



COUNTY OF SAN MATEO

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COUNTY ATTORNEY

JOHN D. NIBBELIN

March 23, 2023

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Disability Rights California
1831 K Street
Sacramento, CA 95811-4114

Donald Specter
Tess Borden
A.D. Lewis
Margot Mendelson
Prison Law Office
General Delivery
San Quentin, CA 94964

Dear Ms. Stark and Mr. Specter, et. al.,

The Sheriff's Office (SO) and Correctional Health Services (CHS) have read and considered your letter of January 30, 2023. Sheriff Christina Corpus was sworn in on January 7 and new Director of CHS, Mike Del Rosario, also began his new role in January. They recognize areas for growth in correctional services and are open to considering new strategies and policies to operate jails in which incarcerated people are healthy and safe and look forward to working with Disability Rights California and the Prison Law Office to enact improved policies and procedures.

In your letter, you listed your core principles with respect to placing incarcerated people (IPs) in segregation¹ and treating the mental health needs of IPs. We are open to making policy improvements in many of these areas, and take up each in turn:

A. Placement in Segregation

The County agrees that administrative and disciplinary housing should be used for short periods of time and only as necessary for safety and security, i.e. when an IP poses an articulable and ongoing threat of violence or lesser forms of discipline have been ineffective. The County is

¹ We utilize your definition of "segregation" for the purpose of this response: circumstances in which a person is confined to a cell for substantially longer each day than IPs in general population.

willing to commit to having a policy requiring practices that further ensure that (1) IPs are not placed in disciplinary housing for behaviors that are a manifestation of their disabilities, including that the issue be evaluated as part of the mental health assessment described in subdivision (b), *infra*, and (2) mental health is considered when selecting an appropriate disciplinary sanction.

a. Exclusion of Vulnerable Populations

The County is willing to commit to having a policy that directs that IPs with mental or physical disabilities and pregnant, post-partum IPs, or those who have recently lost or terminated a pregnancy not be placed in segregated housing unless they pose a risk of imminent violence, or there are other exceptional, articulable, objective circumstances. The County is open to considering age as a factor but would like to better understand why you suggested the under 25 and over 60 parameters. If you have examples of policies that you believe effectively addresses these issues, we would appreciate being provided copies. That is true of all our references to policy evaluation discussed herein.

b. Mental Health Assessments Before Placement

Correctional Health Services already conducts a mental health assessment during the jail intake process and intends to add a reassessment before (when feasible) or within 24 hours after movement into a segregated housing unit. More than 24 hours might be needed if IPs are moved just before or during the weekend. These assessments will help CHS assess baseline mental health and aid CHS in determining whether the IP's behavior is a manifestation of mental health issues. CHS and the Sheriff's Office have discussed using the attorney visiting rooms on the pods for these confidential assessments (unless the IP refuses to leave their cell).

c. Evidence for Placement in Segregation and Related Process Protections

The Sheriff's Office will review its policies to confirm (and revise as necessary) that there is a clear procedure for documenting the basis for placement in segregated housing. Those documented reasons for housing decisions will be shared with IPs (unless providing them would jeopardize the safety and security of the facility, e.g., some housing decisions may be based in part on law enforcement intelligence, which the SO will not necessarily share with IPs). The Sheriff's Office will provide a formal procedure for IPs to challenge their housing and a process for IPs to participate in the decision-making process, where appropriate.

d. Protective Custody

The County is committed to having a policy stating that the need to protect IPs from others in the jail should not automatically mean that they are placed in segregated housing. Rather, an IP's need for protection will be one of several factors considered in determining the IP's appropriate housing, including the IP's wishes. IPs in need of protection from others in the jail should still have access to out-of-cell time and programming. IPs in protective custody will have the same access to out-of-cell time and programming as those in general population, unless

they are housed alone and recreate alone because they require heightened protection. We are interested to discuss your ideas for non-segregated housing that still provides protection for vulnerable IPs.

B. Lengths of Stay in Segregation

The County implemented a new rule that IPs in disciplinary housing can only be placed there for up to 15 days at a time and for no more than 45 total days in a 180-day period. This rule will be documented in a formal policy.

C. Removal from Segregation

CHS and the SO will continue meeting weekly to reassess IPs in segregated housing to ensure they are receiving the mental health supports they need and to identify opportunities to step them down to less restrictive housing. The SO will develop objective criteria addressing removal from segregated housing. CHS will conduct welfare checks on IPs stepping down to less restrictive housing to determine whether they need additional therapeutic services. Additionally, the SO will effectuate policies providing for IPs to step down to general population prior to their release whenever feasible to ease their transition back into the community.

D. Conditions in Segregation

a. Out-of-Cell time

The SO is in the process of instituting new minimum daily recreation times for all housing units; the minimum is two hours for disciplinary housing (3 West C-Side and 3 Ocean A-Side), but the SO will work to increase that minimum. Recreation time will be logged on the housing units and efforts are underway to increase the amount of seating, game consoles, televisions, and other materials available for enrichment during recreational time. Wherever feasible, those in segregation will be provided access to the same kinds of opportunities during recreation time as those in general population, including opportunities for social interaction beyond their cellmates.

b. In-Cell Opportunities for Sensory Stimulation

IPs in segregated housing have the same access to books and other reading materials, writing implements, and commissary as other IPs (unless they have lost privileges as the result of concurrent discipline).

c. Mental Health Checks

CHS staff conduct mental health checks with IPs in administrative and disciplinary housing every Tuesday to assess these IPs' mental health status and to make referrals or provide additional services as needed. If CHS staff believe that the segregated housing placement is substantially affecting the IP's mental health, staff can discuss this in their weekly meeting, or earlier, if needed. CHS is also starting to offer supervised recreational therapy for IPs in

administrative and disciplinary housing. The SO and CHS will set up a multidisciplinary committee to address the needs of seriously mentally ill IPs by discussing their health and welfare in custody and alternatives to administrative and disciplinary housing for them.

d. Custody Checks

Pod staff are conducting custody checks every hour for general population, every 45 minutes for administrative housing, and twice in every 30-minute period for intoxicated IPs and those on suicide watch. These checks are logged in the ATIMS jail records system.

e. Cleanliness

Segregation cells are routinely cleaned, including before and after a person is moved into or out of them. The SO has Sanitation Inspections and Housekeeping and Maintenance policies to establish a plan of housekeeping tasks and inspections required to identify and correct unsanitary or unsafe conditions. The SO will evaluate its current schedules of daily, weekly, and monthly cleaning and make sure that processes are in place to ensure that these tasks are being completed satisfactorily. For special cleaning jobs, the County has a contracted cleaning service that responds to requests within 24 hours (except for possible delays on weekends). The IPs in affected cells are moved immediately so the cells can be thoroughly cleaned.

E. Alternatives to Segregation for People with Serious Mental Health Needs

Since your visit to our jails in November 2022, the Behavioral Health Program (BHP), has expanded significantly. On February 13, 2023, the County opened the Behavioral Health Unit (BHU) in Maguire (BHP IPs are a subset of the IPs in the BHU). The BHU is located on 4West, which has 48 double cells, and provides for a significant increase in the Unit's capacity to treat and serve IPs. BHU is already treating four times as many IPs as when you visited in the fall and the goal is grow the BHU population to support IPs and reduce the population on 3West, 3East, and 6 West.

BHU is staffed by (1) one day-shift clinician, who is present in the Unit for one-on-one behavioral interventions and mental health support, (2) one psychiatric nurse available to work with IPs one-on-one between 7:00 a.m. and 3:00 p.m., and (3) one supervisor to assist with orientation to the Unit, treatment planning, and issue resolution. Staff are currently providing one-on-one mental health treatment and re-entry planning for IPs.

Also newly housed on 4West are two other groups of IPs: those who have been rehoused from 3West A-side and 3East. The objective for these groups is to transition them into BHU. The new Unit has provided an appropriate step down from 3West A-side, which houses some of the IPs with the most acute mental health issues. The opening of BHU led to a promising reduction in the population on the third floor, which the County will continue to monitor and evaluate. In the month since BHU's launch, the IPs in the BHP have successfully had approximately eight hours out of their cells every day. The other two groups of IPs on 4West are out of their cells at least three hours per day.

The Sheriff's Office and Correctional Health Services are open to meeting with other criminal justice and community stakeholders, including the District Attorney's Office, Private

Defender Panel, judiciary, Behavioral Health and Recovery Services, and other groups dedicated to working on alternatives to incarceration, which may include mental health diversion, military diversion, veterans' treatment court, and other options. We have also been able to divert some IPs from criminal prosecution to conservatorships.

In your letter, you expressed concern about insufficient services for IPs with serious mental health needs who do not receive forced medication and who do not comply with treatment and/or acknowledge their diagnoses. We would like to discuss with you the types of programs you believe would best meet the needs of these IPs and are open to offering further programming for this population in the jails.


F. Documentation and Training

The Continuous Quality Improvement Committee (CQIC) includes representatives from CHS and the SO and meets monthly to review critical events, IP grievances, and ongoing improvement projects in the jails. The County agrees that written policies need to be confirmed, revised, or developed for the topics described above and that as much information as possible about these policies should be made accessible to IPs. As new and revised policies are developed, the SO and CHS will incorporate the information into employee training and make sure that staff are aware of the requirements.

The County does not necessarily agree with all the statements and observations documented in your letter and does not want the fact that we do not address all statements or characterizations in your letter to be taken as admissions that your descriptions are correct. We have tried to focus here on responding to your concerns with the objective of working cooperatively to improve the conditions and services at our jails, an objective to which the newly elected Sheriff is committed. The County looks forward to collaborating with Disability Rights California and the Prison Law Office to implement policies and practices that promote the health and safety of its entire incarcerated population.

Sincerely,

JOHN D. NIBBELIN, COUNTY ATTORNEY

By:  _____
Tara E. Heumann, Deputy