

**Murray, et al. v. County of Santa Barbara, et al.;**  
**Case No. 2:17-cv-08805**  
**Remedial Plan Third Status Report**  
**Terri McDonald Consulting LLC**  
**Sacramento, CA**  
**October 4, 2023**

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**Re: Third 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 third 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.

First, I want to thank the County, Sheriff's Department personnel, Wellpath personnel, incarcerated persons and counsel for the collective willingness to openly share observations, experiences, data and ideas. It is my opinion that, while difficult, all parties are committed to improving the jail system in Santa Barbara County.

The attached report will use three categories of compliance:

- **Substantial Compliance** – Indicates compliance with all or most components of the relevant provision of the Remedial Plan, and no significant work remains to accomplish the goal of that provision.
- **Partial Compliance** – Indicates compliance with some components of the relevant provision of the Remedial Plan, and work remains to reach Substantial Compliance
- **Non-Compliance** – Indicates non-compliance with most or all the components of the relevant provision of the Remedial Plan, and work remains to reach Partial Compliance.

As with prior reports, this report will document provisions of the Remedial Plan followed by a summation of the County’s Fourth Remedial Plan status report dated February 1, 2023, followed by the assessed compliance rating. Each provision will also have a section regarding policies, training, observations and recommendations.

This third 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 both the Santa Barbara Jail and Northern Branch Jail on December 12 - 14, 2022, and May 30 - June 4, 2023. 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 prior monitoring periods, 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 continues to focus on the reduction of incarcerated persons in administrative segregation and establishing behavioral health treatment units. The County also focused on policy revisions during this rating period, updating or submitting 63 policies for review. Because of these efforts, eight (8) provisions are recommended to discontinue monitoring and four (4) provisions raised from partial compliance in the last review period to substantial compliance.

Despite gains, three areas continue to hamper forward progress: Staffing challenges, lack of information technology (IT) solutions and insufficient compliance oversight and project management.

As mentioned in the last report, the County team responsible for implementing and auditing internal compliance with the Remedial Plan does not appear sufficiently resourced to adequately project manage an agreement as comprehensive and complex as this agreement, which impacts forward progress and the County internally monitoring compliance.

However, it is recognized that despite the challenges, the committed team continues to move projects forward. As a result of those efforts, the following areas sustained compliance from the last report and should be considered for discontinuation of official monitoring:

- III.F.7 Discipline may not inhibit delivery of treatment or adaptive supports.

- III.F.8 Discipline cannot be imposed for refusing treatment or medication
- VII.B.5 PREA screenings conducted in private
- VII.C.3 Deactivation of C7 and C8
- VII.C.4 Deactivation of South 1-16, West 18-29 and East 11-22
- VII.E.2 Limiting restrictions on out-of-cell time due to a disciplinary sanction.
- VII.E.4 Limitation on using safety cells as punishment
- VII.E.5 Limitation on the modification or denial of food as punishment

Three (3) provisions were non-compliant in the last rating period, have shown progress and are currently rated as partial compliance.

- II.N.5 Health Care review of grievances in quality management program
- III.D.6 Exclusion of seriously mentally ill in restricted housing
- VII.F.1 Conducting a mental health assessment prior to placing an incarcerated person in restricted housing

Additionally, only one (1) area was assessed as non-compliant but with a recognition that it should improve in the next reporting period:

- VII.C.2 Restricting suicide risk incarcerated persons from high risk cells.

One provision reduced from substantial compliance to partial compliance from the prior reporting period. However, this is associated with the Monitor's better understanding of the intent of the provision, rather than a backslide in momentum:

- VII.D.3 Normal hours for daily out-of-cell time.

The remaining provisions were previously rated as partial compliant and remain at partial compliant in this rating period. The County continues to show improvement but two 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. However, it is believed the County can show progress in those areas and maintain or improve the current compliance rating.

Despite good progress, there remain foundational barriers that require remedy, including but not limited to:

- Adequate staffing for custody and health care. There are insufficient custody and clinical staff working in the jails and the custody staffing challenge was compounded by the decision in the Sheriff's Department to reduce the mandatory overtime for custody staff and patrol officers working in the jails. During the last reporting period, custody staff were required to work 20 involuntary shifts during a 16 week rotation period and patrol deputies were required to work two (2) shifts during the same period. However, during this reporting period, the requirement was reduced to custody deputies working only 10 shifts and patrol working none during the 16 week period. There was no corresponding reduction in population or increase in new hires to offset this decision and the impact of the decision are showing through lack of out-of-cell time, lack of access to care escorts, delayed classification actions, insufficient compliance auditing, insufficient critical incident

assessments and inability for the custody team to address some of the most complex initiatives in a timely fashion. The County has subsequently increased custody mandatory overtime requirements, which will be discussed in the next rating period. A custody and health care staffing analysis continues to be critical for the County to develop a hiring plan to address the needs of the agreement. Absent that, the County will not meet the requirements of the most complex provisions.

- 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 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>1</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. 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.” To date, it does not appear that the County has been able to fully develop a comprehensive incremental plan to comply with Paragraph 11 but has recently stipulated an interim measure to modify the main yard at the Main Jail to be completed by mid-September 2024. 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.<sup>2</sup>

Respectfully Submitted,



**Terri McDonald**

Enclosure

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

<sup>2</sup> Language from second report.

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***Case No. 2:17-cv-08805***  
**Remedial Plan Third Status Report**  
**Terri McDonald Consulting LLC**  
**Sacramento, CA**  
**October 04, 2023**

The following are excerpts from the *Murray, et al. v. County of Santa Barbara, et al* Remedial Plan provisions (the “Plan”) assigned to Terri McDonald for monitoring. In the report, the specific provision language is followed the County’s February 1, 2023, Fourth Status report as well as the Expert’s findings, observations and 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                                | PC            | NC                       |
| <b>III.A.7</b>   | Policies and Procedures on De-escalation and role of MH in situations involving SMI          | PC            | PC                       |
| <b>III.D.6</b>   | SMI exclusion from Restricted Housing  | PC            | NC                       |
| <b>III.F.1</b>   | Qualified Mental Health Professional Role in Incarcerated Person Discipline                  | PC            | PC                       |
| <b>III.F.2</b>   | Develop Policies and Procedures for Mental Health Role in Discipline                         | PC            | PC                       |
| <b>III.F.4</b>   | Meaningful Consideration of Mental Health findings in Discipline                             | PC            | PC                       |
| <b>III.F.5</b>   | Meaningful Consideration to Minimize Deleterious Effects of Discipline                       | PC            | PC                       |
| <b>III.F.6</b>   | Documentation if Hearing Officer does not concur with clinical recommendations on discipline | PC            | PC                       |
| <b>III.F.7</b>   | Discipline Not to Prevent Deliver of Treatment or Adaptive Supports                          | SC - DC       | SC                       |
| <b>III.F.8</b>   | No Discipline for Refusing Treatment or Medication   | SC - DC       | PC                       |
| <b>III.F.9</b>   | Effective Communication and Reasonable Accommodation in Disciplinary Process                 | PC            | PC                       |
| <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                       |

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<sup>1</sup> NC – Non-Compliance, PC = Partial Compliance, SC = Substantial Compliance, SC-DC = Substantial Compliance, Recommend Discontinuation of Monitoring, UR = Un-ratable

| <b>Provision</b> | <b>Requirement</b>   | <b>Rating</b> | <b>Prior<sup>2</sup></b> |
|------------------|--|---------------|--------------------------|
| <b>IV.D.3</b>    | Sanitation of Safety Cells   | SC            | PC                       |
| <b>IV.G.1</b>    | Availability of Safety Equipment. Staff Training CPR   | SC            | PC                       |
| <b>IV.G.2</b>    | Monthly Inspection of Safety Equipment   | SC            | PC                       |
| <b>IV.G.3</b>    | Staff Response to Suicide Attempt  | SC            | SC                       |
| <b>VII.A.1</b>   | Housing Incarcerated Persons in Least Restrictive Environment                                    | PC            | PC                       |
| <b>VII.A.2</b>   | Incarcerated persons not to be placed in restricted housing based on mental health or discipline | PC            | PC                       |
| <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            | PC                       |
| <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            | PC                       |
| <b>VII.B.5</b>   | PREA screenings in private   | SC-DC         | SC                       |
| <b>VII.C.1</b>   | Addressing Structural Suicide Hazards  | PC            | PC                       |
| <b>VII.C.2</b>   | Restricting Suicide Risk Incarcerated Persons from High Risk Cells                               | NC            | NR                       |
| <b>VII.C.3</b>   | Deactivation of C 7 and C 8  | SC - DC       | SC                       |
| <b>VII.C.4</b>   | Deactivation of South 1-16, West 18-29 and East 11-22  | SC - DC       | SC                       |
| <b>VII.D.1</b>   | Minimum Out-of-Cell Hours  | PC            | PC                       |
| <b>VII.D.2</b>   | Northwest Out-of-Cell Hours  | PC            | PC                       |
| <b>VII.D.3</b>   | Normal Hours for Out-of-Cell Time  | PC            | SC                       |
| <b>VII.D.4</b>   | Develop System for tracking Out-of-Cell Time   | PC            | PC                       |
| <b>VII.D.5</b>   | Conduct Monthly Audits for Out-of-Cell Time  | PC            | PC                       |
| <b>VII.D.6</b>   | Mental Health Referral for Repeated Refusal for Out-of-Cell Time                                 | PC            | PC                       |
| <b>VII.E.1</b>   | Process for Disciplinary Restricted Housing Placement  | SC            | PC                       |
| <b>VII.E.2</b>   | Limitation on Disciplinary Restrictions for Out-of-Cell Time                                     | SC-DC         | PC                       |
| <b>VII.E.3</b>   | Restriction on Restricted Housing for More than 30 Days for Single Incident.                     | PC            | PC                       |
| <b>VII.E.4</b>   | Use of Safety Cells for Punishment Restriction   | SC-DC         | SC                       |
| <b>VII.E.5</b>   | Restriction on modification or denial of food as punishment                                      | SC-DC         | SC                       |

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| <b>Provision</b> | <b>Requirement</b>  | <b>Rating</b> | <b>Prior<sup>3</sup></b> |
|------------------|---|---------------|--------------------------|
| <b>VII.F.1</b>   | MH Review prior to placement in RH  | PC            | 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  | PC            | NC                       |
| <b>VII.F.8</b>   | Individualized Discharge Plan for Restricted Housing Population with Less Than 60 Days to Serve | PC            | PC                       |
| <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.3</b>   | Access to Daily Personal Phone Calls and In-Cell Activity Supplies                              | PC            | PC                       |
| <b>VII.H.1</b>   | Jail Capacity, Bed Assignment and Sight and Sound Separation                                    | PC            | PC                       |

### **Commonly Used Acronyms**

|             |                                |
|-------------|--------------------------------|
| <b>CIT</b>  | Crisis Intervention Training   |
| <b>HARP</b> | High Alert Risk Person         |
| <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         |

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## PROVISIONS

### II. F. Medical Care

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

#### County Response

This requirement is being met at the Northern Branch Jail as most visits are being completed in the treatment rooms attached to each housing unit. In the next six months, the County will also work on a MET Policy and will work with Wellpath to create a tracking mechanism to track medical appointments that were completed, missed, and rescheduled. The County anticipates completing this requirement by January 2024

**Compliance Rating:** Partial Compliance

**Prior Compliance Rating:** 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 remains unclear if there are sufficient custody staff to support access to care services. There is insufficient data to evaluate as the Medical Escort Team (MET) data is informative, but that data does not capture how many appointments the clinics scheduled, as not all clinical appointments are escorted by the MET team, and how many of those scheduled appointments were facilitated. For example, did the escort occur but the physician could not see the patient? The County has committed to improving medical appointment data to incorporate information from health care and commits this will occur by January 2024.

Despite requiring more advanced analysis regarding access to care data, it is clear during this rating period the number of escort staff assigned to the MET team at SBJ has diminished as have the number of appointments they are assigned to provide escort for. This would not be emblematic of a problem as there has been a reduction in population except medical and mental health staff report that they are not always able to meet their clinical mission due to lack of custody personnel to provide escorts or security coverage. To determine the overall need of both health care and custody, the County contracted for a staffing analysis, but the report did not provide adequate direction to the County regarding the number of clinical or custody personnel required. As a result, the staffing analysis remains in process.



Back in 2021, the County assigned two MET deputies seven days a week and began tracking escort statistics. Based on a review of MET tracking reports, it was noted that beginning in May 2022, the County began to reduce escort coverage and did not always provide two MET deputies. Because the population dropped, it may have been reasonable to reduce MET escort hours, so a comparison adjusting for population reductions was warranted. In adjusting for population, it appeared the appointments per incarcerated person also dropped starting in 2023, which could have been attributed to a reduction in MET deputies or clinical staff. Periods reviews, as reflected in the following charts, for 2021 and 2022 reflected approximately 15% of the SBJ population was escorted for a clinical appointment in a month. However, in the first six months of 2022, only 10% of the SBJ population was escorted for a clinical appointment. Wellpath leadership stated it was likely due to both clinical and custody vacancies but could not commit as a full review of the issue had not been conducted.

**MET Statistics SBJ  
August 2021-December 2021**

|                | <b>Escort Appointments</b> | <b>Seen</b> | <b>Refused</b> | <b>% Seen</b> | <b>% Ref</b> | <b>SBJ Population</b> | <b>Appt per Pop</b> |
|----------------|----------------------------|-------------|----------------|---------------|--------------|-----------------------|---------------------|
| <b>Average</b> | <b>105</b>                 | <b>86</b>   | <b>16</b>      | <b>82%</b>    | <b>16%</b>   | <b>697</b>            | <b>15%</b>          |

**July 2022-December 2022**

|                | <b>Escort Appointments</b> | <b>Seen</b> | <b>Refused</b> | <b>% Seen</b> | <b>% Ref</b> | <b>SBJ Population</b> | <b>Appt per Pop</b> |
|----------------|----------------------------|-------------|----------------|---------------|--------------|-----------------------|---------------------|
| <b>Average</b> | <b>81</b>                  | <b>67</b>   | <b>12</b>      | <b>83%</b>    | <b>15%</b>   | <b>540</b>            | <b>15%</b>          |

**January – June 2023**

|            | <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>                        |
|------------|--------------|-------------|------------|---------------|--------------|----------------|---------------------|--|
| Jan        | 17           | 12          | 5          | 71%           | 30%          | 427            | 4%                  | Only 5 days of MET. Only 1 Deputy      |
| Feb        | 61           | 42          | 15         | 69%           | 25%          | 438            | 14%                 | 2 Deputies                             |
| March      | 61           | 45          | 12         | 74%           | 20%          | 410            | 15%                 | Only 9 days MET. 1 day w 3 Deputies    |
| April      | 27           | 23          | 4          | 85%           | 15%          | 427            | 6%                  | 8 days MET. Most days only 1 Dep       |
| May        | 37           | 31          | 6          | 84%           | 16%          | 420            | 9%                  | 1 deputy 10 days. Second deputy 5 days |
| June       | 50           | 41          | 8          | 82%           | 16%          | 421            | 12%                 | 1 deputy 10 days. Second deputy 4 days |
| <b>AVE</b> | <b>42</b>    | <b>32</b>   | <b>8</b>   | <b>77%</b>    | <b>20%</b>   | <b>424</b>     | <b>10%</b>          |  |

In comparing July – December 2022 (Q3/Q4 2022) to January – June 2023 (Q1/Q2 2023), it is clear that MET support for escorts at SBJ have reduced substantially. For example:

- The average number of appointments per day has decreased from 81 per day to 42 per day – a 48% reduction.
- The number of refusals increased from 15% to 20%. This can reflect insufficient training for the MET staff, the MET staff being so busy that they accept a refusal and move to the next appointment, or for other reasons as there is no process where the incarcerated person signs a refusal slip to confirm.
- The percentage of incarcerated persons escorted for an appointment at SBJ went from 15% in Q3/Q4 2022 to 10% in Q1/Q2 2023.
- In comparing Q1/Q2 2023 to the 2021 data when the program began, the number of incarcerated persons seen went from an average of 32 per day in the first six months of 2023 versus the 2021 average of 86 incarcerated persons seen – a 68% reduction.

It is positive that the County established the MET teams and has continued to track actual escorts. However, due to staffing deficits, the County's ability to consistently staff the SBJ MET teams, as well as track outcomes of clinical appointments, is problematic.

As mentioned, the County requested an independent staffing assessment for health care services which made efficiency recommendations to improve the health care delivery system. However, that staffing assessment did not focus on custody staffing needs, redirection of deputies for off-site health care appointments/hospital, backlog of clinical care appointments or specific staffing needs to comply with the Remedial Plan. It is critical that a full scale and independent staffing assessment for custody escorts and transportation and health care staff be conducted.

During every tour since monitoring began, custody staff report being redirected from their assignment to assist with emergency medical transportation or hospital coverage. All staff report this on-going redirection of already limited staffing inhibits their ability to assist with routine medical care, much less structured or unstructured activities in the units. The County reports at NBJ that the clinical appointments are being met based on available staff in the units where clinical appointments occur; however, based on comments from both health care and custody staff, appointments are missed due to insufficient staffing in the units. The Mental Health Monitor experienced this when he asked to meet with a specific incarcerated person during the May 2023 tour at NBJ and staff were unavailable to assist and there was no apparent emergency occurring other than insufficient staffing.

This is a provision in peril of future non-compliance. The lack of transparency regarding which appointments are facilitated and which are missed is unacceptable as it is impossible for the County or the monitors to determine the overall need for escort staff. Additionally, during this rating period the Sheriff's department announced a reduction in involuntary overtime in custody, which further strained the system

but ultimately chose to increase overtime for custody deputies beginning in the next reporting period.<sup>4</sup> It is unclear how this reduction in available staffing impacted the overall agreement, but the decision at the time seemed to ignore the challenges of coming into compliance with this and numerous other provisions. It is recognized it is a difficult balance to support employee wellness through limited use of involuntary overtime against the needs to have adequate staffing to effectively operate the jails, but such decisions should not be made lightly or without deep analysis of the impact of such decisions.

Fundamentally the reduction in MET staff, the lack of a staffing analysis of custody staff needed to comply with the health care services staffing analysis and other Remedial Plan provisions, reduction of involuntary overtime without a corresponding reduction in population or workload, and lack of tracking regarding access to care are extremely troubling. If these issues do not begin to correct themselves in the next rating period, this provision could be rated as Non-Compliant as the County is regressing in this area. It is recognized that the Sheriff's Department reversed the decision on involuntary overtime reduction in custody and that may assist with increasing MET staffing in the future.

#### Recommendations:

1. \*<sup>5</sup>Wellpath to work with Santa Barbara Sheriff's Office (SBSO) and the Clinical Experts in creating a daily report of scheduled and missed clinical appointments. This should include both community and jail-based appointments and track the reason for the missed appointment.
2. \*Determine if offsite medical consultations can be contracted to provide services in the jails rather than in offsite facilities that requires transport of the patients.
3. \*Utilize an interdisciplinary team to address access to care barriers that have 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.
6. Reconsider the recent reduction in mandatory overtime and redirection of patrol staff in light of the negative impact on overall settlement agreement implementation.

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<sup>4</sup> Reportedly the overtime for custody staff will increase effective September 18, 2023, and will be addressed in the next report.

<sup>5</sup> Recommendations that begin with an asterisk (\*) were recommended in the Second Monitoring Report.

## **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

The County is in the process of fully implementing this requirement. By July 2023, the County and Wellpath will update Wellpath's Grievance Mechanism for Health Complaints Policy (A-10) and the Administrative Meetings and Reports Policy (A-4), to meet this requirement, including incorporating systematic review of prisoner grievances into the CQI process.

**Compliance Rating:** Partial Compliance

**Prior Compliance Rating:** Non-Compliance

**Policy -** Wellpath A-10 – Grievance Process for Health Care Complaints  
Wellpath A-04 – Administrative Meetings and Reports

**Training -** Disability Rights Remedial Plan Implementation

**Metrics** Quality Management Reports

### Observations

The County's healthcare provider, Wellpath, has not consistently implemented this provision but previously committed to improving during this rating period and has demonstrated an improvement. Despite not updating local policies, it is noted that Wellpath conducted a quality management review of grievances for the months of September 2022 through May 2023. Wellpath provided proof of practice in reviewing nine of twelve months from July 2022 through June 2023. This is a marked increase from the prior reporting period.

Because Wellpath has a history of and internal requirement to address grievances in a quality management program, it should not be an insurmountable project to complete the Wellpath policy updates and engage in systematic and consistent reviews of grievances to come into compliance with this provision in the next rating period. The reviews conducted during this rating period appear to meet quality expectations for grievance monitoring, but Wellpath must update their policies and demonstrate sustained compliance in the next monitoring period.

### 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.
4. \*Commit to monthly reviews to avoid future non-compliance findings.

### 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. In the next four months, the County will update the Custody Operations Mental Health Care Policy (section 241) and Cell Extractions Policy (section 320), and Wellpath's Mental Health Services Policy (F-3) to meet the requirements of this provision. The County anticipates completing this requirement by October 2023.

**Compliance Rating:** Partial Compliance

**Prior Compliance Rating:** Partial Compliance

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

**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 but has not done so during this rating period. Regardless, it is important to report that non-emergent use of force incidents reviewed during this period showed a substantial improvement in engaging mental health staff prior to use of force in controlled situations.

To assist with the assessment, the County provided a list of all use of force incidents from July 2021 – June 2023. 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 four (4) use of force incidents occurred during this period involving SMI incarcerated persons. Of those incidents, three (3) were cell extractions and the fourth started as a potential cell extraction but clinical and custody staff were able to convince the incarcerated person to exit the cell. However, once removed from the cell, the incarcerated person kicked staff while being escorted and force

was used to control him. Of the three (3) completed cell extraction incidents mental health was summoned to assist with de-escalation in two (2) of those incidents. There were no emergent incidents reported where there was insufficient time to summon behavioral health.

The chart below provides a limited overview of those incidents.

**Use of Force Involving SMI Population January-June 2023**

| <b>Date</b> | <b>IP</b> | <b>Report</b> | <b>Unit</b>   | <b>Location</b> | <b>Comments</b>   |
|-------------|-----------|---------------|---------------|-----------------|---|
| 1/3/23      | A.Z.      | 23-65         | SBJ<br>NWRH   | Cell            | Potential Cell extraction due to self-abuse with compliance prior to extraction. However, when out of cell kicked staff on escort. MH on site and assisting |
| 1/25/23     | T.V.      | 23-630        | SBJ –<br>NWRH | Cell            | Cell extraction. Emergent. Destroying cell. MH on site and assisting. Note - shared tactical concerns regarding chemical agent deployment                   |
| 1/26/23     | A.Z.      | 23-895        | SBJ –<br>NWRH | Cell            | Cell extraction. Emergent self-abuse. MH on site and assisting.   |
| 5/7/23      | J.B.      | 23-<br>4691   | SBJ-IRC       | Holding<br>Cell | Cell extraction for fingerprint. Not urgent. No MH staff on site to assist.   |

It is clear from reviewing videotape and the associated incident packages that the Use of Force and Cell Extraction practices improved during this rating period both for custody and clinical personnel. It is anticipated that the County and Wellpath can update local policies and provide training in this next rating period to reach Substantial Compliance assuming that health care staff are available and respond as needed to controlled use of force incidents, which may be the primary barrier when the policy and training are updated.

**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.
4. Ensure 24/7 mental health coverage to assist with de-escalation and crisis incidents.
5. Ensure all custody staff receive appropriate crisis intervention training (CIT).

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

5. 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

In Process. The County is working to develop specialized mental health units and the County will initiate a pilot program that maintains designated male and female mental health units with the requisite programming at each facility. By July 2023, the County will create a Restrictive Housing and update Custody Operations Inmate Classification Policy (section 301) and Bed Assignment Policy (section 305), the Objective Classification Plan and Housing Plans as well as Wellpath's Mental Health Services Policy (F-3) and Segregated Inmate Policy (G-2).

**Compliance Rating:** Partial Compliance

**Prior Compliance Rating:** Partial Compliance

**Policy -** Custody Operations Policy 301 – Inmate Classification  
Custody Operations Policy 305 – Bed Assignment  
Custody Objective Classification Plan  
Custody Housing Plan  
Wellpath F03 – Mental Health Services  
Wellpath G02 – Segregated Inmates

**Training -** Disability Rights Remedial Plan Implementation

**Metrics -** Restricted Housing Tracker Roster  
Restricted Housing Placement/Retention Forms  
Structured Activity Out-of-Cell tracker  
Modified Individual Treatment Plans  
Grievances  
Tours/Interviews

## Observations

In contrast to findings in the last report, the County has made excellent strides in developing specialized housing for the mental health population who were previously retained in restricted housing. Starting in March 2023, the Classification Unit began meeting with the restricted housing population and discussing the plan to rehouse the majority of the population into designated units where group out-of-cell or two-person out-of-cell time unrestrained would be authorized. In April 2023, the County began to convert various housing units to accommodate the new specialized units.<sup>6</sup> As of June 30, 2023, the restricted housing population had reduced to 51 incarcerated persons,<sup>7</sup> a substantial reduction from the 79 incarcerated persons in restricted housing unit on June 30, 2021, and the 66 restricted housing unit population on June 30, 2022.

While this is positive, the establishment of mental health stepdown units occurred previously and did not sustain due to Covid protocols and the behavioral health staff played no significant role in the programming of these units. However, this program is improved as the behavioral health staff will pilot mental health programming by July 2023 in SBJ Northwest Mod A and NBJ F. The program will further expand to NBJ J units and SBJ Northwest Mod C and D assuming that adequate resources can be allocated to operate a successful program.

Besides concerns about the County and Wellpath having adequate resources to operate meaningful behavioral health units, the challenge remains regarding the placement in restricted housing of incarcerated persons with SMI or behavioral health needs. As of June 30, 2023, according to the restricted housing roster, 94 percent of the incarcerated persons in restricted housing were behavioral health clients, which is evident to the layperson during tours. While the provision does permit, in unusual circumstances, the placement and retention of SMI in restricted housing, the County and Wellpath have not yet engaged in meaningful multidisciplinary planning for this population. As of June 15, 2023, there were at least four (4) SMI incarcerated in the identified restricted housing units<sup>8</sup> and none of these incarcerated persons had a meaningful modified individual treatment plan and none were receiving specialized in cell or out-of-cell programming. There are also concerns about the under identification of SMI populations in the restricted housing units which will be further explored with the County and the Mental Health Expert in the next rating period.<sup>9</sup> Finally, the documentation for on-going justification for a SMI incarcerated person's retention in restricted housing has not been refined or codified in policy.

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<sup>6</sup> SBJ Northwest A, C and D pods; NBJ F and J pods

<sup>7</sup> The County reports the restricted housing population as of June 30, 2023, to be only 18 persons but the operations and limited out-of-cell opportunities in New East ISO and IRC 100 require the monitor consider those units as restricted housing also, bringing the total to at least 51 incarcerated persons housed in a restricted housing setting. It is also believed the number may be higher as IRC 400 may also have restricted housing populations in the unit. See Provision VII.A.1 for additional information.

<sup>8</sup> NBJ – A.C; SBJ – J.M., R.P and I.V.

<sup>9</sup> Based on information concerning multiple use of force incident and safety cell placements of restricted housing incarcerated persons not on the SMI rosters.



The Mental Health and Custody Experts will work with Wellpath and the County in the next rating period to assist in ensuring documentation of the rationale for placement and/or retention of an SMI in restricted housing is complete and that a Modified Individualized Treatment Plan is developed and adhered to.

#### Recommendations

1. \*Implement the pilot specialized mental health units and update associated policies, forms and training.
2. \*Expand the programming provisions of pilot specialized mental health units to all specialized mental health units.
3. \*Refine process to track structured out-of-cell activities.
4. \*Develop a restricted housing program policy
5. \*Update all associated classification policies to comply with provision.
6. \*Update all associated Wellpath policies, in partnership with the Mental Health Expert, to comply with this provision.
7. \*Continue to provide proof of practice in relationship to:
  - i. Restricted housing roster tracking systems
  - ii. Restricted housing placement/retention documentation
  - iii. Structured activity tracking systems
  - iv. Modified individual treatment plans for SMI incarcerated persons placed in restricted housing.

#### **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.

#### County Response

In Process. The County currently considers mental health input informally and in the next six months, the County will pilot a program at Northern Branch Jail to ensure that Mental Health input is obtained prior to discipline. The County will create the appropriate forms, policy, and training thereafter. The County created a Rules Violation Mental Health Review Form to allow mental health staff input in the disciplinary process. The County has updated the Custody Operation Inmate Discipline Policy (section 363) to meet this provision. In the next six months, the County will update the Custody Operations Mental Health Care Policy (section 241) and Wellpath will update the Mental Health Services Policy (F-3), Segregated Inmate Policy (G-2), and Medical Diets Policy (D-5) to meet the requirements of this provision.

**Compliance Rating:** Partial Compliance  
**Prior Compliance Rating:** Partial Compliance

**Policy -** Custody Operations Policy 363 – Inmate Discipline – Pending Completion  
Custody Operations Policy 241 – Health Care – Pending Completion  
Wellpath Health Services Policy – F3 – Requires Update  
Hearing Worksheet Forms – Pending Completion

**Training -** Disability Rights Remedial Plan Implementation

**Metrics** Completed Policies and associated forms

#### Observations

The County continues to refine the process for clinical feedback during the incarcerated person disciplinary process albeit it was anticipated in the last monitoring report that the disciplinary provisions would be fully codified in policy and practice by this rating period. Unfortunately, as recognized in many provisions, there is simply insufficient bandwidth amongst the leadership team to implement all of the necessary reforms in unison, so continued progress has been the goal with the disciplinary policy and practices.

During this rating period the County began the process of updating the Inmate Disciplinary Policy (#363) as well as creating new forms to be used in the disciplinary process:

- Hearing Officer Worksheet – Form 363B
- Mental Health Review Form – Form 363C
- Staff Assistant Worksheet – Form 363D

During this rating period, the County began to pilot the Mental Health Review form at NBJ to assess the process. The County elected to conduct the pilot prior to completing the necessary revisions to the disciplinary policy, which is a reasonable approach. Based on the improved processes for receipt of clinical feedback realized during the pilot,<sup>10</sup> it is anticipated the County and Wellpath can update all policies, forms and training during the next monitoring period and reach Substantial Compliance on this provision. The Remedial Plan Experts and class counsel must have the opportunity to review and provide input before these forms and processes are finalized and fully rolled out.

#### Recommendations

1. \*Complete the draft disciplinary policy, and necessary forms, for both Custody and Wellpath. Ensure the Mental Health Expert is involved, giving the Remedial Plan experts and class counsel the opportunity to review and provide input before finalizing.
2. \*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.
3. \*Provide training to assigned clinicians and hearing officers.
4. \*Continue to refine internal tracking on the process, including quality review and quality assurance.

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<sup>10</sup> Further discussed in Provisions III.F.4 and III.F.5

5. \*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

2. The County shall develop policies and procedures on the consideration of mental health input in the disciplinary process.

#### County Response

Refer to status documented in Provision II.F.1

**Compliance Rating:** Partial Compliance

**Prior Compliance Rating:** Partial Compliance

**Policy -** Custody Operations Policy 363 – Inmate Discipline – Pending Completion  
 Custody Operations Policy 241 – Health Care – Pending Completion  
 Wellpath Health Services Policy – F3 – Requires Update

**Training -** Disability Rights Remedial Plan Implementation

**Metrics** Completed Policies  
 Completed Forms

Observations and Recommendations

Refer to Observations in Provision II.F.1

### 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.

#### County Response

In process. Please see response to III.F.1.2. Additionally, the back of the clinical Review Form includes a section entitled “Lt. Override” for documenting when mental health input is not followed as well as the reason for such override. Once the form is approved, training will be provided prior to implementation.

**Compliance Rating:** Partial Compliance

**Prior Compliance Rating:** Partial Compliance

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

**Training -** Disability Rights Remedial Plan Implementation

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

#### Observations

As mentioned, the County implemented a process for clinical input in the disciplinary process. When the County and Wellpath initially began the process of providing clinical feedback, clinical feedback occurred **after** the hearing. Additionally, that feedback was not documented in a standardized manner. However, by early May 2023, the County and Wellpath instituted the utilization of a standardized form to improve the receipt of clinical feedback prior to the disciplinary hearing.

As stated, the County selected NBJ to begin the pilot program which is progressing. At NBJ, when a disciplinary report is authored, custody staff review the jail management system to determine if the incarcerated person is a behavioral health client or cognitively disabled. If the incarcerated person has a special conditions flag in custody’s jail management system reflecting they are a behavioral health client or are cognitively disabled, the custody staff request that the mental health clinician complete a standardized form to provide guidance to the hearing officer concerning the impact the person’s disability may have had on the behavior as well as to provide guidance on potential disciplinary sanctions. This form, Mental Health Review Form 363C, is then completed by a mental health clinician and considered by the hearing officer prior to adjudicating the disciplinary action and the form becomes a permanent record in the disciplinary report. While SBJ is not yet utilizing this form, the hearing officers are receiving feedback from a clinician during the hearing process as noted on the disciplinary worksheet.

While not consistently applied during this monitoring period, it is positive that the process continues to improve with the clinicians providing feedback on the identified serious mentally ill and intellectual disability populations in an average of 88% of the adjudicated disciplinary reports for the first six months of 2023. This is a marked improvement from 2022 where the clinician provided feedback in only 36% of the disciplinary adjudications<sup>11</sup>. It is also noted that clinical staff are providing feedback regarding

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<sup>11</sup> Refer to Attachment A.

behavioral health incarcerated persons who are not designated SMI,<sup>12</sup> but a process to track outcomes from the hearings of that larger population has not yet been developed.

The hearing officer, to date, has accepted and concurred with the clinician when there is a recommendation to mitigate the disciplinary report. While it will likely be rare based on the historical concurrence of the hearing officer, the hearing officer disposition worksheet has been updated to provide a reminder that the reason for non-concurrence must be clearly documented. Training will also reinforce the utilization and documentation requirements of standardized hearing officer worksheet.

Once the County is able to ensure that the mental health clinician provides guidance **prior** to the adjudication of disciplinary reports for all designated classifications and updates all associated policies, forms and training, the County should reach substantial compliance.

#### Recommendations

1. Refer to recommendations in Provision II.F.1

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

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.

#### County Response

In process. Please see response to III.F.1.2. Additionally, the back of the clinical Review Form includes a section entitled "Lt. Override" for documenting when mental health input is not followed as well as the reason for such override. Once the form is approved, training will be provided prior to implementation.

**Compliance Rating:** Partial Compliance

**Prior Compliance Rating:** Partial Compliance

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

**Training -** Disability Rights Remedial Plan Implementation

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<sup>12</sup> Examples: January 2023 SBJ: 31417, 31424, 31480, 31491, 31497, 31501, 31506; March 2023 NBJ 31696, 31698, 31699, 31700, 31701, 31711

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

Observations and Recommendations

Refer to Provision III.F.5.

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

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

In process. Please see response to III.F.1.2. Additionally, the back of the clinical Review Form includes a section entitled “Lt. Override” for documenting when mental health input is not followed as well as the reason for such override. Once the form is approved, training will be provided prior to implementation.

**Compliance Rating:** Partial Compliance

**Prior Compliance Rating:** Partial Compliance

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

**Training -** Disability Rights Remedial Plan Implementation

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

Observations

To date, the hearing officer has concurred with the clinical recommendations in all instances where the clinician recommended mitigation of the disciplinary finding and/or any sanctions. Therefore, there has been no ability to assess the hearing officer’s decision to override the clinician’s recommendation, but the hearing officer worksheet, once utilization begins, has a section that requires justification should that occur. Monitoring will continue in the next rating period to assess compliance, policy and training

revisions and the hearing officers' understanding of this mandate. It is essential that the mental health clinician provides guidance **prior** to the adjudication of disciplinary reports and imposition of sanctions.

#### Recommendations

1. Refer to recommendations in Provision II.F.1

### 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

In process. The County is presently meeting this provision. This provision has been incorporated into the Custody Operations Inmate Discipline Policy (section 363), which is pending approval, prior to training and implementation. The County anticipates completing this requirement in the next six months.

**Compliance Rating:** Substantial Compliance

**Prior Compliance Rating:** Substantial Compliance

**Policy -** Custody Operations Policy 363 – Inmate Discipline – Requires Update

**Training -** Disability Rights Remedial Plan Implementation

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

#### Observations

A review of disciplinary reports for the period of August 2022 through June 2023 fails to uncover disciplinary actions for refusing treatment, medication or engaging in self-abuse. It was noted that two incidents were written up since the last report concerning self-abuse<sup>13</sup> but neither resulted in a disciplinary action and were instead documented for information purposes only. During the last report, a recommendation to consider the discontinuation of monitoring this provision occurred and the County continues to maintain compliance during this rating period. Recommend discontinuation of monitoring of this provision.

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<sup>13</sup> 31514 January 2023, 31743 February 2023

Recommendations

1. Continue to comply with current policy.
2. Recommend discontinuation of monitoring this provision.

**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

In Process. The County is presently meeting this provision. This provision has been incorporated into the Inmate Discipline Policy (section 363), which is pending approval, prior to training and implementation. The County anticipates completing this requirement in the six months.

Expert Review

**Compliance Rating:** Substantial Compliance  
**Prior Compliance Rating:** Substantial Compliance

**Policy -** Custody Operations Policy 363 – Inmate Discipline – Pending Completion

**Training -** Disability Rights Remedial Plan Implementation

**Metrics** Disciplinary Logs  
 Individual Disciplinary Reports  
 Grievances

Observations

The related policies have been updated and staff have been trained in the expectation. Disciplinary logs and individual disciplinary reports have been provided for monitoring. In reviewing disciplinary logs and reports for the first six months of 2023, no incarcerated persons received a disciplinary action specifically for refusing treatment or medications. As with the previous report, there were several disciplinary reports related to hoarding, cheeking or throwing medications, which is not prohibited by the Settlement Agreement.<sup>14</sup> There were no grievances noted during this rating period concerning this issue.

It is clear from interviewing staff, reviewing disciplinary logs and grievances and talking to incarcerated persons, that the staff do not issue disciplinary reports for refusing treatment or threatening or engaging in

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<sup>14</sup> Cheeking: 30697 – July 2022, 30879– September 2022; Hoarding: 31614 – February 2023; Other IP meds 31527 – January 2023; Throwing: 30535 – January 2023



self-injurious behavior. The County has demonstrated Substantial Compliance, and it is recommended that monitoring be discontinued for this provision absent additional information concerning non-compliance.

#### Recommendations

1. Continue to comply with current policy.
2. Recommend discontinuation of monitoring this provision.

### 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.

#### County Response

In Process. This provision has been incorporated into the Inmate Discipline Policy (section 363), which is pending approval, prior to training and implementation. The County anticipates completing this requirement in the next six months.

**Compliance Rating:** Partial Compliance

**Prior Compliance Rating:** Partial Compliance

**Policy -** Custody Operations Policy 363 – Inmate Discipline – Requires Update  
Custody ADA Policy 209 – ADA – Requires Completion  
Wellpath F-03 – Mental Health Services – Requires Update

**Training -** Disability Rights Remedial Plan Implementation  
TBD

**Metrics** IDR Tracking Log  
Individual IDRs  
Grievances

#### Observations

The County has struggled to implement this aspect of the disciplinary provisions but has improved the identification of those who may need effective communication support. Currently the County has a tracking report for disciplinary hearings and is tracking who requires effective communication, translation and staff assistance. However, the County has not yet ensured that staff assistance is provided as required, fails to document the provision of effective communication and consistently fails to document necessary translation for non-English speaking incarcerated persons during the hearing process.

To address and help guide the hearing officers, the County has developed various worksheets to inform the process. A Hearing Officer worksheet (Form 363B) has been created to guide the hearing officer to ensure, when required, that staff assistance or translation services are provided prior to and during the hearing. This form is also designed to help guide the hearing officer documenting the manner in which effective communication was facilitated during the hearing. The assigned staff assistant will also use a worksheet (Form 363C) to document their support and the method for effective communication. It is anticipated the hearing officer worksheet and staff assistant worksheets will begin the pilot process during the next monitoring period. This will include training staff regarding the role of a staff assistant and utilizing effective communication techniques.

The one worksheet that has been utilized during this rating period, the Mental Health Worksheet (Form 363D), also has a section to document effective communication. However, to date, the clinician has been making recommendations based on file reviews and discussions with the treating clinician, so there is no communication with the incarcerated person during the assessment process. The Mental Health Expert will review this more thoroughly in the next reporting period.

Based on reviews of the disciplinary hearing logs, during the first six months of 2023,<sup>15</sup> the hearing officer has failed to document effective communication in all hearings, no staff assistants have been assigned and translation services were documented in only 16% of the hearings with non-English speaking incarcerated persons. It is anticipated with the implementation of the hearing officer worksheet the processes will improve and future reports will demonstrate greater compliance with the provisions of adaptive supports. It is anticipated that the training and assignments of staff assistants as well as the hearing officer documenting effective communication will begin in the next rating period.

#### Recommendations

1. See recommendations in Provision III.F.1.
2. \*Finalize the Hearing Officer Worksheet and pilot utilization
3. \*Work with the Experts to develop Staff Assistant training and pilot utilization of the Staff Assistant worksheet.
4. \*Train the hearing officers concerning documentation of the provision of effective communication in the hearing process.
5. \*Train the hearing officers concerning documentation of the provision of translation services.
6. \*Update the disciplinary log to ensure that it is understood that SMI populations require effective communication documentation and staff assistance.
7. Work with the ADA Expert to finalize the ADA Policy 209.

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<sup>15</sup> Refer to Attachment B

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

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

In Process. This provision has been incorporated into the Inmate Discipline Policy (section 363), which is pending approval, prior to training and implementation. The County anticipates completing this requirement in the next six months.

**Compliance Rating:** Partial Compliance

**Prior Compliance Rating:** Partial Compliance

**Policy -** Custody Operations Policy 363 – Inmate Discipline – Requires Update  
Wellpath F-03 – Mental Health Services – Requires Update

**Training -** Disability Rights Remedial Plan Implementation

**Metrics** IDR Tracking Log  
Individual IDRs  
Grievances

Observations

Refer to Provision III.F,9

Recommendations

1. Refer to Provisions III.F.1 and III.F.9.
2. \*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.
3. \*Working with the Experts, update associated policies, training and forms.
4. \*Create a flag mechanism in the Jail Management System that notifies the hearing officer when  
\*assistance is required and of any effective communication needs.
5. \*Provide training to hearing officers and clinicians.
6. \*Update disciplinary forms to meet the requirements of the provision.
7. \*Coordinate with Mental Health and ADA Experts on policies, training, tracking and forms.
8. \*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

In process. In the next six months, the County will work on piloting a program at Northern Branch Jail to ensure that Mental Health input is obtained before disciplinary board review. This pilot will include designation of a supervisory-level custody staff responsible for the requirements of this provision. The County will determine the process and create the appropriate forms, policy, and training thereafter.

**Compliance Rating:** Partial Compliance

**Prior Compliance Rating:** Partial Compliance

**Policy -** Custody Operations Policy 363 – Inmate Discipline – Requires Update  
Wellpath F-03 – Mental Health Services – Requires Update

**Training -** Disability Rights Remedial Plan Implementation

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

#### Observations

As reflected in the prior report, a Commander has assumed the role of supporting the hearing officers and Wellpath staff by updating policies and working with experts. But that Commander is simply insufficient as he is responsible for overseeing a jail and has taken on the role of all policy revisions associated with the Settlement Agreement.

It cannot be overstated that the County has not invested adequate support and resources to implement and sustain reform in the system. The supervisors and managers are pulled in so many different directions, including being redirected to cover vacancies, that projects do not reach completion and internal monitoring is virtually non-existent. There are also insufficient staff members developing the necessary knowledge and expertise and being provided with the necessary resources to support and successfully complete Remedial Plan implementation. Staff members working on this effort simply have too many projects and cannot specialize. The tyranny of the urgent and divergent responsibilities have severely hampered bringing this project and many others to completion. There are not enough supervisors to project manage the critical changes needed but that is a symptom of a more serious issue that the jails appear understaffed at every

level, so pulling the few sergeants the jails working inside to engage in special projects is a difficult balancing act.

If the County fails to identify adequate resources to ensure the implementation of the disciplinary procedures and on-going monitoring and training of the new policies in a manner that does not then inhibit other provision compliance, this provision will be downgraded to non-compliance 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>16</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

Completed. The County incorporated this requirement into the Custody Operations Safety Cell Policy (section 304) and developed a training plan to address this requirement. Supervisors are also monitoring the sanitation of safety cells and are enforcing this policy with subordinates. At the recommendation of the Custody Operations Expert, in the next three months, the County will update Custody Policy 304 – Safety Cells, to identify the individuals responsible for safety cell sanitation.

**Compliance Rating:** Substantial Compliance

**Prior Compliance Rating:** Partial Compliance

**Policy -** Custody Operations Policy 304 – Use of Safety Cells

**Training -** Disability Rights Remedial Plan Implementation  
Safety Cell Cleaning PowerPoint

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<sup>16</sup> This would include development of a comprehensive project plan, policy and training development resources, auditing and internal compliance monitoring.

**Metrics**      Safety Cell Placement Forms  
                    Grievances  
                    Tours

### Observations

The County has updated policies, forms and training to make clear to staff the expectation that the safety cells are cleaned after every use and that the sewer grate is clear of rubbish. The safety cell logs have been updated to require staff to personally document the cleaning of the safety cells. Signage has been placed on the outside of safety cells to document cleaning. A review of safety cell logs for July through December 2022 reflects that 100% of the observation logs have a signature of staff who certified the cells were cleaned.

During tours in December 2022 and May 2023, the safety cells were inspected and met general expectations for cleanliness. No grates were noted with trash or standing dirty water. There was no trash in the cells and the floors and walls were generally free of debris. The County must continue to work to sanitize the cells to address odors but that will be an on-going issue. Additionally, a review of safety cell logs for placements longer than 24 hours does not reflect cleaning or trash removal, an area that could be improved to demonstrate compliance.<sup>17</sup>

The County has shown good efforts to anchor expectations in policies, training and documentation. It is recommended that this provision go through one more round of monitoring to determine the ability to finalize policy updates, maintain current standards and if that occurs, a recommendation will be made in the next report to discontinue monitoring.

### Recommendations

1. \*Continue to monitor that staff are documenting on observation logs the safety cells are cleaned prior to occupancy.
2. \*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.
3. \*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.

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<sup>17</sup> Exception NBJ A.R.R November 18, 2022, safety cell log.

#### 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.

##### County Response

Completed. The County has placed emergency response bags in areas adjacent to all housing areas within both facilities. Wellpath provided training to custody staff on the location and equipment provided within the Emergency Response Bags in September and November of 2022. The County has developed Custody Operations Emergency Response Equipment Policy (section 227) to incorporate this requirement. The emergency response bags are inventoried weekly by Wellpath personnel and logged accordingly. The County audits emergency response equipment at least monthly and maintains service logs at each facility.

**Compliance Rating:** Substantial Compliance

**Prior Compliance Rating:** Partial Compliance

**Policy -** Custody Operations 227 – Emergency Response Equipment – Awaiting Approval

**Training -** Disability Rights Remedial Plan Implementation  
Wellpath Training

**Metrics** 24 Hour Post Recap Report  
Monthly Inspection Logs  
Wellpath Weekly Inventory Sheets  
Tours  
Interviews

##### Observations

The County developed a policy to comply with this provision and that policy has been reviewed and is awaiting final approval. The County maintains first aid kits, AED devices, and suicide cut down tools throughout both facilities. Staff interviewed routinely knew where to find the equipment and all had suicide cut down tools on their person or knew where the cutdown tools were located on the unit. Wellpath provided refresher training to Custody staff on the location of emergency equipment in September and November 2022. Custody and Wellpath staff received annual training on CPR and first aid during this rating period.

The County has a method for staff to document equipment items available on housing unit posts when staff conduct their daily inventories via the 24-Hour Post Recap report (fire extinguishers, self-contained breathing apparatuses and Narcan) and sample copies of those recaps were reviewed and were complete.

The SBSO also conducts a monthly inventory of fire extinguishers<sup>18</sup> and weekly inventories of first aid equipment/supplies by the Wellpath staff. Copies of those inventories and daily inventories were provided for review.

The County and Wellpath have made good strides on this provision but monitoring for compliance with the new policy is recommended for one more review period to ensure the policy is finalized and systems in place sustain, particularly the Wellpath weekly audit of available medical equipment and supplies.

#### Recommendations

1. Finalize Policy 227 – Emergency Response Equipment
2. \*Sustain compliance with policy regarding inventory and availability of emergency response equipment (fire suppression, first aid, AED, cutdown tools, etc.).
3. Conduct internal monthly audits for compliance.
4. \*Ensure newly hired Custody and Wellpath staff continue to be trained in utilization and location of equipment.
5. \*Continue to provide proof of practice for compliance.

#### IV. G. Emergency Response

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

Completed. The County has placed emergency response bags in areas adjacent to all housing areas within both facilities. Wellpath provided training to custody staff on the location and equipment provided within the Emergency Response Bags in September and November of 2022. The County has developed Custody Operations Emergency Response Equipment Policy (section 227) to incorporate this requirement. The emergency response bags are inventoried weekly by Wellpath personnel and logged accordingly. The County audits emergency response equipment at least monthly and maintains service logs at each facility.

**Compliance Rating:** Substantial Compliance

**Prior Compliance Rating:** Partial Compliance

**Policy -** Custody Operations 227 – Emergency Response Equipment – Awaiting Approval

**Training -** Disability Rights Remedial Plan Implementation  
Wellpath Training

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<sup>18</sup> Refer to Sabot report for additional information on fire extinguishers and fire response equipment



**Metrics**            24 Hour Post Recap Report  
                          Monthly Inspection Logs  
                          Wellpath Weekly Inventory Sheets  
                          Tours  
                          Interviews

Observations and Recommendations

Refer to Provision IV.G.1

#### **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

Completed

**Compliance Rating:**            Substantial Compliance  
**Prior Compliance Rating:**    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 for all medical emergencies, including serious suicide attempts. A review of all known serious injuries, suicide attempts and medical emergencies occurring during this rating period demonstrate that the Custody and health care staff work quickly together to provide aid. The custody staff routinely show up to emergencies with the AED and often the first aid kit. Medical staff arrive with first aid kits, gurneys and frequently oxygen. All responses reviewed to date have been timely with an apparent sense of urgency from the staff.

A review of first aid/CPR training demonstrates the training is up-to-date and the training is a routine requirement for both custody and health care personnel. The Custody staff all have cut down tools on their persons and since the last report, Narcan has been installed in all NBJ housing units and the custody staff have been trained on how and when to administer Narcan as have the occupants of several of the housing units.

The County is in Substantial Compliance with this provision, but the recommendations below support on-going compliance and proof of practice for at least one more monitoring period.

#### 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>19</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 is in the process of a phased approach to complete preliminary tasks related to this provision including completion of a classification validation study, improvement in restricted housing practices and creating specialized mental health units.

**Compliance Rating:** Partial Compliance

**Prior Compliance Rating:** 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

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<sup>19</sup> Note also required in Provision IX.8

## Observations

The County has made progress on this provision during this rating period. The County contracted for a classification validation study which should assist with reviewing the currently utilized classification tools to determine if the population are being placed in the lowest appropriate level at intake and during routine intervals through a reclassification system. It is anticipated a draft report will be available in the next reporting period to determine the next steps.<sup>20</sup>

The County also expanded the mental health step down units during this rating period and continued to implement a reduction in restricted housing during this rating period. The County maintained the closure of the following restricted housing units since the last report:<sup>21</sup>

### SBJ

- East, West and South restricted housing units (housing units closed)
- Northwest restricted housing upper tier (housing designation modified to house inmate-workers only)

### NBJ

- A Pod (housing designation modified to operate as a general population behavioral health unit, housing incarcerated persons previously in restricted housing)

The County reflects the only restricted housing operated as of June 2023 is NBJ F and K Units and SBJ's Northwest Restricted housing. However, it is believed that SBJ's New East Isolation Unit, IRC 100 and IRC 400 were also operating as restricted housing populations due to limited out-of-cell time, programming and access to other incarcerated persons and staff. The county does not consider those housing units restricted housing due to the fact the inhabitants engaged in out-of-cell time with another person and have been focusing on increasing out-of-cell time to four hours per day in these units. While moving in the right direction, the County did not demonstrate consistent compliance with the transformation during this rating period and should have identified the population housed in those units as restricted housing and provided all services and supports required for that population, which did not occur.

The County has done a good job of identifying the restricted housing population who are able to program in a dayroom or recreation yard with one other person and has housed some of these people in New East ISO and IRC 100/400. In doing so, the County has called these units the "Walk a pair unit" due to the fact the incarcerated person can program with another person. However, just because an incarcerated person programs with one or more persons, does not make a unit a non-segregation unit. As currently operating, these units remain segregation due to the limited out-of-cell opportunities, lack of programming options and extreme restrictive nature of the units. The County must either expand programming in these units or comply with the policies on due process related to restricted housing and medical and mental health rounds.

The restricted housing population has reduced but the total population is difficult to measure until the program concerns regarding SBJ's New East restricted housing and IRC 100/400 are addressed. It is

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<sup>20</sup> Refer to Provision VII.B.1.

<sup>21</sup> In July 2023, NBJ F Unit had no female restricted housing occupants.

anticipated the discrepancies will be resolved by the Fall 2023 but for the purposes of this report, the reduction in population will be demonstrated with and without the IRC and New East ISO.

The following depicts the reduction over time in the County’s restricted housing population.

**Restricted Housing Population June 2021 to June 2023**

| <b>June 2021</b>   | <b>June 2022</b>                                   | <b>June 2023</b>                                     |   | <b>Difference June 2021 to June 2023</b>   |   |
|--|--|--|---|--|---|
| SBJ –<br>East ISO<br>West ISO<br>NE ISO<br>South ISO<br>NWRH | SBJ –<br>NE ISO<br>NWRH<br><br>NBJ –<br>A, F, J, K | Designated<br><br>SBJ -<br>NWRH<br><br>NBJ –<br>F, K | Additional<br><br>SBJ –<br>IRC 100<br>New East ISO<br><br>NBJ – No additional | Based on County<br>designation of restricted<br>housing units (SBJ NWRH<br>and NBJ F and K Units | Include New East ISO and<br>IRC 100 as restricted<br>housing. <sup>22</sup> |
| 79   | 66   | 18   | 33  | -61 total (-77%)   | -28 total (35%)   |

**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 as have been piloted in this monitoring period.
3. \*The County should also establish and formalize a 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. This may occur following completion and with the guidance of the forthcoming classification review/validation analysis, discussed below.
4. The County must address the program models in SBJ New East ISO unit, IRC 100 and IRC 400.

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<sup>22</sup> The total RH population was likely higher due to potential RH incarcerated persons housed in IRC 400.

## 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 and has been providing increased programming. The Classification is conducting consistent reviews and rehousing of the restricted housing population and will work to refine the restricted housing tracking system.

**Compliance Rating:** Partial Compliance

**Prior Compliance Rating:** 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

The County continues to show progress in providing alternative housing to restricted housing for the mentally ill population. It is positive to report that as of June 2023, there were no females in restricted housing in the Santa Barbara jail system. This is an incredible accomplishment and should be commended, if accurate, as it has been noted that males live in administrative segregation conditions, but the units and the inhabitants are not listed as restricted housing units. While the actions with the female population have been incredible, nearly 100 percent of male incarcerated persons housing in restricted housing continue to be behavioral health clients.

To reduce reliance on restricted housing for the mentally ill, the County has designated two units, SBJ NW A Mod and NBJ F Pod as the first two behavioral housing units (BHUs) operating in the system. These

two units assign a dedicated clinician and well trained and consistent deputies to work together in creating a therapeutic environment which is supported by programming provided through the Sheriff's Treatment Program (STP). The program in these units began July 3, 2023, and is further described in the Mental Health Expert's report. The County intends to expand the BHU programming to SBJ NW Mod C and Mod D units and SBJ J Pod. The expansion to NBJ J pod is planned for November 2023 and the SBJ expansions are scheduled for early 2024.

The County is commended on the work to date to transition all female and many of the male people with mental illness out of restricted housing into clustered housing units, but the majority of the population retained in restricted housing are complex and their challenging behaviors are best addressed through a clinical management plan in a highly structured and controlled unit, not suppressed through restricted housing. The County is moving in the right direction, but tangible and sufficient resources and support will be needed to comply with this provision and transition individuals with mental illness and complex case factors into structured therapeutic settings.

During this next rating period, the County is encouraged to collaborate with the Joint Experts to strategize how to create non-segregation units with the population housed in SBJ's NW ISO and IRC 100/400 units. Creating a non-segregated but highly controlled unit for a percentage of this population should be the next step after the County and Wellpath refine the newly opened Behavioral Health Units. These units will create options to begin to transition a percentage of the male restricted housing populations currently housed elsewhere in the system, similar to the actions taken with the female population.

#### Recommendations

1. \*Continue to expand 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 has updated policies and is developing a restricted housing policy and will complete all associated policies during the next reporting period.

**Compliance Rating:** Partial Compliance

**Prior Compliance Rating:** Partial Compliance

**Policy -** Custody Operations Policy 301 – Classification  
Custody Operations Policy 306 – Restricted Housing – Pending

**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 struggle with proof of practice associated with this provision. The County updated the Classification Policy to require written notification at intake and a subsequent restricted housing review at least every 30 days. The County also began a complex case committee, referred to as the High Alert Risk Person (HARP) committee, to discuss individual classification actions with custody and mental health serving as members of the committee.

During this rating period, the County updated the restricted housing placement forms and has improved documentation on the forms provided for review. The County also continues to maintain a daily restricted housing tracking system until such a time the jail management system can generate a list of the population. However, monitoring this provision has been difficult due to lack of proof of practice in documenting the original reason for placement or timely review of on-going retention. Because the County has been unable to provide 100% of the placement/retention justifications for the periods requested, it is impossible to rate this provision higher than partially compliant. It is also believed that the Classification deputies have been

redirected to cover critical vacancies, inhibiting their ability to conduct timely and meaningful reviews of segregated placements and keep the restricted housing log tracker up to date for internal tracking.

If the County could create a restricted housing policy and ensure consistent proof of practice on initial and timely reviews for restricted housing placement, the County could reach substantial compliance in the next rating period. However, it is believed the lack of consistency is due to insufficient and stable staffing in the Classification Unit and the Compliance Unit is the reason this provision has not been consistently anchored in daily practice. Until such time the County can allocate sufficient staff to the Custody Division to ensure stable compliance with this and other provisions, the problems associated with demonstrating compliance with this provision will manifest itself in this and most other complex provisions.

#### Recommendations

1. \*The SBSO should have a strategy to supplement the Classification Unit to ensure adequate staffing as necessary to achieve compliance with the timeframes and procedures relevant to this provision.
2. \*The Compliance Team should be augmented to begin internal auditing.
3. The County should address critical vacancies in the Custody Division.
4. 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 has updated a myriad of policies and is completing a HARP classification and restricted housing policy. The county is creating specialized mental health units and instituted a process for HARP classification committee reviews on all incarcerated persons in segregation more than 30 days.

**Compliance Rating:** Partial Compliance

**Prior Compliance Rating:** Partial Compliance

**Policy -** Custody Operations Policy 301 – Classification  
Custody Operations Policy 305 – Restricted Housing  
Custody Operations Policy XXXX – HARP Protocols.

**Training -** Disabilities Rights Remedial Plan Implementation



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

#### Observations

The County has demonstrated a commitment to attempt to transition incarcerated persons out of the restricted housing unit or reduce controls for those incarcerated persons in the restricted housing units. This is accomplished through at least monthly reviews by the Classification Committee and bi-weekly HARP meetings.

During the May 2023 tour, attempts to interview restricted housing unit incarcerated persons regarding their understanding of their placement in segregation was difficult. Many of them were too decompensated to engage in meaningful conversation on this topic. Of those who were able to understand questions asked, three of them stated they had not received a copy of their classification review or restricted housing placement forms. Unfortunately, the County has failed to implement the recommendation that staff document the time and staff member who issues the incarcerated person a copy of their classification decision, so it is unknown if the incarcerated persons did or did not receive a copy of their placement/retention documentation.

Additionally, the restricted housing review documentation was supposed to be updated to reflect that reconsideration for placement could occur in any increment below the previous 30 day review, but the retention hearing forms completed in May and June presented for review are not the final restricted housing placement/retention form agreed upon, so all documents reflect the next review in 30 days, rather than potentially shorter durations.

In the previous report, it was recommended that all restricted housing placements beyond 60 days be automatically reviewed by the HARP committee to develop a step down plan. In prior reviews, it was simple to review the HARP reports and the restricted housing tracker to determine if this is occurring but the restricted housing tracker has not maintained consistently and is noted to be inaccurate for long-term placements so it cannot be relied upon for cross reference.<sup>23</sup>

It is believed the County is committed to reducing reliance on restricted housing. However, the fact a restricted housing and HARP policy have not been written, the restricted housing tracker is not up-to-date and accurate, proof of practice on retention reviews have not been provided for review and the form approved to allow for more frequent reviews than 30 days is not being utilized all demonstrate that the system simply is not working as desired or intended.

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<sup>23</sup> For example, R.P housed in NWRH is listed on the June 30, 2023, restricted housing tracker as being in restricted housing for 110 days when he has been in restricted housing for considerably longer.

It is critical that the County get back on track related to this provision as the current size of the restricted housing population is such that ensuring timely and meaningful reviews and accurate accountability of the population should not be too difficult. However, as mentioned, the classification staff are being redirected to cover for critical vacancies and are simply insufficient to ensure an effective and accountable review system. Additionally, the County has not allocated adequate resources for policy development and training to anchor the necessary reforms in thoughtful policy, associated forms, training, and internal auditing.

#### Recommendations

1. Ensure the restricted housing tracking form is updated daily and accurate. Integrate this information in the planned update to the jail management system.
2. \*Continue to refine restricted housing tracking system and develop a policy regarding the HARP committee process and referral mechanism.
3. \*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.
4. \*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.
5. \*As systems improve and fewer inmates are in segregation, HARP and/or a classification committee must review inmates every 30 days if retained in restricted housing (and more often if individual circumstances warrant), rather than a single classification staff deciding.
6. As behavioral health units are expanded, develop a program model to address higher security and higher need incarcerated persons to reduce reliance on restricted housing for this population.

#### 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 required an independent consultant to assist. The County anticipates compliance in the next monitoring period.

**Compliance Rating:** Partial Compliance

**Prior Compliance Rating:** 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

Since the last report, the county procured an outside entity to conduct a validation of the classification system and the report was provided for review in September 2023, Unfortunately the report lacked the level of data analysis and detail required to comply with the provision. As a result, the County is in the process of seeking additional support to validate the classification system during the next rating period. The County is encouraged to ensure the evaluation study and report includes the following:

- Validation supported by empirical research based on the Santa Barbara population.
- Validation of the classification system should occur for intake and reclassification purposes.
- Provide clarity on the role of mental health staff in assisting with placement decisions.
- Support the development of a strategy to house incarcerated persons at the lowest level with ability for consistent reclassification actions, including rescoring when stabilization occurs post intake.
- The development of an audit system to evaluate consistency in the application of the validated scoring system.
- A training strategy for classification staff to support consistent application of the newly developed classification system.
- Inclusion of the system in the jail bed plan to support a population management strategy during dynamic shifts in population demographics.

Regarding the report that was recently received by the County, the County did not provide a scope of work to the Monitor for feedback prior to engaging in a contract for the service. Had that occurred, it is likely the County would not be required to seek a second expert to assist due to the initial report lacking detail, further delaying compliance. It is strongly recommended for efficiency purposes, that prior to implementing solutions targeted to be responsive to a provision, those strategies should be discussed with the appropriate Monitor prior to implementation to ensure the strategy is aligned with demonstrating compliance with a provision. <sup>24</sup>

### Recommendations

1. Delay further recommendations until completion of validation report and recommendations.

## 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

In Process. The County is seeking an expert to assist with a classification validation study. The County anticipates completion during the next review period.

**Compliance Rating:** Partial Compliance

**Prior Compliance Rating:** 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

Refer to observations in Provision VII.A.3 and VII.A.4

Recommendations

1. \*Recommend collaborating 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. Refer to recommendations in VII.A.3 and VII.A.4.

## 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 has created a plan for dayroom and recreation time for this population. No timeline for completion provided.

**Compliance Rating:** Partial Compliance

**Prior Compliance Rating:** 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

During this rating period, the County and Wellpath have worked closely to activate and pilot BHUs, which required collaboration to identify the incarcerated persons best suited for the program. Additionally, reviewing the HARP committee notes for the first six months in 2023, it is clear that a mental health representative is routinely present and participating in those meetings.

While these are positive steps, the process and inclusion of clinical staff in housing decisions for all SMI incarcerated persons is not well defined in policy and has not been articulated by the classification or mental health teams. One method to address this is to ensure that all SMI incarcerated persons are discussed on a routine basis and the Mental Health Expert has been collaborating with the clinical team on how best to facilitate this process.

The County and Wellpath can build on the processes established to identify the BHU population and codify into policy and practice the role of mental health clinicians on the placement of SMI populations prior to any movement. The Mental Health Expert has given guidance on how best to document clinical engagement and it is feasible the recommendation can be integrated into policy and practice in the next rating period.

#### Recommendations

1. \*Continue to establish specialized behavioral health units based on solid population projections and comprehensive mental health programs needs assessment, utilizing behavioral health and classification levels.
2. \*Based on the projections and needs assessment, 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. \*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

Completed. Policies and forms updated and implemented.

**Compliance Rating:** Partial Compliance

**Prior Compliance Rating:** 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

While there have been noted improvements since the Second Monitoring Report regarding timeliness and quality of restricted housing reviews, this remains an area where the system is struggling to consistently implement. As reflected in the Second Monitoring Report, the County failed to complete timely restricted housing reviews during the last monitoring period and provide copies of restricted housing logs and placement documentation to support monitoring, reportedly due to Covid. The inability to meet the timeframes persisted into this monitoring period, so the County was encouraged to focus on getting back on track starting April 1, 2023, to allow for monitoring and work with the experts and class counsel on updating the review forms and process.

The Classification Unit seemed to stabilize and starting in May 2023, the Classification staff improved documentation regarding the reason for placement and retention in restricted housing, yet this is an area that must continue to improve. But it remains difficult with the information provided to determine if all initial placements into restricted housing received a timely and meaningful review, as tracking systems have not been refined to support that level of monitoring and internal auditing. Additionally, because the placement date into segregation is not accurate or listed on the restricted housing tracker, it is difficult to know when or whether a review should have occurred. Additionally, even if reviews are occurring timely, incarcerated persons in restricted housing deny being given a copy of their retention document and all report that their interviews occur on the tiers and not in a private location.

As stated in prior Provisions, this process requires stabilization and an internal commitment to ensuring adequate resources are allocated to the classification unit to conduct timely and meaningful reviews with persons placed or retained in segregation. The County needs to ensure the documentation is clear regarding the rationale, the necessary actions required of the incarcerated person to be released from restricted housing, that the incarcerated person receives a copy of the document, and the discussion occurs in a private and confidential manner to facilitate the adequate exchange of relevant information during such encounters.

#### Recommendations

1. Refer to recommendations in other VII.B provisions

## VII.B. Classification Procedures

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

### County Response

Complete.

**Compliance Rating:** Substantial Compliance

**Prior Compliance Rating:** 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 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 of privacy. The County has demonstrated Substantial Compliance in two rating periods; therefore, it is recommended monitoring for this provision be discontinued absent other relevant information.

Recommendations

1. Continue to conduct interviews in a private location.
2. Monitor grievances for non-compliance.
3. 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.

### County Response

Complete. The County completed the assessment and created a plan as required. An action plan has been developed to address alternation needs based on the review and the action plan will be updated during this review period.

**Compliance Rating:** Partial Compliance

**Prior Compliance Rating:** 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

As previously reported, the County utilized an audit tool to review cells at SBJ and developed an action plan to reduce structural hazards. The County provided proof of practice in this monitoring period that staff conducted a similar review at the NBJ prior to activation of the facility and found no areas for remediation.<sup>25</sup> As reflected in the prior report, the County engaged in remediation effects at the SBJ in many areas, such as replacing grab bars, shortening phone cords, replacing hooks and closing the gap between the bed and the walls but has not completed the projects identified in the structural hazard assessment. The County also deactivated the highest risk units prior to this reporting period and has significantly reduced utilization of restricted housing for incarcerated persons, including those with SMI.

However, while the last monitoring period observed significant remediation, there has been little progress in this reporting period as the remaining remediation projects are more complex. It is noted that recently the County has set aside funds (\$700,000) to continue the remediation projects with the goal to remediate all SBJ units except the IRC and combination toilet/sink replacements by December 31, 2023. The County projects the remediation of the IRC units, except the combination toilets, will be complete by May 1, 2024. There is currently no stated plan to remediate the combination toilets at SBJ, perhaps due to the high cost to replace the toilets and potential to ultimately deactivate the housing units.

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<sup>25</sup> Refer to memo dated December 20, 2022, titled *Structural Hazard Northern Branch Jail* authored by Commander R. Sullivan.

The pace of change during this reporting period on this provision is problematic. It is recognized that the Structural Hazard Remediation action plan was updated on June 30, 2023, with specific target dates and identified funding for a percentage of projects. However, the lack of stated solutions for the combination toilets, particularly as it is believed that the IRC will remain as an intake unit regardless of other deactivations at the SBJ, should be remedied. While it is feasible that incarcerated persons with a history of suicidal behavior can be restricted from cells in units such as New East ISO if the toilets are not replaced, this may be more problematic in the IRC due to the unknown nature of who is being received at intake. It is also noted that higher risk units do not all have anti-jump fencing as that issue has not been addressed by the County or in the Structural Hazard Assessment.

It is positive that the County has provided projected completion dates for all projects except the toilets and the County is encouraged to establish urgency to remediation sooner than May 1, 2024, in the IRC. The County is also encouraged to prepare a plan to address toilet replacements at SBJ during this next rating period.

#### Recommendations

1. \*Continue to mitigate the areas identified in the SBJ Structural Hazard Corrective Action Plan.
2. \*Create a process to identify suicide risk incarcerated persons and restrict their placement in cells where the mitigations have not been completed.
3. \*Assess viability of installing anti-jump fencing in high-risk multi-tier housing units at both facilities.
4. \*Resolve any serious concerns in safety cells and mental health observations cells.
5. \*Discuss pertinent physical plant issues at Suicide Prevention Meetings.

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

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

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 a suicide risk incarcerated person. Progress anticipated in the next reporting period, but compliance may not be met until February 2024.

**Compliance Rating:** Non Compliance  
**Prior Compliance Rating:** Not Rated

**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

This is the first report that independently addresses the Sheriff Department’s ability to identify suicide risk for incarcerated persons and create a system wherein these higher risk persons cannot be housed in a cell pending structural barrier remediation. As the County reports in their update, the County has not been able to comply with this provision and it is noted unmitigated structural hazards remain in the restricted housing unit at SBJ as well as the intake housing areas. There is currently no flag in the jail management system or information technology housing control system mechanism to prevent placement of an SMI or elevated suicide risk person in cells that have not yet been retrofitted to address structural suicide hazards.

As of June 15, 2023, there were three (3) SMI incarcerated persons housed in Northwest restricted housing and several more who have also been placed in a safety cell during this rating period for suicidal behavior or ideation. There were also six (6) SMI persons housed in an intake cell in the IRC on June 15, 2023, and an undetermined number who have a suicide risk history. Because cells in the SBJ restricted housing unit and IRC intake cells are pending remediation, the placement of SMI and suicide risk persons in those cells violates this provision. Until such time as those cells are remediated or SMI and elevated suicide risk persons are prohibited from placement in cells pending remediation or alternative temporary measures are enacted, this provision will be non-compliant.

#### Recommendations

1. Refer to Provision VII.C.I.
2. Deactivate SBJ restricted housing and relocate the population to more appropriate housing.
3. Cluster SMI and high-risk suicide population in the IRC into designated units and staff in a direct supervision model and/or adjust security checks to every 15 minutes until the structural hazards can be remediated.

## 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.

### County Response

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

**Compliance Rating:** Substantial Compliance

**Prior Compliance Rating:** Substantial Compliance

**Policy -** Custody Operations 305 – Bed Assignment  
Main Jail Housing Plan

**Training -** Disabilities Rights Remedial Plan Implementation

**Metrics** Population Reports  
Tours

### Observations

All of these cells remained deactivated during this review period. During tours in December 2022 and May 2023, it was noted the cells were locked open and cannot be occupied without executive staff approval. A review of population reports from May 2022 to June 2023 fails to show any of these cells were reoccupied. While the Main Jail Housing Plan has not been updated to reflect the cells are decommissioned, it is clear they are not being occupied. Therefore, it is recommended that this provision no longer be subject to monitoring.

### 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. Recommend this provision no longer be subject to monitoring.

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

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.

**Compliance Rating:** Substantial Compliance

**Prior Compliance Rating:** Substantial Compliance

**Policy -** Custody Operations 305 – Bed Assignment  
Main Jail Housing Plan

**Training -** Disabilities Rights Remedial Plan Implementation

**Metrics** Population Reports  
Tours

Observations

Refer to Provision VII.C.3

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. Recommend this provision no longer be subject to monitoring.

## 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. Full compliance may require remodeling or renovation of one or both jails. The County is evaluating interim strategies to work towards full compliance with the provision.

**Compliance Rating:** Partial Compliance

**Prior Compliance Rating:** 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

This provision addressed yard access time, total out-of-cell time and in-cell activities. The out-of-cell time and in-cell activities will be addressed separately.

### Out-of-cell Time

The County has presented an update to the Inmate Recreation Policy (367), which establishes the minimum outdoor recreation of 6 hours per week but does not list the twelve (12) hours for dayroom or other activities, which may be more appropriately addressed in a different policy. During this rating period, the County improved tracking out-of-cell hours for dayroom and yard and has begun internal monitoring. However, the County is not yet tracking outdoor recreation for all units and out-of-cell time for all celled units. The County also is not adequately tracking out-of-cell programming, which may demonstrate a higher level of

compliance once a reporting system can be established. The County does provide a program calendar to assist with determining if additional programming is scheduled but there has not yet been a certification system established to confirm the scheduled programming occurred and the amount of time incarcerated persons actually attended and/or are offered out-of-cell programming.

Currently the County has piloted dayroom and yard tracking systems for eight housing units:

| <b>Santa Barbara Jail (SBJ)</b>         | <b>Northern Branch Jail (NBJ)</b> |
|---|-----------------------------------|
| Intake Unit (IRC 100)                   | A Pod                             |
| New East Restricted Housing/ISO (NE RH) | F Pod                             |
| Northwest Restricted Housing            | J Pod                             |
| Northwest A Pod                         | K Pod                             |
| Northwest C Pod                         |                                   |
| Northwest D Pod                         |                                   |

It is positive to report that tracking continues to expand but the County recognizes the quality and consistency of tracking is an area that requires additional oversight and training. Additionally, for monitoring purposes, the manner in which SBJ Northwest Pods A, C, and D document the out-of-cell time makes it impossible to give credit as there is only an “x” in the area for tracking, rather than actual hours for out-of-cell activity. Actual hours for out-of-cell activity are required for monitoring purposes. Additionally, the documentation for tracking is not consistent in the various celled units. For ease of internal and external monitoring, it would be helpful to standardize the forms and create documentation rules that apply systemwide for the staff to follow.

The following charts reflect the out-of-cell tracking for NBJ and SBJ for the first six months in 2023. This reflects only the yard and dayroom activity time as there is not yet a system to track other program attendance. Yard and dayroom were combined for this rating period and if the data provided for the sample week was unclear, the code “unk” is used as the total is unknown.

**Northern Branch Jail - Out-of-Cell Sample Review  
Yard and Dayroom Activity  
January - June 2023**

| <b>Date</b>        | <b>A Pod</b> | <b>B Pod</b> | <b>F Pod</b> | <b>J Pod</b> | <b>K Pod</b> |
|--------------------|--------------|--------------|--------------|--------------|--------------|
| <b>Jan 7-13</b>    | 28           | 5.25         | 5.25         | 14.5         | 17           |
| <b>Feb 4-10</b>    | 29           | 7            | 7            | 17           | 28           |
| <b>March 11-17</b> | 29           | 14           | 14           | 14.5         | 12           |
| <b>Apr 8-14</b>    | 28           | 30           | 30           | 24.5         | 26.5         |
| <b>May 13-19</b>   | 28           | 28           | 28           | 37           | 20           |
| <b>June 10-16</b>  | 28           | Unk          | Unk          | Unk          | Unk          |
| <b>Average</b>     | <b>28</b>    | <b>17</b>    | <b>17</b>    | <b>22</b>    | <b>21</b>    |

**Santa Barbara Jail - Out-of-Cell Sample Review**  
**Yard and Dayroom Activity**  
**January - June 2023**

| <b>Date</b>        | <b>IRC 100</b> | <b>NE RH*</b> | <b>NWRH*</b> | <b>NW A</b> | <b>NWC</b> | <b>NW D</b> |
|--------------------|----------------|---------------|--------------|-------------|------------|-------------|
| <b>Jan 7-13</b>    | 6.5            | 6             | 0            | Unk         | Unk        | Unk         |
| <b>Feb 4-10</b>    | 7.5            | 0             | 2            | Unk         | Unk        | Unk         |
| <b>March 11-17</b> | 14             | 4             | 4            | Unk         | Unk        | Unk         |
| <b>Apr 8-14</b>    | 15             | 11            | 4.5          | Unk         | Unk        | Unk         |
| <b>May 13-19</b>   | 11             | 17            | 3            | Unk         | Unk        | Unk         |
| <b>June 10-16</b>  | 14             | 9             | 0            | Unk         | Unk        | Unk         |
| <b>Average</b>     | <b>11</b>      | <b>8</b>      | <b>2.25</b>  | <b>Unk</b>  | <b>Unk</b> | <b>Unk</b>  |

\* High Refusal Rates - actual out-of-cell lower and intermitted low participation levels at NERH with consistently low participation at NWRH

The data shared by the County demonstrates an improvement in all areas compared to the prior reporting period except for the Northwest Restricted Housing Unit, which will be addressed in Provision VII.D.2.

Specifically, based on data provided for the last reporting period, average out-of-cell hours for NBJ F Unit, female restricted housing, was 4.5 hours per week, but for this reporting period, out-of-cell time increased to 17 hours per week, tripling the average out-of-cell time from the prior reporting period. NBJ J pod averaged slightly below 10 hours per week during the period of February-June 2022 and doubled the weekly average out-of-cell time in the first six months of 2023 with a weekly average of 22 hours. NBJ K pod also nearly doubled the amount of out-of-cell time from the February – June 2022 review period to this reporting period, rising from 12.3 hours per week on average in 2022 to 21 hours per week on average in 2023<sup>26</sup>. It is also noted that NBJ A pod increased out-of-cell time in this rating period but the comparison to 2022 would be inappropriate as the unit was restricted housing during the 2022 time period and is currently general population.

At SBJ, the only units where out-of-cell time was tracked this reporting period were IRC 100, New East restricted housing (NE RH) and Northwest’s restricted housing lower tier, Pod A, Pod C and Pod D. There was no information available in 2022 to allow for a comparison but it is noted that neither NE RH nor IRC 100 achieve the 18 hour minimum out-of-cell time during this review period. Additionally, the refusal rates in NE RH are alarmingly high and require supervisory intervention to ensure deputies are encouraging and/or adequately facilitating out-of-cell activity and seeking assistance from clinical staff when incarcerated persons are isolating and refusing to exit their cells. During the tours in December 2022 and May 2023, several incarcerated persons interviewed from these units stated they are not offered out-of-cell time routinely and would not refuse if offered, which requires validation via video monitoring that the staff meaningfully and appropriately facilitate incarcerated persons being offered and receiving time for out-of-cell activity.

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<sup>26</sup> Refer to Second Monitoring report for additional information.



The County has made strides this reporting period in identifying incarcerated persons in restricted housing units who can safely step down to a clustered behavioral health unit, double cell or exercise with a compatible person in restricted housing. This is helping to raise the out-of-cell hours and it is anticipated this will continue to improve during the next rating period. The County also is beginning to internally track out-of-cell time and is refining the use of tracking systems to assist with internal and external monitoring. Ultimately, the County will need to utilize tracking systems for all celled units, not just the units currently being reported on.

In reviewing the dormed housing units at SBJ, it is noted the incarcerated persons housed in the dorms are not consistently receiving the six hours of yard time per week as required. During a tour of the jail both custody staff and incarcerated persons reported getting less than the required access, whether it was due to inclement weather or staff shortages. The County has not presented a tracking system and yard schedule sufficient to demonstrate compliance, and the Custody Expert is available to assist with that in the next rating period.

It is positive to report that the dormed and many of the celled housing units at NBJ are far exceeding the 18 hour target as incarcerated persons are permitted out of their cells up to eight hours per day and the yards are open at the same time unless inclement weather or other safety factors exist. As a result, the focus for monitoring will continue to be celled units at both facilities and yard access for the dorms at SBJ.

### Programming

The SBJ has demonstrated the consistent ability to provide access to tablets Monday-Thursday at SBJ and ultimately began daily issuance towards the end of the review period at both facilities.<sup>27</sup> Prior to June 2023, it is noted the housing units at SBJ rotated issuance with some units having more frequent access than others and there was no issuance on the weekends and during the last review period, NBJ did not issue tablets., However, during this rating period, the NBJ finalized installation of the infrastructure to initiate a tablet program at NBJ and SBJ expanded the infrastructure to support daily issuance.

Tablets are presently available daily to all eligible incarcerated people at Southern Branch and Northern Branch Jails as was demonstrated by a tablet issuance report provided for review for a weekend in June and July 2023. It is extremely positive to report during this reporting period the County initiated daily distribution of tablets to all eligible incarcerated people and is working with the vendor on a system to provide routine proof of practice for the next rating period. In addition to tablets, books are issued once a month and sporadically in-cell workbooks and other activities are issued in housing units. The tracking of these activities, unless conducted by the program staff as a correspondence course, are not tracked to help measure compliance.

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<sup>27</sup> The vendor was not able to provide sufficient data during this reporting period to analyze daily access to tablets at SBJ as reported for June 2023. Further analysis will occur in the next report.

Recommendations:

1. Develop a viable strategy to increase out-of-cell time offerings in NE restricted housing and the IRC units at SBJ.
2. Improve out-of-cell documentation in all celled units and ensure daily trackers are available for internal and external monitoring.
3. Prepare a consistent yard rotation schedule with daily documentation of any deviations from the schedule for the dorms at SBJ.
4. Address critical staffing vacancies inhibiting compliance with this provision.
5. \*Address high yard refusal rates in NE RH and any unit with similar incidents of high refusal rates.
6. \*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.
7. \*Conduct monthly auditing of out-of-cell activities for all units and create a corrective action plan for units not demonstrating compliance.
8. \*Present the SBJ remodel plan to Experts for review and move forward with the SBJ remediation process as expeditiously as possible.
9. \*Add additional resources for daily issuance of Tablets. Backfill the tablet issuance staff when they are on vacation, sick, etc.
10. \*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.
11. \*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.
12. \*Create tracking mechanism or standardized issuance of reading materials, writing supplies, etc.
13. \*Refine Program summary to more clearly delineate services provided.

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

2. For those prisoners housed in the Northwest unit, absent exigent circumstances or exigent security concerns that are documented, the County shall offer each prisoner not subject to discipline at a minimum, 15 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 nine (9) hours per week in a dayroom or other common area
  - c. At least four (4) hours every other day (*i.e.*, 3 or 4 times per week, on an alternating basis), of in-cell structured programming – *i.e.*, programming on electronic tablets.

### County Response

In Process. The County has increased out-of-cell time in Pods A, C and D, improved tracking mechanisms, created master yard schedules and reduced restricted housing units. Full compliance may require remodeling or renovation of one or both jails. The County is evaluating interim strategies to work towards full compliance with the provision.

**Compliance Rating:** Partial Compliance

**Prior Compliance Rating:** 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

This is a complex provision to provide a compliance rating as there are disparate housing types in the Northwest unit. The Northwest unit has five non-segregated housing locations and one segregated location:

|                                 |                             |
|---------------------------------|-----------------------------|
| Behavioral Health Unit          | Pod A                       |
| Jail Based Competency Treatment | Pod B                       |
| Mental Health Stepdown Units    | Pods C and D                |
| Restricted Housing              | RH Lower Tier <sup>28</sup> |
| Worker Housing                  | RH Upper Tier               |

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<sup>28</sup> This unit was deactivated as restricted housing in early July 2023.

Pods A and B share a yard as do Pods C and D. Pods A-D and the Restricted Housing (RH) upper tier each have a dayroom or television area. The RH areas, upper and lower tiers, do not have a designated yard but the upper tier now houses inmate-workers who leave their cells for work for much of the day, have a dedicated television room and exercise in the main yard. The segregated population on RH lower have neither a designated yard nor a dayroom. The RH lower segregated populations are sometimes escorted to the Pod yard for individual exercise but have no other out-of-cell opportunities.

During this reporting period, the County has shown progress in increasing out-of-cell time in both the yard and the dayroom for Pods A, C, D and RH Upper. Currently, A and C Pods are essentially out of their cells most of the day. D Pod offers dayroom and yard activities in groups of 2 and due to this small population grouping of the unit, the County is not and will not be able to meet the 15 hours per week out-of-cell time.<sup>29</sup> As mentioned, the RH upper cells house workers who are able to access the dayroom most of the day when not at work and access the yard at least six hours per week. The incarcerated persons in B Pod are out of their cells most of the day Monday-Friday but weekend out-of-cell time may have been curtailed this rating period due to lack of staffing and this was discussed with the County during the May 2023 tour, specifically, the daily out-of-cell time requirement in Remedial Plan Section VII.D.3. Refer to the table in Provision VII.D.1 for information concerning out-of-cell time in the Northwest unit.

Despite gains in the Northwest unit, the County has consistently struggled to adequately provide out-of-cell time to the incarcerated men housed in the Northwest Unit RH lower tier and actually deactivated the unit as restricted housing in early July 2023, after this review period. The out-of-cell tracking information provided shows unacceptably low out-of-cell opportunities and high refusal rates for the first six months of 2023, which has been corroborated by the incarcerated persons who live on the unit who report inconsistent yard offerings, yard offerings at undesirable times, such as early in the morning, and lack of stimulated activity on the yard.

The County has demonstrated commitment to reducing utilization of the restricted unit as described in other provisions, which is excellent, and creates an opportunity to implement strategies to ensure the remaining men housed in RH lower, the vast majority who are on the behavioral health caseload, are routinely leaving their cells to the yard to meet this provision. The County recognized the difficulty of meeting out-of-cell time requirements in the Northwest restrictive housing unit, and was able to deactivate the unit as restricted housing, which is an incredibly positive development.

The following are the observations from the other pods in Northwest:

- The incarcerated persons who reside in NW RH upper tier are inmate-workers, have a television room and are able to access the main yard, so the County is exceeding the out-of-cell mandates for that unit.
- During this rating period, the incarcerated persons housed in Pod A are permitted in the dayroom as group and are afforded over 8 hours per day in the dayroom and are able to access the yard

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<sup>29</sup> As stated, the out-of-cell tracking reports for Pods A, C and D do not document specific hours for out-of-cell, so a total cannot be established.

adjacent to their unit intermittently by sharing the yard with B Pod. While the out-of-cell tracking report did not confirm the daily out-of-cell offerings, observations on the May 2023 tour coupled with interviews of incarcerated persons and staff demonstrate A pod is exceeding compliance.

- Pods C and D serve as mental health stepdown units with the ultimate plan to convert these to Behavioral Health Units with enhanced programming out-of-cell. However, during the monitoring months of January-June 2023, the incarcerated persons in the unit were permitted in the dayroom and yard with only one other person. Based on the fact the pods generally house 16 incarcerated persons, it is only feasible to offer 2 hours per day (or less) per person on a rotating basis. There is no documentation to show what out-of-cell time was offered or actually occurred during this rating period but based on the May 2023 tour and interviews with incarcerated persons and staff, it is not believed that Pods C and D were able to meet the 15 hour mandate during the majority of this reporting period. The County reports the plan to expand group size in C pod by July 2023 and endeavor to find compatible groups of 3 or 4 in D pod during the next monitoring period to meet the required out-of-cell time.

In all but the restricted housing unit lower tier, the County has demonstrated improvement this rating period. With the closure of the Northwest Restricted Housing tiers and reimagining programming in Pods A, C and D, it is likely the County will meet the 15 hours per week and should be encouraged to meet the 18 hour requirement of Provision VII.D.1 as the function of this unit is more aligned with that provision.

#### *In-Cell Activities*

At SBJ, the County continues to track tablet issuance and document access via a daily report, which is available for monitoring. For the majority of this monitoring period, the tablets were issued Monday-Thursday, which demonstrates meeting the provision requirement of alternating days was impossible during most of this rating period. However, the County reports an effort to expand to daily and issuance of tablets which would make compliance with aspect of the agreement much simpler – as mentioned, further review will be completed in the next reporting period. A random review of the tablet tracking reports for the following periods reflects an average of four (4) hours on three days per week for the Northwest population in all pods except the worker tier. The following weeks were reviewed: January 9-13, 2023; February 6 – 10, 2023; March 6-10, 2023; and April 10-14, 2023. No tablets were issued the week of May 8-12 due to staff being on vacation. The County has done a better job of documenting the reason why a tablet may not be issued, such as refusal to accept, out to court, disciplinary restriction or the person is decompensated. However, the County remains inconsistent in tracking the number of hours tablets are available, so it is difficult to give the County credit for meeting or exceeding the required number of hours in a tangible manner as many of the logs do not have issuance time documented and it is inappropriate to speculate.

As stated in the prior report, this provision requires every other day in-cell activities, but for the majority of this review period the County only provided tablets on four (4) consecutive days and there have been weeks where no tablets were issued. It is anticipated there will be significant improvement in the next rating period.

## Programming

With the exception of Pod B and RH Upper tier, there is little structured programming occurring in the pods. The incarcerated people in RH Upper are inmate-workers and are routinely engaged in work activities. The incarcerated persons in A Pod began structured activities on July 3, 2023, and measuring those activities will be addressed in the next reporting period. A review of the program services list and calendars reflects limited structured programming being provided in the Northwest unit this monitoring period, but there were individual contacts noted related to discharge planning. Programming hours outside of the cell will assist with reaching the mandated out-of-cell requirements and in-cell programming will assist with the in-cell activity provision.

Recommendations:

1. See Recommendations from VII.D.1.

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

3. 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.

**Compliance Rating:** Partial Compliance

**Prior Compliance Rating:** Partial 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

As reported previously, Custody Operations Policy 367 Inmate Recreation has been updated to memorialize that programming will not occur during normal sleeping hours and a review of out-of-cell logs and unit logbooks reflects out-of-cell time is not occurring at inappropriate times of the day. However, based on conversations with management, reviews of out-of-cell tracking logs, interviews with staff, and discussions with incarcerated persons, the County is currently not able to provide **daily** out-of-cell activities for all

incarcerated persons to comply with this provision. Until such a time the County can accommodate daily out-of-cell programming for all incarcerated persons, this provision will remain at partial compliance.

#### Recommendations

1. Refer to recommendation related to out-of-cell programming.

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

4. 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 began auditing out-of-cell time in December 2022 and has provided additional training concerning tracking and reviewing out-of-cell time.

**Compliance Rating:** Partial Compliance

**Prior Compliance Rating:** Partial Compliance

**Policy –** Custody Operations Policy 367 – Inmate Recreation

**Training –** Disabilities Rights Remedial Plan Implementation

**Metrics** Monthly SBSO Monitoring Report – Not developed

#### Observations

During this rating period, the County initiated a pilot process for completing a monthly analysis of out-of-cell tracking. The methodology utilized was discussed with the Expert and was determined, if completed accurately, this internal analysis could move the County toward substantial compliance. However, the system is still in development as no policies or post orders memorialized the expectation, and an overall monthly trend report has not yet been provided for review to demonstrate consistent internal evaluation with managerial oversight.

Fundamentally, the County has not identified adequate resources and training to ensure that the baseline out-of-cell information is documented consistently and accurately, and there are insufficient resources available to engage in quality weekly and monthly analysis to identify problem areas. This was evidenced by the difficulty encountered during this monitoring period in receiving timely and accurate out-of-cell documentation. The January 2023 data was still being requested in June 2023, so it stands to reason quality supervisory audits were not occurring. Until the County invests appropriate resources to develop and train on new systems and engages in conducting internal auditing of processes, the County will struggle to reach and maintain substantial compliance on many provisions. The out-of-cell tracking provisions are

complicated and require a dedicated position to engage in analysis and provide support to management to problem-solve non-compliance.

#### 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

6. 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 in the next reporting period.

**Compliance Rating:** Partial Compliance

**Prior Compliance Rating:** Partial Compliance

**Policy -** Custody Operations Policy 367 – Inmate Recreation - Updated  
Wellpath Policy G-02 – Segregated Inmates – Requires Update

**Training -** Disabilities Rights Remedial Plan Implementation - Complete  
Staff Briefing Beginning December 21, 2022 - Complete

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

#### Observations

On December 21, 2022, a directive was issued to all custody staff to provide mandatory training to comply with this provision. Proof of practice was provided that custody staff were trained during briefings on or



before February 15, 2023.<sup>30</sup> As reported in the Second Monitoring Report, Custody Operations Policy 367 – Inmate Recreation has been updated to comply with this provision. However, Wellpath Policy G-02 Segregated Inmates requires update.

Restricted housing units' out-of-cell logs for the period of January-June 2023 reveal routine refusals are not a significant challenge at NBJ. The staff working in the restricted housing units were interviewed and articulated they advise the mental health clinician who routinely comes to the unit if they have an incarcerated person isolating or appearing to decompensate. They varied in where they documented this referral, but it was noted there were two recent notations in the unit logbook of mental health referrals presented as proof of practice during the May 2023 tour. However, it is questionable that routine mental health rounds are occurring, so consistency is questionable absent proof of practice.

The SBH New East Restricted Housing Unit and Northwest Restricted Housing unit both have unfathomable high refusal rates documented on the out-of-cell tracking logs. The custody staff in these units report they advise the clinical staff making rounds or call mental health if they have someone who appears to be decompensating. Neither unit showed documentation of a recent referral despite the out-of-cell log depicting high percentages of incarcerated persons refusing repeatedly. Advising mental health staff during routine rounds is not likely as reportedly rounds occur only one day per week on average.

The County should work with the Mental Health and Custody Experts to refine the process and develop a proof of practice system for internal and external monitoring to demonstrate a referral occurred followed by a timely and meaningful clinical assessment.

#### 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 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.

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<sup>30</sup> Folder: McDonald>DRC7D6 MH REF

## 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.

### 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.

**Compliance Rating:** Substantial Compliance

**Prior Compliance Rating:** 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 updated the associated policy to reflect that disciplinary segregation is not utilized in Santa Barbara County. A review of disciplinary hearing forms for the period of January-June 2023 did not reveal a single disposition where disciplinary segregation was the disposition or sanction from the hearing officer. A review of the disciplinary hearing logs for the period of January through June 2023 reveals there was no documentation to reflect a disciplinary disposition requested or imposing restricted housing. During tours of the facility, there has been no allegation of placement in restricted housing due solely to the adjudication of a disciplinary report. There have been no grievances reviewed during this period with the allegation of a restricted housing placement as a result of a disciplinary period.

The County has updated policies associated with this provision and has established proof of practice to demonstrate compliance. Should the County demonstrate compliance for the next rating period, a recommendation to discontinuing monitoring will follow.

## Recommendations

1. Continue to comply with the policy that disciplinary hearings cannot assess the adjudicated penalty of restricted housing.
2. Assuming the disciplinary logs continue to show compliance with the policy, it is anticipated a recommendation to discontinue monitoring will occur in the next rating period.

## VII.E. Disciplinary Procedures

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.

### 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.

**Compliance Rating:** Substantial Compliance  
**Prior Compliance Rating:** 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

In addition to the observations documented in Provision VII.E.1, a review of the out-of-cell tracking logs have zero entries where out-of-cell activity was recommended or reduced due to a disciplinary action or disciplinary hearing. There are notations that an incarcerated person was not permitted out of their cell on a particular day due to acting out at the time of the recreational period but that is not due to an adjudicated disciplinary hearing.

There were no grievances reviewed for the 12 month period of July 2022 to June 2023 where it was alleged a disciplinary sanction resulted in loss of out-of-cell time. Based on updated policy and no evidence to

suggest that disciplinary sanctions are impacting out-of-cell time, this provision is considered in substantial compliance, and it is recommended this provision no longer be subject to monitoring.

#### Recommendations

1. Continue to comply with the policy that disciplinary hearings reduce out-of-cell time.
2. Recommend consideration to discontinue monitoring.

#### VII.E. Disciplinary Procedures

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.

#### 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.

**Compliance Rating:** Partial Compliance

**Prior Compliance Rating:** 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

In addition to the observations in Provision VII.E.1, upon reviewing the available restricted housing retention forms, there is no indication that incarcerated persons have been maintained in restricted housing for more than 30 days for violations related to the same disciplinary incident. However, as reflected in Provision VII.E.1, access to the monthly disciplinary logs is necessary to confirm prior to being able to determine substantial compliance. Additionally, the County must improve administrative segregation retention tracking and documentation to confirm compliance. It is anticipated both of those issues can be resolved in the next rating period to reach substantial compliance.

## Recommendations

1. \*Provide complete monthly disciplinary logs with the adjudicated findings to allow for adequate monitoring.
2. Comply with recommendations in Provisions VII.A3 and VII.A.4 concerning restricted housing placement and documentation.
3. \*Assuming the disciplinary logs and restricted housing documentation 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 cells for punishment and continues to train staff on appropriate documentation for the placement and retention of inmates in safety cells.

**Compliance Rating:** Substantial Compliance

**Prior Compliance Rating:** 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

Related Custody operational plans strictly prohibit the use of safety cells for disciplinary reasons. Both Operational Policy 304 – Use of Safety Cells and Operational Policy 363 – Inmate Discipline prohibit the use of safety cells for disciplinary reasons. As with the prior monitoring report, there were no completed disciplinary reports provided for review during this period in which the penalty was placement in a safety cell and there were no grievances noted where an incarcerated person alleged placement in a safety cell as punishment. Additionally, the County significantly improved providing copies of completed safety cell placement documentation and logs during this rating period, improving timeliness of monitoring.

As with the prior reports, it is noted that the County utilizes, sparingly, the safety cell for combative and aggressive behavior consistent State Regulations, *Title 15 Minimum Standards for Local Detention Facilities. Title 15 – Crime Prevention and Corrections. Division 1, Chapter 1, Subchapter 4, Section 1055*. It is understood that nothing in this provision restricts the County’s authority to do so, but the County has focused on improving documentation justifying the need for placement in a safety cell when an incarcerated person is aggressive, combative or destroying the assigned cell. Any concerns relative to the use of the safety cell for combative behavior, rather than the use of a restricted housing cell, will be addressed in this and all future reports under *Provision VII.A.1 – General Provisions*.

Below depicts information provided for the first six months of 2023 for both SBJ and NBJ

**Safety Cell Placements January-June 2023**

| <b>Total Safety Cell Placements</b>           |                |                 |              |              |            |             |              |
|---|----------------|-----------------|--------------|--------------|------------|-------------|--------------|
| <b>2023</b>                                   |                |                 |              |              |            |             |              |
|   | <b>January</b> | <b>February</b> | <b>March</b> | <b>April</b> | <b>May</b> | <b>June</b> | <b>Total</b> |
| <b>NBJ</b>                                    | 12             | 7               | 2            | 11           | 16         | 3           | <b>51</b>    |
| <b>SBJ</b>                                    | 27             | 28              | 34           | 25           | 22         | 27          | <b>163</b>   |
| <b>Totals:</b>                                | <b>39</b>      | <b>35</b>       | <b>36</b>    | <b>36</b>    | <b>38</b>  | <b>30</b>   | <b>214</b>   |
| <b>Placement Duration Between 12-24 Hours</b> |                |                 |              |              |            |             |              |
| <b>2023</b>                                   |                |                 |              |              |            |             |              |
|   | <b>January</b> | <b>February</b> | <b>March</b> | <b>April</b> | <b>May</b> | <b>June</b> | <b>Total</b> |
| <b>NBJ</b>                                    | 5              | 3               | 1            | 4            | 7          | 3           | <b>23</b>    |
| <b>SBJ</b>                                    | 8              | 9               | 5            | 9            | 8          | 15          | <b>54</b>    |
| <b>Totals:</b>                                | <b>13</b>      | <b>12</b>       | <b>6</b>     | <b>13</b>    | <b>15</b>  | <b>18</b>   | <b>77</b>    |
| <b>Percentage</b>                             | <b>33%</b>     | <b>34%</b>      | <b>17%</b>   | <b>36%</b>   | <b>39%</b> | <b>60%</b>  | <b>36%</b>   |
| <b>Placement Duration Exceeding 24 Hours</b>  |                |                 |              |              |            |             |              |
| <b>2023</b>                                   |                |                 |              |              |            |             |              |
|   | <b>January</b> | <b>February</b> | <b>March</b> | <b>April</b> | <b>May</b> | <b>June</b> | <b>Total</b> |
| <b>NBJ</b>                                    | 2              | 0               | 0            | 3            | 1          | 0           | <b>6</b>     |
| <b>SBJ</b>                                    | 2              | 3               | 8            | 4            | 2          | 6           | <b>25</b>    |
| <b>Totals:</b>                                | <b>4</b>       | <b>3</b>        | <b>8</b>     | <b>7</b>     | <b>3</b>   | <b>6</b>    | <b>31</b>    |
| <b>Percentage</b>                             | <b>10%</b>     | <b>9%</b>       | <b>22%</b>   | <b>19%</b>   | <b>8%</b>  | <b>20%</b>  | <b>14%</b>   |
| <b>Combative</b>                              | 1              | 2               | 3            | 1            | 0          | 2           | 9            |
| <b>Placement for combative %</b>              | 3%             | 6%              | 8%           | 3%           | 0%         | 7%          | 4%           |

Prior monitoring reports have provided additional data relative to safety cell and mental health observation placements but after conferring with the Mental Health Monitor, it was determined that this report would not provide statistical analysis until such time the Mental Health Monitor can work with the County to improve reporting and agree upon metrics for future reporting. It is positive to report, however, that the

County has begun quality tracking of safety cell placement, and the above chart is primarily taken from a report provided by the County.<sup>31</sup>

As this is the second consecutive monitoring round with a rating of Substantial Compliance and the policies are anchored not only in local policies but also state regulations, it is believed this provision should no longer be subject to monitoring in future reports. As mentioned, placements will continue to be reviewed going forward in other provisions to evaluate if a less restrictive alternative were available for custodial and non-suicidal placements.

#### Recommendations

1. Continue to comply with local policies.
2. Begin internal compliance monitoring.
3. Discontinue monitoring cleanliness of safety cell provision and address safety cell utilization in other provisions.

### VII.E. Disciplinary Procedures

3. 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.

**Compliance Rating:** Substantial Compliance  
**Prior Compliance Rating:** 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

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<sup>31</sup> Place for combative added based on information contained in the safety cell logs.

## Observations

As reflected in the last report, Custody Policies regarding discipline have been updated and specifically restrict the use of disciplinary diets. Reviews of completed disciplinary reports, grievances and interviews with incarcerated persons during this rating period fail to uncover any allegations that dietary or food restrictions resulted from the disciplinary process. 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. Staff in restricted and other units deny issuance of disciplinary meals and none have been observed being issued during tours or review of videos of use of force incidents.

A review of the grievance logs for the period of January – June 2023 reflects that numerous grievances were filed related to food services. However, in reviewing the grievances, none 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 the food services manager disliking the incarcerated person.

It is believed the County has achieved Substantial Compliance during two consecutive rounds of monitoring of this provision and it is recommended that monitoring be discontinued. Absent other direction from counsel, this provision will not be subject to monitoring in the next and future reports.

## Recommendations

1. Continue to follow existing policy and practice.
2. Discontinue monitoring.

## 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 piloting a process in the Northern Branch Jail during this rating period.

**Compliance Rating:** Partial-Compliance

**Prior Compliance Rating:** 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

There have been several discussions with the County concerning this provision and the County and Wellpath have been working on draft restricted housing mental health clearance forms in this rating period. The County also began utilizing the restricted housing clearance form in August 2023, which will be more closely reviewed in the next rating period. During the next rating period the County is encouraged to continue to use the clearance form and complete both Custody and Wellpath policies and complete training to bring this provision closer to substantial compliance.

Based on reviews of restricted housing placement forms and restricted housing logs generated for the first six months of 2023, it is clear there were SMI, cognitively disabled and incarcerated persons acting in a bizarre or unusual manner who were placed in restricted housing prior to a mental health clinician assessing the incarcerated person for suicidal ideation or need for a higher level of care. The County has stated that the lack of clinical staff during the night shift and other times made compliance difficult but direction to the staff was provided on August 7, 2023, that incarcerated persons meeting this criteria are not to be housed in restricted housing until seen by a clinician.<sup>32</sup>

The best solution to this challenge is to ensure policies and training are updated and to increase mental health staffing, including on the overnight shift. The second best solution is to place the incarcerated person who is being evaluated for potential placement into a restricted housing unit in a secure location with enhanced security checks until a clinician can assess and clear the incarcerated person for restricted housing placement or assist with alternative placement recommendations. It appears this process went into effect in August 2023 and will be evaluated in the next rating period.

#### Recommendations

1. \*The County should collaborate 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.
4. \*Implementation of this provision should complement the activation of Specialized Mental Health Units required by Remedial Plan Section III.D.

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<sup>32</sup> See email August 7, 2023, from Classification Sergeant Sheffield to mental health leadership and classification staff concerning the expectation.

5. Ensure adequate mental health staffing, including on the overnight shifts, to support implementation of this provision and the overall Remedial Plan.

#### **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

In process. The County significantly reduced restricted housing, provided additional training for staff concerning expectations and has developed a process for supervisory monitoring. During the current rating period that County will standardize the supervisory deviation report to reflect compliance.

**Compliance Rating:** Partial Compliance

**Prior Compliance Rating:** 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 has codified in policy the requirements for safety checks to comply with this provision, has safety check systems that track non-compliance and has developed a standardized supervisory deviation review and documentation process. The supervisor deviation report is currently in use at the SBJ but has not been fully implemented at the NBJ. It is anticipated the NBJ will adopt the standardized review documentation in the next monitoring period.

The security check logs available from SBJ submitted for review continue to show that checks are being conducted according to policy 96% of the time and that supervisors at SBJ are reviewing the logs and the video to determine the reason for any deviation. If the staff simply failed to conduct the review, supervisors are taking corrective action. Reportedly the process is similar at NBJ, but sufficient proof of practice has not been provided during this rating period to evaluate.

One of the areas of concern in the process is the failure of the reviewing supervisor to consistently document the reason for the deviation or attach the unit log report to document the reason for missed checks. In these situations, the supervisor will refer the reader to the unit log report, but those reports are not attached so the

reason is unknown. For future monitoring and internal quality assurance purposes, either the sergeant needs to be more specific on the deviation report or the unit report needs to be attached to the deviation report.

It is viable that the County can reach substantial compliance in the next rating period assuming that complete documentation and justifications are provided for both SBJ and NBJ. One area of concern, however, is the impact that low staffing levels may have on compliance but that cannot be assessed until knowing the reason for the deviation (*i.e.*, missed or untimely safety checks).

#### 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 (*i.e.*, corrective action).

#### 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

In process. The County has identified confidential interview space and has included information in the Inmate Handbook advising the population to notify staff if requesting a private consultation. The County will finalize the Restrictive Housing Policy and include auditing in the CQI process in the next rating period.

**Compliance Rating:** Partial Compliance

**Prior Compliance Rating:** Partial Compliance

**Policy -** Custody Operations Policy 306 – Restricted Housing - Pending

**Training -** Disabilities Rights Remedial Plan Implementation

**Metrics**      CQI Report  
                    Grievances  
                    Tours/Interviews

Observations

The County currently conducts scheduled health care and mental health contacts in private locations. However, rounds in the restricted housing unit are conducted on the tiers and the custody staff report rarely does a clinician request that an incarcerated person be removed from the cell for a private consultation during the course of the rounds, unless the incarcerated person is in crisis or makes a suicidal statement.<sup>33</sup> The Custody staff also report they do not have enough staff on duty to remove everyone from the cell when the clinicians do rounds so it would be hard to facilitate confidential health/mental health care contacts when requested.

The County updated the Incarcerated Person handbook to advise of the availability of a private consult, but no incarcerated person interviewed in the restricted housing units during the December 2022 or May 2023 tours had a current handbook. Several incarcerated persons interviewed stated that they have requested a private consultation during the rounds but have not been removed from the cell on that date or, reportedly, even the following day. Several persons stated they have sufficient private consultations with mental health staff and if they need a private consultation, the staff will schedule them for an in-person interview. As with the prior report, there were no grievances noted for the first six months in 2023 regarding requesting a private consultation and one being denied.

According to Wellpath leadership, the clinical staff are not adequately documenting requests for confidential discussions during rounds, and Wellpath is working with the Medical and Mental Health Experts to address this issue. As 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 will be done in concert with VII.F.4 and with the input of the Medical and Mental Health Experts.

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.

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<sup>33</sup> Reportedly the rounds are not consistently occurring per the Settlement Agreement – refer to Medical and Mental Health Experts’ reports for further information.

4. \*Develop a CQI process on this provision and 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.

##### County Response

Complete. The County has significantly reduced the use of restricted housing and created a restricted housing daily discharge tracking report. The County includes known release date information in the HARP classification committee meetings.

**Compliance Rating:** Partial Compliance  
**Prior Compliance Rating:** Partial Compliance

**Policy -** Custody Operations 301 – Classification  
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 focused on reducing reliance on restricted housing and creating less restrictive environments to transition incarcerated persons out of restricted housing. The County has also done an excellent job of generating a daily discharge report of the restricted housing population that identifies the known release date or the next court date of the population. The HARP Committee also documents the known release date for any incarcerated persons that HARP discusses, but HARP does not discuss all restricted housing incarcerated persons.

Neither the HARP Committee nor Classification staff document their acknowledgment of the known release date to ensure that staff are cognizant of the pending release and are evaluating stepdown opportunities and, if inappropriate for transition, are not documenting the reason it is not viable to downgrade the incarcerated person from restricted housing to a less restrictive environment. As a result, the County is unable to establish proof of practices for this provision as it is noted that a small percentage of incarcerated persons are housed in restricted housing in the last 60 days of their release and are releasing directly from restricted housing. There may be incidents where this is unavoidable, but the County has not demonstrated the steps

being taken to avoid this and supporting reentry planning when a known release is occurring directly from restricted housing.

The County should update associated policies and documentation in HARP Committee minutes and Classification forms and train the Classification Staff and HARP Committee members to consider alternative, less restrictive placements when appropriate and document the rationale when a less restrictive environment is not viable. This may be more consistently applied if the HARP Committee was responsible for reviewing all restricted housing populations with a known release date of 90 days or less to assist with directing re-entry planning consistent with Provisions VII.F.8.

#### Recommendations

1. \*Add a column to the Restricted Housing tracker to list known release dates of the population.
2. Evaluate the ability of HARP to review restricted housing incarcerated persons with 90 days or less time to serve when the release date is known.
3. \*Update the Reentry Service Tracker to identify incarcerated persons housed in restricted housing. Provide copies of that tracker for monitoring.
4. \*Finalize the Restricted Housing Policy or Classification Policy to reflect goal to stepdown restricted housing populations prior to release to the community.
5. \*Update policies to require an individualized discharge plan for persons who are in restricted housing who are within sixty (60) days of known release.
6. \*Continue with efforts to create mental health and behavioral health stepdown units.
7. \*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.
8. \*Ensure Reentry staff continue to provide services to incarcerated persons in restricted housing.
9. \*Ensure sufficient discharge planning staff to meet the requirements of this provision.

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

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 tracking know release dates, reducing use of restricted housing, delineating the roles and responsibilities of the various entities involved in discharge planning and developing a formal program plan. The County anticipates compliance in the next rating period.

**Compliance Rating:** Partial Compliance

**Prior Compliance Rating:** 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 but has implemented several recommendations since the last report. The County continues to focus on reducing reliance on restricted housing and creating stepdown units to transition incarcerated persons from restricted housing to a non-segregation unit. The County has a tracking report that shows the known release or next court date of the restricted housing population, which reflects on average seven percent of the incarcerated persons in restricted housing during the period of January-June 2023 had a known release date of 60 days or less. The HARP committee is also aware of known release dates and next court dates, but that committee does not address all incarcerated persons in restricted housing and does not have a policy of reviewing incarcerated persons nearing the 60 day to release target.

In the prior reporting period, the County provided information concerning re-entry planning at the individual level; however, those monthly program support reports were not provided for this monitoring period despite requesting them in person and when on tour in May 2023. Those re-entry contacts do not meet the criteria of a discharge plan, but they did demonstrate the program staff were engaging in pre-release planning in the restricted housing units, which reportedly continues but proof of practice has not been established.

As reflected in the prior report, the County will need to update the restricted housing tracker to list known release dates. This would trigger the classification unit and the HARP committee to decide that a discharge plan is necessary if it is not viable to transition the incarcerated person out of the restricted housing unit. The County has the ability to identify the target population for this provision but has yet to demonstrate the development of an individual discharge planning system for this small group of people, usually 4 or 5 per month. If the County cannot demonstrate greater compliance in conducting re-entry planning with this cohort in the next reporting period, this provision could be considered non-compliant in the next monitoring report.

#### Recommendations:

1. See Provision VII.F.7.

## 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.

### County Response

Complete. Grievances are available in areas for ease of access to issue to inmates during out-of-cell activities or when requested.

**Compliance Rating:** Substantial Compliance  
**Prior Compliance Rating:** 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

### Observations

The County affords access to paper grievances at both SBJ and NBJ. Availability is easier at NBJ due to the fact the forms are placed in folders in the housing units for access during out-of-cell time as the physical plant is more conducive. At SBJ, the County has explored a range of methods to ensure access but during tours the placement of forms in various folders in the facilities is not consistent, and the incarcerated people largely state they rely on asking staff or other incarcerated persons when they want to file a grievance.

During the December 2022 and May 2023 tours, the incarcerated people interviewed generally stated they had access to grievance forms, but many deny receiving a timely or meaningful response, which is not specifically required by the language in this provision but is the intent of the County, class counsel and monitors as access to forms without a system for meaningful response and problem resolution would be incongruent with modern correctional practices.

In reviewing the monthly grievance trackers for the period of January-June 2023, eleven (11) grievances were identified in which it appeared the grievance was related to lack of access to grievances or lack of a response. Ten of those grievances were reviewed and all were responded to in a timely manner.<sup>34</sup> However, two grievance responses reflected the grievance could not be answered due to failure of the incarcerated

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<sup>34</sup> Grievance 20788 was not available in the file at the time of the authoring of this report.



person to complete the HIPPA waiver form<sup>35</sup> and the third grievance response concerned housing unit staff not collecting grievance forms regarding issues that are ungrievable.<sup>36</sup>

It is recommended the County assess the decision to require a HIPPA waiver for grievances, which is likely not necessary if the Wellpath staff answer all health care grievances. The County also should discontinue rejecting grievances that a housing deputy believes are ungrievable and process and track those grievances, even if the response to the grievance reflects the issue is not a grievable issue most likely concerning issues not under the jurisdiction of custody or Wellpath or of service providers procured by Custody or Wellpath.

The following chart reflects the categories of grievances subject to review in this report. The grievances have been identified based on brief comments on the grievance tracking log so it is conceivable if the tracking log fails to identify a grievance as associated with one the following categories, the grievance may not have been reviewed for this report.

**Grievance Summary Q1/Q2 2023**

|   | <b>Jan</b> | <b>Feb</b> | <b>Mar</b> | <b>Apr</b> | <b>May</b> | <b>June</b> |
|---|------------|------------|------------|------------|------------|-------------|
| Total Appeals   | 125        | 115        | 131        | 143        | 153        | 118         |
| Secondary Appeal Due to Original Denial                   | 2          | 3          | 9          | 8          | 7          | 8           |
| Classification Appeals                                    | 3          | 11         | 2          | 1          | 10         | 3           |
| Classification Appeals associated with Restricted Housing | 2          | 0          | 3          | 0          | 2          | 1           |
| Dietary Punishment  | 0          | 0          | 0          | 0          | 0          | 0           |
| No Access to Grievance System or no answer                | 4          | 1          | 4          | 1          | 2          | 0           |
| Floor Sleeper, lack of bed, mattress or bedding           | 0          | 0          | 0          | 0          | 0          | 0           |
| Disciplinary Action                                       | 0          | 3          | 4          | 7          | 1          | 2           |
| Access to Tablets   | 0          | 0          | 0          | 0          | 0          | 4           |
| Access to Out-of-cell Time                                | 3          | 1          | 3          | 4          | 6          | 2           |
| Excessive or Unnecessary Force                            | 0          | 2          | 2          | 1          | 1          | 0           |
| Inoperable Phone/Phone Access                             | 1          | 1          | 0          | 0          | 1          | 2           |

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

<sup>35</sup> Grievances 20723 and 20842

<sup>36</sup> Grievance 20850

The Custody Division began grievance trend meetings in 2022 and continued those reviews in the first six months of 2023 although proof of practice for the first quarter review is inconsistent.<sup>37</sup> As reflected in the prior reports, the grievance process requires significant refinement which 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, which is the primary reason for a delay in improvement of the grievance system.

It is hopeful in this next rating period that the Compliance Unit can maintain and document routine and accountable grievance meetings and provide consistent proof of practice meetings are occurring to address access to grievance issues. The Compliance Unit should also be conducting routine audits regarding the availability of grievances in housing units to demonstrate sustained compliance to allow for the recommendation to discontinue external monitoring. While the provisions is being found in substantial compliance for this round, monitoring with access and general grievance procedures will be necessary to maintain adequate compliance.

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.
6. Engage in internal audit to demonstrate sustained compliance.

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

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

Complete. Grievances are available in areas for ease of access to issue to inmates during out-of-cell activities or when requested.

**Compliance Rating:** Partial Compliance  
**Prior Compliance Rating:** Partial Compliance

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<sup>37</sup>Refer to 2023 Second Quarter Grievance Review meeting dated May 15, 2023.

**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

#### Observations

The County continues to afford access to the grievance system for incarcerated persons housed in restricted housing units, and the policies and procedures concerning responding to grievances for restricted housing incarcerated persons is the same policy as non-restricted housing. A review of the grievance tracker reveals that incarcerated persons in designated restricted housing have filed grievances each month as well as those who appear to be in non-designated restricted housing status, such as those housed in New East RH, IRC 100 and IRC 400.

The County continues to attempt to place grievances in areas for the restricted housing population to access as they enter yard or dayroom, which is positive. However, there are housing units which have demonstrated poor access to yard privileges, such as SBJ Northwest restricted housing and New East RH units, which would also restrict the ability for the incarcerated person to collect the grievance when out of their cell. Regardless, the staff are also required to provide grievances when requested and all staff report they do so, but as reflected in VII.G.1, there are allegations that has not occurred, and it is difficult to determine the facts.

The County's goal of providing all incarcerated persons a tablet would help with this discrepancy if the County included a grievance filing option in the tablets. However, it is recognized there may be some incarcerated persons who are on tablet restriction or simply prefer to file a paper grievance and that process must remain an option.

During tours, incarcerated persons in the restricted housing units are the most vocal about the lack of access to grievances and the failure to receive responses to their grievances. The complaints are too consistent between units and complainants to be dismissed, requiring further discussions with the County on how best to demonstrate consistent proof of practice.

#### Recommendations:

1. Consider requiring daily rounds in restricted housing by a supervisor and certify in the logbooks the supervisor documenting any allegation of lack of grievance access.
2. \*Refer to recommendations in VII.G.1.

## 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.
  - 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. The County will develop a strategy regarding tablet issuance and documentation during the next monitoring period.

**Compliance Rating:** Partial Compliance

**Prior Compliance Rating:** Partial 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>38</sup>

There has been little change regarding this provision in the last reporting period. The County continues to provide access to phones assuming that out-of-cell activities are afforded in situations where there is not a phone in the incarcerated person's cell or dorm.<sup>39</sup> There are noted grievances regarding inoperable phones, but they do not appear to be common and there are few, if any, complaints about inoperable phones during tours.<sup>40</sup>

The County does provide tablets, books, newspapers, limited remote correspondence courses and other in-cell activities but as reflected by the County's recent report, proof of practice for items other than tablets has not been established. It has been recommended that an overall strategy and associated policy be

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<sup>38</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.

<sup>39</sup> Access to adaptive communication phones (TDD/TYY) is addressed in the ADA monitoring report.

<sup>40</sup> There are complaints about utilizing the phone due to restricted numbers or PIN access.

developed to comply with this provision but that did not occur in this monitoring period and the previous reports provided that documented correspondence courses were not provided for this monitoring period.

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

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

#### County Response

In Process. The County does not house inmates in excess of rated capacity of housing units. The County has assigned a number to each bed/bunk at the Main Jail in the JMS system in order to meet this requirement. By May 2023, the County will assign a bunk to each inmate. Female and male inmates are separated by sight and sound.

**Compliance Rating:** Partial Compliance

**Prior Compliance Rating:** Partial Compliance

**Policy -** Custody Operations 242 – Suicide Prevention – Updated  
Custody Operations 304 – Use of safety Cells – Updated  
Wellpath B-05 – Suicide Prevention – Requires Update  
Custody Operations Policy 305 – Bed Assignment – Updated  
Custody Operations Policy 362 – Inmate Clothing/Personal Hygiene – Updated  
Inmate Handbook Section 308/311 – Updated

**Training -** Disabilities Rights Remedial Plan Implementation

**Metrics** Rated Capacity Report  
Population Reports  
Grievances  
Tours

Observations

b. Rated Capacity

The County has updated all policies associated with this provision. A review of population reports provided during the review period shows that no units exceeded their rated capacity. A review of grievances for the same period fails to uncover complaints of incarcerated persons not being assigned to a bed or not being provided with a mattress and bedding. The prior practice at SBJ of assigning incarcerated person to a dorm, versus an actual bed, has been updated to ensure all incarcerated persons at SBJ are assigned to a specific bed.

c. Assigned Beds

During the May 2023 tour, no incarcerated person at SBJ reported sleeping on a table or in the dayroom. Staff interviewed stated that if they see an incarcerated person sleeping on a table or in the dayroom overnight, they will address the issue, but most staff stated the assignment of a bed appears to have diminished incarcerated persons sleeping on a mattress on the floor. No temporary beds (“boats”) have been observed in housing units during monitoring tours and the staff and incarcerated persons interviewed stated they have not seen the use of “boats” in the recent past. During tours of intake areas, there did not appear to be incarcerated persons waiting for long periods to be housed into a cell or dorm, which is positive.

d. Mattress and Bedding

The County has a safety cell policy (Custody Operations 304) that by policy restricts issuance of a mattress and clothing other than a safety smock while an incarcerated person is in a safety cell. The County also updated Custody Operations Policy 242 – Suicide Prevention – to reflect that clinicians must be involved in the property restrictions while an incarcerated person is on suicide precautions. However, Wellpath policy B-05 does not specifically list how the clinician should document property restrictions/issuance for custody awareness when altering approved issuance in a safety cell or when downgrading to a mental health observation cell. There has been no policy presented that reflects approved property issuance while in an observation cell, but practice has been that clothing is returned, as is a mattress and bedding.

During tours, generally incarcerated persons in safety cells have been restricted to a safety smock and routinely a mattress. Incarcerated persons in observation cells have been noted to be issued a mattress, blanket(s) and clothing. However, a review of mental health observation logs demonstrates there is not routine documentation relative to deviation from issuance of a blanket, mattress and clothing and that can be because there have not been deviations from that protocol and any alterations in issuance of those items results in a return to a safety cell. It is not infrequent that an incarcerated person is moved from a mental health observation cell to a safety cell.

#### D. Sight and Sound Separation

The females at the NBJ are housed in two units separate from male incarcerated persons unless they are housed in separate cells/dorms in a medical unit or a safety cell. The County has not yet adopted policies and training concerning how to maximize sight and sound separation when this occurs. The County has adopted policies about conducting escorts in a manner to reduce potential interaction during escorted movement. The SBJ continues to house women in an area separate from the males but if the door between the two tiers is left open, which is against policy, verbal interaction can and does occur.

#### Recommendations

1. \*Memorialize in policy property/clothing issuance allowance in mental health observation cells.
2. \*Working with the Mental Health Expert, update Wellpath policy to memorialize process for clinical staff to advise custody staff in writing any deviations of approved clothing/property issuance for IPs on suicide observation.
3. \*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.
4. \*Continue to house females at Northern Branch Jail and the general population and Intake Areas of the Santa Barbara Jails in units not observable by male incarcerated persons.
5. \*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.

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**Attachment A**  
**Inmate Disciplinary Reports**  
**January - June 2023**

|  | <b>Jan</b> | <b>Feb</b> | <b>March</b> | <b>April</b> | <b>May</b> | <b>June</b> | <b>2023 Ave</b> | <b>2022 Ave</b> |
|--|------------|------------|--------------|--------------|------------|-------------|-----------------|-----------------|
| <b>Total IDRs</b>  | 88         | 95         | 98           | 92           | 83         | 114         | <b>95</b>       | 114             |
| <b>IDR involving SMI</b>   | 14         | 12         | 15           | 11           | 15         | 8           | <b>12.5</b>     | 13.4            |
| <b>IDR involving DD/LD/ADA</b>   | 2          | 1          | 1            | 3            | 2          | 3           | <b>2</b>        | Unk             |
| <b>IDR Involving unusual behavior</b>  | TBD        | TBD        | TBD          | TBD          | TBD        | TBD         | <b>TBD</b>      | TBD             |
| <b>Dismissed prior to a hearing</b>  | 4          | 1          | 6            | 3            | 2          | 5           | <b>4</b>        | Unk             |
| <b>MH Consultation Required</b>  | 12         | 11         | 10           | 11           | 15         | 6           | <b>11</b>       | 13              |
| <b>MH Consultation Completed</b>   | 10         | 10         | 9            | 11           | 10         | 6           | <b>9</b>        | 5               |
| <b>MH Recommended Adjustment</b>   | 6          | 6          | 6            | 8            | 3          | 3           | <b>5</b>        | 4               |
| <b>Hearing Officer Concurred with MH</b>   | 6          | 6          | 9            | 8            | 3          | 3           | <b>6</b>        | 4               |
| <b>Hearing Officer articulated reason for non-concurrence (when appropriate)</b> | NA         | NA         | NA           | NA           | NA         | NA          | <b>NA</b>       | NA              |
| <b>IDR involving Non-English Speaking</b>  | 10         | 9          | 4            | 6            | 6          | 6           | <b>7</b>        | 4               |
| <b>Interpreter Provided</b>  | 1          | 0          | 0            | 3            | 2          | 0           | <b>1</b>        | 1               |
| <b>Effective Communication Required</b>  | 22         | 20         | 14           | 17           | 21         | 12          | <b>18</b>       | Unk             |
| <b>Effective Communication Documented by clinician</b>                           | 1          | 0          | 0            | 6            | 10         | 6           | <b>4</b>        | Unk             |



**Attachment B**  
**Inmate Disciplinary Reports**  
**January - June 2023**

|  | <b>Jan</b> | <b>Feb</b> | <b>March</b> | <b>April</b> | <b>May</b> | <b>June</b> | <b>2023 Ave</b> | <b>2022 Ave</b> |
|--|------------|------------|--------------|--------------|------------|-------------|-----------------|-----------------|
| <b>% of IDRs involving SMI, DD, LD or unusual behavior</b>                                 | 14%        | 12%        | 10%          | 12%          | 20%        | 10%         | 13%             | UNK             |
| <b>% of IDRs where MH completed assessment as required</b>                                 | 83%        | 91%        | 90%          | 100%         | 66%        | 100%        | 88%             | 36%             |
| <b>% Where MH recommended adjustment</b>   | 60%        | 60%        | 67%          | 73%          | 30%        | 50%         | 57%             | UNK             |
| <b>% of IDRs where hearing officer concurred with MH recommendations</b>                   | 100%       | 100%       | 100%         | 100%         | 100%       | 100%        | 100%            | 100%            |
| <b>% of IDRs where hearing officer appropriately documented reason for non-concurrence</b> | NA         | NA         | NA           | NA           | NA         | NA          | NA              | NA              |
| <b>% of IDRs where a Staff Assistant was assigned</b>                                      | 0%         | 0%         | 0%           | 0%           | 0%         | 0%          | 0%              | 0%              |
| <b>% of IDRs where Effective Communication was documented by hearing officer</b>           | 0%         | 0%         | 0%           | 0%           | 0%         | 0%          | 0%              | 0%              |
| <b>% of IDRs where translation services were documented.</b>                               | 10%        | 0%         | 0%           | 50%          | 33%        | 0%          | 16%             | UNK             |