



Agreement Between Orange County and Disability Rights California

Expert Monitor's Report (First Round)

Rights and Treatment of People Who Identify as Lesbian, Gay, Bisexual, Transsexual, Queer or Intersex (LGBTQI)

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 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 Remedial Plan, 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 Remedial Plan. 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 Remedial Plan, 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.

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. 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 Remedial Plan implementation.

The Expert is required to complete a comprehensive review (Compliance Review) of the County's implementation of the components of the Remedial Plan 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 Remedial Plan 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 Remedial Plan 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 Remedial Plan, 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 Remedial Plan, 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 Remedial Plan 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 Remedial Plan 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 Remedial Plan 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 Remedial Plan component(s) at issue.

B. Monitoring Process

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

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

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

Not Implemented: No implementation of most or all the components of the relevant Remedial Plan 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.

III. Executive Summary

This is the first Expert Monitor Review to measure Orange County's compliance with the Settlement Agreement which addresses related mandates, including:

- I. LGBTQI Nondiscrimination Policy, Staff Accountability
- II. Transgender and Intersex Intake & Classification Procedures
- III. Least Restrictive Setting Appropriate for LGBTQI Population
- IV. LGBTQI Housing/Classification Review Procedures
- V. LGBTQI Access to Programs, Services, and Activities
- VI. Searches
- VII. Medical and Mental Health Care
- VIII. LGBTQI Training For Staff

The initial round of monitoring focused on the Theo Lacy Facility (TLF), Central Men's Jail (CMJ), Central Women's Jail (CWJ), and the Intake Release Center & Transportation (IRC). The on-site 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); on-site observations (including, but not limited to, observations of the intake screening process and classification screening process); interviews of sworn and non-sworn personnel (e.g., housing deputies, HCA CHS healthcare staff (medical and mental health), classification staff, OCSD Inmate Services Division – Correctional Programs Unit staff, grievance office staff, transportation staff, and training staff; and interviews of LGBTQI incarcerated persons housed at the OC jails. In total, the Expert interviewed approximately 28 staff and 22 incarcerated persons.

An entrance meeting was conducted with representatives from the County of Orange (jail administration, HCA CHS staff, and 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 was also present during the exit conference.

The Expert recognizes that the OC jails have been working under challenging conditions during the COVID-19 epidemic, all while striving to obtain compliance pursuant to the Settlement Agreement and the applicable county policies and procedures.

The Expert finds that some of the provisions as set forth in the Settlement Agreement (and local policies/procedures) have been implemented. However, the Expert finds that more information and evidence is needed to make a determination of compliance for some of the required elements. A more thorough assessment will be made in the future once policies/procedures are developed and provided, proof of practice documentation (in various key areas) is provided, relevant training material is developed and implemented, a related accountability plan is provided, plans for enhanced LGBTQI programming is introduced, and

more access to programs, services, and activities is confirmed (to demonstrate equal access as compared to other incarcerated persons).

All staff were extremely helpful to and accommodating of the Expert. The Expert found most sworn and non-sworn personnel to be very knowledgeable regarding the LGBTQI population and with their respective job duties as related to that jail population. However, there were some noted inconsistencies in the staff's understanding of some of the related requirements. The Expert is confident that once related training is developed and implemented, sworn and non-sworn personnel will be better informed and have an understanding of Settlement Agreement requirements and how that correlates to their respective job duties. Likewise, to the extent there are additional policies/procedures being developed, this will be important for staff knowledge as well. As outlined in this report, there were requirements of the Settlement Agreement that were addressed in OCSD and/or HCA CHS policies, but other areas were not addressed. Further policies/procedures are reportedly being developed but are not yet finalized to implement the LGBTQI components of the Settlement Agreement.

The Expert was informed that CHS provided (1) draft revisions to CHS Policy 6206 (Gender Diverse-LGTBQIA Patient Health Care) and (2) "Transgender 101 for public health clinician" PowerPoint training slides on approximately August 24, 2022. DRC provided written feedback on the draft revised Policy 6206 on September 30, 2022, and on the Transgender 101 training slides on October 10, 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 policy and training materials pertinent to this section of the Settlement Agreement.

As this was the initial monitoring tour, all elements of the Settlement Agreement were evaluated for compliance as the County strives to achieve (and maintain) "Adequately Implemented" status in the rated areas. However, in this early juncture, the Expert is pointing out some specific areas the County must focus on in order to ensure the LGBTQI incarcerated persons are provided the treatment, accommodations, and equal access they need commensurate to the mandates outlined in the Settlement Agreement and local policies/procedures.

The Expert recommends that the County focus on the following areas:

- Development and rolling-out of training (including refresher training) for sworn and non-sworn personnel.
- Finalized Completion of clear OCSD and HCA CHS policies/procedures that include the job responsibilities for sworn and non-sworn personnel.
- Development and rolling-out of LGBTQI -related accountability plan (for staff).
- Provide the Expert with the LGBTQI PRIDE program 90-day report for review (once completed and approved). The report should include information relative to program plans, refinement, and expansion.
- Disseminate jail and community resource information to all LGBTQI incarcerated persons (that are interested) as related to LGBTQI programs and services.

- Make LGBTQI reading materials accessible to LGBTQI individuals (regardless of housing unit) if interested (even for housing units that are not predominately LGBTQI).

The Expert also makes the following recommendations:

- Update sworn staff post orders (for posted positions), and job descriptions/duty statements for all other positions (as applicable) with specific LGBTQI-related job functions.
- Ensure consistency amongst jail staff within the different disciplines/divisions/units in terms of:
 - (1) understanding and carrying out related responsibilities (e.g., the OCSJ Voluntary Gender Identity Disclosure and Search Preference Form);
 - (2) asking the related questions at intake/classification;
 - (3) knowing where to access the search form information and put such information to practical use;
 - (4) making consistent how medical intake interviews and classification intake interviews are conducted (thoroughness in asking the questions – all related questions for LGBTQI, to include fully explaining classification and security options for types of housing such as protective custody versus general population); and
 - (5) the manner with which staff conduct pat-down and strip searches in accordance with the individual's preferred gender, whether in a housing unit, going out-to-court, or going on a transport, etc.
- Ensure orientation information is provided to LGBTQI incarcerated persons to ensure they understand related rules and understand their access to programs, services, and activities (as pertaining to LGBTQI and otherwise).
- Ensure that staff conducting key encounters (e.g., intake, classification, orientation information, healthcare encounters, etc.) effectively communicate with LGBTQI incarcerated persons and fully explain and address related concerns (e.g., housing, programming, clothing, hygiene, etc.).
- Have a workable process to be able to pull (for review purposes) grievances filed by LGBTQI incarcerated persons (regardless of topic, LGBTQI related or not), and to pull grievances related to LGBTQI related issues (regardless of who submitted the grievance [whether a self-identified/known LGBTQI individual or otherwise]).
- Ensure equal access to all programs, services, and activities for LGBTQI incarcerated persons versus other incarcerated persons (e.g., for work assignments, in-person education [including Rancho Santiago Community College], etc.).
- To help facilitate effective roll-out of programming to the LGBTQI population, allow a representative of the Corrections Program Unit to play a meaningful and appropriate role in decision-making as to which individuals are accepted into the PRIDE program, and any other LGBTQI-specific programming.
- Ensure classifications/re-evaluations of classification, placement, and programming assignments (for transgender/intersex persons) are conducted at least twice annually.
- Provide hair removal tools, creams, or related products through commissary and HCA CHS providers as needed to facilitate transgender care.

- Provide more allowances for razors for transgender/intersex individuals.

The aforementioned bulleted points of recommendation is not an exhaustive list (please refer to each section of the report). 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 38 major areas rated:

- Adequately Implemented - One (1)
- Partially Implemented - Twenty-five (25)
- Not Implemented - Six (6)
- Un-ratable - Five (5)
- Not Assessed – One (1)

It is the Expert's assessment that as the County implements vital components of the Settlement Agreement, including those outlined in this report, the areas found other than Adequately Implemented will progress to an Adequately Implemented rating.

This report details the pre-monitoring tour document review, on-site 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.

IV. Findings

A. LGBTQI Non-discrimination Policy, Staff Accountability (Section I)

- A. *OCSD Policy 375 (Transgender Policy) prohibits staff from discriminating against incarcerated individuals on the basis of gender, including one's gender identity, gender expression, and sexual orientation. The County requires that staff "shall treat transgender persons in a manner that shows respect for the individual's gender identity and gender expression, which includes addressing them by their preferred name and using gender pronouns appropriate to the individual's gender self-identity and expression."*

The Orange County Sheriff's Department Manual Policy 375 Transgender Policy, Policy 328 Unlawful Harassment and Discrimination Policy, and Policy 402 Bias Free Policy contain the required language.

Custody and non-custody staff interviewed stated they treat all incarcerated individuals respectfully and do not discriminate against individuals identified as LGBTQI, transgender, or intersex individuals.

Most of the 21 LGBTQI incarcerated persons interviewed acknowledged that custody and non-custody staff treat them well. However, there were a few related concerns raised, including some that may not have been perceived as discrimination, but rather perceived as possible disrespect. These concerns will be outlined in appropriate sections throughout this report. But there were some complaints by a few LGBTQI incarcerated persons that were perceived (by them) as possible discrimination. One of the complaints (from a couple of individuals) pertained to other units allowing incarcerated persons to wear their underclothes in the pods/dayrooms, but self-identified LGBTQI individuals were prohibited from doing so. Reportedly the County addressed since this concern subsequent to the onsite Expert's tour. A second concern pertained to some of the allowances made for other specialized housing unit/group programs versus the LGBTQI Program in IRC Mod J Mod. Approximately three (3) LGBTQI incarcerated persons complained that other special units (e.g., TLF Veteran's HUM-V unit, Youth Transitional Program unit and the Phoenix House [substance abuse] Program unit) are permitted to take hard plastic lawn chairs to the yard, have a microwave oven, have chess/checker board tables in the pods, have a ping-pong table and equipment, have media monitors (for training and informational purposes), etc., yet the LGBTQI unit is not permitted to have these items. The Expert does not have any evidence or information to support whether any previous requests for such items were submitted by the LGBTQI (PRIDE) Program unit population. As the Expert walked through each of the mentioned specialized units, the Expert recognized that not all of the three (3) units had the same extra allowances, but most of the allowances as described existed to some degree between the three (3) units other than the LGBTQI Program.

There is no evidence to support any intent of discrimination, and the Expert has not concluded that this issue constitutes discrimination. However, the County should examine the noted concerns and to the extent feasible at least consider providing the same or similar types of perks to the incarcerated persons in the GBTQI Program. For the next scheduled Expert tour, and to the Extent the County may be in disagreement with the Experts recommendation (or otherwise have not provided the same or similar types of program perks) the County should explain the reason(s) for allowing other special programs certain perks that incarcerated persons in the GBTQI program do not receive.

Overall, the Expert recommends that policies/procedures and staff practices continue to be examined and do not allow for any discriminatory practices toward LGBTQI incarcerated persons.

Partially Implemented

B. The County shall develop and implement procedures to ensure accountability for its LGBTQI non-discrimination policy:

- 1. The County shall develop a procedure to track complaints involving LGBTQI-involved discrimination, including as to housing placement, property, privileges, or health/mental health care. Such tracking will be used for continuous quality improvement purposes.*
- 1. The County shall develop an accountability plan intended to timely log and investigate allegations from any source that staff has violated the LGBTQI non-discrimination policies and procedures. Any staff member who the County finds to have violated such policies and procedures shall be subject to relevant, progressive discipline policy.*
- 2. The County shall ensure that any staff, contractors, agents, and incarcerated individuals may submit complaints regarding any failures to comply with LGBTQI non-discrimination policies and procedures or components stated herein.*
- 3. The County shall track and analyze for quality improvement purposes the final dispositions of LGBTQI-related complaints, including staff accountability/discipline outcomes.*

Orange County Sheriff's Department's Policy Manual, Policy 375 Transgender Policy (Section 375.5), contains brief general language that requests for service or complaints by transgender individuals (including citizen complaints against sworn or non-sworn professional staff) shall be addressed or investigated in a manner that is consistent with Department Policy.

Orange County Sheriff's Department Policy 328, Unlawful Harassment and Discrimination, contains general information, but it appears to be written for personnel in mind and not for incarcerated persons.

Other than the brief language outlined above (from Policy 375), the County did not provide any relevant documentation for review (to demonstrate related policy/procedures). The County did not provide a status update as to the implementation of a staff accountability plan/process inclusive of tracking discrimination specifically related complaints (LGBTQI), logs/logging related complaints and status throughout related investigations and progressive discipline process, staff disciplinary outcomes (all for Expert Monitor review). The County did not provide information relevant to County administration analyzing all related data for quality improvement purposes.

The Expert did not receive any verbal confirmation to gauge whether an accountability plan (pursuant to LGBTQI) is in progress, or a tentative date for completion, to have available for review or for implementation. A timeline and process for the development of the required accountability plan under this section should be included in the County's Action Plan, to be completed within 30 days of the issuance of this final report.

For future monitoring reviews, the County must provide all relevant documents for the Expert's review, e.g., related policies/procedures, staff accountability plan/process, tracking mechanism to track discrimination complaints (inclusive of the investigation process and ultimate disposition/outcome), and information pertaining to OCSD administration personnel analyzing all related data for quality improvement.

Future training material content should include staff accountability-related information.

Un-ratable

- C. *The County shall develop and implement procedures to protect against staff and contractors disclosing an individual's LGBTQI identity. The County shall limit disclosures to specific, limited circumstances as for purposes of the individual's safety, such as transporting someone.*

Orange County Sheriff's Department Policy 375 Transgender Policy (Section 375.4) contains brief (but clear) related language.

The staff interviewed were aware of the confidentiality concerns and the "need-to-know" basis regarding incarcerated persons that identify as LGBTQI or transgender.

None of the LGBTQI incarcerated persons interviewed onsite by the Expert expressed any related concerns. However, DRC has apprised the Expert that multiple transgender individuals interviewed (by DRC representatives) have expressed concerns that medical staff including dental staff specifically have constantly revealed their sexual or gender identity ("outed" them as transgender) in waiting rooms or during

medical appointments in front of other incarcerated persons. Similarly, DRC reported that multiple transgender persons have expressed concern that nurses at “pill call” “out” them by stating their entire name (and not just last name, as is customary). Further, DRC reported that multiple transgender persons have expressed concern that custody staff “out” them during counts by asking them why their log book photos do not match their current appearance and/or their jail identification photos. This concern will be further examined during the next scheduled Expert tour.

Future training material content should include confidentiality and nondisclosure-related information.

Partially Implemented

- D. Staff shall use (1) an individual's pronoun (including the third-person singular, they/them) appropriately and/or (2) the individual's preferred name or last name.*

Orange County Sheriff's Department Policy 375 Transgender Policy (Sections 375.3 and 375.4) contains related language requirements for staff to follow. The policy generally addresses documentation of an individual's preferred name and pronoun and that the information should be provided to relevant department members for the purpose of ensuring continuity of appropriate treatment.

Staff interviewed acknowledged the requirement, and all stated that they refer to all incarcerated persons by their respective last names (regardless of whether they are self-identified as LGBTQI, transgender, or otherwise). However, when asked whether there were module (mod) cards or any documentation to inform staff as to the preferred pronouns of LGBTQI or transgender individuals, most staff indicated that such information is generally not maintained (that they were aware of).

In terms of addressing them by name or preferred pronoun, the LGBTQI incarcerated persons interviewed stated that staff mostly address them appropriately.

Although staff appears to be compliant in this area, there was a complaint by one (1) individual who indicated that she recently went out to court and was pending a search and processing, and a deputy told the other incarcerated persons to stop looking at “him” and it is a man.

Future training material content should include staff use of an individual's pronouns and preferred name (or last name). The Expert also recommends the County examine avenues to track, monitor, and share (amongst staff) related information (e.g., preferred pronouns [including the third-person singular they/them], and/or the person's preferred name or last name). Such a tracking mechanism should be accessed by sworn and non-sworn personnel as applicable (e.g., staff assigned to housing units, healthcare, Programs or Inmate Services, court processing, transportation, etc.).

Partially Implemented

- E. The County shall permit individuals (including people awaiting trial) to update their Jail ID names if they have obtained a legal name change and (in cases where there are pending charges) the criminal court has recognized the name change. The County shall permit individuals to seek legal name changes and to take appropriate steps to update legal documents. During the period of monitoring of remedial plan implementation, the County will notify DRC of any incarcerated person who obtains a legal name change.*

Court & Custody Operation Manual (CCOM), Section 1201.16 Identification Cards and Clothing, does not specifically address this requirement. The County did not provide any other relevant documentation for review (to demonstrate written policy or staff proof of practice).

Staff interviewed stated that incarcerated individuals may update their jail identification cards if they have a legal name change.

Self-identified LGBTQI incarcerated persons interviewed did not claim any concerns in this area. One (1) of the LGBTQI individuals interviewed indicated they were in the process of getting a legal name change and would have the identification card updated at the appropriate time.

For future monitoring tours, the County should provide the appropriate policy/procedures that address this item (for the Expert's review).

Future training material content should include the updating of jail identification cards (based on a legal name change).

DRC counsel has offered to provide technical assistance to the County on these procedures. The Expert encourages the parties to confer on these matters to ensure efficient and successful implementation

Partially Implemented

- F. The County shall permit transgender and intersex individuals (whether sentenced or unsentenced) to update the photo on their jail ID. The County shall permit transgender individuals to update their photos on their ID to minimize the negative impacts of how such photos can "out" them (e.g., if their ID photo and their current gender expression are dissimilar) or cause psychological distress.*

CCOM, Section 1201.16 Identification Cards and Clothing does not specifically address this requirement. The County did not provide any other relevant documentation for review (to demonstrate written policy or staff proof of practice).

Staff interviewed stated that incarcerated individuals may request to have their photo updated for their identification card if they feel the need to do so.

None of the self-identified transgender incarcerated persons the Expert interviewed had any concerns in this area. However, the Expert notes the August 12, 2022 DRC letter titled, "Pre-Monitoring Tour Letter, LGBTQI Remedial Plan Issues." The letter identifies photo identification cards as one of the concerns. The letter indicates that multiple incarcerated persons (despite having received updated photo changes to their identification cards) have noted their old photos remain in other jail/county systems, including the physical "Logbook," the identification scanners at the entry of the units, the identification scanners for court, and in computer systems used by medical and custody staff.

For future monitoring tours, the County should provide the appropriate policy/procedures that address this item, for the Expert Monitor's review. The County must take steps to ensure that, when a jail identification photo is updated, the photo is also updated within the various jail tracking systems as applicable.

Future training material content should cover permitting transgender and intersex incarcerated persons to update the photo on their jail identification card.

Partially Implemented

G. A person's self-identification as LGBTQI at any point is sufficient to trigger the protections and procedures specific to LGBTQI individuals, as set forth herein. Documentation of a medical diagnosis or legal documentation of an individual's identity, including their gender marker or legal sex, is not required for staff to respect or confirm an individual's gender identity, except in cases where there is specific evidence that a person has falsely asserted a gender identity:

- 1. The fact that a person has not completed a legal name change or has not obtained a government-issued identification that reflects their affirmed sex, gender identity, or name shall not constitute evidence to justify staff not respecting the individual's gender identity.*
- 2. The absence of completed County's Voluntary Gender Identity Disclosure and Search Preference Form shall not constitute evidence to justify staff not respecting the individual's known gender identity.*

Orange County Sheriff's Department Policy 375 Transgender Policy (Sections 375.1, 375.2, and 375.3) contains related language.

Staff interviewed stated that incarcerated individuals that self-identify as transgender or LGBTQI are protected and respected by staff.

Most of the incarcerated persons interviewed indicated they are protected and treated respectfully by staff. However, as stated above, there was a complaint by one (1) individual who indicated that she recently went out to court and was pending a search and processing; a deputy told the other incarcerated persons to stop looking at “him,” and it is a man. Although the staff member reportedly was not speaking directly to the LGBTQI individual, it still appears to be a case of a County employee not recognizing an individual's gender identity. The Expert was not able to confirm or refute the claim.

Future training material content should include respect, safety, and protection-related information for LGBTQI incarcerated persons commensurate to the requirements outlined in this section.

Partially Implemented

B. Transgender and Intersex Intake & Classification Procedures (Section II)

A. During intake and classification, Jail staff shall:

- 1. Offer each transgender or intersex individual the option to complete the OCSD Voluntary Gender Identity Disclosure and Search Preference Form and continue to maintain documentation of an individual's gender identity, pronoun, honorific, and search preference.*
- 2. Explain that the individual will not be punished if they choose not to provide such information.*
- 3. Explain that staff, contractors, and volunteers shall use a person's stated pronoun and honorific and that the failure to do so may be grieved and reported.*
- 4. Effectively communicate how gender identity impacts classification and housing placement determinations.*
- 5. Ask for information about the individual's preferred housing placement (e.g., male/female-designated unit, general population/protective custody).*
- 6. Ensure that the above inquiries and information are communicated in a private setting.*

The following policies/procedures and/or related forms/documentation contain applicable information as follows:

- For item A.1: CCOM, Section 1710.4 Body Searches of Inmates (Gender Restrictions) addresses individuals who are gender non-conforming or have a gender identity which differs from their genital status.

- For item A.1: the County provided four (4) completed Orange County Sheriff's Department Voluntary Gender Identity Disclosure and Search Preference Forms (for the period of 12/22/21 – 5/28/22) for transgender/intersex individuals.
 - Sections of the form denote an incarcerated person's gender identity, preferred pronoun (e.g., he, she, they), preferred title (e.g., Ms., Mr.), and preference of gender for staff searching purposes (i.e., female, male, or no preference).
 - The form contains an area for the incarcerated person's signature and date (and for witnessing deputy and classification sergeant signatures).
- For items A.4 and A.5: CCOM Section 1200.10 Housing Assignments and Changes addresses housing for gender non-conforming or non-binary individuals.
- For items A.4 and A.5: the County provided a blank example of an Orange County Sheriff's Department Inmate Classification Form (3 pages). The form (as completed by a Classification Unit Deputy) asks about:
 - Gender (male/female/non-binary)
 - Safety concerns
 - PREA victimization and abusiveness screening (including whether the individual is confirmed or perceived to be gay, lesbian, bisexual, transgender, intersex, or gender non-conforming, and their own perception as to potential vulnerability to harassment or victimization)
 - General incarcerated person comment as to whether there is any additional information that would assist staff in classifying them
- For item A.5: although not related to the intake housing process, the County provided four (4) examples of completed Orange County Sheriff Department Classification Review Forms J-203 (three [3] from Theo Lacy and one [1] from the Main Jail) for rehousing requests:
 - Four (4) separate individuals that self-identify as "homosexual" or "bisexual" requested rehousing (i.e., protective custody, LGBTQI housing) for safety reasons.
 - All four (4) requests were approved by a Classification Sergeant, and all were rehoused accordingly.
 - Three (3) of the four (4) requests were submitted and approved in 2022, and one (1) was from 2020.
- For item A.6: CCOM Policy/Section 1200.4 Location of Classification Interviews requires the classification interviews to be conducted away from other incarcerated persons and the information to be kept confidential.

The following policies/procedures and/or related forms/documentation either were not provided or do not contain applicable information as follows:

- The County did not provide a Classification Plan or other Classification policies (other than what is identified above):
 - It is unclear whether there is a separate existing Classification Plan other than the CCOM Sections as outlined in this section of the report.

- Other than the four (4) Classification Review Forms J-203 (as identified above), the County did not provide any completed classification forms relative to incarcerated persons that self-identify as transgender or LGBTQI (e.g., Classification Form J-200 or OCSD Specialty Housing Request Form J-201).
- The County did not provide any policies/procedures related to items A.1, A.2, or A.3.

Staff interviewed were inconsistent (and some were confused) as to the existence of the OCSD Voluntary Gender Identity Disclosure and Search Preference Form and where related information may be maintained for staff awareness. Aside from approximately four (4) completed examples of the form the Expert received as part of document production, during my observation of an Intake Classification interview, the Expert observed a completed OCSD Voluntary Gender Identity Disclosure and Search Preference form for a recent new arrival.

The Expert interviewed five (5) Classification or PMU staff members regarding classification processes. Most of them indicated they effectively communicate how gender identity impacts classification and housing placement determinations, and all of them indicated they ask about the individual's preferred housing placement (e.g., male-/female-designated unit, general population/protective custody). However, there were a couple of noted inconsistencies. One of the staff interviewed stated that transgender individuals will be assigned housing based on their assigned sex at birth. Another Classification Unit staff member indicated that the OCSD Voluntary Gender Identity Disclosure and Search Preference Form is not used at TLF. Of the four (4) housing deputies interviewed (both complexes), three (3) of the four (4) had either never heard of the form, had heard about it but had never seen one, or they did not know where or how to access the gender identity and search related information.

Though most of the 21 self-identified LGBTQI individuals interviewed were generally satisfied with the intake and classification processes, there were some concerns expressed. These concerns included:

- Many were not asked about their search preference (gender for staff) regarding staff searches of their person:
 - As a result, (at least for a few of them), staff of the non-preferred gender searches them.
- Some did not believe a search form was ever completed for them during or after the intake process.
- A few felt that the staff did not ask the correct questions to appropriately house them.
- At least two (2) individuals indicated if they had to go through the intake process over again, they would not admit they were LGBTQI because they believe they were housed in protective custody needlessly and contrary to their preference.

- A couple of the individuals stated they were not made aware that going into an LGBTQI unit meant that they were also going to be classified as protective custody.

For item A.2: there was no documentation or proof to support that intake staff (during Intake and Classification) explain that the individual will not be punished if they choose not to provide requested information pertaining to an individual's gender identity, pronoun, honorific, and search preference.

For item #A.3: there was no documentation or proof to support that intake staff (during Intake and Classification) explain that staff, contractors, and volunteers shall use a person's stated pronoun and honorific and that the failure to do so may be grieved and reported.

For item A.4: there was no documentation or proof to support that staff (during Intake and Classification) effectively communicate how gender identity impacts Classification and housing placement determination.

For item A.5: from interviews of Classification staff and in a review of the Classification forms, the forms lend themselves to ensuring Classification deputies ask about the individual's preferred housing placement (e.g., male-/female-designated unit, general population/protective custody).

The Expert has several recommendations in this area:

1. Classification deputies (or "uncuff" deputies) must ask all self-identified LGBTQI new arrivals as to their search preference (staff gender) and must offer the OCSD Voluntary Gender Identity Disclosure and Search Preference Form.
2. Pending the eventual roll-out of the formalized staff training curriculum, the County should ensure that staff are aware of and understand the OCSD Voluntary Gender Identity Disclosure and Search Preference Form, where/how to access the information, and their responsibilities regarding the information contained. The form and process must be in place at all jail facilities.
3. Classification deputies must fully explain applicable classification and security options and ensure LGBTQI self-identified individuals fully understand the protective custody and general population classifications (and others as applicable) and the jail-wide dynamics associated with those classifications.
4. The County must ensure that Classification Unit staff comply with OCSD policies and refrain from having a blanket or across-the-board practice of housing transgender or intersex incarcerated persons in housing based on their assigned sex at birth (without strongly considering all classification factors, including the individual's housing preference).
5. To the extent the County can provide documented evidence for future monitoring tours, the County should provide confirmation (examples) that Classification Unit intake staff explain to new arrivals (as applicable):

- They will not be punished if they choose not to provide requested information pertaining to their gender identity, pronoun, honorific, and search preference.
 - Staff, contractors, and volunteers shall use a person's stated pronoun and honorific, and the failure to do so may be grieved and reported.
6. As applicable for the next document production period, the County should provide:
- Completed copies of classification forms (or at least random samplings – TBD) relative to incarcerated persons that self-identify as transgender or LGBTQI (e.g., Classification Form J-200 or OCSD Specialty Housing Request Form J-201).
 - All policies/procedures related to items A.1, A.2, or A.3.
7. To the extent there is an existing Classification Plan (other than the Classification-related CCOM sections provided), then please provide it for the next monitoring tour.
8. As related to items A.4 and A.5 (above), modify CCOM Section 1200.10 Housing Assignments and Changes, to clarify that the policy and jail practices regarding addressing housing for gender non-conforming and non-binary individuals also includes incarcerated persons that identify as transgender.

Future training material should include related information as outlined in this section.

Partially Implemented

B. The County shall revise the Voluntary Gender Identity Disclosure and Search Preference Form to specify the following:

- 1. The purpose of the form is to ensure that the County adheres to its own policies concerning transgender and intersex individuals.*
- 2. An individual may update the form at any time by requesting a new form from custody/ classification staff, sending a message slip, or submitting a grievance without fear of retaliation or discipline.*
- 3. The form may be accessed by custodial and classification staff only for purposes of ensuring compliance with Jail policies.*

As part of document production, the County provided four (4) completed examples of the Voluntary Gender Identity Disclosure and Search Preference Form and a blank example. The Expert also observed one (1) completed copy while interviewing a Classification Unit Deputy. There are no identified dates or revision dates located on the forms. None of the forms observed contained the required revision language as identified in A.1 – A.3 (above).

While interviewing Classification and administrative personnel, the staff informed me that the form is currently under revision and has not yet been approved for use. The County should provide the Expert with a blank copy of the new form upon revision and completed copies (as applicable) for the document production period for the next monitoring tour.

Not Implemented

C. Least Restrictive Setting Appropriate for LGBTQI Population (Section III)

- A. *The County recognizes that LGBTQI individuals and people whose appearance or manner does not conform to traditional gender expectations should not be placed in more restrictive custodial settings based solely on such identification or status or because they receive gender dysphoria treatment.*

CCOM Section 1200 Inmate Classification Procedures does not contain language specific to housing identified LGBTQI individuals, but it does address housing individuals according to classification level or according to Correctional Health Service (CHS) staff recommendations.

Classification Unit personnel interviewed stated that they house LGBTQI incarcerated persons (as well as individuals whose appearance may not appear to conform to traditional gender expectations) in accordance with their classification level and factors, the housing matrix, and specialty housing requests (when applicable) and do not house these individuals in more restrictive housing settings (including as it impacts program access) than their classification level and factors otherwise dictate.

Several LGBTQI individuals interviewed stated they did not know that disclosing their sexual orientation and being placed in an LGBTQI unit (or housed with other LGBTQI incarcerated persons) meant that they would be classified as protective custody and that this was never explained to them. Further, several also indicated that being assigned to protective custody has taken their ability to possibly work in a job assignment while in custody.

This provision should continue to be monitored internally. As also outlined in a previous section (above), it is incumbent upon Classification staff to ensure that newly arrived and self-identified LGBTQI incarcerated persons are made aware of the jail dynamics associated with being classified as general population versus protective custody (or other classifications) and in being housed as such. This will allow the individuals to make a better-informed request as to their future housing and programming status. Approximately 83 percent of the approximate 70 identified LGBTQI individuals housed at the jail complexes (at the time of the onsite tour) were housed in protective custody, with the majority presumably housed in such housing solely due to their identified LGBTQI status. In requesting housing placement LGBTQI

persons should not have to choose between their own safety versus equal access to programs, services, and activities that non-LGBTQI and/or non-protective custody individuals are afforded. LGBTQI incarcerated persons should have equal access to the jail's programs, services and activities (e.g., reentry services, academic/vocational education, work assignments, religious services, etc.). The jail administration should consider expanding program offerings for protective custody and/or the LGBTQI population (whether assigned to general population or protective custody housing) to comply with equal access requirements under the Settlement Agreement and anti-discrimination laws.

Through staff and LGBTQI incarcerated person interviews, it appears, for the most part, that Classification Unit staff strongly consider the housing request of LGBTQI individuals, and most of the LGBTQI individuals interviewed are satisfied with their housing placement (at least as it pertains to safety concerns). There are a few exceptions that are pointed out in other sections of this report. Again, LGBTQI individuals must have the pertinent information to make informed requests for their future housing and programming. The dynamics of jail culture in our society by nature make it at least somewhat challenging to house LGBTQI individuals while ensuring their safety, as well as affording them equal access to programs, services, and activities. But as outlined above, the County must continue to examine avenues to create more opportunities for LGBTQI individuals in all units, especially those assigned to protective custody housing units where there is a lack of (or limited) access to in-person education classes, work assignments, etc. This is discussed further in Section V.A, below.

Future training material should include related information.

Partially Implemented

- B. The County shall not house LGBTQI individuals in more restrictive housing than otherwise indicated because of their actual or perceived sexual orientation, gender expression, gender identity, or intersex status. The County shall house LGBTQI people in the least restrictive housing allowed by their classification and security designation.*

CCOM Policy 1200 Inmate Classification Procedures does not contain language specific to housing in the least restrictive housing allowed as related to LGBTQI individuals, but section 1200.10 Housing Assignment and Changes addresses that gender non-conforming, or non-binary individuals will be housed in male or female housing after classification deputies have determined that proper classification and housing location. Also, CCOM Section 1200.1 Classification Plan addresses housing individuals according to classification level or according to Correctional Health Service (CHS) staff recommendations.

Classification Unit personnel interviewed stated that they house LGBTQI incarcerated persons in accordance with their classification level and factors, the housing matrix (despite their actual or perceived sexual orientation, gender expression, gender identity, or intersex status), and specialty housing requests (when applicable), and do not house these individuals in more restrictive housing settings (including as it impacts program access) than their classification level and factors otherwise dictate.

Note: as stated earlier in this report, there was one (1) Classification Unit staff member that indicated transgender incarcerated persons are housed in accordance with their assigned sex at birth, and their request for housing is not considered. The Expert addressed this concern with recommendations in that section, so the Expert will not include this in recommendations for this section.

None of the LGBTQI incarcerated persons interviewed had any concerns in this area other than what was outlined in Section III.A. (above).

Future training material should include related information.

Partially Implemented

C. The County will establish a voluntary GBTQI Program Sector unit once the use of the housing unit is no longer necessary for social distancing, isolation, or quarantine of incarcerated persons due to COVID-19. The unit will provide expanded out-of-cell time (i.e., doors open during daytime hours), access to jobs in the sector, and enhanced programming activities. Attached as Appendix 1 is the County's planned GBTQ+ Program Sector Pilot overview and programming schedule.

- 1. Once the GBTQI Program Sector unit has been fully operational for 90 days, the County will provide a status report on the program. The Parties will then discuss whether the County will terminate the program or whether there are any appropriate program modifications, including efforts towards adequate inclusion of transgender individuals consistent with safety and other applicable considerations.*

The County has not yet developed pertinent policy/procedures. However, the County has implemented a GBTQI (PRIDE) Program at IRC Mod J (Sector 3). The Expert was originally unable to access Appendix 1 (GBTQ+ Program Module J programming schedule) prior to the onsite tour, but has since been able to review the contents. The schedule notes specific programming in the in the mornings, afternoons, and evenings Monday thru Friday. The scheduled identifies the following scheduled programs:

Mondays

- Morning
 - Individual Case Management
- Afternoon

- APAIT

Tuesdays

- Morning
 - Pride Process Group
- Afternoon
 - Employment Readiness
- Evening
 - Attitudes for Success (College)

Wednesdays:

- Morning
 - Reentry Planning
- Afternoon
 - Health & Wellness

Thursdays:

- Morning
 - Substance Abuse Group
- Afternoon
 - Healthy Relationships/Communication
- Evening
 - HiSet/GED (College)

Fridays:

- Morning
 - Bibliotherapy
- Afternoon
 - Self-Care

At the time of the on-site monitoring tour, the County had recently reached the 90-day time period for the PRIDE pilot program and reportedly was preparing to begin writing the required 90-day status report.

The Expert interviewed a housing deputy assigned to the unit. When asked about positives or improvements within the program, he provided the following:

- We have provided them with equipment (e.g., dry-erase board, markers, and extra television).
- Participants see mental health/behavioral health personnel regularly.
- Facilitators of the programs do a great job.
- They have shower curtains.
- They have a new bookshelf as of two (2) weeks ago.
 - However, it will be replaced at a lower level on the wall as there are concerns over the shelf's sharp corners for safety reasons.

- The participants follow the rules and ask questions.
- We all have an open dialogue.
- Staff security checks are conducted in the sector every 45 minutes, but this is going to be increased to every 30 minutes.
- Dayroom is open (rooms stay unlocked) from 0600-2300 hours daily.
- Readily available forms include:
 - Commissary slips
 - Message slips
 - Pink message slips (healthcare)
 - Grievances

Several non-sworn staff members (facilitators) of some of the programs were interviewed, including personnel from Correctional Mental Health Program and the Inmate Services Division (Correctional Programs Unit). Some of the acknowledged responsibilities of the staff included:

- Case Management Services
- Grief Counseling
- Counseling intervention
- Routine follow-ups (e.g., 30 days, 60 days, 90 days)
- Emergency needs
- Connect with outside community resources
- Clearance for outside approved facilitators
- Developed program for therapeutic development
- Links to services on the outside
- Partner with OC LGBTQ Center of Orange County
- Group therapy
- Connect with APAIT (community provider) to provide services
 - Safe sex, substance abuse, etc.
- Workshops
- Will soon partner with Santa Ana Work Center (waiting on security orientation)
- Liaise between the jail administration and the PRIDE program participants
- Staff are supportive of the program (early on, many did not understand the function of the program)
- I get a lot of support from the custody staff
- The class participants trust me, and any issues in the unit get resolved

When asked about concerns or complaints voiced by program participants, the following information was provided:

- One (1) of the night shift crews slam doors and ignore them (but have not had any complaints in the last 3-4 weeks).
- We discuss complaints or concerns during group therapy.

- Lack of bathroom toilet and curtain or privacy screen.
- The participants are PC and LGBTQI and have to wear a lime green colored uniform (that apparently turns into a yellow type of color over a period of time), and this creates (or can create) further psychological effects on them.
 - They already have a stigma on them, and they feel this makes it worse
 - They feel that they are already wrongfully being looked upon as sex offenders or child molesters, and this makes it worse.
- They have to wait in a small phone booth-type area when waiting and ultimately when seeing the mental health/behavioral health therapist.
 - Also, there is a lot of foot traffic in the area and a lack of privacy or confidentiality.

Staff stated the program is expanding, and new classes and opportunities will be available. Specific programs mentioned included; group therapy (facilitated by the County Correctional Programs Unit and an MFT trainee from the LGBTQI Center of Orange County); APAIT (administered by outside APAIT personnel), Mindfulness (facilitated by County mental health/behavioral health), and reentry services on an individual, as-needed basis (facilitated by County Correctional Programs Unit). One of the program facilitators provides reentry planning to LGBTQI individuals in the program as needed on an individual basis each week. The LGBTQI+ Program Module J schedule identifies reentry planning scheduled for Wednesday mornings, as “Individual discharge planning to support inmate reintegration to the community.” There are additional workshops and more reportedly coming soon (e.g., employment workshops with the Santa Ana Work Center). The SPARK program recently concluded, and Project Reclaim (a 6-week course) just commenced. PRIDE participants are also offered access to classes through Rancho Santiago Community College (via study packets), e.g., Academic Skills for success (to help transition into college or vocations upon release from jail); Money Matters; Substance Abuse; and the GED program for non-high school graduates. In speaking with two (2) additional staff members from the Correctional Programs Unit, they explained that Rancho Santiago Community College cannot justify conducting in-person classes for less than 15 participants. The County should examine all feasible options to allow LGBTQI individuals to attend in-person Rancho Santiago Community College classes, including allowing individuals from different housing units/pods to participate together (consistent with reasonable classification considerations). Providing such equitable opportunities to LGBTQI individuals is required by the RP and state anti-discrimination law (e.g., Gov’t Code § 11135). LGBTQI incarcerated persons interviewed who are part of the PRIDE Program in IRC Mod J (Sector 3) gave positive feedback as to the program overall. Of positive note, they acknowledged the program has been in existence for over 90 days (as of the time of the Expert’s on-site monitoring tour); cell/room doors remain unlocked from 0600-2300 hours; related programming is conducted during the week (inclusive of County employees and outside facilitators, including a representative from the LGBTQI Center of Orange County, and APAIT); and the programs are very therapeutic and helpful. Some of the programs and/or content cited include mental health/behavioral health, meditation, mindful thinking, breathing exercises, stress triggers, APAIT, art,

Bible studies, videos, structured packets (with assigned homework), SPARK program, sex education, substance abuse, group therapy sessions, individual therapy, reentry services (including Project Kinship opportunities, and others), community resource pamphlets provided, and classes/programs conducted informally (the LGBTQI participants solely) as well as their use of a white dry-erase board in the unit.

During the monitoring visit, the Expert observed that there are minimal job opportunities for people housed in LGBTQI units, and significantly less opportunities as compared to other celled housing units (including those in the same module as the LGBTQI units).

There were some concerns conveyed. Some of the concerns or related comments included:

- Eight (8) participants appear to be the number that works best on the unit, or at least that is the threshold that staff facilitators deem best for program success.
- “Sleepers” have made their way into the unit and somehow made it through the classification staff to get assigned to the unit.
 - Note: The term “sleepers” in this context refers to incarcerated persons who do not identify as LGBTQI, and manipulate staff (for their own respective reasons) to gain housing status with LGBTQI individuals.
 - The “sleepers” harass and cause problems in the unit.
 - It's difficult to get the “sleepers” out to the unit unless the LGBTQI individuals make a PREA complaint against them (which they have reportedly done several times).
- Most participants believe the program offerings within the unit need to expand to provide for more learning and therapy.
- Many believe the program should be expanded to other units or TLF, so more individuals have access to what the program offers.
- Several participants complained of disrespect (whether intentional or not) as one (1) of the night shifts tend to slam doors and ignore the program participants.

For only having been in existence for just over 90 days (at the time of the on-site monitoring tour), overall, the Expert is pleased with what appears to be early success in the program. Along with the many positive takeaways, the Expert has some recommendations as the County moves forward.

The Expert's recommendations are as follows:

- Provide pertinent policy/procedures
- Upon completion, the County should provide a copy of the 90-day status report on the program, including information regarding future status, program modifications and expansion, both active and planned, and efforts towards inclusion of transgender individuals in the program.
- The County should give consideration to allow for job assignments within the sector for program participants (to the extent such jobs would not interfere with

primary program participation) and provide a status update for the next monitoring tour. The Expert understands there are pod worker/porter jobs available, but there are few opportunities for these positions. The County should explore additional work possibilities for identified LGBTQI individuals that are assigned to protective custody housing. Safety is always of paramount concern, but there are creative ways to find work assignments other than pod/porter workers.

- The County should examine all feasible options to allow LGBTQI individuals to attend in-person Rancho Santiago Community College classes, including allowing individuals from different housing units/pods to participate together (consistent with reasonable classification considerations), which will provide equitable opportunities to LGBTQI individuals as required by the RP and state anti-discrimination law (e.g., Gov't Code § 11135).
 - Note: Though all incarcerated persons are permitted to take education courses via study packets, there are concerns that the large majority of LGBTQI individuals do not have equal opportunity to attend in-person classes. Reportedly, Rancho Santiago Community College cannot justify conducting in-person classes for less than 15 participants. This poses a problem for the PRIDE participants as for program effectiveness, the cap of participants appears to now be at eight (8). But this same concern is shared by nearly all LGBTQI incarcerated persons (regardless of assigned housing unit). Most LGBTQI individuals are in protective custody status, and that in itself limits the number of like-classified individuals within a given housing unit.
- To help facilitate effective roll-out of programming to the LGBTQI population, allow a representative of the Corrections Program Unit to play a meaningful and appropriate role in decision-making as to which individuals are accepted into the PRIDE program, and any other LGBTQI-specific programming.

Partially Implemented

- D. The County shall continue its efforts to ensure that lesbian and transgender/intersex individuals housed in the Jail's women-designated housing units are placed in the least restrictive setting with programming access as appropriate to their individual circumstances.*

The County did not provide any policies/procedures (or related forms with applicable language) to alert staff or incarcerated persons of such requirements.

At the time of the on-site monitoring tour, incarcerated transgender women were housed at the IRC-Men's and TLF.

For the next monitoring tour, the County should provide any related policies/procedures and/or forms regarding this RP requirement.

Un-ratable

- E. The County shall not place LGBTQI individuals in LGBTQI-specific housing without the individual's consent to such housing.*

None of the OCSD Classification forms provided for review contained any information or related requirement for Classification staff. The County did not provide any policies/procedures (or related forms with applicable language) to alert staff or incarcerated persons of such requirements.

At the time of the on-site monitoring tour, identified LGBTQI incarcerated persons were housed in many types of units (e.g., general population, protective custody, administrative, LGBTQI-specific, etc.) at most of the jail facilities.

Classification staff interviewed indicated they would refrain from forced placement into LGBTQI-specific housing without consent to do so from identified LGBTQI individuals.

From the LGBTQI incarcerated person interviews, there were no complaints specific to forced LGBTQI housing placement or regarding housing without the individual's consent. However (and as stated above), there were a few concerns with classification staff not informing the self-identified LGBTQI new arrivals (at intake) that by being housed in LGBTQI-specific housing units, that they (incarcerated persons) would be classified as protective custody. There were also voiced concerns (from a few individuals) that if they had to do it over again, they would have opted to remain quiet as to their orientation, gender identity, or LGBTQI status, and not be housed in protective custody status.

For the next monitoring tour, the County should provide any related policies, procedures, and/or forms that alert Classification staff or incarcerated persons of the requirement that the County shall not place LGBTQI individuals in LGBTQI-specific housing without the individual's consent to such housing.

Given the concerns expressed by several LGBTQI individuals about how their classification process worked, the County should provide access to equitable, equal programming and resources for LGBTQI persons as provided for non-Protective Custody individuals.

Partially Implemented

D. LGBTQI Housing/Classification Review Procedures (Section IV)

- A. The County shall house LGBTQI individuals in LGBTQI-designated housing only if an individual requests such housing. If an individual requests such housing, the County may deny such a request if the individual would present specific, articulable threats to the security or safety of other individuals in such a placement.*

1. *The County shall conduct individual housing/classification assessments for each transgender and intersex individual. The County shall give “serious consideration” to each individual’s views of their own safety regarding the prospective housing placement (i.e., male vs. female housing for transgender and intersex individuals; LGBTQI-specific housing vs. non-LGBTQI housing) and classification (i.e., general population vs. protective custody).*
2. *Denial of a transgender or intersex individual’s stated preference is permissible only where there is a determination that the individual’s stated preference presents specific and articulable management or security concerns and that the County’s alternative placement ensures the individual’s health and safety.”*
3. *The County shall document decisions described in subsection (2) above, and the Classification Sergeant will review and approve of the decision.*
4. *The County shall not consider an individual’s status of transition or inquire into the individual’s genitalia when determining housing placement.*
5. *The County shall document all denials of a transgender or intersex individual’s stated preference for housing, including the classification staff’s and supervisor’s rationale for the decision. Such denials shall be reviewed periodically for continuous quality improvement purposes.*
6. *If the County denies a transgender or intersex individual’s preferred housing placement, the County shall inform the incarcerated individual of the right to file a grievance about the decision.*
7. *The County shall prohibit retaliation against LGBTQI individuals who grieve or appeal housing placement or classification decisions.*

The following policies/procedures and/or related forms/documentation contain applicable information as follows:

- For item #1: CCOM Section 1200 Inmate Classification Procedures (and in various subsections) requires individual housing/classification assessments and outlines that the screening instrument will identify characteristics and needs that relate to health, safety, security, and conditions of confinement.
- For item #1, the OCSD Inmate Classification Form J-200 (Revised 1-2020) contains the following information:
 - Checkboxes for gender (sex) male/female/non-binary
 - Safety concerns
 - PREA victimization and abusiveness screening
 - Confirmation or perception of an individual to be gay, lesbian, bisexual, transgender, intersex, or gender non-conforming

- The individual's perception of their own vulnerability as it relates to sexual harassment or sexual victimization
- A general comment as to whether the individual would like to tell the classifying deputy that they would be willing to assist in the classification process.
- The form also contains a section to allow the new arrival to declare that all information is true and correct, and contains a block for "Inmate Signature" and date.
- For item #1: CCOM Section 1200.10, Housing Assignment and Changes, requires that gender non-conforming or non-binary individuals will be housed in male or female housing after classification deputies have determined the proper classification and housing location.
- For items #3 and #5: CCOM Section 1200.7 Specialty Housing Request Form requires that all Specialty Request Forms (J-201) shall be reviewed and approved by a Classification Sergeant prior to housing the individual.
- For item #5: CCOM Section 1201.2, Specialty Housing Inmates, requires that every individual requiring specialty housing upon initial classification shall have a Specialty Housing Request Form (J-201) completed detailing the justification.
- For item #6: CCOM Section 1600.5 Grievance Procedure, articulates that any individual may file a grievance related to any condition of confinement, including but not limited to several named areas (including classification actions).

The following policies/procedures and/or related forms/documentation either were not provided or do not contain applicable information as follows:

- For item #1: CCOM Section 1200 does not contain language relative to the County giving "serious consideration" to each individual's views of their own safety regarding the prospective housing placement (i.e., male vs. female housing for transgender and intersex individuals; LGBTQI-specific housing vs. non-LGBTQI housing) and classification (i.e., general population vs. protective custody).
 - Also, there were no examples or proof of practice provided as part of document production.
- For item #2: there is no related policy language.
 - Also, there were no examples or proof of practice provided as part of document production. The Expert acknowledges that perhaps there were none applicable during the document review period.
- For items #2 and #3: it is unclear as to which document(s) denials (as pertaining to item #2) will be documented on.
- For item #4: there is no related policy language.
- For item #5: there is no related policy language.
- For item #6: there is no related policy language specific to transgender, intersex, or LGBTQI individuals.
 - Though the CCOM Grievance Procedure contains general applicable language, such information to grieve/appeal housing request denials would not be known to new arrivals at the time of classification.

- For item #7: there is no related policy language.

Most of the five (5) Classification Unit or PMU staff interviewed stated they conduct individualized housing assessments and strongly consider requested housing from LGBTQI individuals. In fact, most indicated they had not denied such housing requests. However, one (1) staff member indicated he would house based on sex assigned at birth.

None of the 21 LGBTQI incarcerated persons interviewed had any complaints regarding being housed in the types of housing units or custody classifications other than what they requested. As stated in other sections of this report, there were some stated concerns pertaining to not being properly informed by classification staff as to the dynamics associated with agreeing to protective custody status. And in some cases, there were concerns about not being told that being housed in an LGBTQI unit meant they were classified as protective custody. The Expert also notes that DRC reports that many transgender individuals the DRC representatives interviewed would prefer to be housed in a gender-congruent setting, i.e., with other women instead of LGBTQI protective custody housing, but the individuals reported that classification deputies informed them that was not an option.

There were two (2) grievances/appeals that the County provided as part of pre-tour document production that were pertinent to LGBTQI-related complaints. Specifically, both grievances pertained to LGBTQI-related housing requests. The Expert's review of the grievances include the general information and concerns:

- Grievance #1:
 - Log #TL040522/1041
 - Submitted April 2, 2022
 - Current housing listed as: TLF Mod R
 - Self -identifies as LGBTQI and requests LGBTQI housing
 - Staff Response:
 - Date grievance/appeal received: April 5, 2022
 - The staff response does not address the LGBTQI housing request (only addressed COVID-19 concerns).
- Grievance #2:
 - Log #TL041522/0324
 - Submitted April 15, 2022
 - Current housing listed as TLF Mod O
 - Claims:
 - Current harassment from other incarcerated persons and staff (deputies and CST's) in his current housing unit.
 - He was told (presumably by medical) that he was able to return to his former "regular" LGBTQI housing in TLF Mod I.
 - He contacted mental health staff about the requested move but has never received a response.

- Possible discrimination due to an incident he was involved with about one (1) year earlier.
- Requests: To be rehoused to TLF Mod I (either sector #1 or #2).
 - Staff response:
 - The attached was response was for grievance log #TL041522/0320 (not for log# TL041522/0324).
 - Date grievance/appeal received: April 6, 2022
 - Synopsis of Grievance Filed:
 - “Inmate wants to be housed in Mod Q.”
 - Staff Response to Grievance Filed:
 - “Inmates are housed based on the needs of the facility.”

The Expert realizes the two (2) aforementioned grievances were from April 2022, and related policies/procedures are still in development and/or have recently been developed and implemented. But there were concerns noted from the responses. One (1) of the two staff responses did not address the LGBTQI-related request, and the second grievance did not contain the corresponding staff response, but rather a response to an apparent third appeal, which was not provided as part of pre-tour document review. But the response for the apparent third grievance/appeal still appears to be an incomplete response. Simply responding, “Inmates are housed based on the needs of the facility” is not consistent with the Settlement Agreement requirements. LGBTQI incarcerated persons maintain the right to grieve and receive meaningful staff grievance responses for LGBTQI related concerns, including classification, housing, discrimination, harassment, etc.

For the next monitoring tour, the County should provide the following:

- Policy/procedures or other documentation outlining the following requirements:
 - The County shall give “serious consideration” to each individual’s views of their own safety regarding the prospective housing placement.
 - Denial of a transgender or intersex individual’s stated preference is permissible only where there is a determination that the individual’s stated preference presents specific and articulable management or security concerns, and that the County’s alternative placement ensures the individual’s health and safety.
 - The County shall not consider an individual’s status of transition or inquire into the individual’s genitalia when determining housing placement.
 - Every individual requiring specialty housing upon initial classification shall have a Specialty Housing Request Form (J-201) completed detailing the justification.
 - Document all denials of a transgender or intersex individual’s stated preference for housing, including the classification staff’s and supervisor’s rationale for the decision.

- Copies of periodic reviews (for quality improvement purposes) or information pertaining to denials of a transgender or intersex individual's stated preference for housing, including classification staff's and supervisor's rationale for the decision.
- If the County denies a transgender or intersex individual's preferred housing placement, the County shall inform the incarcerated individual of the right to file a grievance about the decision.
- Ensure all grievances/appeals related to LGBTQI classification/housing (and all other related concerns) are appropriately investigated and complete and meaningful grievance/appeal responses are issued to grievant/appellant.
- The County should, during its next round of PREA-required housing/classification reviews of transgender individuals, ask which gender facility the individual would prefer to be housed in and document their preferences. The County should work with DRC and the experts on these issues to ensure successful implementation.

The County must ensure that Classification Unit staff comply with all requirements as outlined in this section pertaining to assessments and housing that applicable policies/procedures are in place, and staff abides by all requirements. Classification deputies must properly inform identified LGBTQI incarcerated persons that being housed in an LGBTQI specific housing unit means they will be protective custody status, and staff must explain the jail dynamics associated with agreeing to protective custody status. Classification personnel must also consider and house (in keeping with classification policies and guidelines and with the individuals specific request) housing transgender individuals in a congruent setting (i.e., with other women) instead of LGBTQI protective custody housing. For the next scheduled Expert tour, interviews of new arrivals (who arrived during the document production period) will be interviewed, and related classification documents will be reviewed to determine whether this option is afforded to individuals as requested. Having a policy allowing for such options is just part of the solution, but actually putting such policy or procedure requirement to practical use will ultimately determine compliance level.

Policy revision, staff training, and close collaboration with supervisory staff and jail leadership in charge of these aspects of RP implementation will be essential to achieve compliance.

Partially Implemented

- B. The County shall re-evaluate classification, placement, and programming assignments of each transgender or intersex individual at least twice a year, including as part of any regular classification reviews.*
 - 1. At each review, the County shall inquire as to the transgender or intersex individual's current preferences and shall re-assess the individual's classification,*

placement, and programming assignments, consistent with the process in Section IV.A, above.

The following policies/procedures and/or related forms/documentation either were not provided or do not contain applicable information as follows:

- The CCOM Classification Procedures do not contain necessary language to guide and ensure compliance with this RP provision.

Staff interviewed confirmed that transgender/intersex incarcerated persons are not being classified twice per year.

The transgender/intersex incarcerated persons interviewed confirmed that they are currently not being reclassified or are not being classified twice annually.

For the next monitoring tour, the County must provide relevant policy/procedures pertaining to conducting classifications/re-evaluations of classification, placement, and programming assignments at least twice annually (as outlined in Section IV.C. and IV.D. [above]).

Policy revision, staff training, and close collaboration with supervisory staff and jail leadership in charge of these aspects of RP implementation will be essential to achieve compliance.

Not Implemented

- C. *If an individual self-identifies as LGBTQI at any time after intake and states a preference to be assigned to a different housing placement, the County shall conduct a classification review and evaluate the individual's housing preference within 24 hours of receipt of a classification review form.*

The following policies/procedures and/or related forms/documentation either were not provided or do not contain applicable information as follows:

- The CCOM Classification Procedures do not contain necessary language to guide and ensure compliance with this RP provision.

The housing unit deputies interviewed indicated they would immediately refer LGBTQI individuals back to the Classification Unit for all requests for different housing assignments.

Classification staff interviewed indicated they would conduct another classification interview to examine such requests and all factors involved in making a housing/programming decision, including the individual's request. However, one

(1) of the Classification Deputies admitted that it likely would not occur within 24 hours unless it was considered an emergency.

One (1) of the LGBTQI self-identified incarcerated persons interviewed acknowledged that he previously requested to be reclassified and rehoused back to a general population unit and was accommodated. The individual claims to be programming effectively without any concerns. The request was made and accommodated several months ago, prior to the 24-hour turn-around requirement.

For the next monitoring tour, the County should provide the following:

- Policy/procedures (and training) regarding conducting classification reviews within 24 hours of an LGBTQI incarcerated person's request for different housing placement.
- Documented proof (if applicable) of classification actions as a result of an LGBTQI individual's request for a different housing placement. The documentation must include the timeline (i.e., date of requests, date of classification interviews/actions, date of housing reassignments, and information regarding the custody status and housing units moved from and to, for each respective individual).

Policy revision, staff training, and close collaboration with supervisory staff and jail leadership in charge of these aspects of RP implementation will be essential to achieve compliance.

Not Implemented

- D. If an individual requests housing reassignment based on LGBTQI status, the County shall develop and implement a safety plan for that individual pending review and any reassignment. The interim placement shall not be Special Management Unit, "Total Sep," or other restrictive housing or classification unless the individual requests such a placement for their own safety or unless serious, specific, and articulable security or management concerns require such placement.*

The following policies/procedures and/or related forms/documentation either were not provided or do not contain applicable information as follows:

- The CCOM Classification Procedures do not contain necessary language to guide and ensure compliance with this RP provision.

During the on-site tour, this particular question was not asked of staff but will be examined closely during the next monitoring tour.

For the next monitoring tour, the County should provide the Expert with related policy/procedures governing a safety plan as related to LGBTQI individuals

requesting housing reassignment, including any interim housing placements (including specific types of units) and any associated safety concerns. Also, the County should provide documentation/safety plan related to any specific cases during the next monitoring tour document production period.

Not Implemented

- E. *If Jail staff identify serious, specific, and articulable security or management concerns regarding an LGBTQI individual in their housing placement, staff shall document the basis for their concerns, and the housing determination shall be referred for a classification review, consistent with the above procedures.*

The following policies/procedures and/or related forms/documentation either were not provided or do not contain applicable information as follows:

- The CCOM Classification Procedures do not contain necessary language to guide and ensure compliance with this RP provision.

Housing staff interviewed stated they would immediately refer LGBTQI incarcerated persons through their chain of command and to the Classification Unit if they determine there is a serious security concern related to their housing placement. However, it is unclear whether such referrals are done via telephone, email, written referrals, or a combination thereof. This will be evaluated more closely for the next monitoring tour.

Classification Unit staff indicated they follow up on all requests for housing changes, whether submitted by staff or incarcerated persons.

For the next monitoring tour, the County should provide policy/procedures as related to referrals to management and classification pertaining to security/management and housing concerns for LGBTQI individuals.

Not Implemented

E. LGBTQI Access to Programs, Services, and Activities (Section V)

- A. *The County shall ensure that all LGBTQI persons are informed of and have equal access to programs, services, and activities available to similarly situated individuals, consistent with their health and security needs and classification level. 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. *Television;*

6. *Reading materials;*
7. *Religious programming;*
8. *Educational, vocational, reentry, and substance abuse programs;*
9. *Work Assignments, including the Community Work Program;*
10. *Self-help groups and similar programs;*
11. *Medical, mental health, and dental services and treatment;*
12. *Public visiting;*
13. *Attorney visiting;*
14. *Commissary.*

The following policies/procedures and/or related forms/documentation contain applicable information as follows:

- CCOM Sections 1600, 1710, 2002, 2900, and 6206 (and various subsections within each section) address some of these areas.

Staff interviewed acknowledged there are different opportunities amongst the jail population regarding access to education and work assignments, especially when individuals are placed on protective custody status. At the time of the onsite monitoring tour, there were approximately 70 self-identified LGBTQI incarcerated persons housed in the OCSD jail facilities. The large majority of the 70 were classified as protective custody. Only 12 of the 70 (about 17 percent) were classified as general population level. It is the Expert's assessment that nearly all of the LGBTQI individuals classified as protective custody are classified as such either solely or primarily due to their LGBTQI status (even when classified as protective custody by choice). Note: the Expert notes the County refutes this assessment in that LGBTQI persons are not classified as protective custody due to their LGBTQI status, but rather if they claim safety concerns they are then classified as protective custody status. It is the Expert's assessment that LGBTQI incarcerated persons housed in protective custody status face limitations or barriers to equal access, at least to certain types of programs, services, and activities.

The majority of the 21 LGBTQI incarcerated persons interviewed indicated they never received any jail orientation information to educate them (or to make them aware of) available programs, services, and activities. A few acknowledged a video (but could not recall any specific related jail orientation), a couple of them acknowledged receiving some type of pamphlets (but were not certain if that was only related to PREA or other general orientation information), and none of them claimed to have ever received any verbal orientation. Several individuals interviewed were not aware of the grievance process or a grievance form, and several indicated they learned what they needed to learn from other incarcerated persons. Of the LGBTQI individuals interviewed, they had varying levels of understanding pertaining to self-help groups, education, work assignments, religious programming, and reading materials (LGBTQI-related or otherwise).

The County should examine the apparent disparity and lack of equal access to some of the programs, services, and activities offered to LGBTQI incarcerated persons versus other individuals. Obviously, the piloted GBTQI (PRIDE) program, as outlined earlier in this report, is one creative avenue, but the Expert encourages the County to explore additional means to ensure the LGBTQI, transgender, and intersex population enjoys equivalent access to the many programs offered to other individuals throughout the facilities.

Core components of this RP provision that require concerted attention are *Educational, vocational, reentry, and substance abuse programs (#8) and Work Assignments, including the Community Work Program (#9).*

Partially Implemented

- B. The County shall offer regular in-custody programs and support groups specifically serving the needs of LGBTQI individuals (e.g., APAIT).*
- 1. The County shall make such LGBTQI-specific programming available to all LGBTQI individuals (i.e., pretrial, pre-sentenced, and sentenced; general population and restrictive custody, etc.), consistent with individualized safety and security assessments.*
 - 2. The County shall identify and collaborate with LGBTQI community groups to deliver programming in the Jail facilities.*

The following policies/procedures and/or related forms/documentation contain applicable information as follows:

- For items #1 and #2: as part of pre-tour document production, the County provided a memorandum citing that incarcerated persons have access to programming through the GBTQI program (PRIDE program at IRC Mod J) and APAIT for Mod I at TLF. The memo also indicates that the Programs department has purchased LGBTQI reading material and received a book donation from the Center (LGBTQI Community Group), and will continue to add appropriate reading material as it becomes available.
- For item #1: the County provided a one (1) page document titled “GBTI Program Sector Procedures.”
- For item #1: the County provided several copies of weekly attendance rosters for the “Reclaim Group” for May and June 2022 for Theo Lacy Mod I.
- For item #2: from the OCSID Inmate Services Division – Correctional Program, the County provided a pamphlet titled “PRIDE Program” (LGBTQI+ Community Resource Guide), which contains various resource information (e.g., hotlines, employment, legal, housing, supportive services,

health & wellness (low-cost clinics, trans services, HIV/AIDS, and counseling), recovery (residential, outpatient, and twelve steps), and basic needs (food, health insurance).

In review of the “GBTQI Program Sector Procedures” (as part of pre-tour document production), it indicates that “the program sector (IRC J Mod Sector 3) shall consist only of PC3 incarcerated persons that identify as GBTI. All other individuals are prohibited from being placed in that sector.” It also requires all individuals in the program sector to have unrestricted access to the dayroom (cell doors open) from 0600-2300 hours every day (with exceptions for exigent circumstances).

While onsite, the Expert walked through IRC Mod J Sector 3, TLF Mod I, and numerous other units. The Expert specifically did not stand and observe the PRIDE programs (or any other program) as not to disturb the sessions. However, in interviewing both staff and LGBTQI individuals, it was evident that the overall consensus amongst the programs (e.g., PRIDE program at IRC Mod J Sector 3 and APAIT program at TLF Mod I) is very positive and encouraging. In interviewing staff, the Expert was pleased to hear that efforts are continuing for staff to collaborate with outside organizations within the LGBTQI community, e.g., Santa Ana Work Center.

Specifically, regarding LGBTQI individuals housed in TLF Mod I Sector 1, they were happy to have the APAIT program. However, a common complaint was that it's a one (1) time six (6)-week program that rotates from one (1) yard/dayroom group to another (every six (6) weeks or longer). A concern is that there are reportedly five (5) assigned yard/dayroom groups to the unit. Some of the individuals interviewed stated that there have been lapses in the program, and there has not been an active group for about six (6) months.

There were also some related concerns noted from the LGBTQI incarcerated person interviews. Though the reported concerns could not be substantiated or refuted, some of the concerns included:

- No more than eight (8) persons in the GBTQI (PRIDE) program (for effectiveness).
- Limited or no access to other self-help groups (e.g., alcoholics anonymous).
 - There were mixed responses for this item.
- One of the facilitators sometimes appears overwhelmed, sometimes absent, and sometimes late for class/programming.
- The GBTQI (PRIDE) Program does not get the same staff energy or attention as other special programs (e.g., TLF Veteran's HUM-V program, TAY/Transitional Age Youth program, and the Phoenix House substance abuse program).

- For example, the above-named special units reportedly have microwave ovens, numerous televisions (with remotes to control their volume and content), class media/teaching aides, table tennis, numerous tables (e.g., with checker/chess boards), and hard plastic chairs to which they reportedly get to take to the yard, and available reading material.
- Having only one (1) GBTQI (PRIDE) program unit is not sufficient for the large LGBTQI population within the Orange County jail system. There needs to be a strong consideration for program expansion. Likewise, the County needs to make all reasonable efforts toward expanding the APAIT (or similar programs) to all LGBTQI individuals interested in such programming.
- For LGBTQI incarcerated persons that are housed in other units outside the lone GBTQI program (IRC Mod J Sector 3), they don't have access to any LGBTQI-specific therapeutic programs.

The Expert provides the following recommendations:

- The County should examine ways to expand the programs (e.g., GBTQ Pride Program, APAIT or similar programs) to make them available to all LGBTQI individuals (e.g., pretrial, pre-sentenced, and sentenced; general population and protective custody, etc.) with appropriate modifications to meet different groups' safety, security, and other needs.
- The County should examine all reasonable avenues to maintain the programs without lengthy lapses between program offerings, and with programming opportunities that are more consistent and ongoing.
- The County should continue its efforts towards ensuring that specialized LGBTQ program (PRIDE, APAIT) have resources and amenities similar to the jail's other special program units (e.g., televisions with remotes to control their volume and content, class media/teaching aides, games, moveable chairs, microwave, etc.).
- The County should monitor the staff facilitators of the program to ensure maximum effectiveness for the program.
 - Note: the related concerns noted in this section could not be substantiated but is certainly worthy of awareness.

Partially Implemented

- C. *The County, with input from DRC, shall identify and procure LGBTQI community resource information and disseminate such information to incarcerated LGBTQI individuals.*

The following policies/procedures and/or related forms/documentation contain applicable information as follows:

- The aforementioned PRIDE Program (LGBTQI+ Community Resource Guide) pamphlet contains various community resource information.

The following policies/procedures and/or related forms/documentation either were not provided or do not contain applicable information as follows:

- The County did not provide a related policy or procedures.

Staff program facilitators interviewed from the Correctional Programs unit and Correctional Mental Health Programs unit indicated they provide LGBTQI-related resource information, as does staff from APAIT and The LGBTQI Center of Orange County.

There were some related concerns noted from the LGBTQI incarcerated person interviews. Some of the concerns raised included:

- Even in the GBTQI program (IRC Mod J Mod Sector 3) unit, there were differing responses regarding LGBTQI resource material being provided (or whether there is any resource material being provided at all).
- Some said the information is provided by one or more program facilitators, while others said it is very limited, or they don't receive anything at all.
- For LGBTQI individuals housed in units other than the IRC Mod J Sector 3 and TLF Mod I, nearly all of them indicated there is no LGBTQI jail or community resource information provided to them.

The Expert provides the following recommendations:

- The County should provide policy/procedures pertaining to identifying and procuring LGBTQI community resources and information and disseminate the information to LGBTQI incarcerated persons.
- The County should disseminate LGBTQI resource information to all LGBTQI incarcerated persons, regardless of their housing assignment (if they are interested).

Partially Implemented

- D. The County shall identify, procure, and make accessible LGBTQI reading materials to LGBTQI individuals.*

The following policies/procedures and/or related forms/documentation contain applicable information as follows:

- The County provided a listing of authorized LGBTQI-related reading materials.

- The County provided a listing of individuals authorized to pass out LGBTQI-related reading materials.

The following policies/procedures and/or related forms/documentation either were not provided or do not contain applicable information as follows:

- The County did not provide a related policy or procedures.

In review of the program literature/information provided as part of pre-tour document production, the list identified approximately ten (10) different books (from nine [9] different authors) as being approved to serve the needs of LGBTQI individuals, with six (6) of each book to be divided by two (2) sectors (TLF Mod I, and IRC Mod J).

The County provided a listing of ten (10) individuals authorized to pass out reading materials. The list included four (4) staff members from OCSD, two (2) from OC Health Care Agency, two (2) from APAIT, one (1) from the LGBTQ Center of OC, and one (1) from the OC Department of Education.

While onsite, the Expert observed LGBTQI-related books in the PRIDE unit. But none of the other units had any related books or reading materials (including TLF Mod I).

Staff from the Correctional Programs Unit indicated that the same approved books provided at IRC Mod J GBTQI (PRIDE) unit would also be provided soon at TLF Mod I soon. However, at the time of the onsite tour, no decision had been made as to whether all LGBTQI individuals will have access or just those assigned to TLF Mod I. During the onsite tour, staff believed access will be limited to TLF Mod I. However, subsequent to the tour the County indicated electronic tablets will be used for LGBTQI incarcerated persons to gain access to authorized LGBTQI reading materials. This will be examined further during the next scheduled Expert tour.

Of the LGBTQI incarcerated persons interviewed from the GBTQI (PRIDE) unit (IRC Mod J Sector 3), all of them acknowledged that LGBTQI-specific reading material is available. Of the LGBTQI individuals interviewed living in other housing units (LGBTQI, general population, etc.), only one (1) acknowledged ever seeing an LGBTQI-related book (and only once). Aside from the LGBTQI-related books, there were a lot of complaints on the general book exchange process itself, in that if a particular yard/dayroom group is not in the dayroom at the time book exchange takes place, then they generally will not get an opportunity to exchange any books or have access to new ones.

DRC counsel's August 12, 2022 *Pre-Monitoring Tour Letter, LGBTQI Remedial Plan Issues* contains an appendix with a list of LGBTQI reading materials. The

County should utilize this resource as it continues its implementation work on this provision.

The Expert provides the following recommendations:

- For the next Expert tour (or upon completion), the County should provide policy/procedures pertaining to identifying, procuring, and making accessible LGBTQI reading materials to LGBTQI individuals (regardless of housing unit).
- The County will need to be creative on how they distribute LGBTQI-related books to LGBTQI individuals housed in the general population or other units (if interested) where the population is not predominately LGBTQI individuals. The County reported they will provide related reading materials on the electronic tablets to all interested LGBTQI incarcerated persons.

Partially Implemented

E. Showers

- 1. Transgender and intersex individuals shall be given an opportunity to shower separately from others – i.e., at a separate time and/or with appropriate physical separation.*
- 2. Transgender and intersex individuals shall be permitted to use showers with privacy screens.*

The following policies/procedures and/or related forms/documentation contain applicable information as follows:

- The County provided CCOM 2900.3 Prevention Planning

The following policies/procedures and/or related forms/documentation either were not provided or do not contain applicable information as follows:

- The County did not provide a related policy or procedures (pertaining to showering and privacy screens as related to transgender or intersex incarcerated persons).

In review of CCOM Section 2900.3, it is written in the context of PREA concerns (prevention planning), as it outlines some general showering (including modesty screens) and searching concerns, but it does not specifically address this issue as related to transgender and intersex individuals being afforded the option of showering separately from others and/or with physical separation.

In interviewing several transgender incarcerated persons, there were a few complaints regarding their belief (or fear) that staff members working the “bubble” were able to see their exposed breasts/chest area (over the shower modesty

doors) while showering (particularly for the downstairs showers). All of the individuals interviewed acknowledged that staff allowed them the opportunity to shower separately and/or at other times than other individuals. Specific concerns raised include:

- Shower privacy doors are not sufficient when people are walking upstairs from the first floor to the second floor (TLF Mod I Sector 1).
- In TLF Mod I Sectors 1 and 2, and IRC Mod J Sectors 3 & 5, there are concerns with the shower doors, in that staff working the “bubbles” can possibly see the upper body parts of a transgender individual showering.
- IRC Mod J Sector 3 shower leaks.
- The shower curtain needs cleaning (individuals reportedly use towels with rubber bands over the curtain).

While onsite, walking throughout different housing units, the Expert observed various types of shower barriers or modesty screens. Some contained curtains, while others had steel or aluminum screens (primarily half screens). In some of the units, including IRC Mod J Sector 3 and TLF Mod I, the Expert entered the staff “bubble” in each unit to observe the viewpoint from the “bubble” to the showers (both upstairs and downstairs) for a selected sector/pod. For one (1) of the units, the Expert used a non-County employee to stand inside a downstairs shower to help me better gauge whether there may be any real concerns for transgender/intersex individuals in terms of staff being able to see them showering (particularly their upper extremities). In my assessment, the non-County employee subject was not considered tall (average male height). The Expert was not necessarily able to see the mid-chest area, but with a taller individual, the Expert could see that as a legitimate concern for a transgender individual.

All four (4) housing deputies interviewed (amongst the different jails) stated that transgender/intersex individuals shower individually, and all have the option of showering at times of the day that may be different from the time period that others shower (if they so choose). Some of them also stated that the view from the “bubble” to a sector shower is obstructed by a metal privacy door and only allows for a view from the individual's neck upward. One (1) of the deputies indicated it could prove difficult to allow a transgender individual to shower separately or at different times than the other individuals in the units that have 40-person dormitories. He indicated for those types of housing units, he would try to accommodate but would also consider referring to the Classification Unit to possibly have the individual relocated to another housing unit.

The Expert provides the following recommendations:

- For the next monitoring tour (or upon completion), the County should provide a related policy/procedures (pertaining to showering and privacy screens as related to transgender or intersex incarcerated persons).

- The County should continue to monitor any complaints regarding the level of the showers (for LGBTQI individuals) versus the staff view from the “bubble” within the housing units.
- Though not a violation of the Settlement Agreement, the County must address (if they have not been remedied) the reported shower leaks in IRC Mod J Sector 3 and the excessively hot water from CWJ Mod H Sector 8. The County reported they resolved the hot water concern subsequent to the onsite monitoring tour.

Partially Implemented

F. Commissary

1. *The County shall, in consultation with DRC, facilitate transgender and intersex individuals to access gender-affirming commissary items, hygiene products, and beauty products.*
2. *The County shall provide transgender and intersex individuals additional allowances of personal hygiene products (i.e., razors) to alleviate the negative mental health impact of body hair for some individuals, consistent with jail safety and security.*

The following policies/procedures and/or related forms/documentation either were not provided or do not contain applicable information as follows:

- For items #1 and #2: CCOM Section 2002 Commissary and Inmate Welfare Fund does not address gender-affirming commissary items, hygiene products, or beauty products. Likewise, it does not address additional allowances of razors for transgender and intersex individuals.

While onsite, the Expert interviewed the Commissary Manager. The commissary staff member stated that all items sold are considered gender-neutral products and that no items are specifically for males or specifically for females. He indicated he reviews and considers requests to add new commissary items and can add them on a trial basis to do an analysis to determine feasibility for long-term sales. He makes all final decisions in conjunction with the Jail Commander. He was not able to recall whether he has ever received any requests from or concerning LGBTQI incarcerated persons. He indicated that the commissary sells ponytail holders (anyone can purchase).

The Expert also interviewed a CSA employee from the jail's warehouse. He stated the warehouse supplies clothing (except shower shoes – commissary), feminine hygiene products, and hand sanitizer to the jail's population. All authorized clothing decisions are made by the Jail Compliance & Training Team (JCAT). He stated

there are no exclusionary criteria or preclusion regarding clothing preference for transgender/intersex individuals.

During interviews of transgender/intersex incarcerated persons, several concerns were identified (below). The Expert notes the County's position that hair removal cream is available to all incarcerated persons (male or female) through the commissary. Based on concerns identified from a couple of incarcerated persons interviewed (identified in the bullets [below]), available commissary hair removal cream is limited, and has reportedly caused rashes and skin breakouts. Another individual indicated the product purchased "ripped my skin off." The County must consider other alternatives (especially for these types of cases), and also as pertaining to indigent individuals who may need hair removal cream.

some of the related concerns mentioned included:

- Commissary does not offer makeup, hair-removal tools, creams, or hair products. The Expert notes that make-up is not offered to any incarcerated persons (regardless of gender), therefore there is no apparent disparity regarding this particular item (make-up).
- Doctor denied "Vaniqa" a cream that reduces facial hair growth.
- Another individual stated that an endocrinologist prescribed "Vaniqa" cream, but a nurse later informed the individual that it was a mistake to prescribe it and that as of August 26, 2022, it would no longer be approved as a prescription.
 - A second individual had a similar claim.
- Only hair removal cream is available (that is made for African American men), I tried it, and it "ripped my skin off."
- Commissary only offers Noxema, and one (1) hair burner, which causes some individuals to have a rash and breakout (need more options).
- Asked the nurse practitioner for hair cream (for hair removal), but it was denied.
- Need more access to razors and more shaving cream. Two [2] razors per commissary draw is not sufficient.
 - This complaint was common amongst the large majority of the LGBTQI population.
- Was recently told by jail administration staff that our razor allotment would be increased to be unlimited (should at least be 7 per week), but nothing has changed yet.
- No options to purchase hair wraps or "scrunchy" hair ties (I have to use a t-shirt).
- Commissary slips are sometimes not available.

The WPATH Standards of Care make clear that hair removal treatment may constitute medically necessary transgender-related care. The Expert notes DRC's position that the County (including CHS) need to develop policy and procedures for

providing such care, on a case-by-case, individualized basis to comply with the LGBTQI Remedial Plan provisions requiring the County to provide “allowances of personal hygiene products” to “alleviate the negative mental health impact of body hair for some individuals” (Section V.F) and to provide gender-affirming items that include “[m]ake-up, hair products, hair removal tools, and other gender-affirming hygiene products” (Section V.G.1).

The Expert will further examine WPATH standards, and seek further input from health care professionals with expertise in the WPATH standards of care regarding this issue. For additional information regarding the Expert seeking input from health care professionals refer to section G. of the report.

The Expert provides the following recommendations:

- The County should provide policy/procedures or other documentation that addresses gender-affirming commissary items, hygiene products, or beauty products, and the allowance of razors for transgender and intersex individuals.
 - Once implemented, the County will need to show proof of practice.
- The County should consider offering or selling hair-removal tools and/or offer a wider variety of “hair-burner” products.
- The County should provide a status as to their reported practice of no longer prescribing/allowing prescribed face creams for stunting facial hair growth.

Not Implemented

G. Clothing

1. *The County shall provide gender-affirming clothing, including, but not limited to:*
 - a. *Undergarments, including bras, underwear, and boxer shorts, depending on the individual's stated preference;*
 - b. *Footwear in all sizes;*
 - c. *Binders and chest compression garments, and other types of compression garments;*
 - d. *Religious items in accordance with their gender; and*
 - e. *Makeup, hair products, hair removal tools, and other gender-affirming hygiene products.*
2. *The County shall apply grooming standards based on an individual's gender identity. For example, if the County permits non-transgender women to wear their hair at a certain ponytail length, transgender women shall be allowed to wear their hair similarly.*

The following policies/procedures and/or related forms/documentation contain applicable information as follows:

- For item #1: CCOM Section 1600.2 Jail Clothing addresses gender identity (including if gender identity differs from their assigned gender at birth), and individuals shall be permitted to wear clothing items of the gender with which they identify, as clothing room supply permits if those particular clothing items are their preference. It also covers transgender individuals having the option of choosing clothing items and underwear/undergarments. It further addresses that transgender individuals that identify as females (male gender assigned at birth) have the option of choosing to wear a bra and female underwear, and transgender individuals that identify as male (female gender assigned at birth) have the option of not being required to wear a bra.

The following policies/procedures and/or related forms/documentation either were not provided or do not contain applicable information as follows:

- For item #1: CCOM Policy 1600.2 Jail Clothing does not specifically address footwear in all sizes; binders and chest compression garments, and other types of compression garments; religious items in accordance with their gender; and makeup, hair products, hair removal tools, and other gender affirming hygiene products.
 - Note: CCOM Section 2002 Commissary and Inmate Welfare Fund does not address any of the aforementioned applicable items either.
- For item #2: The County did not provide a related grooming policy or procedures.

During interviews of four (4) housing unit deputies, all indicated that transgender/intersex incarcerated persons are permitted to maintain the jail clothing of choice regardless of their gender or gender identity, including undergarments.

During the Expert interviews of transgender/intersex incarcerated persons, they indicated they are permitted to wear clothing compatible with the gender with which they identify (or for the gender of their choice). Some related concerns included:

- Staff confiscates our bras, panties, and nightgowns.
 - A CST has to come back the next day and replace the items for us.
 - Staff is not “in-tune” with what transgender individuals can have.
 - “I don’t consider it harassment, but more of a lack of training.”
- Other pods are permitted to attend the dayroom in their boxer shorts, etc., but we are forced to be fully dressed when out of our cells. Note: as identified earlier in this report, the County reported they have addressed this concern. The County reports, all incarcerated persons (regardless of classification or

gender) are required to be in full jail issue clothing while in the pod/dayroom areas. This will be examined further at the next scheduled Expert tour.

Despite the aforementioned Expert interviews and information gleaned from them (as identified above), the Expert notes DRC's concerns noted from their visit and incarcerated person interviews. Specifically, it was reported that the County had not provided boxer shorts, after multiple requests, to the one transgender man in the facility. Reportedly a DRC representative inquired about the concern but has not heard back from the County as to whether these garments were ever provided to the individual.

The Expert provides the following recommendations:

- The County should provide policy/procedures related to footwear in all sizes; binders and chest compression garments and other types of compression garments; religious items in accordance with their gender; and makeup, hair products, hair removal tools, and other gender-affirming hygiene products.
- The County should provide a policy/procedures related to grooming.
- To the extent there may be validity to the allegations, staff must cease confiscating undergarments during cell/housing searches without due cause (e.g., items are altered, the individual has an excess amount of specific items more than what policy/procedures allow for, etc.).
 - Staff must be aware of jail policy/procedures pertaining to transgender/intersex individuals and clothing allowances. Additional staff training and guidance should be provided.
- The County should ensure all staff and all incarcerated persons are aware of the policy/procedures that govern clothing and the wearing of clothing (types of clothing), e.g., on yards, in dayroom/pod areas, etc. Rules and practices for a particular gender should apply for all who identify with that gender (if assigned the opposite sex at birth). Staff must also provide clothing as requested in accordance with the gender incarcerated individuals identify with.

Partially Implemented

H. Visitation

1. *The County shall ensure that rules on contact and affection during visiting are the same for LGBTQI and non-LGBTQI individuals, including in-person visitation and approved contact visits.*

The following policies/procedures and/or related forms/documentation either were not provided or do not contain applicable information as follows:

- CCOM Section 1600.3 Orange County Jail Rules (Visiting and Communications) states that if contact visits are permitted, they will comply

with the facility policy. However, no additional relative policy/procedure information was provided for review.

The OCSD jail facilities allow for non-contact (no barrier) visiting for attorneys, attorney representatives, and religious advisors only. Reportedly, there are no other contact visits approved.

During interviews of LGBTQI incarcerated persons, some related concerns include:

- Jail staff never answer telephones when our family attempts to schedule visits. Our family members must call repeatedly.
 - Numerous individuals made this same complaint.
 - But sometimes we get extra time as well.
- Sometimes it takes 30 minutes for staff to come get us, and sometimes we have to sit for 30 minutes, and then our non-contact visits get cut short.
 - Several similar complaints were made.

The Expert provides the following recommendations:

- The County should provide policy/procedures specific to an unnamed apparent related policy articulated in CCOM 1600.3 ("that if contact visits are permitted, they will comply with facility policy").
- Although the two (2) voiced LGBTQI incarcerated person complaints don't directly relate to this specific provision, the Expert wanted the County to at least be aware and recommend internal follow-up.

Partially Implemented

F. Searches (Section VI)

A. Policy

1. For incarcerated persons who are transgender or intersex or whose appearance or manner does not conform to traditional gender expectations, the County shall allow the individual to identify the preferred gender of Jail staff who will perform pat and strip searches of them, including through the use of the Voluntary Gender Identity Disclosure and Search Preference Form.

- a. The County shall conduct searches in accordance with the individual's search preference, except in exigent circumstances (i.e., "temporary and unforeseen circumstances that require immediate action in order to address a threat to safety or institutional security") or when performed by medical practitioners in a hospital setting.*
- b. If an individual's search preference cannot be determined, the search shall be conducted in a manner consistent with their gender identity or expression.*

- c. Temporary staffing issues (e.g., not enough staff on the unit of a specific gender) shall not meet the criteria for “exigent circumstances.”*
- 2. The County shall ensure that strip searches of transgender and intersex individuals occur with enhanced and appropriate privacy (e.g., outside the view of others not participating in the search).*
 - 3. The County shall not conduct genital inspections (visual or pat) to determine a transgender or intersex person’s anatomy, to otherwise harass or embarrass the individual, or for any other improper purpose.*
 - 4. The County shall not conduct searches to punish or retaliate against incarcerated people, including people who identify as LGBTQI.*

The following policies/procedures and/or related forms/documentation contain applicable information as follows:

- For item #1, CCOM Section 1710.4 Body Searches of Inmates, language addresses staff search requirements for cases where an individual is gender non-conforming or has a gender identity that differs from their genital status. It also requires staff to take into account the individual's gender expression for cases where an individual declines to state their gender identity. Further, it requires staff to ask the individual as to their preference regarding the gender of staff who will conduct the search, and that the preference will be documented on the search preference form.
- For items #3 and #4, CCOM Section 1710.4 requires staff to conduct searches in a professional and dignified manner; staff will not use searches to punish, harass, or embarrass any "inmate"; and at no time will any search be conducted solely for the purpose of determining an inmate's genital status.

The following policies/procedures and/or related forms/documentation either were not provided or do not contain applicable information as follows:

- For item #1: CCOM Section 1710.4 does not contain language pertinent to temporary staffing issues (e.g., not enough staff on the unit of a specific gender), which the RP makes clear does not meet the criteria for “exigent circumstances.”
- For item #2: CCOM Section 1710.4 (as well as other sections pertaining to searching, showers, etc.) does not contain language pertinent to enhanced privacy requirements for strip searches of LGBTQI individuals.

The Expert interviewed five (5) Classification deputies and one (1) PMU deputy. Four (4) of the five (5) acknowledged that the OCSD Voluntary Gender Identity Disclosure and Search Preference Form is used, while one (1) indicated that it is not used. Most of the deputies indicated that at the time of intake processing, a staff member (e.g., “uncuff deputy:”) has the LGBTQI new arrival complete the form, and a Classification

deputy then enters the information into the electronic I-TRACK system. Though the Expert did not ask a Classification deputy to simulate the process, or show the related screen(s) within I-TRACK to capture the search information, this will be reviewed at the next scheduled Expert tour. Most of the deputies stated the housing deputies have access to the I-TRACK system, but one (1) indicated staff did not have access to the information, and another Classification deputy was not sure. The Expert asked two (2) classification deputies whether new arrivals are ever searched (by sworn staff) for the sole purpose of determining anatomy, to which they both replied, “no.” However, the Expert notes DRC’s identified concern that based on conversations with OCSD in the Fall of 2021, OCSD described custody members conducting unclothed body (strip) searches to determine anatomy of “hermaphrodites.” For future Expert tours, related questions will be asked of medical and custody (sworn deputies) personnel to obtain a more complete understanding of related staff practices.

The Expert interviewed four (4) housing deputies (all assigned to different jails and housing units, including TLF Mod I, IM J Sector 3, and other units). They all stated that for conducting searches of transgender/intersex individuals, they ask the individual as to their search preference (gender of staff) and ensure that the individual's search preference (requested gender of staff) is accommodated. All four (4) also agreed that strip (unclothed) searches are conducted in private settings away from other incarcerated persons. One (1) of the four (4) staff members had never heard of the OCSD Voluntary Gender Identity Disclosure and Search Preference Form, and a second deputy said he had heard of the form but had never seen it and was not sure as to where the information can be accessed. One (1) of the deputies cited the J-112 Form, mod card, and I-TRACK (electronic tracking system) as areas where related search information can be reviewed by staff. Another deputy stated the search preference information is located on the mod cards.

While onsite, the Expert reviewed one (1) mod card for a transgender incarcerated person, but there was no gender identity or search preference information contained.

During interviews of LGBTQI incarcerated persons, they all indicated that staff conducts themselves professionally when performing pat-down or strip searches. However, numerous concerns were identified, and many of them were identified by numerous individuals. The concerns included:

- No staff member ever asked me about search preference gender (for staff).
- The staff never completed a gender preference/search form for me.
- Only recently was asked about search preference.
- My search preference is females (staff), but I have allowed males because I did not want to cause issues.
- My gender search preference is male, but they have never asked for my preference (but when going to court, they have females search me).
- Male staff searches me, but I prefer females.
 - I did not know I had an option.

- My cell has been searched four (4) times in the last three (3) weeks.
 - Staff “trash” our cells.
- Not sure if the gender preference/search form was ever completed for me.
- The staff confiscated our bras, panties, and nightgowns (also outlined in a previous section as it was applicable):
 - The staff is not in tune with what we can have.
 - A CST has to come back the next day and replace the items for us.
 - Don’t consider it harassment, but more of a lack of training.
- Staff retaliate against us (LGBTQI individuals) with the amount of searches, what they confiscate, and how they leave our cells (in a mess).

The Expert provides the following recommendations:

- The County should -provide policy/procedures pertinent to temporary staffing issues (e.g., not enough staff on the unit of a specific gender) shall not meet the criteria for “exigent circumstances.”
- The County should -provide policy/procedures pertinent to enhanced privacy requirements for strip searches of LGBTQI individuals.
- During the Intake/Classification processes, staff must be consistent in completing the OCSD Voluntary Gender Identity Disclosure and Search Preference Form and entering the information into the I-TRACK system.
- Staff must be trained regarding where to locate the information contained in the OCSD Voluntary Gender Identity Disclosure and Search Preference Form, e.g., the I-TRACK system.
- The County must implement related policy, ensure searches are conducted pursuant to policy, and ensure LGBTQI individuals have their search preference or refusal (to identify search preference) documented. To assess this recommendation in the future, the Expert will review the accuracy and completeness of Search Preference Forms.
- All staff that search transgender/intersex incarcerated persons (e.g., housing deputies, sworn staff that work court processing, transportation deputies, etc.) must be trained on related policy/procedures and ensure transgender/intersex individuals are searched in accordance with their search preference (staff gender), with enhanced and appropriate measures as to privacy.

The Expert has rated/designated this section as “Partially Implemented” in large part due to staff responses to questions asked, some existing CCOM policy language (though elements of policy language do not yet exist, as identified above), and at least some use of the OCSD Voluntary Gender Identity Disclosure and Search Preference Form (though inconsistent). As outlined in this section, there is allot of work that remains, e.g., further policy development, and consistencies in using and tracking the OCSD Voluntary Gender Identity Disclosure and Search Preference Form (and ability to show proof of practice). The rating/designation of “Partially Implemented” will be closely examined (for possible adjustment) for the next scheduled Expert tour based on progress or lack of progress in this area.

Partially Implemented

G. Medical and Mental Health Care (Section VII)

- A. *The County's standards of care for transgender and gender-variant individuals shall reflect community-based standards of care, including relevant UCSF guidelines and World Professional Association for Transgender Health (WPATH) Standards of Care.*

Health Care Agency (HCA) Correctional Health Services (CHS) Policy 6206 Gender Diverse/LGBTQI+ Patient Care (Revision date 1/17/20) indicates all CHS clinical staff receive biennial training on gender diverse/LGBTQIA+ patient care to meet all of the aforementioned guidelines and world standards of care. The procedure outlines gender diverse/LGBTQI+ training (including refresher training), gender self-identification screening, patient safety, confidentiality, gender-affirming medical and surgical management, mental health evaluations and counseling services, mental health client care plans, discharge planning, and grievances/quality improvement. However, Policy 6206 is still under revision, and a rating of adequate implementation will be considered for the next scheduled Expert tour upon completion of the policy as well CHS being able to demonstrate documented proof of practice. Note: the Expert has had separate discussions with DRC and the County regarding the necessity or possibility of the Expert working with a medical expert/consultant regarding Section IV. G. of the report. At the present time no agreement has been reached between the Expert, the County, and DRC. The Expert is prepared to continue monitor Section IV.G (IV.G. [a-f]) moving forward. Future reviews will include evaluations of electronic health records to evaluate compliance against various related community standards or guidelines e.g., WPATH Standards of Care (for the Health of Transgender and gender Diverse People – 8th Edition) , and the UCSF LGBT Health Guidelines. The WPATH Standards (8th Edition) were published on September 15, 2022, and the standards apply to implementation of Section IV.G (of this report). <https://www.tandonline.com/doi/pdf/10.1080/26895269.2022.2100644>

The Expert interviewed nine (9) HCA CHS healthcare professionals, including medical and mental health/behavioral health staff members. Staff indicated they are trained and work under HCA CHS Policy 6206 Gender Diverse/LGBTQI+ Patient Care and the community-based standards of care, including relevant UCSF guidelines and World Professional Association for Transgender Health (WPATH) Standards of Care.

The Expert provides the following recommendations:

- For the next Expert tour (or upon completion), provide documented proof of biennial training on gender diverse/LGBTQI+ patient care to meet all of the aforementioned guidelines and standards of care for HCA CHS staff (as applicable). The training material must be consistent with WPATH Standards of Care and UCSF LGBT Health Guidelines.

- CHS policies (upon final revision) must be consistent with WPATH and UCSF guidelines.

Partially Implemented

- B. The County's standards of care and practice shall ensure that documentation or evidence of prior gender-affirming care is not a prerequisite to receiving gender-affirming care while in Jail custody.*

In relation to Gender Self-Identification Screening and also in relation to Gender Affirming Medical and Surgical Management, HCA CHS Policy 6206 addresses this item. Specifically, it indicates that documentation of a medical diagnosis or legal documentation of a patient's identity, including their gender marker or legal sex, is not required for staff to respect or confirm a patient's gender identity, except in cases where there is specific evidence that a patient has falsely asserted gender identity. It also specifically states that documentation or evidence of prior gender-affirming care is not a prerequisite for receiving gender-affirming care.

Healthcare staff interviewed indicated they perform gender-affirming care without required or needed evidence to show prior gender-affirming care.

CHS Policy 6206 is still being revised and thus is not yet implemented. There will need to be monitoring beyond staff interviews to ensure adequate implementation.

Partially Implemented

- C. The County shall ensure that medical and mental health staff have specific knowledge of and training on gender dysphoria and the treatment thereof, including as to the WPATH Standards of Care.*

HCA CHS Policy 6206 indicates all CHS clinical staff receive refresher training on gender dysphoria and its treatment.

Healthcare staff interviewed indicated they received training regarding gender dysphoria and related treatment.

The parties have indicated that CHS was utilizing a Transgender Care training developed by the UCI Gender Clinic. On October 10, 2022, DRC counsel provided feedback as to that training. CHS has stated it intends to utilize an LGBTQI training developed by APAIT moving forward. This training should be shared with the Expert and DRC for review and comment.

The Expert provides the following recommendations:

- For the next Expert tour (or upon completion), provide documentation proof of training/refresher training for HCA CHS personnel (as applicable). The training material must be consistent with WPATH Standards of Care and UCSF LGBT Health Guidelines.

Partially Implemented

- D. The County shall ensure that a qualified medical professional and a qualified mental health professional coordinate to evaluate, diagnose, and treat patients for gender dysphoria.*

HCA CHS Policy 6206 indicates the following; 1) patients diagnosed with gender dysphoria may be referred, upon request, to mental health to aid in custody counseling and referrals to programs that assist in social gender role transitioning, 2) CHS prescribers shall provide transgender patients with patient education materials on gender dysphoria hormonal and supportive mental health treatments, transitioning, and gender affirmation options and 3) CHS administrative managers may recommend to OCSD leadership that commissary items and undergarments consistent with an individual's gender identity are available, regardless of a gender dysphoria diagnosis. The policy also includes information pertaining to mental health evaluations and counseling services, APAIT in-custody programs and group counseling, as well as a mental health client care plan.

During an onsite interview, one (1) of the medical professionals stated that the medical provider sees the patients for gender dysphoria. The following duties and actions are reportedly performed regarding evaluating, diagnosing, and treating patients for gender dysphoria:

- We call patients by their preferred name (pronoun) and treat them with respect.
- Conduct a mental health assessment.
- Ask about sexual history and STD work-up.
- Ask about family history.
- Ask about hormone therapy treatment.
- If they have been undergoing hormones, then we resume ASAP.
- We conduct baseline lab work.
- We conduct a physical examination.
- Discuss mutual agreement regarding hormone replacement therapy.
- We discuss and make adjustments as needed.
- We see the patients regularly (at least every three [3] months).
- We keep our patients thoroughly informed.
- Patient safety is always our priority.
- We gain the patient's trust.
- We follow WPATH standards of care and their guidelines.

During an onsite interview, one (1) of the mental health professionals added the following information:

- Referrals for hormone therapy or hormone replacement therapy are done through a mental health clinician and the medical provider.
- The mental health Service Chief stated she conducts a mental health assessment to ensure the individual has the capacity to make educated decisions, are systematically stable, and have mood stability.
- The mental health department writes an evaluation or note to the medical provider or nurse practitioner.

During interviews of LGBTQI incarcerated persons, some related concerns included:

- I began hormone treatment at OCSJ last year (previous jail incarceration). I receive medications every two (2) weeks.
 - I requested a medication boost about two (2) months ago but was denied.
- Other incarcerated individuals put in fake message slips to get me removed from my hormone medication.
- I started hormone therapy about 20 months ago.
 - My dose level for the last six (6) weeks was “off.”
 - I was very fatigued and incurred vomiting, night sweats, and diarrhea.
- Our mental health clinician does not appear to be acclimated to LGBTQI concerns. She doesn’t ask the correct questions, and she does not appear to be “in tune” with us.
- I never knew about hormone therapy, but I found out from another inmate in February 2022.
 - I then sent a pink message slip to Mental health/behavioral health, and they responded about six (6) weeks later.
 - It then took about two (2) months to get my hormone medications. Now I receive them every two (2) weeks.
- I started the hormone therapy process here:
 - Initially took a while due to the appeal process – it took about six (6) months to get started on medications.
 - I am usually seen by a Nurse Practitioner.
 - About six (6) months ago, I requested to see an endocrinologist:
 - The first two (2) requests were denied in January and February 2022.
 - I am waiting on an answer from the medical provider (to provide a referral to an endocrinologist).
 - I recently grieved the issue but have not heard back from medical.
- I am waiting to “transition.”
 - I put in a request to transition on July 15 or 16, 2022 (via pink slip).
 - I saw a nurse a week later.
 - I saw a doctor around August 1, 2022.

- I had a blood draw a couple of days later.
- I spoke with a mental health/behavioral health representative from our program (“she did not seem to be on the same page as medical”).
- I have seen four (4) doctors (but have only spoken with one [1]) about my request to transition.

The Expert provides the following recommendations:

- Ensure LGBTQI-related resource information (including as related to transgender/intersex individuals) is provided to all LGBTQI incarcerated persons.
- Monitor all LGBTQI requests and HCA CHS staff responses for LGBTQI-related issues (including requests for hormone therapy or requests for related information).
- CHS must ensure LGBTQI incarcerated persons receive access to care, and in a timely manner as related to Hormone Replacement Therapy, and other healthcare as related to gender dysphoria and in a timely manner.

Partially Implemented

- E. The County shall give transgender and intersex patients uninterrupted access to clinically indicated hormone therapy based upon an individualized assessment of the patient’s medical needs in accordance with community-based standards of care.*

HCA CHS Policy 6206 indicates patients who are receiving hormonal medications, with or without a prescription, related to feminizing/masculinizing hormonal therapy at the time of incarceration will be continued on such hormonal medications unless a CHS prescriber determines there is a medically compelling reason to discontinue treatment.

HCA CHS professionals interviewed stated the medical provider ensures uninterrupted access to clinically indicated hormone therapy for LGBTQI incarcerated persons, and treatment is based upon an individualized assessment of the patient’s medical needs in accordance with community-based standards of care.

A nurse indicated after vitals are taken and patient history is obtained, the staff asks for the name of the outside prescribing physician (if currently on hormone treatment medications) and obtains outside medical records. If the patient is in the beginning stages of wanting to start the treatment, then the patient is scheduled for a sick call, then scheduled with the onsite medical provider. She explained that hormone medications are done on a case-by-case basis. Doses are reportedly scheduled as they are ordered by the medical provider. Effective Communication is reportedly established during all medical encounters.

Also of importance is that while interviewing an Intake nurse, the nurse indicated questions asked of transgender or "transitioning" individuals during the Intake process, includes for hormone therapy, clinically used medications, sex change, and other questions.

There was one (1) related comment from an interview of an LGBTQI individual (as was also captured in the previous section (VII.D.):

- I never knew about hormone therapy, but I found out from another inmate in February 2022.
 - I then sent a pink message slip to Mental health/behavioral health, and they responded about six (6) weeks later.
 - It then took about two (2) months to get my hormone medications (now I receive them every two (2) weeks).

Partially Implemented

F. Sex reassignment surgery should be considered on a case-by-case basis and provided when determined to be medically necessary for a patient.

HCA CHS Policy 6206 indicates requests for sex reassignment surgery shall be reviewed on a case-by-case basis by the medical director or assigned designee.

One (1) of the HCA CHS professionals interviewed provided the following information related to sex reassignment surgery:

- We have not received any requests.
- I ask this question during my assessments.
- I explain sexual functions, erections, and related information.
- I explain that everyone is different and an individual's situation should not be compared to the situation of others.
- I also explain to and counsel the patient regarding reproduction.

A second medical professional added the following information:

- No knowledge as to whether the jail has ever dealt with this.
- There would be a referral to a medical provider and mental health/behavioral health.
- The Case Management Team (Department) would be involved in scheduling referrals to outside doctors.
 - Case Management Team comprised of:
 - Patient Care Coordinator
 - RN's
 - LVN's
 - Coordination efforts include:
 - Tracking hospital patients
 - Updating the medical Director

- Patient would be educated on the subject.
- It's a lengthy process.

One (1) of the mental health professionals provided the following information:

- No requests yet
- Mental health staff would be involved

During interviews of LGBTQI incarcerated persons, some related concerns included:

- I am considering sex reassignment surgery, but I need more information about the surgery and augmentation process.
- I have contacted medical and mental health/behavioral health, but I have not heard back.
- I have not received any related information or resource information.

This provision will be assessed further during the next scheduled Expert tour.

Not Assessed

- G. *The County shall prohibit psychotherapy such as “reparative” or “conversion” therapy or attempts to alter gender identity.*

HCA CHS Policy 6206 indicates CHS prohibits psychotherapy such as “reparative” or “conversion” therapy or attempts to alter gender identity.

When asked about psychotherapy such as “reparative” or “conversion” therapy or attempts to alter gender identity, a medical professional interviewed stated, “We do not do that.”

Adequately Implemented

H. LGBTQI Training For Staff (Section VIII)

- A. *The County shall provide at least biennial live/real-time training to staff and contractors, including anyone who has contact with LGBTQI individuals in custody, on LGBTQI policy, procedures, and legal requirements, including the following topics and as appropriate to their position:*

1. *The County’s non-discrimination policy;*
2. *The County’s complaint and grievance process for reporting alleged incidents of abuse and harassment;*
3. *The Prison Rape Elimination Act;*

4. *How to communicate with LGBTQI individuals professionally, effectively, and consistent with this Agreement;*
5. *The impact of discrimination against LGBTQI incarcerated people;*
6. *Classification, housing, programming, education, work opportunities, and integration of LGBTQI individuals in the jails;*
7. *Basic information about gender identity, sexual orientation, gender expression, and privacy rights.*

As part of pre-tour documentation, the County provided an OCSO external memo (dated 7/12/22) which indicated that next fiscal year (July 2023), the training would be included in the annual STC training block. Jail administration plan to have the training conducted at the jails before and after the briefing and LGBTQI materials are pending completion. After they have been approved (along with the ADA training materials), the County will begin planning with the jails to conduct the training onsite.

The Expert interviewed a sworn staff member from the Training Division. He indicated the County recently began using the "CORR I "System for STC Classes. It reportedly tracks completion, statistics, tests, which staff members are delinquent in taking training classes, etc. The County also uses the "Eureka" system to track training classes. The training staff member also provided the following information:

- For sworn staff:
 - Still developing / PPT in process
 - PowerPoint will be designed to be interactive
 - Estimates training curriculum development will be completed in about two (2) months
 - It will be reviewed by DRC and County Counsel
 - Instructors will be trained
 - There will be an associated knowledge-based assessment (quiz)
 - Upon completion, the material will be taught to custody the first year, and it will become part of STC training the following year.
 - Will be formalized in-class training
 - No current training (other than some academy cultural diversity training)
 - There will also be a refresher course:
 - Two (2) hours ADA and two (2) hours LGBTQI annually
 - The Refresher course will be for sworn and non-sworn personnel
- For Healthcare staff:
 - The parties have indicated that CHS was recently utilizing a Transgender Care training developed by the UCI Gender Clinic.

On October 10, 2022, DRC counsel provided feedback as to that training. CHS has stated it intends to utilize an LGBTQI training developed by APAIT moving forward. This training should be shared with the Expert and DRC for review and comment.

- Healthcare staff are working with APAIT to teach their staff soon
 - Note: the refresher course (stated above) is reportedly also for healthcare staff.

The Expert also interviewed a mental health professional regarding training. The mental health staff member stated that training “is in the works” (in the final stages of contract development) for mental health and medical staff in conjunction with APAIT (for formal onsite biennial training). She stated that some training has already been provided by a doctor (Public Health Director at UC Irvine). She cited the class as being titled “Affirmative Responses and working with LGBTQI the Community,” which is “several hours” in length and is designed as in-person training. She indicated the training was provided last month.

The Expert provides the following recommendations:

- When feasible, the County should provide an update as to the training materials being developed (including refresher courses) for both CHS and OCSD, future fiscal or calendar year training schedules, and confirmation of training certifications through STC.
- Training materials should be shared with the Expert and DRC for review and comment.

Un-ratable

- B. Training, including refresher training as appropriate to their position, will be provided to all staff at least biennially. The County shall maintain records of training history.*

As outlined in Section VIII. A. (above) from interviewing a staff member from Training Division, there is a refresher course under development. Reportedly, the course will be designed for two (2) hours ADA and two (2) hours LGBTQI, to be required annually for both sworn and non-sworn personnel.

See section VIII. A. (above) for recommendations concerning refresher training.

Un-ratable

- C. The County shall provide DRC draft LGBTQI training materials (including any updates or revisions) and shall meaningfully consider any DRC input on the content and method of delivery of the training. DRC agrees to complete a prompt review (e.g., within 30 days) of draft training materials to accommodate the County’s training and operational needs.*

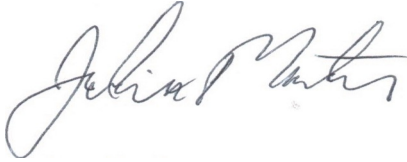
Training staff and other key County personnel stated that all LGBTQI training materials (including any future revisions) would be reviewed by DRC to allow for their review and input.

As outlined above, the training materials are still under development.

Un-ratable

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 9, 2022

Date