



# **Agreement Between Orange County and Disability Rights California**

## **Expert Monitor's Report (First Round)**

### **Rights of People With Disabilities**

On-Site Review: August 15-19, 2022

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## I. Introduction

On March 22, 2018, Disability Rights California (DRC) notified the County of Orange of its intent to monitor Orange County Jail facilities, as consistent with its federal and state law authority to monitor facilities with respect to the rights and treatment of individuals in California who have disabilities.

DRC and its authorized agents conducted facility monitoring tours of the Jail on May 10-11, 2018, June 11, 2018, and January 30-31, 2019. DRC's monitoring included (1) interviews with leadership and staff from the Orange County Sheriff's Department (OCSD) and Correctional Health Services (CHS), (2) interviews and other communications with a substantial number of people in custody at the Jail during and outside of the above-mentioned monitoring tours, and (3) review and substantive analysis of relevant records, data, and policies.

On March 8, 2019, DRC issued findings from its monitoring investigation of Orange County Jail facilities, including issues related to the rights of incarcerated people with disabilities, the treatment of incarcerated people with mental health care needs, the use of restrictive housing, and the treatment of incarcerated people who identify as LGBTQ.

Following the issuance of DRC's findings, the Parties engaged in discussions regarding a process to address the findings without the need for adversarial litigation.

On November 21, 2019, the Parties executed a Negotiations Agreement, which provided a procedural framework for resolving the disputed claims.

Consistent with the Parties' Negotiations Agreement, the Parties mutually agreed for Sabot Consulting to serve as a neutral expert (1) to conduct a comprehensive, independent review of policies, procedures, and practices related to the topics set forth in the Settlement Agreement, and (2) to complete a report with findings and recommendations to address any identified deficiencies. The County retained Sabot Consulting to serve as the neutral expert pursuant to an agreement executed on January 25, 2020 (amended on February 22, 2020 and August 1, 2022).

Sabot Consulting's team of experts conducted site visits at the Jail during the months of March, May, and June 2020. The assessment included interviews with incarcerated persons, sworn staff, and non-sworn staff working at the Jail, as well as an extensive policy and data review.

On March 19, 2021, Sabot Consulting submitted to the Parties its Final Report, Orange County Sheriff's Department Custody Operations: Americans with Disabilities Act, Restrictive Housing, LGBTQI, and Healthcare Program Assessment.

Consistent with the Parties' Negotiations Agreement, the Parties then engaged in careful

negotiations of a Remedial Plan (RP) to address the findings of Sabot Consulting's Assessment Report and to implement its recommendations, as appropriate. Negotiations were substantially informed by DRC's ongoing review of relevant records, data, and other materials, information-sharing with the County, and communication with people incarcerated at the Jail.

While Sabot Consulting's assessment and the Parties' negotiations were necessarily slowed by the circumstances of the COVID pandemic, the Parties' negotiations have proceeded as expeditiously as possible towards a resolution and formal agreement. In consultation with DRC and its authorized agents, the County has already begun to implement several of Sabot Consulting's recommendations and related remedial actions during the period of negotiations.

The County agreed to implement the provisions of the RP, subject to monitoring by Sabot Consulting and by DRC with its authorized agents and further discussions between the Parties.

The County agreed to develop and implement appropriate and adequate plans, policies, and practices to ensure implementation of and compliance with the RP. During the period of monitoring pursuant to the Parties' Agreement, the County is required to submit plans or policies to DRC for review and comment.

DRC's March 2019 findings letter and Sabot Consulting's Assessment Report each identified concerns regarding the treatment of incarcerated people with mental health disabilities at the Jail.

- Subsequent to those findings, the County has taken and continues to take steps to enhance Jail mental health care programming.
- Certain mental health-related issues are addressed in the RP, including as related to disability-related accommodations and program access, reforms to restrictive housing/isolation practices, and reforms to disciplinary practices as they apply to people with mental health or other disabilities.
- The Parties agree that the Jail's mental health treatment programming requires further development to meet the needs of the population. The Parties further acknowledge that DRC and its authorized agents will continue to monitor the treatment of people with mental health disabilities at the Jail, including through monitoring processes.
- If DRC identifies concerns with respect to the care and treatment of people with mental health disabilities, it will raise those concerns with the County and confer in good faith as to necessary remedial action to address any such problems. If DRC finds that such concerns are not adequately addressed, it will so inform the County and may take any necessary action, including by any legal means, to protect the rights of people with mental health disabilities.

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## II. The Expert's Monitoring Role and Monitoring Activities

The Parties previously agreed to a process and framework for monitoring the implementation of the Remedial Plan (RP). The Parties also agreed in the Negotiations Agreement and continue to agree that Sabot Consulting will serve as the neutral Expert for purposes of monitoring the RP implementation.

The Expert is required to complete a comprehensive review (Compliance Review) of the County's implementation of the components of the RP within 180 days of the execution of the Agreement and conduct a Compliance Review every 180 days thereafter during the term of the Agreement. The Expert is required to review whether the County has adequately implemented each component of the RP and is required to identify which components, if any, are not yet adequately implemented.

As part of the Compliance Review, the Expert is required to issue a draft report (Compliance Report) that states their opinion as to whether the County has adequately implemented the components of the RP and which components, if any, are not yet adequately implemented. Within fifteen (15) days following the issuance of a draft Compliance Report, the Parties may provide written responses to the draft Compliance Report. If either Party submits a written response to the draft Compliance Report, the Expert will consider the response(s) and issue a final report within fifteen (15) days. The final report will address any written responses submitted by the Parties. If neither Party submits a written response to the draft report, the Expert's draft report will become the final report.

Within 15 days of the issuance of the Expert's final Compliance Report, the Parties will meet and confer to discuss the Expert's findings and recommendations. Within 30 days of the issuance of the final Compliance Report that includes a finding that the County has not adequately implemented one or more components of the RP, the County shall develop a proposed plan that identifies the actions it will take to address the Expert's findings (Action Plan). The Parties will then have 30 days to agree upon the County's proposed Action Plan or negotiate a revised Action Plan.

If the Expert issues two successive Compliance Reports finding that the County has adequately implemented the same component of the RP, such a finding will result in a suspension of monitoring by the Expert of the corresponding component. The Expert may, however, continue to review whether the County has adequately implemented a component for which monitoring has been suspended pursuant to this provision if such review is necessary for determining whether the County has adequately implemented other components of the RP for which monitoring has not been suspended pursuant to this provision. If, during the term of the Agreement, DRC forms the good faith belief that the County is no longer adequately implementing a component of the RP for which the Expert had suspended monitoring pursuant to this provision, DRC shall promptly notify the County in writing and present a summary of the evidence upon which such a belief is based. Within 30 days thereafter, the County shall serve a written response stating whether it agrees or

disagrees with DRC's position. In the event that the County agrees, monitoring by the Expert and DRC pursuant to this Agreement shall resume with respect to the RP component(s) at issue. In the event the County disagrees, the Parties shall present to the Expert in writing their positions. The Expert will, within 30 days, issue a written decision regarding whether to resume monitoring of the RP component(s) at issue.

## **B. Monitoring Process**

In each Compliance Report, the Expert is required to identify whether the County has adequately implemented each RP provision. The Expert is required to make the findings utilizing the following definitions:

**Adequately Implemented:** Implementation of all or most components of the relevant RP provision, and no significant work remains to accomplish the goal of that provision.

**Partially Implemented:** Implementation of some components of the relevant RP provision and significant work remains to reach adequate implementation.

**Not Implemented:** No implementation of most or all the components of the relevant RP provision, and significant work remains to reach partial implementation.

**Un-ratable:** Used where the Expert has not been provided data or other relevant material necessary to assess implementation, or factual circumstances during the monitoring period, making it impossible for a meaningful review to occur at the present time.

**Not Assessed:** Used where the Expert has not assessed implementation with a particular provision during a monitoring period. This designation should be used only where circumstances make it infeasible for the Expert to complete the assessment during the monitoring period.

**Monitoring Suspended Based on Previous Findings of Compliance:** Used where two previous successive Compliance Reports have found that the provision has been adequately implemented.

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### III. Executive Summary

This is the first Expert Monitor Review to measure Orange County's (OC) compliance with the Settlement Agreement and the RP, which address related mandates, including:

- I. Policies and Procedures
- II. ADA Tracking Procedures
- III. Identifying People With Disabilities
- IV. Orientation
- V. Effective Communication
- VI. Intellectual and Developmental Disabilities
- VII. Healthcare Appliances, Assistive Devices, Durable Medical Equipment
- VIII. Housing Placements
- IX. Access to Programs, Services, and Activities
- X. Access to Worker Opportunities
- XI. Access to Community Work Programs
- XII. Disability-Related Grievance Process
- XIII. Alarms/Emergencies/Announcements
- XIV. Searches, Restraints, and Counts
- XV. Transportation
- XVI. ADA Training, Accountability, and Quality Assurance

The initial round of monitoring focused on the Theo Lacy Facility (TLF), Central Men's Jail (CMJ), Central Women's Jail Men's Annex (CWJ), and the Intake Release Center & Transportation (IRC). The onsite Monitoring Review was conducted from August 15-19, 2022. The Monitoring Review included a review of pre-monitoring documents produced by the County of Orange (OC); onsite observations; interviews of sworn and non-sworn personnel (e.g., housing deputies, HCA CHS healthcare staff (medical and mental health) classification staff; and interviews of incarcerated persons housed at the OC Jails.

An entrance meeting was conducted with representatives from the County of Orange (Jail Administration, HCA CHS staff, representatives from the OC Jails divisions/disciplines, and staff from the County Counsel's Office). DRC Representatives were also present during the entrance meeting and during portions of the monitoring tour. An exit meeting was conducted via Zoom on August 25, 2022, with representatives from the County of Orange (Jail Administration and staff from the County Counsel's Office). DRC Representatives were also present during the exit conference.

The Expert would like to thank all OC Jail staff for their assistance in facilitating access to the Jails and coordinating the staff and incarcerated person interviews, and the production of the pre-monitoring documents. The Expert found that the staff was open and transparent in their responses during the staff interviews.



The Expert recognizes that the OC Jails have been working under challenging conditions during the COVID-19 pandemic while striving to obtain compliance with the Settlement Agreement and RP and the applicable county policies and procedures.

The Expert finds that some of the provisions as set forth in the Settlement Agreement and RP (and local policies/procedures) have been implemented. However, the Expert finds that more information and evidence are needed to make a determination of compliance for some of the required elements. A more thorough assessment will be made in future monitoring tours once policies/procedures are developed and implemented, proof of practice documentation (in various areas) is provided, and relevant training material is developed and implemented. The Expert is confident that once related policies, procedures, and training is developed and implemented staff will be better informed in an understanding of Settlement Agreement and RP requirements and how that correlates to their respective job duties. As outlined in this report, there are requirements of the Settlement Agreement and RP that are addressed in OCSA and/or HCA CHS policies, but other areas are not addressed, or the policies are in the development stage.

As this was the initial monitoring tour, all elements of the Settlement Agreement and RP were evaluated for compliance as the County strives to achieve (and maintain) “Adequately Implemented” status in the rated areas.

The Expert notes that with the exception of learning disabilities, the County has a process in place to identify incarcerated persons with disabilities (and their accommodation needs) who are being processed into the OC Jails. The medical intake screening process is the most comprehensive the Expert has seen in the six (6) other County Jails the Expert monitors. This is inclusive of the incarcerated persons with physical disabilities as well as cognitive (Intellectual/Developmental) disabilities. The County also has an effective process in place for the disability-related designations as well as accommodation information to be shared with custody (Classification and ADA Compliance Unit) staff. The County also has an effective process in place where medical Case Management (ADA) and the custody ADA Compliance Unit work collaboratively to interview and assess incarcerated persons with disabilities, provide accommodations, and inform incarcerated persons about the ADA program and how to request accommodations. The County also has processes in place to ensure incarcerated persons are provided their Health Care Appliance/Assistive Devices and Durable Medical Equipment and that the devices are maintained in good working order. The ADA Compliance Unit staff are engaged with staff and the disabled incarcerated persons in ensuring that the requirements of the RP and the ADA are provided to the incarcerated persons. All incarcerated persons interviewed during the tour were aware of the ADA staff and stated they would resolve issues brought to their attention. The Expert notes that both the Custody HSA/CHS Administration and staff are committed to ensuring the RP requirements are implemented as well as ensuring the disabled incarcerated persons are provided with their accommodations and are provided equal access to the OC Jails programs, services, and activities. With completion and implementation of updated policies, forms, training, and



tracking systems, the County is well positioned to achieve compliance with much of the ADA RP.

Based on the document review and onsite monitoring tour, the Expert makes the following recommendations:

- Revise the custody policies, procedures, and practices to support RP implementation.
- Continue the process to implement a centralized, real-time networked electronic system to identify and track all incarcerated people with disabilities and their specific accommodations.
- Ensure the ADA Tracking System's information is readily accessible to and used by all custody, medical, mental health, and program staff, and work supervisors.
- Revise the HSA CHS policies to include the process for the identification of an incarcerated person's disability and their accommodation needs after booking.
- Revise the HSA CHS policies to include the specific processes for the identification of incarcerated persons with learning disabilities and their accommodations needs.
- Revise the HCA CSA Policy 8651 Cognitive or Developmentally Disabled Patients to include the RP intake screening requirements.
- Ensure that incarcerated persons with disabilities receive an orientation video regarding rules and expectations in an accessible format.
- Ensure that orientation videos are available with closed captioning and in Spanish.
- Ensure that staff orient and provide individualized support for persons who are blind, deaf, or hard of hearing, or who have low vision Developmental or Intellectual disabilities when the County initially places such people in housing or transfers such people to a new housing unit.
- Finalize and implement the Effective Communication policies and ensure staff provides and documents the Effective Communication accommodations for due process and clinical encounters.
- Ensure that once CHS staff identifies the incarcerated person's primary/preferred method of communication and the incarcerated person's Effective Communication accommodation needs, they are tracked in the Current ADA Tracking List and distributed to program (and all other relevant) staff.
- Finalize and implement the Custody policies and procedures for incarcerated persons with Intellectual/Developmental Disabilities.
- Finalize and/or revise the Custody and CHS policies to include the Intellectual/Developmental Disability-related requirements for a multidisciplinary team to review the individualized plan quarterly and, if necessary, update the individualized plan for incarcerated persons identified with Developmental disabilities.
- Ensure that work supervisors/teachers are trained on the RP requirements related to incarcerated persons identified with Developmental disabilities, including the individualized plan and related accommodation and adaptive support needs and staff's responsibility to provide adaptive supports and to monitor and address any safety, vulnerability, or victimization concerns.

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- Ensure that staff who provide accommodations and adaptive supports for incarcerated persons with Developmental disabilities document the provision of the accommodations, assistance, prompts, and supports.
  - Ensure that easy reading books and magazines are available, including on electronic tablets when implemented, to incarcerated persons with Intellectual/Developmental Disabilities, as well as learning disabilities (literacy concerns).
  - Ensure that in cases where a prosthetic limb or similar device requires repair or maintenance, the County take prompt steps to resolve the issue.
  - Ensure staff conducts periodic quality assurance audits to ensure that all people in custody who require accommodations in housing are placed in housing consistent with their needs.
  - Ensure that all persons with disabilities, including those in ADA-accessible or other specialized housing, have equal access to programs, services, and activities available to similarly situated persons without disabilities, consistent with their health and security needs. These programs include:
    - Dayroom and out-of-cell time
    - Outdoor recreation and exercise equipment
    - Telephones
    - Reading materials
    - Reading and scribing documents
    - Educational, vocational, reentry, and substance abuse programs
  - Ensure the out-of-cell (dayroom and outdoor) tracking includes: whether the incarcerated person with a disability accepts or refuses the out-of-cell opportunity, and, if an incarcerated person accepts the out-of-cell opportunity, the amount of time spent out-of-cell.
  - Ensure that if, during an interview conducted by the ADA Compliance Unit with an incarcerated person with a disability, the ADA Compliance Unit discovers that the person has refused offers for outdoor recreation three times in a row or has refused offers for dayroom three times in a row, the ADA Compliance Unit conducts an inquiry and documents the reason(s) for the refusal.
  - Ensure the job descriptions for incarcerated people include the essential functions and clear hiring criteria that do not inappropriately screen out people with disabilities, including by ensuring processes to provide reasonable accommodations.
  - Ensure there are equitable work (both within the Jail and in the Community Work Program (CWP)) opportunities for incarcerated persons with Intellectual disabilities, with appropriate accommodations and supports (e.g., additional supervision and training, modified production expectations, expanded timeframes for completion of projects, etc.).
  - Ensure effective tracking of all grievances that request disability accommodations and/or raise any disability-based discrimination or violation of the ADA, the RP, or the Jail ADA-related policy.
  - Ensure staff assists people in custody who require accommodations to submit a grievance or to appeal a grievance response (e.g., people who are blind, have an

Intellectual/Development Disability, have a learning disability, or who have physical disabilities that make it difficult or impossible for them to write, or are illiterate).

- Ensure that the grievance response includes the date the response was provided to the incarcerated person to allow the Expert to monitor whether responses are being provided within fourteen days, as required by the RP.
- If the grievance is a request for an accommodation, ensure the response articulates whether the County is granting the requested accommodation, providing an alternative accommodation, or is declining to provide any accommodation.
- In cases where the County is not providing the requested accommodation, ensure the response explains the reasoning for the decision.
- In cases where the County is providing an accommodation (either the requested accommodation or an alternative), ensure the County documents that it has provided the granted accommodation.
- Ensure all grievance responses include an explanation of the process for appealing the grievance response.
- Ensure staff effectively communicates all grievance and appeal responses to the grievant/appellant and documents the effective communication.
- Ensure relevant policies related to accommodations for alarms and emergencies are communicated to persons with disabilities using Effective Communication.
- Ensure that staff effectively communicate all verbal announcements to persons with disabilities that affect communication.
- Ensure that the required ADA training is developed and provided to CHS and non-custody staff.
- Ensure that for future monitoring, verification of the ADA training is provided to the Expert. Ensure that the required training is included in the ADA training curriculum.
- Ensure the policies and procedures include a process for monitoring, investigating, and tracking staff violations (or allegations of violations) of ADA requirements and Jail ADA policies.
- Ensure the County develops an ADA accountability plan to timely log and investigate allegations from any source that staff has violated the ADA or Jail ADA-related policies and procedures.

The Expert's report identifies areas deemed as Adequately Implemented, Partially Implemented, Not Implemented, Unratable, and Not Assessed. The areas deemed as Unratable are generally due to a lack of implementation and/or a lack of policy/procedures and/or other supporting documentation.

The following reflects the overall ratings given for the 115 areas rated:

- Adequately Implemented – 26
- Partially Implemented – 66
- Not Implemented – 16
- Un-ratable – 7
- Not Assessed – 0

- Monitoring Suspended Based on Previous Findings of Compliance - 0

It is the Expert's belief that as the County implements vital components of the Settlement Agreement and RP, including those outlined in this report, the areas that have not been found to be Adequately Implemented will progress to an Adequately Implemented rating.

This report details the pre-monitoring tour document review, onsite monitoring, and staff and incarcerated person interviews and also includes findings and recommendations/actions the County must make to move towards meeting the mandates of the Settlement Agreement and RP.

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## IV. Findings

### A. Policies and Procedures (Section I)

- A. *It shall be the policy of the County to provide equal access to the Jail's services, programs, and activities to incarcerated people with disabilities. No person with a disability, as defined in 42 U.S.C. § 12102 and under California law, shall, because of that disability, be excluded from participation in or denied the benefits of services, programs, or activities or be subjected to discrimination. It shall be the policy of the County to provide reasonable accommodations or modifications where necessary to provide equal access to services, programs, or activities, consistent with the Americans with Disabilities Act ("ADA"), 28 C.F.R. § 35.130, and other applicable federal and state disability laws.*

The draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities includes the required policy language. The County will include such language in the forthcoming revised policy as well.

#### **Adequately Implemented**

- B. *The County shall, within six (6) months of finalizing this RP and in consultation with Counsel and the joint Expert, complete revision of its policies, procedures, and practices to ensure compliance with the ADA, its implementing regulations, related federal and state disability laws, and to ensure compliance with the remedial provisions outlined herein. Implementation of revised policies, procedures, and practices will proceed expeditiously and consistently with the parties' agreement. The six-month implementation deadline will not apply to the County's development of a disability tracking system, addressed in Paragraph II.A.*

The County reports the revisions to the OCSD CCOM have been drafted and are currently being reviewed by DRC and their authorized agents.. Following this review, the Expert will review the policies and procedures.

The parties report that CHS provided draft policies, forms, and related materials to DRC on August 25, 2022. DRC's counsel provided feedback to these draft materials on September, 30, 2022. By agreement of the parties, this process would take place prior to the Expert's review. The parties report positive progress on CHS's policies, forms, and related materials pertinent to this section. The Expert will review these materials during the next monitoring round.

#### **Un-ratable**

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## B. ADA Tracking Procedures (Section II)

- A. *The County shall implement a centralized, real-time networked electronic system to identify and track all incarcerated people with disabilities and their specific accommodation needs (the "ADA Tracking System"). The County will make its best effort to implement the ADA Tracking System by January 1, 2023 and will provide notice of any delay to this timeline to allow the parties to confer and address the matter. Until the new ADA Tracking System is in place, the County shall continue to use its existing system for tracking incarcerated person's disabilities and their specific accommodation needs ("Existing ADA Tracking System").*

The Expert notes that the target date for the implementation of a centralized, real-time networked electronic system to identify and track all incarcerated people with disabilities and their specific accommodation needs (ADA Tracking System) is January 1, 2023. The Expert also notes that the County continues to use the existing system to track incarcerated person's disabilities and their specific accommodation needs with the OCSD's "Existing ADA Tracking System" as required by the RP.

### **Partially Implemented**

- B. *The ADA Tracking System shall identify:*

- 1. All types of disabilities, including but not limited to mental health, Intellectual/Developmental Disability, learning, speech, hearing, vision, mobility, dexterity, upper extremity, or other physical or sensory disabilities;*
- 2. Disability-related health care needs;*
- 3. Barriers to communication, including but not limited to Intellectual/Developmental Disability, learning, and hearing, speech, or vision disabilities;*
- 4. Accommodation needs, including but are not limited to accommodations related to housing, programming, classification, Effective Communication, adaptive supports, health care appliances, assistive devices, and/or durable medical equipment ("HCA/AD/DME");*

The Expert notes that the date for the County to implement the ADA Tracking System is January 1, 2023; therefore, this requirement is currently un-ratable.

### **Un-ratable**

- C. *The ADA Tracking System's information shall be readily accessible to and used by all custody, medical, mental health, program, and other staff who need such information to ensure appropriate accommodations, adaptive supports, and meaningful access for persons with disabilities.*

The Expert notes that the date for the County to implement the ADA Tracking System is January 1, 2023; therefore, this requirement is currently un-ratable. The Expert also notes that the Existing ADA Tracking System information is available to custody and medical/dental and mental health staff. The current ADA Tracking System's information is readily accessible and is available to staff; however, some of the staff who need the information to ensure appropriate accommodations, adaptive supports, and meaningful access for persons with disabilities do not use the information. These staff include program staff/facilitators, disciplinary hearing officers, and work supervisors.

Based on this the Expert finds that the County has partially implemented the RP requirements.

### **Partially Implemented**

#### *D. The ADA Tracking System shall not be called the "Special Needs List."*

The Expert notes the current system is not called the "Special Needs List." The Expert also notes that the date for the County to implement the ADA Tracking System is January 1, 2023; the County reports that system will likewise not be referred to as a "Special Needs" list or system. This requirement is currently adequately implemented.

### **Adequately Implemented**

## **C. Identifying People With Disabilities (Section III)**

#### *A. The County shall, throughout a person's time in custody, take steps to identify and verify each person's disability and disability-related needs.*

The Health Care Agency (HCA) Correctional Health Services (CHS) Policy and Procedure 6407 Reasonable Health Accommodations for Patients with Disabilities and HCA CHS Policy and Procedure 8651 Cognitive or Developmentally Disabled Patients include the process for the identification of incarcerated persons with disabilities and their disability-related accommodation needs. The disabilities include:

- Physical disabilities
  - Mobility
  - Dexterity
  - Sensory
    - Vision
    - Hearing
    - Speech
  - Cognitive/Comprehension



The HCA CHS Policy and Procedure 6002 ADA Effective Communication includes a process for CHS staff to screen and identify the Effective Communication accommodation needs for incarcerated persons who are identified as blind deaf, or hard of hearing, have low vision or speech, learning, cognitive or Developmental disabilities, traumatic brain injury, or a mental illness.

Although the HCA/CHS policies do not include the process for the identification of an incarcerated person's disability and their disability-related accommodation needs after their initial intake, the CHS provided the Guideline for ADA Process, which includes a process to identify an incarcerated person's disability and their disability-related accommodation needs after booking. The Expert notes that the HCA CHS Policy 8651 Cognitive or Developmentally Disabled Patients does not include the process for the identification of Intellectual/cognitive disabilities and the incarcerated person's accommodation needs (adaptive deficits and supports) for cases identified after booking. The Expert also notes that the CHS policies and procedures do not include a detailed identification process for incarcerated persons with learning disabilities.

During the incarcerated person interviews, the following incarcerated persons reported that they had not been provided their accommodations:

- An incarcerated person housed at CMJ Mod E had not been assessed for hearing aids.
- An incarcerated person housed in CMJ Mod R stated he had not been administered a hearing test based on his hearing loss.
- An incarcerated person housed at TLF Mod O stated he had been prescribed a wheelchair for long distances; however, he needs an evaluation for a full-time wheelchair.
- An incarcerated person housed at TLF Mod O stated he requires optometry testing, which has not been provided.

The Expert was not able to confirm or refute these claims.

The Expert notes that the County has a comprehensive identification process in place for the identification of incarcerated persons with physical and cognitive disabilities at intake. However, the Expert recommends that the HCA CHS policies be revised to include the process for the identification of an incarcerated person's disability and their accommodation needs after booking. In addition, the Expert recommends that the HCA CHS policies be revised to include the specific processes for the identification of incarcerated persons with learning disabilities and their accommodations needs.

The parties report that CHS provided draft policies, forms, and related materials to DRC on August 25, 2022. DRC's counsel provided feedback to these draft materials on September, 30, 2022. By agreement of the parties, this process would take place prior to the Expert's review. The parties report positive progress on CHS's policies, forms,

and related materials pertinent to this section. The Expert will review these materials during the next monitoring round and assess implementation.

Based on this, the Expert finds that the County has partially implemented the RP requirements.

### **Partially Implemented**

*B. During the medical intake screening conducted for every person booked into the Jail, CHS staff shall take steps to identify and verify each person's disability and disability-related needs, including based on:*

- 1. The individual's self-identification or claim to have a disability;*
- 2. Documentation of a disability in the individual's Jail health record and/or County (OCHCA) records;*
- 3. Staff observation/referral to ADA Unit regarding a person who may have a disability;*  
*or*
- 4. The request of a third party (such as a family member) for an evaluation of the individual for an alleged disability.*

The Expert notes that HCA CHS Policy and Procedure 6407 Reasonable Health Accommodations for Patients with Disabilities includes the RP requirements for the medical intake screening; however, the Expert notes that the HCA CHS Policy 8651 Cognitive or Developmentally Disabled Patients does not include the RP requirements. The Expert recommends that the County revise the HCA CSA policy to include the RP requirements.

The parties report that CHS provided draft policies, forms, and related materials to DRC on August 25, 2022. DRC's counsel provided feedback to these draft materials on September, 30, 2022. By agreement of the parties, this process would take place prior to the Expert's review. The parties report positive progress on CHS's policies, forms, and related materials pertinent to this section. The Expert will review these materials during the next monitoring round.

Based on this, the Expert finds that the County has partially implemented the RP requirements.

### **Partially Implemented**

*C. When conducting the medical intake screening, staff shall determine if the individual has a disability affecting communication and, if yes, provide and document the provision of Effective Communication during the medical intake screening.*

The HCA CHS Policy and Procedure 6002 ADA Effective Communication includes a process for CHS staff to screen and identify the Effective Communication (EC)

accommodation needs during the medical intake screening process. CHS staff enter an Effective Communication flag in the incarcerated person's electronic health record and also complete an initial ADA Effective Communication form. CHS staff provide Effective Communication and document the method used to achieve effective communication, how they determined that the incarcerated person understood the encounter, and how they determined the communications effectiveness. The County produced five (5) CHS ADA Effective Communication Forms for incarcerated persons with Effective Communication accommodation needs who were processed through medical intake screening. In the five (5) cases, CHS staff provided Effective Communication Accommodations, including the provision of a Sign Language Interpreter (SLI). However, the Expert notes that the Effective Communication Forms produced only represent a small sampling of incarcerated persons who were processed through the medical intake screening and who required Effective Communication accommodations. In order for this requirement to be rated as adequately implemented, the Expert will need to review a larger sampling of cases. For future monitoring, the Expert recommends that the County produce a list of all incarcerated persons who were identified as requiring Effective Communication accommodations and the Expert will identify a random sampling of Effective Communication forms to review.

The parties report that CHS provided for review a draft revision to Policy 6002-ADA Effective Communication and a revised ADA Effective Communication form. DRC's counsel provided feedback to these draft materials on September, 30, 2022. By agreement of the parties, this process would take place prior to the Expert's review. The parties report positive progress on CHS's policies, forms, and related materials pertinent to this section. The Expert will review these materials during the next round and monitor their implementation.

Based on this, the Expert finds that the County has partially implemented the RP requirements.

### **Partially Implemented**

- D. CHS staff shall conduct medical intake screenings, including for disabilities, in settings that allow for reasonable privacy and confidentiality.*

The Expert observed the medical intake screening process at the IRC. The Expert noted that the medical intake screenings are conducted in a setting that allows for reasonable privacy and confidentiality. Although the Expert did not observe the medical intake screening process at the TLF, the Expert viewed the location and determined that the area where staff conducts the medical intake screenings is in a setting that allows for reasonable privacy and confidentiality. The expert will observe the medical intake process at the TLF during the next monitoring tour.

Based on this, the Expert finds that the County has adequately implemented the RP requirements.

### **Adequately Implemented**

- E. When conducting screening and intake, CHS shall utilize evidence-based and Trauma-Informed practices that take into account that many incarcerated people have experienced trauma.*

A trauma-informed approach to a physical examination involves using language and maneuvers to communicate respect and restore a sense of safety, autonomy, and trust. The CHS uses a 13-page Receiving Screening that includes asking the incarcerated person at the beginning of the screening if they have any medical conditions about which they would want to speak with someone in private. The screening also begins with asking the incarcerated person their primary language. The screening includes screening questions for past medical history, medications, sexual health, sexual orientation/identification, infectious diseases, cognitive and Developmental disabilities, physical disabilities, substance and alcohol abuse, and mental health. The medical intake screenings are conducted in a confidential setting allowing for privacy.

The parties report that CHS provided a draft Trauma Informed Care Training presentation to DRC for review on August 25, 2022. DRC's counsel informed CHS that they did not have substantive edits or feedback to the presentation. CHS must now proceed with ensuring that all relevant CHS staff receive the training. The Expert will review the training in the next round and monitor its implementation (including through observation of intake).

Based on this, the Expert finds that the County has partially implemented the RP requirements and is in a strong position to demonstrate adequate implementation in the next six (6) months.

### **Partially Implemented**

- F. If the medical intake screening identifies that the person in custody requires any accommodations (e.g., housing, HCA/AD/DME), such accommodations shall be provided promptly to the incarcerated person. The need for such accommodations shall also be communicated to all relevant staff and documented in the ADA Tracking System/Existing ADA Tracking System.*

The following process is in place for cases where the intake medical screening identifies that the incarcerated person requires accommodations. CHS staff complete a CHS Function Performance Worksheet, enter an ADA Flag in TechCare, and schedule the incarcerated person for a Case Management Sick Call. CHS staff also

complete a CHS Inmate Health and Mobility Notification Form J-112. The J-112 includes the following:

- Alerts
  - Accessibility/Medical
    - Mobility
    - Dexterity
    - Hearing
    - Speech
    - Vision
    - Cognitive/Developmental
    - Learning
  - Mental Health
    - Danger to Self
    - Danger to Others
    - Gravely Disabled
- Housing Placement Request
  - ADA Compliant Cell Dorm
  - Low Bunk/Low Tier (No Stairs)
  - Low Bunk Only
  - Access to Electrical Outlet
  - Medical Unit (TLO, MJO, etc.)
  - Isolation/Quarantine
  - Frequent Access to Medical
  - Mental Health Housing (Acute)
  - Mental Health Housing (Chronic)
  - Other (Explain in Comments)
  - Regular Housing
- Transportation Requirements
  - Bus
  - SUV
  - Wheelchair Van
  - Other

The J-112 is scanned into TechCare and emailed to the Classification staff.

CHS staff also complete a CHS Inmate Health and Mobility Notification Form J-105A. The J-105A includes the following:

- Medical
  - Restrictions
    - No Court
    - No Dayroom
    - No Outdoor Recreation

- No Education Classes/Church
  - No Jail Issued ID Card
  - No Visits
  - No Work
- Requirements
  - Extra Mattress
  - Mattress on Floor
  - Bed Rest
  - Other
- Mental Health
  - Restrictions
    - No Dayroom
    - No Outdoor Recreation
    - No Education Classes/Church
    - No Work
    - No Jail Issued Id Card
    - No Commissary
    - No Bedding (Mattress Okay)
    - No Unsupervised use of Showers
    - No Off Compound Court
    - No Telephone (Ligature Risk)
    - No Visits No Mattress
    - No Court
    - No Showers
  - Requirements
    - CCR 1217 Involuntary Medication
    - Safety Cell
    - Restraint Chair
    - Restraint Bed
- Accessibility
  - Mobility/Dexterity/SMI
    - Brace
    - Cane
    - Crutches
    - Inmate Worker-Pusher
    - Prosthesis
    - Walker
    - Wheelchair
  - Hearing/Speech
    - Sign Language Interpreter
    - Video Remote Interpreter (VRI)
    - Hearing Aid(s)
    - HOH Vest
    - Pocket Talker
    - TTY

- Video Phone (VRS)
  - Speak Loudly
  - Use Written Notes
  - Able to Read Lips
- Cognitive/Developmental (Requires Assistance With)
  - Clinical Appointments
  - OCSD disciplinary hearings
  - Prompts for self-care (ADLs)
  - Reading
  - Writing
  - Comprehension/Understanding (Speak Slowly/Use Simple Words)
- Vision
  - Assigned Inmate Reader
  - Audio Player
  - Braille Materials
  - Visually Impaired Vest
  - Sunglasses
  - Tapping Cane
- Medical Supplies
  - Ace Wrap
  - Adult Diapers
  - Canvas Shoes
  - Contacts/Supplies
  - CPAP/BIPAP
  - Sleeve
  - Sling
  - Splint
  - Other

The J-105A is provided to custody and classification staff. CHS Nursing staff provides the Assistive Device when indicated and completes a Miscellaneous Message Slip (MMS) for Assistive Device. The J-112 and J-105A are also provided to the ADA Compliance Unit staff, who enter the information into the Existing ADA Tracking System.

During the incarcerated person interviews, the following cases were reported where the accommodations were not provided promptly:

- Incarcerated person housed at CMJ Mod E stated he had not been provided hearing aids.
- Incarcerated person housed at CMJ Mod O SL stated he was provided a cane two days after arrival and a back brace two weeks after arrival.



- Incarcerated person housed at IRC Mod N stated it took one (1) month to get his cane and wheelchair.
- Incarcerated person housed at TLF A/E Barracks stated it took 24 hours to receive his wheelchair.
- Incarcerated person housed at TLF Mod O stated it took five (5) days to receive his walker.
- Incarcerated person housed at TLF Mod P stated it took three (3) days to receive his cane.

The Expert was not able to confirm or refute these claims.

The Expert noted that a sufficient supply of Assistive Devices is available for issuance in the IRC and TLF medical intake screening areas for issuance to incarcerated persons. The County also has a process in place to advise classification staff of housing accommodations needs to ensure the housing accommodations are provided. The County also has a process in place for the information to be entered into the Existing ADA Tracking System.

The parties report that CHS provided to DRC for review draft revised ADA policies as well as draft revisions to Forms J-105A and J-112, with content consistent with relevant RP provisions on August 25, 2022. DRC's counsel provided feedback to these draft materials on September, 30, 2022. By agreement of the parties, this process would take place prior to the Expert's review. The parties report positive progress on CHS's policies, forms, and related materials pertinent to this section. The Expert will review these materials during the next monitoring round.

Based on this, the Expert finds that the County has partially implemented the RP requirements.

### **Partially Implemented**

- G. The medical staff shall immediately notify custody staff and the ADA Compliance Unit regarding a person's disabilities and disability-related needs.*

The Expert notes that the J-112 and J-105A, which include information for incarcerated persons who are identified with disabilities and their accommodation needs, are provided to the ADA Compliance Unit.

The Expert will review the revised J-112 and J-105A forms in the next round and monitor the specific practices, including the timeliness of the notification to the ADA Compliance Unit.

Based on this, the Expert finds that the County has partially implemented the RP requirements.

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### **Partially Implemented**

- H. All disabilities and disability-related accommodation needs identified during the intake process shall be tracked in the ADA Tracking System/Existing ADA Tracking System.*

The Expert notes that once the J-112 and J-105A are also provided to the ADA Compliance Unit staff, the information is entered into the Existing ADA Tracking System.

The Expert will review the revised J-112 and J-105A forms in the next round and will also assess compliance with this provision following implementation of the new ADA Tracking System.

Based on this, the Expert finds that the County has partially implemented the RP requirements.

### **Partially Implemented**

- I. CHS shall develop a process for conducting disability-related evaluations for persons in custody after the medical intake screening. Such evaluations can occur at the request of the person in custody, staff who observe a potential need for accommodation, or third parties. Like the medical intake screening, such evaluation shall be conducted by a qualified health care professional to determine whether a person has a disability and, if yes, any reasonable accommodations necessary for the person to have equal access to programs, services, and activities offered at the Jail.*

The Expert notes that the HCA/CHS policies do not include the process for the identification of an incarcerated person's disability and their disability-related accommodation needs after their initial intake. However, the CHS provided the Guideline for ADA Process, which includes a process to identify an incarcerated person's disability and their disability-related accommodation needs after booking. The Expert also notes that the HCA CHS Policy 8651 Cognitive or Developmentally Disabled Patients does not include the process for the identification of Intellectual/cognitive disabilities and the incarcerated person's accommodation needs (adaptive deficits and supports) for cases identified after booking.

Although the CHS produced a Guideline for ADA Process, which includes a process to identify an incarcerated person's disability and their disability-related accommodation needs after booking, the CHS policies and procedures do not include the language. The Expert recommends that the HCA CHS policies be revised to include the process for the identification of an incarcerated person's disability and their accommodation needs after booking.

The parties note that draft revisions to CHS Policy 6407-Reasonable Accommodations for Patients with Disabilities, which DRC's counsel has reviewed and provided comment on, contains language that will help to address the issue noted above. The Expert will review this revised policy and any other relevant policies in the next monitoring round.

Based on this the Expert finds that the County has partially implemented the RP requirements.

### **Partially Implemented**

## **D. Orientation (Section IV)**

- A. *The County shall ensure that persons with disabilities are adequately informed of their rights under the ADA, including but not limited to:*
1. *The right to reasonable accommodations;*
  2. *The process for requesting a reasonable accommodation;*
  3. *The grievance process, location of the forms, and process for getting assistance in completing the grievance process;*
  4. *The role of the OCSD and CHS ADA Coordinators and methods to contact them;*
  5. *Instructions on how persons with disabilities can access health care services, including the provision of Effective Communication and other accommodations available in accessing those services; and*
  6. *The availability of and process for requesting access to auxiliary aids, including sign language interpreters and other accommodations for people with disabilities affecting communication.*

The County produced the following documents, which are used to provide information on the services available to incarcerated persons with disabilities as well as the incarcerated person rules and regulations:

- Orange County Sheriff's Department Custody Operations ADA Information Brochure
- ADA Inmate Qualifications Acknowledgement of Rights/Programs
- Correctional Programs Inmate Orientation Brochure
- ADA Inmate Interview Worksheet
- Orange County Sheriff's Department Custody Operations Inmate Orientation

These documents include all of the RP requirements.

The County produced completed ADA Inmate Qualifications Acknowledgement of Rights/Programs for the following months:

- March 2022 – 64 Forms
- April 2022 – 56 Forms
- May 2022 – 60 Forms
- June 2022 – 42 Forms

The County produced completed Orange County Sheriff's Department Custody Operations ADA Information Brochures for the following months:

- March 2022 – 63 Forms
- April 2022 – 56 Forms
- May 2022 – 57 Forms
- June 2022 – 42 Forms

Following receipt of a J-112 and J-105A, the ADA Compliance Unit staff meet with the incarcerated person and conduct a face-to-face interview informing them of their rights under the ADA and complete the ADA Inmate Interview Worksheet. The ADA Inmate Interview Worksheet includes information related to accommodations provided during the intake process, Programs and Services (Shower, Dayroom, Visiting, Recreation, Transportation, Commissary, Grievances, Message Slips, Education, and Religious) available at the Jails. The incarcerated person acknowledges receipt of the ADA Brochure, signs the ADA Inmate Qualifications Acknowledgement of Rights/Programs, and signs the OCSD Inmate Jail Rules/Correctional Programs Brochure. The incarcerated person is also provided a pre-printed Inmate Message Slip addressed to the ADA Compliance Unit in the event the incarcerated person needs to contact the ADA Compliance Unit staff.

All incarcerated persons interviewed reported that the ADA Compliance Unit staff met with them and provided the information as required by the RP.

Based on this, the Expert finds that the County has adequately implemented the RP requirements.

### **Adequately Implemented**

- B. Upon booking, persons with disabilities shall receive, in an accessible format (including in the Spanish language), an orientation video regarding rules or expectations. Once they are housed, persons with disabilities shall receive, in an accessible format (including in the Spanish language): the Jail rules, the ADA information brochure, and the ADA inmate qualifications/acknowledgment of rights/programs form as part of the initial ADA interview process conducted by the ADA Compliance deputies.*

The County produced the Orange County Sheriff's Department Custody Orientation Video. The Expert notes the video is in English and Spanish and includes subtitle text.

The video does not include ASL format. The County reported that the orientation video is played in the IRC Loop holding cells. However, the Expert noted that of the 24 holding cells in the male booking loop, only seven (7) holding cells have a television. Of the seven (7) holding cells that have a television, one (1) of the televisions is inoperable. Of the two (2) holding cells that are used for incarcerated people with disabilities, only one (1) has a television. Of the eight (8) holding cells in the female booking loop, only three (3) holding cells have a television, and the one (1) holding cell that is used for incarcerated people with disabilities has a television. During the incarcerated person interviews, most incarcerated persons stated they were not provided with an orientation video during the intake and booking process.

As reported in question D.A above, the ADA information brochure and the ADA inmate qualifications/acknowledgment of rights/programs form, which is part of the initial ADA interview process, are consistently completed by the ADA Compliance Unit staff.

The County must ensure that incarcerated persons with disabilities receive an orientation video regarding rules and expectations in an accessible format if needed. The County reports that the orientation video will be added to the tablets. The Expert will monitor this during future monitoring.

Based on this, the Expert finds that the County has partially implemented the RP requirements.

### **Partially Implemented**

- C. *The County shall ensure that all information from the orientation process is communicated effectively to people with communication-related disabilities. The County shall ensure that any orientation videos are available with closed captioning and in the Spanish language.*

The County produced the Orange County Sheriff's Department Custody Orientation Video. The Expert notes the video is in English and Spanish and includes subtitle text. The video does not include ASL format. Additionally, in the review of the completed ADA Inmate Qualifications Acknowledgement of Rights/Programs, the Orange County Sheriff's Department Custody Operations ADA Information Brochures, and the ADA Interview/Activity Logs, the Expert notes that Effective Communication accommodations are being provided to the incarcerated persons during the interviews by the ADA Compliance Unit staff as reflected in the ADA Interview/Activity Logs.

The Expert notes that the Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities (currently in revision process) states, "Each inmate will receive a written copy of the Orange County Jail Rules and Orientation brochure as well as the ADA information brochure. Each inmate will sign acknowledging receipt of those documents. If an inmate is unable to read or understand the written material, due to various types of disabilities, ADA Compliance staff will make the appropriate

accommodations to ensure effective communication.” The CCOM also states, “ADA Compliance Unit shall document an inmate’s disability as well as reasonable accommodations, including any Effective Communication needs, in the JMS.”

The Expert recommends that the County ensure that orientation videos are provided to the incarcerated persons and, with alternative methods to communicate information to incarcerated persons with disabilities consistent with individual needs (ASL/SLI).

Based on this, the Expert finds that the County has partially implemented the RP requirements.

### **Partially Implemented**

- D. The County shall post an ADA Rights Notice that provides information about incarcerated persons’ rights under the ADA, reasonable accommodations, and contact information for the ADA Coordinator. The Notice shall be prominently posted in all housing units, in the booking/intake areas, in medical/mental health/dental treatment areas, and at the public entrances of all Jail facilities.*

During the onsite monitoring tour, the Expert confirmed that the ADA Rights Notice and ADA contact information was posted in all housing units of the Jails, in the booking areas at IRC and TLF, in medical, mental health, and dental treatment areas of all of the Jails and in all public entrances of all of the Jails. The Expert notes the ADA Rights Notice is in English, Spanish, and Vietnamese.

Based on this, the Expert finds that the County has adequately implemented the RP requirements.

### **Adequately Implemented**

- E. The County shall ensure that staff orient and provide individualized support for persons who are blind, low vision, deaf, hard of hearing, or who have Developmental or Intellectual disabilities when the County initially places such people in housing or transfers such people to a new housing unit. The orientation must be effectively communicated to ensure that the person with a disability can safely navigate the housing unit and understands how to request assistance, including from staff working in the housing unit. The nature and extent of the orientation will depend on individual need.*

During the onsite monitoring tour, the Expert queried the housing unit deputies regarding this requirement. Most deputies interviewed stated they provide unit orientation and individualized support for incarcerated persons who are blind, low vision, deaf, hard of hearing, or who have Developmental or Intellectual disabilities when they are initially placed and/or transferred into the unit.



However, the housing unit staff also reported that the provision of unit orientation is not documented. Additionally, the Expert notes that the County did not provide any documentation (proof of practice) that the unit orientation was provided and effectively communicated. During the incarcerated person interviews, all incarcerated persons who are blind, with low vision, deaf, hard of hearing, or who have Developmental or Intellectual disabilities stated that housing unit staff did not provide unit orientation and individualized support when they were initially placed and/or transferred into the unit. The Expert also notes that the Custody & Court Operations Manual (CCOM) does not include this requirement.

Based on this, the Expert has determined that the County has not implemented the RP requirements.

### **Not Implemented**

## **E. Effective Communication (Section V)**

- A. *For people with disabilities affecting communication, the County shall assess each person's Effective Communication need and shall provide Effective Communication based on individual need.*

The Health Care Agency Correctional Health Services Policy and Procedure 6002 ADA Effective Communication includes a process for the CHS staff to assess an incarcerated person's Effective Communication needs during the medical intake screening process. Once identified, the CHS staff document the Effective Communication accommodations on the CHS Functional Performance Worksheet and the CHS Inmate Health and Mobility Notification Form J-105A. The J-105A is provided to classification staff and the ADA Compliance Unit and entered into the Existing ADA Tracking System. The CHS has a process in place for the medical providers to identify the Effective Communication needs and provide and document the Effective Communication accommodations provided during the clinical encounter. The CHS policy also requires medical staff to access the ADA Tracking System or patient's EHR, as applicable, to identify whether the patient requires reasonable accommodations for effective communication prior to routine health encounters. CHS staff are also required to document the provision of Effective Communication in the patient's health record using an ADA Effective Communication form. The County produced 64 completed CHS Effective Communication Forms during the months of May to July 2022. The Expert notes that the Effective Communication Forms do not reflect the type of clinical encounter (medical, dental, or mental health), and at times the date of the encounter is not reflected as well. For future monitoring, the Expert requests that the County provide a list of incarcerated persons with Effective Communication accommodation needs, and from that list, the Expert will request a sample of medical, mental health, and dental progress notes and accompanying ADA



Effective Communication Forms (if completed) to measure the County's compliance with the RP requirements.

The Expert notes that the County has drafted revisions to the Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities which includes an Effective Communication section that requires custody staff to identify incarcerated persons with Effective Communication needs, provide and document the Effective Communication as required by the RP. The County reports that the form for staff to document Effective Communication is also being revised, with DRC providing feedback on draft revisions in September 2022.

The Expert determined from interviews with classification staff, staff involved in the disciplinary process (issuance and hearings), and staff involved in the service of notices to appear and service of new charges that they are currently not identifying Effective Communication needs and documenting Effective Communication accommodations provided during due process events, as required by the RP.

Once the revision to the Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities is finalized and the new Effective Communication Form is implemented, the Expert will be able to measure the County's compliance with this requirement.

Based on this, the Expert finds the County has partially implemented the RP requirements.

### **Partially Implemented**

- B. The County shall assess all people detained at the Jail for any period of time to determine if they have a disability that affects communication. A disability affects communication if it affects hearing, seeing, speaking, reading, writing, or understanding. Persons who have disabilities affecting communication include, but are not limited to, people who are blind or have low vision, who are deaf or hard of hearing, who have a speech, learning, Intellectual/Developmental Disability, who have a traumatic brain injury, or who have a mental illness.*

As stated above, the Health Care Agency Correctional Health Services Policy and Procedure includes a process for the CHS staff to assess an incarcerated person's Effective Communication needs during the medical intake screening process. The Expert interviewed CHS staff who were able to explain the process, including the process for CHS staff to alert custody staff of the Effective Communication accommodation needs of the incarcerated persons who are blind or have low vision, who are deaf or hard of hearing, who have a speech, learning, Intellectual/Developmental Disability, who have a traumatic brain injury, or who have a mental illness.

The incarcerated persons interviewed during the tour also reported that CHS staff identify their Effective Communication accommodation needs.

Based on this, the Expert finds that the County has adequately implemented the RP requirements.

### **Adequately Implemented**

- C. *In determining what accommodations are necessary to achieve Effective Communication, including what auxiliary aids and services may be necessary, the County shall give primary consideration to the preference of the person with Effective Communication needs.*

The Health Care Agency Correctional Health Services Policy and Procedure 6002 ADA Effective Communication (currently being revised) states, "In determining what accommodations are necessary to achieve effective communication, including what auxiliary aids and services may be necessary, CHS staff shall give primary consideration to the preference of the patient." The draft revisions to the Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities also require the identification of the incarcerated person's primary method of communication.

The County has a process in place to identify the incarcerated person's Effective Communication accommodations, with policy revisions and form development in process to ensure compliance with the RP. Further monitoring of implementation, including as to whether staff give primary consideration to the preference of the incarcerated person with Effective Communication needs, will be necessary. See Section E, below.

Based on this the Expert finds that the County has partially implemented the RP requirements.

### **Partially Implemented**

- D. *Effective auxiliary aids and services shall be provided when simple written or oral communication is not effective. Such aids may include, but are not limited to, bilingual aides, qualified sign language interpreters, certified deaf interpreters, oral interpreters, readers, sound amplification devices, captioned television/video text displays, speech-to-text, and real-time captioning, videophones, and other telecommunication devices for deaf persons (TDDs), video relay services, video remote interpreting services, audiotaped texts, Braille materials, large print materials, screen readers, writing materials, written notes, and signage.*

The Health Care Agency Correctional Health Services Policy and Procedure 6002 ADA Effective Communication (currently being revised) lists the following Assistive

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Devices and Methods of Technology that are Provided for Patients Needing ADA Effective Communication:

- Contracted qualified and certified translators and interpreters
- Qualified Sign Language interpreters, including American Sign Language (ASL) and Certified deaf interpreters
- Readers and speech-to-text, and real-time captioning
- Sound amplification devices
- Video Remote Interpreting (VRI)
- Video Relay Service (VRS)
- Closed captioning videos
- Speaking at an increased volume
- Speaking at a slower rate
- Providing replacement hearing aid batteries
- Large print educational handouts
- Issuing pocket talkers
- Repeating, rephrasing statements, and/or using basic language
- Allowing additional time for the patient to respond
- Vests to alert staff if the patient is hard of hearing or visually impaired
- Audiotaped texts, Braille materials, and screen readers
- Writing materials, written notes, and signage.
- Providing a mental health clinical staff member to assist, when warranted, for patients with a cognitive or Developmental disability (refer to CHS Policy and Procedure Cognitive and Developmentally Disabled Patients).

The draft revisions to the Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities list the following assistance or accommodations that may be provided to incarcerated persons with Effective Communication accommodation needs:

- Use of a qualified sign language interpreter
- Use of Simple English
- Use of a bilingual aide
- Repeated statements
- Speaking slowly
- Rephrasing statements
- Using written communication
- Using lip reading (only if the inmate's preferred/primary method of communication is lip reading)
- Use of sound amplification device
- Captioned television/video text displays
- Speech-to-text and real-time captioning
- Videophones and other telecommunication devices for deaf inmates
- Braille materials

- Screen readers
- Reading documents to the inmate
- Providing magnifier
- Using large print
- Using scribe
- Any other tool that was used to facilitate Effective Communication

In a review of the 64 completed CHS Effective Communication Forms, the Expert notes the Effective Communication accommodations listed in the CHS Policy and Procedure 6002 ADA Effective Communication are provided to incarcerated persons. The County did not provide completed Effective Communication Forms for the Due Process encounters as the Effective Communication Form has not been finalized.

Based on this, the Expert finds that the County has partially implemented the RP requirements.

### **Partially Implemented**

- E. The County shall ensure that staff provide Effective Communication such that persons with communication-related disabilities can participate as equally as possible in Jail programs, services, and activities for which they are qualified.*

During the onsite monitoring tour program, staff interviewed stated that there is not a process in place for staff to identify the Effective Communication accommodation needs of the incarcerated persons who are participating in the Jails programs as the Current ADA Tracking List is not distributed to all staff. However, the Expert notes that the specific Effective Communication accommodation needs are listed in the Current ADA Tracking List.

During the incarcerated person interviews, the incarcerated persons reported the following:

- An incarcerated person stated he is not provided an SLI during education programming.
- An incarcerated person stated that he could not understand medical staff during encounters.
- An incarcerated person stated that he could not understand medical staff during encounters as they use big words.
- An incarcerated person stated that at times medical staff is not aware of his accommodation needs unless he advises them.
- An incarcerated person housed in CMJ Mod A stated that during the monitoring tour was the first-time staff had used the VRI after two months of being housed at the Jail.

The Expert was not able to confirm or refute these claims.

The County must ensure that once CHS staff identifies the incarcerated person's primary/preferred method of communication and the incarcerated person's Effective Communication accommodations, they are tracked in the Current ADA Tracking List and distributed to program staff.

Based on this the Expert finds that the County has not implemented the RP requirements.

### **Not Implemented**

*F. The requirements in subsection (G) shall apply for Effective Communication in the following situations:*

*1. Due Process Events*

- a. Classification processes;*
- b. Jail disciplinary hearing and related processes;*
- c. Service of notice (to appear and/or for new charges);*
- d. Release processes;*

*2. Clinical Encounters*

- a. Obtaining medical history or description of ailment or injury;*
- b. Communicating diagnosis or prognosis;*
- c. Providing medical care (note: medical care does not include medication distribution);*
- d. Performing medical evaluations;*
- e. Providing mental health care;*
- f. Performing mental health evaluation;*
- g. Providing group and individual therapy, counseling, and other therapeutic activities;*
- h. Providing patient's rights advocacy/assistance;*
- i. Obtaining informed consent or refusal for provision of treatment;*
- j. Explaining information about: medications, medical or mental health procedures, treatment, or treatment options;*
- k. Explaining discharge instructions;*
- l. Providing clinical assistance during a medical/mental health round (note: this requirement does not apply to performing routine medical/mental health safety checks).*

The Health Care Agency Correctional Health Services Policy and Procedure 6002 ADA Effective Communication (currently being revised) lists the following clinical

encounters that require the provision of Effective Communication accommodations and completion of an ADA Effective Communication:

- Health history, current ailments, and/or injuries
- Diagnosis, treatment options, and prognosis
- Health evaluations
- Individual and group therapy/counseling and evaluation sessions
- Assistance with patient's rights advocacy
- Informed consent or refusal of health care
- Explaining medications, medical or mental health procedures, and discharge instructions
- Providing clinical assistance during a medical/mental health round

The draft revisions to the Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities list the following events and other processes that rise to the level of the higher standard for ensuring Effective Communication by OCSD staff:

- Classification interviews and processes
- Sergeant's Disciplinary hearings.
- Major Jail Rule Violation Interviews (e.g., serving initial copies of documents, etc.)
- Special Management Unit placement and related processes.
- Service of notice (to appear and/or for new charges).

Based on the revisions to the Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities and 6002-ADA Effective Communication not being finalized, the Expert finds that the County has partially implemented the RP requirements.

The Expert will review the revised policies and implementation of this provision - specifically, whether the higher standard for ensuring Effective Communication is applied, in the next monitoring round.

### **Partially Implemented**

*G. In the situations described in subsection (F) above, Jail staff shall:*

- 1. Prior to the encounter, access the ADA Tracking System or Electronic Health Record system (as applicable) and identify if the person requires reasonable accommodation(s) for Effective Communication;*
- 2. Provide reasonable accommodation(s) to achieve Effective Communication; and*
- 3. Document the method used to achieve Effective Communication and how the staff person determined that the person understood the encounter, process, and/or proceeding.*

The Health Care Agency Correctional Health Services Policy and Procedure 6002 ADA Effective Communication (currently being revised) and the draft revisions to the Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities include the RP requirements for the identification, provision, and documentation of the Effective Communication accommodations.

The CHS provided completed Effective Communication Forms that reflect staff is meeting the RP requirements. The Expert notes, however, that multiple incarcerated people reported that medical staff had not provided them with Effective Communication (see V.E). Moreover, the County currently does not have a process in place for custody and classification staff to identify, provide, and document the Effective Communication accommodations. Accordingly, the Expert finds that the County has partially implemented the RP requirements.

For future monitoring, the Expert requests that the County provide a list of incarcerated persons with Effective Communication accommodation needs, and from that list, the Expert will request a sample of medical, mental health, and dental progress notes and accompanying ADA Effective Communication Forms (if completed), as well as relevant custody documents, to measure the County's compliance with the RP requirements.

### **Partially Implemented**

- H. Lip reading generally should not be used by staff as a means of Effective Communication. If an incarcerated person's preferred/primary method of communication is lip reading, then staff shall accommodate by speaking slowly and loudly.*

The Health Care Agency Correctional Health Services Policy and Procedure 6002 ADA Effective Communication states, "Lip reading shall only be used when identified as the patient's primary method of communication. If a patient's preferred/primary method of communication is lip reading, then staff shall accommodate by speaking slowly and loudly."

The Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, "An inmate's ability to lip read shall not be used by staff as a means of Effective Communication unless it is the inmate's preferred/primary method of communication."

Based on the revisions to the Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities and 6002-ADA Effective Communication not being finalized, the Expert finds that the County has partially implemented the RP requirements.

### **Partially Implemented**



- I. *The County shall establish a process for logging all instances where sign language interpreters are provided to persons in custody. The County shall also log all instances where a sign language interpreter was needed but was not provided.*

The Health Care Agency Correctional Health Services Policy and Procedure 6002 ADA Effective Communication states, “In the event a SLI is not available, is waived, or refused by the patient, CHS clinical staff shall employ the most effective form of communication available (i.e., VRI) when communicating with a patient with a hearing disability. For patients refusing SLI assistance, A Refusal to Accept Treatment and Release of Liability Form is completed with the reason.”

The draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities policy states, “Staff shall complete the Effective Communication (EC) form and notify (email) the ADA Compliance Unit and record when, for whom, and for what purpose a sign language interpreter was used. If there is a safety or security risk presented that does not permit the use of a Sign Language interpreter or VRI device, staff must document the justification for proceeding without those services on the Effective Communication (EC) form.”

Based on the revisions to the Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities and 6002-ADA Effective Communication not being finalized, the Expert finds that the County has partially implemented the RP requirements.

### **Partially Implemented**

## **F. Intellectual and Developmental Disabilities (Section VI)**

- A. *OCSD and CHS shall develop and implement comprehensive and coordinated written policies and procedures on serving incarcerated people with Intellectual/Developmental Disabilities.*

The Health Care Agency Correctional Health Services Policy and Procedure 8651 Cognitive or Developmentally Disabled Patients (currently being revised) includes comprehensive policies and procedures for the identification and verification of incarcerated persons with cognitive and Developmental disabilities and their adaptive support deficits and adaptive support needs. The County reports that the CHS is currently screening all incarcerated persons at booking for cognitive and Developmental disabilities.

The Expert was informed that CHS provided draft revisions to CHS Policy 8631 (Cognitive or Developmentally Disabled Patients) on approximately August 24, 2022. DRC provided written feedback on the draft revised policy on September 30, 2022.

In addition, CHS is developing a Functional Performance Worksheet That includes procedures for assessment of needs related to Activities of Daily Living and cognitive processing.

By agreement of the parties, this policy and form revision/review process would take place prior to the Expert's review. The parties report positive progress on CHS's policy and training materials pertinent to this section of the Settlement Agreement.

The CHS reports that the following process is in place for the screening/identification of incarcerated persons known to have an Intellectual/Developmental Disability:

- If a person is known to have an Intellectual/Developmental Disability identified by CDCR, Family, or Regional Center, the CHS ADA committee will complete a Functional Performance Worksheet (FPW), J-112, and J-105 within seven (7) business days.
- CHS ADA committee will refer the person to a licensed clinical psychologist for follow-up if assistance is identified and needed within a reasonable time period of no more than 14 days. An appointment shall be scheduled in the Mental Health Clinical Staff Sick Call, and an email reminder shall be sent to CHS licensed clinical psychologist.
- CHS ADA committee will add the person known to have an Intellectual/Developmental Disability onto the ADA Functional List and put a "DD" flag in TechCare.
- A licensed psychologist will continue to provide behavioral health services, which include but are not limited to developing an individualized plan that addresses (1) safety, vulnerability, and victimization concerns, (2) adaptive support needs, and (3) programming, housing, and accommodation needs while the person is in custody.
- Follow-up behavioral health services by a licensed clinical psychologist will be provided every 30 days or as needed.
- The individualized plan will be documented as CIP/CARE PLAN in TechCare.
- If the licensed psychologist becomes aware that a person with an Intellectual/Developmental Disability has a change in (1), (2), and/or (3) above during a follow-up visit, the licensed psychologist will schedule a referral for Medical Case Management Sick Call with the subject line stating "ADA DD Update" to inform the multidisciplinary ADA team to review the plan to update appropriate intervention(s) implemented.

The CHS reports that the following process is in place for the screening/identification of incarcerated persons suspected of having an Intellectual/Developmental Disability:

- If a person is suspected of having an Intellectual/Developmental Disability, a referral shall be made through scheduling an appointment in TechCare for a secondary screening performed by a licensed clinical psychologist within seven (7) business days.
- The secondary screening includes
  - Mental Health Cognitive Deficit Assessment Notes
  - California Adaptive Support Evaluation
  - Montreal Cognitive Assessment
  - Completion of a Functional Performance Worksheet
  - Completion of a J-105 and J-112
- If the screening result confirms the suspicion, the licensed clinical psychologist shall inform the CHS ADA committee through scheduling a Medical Case Management Sick Call with the subject line " ADA DD update" to add the person to the ADA Functional List and activate a DD flag in TechCare.
- The licensed clinical psychologist will follow up with patients.

The draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities policy includes comprehensive policies and procedures and include specific processes for the following:

- Tracking of incarcerated persons who have been identified with Intellectually/Developmental disabilities and their adaptive support needs.
- Housing including safety considerations
- Provision of adaptive supports (monitoring, prompts, reminders, etc.) for showers, brushing teeth, laundry exchange, cell cleaning, recreation/dayroom, commissary, property, health care appointments, and victimization concerns.
- Multidisciplinary Team.

The Expert notes and the County reported that the draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities is still in the process of being finalized. Based on the revisions to the Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities and CHS Policy 8651 (Cognitive or Developmentally Disabled Patients) not being finalized, the Expert finds that the County has partially implemented the RP requirements.

### **Partially Implemented**

- B. CHS will develop and adopt a comprehensive screening process for trained clinical staff to identify Intellectual/Developmental Disabilities, including cognitive deficits, adaptive functioning deficits, and adaptive support needs.*
- 1. If a person is known to have or suspected of having an Intellectual/Developmental Disability, the County shall provide a secondary screening performed by a licensed clinical psychologist within seven (7) business days.*

2. *CHS will timely contact the appropriate Regional Center and request the person's current Individualized Program Plan (IPP) with the person's authorization. Once received, health care and custody staff will review the IPP to ensure that appropriate supports and services are provided.*
3. *Whenever possible, Jail staff will work with the Regional Center and any relevant County agencies to move a person with an identified Intellectual or Developmental Disability out of custody and into a setting with appropriate supports to meet the person's individual needs.*
4. *CHS and OCSD will timely provide relevant information and input about a person's Intellectual/Developmental Disabilities and related needs to OCSD Classification and ADA Compliance Unit staff for appropriate consideration as to housing, work assignments, disciplinary measures, and other relevant matters.*

As detailed in section F. A. above, the County has a screening process, which is in the process of revision/development, for trained clinical staff to identify Intellectual/Developmental Disabilities, including cognitive deficits, adaptive functioning deficits, and adaptive support needs. The screening process includes the RP requirements.

The Current ADA Tracking List includes nine (9) incarcerated persons identified as Developmentally Disabled. However, the County did not produce the screening results or communication with the Regional Center requesting the IPP and the information related to consideration for housing, work assignments, disciplinary measures, and other relevant matters.

For future monitoring, the Expert will review the updated Policy 8651, the new Functional Performance Worksheet, and other newly developed policies/forms, and will need the information listed above to measure the County's compliance with the RP requirements.

Based on this, the Expert finds that the County has partially implemented the RP requirements.

### **Partially Implemented**

- C. *A multidisciplinary team that includes appropriate health care staff shall monitor and ensure appropriate care and support for people with an Intellectual/Developmental Disability. For each patient, the multidisciplinary team will develop an individualized plan that addresses: (1) safety, vulnerability, and victimization concerns, (2) adaptive support needs, and (3) programming, housing, and accommodation needs. The multidisciplinary team's plan will be reviewed quarterly. If a member of the team becomes aware that a person with an Intellectual/Developmental Disability has a change in (1), (2), or (3) above, the team will promptly review and, if necessary, update the person's plan.*

The Health Care Agency Correctional Health Services Policy and Procedure 8651 Cognitive or Developmentally Disabled Patients (currently being revised) requires a CHS licensed Clinical Psychologist II to create an individualized treatment plan. The treatment plan is required to be documented within the Crisis Intervention Plan (CIP) Care Plan of the patient's health record and must address the following:

- safety, vulnerability, and victimization concerns
- adaptive support needs
- programming and housing accommodations

Although the current Health Care Agency Correctional Health Services Policy and Procedure 8651 Cognitive or Developmentally Disabled Patients includes a process for a clinician to create an individualized treatment plan as required by the RP, the policy does not address the requirements for a multidisciplinary team to review the individualized plan quarterly and, if necessary, update the individualized plan.

The Expert notes that the CJX and TLF ADA Tracking lists include nine (9) incarcerated persons identified with Developmental disabilities. However, the County did not produce the individualized plans. Additionally, the County produced ADA MDT Meeting Minutes (January 10, 2022, and April 12, 2022). In a review of the minutes, the Expert found that the minutes do not reflect that the multidisciplinary team reviewed every individualized plan for all of the incarcerated persons with a Developmental Disability as required by the RP.

The draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities includes the RP requirements for a multidisciplinary team to monitor and ensure appropriate care and support for incarcerated persons with Intellectual/Developmental disabilities.

Based on the revisions to the Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities not being finalized and the Health Care Agency Correctional Health Services Policy and Procedure 8651 Cognitive or Developmentally Disabled Patients does not address the requirements for a multidisciplinary team to review the individualized plan quarterly and, if necessary, update the individualized plan, the Expert finds that the County has partially implemented the RP requirements. As the revised policies and forms are implemented, the Expert will monitor their implementation during the next monitoring round.

### **Partially Implemented**

- D. Relevant staff, including housing deputies, the ADA Compliance Unit, and work supervisors/teachers, shall be trained and informed, as appropriate, as to (a) incarcerated people with Intellectual/Developmental Disabilities, their individualized plan, and related accommodation and adaptive support needs; and (b) staff*

*responsibilities to provide for such needs as well as to monitor for and address any safety, vulnerability, or victimization concerns.*

The draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities includes the RP requirements for staff to monitor and ensure appropriate care and support for incarcerated persons with Intellectual/Developmental disabilities.

The County produced the following training documents:

- Americans With Disabilities Act (2 Hour Lesson Plan)
- Americans With Disabilities Act PowerPoint Presentation (54 slides)
- Standards and Training for Corrections Program (Correctional Officers Supplemental Course 4/25/22 to 5/11/22) with 27 participants
- Critical Incident Training (Mental Health Intervention Training 1) 8 Hours
- Mental Health Intervention Training CIT I (Crisis Intervention Training for Law Enforcement I) 16 Hours Expanded Course Outline

The training material includes a segment on the adaptive support needs of incarcerated people with Intellectual/Developmental Disabilities. The County and custody staff interviewed reported they have provided and received the 2-Hour Americans With Disabilities Act training within the last two (2) months. However, training records were only provided for one (1) Correctional Academy Class. Work supervisors/teachers stated they had not been provided any ADA Training.

The Expert notes that work supervisors/teachers have not been trained on the RP requirements of the individualized plan and related accommodation and adaptive support needs; their responsibilities are to provide adaptive supports as well as to monitor and address any safety, vulnerability, or victimization concerns.

Based on this, the Expert finds that the County has partially implemented the RP requirements.

### **Partially Implemented**

*E. People identified as having an Intellectual/Developmental Disability shall be provided with accommodations and adaptive supports tailored to their needs, including (but not limited to) communications at the appropriate comprehension level, more time to complete directions, and specific behavioral and activities of daily living (ADL) supports.*

- 1. Jail staff will be assigned, as appropriate, to assist with health appointments, classification or disciplinary proceedings, housing/facility transfers, and other events involving potentially complex communications.*
- 2. The ADA Compliance Unit shall track provision of supports for people with Intellectual/Developmental Disabilities on the ADA Inmate Activity Log.*



The draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities includes the RP requirement for staff to provide incarcerated persons with Intellectual/Developmental disabilities with accommodations and adaptive supports tailored to their needs, including (but not limited to) communications at the appropriate comprehension level, more time to complete directions, and specific behavioral and activities of daily living (ADL) supports. The Custody & Court Operations Manual (CCOM) 1602.5 Discipline Policy states, “The inmate shall have access to staff or inmate assistance when the inmate is illiterate, or the issues are complex.” The Custody & Court Operations Manual (CCOM) 1200 Classification Policy does not address the RP requirements for Jail to be assigned as an assistance, as appropriate, to assist with the classification proceedings/hearings, housing/facility transfers, and other events involving potentially complex communications. The Health Care Agency Correctional Health Services Policy and Procedure 8651 Cognitive or Developmentally Disabled Patients states, “ADA Nurse Coordinator Responsibilities may include assisting the patient with comprehension with non-emergent health interviews/appointments.”

The Health Care Agency Correctional Health Services Policy and Procedure 6407 Reasonable Health Accommodations for Patients with Disabilities (currently being revised) states, “When clinically indicated, CHS mental health clinical staff serve as assistants for patients diagnosed with a cognitive or Developmental disability to assist with non-emergent health interviews/appointments, custody disciplinary hearings, and inter and intra-facility transfers (refer to CHS P&P 8651 Cognitive and Developmentally Disabled Patients).”

However, the Expert notes the County did not produce documentation of cases where staff provided assistance with health appointments, classification or disciplinary proceedings, housing/facility transfers, and other events involving potentially complex communications.

The County produced 19 ADA Interview/Activity Logs for incarcerated persons identified as having an Intellectual/Developmental disability. The Expert notes the logs reflect ADA Compliance Unit staff meet monthly with the incarcerated person to address verbal and written communication, visits, commissary, and self-care. The Expert notes that the ADA Interview/Activity Logs do not reflect any entries by staff who provided accommodations and adaptive supports, including communications, more time to complete directions, and specific behavioral and ADL supports and assistance with health appointments, classification, or disciplinary proceedings, housing/facility transfers, and other events involving potentially complex communications.

Based on this, the Expert finds the County has not implemented the RP requirements.

**Not Implemented**



- 
- F. Incarcerated people with Intellectual/Developmental Disabilities, as well as learning disabilities, will have access to easy reading books, magazines, and electronic tablet programs consistent with their reading and cognitive abilities, such that they have equal access to such materials as compared with other incarcerated people at the Jail.*

During the onsite monitoring tour, the Expert noted that there is recreational material available for the incarcerated persons; however, there are no easy reading book selections. Additionally, the incarcerated persons with Intellectual/Developmental Disabilities, as well as learning disabilities (literacy concerns) who were interviewed stated they are not provided access to easy reading books and magazines. Post monitoring tour the County provided samples of easy reading books available to the incarcerated persons.

The Expert notes and the County reported that they expect that the electronic tablet program will be rolled out by the first quarter of 2023 and that tablets will be provided.

The County must ensure that the incarcerated persons with Intellectual/Developmental Disabilities as well as learning disabilities (literacy concerns) are informed of the availability of easy reading books and magazines. The County must also ensure the electronic tablets when implemented include easy reading content.

Based on this, the Expert finds the County has not implemented the RP requirements.

### **Partially Implemented**

- G. CHS and OCSD staff will provide discharge planning tailored to the needs of people with Intellectual/Developmental Disabilities, including appropriate and effective linkages to housing assistance and community-based service providers.*

The Health Care Agency Correctional Health Services Policy and Procedure 8651 Cognitive or Developmentally Disabled Patients (currently being revised) states, "Discharge Planning - CHS JCRP Clinicians are responsible for coordinating discharge planning for patients with cognitive and or Developmental disabilities, making referrals, and linking them to appropriate community providers."

The draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities does not address the RP requirements for staff to provide discharge planning tailored to the needs of people with Intellectual/Developmental Disabilities, including appropriate and effective linkages to housing assistance and community-based service providers.

Although the Health Care Agency Correctional Health Services Policy and Procedure 8651 Cognitive or Developmentally Disabled Patients includes the RP requirements,

the County will need to provide completed discharge plans for incarcerated persons with Intellectual/Developmental Disabilities for the Expert to measure the County's compliance with the RP requirements.

Based on this, the Expert has determined that this requirement is un-ratable.

#### **Un-ratable**

### **G. Health Care Appliances, Assistive Devices, Durable Medical Equipment (Section VII)**

- A. *The County shall immediately provide HCA/AD/DME to persons for whom HCA/AD/DME are a reasonable accommodation. The County shall ensure an individualized assessment by qualified health care staff to determine whether HCA/AD/DME is warranted and to ensure equal and meaningful access to programs, services, and activities in the Jail.*

The Health Care Agency Correctional Health Services Policy and Procedure 6407 Reasonable Health Accommodations for Patients with Disabilities (currently being revised) and the draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities include processes for the County to perform an individualized assessment by CHS staff and the provision of HCAs/ADs/DME.

CHS staff interviewed stated that when the need for the accommodation is identified, the CHS staff provides the HCA/AD/DME pending an evaluation by a medical provider. The incarcerated persons interviewed confirmed they were provided the HAC/AD/DME upon this determination.

The County produced Periodic Automatic Replenishment (PAR) logs for the MJ, TLF, and IRC. The logs reflect that the inventory available is within the established PAR levels. The Expert also confirmed that an ample supply of canes, crutches, wheelchairs, braces, tapping canes, and walkers are available for issuance to the incarcerated persons in the IRC, MJ and TLF.

The County provided the following list of common devices ordered:

Device	Flag ADA?	ADA Impairment
AFO Brace	Yes	Mobility
Ace Wrap only	No	None
Abdominal Binder	No	None
Cane	Yes	Mobility
Canvas Shoes	No	None
Crutches	Yes	Mobility

Hearing Aids		Yes	Hearing
Knee Immobilizer		Yes	Mobility
Knee Sleeve		No	None
Neoprene knee sleeve (Soft knee brace)		No	None
Post Op Shoe		Yes	Mobility
Prosthesis	Arm	Yes	Dexterity
	Leg	Yes	Mobility
Sling		Yes	Dexterity
Shoulder Immobilizer		Yes	Dexterity
Splint	Arm	Yes	Dexterity
	Leg	Yes	Mobility
Tapping cane		Yes	Vision
Walker		Yes	Mobility
Walking boot		Yes	Mobility
Wheelchair		Yes	Mobility

As noted in Sabot's original assessment of Orange County Jail disability policies/practices (at 70), the County must demonstrate that it conducts a "case-by-case analysis as to whether the assistive devices are needed to ensure a given individual is provided meaningful access to programs, services, and activities offered by the county jail," applying a standard that focuses on "access, not simply medical necessity."

In this monitoring round, the parties productively navigated, for example, the provision of tinted glasses for an individual who required them to meaningfully access the programs, services and activities at the jail, which included appropriate revision of CCOM 1600.3 to align with RP requirements. In the next monitoring round, the Expert will continue to monitor actual practice with respect to the provision of HCA/AD/DME to ensure meaningful program access for people with disabilities.

Based on this, the Expert has determined that the County has partially implemented the RP requirement.

### **Partially Implemented**

- B. The County shall track and document the inspection and maintenance of HCA/AD/DME. Such documentation shall include the following information for each device: whether the person has all assigned HCA/AD/DME; whether the person believes the assigned HCA/AD/DME is appropriate; whether the HCA/AD/DME is in good working order; and, if the HCA/AD/DME requires repair or replacement or is*

*inappropriate for the person, a description of the actions taken (e.g., to repair/replace HCA/AD/DME, evaluation for different HCA/AD/DME, etc.).*

The draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, "The ADA Compliance Unit will inspect the device at the monthly interview with the inmate and will indicate on the ADA Inmate Activity Log whether the inmate has the assigned device; whether the inmate believes the assigned device is appropriate; whether the device is in good working order; and if the device requires repair or replacement or is inappropriate for the inmate and a description of the actions taken (e.g., to repair/replace the device, have the inmate evaluated for a different device, etc.)." The ADA Compliance Unit staff interviewed stated they document the results of the inspection on the ADA Interview/Activity Log.

Additionally, although not included in a CHS policy, the ADA Case Management staff conduct and complete an Assistive Device Monthly Checklist that includes the RP requirements.

The Expert reviewed a sample of the 441 ADA Interview/Activity Logs the County produced and confirmed that the ADA Compliance Unit conducts a monthly inspection and maintenance check of the HCA/AD/DME issued to the incarcerated persons. The Expert noted that for every case where an incarcerated person is prescribed a HCA/DME/AD, the ADA Compliance Unit staff address the condition of the HCA/DME/AD. One of the logs reflect, "is requesting a new walker. She said the leg of the walker was cracked and scrapping. The Module K RN notified regarding the walker. RN said she'll look at the walker during the next rounds. RN will replace walker if needed." The logs also reflect, "HCA/AD/DME is in good working order and does NOT require repair or replacement."

The Expert reviewed a sample of the 210 CHS Assistive Device Monthly Checklists produced by the County and confirmed that the CHS staff conducts a monthly inspection and maintenance check of the HCA/AD/DME issued to the incarcerated persons. The CHS Assistive Device Monthly Checklist includes the following:

- Device Check
  - Appropriate? Yes/No
  - Good Working Order? Yes/No
  - Requires repair or replacement? Yes/No
- Wheelchair only (R- Requires Repair, S- Satisfactory, G – Good Working Order)
  - Brakes
  - Armrest
  - Footrests
  - Tire tread
  - Seat (no tears)

CHS's Assistive Device Monthly Checklist form is currently in development, with DRC counsel providing input on the draft form on September 30, 2022. With the finalization and implementation of this form, the County is in a strong position to demonstrate that this provision is adequately implemented in the next monitoring round.

Based on this, the Expert has determined that the County has partially implemented the RP requirement.

### **Partially Implemented**

- C. The County shall ensure that all County-provided wheelchairs are in working order and have features consistent with individual needs.*

As reported in section B above, the County has a process in place where CHS and ADA Compliance Unit staff conduct inspections of the HCA/AD/DME, including wheelchairs.

The incarcerated persons interviewed who use wheelchairs confirmed that the County-provided wheelchairs are in working order and have features consistent with their individual needs.

The Expert reviewed a sample of the 210 CHS Assistive Device Monthly Checklists produced by the County and confirmed that the CHS staff conducts a monthly inspection and maintenance check of the HCA/AD/DME issued to the incarcerated persons. The CHS Assistive Device Monthly Checklist includes the following:

- Device Check
  - Appropriate? Yes/No
  - Good Working Order? Yes/No
  - Requires repair or replacement? Yes/No
- Wheelchair only (R- Requires Repair, S- Satisfactory, G – Good Working Order)
  - Brakes
  - Armrest
  - Footrests
  - Tire tread
  - Seat (no tears)

CHS's Assistive Device Monthly Checklist form is currently in development, with DRC counsel providing input on the draft form on September 30, 2022. The finalization and implementation of this form will assist the County in achieving long-term, sustained compliance with respect to this provision.

Based on this, the Expert has determined that the County has adequately implemented the RP requirement.

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### **Adequately Implemented**

- D. The County shall not charge people in custody for the provision, repair, or replacement of HCA/AD/DME.*

The Health Care Agency Correctional Health Services Policy and Procedure 6407 Reasonable Health Accommodations for Patients states, “All devices provided, their repair, or replacement are free of charge to the patient.”

Staff reported, and the incarcerated persons interviewed confirmed, that they are not charged for the HCA/AD/DME or the repair of the devices.

Based on this, the Expert has determined that the County has adequately implemented the RP requirement.

### **Adequately Implemented**

- E. Personal HCA/AD/DME. The County shall allow people to retain personal HCA/AD/DME (including reading glasses, as allowed by current policy) unless there is an individualized determination that doing so would create an articulated safety or security risk.*

The draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, “Inmates with disabilities may arrive with an assistive device, such as a cane, crutch, walker, wheelchair, or an orthopedic or prosthetic appliance. Unless a Captain or Watch Commander determines and documents, based on an individualized assessment in the Safety and Security Assessment Form, that the said device or appliance constitutes an immediate risk of bodily harm to inmates, staff or threatens the security of the facility, the inmate shall be allowed to retain the device or appliance.”

The County reported that the following process is in place when incarcerated persons are booked into custody with personal assistive devices (i.e., Cane, Crutches, Tapping cane, Walker, Wheelchair):

#### **CHS Triage RN**

- Verify the device
- Tag the device with Name, DOB, OCN
- Hand-off tagged device to Arresting Officer
- Document the condition of the device in TechCare

#### **Uncuff Deputies**

- Verify tagged device and inspect for security purposes
- Sign off property sheet

#### Property CST

- Pick up the tagged device to the property room
- Document in the device log

Staff reported, and the incarcerated persons interviewed confirmed, that incarcerated persons are allowed to keep the HCA/AD/DME once prescribed and authorized by CHS and the ADA Compliance Unit.

The subsections to this provision, as discussed below, are a mix of “Implemented” and “Unratable” designations. Each of these subsection requirements must be implemented for this provision to receive an Adequately Implemented designation. The County will be in a position to achieve an Adequately Implemented designation with the completion of relevant policies, forms, and proof of practice, including as noting the discussion below.

#### Partially Implemented

- 1. Where Jail staff determine it is necessary to remove an individual’s personal HCA/AD/DME for safety and security reasons, the County shall immediately provide an equivalent alternative Jail-issued device unless custody staff, with supervisory review, determine and document, based on an individualized assessment, that the device constitutes a risk of bodily harm or threatens the security of the facility.*

Although the draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities includes a formalized process for custody staff to conduct and document the individualized assessment, the County reports that the policy has not been finalized, and the Security Assessment Form has not been finalized.

Based on this, the Expert has determined this requirement is un-ratable.

#### Un-ratable

- 2. If such a determination is made, an ADA Coordinator or supervisory level designee shall document the decision and reasons for it and shall consult with medical staff within 48 hours to determine an appropriate alternative device and/or accommodation.*

Although the draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities includes a formalized process for custody staff to conduct and document the individualized assessment, the County reports that the policy has not been finalized, and the Security Assessment Form has not been finalized.

Based on this, the Expert has determined this requirement is un-ratable.



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### **Un-ratable**

3. *If an individual's personal HCA/AD/DME is in need of repair, the County shall either repair the HCA/AD/DME at the County's expense or provide the person with a replacement HCA/AD/DME at the County's expense while the person is incarcerated.*

The Health Care Agency Correctional Health Services Policy and Procedure 6407 Reasonable Health Accommodations for Patients (currently being revised) states, "Whenever a patient's personal DME or assistive device needs repair, CHS staff shall coordinate the repairs needed with the CHS Supply team. The patient will be provided a comparable device while their DME/assistive device is being repaired to accommodate their individual needs. All devices provided, their repair, or replacement are free of charge to the patient."

Staff reported, and the incarcerated persons interviewed confirmed, that in cases where their personal HCA/AD/DME is in need of repair, the County repairs the device at the County's expense or provides a replacement at the County's expense. The incarcerated person stated he was provided a County issued walker and when the walker was in need of repair it was repaired within two (2) days.

OCSD is in the process of developing a Safety and Security Assessment Form that will facilitate full implementation of this and related requirements. The parties report that DRC counsel has reviewed and provided feedback regarding this form and related policy revisions, which the County has considered and substantially incorporated. With implementation of this form and related ADA policies as well as proof of practice, the County will be in a good position to achieve an Adequately Implemented designation.

Based on this, the Expert has determined that the County has partially implemented the RP requirement.

### **Partially Implemented**

4. *Any HCA/AD/DME provided by the County to replace an individual's personal HCA/AD/DME shall be sufficient to provide the person with safe access to the Jail's programs, services, and activities.*

The Health Care Agency Correctional Health Services Policy and Procedure 6407 Reasonable Health Accommodations for Patients (currently being revised) states, "The patient will be provided a comparable device while their DME/assistive device is being repaired to accommodate their individual needs."

Staff reported and the incarcerated persons interviewed confirmed, that in cases where the County provides HCA/AD/DME replacing a personal HCA/AD/DME, the replacement is comparable to their personal device and provides them safe access to the Jail's programs, services, and activities.

OCSD is in the process of developing a Safety and Security Assessment Form that will facilitate full implementation of this and related requirements. The parties report that DRC counsel has reviewed and provided feedback regarding this form and related policy revisions, which the County has considered and substantially incorporated. With implementation of this form and related ADA policies as well as proof of practice, the County will be in a good position to achieve an Adequately Implemented designation.

Based on this, the Expert has determined that the County has partially implemented the RP requirement.

#### **Partially Implemented**

5. *If the County repairs a personal HCA/AD/DME, the County shall provide the person with an interim HCA/AD/DME while the personal HCA/AD/DME is being repaired.*

The Health Care Agency Correctional Health Services Policy and Procedure 6407 Reasonable Health Accommodations for Patients states, "The patient will be provided a comparable device while their DME/assistive device is being repaired to accommodate their individual needs."

Staff reported, and the incarcerated persons interviewed confirmed, that in cases where the County is repairing a personal HCA/AD/DME, the County provides an interim HCA/AD/DME while their personal HCA/AD/DME is being repaired.

OCSD is in the process of developing a Safety and Security Assessment Form that will facilitate full implementation of this and related requirements. The parties report that DRC counsel has reviewed and provided feedback regarding this form and related policy revisions, which the County has considered and substantially incorporated. With implementation of this form and related ADA policies as well as proof of practice, the County will be in a good position to achieve an Adequately Implemented designation.

Based on this, the Expert has determined that the County has partially implemented the RP requirement.

#### **Partially Implemented**

- F. Prosthetics. The County shall permit any person who has a prosthetic limb or similar device and needs such prosthesis full use of such prosthesis while in custody absent specifically identified security concerns.*

The draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, "Inmates with disabilities may arrive with an assistive device, such as a cane, crutch, walker, wheelchair, or an orthopedic or prosthetic appliance. Unless a Captain or Watch Commander determines and documents, based on an individualized assessment in the Safety and Security Assessment Form, that the said device or appliance constitutes an immediate risk of bodily harm to inmates, staff or threatens the security of the facility, the inmate shall be allowed to retain the device or appliance."

Staff reported, and the incarcerated persons interviewed confirmed, that they are allowed to keep their prosthetics and they are allowed full use of their prosthetics while in custody.

OCSO is in the process of developing a Safety and Security Assessment Form that will facilitate full implementation of this and related requirements. The parties report that DRC counsel has reviewed and provided feedback regarding this form and related policy revisions, which the County has considered and substantially incorporated. With implementation of this form and related ADA policies as well as proof of practice, the County will be in a good position to achieve an Adequately Implemented designation.

Based on this, the Expert has determined that the County has partially implemented the RP requirement.

### **Partially Implemented**

- 1. If a prosthetic limb or device is removed, a health care provider will examine the person as soon as possible, and not later than the next sick call after the removal, in order to address any negative impact on the health or safety of the person and to provide an alternative device and/or accommodation.*

The Health Care Agency Correctional Health Services Policy and Procedure 6407 Reasonable Health Accommodations for Patients (currently being revised) states, "Patients whose prosthetic limbs were removed due to security concerns are evaluated by a prescriber, as soon as possible, no later than the next available sick call after the removal of the prosthetic limb."

The County reported there were no cases where a prosthetic was removed from an incarcerated person.

OCSD is in the process of developing a Safety and Security Assessment Form that will facilitate full implementation of this and related requirements. The parties report that DRC counsel has reviewed and provided feedback regarding this form and related policy revisions, which the County has considered and substantially incorporated. With implementation of this form and related ADA policies as well as proof of practice, the County will be in a good position to achieve an Adequately Implemented designation.

The Expert finds the County has partially implemented the RP requirements.

### **Partially Implemented**

2. If a person requires repair or maintenance of a prosthetic limb or similar device, the County shall take prompt steps to resolve the issue, including providing interim accommodations as indicated.

Although the Health Care Agency Correctional Health Services Policy and Procedure 6407 Reasonable Health Accommodations for Patients (currently being revised) does not specifically list prosthetics, the policy states, "Whenever a patient's personal DME or assistive device needs repair, CHS staff shall coordinate the repairs needed with the CHS Supply team. The patient will be provided a comparable device while their DME/assistive device is being repaired to accommodate their individual needs. All devices provided, their repair or replacement is free of charge to the patient."

Of the four (4) incarcerated persons with a prosthetic interviewed, one (1) stated his prosthetic was in need of repair; however, he stated he has been waiting six (6) months for the repair, and the County is not processing the repair. The Expert was not able to confirm or refute this claim. The incarcerated person stated he was provided a wheelchair as an interim accommodation.

Based on this, the Expert finds the County has partially implemented the RP requirements.

### **Partially Implemented**

3. If CHS determines a person requires a prosthetic limb or similar device but does not have one, the County will take prompt steps to provide appropriate assessment and timely provision of prostheses or similar device. The County will provide an alternative assistive device, based on clinical assessment and meaningful consideration of the individual's stated preference, as an interim accommodation to facilitate equal access to services.

The Health Care Agency Correctional Health Services Policy and Procedure 6407 Reasonable Health Accommodations for Patients (currently being revised) states,

“When clinically indicated, an Off-Site Request is completed for contracted specialists and specialty items needed to accommodate patient’s needs. The CHS Medical Case Management Team arranges for timely appointments for provision of needed DME or assistive device. Based on clinical assessment and meaningful consideration of the patient’s stated preference, an alternative DME or assistive /device will be provided to facilitate equal access to services.”

The Expert identified no cases during this monitoring period where an incarcerated person required a prosthetic limb or similar device and did not have one.

OCSD is in the process of developing a Safety and Security Assessment Form that will facilitate full implementation of this and related requirements. The parties report that DRC counsel has reviewed and provided feedback regarding this form and related policy revisions, which the County has considered and substantially incorporated. With implementation of this form and related ADA policies as well as proof of practice, the County will be in a good position to achieve an Adequately Implemented designation.

Based on the County having a formal policy in place, the Expert finds the County has partially implemented the RP requirements.

### **Partially Implemented**

- G. The County shall not automatically remove HCA/AD/DME when incarcerated people are placed in temporary holding, sobering, or observation cells and shall remove HCA/AD/DME only based on individualized security factors and only for the minimum time necessary.*

The draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, “Inmates with disabilities may arrive with an assistive device, such as a cane, crutch, walker, wheelchair, or an orthopedic or prosthetic appliance. Unless a Captain or Watch Commander determines and documents, based on an individualized assessment in the Safety and Security Assessment Form, that the said device or appliance constitutes an immediate risk of bodily harm to inmates, staff or threatens the security of the facility, the inmate shall be allowed to retain the device or appliance. If there is a security issue with a specific device (e.g., metal tipped cane), the Captain or Watch Commander will consult with CHS, and the inmate will be provided a County-approved substitute device. Inmates will be permitted to possess their assistive device in a temporary holding cell at all times. If the personal device or appliance is confiscated, the Captain or Watch Commander who conducted the individualized assessment shall send the ADA Compliance Unit a copy of the completed Safety and Security Assessment Form and send an email detailing the events to [ADACompliance@ocsheriff.gov](mailto:ADACompliance@ocsheriff.gov).”

Staff reported, and the incarcerated persons interviewed confirmed, that the County does not automatically remove HCA/AD/DME when they are placed in temporary holding cells. The Expert did not interview incarcerated persons with prescribed HCA/AD/DME who had been placed in observation cells. The County reported that sobering cells are not utilized.

The Expert notes that the CHS and OCSD policies do not address the RP requirement for staff to not automatically remove HCA/AD/DME when incarcerated persons who are placed in observation cells and only remove the HCA/AD/DME based on individualized security factors and only for the minimum time necessary. With implementation of the new forms and related ADA policies as well as proof of practice, the County will be in a good position to achieve an Adequately Implemented designation.

Based on this, the Expert has determined that the County has not implemented the RP requirement.

### **Partially Implemented**

- H. HCA/AD/DME Upon Release. The County shall take steps necessary to address a person's disability needs upon release. In no event will a person in need of HCA/AD/DME be released without access to HCA/AD/DME that is in good working order and appropriate for the person's needs.*

The draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, "Reasonable accommodations will be provided to inmates during the release process. Inmates requiring the use of accessible cells will either be held in cells designed to be accessible or be prepared for release in their respective housing units and expedited through the release process. If an inmate arrives at the Jail with a personal assistive device that is exchanged for a county-owned device, staff shall ensure that the personal device is placed with the inmate's property and returned to the inmate upon release. Unless the inmate has an equivalent personal device stored in Inmate Property, the inmate is entitled to keep their county-issued assistive device or will be provided a comparable device at the time of release if the inmate needs the assistive device for all purposes."

The Health Care Agency Correctional Health Services Policy and Procedure 6407 Reasonable Health Accommodations for Patients (currently being revised) states, "CHS Release Nurses collaborate with CHS ADA Nurse Coordinators to ensure patients with disabilities, who have scheduled release dates, have the necessary accommodations and that their DME/assistive devices are in good working order for reentry into the community. CHS allows patients to retain County-issued DME free of charge or will exchange DME with a comparable assistive device for use upon release whenever patients do not have access to the proper DME adequate for their disability."



The County produced an excel spreadsheet, "ADA Release Log," that reflects 271 disabled incarcerated persons who were released with a personal, donated, or CHS-provided HCA/AD/DME. The log includes the following columns:

- Month
- Release Date
- Name
- Booking#
- ADA Devices (Personal, None, CHS, Donated, In-Custody Transfer and Declined)
- Misc. (This column includes the devices and disability and other comments)

The Expert notes that in some cases, the incarcerated person declined the HCA/AD/DME, or family picked up the incarcerated person.

With implementation of the new forms and related ADA policies as well as proof of practice, the County will be in a good position to achieve an Adequately Implemented designation.

Based on this, the Expert has determined that the County has partially implemented the RP requirement.

### **Partially Implemented**

1. *The County will ensure that any personally owned HCA/AD/DME that has been removed is returned to the incarcerated person prior to release from custody.*

The custody and CHS staff interviewed stated that prior to the release of an incarcerated person, all personal property stored, including personal HCA/AD/DME, that were removed from the incarcerated person is transferred to the incarcerated person's release area. The custody staff conducting the release issues the personal property, including personal HCA/AD/DME.

The County produced an excel spreadsheet, "ADA Release Log," that reflects 271 disabled incarcerated persons who were released with a personal, donated, or CHS-provided HCA/AD/DME. In some cases, it is noted that the incarcerated person declined the HCA/AD/DME. The log includes the following columns:

- Month
- Release Date
- Name
- Booking#
- ADA Devices (Personal, None, CHS, Donated, In-Custody Transfer and Declined)



- Misc. (This column includes the devices and disability and other comments)

With implementation of the new forms and related ADA policies as well as proof of practice, the County will be in a good position to achieve an Adequately Implemented designation.

Based on this, the Expert has determined that the County has partially implemented the RP requirement.

### **Partially Implemented**

2. *Upon release, if an incarcerated person does not have personal HCA/AD/DME or came to the Jail with HCA/AD/DME that is not adequate for the person's needs, the County will permit the person to retain any HCA/AD/DME that the County provided to the person while in custody, or the County will provide a comparable device. Jail staff may alternatively coordinate with the incarcerated person, the person's family, or friends, and/or other County agencies to secure HCA/AD/DME for the person prior to release.*

The draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, "Reasonable accommodations will be provided to inmates during the release process. Inmates requiring the use of accessible cells will either be held in cells designed to be accessible or be prepared for release in their respective housing units and expedited through the release process. If an inmate arrives at the Jail with a personal assistive device that is exchanged for a county-owned device, staff shall ensure that the personal device is placed with the inmate's property and returned to the inmate upon release. Unless the inmate has an equivalent personal device stored in Inmate Property, the inmate is entitled to keep their county-issued assistive device or will be provided a comparable device at the time of release if the inmate needs the assistive device for all purposes."

The Health Care Agency Correctional Health Services Policy and Procedure 6407 Reasonable Health Accommodations for Patients (currently being revised) states, "CHS Release Nurses collaborate with CHS ADA Nurse Coordinators to ensure patients with disabilities, who have scheduled release dates, have the necessary accommodations and that their DME/assistive devices are in good working order for reentry into the community. CHS allows patients to retain County-issued DME free of charge or will exchange DME with a comparable assistive device for use upon release whenever patients do not have access to the proper DME adequate for their disability."

The County produced an excel spreadsheet, "ADA Release Log," that reflects 271 disabled incarcerated persons who were released with a personal, donated, or

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CHS-provided HCA/AD/DME. In some cases, it is noted that the incarcerated person declined the HCA/AD/DME. The log includes the following columns:

- Month
- Release Date
- Name
- Booking#
- ADA Devices (Personal, None, CHS, Donated, In-Custody Transfer and Declined)
- Misc (This column includes the devices and disability and other comments)

With implementation of the new forms and related ADA policies as well as proof of practice, the County will be in a good position to achieve an Adequately Implemented designation.

Based on this, the Expert has determined that the County has partially implemented the RP requirement.

### **Partially Implemented**

3. *The County shall document this process in a manner that (a) can be reviewed for quality assurance and (b) ensures individual tracking and an adequate inventory of HCA/AD/DME.*

The County produced an excel spreadsheet, "ADA Release Log," that reflects 271 disabled incarcerated persons who were released with a personal, donated, or CHS-provided HCA/AD/DME. In some cases, it is noted that the incarcerated person declined the HCA/AD/DME. The log includes the following columns:

- Month
- Release Date
- Name
- Booking#
- ADA Devices (Personal, None, CHS, Donated, In-Custody Transfer and Declined)
- Misc (This column includes the devices and disability and other comments)

The County has a tracking system in place for the cases where HCA/AD/DME are provided to incarcerated persons when released. In addition, the Expert confirmed that there is an adequate inventory of HCA/AD/DME.

Based on this, the Expert has determined that the County has adequately implemented the RP requirement.

### **Adequately Implemented**

## **H. Housing Placements (Section VIII)**

- A. The County shall house persons with disabilities in the most integrated setting appropriate, consistent with their individual security classification, in facilities that accommodate their disabilities and in which they have equivalent access to programs, services, and activities.*

The Expert notes that the County is in the process of making physical plant modifications adding accessible housing, accessible features, and accessible paths of travel for incarcerated persons to have equivalent access to the Jail's programs, services, and activities. Pending these modifications, the County's current accessible housing for incarcerated persons who require accessible housing and features includes:

- TLF Mod O – Sector 37 and Sector 42
- TLF A/E Barracks
- IRC Mod K – Sector 9, 10 and 11
- IRC Mod L – Sector 17
- IRC Mod S – Sector 2
- CMJ Mod O – Ward C and Sheltered Living (SL) (14 cells)

The Custody & Court Operations Manual (CCOM) 1200 – Inmate Classification Procedure states, "Classification and Population Management Unit (PMU) staff will take into consideration the inmate's abilities and movement needs when assigning housing locations. Being disabled in any way is not justification for a higher security classification. Every effort will be made to accommodate inmates with mobility disabilities in their housing assignments. In the event an inmate with a mobility disability is assigned to non-ADA housing or a specific accommodation cannot be met, Classification and PMU staff will ensure that an inmate deemed to require accessible accommodations is provided with such accessible accommodations as soon as possible."

The draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, "Inmates with a disability shall be placed in housing that is consistent with their security classification and their accessibility needs. Qualified inmates with a disability will have access to the same services, programs, and activities offered to other inmates of the same classification level. Inmates will have proper access to showers, toilets, sinks, necessary accessibility equipment, etc."

In a review of the OCSD ADA Tracking Lists, the Expert notes that the County houses incarcerated persons with disabilities in the following locations:

- CMJ
  - Mod O Ward C/D and SL (Mobility and Vision)
  - Mod R (Developmentally Disabled and Hearing)
  - Mod A (Hearing, Mobility, and Dexterity)
  - Mod E (Hearing and Dexterity)
  - Mod F (Dexterity)
- MJ Annex (MWJ)
  - Mod F (Dexterity and Mobility)
- IRC
  - Mod J (Hearing, Dexterity, and Mobility)
  - Mod K (Mobility, Hearing, and Dexterity)
  - Mod L (Developmentally Disabled, Hearing, Dexterity, and Mobility)
  - Mod N (Dexterity and Mobility)
- TLF
  - A/E Barracks (Mobility)
  - F Barracks (Developmentally Disabled, Dexterity and Mobility)
  - G Barracks (Dexterity and Mobility)
  - Mod I (Dexterity)
  - Mod K (Developmentally Disabled, Dexterity and Mobility)
  - Mod L (Developmentally Disabled and Mobility)
  - Mod M (Mobility)
  - Mod N (Dexterity and Mobility)
  - Mod O (Developmentally Disabled, Dexterity, Vision, Hearing, Speech, and Mobility)
  - Mod P (Dexterity and Mobility)
  - Mod Q (Developmentally Disabled, Dexterity and Mobility)

The Expert notes that due to the limited number of accessible housing locations coupled with classification case factors and the impact of COVID-19, the County must currently place some incarcerated persons who require accessible housing and COVID-19 quarantine or isolation in the CMJ Mod O SL cells. The Expert also notes that the County has recognized that the SL cells create operational difficulties, including the provision of adequate out-of-cell time, program access, and socialization for incarcerated persons with disabilities. Incarcerated persons interviewed stated because they are housed in the SL cells, they are provided less (and inferior) out-of-cell time (dayroom and yard) and programs (education and self-help) than if they were housed in other housing locations.

The Expert notes that as the accessible housing is brought online, the County will be in a better position to ensure that all disabled incarcerated persons are housed in the most integrated setting, consistent with their individual security classification, in

facilities that accommodate their disabilities and in which they have equivalent access to programs, services, and activities.

Based on this, the Expert finds that the County has partially implemented the RP requirements.

### **Partially Implemented**

- B. The County shall provide persons with disabilities at all classification levels with access to out-of-cell time, programs, services, and activities that are equivalent to the access provided to persons without disabilities with comparable security and classification profiles.*

Although the draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, "Qualified inmates with a disability will have access to the same services, programs, and activities offered to other inmates of the same classification level," the Expert notes that due to the limited number of accessible cells/beds available and COVID-19 quarantine and isolation requirements, the County must place some disabled incarcerated persons (those who do not have mental health needs or who do not qualify for Barracks housing) who require accessible housing in the TLF and CMJ Mod O. Based on this, the classification cases factors which prohibit the mixture of the incarcerated population, the disabled incarcerated persons who require accessible housing are not being provided with equivalent access to out-of-cell time, programs, services, and activities as non-disabled incarcerated persons. Once more accessible housing is brought online, the County will be in a better place to ensure incarcerated persons with disabilities who require accessible housing are provided equivalent access to out-of-cell time, programs, services, and activities as persons without disabilities with comparable security and classification profiles and incarcerated persons who do not require accessible housing. One area of particular concern with respect to programs is ensuring equal opportunities to access classes, including those that are conducted in person (as opposed to via correspondence packets).

Based on this, the Expert finds that the County has partially implemented the RP requirements.

### **Partially Implemented**

- C. The County shall maintain a housing assignment system that utilizes information in the ADA Tracking System/Existing ADA Tracking System for each person's disability needs, including, but not limited to:*
- 1. The need for ground floor housing;*
  - 2. The need for a lower bunk;*
  - 3. The need for grab bars in the cell;*

4. *The need for a cell with sufficient clearance for a wheelchair;*
5. *The need for accessible toilets;*
6. *The need for accessible showers;*
7. *The need for no stairs or other obstructions in the path of travel;*
8. *The need for level terrain; and*
9. *The need for mental-health-related accommodations.*

The draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, "If CHS staff identify a housing need, pursuant to CHS policy, they will notify the Classification unit, who shall in turn, email the ADA Compliance Unit of an inmate's housing accommodations."

The following process is in place for cases where the intake medical screening identifies that the incarcerated person requires accommodations. CHS staff complete a CHS Function Performance Worksheet, enter an ADA Flag in TechCare, and schedule the incarcerated person for a Case Management Sick Call. CHS staff also complete a CHS Inmate Health and Mobility Notification Form J-112. The J-112 includes the following:

- Housing Placement Request
  - ADA Compliant Cell Dorm
  - Low Bunk/Low Tier (No Stairs)
  - Low Bunk Only
  - Access to Electrical Outlet
  - Medical Unit (TLO, MJO, etc.)
  - Isolation/Quarantine
  - Frequent Access to Medical
  - Mental Health Housing (Acute)
  - Mental Health Housing (Chronic)
  - Other (Explain in Comments)
  - Regular Housing

The J-112 is scanned into TechCare and emailed to the Classification staff. The classification staff uses the information on the J-112 to make housing assignment determinations based on the disabled incarcerated person's housing accommodation needs and classification and security case factors. The classification staff make housing determinations based on information in the J-112 and place incarcerated persons in housing locations based on their housing restrictions and need for accessible housing.

Based on this, the Expert finds that the County has adequately implemented the RP requirements.

### **Adequately Implemented**

*D. Classification staff shall not place persons with disabilities in:*

- 1. Inappropriate security classifications simply because no ADA-accessible cells or beds are available;*
- 2. Designated medical areas unless the person is currently receiving medical care or treatment that necessitates placement in a medical setting; or*
- 3. Any location that does not offer the same or equivalent programs, services, or activities as the facilities where they would be housed absent a disability.*

The Custody & Court Operations Manual (CCOM) 1200 – Inmate Classification Procedure states, “Classification and Population Management Unit (PMU) staff will take into consideration the inmate’s abilities and movement needs when assigning housing locations. Being disabled in any way is not justification for a higher security classification. Every effort will be made to accommodate inmates with mobility disabilities in their housing assignments. In the event an inmate with a mobility disability is assigned to non-ADA housing or a specific accommodation cannot be met, Classification and PMU staff will ensure that an inmate deemed to require accessible accommodations is provided with such accessible accommodations as soon as possible.”

The draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, “Inmates with a disability shall be placed in housing that is consistent with their security classification and their accessibility needs. Qualified inmates with a disability will have access to the same services, programs, and activities offered to other inmates of the same classification level. Inmates will have proper access to showers, toilets, sinks, necessary accessibility equipment, etc.”

The draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities also states, “An inmate’s need for a mobility device or tapping cane in a housing unit shall not be a basis for assigning the inmate to the infirmary, a medical unit, or a mental housing unit, or for excluding the inmate from placement in those settings should they otherwise be warranted.”

Classification and PMU staff stated that the incarcerated persons with a disability are generally not placed in inappropriate security classifications simply because no ADA-accessible cells or beds are available; designated medical areas unless the person is currently receiving medical care or treatment that necessitates placement in a medical setting; or any location that does not offer the same or equivalent programs, services, or activities as the facilities where they would be housed absent a disability. However, as noted in H.B above, due to the limited number of accessible cells/beds available and COVID-19 quarantine and isolation requirements, the County must place some disabled incarcerated persons (those who do not have mental health needs or who do not qualify for Barracks housing) who require accessible housing in the TLF and CMJ Mod O. Based on this, the classification cases factors which prohibit the mixture of the incarcerated



population, the disabled incarcerated persons who require accessible housing are not being provided with equivalent access to out-of-cell time, programs, services, and activities as non-disabled incarcerated persons. Once more accessible housing is brought online, the County will be in a better place to ensure incarcerated persons with disabilities who require accessible housing are provided equivalent access to out-of-cell time, programs, services, and activities as persons without disabilities with comparable security and classification profiles and incarcerated persons who do not require accessible housing.

Based on this, the Expert finds that the County has partially implemented the RP requirements.

### **Partially Implemented**

#### *E. Sheltered Living cells*

- 1. The County agrees that the Sheltered Living (SL) cells behind the O Module at Central Men's Jail create operational difficulties, including with respect to the provision of adequate out-of-cell time, program access, and socialization for incarcerated persons with disabilities. OCSD will deactivate and no longer use these SL cells for incarcerated persons with disabilities at the earliest date feasible, given COVID-related housing demands (e.g., quarantine housing) and alternative accessible housing. OCSD will begin to re-house individuals with disabilities from SL as soon as other accessible housing units are available.*

The Expert notes that the County is in the process of making physical plant modifications adding accessible housing, accessible features, and accessible paths of travel for incarcerated persons to have equivalent access to the Jail's programs, services, and activities. Additionally, County must, at times, use the SL cells as isolation housing due to the COVID-19 isolation protocols. The Expert notes that once the accessible housing is brought online and the demand for COVID-19 isolation housing is reduced, the County will no longer house incarcerated persons who require accessible housing in the SL cells.

Based on this, the Expert has determined that this RP requirement is not yet implemented. The parties continue to confer about this provision, with an understanding that physical plant improvements in other areas of the jail facilities are necessary for the County to reach full compliance with this provision.

### **Not Implemented**

- 2. Until the Central Men's Jail SL cells are deactivated, the County shall house a person with a disability in the SL cells only if there is no other placement that is consistent with the person's classification/housing needs and meets the person's accessibility needs.*

The Custody & Court Operations Manual (CCOM) 1200 – Inmate Classification Procedure states, “Classification and Population Management Unit (PMU) staff will take into consideration the inmate’s abilities and movement needs when assigning housing locations. Being disabled in any way is not justification for a higher security classification. Every effort will be made to accommodate inmates with mobility disabilities in their housing assignments. In the event an inmate with a mobility disability is assigned to non-ADA housing or a specific accommodation cannot be met, Classification and PMU staff will ensure that an inmate deemed to require accessible accommodations is provided with such accessible accommodations as soon as possible.”

The draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, “Inmates with a disability shall be placed in housing that is consistent with their security classification and their accessibility needs. Qualified inmates with a disability will have access to the same services, programs, and activities offered to other inmates of the same classification level. Inmates will have proper access to showers, toilets, sinks, necessary accessibility equipment, etc.”

Classification and PMU staff stated that the incarcerated persons with a disability are only housed in the SL cells if there are no other placement options due to the need for COVID-19 isolation and due to the incarcerated person's classification case factors and security concerns.

Based on this, the Expert has determined that the County has adequately implemented the RP requirement.

### **Adequately Implemented**

- F. The County shall assist incarcerated persons with disabilities (including in wheelchairs) to access the Central Men’s Jail yard from the elevators and to navigate the ramp leading to the yard. Staff shall ensure incarcerated persons with mobility disabilities are provided access to an accessible restroom when on the Central Men’s Jail yard.*

Staff interviewed stated they assist incarcerated persons with disabilities (to access the CMJ yard from the elevators and navigate the ramp leading to the yard. The Expert notes there is a sign in the area leading into the yard as you exit the elevators in the CMJ roof yard (both elevators) that states, "Reminder Staff Must Push Inmates in Wheelchair over floor curbs."

During the incarcerated person interviews, two (2) of the three (3) incarcerated persons interviewed stated that staff assisted them in access in the yard (pushing the wheelchair over the curb near the elevator); however, one (1) incarcerated person stated that staff does not assist him when navigating the ramp leading to the yard and

he must navigate it on his own by slowly rolling the wheelchair backward down the ramp.

The Expert notes there is no policy or procedure (or other written directive) that addresses this requirement.

Based on this, the Expert has determined that the County has partially implemented the RP requirement.

### **Partially Implemented**

- G. The County shall conduct periodic quality assurance audits to ensure that all people in custody who require accommodations in housing are placed in housing consistent with their needs.*

The Expert requested the results of quality assurance audits conducted by the County; however, the results of quality assurance audits were not produced.

Based on this, the Expert has determined that this requirement is un-ratable.

### **Not Implemented**

- H. The County shall develop a process to expeditiously move people in custody with disability-related needs who are inappropriately housed in an inaccessible placement to an accessible placement.*

The Custody & Court Operations Manual (CCOM) 1200 – Inmate Classification Procedure states, “Every effort will be made to accommodate inmates with mobility disabilities in their housing assignments. In the event an inmate with a mobility disability is assigned to non-ADA housing or a specific accommodation cannot be met, Classification and PMU staff will ensure that an inmate deemed to require accessible accommodations is provided with such accessible accommodations as soon as possible.”

Classification and PMU staff interviewed stated that staff review the housing placements of incarcerated persons with disabilities to ensure they are housed in accessible housing locations. In the event an incarcerated person with a disability is identified as being housed in an inaccessible housing location, PMU staff identify an accessible housing location based on the incarcerated person's classification and security case factors.

The Expert will review individual records and proof-of-practice documentation in the next monitoring round, to confirm adequate implementation.

Based on this, the Expert has determined that the County has partially implemented the RP requirement.

### **Partially Implemented**

## **I. Access to Programs, Services, and Activities (Section IX)**

A. *The County shall ensure that all persons with disabilities, including those in ADA-accessible or other specialized housing, are informed of and have equal access to programs, services, and activities available to similarly situated persons without disabilities, consistent with their health and security needs. Such programs, services, and activities include, but are not limited to:*

1. *Dayroom and out-of-cell time;*
2. *Outdoor recreation and exercise equipment;*
3. *Showers;*
4. *Telephones;*
5. *Reading materials;*
6. *Reading and scribing documents;*
7. *Religious services;*
8. *Educational, vocational, reentry, and substance abuse programs;*
9. *Work Assignments, including the Community Work Program;*
10. *Medical, mental health, and dental services and treatment;*
11. *Public visiting; and*
12. *Attorney visiting.*

The draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, "Qualified inmates with a disability will have access to the same services, programs, and activities offered to other inmates of the same classification level. a) Qualified inmates with disabilities will have access to visiting, church services, inmate programs, dayroom/recreation, etc. consistent with their classification level. Inmates with disabilities will be provided the opportunity to work, including Community Work Program. Those who accept the opportunity will meet with the CHS ADA Compliance R.N. and ADA Compliance Unit. An individualized interactive process will take place to determine the type of assignment. Staff will provide reasonable modifications to Jail rules, policies, and practices to enable inmates to participate in the services, programs, and activities offered to other inmates of the same classification level. If an inmate's disability interferes with his or her ability to participate in a program or service for which he or she is otherwise eligible, the ADA Compliance unit shall first determine whether the individual inmate can participate in the program or service if provided a reasonable accommodation. If a reasonable accommodation will allow an inmate with a disability to participate in a program, the facility shall provide the accommodation and allow the inmate to participate."

As reported in question, D.1, the ADA information brochure and the ADA inmate qualifications/acknowledgment of rights/programs form, which is part of the initial ADA interview process, are consistently conducted by the ADA Compliance Unit staff. During the ADA interview, the disabled incarcerated persons are informed of the programs, services, and activities available to the disabled incarcerated persons.

In other sections of this report, the Expert notes that based on the lack of detailed documentation of dayroom and outdoor recreation, the Expert cannot measure the County's compliance with the requirement for the County to provide equal access to dayroom and recreation. The Expert notes that the County has not installed accessible recreation equipment in the Jail's recreation yards.

The Expert notes that although the County has alternate telecommunication technology (Video Phones, Video Relay Services, and TDD), the access to this technology is not equal as non-disabled incarcerated persons have direct access to the telecommunication devices in their housing units, and the disabled incarcerated persons must request access to the telecommunication devices from staff. In the event staff is not available, they must wait for access until the staff is available to procure the technology or escort them to where the technology is located. The County currently does not provide telephone amplification devices for incarcerated persons who are hard of hearing and who require this accommodation. The County reports that with the rollout of the tablets, access to the video phone technology may be available via the tablets.

As reported in section F.F, easy reading books are not available for disabled incarcerated persons. Additionally, the Expert notes that large print reading material is available for disabled incarcerated persons. The Expert does note that the County provides "Books on Tape" for incarcerated persons with vision disabilities.

As reported in sections J and K, the County provides incarcerated persons with disabilities some access to Work Assignments, including the Community Work Program, though further efforts in this area are necessary.

The County provides incarcerated persons with disabilities access to accessible showers by housing the incarcerated persons in locations with accessible showers or escorting the incarcerated persons to the accessible shower locations. In addition, the County provides incarcerated person access to shower chairs.

The County provides group and one-on-one religious services. Group religious services are provided on a rotational basis to all incarcerated persons. In the event a disabled incarcerated person requires access to an SLI, the County has a mobile iPad that is used with a Video Remote Interpreter. The iPad is also available for one-on-one religious services.

The Expert notes that the public and attorney visiting services are accessible, and incarcerated persons with disabilities have equal access to the visiting programs.

The draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, "Disabled inmates who cannot read and/or write might have difficulty gaining access to disability-related services if needed. Staff will provide these inmates with assistance with reading and writing to access services and programs. If an inmate cannot read or write and the inmate has a disability, that information will be indicated on the inmate's J-105A form, Sheriff's JMS, or CHS Functional Needs List."

Staff interviewed stated they would provide assistance to disabled incarcerated persons who require assistance with reading and writing. However, five (5) incarcerated persons interviewed stated that they must rely on other incarcerated persons for reading and writing assistance. One (1) incarcerated person stated he has to pay other incarcerated person soups for them to provide him assistance. The Expert notes that the draft Custody & Court Operations Manual (CCOM) 8000 – Inmates with Disabilities does not address the requirement for staff to provide reading and writing assistance to incarcerated persons with vision disabilities.

The Expert notes that all Incarcerated persons are informed of the process of how to request access to medical, mental health, and dental services and treatment. Additionally, during the ADA Compliance Unit interview, the disabled incarcerated persons are informed of the access to healthcare (pink slip) process. None of the disabled incarcerated persons reported they had difficulty accessing medical services.

The Expert recognizes that COVID-19 has impacted the ability for the County to provide in-person programs (Education and Self-Help). During the COVID-19 pandemic, the programs available to incarcerated persons were limited to self-study packets and distant learning. The County reported that on August 22, 2022, the County implemented in-person program opportunities. The program opportunities include:

#### Educational Programs

- Attitudes for Success (MCJ, WCJ, IRC, TL) Male/Female – College Contract
- HISET (MCJ, WCJ, IRC, TL) Male/Female – College Contract
- HISET Testing (MCJ, WCJ, IRC, TL) Male/Female – College Contract/OCSD Staff
- Orange County Department of Education High School Diploma (MCJ, WCJ, IRC, TL) Male/Female – Volunteers
- Academic Skills (MCJ, WCJ, IRC, TL) Male/Female – College Contract
- Inside Out (IRC) Female – Volunteers
- Money Matters (MCJ, WCJ, IRC, TL) Male/Female – College Contract
- Creative Writing Class (IRC, TL) Male/Female – Volunteers
- WIN Tutoring Reading (MCJ, WCJ, IRC, TL) Male/Female – Volunteers



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#### Vocational Programs

- Intro to Software Applications (MCJ, WCJ, IRC, TL) Male/Female – College Contract
- Institutional Food Preparation (MCJ, WCJ, IRC, TL) Male/Female – College Contract

#### General Services

- Various Religious Group Services (MCJ, WCJ, IRC, TL) Male/Female – Volunteers
- Law Library (MCJ, WCJ, IRC, TL) Male/Female – OCSD Staff
- Book Exchange (MCJ, WCJ, IRC, TL) Male/Female – OCSD Staff

#### Behavior Modification

- All In (MCJ, IRC, TL) Male/Female – OCSD Staff
- Restorative Justice (MCJ, IRC, TL) Male/Female – Volunteers
- Transitional Age Youth Program (TL) Male – Volunteers
- Pride Program (IRC) Male–Volunteers

#### Substance Abuse

- Alcoholics Anonymous (MCJ, IRC, TL) Male/Female – Volunteers
- Narcotics Anonymous (MCJ, IRC, TL) Male/Female – Volunteers
- Substance Abuse Class (MCJ, IRC, TL) Male/Female – Volunteers

#### Life Skills

- Workforce Preparation (MCJ, WCJ, IRC, TL) Male/Female – College Contract
- Faith-Based Parenting (MCJ, WCJ, IRC, TL) Male/Female – Volunteers
- Housing Unit for Military Veterans (TL) Male/Female – OCSD Staff, Volunteers, College Contract
- Faith-Based Marriage (WCJ, IRC) Female – Volunteers
- Common Sense Parenting (IRC TL) Male/Female – Volunteers
- Positive Parenting (MCJ, WCJ, IRC, TL) Male/Female – College Contract
- Malachi Men (MCJ, TL) Male – Volunteers
- Healthy Families (IRC) Female – Volunteers
- Seeking Safety (MCJ, IRC, TL) Male/Female – OCSD Staff
- Bible Study Discipling (IRC, TL) Male/Female – Volunteers
- Personal Empowerment Program (WCJ) Female – Volunteers
- The Urban Ministry Institute (MCJ, IRC) Male/Female – Volunteers
- Women of Purpose (IRC, TL) Female – Volunteers
- Back on Track (MCJ, TL) Male/Female – OCSD Staff
- Cell Dogs Program (TL) Female – Volunteers

#### Reentry



- Assessments (MCJ, WCJ, IRC, TL) Male/Female – OCSD Staff
- Great Escape/Reentry Planning (MCJ, WCJ, IRC, TL) Male/Female – OCSD Staff
- Discharge Planning (MCJ, WCJ, IRC, TL) Male/Female – OCSD Staff
- AB-109 Probation (MCJ, WCJ, IRC, TL) Male/Female – Other
- Restoring Lives 365 Mentoring Program (MCJ, WCJ, IRC, TL) Male/Female – Volunteers
- Accountability Brothers Mentoring Program (TL) Male/Female – Volunteers
- Onesimus Mentoring Program (MCJ, WCJ, IRC, TL) Male/Female – Volunteers
- Medi-Cal Enrollment (MCJ, WCJ, IRC, TL) Male/Female – Volunteers
- College Counseling (MCJ, WCJ, IRC, TL) Male/Female – College Contract

The Expert notes that programs are delivered in the following locations:

- CMJ
  - 2<sup>nd</sup> Floor Classroom #1 (Religious Services, Parenting Malachi Men, Great Escape, Academic Skills, Attitudes for Success, GED, Money Matters, Parenting, TUMI, AA, Finding the Way, NA)
  - 2<sup>nd</sup> Floor Classroom #2 (Religious Services, Literacy Tutoring, Medi-Cal, Kinship, Pre-Release, AA, Education Counseling, CBT, HISET Testing, Finding the Way)
  - 2<sup>nd</sup> Floor Computer Lab (Intro to Software Application)
- IRC
  - 2<sup>nd</sup> Floor Multi-Purpose Room (Religious, Parenting, GED, Attitudes for Success, Great Escape, Substance Abuse, Seeking Safety, Food Services, Money Matters, HISET Testing, and Workforce Preparation)
  - Mod J Room B (Religious Only)
  - Mod K Room A (Religious, AA)
  - Mod L Room A (AA)
  - Mod M Room A (NA, AA, Finding the Way, Healthy Families, Religious, Pre-Release, Substance Abuse, Anger Management)
  - Mod M Room B (All in Program, AA)
  - Mod N Room A (Pre-Release, Anger Management, Inside Out, Parenting)
  - Mod N Room B (All In Program, Religious, Case Management, AA, Restoring Lives Mentoring, Finding the Way,
- TLF
  - Classroom #2
  - Classroom #3
  - Classroom #4
  - Classroom #5
  - Chapel (Religious Only)

- Mod I Multi-Purpose Room B (Religious, Reclaim, and AA)
- Mod J Multi-Purpose Room A (Religious Only)
- Mod J Multi-Purpose Room B (Religious Only)
- Mod K Multi-Purpose Room (Religious Only)
- Mod L Multi-Purpose Room (Religious Only)
- Mod M Multi-Purpose Room (Religious Only)
- Mod N Multi-Purpose Room (Religious Only)
- Mod O Multi-Purpose Room (Religious Only)
- Mod P Multi-Purpose Room (Religious Only)
- Mod Q Multi-Purpose Room (Religious Only)
- Mod R Multi-Purpose Room (Religious Only)

Based on the County only providing remote programs during the COVID-19 pandemic and the in-person programs not being re-implemented until August 22, 2022, the Expert cannot assess the County's compliance with RP requirements to provide all persons with disabilities, including those in ADA-accessible or other specialized housing, with equal access to programs, services, and activities available to similarly situated persons without disabilities.

The Expert strongly recommends that the County expand the program participation opportunities for disabled incarcerated persons who are housed in the CMJ Mod O (Ward C and D and SL cells) and TLF Mod O. The disabled incarcerated persons housed in these locations stated during the incarcerated person interviews the interest in participating in Educational and Self-Help programs. The Expert notes that once the physical modifications are made and the County houses the disabled incarcerated persons in accessible housing throughout the Jails, the incarcerated persons will have more access to the Jails Education and Self-Help programs. Pending the activation of the accessible housing, the Expert recommends that the County consider allowing incarcerated persons housed in CMJ Mod O (Ward C and D and SL cells) and TLF Mod O access to the Programs provided in the TLF Programs Building and the CMJ classrooms.

One area of particular concern with respect to program access is ensuring equal opportunities to access classes, including those that are conducted in person (as opposed to via correspondence packets).

Based on this, the Expert has determined that the County has partially implemented the RP requirement.

### **Partially Implemented**

- B. The County shall provide appropriate assistance to persons with disabilities so that they can meaningfully participate in Jail programs, services, and activities for which they are qualified and medically cleared.*

The Expert notes that work supervisors and program facilitators interviewed stated they would provide disabled incarcerated persons with assistance; however, the Expert also notes that the work supervisors and program facilitators were not aware of the disabled incarcerated persons assigned to their area or their needed accommodations, as the supervisors and facilitators do not receive a copy of the “ADA Inmate Tracking List.”

Custody staff stated they provide assistance to disabled incarcerated persons based on their accommodation needs listed on the “ADA Inmate Tracking List.”

Based on this, the Expert has determined that the County has partially implemented the RP requirement.

### **Partially Implemented**

- C. *The County shall assist persons with disabilities in reading or scribing documents (legal, medical, request forms, grievances, due process, etc.).*

The draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, “Disabled inmates who cannot read and/or write might have difficulty gaining access to disability-related services if needed. Staff will provide these inmates with assistance with reading and writing to access services and programs. If an inmate cannot read or write and the inmate has a disability, that information will be indicated on the inmate’s J-105A form, Sheriff’s JMS or CHS Functional Needs List.”

The draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, “Jail staff shall assist inmates who require accommodations to submit a grievance or to appeal a grievance response (e.g., people who are blind, have an Intellectual/Development Disability, have a learning disability, or who have physical disabilities that make it difficult or impossible for them to write, or are illiterate).”

Staff interviewed stated they would provide assistance to disabled incarcerated persons who require assistance with reading and writing. However, five (5) incarcerated persons interviewed stated that they must rely on other incarcerated persons for reading and writing assistance. One (1) incarcerated person stated he has to pay other incarcerated person soups for them to provide him assistance. The Expert notes that the draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities does not address the requirement for staff to provide reading and writing assistance to incarcerated persons with vision disabilities.

The Expert notes that the County’s policies provide general guidance to staff to provide disabled incarcerated persons who cannot read and/or write and who might have difficulty gaining access to disability-related services with reading and writing assistance to access services and programs. However, the policy does not require

staff to assist persons with disabilities in reading or scribing documents (legal, medical, request forms, due process, etc.).

Based on this, the Expert has determined that the County has partially implemented the RP requirement.

### **Partially Implemented**

- D. The County shall provide equal access to library, recreational, and educational reading materials for persons with disabilities, including providing easy reading, large-print, and Braille books; a Braille writer audiobooks; accessible electronic tablet programming; and assistive technology, as necessary.*

As reported in section F.F, easy reading books are available for disabled incarcerated persons. Additionally, the Expert notes that large print reading material, Braille books, and Braille writer are also available for disabled incarcerated persons. The Expert also notes that the County provides "Books on Tape" for the incarcerated person with vision disabilities. The Expert notes that the County has not implemented the tablet program.

Based on this, the Expert has determined that the County has not implemented the RP requirement.

### **Partially Implemented**

- E. The County shall log and track out-of-cell time and program participation to ensure that people with disabilities receive meaningful and equitable access to such programs and activities. At a minimum, the system shall collect information as to:*
- 1. When the County offers out-of-cell opportunities (dayroom and outdoor); whether the incarcerated person with a disability accepts or refuses the opportunity; and, if an incarcerated person accepts the opportunity, the amount of time spent out of cell;*

The County produced the following OCSD Dayroom Logs:

- CMJ (Mods A, B, C, D, E, F, and O) for the Months of March 2022 to June 2022 CWJ (Mod P and Second Floor) for the Months of March 2022 to June 2022
- IRC (Mods J, K, L, M, and N) for the Months of March 2022 to June 2022
- TLF (Mods AE Barracks, F Barracks, G Barracks, H Barracks, Mods I, K, L, M, N, O, P, Q, and R)

The Expert also reviewed a sampling of the logs. The review found that staff does not consistently log sufficient information for the Expert to determine if the

incarcerated persons with disabilities accept or refuse the out-of-cell opportunity and the amount of time the incarcerated persons with disabilities spend out-of-cell. Some of the logs do not reflect the disabled incarcerated person identifiers (name and booking number) for cases where there are multiple disabled incarcerated persons in a dorm/tank. Based on this, the Expert finds that the County has not implemented the RP requirements.

### **Not Implemented**

2. *The ADA Compliance Unit shall interview incarcerated persons with disabilities on a monthly basis. If, during the interview, the ADA Compliance Unit discovers that a person with a disability has refused offers for outdoor recreation three times in a row or has refused offers for dayroom three times in a row, the ADA Compliance Unit shall inquire and document the reason(s) for the refusal. The ADA Compliance Unit shall inquire whether a disability accommodation, mental health referral, or other action is needed to afford meaningful access and shall document the action taken in the incarcerated person's ADA Inmate Activity Log. During the monthly meeting, the ADA Compliance Unit will also provide the incarcerated person with a message slip to contact the ADA Compliance Unit regarding any disability issues. If, at any time prior to the monthly interview, any member of the ADA Compliance Unit becomes aware that an incarcerated person with a disability may need a disability accommodation, mental health referral, or other action to afford meaningful access to out-of-cell opportunities, the ADA Compliance Unit will meet promptly with the incarcerated person and document the action taken in the incarcerated person's ADA Inmate Activity Log.*

In a review of a sample of the 441 ADA Interview/Activity Logs the County produced, the Expert notes that the ADA Compliance Unit staff interviews the disabled incarcerated persons on a monthly basis as required by the RP. The Expert notes that the ADA Compliance Unit staff only document "has no issues with dayroom or outdoor recreation" and does not address if the disabled incarcerated person refused outdoor recreation or dayroom or the number of refusals.

The Expert notes that the ADA Compliance Unit provides the disabled incarcerated persons with a message slip addressed to the ADA Compliance Unit and documents "given an inmate message slip addressed to the ADA Compliance Unit in case he has any disability needs" on the ADA Interview/Activity Log. The Expert also notes that the ADA Interview/Activity Logs reflect that the ADA Compliance Unit staff meets with the incarcerated persons with disabilities when they become aware that an incarcerated person with a disability may need a disability accommodation, mental health referral, or other action to afford meaningful access to out-of-cell opportunities.

Based on this, the Expert has determined that the County has partially implemented the RP requirement.

### **Partially Implemented**

3. *The County shall conduct an annual review to determine whether the County offers structured programs and activities, including, but not limited to, religious, educational, vocational, reentry, and substance abuse programs, on an equal basis to people with disabilities and whether there are access/accommodation barriers to be addressed.*

The Expert requested the annual review the County conducted to determine whether the County offers structured programs and activities, including, but not limited to, religious, educational, vocational, reentry, and substance abuse programs, on an equal basis; however, the review was not produced.

Based on this, the Expert has determined that this requirement is not implemented.

### **Not Implemented**

## **J. Access to Worker Opportunities (Section X)**

- A. *The County shall ensure equitable work opportunities for incarcerated persons with disabilities. Incarcerated people with disabilities who can perform the essential functions of a position, with or without accommodations, shall be considered for and placed into work opportunities in the same manner as incarcerated people who do not have disabilities and who are similarly situated with respect to other factors unrelated to disability (e.g., classification level, individualized security considerations).*

The draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, "Inmates with disabilities will be provided the opportunity to work, including Community Work Program. Those who accept the opportunity will meet with the CHS ADA Compliance R.N. and ADA Compliance Unit. An individualized interactive process will take place to determine the type of assignment."

The County provided the following ADA Inmate Work Program – Workflow Process

- ADA Deputy will provide a list of potential inmates with special needs for the inmate work program to CHS ADA Nursing for clearance.
- CHS ADA Nurse will conduct a health screening by reviewing the inmate's electronic health record.
- CHS ADA Nurse will provide individualized assessment and complete Function Performance Worksheet if not done.



- If the patient is on psychiatric medication, the patient will be referred to MHSC for clearance.
- If the patient is on medications for a preexisting condition and/or for any questionable clearances, the patient will be placed on MDSC for clearance.
- CHS ADA Nurse will notify work clearance status with necessary accommodations and limitations to ADA Deputy.

During the incarcerated person interviews, some incarcerated persons interviewed stated they were willing to work, and they were not offered an opportunity to work. However, in a review of a sample of the 441 ADA Interview/Activity Logs the County produced, the Expert notes that the ADA Compliance Unit staff asks the incarcerated person during the interview about their willingness to accept a work assignment position. Additionally, the ADA Compliance Unit staff note if the incarcerated person is ineligible for assignment based on classification or security case factors. Additionally, in a review of the "Current ADA Tracking List," the Experts noted that from March to June 2022, seven (7) disabled incarcerated persons were assigned to work positions, including two (2) from CMJ Mod O and one (1) from TLF Mod O.

Based on this, the Expert has determined that the County has partially implemented the RP requirement.

### **Partially Implemented**

1. *To ensure equitable work opportunities for incarcerated people with disabilities the County shall: Ensure clear job descriptions that include the essential functions and clear hiring criteria that do not inappropriately screen out people with disabilities;*

The Expert requested the job descriptions for all job positions/assignments; however, the job descriptions were not produced.

The County will need to provide the requested documents for the Expert to measure compliance with the RP requirements.

Based on this, the Expert has determined that this requirement is not implemented.

### **Not Implemented**

2. *To ensure equitable work opportunities for incarcerated people with disabilities the County shall: Ensure that medical staff conduct an individualized assessment to identify work duty restrictions and/or physical limitations, in order to ensure appropriate work assignments and reasonable accommodations on the job;*

The draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, "Inmates with disabilities will be provided the opportunity to work,



including Community Work Program. Those who accept the opportunity will meet with the CHS ADA Compliance R.N. and ADA Compliance Unit. An individualized interactive process will take place to determine the type of assignment.”

Medical and ADA Compliance Unit staff interviewed stated that once an incarcerated person requests consideration for a work assignment, the CHS ADA Compliance R.N. to determine the assignments the incarcerated person can be assigned to. CHS staff document the Work Status (Work With Restrictions/No Work) on an HCA Medical Message Slip, which is also provided to the incarcerated person.

In the next monitoring round, the Expert will request and review proof of practice on this topic, including with respect to implementation of the disability related CHS policies and forms that are currently being revised.

Based on this, the Expert has determined that the County has partially implemented the RP requirement.

### **Partially Implemented**

3. *To ensure equitable work opportunities for incarcerated people with disabilities the County shall: Ensure that staff supervising incarcerated workers consider, with input from the incarcerated person, reasonable accommodations that would make it possible for the incarcerated person to perform the essential job functions and/or consider whether the incarcerated person could, with or without reasonable accommodations, perform the essential job functions of another position.*

The draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, “Staff shall notify the ADA Compliance Unit if they notice that an inmate with a disability is having trouble participating in programs and services. Staff will provide reasonable modifications to Jail rules, policies, and practices to enable inmates to participate in the services, programs, and activities offered to other inmates of the same classification level.”

Although the policy does not specifically state that staff supervising incarcerated workers must consider, with input from the incarcerated person, reasonable accommodations that would make it possible for the incarcerated person to perform the essential job functions and/or consider whether the incarcerated person could, with or without reasonable accommodations, perform the essential job functions of another position, work supervisors interviewed stated that they would provide the opportunity for the incarcerated person to perform the essential job functions of another position with or without reasonable accommodations. The Expert interviewed three disabled incarcerated persons assigned to job assignments (one porter and two utility workers) and all three stated their work supervisors provide accommodations if needed.

The County must revise the draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities to include this requirement.

In the next monitoring round, the Expert will request and review proof of practice on this topic, including with respect to implementation of the disability-related CHS policies and forms that are currently being revised.

Based on this, the Expert has determined that the County has partially implemented the RP requirement.

#### **Partially Implemented**

4. *To ensure equitable work opportunities for incarcerated people with disabilities the County shall: Ensure equitable work opportunities for incarcerated persons with Intellectual disabilities, with appropriate accommodations and supports (e.g., additional supervision and training, modified production expectations, expanded timeframes for completion of projects, etc.).*

The draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, "Relevant staff, including housing deputies, the ADA Compliance Unit, and work supervisors/teachers shall be informed as, appropriate, as to: inmates with Intellectual/Developmental Disabilities, their individualized plan, and related accommodations and adaptive support needs and staff responsibilities to provide for such needs as well as to monitor for and address any safety, vulnerability, or victimization concerns."

Although the policy states that work supervisors/teachers shall be informed as appropriate as to the incarcerated persons with Intellectual/Developmental Disabilities, their individualized plan, related accommodations, adaptive support needs, and staff responsibilities to provide for such needs, the policy does not identify the accommodations and supports (e.g., additional supervision and training, modified production expectations, expanded timeframes for completion of projects, etc. that work supervisors must provide). Additionally, in a review of the "Current ADA Tracking List," the Experts noted that from March to June 2022, there were no incarcerated persons with Intellectual disabilities assigned to work positions.

Based on this, the Expert has determined that the County has partially implemented the RP requirement.

#### **Partially Implemented**

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## K. Access to Community Work Program (Section XI)

- A. *The County shall ensure equal access to the Community Work Program (CWP) for people with disabilities. People with disabilities who can perform the essential functions of a CWP position, with or without accommodations, shall be considered for and placed into CWP opportunities in the same manner as people who do not have disabilities and who are similarly situated with respect to other factors unrelated to disability (e.g., classification level, individualized security considerations).*

The draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, "Inmates with disabilities will be provided the opportunity to work, including Community Work Program. Those who accept the opportunity will meet with the CHS ADA Compliance R.N. and ADA Compliance Unit. An individualized interactive process will take place to determine the type of assignment."

In a review of a sample of the 441 ADA Interview/Activity Logs, the County produced the Expert notes that the ADA Compliance Unit staff note if the incarcerated person is ineligible for CWP assignment based on classification or security case factors (type of charges and time to serve). Additionally, in a review of the CWP Candidate List, the Expert notes that one (1) disabled incarcerated person is cleared by medical for CWP placement.

In Sabot's first ADA/disability assessment, it was noted that CHS Policy Section 6104 Community Work Program Eligibility specifically excludes people with a range of disabilities from medical clearance in the CWP (p. 147), and that medical staff were failed to approve an incarcerated person's placement into the CWP based on the incarcerated person's disability (p. 21), without consideration of reasonable accommodations or other relevant required individualized assessment. Policy 6104 should be revised consistent with the RP requirements

In the next monitoring round, the Expert will request and review proof of practice on this topic, including with respect to revision and implementation of the disability-related CHS policies and forms.

Based on this, the Expert has determined that the County has partially implemented the RP requirement.

### **Partially Implemented**

1. *To ensure equitable CWP opportunities for people with disabilities, the County shall: Ensure clear job descriptions that include the essential functions and clear hiring criteria that do not inappropriately screen out people with disabilities;*

The Expert reviewed the job descriptions and essential functions for CWP sites produced by the County. The Expert finds that the County has clear job descriptions that include the essential functions and clear hiring criteria that do not inappropriately screen out people with disabilities. (However, further policy revision and proof of practice will be necessary to ensure compliance with respect to CHS medical staff's role in these procedures, as noted above.)

Based on this, the Expert has determined that the County has adequately implemented the RP requirement.

### **Adequately Implemented**

2. *To ensure equitable CWP opportunities for people with disabilities, the County shall: Ensure that medical staff conduct an individualized assessment to identify work duty restrictions and/or physical limitations, in order to ensure appropriate CWP assignments and reasonable accommodations on the job;*

The draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, "Inmates with disabilities will be provided the opportunity to work, including Community Work Program. Those who accept the opportunity will meet with the CHS ADA Compliance R.N. and ADA Compliance Unit. An individualized interactive process will take place to determine the type of assignment."

Medical and ADA Compliance Unit staff interviewed stated that once an incarcerated person requests consideration for a CWP assignment, the CHS ADA Compliance R.N. to determine the assignments the incarcerated person can be assigned to. Additionally, in a review of the CWP Candidate List, the Expert notes that one (1) disabled incarcerated person is cleared by medical for CWP placement.

In Sabot's first ADA/disability assessment, it was noted that CHS Policy Section 6104 Community Work Program Eligibility specifically excludes people with a range of disabilities from medical clearance in the CWP (p. 147), and that medical staff were failed to approve an incarcerated person's placement into the CWP based on the incarcerated person's disability (p. 21), without consideration of reasonable accommodations or other relevant required individualized assessment. Policy 6104 should be revised consistent with the RP requirements

In the next monitoring round, the Expert will request and review proof of practice on this topic, including with respect to revision and implementation of the disability related CHS policies and forms.

Based on this, the Expert has determined that the County has partially implemented the RP requirement.

### **Partially Implemented**

3. *To ensure equitable CWP opportunities for people with disabilities, the County shall: Ensure that staff supervising CWP workers consider, with input from the incarcerated person, reasonable accommodations that would make it possible for the person to perform the essential job functions and/or consider whether the person could, with or without reasonable accommodations, perform the essential job functions of another CWP position.*

The draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, "Staff shall notify the ADA Compliance Unit if they notice that an inmate with a disability is having trouble participating in programs and services. Staff will provide reasonable modifications to Jail rules, policies, and practices to enable inmates to participate in the services, programs, and activities offered to other inmates of the same classification level."

The Expert notes the policy does not specifically state that staff supervising CWP workers must consider, with input from the incarcerated person, reasonable accommodations that would make it possible for the incarcerated person to perform the essential job functions and/or consider whether the incarcerated person could, with or without reasonable accommodations, perform the essential job functions of another CWP position.

The County must revise the draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities to include this requirement.

Based on this, the Expert has determined that the County has not implemented the RP requirement.

#### **Not Implemented**

4. *To ensure equitable CWP opportunities for people with disabilities, the County shall: Ensure equitable CWP opportunities for incarcerated persons with Intellectual disabilities, with appropriate accommodations and supports (e.g., additional supervision and training, modified production expectations, expanded timeframes for completion of projects, etc.).*

The draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, "Relevant staff, including housing deputies, the ADA Compliance Unit, and work supervisors/teachers shall be informed as, appropriate, as to: inmates with Intellectual/Developmental Disabilities, their individualized plan, and related accommodations and adaptive support needs and staff responsibilities to provide for such needs as well as to monitor for and address any safety, vulnerability, or victimization concerns."

Although the policy states that work supervisors/teachers shall be informed as appropriate as to the incarcerated persons with Intellectual/Developmental Disabilities, their individualized plan, related accommodations, adaptive support needs, and staff responsibilities to provide for such needs, the policy does not identify the accommodations and supports (e.g., additional supervision and training, modified production expectations, expanded timeframes for completion of projects, etc.) that CWP work supervisors must provide.

Based on this, the Expert has determined that the County has partially implemented the RP requirement.

### **Partially Implemented**

- B. The County shall end its practice of medical staff not approving people with disabilities for participation in the CWP based on a person's disabilities absent meaningful consideration of essential job functions and reasonable accommodations.*

CHS staff interviewed stated that all incarcerated persons with disabilities who meet the eligibility requirements for participation in the CWP are medically approved for CWP assignment. CHS staff informs custody staff of the physical limitations, and custody staff takes into consideration the physical limitations and essential functions of the CWP position when assigning an incarcerated person to the CWP. Additionally, in a review of the CWP Candidate List, the Expert notes that one (1) disabled incarcerated person is cleared by medical for CWP placement.

In Sabot's first ADA/disability assessment, it was noted that CHS Policy Section 6104 Community Work Program Eligibility specifically excludes people with a range of disabilities from medical clearance in the CWP (p. 147), and that medical staff were failed to approve an incarcerated person's placement into the CWP based on the incarcerated person's disability (p. 21), without consideration of reasonable accommodations or other relevant required individualized assessment. Policy 6104 should be revised consistent with the RP requirements

In the next monitoring round, the Expert will request and review proof of practice on this topic, including with respect to revision and implementation of the disability-related CHS policies and forms.

Based on this, the Expert has determined that the County has partially implemented the RP requirement.

### **Partially Implemented**

- C. The County shall provide reasonable accommodations to enable incarcerated persons with disabilities to participate in work opportunities, including the CWP.*



The draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, "Staff shall notify the ADA Compliance Unit if they notice that an inmate with a disability is having trouble participating in programs and services. Staff will provide reasonable modifications to Jail rules, policies, and practices to enable inmates to participate in the services, programs, and activities offered to other inmates of the same classification level." The draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities also states, "Inmates with disabilities will be provided the opportunity to work, including Community Work Program. Those who accept the opportunity will meet with the CHS ADA Compliance R.N. and ADA Compliance Unit. An individualized interactive process will take place to determine the type of assignment."

Work supervisors interviewed stated they would provide the disabled incarcerated persons reasonable accommodations to allow them the opportunity to participate in the work assignment.

Based on this, the Expert has determined that the County has partially implemented the RP requirement.

### **Partially Implemented**

## **L. Disability-Related Grievance Process (Section XII)**

- A. *The County shall ensure that grievance policies and procedures are readily available and accessible to all persons.*
1. *The County shall inform people of the disability grievance procedures, including, but not limited to, by posting notices throughout the Jail, ensuring the grievance procedures are explained in the orientation packet, and discussing the procedures with people with disabilities during the meeting with staff from the ADA Compliance Unit that occurs within seven days of a person being identified as having a disability.*

The draft Custody & Court Operations Manual (CCOM) 8000 Inmates with Disabilities policy states, "Inmates with disabilities shall be informed of the disability grievance process. This will be done by posting this policy throughout the Jail, including the information in the orientation packet, and discussing the policy during the meeting with staff from the ADA Compliance Unit that occurs within seven days of an inmate being identified as having a disability."

During the on-site monitoring tour, the Expert confirmed that the County has posted in all housing units the Orange County Sheriff's Department Custody Operation Inmate Orientation which includes the Grievance Procedure. The Expert notes that during the disabled incarcerated person interview/meeting with the ADA Compliance Unit staff, the incarcerated person is informed if they believe they are



the subject of disability discrimination, they may use the grievance procedure set forth in the Orange County Jail Rules. They must also indicate in the box provided on the Inmate Grievance Form that the grievance is “disability-related” and the process of how and to whom to submit the grievances. The incarcerated persons with disabilities sign an “ADA Inmate Qualifications Acknowledgement of Rights/Programs” form acknowledging their understanding of the grievance process. The Expert also notes that the ADA Inmate Interview Work Sheet includes a section on grievances.

The County produced completed ADA Inmate Qualifications Acknowledgement of Rights/Programs for the following months:

- March 2022 – 64 Forms
- April 2022 – 56 Forms
- May 2022 – 60 Forms
- June 2022 – 42 Forms

These forms reflect the disabled incarcerated persons acknowledged understanding of the grievance process.

Based on this, the Expert finds the County has adequately implemented the RP requirement.

### **Adequately Implemented**

2. *The County shall ensure that the disability grievance procedures are effectively communicated to persons with disabilities affecting communication.*

The draft Custody & Court Operations Manual (CCOM) 8000 Inmates with Disabilities policy states, “The disability grievance process shall be effectively communicated to inmates with disabilities affecting communication.”

The Expert notes that the ADA Interview/Activity Log documents the accommodations provided during the disabled incarcerated person interview/meeting with the ADA Compliance Unit staff. The Expert reviewed the logs for the following disabilities:

- Deaf and/or Hard of Hearing – 13
- Developmentally Disabled – 20
- Speech – 4
- Vision – 14

The review found that in all cases, the ADA Compliance Unit staff provided and documented Effective Communication during the interview.

Based on this, the Expert finds the County has adequately implemented the RP requirement.

### **Adequately Implemented**

- B. The County shall track all grievances that request disability accommodations and/or raise any disability-based discrimination or violation of the ADA, this RP, or Jail ADA-related policy.*

The draft Custody & Court Operations Manual (CCOM) 8000 Inmates with Disabilities policy states, “All grievances that request disability accommodations and/or raise any disability-based discrimination or violation of the ADA, this RP, or Jail ADA-related policy will be tracked in the Grievance System.”

The County reports the disability-related grievances can be readily identified in the Jail Management System and retrieved. The County produced the following disability-related grievances:

- March – 5 Orange County Sheriff’s Department grievances for CJX and 3 for TLF
- April – 1 CDCR 2275-CJ Form-Request For Reasonable Modification Or Accommodation For Access To Housing and/or Program(s) In A County Jail and 15 Orange County Sheriff’s Department grievances for TLF.
- May – 1 Orange County Sheriff’s Department grievance for CJX and 6 for TLF
- June - 2 CDCR 2275-CJ Form-Request For Reasonable Modification Or Accommodation For Access To Housing and/or Program(s) In A County Jail and 1 Orange County Sheriff’s Department grievance for CJX and 6 for TLF

The Expert notes that the County has a mechanism to track the disability-related grievances.

Based on this, the Expert finds the County has adequately implemented the RP requirement.

### **Adequately Implemented**

- C. The County shall ensure that all persons, including people with disabilities, have meaningful access to the grievance process and to grievance forms.*
- 1. The County shall ensure that grievance forms are readily available to people in custody, either by placing grievance forms in the housing units in areas accessible to people in custody or ensuring that staff provide grievance forms promptly upon request, irrespective of the type of grievance raised.*

The draft Custody & Court Operations Manual (CCOM) 8000 Inmates with Disabilities policy states, “All inmates, including inmates with disabilities, will have meaningful access to the grievance process and to grievance forms. Grievance forms will be readily available to inmates, either in the housing units or provided by staff promptly upon request.”

During the monitoring tour, the Expert confirmed that all housing units had grievances available, and the grievances were accessible to disabled incarcerated persons. Additionally, custody staff interviewed stated that they provide grievances to the disabled incarcerated persons. The incarcerated persons interviewed confirmed staff provides grievances upon request, and grievances are available in the housing units.

Based on this, the Expert finds the County has adequately implemented the RP requirement.

### **Adequately Implemented**

2. *Jail staff can and should attempt to address grievances informally but may not, under any circumstances, refuse to provide a requested grievance form, destroy a grievance form, or otherwise obstruct or interfere with a person’s ability to submit a grievance form.*

The draft Custody & Court Operations Manual (CCOM) 8000 Inmates with Disabilities policy states, “Jail staff can and should attempt to address grievances informally but may not, under any circumstances, refuse to provide a requested grievance form, destroy a grievance form, or otherwise obstruct or interfere with an inmate’s ability to submit a grievance form.”

The Custody & Court Operations Manual (CCOM) 1600 Grievance policy states, “The inmate may drop the completed grievance form in any grievance drop box. These boxes are located throughout the facility and accessible to all inmates. The grievances will be retrieved by the sergeant responsible for the area where the box is located.” The County reported that all grievances are collected and processed by the sergeants from the secure grievance boxes. This process allows for the incarcerated person to submit grievances without fear of staff destroying a grievance form or obstructing and/or interfering with a person’s ability to submit a grievance form.

During the incarcerated person interviews, there were no complaints from the incarcerated person of staff destroying a grievance form or obstructing and/or interfering with their ability to submit a grievance form.

Based on this, the Expert finds the County has adequately implemented the RP requirement.

### **Adequately Implemented**

3. *Jail staff shall assist people in custody who require accommodations to submit a grievance or to appeal a grievance response (e.g., people who are blind, have an Intellectual/Development Disability, have a learning disability, or who have physical disabilities that make it difficult or impossible for them to write, or are illiterate).*

The Custody & Court Operations Manual (CCOM) 1600 Grievance policy states, “Illiterate, disabled, or non-English speaking inmates shall be provided assistance, upon request.”

The draft Custody & Court Operations Manual (CCOM) 8000 Inmates with Disabilities policy states, “Disabled inmates who cannot read and/or write might have difficulty gaining access to disability-related services if needed. Staff will provide these inmates with assistance with reading and writing to access services and programs.”

The draft Custody & Court Operations Manual (CCOM) 8000 Inmates with Disabilities policy states, “Jail staff shall assist inmates who require accommodations to submit a grievance or to appeal a grievance response (e.g., people who are blind, have an Intellectual/Development Disability, have a learning disability, or who have physical disabilities that make it difficult or impossible for them to write, or are illiterate).”

Custody staff interviewed stated they would have to refer the incarcerated person to other staff for assistance with grievances as the policy does not allow them to handle grievances. Some of the incarcerated persons interviewed stated that, at times, they rely on other incarcerated persons to assist them in accessing the grievance process. The County must include in the policy the identity of the staff who can assist the incarcerated person in accessing the grievance process.

Based on this, the Expert finds the County has partially implemented the RP requirement.

### **Partially Implemented**

#### ***D. Responses to Grievances***

1. *The Housing Sergeant who receives the grievance or appeal shall screen all ADA-related grievances and appeals within one day of receipt to determine whether the grievance presents an urgent issue regarding a person’s safety or well-being. For*

*grievances and appeals that present an urgent issue, the County shall either (a) immediately provide an interim accommodation that addresses the urgent issue pending a final response to the grievance or (b) resolve the grievance promptly with the participation of health care staff, as appropriate. For grievances that raise significant and imminent health or safety risks, the County shall address the grievance immediately.*

The draft Custody & Court Operations Manual (CCOM) 8000 Inmates with Disabilities policy states, “The Housing Sergeant who receives the grievance or appeal shall screen all ADA-related grievances and appeals within one day of receipt to determine whether the grievance presents an urgent issue regarding inmate’s safety or well-being. For grievances and appeals that present an urgent issue, staff shall either (a) immediately provide an interim accommodation that addresses the urgent issue pending a final response to the grievance or (b) resolve the grievance promptly with participation of CHS staff, as appropriate. For grievances that raise significant and imminent health or safety risks, staff shall address the grievance immediately.”

The County reports that the process for the identification and review of ADA-related grievances and appeals to determine whether the grievance presents an urgent issue regarding a person’s safety or well-being is currently not in place. The County must ensure that the process is formalized in the grievance and ADA policy.

Based on this, the Expert finds that this RP requirement is un-ratable.

#### **Un-ratable**

2. *The Facility Administrative Sergeant, in consultation with the ADA Compliance Unit, shall investigate all non-urgent ADA-related grievances and appeals and provide a written response within fourteen days of receipt.*

The draft Custody & Court Operations Manual (CCOM) 8000 Inmates with Disabilities policy states, “The Facility Administrative Sergeant, in consultation with the ADA Compliance Unit, shall investigate all non-urgent ADA-related grievances and appeals and provide a written response within fourteen days of receipt.”

A review of the 40 disability-related grievances produced found that the County did not document the date the grievance response was provided to the incarcerated person. Based on this, the Expert cannot measure the County's compliance with the RP requirement. The County must ensure that the grievance response includes the date the response was provided to the incarcerated person.

Based on this, the Expert finds that this RP requirement is un-ratable.

#### **Un-ratable**

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3. *In limited circumstances where the County is unable to resolve the grievance within fourteen days (e.g., the incarcerated person must be referred to a specialist and the appointment will not occur within fourteen days or the grievance involves a personnel complaint), the County should still provide a response within fourteen days. The response should communicate why the County cannot resolve the grievance within the fourteen-day deadline and, if relevant, provide information regarding any subsequent events scheduled to resolve the grievance (e.g., a specialist appointment) and address, as appropriate, the provision of interim accommodations pending resolution.*

The draft Custody & Court Operations Manual (CCOM) 8000 Inmates with Disabilities policy states, “In limited circumstances where staff is unable to resolve the grievance within fourteen days (e.g., the inmate must be referred to a specialist and the appointment will not occur within fourteen days or the grievance involves a personnel complaint), staff should still provide a response within fourteen days. The response should communicate why the grievance cannot be resolved within the fourteen-day deadline and, if relevant, provide information regarding any subsequent events scheduled to resolve the grievance (e.g., a specialist appointment) and address, as appropriate, provision of interim accommodations pending resolution.”

The County reports that the policy is currently not in place. The County must ensure that this process including the requirement for staff to communicate why the County cannot resolve the grievance within the fourteen-day deadline and, if relevant, provide information regarding any subsequent events scheduled to resolve the grievance (e.g., a specialist appointment) and address, as appropriate, provision of interim accommodations pending resolution be formalized in the grievance and ADA policy.

Based on this, the Expert finds that this RP requirement is not yet implemented.

#### **Not Implemented**

4. *If the grievance is a request for an accommodation, the response must articulate whether the County is granting the requested accommodation, providing an alternative accommodation, or is declining to provide any accommodation. If the County is not providing the requested accommodation, the response must explain the reasoning for the decision. If the County is providing an accommodation (either the requested accommodation or an alternative), the County must document that it has provided the granted accommodation.*

The draft Custody & Court Operations Manual (CCOM) 8000 Inmates with Disabilities policy states, “If the grievance is a request for an accommodation, the response must articulate whether the inmate will be granted the requested



accommodation, provided an alternative accommodation, or whether the requested accommodation is declined. If the requested accommodation is declined, the response must explain the reasoning for the decision. If an accommodation is provided (either the requested accommodation or an alternative), staff will document that the granted accommodation has been provided.”

Listed below is a summary of some of the grievance responses:

- MJ0428822/730 – Requested hearing aids, prescription glasses, assistance with showering, and access to a hospital bed. Response states admitted to hospital on 4/20/22. Scheduled to see an optometrist for glasses and hearing and will be evaluated. Response does not articulate if the County was granting the glasses and hearing aids.
- MJ060822/1100— Requested extra blanket, medical grade mattress, and canvas shoes. There is no response to the requests.
- MIJ060822/1500 – Requested reading glasses, to be seen by mental health staff, and placement in a regular medical housing unit. There is no response to the requests.
- MJ0613222020 – Requests access to the ADA dayroom. Response states he requires low bunk/low-tier housing, which means you do need access to an ADA dayroom. You were given a medical message slip to turn into CHS for further evaluation of housing needs. If medical determines you require ADA housing, you will have access to the ADA dayroom.
- MJ033022/0235 – Requests transfer from SL single cell as he has a prosthetic and believes he should not be housed here as the facilities do not have the necessary items of assistance. Response states he was seen by health care personnel on 3/24, and your concern has been addressed; housing assignments are determined by OCSD. The response does not articulate whether the County is granting the requested accommodation, providing alternative accommodation, or is declining to provide any accommodation.
- MJ30822/2250 – Requests hearing aids. Response states, You were seen by the medical provider on 3/7/22, and he provided education regarding the specialist's recommendations regarding your concern. The specialist's recommendation did not include your requested device. Health care and sheriff's administration are currently evaluating device recommendations made by the specialist that meet security requirements and can function within this infrastructure. The response does not articulate whether the County is granting the requested accommodation, providing an alternative accommodation, or is declining to provide any accommodation.
- MJ032222/2137 – Requests special footwear. Response states, You currently have a chrono for canvas shoes. You were seen by the medical provider on 4/8/22 and provided with patient education regarding your



request. The response does not articulate whether the County is granting the requested accommodation, providing an alternative accommodation, or is declining to provide any accommodation.

- MJ032422/1330 – Claims his rights are being violated concerning medical and wants to wear his own shoes. There is no response to the request.
- TLO11322/0905 – Requests psych medication. Response states, Your concern has been addressed, and you received your medication as ordered by the medical provider.
- TLO11322/0910 – Requests glasses. Response states, Please submit an inmate health message slip to communicate the request directly to health care personnel. The response does not articulate whether the County is granting the requested accommodation, providing an alternative accommodation, or is declining to provide any accommodation.
- TLO30333/2211 – Requesting extra mattress, shoes, and back brace. Response states, You were seen by the medical provider on 3/1, and she addressed your concerns at that time. Health care personnel ordered an appropriate medical diet for you, but you refused that diet. Medical diets are prescribed based on the clinical decision of the medical provider. The response does not articulate whether the County is granting the requested accommodation, providing an alternative accommodation, or is declining to provide any accommodation.
- TLO31322/2125 – Claims his ankle brace was confiscated. Response states, Health care personnel provided a new medical device on 3/21/22 and addressed your concern.
- TLO40522/0540 – Complains of foot pain. Response states, You were seen by health care personnel on 4/2/22, and your concern was addressed at that time. Please submit an inmate health message slip to communicate directly with health care personnel to be seen again for this or any future concerns.
- TLO40822/1430 – Requests vision test. Response states, You are currently scheduled to be seen by the specialist regarding your concern.
- TLO42422/0146 – Requests a mental health program. Response states, You have a follow-up appointment scheduled with the clinician, and clarification regarding the discharge plan will be addressed at that time.
- TLO060122/0258 – Requests hearing aid storage, protection, and cleaning accessories. The response states, Forwarded to Medical but sent back for ADA. The inmate was provided with a charging dock for hearing aids. The response does not address the cleaning accessories.
- TLO51922/0950 – Requests accommodations during transport and brace. He was told the brace he needs costs too much. Response states, You were seen by the medical provider on 5/17, and your medication concern was addressed. Concerns regarding transportation should be addressed by OCSD personnel. The response does not articulate whether the County is

granting the requested accommodation, providing an alternative accommodation, or is declining to provide any accommodation.

- TLO52022/0815 – Requests glasses. Response states, You were seen by the optometrist on 5/4, and glasses were subsequently ordered, per the provider's recommendation. They will be delivered to you upon receipt.
- TLO62122/0941 – Requests hearing aid. Response states, You were seen by health care personnel regarding your concern on 6/18, and follow-up treatment was provided on 6/22. Please submit a pink inmate health message slip to communicate directly with health care personnel should you wish to be seen for this or any future concerns. The response does not articulate whether the County is granting the requested accommodation, providing an alternative accommodation, or is declining to provide any accommodation.

Based on the review of the grievances and grievance responses, the Expert finds the County has not implemented the RP requirement.

### **Not Implemented**

5. *The County shall ensure that, in responding to an ADA-related grievance, the ADA Compliance Unit receives input from all sources, including OCSD and CHS staff, as necessary to respond to the grievance. Input from CHS staff may be required in circumstances where the grievance raises a question regarding whether the grievant has a disability or whether an accommodation requested by the grievant is reasonable. CHS staff may provide input based on a records review and/or in-person evaluation conducted for purpose of responding to the grievance, as circumstances warrant.*

The draft Custody & Court Operations Manual (CCOM) 8000 Inmates with Disabilities policy states, "In responding to an ADA-related grievance, the ADA Compliance Unit will obtain input from all sources, including OCSD and CHS staff, as necessary to respond to the grievance. Input from CHS staff may be required in circumstances where the grievance raises a question regarding whether the grievant has a disability or whether an accommodation requested by the grievant is reasonable. CHS staff may provide input based on a records review and/or in-person evaluation conducted for purpose of responding to the grievance, as circumstances warrant."

In a review of the grievances, the Expert notes that of the 40 grievances produced, only grievance MJ0613222020 was assigned to the ADA Compliance Unit for review and response.

Based on the review of the grievances and grievance responses, the Expert finds the County has not implemented the RP requirement.

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### **Not Implemented**

6. *When necessary, the ADA Compliance Unit shall interview people in custody regarding their requests for accommodations to gather information about or to clarify the nature of the request for accommodation.*

The draft Custody & Court Operations Manual (CCOM) 8000 Inmates with Disabilities policy states, “When necessary, the ADA Compliance Unit shall interview inmates regarding their requests for accommodations to gather information about or to clarify the nature of the request for accommodation.”

A review of the grievances found that there were no cases where the ADA Compliance Unit staff interviewed incarcerated persons regarding their requests for accommodations.

Based on the policy not being implemented, the Expert determined this requirement in not implemented.

### **Not implemented**

7. *All grievance responses shall include an explanation of the process for appealing the grievance response.*

The draft Custody & Court Operations Manual (CCOM) 8000 Inmates with Disabilities policy states, “All grievance responses shall include an explanation of the process for appealing the grievance response.”

In a review of the 40 grievance responses, the Expert found that all 40 did not include an explanation of the process for appealing the grievance response.

Based on this, the Expert finds the County has not implemented the RP requirement.

### **Not Implemented**

8. *The County shall ensure that it effectively communicates all grievance and appeal responses to the grievant/appellant.*

The draft Custody & Court Operations Manual (CCOM) 8000 Inmates with Disabilities policy states, “Staff shall ensure that they effectively communicate all grievance and appeal responses to the inmate.”

A review of the grievances found that there were two (2) grievances submitted by incarcerated persons with disabilities that affect communication (hearing). In both

of these grievances, there is no documentation that the grievance response was effectively communicated.

Based on this, the Expert finds the County has not implemented the RP requirement.

#### **Not Implemented**

9. *When a person files a grievance or appeal of a grievance response, the County shall provide a copy of the grievance or appeal to the grievant.*

The draft Custody & Court Operations Manual (CCOM) 8000 Inmates with Disabilities policy states, "When an inmate files a grievance or appeal of a grievance response, the inmate will be provided a copy of the grievance or appeal."

In review of the ten (10) disability-related grievances, the Expert notes that all ten reflect "Inmate Copy" on the grievance response.

Based on this, the Expert finds the County has adequately implemented the RP requirement.

#### **Adequately Implemented**

- E. *The County shall ensure that incarcerated persons do not face any retaliation for requesting accommodations or submitting grievances.*

The draft Custody & Court Operations Manual (CCOM) 8000 Inmates with Disabilities policy states, "Inmates will not be subject to any retaliation for requesting accommodations or submitting grievances."

Staff interviewed stated that incarcerated persons are not subjected to any form of retaliation for requesting accommodations or for submitting grievances.

All incarcerated persons interviewed who submitted a request for accommodation or grievances stated that they had not been subjected to retaliation.

Based on this, the Expert finds the County has adequately implemented the RP requirement.

#### **Adequately Implemented**

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## M. Alarms/Emergencies/Announcements (Section XIII)

- A. *The County shall accommodate people with disabilities with respect to alarms and emergencies.*

The draft Custody & Court Operations Manual (CCOM) 8000 Inmates with Disabilities policy states, "Staff will provide reasonable modifications to Jail rules, policies, and practices to enable inmates to participate in the services, programs, and activities offered to other inmates of the same classification level. Including the special needs of inmates in emergency evacuation plans and drills.

All staff interviewed stated they accommodate incarcerated persons with disabilities during alarms, emergency evacuation drills, and emergencies. The accommodations they stated they would provide include assisting mobility, deaf and hard of hearing, and visually disabled incarcerated persons during the evacuation process and modifying the requirement for the incarcerated person to "get down" during an alarm. In addition, staff stated they would conduct face-to-face notifications to deaf and hard of hearing disabled incarcerated persons during the evacuation process. In the next monitoring round, the Expert will request and review proof of practice, including with respect to revision and implementation of OCSD's disability policy on this topic.

Based on this, the Expert finds the County has partially implemented the RP requirement.

### **Partially Implemented**

- B. Relevant policies related to accommodations for alarms and emergencies shall be communicated to persons with disabilities using Effective Communication.

The County produced the following documents, which are used to provide information on the services available to incarcerated persons with disabilities as well as the incarcerated person rules and regulations:

- Orange County Sheriff's Department Custody Operations ADA Information Brochure
- ADA Inmate Qualifications Acknowledgement of Rights/Programs
- Correctional Programs Inmate Orientation Brochure
- ADA Inmate Interview Worksheet
- Orange County Sheriff's Department Custody Operations Inmate Orientation

In a review of the documents, the Expert found they do not include information on the policies and accommodations related to alarms and emergencies.

Based on this, the Expert finds the County has not implemented the RP requirement.

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### **Not Implemented**

- C. *The County shall communicate effectively and appropriately with persons who have disabilities that may present barriers to communication during emergencies or alarms.*

The draft Custody & Court Operations Manual (CCOM) 8000 Inmates with Disabilities policy states, “Staff will provide reasonable modifications to Jail rules, policies, and practices to enable inmates to participate in the services, programs, and activities offered to other inmates of the same classification level. Including the special needs of inmates in emergency evacuation plans and drills.

All staff interviewed stated they accommodate incarcerated persons with disabilities during alarms, emergency evacuation drills, and emergencies. Staff reported they would conduct face-to-face notifications to deaf and hard of hearing disabled incarcerated persons during emergencies and alarms. With the updating of policy, the County will be in position to establish that this provision has been adequately implemented. The Expert will also be interviewing incarcerated persons with disabilities in the next round to confirm staff reports.

In the next monitoring round, the Expert will request and review proof of practice, including with respect to revision and implementation of OCSD’s disability policy on this topic.

Based on this, the Expert finds the County has partially implemented the RP requirement.

### **Partially Implemented**

- D. *In order to facilitate appropriate accommodations during alarms or emergencies, the County shall offer, but shall not require, people who have disabilities to wear visible markers to identify their disability needs (e.g., identification vests). The County shall also maintain a list, posted in such a way to be readily available to Jail staff in each unit, of persons with disabilities that may require accommodations during an alarm or emergency.*

Effective Communication auxiliary aids, materials, and services are provided free of cost to patients identified with disabilities whenever simple written and oral communication is not effective. Assistive devices, technology, assistance may include vests to alert staff if the patient is hard of hearing or visually impaired. Staff reported that the incarcerated persons are provided with the vests; however, they are not required to wear them. The incarcerated persons interviewed confirmed, that they are offered vests and not required to wear the vest. The Expert during the interviews noted that three (3) incarcerated persons were wearing the vests during the interview.



The Expert confirmed that the County maintains the "ADA Inmate Tracking List" with the incarcerated person disability designation that identifies the incarcerated persons with disabilities that may require accommodations during an alarm posted in the housing unit officer stations.

Based on this, the Expert finds the County has adequately implemented the RP requirement.

### **Adequately Implemented**

- E. The County shall ensure that people who are deaf or hard of hearing receive effective communication during alarms and emergency announcements. Staff will prioritize these persons during alarms, emergency announcements, and any evacuation.*

The draft Custody & Court Operations Manual (CCOM) 8000 Inmates with Disabilities policy states, "Staff will provide reasonable modifications to Jail rules, policies, and practices to enable inmates to participate in the services, programs, and activities offered to other inmates of the same classification level. Including the special needs of inmates in emergency evacuation plans and drills."

All staff interviewed stated they accommodate incarcerated persons with disabilities during alarms, emergency evacuation drills, and emergencies. Staff reported they would conduct face-to-face notifications to deaf and hard of hearing disabled incarcerated persons during emergencies and alarms.

With the updating of policy, the County will be in position to establish that this provision has been adequately implemented. The Expert will also be interviewing incarcerated persons with disabilities in the next round to confirm staff reports.

In the next monitoring round, the Expert will request and review proof of practice, including with respect to revision and implementation of OCSD's disability policy on this topic.

Based on this, the Expert finds the County has partially implemented the RP requirement.

### **Partially Implemented**

- F. Staff shall ensure that they effectively communicate all verbal announcements to persons with disabilities that affect communication. For example, staff may need to communicate verbal announcements in writing or electronic means (e.g., pager) to deaf incarcerated people.*

The draft Custody & Court Operations Manual (CCOM) 8000 Inmates with Disabilities policy states, "Some inmates with a hearing impairment may not be able to hear

announcements in the unit. This impairment will be listed on the Functional Needs List and the Sheriff's JMS. Depending on the inmate's level of impairment, staff assigned to housing units with hearing impaired inmates should use the following techniques for instructions or announcements.

- Whiteboard/written notes
- Speak one on one in an elevated, clear voice.
- Speak closely enough to allow the inmate to lip-read."

Staff interviewed stated they would effectively communicate verbal announcements to disabled incarcerated persons with disabilities that affect communication by conducting face-to-face communication, writing notes, speaking louder, etc. However, incarcerated persons with disabilities that affect communication stated that staff does not always provide the accommodations necessary for them to hear the verbal announcements. The incarcerated persons stated that they must rely on other incarcerated persons and or watch for the movement of other incarcerated persons when announcements are made for chow, yard, dayroom, pill call, etc.

Based on this, the Expert finds the County has partially implemented the RP requirement.

### **Partially Implemented**

- G. *Staff shall ensure that they effectively communicate all written notices to persons with disabilities that affect communication. For example, staff may need to read a written notice to blind or low-vision incarcerated people or provide such notices in large print.*

The draft Custody & Court Operations Manual (CCOM) 8000 Inmates with Disabilities policy states, An inmate with hearing, vision, speech impairments, or Intellectual/Developmental disability, and inmates with severe mental illnesses, may require accommodations or assistance to achieve Effective Communication. Assistance or accommodations may include using written communication and reading documents to the incarcerated person.

Staff interviewed stated they would effectively communicate written notices to persons with disabilities that affect communication by reading notices to blind or low vision incarcerated persons or providing notices in large print. However, disabled incarcerated persons with disabilities that affect communication stated that staff does not always provide the accommodations of reading documents and providing large print notices/material.

Based on this, the Expert finds the County has partially implemented the RP requirement.

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## Partially Implemented

### N. Searches, Restraints, and Count (Section XIV)

- A. *The County shall ensure that incarcerated people with disabilities, including those with prosthetic limbs, receive reasonable accommodations with respect to the following:*
1. *All searches, including pat searches and searches without clothing;*
  2. *Application of restraint equipment; and*
  3. *During counts.*
- B. *Incarcerated persons with disabilities who cannot be restrained, searched, or counted using the standard methods/processes, including but not limited to persons with certain mobility or upper extremity disabilities, using HCA/AD/DME, using prosthetic limbs, and in need of Effective Communication accommodations, must be provided reasonable accommodations.*

The draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, "Inmates with disabilities, including but not limited to those with certain mobility or upper extremity disabilities or prosthetic limbs, will receive reasonable accommodations with respect to the following:

- All searches, including pat searches and searches without clothing;
- Application of restraint equipment; and
- During counts.

Custody staff interviewed stated that the incarcerated persons are provided the necessary accommodations during searches, including clothed and unclothed body searches. Custody staff interviewed stated that accommodations are provided to incarcerated persons during the application of restraints if necessary. Custody staff interviewed also stated that incarcerated persons are provided accommodations during count. The incarcerated persons interviewed stated that custody staff routinely provide them accommodations during the search, count, and restraint processes.

Based on this, the Expert finds that the County has adequately implemented the RP requirements.

## Adequately Implemented

### O. Transportation (Section XV)

- A. *The County shall provide reasonable accommodations for persons with disabilities when they are in transit, including during transport to court, between Jail facilities, or to outside health care services.*

As part of the disability identification process, CHS staff complete a CHS Inmate Health and Mobility Notification Form J-112. The J-112 includes the following information related to accommodations during transportation:

- Transportation Requirements
  - Bus
  - SUV
  - Wheelchair Van
  - Other

The J-112 is provided to the ADA Compliance Unit who enter the transportation accommodation needs in the "Current ADA Tracking List." This alerts transportation staff of the accommodations needed during the transport. Transportation staff interviewed stated that they review the "Current ADA Tracking List" and provide the accommodations. All incarcerated persons interviewed stated that transportation staff provides the required accommodations during the transports to court, between Jail facilities, or to outside health care services.

The County's Guideline for J-112 – Transportation Requirement Section states,

OCSD uses the following methods for inmate transportation:

- Bus
- SUV
- Wheelchair van

CHS Triage staff can refer to the guideline below to decide on the most appropriate mode of transportation for inmates with disabilities:

- Bus: Able-bodied inmates and those with dexterity-related issues.
- SUV: Inmates with mobility-related impairments (canes, crutches, walkers). Full-time wheelchair users who can safely transfer from their wheelchair to the SUV will generally take the SUV. First, ask them "how" they transport at home? If they were transporting safely and successfully at home using a car or SUV, and were not having any trouble doing so, then assign SUV for transport.
- Wheelchair van: Full-time wheelchair users who cannot safely/successfully transfer from their wheelchair to a SUV (for any reason) should be transported in a wheelchair van. Examples include but are not limited to inmates who are paraplegic, those with co-occurring mobility/dexterity impairments, neuro-motor disorders, or elderly inmates with limited physical strength.

In addition, use the responses from the triage Receiving Screening and FPW questionnaire to make a transportation decision.

OCSD Transportation	Who?	Examples but not limited to:
Bus	Majority of patients including dexterity related issues	Arm splint, sling, cast
SUV	Mobility related impairments *How did they transport at home?	Cane, crutches, walkers, walking boot, wheelchair for long distances
Wheelchair Van	Unable to transfer from wheelchair to SUV safely *How did they transport at home?	Wheelchair bound (i.e. paraplegic, co-occurring mobility/dexterity impairments, neuro-motor disorders, elderly)

\*\*Questionable patients using wheelchairs can be assigned a wheelchair Van till further evaluation is completed by a CHS provider.

The County produced OCSD Transportation Trip Logs for the Months of March to June 2022. The logs reflect the following transports for incarcerated persons with disabilities:

- March 2022 – 90 transports
- April 2022 – 156 transports
- May 2022 – 208 transports
- June 2022 -200 transports

Transportation staff reported that currently, there are two (2) accessible vehicles with two (2) more on order.

During the interviews, the incarcerated persons reported the following:

- Thirteen incarcerated persons with prescribed canes/walkers/prosthetics reported they were accommodated during the transport by being transported in a car and staff provided them with assistance as needed.
- One incarcerated person with a prescribed prosthetic reported he did not require accommodations during the transport and was transported in a bus.
- One incarcerated person with a prescribed prosthetic reported he was accommodated during the transport by being transported in a van and staff assisted him into the van.

- Six incarcerated person with a prescribed wheelchair reported they were accommodated by being transported in an accessible van.

The incarcerated persons interviewed stated that they do not have to wait longer for transportation than incarcerated persons who do not require accessible transportation. The incarcerated persons interviewed also stated that staff does not ask them to accept inaccessible transportation, and they are transported in a vehicle based on their accommodation needs.

Based on this, the Expert finds that the County has adequately implemented the RP requirements.

### **Adequately Implemented**

- B. Prescribed HCA/AD/DME, including canes, for persons with disabilities shall be available to the person at all times during the transport process.*

The draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, "Staff shall ensure that an inmate's mobility device or tapping cane is transported with the inmate whenever the inmate is transferred in between facilities, to court, or other outside appointment."

The transportation staff stated that the incarcerated persons are provided their prescribed HCA/AD/DME, including canes, at all times during the transport process. The incarcerated persons interviewed stated that they are allowed to retain possession of their prescribed HCA/AD/DME, including canes, at all times during the transport process.

Based on this, the Expert finds that the County has adequately implemented the RP requirements.

### **Adequately Implemented**

- C. The County shall use accessible vehicles to transport persons whose disabilities necessitate special transportation, including by maintaining a sufficient number of accessible vehicles. For scheduled transportation (e.g., court appearances and non-emergency outside medical appointments), the County shall schedule the accessible transportation in advance. The County shall ensure that, to the greatest extent practicable, persons who require accessible transportation are not required to wait longer for transportation than people who do not require accessible transportation. The County shall ensure that transportation staff does not ask persons who require accessible transportation to accept inaccessible transportation.*



The draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities addresses the accommodations required for incarcerated persons who require accessible transportation.

The County produced OCSD Transportation Trip Logs for the Months of March to June 2022. The logs reflect the following transports for incarcerated persons with disabilities:

- March 2022 – 90 transports
- April 2022 – 156 transports
- May 2022 – 208 transports
- June 2022 -200 transports

Transportation staff reported that currently, there are two (2) accessible vehicles with two (2) more on order. Transportation staff reported that transportation staff reviews the "Transportation" section of the ADA Inmate Tracking List to identify cases that require accessible transportation or alternate transportation vehicles (car). If the incarcerated person requires an accessible or alternate vehicle, it is scheduled in advance.

During the interviews, the incarcerated persons reported the following:

- Thirteen incarcerated persons with prescribed canes/walkers/prosthetics reported they were accommodated during the transport by being transported in a car and staff provided them with assistance as needed.
- One incarcerated person with a prescribed prosthetic reported he did not require accommodations during the transport and was transported in a bus.
- One incarcerated person with a prescribed prosthetic reported he was accommodated during the transport by being transported in a van and staff assisted him into the van.
- Six incarcerated person with a prescribed wheelchair reported they were accommodated by being transported in an accessible van.

The incarcerated persons interviewed stated that they do not have to wait longer for transportation than incarcerated persons who do not require accessible transportation. The incarcerated persons interviewed also stated that staff does not ask them to accept inaccessible transportation, and they are transported in a vehicle based on their accommodation needs.

Based on this, the Expert finds that the County has adequately implemented the RP requirements.

### **Adequately Implemented**

*D. Persons with mobility impairments shall, when necessary, be provided staff assistance getting on and off transport vehicles.*

The draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities requires transportation staff to accommodate disabled incarcerated persons with transportation accommodation needs.

Transportation staff stated that in the event an incarcerated person requires assistance in boarding the vehicle, they provide the assistance.

During the interviews, the incarcerated persons reported the following:

- Thirteen incarcerated persons with prescribed canes/walkers/prosthetics reported they were accommodated during the transport by being transported in a car and staff provided them with assistance as needed.
- One incarcerated person with a prescribed prosthetic reported he did not require accommodations during the transport and was transported in a bus.
- One incarcerated person with a prescribed prosthetic reported he was accommodated during the transport by being transported in a van and staff assisted him into the van.
- Six incarcerated person with a prescribed wheelchair reported they were accommodated by being transported in an accessible van.

Based on this, the Expert finds that the County has adequately implemented the RP requirements.

#### **Adequately Implemented**

### **P. ADA Training, Accountability, and Quality Assurance (Section XVI)**

- A. The County shall ensure all custody, health care, and other Jail staff receive annual ADA training appropriate to their position.*
- 1. The County shall provide to all staff appropriate training on disability awareness, including the use and purpose of accommodations and modifications in accordance with the ADA and other federal and state disability law.*
  - 2. The County shall provide to all staff appropriate training on Trauma-Informed Care, which will be included in the ADA training and Crisis Intervention Training (CIT).*
  - 3. The ADA training shall include: formalized lesson plans and in-classroom or real-time virtual training for staff (including managers, supervisors, and rank-and-file staff) provided by certified or otherwise qualified ADA trainers. Self-directed study may be paired with real-time ADA training.*

4. *CHS and OCSD staff shall receive periodic training on the range of potential accommodation and adaptive support needs of people with Intellectual/Developmental Disabilities.*

The County produced the following training documents:

- Americans With Disabilities Act (2 Hour Lesson Plan)
- Americans With Disabilities Act PowerPoint Presentation (54 slides)
- Standards and Training for Corrections Program (Correctional Officers Supplemental Course 4/25/22 to 5/11/22) with 27 participants
- Critical Incident Training (Mental Health Intervention Training 1) 8 Hours
- Mental Health Intervention Training CIT I (Crisis Intervention Training for Law Enforcement I) 16 Hours Expanded Course Outline

The training material includes training on disability awareness, including the use and purpose of accommodations and modifications in accordance with the ADA and other federal and state disability law. The CIT I training curriculum includes a segment on Post-Traumatic Stress Disorder (PTSD) and Trauma-Informed Care is also included in the ADA training curriculum. The Americans With Disabilities Act PowerPoint Presentation includes a segment on the adaptive support needs of incarcerated people with Intellectual/Developmental Disabilities. The Expert notes that the ADA and CIT training is provided as formal classroom training.

The County and custody staff interviewed reported they have provided and received the 2-Hour Americans With Disabilities Act training within the last two (2) months. However, training records were only provided for one (1) Correctional Academy Class. Medical and non-custody staff stated they had not been provided any ADA Training.

Based on the review of all training documents, the Expert notes the County provides ADA Training to the Corrections Academy participants. However, although custody staff interviewed stated they had attended the ADA training, the Expert could not confirm if the County provided the required annual ADA training to all custody staff as the only training records produced were for one (1) Academy class. The Expert also finds that the County has not provided annual ADA training to CHS and non-custody staff. The Mental Health Intervention Training CIT I includes a training segment on PTSD. The Expert finds that although the OCSD ADA training curriculum that is provided to custody staff includes training on the range of potential accommodation and adaptive support needs of people with Intellectual/Developmental Disabilities, the CHS and non-custody staff have not been provided the required training.

The County must ensure that the required ADA training is developed and provided to CHS and non-custody staff. The County must also ensure that for future monitoring, verification of the ADA training is provided to the Expert. The County must also ensure that the required training is included in the ADA training curriculum.

Based on this, the Expert finds the County has partially implemented the RP requirements.

### **Partially Implemented**

- B. ADA instructors shall have appropriate ADA training and subject matter expertise necessary to effectively provide ADA training to staff.*

The County reported that the following trainers provide the ADA training:

- Ronald Miller- ADA Trainer Retired deputy Sheriff and ADA Consultant
- Brian Snow- ADA Trainer, ADA Compliance Deputy
- Kyle Deaton- ADA Trainer, ADA Compliance Deputy
- Glenn Freeman- ADA Trainer, ADA Compliance Deputy

Based on this, the Expert has determined that the ADA trainers have appropriate ADA training and subject matter expertise necessary to effectively provide ADA training to staff.

### **Adequately Implemented**

- C. The County shall, in consultation with Counsel and the joint Expert, develop and implement written policies and procedures regarding monitoring, investigating, and tracking staff violations (or allegations of violations) of ADA requirements and Jail ADA policies.*

The County produced the following documents:

- Orange County Sheriff-Coroner Department, Orange County SD Policy Manual Policy 1001, Code of Professional Conduct and Responsibility for Peace Officers
- Orange County Sheriff-Coroner Department, Orange County SD Policy Manual Policy 1018 Rules of Conduct – General
- Orange County Sheriff-Coroner Department, Orange County SD Policy Manual Policy 347 Disciplinary Policy
- Custody & Court Operations Manual (CCOM) 1600.5 – Inmate Grievance Procedure

The draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, "Allegations, from any source, that staff have violated the ADA or Jail ADA-related policies and procedures will be investigated. OCSD staff who OCSD finds have violated the ADA or Jail ADA-related policies and procedures shall be subject to OCSD's progressive discipline policy. CHS staff who the Health Care

Agency finds to have violated the ADA or Jail ADA-related policies and procedures shall be subject to the Health Care Agency's discipline policy."

Although the draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities includes language that OCSD staff who OCSD finds have violated the ADA or Jail ADA-related policies and procedures shall be subject to OCSD's progressive discipline policy, the policies and procedures do not include a process for monitoring, investigating, and tracking staff violations (or allegations of violations) of ADA requirements and Jail ADA policies. The County must, in consultation with Counsel and the Expert, develop and implement written policies and procedures regarding monitoring, investigating, and tracking staff violations (or allegations of violations) of ADA requirements and Jail ADA policies as required by the RP.

Based on this, the Expert finds the County has partially implemented the RP requirements.

#### **Partially Implemented**

- D. The County shall develop an ADA accountability plan intended to timely log and investigate allegations, from any source, that staff have violated the ADA or Jail ADA-related policies and procedures. OCSD staff who OCSD finds have violated the ADA or Jail ADA-related policies and procedures shall be subject to OCSD's progressive discipline policy. CHS staff who the Health Care Agency finds to have violated the ADA or Jail ADA-related policies and procedures shall be subject to the Health Care Agency's discipline policy.*

The draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, "Allegations, from any source, that staff have violated the ADA or Jail ADA-related policies and procedures will be investigated. OCSD staff who OCSD finds have violated the ADA or Jail ADA-related policies and procedures shall be subject to OCSD's progressive discipline policy. CHS staff who the Health Care Agency finds to have violated the ADA or Jail ADA-related policies and procedures shall be subject to the Health Care Agency's discipline policy."

The Health Care Agency (HCA) Correctional Health Services (CHS) Policy and Procedure 6407 Reasonable Health Accommodations for Patients with Disabilities states, "CHS staff may be subject to HCA's disciplinary process if found in violation of ADA or Jail ADA-related policies and procedures."

The Expert notes that the draft Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities includes language that OCSD staff who OCSD finds have violated the ADA or Jail ADA-related policies and procedures shall be subject to OCSD's progressive discipline policy, and the Health Care Agency (HCA) Correctional Health Services (CHS) Policy and Procedure 6407 Reasonable Health Accommodations for Patients with Disabilities includes language that CHS staff may

be subject to HCA's disciplinary process if found in violation of ADA or Jail ADA-related policies and procedures. However, the policies and procedures do not include an ADA accountability plan to timely log and investigate allegations from any source that staff has violated the ADA or Jail ADA-related policies and procedures as required by the RP.

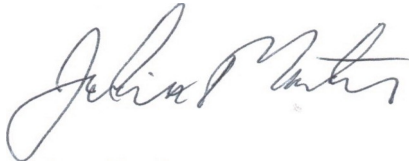
Based on this, the Expert finds the County has partially implemented the RP requirements.

**Partially Implemented**



## V. Signature

Submitted on behalf of Sabot Technologies, Inc. dba Sabot Consulting to the  
County of Orange, and Orange County Sheriff's Office

A handwritten signature in black ink, appearing to read "Julian Martinez", is written over a horizontal line.

Julian Martinez  
Director  
Sabot Consulting

November 8, 2022

\_\_\_\_\_  
Date