



**Expert Monitor's Report
Americans with Disabilities Act (ADA)**

**Babu v. Ahern
Consent Decree Fifth Status Report
Case No. 5:18-cv-07677-NC
On-Site Review: August 12-14, 2024**

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Cover Letter

This document serves as an introduction to the attached fifth Expert report on the status of the Alameda County Sheriff's Office (ACSO) and the Adult Forensic Behavioral Health's (AFBH) implementation of the Babu v. County of Alameda, Consent Decree within the Santa Rita Jail (SRJ). This report addresses the Americans with Disabilities Act (ADA) related provisions that were assigned to Sabot Consulting to monitor and rate.

This report is based on document and data review, an onsite tour, as well as interviews with staff and incarcerated persons. Prior to and after conducting the tour, policies and various documents were requested and reviewed as outlined in the report.

The onsite tour was conducted from August 12-14, 2024. The onsite monitoring tour consisted of walking through areas of SRJ, interviewing staff and incarcerated persons, and assessing compliance with the ADA requirements pursuant to the Consent Decree's Provisions.

The Expert greatly appreciated the interaction and time spent with ACSO custody staff, contract medical provider (Wellpath) healthcare personnel, AFBH staff, and numerous incarcerated persons. The staff and incarcerated persons were generous with their time and were transparent and willing to discuss any questions, concerns, and challenges related to the Consent Decree's ADA requirements that they may have encountered or had concerns about. Staff members were open in discussing related plans for continued overall improvement in working towards further implementation the Consent Decree's ADA requirements. During the Expert's onsite review, the Expert was afforded complete access to the SRJ. The ACSO and AFBH continue to implement and revise policies, procedures, and post orders that will assist the County in moving towards substantial compliance with the Consent Decree provisions/requirements. The ACSO and AFBH staff continue to work with the team of Joint Experts in the development of additional policies, post orders, forms, and training materials. The ACSO has been working with the contracted outside vendor for the Jail Management System (JMS) to enhance the JMS to provide for the real-time networked tracking system for staff to access and utilize. It is important to have a tracking system not only to satisfy the specific Consent Decree provision that requires the system, but it is also vital to help track and ensure compliance with additional Consent Decree provisions. The Expert is understanding of the time and effort that has been put into this venture, including the County's ongoing dialogue with the Expert as to the recommendations of the systems functionality, the time the County has dedicated to working with the vendor to ensure the JMS expansion accurately captures the needs of the County. The Expert also recognizes the County's commitment to its internal process to understand and ultimately approve the project, and the ACSO ADA Unit continuously working with the vendor to answer questions as the system is being developed. The County must continue keep the Expert abreast as to anticipated timelines for roll-out and regarding any possible concerns or further delays (if applicable).

The County is in the process of developing a comprehensive process to identify individuals with intellectual/developmental and learning disabilities, which will include a mechanism to identify adaptive support needs (for intellectual disabilities) and reasonable accommodation needs (for learning disabilities). The ACSO and AFBH have been working collaboratively to address this provision. There have also been ongoing meetings with the Expert. A recent meeting proved

encouraging, as a mental health clinician has been hired by the County to assist with the identification of the intellectually and learning-disabled populations. There are identified plans in the works for enhanced initial screening questions for incarcerated persons as well as a comprehensive secondary screening process with specific, recognized screening instruments being considered. The Expert is confident the ACSO and AFBH will soon finalize their plan of developing and implementing the comprehensive identification/screening/testing process for incarcerated persons with intellectual/developmental, and learning disabilities, and their respective accommodation needs.

It is recognized that ACSO and AFBH are still in the process of implementing some of the provisions of the Consent Decree. For future reviews, and as applicable, once policies, procedures, and applicable forms are put into place, the County will need to provide completed documents, completed forms, tracking lists, disciplinary reports, completed ADA Request for Accommodation forms, grievances, etc., to measure ACSO and AFBH's compliance with the requirements of the Consent Decree's provisions.

This report outlines areas within the Consent Decree provisions where policies, processes, documentation, forms, and training will need to be developed or revised/modified to meet the requirements of the Consent Decree.

Since the first four (4) monitoring tours, the County has implemented some of the Consent Decree requirements, and the County continues to work collaboratively with the Expert in implementing the remaining ADA-related provisions. Some examples of the requirements that need to be implemented include:

- Policy (General):
 - Although great strides have been made with the revision of ACSO policies, the County must continue updating/revising policies to reflect the requirements of the Consent Decree provisions.
- Real-Time Networked Tracking System:
 - Although the County is in the process of developing the ADA tracking system within the existing JMS, the County must continue providing updates regarding the progress for the enhanced ATIMS tracking system.
- Training:
 - The County has developed and is in the process of finalizing the ADA training. Once finalized, the Expert will provide ADA Train the Trainers training to all ADA unit staff and observe initial training(s) provided by the ADA Unit and provide feedback on the training.
 - ACSO (ADA Unit) is developing the training. Recently the Expert provided comments to the course learning objectives. ACSO (and AFBH and Wellpath) are still developing policies/procedures which when completed will need to be included in the ADA training.
- Intellectually Disabled Incarcerated Persons/Learning Disabled Persons:
 - The County is still in the process of developing a secondary screening and identification process for Intellectually Disabled Incarcerated Persons/Learning

- Disabled Persons and their adaptive support and accommodation needs, as well as enhancing the initial screening process.
- A comprehensive intellectually disabled screening and testing process including the identification and provision of adaptive supports, the related policies, and monitoring/management of intellectually disabled incarcerated persons are all integral parts that must be included within the policies, forms, and processes.
- Effective Communication:
 - ACSO has implemented Policy 9.11 Effective Communication (Issued Date February 6, 2024), although the policy is pending further revision and the Experts provided recent recommendations in Mid-September 2024.
 - AFBH recently implemented AFBH Effective Communication Policy 407-2-4 (Date of Original Approval July 8, 2024).

There remains an unresolved issue amongst the Experts, the Parties, and the Department of Justice (DOJ) regarding the definition of a “Psychiatric Disability.” In the previous monitoring report, the Expert wrote “During the next monitoring period, this Expert will work with both parties and the Mental Health Expert to determine whether the ADA Unit’s current practices encompass all individuals with a ‘Psychiatric Disability’ as defined by the Consent Decree.”

Since the inception of monitoring for this case, the ADA Expert has monitored the Consent Decree (CD) Provisions exclusively for incarcerated persons identified as SMI, IDI, and LD. The Expert has shared with the Parties a possible concern that many of the Provisions incorporate the terms “Psychiatric Disability” or “Psychiatric Disabilities,” but the ADA Expert has only monitored for individuals identified as SMI, IDI, and LD, as those are the only persons that the ADA Unit monitors, tracks, and interacts with, as part of the CD. The CD defines the terms “Psychiatric Disability” or “Psychiatric Disabilities” as defined in 42 U.S.C. § 12102, 29 U.S.C. § 705(9)(B), and California Government Code § 12926(j) and (m) and includes cognitive, developmental, intellectual, and/or learning related disabilities.

The Alameda Forensic Behavioral Health Department (AFBH) has worked diligently in collaboration with the Mental Health Expert (Dr. xxxxxx) to establish behavioral health categories/levels (LOC 1-4). There are differences of opinion between the Parties as to whether individuals identified as LOC 3 and 4 (and perhaps some from the LOC 2 and LOC 1 categories) may or may not fit under the “Psychiatric Disability” definition for monitoring in this case, and how this all should or should not affect how the case is monitored, and even how this could potentially affect the ADA Unit staffing levels. For example, CD Provision 1002 pertains to ADA Coordinator responsibilities to meet with identified persons. The Provision states in part, “As soon as practical, but under no circumstances more than fourteen (14) days after an individual has been identified at Intake or post-intake as having a Psychiatric Disability, the ADA Coordinator and/or her or his staff shall personally meet with each newly identified individual.” The ADA Expert understands this potentially could mean an inclusion of individuals other than persons identified as SMI, IDI, or LD who are categorized as BHI, or LOC 1, 2, 3, and/or 4, or otherwise has a “Psychiatric Disability.”

Provisions 1009 and 1011 are also key areas of concern on this issue as related to ADA Unit responsibilities and workload, but there are additional applicable provisions, and many that use

the term “Psychiatric Disability” or “Psychiatric Disabilities”, including Provisions 318, 501, 1001, 1002, 1003, 1006, 1009, 1010, 1011, 1015, 1016, 1017, 1018, 1019, 1020, and 1021. All except 318 and 501, are in the ADA section of the CD.

There has been ongoing dialogue with the Parties, the DOJ, and the Experts regarding the matter. The Parties, DOJ, and the Joint Expert (Mental Health) have provided their respective positions, but a consensus has not been reached.

The ADA Expert recommends continued dialogue on this issue until it can be resolved so that there is an understanding by the Joint Experts and the Parties as to how ACSO will operate under the CD applicable Provisions, and as to how this will affect Expert monitoring.

In presenting the attached report, the ADA Joint Expert wants to thank the Sheriff, ACSO, AFBH, Wellpath staff, County Counsel, and the incarcerated persons.

Summary of Ratings

Requirement	Rating
508. Development of written policies and procedures.	PC
509. Disciplinary process for incarcerated persons designated as SMI.	PC
510. Practice of seeking an opinion on the level of discipline, use of disciplinary diets, timelines for disciplinary proceedings, and the imposition of Discipline. Placement in a higher classification.	SC
1000. Working with Joint Expert in the development and implementation of policies, procedures, forms, and training.	PC
1001. Employment of a full-time, dedicated ADA Coordinator.	SC
1002. ADA Coordinator and/or her or his staff personally meeting with each newly identified individual within 14 days of designation.	PC
1003. ADA-related training for staff.	INJR – N/A
1004. The ADA Coordinator staffing.	SC
1005. The ADA Unit staff certification course	PC
1006. Effective Communication Policy.	PC
1007. ADA staff meeting with incarcerated persons with SMI diagnosis or a cognitive, intellectual, or developmental disability in advance of any disciplinary.	NC
1008. Development and implementation of healthcare screening questions.	NC
1009. Referrals to the ADA Unit for incarcerated persons with Psychiatric Disabilities.	PC
1010. Issuance of the Jail Handbook orientation materials, including instructions on how to request disability-related accommodations, how to contact the ADA Coordinator, and how to file a grievance regarding ADA-related issues.	SC
1011. Provision of reasonable modifications and accommodations.	PC
1012. Provision of Effective Communication, therapeutic and/or protective housing unit, counseling/therapy (group and individual), medications, and Qualified Mental Health Professional input prior to removing privileges and/or otherwise imposing discipline and any modifications necessary to ensure equal access to programs.	PC
1013. Provision of reasonable accommodations for learning-related disabilities.	PC
1014. Provision of reasonable accommodations for individuals with cognitive, developmental, and/or intellectual disabilities.	PC
1015. Implementation of an electronic, real-time networked tracking system.	NC
1016. Provision of Psychiatric Disabilities report to Housing unit, education, and program office staff.	PC
1017. Security classification for incarcerated persons with Psychiatric Disabilities.	PC
1018. Access to yard and day room and recreation time for incarcerated persons with Psychiatric Disabilities.	PC

1019. Equal access to all programs, activities, and services for incarcerated persons with Psychiatric Disabilities.	PC
1020. Requests for reasonable modifications independent of the grievance system ("ADA Request").	PC
1021. Grievance system that provides for prompt and equitable resolution of complaints by individuals with Psychiatric Disabilities who allege disability-related violations.	PC
1022. The ADA Coordinator and ADA Unit review of ADA-related grievances.	PC

Findings

The following are excerpts from the Consent Decree provisions assigned to xxxxx xxxxx (ADA Joint Expert) for monitoring. The specific provision language is followed by the Expert's findings and recommendations.

Disciplinary Process

508. Defendants shall develop written policies and procedures, as set forth in Section IV(A), which shall require meaningful consideration of the relationship between the individuals' behavior and any mental health or intellectual disability, the efficacy of disciplinary measures versus alternative measures that are designed to effectuate change in behavior through clinical intervention, and the impact of disciplinary measures on the health and well-being of prisoners with disabilities. The delivery of mental health treatment shall not be withheld from Behavioral Health Clients due to Discipline. Behavioral Health Clients shall also not be subject to Discipline for refusing treatment or medications, engaging in self-injurious behavior, or threats of self-injurious behavior.

Finding: Partial Compliance

(Note: Previously rated as "Partial Compliance")

Policies:

- ACSO Detention and Corrections Policy and Procedure - 16.01 Disciplinary Procedure (Revision Date: August 28, 2023).
- ACSO Detention and Corrections Policy and Procedure - 13.01 Medical and Behavioral Health Care (Revision Date: March 1, 2020).
- ACSO Policy 1.14 Americans with Disabilities Act (Revision Date: October 31, 2019):
 - Current revision being finalized.
- The Expert notes that the revision of the policies is still in progress.
- AFBH Policy 407-1-4 Adult Forensic Behavioral Health Disciplinary Incident Response (Date of Approval July 8, 2024)

Training:

The development of related training materials by ACSO is in the final approval process. For future monitoring reviews the Joint Expert will review all training materials and proof of training provided for all respective personnel (ACSO/AFBH/medical contract provider [Wellpath]).

Metrics:

- ACSO Policy 1.14 Americans with Disabilities Act.
- ACSO Policy 16.01 Disciplinary Procedure.
- ACSO Policy 13.01 Medical and Behavioral Health Care.
- AFBH Policy 407-1-4

Assessment:

ACSO Detention and Corrections Policy and Procedure - 16.01 Disciplinary Procedure was revised on August 28, 2023. The initial report cited specific language from ACSO Policies 1.14 Americans with Disabilities Act, 16.01 Disciplinary Procedure, and 13.01 Medical and Behavioral Health Care, pertinent to this Consent Decree provision.

The AFBH developed new policy (407-1-4) titled, "Adult Forensic Behavioral Health Disciplinary Incident Response," dated July 8, 2024.

Policy 407-1-4 contains all language captured within this CD Provision. However, the Experts and Plaintiff's Counsel have not had the opportunity review and discuss with the County or AFBH, or make any recommendations, if needed.

The Expert has opted to maintain the rating for this CD Provision as "Partial Compliance" until the Parties have had the opportunity to review and discuss, and the Experts and Plaintiffs' Counsel have had the opportunity to review the policy and make recommendations (if needed).

Recommendations:

- 1) No recommendations at this time, other than providing opportunity for the Expert's and Plaintiff's Counsel to provide any recommendations, if needed.

509. ACSO shall include Qualified Mental Health Professionals in the disciplinary process relating to SMI clients. For Behavioral Health Clients who are not SMI, ACSO shall notify a Qualified Mental Health Professional of the initiation of the disciplinary process, including the basis for disciplinary action, and shall include a Qualified Mental Health Professional as appropriate in the disciplinary process. Defendants shall develop a form for Qualified Mental Health Professionals to use that allows them to indicate the following:

(a) whether the reported behavior was related to mental illness or adaptive functioning deficits, including whether the behavior was related to an act of self-harm.

(b) any other mitigating factors regarding the individual's behavior, disability, or circumstances that should be considered.

(c) whether certain sanctions should be avoided due to the individual's underlying disability and/or mental health needs. The ACSO shall further ensure recommendations regarding whether the mental health of the individual impacted their actions are appropriately considered and proper interventions provided to Behavioral Health Clients and avoid punishing Behavioral Health Clients for manifestations of their disabilities. To the extent ACSO chooses to not follow the Qualified Mental Health Professional's recommendations, ACSO shall document and explain in writing why the recommendation was not followed.

Finding: Partial Compliance

(Previously rated as "Partial Compliance")

Policies:

- ACSO Detention and Corrections Policy and Procedure - 16.01 Disciplinary Procedure (Revision Date: August 28, 2023).
- ACSO Detention and Corrections Policy and Procedure - 13.01 Medical and Behavioral Health Care (Revision Date: March 1, 2020).
- AFBH Policy 407-1-4 Adult Forensic Behavioral Health Disciplinary Incident Response (Date of Original Approval July 8, 2024)
- The revision of the policies is still in progress.

Training:

Finalization of related training materials by ACSO is in progress.

Metrics:

- Policy 16.01 Disciplinary Procedure.
- AFBH Policy 407-1-4
- Completed AFBH Responses to Disciplinary Process.

Assessment:

As identified in greater detail in Provision 508, Policy 16.01 addresses the requirement to include a Qualified Mental Health Professional in the disciplinary process for incarcerated persons identified as BHC/SMI/IDI. The County reports that, in November 2023, ACSO began notifying AFBH of disciplinary reports via email to ensure clinician assignment for consults. This is consistent with the completed AFBH Responses to Disciplinary Process received for the latter part of November 2023 – January 2024.

Refer to CD Provision 508 for information regarding new AFBH Policy 407-1-4.

The Consent Decree does not preclude ACSO from limiting telephone and/or visiting privileges as a disciplinary measure for BHI/SMI/IDI incarcerated persons. However, the CD requires Defendants to develop a form for Qualified Mental Health Professionals to use that allows them to indicate the circumstances that should be considered and whether certain sanctions should be avoided due to the individual's underlying disability and/or mental health needs and requires ACSO to appropriately consider such recommendations and "avoid punishing Behavioral Health Clients for manifestations of their disabilities" and explain in writing whenever a recommendation is not followed. This issue has been raised during previous monitoring reviews, and the Expert maintains the belief that such actions may be contrary to the spirit of CD Provision 508. The issue will be discussed at the next scheduled monitoring review. For the current monitoring period, there were approximately 100 ACSO Disciplinary Reports and completed AFBH Response to Disciplinary Process forms provided that were relevant to the monitoring period. The Expert randomly selected and Reviewed 30 DI reports (inclusive of Hearing Records summaries) and approximately 30 corresponding AFBH Response to Disciplinary Process forms. An equal

sampling was chosen for each month for the January through June 2024 monitoring period. The review showed that six (6) of the 30 DI reports were dismissed. Some appeared to be based on the Hearing official following the assigned clinician's recommendations, and others appeared to be dismissed as the individual was no longer in custody at the time of the hearing.

The review of the AFBH Response to Disciplinary Process forms showed that the number of days from date of disciplinary incident/charge to the date AFBH was notified to provide clinical input was between 3-16 days. Note: The 16-day case was an outlier, otherwise all were between 3-9 days, with the average number of days at 6.6. The number of days to complete the AFBH form and send to ACSO Hearing officials was between 1-20 days. The 20-day case was an outlier, otherwise all were between 1-9 days, with the average number of days at 5.0.

The Expert cannot determine whether the hearing officials at least considered clinical input for the cases where LOP was assessed. However, the data shows that 10 cases (from the 30 DI reports reviewed) included LOP being assessed despite the assigned clinician's recommendation to the contrary. The LOP assessments were between 15 – 60 days each.

The County provided the Santa Rita ATIMS Disciplinary Report Logs for the monitoring period. The ADA Joint expert selected the months of February and June 2024 to review (Disciplinary [DI] Logs for February 2024 and June 2024). The logs contained the following information:

- February 2024:
 - Lists 10 SMI Disciplinary Reports (for eight [8] different SMI incarcerated persons) / Lists Zero "ID (IDI) Disciplinary Reports
 - Log # XXX Incarcerated Person #1 2/1/24
 - AFBH Notes: "Related"
 - Notes (disposition): 15 days LOP
 - Log # XXX Incarcerated Person #2 2/3/24
 - No AFBH Notes:
 - Notes (disposition): Dismissed
 - Log # XXX Incarcerated Person #2 2/13/24
 - No AFBH Notes:
 - Notes (disposition): Dismissed
 - Log # XXX Incarcerated Person #3 2/4/24
 - AFBH Notes: "Related"
 - Notes (disposition): 45 days LOP
 - Log # XXX Incarcerated Person #3 2/5/24
 - AFBH Notes: "Related"
 - Notes (disposition): 30 days LOP
 - Log # XXX Incarcerated Person #4 2/7/24
 - AFBH Notes: "Related"
 - Notes (disposition): 60 days LOP
 - Log # XXX Incarcerated Person #5 2/12/24
 - AFBH Notes: "Related"

- Notes (disposition): 60 days LOP
- Log # XXX Incarcerated Person #6 2/13/24
 - No AFBH Notes:
 - No Notes (disposition)
- Log # XXX Incarcerated Person #7 2/14/24
 - AFBH Notes: "Related"
 - Notes (disposition): 20 days LOP
- Log # XXX Incarcerated Person #8 2/29/24
 - AFBH Notes: "Related"
 - Notes (disposition): 30 days LOP
- June 2024:
 - Lists 21 SMI Disciplinary Reports (for 14 different SMI incarcerated persons) / Lists Zero "ID (IDI) Disciplinary Reports"
 - Log # XXX Incarcerated Person A 6/2/24
 - AFBH Notes: "Related"
 - Notes (disposition): 15 days LOP
 - Log # XXX Incarcerated Person B 6/2/24
 - AFBH Notes: "Related"
 - Notes (disposition): 30 days LOP
 - Log # XXX Incarcerated Person C 6/2/24
 - AFBH Notes: "Related"
 - Notes (disposition): 30 days LOP
 - Log # XXX Incarcerated Person D 6/3/24
 - AFBH Notes: "Related"
 - Notes (disposition): 45 days LOP
 - Log # XXX Incarcerated Person D 6/9/24
 - AFBH Notes: "Related"
 - Notes (disposition): 45 days LOP
 - Log # XXX Incarcerated Person E 6/6/24
 - AFBH Notes: "Related"
 - Notes (disposition): 30 days LOP
 - Log # XXX Incarcerated Person E 6/25/24
 - AFBH Notes: "Related"
 - Notes (disposition): 15 days LOP
 - Log # XXX Incarcerated Person E 6/27/24
 - AFBH Notes: "Related"
 - Notes (disposition): 30 days LOP
 - Log # XXX Incarcerated Person F 6/12/24
 - AFBH Notes: "Related"
 - Notes (disposition): 45 days LOP
 - Log # XXX Incarcerated Person G 6/12/24

- AFBH Notes: “Related”
 - Notes (disposition): 30 days LOP
- Log # XXX Incarcerated Person H 6/13/24
 - AFBH Notes: “Not Related”
 - Notes (disposition): 45 days LOP
- Log # XXX Incarcerated Person H 6/14/24
 - AFBH Notes: “Not Related”
 - Notes (disposition): 45 days LOP
- Log # XXX Incarcerated Person I 6/13/24
 - AFBH Notes: “Related”
 - Notes (disposition): 30 days LOP
- Log # XXX Incarcerated Person I 6/29/24
 - AFBH Notes: “Related”
 - Notes (disposition): 30 days LOP
- Log # XXX Incarcerated Person I 6/29/24
 - AFBH Notes: “Related”
 - Notes (disposition): 7 days LOP
- Log # XXX Incarcerated Person J 6/15/24
 - AFBH Notes: “Related”
 - Notes (disposition): 45 days LOP
- Log # XXX Incarcerated Person K 6/17/24
 - AFBH Notes: “Unable to Determine”
 - Notes (disposition): 60 days LOP
- Log # XXX Incarcerated Person L 6/22/24
 - AFBH Notes: “Related”
 - Notes (disposition): 45 days LOP
- Log # XXX Incarcerated Person M 6/26/24
 - AFBH Notes: “Unable to Determine”
 - Notes (disposition): 45 days LOP
- Log # XXX Incarcerated Person M 6/27/24
 - AFBH Notes: “Unable to Determine”
 - Notes (disposition): 20 days LOP
- Log # XXX Incarcerated Person N 6/27/24
 - No AFBH Notes listed
 - Notes (disposition): 20 days LOP

For the months of February and June 2024 (combined) there were logs showing 31 DI reports for SMI incarcerated persons, and none for persons identified as IDI or LD. Of the 31 DI reports, the log shows 22 as “related” (assumed to represent that their mental health or SMI status contributed to their actions at least to some degree). Of the 22 cases identified as “Related” (presumed to be from AFBH clinician’s input), the log showed that all 22 (100 percent of the cases) were assessed loss of privileges (LOP) for a period between 7-60 days. Of the remaining nine (9) cases, there

were four (4) listed as “No AFBH Notes”, three (3) listed as “Unable to Determine,” and two (2) listed as “Not Related.” Regarding the four (4) that didn’t have AFBH notes, it is unclear why for these four (4) cases no clinical input was provided.

Only one (1) of the incarcerated persons interviewed (SMI or IDI) had reportedly received a DI while at the Santa Rita Jail. He indicated he was involved in a fight and was subsequently rehoused to another unit. He stated that staff effectively communicated with him throughout the disciplinary process, and he did not have any related concerns.

Refer to CD Provision 508 of the report for detailed information in new Policy 407-1-4 requirements regarding an assigned clinician’s responsibilities towards providing clinical input for hearing officials for incarcerated persons identified as SMI, and for non-SMI individuals, if deemed “clinically appropriate.” For the next scheduled monitoring tour, a mental health clinician will be interviewed as well as a review the “Clinician’s Gateway” system, AFBH’s Electronic Health Record.

Based on the documents provided for document review, there was no evidence that delivery of mental health is being withheld from BHI clients due to discipline, and there was no evidence that BHI clients are subjected to discipline for refusing treatment or medications or if engaging in self-injurious behavior and threatening such.

Recommendations:

- 1) Request: Provide information to explain why or how the cases listed in this section pertinent to the DI log review and identified as “Related” (presumed to be from AFBH clinician’s input), were all assessed loss of privileges (LOP). Likewise, provide the same information as pertinent to the 10 named cases (listed above) where the assigned clinician’s recommendations were not followed before findings/assessments were made.

510. Defendants shall limit the practice of seeking an opinion on the level of discipline that should be assessed from the ACSO staff authoring the report. Defendants shall cease the use of disciplinary diets in all cases other than food-related disciplinary cases. Defendants’ policies shall include timelines for disciplinary proceedings and the imposition of Discipline. Placement in a higher classification, including placement to Restrictive Housing, is governed by the classification process outlined in Section III(C).

Finding: Substantial Compliance

(Previously rated as “Substantial Compliance”)

Based on two (2) consecutive findings of Substantial Compliance, the Expert recommends monitoring be suspended for this Provision.

Policies:

- ACSO Detention and Corrections Policy and Procedure - 16.01 Disciplinary Procedure (Revision Date: August 28, 2023).
- The Expert notes that the revision of the policies is still in progress.

Training:

Finalization of related training materials by ACSO is in progress.

Metrics:

- Policy 16.01 Disciplinary Procedure.

Assessment:

In review of Policy 16.01, revised language in Section F.4. states in part, "The Agency member authoring the disciplinary report shall not provide a recommendation as to what disciplinary action(s) should be imposed. This recommendation will be made by the IDHO." Former policy 14.04 Alternate Meal Services for Disciplinary Action has been archived, and ACSO no longer uses disciplinary diets. Policy 16.01 contains language related to the timelines for disciplinary proceedings and the imposition of Discipline. This includes timelines for writing the disciplinary report, service of the disciplinary report to the incarcerated person, hearing and waiting period, and appeals.

Recommendations:

No recommendations

Americans with Disabilities Act (ADA)

1000. Defendants shall work with the agreed-upon joint subject matter Joint Expert, as discussed in Section IV(A), to develop and implement policies, procedures, and forms required to implement the provisions contained herein. All staff shall be trained on the topics, as discussed in Section IV(A), including any modifications to policies and procedures, described herein.

Finding: Partial Compliance

(Previously rated as "Partial Compliance")

Policies:

- ACSO Detention and Corrections Policy and Procedure - 1.14 Americans with Disabilities Act (Current revision being finalized):
 - ACSO Intake Medical Review Form:
 - ADA Coordinator Review Form:
 - ADA Disability Tracking Form:

- Explanation of Booking Process Form:
 - Inmate Disability Evaluation Form:
 - Video Tablet Checkout Log.
- ACSO Detention and Corrections Policy and Procedure 9.11 Act (Revision Date: February 6, 2024):
 - Documentation of Effective Communication Form:
 - ADA Record of Contact Form:
 - ADA Unit Interview Form (Effective Communication Needs):
 - Disability Request for Accommodations/Modifications Form.
- ACSO Detention and Corrections Policy and Procedure 12.01 Intake Classification (Revision Date: January 23, 2024):
 - Wellpath Drug/Alcohol Referral Form:
 - Behavioral Health Referral Form.
- ACSO Detention and Corrections Policy and Procedure 12.02 Reclassification (Revision Date: March 22, 2023).
- ACSO Detention and Corrections Policy and Procedure 16.01 Disciplinary Procedure (Revision Date: July 11, 2022):
 - Disciplinary Report Form (PD-96):
 - Disciplinary Report Page 2 (PD-96a):
 - Hearing Record Form (PD-427):
 - Notification Report (PD-631):
 - AFBH Response Form (ACSO-550):
 - RHC Referral Form:
- ACSO Detention and Corrections Policy and Procedure 16.02 Inmate Rules and Information (Revision Date: June 21, 2023):
 - Inmate Rules and Information Handbook.
- The Expert notes that the revision of the policies is still in progress.

Training:

Finalization of related training materials by ACSO is in progress.

Metrics:

- Policy 1.14 Americans with Disabilities Act:
 - Email update between ACSO and the Expert regarding the status of the draft revised policy.

Assessment:

The Experts and Class Counsel recently reviewed ACSO Policy 1.14 Americans with Disabilities Act and provided comments and recommendations. The policy is pending internal ACSO review and finalization.

Some of most recent policies published or revised include the following: ACSO Policy 9.11 Effective Communication (Issued Date: February 6, 2024); ACSO Policy 12.01 Intake Classification (Revision Date: January 23, 2024); and ACSO Policy 18.14 Inmate Tablet Access (Revision Date: February 9, 2023). Policies recently or currently under review by the Experts (as listed in current document production) include the following: Adult Forensic Behavioral Health Re-Entry Services for Clients with a Serious Mental Illness; and ACSO Inmate Grievance Procedure.

Recommendations:

- 1) ACSO must finalize the revisions of Policy 1.14 Americans with Disabilities Act and corresponding forms (as bulleted above).
- 2) Staff must be trained/knowledgeable on revised Policy 1.14 (once finalized) and all associated forms and policies.

ADA Coordinator

1001. ACSO shall continue to employ a full-time, dedicated ADA Coordinator at the Jail who shall, among other ADA-related responsibilities, oversee the following issues related to individuals with Psychiatric Disabilities: monitoring of the ADA Tracking System, ADA-related training, grievances, disciplinary reports, Message Request forms, requests for accommodations, classification actions, orientation materials, touring housing units and discussing ADA-related issues with incarcerated persons and staff (e.g., housing unit deputies, medical staff, mental health staff, dental staff, education staff, re-entry services staff, inmate program staff, library staff, religious services staff, etc.) as set forth below and on an as-needed basis, and any other ADA-related responsibilities as appropriate. The ADA Coordinator shall be strongly encouraged to serve in that role for at least five (5) years to provide for consistency and to maximize the benefit of the training and expertise of the ADA Coordinator. ACSO shall consult with the ADA Joint Expert regarding the Post order for the ADA Coordinator, and Plaintiffs' counsel shall have an opportunity to review and provide input prior to ACSO finalizing the Post order. The ADA Coordinator shall report up the chain of command. Additionally, the Compliance Captain shall oversee the day-to-day activities of the ADA Coordinator but shall not have the ability to re-assign the ADA Coordinator away from their ADA-related duties.

Finding: Substantial Compliance

(Previously rated as "Substantial Compliance")

Based on two (2) consecutive findings of Substantial Compliance, the Expert recommends monitoring be suspended for this Provision.

Policies:

- ACSO Detention and Corrections Policy and Procedure - 1.14 Americans with Disabilities Act (Revision Date: October 31, 2019):
 - Current revision being finalized.

- The revision of policies is still in progress.

Training:

The ADA Coordinator and ADA Unit staff have been trained in and received nationally recognized ADA certification. The ACSO is also currently finalizing training materials.

Metrics:

- Reviewed ACSO Detention and Corrections Policy and Procedure - 1.14 Americans with Disabilities Act.
- Compliance Unit Staff Interviews.
- ADA Policy and Procedure 10.32 (Americans with Disabilities Act Coordinator Post Order) (Revised August 28, 2023).

Assessment:

Refer to Section 1000 of the report for updated information on the revision status of the draft ACSO Detention and Corrections Policy and Procedure - 1.14 Americans with Disabilities Act.

ACSO Policy and Procedure 10.32 includes information regarding ADA Coordinator duties, including tracking, ADA Unit contacts, referrals, housing, ADA grievances, ADA-related message requests, disciplinary, review of Requests for Accommodations (2275 CJ Form), training, and working relationships.

As indicated by the ADA Coordinator and as demonstrated by completed ADA Coordinator Record of Contact and ADA Unit Interview forms, the ADA Coordinator continues to tour the housing units and conducts formal and informal face-to-face contacts with disabled incarcerated persons, including persons identified as SMI, IDI, and LD.

The ADA Sergeant and ADA Coordinator continue to confirm that the ADA Coordinator is dedicated to ADA-related duties and is not re-assigned or re-directed away from his ADA-related duties. The ADA Coordinator confirmed that he does not perform any functions related to the Prison Rape Elimination Act (PREA), compliance, BSCC (California Board of State and Community Corrections), or any other non-ADA related duties.

The ADA Coordinator indicated he continues to participate in monthly meetings with other SRJ disciplines. Discussions regarding the Consent Decree requirements are part of the meetings.

Some of this will be covered in more detail later in the report, but the ADA Coordinator reported he is involved in the following activities (not an exhaustive list):

- Working with the ATIMS vendor to enhance the tracking system capabilities (in accordance with the Babu CD);

- Receiving CDCR email notifications when CDCR incarcerated persons are violated on parole and sent to Santa Rita Jail.
- Sending “Armstrong” information to AFBH (regarding disabilities identified in CDCR and corresponding accommodation or adaptive supports needs of individual disabled incarcerated persons);
- Present at Restorative Housing Unit meetings;
- Ensuring (and documents Effective Communication [EC] when interviewing incarcerated persons (SMI/IDI/LD) whether for 14-day initial or 60-day follow-up interviews, and documents EC, orientation and other information in the Record of Contact and ADA Interview form and ADA Interview form;
- Negotiations with electronic tablet vendor;
- Being appraised of pending disciplinary hearings weekly at the restrictive housing meetings;
- Monitoring and being active in the disability request for accommodations process;
- Monitoring whether disabled persons are working or considered for work assignments;
- Receiving and reviewing grievances pertaining to SMI/IDI/LD incarcerated persons.

During the onsite monitoring tour, the ADA Coordinator provided an updated ADA list of incarcerated persons. Also, as part of document production, ACSO personnel uploaded updated weekly tracking lists via the SharePoint site for the monitoring period.

Recommendations:

1. Finalize ACSO Policy 1.14 (and corresponding forms).

1002. As soon as practical, but under no circumstances more than fourteen (14) days after an individual has been identified at Intake or post-intake as having a Psychiatric Disability, the ADA Coordinator and/or her or his staff shall personally meet with each newly identified individual. In the meeting, the ADA Coordinator shall employ effective communication to assist the individual in understanding the rules of the Jail; explain how to request accommodations and what accommodations are available; ensure the individual has access to grievance forms to raise disability-related issues; and inform them that ADA Unit staff are available to assist the individual with disability-related needs. For any person identified as having a Psychiatric Disability who remains in the Jail for more than sixty (60) days, the ADA Coordinator and/or their staff shall meet with the individual to determine if their ADA-related needs are being met and at least every sixty (60) days thereafter. This meeting and any relevant notes regarding accommodation needs shall be documented in writing. Once the ADA Tracking System is implemented, this information shall be documented there.

Finding: Partial Compliance
(Previously rated as “Partial Compliance”)

Policies:

- ACSO Detention and Corrections Policy and Procedure - 1.14 Americans with Disabilities Act (Revision Date: October 31, 2019).
- The revision of policies is still in progress.

Training:

Finalization of related training materials by ACSO is in progress.

Metrics:

- Policy 1.14 Americans with Disabilities Act.
- Policy 10.32 Americans with Disabilities Act (Post Order) (Issued August 28, 2023).
- Completed Records of Contact Forms.
- Compliance Unit Staff Interviews.
- Incarcerated Person Interviews.

Assessment:

Refer to Provision 1000 of the report for a status update regarding ongoing revisions to ACSO Policy 1.14. The draft policy (Section B.9.) states in part, “The ADA Coordinator, or his or her designee assigned to the ADA Unit, shall meet with inmates identified at Intake as having a psychiatric or intellectual disability.” Although there is ongoing dialogue between the Joint Experts and the Parties on the issue, it appears that ACSO has interpreted this provision to mean ADA Unit staff only meet with individuals with SMI, LD, IDI, and DD and that they do not have to meet with individuals who meet the ADA’s definition of psychiatric disability which is also the definition contained in the Consent Decree. As such it appears they are not meeting with people who have non-SMI psychiatric disabilities including individuals with anxiety disorders, post-traumatic stress disorder, substance use disorders, obsessive-compulsive disorders or other disabilities not otherwise covered by SMI, LD, IDI, and DD. As mentioned on pages 4-5, this is still an issue that needs to be resolved. Policy 1.14 further states, “The meeting shall be documented on the ADA Unit Interview Form. This meeting shall occur as soon as practical, but no more than 14 days after identification. The ADA Unit will complete follow-up interviews at intervals of no more than 60 days and document it on the ADA Unit Interview Form with additional documentation on the Record of Contact (504 Form) as needed.”

Policy 10.32 contains the required information (refer to Provision 1001).

Approximately 18 ADA Unit Interview forms and 18 ADA Coordinator Record of Contact forms (504 forms) were selected and reviewed. Forms were completed by the ADA Coordinator for each respective 14-day or 60-day meeting. The ADA Coordinator continues to be thorough during his interviews, including ensuring effective communication is provided, observing their assigned cell (in many cases), and providing key orientation-related information. For example, the documentation shows the purpose of the meetings (14-day initial or 60-day follow-up), disability, accommodation or adaptive support needs, jail rules and information, emergencies, community resources, provided (and explained) Inmate Accommodation Request form and process,

discussed AFBH clinicians (and mental health access), provided (and explained) healthcare (medical and AFBH) request form and process, provided and explained the grievance form and process, and provided and explained the message request form and process. The documentation is consistent with the Expert's observations of several 14-day initial and 60-day follow-up ADA Coordinator interviews.

Based on the documents reviewed, it is believed that the requirements of this CD Provision in terms of the 14-day and 60-day interviews are being satisfied.

In examining the ATIMS weekly ADA unit tracking lists, it is sometimes difficult to assess compliance with some of the timelines for the 14-day and 60-day interviews during the rating period. The tracking list includes columns for "Screen Date" (for disability identification), "Last Contact" date, "Initial Due Date," and "Follow Up" date. For example, on one of the June 2024 tracking lists, for Incarcerated Person XXXXX (SMI), it shows a Screen Date of November 11, 2023; Last Contact Date of May 23, 2024; Initial Due Date of November 25, 2023; and Follow Up of July 22, 2024. However, the information does not show whether 60-day follow-up meetings were conducted between November 25, 2023 (initial 14-day meeting) and May 23, 2024 (date of last contact). Follow-ups should have occurred by January 10, 2024, and by March 10, 2024, and May 9, 2024. These dates are approximate based on 60-day intervals from the actual dates the meetings would have been conducted. The date history of the rating period is not fully maintained. Whether the January and March meetings were conducted cannot be determined. Also, the May 23, 2024 (date of last contact) appears to show that at minimum, the scheduled January and/or March meetings were not conducted within the required 60-day time-period. There was dialogue on this matter with the ADA Unit during the onsite review.

All the incarcerated persons interviewed made positive comments about ADA Unit staff. Some of the related comments/information received from onsite SMI/IDI interviews of incarcerated persons included the following:

- I write Deputy xxxxxx (ADA unit) and he helps
- Deputy xxxxxx (ADA Unit) will help me, or another inmate will help with grievances
- Deputy xxxxxx (ADA Unit) brought me an orientation handbook
- Only Deputy xxxxxx (ADA Unit) helps me with reading and writing
- Most of us will not go to staff for help because most of them will not help us. I go to Deputy xxxxxx (ADA Unit) for help. He is helpful.
- I don't know how to fill out a grievance or understand the process, so I have asked to see Deputy xxxxxx (ADA Unit) for help.
- Deputy xxxxxx (ADA Unit) explains all forms to me

Recommendations:

1. Finalize Policy 1.14 with the requirement for the ADA Coordinator (and/or her or his staff) personally meet with a newly identified incarcerated person who has a psychiatric, intellectual/developmental, or learning disability as soon as practical but within 14 days after arrival or identification at the Intake process, or post-Intake process. Language must include the various requirements as outlined in the Consent Decree. (Note: it is

acknowledged this information is now contained in Policy 10.32 Americans with Disabilities Act Coordinator [Post Order].

2. Once the ADA Tracking System is implemented within ATIMS, the related interview information (14-day initial and subsequent 60-day meetings) must be tracked within the system.
3. Make appropriate modifications to the ADA unit tracking list to better and more easily assess timelines and compliance (for this Provision) of recent/past due dates for ADA Coordinator 14 day and 60-day follow-up interviews.
4. Though not required, it is recommended that a corresponding checklist (of topics/information to be discussed) be part of the ADA Unit Interview form, or at least reference such a checklist to ensure the same topics are always covered during each interview, whether the interviews are conducted by the ADA Coordinator and/or other ADA Unit personnel.
5. It is recommended that a question be asked regarding the individual's reading level. This question could be added to the form (and/or added to a corresponding check list of topics/information).

1003. After the initial ADA training is provided by the ADA Joint Expert, the ADA Coordinator shall be charged with providing ADA-related training to staff and with monitoring programs and work assignments to ensure meaningful access for all individuals with Psychiatric Disabilities.

Finding: Implementation Not Yet Required – Rating N/A

(Previously rated as "Implementation Not Yet Required - Rating N/A")

Policies:

- ACSO Detention and Corrections Policy and Procedure - 1.14 Americans with Disabilities Act (Revision Date: October 31, 2019):
 - Current revision being finalized.
- The revision of policies and training material is still in progress.

Training:

Finalization of related training materials by ACSO is in progress.

Metrics:

- ACSO Detention and Corrections Policy and Procedure - 1.14 Americans with Disabilities Act.
- Email from Defendant's (February 6, 2024).

Assessment:

This Consent Decree rated item continues to be “Implementation Not Yet Required – Rating N/A” at this time.

This is the fifth ADA Joint Expert review in which this provision has been rated as "Implementation Not Yet Required – Rating N/A."

The County provided a draft of the ADA training material for the Expert’s review. The Expert has provided comments, recommendations, and revisions to the training. Additionally, during the onsite monitoring review, the ADA Coordinator (and Compliance Unit) discussed the training, and additional feedback and recommendations were provided. It is understood the training must go through numerous reviews as well as the STC certification process. Currently there is no known estimate as to the timeline for completion of training materials and for the submittal and eventual approval of the lesson plan/training materials.

The ADA Coordinator (and Compliance Unit) has previously reported they currently provide one (1) hour of ADA training to all new staff (custody – academy and lateral transfers) at SRJ via a PowerPoint presentation. They also added that they conduct refresher training to sworn staff (including lieutenants and sergeants).

Once the training curriculum has been finalized and approved, the ADA Joint Expert will provide initial training to all ADA Unit staff, consult on the training to be provided to ACSO staff by the ACSO ADA Unit, and observe initial training(s).

Recommendations:

1. The ACSO must continue to work with the Experts and Class Counsel to provide any further review and input prior to the finalization of the interactive component training materials. The ADA Joint Expert understands this provision is a high priority for ACSO.

1004. The ADA Coordinator shall have sufficient staffing to assist him or her (the “ADA Unit”). ACSO staff assigned to the ADA Unit shall be strongly encouraged to serve in that capacity for at least three years to provide for consistency and to maximize the benefit of the training and expertise of the Custody staff assigned to this unit. During any period where the ADA Coordinator is unavailable for any reason, a sergeant or higher-ranked individual shall fulfill the duties of the ADA Coordinator position until the ADA Coordinator becomes available, or a replacement is appointed to the position. The ADA Coordinator position shall not remain vacant for more than ninety (90) days.

Finding: Substantial Compliance

(Previously rated as “Substantial Compliance”)

Policies:

- ACSO Detention and Corrections Policy and Procedure - 1.14 Americans with Disabilities Act (Revision Date: October 31, 2019):
 - Current revision being finalized.

- The revision of policies is still in progress.

Training:

N/A

Metrics:

- Policy 1.14 Americans with Disabilities Act.
- Policy 10.32 Americans with Disabilities Act Coordinator (Post Order) (Issued August 28, 2023).
- Interviews of ADA Unit Staff.
- Email from Defendant's (February 6, 2024).

Assessment:

The ACSO previously provided a memorandum, titled, "Americans with Disabilities Act ADA Unit Staffing, dated January 22, 2024. The memo states, "The Americans with Disabilities Act (ADA) unit at the Santa Rita Jail is currently staffed by four accredited ADA Coordinators. The Agency members accredited to serve in an ADA capacity are supervised by the Compliance Captain and Compliance Lieutenant. To date, the four ADA Accredited Coordinators are the unit Sergeant, two Sheriff Deputies, and a Sheriff's Technician."

The Compliance Captain also serves as Consent Decree Project Manager; the Compliance Lieutenant currently has ADA, BSCC, and PREA-related duties; the Compliance Sergeant currently has ADA responsibilities; and for the two Compliance Deputies, one serves as the dedicated ADA Coordinator, and one deputy assists the ADA Coordinator and has other ADA and PREA-related responsibilities.

The parties have previously agreed that the ADA Coordinator does not have to be at a sergeant level or higher.

Policy 10.32 Americans with Disabilities Act Coordinator (Post Order) was issued August 28, 2023 and requires the ADA Coordinator position to be dedicated full-time to ADA-related duties and under the supervision of the ADA Sergeant. Refer to the Consent Decree Fourth Status Report for more details regarding encouragement to serve in the role for a minimum of five (5) years, and Compliance Unit supervision.

This provision requires that the ADA Coordinator have "sufficient staffing to assist him or her (the "ADA Unit")." At the present time, it appears the ADA Unit is adequately staffed at this time given the limited number of individuals identified as ADA given ACSO interpretation that they only need to meet with people who are SMI, LD, IDI, and DD and only a limited number of people have been identified so far. It also appears the ADA Unit is up to date on the required 14-day and 60-day meetings with the incarcerated individuals, but there are concerns with the tracking information. Refer to CD 1002 for specific concerns noted.

The County is still in the process of developing and implementing a comprehensive screening/testing process to identify individuals with intellectual disabilities, including their cognitive deficits and adaptive support needs within the jail environment. The ACSO ADA Unit tracking list has had very few individuals listed as “IDI” (intellectually disabled), and very few individuals with identified (or even suspected) learning disabilities. Once the County implements the comprehensive screening/evaluation/testing instruments and processes, there will be an expected rise in numbers which may relate to an increased workload for the ADA Unit. As noted previously, the County appears to not be meeting with all individuals defined by statute as having a psychiatric disability. As stated on pages 4-5, and in earlier provisions of this report, the issue is still being discussed between the Experts and Parties.

The County reported that the ADA Coordinator position was not vacant at any time during the rating period.

Recommendations:

1. Continue to recommend providing a job description for the remaining ADA Unit staff (aside from the ADA Coordinator) position (to also include the civilian Technician position and to identify specific related functions related to the Consent Decree requirements and an estimated percentage of time allotted to the Consent Decree provisions in working with the ADA Coordinator).
 - a. The ACSO must work with the Joint Experts (and Class Counsel) in reviewing, making recommendations, and finalizing any new or revised post orders, job descriptions, duty statements, policies, etc.
2. Either Policy 1.14, the ADA Sergeant’s post order, job description, duty statement, or other policy or documents should indicate the ADA Sergeant’s (or other ADA Unit staff) responsibility to fulfill the duties of the ADA Coordinator position until the ADA Coordinator becomes available, or a replacement is appointed to the position for occasions whereas the regularly assigned ADA Coordinator is unavailable for a-period-of-time. The draft version of Policy 1.14 does not include this language.

1005. Within one (1) year from their initial assignment, all sworn staff assigned as ADA Unit staff, including the ADA Coordinator, shall attend and complete a nationally recognized certificate course designed for ADA coordinators and obtain certification and maintain said certification with updates and continuing education courses. Any replacement ADA Coordinator, interim ADA Coordinator, or sworn staff assigned to the ADA Unit shall obtain their ADA certification within twelve (12) months of starting in the position.

Finding: Partial Compliance
(Previously rated as “Partial Compliance”)

Policies:

- ACSO Detention and Corrections Policy and Procedure – 1.14 Americans with Disabilities Act (Revision Date: October 31, 2019):

- Current revision being finalized.
- The revision of policies is still in progress.

Training: N/A

Metrics:

- Reviewed ACSO Detention and Corrections Policy and Procedure – 1.14 Americans with Disabilities Act.
- Staff interviews (ADA Unit).
- ACSO Memorandum titled, “Americans with Disabilities Act Unit Staffing” (dated January 22, 2024).

Assessment:

As outlined in Provision 1004, and as part of document production, ACSO provided a memorandum, titled, “Americans with Disabilities Act ADA Unit Staffing, dated January 22, 2024. The memo states, “The Americans with Disabilities act (ADA) unit at the Santa Rita Jail is currently staffed by four accredited ADA Coordinators.”

ACSO previously provided the following proof of certification (completion of the University of Missouri ADA Coordinator Training Certification Program):

- ADA Unit Sergeant: Effective July 5, 2023.
- ADA Unit Coordinator:
 - Effective October 28, 2019 (initial certification).
 - Re-certification 2022.
 - Re-certification 2023.
- ADA Unit Deputy:
 - July 5, 2023.

A new Lieutenant was recently assigned to the Compliance Management Unit. Per the Consent Decree, ADA Unit staff must complete the training within 12 months of assuming the duties. The newly assigned lieutenant provided the following information to his respective role with the ACSO ADA Coordinator/ADA Unit, “Due to the departure of Lieutenant xxxxxxxx, I have taken over as the manager of the Compliance Management Unit (CMU). I oversee the implementation of the consent decree, the ADA Unit, and act as the agency PREA coordinator. As the CMU Lieutenant, I receive input from the members of the ADA Unit and assist the ADA coordinator when information needs to be presented through the chain of command.”

Over the next 12-month period, the Expert will monitor the newly assigned lieutenant’s efforts toward commencing and completing a recognized ADA Coordinator Certification course.

Recommendations:

- 1) Ensure the newly hired lieutenant (that oversees the CMU [inclusive of ADA Unit]) commences and ultimately completes the ADA certification within 12 months.
- 2) ADA Unit staff should provide proof of practice for continuing education courses or re-certification.

Effective Communication

1006. In consultation with the ADA Joint Expert, and in accordance with Section IV(A), Defendants shall develop and implement policies and practices to ensure effective communication ("Effective Communication policy") with individuals with Psychiatric Disabilities at Intake and in due process events (e.g., grievance processes, classification processes, disciplinary processes, pre-release processes, and conditions of release process), religious activities, vocational and educational programs, and clinical encounters including mental health appointments. The Effective Communication policy shall include, at a minimum, processes for:

- (a) identifying individuals whose cognitive, intellectual, or developmental disability pose barriers to comprehension or communication.**
- (b) promptly providing reasonable accommodation(s) to overcome the communication barrier(s); and**
- (c) documenting the communication including the method used to achieve effective communication and how the relevant staff person determined that the individual understood the encounter, process, and/or proceeding.**

Finding: Partial Compliance

(Previously rated as "Partial Compliance").

Policies:

- ACSO Detention and Corrections Policy and Procedure - 1.14 Americans with Disabilities Act (Revision Date: October 31, 2019):
 - Current revision being finalized.
- ACSO Policy 9.11 Effective Communication (Revision Date February 6, 2024).
- AFBH Effective Communication Policy 407-2-4 (Date of Original Approval July 8, 2024)
- The revision of policies is still in progress.

Training:

Finalization of related training materials by ACSO is in progress.

Metrics:

- ACSO Detention and Corrections Policy and Procedure - 1.14 Americans with Disabilities Act.
- ACSO Policy 9.11 Effective Communication
- AFBH Effective Communication Policy

- Staff interviews (from multiple custody and non-custody disciplines).

Assessment:

Refer to Provision 1001 of the report regarding the status of the draft ACSO Policy 1.14 Americans with Disabilities Act.

The County has made progress in the initial development, implementation, and pending revision to the ACSO Effective Communication Policy. ACSO Policy 9.11 Effective Communication (EC) identifies EC techniques and cites examples of applicable types of encounters for use, documentation, and tracking. Refer to Provision 1000 of the report for more detailed information.

The new AFBH Effective Communication Policy 407-2-24, Policy Section states in part, “It is the obligation of AFBH staff at the SRJ to achieve effective communication with all clients protected under the ADA Act.”

The Procedure Section states in part, “AFBH Clinicians.... Shall review the most recent BIA and CMHA in the Clinician’s Gateway (CG) for possible Effective Communication (EC) needs based on documentation of any of the following conditions or history:

- ID – Intellectual Disability
- DD – Developmental Disability
- LD – Learning Disability
- SMI – Severe Mental Illness
- Cognitive Disability
- Impairments of Hearing, Language, Speech, or Vision”

The procedure further covers reviewing ATIMS, EC documentation (i.e., documenting relevant information and complete or update AFBH Effective Communication Support Form); sending the AFBH Effective Communication Support Form to AFBH clerical staff; and documenting in the EC section box of the Clinician Gateway (CG) Progress Note before finalizing in the Clinician’s Gateway note:

- Check box:
 - EC Reached / EC Not Reached / Why Not? _____
 - Psychologist referral sent to Psychologist.

Policy language also covers assistance methods to be utilized e.g., repeating statements, speaking in simpler term, etc.; tracking and processing EC data (including in ATIMS with EC flag alerts); staff training.

Except for ADA Coordinator Record of Contact forms and ADA Unit Interview forms, the County did not produce documentation to demonstrate that EC is being provided and documented during disciplinary processes and hearing summaries; classification encounters; pre-release encounters; religious activities; and academic/vocational education processes.

If uploading such documents would be deemed to be too labor intensive, for the next scheduled monitoring review (and for subsequent reviews) the Expert is open to viewing such documentation on site (random sampling chosen by the Expert) rather than through the document production process. Regarding health care progress notes, the Expert will select a manageable number of cases to review within the GC progress notes.

For the ACSO documents provided, of the approximate 18 ADA Coordinator Record of Contact forms and 18 ADA Unit Interview forms completed by the ADA Unit, EC was appropriately provided and documented for all 18 cases.

Of the approximate 34 grievances/grievance responses reviewed, 20 were marked as "SMI" on the grievance form. None of the grievance responses indicated there was an interview, therefore there was no requirement to document EC. Of note, there was one (1) case (Grievance Tracking Log Number XXX) for an individual that is listed on the ADA Unit tracking list as "IDI." There is a question as to whether EC should have been provided and documented when the grievance response was delivered to the individual. Most incarcerated persons identified as IDI have individualized identified adaptive support needs. One of the most common adaptive deficits is difficulty reading/writing/comprehending. This individual's identified adaptive supports needs did not list reading, writing, and/or comprehending, but rather pertained to "needs self-care reminders, additional time, and victimization risk." It is unclear whether the "additional time" needed pertained to listening, understanding, and reacting, and/or pertained to reading and comprehending. At minimum in this case staff should have at least ascertained whether there were EC concerns in reading and understanding the grievance response. Otherwise, there were no concerns noted as related to EC within the grievance process.

Recommendations:

- 1) For the next monitoring period, ACSO must provide completed copies of the "Documentation of Effective Communication" form (or other applicable documentation) for all applicable encounters (e.g., disciplinary reports/processes and hearing summaries; face to face classification encounters; face to face pre-release encounters; religious activities; and face to face academic/vocational education processes).
 - a. At minimum the documentation should identify the individuals with psychiatric, intellectual or learning disabilities, the type of encounter, the date of the encounter, acknowledgment of effective communication needs and what accommodations were provided (types/methods of accommodations to achieve effectiveness), whether the individual understood/communication was effective, and how the staff member determined the method(s) used was effective.
 - b. As stated within this Provision if uploading such documents would be deemed to be too labor intensive, the Expert is open to viewing such documentation on site (random sampling chosen by the Expert) rather than through the document production process. The Expert will review a sampling of the GC progress notes while onsite for the next scheduled monitoring review.
- 2) Although AFBH's new Effective Communication Policy 407-2-4 appears to contain required language, the policy should be reviewed to allow for any feedback or recommendations by the Experts and Plaintiffs' Counsel.

1007. For those individuals with a SMI diagnosis or a cognitive, intellectual, or developmental disability, who have effective communications needs, the ADA Unit shall meet with the individual in advance of any disciplinary hearing that may result in an increase in security level and/or placement in more restrictive housing. In order to provide Effective Communication, the ADA Unit shall discuss the upcoming event with the individual and ensure they are able to understand, participate, and communicate effectively.

Finding: Non-Compliance
(Previously rated as “Non-Compliance”)

Policies:

- ACSO Detention and Corrections Policy and Procedure - 1.14 Americans with Disabilities Act (Revision Date: October 31, 2019):
 - Current revision being finalized.
- ACSO Policy 10.32 Americans with Disabilities Act Coordinator (Post Order) (Issued Date: August 28, 2023).
- ACSO Policy 16.01. Disciplinary Procedure (Revision Date: July 11, 2022)
- The revision of policies is still in progress.

Training:

Finalization of related training materials by ACSO is in progress.

Metrics:

- Policy 1.14 Americans with Disabilities Act.
- Staff interviews (custody [including ADA Unit] and non-custody staff from multiple disciplines.

Assessment:

ACSO Policy 9.11 Effective Communication identifies EC techniques and cites examples of applicable types of encounters for use, documentation, and tracking.

Draft ACSO Policy 9.11 Section I. (Disciplinary Process) states in part, “Agency members assigned to the ADA Unit shall meet with inmates designated as SMI or IDI with effective communication needs prior to any disciplinary hearing which may result in an increase in security classification and/or placement in Restrictive Housing. The purpose of this meeting is to ensure the inmate understands and can participate in the disciplinary process, and to ensure the inmate is able to effectively communicate with the Inmate Disciplinary Hearing Officer. The meeting shall

be documented on the Documentation of Effective Communication form.”¹ The policy also references Policy 16.01. Disciplinary Procedure.

ACSO Policy 10.32 Americans with Disabilities Act Coordinator (Post Order) contains required language (Section G. Disciplinary Incidents).

As noted within provision 1002 of the report, approximately 18 completed Record of Contact Forms and about 18 completed Effective Communication Forms were reviewed. However, there was no documentation provided to confirm whether the ADA Unit staff met with incarcerated persons with psychiatric, intellectual/developmental, or learning disabilities prior to disciplinary hearings that could result in an increase in security level and/or placement in more restrictive housing.

While onsite, ADA Unit staff conveyed that they are only made aware of upcoming disciplinary hearings (for SMI/IDI/LD persons) weekly at the restrictive housing meetings. They reported that disciplinary hearing officials only have 48 hours to conduct disciplinary hearings. Reportedly, when ADA Unit staff are apprised of updated disciplinary hearing information/schedules, it is sometimes too late as a respective hearing may have already taken place or there may not be sufficient time to interview the charged individual in a timely manner. There must be a process in place to ensure that ADA Unit staff are informed as soon as disciplinary reports are written and logged into the disciplinary tracking component. Reportedly, there has been some positive movement with this requirement as ADA Unit staff stated they have recently begun conducting interviews with SMI/IDI/LD persons prior to disciplinary hearings being conducted. But again, admittedly some interviews are not taking place for the reason cited above. Further, there was no documentation provided for the cases when such interviews were reportedly completed.

Recommendations:

- 1) The ACSO must develop a system to notify ADA Unit staff of upcoming disciplinary hearings, and notification must be as soon as the disciplinary reports are written or logged into the disciplinary tracking component.
- 2) For future monitoring tours, the ACSO must provide completed Record of Contact Forms, and Documentation of Effective Communication forms (or other relevant documentation) demonstrating proof of practice for this Provision.

Intake & Orientation

1008. In consultation with the ADA Joint Expert, Defendants shall develop and implement healthcare screening questions in order to identify individuals with intellectual, developmental, psychiatric, or learning disabilities. These healthcare screening questions shall be asked of all newly booked persons and conducted in a reasonably confidential setting. If the initial screening identifies a possible intellectual, developmental, psychiatric, or learning disability, the individual shall be referred to a Qualified Mental Health Professional, including a Licensed Clinical Psychologist where appropriate, for a

¹ The draft policy is pending finalization.

secondary screening and assessment to occur within sixty (60) days of booking. In the context of learning disabilities, the referral may be made to an appropriately qualified community provider, such as 5 Keys, for screening using a screening tool such as the Test of Adult Basic Education to occur within fourteen (14) days of booking. The date of the assessment, the nature of the individual’s disability, and any accommodations authorized for the incarcerated person shall be promptly documented in the ADA Tracking System.

Finding: Non-compliance
(Previously rated as “Non-Compliance”)

Policies:

- ACSO Detention and Corrections Policy and Procedure - 1.14 Americans with Disabilities Act (Revision Date: October 31, 2019):
 - Current revision being finalized.
- ACSO Detention and Corrections Policy and Procedure - 11.02 Intake Procedure (Revision Date: December 1, 2019).
- ACSO Detention and Corrections Policy and Procedure - 13.02 Inmate Medical/Health Appraisal Screening, Special Clinics, Communicable Diseases, Quarantines, and Terminally Ill Inmates (Revision Date: October 20, 2020).
- The revision of policies is still in progress.

Training:

Finalization of related training materials by ACSO is in progress.

Metrics:

- Policy 1.14 Americans with Disabilities Act.
- Policy 11.02 Intake Procedure.
- Policy 13.02 Inmate Medical/Health Appraisal Screening, Special Clinics, Communicable Diseases, Quarantines, and Terminally Ill Inmates.
- ACSO Memorandum, titled, “Identification of Intellectual and Learning Disabilities” (dated January 25, 2024).
- Staff interviews (e.g., ITR and other areas).
- Observed the Custody Intake Screening process by an Intake Deputy (Note: observed during the first Joint Expert onsite review in February 2022).
- Observed the Behavioral Health Intake Screening process by a Marriage and Family Therapist (MFT).
- Observed the Medical Intake Screening process by a Nurse.
- A blank copy of Alameda County Behavioral Health Care Services Adult Forensic Behavioral Health (Santa Rita Jail) Brief Clinical Assessment Form.
- A blank copy of two (2) page Alameda County Sheriff’s Office Intake/Receiving Screening Form (PD-803) (Revised July 8, 2019).

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- A blank copy of Alameda County Behavioral Health Adult Forensic Behavioral Health Suicide Risk Assessment.
 - A blank copy of Behavioral Referral Form 1312 (while onsite for the monitoring tour).
 - Blank example of the Tracking Form DD 534 (while onsite for the monitoring tour).
 - Blank example of the Inmate Disability Evaluation Form (while onsite for the monitoring tour).
 - A blank copy of eight (8) page medical contract provider (Wellpath) Receiving Screening Alameda County Questionnaire.
 - A blank copy of the Intake/Receiving Screening Form.
 - A blank copy of the Classification Screening Form.
 - Separate lists of BHI incarcerated persons.
 - List of BHI, Cognitive (also described as "IDI") and Learning-Disabled Incarcerated Persons.
 - January 2022 Armstrong v. Newsom Lists (from CDCR DAPO)
(Note: no such lists [subsequent to January] were provided for review).
 - Five-Keys (School and Programs) Continuing Student Demographics Form
(Note: observed during the first Joint Expert on-site review in February 2022).
 - Five-Keys (School and Programs) Student Enrollment Form
(Note: observed during the first Joint Expert on-site review in February 2022).

Assessment:

Neither policy 11.02 nor 13.02 have been revised since the versions as outlined in the bulleted policies listed above. Policy 1.14 Americans with Disabilities Act is undergoing further revision and is expected to be finalized soon.

Wellpath previously provided the following documents for review and comment. The Experts provided comments; however, the status is unclear whether these documents have been finalized or implemented.

- Draft HCD-100_X-01 Adaptive Support Needs Policy.
- Draft Adaptive Support Needs Flow Chart.
- Draft Wellpath Support Needs Screening.

The ACSO previously provided a memorandum titled, "Identification of Intellectual and Learning Disabilities" (dated January 25, 2024). The memo states in part, "At the current time there is no system in place to screen incarcerated persons for intellectual or learning disabilities. This is a process that will need to be developed in conjunction with Alameda County's Behavioral Health and education service providers. Once a screening tool is developed and implemented, a referral process will be included in the system to ensure the Americans with Disabilities Act Coordinator is notified and can track those individuals and advocate for them as appropriate." The initial and secondary screening tools and assessments, timelines and appropriate employee classifications to perform the services has been discussed at past monitoring tours between the Expert, the parties, ACSO, AFBH, and the Wellpath staff.

At the Entrance meeting for this monitoring review, AFBH introduced Dr. XXXXXX as the AFBH ADA Compliance Psychologist who will be involved in developing and implementing the secondary testing for those identified as possibly having an intellectual disability. There have also been internal chart reviews and internal dialogue in working toward development of the ADA tracking of adaptive support and plans. At the time of the Entrance meeting, Dr. XXXXXX stated they would be reviewing the AFBH draft policy “very soon.” Note: the draft is reportedly not ready for review by the Experts or Plaintiff’s Counsel. Lastly, when asked whether there is an automatic referral process in place for potential IDI testing, the response was, “Not currently.”

As mentioned in previous reports and outlined in greater detail within the Expert’s initial report, the ADA Joint Expert reviewed the Wellpath Receiving Screening Alameda County Questionnaire and asked pertinent questions of contract medical provider Wellpath personnel. The staff mentioned the completion of an ADA Assessment Form, electronic entering of such information into ATIMS, CorEMR, and the Gateway systems, behavioral health referrals, and weekly multidisciplinary meetings.

The ACSO is working on the development of a real-time networked ADA Tracking System, specifically by enhancing the existing ATIMS system. Refer to Provision 1015 of the report for more detailed information.

The ACSO/AFBH/5-Keys personnel must have a means to accurately document the dates and types of assessments for an individual being assessed/tested/evaluated, the nature of an individual’s disability, and any reasonable accommodations required or needed for the incarcerated person. To the extent feasible and until the new tracking system is implemented, appropriate staff must document the assessments, findings, and the incarcerated person’s accommodation needs to show proof of practice. This documentation must be available for future reviews.

The ACSO provided weekly ADA Unit ADA Tracking Lists for the rating period. Two (2) particular weeks during the month of June 2024 were chosen for review. None of the information showed that any of the 54 incarcerated persons (named on week 1 list) or 59 (named on week 2 list) assigned SMI status had any specific or general reasonable accommodation needs listed. The Expert understands that not all SMI individuals may have specific identified reasonable accommodation needs. To the extent AFBH has identified required accommodations, the ADA Unit staff must ensure the information is contained within the ADA Unit ATIMS tracking system. Both tracking lists included adaptive support needs information for all five (5) or eight (8) persons identified as “IDI” (on week 1 and week 2 lists, respectively).

The lone exception is there were no adaptive support needs or reasonable accommodation needs identified for an individual identified as “Autistic.” It is presumed that all five (5) or eight (8) individuals identified (from the two [2] tracking lists) was due to Developmentally Disabled Person (DDP) information received from the California Department of Corrections and Rehabilitation (CDCR), or perhaps identified as being a prior regional center consumer. An example of the listed adaptive support needs from one (1) of the weekly ADA Unit tracking list reviewed for five (5) IDI persons includes:

- IDI Person #1
 - “May need self-care reminders and assistance; speak simply, slowly, clearly; repeat/rephrase; may need additional time”
- IDI Person #2
 - “Needs self-care reminders; additional time; victimization concerns”
- IDI Person #3
 - “Autistic”
- IDI Person #4
 - “May need self-care reminders and assistance; speak simply, slowly, clearly; repeat/rephrase; may need additional time”
- IDI Person #5
 - “May need help with forms; self-care reminders and assistance”

Recommendations:

- 1) Keep the Experts apprised as to progress with development of the secondary IDI screening/testing/evaluation process; any enhancement to the initial screening process (IDI/LD), and the LD identification process.
- 2) Continue to provide updates regarding the enhanced ATIMS tracking system, including having the system functionality to identify SMI, IDI, and LD individuals, and for staff to log pertinent information as appropriate, e.g., assessment results, monitoring and provision of adaptive supports or reasonable accommodations.

1009. Individuals identified at Intake as having a Psychiatric Disability shall be referred to the ADA Unit for follow-up as described in Section III(J)(1). Individuals not identified as having Psychiatric Disability at Intake may request a post-intake assessment at any time after they are processed into the Jail. Staff may also refer individuals for a post-intake assessment. Individuals shall also be referred for an assessment where there is documentation of a Psychiatric Disability in the individual's health record or prior correctional records or where a third party, such as an individual's community mental health provider or family member, where appropriate, makes a request for an assessment on the individual's behalf.

Finding: Partial Compliance

(Previously rated as "Non-Compliance")

Policies:

- ACSO Detention and Corrections Policy and Procedure - 1.14 Americans with Disabilities Act (Revision Date: October 31, 2019):
 - Current revision being finalized.
- ACSO Detention and Corrections Policy and Procedure - 11.01 Introduction to Intake, Transfer, Release, and Records (Revision Date March 1, 2020).
- ACSO Detention and Corrections Policy and Procedure - 11.02 Intake Procedure (Revision Date December 1, 2019).

- The revision of policies is still in progress.

Training:

Finalization of related training materials by ACSO is in progress.

Metrics:

- Policy 1.14 Americans with Disabilities Act.
- Policy 11.01 Introduction to Intake, Transfer, Release, and Records.
- Policy 11.02 Intake Procedure.
- Post Order 10.32 Americans with Disabilities Act Coordinator.
- Blank example of Inmate Disability Evaluation Form (Revised April 2022).
- Staff Interviews (custody and non-custody staff from multiple disciplines).

Assessment:

Applicable policies 11.01, and 11.02 have not been revised since the previous review, and do not contain information pertaining to referrals (e.g., healthcare staff, custody staff, third party, etc.) to the ADA Unit or regarding post Intake assessments.

The Expert's initial report cited Policy 1.14 pertaining to medical screening, disability identification, and both the Pre-Booking Medical/Mental Health Screening Form and Inmate Disability Evaluation Form. Policy 1.14 though last revised on February 6, 2024, is currently undergoing further revisions and is expected to be finalized by the next reporting period.

The current draft version of Policy 1.14 (Sections A.1, A.12, and B.9) contains relevant language.

This provision requires the ADA Unit to follow up with individuals with Psychiatric Disabilities pursuant to the requirements in III.J.1 (e.g., meeting within 14 days, follow up at least every 60 days thereafter). As noted earlier in this report, the ADA Unit has been meeting with incarcerated persons identified as SMI and IDI.

The ADA Unit staff continue to maintain that referrals to the ADA Unit are not received often, but they follow-up and meet with the individual, document the meeting on the Record of Contact Form (504), and ensure AFBH staff are seeing the person as needed. Six (6) Behavioral Health Referral forms were selected and reviewed. The ADA Unit staff conducted face-to-face interviews with SMI persons for the initial 14-day interviews or for other purposes. Some of the concerns noted on the AFBH referral included:

- Bizarre and/or aggressive behavior, refusal to take prescribed psychotropic medications.
- PREA concerns.
- Refusal to meet with AFBH professionals.

These referrals appear to be ADA Unit staff referring to AFBH; however, it is somewhat unclear. The six (6) forms reviewed were signed by ADA Unit staff (not AFBH or Intake or Orientation

personnel). It is also unclear whether the ADA Unit staff conducted the interviews based on referrals from AFBH, Intake, Orientation personnel, or referrals from other staff for as a post-Intake assessment. It stands to reason that this is the case; however, the referral forms do not indicate such.

Referral interviews are being conducted, but clarification is needed regarding who is conducting the interview and more so, staff completing the referral and what prompted the referral interview.

Recommendations:

- 1) Provide clarification as to who (which division/entity) is conducting the interview and more so, where the referral was initiated and what prompted the referral interview (e.g., AFBH, Intake, Orientation staff, or other staff such as for a post-Intake assessment). There must be documented tracking of this information.

1010. During Intake, Defendants shall provide all incarcerated persons with a copy of the Jail handbook and any other orientation materials, including instructions on how to request disability-related accommodations, how to contact the ADA Coordinator, and how to file a grievance regarding ADA-related issues. Upon request, ACSO staff shall provide Effective Communication and assist incarcerated persons with Psychiatric Disabilities in understanding the rulebook and orientation materials. Where an individual has been flagged as having a severe cognitive, developmental, or intellectual disability, regardless of whether assistance is requested, ADA Unit Staff shall assist the individual in understanding the rules of the Jail.

Finding: Substantial Compliance
(Previously rated as "Substantial Compliance")

Based on two (2) consecutive findings of Substantial Compliance, the Expert recommends monitoring be suspended for this Provision.

Policies:

- ACSO Detention and Corrections Policy and Procedure - 1.14 Americans with Disabilities Act (Revision Date: October 31, 2019):
 - Current revision being finalized.
- ACSO Detention and Corrections Policy and Procedure - 18.03 Inmate Orientation (Revision Date October 30, 2020).
- The revision of policies is still in progress.

Training:

- Finalization of related training materials by ACSO is in progress.

Metrics:

- ACSO Detention and Corrections Policy and Procedure - 1.14 Americans with Disabilities.
- ACSO Detention and Corrections Policy and Procedure - 18.03 Inmate Orientation.
- ACSO Inmate Rules and Information (Orientation Handbook – revised January 2023).
- Staff Interviews.
- Incarcerated Person interviews.
- Observed Intake Deputy Issue Inmate Rules and Information (Jail Orientation Handbook) during Intake process (from Joint Experts initial On-site review).

Assessment:

ACSO Policy 18.03 Inmate Orientation has not been revised since the previous monitoring tour. The ACSO Inmate Rules and Information (Jail Handbook) was last revised on June 21, 2023.

Policy 18.03 addresses the Orientation video, including a description of the grievance procedure and where and when the video will be aired. The policy further requires that incarcerated persons receive the Inmate Rules and Information booklet, which includes information on inmate programs, services, and activities.

The previous report outlines the ACSO Inmate Rules and Information (Orientation Jail Handbook) in detail. The document has not been revised since the previous report.

Staff, including Intake staff, continue to maintain that the Inmate Rules and Information (Jail Orientation Handbook) is provided (or at least offered) to all new arrivals via hard copy and is available on the electronic tablet. Reportedly, incarcerated persons can also request another hard copy from an agency member and/or through the message request process. Staff also still contend that all new arrivals are required to sign an Intake Classification Form that acknowledges receipt (or offering) of the Orientation Jail Handbook.

Five (5) of the seven (7) incarcerated persons interviewed did not have any concerns regarding Orientation. One (1) individual stated that he initially didn't receive an orientation handbook, but soon received one from an ADA Unit deputy. A second individual claimed she never received the handbook.

While onsite, the Expert randomly selected the names of five (5) incarcerated person names from the ATIMS ADA Unit Tracking List and confirmed electronically (through Classification staff) that all five (5) cases confirmed signing a receipt for the information.

As identified earlier in this report, and as documented in numerous Record of Contact Forms and/or ADA Unit Interview forms, during the 14-day initial meetings, follow-up 60-day interviews and during AFBH referral interviews, the ADA Unit staff are consistent with appropriately documenting that they inform incarcerated persons how to request disability-related accommodations, how to contact the ADA Coordinator, and how to file a grievance regarding ADA-related issues, as well as many other topics. Documentation also confirms ACSO staff provide Effective Communication and assist incarcerated persons with Psychiatric Disabilities in understanding the rulebook and orientation materials, and the rules of the Jail.

Recommendations:

None

Provision of Reasonable Modifications

1011. Defendants shall provide reasonable modifications and accommodations as necessary to ensure that qualified individuals with Psychiatric Disabilities have equal access to programs, services, and activities that are available to similarly situated individuals without disabilities. The process for submitting ADA-related requests for modifications and accommodations is contained in Section III(J)(9)(a). The specific type of modification required shall be based on an individualized assessment of the needs of the individual and the program, service, or activity at issue. In the context of vocational programs, the assessment shall also take into account the essential job functions and whether the individual can meet those functions with reasonable modifications.

Finding: Partial Compliance

(Previously rated as "Partial Compliance")

Policies:

- ACSO Detention and Corrections Policy and Procedure - 1.14 Americans with Disabilities Act (Revision Date: October 31, 2019).
 - Current revision being finalized:
- The revision of policies is still in progress.

Training:

Finalization of related training materials by ACSO is in progress.

Metrics:

- Policy 1.14 American with Disabilities Act.
- Completed Disability Accommodation Request Forms.
- Record of Contact Forms.
- Staff Interviews.
- Incarcerated Person Interviews.

Assessment:

The draft ACSO Policy 1.14 includes information pertaining to reasonable accommodation; ADA Coordinator Review Form (and its purpose); Record of Contact Form (and its use); message request process, disciplinary process, grievance process, and Effective Communication.

ACSO has indicated that the applicable forms are in use by incarcerated persons and/or staff (depending on the specific form). The County provided copies of ADA Grievances (including Requests for ADA Accommodations or Modifications), and Disability Accommodation Request Forms. The County did not produce any ADA Coordinator Review Forms. Note: It is unclear whether this form is actively used by the ADA Coordinator.

As detailed earlier in the report, based on approximately 18 Record of Contact Forms (504s) and 18 ADA Unit Interview forms reviewed, it was confirmed that ADA Unit staff explain and effectively communicate the accommodation request and general request forms and processes during the 14-day initial meetings. ADA Unit deputies provide assistance to identified SMI/IDI/LD persons as requested or needed. Also, while onsite, a few completed examples of message request forms and ADA Unit staff responses were reviewed, and it was confirmed general ADA-related accommodations are provided.

Six (6) disability accommodation request forms (and corresponding staff responses) were reviewed. This is encouraging as only one (1) was submitted for the previous monitoring period. To clarify, the encouragement is not based on more SMI/IDI/LD individuals feeling the need to submit such forms, or that a few more were submitted, but rather it appears that more individuals are becoming aware of the form and its intended purpose. ADA Unit staff discusses the form (as well as other forms such as the grievance and message request forms), the purpose of the form(s), and provide copies of the form(s) during their initial 14-day interviews.

Though the comments/complaints could not be verified or refuted, some of the verbal comments/concerns received from the seven (7) incarcerated persons interviewed regarding message requests, disability accommodation requests, or grievances included the following:

- I need help writing message requests (IDI person);
- Some staff are helpful, and some are not;
- I usually go to other “inmates” for help;
- Sometimes I go to Deputy xxxxxx (ADA Unit);
- Message requests for the regular library takes a month;
- I have never heard of message request, grievance, or ADA Accommodation forms;
- I need Deputy xxxxx (ADA Unit) to explain and help me with all forms;
- Staff are slow to respond to message requests;
- I understand the message request process, but I don’t understand the grievance process.

ACSO has not provided any documentation, policy, or other evidence to demonstrate whether incarcerated person job descriptions (e.g., for regular work assignments or for vocational education assignments) have been written and approved and contain related essential function information.

Recommendations:

- 1) For future monitoring tours, the ACSO must provide completed copies the ADA Coordinator Review form or provide clarification as to whether this form is actively being used by ADA Unit staff.
- 2) Provide completed copies of Message Request forms (for ADA-related Accommodations or Modifications) as pertaining to ADA issues and maintained by the ADA Coordinator.
- 3) Provide a status for development of job descriptions inclusive of essential functions for each respective incarcerated person's job assignment.

1012. Examples of possible reasonable modifications/accommodations include, but are not limited to, providing Effective Communication, designated therapeutic and/or protective housing unit appropriate counseling/therapy (group and individual), reliable access to necessary medications, Qualified Mental Health Professional input prior to removing privileges and/or otherwise imposing discipline, and any modifications necessary to ensure equal access to programs.

Finding: Partial Compliance

(Previously rated as "Partial Compliance")

Policies:

- ACSO Detention and Corrections Policy and Procedure - 1.14 Americans with Disabilities Act (Revision Date: October 31, 2019):
 - Current revision being finalized:
- ACSO Policy 9.11 Effective Communication (issued February 6, 2024).
- The revision of policies is still in progress.

Training:

Finalization of related training materials by ACSO is in progress.

Metrics:

- Policy 1.14 Americans with Disabilities Act.
- Staff Interviews (custody and non-custody staff from multiple disciplines).
- Incarcerated Person Interviews.

Assessment:

The ACSO continues to work with the ATIMS vendor on enhancing the ATIMS to serve as a real-time networked tracking system to capture all applicable Consent Decree Provision requirements. All three (3) deputies interviewed during the onsite review indicated they are familiar with the JMS ATIMS system and explained the ADA alerts and how to find the disability and accommodation-related information.

All sworn and non-sworn staff interviewed (housing deputies, intake healthcare staff, and classification staff) indicated they effectively communicate with individuals identified as SMI and IDI but admitted they don't generally document Effective Communication. Revised ACSO Policy 9.11 Effective Communication (issued February 6, 2024), was only recently implemented, and AFBH implemented their new EC policy after the monitoring review period for this tour (July 2024).

Most of the staff interviewed indicated they provide EC and assistance if asked, or if they see a need, but are not necessarily documenting it. However, the deputies realize that providing and documenting EC are relatively new requirements, and they are prepared to do so.

The deputies interviewed cited they identify who their assigned SMI/IDI/LD persons are and what their accommodation needs are through ATIMS flag alerts; they assist in reading or writing grievances or message requests (except for grievances that are against themselves); explain rules, processes, instructions (and have done so on many occasions); provide incarcerated persons with orientation information, high-level overview of housing unit operations, and ensure EC is established in the process.

As stated earlier in this report, for future monitoring reviews the County must provide documented proof of EC (not just for ADA Unit staff).

Refer to CD Provision 509 for related information pertaining to Qualified Mental Health Professional input prior to hearing officials removing privileges and/or otherwise imposing discipline.

Recommendations:

- 1) Staff must have access to a real-time networked tracking system (list) that outlines general reasonable accommodations needs.
- 2) ACSO must provide proof of practice documentation to capture the accommodations/modifications that are being provided by custody and non-custody staff.
- 3) Refer to recommendations in CD Provision 509.

1013. For individuals with learning-related disabilities, possible reasonable accommodations may include, but are not limited to, providing notetakers, providing extra time to allow the individual to understand instructions/forms and repeating and/or clarifying as needed, or explaining how to fill out written forms (ADA request for Accommodations, Grievance, and Appeal forms) and/or in using the electronic tablets including providing assistance if needed.

Finding: Partial Compliance
(Previously rated as "Partial Compliance")

Policies:

-
- ACSO Detention and Corrections Policy and Procedure - 1.14 Americans with Disabilities Act (Revision Date: October 31, 2019).
 - Current revision being finalized:
 - ACSO Detention and Corrections Policy and Procedure - 18.09 Educational Program Planning (Revision Date December 1, 2019).
 - ACSO Memorandum, titled, "Identification of Intellectual and Learning Disabilities" (dated January 25, 2024).
 - AFBH Effective Communication Policy 407-2-4 (Date of Original Approval July 8, 2024).
 - The revision of policies is still in progress.

Training:

Finalization of related training materials by ACSO is in progress.

Metrics:

- ACSO Detention and Corrections Policy and Procedure - 1.14 Americans with Disabilities Act.
- ACSO Policy 9.11 Effective Communication
- AFBH Policy 407-2-4.
- The ADA Unit Interview Form.
- JMS ATIMS ADA Unit ADA Tracking List.
- ACSO Staff Interviews.
- Incarcerated Person Interviews.

Assessment:

Policy 18.09 Education Program Planning has not been revised since the inception of monitoring.

As noted earlier, Policy 1.14 was last revised in early 2024, and is pending finalization.

The ACSO Policy 9.11 Effective Communication has now been implemented, as has the AFBH Effective Communication Policy 04-2-4. Refer to Provision 1006 for more detail.

The ADA Unit Interview Form (as identified earlier and listed in Policy 9.11 as an attachment) contains numerous check boxes pertaining to Effective Communication (including for learning disabilities).

The ACSO previously provided a memorandum, titled, "Identification of Intellectual and Learning Disabilities" (dated January 25, 2024). The memo identifies there is no existing process for IDI or LD screening and that a process is being developed. It further identifies that a referral process will be included regarding the ADA Coordinator and tracking information and accommodations provided. Refer to the Consent Decree Fourth Status Report for more details.

The ACSO identifies learning-disabled individuals as "IDI." The majority of the individuals currently identified as "IDI" are intellectually disabled, and ACSO received the information either from CDCR or from a Regional Center where an individual was a previous consumer. The JMS ATIMS ADA Unit Tracking List also identifies learning-disabled individuals as "IDI." It is recommended that learning-disabled incarcerated persons be identified as learning-disabled (LD). Though there may be some similarities regarding required accommodation for IDI and LD, for the most part, there will be differing types of accommodation needs for learning-disabled individuals versus intellectually disabled incarcerated persons. The two (2) JMS ATIMS ADA Unit tracking lists reviewed for June 2024, and the list reviewed for February 2024, included between five (5) – eight (8) individuals as "IDI", and none from the lists were identified as LD.

The ADA Joint Expert interviewed a CTE instructor who provided the following information:

- Teaches/facilitates substance abuse, anger management, OSHA 10 (for instructors), first aid and CPR.
- Conducts bi-monthly meetings where some cases are brought to the instructor's attention. However, instructors don't have a list or an ATIMS ADA list of SMI, IDI, or LD students.
- He is currently unaware of any SMI, IDI, or LD students unless he works with individuals housed in behavioral health housing.
- If students indicate they have accommodation needs, he emails Inmate Services. He claims he has done that in the past, but it has mainly been for language barriers, not necessarily for ADA accommodation needs.
- Special education teachers "come through" at least every couple of weeks, but he doesn't know what they do. They have a list of specific students they to plan to see while onsite.
 - He has accompanied the special education instructor if they ask, or the extent that he has been able to do so.
 - He stated that he can also "pair them up" with another student.
- Unsure if there is dialogue between 5 keys and AFBH and or ADA unit.
- Not sure if 5 keys will be working with AFBH on LD identification.
- Have participated those with accommodations with specific teachers, print staff at each reading level, give extra time, don't give them any grammar or punctuation.

The County (or 5 Keys) did not provide any documented proof of practice for this CD Provision.

Recommendations:

- 1) ACSO must ensure a process is in place to identify learning disabilities and associated reasonable accommodations for individuals with documented learning disabilities.
- 2) ACSO (in conjunction with 5-Keys) must incorporate a jail-wide learning-disabled list, inclusive of specific accommodations needs for those individuals on the list. As part of this process, information from 5-Keys teachers should be provided to other SRJ entities/units. It is recommended that a central source to funnel the accommodation information (through the ADA Coordinator) to incorporate the accommodation information into the ATIMS ADA Unit Tracking System.

- 3) Provide proof of practice documentation for all future monitoring periods regarding EC and reasonable accommodations provided to LD persons for all contacts as applicable, e.g., education, disciplinary processes, classification processes, healthcare processes, etc.
- 4) Ensure incarcerated persons identified as LD are identified as such within the ADA Unit ATIMS tracking list and include their specific reasonable accommodation needs.

1014. For individuals with cognitive, developmental, and/or intellectual disabilities, possible reasonable accommodations may include providing designated housing in a therapeutic unit appropriate to the individual’s classification level, prompts for adaptive support needs (including but not limited to prompts to take showers, clean cells, attend appointments, etc.), ensuring Effective Communication, explaining how to fill out written forms (ADA request for Accommodations, Grievance, and Appeal forms, forms to request medical or mental health services and any other written forms the Jail implements for incarcerated persons use) and/or in using electronic tablets and providing assistance if needed, assistance with commissary (e.g., observing the individual post commissary purchase for possible victimization concerns), assistance with laundry exchange, and obtaining input from a Qualified Mental Health Professional prior to conducting disciplinary/misconduct hearings.

Finding: Partial Compliance

(Previously rated as “Partial Compliance”)

Policies:

- ACSO Detention and Corrections Policy and Procedure – 1.14 Americans with Disabilities Act (Revision Date: October 31, 2019):
 - Current revision being finalized:
- Policy 9.11 Effective Communication (Issued Date: February 6, 2024).
- AFBH Effective Communication Policy 407-2-4 (Date of Original Approval July 8, 2024).
- ACSO Memorandum, titled, “Identification of Intellectual and Learning Disabilities” (dated January 25, 2024).
- The revision of policies is still in progress.

Training:

Finalization of related training materials by ACSO is in progress.

Metrics:

- Policy 1.14 Americans with Disabilities Act.
- AFBH Effective Communication Policy
- Disability Tracking Form (list).
- Staff Interviews (custody and non-custody staff from multiple disciplines).
- Incarcerated Person Interviews.

Assessment:

Revised Draft Policy 1.14 includes general information regarding IDI assessments and adaptive supports; reasonable accommodations; Effective Communication, equal access to programs, services, and activities; requirement to explain forms and processes, electronic tablets, victimization concerns, message requests, grievances, disciplinary process, and other information. Refer to CD Provision 509 for more detailed information regarding input from a Qualified Mental Health Professional prior to disciplinary/misconduct hearings.

The AFBH is currently developing a comprehensive process (initial and secondary screening/testing/evaluation) to appropriately identify intellectually and developmentally disabled incarcerated persons and their respective adaptive support needs, recommended staff monitoring frequencies, and a logging process for providing/monitoring adaptive supports services provided. Refer to CD Provision 1008 for more details. Wellpath has an initial screening process in place and is working AFBH to revise the process.

The ACSO previously provided a memorandum, titled, "Identification of Intellectual and Learning Disabilities" (dated January 25, 2024). The memo recognizes there is no existing process for IDI or LD screening and that a process is being developed. It further states that a referral process will be included regarding the ADA Coordinator and tracking information and accommodations provided. Refer to the Consent Decree Fourth Status Report for more details.

As also cited earlier in this report, ACSO recently implemented Policy 9.11 Effective Communication (Issued Date: February 6, 2024), and AFBH recently implemented AFBH Effective Communication Policy 407-2-4.

All three (3) housing deputies interviewed indicated they provide help to IDI (and other disabled incarcerated persons) if they are asked or otherwise are aware they need help. Some examples they cited included: reading/writing/explaining (e.g., message requests, grievances); writing referrals to the ADA Unit and/or AFBH and taking their time and showing patience with them.

As cited earlier in the report, some of the incarcerated persons interviewed (IDI and SMI) indicated they have difficulty reading/writing/understanding forms and/or processes. All individuals stated that ADA Unit staff are very helpful and that they (incarcerated persons) often seek and receive their help. There were mixed reactions as to help they receive or don't receive from housing unit deputies. Most of the individuals interviewed stated that most staff are not helpful and that incarcerated persons either seek ADA Unit staff or other incarcerated persons for help. As also stated earlier in the report, it is important for all staff (including housing unit deputies) to understand that it is their responsibility to provide assistance when required or needed, and it isn't the job of ADA Unit staff to provide all assistance (although their job duties include interviewing and helping disabled individuals (including SMI/IDI/LD)).

Recommendations:

- 1) ACSO must ensure a process is in place to identify cognitive/intellectual/developmental disabilities and associated adaptive support/reasonable accommodation needs for individuals with these disabilities. The process must include:
 - a. A written policy for initial intake screening, secondary (comprehensive) screening/evaluation/testing (with the approved instruments) and related disability and adaptive support information provided to the ADA Coordinator and tracked via the electronic tracking system so that all staff have access to the information as warranted.
 - b. Recommended frequencies for housing officers to monitor, prompt, assist, and coach intellectually disabled individuals in accordance a qualified psychologist's recommended frequencies for each individual on an individualized base-by-case basis.
 - c. Requirements for staff to provide and document adaptive support services including effective communication, particularly for housing officers and work supervisors.
- 2) With the pending new policy and enhanced comprehensive screening/evaluation/testing process, inclusive of identified adaptive deficits and adaptive support needs, the County must provide logs or documentation to demonstrate that housing unit officers and work supervisors are providing the required/needed monitoring, prompting, assisting, and coaching in accordance with an individual's (IDI) adaptive support needs as identified by a qualified psychologist. Note: ACSO maintains that ADA Unit staff who currently track all accommodations provide needed adaptive supports, monitoring and prompts (when known).
- 3) Post orders for housing units designated to house individuals identified/categorized as IDI, as well as post orders for work supervisors, must be revised to include the requirements to understand the tracking system to be able to access disability and accommodation information (including for IDI, behavioral health, and learning-disabled persons), and to provide and document adaptive support services in accordance with a qualified psychologist's recommended frequencies, in accordance with the minimum recommended frequencies.
- 5) Provide documentation for all future monitoring periods regarding EC, adaptive support services, and reasonable accommodations provided to IDI persons for all contacts as applicable, e.g., education, disciplinary processes, classification processes, healthcare processes, etc.

Tracking

1015. Defendants shall implement an electronic, real-time networked tracking system including a grievance module ("ADA Tracking System") to document and share internally information regarding an individual's disability(ies) and disability-related accommodations within six (6) months of the Effective Date. The ADA Tracking System shall have the following functional capabilities:

- (1) to store historical information regarding an individual's accommodation needs in the event the individual is returned to custody multiple times;**
- (2) to list the current types of accommodations the individual requires; and**

(3) to track all programs, services, and accommodations offered to incarcerated persons with Psychiatric Disabilities throughout their incarcerations including any accommodations they refused.

Access to the ADA Tracking System shall be made available to and shall be used by ACSO staff at the Jail who need such information to ensure appropriate accommodations and adequate program access for people with Psychiatric Disabilities. At a minimum, Classification Staff, the ADA Coordinator, and their staff, the Facility Watch Commander, Division Commander, Administrative Sergeant, Program Managers, and AFBH and medical staff shall have access to the ADA Tracking System. Clinical and ADA Unit staff shall be responsible for adding or modifying information regarding the nature of an individual's Psychiatric Disability and necessary accommodations, including accommodations identified at Intake and throughout the individual's incarceration. Clinical and ADA Unit staff may delegate the actual data entry piece to non-clinical or non-ADA Unit staff where appropriate. Prior to any due process events and clinical encounters, clinical and ADA Unit staff shall be required to view the information in the system to determine if the individual has a disability and what accommodations are to be provided. All housing unit deputies, clinicians, and program managers who interact with incarcerated persons shall be trained to properly use the ADA Tracking System within six (6) months of the roll-out of the ADA Tracking System.

Finding: Non-compliance

(Previously rated as "Non-compliance")

Policies:

- ACSO Detention and Corrections Policy and Procedure - 1.14 Americans with Disabilities Act (Revision Date October 31, 2019):
 - Current revision being finalized:
- ACSO Memorandum, titled, "ATIMS ADA Module Progress Update" (dated January 25, 2024).
- The revision of policies is still in progress.

Training:

Finalization of related training materials by ACSO is in progress.

Metrics:

- Policy 1.14 Americans with Disabilities Act.
- ACSO Staff Interviews.
- Current Disability Tracking Form (list).

Assessment:

Draft ACSO Policy 1.14 contains some information regarding ATIMS and tracking disabled incarcerated persons and their accommodation needs. However, once the ATIMS vendor completes the enhanced system to satisfy the CD, Policy 1.14 and/or other pertinent policies must be updated.

The ACSO previously provided a memorandum, titled, "ATIMS ADA Module Progress Update" (dated January 25, 2024). However, ACSO provided an update via ACSO memorandum, titled "ATIMS ADA Module Progress Update", dated May 9, 2024. The memo indicates the following:

- "During the last evaluation period the Americans with Disabilities Act (ADA) Unit has been working with the Advanced Technology Information Management System (ATIMS) to develop a software module. The module will assist the ADA Unit and staff at the Santa Rita Jail with the tracking and monitoring of inmates with physical and intellectual disabilities. This will ensure seamless services are provided by medical, mental health, the ADA unit, and sworn agency members working throughout the Santa Rita Jail."
- "As of May 9, 2024, the ADA Unit met with ATIMS developers and were provided screenshots of the ADA Module under development. The developer estimated the system is 1/3 complete. We were advised a test database will be operable around July of 2024. Using test data, the ADA staff alongside developers will work through program bugs and processes to finalize the module. The next follow up meeting with ATIMS developers should be in June of 2024, just prior to launching of the test database."

As previously reported, for the current ATIMS JMS tracking process, medical staff reportedly provide the completed Disability Evaluation Forms, for cases identified at Intake or from disability verification/confirmation from individuals already housed at SRJ, to the ADA Coordinator. There are medical alert flags within the current ATIMS system to alert staff of an individual's disability status and associated accommodation needs. The ADA Coordinator updates his own tracking list from this information once per week and emails the list every Monday. The list is maintained within the ADA Unit's Shared folder, accessible to only managers, supervisors, and ADA Unit personnel. ADA staff reported a copy of the weekly updated list is sent to ITR, Transportation Unit, Medical, and Re-Entry and Support Services. The ADA Coordinator also stated that since all deputies are qualified to conduct disciplinary hearings, they can access the disability and accommodation information in ATIMS via the flags. The ADA Coordinator confirmed that there is no separate "LD" category/designation for learning-disabled individuals, as they code them along with intellectually disabled persons.

Recommendations:

- 1) Finalize draft Policy 1.14, and any other policy(ies) related to tracking (e.g., grievances, accommodations).
- 2) The ACSO must finalize and implement the electronic, real-time networked tracking system, and ensure it includes a grievance module, and all functionality to track, document and share internal information regarding an individual's disability(ies) and disability-related accommodations required by the CD Provisions.
- 3) Once implemented, ensure all staff is trained on how to access the real-time tracking system and how to use that information in the performance of their assigned duties.

1016. Housing unit, education, and program office staff shall be provided with a report listing all individuals with Psychiatric Disabilities in the relevant unit or program, as well as any needed accommodations. The information provided shall be limited to identifying the individuals who have a disability and what accommodations shall be provided. It shall not contain any information beyond the minimum required to ensure the individual's disability needs are accommodated. Until the electronic ADA Tracking System is fully implemented, this report shall be updated and provided to staff in written form at least once per week. Once the ADA Tracking System is fully implemented the report shall be updated electronically, in a manner accessible to housing unit deputies, daily.

Finding: Partial Compliance

(Previously rated as "Partial Compliance")

Policies:

- ACSO Detention and Corrections Policy and Procedure - 1.14 Americans with Disabilities Act (Revision Date October 31, 2019).
 - Current revision being finalized:
- The revision of policies is still in progress.

Training:

Finalization of related training materials by ACSO is in progress.

Metrics:

- Policy 1.14 Americans with Disabilities Act.
- Staff Interviews (custody and non-custody staff from multiple disciplines).
- Current JMS ATIMS ADA Unit Disability Tracking List.

Assessment:

The ACSO provided numerous weekly tracking lists for incarcerated persons designated as SMI/IDI/LD. Previous lists have included individuals identified with Traumatic Brain Injury (TBI), Autism, and Asperger's. One of the ADA Unit tracking lists produced for the monitoring period included one (1) person designated as "Autism." The current and recent tracking lists include individuals identified to have various other disabilities outside the purview of the CD.

Based on the review of two (2) tracking lists from early and late June 2024, the lists contained the names and information for 54 and 59 incarcerated persons (respectively) five (5) were identified as "SMI," and eight (8) as "IDI." The lists include the individual specific adaptive support needs. None of the individuals identified as "SMI" had any identified corresponding accommodation needs listed.

All healthcare staff, housing and classification deputies interviewed were able to explain how they access the disability and effective communication and/or reasonable accommodation information electronically in ATIMS, and how they access updated information daily. The ADA Coordinator's list/information is available to the housing units.

Recommendations:

- 1) Until the modifications to the ATIMS tracking system are finalized and implemented, the ADA Unit must continue providing hard copies of the current ADA Unit ATIMS tracking sheet and ensure all staff are knowledgeable and have access to the ATIMS disability flags.

Housing Placements

1017. The fact that an individual has a Psychiatric Disability and/or requires reasonable accommodations for that disability shall not be a factor in determining the individual's security classification. Individuals with Psychiatric Disabilities shall be placed in housing that is consistent with their security classification and disability-related needs. Individuals with Psychiatric Disabilities shall be screened for potential victimization and vulnerability concerns and those factors shall be considered when determining appropriate housing; however, their disabilities shall not be used to justify placing an individual in a more restrictive privilege level than that in which they would have otherwise been classified except as provided herein. Individuals with severe or profound cognitive, intellectual, or developmental disabilities shall not be housed in a more secure setting unless it is determined by the Classification Unit and mental health staff that there are no other viable alternatives to prevent the individual from being victimized. This decision shall be based on an individualized assessment of the person's needs and the specific safety and/or security concerns affecting the individual, including whether the person is able to function safely in a dormitory environment. To the extent possible, individuals housed in more secure settings due to victimization concerns shall receive the same privileges, access to programs, and out-of-cell hours that they would otherwise receive. The reason for housing an incarcerated person with a severe or profound cognitive, intellectual, or developmental disability in a more secure setting due to victimization concerns shall be clearly justified and documented in the ADA tracking system and classification documents and shall be reevaluated at least every sixty (60) days.

Finding: Partial Compliance

(Previously rated as "Partial Compliance")

Policies:

- ACSO Detention and Corrections Policy and Procedure - 1.14 Americans with Disabilities Act (Revision Date October 31, 2019)
 - Current revision being finalized:

- ACSO Detention and Corrections Policy and Procedure - 12.04 The Santa Rita Jail – Housing Unit Classification (Revision Date May 4, 2023).

Training:

Finalization of related training materials by ACSO is in progress.

Metrics:

- Policy 1.14 Americans with Disabilities Act.
- Policy 12.04 The Santa Rita Jail – Housing Unit Classification.
- ACSO Staff Interviews.
- ACSO Housing Matrix.

Assessment:

Revised draft Policy 1.14, addresses disability tracking; classification of disabled incarcerated persons; housing accommodations with safety at the forefront; disabilities are not a justification for a higher security classification; every effort should be to house in general population, unless such assignment would jeopardize the safety of the individual (or others); the ADA Unit will provide housing staff with a list of disabled individuals and their accommodation needs; all individuals with disabilities shall be afforded access to all services, programs, and activities for which they meet eligibility criteria; the determination shall be made on an individualized basis; and individuals with disabilities shall be offered equal access to out-of-cell time. Note: for specific language and greater details, refer to the revised policy once finalized.

Classification staff maintain that housing placement is based on multiple factors, including but not limited to custody factors, assistance with daily living needs (e.g., if severe), violence history, disciplinary history, commitment or charged offenses, disability accommodation needs, etc. Classification staff are aware AFBH has been undergoing a change in the various levels of care for behavioral health/psychiatric individuals, which also correlates to housing and programming.

An updated housing matrix was not provided but had been provided and reviewed for previous monitoring tours. The last ACSO housing matrix reviewed identified numerous housing units for individuals with psychiatric disabilities. Those with learning disabilities are housed in any unit commensurate to their security classification case factors, though during the monitoring period there were no identified LD incarcerated persons as currently they are categorized as “IDI”. In review of all IDI designated incarcerated persons from the June 2024 ADA Unit ATIMS tracking list, and their listed adaptive support needs, it didn’t appear that any of the five (5) to eight (8) identified IDI designated incarcerated persons had a verified LD. Persons identified as “IDI” are housed in any unit as their security classification dictates.

It is unclear whether ACSO plans to use a clustering or semi-clustering approach for the IDI population, including those with moderate or severe adaptive deficits. It is the Expert’s position and experience that a semi-clustering approach allows for the intellectually/developmentally

disabled population to reside with the non-intellectual/developmentally disabled population, which may foster valuable learning of everyday living skills from the non-IDI individuals, but yet allow for trained and carefully screened staff to work such units to better enable staff to effectively monitor and provide the necessary prompts and assistance as needed. The population (IDI and non-IDI) where identified IDI persons may be housed must be screened for predatory/victimization concerns.

Once the ACSO/AFBH implements the comprehensive testing and evaluation process, it is likely that the number of those identified as IDI will at least slightly increase and identifying specific housing units will allow for the semi-clustering which may prove beneficial for proper monitoring and safety of the individuals.

Intake medical and mental health staff were observed and questioned regarding their respective Intake processes. Questions were asked of the clinicians relative to screening for suicide history or thoughts and other mental health related questions; completion of the disability tracking form, completion of the disability evaluation form, asking the developmental/intellectual related questions, and explaining healthcare request slip form and processes. There were no concerns noted.

Healthcare intake screening includes inquiries relative to potential victimization/vulnerability concerns to which the information was shared with Classification staff. Classification staff consider the information when making housing decisions. During the Classification interviews, Classification staff explain housing options and their housing decisions. Classification staff are aware individuals should not be placed in a more restrictive housing environment other than what their individual classification case factors and security level otherwise dictate.

There is no evidence that the ACSO is currently housing an individual with a severe or profound cognitive, intellectual, or development disability in a more secure setting due to victimization concerns as ACSO is not providing the required documentation and reevaluation of such.

Recommendations:

- 1) The ACSO/AFBH should consider at least a semi-clustering approach to housing intellectually/developmentally disabled incarcerated persons, at least those identified as moderately and severely intellectually/developmentally disabled.
- 2) Provide documentation (via the ADA tracking system) for cases where there is no feasible options other than to house an individual in a more restrictive environment due to victimization or other safety concerns. Confirm the person has equivalent access to programs, services, and activities as he/she would have if they were housed in a different unit based on the security classification factors had the person not had a disability or associated accommodation needs:
 - a. The ACSO must evaluate such cases at least every 60 days (and provide proof of practice documentation).

Access to Out-Of-Cell Time and Yard

1018. Defendants shall ensure that individuals with Psychiatric Disabilities are offered equal access to yard and day room exercise and recreation time as non-disabled individuals in comparable classification levels. Refusals of out-of-cell time and yard shall be documented consistent with Section III(D). Minimum out-of-cell time requirements apply to all incarcerated persons unless specifically contraindicated by a mental health treatment plan due to suicide precautions.

Finding: Partial Compliance

(Previously rated as "Partial Compliance")

Policies:

- ACSO Detention and Corrections Policy and Procedure - 18.12 Recreation and Inmate Activity Program and Planning (Revision Date March 9, 2023).
- The revision of policies is still in progress.

Training:

Finalization of related training materials by ACSO is in progress.

Metrics:

- Policy and Procedure - 18.12 Recreation and Inmate Activity (Revised March 9, 2023).
- ACSO Staff Interviews.
- Incarcerated Person Interviews.
- Out of Cell Tracking Logs.

Assessment:

Policy 18.12 was revised on March 9, 2023. Out-of-cell time and the tracking of such is closely monitored by another Expert relative to other CD Provisions.

During the onsite Entrance meeting, ACSO administration staff confirmed the RFID Guardian system is not documenting structured out-of-cell time.

As part of document review, randomly selected Excel spreadsheets were selected for "Yard" and "Big Yard" for the weeks of June 2-8, June 9-15, June 16-22, and June 23-29. The review was only done for one (1) randomly selected housing unit with one (1) or more SMI persons (xx x), one (1) unit with at least one (1) IDI persons (xx x), and one (1) unit that didn't house any IDI persons (xx x). The following information was identified:

- xx x (SMI) (Total 4.25 hours)
 - Week of June 2-8, 2024:
 - Big Yard: 1.0 hours
 - Week of June 9-15, 2024:

- Yard 1.25 hours
 - Week of June 16-22, 2024:
 - Yard 1.0 hours
 - Week of June 23-29:
 - Big Yard 1.0 hours
- xx x (IDI) (Total 7.25 hours)
 - Week of June 2-8, 2024:
 - Big Yard: 2.0 hours
 - Week of June 9-15, 2024:
 - Yard 2.0 hours
 - Week of June 16-22, 2024:
 - Yard 2.25 hours
 - Week of June 23-29:
 - Big Yard 1.0 hours
- xx x (non-IDI) (Total 8.25 hours)
 - Week of June 2-8, 2024:
 - Big Yard: 2.0 hours
 - Week of June 9-15, 2024:
 - Yard 2.0 hours
 - Week of June 16-22, 2024:
 - Yard 3.75 hours
 - Week of June 23-29:
 - Big Yard 1.0 hours

The Excel Guardian RFID spreadsheet for June showed data for housing units x, x, x, x, x, x, x, and the xx. However, this data was not reconciled. Also, the above data does not factor in any applicable Watch Commander's Justification for Out-of-Cell Restriction "Lockdown" reports.

The purpose of the comparison of the three (3) housing units was not intended to measure against the required minimum yard or out-of-cell time as the Custody Expert is tasked with monitoring out-of-cell time for this CD Provision. The intent here was to get an at-a-glance gauge as to how three (3) randomly selected housing units with SMI, IDI, and non-IDI compare in the provision of out-of-cell time over the course of four weeks. On the surface, the amount of yard hours appears low (Lockdown reports, if applicable, notwithstanding). The results show the following:

- The unit without IDI persons (xx x) had 8.25 hours of yard per week for the month of June 2024;
- The unit with IDI individuals (xx x) had 7.25 hours of yard per week for the month; and,
- The unit with SMI individuals (xx x) had 4.25 hours of yard per week for the month.

Incarcerated persons interviewed provided the following related comments/concerns:

- Dayroom – Daily during the week from 8 AM - Noon and 7pm -10pm
 - Weekends not really getting yard due to lockdown, short staff or power outage
- "Little" yard three (3) times weekly for one (1) hour each
 - Dayroom daily 8am - Noon and 7 -10 PM seven (7) days per week

- Quasi-yard twice weekly, two (2) hours each
 - Big yard once weekly for 1.5 hours
 - Dayroom twice daily from 7:30 to 11:00am and 7-10 pm
- No big yard
 - Dayroom daily three (3) times per day
- Difficulty understanding big yard schedule – only twice since April (four [4] months)
 - Quasi yard – 3-4 times weekly for one (1) hour
 - Dayroom/pod time in the morning for two (2) hours and afternoon/evening for two (2) hours for seven (7) days per week
- No big yard
 - Quasi -yard every other day for one (1) hour
 - Pod time daily for two (2) hours in the morning, and two (2) hours in the afternoon/evening
- No big yard yet
 - Quasi-yard twice weekly for one (1) hour - sometimes when the yard is empty. I ask if I can go again:
 - Pod time once daily
- Quasi-yard - walk alone is boring – they offer once every two (2) weeks
 - Pod time is one (1) hour each (sometimes in the morning, and sometimes in the afternoon/evening, and sometimes we get both)

In the absence of reviewing RFID Guardian, the limited data noted above is difficult to analyze. From the small sampling (above), it appears the access to outdoor yard was very limited, and lower for the two housing units selected that house SMI or IDI individuals. From the documents reviewed, it is unclear whether yard refusals are currently being documented.

The Expert recommends AFBH and ACSO continue to work to establish more accurate metrics to assist with monitoring out-of-cell and structured activity time, which reportedly includes the Guardian RFID system in conjunction with one of the other Joint Experts.

Recommendations:

- 1) The ACSO must continue to track out-of-cell time for all disabled individuals (including individuals identified as “SMI” and “IDI” as listed within the JMS ATIMS ADA Unit ADA Tracking List), including yard and pod time to ensure there is no disparity between outdoor and indoor recreation time offered to psychiatric, intellectually/developmentally disabled incarcerated persons and other individuals in relation to the assigned security levels and housing units.

Access to Programs and Work Assignments

1019. Defendants shall ensure that individuals with Psychiatric Disabilities have equal access, as compared to non-disabled individuals, to all programs, activities, and services including, but not limited to, educational, vocational, work, recreational, visiting, medical, mental health, substance abuse, self-improvement, religious, electronic tablets, and reentry programs, including Sandy Turner Center and Transition Center programs,

consistent with their classification and for which they are qualified. To the extent they do not currently exist, Defendants shall develop job descriptions and the essential job functions associated with each position. Defendants shall inform individuals with Psychiatric Disabilities, using Effective Communication, of the programs and worker assignments that are available to them, any job descriptions/essential job functions, how to contact the ADA Coordinator, that they have a right to request reasonable accommodations, and how to do so using the ADA Request form. To the extent a person is denied access to a program or worker assignment, they shall have the right to file an ADA-related grievance and/or otherwise appeal that decision. Programming staff shall access the ADA Tracking System to determine whether participants in a program have a disability and their accommodation needs. Until the ADA Tracking System is in place, the ADA Unit shall, on a weekly basis, provide program staff with a list of individuals with disabilities and their accommodation needs.

Finding: Partial-Compliance

(Previously rated as "Partial Compliance")

Policies:

- ACSO Detention and Corrections Policy and Procedure - 1.14 Americans with Disabilities Act (Revision Date October 31, 2019):
 - Current revision being finalized.
- Alameda County Sheriff's Office Detention and Corrections Policy and Procedure: Introduction to Inmate Services 18.01 (2 pages) (revised 12/1/19).
- Alameda County Sheriff's Office Detention and Corrections Policy and Procedure: Inmate Operational Programs and Services 18.02 (2 pages) (revised 10/30/20).
- Alameda County Sheriff's Office Detention and Corrections Policy and Procedure: Commissary Procedure 18.06 (9 pages) (revised 10/12/21).
- Alameda County Sheriff's Office Detention and Corrections Policy and Procedure: Religious Programming 18.07 (3 pages) (revised 12/1/19).
- Alameda County Sheriff's Office Detention and Corrections Policy and Procedure: Library Services 18.08 (2 pages) (revised 12/1/19).
- Alameda County Sheriff's Office Detention and Corrections Policy and Procedure: Educational Program Planning 18.09 (4 pages) (revised 12/1/19).
- Alameda County Sheriff's Office Detention and Corrections Policy and Procedure: Vocational Training Programs 18.10 (3 pages) (revised 12/1/19).
- Alameda County Sheriff's Office Detention and Corrections Policy and Procedure: Social Services Programs 18.11 (3 pages) (revised 3/1/20).
- Alameda County Sheriff's Office Detention and Corrections Policy and Procedure: Recreation and Inmate Activity Program and Planning 18.12 (3 pages) (revised 3/9/23).
- Alameda County Sheriff's Office Detention and Corrections Policy and Procedure: Inmate Entertainment Systems 18.13 (3 pages) (revised 12/1/19).
- Alameda County Sheriff's Office Detention and Corrections Policy and Procedure: Inmate Tablet Access 18.14 (3 pages) (revised 2/9/23).

- Alameda County Sheriff's Office Detention and Corrections Policy and Procedure: Services for Released Inmates 18.16 (2 pages) (revised 10/12/21).
- Alameda County Sheriff's Office Detention and Corrections Policy and Procedure: Parenting Program 18.17 (5 pages) (revised 11/21/23).
- Alameda County Sheriff's Office Detention and Corrections Policy and Procedure: Legal Assistance Program 18.21 (3 pages) (revised 12/1/19).
- The revision of policies is still in progress.

Training:

Finalization of related training materials by ACSO is in progress.

Metrics:

- ACSO Memorandum, titled, "Identification of Intellectual and Learning Disabilities" (dated January 25, 2024).
- Staff Interviews (custody and non-custody staff from multiple disciplines).
- Incarcerated Person interviews.
- Various Document Reviews.
- Policy 1.14 Americans with Disabilities Act.
- Policy 18.01 Introduction to Inmate Services.
- Policy 1802 Inmate Operational Programs and Services.
- Policy 18.06 Commissary Procedure.
- Policy 18.07 Religious Programming.
- Policy 18.08 Library Services.
- Policy 18.09 Educational Program Planning.
- Policy 18.10 Vocational Training Programs.
- Policy 18.11 Social Services Programs.
- Policy 18.12 Recreation and Inmate Activity Program and Planning.
- Policy 18.13 Inmate Entertainment Systems.
- Policy 18.14 Inmate Tablet Access.
- Policy 18.16 Services for Released Inmates.
- Policy 18.17 Parenting Program.
- Policy 18.21 Legal Assistance Program.

Assessment:

It is recognized that some of the policies are still pending revision.

Outlined below is some general information obtained from observations made during the on-site review, on-site interviews of incarcerated persons, and document review.

5-Keys (Schools and Programs) – Education:

All incarcerated persons are eligible to enroll in distance learning courses, and many in-person classes are available and are generally offered Mondays thru Fridays from 0800-0930, 1000-1130, and 1300-1430 hours. The education center's small classroom allows for 10 students, while the large classroom accommodates 15 students per class.

ACSO provided a document listing the following classes offered:

- Education Center I & II Classes:
 - Anger Management
 - ASE
 - Computers
 - Culinary
 - ESL
 - Financial Literacy
 - Gardening
 - GED
 - Substance Abuse
 - Parenting
 - Rhythm & Healing
 - 7 Habits
- H/U XX
 - Rhythm & Healing
 - Parenting
 - Gardening
 - Computers
 - Substance Abuse
 - 7 Habits
 - Anger Management
- XX X DL
 - Anger Management
 - Substance Abuse
 - GED
 - ESL

ACSO and 5-Keys (Schools and Programs) provide a flyer/pamphlet for recruiting purposes for incarcerated persons.

Teachers continue to report that they do not receive an ADA tracking list from ACSO or AFBH. Education staff reportedly are not made aware (by ACSO, AFBH, or Wellpath) of any disabilities or accommodation needs. To the extent teachers become aware of any accommodation needs, they reportedly provide the accommodations. Such information would have to be obtained from outside sources or from interviewing and working with a respective student.

5-Keys staff indicated TABE testing (or similar testing) is conducted to enrollees only. Confirmation of learning disabilities with outside sources will only be made if requested. If confirmation of a learning disability is received, the information is reportedly forwarded to the ADA

Coordinator's office. There was no documented proof of practice provided. As addressed in Provision 1014, ACSO Memorandum, titled, "Identification of Intellectual and Learning Disabilities" (dated January 25, 2024), states in part, "At the current time there is no system in place to screen incarcerated persons for intellectual or learning disabilities. This is a process that will need to be developed in conjunction with Alameda County's Behavioral Health and education service providers."

Currently, the only IDI individuals included in the ATIMS tracking list are those where CDCR provides information to the County for incarcerated persons who were part of the Developmental Disability Program when housed in CDCR or through information obtained that an individual has been a past regional center consumer. Because the County is in the process of developing and implementing a comprehensive screening/evaluation process to identify other individuals with intellectual (or learning) disabilities and their associated adaptive support or reasonable accommodation needs, currently, the County cannot ensure equal access for these individuals.

5-Keys staff reportedly continue to actively recruit students by touring the housing units, teachers talk with the housing deputies and assist incarcerated persons with completing education-related forms and applications.

One (1) of the incarcerated persons interviewed (identified as IDI, but claims he is LD [not IDI]) indicated he is currently assigned to education, has difficulty reading and writing and attended special education classes and had an IEP while in school in the community. However, he claims his teacher is helpful, accommodated him, and he doesn't have any related concerns.

Electronic Wireless Tablets

An interview was conducted with a staff member from Reentry and Support Services regarding the electronic tablets. He provided the following information:

- ViaPath remains as the tablet vendor
 - A schedule was created to rotate housing units every two (2) months to hand out new tablets:
 - Housing units can request rotation more often based on inventory at a given time
 - Units X&X still have an extra supply (not all incarcerated persons are eligible for a tablet and not all cells are filled)
 - In 2025, there may be increased speed and access, the tablets may increase due to better technology & battery life:
 - Regular system updates should improve overall system access
 - Access to programs on the tablet is expected to improve
 - Law Library access is reportedly coming on the tablet
 - Message request process will soon become quicker (requests will be received and responded to quicker):
 - Note: it wasn't made clear to the Expert as to how this will occur.

- An improved tablet remote visiting system will allow for use outside of a cell with the background view blocked out to the other party
- New improved access to phone calls to community-based organizations
- Indigent incarcerated persons will get more phone video visits and will receive two (2) per week
- There will soon be 30 free minutes, and if indigent an additional 15 minutes of phone & 15 minutes of video time:
 - Note: it is unclear how often this will occur (e.g., daily, Weekly, or monthly).

In the revised Orientation Jail Handbook – revised January 2023, there is an ADA section, and a section titled "Wireless Tablet Access" that provides general instructions to incarcerated persons. Staff confirmed that the Disability Request for Reasonable Accommodation form is not on the tablets and only the grievances and requests forms are available in the Tablet. It is unclear whether ViaPath is working with ACSO to incorporate the form onto the tablet.

Though the comments/complaints could not be verified or refuted, some of the comments or complaints from some of the incarcerated persons interviewed included:

- Tablet has access to education classes, including a business course
 - “On the tablet I need help with message requests. I ask inmates but I will not go to staff, although some staff have been helpful, such as Deputy xxxxx.” (ADA Unit).
 - “I turned-in my tablet for repair last week and am still waiting to get one back.”
 - “I don’t have one. I have asked since July; they say they don’t have any.”
 - “I had a tablet in the past, but not this for this stint”
 - “This time I asked a deputy once, but he didn’t have any.”
 - “No tablets in the Restricted Housing Unit (RHU).”
 - “If you don’t have access to tablet or not tech savvy, then are don’t understand what’s available, such as correspondence and self-help.”

Library Services/Reading Materials

The County has a contract with the County Library. The book carts are located in the housing units/pods, and once per month, the library is re-stocked, and book exchanges and pod re-stocks take place within the pods. Individuals can request two (2) books per month. Regarding easy-read books, the Joint Expert has not seen any proof they are provided (but as noted in the bullet’s below, incarcerated persons are acknowledging they are available).

Though the comments/complaints could not be verified or refuted, some of the comments or complaints from some of the incarcerated persons interviewed included:

- “Law library sucks”
 - “I asked for info and they never provided it. Lexus should have it, when I do receive it/or anything, staff don’t help me read and understand material”
- “Easy read books are available”
- “Don’t understand the court process” (IDI identified incarcerated person)
- “I could benefit from some English reading books”
- “I don’t understand the legal law library process, but would like some help” (female incarcerated person from building 24)

Reentry Programs

Refer to the Consent Decree Third Status Report for previous detailed information regarding the Reentry Assessment on the Tablet; Housing Unit X Reception deputies perform the initial assessment (for LOC X and LOC 1 clients only (not LOC 2-4). This includes:

- Medi-Cal eligibility
- California Driver’s License application process
- Vocational programs and certification
- Other information

Staff interviewed indicated that voter registration is now being done. Reentry staff educate incarcerated persons, including a 1-on-1 face-to-face interview with someone from the community to help them register, which is coordinated through the public defender’s office.

None of the incarcerated persons interviewed had any relevant comments or concerns.

Incarcerated Person Work Assignments:

Currently, based on housing assignment, some individuals are not eligible to work or are limited to work assignments such as housing unit workers. None of the seven (7) IDI or SMI persons interviewed are assigned to a job; however, one (1) is assigned to education. Throughout monitoring, very few SMI/IDI/LD persons have been assigned to jobs. For the previous monitoring tour, only one (1) individual of 72 on the ATIMS ADA Unit tracking list was assigned to a job.

Classification staff reported that staff (e.g., housing officers) inform classification deputies if there are any persons they want to hire into a job assignment. Classification staff reportedly ask for a memorandum and work to clear/approve the individual. As cited earlier in this report, there are no job descriptions or documents listing essential functions for incarcerated person positions at the Jail. Staff continue to maintain they would accommodate any individuals that had reasonable accommodation needs on the worksite if they were aware of their required accommodations.

Incarcerated persons interviewed believe there are not any jobs available or that they are not eligible due to their SMI status.

Recommendations:

- 1) The ACSO must develop job descriptions for all incarcerated person job assignments with listed essential job functions for each position.
- 2) The ACSO must ensure incarcerated persons with psychiatric, intellectual/developmental, and learning disabilities are considered for work assignments commensurate to their custody/classification level, and not have a process that excludes or tends to exclude these individuals for work assignments.
- 3) The ACSO must have a process in place that allows for incarcerated persons with psychiatric, intellectual/developmental, and learning disabilities to be provided reasonable accommodations for their disability while on the job:
 - a) The ACSO should provide proof of practice documentation for future monitoring tours.
- 4) Until the real-time network ADA Tracking System is in place, the ADA Unit must, on a weekly basis, provide program/services staff as well as 5-Keys staff with a list of individuals with psychiatric, intellectual/developmental, and learning disabilities and their accommodation needs (e.g., Effective Communication, adaptive supports) so that staff can provide reasonable accommodations as required.
- 5) 5 Keys staff must maintain dialogue with ACSO/AFBH as applicable to ensure referrals (as necessary) are done and any testing for individuals who may not currently be identified as having a disability or accommodation needs but are deemed by education staff as possibly having a psychiatric, intellectual/developmental, or learning disability.
- 6) Clarify whether ViaPath is working with ACSO to incorporate the Disability Request for Reasonable Accommodation form onto the tablet.

ADA Grievances and Requests

ADA Requests:

1020. Defendants shall provide and maintain a readily available mechanism for individuals to make a request for reasonable modifications independent of the grievance system ("ADA Request"). This ADA Request form must be available in hardcopy as well as on electronic tablets to the extent that electronic tablets are provided to individuals for use. All ADA Requests shall be routed to the ADA Coordinator or a member of their team for review. The ADA Coordinator or a member of the ADA Unit shall review all ADA Requests within seven (7) days to evaluate them for any emergent issues that require an expedited response. Where an emergent issue is identified, the ADA unit shall respond within 48 hours of review and facilitate, as needed, obtaining any information required from AFBH to provide a response and/or scheduling an emergency appointment with AFBH staff as needed. For non-emergent issues, the ADA Unit shall provide a response within thirty (30) days of receipt of such a request. All ADA Requests and responses shall be documented in the ADA tracking system. Defendants shall inform individuals with Psychiatric Disabilities of the process for submitting ADA Requests in a manner that is effectively

communicated. Where an individual is unable to submit written or electronic requests, the individual may make a request orally, and the Multi-Service deputy, housing unit staff, and/or the ADA Unit shall assist the individual in submitting the request in writing.

Finding: Partial Compliance

(Previously rated as “Non-Compliance”)

Policies:

- ACSO Detention and Corrections Policy and Procedure - 1.14 Americans with Disabilities Act (Revision Date October 31, 2019):
 - Current revision being finalized.
- ACSO Policy 10.32 Americans with Disabilities Act Coordinator (Post Order) (Issued Date August 28, 2023).
- ACSO Detention and Corrections Policy and Procedure - 17.05 Inmate Message Requests (Revision Date December 1, 2019).
- The revision of policies is still in progress.

Training:

Finalization of related training materials by ACSO is in progress.

Metrics:

- Policy 1.14 Americans with Disabilities Act.
- Policy 17.05 Inmate Message Requests.
- ACSO Policy 10.32 Americans with Disabilities Act Coordinator (Post Order) (Issued Date August 28, 2023).
- ACSO Staff Interviews.
- Incarcerated Person Interviews.

Assessment:

The latest draft revision to Policy 1.14 contains language pertaining to EC; reasonable accommodations; ADA Request for Accommodation Form; message request process; grievance process; ADA-related grievances; ADA Coordinator review of ADA-related grievances; and timelines for ADA Coordinator (or designee) to review within (seven) or 15 days for emergent or non-emergent issues, respectively; and the tracking of related forms.

ACSO Policy 10.32 Americans with Disabilities Act Coordinator (Post Order) was revised on August 28, 2023. The policy/post order contains information regarding ADA Unit Contacts including the provision of Effective Communication, provision of staff assistance, the grievance process, ADA-related grievances, and message requests, including timeframes for processing requests/grievances deemed as emergent/exigent circumstances, and those deemed as non-emergent.

As reported earlier in this report, there is a Disability Request for Accommodation form, but it is rarely used (though there were more forms completed during the monitoring period than the prior period). Staff and incarcerated persons must be trained/made aware of the form, and its purpose. Likewise, the language does not exist in draft revised Policy 1.14. The Expert's made numerous specific comments/recommendations throughout the draft policy, including a general recommendation to ensure that the policy includes language to satisfy the requirements of CD Provision 1020.

For the period of January – June 2024, five (5) accommodation requests were produced and reviewed. Three (3) ACSO's Disability Request for Accommodation forms, and two (2) CDCR 2275 CJ Request for Reasonable Modification or Accommodation for Access to Housing and/or Programming in a County Jail. Some pertained to non-SMI/IDI/LD issues but rather pertained to other disabilities. However, all were followed up on by ADA Unit staff within 2-4 days. There was one (1) that pertained to mental health that was date stamped about 20 days past the date it was allegedly signed by the incarcerated person.

Although the number of ACSO Disability Request Forms is only slightly higher than the one (1) that was submitted during the previous monitoring review, it appears that more disabled individuals are aware of the form and process.

Recommendations:

- 1) Finalize and implement the pending revisions to ACSO Policy 1.14 inclusive of the Request for Accommodation form and process (not just grievances, ADA-related grievances, and message requests).
- 2) The ACSO must ensure that ADA Request forms are available in hardcopy as well as on the electronic tablets.
- 3) Ensure all ADA Requests and staff responses are documented in the ATIMS ADA tracking system once implemented.

ADA Grievances:

1021. Defendants shall provide and maintain a grievance system that provides for prompt and equitable resolution of complaints by individuals with Psychiatric Disabilities who allege disability-related violations. Defendants' grievance form shall continue to include a checkbox or similar means to identify that the grievance is ADA-related. Defendants shall train grievance staff to route "ADA" grievances appropriately even if the individual who filed the grievance did not check the "ADA" checkbox. Once implemented, the ADA Tracking System shall route grievances relating to class members who are Behavioral Health Clients to AFBH for their review in case there are underlying mental health issues that are driving the grievances. ADA staff shall consult with AFBH prior to imposing any grievance-related restrictions on class members who are Behavioral Health Clients. Until the ADA Tracking System is implemented the ADA Unit shall review and route grievances filed by individuals with SMI electronically to AFBH for review. AFBH shall assist as necessary in resolving issues raised by class members in grievances, including meeting with the grievant as needed.

Finding: Partial Compliance
(Previously rated as “Partial Compliance”)

Policies:

- ACSO Detention and Corrections Policy and Procedure - 1.14 Americans with Disabilities Act (Revision Date October 31, 2019):
 - Current revision being finalized.
- ACSO Policy 10.32 Americans with Disabilities Act Coordinator (Post Order) (Issued Date August 28, 2023).
- ACSO Detention and Corrections Policy and Procedure - 16.03 Inmate Grievance Procedure (Revision Date December 29, 2020).
- The revision of policies is still in progress.

Training:

Finalization of related training materials by ACSO is in progress.

Metrics:

- Policy 1.14 Americans with Disabilities Act.
- Policy 16.03 Inmate Grievance Procedure.
- ADA Grievances
- ACSO Staff Interviews.
- Incarcerated Person Interviews.
- Blank Alameda County Sheriff’s Office Inmate Grievance Form (ML51) (Rev 3/19).
- Blank Inmate Grievance Response form (ML52) (Rev 2/2022).
- Blank Inmate Grievance Response Supplemental Information form (ML53) (Rev 10/14).
- Blank Alameda County Sheriff’s Office Notice of Extension for Grievance form (Spanish version) (ML54) (Rev 3/15/21).

Assessment:

The latest draft revision to Policy 1.14 is pending finalization. In addition to the topics outlined in CD 1020, the draft policy also contains language pertaining to ADA-related check boxes on the grievance form; and the grievance office forwarding ADA-related grievances to ADA Coordinator for review, investigation, and disposition. As outlined in CD 1020, draft Policy 1.14 also contains language pertaining to ADA Coordinator (or designee) timelines for responding to emergent and non-emergency issues. Specifically, language states in part, “where an emergent issue is identified, the ADA Unit shall respond and take appropriate action within 48 hours.” However, there is no specific language relative to related grievances being routed to AFBH for mental health concerns or the ADA Unit’s requirement to route to AFBH. Note: Related language must be included into Policy 1.14 and/or other policies. However, related language is captured in Policy 10.32 Americans with Disabilities Act Coordinator (Post Order), as outlined below.

Policy 10.32 contains related language. The Policy states in part, “Ensure all ADA-related grievances submitted by BHI’s are routed to AFBH Personnel for review.” It further states in part, “The ADA Coordinator(s), or his or her designee, shall consult with AFBH prior to imposing any grievance related restrictions on BHI’s.”

An ACSO manager and supervisor were interviewed while the Experts observed a demonstration of the new grievance tracking system. The following information was provided or discussed:

- The system still needs to incorporate a field(s) to allow for staff to document EC (e.g., staff member conducting interviews with disabled persons, or grievance office staff, etc.):
 - At the time of the onsite review and demonstration, the system was expected to be activated “to go live” in a couple of weeks as a designated trial period with the goal to fully operationalize the system in November 2024.
 - The system will need to have an alert when a final copy needs to be delivered in person or otherwise, EC may be needed and thus there must be a clearly developed process for each of the encounters.
 - Four (4) deputies and three (3) technicians currently work the Grievance Unit, and there will have fifth and sixth deputy joining after the next academy graduates:
 - ◆ The unit also has one (1) lieutenant and one (1) sergeant.
 - Even if a grievance is not marked as “ADA”, grievance staff marks it as such:
 - ◆ If an incarcerated person marks as ADA inappropriately, it will remain as an ADA grievance.
 - The new grievance tracking system captures referrals to both AFBH and the ADA unit.
 - ADA unit staff can log in every morning into the queue to access emergent grievances.
 - Grievance staff continue to complete the appeal process even after individuals are released from custody.
 - ACSO did not have anyone on appeal restriction status as of mid August 2024.

Approximately 34 completed grievances (submitted by 16 incarcerated persons) were reviewed. Of the 34 grievances, 20 were checked as “SMI.” An additional grievance was filed by an IDI person. There were no apparent time constraint concerns. Nearly all the grievances were denied.

None of the grievances reviewed for SMI or IDI persons included a face-to-face interview (or there was no documentation of such). It is possible that none warranted a face-to-face interview for clarification purposes or otherwise.

The ADA Coordinator and grievance office staff confirmed that no incarcerated persons with disabilities (or behavioral health clients) have been placed on grievance restriction during the monitoring period.

Though the comments/complaints could not be verified or refuted, a few of the comments from incarcerated person interviews included the following:

- No help with grievance responses, no help writing grievances even though I write and ask someone for help. No help, and nobody comes to talk with me.
 - I ask deputies verbally for help when I ask for a grievance form. They say they're busy or will help me later, but they never help. Nobody in the unit will help read the grievance response when I ask.
- I don't know how to fill out a grievance or even understand the process, but I ask Deputy xxxxxx (ADA unit) for help.
- I have filled out grievances, and staff responds in writing, but they don't take it seriously. They don't always look into issues, but sometimes they investigate.

Recommendations:

- 1) For the next review period, provide proof that AFBH assists in resolving grievances, including meeting with the grievant.
- 2) Revise Policy 16.03 Inmate Grievance Procedure to include the requirements of related CD provisions.

1022. The ADA Coordinator or a member of the ADA unit shall:

- (i) review all ADA related complaints;
- (ii) assign an ADA-trained staff person to investigate the complaints, and/or interview the individual to the extent his or her complaint or requested reasonable modification is unclear or consult with AFBH as appropriate; and
- (iii) provide a substantive written response.

The ADA Coordinator or a member of the ADA Unit shall review all ADA-related grievances within seven (7) days to evaluate them for any emergent issues that require an expedited response. Where an emergent issue is identified, the ADA unit shall respond within forty-eight (48) hours of review and facilitate, as needed, obtaining any information required from AFBH to provide a response and/or scheduling an emergency appointment with AFBH staff as needed. For non-emergent issues, the total response time for all ADA-related grievances shall be thirty (30) days from receipt. All ADA-related grievances and responses, including the provision of interim reasonable modifications, shall be documented and tracked in the ADA Tracking System Grievance Module.

Finding: Partial Compliance

(Previously rated as "Partial Compliance")

Policies:

- ACSO Detention and Corrections Policy and Procedure - 1.14 Americans with Disabilities Act (Revision Date October 31, 2019):
 - Current revision being finalized.
- ACSO Policy 10.32 Americans with Disabilities Act Coordinator (Post Order) (Issued Date August 28, 2023).
- ACSO Detention and Corrections Policy and Procedure - 16.03 Inmate Grievance Procedure (Revision Date December 29, 2020).

- ACSO Detention and Corrections Policy and Procedure - 17.05 Inmate Message Requests (Revision Date December 1, 2019).
- The revision of policies is still in progress.

Training:

Finalization of related training materials by ACSO is in progress.

Metrics:

- Policy 1.14 Americans with Disabilities Act.
- ACSO Policy 10.32 Americans with Disabilities Act Coordinator (Post Order) (Issued Date August 28, 2023).
- Policy 16.03 Inmate Grievance Procedure.
- Policy 17.05 Inmate Message Requests.

Assessment:

As outlined in CD Provision 1021, draft revised Policy 1.14 contains related language regarding the ADA Unit responsibilities and timelines regarding reviewing and investigating grievances including emergent and non-emergent issues.

Policy 10.32 (Post Order) contains related language pertaining to tracking the grievance information within the tracking system. Note: The Expert's previous report (Consent Decree Fourth Status Report) contains more detailed information.

Approximately 34 grievances and five (5) disability accommodation requests were reviewed. The ADA Coordinator reviews and investigates all complaints and requests. The seven-day period for the monitor to review the grievances/requests for emergent issues that require an expedited response (within 48 hours) to include contacting AFBH has improved, but still needs to be monitored closely.

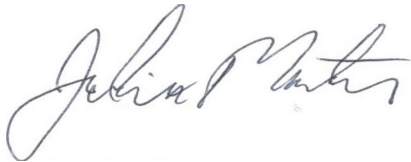
Recommendations:

- 1) For the next scheduled tour, ACSO must provide proof of practice that the ADA Unit staff review all ADA-related grievances within seven (7) days to evaluate them for any emergent issues that require an expedited response including:
 - a. Response times are within 48 hours of review and facilitating (for emergency issues), as needed, obtaining any information required from AFBH (including routing grievances to AFBH) to provide a response, and/or scheduling an emergency appointment with AFBH staff as needed.
 - b. For non-emergent issues, that the ADA Unit provides a response within thirty (30) days of receipt of the request.

- 2) All ADA Requests and responses must be documented in the soon-to-be expanded ATIMS ADA tracking system and tracked internally until the roll-out of the expanded system.

Signature

Submitted on behalf of Sabot Technologies, Inc. dba Sabot Consulting to the County of Alameda, and Alameda County Sheriff's Office

A handwritten signature in black ink, appearing to read "Julian Martinez", written in a cursive style.

December 10, 2024

Julian Martinez
Director
Sabot Consulting
Julian.martinez@sabotconsult.com

Date