

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES AMERICA,	)	Case No. CV 15-05903 DDP (JEMx)
	)	
Plaintiff,	)	
	)	<b>ORDER DENYING DEFENDANTS' MOTION</b>
v.	)	<b>FOR JUDGMENT ON THE PLEADINGS</b>
	)	
COUNTY OF LOS ANGELES et	)	
al.,	)	[Dkt. 84]
	)	
Defendants.	)	

---

Presently before the court is Defendants' Motion for Judgment on the Pleadings of Intervenor's First Amended Complaint in Intervention ("FACI"). The FACI alleges that a portion of an executed settlement agreement between Plaintiff ("the government") and Defendant ("the County") violates the Americans with Disabilities Act ("ADA"), Section 504 of the Rehabilitation Act, and Intervenor's Eighth and Fourteenth Amendment rights. Having considered the submissions of the parties and heard oral argument, the court denies the motion and adopts the following Order.

**I. Background**

On August 5, 2015, the government filed a Complaint against the County under the Civil Rights of Institutionalized Persons Act

1 ("CRIPA"), 42 U.S.C. §§ 1997-1997j, and the Violent Crime Control  
2 and Law Enforcement Act of 1994, 42 U.S.C. § 14141.<sup>1</sup> The Complaint  
3 alleged repeated and systemic violations of prisoners' constitutional  
4 rights in the Los Angeles County jail system. The alleged  
5 violations included constitutionally deficient mental health care  
6 and related services, such as suicide prevention, psychological and  
7 psychiatric services, and discharge planning, as well as inadequate  
8 housing and sanitation practices and a pattern of excessive force  
9 against prisoners. (Complaint ¶¶ 22-26.)

10 The same day the Complaint was filed, the government and the  
11 County filed a stipulated settlement of this matter. The  
12 stipulated Settlement Agreement ("Agreement"), which spans 125  
13 paragraphs and nearly sixty pages, provides for a series of new or  
14 enhanced policies and practices across nineteen subject areas  
15 intended to ensure that the County will provide "prisoners at the  
16 Jails with safe and secure conditions and ensure their reasonable  
17 safety from harm, including serious risk from self-harm and  
18 excessive force, and ensure adequate treatment for their serious  
19 mental health needs." (Agreement ¶ 16.) Among the stipulated  
20 terms is a provision regarding inmate discharge planning  
21 ("Paragraph 34"). That provision states:

22 34. The County and the Sheriff will conduct discharge  
23 planning and linkage to community mental health  
24 providers and aftercare services for all prisoners  
with serious mental illness as follows:

25 (a) For prisoners who are in Jail seven days or  
26 less, a preliminary treatment plan, including  
discharge information, will be developed.

---

27  
28 <sup>1</sup> The Complaint also named Los Angeles County Sheriff Jim  
McDonnell as a Defendant, in his official capacity.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

(b) For prisoners who are in Jail more than seven days, a [Qualified Mental Health Professional] will also make available:

(i) for prisoners who are receiving psychotropic medications, a 30-day prescription for those medications will be offered either through the release planning process, through referral to a re-entry resource center, or through referral to an appropriate community provider, unless clinically contraindicated;

(ii) in-person consultation to address housing, mental health/medical/substance abuse treatment, income/benefits establishment, and family/community/social supports. This consultation will also identify specific action to be taken and identify individuals responsible for each action;

(iii) if the prisoner has an intense need for assistance, as described in [County Mental Health] policies, the prisoner will further be provided direct linkage to an Institution for Mental Disease ("IMD"), IMD-Step-down facility, or appropriately licensed hospital;

(iv) if the prisoner has a moderate need for assistance, as described in [County Mental Health] policies, and as clinically appropriate to the needs of the prisoner, the prisoner will be offered enrollment in Full Service Partnership or similar program, placement in an Adult Residential Facility ("Board and Care") or other residential treatment facility, and direct assistance accessing community resources;

(v) if the prisoner has minimal needs for assistance, as described in [County Mental Health] policies, the prisoner will be offered referrals to routine services as appropriate, such as General Relief, Social Security, community mental health clinics,

1 substance abuse programs, and/or  
2 outpatient care/support groups.

3 (c) The County will provide a re-entry resource  
4 center with QMHPs available to all prisoners  
5 where they may obtain information about  
6 available mental health services and other  
7 community resources.

8 (Agreement ¶ 34.)

9 Intervenor's intervened and later filed the FACI, which alleges  
10 that Paragraph 34 violates the ADA, Section 504 of the  
11 Rehabilitation Act, and the Eighth and Fourteenth Amendments.

12 Intervenor's allege, for example, that Paragraph 34 facially  
13 discriminates against disabled prisoners whose disability stems  
14 from personality disorders, substance abuse and dependence  
15 disorders, dementia, or developmental disabilities, as well as all  
16 disabled prisoners who spend seven days or fewer in jail.<sup>2</sup>

17 (Agreement ¶ 34, 34(a); FACI ¶ 101.) The FACI also alleges that  
18 Paragraph 34 discriminates against disabled inmates, fails to  
19 reasonably accommodate Intervenor's disabilities, and places  
20 certain inmates in non-integrated environments in violation of the  
21 ADA's integration mandate. (FACI ¶¶ 101, 112.) Intervenor's  
22 further allege, in essence, that Paragraph 34's discharge  
23 procedures do not allow Intervenor's to access medical and  
24 psychiatric services, and that Paragraph 34's failings constitute  
25 deliberate indifference to Intervenor's serious medical needs.  
26 Defendants now move for judgment on the pleadings.

## 27 **II. Legal Standard**

---

28 <sup>2</sup> The Agreement's definition of "serious mental illness"  
expressly excludes these substantive categories, with the exception  
of personality disorders that are "associated with serious or  
recurrent significant self-harm." (Agreement ¶ 15(aa).)

1 A party may move for judgment on the pleadings “[a]fter the  
2 pleadings are closed [] but early enough as not to delay the  
3 trial.” Fed. R. Civ. P. 12(c). Judgment on the pleadings is  
4 proper when the moving party clearly establishes that no material  
5 issue of fact remains to be resolved and that it is entitled to  
6 judgment as a matter of law. Hal Roach Studios, Inc. v. Richard  
7 Feiner & Co., 896 F.2d 1542, 1550 (9th Cir. 1990); Doleman v. Meiji  
8 Mut. Life Ins. Co., 727 F.2d 1480, 1482 (9th Cir. 1984). The  
9 standard applied on a Rule 12(c) motion is essentially the same as  
10 that applied on a Rule 12(b)(6) motion to dismiss for failure to  
11 state a claim, with the court accepting all of the non-moving  
12 party’s allegations as true. Lyon v. Chase Bank USA, N.A., 656  
13 F.3d 877, 883 (9th Cir. 2011).

14 **III. Discussion**

15 A. Standing

16 Defendants contend first that Intervenors lack standing to  
17 bring their claims. It is well established that the “imminent”  
18 invasion of a concrete, legally protectable interest is sufficient  
19 to constitute an injury for purposes of standing. See Lujan v.  
20 Defenders of Wildlife, 540 U.S. 555, 560, 564 n.2 (1992).  
21 Defendants argue that it is uncertain whether Intervenors will be  
22 incarcerated again, and that even if they are incarcerated, it is  
23 unclear whether they will be adversely affected by the policies set  
24 forth in Paragraph 34. Intervenors need only show, however, a  
25 credible threat of future injury. Ibrahim v. Dep’t of Homeland  
26 Security, 669 F.3d 983, 992 (9th Cir. 2012).

27 As this court noted in allowing intervention in this case,  
28 “Intervenors have presented evidence that they are caught up in a

1 tragic cycle of homelessness and incarceration perpetuated and  
2 punctuated by manifestations of mental illness and unbroken by any  
3 adequate treatment." (Dkt. 75 at 8 n.4). The FACI alleges that  
4 some Intervenors have been detained in Los Angeles County jail  
5 facilities dozens of times, while others have been arrested  
6 hundreds of times. All suffer from at least one mental illness,  
7 and most have histories of substance abuse. In some cases, it  
8 appears that Intervenors have entered the jail system largely as a  
9 result of their mental health conditions, and that those conditions  
10 have then been aggravated by incarceration and, in some cases, the  
11 denial of medication. Intervenors have then been released onto the  
12 streets, often in a more vulnerable, less stable state than when  
13 they entered the jail system. Under these circumstances, there  
14 appears to be little doubt that there is a credible threat that  
15 Intervenors will again find themselves incarcerated and subject to  
16 the policies set forth in Paragraph 34.

17 Defendants also argue that Intervenors lack standing as a  
18 matter of law because the threat of future injury to Intervenors is  
19 entirely dependent on their engaging in illegal conduct in the  
20 future. The Ninth Circuit has held that "standing is inappropriate  
21 where the future injury could be inflicted only in the event of  
22 future illegal conduct by the plaintiff." Armstrong v. Davis, 275  
23 F.3d 849, 865 (9th Cir. 2001). In other words, standing should be  
24 denied where it is "contingent upon [plaintiffs'] violating the  
25 law, getting caught, and being convicted." Hodgers-Durgin v. de la  
26 Vina, 199 F.3d 1037, 1041 (9th Cir. 1999) (en banc) (quoting  
27 Spencer v. Kemna, 523 U.S. 1, 15 (1983)).

28

1 Defendants appear to assume that Intervenors are only caught  
2 up in the jail system when they violate the law and are convicted  
3 of a crime. Granted, some Intervenors acknowledge that they have  
4 been incarcerated for drug offenses stemming from addiction  
5 problems, or for shoplifting food, soap, shampoo, toothpaste, and  
6 deodorant, or for other petty offenses often associated with  
7 homelessness. Some have outstanding warrants for failure, or  
8 inability, to pay fines incurred after riding public transportation  
9 without a valid fare. It is unclear at this stage, however,  
10 whether or how often Intervenors have been convicted of criminal  
11 offenses. In addition, criminal activities of the type described  
12 above may be closely entwined with mental health issues and  
13 potential defenses related thereto. Furthermore, a person may be  
14 subjected to unlawful practices by law enforcement or custodial  
15 personnel without having ever engaged in illegal conduct. See,  
16 e.g. Armstrong, 275 F.3d at 866; Hodgers-Durgin, 199 F.3d at 1041.  
17 Some Intervenors, including veterans, appear to have been  
18 incarcerated after exhibiting symptoms of mental illness, including  
19 schizophrenic episodes, periods of confusion related to post-  
20 traumatic stress disorder, hearing voices, and talking to trees,  
21 without any facially apparent tie to any illegal activity. (Dkt.  
22 27.)

23 Nor is the court persuaded that the standing principle  
24 articulated in Armstrong is applicable to the mental health-focused  
25 circumstances here. The Hodgers-Durgin court, citing the same  
26 Supreme Court cases as did the Armstrong court, explained that the  
27 Supreme Court's approach to the denial of standing was "based on  
28 the plaintiff's ability to avoid engaging in illegal conduct."

1 Hodgers-Durgin, 199 F.3d at 1041 (discussing City of Los Angeles v.  
2 Lyons, 461 U.S. 95, 105 (1983) and Spencer v. Kemna, 523 U.S. 1, 15  
3 (1998)) (emphasis added). This court has serious questions whether  
4 mentally ill, homeless, and possibly addicted or chemically  
5 dependent individuals can realistically be said to have the ability  
6 to avoid engaging in the type of minor infractions that appear to  
7 result in repeated incarcerations, particularly where the very fact  
8 of incarceration may disrupt ongoing care, exacerbate the effects  
9 of disabilities, and impede future treatment.

10 At this stage, it appears to the court that the threat of  
11 future harm to Intervenors is not dependent on their conscious  
12 decisions to purposefully engage in unlawful activity in the  
13 future. Rather, the very nature of Intervenors' disabilities and  
14 concomitant symptoms and behaviors, which may be aggravated by the  
15 types of practices challenged here, are likely to lead to repeated  
16 incarcerations and exposure to the harms alleged. Intervenors,  
17 therefore, have standing.

18 B. ADA and Rehabilitation Act Claims

19 A plaintiff bringing a discrimination claim under Title II of  
20 the ADA or Section 504 of the Rehabilitation Act must allege "(1)  
21 the plaintiff is an individual with a disability; (2) the plaintiff  
22 is otherwise qualified to participate in or receive the benefit of  
23 some public entity's services, programs, or activities; (3) the  
24 plaintiff was either excluded from participation in or denied the  
25 benefits of the public entity's services, programs, or activities,  
26 or was otherwise discriminated against by the public entity; and  
27 (4) such exclusion, denial of benefits, or discrimination was by  
28 reason of the plaintiff's disability." Thompson v. Davis, 295 F.3d

1 890, 895 (9th Cir. 2002); Melton v. Dallas Area-Rapid Transit, 391  
2 F.3d 669, 676 (9th Cir. 2004).

3 Much of the parties' argument here is colored by differences  
4 in the characterization of the FACI's claims. Defendants seek to  
5 cast the claims in terms of discrimination between groups of  
6 disabled inmates; namely, those who qualify for extra discharge  
7 planning under Paragraph 34 and those who do not. Although  
8 acknowledging that they did take this position earlier, Intervenors  
9 appear to concede that benefits extended to one group of disabled  
10 individuals need not necessarily be provided to all disabled  
11 people. See Traynor v. Turnage, 485 U.S. 535, 548-49 (1988) ( . .  
12 . [T]he central purpose of [the Rehabilitation Act] . . . is to  
13 assure that handicapped individuals receive 'evenhanded treatment'  
14 in relation to nonhandicapped individuals. . . . There is nothing  
15 in the Rehabilitation Act that requires that any benefit extended  
16 to one category of handicapped persons also be extended to all  
17 other categories of handicapped persons." ).

18 Intervenors' main contention, however, is different.  
19 Intervenors argue that Paragraph 34 results in a denial of  
20 meaningful, state-provided discharge planning services with respect  
21 to Intervenors. (Opposition at 16.) That denial, in turn, "bars  
22 [Intervenors] from meaningful access to County and other services  
23 based on their disability." (Opp. at 18:14-15.)

24 Hewing closely to Traynor, Defendants argue that Intervenors  
25 cannot possibly be discriminated against because non-disabled  
26 inmates do not receive any discharge planning services that are not  
27 available to disabled inmates, including Intervenors. (Reply at 13  
28 ("Although Intervenors argue that non-disabled persons receive

1 discharge planning in the form of being 'processed, released, and  
2 walked out the door,' they do not allege that disabled persons are  
3 not processed and released.".) In other words, even if discharge  
4 planning is considered a "service," all inmates are processed and  
5 released in the same, evenhanded way. Thus, the argument goes, the  
6 fact that Paragraph 34 provides some additional benefits to some,  
7 but not all, disabled people is immaterial, as the provision of  
8 those extra benefits to a select disabled few does not deny any  
9 disabled person a service available to a nondisabled person.  
10 (Reply at 13 ("Non-disabled persons do not need or receive any of  
11 the services set forth in paragraph 34.")) This argument is not  
12 persuasive.

13       The ADA and Rehabilitation Act cover both intentional  
14 discrimination and facially neutral practices that  
15 disproportionately impact disabled people. Crowder v. Kitagawa, 81  
16 F.3d 1480, 1484 (9th Cir. 1996). The Ninth Circuit has counseled  
17 that courts should not dwell on distinctions between intentionally  
18 discriminatory practices and those that are merely "thoughtless,"  
19 but should instead "assess whether disabled persons were denied  
20 'meaningful access' to state-provided services." Id. (discussing  
21 Alexander v. Choate, 469 U.S. 287, 302 (1985).) A policy that  
22 denies disabled persons meaningful access to state services by  
23 reason of their disability discriminates against disabled  
24 individuals in violation of the ADA. Crowder, 81 F.3d at 1485.

25       It is somewhat unclear whether the parties consider discharge  
26 planning itself to be a state-provided service. Defendants  
27 implicitly suggest that it is, albeit a very basic one that is  
28 provided in the same way to every inmate. At this stage of the

1 proceedings, the nature and scope of Defendants' "processing and  
2 release" procedures are not yet factually developed. Any  
3 characterization, however, of discharge policy as mere, and  
4 uniformly-applied, guidance toward the jailhouse door strikes the  
5 court as an oversimplification. Defendants' discharge policies are  
6 designed to achieve certain goals, which may or may not be limited  
7 to constitutional or other floors.<sup>3</sup> Defendants presumably do not,  
8 and could not, for example, simply show a severely ill inmate to an  
9 exit without any concern for what might befall that inmate on the  
10 other side of the door. See, e.g. Wakefield v. Thompson, 177 F.3d  
11 1160, 1164 (9th Cir. 1999) ("A state's failure to provide  
12 medication sufficient to cover [a post-incarceration] transitional  
13 period amounts to an abdication of its responsibility to provide  
14 medical care to those, who by reason of incarceration, are unable  
15 to provide for their own medical needs."). Indeed, Defendants  
16 acknowledged at argument that the discharge process does account  
17 for disabilities to some extent. Defendants do not dispute, for  
18 example, that a jail cannot discharge a wheelchair-bound inmate by  
19 simply wheeling her out the door onto an elevated, ramp-less  
20 entryway without running afoul of the ADA.

21 Although factual questions abound, it appears to the court  
22 that inmates may receive some form of discharge planning services.<sup>4</sup>  
23 For a non-disabled person, the procedure necessary to satisfy  
24 Defendants' goals may not entail anything more than directing the

25 \_\_\_\_\_

26 <sup>3</sup> The court recognizes that further factual development may be  
required before these goals can be delineated.

27 <sup>4</sup> It is unclear, for example, whether Paragraph 34 represents  
28 the entirety of Defendants' discharge policy even regarding those  
disabled persons to whom it applies.

1 inmate to the exit stairs. That does not mean, however, that no  
2 service is provided, or that the same discharge service would prove  
3 meaningful to a person in a wheelchair, or to mentally ill persons  
4 such as Intervenor. Intervenor argue that Defendants discharge  
5 non-disabled people and, as a result of Paragraph 34, some disabled  
6 people, in a manner and condition that enables those persons to  
7 perform life activities such as arranging transportation, obtaining  
8 medical care, accessing food and shelter, and seeking other public  
9 services. Intervenor, in contrast, are not discharged in that  
10 same manner or condition. At this stage, Intervenor have  
11 adequately alleged that, as a result of their particular  
12 disabilities, they are denied meaningful access to discharge  
13 planning services. Whether that is the case, and if so, whether  
14 any or all of the modifications to Paragraph 34 Intervenor seek  
15 are reasonable or necessary to afford them meaningful access to  
16 such services, are questions for another day.

17 Even if discharge planning is not itself a service, Defendants  
18 are not entitled to judgment as a matter of law. Defendants'  
19 position is premised upon "the assumption that no violation of the  
20 ADA occurs unless a service or benefit of the state is provided in  
21 a manner that discriminates against disabled individuals."  
22 Crowder, 81 F.3d at 1483. As the Ninth Circuit stated in Crowder,  
23 however, "[t]his simply is not so." Crowder, 81 F.3d at 1483. In  
24 addition to "outright discrimination" of the type upon which  
25 Defendants focus, the ADA also prohibits "those forms of  
26 discrimination which deny disabled persons public services  
27 disproportionately due to their disability." Id.

28

1 In Crowder, disabled plaintiffs brought an ADA challenge to  
2 the State of Hawaii's policy of quarantining all carnivorous  
3 animals entering the state. Crowder, 81 F.3d at 1482-83. The same  
4 120-day quarantine procedures were imposed on all dogs, including  
5 guide dogs for the visually impaired. Id. In finding against the  
6 visually-impaired plaintiffs on summary judgment, the district  
7 court concluded that even though Hawaii's quarantine policy did not  
8 allow plaintiffs to make meaningful use of state-provided services,  
9 plaintiffs could not show an ADA violation because they had not  
10 been denied any state services on the basis of a disability. Id.  
11 at 1483-84.

12 The Ninth Circuit, focusing on "meaningful access" to public  
13 services rather than intentional denial of them, reversed.  
14 Crowder, 81 F.3d at 1484-85. The court held that, notwithstanding  
15 the fact that the state applied the quarantine evenhandedly, the  
16 policy disproportionately burdened the visually disabled,  
17 effectively denying them access to public services such as  
18 transportation, parks, and government facilities. Id. Such  
19 denials of meaningful access, the court held, constitute  
20 discrimination on the basis of disability in violation of the ADA.  
21 Id. at 1485.

22 Intervenor here allege discrimination similar to that in  
23 Crowder. Certain inmates are released, whether under Paragraph 34  
24 or not, in a manner that allows them to access state services,  
25 programs, and activities. Intervenor, whose manner of release is  
26 allegedly determined by their particular disabilities, are not  
27 afforded that same access. See Crowder, 81 F.3d at 1484 ("Hawaii's  
28 quarantine effectively denies . . . the plaintiffs in this case[]

1 meaningful access to state services . . . while such services . . .  
2 remain open and easily accessible by others.”).

3 Defendants argue in a footnote that Crowder is inapt because  
4 it involved taking something away from a disabled person. (Reply  
5 at 13 n. 3.) That distinction is not persuasive. The Crowder  
6 court’s reasoning had nothing to do with the state’s active taking  
7 of disabled individuals’ guide dogs. To the contrary, the court’s  
8 “meaningful access” approach moved away from an emphasis on  
9 intentional acts in an attempt to better capture instances of  
10 discriminatory “benign neglect, apathy, and indifference.”<sup>5</sup>  
11 Crowder, 81 F.3d at 1484 (internal quotation marks and citation  
12 omitted). The court analogized Hawaii’s quarantine not to any form  
13 of active deprivation, but to other facially neutral barriers, such  
14 as stairs or a refusal to communicate by spoken word. Id. at 1483-  
15 84. To the extent Defendants contend that “meaningful access”  
16 cannot, as a matter of law, require Defendants to provide  
17 Intervenor with “extra” accommodations, that argument is no more  
18 persuasive than asserting that wheelchair-bound people need not be  
19 provided “extra” ramps or elevators to access government buildings  
20 accessible by staircase. See Crowder, 81 F.3d at 1483-84.

21 Intervenor have adequately alleged that they are denied  
22 meaningful access to public services on the basis of their  
23

24

---

25 <sup>5</sup> Even if some sort of active intrusion were required,  
26 Defendants provide no explanation why the deprivation of  
27 Intervenor’s liberty, which denies them the ability to seek out or  
28 continue mental health treatment of their choosing, and may  
disproportionately exacerbate the deleterious effects of certain  
disabilities, in part as a result of the loss of the ability to  
access community resources, would not constitute an affirmative  
deprivation on par with the quarantining of a guide dog.

1 disabilities. Accordingly, judgment on the pleadings is not  
2 warranted.

3 1. Integration Mandate

4 Paragraph 34(b)(iii) provides that certain prisoners with an  
5 "intense need for assistance" will be provided a "direct linkage to  
6 an Institution for Mental Disease ("IMD"), IMD-Step-down facility,  
7 or appropriately licensed hospital." Intervenors allege that this  
8 provision does not adequately define "intense need," and thus  
9 violates the ADA's integration mandate, which requires public  
10 entities to "administer services, programs, and activities in the  
11 most integrated setting appropriate to the needs of qualified  
12 individuals with disabilities."<sup>6</sup> 28 C.F.R. § 35.130(d).

13 In Olmstead v. L.C. ex rel. Zimring, the Supreme Court  
14 concluded that the integration mandate requires community-based, as  
15 opposed to hospital or institutional, treatment when "[1] the  
16 State's treatment professionals determine that such placement is  
17 appropriate, [2] the affected persons do not oppose such treatment,  
18 and [3] the placement can be reasonably accommodated, taking into  
19 account the resources available to the State and the needs of  
20 others with mental disabilities." Olmstead v. L.C. ex rel.  
21 Zimring, 527 U.S. 581, 607 (1999). The Ninth Circuit subsequently  
22 addressed an integration mandate claim in Townshend v. Quasim, 328  
23 F.3d 511 (9th Cir. 2003). There, although citing to both the  
24 integration mandate regulation and Olmstead, the court nevertheless  
25 applied the traditional ADA pleading standard. Townshend v.

26

---

27 <sup>6</sup> This mandate is patterned on one set forth in the  
28 Rehabilitation Act's implementing regulations. See 28 C.F.R. §  
41.51(d).

1 Quasim, 328 F.3d at 516 ("To prove that a public service or program  
2 violates Title II of the ADA, a plaintiff must show (1) he is a  
3 qualified individual with a disability; (2) he was either excluded  
4 from participation in or denied the benefits of a public entity's  
5 services, programs, or activities or was otherwise discriminated  
6 against by the public entity; (3) such exclusion, denial of  
7 benefits, or discrimination was by reason of his disability.")  
8 (internal quotation and citation omitted).

9 Here, the arguments regarding the integration mandate claims  
10 are focused primarily on the parties' conflicting views of the  
11 appropriate pleading standard, and are otherwise not fully  
12 developed. At this juncture, Intervenors' integration mandate  
13 claim appears sufficiently pleaded under Townshend. Defendants'  
14 motion is therefore denied with respect to the integration mandate  
15 claim, without prejudice.

16 B. Constitutional Claims

17 The FACI alleges that Intervenors "have a known and obvious  
18 need for medical care after release from custody," that inadequate  
19 discharge planning under Paragraph 34 threatens to deny them that  
20 medical care as a matter of policy, and that adoption of Paragraph  
21 34 constitutes deliberate indifference to Intervenors' medical  
22 needs in violation of the Eighth and Fourteenth Amendments.  
23 Defendants argue that Intervenors' constitutional claims fail as a  
24 matter of law.

25 Defendants, citing to the Supreme Court of Massachusetts,  
26 argue that homeless, mentally ill people have no constitutional  
27 rights to follow-up medical care after incarceration. (Motion at  
28 21, citing Williams v. Sec'y of the Exec. Office of Human Servs.,

1 414 Mass. 551, 566 (1993). The court disagrees. In the Ninth  
2 Circuit, "the state must provide an outgoing prisoner who is  
3 receiving and continues to require medication with a supply  
4 sufficient to ensure that he has that medication available during  
5 the period of time reasonably necessary to permit him to consult a  
6 doctor and obtain a new supply. A state's failure to . . . cover  
7 this transitional period amounts to an abdication of its  
8 responsibility to provide medical care to those, who by reason of  
9 incarceration, are unable to provide for their own medical needs."  
10 Wakefield, 177 F.3d at 1164. The court sees no reason why this  
11 principle should not apply to mental illness.<sup>7</sup>

12 Next, Defendants contend that Intervenors fail to allege  
13 deliberate indifference. Defendants are correct that the FACI  
14 inartfully makes reference to the deliberate indifference standard  
15 with respect to both the Fourteenth and Eighth Amendment claims. A  
16 pre-trial detainee need not show deliberate indifference to prevail  
17 on a Fourteenth Amendment claim. See, e.g. Jones v. Blanas, 393  
18 F.3d 918, 934 (9th Cir. 2004). In any event, however, the FACI  
19 does allege deliberate indifference. Intervenors allege that their  
20 disabilities and serious medical needs are apparent and known to  
21 Defendants, and that Defendants not only ignore those needs, but do  
22 so as an explicit matter of policy, i.e. Paragraph 34.

23 As with the integration mandate claim, the constitutional  
24 claims are not the focus of either party's briefing. As presented  
25 thus far, Intervenors' constitutional claims are adequately

26

---

27 <sup>7</sup> If anything, a public entity may be more responsible for  
28 mental health treatment where the incarceration itself has  
aggravated or exacerbated the harmful symptoms of mental illness.

1 alleged. Defendants' motion is therefore denied with respect to  
2 the constitutional claims, without prejudice.

3 **IV. Conclusion**

4 For the reasons stated above, Defendants' motion is DENIED.

5

6 IT IS SO ORDERED.

7

8

9 Dated: May 17, 2016



DEAN D. PREGERSON  
United States District Judge

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28