

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

JAIME BRAVO, JOSE ESTRADA, ADAM  
ORTIZ, EZEKIAL DIAZ, ELEE SILVA,  
ARLEN CRESPIN, VERONICA HERNANDEZ,  
MARTHA MUÑOZ, SERGIO ROBLEDO,  
REBECCA TELLES, RON HERNANDEZ,  
JEREMY ROBLEDO and EMA MURILLO,  
on behalf of themselves and a class of all similarly  
situated individuals,

Plaintiffs,

v.

No. 08-CV-10 MV/LCS

BOARD OF COUNTY COMMISSIONERS FOR  
THE COUNTY OF DOÑA ANA, THE DOÑA ANA  
COUNTY DETENTION CENTER, CHRISTOPHER  
BARELA in his individual and official capacities,  
THE CITY OF LAS CRUCES, KEN MIYAGISHIMA  
in his official capacity, TERRENCE MOORE in his  
official capacity, THE LAS CRUCES POLICE  
DEPARTMENT, HARRY ROMERO in his official  
capacity, TODD GARRISON in his official capacity,  
THE DOÑA ANA COUNTY SHERIFF'S OFFICE,  
and JOHN AND JANE DOES 1-10,

Defendants.

**SECOND AMENDED COMPLAINT FOR CLASS ACTION INJUNCTIVE  
RELIEF AND FOR DAMAGES FOR NAMED PLAINTIFFS**

COME NOW Plaintiffs, by and through undersigned counsel, and bring this  
Second Amended Complaint alleging, on knowledge as to their own acts and on  
information and belief as to all other matters, the violation of their civil rights,  
discrimination, and negligence.

**PRELIMINARY STATEMENT**

This is a class action brought on behalf of people with mental disabilities arrested  
and detained in the Doña Ana County Detention Center ("DACDC"), to redress

violations of their rights by Defendants. There are two groups of Defendants in this matter. The first group includes the Board of County Commissioners for the County of Doña Ana, which is responsible for all county operations, the Doña Ana County Detention Center, and Defendant Barela, as well as all John or Jane Doe Defendants involved in the operation of the Doña Ana County Detention Center (collectively “DACDC Defendants”). The second group of Defendants is comprised of two subgroups (collectively “Law Enforcement Defendants”). The first subgroup of Law Enforcement Defendants includes the City of Las Cruces, Defendant Miyagishima, Defendant Moore, the Las Cruces Police Department, and Defendant Romero, as well as all John and Jane Doe Defendants involved in the operation of the Las Cruces Police Department (collectively “LCPD Defendants”). The second subgroup of Law Enforcement Defendants includes Todd Garrison, the Doña Ana County Sheriff’s Office, the Board of County Commissioners for the County of Doña Ana, and all John and Jane Doe Defendants involved in the operation of the Doña Ana County Sheriff’s Office (collectively “DACSO Defendants”).

At least thirty percent of DACDC’s approximately nine hundred detainees have mental disabilities. Yet, the DACDC Defendants have continually and persistently ignored the mental health needs of detainees, and have failed to provide them with constitutionally adequate mental health services. They have never instituted an effective system for making routine, comprehensive assessments of detainees with symptoms of mental illness. Nor have they implemented an effective system for tracking the number and identities of detainees in need of mental healthcare. The DACDC Defendants have failed to provide regular monitoring of detainees’ mental healthcare needs, and have

failed to provide Plaintiffs and other detainees with mental disabilities with the treatment they need.

Because the DACDC Defendants fail to provide a sufficient range of appropriate treatment options, they rely far too heavily upon the use of segregation for detainees with mental healthcare needs. Although a significant number of detainees in the segregation units exhibit obvious symptoms of serious mental illness, the DACDC Defendants have failed to conduct regular medical or mental health rounds in these units. Nor have they regularly reviewed the mental health status of detainees in segregation, to assess their ongoing treatment needs or the appropriateness of continued segregation. The DACDC Defendants insist on housing detainees with serious mental healthcare needs in segregation, despite the fact that isolation has particularly harmful effects on the mental health of these detainees.

The DACDC Defendants have also never engaged in meaningful discharge planning for detainees with mental disabilities. Instead, the DACDC Defendants routinely discharge these persons into the community, without even a prescription or a limited supply of the psychotropic medications they may have been taking in jail, without referrals to community mental health programs, and without any other essential discharge planning services needed to manage their mental illnesses. The predictable result is often recidivism and a cycle of arrests and detentions, at a great personal cost to the individual and at a great financial and social cost to the public at large.

The Law Enforcement Defendants are well aware of the DACDC Defendants' failure to meet the serious mental healthcare needs of detainees. Nevertheless, the Law Enforcement Defendants persist in a discriminatory pattern and practice of arresting

persons with mental disabilities and transporting them to DACDC, instead of taking them to appropriate community based services or otherwise diverting them from the criminal justice system. In addition, the Law Enforcement Defendants have failed to reasonably accommodate the mental disabilities of Plaintiffs and other class members in their investigation and arrest policies and practices. This is the result of the Law Enforcement Defendants' failure to effectively train law enforcement personnel to recognize the signs of mental disabilities and respond appropriately.

The DACDC Defendants' acts and omissions, as set forth herein, manifest deliberate indifference to the serious mental healthcare needs of Plaintiffs and the class they represent, in violation of the Eighth and Fourteenth Amendments to the United States Constitution and the New Mexico Constitution, Art. II §§ 13 and 18, giving rise to a cause of action pursuant to 42 U.S.C. §§ 1983 and 1988. The DACDC Defendants' negligent acts and omissions also give rise to tort claims for the named Plaintiffs, pursuant to the New Mexico Tort Claims Act, NMSA 1978, §§ 41-4-6 and 41-4-9. The discriminatory acts and omissions of all Defendants violate the Americans with Disabilities Act, 42 U.S.C. § 12131 *et seq.* and Section 504 of the Rehabilitation Act, 29 U.S.C. § 794. Accordingly, Plaintiffs seek class-wide preliminary and permanent injunctive relief to require Defendants to adopt and implement policies and practices to correct the violations of the law set out herein. The named Plaintiffs also seek damages for the violations of their rights.

#### JURISDICTION AND VENUE

1. This action was originally filed in the Third Judicial District Court for the State of New Mexico. Plaintiffs invoked the jurisdiction of the Third Judicial District

- Court pursuant to the Declaratory Judgment Act, NMSA 1978, §§ 44-6-1 to 44-6-15 (1975), the New Mexico Constitution, and New Mexico common law. Defendants sought removal of this action, pursuant to 28 U.S.C. § 1331 and 1343, due to the existence of federal questions.
2. Given that all parties are residents of New Mexico and/or doing business within New Mexico, and all of the acts complained of occurred within New Mexico, venue in this district is proper pursuant to 28 U.S.C. § 1391.
  3. This Court has proper subject matter and personal jurisdiction over the parties.
  4. The named Plaintiffs have exhausted all statutory pre-conditions to filing this suit.
  5. This action seeks injunctive relief pursuant to Fed. R. Civ. P. 57 and declaratory relief pursuant to 28 U.S.C. § 2201.

#### PARTIES

##### Named Plaintiffs

6. Jaime Bravo, a permanent resident of Doña Ana County, New Mexico, was detained in DACDC until on or about February 2008.
7. Ezekiel Diaz, a permanent resident of Doña Ana County, New Mexico, was detained in DACDC until on or about February 28, 2008.
8. Jose Estrada resides in Doña Ana County, New Mexico and was detained in DACDC until on or about January 2, 2008.
9. Adam Ortiz resides in Doña Ana County, New Mexico and was detained in DACDC until on or about February 2, 2008.
10. Elee Silva, a permanent resident of Doña Ana County, New Mexico, was detained in DACDC until on or about October 18, 2007.

11. Arlen Crespin resides in Doña Ana County, New Mexico and was detained in DACDC until on or about May of 2008.
12. Veronica Hernandez resides in Doña Ana County, New Mexico and was detained in DACDC until on or about June 1, 2008.
13. Martha Muñoz resides in Doña Ana County, New Mexico and is detained in DACDC.
14. Sergio Robledo resides in Doña Ana County, New Mexico and was detained in DACDC until on or about May of 2008.
15. Rebecca Telles resides in Doña Ana County, New Mexico and is detained in DACDC.
16. Ron Hernandez resides in Doña Ana County, New Mexico, and was detained in DACDC until on or about February of 2007.
17. Jeremy Robledo is a permanent resident of Doña Ana County, New Mexico, and was detained in DACDC until on or about July of 2007.
18. Ema Murillo resides in Doña Ana County, New Mexico, and was detained in DACDC until on or about June 10, 2008.
19. Plaintiffs, and those similarly situated, have mental disabilities that substantially limit their ability to perform major life activities. They also have a record of such mental disabilities and are regarded by Defendants as having such mental disabilities. They are therefore individuals with disabilities for the purposes of the Americans with Disabilities Act, 42 U.S.C. § 12102, and Section 504 of the Rehabilitation Act, 29 U.S.C. § 705(20).
20. Plaintiffs and those similarly situated are “qualified individuals with a

disability” within the meaning of the ADA and Section 504.

Defendants

21. Defendant Board of County Commissioners for the County of Doña Ana (hereinafter “Board”) is the proper party subject to suit regarding claims against Doña Ana County. Defendant Board is a political subdivision of the State of New Mexico and a "person" under 42 U.S.C. § 1983. Defendant Board is a "public entity" as that term is defined in the Americans with Disabilities Act, 42 U.S.C. § 12131(1)(A), (B). Upon information and belief, Defendant Board receives federal financial assistance and is subject to Section 504 of the Rehabilitation Act, 29 U.S.C. § 794.
22. Defendant Doña Ana County Detention Center (“DACDC”) is the agency responsible for the safe, secure, and humane housing of detainees in Doña Ana County, and is responsible for any unsafe, dangerous, defective, or illegal conditions within its facilities. Defendant DACDC is a “public entity” as that term is defined in the Americans with Disabilities Act, 42 U.S.C. §12131(1)(A), (B). Upon information and belief, Defendant DACDC receives federal financial assistance and is subject to Section 504 of the Rehabilitation Act, 29 U.S.C. § 794.
23. Defendant Christopher Barela is, and was at all pertinent times, Director of DACDC. As such, he is the legal custodian of all detainees at DACDC and is responsible for the safe, secure and humane housing of those detainees. Defendant Barela is and was responsible for any unsafe, dangerous, or defective conditions at DACDC, which is on property owned and operated by Defendant

Board. At all times relevant hereto, Defendant Barela acted within the scope of his duties and employment, under color of state law. Defendant Barela is sued in his individual and official capacities.

24. Defendant City of Las Cruces (“Las Cruces”) is a political subdivision of the State of New Mexico, which operates the Las Cruces Police Department (“LCPD”), and is a "public entity" as that term is defined in the Americans with Disabilities Act, 42 U.S.C. § 12131(1)(A), (B). Upon information and belief, Defendant Las Cruces receives federal financial assistance and is subject to Section 504 of the Rehabilitation Act, 29 U.S.C. § 794.

25. Defendant Ken Miyagishima is the Mayor of the City of Las Cruces, and as such is responsible for determining the policies and practices of police in the community, including whether to arrest people with mental disabilities and whether to transport them to DACDC or to an appropriate treatment facility. At all times relevant hereto, Defendant Miyagishima acted within the scope of his duties and employment, under color of state law. Defendant Miyagishima is sued in his official capacity.

26. Defendant Terrence Moore is the City Manager of the City of Las Cruces, and as such is responsible for determining the policies and practices of police in the community, including whether to arrest people with mental disabilities and whether to transport them to DACDC or to an appropriate treatment facility. At all times relevant hereto, Defendant Moore acted within the scope of his duties and employment, under color of state law. Defendant Moore is sued in his official capacity.



27. Defendant Las Cruces Police Department (“LCPD”) is the law enforcement agency serving the City of Las Cruces, and as such is the agency responsible for determining the policies and practices of police in the community, including whether to arrest people with mental disabilities, and whether to transport them to DACDC or to an appropriate treatment facility. Defendant LCPD is a "public entity" as that term is defined in the Americans with Disabilities Act, 42 U.S.C. § 12131(1)(A), (B). Upon information and belief, Defendant LCPD receives federal financial assistance and is subject to Section 504 of the Rehabilitation Act, 29 U.S.C. § 794.
28. Defendant Harry Romero is the Chief of Police of the City of Las Cruces, and as such is responsible for determining the policies and practices of police in the community, including whether to arrest people with mental disabilities, and whether to transport them to DACDC or to an appropriate treatment facility. At all times relevant hereto, Defendant Romero acted within the scope of his duties and employment, under color of state law. Defendant Romero is sued in his official capacity.
29. Defendant Doña Ana County Sheriff’s Office (“DACSO”) is the law enforcement agency serving the County of Doña Ana, and as such is the agency responsible for determining the policies and practices of law enforcement in the community, including whether to arrest people with mental disabilities, and whether to transport them to DACDC or to an appropriate treatment facility. Defendant DACSO is a "public entity" as that term is defined in the Americans with Disabilities Act, 42 U.S.C. § 12131(1)(A), (B). Upon information and

belief, Defendant DACSO receives federal financial assistance and is subject to Section 504 of the Rehabilitation Act, 28 U.S.C. § 794(a).

30. Defendant Todd Garrison is the Sheriff of Doña Ana County, and as such is responsible for determining the policies and practices of law enforcement officers in the community, including whether to arrest people with mental disabilities, and whether to transport them to DACDC or to an appropriate treatment facility. At all times relevant hereto, Defendant Garrison acted within the scope of his duties and employment, under color of state law. Defendant Garrison is sued in his official capacity.
31. John Doe 1 is an agent of Defendants Board, DACDC and/or Barela who decides which individuals with mental disabilities will be admitted to DACDC. John Doe 1 acted within the scope of his duties and employment, under color of state law, and is sued in his individual and official capacities.
32. Jane Doe 1 is an agent of Defendants Board, DACDC and/or Barela who decides which individuals with mental disabilities will be admitted to DACDC. Jane Doe 1 acted within the scope of her duties and employment, under color of state law, and is sued in her individual and official capacities.
33. John Doe 2 is an agent of Defendants City of Las Cruces, Miyagishima, Moore, the LCPD and/or Romero who establishes and/or implements the Las Cruces Police Department's criteria for arrest and transport to DACDC of individuals with mental disabilities. John Doe 2 acted within the scope of his duties and employment, under color of state law, and is sued in his official capacity.
34. Jane Doe 2 is an agent of Defendants City of Las Cruces, Miyagishima, Moore,

the LCPD and/or Romero who establishes and/or implements the Las Cruces Police Department's criteria for arrest and transport to DACDC of individuals with mental disabilities. Jane Doe 2 acted within the scope of her duties and employment, under color of state law, and is sued in her official capacity.

35. John Doe 3 is an agent of Defendant Board who establishes and/or implements the Doña Ana County Sheriff's Office's criteria for arrest and transport to DACDC of individuals with mental disabilities. John Doe 3 acted within the scope of his duties and employment, under color of state law, and is sued in his official capacity.

36. Jane Doe 3 is an agent of Defendant Board who establishes and/or implements the Doña Ana County Sheriff's Office's criteria for arrest and transport to DACDC of individuals with mental disabilities. Jane Doe 3 acted within the scope of her duties and employment, under color of state law, and is sued in her official capacity.

37. Defendants John and Jane Doe 4-10 are agents and/or employees of the named Defendants who have violated the rights of Plaintiffs and the plaintiff class. John and Jane Doe 4-10 acted within the scope of their duties and employment, under color of state law, and are sued in their individual and official capacities.

CLASS ACTION ALLEGATIONS

38. Pursuant to Fed. R. Civ. P. 23(a) and (b)(2), Plaintiffs bring this action on behalf of themselves and all those persons with mental disabilities who are, have been, or will be detained at DACDC.

39. The class is so numerous that joinder of all its members is impracticable. There

are approximately nine hundred people housed in DACDC, which has a capacity for eight-hundred and forty-six beds. Defendant Barela has acknowledged that at least thirty to forty percent of the individuals detained in DACDC have a mental disability requiring some form of therapeutic service or support. Upon information and belief, there are other people with mental disabilities also housed at the jail.

40. There are questions of law and fact common to the named Plaintiffs and all other members of the class, including: a) whether members of the class are being denied adequate medical, psychiatric, psychological, educational and other therapeutic services and programs while detained at DACDC; b) whether DACDC Defendants fail to provide detainees with mental disabilities, upon discharge, with the medication, referrals, and other discharge planning services necessary to manage their disabilities and function in the community; and c) whether the DACDC Defendants have a legal duty to provide adequate treatment for detainees with mental disabilities at DACDC, including discharge planning services.
41. The named Plaintiffs will fairly represent and adequately protect the interests of members of the class as a whole. The named Plaintiffs do not have interests antagonistic to those of other class members. All class members share an interest in assuring that all people with mental disabilities in the jail receive the services and supports to which they are entitled, and that no person with a mental disability should be unnecessarily housed in the jail or unnecessarily segregated due to their mental disabilities. The named Plaintiffs and proposed

- class are represented by counsel who are experienced in class action and other civil rights litigation and can adequately represent the interests of the subclass.
42. The DACDC Defendants have acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive and declaratory relief with respect to the class as a whole.
43. Pursuant to Fed. R. Civ. P. 23(a) and (b)(2), Plaintiffs also bring this action on behalf of themselves and a subclass of all those detainees who have been, or will be, arrested and transported to DACDC inappropriately and/or without reasonable accommodations for their mental disabilities by the Law Enforcement Defendants (LCPD Defendants and DACSO Defendants).
44. The subclass is so numerous that joinder of all its members is impracticable, given that a large percentage of the persons Law Enforcement Defendants investigate, arrest and transport to DACDC for detention have a mental disability, requiring reasonable accommodations.
45. There are questions of law and fact common to the named Plaintiffs and other members of the subclass, including: a) whether the Law Enforcement Defendants engage in a pattern and practice of arresting people with mental disabilities simply because of their mental disabilities or for conduct for which a person without mental disabilities would not be arrested; b) whether the Law Enforcement Defendants engage in a pattern and practice of transporting persons with mental disabilities to DACDC, rather than to an appropriate community based program; c) whether the Law Enforcement Defendants have failed to provide effective training to law enforcement personnel that would

enable them to determine whether mental disability is a factor in an incident and to respond appropriately; d) whether the Law Enforcement Defendants have failed to implement effective policies, procedures, and services to enable police officers, dispatchers, and other relevant personnel to respond appropriately to incidents involving people with mental disabilities; and e) whether the Law Enforcement Defendants have failed to provide reasonable accommodations to persons with mental disabilities in their investigation and arrest practices.

46. The claims of the named Plaintiffs are typical of the claims of the subclass as a whole.
47. The named Plaintiffs will fairly represent and adequately protect the interests of members of the subclass as a whole. The named Plaintiffs do not have interests antagonistic to those of other subclass members. All subclass members share an interest in assuring that all people with mental disabilities are provided reasonable accommodations during the investigation and arrest process, not unnecessarily placed in confinement, and provided with the necessary treatment for their mental disabilities. The named Plaintiffs and proposed subclass are represented by counsel who are experienced in class action and other civil rights litigation and can adequately represent the interests of the subclass.
48. The Law Enforcement Defendants have acted or refused to act on grounds generally applicable to the subclass, thereby making appropriate final injunctive and declaratory relief with respect to the subclass as a whole.

STATEMENT OF FACTS

DACDC's Failure to Provide Adequate Mental Health Care

49. At all relevant times relevant, Defendants Board, DACDC, and Barela were the policymakers of DACDC.
50. DACDC houses approximately 800 to 900 detainees.
51. Although there is no formal system of tracking how many detainees in DACDC have mental illness, Defendant Barela has estimated that approximately thirty to forty percent of DACDC detainees have a mental illness.
52. Defendants Board, DACDC, and Barela, and all other Defendants who are their agents and/or employees performing duties related to the operation of DACDC (collectively "DACDC Defendants"), have engaged in a pattern and practice of failing to provide adequate mental healthcare to Plaintiffs and the class they represent, including but not limited to: a) failing to provide adequate screening for mental health issues for all detainees upon admission; b) failing to have a system to properly screen individual detainees for their mental health needs upon placement into maximum segregation; c) failing to properly monitor the mental health needs of detainees held in the maximum segregation unit; d) failing to provide needed psychiatric assessment and treatment to all individuals in the DACDC; e) failing to establish systems to provide necessary mental healthcare and psychiatric care to detainees; f) failing to have a system to arrange for transfer to treatment facilities of those jail residents whose serious mental health needs cannot be addressed within the jail; and g) failing to provide discharge planning when people needing mental health treatment are leaving the jail.

53. In 2006, residents and former residents of the DACDC and their family members contacted lawyers and advocates regarding the inadequate mental health services provided by the DACDC Defendants to individuals arrested in Doña Ana County.
54. Among those contacted was Protection and Advocacy System (P&A). P&A is a private non-profit New Mexico corporation, designated as New Mexico's Protection and Advocacy System, pursuant to the Protection and Advocacy for Individuals with Mental Illness Act, 42 U.S.C. § 10801, and is charged with the duty to protect and advocate for the rights of individuals with mental disabilities.
55. On December 11-13, 2006, jail conditions expert Henry A. Dlugacz, at the behest of P&A, conducted an inspection of DACDC, focusing on whether the mental health service delivery system was able to meet the mental healthcare needs of DACDC residents. In a memorandum dated December 21, 2006, Mr. Dlugacz recommended changes to the mental health services provided at DACDC. A copy of Mr. Dlugacz's memorandum was provided to Defendant Barela.
56. Mr. Dlugacz's memorandum noted deficits in the intake process, including deficiencies in the training provided to personnel conducting mental health screening and the screening protocol itself. Mr. Dlugacz's memorandum also noted deficits in the provision of post-admission mental health services, including a lack of comprehensive assessment procedures, inadequate treatment planning, inadequate provision of mental healthcare services, and the absence of procedures to address detainees who are overly psychotic and may lack legal decision-making capacity. Mr. Dlugacz observed that DACDC was improperly overusing its segregation units, due to its lack of appropriate mental health services. Mr.



- Dlugacz also noted deficiencies in documentation and insufficient staffing levels. Mr. Dlugacz provided detailed recommendations to remedy the various deficiencies noted.
57. Defendants Board, DACDC, and Barela took no action in response to Mr. Dlugacz's recommendations.
  58. On June 5, 2007, P & A sent a letter to Defendant Barela, requesting that problems regarding DACDC's inadequate mental health care system be corrected, including DACDC's deficient process, DACDC's failure to identify and track detainees in need of mental health services, DACDC's failure to provide appropriate assessment, treatment planning, and mental health treatment, and DACDC's inappropriate segregation of detainees with mental disabilities. The June 5, 2007 letter further requested that Defendant Barela take steps to remedy inadequate medical charting, and to work on filling staff vacancies.
  59. Defendants Board, DACDC, and Barela have not complied with the requested changes.
  60. The DACDC Defendants have acted with deliberate indifference to the serious medical, health and safety needs of Plaintiffs and the class they represent, and with deliberate indifference to the risk that they will suffer serious mental disability, injury or death. The actions and inactions described herein are not reasonably related to any legitimate penological objectives.
  61. The DACDC Defendants had and have a duty to exercise reasonable care in the maintenance and operation of DACDC and its medical unit for the health and safety of Plaintiffs and the class they represent.

62. The DACDC Defendants' acts and omissions were and are in derogation of any known standard for the proper administration of a correctional or detention facility.
63. The DACDC Defendants have discriminated against Plaintiffs and the class they represent on the basis of their mental disabilities, excluding them from participation in, or denying them the benefits of, DACDC's services, programs or activities, and also unnecessarily segregating them in inappropriately isolated settings.
64. The DACDC Defendants' acts and omissions constitute negligence, gross negligence and recklessness toward Plaintiffs and the class they represent, including but not limited to the failure to: a) manage adequately all operations of DACDC; b) exercise general supervisory authority over all DACDC employees; c) organize DACDC health and safety procedures adequately; and d) issue and enforce orders and instructions against conduct such as that complained of herein.
65. The DACDC Defendants' constitutional violations, discriminatory actions, and negligence, gross negligence or recklessness proximately caused Plaintiffs' damages and injuries, including pain and suffering, and severe psychological and emotional distress, including an exacerbation of their symptoms of mental illness.

Discriminatory Law Enforcement Practices

66. The Law Enforcement Defendants (LCPD Defendants and DACSO Defendants) have engaged in a pattern and practice of failing to reasonably accommodate the

mental disabilities of Plaintiffs and other class members in their investigation and arrest policies and practices. The Law Enforcement Defendants have further engaged in a department-wide pattern and practice of arresting persons with mental disabilities on the basis of their mental disabilities or for conduct for which people without mental disabilities would not be arrested. The Law Enforcement Defendants then arrange to transport these arrestees to DACDC for confinement, instead of taking them to appropriate community based services or otherwise diverting them from the criminal justice system.

67. These discriminatory arrests sometimes occur because law enforcement officers misperceive behavior associated with a person's mental disability as criminal conduct. Other times, the arrests occur because law enforcement officers respond inappropriately to a person with a mental disability and unnecessarily escalate the situation.
68. The Law Enforcement Defendants have failed to provide effective training to police officers, dispatchers and other relevant personnel that would enable them to determine whether mental disability is a factor in an incident and to respond appropriately.
69. The Law Enforcement Defendants have also failed to implement effective policies, procedures and services to enable police officers, dispatchers and other relevant personnel to respond appropriately to incidents involving people with mental disabilities.
70. The Law Enforcement Defendants' failure to provide effective training, policies, procedures and services helps perpetuate their practice of sending people with

mental disabilities to DACDC, despite the fact that DACDC does not provide appropriate mental healthcare services, instead of referring them to appropriate community-based services or otherwise diverting them from the criminal justice system.

71. The Law Enforcement Defendants' failure to provide the necessary training, policies, procedures, and other reasonable accommodations to people with mental disabilities constitutes discrimination in violation of the ADA and Section 504.
72. The acts and omissions of the Law Enforcement Defendants alleged in this Complaint proximately caused Plaintiffs' damages and injuries, including pain and suffering, and an exacerbation of their symptoms of mental illness.

Plaintiff Jaime Bravo

73. Jaime Bravo was a detainee at DACDC from on or about April 19, 2007 until approximately February of 2008.
74. Mr. Bravo has a mental illness. He has been diagnosed with major depression, anxiety, and acute psychosis.
75. LCPD officers arrested Mr. Bravo on or about April 19, 2007, following a domestic dispute.
76. Mr. Bravo was a pretrial detainee at DACDC until his conviction on or about January 10, 2008, and remained at DACDC until approximately February of 2008.
77. Mr. Bravo's mental disability and immediate need for mental health services were obvious at the time of his arrest by the LCPD on or about April 19, 2007, such that the individuals involved in his arrest knew or should have known of his

- mental disability and immediate need for mental health services. For example, LCPD officers reported that Mr. Bravo would not “calm down” and continued to yell and be combative, even after he had been tazed several times and had been given multiple knee and elbow strikes.
78. The individuals involved in the arrest of Mr. Bravo failed to reasonably accommodate Mr. Bravo’s disability during the course of investigation and arrest, causing Mr. Bravo to suffer greater injury or indignity in that process than other arrestees.
79. LCPD officers arranged for Mr. Bravo to be transported to DACDC, instead of referring him to appropriate community based services.
80. Mr. Bravo's mental disability and immediate need for mental health services were obvious at the time he was admitted to DACDC on or about April 19, 2007, such that the individuals involved in his admission to DACDC knew or should have known of his mental disability and immediate need for mental health services.
81. Mr. Bravo attempted to hang himself at DACDC shortly after his admission to DACDC.
82. Following his suicide attempt, DACDC staff placed Mr. Bravo in a restraint chair and later secluded him in a padded cell, where Mr. Bravo continued to exhibit suicidal behaviors, biting his fingers and arm and threatening to fracture his larynx.
83. On or about August 6, 2007, Mr. Bravo attempted to hang himself with a sheet in his cell at DACDC.
84. Following this second suicide attempt on or about August 6, 2007, DACDC staff

- secluded Mr. Bravo in a padded cell, without screening him for his mental health needs.
85. On or about August 22, 2007, Mr. Bravo once again attempted to hang himself in his cell. DACDC staff placed him in a restraint chair as a consequence.
86. On or about November 15, 2007, Mr. Bravo made a fourth suicide attempt, by cutting his arm with a razor blade, necessitating stitches. DACDC staff placed him in a padded cell as a consequence.
87. On or about November 16, 2007, Mr. Bravo tore out his sutures. DACDC staff placed him in a restraint chair as a consequence.
88. On or about November 27, 2007, Mr. Bravo tore out his stitches with his teeth, reopening his wound. In response, DACDC staff tazed Mr. Bravo and then placed him in a padded cell.
89. During approximately August or September 2007, DACDC staff placed Mr. Bravo in segregation, without screening him for mental health issues.
90. Mr. Bravo, a Spanish speaker who is not fluent in English, was never informed by any DACDC employee of DACDC's grievance or medical request procedures.
91. P&A repeatedly brought Mr. Bravo's need for psychiatric assistance to the attention of Defendant Barela and other DACDC employees, but he still did not receive the necessary mental health care.
92. Mr. Bravo had previously been a detainee at DACDC on approximately two other occasions, but was discharged each time without appropriate medication, referrals or other discharge planning.

Plaintiff Jose Estrada

93. Jose Estrada was a detainee at DACDC from on or about July 5, 2007 until on or about January 2, 2008.
94. Mr. Estrada has a mental illness. He has been diagnosed with depression and schizophrenia.
95. On or about July 5, 2007, LCPD officers arrested Mr. Estrada following a domestic dispute.
96. Mr. Estrada's mental disability and immediate need for mental health services were obvious at the time of his arrest, such that the LCPD individuals involved in his arrest knew or should have known of his mental disability and immediate need for mental health services.
97. The individuals involved in the arrest of Mr. Estrada failed to reasonably accommodate Mr. Estrada's disability during the course of investigation and arrest, causing Mr. Estrada to suffer greater injury or indignity in that process than other arrestees.
98. LCPD officers arranged for Mr. Estrada to be transported to DACDC, instead of referring him to appropriate community based services.
99. Mr. Estrada's mental disability and immediate need for mental health services were obvious at the time of his admission to DACDC on or about July 5, 2007, and employees of DACDC were informed of his history of mental illness, such that the individuals involved in Mr. Estrada's admission to DACDC knew or should have known of his mental disability and immediate need for mental health services.

100. On or about August of 2007, DACDC staff placed Mr. Estrada in segregation for approximately three weeks, without providing him any meaningful opportunity to obtain mental health treatment.
101. Mr. Estrada, who suffered a head injury during a fight prior to being placed in segregation, repeatedly requested medical attention during his time in segregation, due to dizziness, headaches and hallucinations, but to no avail.
102. Mr. Estrada verbally requested mental health services on numerous occasions, but to no avail.
103. On or about August 13, 2007 and September 7, 2007, Mr. Estrada filled out medical request forms, asking for mental health services, but to no avail.
104. Due to a positive result on a previous tuberculosis test, Mr. Estrada needs periodic chest X-rays. He repeatedly requested a chest X-Ray while at DACDC, but to no avail.
105. Shortly after P&A's visit to DACDC during September 2007, DACDC staff brought Mr. Estrada into the medical unit, where medical staff confronted him for having spoken with P&A about not receiving mental healthcare. At this time, Mr. Estrada began to receive an unknown medication, which failed to improve his symptoms of mental illness.
106. Further, Mr. Estrada did not receive his medications consistently at DACDC. On at least one occasion, DACDC employees told Mr. Estrada that they had run out of his medications and would need to order more.
107. Mr. Estrada continued to file grievances, but to no avail.
108. On or about January 2, 2008, Mr. Estrada was released from DACDC without



being provided with medication or referred to appropriate community mental health services.

Plaintiff Adam Ortiz

109. Adam Ortiz was a detainee at DACDC from on or about September 24, 2007 until on or about February 28, 2008.
110. Mr. Ortiz has a mental illness. He has been diagnosed with depression.
111. Mr. Ortiz came to DACDC from a juvenile detention center, where he was identified as having a mental illness and received prescription medication to treat his symptoms of mental illness.
112. DACDC was made aware of Mr. Ortiz's mental disability and immediate need for mental health services at the time of his admission to DACDC, such that the individuals involved in Mr. Ortiz's admission to DACDC knew or should have known of his mental disability and immediate need for mental health services.
113. When Mr. Ortiz was transferred to DACDC, DACDC refused to furnish him with the medication that had been prescribed to treat his symptoms of mental illness at the juvenile detention center. DACDC instead provided him with a different medication that caused him to experience nausea and vomiting.
114. Mr. Ortiz continued to ask for appropriate treatment for his symptoms of mental illness, but to no avail.
115. On or about February 28, 2008, DACDC released Mr. Ortiz from jail without providing him with a supply and prescription for medications, referrals to appropriate community mental health services, or any other discharge planning services.

Plaintiff Ezekiel Diaz

116. Ezekiel Diaz was a detainee at DACDC from on or about January 2, 2008 until on or about February 28, 2008.
117. Mr. Diaz has a mental illness. He has been diagnosed with depression.
118. On or about January 2, 2008, LCPD officers arrested Mr. Diaz for allegedly shoplifting a sweatshirt.
119. Mr. Diaz's mental disability and immediate need for mental health services were obvious at the time the LCPD arrested him, such that the individuals involved in his arrest knew or should have known of his mental disability and immediate need for mental health services.
120. The individuals involved in the arrest of Mr. Diaz failed to reasonably accommodate Mr. Diaz's disability during the course of the investigations and arrests, causing Mr. Diaz to suffer greater injury or indignity in the process than other arrestees.
121. LCPD officers arranged for Mr. Diaz to be transported to DACDC, instead of referring him to appropriate community based services.
122. Mr. Diaz's mental disability and immediate need for mental health services were obvious at the time he was admitted to DACDC on or about January 2, 2008, such that the individuals involved in his admission to DACDC knew or should have known of his mental disability and immediate need for mental health services.
123. Further, at the time of his admission to DACDC on or about January 3, 2008, Mr. Diaz alerted DACDC employees of his mental illness and need for psychotropic medication and mental health treatment.

124. DACDC provided Mr. Diaz with a medication that failed to treat his symptoms of mental illness.
125. Mr. Diaz continued to submit requests to be seen by a psychiatrist, but to no avail.
126. Mr. Diaz did not receive the necessary and appropriate mental health services during his most recent detention at DACDC.
127. Mr. Diaz had been previously detained in DACDC from approximately May of 2006 until on or about October 24, 2007.
128. Mr. Diaz's mental disability and immediate need for mental health services were obvious at the time LCPD officers arrested him on or about May of 2006, such that the individuals involved in his arrests knew or should have known of his mental disability and immediate need for mental health services.
129. The individuals involved in the May 2006 arrest of Mr. Diaz failed to reasonably accommodate Mr. Diaz's disability during the course of the investigation and arrest, causing Mr. Diaz to suffer greater injury or indignity in the process than other arrestees.
130. LCPD officers arranged for Mr. Diaz to be transported to DACDC, instead of referring him to appropriate community based services.
131. Mr. Diaz's mental disability and immediate need for mental health services were obvious at the time he was admitted to DACDC during approximately May of 2006, such that the individuals involved in his admission to DACDC knew or should have known of his mental disability and immediate need for mental health services.
132. DACDC provided Mr. Diaz with medication that failed to treat his symptoms of

mental illness.

133. Mr. Diaz submitted requests for psychiatric assistance and a reassessment of his medications on or about July 3, 2006, January 23, 2007, and February 25, 2007.
134. During approximately March or April of 2007, Mr. Diaz was placed on two psychiatric medications. He was told that the dosage of these medications might need to be increased if the initial dosage did not adequately control his symptoms of mental illness.
135. On or about April or May of 2007, a medical technician discontinued Mr. Diaz's psychiatric medications for approximately two weeks, apparently to punish Mr. Diaz for allegedly "cheeking" his medications. DACDC later reinstated Mr. Diaz's medications, after he submitted a medical request form on or about May 10, 2007.
136. Several weeks later, after Mr. Diaz discovered that his medications did not adequately control his symptoms of mental illness, he began to request psychiatric assistance and a reassessment of his medications.
137. Mr. Diaz made numerous verbal requests for psychiatric assistance and a reassessment of his medications, but to no avail.
138. Mr. Diaz also filled out medical request forms, requesting psychiatric assistance and a reassessment of his medications, on or about July 22, 2007, August 6, 2007, August 26, 2007, September 6, 2007, October 3, 2007, and October 7, 2007.
139. Mr. Diaz also made a handwritten request for psychiatric services on or about September 7, 2007.
140. Although the medical request form submitted by Mr. Diaz on or about August 26,

2007 indicates that he was placed on a waiting list for psychiatric services on August 20, 2007, Mr. Diaz still did not receive adequate psychiatric assistance during the remainder of his detention.

141. Mr. Diaz was released on or about October 24, 2007, without being provided with a prescription for the medications that he had been taking at DACDC, referrals for community mental health services, or any other discharge planning.
142. Mr. Diaz had been previously detained at DACDC on several other occasions, but was released each time without medications, referrals, or other appropriate discharge planning.

Plaintiff Elee Silva

143. Elee Silva was a detainee at DACDC from approximately February of 2007 until on or about October 18, 2007.
144. Mr. Silva has a mental illness. He has been diagnosed with schizophrenia.
145. LCPD officers arrested Mr. Silva in or about February of 2007.
146. Mr. Silva's mental disability, delusional state of mind, and immediate need for mental health services were obvious at the time he was arrested during approximately February of 2007, such that the LCPD individuals involved in his arrest knew or should have known of his mental disability and immediate need for mental health services.
147. The individuals involved in the arrest of Mr. Silva failed to reasonably accommodate Mr. Silva's disability during the course of investigation and arrest, causing Mr. Silva to suffer greater injury or indignity in that process than other arrestees.

148. LCPD officers arranged for Mr. Silva to be transported to DACDC, instead of being referred to appropriate community based services.
149. Mr. Silva's mental disability, delusional state of mind, and immediate need for mental health services were obvious at the time he was admitted to DACDC during approximately February of 2007, such that the individuals involved in his admission to DACDC knew or should have known of his mental disability and immediate need for mental health services.
150. DACDC employees told Mr. Silva that he was "disturbed," and that this was the reason he was not placed in DACDC's general population.
151. During approximately May of 2007, DACDC staff placed Mr. Silva in segregation, without screening him for mental health issues or providing mental health services.
152. Mr. Silva received a psychiatric evaluation at the Central New Mexico Correctional Facility in Los Lunas, during approximately August or September of 2007. During the course of this evaluation, Mr. Silva was informed that he needed mental health treatment.
153. Mr. Silva repeatedly requested mental health treatment at DACDC to address his mental health issues, but to no avail.
154. Mr. Silva had been previously detained at DACDC on approximately three other occasions, but was discharged each time without medications, referrals to community mental health services, or other appropriate discharge planning.

Plaintiff Arlen Crespín

155. Arlen Crespín has been detained at DACDC since on or about September 26,

2007.

156. Mr. Crespin has a mental illness. He has been diagnosed with schizophrenia.
157. Mr. Crespin was a detainee at DACDC on at least one prior occasion, but was released without medication or referrals or other appropriate discharge planning.
158. On or about September 26, 2007, LCPD officers arrested Mr. Crespin for a probation violation. Mr. Crespin had just discharged himself from Mesilla Valley Hospital where he had been hospitalized for suicidality.
159. Previously, during June of 2006, Mr. Crespin pled guilty to charges arising out of an incident on or about May 18, 2006, and was placed on two years of supervised probation with a deferred sentence. As a condition of his probation, Mr. Crespin was required to successfully complete an inpatient treatment program.
160. Mr. Crespin's mental disability and immediate need for mental health services were obvious at the time of his arrest for violating his probation on or about September 26, 2007, such that the individuals involved in his arrest knew or should have known of his mental disability and immediate need for mental health services.
161. The individuals involved in the arrest of Mr. Crespin failed to reasonably accommodate Mr. Crespin's disability during the course of investigation and arrest, causing Mr. Crespin to suffer greater injury or indignity in that process than other arrestees.
162. LCPD officers arranged for Mr. Crespin to be transported to DACDC, instead of referring him to appropriate community based services.
163. Mr. Crespin's mental disability and immediate need for mental health services

- were obvious at the time of his admission to DACDC on or about September 26, 2007, such that the individuals involved in Mr. Crespin's admission to DACDC knew or should have known of his mental disability and immediate need for mental health services.
164. On or about February 14, 2008, the Third Judicial District Court entered an Order for Medical Services, ordering an immediate medical evaluation of Mr. Crespin.
  165. As of on or about March 20, 2008, when the Third Judicial District Court reviewed its order, Mr. Crespin had still not received an evaluation.
  166. Mr. Crespin has not received the necessary mental health services during the course of his present detention at DACDC.
  167. Mr. Crespin was a detainee at DACDC on at least one prior occasion, but was released without medication, community service referrals, or other appropriate discharge planning.
  168. On or about May 18, 2006, LCPD officers arrested Mr. Crespin, while he was roaming around a mall in a delusional state of mind.
  169. Mr. Crespin's mental disability and immediate need for mental health services were obvious at the time of his arrest on or about May 18, 2006, such that the LCPD individuals involved in his arrest knew or should have known of his mental disability and immediate need for mental health services.
  170. The individuals involved in Mr. Crespin's arrest on or about May 18, 2006 failed to reasonably accommodate Mr. Crespin's disability during the course of investigation and arrest, causing Mr. Crespin to suffer greater injury or indignity in that process than other arrestees.



171. At the time of his May 2006 arrest, LCPD officers arranged for Mr. Crespin to be transported to DACDC, instead of referring him to appropriate community based services.
172. Mr. Crespin's mental disability and immediate need for mental health services were obvious at the time of his admission to DACDC on or about May 18, 2006, such that the individuals involved in Mr. Crespin's admission to DACDC knew or should have known of his mental disability and immediate need for mental health services.
173. Mr. Crespin did not receive the necessary mental health services at DACDC during the course of his detention, from on or about May 18, 2006 through approximately June of 2006.
174. DACDC released Mr. Crespin during approximately June of 2006 without giving him a supply or prescription for medications he had been taking, without referring him to appropriate community mental health services, and without providing any other appropriate discharge planning.

Plaintiff Veronica Hernandez

175. Veronica Hernandez has been detained at DACDC, from on or about January 3, 2008 until on or about June 1, 2008.
176. Ms. Hernandez has a mental illness. She has been diagnosed with bipolar disorder.
177. On or about January 3, 2008, LCPD officers arrested Ms. Hernandez in her home, for an outstanding warrant and for allegedly resisting arrest.
178. Ms. Hernandez's mental disability and immediate need for mental health services

- were obvious at the time of her arrest, such that the LCPD individuals involved in her arrest knew or should have known of her mental disability and immediate need for mental health services. For example, Ms. Hernandez yelled at the officers, stating that she had taken her medications and was trying to sleep. En route to the LCPD station, Ms. Hernandez repeatedly requested medical attention, while screaming, spitting, and shouting profanities at the officers.
179. The individuals involved in the arrest of Ms. Hernandez failed to reasonably accommodate her disability during the course of investigation and arrest, causing Ms. Hernandez to suffer greater injury or indignity in that process than other arrestees.
180. LCPD officers arranged for Ms. Hernandez to be transported to DACDC, instead of referring her to appropriate community based services, although Ms. Hernandez's need for mental health treatment was obvious and Ms. Hernandez told the officers that she should be taken to the hospital rather than to jail.
181. Ms. Hernandez's mental disability and immediate need for mental health services were obvious at the time of her admission to DACDC on or about January 4, 2008, such that the individuals involved in Ms. Hernandez's admission to DACDC knew or should have known of her mental disability and immediate need for mental health services.
182. At the time of her admission to DACDC, Ms. Hernandez informed DACDC staff of her need for medications to treat her mental illness.
183. Ms. Hernandez has made numerous requests for appropriate medications, but still did not receive the necessary mental health services.

184. In or about March of 2008, a spider bit Ms. Hernandez at DACDC, causing a large wound on her cheek. DACDC's failure to properly treat the spider bite, as requested by Ms. Hernandez, exacerbated her symptoms of mental illness.

185. DACDC released Ms. Hernandez on or about June 1, 2008 without providing appropriate discharge planning.

Plaintiff Martha Muñoz

186. Martha Muñoz has been detained at DACDC since on or about December 14, 2007.

187. Ms. Muñoz has a mental illness. She has been diagnosed with anxiety, depression and post-traumatic stress disorder.

188. On or about December 14, 2007, LCPD officers arrested Ms. Muñoz for an outstanding warrant.

189. Ms. Muñoz's mental disability and immediate need for mental health services were obvious at the time of her arrest, such that the LCPD individuals involved in her arrest knew or should have known of her mental disability and immediate need for mental health services.

190. The individuals involved in the arrest of Ms. Muñoz failed to reasonably accommodate her disability during the course of investigation and arrest, causing Ms. Muñoz to suffer greater injury or indignity in that process than other arrestees.

191. LCPD officers arranged for Ms. Muñoz to be transported to DACDC, instead of referring her to appropriate community based services.

192. Ms. Muñoz's mental disability and immediate need for mental health services

- were obvious at the time of her admission to DACDC during approximately December 14, 2007, such that the individuals involved in Ms. Muñoz's admission to DACDC knew or should have known of her mental disability and immediate need for mental health services.
193. Although the Third Judicial District Court entered an Order for Medical Services on or about February 14, 2008, ordering that Ms. Muñoz have an immediate medical evaluation, upon information and belief Ms. Muñoz did not receive an evaluation until several weeks later.
194. DACDC ultimately provided medication to Ms. Muñoz, but she continues to experience complete numbness in her hands and face, and sharp pains in her feet that shoot up her legs when she walks. Ms. Muñoz believes that the symptoms she is experiencing are due to improper psychiatric assessment and treatment.
195. Although Ms. Muñoz alerted staff at DACDC that she requires appropriate psychiatric treatment for her symptoms of mental illness, and submitted grievances requesting psychiatric services on or about December 15, 2007, December 19, 2007, December 23, 2007, December 28, 2007, December 29, 2007, January 1, 2008, January 7, 2008, January 19, 2008, January 25, 2008, February 18, 2008, February 21, 2008, February 24, 2008, Ms. Muñoz has still not received the appropriate and necessary services to address her symptoms of mental illness.
196. Ms. Muñoz had been previously detained in DACDC on approximately three other occasions, but was discharged each time without medication, community service referrals, or other appropriate discharge planning.

Plaintiff Sergio Robledo

197. Sergio Robledo was a pre-trial detainee at DACDC from on or about April 27, 2007 until on or about May of 2008.
198. Mr. Robledo has a mental illness. He has been diagnosed with anxiety, depression, and schizophrenia.
199. On or about April 27, 2007, an LCPD officer arrested Mr. Robledo, after stopping him for “lingering” on a sidewalk in the night. Mr. Robledo became agitated when confronted and questioned by the officer and a struggle ensued. The LCPD officer tazed Mr. Robledo, and charged him with resisting arrest and battery on a peace officer.
200. Mr. Robledo’s mental disability and immediate need for mental health services were obvious at the time of his arrest by the LCPD during approximately April 27, 2007, such that the individuals involved in his arrest knew or should have known of his mental disability and immediate need for mental health services. For example, at the police station following his arrest, LCPD officers observed that Mr. Robledo was talking to himself about a lost dog and spitting on the floor.
201. The individuals involved in the arrest of Mr. Robledo failed to reasonably accommodate Mr. Robledo’s disability during the course of investigation and arrest, causing Mr. Robledo to suffer greater injury or indignity in that process than other arrestees.
202. LCPD officers arranged for Mr. Robledo to be transported to DACDC, instead of referring him to appropriate community based services.
203. Mr. Robledo's mental disability and immediate need for mental health services

were obvious at the time of his admission to DACDC during approximately April 28, 2007, such that the individuals involved in Mr. Robledo's admission to DACDC knew or should have known of his mental disability and immediate need for mental health services.

204. On or about May 3, 2007, Mr. Robledo's mother alerted DACDC staff that Mr. Robledo has been diagnosed with a severe mental illness and required psychiatric medications to treat his mental illness.
205. On or about November 27, 2007, Mr. Robledo was "evaluated" by an NMSU graduate student in nursing, at which time he reported a history of psychiatric hospitalization. Mr. Robledo also reported visual hallucinations and delusions. The student recommended ordering copies of records from Mr. Robledo's psychiatric hospitalizations, and an order to this effect was written on or about November 27, 2007.
206. Mr. Robledo still did not receive the appropriate and necessary evaluation and mental health services.
207. Mr. Robledo had been previously detained in DACDC on several occasions, but was discharged each time without medications, community service referrals, or other appropriate discharge planning.
208. Mr. Robledo was released from DACDC on or about May of 2008 without medications, community service referrals, or other appropriate discharge planning.

Plaintiff Rebecca Telles

209. Rebecca Telles has been detained at DACDC since on or about November 13,

2007.

210. Ms. Telles has a mental illness. She has been diagnosed with bipolar disorder, schizoaffective disorder, post-traumatic stress disorder and schizophrenia.
211. On or about November 13, 2007, LCPD officers arrested Ms. Telles on several outstanding warrants, including failure to appear.
212. Ms. Telles' mental disability and immediate need for mental health services were obvious at the time of her arrest, such that the LCPD individuals involved in her arrest knew or should have known of her mental disability and immediate need for mental health services.
213. The individuals involved in the arrest of Ms. Telles failed to reasonably accommodate her disability during the course of investigation and arrest, causing Ms. Telles to suffer greater injury or indignity in that process than other arrestees.
214. LCPD officers arranged for Ms. Telles to be transported to DACDC, instead of referring her to appropriate community based services.
215. Ms. Telles' mental disability and immediate need for mental health services were obvious at the time of her admission to DACDC during approximately November 13, 2007, such that the individuals involved in Ms. Telles' admission to DACDC knew or should have known of her mental disability and immediate need for mental health services.
216. At the time of her admission to DACDC, Ms. Telles informed DACDC staff of her need for medications to treat her mental illness, but was not provided with appropriate treatment for her mental illness.
217. In or about February of 2008, DACDC staff placed Ms. Telles in segregation,

without screening her for mental health issues.

218. Ms. Telles has not received the necessary mental health services at DACDC.
219. LCPD officers previously arrested Ms. Telles on or about April 7, 2006, following an incident at Memorial Medical Center. Ms. Telles reportedly refused to leave the hospital grounds after being discharged voluntarily from the fifth floor of the hospital, where she had been admitted for psychiatric issues. LCPD officers arrested Ms. Telles for allegedly taking a car opening device or “slim jim” that belonged to the hospital and also for entering a vehicle owned by Memorial Medical Center.
220. Ms. Telles’ mental disability and immediate need for mental health services were obvious at the time of her arrest by the LCPD on or about April 7, 2006, such that the individuals involved in her arrest knew or should have known of her mental disability and immediate need for mental health services.
221. The individuals involved in the arrest of Ms. Telles failed to reasonably accommodate her disability during the course of investigation and arrest, causing Ms. Telles to suffer greater injury or indignity in that process than other arrestees.
222. LCPD officers arranged for Ms. Telles to be transported to DACDC, instead of referring her to appropriate community based services.
223. Ms. Telles’ mental disability and immediate need for mental health services were obvious at the time of her admission to DACDC on or about April 7, 2006, such that the individuals involved in Ms. Telles’ admission to DACDC knew or should have known of her mental disability and immediate need for mental health treatment.



224. Despite Ms. Telles' obvious mental disability and need for mental health treatment, she did not receive the appropriate and necessary mental health treatment during her detention at DACDC.

225. Ms. Telles was discharged during approximately July of 2006 without medication, community service referrals, or other appropriate discharge planning services.

226. Ms. Telles had been previously detained at DACDC on several occasions, but was discharged each time without receiving appropriate discharge planning services.

Plaintiff Ron Hernandez

227. Ron Hernandez has a mental illness. He has been diagnosed with depression, anxiety and bipolar disorder.

228. On or about June 28, 2007, Mr. Hernandez was hospitalized due to acute psychiatric symptoms.

229. On or about June 28, 2007, Mr. Hernandez's father spoke with Captain Barlow of the DACSO Crisis Intervention Team to explain Mr. Hernandez's need for mental health services. Further, Mr. Hernandez' father provided Captain Barlow with documentation from Mr. Hernandez' psychiatrist regarding Mr. Hernandez' need for mental health services.

230. Mr. Hernandez was discharged from the hospital on or about July 4, 2007.

231. Within hours of his discharge from the hospital, Mr. Hernandez became suicidal, prompting his parents to call 911, due to Mr. Hernandez's immediate and obvious need for mental health services.

232. In response to the 911 call, DACSO officers were dispatched to the home of Mr. Hernandez's parents.

233. Upon encountering Mr. Hernandez, the DACSO officers tazed him and sprayed him with pepper spray.
234. The DACSO officers then arrested Mr. Hernandez for battery on a household member and resisting arrest.
235. Mr. Hernandez's mental disability and immediate need for mental health services were known to DACSO due to the interventions of Mr. Hernandez' father, and were also obvious at the time of Mr. Hernandez's arrest on or about July 4, 2007, such that the individuals involved in his arrest knew or should have known of his mental disability and need for reasonable accommodations.
236. The individuals involved in the arrest of Mr. Hernandez arrested Mr. Hernandez on the basis of his mental disability, and failed to reasonably accommodate Mr. Herndandez's disability during the course of investigation and arrest, causing Mr. Herndandez to suffer greater injury or indignity in that process than other arrestees.
237. Mr. Hernandez was arrested previously for driving while intoxicated on or about September 29, 2006 and was subsequently detained at DACDC.
238. Mr. Hernandez was placed in a cell intended for four detainees, along with ten other detainees. When Mr. Hernandez complained to a correctional officer about the overcrowded conditions, the correctional officer replied, "So, sue me."
239. Mr. Hernandez was released on or about February of 2007 without medication or referrals or other appropriate discharge planning.

Plaintiff Jeremy Robledo

240. Jeremy Robledo was detained at DACDC from on or about January 17, 2006 until

on or about July of 2007.

241. Mr. Robledo has a mental illness. He has been diagnosed with attention deficit disorder, oppositional defiant disorder and bipolar disorder.

242. Mr. Robledo has also been diagnosed with mild mental retardation.

243. Mr. Robledo has a seizure disorder.

244. During late 2005, Mr. Robledo was hospitalized at Mesilla Valley Hospital due to acute psychiatric symptoms.

245. On or about January 17, 2006, Mr. Robledo was involved in an altercation at Mayfield High School.

246. Shortly thereafter, Mr. Robledo's mother called the DACSO to inform them that Mr. Robledo had been previously hospitalized due to behavioral health issues and was in immediate need of behavioral health services.

247. DACSO informed Mr. Robledo's mother that Mr. Robledo's need for behavioral health services was irrelevant if he had committed a crime.

248. DACSO officers arrested Mr. Robledo for battery on or about January 17, 2007.

249. After DACSO officers handcuffed Mr. Robledo and placed him in the patrol car, Mr. Robledo began to shake and feel nauseous, and believed he was going to have a seizure.

250. When Mr. Robledo informed the DACSO officers that he felt ill, they pulled him out of the patrol car and threw him onto the ground.

251. A DACSO officer asked Mr. Robledo if he wanted to go to the hospital, but due to the officer's intimidating manner, Mr. Robledo feared that he would be subjected to retaliation if he asked to go to the hospital.

252. Mr. Robledo's mental disability and immediate need for behavioral health services were known to DACSO due to the interventions of Mr. Robledo's mother, and were also obvious at the time of his arrest on or about January 17, 2006, such that the individuals involved in his arrest knew or should have known of his mental disability and immediate need for behavioral health services.
253. The individuals involved in the arrest of Mr. Robledo failed to reasonably accommodate Mr. Robledo's disability during the course of investigation and arrest, causing Mr. Robledo to suffer greater injury or indignity in that process than other arrestees.
254. The DACSO officers arranged for Mr. Robledo to be transported to DACDC, instead of referring him to appropriate community based services.
255. Mr. Robledo's mental disability and immediate need for behavioral health services were obvious at the time of his admission to DACDC on or about January 17, 2006, such that the individuals involved in Mr. Robledo's admission to DACDC knew or should have known of his mental disability and immediate need for behavioral health services.
256. Mr. Robledo did not receive the necessary behavioral health services during the course of his detention at DACDC.
257. Because Mr. Robledo was not receiving the services necessary to treat his behavioral health symptoms during his detention at DACDC, he became involved in altercations with correctional officers, and was charged with battery on or about April 28, 2006, May 18, 2006, June 1, 2006 and July 13, 2006.
258. Because Mr. Robledo was not receiving the services necessary to treat his

behavioral health symptoms during his detention at DACDC, he was placed in segregation on multiple occasions.

Plaintiff Ema Murillo

259. Ema Murillo has a mental illness. Ms. Murillo has been diagnosed with schizoaffective disorder and paranoia.
260. Ms. Murillo was a detainee at DACDC from on or about April 20, 2007 until on or about June 10, 2008.
261. Ms. Murillo had been previously detained at DACDC on multiple occasions, but was released each time without being referred to the appropriate mental health services, and without providing other appropriate discharge planning.
262. On or about April 20, 2007, LCPD responded to a call involving Ms. Murillo, who was reportedly causing a disturbance in a restaurant by yelling and using profanity. Ms. Murillo, who was extremely agitated, attempted to flee the scene, but was apprehended by LCPD officers.
263. Ms. Murillo was arrested on or about April 20, 2007 by LCPD officers for disorderly conduct, fleeing a police officer, and battery on a police officer.
264. Ms. Murillo's mental disability, agitated state, and immediate need for mental health services were obvious at the time of her arrest, such that the LCPD individuals involved in her arrest knew or should have known of her mental disability and immediate need for mental health services. Further, one of the arresting officers recognized Ms. Murillo from previous contacts.
265. Ms. Murillo, who had numerous previous encounters with LCPD, was well known to LCPD as someone with a mental disability.

266. The LCPD individuals involved in the arrest of Ms. Murillo failed to reasonably accommodate her disability during the course of investigation and arrest, causing Ms. Murillo to suffer greater injury or indignity in that process than other arrestees.
267. LCPD officers transported Ms. Murillo to the police station, but later arranged for Ms. Murillo to be transported to the hospital, per her request. After being seen briefly at the hospital for her physical injuries, but not her mental health needs, Ms. Murillo was returned to the police station and LCPD officers arranged for her transport to DACDC.
268. Ms. Murillo's mental disability and immediate need for mental health services were obvious at the time of her admission to DACDC on or about April 20, 2007, such that the individuals involved in Ms. Murillo's admission to DACDC knew or should have known of her mental disability and immediate need for mental health services.
269. Despite her obvious need for mental health services, and despite her written request to be seen by psychiatry on or about May 18, 2007, Ms. Murillo was not provided with any mental health services from the time of her admission to DACDC on or about April 20, 2007, until on or about June 25, 2007, when she was provided with a psychiatric medication.
270. Ms. Murillo was eventually seen by a psychiatric nurse at DACDC on or about September 30, 2007. The psychiatric nurse described Ms. Murillo as delusional and paranoid.
271. A few days later, on or about October 5, 2007, DACSO officers brought criminal

charges against Ms. Murillo, following an incident at DACDC involving a correctional officer. DACSO disregarded prior and ongoing cause to believe that Ms. Murillo had untreated mental disabilities, and filed battery charges against Ms. Murillo, based solely on an interview with one DACDC employee who had repeatedly tazed and harmed Ms. Murillo.

272. Ms. Murillo was tazed multiple times during her detention at DACDC.
273. During approximately March of 2008, Ms. Murillo was transported to the Behavioral Health Institute in Las Vegas, NM for evaluation. Prior to transport, two DACDC correctional officers handcuffed Ms. Murillo, then tazed her approximately seven times.
274. Despite Ms. Murillo's obvious mental disability and need for mental health treatment, she did not receive the appropriate and necessary mental health treatment during her detention at DACDC.
275. Ms. Murillo was discharged on or about June 10, 2008, without receiving appropriate discharge planning services.

COUNT I: VIOLATIONS OF PLAINTIFFS' CONSTITUTIONAL RIGHTS  
BY THE DACDC DEFENDANTS

276. Paragraphs 1 through 275 are hereby reiterated and incorporated by reference.
277. The DACDC Defendants were and are aware of the lack of mental health care provided at DACDC, and are responsible for the state of the mental health care system at DACDC.
278. The Eighth and Fourteenth Amendments to the United States Constitution and the New Mexico Constitution, Art. II § 13 prohibit cruel and unusual punishment against detainees, and encompass a constitutional duty to provide necessary health

care.

279. By their policies, practices and acts, the DACDC Defendants violated the rights of Plaintiffs and the class they represent to be free from cruel and unusual punishment as guaranteed by the Eighth and Fourteenth Amendments to the United States Constitution and the New Mexico Constitution, Art. II § 13, giving rise to a cause of action pursuant to 42 U.S.C. § 1983.
280. As a matter of policy and practice, and with deliberate indifference to their mental health needs, the DACDC Defendants fail to provide adequate mental health care to Plaintiffs and the class they represent.
281. By admitting Plaintiffs and the class they represent to DACDC without appropriate mental health screening and without regard to the deleterious effect it would have on their mental health, the DACDC Defendants act with deliberate indifference to the substantial risk of serious harm to detainees with mental illness, in knowing violation of Plaintiffs' right to be free from cruel and unusual punishment. In committing the aforementioned acts and omissions, the DACDC Defendants have violated the Eighth and Fourteenth Amendments to the United States Constitution and the New Mexico Constitution, Art. II § 13.
282. By transferring Plaintiffs and the class they represent to DACDC's maximum segregation units, without providing appropriate mental health screening and without regard to the deleterious effect it would have on their mental health, the DACDC Defendants act with deliberate indifference to the substantial risk of serious harm to detainees with mental disabilities, in knowing violation of Plaintiffs' right to be free from cruel and unusual punishment. In committing the



aforementioned acts and omissions, the DACDC Defendants have violated the Eighth and Fourteenth Amendments to the United States Constitution and the New Mexico Constitution, Art. II § 13.

283. By transferring Plaintiffs and the class they represent to DACDC's maximum segregation units without providing appropriate mental health screening and in knowing violation of Plaintiffs' protected due process rights, the DACDC Defendants have violated the Fourteenth Amendment to the United States Constitution and the New Mexico Constitution, Art. II § 18.
284. By releasing Plaintiffs and the class they represent from DACDC without appropriate discharge planning services and without regard to the deleterious effect it would have on their mental health, the DACDC Defendants act with deliberate indifference to the substantial risk of harm to detainees with mental illness, in knowing violation of Plaintiffs' rights to be free from cruel and unusual punishment. In committing the aforementioned acts and omissions, the DACDC Defendants have violated the Eight and Fourteenth Amendments to the United States Constitution and the New Mexico Constitution, Art. II § 13.
285. The DACDC Defendants' acts and omissions in not correcting the lack of adequate mental health care at DACDC were intentional, malicious, wanton, and in gross and reckless disregard of Plaintiffs' constitutional rights.
286. The DACDC Defendants knew of, disregarded, and were deliberately indifferent to the unreasonable risk to the health and safety of Plaintiffs and the class they represent posed by their unconstitutional pattern and practice.
287. As a proximate and foreseeable result of the DACDC Defendants' violations of

their constitutional rights, Plaintiffs and the class they represent have suffered and continue to suffer injuries, including but not limited to pain and suffering, emotional distress, and an exacerbation of their symptoms of mental illness.

COUNT II: VIOLATIONS OF THE AMERICANS WITH DISABILITIES ACT  
BY THE DACDC DEFENDANTS

288. Paragraphs 1 through 287 are hereby reiterated and incorporated by reference.
289. The DACDC Defendants have failed to reasonably accommodate the mental disabilities of Plaintiffs and the class they represent, and have excluded them from participation in, and denied them the benefits of, DACDC's services and programs, by reason of their mental disabilities.
290. The actions and inactions of the DACDC Defendants violated the rights of Plaintiffs and other class members under the ADA by:
- a. failing to reasonably accommodate the needs of people with mental disabilities detained by the DACDC Defendants and by discriminating against them on the basis of disability;
  - b. denying aid, benefits or services, including discharge planning services, that are as effective as those provided to persons without mental disabilities;
  - c. failing to make reasonable modifications in policies and procedures when necessary to avoid discrimination against Plaintiffs and the class they represent on the basis of disability;
  - d. failing to accommodate detainees with mental disabilities during classification and segregation procedures;
  - e. segregating Plaintiffs and members of the class they represent unnecessarily due to their mental disabilities; and

- f. failing to provide for appropriate training and supervision for DACDC employees regarding reasonable accommodations that must be provided to persons with mental disabilities.
291. The actions and inactions described herein impose undue and disproportionate hardships on individuals with mental disabilities.
292. The DACDC Defendants' acts and omissions, as stated herein, constitute violations of the Americans with Disabilities Act.
293. As a proximate and foreseeable result of the DACDC Defendants' discriminatory acts and omissions, Plaintiffs and the class they represent have suffered and continue to suffer injuries, including but not limited to pain and suffering, emotional distress, and an exacerbation of their symptoms of mental illness.

COUNT III: VIOLATIONS OF SECTION 504 OF THE REHABILITATION ACT  
BY THE DACDC DEFENDANTS

294. Paragraphs 1 through 293 are hereby reiterated and incorporated by reference.
295. Because Doña Ana County and the DACDC receive federal financial assistance, the DACDC Defendants are subject to the requirements of Section 504 of the Rehabilitation Act, 29 U.S.C. § 794.
296. Section 504 prohibits recipients of federal financial assistance from discriminating against qualified individuals with handicaps.
297. The DACDC Defendants have failed to reasonably accommodate the mental disabilities of Plaintiffs and the class they represent, and have excluded them from participation in, and denied them the benefits of, DACDC's services and programs, by reason of their mental disabilities.
298. The DACDC Defendants' actions and inactions violated the rights of Plaintiffs

and other class members under the Section 504 of the Rehabilitation Act by:

- a. failing to reasonably accommodate the needs of people with mental disabilities detained by the DACDC Defendants and by discriminating against them on the basis of disability;
  - b. denying aid, benefits or services, including medical care and discharge planning services, that are as effective as those provided to persons without mental disabilities;
  - c. failing to make reasonable modifications in policies and procedures when necessary to avoid discrimination against Plaintiffs and the class they represent on the basis of disability;
  - d. segregating Plaintiffs and other class members unnecessarily due to their mental disabilities; and
  - e. failing to provide for appropriate training and supervision for DACDC employees regarding reasonable accommodations that must be provided to persons with mental disabilities.
299. The DACDC Defendants' violations of the ADA, as set forth above, also violate Section 504 of the Rehabilitation Act, by imposing undue and disproportionate hardships on individuals with mental disabilities.
300. The DACDC Defendants' acts and omissions, as stated herein, constitute violations of the Rehabilitation Act.
301. As a proximate and foreseeable result of the DACDC Defendants' discriminatory acts and omissions, Plaintiffs and the class they represent have suffered and continue to suffer injuries, including but not limited to pain and suffering,

emotional distress, and an exacerbation of their symptoms of mental illness.

COUNT IV: STATE TORT CLAIMS AGAINST THE DACDC DEFENDANTS

302. Paragraphs 1 through 301 are hereby reiterated and incorporated by reference.
303. The DACDC Defendants are liable under the New Mexico Tort Claims Act, NMSA 1978, § 41-4-6 and § 41-4-9 (2007), for breaching their duties: a) to manage all operations of DACDC, including DACDC's medical unit; b) to exercise general supervisory authority over all DACDC employees; c) to organize DACDC health and safety procedures into the most efficient organizational units; and d) to issue and enforce orders and instructions to remedy inadequate mental health treatment.
304. Defendants Board and Barela exercise direct supervisory responsibility and/or control over the John Doe and Jane Doe Defendants involved in the operation of DACDC, and are therefore responsible for their negligent acts under the doctrines of *respondeat superior* and vicarious liability.
305. Defendant Board enjoys actual *de facto* control over Defendant Barela and all John and Jane Doe Defendants involved in the operation of DACDC, and is therefore responsible for their acts under the doctrines of *respondeat superior* and vicarious liability.
306. The named Plaintiffs have suffered and continue to suffer injuries as a foreseeable and proximate result of the DACDC Defendants' breach of these duties.
307. Notice as required by the New Mexico Tort Claims Act has been given to Defendant Barela and the supervisory DACDC Defendants.

COUNT V: VIOLATIONS OF THE AMERICANS WITH DISABILITIES ACT  
BY THE LAW ENFORCEMENT DEFENDANTS  
(LCPD DEFENDANTS AND DACSO DEFENDANTS)

308. Paragraphs 1 through 307 are hereby reiterated and incorporated by reference.
309. The Law Enforcement Defendants have failed to reasonably accommodate the mental disabilities of Plaintiffs and other class members in their investigation and arrest policies and practices, such that Plaintiffs and other class members suffer greater injury or indignity in that process than other arrestees.
310. The actions and inactions of the Law Enforcement Defendants violated the rights of Plaintiffs and other class members under the ADA by:
- a. arresting people with mental disabilities solely on the basis of their mental disabilities;
  - b. failing to reasonably accommodate the needs of people with mental disabilities detained by the Law Enforcement Defendants and by discriminating against them on the basis of disability;
  - c. denying aid, benefits or services that are as effective as those provided to persons without mental disabilities;
  - d. failing to make reasonable modifications in policies and procedures when necessary to avoid discrimination against Plaintiffs and other class members on the basis of disability;
  - e. failing to reasonably accommodate the mental disabilities of Plaintiffs and the class they represent in their investigation and arrest policies and practices, such that Plaintiffs and the class suffer greater injury or indignity in that process than other arrestees;

- f. failing to provide for appropriate training and supervision for law enforcement officers regarding reasonable accommodations that must be provided to persons with mental disabilities during investigation and arrest practices;
  - g. failing to obtain appropriate assistance for persons with mental disabilities, rather than arresting and incarcerating them due to their disabilities; and
  - h. unnecessarily segregating and incarcerating people with mental disabilities.
311. The Law Enforcement Defendants' acts and omissions, as stated herein, impose undue and disproportionate hardships on persons with mental disabilities and constitute violations of the Americans with Disabilities Act.
312. The Law Enforcement Defendants' actions and inactions, as stated herein, impose undue and disproportionate hardships on individuals with mental disabilities and constitute violations of the Americans with Disabilities Act.
313. As a proximate and foreseeable result of the Law Enforcement Defendants' pattern and practice of discriminatory acts and omissions, Plaintiffs and other class members have suffered and continue to suffer injuries, including but not limited to pain and suffering, emotional distress, and exacerbation of their symptoms of mental illness.

COUNT VI: VIOLATIONS OF THE REHABILITATION ACT  
BY THE LAW ENFORCEMENT DEFENDANTS  
(LCPD DEFENDANTS AND DACSO DEFENDANTS)

314. Paragraphs 1 through 313 are hereby reiterated and incorporated by reference.
315. Because the City of Las Cruces, the LCPD, Doña Ana County, and DACSO receive federal financial assistance, the Law Enforcement Defendants are subject to the requirements of Section 504 of the Rehabilitation Act, 29 U.S.C. § 794.

316. Section 504 prohibits recipients of federal financial assistance from discriminating against qualified individuals with handicaps.

317. The Law Enforcement Defendants have failed to reasonably accommodate the mental disabilities of Plaintiffs and other class members in their investigation and arrest policies and practices, such that Plaintiffs and the class they represent suffer greater injury or indignity in that process than other arrestees.

318. The Law Enforcement Defendants' actions and inactions violate the rights of Plaintiffs and other class members under Section 504 of the Rehabilitation Act by:

- a. arresting people with mental disabilities solely on the basis of their mental disabilities;
- b. failing to reasonably accommodate the needs of people with mental disabilities detained by the Law Enforcement Defendants, and by discriminating against them on the basis of disability;
- c. denying aid, benefits or services that are as effective as those provided to persons without mental disabilities;
- d. failing to make reasonable modifications in policies and procedures when necessary to avoid discrimination against Plaintiffs and other class members on the basis of disability;
- e. failing to reasonably accommodate the mental disabilities of Plaintiffs and the class they represent in their investigation and arrest policies and practices, such that Plaintiffs and the class suffer greater injury or indignity in that process than other arrestees;
- f. failing to provide for appropriate training and supervision for law



enforcement officers regarding reasonable accommodations that must be provided to persons with mental disabilities during investigation and arrest practices;

g. failing to obtain appropriate assistance for persons with mental disabilities, rather than arresting and incarcerating them due to their disabilities; and

h. unnecessarily segregating and incarcerating people with mental disabilities.

319. The Law Enforcement Defendants' acts and omissions, as stated herein, impose undue and disproportionate hardships on persons with mental disabilities.

320. The Law Enforcement Defendants' acts and omissions, as stated herein, constitute violations of Section 504 of the Rehabilitation Act.

321. As a proximate and foreseeable result of the Law Enforcement Defendants' discriminatory acts and omissions, Plaintiffs and the class they represent have suffered and continue to suffer injuries, including but not limited to pain and suffering, emotional distress, and an exacerbation of their symptoms of mental illness.

#### JURY DEMAND

322. Plaintiffs hereby demand a jury trial on all counts so triable.

#### CONCLUSION AND PRAYER FOR RELIEF

Plaintiffs and the class they represent have suffered irreparable harm, including violations of constitutional rights, emotional distress, psychological abuse, and other harms that entitle the named Plaintiffs to damages. The injuries of Plaintiffs and the class they represent are due to Defendants' unlawful conduct, as set forth herein, and likely to be redressed by the relief Plaintiffs request. The conditions described in this Complaint are substantially likely to persist unless enjoined by this Court. Plaintiffs and their class face a

real and immediate threat of future harm due to the ongoing actions of Defendants.

WHEREFORE, Plaintiffs respectfully request that the Court:

1. Issue a judgment declaring that the actions of Defendants described herein in Counts I through VI are unlawful and violate Plaintiffs' rights under the United States Constitution, the New Mexico Constitution, and laws of the State of New Mexico and the United States of America;
2. Permanently enjoin Defendants, their subordinates, agents, employees and all others acting in concert with them, from subjecting Plaintiffs and other people with mental disabilities to the illegal actions and inactions set forth in this Complaint in Counts I through VI;
3. Require the Law Enforcement Defendants to establish policies and procedures that prohibit the unnecessary arrest and incarceration of people with mental disabilities, and which require the Law Enforcement Defendants to reasonably accommodate people with mental disabilities with respect to decisions regarding whether to arrest or incarcerate them;
4. Require the DACDC Defendants to implement an effective, initial and periodic mental and emotional assessment program for all detainees at DACDC, so as to ensure that detainees who have or who develop mental and/or emotional disorders have the opportunity to obtain medical and mental health treatment, and appropriate discharge planning services;
5. Permanently enjoin the DACDC Defendants, their subordinates, agents, employees and all others acting in concert with them, from placing in maximum segregation any detainee who has previously manifested a history of mental or

- emotional disability;
6. Enjoin the DACDC Defendants their subordinates, agents, employees and all others acting in concert with them, from failing to provide each person with a mental disability who may be released from jail such medication, community service referrals, and other discharge planning arrangements as are necessary to prevent their prompt deterioration of ability to function in the community.
  7. Order Defendants to promptly draft a proposed plan for addressing the violations of law found by the Court, to then provide the draft plan to Plaintiffs' counsel and their expert consultant for review and comment, and to then meet with Plaintiffs' counsel and their expert consultant to finalize the plan;
  8. Grant compensatory and punitive damages to each of the named Plaintiffs against Defendants sued in their individual capacities, in sums to be determined at trial;
  9. Grant Plaintiffs their reasonable attorneys' fees, costs and expenses pursuant to 42 U.S.C. § 1988, the Americans with Disabilities Act and other applicable law; and
  10. Grant such other relief as the Court considers just and proper.

Respectfully submitted,

\_\_\_/s/\_\_\_ Rosemary L. Bauman

PROTECTION & ADVOCACY SYSTEM  
Nancy Koenigsberg  
Rosemary L. Bauman  
Tim Gardner  
1720 Louisiana NE, Ste. 204  
Albuquerque, NM 87110  
(505) 256-3100  
(505) 256-3184 (fax)

ACLU of NEW MEXICO  
George Bach  
P.O. Box 566 Albuquerque, NM 871  
(505) 243-0046  
(505) 266-5916 (fax)

LAW OFFICE OF PETER CUBRA  
Peter Cubra  
Lisa Schatz-Vance  
2001 Carlisle NE #E  
Albuquerque, NM 87110  
(505) 265-7690  
(505) 256-7641 (fax)

LILLEY LAW OFFICES  
Michael W. Lilley  
1014 South Main Street  
Las Cruces, NM 88005-2919  
(575) 524-7809  
(575) 526-2642 (fax)

BAZELON CENTER FOR  
MENTAL HEALTH LAW  
Ira A. Burnim  
Andrew S. Penn  
Lewis Bossing  
1101 15<sup>th</sup> Street, NW, Suite 1212  
Washington, D.C. 20005  
(202) 467-5730  
(202) 223-0409 (fax)

*Attorneys for Plaintiffs*

I hereby certify that a copy of the  
foregoing was electronically served to:

OFFICE OF JOHN W. CALDWELL  
John W. Caldwell  
P.O. Box 1405  
Fairacres, NM 88033-1405  
(575) 525-1508; (915) 566-8688  
(575) 525-1510 (fax)

*Attorney for the DACDC Defendants*

ROBLES, RAEL & ANAYA, P.C.  
Luis Robles  
Daniel J. Macke  
Christine E. Anaya  
500 Marquette Ave., N.W., Suite 700  
Albuquerque, NM 87102  
(505) 242-2228  
(505) 242-1106 (fax)

*Attorneys for the City Defendants*

on the 16th day of June 2008,

\_\_\_\_\_/s/\_\_\_\_Rosemary L. Bauman