

JS-6

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

UNITED STATES OF AMERICA,
Plaintiff,
v.
COUNTY OF LOS ANGELES AND
LOS ANGELES COUNTY SHERIFF
JIM MCDONNELL, in his Official
Capacity,
Defendants.

CV No. 15-05903 DDP (JEMx)

**JOINT SETTLEMENT
AGREEMENT REGARDING THE
LOS ANGELES COUNTY JAILS;
AND STIPULATED ORDER OF
RESOLUTION**

I. INTRODUCTION

1. The United States of America, acting through the United States Department of Justice (“United States”), the County of Los Angeles (“County”) and Sheriff Jim McDonnell, in his official capacity (“Sheriff”), (collectively, the “Parties”) share a mutual interest in treating all members of the community with respect, promoting safe and effective custodial care, protecting public safety, and upholding the constitutional rights of prisoners.¹

¹ “Prisoners” is a defined term in Section III of this Agreement and includes pre-trial detainees and individuals convicted of a criminal offense.

1 2. The Los Angeles County Jails (“Jails”) are an integral part of the
2 public safety system in Los Angeles County, California. Together, the Jails form
3 the largest jail system in the nation and house among the highest populations of
4 prisoners with mental illness. Maintaining these facilities is an immensely
5 complex enterprise -- approximately 15,500 to 19,500 prisoners are held in custody
6 daily, spread across multiple custody facilities, numerous patrol stations, and over
7 29 courthouses. These facilities’ primary function is to incarcerate individuals
8 accused or convicted of committing a crime. In doing so, these facilities provide
9 food, shelter, and clothing, but must also address the serious medical and mental
10 health needs of the prisoners and ensure their reasonable safety.

11 3. The United States acknowledges that the County and the Sheriff have
12 demonstrated a renewed commitment to reforming the Jails and have begun to
13 implement improved policies and practices designed to enhance the treatment and
14 care of prisoners with mental illness. The County and the Sheriff are also
15 exploring strategies to safely divert individuals with mental illness from the
16 criminal justice system, whenever possible. The United States further
17 acknowledges that the number of suicides at the Jails decreased in 2014 from the
18 previous year. In addition, the County and the Sheriff have made significant
19 commitments to protect prisoners from abuse and excessive force by staff that
20 further the Parties’ mutual interest. Finally, the United States acknowledges that
21 some of the needed changes the County and the Sheriff seek to implement through
22 this Agreement will require the allocation of additional resources to the Sheriff’s
23 Department and the Los Angeles County Department of Mental Health (“DMH”).

24 4. Accordingly, this Joint Settlement Agreement Regarding the Los
25 Angeles County Jails (“Agreement”) is intended to build upon measures that are
26 underway and to sustain systemic improvements that are designed to protect
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1 prisoners from conditions in custody that place them at unreasonable risk of harm
2 from suicide, self-injurious behavior, or unlawful injury by others, in accordance
3 with their constitutional rights. This Agreement also is expected to have collateral
4 benefits that promote public safety, improve confidence in the County's criminal
5 justice system, and support the County's and the Sheriff's collaborative efforts to
6 expand comprehensive and effective mental health diversion and re-entry programs
7 that are designed to lead to more positive outcomes in the care and custody of
8 individuals with serious mental illness who are also participants in the criminal
9 justice system.

10 **II. BACKGROUND**

11 5. The County owns and funds the operations of the Jails. The Sheriff's
12 Department is responsible for providing care, custody, and control of prisoners at
13 the Jails. The Sheriff's Department Medical Services Bureau provides medical
14 care within the Jails. DMH is responsible for providing mental health care in the
15 Jails through its Jail Mental Health Services program.

16 6. The Sheriff is an elected official who is responsible for operating and
17 exercising authority over the Jails.

18 7. In June 1996, the Department of Justice notified the County and
19 Sheriff that it was opening an investigation under the Civil Rights of
20 Institutionalized Persons Act ("CRIPA"), 42 U.S.C. § 1997, to determine whether
21 the conditions in the Jails violate the constitutional rights of its prisoners.

22 8. In September 1997, the Department of Justice issued a findings letter
23 alleging that mental health care at the Jails violated prisoners' constitutional rights.
24 The letter further alleged that systemic deficiencies contributed to the violations,
25 including inadequate: (1) intake screening and evaluation; (2) diagnosis; (3)
26 referral to mental health professionals; (4) treatment plans; (5) administration of
27 medications; (6) suicide prevention; (7) tracking and medical record keeping;
28 (8) staffing; (9) communication; and (10) quality assurance.

1 9. In December 2002, following extensive negotiations and additional
2 site visits, the Parties entered into a Memorandum of Agreement (MOA) that
3 outlined a series of reforms to ensure that adequate and reasonable mental health
4 care services are provided at the Jails. The MOA also included measures to protect
5 prisoners with mental illness from abuse and mistreatment.

6 10. Under the MOA, the County and the Sheriff have made significant
7 improvements to the delivery of mental health care at the Jails, including
8 implementing electronic medical records, increasing mental health staffing, and
9 developing roving evaluation teams composed of mental health professionals and
10 specially-trained custody staff. Despite considerable progress, the United States
11 alleges that systemic deficiencies remain related to suicide prevention and mental
12 health care that violate prisoners' constitutional rights. The Department of Justice
13 notified the County and the Sheriff of these allegations in a letter dated June 4,
14 2014, following on-site evaluations with expert consultants.

15 11. In September 2013, the Department of Justice opened a separate
16 investigation of the Jails under CRIPA and 42 U.S.C. § 14141 ("Section 14141")
17 to address allegations of use of excessive force against all prisoners at the Jails, not
18 just prisoners with mental illness. During the course of the investigation, the
19 County and the Sheriff entered into a comprehensive settlement agreement to
20 resolve *Rosas v. McDonnell*, Case No. CV 12-0428-DDP (C.D. Ca. filed on Jan.
21 18, 2012) (hereinafter "*Rosas*"), a class action lawsuit alleging abuse and excessive
22 force by staff at certain Jails located in downtown Los Angeles. As part of the
23 *Rosas* settlement agreement, the County and the Sheriff have agreed to implement
24 significant measures to protect prisoners from excessive force by staff, including
25 improvements in policies, training, incident tracking and reporting, investigations,
26 resolution of prisoner grievances, prisoner and staff supervision, and
27 accountability.

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1 Regional Detention Facility (“CRDF”), North County Correctional
2 Facility (“NCCF”), Pitchess Detention Center (“PDC”), and other
3 facilities in which prisoners are detained or held in custody by the
4 County and the Sheriff, including lockup facilities and courthouse
5 holding areas as well as any visiting area in the facility, and any
6 facility that is built, leased, or otherwise used, to replace or
7 supplement the current Jails or any part of the Jails.

8 (c) “United States” or “DOJ” refers to the United States Department of
9 Justice, specifically the Special Litigation Section of the Civil Rights
10 Division and the United States Attorney’s Office for the Central
11 District of California, which represent the United States in this matter.

12 (d) “The County” refers to the County of Los Angeles, the Los Angeles
13 County Sheriff’s Department, the Los Angeles County Department of
14 Mental Health, and the agents and employees of the Sheriff’s
15 Department and the Department of Mental Health. The Department
16 of Mental Health (“DMH”) includes any successor County department
17 that assumes the duties and responsibilities of DMH.

18 (e) “Sheriff” refers to the Los Angeles County Sheriff, currently Jim
19 McDonnell, an independently-elected constitutional officer, in his
20 official capacity, and any predecessors or successors in office,
21 including any designated acting or interim Sheriff.

22 (f) “Custody staff” means sworn deputy sheriffs and custody assistants.

23 (g) “Days” are measured in calendar days; weekend days and County
24 holidays are included.

25 (h) “Normal business work days” means all days except for weekend days
26 and County holidays.

27 (i) “Describe” means provide a clear and detailed description of
28 something done, experienced, seen, or heard.

- 1 (j) “Document” when used in this Agreement as a verb means
2 completing a record of information either in hard copy or in electronic
3 format.
- 4 (k) “Effective Date” means the date the Court enters the signed
5 Agreement as an order of the Court, or July 1, 2015, whichever is
6 earlier.
- 7 (l) “Emergency maintenance needs” means a need that if left unattended
8 could result in imminent danger to the life, safety, or health of
9 prisoners.
- 10 (m) An “emergent” or “urgent” mental health need, as used in this
11 Agreement, is one which the Arrestee Medical Screening Form (SH-
12 R-422) or its equivalent and/or the Medical/Mental Health Screening
13 Questionnaire indicate that immediate action is required to preserve
14 life, prevent serious bodily harm, or relieve significant suffering.
- 15 (n) “Good cause” means fair and honest reasons, regulated by good faith
16 on the part of either party, that are not arbitrary, capricious, trivial, or
17 pretextual.
- 18 (o) “Implement” or “implementation” means putting a remedial measure
19 into effect, including informing, instructing, or training impacted
20 personnel as required by this Agreement, and ensuring that policies or
21 procedures are in fact followed.
- 22 (p) “Include,” “includes,” or “including” means “include, but not be
23 limited to” or “including, but not limited to.”
- 24 (q) “Jail Reception Centers” mean all Sheriff’s Department processing
25 facilities that handle incoming bookings and arrests and that are
26 responsible for medical and mental health screenings and
27 classification, including the Inmate Reception Center and the Century
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1 Regional Detention Facility. This does not include Sheriff's
2 Department station jails.

3 (r) "Mental Health Housing" refers to prisoner housing areas in the Jails
4 that include only the Forensic In-Patient (FIP), High Observation
5 Housing (HOH), and Moderate Observation Housing (MOH) areas.

6 (i) "Correctional Treatment Center" or "CTC" refers to the
7 licensed health facility with a specified number of beds within
8 the Jails designated to provide health care to that portion of the
9 prisoner population that does not require a general acute care
10 level of services, but which is in need of professionally
11 supervised health care beyond that normally provided in the
12 community on an outpatient basis.

13 (ii) "Forensic In-Patient" or "FIP" can be used interchangeably
14 with Mental Health Unit of the Correctional Treatment Center
15 (MHU CTC). The FIP is located in the CTC and houses
16 prisoners who present an acute danger to self or others or are
17 gravely disabled due to a mental illness and require inpatient
18 care.

19 (iii) "High Observation Housing" or "HOH" refers to designated
20 areas for prisoners with mental illness who require an intensive
21 level of observation and care and/or safety precautions.

22 (iv) "Moderate Observation Housing" or "MOH" refers to
23 designated areas for prisoners with a broad range of mental
24 health diagnoses and functioning whose mental health needs
25 can be cared for in a less intensive and more open setting than
26 the HOH areas, but preclude general population housing.
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- 1 (s) “Monitor” or “Independent Monitor” means the individual selected by
2 the Parties whose duties, responsibilities, and authority are set forth in
3 Section VI of this Agreement.
- 4 (t) “Subject Matter Experts” or “SMEs” means the individuals selected
5 by the Parties whose duties, responsibilities, and authority are set forth
6 in Section VI of this Agreement.
- 7 (u) “Prisoners” or “Prisoner” is construed broadly to refer to one or more
8 individuals detained at, or otherwise housed, held, in the custody of,
9 or confined at the Jails based on arrests, detainers, criminal charges,
10 civil contempt charges, or convictions.
- 11 (v) “Psychotropic medication” means any substance used to treat mental
12 health problems or mental illness and is capable of modifying mental
13 activity or behavior.
- 14 (w) “Qualified Medical Staff” refers to physicians, physician assistants,
15 nurse practitioners, registered nurses, certified nursing assistants, and
16 licensed vocational nurses, each of whom is permitted by law to
17 evaluate and care for the medical needs of patients.
- 18 (x) “Qualified Mental Health Professional” or “QMHP” refers to
19 psychiatrists, psychologists, psychiatric social workers, psychiatric
20 nurses, and others who by virtue of their education, credentials, and
21 experience are permitted by law to evaluate and care for the mental
22 health needs of patients.
- 23 (y) “Clinical Restraints” is any device that limits a person’s ability to
24 move freely and has been ordered or approved by a licensed
25 psychiatrist for the purpose of managing behavior that appears to be
26 symptomatic of a mental illness.
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- 1 (z) “Security Restraints” is any device that limits a person’s ability to
2 move freely and has not been ordered by a licensed psychiatrist or
3 Qualified Medical Staff.
- 4 (aa) “Serious mental illness” includes psychotic disorders, major mood
5 disorders (including major depression and bipolar disorders), and any
6 other condition (excluding personality disorders, substance abuse and
7 dependence disorders, dementia, and developmental disability) that is
8 associated with serious or recurrent significant self-harm, suicidal
9 ideation, imminent danger to others, current grave disability, or
10 substantially impaired ability to understand routine instructions, or
11 that prevents access to available programs. Although personality
12 disorders alone generally do not qualify as serious mental illness,
13 personality disorders associated with serious or recurrent significant
14 self-harm do qualify as serious mental illnesses.
- 15 (bb) “Suicide attempt” means any serious effort to commit an act of self-
16 harm that can result in death and involving definite risk.
- 17 (cc) “Serious suicide attempt” means a suicide attempt that resulted in or
18 could have resulted in significant and life-threatening injury.
- 19 (dd) “Suicide Precautions” means any level of watch, observation, or
20 measures specifically intended to prevent suicide or self-harm and
21 includes both Suicide Watch and Risk Precautions as defined in this
22 Agreement.
- 23 (ee) “Suicide Watch” means the level of watch, observation, or measures
24 intended to identify and safely maintain prisoners who are imminently
25 suicidal and require admission to the Mental Health Unit of the
26 Correctional Treatment Center (MHU CTC or FIP) on a 72-hour hold,
27 in accordance with California Welfare and Institutions Code Section
28 5150.

- 1 (ff) “Risk Precautions” means a level of watch, observation, or measures
2 used to identify and safely maintain those prisoners who require
3 heightened observation and daily re-evaluation, and require admission
4 to HOH but are not considered to pose an imminent risk of suicide.
- 5 (gg) “Suicide resistant location” means a housing assignment in which
6 known or apparent suicide hazards do not exist or have been removed.
- 7 (hh) “Self-injurious behavior” means any behavior that is self-directed and
8 deliberately results in injury or the potential for injury to oneself and
9 there is no evidence of suicidal intent.
- 10 (ii) “Serious self-injurious behavior” means self-injurious behavior where
11 the injury is significant enough that it could lead to loss of life or limb
12 or have serious medical complications.
- 13 (jj) “Direct constant observation” means continuous uninterrupted
14 observation of a prisoner within a proximity that ensures the observer
15 can both see and hear the prisoner to assure the prisoner’s well-being,
16 absent extraordinary circumstances.
- 17 (kk) “Unobstructed visual observation” means continuous but not
18 necessarily uninterrupted observation within a reasonable physical
19 distance of the prisoner(s).
- 20 (ll) “Train” means to instruct in skills to a level that the trainee has the
21 demonstrated proficiency, through an assessment or evaluation, to
22 implement those skills as and when called for. “Trained” means
23 proficient in the skills.
- 24 (mm) Throughout this Agreement, the following terms are used when
25 discussing compliance: substantial compliance, partial compliance,
26 and non-compliance. “Substantial Compliance” means that the
27 County and the Sheriff have achieved compliance with the material
28 components of the relevant provision of this Agreement in accordance

1 with the Monitor and SMEs' monitoring plan and compliance
2 measures. "Partial Compliance" means that the County and the
3 Sheriff have achieved compliance on some, but not all, of the material
4 components of the relevant provision of this Agreement. "Non-
5 compliance" means that the County and the Sheriff have not met most
6 or all of the material components of the relevant provision of this
7 Agreement. Non-compliance with mere technicalities, or temporary
8 failure to comply coupled with prompt and appropriate corrective
9 action during a period of otherwise sustained compliance, will not
10 constitute failure to maintain Substantial Compliance. At the same
11 time, temporary compliance during a period of otherwise sustained
12 Non-compliance will not constitute Substantial Compliance.

13 (nn) "Policy" or "Policies" mean regulations, directives, or manuals,
14 regardless of name, that have been approved by a senior executive
15 within the Sheriff's Department ("LASD") or DMH and that describe
16 the duties, functions, or obligations of LASD or DMH staff and
17 provide specific direction in how to fulfill those duties, functions, or
18 obligations. References to "existing" policies mean those policies in
19 effect on the Effective Date of this Agreement, and include any
20 subsequent revisions or changes made to those policies after the
21 Effective Date of this Agreement.

22 **IV. OVERALL OBJECTIVES AND GOALS**

23 16. Consistent with constitutional standards, the County and the Sheriff
24 will provide prisoners at the Jails with safe and secure conditions and ensure their
25 reasonable safety from harm, including serious risk from self-harm and excessive
26 force, and ensure adequate treatment for their serious mental health needs. In order
27 to achieve and maintain these objectives, the County and the Sheriff agree to
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1 continue, and where appropriate enhance, their current policies and practices, and
2 to implement the additional measures set forth in this Agreement.

3 17. The Parties recognize that the County and the Sheriff have made
4 considerable progress to improve conditions and the delivery of mental health care
5 at the Jails, but that additional measures are necessary to provide prisoners at the
6 Jails with safe and secure conditions, ensure their reasonable safety from harm,
7 including serious risk from self-harm and excessive force, and meet the serious
8 mental health needs of prisoners, in accordance with prisoners' constitutional
9 rights. The measures set forth in this Agreement address the following areas: (1)
10 training; (2) suicide hazard inspections; (3) intake; (4) medical records; (5) mental
11 health referrals; (6) mental health follow-up; (7) suicide risk procedures; (8)
12 staffing; (9) environmental conditions; (10) allowable property privileges; (11)
13 communication related to mental health; (12) safety checks; (13) quality
14 improvement plan; (14) mental health housing; (15) medication; (16) restraints;
15 (17) suicide death reviews and critical incident reviews; (18) mental health
16 treatment; and (19) use of force. The County and the Sheriff agree to maintain an
17 adequate system of mental health screening, assessment, treatment planning, and
18 record-keeping as specifically set forth in this Agreement.

19 **V. SUBSTANTIVE PROVISIONS**

20 **A. Training**

21 18. Within three months of the Effective Date, the County and the Sheriff
22 will develop, and within six months of the Effective Date will commence
23 providing: (1) a four-hour custody-specific, scenario-based, skill development
24 training on suicide prevention, which can be part of the eight-hour training
25 described in paragraph 4.8 of the Implementation Plan in *Rosas* to all new
26 Deputies as part of the Jail Operations Continuum and to all new Custody
27 Assistants at the Custody Assistants academy; and (2) a two-hour custody-specific,
28 scenario-based, skill development training on suicide prevention to all existing

1 Deputies and Custody Assistants at their respective facilities, which can be part of
2 the eight-hour training described in paragraph 4.7 of the Implementation Plan in
3 *Rosas*, through in-service Intensified Formatted Training, which training will be
4 completed by December 31, 2016.

5 These trainings will include the following topics:

- 6 (a) suicide prevention policies and procedures, including observation and
7 supervision of prisoners at risk for suicide or self-injurious behavior;
- 8 (b) discussion of facility environments and staff interactions and why
9 they may contribute to suicidal behavior;
- 10 (c) potential predisposing factors to suicide;
- 11 (d) high-risk suicide periods and settings;
- 12 (e) warning signs and symptoms of suicidal behavior;
- 13 (f) case studies of recent suicides and serious suicide attempts;
- 14 (g) emergency notification procedures;
- 15 (h) mock demonstrations regarding the proper response to a suicide
16 attempt, including a hands-on simulation experience that incorporates
17 the challenges that often accompany a jail suicide, such as cell doors
18 being blocked by a hanging body and delays in securing back-up
19 assistance;
- 20 (i) differentiating between suicidal and self-injurious behavior; and
- 21 (j) the proper use of emergency equipment.

22 19. Commencing July 1, 2015, the County and the Sheriff will provide:

- 23 (a) Custody-specific, scenario-based, skill development training to new
24 Deputies during their Jail Operations training, and to existing
25 Deputies assigned to Twin Towers Correctional Facility, Inmate
26 Reception Center, Men's Central Jail, the Mental Health Housing
27 Units at Century Regional Detention Facility, and the Jail Mental
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1 Evaluation Teams (“JMET”) at North County Correctional Facility as
2 follows:

3 (i) 32 hours of Crisis Intervention and Conflict Resolution as
4 described in paragraphs 4.6 and 4.9 of the Implementation Plan
5 in *Rosas* to be completed within the time frames established in
6 that case (currently December 31, 2016). Deputies at these
7 facilities will receive an eight hour refresher course consistent
8 with paragraph 4.6 of the Implementation Plan in *Rosas* every
9 other year until termination of court jurisdiction in that case and
10 then a four hour refresher course every other year thereafter.

11 (ii) Eight hours identifying and working with mentally ill prisoners
12 as described in paragraph 4.7 of the Implementation Plan in
13 *Rosas* to be completed by December 31, 2016. This training
14 requirement may be a part of the 32-hour training described in
15 the previous subsection. Deputies at these facilities will receive
16 a four hour refresher course consistent with paragraph 4.7 of the
17 Implementation Plan in *Rosas* every other year thereafter.

18 (b) Commencing July 1, 2015, the County and the Sheriff will ensure that
19 new Custody Assistants receive eight hours of training in the Custody
20 Assistant academy, and that all existing Custody Assistants receive
21 eight hours of training, related to identifying and working with
22 mentally ill prisoners as described in paragraph 4.7 of the
23 Implementation Plan in *Rosas*. This training will be completed by
24 December 31, 2016. Custody Assistants will receive a four hour
25 refresher course consistent with paragraph 4.7 of the Implementation
26 Plan in *Rosas* every other year thereafter.

27 20. Commencing no later than July 1, 2017, the County and the Sheriff
28 will provide:

1 (a) Custody-specific, scenario-based, skill development training to
2 existing Deputies assigned to North County Correctional Facility,
3 Pitchess Detention Center, and the non-Mental Health Housing Units
4 in Century Regional Detention Facility as follows:

5 (i) 32 hours of Crisis Intervention and Conflict Resolution as
6 described in paragraphs 4.6 and 4.9 of the Implementation Plan
7 in *Rosas* to be completed by December 31, 2019. Deputies at
8 these facilities will receive an eight hour refresher course
9 consistent with paragraph 4.6 of the Implementation Plan in
10 *Rosas* every other year until termination of court jurisdiction in
11 that case and then a four hour refresher course every other year
12 thereafter.

13 (ii) Eight hours identifying and working with mentally ill prisoners
14 as described in paragraph 4.7 of the Implementation Plan in
15 *Rosas* to be completed by December 31, 2019. This training
16 requirement may be a part of the 32-hour training described in
17 the previous subsection. Deputies at these facilities will receive
18 a four hour refresher course consistent with paragraph 4.7 of the
19 Implementation Plan in *Rosas* every other year thereafter.

20 21. Consistent with existing Sheriff's Department policies regarding
21 training requirements for sworn personnel, the County and the Sheriff will ensure
22 that existing custody staff that have contact with prisoners maintain active
23 certification in cardiopulmonary resuscitation and first aid.

24 22. Within six months of the Effective Date and at least annually
25 thereafter, the County and the Sheriff will provide instructional material to all
26 Sheriff station personnel, Sheriff court personnel, custody booking personnel, and
27 outside law enforcement agencies on the use of arresting and booking documents,
28 including the Arrestee Medical Screening Form, to ensure the sharing of known

1 relevant and available information on prisoners' mental health status and suicide
2 risk. Such instructional material will be in addition to the training provided to all
3 custody booking personnel regarding intake.

4 **B. Suicide Hazard Inspections**

5 23. Within three months of the Effective Date, the County and the Sheriff
6 will commence a systematic review of all prisoner housing, beginning with the
7 Mental Health Unit of the Correctional Treatment Center, all High Observation
8 Housing areas, all Moderate Observation Housing areas, single-person discipline,
9 and areas in which safety precautions are implemented, to reduce the risk of self-
10 harm and to identify and address suicide hazards. The County and the Sheriff will
11 utilize a nationally-recognized audit tool for the review. From this tool, the County
12 and the Sheriff will:

- 13 (a) develop short and long term plans to reasonably mitigate suicide
14 hazards identified by this review; and
15 (b) prioritize planning and mitigation in areas where suicide precautions
16 are implemented and seek reasonable mitigation efforts in those areas.

17 24. The County and the Sheriff will review and inspect housing areas on
18 at least an annual basis to identify suicide hazards.

19 **C. Intake**

20 25. The County and the Sheriff will ensure that any prisoner in a Sheriff's
21 Department station jail who verbalizes or who exhibits a clear and obvious
22 indication of current suicidal intent will be transported to IRC, CRDF, or a medical
23 facility as soon as practicable. Pending transport, such prisoners will be under
24 unobstructed visual observation, or in a suicide resistant location with safety
25 checks every 15 minutes.

26 26. Consistent with existing Sheriff's Department policies, the County
27 and the Sheriff will follow established screening procedures to identify prisoners
28 with emergent or urgent mental health needs based upon information contained in

1 the Arrestee Medical Screening Form (SH-R-422) or its equivalent and the
2 Medical/Mental Health Screening Questionnaire and to expedite such prisoners for
3 mental health evaluation upon arrival at the Jail Reception Centers and prior to
4 routine screening. Prisoners who are identified as having emergent or urgent
5 mental health needs, including the need for emergent psychotropic medication, will
6 be evaluated by a QMHP as soon as possible but no later than four hours from the
7 time of identification.

8 27. Consistent with existing Sheriff's Department policies, the County
9 and the Sheriff will ensure that all prisoners are individually and privately screened
10 by Qualified Medical Staff or trained custody personnel as soon as possible upon
11 arrival to the Jails, but no later than 12 hours, barring an extraordinary
12 circumstance, to identify a prisoner's need for mental health care and risk for
13 suicide or self-injurious behavior. The County and the Sheriff will ensure that the
14 Medical/Mental Health Screening Questionnaire, the Arrestee Medical Screening
15 Form (SH-R-422) or its equivalent, and/or the Confidential Medical Mental Health
16 Transfer Form are in the prisoner's electronic medical record or otherwise
17 available at the time the prisoner is initially assessed by a QMHP.

18 28. The County and the Sheriff will ensure that any prisoner who has been
19 identified during the intake process as having emergent or urgent mental health
20 needs as described in Paragraph 26 of this Agreement will be expedited through
21 the booking process. While the prisoner awaits evaluation, the County and the
22 Sheriff will maintain unobstructed visual observation of the prisoner when
23 necessary to protect his or her safety, and will conduct 15-minute safety checks if
24 the prisoner is in a cell.

25 29. The County and the Sheriff will ensure that a QMHP conducts a
26 mental health assessment of prisoners who have non-emergent mental health needs
27 within 24 hours (or within 72 hours on weekends and legal holidays) of a
28 registered nurse conducting an intake nursing assessment at IRC or CRDF.

1 30. Consistent with existing DMH policies, the initial mental health
2 assessment will include a brief initial treatment plan. The initial treatment plan
3 will address housing recommendations and preliminary discharge information.
4 During the initial assessment, a referral will be made for a more comprehensive
5 mental health assessment if clinically indicated. The initial assessment will
6 identify any immediate issues and determine whether a more comprehensive
7 mental health evaluation is indicated. The Monitor and SMEs will monitor
8 whether the housing recommendations in the initial treatment plan have been
9 followed.

10 **D. Medical Records**

11 31. Consistent with existing DMH and Sheriff's Department policies, the
12 County and the Sheriff will maintain electronic mental health alerts in prisoners'
13 electronic medical records that notify medical and mental health staff of a
14 prisoner's risk for suicide or self-injurious behavior. The alerts will be for the
15 following risk factors:

- 16 (a) current suicide risk;
- 17 (b) hoarding medications; and
- 18 (c) prior suicide attempts.

19 32. Information regarding a serious suicide attempt will be entered in the
20 prisoner's electronic medical record in a timely manner.

21 33. The County will require mental health supervisors in the Jails to
22 review electronic medical records on a quarterly basis to assess their accuracy as
23 follows:

- 24 (a) Supervisors will randomly select two prisoners from each clinician's
25 caseload in the prior quarter;
- 26 (b) Supervisors will compare records for those prisoners to corroborate
27 clinician attendance, units of service, and any unusual trends,
28 including appropriate time spent with prisoners, recording more units

1 of service than hours worked, and to determine whether contacts with
2 those prisoners are inconsistent with their clinical needs;

3 (c) Where supervisors identify discrepancies through these reviews, they
4 will conduct a more thorough review using a DMH-developed
5 standardized tool and will consider detailed information contained in
6 the electronic medical record and progress notes;

7 (d) Serious concerns remaining after the secondary review will be
8 elevated for administrative action in consultation with DMH's
9 centralized Human Resources.

10 34. The County and the Sheriff will conduct discharge planning and
11 linkage to community mental health providers and aftercare services for all
12 prisoners with serious mental illness as follows:

13 (a) For prisoners who are in Jail seven days or less, a preliminary
14 treatment plan, including discharge information, will be developed.

15 (b) For prisoners who are in Jail more than seven days, a QMHP will also
16 make available:

17 (i) for prisoners who are receiving psychotropic medications, a 30-
18 day prescription for those medications will be offered either
19 through the release planning process, through referral to a re-
20 entry resource center, or through referral to an appropriate
21 community provider, unless clinically contraindicated;

22 (ii) in-person consultation to address housing, mental
23 health/medical/substance abuse treatment, income/benefits
24 establishment, and family/community/social supports. This
25 consultation will also identify specific actions to be taken and
26 identify individuals responsible for each action;

27 (iii) if the prisoner has an intense need for assistance, as described in
28 DMH policies, the prisoner will further be provided direct

1 linkage to an Institution for Mental Disease ("IMD"), IMD-
2 Step-down facility, or appropriately licensed hospital;

3 (iv) if the prisoner has a moderate need for assistance, as described
4 in DMH policies, and as clinically appropriate to the needs of
5 the prisoner, the prisoner will be offered enrollment in Full
6 Service Partnership or similar program, placement in an Adult
7 Residential Facility ("Board and Care") or other residential
8 treatment facility, and direct assistance accessing community
9 resources; and

10 (v) if the prisoner has minimal needs for assistance, as described in
11 DMH policies, the prisoner will be offered referrals to routine
12 services as appropriate, such as General Relief, Social Security,
13 community mental health clinics, substance abuse programs,
14 and/or outpatient care/support groups.

15 (c) The County will provide a re-entry resource center with QMHPs
16 available to all prisoners where they may obtain information about
17 available mental health services and other community resources.

18 **E. Mental Health Referrals**

19 35. Consistent with existing DMH and Sheriff's Department policies, the
20 County and the Sheriff will ensure that custody staff, before the end of shift, refer
21 prisoners in general or special populations who are demonstrating a potential need
22 for routine mental health care to a QMHP or a Jail Mental Evaluation Team
23 ("JMET") member for evaluation, and document such referrals. Custody staff will
24 utilize the Behavior Observation and Referral Form.

25 36. Consistent with existing DMH policies, the County and the Sheriff
26 will ensure that a QMHP performs a mental health assessment after any adverse
27 triggering event, such as a suicide attempt, suicide threat, self-injurious behavior,
28 or any clear decompensation of mental health status. For those prisoners who

1 repeatedly engage in self-injurious behavior, the County will perform such a
2 mental health assessment only when clinically indicated, and will, when clinically
3 indicated, develop an individualized treatment plan to reduce, and minimize
4 reinforcement of, such behavior. The County and the Sheriff will maintain an on-
5 call system to ensure that mental health assessments are conducted within four
6 hours following the notification of the adverse triggering event or upon notification
7 that the prisoner has returned from a medical assessment related to the adverse
8 triggering event. The prisoner will remain under unobstructed visual observation
9 by custody staff until a QMHP has completed his or her evaluation.

10 37. Sheriff's Court Services Division staff will complete a Behavioral
11 Observation and Mental Health Referral Form and forward it to the Jail's mental
12 health and/or medical staff when the Court Services Division staff obtains
13 information that indicates a prisoner has displayed obvious suicidal ideation or
14 when the prisoner exhibits unusual behavior that clearly manifests self-injurious
15 behavior, or other clear indication of mental health crisis. Pending transport, such
16 prisoner will be under unobstructed visual observation or subject to 15-minute
17 safety checks.

18 38. Consistent with existing DMH policies and National Commission on
19 Correctional Health Care standards for jails, the County and the Sheriff will ensure
20 that mental health staff or JMET teams make weekly cell-by-cell rounds in
21 restricted non-mental health housing modules (e.g., administrative segregation,
22 disciplinary segregation) at the Jails to identify prisoners with mental illness who
23 may have been missed during screening or who have decompensated while in the
24 Jails. In conducting the rounds, either the clinician, the JMET deputy, or the
25 prisoner may request an out-of-cell interview. This request will be granted unless
26 there is a clear and documented security concern that would prohibit such an
27 interview or the prisoner has a documented history of repeated, unjustified requests
28 for such out-of-cell interviews.

1 39. The County and the Sheriff will continue to use a confidential self-
2 referral system by which all prisoners can request mental health care without
3 revealing the substance of their request to custody staff or other prisoners.

4 40. The County and the Sheriff will ensure a QMHP will be available on-
5 site, by transportation of the prisoner, or through tele-psych 24 hours per day,
6 seven days per week (24/7) to provide clinically appropriate mental health crisis
7 intervention services.

8 **F. Mental Health Follow Up**

9 41. Consistent with existing DMH policies, the County and the Sheriff
10 will implement step-down protocols that provide clinically appropriate transition
11 when prisoners are discharged from FIP after being the subject of suicide watch.
12 The protocols will provide:

- 13 (a) intermediate steps between highly restrictive suicide measures (e.g.,
14 clinical restraints and direct constant observation) and the
15 discontinuation of suicide watch;
- 16 (b) an evaluation by a QMHP before a prisoner is removed from suicide
17 watch;
- 18 (c) every prisoner discharged from FIP following a period of suicide
19 watch will be housed upon release in the least restrictive setting
20 deemed clinically appropriate unless exceptional circumstances
21 affecting the facility exist; and
- 22 (d) all FIP discharges following a period of suicide watch will be seen by
23 a QMHP within 72 hours of FIP release, or sooner if indicated, unless
24 exceptional circumstances affecting the facility exist.

25 42. Consistent with existing DMH policies, the County and the Sheriff
26 will implement step-down protocols to ensure that prisoners admitted to HOH and
27 placed on risk precautions are assessed by a QMHP. As part of the assessment, the
28

1 QMHP will determine on an individualized basis whether to implement “step-
2 down” procedures for that prisoner as follows:

- 3 (a) the prisoner will be assessed by a QMHP within three Normal
4 business work days, but not to exceed four Days, following
5 discontinuance of risk precautions;
- 6 (b) the prisoner is counseled to ameliorate the negative psychological
7 impact that any restrictions may have had and in ways of dealing with
8 this impact;
- 9 (c) the prisoner will remain in HOH or be transferred to MOH, as
10 determined on a case by case basis, until such assessment and
11 counseling is completed, unless exceptional circumstances affecting
12 the facility exist; and
- 13 (d) the prisoner is subsequently placed in a level of care/housing as
14 determined by a QMHP.

15 43. Within six months of the Effective Date, the County and the Sheriff
16 will develop and implement written policies for formal discipline of prisoners with
17 serious mental illness incorporating the following:

- 18 (a) Prior to transfer, custody staff will consult with a QMHP to determine
19 whether assignment of a prisoner in mental health housing to
20 disciplinary housing is clinically contraindicated and whether
21 placement in a higher level of mental health housing is clinically
22 indicated, and will thereafter follow the QMHP’s recommendation;
- 23 (b) If a prisoner is receiving psychotropic medication and is placed in
24 disciplinary housing from an area other than mental health housing, a
25 QMHP will meet with that prisoner within 24 hours of such placement
26 to determine whether maintenance of the prisoner in such placement is
27 clinically contraindicated and whether transfer of the prisoner to
28

1 mental health housing is clinically appropriate, and custody staff will
2 thereafter follow the QMHP's recommendation;

3 (c) A QMHP will participate in weekly walks, as specified in Paragraph
4 38, in disciplinary housing areas to observe prisoners in those areas
5 and to identify those prisoners with mental health needs;

6 (d) Prior to a prisoner in mental health housing losing behavioral credits
7 for disciplinary reasons, the disciplinary decision-maker will receive
8 and take into consideration information from a QMHP regarding the
9 prisoner's underlying mental illness, the potential effects of the
10 discipline being considered, and whether transfer of the prisoner to a
11 higher level of mental health housing is clinically indicated.

12 **G. Suicide Risk Procedures**

13 44. Within six months of the Effective Date, the County and the Sheriff
14 will install protective barriers that do not prevent line-of-sight supervision on the
15 second floor tier of all High Observation Housing areas to prevent prisoners from
16 jumping off of the second floor tier. Within six months of the Effective Date, the
17 County and the Sheriff will also develop a plan that identifies any other areas in
18 mental health housing where such protective barriers should be installed.

19 45. Consistent with existing Sheriff's Department policies, the County
20 and the Sheriff will provide both a Suicide Intervention Kit that contains an
21 emergency cut-down tool and a first-aid kit in the control booth or officer's station
22 of each housing unit. All custody staff who have contact with prisoners will know
23 the location of the Suicide Intervention Kit and first-aid kit and be trained to use
24 their contents.

25 46. The County and the Sheriff will immediately interrupt, and if
26 necessary, provide appropriate aid to, any prisoner who threatens or exhibits self-
27 injurious behavior.

28 **H. Staffing**

1 47. The County and the Sheriff will ensure there are sufficient custodial,
2 medical, and mental health staff at the Jails to fulfill the terms of this Agreement.
3 Within six months of the Effective Date, and on a semi-annual basis thereafter, the
4 County and the Sheriff will, in conjunction with the requirements of Paragraph 92
5 of this Agreement, provide to the Monitor and DOJ a report identifying the steps
6 taken by the County and the Sheriff during the review period to implement the
7 terms of this Agreement and any barriers to implementation, such as insufficient
8 staffing levels at the Jails, if any. The County and the Sheriff will retain staffing
9 records for two years to ensure that for any critical incident or non-compliance
10 with this Agreement, the Monitor and DOJ can obtain those records to determine
11 whether staffing levels were a factor in that critical incident and/or non-
12 compliance.

13 **I. Environmental Conditions**

14 48. Within three months of the Effective Date, the County and the Sheriff
15 will have written housekeeping, sanitation, and inspection plans to ensure the
16 proper cleaning of, and trash collection and removal in, housing, shower, and
17 medical areas, in accordance with California Code of Regulations (“CCR”) Title
18 15 § 1280: Facility Sanitation, Safety, and Maintenance.

19 49. Within three months of the Effective Date, the County and the Sheriff
20 will have a maintenance plan to respond to routine and emergency maintenance
21 needs, including ensuring that shower, toilet, sink, and lighting units, and heating,
22 ventilation, and cooling systems are adequately maintained and installed. The plan
23 will also include steps to treat large mold infestations.

24 50. Consistent with existing Sheriff’s Department policies regarding
25 control of vermin, the County and the Sheriff will provide pest control throughout
26 the housing units, medical units, kitchen, and food storage areas.

27 51. Consistent with existing Sheriff’s Department policies regarding
28 personal care items and supplies for inmates, the County and the Sheriff will

1 ensure that all prisoners have access to basic hygiene supplies, in accordance with
2 CCR Title 15 § 1265: Issue of Personal Care Items.

3 **J. Allowable Property Privileges**

4 52. The County and the Sheriff will implement policies governing
5 property restrictions in High Observation Housing that provide:

6 (a) Except when transferred directly from FIP, upon initial placement in
7 HOH:

8 (i) Suicide-resistant blankets, gowns, and mattresses will be
9 provided until the assessment set forth in section (a)(ii) below is
10 conducted, unless clinically contraindicated as determined and
11 documented by a QMHP.

12 (ii) Within 24 hours, a QMHP will make recommendations
13 regarding allowable property based upon an individual clinical
14 assessment.

15 (b) Property restrictions in HOH beyond 24 hours will be based on
16 clinical judgment and assessment by a QMHP as necessary to ensure
17 the safety and well-being of the prisoner and documented in the
18 Electronic Medical Record.

19 53. If otherwise eligible for an education, work, or similar program, a
20 prisoner's mental health diagnosis or prescription for medication alone will not
21 preclude that prisoner from participating in said programming.

22 54. Prisoners who are not in Mental Health Housing will not be denied
23 privileges and programming based solely on their mental health status or
24 prescription for psychotropic medication.

25 **K. Communication Related to Mental Health**

26 55. Relevant custody, medical, and mental health staff in all High
27 Observation Housing units will meet on Normal business work days and such staff
28 in all Moderate Observation Housing units will meet at least weekly to ensure

1 coordination and communication regarding the needs of prisoners in mental health
2 housing units as outlined in Custody Services Division Directive(s) regarding
3 coordination of mental health treatment and housing. When a custody staff
4 member is serving as a member of a treatment team, he or she is subject to the
5 same confidentiality rules and regulations as any other member of the treatment
6 team, and will be trained in those rules and regulations.

7 56. Consistent with existing DMH and Sheriff's Department policies, the
8 County and the Sheriff will ensure that custody, medical, and mental health staff
9 communicate regarding any change in a prisoner's housing assignment following a
10 suicide threat, gesture, or attempt, or other indication of an obvious and serious
11 change in mental health condition.

12 **L. Safety Checks**

13 57. Within three months of the Effective Date, the County and the Sheriff
14 will revise and implement their policies on safety checks to ensure a range of
15 supervision for prisoners housed in Mental Health Housing. The County and the
16 Sheriff will ensure that safety checks in Mental Health Housing are completed and
17 documented in accordance with policy and regulatory requirements as set forth
18 below:

- 19 (a) Custody staff will conduct safety checks in a manner that allows staff
20 to view the prisoner to assure his or her well-being and security.
21 Safety checks involve visual observation and, if necessary to
22 determine the prisoner's well-being, verbal interaction with the
23 prisoner;
- 24 (b) Custody staff will document their checks in a format that does not
25 have pre-printed times;
- 26 (c) Custody staff will stagger checks to minimize prisoners' ability to
27 plan around anticipated checks;
- 28

1 (d) Video surveillance may not be used to replace rounds and supervision
2 by custodial staff unless new construction is built specifically with
3 constant video surveillance enhancements and could only be used to
4 replace 15 minute checks in non-FIP housing, subject to approval by
5 the Monitor;

6 (e) A QMHP, in coordination with custody (and medical staff if
7 necessary), will determine mental health housing assignments.

8 (f) Supervision of prisoners in mental health housing will be conducted at
9 the following intervals:

10 (i) FIP: Custody staff will perform safety checks every 15
11 minutes. DMH staff will perform direct constant observation or
12 one-to-one observation when determined to be clinically
13 appropriate;

14 (ii) High Observation Housing: Every 15 minutes;

15 (iii) Moderate Observation Housing: Every 30 minutes.

16 58. Within three months of the Effective Date, the County and the Sheriff
17 will revise and implement their policies on safety checks. The County and the
18 Sheriff will ensure that safety checks in non-mental health housing units are
19 completed and documented in accordance with policy and regulatory requirements
20 as set forth below:

21 (a) At least every 30 minutes in housing areas with cells;

22 (b) At least every 30 minutes in dormitory-style housing units where the
23 unit does not provide for unobstructed direct supervision of prisoners
24 from a security control room.

25 (c) Where a dormitory-style housing unit does provide for unobstructed
26 direct supervision of prisoners, safety checks must be completed
27 inside the unit at least every 60 minutes;

28

1 (d) At least every 60 minutes in designated minimum security dormitory
2 housing at PDC South, or other similar campus-style unlocked
3 dormitory housing;

4 (e) Custody staff will conduct safety checks in a manner that allows staff
5 to view the prisoner to assure his or her well-being and security.
6 Safety checks involve visual observation and, if necessary to
7 determine the prisoner's well-being, verbal interaction with the
8 prisoner;

9 (f) Custody staff will document their checks in a format that does not
10 have pre-printed times;

11 (g) Custody staff will stagger checks to minimize prisoners' ability to
12 plan around anticipated checks; and

13 (h) Video surveillance may not be used to replace rounds and supervision
14 by custodial staff.

15 59. Consistent with existing Sheriff's Department policies regarding
16 uniform daily activity logs, the County and the Sheriff will ensure that a custodial
17 supervisor conducts unannounced daily rounds on each shift in the prisoner
18 housing units to ensure custodial staff conduct necessary safety checks and
19 document their rounds.

20 **M. Quality Improvement Plan**

21 60. Within six months of the Effective Date, the Department of Mental
22 Health, in cooperation with the Sheriff's Unit described in Paragraph 77 of this
23 Agreement, will implement a quality improvement program to identify and address
24 clinical issues that place prisoners at significant risk of suicide or self-injurious
25 behavior.

26 61. The quality improvement program will review, collect, and aggregate
27 data in the following areas and recommend corrective actions and systemic
28 improvements:

- 1 (a) Suicides and serious suicide attempts:
 - 2 (i) Prior suicide attempts or other serious self-injurious behavior
 - 3 (ii) Locations
 - 4 (iii) Method
 - 5 (iv) Lethality
 - 6 (v) Demographic information
 - 7 (vi) Proximity to court date;
- 8 (b) Use of clinical restraints;
- 9 (c) Psychotropic medications;
- 10 (d) Access to care, timeliness of service, and utilization of the Forensic
- 11 In-patient Unit; and
- 12 (e) Elements of documentation and use of medical records.

13 62. The County and the Sheriff's Unit described in Paragraph 77 of this
14 Agreement will develop, implement, and track corrective action plans addressing
15 recommendations of the quality improvement program.

16 **N. Mental Health Housing**

17 63. The County and the Sheriff will maintain adequate High Observation
18 Housing and Moderate Observation Housing sufficient to meet the needs of the jail
19 population with mental illness, as assessed by the County and the Sheriff on an
20 ongoing basis. The County will continue its practice of placing prisoners with
21 mental illness in the least restrictive setting consistent with their clinical needs.

22 64. Within six months of the Effective Date, the County and the Sheriff
23 will develop a short-term plan addressing the following 12-month period, and
24 within 12 months of the Effective Date, the County and the Sheriff will develop a
25 long-term plan addressing the following five-year period, to reasonably ensure the
26 availability of licensed inpatient mental health care for prisoners in the Jails. The
27 County and the Sheriff will begin implementation of each plan within 90 days of
28 plan completion. These plans will describe the projected capacity required,

1 strategies that will be used to obtain additional capacity if it is needed, and identify
2 the resources necessary for implementation. Thereafter, the County and the Sheriff
3 will review, and if necessary revise, these plans every 12 months.

4 **O. Medication**

5 65. Consistent with existing Sheriff's Department policies, the County
6 and the Sheriff will ensure that psychotropic medications are administered in a
7 clinically appropriate manner to prevent misuse, hoarding, and overdose.

8 66. Consistent with existing DMH policies, prisoners in High Observation
9 Housing and Moderate Observation Housing, and those with a serious mental
10 illness who reside in other housing areas of the Jails, will remain on an active
11 mental health caseload and receive clinically appropriate mental health treatment,
12 regardless of whether they refuse medications.

13 67. Within three months of the Effective Date, the County and the Sheriff
14 will implement policies for prisoners housed in High Observation Housing and
15 Moderate Observation Housing that require:

- 16 (a) documentation of a prisoner's refusal of psychotropic medication in
17 the prisoner's electronic medical record;
- 18 (b) discussion of a prisoner's refusal in treatment team meetings;
- 19 (c) the use of clinically appropriate interventions with such prisoners to
20 encourage medication compliance;
- 21 (d) consideration of the need to transfer non-compliant prisoners to higher
22 levels of mental health housing; and
- 23 (e) individualized consideration of the appropriateness of seeking court
24 orders for involuntary medication pursuant to the provisions of
25 California Welfare and Institutions Code sections 5332-5336 and/or
26 California Penal Code section 2603(a).

27 68. Within six months of the Effective Date, the County and the Sheriff
28 will develop and implement a procedure for contraband searches on a regular, but

1 staggered basis in all housing units. High Observation Housing cells will be
2 visually inspected prior to initial housing of inmates with mental health issues.

3
4 **P. Restraints**

5 69. Consistent with existing DMH policies regarding use of clinical
6 restraints, the County and the Sheriff will use clinical restraints only in the
7 Correctional Treatment Center and only with the approval of a licensed psychiatrist
8 who has performed an individualized assessment and an appropriate Forensic
9 Inpatient order. Use of clinical restraints in CTC will be documented in the
10 prisoner's electronic medical record. The documentation will include the basis for
11 and duration of the use of clinical restraints and the performance and results of the
12 medical welfare checks on restrained prisoners. When applying clinical restraints,
13 custody staff will ensure a QMHP is present to document and monitor the
14 condition of the prisoner being placed in clinical restraints.

15 70. Within three months of the Effective Date, the County and the Sheriff
16 will have policies and procedures regarding the use of Security Restraints in HOH
17 and MOH. Such policies will provide that:

- 18 (a) Security Restraints in these areas will not be used as an alternative to
19 mental health treatment and will be used only when necessary to
20 insure safety;
- 21 (b) Security Restraints will not be used to punish prisoners, but will be
22 used only when there is a threat or potential threat of physical harm,
23 destruction of property, or escape;
- 24 (c) Custody staff in HOH and MOH will consider a range of security
25 restraint devices and utilize the least restrictive option, for the least
26 amount of time, necessary to provide safety in these areas;
- 27 (d) Whenever a prisoner is recalcitrant, as defined by Sheriff's
28 Department policy, and appears to be in a mental health crisis,

1 Custody staff will request a sergeant and immediately refer the
2 prisoner to a QMHP.

3 71. The County and the Sheriff will ensure that any prisoner subjected to
4 clinical restraints in response to a mental health crisis receives therapeutic services
5 to remediate any effects from the episode(s) of restraint.

6 **Q. Suicide Death Reviews and Critical Incident Reviews**

7 72. The County and the Sheriff will develop and implement policies and
8 procedures that ensure that incidents involving suicide and serious self-injurious
9 behavior are reported and reviewed to determine: (a) whether staff engaged in any
10 violations of policies, rules, or laws; and (b) whether any improvements to policy,
11 training, operations, treatment programs, or facilities are warranted. These policies
12 and procedures will define terms clearly and consistently to ensure that incidents
13 are reported and tracked accurately by DMH and the Sheriff's Department.

14 73. Depending on the level of severity of an incident involving a prisoner
15 who threatens or exhibits self-injurious behavior, a custody staff member will
16 prepare a detailed report (Behavioral Observation and Mental Health Referral
17 Form, Inmate Injury Report, and/or Incident Report) that includes information
18 from individuals who were involved in or witnessed the incident as soon as
19 practicable, but no later than the end of shift. The report will include a description
20 of the events surrounding the incident and the steps taken in response to the
21 incident. The report will also include the date and time that the report was
22 completed and the names of any witnesses. The Sheriff's Department will
23 immediately notify the County Office of Inspector General of all apparent or
24 suspected suicides occurring at the Jails.

25 74. The Sheriff's Department will ensure that there is a timely, thorough,
26 and objective law enforcement investigation of any suicide that occurs in the Jails.
27 Investigations shall include recorded interviews of persons involved in, or who
28 witnessed, the incident, including other prisoners. Sheriff's Department personnel

1 who are investigating a prisoner suicide or suspected suicide at the Jails will ensure
2 the preservation of all evidence, including physical evidence, relevant witness
3 statements, reports, videos, and photographs.

4 75. Within three months of the Effective Date, the County and the Sheriff
5 will review every suicide attempt that occurs in the Jails as follows:

6 (a) Within two working days, DMH staff will review the incident, the
7 prisoner's mental health status known at the time of the incident, the
8 need for immediate corrective action if any, and determine the level of
9 suicide attempt pursuant to the Centers for Disease Control and
10 Prevention's Risk Rating Scale;

11 (b) Within 30 working days, and only for those incidents determined to be
12 a serious suicide attempt by DMH staff after the review described in
13 subsection (a) above, management and command-level personnel
14 from DMH and the Sheriff's Department (including Custody Division
15 and Medical Services Bureau) will meet to review relevant
16 information known at that time, including the events preceding and
17 following the incident, the prisoner's incarceration, mental health, and
18 health history, the status of any corrective actions taken, and the need
19 for additional corrective action if necessary;

20 (c) The County and the Sheriff will document the findings that result
21 from the review of serious suicide attempts described in subsection (b)
22 above; and

23 (d) The County and the Sheriff will ensure that information for all suicide
24 attempts is input into a database for tracking and statistical analysis.

25 76. The County and the Sheriff will review every apparent or suspected
26 suicide that occurs in the Jails as follows:

27 (a) Within no more than two working days, management and command-
28 level personnel from DMH and the Sheriff's Department (including

1 Custody Division and Medical Services Bureau) will meet to review
2 and discuss the suicide, the prisoner's mental health status known at
3 the time of the suicide, and the need for immediate corrective or
4 preventive action if any;

5 (b) Within seven working days, and again within 30 working days,
6 management and command-level personnel from DMH and the
7 Sheriff's Department (including Custody Division and Medical
8 Services Bureau) will meet to review relevant information known at
9 that time, including the events preceding and following the suicide,
10 the prisoner's incarceration, mental health, and health history, the
11 status of any corrective or preventive actions taken, and the need for
12 additional corrective or preventive action if necessary;

13 (c) Within six months of the suicide, the County and the Sheriff will
14 prepare a final written report regarding the suicide. The report will
15 include:

- 16 (i) time and dated incident reports and any supplemental reports
17 with the same Uniform Reference Number (URN) from custody
18 staff who were directly involved in and/or witnessed the
19 incident;
- 20 (ii) a timeline regarding the discovery of the prisoner and any
21 responsive actions or medical interventions;
- 22 (iii) copies of a representative sample of material video recordings
23 or photographs, to the extent that inclusion of such items does
24 not interfere with any criminal investigation;
- 25 (iv) a reference to, or reports if available, from the Sheriff's
26 Department Homicide Bureau;
- 27 (v) reference to the Internal Affairs Bureau or other personnel
28 investigations, if any, and findings, if any;

- 1 (vi) a Coroner's report, if it is available at the time of the final
- 2 report, and if it is not available, a summary of efforts made to
- 3 obtain the report;
- 4 (vii) a summary of relevant information discussed at the prior review
- 5 meetings, or otherwise known at the time of the final report,
- 6 including analysis of housing or classification issues if relevant;
- 7 (viii) a clinical mortality review;
- 8 (ix) a Psychological Autopsy utilizing the National Commission on
- 9 Correctional Health Care's standards; and
- 10 (x) a summary of corrective actions taken and recommendations
- 11 regarding additional corrective actions if any are needed.

12 77. The County and the Sheriff will create a specialized unit to oversee,
13 monitor, and audit the County's jail suicide prevention program in coordination
14 with the Department of Mental Health. The Unit will be headed by a Captain, or
15 another Sheriff's Department official of appropriate rank, who reports to the
16 Assistant Sheriff for Custody Operations through the chain of command. The Unit
17 will be responsible for:

- 18 (a) Ensuring the timely and thorough administrative review of suicides
- 19 and serious suicide attempts in the Jails as described in this
- 20 Agreement;
- 21 (b) Identifying patterns and trends of suicides and serious suicide
- 22 attempts in the Jails, keeping centralized records and inputting data
- 23 into a unit database for statistical analysis, trends, and corrective
- 24 action, if necessary;
- 25 (c) Ensuring that corrective actions are taken to mitigate suicide risks at
- 26 both the location of occurrence and throughout the concerned system
- 27 by providing, or obtaining where appropriate, technical assistance to
- 28

1 other administrative units within the Custody Division when such
2 assistance is needed to address suicide-risk issues;

- 3 (d) Analyzing staffing, personnel/disciplinary, prisoner classification, and
4 mental health service delivery issues as they relate to suicides and
5 serious suicide attempts to identify the need for corrective action
6 where appropriate; and recommend remedial measures, including
7 policy revisions, re-training, or staff discipline, to address the
8 deficiencies and ensure implementation; and
9 (e) Participating in meetings with DMH to develop, implement, and track
10 corrective action plans addressing recommendations of the quality
11 improvement program.

12 78. The County and the Sheriff will maintain a county-level Suicide
13 Prevention Advisory Committee that will be open to representatives from the
14 Sheriff's Department Custody Division, Court Services, Custody Support Services,
15 and Medical Services Bureau; the Department of Mental Health; the Public
16 Defender's Office; County Counsel's Office; the Office of the Inspector General;
17 and the Department of Mental Health Patients' Rights Office. The Suicide
18 Prevention Advisory Committee will meet twice per year and will serve as an
19 advisory body to address system issues and recommend coordinated approaches to
20 suicide prevention in the Jails.

21 **R. Mental Health Treatment**

22 79. (a) Unless clinically contraindicated, the County and the Sheriff will
23 offer prisoners in mental health housing:

- 24 (i) therapeutically appropriate individual visits with a QMHP;
25 (ii) therapeutically appropriate group programming conducted by a
26 QMHP or other appropriate provider that does not exceed 90
27 minutes per session;

1 (b) The County and the Sheriff will provide prisoners outside of mental
2 health housing with medication support services when those prisoners are
3 receiving psychotropic medications and therapeutically appropriate individual
4 monthly visits with a QMHP when those prisoners are designated as Seriously
5 Mentally Ill.

6 (c) The date, location, topic, attendees, and provider of programming or
7 therapy sessions will be documented. A clinical supervisor will review
8 documentation of group sessions on a monthly basis.

9 80. (a) The County and the Sheriff will continue to make best efforts to
10 provide appropriate out-of-cell time to all prisoners with serious mental illness,
11 absent exceptional circumstances, and unless individually clinically
12 contraindicated and documented in the prisoner's electronic medical record. To
13 implement this requirement, the County and the Sheriff will follow the schedule
14 below:

15 (i) By no later than six months after the Effective Date, will offer
16 25% of the prisoners in HOH ten hours of unstructured out-of-
17 cell recreational time and ten hours of structured therapeutic or
18 programmatic time per week;

19 (ii) By no later than 12 months after the Effective Date, will offer
20 50% of the prisoners in HOH ten hours of unstructured out-of-
21 cell recreational time and ten hours of structured therapeutic or
22 programmatic time per week;

23 (iii) By no later than 18 months after the Effective Date, will offer
24 100% of the prisoners in HOH ten hours of unstructured out-of-
25 cell recreational time and ten hours of structured therapeutic or
26 programmatic time per week.

27 (b) No later than six months after the Effective Date, the County and the
28 Sheriff will record at the end of each day which prisoners in HOH, if any, refused

1 to leave their cells that day. That data will be presented and discussed with DMH
2 staff at the daily meeting on the following Normal business work day. The data
3 will also be provided to the specialized unit described in Paragraph 77 and to
4 DMH's quality improvement program to analyze the data for any trends and to
5 implement any corrective action(s) deemed necessary to maximize out-of-cell time
6 opportunities and avoid unnecessary isolation.

7 **S. Use of Force**

8 81. Except as specifically set forth in Paragraphs 18-20 of this
9 Agreement, and except as specifically identified below, the County and the Sheriff
10 will implement the following paragraphs of the Implementation Plan in *Rosas* at all
11 Jails facilities, including the Pitchess Detention Center and the Century Regional
12 Detention Facility, by no later than the dates set forth in the Implementation Plan
13 or as revised by the *Rosas* Monitoring Panel: Paragraphs 2.2-2.13 (use of force
14 policies and practices); 3.1-3.6 (training and professional development); 4.1-4.10
15 (use of force on mentally ill prisoners); 5.1-5.3 (data tracking and reporting of
16 force); 6.1-6.20 (prisoner grievances and complaints); 7.1-7.3 (prisoner
17 supervision); 8.1-8.3 (anti-retaliation provisions); 9.1-9.3 (security practices); 10.1-
18 10.2 (management presence in housing units); 11.1 (management review of force);
19 12.1-12.5 (force investigations, with the training requirement of paragraph 12.1 to
20 be completed by December 31, 2016); 13.1-13.2 (use of force reviews and staff
21 discipline); 14.1-14.2 (criminal referrals and external review); 15.1-15.7
22 (documentation and recording of force); 16.1-16.3 (health care assessments); 17.1-
23 17.10 (use of restraints); 18.1-18.2 (adequate staffing); 19.1-19.3 (early warning
24 system); 20.1-20.3 (planned uses of force); and 21.1 (organizational culture).

25 82. With respect to paragraph 6.16 of the *Rosas* Implementation Plan, the
26 County and the Sheriff will ensure that Sheriff's Department personnel responsible
27 for collecting prisoners' grievances as set forth in that paragraph are also co-
28 located in the Century Regional Detention Facility.

1 83. The County and the Sheriff will install closed circuit security cameras
2 throughout all Jails facilities' common areas where prisoners engage in
3 programming, treatment, recreation, visitation, and intra-facility movement
4 ("Common Areas"), including in the Common Areas at the Pitchess Detention
5 Center and the Century Regional Detention Facility. The County and the Sheriff
6 will install a sufficient number of cameras in Jails facilities that do not currently
7 have cameras to ensure that all Common Areas of these facilities have security-
8 camera coverage. The installation of these cameras will be completed no later than
9 June 30, 2018, with TTCF, MCJ, and IRC completed by the Effective Date; CRDF
10 completed by March 1, 2016; and the remaining facilities completed by June 30,
11 2018. The County and the Sheriff will also ensure that all video recordings of
12 force incidents are adequately stored and retained for a period of at least one year
13 after the force incident occurs or until all investigations and proceedings related to
14 the use of force are concluded, whichever happens later.

15 84. The Sheriff will continue to maintain and implement policies for the
16 timely and thorough investigation of alleged staff misconduct related to use of
17 force and for timely disciplinary action arising from such investigations.

18 Specifically:

- 19 (a) Sworn custody staff subject to the provisions of California
20 Government Code section 3304 will be notified of the completion of
21 the investigation and the proposed discipline arising from force
22 incidents in accordance with the requirements of that Code section;
23 and
24 (b) All non-sworn Sheriff's Department staff will be notified of the
25 proposed discipline arising from force incidents in time to allow for
26 the imposition of that discipline.

1 85. The County and the Sheriff will ensure that Internal Affairs Bureau
2 management and staff receive adequate specialized training in conducting
3 investigations of misconduct.

4 86. Within three months of the Effective Date, the County and the Sheriff
5 will develop and implement policies and procedures for the effective and accurate
6 maintenance, inventory, and assignment of chemical agents and other security
7 equipment. The County and the Sheriff will develop and maintain an adequate
8 inventory control system for all weapons, including OC spray.

9 **VI. IMPLEMENTATION, COMPLIANCE ASSESSMENT,**
10 **ENFORCEMENT, AND TERMINATION**

11 **A. Review and Implementation of Policies, Procedures, and Programs**

12 87. The County and the Sheriff are committed to continuous quality
13 improvement and have taken significant steps to review and update policies and
14 procedures to protect the constitutional and federal rights of prisoners at the Jails.
15 Where necessary, the County and the Sheriff will maintain existing policies,
16 procedures, and practices to support the substantive provisions in this Agreement.

17 88. The County and the Sheriff will review all relevant policies,
18 procedures, and other written executive-approved directives within four months of
19 the Effective Date to ensure that they are consistent with the terms of this
20 Agreement, unless they were reviewed and revised for such purposes within six
21 months preceding the Effective Date.

22 89. (a) If the County or the Sheriff create or materially revise a policy
23 related to this Agreement after the Effective Date, the following process will be
24 followed before implementation:

- 25 (1) the County and Sheriff will provide a copy of the proposed policy to
26 the Monitor and DOJ prior to its implementation;
- 27 (2) the Monitor and DOJ will have 30 days to review the policy and
28 submit comments, if any, to the County and the Sheriff;

- 1 (3) if the Monitor and DOJ do not submit any comments within the 30-
2 day period, the County and the Sheriff will begin implementation of
3 the policy no later than 180 days after the expiration of the 30 day-
4 review period or notice that no comments will be forthcoming;
- 5 (4) if the Monitor or DOJ objects to the proposed policy, the Monitor or
6 DOJ will note the objection in writing to all Parties within the
7 respective review period;
- 8 (5) if there is any objection to the proposed policy, the County and the
9 Sheriff will have 30 days to address the objection(s);
- 10 (6) if the Monitor and the Parties cannot resolve the objection(s), either
11 Party may ask the Court to resolve the matter;
- 12 (7) the Monitor may extend any time frame within this paragraph by up to
13 15 additional days. Further extensions may be granted by the Monitor
14 with the agreement of both Parties when necessary to permit amicable
15 resolution of objections.

16 (b) If after the Effective Date, the County or the Sheriff is confronted with a
17 critical circumstance requiring immediate action, the County or the Sheriff may
18 create or substantially revise, and then implement, a policy related to this
19 Agreement without the prior review of the Monitor and DOJ, so long as the
20 review, comment, and objection procedures set forth above in subparagraph (a) are
21 followed immediately upon implementation.

22 90. The County and the Sheriff will provide relevant staff with any policy
23 that is created or materially revised after the Effective Date if it relates to the
24 provisions of this Agreement. The County and the Sheriff will further document
25 that any such policy has been received by that staff and that such staff has been
26 trained, instructed, or briefed, as appropriate, on that policy.

1 **B. Compliance Coordination Unit**

2 91. The County and the Sheriff will establish and maintain a compliance
3 coordination unit for the duration of this Agreement. The unit will:

- 4 (a) serve as a liaison between the Parties and the Monitor and assume
5 primary responsibility for collecting information the Monitor requires
6 to carry out the duties assigned to the Monitor;
- 7 (b) maintain sufficient records to document that the requirements of this
8 Agreement are being properly implemented (e.g., census summaries,
9 policies, procedures, protocols, training materials, investigations,
10 incident reports, tier logs, use-of-force reports);
- 11 (c) provide written answers by electronic mail or other format when
12 necessary and any documents requested by the Monitor or DOJ
13 concerning implementation of this Agreement in a timely manner;
- 14 (d) coordinate and monitor compliance and implementation activities,
15 including coordination between Custody and DMH staff, and assist
16 managers in assigning compliance tasks to County or Sheriff
17 personnel; and
- 18 (e) ensure that the County and the Sheriff notify DOJ and the Monitor of
19 any suspected or apparent suicide within 24 hours and make related
20 reports available to the Monitor and DOJ for inspection.

21 **C. Self-Assessments and Reports**

22 92. (a) Fifteen days before the end of the reporting period described in
23 Paragraph 109 of this Agreement, the County and the Sheriff will provide the
24 Monitor and DOJ a Self-Assessment Status Report that includes:

- 25 (1) the actions taken by the County and the Sheriff during the review
26 period to implement this Agreement including the status of ongoing
27 and continuous improvement activities;

- 1 (2) responses to concerns or recommendations made in prior reports by
2 the Monitor;
- 3 (3) a summary of any audits related to the provisions of this Agreement
4 that were completed in the reporting period; and
- 5 (4) relevant trend data including the information described in Paragraphs
6 61 and 77(a).

7 (b) Self-Assessment Status Reports prepared pursuant to this Paragraph will
8 be treated as confidential and not further disclosed or attached to any court
9 document, unless filed under seal with Court approval, without the consent of the
10 County and the Sheriff or by order of the Court. The Monitor, SMEs, and other
11 monitoring staff, however, will be permitted to use the information contained in
12 the Self-Assessment Status Reports to prepare the Monitor's reports to the Court.

13 **D. Independent Monitor**

14 93. In order to assess and report on the implementation of this Agreement
15 and whether the implementation is having the intended beneficial impact on
16 conditions at the Jails, the Monitor, the SMEs, and their staff will:

- 17 (a) conduct the audits, reviews, and assessments specified in this
18 Agreement;
- 19 (b) review County and Sheriff policies, procedures, training curricula, and
20 other documents related to this Agreement developed and
21 implemented pursuant to this Agreement;
- 22 (c) conduct such additional audits, reviews, and assessments consistent
23 with this Agreement as the Monitor and the Parties jointly agree are
24 appropriate, or in the case of a dispute which the Parties cannot in
25 good faith resolve, as ordered by the Court; and
- 26 (d) evaluate the implementation of Section V.S. of this Agreement
27 concerning use of force consistent with the Settlement Agreement and
28 Implementation Plan-approved in *Rosas*.

1 94. The Parties have selected Richard Drooyan as the Independent
2 Monitor. The Monitor and his staff will not, and are not intended to, replace or
3 assume the role and duties of the County or the Sheriff and will have only the
4 duties, responsibilities, and authority conferred by this Agreement.

5 To assess and report whether the provisions of this Agreement have been
6 implemented, and whether the County and the Sheriff are in compliance with the
7 substantive provisions of this Agreement, the Monitor will:

- 8 (a) evaluate the implementation of Section V (“Substantive Provisions”)
9 of this Agreement and, where applicable, the Settlement Agreement
10 and Implementation Plan approved in *Rosas*;
11 (b) conduct specific audits, reviews, and assessments consistent with this
12 Agreement or otherwise if the Parties agree in writing; and
13 (c) prepare reports as provided in this Agreement.

14 95. The Parties have also selected Bruce C. Gage, M.D., and Manuel
15 David Romero as Subject Matter Experts (“SMEs”). The SMEs and their staff will
16 not, and are not intended to, replace or assume the role and duties of the County or
17 the Sheriff and will have only the duties, responsibilities, and authority conferred
18 by this Agreement. The SMEs will, in conjunction with the Monitor, assess
19 compliance with the substantive provisions of this Agreement by providing
20 expertise within the scope of their subject matters.

21 96. The Monitor and/or SMEs may hire or contract with additional
22 persons with knowledge or expertise not already provided by the SMEs, or where
23 delegation to a subordinate staff member would be appropriate, as reasonably
24 necessary to perform the tasks assigned by this Agreement. The Monitor will
25 notify the County, the Sheriff, and DOJ in writing when the Monitor or SMEs are
26 considering such additional persons. The Parties will have an opportunity, if
27 desired, to interview the candidate(s) and request reasonable information about the
28 candidate’s background and experience. If the Parties agree to the Monitor’s

1 proposal, the Monitor or SMEs will be authorized to hire or contract such
2 additional persons. If the Parties do not agree to the proposal, the Parties will have
3 ten business days to disagree with the proposal in writing. The Parties will not
4 unreasonably withhold approval. If the Parties are unable to reach agreement
5 within ten business days of receiving notice of this disagreement, the Court will
6 resolve the dispute.

7 97. If not already developed by the Monitor and SMEs and agreed-to by
8 the Parties before the execution of this Agreement, within three months of the
9 appointment of the Monitor and SMEs by the Court, the Monitor and SMEs will
10 develop a plan for conducting the above audits, reviews, and assessments, and will
11 submit that plan to the Parties for review and approval. The plan will:

- 12 (a) set out a methodology for reviewing each of the substantive
13 provisions of this Agreement, including which provisions will be
14 assessed together, if any, and the thresholds for achieving Substantial
15 Compliance; and
- 16 (b) set out a schedule for conducting the assessments required by this
17 Agreement.

18 98. The Monitor, SMEs, and any person hired or contracted to assist the
19 Monitor or SMEs will be subject to (a) the supervision and orders of the Court
20 consistent with the terms of this Agreement; (b) the terms of this Agreement; (c)
21 any applicable law; and (d) any security protocols while in the Jails.

22 99. The County and the Sheriff will bear all reasonable fees and costs of
23 the Monitor, the SMEs, and their staff. Travel, lodging, and per diem expenses
24 will be reimbursed at the same rate as provided for County employees. In the
25 event that any dispute arises regarding the reasonableness or payment of the
26 Monitor's, SMEs', or their staff's fees and costs, the Parties and the Monitor will
27 attempt to resolve the dispute cooperatively before seeking the assistance of the
28 Court.

1 100. At the request of the County and the Sheriff, and with the consent of
2 the DOJ, the Monitor, SMEs, and their staff may provide technical assistance.
3 Such assistance may not interfere with the Monitor's or SMEs' duties under this
4 Agreement, create additional duties or obligations that are enforceable under this
5 Agreement, or otherwise alter or modify the terms of this Agreement.
6 Additionally, whenever the County or the Sheriff identifies and implements its
7 own quality improvement measures that are not related to any of the terms of this
8 Agreement, those quality improvement measures will not be monitored or enforced
9 under this Agreement.

10 101. Should all the Parties agree that the Monitor, a SME, or a member of
11 their staff has exceeded his or her authority or is not fulfilling his or her duties in
12 accordance with this Agreement, the Parties may petition the Court for the
13 immediate removal and replacement of the Monitor, SME, or staff person. After
14 good faith attempts to resolve such issues informally, any Party may petition the
15 Court for the removal of the Monitor, a SME, or any member of their staff, for
16 good cause, which may include, but is not limited to: gross neglect of duties;
17 willful misconduct; inappropriate personal relationship with a Party, any Party
18 employee, or prisoner; conflicts of interest; any criminal conduct; or any
19 significant violations of security protocols during the pendency of this Agreement.

20 102. The Parties recognize the Monitor and SMEs may have existing
21 clients who may now be, or in the future may be, adverse to the County or the
22 Sheriff in transactions or litigation. For the duration of this Agreement, however,
23 unless such conflict is waived by all Parties, the Monitor, the SMEs, and their staff
24 will not accept any new employment or retention for consulting services regarding
25 alleged actions or inactions by the County or the Sheriff, or any County or Sheriff's
26 employee, including any actions or inactions involving any prisoner that present a
27 conflict of interest with the Monitor's, SME's, or staff member's responsibilities
28 under this Agreement, including being retained (on a paid or unpaid basis) by any

1 current or future litigant or claimant, or such litigant's or claimant's attorney, in
2 connection with a claim or suit against the County, the Sheriff, or their
3 departments, officers, agents, or employees. Similarly, the Monitor, the SMEs,
4 and their staff will not accept employment or provide consulting services (on a
5 paid or unpaid basis) by any Defendant to this matter to act as a defense witness in
6 connection with a private claim or suit against the County, the Sheriff, or their
7 departments, officers, agents, or employees. This provision does not apply to any
8 proceeding before a court related to performance of contracts or subcontracts for
9 monitoring this Agreement.

10 **E. Access and Confidentiality**

11 103. With the exception of documents within the attorney-client and
12 attorney-work-product privileges, and notwithstanding the confidentiality
13 restrictions of the Health Insurance Portability and Accountability Act ("HIPAA"),
14 the California Confidentiality of Medical Information Act (Civil Code § 56, *et*
15 *seq.*), and California Welfare and Institutions Code § 5328 (related to
16 confidentiality of mental health records), the Monitor, SMEs, their staff, and the
17 United States, its attorneys, consultants, and agents will have full and complete
18 access to the Jails and all relevant individuals, facilities, prisoner medical and
19 mental health records, documents, data, and meetings related to the provisions of
20 this Agreement.

21 104. Other than as expressly provided in this Agreement, the Monitor, the
22 SMEs, their staff, and DOJ will maintain confidential all, and will not distribute or
23 disclose any, non-public information provided by the County and the Sheriff
24 pursuant to this Agreement. This Agreement will not be deemed a waiver of any
25 privilege or right the County or the Sheriff may assert, including those recognized
26 at common law or created by statute, rule, or regulation, against any other person
27 or entity with respect to the disclosure of any document or information.

28

1 **F. Public Statements, Testimony, and Records**

2 105. Except as required by the terms of this Agreement, an order from the
3 Court, the express written agreement of all Parties, or at meetings of the County of
4 Los Angeles Board of Supervisors, the Monitor, SMEs, and their staff will not
5 make any public or press statements (at a conference or otherwise), issue findings,
6 offer expert opinion, or testify in any other litigation or proceeding regarding any
7 matter or subject that he or she may have learned as a result of his or her
8 performance under this Agreement. If the Monitor, SMEs, or any of their staff
9 receive a subpoena, he or she will promptly notify the Parties and thereafter advise
10 the subpoenaing court of the terms of this Agreement.

11 106. The Monitor, SMEs, and their staff will be permitted to initiate and
12 receive ex parte communications with all Parties.

13 107. The Monitor, SMEs, and their staff are not a State, County, or local
14 agency, or an agent thereof, and accordingly, the records maintained by them, or
15 any of them, will not be deemed public records subject to public inspection. If the
16 Monitor, SMEs, or any of their staff receive a request for inspection of their
17 records related to this Agreement, he or she will promptly notify the Parties.

18 108. This Agreement is enforceable only by the Parties. No person or
19 entity is intended to be a third-party beneficiary of the provisions of this
20 Agreement for purposes of any civil, criminal, or administrative action, and
21 accordingly, no person or entity may assert any claim or right as a beneficiary or
22 protected class under this Agreement.

23 **G. Monitoring Reports**

24 109. Every six months, the Monitor will file public written reports with the
25 Court describing the steps taken by the County and the Sheriff to implement this
26 Agreement and evaluating the extent to which the County and the Sheriff have
27 complied with this Agreement. Specifically, the Monitor and SMEs will evaluate
28 the status of compliance for each substantive provision of this Agreement using the

1 following standards: (1) Substantial Compliance; (2) Partial Compliance; and (3)
2 Non-compliance. In order to assess compliance, the Monitor and SMEs will
3 review a sufficient number of pertinent documents to accurately assess current
4 conditions, interview all relevant staff, interview a sufficient number of prisoners
5 to accurately assess current conditions, and take other reasonable actions consistent
6 with this Agreement, as needed, to fulfill their responsibilities under this
7 Agreement. The Monitor, the SMEs, and their staff will be responsible for
8 independently verifying representations from the County or the Sheriff regarding
9 progress toward compliance, and examining supporting documentation. Each
10 monitoring report will describe the steps taken by members of the monitoring team
11 to analyze conditions and assess compliance, including reference to the documents
12 reviewed and individuals interviewed, and the factual basis for the Monitor's and
13 SMEs' findings. Such reports and findings will not be admissible by or against the
14 County or the Sheriff in any proceeding other than a proceeding related to the
15 enforcement of this Agreement initiated and handled exclusively by the County,
16 the Sheriff, or the United States.

17 110. At least 30 days before the anticipated filing of such reports, the
18 Monitor will provide the Parties with a draft copy and an opportunity to respond.
19 The Monitor will consider the Parties' responses and make appropriate changes, if
20 any, before filing. The Parties may file separate responses with the Court within
21 15 days after the filing by the Monitor although nothing in this Agreement will be
22 construed to require the filing of such responses. All public court filings by the
23 Monitor and any Party will be written with due regard for the privacy interests of
24 individual prisoners and staff and the interest of the County and the Sheriff in
25 protecting against disclosure of information not permitted by this Agreement.

26 111. Except for the provisions of Section V.S. of this Agreement that have
27 different Compliance Periods under the Settlement Agreement, Implementation
28 Plan, and Monitoring Protocols approved in *Rosas*, upon the Monitor's and SMEs'

1 conclusion that the County and the Sheriff have achieved and maintained
2 Substantial Compliance with a substantive provision of this Agreement for a period
3 of twelve (12) consecutive months, the Monitor and SMEs will no longer be
4 required to assess or report on that provision. Where the Monitor and SMEs
5 conclude that the County and the Sheriff have achieved and maintained Substantial
6 Compliance with a substantive provision of this Agreement, as described
7 immediately above, at one Jail facility but not at other facilities, the Monitor and
8 SMEs will no longer be required to assess or report on that provision as it applies
9 to the facility found to be in sustained compliance. The Parties expect that there
10 will be multiple independent operative compliance periods under the supervision
11 of the Monitor.

12 112. If the Monitor identifies a critical and time sensitive issue that the
13 County or the Sheriff should address during a six-month reporting period and that
14 should not be delayed until the time the Monitor must provide the Parties with a
15 draft copy of the monitoring report, the Monitor will provide the Parties with a
16 verbal report on the critical issue as soon as possible, and the Monitor will provide
17 a written report to the Parties within 30 days of the Monitor's identification of the
18 critical issue.

19 **H. Court Jurisdiction, Modification, Enforcement, and Termination**

20 113. The Court shall retain jurisdiction over the implementation of this
21 Agreement at the existing Jails or any other facility used to replace or supplement
22 the Jails for all purposes.

23 114. The County and the Sheriff will ensure that all of the terms in this
24 Agreement are implemented. Unless otherwise provided in a specific provision of
25 this Agreement, the implementation of this Agreement will begin immediately
26 upon the Effective Date.

1 115. Unless otherwise agreed to under a specific provision of this
2 Agreement, the County and the Sheriff will implement all provisions of this
3 Agreement within six months of the Effective Date.

4 116. To ensure that the substantive provisions of this Agreement are
5 implemented in accordance with the terms of this Agreement, the Court will retain
6 jurisdiction to enforce this Agreement only until either:

7 (a) the County and the Sheriff have achieved and maintained Substantial
8 Compliance with each and every substantive provision of this
9 Agreement for a period of twelve (12) consecutive months (or other
10 time period provided in a specific provision of this Agreement or the
11 relevant Compliance Period under the Settlement Agreement,
12 Implementation Plan, and Monitoring Protocols approved in *Rosas*);

13 or

14 (b) the Monitor, with Court approval, determines that the overall
15 objectives and goals of this Agreement have been met even where the
16 specific requirements of substantive provisions of this Agreement may
17 be only in Partial Compliance.

18 Either of the conditions described in sub-paragraphs (a) or (b) above will be
19 deemed to fully satisfy this Agreement. At that time, the County and the Sheriff
20 may seek to terminate this Agreement with the Court consistent with the
21 requirements of the Prison Litigation Reform Act, 18 U.S.C. § 3626(b).

22 117. The United States acknowledges the good faith of the County and the
23 Sheriff in committing to the reforms set forth in this Agreement. The United
24 States, however, reserves the right to seek enforcement of the provisions of this
25 Agreement with the Court if it determines that the County or the Sheriff has failed
26 to substantially comply with any substantive provisions of this Agreement. Before
27 pursuing any remedy with the Court, the United States agrees to give written notice
28 to the County and the Sheriff in accordance with the Local Rules of the Central

1 District of California. The County and the Sheriff will have 30 days from receipt
2 of such notice to cure the alleged failure (or such additional time as is reasonable
3 due to the nature of the issue and agreed upon by the Parties). During the 30-day
4 period, the Parties will meet and confer in good faith to resolve any disputes
5 regarding the alleged failure or to otherwise explore a joint resolution. The
6 Monitor and SMEs may assist the Parties in reaching a mutually agreeable
7 resolution to the alleged compliance failure, including facilitating conference
8 meetings and providing relevant factual assessments.

9 118. In case of an emergency posing an imminent and serious threat to the
10 health or safety of any prisoner or staff member at the Jails, the United States may
11 omit the notice and cure requirements set forth above and seek enforcement of the
12 Agreement with the Court.

13 119. The Parties may jointly stipulate to make changes, modifications, and
14 amendments to this Agreement, which will be effective absent further action from
15 the Court, 30 days after a stipulation signed by all of the Parties has been filed with
16 the Court. Any Party may seek to modify this Agreement with the Court if that
17 Party establishes by a preponderance of the evidence that a significant change in
18 the law or factual conditions warrant the modification and that the proposed
19 modification is suitably tailored to the changed circumstances.

20 120. The Parties agree to defend the provisions of this Agreement. The
21 Parties will notify each other of any court or administrative challenge to this
22 Agreement. In the event any provision of this Agreement is challenged in any state
23 court, removal to a federal court shall be sought by the Parties.

24 121. The County and the Sheriff agree to promptly notify DOJ if any term
25 of this Agreement becomes the subject of collective bargaining consultation and to
26 consult with DOJ in a timely manner regarding the position the County or the
27 Sheriff takes in any collective bargaining consultation connected with this
28 Agreement.

1 Respectfully submitted this ____ day of _____, 2015.

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4 For the UNITED STATES OF AMERICA:

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LORETTA E. LYNCH
Attorney General

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8 EILEEN M. DECKER
9 United States Attorney

MARK KAPPELHOFF
Acting Deputy Assistant Attorney
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17 Civil Rights Unit Chief, Civil Division

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26

27

28

1 For the COUNTY OF LOS ANGELES and the LOS ANGELES COUNTY
2 SHERIFF, in his official capacity:

3
4 _____
5 JIM MCDONNELL
6 Sheriff

7 _____
8 MARY C. WICKHAM
9 Interim County Counsel
10 County of Los Angeles

11 _____
12 RODRIGO A. CASTRO-SILVA
13 Senior Assistant County Counsel
14 County of Los Angeles

15 IT SO ORDERED

16
17 DATED: September 03, 2015

18 
19 _____

20 UNITED STATES DISTRICT JUDGE
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