

## **Exhibit A: Practices and Principles for Remedial Measures Regarding the Use of Segregation in County Jails**

*Shared with Kern County Sheriff's Department October 19, 2023*

### **A. Placement in Segregation**

In every case, segregation should be used only as a last resort, when no less restrictive intervention would be sufficient.

Generally speaking, it is acceptable to separate individuals for short periods of time as necessary for safety and security, but the use of isolation should be avoided. Isolation should be used only as absolutely necessary, for the shortest period of time possible, and subject to strict time limits. Segregation for administrative or management reasons should be used only when the person exhibits real threats of violence based on behavior and conduct, and the risk of violence is imminent and ongoing. Segregation should not be used in response to merely antisocial, disrespectful or behaviorally challenging conduct toward jail staff or others.

Insofar as segregation is used as a short-term disciplinary measure, it should be used only in response to acts of serious violence. It should be accompanied by a clear disciplinary matrix, or schedule of sanctions, that specifies that only certain violent acts may be disciplined with a short period of segregation. The jail should always consider non-segregation sanctions first, such as the loss of other privileges. As an essential component of any discipline program, the jail must establish a robust procedure for ensuring that people are not disciplined for behavior that results from their mental, intellectual or developmental disabilities, and that mental health considerations are taken into account as mitigation and in assessing the appropriateness of any punitive sanction.

The following are core principles with respect to placement of people in segregation:

- ***Exclusion of Vulnerable Populations.*** Some people should never be placed in segregation, including but not limited to:
  - People with mental or physical disabilities;
  - People with other serious medical conditions that cannot be adequately treated in or are otherwise contraindicated with segregation;
  - People who are pregnant, in post-partum recovery, or who have recently suffered a miscarriage or terminated a pregnancy;
  - People who are younger than a certain age or older than a certain age (we recommend under age 25 and over age 60).
- ***Mental Health Assessments Before Placement.*** Every person placed in segregation should undergo documented mental health screenings prior to placement in segregation in order to ensure no contraindications to segregation (including but not limited to membership in a vulnerable population, as described above) and establish a baseline of health against which to compare any deterioration or decompensation. Assessments should occur in a private and confidential setting.

- ***Evidence for Placement in Segregation and Related Process Protections.*** Placement in segregation should be supported by significant, verified evidence and accompanied by related process protections.
  - The jail bears the burden of proof.
  - Placement should not be based solely on confidential information considered by jail staff but not provided to the incarcerated person.
  - The incarcerated person should have fair and meaningful opportunities to contest the placement, including the right to an initial hearing within 72 hours and process protections at that hearing.
- ***Administrative Segregation/Protective Custody.*** People should not be placed in segregation for their own protection.
  - A person who is LGBTQI, who is a so-called gang drop-out, or whose crime is notorious should not be placed in segregation for that reason only. Instead, people requiring protection should be transferred to a more appropriate custody unit that ensures full access to out-of-cell time, programming, and other services available to the rest of the incarcerated population.
  - People who are active in gangs or who have keep-separates should not be placed in segregation for that reason alone, unless such affiliations result in violence requiring segregation for disciplinary or administrative and management reasons as outlined above.

## **B. Lengths of Stay in Segregation**

- ***Maximum Consecutive Days.*** There must be a maximum number of consecutive days a person can remain in segregation. We recommend 15 days at maximum, as supported by international standards (*see* United Nations Standard Minimum Rules for the Treatment of Prisoners, also known as the Nelson Mandela Rules).
- ***Maximum Non-Consecutive Days.*** There must be a maximum number of non-consecutive days a person can remain in segregation during a certain months-long period. We recommend 45 total days in a 180-day period at maximum. Multiple months of segregation, separated by one or several day “breaks,” is impermissible.

## **C. Removal from Segregation**

- ***Regular Reviews.*** Reviews should be conducted regularly at set intervals to assess the ongoing need for segregation, with face-to-face participation by the incarcerated person. These reviews should be documented.
- ***Criteria for Removal.*** People in segregation and Classification staff should be provided written criteria for removal from segregation, and grievances or “inmate slips/inquiries” must be made available so that individuals can raise concerns about over-long terms in segregation as appropriate.

- **Step Down and Reintegration in General Population.** Mental health staff and other programming staff, as appropriate, should provide step-down services for people being released from segregation to general population, such as additional therapeutic and clinical supports after release, to assist in reintegration and additional property privileges and increased out-of-cell time in the final days of segregation.
- **Release to Community.** The jail should endeavor to ensure people are not released directly from segregation into the community and utilize step-down or alternative housing arrangements where possible.

#### D. Conditions in Segregation

- **Out-of-Cell Time.** There must be certain minimum conditions regarding hours, space, activities, and social interaction.
  - **Hours.** People in segregation cannot be isolated for 24 hours per day and require a minimum number of hours out-of-cell per day. As a best practice, we recommend four hours of out-of-cell time in segregation units.<sup>1</sup> Out-of-cell time should be documented in daily logs.
  - **Space.** Out-of-cell time can occur in a combination of dayroom, recreation yard, and/or program office or classroom if such office or classroom is the site of programming in which the person participates.
    - Out-of-cell time should not be limited to the space of a tier only (i.e., the space outside cells).
    - The space must be sufficiently large to allow opportunities for movement and activity.
    - Out-of-cell time cannot occur in a cage or similar module.
    - Individuals should be offered outdoor recreation on rotating schedules to ensure equitable access to outdoor space, and the times offered should be during normal waking hours.
  - **Activities.** Some or all of the out-of-cell time should involve the opportunity to engage in activities that involve sensory and physical stimulation.
    - This may include TV and other entertainment, physical exercise and recreation equipment, cards, art, games, individual or group programming, and/or educational opportunities.

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<sup>1</sup> We recognize that county jails must take into account physical plant limitations and classification considerations in segregation units. In all cases, we welcome a conversation with counties about how to maximize out-of-cell time for people in segregation given the structure of the particular facility.

- The activities may be self-directed or jail-facilitated but must offer opportunities to do more than simply walk, stand, or sit in the out-of-cell space, should the person wish.
  - **Social Interaction.** Out-of-cell activities must provide the opportunity for social interaction with other incarcerated people beyond a person's cellmate.
- ***In-Cell Opportunities for Sensory Stimulation.*** People in segregation should retain all other privileges of the incarcerated population, unless a loss of privileges is imposed as the result of concurrent discipline, including access to books and other reading and writing instruments, commissary items, and radios, tablets and any other devices permitted in general population.
- ***Mental Health Checks.*** A qualified mental health professional should meet with the person in segregation regularly, no less than once weekly, to assess and document their health status and make referrals as necessary. If mental health staff believe a person's continued placement in segregation is substantially affecting their health condition, they may recommend removal from segregation.
- ***Confidential Medical and Mental Health Visits.*** The jail should provide space for confidential medical and mental health appointments and the presumption should be that all appointments occur in these confidential settings unless the individual refuses or specific, individualized safety and security concerns are documented.
- ***Suicidality Identification and Procedures.*** The County should adopt the Columbia-Suicide Severity Rating Scale (C-SSRS) or other professional tool to support clinicians and staff.
- ***Custody Checks.*** Custody staff should perform checks multiple times per day (up to every half hour). If the person demonstrates unusual behavior or indicates suicidality or self-harm, custody should notify mental health and checks should be increased to every 15 minutes or to constant watch.
- ***Cleanliness.*** Segregation cells should be routinely cleaned, including before and after a person is moved into or out of them and whenever the need is identified by custody, medical or mental health staff during visual observations of the cell.
- ***ADA Compliance.*** The built infrastructure and physical plant of the jail, including cells, programming rooms, outdoor recreation, showers and toilets, must be accessible to individuals with disabilities and modifications must be undertaken as necessary. In addition, there should be an ADA Coordinator to

respond to the reasonable accommodation needs of individuals with disabilities, such as the provision of sign language interpreters.

#### ***E. Alternatives to Segregation for People with Serious Mental Health Needs***

- ***Diversion and Release.*** The County should take concerted action to reduce the size of the jail population and, in particular, the number of people with serious mental illness in custody. Sheriff's department and jail leadership should partner with patrol, prosecutors, County behavioral health services, the County Board of Supervisors, and other stakeholders to consider alternatives to incarceration, opportunities for release, and diversion mechanisms to reduce the number of people who require mental health treatment in the jails.
- ***Program-Rich Alternatives.*** For those who are not diverted or released, the jail should develop program-rich alternatives to segregation for people with serious mental health needs, to ensure they have access to treatment in the most integrated and least restrictive settings.

#### ***F. Documentation and Training***

- ***Written Policies.*** Each of the above principles and topics should be memorialized in a written policy and procedure.
- ***Notice of Policies.*** Notice of these policies should be provided at intake and again upon placement into segregation. Inmate handbooks and/or orientation manuals should include summaries of the policy provisions. Anyone placed in segregation should be notified of the relevant provisions and provided full access to the written policy upon request.
- ***Training.*** The jail should routinely train custody, health services, and other staff on relevant policy provisions.
- ***Audits.*** The jail should conduct CQI reviews and audits as appropriate.
- ***Data Collection and Publication.*** The jail should collect and, with appropriate redactions, make publicly available data on its use of segregation.