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17 SOUTHERN DISTRICT OF CALIFORNIA

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OLIVARES, GUSTAVO SEPULVEDA,  
21 MICHAEL TAYLOR, and LAURA  
ZOERNER, on behalf of themselves and all  
22 others similarly situated,

23 Plaintiffs,

24 v.

25 SAN DIEGO COUNTY SHERIFF'S  
DEPARTMENT, COUNTY OF SAN  
26 DIEGO, SAN DIEGO COUNTY  
PROBATION DEPARTMENT, and DOES  
1 to 20, inclusive,  
27 Defendants.

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Case No. 3:20-cv-00406-AJB-DDL

**EXPERT REPORT OF SYROUN  
SANOSSIAN**

Judge: Hon. Anthony J. Battaglia  
Magistrate: Hon. David D. Leshner

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1 **I. INTRODUCTION**

2 I, Syroun Sanossian, declare:

3 1. I have been retained by the Plaintiffs’ counsel in this class action as a  
4 disability access expert to review and inspect disability access conditions in the San  
5 Diego County Sheriff’s Department (“Sheriff’s Department”) jail facilities in the  
6 County of San Diego, California, and to opine on relevant policies, practices,  
7 training, and implementation.

8 2. My background and experiences relevant to my expert testimony in this  
9 proceeding are set forth below.

10 **II. EDUCATION AND QUALIFICATIONS**

11 3. I am a Certified Access Specialist (“CASp”) with an undergraduate  
12 degree in pre-architecture, and graduate-level training in both architecture and civil  
13 engineering. I have over two decades of experience focusing on Americans with  
14 Disabilities Act (“ADA”) and related state law access compliance in ADA Title II  
15 entities. I have been authorized by the California Division of State Architects  
16 (“DSA”) to act on their behalf as a CASp Inspector of Record (IOR) within the  
17 California State University system. I served as the first Disability Compliance  
18 Officer for the California Administrative Office of the Courts (AOC) within the  
19 Office of Court Construction and Management (OCCM). I am a member of the  
20 American Society of Mechanical Engineers and serve as a voting member of the  
21 ASME A18 National Standards Committee, which promulgates the model code for  
22 North America governing wheelchair lifts. I am also a member of the Certified  
23 Access Specialist Institute, among other professional affiliations. I volunteered as  
24 an appointed commissioner for the San Mateo County Commission on Disabilities.

25 4. I am the founder and principal of SZS Engineering Access, Inc.  
26 (“SZS”), located in Sacramento, California. Attached as **Exhibit A** is a copy of my  
27 resumé. I have nearly 25 years of experience in disability access evaluation and  
28 consulting, including 20 years as principal of my own firm. I have extensive

1 experience conducting inspections and preparing evaluations to ensure public  
2 agency compliance with the ADA and California state access law and regulations. I  
3 have prepared ADA self-evaluations and transition plans, master access plans and  
4 CASp inspection reports for numerous cities, counties, municipal agencies, large  
5 public universities, and community colleges. I have prepared CASp inspection  
6 reports for numerous ADA Title III entities, including healthcare entities,  
7 restaurants, retail establishments, and sporting venues.

8         5. I also have experience conducting inspections and preparing reports on  
9 disability access in correctional facilities, including city and county jails in  
10 California. From 2017 to 2019, my firm provided expertise to Humboldt County as  
11 an Independent Licensed Architect (ILA) approved by the United States Department  
12 of Justice to certify ADA access compliance in 210 of the county's facilities under  
13 the second *United States v. Humboldt* consent decree, Case No. 16-CV-05139-NJC  
14 (N.D. Cal.), including the jail, juvenile detention center, outpatient and inpatient  
15 mental health facilities, and numerous public health service centers. I have also  
16 served as the neutral expert in a federal class action lawsuit about disability access at  
17 the Monterey County Jail, *Hernandez, et al. v. County of Monterey, et al.*, Case No.  
18 13-CV-02354-BLF (N.D. Cal.). In the Monterey case, we conducted a multi-day  
19 inspection of that county's jail facility, including interviews with facility personnel.  
20 We then produced a 702-page report that assessed every aspect of the physical  
21 facilities constructed under the applicable standards. Our assessment and reporting  
22 also evaluated the County's policies and procedures from an ADA perspective.

23         6. I acted as a subject matter expert in a federal class action consent  
24 decree in *Thompson, et.at. v. Sutter Health*, Case No. RG06-302354 (County of  
25 Alameda, California), which included CASp inspections in private medical practices  
26 within the network, medical care facilities, acute care hospitals and psychiatric  
27 hospitals. These scopes of work included the assessment of exterior conditions  
28 including parking and site access, entrances, interior spaces including common areas

1 such as cafeterias, wayfinding signage, emergency rooms, exam rooms, specialized  
2 patient care areas, patient care areas and rooms specializing in treating conditions  
3 that affect mobility, restrooms, shower rooms, and chapels. Healthcare projects  
4 included plan review and construction monitoring of construction projects including  
5 hospitals and medical providers within the Sutter Health network.

6 7. My firm has provided CASp inspections, plan review, and construction  
7 monitoring for dental providers within the Sacramento Region Dental Society since  
8 2005.

9 8. My firm has also conducted ADA access compliance assessments on  
10 behalf of other private property owners.

11 9. I have served as a neutral expert in *Hernandez v. County of Monterey*,  
12 Case 5:13-cv-02354 in the U.S. District Court for the Northern District of California  
13 since 2013. I have worked as a subject matter expert for Plaintiffs in *Armstrong, et*  
14 *al. v. Newsom, et al.*, Case No. 4:94-cv-2307-CW (N.D. Cal.) since 2022. CASp  
15 work for that case has included CASp inspections and reporting, and review of  
16 construction documents. This year, we have assisted California State University at  
17 Stanislaus answer a complaint from the United States Department of Education,  
18 Office of Civil Rights regarding access for the blind to kiosks and automated  
19 vending systems on campus.

### 20 **III. COMPENSATION**

21 10. My rate of compensation for this matter is \$350 per hour. I am also  
22 reimbursed for related travel expenses. I also bill for time incurred by projects  
23 managers and field investigators at lower rates and as necessary.

### 24 **IV. PRIOR DECLARATIONS IN THIS CASE**

25 11. I have submitted several prior declarations in this case, all of which are  
26 herein incorporated by reference.

27 12. First, on May 2, 2022, I submitted a declaration in support of Plaintiffs'  
28 motions for preliminary injunction and provisional class certification. Dkt. No. 119-

1 9. Discovery had not yet opened at that point. In that declaration, I discussed  
2 problems with access for people with disabilities in the Jail facilities based on  
3 declarations of incarcerated people with disabilities and publicly available  
4 information about the Jail facilities, including documents obtained through public  
5 records requests and policies and procedures. I submitted an additional declaration  
6 in support of Plaintiffs’ reply brief, which responded to Defendants’ assertions about  
7 disability access at the Jail facilities. Dkt. No. 162-6.

8 13. In April 2023, I submitted a declaration in support of Plaintiffs’ second  
9 set of motions for preliminary injunction and class certification. Dkt. No. 281-3. I  
10 submitted that declaration after, by Court order, Defendants provided expedited  
11 discovery to Plaintiffs on certain ADA issues. That expedited discovery included  
12 access inspections of two Jail facilities, and my declaration attached my site reports  
13 on both of those facilities – San Diego Central Jail (“Central Jail”) and Rock  
14 Mountain Detention Facility (“Rock Mountain”). Dkt. No. 281-3, Exs. B, C. In the  
15 motions, Plaintiffs sought to remedy problems related to physical accessibility for  
16 individuals with mobility disabilities and access to sign language interpretation for  
17 Deaf people throughout the Jail system. I also submitted a reply declaration  
18 supporting the motions. Dkt. No. 320-2. After the parties filed their briefs, the  
19 parties reached a settlement, which the Court approved, to resolve the issues raised  
20 in Plaintiffs’ motions. Dkt. No. 355. That settlement and order require Defendants  
21 to make physical changes to provide accessibility at Central Jail, among other  
22 changes as part of an ADA Plan.

23 14. In October 2023, I submitted a declaration in support of Plaintiffs’  
24 objections to the Sheriff’s Department’s proposed ADA Plan. Dkt. No. 416-2. The  
25 Court largely sustained Defendants’ objections to the ADA Plan. Dkt. No. 620. It  
26 is my understanding that the parties are discussing the necessary amendments to the  
27 Sheriff’s Department’s proposed amended ADA Plan, and I have provided input to  
28 Plaintiffs as necessary. For several of the items required by the Plan, I will need to



1 inspect Central Jail once modifications are completed to verify compliance.

2 **V. EXECUTIVE SUMMARY**

3 15. First, the Sheriff's Department's physical facilities are almost entirely  
4 noncompliant in reference to applicable accessibility standards at the time of  
5 construction or at present. The Sheriff's Department must make physical  
6 modifications to provide physical access for incarcerated people with disabilities.  
7 The limited plans the Sheriff's Department has developed to date are insufficient to  
8 address the scope of inaccessibility I observed, and insufficient to provide accessible  
9 housing for all incarcerated people with disabilities who require it.

10 16. Second, and relatedly, the Sheriff's Department's revised policies,  
11 procedures, training, and practices remain insufficient to ensure that incarcerated  
12 people with disabilities receive necessary accommodations, are housed in a safe  
13 manner, and have equal access to programs, services, and activities.

14 17. The information and opinions contained in this report are based on  
15 evidence, documentation, and/or observations available to me. I reserve the right to  
16 modify or expand these opinions should additional information become available to  
17 me.

18 **VI. FACTS AND DATA RELIED ON IN FORMING OPINIONS**

19 18. In forming my opinions, I relied on my background and experience,  
20 documents available to me, and inspections of the Jail facilities.

21 19. As part of the discovery in this case, I performed single-day inspections  
22 at six of the seven Jail facilities. We did not inspect the seventh facility, South Bay  
23 Detention Facility, because Defendants represented that it does not provide  
24 accessibility features.

25 20. For each inspection, I was accompanied by a colleague from SZS, as  
26 well as Plaintiffs' counsel, counsel for Defendants, and Sheriff's Department staff  
27 members. The inspections occurred as follows:

- 28 • February 10, 2023: Rock Mountain Detention Facility

- 1 • March 13, 2023: San Diego Central Jail
- 2 • January 16, 2024: George Bailey Detention Facility
- 3 • January 17, 2024: Vista Detention Facility
- 4 • January 18, 2024: Las Colinas Detention and Reentry Facility
- 5 • January 19, 2024: East Mesa Reentry Facility

6 21. I also reviewed documents provided to me by Plaintiffs’ counsel, which  
7 are listed in **Exhibit B** to this declaration.

8 22. Reports on the January 16-19, 2024, site inspections listed above are  
9 attached as **Exhibits C-F** to this declaration.<sup>1</sup> Reports on the Rock Mountain  
10 Detention Facility (“Rock Mountain”) and San Diego Central Jail (“Central Jail”)  
11 inspections were attached to my April 2023 declaration. Dkt. No. 281-3, Exs. B, C.

12 **VII. THE SHERIFF’S DEPARTMENT MADE LITTLE EFFORT TO**  
13 **ADDRESS DISABILITY ACCESS UNTIL THIS CASE WAS FILED,**  
14 **DECADES AFTER THE ADA**

15 23. The documents I have reviewed indicate that the Sheriff’s Department  
16 has long been aware of deficiencies in its ADA program but did not make  
17 meaningful efforts—such as dedicating staff positions to ensure compliance with the  
18 ADA and, as described above, beginning to make physical modifications to comply  
19 with the ADA—until after this case was filed and I began inspecting the jails.  
20 Beginning more than a decade ago, the California Department of Corrections and  
21 Rehabilitation has been sending notifications to the San Diego County Jail about  
22 incarcerated people with disabilities in their care. *Armstrong v. Newsom*, Dkt.  
23 No. 2193; SD\_113706.

24 24. A 2016 internal Sheriff’s Department memorandum describes Sheriff’s  
25 Department awareness of deficiencies in its ADA system. On December 28, 2016,  
26 Lieutenant Esther MacLyman drafted a memorandum entitled “Americans with  
27

28 <sup>1</sup> These site inspection reports are noted as “partial” because we were unable to  
inspect the entire facilities in the one day we had for each.

1 Disabilities Act Workgroup Findings & Recommendations” to Rich Miller,  
2 Assistant Sheriff of the Detention Services Bureau. SD\_104531. Lieutenant  
3 MacLyman is noted as “ADA Workgroup Chair.” *Id.*

4 25. In the first paragraph of the Memorandum, under a header marked  
5 “**PROBLEM**,” Lieutenant MacLyman noted that the ADA covers prisons and jails.  
6 She went on to write that “[a]fter extensive research, we identified several aspects of  
7 the ADA legislation that we have not been in compliance with.” The Memorandum  
8 then listed a list of “shortcomings”:

- 9 • No comprehensive written Policy and Procedure on ADA
- 10 • No equal access to programs for qualified ADA inmates
- 11 • Insufficient or inappropriately designed ADA inmate housing
- 12 • Segregated housing for certain types of disabled inmates
- 13 • Lacking an ADA Coordinator or Unit
- 14 • No method of validating ADA accommodations especially as it  
15 pertained to the developmentally delayed population
- 16 • No streamlined method of tracking our ADA population
- 17 • Internal communication was lacking between divisions as it relates to  
18 ADA inmates
- 19 • Classification interview questions did not trigger any action by anyone  
20 to follow-up
- 21 • No formal training for all staff in dealing with the ADA inmate  
22 population and accommodation requirements.

21 SD\_104531-32.

22 26. The 2016 Memorandum continued and stated that despite an increase in  
23 the population of incarcerated people with disabilities and those needing reasonable  
24 accommodations, the Sheriff’s Department’s “practices, policies and procedures  
25 were not updated to address the growing ADA population, nor did we anticipate the  
26 number of complaints and requests for accommodation we would be receiving.”

27 SD\_104532. As for physical facilities, the Memorandum stated that “many of our  
28 facilities may potentially be out of compliance” with the ADA. *Id.* As my findings

1 above show, this remains the case. Later, the Memorandum refers to an “ADA  
2 accessibility review of all our detention facilities” and a separate presentation on  
3 that review. SD\_104533. However, I have not seen such an accessibility review or  
4 the presentation, and it is my understanding that neither document was produced to  
5 Plaintiffs. The Memorandum does not refer to any action items as a result of the  
6 accessibility review. Nor does the Memorandum refer to the County’s ADA  
7 Transition Plan, which as discussed below could have included a schedule for  
8 remediating barriers at the facilities. My observations at the inspections indicate  
9 that the Sheriff’s Department took few, if any, actions to address accessibility at the  
10 Jail facilities after this apparent review.

11       27. Regarding other policies and practices, the Memorandum states that the  
12 ADA Workgroup developed “a comprehensive update” to policies and procedures  
13 related to the ADA. SD\_104532. The Memorandum then states that the Jail’s  
14 nursing director, Nancy Booth, has “case managed all inmates requiring ADA  
15 accommodations,” which “has become increasingly burdensome.” *Id.* The  
16 Memorandum continued: “Through our research, we learned bureau wide, there  
17 was a lack of knowledge as it relates to the accommodation requirements of the  
18 ADA inmate.” SD\_104533. The Memorandum noted a lack of communication  
19 between divisions, including an inexplicable situation where initial medical and  
20 classification screening may have identified reasonable accommodation needs, but  
21 “the information gathered did not trigger automatic notification to anyone regarding  
22 the inmates’ needs for accommodation or accessibility,” which left “a huge lapse in  
23 services that were available to the disabled inmate population.” *Id.* The  
24 Memorandum then described some basic principles of the ADA, including the range  
25 of disabilities covered, the need to provide access to programs, the prohibition  
26 against discrimination, and the need for modifications to physical facilities. *Id.*

27       28. The Memorandum went on to conclude that during research, “it became  
28 increasingly clear that we need dedicated staff to address all the different challenges

1 posed by ADA regulations.” SD\_104534. The Memorandum stated that although  
2 the County of San Diego had (and has) an ADA Coordinator, “they would not  
3 handle an inmate generated complaint.” *Id.* The 2016 ADA Workgroup thus  
4 recommended the Sheriff’s Department create an “ADA Unit,” which “would be  
5 comprised of at least two full time sworn supervisory positions and one full time  
6 registered nurse to begin with.” *Id.* The Memorandum then identified specific  
7 responsibilities for these proposed positions. SD\_104534-36. In conclusion, the  
8 Memorandum stated, “ADA updates will be an ongoing, ever evolving regulatory  
9 endeavor that will require knowledgeable, ADA trained and dedicated staff.”  
10 SD\_104536. Ultimately, Lieutenant MacLyman recommended that the Sheriff’s  
11 Department fund the ADA Unit. *Id.* The approvals following the Memorandum  
12 show that Assistant Sheriff Miller approved the plan on March 13, 2017.  
13 SD\_104537.

14 29. However, the Sheriff’s Department’s 30(b)(6) witness most  
15 knowledgeable about ADA policies, procedures, and practices testified that the  
16 Department did not actually implement an ADA Unit after the 2016 memorandum  
17 and did not implement such a unit until June 2023. Lt. Livian Cole 30(b)(6)  
18 Deposition (“Cole Deposition”) 26:18-25. That was after this lawsuit started and  
19 after I submitted two declarations in support of the Plaintiffs’ motion for preliminary  
20 injunction on ADA issues at the Jails. Dkt. Nos. 281-3, 320-2. It is entirely unclear  
21 who, if anyone, was responsible for ADA compliance until June 2023.

22 30. In addition, Lieutenant Cole (of the new ADA Unit) appeared to testify  
23 that prior to October 2023, the intake processes at the Jail did not consider a  
24 person’s disability, as she stated that in October 2023 the Sheriff’s Department was  
25 “changing the intake process to include the ADA.” Cole Deposition at 47:8-18.

26 31. A training bulletin issued in August 2023 stated that effective on  
27 September 11, 2023, “identifying an individual with a disability will generally occur  
28 during the intake or medical screening processes.” SD\_117889. This implies that

1 no such screening was occurring at booking previously. Similarly, Lieutenant Cole  
2 testified that only in October 2023 did the Sheriff’s Department begin ensuring that  
3 people with wheelchairs would be designated to appropriate housing. Cole  
4 Deposition at 62:12-20. These are basic, fundamental practices for a jail to ensure it  
5 is providing reasonable accommodations to incarcerated people. It is positive that  
6 these practices are supposed to be occurring now, but this shows that the Sheriff’s  
7 Department is still in its infancy in terms of making meaningful efforts to identify  
8 people with disabilities and provide accommodations.

9 32. I am concerned that it apparently took the Sheriff’s Department until  
10 2016, decades after the ADA, to convene an ADA Work Group and issue findings  
11 of a broad and consistent lack of ADA compliance. Even more concerning, it  
12 appears that the workgroup’s efforts in 2016 did little to instigate a process of  
13 remediation until this case was filed. This long period of intransigence suggests an  
14 even greater need for robust policies, procedures, and training, as well as monitoring  
15 by counsel and experts to ensure that the Defendants come into compliance.

## 16 **VIII. APPLICABLE ACCESSIBILITY STANDARDS**

17 33. I first discuss accessibility standards more broadly, including those we  
18 apply when conducting access inspections and reviewing an entity’s practices and  
19 procedures. I then discuss the standards we applied when inspecting the Jail  
20 facilities in 2024, which are the 2010 ADA Standards and the 2022 California  
21 Building Code standards, discussed below.

### 22 **A. Development of ADA Standards**

23 34. Federal accessibility standards existed before the ADA, including the  
24 1968 Architectural Barriers Act (ABA), which applied to local entities that received  
25 federal funding for the construction of facilities, Section 504 of the 1973  
26 Rehabilitation Act, and the 1968 Uniform Federal Accessibility Standards  
27 (“UFAS”). Both Section 504 and UFAS applied to public facilities that were  
28 designed, built, or altered with federal dollars or leased by federal agencies after

1 August 12, 1968, or that used federal funding for programs, services, or activities.  
2 While many provisions in these various federal standards are similar, the UFAS  
3 required at least 5 percent of all sleeping areas to be accessible to incarcerated  
4 individuals with disabilities, which was a historic high point in access requirements  
5 for detention and correctional facilities. As for state accessibility standards,  
6 including in detention facilities, they also existed prior to the ADA. California  
7 Building Code first established accessibility requirements for local jails in 1982,<sup>2</sup>  
8 codified in the California Code of Regulations, Title 24, Part 2, Section 11B (“CBC  
9 11B”) in 1998, which update generally within a triennial cycle.

10 35. The Americans with Disabilities Act (“ADA”) was enacted in 1990 and  
11 became effective in 1992. Title II of the ADA applies to government entities like  
12 the Defendants. In 1991, the U.S. Department of Justice (“DOJ”) issued regulations  
13 implementing Title II of the ADA. DOJ also adopted the ADA Standards for  
14 Accessible Design (1991 ADA Standards) as part of those regulations. The 1991  
15 ADA Standards provided scoping and technical requirements based on the ADA  
16 Standards for Accessible Design entitled the Americans with Disabilities Act  
17 Accessibility Guidelines (1991 ADAAG) published by the Architectural and  
18 Transportation Barriers Compliance Board (“Access Board”). In brief, the ADAAG  
19 provided tangible requirements defining the scope of alterations (e.g., how many  
20 entrances must be accessible to incarcerated people) and the technical requirements  
21 for entrances (e.g., dimensioning of doors, landings, and hardware). The 1991 ADA  
22 Standards were the standard for new construction and alterations from the effective  
23 date of the ADA in 1992 until March 14, 2012.

24 36. In 2010, the Department of Justice adopted revised ADA regulations  
25

---

26 <sup>2</sup> California accessibility requirements were the first adopted as building code in the  
27 nation. See California Building Standards Commission (CBSC), History of the  
28 California Building Code, Part 2 of Title 24 Accessibility Standards. See  
<https://www.dgs.ca.gov/BSC/About/History-of-the-California-Building-Code--Title-24-Part-2>.

1 for Title II entities (“2010 ADA Standards”). The 2010 ADA Standards include  
2 changes in the enforcement of accessibility standards for jails. Like the 1991 ADA  
3 Standards, the 2010 ADA Standards include specific provisions about the scope and  
4 dimensions of compliant elements in a facility, including jails.<sup>3</sup> The 2010 ADA  
5 Standards became effective on March 15, 2012 and as noted, CBC Section 11B  
6 adopted most but not all of the 2010 ADA Standards. Given the differences  
7 between the 2010 ADA Standards and CBC, we believe design professionals,  
8 building officials, and CASp inspectors must have familiarity with both standards to  
9 ensure consistent application of the most stringent of the two standards during an  
10 assessment process, as well as in planning and building permit issuance, plan  
11 review, construction monitoring and inspection as part of the design and  
12 construction process.

13 37. In sum, under the federal regulatory landscape, the following  
14 requirements apply based on when a facility was originally constructed:

- 15 • Buildings for which construction commenced on March 15, 2012 or  
16 thereafter: must comply with the 2010 ADA Standards.
- 17 • Buildings for which construction commenced between January 26,  
18 1992 and March 14, 2012: public entities had to choose to comply with  
19 either the 1991 ADAAG or with the Uniform Federal Accessibility Act  
20 (“UFAS”).
- 21 • Buildings pre-dating the ADA: must comply with the provisions of 28  
22 C.F.R. § 35.150, which requires a public entity to ensure its programs,  
23 services, and activities are “readily accessible to and usable by  
24 individuals with disabilities.” 28 C.F.R. § 35.150(a).

25 38. In addition, the ADA requires an entity modifying a facility or part of a  
26

27 <sup>3</sup> The 2010 ADA Standards are comprised of (1) DOJ’s 2004 Americans with  
28 Disabilities Act Accessibility Guidelines (“2004 ADAAG”), which are located at 36  
CFR part 1191, appendices B and D; and (2) the ADA Title II regulations located at  
28 CFR part 35.151.



1 facility after the effective date of the ADA to comply with the accessibility  
2 regulations in place at the time of alteration, which then become the applicable  
3 standards. This is an efficient way to provide accessibility when making other  
4 alterations to a space. Thus, a building altered after March 15, 2012 must be altered  
5 in compliance with the 2010 ADA Standards. For pre-ADA facilities (any facility  
6 built before January 26, 1992), the requirements are more general, but the regulation  
7 cited above – 28 C.F.R. § 35.150 – contemplates physical changes to pre-ADA  
8 buildings to ensure compliance under ADA Transition Plans. For example, the  
9 regulation states that to comply with the program access requirement, an entity  
10 “may comply with the requirements of this section through . . . alteration of existing  
11 facilities and construction of new facilities.” *Id.* at § 35.150(b).

12 39. Regarding jails specifically, 28 C.F.R. § 35.152 includes numerous  
13 requirements based on the updates contained in the 2010 regulations. Among these,  
14 Title II entities “shall implement reasonable policies, including physical  
15 modifications to additional cells in accordance with the 2010 Standards, so as to  
16 ensure that each inmate with a disability is housed in a cell with the accessible  
17 elements necessary to afford the inmate access to safe, appropriate housing.” *Id.* at  
18 § 35.152(b)(3).

19 **B. Application to Our Work and Inspections**

20 40. As reflected above, the accessibility standards applicable to a given  
21 detention facility generally depend on when construction commenced at the facility  
22 and when alterations commenced subsequent to the original construction. This  
23 means that we inspect facilities by reference to the standards in place at the time of  
24 original construction and reference the requirements that would apply to alterations  
25 required under applicable standards at the time of the assessment. If applicable, we  
26 also assess facilities or parts of the facility that have been altered by reference to the  
27 standards in place at the time of alterations, when informed of the date of those  
28 alterations prior to the site inspections.

1           41. From a practical perspective, this means that when inspecting a facility,  
2 we apply three fundamental principles: long-standing standards, usability factors,  
3 and federal remediation requirements. First, our findings are based on the  
4 applicable accessibility standards in place at the time of construction. The 1990  
5 ADA and 2010 ADA Standards, while more recent developments, are based on  
6 long-standing accessibility requirements that define what makes physical elements  
7 accessible for disparate groups of people with disabilities, including the standards  
8 first promulgated by the American National Standards Institute (ANSI). As we  
9 assess physical elements, we apply both the ADA Standards and state requirements  
10 with our recommendations for remediation based on the most stringent of the two.  
11 The CBC and ADA Standards are both applicable standards for our assessments.

12           42. Usability is the second principle upon which our assessment process is  
13 based. The 1991 and 2010 ADA Standards (herein, also “ADA Design Standards”  
14 or “ADAS”) foster usability through a focus on primary function areas, which are  
15 defined as spaces where a major activity for which the facility is intended takes  
16 place.<sup>4</sup> Major life activities are the kind of activities that people do every day,  
17 including the body’s own internal processes. Some examples include actions like  
18 eating, sleeping, speaking, and breathing; movements like walking, standing, lifting,  
19 and bending, cognitive functions like thinking and concentrating, sensory functions  
20 like seeing and hearing; tasks like working, reading, learning, and communicating  
21 and the operation of major bodily functions like circulation, reproduction, and  
22 individual organs.<sup>5</sup> The usability of a space will require different things for  
23 different people with disabilities, so remediation efforts need to equally serve each  
24 group of people with disabilities. This principle is also reflected in the idea in both  
25

26 <sup>4</sup> Usability as a requirement is also contained in California statutes. California  
Government Code § 4450(a).

27 <sup>5</sup> See US Department of Justice, Introduction to the ADA. What does major life  
28 activity mean? See <https://www.ada.gov/topics/intro-to-ada/>.

1 the ADA and CBC that when alterations to a primary function area happen, the  
2 users must be able to reach the space from their own starting point as a pedestrian,  
3 on an accessible route.<sup>6</sup> Absent alterations to the route, a pedestrian cannot  
4 magically teleport from one new accessible location to another. We therefore  
5 inspect the path of travel at a facility as time permits. This issue arises at the Jail  
6 facilities I inspected, particularly so at East Mesa.

7 43. The third principle that guides our approach to assessment and  
8 reporting is what I often refer to as a gift to ADA Title II entities. An ADA  
9 Transition Plan allows public entities to look past what happened before the ADA  
10 was enforced, to work around possible errors in design or construction, instances  
11 where applicable standards at the time of construction were not applied, and move  
12 forward to remove barriers to access defined by current ADA standards at their  
13 pace, within their own budgetary constraints, and often as part of expansion plans or  
14 other capital improvement work so that they get more bang for their buck.

15 44. I have developed more than one hundred ADA Transition Plans from  
16 the foundation in 28 CFR § 35.105 for Self-evaluations and 28 CFR § 35.151(d) for  
17 Transition Plans, together known as ADA Self-evaluation and Transition Plans  
18 (SETP). I believe that every public entity wants to provide access to people with  
19 disabilities, but they often do not know how or they fear the cost, or both. A brief  
20 synopsis of our process is this: we start by identifying the programs, services, and  
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22 <sup>6</sup> See CBC 11B-202.4 Path of travel requirements in alterations, additions and  
23 structural repairs. When alterations or additions are made to existing buildings or  
24 facilities, an accessible path of travel to the specific area of alteration or  
25 addition shall be provided. The primary accessible path of travel shall include: 1.  
26 A primary entrance to the building or facility, 2. Toilet and bathing facilities serving  
27 the area, 3. Drinking fountains serving the area, 4. Public telephones serving the  
28 area, and 5. Signs. Also See 202.4 Alterations Affecting Primary Function Areas. In  
addition to the requirements of 202.3, an alteration that affects or could affect the  
usability of or access to an area containing a primary function shall be made so as to  
ensure that, to the maximum extent feasible, **the path of travel to the altered area,**  
including the rest rooms, telephones, and drinking fountains serving the altered area,  
are readily accessible to and usable by individuals with disabilities.

1 activities (PSAs) that take place in the facilities that the public entity owns and  
2 leases, and a review of the policies and practices that govern them. We collaborate  
3 with the client to review the information and establish a list of physical facilities  
4 where comprehensive physical assessments will take place, including the public  
5 rights-of-way (sidewalks, street crossings, transit stops, marked or metered on-street  
6 parking, etc.) and perform the assessments. The results tell us which locations are  
7 best suited as the long-term locations at which PSAs can continue. That is the basis  
8 for providing programmatic accessibility (program access) and it allows us to start  
9 work on scheduling the ADA Transition Plan assessments.

10 45. The premise for an ADA Transition Plan is one of practicality – no  
11 public entity can afford to remediate all barriers to access present in all of the  
12 buildings and facilities they own or lease, either all at once, or over decades of time.  
13 Instead, the SETP process allows a public entity to take the opportunity to look at  
14 what happens in existing buildings and facilities first, rather than focusing on  
15 buildings and how to improve them with no connection to what happens inside.  
16 This is global-level analysis based on data-driven decision making. Without a  
17 comprehensive list of all physical barriers to access, resulting from program access  
18 determinations, attempting to determine which physical locations are most sensible  
19 to alter to comply is a decision-making process with a foundation built upon the  
20 sand.

## 21 **IX. INSPECTION METHODOLOGY**

22 46. As part of the inspections in January 2024, we received documentation  
23 from Defendants beforehand, including rosters (including of people with  
24 disabilities) and floor plans. SD\_742289-90 (rosters); SD\_742262-288,  
25 SD\_742291-308 (floor plans). In this case, the site and floor plans provided by  
26 Defendants for the four facilities were incomplete. Vital information was missing in  
27 some instances. In the case of George Bailey, we only received a site plan with no  
28 identifiers for buildings, one floor plan for a “typical housing unit,” and the floor

1 plan for the medical unit. For Vista, we were provided with 14 separate floor plans  
2 that were so blurry that we could not recognize any identification, and no site plan  
3 was provided to correlate the blurry floor plans together in any coherent manner.  
4 Important to this discussion is this: when typical documentation like site and floor  
5 plans are incomplete or missing, our reporting will be impacted, as it takes longer to  
6 link each physical barrier to access with the physical location where it was  
7 identified. Thorough CASp inspectors use floor plans to guide their assessment and  
8 ensure that no essential spaces were missed.

9 47. As for the inspections themselves, they occurred on a single day for  
10 each facility. We also inspected with other experts for Plaintiffs, which at times,  
11 lengthened the time required for our inspections. Given the limited time we were  
12 allowed in each housing unit, or building, we could not take comprehensive  
13 measurements of all elements used by incarcerated individuals with disabilities.  
14 This is not the way we are accustomed to performing assessments, as it produces  
15 incomplete results. We typically will assess an entire facility to issue a  
16 comprehensive report. Still, we identified numerous barriers even in these  
17 inspections under these unfavorable conditions.

18 48. We performed inspections as a team of two; myself as the CASp  
19 inspector and a second team member present to take written notes to record my  
20 findings and to make sketches or calculations, where necessary. We captured digital  
21 photographs both of the areas that we inspected, and the measurement taken when  
22 barriers to access were identified. The photos are an important part of our reporting  
23 process, and they are embedded into our database which produces our reports.  
24 These are the Barrier Data Records in our site reports. The visual information that a  
25 digital photo provides is invaluable to both the laymen and the expert, as it describes  
26 visually what the barrier data records describe in a textual format.

27 49. Our CASp reporting documentation in the Barrier Data Records starts  
28 with the field date, which is the date of the site inspection, and the report production

1 date. Next, each barrier to access is assigned with a unique barrier number that  
2 allows us, ordinarily, to link each barrier with the specific location in which it was  
3 identified on a floor plan. In this case, due to a lack of complete floor plans, or with  
4 blurry plans we could not decipher, it was impossible to provide what we refer to as  
5 reference drawings, which are generally part of all CASp inspection reports we  
6 produce. Databases produce information within fields, which generally look like  
7 boxes on the report page. Fields are provided at the top of the report containing the  
8 name of the facility where the assessment was performed. The location at the  
9 facility and the function of the space are provided. The function becomes important  
10 within the prioritization process described earlier. When a reference drawing can be  
11 produced, they are produced in a set per floor, site, etc. which are sequentially  
12 numbered (*e.g.*, 1 of 5, 2 of 5, etc.). The number of that drawing is provided in the  
13 field labeled as DWG. A digital photo is located adjacent to the drawing number  
14 field. The BARRIER AREA, BARRIER TYPE AND BARRIER DESCRIPTION  
15 fields contains related language adapted from ADA Chapter 2: Scoping  
16 Requirements contained in the ADAS with some additions from the CBC. They  
17 describe the barrier group under which the violation is cited in the state or federal  
18 accessibility standards and provide the actual code requirements used to identify  
19 barriers to access.

20       50. Our goal is to take this highly technical language, abbreviate it, and  
21 render it understandable for both the layman and expert. Next, actual code  
22 references are provided from the ADAAG, ADAS, and CBC. Section 504 and  
23 UFAS references can be added. We invite the reader to verify our findings as code  
24 violations and attempt to provide them with the information necessary to do so. The  
25 next field provides the measurements or findings we collected during the site visit  
26 which may be actual measurements, slopes, or descriptions of what we identified as  
27 an “as-built” or a condition that we literally found as it had been built. The  
28 following field provides a proposed solution, although other solutions may be

1 chosen. The remaining fields are used when GPS data is collected, and for use in  
2 ADA Transition Plan implementation.

3 **X. THE SAN DIEGO COUNTY JAILS ARE NOT PHYSICALLY**  
4 **ACCESSIBLE TO PEOPLE WITH DISABILITIES**

5 51. As noted above, I conducted single-day inspections of four San Diego  
6 County jail facilities in January 2024, as follows:

- 7 • January 16, 2024: George Bailey Detention Facility
- 8 • January 17, 2024: Vista Detention Facility
- 9 • January 18, 2024: Las Colinas Detention and Reentry Facility
- 10 • January 19, 2024: East Mesa Reentry Facility

11 52. Reports on those inspections are attached hereto as **Exhibits C-F**.  
12 Even though our inspections were time-limited and not comprehensive, we found  
13 **over four thousand architectural barriers to access for people with disabilities**.  
14 I also discuss my 2023 inspections of Central Jail and Rock Mountain, as they relate  
15 to the accessibility of the San Diego County jail system as a whole and any  
16 remediation measures the Sheriff's Department is undertaking. Full reports on the  
17 inspections of Central Jail and Rock Mountain were filed with my declaration in  
18 support of Plaintiffs' motion for preliminary injunction in May 2023. Dkt. No. 281-3.

19 53. My 2024 inspections found that none of the Jail facilities we visited  
20 comply with the applicable accessibility standards in place at the time of  
21 construction, or with the current standards on either the state or federal level.

22 Specifically:

- 23 • None of the Jail facilities we inspected provide compliant accessible  
24 beds. The Jail facilities also lacked accessible toileting, showering,  
25 exercising, and other spaces where incarcerated people perform their  
26 major life activities. This means that the Sheriff's Department does not  
27 have adequate accessible housing for its population of people with  
28 mobility disabilities, although minor fixes could be made to vastly  
improve conditions.
- In multiple facilities with no accessible housing (George Bailey, Vista,  
and East Mesa), the Sheriff's Department claims not to house people  
who use wheelchairs full-time. However, people with mobility and

1 ambulatory disabilities, regardless of whether they use a wheelchair  
2 full-time, require accessible housing. This policy also means that  
3 people who use wheelchairs full-time lack access to the programs at  
4 those specific facilities, some of which appear unique to those facilities.

- 5 • Triple bunks were found in multiple Jail facilities. No bed in a triple  
6 bunk is accessible for most people with mobility disabilities.
- 7 • The Jail facilities include numerous barriers that are dangerous for  
8 people who are blind or have low vision, and the Jail facilities have not  
9 installed detectable warnings to ensure that people with vision  
10 disabilities can avoid those barriers.
- 11 • The Sheriff's Department does not appear to provide accessible  
12 alternatives to the intercoms in cells (used to contact staff), which only  
13 include audio features, and are thus inaccessible to people with speech  
14 disabilities or who cannot hear.

15 54. I provide summaries of each facility below. Two overall points bear  
16 noting, though. First, even the facility built in 2014, well after the effective date of  
17 the ADA (Las Colinas), and therefore required to be fully compliant as new  
18 construction under the ADA, was identified with **over eight hundred architectural**  
19 **barriers** in the limited locations we assessed. This is particularly striking because it  
20 means that the County and Sheriff's Department failed to ensure their design  
21 professionals and contractors followed the applicable accessibility standards even  
22 decades after the enforcement of the ADA. Areas at East Mesa that were added in  
23 2014, after the effective date of the ADA, also are not accessible. This demonstrates  
24 the Defendants likely lack processes to ensure that the work complies with  
25 accessibility standards and building code. According to the Sheriff's Department's  
26 30(b)(6) witness on physical accessibility at the Jails, Scott Bennett, the Sheriff's  
27 Department is a "self-permitting" department, 2024 Bennett Deposition 28:21-22,  
28 which would mean that Sheriff's Department staff are fully responsible to  
independently verify compliance during the design and construction of the jail  
facilities. This may be a source of these accessibility issues with even post-ADA  
construction. Lt. Cole also testified that she and her ADA Unit comprised of sworn  
and medical staff provide oversight on construction projects, although these  
individuals are not building officials. Cole Deposition 11:10-11.



1           55.     Second, I referenced the ADA Transition Plan process above. From  
2 my inspections, it has become apparent that the County and Sheriff’s Department  
3 failed to make changes that resulted in jail facilities that are accessible and usable  
4 for people with disabilities through maintenance and repair over time, or under an  
5 ADA Self-evaluation and Transition Plan. This is so even though according to the  
6 2016 Memorandum; the Sheriff’s Department knew that “many of our facilities may  
7 potentially be out of compliance.” SD\_104532. Mr. Bennett, who is the Sheriff’s  
8 Department’s facilities manager, acknowledged that he became aware in at least  
9 2019 that the Sheriff’s Department needed to take action to bring the jails into  
10 compliance with applicable accessibility standards. 2024 Bennett Deposition 15:18-  
11 17:11. Even after that acknowledgement, Mr. Bennett stated that his department’s  
12 only action to remediate architectural barriers, with 67 employees at their disposal,  
13 was to install grab bars “here and there,” the locations of which he further states he  
14 cannot remember. *Id.* at 20:20-21.

15           56.     Defendants produced a few documents that appear to be Countywide  
16 Transition Plan-related documents. These are a 1996 County document titled  
17 “Management Strategy for the Americans with Disabilities Act Transition Plan,”  
18 SD\_1030633, a 2003 “ADA Transition Plan Implementation Status Report,”  
19 SD\_1517187, and a “Survey of Facilities,” SD\_1517171, which appears to  
20 improperly end at page 16, whereafter the actual survey report results would be  
21 presented. SD\_1517186. In other words, the document produced ends on page 16  
22 with the cover sheet for the “ADA Survey Report,” yet no survey report follows.  
23 Defendants also produced an undated draft report on the ADA, which appears to  
24 have no cover page that would presumably have described the basis for the report.  
25 SD\_1517111. This includes a five-sentence description of the County’s Self-  
26 evaluation completed in 1993. SD\_1517119. These County documents I have  
27 reviewed lack the four minimum requirements that constitute an ADA Self-  
28 evaluation and Transition Plan. No list of architectural barriers at the Jail facilities

1 and a method to remediate them is provided, and no schedule for remediation or an  
2 official responsible to oversee the process is provided. The documents include no  
3 comprehensive list of programs, services, and activities. The documents include no  
4 discussion of how the procurement or supply chain management process follows  
5 ADA requirements when acquiring accessible physical elements, or of the role  
6 maintenance staff would play in barrier removal. They lack other elements of a  
7 functional transition plan. In my opinion, it is an ADA Transition Plan in name  
8 only.

9 **A. George Bailey Detention Facility (inspected Jan. 16, 2024)**

10 57. Our inspection of George Bailey found that the facility does not have  
11 any accessible housing for people with disabilities. Our site inspection report is  
12 attached as **Exhibit C**. This is consistent with the Sheriff's Department's own  
13 statements, as its 30(b)(6) witness testified that there are no compliant cells at  
14 George Bailey and no plans to make ADA improvements to George Bailey. 2024  
15 Bennett Deposition 47:8-21. George Bailey is in the southeastern corner of San  
16 Diego, near two other County jails for adults (Rock Mountain and East Mesa). It is  
17 the largest jail by population, with 1,170 people in jail as of our inspection. The  
18 Sheriff's Department stated on our inspection that it does not house people who use  
19 wheelchairs full-time at George Bailey, although the record indicates that policy is  
20 not always followed. Cole Deposition 65:17-25. That practice also results in  
21 clustering individuals who use wheelchairs at Central Jail. Regardless, the Sheriff's  
22 Department houses many people with serious mobility disabilities at George Bailey  
23 according to the roster we received, SD\_742290, and the facility should be  
24 accessible to them. Also, the facility is not accessible for people with vision  
25 disabilities and communication disabilities.

26 58. The standards used in assessing this facility were the ADAAG, 2010  
27 ADAS, and 2022 CBC Chapter 11B as they were the applicable standards at the  
28 time of the assessment. Construction commenced in 1991, which defines the facility

1 as pre-ADA. However, the standards we applied are those applicable to alterations  
2 to remove architectural barriers to access identified as necessary through the CASp  
3 assessment process. Standards in place at the time of our inspection apply if the  
4 Sheriff's Department made any efforts in the 30 years since the enforcement of the  
5 ADA under a Self-Evaluation / Transition Plan to bring the facility into compliance.  
6 As noted below, the Sheriff's Department is also planning or implementing  
7 alterations at George Bailey that may trigger further alterations to comply with the  
8 ADA. Had we used the standards applicable at the time of construction,  
9 Section 504, the UFAS or 1982 CBC, the list of barriers to access that we produced  
10 in our barrier data record report would likely not have been reduced. On the  
11 contrary, the standards would have been more stringent under the UFAS, as at least  
12 5 percent of all housing was required to be accessible under that federal standard,  
13 rather than the current ADA minimum requirement of 3 percent. Ultimately, we  
14 **identified 757 discrete barriers to access** and a comprehensive lack of compliance  
15 with scoping requirements for sleeping units.

16 **1. Inaccessible Housing for People with Mobility Disabilities**

17 59. We inspected several housing units at George Bailey, including  
18 dormitory housing, celled housing, and medical housing. By housing, here and  
19 elsewhere in the report, we mean to encompass dining, toileting, showering,  
20 exercise and sleeping areas, which are generally in the same spaces. These areas  
21 were not accessible. This was true even in one medical observation unit, where the  
22 Sheriff's Department appeared to have ostensibly made alterations intended since  
23 1991 to provide a toilet, hand wash basin (lavatory) and shower that was accessible.  
24 The toilet and shower did not in fact comply and were not accessible, as described  
25 further in **Exhibit C**.

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60. The photo above is of a representative shower from George Bailey celled housing units. SD\_743113. In every shower we visited, other than in the medical unit described above, we observed vertical curbs, a lack of spray units and no shower seats. These showers did not comply with the ADA Standards and are not accessible to incarcerated people who use wheelchairs or similar assist devices due to ambulatory disabilities. The showers are not on an accessible route under CBC 11B-404.2 and 2010 ADAS 404.2, where the definition does not allow a vertical curb higher than ½ inch with a bevel, but requires grab bars to help people with ambulatory and mobility disabilities stabilize themselves (see CBC 11B-608.3 & 11B-609.3 and 2010 ADAS 608 & 609), and a fold-down shower seat for those who cannot stand long enough to shower (CBC 11B-608.3, 11B-609 and 2010 ADAS 610.2). In the dormitory housing, we observed the dayrooms where incarcerated people congregate away from their beds that lack seating at tables with space to rest a wheelchair or walker adjacent to a seat without forcing another incarcerated person out of the adjacent fixed seat. The toilets have no grab bars as required by CBC11B-604.5 and 2010 ADAS 604.5, and toilets are too low for incarcerated people with ambulatory disabilities to safely use as required under CBC 11B-604.4 and 2010 ADAS 604.4. These are merely examples of ADAS and CBC violations that may cause injury or prevent or severely hinder incarcerated people with disabilities from performing major life activities like walking, eating, toileting

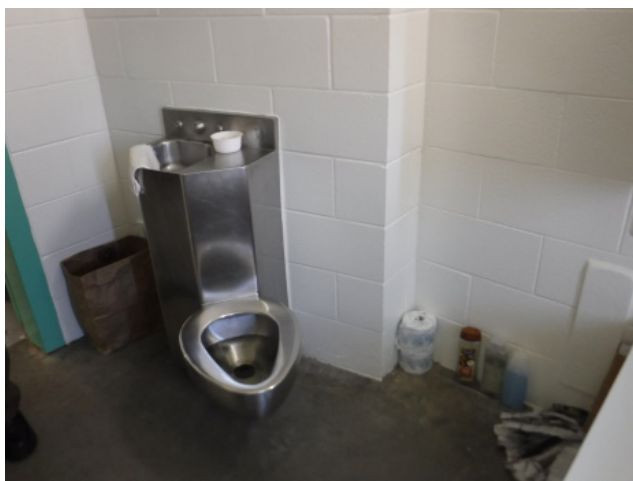
1 and showering. Numerous other barriers are identified in our site report.

2 61. In dormitories and cells,  
3 we observed many triple bunks, as  
4 shown in the photo at right.



5 SD\_743167. As discussed further  
6 below, none of the three bed surfaces  
7 in these bunks are safe for use by  
8 those with ambulatory disabilities.  
9 Even the middle bunk was higher  
10 than the desk surface, which may be

11 possible to get into, but getting out of bed would mean dropping a foot or more to  
12 the ground, which can result in injuries. Declarations from Plaintiffs indicate that  
13 they have suffered injuries while transferring in and out of triple bunks at other jail  
14 facilities and the same injuries could be sustained here under similar conditions.  
15 Dkt. No. 281-3, ¶¶ 14-15. The combination toilets, drinking fountain, lavatory units  
16 (combo units) installed in cells had toilet seats that block approach to the lavatory  
17 and drinking fountain spout that doubles as a drinking fountain. See photo



SD\_743006. The toilet seats are so low  
that they present a risk of injury when  
an incarcerated person using a walker  
or cane lowers themselves to the fixture  
and no grab bars are present for a  
person to stabilize themselves while  
toileting. Not only is the toilet seat  
very low but it is angled so far from the

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26 wall that the user cannot even lean against the wall for support during use. Free-  
27 standing grab bars could reduce the distance to the wall and reduce the chance that a  
28 person with an ambulatory disability would fall into the gap, as well as provide

1 stability when attempting to reach the toilet or in standing after use, but none have  
2 been installed.

3         62. I have reviewed deposition testimony from multiple class  
4 representatives with mobility disabilities indicating that they fell or felt unsafe in the  
5 showers at George Bailey during their incarceration due to the lack of grab bars in  
6 the showers. For example, Andree Andrade testified that he fell in the shower after  
7 being housed in a unit without grab bars in the shower. Andrade Deposition 199-  
8 201. Gustavo Sepulveda described how his cane was not an adequate replacement  
9 for grab bars, because it is not secured, and testified about multiple complaints about  
10 falling in the shower at George Bailey and Vista, where there were not (and are not,  
11 according to my inspection) grab bars in showers or at toilets. Sepulveda  
12 Deposition 64, 91-92, 98-101.

## 13                   2. Principles for Accessible Cells

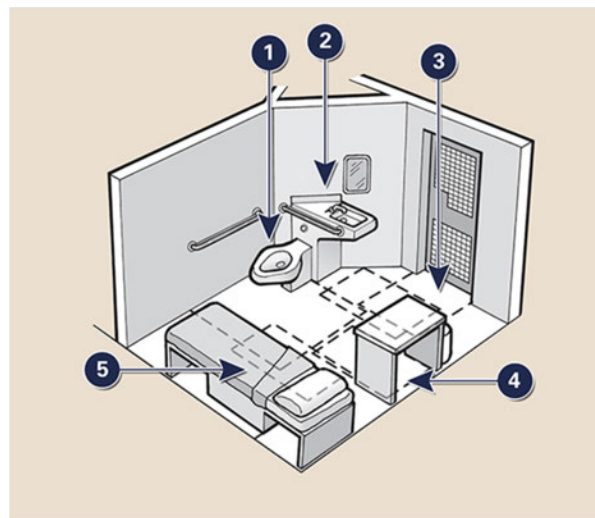
14         63. Cells we inspected at George Bailey lack compliant maneuvering  
15 clearance parallel to the bed for a person in a wheelchair or walker to transfer safely.  
16 The Department of Justice provides an ADA/Section 504 Design Guide<sup>7</sup> to instruct  
17 design professionals and those who operate detention and correctional facilities on  
18 how to alter or construct new cells that are accessible not only to those who use  
19 wheelchairs, but for any incarcerated person that uses a mobility assist device such  
20 as a walker. This Design Guide can be useful here. While the type of toileting  
21 fixtures installed are important, the maneuvering clearance that makes it possible for  
22 the user to reach the fixtures is of equal importance.

23         64. The figure below from the Design Guide shows an accessible cell and  
24 how the different elements present in a cell require maneuvering clearance in the  
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26 <sup>7</sup> See U.S. Department of Justice, Civil Rights Division, Disability Rights Section,  
27 Americans with Disabilities Act, Section 504 of the Rehabilitation Act;  
28 ADA/Section 504 Design Guide: Accessible Cells in Correctional Facilities at  
<https://archive.ada.gov/accessiblecells.htm>.

1 center of the cell that allows the person housed to turn 360 degrees and position  
2 themselves with clear floor space adjacent to each element that makes access  
3 possible. An accessible toilet can be installed in a location where required  
4 maneuvering clearance is not provided, which would render the otherwise accessible  
5 toilet an ADA violation. Context is an important part of accessibility. The  
6 installation and orientation of elements can either make or break the ability of a  
7 person using a wheelchair to access them. Specific dimensioning for manufacture  
8 of architectural elements is provided in the ADA and CBC 11B, along with similar  
9 specific dimensioning, clear space, width and maneuvering clearances required at  
10 installation. In a small space like a cell, the installation of elements that are  
11 accessible requires expertise on the level of a design professional with the assistance  
12 of a certified access specialist (CASp). This Design Guide is intended to bridge the  
13 gap between the design professional and CASp.

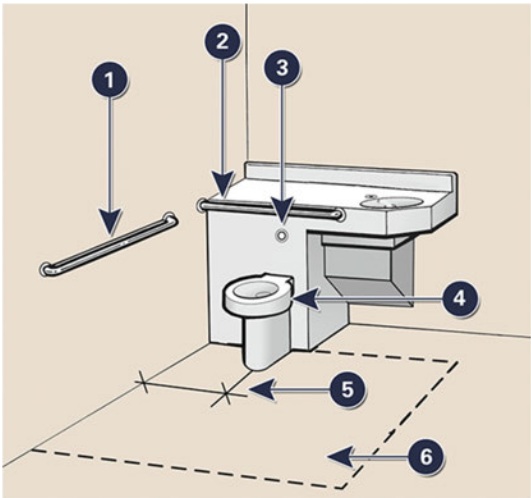


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22 65. The diagram shows a toilet with rear and side grab bars, clear floor  
23 space for wheelchair transfer, and an accessible flush valve (item 1 in the diagram).  
24 An accessible toilet paper dispenser, if provided, would be installed on the wall  
25 within 7-9 inches from the front of the toilet rim.<sup>8</sup> The cell is also shown with an  
26

27 <sup>8</sup> See CBC 11B-604.7 and 2010 ADAS 604.7. The control point from which the  
28 user grabs the toilet paper must be under the side grab bar at least 19” high per CBC  
11B-604.7.1

1 accessible lavatory offset from the toilet by 90 degrees with knee and toe space  
2 below, faucet controls usable with a loosely closed fist, clear floor space for front  
3 approach using a wheelchair or walker, and lowered mirror (item 2). The cell  
4 entrance door has 32 inches of clear opening width, for when a sliding door is fully  
5 opened, or a hinged door is open 90 degrees (item 3). The desk shown has sufficient  
6 clear floor space for front approach and knee and toe space under the entire surface  
7 of the desk (item 4). Desks should not be so small that side supports may cut into  
8 knee clearance causing potential injuries. Finally, the bed has clear floor space for a  
9 side approach next to the bed in an open cell where a minimum 60” turning circle is  
10 present in the cell shared by all element, as illustrated (item 5).

11 66. Appropriate clear floor space (shown by dashed lines) is needed  
12 adjacent to each cell feature. As shown in the diagram, the clear floor spaces for  
13 each element may overlap. A person with a mobility disability should be able to  
14 move without obstruction among the easily accessible features of their cell. There  
15 needs to be adequate turning space within the cell—either a 60-inch-diameter circle  
16 or a T-shaped turn depending on the fixture to be used.



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25 67. The second diagram from the Design Guide above shows details at the  
26 combination toilet and lavatory unit. A side grab bar on the adjacent side wall that  
27 is at least 42 inches long and from 33 to 36 inches above the floor (item 1) and must  
28 be installed to extend at least 54 inches from the wall of the unit or room, and at



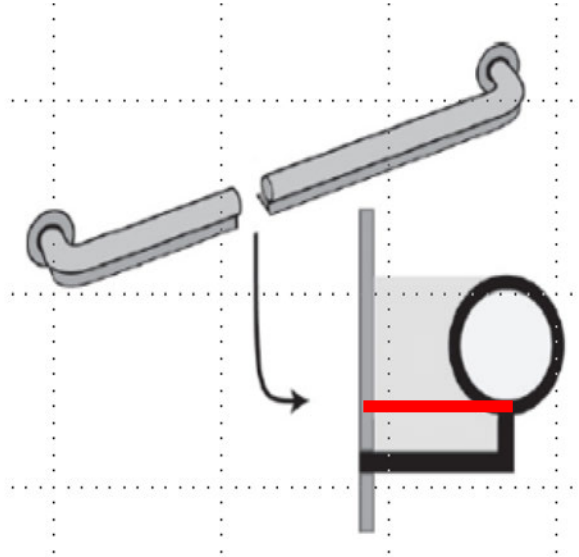
1 least 24 inches in front of the toilet specifically for use by people with ambulatory  
2 disabilities.<sup>9</sup> The rear grab bar behind the toilet must be at least 36 inches long,  
3 installed from 33 to 36 inches above the floor (item 2) and centered with 12 inches  
4 on the wall side of the toilet and 24 inches of extension on the open side of the toilet  
5 so that two-thirds of the bar can be used to stabilize the user for transfer. The flush  
6 valve is located within accessible reach range and is operable without tight grasping,  
7 twisting, or pinching (item 3). The toilet seat needs to be from 17 to 19 inches  
8 above the floor to permit transfers to and from wheelchairs at the same height (item  
9 4). The toilet bowl needs to be centered 17 to 18 inches from the side wall, so that  
10 incarcerated people with disabilities can reach the side grab bar (item 5) and not fall  
11 into a wide gap that might otherwise be present between the toilet and wall. The  
12 diagram also shows adequate floor space provided to approach the toilet from a  
13 variety of wheelchair transfer positions (*i.e.*, diagonal, side or front approaches).  
14 Generally, the toilet needs to be installed in an open space at least 60-inch-wide by  
15 59-inch-deep (item 6).

### 16 3. Inaccessible Grab Bars

17 68. I discussed problems with the usability of grab bars at Central Jail and  
18 Rock Mountain in my 2023 declarations. Dkt. No. 281-3, Ex. B-19 (Rock  
19 Mountain), Ex. C-273 (Central Jail); Dkt. No. 320-2 ¶ 11. Likewise, at George  
20 Bailey and the other facilities I observed, the grab bars in toileting areas inspected  
21 were equipped with infill plates as a ligature resistance measure, but the plates  
22 obstruct approximately 25% of the gripping surface. This will not allow a person to  
23 fully grip the bar firmly which can lead to poor hand placement, slipping and falling  
24 during use. Grab bars are important both for incarcerated people who use  
25

26 <sup>9</sup> Ambulatory accessible toilet stalls defined by CBC 11B-604.8.2 and 2010 ADAS  
27 604.8.2 feature long side grab bars used by people with bending and stooping  
28 injuries, those who use walkers and other mobility assist devices to provide support  
during the process of sitting down and standing up for toileting.

1 wheelchairs, for those who use canes, walkers, and other mobility assistive devices  
2 as well as for those with neurological or other medical conditions. The figure at left  
3 provided by the federal Access Board<sup>10</sup> shows existing infill plates in **red**, and a  
4 compliant infill plate in **black** that provides both ligature resistance and a compliant  
5 gripping surface. The red infill plate illustrated in the diagram shows what was  
6 identified at grab bars in this facility. The location of the infill plate violates ADAS  
7 609.3, which requires any projecting  
8 object below or at the ends to be a  
9 minimum of 1-1/2” below the bar so as  
10 not to obstruct the gripping surface. *See*  
11 *also* CBC 11B-609.3. Researching these  
12 elements and potential manufacturers  
13 that produce compliant grab bars with  
14 ligature resistance has shown that at least  
15 three manufacturers presently on the  
16 market today produce and sell compliant grab bars with ligature resistance which  
17 does not obstruct the grasp of grab bars.<sup>11</sup>



#### 18 4. Additional Accessibility Problems at George Bailey

19 69. In addition, our inspection found numerous other barriers to access at  
20 George Bailey, including extreme slopes in exterior walking surfaces, dayrooms  
21 with no accessible features of any kind and many protruding hazards, and medical  
22

23  
24 <sup>10</sup> Great Lakes ADA Center, Detention and Correctional Facilities Presentation by  
25 Bill Botten and Scott Windley of the federal Access Board, entitled 01-16-20-  
26 Inmates-and-Visitors, slide 37.

27 <sup>11</sup> *See* <http://norvaplastics.com/suicide-products/safebar-ada-compliant-grab-bars/>  
28 and [https://www.grainger.com/product/53XU62?gucid=N:N:PS:Paid:GGL:CSM-2295:4P7AIP:20501231&gad\\_source=1&gclid=EA1aIQobChMI-Y2pkejChgMVNCvUAR06VAmJEAQYAyABEgK\\_NfD\\_BwE&gclsrc=aw.ds](https://www.grainger.com/product/53XU62?gucid=N:N:PS:Paid:GGL:CSM-2295:4P7AIP:20501231&gad_source=1&gclid=EA1aIQobChMI-Y2pkejChgMVNCvUAR06VAmJEAQYAyABEgK_NfD_BwE&gclsrc=aw.ds) and  
<https://kingswaygroupglobal.com/en-us/product/ligature-resistant-grab-bars-for-behavioral-health>.

1 facilities with no required maneuvering clearance in exam rooms or exam tables  
2 with adjustable height. There were also barriers to access in visitation spaces and  
3 with respect to the phones that incarcerated people use, among other issues, all of  
4 which are discussed in our site report, **Exhibit C**.

5 **5. The County and Sheriff's Department Have No Apparent**  
6 **Plans to Address the Accessibility Problems at George Bailey**

7 70. I am unaware of any current plan by the Sheriff's Department to  
8 remedy the accessibility issues at George Bailey. In his 2024 deposition as the most  
9 knowledgeable person about ADA construction in the jails, Mr. Bennett testified  
10 that he was unaware of any alterations since George Bailey opened that were made  
11 to comply with the ADA. 2024 Bennett Deposition at 54:9-13. Mr. Bennett  
12 testified that despite the facility having issues with ADA compliance, the Sheriff's  
13 Department has no ADA improvements planned at the facility. *Id.* at 47:8-21.

14 71. Mr. Bennett also testified about planned construction at George Bailey,  
15 referring to it as "mostly security" and "bed reduction" projects. 2024 Bennett  
16 Deposition 47:5-7. The latter appears to refer to removing triple bunks, which  
17 Mr. Bennett does not appear to consider an ADA modification. *See id.* at 24:9-20.  
18 Regardless of his view, these projects likely constitute an alteration under the ADAS  
19 or CBC, which requires the Sheriff's Department to alter the elements to comply  
20 with current standards. Under the CBC, these bed reduction projects could be  
21 defined as *remodeling or* include "changes or rearrangement of the structural parts  
22 or elements, and changes or rearrangement in the plan configuration of walls and  
23 full-height partitions," all of which are defined as alterations under the CBC. 2022  
24 C.C.R. Title 24, Part 2 (definition of "alterations"). Bed reductions certainly result  
25 in changes in usability in sleeping areas, and sleeping is a major life activity. This  
26 could require further alterations under 28 C.F.R. § 35.151, specified in ADAS 202.4  
27 and CBC 11B-202.4, including to the existing path of travel to these sleeping areas  
28 to provide an accessible route, and upgrading the toilet rooms/shower rooms,

1 telephones and signs leading to the area of alterations.

2 **6. Potential Interim Alterations to Provide Accessibility**

3 72. As noted, George Bailey houses incarcerated people with mobility  
4 disabilities today, who are placed in unsafe housing situations. To provide at least  
5 some level of access in the short term, the Sheriff’s Department can take simple  
6 actions such as removing the benches at one phone/video phone blocking access to  
7 phones, installing detectable warnings under stairways in dayrooms and at other  
8 protruding objects, installing free-standing or wall-mounted grab bars at toilets, and  
9 moving dispensers and mirrors to locations within reach range or visibility range.  
10 The Sheriff’s Department can also make four simple changes to showers in housing  
11 units targeted as locations where they house incarcerated people with mobility and  
12 ambulatory disabilities, including removing the vertical curb at the entrance to  
13 provide an accessible route into the shower, installing a fold-down shower seat and  
14 grab bars, and providing a shower spray unit on a minimum 59” long hose.

15 **B. Vista Detention Facility (inspected Jan. 17, 2024)**

16 73. Our inspection of Vista found that the facility does not have any  
17 accessible housing for people with disabilities, with housing including the  
18 associated toileting, showering, and dayroom areas. Our site inspection report is  
19 attached as **Exhibit D**. This is consistent with the Sheriff’s Department’s own  
20 admissions, as its 30(b)(6) witness testified that there are no compliant cells at Vista.  
21 2024 Bennett Deposition 49:8-24. Vista is in the northern part of San Diego  
22 County. It is a booking facility, including for a small number of women who are  
23 moved to Las Colinas after booking. The Sheriff’s Department stated on our  
24 inspection that it does not house people who use wheelchairs full-time at Vista,  
25 although the record indicates that policy is not always followed. That practice also  
26 results in clustering individuals who use wheelchairs at Central Jail. Regardless, the  
27 Sheriff’s Department houses many people with serious mobility disabilities at Vista,  
28 and the facility should be accessible to them, especially given the Veterans program

1 available only at that facility. The facility is also not accessible for people with  
2 vision disabilities and communication disabilities.

3 74. The standards used in assessing Vista were the ADAAG, 2010 ADAS,  
4 and 2022 CBC Chapter 11B as they are the applicable standards at the time of the  
5 assessment. Construction began in 1970, and additional units were built in 1988,  
6 which makes the facility pre-ADA. However, the standards we applied are those  
7 applicable to alterations to remove architectural barriers to access identified as  
8 necessary through the CASp assessment process. These standards apply if the  
9 Sheriff's Department made any effort to bring the facility into compliance with the  
10 ADA. The Transition Plan documents do refer to potential alterations at Vista  
11 between 2007 and 2012, SD\_1517173, SD\_1517184, but the documents do not  
12 indicate what alterations were undertaken. These alterations could have triggered  
13 further upgrades. Regardless, had we used the standards applicable at the time of  
14 construction or the 1988 expansion, I do not expect the list of barriers to access that  
15 we produced in our barrier data record report would have been reduced. As one  
16 example, under UFAS 4.1.1(1), new construction is required to provide an  
17 accessible route within the boundary of the site, between an accessible passenger  
18 drop-off/loading zones and the building entrance. Vista did not have such a route.  
19 Ultimately, we **identified 809 discrete barriers to access** and a comprehensive lack  
20 of compliance with scoping requirements for sleeping units.

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## 1                   **1.     Inaccessible Housing Units at Vista**

2           75.     In terms of housing, conditions at Vista were similar to those identified  
3 at George Bailey, but in many instances, even worse.

4 Showers were identified with architectural barriers  
5 and were also dangerous for incarcerated people  
6 using walkers, canes or other mobility assist devices.

7 As an example, see photo SD\_743578 at right. In  
8 some dayrooms, the Sheriff's Department decided to  
9 install video phones under stairways, which for those  
10 with low vision, means they risk walking head-first  
11 into a steel beam that they, due to their disability,  
12 cannot see on their way to chat with loved ones. No



13 shower in this facility had a fold-down shower seat, grab bars, or shower spray unit  
14 to make showering safe. No toilet in this facility that we observed was provided  
15 with grab bars, compliant seat height, or maneuvering clearance, which make them  
16 dangerous to use. Cells were too small for a person using a walker or similar device  
17 to position between the bed and desk to safely get into or out of bed.

## 18                   **2.     Accessibility Issues in Unit S-4**

19           76.     On our inspection, we visited S-4, which was designed with small 4-  
20 person dormitory units where elderly people were housed. Toilets with very low  
21 seats were wall-mounted inside each small dormitory with no grab bars. The only  
22 lavatories I observed were installed in the dayroom, making hand washing after  
23 toileting difficult, especially for the elderly with ambulatory disabilities. It is also a  
24 violation of CBC 11B-213.2.1 and 2010 ADAS 213.2.1. The toilets were also  
25 sandwiched in between wall-mounted double bunk beds in the small dormitory  
26 units. Worse, incarcerated people described to me a practice whereby the Sheriff's  
27 Department would dump a new, elderly incarcerated person in this unit who needed  
28 a wheelchair to get around but would not provide one. The resulting conditions

1 resulted in the other elderly incarcerated people having no choice but to help their  
2 new dorm mate to toilet and shower. According to the people I spoke with, this  
3 would entail physically holding the severely disabled person up in the shower so  
4 that they could wash themselves, or at the toilet to be seated, or afterwards by  
5 picking them up when they were finished toileting, then placing them back on their  
6 bunk bed. Eventually, the helper incarcerated person would become unable to  
7 physically hold the other incarcerated person up any longer, and the person with the  
8 severe mobility disability would fall to the floor, become injured, and become  
9 unable to get up independently. The others would call the guards to report a “man-  
10 down.” Invariably, from the account we were told, the person who had fallen would  
11 be taken away, never to return. Those who explained this practice to us coined it as  
12 a “man-down eviction.” This is an example of extreme cruelty for both the severely  
13 disabled, and those incarcerated people kind enough to try and help them. It also  
14 suggests that something is going wrong in either the intake, tracking, or  
15 accountability processes at the Jail, as a person who requires a wheelchair should  
16 not be housed at Vista under the Department’s stated policies.

17 **3. Inaccessible Transportation Van**

18 77. We began our site visit at Vista in the sallyport where a transport van  
19 with a wheelchair lift was parked. This was the only van we were able to observe  
20 during our inspections, but it had issues, as discussed more fully in my site report.  
21 The van had a rear deployable ramp, which upon inspection had a transfer plate that  
22 bridges the gap between the rigid ramp platform and ground surface. Although the  
23 person(s) transported had entered the facility, we were able to have staff deploy the  
24 ramp so that we could verify compliance. The transition plate had a severe slope.  
25 Both the transfer plate and the ramp mechanism can be adjusted to comply, but the  
26 surface conditions within the passenger drop-off location must also comply. In this  
27 case, neither did. Issues with the Sheriff’s Department’s transportation policies,  
28 procedures, and practices for people with disabilities are discussed below.

1                   **4. Veterans Program at Vista**

2           78. During our visit to Vista, we encountered a meeting of veterans during  
3 our assessment of a housing unit dayroom, which Defendants explained is a  
4 program for veterans (Veterans Moving Forward) that is provided only at the Vista  
5 jail. Walls in this housing unit and two others at Vista were adorned with unique  
6 military iconography. Yet based on the policy of not allowing full-time wheelchair  
7 users at Vista, many of whom could be veterans, the program is not available at all  
8 to such people with disabilities.

9                   **5. Other Accessibility Problems at Vista**

10           79. We observed additional accessibility issues throughout the Vista  
11 facility, including in the sallyport entry area where people enter this booking  
12 facility, in the holding cells and other spaces in intake, in the professional and social  
13 visit areas, and in the medical unit, including medical housing and medical clinic  
14 spaces. Our complete findings are included in our site report, **Exhibit D**.

15                   **6. Plans to Address Inaccessibility at Vista**

16           80. I am unaware of any definitive plans that the County has to remedy  
17 barriers to access in this facility. The County’s Detention Facility Strategic  
18 Framework Plan indicates that Vista may be replaced but no timeframe is indicated  
19 for this replacement. SD\_417309-417310. The Sheriff’s Department’s 30(b)(6)  
20 witness indicated that in fact, Defendants are considering several options, including  
21 constructing a new facility in a new location, renovating the facility in the existing  
22 location, or replacing the facility in the existing location. 2024 Bennett Deposition  
23 48:8-9. Mr. Bennett also testified that the County Board of Supervisors recently  
24 allocated \$1.5 million dollars to study what should be done with the Vista location.  
25 *Id.* at 48:14-18. In my experience working with clients similar to the County of San  
26 Diego, such a feasibility study will take between six to eighteen months to complete.  
27 As noted below, the Sheriff’s Department has been unable to fully open Rock  
28 Mountain, a newly renovated facility. *Id.* at 41:8-25. Considering that scenario, the



1 fact that whether to replace Vista is only in the study phase, and the many hundreds  
2 of millions likely necessary to undertake such a project, it seems highly unlikely that  
3 a replacement facility would be a solution for people with disabilities anytime soon.

#### 4 **7. Potential Interim Solutions to Inaccessibility at Vista**

5 81. In the meantime, in my opinion, minor changes can be made to Vista  
6 that will make a difference in the lives of incarcerated people with disabilities  
7 housed there now. The Sheriff's Department can likely take simple actions similar  
8 to those recommended for George Bailey, including the removal of a fixed stool at  
9 one phone/video phone blocking access to phones, installing detectable warnings  
10 under stairways in dayrooms and at other protruding objects, installing free-standing  
11 or wall-mounted grab bars at toilets, moving dispensers and mirrors to locations  
12 within reach range or visibility range, and making four simple changes to certain  
13 showers, including removing the vertical curb at the entrance to provide an  
14 accessible route into the shower, and in many showers, they can install a fold-down  
15 shower seat or in the small compartments provide a free-standing shower seat, and  
16 add grab bars. They could also provide a shower spray unit on a minimum 59" long  
17 hose at all showers.

#### 18 **C. Las Colinas Detention and Reentry Facility (inspected January 18, 19 2024)**

20 82. My inspection found that Las Colinas is not accessible to people with  
21 disabilities, even though Las Colinas is the primary women's jail in the County and  
22 was constructed well after the effective date of the ADA. According to Sheriff's  
23 Department documents, the facility was built in 2014. SD\_417302. This facility is  
24 thus defined by the ADA as a new construction project and was subject to the 2010  
25 ADAS and 2013 CBC Chapter 11B as applicable standards. Yet our inspection  
26 found **843 discrete barriers to access** in our one-day inspection, which did not  
27 cover the entire facility, and which is striking for a facility that should be fully  
28 compliant with accessibility standards. Our site inspection report is attached as

1 **Exhibit E.** The Sheriff’s Department’s 30(b)(6) witness conceded that numerous  
2 elements at Las Colinas are non-compliant, although it appears from his testimony  
3 that the Sheriff’s Department has a narrower view of the barriers at Las Colinas in  
4 comparison to the systematic noncompliance we observed during our inspection.  
5 2024 Bennett Deposition at 52:1-13.

6 **1. Inaccessible Housing Units at Las Colinas**

7 83. At Las Colinas, unlike at George Bailey or Vista, staff directed us to  
8 specific holding cells and housing cells they indicate are the “accessible” cells. This  
9 appears to be because the Sheriff’s Department houses people who use wheelchairs  
10 full-time at Las Colinas, so they have internally identified cells as accessible.  
11 However, I did not observe signs required by the ADA and CBC or other  
12 information actually identifying those cells as accessible to staff at the facility, so it  
13 is unclear to me how staff would know to use specific cells for people with mobility  
14 disabilities.

15 84. Despite staff identifying certain spaces as “accessible,” our inspection  
16 found that these spaces were not in fact accessible. The inspections we performed at  
17 Las Colinas demonstrate that the cells were either not designed to comply, or errors  
18 in construction led to the striking level of non-compliance. More worrisome is that  
19 the same errors in cell design were observed in construction documents in use for  
20 Central Jail’s intended improvements that may be in process today, as discussed  
21 below. At Las Colinas, the erroneous dimensioning of Cell 14 with two beds in  
22 Housing 3C (and other housing units in House 3) has caused the space between the  
23 beds, which creates an alcove, to be 5 inches too narrow. The same loss of  
24 dimensioning adversely affects the opposite side of the cell where the outer wall  
25 adjacent to the toilet is too short to allow compliant installation of the side grab bar.  
26 The side wall adjacent to the toilet was measured and found to be too short, which  
27 results in a side grab bar that cannot be installed to extend as required. Even worse,  
28 to cover up the error at Las Colinas, the outer end of the side grab bar is bolted to a

1 hollow door frame, instead of the wall surface as is industry standard practice and  
2 cannot extend to the point required for usability under the ADA and CBC. It is  
3 impossible to know if the grab bar will still have the structural strength required  
4 under the ADA and CBC when installed under such conditions. In the more than  
5 two decades of experience I have had, never have I seen anyone attempt to install a  
6 grab bar in this way.

7 85. Architectural features in virtually every area, from pre-booking to  
8 booking, the medical unit, celled housing and dormitories, classrooms,  
9 programming areas and visitation at Las Colinas were identified with barriers to  
10 access as defined by the ADA and CBC. See our site report as **Exhibit E** for  
11 details.

## 12 2. **Defendants Have Unspecified Plans for ADA Alterations at** 13 **Las Colinas**

14 86. Information I have reviewed indicates the Sheriff's Department intends  
15 to make certain ADA alterations at Las Colinas, although the Sheriff's Department  
16 has not provided details on the alterations. A 2023 document shared by Commander  
17 Christina Ralph and using information from Scott Bennett (the Sheriff's Department  
18 facilities manager), indicates the Sheriff's Department has estimated that Las  
19 Colinas will require \$5 million in alterations to comply with the ADA, although that  
20 total "is a guess." SD\_588573, SD\_588574. The document also shows no actual  
21 deadline to complete the modifications. SD\_588793-794. On behalf of the Sheriff's  
22 Department, Mr. Bennett testified of a "plan" (but not a "designed plan") to make  
23 ADA alterations at Las Colinas at some unspecified time. 2024 Bennett Deposition  
24 52:14-22. Mr. Bennett testified that the funding would not be available until July  
25 2024, and then he would have to "go through a whole procurement plan." *Id.* at  
26 53:3-7. I understand that Defendants did not produce this "plan," and then referred  
27 to it as "notes he took," despite a request from Plaintiffs' counsel. Sharing the plan  
28 now would better enable us to assist the Sheriff's Department to ensure compliance.

1           87.    Without this “plan,” I am unable to determine whether the plan (and  
2 any construction documents), which seems to not yet exist: (1) adequately addresses  
3 the barriers we saw on our inspection; (2) will provide a sufficient scope of  
4 accessible housing; and (3) shows that the \$5 million estimate (or “guess”) will be  
5 adequate to remediate the barriers we identified, let alone bring this facility up to the  
6 applicable accessibility standards. In my view, \$5 million does not appear to be  
7 enough to remediate all of the barriers at Las Colinas, which indicates that their  
8 “plan” is not sufficient.

9           88.    In my opinion, the Sheriff’s Department needs to develop a  
10 comprehensive, written plan, including programming and planning, with referenced  
11 construction documents showing changes in plan, to address the hundreds of barriers  
12 I identified on my one-day inspection, as well as any other barriers at the facility in  
13 areas we were unable to inspect. To my knowledge, no such plan exists.

14           **D.    East Mesa Reentry Facility (inspected January 19, 2024)**

15           89.    Our inspection of East Mesa found that the facility does not have any  
16 accessible housing for people with disabilities. Our site inspection report is attached  
17 as **Exhibit F**. East Mesa is a reentry facility and the smallest jail in the system by  
18 population, with barely over 100 people housed there during our inspection.  
19 SD\_742289. The Sheriff’s Department stated on our inspection that it does not  
20 house people who use wheelchairs full-time at East Mesa, which is unfortunate  
21 given some of the unique programs available at East Mesa. The roster Defendants  
22 provided shows no one with an “ADA Mobility” designation at East Mesa, although  
23 they do house multiple people who use a brace and thus may have an ambulatory  
24 disability. SD\_742290. In my opinion, barriers to access identified in this facility  
25 appeared to be the simplest to remediate in reference to all other Sheriff’s  
26 Department facilities we visited. In fact, some of the existing dormitories appear to  
27 have been altered to provide wheelchair access at some point between 1991 and  
28 present time.

1           90. The standards used in assessing this facility were the ADAAG, 2010  
2 ADAS, and 2022 CBC Chapter 11B as they are the applicable standards at the time  
3 of the assessment. As was the case for George Bailey, construction at the East Mesa  
4 facility commenced in 1991. Additionally, the Sheriff's Department expanded this  
5 facility in 2014 under the 2010 ADAS and 2013 CBC by constructing a new  
6 receiving and release building as a point of entry to the facility, and two new  
7 dormitories on the opposite side of the large site. These new areas largely did not  
8 comply with the standards in place at the time of construction. Moreover, in my  
9 opinion, that expansion should have triggered improvements to the path of travel  
10 between the expanded buildings and existing buildings on the site, as well as  
11 programming areas. This did not happen. While the facility has an expansive site  
12 with a gradual slope, no accessible route exists connecting any building to another  
13 building, or the reentry programming provided. The Transition Plan documents also  
14 refer to unspecified alterations at East Mesa, *see* SD\_1517206, which could have  
15 triggered further upgrades.

16           91. Had we used the UFAS or 1982 CBC for the older portions of the  
17 facility, the list of barriers to access that we produced in our barrier data record  
18 report would likely not have been reduced. Overall, **we identified 739 discrete**  
19 **barriers to access** and a comprehensive lack of compliance with requirements to  
20 provide an accessible route that connects all programs, services and activities.

### 21           **1. Inaccessible Housing Units at East Mesa**

22           92. This is an important facility as it is the only reentry facility for men  
23 within the jail system that the Sheriff's Department administers. This facility has  
24 unique reentry programs that are not provided elsewhere based on staff statements  
25 on the inspections, and our own observations on the inspections. *See also* Cole  
26 Deposition 126:14-22 (discussing programs available only at East Mesa). The  
27 physical facility is configured as a ring of buildings that encircle a large, open plaza  
28 which lends itself to many uses. The housing is all dormitory housing. As noted

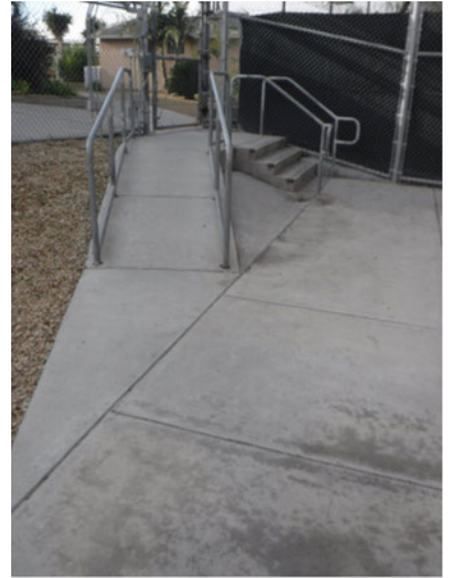
1 above, in the original dormitories, the Sheriff’s Department appeared to have  
2 reduced the number of beds to add clear space between bunks in two locations in  
3 each of the two sleeping areas in each housing unit, which would allow for  
4 wheelchair turning space that complies with the ADA and CBC. Bunk bed surface  
5 height was accessible in these locations. We also observed grab bars in at least one  
6 toilet in some of the original dormitories, although the dormitories were otherwise  
7 largely inaccessible. This suggests that the Sheriff’s Department at some point  
8 made efforts toward accessibility at East Mesa. As discussed in my site report, the  
9 new dormitories at East Mesa – which were entirely empty, despite being  
10 constructed and originally opened in 2014 – had numerous accessibility issues,  
11 which is very surprising for new construction.

12 **2. Inaccessible Path of Travel at East Mesa**

13 93. In addition, although East Mesa is a facility with vast exterior space  
14 between the centralized buildings on site and an expansive path of travel, the paths  
15 were not accessible. Limited measurements were collected in the path of travel at  
16 the East Mesa facility during our inspection, as the site and path of travel was  
17 expansive. Further, any alterations to provide an accessible route as required under  
18 ADAS 202.4 and CBC 202.4 as part of the 2014 expansion, would have required  
19 data from a professional land survey to determine where to most cost-efficiently  
20 construct an accessible route. At any rate, it was obvious to us that the original  
21 construction in 1991 did not provide an accessible route between the entry point of  
22 the facility, housing, and programming. The photo below is one of several in my  
23 site report showing the inaccessible path of travel at East Mesa. SD\_745141.

24  
25  
26  
27  
28

1           94. The expansion in 2014 did not improve those conditions. In fact, the  
2 expansion project appeared to have included only two elements within what can be  
3 considered the path of travel; a stairway and ramp,  
4 and both were identified as the most non-compliant  
5 elements within a path of travel at any facility  
6 administered by the Sheriff’s Department. The  
7 ramp is sloped at more than double the maximum  
8 allowable slope for a pedestrian ramp and for some  
9 unknown reason, the ample space in this location  
10 was not used to construct an accessible ramp in  
11 2014. The ramp is also far too narrow to comply,  
12 and the top landing is too small to comply and is further reduced by a swinging gate.  
13 The stairway exhibits virtually every kind of ADA and CBC violation possible. Yet  
14 each incarcerated individual who is housed at this facility must use these elements to  
15 travel from receiving to all other areas of the facility. Alterations to provide an  
16 accessible route between buildings, as required under ADAS 202.4 and CBC 11B-  
17 202.4 when the Sheriff’s Department added the new dormitories and other buildings  
18 to East Mesa, were not accomplished. An accessible route would help connect the  
19 dormitory buildings and the new receiving release building to other areas where  
20 programs like medical treatment, educational programming, or religious services  
21 take place.



22                   **3. Other Inaccessible Elements at East Mesa**

23           95. In addition to the housing units, we also observed access issues at East  
24 Mesa in the medical space we inspected, the classrooms, areas where reentry  
25 programming occurs, and several others, as discussed in more detail in **Exhibit F**.

26                   **4. The Sheriff’s Department Has No Apparent Plans to Make**  
27                   **ADA Alterations at East Mesa**

28           96. I am unaware of any plans that the County has to remedy barriers to

1 access in this facility. The County’s Detention Facility Strategic Framework Plan  
2 indicates that East Mesa will be renovated, but no timeframe or details are indicated,  
3 SD\_417310, and the Sheriff’s Department’s 30(b)(6) witness was not aware of any  
4 ADA renovations that have occurred. 2024 Bennett Deposition 53:22-54:2.

5 97. Defendants should conduct a land survey to explore viable options for  
6 an accessible route, so that they can house people with mobility disabilities at this  
7 facility that is the primary reentry facility for men. In my view, ample space exists  
8 within the plaza to construct an accessible route between buildings. Precisely how  
9 to do so is dependent on competent engineering judgement and the application of  
10 existing accessibility standards in place at the time of construction. The Sheriff’s  
11 Department appears to acknowledge that housing people with mobility disabilities  
12 here is ultimately necessary. Christina Ralph’s notes document that Mr. Bennett  
13 contributed to in late 2023 acknowledges that East Mesa “long term will need to be  
14 assessed for possible wheelchair housing.” SD\_588786. In May 2024, the Sheriff’s  
15 Department’s 30(b)(6) witness testified that the Sheriff’s Department had never  
16 examined the path of travel to see if it could be accessible. 2024 Bennett Deposition  
17 57:3-6.

18 98. Overall, this facility requires fewer alterations to provide features than  
19 all other jail facilities administer by the Sheriff’s Department, given that some  
20 accessible elements – like clear floor space next to beds – already exist. Yet the  
21 Sheriff’s Department does not appear to have any plan to take further steps to make  
22 this facility accessible.

23 **E. Rock Mountain Detention Facility (inspected February 10, 2023)**

24 99. I submitted a full expert report on Rock Mountain, which was filed on  
25 April 25, 2023 along with my expert declaration in support of Plaintiffs’ motion for  
26 preliminary injunction and provisional class certification. Dkt. No. 281-3, Ex. B.  
27 At the time of our February 2023 inspection, construction was ongoing, and many  
28 ADA features had not yet been installed. My inspection also found that none of the



1 cells or showers we inspected complied with the ADA, even though at the time the  
2 Sheriff's Department was claiming that every male with a mobility disability would  
3 be housed at Rock Mountain. *See* Dkt. No. 281-3, ¶¶ 6-8.

4 100. I have not been able to conduct a follow-up inspection of Rock  
5 Mountain to assess whether the Sheriff's Department has remedied the barriers I  
6 identified and correctly installed ADA features as construction has continued.  
7 Testimony from the Sheriff's Department's 30(b)(6) witness and head of facilities  
8 indicated that he had not even read my report. 2024 Bennett Deposition 45:1-3.  
9 That testimony also indicates that Rock Mountain construction was further behind  
10 schedule, that only a fraction of the facility is open, and that staffing issues are  
11 preventing the Sheriff's Department from housing people with mobility disabilities  
12 at the facility. 2024 Bennett Deposition 37-20-38:5; 41:8-42-24. At most, only five  
13 people who use wheelchairs have been housed at Rock Mountain at a given time.  
14 Cole Deposition 106:8-13. The Sheriff's Department's strategic facilities plan  
15 indicates that Rock Mountain has the capacity to house over 1,200 people.  
16 SD\_417316-317. But the Sheriff's Department's population report as of August 8,  
17 2024, showed that only 170 people, or less than a sixth of capacity, were at Rock  
18 Mountain.

19 101. Ultimately, Rock Mountain has not been the solution to housing people  
20 with mobility disabilities like the Sheriff's Department promised. Dkt No. 153-3,  
21 Dkt. No. 204 at 17. I also need to conduct a further inspection of Rock Mountain to  
22 verify whether the portions completed since February 10, 2023, comply and whether  
23 any ongoing construction complies with the applicable accessibility standards,  
24 including 2010 ADAS and 2022 CBC. The large unused capacity, if compliant,  
25 could offer a solution for the Sheriff's Department's lack of ADA accessible  
26 housing systemwide.

27 **F. San Diego Central Jail (inspected March 10, 2023)**

28 102. In April 2023, I completed a site report on our inspection of San Diego

1 Central Jail, in conjunction with Plaintiffs’ motion for a preliminary injunction  
2 about unsafe housing for people with mobility disabilities at Central Jail. *See* Dkt.  
3 No. 281-3, Ex. C. In that report, I explained how although the Sheriff’s Department  
4 had designated certain cells and beds at Central Jail as “accessible,” few if any beds  
5 in dormitory housing were accessible, and I was unable to identify a single cell that  
6 provided mobility features anywhere that we inspected in Central Jail. The Sheriff’s  
7 Department did not construct the facility to comply with the applicable standards at  
8 the time of construction. Dkt. No. 281-3, ¶ 10.

9 103. I understand that in the wake of Plaintiffs’ motion, the parties reached a  
10 settlement, later approved by the Court, for the Sheriff’s Department to make  
11 alterations at Central Jail to provide accessible housing. *See* Dkt. No. 355. I have  
12 concerns about the implementation of the plan to renovate Central Jail, based on  
13 photos I have reviewed and construction plans that the Sheriff’s Department  
14 provided in May 2024 (dated July 2023). For example, in the 8C and 8D dorms  
15 where the Sheriff’s Department has replaced triple bunks with single bunks, the  
16 beds do not appear to have adequate space between them for compliant wheelchair  
17 maneuvering clearance. Specifically, dimensioning between beds fixed to the floor  
18 creates a space constrained by three sides defined as an alcove under ADAS 305.7.2  
19 and CBC 11B-305.7.2. When a space is limited in an alcove, parallel transfer must  
20 be provided which includes a minimum 60-inch maneuvering space adjacent to each  
21 bed. Instead, the Sheriff’s Department has fixed these beds with no consistently  
22 dimensioned space between beds, which shown in the construction document  
23 provided, appears to be intended to be constructed with clear width between beds  
24 ranging from 19 to 37 inches. Detail 5, Sheet ACC-301. The Sheriff’s Department  
25 appears to have rejected the concerns that Plaintiffs and I raised about this issue. In  
26 addition, as an industry standard practice, the design professional generally includes  
27 a cell count chart within the construction documents indicating how many overall  
28 cells/beds (standard and accessible) are provided in dormitories, in cells, etc. to

1 ensure that the number of beds with mobility features that the design professional  
2 intends to provide is the same as is shown in floor plans within the construction  
3 documents. See the construction documents for Rock Mountain (SD\_000003) as an  
4 example. This is an important point of coordination for both the plan reviewer and  
5 contractor that is missing in the Central Jail plans.

6 104. I also have concerns about other elements from the plans that the  
7 Sheriff's Department provided. For example, the erroneous cell designs identified  
8 during the site visit at Las Colinas (discussed above) were also shown in the  
9 construction documents being used by the Sheriff's Department to alter Central Jail.  
10 The construction documents in use for Central Jail show side grab bars bolted to a  
11 hollow door frame, which will not comply with structural strength requirements for  
12 the grab bar and could compromise the door frame over time. During a meet and  
13 confer meeting in June 2024, when Mr. Bennett was asked about this grab bar  
14 installation shown in plan, he stated that the grab bars installed would comply even  
15 though the construction documents contain the violation. Only a subsequent  
16 inspection will reveal whether the Sheriff's Department has made alterations that  
17 comply with the applicable accessibility standards.

18 105. Moving forward, the Sheriff's Department agreed in 2024 to use an  
19 outside consultant for plan review for the remaining Central Jail alterations from the  
20 2023 ADA Order. However, to our knowledge, the use of an outside consultant was  
21 agreed to by the Defendants only for use in subsequent Central Jail alterations.  
22 Some alterations have been completed. Were they plan reviewed or inspected for  
23 compliance? We also have no idea whether this outside consultant will perform  
24 building inspections into the future to verify compliance at other facilities..

25 106. Using an outside consultant to perform plan review is only part of the  
26 solution. When the California Division of State Architect (DSA) performs plan  
27 review, they allow for one initial review, and one "back check," when the  
28 construction documents are brought back to check a second and final time to allow

1 the DSA reviewer to ensure that the design professionals have made the required  
2 revisions to the construction documents illuminated during the initial review. If  
3 construction documents are not revised before the back check, DSA will not issue  
4 approval. This strict rule has resulted in a significant increase in compliance. An  
5 industry standard building inspection process throughout construction is also  
6 necessary, and an industry standard plan review and building inspection process  
7 should apply to all alterations and new construction moving forward.

8 **G. Overall Conclusions from Facility Inspections**

9 **1. The Sheriff's Department Lacks Adequate Accessible**  
10 **Housing in the Jail System for People with Mobility**  
11 **Disabilities**

12 107. The above findings show that the Sheriff's Department does not  
13 provide at least 3% of all beds as compliant beds in several facilities. Even at East  
14 Mesa, where the beds themselves are compliant, the remainder of the housing units  
15 are not – and the Sheriff's Department does not even house people with serious  
16 mobility disabilities there. I have reviewed ADA rosters from Defendants showing  
17 that the number of people with mobility disabilities exceeds the accessible housing  
18 that the Jail system currently has and showing that the Sheriff's Department plan for  
19 Central Jail renovations – while a positive step, if done correctly – does not address  
20 the need throughout the entire system. In addition, the requirement is to ensure that  
21 at least 3% of beds by classification are accessible, so that a person can be housed  
22 accessibly regardless of their classification (such as protective custody, mainline, or  
23 administrative separation) or security level. The Sheriff's Department's own  
24 documents acknowledge that 3% by classification is the need, *see* SD\_117986, but  
25 they have taken little apparent action to achieve that goal.

26 108. For example, the April 1, 2024 roster from Central Jail shows 52  
27 people who are listed as being provided with a wheelchair full-time. In addition, the  
28 roster shows 22 people who either use an “intermittent” wheelchair or a walker, who  
in my opinion also likely require mobility features. Finally, the roster also shows

1 37 additional people who have a mobility disability and use a cane. That is a total of  
2 **111 people on a single day at a single jail with a mobility disability that are**  
3 likely to require mobility features to perform major life activities safely, and this  
4 does not include the other people with a mobility disability and device (such a  
5 brace) that may require housing with mobility features or who have restrictions as  
6 well. Defendants also submitted a filing showing that on another day, 58 people  
7 who use wheelchairs full-time were housed at Central Jail. Dkt. No. 667 at 25. On  
8 one day, there were 125 total people with mobility disabilities at just that one jail.  
9 *Id.* Important to note is that although the numbers fluctuate, the high mark in  
10 population is what must be used when determining how many sleeping areas with  
11 mobility features should be provided, rather than an average or lower roster count.

12 109. As for the other jails, the rosters Defendants produced in connection  
13 with the inspections show additional people who I think are likely to require  
14 mobility features in housing that comply with the ADAS and CBC. Specifically,  
15 they show on a single day an additional 39 people with mobility disabilities at  
16 George Bailey who use a cane and 3 people with a mobility disability and use of an  
17 intermittent wheelchair. SD\_742290. At Vista, they show on a single day an  
18 additional 12 people who use a walker or intermittent wheelchair and 14 people who  
19 use a cane. **That is a total of 68 additional people for at least 179 men** with  
20 mobility disabilities likely to require mobility features in housing. The Sheriff's  
21 Department did not provide rosters of people housed at Rock Mountain, but  
22 testimony indicates that there may be as many as five people with wheelchairs there,  
23 which means there are likely even more people in the system requiring an accessible  
24 bed and housing. Cole Deposition at 106:8-13.

25 110. The available information indicates the Sheriff's Department does not  
26 have enough housing for people with mobility disabilities or a plan to add sufficient  
27 housing. The June 2023 Order addresses issues at Central Jail. In their plan to  
28 implement the settlement, Defendants are adding 50 beds that are supposed to be

1 accessible (they have already added 30). In addition, they are adding 12 lower  
2 bunks that they claim will be accessible to people who do not use wheelchairs.  
3 According to the 30(b)(6) witness Lt. Cole, the Sheriff’s Department has a  
4 maximum of five wheelchair accessible beds at Rock Mountain available for use  
5 today. Cole Deposition 106:8-13. That is 67 potentially accessible beds in the  
6 system under the current plan, with a need **for at least 179 according to the**  
7 **rosters**. Again, the May 31, 2024 filing indicates that the maximum is likely even  
8 higher, and the maximum is what should be considered. *See* Dkt. No. 667 at 25.  
9 The Sheriff’s Department needs to bring on more compliant beds elsewhere in the  
10 system to accommodate its population of men with mobility disabilities.

11       111. Indeed, the rosters from Central Jail – where the Sheriff’s Department  
12 currently clusters people with mobility disabilities, given that Rock Mountain is  
13 barely open – show that many people who use wheelchairs are being inaccessibly  
14 housed, likely because of their classifications and the lack of available beds. This is  
15 so even though the Sheriff’s Department added 30 single bunks to 8C and 8D.

16       112. For example, the July 1, 2024 roster for Central Jail shows three people  
17 in unit 7A who use a full-time wheelchair, plus one person who has “intermittent”  
18 wheelchair use. SD\_1579790. Yet on our inspection in February 2023, the  
19 Sheriff’s Department indicated that only one cell in that unit is “accessible,” and we  
20 found the single cell they identified as accessible was not accessible. Dkt. No. 281-  
21 3, ¶ 10; Ex. C-258. In 7B, on July 1, there were five people who use wheelchairs  
22 and in 7C, there were eight people, even though those units had no accessible cells  
23 with mobility features in February 2023 and have not had ADA renovations (so  
24 there is no possibility those people are housed accessibly). There were also five  
25 people in 7E. I understand the Sheriff’s Department has moved people for ADA  
26 construction, which could account for some of the figures above. However, even  
27 older rosters when no one was displaced for construction show the same issue. For  
28 example, on April 1, 2024, there were five people who use wheelchairs full-time in

1 7A, five in 7B, and four in 7D, and five in 7E. SD\_1575333. This indicates that the  
2 Sheriff's Department needs more celled housing for people who use wheelchairs  
3 that are housed in certain areas – and cannot be in 8C and 8D – as a result of their  
4 classification.

5 113. The plans that Defendants have to make changes at Central Jail have  
6 been beneficial in adding some compliant beds in dormitories, but do not solve the  
7 housing issues for everyone in the system who needs accessible housing with  
8 mobility features. Defendants should take steps to create many more accessible  
9 housing beds and toileting/showering facilities for people with mobility disabilities.

10 114. In my opinion, the Sheriff's Department must come up with a  
11 comprehensive plan to add accessible housing throughout the system and throughout  
12 classification levels. Furthermore, the Sheriff's Department appears to have no  
13 contingency plans for increases in population over time, which will invariably  
14 include incarcerated individuals with mobility and communication disabilities. In  
15 my opinion, one apparent fix to move forward would be fully staff Rock Mountain  
16 so that more housing units there can be opened, as Rock Mountain unlike other jails  
17 actually had showers with fold-down shower seats. The Sheriff's Department  
18 should also prioritize evaluating ways to add an accessible route at East Mesa so  
19 they can change the practice of prohibiting the housing of incarcerated individuals  
20 with mobility disabilities at East Mesa. Additional housing can also be developed  
21 simultaneously, but it seems reasonable to tackle the most readily achievable types  
22 of program access first, at the same time that physical buildings and facilities are  
23 altered to provide ADA access.

24 115. In addition, the 2010 ADA regulations make clear that public entities  
25 must ensure that incarcerated people with disabilities have equal access to programs,  
26 services, and activities, and are not subjected to discrimination. 28 C.F.R.  
27 § 35.152(b)(2). Public entities also must ensure that incarcerated people with  
28 disabilities are housed in the most integrated setting appropriate to the needs of the

1 individuals, which appears to advance a principle against segregation. Although I  
2 take no legal position on what is required under the ADA, it obviously is beneficial  
3 for people with mobility disabilities to not be clustered or segregated in a certain  
4 facility (such as men are now at Central), especially if that facility lacks the same  
5 programs as East Mesa, or lacks the veterans program that Vista has. The apparent  
6 plan to limit changes to Central Jail for men and Las Colinas for women continues  
7 this bad practice of clustering. The Sheriff's Department must explore any option to  
8 provide accessible housing, including substitute cells, discussed in 28 CFR  
9 35.151(k)(2)(i); CBC 11B-232.2.1.3.

10 **2. Accessible Housing is Important to People Who Have**  
11 **Mobility Disabilities – Not Just Those Who Use Wheelchairs**  
12 **in Housing**

13 116. Another fundamental problem with the Sheriff's Department's  
14 approach to physical accessibility is the notion that only a person who uses a  
15 wheelchair full-time requires accessible housing. This is expressed in the idea that  
16 because George Bailey, Vista, and East Mesa are not accessible, no person with a  
17 wheelchair can be housed there. Instead, they have to be housed at Central Jail.  
18 This approach is wrong and misunderstands how people with mobility disabilities,  
19 even if they do not use a wheelchair full-time, often require an accessible bed,  
20 accessible toilet (with grab bars to help them stabilize), and accessible shower (with  
21 grab bars and a fixed seat, among other elements, to help them safely shower), and  
22 other accessible elements.

23 117. Decades ago, when I began working as an ADA access compliance  
24 consultant, it was a common assumption that if a person were "really disabled" that  
25 their disability would be visible, and that if a person had a severe disability, they had  
26 to be using a wheelchair. Over time, it has become clear that reliance on wheelchair  
27 use to define mobility disabilities was shortsighted and inaccurate. More indicative  
28 of a mobility disability is one that limits a major life activity or the level of difficulty  
an individual experiences when walking, standing or using stairs. This group is



1 considered to have a mobility disability, and the disability can be of varied  
2 causation. Limiting the definition of a person with a disability to a group of people  
3 who use of a wheelchair is no longer considered to be a valid way to define  
4 individuals with mobility disabilities. The Centers for Disease Control defines  
5 people with mobility disabilities as people who have serious difficulty walking or  
6 climbing stairs and thirteen percent of the general population have been identified as  
7 part of that group.<sup>12</sup> Further, studies show that that incarcerated individuals have  
8 disabilities at far higher rates than the general population.<sup>13</sup> Also, Lt. Cole testifies  
9 that the Sheriff’s Department definition of “ADA Medical” includes people with  
10 seizure disorder, diabetes, heart conditions, or other medical conditions that “staff  
11 should be aware of.” Cole Deposition 58:22-25. In my view, given those  
12 conditions, it is likely that some of these people also have ambulatory disabilities  
13 but are not classified as such.

14 118. Mobility features serve many groups of people with disabilities. The  
15 Department of Justice indicates that people with mobility, circulatory, respiratory, or  
16 neurological disabilities use many kinds of devices for mobility. Some use walkers,  
17 canes, crutches, braces, and some use wheelchairs.<sup>14</sup> When people have difficulty  
18 walking, standing or using stairs for any reason, they have ambulatory disabilities  
19 and require the use of mobility features to safely perform major life activities like  
20 dining, toileting, showering and sleeping. A small subset of this group are those  
21 who use wheelchairs. They are often the focus, but they are not representative of all  
22

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23 <sup>12</sup> Centers for Disease Control (CDC) Disability and Health Promotion: Disability  
24 Affects Us All. See [https://www.cdc.gov/ncbddd/disabilityandhealth/infographic-](https://www.cdc.gov/ncbddd/disabilityandhealth/infographic-disability-impacts-all.html)  
25 [disability-impacts-all.html](https://www.cdc.gov/ncbddd/disabilityandhealth/infographic-disability-impacts-all.html)

26 <sup>13</sup> US Department of Justice, Office of Justice Programs Bureau of Justice Statistics;  
Special Report - Disabilities Among Prison and Jail Inmates, 2011-12.

27 <sup>14</sup> US Department of Justice, Civil Rights Division, ADA Requirements:  
28 Wheelchairs, Mobility Aids, and Other Power-Driven Mobility Devices. Last  
updated: February 28, 2020. See <https://www.ada.gov/resources/opdmds/>

1 people with disabilities. While architectural modifications like detectable warnings  
2 at hazards keep those with vision disabilities safe, this same group of incarcerated  
3 people with disabilities also benefits from mobility features at toilets and showers.  
4 Grab bars give people with vision disabilities the first physical marker as they enter  
5 a shower that a seat and shower spray unit on a hose are in close proximity. For  
6 users with mobility disabilities, and especially for those who use canes as described  
7 by Gustavo Sepulveda in his deposition, grab bars provide stability when standing to  
8 shower or when lowering to sit or standing up from a shower seat. Sepulveda  
9 Deposition 67:13-24. Grab bars also help people with bending and stooping injuries  
10 to safely lower themselves onto a toilet or shower seat and safely stand up when  
11 finished. As is often the focus, grab bars also provide the grasping surface for  
12 people using wheelchairs who need to pull themselves from their wheelchair onto  
13 the toilets and shower seats, in what is generally referred to as “wheelchair transfer.”  
14 All of these different groups of people with disabilities must have mobility features  
15 in housing primarily for safety reasons.

16       119. Important to note is that showers are not described in the ADAS or  
17 CBC as “wheelchair accessible showers” because accessible showers serve all  
18 groups of people with disabilities. Two kinds of accessible toilets are required  
19 under the ADA and CBC in larger toilet rooms and only one type is referred to as  
20 providing “wheelchair accessible compartments.” 2010 ADAS 604.8.1 and CBC  
21 11B-604.8.1. The second type is referred to as providing “ambulatory accessible  
22 compartments”, 2010 ADAS 604.8.2 and CBC 11B-604.8.2, which are used by  
23 many people with various disabilities who need the stability that parallel side grab  
24 bars provide to safely toilet.

25       120. People with difficulty climbing stairs have ambulatory disabilities and  
26 should not be housed anywhere that requires the use of stairs to reach.

27       121. Accordingly, in my opinion the Sheriff’s Department must provide  
28 accessible housing sufficient for people with mobility disabilities who require it, and

1 not only for people who are provided wheelchairs full-time. The Sheriff's  
2 Department appears to acknowledge this and according to their proposed revised  
3 Central Jail plan providing 12 lower bunk, lower tier cells for people with mobility  
4 disabilities who do not have a wheelchair full-time, in addition to the 50 beds for  
5 wheelchair users, but that is far from enough for the large population of people with  
6 mobility disabilities as the analysis above shows.

7 **3. The Sheriff's Department Should Cease Using Triple Bunks**  
8 **For People with Mobility Disabilities**

9 122. Another accessibility problem I observed at George Bailey and Vista  
10 was the continuing use of triple bunks. Documents also indicate the use of triple  
11 bunks at South Bay Detention Facility, which we did not inspect. SD\_120027;  
12 2024 Bennett Deposition 22:21-23:1. As discussed in our report for Central Jail,  
13 triple bunks, while providing three different sleeping surfaces, provide no accessible  
14 sleeping surfaces. The lowest is dangerously low, the middle bunk may be entered  
15 without difficulty but leaving the middle bunk for someone with an ambulatory  
16 disability is likely to result in injury. See Dkt. No. 281-3, ¶ 19. The Board of State  
17 and Community Corrections ("BSCC") has also informed the Sheriff's Department  
18 for years that they need to remove the triple bunks. SD\_575541. I understand the  
19 Sheriff's Department has discontinued a small number of triple bunks at Central Jail  
20 in 8C and 8D, but has triple bunks remaining at that jail and throughout the system.  
21 In my opinion, the Sheriff's Department should phase out these triple bunks  
22 everywhere. At the very least, the Sheriff's Department should stop using them for  
23 people with mobility disabilities.

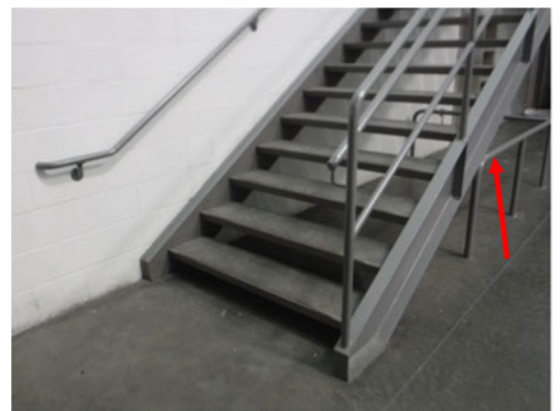
24 123. As noted, the Sheriff's Department's 30(b)(6) witness testified that they  
25 planned to remove the triple bunks at George Bailey by July 2025, but no funded  
26 plans to remove any others. 2024 Bennett Deposition 24:12-20. However,  
27 Mr. Bennett had testified in 2023 that he had received direction to remove triple  
28 bunks in 2018 or 2019, 2023 Bennett Deposition 96:8-15, and the triple bunks

1 largely remain, which is consistent with the Defendants’ lack of urgency to address  
2 ADA problems at their facilities. My inspections and the available documents, *see*  
3 SD\_120027, indicate there remain hundreds of triple bunks throughout the facilities.  
4 The County and Sheriff’s Department should immediately stop housing people with  
5 mobility disabilities on these bunks and develop a real plan to remove all of them  
6 from use.

#### 7 **4. Physical Accessibility for People with Vision Disabilities**

8 124. At each of the four facilities we inspected in January 2024, as well as at  
9 Central Jail and Rock Mountain, conditions are dangerous for people with vision  
10 disabilities. Pedestrians who are blind or who have low vision travel differently  
11 than pedestrians who, due to their disability, require the use of mobility assist  
12 devices. Visually disabled pedestrians generally travel by using what is called a  
13 “circulation route” used by people without disabilities, rather than seeking out a  
14 separate accessible route (such as a ramp). This means that both the circulation  
15 route and accessible route must be free of barriers to access for the population using  
16 them. This is yet another example of how a focus solely on wheelchair access is  
17 misguided, costly, and unsuccessful in preventing discrimination and access  
18 problems.

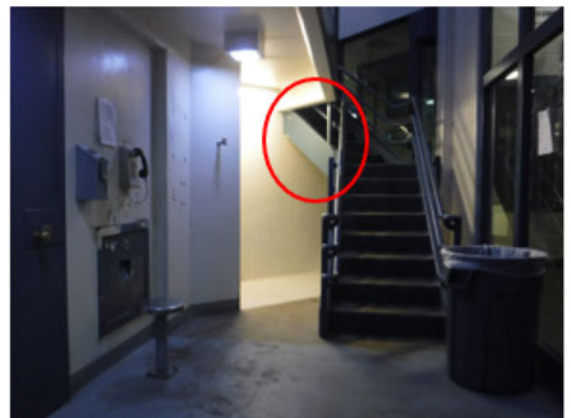
19 125. The primary issue for the visually disabled in the Jail facilities are  
20 protruding hazards, which we saw throughout the facilities. This includes open steel  
21 staircases and drop boxes, for example. Detectable warnings must be installed so as  
22 to reroute a person with low vision or those  
23 who are blind that use navigating canes  
24 around a protruding hazard before they make  
25 body contact, whether it is an open steel  
26 staircase, or a drop box. One of the few  
27 features that was identified as compliant in  
28 the new dormitories constructed in 2014 at



1 East Mesa is the detectable warning installed under the open stairway consisting of a  
2 guardrail with a leading edge at maximum 27 inches high. See photo SD\_745400.  
3 This guardrail will stop a person with a vision disability from walking into the  
4 underside of the steel stairway, which could easily lead to injuries to the head, face,  
5 or ears. These features are needed throughout the system.

6 126. People with vision disabilities find the safest path of travel often by, if  
7 they are blind, using a white or tapping cane to navigate their surroundings, and  
8 more generally attempting to avoid obstacles. This group of pedestrians will find an  
9 edge to read as they walk, such as a wall, which brings them into contact with  
10 protruding hazards. To ensure the circulation route is accessible, all paths of travel  
11 within a housing unit or the path of travel between housing units and medical units  
12 or areas where education, vocational, recreation, and religious services, or similar  
13 programming takes place must be free of objects that protrude more than 4 inches  
14 into the circulation route and between 27 and 80 inches high within the danger zone  
15 where protruding objects become hazards to pedestrians. Objects below 27 inches  
16 high are considered to be cane detectable, which do not pose a hazard.

17 127. Stairways in all facilities, other than Las Colinas and the expansion  
18 dormitories in East Mesa, were designed without detectable warnings and not  
19 altered to comply with the ADA since, where the underside of the stairway creates a  
20 protruding hazard in the circulation route with no detectable warning for  
21 pedestrians. In such circumstances, injuries will likely be common. At Vista, the  
22 East and West Houses were designed and  
23 constructed in 1970 with phones and drop  
24 boxes protruding into the circulation path.  
25 The shower rooms were on a path of travel  
26 that takes incarcerated individuals around a  
27 blind corner that requires a 135 degree turn  
28 to reach a small shower stall. See photo from



1 Housing - LW 3, SD\_743757. Showering requires incarcerated individuals to take  
2 this path directly into a stairway before turning to reach the shower each day, which  
3 constitutes an extreme, and constant safety risk for the visually disabled where the  
4 steel I-beam support under the stairway protrudes directly into the path of travel and  
5 no detectable warning is provided. Also at Vista, in multiple celled housing units,  
6 the Sheriff's Department installed a video phone directly under a stairway without a  
7 detectable warning, as discussed in more detail in my site report. These phones are  
8 very important communication for incarcerated people, allowing their families to  
9 see them and, where able, them to see their families.

10 128. Our clients install detectable warnings through common, in-house work  
11 projects, such as installing guardrails, which are generally constructed using turned  
12 pipe, which may or may not be painted. The important thing is that the turned pipe  
13 element is fabricated with a cane detectable warning no higher than 27 inches above  
14 the ground or floor. But, many physical materials or elements can be fabricated into  
15 compliant detectable warnings. The clever carpenters working for our clients have  
16 repurposed metal signs, sheet metal scraps, and piping into many forms, each of  
17 which fit the circumstances on site so that the detectable warning extended or  
18 protruded at least as far as the object in the circulation path, and was firmly affixed  
19 to the wall, ground, or floor to remain in place.

## 20 5. Accessibility for People with Communication Disabilities

21 129. The ADA Standards also include standards for communication devices,  
22 which shows that they are not just "wheelchair" standards like the Defendants  
23 appear to believe. See, *e.g.*, ADAS 708.

24 130. During our inspections, we noted that intercoms were available in cells,  
25 dayrooms, dorm housing, and holding cells, and potentially other locations. I  
26 understand that incarcerated individuals must use these intercoms to contact staff if  
27 staff are not in the unit, with the construction indicating that staff are often  
28 physically separated from housing and instead present in a tower. These conditions

1 may put those with hearing disabilities at a significant disadvantage and potentially  
2 at risk, as the intercoms do not have a way for a Deaf person to communicate with  
3 staff, or for a person with a speech disability. Nor have I seen any policy,  
4 procedure, training, or written guidance for staff on how to communicate with a  
5 person who has a hearing disability or speech disability when they press the  
6 intercom. The Sheriff's Department must make some provision to ensure the safety  
7 of people with these disabilities. One potential modification is providing digital  
8 tablets, which have been used in the California prison system, as well as for years in  
9 other jails in California. These digital tablets can provide a useful, non-  
10 infrastructural way for people with communication disabilities to access programs,  
11 services, and activities, and may have a means for incarcerated people to  
12 communicate with staff as people without those disabilities do via the intercoms.

13 **XI. THE SHERIFF'S DEPARTMENT'S POLICIES, PROCEDURES,**  
14 **PRACTICES AND TRAINING FOR ACCOMMODATING PEOPLE**  
15 **WITH DISABILITIES REMAIN INSUFFICIENT**

16 131. Below, I also discuss my continuing concerns about the Sheriff's  
17 Department's policies, procedures, practices, and training. Our experience working  
18 directly with ADA Title II entities often revolves around policy and practice review  
19 and development. A common opinion is that ADA compliance is primarily based  
20 on remediating architectural barriers, but that is actually a simplistic view of the  
21 complex ecosystem that exists in detention and correctional facilities. So much of  
22 what goes on in a detention setting is based on policies and procedures that it is  
23 impossible, in my experience, to separate physical access from the way in which  
24 programs, services and activities are administered, which is a function of policies  
25 and procedures.

26 **A. I Previously Critiqued Shortcomings in the Sheriff's Department's**  
27 **Disability Policies, Procedures, Training, and Practices**

28 132. In my May 2022 declaration, I criticized the Sheriff's Department's  
existing ADA policies because they "lack standards, timelines and requirements for

1 follow-through,” and the policies contained outdated terminology that has not been  
2 used for decades and suggests a lack of attention to the evolving area of disability  
3 access. Dkt. No. 119-9, ¶ 15. I specifically criticized I.57, the Department’s policy  
4 on transportation, for including no requirement to accommodate incarcerated people  
5 with disabilities – let alone specifics about how to do so. *Id.* ¶ 16. Regarding  
6 training, I noted the Sheriff’s Department’s written “training bulletins” provided  
7 very little information for staff about the standards to apply when housing  
8 individuals with disabilities and otherwise providing accommodations. *See id.*  
9 ¶¶ 32-37. In 2023, I offered similar criticisms, this time specifically of the Sheriff’s  
10 Department’s policies and practices for housing people with mobility disabilities  
11 and for effective communication with people with disabilities. Dkt. No. 281-3,  
12 ¶¶ 14-30. For the sake of brevity, I will simply state that I had other concerns with  
13 other written policies and procedures provided by the Sheriff’s Department for our  
14 review.

15 **B. The Sheriff’s Department’s Changes to Policies, Procedures,**  
16 **Practices, and Training Remain Inadequate**

17 133. Since those declarations, Defendants have made modifications to  
18 policies, procedures, and practices; created an ADA Unit; and developed a small  
19 number of new trainings. These developments are an improvement over  
20 Defendants’ prior system, but Defendants’ policies, procedures, practices, and  
21 training remain insufficient in my opinion. As just one example, I.57 remains  
22 unchanged and has no provision for accommodating people with disabilities during  
23 transportation. As part of the June 2023 ADA Order, the Sheriff’s Department was  
24 required to update policies, procedures, and training on the issues from the  
25 preliminary injunction motion. Dkt. No. 355.

26 134. The Sheriff’s Department has updated five policies and procedures in  
27 the wake of that order. It took much too long for the Sheriff’s Department to update  
28 the policies and procedures, as they did not issue the new policies and procedures



1 until June 2024, almost a year after the June 2023 ADA Order. *See* Dkt. No. 667.  
2 This meant that for about a year after the ADA settlement and order, staff were  
3 operating under outdated and inadequate policies and procedures. This is especially  
4 concerning because the Sheriff’s Department was required under the June 2023  
5 ADA Order to provide video relay services (“VRS”) terminals for people who are  
6 Deaf. During our inspections in January 2024, Sheriff’s Department showed us a  
7 few new VRS terminals at various jails, although multiple were not functional while  
8 we were on site. A system of having new practices or services available, especially  
9 those that may be very new to staff, without updated policies, procedures, and  
10 training, is likely to create significant confusion for staff. What do they reference?  
11 A training bulletin announcing a new practice? Or the written policy and procedure  
12 in their policy manual, which has no information about that new practice? Are they  
13 trained face-to-face with a trainer who is an expert with this technology, including  
14 practice scenarios?

15 135. On substance, the revised policies and procedures are also insufficient  
16 in my view. The five Detention Services Bureau policies which have been revised  
17 are as follows:

- 18 • M.39 – Incarcerated Persons with Disabilities (revised May 29, 2024)
- 19 • I.22 – Lower Bunk / Lower Tier and Medical Instruction Assignment  
20 (revised May 29, 2024)
- 21 • P.11 – Effective Communication (revised May 29, 2024)
- 22 • H.3 – Evacuation Plans (revised May 29, 2024)
- 23 • P.2 – Telephone Access (revised May 29, 2024)

24 136. Together, these policies either are missing entirely guidance on  
25 important aspects of accommodating people with disabilities in jails, or cover them  
26 insufficiently. As one broad example, the policies and procedures delegate  
27 significant aspects of the disability program to medical and mental health staff – but  
28 the Sheriff’s Department does not appear to have updated policies and procedures

1 for medical and mental health staff. For example, M.39 specifies that a registered  
2 nurse will screen all incarcerated people “during the intake process to identify  
3 disabilities and reasonable accommodations.” M.39 at 3. The nurse then updates  
4 the person’s health record to include these accommodations. *Id.* For people who  
5 may have a “cognitive, intellectual, or developmental disability,” a qualified mental  
6 health professional will screen that person within seven days of booking. It is  
7 unclear why this screening does not occur for seven days, when screening for  
8 physical disabilities occurs at intake. *Id.* at 4. I understand that nurses and mental  
9 health staff are in the Medical Services Division. However, the Medical Services  
10 Division operations manual has not been updated and includes no specific guidance  
11 for these medical staff on how to screen for these disabilities. The MSD policy on  
12 Receiving Screening (E.2.1) includes only one reference to disability that I see,  
13 which is that people who use wheelchairs “will be redirected” to Central Jail or Las  
14 Colinas. SD\_117418. This policy (and M.39) is entirely missing any standards for  
15 staff to apply. Standards are important to provide guidance for staff to follow, and a  
16 way for leadership to hold people accountable when they fail to meet standards.

17 137. Also, revisions to these five policies alone are insufficient to address all  
18 of the ways that staff interact with people with disabilities. Since making these  
19 overall changes in May 2024, the Sheriff’s Department does not appear to have  
20 updated many other policies that require revision, including medical policies. At  
21 least the following policies should be revised: DSB I.57, Transportation of  
22 Incarcerated Persons; DSB M.9, Receiving Screening; DSB N.1, Grievance  
23 Procedure; DSB N.3, Incarcerated Person Request Forms; DSB O.1, Disciplinary  
24 Action; DSB O.3, Rules and Regulations of Incarcerated Persons; S.1, Supervision  
25 and Assignment of Incarcerated Workers; MSD E.2.1, Receiving Screening; MSD  
26 F.1.2, Lower Bunk/Lower Tier; MSD H.13, Housing Recommendations for  
27 Regional Center Clients; and MSD P.7, Prostheses, Orthoses, and Other Aids to  
28 Impairment. The Sheriff’s Department must also revise facility-specific “green

1 sheets” that implement the overall policies, as the Sheriff’s Department’s own  
2 30(b)(6) witness acknowledged. Cole Deposition 122:3-5. A further concern  
3 regarding the development of “green sheets” is that Lt. Cole testified that, at present,  
4 these policies are being revised but not due to anything “problematic from an ADA  
5 perspective.” Cole Deposition 122:6-10.

6 138. Below, I discuss other ways that the revised policies and procedures  
7 fail to address gaps in the Sheriff’s Department’s disability program.

8 **1. The Sheriff’s Department’s Primary Disability Policy is**  
9 **M.39, But it Lacks Important Information About Numerous**  
10 **Elements of a Functional ADA Program**

11 139. The Sheriff’s Department’s primary policy on incarcerated people with  
12 disabilities is M.39. The Sheriff’s Department has substantially revised this policy  
13 over the last year. From my review, the policy appears adapted in part from the  
14 Orange County jail system’s ADA policy and procedure, Policy 8000. In May  
15 2023, the Sheriff’s Department’s retained expert, who I have been told is the neutral  
16 monitor for Orange County’s ADA settlement, claimed the Sheriff’s Department  
17 would revise their policy to be consistent with the Orange County policies. *See* Dkt.  
18 No. 320-2, ¶ 27. However, San Diego’s new 9-page policy M.39 is missing several  
19 important elements present in the much longer and more detailed 26-page Orange  
20 County policy. At the very least, the following important topics are not sufficiently  
21 covered in M.39, or any other policy and procedure, to my knowledge:

22 140. **ADA Orientation:** The policy does not describe any ADA orientation  
23 provided to incarcerated people with disabilities. It is important to orient people  
24 with disabilities to the accommodations that may be available to them, and to  
25 provide that orientation in an accessible manner at the time of intake. M.39 refers to  
26 a meeting with the ADA Unit and a person with a disability within seven days. But  
27 it is unclear that any orientation on the ADA program and the available  
28 accommodations (and how to request them) is required under the policy to be  
provided when a person enters the Jail, which is critical to ensure that they receive

1 accommodations from the outset. By contrast, the Orange County policy refers to  
2 documents provided to people as part of orientation, Policy 8000.16, and requires  
3 staff to provide orientation when any person with several specified disabilities is  
4 first housed in a housing unit or when transferred to any new housing unit. Policy  
5 8000.6(g). San Diego should ensure that people with disabilities receive accessible  
6 orientation information about accommodations available in the Jail and how to  
7 request them at the start of their stay.

8       141. **Transportation:** In a jail system, incarcerated people may require  
9 transport between facilities, or to outside facilities for medical care, for example.  
10 People with mobility disabilities, particularly those who use wheelchairs, require  
11 wheelchair accessible transportation. Accessible transport vans have wheelchair  
12 clear space with the ability to secure the rider in a stationary position. Public  
13 agencies we work with have detailed training for their staff who operate accessible  
14 transport vans, and they specialize in this service. Jail staff have an even greater  
15 need to learn, understand and implement standard operating procedures when  
16 transporting people with disabilities. Regarding accessible transportation, M.39  
17 states only that staff shall provide accommodations to people with disabilities to  
18 ensure equal access to services, and that this “includes but is not limited to  
19 visitation, dayroom and recreation, transportation, communication systems...”  
20 M.39 at 6. The policy provides zero guidance about how to provide accessible  
21 transportation for people with disabilities. Nor is there apparent guidance anywhere  
22 else, as the most recent rosters I have reviewed for people with mobility disabilities  
23 (from July 2024) includes no information about the accessible transportation needs  
24 of individuals who use wheelchairs, who need accessible transportation. Under  
25 “active medical instructions,” the roster only states, for example, that a person is  
26 “ADA Mobility,” has “Fall Precautions,” and uses a “Wheelchair.” SD\_1579790.  
27 How does that provide any guidance to staff about accommodating the person  
28 during transportation? The Sheriff’s Department has a separate policy on

1 transportation, I.57, but this policy includes no discussion of accommodating people  
2 with disabilities. SD\_116880. This represents no meaningful change from my first  
3 declaration submitted over two years ago, which made the same critique. *See* Dkt.  
4 No. 119-9, ¶ 16. By contrast, the Orange County policy includes a specific  
5 subsection on transportation, with a description of where staff should look for any  
6 information about transportation accommodations, a stated requirement to transport  
7 certain people in wheelchair vans, and other procedures designed to safeguard the  
8 rights of people with disabilities, which is at least a start. Policy 8000.12. As  
9 discussed above, these procedures are very important to give busy staff the  
10 necessary guidance and prevent injuries to incarcerated people. People in  
11 wheelchairs can be seriously injured if not properly secured when transported. I am  
12 aware of at least one report of a person who required wheelchair transport when  
13 transported from a different jail system to San Diego by San Diego deputies, and  
14 was injured when not properly secured.

15       142. **Work Opportunities:** Similarly, M.39 refers in the same general  
16 section on program access to staff providing reasonable modifications so that people  
17 with disabilities can participate in “vocational and work positions.” M.39 at 6. That  
18 is the only reference to incarcerated workers in the policy. This provides no  
19 guidance to staff on how to ensure that people with disabilities have equal access to  
20 jobs.

21       143. I understand the Sheriff’s Department produced no roster of  
22 incarcerated workers, to allow me to assess whether people with disabilities are, in  
23 fact, working. However, my inspections offer some insight. When we inspected  
24 Central Jail in February 2023, I observed a dorm of incarcerated workers that did  
25 not appear to include anyone with serious mobility disabilities. It also provided  
26 those housed there many amenities not provided in other housing units, such as  
27 vending machines and access to video games. Dkt. No. 281-3, Exhibit C-250. In  
28 May 2024, Lt. Cole knew of only one person with a mobility disability who was an

1 incarcerated worker. Cole Deposition at 126:23-127:9. As noted above, East Mesa  
2 is home to several vocational and work programs, but people who use wheelchairs  
3 are prohibited from being housed there, and the roster for the January 2024  
4 inspection did not show anyone with a mobility disability at East Mesa. We toured  
5 the programming areas and it is my opinion that people with disabilities of various  
6 types can safely work in the laundry folding clothes, and trained with the proper  
7 skills set, make clothing also. There were many areas in food preparation where  
8 people with disabilities could work alongside others on the assembly line. The  
9 Sheriff's Department's policy on incarcerated worker screening, S.1, also includes  
10 no discussion of non-discrimination or available accommodations, other than a  
11 vague reference that incarcerated persons "may be limited in work assignments  
12 based on established medical criteria." See SD\_117300. The policy includes no  
13 description of those criteria or where, if they include accommodations, they will be  
14 listed so staff know to provide them. It appears the Sheriff's Department has work  
15 to do to ensure that its screening of incarcerated workers does not discriminate  
16 against qualified individuals with disabilities, and to provide accommodations to  
17 incarcerated workers with disabilities. By contrast, the Orange County ADA policy  
18 includes a specific subsection on programs and services, which explicitly states  
19 "Inmates with disabilities will be provided the opportunity to work," and specifies  
20 that an "individualized interactive process" will identify an appropriate assignment  
21 and reasonable accommodations. Policy 8000.2.

22       144. **Program Access:** More generally, M.39 includes very few specifics  
23 about program access. The procedure states only that incarcerated people shall  
24 receive accommodations to provide equal access, and lists the types of programs,  
25 services, and activities in question. This statement of intent is a start, but the policy  
26 does not specify any actual *procedure* for ensuring that people with disabilities have  
27 equal access to programs, or auditing whether this is occurring (such as by tracking  
28 participation in programs). By contrast, the Orange County policy includes a long,

1 non-exclusive list of example accommodations that can help incarcerated people  
2 with disabilities participate in programs, services, and activities at the same level as  
3 other people. *See* Policy 8000.2(b). The policy also includes a process for  
4 involving the ADA Unit to help find solutions. *Id.* at 8000.2(c). That type of  
5 specific guidance is very useful for staff and is missing from San Diego’s policy. I  
6 should note that one method the Sheriff’s Department can use to provide access to  
7 some programs for people with disabilities are digital tablets, as referenced above.  
8 It is important that if the Sheriff’s Department promptly provides these digital  
9 tablets, they are accessible to people with communication disabilities.

10       145. **Intermittent Wheelchair:** In M.39, the Sheriff’s Department has a  
11 description of “intermittent wheelchair” as a mobility disability condition that, to my  
12 knowledge, does not exist under the ADA. This definition of “intermittent  
13 wheelchair” is not present in the Orange County policy. It is not present within the  
14 ADA statute. This is an arbitrary term that could mean people with mobility  
15 disabilities who require a wheelchair to get around within their housing unit are  
16 denied it, as was described by incarcerated people at Vista housed in South House  
17 Module 4 on my inspection. These people stated that they were categorically not  
18 allowed use of a wheelchair in their housing unit by this definition, despite needing  
19 it. This definition, in conjunction with the policy of not allowing people who use  
20 wheelchairs full-time at certain facilities, creates a potential incentive for staff to  
21 designate someone as intermittent wheelchair when they might in fact need a  
22 wheelchair full-time.

23       146. **Quality Assurance and Quality Improvement:** In our experience, it  
24 is essential for a functioning ADA program to include clear policies and procedures,  
25 effective training (discussed below), and a system to evaluate whether the program  
26 is working well. A quality assurance or quality improvement program helps  
27 accomplish that, by tracking whether practice in the Jail is conforming with the  
28 standards set forth in policy. This would include statistical tracking and regular

1 audits. This can result in individual accountability if staff fail to follow the  
2 procedures, or changes to the procedures if they prove difficult to administer.  
3 However, M.39 includes no reference to quality assurance or quality improvement  
4 processes regarding the ADA program, including under the ADA Unit  
5 responsibilities. M.39 at 9. In her testimony, Lt. Cole referred only to a process  
6 initiated in October 2023 that the ADA Unit conducts to make sure that one group  
7 of people with disabilities (those using a full-time wheelchair) are housed in  
8 appropriate housing. Cole Deposition at 61:13-62:11. It has been explained that the  
9 ADA Unit uncovers issues with accessible housing 2-3 times each week. *Id.* at  
10 62:23-63:5. However, the unit does not issue any audit reports based on this review.  
11 *Id.* at 62:13-18. Lt. Cole found that they were issues with improperly housing  
12 people provided wheelchairs full-time at George Bailey and maybe Vista, among  
13 other facilities, which suggests the Sheriff's Department's claim that no people are  
14 housed at George Bailey or Vista who use wheelchairs full-time is not, in practice,  
15 true. *Id.* at 65:17-24.

16 147. Our assessment process for clients typically includes three rounds of  
17 quality assurance, quality control (QA/QC) to ensure that our clients receive the  
18 level of detail they expect. In terms of our inspection process, these rounds take  
19 place first, in the field at the end of the day during each site visit, second by the  
20 senior project manager or project coordinator assigned to the project, and I complete  
21 the third round myself. More generally, in my experience, developing new policies  
22 and practices is an iterative process that requires several rounds of development, and  
23 this should be no different in the Sheriff's Department system. Committing to a  
24 policy or practice in writing is one thing; how it rolls out is often another. The only  
25 way to find flaws in a policy or practice is to put it to use and determine if it works,  
26 or not. Tweaking will be necessary after the roll-out and must be repeated as many  
27 times as is necessary to ensure that the final policy or practice works as intended. It  
28 appears that the Sheriff's Department is in the early stages of this iterative process.



1 After that point, auditing the application is also essential over time to make sure new  
2 staff are trained on how to use the policies and practice, and to make sure that those  
3 who administer the policies and practices are aware of the day-to-day effect they  
4 have on the operations of jails by the Sheriff’s Department.

5       148. **Intellectual and Developmental Disabilities:** In addition to the above  
6 issues, M.39 includes minimal information about how the Department  
7 accommodates people with intellectual and developmental disabilities and protects  
8 them from victimization. The policy states only that a qualified mental health  
9 professional will assess such a person within seven days of booking, and then  
10 “document any necessary accommodations (e.g. adaptive supports), and schedule  
11 the incarcerated person for follow-up based on their individual needs.” M.39 at 4.  
12 The policy contains no information about what those accommodations might be or  
13 how staff assess to determine those accommodations. When asked about this  
14 population, Lt. Cole testified that the ADA Unit is not involved in their  
15 accommodations. *Id.* at 118:13-25. However, custody staff play an important role  
16 in providing accommodations to people with intellectual disabilities and it is  
17 difficult to imagine that these accommodations can be carried out efficiently without  
18 the involvement of custody staff. For example, people with developmental  
19 disabilities may require effective communication (as discussed more fully below), in  
20 the form of staff speaking slowly and repeating themselves. People may require  
21 reminders to complete tasks of daily living, such as showering, to ensure their  
22 health, personal hygiene, and safety. They may need frequent prompts. People with  
23 developmental disabilities should also not be housed in more restrictive  
24 environments on account of their disabilities. The Sheriff’s Department’s policies  
25 and procedures contain no information about how staff should provide these  
26 accommodations, thus it is unclear if they are being provided. In turn, the Medical  
27 Services Division procedure that discusses “[s]creening for intellectual functioning”  
28 does not include any specific requirement to document accommodations for people

1 with developmental disabilities, except for the limited subset identified as Regional  
2 Center clients. SD\_117427, SD\_117583.

3 149. In fact, the rosters I received for the January 2024 inspections do  
4 classify some people as “ADA Cognitive Learn,” but include no information about  
5 their accommodations – unlike people with other disabilities, where it lists whether  
6 they use a walker, for example. SD\_742290. A different document from 2023 lists  
7 incarcerated people with disabilities and includes a “notes” field that includes, for  
8 some people, information about their accommodation and the reason (*e.g.*, for one  
9 person, “Cane: diabetic neuropathy). SD\_630574. However, the entries for a few  
10 people with “Developmental Delay” provide no information about how to  
11 accommodate the person. For one, it says only “DD2,” a term used in the California  
12 state prison system. For others, the notes field is empty. In one case, the notes entry  
13 specifies that a person has autism, but again provides no details about how staff  
14 should provide accommodations to that person. This suggests that the Sheriff’s  
15 Department has a long way to go in ensuring that people with intellectual and  
16 developmental disabilities are receiving the accommodations they need. By  
17 contrast, the Orange County ADA policy includes a list of specific minimum  
18 standards that staff are responsible for prompting people with  
19 intellectual/developmental disabilities to complete, and that they must log. Policy  
20 8000.14(f).

21 150. Similarly, M.39 contains no indication that the Sheriff’s Department  
22 takes advantage of free information on accommodations provided for incarcerated  
23 people who have been housed in the state prison system, which is referenced in the  
24 Orange County policy. Policy 8000.4. As noted above, the California Department  
25 of Corrections and Rehabilitation (CDCR) sends daily electronic notifications to  
26 county jails regarding newly booked parolees who have disabilities, providing  
27 information about their disability status and accommodations previously provided  
28 while in state prison. M.39 does not mention the ability to harness this cost-free

1 information, which could lighten the burden on their screening staff.

2       151. **Grievances:** In May 2022, I criticized problems with the Sheriff’s  
3 Department’s procedure for incarcerated people to grieve disability issues. *See* Dkt.  
4 No. 119-9, ¶¶ 21-23. I noted that the grievance form at the time lacked any way for  
5 an incarcerated person to identify a grievance as ADA-related, *id.*, although the  
6 Sheriff’s Department amended their grievance policy in November 2023, the form  
7 still makes no reference to issues covered by the ADA. SD\_842011. I am also  
8 aware of reports from Plaintiffs’ counsel that on inspections in 2024, they did not  
9 see grievances available in several housing units. Grunfeld Email May 29, 2024.  
10 M.39 states that an incarcerated person can contact the ADA Unit using an  
11 incarcerated person request form and grieve issues by using the grievance form.  
12 M.39 at 8-9. According to Lt. Cole, the Sheriff’s Department still does not have a  
13 designation for “ADA” matters on the grievance, but she believes that people know  
14 how to designate ADA grievances because the Unit posted a notice in the jails in  
15 November 2023. Cole Deposition at 82:18-83:12. This is insufficient. As we  
16 performed our inspections at four jail facilities in 2024, we did not see the notices  
17 posted in every unit. Simply adding a box for “ADA” to the grievance form would  
18 first, inform incarcerated people of their right to report an ADA grievance and  
19 second, also allow the ADA Unit to better track such grievances within an iterative  
20 process. Reviewing and tracking grievances is an important way to self-correct and  
21 self-monitor compliance, which should be part of the ADA Unit’s role. By contrast  
22 to M.39, the Orange County policy includes detailed procedures to ensure that  
23 grievances and assistance complete them are available to incarcerated people with  
24 disabilities, that ADA grievances are reviewed and responded to by the correct staff  
25 promptly, and that effective communication is provided where necessary with a  
26 response. M.39 includes none of those requirements, which are all important to  
27 make the process readily available to people with disabilities. Policy 8000.17.  
28 Again, digital tablets could also provide a mechanism for incarcerated people to

1 more easily submit requests and grievances.

2       **152. Access to Assistive Devices:** The revised M.39 includes a one-page  
3 section on assistive devices, which discusses allowances for personal assistive  
4 devices to be kept, and the procedures for confiscating assistive devices. However,  
5 the policy is silent on at least a few important aspects of ensuring access to assistive  
6 devices for those who need them. First, M.39 is missing important information in  
7 the Orange County ADA policy that states only a supervisor can authorize the  
8 removal of an incarcerated person’s assistive device that they arrive at the jail with,  
9 based on safety and security concerns, and then must complete a form. *See* Policy  
10 8000.1. By contrast, M.39 says that a device can be kept “unless the device poses a  
11 direct threat or safety and security risk” – without specifying who is responsible for  
12 making that determination. M.39 at 3. This means that any staff member could  
13 arbitrarily remove a device and may bear no responsibility for documenting the  
14 reasons why. I understand that class representative Darryl Dunsmore testified that  
15 his assistive devices necessary for eating, writing, and brushing his teeth were taken  
16 without explanation. *See* Dunsmore Deposition 114-15. This prevents staff from  
17 auditing whether staff are implementing this practice in compliance with policy and  
18 the ADA. Second, the policy includes no process for staff auditing or monitoring  
19 the Jail’s supply of assistive devices, to ensure that there are enough assistive  
20 devices for those who need them, or a record of what had been provided in the past  
21 and references to vendors or providers, which would facilitate future  
22 accommodations more efficiently. Why reinvent the wheel? Third, unlike Orange  
23 County, the policy includes no information about ensuring that incarcerated persons  
24 who use assistive devices are released with them. *See* Policy 8000.1(e) (stating “If  
25 the inmate does not have any personal assistive device and was provided a county-  
26 owned device, the inmate will be permitted to retain the county-owned device upon  
27 release.”) This absence has serious consequences for people with disabilities. In  
28 May 2024, the Sheriff’s Department released class representative James Clark, who

1 has a mobility disability, just before midnight without his wheelchair, which  
2 obviously made it more difficult for him to get around, and presented a safety risk.  
3 June 12, 2024 Clark Declaration.

4       **153. Vision Disability Definition:** I should note that I have concerns about  
5 the Orange County policy, which is a problem if San Diego is relying in part on that  
6 policy. Adopting Orange County language, M.39 discusses people with vision  
7 disabilities and states that “if the individual has no substantial limitation to a major  
8 life activity while wearing ‘ordinary eyeglasses or contact lenses’, and the individual  
9 is in possession of such lenses, then the individual’s vision impairment is not a  
10 disability for the purpose of this policy.” M.39 at 2. I am concerned that this  
11 definition could result in issues if the person’s glasses provided are damaged, or  
12 person’s visual acuity changes necessitating a new prescription and new lenses, and  
13 as a result of this policy they are not listed as having a disability. If that is the case,  
14 it could lead to the denial of accommodations.

15       **154. Additional Issues:** There are other important areas missing from  
16 M.39. The policy and procedure includes no information about how to  
17 accommodate incarcerated people with disabilities when applying restraints or cuffs.  
18 For example, a person who uses a cane or walker to ambulate should typically not  
19 be cuffed with their hands behind their back – otherwise they cannot ambulate with  
20 their assistive device. The rosters of people with disabilities that the Sheriff’s  
21 Department provided includes no instruction on restraint accommodations either.  
22 *See SD\_1579790.* It is my understanding that the California prison system lists  
23 whether a person requires restraint accommodations in their disability tracking  
24 system. Lt. Cole testified that staff are instructed not to cuff a person with a cane  
25 behind their back, but she did not identify any specific policy, nor did the available  
26 documents show any place this apparent practice is written down. Cole Deposition  
27 at 92:19-93:4. Her description is incomplete, as those who use a walker also need to  
28 be free to use their hands. Nor does the M.39 policy refer to accommodations when

1 using force or applying discipline.

2 155. In general, it is unclear to me that the policy will adequately address the  
3 issues faced by individual incarcerated people with disabilities. For example,  
4 despite the new practices that the Sheriff's Department was rolling out, one person  
5 in September 2023 apparently was having such a difficult time getting  
6 accommodations that the court in that person's criminal case had to order "Court  
7 request defendants be seen by jail medical re: walking cane and glasses."  
8 SD\_842212.

9 156. Nor, as discussed below, have I seen ADA training discussing the  
10 issues identified above.

11 **2. The Sheriff's Department's Revisions to its Effective**  
12 **Communication Policies, Procedures, and Practices Remain**  
**Insufficient**

13 157. As noted, the settlement and order from June 2023 cover access to sign  
14 language for people with hearing disabilities. As part of their plan to implement the  
15 order, the Sheriff's Department updated its policies and procedures on effective  
16 communication. The previous policy was P.11, "Incarcerated Persons Who Are  
17 Deaf or Hard of Hearing." The new policy is titled "Effective Communication." In  
18 my opinion, the Sheriff's Department's practices, policies, and procedures for  
19 ensuring that people receive effective communication remain inadequate.

20 158. Under the ADA, Title II entities are required to ensure that they provide  
21 effective communication. I discussed effective communication at some length in  
22 my April 2023 declaration, with discussion of supporting sources. *See* Dkt.  
23 No. 281-3, ¶¶ 22-36. This is especially important for due process and medical and  
24 mental health encounters. Ensuring that communication is effective can require sign  
25 language for a person who is Deaf, or simply speaking loudly and clearly or  
26 providing a hearing aid when a person is hard of hearing. *See id.* at 22-24. Other  
27 people with disabilities also require accommodations to ensure effective  
28 communication. For example, a person who is blind may require materials in

1 Braille, or a person with a hearing disability might require hearing aids or an  
2 amplifier. A person who is low vision may require a magnifier to read written  
3 materials, or those materials in large print. For people with cognitive or  
4 developmental disabilities, accommodations to ensure effective communication are  
5 not devices. Rather, staff would typically speak in slow, simple language, and  
6 repeat themselves as necessary. To ensure effective communication, staff would  
7 note whether the person's answers indicated that they understood the question, or  
8 have the person repeat back the question in their own words. A person simply  
9 saying "I understand" is not adequate to ensure effective communication, because a  
10 person may say that so as not to appear confused or to be compliant.

11 159. The Sheriff's Department's policies and practices do not appear to  
12 require documentation of effective communication in all circumstances. For  
13 example, the Sheriff's Department produced a form titled "ADA Unit Interview  
14 Questions." SD\_116767. The form is dated October 25, 2023, and indicates it is  
15 connected to a "pilot program." If this is the form the ADA Unit uses for interviews  
16 with class members who have disabilities, it is inadequate to ensure that staff are  
17 establishing effective communication. The form contains a field only for "Auxiliary  
18 Aid or Service Used for Interview." The form does not have any area for staff to  
19 confirm that effective communication was provided, e.g., by confirming that the  
20 person repeated back what was communicated in their own words. The form also  
21 does not include methods of effective communication not provided through devices,  
22 e.g., speaking slowly and clearly. P.11 includes no requirement to document when  
23 such accommodations are provided. *See id.* at 7 (requiring documentation of  
24 effective communication only when staff use auxiliary aid devices or services, like a  
25 sign language interpreter). By contrast, the Orange County policy requires  
26 documentation of effective communication during specified events across the board,  
27 regardless of whether an aid or service is used. Policy 8000.11(a)-(c).

28 160. In addition, it is unclear if the Sheriff's Department is even

1 documenting methods of effective communication for people with disabilities under  
2 other than hearing disabilities. As I noted above, the rosters I have seen showing  
3 people with developmental and cognitive disabilities include no information about  
4 how staff can effectively communicate with those individuals. By contrast, the  
5 rosters of people with hearing disabilities do include basic shorthand on preferred  
6 methods of communication, such as “Prefers speak to L ear, right ear deaf”). See  
7 SD\_1579789. This makes it unlikely staff can effectively communicate, if they do  
8 not know a person’s communication needs.

9 161. P.11 lacks other elements that are found in the Orange County ADA  
10 policy. That policy explains that people with communication disabilities “may not  
11 be able to hear announcements, alarms, or read written notices in the unit.”  
12 8000.6(e). The policy then describes how staff should accommodate those people  
13 with respect to announcements, alarms, and emergencies. *Id.* In contrast, P.11 does  
14 not include any specific discussion of how staff should accommodate incarcerated  
15 people with communication disabilities for those specified incidents. Jails are often  
16 short-staffed. Staff need clear instructions on how to evacuate and notify people  
17 with disabilities.

18 162. I also note that none of the categories of people with disabilities  
19 encompasses people with speech disabilities. It is unclear how the Sheriff’s  
20 Department can be assessing, tracking or providing required ADA modifications for  
21 incarcerated persons with this type of communication disabilities if they do not  
22 know whether they house any such persons. This is an entirely different group.

23 163. Additionally, other incarcerated individuals are identified with hearing  
24 disabilities and the notation states that they “prefer ASL.” If American Sign  
25 Language (ASL) is the language with which the person communicates, that  
26 language is not a preference, it is a requirement for the provision of effective  
27 communication. P.11 does not describe clear criteria used to make these  
28 determinations as to how a *preference* is different from a required form of effective



1 communication. In fact, P.11 includes a long list of exceptions to the requirement to  
2 communicate in the person's primary method of communication, all of which I  
3 worry could lead staff to not use the primary method if it is more onerous for staff.  
4 *See* P.11 at 5-6. It is easier for staff to write notes to a Deaf person than to obtain an  
5 interpreter or use VRI; that does not mean it is appropriate or effective  
6 communication. In fact, Plaintiffs documented an issue from May 2024 where a  
7 Deaf signer had not communicated with his family in an entire month because he  
8 was under the impression that he would have to pay for using those services.  
9 Grunfeld Email May 29, 2024.

10       164. Finally, I have concerns about whether the Sheriff's Department has  
11 adequately implemented the requirements of the June 2023 settlement in practice. I  
12 have reviewed a January 2024 letter from Plaintiffs' counsel to Defendants' counsel  
13 on behalf of a Deaf incarcerated person at Central Jail, who reported that he was  
14 (1) being shackled while using VRS, which made it difficult for him to actually  
15 sign; (2) he was not receiving access to the VRS at times when people who use  
16 typical phones could use those; and (3) he was being made to wait. In response a  
17 month later, the Sheriff's Department claimed that they have issued a "directive" to  
18 staff indicating that people using VRS cannot be shackled, but P.11 contains no such  
19 instruction in writing and it is unclear how staff will know not to use this practice to  
20 avoid discrimination. Coleman Feb. 5 Email. As part of the Sheriff's Department's  
21 response, Defendants' counsel also noted that staff were incorrectly logging the  
22 Deaf person's phone use. *Id.* The email also appeared to acknowledge the  
23 implementation issues with the VRS terminals (provided by a company named  
24 Purple) that we saw on our January 2024 inspections. *Id.*

25       165. I continue to have concerns about whether the Sheriff's Department's  
26 infrastructure is equipped to provide access to technology like VRS and video relay  
27 interpretation ("VRI"). VRS is a service that allows a Deaf person in the Jail to call  
28 out to their family or attorney, communicating through an interpreter who appears

1 on the screen for the incarcerated person, and then who speaks over the phone to the  
2 person’s family or attorney. VRI is a service provided when staff are  
3 communicating with the incarcerated person in-person, and employing a digital  
4 tablet with an interpreter to communicate between the two. *See* Sanossian Decl.,  
5 Dkt. No. 320-2, ¶ 30. Either way, some Internet connectivity is necessary, as I have  
6 already discussed in this case, and can be challenging to set up and to maintain. *See*  
7 Dkt. No. 281-3, ¶ 30; Dkt. No. 320-2, ¶ 31. I also specifically noted this potential  
8 issue in my declaration supporting Plaintiffs’ objections to the Sheriff’s  
9 Department’s initial ADA plan. *See* Dkt. No. 416-2, ¶ 8 (noting that adding  
10 sufficient Internet connectivity requires a “significant effort”).

11 166. Available information suggests connectivity is in fact an issue. Staff  
12 could not show us a functioning VRS at Las Colinas in January 2024 because of a  
13 “firewall” issue. In May 2024, Lt. Cole testified about issues with VRI connectivity  
14 at Vista, which led a person to be transferred from Vista (when they had been  
15 transferred there due to their classification). Cole Deposition at 128:24-129:17.  
16 Later that month, the Sheriff’s Department shared an update with the Court on “Wifi  
17 availability,” which appears to acknowledge that Wi-Fi is not always available and  
18 that staff use “a temporary wireless access point,” but that also is not always  
19 successful. Dkt. No. 667 at 3-4.

20 167. In addition, P.2 and P.11 include no language limiting the shackling of  
21 incarcerated people while they use the VRS, so that people who sign have their  
22 hands free to communicate. Defendants should write into policy language stating  
23 that incarcerated people shall be permitted to use their hands for effective  
24 communication (such as signing or writing), absent a documented safety and  
25 security concern.

26 **3. The Sheriff’s Department’s Evacuation Policies Lack Any**  
27 **Specifics About How to Provide Reasonable**  
28 **Accommodations**

168. The Sheriff’s Department also updated policy and procedure H.3,

1 Evacuation Plans, to state that “Each detention facility will develop evacuation  
2 procedures that will meet the individual needs of the facility (refer to green sheets).  
3 These procedures will be documented in the facility EOM and should include but  
4 not be limited to . . . [e]vacuation of incarcerated persons with disabilities requiring  
5 assistance and/or reasonable accommodations.” This policy and procedure provides  
6 zero instruction to deputies on *how* to provide reasonable accommodations during  
7 evacuations. By contrast, the Orange County ADA policy includes a section on  
8 evacuations that specifies that staff should prioritize such individuals during an  
9 evacuation and assist them based on their needs. Policy 8000.9.

10 169. As H.3 states, the Sheriff’s Department has specific evacuation  
11 procedures for each facility in “green sheets.” For example, for George Bailey,  
12 there is a green sheet evacuation procedure. SD\_115928. However, this green sheet  
13 includes no discussion of accommodating people with disabilities. This means that  
14 a staff member reviewing the new overall policy will not actually receive any  
15 guidance on how to accommodate people with disabilities during an emergency  
16 requiring an evacuation. The Central Jail sheet at least states that people that “have  
17 any mobility limitations and/or need assistance” should be assisted by staff,  
18 although it does not specify the ways that staff should help – such as by using an  
19 evacuation chair for a person with a wheelchair who cannot descend stairs.  
20 SD\_116385. None of the available ADA training materials reviewed includes any  
21 further detail on accommodating people with disabilities during emergencies.

22 170. I have not received any information about whether there are sufficient  
23 evacuation chairs, which is an especially important issue at Central Jail, which has  
24 housing on eight floors and where Defendants house almost all of the wheelchair  
25 users. Also especially concerning are facilities such as Vista and George Bailey  
26 where the Sheriff’s Department insists that incarcerated people there with  
27 disabilities only require wheelchairs for travel outside of their housing units. In  
28 realistic terms, does the Sheriff’s Department have enough wheelchairs in these

1 locations to evacuate every incarcerated person who is provided with a wheelchair  
2 for travel outside of their housing unit at the same time, as would be required in an  
3 emergency?

4 **4. Defendants' Housing Policy I.22 Allows People with Mobility**  
5 **Disabilities to Be Housed Unsafely**

6 171. As a result of the June 2023 ADA Order, the Sheriff's Department  
7 updated I.22, now titled "Lower Bunk / Lower Tier and Medical Instruction  
8 Assignment." In my opinion, this policy is not adequate to ensure safe housing of  
9 people with disabilities.

10 172. First, the policy does not include a requirement that people who use  
11 wheelchairs, walkers, or canes are housed on a lower bunk and lower tier. This is a  
12 dangerous practice, as it will lead to injury. Additionally, people with neurological,  
13 circulatory or respiratory conditions need to be housed on a lower tier and low bunk  
14 as a standard practice. Their ability to walk or stand is limited by these conditions,  
15 and the use of stairs will pose a safety risk even if they do not use a cane or walker.

16 173. Standards are important to prevent mistakes that lead people to being  
17 mis-housed. For example, the record includes a document showing that in 2022 a  
18 person with a history of seizures was housed on a top bunk, fell off, and suffered  
19 serious injuries. SD\_424200. Class representative Andree Andrade testified that  
20 despite informing intake staff about a back injury and difficulty getting into a top  
21 bunk, staff still placed him in a top bunk, where he would have climb on the end of  
22 the other bunks (with no ladder) to get in. Andrade Deposition at 75-79.  
23 Mr. Andrade also testified that incarcerated people, not staff, dictated where people  
24 ultimately slept. *Id.* at 79. Mr. Andrade fell from his bunk multiple times and  
25 suffered injuries. *Id.* at 116-17, 137-45, 153-56. This was years after Frankie Greer,  
26 a person with a history of seizures was injured after being housed on the top bunk,  
27  
28

1 resulting in an \$8 million settlement using County funds.<sup>15</sup>

2 174. Second, the policy refers to a number of accessible housing features  
3 (see p.1), but it is unclear if many of those accessible housing features are in fact  
4 listed in a person's medical instructions. In the rosters I have reviewed, for people  
5 in 8C and 8D, there is a list of housing elements (e.g., ADA Wheelchair Accessible  
6 Beds, ADA Compliant Toilet) in a column titled "ADA Facility Accommodations,"  
7 see SD\_1579790, but for people mobility disabilities elsewhere in the facility, there  
8 are no such instructions.

9 175. In practice, I have concerns about how the Sheriff's Department is  
10 housing people with mobility disabilities. Rosters that the Sheriff's Department  
11 provides each month under the June 2023 settlement show numerous people with  
12 mobility disabilities remain on upper bunks and on upper tiers. For example, in the  
13 April 2024 roster, on April 1, the following people with mobility disabilities are  
14 housed on an upper bunk and/or the upper tier:

- 15 • Row 38, person with a cane housed in cell 14 (upper tier) and a top  
16 bunk in a unit with triple bunks
- 17 • Row 39, person with a cane housed in cell 18 (upper tier)
- 18 • Row 48, person with a cane housed in cell 15 (upper tier) and a top  
19 bunk in a unit with triple bunks
- 20 • Row 70, person with a wheelchair housed in a top bunk in 7B
- 21 • Row 78, person with a cane housed in a top bunk in 7C
- 22 • Row 111, person with a cane housed on an upper tier and top bunk in  
23 8C, one of the ADA dorms

23 SD\_1575333 (sheet one). This is not an outlier situation. In the roster for July 1,  
24 2024, I see multiple people with mobility disabilities housed in the top tier and/or a  
25 top bunk:

26

27 \_\_\_\_\_  
28 <sup>15</sup> <https://www.sandiegouniontribune.com/2023/03/04/san-diego-county-will-pay-almost-8-million-to-man-gravely-injured-in-sheriffs-custody/>.

- 1 • Row 40, person with a cane housed on an upper tier
- 2 • Row 50, person with a cane housed on an upper tier
- 3 • Row 51, person with a cane housed on an upper tier
- 4 • Row 77, person with a cane housed on an upper tier
- 5 • Row 79, person with a cane housed in a top bunk
- 6 • Row 90, person with a cane housed on the upper tier and in the top  
7 bunk

8 SD\_1579790 (sheet one). As noted above, it is dangerous for people with mobility  
9 disabilities to be housed either on an upper bunk or upper tier. How is a person with  
10 a cane supposed to use their cane to navigate up steps? This is especially  
11 problematic in triple bunks, which are still present throughout the system.

12 (a) **Floor Sleeping in ADA Dorms Has Occurred Despite**  
13 **Defendants' New Housing Policy**

14 176. I have also reviewed several declarations of incarcerated people  
15 reporting that in the Central Jail dorms that have been modified to provide ADA  
16 housing, 8C and 8D (discussed above), people have been sleeping on the floor. For  
17 example, class representative James Clark in a May 24, 2024 declaration reported  
18 numerous instances of people sleeping on the floor in 8C. In a June 12, 2024  
19 declaration, Mr. Clark reported himself sleeping on the floor in June 2024 because  
20 there were “no available lower bunks.” He also reported that he witnessed three or  
21 four people who use wheelchairs who were forced to sleep on the floor in 8C, in  
22 addition to one individual who uses a wheelchair that slept on the floor for a week  
23 before getting a bed. He also stated that the Sheriff’s Department moved mattresses  
24 from the floor before Plaintiffs’ counsel visited, but that someone had slept on the  
25 floor the night before and the night after that inspection. Another person who uses a  
26 wheelchair, [REDACTED], reported sleeping on the floor in 8C on May 28-29, 2024  
27 because “there was no bed available for me.” Likewise, [REDACTED] reported  
28 sleeping on the floor in 8C during an unspecified time after his booking in 2024.

1 Other declarations I have reviewed corroborate that floor sleeping has occurred at  
2 Central Jail. Mr. Clark reported one of the most important reasons that a person in a  
3 wheelchair needs to sleep in a bunk; the bed frame provides rails that the user can  
4 grab for support when transferring to and from a wheelchair. The floor and  
5 wheelchair seat surface are 17 to 19 inches apart, which is an extreme distance to  
6 transfer to and from for anyone who uses a wheelchair.

7 177. This suggests that Defendants lack an adequate number of accessible  
8 beds, or lack a functioning system for ensuring that people are housed in units with  
9 an available bed, and then that they are able to access that bed. This may mean that  
10 incarcerated people with disabilities may need assistance from sworn staff to obtain  
11 access to their bed assignment, or staff may need to rearrange existing bed  
12 assignments. There should be enough beds available for people with and without  
13 disabilities to sleep.

14 178. I have reviewed a new green sheet issued for Central Jail that may  
15 reduce floor sleeping, by requiring a count at a person's bunk. However, the policy  
16 does not require a count or check at night, or set forth what staff should do if a  
17 person is not at their bunk to ensure that they have access to the bunk. It is also  
18 unclear whether the Sheriff's Department has made similar policy changes at other  
19 facilities where people with disabilities are housed in dorm settings, like George  
20 Bailey, Vista, and East Mesa.

21 179. I also reviewed a declaration from [REDACTED], who reported  
22 issues with floor sleeping in an initial declaration. In [REDACTED] June 12  
23 declaration, he wrote that in late May 2024, he had been transferred to Vista even  
24 though [REDACTED] uses a wheelchair. [REDACTED] was housed in a unit with a  
25 shower that was not accessible to him, as it did not provide grab bars. This confirms  
26 my concerns above about the lack of accessible housing at Vista, and also that the  
27 Sheriff's Department lacks sufficient accessible housing, forcing people with  
28 disabilities to be housed in housing units that are dangerous for them.

1           **C. The Sheriff’s Department Has Implemented Very Few New**  
2           **Trainings on the ADA**

3           180. Earlier in this litigation, the Sheriff’s Department made available very  
4 limited trainings on the ADA. I reviewed those and commented on the  
5 insufficiencies. Dkt. No. 119-9, ¶¶ 32-37. Since then, the Sheriff’s Department has  
6 provided a few documents that appear to be trainings. These fall into two  
7 categories: training bulletins and PowerPoint presentations. It is unclear from Lt.  
8 Cole’s testimony if all of these documents are provided to all staff. Cole Deposition  
9 at 97:9-100:9. Deputies receive no ADA training at the academy and no training  
10 when they join the department, except for the written training bulletins discussed  
11 below. *Id.* at 99:25-100:9. Lt. Cole also testified that the training on new policies  
12 consists of issuing the new policies and tracking whether the recipient opened the  
13 document. *Id.* at 120:12-121:13. This is far from the robust training necessary to  
14 ensure that all staff know how to provide accommodations to people with  
15 disabilities and consider it a priority.

16           181. The training bulletins are curious, as they appear to instead be revisions  
17 to procedures rather than what I understand to be trainings. For example, the  
18 August 23, 2023 training bulletin titled “ADA Intake Protocols” simply announces  
19 the new practice that the Sheriff’s Department will screen for disabilities at intake.  
20 SD\_117889. The bulletin goes on to include additional instructions and some  
21 screenshots of Jail systems. Although the document is helpful in providing a  
22 description of the procedure, it is not what I would call a training. It is unclear if  
23 any in-person or even virtual training occurs to provide for explanations of the new  
24 procedure and for staff to ask questions. It is also curious that this training bulletin  
25 was issued in August 2023, but the Sheriff’s Department did not update its policy  
26 and procedure until May 2024. Lt. Cole testified that a training bulletin has the  
27 same force and effect as policy. Cole Deposition at 95:7-9. Like I wrote earlier,  
28 that may lead to staff confusion – if they look at the existing policy and procedure,



1 how would they know that the training bulletin superseded it?

2 182. As far as the PowerPoint presentation, SD\_117895, the presentation  
3 appears to contemplate an interactive portion, which is good. However, it is unclear  
4 to whom this presentation is provided and when (if at all), as Lt. Cole did not  
5 discuss this PowerPoint when asked about any ADA trainings provided to staff. *See*  
6 *Cole Deposition* at 99:10-100:9. By contrast, the Orange County ADA policy  
7 requires annual ADA training for all custody and health care staff, which “shall  
8 include formalized lesson plans and in-classroom or real-time virtual training for  
9 staff (including managers, supervisors, and rank-and-file staff) provided by certified  
10 or otherwise qualified ADA trainers.” Policy 8000.18. San Diego should  
11 implement the same requirements and all training should be tracked.

12 183. Attrition and turnover in staff at detention facilities is common, which  
13 is also a complicating factor. Our experience dictates that face-to-face training is  
14 most effective, and using typical Microsoft Office software, presentations can be  
15 recorded and used in the future for additional staff. Each new employee must  
16 receive training prior to starting their employment. This especially applies to staff  
17 who interact with incarcerated people. We also find that training is only effective  
18 when it is provided on a repeating basis to reinforce policy and practice, such as a 6-  
19 month rotation that allows staff to repeat it at their own pace within a short time  
20 frame, but on a firm schedule.

## 21 **XII. OTHER ADA ISSUES**

22 184. As discussed in Plaintiffs’ complaint, people with substance use  
23 disorder are also considered to have a disability and must be accommodated.  
24 Indeed, the disability rosters Defendants provided for the January 2024 inspections  
25 identify people who are receiving medication assisted treatment for such a disability.  
26 SD\_742290. Lt. Cole testified that the ADA Unit has no role with respect to  
27 accommodations for this population. *Cole Deposition* at 89:17-19. This is  
28 problematic. I am aware that another expert retained by Plaintiffs will be

1 commenting on Defendants' practices for accommodating people with substance use  
2 disorder.

3 185. Similarly, the ADA also covers people with mental health disabilities.  
4 I am aware that another expert retained by Plaintiffs will be commenting on  
5 Defendants' specific practices relating to this population of people with disabilities.  
6 Some of my opinions about Defendants' policies, procedures, practices, and training  
7 related to their ADA program may apply to that population. For example, the lack  
8 of guidance on non-discrimination in work opportunities for people with disabilities  
9 generally likely also affects people with mental health disabilities. This population  
10 should at a minimum be encompassed by any anti-discrimination policies or  
11 practices.

### 12 **XIII. CONCLUSION**

13 186. After having visited six jail facilities operated by the San Diego County  
14 Sheriff's Department, I have not seen any accessible housing for people with  
15 disabilities. To the extent Defendants have plans to address accessible housing at  
16 Central Jail, I have not been able to inspect the construction completed so far, and at  
17 any rate, that construction even if completed correctly, will not address the need for  
18 accessible housing in the entire system. When the Sheriff's Department had the  
19 opportunity to construct new jail facilities or alter existing, pre-ADA facilities, they  
20 did not follow through to ensure that construction complied with the applicable  
21 accessibility standards in place at the time of construction. They have missed  
22 opportunity to provide access, including in their Transition Plan documents and  
23 even more egregiously after the 2016 Memorandum and its assessment of problems  
24 with the Department's facilities, policies, procedures, and practices. The Sheriff's  
25 Department has recently made changes, apparently in response to the Plaintiffs'  
26 litigation, but as I set forth above, those changes and the creation of an ADA Unit  
27 are but a first step toward a functioning ADA program. The Sheriff's Department  
28 must make further revisions to policies, procedures, practices, and training as set

1 forth herein. The Sheriff's Department should also develop a comprehensive plan  
2 for facility alterations overseen by trained, certified building officials, and policy  
3 changes to provide safe housing and access to programs for people with disabilities  
4 throughout the system.

5 I declare under penalty of perjury under the laws of the United States of  
6 America that the foregoing is true and correct to the best of my knowledge, and  
7 that this declaration is executed at Palo Alto, California this 21st day of August,  
8 2024.

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11 Syroun Sanossian

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