convince the Class Member to submit to restraint for transport to the Napa State Hospital. He refused so after attempting to verbally pursue him, the two assigned deputies attempted to restrain the Class Member who violently resisted. While the Class Member was kicking and striking out at the deputies, one deputy utilized an expandable baton to jab and strike out at the Class Member's extremities. The review identified insufficient planning prior to utilizing force as better planning might have reduced the need for force and the need for an impact weapon.<sup>71</sup>

Of the sixteen (16) pre-planned events reviewed, five involved the use of chemical agents.<sup>72</sup> All use of OC was consistent with policy and as reported on page 44, three did not involve appropriate decontamination following exposure as previously reported.

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<sup>69</sup> 24-18785

<sup>70</sup> 24-02245

<sup>71</sup> 23-17221

<sup>72</sup> 23-17933; 23-18805; 23-19092; 24-00065; 24-3529

*(d) ensure fixed cameras are placed throughout the Jail for security and monitoring purposes with priority for cameras to be placed in intake areas and areas with highest prevalence of force.*

The County reports that the fixed camera expansion project remains on target with anticipated completion in late 2026.

**Recommendations:**

1. Update the Use of Force Review policy or other identified policy to include the following:
  - a. \*Formalize a process to address IP complaints of unnecessary or excessive force and how to address in the use of force review process.
  - b. \*Include a section in the policy or other related policy regarding evaluation of the redirection of staff from the unit when a force incident appears to have significantly outside of policy.
  - c. \*Remind reviewing supervisors to address uninvolved staff escort if there are sufficient staff to assume that role.
  - d. \*Review the controlled force policy and associated training address the situations where less-lethal force options are most appropriate.
2. \*Continue to train all existing custody supervisors and managers on the new policies.
3. \*Provide an accurate project plan for expansion of fixed cameras in the jail based on use of force trends.
4. Analyze force packages for training and policy revision need trends.

*(504) Defendants shall also evaluate all policies and training associated with every use-of-force review to determine if updates or revisions are necessary as a result of those reviews and shall ensure the documentation process for use-of-force review reflects that a review of policies and training has occurred. Defendants agree to maintain adequate resources to ensure appropriate independent use of force reviews, training, and auditing to comply with the terms of this Consent Decree.*

**Finding:**        *Substantial Compliance*

**Assessment:**

The County has demonstrated consistent commitment to identify training and policy revision topics during the use of force process. The County began tracking all identified training areas and employee corrective action during this rating period. This impressive tracking report will assist ACSO with updating policy and training, whether through muster or formal training, to reduce the types of training deficits being identified. The training issues identified include a broad range of issues but fall within the following categories:

- Tactical Planning and Tactics
- Communication and De-escalation
- Equipment and Body Worn Cameras
- Report Writing/Reviewing
- Overall Safety
- Professionalism
- Restraint Application/Escorting

The County also began tracking more formalized employee corrective action, such as the issuance of a record of discussion (ROD) when the circumstances warranted.

The County continues to allocate adequate resources to conduct timely use of force reviews and engages in internal tracking on timeliness of reviews. In comparing the County’s internal tracking relative to the timeliness of force reviews for the calendar year 2023 against the first six months of 2024, it is clear the County continues to make timely reviews a priority as the average number of days to complete a Category I or Category II review reduced by ten (10) and twenty-seven days (27) respectively. The Category III incidents increased by six days but that is a small percentage of the total force incidents and not unreasonable due to the type of incidents listed as Category III.

The following tables represent ACSO’s internal monitoring of the timeliness of force reviews by category for Calendar Year 2023 and the first six months of 2024:

**Average Days to Complete a Use of Force Review Package**  
*Calendar Year 2023*

	<b>Q1 Average Days</b>	<b>Q 2 Average Days</b>	<b>Q3 Average Days</b>	<b>Q4 Average Days</b>	<b>Overall Average</b>
<b>Category I</b>	47	36	37	41	40 Days
<b>Category II</b>	113	75	74	96	90 Days
<b>Category III</b>	103	65	142	72	96 Days

**Average Days to Complete a Use of Force Review Package**  
*January – June 2024*

	<b>Q1 Average Days</b>	<b>Q2 Average Days</b>	<b>Overall Average</b>	<b>Difference from 2023</b>
<b>Category I</b>	34	26	30 Days	-10 Days
<b>Category II</b>	67	59	63 Days	-27 Days
<b>Category III</b>	111	92	102 Days	+6 Days

It is appropriate that the Category II and Category III reports take longer than the Category I reports to complete as the FTC must evaluate, by policy, all Category II and III reports, adding an additional layer of review.

This is the second monitoring report with a finding of substantial compliance. The County has demonstrated thoughtful reviews and consistently identifies training needs and began tracking training trends to allow policy and training updates. This provision is anchored in policy, internal tracking and sustained compliance. It is recognized that the reviews do not always capture 100% of the training issues this Expert identifies but even that is a training issue and does not demonstrate a lack of commitment to quality internal reviews.

The FTC Lieutenant C. Jones who did an excellent job of activity the unit, leading the reforms and implementing the review process, was reassigned in mid-September 2024. The Monitoring Team wishes to commend him and thank him for his leadership and looks forward to working with the newly assigned Lieutenant G. Porritt. It is recognized that the County has achieved substantial compliance over two rating periods; however, due to the change in leadership at ACSO, one additional monitoring period is

recommended to assess if the change in leadership creates a different approach towards force reviews, which is not anticipated. It is likely that a recommendation to discontinue monitoring will occur in the next review period.

**Recommendations:**

1. \*Maintain quality and timeliness of reviews.
2. \*Continue to ensure Blue Team Reviews incorporate evaluation of policy when conducting Category 1 reviews.
3. \*Continue to track training needs identified during reviews for incorporation in training updates.

*(505) Restraint Devices shall be applied for only the amount of time reasonably necessary and shall never be applied as a punishment or as a substitute for treatment. Defendants have discontinued the use of WRAP devices at the Jail and shall not resume their use at the Jail.*

**Finding: Partial Compliance**

As reported in the Fourth Monitoring Report,<sup>73</sup> since the transition from the use of paper observation logs to the Guardian RFID system to document observation of incarcerated persons placed in a restraint chair or left in restraints, the ability to monitor this provision has been severely hampered. The County recognizes the challenges that have been created impacting internal and external monitoring and intends to return to the use of the paper observation log in the next reporting period. The County will also develop an updated tracking report, which will require an update to the Inmate Observation (8.12) policy.

For this monitoring period, there were no incidents reported where an incarcerated person refused to submit to the removal of restraints (handcuffs) and was left in a cell or holding area in restraints. The County did provide a weekly certification that there were no incidents and there were no incidents uncovered through reviews of force or other incidents.

With the exception of one incarcerated person who was placed in a restraint chair due to bizarre and violent behavior,<sup>74</sup> all other restraint chair uses were associated with a suicidal statement or self-abuse. Utilization of the restraint chair reduced during this reporting period - down to a monthly average of 2.7 placements in the first six months in 2024 compared to a monthly average of 4.2 placements in the last six months of 2023. The average time in a restraint chair increased - up 45 minutes for the first six months of 2024 compared to the last six months of 2023. As the documentation is not consistent, this is the best estimate based on the available information.

*Remainder of page intentionally left blank*

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<sup>73</sup> Pgs. 48-50.

~~<sup>74</sup> May 10, 2024. Incident Report 24-6131~~

For comparison, the following table reflects the average monthly incidents of restraint chair or restraint retention reported in the Second through Fourth Monitoring Reports:

**Restraint Log Analysis – Prior Monitoring Reports**

Period	Restraint Chair		Retention in Restraint		
	Monthly Average Placements	Average Hours	Monthly Average Retentions	Average Hours	Reason <sup>75</sup>
March – November 2022	2.7	4:00	4	2:15	50% R/R; 24% COM; 21% SX, 5% INV
January – June 2023	3.2	4:00	2	1:30	54% Com; 46% ref
July – Dec 2023	4.2	5:15	1	2:15	Info incomplete

The following table reflects the average monthly incidents of restraint chair or restraint retention reported for the Fifth Monitoring Report for the period of January – June 2024:

**Restraint Log Analysis – Fourth Monitoring Report  
July - December 2023**

Month	Restraint Chair		Restrains <sup>76</sup>		
	Placements	Average Hours	Retention in Restraint	Average Hours	Reason <sup>77</sup>
January	2	11.5	0		None Reported
February	1	3	0		None Reported
March	1	1.75	0		None Reported
April	5	7.25	0		None Reported
May	4	4	0		None Reported
June	3	3.25	0		None Reported
<b>Average</b>	<b>2.7</b>	<b>6:00</b>	<b>0</b>		

During the Fourth Monitoring period, at least five (5) Class Members were documented as exceeding eight hours in a restraint chair placement<sup>78</sup>; for this monitoring report, there were three (3) restraint chair

<sup>75</sup> COM = Combative or Aggressive; INV = Investigation; R/R = Refuse to relinquish restraints; SX = Suicide Attempt or pending transport to John George Hospital; UNK = No documentation provided

<sup>76</sup> Based on incomplete reporting from the County, no averages are provided this reporting period, and these numbers represent only the known restraint retentions.

<sup>77</sup> COM = Combative or Aggressive; INV = Investigation; R/R = Refuse to relinquish restraints; SX = Suicide Attempt or pending transport to John George Hospital; UNK = No documentation provided

<sup>78</sup> Pgs. 48-50.

placements exceeding eight hours.<sup>79</sup> Two Class Members had restraint chair placements on more than one occasion in a short period of time.<sup>80</sup>

As reported since the Third Monitoring Report, the quality of the deputy documentation in the Guardian RFID system is substandard, making it difficult for ACSO to self-evaluate compliance with the approved policy. Monitoring currently requires a complex evaluation of the incident report, review of the guardian logs (if available) and ACSO reviewing other available information when the logs lack documentation. As mentioned, the County will revert back to the use of paper logs until the organization is comfortable so that the Guardian report can provide accurate tracking. This Expert will work with the Compliance Unit to develop an internal auditing process to conduct real time reviews regarding the quality of the incident report and the observation logs.

There were no reported incidents of incarcerated persons refusing to relinquish their handcuffs, resulting in staff affording a cooling off period, rather than using force to remove the handcuffs. The failure to report such events was identified in the Fourth Monitoring report and it seems unlikely there was not a single event of this occurring in the six months reviewed for this report. The County should reinforce to deputies and supervisors the responsibility to report when such an event occurs.

The County has discontinued the WRAP device, and no new restraint equipment has been utilized or anticipated in the jail.

#### Recommendations:

1. \*Finalize and provide training on the Use of Restraint Policy (8.26)
2. \*Resolve the lack of consistency in documentation utilizing the Guardian RFID or resume use of the restraint logs approved with the policies.
3. \*AFBH and ACSO should work with Wellpath on a policy for clinical evaluations when an IP has been retained in restraints for more than 1 hour and does not appear to be resolving. Ensure those clinical encounters are documented on the restraint log.<sup>81</sup>
4. \*Work with the Mental Health Expert to review the incidents of multiple placements in a restraint chair to determine if other clinical options may have been possible to improve training and future outcomes.
5. Work with the Custody Expert to develop an internal auditing report for each restraint chair placement to assist in identifying training needs and compliance concerns.
6. Conduct a briefing for deputies and sergeants to reinforce the policy requirement of documenting when an incarcerated person refuses to relinquish handcuffs and a cooling off period is afforded.

*(506) AFBH and medical staff shall be alerted any time a restraint log is initiated for a Behavioral Health Client. Once notified, medical staff shall review the individual's health record and provide an opinion on placement and retention in the Restraint Device. A Qualified Mental Health Professional shall conduct an assessment, as soon as practicable, but in any event within four (4) hours of initiation of the restraint log.*

**Finding:            Partial Compliance**

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<sup>79</sup> ~~Potter, BNV185, January 2, 2024; Carpenelli, BMW824 April 21 and 24, 2024.~~

<sup>80</sup> ~~Potter, BNV185, January 2, 2024; Carpenelli, BMW824 April 21 and 24, 2024.~~

<sup>81</sup> Likely General Order 7.14 – Prisoner Transportation, Restraint Devices.

It is believed that ACSO is consistently notifying AFBH in a timely manner when an incarcerated person is acting in a self-abusive manner or is potentially suicidal and is either placed in a restraint chair by custody or at the direction of a AFBH clinician. It also appears that AFBH clinicians are routinely responding within four (4) hours or sooner, but the available documentation does not easily permit analysis. The solution identified by ACSO to revert back to use of the paper observation logs and to conduct timely internal audits should remedy the lack of adequate proof of practice and address non-compliance issue sooner than a monitoring report can provide. Internal monitoring by the Compliance Team, in partnership with AFBH, is critical for the finding of substantial compliance, so the County is moving in the right direction in self-correction. It is conceivable this provision could reach substantial compliance in the next rating period as the challenge seems more likely one of poor documentation and not failure to notify AFBH or lack of AFBH responding.

**Recommendations:**

1. \*Continue to ensure there are adequate mental health clinicians on the overnight shift.
2. \*Continue to reinforce to clinical staff the priority of assessing incarcerated persons placed in a restraint chair, preferably prior to placement in the event that higher acuity care is required.
3. \*Refer to recommendations in Provision 505.

*(507) Defendants shall develop, in consultation with the Joint Expert(s) and as discussed in Section IV(A), policies, procedures, and training regarding the appropriate use of other Restraint Devices, including appropriate medical monitoring, provision of fluids, restroom breaks, and guidelines for release from restraints. Defendants shall provide such training within six (6) months of the Effective Date and shall provide recurring training on an annual basis.*

**Finding:            *Partial Compliance***

**Assessment:**

As reflected in the previous report, the County has updated associated policies and provided training to staff but the ability to monitor compliance has been inhibited by poor documentation associated with the transition from paper observation logs to the Guardian RFID tracking system. The County recognizes this challenge and intends to return to the use of paper logs for restraint log observations. The Compliance team is also working on an internal audit document that should be utilized during the next monitoring period.

**Recommendations:**

1. \*See recommendations in Provision 505.
2. \*Consider assigning internal monitoring to the Compliance Unit to identify training issues as they occur, targeting missed restraint chair log documentation in the areas of mental health rounds, access to the bathroom, watch commander rounds and range of motion with the goal of reaching substantial compliance on this provision.

*(600) Defendants shall evaluate the tracking and metrics system for grievances to seek formats that better inform management on timeliness, trends, problem areas, etc. Where grievances are available for*



*completion on tablets, incarcerated persons shall continue to have the option of accessing paper forms, and the tablets shall allow individuals to submit grievances without deputy assistance or approval. Defendants shall ensure supervisors are conducting and documenting daily rounds in housing units to ensure access to grievance systems, including that paper forms are readily available to incarcerated persons on their housing unit or pod. Defendants shall also keep statistics regarding the kinds of grievances filed, any corrective actions taken, and any staff issues that arise from this process. The Compliance Captain shall report through the chain of command on any such systemic or staff issue(s) promptly.*

**Finding:        *Partial Compliance***

**Assessment:**

The County has demonstrated significant progress in the grievance system during this rating period. The County information technology team collaborated with the Grievance Lieutenant and the dedicated grievance team to develop a new grievance tracking program. That system was demonstrated to the ADA and Custody Monitors during the August 2024 tour and is considered a far superior system to the system that ACSO has historically utilized. While the new system was not fully operational in this monitoring period, it is believed this system will be fully operational in the next review period, which will substantially improve internal monitoring of grievances and external reporting.

This Expert determined that a random sample review of grievances would not be conducted for this rating period to allow for the Grievance Unit to update the system with the intention of conducting monthly random sample review beginning November 2024 when the new tracking system is in effect. The recommendations from those findings will best inform the County of the next steps to achieve Substantial Compliance.

The following are observations in the Third and Fourth Monitoring Reports followed by italicized updates noted during this monitoring period:

- Lack of counting rules on how to categorize grievances as often issues can overlap and there is no consistency regarding which category a grievance will be listed under. For example, a complaint about the deputy not providing a grievance may be categorized in one tracker under “grievance” and in another tracker as a “staff complaint.”
  - *Should be resolved in the next reporting period. A dropdown menu for categories has been added to the new tracking systems and the ACSO has written guidance on selecting the appropriate category when issuing a tracking number.*
- The timeliness for grievances are not kept up to date and there is no report concerning areas where grievances are not being responded to in a timely manner to assist management in allocating resources to address.
  - *Should be resolved in the next reporting period. The new grievance tracking system has an overdue notification, tracking and reporting system that will be evaluated in the next reporting period.*
- There is no clear process to track grievances that are elevated by the incarcerated person to the next level of review.
  - *Should be resolved in the next reporting period. The new computer tracking system has the capability of tracking grievances through each level of appeal.*
- The Grievance tracker is not kept up to date with findings and lacks a column for housing of the incarcerated person to identify trends in particular living areas

- *Should be resolved in the next reporting period. The new tracker has the ability to identify grievances by location, affording ACSO to conduct trend analysis based on location and types of complaints.*
- The grievance system lacks strong outcome tracking and outcome measures, such as using language on whether grievances were affirmed, partially affirmed or denied or other language that allows for outcome tracking.
  - *Should be resolved in the next reporting period. The ACSO has developed new outcome tracking categories that will be incorporated in the new appeal tracking system.*
- The grievance tracker does list the involved staff but there has been no analysis presented to determine if additional training or potential investigation of that staff member has been undertaken when the individual complaint has proven to have merit or there is a pattern of complaints that appear to have merit.
  - *Resolved and confirmed resolution is in place.*
- There is no continuous quality improvement report presented for review by the medical or mental health team concerning grievances and grievance trends.
  - *Should be resolved in the next reporting period. The grievance unit is actively working on utilizing the new tracking system to create reports to be utilized by the Wellpath and AFBH in their quality improvement reports.*
- The grievance tracker does not list if the grievance was a tablet or paper grievance and there are missing grievance numbers that are not explained. For example, the log may have grievance #23-0001 and #23-0003 but does not have #23-0002 and there is no explanation. The tracking log should document the grievance was withdrawn, destroyed, a duplicate, error in assigning tracking, etc. to ensure integrity in the system.
  - *Should be resolved in the next reporting period. The new tracking system is designed to resolve this issue.*

The work the County and Grievance Team have done during this rating period is impressive and is a profound improvement. The timeliness and quality of responses has improved. The new tracking system will allow for real time evaluation of grievances and trend analysis. The incarcerated population interviewed stated that access to grievances and responses has improved and that is due to the commitment of the grievance unit team and their growing understanding of the importance of an effective, responsive and meaningful grievance system.

### **Recommendations:**

1. \*Ensure adequate resources are available to provide timely and meaningful responses to grievances. Set into policy and practice initial responses to grievances within 10-14 days.
2. \*Work with the Joint Experts to revamp the monthly Grievance Report to comply with this provision.
3. Recommendations will be updated in the next reporting period following an audit of grievances received and responded to utilizing the new system.

*(712) Develop and implement a new alert system (computerized or otherwise) to advise the Intake, Transfer and Release Lieutenant (or Watch Commander, when the Intake, Transfer and Release Lieutenant is unavailable or off duty) when a person is held in the intake area for more than four (4) hours. Once alerted, the notified lieutenant shall follow-up every ninety (90) minutes thereafter to ensure the incarcerated person is processed as expeditiously as possible. Defendants shall process individuals through intake within eight (8) hours, except where it is impossible due to mass arrests, serious disturbances, critical incidents, or other emergencies that divert significant staffing resources, in accordance with the classification system.*

**Finding: Partial Compliance**

The County has not yet developed a system to notify the Intake, Transfer and Release Lieutenant (ITR) or Watch Commander when a person is held in the intake area for more than four hours. The ITR does continue to track the number of incarcerated persons held in the ITR beyond eight hours at 4:00 am and 3:30 pm. The County has maintained the progress reported in the Fourth Monitoring Report<sup>82</sup> based on the commitment to maintain the clinical and custody resources allocated for processing.

As with prior reports, the County officially tracks the number of incarcerated persons held beyond eight (8) hours on the Intake, Transfer and Release (ITR) end of shift report. The count is taken at 4:00 a.m. and 3:30 p.m. The average number of Class Members held beyond eight hours was reported in Fourth Monitoring reports and is reflected in the chart below:

**ITR End of Shift Report Data**  
**Average Processing Delays**  
**Number of IPs held in ITR beyond 8 hours**

<b>Sample Period</b>	<b>4:30 a.m.</b>	<b>3:30 p.m.</b>
Aug 2022	42	44
Jan-June 2023	15	11
July-December 2023	4	4

During this monitoring period, ACSO, AFBH and Wellpath continued to improve the process and further reduced the average number of Class Members held in the intake area at the eight-hour mark. From the period of January – June 2024, the average number of incarcerated persons in the ITR beyond eight (8) hours at 4:00 a.m. showed no significant reduction as prior reports were rounded to whole numbers. By 3:30 p.m. the average number demonstrated a notable decrease to 1.4 persons not processed in the eight-hour timeframe (65% reduction).

The following chart reflects the daily average of incarcerated persons maintained in the ITR based on the ITR end of shift reports for sample periods January – June 2024:

**ITR End of Shift Report Data**  
**January – June 2024**  
**Processing Delays**  
**Number IPs held in ITR beyond 8 hours**

<b>Date</b>	<b>4:00 AM</b>	<b>3:30 PM</b>
Jan 7-13	2.9	0.3
Feb 4-10	5.3	3.6
Mar 3- 9	4.6	0.6
Apr 7-13	2.7	1.4
May 5-11	3.0	2.1
June 2-8	3.1	0.4
<b>Average</b>	<b>3.6</b>	<b>1.4</b>

<sup>82</sup> Pgs. 55-57.

As stated in prior reports, to reach substantial compliance, the County will need to measure at the four-hour mark as that information is not yet available and provide documentation that a lieutenant is following up every 90 minutes thereafter. The County will also need to document the reason the incarcerated person could not be housed at the eight-hour mark. It is conceivable the County could reach substantial compliance in the next rating period but absent that information, it will be impossible to measure. The Expert will work with the County in the next reporting period to update the end of shift reports for the ITR and Watch Commander to improve tracking and reporting of this information.

**Recommendations:**

1. \*Continue to ensure adequate resources continue to be available to engage in timely processing, including overnight behavioral health clinicians.
2. \*Update policies, forms, post orders and training to comply with this provision.
3. \*Seek viability in including automatic notification and tracking via the RFID section discussed in Provision 418.
4. \*Refine Watch Commander and ITR End of Shift or other report to provide greater clarification on the notification to the Watch Commander when holding a person in the ITR for more than 4 hours and the reasons for holding someone in ITR more than 8 hours and the steps taken to address.
5. \*The Compliance Unit and AFBH should monitor daily delays and develop corrective action plans as necessary based on established trends and systemic barriers.

*(749) Defendants shall ensure that the safety cell is clean prior to the placement of a new individual in the safety cell. Safety cells shall also be cleaned on a normal cleaning schedule when not in use. Defendants shall provide individuals housed in safety cells with a safety mattress, safety eating utensils, toilet paper, and feminine hygiene products.*

**Finding:**            *Substantial Compliance – Recommend discontinuation of monitoring*

**Assessment:**

The County continues to maintain compliance with this provision, and it is notable there were no safety cell placements during this review period. The safety cells were observed while on site and appeared sanitary. Policies have been updated to memorialize the expectation.

The ACSO reported that they will discontinue the use of the Guardian RFID for documentation of safety cell observations and will revert to a paper log with an internal auditing system. The Experts will assist in the auditing process during the next review period.

**Recommendations:**

1. \*Discontinue utilization of the Guarding RFID tracking system for observation checks for incarcerated persons placed in a safety cell and return to the use of a paper observation log.
2. \*Develop an internal auditing tool for timely review of observation logs to address training issues.
3. Discontinue monitoring.

*(751) Defendants agree to continue to ensure that there are working call buttons in all cells and shall continue to conduct periodic checks of call buttons in all units and address any maintenance issues as soon as possible. If a call button is found to be inoperable, the individual shall be moved to a cell with a working call button as soon as practicable. Defendants shall develop and implement policies, procedures, and forms required to implement the provisions contained herein.*

**Finding:           Substantial Compliance**

**Assessment:**

During this reporting period, the County provided a list of work orders associated with call buttons. On the list was the routine maintenance of HU 21 and a total of seventy-two (72) work orders. Two of the work orders are listed as “pause” so it is unknown why the work was not completed or if it was completed and the system was not updated. The list submitted for review does not provide a date for submission of the work order or completion of the work order; therefore, it is impossible to determine if the repairs were timely. In the Fourth Monitoring Report it was recommended that the County develop a system to routinely check all call buttons in the housing units but that has not been facilitated.

Of the 72 work orders, seventeen (17) have a cell number but do not list dates for the work order request or completion so it is unknown for this reporting period whether the timeliness improved from the average of seven days for repairs documented in the Fourth Monitoring Report.<sup>83</sup>

A review of the grievance logs provided for the first six months of 2024 revealed that eleven (11) grievances were logged concerning the call button/intercom system, lower than the eighteen (18) grievances reported in the last report.. None of the complaints documented an inoperable system. The majority of grievances involved allegations of unprofessional conduct when the incarcerated person activated the system for support. As with prior monitoring tours, during the August 2024 tour, no Class Member reported an inoperable call button and all staff reported their responsibility to submit a work order if a call button was inoperable, which they report does happen routinely.

Several recommendations were made in the Fourth Monitoring report that were not addressed in this reporting period. Until such time as those recommendations are instituted to anchor the provision in policy, practice and internal auditing, a recommendation will not be made to discontinue monitoring. The recommendations are repeated below:

**Recommendations:**

1. \*Continue with the current practice of Control Booth Technician doing a daily check on communication systems and submitting work orders where necessary.
2. \*The Compliance Unit should evaluate the timeliness of repair with a monthly report evaluating the average time from awareness to repair.
3. \*The County should prepare or provide a report or other form of proof of practice concerning deactivation of a cell when the system cannot be repaired in a timely manner.
4. \*The County should develop a system to conduct a quarterly check of all housing unit call buttons, which can be facilitated by custody personnel.

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<sup>83</sup> Pg. 58.

*(754) Defendants shall ensure cut-down tools are securely located and accessible to custody staff in all incarcerated person areas, especially in the housing units, including appropriate emergency materials that may be needed to respond to suicide attempts in close proximity to all housing units.*

**Findings:**        ***Substantial Compliance – Consider discontinuation of monitoring***

**Assessment:**

The County has remained in substantial compliance with this provision. During the August 2024 tour, emergency response equipment was located within the housing units and all staff interviewed either carried a cutdown tool on their person or knew the location of the cut down tool. A review of video for all medical emergencies reviewed during this monitoring period demonstrated timely medical response including the arrival of emergency equipment.

This provision is well anchored in policy and practice and should be considered for discontinuation of monitoring

**Recommendations:**

1. *\*Continue to ensure all staff working in the jails on overtime from patrol have on their person a cutdown tool or have been trained on the location where cut down tools are stored in the units.*
2. *\*Continue to ensure adequate and functional emergency response equipment (cut down tools, Narcan, AED, first aid kits) are readily available in housing units for rapid response.*
3. *\*Discontinue monitoring.*

*(760) Cancellation of privileges for individuals on suicide precautions shall be avoided whenever possible and utilized only as a last resort. Individuals on suicide precautions shall be offered out-of-cell time consistent with Section III(G)(6) unless a Qualified Mental Health Professional determines it is specifically contraindicated due to their treatment needs. Where such a determination is made, individuals on suicide precaution shall be offered sufficient daily out-of-cell time to allow them to shower, use the phone, and access the dayroom and/or outdoor yard to the maximum extent possible. Incarcerated persons on suicide precautions shall be evaluated by a Qualified Mental Health Professional to determine whether denial of access to property is necessary to ensure the incarcerated person's safety. Individuals on suicide precautions shall receive privileges consistent with their classification when it is deemed safe to do so by a Qualified Mental Health Professional. If a Qualified Mental Health Professional determines that certain property or privileges must be withheld based on the suicide risk assessment, this determination shall be documented including the reasons why the particular property or privilege poses an actual risk. The individual shall be reassessed for such privileges by a Mental Health Provider at least every three (3) days, with the determination and reasoning documented in writing, and the privileges restored at the earliest clinically appropriate time possible based on actual suicide risk.*

**Finding:**        ***Partial Compliance***

**Assessment:**

The County has shown improvement regarding clinical review of person on IOL status. The IOL protocol includes two broad categories of IOL status, both of which permit out-of-cell time with other incarcerated

persons who are in the same IOL level. The Modified IOL level permits the issuance of a tablet, which is the primary difference between the levels.

The last report documented concerns about incarcerated persons appearing to linger on IOL status without adequate re-evaluation. Since that report, AFBH and ACSO collaborated and focused on the IOL status Class Members to develop a plan to safely transition long term IOLs to a less restrictive setting. From the collaboration, the total number of IOLs was reduced without incident. However, the County has not yet provided a consistently reliable report of the total IOL population, property approval/restriction information, and the frequency of the clinical re-evaluation regarding property and privilege status to assist with compliance monitoring. Additionally, the Mental Health Expert recommends in her Fifth Report that AFBH continue to increase the number of clinicians to increase clinical engagements with the IOL population.

During the August 2024 tour, the IOL population interviewed stated they were receiving daily out-of-cell time consistent with the out-of-cell logs. The IOL population who were listed as having access to a tablet were issued a tablet. There were grievances filed during this review period concerning being placed on IOL status, which were responded to in a timely manner<sup>84</sup> but it is noteworthy there were no IOL related grievances filed in the months of April through June 2024..

There have been improvements, but the County has not yet established a reporting system to demonstrate compliance with this provision as the ATIMS jail management system that generates the IOL report is not complete enough to show the frequency of the clinical encounters. As stated in the previous report, until such a time a meaningful, measurable and auditable process is put into place, this provision will not reach substantial compliance. The current monthly reports are simply inadequate to be meaningful.

### **Recommendations:**

1. \*Ensure adequate clinical resources are available to assess the population and ensure Custody staff are aware of the clinical decision for property/program restrictions for all IPs on suicide precaution.
2. \*Continue to refine the process of AFBH notifying custody of any restrictions via the jail management system. Update Observation Logs/Guardian RFID to make clear the requirement that a clinical assessment is necessary to determine restrictions.
3. \*Provide training to all relevant custody and clinical staff once the revised training, policies, forms and post orders are updated.
4. \*The Compliance Unit and AFBH should engage in monthly quality assurance assessments on the use of safety cells and placement of incarcerated persons on suicide precaution and Intensive Observation as well as reviewing the quality of associated documentation.

*(761) Defendants shall develop and implement updated policies and associated training for all custody staff, as well as training for custody staff newly hired and/or assigned to the Jail, regarding how to conduct quality security checks for incarcerated persons placed on suicide precautions and regarding suicide prevention and precautions generally. The training shall include the creation of a video to model appropriate security check observations as well as in-person training and shall address at least the following topics: (a) avoiding obstacles (negative attitudes) to suicide prevention; (b) review of recent suicides and serious suicide attempts at the jail within the last two years and any patterns or lessons learned (c) why facility environments are conducive to suicidal behavior; (d) identifying suicide risk despite the*

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<sup>84</sup>~~Three in January 2024 and three in March 2024.~~

*denial of risk; (e) potential predisposing factors to suicide; (f) high-risk suicide periods; (g) warning signs and symptoms; (h) components of the jail suicide prevention program; (i) liability issues associated with incarcerated person suicide; and (j) crisis intervention including practical exercises regarding the proper response to a suicide attempt and the proper use of cut-down tools.*

**Finding:**        **Partial Compliance**

**Assessment:**

It was anticipated in the Fourth Monitoring Report that the County could reach substantial compliance in this rating period as the only pending aspect of this provision was the creation of a training video. The County was not able to finalize the video in this reporting period, but the video and associated policy was completed in August 2024 and training was initiated.

The County will receive a Substantial Compliance with this provision the next rating period assuming proof of practice regarding the training is provided, including in new deputy training.

**Recommendations:**

1. \*Ensure custody staff and patrol deputies working overtime review the video by conducting an internal audit to confirm training is complete. Provide proof of practice of the internal audit.
2. \*Ensure the video and associated training is provided in new deputy training.

*(763) Defendants shall continue to ensure supervisory oversight in reviewing quality and timeliness of security checks and require regular auditing of safety check logs against video recordings. Defendants shall also consider using Sheriff's Technicians to assist with security checks.*

**Finding:**        **Substantial Compliance**

**Assessment:**

The County continues to document a sergeant's daily review of security checks on the Watch Commander's end of shift report. In reviewing a one week sample for the months of January through June 2024, it is noted that a sergeant conducted a review 93% of the time<sup>85</sup> but there were occasional errors in the time entries.<sup>86</sup> As with the previous report, with the exception of two instances (5%), the reviews continue to be conducted in HUs 1, 2, 9 and 24 where there are fixed camera as the review of body worn cameras may be difficult to assess the quality of the checks as the footage may not depict where the deputy is looking. The County did demonstrate an improvement in the variation on the times for review as the previous report reflected the vast majority of the reviews targeted the hours of 8:00 am to 11:00 am and 11:00 pm and 1:00 am. While still targeting those core hours, the sergeants did demonstrate an improvement in this reporting period. This Expert has not yet conducted a random review of the sergeants' audits to determine if the sergeants are conducting a quality review, this will occur in the next review period.

The County has demonstrated a process is in place, policies have been updated and training has proven effective. However, unless counsel directs otherwise, monitoring will continue until fixed cameras are placed in all housing units and the County demonstrates consistent and sufficient monitoring of the entire

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<sup>85</sup> ~~Exceptions March 5, 2024; April 1, 2024 and April 3, 2024.~~

<sup>86</sup> ~~Examples February 8, 2024.~~



jail. The County is to be commended as the process is working and is inhibited only by the delay in the camera installation project.

**Recommendations:**

1. \*Continue to comply with sergeant security check review policy, improve and standardize documentation in the end of shift reports and engage in self-auditing for compliance.
2. \*Continue with the camera expansion project reflected in Provision 503 to assist with the process.
3. \*Continue to conduct randomized reviews to ensure assessment of all housing units and varied times during the course of the month.
4. Collaborate with the Expert to evaluate the quality of the internal monitoring by the sergeants.

*(768) The following amounts of out-of-cell time shall apply to incarcerated persons housed in the Therapeutic Housing Units, unless a Qualified Mental Health Professional determines that such amounts of time are clinically contraindicated: Individuals who are housed in the most restrictive setting within the Therapeutic Housing Units shall be offered at least one (1) hour per day of structured time and three (3) hours per day of unstructured time. Individuals housed in the less-restrictive, transitional units within the Therapeutic Housing Units shall be offered at least two (2) hours per day of structured time and three (3) hours per day of unstructured time. Individuals in the least restrictive areas of the program shall generally be allowed eight (8) hours per day out of cell.*

**Finding:**        *Partial Compliance*

**Assessment:**

The ACSO and AFBH continue to operate Therapeutic Housing Units (THU) in units 9, 24 and 35. They also have overflow THU in HU 2 and HU 8. For the male population, the most restricted units during the rating period were contained in Unit 2 and Unit 9, A Pod and for the females the most restrictive units are located in Unit 24, Pods D, E and F. The least restrictive THU for males is Unit 35. The Female Units do not yet identify a less restrictive THU area, but it is important the County move in that direction.

For this rating period, out-of-cell time in the THUs will only be measured utilizing data contained in the Guardian RFID reports, which are improving but not yet considered tracking all out-of-cell time. The County has not yet developed a system to integrate structured activities in the reporting system, so this report will focus on unstructured activities occurring on the yard(s) and dayroom.

There are three levels of requirements for out-of-cell in the THUs:

<b>Level</b>	<b>Unstructured Hours</b>	<b>Structured Hours</b>	<b>Combined Hours</b>
Most Restrictive	3 per day (21 per week)	1 per day (7 per week)	4 per day (28 per week)
Transitional	3 per day (21 per week)	2 per day (14 per week)	5 per day (35 per week)
Least Restrictive	8 per day (56 per week)	Included	8 per day (56 per week)

**Housing Units 1 and 2 – Males  
Most Restrictive THU**

During this rating period, the County housed THU males in HU 1 and HU 2 due to IOL status, problematic behavior or incompatibility with another Class Member(s) in the THU. The placement in HU 1 and HU 2 included the Class Member demonstrating problematic behaviors but deemed not appropriate for housing in a restricted housing unit. The average daily population for this cohort during the review period was twelve per month. Unless the THU Class Member was in the unit for IOL status, this population generally was out-of-cell alone, making compliance with the three hour per day requirement problematic for the County.

This subgroup of the THU population was not measured in the previous report due to the fact the out-of-cell reports did not capture the classification for all of the incarcerated persons housed in the celled units. Because of the efforts of ACSO, the trackers now list that information, allowing evaluation by classification level and not just housing.

The following reflects the out-of-cell time for THU males housed in HU 1 and HU 2 for the period of January – June 2024:

**Housing Unit 1 and 2 – THU Male Alternate Housing**  
*January - June 2024*  
**Unstructured Weekly Out-of-Cell Activity**  
**Most Restrictive THU - 21 Hours Per Week Unstructured**

<b>Pod</b>	<b>1/7- 1/13</b>	<b>2/4- 2/10</b>	<b>3/3- 3/9</b>	<b>4/7- 4/13</b>	<b>5/12- 5/18</b>	<b>6/2- 6/8</b>	<b>Average</b>
<b>1A</b>	10.5						<b>10.5</b>
<b>1C</b>		23					<b>23</b>
<b>2E/F</b>			12	11.75	13.75	12.25	<b>12.5</b>
<b>Average Weekly OOC</b>	<b>10.5</b>	<b>23</b>	<b>12</b>	<b>11.75</b>	<b>13.75</b>	<b>12.25</b>	<b>14.75</b>
21+ Hours	0	6	1	1	0	0	N/A
<b>% 21+ hours</b>	0%	55%	20%	17%	0%	0%	11%

Except for the February 2024 sample week, this cohort of THU identified males is not receiving three hours per day of unstructured activities. As explained in more detail in the following section, the structured activities provided for this cohort is not being adequately reported to measure.

**Housing Unit 9 – Males  
Transitional THU**

The County does not currently designate any of the male THUs as “most restrictive” or “transitional” but Housing Unit 9 houses a more complex population in the celled unit than does Housing Unit 35, which is a dormed housing unit. The Class Members in Housing Unit 9 recreate in cohorts based on classification and other factors; thus, the unit should be considered “transitional” rather than “least restrictive.” The average unstructured out-of-cell time per week for 2023 was 31.5 hours as documented in the Fourth Monitoring Report<sup>87</sup>. For this review period of January – June 2024, the County achieved an average of 36 hours per week of unstructured activity with the exception of A Pod. For two months this review period, A Pod did not meet that threshold. While the Class Member may be achieving the minimum out-of-cell time, the deputies continue to fail to capture the offering of yard time in the Guardian logs in HU 9. During the August 2024 tour when interviewing the HU 9 population, most of those interviewed stated they are routinely offered access to the yard, dictating that the unit sergeants and compliance team continue to address lack of tracking

The following tables reflect the average weekly unstructured out-of-cell activities in HU 9 for the periods of January 2023 through June 2024:

**Housing Unit 9  
2023  
Transitional - 21 Hours Per Week Unstructured Required**

Week	Unit	Dayroom Offer	Yard Offer	Comments
<b>Jan-June 2023</b>	HU 9 B-F	30.25	1.25	<b>Combined Average 31.5</b>
<b>July-Dec 2023</b>	HU 9 B-F	31.5	0	<b>Combined Average 31.5</b>

**Housing Unit 9  
January-June 2024**

Pod	1/7-1/13	2/4-2/10	3/3-3/9	4/7-4/13	5/12-5/18	6/2-6/11	Average
<b>A</b>		41.5	26.25	13.25	21	11.75	<b>19</b>
<b>B</b>	32.25	53	32.75	38.25	36	36.5	<b>38.25</b>
<b>C</b>	35.5	48.5	31.75	37.75	35.5	35.5	<b>37.5</b>
<b>D</b>	35.5	51.25	35.75	37.5	36.75	36.5	<b>39</b>
<b>E</b>	35	52.75	29.25	37	36.5	36.75	<b>38</b>
<b>F</b>	25	49.75	36.75	37.25	35.25	36.75	<b>36.75</b>
<b>Average Weekly OOC</b>	<b>32.5</b>	<b>49.75</b>	<b>32</b>	<b>33.5</b>	<b>33.5</b>	<b>34.5</b>	<b>36</b>
>28 hours	28	0	16	28	5	9	<b>N/A</b>
<b>% 28+ hours</b>	75%	100%	87%	74%	95%	92%	<b>87%</b>

<sup>87</sup> Fourth Monitoring Report Pgs. 64-65.

In HU 9, with the exception of A Pod, the County demonstrated meeting the three hours per day of unstructured activities. The County also provided structured activities in HU 9, but the reports submitted for compliance monitoring<sup>88</sup> do not provide adequate detail regarding who attended or the length of groups. The Guarding RFID system is not being utilized to capture that information and the AFBH reports are not integrated to provide comprehensive information.

For the purposes of monitoring, HU 9 will be considered a *transitional* THU, with the requirement of 2 hours per day of structured activities. The County should collaborate with the Experts and Class Counsel to discuss any designated pods in HU 9 that should be considered *least restrictive*.

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<sup>88</sup> ~~See BHAT Groups reports.~~

**Housing Unit 35 – Males  
Least Restrictive THU**

The least restrictive THU Unit for males is HU 35, which requires combined out-of-cell time of 56 hours per week. The population in this unit resides in dorms and their unstructured out-of-cell opportunities are not tracked at the individual level. During this rating period, the Guardian RFID tracking for each pod was not accurate; therefore, the technician logs and large yard report were utilized to measure. The tables below demonstrate that while the County has shown an increase in documented out-of-cell time for HU 35 for this reporting period, averaging 45 hours of unstructured activities, the County has not yet reached a documented 56 hours per week.

It is noted that HU 35 incarcerated persons attend classes in the Sandy Turner classroom and attend groups in the unit,<sup>89</sup> the combined reports from these structured activities do not support reaching compliance and the BHAT reports do not provide sufficient detail to connect the reports to specific person to determine who is attending the groups/classes or how long they are attending to assist with measuring. It is believed the average out-of-cell hours in HU 35 are higher than reported, but until the County can refine reporting systems, it will be difficult for the County to engage in self-auditing and measure compliance. Regardless, the increase in dayroom and yard hours are noted, and the County is encouraged to improve tracking and increase dayroom activities to reach the 56 hours per week.

The following chart reflects out-of-cell time for unstructured activities in HU 35 for the reporting periods from January 2023 through June 2024, average by reporting periods:

**THU Average Weekly Out-of-Cell Unstructured Activity  
HU 35 A-F  
2023**

**Least Restrictive Units – 56 Hours Per Week Out of Cell Required**

Weekly	Unit	Dayroom Offer	Yard Offer	Combined
<b>Jan-June 2023</b>	HU 35 A-F	33	8	40
<b>July- Dec 2023</b>	HU 35 A-F	25.5	6	31.5

**HU 35 A-F**

*January - June 2024*

**Least Restrictive = 56 Hours Per Week**

Pod	1/7-1/13	2/4-2/10	3/3-3/9	4/7-4/13	5/12-5/18	6/2-6/11	Average
<b>HU 35 A-F</b>	35.25	51	44.5	45.5	50.75	42.75	<b>45</b>
<b>56+ Hours</b>	0	0	0	0	0	0	0
<b>% 56+ hours</b>	0%	0%	0%	0%	0%	0%	0%

\*Due to inaccurate Guardian Tracking, utilized technician log summarizing entire unit. Large Yard included in total

<sup>89</sup>-Refer to Inmate Programs Snapshot and BHAT Group Report — January through June 2024.

### Housing Unit 24 – Females

During this rating period Housing Unit 24 was designated to house female THU Class Members. The female population also requires the same level of out-of-cell time as the males, as listed below:

Level	Unstructured Hours	Structured Hours	Combined Hours
Most Restrictive	3 per day (21 per week)	1 per day (7 per week)	4 per day (28 per week)
Transitional	3 per day (21 per week)	2 per day (14 per week)	4 per day (35 per week)
Least Restrictive	8 per day (56 per week)	Included	8 per day (56 per week)

As stated in the Fourth Monitoring Report, it was difficult to measure the female THU for the period of January through June 2023, therefore this report will only restate the period of July through December 2023, where the THU females averaged 10.75 hours per week.<sup>90</sup>

The following chart reflects out-of-cell time for unstructured activities in HU 24 for the reporting periods from January through June 2024, average by reporting periods:

**Housing Unit 24 - THU**  
**Weekly Out-of-Cell Activity**  
**Most Restrictive 21 Hours per Week**  
*Sample Weeks Months of January-June 2024*

Pod	1/7-1/13	2/4-2/10	3/3-3/9	4/7-4/13	5/12-5/18	6/2-6/11	
<b>D</b>	15.25	10.5	11.25	17.5	16.5	17	<b>14.75</b>
<b>E</b>	15.25	15	10	21	17.25	20	<b>16.5</b>
<b>F</b>	5.25	9.5	11.75	11	11.25	11	<b>10</b>
<b>Average Weekly OOC</b>	<b>12.5</b>	<b>11.5</b>	<b>11</b>	<b>17.5</b>	<b>15.5</b>	<b>16.75</b>	<b>14.25</b>
21+ hours	0	1	0	11	6	7	<b>N/A</b>
<b>Percent of population 21+ hours</b>	0%	4%	0%	35%	19%	18%	<b>13%</b>

The female THU increased the average weekly hours of unstructured out-of-cell time for this reporting, improving from the prior average of 10.75 hours per week in the last review period to an average of 14.25 hours per week this reporting period as reflected in the above table. The County reports there is underreporting of the out-of-cell hours in the Guardian RFID system but during the tour in August 2024, the incarcerated population denied being offered three hours out-of-cell daily and the deputies reported consistent challenges with affording three hours due to insufficient staffing and insufficient alternatives to program the potentially non-compatible population in the unit.

<sup>90</sup> Fourth Monitoring Report, pgs. 66 – 67.

In attempting to determine if structured activity is occurring in HU 24, it does not appear that clinical groups escorted by BHAT deputies are provided as consistently in HU 24 as the male housing units. In reviewing the BHAT Reports and the Seeking Safety group report for the period of January through June 2024, there are notable periods where there is no documentation that BHAT escorted groups are being provided in the unit.<sup>94</sup> The AFBH and Mental Health Expert are aware and focused on addressing this issue.

The County has not yet established the least to the most restrictive pods in HU 24, but it is recommended that pods be designated as such. It appears the majority of the minimum custody THU females are housed in Pod D, so that may be the most appropriate location to establish as the least restrictive unit and Pod F also houses restricted housing females, so that pod may be the best location for the most restrictive population. Within Pod D and E, the THU committee should designate which of the females should be placed in the transitional program. The County is encouraged to collaborate with the Experts to address this issue.

### TeleCare Groups

Besides out-of-cell recreation, the County continues to provide groups in the THU provided by an outside contract provider (TeleCare). While the County is not yet able to provide detail to the individual level for measuring the offering of structured activities, the County does continue to provide a monthly report documenting the status of the provision of TeleCare groups, which includes the location, number of groups and total participants. In reviewing the documentation provided, the number of groups and total participants were essentially the same this reporting period as the prior period as reflected in the tablets below:

**TeleCare Groups  
Therapeutic Housing Units  
January – June 2023**

Time Frame	Housing Units Seen	Total Groups	Total Participants
<b>January - June 2023</b>	9,21,23,24,35	82	255
<b>July – December 2023</b>	9,21,23,24,35	88	267

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<sup>94</sup> ~~Examples of no documented groups for HU 24 noted on the BHAT Group report for the periods of February 16- March 28, 2024; April 20 – May 17, 2024; and June 3-30, 2024. It is noted there is Seeking Safety Groups during some of these periods.~~

**TeleCare Groups  
Therapeutic Housing Units  
January – June 2024**

Month	Housing Units Seen	Total Groups	Total Participants
January	9,21,24,35	93	286
February	6,9,24,35	83	252
March	6,9,24,35	92	280
April	8,9,24,35	95	319
May	8,9,24,35	81	275
June	8,9, 35	65	194
<b>Month</b>		<b>85</b>	<b>268</b>

There was no significant change in the average monthly groups or average participants per month during this reporting period. However, it is noted that the number of BHAT escort deputies increased in August 2024 which should result in an increase in groups and participation in the next reporting period. Unfortunately, the County has not established a mechanism to track structured activity participation at the individual level to receive credit for this provision.

**Recommendations:**

1. Refer to Recommendations in Provisions 411, 412 and 418.

*(773) Defendants shall develop and implement custodial staff training on de-escalation and patients experiencing mental health crisis, which shall be provided to all current ACSO jail staff. Class Counsel shall be provided with an opportunity to review the proposed training materials and to provide input. Class Counsel shall also be permitted to attend the initial training to observe and may attend additional training upon request. The training shall, at minimum, including discussion of any relevant policies and procedures, de-escalation techniques, crisis intervention, identifying people in mental health crises, interacting with individuals with mental illness, appropriate referral practices, suicide and self-harm detection and prevention, relevant bias and cultural competency issues, confidentiality standards, and approaches on how to respond to individuals in crisis, with an emphasis on developing and working in teams with AFBH as much as possible. The training shall include an assessment component, such as using interactive practice scenarios, to measure staff comprehension. Class Counsel shall be provided an opportunity to review and comment on all training materials and may attend the training to observe upon request. This training shall also be provided to all new staff and current staff shall complete refresher training on these topics on a biennial basis.*

**Finding:** *Partial Compliance*

**Assessment:**

The Crisis Communications for Corrections training was approved, and the training began in March 2024. The ACSO has not yet trained all jail staff. This provision will remain in partial compliance until a strategy



for initial and refresher training is developed to ensure custody staff have received the appropriate initial and ongoing training for their particular assignment.

De-escalation techniques continue to be an aspect of the use of force reviews being completed by ACSO supervisors but there are missed opportunities in the reviews to refamiliarize staff with de-escalation techniques primarily when the FRT is not engaged in a final review of force packages. On-going force review training is critical for new supervisors.

**Recommendations:**

1. \*Once the initial and refresher curricula is developed and approved, present a formalized training plan for all staff working in the jail, including those who are redirected or hired on an overtime basis from outside of custody division to cover posts.
  - a. The training should be custody-specific and designed to afford staff the ability to practice learned skills.
2. \*Work with the Joint Experts and Class Counsel to clarify which de-escalation courses are provided to which categories of staff and determine frequency and modality for refresher training.

*(800) Defendants shall establish an Incarcerated person Advisory Council and Ombudsperson Program, in consultation with the Joint Experts as provided in Section IV(A), to work with the aforementioned Compliance Unit and senior Jail staff to provide individuals incarcerated at the Jail a venue to raise and address new and ongoing concerns and possible ways to improve living conditions at the Jail. The Incarcerated person Advisory Council shall strive to have representation from all housing units and classifications at the Jail.*

**Finding:**        **Partial Compliance**

**Assessment:**

Despite efforts in the last reporting period to establish the Ombudsperson position, the pace of change and approval for hiring has been too slow. The County reports the position should be filled in the next reporting period assuming a qualified candidate is located. Once hired, the Ombudsperson will assist with the development of an Advisory Council as discussed in the last report.

Should the County be unable to fill the Ombudsperson in the next reporting period and fails to show progress on an Advisory Committee, this provision will be downgraded to non-compliance. It is not anticipated that will occur, but it is important that the County complete the processes that have been underway for the last two reporting periods.

**Recommendations:**

1. \*The County should select at least one female and one male housing unit to pilot an IP Advisory Program.
2. \*The County should send the designated Sergeant to a local state prison to observe an advisory committee meeting in action as the Sergeant develops the pilot plan.
3. \*The Custody Expert will support the designated project management in development of policies and forms once the pilot is established.

4. \*The County should complete the hiring process for an Ombudsman in the next rating period who can then develop an action plan to establish an Ombudsman program for custody operations.

*(1200) Within three (3) months of the Effective Date, the Parties shall develop a detailed plan setting forth key benchmarks for implementation of the terms of this Consent Decree. This shall include a timeline with identifiable goals and any necessary interim measures that will need to be taken. It is the Parties' intent to provide, in as much as detail as possible, the deliverables that will be identified for monitoring purposes both during the interim period and thereafter. The Parties shall update the implementation plan on a quarterly basis for the first two (2) years following the Effective Date to adjust benchmarks and deadlines and to address any issues regarding implementation.*

**Finding:**        *Partial Compliance*

**Assessment:**

There has been little change regarding the maintenance and utilization of detailed project plans and benchmarks for implementation during this rating period. The two-year period pursuant to the provision has passed without ACSO or AFBH reaching substantial compliance. Guidance will be needed from counsel on next steps for monitoring under the unique timeline of the provision.

**Recommendations:**

1. \*Continue to collaborate with the Joint Experts and Counsel to create an integrated, comprehensive and dynamic project plan.
2. Include recommendations from Second Monitoring reports from all experts.
3. \*Maintain consistent updates to the plan with standing collaborative meetings to discuss status, policy decisions needed and barriers.
4. \*Ensure linkage to standalone plans, such as construction project plans, and accessibility to those plans for monitoring.
5. Counsel to provide guidance on monitoring due to the two (2) year update period passing.