

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA)
)
Plaintiff,)
)
v.)
)
SANTA FE COUNTY,)
SANTA FE COUNTY ADULT)
DETENTION CENTER,)
ANNABELLE ROMERO, Corrections)
Director,)
DAVID TRUJILLO, Jail)
Administrator,)
THE BOARD OF COUNTY)
COMMISSIONERS OF)
SANTA FE COUNTY,)
)
Defendants.)
_____)

CIV 08-212 MCA/RHS

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. On March 20, 2002, the United States, through the Department of Justice (“DOJ”), notified Santa Fe County officials of its intention to investigate conditions of confinement at the Santa Fe County Adult Detention Center (“SFCADC” or “the Detention Center”), pursuant to the Civil Rights of Institutionalized Persons Act (“CRIPA”), 42 U.S.C. § 1997.

2. On May 7-10 and 29-31 2002, the United States conducted investigatory tours of SFCADC with consultants in the fields of correctional health care, correctional mental health care, Detention Center security and safety, and employee training and supervision.
3. On March 6, 2003, the United States issued a findings letter pursuant to 42 U.S.C. § 1997 that concluded that certain conditions at SFCADC violate the constitutional or statutory rights of individuals confined at the Detention Center. The County denied, and continues to deny, that conditions at SFCADC violate the constitutional or statutory rights of individuals confined at SFCADC.
4. On November, 1, 2004, Santa Fe County and its elected officials, employees, agents, and contractors responsible for the operation of SFCADC and the United States entered into a Memorandum of Agreement (“MOA”) to resolve the United States’ CRIPA investigation and ensure constitutional conditions of confinement at SFCADC. The MOA terminated by its own terms on October 31, 2007.
5. Following execution of the MOA, the United States and its expert consultants conducted compliance tours in March 2005, July 2005, February 2006, August 2006, and March 2007. The United States issued detailed, written compliance assessments to the County on July 14, 2005, July 24, 2006, January 12, 2007, and July 6, 2007.

6. As the County is not yet in substantial compliance with all provisions of the MOA, the parties have agreed to enter into this Agreement.

II. GENERAL PROVISIONS

7. This Settlement Agreement (the “Agreement”) is entered into between the United States and SANTA FE COUNTY, SANTA FE COUNTY ADULT DETENTION CENTER, ANNABELLE ROMERO, Corrections Director, DAVID TRUJILLO, Jail Administrator, and THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY; and their successors, contractors, and agents (collectively, the “County”).
8. The Agreement resolves the investigation conducted by the United States at SFCADC pursuant to the Civil Rights of Institutionalized Persons Act (“CRIPA”), 42 U.S.C. § 1997. The Agreement addresses the corrective measures set forth by the United States in its March 6, 2003 findings letter to the County and subsequent assessments of the County’s compliance with the MOA on July 14, 2005, July 24, 2006, January 12, 2007, and July 6, 2007. This Agreement replaces the MOA. This Agreement does not serve as an admission by the County that corrective measures are necessary to meet the constitutional and statutory rights of inmates at SFCADC.
9. In conformity with CRIPA, this Agreement represents a voluntary effort by the County to meet the concerns raised by the United States’ investigation. See 42 U.S.C. § 1997b (a)(2)(B) and § 1997g.

10. Pursuant to 42 U.S.C. § 1997b(a)(2)(B) and § 1997g, the United States agrees to support the County's application for federal funding conditioned upon the County's proper implementation of the suggested remedial measures.
11. Nothing in this Agreement shall be construed as an acknowledgment, an admission, or evidence of liability of the County under CRIPA, the Constitution or federal or state law, and this Agreement may not be used as evidence of liability in this or any other civil or criminal proceeding.
12. The signatures below of officials representing the United States and the County signify that these parties have given their final approval to this Agreement.
13. This Agreement is enforceable only by the parties or, upon motion by a party to enforce terms of this Agreement, by the Court. This Agreement is binding upon the parties, by and through their officials, agents, employees, and successors. No person or entity is intended to be a third party beneficiary of the provisions of this Agreement for purposes of any civil, criminal, or administrative action, and, accordingly, no person or entity may assert any claim or right as a beneficiary or protected class under this Agreement in any civil, criminal, or administrative action. Similarly, this Agreement does not authorize, nor shall it be construed to authorize, access to County documents by persons or entities not a party to this Agreement. This Agreement is not intended to impair or expand the

right of any person or organization to seek relief against the County or its officials, employees, or agents for their conduct. This Agreement does not alter legal standards governing any such claims, including those standards established by New Mexico law.

14. This Agreement shall constitute the entire integrated Agreement of the parties. With the exception of the March 6, 2003 findings letter, no prior contemporaneous communications, oral or written, or prior drafts shall be relevant or admissible for purposes of determining the meaning of any provisions herein in any litigation or any other proceeding. Both parties acknowledge that the findings set forth in the March 6, 2003 letter will not be admitted for purposes of establishing conditions at the Santa Fe County Adult Detention Facility, but the defendant agrees to its admission to establish that the United States notified the defendant of its experts' opinions about the specific conditions of the facility identified in that letter. Any amendment to this Agreement shall be in writing and signed by both parties.

15. Since the United States issued its last compliance assessment on July 6, 2007, the County has made progress in remedying the problems the United States identified in the March 6, 2003 findings letter and subsequent compliance assessments. The parties agree that it is in their mutual interests to avoid litigation. The parties further agree that resolution of this matter pursuant to this Agreement is in the best interests of SFCADC inmates. Now, therefore, pursuant to Fed. R. Civ. P. 41(a)(2), the parties hereby agree to file this Agreement in the United States District Court for the District of New Mexico, together

with a Complaint and a motion to conditionally dismiss the Complaint under the conditions set forth in this Agreement. The parties further agree that this case will remain on the Court's inactive docket during the term of, and subject to, this Agreement, and that, from time to time, the Court may hold, at the request of either party, status conferences for the sole purpose to assist the parties to informally resolve disputes, if any, until this Agreement terminates.

16. All parties shall bear their own costs, including attorneys' fees, in this and any subsequent proceeding.
17. This Agreement shall take effect on November 1, 2007.
18. The County shall ensure that all Santa Fe County Departments take any actions necessary to comply with the provisions of this Agreement.
19. The Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1345, and 42 U.S.C. § 1997. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b).

III. DEFINITIONS

20. "SFCADC" or "the Detention Center" shall refer to the Santa Fe County Adult Detention Center, sometimes called the Santa Fe County Correctional Facility, which is currently located at 4312 New Mexico Highway 14, Santa Fe, New Mexico, as well as any facility

that is built, leased, or otherwise used, to replace or supplement the Detention Center.

“SFCADC” does not include alternatives to incarceration such as off-site drug and alcohol treatment centers, detoxification centers, outside mental health treatment facilities, electronic monitoring programs, facilities for the incarceration of minors, or work release centers.

21. “DOJ” shall refer to the United States Department of Justice, which represents the United States in this matter.
22. “The County” means Santa Fe County and its elected officials, employees, agents, and contractors responsible for the operation of and provision of services at the Detention Center.
23. “Court” or “the Court” means the United States District Court for the District of New Mexico.
24. “Include” or “including” shall mean “include, but not be limited to” or “including, but not limited to.”
25. “Inmate” or “inmates” shall be construed broadly to refer to one or more individuals detained at, or otherwise housed, held, in the custody of, or confined at either the existing

Detention Center or any institution that is built or used to replace the Detention Center or any part of the Detention Center.

26. Consistent with, or in accordance with, the term “generally accepted professional standards of care” shall mean a decision by a qualified professional that is substantially aligned with contemporary, accepted professional judgment, practice, or standards as to demonstrate that the person responsible based the decision on such accepted professional judgment.
27. “Quality Assurance” means a system of self-audit and improvement to assess the implementation and effectiveness of all remedies instituted pursuant to this Agreement, to identify deficits that may exist, and to effectuate new measures to cure deficits identified.
28. “Effective date” shall mean November 1, 2007.
29. “Health services staff” means any and all healthcare staff, who by virtue of license, credentials and/or training, provide health services at the Detention Center.
30. “Inmates with chronic disease” shall include, but are not limited to, those inmates who have been diagnosed with diabetes, hypertension, asthma, cardiac disease, Human

Immunodeficiency Virus (“HIV”) infection, viral hepatitis, and seizure disorder, and may include inmates with other chronic diseases.

31. “Medical staff” means licensed physicians, licensed physician’s assistants, and licensed nurse practitioners employed at the Detention Center currently licensed to the extent required by the State of New Mexico to deliver those health services she or he has undertaken to provide.
32. “Mental health professional” means an individual employed at the Detention Center currently licensed to the extent required by the State of New Mexico to deliver those mental health services she or he has undertaken to provide.
33. “Nursing staff” means licensed registered nurses (“RNs”) and licensed practical nurses (“LPNs”) employed at the Detention Center employed at the Detention Center currently licensed to the extent required by the State of New Mexico to deliver those health services they have undertaken to provide. It does not include nurse’s aides, certified nursing assistants, or EMTs.
34. “The parties” means the County and the United States.

35. “Train,” when the term is used in remedial provisions of this Agreement, means adequately instruct in the skills addressed, including assessment of mastery of instructional material.
36. Throughout this Agreement, the following terms are used when discussing compliance: substantial compliance, partial compliance, and non-compliance. “Substantial compliance” indicates that the Detention Center has achieved compliance with most or all components of the relevant provision of the Agreement. “Partial compliance” indicates that compliance has been achieved on some of the components of the relevant provision of the Agreement, but significant work remains. “Non-compliance” indicates that most or all of the components of the Agreement provision have not yet been met.

IV. SUBSTANTIVE PROVISIONS

A. MEDICAL AND MENTAL HEALTH CARE

Standard

37. Serious Medical and Mental Health Needs. The County shall provide adequate services to address the serious medical and mental health needs of all inmates.

Medical and Mental Health Staffing and Professional Credentials

38. Medical Director The medical director of the Detention Center shall be a qualified, licensed physician, shall supervise all clinical practices and medical policy development at the facility, and shall communicate problems and resource needs to the Jail Administrator. The medical director of the Detention Center shall have ultimate responsibility for supervising clinical decision-making.
39. Psychiatrist Staffing The County shall retain a psychiatrist for a sufficient number of hours per week to see patients, prescribe psychotropic medications, develop individualized treatment plans for inmates with serious mental health needs, supervise care provided by other mental health practitioners at the facility, review charts, review the results of diagnostic and laboratory tests, and review policies, procedures, and protocols. The psychiatrist shall take a lead role in mental health services management as well as clinical treatment, shall communicate problems and resource needs to the Jail Administrator, and shall serve as the ultimate clinical authority at the facility for mental health care.

40. Physician Staffing Physician staffing shall be sufficient to provide adequate care for patients, review policies, procedures and protocols, supervise care provided by lower level practitioners including chart review, and participate in quality improvement and infection control programs.
41. Health Services Staffing Health services staffing levels shall be sufficient to provide adequate treatment for inmates' serious medical and mental health needs by qualified and trained health services and mental health professionals. Appendix A sets forth the required staffing minima for registered nurses, psychiatrist, physician, and other medical and mental health staff.
42. Scope of Practice All persons providing medical or mental health care shall meet applicable state licensure and/or certification requirements. Health services staff shall not practice outside the scope of their licensure and training. Upon hiring and annually, SFCADC shall verify that all health services staff has current, valid, and unrestricted professional licenses.
43. Health Services Staff Training The County shall train medical and mental health staff sufficiently to perform their duties at the Detention Center in accordance with this Agreement. This training shall include guidance to ensure that staff does not practice

outside the scope of their licensure, and that they refer inmates with serious medical and mental health needs for care by those qualified to treat such needs.

44. Correctional Officer Identification of and Response to Urgent Medical and Mental Health Needs The County shall implement policies and procedures for correctional officers to refer inmates who exhibit signs and symptoms of urgent medical or mental health needs including intoxication and withdrawal for appropriate medical or mental health attention. The County shall make best efforts to train all correctional officers who work with inmates to provide first aid-responder assistance in an emergency situation (CPR, valve resuscitation and how to address serious bleeding). The County shall ensure that trained staff is available to respond in a timely fashion to any medical emergency at the facility. The County shall provide all personnel who have inmate contact with the necessary protective gear (including rubber gloves and protective mouth shields) to provide first line emergency response. The County shall train all correctional officers who work with inmates to understand and identify signs and symptoms of drug and alcohol withdrawal and recognize other medical and mental health urgencies.

Intake Medical and Mental Health Screening, Referral and Assessment

45. Privacy The County shall provide for an inmate's reasonable privacy in medical and mental health care, and maintain confidentiality of inmates' medical and mental health status, subject to legitimate security concerns and emergency situations.

46. Intake Clinical Health Screening The County shall provide for intake clinical health screening by health services staff for new inmates and inmates transferring from other correctional institutions in a reasonably private setting at the time of booking. For this intake health screening, health services staff shall record and seek the inmates' cooperation to provide: (1) medical, surgical, and mental health history, including current or recent medications; (2) current injuries, illnesses, evidence of trauma, and vital signs, including recent alcohol and substance use; (3) history of substance abuse and treatment; (4) pregnancy; (5) history and symptoms of communicable disease; (6) suicide risk history; and (7) history of mental health treatment, including medication and hospitalization. Inmates who screen positively for any of these items shall be referred to the medical unit for immediate treatment or for referral at a reasonable time, as appropriate. Staff shall attempt to elicit the amount, frequency and time of the last dosage of medication from every inmate reporting that he or she is currently or recently on medication, including psychotropic medication. The County shall ensure that staff performing initial health screenings is trained to complete the assessments. This initial health screening information shall promptly become part of an inmate's medical record.

47. Observation of Inmates Upon Intake Correctional officers supervising newly arrived inmates shall physically observe the conduct and appearance of these inmates to determine whether they have a more immediate need for medical or mental health attention prior to or following their intake health screenings by health services staff.
48. Unified Medical Record Staff shall retrieve all retrievable medical and mental health records from an inmate's previous period of incarceration at the Detention Center (where the record can be positively matched to the inmate) prior to the inmate's next medical or mental health encounter after the clinical health screening, and shall consolidate them with the inmate's current medical record. The County shall maintain unified medical, dental and mental health records. All records shall be timely filed in patients' medical charts. For purposes of this Agreement, "timely filed" means within ten (10) days of receipt, review, creation, or use, except for medication administration records (see provision 71), which shall be filed within ten (10) days of the end of a month. Laboratory reports shall be timely reviewed by the appropriate health services staff, filed within three (3) days of receipt, and noteworthy results reported to inmates as medically appropriate. In the event the County moves to an electronic medical record, that system will conform to the concepts set forth in this provision recognizing that the process of electronic medical record keeping may differ slightly from the process set forth above.
49. Outside Medical Records For inmates with chronic diseases, pregnancy or mental illnesses, if a member of the medical staff or a mental health professional requests

retrieval of outside medical records, the County shall request a release of information from the inmate and if granted, shall send a request for the inmate's treatment records to current treatment providers identified by the inmate within two days.

50. Tuberculosis ("TB") Testing As part of the fourteen day health assessment, the County shall routinely screen all inmates for symptoms or risk factors for TB. Pursuant to Centers for Disease Control ("CDC") Guidelines, if health services staff determine that an inmate is at risk for TB, SFCADC will perform a tuberculin skin test (i.e. Mantoux "PPD"), unless such test is unnecessary (i.e. history of prior positive tests) or medically contra-indicated. The County shall read the PPD forty-eight (48) to seventy-two (72) hours after placement of the PPD. Within 72 hours of determining that an inmate's PPD test is positive, the County shall schedule an appointment for a chest x-ray of the inmate. The County shall ensure that inmates are transported to the scheduled appointment. The County shall follow CDC guidelines in effect on the date this Agreement is executed, for management of inmates with TB infection, including providing prophylactic medication when medically appropriate, or shall follow screening and assessment guidelines set forth by the New Mexico Department of Health, as appropriate. The County will consider implementing subsequently revised CDC guidelines. Inmates who exhibit signs or symptoms consistent with TB shall be isolated from other inmates, evaluated for contagious TB, and housed in the health services unit until they may be transferred to another facility or location where respiratory isolation is available. The facility shall

provide for infection control and for the safe housing and transportation of such inmates.

51. Screening, Testing and Treatment of Communicable Diseases The County shall implement a policy for STD screening, testing, and treatment that is consistent with the standards of the New Mexico Department of Health and appropriate to the inmate population of the Detention Center. The policy shall be implemented within 120 days of the date this Agreement is executed.

52. Continuity of Medication at Intake The County shall implement a medication continuity system so that incoming inmates' medication for serious medical needs can be obtained in a timely manner, as medically appropriate when medically necessary. Within twenty-four hours of an inmate's arrival at the facility, or sooner if medically necessary, the County shall decide whether to continue the same or comparable medication for serious medical needs as an inmate reports on arrival that she or he has been prescribed. If the inmate's reported medication is discontinued or changed by medical staff, medical staff shall evaluate the inmate face-to-face as soon as medically appropriate. The County shall implement a protocol and screening tool to guide health services staff in gathering necessary information and present such information to medical staff for medication continuity decisions.

53. Expedited Referral for Medical and Mental Health Needs When the initial clinical health screening indicates that an inmate has acute health or mental health needs, the County

shall provide timely care by trained and licensed medical staff, registered nurses, or mental health professionals as soon as medically necessary, within the recommended timeframe as set out by the evaluating health professional (a nurse practitioner, physician's assistant, or physician). The County shall schedule individuals with chronic health or mental health needs and those who are pregnant but who present in a stable condition to be seen by medical staff or mental health professionals as soon as medically necessary. Incoming inmates who present with current risk of suicide or other acute mental health needs will be immediately referred for a mental health evaluation by a mental health professional. Staff will observe such inmates until they are seen by mental health professionals. Incoming inmates reporting these conditions will be housed under appropriate conditions in the Health Services Unit unless and until a mental health care professional clears them for housing in segregation or with the general population.

54. Fourteen Day Health Assessment The County shall perform a screening physical and mental health assessment for each inmate within fourteen (14) days of an inmate's arrival at the Detention Center, unless the County knows that an inmate will be incarcerated for fewer than thirty (30) days. For inmates incarcerated for fewer than 30 days, the County shall conduct the testing required by provision 50. The assessment shall include a comprehensive medical history, physical examination, mental health history, and current mental health status examination. Qualified health services staff may gather health history and vital signs from an inmate. The physical examination shall be conducted by medical staff or registered nurses. Records documenting the assessment and results shall

become part of each inmate's medical record. A re-admitted inmate or an inmate transferred from another facility who has received a documented full health assessment within the previous three months and whose receiving screening shows no change in the inmate's health status need not receive a new full physical health assessment. For such inmates, qualified personnel shall review prior records and update tests and examinations as needed.

55. Comprehensive Mental Health Evaluation The County shall ensure that any inmate who screens positively for mental illness, suicidal ideation, or other mental health needs during the intake screening process, through a mental health assessment, or who is otherwise referred for mental health services receives a comprehensive mental health evaluation from a mental health professional licensed and trained to diagnose, within twenty four (24) hours of referral for an expedited comprehensive evaluation, or seventy-two (72) hours of referral for a routine comprehensive evaluation. The comprehensive mental health evaluation shall include a recorded diagnosis section, including a standard five-Axis diagnosis from DSM-IV-TR, or subsequent Diagnostic and Statistical Manual of the American Psychiatric Association. If mental health staff finds a serious mental illness, they shall treat appropriately. The County shall review available information regarding any diagnoses made by the inmate's community or hospital treatment provider.

Access to Medical and Mental Health Services

56. Access to Medical and Mental Health Services Initial paper screening of medical and mental health care request slips (or electronic records if an electronic medical record is implemented at the facility) shall be conducted within twenty-four (24) hours of health services staff's receipt and may be conducted by an LPN or EMT. All inmates who submit medical care request slips indicating the need for clinical judgment and/or physical assessment shall be seen by medical staff or registered nurses as soon as medically necessary. Registered nurses performing acute care shall be guided by physician approved nursing protocols that are updated annually, and shall consult with or refer patients to the on-call medical staff as appropriate. Medical care requests that do not indicate the need for clinical judgment and/or physical assessment may be handled by LPNs. The County shall implement a protocol guiding the distinction between those medical care request slips that require face-to-face services and those that do not. Written requests for mental health services shall be forwarded to a mental health professional and timely evaluated by him or her. Notwithstanding the foregoing, the health services worker forwarding sick call slips to mental health providers shall respond to any apparently emergent need in accordance with provisions 59 and 60.
57. Acute care policies, procedures and practices The County shall ensure that its acute care policies, procedures, and practices address and guide the following: (1) written medical and mental health care request slips available in English and Spanish; (2) a confidential collection method in which the request slips are collected by health services staff seven days per week; (3) a logging procedure to record the date and summary of each request

for acute care, the date the inmate was seen and the name of the person who saw him or her, the disposition of the medical or mental health visit (e.g., referral; whether inmate scheduled for acute care visit), and if follow up care is necessary, the date and time of the inmate's next appointment; (4) opportunity for illiterate inmates and inmates who have physical or cognitive disabilities to access medical and mental health care; (5) opportunity for all inmates, irrespective of primary language, to access medical and mental health care; and (6) recording of results of the medical or mental health care request in the inmate's medical record.

58. Rounds Mental health professionals shall make monthly rounds in the housing units to identify inmates who may have mental health needs but who have not accessed mental health services through the sick call system.

59. Expedited Referral The County shall ensure that inmates requesting mental health services, inmates who become suicidal, inmates who are referred for mental health services by correctional officers, and inmates who develop serious mental illness while incarcerated, are evaluated and treated timely, irrespective of the manner in which the services are requested. Mental health professionals shall be provided with up-to-date housing lists of inmates to ensure continuity of care.

Emergency Care

60. Response to Emergencies The County shall train correctional officers to recognize and respond to medical and mental health emergencies and shall ensure that inmates with emergency medical or mental health needs receive timely and appropriate care within the facility, and are promptly referred and transported for outside care when the facility is unable to provide appropriate care.

Continuity of Care and Access to Outside Providers

61. Recovering Inmates and Inmates Unable to Care for Themselves The County shall ensure that inmates who need skilled nursing services or assistance with activities of daily living shall receive medically appropriate care. All inmates returning to the facility after surgery or hospital treatment and inmates who cannot care for themselves shall be seen immediately by medical staff and placed or treated as medically appropriate upon return to the facility.
62. Access to Specialty Care The County shall ensure that inmates whose serious medical or mental health needs go beyond the services available at the Detention Center shall receive timely referral to appropriate medical or mental health care professionals qualified to meet their needs. The County shall ensure that inmates who have been referred for outside specialty care by the medical staff or another specialty care provider are scheduled for timely outside care appointments and transported to their appointments. Inmates awaiting outside care shall be seen by medical staff as medically necessary to evaluate the current urgency of the problem and respond as medically appropriate. The

County shall seek to obtain records of care and diagnostic tests received during outside appointments in a timely fashion and include such records in the inmate's medical record or document the inmate's refusal to cooperate and release medical records. Following a visit to an outside specialist, medical staff, mental health staff, or a dentist shall review information and documentation available from the visit and provide reasonable follow-up care.

63. Mental Health Services Log The County shall maintain an updated log of inmates receiving mental health services, which shall include both those inmates who receive counseling and those who receive medication. The log shall include each inmate's name, diagnosis or complaint, and next scheduled appointment.

Chronic Diseases

64. Clinical Guidelines The County shall develop or adopt existing written updated clinical guidelines for chronic diseases, consistent with nationally accepted guidelines, and implement such guidelines to provide appropriate diagnosis, monitoring, treatment and continuity of care.
65. Chronic Disease Log The County shall maintain an updated log of inmates with chronic illnesses. The County shall keep records of all care provided to inmates diagnosed with chronic illnesses in the inmate's individual medical record.

Treatment of Female Inmates

66. Treatment Guidelines The County shall implement nursing protocols concerning medical care for women, including screening for pregnancy, and gynecological and obstetric care. The County shall implement timely and appropriate care for pregnant women as medically indicated, including discharge planning. The County will work with and refer pregnant inmates to community providers capable of developing individual treatment plans and assisting with discharge planning. In such cases, the County shall facilitate treatment planning and implement those responsibilities assigned to the County under the plan subject to reasonable security considerations.

Drug and Alcohol Withdrawal and Detoxification

67. Drug and Alcohol Withdrawal Identification and Treatment The County will screen all incoming inmates for signs and symptoms of drug and alcohol withdrawal and ensure that all inmates demonstrating symptoms of drug and alcohol withdrawal are timely identified. The County shall provide appropriate treatment, housing and medical supervision for drug and alcohol withdrawal.

Medication Management

68. Access to Appropriate Medication The County shall ensure that inmates have timely access to necessary medications for known serious medical or mental health conditions. The County shall develop and implement a plan to ensure that off-formulary medications may be requested, approved, received, and administered within a reasonable period after determination by medical staff that such medication is medically necessary to treat a serious medical or mental health condition. The plan shall include a provision for expedited access to and administration of off-formulary medications when medically necessary. During the term of this Agreement, the County shall log all requests for approval of off-formulary medications, the dates of the request and approval or denial, the reasons for any denial, and the date the inmate began receiving the medication.
69. Delivery and Continuity The County shall ensure continuity of medication by ensuring regular and timely distribution and documentation of medication to all inmates, including: access to medication in emergencies and on weekends; contemporaneous

documentation and monitoring of dosages dispensed and received and documentation of refusals and no-shows; timely recording of medication records in patients' individual files; and recording and monitoring of medication errors. The County shall track refusals of medication and no-shows to be reviewed in its quality assurance program, and shall take appropriate corrective measures if the review evidences problems in medication distribution.

70. Prescribing Practices Only qualified medical staff shall prescribe medications. The only exceptions shall be following written protocols for immunizations or life-threatening emergencies. Except for renewals, inmate patients shall have a face-to-face evaluation by the prescribing clinician or designated health professional with prescriptive authority, within seventy-two (72) hours of the telephone prescription order, for medications prescribed for serious medical or mental health illnesses or symptoms.

71. Medication Administration Records The County shall provide for complete patient-specific medication administration records for all individually administered medications. For keep-on-person medications, the County shall record delivery of the medication. The County shall document inmates' refusal to take individual dose prescription medication or receive keep-on-person medication.

72. Discharge Medication and Information When the County has advance notice of the discharge of inmates with serious medical or mental health needs from detention, the

County shall provide such inmates with at least a seven (7) day supply of appropriate prescription medication, unless a different amount is medically appropriate, to serve as a bridge until inmates can arrange for continuity of care in the community. The County shall supply sufficient medication for the period of transit for inmates who are being transferred to another correctional facility or other institution. The County shall prepare and send with transferring inmates a transfer summary detailing major health problems and listing current medications and dosages, as well as medication history while at the Detention Center. The County shall ensure that information about potential release or transfer of inmates is communicated to health services staff as soon as it is available to the County.

Mortality Reviews

73. Autopsy The County shall request an autopsy for every inmate who dies while in the custody of the Detention Center.

74. Mortality and Morbidity Reviews The County shall conduct a mortality review for each inmate death while in custody and a morbidity review for all serious suicide attempts or other incidents in which an inmate was at high risk for death. Mortality and morbidity reviews shall involve physicians, nurses, and other relevant Detention Center personnel and shall seek to determine whether there was a pattern of symptoms which might have resulted in earlier diagnosis and intervention. The mortality and morbidity reviews shall analyze the circumstances surrounding the incident. The County shall obtain any autopsy

reports and related medical data or shall document the unsuccessful attempts to obtain them. The County shall address any problems with care or access to care that occurred, through training, policy revision and any other appropriate measures.

Infection Control

75. Infection Control Plan The County shall implement an infection control program that addresses blood borne and airborne hazards and infections spread through contact. The plan shall include provisions for the identification, treatment, and control of Methicillin-resistant Staphylococcus Aureus (“MRSA”) at the Detention Center.
76. Training The County shall train staff and inmate workers regarding measures necessary to prevent the spread of blood borne and airborne pathogens and infections spread through contact.
77. Hazardous waste The County shall appropriately dispose of hazardous and medical waste.
78. Laundry The County shall implement generally accepted environmental health standards for institutions for laundering inmates’ clothing and linens in a manner that prevents spread of infection, including proper use of disinfectant.

B. SUICIDE PREVENTION

79. Policy The County shall revise existing suicide prevention policies as necessary to include: (1) staff training; (2) identification and screening of potentially suicidal inmates; (3) appropriate housing for suicidal inmates; (4) effective watch procedures, durations and conditions of monitoring; (5) suicide intervention procedures; and (6) receipt and transmission to appropriate persons of reports of inmate suicidal behavior and information needed to protect suicidal inmates.
80. Training The County shall train clinical, mental health and correctional officer staff who have inmate contact regarding: (1) the warning signs and symptoms of inmates at risk of suicide; (2) why correctional environments are conducive to suicidal behavior; (3) high-risk suicide periods; (4) potential predisposing factors to suicide; (5) procedure and methods for responding to inmates who exhibit such risk; (6) observation techniques; (7) searches of inmates who are placed on suicide watch; (8) emergency procedures for responding to a suicide attempt; (9) location and use of cut-down tools and other emergency response supplies; and (10) how to refer inmates with mental health needs for appropriate care. All facility staff that has inmate contact shall have initial training and refresher trainings annually.
81. Suicide Watch The County shall revise as necessary policy, procedures and practices to ensure that inmates placed on suicide watch are supervised sufficiently to maintain their safety and to address the following requirements. When staff initially places an inmate on observation, the inmate shall be strip searched and monitored until a mental health

professional conducts a suicide risk assessment, determines the degree of risk, and writes appropriate orders. On a case-by-case basis, it may be acceptable to order the housing of two suicidal inmates in the same cell. Until such assessment, inmates shall be placed in gowns recommended and approved for use with suicidal patients. Mental health staff shall provide services initially as soon as possible and then as medically appropriate to all inmates on suicide watch Monday through Friday. Mental health trained registered nurses may provide this function on weekends. On-call mental health staff shall respond as necessary to provide care to inmates newly placed on suicide watch on the weekends. Inmates shall only be removed from suicide watch after approval by mental health staff after a suicide risk assessment indicates it is safe to do so. Mental health staff shall write appropriate discharge orders, including treatment recommendations and required mental health follow-up. The County shall revise observation logging procedures and practices to ensure that sufficiently detailed information about an inmate's suicide watch is recorded at appropriate intervals. At the time of placement on suicide watch, medical or mental health staff shall write orders setting forth the conditions of the watch, including but not limited to allowable clothing, property, and utensils. These conditions shall be altered only on the written instruction of the mental health staff, except under emergency circumstances.

82. Risk Assessment The County shall ensure that any inmate showing signs and symptoms of suicide is assessed using an appropriate suicide risk assessment instrument.

C. **SECURITY AND SAFETY**

Inmate Supervision

83. Correctional personnel The County shall staff the master control center; each housing unit, including administrative and disciplinary segregation; booking; the kitchen area and the medical area with adequate correctional personnel to protect inmates from unreasonable risks of harm. At all times, the master control center shall be staffed by at least two correctional officers and each housing unit control center shall be staffed by at least one correctional officer. Staff may be aided by appropriate monitoring equipment maintained in working order.
84. Monitoring equipment The County shall maintain in working order all monitoring equipment at the Detention Center.

Grievances and Investigations

85. Filing of grievances The County shall develop and implement an effective inmate grievance system, ensure that grievances may be filed confidentially where the filing of such grievance might expose the inmate or a third party to imminent danger. The County shall also ensure that grievances receive appropriate follow-up, including informing the grievant of its outcome and tracking implementation of resolutions.
86. Investigations The County shall develop and implement policies, procedures and practices regarding internal investigations to ensure that management has a mechanism

for identifying problems and appropriate remedies. The County shall maintain staffing sufficient to meet such internal investigation responsibilities.

Booking Area

87. Safety The County shall provide for the safety and security of inmates in the booking area. The booking area shall not be used for protective custody, administrative segregation, disciplinary segregation or other special custody status detention, absent emergency circumstances, but may be used for temporary detention of intoxicated individuals pursuant to New Mexico Statutes Annotated (NMSA), NMSA 1978 §§ 43-2-2 through 43-2-22.
88. Hygiene The County shall provide inmates detained in the booking area with appropriate shower opportunities and shall document when the inmates are offered the opportunity to shower.

Inmate Classification System

89. Classification System The County shall develop and implement an appropriate classification system to protect inmates from unreasonable risk of harm. Inmates shall be timely classified and placed in housing appropriate for security and safety. The County shall use best efforts to anticipate periods of unusual intake volume and schedule sufficient classification staff to timely classify inmates.

Information Regarding Constitutionally Required Services

90. Access to Information Regarding Constitutionally Required Services The County shall ensure that newly admitted inmates receive information they need to comply with facility rules and regulations, be protected from harm, report misconduct, access medical and mental health care and seek redress of grievances.

D. **QUALITY MANAGEMENT**

91. Quality Assurance System The County shall develop and implement quality assurance policies, procedures and practices to evaluate and make necessary changes to medical and mental health care, suicide prevention, security and safety at the facility.

E. **STAFF TRAINING AND SUPERVISION**

92. Training Regarding this Agreement The County shall provide training and supervision to staff sufficient to implement the provisions of this Agreement.

V. REPORTING REQUIREMENTS AND RIGHT OF ACCESS

93. The County shall submit quarterly compliance reports to the United States no later than January 15, April 15, July 15 and October 15 during the term of this Agreement.
94. Each compliance report shall describe the actions the County has taken since the date the last report was due to implement this Agreement, and shall make specific reference to the Agreement provisions being implemented.

95. The County shall maintain sufficient records to document that the requirements of this Agreement are being properly implemented and shall make such records available to the SFCADC at all reasonable times for inspection and copying by the United States. In addition, the County shall maintain and submit upon request 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, and incident reports) and will also provide all documents reasonably requested by the United States.
96. The United States and its attorneys, consultants, and agents shall have unrestricted access to the Detention Center, Detention Center inmates, Detention Center staff (including staff at SFCADC employed by any other outside medical services provider), and documents as reasonably necessary to address issues affected by this Agreement.
97. Within thirty (30) days of receipt of written questions from the United States concerning the County's compliance with the requirements of this Agreement, the County shall provide the United States with written answers and any requested documents.
98. The County shall appoint a settlement Compliance Officer to oversee compliance with this Agreement and to serve as a point of contact.

VI. MONITORING AND ENFORCEMENT

99. Compliance Monitoring DOJ representatives, including its experts, may conduct at least four on-site compliance monitoring tours, subject to fiscal feasibility. The dates and duration of each on-site compliance monitoring visit shall be determined by DOJ representatives in consultation with the County. The County shall provide DOJ representatives with reasonable access to inmates and staff, documents, and information relating to implementation of this Agreement. DOJ shall have the right to conduct confidential interviews with inmates, and to conduct interviews with facility staff outside the presence of other staff or supervisors, and the County's experts shall be permitted to participate in these interviews. To the extent that the County proceeds in good faith to implement the terms outlined in this Agreement, DOJ shall conduct exit interviews on the final day of each monitoring tour and shall provide the County with written reports completed by DOJ experts regarding the Detention Center. The DOJ shall identify any deficiencies promptly following the monitoring tours. If, after indentifying deficiencies identified during the monitoring tours, the United States maintains that the County has failed to carry out any requirement of this Agreement, the United States shall notify the County of any instance(s) in which it maintains that the County has failed to carry out the requirements of this Agreement. The County may submit relevant additional information to the DOJ, including, but not limited to, reports of its own experts concerning the identified deficiencies. The submissions of the County will be considered by the DOJ.
100. Scope of Compliance Neither the United States nor its experts shall add provisions or expand the scope of this Agreement in any manner.

101. Non-compliance The County shall take substantial steps to correct a claim by DOJ pursuant to provision 99 within a reasonable time but in no event more than 90 days from receipt of a notice of non-compliance. During the 90 days following receipt of a notice of deficiency, the United States and the County shall coordinate and discuss any areas of disagreement and attempt to resolve outstanding differences. If the United States and the County fail to reach an agreement, the DOJ may file a motion to enforce that provision of the Settlement Agreement that was the subject of the notice of deficiency by appropriate motion to the Court. The United States shall give the County fourteen (14) calendar days' written notice of its intent to file a motion before filing the motion, during which time, the County shall have the opportunity to cure the deficiency. The time periods set out in this provision shall not apply to any claim by DOJ pursuant to provision 99 that conditions or practices at the SFCADC pose an immediate and serious threat to the life, health, or safety of SFCADC inmate(s), in which the situation shall be corrected immediately.

102. Inmate Deaths The County shall notify the United States immediately upon the death of any SFCADC inmate (either in the Detention Center or following transfer from the Detention Center to a hospital) and shall forward to the United States copies of any completed incident reports related to death, autopsies and/or death summaries of residents, as well as all final reports of investigations that involve inmates' deaths.

103. Confidentiality Any information or documents obtained pursuant to this Agreement shall not be disseminated, except as provided by law, to any person not a party (or an employee or contractor of a party) to this Agreement. In the event of a request under the Freedom of Information Act (“FOIA”), or any other statute or provision of law, by a third party for disclosure of any information or documents provided by the County to the United States, the United States will assert all applicable exemptions from disclosure permitted by law. Additionally, the United States will notify the County of any such request if the United States intends to disclose any documents.

VII. IMPLEMENTATION AND TERMINATION

104. The County shall begin implementing all the terms of this Settlement Agreement immediately upon the filing of this Agreement with the Court.

105. Except where otherwise specifically provided, the County shall complete implementation of all provisions of this Agreement within 180 days of the entry of this Agreement.

106. The effective date of this Agreement shall be November 1, 2007, and the Agreement shall terminate two years from its effective date.

107. The Agreement may terminate earlier than the two year period if the County has substantially complied with each of the provisions of the Agreement and has maintained substantial compliance for at least one year. Noncompliance with mere technicalities, or

temporary failure to comply during a period of otherwise sustained compliance will not constitute failure to maintain substantial compliance. At the same time, temporary compliance during a period of sustained noncompliance shall not constitute substantial compliance.

108. The Agreement may terminate earlier as to a particular provision of the Agreement if the County has substantially complied with the provision in question and has maintained substantial compliance for at least one year. However, the Agreement shall terminate as to the following, specific provisions if the parties confirm that SFCADC has maintained substantial compliance as to the specific provision during the first two successive compliance monitoring visits following execution of this Agreement: provisions 14, 42, 51, 68, 69, 72, 77, and 84.

109. After substantial compliance with all provisions of this Agreement for a period of one year, or after substantial compliance with a particular provision of this Agreement for a period of one year, the DOJ and the County will execute a Termination of Agreement or a Partial Termination of Agreement that confirms the commitments contained in this Agreement have been satisfied and which relieves the parties from further monitoring and reporting. The termination document shall contain the following statement: “The DOJ agrees that termination of this Agreement is appropriate. There is no current pattern or practice of the County or its contractors violating the inmates’ constitutional rights addressed in our Agreement at the Santa Fe County Adult Detention Center.”

110. If the County disagrees with findings of the DOJ as to its compliance with the terms of the Agreement, the County may file a motion to enforce the Agreement with the Court, but only after providing the DOJ, within 90 days, of notice of its intent to file such a motion, during which period the DOJ and the County shall coordinate and discuss the areas of disagreement and attempt to resolve the outstanding differences. If the United States and the County fail to reach an agreement, the County may file a motion to enforce the term of the Agreement that was the subject of the notice of deficiency, by appropriate motion to the Court.
111. The County may at its option submit to the United States a written certification of substantial compliance with any substantive provision(s) of this agreement by facsimile or overnight delivery. The certification shall provide evidence of compliance. If representatives of the United States do not provide written objection to such certification within forty-five (45) calendar days of receipt, the County will be deemed in substantial compliance with the specified provision(s) beginning on the date of delivery of the certification.
112. Failure by either 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.

113. If any unforeseen circumstance occurs that causes a failure to timely carry-out any requirements of this Agreement, the County shall notify the United States in writing within 20 calendar days after the County becomes aware of the unforeseen circumstance and its impact on the County'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. Defendants shall implement all reasonable measures to avoid or minimize any such failure.
114. In the event that any provision of this Agreement is declared invalid for any reason by the Court, said finding shall not affect the remaining provisions of this Agreement.

**VIII. STIPULATION PURSUANT TO THE PRISON LITIGATION REFORM ACT,
18 U.S.C. § 3626**

115. For the purposes of this Agreement only and in order to settle this matter, the Parties stipulate that this Agreement complies in all respects with the provisions of 18 U.S.C. § 3626(a). The Parties further stipulate and agree that the prospective relief in this Agreement is narrowly drawn, extends no further than necessary to correct the violations of federal rights alleged by the United States, is the least intrusive means necessary to correct these alleged violations, and will not have an adverse impact on public safety or the operation of a criminal justice system. Accordingly, the Parties agree and represent that the Agreement complies in all respects with the provisions of 18 U.S.C. § 3626(a).

116. The issue of liability has not been litigated. The County denies all allegations of the United States that violations of federal rights exist.

117. This Agreement is not intended to have any preclusive effect except between the Parties. Should the issue of the preclusive effect of this Agreement be raised, the Parties agree to certify that this Agreement was intended to have no such preclusive effect.

FOR THE UNITED STATES:

/s/ Larry Gomez
LARRY GOMEZ
United States Attorney
District of New Mexico

/s/ Grace Chung Becker
GRACE CHUNG BECKER
Acting Assistant Attorney General
Civil Rights Division

Date: 2/28/08

/s/ Shanetta Y. Cutlar
SHANETTA Y. CUTLAR
Chief
Special Litigation Section

/s/ Tammie M. Gregg
TAMMIE M. GREGG
Principal Deputy Chief

/s/ Kerry Krentler Dean
KERRY KRENTLER DEAN
SHERIDAN L. ENGLAND
Trial Attorneys
U.S. Department of Justice
Civil Rights Division
Special Litigation Section
950 Pennsylvania Ave., NW
Washington, D.C. 20530

FOR THE COUNTY:

Chairman
Santa Fe County
Board of County Commissions

/s/ Roman Abeyta
ROMAN ABEYTA
Santa Fe County Manager

/s/ Stephen C. Ross
STEPHEN C. ROSS
Santa Fe County Attorney

/s/ Annabelle Romero
ANNABELLE ROMERO
Director
Corrections Department
Santa Fe County

/s/ David Trujillo
DAVID TRUJILLO
Jail Administrator
Santa Fe County Adult Detention Center

APPENDIX A

Medical staffing:

Nursing

12 hours on-site registered nurse coverage daily.

Mid-level practitioner

Minimum of 40 hours per week on-site nurse practitioner or physician's assistant.

Scheduling of health services staff

Hours of registered nurses, nurse practitioners and physicians' assistants shall be scheduled so that at least one of those professionals is at the facility 16 hours per day, five days per week, during the hours when there is the most inmate activity.

The remaining eight hours of each weekday and the remaining 12 hours per day on weekends may be covered by Licenses Practical Nurses.

Medical Director

Minimum of 16 hours on-site physician per week, or, in the alternative, medical director is on-site at the facility at least portions of four days per week. Medical Director must fulfill all responsibilities outlined in provision 38.

Physician

Minimum of 16 hours on-site physician per week, or, in the alternative, physician is on-site at the facility at least portions of four days per week. Physician must fulfill all responsibilities outlined in provision 40.

Physician emergency on-call

24-hour daily on-call physician coverage.

Mental Health Staffing:

Psychiatrist

Minimum of 20 hours of on-site psychiatrist per week, or, in the alternative, on-site psychiatrist at least portions of three days per week. Psychiatrist must fulfill all responsibilities outlined in provision 39.

Psychiatrist emergency on-call

24-hour daily on-call psychiatrist coverage.

Mental Health Professionals

Minimum of regular coverage by one full-time and one half-time Mental Health Professional. Daily mental health staff must be present from 8 a.m. to 5 p.m. Monday through Friday.

On-call Mental Health Coverage

24 hours on weekends