Monitoring Tour Report – Yuba County Jail
August 2019 through March 2020
***Hedrick v. Grant,* E. D. Cal. No. 2:76-cv-00162-EFB**
May 28, 2020

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. This report regarding Defendants' compliance with the ACD is based on documents covering the third and fourth quarters of 2019, monitoring tours on August 26, 2019 and January 27, 2020, and multiple interviews with class members conducted over the period from August 2019 through March 2020. Plaintiffs' counsel provided a draft report to Defendants on March 13, 2020, and invited Defendants to provide comments. Defendants provided comments on May 22, 2020, in a letter from Michael Ciccozzi, which is attached to this Report as **Exhibit 8** ("Defendants' Response" or the "Ciccozzi Letter"). Where appropriate, Plaintiffs' counsel have responded to Defendants' comments below.[1]

Plaintiffs' counsel identified the following areas of non-compliance: (1) inadequate tracking and assessment of sick call; (2) delays in sick call evaluations; (3) inadequate access to specialty care; (4) potentially inadequate medical and mental health staffing; (5) non-compliance with grievance procedures; (6) inadequate evaluations of class members in safety cells; (7) inadequate educational and vocational training programs; (8) inadequate inpatient mental health care and referrals; and (9) failures to post the Amended Consent Decree in Jail housing units. For many areas of the ACD, Plaintiffs' counsel have not been provided sufficient information to determine if compliance exists or not. Plaintiffs' counsel will continue to pursue the necessary information in the months ahead. Throughout the report, Plaintiffs have made requests for information, documents, or action by Defendants. These requests are in bold.

This report does not assess Defendants' compliance with the ADA and related provisions in the ACD, which will be a focus of future monitoring tours. Nor does the report address Defendants' responses to the global pandemic of COVID-19. Plaintiffs have been aggressively monitoring and will continue to monitor Defendants' efforts to

[1] Plaintiffs will not respond to the irrelevant, as well as legally and factually inaccurate, comments in the Ciccozzi Letter regarding "substantial compliance."

mitigate the risk of an outbreak in the Jail. Thankfully, the Jail has avoided such an outbreak thus far. But the impact of the pandemic on Defendants' compliance with the ACD is not yet clear and will be addressed in future monitoring reports.

II. HEALTH CARE RESPONSIBILITIES

A. Sick Call

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

Section V.B.9 of the Amended Consent Decree requires "daily sick call" for "all inmates requesting medical attention." Pursuant to this section, a PA, NP, or 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 and, according to Defendants' contracted medical provider Wellpath, typically are triaged by no later than the end of the 12-hour nursing shift during which the sick call slip is submitted.

2. *Defendants' System for Tracking and Assessing Compliance With Sick Call Timelines is Deficient*

To assess Defendants' compliance with the requirements of the ACD, Plaintiffs' counsel reviewed Defendants' Sick Call Logs for the fourth quarter of 2019.[2] Plaintiffs'

[2] In their comments on Plaintiffs' draft report, Defendants stated that the Jail also uses a "CorEMR" system for tracking the sick-call process. Defendants have not provided Plaintiffs' counsel with access to the CorEMR system and do not explain why the Logs

counsel identified and analyzed 207 entries in which staff labeled 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.[3] These entries are highlighted in yellow in the copy of the Logs attached here as **Exhibit 2**.

Unfortunately, the Logs have several deficiencies that make it difficult or impossible to determine whether Defendants are complying with the Amended Consent Decree:

- Defendants' Logs sometimes do not indicate the date and time when Defendants receive a sick call slip. This makes it difficult to determine whether the request was triaged within 24 hours. When Plaintiffs' counsel raised this concern during the January 27 tour, Defendants noted that the date of receipt is sometimes—but not always—included in the "Task Description" column of the Logs. In their comments on Plaintiffs' draft report, Defendants state that "[a]ll sick calls are triaged within 24 hours of submission by the patient," and that "[a] review of each sick call slip in combination with the task report will show compliance with the 24-hour triage timeframe." Defendants have not provided Plaintiffs' counsel with access to the CorEMR system where scans of the sick call slips are apparently stored. Nor have Defendants provided any indication that they conducted a review of each sick call slip to determine whether it was, in fact, triaged within 24 hours of submission. In the future, Defendants should incorporate the additional information about submission date and time into the Logs provided to Plaintiffs' counsel, or else provide Plaintiffs' counsel with scans of each and every sick call slip from each review period to permit Plaintiffs' counsel to monitor the triage process. **Please describe what steps, if any, Defendants intend to take to facilitate monitoring of triage timelines.**

- Defendants have no system for classifying sick call requests as urgent, emergent, or routine. During the January 27 tour, Plaintiffs' counsel asked Defendants to explain the column in the Logs titled "Priority." Defendants responded that the entries in this column "should" always be assigned a priority of "1"—indicating the highest priority—except for requests involving dental problems, which can be assigned a priority of "2." In their comments on the draft version of this report, Defendants objected to Plaintiffs' contention that Defendants "have no system" for

provided to Plaintiffs' counsel do not include the additional information supposedly tracked in this system.

[3] 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.

classifying sick call requests according to urgency, but Defendants did not offer any corrections to the above summary of what Defendants told Plaintiffs' counsel about this system on January 27, 2020. Defendants acknowledged in their comments that they have not been tracking sick all requests according to the urgency levels required by the ACD, and would begin doing so "to facilitate future reviews." Plaintiffs will continue to monitor Defendants' implementation of their classification system, as this system is essential for determining Defendants' compliance with numerous other requirements in the ACD.

- Defendants have not provided Plaintiffs with adequate self-reviews and assessments of the sick call process. The only document produced by Defendants that might conceivably comply with Section V.B.9 of the ACD is an audit of eleven sick call responses from October 2019, attached here as **Exhibit 3**. This document provides no explanation of how the eleven audited sick call responses were chosen. While it does assess whether patients were seen within 24 hours "when clinically indicated," it does not assess whether patients were seen within any of the other timeliness required by the ACD. Defendants' comments on this section of the Report state that "Wellpath selects patient charts for CQI studies at random, and the number of charts selected for the study is based on the jail population, number of sick calls within the specific time frame, and level of confidence." The described review, even if performed on randomly selected sick calls, is not compliant with Section V.B.9 of the ACD, as it does not "track and assess the timeliness of providing sick call services." **Please describe what, if any, steps Defendants intend to take to create a quarterly sick call review process that complies with the Amended Consent Decree.**

3. *Defendants are Exceeding Sick Call Timelines on a Regular Basis*

Although the problems described above make it difficult to determine whether Defendants are complying with the timelines established by the ACD, the limited information available suggests that they are not.

Defendants recorded a total of 207 sick calls requests in the Logs produced to Plaintiffs' counsel for October, November, and December 2019.[4] As noted above, these Log entries are highlighted in yellow in Exhibit 2. None of these entries note a basis for applying an exception to the timelines in the ACD.[5] Nevertheless, in 71 of the 207 sick

[4] Pursuant to ACD Exhibit G, Plaintiffs' counsel receive only a limited production of Sick Call Logs, from the 2nd, 5th, 13th, 14th, 18th, 24th, 26th, and 30th of each month.

[5] Defendants contend that they are not obligated to record whether a determination of medical necessity was made at all, let alone record their rationale for concluding that a response within 72 hours was not medically necessary. Defendants' interpretation of the ACD is absurd, as it would provide them with unlimited discretion to exceed the sick call

call entries—nearly one-third—Defendants did not complete the sick call evaluation within 72 hours. These 71 entries are highlighted in green.

Plaintiffs' counsel next identified 20 sick call entries that, according to the description in the Sick Call Logs, described "urgent" or "emergent" issues and therefore should have been completed either immediately or within 24 hours. These entries are highlighted in red. Of these 20 urgent or emergent sick calls, 13 were not completed within 24 hours. These entries are highlighted in blue. In one particularly troubling example, a patient who complained of chest pains was not seen until approximately three days later. In another case, a patient who complained of dizziness and black spots in his vision was not seen until more than a week after he submitted his sick call slip.

In their response to Plaintiffs' draft Report, Defendants indicated that Wellpath has "received approval for a sick call nurse position, which should improve the overall rate of responsiveness." This "approval" for a new position represents a step in the right direction. But it is not sufficient on its own, and Plaintiffs will continue to aggressively monitor Defendants' sick call process for compliance with the ACD. **Please indicate when the new position will be filled, and describe any additional steps Defendants intend to take to ensure that their sick call process complies with the timelines required by the Amended Consent Decree**.

B. Access to Specialty Care

Section IV.A.10 of the Amended Consent Decree requires Defendants to provide class members with treatment from private medical and mental health specialists "as needed." Section V.B.9 further states that a healthcare professional who "believes that tests, evaluation, or treatment by a specialist is medically indicated" must "fill out a referral slip indicating the maximum time which can elapse before the test, evaluation, or treatment." Defendants must also "insure that the inmate is transferred to the proper person or facility within the specified time interval."

When Plaintiffs' counsel toured the Jail on January 27, 2020, Defendants admitted the existence of "systemic" problems in obtaining specialty care for class members. Defendants also described a log maintained by Defendants with information regarding all class members who have received and/or are awaiting specialty care. Defendants provided a copy of this Log to Plaintiffs' counsel with their comments on the draft report. These comments state that "[i]t is not uncommon for community providers to cancel or reschedule our patients' appointments without any prior notice." As far as Plaintiffs'

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timelines established by the ACD, with no mechanism for reviewing their exercise of that discretion. If Defendants intend to rely on the "not medically necessary" exception to the 72-hour requirement in the future, they must indicate each case in which they are doing so and provide a written explanation of their rationale.

counsel can tell from the log, many of the cancelled appointments[6] were never rescheduled, even for class members who remain in custody months later, and there is no indication that Defendants reached out to alternative providers following a cancellation. **Please explain what steps Defendants are taking to remedy the acknowledged failures to provide class members with timely access to specialty care.**

C. Medical And Mental Health Staffing

Section IV.A of the Amended Consent Decree requires that Defendants satisfy, "at all times," the healthcare staffing levels contained in Exhibit C to the Amended Consent Decree. Defendants recently stated, in a February 12, 2020 letter attached here as **Exhibit 4**, that "Wellpath (third party provider) is currently exceeding the staffing plan set forth in Exhibit C of the ACD." Defendants' letter did not include or even refer to any evidence to support this assertion.

To verify compliance, Plaintiffs' counsel reviewed all staffing reports included in Defendants' third and fourth quarterly productions for 2019. These productions included staffing reports for July, August, September, and December 2019, but not for October or November. In response to the draft of this report, Defendants provided, additional staffing information for October, November, and December 2019, albeit in a different format from that already produced. **Please ensure that all required staffing information is produced in future quarterly document productions.**

The reports Plaintiffs' counsel reviewed indicate that certain staff did not fulfill their "Contract Hours," which resulted in a negative "Hours Variance." *See, e.g.*, **Exhibit 5**. All four reports showed a negative hours variance for the "Psychiatrist" position, and three of the four reports showed a negative hours variance for the "MFT/ LCSW" position. The number of positions with negative hours variances also grew from three to five between July and December. Plaintiffs' counsel are concerned by the recurring negative balances in the "MFT/LCSW" and "Psychiatrist" positions, among others, and by the growth in the number of positions with negative hours variances between the July and December staffing reports. In their comments on the draft of this report, Defendants stated that "[t]he Wellpath pay system was changed in the middle of December, which caused in inaccurate representation of staffing on the provided staffing chart." Plaintiffs will continue monitoring Defendants' compliance (or lack thereof) with the staffing obligations in the ACD. **Please ensure that future staffing information is both accurate and complete, so that Plaintiffs' counsel are able to determine whether Defendants are satisfying their staffing obligations.**

[6] Plaintiffs' counsel assumes that past appointments with the word "scheduled" written in the "Appointment Status" column, rather than "attended," represent the cancellations to which Defendants refer in their comments on the draft report.

III. JOINT HEALTH CARE AND CUSTODY RESPONSIBILITIES

A. Inpatient Mental Health Care

1. *Construction Delays*

In their January 2017 opposition to Plaintiffs' enforcement motion, Defendants touted their plans for a new medical building in support of their position that they are endeavoring to provide necessary inpatient psychiatric care to class members. *See* Dkt. No. 180, at 59 n.12. We note that construction of this facility is now more than three *years* behind schedule. In their comments on the draft of this report, Defendants indicated that the project is now projected to be completed "in late 2022/early 2023." Defendants provided no information about how these delays are affecting their ability to provide inpatient mental health care. **Please explain how Defendants are adapting their plans for inpatient care to account for these delays.**

2. *Inpatient Mental Health Referrals*

Plaintiffs' counsel reviewed the inpatient mental health referral records produced by Defendants for the third and fourth quarters of 2019. Defendants made two referrals during this time period. *See* **Exhibit 6**. There is no documentation of whether or when these class members were actually transferred to inpatient care, or what care they received at the Jail while they were awaiting transfer. In their response to the draft of this report, Defendants provided basic information about the care provided between referral and transfer to the emergency room at Rideout Adventist Health, but no information about what care the patients actually received at Rideout, and how it satisfied Defendants' obligation to provide adequate inpatient mental health care. **Please provide us with the inpatient records for patients J.W. and I.S. so that Plaintiffs can assess whether class members are receiving the care to which they are entitled under the Amended Consent Decree.**

B. Grievances

Section X.B of the Amended Consent Decree states that "[a]ny inmate may file a grievance" by submitting a form "provided for that purpose." These forms "shall be made readily available to inmates in every housing unit in the Jail." Upon submission of a grievance form, a Jail Supervisor must investigate and attempt to resolve the grievance within 48 hours. If the grievant signs a form indicating that he or she is satisfied with the proposed resolution, "the grievance shall proceed no further." If the grievant does not sign this form and/or otherwise indicates that he or she is not satisfied with the proposed resolution, the Jail Commander must conduct a grievance hearing "within seventy-two (72) hours of receipt of the grievance." The Commander must then provide the grievant with "a written disposition … within seventy-two (72) hours of the completion of the hearing."

1. *Inappropriate Barriers to Filing Grievances*

During our tour of the Jail on January 27, 2020, Plaintiffs' counsel heard several complaints about Jail staff either (a) refusing to provide grievance forms to class members who requested them, or (b) making it unreasonably difficult for class members to obtain and submit grievance forms. One class member, for example, reported that an unidentified custody officer told him that he would provide the requested grievance form "after lunch," but when the class member reminded the custody officer of the request after lunch the custody officer responded that he would not provide the form because the class member was "being annoying."

The current system, in which incarcerated people must request grievance forms from officers who sometimes refuse or delay responding to such requests, does not result in "readily available" grievance forms. In their response to the initial draft of this report, Defendants acknowledged Plaintiffs' concerns about access to grievances, and stated that "the Jail has added folders outside of the inmate housing areas with grievance forms to make the forms more accessible to staff when requested by an inmate." Defendants did not provide the requested confirmation that grievance forms are available in Spanish as well as English. Plaintiffs will continue to monitor these issues.

2. *Inadequate or Improper Responses to Grievances*

We reviewed all grievance forms and associated incident reports provided for the fourth quarter of 2019, and identified several significant problems with Defendants' responses to these grievances.

- Defendants appear to be using inappropriate criteria to screen out certain grievances before investigating or attempting to resolve them. Section X.A.2 of the Amended Consent Decree states that "[a] grievance can be any complaint regarding Jail conditions, procedures, food, failure to accommodate disabilities, or compliance with any portion of this Amended Consent Decree." Despite the breadth of allowable grievances, Defendants labeled a significant number of grievances as "non-grievable" and dismissed the grievances on that basis. For example, in response to Grievance 75832, filed on December 28, 2019, staff deemed several of the complaints "not grievable," including the absence of a bathroom in the law library and the size of food portions provided to class members. Similarly, in response to Grievance 75252, filed on November 3, 2019, staff deemed commissary prices "non grievable" and refused to consider the grievance. Defendants must stop their practice of summarily dismissing grievances like those noted above, which clearly fall within the definition of grievable subject matter in the ACD. **Please train staff on their obligations to accept all grievance forms submitted to them, regardless of subject matter; to**

investigate whether grievances have merit—again, regardless of subject matter; and to adhere to the grievance process outlined in the ACD.[7]

- Defendants do not always provide the required hearings to class members who are not satisfied with Defendants' initial attempts to resolve their grievances. As noted above, class members are entitled to a hearing on their grievances with the Jail Commander if they are not satisfied with the Jail Supervisor's proposed resolution and/or do not sign the grievance indicating their satisfaction with this proposed resolution. Several of the grievances we reviewed appear to have been closed or otherwise dismissed even though the grievant neither signed the grievance nor received a hearing. *See, e.g.*, Grievance 75727, filed November 22, 2019; Grievance 75726, filed November 20, 2019; Grievance 75408, filed November 17, 2019; Grievance 75242, filed November 3, 2019; Grievance 75227, filed November 2, 2019; Grievance 75870, filed October 26, 2019; Grievance 75046, filed October 19, 2019; Grievance 74917, filed October 6, 2019; Grievance 74873, filed September 13, 2019; Grievance 74865, filed September 4. 2019. **Please train staff on their obligation to comply with the ACD's requirements relating to grievance hearings.**[8]

- Defendants' grievance responses are sometimes incomplete because they do not address all complaints raised in the grievance. On a number of occasions, Defendants ignored one or more issues raised in a class member's grievance. For

[7] In their comments on the draft of this report, Defendants cite limitations on the filing of grievances purportedly located at 15 Cal. Code Regs. § 3481, which were not incorporated into the ACD and thus do not apply here. As it happens, the relevant state regulation includes a broad definition of grievances that is substantially identical to the definition in the ACD. *See* 15 Cal. Code Regs. § 1073(a). Defendants have agreed to "work to develop clearer guidelines for staff on matters that fall within the scope of a grievance." Plaintiffs will continue to monitor this issue.

[8] In their comments on the draft of this report, Defendants claim that the ACD does not require that they provide a grievant with a hearing if Defendants do not obtain the grievant's signature indicating his or her satisfaction with the proposed resolution of the grievance. Defendants then explain that they have modified their grievance form so that the grievant may check a box to indicate that he or she "is not satisfied with the resolution and would like a hearing with the division commander." Defendants misinterpret Section X.B, which requires a grievance procedure in which class members may affirmatively opt *out* of their right to a hearing, not a procedure in which they must affirmatively opt *in* to that right. The change to Defendants' grievance forms therefore does not absolve Defendants of their obligation to provide a grievance hearing to grievants who do not affirmatively express their satisfaction with Defendants' proposed resolution of the grievance.

example, Grievance 75687 alleged that Defendants failed to provide the grievant with "recreational privileges," books, batteries, or a radio. The grievant also stated that "some of us are visually or hearing impaired and can't see or hear the T.V., and therefore depend on county issued radios to avoid being sensory deprived." Defendants' response to the grievance stated that the book cart was available in the grievant's unit twice in the previous three weeks, and that radios had been ordered and would be available when they arrived. The response did not address the complaint about recreation time, and does not appear to consider the possibility that the grievant's hearing and/or visual impairment may be related to his apparent unawareness that the book cart had been made available to him. Nor does the response indicate that that the grievant actually received a radio. In their response to the draft of this report, Defendants claim that any evaluation of whether they responded to all complaints in a grievance is inherently subjective. Ironically, Defendants' comment on the draft report—which cites Grievance 75687 as an example of a grievance that lacks clearly defined complaints requiring a response—ignores the question of whether the grievant actually received a radio, which he was entitled to receive under Section IX.A of the ACD. The comment itself thus illustrates the very same problem identified in this section of Plaintiffs' monitoring report. Plaintiffs' counsel will continue to monitor this issue. **Please train staff on their obligation to investigate and attempt to resolve all complaints in each grievance.**

- In at least one case, Defendants did not follow the required steps for responding to grievances that allege a violation of County policy or state or Federal law. Grievance 74812 complained that an officer subjected the grievant to excessive force during an altercation in B Pod on September 26, 2019. Section X.A.2 of the Amended Consent Decree requires that Defendants refer to Internal Affairs all grievances alleging that a Jail employee violated County policy or state or federal law. Internal Affairs must then investigate the allegations and prepare a written report of their findings. The Undersheriff must then decide on a course of action, which must be put in writing and be provided to the grievant. In this case, the grievant's allegations of excessive force triggered these requirements. Defendants implied—in their response to an inquiry from Plaintiffs' counsel—that the matter had been referred to Internal Affairs for investigation, but Defendants refused to provide any records or other information about the investigation. *See* **Exhibit 7**. Since then, the grievant has informed us that he has not received any documentation related to the incident or the subsequent disciplinary proceedings against him that resulted from incident. Defendants' Response acknowledges their failure to comply with the ACD in this instance. Plaintiffs will continue to monitor this issue.

C. 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.

Plaintiffs' counsel reviewed the safety-cell check sheets produced by Defendants for the third and fourth quarters of 2019 to assess whether Defendants are complying with these requirements. There is no documentation of either of these evaluations on the check sheets for 55 percent of safety-cell placements during quarter three, and 41 percent of safety-cell placements during quarter four. Defendants' Response states that "the medical assessment suicide risk assessments are documented in the patients' medical chart," and that these charts show that Defendants' compliance rate was significantly higher than that what is indicated on the documents reviewed by Plaintiffs' counsel. **To facilitate future monitoring of this issue, please ensure that staff record the required evaluations in a location that is readily accessible to Plaintiffs' counsel, such as the safety-cell check sheet or another document that is provided with Defendants' quarterly production.**

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."

Although Defendants appear to have complied with this requirement during the third quarter of 2019, the records reviewed by Plaintiffs' counsel showed significant lapses during the fourth quarter of 2019. During this quarter, there were eight recorded cases in which a class member was held in a safety cell for longer than twelve hours. Staff documented the mandatory least-restrictive-housing review in only five of these cases. Defendants' Response states that the LRH reviews are conducted "at the time of performing the mandated 12-hour mental health evaluation," and promises that in the future, mental health staff will "document the Least Restrictive Housing review conducted as part of the mental health evaluation." Plaintiffs' counsel will continue to monitor this issue. **Please provide staff with appropriate training to ensure full compliance with this requirement.**

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."

During the fourth quarter of 2019, there were eight 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 two of these eight instances. In their comments on the draft report, Defendants provided documentation purportedly showing that safety cells were sanitized within the twelve-hour timeline in six of the seven cases during Q3 when a class member was held in a safety cell for more than twelve hours, and seven out of nine such cases during Q4. Plaintiffs will continue to monitor this issue. **Please provide similar documentation as part of Defendants' quarterly production in the future.**

IV. CUSTODY RESPONSIBILITIES

A. 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.

On February 12, 2020, Defendants responded to Plaintiffs' counsel's January 14, 2020 request for an update on Defendants' progress in this area. This response indicated that Defendants had made no effort to contact any of these entities until January 2020; that the Marysville Joint Unified School District and the Board of State and Community Corrections "provided no available resources" when Defendants finally contacted them; and that only the Yuba Community College has expressed any interest in discussing the Jail's education and vocational training program with Defendants.

The Jail's limited efforts to date are not in compliance with the Amended Consent Decree. The draft of this reported provided to Defendants made several requests for additional information about this topic. Defendants' Response does not provide any of the requested information, and states that "nothing in the ACD requires that the Sheriff's Department forego other pressing issues facing the administration of the Jail and

continually pursue these outside agencies after being advised that the agency has nothing to offer the Jail in this regard." Elsewhere in Defendants' Response, Defendants state "[t]here is nothing in the ACD that requires us to notify Rosen Bien of what the discussions with these entities entails." These responses do not reflect a good-faith effort to comply with the ACD or with Plaintiffs' counsel's attempt to monitor compliance with the ACD. **Please provide a more detailed explanation of what Defendants discussed with the entities that purportedly declined to provide any resources or suggestions. Please also provide more detail about what Defendants plan to discuss with representatives from the Yuba Community College, and about the Jail's efforts to contact Gateways Projects, Inc. Finally, please confirm whether the Jail offers high school equivalency classes (or any other education and/or vocational training) in Spanish.**

B. ADA Issues[9]

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. Among other things, this section requires that the Jail appoint an ADA Coordinator and make all changes identified in the Blackseth Report of February 20, 2017, and do so by the dates specified in Exhibit E to the Amended Consent Decree. Section V.D. further states that Defendants "shall provide Plaintiffs with updates on a quarterly basis regarding the status of the changes." Defendants' comments on the draft tour report state that that "[a]ll ADA projects in Phase 3 of Exhibit E have been completed," and that Commander Alan Garza is the Jail's ADA coordinator. Defendants have not responded to the draft report's request for information about how long Commander Garza has served in this position.

C. Posting of Amended Consent Decree

Section XVI of the ACD states that "Defendants shall provide notice of the existence of the Amended Consent Decree and the names and address of class counsel (1) on a poster, prominently displayed in English and Spanish in the booking area … in all housing units, and in the library, and (2) in the Jail Handbook."

During the January 27 tour Plaintiffs' counsel observed the Amended Consent Decree and associated contact information posted in several housing units. However, several class members reported that Defendants had posted these documents approximately one day earlier. Defendants' comments on the draft report state that "notice of the ACD is posted in all housing areas" and is "replaced as needed."

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[9] As noted above, Plaintiffs' counsel were not able to conduct a full assessment of Defendants' compliance with the ADA as part of this Report. ADA compliance will be a focus of future monitoring reports.

Defendants do not explain what they mean by "notice of the ACD." It is not clear whether this includes the ACD itself as well as the names and contact information of Plaintiffs' counsel. Nor have Defendants confirmed that the required information is posted in both English and Spanish, or that it is posted in the booking area, the law library, and in the Jail handbook. **Please confirm that the required information is currently posted, and will continue to be posted as long as the Amended Consent Decree remains in effect, in each of the locations identified in Section XVI.**