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Re: Fourth Expert Monitoring Non-Confidential Report on the Consent Decree Babu, et al. v. County of Alameda, et al.; Case No. 5:18-CV-07677;

Dear Counsel,

This document serves as an introduction of the attached report documenting my fourth confidential monitoring report on the status of Alameda County Sheriff's Office's (ACSO) and Adult Forensic Behavioral Health's (AFBH), a department of the Alameda County Behavioral Health (ACBH), (collectively, the County) implementation of the Consent Decree within Santa Rita Jail (Jail). This report will address the provisions assigned to me for evaluation. I have sought feedback from the Joint Experts as I prepared this report and provided feedback to the other Joint Experts on their individual reports.

As with all monitoring periods, I want to thank ACSO, AFBH, Wellpath, incarcerated persons interviewed and counsel for being willing to share information, feedback and ideas regarding the County's status in implementation of the Consent Decree. It remains clear that all parties are interested in improvement and working collaboratively, and the collective efforts are resulting in tangible improvements.

The Joint experts conducted meetings and on-site tours during the week of January 8, 2024 which included representatives from the County, Defense Counsel, Class Counsel and the Department of Justice. The joint experts also met with the Sheriff and Undersheriff who voiced an on-going commitment to supporting the reform efforts underway. During the site visit, the joint experts interviewed incarcerated persons and staff, toured the jails and reviewed documentation associated with proof of practice relative to compliance with the provisions. As with all prior monitoring tours, the County continued to permit unfettered access to

people, places and documentation during the tour and continues to transparently provide available data to evaluate compliance.

In addition to on-site official monitoring, the County also avails itself and the staff to routine meetings, both remote and on-site, to discuss progress with implementation and has proven to be open to innovative ideas from the joint experts and other systems. During this rating period, the County has shown significant progress in a range of areas, such as:

1. Updating the controlled use of force policy.
2. Transitioning from paper out-of-cell tracking systems to a technology solution.
3. Improving supervisory oversight and tracking when out-of-cell time is cancelled.
4. Improving supervisory oversight in the quality of safety checks.
5. Finalization of the Crisis Communication for Corrections lesson and training plan.
6. Contacting behavioral health clinicians prior to employing force when time and circumstances permitted.
7. Expansion of critical custody units, such as the Compliance Unit and Behavioral Health Access Team (BHAT).
8. Inclusion of behavioral health staff in the restricted housing unit and prior to utilizing force when time and circumstance permit.
9. Improved timeliness and quality of response to Class Member grievances.
10. Improving the timeliness of intake processing.
11. Completion of the cell softening project.

There are areas, however, that the County continues to struggle to demonstrate sustained progress, requiring targeted action in the next rating period:

1. Increasing custody staff hiring and increasing available custody staff to work consistently in housing units.
2. Staff reliance on force to address non-compliance when there may be opportunity for de-escalation to resolve the issue without force.
3. Reaching the required out-of-cell and structured activity requirements for all housing units.
4. Maximizing the use of available yards and program spaces.
5. Tangible progress relative to construction projects, such as recreational yards, cameras and clinical spaces in specialized behavioral health units.
6. Reducing reliance on involuntary overtime for staff and the redirect of patrol staff to the jail.
7. Overreliance on intensive observation status for extended periods.
8. Rigid and inadequate technology solutions that are unable to support real time performance metrics and evaluation.

As the attached report will show, the following is a breakdown of ratings for the forty-two (42) provisions assigned to this expert:

| | |
|---------------------------------|----|
| Substantial Compliance | 6 |
| Partial Compliance | 32 |
| Non-Compliance | 0 |
| Implementation Not Yet Required | 4 |

While it is noted that no provision changed rating this monitoring period from the Third Monitoring report, all provisions previously rated as substantial compliance maintained, virtually all of the 32 provisions rated as partially compliant during the Third Monitoring period demonstrated progress during this rating period and did not stall or recede. There remain no provisions rated as non-compliant. Additionally, based on sustained compliance and appropriate policies and oversight in place, it is recommended that the following provisions be discontinued from monitoring for reasons articulated in the report:

- 415 Access to bathroom facilities during out-of-cell activities
- 754 Emergency response equipment and access to cut down tools.

The County is committed to reform, but the single most pressing barrier is the inability to hire custody personnel to implement the reforms and the associated policies. This is a national challenge in law enforcement and not associated solely with Alameda County. Because of the profound challenges, hiring requires a more aggressive and creative approach from the County as the deputy vacancies in the jails have actually slightly increased and those vacancies are impacting compliance in a myriad of provisions and are impacting the wellness of the workforce.

Respectfully Submitted,



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Attachment