

Babu v. Ahern
Consent Decree First Status Report
Case No. 5:18-cv-07677-NC
James Austin, Ph.D.
July 8, 2022

The following are excerpts from the Consent Decree provisions assigned to James Austin 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.

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 .	PC
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	PC
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	PC
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	PC
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	PC
311. ACSO notifies AFBH with 24 hours of an BHI patient placed in Restrictive Housing	PC

312. Development and implementation of a formal process for the admission, review and release of individuals to and from the THU	PC
313. All staff referrals to THU shall clearly document the reason for THU referral in writing.	PC
314. Classification approves all cell transfers	PC
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	NC
318. Development and implementation of policies and procedures for inmates with disabilities	NC
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,	NC
320. The RHC shall review reports regarding length of stay on a quarterly basis	NC
321. Appropriate due process in classification decisions	PC
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	PC

8 Substantial Compliance - 16 Partial Compliance - 4 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, 12.02 Reclassification, 12.04 Housing Plan

Assessment: ACSO has implemented the key components of the new 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.

The new system is also fully automated which should allow for a complete statistical analysis of how the system is functioning. However, as of this date the Monitor has not received the requested inmate population snapshot with the requested data.

Table 1 shows the distribution of the current jail population by the major classification categories. Note that this table does not show the number of people assigned to the two steps within the Restricted Housing Program. Future reports will need to be able to do so in order to maintain the substantial compliance.

There is a significant number of inmates who are in a variety of special population statuses (47% of the total jail population). The largest non-general population categories are inmates assigned to protective custody (21%) or Behavioral Health inmates (24%). Classification Unit staff report that the PC and BHI populations should be receiving the same privileges as the General Population but are housed separately for security and treatment reasons.

Table 1. Alameda County Jail Population Classification Levels – April 20, 2022

Class Level	Inmates	Percent
Pending Classification	9	0.3
Total General Population	1,153	53.3
MAX	476	22.0
MEDIUM	237	11.0
MINIMUM	440	20.3
Total Restricted Housing	102	4.7
AD SEP	53	2.4
AD SEP 7 DAY	43	2.0
AD SEP 72 HR	6	0.3
Total BHI	513	24.0
BHI MAX	115	5.3
BHI MED	117	5.4
BHI MIN	137	6.3
BHI P/C	51	2.4
BHI P/C 14 DAY	29	1.3
BHI P/C 72 HOUR	47	2.2
BHI – Other	17	0.8
Total Protective Custody	453	21.0
P/C MAX	38	1.8
P/C MAX 14 DAY	42	1.9
P/C MED	79	3.7
P/C MED 14 DAY	36	1.7
P/C MED 72 HR	3	0.1

P/C MIN	96	4.4
P/C MIN 14 DAY	24	1.1
P/C MIN 72 HR	8	0.4
Civil	3	0.1
Border Brothers	24	1.1
Sureno	34	1.6
Total	2,164	100.0

If one looks at the classification custody levels for all inmates with the exception of the Ad Sep, the two gang units (Border Brothers and Surenos) and Civil detainees, the general population classification level distribution looks appropriate with most inmates in the minimum and medium custody levels (total of 64%). This distribution is appropriate.

Table 2. Classification Levels Excluding Ad Sep, Border Brothers, and Sureno's

Total Max	671	36%
Total Med	472	26%
Total Min	705	38%
Total	1,848	100%

Despite the overall compliance rating, there are three issues that need to be addressed to sustain that rating. First, the ACSO needs to provide the Monitor with the requested monthly snapshot and jail release data files. Currently the Monitor has only received a partially completed snapshot that does not allow a more detailed analysis. Second, there is a lack of classification staff which is not allowing for the required face to face interviews for the reclassification events. All inmates have been classified but the reclassifications for the medium and maximum inmates are based on a file review. Third, classification policies 12.01, 12.02 and 12.04 need to be updated. The ACSO reports that is currently updating the classification policies and should be completed shortly.

Finally, the Monitor has not been able to conduct the 50 person random sample as of the time of this report. This will be done during the next on-site visit over the next 90 days. The absence of this component of the assessment process does not warrant changing the substantial compliance rating at this time.

Recommendations: In order to sustain full compliance the ACSO needs to address the following issues:

1. Provide the requested snapshot and jail release data files on a monthly basis;
2. Update Classification policies 12.01, 12.02 and 12.04 to reflect the policies required for the new classification system: and,
3. Conduct face to face reclassification interviews every 60 days for inmates assigned to medium custody or higher.

4. Conduct a staffing assessment to determine the number of classification staff necessary to reach and maintain compliance. Refer to Provision 302 for additional detail.

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

Assessment: All inmates are receiving an initial classification interview and are being scored on the new instrument.

Recommendation: Continue to maintain adequate staffing to conduct a timely initial classification.

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: Partial Compliance

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 but without the benefit of an interview. What has not happened are a) revisions to the current classification policies reflecting the changes in practice, b) face to face interviews with inmates assigned to medium or higher classifications levels as part of the re-classification process, and c) provision to the Monitor of the snapshot data file to verify all inmates are properly classified.

Classification staff report that they are unable to meet this requirement due to lack of classification staff to conduct the interview. Most of the current inmate population are under the reclassification event so this is an important requirement.

The Monitor's initial analysis suggests that a total of 28 staff are needed to meet the initial and reclassification workload with 13 dedicated to the reclassification events. The ACSO own analysis shows similar staffing needs.

Recommendation: In order to reach full compliance, the ACSO must update its current classification policies to reflect the new classification system and practices. It must also implement these policies with a special focus on conducting face to face interviews for the reclassification events. The ACSO will also need to provide the Monitor with an updated and complete snapshot data file. This work is now being completed and the data file should be available within 30 days.

Finally and more importantly, additional staff are needed to work in the Classification Unit. The skill level for these positions would be document review and interviewing. The ACSO should consider amending its current hiring policy so that a civilian classification officer position can be established. These employees would be trained in the classification system and be allowed to conduct the reclassification reviews and interview inmates without an officer being present. These types of positions exist in most state prison systems and in an increasing number of major jail systems.

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 Infirmiry. 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

Assessment: Classification staff state that all inmates are now classified under the new system but it is not possible to verify as the ACSO has not provide the requested snapshot data file.

Recommendation: In order to maintain the substantial compliance rating the ACSO needs to provide the snapshot data file so analysis can be completed to verify all inmates are classified under the new classification system.

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: Partial Compliance

Assessment: As indicated above, the ACSO has updated Policy 9.02 and RHC meetings are being conducted on a weekly basis. However, not all of the requirements of Policy 9.02 are being fulfilled. In particular, inmates are not appearing before the RHC due to staffing shortages as described earlier. Further reports assessing the 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 classification members' placement and/or discharge have not yet been produced.

Recommendation: In order to reach compliance, the ACSO needs to demonstrate that inmates referred to the RHC are appearing before it and that the quarterly monitoring reports are being produced showing compliance. With regard to the inmate's appearing before the RHC an intermediate option would be to use virtual meeting technology as a substitute for the mandated face to face meeting with the RHC. This is an improvement but is not an adequate substitute for a face-to face appearance before the RHC.

The Monitor will also conduct a formal analysis of a sample of RHC referral and release decisions during the next tour.

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

Assessment: The first RHC meeting was an orientation meeting held on February 24, 2022 which was attended by County Counsel. Attending the meeting were six ACSO staff and two AFBH representatives. Since then there have been seven weekly meetings. Minutes of each meeting are prepared which briefly summarize the person being reviewed, recent behavior and a decision to whether transfer back to general population, retain or change Step 1 or Step 2 status. The referral form that was developed as part of the Consent Decree is being completed on each referral. A total of 72 inmates have been reviewed to date.

Recommendation: The minutes should be standardized so that they clearly list 1) the Chair of the meeting, 2) the inmate’s current Step status, and 3) how long they have been in Restricted Housing. It would also be useful to separate cases by the following categories – 1) new referrals from the general population, 2) changes in Step Level and 3) release to General population. Policy updates and training will also need to be completed per the timelines set out in the Consent Decree.

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 this 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

Assessment: 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. The results of the RHC are being communicated to the inmate after the RHC has rendered its decision. The referral form is being completed with the basis for the referrals being completed.

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: Partial Compliance

Assessment: Reviews are being completed by the RHC but inmates are not appearing before the RHC. Rather, inmates are interviewed prior to and after the RHC makes its decisions. Classification staff say this is being caused by a shortage of staff needed to escort inmates to and from the RHC.

In terms of the 7 day interval between referral hearing the reforms are showing the same date as the RHC hearing. This date needs to be clarified as there should be a few days between the referral date and the RHC hearing in order to notify the inmate and prepare documents for the hearing.

Recommendation: Additional security staff need to be added to provide escort services to the RHC. In the interim, the RHC should use remote learning/video conferencing technologies that would allow the inmate to communicate directly with the RHC as it considers the persons restricted housing status.

The staff working in the Restricted Housing Units should be well versed in the different requirements for each classification (Step 1 and Step 2) and the RHC should monitor the programming status of each inmate.

The Monitor will request that he be allowed to observe the RHC in action for several of the upcoming RHC hearings to fine tune the reporting requirements and the actual process.

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: The existing policy 9.02 has been updated and contains all of the specific requirements

Assessment: The RHC is functioning. It is meeting on a weekly basis and is keeping minutes of its meetings which include the disposition of each case. These minutes and the associated referral form are being forwarded to the Monitor for review on a weekly basis. The major deficiency is that inmates are not appearing before the RHC which is not related to this Consent Decree provision.

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: Partial Compliance

Assessment: Based on the above metrics it does not appear that there are “clearly outlined, written criteria” to determine if an inmate should be moved from Step 1 to Step 2 to the General Population. There should be an affirmative statement that if an inmate 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. Similarly, if the inmate demonstrated the same conduct in Step 2 for the specified time frame, the person shall be released to the general population. The only exception would be those people whose prior conduct has been so violent and/or dangerous that release to the General Population will not be warranted while incarcerated in the ACSO jail system.

Recommendation: The Monitor will work with the RHC to clarify and document the criteria for movement from Step 1 to Step 2 and then to the General Population.

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: Partial Compliance

Assessment: Classification staff state that as of April 2022, there were 24 patients (one female) identified as SMI assigned to Step 1- rec alone. There are no SMI’s currently assigned to Step 2. Classification Unit staff assigned to Restricted Housing meet with all inmates every 7 days. AFBH staff also are conducting interviews with the patients as required by the patient’s treatment plan. The RHC is meeting on a weekly basis to review the status of these patients and if they are eligible to be moved to Step 2. Participating in those meetings are AFBH senior staff who are well versed in their client’s current status and

capacity to be moved to Step 2. It is not possible to tell from the RHC minutes whether a person is designated as SMI or not. This is being complicated by the AFBH desire to not label client as SMI but use a "level system. These issues (proper designation of the SMI label and better documentation by the Classification Unit and RHC of the SMI clients) need to be resolved.

Recommendation: The RHC needs to modify its reporting standards so that in its minutes it clearly shows 1) whether an inmate is a SMI client and 2) justification for placing or retaining an SMI client in Step 1. The Classification Monitor and the Clinical Services Monitor will work with the RHC to enhance its current reporting standards. But there will also be a need to determine if the AFBH desire to replace the SMI label with the level of need system should be adopted.

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

Assessment: Based on the above information ACSO are notifying and consulting with AFBH clinical staff on any decision to place a patient in Restricted Housing/Ad Sep. However, it is not clear if AFBH staff are performing their assessments in a confidential setting and if the assessment is documented.

Recommendation: The AFBH needs to provide documentation to the Monitor that their assessments are being conducted in a private/confidential setting.

312. Development and implementation of a formal process for the admission, review and release of individuals to and from the Therapeutic Housing Units shall include the development of a Therapeutic Housing Committee ("THC"). The THC shall be chaired by an AFBH representative at the supervisory level or higher, and further include a sergeant from the Classification Unit and an ACSO representative from outside the Classification Unit at the sergeant level or higher.

Finding: Partial Compliance

Assessment: The AFBH is now in the planning stage for the implementation of the THU. That work constitutes partial compliance but much more work needs to be accomplished to achieve the substantial compliance rating.

Recommendation: The ACSO and the AFBH will need to complete its plan in consultation with the Classification and Mental Health Monitor over the next few months. There will also be a need to ensure the renovation plans for the facility that will allow for adequate counseling spaces are adequate.

313. Any Staff member may refer an individual to the THC for placement in a Therapeutic Housing Unit. All referrals shall clearly document the reason for the referral in writing. After receiving a referral, the THC shall conduct a review to assess the individual's treatment needs and determine the appropriate therapeutic interventions and placement. This review shall include a face-to-face interview with the incarcerated individual and a review of relevant documents. This review shall occur within seven (7) days of referral. Individuals in crisis may be placed in an appropriate Therapeutic Housing Unit pending the outcome of the review. Only the THC may admit or discharge individuals to and from the Therapeutic Housing Units and shall do so based on clearly articulated, written criteria. The presumption shall be that individuals are to be released as quickly as possible back into General Population, consistent with their mental health needs. The THC has the authority to release any individual at any time to a General Population setting.

Finding: Partial Compliance

Assessment: The AFBH is now in the planning stage for the implementation of the THU. That work constitutes a partial compliance but much more work needs to be accomplished to achieve the substantial compliance rating.

Recommendation: The ACSO and the AFBH will need to complete its plan in consultation with the Classification and Mental Health Monitors over the next few months. There will also be a need to ensure the renovation plans for the facility that will allow for adequate counseling spaces.

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

Finding: Partial Compliance

Assessment: Based on interviews with Classification staff this policy is now fully enforced. Deputies are required to write internal memos requesting such transfers. There was one major incident where an inmate was improperly transferred without the permission of the Classification Unit that resulted in a serious incident. The practice of this policy needs to be reinforced to all supervisory staff so such incidents do not occur again.

Recommendation: Existing ACSO policies will need to be finalized later this year in order to reach substantial compliance. A formal audit of such transfers will also have to be completed by the Monitor this year.

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

Assessment: Based on interviews with Classification staff this policy is not yet developed. The Classification Unit controls these admissions and releases and documents them. However, a more formal process will be required which they acknowledge.

Recommendation: Existing ACSO policies on protective custody (9.03) will need to be finalized later this year. A formal audit of such transfers will also have to be completed by the Monitor this year.

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

Assessment: Based on interviews with Classification staff this policy is not yet developed. The Classification Unit controls double celling and documents them. They do take into consideration the factors listed in this provision. However, a more formal process will be required which they acknowledge.

Recommendation: Existing ACSO policies on double celling will need to be finalized later this year. A formal audit of such transfers will also have to be completed by the Monitor this year.

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: Non-Compliance

Assessment: Based on interviews with Classification staff this policy is not yet developed. The RHC and THU should develop formal criteria for step-down protocols such as the establishment of a case plans for each person place in Restricted Housing or the THU. However, a more formal process will be required which they acknowledge.

Recommendation: Existing ACSO policies on step-down protocols will need to be finalized later this year.

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: Non-Compliance

Assessment: Based on interviews with Classification staff this policy is not yet developed. However, the revised restricted housing/Ad Sep policy will state that people with cognitive disabilities will not be placed in restricted housing. However, a more formal process will be required which they acknowledge.

Recommendation: Existing ACSO policies on this provision will need to be finalized later this year.

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: Non-Compliance

Policies: The existing relevant policies have not yet been updated to reflect the requirements set

Assessment: Based on interviews with Classification staff this policy is not yet developed.

Recommendation: Existing ACSO and AFBH policies on SMI clients with known release dates will need to be finalized later this year. The Monitor will contact the Classification Unit staff and AFBH to create this capability this year.

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: Non-Compliance

Assessment: Based on interviews with Classification staff this policy is not yet developed or implemented.

Recommendation: Existing ACSO policies and the production of these reports will need to be finalized later this year. The Monitor will work with the ACSO to develop the format for these reports.

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: Partial Compliance

Assessment: Based on interviews with Classification Unit staff this policy is not yet developed. Inmates can use the existing grievance process but a more formal process will be

required which they acknowledge. Anecdotal evidence is that such grievances are infrequent.

Recommendation: Existing ACSO policies on filing a grievance on classification related matters need to be developed as part of the revised classification policies that are still being developed.

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

Finding: Substantial Compliance

Policies: There are no formal policies that are needed for reaching compliance with this

Recommendation: As new policies are formalized staff will need to be trained on them as well.

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 Administrative Separation).

Finding: Analysis and a rating of Substantial Compliance has already been covered under 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: Partial Compliance

Policies: Policy 9.02 which governs the RHC process has been revised to match the requirements

Assessment: Based on interviews with Classification Unit staff, all people placed in the Restricted Housing Step 1 have been screened by AFBH staff prior to admission and have been cleared for such a placement. What is not clear at this point is whether there have been any incidents where an SMI patient admitted to Step 1 has suffered any deterioration

in their mental health status and what actions were taken by the RHC to address this situation. Without such documentation, a rating of substantial compliance cannot be reached. There is also an issue where AFBH does not want to the label SMI and wants to substitute with another level system.

Recommendation: The AFBH will need to provide documentation on a) whether there have been any SMI patients in Steps 1 who have suffered any deterioration in their mental health status and b) what actions were taken by the RHC to address that situation. Further, the issue of whether to change the use of the SMI label by the AFBH also needs to be quickly resolved.

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

Assessment: Based on interviews with Classification Unit staff, there is a mandatory 30 day review for all people admitted to Step 1. However, there is no formal 14 day review in place. There is also the related issue where AFBH does not want to the label SMI and substitute with another level system.

Recommendation: The ACSO and the AFBH will need to implement a formal 14 day review for all people placed in Step 1 of the Restricted Housing program. The issue of whether to change the use of the SMI label by the AFBH also needs to be quickly resolved.

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

Assessment: Based on interviews with Classification Unit staff, there is a mandatory 30 day review for all people admitted to Step2. However, as with Step 1, there is no formal 14 day review in place. There is also the related issue where AFBH does not want to the label SMI and substitute with another level system. Currently there are no SMI patients in Step 2.

Recommendation: The ACSO and the AFBH will need to implement a formal 14 day review for all people placed in Step 2 of the Restricted Housing program who did not receive a 14 day assessment while in Step 1 or have been directly assigned to Step 2. The issue of

whether to change the use of the SMI label by the AFBH also needs to be quickly resolved.

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: Partial Compliance

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 admissions and have been cleared for such a placement and are being reviewed every 30 days. What is not clear at this point is whether there have been any people placed in Step 2 who did not have a 14 day review. As noted above, the Classification Unit staff reported that there are no 14 day reviews being conducted by the RHC so one can assume that all people assigned to Step 2 will require a 14 day review.

Recommendation: The ACSO and the AFBH will need to implement a formal 14 day review for all people placed in Step 2 of the Restricted Housing program who did not receive a 14 day review for Step 1 or are being directly placed in Step 2 by the RHC.