



October 19, 2023

VIA EMAIL

Chief Deputy Cindy Cisneros
Kern County Sheriff's Office
1350 Norris Road
Bakersfield, CA 93308

**RE: Abuse/Neglect Investigation and Request for Corrective Action
Kern County's Use of Solitary Confinement and Mental Health System**

Dear Chief Deputy Cisneros:

Disability Rights California (“DRC”) has been investigating Kern County’s (“the County”) jail system pursuant to its authority as California’s protection and advocacy system for people with disabilities.¹ For purposes of this investigation, DRC has designated the Prison Law Office (“PLO”) as its authorized agent. Our investigation of Kern County focuses on the use of segregation – also known as solitary confinement – and the treatment of people with mental health care needs as they relate to these practices.

On May 10 and 11, 2023, DRC and PLO teams visited the County’s two main jail facilities, the Justice Facility and Lerdo Pretrial Facility. We toured both jails, interviewed dozens of incarcerated individuals, and met with jail leadership, including with representatives from custody and Correctional Behavioral Health (“CBH”). On July 17, 2023, we received records from the County in response to our post-tour document request.

We would like to thank the Sheriff’s Office and CBH for their hospitality during our visit and for the professionalism and candor of staff in their interactions with us on site. Many of our findings derive from information the County shared with us directly, during our tour and in response to our document request, and we appreciate the cooperation in providing this

¹ Disability Rights California is the protection and advocacy system for the State of California, with authority to investigate facilities and programs providing services to people with disabilities under the Protection and Advocacy for Individuals with Mental Illness (“PAIMI”) Act, 42 U.S.C. §§ 10801–10851 (2000), 42 U.S.C.A. § 10805; the Developmental Disabilities Assistance and Bill of Rights (“PADD”) Act, 42 U.S.C. §§ 15001–15115 (2000); and the Protection and Advocacy for Individual Rights (“PAIR”) Act, 29 U.S.C. § 794e (2000).

information. We are confident that the County is invested in operating a humane and constitutional jail system and we hope to work with you to achieve that shared goal.

On May 22, 2023, we held an exit meeting with you and your leadership team, in addition to the Sheriff, Undersheriff, Chief Administrative Officer, and Chief Operations Officer. As we discussed during this meeting, Kern County's practices with respect to segregation and the treatment of people with serious mental illness are an outlier in the state. At the time of our visit, one-fifth of the County jail population was housed in segregation, mostly locked in their cells 23 hours per day. A shocking proportion of people in segregation had serious mental health needs. The County estimates that 85 percent of the entire jail population received some kind of mental health treatment, and over half the people in segregation were either receiving psychiatric medications or were on the mental health caseload. When we visited segregation units, people were clearly exhibiting symptoms of serious mental illness and decompensation, and many were cycling in and out of suicide watch.

Based on our investigation, we have concluded that there is probable cause to find that abuse and/or neglect of people with disabilities has or may have occurred, as those terms are defined in DRC's authorizing statutes and regulations. *See* 42 U.S.C.A. § 10802; 42 C.F.R. § 51.2; *see also id.* (defining probable cause as "reasonable grounds for belief that an individual with mental illness has been, or may be at significant risk of being subject to abuse or neglect."). These authorizing statutes and regulations allow DRC, and PLO as its authorized agent, to take next steps in an investigation, including accessing documents, facility premises, and incarcerated people.

In this letter, we memorialize the concerns we shared with you at the close of our visit on May 11 and in our meeting on May 22, which form the basis of our Probable Cause Finding. In summary, we found that the County routinely places people with serious mental health needs in segregation, often directly from suicide watch, for indefinite time periods without clear criteria or processes for challenging placement, and in filthy and dangerous conditions without sufficient mental health services. As we have stated previously, these practices are unlawful under the Eighth Amendment, Due Process Clause, and Americans with Disabilities Act and are clinically contraindicated and dangerous as a matter of health and safety.

As we have also stated, we are eager to work with you to remedy these issues. We are working with other counties around the state to collaboratively address segregation policies and practices that are out of step with constitutional and statutory requirements, and we are in discussions with the California State Sheriffs' Association about these issues. We hope we can offer technical assistance to Kern County and establish a similarly productive collaboration. As a starting point, in Exhibit A, we include a document outlining core principles and practices for a county jail system's lawful and humane use of segregation. We would also be glad to provide examples from other counties of successful policies for reducing the overreliance on segregation and providing alternative, less restrictive settings for mental health treatment. **We propose a Zoom meeting on November 15, 16, or 17**, to discuss next steps in our investigation and our hope for a cooperative working relationship.

I. Background

A. *Kern County's System of Segregation*

The Kern County Jail system contains a number of facilities across the large county. For purposes of our investigation, we have focused on the two largest facilities – the Justice Facility and the Lerdo Pretrial Facility – where people spend the longest periods of time and are housed in conditions of solitary confinement in administrative segregation (or “administrative separation”)² and in medical isolation and safety cells/suicide watch.³ At the time of our visit, staff informed us there were approximately 703 people housed at the Justice Facility and some 800-900 at the Lerdo Pretrial Facility, with a total jail population of 1629.⁴ We were told the Lerdo Pretrial Facility, which is the newer jail and the largest in the County system, also houses 60 people in the Department of State Hospital (“DSH”) program. People who the County identifies as female are housed at Lerdo; at the time of our visit, there were 156 female incarcerated people. In addition to these two facilities, the County operates a central receiving facility and a number of satellite jails and lock-up spaces associated with various booking locations and courthouses.

According to jail leadership, the County has not utilized disciplinary housing for a period of years. Instead, when people commit disciplinary infractions, they are disciplined within their housing unit with sanctions that include loss of commissary, visiting and other privileges. We were told that administrative segregation is used exclusively for non-disciplinary purposes when a person cannot program in the general population.

Administrative segregation units are located at both Justice and Lerdo facilities and typically operate on a schedule of 23-and-1, meaning 23 hours per day spent in the cell with one hour of out-of-cell-time. Across both jails, staff told us there were approximately 300 people in administrative segregation at the time of our visit. Administrative segregation at the Justice Facility is located in C-Pod. At the Lerdo Pretrial Facility, administrative segregation is located in B-Pod (for women), D-Pod, and F-Pod.⁵ We were told that the administrative segregation units at both jails were often close to or at capacity and that classification often struggled to identify available administrative segregation beds.

² The County appears to use the terms “administrative separation” (or “ad sep”) and “administrative segregation” (or “ad seg”) interchangeably, sometimes depending on which facility’s units are being referenced. In this letter, we use the term “administrative segregation” to refer to all these units.

³ For purposes of this investigation, we define segregation as circumstances in which a person is confined in their cell, alone or with others, for a substantially longer period of time each day than those in general population – no matter the reason the person is in this unit or the number of days they spend there. As explained below, given the extreme restriction on out-of-cell time in administrative segregation, safety cells and medical isolation, these units clearly constitute segregation.

⁴ It was unclear whether this population figure was for the two jails we visited only, or for the entire County jail system.

⁵ At the jails, these are sometimes referred to as “Mod” instead of “Pod,” depending on which facility’s units are being referenced.

Both jails have a medical unit or infirmary. At the Justice Facility, the unit contains approximately a dozen safety cells for people on suicide watch, as well as a handful of medical isolation cells in which people may have a cellmate but have limited out-of-cell time, which they can access only with their cellmate or, if they do not have one, alone.

Staff informed us that 85 percent of people incarcerated in the jails receive some level of mental health treatment, but no dedicated mental health unit exists beyond the Admission, Evaluation and Stabilization Center (“AES”), which is for people determined to be incompetent to stand trial and sentenced to DSH custody.⁶

In 2020, the County began the Inmate Stabilization and Assessment Team (“ISAT”) program in response to suicides in custody and behavioral health issues. ISAT was developed by and appears to be run by custody staff and is not a therapeutic treatment program, but is meant to coordinate between the Sherriff’s Office, CBH, and Correctional Medicine. According to a PowerPoint presentation provided to us by the County, ISAT has had significant success. At the time of our visit, the County had been running an ISAT “reintegration” pilot program for approximately seven months, which operated in a few of the administrative segregation units. We were told that the County was trying to increase out of cell time to four hours per day for people in administrative segregation who participated in ISAT reintegration. Beyond the reintegration units, ISAT participants could be housed anywhere in the jails. We were also told that, since the start of the ISAT program in 2020, involuntary medication administration had decreased by 16 percent, suicide watch placements were down 20 percent, suicide attempts were down 74 percent, and deaths by suicide were down by 54 percent.

B. Harms of Prolonged Solitary Confinement, Especially for People with Serious Mental Illness

Solitary confinement is an unusually harmful form of punishment that can inflict permanent damage. Nearly every empirical study on this issue has concluded that long-term solitary confinement profoundly impacts an individual’s mental and physical health. People in solitary confinement often experience anxiety, panic, irritability, aggression, rage, paranoia, ruminations, violent fantasies, cognitive dysfunction, hypersensitivity to stimuli, and hallucinations.⁷ The social isolation of solitary confinement can result in a lack of impulse and emotional control, mood swings, lethargy, flattened affect, and depression.⁸ Solitary confinement aggravates existing mental illness and can cause individuals without existing mental health needs

⁶ The AES is located in H-Pod in the Lerdo Pretrial Facility. In some of the records produced to us, it appears the County considers AES an administrative segregation unit.

⁷ Craig Haney, *Restricting the Use of Solitary Confinement*, 1 ANN. REV. CRIMINOLOGY 285, 298 (2018) (reviewing studies related to the physical and emotional impact of solitary confinement).

⁸ Craig Haney, *Infamous Punishment: The Psychological Consequences of Isolation*, 8 NAT’L PRISON PROJECT J. 1 (1993).

to experience new symptoms.⁹ The rates of suicide and instances of self-harm increase in solitary confinement conditions.¹⁰ The conditions of solitary confinement cause individuals to experience stress-related physical symptoms, like decreased appetite, trembling hands, sweating palms, heart palpitations, and a sense of impending emotional breakdown.¹¹ The symptoms that individuals experience while in solitary confinement often persist even after they are released back into general population or into the community.¹²

Given the significant harms caused by solitary confinement, subjecting individuals with serious mental health disabilities to these isolating conditions violates the Eighth and Fourteenth Amendments. *See, e.g., Disability Rights Montana v. Batista*, 930 F.3d 1090, 1094-95 (9th Cir. 2019) (“placing prisoners with serious mental illness in various forms of solitary confinement for 22 to 24 hours per day for months and years at a time ... will be harmful to the prisoner’s mental health...”); *Coleman v. Wilson*, 912 F. Supp. 1282, 1321 (E.D. Cal. 1995) (“[D]efendants’ present policies and practices with respect to housing of [prisoners with serious mental illness] in administrative segregation and in segregated housing units violate the Eighth Amendment rights of class members.”); *Madrid v. Gomez*, 889 F. Supp. 1146, 1265 (N.D. Cal. 1995) (concluding that placing prisoners with mental health conditions “in the SHU is the mental equivalent of putting an asthmatic in a place with little air to breathe”); *Jones ’El v. Berge*, 164 F. Supp. 2d 1096, 1098 (W.D. Wis. 2001) (“Most inmates have a difficult time handling these conditions of extreme social isolation and sensory deprivation, but for seriously mentally ill inmates, the conditions can be devastating.”).

Subjecting individuals with mental health disabilities on account of their disabilities also violates Title II of the Americans with Disabilities Act of 1990 (“ADA”), 42 U.S.C. §§ 12131-12134, Section 504 of the Rehabilitation Act of 1973 (“Section 504” or the “Rehabilitation Act”), 29 U.S.C. §§ 794 *et seq.*, and California Government Code sections 11135-11139 (“Section 11135”). The ADA and Rehabilitation Act forbid all forms of discrimination against persons with disabilities, including needless segregation. *Olmstead v. L.C. ex rel. Zimring*, 527 U.S. 581, 597 (1999); *see also* 28 C.F.R. § 35.130(d); 28 C.F.R. § 35.130(b)(3); *see, e.g., Dunn v. Dunn*, 318 F.R.D. 652, 670 (M.D. Ala. 2016) (“[A]s to requests that disabled prisoners be housed separately from other prisoners, the court agrees with the parties that imposing such a

⁹ Keramet Reiter et al., *Psychological Distress in Solitary Confinement: Symptoms, Severity, and Prevalence in the United States, 2017–2018*, AMERICAN JOURNAL OF PUBLIC HEALTH 110, 56 (2020).

¹⁰ Fatos Kaba et al., *Solitary Confinement and Risk of Self-Harm Among Jail Inmates*, AMERICAN JOURNAL OF PUBLIC HEALTH 104, 3 (2014)

¹¹ Bruce Arrigo & Jennifer Bullock, *The Psychological Effects of Solitary Confinement on Prisoners in Supermax Units: Reviewing What We Know and What Should Change*, 526 INT. J. OFFENDER THER. COMP. CRIMINOL. 22-40 (2007).

¹² Stanford Univ. Human Rights in Trauma Mental Health Lab, *Mental Health Consequences Following Release from Long-Term Solitary Confinement in California: Consultative Report Prepared for the Center for Constitutional Rights 15-25* (2017) (finding that upon release from solitary confinement, individuals are more likely to experience panic disorders, traumatic stress syndromes, hypervigilance and worry, and a decreased motivation to seek social connections.).

requirement would be inconsistent with the ADA’s integration mandate.”); *Stiles v. Judd*, No. 12-02375, 2013 WL 6185404, at *2 (M.D. Fla. Nov. 25, 2013) (finding that previously suicidal jail detainee who remained isolated from other jail detainees stated claim under *Olmstead*); *Brown v. Washington Dep’t of Corr.*, No. 13-5367, 2015 WL 4039322, at *11 (W.D. Wash. May 13, 2015), *report and recommendation adopted*, No. 13-05367, 2015 WL 4039270 (W.D. Wash. July 2, 2015) (denying summary judgment to defendants on plaintiff’s claim that being placed in isolation for self-harm violated ADA, citing *Olmstead*); *Henderson v. Thomas*, 913 F. Supp. 2d 1267 (M.D. Ala. 2012) (finding that unnecessary segregation of HIV-positive inmates violated ADA, citing *Olmstead*); *see also* U.S. Dep’t of Justice, Investigation Of Alameda County, John George Psychiatric Hospital, And Santa Rita Jail 35-36 (Apr. 22, 2021), <https://www.justice.gov/crt/case-document/file/1388891/download> (finding the “the jail’s treatment of prisoners with mental health disabilities violates the Americans with Disabilities Act” because these individuals are disproportionately placed in administrative segregation, restrictive housing, or specific mental health units, and do not have the same access to programming, such as educational programs, art therapy, culinary arts, computer coding, job readiness training, financial literacy, and hospitality, as the general population).

II. Initial Findings

A. Kern County Routinely Places People with Serious Mental Illness in Administrative Segregation

Kern County’s administrative segregation population is exceptionally large: approximately one-fifth of the jail population is housed in administrative segregation. This is not a normal correctional practice and, as far as we can tell, results from the unavailability of mental health resources in the jail more broadly: people do not receive appropriate treatment in other units, and so they end up single-celled and isolated in administrative segregation as the only option for managing their disruptive, antisocial or aggressive behaviors.

The level of mental health crisis and decompensation that we witnessed in administrative segregation units in the Kern County jails was among the most concerning of any jail’s segregation units we have visited. When we walked through administrative segregation units, people presented with extreme symptoms of mental illness and decompensation: they were banging on the walls, screaming, flooding their cells, and smearing feces. We observed people standing or pacing at their cell doors with blankets and towels wrapped around their heads, muttering to themselves. When we attempted to speak to people, their speech was often disorganized and they sometimes could not form sentences. When they did, they described auditory and visual hallucinations, paranoia, and delusions. These individuals were class examples of the type of people who should not be held in jail—especially not in segregation—but should instead be receiving significant mental health care in a community setting.

It appears that Kern County’s default is to place people with serious mental illness in administrative segregation. There is no mental health unit in the jail system,¹³ and administrative

¹³ While the ISAT program is a positive development, it is custody-run and cannot replace clinical services.

segregation units are the only ones that are single-celled. As a result, people who cannot or are perceived not to be able to function in general population or in other congregate settings are placed in administrative segregation.

Additionally, the majority of people approved for transfer to DSH live in administrative segregation units; we were told there were 32 people awaiting DSH transfer in administrative segregation at the time of our visit. Staff acknowledged that certain administrative segregation units were meant for people with serious mental illness, including C3 at the Justice Facility and certain units in B, F and D Pods at the Lerdo Pretrial Facility, yet none of these units had specialized mental health services and staffing, increased out-of-cell time, or related therapeutic interventions.

We were told by staff that more than half of people in administrative segregation are receiving psychiatric medications. Indeed, according to records produced to us on July 17, 2023, approximately 171 people in administrative segregation were either on the mental health caseload or were taking psychiatric medications.¹⁴ On site in May, we were told that twenty-five people in administrative segregation had court-ordered involuntary medication. According to records we received in July, over the past three months, six people were either moved from administrative segregation to a 5150 hold¹⁵ or to suicide watch. As a further indication of potential decompensation in administrative segregation, there were nine deaths in administrative segregation between May 21, 2022 and May 15, 2023, including at least one confirmed suicide (six of the nine were still pending the coroner's review at the time the records were produced).

As explained in Section I.B, when a person with serious mental health needs is placed in conditions of solitary confinement, their risk of decompensation is heightened. When we asked staff what would happen if someone was decompensating, we were told that they would be checked on more often by CBH – but that those checks would still occur in administrative segregation. There appeared to be no recognition that people who are decompensating must be removed from administrative segregation altogether.

B. Kern County's Safety Cells Have a Revolving Door into Administrative Segregation

¹⁴ The records do not specify on what date the data was pulled. We made our request on May 15, and the records were produced on July 17, 2023. We assume the data reflects dates in mid-May, or around the time of our visit.

¹⁵ We were told that Kern County generally only 5150's a patient (indicating an involuntary psychiatric hold under the Welfare and Institutions Code) when they are being released from custody.

The Justice Facility contains a medical unit in which people are held in conditions of solitary confinement in safety cells and medical isolation cells.¹⁶ The safety cells, where people are placed for the most acute suicide watch observation, were among the most disturbing we have witnessed in a county jail system. There are approximately one dozen safety cells in a row at the entrance to the unit. At the time of our visit, at least seven of these cells were in use. People crouched or lay naked in these cells, yelling and pounding on the walls and doors.

We learned from medical and CBH staff that it is a routine practice for people to be transferred directly from safety cells to administrative segregation immediately after being cleared from suicide watch. We spoke with individuals who stated that they had cycled between segregation and suicide watch at least six times and that being held in segregation felt like “torture” because they were “treated like caged animals.”

Staff also explained that, frequently, no beds are available in administrative segregation units and so people remain in the safety cell after they had been cleared for release from suicide watch, until a bed opens up.¹⁷ Indeed, at the time of our visit, we were told that one of the seven people in the safety cells at the Justice Facility was waiting for a bed. Staff also told us about a woman who was finally moved to administrative segregation at the Lerdo Pretrial Facility on the afternoon of our visit after being held in suicide watch for eleven extra days beyond the date she was cleared, because the jail could not identify an available bed for her. Staff appeared to believe that it was necessary for people to move from safety cells to administrative segregation because it was necessary for them to be single-celled after suicide watch, and administrative segregation units were the only other units that offered single-cell housing. However, because of the serious risks associated with solitary confinement, we reiterate that individuals should not be moved from suicide watch directly to segregation. On site, we also expressed grave concern about people being held in the extraordinarily harsh conditions of safety cells beyond the time that was clinical indicated for suicide watch. We were told this was an unfortunate issue of bed space and administrative segregation crowding.

C. Administrative Segregation Conditions Are Substandard, Including Inadequate Mental Health Services for People with Serious Mental Illness

Conditions in administrative segregation are strikingly substandard. The cells we observed at both facilities were filthy: there was evidence of flooding, food waste and other garbage, and many reports from staff and incarcerated people about feces. These conditions themselves are likely manifestations of the serious mental illness of people living there. In addition, we heard from both staff and incarcerated people about insect and/or rodent infestations. In short, the conditions were unacceptable for human habitation.

¹⁶ Although we did not visit them, the Lerdo Pretrial Facility also had suicide watch cells. At the time of our visit, we were told approximately 12 people were housed on suicide watch at that facility.

¹⁷ Staff use paper logs to track people’s placement in safety cells. When we asked on site for information about how long each person had been in their safety cell, we were told that information was not available because the lists would need to be pulled. We indicated we would be happy to wait for the lists. Despite our repeated requests, including in our post-tour document request, the County has still not produced information on lengths of stay for us.

Out-of-cell time in these units is extremely limited.¹⁸ Except for ISAT reintegration participants, people in administrative segregation receive only one hour out-of-cell per day, which is conducted cell-by-cell rather than in groups. In many units, the “sub-dayroom” space is all that is used: this space consists only of the small hallway outside the cells, rather than the more open and larger dayroom space. Showers and phone access is available during out-of-cell time, but there is little else to occupy the senses and no space for meaningful exercise or physical activity, especially for those limited to the sub-dayroom. In most of the units, we saw no clocks and no out-of-cell activities offered beyond a TV,¹⁹ which was alternately broken or on extremely loud volume. Outside recreation is available for one hour per week – it typically involves two celled cages on the yard, which people access alone; people are allowed a ball, but have little they can do with it.

In the cells themselves, people have limited property and effectively nothing for sensory stimulation beyond books or the TV which they may or may not be able to see through their cell door.²⁰ One person in C-Pod in the Justice Facility told us people there were trapped in their cells for 24 hours with nothing to do. He said the two TVs in the unit were so loud that they lead to noise pollution and that just prior to our visit people were living in feces, but that the mess had been cleaned up just before our visit. In the F Unit at the Lerdo Pretrial Facility, another person described that he was held in his cell 23 hours per day with no contact with the sunlight. He spoke about how people with mental health issues “go suicidal,” that the units have vermin including rats and mice, and that staff ignore requests for medical help.

In administrative segregation, including for participants in ISAT reintegration, there are insufficient mental health services for the level of mental illness present. No one we spoke to said they thought they were receiving clinically appropriate care. In fact, we observed CBH conducting their routine administrative segregation check-ins in one unit at the Justice Facility. They were simply walking by each cell, spending barely a few minutes, and shouting through the closed door. At one point we heard a clinician ask someone loudly through the door whether he was “still suicidal.” The County described to us the significant staffing crisis it experienced in the last few years at all levels. At the time of our visit, we were told that 10 out of 14 LVN positions within CBH were vacant and that there were three vacancies among “clinical staff.” To make up for inadequate staffing, staff said they worked different shifts, staggered schedules, and worked with the medical team if necessary.

With 85 percent of the jail population receiving mental health treatment of some kind, and over half the people in administrative segregation receiving psychiatric medication and/or other mental health services, Kern County lacks adequate staffing and infrastructure within its

¹⁸ Out of cell time in the medical units is also extremely limited, and is causing people held there significant distress. For example, during our tour we spoke to two individuals in wheelchairs who expressed dismay over limited out-of-cell time in the medical units; they did not understand why their medical injuries required such profound social isolation.

¹⁹ We were told by staff that “Seeking Safety” is the only programming available to people in administrative segregation, and that it is a group of only about five people.

²⁰ At the time of our visit, the County had submitted an RFP for tablets, which would assist with, but not be sufficient in, providing in-cell activities and sensory stimulation.

mental health service to deliver the appropriate levels of care to such a large population. While the statistics the County provided to us about ISAT's success are commendable, this program is custody-run and cannot replace appropriate mental health treatment by clinicians.²¹

Additionally, the County lacks an adequate system for the identification of disability needs and provision of accommodations. We met with the Lieutenant who was serving as the interim or *de facto* ADA coordinator. While he said he had been taking classes to get the appropriate certification, the position still needed funding. The jail appeared to have no robust system for providing reasonable accommodations to people with disabilities, resulting, for example, in many people with mobility disabilities being housed in medical isolation or administrative segregation. A person with a mobility disability should not be placed in solitary confinement because the jail cannot figure out how to safely house them in less restrictive general populations instead. Such a practice, which we observed onsite, amounts to disability discrimination.

D. Administrative Segregation Terms Are Indefinite and Lack Clear Criteria for Placement and Removal

While some people we met with wanted to be in administrative segregation because it was the only option for single-celled living, the vast majority we asked did not know why they were in administrative segregation, how long they would be there, or what they could do to get out.

The criteria jail leadership described to us for placing people in administrative segregation appeared overly broad and vague, and it explicitly included categories such as mental health and medical condition/disability that instead should be categorically excluded. As noted above, we have serious concerns that, in practice, people are being placed in administrative segregation for manifestations of their mental health disabilities. For example, the County's records suggest at least 17 people were in these units for behavior that resulted from their serious mental health or medical needs (for example, gassing and "bizarre behavior") – or, more plainly, for the very fact of their mental illness (for example, being on the DSH waitlist). People we spoke to mostly seemed unaware of the County's reasons for placing them in administrative segregation and did not know how to challenge their placement once there or what behavior or conduct they would need to show to be released.

Staff told us that reviews of administrative segregation occurred every 10 days, and that people could also put in individual requests related to their placements. We were told every two to three reviews were conducted in-person with the incarcerated person where possible and that assessments included a review of incidents in the jail, their court case, and other factors. Because administrative segregation beds were in high demand, staff told us they were as proactive as

²¹ Additionally, while participants told us they appreciated the additional out-of-cell time, they told us that they did not in fact get more services or programming. One person said he thought the purpose of being in reintegration was to have a mixture of "regular guys" and people with mental health issues, to give the people with mental health issues someone to talk to. He said this was not occurring, and he wanted better access to books and religious services. He also talked about the need to get the smell of feces out of the cells.

possible about moving people out of these units. We were told that each review is a case-by-case analysis but that if someone is following the rules and does not have clear risk factors, there was no reason they could not be removed from administrative segregation after the first 30 days.

Yet despite this purported review process, twenty percent of the jail population remained in administrative segregation. Of the subset of 171 people whose records were produced to us, 132 people – or 77 percent – had been in administrative segregation for more than 30 days. People we spoke to did not recount in-person reviews or classification hearings or meetings with any kinds of procedural protections. Instead, people languished in administrative segregation, with terms that appeared indefinite. Based on records produced to us in July (for people taking psychiatric medications and/or on the mental health caseload), one person had been in administrative segregation for over seven years; two people had been in for 5-7 years; and three people had been in for 3-4 four years. The reasons for each of these placements was the nature of the person’s charges. While a person may require protective custody because of the notoriety of their charges, protective custody does require solitary confinement: it is the County’s obligation to safely separate people for their own protection without subjecting them to punitive conditions of segregation. (For more on these principles, please see Exhibit A). Another four people had been in administrative segregation for 2-3 years and sixteen people had been in for 1-2 years.

Remarkably, we were told the County did not keep information about lengths of stay in administrative segregation. We had been asking for that information since our Public Records Act (PRA) request in summer 2022 and repeated the request before our visit and on site. We were told that this information was very time intensive to produce system-wide because it meant going through individual incarcerated people’s records manually. Tracking lengths of stay in administrative segregation should be standard practice for any jail system: when a County finds a person has been in administrative segregation for months or years – just as when it finds someone is in these units has serious mental illness – that finding should be a red flag and result in immediate intervention. Unfortunately, Kern County appeared not even to know how many months and years the 300 people in administrative segregation had been living in these conditions.

III. Conclusion

The practices we describe above are harmful and unlawful. Although County leadership expressed concerns at our May 22, 2023 meeting that we based our conclusions on statements by people with mental health disabilities (implying that those people are not credible), our findings derive almost exclusively from reports from staff, the County’s own records, and firsthand observation of people’s outward presentation, rather than the subjective reports of those patients. Our principal conclusion is also undisputed by jail staff: Kern County has an oversized segregation population – equal to one-fifth its total jail population– in which over half the people have serious mental health needs. In these units, people with serious mental illness are held in conditions of profound isolation for extended periods of time, a practice that is patently illegal. These conditions must be remedied immediately.

As a matter of urgency, Kern County must release people with serious mental illness from its administrative segregation units. To do so safely, it must create and adequately staff programs for mental health care in alternative, less restrictive settings, including units designed

as therapeutic milieus and intensive treatment units. At the County level, the Sheriff's Office should work with other criminal justice stakeholders to examine services that may be available to people with serious mental health needs in the community, to prevent their incarceration in the first place. We outline some of these initiatives, in addition to other necessary practices, in Exhibit A and would be glad to discuss them further and to provide models from other counties around the state.

We hope that Kern County has already taken steps to address some of these issues since our tour and meetings in May. We would welcome the opportunity to assist you in taking further remedial action in light of our Probable Cause Finding. Please let us know if you are available for a Zoom meeting on November 15, 16, or 17, 2023.

Sincerely,

/s/ Jennifer Stark
Jennifer Stark
DISABILITY RIGHTS CALIFORNIA
1831 K Street
Sacramento, CA 95811-4114
(916) 504-5800
www.disabilityrightsca.org

/s/ Donald Specter
Donald Specter
Tess Borden
Margot Mendelson
Patrick Booth
PRISON LAW OFFICE
General Delivery
San Quentin, CA 94964
(510) 280-2621
www.prisonlaw.com

Cc: Donny Youngblood, Sheriff
Larry McCurtain, Undersheriff
Kendra Graham, Assistant County Counsel
Christina Oleson, Deputy County Counsel