

CONSENT AGREEMENT

INTRODUCTION

1. The purpose of this Consent Agreement (“Agreement”) is to remedy the constitutional violations at the Escambia County Jail identified in the findings letter that the United States issued on May 22, 2013 (“Findings Letter”). The Jail is an integral part of the public safety system in Pensacola, Florida. Through the provisions of this Agreement, the Parties seek to ensure that the conditions in the Jail protect the constitutional rights of prisoners confined there. By ensuring that the conditions in the Jail are constitutional, Defendant will also provide for the safety of staff and promote public safety in the community.
2. Plaintiff is the United States.
3. Defendant is Escambia County, Florida.
4. Defendant shall ensure that all agencies and individuals under its control take all actions necessary to comply with the provisions of this Agreement.
5. Defendant both funds and operates the Jail in Pensacola, Florida (“the Jail”) and is responsible for providing care, custody, and control of the Jail’s prisoners. The Jail can house up to 1,442 prisoners. The Jail’s current population is 1,314, consisting of 1,092 male and 222 female prisoners. Roughly 65 percent of the Jail’s prisoners are African Americans and 35 percent are Caucasian. About 72 percent of the Jail’s prisoners are pre-trial detainees.
6. The Jail consists of the Main Detention Facility (“Main Jail”), with a capacity of 815 prisoners, and a current daily occupancy of 713, and a Central Booking and Detention Facility (“CBD”), with a capacity of 697 prisoners, and a current daily occupancy of 601. The Main Jail provides general population housing for male prisoners, special housing for juveniles, and administrative, mental health, infirmary, disciplinary confinement, and protective custody housing. CBD houses the Jail’s female prisoners in general population, prisoners remanded to the custody of the Jail, and prisoners awaiting classification. CBD is the central intake and booking facility for all of the County’s law enforcement agencies as well as state law enforcement entities.
7. The United States Department of Justice (“DOJ”) enters into this agreement with Defendant after having conducted an investigation into conditions at the Jail pursuant to its authority under the Civil Rights of Institutionalized Persons Act (“CRIPA”), 42 U.S.C. § 1997. During its investigation, DOJ conducted a series of tours of the Jail, each lasting between three to five days. The most recent DOJ tour was conducted October 15-17, 2012.
8. On May 22, 2013, DOJ issued a Findings Letter, pursuant to 42 U.S.C. § 1997 (a) (1), which concluded that certain conditions at the Escambia County Jail violated the constitutional rights of prisoners, and recommended remedial measures.

9. This Agreement is the result of a cooperative effort between DOJ and Defendant that evinces a commitment to achieve and maintain constitutional conditions at the Escambia County Jail. Through the provisions of this Consent Agreement, the Parties seek to protect the constitutional rights of prisoners at Escambia, provide for the safety of staff, and avoid the risks and burdens of litigation.
10. No person or entity is intended to be a third-party beneficiary 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. This Agreement is not intended to impair or expand the right of any person or entity to seek relief against the County or its officials, employees, or agents for their conduct. This Agreement is not intended to alter legal standards governing any such claims.
11. Defendant stipulates that the conditions at the Escambia County Jail necessitate the remedial measures contained in this Agreement, including supervision, non discrimination, and mental health and suicide provisions.
12. The Parties stipulate that this Agreement complies in all respects with the Prison Litigation Reform Act, 18 U.S.C. § 3626(a). The Parties further stipulate and the Court finds that the prospective relief in this Agreement is narrowly drawn, extends no further than necessary to correct the violations of federal rights as alleged by DOJ in its Complaint and Findings Letter (attached as Exhibit “A”), is the least intrusive means necessary to correct these violations, and will not have an adverse impact on public safety or the operation of a criminal justice system. Accordingly, the Parties represent, and this Court finds, that the Agreement complies in all respects with 18 U.S.C. § 3626(a).

I. DEFINITIONS

1. “Adequate” shall mean that level of service required for compliance with the Constitution of the United States.
2. “Compliance” is discussed throughout this Agreement in the following terms: substantial compliance, partial compliance, and non-compliance. “Substantial Compliance” with a provision means that Defendant has achieved compliance with most or all of the components of the relevant Agreement provision. “Partial Compliance” with a provision means that the Defendant has achieved compliance with some of the components of the relevant Agreement provision, but significant work remains. “Non-compliance” means that the Defendant has not met most or all of the components of the Agreement provision.
3. “DOJ” shall refer to the United States Department of Justice, which represents the United States in this matter.

4. “Document,” when used in this Agreement as a verb, means completing a report, either in hard copy or in electronic format, with sufficient supporting data, facts, and explanation.
5. “Effective Date” means the date the Agreement is entered as a Court order.
6. “Extraordinary and exceptional circumstances” refers to a substantial and imminent risk to the safety of a prisoner or other persons.
7. “Implement” or “implementation” means putting a remedial measure into place and into practice by all necessary means, including, *inter alia*, staffing augmentation, training impacted personnel, and maintaining data.
8. “Include” or “including” means “include, but not be limited to” or “including, but not limited to.”
9. “Isolation” or “segregation” means the involuntary confinement in a locked room or cell, either alone or double-celled, for approximately 21 or more hours per day.
10. “Prisoner” means an individual detained, housed, held, in the custody of, or confined in the Jail for any period of time.
11. “Interdisciplinary Team” refers to a team consisting of treatment staff from various disciplines, including medical, nursing, and mental health and one or more members from corrections or security functions.
12. “Jail” refers to all correctional facilities operated by Defendant and includes: the Main Jail, a Central Booking and Detention Facility, and any facility that may be built, leased, or otherwise used to replace or supplement the current Jail facilities.
13. “Jail Management” refers to those who have the authority and responsibility for the day-to-day operations of the Jail, and the oversight of employees, contractors, and volunteers.
14. “Long-term isolation” means a period of isolation intended to last or that does last more than 14 consecutive days.
15. “Mental Health Review Committee” refers to a group consisting of the Jail Mental Health Director or designee, and the Lead Jail Psychiatrist.
16. “Monitor” means the individual selected to oversee implementation of the Agreement.
17. “Psychotropic medication” means any substance used to treatment of mental health problems or mental illness that affects the mind and is capable of modifying mental activity or behavior.

18. “Qualified Mental Health Professional” is a psychiatrist, psychologist, psychiatric social worker, psychiatric nurse, or a professional who by virtue of his or her education, credentials, and experience is licensed by Florida and permitted by law to evaluate and care for patients’ mental health needs.
19. “Qualified Mental Health Staff” refers to individuals with a minimum of a bachelor’s degree and two years of experience who provide mental health services under the direct supervision of a Qualified Mental Health Professional.
20. “Qualified Nursing Staff” means staff currently licensed by Florida as registered or licensed practical nurses.
21. “Quality Assurance” means a system for assessing the implementation and effectiveness of remedies instituted under this Agreement, identifying any existing deficits, and effectuating new measures to cure identified deficits.
22. “Remedial Measure” includes each and every measure detailed in the substantive provisions of this Agreement geared toward achieving the Agreement’s goals, including new policies, procedures, training curricula, and outcome measures. However, the term *does not* refer to specific operational decisions.
23. “Security rounds” is when correctional officers walk into and through their assigned housing units.
24. “Self harm” is an act by a prisoner that inflicts damage to, or threatens the integrity of, his or her body. These acts include, but are not limited to, hanging, self-strangulation, asphyxiation, cutting, self-mutilation, ingestion of a foreign body, insertion of a foreign body, head banging, drug overdose, jumping, and biting.
25. “Sentinel event” is an unexpected occurrence involving death or serious physical or psychological injury, or the risk thereof. The phrase “or the risk thereof” includes any process variation for which a recurrence would carry a significant chance of a serious adverse outcome. Such events are called “sentinel” because they signal the need for immediate investigation and response.
26. “Serious injury” includes any injury that requires immediate medical treatment by jail-based medical providers or hospital care.
27. “Serious mental illness” (“SMI”) means: (1) a diagnosable mental, behavioral or emotional disorder of sufficient duration to meet diagnostic criteria specified within DSM-IV or their ICD-9-CM equivalent (and subsequent revisions) with the exception of DSM-IV “V” codes, substance use disorders, and developmental disorders, which are excluded, unless they co-occur with another diagnosable serious mental illness; or (2) a substantial disorder of thought or mood that significantly impairs judgment, behavior, or capacity to recognize reality or cope with the ordinary demands of life.

28. “Serious suicide attempt” means a suicide attempt that is either potentially life-threatening or that requires medical treatment or hospitalization.
29. “Special needs prisoner” means any prisoner who is suicidal, has mental illness and/or intellectual and/or developmental disabilities, is intoxicated, or is otherwise a danger to himself/herself or others.
30. “Suicide Precautions” means any level of watch, observation, or measures to prevent self-harm.
31. “Sustain Implementation” means to achieve a prolonged and continuous practice.
32. “Train” means to instruct in the skills addressed to a level that the trainee has a documented post-training level of proficiency. “Trained” means to have achieved such proficiency in the skills and to implement those skills regularly.
33. “Treatment Plan” refers to an individualized plan that is based on assessments, identifies the care needs, and develops strategies to meet those needs. The purpose of the plan is to transition the prisoner through the continuum of care in a safe and effective way. To accomplish this goal, the plan documents treatment goals, objectives, and treatment interventions; states criteria for terminating specific interventions; and documents the prisoner’s progress in meeting the goals and objectives. The plan requires that each discipline must collaborate to assess and reassess the patient, and then integrate interdisciplinary documentation of needs, goals, strategies and interventions. Disciplines represented in any treatment plan referred to under this Agreement shall include, at a minimum, medical, mental health, and security staff.

II. SUBSTANTIVE PROVISIONS

A. PROTECTION FROM HARM

The goal of this subsection of the Agreement is to ensure that, consistent with constitutional standards, Defendant provides prisoners with a reasonably safe and secure environment where prisoners are protected from assault by other prisoners and are not subjected to unnecessary or excessive uses of force by Jail staff. To achieve this goal, Defendant shall adopt and fully implement each of the remedial measures detailed in the enumerated provisions of this subsection. Prior to adopting and implementing each of these remedial measures, Defendant shall consult with and obtain approval from the Monitor and DOJ. The Monitor and DOJ shall base their assessment of whether to approve the adoption and implementation of each of the enumerated remedial measures on whether the measure is entirely consistent with the goal of ensuring that Defendant provide prisoners with a reasonably safe and secure environment.

Unless otherwise indicated, within 100 days of the Effective Date, Defendant shall provide the Monitor and DOJ with first drafts of policies, procedures, training curricula and other remedial measures they propose to adopt. These remedial measures shall be adopted no later than 60 days and fully implemented no later than 200 days after approval by the Monitor and DOJ.

1. New Security Policies, Procedures, and Training Curricula. Defendant shall adopt and fully implement the following security policies, procedures, and training:
 - a. Policies, procedures, and training curricula ensuring that correctional officers and security supervisors conduct and document security rounds. These remedial measures shall ensure that correctional officers and security supervisors conduct an adequate and reasonable number of rounds at irregular intervals inside each and every housing unit. Rounds shall be conducted on each shift, every day. The frequency of rounds may differ based on the classification status of the prisoners housed in a particular unit. These remedial measures shall require correctional officers and security supervisors to document any security deficiencies observed during rounds and to note any corrective actions taken.
 - b. Policies, procedures, and training curricula that ensure the appropriate use of video surveillance as a security enhancement. These remedial measures shall prevent the use of video surveillance as a substitute for rounds and correctional officers' direct observations of the prisoners and the safety conditions in the housing units.
 - c. A policy, procedure, and training curricula ensuring the documentation of all security rounds on forms or logs and prohibiting the use of pre-printed rounding times and/or signatures.
 - d. Policies, procedures, and training curricula that ensure security staff appropriately searches cells for contraband. These remedial measures shall include, for all shifts, the following:
 - (1) Random visual searches of individual cells in housing areas and cellblocks;

- (2) Random searches of common areas of the housing units and other areas in which prisoners have access (e.g. classrooms, visiting areas, laundry);
 - (3) Regular searches of intake cells;
 - (4) Periodic large scale searches of housing units, including areas that have prisoner access such as education and program space, the medical unit, gang holding cells, and central booking; and
 - (5) Documentation of the contraband recovered in searches for review by Jail leadership.
- e. Policies, procedures, and training curricula ensuring that correctional officers assigned to special management units, including disciplinary segregation, protective custody, and infirmary, receive at least eight hours of specialized training prior to working on those units, and annually thereafter.
2. New Policies, Procedures, and Training Curricula for Notifying Managers. Defendant shall adopt and fully implement policies, procedures, and training curricula for notifying managers of serious security/safety related incidents in the Jail. These remedial measures shall ensure managers learn of the incidents shortly after they have occurred, enabling the managers to take action, if required, to prevent additional harm to prisoners or to take other corrective action. These remedial measures shall also ensure staff notifies Jail leadership of serious safety/security incidents by no later than the end of each shift.
3. Collection of Data. Defendant shall adopt and fully implement new policies, procedures, and training curricula concerning the collection, maintenance, and analysis of security and safety related data. These remedial measures shall ensure that sufficient information is collected to assess whether staff members have complied with policy; whether corrective action is necessary, including training or discipline; the effectiveness of training and policies; and whether conditions at the Jail comply with this Agreement.
4. Consolidated Report for Tracking Prisoner Violence. Defendant shall adopt and fully implement new policies and procedures for tracking prisoner violence. These remedial measures shall ensure that the Jail has a system for tracking all serious safety/security related incidents that captures in one report the most relevant information for each incident, including location, any injuries sustained to prisoners or staff, any prisoner or staff witnesses, any medical care provided, primary and secondary staff involved, the reviewing supervisor, external reviews and results, the remedy taken, and administrative sign-off. These remedial measures shall also require Jail management and leadership to effectively review and use the consolidated report.
5. Periodic Reporting of Data to the Monitor and DOJ for Purposes of Assessing Compliance. Ninety days after the Effective Date and every six months thereafter until the termination of this Agreement, Defendant shall submit to the Monitor and DOJ a Periodic Security/Safety Report, detailing the use of force by staff and prisoner-on-prisoner assaults, and whatever other information the Monitor and DOJ deems necessary for assessing progress toward meeting the goal of this subsection of the Agreement – the achievement of a reasonably safe

and secure environment for the Jail's prisoners. Excepting the initial submission, The Monitor and DOJ shall, within 60 days of receiving the Periodic Security/Safety Report, assess and report back on whether the Defendant is making substantial progress toward achieving the goal of this subsection. If a review of any given Report indicates that substantial progress has not been made, the Monitor and DOJ shall determine what additional remedial measures need to be adopted and implemented under this Agreement. Irrespective of whether the Defendant has complied with the other requirements of this Agreement, this Agreement shall remain in effect up and until such time as the data and information provided in the Periodic Security/Safety Report to the Monitor and DOJ establish that the goal of this subsection has been achieved in full for a sustained period of time.

6. Implementation of Prison Rape Elimination Act Requirements. New regulations promulgated pursuant to the Prison Rape Elimination Act of 2003, 42 U.S.C. § 15601, *et seq.*, ("PREA") include those related to the prevention, detection, reporting, and investigation of sexual assault and sexual harassment. Accordingly, Defendant shall adopt and implement policies, procedures, training curricula, protocols, audits, and other remedial measures consistent with the requirements of PREA.
http://www.ojp.usdoj.gov/programs/pdfs/prea_final_rule.pdf.
7. Security Staffing. To achieve the goal of providing prisoners with a reasonably safe and secure environment and to avoid an unacceptable and excessive risk of harm to prisoners, correctional staffing and supervision must be sufficient to adequately supervise prisoners in their daily living, in movement throughout the facilities, and during their participation in programs and services.
 - a. To achieve adequate staffing levels, Defendant shall implement the recommendations of the Staffing Study that Justice Concepts prepared for them in March 2011 (Attachment B). Consistent with the Justice Concepts Staffing Study, Defendant shall:
 - (1) Fill all existing vacancies, both funded and authorized, that exist as of the Effective Date and use best efforts to retain and fill any vacancies that may occur in the future;
 - (2) In Year One of the Effective Date: budget for and employ 30 additional detention staff;
 - (3) In Year Two of the Effective Date: budget for and employ 30 additional staff (for a total of 60);
 - (4) In Year Three of the Effective Date: budget for and employ 20 additional detention staff (for a total of 80); and
 - (5) In Year Four of the Effective Date: budget and employ 20 additional staff (for a total of 100).

- b. Two Years after the Effective Date, the Defendant may have another comprehensive staffing study prepared for the Jail to determine whether new staffing levels can be adopted to supersede the levels detailed in Provision II.A.7.a above. (See NIC Jail Staffing Analysis workbook <http://static.nicic.gov/Library/016827.pdf>) (Defendant has indicated that they may want to explore strategies for reducing the prisoner population, which may in turn have the effect of reducing the need for jail beds and for security/supervision posts in the Jail). Upon completion of any new staffing plan and analysis, Defendant shall provide their findings to the Monitor and DOJ for review and approval. The Monitor and DOJ shall have 30 days to require any revisions to the staffing plan. Defendant shall fund staffing for the Jail based on the staffing plan and analysis, together with any revisions mandated by the Monitor and DOJ. The Monitor and DOJ shall set the timetable for the hiring of any additional staff.
8. Monitor And DOJ May Identify Additional Security/Safety Related Remedial Measures. Defendant shall adopt and implement any additional remedial measures – including additional policies, procedures, and training curricula – that the Monitor and DOJ identify as necessary to achieve the goal of a reasonably safe and secure environment.

B. HOUSING OF PRISONERS BY RACE

The goal of this subsection of the Agreement is to ensure that, consistent with constitutional standards, Jail staff do not consider race or ethnicity when making housing determinations for the Jail's prisoners.

Prior to adopting and implementing each of the remedial measures detailed in this subsection, Defendant shall consult with and obtain approval from the Monitor and DOJ. The Monitor and DOJ shall provide approval only when the Defendant's approach to adopting and implementing any given remedial measure is entirely consistent with the goal of ensuring that neither race nor ethnicity is considered when Jail staff makes housing determinations for the Jail's prisoners.

Defendant shall provide the Monitor and DOJ with first drafts of policies, procedures, training curricula and other remedial measures they propose to adopt within 100 days of the Effective Date. These remedial measures shall be adopted no later than 60 days and fully implemented no later than 200 days after approval by the Monitor and DOJ.

1. Existing Policy Concerning Classification and Housing. Defendant shall fully implement their recently revised classification policy: G.O.809.1 classification 10142011. Defendant shall be deemed to have fully implemented this policy upon having consulted with and obtained approval from the Monitor and DOJ. The Monitor and DOJ shall only approve of Defendant's implementation of this policy if its implementation is consistent with the goal of ensuring that neither race nor ethnicity is considered when Jail staff makes housing determinations for the Jail's prisoners.
2. New Policies, Procedures, and Training Curricula Concerning the Housing of Prisoners. Defendant shall adopt and fully implement whatever policies, procedures, and training curricula are necessary to ensure that neither race nor ethnicity are considered, either formally or informally, in the course of staff making housing determinations for prisoners.

3. Collection of Data. Defendant shall adopt and fully implement new policies, procedures, and training curricula concerning the collection, maintenance, and analysis of housing and classification decisions. These remedial measures shall ensure that sufficient information is collected to assess whether staff members have complied with policy; whether corrective action is necessary, including training or discipline; the effectiveness of policies; and whether conditions at the Jail comply with the goal of this subsection of the Agreement.
4. Periodic Reporting of Data to the Monitor and DOJ for Purpose of Assessing Compliance. Ninety days after the Effective Date, and every six months thereafter until the termination of this Agreement, Defendant shall submit to the Monitor and DOJ a Periodic Desegregation Report, detailing the racial and ethnic composition of each of the Jail's housing pods, and whatever other information the Monitor and DOJ deem necessary for assessing progress toward meeting the goal of this subsection of the Agreement – ensuring that Jail staff do not consider race or ethnicity in the course of making housing determinations. The Monitor and DOJ shall, within 60 days of receiving the Periodic Desegregation Report, assess and report back on whether the Defendant has achieved the goal of this subsection. If a review of any given Report indicates that Defendant has not achieved or is no longer achieving the goal of this subsection, the Monitor and DOJ shall determine what additional remedial measures need to be adopted and implemented under this Agreement. Irrespective of whether the Defendant has complied with the other requirements of this Agreement, this Agreement shall remain in effect up and until such time as the data and information provided in the Periodic Desegregation Report establish that the goal of this subsection has been achieved in full for a sustained period of time.

C. MENTAL HEALTH CARE AND SUICIDE PREVENTION

The goal of this subsection of the Agreement is to ensure that, consistent with constitutional standards, Defendant provides prisoners with adequate mental health care.

Prior to adopting and implementing each of the remedial measures in this subsection, Defendant shall consult with and obtain approval from the Monitor and DOJ. The Monitor and DOJ shall provide approval only when the Defendant's approach to adopting and implementing any given remedial measure is entirely consistent with the goal of ensuring that Defendant provides adequate mental health care to the Jail's prisoners.

Unless otherwise indicated, Defendant shall provide the Monitor and DOJ with first drafts of policies, procedures, training curricula and other remedial measures they propose to adopt within 100 days of the Effective Date. These remedial measures shall be adopted no later than 60 days after approval by the Monitor and DOJ and fully implemented no later than 200 days after approval by the Monitor and DOJ.

1. Existing Policies. Defendant shall fully implement Escambia County Jail policies J-A-06 Continuous Quality Improvement Program, J-A-09 Privacy of Care, J-D-01 Pharmaceutical Operations and Medication Service, J-D-05 Hospital and Specialty Care, J-E-04 Health Assessment, J-E-05-Mental Health Screening and Evaluation; J-E-07 Non-Emergency Health Care Requests and Services, J-G-02 Patients with Special Needs, J-G-03-Medical & Mental Health Infirmary Care, J-G-04-Basic Mental Health Services, J-G-05 Suicide Prevention Program, J-H-01 Health Record, and J-I-01 Restraint and Seclusion. Defendant shall only be deemed to have fully implemented these policies upon having consulted with and obtained approval from the Monitor and DOJ. The Monitor and DOJ shall only approve

of the Defendant's implementation of these policies if Defendant's implementation is consistent with the goal of ensuring that Defendant provides adequate mental health care to the Jail's prisoners.

2. Mental Health Staffing (Generally). Defendant shall adopt and fully implement new policies and procedures ensuring the deployment and retention of an adequate number of Qualified Mental Health Professionals and Staff; the availability of Mental Health Professionals for consultation – either in person or by phone – 24 hours a day; and the maintenance of a written and up-to-date mental health staffing plan.
3. Psychiatry hours. Defendant shall adopt and fully implement new policies and procedures ensuring that every week of the year at least two psychiatrists work at the Jail, each for at least 32 hours a week. These hours shall be clearly documented and logged.
4. Collaboration between Psychology, Psychiatry, and Jail Leadership. Defendant shall adopt and fully implement new policies, procedures and training curricula to ensure adequate collaboration between Psychology, Psychiatry, and Jail Leadership. These remedial measures shall include measures that ensure adequate interdisciplinary treatment plans, the collaborative planning of the clinical treatment of prisoners' mental health needs, and collaborative management of mental health services generally. These measures shall also foster an adequate amount of communication between the Jail's Psychologists and Psychiatrists and the Jail Administrator and Director of Mental Health Services. Adequate communication between Jail's psychologists and psychiatrists and its leadership shall involve, in part, ensuring that leadership is routinely informed of the resource needs of the Jail's mental health program.
5. Initial Screening. Defendant shall adopt and fully implement new policies, procedures, and training curricula concerning screening practices at the Jail. These remedial measures shall ensure that: trained and Qualified Medical or Mental Health Staff shall administer an initial mental health/suicide screen for all incoming arrestees; the mental health screening shall be done at the same time as medical screening, both of which shall take place prior to housing placement (the mental health screening may include or be in addition to the assessment required under the PREA standards (see Section II.A.6 above)); the medical and mental health screenings shall take place within four hours of booking; the results of the screening shall be shared with appropriate correctional staff; the mental health screening shall include explicit screening for the potential for self-harm, delirium, depression, mania, and psychosis; and the screening form shall include the identification and assessment of the following factors:
 - a. Past suicidal ideation or attempt;
 - b. Current suicidal ideation, threat, or plan;
 - c. Prior mental health treatment or hospitalization;
 - d. Recent significant loss such as the death of a family member or close friend;
 - e. History of suicidal behavior by family members or close friends;

- f. Suicide risk during any prior confinement (i.e., whether prisoner has previously been on a suicide watch);
- g. Any observations by the transporting officer, court, transferring agency, or similar individuals regarding the prisoner's potential suicidal risk or mental health;
- h. Substance(s) or medication(s) used, including the amount, time of last use, and history of use;
- i. Any physical observations, such as shaking, seizing, or hallucinating;
- j. History of drug withdrawal symptoms, such as agitation, tremors, seizures, hallucinations, or delirium tremens; and
- k. History/serious risk of delirium, depression, mania, and psychosis.

The screening instrument will be validated by a Qualified Mental Health Professional approved by the Monitor and DOJ within X days of the Effective Date and every 12 months thereafter, if necessary.

- 6. Mental Health Assessments. Defendant shall adopt and fully implement new policies, procedures, and training curricula to ensure the following:
 - a. A Qualified Mental Health Professional or a member of the Qualified Mental Health Staff who is appropriately supervised by a Qualified Mental Health Professional shall conduct appropriate mental health assessments within the following time periods from the initial screen or other identification of need:
 - (1) 10 days, or sooner if medically necessary, for prisoners with routine mental health needs;
 - (2) 24 hours, or sooner if medically necessary, for prisoners with urgent mental health needs; and
 - (3) Immediately, but no later than two hours, for prisoners with emergent mental health needs.
 - b. A Qualified Mental Health Professional shall perform a mental health assessment no later than the next working day following any adverse triggering event (i.e., any suicide attempt, any suicide ideation, or any aggression to self resulting in serious injury).
 - c. The mental health assessment shall include a recorded diagnosis section on Axis I, II, and III, using the DSM-IV-TR, or subsequent Diagnostic and Statistical Manual of the American Psychiatric Association;
 - d. A Qualified Mental Health Professional shall, as part of a prisoner's interdisciplinary treatment team, maintain a risk profile for each prisoner on the mental health case load and develop and implement a treatment plan to minimize the risk of harm to each prisoner;

- e. Jail staff shall request, obtain, and review available information regarding any diagnosis made by a prisoner's community or hospital treatment provider, and shall account for a prisoner's psychiatric history as a part of the mental health assessment;
 - f. If a prisoner is assessed as having mental illness, the prisoner shall be referred to the psychiatrist and psychologist for appropriate treatment and an initial treatment plan shall be developed and implemented;
 - g. Adequate and timely treatment for prisoners whose assessments reveal mental illness and/or suicidal ideation shall include timely and appropriate referrals for specialty care and visits with Qualified Mental Health Professionals, when clinically appropriate;
 - h. Jail staff shall adequately document the mental health assessment and initial treatment plan in the prisoner's medical record; and
 - i. On an annual basis, Defendant shall assess the process for screening prisoners for mental health needs to determine whether prisoners are being appropriately identified for care. Based on this assessment, Defendant shall recommend changes, if any, to the screening system. The assessment and recommendations will be documented and provided to the Monitor and DOJ within X days. The revised screening system will be implemented no later than X days after approval by the Monitor and DOJ.
7. Referrals and Access to Care. Defendant shall adopt and fully implement new policies, procedures, and training curricula to ensure prisoners are adequately referred to Qualified Mental Health Professionals. These remedial measures shall require levels of referrals based on acuteness of need and shall include "routine referrals," "urgent referrals," and "emergent referrals."
- a. A prisoner designated as a "Routine Referral" will be seen by a Qualified Mental Health Professional within 10 days, and a psychiatrist within the following 48 hours, when clinically indicated (e.g., for medication and/or diagnosis assessment).
 - b. A prisoner designated as an "Urgent Referral" will be seen by a Qualified Mental Health Professional within 24 hours, and a psychiatrist within 48 hours, when clinically indicated.
 - c. A prisoner designated as an "Emergent Referral" shall be seen by a Qualified Mental Health Professional within two hours. "Emergent Referrals" shall include prisoners identified as at risk of harming themselves or others. If clinically indicated, the prisoner will be seen by a psychiatrist within 24 hours (or the next business day). "Emergent Referrals" must be placed on constant observation at least until seen by a Qualified Mental Health Professional.
8. Prisoner Requests for Mental Health Care. Defendant shall adopt and fully implement new policies, procedures, and training curricula to ensure that:

- a. Prisoners submitting sick call requests for mental health treatment shall be seen by a Qualified Health or Mental Health Professional in a timely manner, as clinically appropriate;
 - b. Defendant shall permit prisoners who are illiterate, non-English speaking, or otherwise unable to submit written sick call requests for mental health care to verbally request care. Such verbal requests shall be promptly transmitted to a Qualified Mental Health Professional and documented by the staff member who receives the request on an appropriate form; and
 - c. The Jail shall develop and implement an effective system for documenting, tracking, and responding to sick call requests for mental health care.
9. Psychiatric Hospitalization/Crisis Services. Defendant shall adopt and fully implement new policies, procedures, and training curricula ensuring that prisoners requiring emergency psychiatric hospitalization or who are acutely mentally ill receive timely and adequate treatment either on site or by agreement with a local hospital. These remedial measures shall require Defendant to provide crisis and acute care in an appropriate therapeutic environment that is available to all prisoners who need it, including access to beds in a mental health care setting for short-term treatment and regular, consistent treatment sufficient to address the crisis.
10. Treatment Plans and Treatment. Defendant shall adopt and fully implement new policies, procedures, and curricula ensuring adequate treatment plans and treatment. These remedial measures shall ensure that:
 - a. Each prisoner on the mental health caseload receives a comprehensive, individualized treatment plan developed by a clinician with participation from the prisoner and from others, as appropriate (e.g., mental health, medical, or correctional staff) within 10 days of his/her mental health assessment;
 - b. Treatment plans are clearly written and include mental health assessments, diagnoses, treatment programs and goals, and medications;
 - c. Treatment plans adequately address prisoners' mental health needs and contain interventions specifically tailored to the prisoners' diagnoses and risks;
 - d. Treatment plans provide treatment programming and modalities, including group therapy, to optimize the overall level of functioning of prisoners within the correctional environment, and are geared toward successfully integrating prisoners with mental illness into the general population or discharge into the community;
 - e. Treatment plans include the timely and appropriate provision of therapy, counseling, and other mental health programs for all prisoners on the mental health caseload;
 - f. Generally, treatment plans are reviewed every 30 days for the first three months of placement, and once every 90 days thereafter. However, treatment plans shall be updated whenever there is a significant worsening in the prisoner's clinical status.

- g. Jail staff coordinate and collaborate with community mental health and supportive services prior to a prisoner's release.
11. Medication Administration. Defendant shall adopt and fully implement new policies, procedures, and training curricula to ensure all medications are appropriately prescribed, stored, controlled, dispensed, and administered, in accordance with all applicable laws, and as follows:
- a. Initial doses of prescribed medications shall be delivered to prisoners within 48 hours of the prescription, unless it is clinically required to deliver the medication sooner;
 - b. Prisoners entering the Jail shall continue to receive current medications prescribed by a licensed medical provider, or acceptable alternate medications, within 24 hours of entry, unless the facility physician makes an alternative clinical judgment;
 - c. Medical staff who administer medications to prisoners shall document the following information in the prisoner's Medical Administration Record: the name and dosage of each dispensed medication, the date and time each medication is administered, and the date and time for any refusal of medication;
 - d. Prisoner's unified health record shall be updated within one week of the end of each month and include a copy of the prisoner's Medical Administration Record for that month;
 - e. Psychotropic medications shall be used only in accordance with accepted professional judgment and standards, in particular, that medication is not used in lieu of less intrusive therapies, for the convenience of staff or as punishment, or as a substitute for adequate staff;
 - f. Prisoners who are being treated with psychotropic medications shall be seen regularly by a psychiatrist to monitor responses and potential reactions to those medications, and provide treatment where appropriate. This shall occur at least every month but more frequently for those in crisis, acute settings, or undergoing medication adjustments. Defendant shall ensure that changes to a prisoner's psychotropic medications are clinically justified and documented in the prisoner's medical record; and,
 - g. Prisoners diagnosed with SMI and refusing to take medication shall not be discharged from the mental health caseload, but instead shall be monitored and counseled on the benefits of medication.
12. Housing and Isolation. Defendant shall adopt and fully implement new policies, procedures, and training curricula concerning the housing of prisoners with SMI; the use of isolation/segregation on prisoners with SMI; and the adequate provision of mental health services in isolation/segregation units. These remedial measures shall ensure that:

- a. Housing options for prisoners with SMI include general population, a mental health unit, and a step-down unit for prisoners with SMI that is similar to a general population unit in which prisoners are out of their cells during the day by default;
- b. Isolation is not used as an alternative to the provision of adequate mental health care and treatment;
- c. All isolation decisions for prisoners with SMI include the input of a Qualified Mental Health Professional who has conducted a face-to-face evaluation of the prisoner in a confidential setting, is familiar with the details of the prisoner's available clinical history, and has considered the prisoner's mental health needs and history;
- d. Isolation is presumed to be contraindicated for all prisoners with SMI;
- e. Prior to placement in any form of isolation, all prisoners are screened by a Qualified Mental Health Professional to determine:
 - (1) whether the prisoner has SMI, and
 - (2) whether there are any other acute mental health contraindications to isolation;
- f. If a Qualified Mental Health Professional finds that a prisoner has SMI or other acute mental health contraindications to isolation, that prisoner is not to be placed in isolation absent extraordinary and exceptional circumstances;
- g. Prisoners who are placed in a secure mental health unit or a step-down unit receive a minimum of one individual or group therapy session per week and other adequate treatment as described in this Agreement, including adequate opportunities for unstructured activities;
- h. Any determination to keep a prisoner with SMI in isolation is documented in writing and includes the reasons for the determination;
- i. Prisoners with SMI who are not diverted or removed from isolation are offered a heightened level of care that includes the following:
 - (1) One to two hours of out-of-cell sessions of structured individual or group therapeutic treatment and programming each day, with each session lasting a minimum of one hour, or longer if determined by a Qualified Mental Health Professional, for a total of at least 10 hours of out-of-cell structured time each week;
 - (2) At least two hours of unstructured out-of-cell recreation with other prisoners each day, including exercise, dining, and other leisure activities that provide opportunities for socializing, but excluding showers, for a total of at least 14 hours of out-of-cell unstructured time each week; and
 - (3) Qualified Mental Health Professionals conduct rounds at least daily to assess the mental health status of all prisoners in isolation and the effect of isolation

on each prisoner's mental health to determine whether continued placement in isolation is appropriate. On weekends and holidays, Qualified Nursing Staff may conduct daily rounds to assess mental health status, as indicated above, as long as the Nursing Staff have mental health telephonic back-up and the ability to get a face-to-face mental health evaluation either by an on-call Mental Health Staff coming in or by sending the prisoner out for an immediate evaluation and treatment (e.g., to an emergency room);

- (4) All out-of-cell time is documented, indicating the type and duration of activity; and
 - (5) Rounds are not a substitute for treatment and are documented.
 - j. Prisoners with SMI are not placed in isolation for more than 24 hours without the written approval of the Jail Administrator or designee, and Director of Mental Health Services.
 - k. If a prisoner in isolation decompensates or develops symptoms of SMI where such symptoms had not previously been identified, the prisoner will be immediately removed from such confinement and referred for appropriate assessment and treatment.
 - l. If a prisoner with SMI in isolation suffers a deterioration in his or her mental health, decompensates, engages in self-harm, or develops a heightened risk of suicide, that prisoner will be immediately referred for appropriate assessment, including a determination of whether isolation is causing or contributing to the decompensation, and for treatment.
 - m. Prisoners will not be placed into long-term isolation, and prisoners currently subject to long-term isolation will be immediately removed from such confinement and referred for adequate assessment and treatment.
 - n. Document the placement and removal of all prisoners to and from isolation.
13. Collaboration between Mental Health and Security Staff. Defendant shall adopt and fully implement new policies, procedures, and training curricula that ensure an adequate level of collaboration between Mental Health and Security Staff. These remedial measures shall, in part, require that all correctional staff providing security for prisoners with SMI receive documented training regarding security and supervision issues specific to prisoners with mental illness, including:
- a. Use of force on prisoners with mental illness;
 - b. Pill call procedures to prevent prisoners with SMI, prisoners on the mental health units, and prisoners with mental illness in segregation units from hoarding or hiding pills;
 - c. Signs of mental illness and indices of when referrals should be made to Mental Health Staff; and

- d. Proper procedures in instances in which one prisoner threatens to harm another with whom he/she is being placed in a suicide watch cell or a cell in a mental health unit.
14. Disciplinary Action. Defendant shall adopt and fully implement new policies, procedures, and training curricula concerning disciplinary actions. These remedial measures shall ensure that:
- a. The designated Jail official responsible for prisoner disciplinary hearings has a roster of the mental health caseload listing the prisoners currently receiving mental health care;
 - b. Disciplinary charges against prisoners with mental illness are reviewed by a Qualified Mental Health Professional prior to imposition of *any* sanctions on the prisoner;
 - c. Prior history of decompensation in isolation or segregated housing/lock-down is considered a contraindication to placement in such confinement for disciplinary reasons;
 - d. Whenever Jail officials consider placing a prisoner on the mental health roster in isolation or segregated housing/lock-down for disciplinary reasons, a Qualified Mental Health Professional reviews the disciplinary charges against the prisoner to determine the extent to which the charge is related to SMI. The Qualified Mental Health Professional will make recommendations to correctional staff as to:
 - (1) whether the prisoner's mental illness should be considered as a mitigating factor because it played a significant role in causing the disciplinary infraction; and
 - (2) whether placing the prisoner in isolation and/or lock-down would adversely affect the prisoner's mental health;
 - e. Whenever a prisoner with SMI is the subject of a disciplinary hearing or process is, a member of the Mental Health Staff participates in the hearing or process, the hearing officer documents the participation of Mental Health Staff member, and the hearing officer considers the recommendation of the Mental Health Staff member, including treatment alternatives. If actions deviate from the Mental Health Staff recommendation, the hearing officer must document reasons for those actions;
 - f. Disciplinary sanctions for prisoners with mental illness are reviewed on a quarterly basis by the Director of Mental Health Services;
 - g. Prisoners are not subject to discipline for refusing treatment or medications or for engaging in self-injurious behavior or threats of self-injurious behavior;
 - h. Staff may only use a restraint on a prisoner on the mental health caseload after obtaining written approval from a Qualified Mental Health Professional, absent exigent circumstances, unless used in the course of transporting a prisoner;
 - i. The use of restraints is adequately monitored;

- j. Four and five point restraints, such as restraint chairs, are used only when necessary to protect prisoners or staff from immediate and imminent risks of harm; and
 - k. The use of four and five point restraints is adequately monitored, and monitoring includes video recording the prisoner for the entire period that any such restraint is being used on him or her and for the period immediately prior to when the prisoner was subjected to the use of the restraint.
15. Suicide Prevention. Defendant shall adopt and fully implement policies, procedures, and training curricula to ensure adequate suicide prevention. The remedial measures shall mandate the following:
- a. Progressive levels of supervision of those identified by the Jail staff as at-risk for suicide (“at-risk prisoners”) (e.g., constant direct supervisions, 15 minute checks, 30 minute checks);
 - b. Documentation by officers of their checks on at-risk prisoners;
 - c. The safe housing and supervision of prisoners based on the acuity of their mental health needs;
 - d. The removal of suicide hazards from all areas housing at-risk prisoners;
 - e. The housing of at-risk prisoners in close proximity to staff who can hear and/or see them. To every extent possible, the isolation of at-risk prisoners should be avoided, and except where the prisoner is actively engaging in self-destructive behavior, the Jail shall ensure that suicidal prisoners are not denied routine privileges such as showers, visits, telephone calls, and recreation;
 - f. The availability of cut-down tools to all Jail staff who may be first responders to suicide attempts;
 - g. The availability of emergency response equipment stored in emergency response bags located in close proximity to the Jail’s housing units. Equipment shall include a first aid kit, a CPR mask or Ambu bag, and an emergency rescue tool. Defendant shall train all Security and Medical Staff on the location(s) of emergency response bags in the vicinity of their work areas, and on how to use the emergency response equipment;
 - h. An adequate self-harm screening instrument that includes adequate screening factors and assessment triggers;
 - i. A risk management system, which shall be part of the overall quality assurance system, for identifying levels of risk for suicide and self-injurious behavior that requires intervention in an adequate and timely manner to prevent or minimize harm to prisoners. The system shall include the following processes:
 - (1) Incident reporting, data collection, and data aggregation to capture sufficient information to formulate reliable risk assessment at the individual and system levels regarding prisoners with mental illness and developmental disabilities:

- i. Incidents involving weapons, self-harm, use of force, suicide, suicide attempts, or prisoner-on-prisoner assaults shall be tracked and analyzed by the Jail on a quarterly basis.
 - ii. All such incidents shall be reviewed as part of a regularly scheduled suicide prevention committee composed of Security, Nursing, Medical Staff, and Qualified Mental Health Staff. The Jail shall develop a corrective action plan where appropriate, and the Jail's response shall be clearly documented.
- (2) Identification of at-risk prisoners in need of clinical or interdisciplinary review or treatment.
- (3) Identification of situations involving at-risk prisoners that require review by a interdisciplinary team and/or systemic review.
- (4) A hierarchy of interventions that corresponds to levels of risk.
- (5) Mechanisms to notify multidisciplinary teams and the risk management system of the efficacy of interventions.
- (6) Development and implementation of interventions that adequately respond appropriately to trends.
- j. Criteria and procedures for designating a prisoner as at-risk of suicide that ensure prisoners are identified in a timely manner (within four hours of admission, or sooner if clinically indicated), and that confidential assessments are documented appropriately;
- k. An evaluation by a psychiatrist within 24 hours of being identified by staff as at-risk for suicide or requiring crisis level care;
- l. The development and implementation of an adequate step-down level of observation whereby prisoners, upon evaluation and determination 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 prior to their discharge from suicide precautions. Step-down placements should continue to be suicide-resistant and located in such a way as to provide full visibility to staff. The Jail shall ensure that prisoners are placed on a level of observation that is not unduly restrictive;
- m. Adequate out-of-cell time, including clinically appropriate structured and unstructured activities, for all at-risk prisoners;
- n. Daily and meaningful interactions with a Qualified Mental Health Staff for each at-risk prisoners; and
- o. Timely and adequate follow-up assessment and care for each prisoner discharged from the Jail's suicide precaution list. Specifically, each such prisoner shall receive follow-up within four hours of discharge and every day for five days following

discharge, in accordance with a treatment plan developed by a Qualified Mental Health Professional.

16. Morbidity/Mortality Reviews. Defendant shall adopt and fully implement new policies, procedures, and training curricula ensuring that an adequate interdisciplinary review of any suicide, serious suicide attempt or other sentinel event occurs within 60 days of the incident. These remedial measures shall require that Morbidity/Mortality Reviews include a corrective action plan with timetables for completion.
17. Discharge Planning. Defendant shall adopt and fully implement new policies, procedures, and training curricula ensuring that prisoners with mental illness are provided adequate discharge planning, including a sufficient amount of prescribed medications to make it to their next appointment and appropriate referrals to community mental health services. These remedial measures shall require Jail staff to develop relationships with and solicit input from community mental health organizations and providers regarding prisoners' mental health needs in the Jail and upon discharge from the Jail.
18. Confidentiality. Defendant shall adopt and fully implement new policies, procedures, and training curricula ensuring that discussion of patient information and clinical encounters are conducted confidentially, with adequate sound privacy, and in a manner designed to encourage the subsequent use of health services. These remedial measures shall ensure the confidentiality of all mental health assessments. Also, they shall ensure that correctional staff is not present during clinical encounters, unless the prisoner poses a probable risk to the safety of staff.
19. Health Records. Defendant shall adopt and fully implement new policies, procedures, and training curricula concerning health records. These remedial measures shall include measures to ensure that:
 - a. The Jail maintains complete, legible, confidential, and well-organized mental health records as part of the medical records at the Jail, separate from the prisoner record;
 - b. Access to individual prisoner mental health records is restricted to medical and mental health personnel, and mental health information is shared with jail officers only when the Medical or Mental Health Staff believes it necessary;
 - c. Jail staff does not divulge prisoner mental health information to other prisoners.
20. Collection of Data and a Quality Assurance Plan. Defendant shall adopt and implement new policies, procedures, and training curricula to ensure adequate quality assurance at the Jail for mental health services. These remedial measures shall include measures to ensure that sufficient information is collected to assess whether staff members have complied with policy; whether corrective action is necessary, including training or discipline; the effectiveness of policies; and whether conditions at the Jail comply with the goal of providing adequate mental health services. These remedial measures also shall require Defendant to develop and implement an adequate quality assurance plan for assessing the quality of mental health services as well as for assessing compliance with the terms of this Agreement. The quality assurance plan shall include the following:

- a. Creation of a multi-disciplinary review committee (including the Medical and Nursing Directors, one or more members of the Psychiatry Staff, the Director of Mental Health Services, and a Security Staff designee);
 - b. A documented review of a representative sample of charts of those receiving mental health treatment on a quarterly basis, provide feedback to Mental Health Staff, and refer staff for appropriate training;
 - c. Periodic review of screening, assessments, use of psychotropic medications, and emergency room visits and hospitalizations for prisoners with mental illness;
 - d. Periodic review of housing of prisoners with mental illness, particularly prisoners with SMI;
 - e. Periodic review of the use of isolation;
 - f. Tracking and trending of data on a quarterly basis;
 - g. Morbidity and mortality reviews with critical analyses of causes or contributing factors, recommendations, and corrective action plans with timelines for completion; and
 - h. Corrective action plans with timelines for completion to address problems that arise during the implementation of this Agreement and prevent those problems from reoccurring.
21. Periodic Reporting of Data to the Monitor and DOJ for Purposes of Assessing Compliance. Ninety days after the Effective Date, and every six months thereafter until the termination of this Agreement, Defendant shall submit to the Monitor and DOJ a Periodic Mental Health Report containing a representative sampling of charts of those receiving mental health treatment and relevant records concerning outpatient referrals for mental health services, and detailing the number of days all prisoners with SMI are spending in isolation/solitary confinement, data concerning how much time elapses between when prisoners enter the Jail and when they receive mental health screenings and assessments, and whatever other information and outcome measures the Monitor deems necessary for assessing Defendant's progress toward meeting the goal of this subsection of the Agreement – the provision of adequate mental health care to the Jail's prisoners. Excepting the initial submission, The Monitor and DOJ shall, within 60 days of receiving the Periodic Security/Safety Report, assess and report back on whether the Defendant is making substantial progress toward achieving the goal of this subsection. If a review of any given Report indicates that substantial progress has not been made, the Monitor and DOJ shall determine what additional remedial measures need to be adopted and implemented under this Agreement.
22. Monitor And DOJ May Identify Additional Mental Health Related Remedial Measures. Defendant shall adopt and implement any additional remedial measures – including additional policies, procedures, and training curricula – that the Monitor and DOJ identify as necessary to achieve the goal of a reasonably safe and secure environment.

III. REPORTING REQUIREMENTS AND RIGHT OF ACCESS

1. Defendant shall submit semi-annual compliance reports to the Monitor and DOJ, the first of which shall be submitted 90 days after the Effective Date, and every six months thereafter until the Agreement is terminated. Each compliance report shall consist of the Security/Safety Report, the Desegregation Report, and the Mental Health Report described in the Substantive Provisions (Section II) of this Agreement, and also summarize audits and continuous improvement and quality assurance activities and contain findings and recommendations that would be used to track and trend data compiled at the Jail.
2. Defendant shall promptly notify the Monitor and DOJ upon any sentinel event, including the death or serious suicide attempt of any prisoner. Defendant shall forward to the Monitor and DOJ incident reports and medical and/or mental health reports related to the sentinel event, including autopsies, and/or death summaries of prisoners as well as all final Internal Affairs Division investigations reports that involve prisoners.
3. Each compliance report shall describe the actions Defendant has taken during the reporting period to implement this Agreement and shall make specific reference to the Agreement provisions being implemented.
4. Defendant shall maintain sufficient records to document that the requirements of this Agreement are being properly implemented and shall make such records available to DOJ for inspection and copying (e.g., Defendant shall document trainings provided pursuant to this Agreement, and track the training of all staff). In addition, Defendant shall maintain, and provide upon request, all records or other documents to verify that they have taken such actions as described in their compliance reports (e.g., census summaries, policies, procedures, protocols, training materials, investigations, and incident reports).
5. DOJ and its attorneys, consultants, and agents shall have unrestricted access to the Jail, prisoners, staff and documents as reasonably necessary to address issues affected by this Agreement.
6. Within 30 days of receipt of written questions from DOJ concerning Defendant's compliance with the requirements of this Agreement, Defendant shall provide DOJ with written answers and any requested documents.
7. Defendant shall designate a compliance coordinator to oversee compliance with this Agreement and to serve as the point of contact.

IV. MONITORING

1. Monitor Selection. The Parties will jointly select a Monitor to oversee implementation of the Agreement. Should the Parties be unable to agree on the Monitor, each shall recommend no more than two candidates to the Court and the Court will appoint the Monitor from the names submitted by the Parties. Neither Party, nor any employee or agent of either Party, shall have any supervisory authority over the Monitor's activities, reports, findings, or recommendations. The cost for the Monitor's fees and expenses shall be borne by Defendant. The selection of the Monitor shall be conducted solely pursuant to the procedures set forth in this Agreement, and will not be governed by any formal or legal

procurement requirements. The Monitor may be terminated only for good cause, unrelated to the Monitor's findings or recommendations, and only with approval of the Court. Should the Parties agree that the Monitor is not fulfilling his or her duties in accordance with this Agreement, the Parties may move the Court for the Monitor's immediate removal and replacement. One Party may unilaterally move the Court for the Monitor's removal for good cause, and the other Parties will have the opportunity to respond to the petition.

2. Monitor Qualifications. The Monitor and his or her staff shall have experience and education or training related to the subject areas covered in this Agreement.
3. Monitoring Team. The Monitor may hire or consult with such additional qualified staff as necessary to fulfill the duties required by the Agreement ("Monitoring Team"). The Monitor is ultimately responsible for the findings regarding compliance. The Monitoring Team will be subject to all the same access rights and confidentiality limitations as the Monitor. The Parties reserve the right to object for good cause to members of the Monitoring Team. The Court will decide any unresolved objections to members.
4. Monitor Access. The Monitor shall have full and complete access to the Jail, staff, prisoners, all Jail records, and prisoner medical and mental health records. Defendant shall direct all employees to cooperate fully with the Monitor. All non-public information obtained by the Monitor shall be maintained in a confidential manner.
5. Monitor Ex Parte Communications. The Monitor shall be permitted to initiate and receive ex parte communications with all Parties.
6. Limitations on Public Disclosures by the Monitor. Except as required or authorized by the terms of this Agreement or the Parties acting together, the Monitor shall not make any public statements (at a conference or otherwise) or issue findings, except as required under paragraph G, *infra*, with regard to any act or omission of Defendant or its agents, representatives or employees. Any press statement made by the Monitor regarding the monitoring of this Agreement or his or her employment as Monitor must first be approved in writing by all Parties. The Monitor shall not testify in any other litigation or proceeding with regard to any act or omission of Defendant or any of their agents, representatives, or employees related to this Agreement, nor testify regarding any matter or subject that he or she may have learned as a result of his or her performance under this Agreement. Reports issued by the Monitor shall not be admissible against Defendant in any proceeding other than a proceeding related to the enforcement of this Agreement by Defendant or DOJ. Unless such conflict is waived by the Parties, the Monitor shall not accept employment or provide consulting services that would present a conflict of interest with the Monitor's responsibilities under this Agreement. Neither the Monitor nor any person or entity hired or otherwise retained by the Monitor to assist in furthering any provision of this Agreement shall be liable for any claim, lawsuit or demand arising out of the Monitor's performance pursuant to this Agreement. This provision does not apply to any proceeding before a court related to performance of contracts or subcontracts for monitoring this Agreement.
7. Monitor's Reports. The Monitor shall file with the Court, and provide the Parties, reports describing the steps taken by Defendant to implement this Agreement and evaluate the extent to which Defendant has complied with each substantive provision of the Agreement. The Monitor's Reports shall indicate a compliance rating for each provision and provide recommendations for achieving compliance with any provisions not in compliance at the

time of the Report. The Monitor shall issue an initial report four months after the Effective Date, and then every six months thereafter. The reports shall be provided to the Parties in draft form for comment at least two weeks prior to their issuance. These reports shall be written with due regard for the privacy interests of individual prisoners and staff.

8. Compliance Assessments. In the Monitor's report, the Monitor shall evaluate the status of compliance for each relevant provision of the Agreement using the following standards: (1) Substantial Compliance; (2) Partial Compliance, and (3) Non-compliance. To assess compliance, the Monitor shall review a sufficient number of pertinent documents to accurately assess current conditions; interview all necessary staff; and interview a sufficient number of prisoners to accurately assess current conditions. The Monitor shall be responsible for independently verifying representations from Defendant regarding progress toward compliance, and examining supporting documentation, where applicable. Each Monitor's report shall describe the steps taken by each member of the monitoring team to analyze conditions and assess compliance, including documents reviewed and individuals interviewed, and the factual basis for each of the Monitor's findings.
9. Monitor's Budget. Defendant shall provide the Monitor with a budget sufficient to allow the Monitor to carry out the responsibilities described in this Agreement. The Monitor shall pay the members of the Monitoring Team out of this budget.
10. Technical Assistance by the Monitor. The Monitor shall provide Defendant with technical assistance as requested by Defendant. Technical assistance should be reasonable and should not interfere with the Monitor's ability to assess compliance.

V. ENFORCEMENT

1. The Court shall retain jurisdiction over the implementation of this Agreement at the Jail or any other facility used to replace or supplement the jail for all purposes.
2. During the period that the Agreement is in effect, if the Monitor or DOJ determines that Defendant has not made substantial progress in implementing a remedial measure mandated by this Agreement, and such failure constitutes a violation of prisoners' constitutional rights, DOJ may initiate enforcement or contempt proceedings in Court against Defendant for an alleged failure to fulfill an obligation under Section II of this Agreement.
3. Before taking judicial action to initiate contempt or other enforcement proceedings, DOJ shall give Defendant written notice of its intent to initiate such proceedings, and the Parties shall engage in good-faith discussions to resolve the dispute and may petition the Court for a status conference to assist in resolution.
4. Defendant shall have 30 days from the date of such notice to cure the failure (or such additional time as is reasonable due to the nature of the issue and agreed upon by the Parties) and provide the complaining party with sufficient proof of its cure. At the end of the 30-day period (or such additional time as is reasonable due to the nature of the issue and agreed upon by the Parties), in the event that the complaining party determines that the

failure has not been cured, that party may initiate contempt proceedings without further notice. The Parties commit to work in good faith to avoid enforcement actions.

5. In case of an emergency posing an immediate threat to the health or safety of any prisoner or staff member at the Jail, however, DOJ may omit the notice and cure requirements herein and seek enforcement of the Agreement.

VI. CONSTRUCTION, IMPLEMENTATION, AND TERMINATION

1. Defendant shall implement all reforms within their areas of responsibility, as designated within the provisions of this Agreement that are necessary to effectuate this Agreement. The implementation of this Agreement will begin immediately upon the Effective Date.
2. Except where otherwise agreed to under a specific provision of this Agreement, Defendant shall implement all provisions of this Agreement within 180 days of the Effective Date.
3. This Agreement shall terminate after the Monitor and DOJ finds that Defendant maintained sustained substantial compliance of each and every provision for a period of 12 months. Non-compliance with mere technicalities, or temporary failure to comply during a period of otherwise sustained compliance, will not constitute failure to maintain substantial compliance. Temporary compliance during a period of otherwise sustained non-compliance will not constitute substantial compliance.
4. Failure by any Party to enforce this entire Agreement or any provision thereof with respect to any deadline or any other provision herein shall not be construed as a waiver of its right to enforce other deadlines or provisions of this Agreement.
5. If any unforeseen circumstance occurs that causes a failure to timely carry out any requirements of this Agreement, Defendant shall notify DOJ in writing within 20 calendar days after Defendant becomes aware of the unforeseen circumstance and its impact on the Defendant's ability to perform under the Agreement. The notice shall describe the cause of the failure to perform and the measures taken to prevent or minimize the failure. Defendant shall implement all reasonable measures to avoid or minimize any such failure. Notice shall not prevent DOJ from seeking court intervention.
6. This Agreement constitutes the entire integrated Agreement of the Parties, as it relates to protection from harm, housing of prisoners by race, mental health care, and suicide prevention. With the exception of DOJ's Findings Letter, no prior or contemporaneous communications, oral or written, will be relevant or admissible for purposes of determining the meaning of any provisions herein in this litigation or in any other proceeding.
7. The Agreement shall be applicable to, and binding upon, all Parties, their officers, agents, employees, assigns, and their successors in office.
8. Each Party shall bear the cost of its fees and expenses incurred in connection with this cause.
9. If any provision of this Agreement is declared invalid for any reason by a court of competent jurisdiction, said finding shall not affect the remaining provisions of this Agreement.

FOR THE UNITED STATES:

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FOR THE DEFENDANT:

So ORDERED this _____ day of _____, 2013

United States District Court Judge