



**Expert Monitor's Report  
Americans with Disabilities Act (ADA)**

**Babu v. Ahern  
Consent Decree Second Status Report  
Case No. 5:18-cv-07677-NC**

**Non-Confidential**

On-Site Review: October 25-27, 2022

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March 6, 2023



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## Cover Letter

This document serves as an introduction of the attached report regarding the second ADA Joint Expert report on the status of the Alameda County Sheriff's Office (ACSO) and the Adult Forensic Behavioral Health's (AFBH) implementation of the Babu v. County of Alameda, Consent Decree within the Santa Rita Jail (SRJ). This report addresses the Americans with Disabilities Act (ADA) related provisions that were assigned to Sabot Consulting to monitor and rate. Sabot has sought feedback from the Joint Experts as Sabot prepared this report and provided feedback to the other Joint Experts on their individual reports.<sup>1</sup>

This second Expert report is based on document and data review, an on-site tour, as well as interviews with staff and incarcerated persons. Prior to and after conducting the second tour, policies, and various documents were requested and reviewed as outlined in the report.

The on-site tour was conducted from October 25 - 27, 2022. The on-site monitoring tour consisted of walking through areas of SRJ, interviewing staff and incarcerated persons, and assessing compliance with the ADA requirements pursuant to the Consent Decree's Provisions.

The ADA Joint Expert greatly appreciated the interaction and time spent with ACSO custody staff, Wellpath healthcare personnel, AFBH staff, and numerous incarcerated persons. The staff and incarcerated persons were generous with their time and appeared to be transparent and willing to discuss any related questions, concerns, and challenges related to the Consent Decree's ADA requirements that they may have encountered or had concerns about. Staff members were open in discussing related plans for overall improvement in working towards implementing the Consent Decree's ADA requirements. During the Joint Experts on-site review, the ADA Joint Expert was afforded complete access to the SRJ, and all requests for information and Jail access were granted. Although related ADA documents were made available for review while on-site, per the agreement between the Parties and the Joint Experts, the documents were not removed from SRJ. Instead, the documents were subsequently produced confidentially by Defendants subject to the entered Protective Order in this matter. Some of the documents requested were not provided because they either were missing, do not exist, or are in the development or planning stage. In many cases, the team of Joint Experts have been working with, and will continue to work with ACSO and AFBH staff in the development and/or review and comment of policies, post orders, forms, training materials, real-time networked tracking system, identification process for incarcerated persons with psychiatric, intellectual/developmental, and learning disabilities, as well as other documents and processes.

The ADA Joint Expert recognizes that ACSO and AFBH are still in the early stages of implementing the provisions of the Consent Decree. The Joint Experts believe the County will continue to work collaboratively with the Joint Experts in making progress and putting systems in place, including the development of policies and procedures, processes, forms, screening tools, and training, which will assist the County in moving towards achieving substantial compliance with

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<sup>1</sup> Refer to the Joint Expert First Monitoring Report cover letter, May 13, 2022, for information on how the provisions were assigned and numbered.

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the Consent Decree's provisions. For future Joint Expert reviews, the County will need to provide completed documents, completed forms, tracking lists, disciplinary reports, completed ADA Request for Accommodation forms, grievances, etc., for the ADA Joint Expert to measure ACSO and AFBH's compliance with the requirements of the Consent Decree's provisions.

This report outlines areas within the Consent Decree provisions where policies, processes, documentation, forms, and training will need to be developed or revised/modified to meet the requirements of the Consent Decree.

The Expert notes that since the first monitoring tour, the County has implemented some of the Consent Decree requirements and the County is working collaboratively with the Expert in implementing the remaining ADA-related provisions (which cover psychiatric, intellectual/developmental, and learning disabilities). Some examples of these requirements include:

- Comprehensive Screening - Testing / Related Policies / Related Classification Screening
  - A Comprehensive Intellectual/developmental disabilities screening/testing policy and process that uses recognized instruments, to allow psychiatrists, psychologists, licensed clinical social workers, or other trained clinicians to determine whether incarcerated persons are intellectually/developmentally disabled.
  - Ensuring the intellectual/developmental disabilities screening/testing policy and process identifies adaptive support needs or adaptive deficits that may be present in any of the following areas:
    - Health & safety
    - Socialization Skills
    - Academic Skills
    - Communication Skills
    - Leisure activities
    - Self-Advocacy/Use of Incarcerated Person Resources
    - Self-Care Skills
    - Self-Direction
    - Work
  - Ensuring the intellectual/developmental disabilities screening/testing policy and process includes an examination for:
    - Low cognitive functioning (usually IQ of 75 or below);
    - Concurrent deficits or impairments in adaptive functioning (the abilities necessary to care for oneself and to access programming and services in the jail setting).
  - Developing and implementing healthcare screening questions that identify individuals with intellectual, developmental, psychiatric, or learning disabilities, including a secondary screening assessment.
  - Revising the policy for the management of intellectually/developmentally disabled incarcerated persons to include staff responsibilities regarding safety/vulnerability/victimization issues, special concerns, and accommodation needs, including:

- Classification screening for predator/victimization concerns with other incarcerated persons within the housing unit, as well as other related responsibilities. Housing protocols for intellectually/developmentally disabled incarcerated persons (possible clustering/semi-clustering approach).
- Real Time Networked Tracking System
  - Developing and implementing an electronic, real-time networked tracking system, which includes a grievance module ("ADA Tracking System") to document and share internally, information regarding an individual's disability(ies) and disability-related accommodations.
- Training
  - Developing training materials in consultation with the Joint Experts.
- Policy (General)
  - Updating policies to reflect the requirements of the Consent Decree provisions.
- Effective Communication
  - Developing and implementing policies and practices to ensure effective communication ("Effective Communication policy") with individuals with Psychiatric Disabilities at intake and during due process events (e.g., grievance processes, classification processes, disciplinary processes, pre-release processes, and conditions of release process), religious activities, vocational and educational programs, and clinical encounters including mental health appointments, etc.
  - Ensuring the Effective Communication policy includes processes for:
    - (a) Identifying individuals whose cognitive, intellectual, or developmental disability pose barriers to comprehension or communication;
    - (b) Promptly providing reasonable accommodation(s) to overcome the communication barrier(s); and
    - (c) Documenting the communication, including the method used to achieve effective communication and how the relevant staff person determined that the individual understood the encounter, process, and/or proceeding.
- Reasonable Accommodations/Modifications
  - Maintaining a readily available mechanism for individuals to make a request for reasonable modifications independent of the grievance system ("ADA Request") and ensure the review and response timelines of the Consent Decree are followed.
  - Ensuring staff provide reasonable modifications and accommodations as necessary to ensure that qualified individuals with Psychiatric Disabilities have equal access to programs, services, and activities that are available to similarly situated individuals without disabilities.
- ADA Coordinator
  - Ensuring that the ADA Coordinator is dedicated solely to ADA-related duties.
    - The ACSO contends the ADA Coordinator is now dedicated solely to ADA-related duties. This will be monitored for confirmation.
  - Ensuring the ADA Coordinator has sufficient staffing to assist ACSO/AFBH in complying with the Consent Decree Requirements.
  - Ensuring that policies are developed and implemented and practice requiring that the ADA Unit meet with incarcerated persons with an SMI diagnosis or a cognitive, intellectual, or developmental disability who have effective communication needs

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in advance of any disciplinary hearing that may result in an increase in security level and/or placement in more restrictive housing, as well as additional meetings in accordance with Consent Decree provisions.

- Monitoring/Management of Intellectually Disabled Incarcerated Persons
  - Revising the policy for the management of intellectual/developmentally disabled incarcerated persons to include monitoring requirements for staff (e.g., housing unit staff and work supervisors) as well as requirements and/or recommended frequencies for staff to provide supports such as coaching, assisting, monitoring, and prompting, tailored to each individual's needs.
- Disciplinary Process & Classification Actions
  - Ensuring that as part of the disciplinary process, staff take into consideration the incarcerated person's behavior and any mental health or intellectual/developmental disability.
  - Ensuring that as part of the disciplinary process, AFBH is consulted and provides a clinical opinion as to whether an incarcerated person's mental illness or intellectual/developmental disability was a contributing factor to the misconduct, in addition to determining the appropriateness of action and ensuring documentation is provided to assess AFBH's compliance.
  - Ensuring classification staff consult with the contracted medical provider and/or AFBH staff prior to taking action on housing assignments, program assignments, disciplinary action, or transfers in and out of the facility for incarcerated persons who are diagnosed as having a psychiatric illness.
- Five Keys
  - Ensuring incarcerated persons with potential learning disabilities are referred to an appropriately qualified community provider, such as 5 Keys, for screening using a screening tool such as the Test of Adult Basic Education.

In presenting the attached report, the ADA Joint Expert wants to thank the Sheriff, ACSO, AFBH, Wellpath staff, County Counsel, and the incarcerated persons.

## Summary of Ratings

Requirement	Rating
508. Development of written policies and procedures.	PC
509. Disciplinary process for incarcerated persons designated as SMI.	NC
510. Practice of seeking an opinion on the level of discipline, use of disciplinary diets, timelines for disciplinary proceedings and the imposition of Discipline. Placement in a higher classification.	PC
1000. Working with Joint Expert, in the development and implementation of policies, procedures, and forms and training.	PC
1001. Employment of a full-time, dedicated ADA Coordinator.	PC
1002. ADA Coordinator and/or her or his staff personally meeting with each newly identified individual within 14 days of designation.	PC
1003. ADA-related training for staff.	INJR – N/A
1004. The ADA Coordinator staffing.	PC
1005. The ADA Unit staff certification course	NC
1006. Effective Communication policy.	NC
1007. ADA staff meeting with incarcerated persons with SMI diagnosis or a cognitive, intellectual, or developmental disability in advance of any disciplinary.	NC
1008. Development and implementation of healthcare screening questions.	PC
1009. Referrals to the ADA Unit for incarcerated persons with Psychiatric Disabilities.	PC
1010. Issuance of the Jail handbook orientation materials including instructions on how to request disability-related accommodations, how to contact the ADA Coordinator, and how to file a grievance regarding ADA-related issues.	PC
1011. Provision of reasonable modifications and accommodations.	PC
1012. Provision of Effective Communication, therapeutic and/or protective housing unit, counseling/therapy (group and individual), medications and Qualified Mental Health Professional input prior to removing privileges and/or otherwise imposing discipline, and any modifications necessary to ensure equal access to programs.	PC
1013. Provision of reasonable accommodations for learning-related disabilities.	PC
1014. Provision of reasonable accommodations for individuals with cognitive, developmental, and/or intellectual disabilities.	PC
1015. Implementation of an electronic, real-time networked tracking system.	NC
1016. Provision of Psychiatric Disabilities report to Housing unit, education, and program office staff.	PC
1017. Security classification for incarcerated persons with Psychiatric Disabilities.	PC
1018. Access to yard and day room and recreation time for incarcerated persons with Psychiatric Disabilities.	PC

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1019. Equal access to all programs, activities, and services for incarcerated persons with Psychiatric Disabilities.	PC
1020. Requests for reasonable modifications independent of the grievance system ("ADA Request").	NC
1021. Grievance system that provides for prompt and equitable resolution of complaints by individuals with Psychiatric Disabilities who allege disability-related violations.	PC
1022. The ADA Coordinator and ADA Unit review of ADA-related grievances.	PC



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## Findings

The following are excerpts from the Consent Decree provisions assigned to Rick Wells (ADA Joint Expert) for monitoring. The specific provision language is followed by the Expert's findings and recommendations.

### Disciplinary Process

**508. Defendants shall develop written policies and procedures, as set forth in Section IV(A), which shall require meaningful consideration of the relationship between the individuals' behavior and any mental health or intellectual disability, the efficacy of disciplinary measures versus alternative measures that are designed to effectuate change in behavior through clinical intervention, and the impact of disciplinary measures on the health and well-being of prisoners with disabilities. The delivery of mental health treatment shall not be withheld from Behavioral Health Clients due to Discipline. Behavioral Health Clients shall also not be subject to Discipline for refusing treatment or medications, engaging in self-injurious behavior, or threats of self-injurious behavior.**

#### **Finding: Partial Compliance**

(Note: this provision was previously rated as "Partial Compliance")

#### **Training:**

Development of related training materials by ACSO is still in progress. Note: The ADA Joint Expert Monitor will review all training materials and proof of compliance (training provided) for all respective personnel.

#### **Metrics:**

- Policy Review
- Staff Interviews
- Blank ACSO Inmate Disciplinary Hearing Record (disciplinary hearing report/synopsis)
- Blank ACSO Inmate Disciplinary Interview - (to be completed w/in 24 hours of disciplinary report being signed by Sergeant) (Previously provided) (No completed copies provided)
- Blank ACSO Inmate Disciplinary Report (Previously provided) (no completed copies provided)
- Blank ACSO Inmate Disciplinary Action Pending (Notice of Hearing) (Previously provided) (no completed copies provided)

#### **Assessment:**

As noted above, the revision of policies is still in progress. The initial ADA Joint Expert report (Expert Monitor's Final Report – Americans with Disabilities Act [ADA] – First Status Report) cited specific language from ACSO policies pertinent to this Consent Decree provision.

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During this monitoring tour and document production period, there was no documentation (completed Inmate Disciplinary Hearing Reports and completed AFBH Review forms [clinical consult related documentation]) produced for the ADA Joint Expert to measure ACSO/AFBH compliance with the related Consent Decree provision requirements. The Expert notes that the policy revisions and related forms are still in progress. The ACSO provided numerous copies of Santa Rita Jail Disciplinary Report Logs for various weeks during the months of January – November 2022. Likewise, the ACSO provided various Santa Rita ATIMS Disciplinary Report Logs. The logs identified disabled incarcerated persons (various categories) both within and outside the purview of the Consent Decree. However, the information provided is not sufficient to effectively rate this provision for compliance. Specifically, the documents do not include copies or final adjudicated versions of disciplinary reports, any information whether a clinical consult was conducted (for BHI/IDI inmates), or any information whether IDI, BHI, LD inmates received any assistance or adaptive support services or reasonable accommodations during the disciplinary process (e.g., at the time of initial issuance of copies, during investigation, during hearing, during issuance of final copies).

During an interview with a custody supervisor, the supervisor indicated that staff considers an inmate's disability (e.g., BHI) when deciding whether to write a disciplinary report. The supervisor could not confirm whether clinical consults are conducted as part of the disciplinary process for inmates identified with behavioral health/mental health or intellectual/developmental disabilities. When asked whether disciplinary staff allow other ACSO personnel (who were involved in the disciplinary process) to seek an opinion on the level of discipline that should be assessed, the supervisor indicated that was formerly the practice (at times), but that is no longer the case. The supervisor was also asked how staff know who the behavioral health/mental health, intellectual/developmentally disabled, and learning disabled inmates are, to which he responded, "ATIMS", but added that staff are not trained or expected to look up disability information before writing disciplinary report.

During an interview with an AFBH clinician, the clinician stated that AFBH receives disciplinary information regarding "BHI" inmates after the hearing has been conducted (via a packet of documents). A clinician is assigned to research the patient/client and the circumstances of the disciplinary report. Reportedly, questions have been created for assigned clinicians to effectively assess written inmate misconduct violations. Staff admitted that at times it is difficult to assess whether it is behavioral issue or a concern with the medications. Reportedly, ACSO will soon begin sending AFBH the front-page of disciplinary reports (via email) to ensure clinician assignment for consults. Reportedly AFBH will acknowledge the emails received and enter the information into the EHR.

**Recommendations:**

- 1) It is recommended that ACSO incorporate policy language that specifically addresses that Behavioral Health Clients shall not be subject to discipline for refusing treatment or medications, engaging in self-injurious behavior, or threats of self-injurious behavior. Such language can be incorporated into a revised ACSO Policy(ies) as appropriate.

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- a. Subsequent to the on-site review, the County informed the ADA Joint Expert that such policy language has been drafted and the related policies are currently in the approval process.
  - 2) Policy and practice must ensure that when considering incarcerated person disciplinary write-ups, staff must exercise meaningful consideration of the relationship between the individuals' behavior and any behavioral health/mental health or intellectual/developmental disability.
    - a. This is predicated on a comprehensive disability identification process, a real-time computerized tracking mechanism, and ensuring that all staff has access to at least general disability identification, effective communication, and adaptive support needs information (as applicable) for all incarcerated persons, are trained to access the information, and expected to be familiar with the information, particularly when considering writing an inmate disciplinary report.
  - 3) Policy and practice should ensure all ACSO disciplinary reports pertaining to behavioral health/mental health and intellectually/developmentally disabled incarcerated persons must be forwarded to the AFBH manager for review. The AFBH manager must render an opinion as to whether an incarcerated person's mental illness or intellectual/developmental disability was a contributing factor and for appropriateness of action and must note their findings on the AFBH Review Form.
  - 4) Policy and practice should ensure that upon receipt from the Classification Disciplinary Deputy, appropriate AFBH staff must complete the Adult Forensics Behavior Health (AFBH) section of the Communication Form for appropriateness of action.
    - a. Note: it is unclear whether such a form has been developed or implemented. If not, the ADA Joint Expert understands that ACSO/AFBH had six (6) months to incorporate such a form. ACSO/AFBH must continue to work with the ADA Joint Expert(s) and Class Counsel to review, comment, and provide recommendations for all new and revised related forms. Completed forms must be provided as part of the document review for future monitoring tours. For the next scheduled ADA Joint Expert's monitoring review, ACSO/AFBH must provide all related completed documents for the review period or provide a status report regarding anticipated timelines for development and roll-out (e.g., clinician assessment forms for the disciplinary process, and adjudicated disciplinary reports).

**509. ACSO shall include Qualified Mental Health Professionals in the disciplinary process relating to SMI clients. For Behavioral Health Clients who are not SMI, ACSO shall notify a Qualified Mental Health Professional of the initiation of the disciplinary process, including the basis for disciplinary action, and shall include a Qualified Mental Health Professional as appropriate in the disciplinary process. Defendants shall develop a form for Qualified Mental Health Professional to use that allows them to indicate:**

**(a) whether the reported behavior was related to mental illness or adaptive functioning deficits, including whether the behavior was related to an act of self-harm.**

**(b) any other mitigating factors regarding the individual's behavior, disability, or circumstances that should be considered.**

**(c) whether certain sanctions should be avoided due to the individual's underlying disability and/or mental health needs. The ACSO shall further ensure recommendations**

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regarding whether the mental health of the individual impacted their actions are appropriately considered and proper interventions provided to Behavioral Health Clients and avoid punishing Behavioral Health Clients for manifestations of their disabilities. To the extent ACSO chooses to not follow the Qualified Mental Health Professional's recommendations, ACSO shall document and explain in writing why the recommendation was not followed.

**Finding: Non-Compliance**

(Note: this provision was previously rated as "Non-Compliance")

**Training:**

Development of related training materials by ACSO is in progress.

**Metrics:**

- Policy Review
- Staff interviews (ACSO and AFBH personnel)

**Assessment:**

As identified in the initial report, policy does not address the requirement to include a Qualified Mental Health Professional as appropriate in the disciplinary process. Policy does not contain language relative to the requirement that ACSO must include Qualified Mental Health Professionals in the disciplinary process relating to SMI incarcerated persons. Nor does policy address the requirement that ACSO must notify a Qualified Mental Health Professional of the initiation of the disciplinary process for Behavioral Health Clients who are not SMI, including the basis for disciplinary action. However, the Expert notes that ACSO/AFBH are working on related policy revisions to which the ADA Joint Expert will review and provide relevant comment. Subsequent to the on-site review, the County provided an update to the ADA Joint Expert in that policy has now been edited and is currently going through the approval process.

There was no documentation (completed Inmate Disciplinary Hearing Reports or completed AFBH Review forms) produced for the ADA Joint Expert to measure ACSO/AFBH compliance with the requirements of the Consent Decree provision.

Regarding the requirement for the County to develop a form for a Qualified Mental Health Professional to use for the disciplinary process (as described above), the ADA Joint Expert also notes the ACSO/AFBH is working on developing the related forms.

During the on-site interviews, staff acknowledged that there are inconsistencies (at minimum) relative to clinical consults for the incarcerated person disciplinary process.

**Recommendations:**

- 1) It is recommended that policy be revised to incorporate language requiring that ACSO include Qualified Mental Health Professionals in the disciplinary process when SMI clients are involved.
- 2) It is recommended that policy be revised to incorporate language requiring ACSO staff to notify a Qualified Mental Health Professional of the initiation of the disciplinary process for Behavioral Health Clients who are not SMI including the basis for disciplinary action.
- 3) ACSO/AFBH must develop and implement a form (allowing for ADA Joint Expert and Class Counsel review and input) for a Qualified Mental Health Professional to use for the disciplinary process:
  - a. To identify whether the reported behavior was related to mental illness or adaptive functioning deficits, including whether the behavior was related to an act of self-harm;
  - b. To indicate whether there were any other mitigating factors regarding the individual's behavior, disability, or circumstances that should be considered; and
  - c. To identify whether certain sanctions should be avoided due to the individual's underlying disability and/or behavioral health/mental health needs. ACSO shall further ensure recommendations regarding whether the mental health of the individual impacted their actions are appropriately considered, and proper interventions are provided to Behavioral Health Clients and avoid punishing Behavioral Health Clients for manifestations of their disabilities. To the extent ACSO chooses not to follow the Qualified Mental Health Professional's recommendations, ACSO shall document and explain in writing why the recommendation was not followed.
- 4) It is recommended that policy be revised to include the requirement for Qualified Mental Health Professionals to use the new form when required under the terms of the Consent Decree.

**510. Defendants shall limit the practice of seeking an opinion on the level of discipline that should be assessed from the ACSO staff authoring the report. Defendants shall cease the use of disciplinary diets in all cases other than food-related disciplinary cases. Defendants' policies shall include timelines for disciplinary proceedings and the imposition of Discipline. Placement in a higher classification, including placement to Restrictive Housing, is governed by the classification process outlined in Section III(C).**

**Finding: Partial Compliance**

(Note: this provision was previously rated as "Partial Compliance")

**Training:**

Development of related training materials by ACSO is in progress.

**Metrics:**

- Policy Review

**Assessment:**

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As identified in the initial ADA Joint Expert report, the review of policy finds that policy does not include language limiting the practice of ACSO seeking an opinion from the ACSO staff who authored the disciplinary report on the level of discipline that should be assessed.

Policy contains language requiring that staff cease the use of disciplinary diets in all cases other than food-related disciplinary cases.

Policy contains language requiring timelines for disciplinary proceedings and the imposition of Discipline.

The Expert notes there was no documentation (completed Inmate Disciplinary Hearing Reports and completed AFBH Review forms) produced for the ADA Joint Expert to measure ACSO/AFBH compliance with the requirements of the Consent Decree provision. The Expert notes that the County is in the process of developing the policies and related forms for this provision. The Expert will measure the County's compliance during the next scheduled Joint Expert monitoring review upon review of the disciplinary reports (or related documents) issued to SMI, Behavioral Health, Intellectual/Developmental, or learning-disabled incarcerated persons.

**Recommendations:**

- 1) It is recommended that Policy be revised to incorporate language stating that ACSO shall limit the practice of seeking an opinion on the level of discipline that should be assessed from ACSO staff who authored the relevant disciplinary report(s).
  - a. Subsequent to the on-site review, the County apprised the ADA Joint Expert that such language has been incorporated into revised policy, which is currently in the approval process with the Santa Rita Jail command staff. Reportedly, the policy will be forwarded to the Joint Experts for review once it has been approved internally.
- 2) ACSO/AFBH must provide copies of completed disciplinary reports (and related documents) to demonstrate proof of practice for these requirements.

**Americans with Disabilities Act (ADA)**

**1000. Defendants shall work with the agreed-upon joint subject matter Joint Expert, as discussed in Section IV(A), to develop and implement policies, procedures, and forms required to implement the provisions contained herein. All Staff shall be trained on the topics, as discussed in Section IV(A), including any modifications to policies and procedures, described herein.**

**Finding: Partial Compliance**

(Note: this provision was previously rated as "Implementation Not Yet Required – Rating N/A")

**Training:**

Development of related training materials by ACSO is in progress.



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### Metrics:

- Policy Review

### Assessment:

The ADA Joint Expert notes that the County is working collaboratively with the ADA Joint Expert in developing and implementing policies, procedures, and forms required to implement the Consent Decree provisions. The ADA Joint Expert participated in a joint meeting with ACSO and AFBH staff in November 2022. The meeting was productive and served as a pre-cursor to additional group meetings as the County develops additional policy revisions/implementation, as well as developing/implementing various forms related to expected staff practices tied to aspects of requirements of various Consent Decree provisions. A follow-up meeting is being scheduled and will take place in the near future. The ACSO is in the process of revising related policy, which is essential for program success. The ADA Joint Expert also notes the first of several draft policies were provided for Joint Expert to review, provide comments, and recommendations, to which recommendations were provided. Expert recommendations will continue to be provided as additional draft policies are forwarded to Joint Experts for review.

### Recommendations:

- 1) ACSO must continue to collaborate with the ADA Joint Expert to ensure understanding as to policy content, needed forms and other types of documentation, and to ensure staff are eventually trained to understand said policies, forms, documentation, and related Consent Decree provision requirements.
- 2) ACSO must revise policy (or draft similar policy[ies]) for ADA Joint Expert review, comments, and recommendations before final approval and implementation.
- 3) Staff must be trained/knowledgeable pertinent to all ADA policies, procedures, forms, documentation, etc., within the requirements of the Consent Decree provisions.

### ADA Coordinator

**1001. ACSO shall continue to employ a full-time, dedicated ADA Coordinator at the Jail who shall, among other ADA-related responsibilities, oversee the following issues related to individuals with Psychiatric Disabilities: monitoring of the ADA Tracking System, ADA-related training, grievances, disciplinary reports, Message Request forms, requests for accommodations, classification actions, orientation materials, touring housing units and discussing ADA-related issues with incarcerated persons and staff (e.g., housing unit deputies, medical staff, mental health staff, dental staff, education staff, re-entry services staff, inmate program staff, library staff, religious services staff, etc.) as set forth below and on an as-needed basis, and any other ADA-related responsibilities as appropriate. The ADA Coordinator shall be strongly encouraged to serve in that role for at least five (5) years to provide for consistency and to maximize the benefit of the training and expertise of the ADA Coordinator. ACSO shall consult with the ADA Joint Expert regarding the Post order for the ADA Coordinator, and Plaintiffs' counsel shall have an opportunity to review and provide input prior to ACSO finalizing the Post order. The ADA Coordinator shall report**

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**up the chain of command. Additionally, the Compliance Captain shall oversee the day-to-day activities of the ADA Coordinator but shall not have the ability to re-assign the ADA Coordinator away from their ADA-related duties.**

**Finding: Partial Compliance**

(Note: this provision was previously rated as “Partial Compliance”)

**Training:**

Development of related training materials by ACSO is in progress.

**Metrics:**

- Policy Review
- Compliance Unit Staff Interviews

**Assessment:**

At the time of document production and the ADA Joint Expert’s review, information obtained through Compliance Unit staff interviews indicated the Compliance Lieutenant, under the supervision of the Compliance Captain, serves as the ADA Coordinator. The Compliance Captain oversees the day-to-day activities of the ADA Coordinator. At the time, the ADA Coordinator was not dedicated solely to ADA-related functions, as the position provided oversight for ADA, American Correctional Association (ACA) accreditation, Board of State and Community Corrections (BSCC) related responsibilities, and PREA-related duties. The ACSO had also reported that one of the Compliance Unit staff deputies has been assigned solely to ADA related duties. Subsequent to the on-site review, the County informed the ADA Joint Expert that the ADA Coordinator does have other responsibilities; however, the Deputy assigned to the ADA coordinator responsibilities has no other tasks while working in this role .

As outlined in the initial ADA Joint Expert’s report, policy states, "An employee of the Sheriff's Office tasked with ensuring compliance with the Americans with Disabilities Act within the Detention and Corrections Division of the Alameda County Sheriff's Office. The staff member assigned as the ADA Coordinator shall be responsible for reviewing all documentation and documenting responses to all disability-related requests. The ADA Coordinator shall maintain files of each ADA inmate and incorporate the previously listed information." The Expert notes that the ACSO had six (6) months to develop and implement related post orders, job descriptions, or duty statements to outline such information. During the ADA Joint Expert’s onsite interviews, ADA Unit staff stated that unit staff are currently drafting a prototype post order/duty statement that will be used to draft post orders/duty statements for all positions within the ADA Unit for management approval.

Note: The ADA Joint Expert understands there may be occasional exigent circumstances whereas the Compliance Unit Captain may need to temporarily re-direct the ADA Coordinator (Compliance Unit Lieutenant) to other duties within the Compliance Unit’s normal functions (e.g., ACA, PREA, etc.). However, this must not be the norm, and the ADA Coordinator should not be



re-directed or assigned to other duties outside the scope of the Compliance Unit. Subsequent to the on-site review, the County informed the ADA Joint Expert regarding roles of the ADA Coordinator and ADA Unit deputies, however, there is some unclarity regarding such roles and responsibilities. The County provided (as stated earlier in this report) that the ADA Coordinator position is now solely dedicated to ADA-related duties, and a unit deputy provides responsibilities for other compliance areas aside from ADA, but the County has also contended that the lieutenant overseeing the unit does have other responsibilities, and a deputy assigned to the ADA Coordinator does not have any other tasks while serving in the role. The ADA Joint Expert will obtain clarity and the next review and will confirm specific roles.

ADA Unit staff also added that the ADA Coordinator is currently maintaining a list of incarcerated persons on the ADA List (for ADA unit follow-ups and monitoring as applicable) and the list will be provided to the ADA Joint Expert via the SharePoint on-a -monthly basis.

### **Recommendations:**

1. As previously outlined in the initial ADA Joint Expert report, policy must be revised (or related policies/documentation must be implemented) to articulate the requirement within the Consent Decree provision that the ADA Coordinator position to be a full-time dedicated position at the Santa Rita Jail and to all have oversight responsibilities for the specific areas outlined above (as described in the related Consent Decree provisions) as well as other applicable ADA Coordinator duties.
  - a. Subsequent to the on-site review, the County informed the ADA Joint Expert that the policy is still in the editing process.
2. As also outlined in the initial report, ACSO must develop the ADA Coordinator post order/job description/duty statement in consultation with the ADA Joint Expert (and Class Counsel). The Post Order must include the duties/oversight responsibilities listed in the related Consent Decree provisions.
3. The ACSO must ensure the ADA Coordinator position is dedicated to solely to ADA duties.

**1002. As soon as practical, but under no circumstances more than fourteen (14) days after an individual has been identified at intake or post-intake as having a Psychiatric Disability, the ADA Coordinator and/or her or his staff shall personally meet with each newly identified individual. In the meeting, the ADA Coordinator shall employ effective communication to assist the individual in understanding the rules of the Jail; explain how to request accommodations and what accommodations are available; ensure the individual has access to grievance forms to raise disability-related issues; and inform them that ADA Unit staff are available to assist the individual with disability-related needs. For any person identified as having a Psychiatric Disability who remains in the Jail for more than sixty (60) days, the ADA Coordinator and/or their staff shall meet with the individual to determine if their ADA-related needs are being met and at least every sixty (60) days thereafter. This meeting and any relevant notes regarding accommodation needs shall be documented in writing. Once the ADA Tracking System is implemented, this information shall be documented there.**

**Finding: Partial Compliance**

(Note: this provision was previously rated as “Partial Compliance”)

**Training:**

Development of related training materials by ACSO is in progress.

**Metrics:**

- Policy Review
- Completed Records of Contact Forms
- Compliance Unit Staff Interviews

**Assessment:**

As outlined in the initial ADA Joint Expert report, although policy does not contain language relative to the requirement for the ADA Coordinator (and/or her or his staff) to personally meet with a newly identified incarcerated persons, Section IV. E. Forms, describes a Record of Contact form. The policy states, "The Record of Contact Form will be filed in the ADA Coordinator's inmate files. The form will be used to document interaction or discussions the ADA Coordinator has with the inmate, staff or visitors regarding accommodations and ADA issues."

ACSO did not produce any completed Record of Contact Forms, meeting notes, or other documented proof of practice (as part of pre-tour document production) for the ADA Joint Expert to determine if the ADA Coordinator or designee is meeting with incarcerated persons that have a psychiatric, intellectual/developmental, or learning disability within 14 days of being identified as having such a disability. Likewise, there was no documentation produced regarding disabled incarcerated persons who remain at the SRJ for more than 60 days (and every 60 days thereafter). However, while on-site, staff from the ADA Coordinator's office provided some examples of completed Record of Contact Forms for newly identified disabled persons (behavioral/mental health, intellectually/developmentally, and learning-disabled incarcerated persons). Further, ADA Unit staff indicated newly identified disabled incarcerated persons are generally interviewed by ADA Unit staff within 14 days if initial identification or arrival at the Jail, however; this is a “work-in-progress” that began “a few weeks ago.” When asked whether the process is occurring for disabled incarcerated persons who remain at the Jail at least 60 days after arrival or disability identification, staff indicated “not yet, it’s in the works.” Regarding proof of practice documentation, there was no documentation provided as related to disabled persons who remain at the Santa Rite Jail for more than 60 days (or for every 60 days thereafter).

Though clear compliance has not yet been established, the ADA Joint Expert acknowledges the early signs of progress. As-a-result, the ADA Joint Expert was unable to confirm whether such initial meetings are taking place routinely within 14 days of arrival or disability identification, or whether the ADA Coordinator or designee is using Effective Communication during the encounter, and whether the post 60-day meetings are routinely occurring.

**Recommendations:**

1. As outlined in the initial ADA Joint Expert report, policy must be revised to include language requiring the ADA Coordinator (and/or her or his staff) to personally meet with a newly identified incarcerated person who has a psychiatric, intellectual/developmental, or learning disability as soon as practical but within 14 days after arrival or identification at the Intake process, or post-Intake process.
2. The ACSO must ensure the ADA Coordinator or designee routinely conducts initial meetings as soon as practical but within 14 days of arrival or identification of an incarcerated person having a psychiatric, intellectual/developmental, or learning disability.
3. For initial meeting encounters as described above, the ADA Coordinator or designee must ensure Effective Communication is provided and documented.
4. The ADA Coordinator or designee must meet with incarcerated persons that have a psychiatric, intellectual/developmental, or learning disability who remain at the Santa Rita Jail for more than 60 days (and every 60 days thereafter).

**1003. After the initial ADA training is provided by the ADA Joint Expert, the ADA Coordinator shall be charged with providing ADA-related training to Staff and with monitoring programs and work assignments to ensure meaningful access for all individuals with Psychiatric Disabilities.**

**Finding: Implementation Not Yet Required – Rating N/A**

(Note: this provision was previously rated as “Implementation Not Yet Required - Rating N/A”)

**Training:**

Development of related training materials by ACSO is in progress.

**Metrics:**

- Policy Review

**Assessment:**

N/A at-this-time.

Though this provision is currently rated as “Implementation Not Yet Required – Rating N/A”, the ADA Joint Expert acknowledges dialogue with the Parties as well as with ACSO regarding the requirement is for the initial ADA training to be provided by the ADA Joint Expert or if the ADA Joint Expert will work with ACSO in the development of training material, and to conduct Training-For-Trainers training to qualified selected ACSO instructors, followed by in-class observations (and/or co-teaching) of classes taught by respective instructors to ensure each trained instructor understands the material to satisfactorily instruct the classes to Jail staff (as related to the Consent Decree provisions).

Note: The ADA Joint Expert will be looking for meaningful progress for this Consent Decree provision before the next scheduled Joint Experts onsite review, which should lend itself to a rating other than the current rating of “Implementation Not Yet Required - Rating N/A.”

**Recommendations:**

1. The ACSO must work with the Joint Experts and Class Counsel to provide review and input prior to the approval of interactive component training materials. The ADA Joint Expert understands this provision is a high priority for ACSO.

**1004. The ADA Coordinator shall have sufficient staffing to assist him or her (the “ADA Unit”). ACSO staff assigned to the ADA Unit shall be strongly encouraged to serve in that capacity for at least three years to provide for consistency and to maximize the benefit of the training and expertise of the Custody staff assigned to this unit. During any period where the ADA Coordinator is unavailable for any reason, a sergeant or higher-ranked individual shall fulfill the duties of the ADA Coordinator position until the ADA Coordinator becomes available, or a replacement is appointed to the position. The ADA Coordinator position shall not remain vacant for more than ninety (90) days.**

**Finding: Partial Compliance**

(Note: this provision was previously rated as “Partial Compliance”)

**Training:**

N/A

**Metrics:**

- Policy Review
- Interviews of ADA Unit Staff

**Assessment:**

The ACSO currently operates with a Compliance Unit with the following positions:

- One (1) Compliance Captain
  - Also serves as Consent Decree Project Manager
- One (1) Compliance Lieutenant (ADA Coordinator)
  - Currently has ADA, ACA accreditation, BSCC, and PREA related duties
- One (1) Compliance Sergeant
  - Currently has ADA and ACA related responsibilities
- Two (2) Compliance Deputies
  - One (1) of the deputies currently has ADA, ACA, and PREA related responsibilities

- A second deputy reportedly assists when time permits

The ADA Joint Expert's initial report indicated the Compliance Unit reportedly also had four (4) technicians, two (2) retired annuitants (extra help), and at times one (1) or more deputy temporarily assigned ("light duty" status). However, it is not clear whether any of these staff (whether permanently or temporarily) are currently assigned to the ADA Unit, and whether any of the positions (if currently allotted) maintain any ADA-related responsibilities.

Staff indicated that the Compliance Unit has plans to add additional staffing, but it is unclear as to what the staff expansion may include. This will continue to be monitored.

During the rating period, the ADA Coordinator position has been filled at the Lieutenant level and during the ADA Coordinator absence, the Compliance Sergeant fulfilled the duties of the ADA Coordinator position. The County also reported that the ADA Coordinator position was not vacant for more than ninety (90) days.

#### **Recommendations:**

1. Recommend providing clarity, whether through policy revisions, post orders, employee job descriptions, or other documentation, as to the staffing within the "ADA Unit" or as to specific ADA Duties (and whether duties are exclusive to ADA as opposed to ACA, BSCC, PREA, etc.) within the "Compliance" or "ADA" Unit.
2. The ACSO must provide documentation outlining job responsibilities for all positions (including the below-listed positions) within the "Compliance" or "ADA" Unit as related to incarcerated persons with psychiatric, intellectual/developmental, and learning disabilities. The clarification can be in the form of a post order, job description, duty statement, policy revisions (or new policy[ies]) or documentation.
  - a. ADA Coordinator (as outlined in a previous section above)
  - b. ADA Sergeant
  - c. ADA Deputy('s)
  - d. Technicians (if applicable)
  - e. Retired Annuitants (extra help) (if applicable)
  - f. Temporary staff assignments (if applicable)
- 1) The ACSO must provide information as to any new or additional staff positions within the "Compliance" or "ADA" Unit and anticipated timelines associated with activating the positions
- 2) The ACSO must work with the Joint Experts (and Class Counsel) in reviewing, making recommendations, and finalizing any new or revised post orders, job descriptions, duty statements, policies, etc.
- 3) Either policy revisions, the ADA Sergeant's post order, job description, duty statement, or other policy or documents should indicate the ADA Sergeant's responsibility to fulfill the duties of the ADA Coordinator position until the ADA Coordinator becomes available, or a replacement is appointed to the position for occasions whereas the regularly assigned ADA Coordinator is unavailable for a-period-of-time.

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**1005. Within one (1) year from their initial assignment, all sworn staff assigned as ADA Unit staff, including the ADA Coordinator, shall attend and complete a nationally recognized certificate course designed for ADA coordinators and obtain a certification and maintain said certification with updates and continuing education courses. Any replacement ADA Coordinator, interim ADA Coordinator, or sworn staff assigned to the ADA Unit shall obtain their ADA certification within twelve (12) months of starting in the position.**

**Finding: Non-Compliance**

(Note: this provision was previously rated as “Implementation Not Yet Required – Rating N/A”)

**Training: N/A**

**Metrics:**

- Policy Review
- Staff interviews (ADA Unit)

**Assessment:**

The Santa Rita Jail ADA Coordinator and ADA staff have 12 months to obtain the certification from a nationally recognized certificate course designed for ADA Coordinators.

The ADA Joint Expert notes that not all ADA Unit staff have been assigned to the unit for at least one (1) year. Reportedly, one (1) of the deputies assigned to the ADA Unit, has completed a nationally recognized ADA certification course (on-line through an out-of-state university). However, ACSO has not provided documented proof. Also, a second deputy has reportedly begun the same course, and the ADA Coordinator and ADA Sergeant are reportedly preparing to begin the program.

**Recommendations:**

- 1) The ACSO must ensure (within one [1] year of assignment into the ADA Unit) the ADA Coordinator and ADA staff complete a nationally recognized certificate course designed for ADA Coordinators (and provide documented proof to the ADA Joint Expert).
- 2) The ACSO must apprise the ADA Joint Expert when new staff members are assigned to the ADA Unit to confirm staff obtain their ADA certification within twelve (12) months of being assigned.

**Effective Communication**

**1006. In consultation with the ADA Joint Expert, and in accordance with Section IV(A), Defendants shall develop and implement policies and practices to ensure effective communication (“Effective Communication policy”) with individuals with Psychiatric Disabilities at intake and in due process events (e.g., grievance processes, classification processes, disciplinary processes, pre-release processes, and conditions of release**

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process), religious activities, vocational and educational programs, and clinical encounters including mental health appointments. The Effective Communication policy shall include, at a minimum, processes for:

- (a) identifying individuals whose cognitive, intellectual, or developmental disability pose barriers to comprehension or communication;
- (b) promptly providing reasonable accommodation(s) to overcome the communication barrier(s); and (c) documenting the communication including the method used to achieve effective communication and how the relevant staff person determined that the individual understood the encounter, process, and/or proceeding.

**Finding: Non-Compliance**

(Note: this provision was previously rated as “Implementation Not Yet Required – Rating N/A”)

**Training:**

Development of related training materials by ACSO is in progress.

**Metrics:**

- Policy Review
- Staff interviews (from multiple custody and non-custody disciplines)

**Assessment:**

The ADA Joint Expert notes that the ACSO currently does not have an Effective Communication policy, or other policy that contains comprehensive Effective Communication related information. As reported in the ADA Joint Expert’s initial report, the ACSO had six (6) months to develop and implement related policy (whether a stand-alone policy) or with applicable requirement language outlined within policy. However, the ADA Joint Expert has been working with the Parties as well as ACSO/AFBH/Wellpath management staff to assist toward this effort. As previously mentioned, there has been one (1) in-person task group meeting which primarily centered around disability identification and tracking, but also the purposes for such, inclusive of the Consent Decree’s Effective Communication related provisions. The ADA Joint Expert will continue to work with ACSO and AFBH in this effort. In the absence of an ACSO Effective Communication policy, or standardized forms for documenting Effective Communication (for various types of encounters), the ADA Joint Expert acknowledges the initiative and work ADA Unit staff are performing. Though an Effective Communication policy and associated forms have not been finalized, the ADA Unit staff have developed a form to document Effective Communication and are reportedly actively using the form for encounters facilitated by ADA Unit staff. It is unclear whether this form (or a revised version) will be incorporated for jail-wide use when the related Effective Communication policy is developed and implemented (or applicable comprehensive Effective Communication-related language is inserted into existing policies), or whether a new version will be developed for use. But the initiative of the staff is commendable. The ADA Joint Expert will need to review and comment on the form unless a new related form is planned. Unfortunately, there were no related documents provided as part of document production to assist in evaluating Effective



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Communication compliance. The ADA Joint Expert notes the Effective Communication policy and associated forms including staff training is still in progress.

**Recommendations:**

- 1) ACSO must develop and implement an Effective Communication policy or other policy revisions that contain Effective Communication-related information. A separate stand-alone Effective Communication policy is highly recommended.
- 2) ACSO must ensure the Effective Communication policy (language) articulates the requirements for staff to provide and log their Effective Communication efforts for significant types of encounters with incarcerated persons with psychiatric, intellectual/developmental, and learning disabilities as required by the Consent Decree provision.
- 3) ACSO must ensure that the Effective Communication policy includes the following:
  - a. Identifying individuals whose psychiatric, intellectual/developmental, or learning disability pose barriers to comprehension or communication;
  - b. Promptly providing reasonable accommodation(s) to overcome the communication barrier(s); and
  - c. Documenting the communication including the method used to achieve effective communication and how the relevant staff person determined that the individual understood the encounter, process, and/or proceeding.

**1007. For those individuals with a SMI diagnosis or a cognitive, intellectual, or developmental disability, who have effective communications needs, the ADA Unit shall meet with the individual in advance of any disciplinary hearing that may result in an increase in security level and/or placement in more restrictive housing. In-order-to provide Effective Communication, the ADA Unit shall discuss the upcoming event with the individual and ensure they are able to understand, participate, and communicate effectively.**

**Finding: Non-Compliance**

(Note: this provision was previously rated as “Non-Compliance”)

**Training:**

Development of related training materials by ACSO is in progress.

**Metrics:**

- Policy Review
- Staff interviews (custody [including ADA Unit] and non-custody staff from multiple disciplines)

**Assessment:**



The ACSO did not provide completed Record of Contact Forms or any other documentation to support whether Compliance Unit ADA staff are meeting with incarcerated persons with psychiatric, intellectual/developmental, or learning disabilities prior to disciplinary hearings that could result in an increase in security level and/or placement in more restrictive housing. During the ADA Joint Expert interviews of ADA Unit staff, one (1) of the staff members admitted that currently the ADA Unit is not receiving advanced notification as to pending incarcerated person disciplinary hearings, thus ADA unit (or Compliance Unit) staff are not meeting with said individuals prior to disciplinary hearings.

### **Recommendations:**

- 1) The ACSO must revise policy (or incorporate into a policy) to include the Consent Decree provision requirement for staff from the ADA Unit to meet with individuals that have Effective Communication needs (prior to a disciplinary hearing being conducted) in cases where the hearing disposition may result in an increase in security level and/or placement in more restrictive housing.
- 2) During the meeting (cited in Recommendation #1 – above), staff must discuss the upcoming disciplinary hearing and ensure the individual is able to understand, participate, and communicate effectively for the scheduled hearing.
- 3) For future monitoring tours, the ACSO must provide completed Record of Contact Forms (or other relevant documentation) demonstrating proof of practice.

### **Intake & Orientation**

**1008. In consultation with the ADA Joint Expert, Defendants shall develop and implement healthcare screening questions in-order-to identify individuals with intellectual, developmental, psychiatric, or learning disabilities. These healthcare screening questions shall be asked of all newly booked persons and conducted in a reasonably confidential setting. If the initial screening identifies a possible intellectual, developmental, psychiatric, or learning disability, the individual shall be referred to a Qualified Mental Health Professional, including a Licensed Clinical Psychologist where appropriate, for a secondary screening and assessment to occur within sixty (60) days of booking. In the context of learning disabilities, the referral may be made to an appropriately qualified community provider, such as 5 Keys, for screening using a screening tool such as the Test of Adult Basic Education to occur within fourteen (14) days of booking. The date of the assessment, the nature of the individual’s disability, and any accommodations authorized for the incarcerated person shall be promptly documented in the ADA Tracking System.**

### **Finding: Partial Compliance**

(Note: this provision was previously rated as “Partial Compliance”)

### **Training:**

Development of related training materials by ACSO is in progress.

### **Metrics:**

- Policy Review
- Staff interviews (e.g., ITR, and other areas)
- Observed the Custody Intake Screening process by an Intake Deputy  
(Note: observed during the initial Joint Expert onsite review)
- Observed the Behavioral Health Intake Screening process by a Clinician  
(Note: observed during the initial Joint Expert onsite review)
- Observed the Medical Intake Screening process by a Nurse  
(Note: observed during the initial Joint Expert onsite review)
- Blank copy of Alameda County Behavioral Health Care Services Adult Forensic Behavioral Health (Santa Rita Jail) Brief Clinical Assessment Form
- Blank copy of two (2) page Alameda County Sheriff's Office Intake/Receiving Screening Form (Revised July 8, 2019)
- Blank copy of Alameda County Behavioral Health Adult Forensic Behavioral Health Suicide Risk Assessment
- Blank copy of Behavioral Referral Form (while onsite for the monitoring tour)
- Blank example of the Tracking Form (while onsite for the monitoring tour)
- Blank example of the Inmate Disability Evaluation Form (while onsite for the monitoring tour)
- Blank copy of eight (8) page Wellpath Receiving Screening Alameda County Questionnaire
- Blank copy of Intake/Receiving Screening Form
- Blank copy of Classification Screening Form
- Separate lists of BHI incarcerated persons
- List of BHI, Cognitive (also described as "IDI") and Learning-Disabled Incarcerated Persons
- January 2022 Armstrong v. Newsom Lists (from CDCR DAPO)  
(Note: no such lists [subsequent to January] were provided for review)
- Five Keys (School and Programs) Continuing Student Demographics Form  
(Note: observed during the initial Joint Expert onsite review)
- Five Keys (School and Programs) Student Enrollment Form  
(Note: observed during the initial Joint Expert onsite review)

### **Assessment:**

The ADA Joint Expert's initial report cited (in greater detail) policies pertaining to identifying disabled inmates at Intake, and Inmate Medical/Health Appraisal Screening, Special Clinics, Communicable Diseases, Quarantines and Terminally Ill Inmates. The language of the policies related to the medical screening process during Intake for the purpose of identifying disabilities, and recording the information on the proper screening form, and further 14-day health appraisals, as well as additional related staff requirements.

The ACSO/AFBH did not provide any completed copies of the Intake forms (or other applicable forms) for the review for this monitoring period as related to Intake screening for incarcerated persons with possible psychiatric, intellectual/developmental, or learning disabilities. Likewise, the ACSO/AFBH did not provide any proof of practice documentation for the current document

review period to confirm whether Intake staff is referring incarcerated persons for follow-up or secondary screening and assessment (when appropriate) within 60 days of booking to a Qualified Mental Health Professional (including a trained and Licensed Clinical Psychologist). As also reported from the initial report (as related to learning disabilities) ACSO/AFBH did not provide any proof of practice documentation to confirm if the Intake staff is referring incarcerated persons to Five Keys education personnel (within 14 days of booking) for further screening, e.g., Test of Adult Basic Education.

The ADA Joint Expert notes that the County is working collaboratively with the ADA Joint Expert in the development and implementation of healthcare screening questions in-order-to identify individuals with intellectual, developmental, psychiatric, or learning disabilities including the process to refer cases to a Qualified Mental Health Professional, including a Licensed Clinical Psychologist where appropriate, for a secondary screening and assessment within sixty (60) days of booking and the referral process to a qualified community provider, such as 5 Keys, for screening using a screening tool such as the Test of Adult Basic Education within fourteen (14) days of booking.

As outlined in greater detail within the ADA Joint Expert's initial report, the ADA Joint Expert reviewed the eight (8) page Wellpath Receiving Screening Alameda County Questionnaire and asked pertinent questions of Wellpath personnel. Staff mentioned completion of an ADA Assessment Form, electronic entering of such information into ATIMS, CorEMR, and the Gateway systems, behavioral health referrals, and weekly multidisciplinary meetings.

Though the ADA Joint Expert did not observe the Custody Intake Screening process for the current review (while on-site), the ADA Joint Expert's initial report identified observation of the Intake screening process whereas there were no questions pertinent to possible intellectual/developmental or learning disabilities. There were questions pertaining to mental/behavioral health. Through healthcare staff interviews, there was no information obtained (or documentation provided) to demonstrate any specific changes in the Intake screening process.

The ADA Joint Expert's initial report identified the following:

- The Intake/Receiving Screening Form (filled out at the ITR law enforcement parking lot), contains general mental health-related questions
- The Classification Screening Form contained general intellectual/developmental disability-related questions
- The Five Keys (School and Programs) Continuing Student Demographics Form (questionnaire and checkboxes), includes questions pertaining to IEP, 504 Plan, previous Resource class or other services received, education level, etc.
- The Five Keys (School and Programs) Student Enrollment Form includes questions pertaining to past school and education information and special education-related questions.

The Expert notes that ACSO is working on the development of a real-time networked ADA Tracking System. The ACSO/AFBH/Five Keys personnel must have a means to accurately

document the dates and types of assessments, the nature of an individual's disability, and any reasonable accommodations required or needed for the incarcerated person. To the extent feasible and until the new tracking system is implemented, appropriate staff must document the assessments, findings, and the incarcerated person's accommodation needs to show proof of practice. This documentation must be available for review by the ADA Joint Expert for future reviews.

The ACSO provided ADA lists for 2022 (through ATIMS). The lists (weekly lists) were provided for the months of January – November 2022. Some of the lists contained the names of incarcerated person and/or their PFN numbers for individuals categorized as “BHI”, “Cognitive Disability” (sometimes listed as “IDI”), “Learning Disability”, “TBI” (Traumatic Brain Injury), “Autism”, and “Asperger’s.” There were also numerous types of other disabilities listed that are outside the scope of the Consent Decree. Of concern with the lists is that with-regard-to cognitive disabled (intellectually/developmentally disabled, or “IDI” individuals), and for the learning-disabled persons, they were also listed as “BHI.” Likewise, the lone persons each identified as “Asperger’s”, “TBI”, and “Autism” were also dually listed as “BHI.” Once ACSO/AFBH/Wellpath incorporate nationally or internationally recognized screening/testing for intellectual/developmental disabilities and learning disabilities, evaluation results will demonstrate that although there will be a percentage of individuals dually diagnosed with behavioral/mental health concerns (e.g., BHI), a large percentage of the individuals will not be dually diagnosed. For the January – November 2022 period there were generally between:

- 4 – 9 BHI individuals
- 0 – 2 “Cognitive” disabled (intellectually/developmentally disabled or IDI) individuals
- 0 – 4 Learning disabled individuals
- 0 – 1 TBI Individuals
- 0 – 1 Autism individuals
- 0 – 1 Asperger’s individuals

With exception of a January 2022 Armstrong v. Newsom ADA List identifying two (2) individuals (presumed to be intellectually/developmentally disabled) with listed adaptive supports needs, there were no other lists provided showing adaptive support needs for intellectually/developmentally disabled persons for 2022. Most months of the year listed at least one (1) individual, but no adaptive support service needs. This a serious concern, but The ADA Joint Expert understands ACSO/AFBH is working collaboratively with the ADA Joint Expert on implementing appropriate cognitive and adaptive support needs screening/testing. Similarly, the documentation throughout the year did not list any reasonable accommodation needs for learning disabled incarcerated persons, or for the individuals identified as TBI or Autism.

The ADA Joint Expert will continue to monitor whether healthcare screenings at both Intake and for follow-up/more extensive testing/evaluations (based on referrals) are being conducted in a reasonably confidential setting.

**Recommendations:**

- 1) For future monitoring tours, ACSO/AFBH must provide completed copies of all Intake screening forms for the respective monitoring period disabilities identified as related to screening for psychiatric, intellectual/developmental, and learning disabilities.
  - a. All screening forms must appropriately identify the disability (or possible disability concerns) as well as the reasonable accommodations or adaptive support needs required for staff (e.g., custody, healthcare, Inmate Programs/Services personnel, etc.) to provide to the respective individuals.
- 2) For future monitoring tours, ACSO/AFBH must provide completed copies of all referral forms for the respective monitoring period related to referrals for follow-up and/or more extensive or diagnostic testing/screening/evaluation for psychiatric, intellectual/developmental, and learning disabilities.
- 3) ACSO must work in collaboration with other contracted partners (e.g., AFBH/Five Keys, Wellpath) to provide completed copies of all follow-ups, and/or more extensive diagnostic testing/screening/evaluation for psychiatric, intellectual/developmental, and learning disabilities.
- 4) Regarding language outlined in policy, "Inmates who have, or suspected of having, developmental disabilities shall be separated from the general population pending assessment, to prevent their being victimization by predators"; the ADA Joint Expert is requesting clarity on this issue. The ACSO must provide information as to where this decision is made, what unit(s) and what type of unit(s) possible intellectual/developmental-disabled incarcerated persons are temporarily housed in, and how much time elapses (on average) before confirmation of the disability and victimization concerns. What is the process if the individual is not a prior Regional Center client and there is no Regional Center information available?
- 5) The ACSO/AFBH screening process must contain more appropriate questions to better identify whether the incarcerated person may have a possible intellectual/developmental or learning disability. Though comprehensive testing and evaluation will come after the referral, the Intake screening questionnaire must be revised to incorporate more meaningful questions to better ascertain possible intellectual/developmental and learning disabilities.
- 6) Secondary, follow-up or more diagnostic testing/evaluations must identify whether an individual has an intellectual/developmental disability, and if so, what the specific adaptive support needs are, and what the recommended monitoring frequencies are for staff (e.g., housing unit staff, work supervisors).
- 7) ACSO must work in collaboration with other contracted partners (e.g., Wellpath) to ensure that Nurses who conduct Medical Intake Screening understand the Intake questions related to special education and what to do with that information when a screened individual acknowledges a prior special education history.
- 8) ACSO/AFBH must ensure that Clinicians who conduct Behavioral Health Intake Screening understand the Intake question related to possible prior Regional Center services and what to do with that information when a screened individual acknowledges being a past Regional Center client.
- 9) ACSO/AFBH/Five Keys must ensure disability screenings and follow-up or more extensive testing/evaluations (for psychiatric, intellectual/developmental, and learning disabilities) are conducted in a reasonably confidential setting

10) Once disabilities and adaptive support service needs or reasonable accommodation needs are identified, ACSO and Wellpath must work collaboratively to ensure all related information is included into the tracking system.

**1009. Individuals identified at intake as having a Psychiatric Disability shall be referred to the ADA Unit for follow-up as described in Section III(J)(1). Individuals not identified as having Psychiatric Disability at intake may request a post-intake assessment at any time after they are processed into the Jail. Staff may also refer individuals for a post-intake assessment. Individuals shall also be referred for an assessment where there is documentation of a Psychiatric Disability in the individual's health record or prior correctional records or where a third party, such as an individual's community mental health provider or family member, where appropriate, makes a request for an assessment on the individual's behalf.**

**Finding: Partial Compliance**

(Note: this provision was previously rated as "Partial Compliance")

**Training:**

Development of related training materials by ACSO is in progress.

**Metrics:**

- Policy Review
- Staff Interviews (custody and non-custody staff from multiple disciplines)

**Assessment:**

The ADA Joint Expert's initial report cited (in more detail) policy language pertaining to medical screening, disability identification, and both the Pre-Booking Medical/Mental Health Screening Form and Inmate Disability Evaluation Form.

Policies do not contain information pertaining to referrals (e.g., healthcare staff, custody staff, third party, etc.) to the ADA Unit or regarding post Intake assessments.

Referrals are reportedly conducted for psychiatric assessments; however, staff who were interviewed informed the Expert that not all referrals are documented (e.g., some are done via phone calls or word-of-mouth). A healthcare staff member stated that a copy of the Medical Assessment Form is routed to the ADA Coordinator (as well as to Classification staff), but it is unclear whether this same process takes place for referrals (whether from healthcare or from other parties).

Wellpath staff stated they provide psychiatric disability information (post screening) to the ADA Coordinator and to Classification personnel. ADA Unit staff interviewed provided information regarding referrals sent (e.g., to Wellpath, AFBH), and referrals received (e.g., from CDCR



DAPO), and various ADA Unit responsibilities, but they did not cite that referrals are received from Wellpath staff, nor did they cite they conduct follow-ups post-Intake (or post disability identification), only that as with other related questions asked, “it is a work in-progress.”

There was no related proof of practice documentation produced for review.

#### **Recommendations:**

- 1) The ACSO should incorporate language into the local policy that individuals identified at Intake as having a psychiatric disability shall be referred to the ADA Unit for follow-up. Language should reference referrals by healthcare staff, but also post-Intake referrals for those individuals not identified as having a psychiatric disability at Intake and any referrals for an assessment from other staff or third parties.
- 2) For future monitoring tours, the ACSO must provide proof of practice documentation showing the following:
  - a. Individuals identified at intake as having a psychiatric disability shall be referred to the ADA Unit for follow-up
  - b. Individuals not identified as having a psychiatric disability at Intake who requested a post-intake assessment at any time after they are processed into the Jail
  - c. Cases where staff referred individuals for a post-intake assessment
  - d. Cases where individuals were referred for an assessment where there was documentation of a psychiatric disability in the individual’s health record or prior correctional records, or where a third party, such as an individual’s community mental health provider or family member, where appropriate, made a request for an assessment on the individual’s behalf.

**1010. During intake, Defendants shall provide all incarcerated persons with a copy of the Jail handbook and any other orientation materials including instructions on how to request disability-related accommodations, how to contact the ADA Coordinator, and how to file a grievance regarding ADA-related issues. Upon request, ACSO staff shall provide Effective Communication and assist incarcerated persons with Psychiatric Disabilities in understanding the rulebook and orientation materials. Where an individual has been flagged as having a severe cognitive, developmental, or intellectual disability, regardless of whether assistance is requested, ADA Unit Staff shall assist the individual in understanding the rules of the Jail.**

#### **Finding: Partial Compliance**

(Note: this provision was previously rated as “Partial Compliance”)

#### **Training:**

Development of related training materials by ACSO is in progress.

#### **Metrics:**

- Policy Review

- ACSO Inmate Rules and Information (Orientation handbook – revised January 2021)
- Staff Interviews
- Incarcerated Person interviews
- Observed Intake Deputy Issue Inmate Rules and Information (Jail Orientation handbook) during Intake process (from Joint Experts initial Onsite review)

**Assessment:**

As part of document production, ACSO provided policy relative to inmate orientation. However, the ADA Expert notes that the policy has not been revised since the last review.

As outlined in greater detail in the ADA Joint Expert's initial report, policy addresses the Orientation video, including a description of the grievance procedure, where and when the video will be aired. The policy further requires that incarcerated persons receive the Inmate Rules and Information booklet, which includes information on inmate programs, services, and activities.

The ADA Joint Expert reviewed the ACSO Inmate Rules and Information (Orientation handbook – revised January 2021) and observed a Spanish version as well. The ADA Joint Expert's initial report outlined in greater detail the list of ADA-related information contained within the Orientation handbook that is required by the Consent Decree. Information included how to request disability-related accommodations and how to file a grievance regarding ADA-related issues, as well as much more applicable information. However, the Orientation handbook does not contain information on how to contact the ADA Coordinator (or ADA Unit staff).

The ADA Joint Expert previously noted that the Inmate Rules and Information (Jail Orientation handbook) is provided to all new arrivals via hard copy and is available on the electronic tablet. Reportedly, incarcerated persons can also further request another hardcopy from an agency member and/or through the message request process.

During the on-site review, the ADA Joint Expert interviewed Classification and Custody Intake personnel regarding Orientation. Classification staff stated the Orientation handbook (Jail Rule & Regulations) are given (or at least offered) to all new arrivals (since early September 2021), and that the information is contained within the electronic tablets. Staff also stated there is currently no video or verbal Orientation provided. Staff stated that all new arrivals are required to sign an Intake Classification Form that acknowledges receipt of the Jail handbook. Custody Intake staff also stated that all incarcerated persons entering the Jail receive a copy of the Orientation Handbook.

The ADA Joint Expert interviewed seven (7) incarcerated persons. At least five (5) of the seven (7) were in the behavioral/mental health program; four (4) of the seven (7) have intellectual/developmental disabilities (as three [3] were in the Developmental Disability Program [DDP] in CDCR, and one [1] is categorized as IDI); and one (1) of the seven (7) (BHI) not identified as intellectually/developmentally disabled admittedly cannot read/write. Six (6) of the seven (7) individuals stated they did not receive an Orientation Handbook, and otherwise did not receive verbal Orientation or viewed an Orientation video. The individual that acknowledged receiving the



handbook (Jail Rules and Regulations) is likely intellectually/developmentally disabled as he was a prior regional center client, was in special education in school, and has difficulty reading and writing. Three (3) of the seven (7) reportedly do not know how to use electronic tablets, and four (4) of the seven (7) either do not know what grievances are (or understand the process), learned about grievances through other incarcerated persons, and/or stated that staff never explained the grievance process or will not assist them.

ACSO did not provide any documented proof or completed examples of forms or documents showing that incarcerated persons are provided with a copy of an Inmate Rules and Information (Jail Orientation Handbook), or whether they refused to accept a hard copy of the information (e.g., as possibly noted via a checkbox or by other means through related documentation/forms). Likewise, there was no documentation provided relative to staff assisting and effectively communicating information pertaining to the contents of the Inmate Rules and Information (Jail Orientation handbook). Staff stated they provide assistance when asked.

### **Recommendations:**

- 1) The ACSO must revise the Inmate Rules and Information (Orientation Jail handbook) to include information on how incarcerated persons can contact the ADA Coordinator. The information must also identify that the same information can be accessed via the electronic tablets.
  - a. Subsequent to the on-site review, the County apprised the ADA Joint Expert that the Inmate Rules and Information (handbook) has been undergoing revisions, and that Jail administration staff ordered further revisions. The County estimates it will be provided to the Joint experts for review in March 2023.
- 2) The ACSO must ensure that all incarcerated persons are provided (or at least offered) a hard copy of the Inmate Rules and Information (Orientation Jail handbook) during the Intake process. Upon request, custody staff shall provide Effective Communication and assist incarcerated persons with psychiatric, intellectual/developmental, and learning disabilities in understanding the rulebook and orientation materials. It is recommended that proof of practice documentation is made for such encounters. Staff must also provide similar assistance for same types of incarcerated persons that may need assistance navigating an electronic tablet including reading and understanding its contents.
- 3) For individuals that have been identified as having a severe cognitive, intellectual/developmental, or learning disability, regardless of whether assistance is requested, ADA Unit Staff shall assist the individual in understanding the rules of the Jail. It is recommended that proof of practice documentation is made for such encounters.  
Note: this was also listed as a concern and recommendation from the initial review.

### **Provision of Reasonable Modifications**

**1011. Defendants shall provide reasonable modifications and accommodations as necessary to ensure that qualified individuals with Psychiatric Disabilities have equal access to programs, services, and activities that are available to similarly situated individuals without disabilities. The process for submitting ADA-related requests for modifications and accommodations is contained in Section III(J)(9)(a). The specific type of**

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**modification required shall be based on an individualized assessment of the needs of the individual and the program, service, or activity at issue. In the context of vocational programs, the assessment shall also take-into-account the essential job functions and whether the individual can meet those functions with reasonable modifications.**

**Finding: Partial Compliance**

(Note: this provision was previously rated as “Partial Compliance”)

**Training:**

Development of related training materials by ACSO is in progress.

**Metrics:**

- Policy Review
- Staff Interviews (ACSO and staff from Inmate Services/Programs)
- Incarcerated Person Interviews

**Assessment:**

The ADA Joint Expert previously reviewed and cited policy in the initial report, which included information pertaining to the definition of reasonable accommodation; an ADA Request for Accommodation Form; purpose of such a form; ADA Coordinator Review Form (and its purpose); Record of Contact Form (and its use) and other information; message requests; disciplinary process; reasonable accommodations, and Effective Communication.

During this monitoring period, ACSO did not provide any completed examples of the following related forms for review for incarcerated persons with psychiatric, intellectual/developmental, or learning disabilities as related to complaints or requests for accommodations or modifications:

- ADA Request for Accommodation Form
- ADA Grievances with requests for ADA Accommodations or Modifications
- Message Requests for ADA Accommodations or Modifications
- ADA Coordinator Review Form
- Record of Contact Form

For future reviews, the ADA Joint Expert will carefully assess whether custody and non-custody staff are providing reasonable accommodations/modifications to incarcerated persons with psychiatric, intellectual/developmental, and learning disabilities to ensure equal access to all programs, services, and activities. The ADA Joint Expert will also monitor whether accommodations/modifications are based on individualized assessments pertaining to the needs of the individual and the program, service, and/or activity at issue.

**Recommendations:**

- 1) For future monitoring tours, the ACSO must provide completed copies of the following forms pertaining to incarcerated persons with psychiatric, intellectual/developmental, and learning disabilities:
  - a. The ADA Coordinator Review Form
    - i. Copies must be provided for occurrences where accommodations have been denied, a grievance has been filed, an alternate accommodation is proposed, a safety or security issue exists related to the accommodation request, or when there is a financial or administrative issue as related to the provision of an accommodation.
  - b. The Record of Contact Form
    - i. For occurrences showing documented interaction or discussions the ADA Coordinator had with an individual, staff, or visitors regarding accommodations and ADA issues.
  - c. The Message Request Form (for ADA Accommodations or Modifications)
    - i. As pertaining to ADA issues and maintained by the ADA Coordinator
  - d. The ADA Request for Accommodation Form
  - e. ADA Grievances with requests for ADA Accommodations or Modifications.

Note: The County informed the ADA Joint Expert that the aforementioned forms are currently being used within the Santa Rita Jail. However, the County must demonstrate proof of practice. The documents must be part of pre-review document production for future reviews.

- 2) Staff must provide reasonable accommodations/modifications to incarcerated persons with psychiatric, intellectual/developmental, and learning disabilities to ensure equal access to all programs, services, and activities.

This includes but is not limited to healthcare services (medical, behavioral health, and dental), Intake, Classification, Orientation, disciplinary process, request for accommodation/modification process, academic and vocational education classes and processes, religious activities, reentry services, self-help groups/processes, and release process, etc.
- 3) Reasonable accommodations/modifications must be based on individualized assessments pertaining to the needs of the individual and the program, service, or activity at issue.
- 4) The ACSO must develop job descriptions inclusive of essential functions for each respective incarcerated person's job assignment. All job assignments, including vocational education programs/assignments, must consider the essential job functions for assessing reasonable accommodation/modification requests and whether the individual can meet those functions with reasonable modifications.

**1012. Examples of possible reasonable modifications/accommodations include, but are not limited to, providing Effective Communication, designated therapeutic and/or protective housing unit appropriate counseling/therapy (group and individual), reliable access to necessary medications, Qualified Mental Health Professional input prior to removing privileges and/or otherwise imposing discipline, and any modifications necessary to ensure equal access to programs.**

**Finding: Partial Compliance**

(Note: this provision was previously rated as “Partial Compliance”)

**Training:**

Development of related training materials by ACSO is in progress.

**Metrics:**

- Policy Review
- Staff Interviews (custody and non-custody staff from multiple disciplines)
- Incarcerated Person Interviews

**Assessment:**

The ADA Joint Expert interviewed numerous custody and non-custody personnel from different employee classifications and disciplines. As outlined in more detail elsewhere in this report, staff do not receive information (list or report) of reasonable accommodation needs for behavioral/mental health, intellectually/developmentally, and learning-disabled incarcerated persons. Such a list/report should be based on clinical assessments and evaluations. During the review, staff acknowledged not having such list/report. Staff stated accommodations are provided through various means for this population, e.g., providing Effective Communication for healthcare encounters (medical, behavioral health, and dental), various due process-related events (e.g., parole/probation processes, classification processes, disciplinary processes, etc.), and various significant types of events, (e.g., religious services, reentry/transitional services, education assignments, work assignments, etc.). Although staff claim to provide Effective Communication when they are aware of an incarcerated person's needs, they admit that it is not generally documented. The ACSO does not currently have an Effective Communication policy, and there was no related documentation provided for the ADA Joint Expert's review.

At least five (5) of the seven (7) incarcerated persons interviewed are behavioral health patients, while several were also confirmed or suspected to be intellectually/developmentally disabled. Although there were differing accounts as to access to services and accommodations that are provided (or not provided). Some stated staff are not helpful, but one (1) individual stated that some staff assist them and are very helpful.

Due to the lack of overall proof of practice documentation, this provision will be examined closely during the next scheduled Joint Expert review.

**Recommendations:**

- 1) The ACSO should incorporate stronger policy language to better capture reasonable accommodation requirements to include the various methods for staff to provide reasonable accommodation/modifications.

- 2) Staff must have access to a tracking list that outlines general reasonable accommodations needs (e.g., Effective Communication)
- 3) For future monitoring tours, the ACSO must provide proof of practice documentation to capture the accommodations/modifications that are provided by custody and non-custody staff through various means.

**1013. For individuals with learning-related disabilities, possible reasonable accommodations may include, but are not limited to, providing notetakers, providing extra time to allow the individual to understand instructions/forms and repeating and/or clarifying as needed, or explaining how to fill out written forms (ADA request for Accommodations, Grievance, and Appeal forms) and/or in using the electronic tablets including providing assistance if needed.**

**Finding: Partial Compliance**

(Note: this provision was previously rated as “Partial Compliance”)

**Training:**

Development of related training materials by ACSO is in progress.

**Metrics:**

- Policy Review
- ACSO Staff Interviews
- Incarcerated Person Interviews
- List of Learning-Disabled Incarcerated Persons

**Assessment:**

As part of document production, ACSO provided policy language. The ADA Joint Expert notes the policy is the same version the ADA Joint Expert reviewed for the previous Joint Expert review. The ADA Joint Expert’s previous report noted that policy did not contain any comprehensive Effective Communication information and provisions for special education classes, learning disabilities and related accommodations.

As stated earlier in this report, the ADA Joint Expert understands that ACSO is in the process of developing an Effective Communication policy (or comprehensive Effective Communication-related language to incorporate into existing policy). Providing or ensuring reasonable accommodations to learning disabled individuals correlates to Effective Communication provisions. As also previously addressed, the ADA Joint Expert has met with ACSO staff (including ADA Unit personnel) has discussed Effective Communication as related to the Consent Decree provisions and will continue to work with ACSO (and AFBH) toward the development and implementation of an Effective Communication policy.

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As previously outlined in an earlier section of this report, the ACSO provided electronic learning-disabled lists (as part of document production) containing names and/or PFN numbers for up to four (4) learning disabled incarcerated persons at any given time in 2022. However, none of the lists identified specific reasonable accommodation needs.

There was no documentation provided regarding the specific testing for learning disabilities or other information identifying how incarcerated persons are otherwise placed on a learning-disabled tracking list. During Five Keys education staff interviews, staff admitted they do not generally receive referrals (e.g., from ACSO or AFBH) for testing or confirmation for learning disabilities, but they have confirmed learning disabilities via outside school districts. Staff stated they inform the ADA Unit once confirmation is received. However, Neither Five Keys nor ACSO has provided any such proof of practice documentation. Staff also stated they currently do not use the Test of Adult Basic Education (TABE) or other types of assessments to determine education grade level. Staff also report that ADA Unit staff do not follow-up with Five Keys staff after Five Keys staff provide learning disabled information (once confirmed).

ACSO staff interviewed stated they provide reasonable accommodations to learning disabled individuals if they are aware of their accommodations needs or would provide such accommodations in the event they would be interacting with a learning-disabled person. However, without a proper identification process and tracking system that identifies learning disabilities, and more importantly, the specific accommodation needs required for the disabled incarcerated persons to have equal access to programs, services, and activities, custody and non-custody staff will largely be unable to understand (or have difficulty understanding) what accommodation(s) to provide to learning-disabled individuals.

**Recommendations:**

- 1) The Santa Rita Jail must incorporate an identification process for specific types of reasonable accommodations for individuals with learning disabilities. The accommodations must be based on individual testing or evaluations (evaluations must be conducted by qualified professionals, and can be determined based on a professional review of existing outside tests/assessments or related documentation [if available]):
  - a. Note: Until the real-time networked tracking system is developed and implemented, the ACSO must track identified learning-disabled persons so that all appropriate custody and non-custody staff have access to the information and are aware of the learning-disabled population and their accommodation needs.
  - b. Note: The ADA Joint Expert understands that employing specific learning disability testing can prove costly, especially with the high turn-over rate at a large-sized county jail. Although the County can consider such testing (by certified professionals), at minimum the County should adopt a process to provide general testing to assess reading and comprehension levels (e.g., Test of Adult Basic Education [TABE], or other similar types of assessments). Inmates/detainees with low reading scores (e.g., 4.0 or below) should be placed on a 4.0 or below tracking list whereas they can be queried by staff prior to or during various types of healthcare, due process, and other significant types of encounters to identify whether accommodation needs are required or needed.



- c. Note: Although inmates/detainees that score 4.0 or below on a recognized reading/comprehension assessment will not necessarily have a specific learning-disability, many incarcerated individuals from this category often have learning disabilities. The 4.0 and below level merely serves as a legitimate trigger to have staff conduct inquiries as to their possible need for accommodations for healthcare, due process events, and other significant types of communications/processes.
- 2) ACSO must have a process in place (including policy language) to ensure staff members provide assistance (as necessary) to incarcerated persons with learning disabilities (and intellectual/developmental disabilities). The policy (or other documentation) must address or explain the types of accommodations that learning disabled incarcerated persons may require or need.
- 3) ACSO (in conjunction with Five Keys as necessary) must incorporate a jail-wide learning-disabled list, inclusive of specific accommodations needs for those individuals on the list.

**1014. For individuals with cognitive, developmental and/or intellectual disabilities, possible reasonable accommodations may include providing designated housing in a therapeutic unit appropriate to the individual's classification level, prompts for adaptive support needs (including but not limited prompts to take showers, clean cells, attend appointments, etc.), ensuring Effective Communication, explaining how to fill out written forms (ADA request for Accommodations, Grievance and Appeal forms, forms to request medical or mental health services, and any other written forms the Jail implements for incarcerated persons use) and/or in using electronic tablets and providing assistance if needed, assistance with commissary (e.g., observing the individual post commissary purchase for possible victimization concerns), assistance with laundry exchange, and obtaining input from a Qualified Mental Health Professional prior to conducting disciplinary/misconduct hearings.**

**Finding: Partial Compliance**

(Note: this provision was previously rated as "Partial Compliance")

**Training:**

Development of related training materials by ACSO is in progress.

**Metrics:**

- Policy Review
- Disability Tracking Form (list)
- Staff Interviews (custody and non-custody staff from multiple disciplines)
- Incarcerated Person Interviews

**Assessment:**

The ACSO does not have a policy that contains any comprehensive information regarding incarcerated persons with intellectual/developmental disabilities, the testing/evaluation process, or the requirements for housing officers and work supervisors to provide (and log) adaptive

support services to ensure equal access to programs, services, and activities for those individuals. ACSO must have a comprehensive policy and practices in place relative to intellectual/developmentally disabled incarcerated persons, or the information can be incorporated into existing policies. As outlined earlier in the report, the ADA Joint Expert conducted a meeting in November 2022 with ACSO (including ADA Unit staff) and AFBH personnel to discuss a testing/screening/identification process for related disabilities as well as a tracking and documentation process for staff who provide adaptive support services, reasonable accommodations and assistance provided to incarcerated persons with related disabilities. More meetings will follow, as the County continues to collaborate with the ADA Joint Expert.

As outlined earlier in the report, the ADA Joint Expert identified concerns with the validity and completeness of the current identification process and Jail disability tracking list. Given the Jail population numbers, the identified disabled incarcerated person population appears extremely low as compared to other prison and jail jurisdictions. Currently only intellectually/developmentally disabled and learning-disabled individuals that are dually diagnosed (with mental/behavioral health) are captured on the tracking list, and the list does not include adaptive support or reasonable accommodation-related information for staff.

The County is working on revising/developing policies to identify monitoring requirements for staff (e.g., housing unit staff and work supervisors) as well as required or recommended frequencies with which staff must provide or ask individuals relative to coaching, assisting, monitoring, and prompting. Specific adaptive support services will be different for all individuals identified as intellectually/developmentally disabled.

The ADA Joint Expert's recommendations in the initial report identified key intellectual/developmental disability information in greater detail that must be addressed in local policies/procedures (e.g., classification screening for safety, victimization, and vulnerability; housing protocols [possible clustering]; custody and clinical staff responsibilities pertaining to the disciplinary process, and other information.

Based on a review of the current housing matrix, it is unclear whether ACSO plans to use a clustering or semi-clustering housing approach (for intellectually/developmentally disabled individuals) in the future. Reportedly the Classification Unit works collaboratively with AFBH to identify appropriate housing. Along with all security and classification factors examined, this population normally does well in a semi-clustered environment, and more particularly, the individuals with moderate and severe adaptive support needs.

**Recommendations:**

- 1) The ACSO/AFBH must employ policy and practices to ensure adequate testing and evaluation to identify the intellectually/developmentally disabled population and their specific adaptive deficits and adaptive support needs.
- 2) The intellectual screening/testing policy and process must be comprehensive, using recognized instruments, to allow psychiatrists, psychologists, licensed clinical social workers, or other trained clinicians to determine whether incarcerated persons are intellectually/developmentally disabled.



- The intellectual screening/testing policy and process must include an examination for:
    - Low cognitive functioning (usually IQ of 75 or below);
    - Concurrent deficits or impairments in adaptive functioning (the abilities necessary to care for oneself and to access programming and services in the jail setting)
  - The intellectual screening/testing policy and process must identify adaptive support needs or adaptive deficits that may be present in any of the following areas:
    - Health and safety
    - Socialization Skills
    - Academic Skills
    - Communication Skills
    - Leisure
    - Self-Advocacy/Use of Incarcerated Person Resources
    - Self-Care Skills
    - Self-Direction
    - Work
- 3) ACSO/AFBH should establish frequencies with which to ensure staff (e.g., housing unit staff, work supervisors) monitor and provide required/needed adaptive support services (e.g., coaching, assisting, monitoring, and prompting) as related to an individual's specific adaptive deficits (as identified by a qualified, trained clinician). Examples of types of adaptive support services to provide and/or monitor include, but are not limited to:
- a. Showering
  - b. Cleaning cell/dorm/living area
  - c. Attending appointments
  - d. Provide Effective Communication
  - e. Read/explain/scribe/fill-out forms (e.g., grievances, requests for accommodations, message requests, health care requests)
  - f. Instructions and help understanding and using electronic tablets
  - g. Help with Commissary processes (e.g., purchasing/receiving items, filling out slips, monitoring activity with purchases items, including for possible victimization)
  - h. Assistance with laundry exchange (e.g., filling out slips)
  - i. Understanding forms, processes, Orientation materials, etc.
  - j. Assistance in preparing for and/or understanding a disciplinary hearing
- 4) The ACSO/AFBH should establish a logging system for staff to document accommodations provided, including adaptive support services.
- a. Subsequent to the ADA Joint Expert on-site review, the County informed the ADA Joint Expert that the ADA Unit currently tracks all accommodations provided and needed (when known). For future reviews, and County must provide related proof of practice documentation (tracking documentation) for ADA Joint Expert review.

### **Tracking**

**1015. Defendants shall implement an electronic, real-time networked tracking system including a grievance module (“ADA Tracking System”) to document and share internally information regarding an individual’s disability(ies) and disability-related**

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accommodations within six (6) months of the Effective Date. The ADA Tracking System shall have the following functional capabilities:

- (1) to store historical information regarding an individual's accommodation needs in the event the individual is returned to custody multiple times;
- (2) to list the current types of accommodations the individual requires; and
- (3) to track all programs, services, and accommodations offered to incarcerated persons with Psychiatric Disabilities throughout their incarcerations including any accommodations they refused.

Access to the ADA Tracking System shall be made available to and shall be used by ACSO staff at the Jail who need such information to ensure appropriate accommodations and adequate program access for people with Psychiatric Disabilities. At a minimum, Classification Staff, the ADA Coordinator and their staff, the Facility Watch Commander, Division Commander, Administrative Sergeant, Program Managers, and AFBH and medical staff shall have access to the ADA Tracking System. Clinical and ADA Unit staff shall be responsible for adding or modifying information regarding the nature of an individual's Psychiatric Disability and necessary accommodations, including accommodations identified at intake and throughout the individual's incarceration. Clinical and ADA Unit staff may delegate the actual data entry piece to non-clinical or non-ADA Unit staff where appropriate. Prior to any due process events and clinical encounters, clinical and ADA Unit staff shall be required to view information in the system to determine if the individual has a disability and what accommodations are to be provided. All housing unit deputies, clinicians, and program managers who interact with incarcerated persons shall be trained to properly use the ADA Tracking System within six (6) months of the rollout of the ADA Tracking System.

**Finding: Non-Compliance**

(Note: this provision was previously rated as "Implementation Not Yet Required – Rating N/A")

**Training:**

Development of related training materials by ACSO is in progress.

**Metrics:**

- Policy Review
- ACSO Staff Interviews
- Current Disability Tracking Form (list)

**Assessment:**

The ADA Joint Expert is aware that within six (6) months of the Effective Date of the Consent Decree, the ACSO was required to develop and implement an electronic, real-time networked tracking system, including a grievance module ("ADA Tracking System") to document and share internal information regarding an individual's disability(ies) and disability-related accommodations.

The ADA Joint Expert notes the expiration of the six-month requirement for tracking system implementation. The ADA Joint Expert will continue to work with ACSO/AFBH to ensure appropriate personnel understand the components to an effective real-time tracking system as ACSO/AFBH works towards developing and implementing the “ADA Tracking System” that complies with this provision.

**Recommendations:**

- 1) The ACSO must develop and implement an electronic, real-time networked tracking system, including a grievance module (“ADA Tracking System”) to document and share internal information regarding an individual’s disability(ies) and disability-related accommodations.

Note: It is unclear as to specific barriers or concerns the County may be encountering (or may have had) as they are reportedly navigating the inmate/detainee tracking process to include the proper components of a real time network tracking system to satisfy the related Consent Decree provisions. Regarding the recommendation (above), the County must first understand the varied requirements pertaining to a real time network tracking system as not only related to this provision, but as related to other Consent Decree provisions as well. As has been outlined throughout this report, tracking touches many aspects of a disability/ADA program, e.g., disability identification, classification, housing, jail orientation, documented reasonable accommodation requirements/needs, documented adaptive support requirements/needs, Effective Communication requirements/needs, disciplinary process, other due process related events (such as parole/probation related processes, issuance of notifications to appear, etc.), healthcare encounters (medical, mental health, dental), and for other significant types of encounters for example, academic instructor or work supervisor meetings/encounters, religious services events or activities, etc.

To develop or adopt and implement a viable real time network tracking system, the County must evaluate the current ATIMS and JMS programs and decide whether either program can be enhanced or modified to satisfy the Consent Decree tracking requirements, or whether it would be more feasible to change to a new or different JMS system entirely. Toward this effort, the County must ensure all necessary stakeholders (e.g., ACSO, AFBH, Wellpath, and Five keys) are involved in the process to ensure all needs can be met. The ADA Joint Expert is hopeful the County can provide a status update during (or before) the next ADA task group meeting (tentatively to be scheduled during the week of March 20-24, 2023).

**1016. Housing unit, education, and program office staff shall be provided with a report listing all individuals with Psychiatric Disabilities in the relevant unit or program, as well as any needed accommodations. The information provided shall be limited to identifying the individuals who have a disability and what accommodations shall be provided. It shall not contain any information beyond the minimum required to ensure the individual’s disability needs are accommodated. Until the electronic ADA Tracking System is fully implemented, this report shall be updated and provided to staff in written form at least once per week. Once the ADA Tracking System is fully implemented the report shall be updated electronically, in a manner accessible to housing unit deputies, daily.**

**Finding:**

**Partial Compliance**

(Note: this provision was previously rated as “Partial Compliance”)

**Training:**

Development of related training materials by ACSO is in progress.

**Metrics:**

- Policy Review
- Staff Interviews (custody and non-custody staff from multiple disciplines)
- Current Disability Tracking Form (list)

**Assessment:**

As part of document production, ACSO provided tracking lists for BHI, learning disabled, intellectually/developmentally disabled, Traumatic Brain Injury (TBI), Autism, and Asperger's, as well as for various other disabilities outside the purview of the Consent Decree. As outlined earlier in the report, lists are not accurate or complete, as there is missing information (e.g., adaptive support service needs, as well as reasonable accommodation and Effective Communication-related information). There is a concern that intellectually/developmentally disabled individuals are not being identified or placed on a tracking list other than those self-identified, or through information obtained through a Regional Center, or via information obtained through CDCR DAPO. Also, only intellectually/developmentally disabled, and learning-disabled individuals that are dually diagnosed as behavioral/mental health are listed on the tracking list.

Based on staff interviews, there is still confusion amongst some staff as to who the psychiatric, intellectual/developmental, and learning-disabled individuals are as well as their accommodation needs. Some staff did not have lists, while some acknowledged they could access them electronically. The ADA Joint Expert notes that a new real-time networked electronic tracking system is reportedly being developed to address this concern.

**Recommendations:**

- 1) ACSO must work with the Joint Experts regarding the development and progress of the new tracking system to allow for review, comments, and recommendations.
- 2) The new tracking system must be accessible to all appropriate departments/offices and staff that provide programs, services, and activities.
- 3) The new tracking system must include key information such as housing, disability, Effective Communication, and adaptive support services needs information as applicable.
- 4) Until the new electronic ADA Tracking System is fully implemented, the tracking lists for BHI, learning disabled, and intellectually/developmentally disabled incarcerated persons must be updated and provided to staff in written form at least once per week with updates

as changes are made (e.g., housing assignment changes, accommodation changes). Once the ADA Tracking System is fully implemented, the report shall be updated electronically, in a manner accessible to housing unit deputies and other key staff daily. The interim and future tracking systems must include disability information as well as required adaptive support services, Effective Communication, and reasonable accommodations-related information (to the extent the Jail has such information pending implementation of comprehensive screening/testing/evaluation processes).

### **Housing Placements**

**1017. The fact that an individual has a Psychiatric Disability and/or requires reasonable accommodations for that disability shall not be a factor in determining the individual's security classification. Individuals with Psychiatric Disabilities shall be placed in housing that is consistent with their security classification and disability-related needs. Individuals with Psychiatric Disabilities shall be screened for potential victimization and vulnerability concerns and those factors shall be considered when determining appropriate housing; however, their disabilities shall not be used to justify placing an individual in a more restrictive privilege level than that in which they would have otherwise been classified except as provided herein. Individuals with severe or profound cognitive, intellectual, or developmental disabilities shall not be housed in a more secure setting unless it is determined by the Classification Unit and mental health staff that there are no other viable alternatives to prevent the individual from being victimized. This decision shall be based on an individualized assessment of the person's needs and the specific safety and/or security concerns affecting the individual including whether the person is able to function safely in a dormitory environment. To the extent possible, individuals housed in more secure settings due to victimization concerns shall receive the same privileges, access to programs, and out-of-cell hours that they would otherwise receive. The reason for housing an incarcerated person with a severe or profound cognitive, intellectual, or developmental disability in a more secure setting due to victimization concerns shall be clearly justified and documented in the ADA tracking system and classification documents and shall be reevaluated at least every sixty (60) days.**

#### **Finding: Partial Compliance**

(Note: this provision was previously rated as "Partial Compliance")

#### **Training:**

Development of related training materials by ACSO is in progress.

#### **Metrics:**

- Policy Review
- ACSO Staff Interviews
- ACSO Housing Matrix

#### **Assessment:**

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The ADA Joint Expert's initial report identifies (in greater detail) policy requirements, as pertaining to Classification staff housing considerations, least restrictive housing, and ADA Coordinator notifications regarding housing of disabled incarcerated persons.

Classification staff reported that housing placement is based on multiple factors, including but not limited to custody factors, assistance with daily living needs (e.g., if severe), violence history, disciplinary history, commitment or charged offenses, and disability accommodation needs, etc. The ADA Joint Expert understands AFBH has been undergoing a change in the various levels of identified care of behavioral health for psychiatric individuals, which will also correlate to housing and programming. The Expert reviewed the current ACSO housing matrix and noted that the current housing matrix identifies numerous housing units for individuals with psychiatric disabilities. Those with learning disabilities appear to be designated to be housed in any unit commensurate to their security classification factors. As outlined earlier in the report, it is presently unclear as to which housing units are designated for intellectual/developmental incarcerated persons, but it appears these individuals may be housed in any unit as their security classification dictates. It is still unclear whether ACSO plans to use a clustering or semi-clustering approach for the intellectual/developmental population, especially those with moderate or severe adaptive deficits. Once ACSO/AFBH employs a comprehensive testing and evaluation process, it is likely that the number of those identified will increase and having at least two (2) or three (3) units for semi-clustering purposes may prove beneficial for proper monitoring and safety of the individuals.

Through observations of the Intake process coupled with staff interviews (from both the initial and second reviews), the Classification staff inquires as victimization/vulnerability/predatory concerns, and they consider that information when making housing decisions. The healthcare screening processes for both medical and behavioral health include question of new arrivals pertaining to potential victimization concerns to which the information is shared with the Classification Unit immediately and prior to housing and program assignment.

The ADA Joint Expert continues to have concerns that incarcerated persons with intellectual/developmental disabilities (as well as other psychiatric disabled individuals) are or may be placed in more restrictive housing environments at minimum until the disability and accommodation needs can be confirmed. Reportedly, this information is covered during the Restrictive Housing Committee Meeting process.

**Recommendations:**

- 1) Recommend ACSO/AFBH consider at least a semi-clustering approach to housing intellectually/developmentally disabled incarcerated persons (at least those identified as moderately and severely intellectually/developmentally disabled). A semi-clustering approach allows for the intellectually/developmentally disabled population to reside with the non-intellectual/developmental disabled population (though still screened for predatory/victimization concerns), whereas there can be valuable learning of everyday living skills from the other individuals, but yet can allow for trained and carefully screened staff to work such units to better enable staff to effectively monitor and provide the necessary prompts and assistance as needed.



- 2) In the event there are no other feasible options other than to house an individual in a more restrictive housing environment due to victimization or other safety concerns, staff must justify the decision in writing (via the ADA Tracking System) and ensure the individual has equivalent access to programs, services, and activities (e.g., outside yard time, indoor pod/dayroom time, etc.) as he/she would have if they were housed in a different unit based on the security classification factors had the person not had a disability or associated accommodation needs:
  - a. The ACSO must evaluate such cases at least every 60 days.
- 3) ACSO will need to revise its housing matrix to coincide with the plan to categorize the four (4) different levels of behavioral health and to identify housing for intellectually/developmentally disabled individuals (if the recommended semi-clustering approach is adopted).

### **Access to Out-Of-Cell Time and Yard**

**1018. Defendants shall ensure that individuals with Psychiatric Disabilities are offered equal access to yard and day room exercise and recreation time as non-disabled individuals in comparable classification levels. Refusals of out-of-cell time and yard shall be documented consistent with Section III(D). Minimum out-of-cell time requirements apply to all incarcerated persons unless specifically contraindicated by a mental health treatment plan due to suicide precautions.**

### **Finding: Partial Compliance**

(Note: this provision was previously rated as "Partial Compliance")

### **Training:**

Development of related training materials by ACSO is in progress.

### **Metrics:**

- Policy Review
- ACSO Staff Interviews
- Incarcerated Person Interviews
- Out of Cell Tracking Logs

### **Assessment:**

Policy states, "Except when dictated by situations or events threatening the security and safety of the facility, staff and/or inmates, all inmates shall have access to recreational opportunities and equipment including one hour of daily physical exercise and/or leisure time outside their cell and outdoors when weather permits."

Due in part to the extremely low number of BHI inmates placed on the tracking list provided for document production, and the extremely low number of intellectually/developmentally disabled



incarcerated persons listed on the tracking list coupled with the lack of specific identified housing units, the ADA Joint Expert was unable to determine if there is a disparity in the equality between the outdoor yard time and activities as well as indoor dayroom/pod leisure time for incarcerated persons with psychiatric, intellectual/developmental and learning disabilities versus those that do not have such disabilities (from comparable security classification levels).

The following represents related claims by incarcerated persons regarding out-of-cell time during onsite interviews. Note: the claims could not be substantiated or refuted and could not be compared against other individuals without disabilities or the same disabilities.

- Incarcerated Person #1 (Building #2):
  - Intellectually/developmentally disabled (formerly CDCR DD1)
  - Quasi-yard offered outdoor yard every three (3) days, 1.5 - 2 hours each day (usually in the morning)
  - Pod/dayroom offered twice daily (AM & PM) x 2 hours each
- Incarcerated Person #2 (Building #35):
  - Likely intellectually/developmentally disabled (Regional Center client, IEP in school/special education)
  - Has no concerns with quasi-yard time
  - Dayroom/pod offered one (hour) daily and one (1) hour nightly
- Incarcerated Person #3 (Building #24) (Female)
  - BHI
  - Quasi-yard one (1) time weekly for one (1) hour
  - Dayroom/pod offered once daily x 1-2 hours each
- Incarcerated Person #4 (Building #23)
  - BHI
  - Intellectually/developmentally disabled (former CDCR DD2)
  - Claims no "Main Yard" offered
  - Quasi-yard offered 3-4 x weekly for one (1) hour each, but refuses due to overcrowded yard
  - Dayroom/pod offered daily (1-2 hours on Mondays, (2) hours daily in the AM and two (2) hours nightly in the PM)
- Incarcerated Person #5 (Building #35)
  - BHI
  - Intellectually/developmentally disabled
  - No yard or pod information
- Incarcerated Person #6 (Building #35)
  - BHI
  - Main yard offered every Monday for two (2) hours
  - Quasi-yard offered 4 x weekly x 45 minutes each
  - Dayroom/pod offered daily x 2 hours in the AM and x 1 hour in the PM
- Incarcerated Person #7 (Building #35)
  - Intellectually/developmentally disabled (former DD1 CDCR)
  - Quasi-yard not offered to him yet (in unit for less than one [1]) week)
  - Main yard not offered to him yet (in unit for less than one [1]) week)
  - Dayroom/pod two (2) times daily x one (1) hour each

Of the seven (7) incarcerated persons interviewed, none of them expressed any concerns with dayroom/pod time. Most said the times slightly fluctuate. There were some variances in the claims of dayroom time. There were also variations in the claimed quasi-yard time between 1-4 hours per week. Most of the seven (7) individuals claimed they are not offered Main Yard. One (1) of the previous concerns is that staff were not regularly asking psychiatric or intellectually/developmentally disabled individuals as to why they are refusing to go to quasi-yard (or dayroom/pod). This was confirmed by both staff and incarcerated persons. It's been inconsistent, but unclear if it has improved.

Regarding refusals for out-of-cell time and the related documentation, through staff interviews, previously it was apparent that staff were inconsistent. Most staff acknowledged that indoor dayroom/pod time refusals are not documented. As for outdoor or quasi-yard time, some of the custody staff stated that refusals are documented, but it was not universal. This is a concern as related to this population as there may be significant mental concerns, or victimization issues, etc. Out-of-cell logs were not examined for this review but will be looked at form the next scheduled review (to the extent possible for the few identified disabled individuals).

#### **Recommendations:**

- 1) The ACSO must ensure there is no disparity between outdoor and indoor recreation time offered to psychiatric, intellectually/developmentally disabled incarcerated persons and other individuals in relation to the assigned security levels and housing units. Note: Minimum out-of-cell time requirements apply to all incarcerated persons unless specifically contraindicated by a mental health treatment plan due to suicide precautions.

#### **Access to Programs and Work Assignments**

**1019. Defendants shall ensure that individuals with Psychiatric Disabilities have equal access, as compared to non-disabled individuals, to all programs, activities, and services including, but not limited to, educational, vocational, work, recreational, visiting, medical, mental health, substance abuse, self-improvement, religious, electronic tablets, and reentry programs, including Sandy Turner Center and Transition Center programs, consistent with their classification and for which they are qualified. To the extent they do not currently exist, Defendants shall develop job descriptions and the essential job functions associated with each position. Defendants shall inform individuals with Psychiatric Disabilities, using Effective Communication, of the programs and worker assignments that are available to them, any job descriptions/essential job functions, how to contact the ADA Coordinator, that they have a right to request reasonable accommodations, and how to do so using the ADA Request form. To the extent a person is denied access to a program or worker assignment, they shall have the right to file an ADA-related grievance and/or otherwise appeal that decision. Programming staff shall access the ADA Tracking System to determine whether participants in a program have a disability and their accommodation needs. Until the ADA Tracking System is in place, the ADA Unit shall, on a weekly basis, provide program staff with a list of individuals with disabilities and their accommodation needs.**

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**Finding: Partial Compliance**

(Note: this provision was previously rated as “Partial Compliance”)

**Training:**

Development of related training materials by ACSO is in progress.

**Metrics:**

- Staff Interviews (custody and non-custody staff from multiple disciplines)
- Incarcerated Person interviews
- Various Document Reviews
- Policy Review

**Assessment:**

The ADA Joint Expert notes that all identified policies (above) are the same versions previously reviewed (no revisions). Note: all policies listed above contain applicable language.

Outlined below is some general information obtained from observations made during the onsite monitoring tour, onsite interviews of incarcerated persons, and document reviews. In many cases there is a lack of documentation to conduct a true comprehensive assessment. Most of the bulleted items in the Recommendations section (below) are attributed at least in part due to a lack of related documentation, or incomplete documentation.

**Five Keys (Schools and Programs) - Education**

During interviews with Five Keys education staff and sworn personnel, they indicated that all incarcerated persons are eligible to take distance learning courses. Currently, (Post-COVID), after a phase-in approach to opening classes, reportedly 85-90 percent of classes are now conducted via in-person classroom instruction. Most in-person classes are offered Mondays thru Fridays from 0800-0930, 1000-1130, and 1300-1430 hours. The ADA Joint Expert toured the Sandy Turner Education Center and noted that the small classroom allows for 10 students, while the large classroom accommodates 15 students per class. Education staff stated approximately 216 students are currently assigned to technical classes, while about 110 students are enrolled in academic courses.

Flyer for Five Keys (Schools and Programs) Opportunities/Programs include; High School Completion (Diploma, GED, HiSET), Transition to College and Financial Aid Supports, Career Training Education, English as a Second Language/ESL, Adult Basic Education, and Academic Counseling.

Reportedly Five Keys has one (1) Principal, 12 teachers, and a Program Coordinator. One (1) of the teachers reportedly is special education certified. Students may contact Five Keys staff via the student hotline (# 42), which is accessible on their assigned electronic tablets. Staff indicated

the teachers do not receive a tracking list (from ACSO or AFBH), but they are aware as to BHI individuals assigned. One of the staff members indicated staff are not aware of any identified intellectually/developmentally disabled incarcerated person having ever been assigned to education, though they are not excluded. However, one of the instructors remembers dealing with an intellectually/developmentally disabled individual. Staff indicated learning disabled individuals are sometimes assigned to education, but currently none are enrolled. Five Keys staff reiterated they don't conduct TABE or similar testing but will confirm learning disabilities with outside sources if requested. If confirmation of a learning disability is received, the information is reportedly forwarded to the ADA Coordinator's office. Five Keys personnel provided that the types of accommodations offered or provided to psychiatric, intellectual/developmental, and learning-disabled persons, include extra time to complete assignments, teachers repeating and explaining, and speaking softly. Staff also stated they would provide whatever accommodations are necessary for the student to participate in the classes. When asked, staff admitted that teachers do not have access to reasonable accommodation information for the students (as applicable) other than for active IEP cases.

Five Keys staff actively recruit by touring the housing units. In addition, information is contained within the electronic tablets, flyers/pamphlets are posted in housing units, and teachers and deputies reportedly make public address system announcements.

The Five Keys Continuing Student Demographics Form contains a questionnaire and checkboxes for the student applicant, which includes questions pertaining to prior IEP, 504 Plan, Resource Class or other services, education level (whether completion of a high school diploma, GED, HiSet, or TASC, other high school equivalency, and last high school attended). The Five Keys Student Enrollment Form questionnaire and checkboxes information inquires as to past school information, prior special education services/classes, pull-outs for Resource Classes or Directed Studies, IEP, 504 Plan, level of education, and any prior college courses. There is also a Five Keys Request for Transcripts Form.

Five Keys has an Intake Questionnaire/check box form for the applicant to note classes of interest from a listing. Classes are offered for most security classification levels, included maximum security.

One (1) of the incarcerated persons interviewed from Housing Unit #23 (BHI/IDI [DD2 from CDCR] – moderately intellectually/developmentally disabled) stated he requested to be assigned to education classes. He stated he submitted a pink slip and never received a response. Note: because the individual is intellectually/developmentally disabled, he may not have understood the process for enrollment or perhaps never received a response (as he indicated).

Another individual from Housing Unit #35 (BHI) indicated he was interested in education classes, but nobody has told him about education opportunities or how to begin the process for enrollment.

Another disabled incarcerated person from (housing unit unknown – DDI – mild intellectual/developmental disability) claims he submitted several requests, and that education staff gave him a pamphlet and told him to fill-out a form. He informed staff that he did not know how to read or write. He stated the Five Keys Principal came to speak with him, but he was told

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that Five Keys did not have staff to help him with his learning issues or the 1-on-1 sessions he would require. Though this was not confirmed, it is troubling to hear. Staff need to ensure that policies and practices do not lend to possible disability discrimination.

### Reentry Programs

New information provided by staff during the monitoring tour is that a Vocational Team is being developed to work in collaboration with Five Keys personnel. The programs will allow successful class participants to earn OSHA Certification, gain eligibility to receive a renewed California Driver's License, and assistance in obtaining their DD214 for proof of military service. Staff stated that various trades unions come to the Jail to conduct job interviews. A new Gardening program is also reportedly ready to commence.

One (1) of the incarcerated persons interviewed from Housing Unit #35 (BHI) said he received pamphlets for outside sources, but nobody followed-up with him or read or explained the resources available.

### Electronic (Wireless) Tablet

The ADA Joint Expert interviewed a staff member who works in the Inmate Services office. Regarding the electronic tablets, he stated that the incarcerated persons can each receive a tablet and that it is assigned to them until they are released. While conducting the onsite monitoring tour, staff stated that for individuals under IOL status, tablets must be approved by the Commander. However, subsequent to the on-site review, ACSO staff clarified AFBH staff make their recommendation, but final approval or denial rests with the facility's Operations Captain. Staff cited the following features for the tablets:

- Phone dial application
  - e.g., to call teachers, chaplains, family/friends
- Message Request system (for virtually all areas)
- Commissary orders
- Facility notices
- Inmate rulebook
- General Inmate Services and enrollment forms
- COVID video and information
- Voter registration and related information
- Relaxation application
- Independent Education application
- Pay services (e.g., movies, music, etc.)
- Grievances

The tablets also allow incarcerated persons to submit the following requests:

- Dental Sick Call
- Classification request

- Diet request
- Ear Plug Request
- 1381 Form Request (Booking)

One (1) of the incarcerated persons interviewed (BHI/IDI [moderately intellectually disabled who is unable to read or write) stated he doesn't know how to use the electronic tablets and has never asked staff for help nor has staff offered to provide assistance. It must be noted that most (or many) intellectually disabled individuals in a prison/jail setting have difficulty or are unable to advocate for themselves. Staff must understand this and open-up the lines of communication and understand their disability and adaptive support needs and provide assistance. The ADA Joint Expert understands that with the current absence of a comprehensive screening/testing/evaluation process to identify inmates/detainees with intellectual disabilities, and the absence of a real time tracking system, staff are largely going to be unaware as to individuals with intellectual disabilities and their adaptive support needs. The ADA Joint Expert also understands staff will soon receive updated training regarding inmates/detainees with psychiatric disabilities (including intellectual disabilities). This will outline or reinforce the importance of maintaining an environment conducive to inmates/detainees (including intellectually disabled inmates/detainees) feeling comfortable in approaching staff with requests for reading/scribing and other types of assistance, and for staff to provide the assistance. Having these processes in place will also enable housing unit staff to understand who they have residing in their housing units (disabled individuals), and what types of adaptive support services and/or reasonable accommodations are required or needed for specific individuals.

One (1) of the incarcerated persons interviewed (possibly intellectually/developmentally disabled or learning who is unable to read or write) stated he doesn't know how to use the electronic tablet, and nobody has showed him how to operate it.

One (1) of the incarcerated persons interviewed (mild intellectually/developmentally disabled who is unable to read or write) simply stated he doesn't know how to use the electronic tablet.

#### Incarcerated Person Work Assignments

The Expert randomly reconciled a September ACSO Work Crew Assignment List against a disability tracking list. There were not any intellectually/developmentally disabled incarcerated persons on the tracking list and the BHI individuals on the list were categorized as SMI. However, there were four (4) individuals on the list identified as learning disabled. Of the four (4) names, one (1) person was actively assigned to a job assignment (Housing Unit Worker).

Inmate Services/Programs staff interviewed acknowledged there are no job descriptions or documents listing essential functions any of the positions at the Jail. Staff stated they would accommodate any individuals that had reasonable accommodation needs on the worksite. Different work supervisors interviewed all had various understandings as how to identify whether an assigned worker has a disability and specific accommodation needs. Although some staff identified ATIMS as the source, overall, there was general confusion.



One (1) of the incarcerated persons interviewed (likely intellectually/developmentally disabled - prior regional center client, prior special education, unable to read or write) stated nobody ever told him about work assignments but he would be interested.

One (1) of the incarcerated persons interviewed (intellectually/developmentally disabled – DD2 in CDCR, unable to read or write) stated he tried to get assigned to the Kitchen, but Classification did not approve it, because of his housing assignment (can only have porter jobs only). He was unsure as to why he could not have been rehoused in a unit that housed workers.

One (1) of the incarcerated persons interviewed (intellectually/developmentally disabled – DD1 in CDCR, unable to read or write) stated he submitted a couple of requests (via tablet with help from another incarcerated person) for a housing unit worker job, then he was told to ask his housing officer, but he was denied without an explanation.

### **Recommendations:**

- 1) The ACSO must develop job descriptions for all incarcerated person job assignments with listed essential job functions for each position. The ACSO must work with the ADA Joint Expert(s) (and Class Counsel) in the development to allow for review, comments, and recommendations:
  - a) For future monitoring tours, the ACSO must provide examples for all work areas for proof of practice and review.
- 2) The ACSO must have a process in place that allows for incarcerated persons with psychiatric, intellectual/developmental, and learning disabilities to receive reasonable accommodations for their disability while on the job:
  - a) The ACSO should provide proof of practice documentation (as applicable) for future monitoring tours.
- 3) Incarcerated persons with psychiatric, intellectual/developmental, and learning disabilities must be afforded equal access to (and for) all programs, services, and activities operated by ACSO staff, or any other entity entered into a contract with the ACSO (e.g., Wellpath, Five Keys, etc.) as compared to non-disabled individuals, and consistent with an individual's security classification level and for which they are qualified.
- 4) The ACSO staff must inform psychiatric, intellectual/developmental, and learning-disabled incarcerated persons as to available job assignments and/or the possibility of being placed on a waitlist. In doing so, staff must inform the individuals as to how they can contact the ADA Coordinator (if needed), their right to request reasonable accommodations (e.g., via the ADA request for reasonable accommodation process), to apply and seek job assignments, and for reasonable accommodations while on the job site. Staff must also inform them as to the job descriptions and the corresponding essential functions for jobs. Effective Communication must be used during these encounters:
  - a). The ACSO should provide proof of practice documentation (as applicable) for future monitoring tours
- 5) Until the real-time network ADA Tracking System is in place, the ADA Unit shall, on a weekly basis, provide program staff with a list of individuals with psychiatric, intellectual/developmental, and learning disabilities and their accommodation needs (e.g., Effective Communication, adaptive supports).



- 6) Five Keys teachers must have access to a current list (tracking list) of names of assigned psychiatric, intellectual/developmental, and learning-disabled incarcerated persons and their accommodation needs (as applicable). Note: such a list will only contain an incarcerated person's name, housing assignment, and specific reasonable accommodation and/or adaptive support needs information and will not contain any specific diagnosis information.
- 7) Five Keys teachers must provide reasonable accommodations as required or needed. It is recommended that teachers log such accommodations provided.
- 8) Recommend Five Keys staff maintain meeting minutes or logs (as pertaining to intellectually/developmentally and learning-disabled individuals) from the newly implemented "Rounds" meetings. ASCO should provide documentation showing proof of practice for future monitoring tours.
- 9) Recommend Five Keys staff maintain logs/documentation for any pull-out (or 1-on-1) sessions where accommodations were provided or discussed for intellectually/developmentally and learning-disabled individuals.
- 10) Recommend Five Keys staff maintain dialogue with ACSO/AFBH as applicable to ensure referrals (as necessary) are done and any testing for individuals who may not currently be identified as having a disability or accommodation needs but are deemed by education staff as possibly having a psychiatric, intellectual/developmental, or learning disability.
- 11) For future monitoring tours, recommend producing updated lists as to programs/classes up and running in-person, programs done through distance methods, and those programs/classes that are closed (whether permanently or temporarily), and any anticipated dates for any changes.
- 12) For future monitoring tours, the ACSO must provide accurate lists of all filled worker positions and those filled by psychiatric, intellectually/developmentally, and learning-disabled incarcerated persons, as well as those that are on job waitlists.
- 13) For future monitoring tours, the ACSO should provide updated lists that clearly show which specific housing units and pods have access to which specific classes, programs, services, and areas (e.g., Transitional Center, chapel, etc.).

### **ADA Grievances and Requests**

#### **ADA Requests:**

**1020. Defendants shall provide and maintain a readily available mechanism for individuals to make a request for reasonable modifications independent of the grievance system ("ADA Request"). This ADA Request form must be available in hardcopy as well as on electronic tablets, to the extent electronic tablets are provided to individuals for use. All ADA Requests shall be routed to the ADA Coordinator, or a member of their team, for review. The ADA Coordinator or a member of the ADA Unit shall review all ADA Requests within seven (7) days to evaluate them for any emergent issues that require an expedited response. Where an emergent issue is identified, the ADA unit shall respond within 48 hours of review and facilitate, as needed, obtaining any information required from AFBH to provide a response and/or scheduling an emergency appointment with AFBH staff as needed. For non-emergent issues the ADA Unit shall provide a response within thirty (30) days of receipt of such a request. All ADA Requests and responses shall be documented**

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in the ADA tracking system. Defendants shall inform individuals with Psychiatric Disabilities of the process for submitting ADA Requests in a manner that is effectively communicated. Where an individual is unable to submit written or electronic requests the individual may make a request orally and the Multi-Service deputy, housing unit staff, and/or the ADA Unit shall assist the individual in submitting the request in writing.

**Finding: Non-Compliance**

(Note: this provision was previously rated as “Non-Compliance”)

**Training:**

Development of related training materials by ACSO is in progress.

**Metrics:**

- Policy Review
- ACSO Staff Interviews
- Incarcerated Person Interviews

**Assessment:**

The ADA Joint Expert’s initial report outlined policy (in greater detail) as related to Inmate Message Requests, routing, Disability Related check boxes, forward Disability Related or marked check boxes to the ADA Coordinator, the ADA Coordinator’s responsibility to address related claimed issues, and providing staff assistance to disabled inmates during the process.

During this monitoring tour production, the ACSO did not provide any written ADA Requests for Accommodations (regardless of the type of form is may have been written on). ACSO staff have acknowledged there is not a stand-alone ADA Request for Accommodation/Modification Form or process independent of the grievance or message request processes. The ADA Joint Expert notes that the message request form has an ADA check box for inmates/detainees to mark which will alert staff to route the form to the ADA Coordinator (for ADA-related requests).

Staff have continually stated that incarcerated persons handle ADA requests through the message request process. Some of the incarcerated persons interviewed acknowledged that they deal with ADA requests through the message request process, while others are unclear as to what they would do if they had a specific ADA request for an accommodation.

**Recommendations:**

- 1) The ACSO must develop a related policy for the ADA Request for Accommodation/Modification process or incorporate related requirement language within the existing policy.
- 2) The ACSO must develop and implement an ADA Request for Accommodation Form independent of the grievance or message request forms and processes.

- a. The County informed the ADA Joint Expert that such a form is currently in use. However, for future reviews, the County must provide completed forms (inclusive of staff responses) to demonstrate proof of practice and compliance levels.
- 3) The ACSO must ensure that ADA Request forms are available in hardcopy as well as on electronic tablets.
- 4) All ADA Requests must be routed to the ADA Coordinator, or a member of the ADA Unit, for review.
  - a. Subsequent to the on-site review the County indicated all forms marked "ADA" are routed to the ADA unit. For future reviews, the County must provide copies of the requests (inclusive of the staff responses) to demonstrate proof of practice.
- 5) The ADA Coordinator or a member of the ADA Unit must review all ADA Requests within seven (7) days to evaluate them for any emergent issues that require an expedited response.
- 6) Where an emergent issue is identified, the ADA unit must respond within 48 hours of review and facilitate, as needed, obtaining any information required from AFBH to provide a response and/or scheduling an emergency appointment with AFBH staff as needed.
- 7) For non-emergent issues, the ADA Unit must provide a response within thirty (30) days of receipt of such a request.
- 8) All ADA Requests and responses must be documented in the ADA tracking system.
  - a. Subsequent to the on-site review, the County informed the ADA Joint Expert the County currently tracks on an informal system. Reportedly, the ADA unit is working with ATIMS to possibly adopt a more robust tracking system. The ADA Joint Expert will continue to monitor this.
- 9) For future monitoring tours, ACSO must provide all ADA Requests (including ADA Coordinator or staff responses) for psychiatric, intellectual/developmental, and learning-disabled incarcerated persons for the respective monitoring tour period.
- 10) In cases where an incarcerated person is unable to submit written or electronic requests and makes an oral request for assistance, the Multi-Service deputy, housing unit staff, and/or the ADA Unit must provide assistance to the individual in submitting the request in writing.

### **ADA Grievances:**

**1021. Defendants shall provide and maintain a grievance system that provides for prompt and equitable resolution of complaints by individuals with Psychiatric Disabilities who allege disability-related violations. Defendants' grievance form shall continue to include a checkbox or similar means to identify that the grievance is ADA-related. Defendants shall train grievance staff to route "ADA" grievances appropriately even if the individual who filed the grievance did not check the "ADA" checkbox. Once implemented, the ADA Tracking System shall route grievances relating to class members who are Behavioral Health Clients to AFBH for their review in case there are underlying mental health issues that are driving the grievances. ADA staff shall consult with AFBH prior to imposing any grievance-related restrictions on class members who are Behavioral Health Clients. Until the ADA Tracking System is implemented the ADA Unit shall review and route grievances filed by individuals with SMI electronically to AFBH for review. AFBH shall assist as**

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**necessary in resolving issues raised by class members in grievances, including meeting with the grievant as needed.**

**Finding: Partial Compliance**

(Note: this provision was previously rated as “Non-Compliance”)

**Training:**

Development of related training materials by ACSO is in progress.

**Metrics:**

- Policy Review
- ADA Grievances (from Joint Experts initial review)
- ACSO Staff Interviews
- Incarcerated Person Interviews
- Blank Alameda County Sheriff's Office Inmate Grievance Form
- Blank Inmate Grievance Response form
- Blank Inmate Grievance Response Supplemental Information form
- Blank Alameda County Sheriff's Office Notice of Extension for Grievance form (Spanish version) (ML54)

**Assessment:**

The ADA Joint Expert's initial report outlines policy (in greater detail) as pertaining to the grievance process, including submittal, understanding, and completing the grievance process (including providing assistance (especially for individuals with mental illness or intellectual/developmental disabilities), Disability Related check box process, and forwarding a copy of the grievances to the ADA Coordinator.

Although ACSO provided various related memorandums, graphs, charts, and Excel Spreadsheets for 2022, identifying the types (of categorized/coded) grievances, timelines for processing and responses, status, or response, etc., ACSO did not provide copies of grievances or staff written responses during this rating period.

There continues to be a concern in the process of coding/categorizing and tracking grievances as "ADA", when marked by the grievant (in the upper right corner of the grievance form). Another concern pertains to when a grievant is not currently an identified psychiatric, intellectually/developmentally, or learning-disabled incarcerated person, but the issue being grieved is ADA-related. ASCO must train grievance staff to effectively identify grievances as "ADA", and to route/process them as ADA-related, even if the individual who filed the grievance did not check the "ADA" checkbox. Note: The County informed the ADA Joint Expert that if the reviewing agency member discovers that the Grievance was ADA related, even if the ADA box was not checked, that agency member would forward the Grievance to the ADA unit. For future

reviews, the County must provide copies of Grievances (including Grievance staff responses). The ADA Joint Expert will examine for proof of practice and compliance levels for the next review.

The ACSO provided a memorandum dated January 25, 2022, titled "Monthly Grievance Report for the Santa Rita Jail for December 2021 (with attached Grievance Chart for the month of December). The ADA Joint Expert notes that there were no ADA-related grievance data submitted for the month of December. More importantly, there were no grievances or grievance responses submitted as part of document production for the review period (2022). As a result, the ADA Joint Expert cannot effectively evaluate the grievance process including the requirement for prompt categorization/coding, prompt resolution, addressing all relevant issues, identifying jail-wide disabled person concerns, and whether there are ADA Requests for Accommodations/Modifications addressed through the grievance form and process (pending a future stand-alone ADA Request for Accommodation/Modification Form and process).

#### **Recommendations:**

- 1) For future monitoring tours, ACSO must provide all grievances (including staff responses) for psychiatric, intellectual/developmental, and learning-disabled incarcerated persons for the respective monitoring tour period.
  - a. Note; The ADA Joint Expert understands the County is still working to develop and implement a comprehensive screening/testing/identification process for intellectual disabilities and a process to identify learning disabled inmates/detainees as well as individuals that may be placed on a 4.0 or lower reading list. Likewise, the County is still working on developing a real time network tracking system. Once these mechanisms are in place, staff will be able to effectively respond to, track, and provide the ADA Joint Expert all related grievances (and responses) for review for a given review period.
- 2) The ADA staff must consult with AFBH prior to imposing any grievance-related restrictions on class members who are Behavioral Health Clients.
- 3) Until the ADA Tracking System is implemented, the ADA Unit must review, and route grievances filed by individuals with SMI electronically to AFBH for review.
- 4) The AFBH must assist as necessary in resolving issues raised by class members in grievances, including meeting with the grievant as needed.
- 5) Recommend revising policy (related to the inmate grievance process) to include the requirements of related Consent Decree provisions.

#### **1022. The ADA Coordinator or a member of the ADA unit shall:**

- (i) review all ADA related complaints;**
- (ii) assign an ADA-trained staff person to investigate the complaints, and/or interview the individual to the extent his or her complaint or requested reasonable modification is unclear or consult with AFBH as appropriate; and**
- (iii) provide a substantive written response.**

**The ADA Coordinator or a member of the ADA Unit shall review all ADA-related grievances within seven (7) days to evaluate them for any emergent issues that require an expedited response. Where an emergent issue is identified, the ADA unit shall respond within forty-**

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**eight (48) hours of review and facilitate, as needed, obtaining any information required from AFBH to provide a response and/or scheduling an emergency appointment with AFBH staff as needed. For non-emergent issues the total response time for all ADA-related grievances shall be thirty (30) days from receipt. All ADA-related grievances and responses, including provision of interim reasonable modifications, shall be documented and tracked in the ADA Tracking System Grievance Module.**

**Finding: Partial Compliance**

(Note: this provision was previously rated as “Partial-Compliance”)

**Training:**

Development of related training materials by ACSO is in progress.

**Metrics:**

- Policy Review

**Assessment:**

The ADA Joint Expert previously outlined policy (in greater detail) in the initial report, in that the policy addresses the grievance form; reasons for use; provide staff assistance to incarcerated persons, especially those with mental illness or an intellectual/developmental disability; Disability Related check box (for coding/categorization); copy of grievances (including final copy with staff response) to the ADA Coordinator.

ADA Unit staff interviewed indicated the ADA Unit receives all ADA-related grievances and complaints (whether they are ADA related or submitted by a disabled individual). Face-to-face grievance interviews are reportedly now being conducted if clarification is needed from the Grievance office or from the assigned responder. Regarding Effective Communication whether when conducting a face-to-face interview, or when issuing a copy of a staff response to a disabled individual, Effective Communication is not currently a requirement for staff to perform.

The ADA Joint Expert notes there were no related documents (documented complaints) provided for the review period, whether submitted via grievance form or message request form. Based on this the ADA Joint Expert could not measure the County’s compliance with the Consent Decree requirements.

**Recommendations:**

- 1) The ACSO shall develop a policy to address the pending ADA Request for Reasonable Accommodation/Modification (and complaint) process:
  - a. The ACSO must work with the ADA Joint Expert in developing the policy and allow for review, comments, and recommendations.



- 2) The ADA Coordinator must review all ADA Requests for Reasonable Accommodation/Modification (and complaints) pertaining to psychiatric, intellectual/developmental, and learning-disabled incarcerated persons.
- 3) The ADA Coordinator must assign an ADA-trained staff person to investigate the complaints and/or interview the individual to the extent his or her Request for Reasonable Accommodation/Modification (or complaint) is unclear or consult with AFBH as appropriate.
- 4) The ADA Coordinator must provide a substantive written response:
  - a. The ACSO must provide all ADA Requests for Reasonable Accommodation/Modification (and complaints) as part of the document review for future monitoring tours.
- 5) The ADA Coordinator or a member of the ADA Unit must review all ADA-related Request for Reasonable Accommodation/Modification (or complaints) within seven (7) days to evaluate them for any emergent issues that require an expedited response.
- 6) Where an emergent issue is identified, the ADA unit shall respond within forty-eight (48) hours of review and facilitate, as needed, obtaining any information required from AFBH to provide a response and/or scheduling an emergency appointment with AFBH staff as needed.
- 7) For non-emergent issues, the total response time for all ADA-related grievances shall be thirty (30) days from receipt.
- 8) All ADA-related grievances and responses, including provision of interim Reasonable Accommodation/Modifications, shall be documented, and tracked in the ADA Tracking System Grievance Module
- 9) ACSO must provide all related completed documentation for future Joint Expert reviews.

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**Signature**

Submitted on behalf of Sabot Technologies, Inc. dba Sabot Consulting to the  
County of Alameda, and Alameda County Sheriff's Office

A handwritten signature in black ink, appearing to read "Julian Martinez", written in a cursive style.

March 6, 2023

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Julian Martinez  
Director  
Sabot Consulting  
Folsom, CA

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Date

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