

Sheriff agrees to make all jails safer for people with disabilities

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Eduardo Contreras / The San Diego Union-Tribune

All of San Diego County's jails — including the George Bailey Detention Facility, pictured Thursday, May 25, 2023 — will get upgrades to comply with disabilities law under a new settlement. (Eduardo Contreras / The San Diego Union-Tribune)



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San Diego County Sheriff Kelly Martinez has agreed to make significant changes to San Diego jails to better accommodate people with disabilities.

The agreement follows nearly 18 months of negotiations with a group of civil rights attorneys who sued to force the sheriff to comply with the Americans with Disabilities Act.

The lawsuit, filed in February 2022, argued that none of the county's jails met ADA standards and that the Sheriff's Office had engaged in "systemic and willful discrimination against, and failure to provide reasonable accommodations in, programs, services, and activities to incarcerated people in the Jail who have disabilities."

Plaintiffs included a deaf man who, despite struggling with thoughts of suicide, was never provided a sign language interpreter.

Other plaintiffs with mobility issues said they suffered falls and injuries while struggling to use toilets or showers that weren't outfitted with grab bars or shower seats, or while trying to hoist themselves onto bunk beds.

The lawsuit was filed days after the release of a state audit concluding that conditions in San Diego County jails were so unsafe that legislation was needed to force reforms.

Among other changes, the Sheriff's Office has promised to modify showers, toilets and beds to meet ADA standards.

The settlement also requires that people with intellectual, learning and developmental disabilities be given appropriate support and that people who require assistive equipment — like wheelchairs, walkers or CPAP machines — be allowed access to it.

Seven other causes of action remain to be litigated in the class-action lawsuit, but attorneys say the partial settlement is a significant step in the right direction.

"This agreement provides a blueprint for ensuring the County's compliance with the law and meaningful improvements to how our clients with disabilities are treated," said Aaron Fischer, one of the lawyers representing plaintiffs.

The settlement follows an initial agreement reached in June 2023 that focused on modifications to the San Diego Central Jail, the sheriff's main intake facility, and providing sign language services.



Entrance to the sheriff's intake at San Diego Central Jail in downtown San Diego. (Nelvin C. Cepeda / The San Diego Union-Tribune)

Since that initial agreement, the Sheriff's Office has created an ADA unit consisting of three deputies, one sergeant, one lieutenant and a nurse. The unit also gets support from a mental health clinician.

"The custody, medical and mental health staff members within and supporting the ADA unit shall have staffing, resources and authority necessary to ensure that incarcerated people with disabilities timely receive reasonable accommodation and equal, meaningful access to programs, services, and activities," the settlement says.

Gay Grunfeld, one of the plaintiffs' attorneys, described the ADA unit as doing an "outstanding job" ensuring that staff receive training on complying with the federal disability law.

"We look forward to working with the Sheriff's Office to bring the jails into full compliance as rapidly as possible, including through enhanced access to programming for people with disabilities," she said.

Under the agreement, two independent experts will be appointed to determine, through twice-yearly reports, whether the Sheriff's Office is complying with the terms of the settlement.

In a news release announcing the settlement, the Sheriff's Office said it had "taken significant steps to increase access for persons with disabilities in county jails."

In addition to establishing the ADA unit, the Sheriff's Office created a process to better identify people with disabilities and make sure they get whatever accommodations they need.

"Sheriff Kelly A. Martinez is grateful for the work that went into this mutually agreed upon settlement," the department said in a statement. "While this settlement agreement is not a consent decree, the Sheriff's Office is committed to compliance with all the terms."

The agreement still requires approval by Judge Anthony Battaglia, who will oversee its implementation.

"The court shall retain jurisdiction to enforce the terms of this ADA settlement agreement and order, including through specific performance and all other remedies permitted by law or equity," he said in an order issued on Thursday.



In Feb. 2018, Frankie Greer had a seizure and fell from the top of three jail bunks, suffering a serious brain injury. (Courtesy of Julia Yoo)

Over the years, San Diego County has paid out tens of millions of dollars in legal settlements to people gravely injured in jail and to the families of those who died there.

This includes nearly \$8 million paid to Frankie Greer — a U.S. Army veteran, musician and artist who was ordered to sleep at the top of a three-tier bunk bed despite having a medically diagnosed seizure disorder.

Deputies confiscated his medication and did not provide a suitable alternative, his lawsuit alleged. Greer experienced a seizure, fell from the bunk and suffered a serious brain injury.

Earlier this year, the Sheriff's Office was sued by the family of Roselee Bartolacci, a 32-year-old developmentally disabled woman with schizoaffective disorder. By the time she died in sheriff's custody weeks after booking, she had lost 44 pounds from refusing medication, food and water, her lawsuit alleges.

"They left Roselee in her cell crying and moaning and sucking her thumb, speaking in gibberish and sitting in her own urine," the family's attorney, Julia Yoo, told The San Diego Union-Tribune.

The remaining causes of action in the class-action case accuse the Sheriff's Office of failing to provide adequate medical and mental health care, failing to ensure the safety of people in custody, failing to provide adequate dental care and wrongly denying access to legal counsel.

Grunfeld said she expects those claims to go to trial as soon as this coming spring, "unless the county agrees to resolve them before then."

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