

**Terri McDonald Consulting LLC**  
**Sacramento, CA**  
**Remedial Plan Second Status Report**  
**February 10, 2023**

**Amber Holderness**

Assistant Chief County Counsel  
County of Santa Barbara  
105 E. Anapamu Street, Suite 201  
Santa Barbara, CA 93101  
[aholderness@countyofsb.org](mailto:aholderness@countyofsb.org)

**Michelle Montez**

Division Chief  
County of Santa Barbara  
105 E. Anapamu Street, Suite 201  
Santa Barbara, CA 93101  
[mmontez@countyofsb.org](mailto:mmontez@countyofsb.org)

**Aaron J. Fischer**

Law Office of Aaron J. Fischer  
1400 Shattuck Avenue, Suite 12 - #344  
Berkeley, CA 94709  
[ajf@aaronfischerlaw.com](mailto:ajf@aaronfischerlaw.com)

**Sarah Gregory**

Disability Rights California  
350 S. Bixel St, Suite 290  
Los Angeles, CA 90017  
[Sarah.gregory@disabilityrightsca.org](mailto:Sarah.gregory@disabilityrightsca.org)

**Stacy Foster**

King & Spalding LLP  
1700 Pennsylvania Ave, NW, Suite 200  
Washington, DC 20006  
[Stacy.foster@kslaw.com](mailto:Stacy.foster@kslaw.com)

**Joshua Toll**

King & Spalding LLP  
1700 Pennsylvania Ave, NW, Suite 200  
Washington, DC 20006  
[jtoll@kslaw.com](mailto:jtoll@kslaw.com)

**Re: Second Expert Report on the Remedial Plan  
Murray, et al. v. County of Santa Barbara, et al.;**  
**Case No. 2:17-cv-08805;**

Dear Counsel,

The attached represents the second report on the status of compliance with the Remedial Plan (the "Plan") associated with the Stipulated Judgement pursuant to *Murray, et al. v. County of Santa Barbara, et al.* This monitor has been tasked with reviewing a variety of provisions, encompassing custody requirements that interface with clinical provisions; the majority of provisions of Section VII, Custody Operations/Segregation; and associated training relative to those provisions.

This report separates monitored provisions into individual and clustered subcategories. It is likely the subcategories will continue to evolve in future reports as the County continues to implement reform. Several provisions evaluated during the last rating period have been redesignated to

another monitor to avoid two separate rating scores on the same provision. Therefore, not all provisions evaluated by this monitor during the first report are evaluated on the second report.

The attached report will use three categories of compliance:

- **Substantial Compliance** – Represents the County has implemented policy and training reforms and presented sufficient proof of practice to demonstrate compliance. This rating demonstrates that compliance with all or most components of the provision has been demonstrated and no significant work remains to accomplish the goal. Additionally, a rating of Substantial Compliance in the first report will not result automatically in a substantial compliance rating in the next rating period
- **Partial Compliance** – Represents the County initiated reform but has not yet fully systematized processes and/or proof of practice is insufficient to demonstrate substantial compliance.
- **Non-Compliance** – Represents the County has not yet demonstrated in a significant, systemic or measurable manner that the County has begun implementation of the provision.

As with the first report, the second report will document provisions of the Remedial Plan followed by a summation of the County's status report from the June 1, 2022, Remedial Plan Status Report, followed by associated policies and training. Following the definition of the provision, a compliance rating has been assessed, and relevant comments and recommendations follow.

This second monitoring report is based on a significant amount of document and data review, on-site tours, interviews with staff and incarcerated persons and discussion with counsel. For this rating period, tours were conducted of Santa Barbara Jail (SBJ) on November 2-4, 2021, and tours of occurred of both SBJ and Northern Branch Jail on March 14-16, 2022, and July 25-27, 2022. Tours included walking through the majority of areas of the jail, interviewing staff and incarcerated persons and assessing aspects of the provisions through on-site assessment and document review. During the tours, the monitor was permitted unfettered access to any area requested and to any staff or incarcerated persons the monitor wished to speak with, including confidentially.

The County has continued to be cooperative in providing a substantial amount of necessary documentation. The County also remains committed to exploring new methods and practices and is open and responsive to feedback. As with the first review period, the County and Wellpath employees have been candid and honest about the challenges they face and continue to voice a commitment to transformation as evidenced by the fact the County and Wellpath continue to move forward reform incrementally in most areas.

The County made significant strides this reporting period in the activation of the Northern Branch Jail (NBJ) and the closure of the most challenging units in the Santa Barbara Jail (SBJ), including the basement and a variety of restricted housing cells. The County also did an excellent job of separating the female population from the male population and increasing equal access to services for the female population.

Despite gains, three areas continue to hamper forward progress: Covid, staffing challenges and insufficient project management. The facility experienced several Covid surges during this rating period, resulting in focus to address the surges and backslides in areas such as the deactivation of the mental health stepdown units the County has started to pilot during the last rating period.

Fortunately, the County recently reactivated those units, and it is hopeful they will remain open and fortified during this next rating period. The Covid surges also result in staff illness, which impacted classification, safety checks and medical escorts. It is unknown if there are fundamental staffing challenges, or this is a temporary challenge due to Covid, but it is an area that will continue to be evaluated in conjunction with the provisions.

As mentioned in the last report, the County team responsible for implementing and audit internal compliance with the Remedial Plan does not appear sufficiently resourced to adequately project manage an agreement as comprehensive and complex as this agreement. As a result, many policies and procedures have not been adequately developed or finalized, training cannot be provided until those policies are finalized and internal tracking and auditing is insufficient. It is not believed that the delays in full scale implementation are due to a lack of will, but it is clear there are simply not enough resources to implement the myriad of provisions in tandem. As a result, I would recommend that the County and Counsel work together with the monitors in prioritizing the provisions and developing a realistic project plan based on that prioritization. Absent that, sustained and well anchored transformation will be challenging as the team is pulled in numerous directions by the various monitors and daily work that must occur.

As mentioned, it is recognized that despite the challenges, the team continues to move projects forward. The following areas sustained compliance from the last report and should be considered for non-monitoring:

- VII.B.5 PREA Screenings in Private

Two (2) provisions were non-compliant in the last rating period and have shown remarkable progress and are rated as substantial compliance. It is recommended these should be reviewed for one more period and if sustained compliance continues, they should be considered for non-monitoring:

- VII.C.3 &4 Deactivation of restricted housing units.

One (1) provision was rated as Substantial Compliance in two reporting periods, but further discussion is required between counsel to clarify the intent of the provision.

- VII.D.2 Daily out-of-cell time.

Four (4) provisions were unratable during the first review period and are currently being rated as partial compliance:

- IV.G.2 Monthly inspection of safety equipment
- VII.A.2 Housing incarcerated persons in least restrictive environment
- VII.D.6 Mental Health referral for repeated out-of-cell time refusals
- VII.E.1-3 Implement a process for restricted housing placements

Sixteen (16) provisions were non-compliant during the first review period, but have shown progress and are currently rated as partial compliance:

- III.D.5 Out-of-cell time

- III.F.1-9 Incarcerated person disciplinary process (6 provisions)
- IV.D.3 Sanitation of safety cells
- VII.A.2 Restricted housing placements for mentally ill incarcerated persons
- VII.B.1 Validation of classification process.
- VII.C.1-2 Addressing structural suicide hazards
- VII.D.1-5 Out-of-cell time (4 provisions)
- VII.F.8 Discharge planning for restricted housing population.

One (1) area was previously assessed at substantial compliance but during a Covid surge, the classification staff were not able to sustain the established process and the rating for this period dropped to partial compliance:

- VII.B.4 Review and documentation for restricted housing placements

There are four (4) areas that were assessed as non-compliant in the first and second rating reports and elude significant forward progress:

- II.N.6 Health Care Grievances in Quality Management Program
- III.D.6 Placement of seriously mentally ill in restricted housing
- VII.F.1 Clinical review prior to placement in restricted housing.
- VII.F.7 Avoid releasing restricted housing population directly to community.

The remaining provisions were rated as partial compliance and remain at partial compliance in this rating period. The County continues to show improvement but many of the most critical areas require that County demonstrate significant improvement in the next rating period, or the current rating of partial compliance may be reduced to non-compliance as the issues are too critical to stall implementation. These include the following:

- The treatment and housing strategies for complex populations requires substantial focus. There are insufficient resources to provide meaningful programming and appropriate housing for disabled, medically complex and seriously mentally ill incarcerated persons and there is an overreliance of restricted housing to address behaviors associated with mental health needs that would not warrant restricted housing if alternate treatment programming was available. There is also insufficient inpatient capacity for high-risk suicidal incarcerated persons.<sup>1</sup>
- The physical plant and overall living and working conditions in the Main Jail does not comport with modern correctional practices. The linear design facility with limited access to appropriate clinical, recreation and programming opportunities, coupled with lack of lighting and fresh air is troubling. If the jail is going to be continued to be utilized, a physical plant modification to comply with the Americans with Disability Act (ADA) as well as improving access to health care, programming and services should be redesigned and

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<sup>1</sup> Direct language from first report.

constructed. It is recognized the County is moving forward with a redesign plan and continuing to focus on improving the overall the living and working conditions in the jail must be a priority.<sup>2</sup> The County has been unable to comply with the out of cell recreation and treatment provisions of the Remedial Plan and this is due, in part, to the physical plant of the Main Jail. However, the lack of a strategic plan to incrementally increase out of cell should be remedied immediately.<sup>3</sup>

- Creating mental health units, continuing to improve classification and population management strategies and increasing out of cell opportunity in restricted housing are examples where the pandemic likely inhibited reform, but the system appears stable enough at this point to move forward with a focused and strategic effort in all areas of the Reform Plan.<sup>4</sup>
- Paragraph II of the Stipulated Judgment appears to require an incremental approach towards providing specialized mental health unit programming and out-of-cell time to the “maximum extent possible.” However, it does not appear that the County has been able to fully develop a comprehensive incremental plan to comply with Paragraph 11. The experts remain available to assist in the on-going development of incremental strategies regarding programming, mental health unit establishment and out-of-cell time.
- Population pressures, particularly surrounding acutely mentally ill incarcerated persons, strain the system and capacity. The County is encouraged to continue to explore alternative custody models and countywide efforts to address the complex needs of the jail population.

As mentioned in the previous report, I want to thank the Sheriff, County employees, Wellpath employees, Counsel and the incarcerated population, each group appearing willing to share information earnestly and openly and with the mutual desire to see improvements in the jails.

Respectfully Submitted,



**Terri McDonald**

Enclosure

Copy to:

Kahlil A. Johnson, M.D. [kjohnson@kahliljohnsonpsychiatry.com](mailto:kjohnson@kahliljohnsonpsychiatry.com)

Homer Venters, M.D. [hventers@gmail.com](mailto:hventers@gmail.com)

Julian Martinez [julian.martinez@sabotconsult.com](mailto:julian.martinez@sabotconsult.com)

Daniel Godinez [d.godinez@sabotconsult.com](mailto:d.godinez@sabotconsult.com)

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<sup>2</sup> Direct language from first report.

<sup>3</sup> Direct language from first report.

<sup>4</sup> Direct language from first report.

**Terri McDonald Consulting LLC  
Sacramento, CA  
Remedial Plan Second Status Report  
February 10, 2023**

The following are excerpts from the Remedial Plan provisions (the “Plan”) assigned to Terri McDonald for monitoring. The specific provision language is followed by the expert’s summary of the County’s status as reflected in the County’s June 1, 2022, Third Status report as well as the Expert’s findings and recommendations.

<b>Provision</b>	<b>Requirement</b>	<b>Rating</b>	<b>Prior<sup>1</sup></b>
<b>II.F.9</b>	Custody Escorts for Access to Care	PC	PC
<b>II.N.5</b>	Health Care Grievances included in Quality Management Program	NC	NC
<b>III.A.7</b>	Policies and Procedures on De-escalation and role of MH in situations involving SMI	PC	NC
<b>III.D.5</b>	Out-of-cell Time, Including Structured Activities in Specialized Mental Health Units	PC	NC
<b>III.D.6</b>	SMI exclusion from Restricted Housing	NC	NC
<b>III.F.1</b>	Qualified Mental Health Professional Role in Incarcerated Person Discipline	PC	NC
<b>III.F.2</b>	Develop Policies and Procedures for Mental Health Role in Discipline	PC	NC
<b>III.F.4</b>	Meaningful Consideration of Mental Health findings in Discipline	PC	NC
<b>III.F.5</b>	Meaningful Consideration to Minimize Deleterious Effects of Discipline	PC	NC
<b>III.F.6</b>	No Impact to mental health services or adaptive support as a disciplinary sanction.	PC	PC
<b>III.F.7</b>	Discipline Not to Prevent Deliver of Treatment or Adaptive Supports	SC	PC
<b>III.F.8</b>	No Discipline for Refusing Treatment or Medication	PC	NC
<b>III.F.9</b>	Effective Communication and Reasonable Accommodation in Disciplinary Process	PC	NC
<b>III.F.10</b>	Ensure the Provision of Effective Communication and Assistance in the Disciplinary Process	PC	PC
<b>III.F.11</b>	Supervisory Oversight and Tracking of Disciplinary Process	PC	PC
<b>IV.D.3</b>	Sanitation of Safety Cells	PC	NC
<b>IV.G.1</b>	Availability of Safety Equipment. Staff Training CPR	PC	PC

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<sup>1</sup> NC – Non-Compliance, PC = Partial Compliance, SC = Substantial Compliance, UR = Unratable

<b>Provision</b>	<b>Requirement</b>	<b>Rating</b>	<b>Prior<sup>2</sup></b>
<b>IV.G.2</b>	Monthly Inspection of Safety Equipment	PC	UR
<b>IV.G.3</b>	Staff Response to Suicide Attempt	SC	PC
<b>VII.A.1</b>	Housing Incarcerated Persons in Least Restrictive Environment	PC	UR
<b>VII.A.2</b>	Incarcerated persons not to be placed in restricted housing based on mental health or discipline	PC	NC
<b>VII.A.3</b>	Placement Process for Restricted Housing	PC	PC
<b>VII.A.4</b>	Restricted Housing Reclassification Process	PC	PC
<b>VII.B.1</b>	Classification Validation	PC	NC
<b>VII.B.2</b>	Clear Restricted Housing Classification and Documentation Guidelines	PC	PC
<b>VII.B.3</b>	Classification Process to include Behavioral Health Staff in placement decisions of SMI	PC	PC
<b>VII.B.4</b>	Review and Documentation for Restricted Housing Placements	PC	SC
<b>VII.B.5</b>	PREA screenings in private	SC	SC
<b>VII.C.1-2</b>	Addressing Structural Suicide Hazards	PC	NC
<b>VII.C.3</b>	Deactivation of C 7 and C 8	SC	NC
<b>VII.C.4</b>	Deactivation of S 1-16, West 18-29 and East 11-22	SC	NC
<b>VII.D.1</b>	Minimum Out-of-Cell Hours	PC	NC
<b>VII.D.2</b>	Northwest Out-of-Cell Hours	PC	NC
<b>VII.D.3</b>	Normal Hours for Out-of-Cell Time	SC	SC
<b>VII.D.4</b>	Develop System for tracking Out-of-Cell Time	PC	NC
<b>VII.D.5</b>	Conduct Monthly Audits for Out-of-Cell Time	PC	NC
<b>VII.D.6</b>	Mental Health Referral for Repeated Refusal for Out-of-Cell Time	PC	UR
<b>VII.E.1-3</b>	Process for Disciplinary Restricted Housing Placement	PC	UR
<b>VII.E.4</b>	Use of Safety Cells for Punishment Restriction	SC	SC
<b>VII.E.5</b>	Restriction on modification or denial of food as punishment	SC	PC
<b>VII.F.1</b>	MH Review prior to placement in RH	NC	NC
<b>VII.F.2</b>	Safety Checks	PC	PC
<b>VII.F.5</b>	Confidential Health Care contacts in Segregation	PC	PC
<b>VII.F.7</b>	Avoid Release Directly from Restricted Housing	NC	NC

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<sup>2</sup> NC – Non-Compliance, PC = Partial Compliance, SC = Substantial Compliance, UR = Unratable

<b>Provision</b>	<b>Requirement</b>	<b>Rating</b>	<b>Prior</b>
<b>VII.F.8</b>	Individualized Discharge Plan for Restricted Housing Population with Less Than 60 Days to Serve	PC	NC
<b>VII.G.1</b>	Grievance Forms and Inmate Requests in Each Housing Unit	PC	PC
<b>VII.G.2</b>	Equal Access to Grievances and Inmate Requests in Restricted Housing Units	PC	PC
<b>VII.G.3a</b>	Access to Daily Personal Phone Calls	SC	PC
<b>VII.G.3b</b>	Access to In-Cell Activity Supplies	PC	PC
<b>VII.H.1a</b>	Maintain Living Units Within Rated Capacity	PC	PC
<b>VII.H.1b</b>	Assign Bed to All Incarcerated Persons	PC	PC
<b>VII.H.1c</b>	Access to Mattresses and Bedding Unless Individualize Plan	PC	PC
<b>VII.H.1d</b>	Female Sight and Sound Separation	PC	PC

### **Commonly Used Acronyms**

<b>CIT</b>	Crisis Intervention Training
<b>IDR</b>	Inmate Disciplinary Report
<b>IP</b>	Incarcerated Person
<b>MET</b>	Medical Escort Team
<b>MH</b>	Mental Health
<b>NBJ</b>	Northern Branch Jail
<b>RH</b>	Restricted Housing
<b>SBJ</b>	Santa Barbara Jail
<b>SBSO</b>	Santa Barbara Sheriff's Office
<b>SMI</b>	Seriously Mentally Ill

### **PROVISIONS**

#### **II. F. Medical Care**

9. The County shall designate and provide sufficient custody escorts to facilitate timely delivery of health care.

#### County Response

The County is in the process of implementation of provision leading a variety of initiatives, such as improving escort tracking, improved process to document refusals, notification to population of expectations and updating/creating policies. The County anticipates completion by the Spring of 2023.



## Expert Review

### **Partial Compliance**

Policy -	Wellpath D-06 – Patient Escorts
Training -	Disability Rights Remedial Plan Implementation
Metrics	Medical Escort Team Tracking Reports Grievances Tours Interviews

### **Observations**

It is unclear if there are sufficient custody staff to support access to care or how many additional staff may be needed, if any. The County previously reported they allocated two staff seven days a week to create a Medical Escort Team (MET) at Santa Barbara Jail (SBJ). The County continues to track the use of MET teams at SBJ relative to conducting escorts but the configuration of NBJ does not necessarily require MET assigned staff. The NBJ's more modern design incorporates a treatment area within the housing units, reducing the need for escort staff as clinical staff can provide services within the housing area complex. The aged design of SBJ does not afford that opportunity, necessitating that incarcerated person be escorted to the clinics for medical and behavioral health appointments.

The County and Wellpath have not yet completed a Wellpath generated tracking report for daily clinical appointments to track whether scheduled appointments occurred and, if not, the reason for the cancelled or missed appointment. The MET report does not provide this level of detail. While there has been insufficient data presented, discussions with both Custody and Wellpath staff during tours reflect staffing vacancies are impacting access to care and it is believed that appointments are not occurring in part because of lack of custody deputies to assist with escorts.

Additionally, while the County previously reported the assignment of two MET staff seven days a week, a review of the MET data for SBJ shows a reduction in the assignment of MET deputies beginning in May 2022. It is noted that over the last several months, the number of custody staff assigned to the MET team at SBJ has diminished as has the number of medical appointments. This may be due, in part, to the reduced population at SBJ. The following charts depict a sample of the daily MET tracking reports for the first ten (10) days of the month beginning in August 2021 in attempt to develop a baseline regarding escorts.

**MET Escort Analysis  
2021 Daily Average Escorts**

	<b>Appts</b>	<b>Seen</b>	<b>Ref</b>	<b>% Seen</b>	<b>% Ref</b>	<b>SBJ POP</b>	<b>Appt per Pop</b>	<b>Comments</b>
Aug	93	74	17	81%	17%	658	14%	
Sept	145	121	21	82%	16%	623	23%	
Oct	95	82	9	86%	11%	697	14%	
Nov	90	74	14	82%	16%	697	13%	
Dec	101	79	21	81%	18%	778	13%	
<b>AVE</b>	<b>105</b>	<b>86</b>	<b>16</b>	<b>82%</b>	<b>16%</b>	<b>691</b>	<b>15%</b>	

**MET Escort Analysis  
2022 Daily Average Escorts**

	<b>Appts</b>	<b>Seen</b>	<b>Ref</b>	<b>% Seen</b>	<b>% Ref</b>	<b>SBJ POP on 1st</b>	<b>Appt per Pop</b>	<b>Comments</b>
Jan	114	101	12	87%	13%	762	15%	
Feb	92	76	16	83%	17%	525	18%	
March	61	51	12	78%	17%	526	12%	
April	96	79	12	84%	13%	508	19%	
May <sup>3</sup>	69	55	12	80%	17%	475	15%	9 days of MET.
June	40	32	8	80%	20%	476	8%	6 days of MET
July	54	41	10	76%	17%	444	12%	3 days of MET
<b>AVE</b>	<b>60</b>	<b>50</b>	<b>9</b>	<b>83%</b>	<b>15%</b>	<b>531</b>	<b>16%</b>	

It is positive that the County established the MET teams and has continued to track actual escorts. However, a refinement in the tracking system is necessary to address what appears to be a high refusal rate and there is no tracking area on the MET report for lack of clinicians, lockdowns/emergencies, etc., which could impact access to care. Discussions have occurred with Wellpath regarding clinical staff assuming the role of tracking clinical appointments and the reason for any missed appointments.

It is also noted that staffing shortages appear to be affecting SBJ's ability to assign staff to the MET teams on a daily basis as originally committed by the County. However, when comparing

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<sup>3</sup> The May, June and July 2022 numbers are based on a summary report from SBSO. The daily reports were not provided for review to confirm the accuracy of the summary report.

the later portion of 2021 against the first seven (7) months of 2022, it appears the percentage of the population who were escorted for a clinic appointment increased slightly from 15% in 2021 to 16% in 2022. However, it is unknown based on the daily MET reports if the number of daily escorts and percentage of population seen in a clinic meets the clinical needs of the population. There is little doubt, however, that there are barriers to access to care as evidenced by staff interviews, incarcerated person interviews and grievances. However, there is little clear analysis at this point to demonstrate that the County has allocated insufficient custody resources at SBJ and NBJ to ensure adequate escort personnel.

**Recommendations:**

1. Wellpath to work with Santa Barbara Sheriff's Office (SBSO) and the Clinical Experts in creating a daily report on scheduled and missed clinical appointments. This should include both community and jail-based appointments.
2. Determine if offsite medical consultations can be contracted to provide services in the jails rather than the community.
3. Utilize a collaborate custody clinical team to address access to care barriers with a nexus to custody resources. This should be included in the Quality Management review process.
4. Conduct a comprehensive staffing analysis for clinical and custody to ensure adequate personnel to comply with this and other provisions. As appropriate, submit a staffing request via the budget process.
5. In the interim, if insufficient custody resources are available to ensure access to care, redirect resources in a manner that does not impact other provisions.

**II.N. Quality Management**

5. The County shall incorporate a systematic review of prisoner grievances related to health care into its Quality Management program.

County Response

In process. The County anticipates completing by the Spring 2023.

Expert Review

**Non-Compliance**

- |            |   |
|------------|---|
| Policy -   | Wellpath A-10 – Grievance Process for Health Care Complaints<br>Wellpath A-04 – Administrative Meetings and Reports |
| Training - | Disability Rights Remedial Plan Implementation  |
| Metrics    | Quality Management Reports  |

## Observations

The County's health care provider does have a Quality Management (QM) program and has previously provided proof of practice on inclusion of grievances in the program. However, during this rating period, the County did not provide documentation demonstrating on-going review of health care grievances in the QM program. The County reported they are in the process of refining the system and anticipates completion during this next rating period. It is anticipated this provision can reach substantial compliance if Wellpath policies are updated to reflect expectations on frequency of review of grievances in the QM process and by whom. Once this is finalized, proof of practice will be expected.

## Recommendations

1. Update Wellpath Policies to incorporate provisions.
2. Provide copies of proof of practice on grievances being discussed and evaluated in the Quality Management Program, including an active continuous quality improvement plan regarding areas identified as needing focus during the QM process.
3. Ensure staff are adequately trained.

## III.A. Mental Health Policies and Procedures

7. The County shall develop policies and procedures on the use of de-escalation techniques and early involvement by Qualified Mental Health Professionals in situations involving an inmate with SMI.

### County Response

In Process. The County will update Policies 241, 320 and F-3. Upon policy completion, training will be provided. The County anticipates completion by the Spring 2023.

### Expert Review

#### **Partial Compliance**

Policy - Sheriff Office Policy Manual 300 – Use of Force  
Custody Operations Policy 241 – Mental Health Care  
Custody Operations Policy 320 – Cell Extractions  
Wellpath Policy F-03 – Mental Health Services

Training - Disability Rights Remedial Plan Implementation  
Crisis Intervention Training (CIT)

Metrics            Use of Force Logs  
                      Individual Use of Force Packages  
                      CIT Training Status Reports  
                      Grievances  
                      Tours

## Observations

The County recognizes the need to update policies to comply with this provision. The Wellpath policy will also require update to comply with this provision. It is believed the County does occasionally summon Wellpath staff to assist with de-escalation, but this is not codified in policy and in review of several incidents, it appears time existed to summon behavioral health and that did not occur. A review of associated use of force policies does not clearly articulate the policy aim of de-escalation or require the involvement of behavioral health or other support staff when addressing an incarcerated person in crisis or designated as SMI when time permits.

The County provides Crisis Intervention Training (CIT), a formal training that generally focuses on de-escalation. The County provided proof that well over 250 custody staff had received at least eight (8) hours of CIT training. The County also provided a forty (40) hour course for a limited group of staff and provided refresher training of one (1) hour for approximately 170 custody staff during this rating period. The County also provided the CIT lesson plans for review, but insufficient time was available to review those trainings for this rating period.

To assist with an assessment, the County provided a list of all use of force incidents from January-June 2022. The County also provided the incident packages and available videos from incidents involving Serious Mentally Ill (SMI) persons identified on the use of force list.

The County reports seven use of force incidents occurred during this period involving SMI incarcerated persons. Of those, four (4) were cell extractions and in only one cell extraction incident was mental health summoned to assist with de-escalation.

- One cell extraction involved excellent de-escalation techniques. They were not effective but the staff were patients and tried many different staff to attempt to build rapport, including mental health personnel.
- Two cell extractions involved the cell occupant breaking glass but the reports do not reflect self-harm at that point and videos do not show the breaching of the door. Therefore, there may have been time to summon mental health. Due to a lack of videotaped evidence, as is the industry norm for cell extractions, there is insufficient information to be sure of the urgency.
- One cell extraction was to move a person to Atascadero State Hospital and it appeared there was time for a mental health clinician to be summoned, but that did not occur for unknown reasons.

There were three events that were emergent force situations.

- In two of them, the staff appeared to be surprised by the incarcerated person's actions and were required to use force immediately. De-escalation would not have been appropriate or safely possible.
- In the third incident, the staff employed communication techniques that may have escalated the situation, and this was addressed during a supervisory review of the incident.

**Use of Force Involving SMI Population January-June 2022**

Date	IP	Report	Unit	Location	Comments
1/14/2022	J.P.	22-554	SBJ NWRH	Cell	Cell extraction. Emergent breaking windows in cell. No De-escalation. Potential time to summon MH staff
1/14/22	J.V.A	22-521	SBH IRC	Cell	Cell extraction. Non-emergent breaking windows in cell. Report states MH attempted de-escalation but no notation in health care record
3/29/22	A.C.	22-3665	SBJ NWRH	Cell	Cell extraction. Non-emergent. No documented de-escalation. Staff appeared to have time to summon mental health. Transport to Atascadero State Hospital
4/21/2022	J.P.	22-4656	NBJ J/K	Yard	Acting out on yard. Training issue concerning officer approach noted during review.
5/1/2022	G.W.	22-5054	SBJ- NERF	Escort	Emergent on escort. No time for de-escalation
5/16/2022	G.W.	22-5726	PHF	Hospital	Emergent. Staff assault. No time for de-escalation. No videotape available.
5/30/22	J,O	22-6370	NBJ Unit I	Cell	Cell extraction. Non-emergent. Staff did an excellent job attempting to de-escalate.

It is clear from reviewing videotape and the associated incident packages that the Use of Force and Cell Extraction policies needs to be refined to incorporate summoning mental health clinicians in controlled situations. Further review of the policies and procedure refinements will occur in the next rating period.

Recommendations:

1. Update the Use of Force Policy and Pre-planned Use of Force policy to incorporate the provision.
2. Once the policies and procedures have been updated, the expert will work with the parties on the appropriate processes for expert monitoring of and reporting on implementation.
3. Continue training to support the policies and procedures designed to build upon developing and implementing de-escalation techniques for the staff and early involvement of mental health. The training proposed to implement this provision will be further reviewed in the next reporting period.

**III. D. Mental Health Services, Housing, and Access to Care**

5. The County shall provide a minimum of 6 hours per week, of Structured Out-of-Cell Time for therapeutic group and/or individual programming, and twelve (12) hours per week of Unstructured Out-of-Cell time (including dayroom, outdoor/recreation time, and other self-directed activities) for people with mental illness housed in specialized mental health units. The County will also provide in-cell structured programming – *i.e.*, electronic tablets – to people in these units equivalent to that provided in the general population (at least four (4) hours per day, on at least three (3) separate days per week).
  - a. It is recognized that not all inmates can participate in and/or benefit from 6 hours per week of structured treatment programming. For those individuals with mental health treatment needs housed in the specialized mental health units and for whom fewer hours of treatment services is clinically indicated, the treating clinician will present the case and recommended treatment program to the multidisciplinary treatment team for approval. Such a Modified Individualized Treatment Plan will include a description of the diagnosis, problems, level of functioning, medication compliance, and rationale for scheduling fewer hours of treatment services.
  - b. The Modified Individualized Treatment Plan will be reviewed by the multidisciplinary treatment team at least monthly, with consideration of an increase in treatment activities and referral to a higher level of care as clinically indicated.
  - c. The County shall establish an additional, less intensive mental health program for individuals with mental health treatment needs who are stable. Such a program shall provide a minimum of four (4) hours per week of Structured Out-of-Cell Time for therapeutic group and/or individual programming, subject to the Modified Individual Treatment Plan provisions described above.

County Response

In process. The County is establishing mental health stepdown units at both jails and has closed several restricted housing units. The County is also assessing program and resources needs for structured out-of-cell time. No completion date provided due to current configuration of the SBJ.

Expert Review – Custody Only

**Partial Compliance**

Policy - Custody Operations Policy 241 – Mental Health Care  
Custody Operations Policy 367 – Inmate Recreation  
Custody Objective Classification Plan  
Custody Housing Plans

Training - Disability Rights Remedial Plan Implementation

Metrics Out of Cell Logs  
Yard Rotation Schedules  
Program Schedules  
Tablet Tracker  
Grievances  
Tours  
Interviews

Observations

This report will cover the unstructured out-of-cell time and the issuance of tablets and other in-cell activities in specialized mental health units. Refer to Provision VII.D.1 on out-of-cell time and the Mental Health Expert will provide additional feedback on compliance in his report.

During this rating period, NBJ has managed to create an appropriate out-of-cell tracking report for dayroom, showers and yard activities, which is excellent and will aid in measuring compliance. The report, for specialized and restricted housing units, provides a daily report and a monthly summary report. The staff have been trained in using the report and are improving in their accuracy. The SBJ does not use the same tracking system and it is encouraged to begin utilizing this or other accurate tracking systems for restricted and specialized housing units.

Additionally, as will be discussed further in this report, SBJ currently tracks the issuance of Tablets in all units, which will help with measuring compliance. However, there are no viable technological solutions to track Tablets and issuance of other in cell activities at this point, so the tracking is manual, staff intensive and subject to error. The NBJ is still in the process of installing the infrastructure needed to begin a Tablet program at NBJ. It is anticipated that project should be completed by early 2023.

To reduce reliance on severely overwhelmed restricted housing units, the County has attempted to cluster incarcerated persons in need of mental health services in designated units. Unfortunately, the first attempt was disrupted by a Covid outbreak where the units were needed for quarantine. Additionally, while there was clustering of behavioral health clients, behavioral health did not provide a specialized program in the units to support the effort.



Recently, SBSO has again attempted to cluster behavioral health incarcerated persons in specialized units at SBJ and NBJ. A clear program description and associated policies and training have not been provided to develop an appropriate specialized mental health unit. While the County is providing a percentage of out-of-cell time, issuing tablets and attempting to cluster the mental health populations, there is little evidence that the structured out-of-cell time required by this provision has been afforded. If there is no significant progress in the next rating period on this provision, the rating could be reduced to non-compliance.

Recommendations:

1. SBSO, Wellpath and County Be Well should work together to develop several specialized mental health units at both SBJ and NBJ to target services to appropriate populations consistent with clinical and classification needs. These program developments should include the Mental Health and Custody Experts. These services must be available for all appropriate classifications.
2. Update all associated policies and training to implement the specialized mental health units.
3. Update post orders to reflect out-of-cell and in cell programming requirements.
4. Continue to refine the out-of-cell and in cell activity tracking systems. The procurement of a technology solution will reduce staff workload and increase accuracy.
5. Ensure staff assigned to the unit receive 4 hours specialized training approved by the Mental Health Expert pursuant to Provision IX.3.
6. Explore opportunities, including deployment of Wellpath and Be Well employees, volunteers and the Programs unit, to increase structured programming in these units.
7. Ensure adequate mental health and custody staff are assigned to the units at SBJ and NBJ to facilitate the structured and unstructured activities. This will likely require staffing assessment and potential augmentation to existing resources.
8. Refer to Provision VII.D.1 for additional recommendations and information.

### **III. D. Mental Health Services, Housing, and Access to Care**

6. The County shall not house inmates with SMI meeting criteria for placement in specialized mental health units in a segregation or isolation unit, except as outlined below.
  - a) In rare cases where such an inmate presents an immediate danger or serious danger for which there is no reasonable alternative, such an inmate may be housed separately for the briefest period of time necessary to address the issue, and only with written justification for the placement that is approved by a jail commander or designee.
  - b) The County shall continue to provide supervision, treatment, and out-of-cell time consistent with the inmate's Modified Individualized Treatment Plan.

### County Response

The County is engaged in reducing reliance on restricted housing, has opened and will expand mental health stepdown units, will update associated policies and training. However, full compliance will depend on the successful physical plant remodel of the main jail as anticipated in the Settlement Agreement.

### Expert Review

#### **Non-Compliance**

When reviewing data on the restricted housing population, a high percentage of the population are designated as being on the mental health caseload. While the information provided on the restricted housing tracker does not reflect the mental health level of care need of the population, my observation based upon tours of these units is that the mentally ill populations in those units appear to be at the higher level of treatment need. Based on the most recent information available on the restricted housing unit tracker, forty (40) of the fifty-four (54) incarcerated persons in NBJ restricted housing units (74%) were identified as being on the behavioral health caseload.<sup>4</sup> For SBJ, the most recent available roster reflected that fourteen (14) of the twenty-three (23) incarcerated persons in the Northwest ISO restricted housing unit are on the behavioral health caseload, representing at least sixty-one percent (61%).<sup>5</sup> This is an area that requires focus to address. The overreliance of restricted housing units for managing the mental health population will be discussed further in the following sections: VII.A.1-4, VII.B.2, and VII.F.I.

#### **III.F. Mental Health and Disability Input in the Jail Disciplinary Process**

1. The County shall adopt policies and procedures that require meaningful consideration of the relationship of an inmate's behavior to a mental health or intellectual disability, the appropriateness of disciplinary measures versus clinical or other interventions, and the impact of disciplinary measures on the health and well-being of incarcerated persons with Disability.
2. The County shall develop policies and procedures on the consideration of mental health input in the disciplinary process.

### County Response

The County has informally implemented this provision and has pending policies and forms for Experts' consideration. Staff will be trained upon approval of the policies. The County anticipates completion by the end of 2022.

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<sup>4</sup> June 28, 2022, NBJ restricted housing tracker.

<sup>5</sup> August 31, 2022, SBJ restricted housing tracker. It is noted that at least one person is listed as having no mental health needs, but he has shown up on several mental health observations placement forms – IP H.C. 605164

## Expert Review

### **Partial Compliance**

Policy - Custody Operations Policy 363 – Inmate Discipline

Training - Disability Rights Remedial Plan Implementation

Metrics      Disciplinary Tracking Log  
                 Individual Discipline Reports  
                 Grievances

### Observations

The County has worked on an updated Disciplinary policy and presented the policy and forms for consideration. It is anticipated that the policy could be updated and implemented in the next ninety (90) days. Both Wellpath and SBSO will need to update associated forms to document the clinical decision with the document to remain as part of the disciplinary report; currently the feedback from the clinician is verbal and documented by a lieutenant after the hearing has concluded. Additionally, the policy will need to consider how to receive the clinician's feedback prior to adjudication of the hearing as this is currently occurring after the adjudication.

As reflected in Provision III.F.4-6, currently the clinicians are engaged in the disciplinary process in approximately 36% of the disciplines involving SMI incarcerated persons. However, the clinicians do not appear to be involved yet in evaluating disciplinary actions associated with learning disabled and developmentally disabled persons. The identification of that population will need to be refined prior to the adjudication of a disciplinary action involving that cohort. It will be critical that the County address the limitations of the existing jail management system as this system is critical to support compliance in virtually every aspect of the agreement and particularly the disciplinary and other classification provisions.

It is positive, however, that the process has been in place to some degree during this rating period and it is anticipated the County can reach substantial compliance in this rating in the next rating period.

### **Recommendations**

1. Complete the draft disciplinary policy, and necessary forms, for both Custody and Wellpath. Ensure the Mental Health Expert is involved.
2. Improve the process to include documented forms completed by the clinician to be included in the disciplinary package and considered by the hearing officer. The clinical evaluation should be completed prior to the hearing and available to the hearing officer at the time of the hearing.

3. Improve the early identification of SMI and Learning/Developmentally Disabled (LD/DD) incarcerated persons by flagging these persons for a clinical review prior to the adjudication of a disciplinary infraction.
4. Provide training to assigned clinicians and hearing officers.
5. Continue to refine internal tracking on the process, including quality review and quality assurance.
6. Evaluate the abilities of the current jail management system to incorporate the improved process in the JMS system or replace the existing system with one that can facilitate this and many other provisions.

### **III.F. Mental Health and Disability Input in the Jail Disciplinary Process**

4. Staff shall meaningfully consider the Qualified Mental Health Professional's findings and any other available disability information when deciding what, if any, disciplinary action should be imposed.
5. Staff shall meaningfully consider the Qualified Mental Health Professional's input on minimizing the deleterious effect of disciplinary measures on the prisoner in view of his or her mental health or adaptive support needs.
6. If custody staff do not follow the mental health input regarding whether the behavior was related to symptoms of mental illness or intellectual disability, whether any mitigating factors should be considered, and whether certain sanctions should be avoided, staff shall explain in writing why it was not followed.

#### County Response

The County has informally implemented this provision and has pending policies and forms for Experts' consideration. Staff will be trained following approval of the policies. The County anticipates completion by the end of 2022.

#### Expert Review

#### **Partial Compliance**

**Policy -** Custody Operations Policy 363 – Inmate Discipline  
 Custody Operations Policy 209 – Americans with Disabilities Act  
 Custody Operations Policy 241 – Mental Health Care  
 Wellpath F-03 – Mental Health Services

**Training -** Disability Rights Remedial Plan Implementation

**Metrics** Inmate Disciplinary Tracker  
 Completed Inmate Disciplines  
 Population Lists  
 Grievances

## Observations

The County and Wellpath have begun the process of receiving clinical input into the disciplinary process and have developed a system to measure and track compliance, both very positive improvements from the prior report. This is a very positive start and continues to improve.

However, the process has not been clearly codified in practice, policy, associated forms and training. As recognized by the County, the practice continues to require refinement and anchoring in a manner that all staff are aware of the procedures and requirements. Currently the clinical involvement is reliant on a review after the adjudication of the hearing and advising the incarcerated person of the findings, which are often overturned prior to implementation when the clinician later provides feedback or the lieutenant notes that the person has a serious mental illness. It makes little sense to tell someone they are guilty and then to overturn it after the fact, so that should be addressed. Some of the sanctions, such as loss of tablet, might also have been imposed and then ultimately overturned. See below and overview of disciplinary reports for the period of January thru June 2022

### 2022 Inmate Disciplinary Report (IDR) Overview

	Jan	Feb	March	April	May	June	July	AVE
Total IDRs	80	100	180	113	108	108	112	114
IDR involving SMI	16	22	14	16	7	14	5	13.4
IDR involving DD/LD	Unk	Unk	Unk	Unk	5	Unk	Unk	Unk
IDR Involving unusual behavior	Unk	Unk	Unk	Unk	Unk	Unk	Unk	Unk
MH Consultation Required	16	11	14	16	12	14	5	12.6
MH Consultation Completed (all Post-Adjudication)	5	6	6	10	3	1	3	4.9
MH Recommended Adjustment	4	6	5	4	4	0	3	3.7
Hearing Officer Concurred with MH	4	6	5	4	4	0	3	3.7
Hearing Officer articulated reason for non-concurrence (when appropriate)	NA	NA	NA	NA	NA	NA	NA	NA
IDR involving Non-English Speaking	Unk	7	6	4	5	4	4	4.3
Interpreter Provided		0	3	0	1	1	2	1.0
Effective Communication Required	Unk	Unk	Unk	Unk	Unk	Unk	Unk	Unk
Effective Communication Provided and Documented	NA	NA	NA	NA	NA	NA	NA	Unk

### 2022 IDR Analysis

	Jan	Feb	March	Apr	May	June	July	%
% of IDRs involving SMI, DD, LD or unusual behavior	Unk	Unk	Unk	Unk	Unk	Unk	Unk	Unk
% of IDRs where MH completed assessment (all <i>Post-adjudication</i> )-	31%	27%	43%	63%	43%	7%	60%	36%
% of IDRs where hearing officer concurred with MH recommendations (all <i>Post-adjudication</i> )-	100%	100%	100%	100%	100%	NA	100%	100%
% of IDRs where hearing officer appropriately documented reason for non-concurrence	NA	NA	NA	NA	NA	NA	NA	NA

### Recommendations

1. Continue clinical engagement in the disciplinary process.
2. Refine process to ensure 100% compliance of clinical engagement by improving identification of targeted population when a disciplinary report is initiated.
3. Determine how to obtain clinical feedback prior to the adjudication of the hearing.
4. Update policies, procedures, forms and training associated with the process.
5. Continue to track compliance and evaluate trends.

### III.F. Mental Health and Disability Input in the Jail Disciplinary Process

7. Inmates shall not be subject to discipline for refusing treatment or medications, or for engaging in self-injurious behavior or threats of self-injurious behavior.

#### County Response

Complete. The County does not discipline individuals in these situations. Custody Operations Policy 363, Inmate Discipline, specifically precludes discipline for these behaviors.

#### Expert Review

### Substantial Compliance

Policy - Custody Operations Policy 363 – Inmate Discipline

Training - Disability Rights Remedial Plan Implementation

Metrics Monthly Disciplinary Reports  
Individual Disciplinary Reports  
Monthly Grievance Logs  
Individual Grievances

The County updated Custody Operations Policy 363 since the last reporting period to reflect this requirement. A review of several months of Inmate Disciplinary Reports (IDR) does not reflect any inmate received an IDR for these behaviors. A review of the inmate grievance logs since the last reporting period does not show any grievances related to being issued an IDR for these behaviors. Since the inception of monitoring, no deviations from this provision have been noted and the policy change has formalized the expectation. Recommend consideration to discontinue monitoring unless information is received that non-compliance has emerged.

### **III.F. Mental Health and Disability Input in the Jail Disciplinary Process**

8. Inmates shall not be subject to discipline for refusing treatment or medications, or for engaging in self-injurious behavior or threats of self-injurious behavior.

#### County Response

The County has informally implemented this provision and has pending policies and forms for Expert consideration. Staff will be trained following approval of the policies. The County anticipates completion by the end of 2022.

#### Expert Review

#### **Substantial Compliance**

Policy - Custody Operations Policy 363 – Inmate Discipline

Training - Disability Rights Remedial Plan Implementation

Metrics Disciplinary Logs  
Individual Disciplinary Reports  
Grievances

## Observations

A review of Custody Operations Policy 363 reflects this requirement is specifically delineated in policy. While not all completed disciplinary logs were available for review, a review of January 2022 and June 2022 disciplinary logs reflects there were no disciplinary actions taken during those two months related to refusal of treatment or medications and no logs showed a charge for self-injurious behavior or refusing medications, but the charging language is too vague to be certain. There were several disciplinary reports related to hoarding, cheeking or throwing medications.<sup>6</sup>

The Expert requires complete disciplinary logs in the next rating period to confirm the policy is being adhered to. It is anticipated in the next rating period that if the disciplinary logs continue to show the incarcerated persons are not being disciplined for self-injury or refusing medications, that a recommendation to discontinue monitoring would be warranted.

## Recommendations

1. Continue to adhere to update policy and ensure all newly hired staff and hearing officers are trained in requirement.
2. Provide Expert completed disciplinary logs on a monthly basis to demonstrate compliance.
3. Assuming the above are adhered to, it is anticipated in the next rating period that a recommendation to discontinue monitoring this provision will be warranted.

## III.F. Mental Health and Disability Input in the Jail Disciplinary Process

9. The County shall provide reasonable accommodations during the disciplinary process for inmates with mental health or intellectual Disability.
10. The County shall take reasonable steps to ensure the provision of effective communication and necessary assistance to inmates with Disability at all stages of the disciplinary process.

### County Response

The County has integrated this provision into the draft updated disciplinary report pending approval. Staff will be trained following approval of the policies. The County anticipates completion by the end of 2022.

### Expert Review

## Partial Compliance

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<sup>6</sup> Cheeking: 29993, 30006, 30007, 30012 – January 2022; Hoarding: 30518 – June 2022; Throwing: 30636 June 2022.



Policy - Custody Operations Policy 241 – Mental Health Care  
 Custody Operations Policy 363 – Inmate Discipline  
 Wellpath F-03 – Mental Health Services

Training - Disability Rights Remedial Plan Implementation

Metrics IDR Tracking Log  
 Individual IDRs  
 Grievances

Observations

The County has presented draft policies for review, but they have not been fully approved by all experts. The County has been able to work with the ADA Expert to revise the disciplinary tracking system to enable the tracker to include ADA information to determine when assistance and effective communication should have been afforded. However, it appears this log is not yet fully accurate, and it is an “after the fact” log, rather than a mechanism to target incarcerated persons who should be provided reasonable accommodation during all steps of the disciplinary process as well as ensuring effective communication has been provided and documented.

Copies of policies and forms from other jurisdictions have been provided for consideration but the competing priorities of managing the facility and Covid, and focusing on implementation of the Agreement are complicated. The addition of staff or other resources to the Continuous Quality Assurance (CQA) Unit would likely assist in bringing this and other provisions into substantial compliance. The Experts remain available to assist with completing the policies, forms and training to integrate the various disciplinary provisions into one sustainable disciplinary system.

Below is an overview of information contained in the IDR Tracking log concerning the number of incarcerated persons who received an IDR who are impacted by this provision:

**2022 Inmate Disciplinary Report (IDR) Overview**

	Jan	Feb	Mar	Apr	May	June	July	AVE
Total IDRs	80	100	180	113	108	108	112	114
IDR involving SMI	16	22	14	16	7	14	5	13.4
IDR involving DD/LD	unk	unk	unk	unk	5	unk	unk	Unk
IDR Involving unusual behavior	unk	unk	unk	unk	unk	unk	unk	Unk
IDR involving Non-English Speaking	unk	7	6	4	5	4	4	4.3
Interpreter Provided	unk	0	3	0	1	1	2	1.0
Assistance Provided	0	0	0	0	0	0	0	0
Effective Communication Provided and Documented	0	0	0	0	0	0	0	0

## Recommendations

1. Pursuant to Provision III.F.11, assign a supervisory level custody staff member responsible for disciplinary practices and procedures. Ensure this supervisor is adequately trained, supported and resourced to be effective in this role.
2. Working with the Experts, update associated policies, training and forms.
3. Create a flag mechanism in the Jail Management System that notifies the hearing officer when assistance is required and of any effective communication needs.
4. Provide training to hearing officers and clinicians.
5. Update IDR forms to meet the requirements of the provision.
6. Coordinate with Mental Health and ADA Experts on policies, training, tracking and forms.
7. Conduct internal auditing of compliance, including quality review and quality assurance.

### III.F. Mental Health and Disability Input in the Jail Disciplinary Process

11. The County shall designate a supervisory-level custody staff member who shall be responsible for ensuring consistency in disciplinary practices and procedures. The County shall track and monitor this process, including the frequency that the recommendation of the Qualified Mental Health Professional was followed.

#### County Response

The County has informally implemented this provision and has pending policies and forms for Expert consideration. Staff will be trained following approval of the policies. The County anticipates completion by the end of 2022.

#### Expert Review

#### Partial-Compliance

Policy - Custody Operations Policy 241 – Mental Health Care  
Custody Operations Policy 363 – Inmate Discipline  
Wellpath F-03 – Mental Health Services

Training - Disability Rights Remedial Plan Implementation

Metrics Supervisor Post Orders  
Audit Reports and Trends from the Supervisor  
Interview with Identified Supervisor

## Observations

It has become clearer in this reporting period that the hard-working supervisors and managers assigned to Custody to assist in bringing the County into compliance may not have the bandwidth to implement the agreement in the timelines everyone would desire. This provision is just one example where several supervisors have stepped in to try and address the disciplinary provisions, but they are all wearing multiple hats and cannot focus on effective implementation of this provision. While part of the issue may be coordinating multiple Experts, a properly resourced compliance unit could manage that challenge and track status of all pending policies. While the County is working earnestly to implement the myriad of provisions, a dedicated supervisor to ensure consistency has not been identified to meet compliance with this provision and that could be easily facilitated in the next rating period.

### Recommendations:

1. Conduct a thorough analysis of the needs to adequately resource a Compliance team to implement the Agreement.<sup>7</sup>
2. Notify the Expert team of who, exactly is responsible for this provision
3. Ensure the person assigned to this provision has the training, time, support and authority to completely reform the disciplinary process, including associated policy, forms, training and tracking.
4. Create or update post orders for identified supervisor
5. Document this supervisor's role in the Discipline Policy.

## IV. SUICIDE PREVENTION

### IV.D. Treatment and Conditions for Individual Prisoners on Suicide Precautions

3. Safety cells shall be sanitized after every use and the sewer grate inspected to ensure cleanliness and appropriate conditions.

#### County Response

In process. The County has updated forms and policies to comply. The County will include requirements to ensure clean in the Environment of Care employee's duty statement. Anticipate completion by Spring 2023.

#### Expert Review

#### **Partial Compliance**

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<sup>7</sup> This would include development of a comprehensive project plan, policy and training development resources, auditing and internal compliance monitoring.

Policy - Custody Operations Policy 304 – Use of Safety Cells

Training - Disability Rights Remedial Plan Implementation  
Safety Cell Cleaning PowerPoint

Metrics Safety Cell Placement Forms  
Grievances  
Tours

#### Observations

The County has a policy on the use of safety cells, which has an updated section specifically regarding cell cleanliness and checking the sewer grate prior to placing an inmate in the cell. Since the last report, the County also updated the Safety Cell Placement forms to include documentation and certification by staff that the safety cell was cleaned prior to occupancy. The County independently monitors these forms for compliance. The County has made available cleaning supplies to clean the safety cells. The County also created a training Power Point to clarify expectations of the staff regarding cleaning the cell prior to occupancy or if the cell becomes dirty during occupancy. Example rosters were provided showing staff training at NBJ and several administrative units.

During tours, it was noted that cleaning was occurring in the safety cells, but deep cleaning remains necessary between occupancy. During a tour of the Santa Barbara Jail on July 26, 2022, two safety cells were listed as ready for occupancy; however, one had significant trash in the grate and the other had standing water in the grate. Both had an odor that was not associated with adequate cleaning. Despite leadership efforts, it appears the expectations have not been systematically engrained and requires additional training to meet substantial compliance.

#### Recommendations

1. Ensure all existing staff and newly hired staff are trained in the policy 304 and the Safety Cell Cleaning Power point.
2. Ensure responsible staff post orders are updated to reflect requirements.
3. Consider the creation of a specially trained incarcerated person work crew to conduct daily deep cleaning of safety cells under the supervision of staff.
4. Continue to monitor that staff are documenting on observation logs the safety cells are cleaned prior to occupancy.
5. Select a supervisor post to be responsible for conducting daily rounds of the safety cells, to include observation of sewer grates, to assess if the cells have been adequately cleaned. Ensure this requirement is documented in specific post orders and included in an end of shift report to the Watch Commander.
6. Recognize staff who ensure the safety cells are appropriately maintained and hold staff accountable in units if the safety cells are found to be unacceptable and the staff have not taken adequate steps to address this issue.

## IV. G. Emergency Response

1. The County shall keep an emergency response bag that includes appropriate equipment, including a first aid kit, CPR mask or Ambubag, and emergency rescue tool in close proximity to all housing units. All custody and medical staff shall be trained on the location of this emergency response bag and shall receive regular training on emergency response procedures, including how to use appropriate equipment.
2. The County shall ensure that all emergency response equipment at the jail is inspected monthly and after each use and is repaired and replaced as needed. The County shall ensure that the jail maintains a service log for all emergency response equipment.

### County Response

In Process. The County maintains appropriate equipment and Wellpath has been trained on the policy. Custody policies will be updated to comply. Anticipate completion by Spring 2023.

### Expert Review

#### **Partial Compliance**

Policy - None Noted

Training - Disability Rights Remedial Plan Implementation

Metrics 24 Hour Post Recap Report  
Monthly Inspection Logs  
Tours  
Interviews

#### Observations

The County does have first aid kits, AED devices, and suicide cut down tools throughout both facilities. Staff interviewed routinely knew where to find the equipment and many had suicide cut down tools on their person. The County has a method for staff to document a variety of equipment items available on post when they conduct their daily inventories via the 24-Hour Post Recap report (fire extinguishers, self-contained breathing apparatuses and Narcan). The SBSO also conducts a monthly inventory of fire extinguishers. Copies of those inventories and daily inventories were provided for review.

However, there are areas for improvement to memorialize the practices in policy, training and inventories. It is expected this could be accomplished in the next rating period with the County able to meet substantial compliance.

## Recommendations

1. Create an emergency response policy or update Custody Policy 242, Suicide Prevention, to document requirement to maintain and inventory emergency equipment.
2. Establish a mechanism for medical or custody to conduct routine inventory of first aid kits and AED equipment. This should include ensuring first aid supplies used are immediately replaced and a routine audit of the supplies in the first aid kits.
3. As with the fire extinguishers, establish a system to conduct a monthly review of AED equipment to ensure the equipment is operational.
4. Ensure all appropriate equipment is listed on the 24-Hour recap inventory report.

## IV. G. Emergency Response

3. It shall be the policy of the County that any staff who discovers a prisoner attempting suicide shall immediately respond and alert other staff to call for medical personnel. Trained staff shall immediately begin to administer standard first aid and/or CPR, as appropriate.

### County Response

In process. The County update Custody Operations Policy 242 and will submit for review. The County anticipates completing this provision by the end of 2022.

### Expert Review

#### **Substantial Compliance**

Policy -	Custody Operations 242 – Suicide Prevention - Updated
Training -	Disability Rights Remedial Plan Implementation CPR First Aid
Metrics	Lists of all Serious Suicide Attempts Suicide Prevention Committee Meeting Notes Review of Critical Incidents Interview of Staff Training Rosters

## Observations

Custody operations policies have been updated to reflect the requirement that immediate first aid and CPR be rendered when necessary. All staff interviewed consistently articulated their responsibilities when questioned about their required response in a medical emergency or active suicide. Most staff carried a tool on their person to remove ligatures and all stated they knew their responsibility to render first aid, including CPR, unless directed otherwise by responding medical personnel.

During this rating period, at least three serious incidents were reviewed on video and in all cases, custody staff summoned medical personnel and entered the cell prior to the arrival of medical personnel to render aid.<sup>8</sup> However, the County has yet to provide a summary list of all serious suicide attempts on a routine and consistent basis, so it is unclear if this represents all incidents for review during this rating period. One could rely on notes from the Suicide Prevention Committee to make the determination, but it is unclear if that Committee has been routinely meeting and assessing incidents for timeliness of first aid and/or CPR.

## Recommendations

1. The Suicide Prevention Committee should continue to meet at least quarterly and should include an assessment of the rendering of first aid and CPR in all incidents warranting intervention.
2. Continue to train staff on expectation and ensure CPR/First Aid training is up-to-date.<sup>9</sup>
3. Provide Experts monthly lists of all serious suicide attempts and completed suicides.

## VII. CUSTODY OPERATIONS/SEGREGATION

### A. General Principles

1. Prisoners shall be housed in the least restrictive setting necessary to ensure their own safety, as well as the safety of staff and other prisoners.

### County Response

In process. The County has sought support from the National Institute of Corrections and has focused on the establishment of mental health stepdown units. The County anticipates completing this provision by the Fall of 2022.

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<sup>8</sup> Incident reports associated with JT (01/12/22), JP (06/24/22) and MT (07/29/22).

<sup>9</sup> Note also required in Provision IX.8

## Expert Review

### **Partial Compliance**

Policy -	Custody Operations Policy 301 – Classification Custody Objective Classification Plan Custody Housing Plans
Training -	Disabilities Rights Remedial Plan Implementation
Metrics	To Be Determined

### **Observations**

Little has changed since the last report. As reflected in the last reporting period, the Custody Objective Classification Plan, Custody Operations Policy 301 and Custody Housing Plans were reviewed as well as interviews with custody staff regarding the classification process. All updated policies reflect a commitment to house inmates in the least restrictive setting, but practices do not yet align with that policy requirement.

There are a variety of steps the County will need to engage in to ensure compliance with this provision. Validation of the classification system, a strong population management strategy and continued refinement of the restricted housing practices are all examples of reforms that are necessary to ensure inmates are not overclassified and are housed in the least restrictive environment based on individual case factors. The system will also require a validated reclassification process to allow incarcerated persons to work their way to a lower level if their risk factors and behavior warrant when they are remaining at the jail for a protracted period.

There has been improvement since the Agreement to refine systems but the method to reach compliance is steeped in a validated classification system, well trained and adequately resourced Classification staff and communication with the incarcerated population about how they will be considered for a lower classification level. The efforts on 30-day reviews in restricted housing and the HARP process are examples of reclassification efforts but that is for a very small segment of the population.

### **Recommendations**

1. It is recommended that the County seek outside expertise in the validation of the classification system and population management strategies. Once support is provided, policies, procedures, forms and training will require update. If the NIC cannot assist in the near future, a contract may be required to validate the system.
2. It is also recommended the County continue to implement their strategy to incrementally expand non-Segregation specialized mental health services units similar to the excellent Jail Based Competency (JBCT) program that the County and State are collaboratively operating.



3. The County should also clarify the routine reclassification process for non-restricted housing inmates as general population inmates should routinely be assessed for the ability to move them down in custody as their behavior and individual case factors warrant.

## VII.A. Custody Operations/General Principles

2. The County shall not place prisoners in more restrictive settings, including Segregation, based on a mental illness or any other disability. Prisoners will be housed in the most integrated setting appropriate to their individual needs.

### County Response

In Process. The County does not place inmates in restrictive housing due to mental illness but rather for their behavior. The County is in the process of activating mental health units but has been impacted by delay in opening of NBJ and Covid outbreaks. The County anticipates completion of this provision by the Fall of 2022.

### Expert Review

#### **Partial Compliance**

Policy -	Custody Operations Policy 301 – Classification Custody Objective Classification Plan Custody Housing Plans Wellpath Policy E-04 – Initial Health Assessment Wellpath Policy E-05 – Mental Health Screening Wellpath Policy F-03 – Mental Health Services
Training -	Disabilities Rights Remedial Plan Implementation
Metrics	Restricted Housing Notification Forms Population Reports Grievances Tours

#### Observations

Despite continuing to show promise and a commitment to reform, the County continued to struggle with over-reliance on restricted housing for behavioral health populations during this rating period. It is noted, however, that not all mentally ill incarcerated persons are in restricted housing, as many reside in group and general population settings.

The County is aware and previously began addressing this by transitioning behavioral health incarcerated persons from restricted housing to designated stepdown units. However, those units did not have appropriate behavioral health support and were subsequently discontinued during a covid outbreak. However, recently one unit reopened at SBJ in late July 2022 and two more units reopened in mid-September 2022. The County also opened two modules at NBJ to serve as mental health stepdown units, although the necessary structured treatment programming has not yet been established in these units. It is hopeful that lessons learned from the prior attempt result in a stronger and a sustained program going forward. It is also positive that the County has worked very hard to close many problematically designed restricted housing units.

To comply with this provision, adequately staffed specialized mental health units must be established and maintained. These units must remain open and be supported with adequate programming as it appears the County reverts to restricted housing placement when they have no viable options for incarcerated persons who suffer from mental illness with minor behavioral issues or who refuse to cell with others.

To demonstrate how pervasive this has been during this rating period, in reviewing restricted housing placement forms for June 2022, at least eighteen (17) of twenty-nine (29) retention reviews completed in one week<sup>10</sup> appear to be retaining the incarcerated person in segregation due in large part to mental health or ADA related issues. Examples include:

<b>Date</b>	<b>Initials</b>	<b>Comment in Narrative regarding placement or retention</b>
6/9/22	G.H.	Placed on April 4, 2022 “By recommendation of jail mental health staff due to inability to program with others...”
6/10/22	G.W.	Restricted Housing since 4/15/22. Placed into restricted housing following completion of JBCT due to inability to live in dormed units (tanks).
6/10/22	C.P.	In restricted housing since 12/23/21. “Due to her vulnerability to be victimized in a male housing unit and lack of comparable transgender female inmates to house her with, she will remain in restricted housing at this time.”
6/10/22	A.U.	Placement since 12/20/21. “By recommendation of jail mental health staff due to inability to program with others, caused by mental health issues.” Did accept a cellmate on 5/25/22 and narrative recommended placement in a mental health stepdown program.

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<sup>10</sup> Restricted Housing Folders; June 29, 2022, subfolder

6/10/22	R.S.	Unclear reason for placement or retention other than refusing a cellmate. Cell and person were disheveled. No stepdown plan listed.
6/11/22	A.H.	"He suffers from severe mental health issues" No incidents last 90 days but prior assaultive behavior.
6/11/22	B.S.	Placement since 5/23/2019 "due to severe mental illness <sup>11</sup> "
6/12/22	J. B	"Due to mental health issues inhibiting...programming with others"
6/12/22	A.C.	Retained due to not taking medications. No stepdown plan
6/12/22	R.C.	No ADA accessible protective custody housing. Utilizes wheelchair and wishes to be in cell.
6/12/22	J.C.	"It is apparent that he is unable to program with others due to severe mental health issues that could lead to victimization." Naked and responding to internal stimuli during attempted interview.
6/12/22	M.L.	"has mental health challenges that make it challenging to assimilate in the jail population." Unclear if on restricted housing status. <sup>12</sup> <b>Note</b> - Single cell is not restricted housing and is a viable option for those who will not accept a cellmate.
6/12/22	R.P.	Has had multiple altercations. Noted during interview documented bizarre and paranoid comments from R.P.
6/12/22	G.P.	"When he first arrived...he displayed bizarre behavior and make (sic) nonsensical statements. He appeared to be suffering from mental illness and would be prone to victimization."
6/12/22	K.S.	Housed in RH since 3/22/22. "suffers from mental health challenges that have caused him to smear fecal matter on the walls of his cell." Issued disciplinary on 5/17/22 for flooding. Rejects housing with cellmate or GP unit.
6/12/22	R.S.	"Upon his entry, he exhibited bizarre and erratic behavior. It appears that he suffers from mental health issues that would inhibit him to program with others."

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<sup>11</sup> It should be noted during the July 2022 tour, this incarcerated person was in a less restrictive environment due to significant effort by the mental health clinician and custody team to find alternative housing.

<sup>12</sup> Single cell placements are not necessarily restricted housing. Single cell housing in non-restricted housing settings is a viable solution when addressing complex behavioral health needs.

6/12/22	A.Z.	“Due to his mental health issues, his is unable to safety program with others.”
6/12/22	K.Z.	Restricted housing since 2/14/22 following release from JBCT. “Due to lack of appropriate housing outside of the restrictive housing for him at this time, he will remain....”

## Recommendations

1. Establish meaningful specialized mental health treatment units for males and females at the necessary level of care and custody classifications.
2. Ensure that adequate clinical and programmatic support is available based on the clinical needs of the population.
3. Update policies, procedures, post orders and training for the units. Work with the Mental Health Expert on the design of the unit, policies and training.
4. Work with the Mental Health Expert to design the structured program model for behavioral health inmates who require retention in a restricted housing setting.
5. Continue to utilize the HARP process to monitor the program of those behavioral health incarcerated persons who require restricted housing. The HARP process is a classification process and does not substitute for the multi-disciplinary committee and individualized treatment plan requirements.
6. The County should continue to expand alternative custody and specialized courts to address the needs of the low risk/high need arrestees in a community-based setting, rather than the jail.
7. The County should ensure sufficient inpatient capacity in the community should that level of care be necessary for an incarcerated person.

## VII.A. Custody Operations/General Principles

3. The County shall not place a prisoner in Segregation units without first determining that such confinement is necessary for security reasons and/or the safety of the staff or other prisoners. The County shall maintain a system by which it documents in writing the specific reason(s) for a prisoner’s placement and retention in Segregation housing. The reason(s) shall be supported by clear, objective evidence.

### County Response

In Process. The County is in the process of updating a variety of policies and has implemented systems, such as tracking mechanisms and initial placement and 30-day reviews. The County anticipates compliance by the Spring of 2023.

Expert Review

**Partial Compliance**

Policy - Custody Operations Policy 301 - Classification

Training - Disabilities Rights Remedial Plan Implementation

Metrics        Restricted Housing Placement Logs  
                  Restricted Housing Notification Documentation  
                  Classification Narratives  
                  Grievances  
                  Tours  
                  Interviews

Observations

The County continues to focus on complying with this provision and has demonstrated strengths and weaknesses in the process since the last reporting period. The Classification policy has been updated and staff are attempting to comply. The County developed a restricted housing tracking log and a restricted housing placement form. The County has shared hundreds of documents to allow for monitoring of timeliness of placement hearings and documentation of the rationale. The document itself, however, requires refinement that has not yet occurred. For example, in reviewing the forms, it can be confusing when the person was placed in restricted housing, the form does not have a booking number at the top, the same form is used for initial placement and subsequent review, and there is no box to indicate if the incarcerated person is the behavioral health program, learning or developmentally disabled, has a physical disability or is non-English speaking. There is no place on the form to document that a copy was provided to the incarcerated person following the decision by Classification.

Besides the form requiring refinement, the process stalled significantly during this rating period. As discussed in III.D.5, during one Covid outbreak, the Classification Unit became overburdened and failed to meet the timeframes for initial placement and the thirty-day review. This likely resulted in people being housed at a higher level than necessary and in significant delays in sharing placement documentation for monitoring and tracking. The SBSO has subsequently caught up with the restricted housing placement process and appears to be back on track. There remains some confusion from the team about what documents are required for monitoring, so a rating percentage is not possible for this report. However, the Expert will work with the County to re-establish a percentage of compliance for this provision beginning in October 2022 for the Fourth Quarter 2022 once the correct forms are provided for monitoring.

While the documentation process is becoming more refined, it requires a restatement however, that too many incarcerated persons continue to be placed in and maintained in restricted housing due to lack of available alternatives and specialized mental health program units.

## Recommendations

1. The Classification Team should work with the Expert to improve the restricted housing placement form.
2. The SBSO should have a strategy to supplement the Classification Unit in the event of staff shortages to ensure compliance with the timeframes.
3. Refer to other VII.A Provisions for additional recommendations

## VII.A. Custody Operations/General Principles

4. Prisoners will remain in Segregation housing for no longer than necessary to address the reason(s) for such placement.

### County Response

In Process. The County is in process of updating a variety of policies and has implemented systems, such as tracking mechanisms and initial placement and 30-day reviews. The establishment of mental health step down units will assist in compliance. The County anticipates compliance by the Spring of 2023.

### Expert Review

## Partial Compliance

Policy - Custody Operations Policy 301 – Classification

Training - Disabilities Rights Remedial Plan Implementation

Metrics Restricted Housing Tracking Logs  
Restricted Housing Retention Documentation  
HARP Logs  
Grievances  
Tours

## Observations

The County has a process to conduct an initial review upon a person's placement into restricted housing and 30-day reviews if retained in restricted housing. The County also implemented a multidisciplinary team meeting, the High Alert Risk Person (HARP), to discuss complex cases. As mentioned in the last report, the convening of this committee is very positive, and the outcomes are documented in a weekly summary report. This committee has been meeting virtually weekly since July 2021 and the process and documentation continue to be refined. As reflected in the

First report, these processes are not codified in policy and training. Additionally, as previously mentioned, the process for conducting on-going reviews of restricted housing populations faltered during Covid outbreaks and simply has not consistently sustained during this monitoring period.

A review of several restricted housing units in June 2022<sup>13</sup> against all available HARP meeting notes for June 2022 reflects that not all long-term restricted housing placements are being addressed in HARP and that should be resolved by both policy and practice. Of thirteen (13) entries that show RH retention beyond ninety (90) days, nine (9) of the incarcerated persons were being tracked by the HARP committee. This represents approximately 70% percent of the longer-term restricted housing population were tracked by HARP. This should be improved upon by policy and practice so that 100% of restricted housing placements beyond 60-90 days are tracked and addressed in HARP.<sup>14</sup>

**Examples of IPs in Restricted Housing more than 90 days not monitored by HARP<sup>15</sup>**

Inmate	Unit	Days in RH
KM	NBJ A	196
RG	NBJ A	109
LC	NERF	207
DK	NWRH	91

Ave Days in Iso June  
2022<sup>16</sup>

NWI	East	NBJ A
111	74	53

It is positive to note that during the July 2022 tour, IPs housed in restricted housing generally were aware of the reason for their placement and the steps required to be moved to a less restrictive environment. It is also positive that the County is reinstating the mental health stepdown units to transition longer term restricted housing IPs to smaller units with more structure than a traditional general population unit, but those units will require adequate programming and behavioral health support to be effective.

**Recommendations**

1. Recommend the County continue to refine their restricted housing tracking mechanism and develop a policy regarding the HARP committee process and referral mechanism.

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<sup>13</sup> NBJ Restricted Housing Tracker 6/12/22; SBJ Restricted Housing Tracker 6/1/22. HARP meeting notes for June 2022

<sup>14</sup> The HARP process is a classification committee process and does not take the place of a multi-disciplinary team meeting or the development individual treatment plans. Refer to the Mental Health Expert regarding those provisions.

<sup>15</sup> Based upon Restricted Housing Tracker – SBJ June 1, 2022; NBJ June 16, 2022, and HARP documentation for June

<sup>16</sup> Based upon Restricted Housing Tracker – SBJ June 1, 2022; NBJ June 16, 2022

2. The County will need to continue to refine the information sharing with the Experts to ensure all documents are shared in their complete form as forms were missing and/or incomplete.
3. Recommend policy be updated to reflect a HARP committee requirement for inmates who are retained in restricted housing beyond 60-90 days to include supervisory and clinical input as an initial expansion of the inmates reviewed by HARP.
4. As systems improve and fewer inmates are in segregation, recommend that HARP or a classification committee review inmates every 30 days if retained in restricted housing, rather than a single classification staff deciding.

## VII.B. Classification Procedures

1. The County shall implement a validated Classification System consistent with the provisions of this remedial plan.

### County Response

In Process. The County requested support from the National Institute of Corrections (NIC) but the project has been hampered by Covid travel delays. The County anticipates compliance by the Summer of 2023.

### Expert Review

#### **Partial-Compliance**

Policy -	Custody Operations 301 – Classification
Training -	Disabilities Rights Remedial Plan Implementation
Metrics	Classification Validation Project Plan Classification Validation Report Updated Classification Policies Updated Classification Forms

#### Observations

The County sought technical assistance from the National Institute of Corrections (NIC) to support a classification and reclassification validation system. The original request to NIC occurred in October 2021 and the County asked for an update in May 2022. This was a good effort on behalf of the County to seek support from a nationally recognized organization; the NIC was impacted by travel delays, which stalled support. The County will need to move forward in another direction during this rating period to support the validation of the classification system if the NIC is unable to assist.



## Recommendations

1. Begin the procurement process to contract a nationally recognized expert on the validation of classification systems if NIC cannot assist in the near future.
2. Include not only the initial classification upon intake but also a reclassification process at routine intervals to ensure a continued review of the population who is remaining in the jail.
3. Once validated, updated associated policies, forms and training to ensure the implementation of a refined classification system.

## VII.B. Classification Procedures

2. The Classification System shall be based on clear criteria and procedures for placing prisoners in and removing prisoners from Segregation units. Placement in and removal from Segregation units shall be documented for all prisoners.

### County Response

Completed. Classification policies 301 and 306 have been updated and a form is utilized documenting justification for placement.

### Expert Review

#### Partial Compliance

Policy	Custody Operations 301 – Classification
Training –	Disabilities Rights Remedial Plan Implementation
Metrics	Restricted Housing Placement Forms Restricted Housing Placement Logs Population Lists Grievances Tours

#### Observations

The County does have a policy and practice for the documentation of placement and retention of inmates in segregation. The County has shared copies of the placement/retention documentation, population lists and lists of incarcerated persons in restricted housing to allow for monitoring. During tours of restricted housing, when the staff are conducting timely reviews and communicating with the population, the interviews reflect that engagement. However, when conducting tours, it is evident that when the classification staff are not conducting these reviews, the incarcerated population state they have not been interviewed about their initial placement or subsequent retention at the thirty-day period and state they did not receive a copy of the

placement/retention documentation. The County was forthright in reporting that they were not able to meet policy requirements during periods of high staff illness during Covid outbreaks.

An accurate baseline report on the percentage of time the staff complete the review on initial intake or upon the thirty (30) day review is proving elusive due to lack of consistent documentation to audit. It is noted that beginning in June 2022, the classification staff appeared to be catching up with a backlog of overdue 30-day reviews, but the documents presented for the last 12 months are missing and inconsistent to determine on a weekly basis who was placed in restricted housing and who was given a thirty-day review during that week. Until such a time the documentation can be consistently provided, it will be impossible to establish a baseline to measure compliance, and a substantial compliance designation will be beyond reach.

Additionally, as mentioned, the form used are not as clear as they should be, Examples include difficulty knowing the date the person was placed in restricted housing, particularly on the thirty-day reviews, and if and when a copy of the document was provided to the incarcerated person. There is also no documentation of mental health review or feedback prior to the placement of a behavioral health person into restricted housing pursuant to VII.B.3. The forms should be updated for greater clarity.

### **Recommendations**

1. Recommend working with the Experts to continue to refine documentation and tracking mechanisms and information sharing for inmates placed in, retained and released from segregation.
2. Integrate recommendations from classification validation study when complete.
3. Monitoring will continue in next review period in conjunction with the mental health expert.

### **VII.B. Classification Procedures**

3. The Classification System shall facilitate the following:
  - a) Housing placements based on the behavior and clinical needs of prisoners who are identified as having Serious Mental Illness. Mental health staff shall provide input regarding the classification and placement of people with Serious Mental Illness.
  - b) Screening to determine whether a prisoner should be separated from other prisoners for safety purposes. Where a prisoner is found to require separation from other prisoners for safety, placement will be in the least restrictive setting appropriate, and will allow for out-of-cell and recreation time consistent with the provisions herein.

### **County Response**

In Process. The County and Wellpath are actively engaged in the various steps required to implement this provision, including mental health review prior to placement of SMIs into restricted housing, clearly defining the SMI population and creating mental health step down units. The County anticipates compliance by the end of 2022.

## Expert Review

### **Partial Compliance**

Policy -	Custody Operations Policy 301 – Classification Wellpath Policy F-03 – Mental Health Services Wellpath Policy G-2 – Segregated Inmates
Training -	Disabilities Rights Remedial Plan Implementation
Metrics	Population Reports Classification Documentation Restricted Housing Placement Documentation HARP Committee Actions

### Observations

As reported in the First Monitoring Report, the County lacks adequate specialized units for incarcerated persons in the behavioral health program and Wellpath staff are not routinely involved in the placement of mentally ill incarcerated persons in various housing units. The County has implemented the HARP program primarily for incarcerated persons in restricted housing and a representative from Wellpath serves as a member of that committee. The HARP committee does engage in housing decisions for this very small group of high-risk persons, which is positive, but this does not involve the vast majority of the behavioral health patients in the jail.

The County also involves behavioral health staff in the placement of incarcerated persons on safety cell status, mental health observations and to a lesser extent post placement of incarcerated persons in restricted housing. However, these placements are mostly a form of crisis engagement and not the day-to-day clinical integration in the classification and programmatic placements of the behavioral health populations. The County has not yet established an effective system of housing solutions that take into consideration the treatment and classification need of this population with a range of housing alternatives. As a result, there is an over representation of SMI people in restricted housing, over reliance on safety cells and mental health observation and insufficient programming for SMI persons who are located throughout the jail system.

### **Recommendations**

1. Establish specialized behavioral health units based on solid population projections utilizing behavioral health and classification levels.
2. Based on the projections, develop an overall system of care that takes into consideration the classification needs of the population in partnership with the clinical needs of the population.
3. Develop specialized units similar to the jail-based competency program where behavioral health and custody staff work together to create specialized units for the highest need populations.

4. Create a formal mechanism for clinical staff to recommend housing consideration for inmates in need of mental health or ADA services with a documented recommendation to custody prior to an inmate's placement or release from restricted housing, upon release from a safety cell or mental health observation and when there is a change in level of care need.

**VII.B. Classification Procedures**

4. The Classification System shall include a Classification Review Process.
  - a) The Classification Review Process shall include clear, written criteria by which prisoners in a Segregation Unit can secure placement in a less restrictive setting as well as restoration of property or privileges. This review will include a private, out-of-cell interview (unless individual security issues prevent such an interview and are documented). The review shall occur at least every 30 days or sooner if circumstances warrant.
  - b) If a prisoner is retained in a Segregation unit following the Classification Review, the reasons for retention and the specific steps to be taken to achieve restoration of property/privileges and transfer to a less restrictive setting will be documented.
  - c) Prisoners in Segregation units will be provided an oral and written statement of the reasons for the outcome of each review, including what steps are necessary to gain restoration of property/privileges and to be moved to a less restrictive setting.

County Response

Complete as identified in last Custody Expert report as in Substantial Compliance. Policies and forms updated and implemented.

Expert Review

**Partial Compliance**

- Policy - Custody Operations Policy 301 – Classification  
Objective Jail Classification Plan – Not provided for review
- Training - Disabilities Rights Remedial Plan Implementation
- Metrics Restricted Housing Tracking Log  
Restricted Housing Placement/Retention Documentation  
Grievances  
Interview and Tours

Observations

This is an area where the system actually lost forward momentum. In the first report, it was recognized that the associated policy, Custody Operations Policy 301, had been updated and provided direction and guidance on documenting and subsequent reviews of when placing or

retaining an inmate in segregated housing. Associated forms, while they could be improved, were implemented and utilized for initial placement and subsequent review at the 30-day period. During tours, incarcerated persons in restricted housing stated they had a hearing, were aware of the reason for their placement and received a copy of the placement documentation. That process did not sustain through a subsequent Covid spike and was not adequately anchored in sustained practice.

Over the winter of 2021/22, the County failed to provide copies of restricted housing logs and placement documentation reportedly due to critical staff vacancies due to Covid. During a tour in March 2022, incarcerated persons denied receiving a copy of their placement order and several either disagreed with the placement or stated they did not know the reason for placement. This disagreement with placement or not knowing the reason for placement had resurfaced after appearing to have been largely addressed by the system by the fall of 2021. Additionally, increased restricted housing grievances received during January-March 2022 should have informed leadership that the system was failing and to adjust practices or allocate resources to ensure adequate due process on the placement in restricted housing. Discussions were held with the County during this period to elevate the concern and SBSO was able to refocus efforts beginning in the Spring 2022. It appears for the most part the classification staff are stabilized, and the system is operating as expected, but it will take time to ensure that is not a temporary improvement.

As suggested in the last report, it is not clear in the policy what are the expectations of staff to ensure effective communication and how to address ADA issue when conducting a review and issuing restricted housing paperwork. This should be addressed in policy and practice and discussed with the ADA Expert.

The County should work with the experts to update the Restricted Housing Notification form and establish a mechanism to document the interview occurred in private when requested and the inmate was provided a copy of the document. The form should also be updated to identify any classification of inmates impacted by the Plan (i.e., seriously mentally ill, pregnant, developmentally disabled, physically disabled). The policy and training should be updated to reflect the changes and the County should work with the experts to refine the compliance monitoring protocols in the next review period.

## **Recommendations**

1. Refer to recommendations in other VII.B provisions
2. Work with the ADA Experts to update the ADA policy to ensure support to designated ADA populations and establish mechanism to provide and document effective communication.

## VII.B. Classification Procedures

5. The County shall perform Prison Rape Elimination Act (PREA) screenings in a private location.

### County Response

Complete. Policies and practices updated to comply

### Expert Review

#### **Substantial Compliance**

Policy - Custody Operations 208 - PREA  
Custody Operations 301 - Classification

Training - Disabilities Rights Remedial Plan Implementation

Metrics Grievances  
Tours  
Interviews

#### Observations

Policies have been updated to reflect this requirement. Staff interviewed during tours during this rating period continue to demonstrate staff knowledge of their responsibility to conduct these interviews in private. Interviews with incarcerated persons in the intake area reflect they were not questioned in the presence of other incarcerated persons. There have been no grievances on this issue noted in the last 12 months.

The PREA policy, Operational Plan 208 and Custody Operations Policy 301 specifically require that screenings occur in a confidential setting. The location for those interviews does vary operationally but in alignment with the concept for privacy.

#### **Recommendations**

1. Continue to conduct interviews in a private location.
2. Formalize the location at both SBJ and NBJ, rather than conducting the interviews in a hallway area.
3. Monitor grievances for non-compliance.
4. Recommend this Provision be considered for non-monitoring in future reports unless complaints or concerns arise.

## VII. C. Elimination of Dangerous or Improper Physical Plant Features

1. The County shall conduct an assessment of all Segregation cells and develop a plan to address structural suicide hazards, such as tie-off points within the cells, to the maximum extent feasible.
2. The County shall ensure that prisoners with serious mental illness or otherwise at elevated risk of suicide will not be housed in a cell that contains attachment points or other structural suicide hazards, as follows.
  - a) The County shall maintain a list of Segregation cells containing structural suicide hazards.
  - b) The County shall not place any person in a Segregation cell containing structural suicide hazards if the person has a diagnosed Serious Mental Illness.
  - c) The County shall assess all cells used to hold prisoners awaiting intake screening or post-intake housing placement, including as intake “overflow,” and shall ensure that they are suicide-resistant and do not contain structural blind spots, to the maximum extent feasible.

### County Response

VII.C.1 Complete. The County completed the assessment and created a plan as required. Meetings with facilities maintenance staff are on-going.

VII.C.2 In Process. The County is updating associated policies and is working to update the Jail Management System to create a flag in the system to advise if a cell should not be occupied by an SMI incarcerated person.

### Expert Review

#### **Partial Compliance**

Policies - Custody Operations 242 – Suicide Prevention  
Custody Operations 305 – Bed Assignment

Training – Disabilities Rights Remedial Plan Implementation

Metrics Structural Hazard Review Corrective Action Plan  
Suicide Attempts  
Suicide Prevention Meeting Notes

#### Observations

The County conducted an assessment of SBJ utilizing a recognized structural risk assessment tool and created an action plan to address hazards identified during that assessment. The most

recent update to that corrective action plan is date July 20, 2022. The County has not conducted a similar assessment in NBJ as of this date.

It is positive that many of the most problematic cells have been deactivated as reflected in response to VII.C.3 and VII.C.4. However, at SBJ, the Northwest Module, Intake Reception Cells, safety cells and H unit have been identified as having risks requiring mitigation. Since conducting the assessment, the County has mitigated the telephone housing and a gap between the bunk and the wall but there are a variety of mitigation efforts pending. The outstanding mitigations include replacing bunk steps, towel hooks, bunk bracket, ADA grab bars and shelving as well as further evaluation of faucets, desks, light fixtures and air vents.

The County has not yet found a remedy to not housing incarcerated persons with serious mental illness (SMI) in the restricted housing units in the Northwest Unit at SBJ, which has identified unmitigated structural hazards. For example, as of August 15, 2022, there were eight (8) incarcerated people housed in Northwest Restricted Housing (NWRH) who are listed as having an SMI. Twenty (20) of the twenty-two (22) people housed in NWRH (91%) were identified as having mental health issues.

#### Recommendations

1. Continue to mitigate the areas identified in the SBJ Structural Hazard Corrective Action Plan.
2. Conduct a similar assessment of high-risk units at the NBJ.
3. Relocate SMI restricted housing incarcerated persons from Northwest Restricted Housing to a lower risk secure setting.
4. Assess viability of installing anti-jump fencing in high-risk multi-tier housing units at both facilities.
5. Resolve any serious concerns in safety cells and mental health observations cells.
6. Discuss pertinent physical plant issues at Suicide Prevention Meetings

### **VII. C. Elimination of Dangerous or Improper Physical Plant Features**

3. No later than January 1, 2021, the County shall discontinue its use of the Main Jail's "double door" or other extreme isolation cells, including Central 7 and Central 8.
4. No later than January 1, 2021, the County shall discontinue its use of Segregation housing units that lack access to a dayroom, including South 1-16, West 18-29, and East 11-22. The County may retrofit such units to ensure that they provide access to a dayroom and outdoor recreation areas and that they comply with contemporary correctional standards.

#### County Response

Completed. All associated cells were closed by April 19, 2022, with the full activation of NBJ.

#### Expert Review

### **Substantial Compliance**



- Policy - Custody Operations 305 – Bed Assignment  
Main Jail Housing Plan
- Training - Disabilities Rights Remedial Plan Implementation
- Metrics Population Reports  
Tours

#### Observations

The County demonstrated substantial compliance by April 19, 2022, with the permanent closure of Central 07 and 08 as well as South 1-16, West 18-29 and East 11-22 following the full activation of the Northern Branch Jail. During the July 2022 tour, it was noted that the deactivated cells were locked open or closed or otherwise identified as deactivated. However, prior to the closure, it was noted those cells were utilized routinely, including for mental health observation, when critically needed so on-going monitoring will be necessary to ensure the cells are not reactivated with a crisis or other reasons. Additionally, the Main Jail Housing Plan has not been updated to remove the cells from the policy.

#### Recommendations

1. Continue to maintain the cells as deactivated.
2. Update the Main Jail Housing Plan to formalize that the cells cannot be occupied.
3. Continue to lock the cells closed in such a manner that they can only be opened with the approval of the Commander and cannot be utilized for occupancy.
4. Review for one additional rating period and consider for non-monitoring if the County does not reactivate those cells during the rating period and the Main Jail Housing Plan is updated to reflect their deactivation.

#### VII.D. Minimum Out-of-Cell Time

1. Absent exigent circumstances or exigent security concerns that are documented, the County shall offer each prisoner not subject to discipline (except in the Northwest unit), at a minimum, 18 hours out of their cell each week, and other structured programming, as follows:
  - a) At least six (6) hours per week outdoors for exercise/recreation
  - b) At least twelve (12) hours per week in a dayroom or other common area
  - c) At least four (4) hours per day, on at least three (3) separate days per week, of in-cell structured programming – *i.e.*, programming on electronic tablets.

#### County Response

In Process. The County has improved tracking mechanisms, created master yard schedules and reduced restricted housing units. The County is evaluating temporary construction that may assist

but will likely not be able to fully comply until the SBJ remodel as contemplated in the Stipulated Judgement.

Expert Review

**Partial Compliance**

Policy – Custody Operations Policy 367 – Inmate Recreation

Training – Disabilities Rights Remedial Plan Implementation

Metrics Out-of-cell Tracking Reports  
 Yard Schedules  
 Tablet Tracking Reports  
 Program Schedule  
 Grievances  
 Tours  
 Interviews

Observations

Out-of-cell Time

During this rating period, the County began legitimately tracking out-of-cell hours at NBJ as discussed in greater detail under Provision VII.D.4. The County also deactivated the most complicated restricted housing units by moving the population to the NBJ as discussed further under Provision VII.C.3-4. The NBJ has far more ability to provide out-of-cell hours than SBJ due to more modern design and more locations for out-of-cell opportunities. Incarcerated persons in general population and non-specialized units are getting a significant amount of out-of-cell time at NBJ, which will be discussed below. These are very positive activities during this review period. There were also significant efforts during this review period to reduce reliance on restricted housing by the implementation of mental health step down units as previously discussed.<sup>17</sup> During a Covid outbreak these units did not sustain, and the overall restricted housing population appeared to return to historic highs by June 2022.

Restricted Housing Population 2021 <sup>18</sup>						
	July	Aug	Sept	Oct	Nov	Dec
SBJ	79	68	48	85	48	60
<b>Ave</b>	<b>65</b>					

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<sup>17</sup> The County reimplemented this program beginning in late July 2022.

<sup>18</sup> Based on Population Reports on the 1<sup>st</sup> of each month

RH Total Population June 1, 2022<sup>19</sup>

<b>SBJ</b>	<b>NBJ</b>	<b>Total</b>
51	30	81

The Classification staff and HARP committee also continue to look for opportunities to safely double cell restricted housing populations, but the overall percentage of double cell population fluctuates and there has been little success in programming single cell restricted housing populations in small group yards or small dayroom activities. Doing so would increase out-of-cell time in units struggling to comply and increase socialization of the population.

The SBJ intake units (IRC) also instituted an increased out-of-cell schedule, which is positive, but no legitimate tracking has been provided to determine if there has been compliance with that schedule. Recently, the SBJ also closed the Northwest Isolation upper tier and repopulated that unit with workers from the kitchen. Again, evidence of a commitment to close complicated units and repurpose them to a more adaptable population and reduce pressure on limited out-of-cell spaces in certain restricted housing units.

While there have been several positive and sustained efforts, the County might be farther along in implementation and planning if the team had the resources needed to implement an effort of this magnitude. For example, the Northwest Unit at SBJ has very limited out-of-cell space with only two yards serving four pods and a two-tier restricted housing unit. The two-tier restricted housing unit has no associated dayroom, so the two yards are the only locations to serve those twenty-four people. To comply with this agreement, those twenty-four people combined would need to be provided 360 hours of out-of-cell time per week using the only available yard identified for their programming. If the single yard operated from 6:00 am to 10:00 pm seven days a week, that only affords 112 total yard hours per week. This does not meet the needs of the restricted unit, much less the four other housing pods that use the yard.

It is important to note that reconfigurations of existing space to meet the out-of-cell mandates for Northwest Restricted Housing by creating small dayroom spaces were seriously explored but ultimately not implemented. No additional temporary yards were activated or officially submitted for consideration by the Experts as a viable concept. The County is focused on an overall redesign of SBJ but that could be years away and, in the interim, there are short term solutions correctional systems can implement to increase out-of-cell time. The ability to address Northwest design restrictions seemed to fall victim not just to the legitimate urgency of the Covid outbreak but also the lack of sufficient bandwidth of the leadership to deal with Covid outbreaks, the tyranny of urgent demands that and an expansive Settlement Agreement.

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<sup>19</sup> Based upon Restricted Housing Tracker

Whether addressing SBJ or NBJ limitations on out-of-cell and structured activity time, there are widely used solutions that can be implemented far in advance of a major construction project.<sup>20</sup> Examples include reducing reliance on restricted housing, increasing mental health courts/diversion, increasing the number of recreation hours by adding lighting and escort staff, engaging in a meaningful compatible yard/dayroom program in restricted housing, installing temporary fencing to partition larger yards into smaller spaces with escort staff on sight to afford restroom access, use of therapeutic chairs to safely engage in group structured activities with the more unpredictable population. The current physical plant and program hour limitations require a focused interim plan, and the Monitors remains available to assist. This impacts both facilities and is not just an issue for the restricted housing population, so the interim plan requires an agencywide approach.

Besides the County establishing a legitimate plan to come into compliance with the out-of-cell time, it is critical that a baseline be established to reflect what is being offered now. As documented in Provision VII.D.4 review, NBJ has begun legitimate tracking of out-of-cell time in several units. From a review depicted in the below chart, it appears NBJ is offering approximately 7 hours per week out-of-cell time in restricted housing units, which is nine (9) hours a week short and providing less than 50% of the required dayroom and recreation time combined. It is noted that K Unit at NBJ is doing better than other units likely due to the small size of the unit with only eight (8) cells. Unit A is likely struggling due to the complex nature of the unit, blending restricted housing with other populations.

**Northern Branch Jail - Restricted Housing Out-of-cell Hours – 2022**  
**Ave Weekly Hours**

Unit	Feb	Mar	Apr	May	Jun	Average	Error Adjustment
A Unit	4.9	5.3	4.4	4.6	6.3	5.1	4.9
F Unit			2.1	5.3	6.0	4.5	4.4
J Unit				7.6	12.6	10.1	9.8
K Unit				11.3	13.3	12.3	11.9

Average      7.0      Error Rate<sup>21</sup>      3%  
Adjusted      6.6

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<sup>20</sup> NBJ is a new facility and struggling to meet out-of-cell time, so redesign will not be a solution.

<sup>21</sup> The staff are still learning how to accurately track out-of-cell time and based on audit, may be over reporting by approximately 3%. Additional training has been provided and it is anticipated that future tracking logs will be more accurate.

The SBJ is doing extremely poorly in provision of out-of-cell time for both restricted housing and non-restricted housing populations. A sample review of SBJ Northwest Restricted Housing for the period of April-June 2022 shows an alarming rate of yard refusal and what appears to be a lack of commitment to a meaningful yard program.<sup>22</sup> Reviewing a single week for April and May 2022 shows that yard offerings occur in 90-minute slots beginning at 7:00 am and generally ended by 5:30 pm. The daily charts for the first full week of the month for April and May demonstrate that the vast majority of incarcerated persons refused yard access, which is extremely unusual.

- In April, while many of the population were offered 3 hours during the week, only 25% went to yard and they only received 1.5 hours. The yard refusal rate for April was an unbelievable 84%.
- In May, while many in the unit were offered three hours in the week, only 46% went to the yard and they only received 1.5 hours. The yard refusal rate for May was also high at 69%.
- There was no yard offered in June for reasons that were not documented on the log but likely not justifiable for a 30-day period.

There have been no discussion of a strategy in Northwest restricted housing (NWRH) to address high yard refusal rates, which leads to unhealthy isolation. It is noted that when an available NWRH slot went unfilled from 1 or 2 refusals, no additional attempts were documented to find someone who wanted to go to yard during that time that slot. There is no information to suggest that there were any referrals to mental health as required by Provision VII.D.6 due to repeated refusals. There seems to be insufficient effort to determine why the high yard refusal rate and to address the circumstances that are leading people to isolate themselves in their cells, many of whom are in the behavioral health program.

Despite the challenges with restricted housing, it is very promising to report that NBJ appears to be offering out-of-cell time far in advance of the mandatory sixteen (16) hours per week in the non-specialized units. Even in Unit A, where general populations are mixed with restricted housing populations, the general population incarcerated persons are being offered over twenty (20) hours per week consistently. In non-blended general populations housing units at NBJ, the dayrooms and yard are open most of the day. If NBJ could address the restricted housing unit compliance, the facility could reach substantial compliance in the next rating period.

The non-restricted housing unit dorms at SBJ are not currently being offered six hours of yard time per week pursuant to the yard movement schedules and appear to be offered three (3) hours per week as required by State regulations. It is difficult to certify the average hours offered due to the lack of a standardized daily report documenting which units were permitted access to the main yard. The Expert will work with the County this next reporting period to develop an internal tracking and auditing process. Unless there are significant changes to the existing yard and out-of-cell spaces at SBJ, no changes will be realized for years pending a proposed redesign of the

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<sup>22</sup> Refer to Attachment A.

jail. It is understood that Stipulated Judgement Paragraph 11 states in that the County will “take all reasonable steps to provide out-of-cell time and programming as specified in the Remedial Plan to the maximum extent possible.” It does not appear that all reasonable interim steps have been fully developed or implemented.

### *In-Cell Activities*

The County has done a good job of tracking tablet issuance and sharing the data. The population at SBJ likely understands when tablets will be available for their use as there is a routine schedule when the tablets are issued. For the portion of the population in restricted housing who are receiving the tablets, they are getting access an average of 12 hours per week.<sup>23</sup> However, while the twelve hours per week is excellent, less than 60% of the population in restricted housing are being issued tablets for reasons that are not documented.

It is noted that beginning in September 2021, the County significantly increased issuance of tablets in the IRC. By May and June 2022, for the four days a week the tablets are issued, they were issued nearly daily in the intake units. Additionally, Northwest Restricted Housing is also at nearly daily issuance of the tablets. It appears that every open unit (dormed unit) is issued the tablets at least one time per week. There was also an increase in 2022 in the total number of tablets issued per week with an average weekly increase of thirty-seven (37) additional incarcerated persons being issued a tablet per week.

This is all positive and should be recognized but there are areas that need to be addressed. The NBJ has not yet activated tablets in the facility. There is a contract in place to install the infrastructure but there has been no date for completion provided. The provision requires every-other day issuance, but the County only provides tablets on four (4) consecutive days and there have been weeks where no tablets were issued.

### *Programming*

The County has begun providing a monthly overview of programs provided in the jails via the “Inmate Services Summary” and is providing monthly Program calendars. Both are high level documents that show services being provided by housing unit and via correspondence course. This is an excellent beginning to help demonstrate in cell and out-of-cell programming activity but a greater understanding of how these programs are offered and who is eligible will be necessary in the next rating period. It is clear, however, both from tours and interviews with incarcerated persons and the review of these documents that the County is focusing on rebuilding programming following the slowdown of activities due to the Covid pandemic. The Expert will work with the County during the next rating period to determine how these services can be quantified to contribute to demonstrating compliance with this provision.

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<sup>23</sup> Refer to Attachment B for analysis of tablet tracker report, sampling second full week per month August 2021 through June 2022/

If the County does not show progress in the next rating period in a measurable manner, the current efforts will be insufficient to receive a future rating of partial compliance and may drop to non-compliance.

Recommendations:

1. Develop a viable strategy to increase out-of-cell time offerings in Northwest restricted housing.
2. Address high yard refusal rates in NWRH and any unit with similar incidents of high refusal rates.
3. Develop and implement a plan, with the input of the Experts, to take “all reasonable steps to provide out-of-cell time and programming as specified in the Remedial Plan to the maximum extent possible” at SBJ during the period of Main Jail remediation (Stipulated Judgment ¶ 11). This may include:
  - a. Evaluate ability to split existing yards and repurpose other spaces to increase out-of-cell time for all populations where the County is not currently able to meet compliance.
  - b. Provide lighting in areas closed at dusk to increase evening recreation times.
  - c. Re-evaluate yard and dayroom schedules to maximize all available programming hours.
  - d. Identify potentially compatible populations to reduce recreate alone populations.
  - e. For populations that are not able to program with others, identify potential treatment tables/chairs to provide groups safely and humanely.
  - f. Increase escort and program observation staff as necessary.
  - g. Increase behavioral health and programming staff for structured out-of-cell time.
  - h. Increase volunteers to provide structured programming.
4. Conduct monthly auditing of out-of-cell activities for all units and create a corrective action plan for units not meeting compliance.
5. Present the SBJ remodel plan to Experts for review and move forward with the SBJ remediation process as expeditiously as possible.
6. Add additional resources for daily issuance of Tablets. Backfill the tablet issuance staff when they are on vacation, sick, etc.
7. Activate tablets at NBJ.
8. A tracking system and internal monitoring must occur monthly to determine balanced and fair issuance of the tablets and to maximize limited resources. This is required pursuant to VII.D.5.
9. Reestablish reporting where the times for tablet issuance are on the report, the incarcerated persons who are not issued a tablet are documented and implement a reason code for non-issuance for specific incarcerated persons.
10. Create tracking mechanism or standardized issuance of reading materials, writing supplies, etc.
11. Refine Program summary to more clearly delineate services provided.

## VII.D. Minimum Out-of-Cell Time

2. The County shall provide prisoners out-of-cell time daily, at appropriate times of the day – *i.e.*, not during normal sleeping hours.

### County Response

Complete.

### Expert Review

### **Substantial Compliance**

Policy - Custody Operations Policy 367 – Inmate Recreation

Training - Not provided for review and not easily noted in Disabilities Rights Remedial Plan Implementation training

Metrics Out-of-cell Trackers  
Grievances  
Tours  
Interview

### Observations

Operations Policy 367 Inmate Recreation has been updated to reflect this expectation and a review of out-of-cell logs and unit logbooks reflects out-of-cell time is not occurring during normal sleeping hours. No grievances concerning this issue were submitted since the last monitoring report and all staff and incarcerated persons interviewed during three tours since the last report confirm out-of-cell programming is not occurring during normal sleeping hours.

This area was found in Substantial Compliance during the first reporting period and remains in Substantial Compliance based on the interpretation of the provision, which may have been a misunderstanding of the language by the monitor. Based on the parties conferring, it is likely that for all *future* reports, this provision shall be interpreted to mean that *each and every* class member must be provided out-of-cell time every day, at appropriate times of the day. It is understood counsel will engage in discussion concerning future monitoring of this provision, therefore, the recommendations may be updated in the next reporting period.

### **Recommendations**

1. To be determined.



## VII.D. Minimum Out-of-Cell Time

3. The County shall conduct monthly audits to ensure that required out-of-cell time with respect to each of the above categories is made available to the jail population. Supervisory staff shall regularly review this data for quality assurance, and take steps to address any deficiencies.

### County Response

In process. The County will require supervisors to conduct audits. The County anticipates completion by the end of 2022.

### Expert Review

#### **Partial-Compliance**

Policy – Custody Operations Policy 367 – Inmate Recreation

Training – Disabilities Rights Remedial Plan Implementation

Metrics Monthly SBSO Monitoring Report – Not developed

#### Observations

As referenced in VII. D.4, the County recently began piloting auditing out-of-cell time for designated units at NBJ that roll up the total out-of-cell time for that month. These reports are still in progress and the County has not yet presented an analysis of those findings, but this does show forward momentum on baselining data, at least at NBJ. Supervisory staff at NBJ reportedly are conducting quality reviews of the logs. While that is positive and critical to conduct a meaningful audit, a report that reflects the status of out-of-cell tracking for each unit at both jails has not been implemented or presented for review.

To increase accountability, a standardized audit should be developed for each jail and a specific leader at each jail should be designated to oversee the audits. The County should ensure sufficient resources are available to comply and work with the Expert to agree upon the data and metrics for the internal audits.

#### **Recommendations**

1. A sufficiently trained and resourced monitoring/QA unit should be established in Custody Operations to assist in monitoring all aspects of the Remedial Plan.
2. A standardized internal monitoring tool should be developed and approved by the Expert.

3. Recreation Policy 367 should be updated to reflect the requirements for each type of housing units and the internal supervisor monitoring requirements.
4. Establish the tracking and reporting in formal policy, training and auditing.
5. Create corrective actions plans for those units that are not able to meet the out-of-cell time pursuant to tracking audits.

**VII.D. Minimum Out-of-Cell Time**

4. In cases where a prisoner refuses out-of-cell time repeatedly and the reason for such refusals may be related to their mental health condition, Jail staff shall make a mental health referral for assessment and appropriate clinical follow-up.

County Response

In Process. The County is creating a Restricted Housing Policy – 306 and will update Policy 363 to address this provision. Staff will be trained following policy approval. The County anticipates completion by the end of 2022.

Expert Review

**Partial-Compliance**

Policy - Custody Operations Policy 367 – Inmate Recreation  
Wellpath Policy G-02 – Segregated Inmates

Training - Disabilities Rights Remedial Plan Implementation

Metrics Out-of-cell Tracking Logs  
Referrals to Behavioral Health  
Tours

**Observations**

A review of Custody Operations Policy 367 reflects the policy has been updated to comply with the provision. However, Wellpath Policy G-02 has not been updated to reflect this requirement. As with the previous reporting period, during tours, not all custody staff were not fully aware of this requirement, and it appeared several incarcerated persons were languishing in Segregation cells without prompting for out-of-cell activity. The staff report they advise Wellpath of incarcerated persons are languish in their cells, but if prompting or referral to behavioral health was occurring, there was no proof of practice provided.

It is positive that NBJ now has a tracking system that can be used to quickly refer isolating incarcerated persons to behavioral health. For example, a review of three restricted housing units for the month of June 2022 reflects that approximately 10-15% of the population routinely refuses

to engage in out-of-cell time for recreation, dayroom or showers.<sup>24</sup> The NBJ tracker actually lists all showers accepted or refused for the entire unit and entire month on one spreadsheet. This same spreadsheet concept can incorporate daily refusals for yard and pod time. The daily reports have a comment section that can document a mental health referral. The system is now in place to comply and audit and it is anticipated that NBJ will formalize the referral process in the next quarter. It is important that SBJ create a similar tracking system during this same quarter to show continuity in policy and practice between the two facilities. It is anticipated that with anchored policies, training and forms, that County can reach substantial compliance in the next rating period but if no improvement is noted, this provision may receive a non-compliance rating in the next rating period.

## **Recommendations**

1. The policy should be clear in expectations, a form should be utilized and tracked for referrals, the out-of-cell tracking system should reflect the referral. Compliance should be monitored internally.
2. The use of an integrated jail management system and radio frequency identification system (RFID) would help to quickly capture this information and assist with referral to mental health.
3. Evaluate the ability to utilize the NBJ out-of-cell tracking system to document repeated refusals and referrals to mental health. Once refined and institutionalized in practice, ensure referrals are occurring in units where out-of-cell time is captured for the entire unit or entire tiers.
4. A mechanism to demonstrate compliance with this provision through documented proof of practice must be established.

## **VII.E. Disciplinary Procedures**

1. A prisoner may be housed in Segregation for disciplinary purposes only after the prisoner has received notice of the charges against him/her, a supervisor has conducted a disciplinary hearing at which the prisoner is given an opportunity to rebut the charges, and the prisoner is adjudicated guilty of the alleged violation(s). Where there is a serious and immediate safety risk and no other housing unit is sufficient to protect the inmate from harm, staff may place a prisoner in Segregation for the shortest period of time necessary. In such cases, supervisory custody staff will promptly review the case and must approve in writing continued retention in Segregation.
2. Prisoners serving a disciplinary term in Segregation may be subject to a reduction in out-of-cell time, including in-cell confinement not to exceed twenty-two (22) hours per day.
3. The County shall implement a 30-day maximum term in Segregation for any single or set of disciplinary violations stemming from the same incident.

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<sup>24</sup> A Unit – Cells 3, 4, 5, 8. F Unit – Cells 5, 11, 15, 16. J Unit – Cells 1, 2, 3, 4, 5, 15, 22

### County Response

Completed. The County does not use restricted housing for disciplinary reasons and has updated all associated policies and the incarcerated person handbook to reflect the change.

### Expert Review

#### **Partial Compliance**

Policy - Custody Operations Policy 363 – Inmate Discipline

Training - Disabilities Rights Remedial Plan Implementation

Metrics      Disciplinary Logs  
                 Restricted Housing Logs  
                 Restricted Housing Placement Documentation  
                 Grievances  
                 Tours  
                 Interviews

#### Observations

The County reports they do not use restricted housing as a finding in a disciplinary action; and the Disciplinary policy has been updated to reflect the restriction. However, the provided disciplinary logs do not have the findings and penalties of the disciplinary actions, so it is impossible to determine from the IDR system if restricted housing was the consequence of a disciplinary hearing.

However, in reviewing literally hundreds of restricted housing placement and retention forms for this rating period, none reflected the placement was due to the adjudication of a disciplinary hearing. Therefore, it appears it is accurate that the County does not utilize restricted housing for punishment. If the County could consistently provide complete disciplinary logs that show adjudications, monitoring can confirm compliance and Substantial Compliance can be assessed in the next rating period.

#### **Recommendations**

1. Comply with the policy that disciplinary hearings cannot assess the adjudicated penalty of restricted housing.
2. Provide complete monthly disciplinary logs with the adjudicated findings to allow for adequate monitoring.
3. Assuming the disciplinary logs show compliance with the policy, it is anticipated the County will reach Substantial Compliance in the next rating period.

## VII.E. Disciplinary Procedures

4. The County shall not use safety cells for punishment.

### County Response

Completed. The County does not utilize safety cell for punishment as was recognized by Custody Expert on last report.

### Expert Review

#### **Substantial Compliance**

Policy – Custody Operations Policy 304 – Use of Safety Cells  
Custody Operations Policy 363 – Inmate Discipline

Training – Disabilities Rights Remedial Plan Implementation

Metrics Weekly Safety Cell Placement Logs  
Individual Safety Cell Logs  
Incident Reports  
Grievances  
Tours  
Interviews

#### **Observations**

Both Operational Policy 304 – Use of Safety Cells and Operational Policy 363 – Inmate Discipline prohibit the use of safety cells for disciplinary reasons. No completed Inmate Disciplinary Report (IDR) reviewed noted that the penalty for a finding of guilt was placement in a safety cell. There is no evidence the county placed an incarcerated person in a safety cell who was not acting out or threatening self-injury. However, when completing this report, the County was significantly delayed in providing copies of safety cell reports and associated logs for monitoring.

Below depicts information provided for the first four months of 2022 at SBJ:<sup>25</sup>

### SBJ Safety Cell and Mental Health Observation 2022

	Jan	Feb	March	April	Q1 Ave
Total Safety Cell Placements	56	64	54	38	58
Total MH Obs Placements	115	111	105	65	110
Total SC or MH Obs Placements	171	175	159	103	168
Combined Placements <sup>26</sup>	21	35	28	23	28
% Combined Placements	38%	55%	52%	61%	48%
Safety Cell Beyond 24 Hours	16	10	9	3	12
% Safety Cell Beyond 24 Hours	29%	16%	17%	8%	20%
Average Safety Cell Time	20	13.25	13.5	11.33	15.6
Average MH Obs Time	25.75	17	19.25	24	20.7
Average Single Event Combined Time <sup>27</sup>	62.75	31.5	44.25	28.64	46
I/Ps with more than 1 event in month	13	19	15	12	16
Placement for Combative	2	1	2	0	1.5
Average Time for Combative	6.75	5	24	NA	17
Documented Transport to Outside Hosp <sup>28</sup>	4	1	4	2	3
No Paperwork in Box	5	10	5	6	7
% No Paperwork	3%	6%	3%	6%	4%

Besides the delay in providing documentation for monitoring, an area of concern has emerged that will be closely monitored in this next rating period. While representing a very small percentage of safety cell placements, there have been incidents of concern where a safety cell has been used to house combative incarcerated persons - an action that could be perceived to be more punitive in nature than a placement in a restricted housing unit cell.<sup>29</sup> Safety cells do not have a toilet, sink or bed and are designed with the express purpose of keeping self-abusive, suicidal and out-of-control persons safe. Restricted Housing cells have toilets, sinks and a bed and are designed for assaulting and aggressive populations and are not as stark as a safety cell.

<sup>25</sup> As of this report, the County has not provided updated information at SBJ since April 2022 and has presented no information since the activation of NBJ.

<sup>26</sup> Events where the incarcerated person was moved from a safety cell to a mental health observation cell or vice versa

<sup>27</sup> Some IPs had more than one placement in the month. This refers to a single placement where the IPs was moved from a safety cell to a mental health observation cell or vice versa

<sup>28</sup> This is noted transport on the observation logs. No monthly reports for outside transportations provided so this may undercount the number transported from a safety cell for inpatient assessment.

<sup>29</sup> Represents 3% of total placements but not all documentation was available for review in this rating period.

It is noted there were five (5) incidents in the first quarter of 2022 where the documentation reflected a safety cell placement occurred due to combative behavior, which may have been more appropriately addressed with placement in a restricted housing cell. The challenge in monitoring after the fact is the documentation did not articulate why the safety cell placement, which may have been warranted, was more appropriate than a restricted housing cell.

To resolve the lack of clarity for future reports, an area of focus for the next reporting period will be review of documentation for the placement rationale and retention in a safety cell when an incarcerated person has been combative, and the placements appeared to be primarily at the direction of custody personnel and not mental health personnel. Will work with the County during the next rating period to have a better understanding of the use of safety cells, instead of restricted housing unit cells, when circumstances warrant.

Based on the County's delay in providing documentation for monitoring and the issue about insufficient documentation on a small percentage of placements, it is recommended that this provision continue to be monitored during this next rating period.

### **Recommendations**

1. Provide all backlog copies of safety cell placement documentation and continue to provide all copies for review monthly.
2. More closely review any future placements into a safety cell that are not supported by mental health staff as clinically necessary.
3. Provide refresher training to supervisors concerning the documentation requirements regarding use of safety cells, including documenting on-going retention rationale when a clinician is not recommending the placement.
4. Begin internal compliance monitoring.

### **VII.E. Disciplinary Procedures**

5. The County shall not use the denial or modification of food as punishment. The County shall not use the "prison loaf" as a disciplinary diet.

#### County Response

Completed. The County does not deny or modify food as punishment. Associated policies have been updated.

#### Expert Review

### **Substantial Compliance**

Policy - Custody Operations Policy 363 – Discipline  
Custody Operations Policy 373 – Religious Services

Training - Disabilities Rights Remedial Plan Implementation

Metrics            Disciplinary Logs  
                      Individual Disciplinary Reports  
                      Grievances  
                      Tours  
                      Interviews

## Observations

While the Wellpath corporate policy references disciplinary diets, the Custody Policies 363 and 373 both specifically restrict the use of disciplinary diets. During tours of the facility and interviews of staff and incarcerated persons, no incidents of incarcerated persons being provided a restricted diet or disciplinary loaf as a result of a disciplinary hearing or for discipline was alleged.

A review of the grievance logs for the period of September 2021 through June of 2022 reflects at least sixty-two (62) grievances were filed related to food services. Only one (1) of those grievances appear to be related to a disciplinary matter or alleged as a retaliatory action with the exception being an allegation against the food services department providing substandard food due to the incarcerated person filing a grievance about food services. That grievance was reviewed, and the diets provided for that incarcerated person are prepared without identifying the recipient, so it would be difficult to manipulate the diet as the diets are labeled for delivery after the trays are made.<sup>30</sup>

Assuming completed disciplinary logs received during the next reporting period, it is anticipated that following one more rating period, a recommendation to discontinue monitoring may be warranted.

## Recommendations

1. Continue to follow existing policy.
2. Provide the Expert completed disciplinary logs to ensure compliance in the next rating periods.
3. Assuming completion of the recommendations, it is anticipated the County should be able to maintain Substantial Compliance in this area during the next review period and a recommendation to discontinue monitoring would be warranted.

## VII.F. Safeguards for Prisoners Placed in Segregation

1. Prior to Segregation placement of any person with Serious Mental illness, with an intellectual disability, or who is exhibiting unusual or bizarre behavior, the County shall ensure completion of the mental health review process detailed in Section VII of the Mental Health Remedial Plan.



## County Response

In process. The County is developing a policy and will confer with Experts regarding the process. The County anticipates completion by the end of 2022.

## Expert Review

### **Non-Compliance**

Policies - Custody Operations 241 – Mental Health Care  
Custody Operations Policy 243 – Special Care Inmates  
Custody Operations 301 – Classification  
Wellpath Policy G-02 – Segregated Inmates  
Wellpath Policy F-03 – Mental Health Services

Training - Not provided for review and not noted in Disabilities Rights Remedial Plan Implementation training

Metrics Restricted Housing Logs  
Restricted Housing Notification Forms  
Mental Health Assessment Forms

### Observations

Policies concerning restricted housing placement have not been updated to clearly delineate the role of mental health clinicians prior to placing an SMI incarcerated person into restricted housing. During the prior review, a practice existed where custody advised Wellpath mental health of placement of incarcerated people into restricted housing and a post placement form was completed on a percentage and sent to custody. However, since the last review period, that process did not remain consistent and in the last several months, only one such document has been shared to demonstrate compliance, despite SMI persons being placed in restricted housing.<sup>31</sup>

### **Recommendations**

1. The County should work with Experts to refine the process and documentation to assure health care is assessing mentally ill incarcerated persons prior to placement in segregation.
2. Associated Custody and Wellpath policies, forms and training require update.
3. Standardize information sharing to demonstrate compliance as the required documents for monitoring are not consistently shared to establish compliance.

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<sup>31</sup> L.B. 5/29/21 placement

4. Implementation of this provision should complement the activation of Specialized Mental Health Units required by Remedial Plan Section III.D.

#### **VII.F. Safeguards for Prisoners Placed in Segregation**

2. The County shall conduct visual cell checks (to ensure that prisoners are safe and breathing) for all prisoners in Segregation at least every 30 minutes, at staggered intervals. Completion of safety checks shall be timely documented and audited regularly by supervisory staff for quality assurance purposes.

##### County Response

Completed. The County has significantly reduced restricted housing units and implemented security checks with supervisory monitoring.

##### Expert Review

##### **Partial Compliance**

Policy - Custody Operation Policy 327 – Safety Checks

Training - Disabilities Rights Remedial Plan Implementation

Metrics Security Check Logs  
Supervisor Discrepancy Reports  
Video Observation of Security Checks

##### Observations

The County implemented 30-minute safety checks in restricted housing, intake units and quarantine units in mid-July 2021 and updated Custody Operations Policy 327 – Safety Checks. The County continues to provide tracking reports that monitor compliance for SBJ, which is excellent in helping to review compliance and addressing barriers to compliance. The County also provided the associated supervisory review of the discrepancy reports for the period of October 2021 through March 2022 at SBJ.<sup>32</sup> The County provided tracking information on NBJ's use of the security check documentation system, reflect NBJ is also engaged in self-auditing, but the documentation provided did not allow for full auditing for compliance.

At SBJ, both the security check logs and the discrepancy reports show that the staff are completing security checks within the established time frames in the restricted housing units and intake reception center over 95% of the time. The documents also reflect that supervisors are

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<sup>32</sup> Reports for the period beyond March 2022 are pending receipt but anticipated they will be available.

conducting reviews of discrepancies, including watching video to determine if a security check did occur. The supervisors are also documenting counseling of staff when a security check was missed without sufficient justification. These are all excellent practices and excellent proof of practice.

However, the sergeants vary in their documentation of discrepancies and clear counting rules and documentation of findings to assist with conducting a statistical analysis of compliance is necessary. This can easily be accomplished in the next rating period and implemented at NBJ and SBJ.

Video observations of the quality of security checks at SBJ were conducted on two different tours during this rating period as well as visual observation of the staff conducting the security checks while on site for tours. The County also created a training video to show staff how to conduct a quality security check. Generally, the staff appear to be looking into the cells when conducting a security check and there have been no reported incidents during this rating period of negative outcomes associated with staff failing to conduct a timely security check.

While the information below is not quantified consistently to demonstrate compliance, the discrepancy reports for October 2021 through March 2022 reflect the following:

**SBJ Security Check Discrepancy Reports  
Monthly Average**

	Discrepancies	Highest Time	Staff Counseled
21-Oct	8	46	10
21-Nov	9	61	5
21-Dec	11	66	6
AVE Q4 2021	9	58	7

	Discrepancies	Highest Time	Staff Counseled
22-Jan	6	41	7
22-Feb	15	68	6
22-Mar	19	58	5
AVE Q1 2022	13	56	6

It is concerning there were at least three (3) days of the fifty-six (56) days reviewed where the lack of staffing resulting in significant delays in security checks. However, it is assumed that number is higher as often the discrepancy reports would advise that the staff shift “recaps” explained the discrepancies, but the recaps were not attached to the sergeants’ reviews to

determine the reason for the discrepancies. The Expert will work with the County during the next rating period to articulate more clearly what was listed on the recap to explain the discrepancies.

## **Recommendations**

1. Standardize process between SBJ and NBJ
2. Create documented counting rules for sergeants to follow when completing the discrepancy reports to include but not be limited to:
  - a. If a security check was completed and not captured in the system, document the exact time the security check was observed occurring.
  - b. Discontinue the justification that staff were “in the area” as that does not explain whether a security check was conducted.
  - c. Work with Expert to address short duration delays in security checks (i.e., 1-5 minutes) and how best to capture and document those events.
  - d. Document the exact reason for the discrepancy or attach the associated recap to the discrepancy report.
3. Ensure sufficient staff to comply with requirement.
4. Continue to document when staff are counseled about missing a security check when no legitimate justification existed but determine how best to assess if this is a reoccurring issue for a particular staff member.

## **VII.F. Safeguards for Prisoners Placed in Segregation**

5. If a prisoner in Segregation requests a confidential health care contact or staff identify a mental health or medical need warranting follow-up, staff shall arrange for evaluation and treatment of the prisoner in an appropriate confidential setting.

### County Response

Complete – Updated incarcerated person handbook and space exists for confidential engagement. Will be included in Quality Assurance Process and Restricted Housing Policy

### Expert Review

### **Partial Compliance**

Policy - Custody Restricted Housing Policy - TBD

Training - Disabilities Rights Remedial Plan Implementation

Metrics Grievances  
Tours/Interviews

## Observations

The practice is not yet institutionalized and the Restricted Housing policy, which the County reflects will include the mandate in formal policy, has not been provided for review. This provision closely aligns with VII.F.4 which requires that a mental health professional conduct rounds in restricted housing units three (3) times per week and inquire whether the incarcerated person would like a confidential meeting with a mental health or medical provider during the rounds. Therefore, the implementation of this provision should be done in concert with VII.F.4 and with the input of the Medical and Mental Health Experts.

During tours, routinely clinical staff were observed in the restricted housing units and during interviews of both clinical and custody personnel it was learned that staff would schedule a follow up interview in a confidential location if the incarcerated person requested but it would generally not be that day unless the person was in crisis. It was noted incarcerated persons were not being escorted out at the time for a conversation with the clinicians conducting rounds and all rounds were conducted on the tiers. No incarcerated person reported that they requested a confidential interview that was denied but several reported they were unaware that was a possibility. The County will need to ensure sufficient escort personnel are available in the event a clinician requests the removal of an incarcerated person from a cell for a confidential interview. That issue will be closely monitored in conjunction with Provisions II.F.8 this next rating period.

The County has updated the incarcerated person handbook, but it has not been redistributed to the population. During the July 2022 tour of NBJ, many incarcerated persons reported they had not been provided a handbook and the County reported the handbooks were still at the printer and were not yet distributed. To ensure the population is aware, the population in restricted housing or those entering restricted housing who have been in the jail for a period of time should receive the new handbook or a summary document of pertinent changes so they are aware that they may request a confidential interaction. It is understood that requests can be triaged by clinical personnel and delayed if clinically appropriate for a regular clinic appointment.

While there were significant grievances noted during this rating period concerning lack of access to care and orientation handbooks, there were no grievances noted specific to a request for a confidential encounter in restricted housing that was not facilitated.

## Recommendations

1. Complete the Restricted Housing Policy and provide it to the Experts for review.
2. Either issue new incarcerated person handbooks to persons in or entering restricted housing or provide an abbreviated document reflecting their ability to request a confidential interaction, recognizing that the interaction may be scheduled for timely follow up as clinically appropriate.
3. The electronic unit health record should document that a confidential interaction occurred and, if possible, a monthly report should be generated for Quality Assurance information.
4. Provide the Quality Assurance meeting minutes and data concerning this provision to the Experts for review.

## VII.F. Safeguards for Prisoners Placed in Segregation

7. The County shall avoid the release of prisoners from custody directly from Segregation to the maximum extent possible.
8. If a prisoner has an expected release date in less than 60 days, the County shall take and document steps to move the prisoner to a less restrictive setting, consistent with safety and security needs. Should Segregation become necessary during this time period, the County shall provide individualized discharge planning to prepare the prisoner for release to the community, including in light of the prisoner's Jail housing placement and status.

### County Response

In process. The county is working on numerous systems, including reducing use of restricted housing, increasing group programming of restricted housing populations, quantifying and clarifying reentry services and updating tracking logs to include release dates. The County anticipates compliance by the Summer of 2023.

### Expert Review

#### **7. Non-Compliance**

#### **8. Partial Compliance**

Policy - Custody Operations 341 – Release Criteria  
Wellpath Policy E-10 – Discharge Planning  
Wellpath F-03 – Mental Health Services

Training – Disabilities Rights Remedial Plan Implementation

Metrics Restricted Housing Placement Log  
HARP Log  
Population Reports

### **Observations**

The County has not yet established formal policies or practices to comply with this provision. As reflected in the prior report, the County will need to update the restricted housing tracker to list known release dates. The HARP tracker report currently has a column to reflect known court dates, which is helpful to have a sense of the status of the pre-trial population but doesn't address this provision. If the County could update the restricted housing log to align with the HARP roster and list the known release date on the sentenced population, the County would be aware of a pending release to the community.

Because a good percentage of the restricted housing populations are pre-trial, the focus must continue to be on stepdown units and attempts to begin integration of restricted housing population through the use structure activities, double celling, small group yards and small group dayroom. Earnest attempts to program incarcerated people in the least restrictive environments would be supported by frequent reclassifications and complex case committees, such as HARP and the multidisciplinary treatment teams, to find safe alternatives to restricted housing.

In the event it is not viable to rehouse an incarcerated persons from restricted housing to a less restrictive environment prior to release to the community, active engagement with the re-entry team is critical for the restricted housing population as many are high need upon release. Fortunately, beginning in January 2022, the SBSO began tracking individual re-entry contacts per month. While it is believed the tracking from the program unit represents only one aspect of reentry services, it is positive to note that tracking and reporting have begun.

In these tracking reports, the release date for the incarcerated person for whom the service is being provided is listed and there are clear notations of services provided to people in restricted housing. While this does not equate to an individualized discharge plan, it does show effort in providing reentry services to people in restricted housing units. It is anticipated the county can build upon these efforts in the next reporting period.

### **Reentry Contacts 2022**

	Jan	Feb	Mar	Apr	May	June
Contacts <sup>33</sup>	177	231	252	171	316	357
RH <sup>34</sup>	4	4	6	4	10	11

#### **Recommendations:**

1. Add a column to the Restricted Housing and HARP roster to list known release dates of the population.
2. Update the Reentry Service Tracker to identify incarcerated persons housed in restricted housing.
3. Finalize the Restricted Housing Policy or Classification Policy to reflect goal to stepdown restricted housing populations prior to release to the community.
4. Update policies to require an individualized discharge plan for persons who are in restricted housing who are within sixty (60) days of known release.

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<sup>33</sup> This is the total services provided, representing that a single person may have been offered more than one service in the month,

<sup>34</sup> Restricted Housing Population – The chart does not identify restricted housing status, so the actual count is likely higher

5. Continue with efforts to create mental health stepdown units.
6. Continue to evaluate all incarcerated people in restricted housing for stepdown housing and for double cell and small group out-of-cell activity if they are required to remain in restricted housing.
7. Ensure Reentry staff continue to provide services to incarcerated persons in restricted housing.
8. Ensure sufficient discharge planning staff to meet the requirements of this provision.

### **VII.G. Grievances, Inmate Request Forms, Property/Privileges in Segregation**

1. The County shall provide grievance forms and inmate request forms in each housing unit for prisoners to readily access and use.
2. Prisoners housed in Segregation units shall have equal access to grievance and inmate request forms and procedures as compared to general population prisoners.

#### County Response

In process. The County piloted increasing access by installing folders or boxes to hold forms in locations accessible to the populations. The County intends to expand the pilot and complete by the end of 2022.

#### Expert Review

#### **Partial Compliance**

Policy - Custody Operations Policy 361 – Grievances  
Wellpath Policy A-10 – Grievance Process for Health Care Complaints  
Inmate Orientation Handbook

Training - Disabilities Rights Remedial Plan Implementation

Metrics Grievance Logs  
Individual Grievances  
Tours  
Interviews

The County continues to afford access to grievances and has a grievance system in place. During all tours, the majority of incarcerated persons interviewed shared their understanding of accessing the grievance system and the majority of incarcerated persons stated they understood how to access grievance forms.

At the SBJ, the staff are still generally required to issue grievance forms upon request, which is not best practice. The County piloted placing grievance form boxes/files at SBJ in locations near recreation and other activities accessible to the population but has not sustained that practice as there were no forms in the boxes during the July tour and no incarcerated person interviewed stated they were able to access forms in that manner.



At the NBJ, in two housing units, grievances were found readily available, which is a best practice, but this was not consistent in all living units. Medical and Custody staff interviewed all knew their responsibility to provide grievance forms and where the forms are located as well as the requirement that a timely response is required, but many did not have sufficient understanding of the grievance system.

The greatest challenge regarding grievance access has little to do with the form but rather the accountability in responding to grievances, the tracking of grievances submitted and responded to, the population's faith in the system and the ability for incarcerated persons to appeal an initial denial. As mentioned in the prior report, the grievance process requires significant refinement that has not yet been addressed. Most correctional systems have a designated supervising grievance coordinator well versed in the system but that does not appear to be the case with the County.

The County does provide a tracking sheet of all grievances filed in a month and routinely provides copies of completed grievances upon request. Additionally, it is promising at NBJ that the leadership team held the first quarterly grievance review meeting on August 17, 2022, encompassing reviews of grievances submitted at NBJ from January through June 2022. The goal of the meeting was reported as setting expectations regarding a formal grievance review process while addressing trends and improving overall operations. Several areas identified during the review included access to dental, medical care, timely medication, commissary, grooming items, mail and handbooks. Reportedly the team also addressed ADA related grievances. The team noted a plan to expand the review process to SBJ as well as provide training, improve responsiveness and begin tracking timeliness of response. This is a positive step and it is hopeful this process will continue.

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The grievance tracking reports provided reflect, from a high level, the following grievances related to the Settlement Agreement for the first quarter 2022:

### Grievance Summary Q1/Q2 2022

	22-Jan	22-Feb	22-Mar	22-Apr	22-May	22-Jun
	Total	Total	Total	Total	Total	Total
Total Appeals	117	191	121	132	106	118
Secondary Appeal Due to Original Denial	1	4	2	0	0	7
Classification Appeals	1	5	0	0	0	0
Classification Appeals associated with Restricted Housing	8	15	13	0	0	4
Dietary Punishment	0	0	0	1	0	0
No Access to Grievance System or no answer	0	2	3	1	0	1
Floor Sleeper, lack of bed, mattress or bedding	0	0	0	0	3	0
Disciplinary Action	0	3	4	5	3	3
Access to Tablets	1	1	0	0	2	0
Access to Out-of-cell Time	4	3	4	1	1	7
Excessive or Unnecessary Force	0	0	1	0	0	0
Inoperable Phone/Phone Access	1	3	0	0	0	0

No Grievances: PREA not occurring in private setting. Placement in unsanitary safety cell or for disciplinary reasons. Health Care not occurring in confidential setting

It is hopeful in this next rating period that the Compliance Unit or other entity begins to submit quality trend and individual analysis on grievances to assist with compliance monitoring.

#### Recommendations:

1. Conduct research into best practices in grievance systems in mid-sized jails and refine current policies, procedures, forms, training and tracking, including utilizing a supervisory-level custody position to lead efforts in this area.
2. Make all reasonable efforts to place grievance form boxes in living units and in areas where easy access to the forms can be facilitated.

3. Evaluate ability to integrate a grievance system into the Tablets or other technology solutions to reduce allegations that grievances are not available or were not responded to.
4. Continue the newly developed system of quarterly appeals meetings and ensure access to grievances and grievance forms is a component of the quarterly meetings at SBJ and NBJ.
5. Refer to ADA Expert's recommendation and review regarding ADA grievances and effective communication for the grievance processes.

## **VII.G. Grievances, Inmate Request Forms, Property/Privileges in Segregation**

3. The County shall allow reasonable access to the following for all prisoners, including those in Segregation, absent a specific safety or security issue that is documented:
  - a) Personal phone calls on a daily basis during normal business hours.

### County Response

In Process. The County ensures access to phones and provides tablets, newspapers and other items for in-cell activities but is improving tracking mechanisms. Anticipates completion towards end of 2022.

### Expert Review

#### **Substantial Compliance**

Policy - Custody Operations Policy 209 – Americans with Disabilities  
Custody Operations Policy 383 – Phones

Training - Disabilities Rights Remedial Plan Implementation

Metrics Grievances  
Interviews  
Work Order Records

#### Observations<sup>35</sup>

The County continues to provide routine access to phones. During the three tours conducted since the first report, very few complaints were raised about access to the phones and when those complaints were raised, they generally surrounded maintenance issues. A review of grievances

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<sup>35</sup> This compliance finding does not cover the ADA/equal access to phones as compliance with ADA will be addressed in the ADA monitor's report.

for the first two quarters of 2022 reflects four grievances were filed related to phone access, with three being related to a maintenance issue and one related to lack of access to the dayroom which restricted access to the phones.

As reflected in the prior report, Custody Operations Policy 383 regarding phones had been updated to memorialize expectations relative to phone access and direction for staff if a phone becomes inoperable. It is believed this provision has reached substantial compliance during the first two review periods and recommend discontinuation of monitoring absent future allegations of non-compliance.

## **Recommendations**

1. Incorporate language recommendations from ADA Expert into Policy 383.
2. Once the ADA policy concerning access to phones is complete, provide training to staff and an educational program the incarcerated population where appropriate.
3. Monitor Grievances and ADA Grievances to identify any barriers or issues.
4. Monitor work orders to evaluate any untimely delays in phone repairs.

## **VII.G.3 Grievances, Inmate Request Forms, Property/Privileges in Segregation**

- b) Education, rehabilitation, and other materials (e.g., books, magazines, radios, writing implements, art supplies, tablets) for in-cell activities.

### County Response

In Process. The County ensures access to phones and provides tablets, newspapers and other items for in-cell activities but is improving tracking mechanisms. Anticipates completion towards end of 2022.

### Expert Review

## **Partial Compliance**

Policies - Custody Operations Policy 365 – Inmate Education  
Custody Operations Policy 368 – Library Services  
Custody Operations Policy 370 – Books

Training - Disabilities Rights Remedial Plan Implementation

Metrics Tablet Tracker  
To Be Determined

## Observations

The County currently issues tablets at SBJ and does provide newspapers, writing materials and occasionally books. The County also has engaged in the provision of in cell correspondence courses for incarcerated people in restricted housing and provides rehabilitative services in a variety of living units, which includes the provision of materials associated with those courses. Other than the issuance of tablets, which are currently being tracked, the County recognizes the process to track and report on those services requires refinement as it is unclear the scale and magnitude of these efforts.

## Recommendations

1. Create a unit-by-unit strategy to comply with this provision, through regular and consistent provision of tablets, reading materials and other items for in-cell activities.
2. Improve reporting mechanism to assist in demonstrating compliance for both routine material provision (i.e., writing materials, library services) and individualized materials (i.e., rehabilitative services, correspondence courses).
3. Update the incarcerated person handbook to better describe how to access in-cell materials.

### VII.H.1 Other Custody Operations

1. Capacity of Jail Facilities
  - a. No later than January 1, 2021, the number of prisoners placed in a particular housing unit shall be limited to no more than the rated capacity.
  - b. No later than January 1, 2021, the County shall assign a bed to all prisoners.
  - c. The County shall establish procedures to ensure that no prisoner is placed in any cell or housing unit without a mattress and appropriate bedding, unless there are individualized clinical or security concerns that are documented.

#### County Response

Completed May 22, 2022, with the opening of NBJ. Only rated capacity beds are utilized for occupancy. Restriction of mattresses and bedding are documented for clinical or security reasons.

#### Expert Review

#### Partial Compliance

Policy - Custody Operations Policy 305 – Bed Assignment  
Custody Operations Policy 362 – Inmate Clothing/Personal Hygiene  
Wellpath B-05 – Suicide Prevention  
Inmate Handbook Section 308/311.

Training - Disabilities Rights Remedial Plan Implementation

Metrics        Rated Capacity Report  
                  Population Reports  
                  Grievances  
                  Tours

#### Observations

The County has not yet implemented policies regarding clinical involvement in the restriction of mattresses or bedding. It has been noted on several mental health observation cell and safety cell logs, the clinicians have documented bedding and mattress approvals/restrictions, and this is an improvement from the prior report. However, this has not been integrated into policy or routine practice.

During tours, the majority of incarcerated people interviewed stated they had access to an appropriate mattress and clean linen. There were two units toured at NBJ in July 2022 where the occupants reported they had not received clean clothing or linen for the week. That issue was addressed with leadership during the tour. There were several cells in SBJ Northwest Unit where the occupants did not have an appropriate mattress or clean linens. This remains a problem on every tour and demonstrates a lack of supervisory tours in the unit and the overreliance on restricted housing to house mentally ill incarcerated persons. The issues were addressed on the tours, but this challenge requires sustained diligence for management to ensure there is a plan to address the needs of the mentally ill who destroy their mattresses or refuse to exchange their soiled clothing and linens when necessary.

The County admits at SBJ that not all incarcerated persons are assigned a specific bed when they are assigned to a dormed environment. As mentioned in the last report, this becomes a problem with groups of incarcerated persons or gang members do not allow the person who should be assigned to sleep on a bunk to occupy that bunk, and the person ends up sleeping in the dayroom or on the floor. This is due to the fact the County has not assigned specific beds to all people or enforced that people will not be pressured by gangs to not sleep in their assigned beds.

It is positive that unlike the previous report, there have been no grievances from August 2021 through June 2022 from incarcerated persons who reported they had not been assigned to a bed or were required to sleep on the floor. There were two grievances involving mattresses during this period, but both were the request for an additional mattress, rather than a complaint they had not received a mattress.<sup>36</sup> There was one grievance relative to not receiving clean sheets and

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<sup>36</sup> #18773 November 2021 SBJ; #19612 June 2022 SBJ.

the response was that clean sheets were provided. There were no other grievances noted with the allegation that sheets had not been provided.<sup>37</sup>

Both NBJ and SBJ maintain the capacity of each unit at or below the rated capacity and no boats were noted during tours. During tours, the intake areas also did not have unhoused populations waiting to be placed in a housing unit. This is all very positive. Should the County be able to address the mattress and linen issues identified in restricted housing and implement a formal policy associated with clinical involvement in restrictions of property, the County should be able to reach Sustained Compliance in the next rating period.

## **Recommendations**

1. Finalize Operational Plan 362 update to reflect requirement for clinical involvement when property is restricted and develop an official form or update existing observation logs for clinical staff to document property restriction to meet these criteria.
2. Evaluate and address the challenge of incarcerated persons pressuring other incarcerated persons and forcing them to sleep on the floor on a mattress, rather than on an assigned bunk.
3. Ensure documented sergeant tours of units to ensure monitoring that incarcerated persons are issued appropriate mattresses and have clean and untattered laundry.

### **VII.H.1 Other Custody Operations**

d) Female prisoners shall be separated by sight and sound from male prisoners.

#### County Response

Completed. Female inmates are only housed in SBJ in Unit 400 and NBJ in Units F and G, which are isolated from male units.

#### Expert Review

#### **Partial Compliance**

**Policy -** Custody Operations Policy 302 – Inmate Movement  
Custody Operations Policy 305 – Bed Assignment

**Training -** Disabilities Rights Remedial Plan Implementation

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<sup>37</sup> #19180 February 2022 NBJ

**Metrics**      Grievances  
                    Housing Unit Assignments  
                    Tours  
                    Interviews

## **Observations**

Since the last reporting period the County has demonstrated significant progress in keeping male and female incarcerated persons separate. Custody Operations Policy 302 has been updated to reflect the requirement to keep males and females separate. Additionally, the movement of most females to the Northern Branch jail has created the opportunity to house females in a manner that affords sight and sound separation in specially designated units staffed primarily by female staff. The County is to be commended for this substantial improvement.

However, one area requires additional focus. During the July 2022 tour of NBJ, it was noted that covid positive females were housed in the same living unit (K Unit) as male incarcerated persons in a small unit, males on the upper tier and females on the lower tier. While there was no direct contact due to the quarantine nature of the unit, there were no policies, procedures or formal training in place to guide how housing and movement should occur in the emergent situation where males and females share a unit. The NBJ leadership has subsequently discontinued housing females in K unit but the potential to house males and females in medical areas and safety cell areas remains an operational reality that should have clear policies and training to create as much sight and sound separation as reasonably possible.

## **Recommendations**

1. Update Custody Operations Policy 305, or other identified policy, to provide guidance to staff working in specialized units, such as medical or quarantine units, where male and female incarcerated persons may be temporarily housed in the same unit to assist in ensuring sight and sound separation in the unit to the degree reasonably possible.
2. Continue to house females at Northern Branch Jail and the Intake Areas of the Santa Barbara Jails in units not observable by male incarcerated persons.
3. With the completion of a clarifying policy or post orders for medical units, it is anticipated the County could reach Substantial Compliance in the next rating period.