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*capacity and the County of Los Angeles*

17 **UNITED STATES DISTRICT COURT**  
18 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

20 DENNIS RUTHERFORD, et al.,

21 Plaintiffs,

22 v.

23 ROBERT LUNA, Sheriff of Los  
24 Angeles County, in his official capacity,  
and the COUNTY OF LOS ANGELES,

25 Defendants.

Case No. 75-cv-04111-DDP

**DEFENDANTS' FILING OF  
REPORTS REQUIRED TO  
RESPOND TO ORDER TO SHOW  
CAUSE**

Courtroom 9C  
Honorable Dean D. Pregerson

**REPORTS PROVIDED IN RESPONSE TO ORDER  
TO SHOW CAUSE**

On November 9, 2022, as stipulated to by the Plaintiffs, on one hand, and the Los Angeles County Sheriff (the “Sheriff”) and the County of Los Angeles (the “County”) (collectively, the “Defendants”) on the other hand, Defendants were ordered to create a written report addressing the following matters:

1. A written report detailing the number of people with mental illness who would need to be diverted from the jail either pre-trial or subject to a probationary plea and placed in the community with appropriate mental health care and other services to reduce the backlog in the IRC so people booked into the jail can be placed in permanent housing in 24 hours or less. The report shall address the likely effect on the population of people with mental illness in the jail caused by both reductions in length of stay resulting from pre-trial diversion or placement in community as a result of a probationary plea and reductions of recidivism for people with mental illness in programs like the Office of Diversion and Reentry’s ODR Housing Program. The report shall also address, to the extent it can be reasonably measured, the likely cost of funding sufficient diversion to reduce the backlog in IRC so people booked into jail can be placed in permanent housing in 24 hours or less, the available sources of funding, and the cost savings resulting from reducing the population of people with mental illness in the jail, reductions in recidivism, and any other relevant savings resulting from increases in diversion.

2. A detailed written explanation of what steps Defendants plan to take to reduce the population of people with severe mental illness in the jail in the next year and in the next three years by a sufficient amount to reduce the backlog in IRC so people booked into the jail can be placed in permanent housing in 24 hours or less. The explanation shall include specific timelines, amounts and sources of funding, and, to the extent it can be reasonably measured, the cost savings resulting from Defendants’ one and three-year plans to reduce the population of people with mental

1 illness in the jails.

2       There are a number of root causes for why a small percentage of inmates  
3 spend more than 24 hours in the IRC before receiving permanent housing and why  
4 there have been periodic episodes over time where conditions in the IRC have  
5 deteriorated due to large numbers of inmates who have remained in the IRC in  
6 excess of 24 hours. They include the following:

7       1.     On days when the IRC has been inundated with large numbers of new  
8 inmates remanded into custody, Defendants have not had the capacity to process  
9 those large numbers of new inmates and move them into permanent housing within  
10 24 hours. These recent failures have been exacerbated by (a) delays in processing  
11 new inmates who exhibit current or emerging mental health conditions through the  
12 use of enhanced mental health screenings Defendants have agreed to conduct as part  
13 of their ongoing obligations stemming from the September 2015 settlement  
14 agreement with the United States Department of Justice; (b) staffing shortages of  
15 clinicians and other mental health staff in the IRC caused by concurrent absences of  
16 several staff members on leave; and (c) the recent introduction of newly-hired staff  
17 members in the IRC whose efficiency in screening individuals for mental health  
18 conditions has been low as a result of their inexperience as new hires. Notably,  
19 when these days occur in which the volume of new inmates being introduced into  
20 the IRC overwhelm the staff working in the IRC to process them, that often creates a  
21 cascading effect in which it may take days to catch up with the processing of new  
22 inmates;

23       2.     There have been additional inefficiencies detected in the manner in  
24 which inmates have been processed through the IRC, including occasions when  
25 inmates without severe mental health conditions have not been promptly moved out  
26 of the IRC and into available permanent housing and occasions when clinicians have  
27 not conducted mental health screenings at an appropriate pace; and

28       3.     Lastly, bottlenecks have occurred in the IRC as a result of the lack of

1 immediately available High Observation Housing (“HOH”) for inmates diagnosed  
2 as P3 and P4 inmates.<sup>1</sup> Unlike inmates without mental health conditions, or with  
3 less acute mental health conditions, P3 and P4 inmates cannot be housed in  
4 dormitory settings; and, in the wide majority of circumstances, P3 and P4 inmate are  
5 housed alone in double-man cells. As a result of these housing restrictions, the only  
6 two locations where HOH inmates are housed on a permanent basis in the LACJ are  
7 the Twin Towers Correctional Facility (“TTCF”)—where all P3 and P4 men are  
8 housed—and the Century Regional Detention Facility (“CRDF”)—where all P3 and  
9 P4 women are housed. Available permanent HOH at these two facilities is limited,  
10 and, at this point, is substantially less than the number of P3 and P4 inmates in  
11 custody in the LACJ.<sup>2</sup>

12 While County departments are implementing corrective actions to address  
13 each of these root causes, the reports Defendants are required to produce pursuant to  
14 \_\_\_\_\_

15 <sup>1</sup> P4 inmates are inmates who have a severely debilitating mental health  
16 condition and meet the Lanterman Petris (“LPS”) criteria for commitment based on  
17 the danger they pose to themselves or others or a grave disability they have.  
18 Common traits of P4 inmates include: (1) a refusal to take medication; (2) an  
19 imminent risk of harm they pose to themselves and others which is secondary to  
20 their mental illness; (3) an impairment in their ability to take care of themselves; (4)  
21 an on-going refusal to engage in any form of treatment or intervention; (5) severely  
22 disorganized thinking and behavior; and (6) other displays of severe mental illness  
23 that require in-patient treatment.

24 P3 inmates are inmates who have a significant mental health impairment.  
25 Common traits of P3 inmates include: (1) a persistent danger of self-harm if in a  
26 less acute setting; (2) recurrent violent behavior due to their mental illness; (4) an  
27 inability to maintain minimal personal hygiene; (5) a gross impairment in their  
28 ability to communicate; and (6) an inability to be safely and adequately treated in a  
29 setting that requires independent behavioral control.

30 <sup>2</sup> There have also been a number of recent instances when inmates who  
31 have suffered mental health crises while in non-HOH permanent housing have been  
32 relocated to HOH permanent housing at TTCF, placing further a further strain in  
33 moving inmates through the IRC and into available HOH in a timely manner.

1 the Order to Show Cause specifically obligate Defendants to provide information  
2 regarding the scope of diversion of people with mental illness necessary to prevent  
3 future backlogs in the IRC and Defendants’ plans over the next year and three years  
4 to divert people with mental illness. These topics are largely covered in the attached  
5 report-back produced on March 8, 2023 to the Los Angeles County Board of  
6 Supervisors (the “Report Back”) by a number of County agencies, including the  
7 Department of Mental Health (“DMH”), the Department of Health Services  
8 (“DHS”), the Jail Closure Implementation Team (“JCIT”), Alternatives to  
9 Incarceration (“ATI”), and the Office of Diversion and Reentry (“ODR”);<sup>3</sup> and, to  
10 the extent the required information is not addressed in the Report Back, it is  
11 included below.

12 In summary:

13 \* Insofar as how the diversion of inmates from the LACJ, either pre-trial  
14 or subject to a probationary plea, can be utilized to reduce the backlog in the IRC so  
15 people booked into the jail can be placed in permanent housing in 24 hours or less,  
16 Defendants believe that lowering the number of P3 and P4 inmates from their  
17 current level of approximately 1,750 P3 and P4 inmates to approximately 1,050 P3  
18 and P4 inmates will create a situation where there is consistently immediately-  
19 available permanent HOH in the LACJ, and that will eliminate bottlenecks in the  
20 IRC that periodically contribute to situations in which inmates remain in the IRC for  
21 periods of longer than 24 hours. To achieve this reduced level of the P3 and P4  
22 inmates in the LACJ, County departments believe Defendants will need to divert  
23 approximately 1,500 P3 and P4 inmates out of the LACJ through programs run or  
24 overseen by DMH and DHS/ODR, while taking all steps within their control to  
25 minimize the influx of large numbers of new inmates with severe mental illnesses  
26 into the LACJ and to otherwise de-populate the LACJ.

27 \_\_\_\_\_  
28 <sup>3</sup> The Report Back is attached hereto at Exhibit A.

1 \* As detailed in the Report Back, County departments have formulated a  
 2 plan to move the sickest subset of individuals with serious mental health conditions  
 3 in the LACJ into more appropriate treatment settings by diverting large numbers of  
 4 P3 and P4 inmates into community-settings, as well as secured acute and subacute  
 5 non-carceral facilities. This plan, which is subject to further Board approvals and  
 6 additional funding that has yet to be allocated, divides P3 and P4 inmate into four  
 7 groups—(1) inmates who are non-conserved and the types of P3/P4 inmates ODR  
 8 has had historical success in diverting; (2) inmates who are non-conserved and who  
 9 have been designated as Felony Incompetent to Stand Trial (or “FIST”); (3) LPS-  
 10 conserved inmates; and (4) inmates who are not FIST, LPS-conserved, or the type of  
 11 P3/P4 inmates ODR has had historical success in diverting—and lays out a proposed  
 12 schedule in which the County would build out a continuum of secured (i.e., locked)  
 13 and non-secured (i.e., unlocked) beds to which P3 and P4 inmates from each of  
 14 these four groups will be diverted. This schedule calls for DHS/ODR to divert the  
 15 first two groups of inmates identified above and for DMH to divert the second two  
 16 groups pursuant to the following five-year timeline:

17 **New Beds Added by Year: Department of Health Services/Office of Diversion**  
 18 **& Reentry**

P3/P4 Population	Bed Type	New Beds Added Year 1	New Beds Added Year 2	New Beds Added Year 3	New Beds Added Year 4	New Beds Added Year 5
P3/P4 Inmates Who Are Divertible	Acute	20	0	0	0	0
	Subacute	50	0	0	0	0
	Specialty Interim Housing	234	0	0	0	0
	PSH	0	140	140	105	79
P3/P4 Inmates Who Are FIST	Acute	10	15	5	0	TBD
	Subacute	50	50	0	0	TBD



1		Specialty	210	150	164	105	TBD
2		Interim					
3		Housing					

**New Beds Added by Year: Department of Mental Health**

5	P3/P4 Population	Bed Type	New Beds Added Year 1	New Beds Added Year 2	New Beds Added Year 3	New Beds Added Year 4	New Beds Added Year 5
8	P3/P4 Inmates Who Are Conserved/Conservable	Acute	15	20	15	0	0
9		Subacute	32	16	16	128	16
10		Enriched Residential Services	15	30	35	35	35
11		Skilled Nursing Facility	10	0	0	0	0
12	P3/P4 Inmates Who Are Non-divertible / non-FIST / non-LPS conserved/conservable	Acute	0	0	0	0	0
13		Subacute	0	16	16	0	16
14		Skilled Nursing Facility	0	10	10	10	4

19           \*       The ODR programs the Departments largely depend upon to divert P3  
 20 and P4 inmates from custody have a proven track record of drastically decreasing  
 21 recidivism rates amongst the clients they serve. Indeed, according to the most  
 22 recent RAND study of inmates with serious mental health conditions diverted to  
 23 ODR housing programs, only 14% of the inmates who were subject to the study  
 24 returned to custody within one year of participating in the ODR program. See  
 25 [https://www.rand.org/pubs/research\\_reports/RR3232.html](https://www.rand.org/pubs/research_reports/RR3232.html).

26           \*       The attached Report Back details the costs Defendants would incur to  
 27 implement the County Departments’ proposed plan to divert the number of P3 and  
 28 P4 inmates detailed above over the timeline covered by the plan.

1           \*       There is the potential Defendants could realize a significant cost  
2 savings by diverting P3 and P4 inmates from the LACJ and into non-carceral  
3 facilities where they will receive focused mental health treatment in a setting more  
4 conducive to such treatment than jail. While the cost to divert these individuals out  
5 of custody is substantial, there is evidence, in the form of a recent RAND study,  
6 which shows that, for the first year, inmates who are diverted to programs that  
7 feature permanent supportive housing, when compared to inmates who are released  
8 and do not receive such support, are associated with the following cost and service  
9 decreases and increases: (1) a 24-day reduction in jail days, with an estimated cost  
10 savings of \$16,891 per participant; (2) a 125-day increase in probation supervision,  
11 with an estimated cost increase of \$672 per participant; (3) reduced use of homeless  
12 services, including a 22-percentage point decrease in the portion of individuals  
13 receiving temporary housing, with an estimated cost decrease of \$1,643 per  
14 participant; (4) reduced inpatient service use, as observed by (a) a 2.4-day decrease  
15 in care provided by DMH, for an estimated cost savings of \$1,275 per participant;  
16 (b) a 0.8-day decrease in care provided by DHS, for an estimated cost savings of  
17 \$3,308 per participant; and (c) a 0.3-visit decrease in emergency care provided by  
18 DHS, resulting in an average savings of \$691 per participant; and (5) increased  
19 outpatient service use, as observed by a 21-visit increase in care provided by DMS,  
20 for an estimated cost increase of \$2,512 per patient. *See [Just in Reach Pay for  
21 Success: Impact Evaluation and Cost Analysis of a Permanent Supportive Housing  
22 Program | RAND.](#)*

23           \*       In addition to the cost savings, on balance, which the County may not  
24 realize should Defendants fail to pursue the plan described in the Report Back to  
25 divert large numbers of the most seriously mentally ill inmates from the LACJ, the  
26 failure to implement this plan, or an alternative plan to divert or depopulate this  
27 population, will also (1) prevent the County and the Los Angeles Sheriff's  
28 Department from reaching compliance with certain material provisions in the



1 September 2015 settlement agreement reached with the United States Department of  
2 Justice; and (2) keep potentially divertible inmates with serious mental health  
3 conditions in an environment where they are less likely to improve and more likely  
4 to experience bad outcomes.

5 \* Because Defendants believe the periodic bottlenecks experienced in the  
6 IRC are caused, in part, by a lack of available permanent HOH for P3 and P4  
7 inmates, the County Defendants have placed a priority on diverting P3 and P4  
8 inmates from the LACJ to the greatest extent possible to free up such housing.<sup>4</sup>  
9 However, although a lack of Moderate Observation Housing (“MOH”) for P2  
10 inmates has not been a cause for delays in placing inmates in permanent housing  
11 from the IRC, the Departments would continue to divert P2 inmates from custody  
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19 <sup>4</sup> While the overall population of the LACJ has grown considerably since  
20 the Los Angeles Superior Court lifted the emergency bail schedule instituted during  
21 the pandemic on July 1, 2022, it has leveled off at approximately 14,000 inmates.  
22 Indeed, as of March 9, 2023, there were exactly 14,096 inmates (12,645 male  
23 inmates and 1,451 female inmates) housed in the LACJ, which is only 778 inmates  
24 above the BSCC-rated number of inmates for all LACJ facilities. It was not  
25 unusual, prior to the pandemic, for the LACJ to house significantly larger  
26 populations of inmates without seeing the types of backlogs experienced  
27 periodically over the past seven months in the IRC. Thus, the cause of the current  
28 crisis facing the LACJ is not the overall number of inmates in the LACJ (though, to  
be clear, Defendants intend to reduce that number), but rather the number of inmates  
with serious mental health conditions who require HOH and other resource-  
intensive services that are in rare supply in the LACJ, which are causing  
overcrowding in certain segments of the LACJ.

1 when (a) they qualify for diversion based on a FIST designation;<sup>5</sup> or (b) a P3 or P4  
2 inmate is not suitable for an available ODR bed that can be filled with a P2 inmate.

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DATED: March 9, 2023

Respectfully submitted,

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capacity, and the County of Los Angeles

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27 <sup>5</sup> Defendants estimate that there are currently approximately 330 such P2  
28 inmates in the LACJ.