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Report on Inspection of Sonoma County Main Adult Detention Facility (Conducted on August 25, 2015)

Dated: May 16, 2015

EXECUTIVE SUMMARY

Disability Rights California (DRC) is the state and federally designated protection and advocacy agency charged with protecting the rights of people with disabilities in California. DRC has the authority to inspect and monitor conditions in any facility that holds people with disabilities. Pursuant to this authority, DRC conducted inspections of conditions in six county correctional facilities in 2015. One of these facilities was the Sonoma County Main Adult Detention Facility (“the Main Jail” or “Jail”). On August 25, 2015, four DRC attorneys, along with our authorized agents Don Specter and Kelly Knapp of the Prison Law Office, inspected the Jail.

We observed positive practices and programs, which included the following:

- **Jail diversion program:** Sonoma County has a pre-trial release program that include early case resolution and electronic monitoring that allows the Main Jail to have relatively low numbers of pre-trial detainees incarcerated.
- **ADA coordinators:** The Main Jail has designated staff members for receiving disability-related grievances and accommodation requests.

- **Booking:** The Main Jail has a waiting room in the booking area for detainees who are non-violent, non-threatening and have low-level charges. Detainees have access to unlimited free local phone calls and a television. See Attachment #1 (photos).
- **No segregation of people with disabilities:** The Main Jail integrates individuals using durable medical equipment, as opposed to separating them from the general population like many facilities. Instead, there are accessible cells throughout the facility, which reduces isolation of people with disabilities.
- **Programming:** In the C unit, people may participate in the PATHS program that meets one hour a day, four days a week. This program provides ongoing intervention classes on stress and anger management to inmates housed in the Mental Health module and won an award in 2011 from the Council on Mentally Ill Offenders (COMIO). Unfortunately, these services were not available to inmates in most of other units who would benefit from structured group activity.

However, we also found evidence of the following violations of the rights of prisoners with disabilities:

- (a) Improper mental health practices and inadequate care;
- (b) Undue and excessive isolation and solitary confinement of prisoners with disabilities.

Pursuant to our authority under 42 U.S.C. §10805(a)(1) and 29 U.S.C. § 794(f)(3), DRC finds that there is probable cause to conclude that there is abuse and/or neglect of prisoners with disabilities in the Jail. As discussed below, we are especially concerned about conditions in the mental health unit, which was striking for the high level of acuity and severity of symptoms among prisoners we observed, and also the deficient practices regarding involuntary medication.

Background

Following the implementation of AB 109 in 2011, prisoners may be sentenced to California jails for years at a time. A recent report found that by late 2014, the number of prisoners housed in county jails serving sentences of more than five years has skyrocketed due to [AB 109](#).¹ [The Sonoma County Civil Grand Jury found that prisoners at the Main Jail and other county facilities were serving sentences as long as fifteen years.](#)²

The Main Jail is a [direct supervision jail](#)³ that houses pre-trial and pre-sentencing detainees, as well as sentenced men and women. The facility is designed for a maximum capacity of 918 individuals and had an average daily population of 791, or approximately 86% of capacity, at the time of our tour, based on documentation provided by the Jail.

According to the Grand Jury report, because of budget cuts during the last recession, the Sheriff's Office lost about 20% of its custody staff. Since at least 2014, the Department has had mandatory overtime, which increased stress and injuries of the staff. Staff levels are still low but the Sheriff states that they have put additional resources into retention and recruitment.

The Main Jail has a significant population of prisoners with mental health disabilities, with approximately 40% of inmates taking psychiatric medications. The facility rates prisoners by their ability to function in the jail, and the range is from "Z"s who can be housed with the general population to "E"s who require acute care.

¹Public Policy Institute of California, "California's County Jails," available at http://www.ppic.org/main/publication_show.asp?i=1061. ["Return to Main Document"](#)

² Sonoma County Civil Grand Jury Report, "County Detention Facilities – Final Report 2014-2015," available at http://sonoma.courts.ca.gov/sites/all/assets/pdfs/general-info/grand-jury/2014-2015/County_Detention_Facilities_2014-2015.pdf. ["Return to Main Document"](#)

³ According to the Department of Justice, National Institute of Corrections, "direct supervision" is defined as a podular housing design with correctional officers moving on the pod and interacting with prisoners, without a barrier. See <http://static.nicic.gov/Library/021968.pdf>. ["Return to Main Document"](#)

We observed restraint chairs, which hold people in up to five point restraints, in the Mental Health module, administrative segregation, and in booking.

FINDINGS RE: ABUSE AND/OR NEGLECT OF PRISONERS WITH DISABILITIES

Based on our monitoring visit on August 25, 2015, review of public documents, inmate medical [records](#),⁴ and interviews, their families, and attorneys, we found probable cause that people with disabilities were subject to [neglect](#)⁵ in Sonoma County Jail regarding (1) mental health care; and (2) excessive isolation.

1. Inadequate Mental Health Care

Under the U.S. Constitution, there are “six basic, essentially common sense, components of a minimally adequate prison mental health care delivery system.” *Coleman v. Brown*, 938 F. Supp.2d 955, 970 (E.D. Cal. 2013). The components are: screening, staffing, recordkeeping, medication, suicide prevention, and “a treatment program that involves more than segregation and close supervision of mentally ill inmates.” *Id.* at 970 n. 24; *Balla v. Idaho State Board of Corrections*, 595 F. Supp. 1558, 1577 (D. Idaho 1984); *Ruiz v. Estelle*, 503 F. Supp. 1265, 1339 (S.D.Tex.1980). The jail must address the negative effects of housing in harsh segregated environments (*Coleman*, 938 F. Supp.2d at 979–80), and provide “treat[ment] in an individualized manner” for mental disorders. *Id.* at 984. Treatment must have the goal of “stabilization and symptom

⁴ Records were reviewed with releases from inmates. [“Return to Main Document”](#)

⁵ Under DRC’s authorizing statute, 42 U.S.C. § 10802(5), “[t]he term ‘neglect’ means a negligent act or omission by any individual responsible for providing services in a facility rendering care or treatment which caused or may have caused injury or death to an individual with mental illness or which placed an individual with mental illness at risk of injury or death, and includes an act or omission such as the failure to establish or carry out an appropriate individual program plan or treatment plan for an individual with mental illness, the failure to provide adequate nutrition, clothing, or health care to an individual with mental illness, or the failure to provide a safe environment for an individual with mental illness, including the failure to maintain adequate numbers of appropriately trained staff.” [“Return to Main Document”](#)

management.” *Madrid v. Gomez*, 889 F. Supp. 1146, 1222 (N.D. Cal. 1995).

The Main Jail has a specialized Mental Health Module. During our visit to the Module, we were struck by the acuity level of the prisoners in what was described as an “outpatient” unit. Some of the inmates were so disoriented and/or psychotic that they were unable to converse with us. A number of jails in California have inpatient units that are designated for the treatment of people with mental illness under the Lanterman-Petris-Short (“LPS”) Act. Sonoma does not have a designated inpatient unit, but the people we observed appeared to need a higher level of care, such as that available in a designated inpatient unit. They also received very limited time outside of their cells, which can be particularly psychologically damaging for prisoners with mental health disorders, as we discuss below.

Insufficient Treatment

The treatment available on the unit consisted primarily of medication and cell-front interviews with staff. Since most cell doors have solid fronts, mental health staff attempt to communicate by speaking through the food slots or the cracks between the door and the frame. Cell-front interviews are regarded as an ineffective means of providing “therapy” or treatment because of the reduced efficacy and lack of confidentiality for communication of sensitive [information](#).⁶ Even the most acute patients received visits from a psychiatrist only 2-3 times a week. Patients with significant histories of mental illness in the jail often cycle through without ever being sent to a psychiatric hospital or treatment facility. Although the Jail maintains a contract with the Santa Clara Main [Jail](#)⁷ for individuals on LPS holds, staff indicated that transfers to other facilities were seldom used.

⁶ Metzner J.L., Dvoskin J.A., “An Overview of Correctional Psychiatry,” *Psychiatr Clin North Am* 29:761–72 (2006). [“Return to Main Document”](#)

⁷ It is worth noting that the Santa Clara Main Jail does not include a licensed psychiatric hospital unit and is the subject of class action litigation regarding inadequate mental health care. See *Chavez v. County of Santa Clara*, Case No. 1:15-cv-05277-NJV, (N.D. Cal. 2015). People from Sonoma County should not be transferred to this facility for psychiatric care. [“Return to Main Document”](#)

As noted above, the people we observed in the Mental Health Module appeared to be far more acutely mentally ill than in other jails. This could be because prisoners who should have been transferred out to a psychiatric facility were instead retained in the jail (possibly for cost reasons). Alternatively, the lack of proper treatment in the Jail has led individuals to decompensate. It is critical that Sonoma County either transfer these acutely mentally ill individuals to an appropriate facility or raise the treatment standards in the Jail itself and seek LPS designation. Given that the County has received funds for a new mental health correctional facility, it may consider whether to seek licensure of that unit.

As an example, we spoke with and reviewed the medical records of a woman with Bipolar Affective Disorder whose records indicate insufficient treatment for the severity of her symptoms. Her medical records indicate that she had a history of being hospitalized “several times, often for weeks or months,” while in the community. She cycled through the Jail and was housed in the Mental Health Module multiple times in the last year. During one of her incarcerations in the summer of 2015, she flashed her breasts, was unable to respond appropriately to questions, yelled and cried, pounded on the door, and screamed with a hoarse voice. On another occasion last summer, she went an entire week without ever being seen by mental health staff even though she was prescribed psychotropic medication and placed in the Mental Health Module. During a third stay in the Jail within the same three month period, she tore up her cell and flooded it with water. In response, Jail staff turned off the water in her cell. Following this, according to one note, she was “bailing urine out of her toilet” with her bare hands and drinking out of the toilet. Given this level of acuity, this woman needed additional treatment and should have been transferred to a facility that could better meet her needs.

Additionally, a record review of a different individual revealed an improper medication practice. The records state that the Jail does not prescribe Wellbutrin under any [circumstances](#).⁸ That is not an acceptable

⁸ In response to our initial report, the County of Sonoma indicated that the Jail will prescribe Wellbutrin and that the record was made in error. Psychiatric medication requisition forms submitted to DRC by the County indicate that Wellbutrin is ordered, although in small quantities. However, the fact that a jail staff member believed that the

policy. We understand that the Jail has legitimate concern with substance abuse, but the Jail cannot prohibit the dispensing of a medically necessary medication. The Jail must have an exception policy and a way for patients to receive non-formulary medications if medically appropriate.

Improper Capacity Petitions

During our tour, the Jail's chief mental health staff person described the Department's practices with regard to "*Riese*" petitions. "*Riese*" petitions, named for a court case by the same name, are also known as "capacity" petitions. Mental health staff file these petitions to obtain court authority to administer psychotropic medications over a patient's objection on the ground that that the individual lacks decision-making capacity as the result of a mental health disorder.

Staff at the Main Jail stated that they (1) filed capacity petitions on prisoners who had not also been placed on an involuntary psychiatric hold under Welfare & Institutions Code § 5150 or § 5250, and (2) injected prisoners subject to those petitions with long-term psychotropic [medications](#).⁹ Both of these practices are illegal and must be stopped immediately.

As to the first practice, *Riese* petitions are only valid during the time of involuntary psychiatric hold filed under the Lanterman-Petris-Short (LPS) [Act](#).¹⁰ California law is clear about the extent of the petition. Welfare & Institutions Code Section 5336 states:

jail would not prescribe Wellbutrin is evidence of the need for better education of staff in the facility. ["Return to Main Document"](#)

⁹ The Sheriff's Office has indicated that it plans to revise its policy on decanoates. We support this change and look forward to seeing a termination to this practice. ["Return to Main Document"](#)

¹⁰ In fact, the need for a hold is evident from the *Riese* decision itself: "If the patient is judicially determined incapable of giving informed consent, and if he or she is being detained for 72-hour treatment and evaluation under section 5150 or for not more than 14 days of intensive treatment under section 5250, the patient may thereupon be required to accept the drug treatment that has been medically prescribed." *Riese v. St. Mary's Hospital*, 209 Cal. App. 3d 1308, 1323 (1987) (emphasis added). ["Return to Main Document"](#)

Any determination of a person's incapacity to refuse treatment with antipsychotic medication made pursuant to Section 5334 shall remain in effect only for the duration of the detention period described in Section 5150 or 5250, or both, or until capacity has been restored according to standards developed pursuant to subdivision (c) of Section 5332, or by court determination, whichever is sooner. (Emphasis added.)

Further, Welfare & Institutions Code Section 5332(b) notes that staff can administer anti-psychotic medication involuntarily to individuals with a determination of the incapacity to refuse, but specifically limits it to “any person subject to detention pursuant to Section 5150, 5250, 5260, or 5270.15,” the LPS holds. To use a “Riese” petition to involuntarily medicate prisoners who are not subject to an LPS hold violates the protections and time limitations in the law.

This practice also raises questions of whether mental health patients needing this level of care are being treated in the proper facility for their needs. A patient on a LPS hold must be transferred to a LPS-designated facility, where treatment and staffing requirements are more robust than on the Module. See, e.g., Welf. & Inst. Code § 5150. The woman described above never received an involuntary hold until she was placed on a temporary conservatorship in the fall. Nevertheless, she received an involuntary medication order in July and was taken to Psychiatric Emergency Services for injections on multiple occasions. During this period, the prisoner continued to display acute behaviors, including flooding her cell, rambling, and crawling on the ground, but staff never sought a transfer to a facility more appropriate for her level of grave disability. It is impossible to know how or if her condition would have improved more quickly had she received a higher level of care.

The second practice of using long-acting injectable psychotropic medications on prisoners is also improper. Long-acting psychotropic medications, known as “decanoates,” are a relatively new development in the mental health field. A single injection may have effects lasting as long as a month or more. Consequently, the weight of authority is that these injectables may be used only in certain specified situations, and not when a patient is unstable. The California Department of Health Services, Behavioral Health issued a directive on long-acting decanoate medications, which specified that they should only be used after a patient has stabilized

and not when on a short-term [hold](#).¹¹ If a prisoner is on a hold under Welfare & Institutions Code Section 5150 or 5250, he or she is, almost by definition, not stable. Further, because an individual subject to a *Riese* petition may later be found to have capacity at an appeal hearing, use of long-term medications would violate their right to bodily autonomy, as they could not remove the involuntary medication already in their system.

We strongly urge the Sheriff's Department to end these practices, take steps to transfer prisoners who are unstable and in an acute mental illness episode out of the jail to an appropriate treatment facility, and to end the illegal practices described above. We are aware that Sonoma County recently received approval for a new Behavioral Health Unit at the Main Jail, which will consist of 72 mental health beds, of which 40 beds will be for the competency restoration program and 32 beds for prisoners for serious mental [illness](#).¹² The findings in this report and the process of planning for the new mental health unit offer the County an opportunity to reform its overall practices. However, even if the new facility will ameliorate some of these problems, it is necessary that the County address the problems in the interim to ensure that everyone in the Jail receives appropriate mental health care.

2. Isolation and Solitary Confinement

During our inspection, we found overuse of prolonged isolation and segregation in the Jail. Many prisoners were locked in small cells alone or with a cell-mate for 20 to 24 hours per day, which gives rise to our finding of probable cause of abuse and/or neglect on this issue.

Isolation and solitary confinement in correctional facilities are generally considered to be situations in which prisoners are held in their

¹¹ See Opinion Letter from California Department of Health Services, Behavioral Health, on file with DRC. ["Return to Main Document"](#)

¹² BSCC California Press Release, "15 Counties to Receive \$500m for Jail Construction, Improvements," November 12, 2015, available at <http://www.bscc.ca.gov/downloads/SB%20863%20PR%2011.12.15.pdf>. ["Return to Main Document"](#)

cells, alone or with a cellmate, for 22 to 24 hours per [day](#).¹³ Even a short stay in conditions of extreme isolation is likely to worsen prisoners' mental health symptoms, causing them "to lapse in and out of a mindless state" or "semi-fatuous condition" at a heightened risk for suicide. See *Davis v. Ayala*, 576 U.S. ____, No. 13-1428, 2015 WL 2473373, at *20 (U.S. June 18, 2015) (Kennedy, J., concurring). Consequently, correctional facilities should place prisoners in isolation only when security conditions permit no [alternative](#).¹⁴ Prisoners with mental health problems are especially harmed by prolonged isolation (defined as a duration of more than three to four [weeks](#)).¹⁵ Many state correctional systems, including those in California, Illinois, Massachusetts, Ohio and Pennsylvania, have adopted policies to ensure that prisoners with mental illness are excluded from isolation and solitary [confinement](#).¹⁶

¹³ For support for this accepted definition of isolation, see, e.g., U.S. Department of Justice, Investigation of State Correctional Institution at Cresson, May 13, 2013, , available at http://www.justice.gov/crt/about/spl/documents/cresson_findings_5-31-13.pdf ("terms 'isolation' or 'solitary confinement' mean the state of being confined to one's cell for approximately 22 hours per day or more, alone or with other prisoners, that limits contact with others. ... An isolation unit means a unit where either all or most of those housed in the unit are subjected to isolation."); *Wilkinson v. Austin*, 545 U.S. 209, 214, 224 (2005) (describing solitary confinement as limiting human contact for 23 hours per day); *Tillery v. Owens*, 907 F.2d 418, 422 (3d Cir. 1990) (21 to 22 hours per day). ["Return to Main Document"](#)

¹⁴ Metzner J.L., Fellner J., "Solitary Confinement and Mental Illness in U.S. Prisons: A Challenge for Medical Ethics," *J Am Acad Psychiatry Law* 38:104–8, 2010. ["Return to Main Document"](#)

¹⁵ American Psychiatric Association, Position statement on segregation of prisoners with mental illness (2012), available from <http://www.psychiatry.org/File%20Library/Learn/Archives/Position-2012-Prisoners-Segregation.pdf>. Accord, Society for Correctional Physicians, "Restricted Housing of Mentally Ill Inmates, Position Statement," July 9, 2013, available from <http://societyofcorrectionalphysicians.org/resources/position-statements/restricted-housing-of-mentally-ill-inmates> ("prolonged segregation of inmates with serious mental illness, with rare exceptions, violates basic tenets of mental health treatment.") ["Return to Main Document"](#)

¹⁶ Metzner J.L., Dvoskin J.A., "An Overview of Correctional Psychiatry," *Psychiatr Clin North Am* 29:761–72 (2006). See also, U.S. Department of Justice, "Investigation of the Pennsylvania Department of Corrections' Use of Solitary Confinement on

Title 15 only mandates at least three hours of outdoor recreation time per week, and the Jail does appear to meet this minimum [standard](#).¹⁷ Unfortunately, three hours per week of out-of-cell time still leaves people in their cells for 23 to 24 hours per day on most days. We interviewed people in the jail who confirmed that they are allowed out of their cells only 30-45 minutes per day. This regimen constitutes extreme isolation.

We recognize and appreciate that the Sheriff's Department has made a conscious effort to increase out-of-cell time for prisoners. Generally, prisoners of different security levels cannot be released into a day room together, which limits the amount of out-of-cell time available in a unit with mixed security levels. To address this, the Department has added low walls to divide several day rooms in two sections. This allows more prisoners with different security levels to be out in the day room at one time, albeit in a much smaller area. Additionally, the Department has constructed screens on the walkway along the upper tier of cells, so that this area can be used as a "quasi" day room in which prisoners may leave their cells, walk up and down, stretch and socialize. While this arrangement limits interaction between the upper and lower tiers, it increases out of cell time.

People in the Main Jail are held in single cells if they are classified as maximum security, are in administrative segregation or Protective Custody, or subject to short-term discipline. In addition, all prisoners in the Mental Health Modules are held in single cells. The primary out of cell time offered to these prisoners is the minimum outdoor recreation required by state regulations, and a few minutes of shower time every other day. Conditions in isolation units in the Jail were characterized by inadequate exercise, extreme social isolation and inadequate mental health monitoring. In contrast, prisoners in general population typically are housed in dormitories, or are locked in their cells only during sleeping hours, and are in dayrooms, activities or recreation areas during waking hours.

Prisoners with Serious Mental Illness and/or Intellectual Disabilities," February 24, 2014, http://www.justice.gov/crt/about/spl/documents/pdoc_finding_2-24-14.pdf. ["Return to Main Document"](#)

¹⁷ Title 15 C.C.R. §1065. ["Return to Main Document"](#)

Additionally, during our tour we noticed the use of what were called “quiet cells” in one corner of the Mental Health Module. Staff appeared to be using these cells for people who were disruptive due to their mental health symptoms. To access individuals in these two cells, staff must unlock a closed door, and then unlock another closed door to open the cell. Unlike the other cells in this unit, individuals cannot view the dayroom through their cell window, and staff also cannot see them from the dayroom. They cannot hear other people inside the unit, and staff also cannot hear them. This practice creates “isolation within isolation,” and may worsen their psychiatric conditions. It also significantly increases the risk of suicide.

People in the Jail with mental illness are not excluded from these isolation conditions, although this is the practice recommended by most experts and the U.S. Department of [Justice](#).¹⁸ In fact, those in the Mental Health Module, discussed further above, are housed in single cells with very limited time provided out of cell. See Attachment #1 (pictures).

The psychological effect on these individuals was obvious: one man described being “trapped” and “boxed in” in his cell. This man had Bipolar Affective Disorder and had repeatedly told mental health staff that these conditions were worsening his mental health symptoms. In one Inmate Mental Health Request, he stated: “I am on Ad-Seg as [sic] it is already this is really not good for my mind... I’m overwhelmed by this, which is causing me to not sleep to feel agitated, powerless, depressed, and confused. Please help me?” In response to this request, mental health staff wrote that he was in that certain unit, as opposed to a Mental Health Module, because he was “doing well” and with “continued good behavior” he might be able to move to a module with more out-of-cell time. This is an ineffective and inappropriate policy because prolonged isolation causes

¹⁸ See, Metzner J.L., Dvoskin J.A., “An Overview of Correctional Psychiatry.” A recent agreement between the Department of Justice and a county jail in Georgia provides that segregation “shall be presumed contraindicated” for inmates with serious mental illness. If an inmate has a “serious mental illness” or other acute mental health contraindications to segregation, that inmate “shall not remain in segregation absent extraordinary and exceptional circumstances.” MOA Between the U.S. Department of Justice and Columbus, Georgia Regarding the Muscogee County Jail, January 16, 2015, available from http://www.justice.gov/crt/about/spl/documents/muscogee_moa_1-16-15.pdf. [“Return to Main Document”](#)

many people to deteriorate and engage in difficult behaviors related to their mental illness that only lead to longer periods of isolation in the Mental Health Module or other solitary confinement units.

3. Other Issues of Concern:

We noted two other areas where the Jail can improve its policies to comply with federal and state law. We will continue to monitor the Jail's compliance with the Americans with Disabilities Act in coming months, particularly with regard to accessibility and accommodation protocols. We also will follow up on the Jail's health care policies regarding ophthalmology and optometry services.

Accommodation Requests under the Americans with Disabilities Act

Sonoma's practices are generally consistent with Title II of the Americans with Disabilities Act ("ADA"), which provides that "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity." 42 U.S.C. § 12132. Jails and prisons are subject to the prohibitions and protections in Title II. *Pierce v. County of Orange*, 526 F.3d 1190, 1214 (9th Cir. 2008) (citing *Pa. Dep't of Corr. v. Yeskey*, 524 U.S. 206, 209-10 (1998)). In correctional settings, the ADA protects participation in jail programs, services and activities including the ability to safely use personal hygiene services such as toilets and showers, to engage in activities such as ambulation and exercise, and participate in programs such as visitation, educational classes, religious services, and inmate worker programs on the same basis as non-disabled prisoners.

In 2010, the Department of Justice issued a new regulation specifically addressing the "nondiscrimination and program access obligations" of a correctional facility. 28 C.F.R. § 35.152, effective [March 15, 2011](#).¹⁹ This regulation provides in part that "[p]ublic entities shall implement reasonable policies, including physical modifications to

¹⁹ U.S. Department of Justice, Notice re: Final Regulations implementing Title II of the ADA, 75 Fed. Reg. 56164, 56218-56223 (2010), available at http://www.ada.gov/regs2010/titleII_2010/titleII_2010_regulations.htm#a2010guidance.
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additional cells in accordance with the 2010 Standards, so as to ensure that each inmate with a disability is housed in a cell with the accessible elements necessary to afford the inmate access to safe, appropriate housing.” 42 C.F.R. § 35.152(b)(3). Justice Department commentary on this regulation makes clear that it concerns the *program access* obligations of a correctional facility, which do not depend on the date of construction, as opposed to requirements for architectural accessibility, which are tied to the date of construction or [modification](#).²⁰

Accessible Areas

The Sheriff’s Department has made an exemplary effort to ensure that people with disabilities are able to access Jail programs, services and activities. Accessible toilets and showers are available in a variety of housing units, which enables prisoners with mobility impairments to be integrated into the jail population based on their needs and classifications.

However, we did note some minor problems with accessibility in the facility. In the Male Special unit, one bathroom was marked with a disabled sticker, but it does not have a bench, chairs, bars, or a lowered knob required for a person in a wheelchair or with a mobility impairment. See Attachment #1 (pictures). We also received complaints that the “handicapped” cell in the mental health module was not fully accessible.

Accommodation Procedures

We found that the Jail has an ADA coordinator, which is a very positive practice and should serve as a model for other jails. However, our review of medical records indicated that requests for accommodations under the ADA were not reviewed in a timely manner. For example, one man filed repeated Inmate Requests forms over an eight-day period regarding his need for a lower bunk and lower tier, because of ankle, knee, and back problems. Jail staff did not evaluate him for over three weeks to determine if the accommodation was necessary; instead, they stated they were trying to verify his disability through health records. This protocol is inappropriate. A nurse should have conducted a face-to-face triage within at most 72 hours of his inmate request form to ensure that he had the

²⁰ *Id.*, 75 Fed. Reg. at 56218-56223. [“Return to Main Document”](#)

accommodations he needed. The National Commission of Correctional Health Care requires 48 hours, but allows 72 hours if it is the [weekend](#).²¹ In the CDCR system, all requests for reasonable accommodation must be reviewed within one working day, and if the issue “may cause serious or irreparable harm” (e.g., falling), then the ADA staff should see the person within 2 working days of receiving the request. We believe a 72-hour window, shorter if there is potential for serious harm, maintains individual rights and access while allowing for discretion on the part of the Jail.

Health Care

Lastly, our record review revealed that prisoners at the Jail are not provided optometry services and prescription glasses. The records we reviewed state that inmates must pay for all vision services, including transportation, appointment costs, and the cost of the glasses. If the prisoner does not have sufficient funds “on the books,” the service is denied. This is unacceptable. The Jail is responsible for the provision of all medically necessary services. Title 15 C.C.R. § 1200. Although the Jail is allowed to charge a minimal fee, care cannot be denied if the prisoner has insufficient [funds](#).²² The Jail must change this policy immediately.

Initial Recommendations

Mental Health:

1. Provide regular mental health rounds and offer structured therapeutic activities and unstructured out of cell time in mental health housing areas.
2. Establish a contract for transfer to a licensed facility for inmates on LPS holds or pursue LPS designation in the Jail.

²¹ See NCCHC standard J-E-07, which requires face-to-face encounters within 48 hours (72 hours on weekends) for written requests for health care describing clinical symptoms. [“Return to Main Document”](#)

²² *Gardner v. Wilson*, 959 F. Supp. 1224 (C.D. Cal. 1997) (upholding a \$5.00 copayment requirement for medical visits, not applicable to inmates with no money, life-threatening or emergency situations, or follow-ups initiated by medical staff.) [“Return to Main Document”](#)

3. Establish an exception process for non-formulary medications.
4. Establish policy for initiating LPS involuntary holds (e.g. Welf. & Inst. Code §§ 5150, 5250, etc.) before initiating an involuntary medication proceeding.
5. Terminate practice of use of Decanoates for prisoners with an involuntary medication order.
6. Contract with an expert of mental health services in correctional facilities to review mental health policies at the Jail, as the Jail did with out-of-cell time.

Isolation:

1. Increase out-of-cell time and ameliorate isolation conditions in Administrative Segregation, Protective Custody, Total Separation, Maximum Security and the Mental Health Module.
2. Ensure that prisoners in single and double cells in the Main Jail are provided with a minimum of 4 hours per day of out-of-cell time.
3. Develop procedures to exclude prisoners with serious mental illness from isolation and segregation absent extraordinary or exceptional circumstances.
4. Develop new protocols for the Outpatient Mental Health Module, so that prisoners are offered structured and unstructured out-of-cell time consistent with minimum standards outlined in this report.

Disability Accommodation:

1. Establish a triage policy so that all prisoners with disability-related accommodation requests are evaluated within 24 hours.
2. Ensure that all individuals who make a disability-related request are seen within 72 hours, less if there is danger of significant harm.

Health Care:

1. Revise the policy for optometry and ophthalmology services.
2. Ensure that prisoners receive all medically necessary services regardless of the money in their trust accounts.

Attachment:

1. Photographs of Sonoma County Main Adult Detention Facility, August, 25, 2015

















The Sonoma County Sheriff's Office and the County of Sonoma's Response to Disability Rights California's Report on Sonoma County's Main Adult Detention Facility

The Sonoma County Sheriff's Office and the County of Sonoma are pleased to have the opportunity to comment on the May 16, 2016, Report on Inspection of the Sonoma County Main Adult Detention Facility ("Report") of Disability Rights California (DRC), which focused on treatment of mentally ill inmates in the jail. The Report was compiled after an August 25, 2015, tour of the facility where DRC and its designated agent, the Prison Law Office (PLO),¹ were given full access to the facility and inmates.

Representatives from the Sonoma County Sheriff's Office, Sonoma County Behavioral Health, and the jail's contracted medical provider, California Forensic Medical Group (CFMG), briefed the DRC/PLO team on the jail programs and operations and openly responded to all questions and information requests. Full cooperation was provided to the inspection team.

The DRC/PLO Report highlights many of the positive programs and policies the Sheriff's Office and the County of Sonoma have put in place to provide safe, accessible, and appropriate mental health treatment in the Main Adult Detention Facility. As noted in the Report, DRC/PLO recognizes the Sheriff's Office and the County for its pre-trial diversion program, its dedicated Americans with Disabilities Coordinator, maintaining a safe and accessible booking area, not segregating persons with disabilities (physical or mental), and providing programming to all inmates whose behavior allows participation regardless of their mental or physical disabilities. Additionally, the Report notes that the Sheriff's Office is in full compliance with the regulations that govern the amount of time an inmate is allowed out of his or her cell.

The Sonoma County Sheriff's Office and the County of Sonoma are committed to being a leader in the delivery of mental health treatment and medical care to those suffering from mental illness. Providing effective services to this vulnerable population is a pressing issue challenging communities nationwide. These challenges are increased when the person is housed in a jail facility. Like most other mental health and jail systems, Sonoma County is also affected by the nationwide lack of community mental health hospitals and treatment beds. Despite these challenges, Sonoma County has worked to provide the best possible treatment and care for inmates suffering from mental illness, and is committed to identifying and implementing additional solutions.

To reach our treatment goals, the County and its criminal justice system have implemented and embarked on major programmatic and facility initiatives. In addition to significant investments in early interventions, the Sonoma County Department of Health Services' Behavioral Health Division works closely with the Sheriff's Office and other local law enforcement agencies to ensure that mentally ill people who come in contact with law enforcement are properly and professionally engaged in a manner that is both safe and compassionate. Examples of these efforts are:

- The Sheriff's Office and the Behavioral Health Division have trained over 400 local law enforcement officers in Crisis Intervention Team (CIT) de-escalation and diversion techniques to be used when encountering individuals with behavioral health disorders in the community.

¹ The DRC is the state and federally designated protection and advocacy agency charged with protecting the rights of people with disabilities in California. DRC has the authority to inspect and monitor conditions in any facility that holds people with disabilities and to engage the services of agents to assist in its mission.

- The Mobile Support Team (MST) is available 7 days per week to respond with law enforcement to community members with behavioral health crises in Santa Rosa and Petaluma.
- The Forensic Assertive Community Treatment Team {FACT) jail diversion program provides intensive, wrap-around outpatient treatment to individuals with mental illness who would otherwise be incarcerated.
- Behavioral Health staff is embedded at the Probation Department to provide services and referrals to former inmates to support successful community reintegration.
- The Behavioral Health Division supplies two clinicians to provide in and out of custody restoration services to inmates who, due to mental illness, are found incompetent to stand trial, thereby shortening their time in jail prior to their court hearing.

Sonoma County has worked to provide the best possible treatment and care for inmates suffering from mental illness. Sonoma County has spent millions of dollars modifying the day rooms of the Main Adult Detention Facility to allow inmates increased time out of their cells. In addition, Sonoma County has implemented a Pre-Trial Services Program, which supports individuals with limited financial means to remain in the community pre-trial, allowing them to continue to begin receiving mental health services in a non-detention setting. A full time discharge planner is employed to connect mentally ill inmates to community services upon their release from jail.

Recognizing the growing population of mentally ill inmates in local jails here and statewide, the County is beginning a major \$48 million effort (funded in part by a \$40 million competitively awarded state grant) to improve services through the construction of a new jail Behavioral Health Unit dedicated to treating inmates with mental health problems. The new Unit is designed to provide a more therapeutic environment for mental health inmates and will focus on increased out of cell time, programming, and restoration to competency services.

As expected, the Report did raise concerns about involuntary medication and out of cell time. The Sheriff's Office and Behavioral Health had been working on these areas well before the DRC/PLO took their tour of the Main Adult Detention Facility. The Sheriff's Office and Behavioral Health appreciate the DRC/PLO's focus and input on these subjects and Behavioral Health has made a policy change as a result of the DRC/PLO's report (described in more detail below). The Sheriff's Office continues to request funds and grants to modify the jail to provide more out of cell time and is continually analyzing and revising how it classifies and houses inmates to ensure that inmates are allowed out of their cell for the maximum time possible. The Sheriff's Office and Behavioral Health also continue to seek out psychiatric hospitals who will accept Sonoma County inmates for longer term treatment as recommended in the Report. Unfortunately, as is the case for many counties in California, there are currently no such psychiatric hospitals or facilities willing to accept Sonoma County inmates.

The Sonoma County Sheriff's Office was happy to cooperate and facilitate the inspection of the MADF for DRC/PLO. The current jail facility is in full compliance with all applicable standards as determined by inspections by the Board of State and Community Corrections (January 2016 report). It is always our goal to improve operations, practices and policies, and the points noted in the Report and the County's specific Responses below are received in the spirit of the joint interest of continuing to meet and wherever possible exceed compliance standards.

DETAILED RESPONSES TO DRC REPORT RECOMMENDATIONS

Mental Health:

Recommendation 1. Provide regular mental health rounds and offer structured therapeutic activities and unstructured out of cell time in mental health housing areas.

RESPONSE:

Sonoma County Sheriffs Office and Behavioral Health staff do provide regular mental health rounds and inmates are offered therapeutic activities and unstructured out of cell time. At a minimum of once per week, mental health services are provided by licensed behavioral health clinicians for each inmate in mental health housing. Additionally, the clinicians respond to Inmate Request Forms or when deputies or medical staff identify a medical or psychiatric need. Further, clinicians with authority to prescribe medications make weekly visits to evaluate the inmate, prescribe medication and encourage stabilization of the inmate's mental health needs. These visits happen more frequently, if necessary. The Mental Health Staff office is located in the Mental Health Module allowing for staff to see inmates quickly and to help deescalate situations. Correctional Deputies in the Mental Health module are trained in working with mental health inmates and make regular rounds to check on the inmates and interact with them.

In an effort to provide a more therapeutic environment for the inmates, if an inmate is stable, Behavioral Health staff evaluate and provide mental health services to inmates in visiting booths. This enables the inmates more privacy and an opportunity to have more quality 1:1 Mental Health services.

Regarding unstructured out of cell time, the Sheriff's Office is continually revising its classification plan in an attempt to provide the most out of cell time for all inmates. *Importantly, the DRC/PLO Report acknowledges that the Sheriff's Office complies with the California regulations regarding out of cell time.* Where an inmate is housed and how much out of cell time the inmate is afforded is based on clinical and custodial evaluations. Out of cell time is also a function of the inmate's own behavior and related safety concerns. Behavior that might keep an inmate in a more restrictive setting would be acute suicidal behavior, dangerous behavior to other inmates or staff, and behavior that might disrupt the care of other inmates. Custodial staff regularly evaluates an inmate's status in the hope that the inmate can be moved to a less restrictive housing location. The goal is that mental health inmates are housed in the highest-functioning mental health module where the inmate can attend groups and educational classes.

In the future, the new Behavioral Health Unit will enable the Mental Health program in the Sonoma County jail to do more programming for mental health inmates which will include educational groups, therapeutic groups, individual supportive counseling, and significantly more out of cell time. The Sheriff's Office and Behavioral Health are committed to continue to evaluate their policies and practices to ensure that all inmates have the opportunity for as much out of cell time, for treatment, programming and unstructured time.

Recommendation 2: Establish a contract for transfer to a licensed facility for inmates on Lanterman-Petris-Short (LPS) holds or pursue LPS designation in the Jail.

RESPONSE:

The Sheriff's Office and Behavioral Health are actively seeking to establish contracts with other hospitals and facilities to place inmates who meet the LPS criteria. However, as noted above, there is a state-wide shortage of psychiatric hospital beds. There is an even more acute lack of custodial psychiatric hospital beds. The Sheriff's Office and Behavioral Health are exploring all possible options and working on creative public/private partnerships to increase the number of psychiatric beds for the community at large, including beds for inmates.

Behavioral Health is also increasing the number of inmates who are sent to Behavioral Health's Crisis Stabilization Unit (CSU), which is an LPS licensed facility, for treatment and stabilization.

While the Sheriff's Office is not opposed to pursuing LPS designation for a portion of the Main Adult Detention Facility in the future, it is not possible at this time.²

Recommendation 3: Establish an exception process for non-formulary medications.

RESPONSE:

The Sonoma County Sheriff's Office, Sonoma County Behavioral Health and CFMG do not have a policy prohibiting the prescription of medications that are not on the pharmacy formulary. Therefore, an exception process is not necessary. Each inmate is evaluated individually. The prescriber's decision is based on clinical considerations being mindful of the possibility of abuse of certain medications and whether using a particular medication presents a greater risk than benefit. In the case referred to in the report, the progress note indicated that the inmate was willing to go with a different medication option. Prescribers on the mental health team are encouraged to have and document conversations about risks and benefits of medications with patients and to make appropriate decisions about medication that reflect clinical judgments and not due to formulary restrictions. Behavioral Health conducts regular trainings for its staff regarding the importance of an individual assessment of every prescription decision.

² The Report details a particular inmate in relation to this issue. The Report suggests the woman should have been transferred to a different facility. A review of this inmate's chart shows that while she was at times mentally unstable, she was treated and cared for appropriately at the jail. The inmate came into custody on July 6, at approximately 9:00 A.M. She was seen and fully screened by mental health staff at 3:00 P.M. and housed in the Mental Health Module. The notes indicate that mental health follow up was requested. The next day, July 7th, the inmate was seen by the doctor, who continued her medications and the inmate was scheduled for a re-check in one week for July 14th, which is the standard protocol. Medical privacy laws prevent the Sheriff's Office or Behavioral Health from discussing her medical condition further.

Recommendation 4: Establish policy for initiating LPS involuntary holds (e.g. Welf. & Inst.Code § 5150, § 5250, etc.) before initiating an involuntary medication proceeding.

RESPONSE:

Behavioral Health has revised its policy regarding involuntary medications and initiating LPS holds on inmates. The policy now requires that all inmates to be medicated involuntarily under authority in the LPS Act (commonly referred to as "Riese" hearings after the 1987 case of *Riese v. St. Mary's Hospital*) first be placed on an LPS hold and be transferred to an LPS facility for the administration of involuntary medication. Regardless of the determination regarding involuntary medication orders, clinical staff are required to assess whether the inmate meets the criteria for an LPS commitment. If the inmate meets LPS criteria, every effort will be made to transfer the inmate to an appropriate LPS designated facility or other appropriate medical setting for further evaluation and treatment. The revised policy complies with all laws and regulations regarding involuntary medications, while also recognizing the reality that there is an acute shortage of beds for inmates with mental illness that pose serious threats to themselves or others. The Sonoma County Sheriff's Office and Behavioral Health are committed to administering medications in the most appropriate and safe manner possible.

Recommendation 5: Terminate the practice of use of Decanoates for prisoners with an involuntary medication order.

RESPONSE:

Behavioral Health no longer prescribes or administers any Long Acting Injectable medication, including Decanoates, for inmates on short-term hold involuntary medication orders.

Recommendation 6: Contract with an expert of mental health services in correctional facilities to review mental health policies at the Jail, as the Jail did with out-of-cell time.

RESPONSE:

The Sheriff's Office and Behavioral Health are regulated and licensed by various national and state entities. In addition, the Sheriff's Office and Behavioral Health have requested inspections and audit by other outside organizations and entities. The Sheriff's Office is regularly audited by the California Board of State and Community Corrections and has received reports indicating that the Sheriff's Office is in compliance with all regulations. The Sheriff's Office recently requested that the National Institute of Corrections (NIC) audit the Sonoma County jail's mental health program, policies, and procedures in the fall of 2015. NIC issued recommendations, which the Sheriff's Office and Behavioral Health are evaluating. The Sheriff's Office also requested that the Institute for Medical Quality (IMQ) audit the jail medical and mental health policies and procedures. IMQ found the Sheriff's Office's policies and programs meet or exceed standards. The Sheriff's Office and Behavioral Health expect that they will continue to contract with other expert organizations and entities to perform further audits and reviews of their policies and procedures.

Use of Isolation:

Recommendation 1: Increase out-of-cell time and ameliorate isolation conditions in Administrative Segregation, Protective Custody, Total Separation, Maximum Security and the Mental Health Module.

Recommendation 2: Ensure that prisoners in single and double cells in the Main Jail are provided with a minimum of 4 hours per day of out-of-cell time.

Recommendation 3: Develop procedures to exclude prisoners with serious mental illness from isolation and segregation absent extraordinary or exceptional circumstances.

Recommendation 4: Develop new protocols for the Outpatient Mental Health Module, so that prisoners are offered structured and unstructured out-of-cell time consistent with minimum standards outlined in this report.

COMBINED RESPONSE TO 14:

The Sonoma County Sheriff's Office is always looking for ways to improve treatment for offenders within the restrictions of its facility and safety considerations, and has been found to be in compliance with all California correctional regulations and laws (Title 15 Standards) as well as the standards set by the Institute for Medical Quality with regards to out of cell time for inmates.

Although the Sheriff's Office is in compliance with all standards, it continues to modify its physical plant set up, including sub-dividing unit dayrooms to allow inmates more time out of their cells. Over one million dollars has been spent to modify two of our mental health housing units and erect partial walls in our mental health unit to allow inmates more time out of their cells. Another project that was recently completed sub-divided one housing unit into four areas that may be used for mental health inmates in the future. It is our intent to continue with facility modifications to enhance out of cell time for inmates as well as to design the Behavioral Health Unit with these goals in mind.

Disability Accommodation:

Recommendation 1: Establish a triage policy so that all prisoners with disability-related accommodation requests are evaluated within 24 hours.

Recommendation 2: Ensure that all individuals who make a disability-related request are seen within 72 hours, less if there is danger of significant harm.

COMBINED RESPONSE TO 1-2:

The Sheriff's Office's and CFMG's policies and practices in regarding ADA accommodation meet these recommendations. Inmates who arrive with disability-related accommodations already in place (from prison, for example), are provided those same accommodations until further evaluation and interaction demonstrates the accommodations are not appropriate.

New inmate requests for accommodation are evaluated promptly and the inmate is seen and evaluated within 72 hours. The Sheriff's Office provides the requested accommodation until further evaluation and interaction demonstrates the accommodations are not appropriate.³

Health Care:

Recommendation 1: Revise the policy for optometry and ophthalmology services.

RESPONSE :

The Sheriff's Office's and CFMG's policies and procedures already reflect this recommendation. If the medical provider determines that the health of an inmate would be adversely affected by the lack of prescription eyeglasses, then such glasses will be considered an aid to impairment and provided to the inmate at no charge. This is done on a case by case basis. Additionally, CFMG staff use community standard vision screen tools (the Snellen chart) for routine screening. Any inmate with a serious eye pathology is sent promptly to an ophthalmologist. The Sheriff's Office and CFMG provide eyeglasses at no charge when the inmate patient has an existing prescription and lacks the ability to pay.

Recommendation 2: Ensure that prisoners receive all medically necessary services regardless of the money in their trust accounts.

RESPONSE :

The Sheriff's Office's and CFMG's policies and procedures already reflect this recommendation. The Sheriff's Office and CFMG do not practice medicine based on an inmate's ability to pay. These policies state medical and dental prosthetics and eyeglasses are provided when the health of the inmate would otherwise be adversely affected as determined by the responsible physician or dentist.

CONCLUSION

The Sheriff's Office and the County of Sonoma appreciate DRC/PLO's focus on these issues. The Sheriff's Office and the County of Sonoma are committed to continuing to provide a safe and appropriate health care, including mental health treatment, to all inmates housed at Sonoma County jails.

³The Report discusses two specific examples regarding ADA issues. First, regarding seating in the Male Special Unit shower, the Sheriff's Office is working to correct those issues. Additionally, prior to the DRC/PLO tour, the County conducted an "Accessible Accommodation Review" of the Sonoma County jails. The County is working to correct the relatively minor issues noted in that review. Second, regarding the inmate who claims to not have been timely seen regarding an ADA request, the inmate was being seen during that time for other medical concerns. However, the Sheriff's Office acknowledges that the inmate should have been evaluated regarding his ADA request within 72 hours. The Sheriff's Office and CFMG are confident this was an isolated instance. And, as noted by the Report, the Sheriff's Office's policies are in compliance with the ADA and it has a dedicated ADA coordinator to address these issues.