

**SETTLEMENT AGREEMENT**  
**BETWEEN THE UNITED STATES AND SAN LUIS OBISPO COUNTY**

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## I. INTRODUCTION

1. This Settlement Agreement (“Agreement”) between the United States of America (“United States”) and San Luis Obispo County (“County”) (collectively, “the Parties”) pertains to the conditions of confinement for incarcerated persons in the San Luis Obispo County Jail.

2. In 2018, the United States initiated an investigation pursuant to the Civil Rights of Institutionalized Persons Act (“CRIPA”), 42 U.S.C. § 1997, and Title II of the Americans with Disabilities Act (“ADA”), 42 U.S.C. § 12131. The investigation focused on the Jail’s provision of medical and mental health care, its use of restrictive housing for incarcerated persons who had mental illnesses, and its provision of access to services, programs, and activities to incarcerated persons with mental health disabilities. In 2019, the United States expanded its investigation to examine the Jail staff’s use of force on incarcerated persons.

3. On August 31, 2021, the United States issued a CRIPA Findings Report to the County that concluded there was reasonable cause to believe that the County violated the Eighth and Fourteenth Amendments of the United States Constitution by failing to provide adequate medical and mental health care to incarcerated persons, placing incarcerated persons with serious mental illness in restrictive housing for prolonged periods of time, and failing to protect incarcerated persons from excessive force from correctional staff. The United States also determined that the County violated the ADA by denying incarcerated persons with mental health disabilities access to services, programs, and activities because of their disabilities.

4. Throughout the CRIPA investigation, the County has cooperated fully with the Department of Justice. The County disputes the United States’ findings and denies any and all allegations that the County violated, or is violating, the Eighth or Fourteenth Amendments of the U.S. Constitution. This Agreement does not amount to any admission of wrongdoing by the County. The United States acknowledges that the County has demonstrated a commitment to reforming the Jail and has implemented some improved policies and practices designed to enhance medical and mental health care, use of restrictive housing for incarcerated persons who had mental illnesses, and provision of access to services, programs, and activities to incarcerated persons with mental health disabilities. In addition, the County has made significant commitments and some changes to protect incarcerated persons from excessive force that further the Parties’ mutual interest. Inclusion of any substantive provision in this Agreement shall not imply or be construed as evidence that the County has violated any law, statute, or constitutional right.

5. The United States acknowledges that the County has made significant strides in some areas since its Findings Report was issued. Medical care is vastly improved, including medical assessments and treatment for individuals with chronic conditions. Mental health treatment has improved in many respects. Custody and healthcare staffing have risen to avoid gaps in treatment, and many individual staff members have shown in word and deed a sincere commitment to incarcerated persons under their care. While the United States believes suicide prevention remains an outstanding issue, many Jail staff members now routinely carry cut-down tools that have been used to stop attempted hangings and appear to have saved lives. The County has also made progress in curbing excessive force. While the United States believes that critical work remains to address certain issues from its findings, it commends the County for its

demonstrable progress so far. The provisions of this Agreement are intended to build upon this progress already underway and to sustain systemic improvements designed to protect people in the Jail from unreasonable risk of harm.

6. The inclusion of a paragraph in this Agreement does not constitute a concession or admission by the County that it is not already implementing that paragraph. The County asserts that it is already implementing many of the paragraphs of the Agreement and that many provisions of this Agreement are continuations of existing County policies and practices.

7. The Parties share a mutual interest in upholding the constitutional rights of incarcerated persons, promoting safe and effective custodial care and rehabilitation, and protecting public safety. This Agreement has the following goals: (1) ensure that appropriate medical and mental health care are provided to incarcerated persons at the San Luis Obispo County Jail (“Jail”); (2) ensure that restrictive housing is used only when and for the duration appropriate with respect to incarcerated persons with serious mental illnesses; (3) ensure that incarcerated persons are not subjected to excessive force; and (4) ensure that incarcerated persons with mental health disabilities are given non-discriminatory access to the Jail’s services, programs, and activities.

8. In order to resolve the issues alleged in the August 31, 2021 CRIPA Findings Report without the expense, risks, delays, and uncertainties of litigation, the Parties agree to the terms of this Agreement as stated below. This Agreement resolves the United States’ investigation of the County’s alleged constitutional violations outlined in Paragraph 3.

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

10. The Parties agree that it is in their mutual interest and the public interest to resolve this matter on mutually agreeable terms and without litigation. Accordingly, the Parties have voluntarily entered into this Agreement as follows:

## **II. DEFINITIONS**

11. “Sheriff” refers to the San Luis Obispo County Sheriff’s Office, which is responsible for all custody, corrections, and security functions within the San Luis Obispo County Jail, including the provision of medical and mental health care to incarcerated persons.

12. “San Luis Obispo County Jail” or “Jail” refers to the existing jail facilities, including the Main Jail, West Housing, Kansas Jail, and Honor Farm, in which incarcerated persons are detained or held in custody by the County, as well as any other facility that is built, leased, or otherwise used, to replace or supplement the current Jail or any part of the Jail.

13. “The County” refers to San Luis Obispo County, the San Luis Obispo County Sheriff’s Office, and the agents, contractors, and employees of the County and Sheriff.

14. “United States” or “DOJ” refers to the United States Department of Justice,

specifically the Special Litigation Section of the Civil Rights Division and the United States Attorney's Office for the Central District of California, which represent the United States in this matter.

15. "Contractor" or "contractors" means a person or persons who (or entity or entities that) provides services on a recurring basis pursuant to a contractual agreement with the County.

16. "Custody Staff" means sworn Sheriff's Office employees who work at the Jail.

17. "Effective Date" refers to the date when this Agreement is fully executed by the Parties.

18. "Implement" or "implementation" means putting a required policy, procedure, or remedial measure into effect, including informing, instructing, or training impacted staff and ensuring that staff in fact follow the policy, procedure, or remedial measure. "Implement" or "implementation" includes educating or training incarcerated persons about policies, procedures, or practices relevant to them, such as the grievance and sick call practices.

19. "Incarcerated person" or "incarcerated persons" is construed broadly to refer to one or more individuals detained at, or otherwise housed, held, in the custody of, or confined at the Jail based on arrests, detainers, criminal charges, civil contempt charges, or convictions.

20. "Policy" or "policies" means regulations, directives, procedures, protocols, unit orders or manuals, regardless of the designation, describing the duties, functions, and obligations of Custody Staff, Medical Providers, or Qualified Mental Health Professionals, and providing specific direction in how to fulfill those duties, functions, or obligations.

21. "Qualified Mental Health Professional" includes physicians, psychologists, psychiatric social workers, psychiatric nurses, and others who by their education, credentials, and experience are permitted by law to evaluate and care for the mental health needs of patients within their scope of practice.

22. "Restrictive Housing" is a form of physical separation in the Jail in which incarcerated persons are placed in a locked room or cell, alone or with one another incarcerated person, and are unable to leave the room or cell for 22 hours or more in a typical 24-hour period.

23. "Serious mental illness" or "SMI" is a mental, behavioral, or emotional disorder of mood, thought, or anxiety that significantly impairs: judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life. Those disorders can include: Schizophrenia Spectrum Disorders, other Psychotic Disorders, Bipolar Related Disorders, Posttraumatic Stress Disorder, and Major Depressive Disorders.

24. "Suicide attempt" means any non-fatal, self-directed, potentially injurious behavior, where there was an intent to die as a result of the behavior.

25. "Suicide precautions" means any level of heightened watch, observation, or measures to prevent suicide or self-injurious behavior.

26. “Train” means to instruct in skills to a level that the trainee can demonstrate proficiency by testing to implement those skills as when called for. The type and length of training appropriate can vary dependent on the information that is being taught, and which can include e-learning. “Trained” means proficient in the skills.

27. “Use of force” is defined as any application of physical techniques or tactics, chemical agents, weapons, or mechanical measures to another person to compel compliance.

- a. “Use of force” does not include escorting, assisting, searching, touching, controlled handcuffing or unhandcuffing, controlled shackling or unshackling a person, or other physical conduct that is unresisted. “Use of force” does not include instances of moving a passively resisting incarcerated person using a firm grip if there is no injury, no complaint of injury, or only a momentary complaint of discomfort.
- b. “Level 1 use of force” reporting shall include all uses of force, such as resisted control holds, takedowns, and use of the WRAP or similar restraint, that do not result in injury or complaint of injury.
- c. “Level 2 use of force” reporting shall include all other force not covered by the definition of Level 1, including all chemical agents and weapons, or any physical techniques, tactics, or mechanical measures that result in injury or complaint of injury.

### **III. SUICIDE PREVENTION**

#### **A. Mental Health Care**

28. **Emergent Mental Health Referrals.** The County will (1) use protocols to identify potentially life-threatening mental health emergencies and (2) ensure that incarcerated persons deemed to fall within these protocols receive immediate consultation with a Qualified Mental Health Professional or trained Qualified Health Care Professional or immediate transfer to a hospital emergency room or psychiatric hospital.

- a. These protocols will include, but are not limited to: incarcerated persons who report any suicidal ideation or intent; incarcerated persons who are actively attempting to harm themselves; incarcerated persons currently making suicidal gestures; incarcerated persons about whom the transporting officer reports a threat or attempt to harm themselves; or incarcerated persons whose psychotic symptoms place them at imminent risk of harming themselves.
- b. Incarcerated persons deemed to fall within an emergency mental health protocol shall be placed under documented constant unobstructed visual observation until transported to a hospital emergency room or a psychiatric hospital, or until a Qualified Mental Health Professional conducts a documented assessment, determines the degree of risk, and specifies the appropriate degree of supervision. If a Qualified Mental Health Professional is not available onsite, the County will immediately provide a consultation via telephone or video.

29. **Urgent Mental Health Referrals.** The County will identify situations where an urgent assessment is needed. An assessment will be provided by a Qualified Mental Health Professional within 24 hours for an urgent mental health condition.

- a. These incarcerated persons will be placed in a setting with documented, staggered safety checks at least every 15 minutes pending the assessment, unless there is a documented, reasonable reason for keeping them in their current setting, and the assessment itself will take place in the clinic if it is safe and feasible to do so. If a Qualified Mental Health Professional is not available onsite within the required timeframe, the County will provide an assessment via telephone or video within the required timeframe.
- b. Circumstances that qualify as requiring an urgent assessment include: new or acute changes in behavior; behavior that may place the incarcerated person at risk of harm due to mental illness; inability to respond to basic requests or give basic information; or a positive screen for suicide risk of any level based on a validated suicide risk assessment tool.

## **B. Suicide Risk**

30. **Interventions to Prevent Suicides.** The County will follow protocols to identify suicidal incarcerated persons and intervene appropriately. When safe to do so, judged from the perspective of a reasonable officer on the scene, Jail staff will immediately interrupt, and provide appropriate aid to, any incarcerated person who threatens or exhibits self-injurious behavior.

31. **Suicide Risk Assessment.** The County will provide suicide risk assessments. These suicide risk assessments shall be conducted in a confidential setting, except if the incarcerated person poses a probable risk, which is documented, to the safety of mental health professionals or others.

32. **Supervision of Incarcerated Persons at Risk of Suicide.** The County will provide supervision of incarcerated persons at risk of suicide as defined in Paragraphs 28 and 29 above. Video surveillance shall not be a substitute for in-person visual observation. Safety checks shall be documented by staff. Staff assigned to constant visual observation of an incarcerated person shall not be assigned other duties.

33. **Housing of Incarcerated Persons at Risk of Suicide.** The County will ensure that incarcerated persons are placed in suicide-resistant housing, meaning without protrusions that would enable hanging, that permits the appropriate level of staff supervision based on the results of the suicide risk assessment. If no suicide-resistant cell is available, a suicidal incarcerated person shall be placed on “constant” observation until such housing is available.

34. **Treatment of Incarcerated Persons at Risk of Suicide.** The County will ensure that if staff determine that an incarcerated person is at risk of suicide based on the result of a suicide risk assessment, that incarcerated person will receive mental health care as follows:

- a. Within four hours of placement in suicide-resistant housing or sooner if clinically indicated, a Qualified Mental Health Professional shall conduct a review. This

review will be done in a confidential setting, unless there is a probable safety risk, refusal by the patient, or clinical need, which is documented in the health record.

- b. The County will develop and implement an adequate system whereby incarcerated persons, upon assessment by a Qualified Mental Health Professional, may, where clinically appropriate, be released gradually from more restrictive levels of supervision to less restrictive levels for an appropriate period of time while on Suicide Precautions. County staff shall ensure that incarcerated persons are placed on a level of observation that is not unduly restrictive.
- c. Incarcerated persons on Suicide Precautions will be provided out-of-cell time for clinically appropriate activities and showers unless there are documented contraindications.
- d. Qualified Mental Health Professionals will assess and provide treatment to incarcerated persons on Suicide Precautions as clinically indicated.
- e. All decisions to discharge an individual from Suicide Precautions must be made by a QMHP.
- f. All incarcerated persons discharged from Suicide Precautions shall receive assessments and treatment as clinically indicated. For individuals discharged from suicide-resistant housing, a QMHP will follow up at a minimum within 24 hours and again 7 days after discharge.

### **C. Disciplining Incarcerated Persons with Mental Illness**

35. **Discipline Policies for Incarcerated Persons with Mental Illness.** The County shall implement written policies for the use of disciplinary measures regarding incarcerated persons with mental illness.

36. **Disciplining Incarcerated Persons with Serious Mental Illness.** Custody Staff shall consult with mental health staff to determine whether initiating disciplinary procedures is appropriate for incarcerated persons with serious mental illness. Before Custody Staff take final disciplinary action against an incarcerated individual, Custody Staff shall consult with a QMHP to determine whether (1) the incarcerated person's actions giving rise to the proposed discipline resulted from their serious mental illness, or (2) the proposed discipline would interfere with that individual's mental health treatment. If either applies and the QMHP recommends against the disciplinary action, Custody Staff will follow the QMHP's recommendation unless exceptional circumstances apply and are documented. Such documentation must explain why the recommendation was not followed, whether other less restrictive actions were considered, and why other less restrictive actions would have been insufficient to control the individual's behavior.



#### **IV. RESTRICTIVE HOUSING AND ACCESS TO PROGRAMS, SERVICES, AND ACTIVITIES**

##### **A. Restrictive Housing for Incarcerated Persons with Serious Mental Illness**

37. **Placing Incarcerated Persons with SMI in Restrictive Housing.** Restrictive Housing will be presumed contraindicated for incarcerated persons with SMI. Notwithstanding the provisions of this paragraph, for housing placements for incarcerated persons expressing suicidality, the County shall follow Paragraphs 33–34.

- a. Placement: Incarcerated persons with SMI will not be placed in Restrictive Housing unless Custody Staff and mental health staff both agree that Restrictive Housing is appropriate. Both Custody Staff and mental health staff will document this consultation. If it is impracticable for Custody Staff to consult with mental health staff before the placement, then mental health staff shall evaluate the incarcerated person within 24 hours after placement, or within 48 hours if on a weekend or holiday, to determine the appropriateness of the placement.
- b. Screening: In addition, within 24 hours after placement in any form of Restrictive Housing, or within 48 hours if on a weekend or holiday, all incarcerated persons on the mental health caseload or exhibiting signs of serious mental illness will be screened by a Qualified Mental Health Professional. The purpose of this screening is to determine whether there are any other acute mental health contraindications to continuing Restrictive Housing.

38. **Decompensation in Restrictive Housing.** If an incarcerated person in Restrictive Housing shows signs of decompensation, for example, if the incarcerated person suffers a deterioration in his or her mental health, engages in self-harm, or develops a heightened risk of suicide, or if an incarcerated person in Restrictive Housing develops signs or symptoms of SMI where such signs or symptoms had not previously been identified, Custody Staff will immediately refer the incarcerated person for assessment and treatment by a Qualified Mental Health Professional who will recommend additional treatment and/or a more appropriate type of housing unless Paragraphs 33–34 apply, in which case the County shall follow those Paragraphs. Custody Staff shall follow the Qualified Mental Health Professional’s recommendations unless there is a documented compelling security concern for which they decided not to follow the Qualified Mental Health Professional’s recommendations.

39. **Restrictive Housing Documentation.** The County will document using an incident report or by some other means the placement, reasoning for placement, and removal of all incarcerated persons to and from Restrictive Housing by the end of the shift after placement or removal, or as soon as possible thereafter.

40. **Restrictive Housing Requirements for Incarcerated Persons with SMI.** For incarcerated persons with SMI, Restrictive Housing units will provide:

- a. Meals that meet jail standards for the entire population of incarcerated persons;
- b. Access to showers not less than three days per week;

- c. Rights of visitation and communication by those properly authorized, however, that authorization may be diminished for the enforcement of discipline consistent with Paragraph 36 or if contraindicated for documented clinical or security reasons;
- d. Access to legal, reading, and writing materials unless contraindicated for clinical or security reasons;
- e. Access to a radio or television if length of time in Restrictive Housing exceeds 30 days;
- f. The same access to canteen purchases and privileges to retain property in an incarcerated person's cell as incarcerated persons classified as General Population, provided, however, that such access and privileges may be diminished for the enforcement of discipline consistent with Paragraph 36 or where inconsistent with the security of the unit. This subparagraph shall not apply to incarcerated persons expressing suicidality;
- g. The opportunity for a face-to-face, therapeutic, confidential, out-of-cell session with a Qualified Mental Health Professional at least once per week unless there is a documented reason that a particular session would be unsafe, in addition to all other mental health treatment services appropriate based on their mental health level of care or treatment needs; and
- h. If on medication, the incarcerated person will receive at least one daily visit from an LPT or healthcare professional.

41. **Mental Health Rounds in Restrictive Housing.** Qualified Mental Health Professionals will conduct rounds three times per week to assess the mental health status of all incarcerated persons with SMI in Restrictive Housing to determine whether continued placement in Restrictive Housing is appropriate. Rounds will be documented. Incarcerated persons will only remain in Restrictive Housing if both Custody Staff and a Qualified Mental Health Professional agree that Restrictive Housing remains required and appropriate.

42. **Keeping Incarcerated Persons with SMI in Restrictive Housing.** Incarcerated persons with SMI who are housed in Restrictive Housing for more than 14 days will have their cases reviewed by a Jail lieutenant, and mental health leadership (manager or above) every seven days following the 14 days, and will only remain in Restrictive Housing after they approve the continued placement weekly with documented reasons.

## **B. Housing and Classification**

43. **Access to Equitable Housing Regardless of Disability.** The County will comply with the ADA by reasonably modifying practices so that incarcerated persons with mental health disabilities are not placed in Restrictive Housing based on their disabilities. *See* 28 C.F.R. § 35.130(a), (b), (h).

44. **Restrictive Housing Opportunity to Participate.** Incarcerated persons with

mental health disabilities who are in Restrictive Housing will have equal opportunity to participate in services, programs, and activities as other incarcerated persons without disabilities consistent with significant health or safety concerns. Requests and offers, a summary of discussions, and decisions will be documented.

45. **Appropriate Housing for Incarcerated Persons with Serious Mental Illness.** The County will ensure that incarcerated persons with serious mental illness are placed in the least restrictive housing setting that is appropriate based on their required level of care.

**C. Out-of-Cell Time for Incarcerated Persons with Serious Mental Illness**

46. **Out-of-Cell Time for Incarcerated Persons with Serious Mental Illness.** The County will ensure that all incarcerated persons with serious mental illness receive at least 21 hours per week of out of cell time and programming. Policies and procedures will establish the process for determining the appropriate amount of unstructured out-of-cell time and structured programming for incarcerated persons.

- a. All out-of-cell time and structured programming offered to these incarcerated persons will be documented, indicating the type and duration of activity, as well as any refusals.
- b. This paragraph shall not apply to incarcerated persons housed at the honor farm or for dorm housing units with 8 or more individuals and a day room, which are the least restrictive settings.
- c. The total out-of-cell time and structured programming offered to an individual may be limited based on an individualized, documented assessment of a security-based need for that individual, but only if it is limited no more than necessary, the limitation is revisited at least every 7 days, and provided there is consultation with a clinician that the limitation will not interfere with the individual's treatment.

47. **Programming for Incarcerated Persons with Serious Mental Illness.** The County will ensure that all incarcerated persons with serious mental illness receive structured mental health programming each week consistent with their treatment plan. The type of activity, duration, and any refusals will be documented.

48. **Restraints during Out-of-Cell Time for Incarcerated Persons with Serious Mental Illness.** An individual with serious mental illness will be restrained while out of cell only if there is an individualized, documented assessment of a security-based need for restraints for that individual. Classification will revisit this security-based decision at least every 14 days in consultation with mental health staff.

49. **Out of Cell Time for Incarcerated Persons in a Safety Cell.** The requirements for out-of-cell time and programming may be temporarily suspended for someone appropriately placed in a safety cell, provided that this temporary suspension and the need for it are documented and limited to 48 hours except in exceptional circumstances, in which case it can extend to 72 hours with the approval of a psychiatrist and the Sheriff.

## V. USE OF FORCE

### A. Use-of-Force Requirements

50. The Sheriff shall amend its use-of-force policies and procedures if necessary to reflect, and ensure compliance in practice with, the following requirements related to uses of force.

51. Custody staff shall use de-escalation techniques, crisis intervention tactics, and other alternatives as a first resort. When feasible, force shall be used only after all other reasonable efforts to resolve a situation have failed.

52. Custody Staff will use only the amount of force that is necessary, judged from the perspective of a reasonable officer on the scene, based on the seriousness and likelihood of any perceived threat to safety, and the level of actual or threatened resistance. Custody Staff will immediately reduce the level of force as the threat diminishes.

53. Force shall only be used where there is immediate threat to the safety or security of the institution, incarcerated persons, staff, or visitors, or when an incarcerated person is resisting and is not compliant.

54. The Sheriff shall prohibit the use of force or restraints, including the WRAP, as punishment or retaliation.

55. The Sheriff will ensure:

- a. Documented communication with medical and mental health staff prior to planned uses of force, if feasible;
- b. Documented mental health assessments for incarcerated persons with identified serious mental illness after any use of force;
- c. Documented medical assessments for all incarcerated persons after any Level 2 use of force; and
- d. Documented follow-up medical and mental health care as needed.

56. Regarding the WRAP restraint:

- a. The WRAP shall be used only when necessary and with appropriate safeguards for incarcerated persons' safety; and
- b. There shall be documented, timely, and adequate health and welfare checks during and after the use of the WRAP restraint. When feasible, there shall be documented, timely, and adequate health and welfare checks before the use of the WRAP restraint.

57. Restraints, including the WRAP, shall be prohibited where there are medical or

mental health contraindications known to the Jail. The Sheriff shall develop policies and practices for relative contraindications regarding restraints.

**B. Use-of-Force Reporting by Custody Staff Using or Witnessing Force**

58. The Sheriff shall amend its use-of-force reporting policies and procedures if necessary to reflect, and ensure compliance in practice with, the following requirements related to use-of-force reporting.

59. For all uses of force, the Custody Staff using force shall immediately report the use of force to a supervisor.

60. All uses of force, including all WRAP placements, shall be documented by a Custody Staff member using force with an accurate and detailed account of the events. The Custody Staff member must include in practice, at least the following information:

- a. The names of all staff members, incarcerated person(s), and other participants or witnesses, and their ranks or booking numbers if appropriate and whether the incarcerated person is known to have mental illness or serious mental illness;
- b. A description of the following: events leading to the use of force including any de-escalation attempts and notifications to supervisors, medical staff, or mental health staff; the level of resistance; staff response; the type and level of force (including frequency, type of physical hold or strike, and duration of use); any restraints used; and the evidence, weapons, or contraband involved;
- c. Whether the staff member notified supervisors or other personnel, including medical or mental health staff, after the use of force; and
- d. A signature of the staff member completing the report attesting to the report's accuracy and completeness, and the signature of an appropriate supervisor.

61. Additional Custody Staff members who used force or assisted in the use of force will independently complete a report by the end of the shift, or as soon as possible thereafter.

62. In uses of force wherein more than one Custody Staff member observes force, a Correctional Sergeant will be in charge of identifying relevant and material staff for reporting purposes. Each additional staff member who observed the force will complete a supplemental report upon request by a supervisor or any other individual in the chain of command.

63. Custody Staff who document their use or observation of force shall also comply with the following:

- a. Reports and statements shall be prepared independently and individually by affected staff, not in consultation with each other or anyone else; and
- b. The failure to report any use of force shall result in retraining or discipline, where appropriate.

64. Custody Staff will not use conclusory statements, boilerplate, or canned language (e.g., “fighting stance”) without supporting incident-specific details in their description of the incident.

### **C. Use-of-Force Supervisor Reports**

65. The Sheriff will amend its policies and procedures if necessary to reflect, and ensure compliance in practice with, the following requirements related to reviews of uses of force.

66. The Sheriff shall enable Jail supervisors to have sufficient information to determine whether uses of force are appropriate and within policy.

67. Following every use of force, a Correctional Sergeant or other supervisor shall complete a Use-of-Force Administrative Review Form identifying whether the use of force followed policy, procedure, and applicable law, and determining if follow-up action or investigation is necessary. The supervisor shall verify the accuracy of Custody Staff reports, complete a review, develop preliminary findings and conclusions, and recommend any necessary corrective action plans, re-training, and/or referral to the Professional Standards Unit for investigation.

68. Within twelve months of the Effective Date, the Sheriff shall draft and implement a manual on how to conduct a supervisor-level use-of-force report.

69. Jail supervisors shall investigate, analyze, and respond appropriately to all uses of force. At minimum:

- a. A supervisor shall complete a Use-of-Force Administrative Review Form and ensure that Custody Staff timely complete all required documentation; and
  - b. Each individual in the chain of command responsible for reviewing a Use-of-Force Administrative Review Form shall document their review in accordance with Section D below (Assessments of Use of Force).
70. Reviewing supervisors shall confirm the following documentation is present:
- a. Tracking information, including a tracking number; location; date; time; the names of all staff members, incarcerated person(s), and other participants or witnesses, and their ranks or booking numbers if appropriate; housing assignment; the incident identification number of any related incident; and whether the incarcerated person is known to have mental illness or serious mental illness;
  - b. Names and statements of all staff members, incarcerated person(s), and other participants or witnesses interviewed by the supervisor;
  - c. Whether medical care was required or provided to staff or incarcerated persons and whether hospitalization occurred;

- d. A detailed description and review of the incident, including a discussion and resolution of any material inconsistencies in the evidence, and whether the force used was necessary, proportional and objectively reasonable, and otherwise within Sheriff's Office policy;
- e. Supporting documents such as incident reports, supplemental reports, logs, and medical and mental health records associated with the use of force; and
- f. Photos, audio/video/digital recordings.

**D. Assessments of Uses of Force**

71. The Sheriff will amend its policies and procedures if necessary to reflect, and ensure compliance in practice with, the following requirements regarding assessments of uses of force.

72. Each level in the chain of command will review the use-of-force report to ensure that it is complete, that the report was thorough, and corrective action was initiated, if necessary.

73. When it appears that additional relevant and material evidence may assist in resolving any discrepancies, address lack of information, or improve the reliability or credibility of the findings, the report should be returned to the investigating correctional sergeant requesting him or her to obtain the supplemental information.

74. For force reviews involving Level 1 uses of force, the Jail Captain or above will be the final reviewer. He or she will make the final determinations of whether the findings by the chain of command regarding the use of force are consistent with law and policy and supported by a preponderance of the evidence; whether the report is thorough and complete; whether there are tactical, equipment, training, or policy considerations that need to be addressed; and whether to initiate an administrative personnel complaint.

75. For force reviews involving Level 2 uses of force, the Sheriff-Coroner will be the final reviewer. He or she will make the final determinations of whether the findings by the chain of command regarding the use of force are consistent with law and policy and supported by a preponderance of the evidence; whether the review is thorough and complete; whether there are tactical, equipment, training, or policy considerations that need to be addressed; and whether to initiate an administrative personnel complaint.

76. Supervisors shall comply with their documentation obligations as listed in this Agreement and will be subject to appropriate corrective action, including but not limited to training and discipline.

**E. Use-of-Force Investigations – Personnel Complaints**

77. The Sheriff shall amend its policies and procedures if necessary to reflect, and ensure compliance in practice with, the following requirements regarding personnel complaints.

78. Staff shall be re-trained on conducting use-of-force investigations if it is

determined that the Jail's policies and procedures regarding such investigations are not being followed.

79. The Sheriff shall ensure that personnel complaint investigations into uses of force include timely, thorough, and documented interviews of all relevant staff and incarcerated persons who were involved in or who witnessed the incident in question, to the extent relevant, material, and practicable.

80. If Custody Staff are found to have engaged in misconduct related to inappropriate or unnecessary force against incarcerated persons, the Sheriff shall initiate appropriate personnel actions and systemic remedies. At a minimum, the Sheriff shall discipline any Custody Staff found to have:

- a. Engaged in unnecessary or excessive force;
- b. Failed to report or misrepresented the use of force;
- c. Retaliated against an incarcerated person or other staff member for reporting the use of excessive force; or
- d. Interfered or failed to cooperate with an internal investigation regarding use of force.

## **VI. TRAINING**

### **A. Custody Staff Training**

81. Custody staff will receive 40 hours of initial training, and 16 hours of annual in-service training that covers the following topics:

- a. Security and supervision issues specific to incarcerated persons with mental illness;
- b. Use of de-escalation techniques to calm incarcerated persons who have or may have SMI before resorting to use of force, discipline, or Restrictive Housing;
- c. Pill call procedures to prevent incarcerated persons with SMI, incarcerated persons on the mental health units, and incarcerated persons with mental illness in Restrictive Housing units from hoarding or hiding pills;
- d. Signs of mental illness and indices of when referrals should be made to mental health staff;
- e. Suicide prevention, including the following topics:
  - i. Suicide prevention policies and procedures;
  - ii. The suicide screening instrument and the medical intake tool;



- iii. Analysis of facility environments and why they may contribute to suicidal behavior;
  - iv. Appropriate housing placements for individuals at risk of suicide;
  - v. Appropriate follow-up and monitoring protocols for individuals placed on and released from suicide risk precautions;
  - vi. Potential predisposing factors to suicide;
  - vii. High-risk suicide periods and appropriate interventions;
  - viii. Warning signs and symptoms of suicidal behavior;
  - ix. Case studies of recent suicides and serious suicide attempts;
  - x. Scenario-based training regarding the proper response to a suicide attempt; and
  - xi. The proper use, placement, and availability of emergency equipment including cut-down tools; and
  - xii. Observing incarcerated persons on suicide watch and step-down unit status;
- f. De-escalation of incarcerated persons with mental illness engaged in violent or disruptive behavior;
  - g. Competency-based adult learning techniques;
  - h. Instruction on what constitutes excessive force;
  - i. De-escalation tactics;
  - j. Methods of managing incarcerated persons with mental illness to avoid the use of force;
  - k. Defensive tactics;
  - l. All Jail use-of-force policies and procedures;
  - m. Use-of-force reporting requirements; and
  - n. Role-playing scenarios and interactive exercises that illustrate proper use-of-force decision making, including training on the importance of peer intervention.

82. Supervisors of all ranks, as part of their initial and annual in-service supervisory training, shall be trained on conducting use-of-force reviews or investigations appropriate to their rank; strategies for effectively directing deputies to minimize uses of force and to intercede when

observing another deputy using unreasonable force; reporting of objectively unreasonable or unreported force; and policies prohibiting retaliation against staff for reporting or attempting to prevent objectively unreasonable force.

83. The Sheriff shall test for comprehension of Jail Custody Staff members at the completion of use-of-force training to determine whether they have a meaningful, working knowledge of all use-of-force policies and procedures. The Sheriff shall also evaluate the results to determine if any changes to training may be necessary and take corrective action. The results and recommendations of such evaluations shall be provided to the United States and Lead Expert.

## **B. Medical and Mental Health Staff Training**

84. Medical and mental health staff must obtain at least 12 hours of continuing education per year or have proof of a valid license if 12 or more hours per year of continuing education is required for licensure.

85. In addition, medical and mental health staff must receive training on mental health care and suicide prevention, and de-escalation of incarcerated persons with mental illness engaged in violent or disruptive behavior, as follows:

- a. The training shall use competency-based adult learning techniques;
- b. Medical and mental health staff must receive a minimum of eight hours of suicide prevention training for the initial training and two hours of in-service suicide-prevention training annually thereafter, unless the Parties agree to a lower number of hours based on the training and experience of the staff member;
- c. Training on mental health care and suicide prevention, and de-escalation of incarcerated persons with mental illness engaged in violent or disruptive behavior will be provided by trainers with expertise on these issues;
- d. Initial suicide prevention training will include the following topics, taught by trainers with appropriate qualifications and credentials:
  - i. Suicide prevention policies and procedures;
  - ii. The suicide screening instrument and the medical intake tool;
  - iii. Analysis of facility environments and why they may contribute to suicidal behavior;
  - iv. Appropriate housing placements for individuals at risk of suicide;
  - v. Appropriate follow-up and monitoring protocols for individuals placed on and released from suicide risk precautions;
  - vi. Potential predisposing factors to suicide;

- vii. High-risk suicide periods and appropriate interventions;
- viii. Warning signs and symptoms of suicidal behavior;
- ix. Case studies of recent suicides and serious suicide attempts;
- x. Scenario-based training regarding the proper response to a suicide attempt; and
- xi. The proper use, placement, and availability of emergency equipment including cut-down tools; and
- xii. Observing incarcerated persons on suicide watch and step-down unit status.

## VII. QUALITY ASSURANCE

### A. Quality Assurance Program

86. **Establishing the Quality Assurance Program.** The County will develop, implement, and maintain a Quality Assurance program to ensure that trends and incidents involving deficiencies in suicide prevention, restrictive housing of incarcerated persons with serious mental illness, discipline of incarcerated persons with mental illness, and staff uses of force are identified and corrected in a timely manner. The corrective action plans developed under this program under Paragraph 87 and the analysis, recommendations, and corrective actions taken by the Quality Improvement Committee (QIC) under Paragraph 88 will be assessed as a whole for reasonableness with the understanding that the Lead Expert will not substitute their judgment on specific, reasonable QIC corrective actions.

87. **Corrective Actions.** The County's Quality Assurance program shall develop and implement corrective action plans when program reviews indicate the need to address a system deficiency. The corrective action plans shall include the time frame for implementation of corrective action and the person or persons responsible for implementing the action, and how the outcomes will be objectively measured.

88. **Quality Improvement Committee.** The Quality Improvement Committee will:

- a. Review and analyze the data collected pursuant to Paragraph 89;
- b. Identify trends and interventions;
- c. Make recommendations for further investigation of identified trends and for corrective action, including system changes; and
- d. Monitor implementation of recommendations and corrective actions.

### B. Quality Assurance Periodic Assessments

89. **Semi-Annual Quality Assurance Reports.** Within six months after the Effective

Date, and every six months thereafter, the County will provide reports tracking and analyzing patterns and trends regarding suicide prevention, restrictive housing, and staff uses of force. Each semi-annual report will include at least the items set forth in Exhibit A, unless the parties agree to modifications as the County's quality assurance program develops.

90. All reports will be provided to the Lead Expert and the United States.

### **C. Reviews for Suicides and Serious Suicide Attempts**

91. **Timely Morbidity-Mortality Reviews for Suicides and Serious Suicide Attempts.** The County will conduct timely and adequate multidisciplinary morbidity-mortality reviews for all incarcerated person suicides and serious suicide attempts (i.e., suicide attempts requiring medical treatment at a hospital). These reviews shall be initiated no later than 30 days after the incident in question.

92. **Suicide Review Committee.** The Suicide Review Committee will:

- a. Include one or more members of Jail leadership, medical leadership, mental health leadership, and as appropriate related clinical disciplines;
- b. Review suicides and serious suicide attempts;
- c. Outline the factors involved in each case, including the individual circumstances, identification of predisposing factors, documentation, medical and security procedures and training;
- d. Perform a psychological autopsy for deaths by suicide;
- e. Recommend changes to medical, mental health and security policies, procedures and training, if applicable;
- f. Develop a written plan for corrective actions, if applicable, which the Lead Expert will assess as a whole for reasonableness with the understanding that the Lead Expert will not substitute their judgment on specific, reasonable corrective actions; and
- g. Ensure a final report is completed within 60 days of a suicide or serious suicide attempt, or within 30 days of receipt of the autopsy report, whichever is later.

### **D. Excessive Force Prevention**

93. **Database to Track Uses of Force.** The County shall maintain a centralized tracking database related to uses of force. The County shall ensure that the database can reasonably identify patterns of force or deputies who are outliers in the use of force. At a minimum, the reports within the database will include the following information:

- a. Name and rank of the supervisors responsible for investigating the force;

- b. The length of time between the use of force and the completion of each step of the force investigation and review;
- c. The type of any disciplinary action (including corrective action) taken; and
- d. Whether the matter was referred to internal affairs.

94. **Review of Database Reports.** The Jail Captain, or a designee of at least lieutenant rank, shall personally review use-of-force database reports and alerts at least quarterly to ensure that any recommendations for training of staff and supervisors have been implemented. The Jail Captain, or designee, shall document when reviews were conducted as well as any findings, recommendations, or corrective actions taken.

## **VIII. LEAD EXPERT**

### **A. General Provisions**

95. The Parties agree to jointly select a Lead Expert, who will be retained to assess and report whether the provisions of this Settlement Agreement have been implemented and to provide technical assistance to help the County comply with its obligations under the Agreement.

96. In selecting the Lead Expert, the Parties will prioritize a person with demonstrated project management experience.

97. If the Parties do not select a Lead Expert within three months of the Effective Date or if the County does not retain the Lead Expert within three months of the Effective Date, the Agreement—including the Termination Section—will be tolled until a Lead Expert is retained. If a Party does not act in good faith in selecting or retaining a Lead Expert, the Dispute Resolution and Enforcement Section shall apply to attempt to resolve informally the dispute, and thereafter either Party may initiate a breach of contract action in the appropriate United States District Court or in the appropriate California state court.

98. The Lead Expert may, at any time after initial selection, request to be allowed to hire, employ, or contract with additional persons or entities that are reasonably necessary to perform the tasks assigned to the Lead Expert. The Parties acknowledge that the Lead Expert will likely need to employ or contract with additional persons or entities to advise the Lead Expert in matters related to suicide prevention, use of restrictive housing, and/or uses of force. Any person or entity hired or otherwise retained by the Lead Expert to assist in furthering any provision of this Agreement will be subject to the provisions of this Agreement. The Lead Expert will notify the Parties in writing if the Lead Expert wishes to select such additional persons or entities. The notice will identify and describe the qualifications of the person or entity to be hired or employed. The Parties have ten business days to disagree with any such proposal and shall not unreasonably withhold approval. The Lead Expert will be responsible for paying for the services of any such subject matter experts out of the Lead Expert's budget.

99. The County will pay the Lead Expert an amount per year to be agreed upon by the Parties for performing all of the Lead Expert's duties under this Agreement. The Lead Expert will pay for the services of any subject matter experts utilized by the Lead Expert in accordance

with Paragraph 98 above out of the Lead Expert's budget.

100. The Lead Expert will only have the duties, responsibilities, and authority conferred by this Agreement.

101. The Lead Expert will conduct reviews to determine compliance with the material requirements of this Agreement (See Paragraphs 112–113). These reviews will be conducted in a reasonable and reliable manner based on accepted means and methods. The Lead Expert will provide the Parties with the underlying analysis, data, methods, and sources of information relied upon in the reviews.

102. The Lead Expert shall consider community stakeholder input and hear from a diverse set of community voices regarding the County's progress in reaching compliance. To the extent that the Lead Expert believes it would be helpful to assess compliance with the terms of this Agreement, the Lead Expert may, prior to completing the draft reports, solicit input from stakeholders regarding the County's practices related to this Agreement, provided that in doing so, the Lead Expert solicits input not only input from stakeholders involved in incarcerated person advocacy, but also stakeholders involved with the direct care, supervision, and treatment of incarcerated persons. Any stakeholder input that the Lead Expert wishes to discuss in a report that is not independently verified by the Lead Expert or a member of the Lead Expert's team must include a notation that it is unverified stakeholder input. The Lead Expert may not, as part of this process, share confidential information with stakeholders, including but not limited to information obtained during the Lead Expert's responsibilities under this Agreement.

103. Neither the County nor the United States, or any of their staff or agents, will have any supervisory authority over the Lead Expert's activities, reports, findings, or recommendations to implement the Agreement.

104. The Lead Expert will be permitted to freely and privately engage in communications with the County and the United States regarding this Agreement.

105. In the event the Lead Expert is no longer able to perform their functions, or is removed, within 60 days thereof, the Parties will jointly select a replacement Lead Expert, acceptable to both.

106. In evaluating the Lead Expert, the Parties will consider the Lead Expert's performance under this Agreement, including whether the Lead Expert is completing their work in a cost-effective manner and on budget, and is working effectively with the Parties to facilitate the County's efforts to comply with the Agreement's terms, including by providing technical assistance to the County. The Lead Expert may be removed for good cause by agreement of the Parties. In the event the Lead Expert is removed, the Parties will jointly select a replacement Lead Expert, acceptable to both, pursuant to Paragraph 105.

107. Should a Party to this Agreement determine that the Lead Expert has exceeded their authority or failed to satisfactorily perform the duties required by the Agreement, the Parties will discuss appropriate remedies, including replacement of the Lead Expert, and/or any individual members, agents, employees, or independent contractors of the Lead Expert.

108. Subject to legitimate safety and security requirements that may be imposed by the County for the safe and secure operation of its facilities, the Lead Expert and the United States will have full access to those persons, employees, facilities, buildings, programs and services necessary to assess the County's progress and implementation efforts according to the terms of this Agreement. The United States and/or the Lead Expert will provide reasonable advance notice of any visit or inspection. During any such site visits or inspections, upon reasonable advance notice, the Lead Expert and/or the United States will have access to those documents, data, records, and materials that are in the possession, custody or control of the County or its contracted medical provider, that are necessary to assess the County's progress and implementation of this Agreement. In addition, the County and Sheriff shall provide, upon request, such relevant documents or other information to the Lead Expert or the United States within fourteen calendar days of a request. Advance notice of any visit or inspection will not be required if the Lead Expert or the United States has a reasonable belief that an incarcerated person faces a risk of immediate and serious harm; however, the Lead Expert or the United States will provide County Counsel and Jail leadership (Correctional Captain or designee, Chief Medical Officer, and Compliance Officer) with oral and written notice of the basis for the belief that an incarcerated person faces a risk of immediate and serious harm as soon as reasonably possible. Access is not intended, and will not be construed, as a waiver, in litigation with third parties, of any applicable statutory or common law privilege associated with information disclosed to the Lead Expert or the United States under this paragraph.

## **B. Reports**

109. The County will provide to the Lead Expert and the United States a confidential, bi-annual Compliance Report detailing progress at the County, until the Agreement is terminated, the first of which will be submitted within 180 days of the Lead Expert being retained. Compliance Reports will make specific reference to the Agreement's substantive provisions being implemented. The Compliance Reports will include action steps, responsible persons, due dates, current status, description of (as appropriate) where pertinent information is located (e.g. meeting minutes, etc.), Lead Expert recommendations, and date complete. Subsequent Compliance Reports will be submitted one month before the Lead Expert's draft report as described below in Paragraph 112. The County, however, retains the discretion to achieve compliance with the Agreement by any legal means available to it and may choose to utilize methods other than those identified or recommended in any reports.

110. Within 60 days of the Lead Expert being retained, the Lead Expert will conduct a baseline site visit of the Jail to become familiar with the facility and this Agreement.

111. Within 90 days of the Lead Expert being retained, the Lead Expert will provide their preliminary observations and recommendations in a Baseline Report dealing exclusively with the County's compliance with the Agreement, which will follow the same draft and comment process as set forth below in this paragraph.

112. Six months after the Baseline Report, and then every six months thereafter, the Lead Expert will conduct an on-site inspection and issue a Lead Expert Report dealing exclusively with the County's compliance with the Agreement. A draft of the six-month Lead Expert Report will be provided to the County and the United States for comment at least 45 days

prior to its issuance. The County and the United States will provide comments, if any, to the Lead Expert within 30 calendar days of receipt of the draft Lead Expert Report. The Lead Expert will consider the responses of the County and the United States and make appropriate changes, if any, before issuing the final Report in 15 calendar days thereafter. Draft reports and comments will be confidential.

113. The Lead Expert Reports will describe the steps taken by the County to implement this Agreement and evaluate the extent to which the County has progressed toward compliance with each substantive provision, defined as each numbered paragraph from 28 to 94, of the Agreement. In evaluating the County's progress toward compliance, the Lead Expert will take into consideration the time frames required for compliance with each provision as set forth in this Agreement. Each Lead Expert Report will:

- a. Evaluate the status of progress toward compliance for each relevant provision of the Agreement using the following standards: (1) Substantial Compliance; (2) Partial Compliance; (3) Non-compliance; and (4) Compliance Not Yet Due. "Substantial Compliance" indicates that the County has achieved material compliance with the components of the relevant provision of the Agreement. "Partial Compliance" indicates that the County has achieved material compliance with some of the components of the relevant provision of the Agreement, but that significant work remains. "Non-compliance" indicates that the County has not met the components of the relevant provision of the Agreement if the time frame required for compliance with said provision, as set forth in the Agreement, has elapsed. "Compliance Not Yet Due" indicates that the substantive provision sets forth a timeline for the County to take actions described by the provision that has not yet elapsed. "Material Compliance" requires that, for each provision, when appropriate, the County has developed and implemented a policy incorporating the requirement, trained relevant personnel on the policy, and relevant personnel are complying with the requirement in actual practice. The Lead Expert will review a sufficient number of pertinent documents and interview a sufficient number of staff and incarcerated persons to accurately assess current conditions;
- b. Describe the steps taken by the Lead Expert to analyze conditions and assess compliance with the Agreement, including documents reviewed and individuals interviewed, and the factual basis for each of the Lead Expert's findings;
- c. Incorporate data from the Quality Assurance Reports and when applicable attach the data relied upon;
- d. Contain the Lead Expert's independent verification of representations from the County regarding progress toward compliance, and examination of supporting documentation; and
- e. Provide recommendations for each of the provisions that are not yet rated as "Substantial Compliance" in the Agreement outlining proposed actions for at least the next six months for the County to complete toward achieving compliance with the particular provision. The County, however, retains the discretion to achieve



compliance by any legal means available to it and may choose to utilize methods other than those that may be recommended by the Lead Expert. The Lead Expert will not be empowered to direct the County to take, or refrain from taking, any specific action to achieve compliance with the Agreement.

114. These Lead Expert Reports will be submitted to the Parties and will be written with due regard for the privacy interests of individuals and will not include any information that could jeopardize the institutional security of the Jail, or safety of Jail staff, vendor staff, or incarcerated persons. All such final reports will be posted on the Sheriff's Office website and on the United States Department of Justice's Civil Rights Division's website.

115. Nothing in this Section prohibits the Lead Expert from issuing interim letters or reports to the United States or the County should they deem it necessary.

116. In completing their responsibilities, the Lead Expert may testify regarding any dispute of the Parties related to this Agreement, including any matter relating to the implementation, enforcement, or dissolution of the Agreement, and including, but not limited to, the Lead Expert's observations and findings regarding the County's compliance with the Agreement.

117. The Lead Expert and any staff or consultants retained by the Lead Expert will not: (a) be liable for any claim, lawsuit, or demand arising out of their activities under this Agreement (this paragraph does not apply to any proceeding for payment under contracts into which they have entered in connection with their work under the Agreement); (b) be subject to formal discovery in any litigation involving the services or provisions reviewed in this Agreement, including, but not limited to, deposition(s), request(s) for documents, and request(s) for admissions, interrogatories, or other disclosure; (c) testify as an expert or in any other capacity in any other non-Department of Justice litigation or proceeding with regard to any act or omission of the County or any of the County's agents, representatives, or employees related to this Agreement, nor testify regarding any matter or subject that they may have learned of as a result of their performance under this Agreement, nor serve as a non-testifying expert regarding any matter or subject that they may have learned of as a result of their performance under this Agreement.

118. The Lead Expert will not enter into any additional contract with the County or the United States on a matter related to this Agreement while serving as the Lead Expert. If the Lead Expert ceases to be the Lead Expert under this Agreement for any reason, the former Lead Expert may not enter into any contract with the County or the United States on a matter related to this Agreement without the written consent of the other Party while this Agreement remains in effect. The County and the United States will not otherwise employ, retain, or be affiliated with the Lead Expert while this Agreement is in effect, unless the other Party gives its written consent to waive this prohibition.

## **IX. IMPLEMENTATION**

### **A. Review and Implementation of Policies, Procedures, and Protocols**

119. Within six months the Lead Expert is retained, the County will consult with the

Lead Expert and the United States to draft and/or revise policies and procedures to incorporate and align them with the provisions in this Agreement, unless stated otherwise in this Agreement. The County will consult with the Lead Expert as needed to prioritize policies and procedures to accomplish the timeframes in this Agreement.

120. Prior to adoption, the County shall provide a copy of the policies and procedures to the United States for review, comment, and approval. The United States will not unreasonably refuse to approve submitted policies or procedures. The County shall address all comments and resubmit the policies and procedures to the United States for review and approval. The United States shall reply within 30 days after receiving the draft from the County. If at any phase the United States fails to give feedback by the 30-day mark, then the document will be presumed acceptable. The Lead Expert shall be notified in writing of each delay and if a document is presumed acceptable. In the event the County and the United States are unable to reach agreement, the Lead Expert shall make the final decision.

121. Within one year after the Lead Expert is retained, all policies and procedures that needed to be drafted and/or revised to incorporate and align them with the provisions in this Agreement will be adopted by the County.

122. Unless otherwise agreed to by the Parties, all new or revised policies and procedures that were changed or created to align with this Agreement will be fully implemented (including completing all staff training) within six months of the United States' approval of the policy or procedure (except as otherwise stated in the Agreement).

123. The County will annually review their policies and procedures, revising them as necessary. Any revisions to the policies and procedures will be submitted to the United States for approval in accordance with Paragraph 120 while this Agreement is active.

## **B. Review and Implementation of Training**

124. Where necessary to comply with this Agreement, the County will revise, develop, or adopt training, in-service training curricula, and lesson plans. All curricula and lesson plans will be reviewed and approved by the United States prior to implementation. Before retaining an outside instructor, the County will consult with the United States, but United States approval is not necessary with respect to hiring the outside instructor. The United States will not unreasonably refuse to approve curricula and lesson plans. The United States shall address all comments and make any changes within 30 days after receiving training materials from the County. If at any phase the United States fails to give feedback by the 30-day mark, then the relevant materials will be presumed acceptable. The Lead Expert shall be notified in writing of each delay and if a document is presumed acceptable. In the event the County and the United States are unable to reach agreement, the Lead Expert shall make the final decision.

125. The County will ensure their training curriculum includes appropriate modality or combination of modalities (scenario-based, classroom, academy, etc.) and training assessment tools.

126. Within six months of the Lead Expert being retained, the County will incorporate any relevant Agreement requirements and any recommendations from the United States into their

annual training plan that indicates the type and length of training and a schedule.

127. The annual in-service training will ensure that all current Jail custody, medical, and mental health staff are trained within six months after new policies have been approved by the United States. New staff will receive this training as part of pre-service training.

### **C. Implementation Plan**

128. The County will create an Implementation Plan that describes the actions they will take to fulfill their obligations under this Agreement. Implementation of this Agreement will be completed in phases as outlined in the Agreement and the Implementation Plan.

129. Within 30 days of the Lead Expert being retained, the County will provide the Implementation Plan to the United States and the Lead Expert. In the Implementation Plan, the County will develop a specific schedule and deadlines for the first twelve months.

130. Annually, the County will supplement Implementation Plan #1 with further Implementation Plans (#2, #3, etc.) to focus on and provide additional detail regarding implementation activities. The County will address in their further Implementation Plans any areas of non-compliance or other recommendations identified by the Lead Expert in its reports.

### **D. Compliance Coordinator**

131. Within 30 days of the Effective Date, the County will designate a Compliance Coordinator to coordinate compliance with this Agreement and to serve as a point of contact for the Parties and the Lead Expert. This person will have the requisite skills, knowledge, abilities, and time to coordinate the successful implementation of this Agreement.

132. The Compliance Coordinator shall also ensure that the County notifies the United States and the Lead Expert upon the death of any incarcerated person, within 24 hours. The County shall forward to the Lead Expert and DOJ incident reports and medical and/or mental health reports related to deaths, autopsies, and/or death summaries of incarcerated persons, as well as all final investigative reports that involve incarcerated person deaths within seven days of completion.

## **X. DISPUTE RESOLUTION AND ENFORCEMENT**

133. If the United States determines that the County has not made progress toward substantial compliance with a significant obligation under this Agreement, the United States may ultimately institute a civil action in the appropriate United States District Court or in the appropriate California state court after following the steps outlined in this Section. Minor or isolated delays in compliance are allowed.

134. The United States shall give the County written notice of its intent to initiate an enforcement action citing the specific provisions that it alleges are out of compliance at least 45 days prior to initiating the action. The County shall have the opportunity to cure the alleged deficiencies or otherwise resolve the dispute through good faith discussions. The United States will not unreasonably reject any corrective action plan proposed by the County, and will consider

any response or expert report(s) supplied by the County to refute the allegations before making a final determination, so long as they are provided timely.

135. If the County requests a meeting to discuss the alleged noncompliance, the United States will meet by phone or video within 14 days of receipt of the request unless a later meeting is agreed to by the Parties. The United States will not be required to meet later than the 45<sup>th</sup> day after providing its notice.

136. The County will have the opportunity to consult its own expert(s) with respect to the United States' allegations that the County is not in substantial compliance with such provision or provisions of the Agreement. The County will provide the United States with a written response to the notification within 30 calendar days of its receipt. The County's response will contain a description of the steps it took to investigate the issues addressed in the United States' notice, the results of the investigation, and, where the County proposes corrective action, a specific plan for addressing the described issues. If no corrective action is proposed by reason of funding constraints (including the unavailability of appropriated funds), legal considerations, or for other reasons, the County's response will specifically state those reasons and any statutes, regulations, expert opinion or technical bases upon which it is relying in reaching such conclusion.

137. Nothing herein will be construed as a waiver by the County of any and all defenses, both legal and factual, that may be raised by the County in any civil action or enforcement action commenced by the United States.

138. In case of an emergency posing an immediate threat to the health or safety of any incarcerated person or staff member of the County, the United States may omit the notice and cure requirements herein and seek enforcement of the Agreement. Prior to the United States seeking enforcement, however, the United States will provide the County with oral and written notice, as soon as reasonably possible, as to what any alleged immediate threat may be and the reason for the United States' conclusion.

## **XI. TERMINATION**

139. This Agreement will terminate in five years of the Effective Date, or earlier, if the County has attained substantial compliance with all provisions of this Agreement and maintained that compliance for a period of one year.

140. After a substantive subsection (e.g., V.A, Use-of-Force Requirements) is identified as in Substantial Compliance in two consecutive Lead Expert Reports, that subsection will be automatically removed from the Agreement and no longer subject to review and reporting.

141. The burden will be on the County to demonstrate that it has maintained substantial compliance with each of the provisions of this Agreement. Non-compliance with mere technicalities, or temporary failure to comply during a period of otherwise sustained compliance, will not constitute failure by the County to maintain substantial compliance. At the same time, temporary compliance during a period of sustained non-compliance will not constitute substantial compliance.

142. Should any provision of this Agreement be declared or determined by any court to be illegal, invalid, or unenforceable, the validity of the remaining parts, terms, or provisions will not be affected. The Parties will not, individually or in combination with another, seek to have any court declare or determine that any provision of this Agreement is invalid, illegal, or unenforceable.

143. The Parties agree to work collaboratively to achieve the purpose of this Agreement. In the event of any dispute over the language, requirements or construction of this Agreement, the Parties agree to meet and confer in an effort to achieve a mutually agreeable resolution.

144. This Agreement will constitute the entire integrated agreement of the Parties.

145. Any time limits for performance imposed by this Agreement may be extended by the mutual consent of the Parties. Any modification of this Agreement requires the written consent of all Parties.

146. This Agreement is binding on the Parties.

147. The Parties will provide a copy of this Agreement to any person upon request.

## **XII. GENERAL PROVISIONS**

148. The United States, the County will each bear the cost of their own fees and expenses incurred in connection with this Agreement.

149. In sharing or providing any information, documents, data, etc. with the Lead Expert and/or the United States in connection with this Agreement, the County will take all steps required by law to protect the confidentiality and privacy of all individuals involved.

150. The Agreement is binding on all successors, assignees, employees, agents, contractors, and all others working for or on behalf of the County to implement the terms of this Agreement.

151. The Parties agree that, as of the Effective Date of this Agreement, litigation is not reasonably foreseeable concerning the matters described in this Agreement. To the extent that any Party previously implemented a litigation hold to preserve documents, electronically stored information, or things related to the matters described in this Agreement, the Party is no longer required to maintain such a litigation hold. Nothing in this paragraph relieves any Party of any other obligations imposed by this Agreement, including the document creation and retention requirements described herein.

152. The County will not retaliate against any person because that person has filed or may file a complaint, provided assistance or information, or participated in any other manner in the United States' investigation or the Lead Expert's activities related to this Agreement. The United States and Lead Expert will report any such allegations of retaliation to the County for any further action as deemed necessary in accordance with County policies.

153. Failure by any Party to enforce this entire Agreement or any provision thereof with respect to any deadline or any other provision herein will not be construed as a waiver, including of its right to enforce other deadlines and provisions of this Agreement.

154. The Parties will promptly notify each other of any court or administrative challenge to this Agreement or any portion thereof.

155. The Parties represent and acknowledge that this Agreement is the result of extensive, thorough, and good faith negotiations. The Parties further represent and acknowledge that the terms of this Agreement have been voluntarily accepted, after consultation with counsel, for the purpose of making a full and final compromise and settlement of the allegations set forth in the CRIPA Findings Report dated August 31, 2021. Each Party to this Agreement represents and warrants that the person who has signed this Agreement on behalf of a Party is duly authorized to enter into this Agreement and to bind that Party to the terms and conditions of this Agreement.

156. This Agreement may be executed in counterparts, each of which will be deemed an original, and the counterparts will together constitute one and the same Agreement, notwithstanding that each Party is not a signatory to the original or the same counterpart.

157. The performance of this Agreement will begin immediately upon the Effective Date.

158. The County will maintain sufficient records and data as set forth in this Agreement to document that the requirements of this Agreement are being properly implemented and will make such records available to the Lead Expert and the United States for inspection and copying on a reasonable basis. Such action is not intended, and will not be construed, as a waiver, in litigation with third parties, of any applicable statutory or common law privilege associated with such information. Other than to carry out the express functions as set forth herein, both the United States and the Lead Expert, and any staff or consultants retained by the Lead Expert, will hold such information in strict confidence to the greatest extent possible.

159. The Parties acknowledge that exigent circumstances, including institutional emergencies, under which the doing of an act otherwise required by this Agreement would create an unacceptable risk to the safety of any person, could arise that may impact the ability of the County to comply with one or more provisions of this Agreement at any given time. Whenever an act otherwise required by this Agreement is excused or delayed on account of these exigent circumstances, the County will attempt to resolve the exigent circumstances as soon as possible, and the act will be performed whenever possible after the exigent circumstances cease to exist. The County will document any instances where such exigent circumstances have impacted the County's ability to comply with any provision of this Agreement.

160. "Notice" under this Agreement will be provided by email to signatory counsel for the Parties, or their successors.

FOR THE UNITED STATES:

E. MARTIN ESTRADA  
United States Attorney  
Central District of California


KRISTEN CLARKE  
Assistant Attorney General  
Civil Rights Division

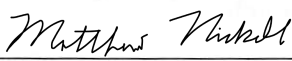
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REGAN RUSH  
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RICHARD M. PARK  
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MATTHEW NICKELL  
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Trial Attorneys  
United States Department of Justice  
Special Litigation Section  
Civil Rights Division

Date: 01/16/2025

FOR THE COUNTY:

  
RITA L. NEAL  
County Counsel  
County of San Luis Obispo

  
IAN PARKINSON  
Sheriff-Coroner  
County of San Luis Obispo

JENNA MORTON  
Chief Deputy County Counsel  
County of San Luis Obispo

Date: 01/16/2025

## **Exhibit A**

Each Semi-Annual Quality Assurance Report will include, at minimum, the following items:

- A. Relevant aggregate data concerning medical and mental health services, including:
1. The number of incarcerated persons prescribed emergency psychotropic medications;
  2. The number of incarcerated persons involuntary medicated;
  3. The number of incarcerated persons placed in a safety cell or on constant watch;
  4. The average length of time incarcerated persons were kept in a safety cell or on constant watch ;
  5. The number of times mechanical restraints (including the WRAP) were used on incarcerated persons with SMI;
  6. The number of OC spray uses on incarcerated persons with SMI;
  7. The number of suicides;
  8. The number of suicide risk assessments;
  9. The number of self-harm incidents;
  10. The number of serious suicide attempts;
  11. The number of psychiatric hospitalizations, including at the County Psychiatric Health Facility (PHF);
  12. The number and types of grievances filed by incarcerated persons with SMI;
  13. The number and types of founded and unfounded disciplinary infractions by incarcerated persons with SMI;
  14. The number of incarcerated persons with SMI for whom Custody Staff held a disciplinary hearing without first consulting with a Qualified Mental Health Professional;
  15. The number of incarcerated persons with SMI that Custody Staff disciplined in a manner inconsistent with recommendations by a Qualified Mental Health Professional;
  16. The number of incarcerated persons with SMI in Restrictive Housing, broken down by housing area;
  17. The length of stay for each incarcerated person with SMI in Restrictive Housing;



18. The length of stay for each incarcerated person in Restrictive Housing;
  19. The number of assessments by Qualified Mental Health Professionals of incarcerated persons with SMI before they are placed in Restrictive housing.
  20. The number of incarcerated persons with SMI that Custody Staff placed in Restrictive Housing contrary to recommendations by a Qualified Mental Health Professional;
  21. The number of denied visits (i.e. with family and other non-legal professionals) for incarcerated persons with SMI;
- B. An assessment of trends and interventions, including:
1. Whether all concerns or deficiencies identified through the Quality Assurance process have been addressed through a corrective action plan, and what findings have been made under that plan;
  2. A description of any policies revised or developed as a result of any deficiencies identified through the Quality Assurance process; and
  3. The effectiveness of corrective actions undertaken in response to identified trends from previous two reports.
- C. A summary of incident report information to identify trends such as rates of incidents in general, by housing unit, by day of the week and date, by shift, and by individual incarcerated persons or staff members. These summaries shall, at minimum, include the following information:
1. Description of all suicides and deaths, including the date, name of incarcerated person, housing unit, and location where the incarcerated person died (including name of hospital if incarcerated person died off-site);
  2. The names of incarcerated persons placed in emergency physical restraints, such as the WRAP, and the frequency and duration of such placements;
  3. The names of incarcerated persons placed in safety cells, and the frequency and duration of such placements;
  4. The names of incarcerated persons placed in Restrictive Housing, and the frequency and duration of such placements;
  5. The names of incarcerated persons transferred to psychiatric hospitals, including but not limited to the PHF, and the frequency and duration of such transfers;
  6. List of incidents referred to the Sheriff's Internal Affairs Unit or other law enforcement agencies for investigation.

D. A summary of use-of-force reports to identify trends such as rates of use in general, by housing unit, by day of the week and date, by shift, and by individual incarcerated persons or staff members. The summary shall, at minimum, include the following information:

1. List of use-of-force reports or investigations received during the reporting period;
2. List of use-of-force reports, incidents, or investigations where Custody Staff received training as a corrective action;
3. List of uses of force reports, incidents, or investigations referred to the Sheriff's Professional Standards Unit for personnel complaints or other law enforcement agencies for criminal investigation.
5. List of any force incidents that were not reported timely through use-of-force reports; incarcerated person hospitalizations for traumatic injuries where a use-of-force report should have been created but was not; and staff member injury reports and incidents where a use-of-force report should have been created but was not;
6. A listing of referrals for disciplinary action or other final disposition by type and date;
7. A listing of all staff disciplined, suspended, terminated, arrested or reassigned because of misconduct or violations of policy and procedures. This list shall also contain the specific misconduct and/or violation.