

**Monitoring Report – Yuba County Jail
Third and Fourth Quarters – 2020
Hedrick v. Grant, E. D. Cal. No. 2:76-cv-00162-EFB
April 5, 2021**

I. EXECUTIVE SUMMARY

On January 30, 2019, United States Magistrate Judge Edmund F. Brennan granted final approval to an Amended Consent Decree (“ACD”) designed to remedy ongoing constitutional and statutory violations in the Yuba County Jail (the “Jail”). Pursuant to the ACD, which is attached to this Report as **Exhibit 1**, Plaintiffs’ counsel are the court-appointed monitor of Defendants’ compliance with the ACD. The ACD required that Defendants complete implementation of the majority of its terms within nine months of the Court’s final approval—that is, by October 30, 2019.

This Report on Defendants’ compliance with the ACD is based on documents covering the third and fourth quarters of 2020 and telephonic interviews with class members conducted between July 2020 and March 2021. A tour of the Jail was scheduled for December 2020 but did not occur due to an outbreak of COVID-19 at the Jail.

Plaintiffs’ counsel identified several areas of non-compliance, among which the most concerning are:

(1) the as-yet unexplained death of a 30-year-old class member at the Jail on February 28, 2021;

(2) a dramatic rise in Defendants’ use of safety and sobering cells during the review period, in certain cases as long-term housing for individuals with severe mental illness;

(3) class members who need inpatient mental health care not being provided with the care they need;

(4) Defendants’ practice of housing class members in administrative segregation or other restrictive housing solely due to mental illness;

(5) Defendants’ refusals to provide requested information to Plaintiffs’ counsel in a timely fashion.

Failure to remedy these problems before the next monitoring report may necessitate an enforcement motion. Additional areas of non-compliance include: persistent delays in providing medical and mental health care; inadequate medical and

mental health staffing generally; and inadequate tracking of class members with disabilities and inadequate interactive process related to disability accommodations.

For many other areas of the ACD, Plaintiffs' counsel have not been provided sufficient information to determine if compliance exists or not.

Throughout the report, Plaintiffs have made requests for information, documents, or action by Defendants. These requests are in bold.

Plaintiffs further request that the parties meet to discuss the findings in this report no later than May 3, 2021.

II. JOINT HEALTH CARE AND CUSTODY RESPONSIBILITIES

A. Unexplained Death of Class Member

At some point on the morning of Sunday, February 28, 2021, a 30-year old class member ("Class Member A") died in one of the holding cells in the Jail's booking area. According to the limited records Defendants have produced to Plaintiffs' counsel, [REDACTED]

[REDACTED]

Jail staff discovered Class Member A unresponsive in his cell around 7:10 a.m. the next morning.

Plaintiffs' counsel learned about Class Member A's death from a news report on the morning of March 2, 2020, and immediately wrote to Defendants requesting Class Member A's medical and custody records. *See Exhibit 2*. Defendants provided approximately 9 pages of medical records to Plaintiffs' counsel on March 5. *Id.* Plaintiffs reiterated their request for custody records relating to Class Member A in emails to Defendants' counsel on March 11, March 15, and March 22. *Id.* In their March 22 email, Plaintiffs' counsel also asked Defendants to confirm that they had produced all medical records relating to Class Member A in their or their contracted medical provider's possession. *Id.*

Defendants' counsel acknowledged Plaintiffs' counsel's requests for custody records on March 15, but as of the date of this writing Defendants have not produced any

of those records. Nor have Defendants responded to Plaintiffs' March 22 request for confirmation that Defendants have produced all the requested medical records related to Class Member A.

The ACD states that “[a]ll records and documents which relate to compliance with this Amended Consent Decree, including records and documents maintained and generated by or in the possession of the Jail’s contacted medical and mental health provider, shall be kept by the Jail and made available within a reasonable time upon request by Class Counsel.” ACD § XV, at 62-63. Defendants are impeding Plaintiffs’ counsel’s ability to monitor Defendants’ compliance with the ACD by refusing to provide the information and records requested by Plaintiffs’ counsel in the emails dated March 2, 11, 15, and 22, 2021. **Please produce all the information requested in these emails immediately.**

B. Other Failures to Provide Requested Information in a Timely Fashion

In addition to failing to provide the records discussed above, throughout the monitoring period Defendants maintained a practice of requiring Plaintiffs’ counsel to obtain written privacy waivers from class members before Defendants would produce the class members’ medical records for monitoring purposes. This practice impeded Plaintiffs’ ability to monitor the provision of medical and mental health care provided to class members. During the recent outbreak of COVID-19 at the Jail, moreover, Defendants agreed to provide information about the status of the outbreak only with class members’ names deidentified, thereby making it impossible for Plaintiffs’ to monitor the care and treatment of specific class members. Plaintiffs objected to these practices orally on multiple occasions during the monitoring period and in a letter dated February 22, 2021. While the parties are currently negotiating over the terms of a stipulation that could resolve some of Plaintiffs’ objections, Defendants still have not produced any of the records in Plaintiffs’ February 22 letter.

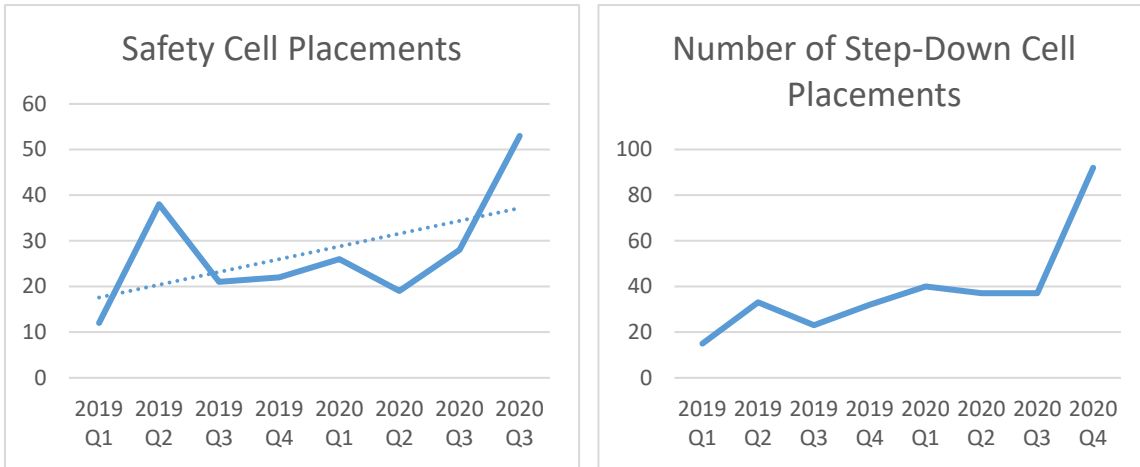
Defendants also have not produced the required annual self-evaluations required by the ACD and discussed in Plaintiffs’ letter dated February 4, 2021. *See Exhibit 3.*

Please produce the requested medical records, custody records, and self-evaluations immediately.

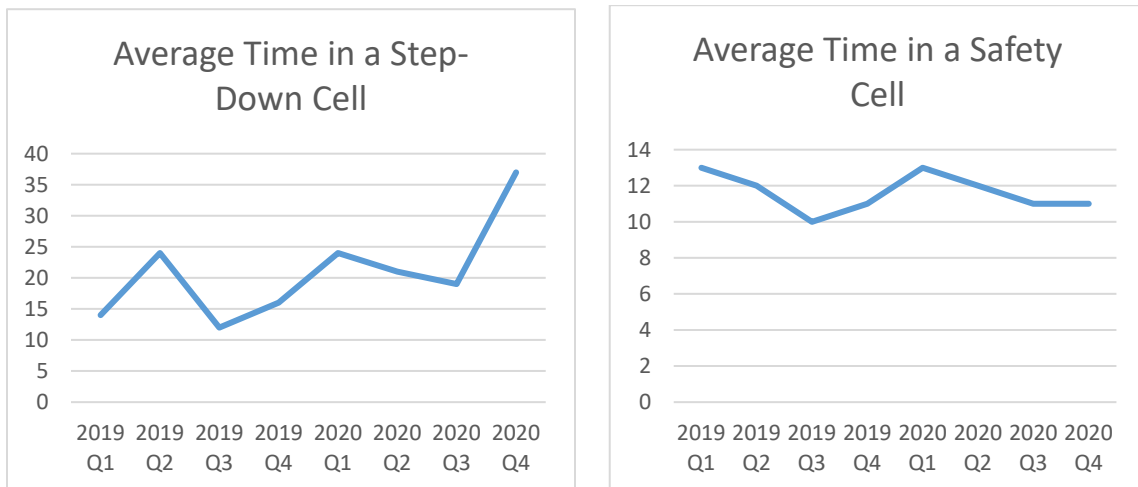
C. Inadequate Mental Health Care and Long-Term Housing of Class Members with Serious Mental Illness in Step-down Cells.

Defendants’ third and fourth quarter documents reveal a dramatic increase in both the number times class members were placed in safety and step-down cells and the average length of time class members spent in step-down cells.

In Q4, Defendants placed class members in safety cells 53 times—nearly double the number of safety-cell placements in Q3 of 2020 and nearly 40 percent more than the previous record of 38 placements in Q2 of 2019, when the Jail population was nearly double what it was during Q4 of 2020. The increase in step-down cell placements was even more dramatic. Defendants placed class members in step-down cells 92 times during Q4—more than double the number of placements in each of the previous three quarters and approximately *five times* the number of step-down cell placements in Q1 of 2019.



The average length of time class members spent in step-down cells also increased dramatically. In Q4, class members remained in a step-down cell for an average of 37 hours—nearly double the average time in Q3 and 54 percent longer than the previous record average of 24 hours, set in both Q2 of 2019 and Q1 of 2020. The average length of stay in safety cells slightly decreased during the same period.



Certain class members who appear to suffer from severe mental illness were housed for weeks or even months at a time in the Jail’s step-down cells. These individuals were repeatedly sent to the emergency department at Rideout Memorial Hospital (“Rideout”) for the express purpose of “clearing” them for continued detention at the Jail. They generally returned to the Jail—and to a step-down cell—within a matter of hours. For example:

- Class Member B suffered a serious suicide attempt on [REDACTED] engaged in further self-harm on at least four subsequent occasions in October and November, and repeatedly threatened suicide in the weeks that followed. *See* [REDACTED]
[REDACTED] Jail staff referred Class Member B to Rideout at least [REDACTED] times during Q4, but he was never admitted for inpatient mental health care. Instead, Jail staff transported him back to the Jail—usually on the same day he was referred—and placed him in either a safety or a step-down cell. From [REDACTED] through [REDACTED] this cycle was repeated approximately every five days, coinciding with the ACD’s 120-hour limit on step-down housing. *See* [REDACTED]
[REDACTED] It appears that Class Member B was housed in either a safety cell or a step-down cell for the vast majority of Q4, including all or virtually all of the period from [REDACTED] through [REDACTED]. Class counsel cannot determine why Class Member B was never admitted for inpatient treatment because, to date, Defendants have refused to provide Class Member B’s medical records without a signed waiver.
- Class Member C attempted suicide on [REDACTED] and was referred to Rideout approximately once per week for the next 3 weeks. [REDACTED]
[REDACTED] Class Member C’s [REDACTED] referrals note that he had spent the preceding 5 days in a step-down cell. On [REDACTED] Class Member C attempted to hang himself in a medical cell. Custody staff subdued Class Member C with a taser after he refused to let officers place him in handcuffs. During a subsequent medical examination Class Member C repeatedly stated that he “wanted to die” and was placed in a safety cell.

¹ While most of Class Member B’s referrals to Rideout in [REDACTED] were documented on Incident Reports, Defendants did not produce any Incident Reports relating to Class Member B from December.

See [REDACTED] In [REDACTED] Class Member C reported to class counsel that he was being housed in administrative segregation and that he had been sent to Rideout the previous week after threatening suicide.² Class Member C reported to class counsel that a social worker at Rideout told him “you’re not suicidal,” at which point Class Member C was transported back to the Jail. Class Member C attempted suicide again on [REDACTED]. See [REDACTED]. Jail staff sent him to Rideout, where he spent approximately 6 hours before being returned to the Jail and placed in a step-down cell. *Id.* Class counsel cannot, to date, determine why Class Member C was never admitted for inpatient treatment because, to date, Defendants have refused to provide Class Member C’s medical records without a signed waiver.

- Class Member D was found incompetent to stand trial on [REDACTED] and was committed to the Department of State Hospitals, but as of the date of this Report he remains at the Jail awaiting placement. Class Member D repeatedly expressed suicidal ideation during Q4 and, according to Defendants safety and step-down cell check sheets, spent a total of approximately 34 days in safety and step-down cells, and was referred to Rideout at least once. See [REDACTED]. On [REDACTED], Defendants transferred Class Member D to administrative segregation because “he does not due [sic] well around groups of people” and was being “taken advantage of” by his cellmate. [REDACTED] Plaintiffs are unable to determine what, if any, mental health care Defendants are providing to Class Member D because, to date, Defendants refuse to produce relevant medical records without a signed waiver.
- Class Member E was classified to administrative segregation on [REDACTED] because Jail staff determined that “he has mental health issues and explosive behavioral outbursts.” [REDACTED]. Class Member E was again classified to administrative segregation on [REDACTED] on the grounds that “he cannot house with others due to his mental health problems.” [REDACTED] Beginning in [REDACTED], Class Member E was housed in a safety and/or step-down cell for approximately two weeks straight. Like Class Member B, Class Member E was sent to Rideout every 5 days during this period but was promptly returned to the Jail each time and housed in a step-down cell. See [REDACTED]. Plaintiffs are unable to determine what, if any, mental health care Defendants are

² Plaintiffs were unable to locate a referral form for Class Member C from this time period December in Defendants’ quarterly document production.

providing to Class Member E because Defendants refuse to produce relevant medical records without a signed waiver.

Defendants' treatment of these and other class members violates numerous provisions of the ACD, including but not limited to:

- Section V.B.6, which states that “[t]he Jail will ensure that inmates are provided timely access to inpatient and outpatient mental health care as needed,” and that “[i]nmates requiring services beyond the on-site capability of the Jail shall be referred to appropriate off-site providers.” ACD at 22.
- Section V.B.10’s protocol for the referral of class members “who are in acute psychiatric distress and in need of urgent inpatient psychiatric care that cannot be provided at the Jail.” ACD at 29-30.
- Section VI.B’s requirement that Defendants “limit the use of Segregated Housing, including Administrative Segregation and safety cells, for inmates with serious mental illness or who present a serious suicide risk, and ... have procedures to mitigate the impact of Segregated Housing on persons with mental illness.” ACD at 30.
- Section VI.C’s requirement that class members only be placed in safety cells “as a temporary measure until the inmate is able to be transferred to different housing or, where clinically warranted, to a hospital or inpatient facility.” ACD at 40.
- Section VI.D’s requirement that class members who have been housed in a combination of safety and/or step-down cells for 120 hours be either “returned to a setting in the Jail that is less restrictive than the step-down cell” or “transferred to an inpatient mental health facility or to a hospital emergency room for assessment and care.” ACD at 44.
- Section IX.A’s requirements relating to out-of-cell time and in-cell activities for class members in segregated housing. *See* ACD at 54-55.

Defendants must change their current practices with regard to the housing and treatment of class members with severe mental illness *immediately*. **Please explain what, if any, steps Defendants intend to take to ensure class members with severe mental illness receive care consistent with the provisions of the ACD and, specifically, are not cycled between step-down cells and the Rideout emergency room for extended periods of time.**

D. Monitoring of Safety Cells

1. Initial Mental Health Evaluations

Section VI.C of the Amended Consent Decree requires that two types of mental health evaluations be performed within four hours of a class member being placed in a safety cell: a suicide risk assessment (SRA) and a broader mental health evaluation. The SRA may be conducted by a qualified mental health professional or by a physician, PA, NP, or RN. The broader evaluation must be performed by a qualified mental health professional. *See* ACD at 40-41.

Plaintiffs' counsel reviewed the safety-cell check sheets produced by Defendants for the third and fourth quarters of 2020 to assess whether Defendants are complying with these requirements. Defendants showed significant improvement in compliance with SRA requirements: in Q2 of 2020 there was no documentation of a timely SRA in 42 percent of safety cell placements, but this figure dropped to only four percent in Q3 and eight percent in Q4. Compliance with the broader mental-health evaluation requirement improved as well, though Defendants remain out of compliance in this area: during Q3 there was no documentation of a timely evaluation in 25 percent of safety-cell placements, and in Q4 there was no documentation in 28 percent of safety-cell placements.

Plaintiffs appreciate Defendants' improvement in this area but further improvement is necessary, especially in the area of timely mental health evaluations. Plaintiffs will continue to monitor Defendants' compliance with these requirements.

2. Least Restrictive Housing Reviews

Section VI.C further states that “[e]very twelve (12) hours, custody, medical, and mental health care staff must review whether it is appropriate to retain an inmate in a safety cell or whether the inmate can be transferred to a less restrictive housing placement.” ACD at 42.

Defendants have substantially improved their compliance with this requirement since the beginning of 2020. Defendants were 100 percent compliant with this requirement in both Q3 and Q4 of 2020. Plaintiffs' counsel will continue to monitor this issue for the time being to ensure that Defendants remain compliant moving forward.

3. 12-hour Cleanings

Section VI.C requires that Defendants “clean safety cells at least every twelve (12) hours when occupied, unless it is not possible to do so because of safety concerns, and when an inmate is released from a safety cell. Defendants shall indicate on the safety cell log when an occupied safety cell is cleaned.” ACD at 43.

Defendants remain noncompliant with this requirement. During Q3 of 2020, there were 12 instances in which class members were held in safety cells for longer than 12 hours. Defendants' records indicate that the safety cell was cleaned in only eight of these 12 instances. During Q4 of 2020, there were 18 instances in which class members were held in safety cells for longer than 12 hours. Defendants' records indicate that the safety cell was cleaned in only eight of these 18 instances. **Please describe what, if any steps, Defendants intend to take to ensure staff comply with the obligation to clean safety cells every 12 hours while the cells are occupied.**

E. Suicide Prevention

Section VI.A of the ACD requires Defendants to “develop and implement a plan to reduce suicide hazards” at the Jail. ACD at 38. Section VI.B requires that Defendants “limit the use of Segregated Housing, including Administrative Segregation and safety cells, for inmates with serious mental illness or who present a serious suicide risk, and ... have procedures to mitigate the impact of Segregated Housing on persons with mental illness.” *Id.* at 39. Section VI.B further requires that health and safety checks “be conducted every 15 minutes in locations where inmates are housed who pose a high suicide risk, and every 30 minutes in locations where inmates are housed who pose a moderate suicide risk.” *Id.*

Defendants' non-compliance with these and other provisions of the ACD directly contributed to at least one serious suicide attempt during the monitoring period. Class Member B slit his wrist and forearm with a razor blade in [REDACTED]. Custody staff discovered him several minutes later, slumped over in a pool of his own blood. *Id.* Defendants knew that Class Member B posed a serious risk of suicide no later than [REDACTED].

[REDACTED] Despite this knowledge, Defendants allowed Class Member B to possess a razor blade without supervision, even though the safety plan they were required to implement specifically identifies such unsupervised access to razors as a suicide risk requiring mitigation. *See James C. Sida, Safety Assessment of the Yuba County Jail* at 24, 32 (April 24, 2019), attached as **Exhibit 4**. Defendants then allowed approximately 50 minutes to pass between health and safety checks, [REDACTED] even though the ACD requires that such checks be performed at least every 15 minutes for class members who pose a “high” risk

[REDACTED]

of suicide and at least every 30 minutes for class members who pose a “moderate” risk of suicide, *see* ACD § VI.B, at 39-40.

These lapses in Defendants’ suicide-prevention practices are unacceptable and place class members at great risk. **Please explain what, if any, steps Defendants intend to take to ensure that they comply with the ACD’s provisions relating to suicide prevention in the future. Please also provide health-and-safety-check logs for E Pod for the day of the suicide attempt described in [REDACTED]**

F. ADA Compliance

Section V.D of the Amended Consent Decree requires that the Jail adhere to the Americans with Disabilities Act (ADA) and all other applicable federal and state laws, regulations, and guidelines.

1. *Reasonable Accommodations and Interactive Process*

Section V.D.3 of the ACD requires Defendants to “offer reasonable accommodations to inmates with disabilities necessary to provide access to all programs, services and activities offered to other inmates[.]” ACD at 37. Furthermore, “[i]f there is a question regarding the ability of the Jail to provide an accommodation, Defendants shall conduct an interactive process to determine whether a reasonable accommodation can afford an inmate with a disability the ability to participate in a program, service, or activity.” *Id.*

On or around [REDACTED], Class Member F submitted a grievance to Jail staff in which he requested “some kind of help” conducting legal research in the Jail’s library, because he did not know how to “look up Laws.” *See* [REDACTED]. The grievance identified two possible forms of help: the Jail could directly provide Class Member F with “someone to help,” or they could permit another class member to help. *Id.* Although Class Member F did not expressly refer to any disabilities in his grievance, his medical records indicate that Defendants’ psychiatrist had diagnosed him with [REDACTED] more than a year earlier.

In spite of these diagnoses, Defendants did not engage in the ACD’s required interactive process to identify a workable accommodation for Class Member F. Defendants conducted a grievance hearing with Class Member F on [REDACTED] in which the hearing officer explained that “the policy of the Yuba County Jail is that one inmate is allowed in the library at any given time,” and that an “exception” to this policy that Class Member F believed to be applicable in fact “applies only to ICE detainees.” [REDACTED] The officer’s summary of the hearing does not indicate that Class Member F’s disabilities or his request for an accommodation were discussed at any point. Instead the hearing officer simply told

Class Member F that “[s]ince no department or jail policy is being violated, the grievance has no merit.” *Id.*

Defendants’ failure to even consider an accommodation for Class Member F is particularly notable because the ACD expressly states that “Inmates with disabilities” who “request assistance or otherwise indicate difficulty with the legal materials” in the Jail’s law library “must be provided assistance beyond access to a set of English-language law books.” ACD § XI.5, at 60. This same provision further states that the specific form of the required assistance is to be “identified through the Jail’s reasonable accommodation process.” *Id.* § XI.5.d, at 60. **Please explain what steps Defendants intend to take, if any, to ensure that class members who request accommodations—including but not limited to Class Member F—are provided with the requisite interactive process and accommodations.**

2. *Disability Tracking System*

Section V.D.2 of the ACD requires that the Jail “have a system for identifying and tracking all inmates who have a disability and the accommodations they require for those disabilities.” ACD at 36. This section further requires that Defendants’ tracking system “be readily accessible to all staff (including staff for the third-party provider of health care services),” and be “updated at least twice per week.” *Id.* at 37,

Defendants’ deficient system for tracking class members with disabilities likely explains at least partly why the hearing officer failed to consider an accommodation for Class Member F, as discussed above. Although Class Member F had been diagnosed by Defendants’ psychiatrist with multiple intellectual disabilities more than a year earlier, his name does not appear on any of Defendants’ “ADA snapshots,” which Defendants have provided to demonstrate their compliance with the tracking requirements in Section V.B.2 of the ACD.

Please explain what steps, if any, Defendants intend to take to ensure that class members’ disabilities and required accommodations are tracked as required by Section V.D.2 of the ACD.

3. *Architectural Modifications*

Section V.D.2 also requires Defendants to remove certain physical accessibility barriers at the Jail by the applicable deadlines in Exhibit E to the ACD. *See* ACD at 36. Exhibit E divides the modifications it requires into four phases. It is the understanding of Plaintiffs’ counsel that Defendants have not yet completed the modifications listed in Phase Four of Exhibit E. **Please provide an update on the status of the modifications listed in Phase Four and let us know whether they are scheduled to be completed by the end of 2021, as the ACD requires.**

III. HEALTH CARE RESPONSIBILITIES

A. Sick Call

1. *Relevant Provisions of Amended Consent Decree and Sick Call Process at Jail*

Prompt access to medical care has never been more important, given the global pandemic. Section V.B.9 of the Amended Consent Decree requires “daily sick call” for “all inmates requesting medical attention.” Pursuant to this section, a Physician’s Assistant (PA), Nurse Practitioner (NP), or Registered Nurse (RN) must triage all sick call requests within 24 hours of submission and determine the urgency of each request. Those requests raising “emergent” issues must be completed “immediately”; those raising “urgent” issues must be completed “within 24 hours”; and those raising “routine” issues must be completed “within 72 hours, unless in the opinion of the PA, NP, or RN that is not medically necessary.” Where the PA, NP, or RN concludes that it is not medically necessary for a sick call request to be completed within 72 hours, he or she must note the basis for that conclusion.

Section V.B.9 further provides that Defendants must “develop and implement a process to track and assess the timeliness of providing sick call services,” “review and assess that information on a quarterly basis, at minimum,” and “produce the results of the review and assessment of the sick call process.”

Defendants’ current process for class members to request medical care involves the use of sick call slips. Sick call slips are available upon request from medical staff, who, according to Defendants, are present in each housing unit at least four times per day in order to distribute medication. Class members submit completed sick call slips by giving them to medical staff when medical staff enter the housing units. Sick call slips are required to be triaged by nursing staff within 24 hours, *see* ACD § V.B.9. During Plaintiffs’ January 27, 2020 tour of the Jail, Defendants’ contracted medical provider Wellpath stated to Plaintiffs’ counsel that sick call slips typically are triaged by no later than the end of the 12-hour nursing shift during which the sick call slip is submitted.

2. *Sick Call Timelines*

In prior tour reports, Defendants were non-compliant with the timelines for responding to sick call slips. During the third and fourth quarters of 2020, Defendants’ compliance improved.

For Q3, Plaintiffs’ counsel identified and analyzed 146 entries in Defendants’ logs in which staff identified the entry as being related to a sick call request by including the

abbreviations “SC” and/or “S/C” in the Task Description column of the Sick Call Logs.⁴ Of these 146 sick call requests, 33 (or 26 percent) were completed outside of the applicable ACD deadlines. Four of the 146 requests were identified as “urgent,” and all four were completed within the 24-hour deadline.⁵ Of the 112 sick call requests identified as “routine,” 95 (or 85 percent) were completed within the 72-hour deadline. An additional 30 sick call requests were not identified as either urgent or routine; only 14 (or 47 percent) of these requests were completed within 72 hours.

For Q4, Plaintiffs’ counsel identified 231 sick call requests in the sick call logs using the methodology described above.⁶ Of these 231 sick call requests, 30 (or 13 percent) were completed outside of the applicable ACD deadline. Defendants identified only 4 of the 231 requests as urgent; all four were completed within the 24-hour deadline.⁷ Of the 221 requests identified as “routine,” 30 (or 14 percent) were completed outside of the 72-hour deadline. An additional six requests were not identified as either urgent or routine; all of these requests were completed within 72 hours.

Plaintiffs’ counsel also assessed Defendants’ compliance using the new “Nurse Sick-Call Tracking Tool” t Defendants provided for the first time in Q4. Unlike the sick

⁴ It is Plaintiffs’ counsel’s understanding that the Sick Call Log or list is used to manage all types of care at the Jail, including follow up care and other types of care that is not initiated in response to a sick call slip. Plaintiffs’ counsel limited its review to entries in which staff noted “SC” or “S/C” to focus only on care provided in response to class member requests.

⁵ Defendants’ system for identifying urgent and emergent requests may be underinclusive. On or around July 12, 2020, for example, a class member submitted a sick call request complaining of “unbearable pain,” but Defendants classified the request as “routine.” Defendants also classified as “routine” sick call requests reporting, among other things, severe dizziness and low blood pressure (on or around September 4, 2020); “extreme” pain (September 13, 2020 and September 24, 2020); and at least one report of “flu-like symptoms” in the midst of the COVID-19 pandemic (on or around September 17, 2020).

⁶ Defendants’ December 2020 sick call logs do not include any entries after December 24, 2020. **Please provide the missing logs from December 26th and 30th, as required by Exhibit G to the ACD.**

⁷ As noted above, Defendants’ system for identifying urgent and emergent sick call requests may be underinclusive. As in Q3, Defendants again identified requests for treatment of flu-like symptoms as “routine” (on or around October 4, November 5, and December 23, 2020) even though these symptoms could have indicated an active case of COVID-19. Defendants also identified as “routine” requests for treatment of, among other things, a broken hand (Oct. 12, 2020) and a report of “profuse[]” bleeding and facial numbness (Dec. 2, 2020).

call logs, this tracking tool does not include patient names or summaries of the patient's reason for seeking medical or mental health care. Based on the description of the treatment provided in the column labeled "Disposition," it appears that the tracking tool includes requests for dental care but does not include requests for mental health care.

According to the tracking tool, there were 260 sick call requests during Q4,⁸ none of which were classified as "urgent" and all of which were completed within 72 hours. Because the sick call tracking tool does not include summaries of the patient's reason for seeking medical attention, Plaintiffs' counsel are unable to determine whether any requests should have been classified as urgent or emergent. Because the tracking tool also does not include patient names, Plaintiffs' counsel are unable to verify the accuracy of the data by cross-checking relevant class member medical records. **In the future, please include a short description of each request for care so that Plaintiffs can monitor Defendants' designation of sick call requests as routine, urgent, or emergent. Please also include patient names so that Plaintiffs' counsel can verify the accuracy of the data in the tracking tool by consulting relevant class member relevant records.**

B. Medical And Mental Health Staffing

Section IV.A of the Amended Consent Decree requires that Defendants maintain, "at all times," the healthcare staffing levels contained in Exhibit C to the Amended Consent Decree. The staffing table in Exhibit C is reprinted below:

⁸ There are no entries in the tracking tool for the period of October 1 through October 17, 2020. Plaintiffs' counsel presumes that Defendants did not begin using the tracking tool until October 17, 2020.

Minimum Staffing Pattern

Yuba County, CA Adult Staffing Plan - ADP 385										
Position	Scheduled Hours							Total Hours	FTEs	Facility
	SUN	MON	TUE	WED	THU	FRI	SAT			
Day Shift										
HSA/RN		8.0	8.0	8.0	8.0	8.0		40.0	1.00	Adult
Weekend RN sick call	8.0						8.0	16.0	0.40	Adult
RN		8.0		8.0		8.0		24.0	0.60	Adult
LVN	8.0	8.0	8.0	8.0	8.0	8.0	8.0	56.0	1.40	Adult
Clerk	8.0	8.0	8.0	8.0	8.0	8.0	8.0	56.0	1.40	Adult
Evening/Night Shift										
RN	8.0	8.0	8.0	8.0	8.0	8.0	8.0	56.0	1.40	Adult
LVN	8.0	8.0	8.0	8.0	8.0	8.0	8.0	56.0	1.40	Adult
Night Shift										
RN	8.0	8.0	8.0	8.0	8.0	8.0	8.0	56.0	1.40	Adult
LVN	8.0	8.0	8.0	8.0	8.0	8.0	8.0	56.0	1.40	Adult
Medical and Mental Health Providers										
Medical Director		3.0		3.0		3.0		9.0	0.23	Adult
PA/FNP		8.0	8.0	8.0	8.0	8.0		40.0	1.00	Adult
On-site Psychiatrist		8.0						8.0	0.20	Adult
Telepsych			8.0	8.0				16.0	0.40	Adult
MFT/LCSW		8.0	8.0	8.0	8.0	8.0		40.0	1.00	Adult
MFT/LCSW	8.0			8.0	8.0	8.0	8.0	40.0	1.00	Adult
Totals								569.0	14.23	

To verify compliance with this staffing plan, Plaintiffs’ counsel reviewed the staffing data included in Defendants’ third and fourth quarterly productions for one randomly chosen week in each month of the review period. Using this data, Plaintiffs’ counsel compiled tables of the daily hours worked for each employee during the week at issue. These tables are attached to this report as **Exhibit 5**.⁹ We then compared the information in these tables to the requirements in Exhibit C to the ACD. Squares highlighted in yellow indicate that Defendants’ employees worked fewer hours on that day than Exhibit C requires for the position at issue.

As **Exhibit 5** shows, Defendants failed on some occasions to meet their staffing obligations.

MFT/LCSW – The ACD requires that an MFT/LCSW work at the Jail for at least 8 hours per day on Sundays, Mondays, Tuesdays, and Saturdays, and that two MFT/LCSWs work a combined total of 16 hours at the Jail each Wednesday, Thursday and Friday. *See* ACD Ex. 3 (reprinted above). During the week of July 12-18, 2020,

⁹ The data provided to Plaintiffs’ counsel lists the number of hours each employee worked on a given day but does not indicate the time of day the employee was on-site at the Jail. As a result, Plaintiffs’ counsel were able to determine whether the total number of required hours for each position was satisfied on a given day, but not whether, for example, the 24 LVN hours worked on that day were appropriately spread between first, second, and third shifts so that an LVN was on site 24 hours per day.

however, Defendants' MFT/LCSWs worked a total of only 11 hours on Friday and zero hours on Saturday. During the week of August 2-8, Defendants' MFT/LCSWs worked only a total of 2 hours on Sunday, zero hours on Monday, and zero hours on Saturday. Similar MFT/LCSW staffing problems continued through November, though by December Defendants were compliant with their MFT/LCSW staffing obligations.

RN – The ACD requires that Defendants have at least one RN on site at the Jail 24 hours per day—not including the HSA/RN who must be onsite each weekday for at least 8 hours—except for Tuesdays and Thursdays, when there must be at least one RN on site (again, not including the HSA/RN) for at least 16 hours per day. In July and August 2020, however, Defendants' RNs worked only 17 to 19 hours each Wednesday, and only 17 hours each Monday. By the week of November 22, however, Defendants' were compliant with the ACD's RN staffing requirements, and they remained compliant during week of December 13.

LVN – The ACD requires that Defendants have an LVN on-site at the Jail 24 hours per day, seven days per week. *See* ACD Ex. 3 (reprinted above). Several of the weeks Plaintiffs' counsel reviewed, however, included days when Defendants' LVNs did not collectively work at least 24 hours. On Saturday, August 8 and Thursday, September 24, for example, Defendants' LVNs collectively worked 20 and 19.5 hours, respectively. On Sunday, November 22, Defendants' LVNs collectively worked only 16 hours, and on Friday, November 27 they worked a total of only 11.7 hours.

Defendants' psychiatry staffing was non-compliant in each of the audit weeks from August through October, but met or exceeded the ACD's requirements in July, November, and December, according to the data Defendants provided in their Q3 and Q4 document productions. In our previous monitoring report, however, we noted that Defendants' staffing data showed Defendants' *far* exceeding the ACD's requirements, and asked whether that data included time that Defendants' psychiatrist worked at other institutions as well as the time he worked at the Jail. Defendants conceded that their data did, in fact, include hours that their psychiatrist had been working at other facilities. *See* Dec. 23 Response Letter at 6 (attached as **Exhibit 6**).

Please explain what caused the staffing shortages noted above and what Defendants intend to do to ensure that similar shortages do not occur in the future. Please also provide written assurances that the psychiatry staffing data (and all other staffing data) in Defendants' Q3 and Q4 document productions includes *only* time worked at the Yuba County Jail.

IV. CUSTODY RESPONSIBILITIES

A. Segregation

Section IX of the ACD states that “[e]very assignment of a person to Administrative Segregation shall be based on a written report providing an explanation of the facts and circumstances requiring the segregation.” Section IX further states that “[a]ssignment to Administrative Segregation shall not involve a deprivation of privileges other than those necessary to protect the welfare of inmates and staff,” and that “[i]nmates shall not be housed in Administrative Segregation solely because they have a mental illness.”

Defendants’ system for documenting assignments to Administrative Segregation involves written “incident reports.” To assess whether Defendants are complying with Section IX of the ACD, Plaintiffs’ counsel reviewed all incident reports provided in the third and fourth quarterly productions for 2020. Based on this review, Plaintiffs’ counsel identified the following areas of noncompliance with Section IX.

1. *Inappropriate Placement in Administrative Segregation Based on Mental Illness*

As noted above, Section IX of the ACD states that “[i]nmates shall not be housed in Administrative Segregation solely because they have a mental illness.” Despite this clear and unambiguous prohibition, it appears that Defendants frequently housed class members in administrative segregation for no reason other than their mental illness—at least during Q3 of 2020. *See, e.g.*, Incident 78058 (July 1, 2020); Incident 78049 (July 1, 2020); Incident 78060 (July 1, 2020); Incident 78064 (July 1, 2020); Incident 78085 (July 2, 2020); Incident 78155 (July 8, 2020); Incident 78183 (July 10, 2020); Incident 78193 (July 11, 2020); Incident 78445 (Aug. 1, 2020); Incident 79012 (Sept. 23, 2020); Incident 79053 (Sept. 26, 2020); Incident 79062 (Sept. 28, 2020). Defendants did not document a “current threat to Jail security, inmate safety, or officer safety” in any of these reports.

Plaintiffs’ counsel did not locate any Q4 incident reports in which Defendants’ expressly admitted to housing class members in administrative segregation for no reason other than mental illness. Plaintiffs appreciate what appears to be a significant change in Defendants’ practices in this area. **Please identify the specific actions Defendants took that produced this change and any relevant documents (including memorandum or directives). Please also explain where and under what conditions Defendants are now housing class members who previously would have been placed in administrative segregation due to their mental illness.**

B. Education and Vocational Training

Section XIII of the ACD requires Defendants to develop detailed plans for an education and vocational training program that includes, at minimum, “high school courses leading to a high school degree or its equivalent”; “life skills and/or drug/alcohol recovery; vocational training”; and “utilization of outside instructors and county personnel as instructors, where feasible and appropriate.” Section XIII further requires that Defendants make “a good faith effort” to incorporate in their education and vocational training program any available resources and suggestions from the Yuba Community College District, the Marysville Joint Unified School District, Gateways Projects, Inc., and the Board of State and Community Corrections.

In their May 28, 2020 monitoring report, Plaintiffs’ counsel noted that Defendants had not made the requisite good-faith effort to incorporate resources and suggestions from these entities from these entities into Defendants’ educational and vocational training programs. **Please describe what, if any, additional steps Defendants have taken in this area since the May 28 monitoring report.**

During the July 10, 2020 monitoring tour, Defendants represented that all educational and vocational training programs had been suspended due to COVID-19-related limitations on entry of non-custodial and medical staff into the Jail. Defendants also stated that tablets would be made available to class members later in the year, and that unspecified educational materials would be available to class members on these tablets. In their response to Plaintiffs’ Second Monitoring Report, Defendants stated that they did not expect these tablets to be available before March 2021 at the earliest. *See Exhibit 6*, Dec. 23 Response Letter at 15. **Please provide an update on the status of Defendants’ educational and vocational training programs. Have in-person classes and programs resumed? If not, when do Defendants anticipate resuming such programming? What is the status of the tablets Defendants mentioned during the July 10 tour and December 23 response letter, and what specific programming will be available to class members on these tablets?**

C. Use of Force

As described in Section II.C above, during an [REDACTED] cell-extraction of a suicidal class member, custody staff subdued the class member with a taser after he refused to let officers place him in handcuffs. *See* [REDACTED] This incident raises serious concerns about Defendants’ policies and practices relating to the use of force against class members who suffer from mental illness and other disabilities. Both the Eighth Amendment and the Americans with Disabilities Act prohibit the use of unnecessary force—including the unnecessary use of tasers—against prisoners who suffer from severe mental illness. *See, e.g., Coleman v. Wilson*, 912 F. Supp. 1282, 1321-23 (E.D. Cal. 1995) (systemic Eighth Amendment violation premised on, *inter alia*, defendants’ practice of allowing the use of tasers against “inmates with serious mental

disorders without regard to the impact of those weapons on their psychiatric condition”); *Coleman v. Brown*, 28 F. Supp. 3d 1068, 1078-1087 (E.D. Cal. 2014) (systemic Eighth Amendment violation premised on, *inter alia*, defendants’ practice of allowing the use of pepper spray during controlled uses of force against prisoners “who because of their mental illness are unable to comply with official directives”); *Armstrong v. Newsom*, No. 94-cv-02307, 2021 WL 933106, at *25-26 (N.D. Cal. March 11, 2021) (systemic ADA violation premised on, *inter alia*, defendants’ practice of allowing correctional officers to use more force than necessary “during the performance of his or her penological duties with respect to a disabled person”). **Please produce any additional documentation in Defendants’ possession related to this incident—including but not limited to video documentation. Please also produce current versions of Defendants’ policies related to use of force and/or cell extractions.**

D. COVID-19 Preparedness

1. Outbreak

An outbreak of COVID-19 occurred at the Jail in December 2020 and January 2021. During the initial phases of the outbreak in mid-December, Defendants’ response suffered from a number of serious deficiencies. Among other problems, Defendants continued to house class members who had tested positive for the virus in the same open-air-flow housing units as class members who had not yet tested positive for the virus. This practice continued at least until Plaintiffs’ counsel objected to the practice in writing in late December 2020. *See Exhibit 7. Please provide current versions of the Jail’s plans relating to the prevention and mitigation of infectious disease. See ACD § V.B.3, at 19-20. Please also explain whether the Jail has changed any of its policies or plans relating to the prevention and mitigation of infectious disease since January 2021.*

2. Vaccinations

On March 18, 2021, in response to multiple inquiries from Plaintiffs’ counsel, Defendants notified us that the Jail’s contracted medical provider had “set up inmate and detainee vaccinations for today and tomorrow”; that “staff vaccinations are scheduled for 3/19, 3/20, 3/23. an 3/24”; and that certain “COVID-19/vaccination fact sheets” were being provided to all class members. On March 30, Defendants notified Plaintiffs’ counsel that all class members currently incarcerated at the Jail had been offered the vaccine but that only 54 had accepted the offer. Plaintiffs have requested additional information about whether Defendants are offering the vaccine to new class members as they are booked into the Jail, what Defendants are doing to educate class members about the vaccine, and how class members who initially refuse the vaccine can obtain it if they subsequently change their minds. Defendants have not yet provided this information. **Please provide the requested information as soon as possible.**

3. *Identification and protection of high-risk class members*

Defendants relocated certain class high-risk members during the recent COVID-19 outbreak at the Jail.¹⁰ We remain concerned, however, that Defendants' system for identifying high-risk class members may be deficient. Since the pandemic began in March, Plaintiffs' counsel have repeatedly expressed our concern that the Jail does not have an adequate system for identifying and protecting class members whose age or underlying health conditions place them at high risk of serious illness or death from COVID-19. *See* Oct. 9, 2020 Monitoring Report at 16-17 and Ex. 6. Plaintiffs' concerns about Defendants' inadequate system for identifying and protecting vulnerable class members clearly have merit. In the ongoing class action *Zepeda-Rivas v. Jennings*, No. 20-cv-02731 (N.D. Cal., filed April 20, 2020), Judge Vince Chhabria has ordered dozens of ICE detainees at the Jail released on bail because their underlying health conditions placed them at an elevated risk of severe illness from COVID-19, but few if any of these individuals were included on the lists of medically vulnerable class members Defendants provided to Plaintiffs' counsel. **Have Defendants made any efforts to improve their system for identifying and protecting such high-risk class members in response to our inquiries and/or the recent outbreak of COVID-19 at the Jail?**

4. *Testing*

During the COVID-19 outbreak at the Jail in December and January Defendants dramatically increased the frequency with which they test class members for coronavirus infection. **What is the Jail's current testing protocol? How often are class members being tested? How often are staff being tested?**

5. *Overall Jail Population*

It is Plaintiffs' counsel's understanding that the total population at the Jail fell from approximately 400 at the outset of the pandemic to fewer than 200 at one point in the late spring. Although the Jail population appears to have increased slightly from its low point—the Jail's inmate locator shows a total population of approximately 207 people as of the date of this writing—Defendants continue to incarcerate far fewer people in the Jail than in the months leading up to the pandemic. We commend Defendants for their efforts to reduce the Jail population during the pandemic, and we hope that Defendants will continue to take affirmative steps to limit the Jail population in the months and years ahead. **Please provide an update on what steps Defendants intend to take to limit crowding within the Jail in the months and years ahead.**

¹⁰ It is our understanding that these class members were relocated to a vacant juvenile facility owned by Yuba County.