

***Babu v. Ahern***  
**Consent Decree Second Status Report**  
**Case No. 5:18-cv-07677-NC**  
**James Austin, Ph.D.**  
**September 2023**

The following is the compliance assessment of Consent Decree provisions assigned to James Austin for monitoring as of August 2023. For each provision, this Joint Expert’s methods for assessment, findings and recommendations are provided. These assessments taken into account comments received from the Alameda County Sheriff’s Office (ACSO), Class Counsel and Defendant’s Counsel based on an earlier draft.

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

- SC            Substantial Compliance
- PC            Partial Compliance
- NC            Non-Compliance

**Classification and Restrictive Housing Consent Decree Summary Ratings**

Requirement	Compliance Rating
300. Implement a new classification system within 3 months of the Effective Date.	SC
301. All initial classification interviews at intake shall include a face-to-face, in- person, interview	SC
302. All re-classifications performs every 60 days with face-to-face interview for medium and higher custody levels, or, if an inmate is being reclassified from minimum to a higher level .	SC
303. Individuals are assigned to the General Population or to Administrative Housing	SC
304. Development and implementation of a formal process for the admission, review and release of individuals to and from Administrative Housing	SC
305. Development and implementation of a Restrictive Housing Committee (“RHC”)	SC
306. Individuals shall not be placed in Restrictive Housing unless they are referred to the RHC for review.	SC
307. The RHC shall conduct a formal review of referrals within seven (7) calendar days with face-to-face interviews with the RHC	SC
308 The RHC meets at least weekly to review referrals and reviews of placements and maintain records of their meetings	SC
309. Individuals shall be moved from Step 1 to Step 2, and from Step 2 to General Population, based on clearly outlined, written criteria to include an absence of serious assaultive behavior and no major disciplinary reports during the period of placement	SC
310. Individuals with SMI shall not be placed in Restrictive Housing, Recreate Alone Status (“Step 1”) unless the criteria outlined in Section III(D)(1) has been met	SC
311. ACSO notifies AFBH with 24 hours of a BHI patient placed in Restrictive Housing	SC

314. Classification approves all cell transfers	SC
315. Protective Custody policies	PC
316. Development and implementation of policies and procedures on double celling	PC
317 Development and implementation of step-down protocols for RHU and THU	PC
318. Development and implementation of policies and procedures for inmates with disabilities	SC
319 Produce reports of: (1) of class members with SMI who have a release date within the next 12-36 hours and (2) regarding lengths of stay for people in restrictive housing,	PC
320. The RHC shall review reports regarding length of stay on a quarterly basis	SC
321. Appropriate due process in classification decisions	SC
322 Complete training for custody staff on the new classification system and policies	SC
400. Implement a new classification system, as outlined in Section III(C).	SC
401 - Restrictive Housing, Recreate Alone Status ("Step 1"):	PC
404. This population shall be evaluated within fourteen (14) days of placement in Step 1 for ability to return to general population or to transition to Step 2.	PC
406. Restrictive Housing, Recreate Together Status ("Step 2"):	PC
408 - Step 2 individual Initial and Re-evaluations	SC

19 Substantial Compliance - 7 Partial Compliance - 0 Non Compliance

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

**Finding:** Substantial Compliance

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

**Training:** Staff have been trained in the use of the new classification system including the initial and reclassification forms. This was accomplished during the time the new system was being pilot tested. Classification staff receive further guidance in classification practices via the weekly staff meetings.

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

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

Observations of the intake and reclassification process.

Reliability test by the Monitor of a random sample of 75 inmates to verify they have been properly classified and that they were interviewed by classification staff.

Review of the above referenced classification policies to determine if they have been updated as of July 2023 to reflect the procedures required for the new classification system.

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

The Monitor continues to receive the requested inmate population snapshot with the requested data. It is still not possible to receive a data file showing the detailed scoring of the initial or reclassification record. This year has shown a significant reduction in the jail population. This reduction seems to be linked to a reduction in jail bookings for the first six months of 2023. Jail population reductions reduces issues related to classification and basic jail operations.

Table 1. Alameda County Jail Average Daily Population, Bookings and Length of Stay 2017-2023

Year	ADP	Bookings	LOS in days
2017	2,078	34,908	22
2018	2,150	30,349	26
2019	2,372	34,115	25
2020	2,094	24,288	31
2021	2,145	24,550	32
2022	2,165	26,310	30
2023	1,805*	25,464*	30

\* Based on the first six months of 2023. The bookings number is extrapolated for 12 months based on the first 6 months of 2023.

Table 2 shows the distribution of the current jail population (June 2023) by the major classification categories. There is a significant number of inmates who are in a variety of special population statuses (32% of the total jail population) although this is much lower than reported in previous reports (47%). The largest non-general population categories are inmates assigned to protective custody (285 or 21%) with 46 of the Protective Custody inmates assigned to the BHI caseload. The total BHI caseload is 1,169 (63%). There are few inmates assigned as ADA (4%) and a relatively small percentage enrolled in a program (7%) or have a work assignment (16%).

If one looks at the classification custody levels for all inmates (Table 2) with the exception of the Ad Sep, the two gang units (Border Brothers and Sureños) and Civil detainees, the general population classification level distribution looks appropriate with most inmates in the minimum and medium custody levels (total of 70%).

**Table 2. Alameda County Jail Population Classification Levels – June 30, 2023**

	Population	%
Total	1,752	100%
Unclassified	32	2%
Border Brothers	11	1%
Northern Rider	5	0%
Sureños	22	1%
PC	376	21%
Restricted Housing	101	6%
SSI	11	1%
General Pop	1,194	68%
Max	367	21%
Medium	393	22%
Minimum	434	25%
Other Attributes		
ADA	111	6%
BHCS	1,169	67%
Assigned to a Program	146	8%
Length of Stay to Date (days)	Ave. 322	Median 124

Significantly there is a sizable federal detainee population. As shown in Table 3, there were 320 Federal inmates housed in the jail as of March 13, 2023. A sizeable proportion of these inmates are assigned to either maximum custody or one of the restricted housing designations.

**Table 3. Federal Cases by Classification Level March 13, 2023**

Classification Level	Federal		All Other	
	Number	Percent	Number	Percent
<b>Total</b>	<b>320</b>	<b>100%</b>	<b>1,435</b>	<b>100%</b>
General Population	223	70%	992	69%
Minimum	136	43%	301	21%
Medium	42	13%	363	25%
Maximum	45	14%	328	23%
Restricted	95	30%	371	26%
Protective custody	45	14%	240	17%
Protective custody/behavioral health inmate	6	2%	40	3%
Restricted housing	29	9%	65	5%
Gang	15	5%	26	2%
Unclassified	2	1%	72	5%

The number of inmate-on-inmate and inmate-on-staff assaults are also being tracked. As shown in Figure 1, the number of such assaults steadily increased until January 2023 and has since declined. Part of the numeric decline is due to the above noted decline in the jail population. If one computes an assault rate per 100 jail population, one can see there has been a decline since June 2022 (Figure 2). A closer examination of these assaults shows that the vast majority of them are labeled as “minor” with no injury to the inmate or staff person.

Figure 1. Inmate on Inmate and Inmate on Staff Assaults  
January 2020- June 2023

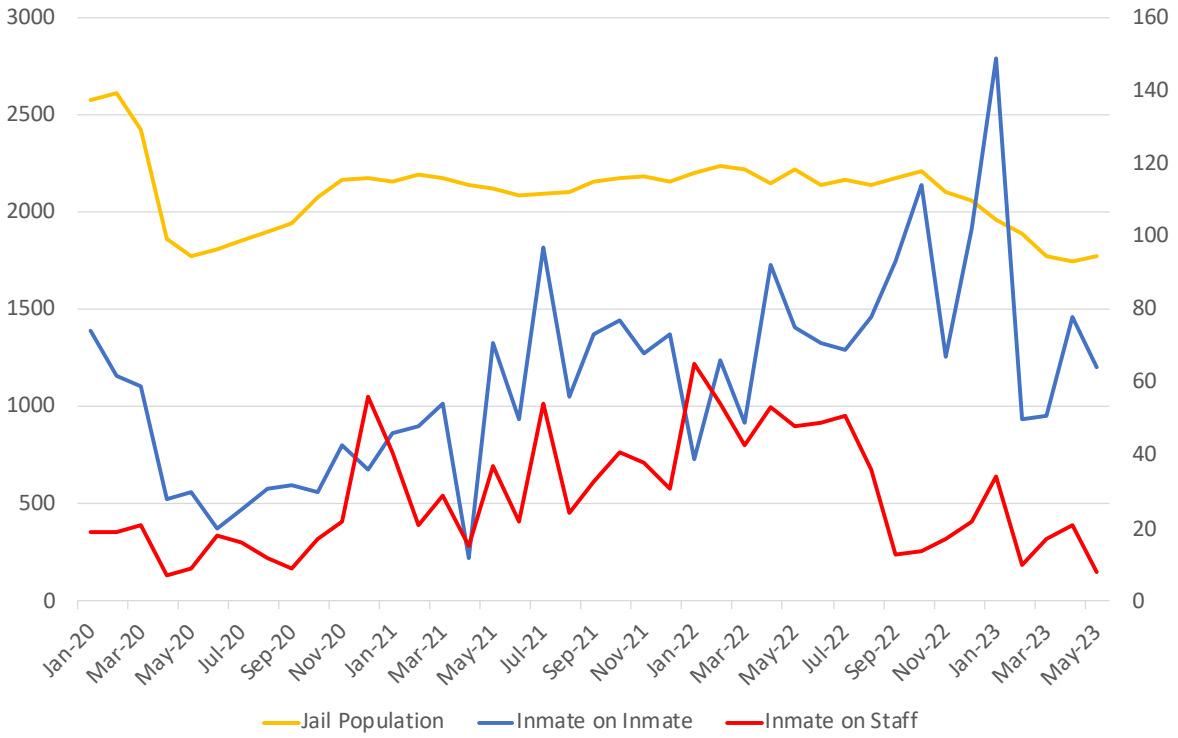
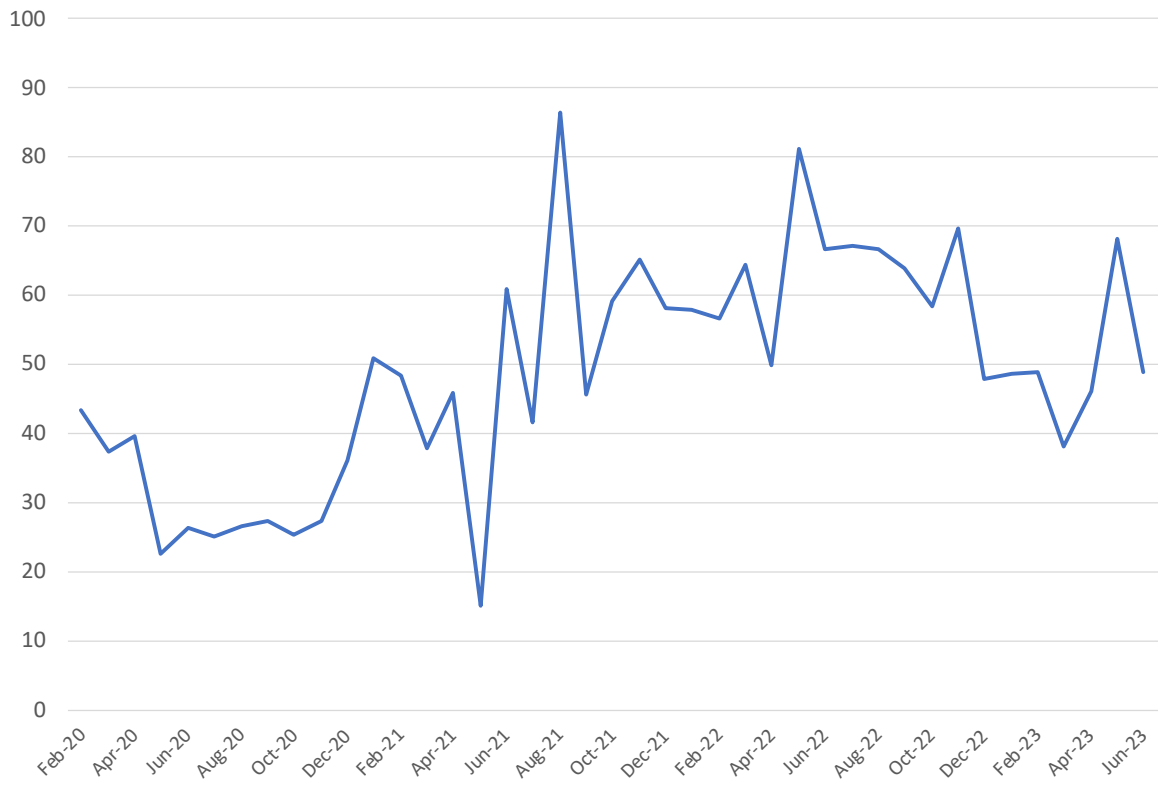


Figure 2. Assault Rate Per 100 Jail Population



The Monitor did complete a reliability test on the classification scoring process that consisted of auditing 75 randomly selected Initial classification and reclassification cases. The results showed that there were few errors in the scoring of each assessment item and no errors on the final classification level designation.

Classification policies 12.02 and 12.04 are both now published and in practice. Policy 12.01 has not been modified since December 1, 2019 but is now undergoing an internal review by the ACSO.

Class Counsel argues that the rating for this provision (and many others) should be Partial compliance as Policy 12.01 has not been updated since December 1, 2019, a modified version of it has not yet been reviewed by them, and staff have not been formally trained in the yet to be finalized Policy 12.01. Relatedly, it is argued that Classification staff have not been formally trained in the published Policies 12.02 and 12.04. Class Counsel also argues that a substantial compliance rating cannot be achieved until all of the subsequent provisions related to classification have achieved substantial compliance.

The Monitor respectfully disagrees as the classification system is functioning properly even though Policy 12.01 has not been formally revised and Classification staff have not been trained on the yet to be released policy. The Monitor has reviewed both the existing and the draft revised Policy 12.01. While there are some important modifications being made to the 12.01 policy, the current version is generally adequate and does not contraindicate the substantial compliance rating. More importantly, the current intake procedures as observed on several occasions meet the requirements set forth on the draft 12.01 policy. The revised policy once issued will not have a substantial impact on the current practices.

Regarding the overall training issue, the Consent Decree lists the following requirements:

“Staff, including ACSO and AFBH staff, shall be trained on any and all relevant and updated policies, procedures and forms within ninety (90) days of finalization of any new policies, procedures, and/or forms. Defendants shall consult with the relevant Joint Expert (s) regarding the content and provider of trainings depending on the subject matter of the training. The final training materials as well as the proposed duration and manner of instruction, which shall include an interactive component, must be approved by the relevant Joint Expert(s) and shall be provided to Class Counsel prior to training for Class Counsel’s input. Final training materials will also be shared with the Department of Justice. Class Counsel shall be permitted to attend the initial training(s) in order to observe. The relevant Joint Expert(s) may also attend the training(s) upon request.

Note that the Consent Decree does not specify the format of the required training recognizing that it should vary according to the need for such training. The Classification unit is a relatively small unit that is well trained in the classification system and closely supervised in the operation of the current classification system.

The primary methods for training staff in new or revised policies is the Document Management System (DMS) which requires staff to read and acknowledge their understanding of the new or revised policy. This is followed up during the Classification unit weekly staff meetings during which new policies (and other matters) are reviewed and discussed with staff. This form of training took place policies 12.02 and 12.04 that were published in March 2023. The ACSO will have 90 days to complete this same level of training in Policy 12.01 once it is published. The Monitor finds this level and form of training to be adequate. The only missing element is a formal documentation that the subject matter of any new policy has been covered in the weekly staff meeting. The ACSO has agreed to provide that documentation in the future and especially for the soon to be released Policy 12.01.

Finally, the term “substantial” does not equate to “100%”, “absolute”, “total” or “complete” compliance. In quantitative terms and based on other Consent Decrees the Monitor is familiar with, the threshold for achieving substantial compliance is set at 90% recognizing that there will always be areas in practice, policies, and training that require improvements. In determining a compliance rating, the Monitor examines policy, training and practice with practice being the primary criterion. In practice, the ACSO has successfully implemented an objective and well-functioning classification system which justifies the current rating.

**Recommendation:** The revised Policy 12.01 should be revised as needed by the ASCO based on comments received from the Monitor and Class Counsel. Once the policy is published, Classification staff will be required to be trained in the revised policy via the DMS followed by a formal briefing as part of the weekly staff meetings that are occurring on a regular basis. The ACSO has agreed to document those weekly staff meetings where Policy 12.01 is reviewed. Failure to complete the training in the revised policy will jeopardize the substantial compliance rating.

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

**Finding:** Substantial Compliance

**Policies:** 12.01 Intake Classification

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

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

Interviews with the Classification Unit staff.

Statistical analysis of the snapshot and release data files to verify all inmates have a completed classification record.



**Assessment:** Inmates are now receiving an initial classification and reclassification interviews are being scored on the new initial and reclassification instruments and are being housed according to the classification housing plan.

Class Counsel again argues that the rating should be partial compliance as Policy 12.01 has not been modified since December 1, 2019. The Monitor again respectfully disagrees for the reasons set forth earlier.

**Recommendation:** See the recommendation provided for Provision 300.

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

**Finding:** Substantial Compliance

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

**Training:** All staff have been trained in the use of the new classification forms (initial and reclassification) which also have been automated.

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

Review of updated classification policies.

Conduct a random sample of 75 inmates who are in the snapshot data file to verify accuracy of classification scoring process (reliability test).

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

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

Policies 12.02 (reclassification) and 12.04 (housing) have been reviewed by all parties and published. Collectively, these two policies requires housing movements be approved by the classifications unit as well as proper justification and documentation. They are also based on the housing detail document that determines what types of inmates can be house in what units. It is

also the practice for classification to respond to housing units as needed to explain to inmates why they are being moved from one section to another section due to changing classification levels. For a classification level to be changed it requires classification to interview the inmate prior to such a change.

Class Counsel again argues that the rating should be partial compliance as Policy 12.01 (Intake Classification) has not been modified since December 1, 2019. The Monitor again respectfully disagrees as the classification system is functioning properly even though Policy 12.01 has not been formally modified since 2019. The Monitor has reviewed Policy 12.01 and finds it generally adequate, and notes that a modified policy is now being prepared by the ACSO.

**Recommendation:** See the recommendation made for Provision 300.

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

**Finding:** Substantial Compliance

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

**Training:** Staff have been trained in the use of the new classification system including the initial and reclassification forms. This was accomplished during the time the new system was being pilot tested. As current policies are modified, classification staff will need to be trained on any changes in current classification policies using the DMS system and briefings conducted as part of the weekly staff meetings.

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

Observation of initial and reclassification process during site visit

Review of monthly housing plan.

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

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

ACSO also purified Housing Unit 1 so that it only has Restrictive Housing (RH) unit inmates are assigned to it.

**Recommendation:** See the recommendation made for Provision 300.

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

**Finding:** Substantial Compliance

**Policies:** 9.02 Restrictive Housing, 9.06 High Profile Inmates and 9.10 Maximum Separation Inmates

**Training:** Training of Classification staff has been completed on the updated policy 9.02 via the DMS process and weekly staff meetings . The RHC members conducted an orientation in February 2022 to review its procedures and policies prior to implementation of the RHC process.

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

Audit of a representative sample of cases referred to the Restricted Housing Committee (RHC) to determine if the due process requirements have been met.

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

Interviews with the Classification Unit and RHC members.

Observations of the RHC meetings while on site and via remote videos.

Tours of the RH units.

Review of the weekly RH Census Report.

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

RHC meetings are being conducted on a weekly basis to determine whether inmates meet the criteria to be assigned to Step 1 or Step 2 or released from RH. This committee consists of members from AFBH of a supervisory level or higher, an ACSO sergeant, and a Classification

deputy in charge of the RH. A Classification Sergeant or Lieutenant is present and serves as the Committee Chair.

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

All protective custody (PC) inmates are initially placed into PC are placed in to a seventy-two-hour review queue. This is then reviewed by the classification deputy assigned to managing the PC population. These placements require a signature on a PC request form which means all PC placements are interviewed by a classification deputy to determine a root cause to the request and proper placement into the restrictive housing setting. This process is overseen and approved by a sergeant. A recent audit by the Monitor was completed where 50 people assigned to protective custody were randomly sampled and audited. All sampled cases had a completed PC request form. However, the classification officer and supervisor signatures were often missing.

All behavioral health (BHI) designations are initiated by AFBH via a standardized AFBH form initiating BHI status and indicating level of care. The placement and removal of BHI status and restrictive housing is controlled by AFBH in consultation with Classification. If the inmate request to be considered for release from the Therapeutic Housing Unit (THU), an AFBH referral form is completed by Classification, scanned, attached to the classification file and submitted to AFBH.

Quarterly reports assessing the length of stay to identify: (1) any individuals who have been in restrictive housing for thirty (30) or ninety (90) days or longer and (2) any patterns regarding classification members' placement and/or discharge are now being produced.

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

With regard to the inmate's appearing before the RHC, the Monitor requested that the RHC experiment with the inmate appearing before the RHC for first the RHC referral decision and then the RHC review. This pilot test was not successful as it proved to be too cumbersome and inefficient (the average RHC meeting time increased from 60-90 minutes to 3 hours or more).

**Recommendation:** A modified notification approach is now being tested where certain inmates are allowed to appear before the RHC as described later in this report. This alternative coupled with a face-to-face pre and post RHC referral notification interview to explain the placement decision to the inmate is acceptable to the Monitor.

**305. The formal process for admission to and discharge from the Restrictive Housing units shall require the development and implementation of a Restrictive Housing Committee ("RHC") that shall approve all placements. The RHC shall be chaired by a sergeant or higher from the**

**Classification Unit and include an AFBH representative at the supervisory level or higher and an ACSO representative from outside the Classification Unit at the sergeant level or higher.**

**Finding:** Substantial Compliance

**Policies:** 9.02 Restrictive Housing

**Training:** RHC members have received an orientation to the existing policies

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

Audit of a representative sample of the inmates referred to Restricted Housing to determine if the due process requirements have been met.

Interviews with the Classification Unit staff and RHC members.

Observation of the RHC meetings.

Tours of the RH units.

Review of Minutes of the RHC meeting.

Review of RHC referral forms.

Audit of inmates currently assigned to Steps 1 and 2 as of July 25, 2023.

**Assessment:** The RHC meetings are being held on a regular basis with the appropriate people assigned to the RHC. Copies of complete referrals and Committee minutes were forwarded to the Monitor for review. Observations of the RHC meetings were also conducted by the Monitor as well as other interested parties. A recent review of the RHC referral forms has found that they are being properly completed. Policy 9.02 has been updated, reviewed by all parties and published. Relevant Classification staff have been trained in the policy via the DMS process and weekly staff meetings.

Class Counsel disagrees with the substantial compliance rating arguing that the level of training required under Section IV(A) of the Consent Decree has not been met. The Monitor respectfully disagrees in that the practice of the RHC meetings shows RHC members are sufficiently trained in the requirements of this provision.

**Recommendation:** None.

**306. Individuals shall not be placed in Restrictive Housing unless they are referred to the RHC for review. Individuals may be referred based on the following circumstances: (1) recent assaultive behavior resulting in serious injury; (2) recent assaultive behavior involving use of a weapon; (3) repeated patterns of assaultive behavior (such as gassing); (4) where they pose a**

high escape risk; or (5) repeatedly threatening to assault other incarcerated persons or Staff. All referrals shall clearly document the reason for the referral in the form attached to the Consent Decree as Exhibit B. Incarcerated individuals shall not be referred to Restrictive Housing for rule violations beyond the five categories enumerated herein.

**Finding:** Substantial Compliance

**Policies:** Policy 9.02 Restrictive Housing.

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

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

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

Review of RHC meeting minutes and completed RHC referral forms.

**Assessment:** As noted above, based on the RHC meeting minutes and a review of completed referral forms as noted above the RHC is functioning as required by the Consent Decree with the exception that inmates are not appearing before the RHC. In lieu of that face to face requirement, the Classification unit has initiated a process whereby the inmate is notified via an interview at cell side that a referral to the RHC has been made and the reason(s) for the referral. A copy of the referral forms is given to the inmate. The inmate is told that he can submit in writing any relevant information to the RHC. Once the RHC decision is made, the Classification officer conducts another face to face cell side interview to inform the inmate of the RHC decision. A copy of the RHC decision forms is given to the inmate and is told that an appeal can be made. Observations of this process both recorded via bodycam and while on site showed that this process is done very professionally by the Classification officer. Efforts are made to ensure the inmates understand the RHC referral and decision process.

The ACSO also experimented with having the inmate appear before the RHC in the multi-purpose room that adjoins the housing unit. My review of those referral hearings were that they did not substantially differ from the cell-side notification process and proved to be too cumbersome and in-efficient (the average RHC meeting time increased from 60-90 minutes to 3 hours or more). Therefore, it was decided to return to the prior procedure of inmates being informed of the RHC decisions by the classification representative at cell-side.

However, a modified approach is now being tested where certain inmates who may benefit from such a review are allowed to appear before the RHC. In particular, inmates who disagree with the RHC decision and/or those inmates who are refusing to leave the RH. This alternative coupled with a face-to-face pre and post RHC referral notification interview to explain the placement decision to the inmate is acceptable to the Monitor.

Policy 9.02 has been updated and published. Relevant Classification staff and other RHC members have been briefed on the requirements of Policy 9.02 via the DMS system, Classification staff weekly briefings and a review with the RHC members.

Class Counsel disagrees with this compliance rating in that classification and RHC members have not been formerly trained in the recently published Policy 9.02. The Monitor disagrees in that the current practices conform to the requirements of Policy 9.02 and a more formal training session beyond the DMS, and staff briefings are not required.

**Recommendation:** None.

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

**Finding:** Substantial Compliance

**Policies:** 9.02 Restrictive Housing.

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

**Metrics:** Review of RHC referrals.

Interviews with ACSO and AFBH RHC members.

Observations of the RHC weekly meetings.

**Assessment:** As noted above, reviews are being completed by the RHC and inmates are interviewed prior to and after the RHC makes its decisions. During the interview, the deputy explains the reasoning for the placement, the restricted housing process, and explains to the inmate how to get out of restricted housing. During these post RHC interviews, the inmate can raise any factual issues regarding the basis for the RHC decision including the right to list witnesses who can offer factual information regarding the basis for the RHC referral. As noted above, legal counsel for the parties are determining if this satisfies the requirement or if the inmate has to physically be present during the RHC.

**Recommendation:** Both parties have agreed that the current process for notifying an inmate of a RHC referral, and its subsequent decisions is sufficient to meet the requirements of the Consent Decree regarding the RHC face to face meeting with the RHC. The Monitor prefers the face to

face requirement but acknowledges that this is not a Consent Decree requirement but more of a “best practice” issue.

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

**Finding:** Substantial Compliance

**Policies:** 9.02 Restrictive Housing

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

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

Review of the RHC weekly minutes.

Review of the completed RHC referral forms.

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

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

**Recommendation:** None.

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



**from Step 1 to Step 2 or Step 2 to Step 1 in accordance with the policies and procedures, set forth herein.**

**Finding:** Substantial Compliance

**Policies:** 9.02 Restrictive Housing

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

**Metrics:** Interview with members of the RHC

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

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

Review of RHC referral and review forms

**Assessment:** The ACSO has developed a one page pamphlet that clearly outlines the RH process and indicates how the inmate can progress from Step1 to Step 2 and back to the General Population. This document which is signed by the inmate indicates that if one a) receives no major disciplinary reports and in the absence of serious assaultive behavior during the period of placement immediately prior to the review or b) other serious misconduct such as disobeying a direct order, c) attends all scheduled sessions with the AFBH and d) expresses a willingness to recreate with other inmates, he/she shall be moved to Step 2.

Currently, when inmates are initially placed into restrictive housing, they are reviewed by classification deputies within 72 hours to ensure they meet the criteria for such initial placement. The RHC then meets to determine if the person should be formally placed in the RH. If the RHC determines placement in the RH is appropriate, the inmate is then interviewed a classification deputy on the criteria for being promoted to Step 2 and eventual release from the RH.

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

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

**Recommendation:** None

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

**Finding:** Substantial Compliance

**Policies:** 9.02 Restrictive Housing.

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

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

Assessment of the snapshot data file.

**Assessment:** Using the snapshot data files there are several inmates in the RH that have been designated as SMI and/or assigned to the BHI caseload. However, each of these people were reviewed by the designated AFBH member assigned to the RHC and has signed off on the RHC’s decision to place the inmate in the RH despite the SMI or BHI designation.

It's also clear from the observations of the RHC meetings, with representation from the AFBH, is carefully reviewing people who fit the profile of an SMI and not allowing them to be housed in the current RH.

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

Class Counsel disagrees with this rating and feels it should be partial compliance until the definitional issues regarding the SMI definition is resolved and is accurately being applied to the jail population. The Monitor does not disagree that the application of the SMI label remains problematic, but that issue is separate from the requirements of this provision. The RHC is taking into account those people who are labeled as SMI and making appropriate decisions based on the information provided by the AFBH representatives.

**Recommendation:** The operational definition and application of the SMI label by the AFBH needs to be resolved.

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

**This assessment shall be documented and, if placement is contraindicated, ACSO shall work with AFBH to identify and implement appropriate alternatives and/or mitigating measures.**

**Finding:** Partial Compliance

**Policies:** 9.02 Restricted Housing.

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

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

Review of RHC minutes and copies of completed referral forms.

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

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

In consultation with Dr. Montoya, the AFBH needs to provide documentation to the Monitor that their assessments are based on a face-to-face interview prior to the RHC meeting and that such interviews are conducted in a private/confidential setting.

**Recommendation:** In order to reach substantial compliance, the AFBH will need to demonstrate that assessments are being made via a face to face interview in a private/confidential setting prior to the RHC meetings.

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

**Finding:** Substantial Compliance

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

**Training:** As indicated above, training has been completed for the newly published policies 12.02 and 12.04 via the DMS process and weekly staff briefings. Similar training will be completed within 90 days for policy 12.01 once it is published.

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

Review of ACSO draft policy 12.01.

Audit of selected cases where internal transfers were completed.

**Assessment:** Policy 12.01 Reclassification was updated to reflect that all intra- and inter-unit moves are to be approved by classification and require proper justification and documentation for that move.

Training was completed for all classification unit staff to explain this change in policy. This has also been enforced by ACSO command staff and is now standardized throughout the jail. Although this policy is currently awaiting final publication, the Monitor is satisfied that the current practices meet the requirements of the Consent Decree.

Class Counsel disagrees with the rating arguing that insufficient training has been provided as required by Consent Decree section IV(A).

**Recommendation:** Existing Policy 12.01 has been modified by the ASCO and will then be reviewed by the Monitor and Class Counsel to determine what formal changes are warranted. Once published, adequate staff training will be completed within 90 days via the DMS system and a staff briefing dedicated to the revised policy.

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

**Finding:** Partial Compliance

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

**Training:** Training has been completed on the existing policy and not on the recently published policy (September 25, 2023).

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

Review of existing and revised Policy 9.03 effective September 25, 2023.

Audit of cases where protective custody transfers (admissions and releases) were completed.

**Assessment:** Policy 9.03 has recently been modified and published as of September 2023. However, there has not been sufficient time for the Monitor to assess compliance with the revised policy and the extent to which Classification staff have been trained in it. In practice the Classification Unit controls these admissions and releases from Protective Custody and

documents them. However, a more formal process which documents a review of the current Protective Custody status and any decision to continue or remove that status was needed which required modification of the existing policy.

**Recommendation:** A formal audit of transfers to and from Protective Custody and the continuation of a person in Protective Custody will have to be completed by the Monitor before a finding of substantial compliance can be made. The best method for the ASCO to review and update the status of the existing Protective Custody population would be for Classification staff to complete such a review as part of the formal 60 day reclassification event.

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

**Finding:** Partial Compliance

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

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

**Metrics:** Interviews with Classification staff.

Review of policies 12.01 and 12.02

**Assessment:** Based on interviews with Classification staff there is not a formal policy that addresses the use of double celling. The Classification Unit controls single and double celling and documents when a single cell is required.

The informal policy is the assumption that all inmates are eligible for double celling unless there is a contraindication for a need for single celling. Currently, the only exceptions are for inmates who are in Restricted Housing 1 who are transitioning from Step 1 to Step 2 or an inmate who has certain medical or ADA requirements. Inmates in these categories would require documentation by Classification explaining the need for such a request.

At the request of the Monitor, a single cell flag recently has been added to the ATIMS that will need a classification Sergeant or higher approval going forward.

**Recommendation:** ACSO policy 12.01 needs to be modified so that it explicitly states that the decision to double or single cell should take into account the above noted criteria. Once the single cell alert flag has been in place for two months, an audit will need to be conducted by the Monitor to verify its proper use.

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

**Finding:** Partial Compliance

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

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

**Metrics:** Interviews with Classification staff.

Review of RHC and THC meetings and minutes

Consultation with Dr. Montoya

**Assessment:** The RHC is taking into consideration the AFBH case plan and classification security needs of the inmate when determining where to house a releasee from RH. AFBH is consulted from the very first RHC meeting through the last. AFBH recommends different options during the RHC meetings to aid in the step down process from RH to the general population. The Classification staff ensures that all required forms are given to the inmate including a pamphlet explaining the entire process of the RHC. However, there may be concerns raised by Dr. Montoya relative to the THU portion of this provision. In the next report, Montoya will issue a separate assessment for the THU portion of the provision and Dr. Austin will only focus on the RHU. Until those two assessments are completed, the compliance rates will be set as Partial.

Further, the THU does not have a formal step-down process. Individuals are assessed in terms of their level of care (LOC) based on their mental health symptoms and functioning.

**Recommendation:** In the next report, Dr. Austin will focus exclusively on the RHU portion of this provision while Dr. Montoya will address the THU portion in her report which she has not yet completed. Substantial compliance will require consensus by both Dr. Austin and Dr. Montoya.

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

**Finding:** Substantial Compliance

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

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

**Assessment:** The ACSO uses the current Policy 1.14 “American with Disabilities Act” in relation to inmates with disabilities which has not been revised since October 31, 2019. Detailed in this are the policies and procedures for identifying and dealing with inmates with disabilities. Furthermore, the Classification Unit has added multiple hazard flags that are utilized by both Wellpath and AFBH to identify inmates with cognitive and physical disabilities. Those flags include both IDI and ADA.

Currently there are about 80-85 inmates listed as qualifying for ADA status. An audit of the RH population found that none of these people are assigned to the RH unit. The RHC specifically restricts people with possible ADA or SMI attributes. The Monitor is aware that there may be an issue of under-reporting the ADA population and urges ACSO and AFBH to finalize and implement the required policies.

Class Counsel disagrees with this rating arguing that until Policy 1.14 is revised, published and staff are trained in the revised policy. The Monitor does not disagree that Policy 1.14 requires a review and revision and staff trained in the revised policy. However, this does not negate the fact that classification staff are taking into account the known inmate’s disabilities in making classification and housing decisions.

**Recommendation:** The ACSO needs to finalize its proposed revisions to Policy 1.14. If the policy has not been finalized, approved by all parties, and staff trained in the modified policy via the Document Management System (DMS) by the next Monitor’s report, the compliance rating will be lowered to partial compliance.

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

**Finding:** Partial -Compliance

**Policies:** The existing relevant policies have not yet been updated to reflect the requirements as set forth in the Consent Decree.

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

**Metrics:** Review of drafted policy.

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

**Assessment:** Based on interviews with Classification staff this policy is not yet developed. AFBH has drafted a policy that will require clinical staff to enter a “flag” in ATIMS which identifies the inmate as being considered SMI. This policy is still in draft form and while the ACSO ATIMS data system has the capacity to capture/store the SMI flag, AFBH staff have not been entering the information in a reliable/valid manner. Until that matter is resolved, it will not be possible to measure compliance.

The ACSO has developed a RH data system that records the SMI status of each inmate and how long they have been a) incarcerated in the jail, b) how long they have been in each step, and c) how long they have been in RH.

The vast majority of the SMI population is in pretrial status with no known release date. It will not be possible to generate a list or report of all SMI inmates who are within 12-35 hours of their release date if they are in pretrial status and have no known release date. It would be possible to generate such a report for SMI inmates who are sentenced and have known release dates.

**Recommendation:** AFBH needs to complete the SMI policy and implement it. ACSO needs to determine the process and procedure for generating a report that will satisfy this provision. Once that agreement is reached the Monitor will work with the ASCO to produce the required reports. However, such a report would have to be limited to inmates with known release dates.

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

**Finding:** Substantial -Compliance

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

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

**Metrics:** Interview with Classification staff

Production of weekly and quarterly RH reports

**Assessment:** The ACSO has now developed a weekly as well as a quarterly report that meets the requirements of this Consent Decree provision.



Class Counsel disagrees with this rating since formal training in compliance with Section IV(A) of the Consent Decree has not yet been completed on the updated policy 9.02 or on the other policies that have not yet been finalized. The Monitor disagrees in that the ACSO is conforming to this provision in practice and staff were trained in the earlier version of the policy via the MS system and weekly staff meetings.

**Recommendation:** Continue to produce the weekly and quarterly reports and verify that people spending more than 90 days are reviewed by the AFBH manager and ACSO Classification Lieutenant. The ACSO will need to verify that all Classification staff have been adequately trained in the recently revised policy within 90 days.

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

**Finding:** Substantial Compliance

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

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

**Metrics:** Interview with Classification staff

Reliability test of 75 randomly selected inmates.

Review of contested classification cases

**Assessment:** Since the prior review, the number of classification deputies has increased which allows for face-to-face interviews every 60 days. A review of the monthly snapshots show that all but recently admitted inmates have been classified.

During these interviews, the classification deputy uses a laptop computer and explains the inmate's current classification, shows the inmate his class sheet and explains the implemented classification model. The inmate is then allowed ask any questions about the assigned classification level and to contest any factual information used to make the classification decision. Any concerns raised by the inmate are documented and submitted to a classification sergeant

for review for suitability of modifying the classification decision (see Policy 12.02 “Reclassification” Section II).

Collectively, these practices and policies allow the inmate to not only understand the classification placement, to allow full transparency for the classification process, but also to allow the inmate to have a say in their placement. To date the Monitor has not received any grievances regarding an inmate’s classification level. There has been one case where placement in RH was contested. This case was reviewed by the Monitor with the opinion that placement in RH was appropriate.

The reliability test of 75 cases also found a high degree of accuracy in the scored and final classification level.

The only outstanding issue is the pending modification of Policy 12.01 (Intake Classification) Policy 12.02 has been published and is being practiced.

Class Counsel disagrees with this rating since Formal training in compliance with Section IV(A) of the Consent Decree has not yet been completed regarding the soon to be modified Policy 12.01. The Monitor respectfully disagrees in that the practice of the Classification staff is meeting the requirements of this provision which demonstrates that adequate training has been provided.

**Recommendation:** The ASCO has completed its modification of Policy 12.01 and forwarded it to the Monitor and Class Counsel for their review. The substantial compliance rating will be reduced to partial compliance if Policy 12.01 is not published by the close of the next monitoring period and Classification staff have not been re-trained on it.

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

**Finding:** Substantial Compliance

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

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

**Metrics:** Interviews with Classification staff

Observation of Initial and Reclassification events

**Assessment:** Classification staff have been fully trained in the current classification system and existing policies. Class Counsel disagrees with this rating since formal training in compliance with Section IV(A) of the Consent Decree has not been demonstrated.

The Monitor disagrees in that classification relevant policies are dynamic in nature and subject to periodic revision. The issues are whether the Classification staff are adequately trained in the existing classification policies so that classification system functions as designed. As indicated above, the classification is functioning at a very high level. In order to do, staff must have been successfully trained via the DMS system and weekly staff meetings designed to re-enforce any needed changes in current classification system practices.

**Recommendation:** As new classification policies are published, classification staff will need to be continually trained on them via the DMS system and the weekly classification staff meetings to ensure any changes in current practices are implemented.

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

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

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

**Finding:** Substantial Compliance

**Policy:** 9.02 Restrictive Housing

**Assessment:** As indicated above, the RHC and RH are functioning. Since the last review, a “Step 1” recreate alone status was created and utilized for inmates who meet that criterion and are approved by the RHC. Furthermore, Classification has implemented a “RH STEP 1” hazard flag to indicate which inmates are “Recreate Alone Status”. There are very few assaults occurring in the RH.

The RHC has a member of the AFBH who along with the classification staff carefully assess the appropriateness of placing a person in the RH. The most recent on-site audit found 11 people identified as SMI. Of the 11 SMI people, 8 were assigned to Step 1. Admission to RH was approved by the AFBH representative assigned to the RHC.

There have been three situations involving two inmates who were admitted to RH but later began to deteriorate. In each situation, appropriate actions were taken by the ACSO to have that person removed from the RH and transferred to a more appropriate setting. In the past six months all of the other persons admitted to RH who were classified as SMI have been able to either complete or are currently in the program without any signs of deterioration in their mental health condition.

The Monitor is unaware of any other cases where SMI inmates assigned to RH whose mental health condition has deteriorated and the ACSO did not take appropriate actions to remove that person from RH.

Policy 9.02 has now been modified by the ACSO, reviewed by the parties and published effective August 25, 2023.

Class Counsel disagrees with this assessment in that classification and RHC members have not been formerly trained on Policy 9.02. The Monitor disagrees in that the current practices conform to the requirements of this provision. Staff have been trained via the DMS system and weekly staff meetings.

**Recommendation:** None.

**404. This population shall be evaluated within fourteen (14) days of placement in Step 1 for ability to return to general population or to transition to Step 2. Inmates retained in Step 1 following initial review will be evaluated no less than every thirty (30) days thereafter. Incarcerated persons with SMI placed in Step 1 for longer than thirty (30) days shall have their cases reviewed by the Classification Lieutenant and Assistant Director of AFBH, or their designee, weekly following the initial thirty (30) days. If continued placement on Step 1 is approved by the Classification Lieutenant and Assistant Director of AFBH the reasons for doing so must be documented.**

**Finding:** Partial Compliance

**Policy:** 9.02. Restrictive Housing

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

**Metrics:** Interview with Classification staff

Audit of RH snapshot data file for people assigned to Pods 1 and 2

**Assessment:** Since the last report, formal reviews of all persons placed in the RH have been occurring as required by the Consent Decree (14 day and 30 day reviews). During the site visit, the audit of the RH population found five of the 11 SMI patients had been retained for more than 30 days in Step 1 by the RHC. The reasons for being retained centered on assaultive behavior toward staff. The AFBH representative on the RHC approved the RHC decision to place the person in the RH unit.

The Monitors have agreed to assign this provision to Dr. Montoya for the next monitoring report. Given her lack of time to assess this provision, a rating of partial compliance is made while recognizing that in large the ACSO is in compliance. The outstanding issue is whether the Assistant Director of AFBH, or their designee, is assessing SMI cases weekly following the initial thirty (30) days.

**Recommendation:** . The previously noted issue of ensuring SMI label is being accurately applied to the jail population and is part of the ACSO information system needs to be verified.

**406. Restrictive Housing, Recreate Together Status (“Step 2”): (ii) If an incarcerated person with SMI placed in Step 2 suffers a deterioration in their mental health, engages in self-harm, or develops a heightened risk of suicide, or if the individual develops signs or symptoms of SMI that had not previously been identified, the individual will be referred for appropriate assessment from a Qualified Mental Health Professional, within twenty-four (24) hours, who shall recommend appropriate housing and treatment and shall provide the recommended treatment.**

**Finding:** Partial Compliance

**Policy:** 9.02. Restrictive Housing

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

**Metrics:** Interview with Classification staff

Observation of the Restrictive Housing and Therapeutic Housing Units

Audit of snapshot data file dated July 25, 2023 for people currently assigned to RH.

**Assessment:** Since the last report, a “Step 2 recreate together” status has been created for inmates who meet that criterion and are approved by the RHC. Furthermore, Classification has implemented a “RH STEP 2” hazard flag and a “RESTRICTIVE HOUSING REC TOGETHER” hazard flag to indicate which inmates are “Recreate Together Status”. A static pod time log is also utilized to further indicate the pairings and groupings of inmates who are recreate together groups.

Regarding referrals to AFBH for people that experience a rapid deterioration in their mental health status, there are no hard figures on the number of such incidents. Observations of the housing units and interviews with Classification staff indicate that AFBH are making daily rounds in the units to help ensure such situations are quickly detected.

However, it has been agreed to by the Monitors that Dr. Montoya will assume responsibility for determining the compliance rating given the substantial role of the AFBH in demonstrating compliance. For this reason alone, the current compliance rating is set at partial.

**Recommendation:** None

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

**Finding:** Substantial Compliance

**Policy:** 9.02. Restrictive Housing

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

**Metrics:** Interview with Classification staff

Observation of the RH and THU housing units

Audit of snapshot data file dated July 25, 2023 for people currently assigned to RH.

**Assessment:** Based on interviews with Classification Unit staff, all people placed in the Restricted Housing Step 2 have been screened by AFBH staff prior to admission and have been cleared for such a placement and are being reviewed every 30 days. They are also now receiving a 14 day review after being placed in Step 2. Further training is not needed.

**Recommendation:** Formal training still needs to occur on Policy 9.02 and any related AFBH policies. The previously noted issue of ensuring SMI label is being accurately applied to the jail

population and is part of the ACSO information system needs to be verified. This Monitor defers to the Mental Health Monitor's discussion of the SMI identification process.

**Recommendation:** None.