Amended Monitoring Report – Yuba County Jail
Q4 2021 and Q1 2022
***Hedrick v. Grant*, E. D. Cal. No. 2:76-cv-00162-EFB**
June 8, 2022

I. EXECUTIVE SUMMARY

On January 30, 2019, United States Magistrate Judge Edmund F. Brennan granted final approval to an Amended Consent Decree ("ACD") designed to remedy ongoing constitutional and statutory violations in the Yuba County Jail (the "Jail"). Pursuant to the ACD, Plaintiffs' counsel are the court-appointed monitor of Defendants' compliance with the ACD.[1] The ACD required that Defendants complete implementation of the majority of its terms within nine months of the Court's final approval—that is, by October 30, 2019—and that they complete certain architectural modifications by the end of 2021.

This Report is the second of two monitoring reports on Defendants' compliance with the ACD during the fourth quarter of 2021. It also covers issues that arose during the first quarter of 2022. The report is based on documents covering the fourth quarter of 2021 and the first quarter of 2022, a tour of the Jail on April 18, 2021, and telephonic and in-person interviews with class members conducted between January 2021 and April 2022.

Plaintiffs' counsel identified numerous areas of non-compliance during Q3 and Q4 2021. Among the most concerning are:

1. A severe breakdown of the Jail's medical and mental health systems that led to a class member suicide [redacted];
2. Delayed completion of certain physical modifications required by the ACD to mitigate the risk of suicide in the Jail;
3. Severely inadequate medical and mental health staffing;
4. Ongoing refusals to produce documentation relating to compliance with the ACD's sick call provisions.

[1] Plaintiffs' counsel represent all people incarcerated at the Yuba County Jail, including but not limited to all persons detained in cooperation with other entities of the local, state, or federal governments, such as immigration detainees ("ICE detainees"). It is our understanding that there is one ICE detainee currently detained at the Jail.

Many of these deficiencies are not new. We have requested on multiple occasions that Defendants work with us to identify remedies for ongoing violations of the ACD, but instead of engaging in a good-faith discussion Defendants have either refused to acknowledge the problems or have offered frivolous objections and dubious interpretations of the ACD to justify their refusal to fix them. This is unfortunate. If Defendants do not take their obligations under the ACD seriously, further litigation will be necessary to protect class members' rights.

II. CLASS MEMBER SUICIDE

As Plaintiffs previously explained in a letter dated February 7, 2022 (attached as **Exhibit A**) and through the expert declaration of Dr. Ryan Quirk, *see* **Exhibit B**, which we produced to Defendants on March 28, 2022, Defendants' inadequate monitoring and care for a class member with led to his suicide

The ACD explicitly states that

The ACD further states that Jail medical staff must attempt to

Id. Where a class member reports

Id.

It is our understanding that the Jail's and Wellpath's policy is to [redacted] Despite multiple requests from Plaintiffs' counsel, however, Defendants have not provided any explanation for why Class Member A's [redacted] There is no evidence in Class Member A's medical records that Jail staff ever [redacted] Nor is there any evidence in those records that [redacted] Instead, Defendants simply [redacted] without a documented reason and with fatal results.

Defendants also violated the Amended Consent Decree by [redacted] Although Wellpath staff asserted without evidence during a February 10 video call that [redacted]

Finally, Class Member A's suicide also revealed [redacted] As noted in our February 7 letter, *see* **Exhibit A** at 1-2, [redacted] Defendants asserted during our April 18, 2022 tour of the Jail that they [redacted] These are positive steps, but we have seen no documentation of [redacted]

What, if any, other changes have Defendants made to policies and/or practices in response to Class member A's suicide?

III. DELAYED RETROFITTING TO MITIGATE SUICIDE RISKS AND LACK OF REQUIRED FOLLOW-UP INSPECTIONS.

Section VI.A of the ACD requires Defendants to "implement" the plan to reduce suicide hazards developed by their own consultant, James Sida. That plan requires, among other things, that Defendants close the "wall gap" between bunks and cell walls so that "bunk edges that abut the cell walls [are] flush against the wall in order to prevent a tie-off point that inmates can use to suffocate themselves by strangulation." Sida Report at 8-9 (April 24, 2019). It further requires that Defendants eliminate other "potential 'tie-off points'" such as "exposed plumbing pipes and grates in the ventilation system. *Id.* at 9. The ACD requires that "Defendants' qualified consultant shall conduct follow up safety assessments of the Jail every two years, at a minimum." ACD at 39.

As we explained in a letter to Defendants dated December 17, 2021, and again in in our January 5, 2022 monitoring report, Defendants' failure to complete these modifications in a timely fashion directly contributed to [redacted] Indeed, based on the information available to us—which indicates that the class member who died [redacted] Only after a second class member [redacted] and only after Plaintiffs prepared a motion seeking to prohibit Defendants from housing class members in unremediated cells—did Defendants certify that they had completed the retrofitting required by the ACD and the Sida Report. Based on our April 18, 2022 tour of the Jail, during which we inspected each cell in A, D, E, and F Pods, we are satisfied that Defendants have finally completed the basic retrofitting work required by the Sida Report.

IV. FOLLOW-UP SAFETY ASSESMENT

On May 26, 2022, Defendants provided us with copies the following documents: (1) "Safety Analysis of the Yuba County Jail" ("Safety Analysis") authored by Richard S. Bryce and dated April 18, 2022, *see* **Exhibit C**; (2) Defendant's response to the Safety Analysis ("Defendants' Response") (undated), *see* **Exhibit D**; and (3) Mr. Bryce's response to Defendants' response ("Bryce Response"), dated May 6, 2022, *see* **Exhibit E**. ***Please provide us with Mr. Bryce's curriculum vitae and any other documents Defendants have establishing his credentials and experience to perform such an evaluation.***

In the Safety Analysis, Mr. Bryce confirmed that Defendants had remediated some suicide hazards. *See* Safety Analysis at 3-7. Mr. Bryce identified, however, a number of additional potential suicide hazards. *Id.* at 7-10.

Defendants claim to have remediated one of the hazards (handcuff attachment bars) in the single occupancy administrative segregation cells. *Id.* at 7-8; Defendants' Response at 8. ***Please provide proof that all of these hazards have been remediated.***

Defendants represented to Mr. Bryce during his tour of the jail that they have ordered cameras to remediate the hazard posed by the inadequacy of camera surveillance in A, B,C,D, E, and F Pods. Safety Analysis at 10 ***Please provide an update on this project, including the scope of the work and the estimated date of completion.***

In their Response, Defendants indicated that they were planning to retrofit one of the hazards (ceiling-mounted pipes in several housing units that could be used as tie-off points). Defendants' Response at 8. ***Please provide an update on this project.***

Mr. Bryce found that the stairs and upper-level railings in A, B, C, D, E, and F pods posed risks as tie-off and jumping-off points for people to attempt suicide. He recommended that Defendants install plexiglass shields or wire screening to reduce these risks. Safety Analysis at 8-9. Defendants responded that the structural issues are not problems because other facilities have the same features, plexiglass would hinder visibility, and incarcerated people would vandalize the plexiglass. Defendants' Response at 8. Defendants further indicated that they did not think Mr. Bryce's recommendations "are in the best interest of the facility or the inmates." *Id.* In response, Mr. Bryce wrote that he did "not disagree with the concerns expressed in the Jail's response," but that "the potential hazard of these areas being use as tie-off and or jump-off points would still exist." Mr. Bryce recommended that to address the hazards, "those inmates that have been identified with current suicidal ideations not be housed in these locations." ***Have Defendants adopted this recommendation? If yes, please provide documentation of the changes to policy and any training provided to staff.***

Mr. Bryce found that the metal bars dividing housing units in the old part of the jail pose a risk as tie-off points. Safety Analysis at 9. He found that physical remediation was impractical. *Id.* However, after taking Defendants' Response into account, he recommended that Defendants should minimize the risk by not housing people in those units who have current suicidal ideation. *Id.*; Defendants' Response at 10; Bryce Response at 2. ***Have Defendants adopted this recommendation? If yes, please provide documentation of the changes to policy and any training provided to staff.***

Mr. Bryce found that the standalone bunk beds used in C, B, P, R, and T Pods posed risks as tie-off points. Safety Analysis at 9-10. He found that physical remediation was impractical. *Id.* at 10. However, after taking Defendants' Response into account, he recommended that Defendants should minimize the risk by not housing people in those units who have current suicidal ideation. *Id.*; Defendants' Response at 10; Bryce Response at 2. ***Have Defendants adopted this recommendation? If yes, please provide documentation of the changes to policy and any training provided to staff.***

Mr. Bryce also made additional findings regarding problems with Defendants' suicide prevention program. First, he found that medical and mental health staff were routinely failing to conduct rounds on and evaluations of people in safety cells in accordance with policy. Safety Analysis at 12-13. He further explained that Defendants failed to provide him with information to evaluate whether custody staff were conducting such rounds in accordance with policy. *Id.* at 13. He recommended that staff be required to "submit a memo as to the reason why they did not comply with the[se] requirement[s]." He also recommended that staff be trained or retrained on "the importance of performing the[se] duties and responsibilities." *Id.* In response, Defendants stated "we have implemented requiring a memo from both custody and medical staff providing cause for all late checks. This will insure compliance and provide real time justification where facility emergencies were legitimate reason [sic] for being late." Defendants' Response at 13. ***Please provide documentation of the relevant changes to policy and any training provided to staff. We also request that these memoranda be included as part of all future quarterly document productions. Please also produce all memoranda that have been submitted to date.***

Lastly, Mr. Bryce indicated in his report that, notwithstanding his requests, the County did not provide him with "reports relating to the suicides and deaths that have occurred in the jail this past year." Safety Analysis at 13. As a result, he stated that he was "unable to provide opinions and/or recommendations regarding measure [sic] that might be taken to prevent similar incidents from occurring." After Defendants still failed to provide him with such documents, Mr. Bryce wrote in his Response to Defendants' Response that he was "concerned that [he] ha[d] not been provided with the requested reports of jail deaths and suicides that have occurred since the Sida Report…. [I]t is important to review the nature of those incidents in a timely manner and what if any remedial measures have been taken to prevent future occurrences of similar incidents." Bryce Response at 2. ***Please provide the requested documents to Mr. Bryce, which he indicated are necessary to complete his review. Please also produce the documents to Plaintiffs, if the County has not already done so.***

We are still in the process of reviewing these documents and may raise additional concerns in the future.

V. INADEQUATE MEDICAL AND MENTAL HEALTH STAFFING

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

Minimum Staffing Pattern

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

To verify compliance with this staffing plan, Plaintiffs' counsel reviewed the staffing data included in Defendants' Q4 2021 and Q1 2022 document productions for one randomly chosen week in each month of the review period. Using this data, Plaintiffs' counsel compiled tables of the daily hours worked for each employee during the week under review. We then compared the information in these tables to the requirements in Exhibit C to the ACD.

Defendants were non-compliant with nearly every one of their staffing obligations during each of the review weeks in Q4 2021. Staffing compliance improved marginally during the first quarter of 2022, but key positions remained non-compliant for all three of the weeks under review. We are particularly concerned by the severe deficiencies in the following positions:

Psychiatry – The ACD requires that a psychiatrist work on-site at the Jail at least eight hours per week. The Jail also requires that sixteen additional hours of psychiatry coverage be provided by either a telepsychiatrist or an on-site psychiatrist. According to Defendants' psychiatry staffing data, they did not comply with their psychiatry staffing obligations during five of the six weeks reviewed, and had no psychiatry coverage whatsoever after October 2021. Defendants' staffing data shows no on-site or telepsychiatrist hours worked at the Jail during the weeks of November 14-20, December 12-18, January 16-22, February 6-12, and March 13-19. Defendants also produced documents titled "Telepsych" for both Q4 2021 and Q1 2022, however, and these documents appears to show that numerous "Psychiatrist Sick Call[s]" were completed during weeks when Defendants' staffing data does not show any hours worked by either an on-site psychiatrist or a telepsychiatrist.

Please help us understand the apparent contradiction between Defendants' staffing data and these "Telepsych" reports showing completed Psychiatrist Sick Call

appointments. Was a psychiatrist treating class members even though there are no records of psychiatrist hours worked in Defendants' staffing data? If so, who completed these appointments and were they working on-site at the Jail or remotely? What is the current psychiatry staffing arrangement at the Jail?

MFT/LCSW – Defendants' staffing data shows severe deficiencies in MFT/LCSW staffing during all six of the weeks under review. The ACD requires that an MFT/LCSW work at the Jail for at least 8 hours per day on Sundays, Mondays, Tuesdays, and Saturdays, and that two MFT/LCSWs work a combined total of 16 hours at the Jail each Wednesday, Thursday, and Friday. During the week of October 17-23, 2021, however, there were no MFT/LCSW hours worked at all on Wednesday, Thursday, or Friday. During the week of November 14-20 there was no MFT/LCSW coverage at all from Monday through Friday, and during the week of December 12-18, 2021 there was no MFT/LCSW coverage whatsoever. During the week of January 16-22, 2022, there were no MFT/LCSWs working at the Jail from Tuesday through Friday. During the week of February 6-12 there were no MFT/LCSWs working at the Jail on Sunday, Monday, Wednesday, Friday, and Saturday. During the week of March 13-19 there was no MFT/LCSW working at the Jail from Wednesday through Friday.

What caused these severe deficiencies in MFT/LCSW coverage throughout the review period? What are Defendants doing to correct this problem?

PA/FNP – Defendants were non-compliant with their PA/FNP staffing obligations during four of the six weeks under review. The ACD requires that a PA/FNP work at least eight hours per day Monday through Friday. Defendants complied with their PA/FNP staffing obligation during the weeks of October 17-23, 2021 and January 16-22, but were non-compliant in each of the other four weeks under review. During the weeks of November 14-20 and February 6-12 there was no PA/FNP at the Jail on Monday. During the week of December 12-18 there was no PA/FNP at the Jail on Tuesday or Wednesday. And during the week of March 13-19 there was no PA/FNP at the Jail on Wednesday, Thursday, or Friday.

VI. SICK CALL / REFUSAL TO PROVIDE NECESSARY INFORMATION

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

Prompt access to medical care has never been more important, given the global pandemic. Section V.B.9 of the Amended Consent Decree requires "daily sick call" for "all inmates requesting medical attention." Pursuant to this section, a Physician's Assistant (PA), Nurse Practitioner (NP), or Registered Nurse (RN) must triage all sick call requests within 24 hours of submission and determine the urgency of each request. Those requests raising "emergent" issues must be completed "immediately"; those raising "urgent" issues must be completed "within 24 hours"; and those raising "routine" issues

must be completed "within 72 hours, unless in the opinion of the PA, NP, or RN that is not medically necessary." Where the PA, NP, or RN concludes that it is not medically necessary for a sick call request to be completed within 72 hours, he or she must note the basis for that conclusion.

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

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

B. Sick Call Timelines

Defendants' compliance with sick call timelines has slowly improved in recent quarters but Defendants' ongoing refusal to provide Plaintiffs' counsel with information to which we are entitled under the ACD has made it impossible to determine whether this pattern has continued during Q3 or whether the timeliness of Defendants' responses to sick call requests has worsened. The data in Defendants' Q3 "sick call tracking tool" suggests that they are compliant with certain requirements in the ACD, but this tool does not include critical information about the subject matter of each sick call request. As Plaintiffs' counsel explained to Defendants in emails dated November 8 and 18, 2021, this information is necessary to determine whether Defendants are properly classifying sick call slips as routine, urgent, or emergent—and thus whether Defendants were required to respond to the sick call within the 24 hours required for urgent requests or the 72 hours required for routine sick calls. As of the date of this Report, Defendants continue to refuse Plaintiffs' request for these documents.

This refusal to provide necessary information that Defendants previously produced on a quarterly basis is itself a serious violation of the ACD, which requires that Defendants provide class counsel with "[a]ll records and documents which relate to compliance with this Amended Consent Decree, including records and documents maintained or generated by or in the possession of the Jails' contracted medical and mental health provider…upon request by Class Counsel." ACD at 62-63.

Plaintiffs again request that Defendants return to their earlier practice of providing both the sick call tracking tool and the sick call "logs" generated by Defendants' medical records system, as required by Section XV and Exhibit G to the ACD.

VII. CONSTRUCTION OF MEDICAL AND MENTAL HEALTH FACILITY

Please provide an update regarding the construction of the new medical and mental health facility at the Jail.

VIII. CONCLUSION

Pursuant to Section XIX of the ACD, Plaintiffs request that Defendants meet and confer with them no later than **Friday, June 24, 2022** to discuss potential remedies for the violations discussed in this report. Failure to identify and discuss potential remedies with Plaintiffs' counsel may necessitate an enforcement motion.