

Babu v. Ahern
Consent Decree Sixth Confidential Status Report
Case No. 5:18-cv-07677-NC
Terri McDonald Consulting LLC
Sacramento, CA
April 4, 2025

The following are excerpts from the Consent Decree provisions assigned to Terri McDonald for monitoring. This document will have a summary of those provisions followed by the specific provision language and this Joint Expert's findings and recommendations. Connected provisions have been combined for this status report; however, several will likely be separated in future reports as the County increases compliance. Additional recommendations may also be added in subsequent reports as additional information is gleaned during implementation. While this report is dated April 4, 2025, only information provided through December 31, 2024 has been included in this reporting period.

The summary chart below reflects an overview of the specific provisions, utilizing the following codes:

DC	Recommend Discontinuation of Monitoring
SC	Substantial Compliance
PC	Partial Compliance
NC	Non-Compliance
INYN-N/A	Implementation Not Yet Required – Not Applicable

Summary of Ratings

Requirement	Current Rating	Prior Rating
200. Sufficient Custody Staff to Comply with Consent Decree	PC	PC
201. Filling Custody Positions	PC	PC
202. Creation of Behavioral Health Access Team	PC	PC
203. Creation of Emergency Health Care Access Team and Clinic Deputy Escorts	PC	PC
402. Out of Cell Time for Recreate Alone (Step 1) Populations Following Yard Capacity Expansion.	INYN – N/A	INYN – N/A
403. Structured Activity Time for Recreate Alone (Step 2) Populations Following Yard Capacity Expansion.	INYN – N/A	INYN – N/A
405. Out of Cell Time for Step 2 Populations Following Yard Capacity Expansion,	INYN – N/A	INYN – N/A
407. Structured Activity Time for Step 2 Populations Following Yard Capacity Expansion.	INYN – N/A	INYN – N/A
409. Out of Cell Time for General Population – Celled Housing	PC	PC
410. Structured Activity Time for General Population – Celled Housing	PC	PC
411. Out of Cell Time and Structured Activity for Step 1 and Step 2 Populations Effective immediately	PC	PC

Requirement	Current Rating	Prior Rating
412. Out of Cell Time and Structured Activity for Step 1 and Step 2 Populations Beginning on the fourth month after the Effective Date of the Consent Decree	PC	PC
414. Reconfiguration of Recreation Spaces Within Twenty-four(24) Months of the Effective Date of the Consent Decree	PC	PC
415. Access to Bathroom Facilities During Out of Cell Time Activities	SC-DC	SC - DC
417. Documenting Exceptions to Out of Cell Activities due to Unusual Circumstances	PC	PC
418. Procurement and Activation of Electronic Information System to Track Out of Cell Time	PC	PC
419. Notification of Mental Health Staff When Incarcerated Person Repeatedly Refuse to Exit Cell or Neglect Basic Care	PC	PC
420. Development of Plan to Reconfigure Recreation Spaces	PC	PC
421. Maximize Outdoor Recreational Time	PC	PC
422. Behavioral Health Clients Involvement in Programming and Evaluation of Available Work Assigns to Increase Opportunities	PC	PC
423. Equal Access to Programming for Behavioral Health Clients and Alternative Custody Opportunities.	PC	PC
424. Evaluation of Potential Expansion for Programming Space.	PC	PC
500. Update to Use of Force Policies and Training	PC	PC
501. Use of Force Policy to Include Specific Mandates.	PC	PC
502. Mental Health Staff Role in Pre-Planned Use of Force Incidents	PC	PC
503. Use of Force Reviews and Expansion of Fixed Cameras	PC	PC
504. On-Going Refinement of Use of Force Policies and Training	SC-DC	SC
505. Utilization of Special Restraints and Discontinuation of the WRAP device.	PC	PC
506. Medical and Mental Health Staff Role When Specialized Restraints are Used	PC	PC
507. Updates to the Special Restraint Policies and Training.	PC	PC
600. Access to Grievances and Grievance Trend .	PC	PC
712. Alert System to Address Delays in Intake Processing	PC	PC
749. Cleaning of Safety Cells.	SC-DC	SC - DC
751. Working Call Buttons in Living Units	PC	SC
754. Emergency Response Equipment and Access to Cut Down Tools.	SC-DC	SC - DC
760. Clinicians Role in Restricting Property and Privileges Associated with Suicide Precautions.	PC	PC
761. Training in Security Checks and Emergency Response to Suicide Attempts	SC	PC
763. Supervisor Review of Security Checks.	SC	SC

Requirement	Current Rating	Prior Rating
768. Out of Cell Time in Therapeutic Housing Units	PC	PC
773. De-escalation Training	PC	PC
800. Establishment of Incarcerated Person Advisory Council and Ombudsperson Program	PC	PC
1200. Development of Consent Decree Implementation Plan.	PC	PC

Commonly Used Acronyms

ACSO	Alameda County Sheriff's Office
AFBH	Adult Forensic Behavioral Health
BH	Behavioral Health
BHI	Behavioral Health Incarcerated Person
CCC	Crisis Communications for Corrections
DC	Detention and Corrections Division - ACSO
GO	General Order – ACSO Policy
IOL	Intensive Observation
IP	Incarcerated Person
ITR	Intake, Transfer and Release
NA	Not Applicable
NC	No Change
RFID	Radio Frequency Identification Device
RH	Restricted Housing
STEC	Sandy Turner Education Center
SRJ	Santa Rita Jail
THU	Therapeutic Housing Unit
UNK	Unknown

Associated Policies

The vast majority of the Provisions require an update to policies, forms, post orders and training. The Incarcerated Person Handbook requires updates to comply with the Consent Decree as well. Additionally, each entity¹ responsible for a provision may need their post orders, job descriptions or duty statements updated to comply. The following list of documents is not exhaustive but represents the status of pending or recently updated policies that apply to at least one provision in this report:

1.05 (GO) ²	Use of Force
1.20 (GO)	Taser X-2
1.21 (GO)	Less Lethal Weapons Systems
3.10 (DC)	Daily Attendance Report – Requires Update
3.21 (DC)	Personnel Selection, Promotions, Retention and Staffing – <i>Published November 21, 2023</i>
3.27 (DC)	Position Control – <i>Published November 21, 2023</i>

¹ Includes ACSO, AFBH and Wellpath.

² General Orders 1.05, 1.20 and 1.21 are departmental policies with no recommended updates at this time. This could change depending on future reviews of custody use of force incidents.

3.29 (DC)	Special Management Unit Staffing – <i>Published November 21, 2023</i>
3.30 (DC)	Mandatory and Voluntary Overtime Assignments – Requires Update
4.02 (GO)	Training - <i>Published November 21, 2023</i>
4.01 (DC)	Facility Training Plans – <i>Published November 21, 2023</i>
4.02 (DC)	Facility Personnel Training - <i>Updated February 25, 2023</i>
5.69 (GO)	WRAP Device – <i>Updated and Approved</i>
6.01 (DC)	Repair and Minor Construction ACSO – <i>Updated October 10, 2022</i>
6.02 (DC)	Facility Plant Maintenance – <i>Updated October 10, 2022</i>
7.01 (DC)	Fire Safety – <i>Published January 26, 2024</i>
7.03 (DC)	Emergency Alarm Response – <i>Updated March 10, 2023</i>
7.14 (DC)	Infectious Disease Control – <i>Updated April 5, 2023</i>
8.09 (DC)	Transportation/Movement and Use of Restraints – Requires Update
8.11 (DC)	Emergency Medical Transportation – <i>Updated January 26, 2024</i>
8.12 (DC)	Incarcerated Person Observation and Direct Visual Supervision – <i>September 5, 2023</i>
8.13 (DC)	Use of Safety Cell – <i>Updated April 6, 2023</i>
8.17 (GO)	Body Worn Cameras – Pending Further Review
8.26 (DC)	Use of Special Restraints – <i>Updated February 24, 2024</i>
8.28 (DC)	Resistant Incarcerated Person Management – Requires Update
8.29 (DC)	Positional Asphyxia – Pending Further Review
8.31 (DC)	Selection of Housing Unit Inmate Workers – Requires Update
9.01 (DC)	Disciplinary Isolation – <i>Archived</i>
9.02 (DC)	Restrictive Housing – <i>Updated November 21, 2023</i>
9.03 (DC)	Protective Custody – <i>Updated September 25, 2023</i>
9.04 (DC)	Therapeutic Housing Policy – In Review Process
9.07 (DC)	Deprivation of Authorized Items or Activities – Requires Update
9.08 (DC)	Contract Agency Inmates – <i>January 27, 2023</i>
9.09 (DC)	Special Incarcerated Person Management Plan – Requires Update
9.10 (DC)	Max Separation Incarcerated persons – <i>Archived</i>
9.11 (DC)	Effective Communication – <i>Published February 6, 2024</i>
10.01 (DC)	General Security Post Order – Requires Update
10.02 (DC)	Lieutenant/Watch Commander Post Order – <i>Updated October 20, 2023</i>
10.03 (DC)	Sergeant/Shift/Supervisor Post Order – <i>Updated May 3, 2023</i>
10.04 (DC)	Intake Deputy Post Order – Requires Update
10.05 (DC)	Housing Unit Deputy Post Orders – <i>Updated October 31, 2023</i>
10.08 (DC)	Clinic Officer Post Orders – <i>Updated March 16, 2023</i>
10.09 (DC)	Kitchen Officer Post Orders – <i>Updated October 24, 2023</i>
10.11 (DC)	Intake, Transfer, Release (ITR) Technician Post Order – <i>Updated May 23, 2023</i>
10.12 (DC)	Housing Control Post Orders – <i>Updated June 28, 2023</i>
10.18 (DC)	Yard Deputy Post Order – <i>Updated June 26, 2023</i>
10.22 (DC)	Special Projects Deputy Post Order – Requires Update
10.30 (DC)	BHAT Deputy Post Orders – Requires Update
10.32 (DC)	ADA Officer Post Orders – <i>Updated August 28, 2023</i>
11.01 (DC)	Intro to Intake – Requires Update
11.02 (DC)	Intake Procedure – Requires Update
12.01 (DC)	Intake Classification – <i>Published January 23, 2024</i>
12.02 (DC)	Reclassification – <i>Updated March 22, 2023</i>
12.08 (DC)	Incarcerated Person Work Program – Requires Update
13.01 (DC)	Medical and Behavioral Health Care – Requires Update
13.02 (DC)	Access to Care Policy – Requires Update

13.06 (DC)	Suicide Prevention – <i>Updated June 30, 2023</i>
13.12 (DC)	Behavioral Health Referral Form – Requires Update
15.01 (DC)	Sanitation Schedule – Requires Update
15.02 (DC)	Safety and Sanitation Inspection – Requires Update
16.01 (DC)	Incarcerated Person Discipline – <i>Updated July 11, 2023</i>
16.02 (DC)	Incarcerated Person Rules and Information – <i>Updated June 21, 2023.</i> Incarcerated Person Handbook – <i>Updated June 21, 2023</i>
16.03(DC)	Incarcerated person Grievance Procedure – In Review Process
17.02 (DC)	Visiting – <i>Updated October 24, 2023</i>
18.01 (DC)	Intro to Incarcerated person Services – Requires Update
18.02 (DC)	Incarcerated person Operational Programs – Requires Update
18.05 (DC)	Volunteer Services and Programs – Requires Update
18.07 (DC)	Religious Services – Requires Update
18.09 (DC)	Educational Program Planning – Requires Update
18.10 (DC)	Vocational Training Programs – Requires Update
18.11 (DC)	Social Services Programs – Requires Update
18.12 (DC)	Recreation and Incarcerated person Activity Program – <i>Updated March 9, 2023</i>
18.14 (DC)	Tablet Access – <i>Updated February 29, 2023</i>
18.17 (DC)	Parenting Program – <i>Published November 21, 2023</i>
8.18 (DC)	Inmate Death – <i>Updated June 26, 2023</i>
20-02	Santa Rita Jail Mandatory Overtime Program – January 2020
20-17	Mandatory Overtime Frequently Asked Questions – October 2020
21.01.01 (DC)	Use of Force Addendum In-Custody Use of Force – <i>Updated March 14, 2023</i>
21.01.02 (DC)	Controlled Response to Resistant Inmate – <i>Updated October 4, 2024</i>
21.03.01(DC)	Force Training and Compliance Unit – <i>Instituted July 1, 2022</i>
21.03.02 (DC)	Force Training and Compliance Unit Force Incident Review and Routing – <i>Instituted March 14, 2023</i>

FINDINGS

(200) Defendants shall maintain sufficient mental health and custody staff to meet the requirements of this Consent Decree, including maintaining sufficient mental health clinical staffing to provide for adequate 24-hour coverage, seven days a week, and sufficient custodial staff to ensure that programming, recreation, transportation and movement, out-of-cell and outdoor time and all other jail functions can proceed safely. To the extent possible, Custody staff assigned to positions where mental health training is required, including staff assigned to the Therapeutic Housing Units, shall be strongly encouraged to serve in these roles for at least three years to provide for consistency and to maximize the benefit of the training and expertise of the staff assigned to these areas.

Finding: Partial Compliance³

The ACSO has shown a reduction in the number of custody staff assigned on duty despite increasing the daily staffing target goal since the last reporting period. Pursuant to ACSO's 2024 Annual Staffing Certification, the target for the number of deputies assigned on the dayshift is currently sixty-three (63) deputies and fifty-seven (57) for the overnight shift for a total of 120 deputies.⁴ The chart below will show

³ The Mental Health Expert will report on mental health hiring and staffing.

⁴ Annual Staffing Certification April 1, 2024

that the ACSO has not been able to achieve that goal as the system is averaging under 100 deputies combined on the day and overnight shifts.

The following table shows the daily average number of posts filled and overtime utilization for the first week of each month during the period of January 2023 through December 2024:

**Average Daily Deputy and Technician Coverage
Teams A, B, C, D**

Period	Shift	Deputies on Duty	Deputies on Overtime	% Deputies on Overtime	Technicians on Duty	Technicians on Overtime	% Technicians on Overtime
Jan - June 2023	Dayshift	59	26	44%	35	6	17%
	Over Night	55	28	51%	34	6	18%
July- Dec 2023	Dayshift	60	29	48%	33	5	15%
	Over Night	55	21	38%	32	5	17%
Jan - June 2024	Dayshift	54.5	28	51%	27	6	18%
	Over Night	54.5	22	40%	28.5	5.5	16%
July- Dec 2024	Dayshift	52.0	24.4	47%	32.2	6.1	19%
	Over Night	47.7	17.0	35%	30.7	3.6	11%

It is recognized that ACSO deactivated three housing units (HU) this review period (HUs 2, 22 and 23) while activating only one housing unit (HU 21). In reviewing a sample of daily staffing for the activated housing units this review period in comparison to the January through July 2024 review period, it was noted there was no decrease in staffing in any of the activated units and several units slightly increased staffing. However, if ACSO was able to meet the 120 deputies per day requirement established in the County's most recent Annual Certification report, more staff would be available to support compliance with the agreement as well as to assist with emergency transportations that invariably arise and impact operations. It appears ACSO, instead of meeting the 120 deputies per 24 hour period, has been reducing the use of overtime as evidenced by data that shows an average of 50 deputies worked on overtime per day during the January through June 2024 review period versus less than 42 deputies per day during the July through December 2024 review period, representing a 16 percent decrease in overtime utilization.

The number of technicians assigned during the 24 hour period during July through December 2024 increased to an average of 63 technicians, up from the prior review period which averaged 55.5 technicians assigned on an average day.

As has been mentioned in prior reports, until there is an agreement on the number of staff required to optimally operate the jail based on the dynamic population numbers and classifications, it is difficult to determine if ACSO has the proper amount of staff in each housing unit and available to assist with ancillary

supports, such as transportation, emergency response, access to programming, access to care, classification, grievance responses, etc.

The County continues to house a population of federal prisoners via a contractual agreement but continues to screen the population to reduce complex federal prisoners accepted to Alameda County jail as well as works with the federal system to return federal prisoners who are high need or high risk. The County continues to operate the male restricted housing units in a manner that allows for smaller populations in the pods to afford out-of-cell time and reduce tensions amongst the population.

Recommendations:

1. *⁵Continue hiring associated with Provision 201.
2. *Consider ending the contract to house federal inmates in the jail.
3. *Evaluate non-Custody divisions of the Sheriff Office to redirect staff into the jails until such time as hiring can increase.
4. *Create a metrics report that trends daily staffing for all shifts and identifies any barriers that the number of available posts, vacancies or redirects have on programming or compliance with the Consent Decree.⁶ Work with the Joint Experts to prioritize available resources should that be the case.
5. *Work with the Joint Experts concerning how hiring additional Technicians or Custody Deputies pursuant to Penal Code Section 850.2 and 850.5 could assist in the role of security checks and other jail operations.

*(201) Defendants further agree to implement the recommendations contained in the Staffing Report, including: (1) making best efforts to hire a total of two hundred fifty-nine (259) sworn staff and seventy-two (72) non-sworn staff over a three-year period to work in the Jail in order to reach the minimum staffing levels required to safely operate the Jail without employing mandatory overtime, these positions shall be devoted solely to staffing the Jail, and the Sheriff shall certify annually that these positions are used solely for the Jail;*⁷

Finding: Partial Compliance

Assessment:⁸

During the previous rating period, the County temporarily reduced the hiring goal for *deputy* positions. To maintain a historical record of changes in authorized positions, the following is repeated from the prior report:

The target pursuant to the Settlement Agreement is the employment of 656 *deputies* and 285 *technicians* which were to be filled by August 2024. However, according to the June 2024 Bi-Weekly Staffing report, the number of authorized *deputies* was reduced to 648 positions, or a loss

⁵ All recommendations that begin with an asterisk were noted in prior report(s).

⁶ The Joint Experts and/or the National Institute of Corrections (NIC) can assist.

⁷ Note due to the complexity of this provision, the provision has been separated into five (5) subsections with the Finding documented below Provision (201)(1) and the Recommendations below in Provision (201)(5)

⁸ These findings are specific to custody positions as mental health staffing analysis will be conducted by the Mental Health Expert.

of eight (8) authorized *deputy* positions. The ACSO reports this is a temporary redirect of position authority to support units within ACSO to assist with jail operations by increasing training, background, recruitment and internal affairs staff. This is a reasonable approach to support jail operations and will be reviewed as ACSO is closer to filling all jail deputy positions.

It is noted the *deputy* vacancies decreased from the Fifth Monitoring Report which documented 313 *deputy* vacancies as of June 22, 2024;⁹ the December 21, 2024 staffing report reflects there were 305 *deputy* vacancies, resulting in a 46 percent vacancy rate.¹⁰ The County increased the number of *technicians* by three staff members, representing a 22 percent vacancy rate in the *technician* classification.

**Bi-Weekly Staffing Report
Ending December 21, 2024**

	Ending April 4, 2020	Ending June 22, 2024	Ending December 21, 2024	Change from April 4, 2020	Change Since December 21, 2024
Authorized Badge Positions	404	648	648	244	0
Authorized Non-Badge Positions	211	285	281	70	-4*
Badge On-Site	278	343	351	73	8
Non-Badge On- Site	182	215	220	38	5
Background Investigators	4	13.5	13.5**	9.5	0

*Note - reduction of 4 non-sworn positions previously listed as "other." Reduction of one authorized sheriff technician since June 2024.

** Does not include two sergeants, two human resource technicians and one administrative assistant

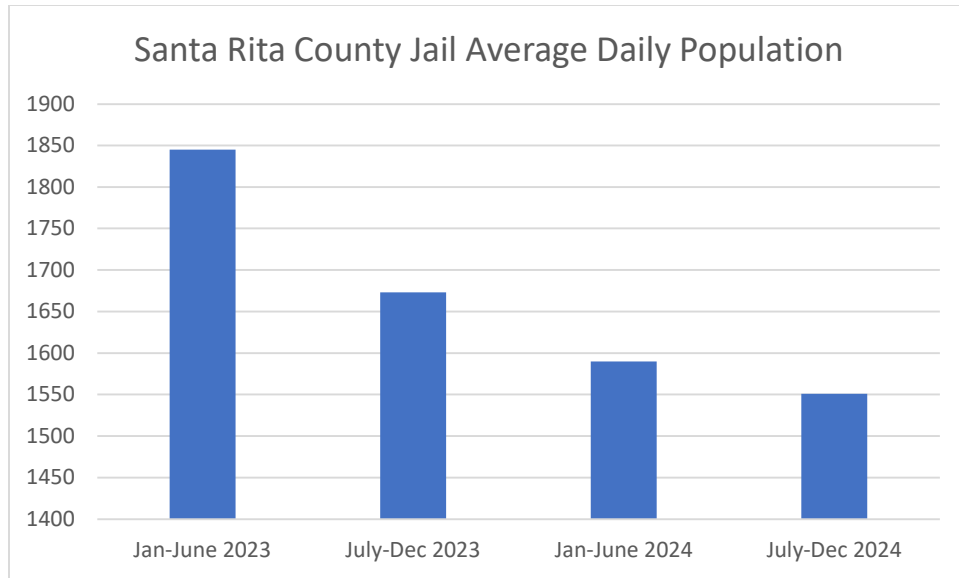
To aid hiring, the ACSO has maintained the background unit and reports that during the next rating period, the ACSO is on target to train 57 new recruits who will be assigned to custody by July 2025. However, it is unknown how many, if any, custody staff will be released to work in the patrol division, which also has critical vacancies requiring a careful balance for public safety reasons.

It is positive that the ACSO continues to realize a population reduction easing the strain on staffing. The County realized a reduction in population from the first six months in 2024 to the last six months in 2024. The average daily population (ADP) for the period of January – June 2024 was 1590 incarcerated persons, reducing to an ADP of 1551 incarcerated persons during the period of July – December 2024 which represents a two percent reduction as reflected in the chart below:¹¹

⁹ Page 8.

¹⁰ For calculation, the total required deputies per the Consent Decree is 656, not the currently authorized 648 positions.

¹¹ Data taken from Monthly Stat Reports to create six month ADP.



The following represents recommendations from prior reports:

- (1) Ensure salary and benefits are competitive to lure qualified candidates.
- (2) Ensure a strong recruitment strategy with well-resourced hiring teams available to expedite hiring in a hyper competitive market.
- (3) Cancel contracts that are not critical to the County and ACSO's mission.
- (4) Continue in robust and aggressive alternative to custody efforts with the Criminal Justice and community provider partners.
- (5) Carefully evaluate all functions performed by deputies and technicians to determine if civilianization of those functions can occur.
- (6) Evaluate medical guarding and medical transportation practices to bring more services into the jail and cluster hospital guarding into a secure community setting.
- (7) Engage in robust return-to-work and employee wellness strategies.

(201)(2) cease the practice of carrying out-of-division vacancies in the Detentions & Corrections division;

In Compliance. A position reconciliation was conducted during this review period. ACSO provided information on all staff assigned to custody and information regarding where those staff were assigned as of December 2024. The staff assigned to custody positions numbers corresponded to the assignment roster, demonstrating a reconciliation of positions. There is no evidence to suggest that ACSO is carrying out-of-division vacancies in the Detentions and Corrections division. The next reconciliation will occur at the end of calendar year 2025.

(201)(3) establish and implement a Compliance Unit consisting of at least one sergeant, two lieutenants, and one captain, to oversee the following subject areas: ADA, Grievance and Appeals, the Prison Rape Elimination Act, revisions to and implementation of updated policies and procedures, Litigation Compliance/Internal Compliance including COVID-19 related issues, and Multi-Service Deputies;

In Compliance. As previously reported, the Compliance Unit has (1) captain, one (1) lieutenant, three (3) sergeants, two (2) deputies and six (6) sheriff's technicians. While the Team has been stabilized and responsive during this rating period, the Monitoring Team remains concerned that the team is insufficient to support the reforms and engage in routine and consistent internal monitoring. Substantial Compliance cannot be established on numerous provisions until such time the County can demonstrate internal capacity to self-audit and self-correct. The current team remains in the implementation phase of the agreement and has been unable to consistently assume the role of internal data collection, analysis and corrective action.

(201)(4) provide an annual written certification, each year from the Effective Date, to be sent to Class Counsel pursuant to the Protective Order, by the Sheriff certifying the total number of authorized positions for the Jail, including a breakdown by rank and duties, and the total number of positions filled on an average basis over the past calendar year, including an explanation for any vacancies lasting longer than ninety (90) days; and

In Compliance - The County submitted the annual certification on April 1, 2024, as required. The next certification is due in April 2025.

(201)(5) within six (6) months from the Effective Date, creating a plan to transition to a direct supervision staffing model for all Restrictive Housing Units and Therapeutic Housing Units. The Compliance Captain will be strongly encouraged to serve a minimum assignment of three (3) years.

There has been no change to this sub provision since the Fourth Monitoring report.¹² Refer to Provision 414 concerning the timeline for the installation of deputy workstations in the living areas to support a direct supervision model. The Original Compliance Captain transitioned to a new role and was replaced by a committed captain already working in the custody division, allowing for continuity.

Recommendations:

1. *Continue with hiring plan and utilization of retired annuitants and overtime to fill vacant posts.¹³
2. *Continue to retain Background Unit personnel and augment with retired annuitants as workload dictates.
3. *Continue with aggressive recruitment and retention strategies.
4. *If meeting hiring goals remains elusive, evaluate viability of some percentage of sworn personnel to be hired under Penal Code sections 830.2, 830.5, *et seq.* to be authorized to work only in custodial functions, including custody transportation.
 - a. Continue the process of retaining supervisors in custody, rather than transferring to patrol, to allow for consistency and skill development for the sergeants.
5. *Review workload of deputy and technician personnel to determine if any existing deputy assignments can be effectively performed by non-sworn staff.

¹² See page 10.

¹³ It is noted that retired annuitants are not currently utilized to work in housing units but do assist with transportation, which lessens the impact on the redirection of housing unit staff and involuntary overtime. The County is encouraged to consider the use of retired annuitants in housing units as well if that would assist with the vacancy challenges.

6. *Continue to designate deputy posts that are best filled by regularly assigned staff, keeping reliance on overtime in higher risk units to a lower percentage than the medium and low risk units.
7. *Implement the measures described above to address the shortage of staff, including:
 - a. Ensure salary and benefits are competitive to lure qualified candidates.
 - b. Ensure a strong recruitment strategy with well-resourced hiring teams available to expedite hiring in a hyper competitive market.
 - c. Cancel contracts not critical to the County and ACSO's mission.
 - d. Continue in robust and aggressive alternative to custody efforts with the Criminal Justice and community provider partners.
 - e. Carefully evaluate all functions performed by peace officer and technicians to determine if civilianization of those functions can occur.
 - f. Evaluate medical guarding and medical transportation practices to bring more services into the jail and cluster hospital guarding into a secure community setting.
 - g. Engage in robust return-to-work and employee wellness strategies.
8. Work with an outside expert and/or the Custody Expert to establish agreed upon staffing levels and support positions based on a dynamic staffing model that takes into consideration various classifications, support needs and staff relief pattern requirements.

(202) Defendants have created a dedicated Behavioral Health Access Team ("BHAT"). Custody staff assigned to the BHAT shall be strongly encouraged to serve at least a three (3) year assignment to provide for consistency and to maximize the benefit of the training and expertise of the Custody staff assigned to this unit. The BHAT shall directly work with AFBH to facilitate: (a) clinical interactions in individual and group settings, (b) assist in facilitating evaluations in the Intake, Transfer, and Release Unit, and (c) group programs. Deputies assigned to the BHAT shall be provided with comprehensive Crisis Intervention/Behavioral Health training developed in coordination with AFBH regarding working with Behavioral Health Clients, including training on de-escalation techniques, problem solving, and particular issues that may be raised when interacting with Behavioral Health Clients. The duration and topics for the training shall be mutually agreed upon by the Parties within sixty (60) days of the Effective Date of the Consent Decree and may be combined with the trainings of all Staff to be conducted pursuant to Section IV(A). Deputies assigned to the BHAT will complete this training prior to beginning their BHAT assignment. Current BHAT deputies shall further receive an annual refresher training on the topics, the duration of which shall be mutually agreed upon by the Parties within sixty (60) days of the Effective Date.

Finding: Partial Compliance

Assessment:

The County continues to maintain a BHAT program. The County has also reported that it has been able to maintain the number of BHAT deputies in this monitoring period assigning up to eight deputies, which has been confirmed by reviewing the daily BHAT tracking report. These eight deputies are not all on duty at the same time as ACSO averaged 3.8 BHAT deputies per day during Q4 2024, excluding weekends and holidays. This is an increase from 2.25 average deputies reflected in the prior report.¹⁴ In reviewing the BHAT daily report for the period of July through December 2024, at least two BHAT deputies were available to assist clinical personnel on all business workdays, which demonstrates a stabilized and consistent program.

¹⁴ Page 11.

In reviewing BHAT deputy statistics for this review period, the number of escorts has increased substantially from the January through June 2024 review period. In the first six months of 2024 (Q1/Q2), the County averaged 400 completed BHAT escorts, while the last six months of 2024 (Q3/Q4), the County averaged 595 escorts per month, representing a 49 percent increase over the January through June 2024 reporting period. The refusal rate for appointments rose slightly from 8 percent to 9 percent of appointments.

The following table reflects the average monthly BHAT escorts for the period January through June 2024 (Q1/Q2 2024) followed by the monthly average BHAT escort statistics for the period July through December 2024 (Q3/Q4 2024):

**BHAT Monthly Escort Statistics
July to December 2024**

	Completed	Refused	% Appts Refused	Groups
	Escorts	Escorts		
January through June 2024 Average	400	31	8%	83
July 2024	595	45	8%	121
August 2024	758	55	7%	118
September 2024	503	49	10%	89
October 2024	644	60	9%	133
November 2024	511	54	11%	130
December 2024	556	59	11%	150
Q3/Q4 2024 Average	595	54	9%	124
Difference	49%	73%	1%	49%

The BHAT deputies have received the Crisis Communications for Corrections (CCC)¹⁵ training. If the parties can agree on an annual CCC refresher course and the assigned BHAT deputies are provided the refresher training, this provision could reach substantial compliance assuming the mental health monitor concurs sufficient BHAT staff are assigned to meet the needs of the overall mental health program.

Recommendations:

1. *Continue tracking metrics for BHAT deputies to determine if the existing cohort is sufficient to meet the needs of the jail system. Ensure the metrics are coordinated with AFBH to ascertain the need as clinical resources are increased.
2. *Determine how BHAT deputy assignments will interplay in the THU and other specialized housing units.
3. Collaborate with the mental health expert regarding the content of the annual refresher training to present to the parties for approval. When approved, implement the training.

¹⁵ Previously referred to Crisis Intervention Training (CIT)

(203) ACSO also maintains a team of deputies who are assigned to the clinics (“Clinic Deputies”) to transport incarcerated persons between the housing units and the clinic for medical, dental, and some behavioral health appointments. Further, within six (6) months of the Effective Date, ACSO shall develop a team of five (5) deputies per shift who shall be responsible for emergency, medical, and other off-base transportation for incarcerated persons on an as-needed basis (“Emergency Health Care Access Team”). These deputies shall receive training regarding interacting with Behavioral Health Clients.

Finding: Partial Compliance

Assessment:

There has been no change to this provision since the Fourth Monitoring Report.¹⁶ The barriers to compliance are lack of consistent documentation concerning the utilization of the EHCATs deputies in the Watch Commander End of Shift Report and ACSO demonstrating that the ECHAT’s deputies have received appropriate training regarding interacting with Behavioral Health Clients. However, according to daily staffing reports, the County has consistently met the requirement for maintaining a team of deputies assigned to the clinics.

According to the County, the staff assigned to EHCATs currently receive training regarding interacting with Behavioral Health Clients, but that training has not yet been reviewed by the Mental Health Monitor. It is assumed the training can be reviewed by the Mental Health Monitor and the County can show training has occurred to allow this provision to reach substantial compliance. The County has presented a draft updated Watch Commander End of Shift report to improve proof of practice, and it is anticipated that form will be implemented during the next review period.

Recommendations:

1. Present the training provided to the EHCAT deputies to the Mental Health Monitor for review and approval.
2. Provide proof of practice for training of approved lesson plan.
3. *Finalize the standardized Watch Commander Report for all Teams to assist with establishing the number of staff redirected on a daily basis from the jail for emergency transportation or hospital guarding.

(402) [Following reconfiguration of recreation space] Individuals who are on “Recreate Alone” status (meaning they cannot recreate with other incarcerated persons) [Step 1] shall be offered at least fourteen (14) hours per week of out-of-cell time, which shall include at least some amount of Structured Time, as set forth below. ACSO shall use best efforts to offer individuals two (2) hours of out-of-cell time per day.¹⁷

(403) [Following reconfiguration of recreation space, Step 1] Defendants shall use best efforts to provide at least five (5) hours per week of Structured Time (which includes therapeutic, educational, substance abuse, self-help, religious or other structured programming), which will count towards the total out-of-cell time. Incarcerated persons may participate in these programs in handcuffs or other appropriate restraints only if necessary to ensure the safety and security of the Jail. If ACSO is unable to meet this requirement,

¹⁶ See page 19.

¹⁷ This Provision refers to Step 1 populations in restricted or administrative separation housing. See Provision 411. This may not be achievable until reconfiguration of recreational space.

the Parties agree to meet and confer regarding the reasons why and to examine methods of increasing the amount of Structured Time.¹⁸

(405) [Following reconfiguration of recreational space, Step 2] Individuals shall be offered at least twenty-one (21) hours per week of out-of-cell time, which shall include at least some amount of Structured Time, as set forth below. ACSO shall use best efforts to offer individuals three (3) hours of out of cell time per day.¹⁹

(407) [Following reconfiguration of recreational space] Defendants shall use best efforts to provide at least eleven (11) hours per week of Structured Time [for the Step 2 population], which will count towards the total out-of-cell time. Incarcerated persons will participate in Structured Time programs in restraints if necessary to ensure the safety and security of the Jail. Incarcerated persons may participate in these programs in handcuffs or other appropriate restraints only if necessary to ensure the safety and security of the Jail. If ACSO is unable to meet this requirement, the Parties agree to meet and confer regarding the reasons why and to examine methods of increasing the amount of Structured Time.²⁰

Finding: Implementation Not Yet Required – Rating N/A

Refer to the findings in the Second Monitoring Report²¹ as this provision is not yet subject to rating. However, the County anticipates the yard renovations to be complete by June 2025, which means these out-of-cell requirements will be in effect by summer 2025.

Recommendations:

- 1. Refer to Provisions 411, 412 and 414.*

(409) Individuals shall be offered at least twenty-eight (28) hours per week of out-of-cell time, which shall include at least some amount of Structured Time, as set forth below. ACSO shall use best efforts to offer individuals four (4) hours of out of cell time per day.

(410) Defendants shall use best efforts to provide at least fourteen (14) hours per week of Structured Time, which will count towards the total out-of-cell time. If ACSO is unable to meet this requirement, the Parties agree to meet and confer regarding the reasons why and to examine methods of increasing the amount of Structured Time.

Finding: Partial Compliance

¹⁸ This Provision refers to Step 1 populations in restricted or administrative separation housing. See Provision 411. This may not be achievable until reconfiguration of recreational space.

¹⁹ This Provision refers to Step 2 populations in restricted or administrative separation housing. See Provision 411. This may not be achievable until reconfiguration of recreational space.

²⁰ This Provision refers to Step 2 populations in restricted or administrative separation housing. See Provision 411. This may not be achievable until reconfiguration of recreational space.

²¹ Page 13.

Assessment:

The following introduction is repeated from the Fourth Monitoring Report:²²

There are essentially two types of non-restricted housing units – those units where the majority of the population are compatible and program together; and those units where the classifications of the Class Members are complex, requiring small group activities in the unit, versus allowing the upper tier, lower tier or entire unit out of the cell together. While the classification of housing units can and does change during monitoring periods, in general the housing units in which large groups are compatible include Housing Units 21,²³ 22, 25, 31, 33 and 34. The housing units with mixed and diverse populations, often not compatible for out-of-cell activities included: Housing Units 2, 7, 8 and 24.²⁴ The analysis of this provision will focus on the complex units for this report.²⁵

The County has improved capturing out-of-cell time utilizing the Guardian Radio Frequency Identification (RFID) system, but similar to prior reports, there were periods in which the technician logs were relied upon for out-of-cell tracking as the deputies failed to track the movement in the RFID system.²⁶ For all future reports, only Guardian RFID hours will be utilized for calculations due to the fact the technician logs are generally not exact in times, which is one of the reasons ACSO procured the RFID system.

During this review period, Housing Unit 2 was de-activated, so the averages for that unit were removed from the sample reviews. The sample general population housing units for review were chosen early in the monitoring process based on interviews of Class Members in all housing units and reviews of grievances. The target units were those that appeared initially to struggle with achieving the required out-of-cell time. Measuring structured time remains elusive as the RFID system does not yet include structured activity movement, any complete analysis would require manual cross reference of various documents, an overly burdensome analysis for a system as large and complex as the Santa Rita jail system.

The following tables represent sample out-of-cell reviews from December 2023 through December 2024 for general population celled housing units.²⁷

December 2023 Weekly Average Out-of-Cell Time

Housing Unit	2	7	8	24
Unit Average	27.25	24.75	18	16

**Weekly Average Out-of-Cell Time
January through June 2024**

Housing Unit	2	7	8	24
Combined	23.75	41.5	25.5	17.25
% 28 hours +	30%	100%	53%	0%

²² Pages 15-20.

²³ Housing Unit 21 was temporarily designed for complex female populations to allow for renovation in Housing Unit 24.

²⁴ Housing Units 9 and 35 are addressed in Provision 768.

²⁵ Housing Unit 2 was deactivated and depopulated in October 2024, after this review period.

²⁶ Examples Housing Unit 24 and Housing Unit 8.

²⁷ Housing Unit 24 is a female housing unit, Housing Units 7 and 8 are male housing units.

During this review period, a sample week was analyzed for Housing Units 7, 8 and 24 to measure the average weekly out-of-cell time as well as the percentage of incarcerated persons who were offered at least 28 hours per week of out-of-cell time. The following table reflects that analysis:

**Weekly Average Out-of-Cell Time
July through December 2024**

Housing Unit	7	8	24
A Pod	45.25	35	17.75
B Pod	45.50	36	21.75
C Pod	44.00	35.25	17.5
D Pod	45.00	34.75	0
E Pod	40.00	36.25	0
F Pod	44.50	17.5	0
Combined	44.50	33.5	19
Total Hours Change from Jan - Dec 2024	3	8	1.75
% 28 hours +	100%	83%	0%

It is positive to report that all three units demonstrated an increase in the out-of-cell hours, on average, for the sample weeks. It is also noted that Housing Unit 8 increased the percentage of the population who received an average of 28 hours per week from 53 percent in the January through June 2024 to 83 percent in the period of July through December 2024. Housing Unit 24 has still failed to achieve any of the general population being documented as receiving an average of 28 hours out of cell per week.

The tables on the following pages provide specific detail for each housing unit assessed.

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Housing Unit 7
Weekly Out-of-Cell Activity
Unstructured Activities = 28 Hours per Week
Structured Activities = 14 Hours per Week (included in 28 Hours)
Sample Weeks Months of July-December 2024

Pod	7/7-7/13	8/4-8/12	9/1-9/7	10/13-10/19	11/3-11/9	12/8-12/14	
A	50.25	52.5	49.25	43.75	35	41.5	45.25
B	50.25	52.5	49.25	43.75	35	41.5	45.50
C	42.25	52.5	49.25	43.75	35	41.5	44.00
D	50.25	52.5	48.25	42.25	35	41.5	45.00
E	50.25	52.25	19	42.25	35	41.5	40.00
F	50.25	51	49.25	42.25	35	40.25	44.50
Average Weekly OOC	49	52.25	49	43	24	49	44.50
>28 hours	0	0	0	0	0	0	0
% 28+ hours	100%	100%	100%	100%	100%	100%	100%

Housing Unit 7 continues to exceed the required unstructured out-of-cell time for pod and yard activities. In reviewing worker data and programming reports, very few class members are listed as being involved in programming and the only work assignments for HU 7 class members listed in ACSO reports were unit pod workers, which is a small percentage of the population. In reviewing program data for the months of July through December 2024, an average of three HU 7 class members were enrolled in programming during those months. While the out-of-cell hours exceed the provision requirement, HU 7 does not meet the required 14 hours of structured activities required by the Provision.

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Housing Unit 8
Weekly Out-of-Cell Activity
Unstructured Activities - 28 Hours Per Week
Structured Activities = 14 Hours per Week (included in 28 Hours)
Sample Weeks Months of January-June 2024

Pod	7/7-7/13	8/4-8/12	9/1-9/7	10/13-10/19	11/3-11/9	12/8-12/14	Average
A	30.25	44.25	37.75	40	34.75	22.75	35
B	32.5	43.5	36.75	40	36.25	27.25	36
C	33.5	43	37	37.75	33.5	26.5	35.25
D	32	41.25	35.5	37.5	38.75	24	34.75
E	32.75	44.75	38.5	37	37.25	26.75	36.25
F	11.25	20.5	26.75	16.75	16	14	17.5
Average Weekly OOC	30.75	41.75	34.75	35.75	34.5	23.5	33.5
>28 hours	84	98	108	97	103	61	92
% 28+ hours	83%	93%	95%	87%	91%	52%	83%

Housing Unit 8 realized an increase in the average unstructured out-of-cell time for this reporting period (increase from an average of 25.5 hours per week on average to 33.5 hours per week). Housing Unit 8 also increased the average percentage of class members who received 28 hour per week from 52 percent during the January through June 2024 period to 83 percent during the July through December 2024 review period. HU 8 has also transitioned to housing pods within HU 8 being designated as therapeutic housing units (THU). As a result, assuming the THU populations in HU 8 are identified in the RFID reports, future reports will evaluate out-of-cell time in those pods under Provision 768.

As with HU 7, the only assigned workers in HU 8 are the unit pod workers, representing a small subset of the population. It is noted that clinical groups were offered for the THU pods in HU 8 during this reporting period but not of sufficient scale to meet the structured activity requirements. HU 8 Class Members were noted as involved in other programming as reflected in monthly programming reports, but the average number of HU 8 Class Members noted on the monthly program activity roster for the period of July through December 2024 was only two.²⁸ While the out-of-cell hours are nearing reaching the 28 hour requirement, HU 8 does not meet the required 14 hours of structured activities required by the Provision.

²⁸ The housing location for distance learning students is not always listed in the report, so the average may be slightly higher.

Housing Unit 24 General Population

Weekly Out-of-Cell Activity

Unstructured Activities - 28 Hours Per Week

Structured Activities = 14 Hours per Week (included in 28 Hours)

Sample Weeks Months of July through December 2024

Pod	7/7-7/13	8/4-8/12	9/1-9/7	10/13-10/19	11/3-11/9	12/8-12/14	Average
A	19.5	20	21.5	18.75	27	23.25	17.75
B	19.5	20	21.5	18.75	27	23.25	21.75
C	20.25	20.25	22.5	18.75	25.25	23.5	17.5
Average Weekly OOC	16.75	20	21.75	18.75	26.5	23.25	19
>28 hours	0	0	0	0	0	0	0
% 28+ hours	0%	0%	0%	0%	0%	0%	0%

Utilized Technician Log due to poor Guardian tracking. Repeat issue from prior report

Housing Unit 24 general population pods showed a slight increase in out-of-cell time this reporting period from the Fifth Monitoring Report - up from 17.25 average hours per week to an average of 19 hours per week. Housing HU 24 continues to struggle in providing and/or documenting unstructured out-of-cell time and continues to struggle with consistent tracking on the RFID system, so it is not clear whether the ACSO is offering more out-of-cell time than reported. According to available documentation, none of the GP pods in HU 24 are offering 28 hours per week average out-of-cell but the lack of documenting structured activities causes an undercounting for those pods.

In reviewing program data for the months of July through November 2024, at least an average of thirteen general population females from HU 24 participated in Sandy Turner programming.²⁹ In reviewing the worker reports for July through November 2024, an average of seven female class members were assigned to work either as a pod worker or the evening laundry crew. HU 24 general population does not meet the structured or unstructured requirements of the provision.

²⁹ Based on unit moves, December 2024 removed from the average for programming and work assignments. Housing locations for distance learning students are not listed on the monthly report for inclusion in calculating averages.

Summary

The County has shown improvement in providing unstructured out-of-cell time but has not improved in the provision and/or documentation of structured activities in the units evaluated. Housing Unit 24, one of the female units, struggles to capture out-of-cell time and does not provide adequate structured activities to the general population women. Barriers to providing out-of-cell time in Unit 24 remain unaddressed and the County has not yet engaged in a meaningful evaluation or strategy to increase structured out-of-cell time in the general population housing units who are not permitted to attend classes in Sandy Turner classrooms or engage in off unit work assignments due to security concerns.

Recommendations:

1. *Work with the Custody Expert to develop a monthly report tracking combined structured and unstructured activities for these units.
2. *Utilize the grievance logs and the monthly program report to evaluate areas for improvement.
3. *Continue to address barriers to yard access, both the large yard and quasi-yards.
4. *Update associated policies and the incarcerated persons' handbook to list the amount of activity required in these provisions.
5. *Recommendations from Provisions 411-412 will assist with compliance with this provision.
6. Develop a strategy to increase structured activities for housing units unable to attend existing programs or work assignments due to security concerns.

(411) The above minimum out-of-cell times for individuals placed in Step 1 and Step 2 may not be fully achievable until reconfiguration of the Recreation Space (defined to include all outdoor recreation spaces and any interior space within the housing units that will need to be modified to ensure the provision of out-of-cell time), described below in subsection III(D)(2), is completed. Defendants agree to offer at least the following out-of-cell time minimums for the first three months following the Effective Date: (1) seven (7) hours of out-of-cell time, including structured and un-structured time to Restrictive Housing incarcerated persons on Rec-Alone status (Step 1) per week; and (2) fourteen (14) hours of out-of-cell time, including structured and unstructured time to Restrictive Housing incarcerated persons on Co-Recreation status (Step 2) per week.

(412) Beginning on the fourth month after the Effective Date, Defendants agree to offer the following out-of-cell time minimums: (1) ten (10) hours of out-of-cell time, including structured and un-structured time to Restrictive Housing incarcerated persons on Rec-Alone status (Step 1) per week; and (2) seventeen (17) hours of out-of-cell time, including structured and unstructured time to Restrictive Housing incarcerated persons on Co-Recreation status (Step 2) per week.

Finding: 411 **Superseded by Provision 412 – Partial Compliance**
 412 **Partial Compliance**

Assessment:

As of June 7, 2022, the requirements for out-of-cell time in restrictive housing units are as follows:

Step 1	Ten (10) Hours to include structured and unstructured time.
Step 2	Seventeen (17) Hours to include structured and unstructured time.

During this review period, restricted housing males were assigned in Housing Unit 1 and restricted housing females were assigned in Housing Unit 24 utilized Pods D, E and F.

**Restricted Housing Males
Housing Unit 1**

During this monitoring period, the County continued to improve tracking out-of-cell time for the Step 1 and Step 2 restricted housing populations and documentation demonstrated an increase in offering yard in the restricted housing units.

The following table reflects average out-of-cell time offering from the period of October 2023 through December 2024, demonstrating a profound improvement from all prior reports.

Step	Oct - Dec 2023³⁰	Jan to June 2024³¹	July to Dec 2024
Step One Out-of-Cell	< 8 Hours	12 Hours	13.75 Hours
Step One Yard Offered	Unavailable	41 %	94%
Step Two Out-of-Cell	<12 Hours	15.5 Hours	24.25
Step Two Yard Offered	Unavailable	41%	93%

While the County is improving documenting the offering of unstructured out-of-cell time, the County is not yet capturing structured time.

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³⁰ Refer to Fourth Monitoring Report, pages 20-24.

³¹ Refer to Fifth Monitoring Report, pages 22-23.

Weekly Out-of-Cell Activity - Step 1
Sample Weeks July - December 2024
Step 1 – Required 10 Hours Per Week

Pod	7/7-7/13	8/4-8/12	9/1-9/7	10/13-10/19	11/3-11/9	12/8-12/14	Average
HU 1A	10.75	27	16.75		19		18.5
HU 1B							0
HU 1C		19.5		10.75	18.75	10.75	15
HU 1D	10	20.5	19	9.75	10.75	9.75	13.25
HU 1E ³²	8.25	26.75	16.25	14.25		14.25	16
HU 1F	9.5	20.25	17.5	11.5	11.75	11.5	13.5
Average	9.25	22.5	17.5	10.5	11.5	10.5	13.75
10+ hours	9	16	29	14	14	14	
% 10+ hours	43%	100%	100%	61%	64%	61%	71%
Offered Yard	16	15	27	23	22	23	
% Offered yard in week	76%	94%	93%	100%	100%	100%	94%
Step 1 % Yard Time	12%	33%	42%	12%	25%	17%	24%
Step 1 Yard Acceptance Rate	64%	14%	16%	18%	16%	9%	23%

For the months of July through December 2024, the average out-of-cell time for Step 1 male populations rose to 13.75 hours on average, up from the previous reporting period average of twelve hours. While this is positive, only 71 percent of the population actually achieved the 10 hours per week, which is too low of a percentage to demonstrate substantial compliance. Additionally, many of the hours included in the calculation were yard offerings. Yard hours comprised approximately 24 percent of all out-of-cell hours offered, which would be excellent except the out-of-cell logs reflect that the restricted housing Step 1 population only accepted yard 23 percent of the time. It is positive that yard is being offered but the high refusal rate creates a false impression that class members are actually out of their cells for nearly two hours a day, which is inaccurate. Provision 428 addresses the requirement to prompt out-of-cell time when offered and compliance with that provision includes encouraging outdoor recreation activities, which could also be incentivized by something meaningful to do while in the yard.

³² Removed identified special status inmate (SSU) population housed in HU1E but cannot confirm accuracy of that pod during entire six month review period.

As with the Step 1 male population, information provided reflects the Step 2 population also received a higher number of out-of-cell hours per week as represented in the table below:

Weekly Out-of-Cell Activity - Step 2³³

Sample Weeks July - December 2024

Step 2 - Required 17 Hours Per Week

Pod	7/7-7/13	8/4-8/12	9/1-9/7	10/13-10/19	11/3-11/9	12/8-12/14	Average
HU 1A	15	24.25	23	42.25		36.25	28.25
HU 1B	N/A	N/A	N/A	19.5	N/A	28.5	24
HU 1C	18.5	40.25	N/A	12.5	N/A	N/A	23.75
HU 1D	N/A	N/A	N/A	N/A	N/A	N/A	0
HU 1E	5.5	N/A	N/A	N/A	19	N/A	12.25
HU 1F	9	15	N/A	N/A	27	N/A	17
Average	14	35	23	18.75	24	31	24.25
17+ hours	3	7	3	3	2	3	
% 17+ hours	25%	88%	100%	43%	100%	100%	76%
Offered Yard	7	8	3	7	2	3	
% Offered yard in week	58%	100%	100%	100%	100%	100%	93%

Similar to the Step 1 population, the average number of Step 2 out-of-cell hours for the period of July through December 2024 increased from 15.5 hours per week in the prior report period to 24.25 hours in this reporting period, representing a 56 percent increase. Additionally, during the January through June 2024 review period, only one-third (33%) of Step 2 population were offered the required 17 hours per week but that increased to 76 percent for the July through December 2024 review period. Similarly, offering yard increased from only forty-one percent being offered outdoor recreation during the January through June 2024 review period to 93 percent during the July through December review period. The yard refusal rate for the Step 2 population was lower, likely due to the fact Step 2 class members are able to recreate with other Step 2 class members.

It is conceivable that the County can reach substantial compliance in the next review period if the County can demonstrate that structured programming is also occurring for the Step 2 population, which is anticipated as discussed in Provision 414.

³³ There are class members listed as Step 2 status who are receiving 50 or more hours per week out-of-cell. Those class members were removed from the calculation.

Restricted Housing Females Housing Unit 24

The County improved in the provision and documentation of out-of-cell time for the restricted housing female population during this review period.

The following table reflects average out-of-cell time offering from the period of December 2023 through December 2024, demonstrating an improvement from all prior reports.

Step	Dec 2023 ³⁴	Jan to June 2024 ³⁵	July to Dec 2024
Step One Out-of-Cell	6.5 Hours	8.5 Hours	11.75
Step One Yard Offered	Unavailable	31 %	58% ³⁶
Step Two Out-of-Cell	6.5 Hours	2 Hours	16.5
Step Two Yard Offered	Unavailable	0%	58%

During this monitoring period, the County documented greater access to out-of-cell time for the female restricted housing population and an improvement in offering more out-of-cell time for the Step 2 population. In this review period, the Step 1 population averaged 11.75 hours per week out-of-cell time offered, representing a 38 percent increase from the January through June 2024 review period. The data from this review period also showed an increase in offering yard time, increasing from 31 percent of the population being offered yard during the January through June 2024 review period to 58 percent of the population being offered yard in this review period. Unlike the Step 1 male population, the female population did not have a high yard refusal rate.

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³⁴ Fourth Monitoring Report, pages 23-24.

³⁵ Refer to Fifth Monitoring Report, page 25.

³⁶ Combined female Step 1 and Step 2 in measuring yard offering due to low population counts.

The following table depicts the female Step 1 and Step 2 population for the sample weeks during the months of July through December 2024:

Housing Unit 24 - Female Ad Seg
Sample Weeks July - December 2024
Step 1 – Required 10 Hours Per Week
Step 2 – Required 17 Hours Per Week

	7/7-7/13	8/4-8/12	9/1-9/7	10/13-10/19	11/3-11/9	12/8-12/14	Average
Step 1	N/A	14.5	5	6.75	N/A	20.5	11.75
Step 2	17.75	18.75	N/A	20.25	9	N/A	16.5
10+ hours (Step 1)	N/A	1	0	0	N/A	3	
% 10+ hours	N/A	100%	0%	0%	N/A	100%	50%
17+ Hours (Step 2)	1	1	N/A	2	0	N/A	
%17+ hours	100%	100%	N/A	100%	0%	N/A	75%
Offered Yard (Steps 1 and 2)	0	1	0	3	1	3	
% Offered yard in week	0%	50%	0%	100%	100%	100%	58%

The County must continue to focus on the female restricted housing unit to ensure adequate resources are available to afford out-of-cell time as only 50 percent of the Step 1 population were offered the required 10 hours and the women in this unit tend to have more frequent refusals than observed with the male restricted housing population. It is positive that the hours offered has increased but only 50 percent of the Step 1 and 75 percent of the population met the requirements. The County also fails to document structured activity offerings and until resolved, the County cannot achieve substantial compliance with this provision.

Summary

There has been notable improvement in all restricted housing pods this review period. In talking to the staff during the December 2024 tour, the greatest barrier is related to lack of staff or space. With the expansion of yards and program space as further described in Provision 414, the space barrier should diminish during the next review period and ACSO and AFBH believe they have sufficient staff to utilize the enhanced space to provide additional structured and unstructured out-of-cell time.

Recommendations:

1. *Continue to evaluate the population to safely reduce the number of incarcerated persons in restricted housing.³⁷
2. *Safely continue to reduce the number of Step 1 incarcerated persons and continue to allow small group activity with the Step 2 population where safe to do so.
3. *Conduct an analysis and workload study for the Housing Unit pods that are struggling to meet the 10- and 17-hour requirements.
4. *ACSO to work with AFBH and the program staff to develop a standardized daily and weekly activity plan to increase out-of-cell structured programming. This should be documented in a master schedule of activities in the restricted housing units and ensure Sergeants are monitoring and addressing non-compliance with the schedule.
5. *Complete the construction projects associated with expanding yard opportunities as noted in Provision 414.
6. *Conduct an internal staffing assessment to determine if sufficient posts have been activated to ensure maximum utilization of existing and easily expanded space and redirect staff, as necessary.
7. *Update policies, procedures, forms, post orders and training to reflect provision requirements.
8. Begin internal monitoring of out-of-cell time.

(414) Reconfiguration of all Recreation Spaces shall be completed no later than twenty-four (24) months from the Effective Date. The Parties agree to meet and confer within three (3) months of the Effective Date regarding interim timelines for completion of the following: (1) Installation of custody-grade security desks in Step 1 Housing Unit day rooms; (2) Reconfiguration of Quasi-Yard space, including in Step 1 and Step 2 Housing Units; (3) Creation of outdoor recreation space; and (4) any other reconfiguration projects necessary to effectuate the terms of this Consent Decree.

Finding: **Partial Compliance**

Assessment:

With the exception of minor delays associated with weather, supply chain challenges and unanticipated subterranean challenges, the County remains on target with the various construction projects as reported in the Fourth³⁸ and Fifth Monitoring Reports.³⁹ The County has demonstrated consistent collaboration amongst county departments and improved communication with the monitoring team.

³⁷ Refer to Classification Joint Expert Dr. Austin's Monitoring report.

³⁸ Pg 24-26.

³⁹ Pg 27-29.

The County reports that yard construction completion slipped slightly due to underground infrastructure issues and anticipates completion by June 2025 assuming no further significant delays. The construction is underway and visible during tours. The County also reported that the camera upgrade program remains on target with the infrastructure for expansion visible during the December 2024 tour. The renovation of the dining areas in Housing Units 1, 2 and 9 continue with the plan to remove the tables in the underutilized area and replace the tables with deputy workstations to improve direct observation into the adjacent pods.

Several changes to the strategies for the provision of programming space occurred during this rating period. As previously reported, the proposed standalone mental health building project was defunded and not approved by the State Public Works Department, requiring the County to consider alternative locations for clinician workspace, groups and private consultations. In response, the County is repurposing underutilized space, an opportunity presented as a result of the reduced population, by converting various housing areas to clinician workspace and programming space. The County reports repurposed spaces will be completed in three phases and has allocated \$16 million towards the projects.

Phase I of the plan involves demolishing dorms in HU 31 to convert the unused space to clinical office space. This phase will also deactivate the C Pod in HUs 1, 2 and 9 to create a programming area and improve existing programming space in the multipurpose rooms in HUs 1, 2, 9, 24 and 35. The County reports furnishing and environmental factors are being procured in partnership with AFBH with the goal of creating a less institutional environment in those program spaces while maintaining security. The County also intends on placing secure programming chairs in various housing units to increase socialization and structured activities for the higher risk populations. The County anticipates completion of these various projects by the summer of 2025 and will provide clearer timelines as the projects evolve and procurement is complete.

The monitoring team has shared concerns about under planning programming space in the women's units and HU 35 as well as not establishing sufficient confidential spaces for clinicians to engage in meaningful conversations with their clients. The County reported they are continuing to explore options, and that Phase II and Phase III are designed to address needs not fully resolved with Phase I.

Below are the various projects underway along with the current status.

- (1) Installation of custody-grade security desks and observation platforms. Due date August 22, 2023.
No change in status. Completed construction is estimated early 2026.
- (2) Reconfiguration of Large Yard Space. Due date August 22, 2023.
No change in status. Final completion is estimated June 2025.
- (3) Quasi-Yard construction projects. Due date August 22, 2023.
No change in status. Final completion is estimated June 2025.
- (4) Confidential interview spaces. Due date August 22, 2023.
The County has articulated use of Sandy Turner meeting spaces, use of new programming space and other options designed to meet the need.. To be further discussed in next reporting period.
- (5) Cell softening project to reduce suicide hazards and improve overall cell conditions.
Construction completed January 2024.
- (6) Security Screen Project – Add additional security screening to upper tier of high-risk housing units.
Construction completed April 2023.

- (7) Accessibility Upgrade – In Construction. Refer to the ADA Expert Report for additional information.
No change in status. - Final Completion is estimated Fall 2026.
- (8) Camera Expansion – Construction began late 2023
No change in status. - Final completion is estimated to be late 2026.
- (9) Mental Health Facility (SB 863) –Completion was estimated to be early 2028.
The County presented formalized plans to create clinical office space in HU 31, groups space in Pod C of HU 1, 2 and 9 and upgrades to the multipurpose rooms in Hus 1, 2, 9, 24 and 35 as Phase I of the County's strategy. These projects are tentative scheduled for completion by the summer of 2025.

Status updates to all projects will be required for the next monitoring report.

Recommendations:

- 1. *The County should continue to appraise the monitoring team and class counsel on the status of repurposing of vacant housing units to create a mental health treatment unit.
- 2. *The ACSO, AFBH and GSA continue to maintain a comprehensive and deliverable project plan to meet compliance with this provision.
- 3. *During Phase II and III of construction, when necessary the County should evaluate its ability to expedite construction through waivers, sole source and other commonly used strategies for complete priority and emergency projects.

(415) Individuals engaged in Out-of-Cell Activities, including, but not limited to, pod time, structured and unstructured time (including all out-of-cell programming), education, work, vocational training, and yard time (including quasi yard time), shall be provided reasonable access to bathroom facilities as needed.

Finding: ***Substantial Compliance – Consider Discontinuation of Monitoring***

Assessment:

ACSO updated all policies and training regarding this provision as reported in the Third Monitoring Report.⁴⁰ The policy requires that deputies allow access to bathrooms while on the main yard, quasi-yards and during pod time. However, the policy does require that the class member requests access while the deputies are in the area conducting security checks or otherwise near the cell or other places where bathrooms are available. There were four grievances this review period regarding lack of access to a bathroom during out-of-cell time, generally associated with the class member grieving that they advised the control booth technician they needed access to a restroom and the housing deputy did not facilitate access. One of the four grievances appeared to have merit due to a medical issue and the issue was discussed with the control booth and housing staff to sensitize the staff to the needs of the class member.

When interviewed during the December 2024 tour, incarcerated persons in living units and assigned to program classes or work assignments report they have access to the restroom when needed. During onsite tours of housing units, when assessing cleanliness of showers and talking to unit porters, there is no

⁴⁰ Pg 20.

evidence to suggest showers have been utilized as makeshift restrooms due to Class Members not being able to access their cells.

While there have been some concerns about access, four complaints in a six month period does not reflect a systemic or common problem. Deputies and technicians interviewed concerning their responsibility to facilitate access consistently articulate their responsibility to allow use of the restroom and no incarcerated person interviewed during the December 2024 tour complained about lack of access. It is critical that ACSO continue to internally monitor access to the bathroom through discussions with the Inmate Advisory Committees, grievances reviews and supervisory unit tours. It is also critical that when responding to grievances, that ACSO is thorough in the assessment and response to complaints about bathroom access, issues that have been discussed with the Grievance Unit.

The Expert finds that the County has been in substantial compliance with this provision for the last three ratings periods (equating to a period in excess of eighteen months). The Expert recommends the parties consider requesting this provision be terminated from the Consent Decree. In the meantime, the Expert will reduce monitoring of this provision in future reports.

(417) These minimum requirements for out-of-cell time are subject to exceptions including, but not limited to, disturbances that require staffing to be re-directed to other areas of the Jail on an emergency and temporary basis, healthcare emergencies, natural disasters, and any other emergencies that restrict movement and out-of-cell time of incarcerated persons to preserve the safety and security of incarcerated persons and staff. Any limits on out-of-cell time due to the aforementioned exceptions shall be documented (to include the reason and length of the time limit), and the limits will last only as long as necessary to address the underlying reason for the exception and shall be approved and reviewed by the Watch Commander. Individuals in Restrictive Housing who are unable to safely participate in out-of-cell time because they are violent, combative, and/or assaultive are not subject to the minimum out-of-cell time requirements described in this section for such period of time as they are determined to be unsafe outside of their cell. This determination shall be documented and approved by the Restrictive Housing Committee and shall be revisited on a weekly basis. Individuals engaged in Out-of-Cell Activities, including, but not limited to, pod time, structured and unstructured time (including all out-of-cell programming), education, work, vocational training, and yard time (including quasi yard time), shall be provided reasonable access to bathroom facilities as needed.

Finding: **Partial Compliance**

Assessment:

It is positive to report that there were no incarcerated persons in restricted housing who were routinely denied out-of-cell time during this rating period, and the Restricted Housing Committee (RHC) consistently reviewed individuals who engaged in acts of violence against staff during out-of-cell time for enhanced controls while out of their cells. The RHC approved security controls such as recreation only in the yard or recreation in restraints while in the pod. These cases are rare and routinely re-evaluated by the RHC during weekly meetings. The County also has approved construction of lockable shower doors in several areas to be able to safely secure unpredictable class members while in the shower. The County reports specialized programming chairs should be installed during the next review period to increase structured programming in these types of situations in an effort to work with the class member to reduce their acting out and violent behaviors.

The Compliance Unit is updating the Watch Commander end-of-shift report to ensure more consistent and accurate documentation of group out-of-cell time cancellations. It is anticipated that ACSO will pilot a smart form in the next review period to assist with monitoring and reporting unit or base wide lockdowns.

During this rating period, the grievance unit processed a monthly average of one grievance related to yard access and 10 dayroom access grievances. In cross referencing the grievance responses, out-of-cell logs and watch commander reports, it is clear there is a significant inconsistency in tracking and reporting lack of out-of-cell access due to unit or facility wide lockdowns and restricted movement and that ACSO rarely admits to the grievant when their pod time should have been provided but was prohibited due to staff vacancies or other reasons.

Access to bathrooms is discussed further in Provision 415.

Recommendations:

1. Finalize the update to the Watch Commander end of shift report to improve consistency in reporting and documenting restricted movement and lockdowns.
2. *Update all relevant policies, post orders, forms and training to comply with this provision.
3. *Update Policy 9.09 to ensure the policy complies with the provision.
4. *Continue to maintain master yard and dayroom schedule and create system for daily monitoring of compliance with mandatory documentation when there is significant deviation from the master schedule.
 - a. Consistently include documentation in Watch Commander End of Shift or other location to ensure standardization in documenting deviation.
5. *Finalize the installation of programming chairs to support the RHC in treatment planning for the most unpredictable population.
6. Complete the shower renovation project as funding and approvals permit.
7. Improve responses to class member grievances when out-of-cell time had to be cancelled due to lockdown or other security reasons.

(418) In order to properly track out-of-cell time, Defendants shall replace the prior practice of using paper logs with an electronic information technology system to allow for comprehensive tracking of out-of-cell time and refusals within twelve (12) months of the Effective Date. In the interim, Defendants shall develop and implement a process for tracking out-of-cell time in the restrictive housing units including a paper for each person incarcerated on the unit showing out-of-cell time including program hours, showers, dayroom, outdoor recreation times, and visiting for a period of no less than one week at a time. These logs, and the information technology system once implemented, are intended to assist ACSO and AFBH Staff in evaluating socialization needs and identifying persons who are isolating or at risk of mental health decompensation. ACSO Supervisors shall also review programming and out-of-cell logs in the administrative separation units and any other Restrictive Housing Units and Therapeutic Housing Units to determine whether any incarcerated persons are not being afforded out-of-cell time opportunities pursuant to policy or whether routine refusals are occurring. Defendants shall further update their policies and training to include a requirement that staff must attempt more than once to meaningfully communicate the importance of out-of-cell time where individuals initially refuse to come out of their cells.

Finding: Partial Compliance

Assessment:

The County continues to show progress in the use of the Guardian RFID system in tracking out-of-cell time. Unfortunately, the system does not yet provide a simple report to allow for real time tracking for supervisory review. The ACSO has been collaborating with the vendor to develop a system, but this has not been realized, which requires that a dedicated staff member isolate all of the out-of-cell time from other RFID tag activations, such as security checks or medication distribution, a time-consuming task. It is clear on tours that the deputies are aware of their responsibility to use the Guardian system for tracking, but several units continue to struggle and as mentioned, structured activity is not yet being tracked. ACSO has dedicated sergeants in the restricted housing units and therapeutic housing units who conceivably should be reviewing the out-of-cell tracking system to identify barriers to programming, but the system makes that exceedingly difficult.

It is believed that the deputies are advising the mental health clinicians when class members in the restricted housing and therapeutic housing units are isolating. During reviews of sample weeks of out-of-cell time for the period of July through December, there are limited routine refusers but when that occurs, the out-of-cell logs do not consistently document a second attempt, later in the day, to encourage coming out of the cell. There are, however, many examples of a class member refusing once during the day but ultimately coming out of their cell later in the day. The County will need to update policies, post orders and training and improve supervisory oversight of the process before this provision can reach substantial compliance.

Recommendations:

1. *Continue the RFID refinement and training program.
- *Revise the recreational policy and related post orders to ensure that more than one staff member encourages out-of-cell time when a Class Member is isolating in their cell.
2. *Develop and implement a formal process for notification to AFBH when a Class Member has not left their cell in three days despite encouragement from custody. The new policy should include proof of practice for both internal and external monitoring.
 - a. AFBH will also require a policy for clinicians' role when referrals are received, including timelines for evaluation and support.
3. *Continue to update relevant policies, post orders and training to reflect the out-of-cell requirements for each category of incarcerated individuals.
4. *Establish a formal process to conduct supervisory and managerial reviews of the tracking reports prepared by the Compliance Unit.
5. *Develop a system to track out-of-cell time for all out-of-cell activity, including structured activities.

(419) Defendants shall also develop and implement policies requiring ACSO Staff to notify supervisors and AFBH Staff when incarcerated persons are, on a repeated basis, refusing to come out of their cells, refusing to shower, or are clearly neglecting other basic care and grooming and where they visually appear to be depressed, withdrawn or delusional. Once notified, AFBH Staff shall follow-up with the incarcerated person within twenty-four (24) hours of receiving the initial notification or change in status. Defendants shall also ensure there is sufficient supervisory presence in all housing units and that supervisors play a pronounced role in monitoring out-of-cell and program activities and are visibly present in the units.

Finding: **Partial Compliance**

The County continues to report notification to AFBH when a class member is isolating, appears depressed, withdrawn or not attending to their activities of daily living. During the December 2024 tour, deputies report that they advise AFBH primarily during daily huddles in the restricted housing and Therapeutic Housing Unit. Review of Therapeutic Housing Unit weekly meeting minutes beginning in September 2024 demonstrate discussions are occurring in those units regarding decompensated populations. However, there is not yet a formal system to track when referrals occur to AFBH from ACSO for the Mental Health expert to evaluate whether a review occurred within 24 hours. The County has presented AFBH call logs to demonstrate notification to AFBH when a person is isolating; however, a random review of the AFBH notification tracking log for September 2024 revealed that none of the nine class members identified as refusing out of cell time for three consecutive days on a sample week out-of-cell review were listed on the AFBH notification call log as a referral. It is apparent from reviews of call logs to AFBH, that persons who are isolating and/or exhibiting behaviors of concerns in other housing units are being identified and notification for AFBH assistance is being requested. However, the County has not yet established a consistent system to document when a referral occurred to measure if the clinician followed up within twenty-four hours as required by this provision. The call log can be the mechanism, but the deputies will need to be trained to consistently call in the information, even when advising the clinicians during daily huddles or other discussions with the clinicians.

ACSO continues to assign sergeants to the higher need units, but the visibility and engagement of the sergeants varies by housing units from exceptionally engaged supervisors to those sergeants who appear less familiar with custody operations and their responsibility to monitor out-of-cell and other program activities. Regardless, supervisors are observed present during tours and during reviews of critical incidents and use of force events, which is extremely positive.

Recommendations:

1. *The County should consider utilizing the call log to document when a deputy is advising AFBH when a class member refuses out-of-cell for three consecutive days.
 - a. *The process should be formalized in ACSO and AFBH policy, with a formal notification process and documentation from AFBH within 24 hours regarding the treatment plan to assist with increasing socialization.
2. *The Compliance Unit should develop an auditing process to evaluate compliance.
3. *Policies, forms, post orders and training should be updated as appropriate.

(420) Defendants shall provide Class Counsel their plan to reconfigure the Recreation Space within six (6) months of the Effective Date and meet and confer with Class Counsel regarding the plan and any additional methods of expediting construction and/or maximizing out-of-cell time in the interim, in accordance with the terms of this Consent Decree. The plan shall include a timeline for reconfiguring the large yard within twenty-four (24) months of the Effective Date. Due to the urgency of reconfiguring the Recreation Space, the County shall take all steps necessary to expedite all planning and construction activities. Reconfiguration of the Recreation Space shall include, but not be limited to, dividing Recreation Space to allow for multiple incarcerated persons to recreate simultaneously, increasing lighting for evening recreation, and using recreational therapists or other clinicians for Behavioral Health Clients. In the absence of conditions that would preclude outdoor access, including, but not limited to, severe or unsafe inclement weather, disturbances (as defined above), healthcare emergencies, natural disasters, and any other emergencies that restrict movement and out-of-cell time of incarcerated persons to preserve the safety and security of incarcerated persons and staff, all incarcerated persons

shall be provided access to outdoor recreation. Any limits on out-of-cell time due the aforementioned exceptions will last only as long as necessary to address the underlying reason for the exception and shall be documented and approved by the Watch Commander.

Finding: **Partial Compliance**

Assessment:

The reconfiguration of recreation space is addressed in Provision 414. Cancellation of yard and the role of the watch commander is addressed in Provision 417. Further assessments and recommendations will be included when the reconfiguration of the recreations spaces is more viable.

(421) Outdoor recreation time is included within the minimum amount of out-of-cell time listed above. Defendants shall implement policies and procedures to ensure that outdoor recreation time is maximized to the extent feasible for all people including those in restrictive housing.

Finding: **Partial Compliance**

Assessment:

The County continues to underutilize outdoor recreation time in the large group yards due to limited staffing but has documented a significant increase in the offering of outdoor recreation in the quasi-yards in the restricted housing units as discussed in Provisions 411/412.

The following chart represents the average weekly utilization of the large group yards and the average number of incarcerated persons who utilized the yard during the week. It is noted that the data suggests there was a decrease both in the average hours the large yard was available as well as the average number of incarcerated persons who accessed the large yard during this reporting period compared to January through June 2024:

**Average Available Hours and Utilization of the Large
Group Yard**

July - December 2024

Month	Average Weekly Hours	Average Weekly Participants
July	17.25	233
August	15	235
September	20.50	264
October	21.25	241
November	11.5	154
December	18.5	238
Monthly Average	17.25	227

Jan – June 2024 ⁴¹	24	390
Difference	-22%	-41%

This reduced utilization is partially attributed to construction shutdowns to the yard but not entirely as the ACSO fails to operate the yard seven days a week or when the yard officer is unable due to vacation, training or sick leave. This is an excellent example where the closure of housing units or maintaining overtime levels could have resulted in the provision of staff to oversee the large yard for coverage but that has not occurred.

The County will not reach substantial compliance until the yards are utilized to the maximum reasonable level and the expanded yards are constructed as discussed in Provision 414.

Recommendations:

1. *Conduct an in-depth evaluation of all available outdoor recreation spaces and create a master schedule that can be implemented and monitored daily by supervisors.
2. *Require the Watch Commander and Sergeants to monitor daily utilization and address any barriers to yard access every shift.
3. *Create a formal report to the Compliance Unit documenting the reason the outdoor recreation area was not used and all efforts to return to normal operations.
4. *Provide training and corrective follow-up to ensure compliance.
5. Increase available yard access hours to seven days per week and expand to evening hours where possible.

(422) Defendants shall provide programming within the facility consistent with classification level, including providing access to the Sandy Turner Education Center and Transition Center services for Behavioral Health Clients, as a means of suicide/self-harm prevention and in order to provide equal access to incarcerated persons with disabilities. AFBH will designate an individual to coordinate identification and implementation of internal and external group resources and partnerships. In evaluating current and future programming and work opportunities for incarcerated persons, Defendants shall evaluate worker assignments for incarcerated individuals to determine whether additional work opportunities could be created to assist with facility improvements and programming, such as creating programs for deep cleaning, student tutor/merit masters, and access to program support aides. Defendants shall further establish a daily tracking system for programs provided and incarcerated individuals who attended.

(423) When appropriate and consistent with individual clinical input, Behavioral Health Clients shall have equal access and opportunity to participate in jail programming, work opportunities, and education programming for which they are qualified. Similarly, Behavioral Health Clients shall further receive, at minimum, privileges consistent with their classification level regardless of where they are housed. Defendants shall review and update any policies and practices related to program eligibility to maximize the number of persons eligible for programming. Defendants shall consult with various incarcerated person services providers, including educational providers, faith-based providers, and mental health providers, to evaluate and expand program offerings throughout the Jail. ACBH, including AFBH, shall

⁴¹ Fifth Monitoring Report, pg. 33-34.

continue to cooperate with the Alameda County Behavioral Mental Health Court and to seek options for alternatives to custody through community-based organizations and treatment providers.

Finding: Partial Compliance

Assessment:

The general practices regarding involving behavioral health class members (BHI) in programming has remained mostly unchanged in this reporting period but there has been a noted increase in AFBH programming and overall programming provided by the Sandy Turner Educational Center (STEC).⁴² Based on reviews of available data and interviews with staff and class members on tours, behavioral health class members are permitted to attend STEC programming both on-unit and off-unit but may be restricted from accessing the STEC classrooms due to their classification levels. Additionally, the County has not yet permitted low to medium security THU class members from HU 9 and 24 to attend programming off of their housing units and continues to explore how best to integrate STEC programming in the THU population. Male THU class members in HU 35 are permitted to attend programming off unit and in the STEC.

There are limited job opportunities for all class members, including those on the behavioral health (BHI) caseload. There are no work restrictions specific to the BHI but most of the work assignments are given to low security class members residing in non-THU pods or units. The County is encouraged to increase job opportunities, other than pod worker assignments, to BHI populations as security factors permit.

The County currently tracks daily attendance for STEC programming at the individual level in a monthly spreadsheet, which allows for measuring the approximate percentage of BHI class members who comprise the various program offerings. This is extremely positive but there are challenges with the reports presented. The monthly STEC reports reflect daily attendance for various classes/programs and have a column for those who are on the behavioral health caseload. This is accomplished by data integration. However, when confirming the data provided, the data integration of the BHI population on the STEC monthly list also included class members with the AFBH code of “MHX” which is a code that represents the clinicians have determined the class member does not have mental health concerns. As a result of inclusion of this code, the STEC monthly reports overrepresented the BHI populations assigned to STEC programs by approximately 45 percent, an issue that was discovered during the final validation process for this report. Therefore, the July through December 2024 percentages listed in the 2024 Sandy Turner Program Offering table below represents an estimated number of daily program slots offered during the sample weeks which were occupied by a BHI class member due to reducing the total reported by 45 percent.⁴³

It is clear from tours, interviews with staff and Class Members and review of available data that BHI population are afforded programming. The following table reflects program day slots reported by the County for calendar year 2023 as previously mentioned in the Fourth Monitoring Report⁴⁴ followed by estimates of BHI class members in programming during Q3 and Q4 2024:

⁴² Services attributed to STEC including programming in the STEC classrooms, non-AFBH programming provided in housing units, distance learning and services provided in the Transition Unit.

⁴³ A cross reference review of the STEC monthly report column listing the BHI population against the weekly AFBH caseload report demonstrated approximately 45 percent of the STEC BHI list were identified as MHX. Therefore, the total number of BHI for the sample weeks was reduced by 45 percent.

⁴⁴ The first full week of each month was used as a sample.

2023

Daily Sandy Turner Program Slot Attendance - One Week Sample

	Housing Unit Programming			Off Unit Programming			Distance Learning			Transition Center			Total		
	All	BHI	%	All	BHI	%	All	BHI	%	All	BHI	%	All	BHI	%
2023															
Jan-June	360	171	39%	289	174	48%	68	31	37%	20	5	25%	736	380	42%
July – Dec	470	140	30%	283	56	20%	19	4	23%	0	0	0	773	200	26%

2024

Daily Sandy Turner Program Slot Attendance - One Week Sample

	Housing Unit Programming			Off Unit Programming			Distance Learning			Transition Center			Total		
	All	BHI	%	All	BHI	%	All	BHI	%	All	BHI	%	All	BHI	%
2024															
July 8-14	369	175	47%	443	216	49%	101	50	50%	0	0	0	913	441	48%
Aug 12-18	384	180	47%	406	194	48%	39	19	49%	0	0	0	829	393	47%
Sept 9-15	384	185	48%	441	211	48%	42	20	48%	0	0	0	867	416	48%
Oct 7-13	549	253	46%	308	145	47%	107	53	50%	0	0	0	964	451	47%
Nov 4-10	507	238	47%	236	117	50%	124	62	50%	0	0	0	867	417	48%
Dec 9-15	469	223	48%	453	203	45%	148	72	49%	26	12	46%	1096	510	47%
Average	444	209	0	381	181	0	94	46	0	4	2	0	923	438	47%

While the BHI populations involved in programming for Q3 and Q4 2024 are higher than 2023 statistics, these numbers are estimates and the Experts will collaborate with ACSO in the next reporting period to refine the data pools that generate the monthly report. However, based on cross reference of the STEC monthly report against AFBH's weekly caseload reports, these statistics appear valid in demonstrating involvement of BHI class members, which is positive.

There are aspects of these two provisions that may be in process in the County, but proof of practice has not been established, such as alternative custody programs. The associated policies and training have not been updated to comply with this provision. The County continues to demonstrate a commitment to programming the BHI population but has not been able to prioritize substantial compliance with these provisions due to competing priorities but is engaged in structural improvements, such as increased programming space and increased AFBH clinicians to continue with incremental improvements.

Recommendations:

1. *Continue the refinement of program tracking and include the housing locations where those programs are offered or the location where the IP participants reside.
2. *Work with the Joint Experts to standardize monthly reports for all programming and work assignments occurring in the jail.
3. *Begin to highlight or identify the workers in the monthly worker report who are assigned to the behavioral health caseload.
4. *The Compliance Unit should begin the process of evaluating monthly trends regarding programs offered and work assignments afforded to show growth over time.
5. *The County should begin to report on alternatives to custody efforts for the behavioral health populations.
6. *Previous recommendations from the First Monitoring Report are noted but deferred to focus on refining data and baselining programming.
7. *Update associated policies, post orders, training and orientation information to comply with provisions.
8. *Prepare a quarterly report that reflects attempts to expand services in the facilities.

(424) Defendants shall ensure there is adequate space for program offerings including evaluating whether additional classroom capacity can be created through modular construction or other means, such as relocating administrative space.

Finding: ***Partial Compliance***

Assessment:

As mentioned in Provision 414, the County is poised to expand program spaces in Housing Units 1, 2, 9 and update group space in Housing Units 24 and 35. This is positive movement and will assist with enlarged programming spaces. The County reports the activity underway is Phase I and future projects will further expand programming space. The County is encouraged to ensure adequate space for all identified therapeutic housing units, the women's housing units and the higher security units as the class members residing in those units are not permitted to attend classes in the Sandy Turner classrooms. During the December 2024 tour, the monitoring team discussed concerns about adequate space and remains available to assist with review of future expansion.

Recommendations:

1. *Continue to refine the daily program offering report the County developed since the last reporting period. The report reflects the location for the programming, which is excellent.
2. *Conduct an existing space assessment to determine if the opportunity exists to expand programming in underutilized spaces, such as the classroom space in the various housing units.
3. *Conduct space needs assessment based on current status of the mental health treatment building being on hold.
4. *Continue with the County's strategy to repurpose empty housing units to utilize as programming space.
5. Ensure Phase II and Phase III address inadequate space in Housing Units 24 and 35 as well as lack of programming opportunities and space for the higher security populations.

(500) Defendants shall work with the agreed-upon joint subject matter expert, as discussed in Section IV(A), to develop and implement an updated written use-of-force policy, and any necessary forms as well as associated training materials, for those persons incarcerated at the Jail, within six (6) months of the Effective Date. The updated use-of-force policy shall address the issues identified in the McDonald expert report for all uses of force both planned and un-planned. Under that policy, use of force shall only be authorized in the type, amount, manner, and circumstances authorized by that policy. When force must be used, ACSO staff shall only use that amount of force that is objectively reasonable and appears necessary to control the situation or stop the threat, and the force must be in the service of a legitimate correctional objective. Staff shall be trained on any and all updated policies and forms as detailed in Section IV(A) and Defendants shall consult with joint expert Terri McDonald on the content and provider of de-escalation training to address and reduce ACSO staff using force, to include striking and kneeling during use-of-force scenarios at the Jail.

(501) The use-of-force policy shall include at least the following components: (1) reiterate supervisory and managerial responsibility to address tactical mistakes or unnecessary or excessive force in a steadfast and unapologetic manner; (2) require consistent use of the ACSO Personnel Early Intervention System ("PEIS"), which has the capability to track use of force and prevalence rates as one of the metrics evaluated in a use of force review; (3) require clinical engagement by AFBH where appropriate in developing behavior plans with incarcerated individuals who are engaged in multiple force incidents; (4) be clear that incarcerated individuals shall not be hit on the head or face nor kneed or kicked absent extenuating circumstances where there is a deadly threat or assaultive behavior, defined consistent with Section 240 of the California Penal Code as intent coupled with the present ability to inflict violent injury; (5) address the pre-planned use of force on individuals with known Psychiatric Disabilities, including coordinating with AFBH on de-escalation measures, such as use of cooling down periods or other appropriate methods, to avoid or otherwise limit the use of force as much as possible; and (6) training on best practices for staff who conduct use of force reviews.

Finding: Partial Compliance

Assessment:

The County has updated all force policies to comply with these provision and continues to evaluate the necessary refinements to policies and training due to systemic challenges identified during reviews. For example, the previously approved force policy requires that any injury to an incarcerated person during the use of force will be treated as a Category II incident. However, this has been considered too broad a definition as low level force applications, such as a control hold, resulting in a minor scratch or redness to an area of the body requiring no care or complaint of pain are being listed as a Category II incident when those types of incidents are more appropriately designated as Category I. Similarly, ACSO is updating the policy to make clearer the responsibility to ensure medical care is given post force and prior to placement into a cell unless directly supervised until medical staff arrival as that is an area where staff are not consistent in their post force response.

The County also continues to utilize internal metrics reports on use of force incidents and tracks training trends associated with all force reviews to assist with identifying employees with repeated training issues as well as identifying training needs that reoccur to ensure staff briefings and formal trainings adequately address trends that require clarification. Good examples of recent training as a result of identifying trends include de-escalation requirements, pre-planned versus emergent force, placing the class member in a recovery position post force as soon as possible and requirements for medical clearance post force. Not only is the Force Training and Compliance Unit (FTC) engaging in quality post force reviews, but the team is also being more proactive in providing individualized and team trainings in response to those reviews.

The FTC has continued the high-level analysis of force incidents. From the FTC’s internal reviews, 68% of the force incidents during the period of July through September 2024 (Q3 2024) were Category 1 incidents⁴⁵, which is lower than prior reports. There were no Category III incidents during Q3 2024. The following tables represents the incidents by category for 2023 and Q1 through Q3 2024:

Use of Force Categories
Calendar Year 2023

	Q1 (Jan-Mar)	Q2 (Apr-June)	Q3 (July-Sept)	Q4 (Oct-Dec)	Average	Percentage
Cat I	96	99	100	97	96	75%
Cat II	43	21	32	25	30	23%
Cat III	3	2	2	4	3	2%
Total	142	122	134	126	129	100%

ACSO has completed the quarterly trend reports regarding force for the first three quarters of 2024; however, the force reviews for Q4 2024 have not all yet been completed for inclusion in this report. For the first nine months of 2024, the County reduced the average number of use of force incidents by eight per month, representing a nine percent (9%) reduction in the average number of force incident from 2023. There was a slight increase in the percentage of Category II incidents (+2%) while the Category I and Category III percentages dropped by 1% each. The following table represents the incidents by category for the period of January – September 2024:

Use of Force Categories
January – September 2024

	Q1 (Jan-Mar)	Q2 (Apr-June)	Q3 (July -Sept)	Average	Difference from 2023	Percentage	Difference from 2023
Cat I	93	98	79	90	-6	74%	-1%
Cat II	16	37	37	30	N/C	25%	+2%
Cat III	1	3	0	1	-2	1%	-1%
Total	110	138	116	121	-8	100%	

The County also tracks the types of force used for each incident. It is important to understand that a single force incident could include the use of more than one force option. For example, in an incident one staff may use oleoresin capsicum (OC Spray) followed with a control hold or ground controls and another utilize a taser. The County will measure four force options in this scenario – Taser, OC Spray, ground control and control hold.

⁴⁵ Category I use of force incidents are generally physical force and ground takedowns; Category II is generally use of personal body weapons, chemical agents, impact weapons, group incidents involving more than five (5) IPs or injuries to staff or IPs as a result of force not considered a serious bodily injury; Category III are serious bodily injuries due to the incident, impact weapons strikes to the head or other head strikes likely to cause serious bodily injury; use of impact weapons, chemical agents or strikes on a restrained IP.

The following tablets depict force options that were employed during calendar year 2023 followed by the force options utilized in the first nine months of 2024.

Types of Force Utilized
Calendar Year 2023

	Q1 (Jan-Mar)	Q2 (Apr-June)	Q3 (July-Sept)	Q4 (Oct-Dec)	Average	Percentage
Control Hold	98	90	71	69	82	63%
Ground Control	82	66	112	90	87.5	67%
OC	11	3	5	8	6.75	5%
Taser	9	3	6	6	6	5%
Personal Body Weapons (Strikes)	19	10	16	12	14.25	11%
Batons	0	0	0	0	0	0%
Projectiles	0	0	1	1	0.5	>1%
Total Types of Force Utilized	142	122	134	126	131	NA

Types of Force Utilized
January-September 2024

	Q1 (Jan-Mar)	Q2 (Apr-June)	Q3 (July-Sept)	Average	Percentage
Control Hold	60	79	85	74.5	45%
Ground Control	92	67	52	70.5	42%
OC	3	5	5	4.5	3%
Taser	2	2	3	2.5	2%
Personal Body Weapons (Strikes)	10	11	7	9.5	6%
Batons	1	0	0	0	0%
Projectiles	0	0	0	0	0%
Total Types of Force Utilized	168	164	152	166	

As with the previous reports, the majority of force incidents involved staff utilizing control holds or taking a Class Member to the ground to gain control. The deputies continue to utilize striking either in self-defense or when a Class Member violently resists but also in instances where striking appears inappropriate. There were no incidents in the Q3 2024 period referred to internal affairs for formal investigation due to what appeared to be a violation of the force policies. However, the Custody Expert identified instances where formal discipline appeared warranted, or at least an investigation into the incident (Refer to Provision 503). Less lethal options (Taser and OC) were utilized in approximately five percent of the force incidents and no impact weapons were utilized during this review period. It is noted that the average number and total percentage of incidents involved staff utilizing personal body weapons reduced from an average of over 14 instances per quarter in 2023 to less than 10 instances in 2024 and from eleven percent of the force utilized in 2023 to six percent in 2024. This is due to additional training for the deputies regarding options other than striking to control violent and resistive behavior.

Custody has continued to identify the housing units with the highest prevalence of force. The following tables reflect the highest force utilization units per quarter for the calendar year 2023 followed by a table reflecting force options used in the first nine months of 2024:

Use of Force Locations
Calendar Year 2023

	Q1 (Jan-Mar)	Q2 (Apr-June)	Q3 (July-Sept)	Q4 (Oct-Dec)	Average	Percentage of high use units
Intake Area	20	21	19	26	22	24%
Housing Unit 1	21	19	21	19	20	22%
Housing Unit 2	6	8	N/A	N/A	N/A	N/A
Housing Unit 9	22	29	24	25	25	27%
Housing Unit 21	N/A	N/A	18	10	14	15%
Housing Unit 23	10	5	N/A	N/A	N/A	N/A
Housing Unit 24	10	11	12	10	11	12%

Use of Force Locations
January – September 2024

	Q1 (Jan-Mar)	Q2 (Apr-June)	Q3 (July-Sept)	Average	Percentage of high use units	Difference from 2023
Intake Area	23	24	33	27	30%	+6%
Housing Unit 1	9	14	5	9	10%	-12%
Housing Unit 2 ⁴⁶	8	11	5	8	9%	N/A
Housing Unit 8	N/A	11	7	6	7%	N/A
Housing Unit 9	17	23	15	18	21%	-6%
Housing Unit 24	12	N/A	17	10	11%	-1%
Housing Unit 35	N/A	10	7	6	6%	N/A

⁴⁶ HU 2 was deactivated during Q3 2024.

During Q3 2024, the following units averaged one to two force incidents a month: HUs 2, 3, 4, 6, 7.

It is also important to note the housing units with only one or no force incidents during a quarter:⁴⁷

2024⁴⁸

First Quarter	Housing Units: 3, 23, 25, 31, 32
Second Quarter	Housing Units: 23, 32
Third Quarter	Housing Units: 21, 22, 22, 23, 32

This information should continue to be used to support the County in their training and resource allocation needs. It is noted that the male restricted housing unit, HU 1, demonstrated a significant reduction in force during Q3 2024 while the intake unit realized a significant increase in force utilization. Targeting training to high force units, enhancing programming, increasing AFBH presence and ensuring consistent and adequate staffing are allocated to those units is critical in reducing force incidents.

Recommendations:

1. *Continue to work collaboratively to update all custody use of force policies, forms and associated training as trends emerge.
 - a. *Continue to work with AFBH to address complex incarcerated persons to develop meaningful behavioral plans.
2. *Continue to focus on supervisory review of incidents, which will result in improved outcomes by providing direct and focused feedback to assist staff in decision making and de-escalation as well as informing policy and training revisions that are necessary.
3. *Continue to ensure policy and training reviews are an aspect of the supervisory review to continue to refine as trends and concerns arise.
4. *See Provisions 502-504 for additional recommendations.

(502) Defendants shall ensure AFBH clinical staff is present in advance of all pre-planned use-of-force incidents so that they may attempt to de-escalate the situation. Defendants shall document all de-escalation attempts. To the extent possible, AFBH staff shall not be present during the actual use of force, in accordance with their MOU.

Finding: Partial Compliance

Assessment:

The County continues to show improvement in summoning AFBH when time permits. Of the thirteen (13) pre-planned force incidents reviewed during this monitoring period, AFBH was not summoned in two incidents and failed to respond when summoned in two additional incidents. In the last reporting period, the County was encouraged to document when a potential extraction ended without force and the County

⁴⁷ It is recognized that units may have been unoccupied during periods in the quarter due to population fluctuations.

⁴⁸ Housing units in Q1 (HU 21) and Q2 2024 (HU 21, 31) previously identified as having no force incidents during the quarter have been removed after determining the units were not operational during the quarter.

responded and documented six of the thirteen incidents where a cell extraction was likely ended without the need to use force. This is a significant improvement.

In the seven situations where force was required, an AFBH clinician either was not summoned or did not respond in four of those situations. Conversely, in the seven incidents that were resolved without force, an AFBH clinician assisted with de-escalation in all seven incidents.

AFBH and ACSO should make clear to the custody staff and clinicians that summoning a clinician and responding to that summons are required in pre-planned circumstances and address any barriers that inhibit compliance. It was anticipated that a substantial compliance rating could be achieved this review period but the four instances of non-compliance with the provision imply the requirement is not yet anchored in training.

Recommendations:

1. *The Force Training and Compliance Unit (FTC) should improve evaluation of AFBH involvement in de-escalation and elevate non-compliance issues by AFBH-to-AFBH leadership.
2. ACSO and AFBH should evaluate the barriers impacting meeting the requirement that an AFBH clinician “shall” be present prior to all pre-planned use of force incidents to increase compliance in the next review period.

(503) Defendants shall further: (a) ensure there is supervisory review of all use-of-force incidents; (b) develop an independent custodial use-of-force review team within the Compliance Unit to identify and address systems and training issues for continuous quality improvement to include de-escalation techniques; (c) work with ACSO Support Services to regularly review the use-of-force policy with respect to the circumstances when less lethal impact weapons are warranted and to determine when chemical agents may be used in cell extractions; and (d) ensure fixed cameras are placed throughout the Jail for security and monitoring purposes with priority for cameras to be placed in intake areas and areas with highest prevalence of force.

Finding: **Partial Compliance**

Assessment:

This is a complex provision, best broken down by the various elements:

(a) ensure there is supervisory review of all use-of-force incidents;

No Change: The County continues to comply with this subsection of the provision and has provided proof of practice on reviews of requested use of force packages. The quality of those reviews is addressed in *(b)*.

(b) develop an independent custodial use-of-force review team within the Compliance Unit to identify and address systems and training issues for continuous quality improvement to include de-escalation techniques;

The County continues to maintain the FTC, comprised of one (1) lieutenant, three (3) sergeants and (1) analyst. The lieutenant and analyst were appointed during this review period, resulting in the need for

those new employees to become familiar with processes, reports, etc. They have integrated well and demonstrated a commitment to the reforms underway, but reviews and reports have been somewhat slower to complete this review period due to a learning curve and revamping of some practices. The processes remain effective and within acceptable review timeframes.

As described in the Second and subsequent Monitoring reports, the Unit Sergeant and Unit Lieutenant utilize the Blue Team software to conduct reviews of all force incidents and are the initial reviewers of all incidents.⁴⁹ The FTC has a responsibility for independently reviewing all Category II and III incidents as well as no less than 10% of Category I incidents. During this rating period, the Custody Expert reviewed a random sample of Category I incidents, and all completed Category II and Category III incidents.

The reviews continue to improve with involved sergeants doing the initial reviews and being more focused on areas for improvement, including issues adjacent to the force but not specifically regarding the application of force. While the supervisors are showing improvement, in limited situations there still remains a propensity to attempt to justify when staff fail to temper their responses when the threat reduces, particularly in the use of personal body weapons (strikes). While these events are not frequent, it is critical that supervisors review the incidents from an independent and neutral approach rather than attempt to justify actions where the facts do not support the conclusion.

For this review period, the Custody Expert requested a total of seventy-four (74) completed use of force packages for the period of May 2024 through September 2024 to allow time for the packages to complete the review process. Seventy-four cases were provided for review but two lacked sufficient detail or video for the Custody Expert to make a final determination as to whether ACSO's review process engaged in a meaningful and accountable review.

In assessing whether the County is engaged in thoughtful analysis of their use of force review process, it is important to assess the concurrence rate between the unit supervisors who conduct the Blue Team review and the findings of the FTC. During this rating period, the FTC continued to internally track concurrence rates between January 2023 and September 2024 as reflected below:

Concurrence Rate Between First Line Supervisor and FTC⁵⁰
Calendar Year 2023

	Concur	Not Concur	Total Reviewed	Concurrence Rate
First Quarter 2023	44	11	55	80%
Second Quarter 2023	29	8	37	78%
Third Quarter 2023	45	7	52	87%
Fourth Quarter 2023	32	6	38	84%
Total	150	32	182	82%

⁴⁹ Category I use of force incidents are generally physical force and ground takedowns; Category II is generally use of personal body weapons, chemical agents, impact weapons, group incidents involving more than five (5) IPs or injuries to staff or IPs as a result of force not considered a serious bodily injury; Category III are serious bodily injuries due to the incident, impact weapons strikes to the head or other head strikes likely to cause serious bodily injury; use of impact weapons, chemical agents or strikes on a restrained IP.

⁵⁰ The FTC concurrence rate does not capture all recommendations in their findings but rather reflects when the reviewing supervisor missed a critical issue during the initial review. This does not mean that the force was determined outside of policy, but some aspect of the incident was not adequately addressed by the initial reviewing sergeant.

Concurrence Rate Between First Line Supervisor and FTC
January - June 2024

	Concur	Not Concur	Total Reviewed	Concurrence Rate	Difference from 2023
First Quarter 2024	27	4	31	87%	
Second Quarter 2024	40	5	45	89%	
Third Quarter 2024	48	3	51	94%	
Total January – September 2024	115	12	127	91%	+9% Concur

Similarly, the Custody Expert assesses unit sergeant reviews of Category I incidents not reviewed by the FTC as well as completed FTC reviews. During this rating period, the Custody Expert concurred with the final findings in 51 percent of the reviews, partially concurred in a quarter 28 percent of the reviews and did not concur with an important finding in 19 percent of the reviews, which is an improvement from the Fifth Monitoring Report where the Custody Expert did not concur with twenty-six percent of the overall findings. It is important to understand that the non-concurrence may not have been surrounding the need for or the level of force used but is more significant in nature. A brief description of the non-concurrence reason will follow the table below depicting the monthly reviews by the Custody Expert:

Custody Expert Review of Completed Force Review Packages
October 2022-September 2024

Month	Requested	Reviewed	Category			Reviewer^		Concur		Disagree	
			I	II	III	Sgt.	FTC	Overall	Partial	BT	FTC
Oct 22-Apr 23	B	16						36%	30%	34%	
May 23-Oct 23	13	13						33%	39%	28%	
Nov 23-Apr 14	11	11						50%	24%	26%	
May 2024	22	22	5	15	1	2	19	14	3	1	3
June 2024	12	12	1	10	1	0	10	3	5	2	2
July 2024	15	15	6	9		1	14	8	7	0	0
August 2024	11	11	5	5		4	6	7	0	2	1
September 2024	14	14	8	4		2	12	5	5	1	1
Ave	74	74*	27	43	2	17% (n=12)	83% (n=61)	51% (n=37)	30% (n=22)	19% (n=13)	

^ The reviewer is the final review in the process. BT = Blue Team review by the Unit Sergeant and Unit Lieutenant. FTC = Force Training and Compliance Team

- Unable to reach conclusion due to video issues on two incidents.

Comments on Non-concurrence with Final Review⁵¹

May 2024

- The force did not appear within policy as the staff appeared to not reevaluate force options as the situation evolved, yet ACSO determined the force was within policy despite the fact a responding deputy pulled the primary deputy away from the incident.
- Staff fail to employ adequate de-escalation techniques with a THU class member. Force may have been preventable.
- Staff fail to employ adequate de-escalation techniques when responding to a medical emergency with a THU class member. Force may have been preventable.

June 2024

- A deputy utilizes personal body weapons on a resistive class member that cannot be justified based on available videos. ACSO fails to interview incarcerated persons who were in the area to get additional information. Force does not appear to be within policy.
- A BHI person requires placement on IOL status but refuses to exit the cell. He is extracted and staff begin to move him toward the THU but ultimately house him in HU 2. Poorly managed incident and review failed to identify all areas of concern.
- Several fights erupt in a pod in a HU during pod time. There are no deputies in the area to observe the fight as deputies are all on the other side of the unit, many distracted by their cellphones. The review fails to identify the fact that numerous class members were active in pod time in an area with no direct observation. This incident may not have occurred or been as protracted had staff been observant in the area.
- An incarcerated person is required to move but refuses and asks to speak with a clinician. The staff are professional but refuse to summon a clinician and ultimately engage in a poorly planned cell extraction. This was treated as an emergent force, but it should have been treated as a planned force incident with appropriate de-escalation attempted.

July 2024

- None

⁵¹ Unless stated, the disagreement does not involve the use of force, level of force or force options but rather an adjacent issue that may have contributed to the need to use force.

August 2024

- A restricted housing class member covers his cell window. Staff attempt to resolve by opening the tray slot, but the class member places his hands through the slot and the staff engage in an emergency force, shoving the incarcerated person's arms back into the cell. Staff should have contacted a supervisor and been more calculating in their approach, rather than trying to shove the class member's arms back into the cell in an emergent fashion.
- A BHI person was in a holding cell and rushed the deputy when the door was opened. The deputy engaged in force that included personal body weapons. There was no video of the incident and no interview of potential witnesses. The review lacked due diligence in gathering all of the facts.
- An arrestee is being verbally and passively resistive during intake. Ultimately the incident escalates into a force situation due, in part, to poor communication techniques and the fact the arrestee focused on one deputy, and no other deputies interceded to attempt de-escalation. The force may have been preventable.

September 2024

- A BHI person is in the dayroom and refusing to return to her cell. She engages in spitting on staff and resisting when they attempt to return her to her cell. One staff uses personal body weapons in a manner that does not appear to comply with policy, an issue not addressed in the review.
- A deputy encounters two class members who refuse a cell move. The deputy placed one of the class members in his cell restrained while the cellmate is unrestrained and walks away. The deputy then placed the second class member into restraints with the appearance the class member was going to be removed to a holding cell. When the deputies begin to escort the second class member back to the cell he says he cannot reside in, the class member resists and staff use force to take control. The force was likely preventable, and the final review did not adequately address the serious policy violations.

Improvements noted this monitoring period:

- All of the improvements noted in prior monitoring reports have been maintained.
- The FTC continues tracking training issues and employee corrective actions to determine trends and requirements for updates to policy or training.
- Because the quality of reviews are improving, the concurrent rate between the original force reviews and the FTC are increasing as is the concurrence rate between ACSO and the Custody Expert.
 - The internal concurrent rate between the BT and FTC rose from 82 percent in 2023 to 91 percent in the first nine months of 2024.
 - The concurrence rate between the ACSO findings and the Custody expert rose from 33 percent in the Fifth Monitoring report to 51 percent in this report and the disagreement rate dropped from 28 percent in the previous report to 19 percent in this report.
- Supervisors and managers are showing enhanced willingness to address factors unrelated to the actual force during incident reviews and are improving on providing proof of practice on corrective action taken as a result of the reviews.
- There continue to be examples of staff utilizing patience and de-escalation techniques.

- There were several examples where a cell extraction appeared imminent but based on de-escalation and AFBH intervention, force was either unnecessary or extremely minor hand controls.
- Deputies continue to demonstrate greater command and control of violent situations, restoring order with appropriate force proportional to the threat when verbal instructions fail to bring an end to the violence.
- Deputies have demonstrated self control and patience in situations involving staff assaults.
- ACSO continues to show a commitment to contacting AFBH for support when time and circumstances permit. In the sample force policies reviewed, AFBH was summoned in 14 instances and failed to respond twice.
- ACSO is doing a better job of identifying patterns of policy violations and engaging not only in training of the involved staff but conducting muster trainings for all deputies, examples include: Placing incarcerated persons in a recovery position post force, identifying and addressing positioning that could lead to positional asphyxia; medical clearance requirements post force and prior to rehousing.

The following areas for improvement were documented in the Fourth and Fifth Monitoring Reports followed by the current status in italics:

- There remains a hesitancy to provide formal written correction on serious errors of judgement regarding force. This is not an “unapologetic” approach. Too much reliance on training as the sole approach toward employee unacceptable behavior or mistakes.

The ACSO continues to track incidents where policy violations occurred and tracks whether the performance response was training or a more formal corrective action. This area remains the primary reason for non-concurrence findings between the expert and ACSO.

- Insufficient de-escalation in several situations reflecting the urgency to fully implement the CCC training.

While ACSO was able to provide additional CCC training and the majority of force incidents reviewed reflect at least one involved staff is attempting to de-escalate the situation, both ACSO and the expert identify incidents in which the involved deputy(ies) require additional CCC training.

- Inappropriate deployment of OC through food slots and poor in-cell decontamination protocols or documentation.

There were no incidents of failure to engage in in-cell decontamination but there were two incidents reviewed in which deputies engaged in poor tactics involving the class member refusing to remove their hands/arms from an unsecured tray slot. A formal policy and training for incidents of addressing unsecured tray slots has been recommended.

- Staff entering cells and holding areas when there is no urgency to do so and there is time to summon a supervisor and AFBH.

This continues to be an area of focus during ACSO reviews, which is resulting in improved decision making by the deputies.

- Lack of appropriate equipment for resisted transports, such as foldable gurneys and gurneys with wheels.

Unchanged - The staff have done a good job of bringing a wheelchair to provide transport for a resistive person. The ACSO still requires transport equipment for upper tier movement of resistive and incapacitated persons.

- Failure to develop a policy to address incarcerated person allegations of unnecessary or excessive force. Failure to develop policy or protocol for consideration to redirect staff who are subject to internal affairs investigation for potential excessive or unnecessary force.

Several meetings have occurred regarding this issue, and it is anticipated that the policy and associated training will be completed in the next review period.

- Sergeants fail to provide custodial leadership in several situations, either due to cultural behavior of allowing the deputies to lead or due to insufficient training in correctional practices.

Sergeants are assuming a greater role when responding to incidents. In only one incident reviewed during this period did it appear that the sergeant failed to assume a leadership role.

- The tray slots in the restricted housing units require different locking mechanisms.

The County reports they are in the process of exploring viability to replace tray slot locking mechanism and will update on the status in the next review period.

- Managers overruling or not supporting non-compliance findings by the initial reviewing supervisors and/or FTC.

The ACSO is doing a more thorough job with all layers of review independently assessing the force and in the majority of instances there is general alignment in findings. There was only one instance in this review period where a supervisor recommended an internal affairs investigation for potential serious policy violations that was not supported by a manager. This incident was listed in the September 2024 non-concurrence list.

- Failure to ensure medical assessment is completed immediately after force utilization and prior to rehousing.

This has remained a problem in this review period, but ACSO has provided refresher training and has begun identifying the issue during force reviews.

- Failure to ensure appropriate de-contamination prior to rehousing.

There were no incidents identified where de-contamination did not occur. However, ACSO did identify in their review one instance where it did not appear that clean clothing was issued after de-contamination.

The force utilization and force review systems are maturing as is the process for continuous improvement through policy revision and training updates. However, the non-concurrence rate remains too high to consider the force provisions as substantially compliant. It is recognized there may be situations where reasonable minds disagree but that should be rather rare. Generally, after providing feedback of non-concurrence, ACSO has not disputed the expert's opinion and future similar incidents demonstrate that ACSO absorbs the feedback and responds accordingly, which is the primary reason the concurrence rate is increasing, and the disagreement rate is diminishing.

(c) work with ACSO Support Services to regularly review the use-of-force policy with respect to the circumstances when less lethal impact weapons are warranted and to determine when chemical agents may be used in cell extractions; and

ACSO continues to ensure that the FTC and the jail command staff review cell extractions. The Custody Expert also reviews all cell extractions reported on the monthly use of force logs. During this review period, thirteen potential cell extractions were reported. Of the thirteen, six were resolved without force. Therefore, ACSO conducted seven cell extraction this review period. None of the cell extractions or any other reported force involved less lethal impact weapons. Only one of the cell extractions involved the use of oleo capsicum resin (OC) as described below:

- A mentally ill Class Member refused to exit a holding cell for rehousing. The staff allow a cool down period and attempt to gain compliance. Both AFBH clinicians and the chaplain attempted to persuade the class member to exit the cell for rehousing, but he refused. Due to the threat the class member was making, staff deploy OC into the cell which is ineffective on the first dispersal. Staff deployed a second burst into the cell and the class member agreed to comply. The class member was decontaminated, medically evaluated, given clean clothing and rehoused without incident. The

force was objectively reasonable after attempts to gain compliance proved ineffective and the use of OC was an appropriate force option.

Unlike prior reports, nearly half of the potential extractions ended without the utilization of force, a significant improvement for the system.

(d) ensure fixed cameras are placed throughout the Jail for security and monitoring purposes with priority for cameras to be placed in intake areas and areas with highest prevalence of force.

The County reports that the fixed camera expansion project remains on target with anticipated completion in late 2026.

Recommendations:

1. Update the Use of Force Review policy or other identified policy to include the following:
 - a. *Formalize a process to address IP complaints of unnecessary or excessive force and how to address in the use of force review process.
 - b. *Include a section in the policy or other related policy regarding evaluation of the redirection of staff from the unit when a force incident appears to have significantly outside of policy.
 - c. *Continue to remind reviewing supervisors to address uninvolved staff escort if there are sufficient staff to assume that role.
2. *Continue to train all existing custody supervisors and managers in the new policies.
3. *Continue to provide updates on the project plan for expansion of fixed cameras in the jail based on use of force trends.
4. *Continue to analyze force packages for training and policy revision need trends.

(504) Defendants shall also evaluate all policies and training associated with every use-of-force review to determine if updates or revisions are necessary as a result of those reviews and shall ensure the documentation process for use-of-force review reflects that a review of policies and training has occurred. Defendants agree to maintain adequate resources to ensure appropriate independent use of force reviews, training, and auditing to comply with the terms of this Consent Decree.

Finding: ***Substantial Compliance – Recommend Discontinuation of Monitoring***

Assessment:

The County continues to identify and track training and policy revision topics during the use of force process and lists those topics on spreadsheets available for review and the FTC has played a more active role in providing individual and group training as issues are identified.

The training issues identified include a broad range of issues but continue to fall within the following categories:

- Tactical Planning and Tactics
- Communication and De-escalation
- Equipment and Body Worn Cameras
- Report Writing/Reviewing
- Overall Safety
- Professionalism
- Restraint Application/Escorting

The County also tracks corrective action for employees to determine if trends exist or if additional training does not seem to be correcting policy non-compliance issues.

The County continues to allocate adequate resources to conduct timely use of force reviews and engages in internal tracking on timeliness of reviews but was somewhat slower this review period due to changed leadership in the FTC, changed leadership in the jails and improving the overall review system. While slightly slower, the outcomes of the reviews continue to improve.

In comparing the County's internal tracking relative to the timeliness of force reviews for the calendar year 2023 against the first nine months of 2024, it is clear the County continues to make timely reviews a priority. While each quarter fluctuated, the review times for Category II incidents reduced overall by 13 days and Category III incidents increased by four days. The average timeframes for reviews remains within normal standards.

The following tables represent ACSO's internal monitoring of the timeliness of force reviews by category for Calendar Year 2023 and the first nine months of 2024:

Average Days to Complete a Use of Force Review Package
Calendar Year 2023

	Q1 Average Days	Q 2 Average Days	Q3 Average Days	Q4 Average Days	Overall Average
Category I	47	36	37	41	40 Days
Category II	113	75	74	96	90 Days
Category III	103	65	142	72	96 Days

Average Days to Complete a Use of Force Review Package
January – September 2024

	Q1 Average Days	Q2 Average Days	Q3 Average Days	Overall Average Days	Difference from 2023
Category I	34	26	61	40	N/C
Category II	67	59	104	77	-13 Days
Category III	111	92	96	100	+4 Days

This is the third monitoring report with a finding of substantial compliance. This provision is anchored in policy, training and internal expectations. The FTC lieutenant was reassigned and replaced during this review period and the systems that had been put in place sustained and continued to improve. It is anticipated that future reports will list timeliness of reviews in other provisions subject to ongoing monitoring. It is also expected that ACSO will continue to maintain adequate resources to engage in meaningful use of force reviews, an issue that will be evaluated under Provision 503.

Recommendations:

1. *Maintain quality and timeliness of reviews.
2. *Continue to ensure Blue Team Reviews incorporate evaluation of policy when conducting Category 1 reviews.
3. *Continue to track training needs identified during reviews for incorporation in training updates.

(505) Restraint Devices shall be applied for only the amount of time reasonably necessary and shall never be applied as a punishment or as a substitute for treatment. Defendants have discontinued the use of WRAP devices at the Jail and shall not resume their use at the Jail.

Finding: Partial Compliance

As initially reported in the Fourth Monitoring Report,⁵² the monitoring of the use of restraint chairs has been difficult since the transition from the use of paper observation logs to the Guardian RFID system. The County continues to struggle with accurate tracking and reporting on the use of restraint chairs, making external review difficult and attempting to rely on metrics to report on progress impossible. Therefore, this report will not provide a data analysis of incidents of restraint chair use for the period of July through December as any metrics could be considered inaccurate.

All available documentation on restraint chair utilization was reviewed but there were incidents in which the use of restraint chair would be listed on the Guardian tracker report, but no incident report existed, or an incident report existed on utilization of the restraint chair, but it is unclear when the class member was removed from the restraint chair. ACSO attempted to gather detail but is not able to certify the exact release time for all restraint chair placements or certify that the Guardian reports on restraint chair placement were inaccurate.

During this review period, the restraint chair was utilized at least ten times but ACSO in full transparency also provided all Guardian reports where the deputy checked in the Guardian system that an incarcerated person was in a restraint chair, so there were twelve additional incidents where the Guardian reports listed an incarcerated person was in a restraint chair without ACSO providing additional documentation. It is likely those were inaccurate guardian log entries, but ACSO was unable to present accurate monthly logs of restraint chair placements for the period of July through December 2024 to cross reference.

Of the ten known restraint chair placements, two did not have a known release time from the restraint chair, resulting in an unknown placement duration in those situations. Of the other eight known restraint chair placements, none exceeded 5.5 hours and the average time in a restraint chair for those eight incidents was 3.75 hours. Based on available documentation, only one class member was identified as being placed in a restraint chair more than once during the July through December 2024 period, and those two placements were five months apart. While it is clear from available documentation that mental health and medical rounds are occurring, as is the provision of meals, bathroom breaks and range of motion releases, the documentation is too incomplete to do a data driven assessment.

The ACSO is focused on improving the restraint chair utilization tracking system, incorporating documentation regarding the use of restraint chairs in the Watch Commander's end of shift report and returning to the use of paper observation logs, rather than use of the Guardian RFID tracking system, to document activities while a class member is placed in a restraint chair. The County will not achieve

⁵² Pgs. 48-50.

substantial compliance with this provision until practices are anchored in policy, training, proper documentation and internal auditing.

Prior reports reported on retention of a Class Member in restraints (handcuffs) who had not relinquished their restraints. Generally, most class members relinquished the restraints within an hour based on prior reviews. However, upon reviewing language from the Consent Decree, tracking and reporting on this issue is not required pursuant to the Consent Decree. The Consent Decree definition associated with this provision is as follows:⁵³

“Restraint Devices” means equipment utilized to restrict the movement of an incarcerated person; this includes the Pro-Straint Restraint Chair, and any other device which immobilizes an incarcerated person's extremities, and/or prevents the inmate from being ambulatory. This does not include handcuffs or waist chains.

As a result, this provision will no longer address retention in handcuffs when the class member will not relinquish their restraints, rather this provision will focus on assisting ACSO with improvement in documentation and tracking on the use of the restraint chair.

ACSO has not utilized the WRAP or other restraint devices pursuant to this provision during this review period.

Recommendations:

1. *Finalize and provide training on the Use of Restraint Policy (8.26)
2. *Resolve the lack of consistency in documentation utilizing the Guardian RFID or resume use of the restraint logs approved with the policies.
3. *Work with the Mental Health Expert to review the incidents of multiple placements in a restraint chair to determine if other clinical options may have been possible to improve training and future outcomes.
4. *Work with the Custody Expert to develop an internal auditing report for each restraint chair placement to assist in identifying training needs and compliance concerns.
5. Engage in internal monthly tracking of restraint chair utilization.
6. Include use of restraint chair in the Watch Commander end of shift reports under development.

(506) AFBH and medical staff shall be alerted any time a restraint log is initiated for a Behavioral Health Client. Once notified, medical staff shall review the individual's health record and provide an opinion on placement and retention in the Restraint Device. A Qualified Mental Health Professional shall conduct an assessment, as soon as practicable, but in any event within four (4) hours of initiation of the restraint log.

Finding: Partial Compliance

In reviewing all available restraint chair documentation for the period of July through December 2024, it appears a mental health clinician was involved prior to or immediately following placement into the chair

⁵³ Page 5

in ten of ten incidents. It is likely this provision could reach substantial compliance in the next review period if experts were satisfied that all incidents were reported and all documentation for assessment is available for review.

Recommendations:

1. *Continue to ensure there are adequate mental health clinicians on the overnight shift.
- *Continue to ensure that clinical staff are reminded of the importance of assessing incarcerated individuals placed in a restraint chair, ideally before placement, in case higher acuity care is needed.*
2. *Refer to recommendations in Provision 505.

(507) Defendants shall develop, in consultation with the Joint Expert(s) and as discussed in Section IV(A), policies, procedures, and training regarding the appropriate use of other Restraint Devices, including appropriate medical monitoring, provision of fluids, restroom breaks, and guidelines for release from restraints. Defendants shall provide such training within six (6) months of the Effective Date and shall provide recurring training on an annual basis.

Finding: Partial Compliance

Assessment:

The County has an updated restraint chair policy and training, but as with prior reports, auditing compliance has been hampered by poor documentation and record keeping. Later in this rating period, the County reinstituted the requirement to utilize a paper log, rather than the Guardian RFID system for monitoring, but when copies of documents were requested to monitor compliance with the policy, the record keeping was unreliable. The County has instituted a monthly log of all restraint chair utilization and will work with the Custody Expert to develop internal monitoring to improve internal auditing. If the County could resolve the inconsistent recording keeping on restraint chair utilization, it is likely the County could reach substantial compliance on this provision in the next reporting period.

Recommendations:

1. *See recommendations in Provision 505.
2. *Consider assigning internal monitoring to the Compliance Unit to identify training issues as they occur, targeting missed restraint chair log documentation in the areas of mental health rounds, access to the bathroom, watch commander rounds and range of motion with the goal of reaching substantial compliance with this provision.

(600) Defendants shall evaluate the tracking and metrics system for grievances to seek formats that better inform management on timeliness, trends, problem areas, etc. Where grievances are available for completion on tablets, incarcerated persons shall continue to have the option of accessing paper forms, and the tablets shall allow individuals to submit grievances without deputy assistance or approval. Defendants shall ensure supervisors are conducting and documenting daily rounds in housing units to ensure access to grievance systems, including that paper forms are readily available to incarcerated

persons on their housing unit or pod. Defendants shall also keep statistics regarding the kinds of grievances filed, any corrective actions taken, and any staff issues that arise from this process. The Compliance Captain shall report through the chain of command on any such systemic or staff issue(s) promptly.

Finding: *Partial Compliance*

Assessment:

The County continues to refine the grievance system and has shown great improvements. The new tracking system, as described in the Fifth Monitoring Report,⁵⁴ has been partially operationalized during this review period and will be able to generate appropriate trends and tracking reports. The County is finalizing the policy and refining the process regarding staff complaints and unnecessary force allegations. It is anticipated that the grievance policy will be complete in the next review period and monthly grievance reports will be available beginning January 2025 for inclusion in the report.

Random sample reviews of grievances associated with this report were requested and reviewed during this period. Over 100 grievances were reviewed with feedback provided to the grievance unit on improving responses and updating policy where appropriate. The general feedback involved providing greater detail in responses, improving the categorization of grievances and improving unnecessary force follow up and documentation. The ACSO has been receptive and has provided an updated draft policy for review to finalize the process. ACSO is also now able to provide lists of grievances associated with the provisions, for example allegations of lack of access to restrooms during out-of-cell time, to allow for internal and external monitoring.

The following are observations in the Third and Fourth Monitoring Reports followed by italicized updates noted during this monitoring period:

- Lack of counting rules on how to categorize grievances as often issues can overlap and there is no consistency regarding which category a grievance will be listed under. For example, a complaint about the deputy not providing a grievance may be categorized in one tracker under “grievance” and in another tracker as a “staff complaint.”
 - *The ACSO has developed standardized dropdown menus and provided training to the staff. The ACSO also included refined response categories in the draft policy under review.*
- The timeliness for grievances are not kept up to date and there is no report concerning areas where grievances are not being responded to in a timely manner to assist management in allocating resources to address.
 - *The ACSO has improved on timeliness of grievance responses and tracking when an extension has been required. This information will be included in the Appeals tracking reports and included in future monitoring reports.*
- There is no clear process to track grievances that are elevated by the incarcerated person to the next level of review.
 - *Resolved - The ACSO has addressed this issue in the tracking system and provided clarification in the draft appeal policy. This information will be included in the Appeals tracking reports and included in future monitoring reports.*
- The Grievance tracker is not kept up to date with findings and lacks a column for housing of the incarcerated person to identify trends in particular living areas
 - *Resolved – The grievance tracker has been updated and includes findings and housing. Trend reports are able to list grievances by location, category and finding. This*

⁵⁴ Pg 57-59.

information will be included in the Appeals tracking reports and included in future monitoring reports.

- The grievance system lacks strong outcome tracking and outcome measures, such as using language on whether grievances were affirmed, partially affirmed or denied or other language that allows for outcome tracking.
 - *Resolved – The grievance draft policy and tracking system provide clear direction on findings and the tracking system will be able to generate outcome measure reports.*
- The grievance tracker does list the staff involved but there has been no analysis presented to determine if additional training or potential investigation of that staff member has been undertaken when the individual complaint has proven to have merit or there is a pattern of complaints that appear to have merit.
 - *Resolved and confirmed resolution is in place.*
- There is no continuous quality improvement report presented for review by the medical or mental health team concerning grievances and grievance trends.
 - *The grievance unit has developed a tracking system that will assist Wellpath and AFBH in conducting trend analysis for health care related grievances.*
- The grievance tracker does not list if the grievance was a tablet or paper grievance and there are missing grievance numbers that are not explained. For example, the log may have grievance #23-0001 and #23-0003 but does not have #23-0002 and there is no explanation. The tracking log should document the grievance was withdrawn, destroyed, a duplicate, error in assigning tracking, etc. to ensure integrity in the system.
 - *Resolved and confirmed resolution is in place.*

The County has created a thoughtful grievance tracking system, presented an updated policy for review, added staff to the grievance unit and engaged in training to staff regarding access to grievances and responsivity to grievances. During the December 2024 tour, class members reported access to grievances and that they received timely responses, even though they may dispute the ultimate finding. ACSO has engaged in substantial reforms to the grievance system and has been open to improvements during the process. The next report should be able to provide comprehensive data from ACSO regarding grievances. It is also anticipated that the policy should be complete and training for staff on the new policy during the next review period. This has been a complex project for ACSO, and they have remained focused, and the system demonstrates a profound improvement. The new system should allow the County and monitoring team to more easily review grievances by category, allowing for spot reviews of issues to ensure on-going compliance with active provisions and those that have discontinued monitoring, such as access to bathrooms pursuant to Provision 415. These types of improvements provide ACSO management the tools to self-correct and serve as an early warning system if a provision begins to backslide.

Recommendations:

1. *Ensure adequate resources are available to provide timely and meaningful responses to grievances.
2. *Work with the Joint Experts to revamp the monthly Grievance Report to comply with this provision.
3. Finalize the grievance policy and institute staff training on the new policy.
4. Focus on improving the quality of responses to grievances to ensure the reason(s) for the finding are clearly articulated and based on a review relevant and available information.

(712) Develop and implement a new alert system (computerized or otherwise) to advise the Intake, Transfer and Release Lieutenant (or Watch Commander, when the Intake, Transfer and Release Lieutenant is unavailable or off duty) when a person is held in the intake area for more than four (4) hours. Once alerted, the notified lieutenant shall follow-up every ninety (90) minutes thereafter to ensure the incarcerated person is processed as expeditiously as possible. Defendants shall process individuals through intake within eight (8) hours, except where it is impossible due to mass arrests, serious disturbances, critical incidents, or other emergencies that divert significant staffing resources, in accordance with the classification system.

Finding: Partial Compliance

The County has developed an email alert system to notify the Intake, Transfer and Release Lieutenant (ITR) and Watch Commander when a person is held in the intake area for more than four hours but has not yet determined how best to provide proof of practice on the follow up from those alerts.

In addition to the new alerts, the ITR continues to track the number of incarcerated persons held in the ITR beyond eight hours at 4:00 am and 3:30 pm. The County has maintained the progress reported in the last report⁵⁵ based on the commitment to maintaining the clinical and custody resources allocated for processing. As with prior reports, the County officially tracks the number of incarcerated persons held beyond eight (8) hours on the Intake, Transfer and Release (ITR) end of shift report. The count is taken at 4:00 a.m. and 3:30 p.m.

The average number of Class Members held beyond eight hours was reported in the Fifth Monitoring report and is reflected in the chart below:

ITR End of Shift Report Data		
Average Processing Delays		
Number of IPs held in ITR beyond 8 hours		
Months	4:30 a.m.	3:30 p.m.
Aug 2022	42	44
Jan-June 2023	15	11
July-December 2023	4	4
Jan-June 2024	3.6	1.4

During this monitoring period, ACSO, AFBH and Wellpath continued to improve the process and further reduced the average number of Class Members held in the intake area at the eight-hour mark. From July - December 2024, the average number of incarcerated persons in the ITR was beyond eight (8) hours at 4:00

⁵⁵ Pgs. 59-61

a.m. was 1.7 class members, an improvement over the January through June 2024 average of 3.6 class members on average in the intake area beyond 8 hours. There was a slight reduction in the average number of class members held past 8 hours at the 3:30 p.m. measure, reducing from 1.4 class members in January through June 2024 to 1.1 class members for the July through December 2024 review period.

The following chart reflects the daily average of incarcerated persons maintained in the ITR based on the ITR end of shift reports for sample periods July through December 2024:

ITR End of Shift Report Data
July - December 2024⁵⁶
Processing Delays
Number IPs held in ITR beyond 8 hours

Date	4:00 AM	3:30 PM
July 7-13	1.6	2.4
Aug 4-10	1.1	1.1
Oct 6-12	2.4	.4
Nov 3-9	2.1	.8
Dec 1-7	1.3	.9
Average	1.7	1.1

The County showed improvement in reducing the number of people held in the intake area beyond 8 hours but has not yet reported on the number of class members held at the four hour mark or what actions were taken to address the delay. The Watch Commanders are getting emails at the four hour mark, but the County has not yet placed expectations of follow up in the Watch Commander or ITR Lieutenant's posts orders and has not developed a proof of practice on how delays were addressed. The barriers to ITR processing are not documented to measure compliance with this provision, absent that information, compliance is impossible to measure.

The County has done good work to reduce the number of people held in the intake area at the eight hour mark by creating an intake housing pod and increasing clinical and custody staff and contracting for mental health services overnight. Additionally, the County now has a mechanism to alert the ITR and Watch Commander when there is a delay in processing. These are all excellent efforts, but additional work is needed to bring this provision to substantial compliance and ensure a proof of practice and internal auditing is developed.

Recommendations:

1. *Continue to ensure adequate resources continue to be available to engage in timely processing, including overnight behavioral health clinicians.
2. *Update policies, forms, post orders and training to comply with this provision.
3. *Refine Watch Commander and ITR End of Shift or other report to provide greater clarification on the notification to the Watch Commander when holding a person in the ITR for more than 4 hours and the reasons for holding someone in ITR more than 8 hours and the steps taken to address.

⁵⁶ September 2024 data unavailable

4. *The Compliance Unit and AFBH should monitor daily delays and develop corrective action plans as necessary based on established trends and systemic barriers.

(749) Defendants shall ensure that the safety cell is clean prior to the placement of a new individual in the safety cell. Safety cells shall also be cleaned on a normal cleaning schedule when not in use. Defendants shall provide individuals housed in safety cells with a safety mattress, safety eating utensils, toilet paper, and feminine hygiene products.

Finding: **Substantial Compliance – Discontinuation of monitoring**

Assessment:

The County did not utilize safety cells this monitoring period and remains in substantial compliance with this provision.

The Expert finds that the County has been in substantial compliance with this provision for the last three ratings periods (equating to a period in excess of eighteen months). The Expert recommends the parties consider requesting this provision be terminated from the Consent Decree. In the meantime, the Expert will reduce monitoring of this provision in future reports.

(751) Defendants agree to continue to ensure that there are working call buttons in all cells and shall continue to conduct periodic checks of call buttons in all units and address any maintenance issues as soon as possible. If a call button is found to be inoperable, the individual shall be moved to a cell with a working call button as soon as practicable. Defendants shall develop and implement policies, procedures, and forms required to implement the provisions contained herein.

Finding: **Partial Compliance**

Assessment:

The County's policies have been updated to reflect this requirement. During this reporting period, the County provided a list of work orders associated with call buttons. The list included routine maintenance of HU 23 and a total of thirty (30) work orders. The list provides information on the date of the work order, date of completion, the reason for the work order and whether the work order was considered urgent or routine. Of the work orders on the list, thirteen were clearly identified as an inoperable cell intercom and the remainder may have been a dayroom, slider door or request to improve the system without documentation a specific cell was not working.

Of the thirteen cell call buttons, two were marked as needing urgent repair but that notation did not seem to expedite a repair. The average time to repair call buttons associated with a specific cell was 14 calendar days. There is no identification that the cells were decommissioned during the delay, an aspect of the provision that is required

A review of the grievance logs provided for the last six months of 2024 revealed that seventeen grievances were logged concerning the call button/intercom system, six more than the eleven (11) grievances reported in the last report. None of the complaints documented an inoperable system. The majority of grievances involved allegations of unprofessional conduct when the incarcerated person activated the system for

support or failure to respond to the class member's request in a timely manner. As with prior monitoring tours, during the December 2024 tour, no Class Member reported an inoperable call button, and all staff interviewed continue to articulate their responsibility to submit a work order when a call button is inoperable.

Several recommendations were made in the Fourth Monitoring report⁵⁷ that remain unaddressed. Until such time as those recommendations are instituted to anchor the provision in practice and internal auditing, substantial compliance cannot be achieved. The recommendations are repeated below:

Recommendations:

1. *Continue with the current practice of Control Booth Technician doing a daily check on communication systems and submitting work orders where necessary.
2. *The Compliance Unit should evaluate the timeliness of repair with a monthly report evaluating the average time from awareness to repair.
3. *The County should prepare or provide a report or other form of proof of practice concerning deactivation of a cell when the system cannot be repaired in a timely manner.
 - a. This can be facilitated in an update to the Watch Commander End of Shift Report.
4. *The County should develop a system to conduct a quarterly check of all housing unit call buttons, which can be facilitated by custody personnel.

(754) Defendants shall ensure cut-down tools are securely located and accessible to custody staff in all incarcerated person areas, especially in the housing units, including appropriate emergency materials that may be needed to respond to suicide attempts in close proximity to all housing units.

Findings: *Substantial Compliance – Discontinuation of Monitoring*

Assessment:

The County has remained in substantial compliance with this provision. The deputies generally carry a cut down device and cut down tools are available in the control booth if needed. Every housing unit has onsite first aid kits, AED equipment and Narcan is readily available. There were no incidents identified in this review period where emergency medical care was not rendered in a timely manner.

The Expert finds that the County has been in substantial compliance with this provision for the last three ratings periods (equating to a period in excess of eighteen months). The Expert recommends the parties consider requesting this provision be terminated from the Consent Decree. In the meantime, the Expert will reduce monitoring of this provision in future reports.

(760) Cancellation of privileges for individuals on suicide precautions shall be avoided whenever possible and utilized only as a last resort. Individuals on suicide precautions shall be offered out-of-cell time consistent with Section III(G)(6) unless a Qualified Mental Health Professional determines it is specifically contraindicated due to their treatment needs. Where such a determination is made, individuals on suicide precaution shall be offered sufficient daily out-of-cell time to allow them to shower, use the phone, and access the dayroom and/or outdoor yard to the maximum extent possible. Incarcerated persons

⁵⁷ Pg 58-59.

on suicide precautions shall be evaluated by a Qualified Mental Health Professional to determine whether denial of access to property is necessary to ensure the incarcerated person's safety. Individuals on suicide precautions shall receive privileges consistent with their classification when it is deemed safe to do so by a Qualified Mental Health Professional. If a Qualified Mental Health Professional determines that certain property or privileges must be withheld based on the suicide risk assessment, this determination shall be documented including the reasons why the particular property or privilege poses an actual risk. The individual shall be reassessed for such privileges by a Mental Health Provider at least every three (3) days, with the determination and reasoning documented in writing, and the privileges restored at the earliest clinically appropriate time possible based on actual suicide risk.

Finding: Partial Compliance

Assessment:

During the December 2024 site visit, ACSO, AFBH, and the monitoring team discussed the current intensive observation (IOL) and modified IOL practices employed by the County as memorialized in policy. All parties agreed that the current method established in which a clinician determines the IOL or Modified IOL status of a Class Member regarding property/clothing restriction meets the requirements of this provision and that the current clinical rounding and evaluation of the IOL status Class Members occurs no less than every three days. The IOL clinicians are responsible for informing custody of the IOL status of Class Members, and that status is documented in the jail management system (ATIMS). The IOL policy lists allowable property for Class Member designated as regular IOL or modified IOL status.

Class members on IOL status are discussed between clinical and custody personnel during routine rounds. The AFBH and ACSO leadership team also meet routinely to discuss any incarcerated person who remains on IOL status for an extended period of time to develop a behavioral plan designed to return property and clothing as soon as clinical staff determine appropriate.

During this rating period there have been no allegations of custody staff not adhering to clinical guidance regarding suicide prevention restrictions or not engaging a clinician as soon as possible if custody removed clothing or property due to an incarcerated persons suicidal actions or ideation.

The majority of IOL status incarcerated persons are housed in HU 9, where there is evidence to support the population is receiving out-of-cell time in groups similar to the amount of out-of-cell time offered to the non-IOL population. Class Members on IOL status are able to shower and use the phone while out for pod time but are restricted from tablets, writing objects and other materials that they may use to harm themselves until reassessed to a lower level of supervision. Class Members on Modified IOL status are also permitted to be issued a tablet.

The ACSO did not use the safety cells for suicide observation during this review period.

The mental health expert will review sample health care records in the next review period to assess if the three day reviews are occurring pursuant to this provision. If so, this provision should be able to achieve substantial compliance in the next review period.

Recommendations:

1. *Continue to ensure adequate clinical resources are available to assess the population and ensure Custody staff are aware of the clinical decision for property/program restrictions for all IPs on suicide precaution.
2. *Continue to refine the process of AFBH notifying custody of any restrictions via the jail management system.
3. Continue interdisciplinary meetings to discuss incarcerated persons on extended IOL status.
4. *The Compliance Unit and AFBH should engage in monthly quality assurance assessments on the use of safety cells and placement of incarcerated persons on suicide precaution and Intensive Observation as well as reviewing the quality of associated documentation.

(761) Defendants shall develop and implement updated policies and associated training for all custody staff, as well as training for custody staff newly hired and/or assigned to the Jail, regarding how to conduct quality security checks for incarcerated persons placed on suicide precautions and regarding suicide prevention and precautions generally. The training shall include the creation of a video to model appropriate security check observations as well as in-person training and shall address at least the following topics: (a) avoiding obstacles (negative attitudes) to suicide prevention; (b) review of recent suicides and serious suicide attempts at the jail within the last two years and any patterns or lessons learned (c) why facility environments are conducive to suicidal behavior; (d) identifying suicide risk despite the denial of risk; (e) potential predisposing factors to suicide; (f) high-risk suicide periods; (g) warning signs and symptoms; (h) components of the jail suicide prevention program; (i) liability issues associated with incarcerated person suicide; and (j) crisis intervention including practical exercises regarding the proper response to a suicide attempt and the proper use of cut-down tools.

Finding: ***Substantial Compliance***

Assessment:

The County completed the safety check video and training in August 2024. The video is also shown in new deputy orientation, and quality security check training is an aspect of new deputy orientation. There have been no critical incidents reported during this review period where it appears lack of quality security checks contributed to unsafe conditions for staff or the incarcerated population. The County has achieved substantial compliance and assuming the new deputies are trained in the upcoming academies schedule the next review period, a recommendation to discontinue monitoring should occur in the next review period.

Recommendations:

1. *Continue to ensure the video and associated training is provided in new deputy training.

(763) Defendants shall continue to ensure supervisory oversight in reviewing quality and timeliness of security checks and require regular auditing of safety check logs against video recordings. Defendants shall also consider using Sheriff's Technicians to assist with security checks.

Finding: ***Substantial Compliance***

Assessment:

As with the two prior reports, supervisors are conducting random and through reviews of security checks in units where fixed cameras exist. However, until such time the camera system is upgraded to ensure reviews in all housing units, the system that has been implemented and is operational is not complete. Therefore, a recommendation to discontinue monitoring is withheld absent direction from counsel until camera expansion project discussed in Provision 503 is complete.

Recommendations:

1. *Continue to comply with sergeant security check review policy, improve and standardize documentation in the end of shift reports and engage in self-auditing for compliance.
2. *Continue with the camera expansion project reflected in Provision 503 to assist with the process.
3. *Continue to conduct randomized reviews to ensure assessment of all housing units and varied times during the course of the month.
4. *Collaborate with the Expert to evaluate the quality of the internal monitoring by the sergeants.

(768) The following amounts of out-of-cell time shall apply to incarcerated persons housed in the Therapeutic Housing Units, unless a Qualified Mental Health Professional determines that such amounts of time are clinically contraindicated: Individuals who are housed in the most restrictive setting within the Therapeutic Housing Units shall be offered at least one (1) hour per day of structured time and three (3) hours per day of unstructured time. Individuals housed in the less-restrictive, transitional units within the Therapeutic Housing Units shall be offered at least two (2) hours per day of structured time and three (3) hours per day of unstructured time. Individuals in the least restrictive areas of the program shall generally be allowed eight (8) hours per day out of cell.

Finding: Partial Compliance**Assessment:**

The ACSO and AFBH continue to operate Therapeutic Housing Units (THU) in units 9, 24 and 35 and created THU pods within HU 8 during this rating period. For the male population, the most restricted THU area during the rating period was located in Unit 9, A Pod and for the females the most restrictive units are located in Unit 24, Pods D, E and F. The least restrictive THU for males is Unit 35. As with prior reports, the Female Units do not yet identify a less restrictive THU area. The male transitional THU are considered HU 9, pods B-F.

For this rating period, THU analysis for males will focus on HU 9 and 35 as HU 8 has not operated as a THU the entire review period and the identification of the THU population is not yet clear on the Guardian tracking report. However, HU 8 will be included in the next report. For the female population, HU 24 pods D, E and F will be utilized for analysis relying on the THU code in the Guardian tracker as not all females in those pods are THU clients.

There are three levels of requirements for out-of-cell in the THUs:

Level	Unstructured Hours	Structured Hours	Combined Hours
Most Restrictive	3 per day (21 per week)	1 per day (7 per week)	4 per day (28 per week)
Transitional	3 per day (21 per week)	2 per day (14 per week)	5 per day (35 per week)
Least Restrictive	8 per day (56 per week)	Included	8 per day (56 per week)

**Housing Units 1 and 2 – Males
Most Restrictive THU**

During this rating period, HU 1 had no identified THU class members and with the exception of HU 1 E pod, the unit was designated solely for restricted housing. HU 2 was deactivated for housing. Therefore, the historical out-of-cell time is listed below but HU 1 and HU 2 will not be included in the THU calculations this reporting period.

The following reflects the out-of-cell time for THU males housed in HU 1 and HU 2 for the period of January – June 2024:

Housing Unit 1 and 2 – THU Male Alternate Housing
January - June 2024
Unstructured Weekly Out-of-Cell Activity
Most Restrictive THU - 21 Hours Per Week Unstructured

Pod	1/7- 1/13	2/4- 2/10	3/3- 3/9	4/7- 4/13	5/12- 5/18	6/2- 6/8	Average
Average Weekly OOC	10.5	23	12	11.75	13.75	12.25	14.75
% 21+ hours	0%	55%	20%	17%	0%	0%	11%

**Housing Unit 9 – Males
Transitional THU**

As stated in the prior report, the County does not currently designate any of the male THUs as “most restrictive” or “transitional,” but Housing Unit 9 houses a more complex population in the celled unit than does Housing Unit 35, which is a dormed housing unit. The Class Members in Housing Unit 9 engage in out-of-cell time in cohorts based on classification and other factors; thus, the unit should be considered “transitional” rather than “least restrictive.” The one pod that requires further discussion is HU pod A as that pod houses a complex blend of incompatible class members on suicide prevention, intensive observation status (IOL). Because of the population blend, ACSO struggles to achieve the same average out-of-cell hours in that pod as released in HU 9 pods B-F.

The following tables reflect the average weekly unstructured out-of-cell activities in HU 9 for the periods of January 2023 through December 2024:

Housing Unit 9
January 2023 through December 2024 Average Out-of-Cell Time
Transitional - 21 Hours Per Week Unstructured Required

Week	Unit	Combined Yard and Pod Time Average	Percentage Receiving 21 Hours Unstructured Out-of-Cell Time
Jan-June 2023	HU 9 B-F	31.5 Hours	
July-Dec 2023	HU 9 B-F	31.5 Hours	
Jan-June 2024	HU 9 A-F	36 Hours	87%
July-Dec 2024	HU 9 A-F	33.75 Hours	95%

Housing Unit 9
Unstructured Weekly Out-of-Cell Activity
July through December 2024
Transitional = 21 Hours Unstructured
Sample Weeks Months of July through December 2024

Pod	7/7-7/13	8/4-8/12	9/1-9/7	10/13-10/19	11/3-11/9	12/8-12/14	Average
A	14	17.25	20.5	16	17.45	12	16.25
B	31.75	39.5	40.5	30	28.5	29.25	33.25
C	30.75	41.75	42.5	34.25	33.5	30.25	35.5
D	31.5	40.25	41.25	36.75	29.45	30	35
E	32	40.75	35.75	37	29.15	32	34.5
F	31.5	40.25	41.5	35.5	30.15	30.75	35
Average Weekly OOC	30	39.5	41.5	34	29	29	33.75
>21 hours	105	115	100	106	114	117	110
% 21+ hours	91%	97%	98%	95%	92%	94%	95%

In HU 9, with the exception of A Pod, the County demonstrated meeting the three hours per day of unstructured activities. HU 9 A Pod housed the more complex THU and Intensive Observation (IOL) population and is currently unable to program large groups of class members in that pod, resulting in the inability to achieve the required 21 hours of unstructured activities.

The County also provided structured activities in HU 9, but some of reports submitted for compliance monitoring⁵⁸ do not provide adequate detail regarding who attended each group. The Guardian RFID system is not being utilized to capture that information and the AFBH reports are not integrated to provide comprehensive information. However, AFBH did provide limited data for two sample weeks for review, October 13-19, 2024 and November 3-9, 2024. In these reports, AFBH evaluated HU 9 and HU 24 to capture the number of individual clinical encounters and groups provided during the week for each THU class member and provided the total number of encounters during those two sample weeks. While the report does not list actual total hours for these clinical encounters, it does show the percentage of the THU population who received structured activities from AFBH or an AFBH contractor during the sample weeks.

The following table reflects the total number of clinical encounters, groups or Early Access to Stabilization Services Program (EASS) each class member residing in HU 9 during the sample week received:

**Number of THU Class Members Receiving Clinical Encounter(s) During Week
Housing Unit 9
Sample Weeks October and November 2024**

Dates	October 13-19, 2024		November 3-9, 2024, 2024	
Total Encounters in Week	Total IPs	%	Total IPs	%
0	58	35%	56	34%
1	51	30%	59	35%
2	35	21%	36	22%
3	14	8%	13	8%
4	8	5%	2	1%
5+	2	1%	1	1%
Total IPs	168	100%	167	100%
# IPs provided Group(s)	27	16%	25	15%

The data for the two sample weeks demonstrates the County is not able to provide the required one hour structured activities per day for the most restrictive THU population, much less the two hours per day for the transitional population in HU 9. While structured activity hours are not comprised solely of AFBH services, in reviewing program hours provided by the Sandy Turner School, worker rosters and AFBH encounters, it is evident that the County is not near compliance with the structured out-of-cell requirements of this provision, even if ACSO was able to track structured activities utilizing the Guardian RFID system. While the County is achieving the unstructured out-of-cell time with the exception of HU 9 A Pod, the County will not meet substantial compliance until structured activities are significantly increased in HU 9.

⁵⁸ See BHAT Groups reports.

**Housing Unit 35 – Males
Least Restrictive THU**

The least restrictive THU for males is HU 35, which requires combined structured and unstructured out-of-cell time of 56 hours per week. The population in this unit resides in dorms and their unstructured out-of-cell opportunities are not yet tracked on the Guardian RFID at the individual level. Additionally, during this rating period, the Guardian RFID tracking for each pod was not accurate; therefore, the technician logs and large yard reports were utilized to measure. The tables below demonstrate that while the County has shown an increase in documented out-of-cell time for HU 35 for this reporting period, averaging 49 hours of unstructured activities, the County has not yet reached a documented 56 hours per week and those averages do not include the required structured activity information.

The following charts reflects the average out-of-cell time for unstructured activities in HU 35 for the reporting periods from January 2023 through December 2024:

**THU Average Weekly Out-of-Cell Unstructured Activity
HU 35 A-F
2023
Least Restrictive Units – 56 Hours Per Week Out of Cell Required**

Weekly	Unit	Out-of-Cell Combined
Jan-June 2023	HU 35 A-F	40
July- Dec 2023	HU 35 A-F	31.5
Jan-June 2024	HU 35 A-F	45
July-Dec 2024	HU 35 A-F	49

**THU Weekly Out-of-Cell Unstructured Activity
HU 35 A-F
Least Restrictive = 56 Hours Per Week
Sample Weeks Months of July through December 2024**

Dates	7/7-7/13	8/4-8/12	9/1-9/7	10/13-10/19	11/3-11/9	12/8-12/14	Average
Average Weekly OOC	48.25	48.25	48.25	49.75	49.5	49	49
56+ Hours	49	0	0	0	0	0	0
% 56+ hours	52%	0%	0%	0%	0%	0%	9%

*Due to inaccurate Guardian Tracking, utilized technician log that summarizes entire unit for the months of August through December. Large Yard included in total

Housing Unit 35 has not demonstrated substantial compliance with combined unstructured and structured out-of-cell time. The unstructured average for the review period is 49 hours. However, in reviewing worker data and Sandy Turner programming reports, an average of eleven HU 35 class members were listed as being involved in STEC programming and the only work assignments for HU 35 class members listed in ACSO reports were unit pod workers, averaging only four pod workers assigned per month during this review period. AFBH also provides HU 35 class members with programming, but the data provided fails to list which specific class members participated in the groups, so it is impossible to determine from the reports if the same class members are attending groups on multiple days or if each day a different group of HU 35 are class members engaged in the groups. Based on available information, HU 35 has not met the required 56 hours of combined structured and unstructured activities required by the Provision.

Housing Unit 24 – Females

During this rating period Housing Unit 24 was designated to house female THU Class Members. The female population also requires the same level of out-of-cell time as the males, as listed below:

Level	Unstructured Hours	Structured Hours	Combined Hours
Most Restrictive	3 per day (21 per week)	1 per day (7 per week)	4 per day (28 per week)
Transitional	3 per day (21 per week)	2 per day (14 per week)	4 per day (35 per week)
Least Restrictive	8 per day (56 per week)	Included	8 per day (56 per week)

During this rating period, the County increased the average unstructured hours of out-of-cell time for the HU 24 THU population, increasing from an average of 14.25 hours in the January through June 2024 review period to 20 hours average during the July through December 2024 review period as documented in the following tables:

Housing Unit 24 - THU
Weekly Out-of-Cell Activity
Most Restrictive 21 Hours per Week
Sample Weeks Months of January-June 2024

Pod	1/7-1/13	2/4-2/10	3/3-3/9	4/7-4/13	5/12-5/18	6/2-6/11	Average
Average Weekly OOC	12.5	11.5	11	17.5	15.5	16.75	14.25
Percent of population 21+ hours	0%	4%	0%	35%	19%	18%	13%

Housing Unit 24 - THU
Weekly Out-of-Cell Activity
Most Restrictive 21 Hours per Week
Sample Weeks Months of July through December 2024

Pod	7/7-7/13	8/4-8/12	9/1-9/7	10/13-10/19	11/3-11/9	12/8-12/14	Average
D	21.5	24.75	20.25	22.25	27	19.5	22.5
E	18.25	25.75	15.25	19.25	21.75	18.5	19.75
F	16.25	14.5	9	11.75	17.25	17.5	14.5
Average Weekly OOC	19.25	23	15.75	19	24.25	19	20
21+ hours	16	23	4	11	21	8	
% 21+ hours	47%	66%	15%	38%	70%	27%	44%

It is noted that HU 24 D pod is better equipped to provide unstructured out-of-cell time due to the fact the population in that pod are generally more compatible while HU 24 Pod F houses some of the more complex populations, limiting the ability to allow more than one class member to be in the dayroom at the same time. While there has been an increase in the average hours of unstructured out-of-cell time for the HU 24 THU population, the data suggests that only 44 percent of the population is offered 21 hours a week of unstructured out-of-cell time.

As with the male population in HU 9, AFBH provided clinical contact data for two sample weeks for the HU 24 THU population, October 13-19, 2024 and November 3-9, 2024. The following table reflects the total number of clinical encounters, groups or Early Access to Stabilization Services Program (EASS) each THU class member residing in HU 24 received during the weeks reviewed:

Number of THU Class Members Receiving Clinical Encounter(s) During Week
Housing Unit 24

Sample Weeks October and November 2024

Dates	October 13-19, 2024		November 3-9, 2024, 2024	
Total Encounters in Week	Total IPs	%	Total IPs	%
0	16	25%	19	31%
1	20	31%	16	26%
2	18	28%	12	19%
3	9	14%	7	11%
4	1	2%	4	6%
5+	1	2%	4	6%
Total IPs	65	100%	62	100%
# IPs provided Group(s)	7	11%	12	19%

The provision requires 1 hour of structured activities per day for the most restrictive units and 2 hours of structured activities per day for the transitional units. ACSO does not yet designate which female pods or class members are assigned most restrictive, transitional or least restrictive, but the above table demonstrates that the County has not achieved even the one hour per day solely through AFBH services.

The Fifth Monitoring Report identified that the female THU clients in HU 24 did not appear to be receiving equal access to AFBH groups contracted to be provided by TeleCare, an issue discussed with AFBH and ACSO. While certainly not representative of the entire review period, the sample review of AFBH encounters for HU 9 and HU 24 for the weeks of October 13-19, 2024 and November 3-9, 2024 reflects that an average of 15.5 percent of the males in HU 9 were involved in an AFBH group during the sample weeks while an average of 15 percent of the females in HU 24 had a group encounter during the same time period. Both are insufficient but it appears AFBH has been focusing on increasing groups in HU 24 as the percentage of male and female THU class members in HU 9 and HU 24 were similar.⁵⁹

Housing Unit 24 has not demonstrated substantial compliance with ensuring access to unstructured out-of-cell hours, even at the most restrictive level but has shown improvement. Regarding structured activities, it is unclear whether any HU 24 THU class members engage in Sandy Turner programming or are assigned as pod workers due to a lack of detail in the reports provided by ACSO. AFBH engages HU 24 class members in group activities,⁶⁰ but the data provided fails to list which specific class members are involved in the groups, so it is impossible to determine from the reports if the same class members are attending groups on multiple days or if each day a different group of HU 24 class members are engaged in the groups.

Based on available information, HU 24 does not meet the lowest standard of 21 hours per week of unstructured out-of-cell time nor the lowest standard of one hour per day of structured activities. It is also critical that the County begins to identify which of the THU females should be considered for transitional or least restricted THU programming.

Recommendations:

1. Refer to Recommendations in Provisions 411, 412 and 418.

(773) Defendants shall develop and implement custodial staff training on de-escalation and patients experiencing mental health crisis, which shall be provided to all current ACSO jail staff. Class Counsel shall be provided with an opportunity to review the proposed training materials and to provide input. Class Counsel shall also be permitted to attend the initial training to observe and may attend additional training upon request. The training shall, at minimum, including discussion of any relevant policies and procedures, de-escalation techniques, crisis intervention, identifying people in mental health crises, interacting with individuals with mental illness, appropriate referral practices, suicide and self-harm detection and prevention, relevant bias and cultural competency issues, confidentiality standards, and approaches on how to respond to individuals in crisis, with an emphasis on developing and working in teams with AFBH as much as possible. The training shall include an assessment component, such as using interactive

⁵⁹ Refer to Dr. Caroline Montoya's Sixth Monitoring Report, Provisions 200, 204, 725 and 726 for additional information and Telecare statistics.

⁶⁰ Example BHAT and Telecare group reports.

practice scenarios, to measure staff comprehension. Class Counsel shall be provided an opportunity to review and comment on all training materials and may attend the training to observe upon request. This training shall also be provided for all new staff and current staff shall complete refresher training on these topics on a biennial basis.

Finding: **Partial Compliance**

Assessment:

During this review period, the jail provided a 3-day Crisis Communication for Corrections (CCC) training for 26 deputies on November 4-6, 2024 and remains committed to training all staff in crisis intervention techniques. The jail continues to evaluate de-escalation techniques utilized during use of force reviews and provides additional training to staff when skill development appears warranted. The ACSO has not yet met the provision requirement to train all new and current jail staff or presented a plan for refresher training on a biennial basis. The ACSO will attain substantial compliance once it has trained all current and future jail staff using an approved training curriculum and established a biennial training program.

Recommendations:

1. *Once the initial and refresher curricula is developed and approved, present a formalized training plan for all staff working in the jail, including those who are redirected or hired on an overtime basis from outside of custody division to cover posts.
 - a. The training should be custody-specific and designed to afford staff the ability to practice learned skills.
2. *Work with the Joint Experts and Class Counsel to clarify which de-escalation courses are provided to which categories of staff and determine frequency and modality for refresher training.

(800) Defendants shall establish an Incarcerated person Advisory Council and Ombudsperson Program, in consultation with the Joint Experts as provided in Section IV(A), to work with the aforementioned Compliance Unit and senior Jail staff to provide individuals incarcerated at the Jail a venue to raise and address new and ongoing concerns and possible ways to improve living conditions at the Jail. The Incarcerated person Advisory Council shall strive to have representation from all housing units and classifications at the Jail.

Finding: **Partial Compliance**

Assessment:

The County demonstrated progress with this provision during this monitoring period. The County presented a draft policy establishing an Incarcerated Person Advisory Council, piloted meetings with a segment of the population, and created draft minutes from those meetings. The County anticipates sharing the draft policy with Class Counsel during the next review period with the goal to formally establish the program during the next review period.

The County has completed all steps required to fund and hire an Ombudsperson but has not yet selected a candidate. It is expected an Ombudsperson will be hired during the next review period and will begin the

process of developing policies and procedures associated with the new program. It is feasible the County could reach substantial compliance with this provision in the next review period.

Recommendations:

1. *The County should complete the hiring process for an Ombudsman in the next rating period who can then develop an action plan to establish an Ombudsman program for custody operations.
2. The County should complete the Advisory Council policy and expand the pilot program to include all housing units and classifications in the jail.

(1200) Within three (3) months of the Effective Date, the Parties shall develop a detailed plan setting forth key benchmarks for implementation of the terms of this Consent Decree. This shall include a timeline with identifiable goals and any necessary interim measures that will need to be taken. It is the Parties' intent to provide, in as much as detail as possible, the deliverables that will be identified for monitoring purposes both during the interim period and thereafter. The Parties shall update the implementation plan on a quarterly basis for the first two (2) years following the Effective Date to adjust benchmarks and deadlines and to address any issues regarding implementation.

Finding: **Partial Compliance**

Assessment:

The County continues to maintain a project plan with ACSO updating the plan in September 2024. The County also provided a high level project plan for jail related construction projects during this rating period. The County is encouraged to continue meaningful and comprehensive project planning.

This provision required quarterly updates to the project plan through February 2024. That period has passed, raising questions concerning on-going monitoring. The County did not submit a project plan within the required six month period and delayed quarterly updates during some review periods during the two year requirement of this provision. However, the County is in the process of preparing less complex project plans than were originally submitted, which should assist with meaningful quarterly updates and achieving substantial compliance with the intent of this provision during the next review period. .