



Consent Decree

Babu vs. County of Alameda

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Case Background:

- ▶ Incarcerated people and families of people who had died in the Jail started contacting RBGG in 2017
- ▶ Drumbeat of similar concerns
 - ▶ lack of mental health care
 - ▶ people locked in cells for 23 or more hours per day
 - ▶ People with mental illness segregated in Unit 9 without access to programs
- ▶ Over 30 deaths between 2013-2018;
- ▶ Nearly half by suicide

Case Background:

- ▶ Filed December 21, 2018
- ▶ Parties agreed upon panel of joint neutral experts who toured the Jail in the fall of 2019 and drafted reports based on tours, interviews with staff and incarcerated persons, and review of documents
 - ▶ Reports publicly filed at Dkt. 111
- ▶ Class and Disability Subclass certified January 2020
- ▶ Complaint Amended August 2020 to include COVID-19
- ▶ DOJ Report Issued April 2021; became involved in negotiations
- ▶ Over a dozen settlement conferences before Magistrate Judge Beeler

Where We Are Now:

- ▶ Filed Consent Decree with Court on August 26, 2021
- ▶ Magistrate Judge Cousins granted preliminary approval on September 24, 2021
- ▶ Currently in “Notice Period” where class members have opportunity to review the Consent Decree and send any comments or objections to the Court
- ▶ Hearing on Final Approval set for January 19, 2022 at 1 p.m via Zoom and open to public
 - ▶ Jail has voluntarily implemented some changes; nothing is enforceable until and unless Consent Decree is approved
 - ▶ Minimal changes to mental health care to date

Objection Process:

- ▶ Class members have right to object under FRCP 23(e)(5)(A)
- ▶ Objections must include case name, number, and objector's name, address, and signature
 - ▶ *Babu v. County of Alameda*, Case No. 5:18-cv-07677
- ▶ Must be in writing, postmarked by December 31, 2021, and sent to:

Clerk of the Court, United States District Court
Northern District of California
280 South 1st Street
San Jose CA 95113

How People Can Access the Consent Decree:

- ▶ Notices posted in Housing Units and throughout Jail
- ▶ Consent Decree on tablets and in binder in each Housing Unit
- ▶ RBGG mailing and bringing people hard copies of the Consent Decree on request
- ▶ Posted at: <https://rbgg.com/santa-rita-consent-decree/>
- ▶ Created FAQ to summarize key changes
- ▶ Video going over key points should soon be posted in Jail



Key Changes in Consent Decree

Limit Use of Restrictive Housing

How will things change?

- ▶ New classification system to limit use of restrictive housing
- ▶ Clear timelines and standards
- ▶ People with serious mental illness cannot be placed into the most restrictive settings, except in extreme circumstances and only if approved by mental health staff.

Provide More Recreation and Out of Cell Time

- ▶ General Population - Celled Housing: 28 hours per week
 - ▶ Includes Medium and Maximum settings
- ▶ Restrictive Housing:
 - ▶ By 2 years: 14 hours per week (Step 1); 21 hours per week (Step 2).
 - ▶ By 4 months: 10 hours per week (Step 1); 14 hours per week (Step 2).
- ▶ Therapeutic Housing Units: 28-35 hours per week

End Punitive Suicide Precautions

- ▶ Phase out use of safety cells (bare cells with only a hole in the floor for a toilet)
 - ▶ Limit to no more than 8 hours
- ▶ Remodel certain cells to be suicide resistant - will have bed, sink and toilet without tie-off points.
 - ▶ Once suicide-resistant cells constructed safety cells cannot be used for longer than 4 hours
- ▶ Primary goal of agreement to phase out use of safety cells to maximum extent feasible as soon as safe to do so

Provide More Mental Health Care.

- ▶ Mental health staff on site 24/7
- ▶ Cell side check ins only allowed if person refusing to leave cell
- ▶ Individual therapy, group therapy, and treatment planning as clinically appropriate
- ▶ All people arrested must be screened for mental health needs
- ▶ Jail will have access to community records as appropriate

Provide More Mental Health Care.

- ▶ Therapeutic Housing Units for people with serious mental illness
 - ▶ Must be offered at each classification level.
- ▶ Services offered for women must be equivalent to those offered to men
- ▶ Additional mental health staff on the units
- ▶ Will use existing unit space; no new housing units will be built.

Limit Use of Force.

- ▶ 6 months to develop new policies and procedures.
- ▶ Requires cooling off periods and mental health de-escalation before planned uses of force
- ▶ Prohibits head strikes, kneeing and kicking unless there is a deadly threat or assaultive behavior (defined as present ability to inflict violent injury)
- ▶ Must install more fixed cameras
- ▶ Prohibits the use of restraint devices as punishment or as substitute for treatment.

Change Rules for Discipline.

- ▶ 6 months to develop new policies and procedures.
- ▶ Prohibits punishing people with mental illnesses for refusing treatment or medication or for self-harm conducts/threats.
- ▶ No disciplinary diets (except for food violations).

Provide Mental Health Reentry Planning.

- ▶ Anyone with mental illness in Jail longer than 3 days must have a discharge plan
- ▶ Includes help applying for benefits, housing, and other services.
- ▶ For people with serious mental illness, Mental Health must work towards a “Warm Handoff” from jail to community-based mental health providers
 - ▶ Examples: Make an appt. for the person; connect to housing resources

Ensure That Patients from the Jail Receive Inpatient Care When Needed.

- ▶ Purpose: Address John George cycling problem
- ▶ County must assess the quality of the care provided to incarcerated persons at John George
- ▶ People must be stable before returning to the Jail
- ▶ Coordinate with respect to follow-up care needed

Establish an Inmate Advisory Council and Ombudsperson Program.

- ▶ Inmate Advisory Council: Goal is to provide a voice in what's happening in the jail.
- ▶ Ombudsperson: Resource for problem solving.
- ▶ Compliance Section: To internally monitor how Jail is doing

End Discrimination Based on Mental Health Disabilities.

- ▶ Requires that people with psychiatric disabilities have equal access to vocational, educational, recreational and re-entry related programs.
- ▶ Address issue of warehousing in Unit 9

Eliminate Short-Staffing As An Excuse for Locking People Down.

- ▶ No more excuses about not being able to meet basic needs because of staffing issues.
- ▶ Must have enough staff to meet requirements of Consent Decree
- ▶ Board approved staffing increase in 2020
- ▶ Consent Decree mandates any staff hired must be assigned to the Jail and Sheriff must certify this annually

Prevent COVID-19 Outbreaks.

- ▶ County must continue testing, vaccines, masks, and other safety measures
- ▶ Non-punitive quarantine and medical isolation as recommended by public health
- ▶ Key to future care is continuing to force public health to be active in the Jail

How and when will these changes happen?

- ▶ After hearing scheduled for January 19, 2022
- ▶ Within first three months:
 - ▶ Must develop Implementation Plan specific timelines and goals
- ▶ Within first six months:
 - ▶ Must create new policies and procedures and train staff

What happens if things don't change – or the County violates the Consent Decree?

- ▶ Extensive Monitoring by Experts and Class Counsel over the next 6 years.
- ▶ DOJ will also receive certain access to the Jail and documents
- ▶ If more changes needed, Class Counsel can go back to the Court to enforce.

What *Babu* does not cover:

- Monetary damages – anyone can still bring a lawsuit for damages if their rights are violated
- Food service
- General sanitation
- Medical care including pregnancy related care

Nothing in this agreement prevents the County from limiting jail's overall population diverting people from jail or building up other community resources.



Please contact us if we can help:

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