

***C. Babu v. Ahern***  
**Consent Decree Fourth Non-Confidential Status Report**  
*Case No. 5:18-cv-07677-NC*  
**Terri McDonald Consulting LLC**  
**Sacramento, CA**  
**April 15, 2024**

The following are excerpts from the Consent Decree provisions assigned to Terri McDonald for monitoring. This document will have a summary of those provisions followed by the specific provision language and this Joint Expert’s findings and recommendations. Connected provisions have been combined for this status report; however, several will likely be separated in future reports as the County increases compliance. Additional recommendations may also be added in subsequent reports as additional information is gleaned during implementation. While this report is dated April 15, 2024, with limited exception, only information provided through December 31, 2023, has been included in this reporting period.

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

SC                    Substantial Compliance  
PC                    Partial Compliance  
NC                    Non-Compliance  
NR                    Not Rated  
INYR-N/A        Implementation Not Yet Required – Not Applicable

**Summary of Ratings**

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

<b>Requirement</b>	<b>Current Rating</b>	<b>Prior Rating</b>
414. Reconfiguration of Recreation Spaces Within Twenty-four(24) Months of the Effective Date of the Consent Decree	PC	PC
415. Access to Bathroom Facilities During Out of Cell Time Activities	SC	SC
417. Documenting Exceptions to Out of Cell Activities due to Unusual Circumstances	PC	PC
418. Procurement and Activation of Electronic Information System to Track Out of Cell Time	PC	PC
419. Notification of Mental Health Staff When Incarcerated Person Repeatedly Refuse to Exit Cell or Neglect Basic Care	PC	PC
420. Development of Plan to Reconfigure Recreation Spaces	PC	PC
421. Maximize Outdoor Recreational Time	PC	PC
422. Behavioral Health Clients Involvement in Programming and Evaluation of Available Work Assigns to Increase Opportunities	PC	PC
423. Equal Access to Programming for Behavioral Health Clients and Alternative Custody Opportunities.	PC	PC
424. Evaluation of Potential Expansion for Programming Space.	PC	PC
500. Update to Use of Force Policies and Training	PC	PC
501. Use of Force Policy to Include Specific Mandates.	PC	PC
502. Mental Health Staff Role in Pre-Planned Use of Force Incidents	PC	PC
503. Use of Force Reviews and Expansion of Fixed Cameras	PC	PC
504. On-Going Refinement of Use of Force Policies and Training	SC	SC
505. Utilization of Special Restraints and Discontinuation of the WRAP device.	PC	PC
506. Medical and Mental Health Staff Role When Specialized Restraints are Used	PC	PC
507. Updates to the Special Restraint Policies and Training.	PC	PC
600. Access to Grievances and Grievance Trend .	PC	PC
712. Alert System to Address Delays in Intake Processing	PC	PC
749. Cleaning of Safety Cells.	SC	SC
751. Working Call Buttons in Living Units	SC	PC
754. Emergency Response Equipment and Access to Cut Down Tools.	SC	SC
760. Clinicians Role in Restricting Property and Privileges Associated with Suicide Precautions.	PC	PC
761. Training on Security Checks and Emergency Response to Suicide Attempts	PC	PC
763. Supervisor Review of Security Checks.	SC	SC
768. Out-of-Cell Time in Therapeutic Housing Units	PC	PC
773. De-escalation Training	PC	PC
800. Establishment of Incarcerated Person Advisory Council and Ombudsperson Program	PC	PC
1200. Development of Consent Decree Implementation Plan.	PC	PC

## Commonly Used Acronyms

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

## Associated Policies

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

1.05 (GO) <sup>2</sup>	Use of Force
1.20 (GO)	Taser X-2
1.21 (GO)	Less Lethal Weapons Systems
3.10 (DC)	Daily Attendance Report – Requires Update
3.21 (DC)	Personnel Selection, Promotions, Retention and Staffing – Published November 21, 2023
3.27 (DC)	Position Control – Published November 21, 2023
3.29 (DC)	Special Management Unit Staffing – Published November 21, 2023
3.30 (DC)	Mandatory and Voluntary Overtime Assignments – Requires Update
4.02 (GO)	Training - Published November 21, 2023
4.01 (DC)	Facility Training Plans – Published November 21, 2023
4.02 (DC)	Facility Personnel Training -Updated February 25, 2023
5.69 (GO)	WRAP Device – Updated and Approved
6.01 (DC)	Repair and Minor Construction ACSO – Updated October 10, 2022
6.02 (DC)	Facility Plant Maintenance – Updated October 10, 2022
7.01 (DC)	Fire Safety – Published January 26, 2024
7.03 (DC)	Emergency Alarm Response – Updated March 10, 2023

---

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

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

7.14 (DC) Infectious Disease Control – Updated April 5, 2023

8.09 (DC) Transportation/Movement and Use of Restraints – Requires Update

8.11 (DC) Emergency Medical Transportation – Updated January 26, 2024

8.12 (DC) Incarcerated person Observation and Direct Visual Supervision – Updated September 5, 2023

8.13 (DC) Use of Safety Cell – Updated April 6, 2023

8.17 (GO) Body Worn Cameras – Pending Further Review

8.26 (DC) Use of Special Restraints – Updated February 24, 2024

8.28 (DC) Resistant Incarcerated Person Management – Requires Update

8.29 (DC) Positional Asphyxia – Pending Further Review

8.31 (DC) Selection of Housing Unit Inmate Workers – Requires Update

9.01 (DC) Disciplinary Isolation – Archived

9.02 (DC) Administrative Segregation – Updated November 21, 2023

9.03 (DC) Protective Custody – Updated September 25, 2023

9.04 (DC) Therapeutic Housing Policy – In Review Process

9.07 (DC) Deprivation of Authorized Items or Activities – Requires Update

9.08 (DC) Contract Agency Inmates – January 27, 2023

9.09 (DC) Special Incarcerated Person Management Plan – Requires Update

9.10 (DC) Max Separation Incarcerated persons – Archived

9.11 (DC) Effective Communication – Published February 6, 2024

10.01 (DC) General Security Post Order – Requires Update

10.02 (DC) Lieutenant/Watch Commander Post Order – Updated October 20, 2023

10.03 (DC) Sergeant/Shift/Supervisor Post Order – Updated May 3, 2023

10.04 (DC) Intake Deputy Post Order – Requires Update

10.05 (DC) Housing Unit Deputy Post Orders – Updated October 31, 2023

10.08 (DC) Clinic Officer Post Orders – Updated March 16, 2023

10.09 (DC) Kitchen Officer Post Orders – Updated October 24, 2023

10.11 (DC) Intake, Transfer, Release (ITR) Technician Post Order – Updated May 23, 2023

10.12 (DC) Housing Control Post Orders – Updated June 28, 2023

10.18 (DC) Yard Deputy Post Order – Updated June 26, 2023

10.22 (DC) Special Projects Deputy Post Order – Requires Update

10.30 (DC) BHAT Deputy Post Orders – Requires Update

10.32 (DC) ADA Officer Post Orders – Updated August 28, 2023

11.01 (DC) Intro to Intake – Requires Update

11.02 (DC) Intake Procedure – Requires Update

12.01 (DC) Intake Classification – Published January 23, 2024

12.02 (DC) Reclassification – Updated March 22, 2023

12.08 (DC) Incarcerated Person Work Program – Requires Update

13.01 (DC) Medical and Behavioral Health Care – Requires Update

13.02 (DC) Access to Care Policy – Requires Update

13.06 (DC) Suicide Prevention – Updated June 30, 2023

13.12 (DC) Behavioral Health Referral Form – Requires Update

15.01 (DC) Sanitation Schedule – Requires Update

15.02 (DC) Safety and Sanitation Inspection – Requires Update

16.01 (DC) Incarcerated Person Discipline – Updated July 11, 2023

16.02 (DC) Incarcerated Person Rules and Information – Updated June 21, 2023.  
 Incarcerated Person Handbook – Updated June 21, 2023

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

## FINDINGS

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

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

While there has been a reduction in the inmate population since the previous report, which can assist in reducing overall staffing need, there has been no increase in custody staff hiring since the last monitoring period. It is noticed there are fewer deputies this monitoring period compared to the third monitoring report (see provision 201), and the jail continues to rely heavily on overtime to meet the staffing needs in the jail. While there has been a slight reduction in the use of overtime during the 24 hour period as reflected in the chart below, this is partially attributed to a slight reduction in the number of available staff assigned to custody as of June 2023, and corresponds with the reduced number of deputies assigned to the jail during

---

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

this rating period. It is anticipated the county will report an increase in custody hiring in the next reporting period.

The ACSO has not changed the number of staff working on the day or overnight shifts during this rating period, but there were days in this monitoring period where staffing levels did not meet a ACSO's internal staffing targets, due to necessary hospital transports or critical incidents which required the redirection of staff from their other duties. The redirection of deputies from their assignment, resulting in a subsequent lockdown or movement restriction due to low staffing. During this rating period, ACSO's target goal was insufficient to meet all the requirements of the Consent Decree.

In analyzing daily shift reports for a one week sample period each month from July through December 2023, it is evident the number of *deputies* working in the jails remained consistent with the last monitoring period, but the *technicians* dropped slightly. Specifically, the average number of deputies working day shift represented a 1% increase from the Second Monitoring Report and the technician classification represented a 6% decreased average during the same 24-hour sample periods.

As mentioned, the County continues to rely on the use of overtime to address the overall staffing needs but utilization reduced slightly this reporting period for both deputies and technicians.

**Average Daily Deputy and Technician Coverage**  
*January – December 2023*  
**Teams A, B, C, D**

	January – June 2023		July-December 2023	
	Average % of Deputies on Overtime	Average % Technicians on Overtime	Average % of Deputies on Overtime	Average % Technicians on Overtime
Dayshift	44%	17%	48%	15%
Overnight	51%	18%	38%	17%

**Staff on Duty and Use of Overtime**  
**Change from Q1/Q2 2023 to Q3/Q4 2023**

	Average Deputies on Duty	Average Deputy Overtime	Average % of Deputies on Overtime	Average Technicians on Duty	Average Technician Overtime	Average % Technicians on Overtime
Dayshift	+1	+3	-4%	-2	-1	-2%
Overnight	0	-7	-13%	-2	-1	-1%

As referenced in all prior reports, the analysis of staffing needs is far too complicated to simply assess the number of positions approved as a measure of compliance with Provision 200. The number of staff required is driven by population, number of housing units open, design of the housing units, classification of the incarcerated persons (IPs) and the mission of the unit (for example, Therapeutic Housing Unit or Restricted Housing). It is noted that the population declined in the last six months of 2023, which could equate to a reduction in staffing assuming a system operating at full capacity, which is not the situation in Alameda

County. But the population reduction does allow the County to close housing units when classification factors permit, which allows the deputies assigned on that day to attend to other areas in the jail or reduce the debilitating effects of overtime.

It is critical to note that staying static or slightly below the last report is not the goal as the system is actually losing ground. The lack of deputies is the primary reason many of the provisions monitored by the various experts are not achieving the level of progress expected. It is recognized that the County is focused on hiring and the Sheriff reported during the January 2024 Monitoring meeting that ACSO has redirected several deputies from an outside contract to assist in the jail or other areas.

The situation is dire as there remains a nationwide crisis surrounding the recruitment and retention of peace officers, requiring the Sheriff to evaluate internal priorities, recognizing the Constitutional requirements of the jail that do not exist in other divisions of the Sheriff's department. It is also concerning that the ACSO retains approximately 300 federal inmates on a contract and is not required to incarcerate that population at a time in which a staffing crisis exists. The revenue generated from that federal contract cannot be more important than meeting the Constitutional requirements in the jail. As stated in the Second Monitoring Report: "If hiring cannot increase, it is time to consider cancelling the federal detention hold contract and look at other divisions with the Sheriff's department whose mission is not as critical as the mission in the jail and begin to redirect resources into the jail until such time as hiring can increase. It is also critical that alternatives to the current staffing model be considered, such as the use of contract security in front entrance and processing areas, use of correctional deputies and safety pay for designated technician classification to assist in program areas and with security checks."

#### **Recommendations:**

1. \*<sup>4</sup>Continue hiring associated with Provision 201.
2. \*Consider ending the contract to house federal inmates in the jail.
3. \*Evaluate non-Custody divisions of the Sheriff department to redirect staff into the jails until such time as hiring can increase.
4. \*Create a metrics report that trends daily staffing for all shifts and identifies any barriers that the number of available posts, vacancies or redirects have on programming or compliance with the Consent Decree.<sup>5</sup> Work with the Joint Experts to prioritize available resources should that be the case.
5. \*Work with the Joint Experts concerning how hiring additional Technicians or Custody Deputies pursuant to Penal Code Section 5850.2 and 850.5 could assist in the role of security checks and other jail operations.

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

---

<sup>4</sup> All recommendations that begin with an asterisk were noted in prior report.

<sup>5</sup> The Joint Experts and/or the National Institute of Corrections (NIC) can assist.

*devoted solely to staffing the Jail, and the Sheriff shall certify annually that these positions are used solely for the Jail;*<sup>6</sup>

**Finding: Partial Compliance**

**Assessment:**<sup>7</sup>

The County continues to set as a hiring goal target the required growth in staffing in both the deputy (badge positions) and the technician positions (non-badge). This target pursuant to the Settlement Agreement is the employment of 656 deputies and 285 technicians to be filled by August 2024. While early into the implementation of the Settlement Agreement, the County showed progress in staffing increases, progress has stalled and actually receded since the last report.

Since the last report, the deputy vacancies increased from 269 vacancies in June 2023 (41% vacancy rate) to 297 vacancies as of December 24, 2023 (45% vacancy rate). The County remained static in the technician positions, maintaining 210 technicians, representing an unchanged 26% vacancy rate in the technician classification.

It is slightly helpful that the County realized a reduction in population from the first six months in 2023 to the last six months in 2023. The average daily population (ADP) for the period of January – June 2023 was 1845 incarcerated persons. The ADP dropped to 1673 incarcerated person during the July – December 2023 period, representing slightly over nine percent reduction, which does help reduce the staffing strain and likely contributed to the slight reduction in the use of overtime staff.

The County continues to allocate resources to recruit new staff but is not able to meet the need in the hypercompetitive recruitment market of the northern Bay Area and must engage in a more aggressive approach to address the staffing crisis. The following chart reflects staffing data at the onset of the settlement discussions as well as the status from the Third Monitoring report:

**Bi-Weekly Staffing Report  
Ending December 24, 2023**

	March-April 4, 2020	May 28, 2023 – June 10, 2023	December 24, 2023 to January 6, 2024	Change from July 2020	Change from June 2023
Badge Positions Authorized	404	656	656	252	0
Non-Badge Positions Authorized	211	285	285	74	0
Badge On-Site	278	387	359	+81	-28

<sup>6</sup> Note due to the complexity of this provision, the provision has been separated into five (5) subsections with the Finding documented below Provision (201)(1) and the Recommendations below in Provision (201)(5)

<sup>7</sup> These findings are specific to custody positions as mental health staffing analysis will be conducted by the Mental Health Expert.



Non-Badge On-Site	182	210	210	28	0
Background Investigators	4	11.5 <sup>8</sup>	11.5	7.5	0

The County continues to accurately document the staff assigned to custody on the custody staffing rosters in a transparent manner. This transparency allows for an independent position reconciliation to confirm the staff assigned to custody are actually working in custody, which is the current practice.

Regardless, the hiring efforts of the County are insufficient and require a more focused effort as it is highly probable the County will not be able to fill the 300 deputies and 75 technician vacancies required to meet this provision by the three year requirement. There are no easy solutions to address this national crisis, but a blended approach must be pursued to be successful, such as:

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

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

This reporting period demonstrated the County is not carrying division vacancies in the Detentions & Corrections division.

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

The County increased the Compliance Unit this rating period due to an internal decision to disband the American Correctional Association (ACA) accreditation unit due a determination that compliance with the Consent Decree takes a greater priority and encompasses many of the ACA accreditation requirements. As a result, the Compliance Unit added one sergeant, two deputies and four technicians this rating period. Currently the Compliance Unit is comprised of one (1) captain, one (1) lieutenant, three (3) sergeants, two (2) deputies and six (6) sheriff technicians. While it is recognized that it has one less lieutenant, the unit

---

<sup>8</sup> Backgrounds consists of eight (8) regular staff and seven (7) retired annuitants working part time (.50 position).

has a greater compliment of staff, and the Grievance Unit is overseen by an additional lieutenant, which essentially is a greater staffing compliment than required by this sub provision.

It will be important to assess in the next rating period whether the increase in staffing helps address the inability of the County to update all policies and training and engage in meaningful self-auditing and self-correction. The Unit certainly has been trying but has been too small and under resourced to comply with an agreement of this magnitude.

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

The County last submitted their certification on March 7, 2023, and is not required to submit an update during this monitoring period. Will be assessed in the next reporting period.

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

There has been no change to this sub provision since the last report. The ACSO does not have sufficient or consistent staffing to transition to direct supervision in the restricted housing or therapeutic housing units. Until such time the staffing levels can increase and the use of overtime, particularly from patrol, can decrease, the County will not be able to achieve compliance with this provision. In meeting with the sergeants and deputies in these specialized housing units, it is clear the County attempts to anchor the unit teams with a stable cadre of deputies, which is positive, but not sufficient to establish compliance. Refer to Provision 414 concerning the timeline for the installation of deputy workstation in the living areas to support a direct supervision model

It is also positive to report that the Compliance Captain has been consistent since the last report and is engaged in the reforms underway.

### **Recommendations:**

1. \*Continue with hiring plan and utilization of retired annuitants and overtime to fill vacant posts.<sup>9</sup>
2. \*Continue to retain Background Unit personnel and augment with retired annuitants as workload dictates.
3. \*Continue with aggressive recruitment and retention strategies.

---

<sup>9</sup> It is noted that retired annuitants are not currently utilized to work in housing units but do assist with transportation, which lessens the impact on the redirection of housing unit staff and involuntary overtime. The County is encouraged to consider the use of retired annuitants in housing units as well if that would assist with the vacancy challenges.

4. \*If meeting hiring goals remains elusive, evaluate viability of some percentage of sworn personnel to be hired under Penal Code sections 830.2, 830.5, *et seq.* to be authorized to work only in custodial functions, including custody transportation.
  - Continue the process of retaining supervisors in custody, rather than transferring to patrol, to allow for consistency and skill development for the sergeants.
5. \*Review workload of deputy personnel to determine if any of existing deputy assignments can be effectively performed by non-sworn staff.
6. \*Identify deputy posts that are best filled by regular staff, keeping reliance on overtime in higher risk units to a lower percentage than the medium and low risk units.
7. Implement the measures described above to address this shortage of staff including:
  - Ensure salary and benefits are competitive to lower qualified candidates.
  - Ensure a strong recruitment standard strategy with well-resourced hiring teams available to expedite hiring in a hyper competitive market.
  - Cancel contracts not critical to the County and ACSO's mission.
  - Continue robust and aggressive alternative custody efforts with the criminal justice and community provider partners.
  - Carefully evaluate all functions performed by peace officer and technicians to determine if civil civilization of those functions can occur.
  - Evaluate medical guardian and medical transportation practices to bring more services into the jail and cluster hospital guardian into a secure community setting.
  - Engage in robust return to work and employee Wellness strategies.

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

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

**Assessment:**

The County continues to maintain a BHAT program. The County has also reported that it has been able to increase the number of BHAT deputies in this monitoring period from three to four deputies. In reviewing the BHAT daily report for the period of July - December 2023, it appears that BHAT deputies were

generally available except weekends and holidays with the exception of seven days during this reporting period, which is double the number of days the County could not fill the posts during the period of January – June 2023.<sup>10</sup>

In reviewing BHAT deputy statistics for 2023, the number of escorts has increased in the July - December review period. In the first six months of 2023 (Q1/Q2), the County averaged 269 completed BHAT escorts. It is positive to report the number of completed BHAT escorts increased by an impressive forty-six percent in the last six months of 2023 (Q3/Q4), likely contributed to the increased number of deputies and increase in behavioral health treatment staff.<sup>11</sup> It is also positive that the number of refusals by Class Members to attend their clinical encounter reduced from a nine percent refusal rate in January – June 2023 to an eight percent refusal rate in July-December 2023.

The following table reflects the January – June 2023 data to allow for a comparison with the July – December 2023 data listed below.

**BHAT Monthly Escort Statistics**  
*July - December 2023*

	<b>Completed Escort</b>	<b>Refused</b>	<b>% Appts Refused</b>	<b>Groups</b>
<b>Q1/Q2 Average</b>	<b>269</b>	<b>38</b>	<b>9%</b>	<b>NA</b>
July	255	32	13%	80
August	315	35	11%	86
Sept	311	26	8%	72
Oct	567	34	6%	80
Nov	469	37	8%	106
Dec	449	14	3%	103
<b>Q3/Q4 Average</b>	<b>394</b>	<b>30</b>	<b>8%</b>	<b>88</b>
<b>Difference</b>	<b>+46%</b>	<b>-20%</b>	<b>-1%</b>	<b>NA</b>

As reflected in the Third Monitoring Report, the total number of BHAT deputies required will need to be established commensurate with increases to the Adult Forensic Behavioral Health (AFBH) staffing as well as increases to the number of Therapeutic Housing Units (THU). Clearly additional BHAT deputies will be required as ACSO is able to increase staffing. As a result, compliance with this provision is inextricably linked to Provisions 200 and 201.

<sup>10</sup> The Third Monitoring Report reflected there were three (3) days in the previous monitoring period with no BHAT deputies.

<sup>11</sup> Refer to Mental Health Expert Report for additional information. Statistics concerning overall access to behavioral health are addressed in the Mental Health Expert’s report. Those findings can be reviewed in the Mental Health Monitor’s report, specifically Provisions 200, 204, 704 and 726.

The Crisis Communications for Corrections<sup>12</sup> lesson plan for the BHAT deputies is pending final approval from Class Counsel. It is anticipated that the CIT training will resume in the next reporting period and the BHAT deputies should be prioritized for that training. Future discussion will be required to determine the format and Lesson plan for refresher training, but the County should focus on the rollout of the initial training in 2024

**Recommendations:**

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

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

**Finding:**        *Partial Compliance*

**Assessment:**

There has been no change to this provision since the last monitoring period. Pursuant to the *Emergency Medical Inmate Transportation Policy (8.11)*, the County continues to designate five (5) deputies each shift to serve as emergency medical transport deputies (EHCATs) and the deputies’ ECHAT designations are consistently documented on the daily shift schedule. The Watch Commanders on the A and D Teams consistently document on the end of shift reports when the EHCATs deputies are deployed. Unfortunately, the watch commander end of shift reports for Teams B and C have not been standardized to document when or if the EHCATs deputies were deployed despite previous recommendations to standardize the reporting for internal and external monitoring. The County should ensure the CCC training of the EHCAT deputies.

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

The County has established a policy for EHCATs, consistently designates EHCATs deputies, and documents deployment for two of four teams. Assuming the County can standardize the watch commander end of shift reports to document EHCATs deployments each shift and train the EHCATs deputies in CIT,

---

<sup>12</sup> Previously referred to Crisis Intervention Training (CIT)

the County can reach substantial compliance assuming the EHCATs deputies remain stable and are not constantly rotated to include non-CCC trained staff.

**Recommendations:**

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

*(402) [Following reconfiguration of recreation space] Individuals who are on “Recreate Alone” status (meaning they cannot recreate with other incarcerated persons) [Step 1] shall be offered at least fourteen (14) hours per week of out-of-cell time, which shall include at least some amount of Structured Time, as set forth below. ACSO shall use best efforts to offer individuals two (2) hours of out-of-cell time per day.<sup>13</sup>*

*(403) [Following reconfiguration of recreation space, Step 1] Defendants shall use best efforts to provide at least five (5) hours per week of Structured Time (which includes therapeutic, educational, substance abuse, self-help, religious or other structured programming), which will count towards the total out-of-cell time. Incarcerated persons may participate in these programs in handcuffs or other appropriate restraints only if necessary to ensure the safety and security of the Jail. If ACSO is unable to meet this requirement, the Parties agree to meet and confer regarding the reasons why and to examine methods of increasing the amount of Structured Time.<sup>14</sup>*

*(405) [Following reconfiguration of recreational space, Step 2 ] Individuals shall be offered at least twenty-one (21) hours per week of out-of-cell time, which shall include at least some amount of Structured Time, as set forth below. ACSO shall use best efforts to offer individuals three (3) hours of out of cell time per day.<sup>15</sup>*

*(407) [Following reconfiguration of recreational space] Defendants shall use best efforts to provide at least eleven (11) hours per week of Structured Time [for the Step 2 population], which will count towards the total out-of-cell time. Incarcerated persons will participate in Structured Time programs in restraints if necessary to ensure the safety and security of the Jail. Incarcerated persons may participate in these programs in handcuffs or other appropriate restraints only if necessary to ensure the safety and security of*

---

<sup>13</sup> This Provision refers to Step 1 populations in restricted or administrative separation housing. See Provision 411. This may not be achievable until reconfiguration of recreational space.

<sup>14</sup> This Provision refers to Step 1 populations in restricted or administrative separation housing. See Provision 411. This may not be achievable until reconfiguration of recreational space.

<sup>15</sup> This Provision refers to Step 2 populations in restricted or administrative separation housing. See Provision 411. This may not be achievable until reconfiguration of recreational space.

*the Jail. If ACSO is unable to meet this requirement, the Parties agree to meet and confer regarding the reasons why and to examine methods of increasing the amount of Structured Time.<sup>16</sup>*

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

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

*Recommendations: Refer to Provisions 411, 412 and 414.*

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

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

***Finding: Partial Compliance***

**Assessment:**

There are essentially two types of non-restricted housing units – those units where the majority of the population are compatible and program together; and those units where the classifications of the Class Members are complex, requiring small group activities in the unit, versus allowing the upper tier, lower tier or entire unit out of the cell together. While the classification of housing units can and does change during the monitoring period, in general the housing units in which large groups are compatible include Housing Units 21,<sup>17</sup> 22, 25, 31, 33 and 34. The housing units with mixed and diverse populations, often not compatible for out-of-cell activities included: Housing Units 2, 7, 8 and 24.<sup>18</sup> The analysis of this provision will focus on the complex units for this report.

This monitoring period is the first opportunity for the County and Monitoring Team to rely on the Guardian radio frequency identification device (RFID) reports to track out-of-cell time in the complex non-restricted housing units. The less complex units do not require tracking at the individual level as large groups are released together for activities, either the upper tier, lower tier or entire housing unit. There were no notable complaints received during monitoring tours from Class members in those units concerning not receiving four hours a day or 28 hours per week of out-of-cell time. Many of the residents of those units participate

---

<sup>16</sup> This Provision refers to Step 2 populations in restricted or administrative separation housing. See Provision 411. This may not be achievable until reconfiguration of recreational space.

<sup>17</sup> Housing Unit 21 was temporarily designed for complex female populations to allow for renovation in Housing Unit 24.

<sup>18</sup> Housing Units 9 and 35 are addressed in Provision 768.

in rehabilitative programming and work assignments in addition to the out-of-cell time they receive in the dayroom, quasi yard and large main yard.

The County reported the ability to measure out-of-cell in Housing Units 2, 7, 8 and 24 in mid-August utilizing the Guardian system. As a result, the tracking data was utilized to measure compliance beginning on August 27, 2023. However, as with the restricted housing unit data, the County self-identified training issues regarding tracking movement with the Guardian, so the monitoring review period ceased on October 21, 2023 to afford the County time to retrain staff relative to using the Guardian system.

As reflected on the following chart, during the period from August 27 through October 21, 2023, it was noted that none of the complex housing units could demonstrate that the residents received a minimum average of 28 hours of unstructured out-of-cell activity per week. As with the restricted housing data to be discussed in Provisions 411 and 412, the County is collaborating with the Guardian vendor to capture structured activities as currently the system cannot do so, which is resulting in a likely underreporting of out-of-cell hours.

**Out-of-Cell Activity  
General Population Averages  
August 27 – October 21, 2023  
Combined Dayroom and Yard  
28 Hours Unstructured Required  
County Should Endeavor to Provide 14 Hours Structured**

<b>Unit</b>	<b>Total Hours</b>	<b>Structured</b>
<b>Required Hours</b>	<b>28 Hours</b>	<b>14 Hours</b>
Housing Unit 2 - Male	19.5 Hours	0 Hours
Housing Unit 7- Male	19 Hours	0 Hours
Housing Unit 8 Male	23 Hours	0 Hours
Housing Unit 24 - Female	9.25 Hours	0 Hours

Due to the training needs identified in reviewing the August – October 2023 sampling, starting in November, ACSO retrained staff on the use of the Guardian RFID and compliance monitoring resumed for the period of December 3-December 30, 2023. The charts below depict the averages by pod for Housing Units 2, 7, 8, and 24 during the December 2023 review period.<sup>19</sup>

---

<sup>19</sup> Restricted housing Class Member data was removed from the calculation for Housing Units 2 and 24.



**Housing Unit 2**  
**Weekly Out-of-Cell Activity**  
*December 3-30, 2023*

<b>Pod</b>	<b>Dec 3-6</b>	<b>Dec 10-16</b>	<b>Dec 17-23</b>	<b>Dec 24-30</b>	<b>Dec-2023</b>
<b>A</b>	10.25	10.25	10	11.5	<b>10.5</b>
<b>B</b>	46	47	52.5	42.5	<b>47</b>
<b>C</b>	32	45.75	30.75	27.25	<b>34</b>
<b>D</b>	61.5	64.75	49.75	28.75	<b>51.25</b>
<b>E</b>	9.75	8.5	6.75	5.5	<b>7.5</b>
<b>F</b>	13.75	24.25	18.5	12.5	<b>17.25</b>
<b>Average Weekly OOC</b>	<b>28.75</b>	<b>32.5</b>	<b>26</b>	<b>22</b>	<b>27.25</b>

It should be noted that Housing Unit 2 overall was close to the 28 hour weekly average and documented a notable increase from the August-October 2023 review period (up from 19 hours per week to 27.25 hours per week on average). But the unit is not in compliance as the overall unit average is skewed by three pods where the residents are largely able to program together. In pods A, E and F, there are mixed classifications, special security inmates (SSI) and Class Members who are awaiting consideration for placement in a restricted housing unit. In pod A and E, the out-of-cell average hours mirror those of the County’s restricted housing units which reflects those units are not being afforded the required amount of out-of-cell time.

**Housing Unit 7**  
**Weekly Out-of-Cell Activity**  
*December 3-30, 2023*  
**28 Hours Per Week Required**  
**County Should Endeavor to Provide 14 Hours Structured**

<b>HU7</b>	<b>Dec 3-6</b>	<b>Dec 10-16</b>	<b>Dec 17-23</b>	<b>Dec 24-30</b>	<b>Dec-2023</b>
<b>A</b>	20.5	29	11	26.25	<b>21.75</b>
<b>B</b>	20.5	29.75	52.5	26	<b>32.25</b>
<b>C</b>	21.5	29.75	63.5	25.75	<b>35</b>
<b>D</b>	21.75	23.25	49.75	26	<b>30.25</b>
<b>E</b>	24.25	30	8.5	26.5	<b>22.25</b>
<b>F</b>	26	30	25.75	17	<b>24.5</b>
<b>Average Weekly OOC</b>	<b>20.5</b>	<b>28.5</b>	<b>25</b>	<b>25</b>	<b>24.75</b>

Housing Unit 7 has also shown an improvement in December 2023 from the August-October review period (up from 19 hours per week average to 24.75 hours per week). Housing Unit 7 is close to reaching the 28

hour unstructured activity minimum but to reach compliance, the Housing Unit staff must reduce the number of hours per day where the unit does not operate dayroom and yard due to conflicting priorities and increase structured activities in this unit. As the County nears compliance, monitoring will adjust from weekly averages to a review of how many Class Members are offered the minimum four hours per day during the week.

**Housing Unit 8**  
**Weekly Out-of-Cell Activity**  
*December 3-31, 2023*  
**28 Hours Per Week Required**  
**County Should Endeavor to Provide 14 Hours Structured**

HU8	Dec 3-6	Dec 10-16	Dec 17-23	Dec 24-30	Dec-23
A	28.5	27.5	6.75	14.75	<b>19.25</b>
B	28.5	26.25	7.25	14.75	<b>19.25</b>
C	27.75	27	5.75	14.75	<b>18.75</b>
D	28.25	27.25	5.75	14.75	<b>19</b>
E	28	27	5.75	14.75	<b>18.75</b>
F	22	15.25	5.25	14.75	<b>14.25</b>
<b>Average Weekly OOC</b>	<b>27</b>	<b>25</b>	<b>5.75</b>	<b>14.75</b>	<b>18</b>

Housing Unit 8 is the only unit where the December average is lower than the August – October 2023 average (down from 23 hours per week on average to 18 hours per week). In actuality, the Monitor has noted unusual tracking in Housing Unit 8 and requested the County assess the manner in which tracking was occurring as nearly all out-of-cell time for release/return to the cell and total hours matched in that unit, which is an impossible task to coordinate in six pods with limited staffing as not all cell doors can be opened simultaneously to synchronize out-of-cell activities to this degree. Therefore, confidence is low for the accuracy of Housing Unit 8 for the period of December 17-December 30, 2023.

**Housing Unit 24<sup>20</sup>**  
**Weekly Out-of-Cell Activity**  
**December 3-30, 2023**  
**28 Hours Per Week Required**  
**County Should Endeavor to Provide 14 Hours Structured**

<b>HU24</b>	<b>Dec 3-6</b>	<b>Dec 10-16</b>	<b>Dec 17-23</b>	<b>Dec 24-30</b>	<b>Dec-2023</b>
<b>A</b>	19.25	13	15	17.25	<b>16.25</b>
<b>B</b>	23.75	10.75	15.25	17.25	<b>16.75</b>
<b>D</b>	2.5	30.5	17	21.25	<b>17.75</b>
<b>E</b>	19.25	19	11.25	7.25	<b>14.25</b>
<b>F</b>	6.75	6.75	10	8.5	<b>8</b>
<b>Average Weekly OOC</b>	<b>18.5</b>	<b>17.75</b>	<b>12.75</b>	<b>14.75</b>	<b>16</b>

Housing Unit 24, a female housing unit, also showed an increase in December 2023 from the August – October 2023 review period (up from 9.25 hours to an average of 16 hours per week). Housing Unit 24 is one of the most complex units in the system due to the fact there are fewer housing units for females, requiring a blending of various classifications into one housing unit. This unit houses protective custody, therapeutic housing unit (THU) and restricted housing populations to name a few various programs. To meet compliance, the unit must have more spaces to program the population, more staff to escort and provide security to those locations and improved documentation of structured activity hours.<sup>21</sup>

It is clear that the County is not able to demonstrate the ability to consistently meet the 28 hours per week minimum for the complex housing units in which not all occupants of a pod are compatible and can be in the dayroom or yard together. Additionally, the County suffers from the inability to track and report structured activities for these housing units, units where occupants are engaged in programming and Telecare Groups.

During tours of these housing units, complaints are received concerning not consistently receiving four hours of out-of-cell activities per day, disparate yard access and lack of structured activities. The complaints invariably emanate primarily from pods in which the out-of-cell time and access to rehabilitative programming are low. The Class Members in these units report filing grievances concerning the issue. However, because the grievance logs do not list the housing unit where the grievance originated, it is

---

<sup>20</sup> These averages do not include restricted housing but may include THU populations who were not identified on the tracking report. Will work with County in next monitoring period to identify THU populations in HU 24 and report on status in provision 768.

<sup>21</sup> It is noted that HU 24 deputies began attempting to track structured activities in the Guardian system.

difficult to quantify how many grievances are filed per month in these housing units regarding lack of access to out-of-cell or structured activities.

**Recommendations:**

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

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

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

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

**Assessment:**

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

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

During this monitoring period, the County continued to refine the out-of-cell tracking system utilizing the Guardian radio frequency identification device (RFID) system to track unstructured time. The Compliance Unit also continued the weekly quality assessment review of the information and ensured the step level of the Class Member has been listed on the reports, allowing more acute monitoring of compliance. This is

an improvement from the last monitoring period where average out-of-cell time for the distinct subcategories of Step 1 and Step 2 populations was not possible.

The following charts will show for the first time the average breakdown of the restricted housing population based on the designated step level. Because this information was not available in any prior monitoring period it is impossible to compare as the prior reports combined the Step 1 and Step 2 populations for an average. While a clean comparison is not possible, in the First Monitoring report, it appeared the male restricted housing populations were averaging five (5) hours a week of combined dayroom and yard time.

In the Second Monitoring report, the sample data reflected that male restricted housing populations were averaging ten (10) hours per week combining the Step 1 and Step 2 populations. In the Third Monitoring report, the sample data reflected the Step 1 and Step 2 males were averaging a combined nine (9) hours of out-of-cell time and the females were averaging slightly over six (6) hours per day, combining the Step 1 and Step 2 populations.

For this monitoring period, a random sample week of documentation from the RFID Guarding system was selected to determine compliance for the months of July-October 2023 with feedback provided to the County.<sup>22</sup> It was clear from those reviews that the deputies required additional training on tracking activities utilizing the system. While the reviews demonstrated the following averages, the data was inconsistent and difficult to analyze:

**Out-of-Cell Activity**  
***Sample Weeks July – October 2023***  
**Restricted Housing Unit Averages**  
**Combined Dayroom and Yard**

<b>Unit</b>	<b>Step 1 Average</b>	<b>Step 2 Average</b>
<b>Required Hours</b>	<b>10 Hours</b>	<b>17 Hours</b>
Housing Unit 1 - Male	7.5 Hours	11.25 Hours
Housing Unit 2 - Male <sup>23</sup>	7 Hours	11.75 Hours
Housing Unit 24 - Female	6 Hours	8 Hours

The ACSO was aware of the challenges with incomplete Guardian information and has been consistently retraining staff both as a group and as individuals. Generally, the error is associated with the deputy noting the Class Member has been released from their cell at a certain time for recreation but forgets to utilize the system to note the time of return to their cell, so the jurisdiction does not get credit for that out-of-cell time as it cannot be measured. While improving, it is common to identify staff failure to give full credit in the Guardian Reports as staff fail to document movement back into the cell following dayroom or yard activities. As a result, no time can be credited for that activity as there is no return to the cell notation.

<sup>22</sup> July 23-July 29, 2023; August 8- August 12, 2023; September 9-16 and October 8-14, 2023. Data was not available for all weeks for all units.

<sup>23</sup> Occasionally the Guardian reports reflect a Class Member is on restricted housing in Housing Unit 2

Based on the sample reviews for the months of July – October, it was decided to wait until retraining had occurred and remeasure the average out-of-cell time for the four full weeks in December 2023. While the training was important, based on the December findings, the Step 1 averages were similar, but the Step 2 averages differences were mixed – Housing Unit 1 and Housing Unit 24 documented reduced out-of-cell averages and housing Unit 2, with a small number of restricted housing Class Members, realized a substantial increase as depicted in the following table.

**Out-of-Cell Activity**  
*December 3-30, 2023*  
**Restricted Housing Unit Averages**  
**Combined Dayroom and Yard**

<b>Unit</b>	<b>Step 1 Average</b>	<b>Step 2 Average</b>
<b>Required Hours</b>	<b>10 Hours</b>	<b>17 Hours</b>
Housing Unit 1 - Male	8 Hours	8.25 Hours
Housing Unit 2 - Male <sup>24</sup>	7.5 Hours	16.75 Hours
Housing Unit 24 - Female	6.25 Hours	6 Hours

It is important to note that the various “pods” in Housing Unit 1 documented different averages and the weeks fluctuate in all units, likely associated with staffing challenges. In reviewing the utilization of the adjacent yard (quasi-yard) it noted the area is underutilized and that space should be used to help increase out-of-cell opportunities.

The following charts show the weekly averages for December 2023 in the primary male restricted housing unit (Unit 1) and the primary female restricted housing unit (Unit 24). The charts separate Step 1 and Step 2, depict the sample population size of Class Members who were in the unit for the entire week and document the percentage of Class Members sampled who were offered the yard at least once in the week.

---

<sup>24</sup> Occasionally the Guardian reports reflect a Class Member is on restricted housing in Housing Unit 2

**Housing Unit 1<sup>25</sup>**  
***December 3-30, 2023***  
**Weekly Out-of-Cell Activity**  
**Step 1 – Required 10 Hours Per Week**  
**Step 2 - Required 17 Hours Per Week**

	Dec 3-6		Dec 10-16		Dec 17-23		Dec 24-30	
POD	Step 1	Step 2	Step 1	Step 2	Step 1	Step 2	Step 1	Step 2
A	5.5	0	4.75	14.25	5.25	11.45	6.25	13
B	12.25	11.75	16	15.5	15.75	12.75	8	1.5
D	6.75	0	10.75	13	8.75	6.75	7.25	5.75
E	8.75	5.75	9.25	8.25	8.75	6.75	9.5	6.75
F	7.25	5.75	5.75	8	10.5	4.75	5.25	6.75
<b>Average Weekly OOC</b>	7.75	6.75	8.75	12.25	8.75	9	6.5	8.25
<b>Sample Population</b>	40	6	24	18	22	18	24	13
<b>% Offered Yard at least once per week</b>	33%		62%		30%		19%	

**Housing Unit 24<sup>26</sup>**  
***December 3-30, 2023***  
**Weekly Out-of-Cell Activity**  
**Step 1 – Required 10 Hours Per Week**  
**Step 2 Required 17 Hours Per Week**

	Dec 3-6		Dec 10-16		Dec 17-23		Dec 24-30	
	Step 1	Step 2	Step 1	Step 2	Step 1	Step 2	Step 1	Step 2
<b>Average Weekly OOC</b>	5.0	6.0	6.0	7.75	9.75	5.0	4.75	5.5
<b>Sample Population</b>	3	3	3	1	3	1	5	1
<b>% Offered Yard at least once per week</b>	34%		25%		50%		34%	

<sup>25</sup> C pod closed for renovation.

<sup>26</sup> Based on small sampling size, pods D, E and F combined with pod F housing the majority of restricted housing population.

It is positive that the County is now using the Guardian RFID solely to monitor out-of-cell activities and has self-identified that staff require additional and on-going training to accurately capture out-of-cell activities. The most common mistake is staff error in using the system to document movement back into the cell after an activity, which requires greater oversight from the unit supervisors. With the exception of sporadic documentation in Housing Unit 24, the County is not yet utilizing the RFID system to capture “structured activities” such as mental health or other groups. This lack of tracking of these activities results in the inability to capture additional out-of-cell time that would increase the overall averages. The County is working with the RFID vendor to address the technical changes required to capture and summarize this data.

The County is showing improvement. The Deputies and Sergeants are aware of their responsibility to provide and accurately document out-of-cell time but the complexity of blended classifications in the units populations, limited programming space, competing priorities and staff shortages all contribute to the County not meeting the requirements. The County is in the process of procuring specialized desks that can be used to safely program Class Members who are not currently cohorting out of their cells for activities and groups. It is anticipated those safety chairs will be procured and installed in the next monitoring period in areas not currently utilized for group activities, which will expand potential space away from the living units to allow for groups to be conducted away from the other activities in the dayroom.

During all tours, the Class Members report that their out-of-cell hours are not being met and consistently and fairly applied. Class Members report underutilization of quasi-yards and/or lack of clarity about when they are able to go to the yard. Monthly grievances concerning access to out-of-cell time are filed from restricted housing Class Members. Managers and deputies alike admit that the required minimum hours are not consistently met. This is reportedly due to inability to provide dayroom time when feeding, medications or other clinical movement is required; insufficient space to program incompatible populations at the same time; inability to capture the structured out-of-cell time that is being provided until updates to the Guardian RFID system are complete and deputy redirects for emergency or other reasons.

The County has not yet demonstrated the ability to consistently enhance out-of-cell time for the Step 2 population and should focus on this during the next monitoring period as the Step 2 population is designated as able to recreate in groups. The County should also explore the practice in Housing Unit 24 of the deputies documenting “structured” activities in the Guardian system as capturing this information will assist in demonstrating that more out-of-cell time is being offered than is being reported.

#### **Recommendations:**

1. \*Continue to evaluate the population to safely reduce the number of incarcerated persons in administrative separation.<sup>27</sup>
2. \*Safely continue to reduce the number of Step 1 incarcerated persons and continue to allow small group activity with the Step 2 population where safe to do so.
3. Conduct an analysis and workload study for the Housing Unit pods that are struggling to meet the 10- and 17-hour requirements.
4. \*ACSO to work with AFBH and the program staff to develop a standardized daily and weekly activity plan to increase out-of-cell structured programming. This should be documented in a

---

<sup>27</sup> Refer to Classification Joint Expert Dr. Austin’s Monitoring report.



master schedule of activities in the restricted housing units and ensure Sergeants are monitoring and addressing non-compliance with the schedule.

5. \*Expedite the construction projects associated with expanding yard opportunities as noted in Provision 414.
6. \*Seek approvals as necessary to rapidly split the Quasi yards with the proposed installation of temporary bathroom fixtures and a security fence.<sup>28</sup>
7. \*To expand out-of-cell opportunities, evaluate the available space in the unit program spaces, currently not being utilized for groups, even if that requires the procurement of programming chairs/tables. Examples include the dining areas and group units inside the housing units.
8. \*Conduct an internal staffing assessment to determine if sufficient posts have been activated to ensure maximum utilization of existing and easily expanded space and redirect staff, as necessary.
9. \*Update policies, procedures, forms, post orders and training to reflect provision requirements.

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

**Finding:            Partial Compliance**

**Assessment:**

The County continues to provide updates on the status of the various construction projects. During this monitoring period, the County completed the cell softening project. The County also is closer to releasing the bid for the custody-grade security desks, observation platforms and confidential interview space, with completion estimated by early 2026, but clearly this has been a substantial delay in process.

Two project's with expanded outdoor yard capacity have been delayed by several months due to the County going back out to bid for the projects. In the prior monitoring report, much needed completion of the yard projects was estimated by late 2024 and the new estimated completion is April 2025. The County is encouraged to focus on expediting the work as insufficient program space is one of the greatest challenges inhibiting compliance on the out-of-cell provisions. Frankly, it also makes the units more volatile as agitated Class Members are released into the dayroom for activities, creating tension and frustration on the unit. Once the yards are expanded, those persons can be redirected to an area away from the dayroom to allow for de-escalation.

The most troubling project delay is associated with the unknown status of the planned mental health program building. The County was proceeding with the construction of a new building to help provide mental health services in the jail. However, the State Public Works Department pulled the project from

---

<sup>28</sup> Likely requires approvals from both the Board of Supervisors and the State of California's Board of State and Community Corrections (BSCC)

consideration and the status is unknown at this point. If this project is not renewed, the County must find alternative solutions for mental health clinicians to work on-site and be readily available for clients and for services to be provided to Class Members in confidential and clinically appropriate settings.

Below are the various projects underway with the status as of the last monitoring report followed by the current status.

- (1) Installation of custody-grade security desks and observation platforms. Due date August 22, 2023. The project is in the design phase, which should be complete by late 2023. The time associated with procurement of a contractor and construction is contingent on the final approved design.

*Updated Status – The County anticipates releasing a bid by February 2024 and award of bid by May 2024. Completed construction estimated early 2026.*

- (2) Reconfiguration of Large Yard Space. Due date August 22, 2023. The projects are in the design phase with the anticipation of construction beginning in early 2024 with completion by late 2024. The Large Yard will be completed after the additional outdoor recreation spaces to avoid reducing available out-of-cell opportunities during construction.

*Updated Status - The County recently elected to go back out to bid for the project. Award of rebid estimated complete May 2024. Completed construction estimated April 2025.*

- (3) Quasi-Yard construction projects. Due date August 22, 2023. Same timeline as the Large Yard Space but the new yard capacity will be constructed prior to the reconfiguration of the Large Yards.

*Updated Status - The County recently elected to go back out to bid for the project. Award of rebid estimated complete May 2024. Completed construction estimated April 2025.*

- (4) Confidential interview spaces. Due date August 22, 2023. Same timeline as the Installation of custody-grade security desks and observation platforms. Completion date to be determined after design is complete.

*Updated Status – The County Anticipates releasing a bid by February 2024 with an award of bid by May 2024. Completed construction estimated early 2026.*

- (5) Cell softening project to reduce suicide hazards and improve overall cell conditions. Currently in construction with an estimated completion date in late 2023.

*Construction complete January 2024.*

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

*Construction complete April 2023.*

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

*No Change in Status - Final Completion estimated Fall 2026.*

- (8) Camera Expansion – In Procurement process with construction to begin in late 2023.

*In Construction - Final completion estimated late 2026.*

- (9) Mental Health Facility (SB 863) – In process of satisfying State requirements. Next steps will be procurement of design/build contractor – anticipated completion Fall 2023. Total completion is estimated to be early 2028.

*Updated Status - The project was pulled by the Department of State Public Works with no updated status provided at this time. The Monitoring Team will evaluate impact and alternative solutions presented by the County during subsequent monitoring periods.*

The prior monitoring report referenced a pilot project in which the County attempted to use the visiting booths for confidential interviews. It was reported by the County that the Class Members overwhelming chose not to interact with their clinicians in that setting, so the pilot did not result in the desired outcomes and the County reports they intend to continue to seek alternative locations. Going Forward, the Mental Health Monitor will continue to explore this and other options with the County.

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

**Recommendations:**

1. The County must evaluate the impact of the delay or cancellation of the mental health building as inadequate space exists for mental health clinicians and treatment groups; issues that could have been addressed by the new building.
2. \*The ACSO, AFBH and GSA must develop a comprehensive and deliverable project plan to meet compliance with this provision.
3. \*The County should evaluate its ability to expedite construction through waivers, sole source and other commonly used strategies for complete priority and emergency projects.
4. \*The project overview should be updated and provided to Joint Experts and Class Counsel quarterly.

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

**Finding: Substantial Compliance**

**Assessment:**

The County updated the Housing Officer post orders (10.05) and the Recreation and Program Policy (18.12) to meet this requirement. As with prior tours, in the January 2024 monitoring tour, no incarcerated persons interviewed during the tour complained of bathroom access. Staff interviewed all stated they allow incarcerated persons to utilize the restroom during recreation, out-of-cell time and during work and program activities.

According to the grievance logs for July – December 2023, there were two grievances filed related to bathroom access – one associated with access during yard and one associated with access during a search. In one incident the staff reported bathroom access was provided and in the other a Sergeant arrived on scene and directed the Class Member be afforded access. Despite two allegations regarding bathroom access, the County has remained in substantial compliance with this provision as there are not systemic issues concerning access.

As information will be available during grievance reviews and tours to determine if problems arise, it is recommended that consideration be given to discontinue monitoring this provision.

**Recommendations:**

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

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

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

**Assessment:**

This is a provision where improvement has been noted. The County has demonstrated improvement in documenting the reason for cancellation of out-of-cell time, either at the unit level or the entire facility. Beginning in October 2023, the County began piloting a standardized report that is required to be completed if a unit(s) is placed on lockdown with a written explanation for the lockdown. This new form is the responsibility of the Watch Commander and was utilized on three days in October 2023, six days in November 2023 and three days in December 2023. As the form is still in refinement, a cross reference between units showing no out-of-cell time against the utilization of this report did not occur in this review period but will be subject to future monitoring.

Of the twelve reports provided for review, none of them reflected an entire lockdown of the jail but rather identified which housing units were impacted. Of the twelve reports, ten (83%) documented the reason for the cancellation of out-of-cell programming was due to staff shortages, primarily driven by medical transportation and outside hospital coverage. The other two events were associated with disturbances with legitimate justification to cancel programming for the shift/day in the affected area. Based on the new protocol, the County is doing well on this aspect of the provision.

While only a random sample of out-of-cell reports for the restricted housing population occurred during this rating period, it was rare to see documentation where a Class Member was denied out-of-cell time due to disruptive behavior. This is due in part, as reflected in the Third Monitoring Report, to the fact that documentation on the Guardian system has not been refined to generate a monitoring report to this level of detail.

In one grievance reviewed, it was noted that a Class Member was denied out-of-cell time due to refusing to move to another housing location with the decision to delay a forced movement to attempt to gain compliance. The decision to deny out-of-cell time in this circumstance was legitimate and not prolonged but the Guarding tracking documentation did not have an entry on the day he was denied out-of-cell time explaining why out-of-cell was denied. The deputies interviewed state they will generally document “refused” on the Guardian report if a Class Member is unsafe to remove for out-of-cell time with greater detail documented in the unit logbook. As a result, it would be exceedingly difficult and time consuming to monitor this provision due to sheer volume of refusals each month until such time a special code or more documentation is added to the Guardian system to differentiate a standard refusal from a behavioral issue. The County will be unable to achieve Substantial Compliance until such a system is developed and in effect.

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

**Recommendations:**

1. \*The Watch Commanders should be reminded of their responsibility to document pod/unit out-of-cell restrictions and reason for the restriction in a standardized and comprehensive report. This document should be attached to the end of shift report and provided to the Joint Experts for monitoring.
2. \*Update all relevant policies, post orders, forms and training to comply with this provision.
3. \*Update Restrictive Housing Committee (RHC) policies and forms to comply with this provision.

- a. Collaborate with other Joint Experts to ensure that the RHC has a process for referral of routine refusals and ensuring documentation of clinical interventions is occurring and tracked.
- 4. \*Create master yard and dayroom schedule and create system for daily monitoring of compliance with mandatory documentation when there is significant deviation from the master schedule.
  - a. Include documentation in Watch Commander End of Shift or other location to ensure standardization in documenting deviation.

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

**Finding:**            *Partial Compliance*

**Assessment:**

During this Monitoring period, the County has fully transitioned from paper out-of-cell tracking logs to the use of the RFID system for unstructured activities. As reflected in provisions 409-412, the deputies still require training and stabilization of documentation when Class Members are released and returned to their cells for the system to be accurate. The aspect of this provision that requires supervisors to review the out-of-cell logs is an important next step for the County to implement as the real time and daily review of the tracking systems will help identify training needs early. Unfortunately, the tracking system is not yet refined to the point it is realistic for unit supervisors to review the data as a member of the Compliance Unit is dedicated virtually full time to refine the report and analyze weekly. The County continues to collaborate with the vendor to improve the reporting systems available through the RFID technology. In the interim, the Compliance Unit continues to assign weekly review of the tracking systems to one of the team members, which is the reason the County was aware that additional training was needed to improve utilization of the RFID technology.

The County has not yet developed a trackable system to provide proof of practice that an ACSO team member has advised AFBH when a Class Member is isolating in their cells, nor has the recreational policy or associated post orders been updated to reflect the process and notification requirements when a Class Member is refusing to leave their cells. It is positive that the Restricted Housing Post Orders (9.02) and

Protective Custody (9.03) have the number of hours for out-of-cell integrated but none of the housing officer post orders provide direction concerning more than one staff member encouraging socialization or the notification process when a Class Member is isolating. The County remains committed to policy revisions, but the process has been slow due to insufficient staff to support the needed reforms.

**Recommendations:**

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

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

**Finding: Partial Compliance**

The County continues to have a strong supervisory presence in the most complex housing units, such as Housing Units 1, 2, 7, 8, 9 and 24. Sergeants are observed in the units during monitoring tours, listed on end of shift reports and observed present when reviewing use of force videos. The custody staff and supervisors consistently articulate their responsibility to notify AFBH when it appears a Class Member has decompensated but none of the deputies nor supervisors interviewed during the January 2024 monitoring tour could articulate a specific trigger point when a referral was mandatory or how they would prove a referral to AFBH was made or how to know if follow up from AFBH occurred. Both ACSO and AFBH report there is not yet a formal mechanism or policies in place to comply with this provision but state that mental health rounds and huddles in the THUs and restricted housing units created opportunities to address

It is noted that there are only two units where isolation and refusing out-of-cell time occur: Housing Unit 1 – Male Restricted Housing and Housing Unit 24 – Female Housing. There are no other units where this type of behavior is noted, including Housing Unit 9, the transitional therapeutic housing unit (THU). A request was made to determine whether there had been a referral for ten Class Members who did not accept out-of-cell time during a specific week in the month of December 2023. While there is no evidence to show a custody referral occurred, it is positive to note that in eight of the incidents, AFBH had a clinical encounter

with the Class Member during the week. The remaining two of the Class Member had a mental health encounter the week before and/or after but not the week where it was noted they were isolating.<sup>29</sup> It is critical that the County build upon these efforts by ensuring the 24 hour time frame is adhered to as well as engaging in internal compliance monitoring

It is positive that the challenge of isolation and refusal of out-of-cell time is generally occurring in only two units, which provides an opportunity for AFBH and ACSO to target those two units in the next monitoring period to increase engagement with those isolating and improve proof of practice on demonstrating a mental health referral has been generated when this occurs. The County will need to update policies, training and proof of practice to reach substantial compliance with the provision.

**Recommendations:**

1. \*The County should collaborate with the Joint Experts to formalize the notification process for repeated refusals with follow-up by AFBH.
  - a. \*The process should be formalized in ACSO and AFBH policy, with a formal notification process and documentation from AFBH on the plan to assist with increasing socialization.
2. \*The Compliance Unit should develop an auditing process to evaluate compliance and staff should receive documented training on the expectation.
3. \*Policies, forms, post orders and training should be updated as appropriate.

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

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

---

<sup>29</sup> The mental health expert is best positioned to determine the quality of mental health encounters.



**Assessment:**

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

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

**Finding:** *Partial Compliance*

**Assessment:**

The County previously updated associated policies and post orders regarding yard access as reported in the Third Monitoring Report. During this reporting period, the County also developed stronger proof of practice regarding providing recreational time on main group yard, allowing for evaluation on whether the system is increasing and/or maximizing yard time, both for the amount of time per week and the number of class members afforded access to the main yard. There has been noted but inconsistent documented improvement in access to the quasi-yards.

Fundamentally the lack of sufficient staffing is hampering ensuring full utilization of the large group yards. In reviewing weekly utilization reports, it is recognized there are days in virtually every week during this review period in which the yards were not operated due to staff shortages due to staff taking a vacation or inability to hire overtime staff. It is also noted that the hours are generally restricted to one shift, even though daylight hours allow for greater access and the use of high mast lighting would further extend opportunities. However, these expanded hour options are hampered by staffing vacancies.

The following charts will serve as a baseline going further for the average weekly hours documented where the large outdoor yard(s) were utilized and the average number of Class Members accessing the yard per week during the month. The average number of class members utilizing the group yard was not calculated for the months of July through August. The calculations for October through December are based on internal monitoring by ACSO.

**Average Available Hours and Utilization of the Large Group Yard  
July-December 2023**

<b>Month</b>	<b>Average Available Yard Hours per week</b>	<b>Average Class Members Accessing Yard Per Week<sup>30</sup></b>
July	40	Unavailable
August	32	Unavailable
Sept	19	Unavailable
Oct	22.5	166
Nov	25	201
Dec	16	138
<b>Monthly Average</b>	<b>24</b>	<b>168</b>

The County has developed a monitoring tool to determine if equitable, yet limited, access is being afforded and is transparent concerning yard access, which are both positive improvements. However, until such time the County can provide sufficient staffing to ensure daily and consistent utilization of the various yard areas during daylight hours, the County will not reach substantial compliance on this provision. The County should also continue with plans for expanded yard opportunities with enhanced lighting as discussed in Provision 414.

**Recommendations:**

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

---

<sup>30</sup> Average calculated utilizing the total number of class members accessing the yard in the month divided by 4.5 weeks.

*(422) Defendants shall provide programming within the facility consistent with classification level, including providing access to the Sandy Turner Education Center and Transition Center services for Behavioral Health Clients, as a means of suicide/self-harm prevention and in order to provide equal access to incarcerated persons with disabilities. AFBH will designate an individual to coordinate identification and implementation of internal and external group resources and partnerships. In evaluating current and future programming and work opportunities for incarcerated persons, Defendants shall evaluate worker assignments for incarcerated individuals to determine whether additional work opportunities could be created to assist with facility improvements and programming, such as creating programs for deep cleaning, student tutor/merit masters, and access to program support aides. Defendants shall further establish a daily tracking system for programs provided and incarcerated individuals who attended.*

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

**Finding:        *Partial Compliance***

**Assessment:**

As previously reported, the County has not yet begun the update of policies associated with these two provisions. Updates to the following policies should be considered: Intro to Inmate Services (18.01), Inmate Programs and Services (18.02), Educational Program Planning (18.09) and Vocational Training Programs (18.10). Relevant post orders should also be updated to correlate with any changes to policies.

The County continues to provide programming for Class Members, including those receiving behavioral health services. The County also continues to track this information in a monthly spreadsheet to allow for monitoring at the individual level, but that spreadsheet does not provide housing location to assist with determining where the bulk of the services are being afforded or where services require enhancement. The County has not yet resolved the inability of the Guardian RFID system to provide reliable reports concerning structured activities at the individual level and provide statistical reports, but the County continues to collaborate with the vendor to address this critical need.

In reviewing data from the July-December 2023 compared to the previously reported data for January–June 2023,<sup>31</sup> it appears the County is providing more services overall but the percentage of behavioral health clients receiving the services from the Reentry Division has reduced. Specifically, the first seven days of each month from July 1- December 31, 2023 were analyzed and compared to the random sample data from January – June 2023. Removing the July 2023 data as it appears the information overstated the BHI

---

<sup>31</sup> See Third Monitoring Report for more detailed data analysis for January-June 2023.

population involved in programming, the overall number of days a class member received a program opportunity increased from 736 times on average week to 773 times per week, representing a 5% increase. During this time period, there was a significant reduction in distance learning slots, averaging 68 per week down to 19 per week. This loss was offset by in person programming occurring in the housing units, rising from 360 slots per week on average to 470 slots per week. Overall, this is positive. Yet, the number of BHI Class Members reduced substantially, from an average of 380 slots filled by a behavioral health Class Member down to 200 average per week, reducing the slots by 47%. Some of this reduction may be explained by an increase in services by behavioral health staff but the trend is troubling and must be addressed by the County.

The following tables provide a summary of the sample reviews of program day slots reported by the County for January-December 2023:

**Program Participation<sup>32</sup>**  
**January – June 2023**  
**One Week Sample**

2023	Housing Unit Programming			Off Unit Programming			Distance Learning			Transition Center			Total		
	All	BHI	%	All	BHI	%	All	BHI	%	All	BHI	%	All	BHI	%
<b>Average</b>	<b>360</b>	<b>171</b>	<b>39%</b>	<b>289</b>	<b>174</b>	<b>48%</b>	<b>68</b>	<b>31</b>	<b>37%</b>	<b>20</b>	<b>5</b>	<b>25%</b>	<b>736</b>	<b>380</b>	<b>42%</b>

**Program Participation**  
**July - December 2023**  
**One Week Sample**

2023	Housing Unit Programming			Off Unit Programming			Distance Learning			Transition Center			Total		
	All	BHI	%	All	BHI	%	All	BHI	%	All	BHI	%	All	BHI	%
July 1-7	421	386	92%	188	174	93%	69	39	57%	14	14	100%	692	613	89%
Aug 1-7	485	106	22%	112	8	7%	26	1	4%	0	0		623	115	18%
Sept 1-7	438	121	28%	221	14	6%	19	2	11%	0	0		678	137	20%
Oct 1-7	499	155	31%	423	61	14%	17	4	24%	0	0		939	220	23%
Nov 1-7	511	154	30%	355	93	26%	16	6	38%	0	0		882	253	29%
Dec 1-7	419	164	39%	304	104	34%	18	9	50%	0	0		741	277	37%
<b>Average</b>	<b>470</b>	<b>140</b>	<b>30%</b>	<b>283</b>	<b>56</b>	<b>20%</b>	<b>19</b>	<b>4</b>	<b>23%</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>773</b>	<b>200</b>	<b>26%</b>

Based on this review, it is estimated on average 26% of the program slots from the sample weeks were occupied by behavioral health class members. It is noted that the Transition Center did not operate during the majority of the weeks of the random sample, but the monthly data provided does show the Transition Center provided services during the month, including to the behavioral health Class Members. Future samples will attempt to capture weeks when the center is operating. In addition to a monthly tracking of

<sup>32</sup> This is measured by the number of class slots filled each day, which will not imply the total number of class members served that week as one class member may be counted more than one that week as they attend another class or the same class more than one time in the seven day period.

programs, the Reentry & Support Services Unit provides a monthly calendar of off unit programs, programs provided in the housing units and library services and those services are available in most housing units but do not quantify who attended so cannot yet be measured for this purpose. Utilizing the Guardian RFID system to capture structured activities is an option once the County resolved the reporting challenges.

The County continues to demonstrate a commitment toward providing programming and services but appears to have lost ground in ensuring equal access for the behavioral health population and that should be addressed by the County. The County is also delayed in updating associated policies and engaging in internal data analysis to self-monitor compliance with these provisions. As the County addresses these provisions, it is critical that AFBH continues to assume a critical role in assisting with the provision of programming and seeking additional resources. The policy update should also address identification and expansion of job opportunities for incarcerated person on the behavioral health caseload who are approved by their clinician to work. It is positive that behavioral health programming has increased, as discussed in the Mental Health Expert's report. Once policies are developed to implement these two provisions, the provisions will be evaluated separately.

### **Recommendations:**

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

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

**Finding:** *Partial Compliance*

### **Assessment:**

There has been no significant progress on this provision in this monitoring period, but it is becoming clearer that there is insufficient space for clinical staff to work, individual encounters and group activities. The

lack of progress related to the stand alone mental health treatment building is troubling in light of the challenges surrounding space that are evident as the mental health staffing is increasing. The County must conduct an appropriate needs assessment based on the Consent Decree requirements and plan accordingly. This provision will be further explored with the County in the next monitoring period due to the recent delay in the mental health treatment building construction plan (see Provision 414 for additional detail). Should the County be unable to provide a clear needs assessment and expansion of existing programming space, this provision could be rated as noncompliance in future reports.

**Recommendations:**

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

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

*(501) The use-of-force policy shall include at least the following components: (1) reiterate supervisory and managerial responsibility to address tactical mistakes or unnecessary or excessive force in a steadfast and unapologetic manner; (2) require consistent use of the ACSO Personnel Early Intervention System (“PEIS”), which has the capability to track use of force and prevalence rates as one of the metrics evaluated in a use of force review; (3) require clinical engagement by AFBH where appropriate in developing behavior plans with incarcerated individuals who are engaged in multiple force incidents; (4) be clear that incarcerated individuals shall not be hit on the head or face nor kneed or kicked absent extenuating circumstances where there is a deadly threat or assaultive behavior, defined consistent with Section 240 of the California Penal Code as intent coupled with the present ability to inflict violent injury; (5) address the pre-planned use of force on individuals with known Psychiatric Disabilities, including coordinating with AFBH on de-escalation measures, such as use of cooling down periods or other appropriate methods, to avoid or otherwise limit the use of force as much as possible; and (6) training on best practices for staff who conduct use of force reviews.*

**Finding: *Partial Compliance***

**Assessment:**

As reflected in the Second Monitoring Report, the County updated the emergent use of force policy for custody staff (21.01.01) and provided initial training to the staff on that policy. During this monitoring period, the County presented the draft pre-planned force policy (21.01.02) to Class Counsel for feedback with the expectation that policy will be complete in early 2024. Once that policy is finalized, it is expected the use of force training will be fully updated and the County will begin refresher training for the staff. The Use of Force updated training will require input from the Joint Experts and Class Counsel prior to implementation.

In the Third Monitoring Report, it was recognized that staff continue to improve in their de-escalation and decision making when faced with both emergent and non-emergent situations. It was recommended in the Third Monitoring report that training focus on the following with the current status italicized below the recommendation:

- Situations where the incarcerated person will not permit the securing of the cell door food port.
  - *The staff are less inclined to engage in forced shoving of arms into a tray slot, which is dangerous for the Class Member and staff. There was one incident in which the staff allowed the behavior to go on far too long, rather than utilizing force to address. While laudable that the staff did not wish to use force, the disruption interrupted activities for the remainder of the day, so decision making must balance the overall impact to the unit. This incident will be further discussed in Provision 503.*
- In-cell decontamination protocols.
  - *The County has not demonstrated improvement in this provision.*
- Non-compliant and agitated incarcerated person in non-controlled area, such as a dayroom.
  - *The County demonstrates mixed compliance with this provision. It is anticipated the training associated with the update to the controlled use of force policy will lead to improved decision making regarding when there is not an emergent need to employ force.*
- Escort techniques and restraint removal for non-compliant incarcerated person.
  - *The County has shown consistent improvement in this area, from utilizing an uninvolved staff member to escort a Class Member when force has been utilized or making safer decisions when restraints are removed from a combative person, including allowing a cooling off period.*

The FTC has begun high level data analysis of force incident. From their internal reviews, 74% of the force incidents during the first six months of 2023 were Category 1 incidents.<sup>33</sup> The most serious use of force incidents, Category III, represented two percent of the incidents during the first six months of 2023.

---

<sup>33</sup> Category I use of force incidents are generally physical force and ground takedowns; Category II is generally use of personal body weapons, chemical agents, impact weapons, group incidents involving more than five (5) IPs or injuries to staff or IPs as a result of force not considered a serious bodily injury; Category III are serious bodily

The following table represents the incidents by category for the first and second quarters 2023:

**Use of Force Categories**  
*January-June 2023*

	Q1 (Jan-Mar)	Q2 (Apr-June)	Average	Percentage
Cat I	96	99	98	74%
Cat II	43	21	32	24%
Cat III	3	2	3	2%
<b>Total</b>	<b>142</b>	<b>122</b>	<b>132</b>	

The County also tracks the types of force used for each incident. It is important to understand that a single force incident could include the use of more than one force options. For example, in an incident one staff may use oleoresin capsicum (OC Spray) followed with a control hold or ground controls and another utilize a taser. The County will measure four force options in this scenario – Taser, OC Spray, ground control and control hold. The following chart depicts force options that were employed during the force incidents for the period of January-June 2023.

**Types of Force**  
*January-June 2023*

	Q1 (Jan-Mar)	Q2 (Apr-June)	Average	Percentage
Control Hold	98	90	94	71%
Ground Control	82	66	74	56%
OC	11	3	7	5%
Taser	9	3	6	5%
Personal Body Weapons (Strikes)	19	10	15	11%
Batons	0	0	0	0%
Projectiles	0	0	0	0%
<b>Total Incidents</b>	<b>142</b>	<b>122</b>	<b>132</b>	<b>NA</b>

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

---

injuries due to the incident, impact weapons strikes to the head or other head strikes likely to cause serious bodily injury; use of impact weapons, chemical agents or strikes on a restrained IP.



Custody has also begun identifying the housing units with the highest prevalence of force with the top 5 housing units for each quarter listed below:

**Use of Force Locations**  
*January-June 2023*

	Q1 (Jan-Mar)	Q2 (Apr-June)	Average	Percentage
Housing Unit 9	22	29	25	19%
Intake Area	20	21	21	16%
Housing Unit 1	21	19	20	15%
Housing Unit 24	10	11	11	8%
Housing Unit 23	10	5	8	6%
Housing Unit 2	6	8	7	5%

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

First Quarter                    Housing Units: 7, 21, 25, 31, 32

Second Quarter                Housing Units: 6, 7, 22, 25, 31, 32

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

For the next reporting period, the County is encouraged to begin to track the training and policy issues identified in completed use of force packages to use that information to refine current policies and training.

**Recommendations:**

1. \*Continue to work collaboratively to update all custody use of force policies, forms and associated training as trends emerge.
  - a. Include addressing non-secure food slots in updates.
  - b. \*In-cell decontamination policy should be retrained as non-compliance is routinely identified.
  - c. Continue to provide de-escalation training and group approach options to non-compliant incarcerated person.
  - d. Provide additional training on safe removal of restraints when working with non-complaint or historically non-compliant incarcerated person.
  - e. Finalize the Restricted Housing Policy (9.02) to address safe entrance in pods to conduct programming when occupied by historically aggressive incarcerated person.

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

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

**Finding: Partial Compliance**

**Assessment:**

The County continues to increase the incidents in which AFBH is summoned to assist in controlled incidents but does not document when those incidents resolve without force, so it is difficult to give credit for AFBH responding. In only one incident reviewed this rating period did AFBH refuse to respond due to the clinician reporting they engaged in the intake and could not respond. This should not occur as the clinician engagement to avoid force should have taken priority.

Unlike the last review period, there were no overnight controlled use of force incidents that were not emergent. There were no pre-planned moves in which AFBH did not attempt to assist with de-escalation and compliance. The system appears to be complying and the incident reports generally include information concerning the AFBH response, including the clinical encounter. If requested, a video is available to confirm AFBH's role in assisting as there will be a deputy in the area providing security, but those videos are not routinely available as a proof of practice or for the reviewers to confirm AFBH presence and de-escalation.

However, there are still far too many instances where deputies use force without following the controlled use of force policy and summoning AFBH to assist when there is no urgency to use force.<sup>34</sup> Until such a time ACSO can provide training to staff and demonstrate more consistent compliance with the newly developed Controlled Use of Force policy, this provision will not reach substantial compliance.

The draft Controlled Force policy mandates the responsibility to contact AFBH for assistance. The newly developed pre and post controlled force incident check list associated with reviewing cell extractions has an audit question so that reviewing supervisors are aware AFBH support is required and require documentation for any deviations from the policy.

---

<sup>34</sup> Refer to provision 503(b) for examples.

It is anticipated that the Controlled Use of Force policy will be complete in the next monitoring period and associated training will begin.

**Recommendations:**

1. \*Update both ACSO and AFBH policies, forms, post orders, duty statements and training to reflect the provisions.
2. Include video of supervisory and AFBH de-escalation attempts in the use of force file.
3. \*The Force Training and Compliance Unit (FTC) should improve evaluation of AFBH involvement in de-escalation and elevate non-compliance issues by AFBH to AFBH leadership.
  - a. The quality of those clinical engagements should be assessed by AFBH leadership, and the Clinical Expert has been engaged in a review of several incidents where it appeared additional training is warranted for AFBH clinicians.
4. \*AFBH and ACSO leadership should engage in a monthly review of these types of incidents with the intention of determining the type of clinical support needed to reduce these numbers of cell extractions involving people in mental health crisis.

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

**Finding:            Partial Compliance**

**Assessment:**

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

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

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

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

The County continues to maintain the FTC, comprised of one (1) lieutenant, three (3) sergeants and (1) analyst. The staff in the unit have been stable and continue to build their internal capacity and grow in their understanding of force reviews. The FTC is able to complete force reviews in an acceptable time

frame and continues to refine their draft monthly report analyzing force incidents. Sections of the FTC’s internal analysis on force are included in this report.

As described in the Second Monitoring report, the Unit Sergeant and Unit Lieutenant utilize the Blue Team software to conduct reviews of all force incidents and are the final review of most Category I incidents.<sup>35</sup> The FTC is responsible to independently review all Category II and III incidents as well as no less than 10% of Category I incidents. During this rating period, the Custody Expert reviewed a random sample of Category I incidents, and all completed Category II and Category III incidents.

The overall process continues to improve. The initial review sergeants are doing a better job of identifying serious violations of policy and are more thorough in their assessments and feedback to the staff regarding training issues. The one area of concern is when the reviewing sergeant was also involved in the force incident. While the policy was updated to require an uninvolved supervisor conduct the review, the ACSO continued to experience the involved sergeant completing the review through September 2023. These reviews have proven to be problematic in several instances and that will be described below.

For this review period, the Custody Expert has requested a total of 79 completed use of force packages for the period of May - October 2023 to allow time for the packages to complete the review process. The County submitted all but one package for review. The unsubmitted incident is pending internal affairs investigation but the video has been reviewed with concurrence the incident required referral for further investigation. A review of one of the incident is pending and will be addressed in the next report.

In assessing whether the County is engaged in thoughtful analysis of their use of force review process, it is important to assess the concurrence rate between the unit supervisors who conduct the Blue Team review and the findings of the FTC.

During this rating period, the FTC internally tracked concurrence rates between the Blue Team Review and the FTC for the period of January – June 2023 with findings as reflected below:

**Concurrence Rate Between First Line Supervisor and FTC**

*January–June 2023*

	<b>Concur</b>	<b>Not Concur</b>	<b>Total Reviewed</b>	<b>Currence Rate</b>
First Quarter 2023	44	11	55	80%
Second Quarter 2023	29	8	37	78%
<b>Total January – June 2023</b>	<b>73</b>	<b>19</b>	<b>92</b>	<b>79%</b>

---

<sup>35</sup> Category I use of force incidents are generally physical force and ground takedowns; Category II is generally use of personal body weapons, chemical agents, impact weapons, group incidents involving more than five (5) IPs or injuries to staff or IPs as a result of force not considered a serious bodily injury; Category III are serious bodily injuries due to the incident, impact weapons strikes to the head or other head strikes likely to cause serious bodily injury; use of impact weapons, chemical agents or strikes on a restrained IP.

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

Similarly, the Custody Expert assesses unit sergeant reviews of Category I incidents not reviewed by the FTC as well as completed FTC reviews. During this rating period, the Custody Expert concurred with the final findings in 33 percent of the reviews, partially concurred in 39 percent of reviews and did not concur with an important finding in 28 percent of the reviews, which is a significant reduction from the Third Monitoring Report where the Custody Expert did not concur with 34 percent of the overall findings. It is important to understand that the non-concurrence may not have been surrounding the need for or the level of force used but is more significant in nature. A brief description of the non-concurrence will follow the table below depicting the monthly reviews by the Custody Expert:

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

Month	Requested	Reviewed	Category			Reviewer <sup>^</sup>		Concur		Disagree	
			I	II	III	Sgt.	FTC	Overall	Partial	BT	FTC
<b>(Prior Report) Oct 22-Apr 23</b>		<b>16</b>						<b>36%</b>	<b>30%</b>	<b>34%</b>	
May 2023	12	12	6	6	0	5	7	3	6	0	3
June 2023	11	11	6	5	0	6	5	6	4	1	0
July 2023	15	15	6	7	2	4	11	4	7	1	3
August 2023	13	13	1	12	0	1	11	2	6		5
September 2023	17	16	11	3	1	10	4	4	5	3	4
October	11	11	5	6	0	4	7	7	2	1	1
<b>Ave</b>		<b>13</b>						<b>33%</b> <b>(n=26)</b>	<b>39%</b> <b>(n=30)</b>	<b>28%</b> <b>(n=22)</b>	

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

**Comments on Non-concurrence with Final Review<sup>36</sup>**

**May 2023**

- Two incidents in a controlled situation in which adequate de-escalation protocols were not employed and AFBH was not summoned to assist.
- One incident in which the staff acted in a provocative and unnecessary manner towards a behavioral health Class Member. Employee received training but employee formal corrective action was warranted.

<sup>36</sup> Unless stated, the disagreement does not involve the use of force, level of force or force options but rather an adjacent issue that may have contributed to the need to use force.

### **June 2023**

- One incident in which the force is minor, but the staff engaged in unnecessary banter with behavioral health Class Members. The Class Member also made an allegation of unnecessary force, and the County lacks a formal policy or procedure when such allegations are made.

### **July 2023**

- Two incidents in which OC was deployed into a cell without adequate in-cell decontamination. Concerns surrounding decision making and when and how to employ OC were involved in non-concurrence.
- In the Therapeutic Housing Unit, a deputy displays poor decision making and engages in physical force when there was time for de-escalation. The initial Blue Team review determined that de-escalation was inadequate, but the FTC determined the force was appropriate and necessary.
- A behavioral health Class Member in restricted housing becomes agitated and staff respond in a manner inconsistent with de-escalation expectations. This may have been preventable force.

### **August 2023**

- Three incidents in which de-escalation was not adequately employed and involved staff entered a cell without an adequate plan or engaging a supervisor and mental health for support.
- One incident in OC was deployed into a cell that the initial Blue Team review determined was deployed outside of policy, but the FTC determined the deployment of OC was warranted.

### **September 2023**

- Two incidents in which staff used force rather than allowing verbal commands to control the situation. In one the responding sergeant failed to supervise and conducted the post incident review. In the second, the staff did not comply with de-escalation and tactics training.
- Two incidents in which the controlled use of force policy should have been followed yet the deputies entered cells when it appeared there was no urgency to do so. In both incidents, the sergeants required additional training.
- One incident in which a deputy is seriously assaulted, and then the Class Member runs into a cell. Rather than securing the cell door, the deputies enter the cell and utilize force and personal body weapons to place the Class Member in restraints.
- One incident in which staff appear slow to respond to stop a fight, which was not adequately addressed or explained.

## October 2023

- One incident of deputies entering an intake holding cell due to a behavioral health Class Member damaging the phone. The situation was contained, and no other incarcerated persons were present. A supervisor and AFBH should have been summoned to attempt de-escalation.
- One incident of force outside of policy that should have resulted in formal employee corrective action, rather than just training.

### Improvements noted this monitoring period:

- All of the improvements noted in the Third Monitoring Report have been maintained.
- Late in the monitoring period, uninvolved supervisors were assigned to complete Blue Team reviews when the unit sergeant participated in the incident.
- The deputies have received training on removal of restraints in complex and combative scenarios and demonstrated greater proficiency in doing so this review period, including allowing for a cool down period when the Class Member was combative during restraint removal.
- Use of personal body weapons continues to diminish in situations where they are not effective or not warranted but this issue has not fully resolved and requires vigilance from leadership.
- Staff are beginning to realize when sufficient response personnel are on scene and are returning back to their units, rather than remaining in the area and observing.
- The Blue Team reviews continue to be more in depth.

### The following policy issues identified in the Third Monitoring Report that have not been adequately addressed during this rating period:

- There remains a hesitancy to provide formal written correction on serious errors of judgement regarding force. This is not an “unapologetic” approach. Too much reliance on training as the sole approach toward employee unacceptable behavior or mistakes.
- Insufficient de-escalation in several situations reflecting the urgency to fully implement the CCC training.
- Inappropriate deployment of OC through food slots and poor in-cell decontamination protocols or documentation.
- Staff entering cells and holding areas when there is no urgency to do so and there is time to summon a supervisor and AFBH.
- Lack of appropriate equipment for resisted transports, such as foldable gurneys and gurneys with wheels.
- Failure to develop a policy to address incarcerated person allegations of unnecessary or excessive force.
- Failure to develop policy or protocol for consideration to redirect staff who are subject to internal affairs investigation for potential excessive or unnecessary force.
- The majority of force packages do not contain video of de-escalation attempts by custody or AFBH.
- Sergeants failing to provide custodial leadership in several situations, either due to cultural behavior of allowing the deputies to lead or due to insufficient training in correctional practices.
- The tray slots in the restricted housing units require different locking mechanisms.

For the reasons stated above, on-going monitoring is required.

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

In none of the force incidents reported or reviewed during this monitoring period did ACSO utilize a less lethal impact weapon. The staff do not routinely carry batons and there were no reported incidents of a baton use during this monitoring period; there were no incidents of the use of impact weapons of opportunity (such as a flashlight) during this monitoring period and the use of the FN 303 impact round or other less lethal projectile rounds did not occur in custody in 2023. There was one incident of the use of a sting ball grenade reported in the Third Monitoring Report but there were none reported for the period of May – October 2023.

The FTC and Custody Expert reviewed all incidents categorized as cell extraction, including the force options deployed during those extractions. Of the five (5) cell extractions reviewed during this rating period, only one utilized less lethal options. In this incident, a Class Member who has a significant history of staff assaults was acting out in the dayroom and refusing to comply. AFBH was summoned and a supervisor was on scene, but they were not able to gain compliance. An extraction team entered the dayroom preceded by the introduction of a sting ball grenade. The use of a sting ball in these types of scenarios is within industry standard as the tool is designed to disorient a person through a loud bang and dispersal of small rubber pellets to allow the cell entry team to enter the area and gain a tactical advantage. In this incident, the sting ball grenade was deployed in the dayroom a distance from the Class Member and it is unlikely any pellets reached him. During the entry, the team also deployed OC which proved ineffective resulting in the need for deputies to exert considerable physical strength to ultimately contain the Class Member. In the four other identified cell extractions, no chemical agents were utilized nor considered to be a better option than the force employed.

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

The County has existing fixed and body worn cameras but there are many areas of the jail that do not have adequate cameras, requiring expansion of the existing system. This project is underway as discussed in Provision 414. Anticipated completion is late 2026.

### **Recommendations:**

1. Update the Use of Force Review policy or other identified policy to include the following:
  - a. \*Formalize a process to address IP complaints of unnecessary or excessive force and how to address in the use of force review process.
  - b. \*Include a section in the policy or other related policy regarding evaluation of the redirection of staff when a force incident appears to have significantly outside of policy.
  - c. \*Remind reviewing supervisors to address uninvolved staff escort if there are sufficient staff to assume that role.
  - d. Review the controlled force policy and associated training address the situations where less-lethal force options are most appropriate.



2. \*Continue to train all existing custody supervisors and managers on the new policies.
3. \*Provide an accurate project plan for expansion of fixed cameras in the jail based on use of force trends.
4. Analyze force packages for training and policy revision need trends.

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

**Finding: Substantial Compliance**

**Assessment:**

The County continues to improve in assessing training and policy revision needs while conducting the use of force reviews. It is noted on the overwhelming majority of use of force reviews that involved staff receive additional training, and it is common to see training issues identified during use of force reviews documented as a topic during staff musters for all staff working a particular shift. It is expected that training opportunities will be identified during the majority of post incident reviews.

The County currently has adequate resources allocated for timely Blue Team and FTC reviews as has been able to engage in high level internal trend analysis. During this monitoring period, the County reported on timeliness of fully completed reviews based on the categories of force for the period of January 1 through June 30, 2023 as listed in the chart below.

**Average Days to Complete a Use of Force Review Package  
January – June 2023**

	<b>Q1 Average Days</b>	<b>Q 2 Average Days</b>	<b>Overall Average</b>
<b>Category I</b>	47	36	42
<b>Category II</b>	113	75	94
<b>Category III</b>	103	65	84

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

The County continues to engage in thoughtful reviews of areas that require individualized or group training. For example, considerable discussion has occurred relative to the use of tray slots to reduce potential injury to the incarcerated and staff when removing handcuffs from someone who has been resistive or continues to resist. This rating period the deputies demonstrated improved proficiency and decision making in this area due to training.

As previously mentioned, the FTC is encouraged to track the primary reasons identified for additional training to determine if updates to the overall training program area warranted.

**Recommendations:**

1. \*Maintain quality and timeliness of reviews.
2. \*Ensure Blue Team Reviews incorporate evaluation of policy when conducting Category 1 reviews.
3. FTC should track training need trends identified during reviews.

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

**Finding: Partial Compliance**

While there is no evidence that the County utilizes restraints as punishment or as a substitute for treatment, this provision suffered a setback this reporting period regarding documentation, making it difficult to accurately measure compliance concerning two separate types of restraint incidents: restraint chair placement and retention of a Class Member in restraints (handcuffs, waist restraints and/or leg restraints) when not under escort.

As previously reported, the County updated the Inmate Observation (8.12) policy and started utilizing the Guardian RFID system for tracking with the intention of discontinuing the use of the paper observation log system. However, the staff documentation on the Guardian system was problematic in roughly half of all placements and the actual time in restraint is unknown in three of twenty-five restraint chair placements. The County was aware of this challenge and engaged in retraining, but the problem persisted.

Additionally, during this monitoring period the County failed to report on at least three non-escort restraint retentions, incidents that were identified during the use of force review process. As a result, the information concerning this type of restraint reporting of this provision is not considered dependable this reporting period until such time the County certifies monthly that all such extended use of handcuffs or waist restraint when not under escort has been reported.

As with the prior report, the only documented reason for placements in a restraint chair from the period of July - December 2023 was active self-abuse or serious threat of active self-abuse. The main reasons for retention in restraints during this period is difficult to determine based on insufficient detail on known retentions and concerns that not all retentions were disclosed this review period.

An analysis of the documentation provided demonstrates there was a notable change in the monthly averages for this report (July – December 2023) compared to the findings in the Second and Third Monitoring reports (March - November 2022 and January – December 2023). There was a 24 percent increase in the average number of incarcerated persons placed in a restraint chair during this rating period

above the average of the prior two reports. There was also a 24 percent increase in the average hours a Class Member was placed in a restraint chair based on available data.<sup>37</sup>

For comparison, the following chart reflects the average monthly incidents of restraint chair or restraint retention reported in the Second and Third Monitoring Reports:

**Restraint Log Analysis – Second and Third Monitoring Reports**

Monthly Average	Restraint Chair		Retention in Restraint		
	Placements	Average Hours	Monthly Average	Average Hours	Reason <sup>38</sup>
March – November 2022	2.7	4:00	4	2:15	50% R/R; 24% COM; 21% SX, 5% INV
January – June 2023	3.2	4:00	2	1:30	54% Com; 46% ref

The following chart reflects the average monthly incidents of restraint chair or restraint retention reported for the Fourth Monitoring Report for the period of July - December 2023:

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

Month	Restraint Chair		Restrains <sup>39</sup>		
	Placements	Average Hours	Retention in Restraint	Average Hours	Reason
July	4	5:00	1	1:45	100% R/R
August	2	1:30			
September	10	6:15	3	2:15	33% COM; 66% UNK
October	3	5:00	1	UNK	UNK
November	5	5:30			
December	1	3:45			
<b>Average</b>	<b>4.2</b>	<b>5:15</b>	<b>1</b>	<b>2:15</b>	<b>Info incomplete</b>

During the Third Monitoring period, there was only one restraint chair retention beyond eight (8) hours;<sup>40</sup> however, in this reporting period, at least five (5) Class Members are documented as exceeding eight hours

<sup>37</sup> Three placements during this period did not have a confirmed release time.

<sup>38</sup> **COM** = Combative or Aggressive; **INV** = Investigation; **R/R** = Refuse to relinquish restraints; **SX** = Suicide Attempt or pending transport to John George Hospital; **UNK** = No documentation provided

<sup>39</sup> Based on incomplete reporting from the County, no averages are provided this reporting period, and these numbers represent only the known restraint retentions.

<sup>40</sup> Refer to Third Monitoring Report for additional detail.

in a restraint chair placement. There were also three placements in which the incident report and restraint log do not list the release time, so the total could be more than five. The Mental Health Expert is the best person to address the quality of mental health assessments when a Class Member is in a restraint chair, but it was recommended in the last report that incidents of repeated placements in a restraint chair of a single person should be carefully evaluated by an interdisciplinary treatment team, including treating clinicians from the community hospital if transported out for emergency treatment.

It is impossible during this monitoring period to rely on the data concerning placement or retention in restraints (handcuffs or waist restraints) except when under escort due to the belief the County underreported this information. The Custody Expert noticed three incidents of Class Members refusing to relinquish restraints after a use of force incident which should have resulted in notification of that the Class Member had been retained in restraints, but they were not reported until identified by the Custody Expert. The County advised on only two incidents for the six month period of July – December and could not certify that the two reported by the County and the three uncovered during use of force reviews represented the totality of the incidents. Therefore, this report will not rely on the accuracy of the average number of incidents per month nor the average time per month. The County has committed to collaborating with the Monitor monthly to ensure all incidents are reported and the documents are available for review going forward.

As reported in the Third Monitoring Report, the quality of the deputy documentation in the Guardian RFID system is substandard to the quality of documentation when the deputies were completing paper observation logs. For example, the deputies are required to document when the Class Member is placed in and released from the restraint chair; when clinical encounters occur; the offering of liquids and meals; ensuring range of motion for limbs is afforded, etc. but are not consistently doing so. Of the twenty-five restraint chair placement, in only six of the files (24%) was the documentation adequate to ensure compliance with the policy. The County must improve proficiency when utilizing the Guardian system when a Class Member is placed in a restraint chair or retained in restraints when not under escort.

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

#### Recommendations:

1. \*Finalize and provide training on the Use of Restraint Policy (8.26)
2. \*Resolve the lack of consistency in documentation utilizing the Guardian RFID or resume use of the restraint logs approved with the policies.
3. \*AFBH and ACSO should work with Wellpath on a policy for clinical evaluations when an IP has been retained in restraints for more than 1 hour and does not appear to be resolving. Ensure those clinical encounters are documented on the restraint log.<sup>41</sup>
4. \*Work with the Mental Health Expert to review the incidents of multiple placements in a restraint chair to determine if other clinical options may have been possible to improve training and future outcomes.

---

<sup>41</sup> Likely General Order 7.14 – *Prisoner Transportation, Restraint Devices.*

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

***Finding: Partial Compliance***

The County and Wellpath have shown significant improvement in the responsiveness of AFBH prior to placement of a Class Member in a restraint chair. Of the twenty five incidents reported this monitoring period, it appears from the incident report or observation logs that a mental health clinician was involved initially or within 4 hours in all but one incident. In this situation, custody staff requested an AFBH clinician and were advised none were available until the morning. In all incidents, a Wellpath nurse was involved upon placement as documented in the incident report or restraint log.

It is less clear the on-going role of Wellpath and AFBH when a Class Member remained in a restraint chair due to documentation challenges. Previous monitoring relied on the restraint chair logs to assess on-going clinical encounters while a Class Member was in restraints but that has proven difficult this monitoring period due to the fact that most of the Guardian logs failed to document on-going clinical encounters. If this cannot be resolved in the next review period, unit health records maintained by Wellpath and AFBH will be requested to measure compliance.

Similarly, unlike previous monitoring rounds, it is impossible to completely assess the role of Wellpath or AFBH when a restraint log is initiated for a Class Member who is retained in handcuffs or waist restraints but not under escort due to lack of full reporting on the issue for reasons previously explained. As mentioned in Provision 505, the County departments and Wellpath need to engage in further discussions about the clinical assessment and rounds for those incarcerated persons who are in restraints for longer than one (1) hour and assess when the Class Member's reason for retention in restraints does not appear to be resolving. Similar clinical and supervisory assessment documentation should appear on the restraint log so that custody is aware that rounds have occurred.

**Recommendations:**

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

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

**Finding:        *Partial Compliance***

**Assessment:**

The County finalized and published Restraint Policy (8.26) after the completion of this monitoring period. Overall, the ability to monitor compliance has gotten more complicated this rating period as the ACSO transition from a paper observation log system to the use of the Guardian RFID system to document the various requirements when a person is placed in a restraint chair or maintained in restraints in a cell or other holding area. The County recognized the internal training needs based on internal auditing and continues to provide training when documentation is substandard or the staff are not complying with policy mandates, such as access to food/water, restroom, range of motion, mental health and medical consultation and other requirements.

It would be helpful to the County if the Compliance Unit or designated supervisors would begin internal monitoring of this provision to provide the staff with real time feedback and identify non-compliance areas that may be immediately resolved with individual training. Until such a time as the policies can be updated and documentation improved, this provision will not reach substantial compliance.

**Recommendations:**

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

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

**Finding:        *Partial Compliance***

**Assessment:**

While the County continues to maintain a grievance system, there has been limited changes since the third monitoring report concerning the grievance policy, data tracking and reporting other than areas for improvement in the process have been internally identified by the unit. In the third monitoring report, it was similarly noted that “there has been limited change since the [second] report.” There was a change in the Grievance Lieutenant during this rating period and an improvement in the monthly tracking and

grievance log, but the Lieutenant recognizes that the system requires process improvements. It is hopeful that the grievance process will be a key priority in the next rating period.

As reflected in the prior report, there is confusion concerning the number of grievances filed per month, an issue that is being investigated by the Grievance Unit with the goal of clarifying it in the next reporting period. It appears from the tracking report provided by the County for the period of July - December 2023, the County is receiving an average of approximately 317 grievances per month. This represents an apparent reduction from the Second Monitoring report where it was believed the monthly average for the first eleven (11) months in 2022 was in excess of 600 grievances per month. It may be that the County is not reporting on both efiled grievances and paper grievances, or the County has gotten more sophisticated in not classifying a “request” submitted via the tablet as a “grievance.” Either way, the disparity has not yet been resolved for this reporting period, but it is anticipated it should be by the next report.

It appears the underlying problem is associated with an internally developed grievance tracking system, an internal software program developed by a custody staff member that cannot be updated or adjusted. As a result, the system will not evolve to implement critical updates. The County has a potential solution and is in the beginning stages of replacing the system but has to engage in temporary solutions in the interim.

It is positive to report the grievance tracking system continues to improve and the County is now responding to all grievances, even if the incarcerated person is no longer in custody. The County is improving in the timeliness of grievances but still requires further improvement. In a sample review of thirty-six grievances for the period of July-September 2023, it was noted that over half of the grievance responses were provided to the Class Member within 15 days, a stark improvement in timeliness. Only one-third of the grievances exceeded a 30 day response period, which requires focus and improvement but there has been noted progress over all prior monitoring periods.

It is also noted that the grievance response to the Class Member is improving but the Monitoring Team continues to collaborate with ACSO and AFBH on the quality and responsiveness to grievances filed. One area that requires focus in the next review period is response when a Class Member wishes to appeal to the next level. The current form being utilized by the County does not provide adequate space for a detailed response regarding the reason the appeal is upheld or overturned at the next level. In candor, none of the grievances reviewed were modified at the second level of review and no justification was provided regarding the reason the supervisor supported the original grievance response. An appropriate analysis of the system, trends, timeless, etc. cannot be ensured until there are appropriate responses, the tracking system captures appropriate information and secondary responses provide meaningful and timely feedback to the Class Member who appealed the original decision.

In reviewing the sample completed grievances for the period of July-September 2023, the Custody Expert had significant feedback for improvement in 72% of the grievances. The feedback was primarily in the following areas:

- Timeliness of response
- Lack of detailed response at the first level of review
- No written explanation of decision at the second level of review
- Inadequate policy and practice on allegation of unnecessary or excessive force

- Inappropriate response not considering available information to inform decision, particularly on out-of-cell grievances.
- Lack of closure on appeals that are “referred” where the Class Member does not routinely receive a final closure on any findings or actions from the “referral” to another area for resolution.

The Appeals Unit has not yet developed a comprehensive grievance tracking report but has shown improvement. With a refinement of the tracker documentation, it is possible for the County to develop a report that reviews trends, timeliness and systemic issues. The Monitoring team will work with the County during the next review period as the County develops and pilots a new grievance reporting system.

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

- Lack of counting rules on how to categories grievances as often issues can overlap and there is no consistency regarding which category a grievance will be listed under. For example, a complaint about the deputy not providing a grievance may be categorized in one tracker under “grievance” and in another tracker as a “staff complaint.”
  - *The categories are improving, and it is anticipated a “dropdown” menu will be incorporated in future tracker reports so that standardized categories can be analyzed and reported on.*
- The timeliness for grievances are not kept up to date and there is no report concerning areas where grievances are not being responded to in a timely manner to assist management in allocating resources to address.
  - *The grievance and response dates on the tracker have improved immensely on the initial response. The County is exploring a replacement to the current grievance tracking system.*
- There is no clear process to track grievances that are elevated by the incarcerated person to the next level of review.
  - *No Change since last report. Tracking when a Class Member wishes to pursue to the next level has not been refined.*
- The Grievance tracker is not kept up to date with findings and lacks a column for housing of the incarcerated person to identify trends in particular living areas
  - *The tracker is being kept up to date but lacks a housing column to sort grievances by location.*
- The grievance system lacks strong outcome tracking and outcome measures, such as using language on whether grievances were affirmed, partially affirmed or denied or other language that allows for outcome tracking.
  - *The grievance tracker has improved in listing the outcome of the grievances. The grievance unit is also engaged in improving analysis of grievances, which should be supported but the replacement of the current grievance tracking system.*
- The grievance tracker does list the involved staff but there has been no analysis presented to determine if additional training or potential investigation of that staff member has been undertaken when the individual complaint has proven to have merit or there is a pattern of complaints that appear to have merit.
  - *The grievance tracker now lists when an allegation has been referred for further investigation but does not yet close out the grievance upon completion of the investigation.*
- There is no continuous quality improvement report presented for review by the medical or mental health team concerning grievances and grievance trends.



- *The grievance unit is engaged in a process improvement regarding trend analysis and is working with Wellpath and AFBH in reviewing grievances and grievance trends. A basic report was provided for review but requires considerable refinement to be meaningful.*
- The grievance tracker does not list if the grievance was a tablet or paper grievance and there are missing grievance numbers that are not explained. For example, the log may have grievance #23-0001 and #23-0003 but does not have #23-0002 and there is no explanation. The tracking log should document the grievance was withdrawn, destroyed, a duplicate, error in assigning tracking, etc. to ensure integrity in the system.
  - *The County believes the issue is resolved and should be reflected in future monitoring periods.*

It is believed that the Grievance Unit is committed to meaningful reviews of grievances and improvements are noted, but there is much work that needs to occur to ensure compliance with this provision. Responses to grievances must improve, including requiring health care and mental health staff to respond directly to grievances, rather than requiring custody to respond. The tracking system must be updated or replaced to assist with providing quality management reports to assess trends, problem areas and track to ensure timely resolution of grievances. This is not an easy task and will require dedication and focus to implement.

**Recommendations:**

1. \*Ensure adequate resources are available to provide timely and meaningful responses to grievances. Set into policy and practice initial responses to grievances within 10-14 days.
2. \*Work with the Joint Experts to revamp the monthly Grievance Report to comply with this provision.
3. Prior recommendations concerning updating policies, forms and training remain a priority but recommend focusing on the first two recommendations in this next rating period.

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

**Finding:        *Partial Compliance***

As reported in the Third Monitoring Report, the County has not yet identified an electronic system to track processing delays. However, the County continues to demonstrate substantial improvement in processing times through a range of solutions, such as increased staffing, activation of an intake housing unit and greater attention to priority. As a result, the County continues to realize substantial reductions in the average number of Class Member held in intake at the eight (8) hour mark. The County is not yet reporting status at the four (4) hour timeframe and will need to do so to demonstrate compliance.

During the January 2024 monitoring tour, there were two Class Members held in the intake area beyond the eight (8) hour mark and the staff were all aware of the status of those two individuals. The decision to hold them in intake was appropriate as neither was stable enough for alternate housing. The County has also been piloting a new tracking report which provides greater detail than the end of shift reports and it is anticipated that the tracking system will be submitted during the next monitoring period for review.

As with prior reports, the County officially tracks the number of incarcerated persons held beyond eight (8) hours on the Intake, Transfer and Release (ITR) end of shift report. The count is taken at 4:00 a.m. and 3:30 p.m. The average number of Class Members held beyond eight hours has been reported in the Second and Third Monitoring reports and is reflected in the chart below demonstrating the County reduced from an overall average of 43 individual held during the August 2022 sample period to an average of 13 individuals in the January – June 2023 monitoring period.

**Second and Third Monitoring Reports  
ITR End of Shift Report Data  
Average Processing Delays  
Number of IPs held in ITR beyond 8 hours**

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

During this monitoring period, ACSO, AFBH and Wellpath continued to improve the process and further reduced the average number of Class Members held in the intake area at the eight hour mark. From the period of July - December 2023, the average number of incarcerated persons in the ITR beyond eight (8) hours at 4:00 a.m. reduced from fifteen to four persons (73% reduction). By 3:30 p.m. the average number also decreased to 4 persons (64% reduction).

The following chart reflects the daily average of incarcerated persons maintained in the ITR based on the ITR end of shift reports for sample periods July-December 2023:

**ITR End of Shift Report Data**  
*July – December 2023*  
**Processing Delays**  
**Number IPs held in ITR beyond 8 hours**

<b>Date</b>	<b>4:00 AM</b>	<b>3:30 PM</b>
July 2-8	1	2
Aug 6-12	5	4
Sept 3-9	3	3
Oct 1-7	9	8
Nov 5-11	3	1
Dec 3-9	5	3
<b>Average</b>	<b>4</b>	<b>4</b>

The County has shown appropriate progress in reducing the delays in intake at the eight hour mark. To reach substantial compliance, the County will need to measure at the four hour mark as that information is not yet available and provide documentation that a lieutenant is following up every 90 minutes thereafter. The County will also need to document the reason the incarcerated person could not be housed at the eight hour mark. It is conceivable the County could reach substantial compliance in the next rating period but absent that information, it will be impossible to measure.

**Recommendations:**

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

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

***Finding: Substantial Compliance***

**Assessment:**

The County has achieved and maintained substantial compliance with this provision. The policies and post orders have been updated to memorialize compliance with cleaning and issuance of appropriate property items unless restricted by a mental health clinician. During the January 2024 monitoring tour, identified safety cells for utilization were maintained in a clean manner and prepared for utilization. Other safety cells had been decommissioned and were in the process of renovation for repurposing due to the profound reduction in the use of safety cells.

As with the last report, there was only one safety cell placement during the six month monitoring period of July – December 2023. That placement was approximately 8.5 hours and an AFBH clinician participated in the placement decision according to the incident report. Unfortunately, the documentation in the guardian log report for this monitoring period is insufficient as discussed in Provision 505.

It was anticipated that the County would demonstrate on-going Substantial Compliance in this monitoring period with a recommendation to discontinue monitoring. However, until such time that the Guardian reports are adequately documenting the cell was cleaned prior to placement, property issuance and other engagements with a Class Member in a safety cell, it is impossible to be certain the policy is being adhered to.

**Recommendations:**

1. Address training deficiencies regarding documentation utilizing the Guardian RFID system when a Class Member is placed in a safety cell or restraint chair.

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

***Finding: Substantial Compliance***

**Assessment:**

Associated policies and post orders have been updated to incorporate this provision. It was previously anticipated that the Watch Commander Post Order (10.02) would be updated to require the movement of a Class Member if the call button could not be repaired but instead ACSO updated the Fire Safety Policy (7.01) to memorialize the requirement during this rating period.

During the July-December 2023 monitoring period, the following housing units received routine maintenance on the call button system: Housing Units 6, 7 and 24. There were 77 work orders submitted during this period. Of those, the completion timeframe for nine work orders is unknown. The County

should develop a system to conduct a period check of call buttons in all units in increments of no less than every 90 days. This can be facilitated by custody personnel.

Of the remaining 68 work orders, nine (9) have a cell number included and 59 are not associated with a particular cell(s). Of the nine (9) with a specific cell number(s) attached to the work order, the average time for repair is eight (8) days. Of the remaining 59 completed repairs that do not have a specific cell, the combined average for repair is over seven (7) days. These averages days for repair are too long for an issue this important, and it is exceedingly difficult for custody to move populations due to inoperable call buttons to comply with this provision; therefore, the County is encouraged to prioritize these important repairs or provide proof of practice the impacted Class Member has been moved if the repair is not timely.

A review of the grievance logs provided for the last six months of 2023 revealed 18 grievances were logged concerning the call button/intercom system, the same number as the Third Monitoring Report. None of the complaints documented an inoperable system. The majority of grievances surrounded professional conduct when the incarcerated person activated the system for support. As with prior monitoring tours, no Class Member reported an inoperable call button when asked and all staff reported their responsibility to submit a work order if a call button was inoperable, which they report does happen routinely.

All policies have been updated, the jurisdiction has a work order process, staff and Class Member interviews and grievances reviews demonstrate compliance with this provision. The ACSO should also work with the Custody Expert to ensure proof of practice regarding relocation of an incarcerated person is documented in a single location for ease of monitoring and proof of practice. Until such a time the County demonstrates there is a system to internally audit compliance and engages in routine checks of housing units to test functionality, a recommendation to discontinue monitoring this provision cannot occur.

#### **Recommendations:**

1. \*Continue with current practice of Control Booth Technician doing a daily check on communication systems and submitting work orders where necessary.
2. \*Clarify in policy/post orders the expectation that a cell move may be necessary should a call button not be able to be repaired in a timely manner and the mechanism for staff to document and elevate this concern to a supervisor.
3. \*The Compliance Unit should evaluate timeliness of repair with a monthly report evaluating the average time from awareness to repair.
4. The County should develop a system to conduct a quarterly check of all housing unit call buttons, this can be facilitated by custody personnel with support from maintenance personnel.

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

**Findings:**      *Substantial Compliance*

**Assessment:**

During the last monitoring period, the County was considered in substantial compliance due to the fact policies have been updated, equipment is in place and inventoried and staff were generally aware of the location and the responsibility to respond with the necessary equipment. That said, there were patrol deputies working overtime in the jail who did not carry a cutdown tool and were unfamiliar with the location of the cutdown tool, resulting in a recommendation to ensure patrol staff working overtime in the jails were adequately briefed with the information.

During the January 2024 monitoring tour, all staff interviewed were aware of the location of all emergency response equipment, including those patrol deputies working overtime in custody. During this monitoring period, there were no medical emergencies identified where staff did not respond with appropriate equipment, including first aid kits and AED machines.

Emergency response and availability of equipment will continue to be assessed with any critical incident associated with suicide attempts and medical emergency responses and the locations of the tools checked on future tours to ensure they are still in place unless it is determined this provision will no longer be subject to monitoring.

**Recommendations:**

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

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

**Finding:** *Partial Compliance*

**Assessment:**

There has been little change regarding this provision during this rating period and the Third Monitoring report describes the challenges and proposes solutions that have not yet been integrated by ACSO or AFBH. Those do not require restatement in this report.

The County continues to rely heavily on the intensive observation (IOL) protocols for supervising Class Member on suicide precautions. The other official programs are placement in a safety cell, which occurred once in this monitoring period and placement in a restraint chair, which occurred twenty-five times this monitoring period.

The County does have a system to alert the deputies when a Class Member is on IOL status and has levels of IOL status, the least restrictive being the allowance of access to tablets. However, the County has not provided an adequate proof of practice system to demonstrate how the clinicians are informing the deputies regarding denial of property as the ATIMS reports lack detail on what is or is not permitted (such as eyeglasses), the reports do not inform when a person is placed on a certain IOL level, when that level changes and when they are removed. It is unclear from these reports if a Class Member on IOL is permitted to attend a rehabilitative program, if they are permitted to have a book, if they can keep their glasses, if they are permitted to have canteen items. This report does not show that a clinician has reevaluated the IOL Class Member every three days and no compliance report for that aspect of the agreement has been provided and an individualized HIPPA compliant assessment and documentation is not being provided from the clinician to custody personnel.

It is noted on tours that the IOL populations are permitted to engage in out-of-cell programming on the unit and have been observed on the quasi yard. There were no grievances noted this review period where an allegation was made that an IOL Class Member was not permitted out-of-cell due solely to their IOL status, but there were grievances concerning being placed on IOL status. The County has a framework to comply with this provision, but compliance has proven elusive with the inflexible jail management system (ATIMS) report that is being provided as proof of practice to demonstrate a case-by-case assessment is being done every three days with sufficient documentation to custody on what property or privileges are restricted. The current process is a blunt approach and appears that incarcerated persons linger on the IOL status longer than may be necessary due to the one size catch all approach currently employed.

Until such a time a meaningful, measurable and auditable process is put into place, this provision will not reach substantial compliance. The current monthly reports are simply inadequate to be meaningful.

### **Recommendations:**

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

*(761) Defendants shall develop and implement updated policies and associated training for all custody staff, as well as training for custody staff newly hired and/or assigned to the Jail, regarding how to conduct quality security checks for incarcerated persons placed on suicide precautions and regarding suicide prevention and precautions generally. The training shall include the creation of a video to model appropriate security check observations as well as in-person training and shall address at least the following topics: (a) avoiding obstacles (negative attitudes) to suicide prevention; (b) review of recent suicides and serious suicide attempts at the jail within the last two years and any patterns or lessons learned (c) why facility environments are conducive to suicidal behavior; (d) identifying suicide risk despite the denial of risk; (e) potential predisposing factors to suicide; (f) high-risk suicide periods; (g) warning signs and symptoms; (h) components of the jail suicide prevention program; (i) liability issues associated with incarcerated person suicide; and (j) crisis intervention including practical exercises regarding the proper response to a suicide attempt and the proper use of cut-down tools.*

**Finding:** *Partial Compliance*

**Assessment:**

During this rating period the County focused their efforts on Provision 763, which increases supervisory oversight of security checks. The County had previously updated policies regarding security checks and engaged in training during musters and jail orientation with quality assurance being conducted by unit sergeants. That process is working well.

However, the County reports they are in the process of developing the video but that has not been assessed during this rating period. It will be important that the County share the concepts of the video with the Experts and Class Counsel prior to full productions.

The County can reach substantial compliance with this provision in the next rating period if the video can be completed and disseminated.

**Recommendations:**

1. \*Assign a supervisor to develop a video production strategy to incorporate training from the approved Inmate Observation and Direct Supervision policy.

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

**Finding:** *Substantial Compliance*

**Assessment:**

All related policies have been updated and training has occurred to comply with this provision. The documentation for compliance is maintained in the security end of shift report. In reviewing 30 end of shift



reports during the months of September – November 2023, it was noted the sergeant reviews were documented on all end of shift reports, which included documenting the time and location of the reviews. This appears well anchored in practice.

However, while this sample does not reflect all completed end of shift reports, the sample was large enough to make the following observations.

- The reviews from the sample were restricted to housing units 1, 2, 9 and 24 due to the fact that overhead fixed cameras were available for auditing and did not require assessing body worn camera footage.
- The vast majority of the reviews targeted the hours of 8:00 am to 11:00 am and 11:00 pm and 1:00 am. There was one review at 6:00 pm but all other reviews occurred during the aforementioned hours.

To be effective, the sergeants must be more random in the units they select and the hours of review. It was also noted in 100% of the reviews that the sergeants determined the security audits were appropriate, which could be accurate but warrants an independent assessment by the monitoring team once the sergeant audits are more randomized in location and time.

Because of the concern of the sampling not showing a broad enough sample of housing units and times of the day, this provision will remain in substantial compliance but a recommendation to discontinue monitoring will be delayed until such time ACSO can demonstrate a more randomized review and the Custody Monitor has had the opportunity to review a sample of the videos that the sergeant's audited to confirm concurrence that the security checks were consistent with industry standards.<sup>42</sup>

#### **Recommendations:**

1. \*Continue to comply with sergeant security check review policy, improve and standardize documentation in the end of shift reports and engage in self-auditing for compliance.
2. \*Continue with camera expansion project reflected in Provision 503 to assist with the process.
3. Improve randomized nature of sergeant review to ensure assessment of all housing units and varied times during the course of the month.

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

---

<sup>42</sup> It is noted that not all housing units have fixed cameras, and the County has not been utilizing body worn cameras to conduct audits. Further discussions are necessary to evaluate various options in housing units without fixed cameras.

*hours per day of unstructured time. Individuals in the least restrictive areas of the program shall generally be allowed eight (8) hours per day out of cell.*

**Finding:** *Partial Compliance*

**Assessment:**

The ACSO and AFBH continues to operate Therapeutic Housing Units in units 9, 24 and 35. For the male population, the most restricted units during the rating period were contained in Unit 9, Pods B-F and for the females the most restrictive units are located in Unit 24, Pods D, E and F. The least restrictive THU for males is Unit 35. The Female Units do not yet identify a less restrictive THU area, but it is important the County move in that direction.

As mentioned in prior provisions, the County has been utilizing paper logs to track out-of-cell time but permanently transitions to only the Guardian system during this monitoring period. Each table below will reflect whether the data came from a paper log or the Guardian RFID system. In the next monitoring period, the only data will come from the Guardian system and will be considered more accurate than the previous paper logs.

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

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

**Housing Unit 9 - Males**

The County does not currently designate any of the male THUs as “most restrictive,” but Housing Unit 9 houses a more complex population in the celled unit than does Housing Unit 35, which is a dormed housing unit. The Class Members in Housing Unit 9 recreate in cohorts based on classification and other factors.

The average time per week for January – June 2023 as documented in the Third Monitoring report was 31.5 hours. There has been no change in the overall average for Housing Unit 9 for the period of July – December 2023, the weekly average for unstructured activities increased to at least 31.5 hours overall. It is noted that individual persons and pods were not offered the 21 hours per week minimum during this rating period and one week sampled demonstrated overall the unit did not achieve 21 hours that week due to staffing shortages.<sup>43</sup>

---

<sup>43</sup> Week of November 19-25, 2023

**THU Out-of-Cell Unstructured Activity**  
**January – June 2023**  
**HU 9 B-F**  
**21 Hours Per Week Unstructured Required**

Week	Unit	Dayroom Offer	Yard Offer	Comments
<b>Total</b>	HU 9 B-F	<b>30.25</b>	<b>1.25</b>	<b>Combined Average 31.5</b>

**HU 9 Transitional Male THU**  
**Out-of-Cell Unstructured Activity**  
**July-December 2023**  
**Transitional Units – 21 Hours Unstructured per Week Required**

Week	Unit	Dayroom Offer	Yard Offer	Combined	Comments
7/6-7/12	HU9 B-F	42.25	6	48.25	Not clear how many hours the yard was open. Paper Logs utilized so data not verified or used
8/6 – 8/12	HU 9 B-F	42.25	3	45.25	Not clear how many hours the yard was open. Paper Logs utilized so data not verified or used
9/17-9/23	HU 9 A-F	35.25	2.5	37.75	Begin Guardian Tracking. HU 9 yard documented yard for each pod at least 2 hours in the week
10/22-10/28	HU 9 B-F	33	0	33	HU 9 yard used 2:45 hours in week for E Pod only. Only other was 1 IP noted receiving :15 from F Pod.
11/19-11/25	HU 9 B-F	12.75	0	12.75	HU 9 yard used 1:00 hours in week for F Pod only– All of those IPs documented as refusals
12/10-12/16	HU 9 B-F	28.5	0	28.5	HU 9 yard used 1:75 hours in week for E Pod only.
<b>Average</b>	<b>HU 9</b>	<b>31.5</b>	<b>0</b>	<b>31.5</b>	

The incarcerated persons in Housing 9 pods can program in groups in the dayroom or quasi yard and generally program as the upper or lower tier out together, which is the reason the County is achieving the average 31 hours per week out-of-cell in this unit. It is noted on the Guardian logs, however, that the

quasi yard remained grossly underutilized for the months of September through December 2023 and that should be remedied in the next report period.

Housing Unit 9, when measured overall, demonstrates compliance with the unstructured out of cell time but to date there is no method to capture the structured out-of-cell time. For the next rating period, the measurement will adjust to the percentage of Class Members who were offered at least three hours of unstructured activity daily as the tracking and reporting systems are now able to do so in a manner that affords that level of review.

### **Housing Unit 21 and 24 – Females**

During this rating period Housing Units 21 and 24 were designated to house female THU Class Members. Housing Unit 24 is the primary female unit but has been ongoing renovations requiring temporary redirect of the population. The female population also requires the same level of out-of-cell time as the males, as listed below:

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

During the Third Monitoring Period, it was difficult to attempt to measure the weekly out-of-cell time for the THU population due to the complex manner in which the time was calculated on paper logs and the lack of identification of the THU population. As a result, all known THU populations in Housing Unit 9, males and Housing Units 21 and 24, female, were measured together with an average of 19.5 hours per week on average for the population. This average is difficult to utilize as a baseline due to mixing populations from different housing units.

However, for this report, the County has evolved to the point in which the female population can be measured separate from the males but has not yet developed a designation for the females as being housed in the most restrictive, transitional or least restrictive. The Monitors will work with the County in the next monitoring period to attempt to designate the population more clearly in the Guardian system or reports generated by the Guardian system. Combining all THU females for this rating period who were in the unit for the entire sample week, the County averaged 10.75 hours per week. While below the required minimum, this should not be considered a reduction from the prior report as the male population was included. However, this number will be used as a baseline for future reporting on the females.

**THU Out-of-Cell Unstructured Activity**

**Identified THU Class Members**

**HU 9A, 21 D/E, 24 D/E**

*January – June 2023*

**Most Restrictive – 21 Hours Unstructured per Week Required**

**Transition Units – 21 Hours Unstructured per Week Required**

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

<b>Housing Units</b>	<b>Weekly Average Dayroom Offer</b>	<b>Weekly Average Yard Offer</b>	<b>Weekly Average Combined</b>	<b>Comments</b>
<b>HU 9A, 21D/E, 24 D/E</b>	<b>18.5</b>	<b>1</b>	<b>19.5</b>	<b>Paper Logs Utilized</b>

**Female THU Out-of-Cell Unstructured Activity – All Levels**

**HU 21 and HU 24**

*July-December 2023*

**Most Restrictive – 21 Hours Unstructured per Week Required**

**Transition Units – 21 Hours Unstructured per Week Required**

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

<b>Week</b>	<b>Unit</b>	<b>Week Dayroom Offer</b>	<b>Week Yard Offer</b>	<b>Week Combined</b>	<b>Comments/Refusal Cells</b>
7/6-7/12	21D	16.75	0	16.75	
	21E	11.25	0	11.25	
	21F	8	0	8	4
8/6-8/12	21D	12.75	1	13.75	17L,
	21E	12.5	1	13.5	5, 10
	21F	8	0	8	
9/17-9/23	All	8	1	9	2 IPs
10/15-10/21	All	6.75	.75	7.5	2 IPs
10/29-11/4	All	8.25	1	9.25	1 IP
12/17-12/23	All	10.5	.25	10.75	2 IPs
				<b>10.75</b>	

**Housing Unit 35 - Males**

The least restrictive THU Unit for males is HU 35. While each pod in HU 35 experiences different out-of-cell and recreational time, overall, these units documented an average 40 hours of unstructured activities per week for dayroom and recreation time combined during the January – June 2023 review period as reflected in the Third Monitoring Report. For the period of July-December 2023, the County documented significantly less out-of-cell time in the sample weeks reviewed, averaging 31.5 hours per week. These average hours may factor in structured activities, such as work, educational programming or TeleCare groups. Unfortunately, the challenges in staff not consistently utilizing the Guardian system to track out-of-cell time has likely resulted in the County underreporting unstructured activities. During the tour in January 2024, the population in HU 35 consistently reported receiving on average 6-8 hours of out-of-cell time per day unless there was an unusual event. The County must continue to train the staff regarding the importance of utilizing the RFID system to capture out-of-cell activities or the County will not be able to demonstrate improvements or substantial compliance.

The following chart reflects out-of-cell time for unstructured activities in HU 35 for 2023

**THU Average Weekly Out-of-Cell Unstructured Activity  
HU 35 A-F  
January – June 2023  
Least Restrictive Units – 56 Hours Per Week Out of Cell Required**

<b>Weekly</b>	<b>Unit</b>	<b>Dayroom Offer</b>	<b>Yard Offer</b>	<b>Combined</b>	<b>Comments</b>
<b>Average</b>	<b>HU 35 A-F</b>	<b>33</b>	<b>8</b>	<b>40</b>	

**THU Average Weekly Out-of-Cell Unstructured Activity  
HU 35 A-F  
July – December 2023  
Least Restrictive Units – 56 Hours Per Week Out of Cell Required**

<b>Week</b>	<b>Unit</b>	<b>Dayroom Offer</b>	<b>Yard Offer</b>	<b>Combined</b>	<b>Comments</b>
7/2-7/8	HU35 A-F	45	12.5	57.5	Paper Logs
8/13-8/19	HU35 A-F	42	18	60	Paper Logs
9/10-9/16	HU35 A-F	11	3.5	14.5	Guardian
10/8-10/14	HU35 A-F	19	0	19	Guardian – No Main Yard Offered
11/12-11/18	HU35 A-F	8.75	1.5	10.25	Guardian
12/10-12/16	HU35 A-F	27	1	28	Guardian
<b>Average</b>		<b>25.5</b>	<b>6</b>	<b>31.5</b>	

### TeleCare Groups

Besides out-of-cell recreation, the County continues to provide groups in the THU provided by an outside contract provider (TeleCare). While the County is not yet able to provide detail at the individual level to measure the offering of structured activities, the County does continue to provide a monthly report documenting the status of provision of TeleCare groups, which includes the location, number of groups and total participants. In reviewing the documentation provided, the number of groups and total participants increased slightly in the last six month of 2023 over the Third Monitoring Report.

The total average number of groups per month increased from 82 in the first six months of 2023 to 88 groups per month on average. This also resulted in an increase in the total participants from 255 in the first six months of 2023 to 267 participants in the last six months of 2023 as reflected in the following tables:

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

Month	Housing Units Seen	Total Groups	Total Participants
<b>Average</b>	9,21,23,24,35	<b>82</b>	<b>255</b>

**TeleCare Groups  
Therapeutic Housing Units  
July – December 2023**

Month	Housing Units Seen	Total Groups	Total Participants
July	9,21,23,35	80	250
August	9,21,23,24,35	86	211
September	9,21,24,25	75	207
October	9,21,24,25	80	250
November	9,21,24,35	106	346
December	9,21,24,35	103	338
<b>Average</b>		<b>88</b>	<b>267</b>

It is noted that the County experienced a significant increase in groups and participants in November and December 2023; assuming the increase continues the next reporting period should demonstrate further improvement in the provision of structured activities. Unfortunately, there is not yet a mechanism to quantify the impact to the required out-of-cell hours.

**Recommendations:**

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

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

**Finding:            Partial Compliance**

**Assessment:**

The Crisis Communications for Corrections training was approved, and while outside of this monitoring period, the training began in March 2024.

As reflected in the last report, the concept of de-escalation continues to be integrated into the training and culture of ACSO. In discussions with staff during tours, the staff are able to articulate the importance of de-escalation as well as provide appropriate examples of de-escalation strategies. In reviewing use of force videos, it is more common to observe staff attempting de-escalation than observing staff who do not employ those skills. While there are still concerns raised about staff failure to employ de-escalation in some incidents, that failure is generally addressed by the reviewing supervisors, a profound improvement since monitoring began. It is often common to see a more composed deputy step in when a staff member has lost their composure or become the target during an incident, again a profound improvement since the onset of monitoring.

Unfortunately, there are still examples where staff did not employ quality de-escalation strategies, informing ACSO of the critical need for the CIT training, particularly in high need areas, such as restricted housing unit and units housing behavioral health Class Members.

**Recommendations:**

1. \*Once the initial and refresher curricula is developed and approved, present a formalized training plan for all staff working in the jail, including those who are redirected or hired on an overtime basis from outside of custody division to cover posts.
  - a. The training should be custody-specific and designed to afford staff the ability to practice learned skills.



2. \*Work with the Joint Experts and Class Counsel to clarify which de-escalation courses are provided to which categories of staff and determine frequency and modality for refresher training.

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

**Finding:            Partial Compliance**

**Assessment:**

The County has made progress on the establishment of an Ombudsman Program since the last reporting period as there has been an approval to establish an Ombudsperson position, development of a duty statement and scheduling consideration for formal approval by the Alameda County Civil Services Commission in February 2024. While outside of the reporting period, the position was approved by the Commission, therefore, it is viable that the jails could have an Ombudsperson employed by the next rating period.

Other than providing a draft policy for an Advisory Council program during this last rating period, the County has not shown progress on the establishment of a pilot program as previously recommended. Various conversations have occurred concerning starting a pilot program and the framework for such a program; however, the County does not have sufficient bandwidth to implement all provisions as anticipated and has worked with the monitoring team to prioritize provisions. The decision was made to support focusing on the Ombudsperson this monitoring period and then focus on the Advisory Council once the Ombudsperson Program is established.

**Recommendations:**

1. \*The County should select at least one female and one male housing unit to pilot an IP Advisory Program.
2. \*The County should send the designated sergeant to a local state prison to observe an advisory committee meeting in action as the Sergeant develops the pilot plan.
3. \*The Custody Expert will support the designated project management in development of policies and forms once the pilot is established.
4. \*The County should complete the hiring process for an Ombudsman in the next rating period who can then develop an action plan to establish an Ombudsman program for custody operations.

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

**Finding:            *Partial Compliance***

**Assessment:**

The County does have project plans as reflected in the prior report; however, both ACSO and AFBH have insufficient resources for quality project management and compliance auditing. While there are project plans as required, the teams have been unable to develop and maintain strong project management strategies due the substantial amount of work required for the myriad of provisions and the lack of staff in each agency. As a result, the associated project plans are not as comprehensive as is necessary and they are not comprehensively updated on a quarterly basis, as would be beneficial as the leadership teams assess progress, outcomes and barriers.

The County is encouraged to support AFBH and ACSO in maintaining up-to-date and quality project plans.

**Recommendations:**

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