



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

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

### **Elimination of Harmful Restrictive Housing and Disciplinary Practices**

On-Site Review: February 24-28, 2025

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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 (SA), and (2) to complete a report with findings and recommendations to address any identified deficiencies. The County retained Sabot Consulting to serve as the neutral Expert pursuant to an agreement executed on January 25, 2020 (amended on February 22, 2020, and August 1, 2022).

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

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

Consistent with the Parties' Negotiations Agreement, the Parties then engaged in careful negotiations of a Remedial Plan (RP) to address the findings of Sabot Consulting's Assessment Report and to implement its recommendations, as appropriate. Negotiations

were substantially informed by DRC's ongoing review of relevant records, data, and other materials, information-sharing with the County, and communication with people incarcerated at the Jail.

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

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

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

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

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

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

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

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

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

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

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

## B. Monitoring Process

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

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

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

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

**Un-ratable (UR):** 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 (NA):** 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 (MS):** Used where two previous successive Compliance Reports have found that the provision has been adequately implemented.

### III. Executive Summary

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

- I. Systemwide Increase of Minimum Out-of-Cell Time.
- II. Closure of Disciplinary Isolation (DI) Cells and Central Men's Living Cells to End Housing of People in Areas of Extreme Sensory Deprivation and Lack of Program Space.
- III. Creation of Special Management Unit (SMU) Status.
- IV. Prohibition on Discipline for Behaviors That Are Related to Mental Health or Disability, Prohibition on Sanctions That Pose Risk of Serious Harm.

The sixth round of monitoring focused on the Theo Lacy Facility (TLF), Central Men's Jail (CMJ), Central Women's Jail (CWJ), and Intake Release Center & Transportation (IRC). The Expert also conducted a tour of James A Musik's (JMF) facility; however, documents were not reviewed during this review period. The on-site Monitoring Review was conducted from August 26 through August 30, 2024. The Monitoring Review included a review of pre-monitoring documents produced by the County of Orange (OC); on-site observations; interviews of sworn and non-sworn personnel (e.g., housing deputies, HCA CHS healthcare staff (medical and mental health) classification staff); and interviews of incarcerated persons housed at the OC jails.

A meeting was conducted with representatives from the County of Orange (Orange County Jail Administration and Staff from the County Counsel's Office). DRC Representatives were also present during the meeting and during portions of the monitoring tour. An exit meeting was conducted via Zoom on March 12, 2025, with representatives from the County of Orange (Jail Administration and Staff from the County Counsel's Office) and DRC Representatives.

The Orange County Sheriff's Department's (OCSO) professionalism, facilitation, and coordination ensured Expert access to all facilities, staff, and incarcerated persons for interviewing purposes and is greatly appreciated. The Expert found the staff was open and transparent in their responses during the staff interviews.

The Expert finds that some of the provisions as set forth in the SA and RP (and local policies/procedures) have been implemented and continue to be found as "Adequately Implemented." However, the Expert finds that in some cases, more information and evidence are needed to make a determination of compliance for the required elements.

For areas that were found not "Adequately Implemented," a thorough assessment will continue to be made in future monitoring tours, including the review of proof of practice documentation. The Expert notes that with the implementation of related policies, procedures, and training, staff are now better informed and have an understanding of the SA and RP requirements and how the SA correlates to their respective job duties.

As this was the sixth monitoring tour, all elements of the SA, except for the SMU processes, were evaluated for compliance. The parties previously agreed that the SMU portion of the RP should not be monitored provision-by-provision, primarily because the County has chosen not to maintain an SMU housing designation in its system.



The County remains, as it has for the five prior monitoring periods, out-of-compliance with the provisions of the RP that mandate that all incarcerated people have the opportunity to access at least (3) hours of dayroom daily and (3) hours of outdoor recreation weekly. For the sixth round of monitoring, the parties stipulated that the County has not yet adequately implemented these provisions. The parties entered into this stipulation, at least in part, because the County has agreed that its current system for tracking out-of-cell time is not capable of capturing the data necessary to establish compliance. The County has acknowledged that it will need to implement Guardian RFID inclusive of tracking reports to accurately track out-of-cell time.

Given these agreements by the parties, the Expert did not conduct a comprehensive review of out-of-cell tracking logs during this monitoring period. The Expert has a number of recommendations that the County will need to adopt if it wants to come into compliance once it implements Guardian RFID to track out-of-cell time.

First, sworn supervisory-level staff must audit the logs for completion as required by the RP to hold staff accountable for compliance.

Second, the County almost certainly will need to modify its policies to allow up to 12 incarcerated people to program for out-of-cell time together; if the County continues its policy of permitting only 8 people or fewer to program together in most celled housing units, compliance with RP requirements will remain exceedingly unlikely and even impossible.

Third, the County should regularly review the classification designation of incarcerated people in the classification groups to which it is most difficult to provide out-of-cell time, with the goal of reclassifying individuals into less restrictive classifications as soon as doing so is consistent with the system's security needs.

Fourth, the County should consider revamping its classification system to reduce the number of classification levels or otherwise streamline the system, as the many levels in the current system make it more difficult to comply with the out-of-cell requirements in the RP; this is especially needed in the mental health units, where the County is typically far out of compliance with the out-of-cell requirements.

The Expert found at TLF, the redirection of sworn staff assigned to Green Sector recreation has been reduced and that access to the TLF Green Sector Recreation yard has improved. This should be maintained and built upon. However, the Expert finds the Recreation Yard does not open at dawn or when daylight occurs and does not stay open until dusk or until daylight ends.

The Expert notes that the County has implemented the practice (with parallel CHS policy update) for staff to make a meaningful consideration of the relationship of the disability (i.e., mental health, intellectual/developmental) and behaviors that may violate jail rules, as well as the efficacy/appropriateness of the disciplinary measures versus alternative interventions and the impact of the disciplinary measures on the health and well-being of the incarcerated persons with mental health and intellectual/developmental disabilities. It is also noted that OCSD has implemented the practice. However, the OCSD policy is pending revision and implementation.

The Expert notes the County has adequately implemented the following practices that reflect or are necessary components of specific RP requirements:



- Providing incarcerated person access to toilet facilities during their dayroom time.
- Rotating the dayroom opportunity daily.
- Documenting circumstances when an incarcerated person is at court or an off-site medical appointment during their scheduled dayroom/recreation yard time.
- Consistent with safety and security needs, maximizing opportunities for incarcerated persons in celled housing to interact with others during the out-of-cell time.
- Ensuring incarcerated persons are offered some opportunities for out-of-cell time during normal daylight hours each week.
- Providing additional programming, including the use of electronic tablets.
- Closure of the DI cells in the CMJ, IRC, TLF, and CWJ.
- Designation of a supervisory-level Disciplinary Hearing Officer for each OC jail facility.
- Designation of supervisory level clinician

The following reflects the overall ratings given for the 24 RP provisions subject to assessment by this Expert:

- Adequately Implemented - Two (2)
- Partially Implemented - Eleven (12)
- Not Implemented - One (1)
- Un-ratable - Zero (0)
- Not Assessed - Three (3)
- Monitoring Suspended Based on Previous Findings of Compliance - Six (6)

It is the Expert's belief as the County continues to implement vital components of the SA, 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 SA and RP.

Based on the document review and on-site monitoring tour, the summary of ratings and recommendations are listed below:

PROVISION	REQUIREMENT	CURRENT RATING	PRIOR RATING
I.	<b>SYSTEMWIDE INCREASE OF MINIMUM OUT-OF-CELL TIME</b>		
I.B.1.	Out of cell time (21 hours of dayroom per week) <b>Recommendations:</b> Ensure consistent provision of the required three (3) hours per day in dayroom or other common area for a total of at least twenty-one (21) hours per week.	PI	PI

	Ensure supervisors audit the Guardian RFID Dayroom Logs when implemented for staff compliance. Ensure all Mods utilize the standardized Dayroom Logs. Continue decreasing the number of groups and increasing the sizes of the groups for all Mods if classification factors allow. Ensure the Dayrooms are consistently operating during the hours of 0600 through 2300. Implementation of the Guardian RFID.		
<b>I.B.1.a</b>	Additional dayroom beyond three (3) hours per day <b>Recommendations:</b> Ensure additional dayroom time beyond the three (3) hours per day is offered when the dayrooms are available in all Mods. Ensure supervisors audit the Guardian RFID Dayroom Logs when implemented for staff compliance.	<b>PI</b>	<b>PI</b>
<b>I.B.1.b.</b>	Access to toilet facilities during dayroom	<b>MS</b>	<b>MS</b>
<b>I.B.1.c.</b>	Documentation of exigent circumstances precluding minimum dayroom time	<b>MS</b>	<b>MS</b>
<b>I.B.1.d.</b>	Scheduled programming in the dayroom included in the three hours per day of dayroom time.	<b>NA</b>	<b>NA</b>
<b>I.B.2.</b>	Three (3) hours per week of outdoors for exercise. <b>Recommendations:</b> Ensure staff consistently provide the required three (3) hours minimum per week of outdoor exercise and/or recreation. Ensure supervisors audit the Guardian RFID Recreation Logs when implemented for staff compliance. Continue decreasing the number of groups and increasing the sizes of the groups for all Mods if classification factors allow. Ensure the recreation yards are consistently operating during the hours of 0600 through 2300.	<b>PI</b>	<b>PI</b>
<b>I.B.2.a.</b>	Additional Opportunities for Recreation or outdoor exercise <b>Recommendations:</b> Ensure that additional outdoor exercise and/or recreation time beyond the three (3) hours per week are offered and provided as scheduling and classification needs allow. Ensure supervisors audit the Guardian RFID Recreation Logs when implemented for staff compliance.	<b>PI</b>	<b>PI</b>
<b>I.B.2.b.</b>	Documentation of exigent circumstances precluding minimum outdoor recreation time <b>Recommendations:</b> With the implementation of Guardian RFID ensure documentation of the reasons that precluded the provision of the minimum outdoor time in the given week.	<b>PI</b>	<b>PI</b>
<b>I.B.3.</b>	Additional programming, including the use of electronic tablets. <b>Recommendations:</b> Ensure tablets are not used as behavior management tool unless it is part of the disciplinary process. Provide tablets on a 1 to 1 ratio or at the very least ensure every incarcerated person has the opportunity to utilize the tablet daily.	<b>PI</b>	<b>AI</b>
<b>I.C.</b>	Steps to maximize opportunities for interaction with others during dayroom.	<b>MS</b>	<b>MS</b>

<b>I.D.</b>	Accommodations for individual needs regarding time of day for out-of-cell time	<b>AI</b>	<b>AI</b>
<b>I.E.</b>	Out of cell time during normal daylight hours	<b>MS</b>	<b>MS</b>
<b>I.F.</b>	<p>Utilization of an effective electronic system for documenting and tracking the amount of out-of-cell time</p> <p><b>Recommendations:</b></p> <p>Ensure the Guardian RFID, when implemented, documents and tracks the amount of out-of-cell time that each person in custody is offered and receives. The tracking system must have the capability/functionality to track the following:</p> <ul style="list-style-type: none"> <li>• Dayroom offered for every incarcerated person (date and time including weekly totals).</li> <li>• Dayroom provided for every incarcerated person (date and time including weekly totals). Dayroom refusals for every incarcerated person (date and time, including weekly totals).</li> <li>• Cases of emergency or security-related events (count, searches, and lockdowns) where the Dayrooms were not open.</li> <li>• Cases where the incarcerated person is at court or an off-site medical appointment.</li> <li>• Scheduled program participation in the dayroom.</li> <li>• Recreation yard offered for every incarcerated person (date and time including weekly totals).</li> <li>• Recreation yard provided for every incarcerated person (date and time including weekly totals).</li> <li>• Recreation yard refusals for every incarcerated person (date and time, including weekly totals).</li> <li>• Cases related to exigent circumstances or inclement weather that preclude the provision of the minimum outdoor time in a given week.</li> <li>• Restriction of dayroom and recreation yard access related to infectious disease control.</li> </ul>	<b>PI</b>	<b>PI</b>
<b>I.G.</b>	<p>Electronic audits to ensure that OCSD is offering the required out-of-cell time</p> <p><b>Recommendations:</b></p> <p>Ensure supervisory staff conduct and document electronic audits of the Guardian RFID logs when implemented at least weekly to ensure that OCSD is offering the required out-of-cell time consistent with the RP provisions.</p>	<b>NI</b>	<b>NI</b>
<b>I.H.</b>	Temporary restriction of dayroom and Outdoor Recreation	<b>NA</b>	<b>NA</b>
<b>I.J.</b>	Referral to CHS when a person refuses out-of-cell time repeatedly (e.g., more than 3 times in one week) and the reason	<b>PI</b>	<b>PI</b>

	for refusals may be related to mental health, medical, or disability status <b>Recommendations:</b> Ensure staff make a referral to CHS (urgent or higher) for assessment and appropriate clinical follow-up for cases where an incarcerated person refuses out-of-cell time repeatedly (e.g., more than three times in one week) and the reason for such refusals may be related to their mental health, medical, or disability status.		
II.	<b>CLOSURE OF DISCIPLINARY ISOLATION (DI) CELLS AND CENTRAL MEN'S SHELTERED LIVING CELLS TO END HOUSING OF PEOPLE IN AREAS OF EXTREME SENSORY DEPRIVATION AND LACK OF PROGRAM SPACE</b>		
II.A-D	Closure of Disciplinary Isolation Cells	MS	MS
III.	<b>CREATION OF SPECIAL MANAGEMENT UNIT (SMU) STATUS</b>		
III.A-O	Special Management Unit and Status	NA	NA
IV.	<b>PROHIBITION ON DISCIPLINE FOR BEHAVIORS THAT ARE RELATED TO MENTAL HEALTH OR DISABILITY, PROHIBITION ON SANCTIONS THAT POSE RISK OF SERIOUS HAR</b>		
IV.A.	Policies and procedures requiring meaningful consideration of disability in the disciplinary process <b>Recommendations:</b> Ensure the revisions to OCSD policies and procedures are finalized, including the requirement for staff to conduct a meaningful consideration of the relationship of each person's behavior to any mental health disability or Intellectual/Developmental Disability, the efficacy of disciplinary measures versus alternative interventions, and the impact of disciplinary measures on the health and well-being of incarcerated people with disabilities. The Expert notes the Correctional Health Services (CHS), Policy 6602 Health Evaluations for OCSD Incarcerated persons who violate Jail Rules has been implemented.	PI	PI
IV.B.	Mental Health Review for Rules Violations <b>Recommendations:</b> Ensure the revisions to OCSD policies and procedures are finalized to include the requirement for staff to conduct a meaningful consideration of the relationship of each person's behavior to any mental health disability or Intellectual/Developmental Disability, the efficacy of disciplinary measures versus alternative interventions, and the impact of disciplinary measures on the health and well-being of incarcerated people with disabilities. The Expert notes the Correctional Health Services (CHS), Policy 6602 Health	PI	PI

	Evaluations for OCSD Incarcerated persons who violate Jail Rules has been implemented.		
<b>IV.C.</b>	<p>Consideration of mental health input in the disciplinary process</p> <p><b>Recommendations:</b></p> <p>Ensure the revisions to OCSD policies and procedures implemented for the MH Disciplinary referral process so the Disciplinary Hearing Official has the ability to use the CHS MH evaluation as evidence when making the determination of guilt or innocence during the hearing or in deciding whether to cancel the disciplinary action. The Expert notes the Correctional Health Services (CHS), Policy 6602 Health Evaluations for OCSD Incarcerated persons who violate Jail Rules has been implemented.</p>	<b>PI</b>	<b>PI</b>
<b>IV.D.</b>	<p>Disability accommodations during the disciplinary process</p> <p><b>Recommendations:</b></p> <p>Ensure the Disciplinary Hearing Officer checks the ADA Tracking System and ensures the provision of reasonable accommodations and effective communication during the disciplinary process.</p>	<b>PI</b>	<b>PI</b>
<b>IV.E.1.</b>	<b>Designation of Disciplinary Hearing Officer</b>	<b>MS</b>	<b>MS</b>
<b>IV. E. 2.</b>	<b>Designation of supervisory-level clinician</b>	<b>AI</b>	<b>AI</b>

## IV. Findings

### A. Systemwide Increase Of Minimum Out-Of-Cell Time

- A. *It is the intent of OCSD and CHS to provide as much out-of-cell time and programming to the incarcerated population as possible, consistent with security, classification, and operational needs.*
- B. *Absent exigent circumstances or exigent security concerns that are documented, the County shall offer each person in custody who is not housed in the Special Management Unit a minimum of twenty-four (24) hours out of their cell each week, as follows:*
  - 1. *At least (3) hours per day in a dayroom or other common area, for a total of at least twenty-one (21) hours per week.*

During the previous five monitoring periods, the Expert consistently found that the County was not consistently providing the required three (3) hours of daily dayroom required by the RP. Additionally, the data within the dayroom logs has often not provided the Expert the detailed information necessary to rate the County's compliance as some of the logs do not contain incarcerated person identifiers and simply report on the number of incarcerated persons provided access to the dayroom.

For the sixth round of monitoring, the parties stipulated that the County has not yet adequately implemented these provisions. The parties entered into this stipulation, at least in part, because the County has agreed that its current system for tracking out-of-cell time is not capable of capturing the data necessary to establish compliance. The County has acknowledged that it will need to implement Guardian RFID inclusive of tracking reports to accurately track out-of-cell time. The County reported that Guardian RFID has been rolled out for tracking safety and security checks. Once that process is fully implemented, tracking out-of-cell time will be next for implementation, estimated to be August 2025. This standardization will assist OCSD with compliance with the Remedial Plan.

Notwithstanding the stipulation, the Expert performed a limited review of the County's compliance with these provisions, including through onsite observation, staff and incarcerated person interviews, and a truncated review of out-of-cell logs.

As previously reported, the revised OCSD Court & Custody Operations Manual (CCOM) 2006 – Recreation states, "Under normal circumstances, inmates will be afforded the opportunity to use the dayroom for a minimum of three hours per day, unless specific and articulable reasons exist for a shorter time period (i.e., court, off-compound medical appointment, unforeseen security events, facility maintenance, medical emergency). In such cases, the reasons will be thoroughly documented in the Guard Station Daily log by the respective Deputy or Correctional Services Assistant. It is expected that dayrooms will generally be available for use by inmates from 0600 through 2300 hours daily, for a total of at least twenty-one (21) hours per week."

The policy also states, "Documented security concerns may necessitate the reduction or cancellation of scheduled dayroom time. A Sergeant or the Watch Commander must approve any changes prior to implementation. If an exigency prevents prior approval, staff will notify a

supervisor as soon as practical for approval. The reduction or cancellation will be documented in the Guard Station Daily Log along with the name of the approving supervisor. If an inmate has an Individual Inmate Activity Log, the cancellation or reduction will also be documented there.”

Conceptually, the policy complies with RP Requirements though, as the parties have stipulated, the practice has not been implemented with Guardian RFI. The policy will require further revision consistent with the County’s intended practice once Guardian RFID is fully implemented.

In the meantime, the County has taken steps towards increasing provision of out-of-cell time. This includes working to increase programming group sizes and more effective clustering of incarcerated people with similar classification levels and factors.

In June 2024, the OCSD initiated a pilot program in Mod Q (Theo Lacy); this pilot was an attempt to increase the number of incarcerated persons’ access to out-of-cell time (dayroom and recreation). Specifically, the OCSD ensured the incarcerated persons in a specific group in any given sector were of like a classification level. The OCSD expanded the number of two-man cells programming at a time from four (4) two-man cells (eight [8] incarcerated persons) to six (6) two-man cells (twelve [12] incarcerated persons). This process allowed four (4) additional incarcerated persons access to out-cell-time or dayroom and recreation. This process proved each sector or tank could provide additional hours of programming each day and assisted the County in meeting the RP requirements of providing the required access to out-of-cell and recreation opportunities.

This pilot program concluded in the summer of 2024; the specific date is unknown. The county expanded group size for dayroom and Recreation programming, it is noted this process has not been implemented across the jail system, such as Mods or Sectors with Classification Levels with are High Security, such as TLF Mod P. The Expert will engage the County to see if there are current and/or planned efforts to roll out the expanded group size systemwide.

The Programs leadership has indicated that if the group size limit is increased to 12 incarcerated persons per group, the County and outside program providers would likely be able to increase in-person program offerings.

When interviewed, staff provided correct responses regarding the RP requirement for daily dayroom access. However, a review of the dayroom logs coupled with the incarcerated person interviews reflects that although improvement has been made, the County is not consistently providing the required three (3) hours of dayroom daily.

Improvement to classification review procedures should also be considered to facilitate successful implementation of the out-of-cell time RP requirements. A bi-annual classification review consisting of a custody manager or experienced supervisor and PMU/Classification staff should conduct a classification/security review for consideration of a decrease in each incarcerated person’s classification. This can be based on a review of Jail disciplinary history inclusive of all in-custody behavior/misconducts (violent offenses), taking into consideration when the offense occurred and gang history. Rollout of such a review procedure should begin with people at higher classification levels, as those individuals generally create the most



significant challenge to delivering programming, including out-of-cell time, to the incarcerated population.

This more robust classification process would provide an avenue for incarcerated persons to work themselves to lower classification levels, and if their classification level is lowered, this may allow for the incarcerated person to be assigned to a larger group and may provide increased program opportunities, including self-help, education, and access to dayroom/recreation.

When interviewed, staff provided correct responses regarding the RP requirement for daily dayroom access. The Expert's limited review of the dayroom logs coupled with the incarcerated person interviews reflect that although improvement has been made, the County is not consistently providing the required three (3) hours of dayroom daily.

The Expert interviewed 72 incarcerated persons housed in dorm and celled living.

- Celled Housing: Forty-two (42) reported they are provided with three (3) hours of dayroom time per day, while 15 reported they are sometimes provided with less than three (3) hours of dayroom time per day.
- Dorm Housing: Fifteen (15) were housed in a dorm/tank with access to out-of-cell activities during their programming time.

All 72 incarcerated persons reported they have access to the dayrooms at different times of the day throughout the week.

The County produced the following OCSD Daily Activity Logs, which include the dayroom opportunities offered and provided for the following weeks:

- August 1-30, 2024
- September 1-30, 2024
- October 1-31, 2024
- November 1-30, 2024
- December 1-31, 2024

The Daily Activity Logs included the following:

- CMJ (Mods A, B, C, D, E, F, and O),
- CWJ (Mod P and Second Floor)
- IRC (Mods J, K, M, and N)
- TLF (AE Barracks, F Barracks, G Barracks, Mods I, J, K, L, M, O, P, Q, and R)

The following logs were not provided as part of the document production.

- CWJ Mod I

The County also produced the OCJ Housing Tables for the TLF, CMJ, CWJ, and IRC. In some of the housing locations, which are open dorms/tanks, the incarcerated persons have access

to dayroom/out-of-cell activities unless they are confined to their bunks. These housing locations include:

TLF

- Mod J Sectors 10-12
- Mod O Sector 37 – GP Dorm (downstairs only)
- A/E Barracks
- F Barracks
- G Barracks
- H Barracks

CMJ

- Module A Tanks 1, 2, 5, and 6
- Module B Tanks 7-10 (all Tanks)
- During a previous monitoring tour, the County Reported, "Incarcerated persons in Mod B and E do not have open access to dayroom. There is one dayroom per tank, shared by all cells in that tank (on a rotating schedule), and staff must open each cell door to provide access to the dayroom."
- Module C Tanks 11, 12, 15, and 16
- Module D Tanks 17, 18, 21, and 22
- Module E Tanks 23-26 (all Tanks)
- Module F Tanks 27, 28, 31, and 32
- Module O Ward C and D
- Module R Tanks 4 and 5

CWJ

- Module G Tanks 1-4 (all Tanks)
- Module H Tanks 5-8 (all Tanks)

IRC

- Module J Sector 3

The Expert reviewed a sampling of Facility and Mod or Tank Dayroom Logs, which continue to have certain difficulties. The Expert finds although some improvement has occurred, some dayroom logs still do not reflect the incarcerated person identifiers (name and booking number) in cases where there are multiple incarcerated persons in a dorm/tank. In addition, the logs do not reflect whether the incarcerated persons are offered, accepted, and/or refused the required three (3) hours daily of access to dayroom or other common area, for a total of at least twenty-one (21) hours per week. Some staff are using the newly designed Dayroom Logs, which the County reports were implemented in March 2024. However, as of December 2024, the logs are still not being used in several areas.

Based on the review of a sample CMJ, CWJ, IRC and TLF Dayroom logs and 72 incarcerated person interviews, the Expert finds there is a continued improvement by OCSD in ensuring access to or the offering of three (3) hours of the dayroom. However, the Expert finds the County does not consistently provide the required three (3) hours per day of dayroom opportunity, for a total of at least twenty-one (21) hours per week.

There are specific challenges currently preventing the County from coming into compliance.

The first challenge is the continued policy of capping programming/dayroom/recreation groups to eight (8) incarcerated people in many celled units. The OCSD has, in most cases, shown the ability (given numerous daily operational delays during daytime programming) to successfully provide access to three (3) hours of dayroom when there are three (3) separate groups or fewer per Sector. (Some staff reported that four (4) separate groups are more difficult but, in some cases, feasible.) Where a sector has more than three (3) or four (4) programming groups, it becomes almost impossible to provide sufficient dayroom time to all people in that unit. Unless the County permits groups of more than 8 incarcerated people, it is generally difficult to have three or fewer programming groups in a unit.

In June 2024, the OCSD initiated a pilot program in Mod Q; this pilot was an attempt to increase the number of incarcerated persons' access to out-of-cell time (dayroom and recreation). The OCSD expanded the number of two-man cells programming at a time from four (4) two-man cells (eight [8] incarcerated persons) to six (6) two-man cells (twelve [12] incarcerated persons). This process allowed four (4) additional incarcerated persons access to out-cell-time or dayroom and recreation. This process showed that each sector or tank could provide additional hours of programming each day and assisted the County in meeting the RP requirements of providing the required access to out-of-cell and recreation opportunities. The Expert notes that the County has utilized this expanded group size process in other units with success. However, the Expert notes not all Facilities, Mods or tanks follow the larger dayroom group process. This may be attributed to the lack of a standardized schedule or that the incarcerated persons housed in the Mods are of a higher classification level.

In addition, Programs leadership has indicated that if the group size limit is increased to 12 incarcerated persons per group, the County and outside program providers would be able to substantially increase in-person program offerings to the incarcerated population. Program providers (in particular, education course providers) have indicated that providing programming to only eight (8) people at a time is not feasible given their own rules and procedures. Accordingly, the Expert recommends that the County, to meet the out-of-cell minimum requirements, expand programming groups to 12 people as much as possible.

Second, and relatedly, the Expert has discussed with the County revising its classification system to either reduce the number of classification levels or allow increased co-programming across classification groups consistent with safety and security factors and needs. Other county jail systems of similar size do not have nearly as many classification levels or as much rigidity against co-programming across classification groups.

Third, the Expert has discussed with the County the utility of adopting more frequent classifications reviews, particularly for higher classification individuals, so that people can be stepped down to less restrictive classification groups as soon as safety and security factors allow.

The protocols guiding classification groups and programming in the Orange County have a distinctive and profoundly challenging impact on the provision of out-of-cell time in the mental

health units, making it nearly impossible to ensure compliance with the requirements of the RP. When incarcerated people are transferred to a mental health unit, they generally retain the classification they had in their prior, non-mental health unit. As a result, the mental health units house individuals that are classified at many different levels. The County has taken only limited steps to program incarcerated people with different classification levels together for out-of-cell time. This policy means that many people in these units must program on their own or with only one or two other incarcerated people, and it further means that there are typically more than four programming groups in the units. As discussed above, when there are a large number of programming groups, it becomes nearly impossible for the County to meet the RP requirements. These small groups have also made very difficult the provision of structured group programming for incarcerated people in the mental health units.

Accordingly, the Expert recommends that the County take steps to permit larger programming groups and mitigate classification system complexity and rigidity, especially the mental health units. The Expert acknowledges that not all incarcerated people in the mental health units will be able to program with each other. But the County will not come into compliance with the RP in those units until it addresses the classification group bottlenecks that currently exist.

The Expert was informed by sworn staff during the tour of TLF Mod L, that in TLF Mod L, the dayroom is closed every 25 minutes to allow Sworn staff to conduct safety/security checks, in addition to conducting daily operational activities (medication), which continually causes dayroom programming to be closed. The Expert was advised a newly assigned supervisor directed assigned staff to his area of supervision to close the dayroom for sworn staff to perform 30-minute safety/security checks. The Expert queried staff assigned to other mods, and their practice is to have the incarcerated persons sit at the dayroom tables or remain on the phone when conducting their safety check. The Expert recommends that this process be adopted as a standardized process throughout the facilities where facility or sector design requires staff to enter sectors for safety/security checks.

The County reported that in May 2024, OCSD began to test changes in the manner in which they conduct out-of-cell or dayroom opportunities for incarcerated persons. Specifically, they began to allow six (6) two-man cells or up to 12 persons to program together in the dayroom. The Expert notes there are exceptions, such as in TLF Mod P, which houses AH1&2 and GP 1&2 incarcerated persons. The Expert is hopeful that as this process moves forward, further effective programming of three (3) hours of access to the dayroom and additional dayroom will be fully realized in all Mods. OCSD COCO reported an unknown end date when the pilot program ended. However, the program was a success and OCSD began using the program in other housing areas.

The implementation of the Guardian RFID will assist the County in providing the Expert with cumulative data of the out-of-cell time for the Expert to measure the County's compliance with the RP requirements. Per OCSD Action Plan the Guardian RFID program is currently estimated to begin January 2025. During the on-site monitoring tour, the Expert confirmed the deployment of the Guardian RFID for security and safety has been implemented.

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

### **Partially Implemented (Previous Rating Partially Implemented)**

- a. *OCSD will offer additional dayroom time beyond three (3) hours per day as scheduling and classification needs allow. To do so, OCSD will ensure that dayrooms in celled housing units will be available and occupied for use by incarcerated people from 0600 through 2300 hours daily, except in cases of emergency and as necessary for particular events related to the safety and security of the institution (e.g., counts, searches). Once every incarcerated person in a celled housing unit has been offered use of the dayroom and, if they choose, used the dayroom for three hours a day, OCSD shall offer another opportunity to use the dayroom to incarcerated people who already used the dayroom or were already offered but declined the opportunity to use the dayroom. OCSD shall make efforts to rotate these opportunities for additional dayroom among the incarcerated people in a housing unit or Sector so that everyone in the unit or Sector can have approximately equal additional dayroom time. If everyone in the unit or Sector has had an opportunity for dayroom time and everyone refuses any subsequent offer of additional dayroom time, the dayroom will be closed for two hours. Incarcerated persons will then be offered dayroom on a recurring two-hour cycle for the remainder of the day. If a pattern develops that an incarcerated person is refusing an offer of dayroom time in an apparent attempt to obtain a specific dayroom time, the incarcerated person will be informed that the specific dayroom time will not be offered and will be given the opportunity to accept the offered time.*

Guardian RFID has been rolled out for tracking safety and security checks. Once that process is fully implemented, tracking out-of-cell time will be next for implementation, estimated to be August 2025. This standardization will assist OCSD with compliance with the Remedial Plan.

The revised OCSD Court & Custody Operations Manual (CCOM) 2006 – Recreation states, "Once every inmate or group has been offered or used the dayroom, staff shall offer all inmates or groups additional opportunities for dayroom use between the hours of 0600-2300 hours, even if an inmate or group previously refused. Staff shall make efforts to rotate the opportunities for additional dayroom so inmates in a Sector or unit can have approximately equal additional dayroom time. If every inmate in a Sector or unit refuses additional dayroom time, dayrooms will be closed for two (2) hours. Inmates will then be offered additional dayroom on a recurring two (2) hour cycle for the remainder of the day. If a pattern develops that an inmate or group is refusing an offer of dayroom time in an apparent attempt to obtain a specific time, the inmate or group will be informed that the specific dayroom time they are attempting to obtain will not be offered, and instead will be given the opportunity to accept the offered time."

In the review of a sampling of the Dayroom Logs for various dates in December 2024 provided and listed in Section A.B.1. above.

- The Expert found that the Dayrooms were not consistently available from 0600 to 2300 at TLF In Mods I, L, N, P, Q, and R

- The Expert found that the Dayrooms were not consistently available from 0600 to 2300 at IRC In Mods K and L
- The Expert found that the Dayrooms were not consistently available from 0600 to 2300 at CMJ In Mods B, D, and E.

#### Incarcerated Person Interviews:

- Eight (8) CMJ incarcerated persons interviewed said they are not offered or provided additional access to dayroom opportunities (i.e., a second or additional dayroom session).
- Four (4) IRC Mod J incarcerated persons interviewed said they are not offered or provided additional access to dayroom opportunities (i.e., a second or additional dayroom session); however, this is not supported based on the review of the December Dayroom logs.
- Seven (7) incarcerated people in TLF Mod N said they are not offered or provided additional access to dayroom opportunities (i.e., a second or additional dayroom session). This is also evident when reviewing Dayroom logs for Mod N.

Based on this sixth-round review of the Dayroom Logs reviewed and listed in Section A.B.1. above, the County is not consistently providing additional dayroom opportunities. There were more examples of staff providing additional dayroom opportunities at TLF and CMJ than at IRC. This was also reported by the incarcerated person interviews.

The Expert finds OCSD continues to improve regarding providing additional access to out-of-cell (dayroom), opening the dayrooms at 0600 hours, and closing the dayrooms at 2300 hours, absent of emergent circumstances. There remain areas in need of supervisory oversight to ensure additional out-of-cell (dayroom) programming is offered and provided in all Facility Mods/Tanks and the opening of the dayrooms at 0600 and closing of the dayroom at 2300 as required by the RP. The implementation of the Guardian RFID will assist the County in providing the Expert with cumulative data of the additional out-of-cell time for the Expert to measure the County's compliance with the RP requirements. Per OCSD, the Guardian RFID program was brought online in January 2025. During the on-site monitoring tour, the Expert confirmed the deployment of the Guardian RFID for security and safety checks only.

Based on this, the Expert finds that the County has Partially Implemented the RP requirements.

#### **Partially Implemented (Previous Rating Partially Implemented)**

- b. When people are provided dayroom time, OCSD staff will ensure they have ready access to toilet facilities. This may be accomplished by staff opening their cell door promptly upon request (and allow them to return to dayroom after using the toilet/sink), or other appropriate procedure.*

Two previous successive Compliance Reports have found that the provision has been adequately implemented. Therefore, monitoring of this provision is suspended.



**Monitoring Suspended Based on Previous Findings of Compliance (Previous Rating  
Monitoring Suspended Based on Previous Findings of Compliance)**

- c. OCSD shall document if there are exigent circumstances, if a person is at court, or if the person is at an off-site medical appointment, so as to preclude the provision of minimum dayroom time on a given day.*

Two previous successive Compliance Reports have found that the provision has been adequately implemented. Therefore, monitoring of this provision is suspended.

**Monitoring Suspended Based on Previous Findings of Compliance (Previous Rating  
Monitoring Suspended Based on Previous Findings of Compliance)**

- d. Scheduled programming in the dayroom may be included in the three hours per day of dayroom time.*

The revised OCSD Court & Custody Operations Manual (CCOM) 2006 – Recreation states, “8. Scheduled programs that take place in the dayroom may be included as part of the minimum required dayroom time.”

Note: This section offers clarifications as to the scope of other requirements in the SA and informs the analysis of the dayroom-related SA requirements. The narrative is provided only as contextual considerations in assessing the implementation of those requirements. Based on this, a Compliance rating is not warranted.

- 2. At least three (3) hours per week outdoors for exercise and/or recreation.*

The Expert has reviewed out-of-cell tracking logs (Recreation) during the previous five rounds of monitoring. The results of the review have consistently found that the documentation of certain facilities or certain Mods does not reflect the County is providing the required three (3) hours of weekly recreation required by the RP. Additionally, the data within the recreation logs does not provide the Expert the information necessary to rate the County's compliance as some of the logs do not contain incarcerated person identifiers and simply report on the number of incarcerated persons provided access to the recreation yards. Based on these problems with documentation, for the sixth round of monitoring, the parties stipulated that the County has not yet adequately implemented this provision. The parties entered into this stipulation, at least in part, because the County has agreed that its current system for tracking out-of-cell time is not capable of capturing the data necessary to establish compliance. The County has acknowledged that it will need to implement Guardian RFID inclusive of tracking reports to accurately track the provision of outdoor recreation. Once the County fully implements the Guardian RFID to track recreation opportunities, the Expert will report on the County's compliance with the RP provision regarding the provision of recreation as required by the RP.

Notwithstanding the stipulation, the Expert completed a partial review of the County's compliance with these provisions, including through onsite observation, staff and incarcerated person interviews, and a limited review of out-of-cell logs. The Expert focused on the Mods that house incarcerated persons with Chronic Mental Health needs and Mods that, in previous



monitoring tours, have been identified as not providing accurate documentation of the required recreation opportunities.

As previously reported, the revised OCSD Court & Custody Operations Manual (CCOM) 2006 – Recreation states, “Staff shall afford each inmate the opportunity to participate in a minimum of three (3) hours of outdoor recreation per week, distributed over at least two separate days.”

The County produced the following OCSD Daily Activity Logs, which include the Recreation Logs for the following Months:

- August 2024
- September 2024
- October 2024
- November 2024
- December 2024

The Daily Activity Logs included the following:

- CMJ (Mods A, B, C, D, E, F, and O),
- CWJ (Mod P and Second Floor)
- IRC (Mods J only)
- TLF (Mods AE Barracks, F Barracks, G Barracks, H Barracks, Mods I, K, L, M, N, O, P, Q, and R)

The Expert reviewed three (3) separate RP requirements. Specifically, that incarcerated persons receive three (3) hours of outdoor recreation per week, that the outdoor recreation hours begin no later than 0600 hours and end at 2300 hours (except Green Zone areas), and that incarcerated persons receive additional recreation opportunities.

The Expert interviewed 62 incarcerated persons. Of the 62 incarcerated persons, 38 reported they are provided three (3) hours of outdoor recreation per week, and 24 reported they were not offered and/or did not receive at least three (3) hours of access to outdoor recreation.

The Expert reviewed CWJ, CMJ, IRC, and TLF Activity and Mod Recreation Logs. This review specifically gathered information regarding RP Requirements of access to three (3) hours of recreation per week, additional recreation opportunities, and recreation yard opening and closing times. This review period spanned December 1-7, 2024.

#### CWJ Recreation Yard Hours

The Expert finds that CWJ provides the RP requirement of access to three (3) hours of recreation to incarcerated persons, and CWJ provides the RP requirement of additional recreation opportunities, when possible, for incarcerated persons. The Expert finds CWJ Recreation hours are sporadic, Recreation yard never opens or closes as required by the RP. The Expert noted CWJ interviews indicated CWJ incarcerated persons are provided/offered access to recreation three (3) to five (5) times per week. The Expert noted Recreation Yard data reflects all housing units were offered/provided recreation during the

sample review period. The Expert noted that OCSD stipulated their inability to meet RP requirements regarding access to recreation.

#### CMJ Recreation Yard Hours.

The Expert reviewed seven (7) days of CMJ Recreation Logs. The Expert found that CMJ provided six (6) tanks of incarcerated persons with at least one (1) recreation opportunity, Twenty (24) tanks with two recreation opportunities, and four (4) tanks with additional recreation opportunities. The Expert's review revealed the Recreation areas do not open at 0600 hours and the recreation yard is routinely closed at approximately 1530 hours, only to reopen at about 1900 hours and is closed at 2300 hours. The Expert found the Recreation Logs do not explain or identify why the yard open later then the required 0600 start time.

The Expert finds CMJ has improved in providing access to recreational opportunities. The Expert finds CMJ does not comply with the RP requirements of the recreation yard opening at 0600 hours and closing at 2300 hours. The Expert noted that OCSD stipulated their inability to meet RP requirements regarding Access to Recreation.

#### IRC Recreation Yard Hours.

The Expert finds that IRC Mod K is providing access to recreation per the RP Requirement of access to three (3) hours of recreation to incarcerated persons. The Expert finds IRC does not comply with the RP requirements of recreation opening at 0600 hours and closing at 2300 hours. Expert noted that OCSD Stipulated their inability to meet RP requirements regarding Access to Recreation.

#### TLF Green Sector

The Expert reviewed seven (7) days of Green Sector Recreation Logs dating from December 1, 2024, to December 7, 2024. The Expert notes the opening and closing times of the Green Sector recreation area has improved. The RP states, "to the extent, the Green Sector is accessible consistent with daylight hours." Daylight occurs at the very least by 0700 hours throughout the year.

The Expert finds for the week of December 1-7, 2024, incarcerated persons are provided access to three (3) hours of recreation and are provided access to additional recreation on a rotation basis. During the sample period, the Green Sector Recreation log reflects that one (1) unit (Pride), received only one recreation opportunity. However, the Mod I Recreation log reflects three (3) opportunities for the Pride participants.

The Expert finds that TLF Green Sector does provide the RP Requirement of access to three (3) hours of recreation to all incarcerated persons housed at TLF and, in some cases, on a rotational basis, provides the RP requirement of additional recreation opportunities. The Expert finds TLF currently does not fully comply with the RP requirements of recreation hours beginning at daylight.

## TLF Mods

This is the sixth monitoring report that the Expert observed access to recreation worsening at TLF, specifically in the Mods. TLF is not meeting the access to three (3) hours of recreation opportunities per week. TLF fails to open and close the recreation yards and fails to record or log accurate recreation information to ensure the RP requirements of providing and offering access to three (3) hours of recreation opportunities, ensuring recreation yards are open from 0600 hours to 2300 hours and offering additional recreation opportunities. Although OCSD has reported the implementation of standardized Recreation Logs throughout the facilities, they are not being used by all Mods. The Expert noted that OCSD stipulated their inability to meet RP requirements regarding access to recreation.

The Expert finds the County continues to not consistently provide the required three (3) hours minimum per week of outdoor exercise and/or recreation. The Expert finds the recreation hours or yard open and closing times continue to not be met. During the monitoring tour, the Expert observed recreation yards empty in various Mods. In addition, the Expert's review of OCSD Recreation Logs found the lack of accurate documentation preventing the County from demonstrating compliance with the RP requirements. The logs need to reflect the incarcerated person identifiers (name and booking number) for cases where multiple incarcerated persons were offered and provided outdoor/exercise and/or recreation, and not simply reflect the number of "Takers." Based on this, the Expert finds that the County has partially implemented the RP requirements.

The County reported Guardian RFID will assist with tracking the number of refusals of out-of-cell time, and Inmate Programs staff is now checking regularly to ensure balls are inflated for outdoor recreation to encourage incarcerated persons' participation in out-of-cell time.

The parties stipulated that the County has not yet adequately implemented these provisions and requested that comprehensive monitoring of this provision be suspended until the implementation of Guardian RFID, which is meant to provide improved tracking reports on out-of-cell time.

### **Partially Implemented (Previous Rating Partially Implemented)**

- a. *OCSD will offer additional outdoor exercise and/or recreation time beyond three (3) hours per week as scheduling and classification needs allow. To do so, OCSD will ensure that all outdoor Recreation areas are in use by incarcerated people from 0600 through 2300 hours daily, except in cases of emergency and as necessary for particular events related to the safety and security of the institution (e.g., counts, searches). For the outdoor space adjacent to the Theo Lacy Barracks (the "Green Sector"), where artificial lighting is unavailable, OCSD will ensure that the Green Sector is in use by incarcerated people during daylight hours, except in cases of emergency and as necessary for particular events related to the safety and security of the institution (e.g., counts, searches). Once every incarcerated person has been offered use of the outdoor Recreation area and, if they choose, used the outdoor Recreation area for three hours per week, OCSD shall offer additional opportunities to use the outdoor Recreation area to incarcerated people who already used the outdoor Recreation area or were already offered the opportunity to use the outdoor*

*Recreation area. OCSD shall make efforts to rotate these opportunities for additional outdoor recreation among the incarcerated people so that everyone can have approximately equal additional outdoor Recreation time. If everyone in the unit or Sector has had an opportunity for outdoor Recreation time and everyone refuses any subsequent offer of additional outdoor Recreation time, outdoor recreation will be closed for two hours. Incarcerated persons will then be offered outdoor recreation on a recurring two-hour cycle for the remainder of the day. If a pattern develops that an incarcerated person is refusing an offer of outdoor Recreation time in an apparent attempt to obtain a specific outdoor Recreation time, the incarcerated person will be informed that the specific outdoor Recreation time will not be offered and will be given the opportunity to accept the offered time.*

The revised OCSD Court & Custody Operations Manual (CCOM) 2006 – Recreation states, "Staff shall afford each inmate the opportunity to participate in a minimum of three (3) hours of outdoor recreation per week, distributed over at least two separate days. Outdoor Recreation will generally be available for use by inmates from 0600 through 2300 hours daily. An exception is Theo Lacy Green Sector, which will operate during daylight hours. Events related to the safety and security of the facility (e.g., counts, searches), emergencies, or inclement weather, may necessitate the cancellation or reduction of scheduled recreation time. In the event of a cancellation or failure to provide the minimum required opportunities for recreation, the assigned supervisor shall be notified and the reason for the cancellation or failure shall be documented in the appropriate log."

The policy also states, "Once every inmate has been offered or used outdoor recreation, staff shall offer all inmates additional opportunities to use outdoor recreation between the hours of 0600-2300 hours, even if an inmate previously refused. Staff shall make efforts to rotate the opportunities for additional outdoor recreation so inmates can have approximately equal additional outdoor recreation time. If every inmate refuses additional outdoor recreation time, outdoor recreation will be closed for two (2) hours. Inmates will then be offered additional outdoor recreation time on a recurring two (2) hour cycle for the remainder of the day. If a pattern develops that an inmate or group is refusing an offer of outdoor recreation time in an apparent attempt to obtain a specific time, the inmate or group will be informed that the specific outdoor recreation time they are attempting to obtain will not be offered, and instead will be given the opportunity to accept the offered time.

The Expert conducted a partial review of Recreation Logs for CWJ, CMJ, IRC and TLF to measure the County's compliance with meeting the RP Requirement of opening and closing times of the recreation yards and providing additional recreational opportunities.

The parties stipulated that the County has not yet adequately implemented these provisions and requested that comprehensive monitoring of this provision be suspended until the implementation of Guardian RFID, which is meant to provide improved tracking reports on out-of-cell time.

A summary of the findings based on the Expert's partial review is as follows.

#### CWJ

The Expert's review of Central Women's Jail (CWJ) Recreation Logs, refer to Section A.B.2. above, revealed the recreation areas do not consistently open at 0600 hours. The Expert interviewed several incarcerated persons who all stated CWJ is providing recreation access to incarcerated persons and that they are provided additional opportunities for recreation. Incarcerated persons also indicated that recreation is often on a first-come, first-served basis, and those housed in the back of the dorm usually do not have a chance to go to the yard, or sworn staff monitors the number allowed up to the recreation yard, also preventing them from recreation.

#### CMJ

The Expert's review of Central Men's Jail (CMJ) Recreation Logs (refer to Section A.B.2. above) revealed the recreation areas do not consistently open at 0600 hours, and they are routinely closed by 1645 hours and reopened at about 1900 hours and closed at 2300 hours or later. The afternoon closure is for staff coverage of the evening meal and ranges from 3.5 hours to four (4) hours each day. The Expert finds CMJ does not comply with the RP requirements of recreation opening at 0600 hours and closing at 2300 hours. The Expert's review of a Sampling of Recreation Logs revealed that incarcerated persons occasionally receive additional opportunities for recreation beyond three hours per week.

#### IRC

The Expert's review of IRC Recreation Logs (refer to Section A.B.2. above) revealed recreation areas do not open at 0600 hours consistently, and they are routinely closed by 1530 hours, reopened at approximately 1930 hours, and closed at 2300 hours or later. The afternoon closure is reportedly for staff coverage of the evening meal. The afternoon closures range from 3.5 hours to four (4) hours each day. The Expert finds IRC does not comply with the RP requirements of recreation opening at 0600 hours and closing at 2300 hours. IRC does not meet RP requirements regarding Additional Recreation. The Expert believes the IRC can be successful in meeting RP requirements.

#### TLF Green Sector

The Expert's review of TLF Recreation Logs (refer to Section A.B.2. above) revealed the recreation areas do not open at daylight, that they are routinely closed by 1400 and 1645 hours. The Expert finds that TLF Green Sector does not comply with the RP requirements of recreation opening during daylight hours. The Expert's review of a sampling of Recreation Logs for this monitoring period revealed incarcerated persons in the TLF barracks are allowed access to three (3) hours of recreation and occasionally receive additional opportunities for recreation.

## TLF Mods

The Expert's review of TLF Mod Recreation Logs (refer to Section A.B.2. above) revealed the recreation areas do not consistently open at 0600 hours and close at 2300 hours.

This is the sixth monitoring report that the Expert observed continued difficulties with access to recreation at TLF, specifically in the Mods. TLF is not meeting the access to three (3) hours of recreation per week, and the yards at 0600 and close them at 2300, the recording or logging of accurate recreation information, continue to appear difficult for TLF to achieve.

The County must ensure additional outdoor exercise and/or recreation time beyond the three (3) hours per week are offered and provided as scheduling and classification needs allow.

The implementation of the Guardian RFID will assist the County in providing the Expert with cumulative data on incarcerated person's access to recreation time for the Expert to measure the County's compliance with the RP requirements. The Guardian RFID program was implemented in January 2025. During the on-site monitoring tour, the Expert confirmed the deployment of the Guardian RFID for security and safety checks.

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

### **Partially Implemented (Previous Rating Partially Implemented)**

- b. OCSD shall document if exigent circumstances or inclement weather affecting the safety of the outdoor Recreation area preclude the provision of the minimum outdoor time in a given week.*

The revised OCSD Court & Custody Operations Manual (CCOM) 2006 – Recreation states, “Staff shall afford each inmate the opportunity to participate in a minimum of three (3) hours of outdoor recreation per week, distributed over at least two separate days. Outdoor recreation will generally be available for use by inmates from 0600 through 2300 hours daily. An exception is Theo Lacy Green Sector, which will operate during daylight hours. Events related to the safety and security of the facility (e.g., counts, searches), emergencies, or inclement weather, may necessitate the cancellation or reduction of scheduled recreation time. In the event of a cancellation or failure to provide the minimum required opportunities for recreation, the assigned supervisor shall be notified and the reason for the cancellation or failure shall be documented in the appropriate log.”

In a review of the Recreation Logs, refer to Section A.B.2. above, the Expert found that in some cases staff logged the reasons why the required outdoor recreation was not available/operational. However, the logs reviewed reflect multiple times the required recreation time was not provided, and no documentation is included in the



logs reflecting the reasons precluding the provision of the minimum outdoor time in the given week or the log is just blank.

The implementation of the Guardian RFID will assist the County in providing the Expert with accumulative data to ensure the opening and closing hours for recreation to assist the Expert in measuring the County's compliance with the RP requirements. The Guardian RFID program was implemented in January 2025. During the on-site monitoring tour, the Expert confirmed the deployment of the Guardian RFID for security and safety checks.

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

**Partially Implemented (Previous Rating Partially Implemented)**

3. *OCSO will offer additional programming, including through electronic tablets, that will be available for use when people are confined to their cells, among other times.*

The County advised the Expert that there is currently (1) tablet for every two (2) incarcerated persons. The incarcerated persons alternate access to the Electronic Tablets, such as alternating access during the AM and PM (by tier or sector). The Tablets are collected in the evening and charged during the nighttime hours. The County also reported that all incarcerated persons, with the exception of those housed in the IRC Mods J, K, and M and TLF Mod J Sectors 11 and 12, have access to the Electronic Tablets unless restrictions are placed due to disciplinary sanctions. For the incarcerated persons housed in the IRC Mods J, K, and M and TLF Mod J Sectors 11 and 12, access to the Electronic Tablets is determined on a case-by-case basis and with input from mental health staff. The Sabot report on the Rights of People With Disabilities summarizes the access to electronic tablets and staff assistance to people with disabilities in accessing the tablets in Sections E.D., E.E., F.F., and I.D.

During the Incarcerated person interviews, issues related to the tablet program included the excessive cost of accessing certain types of programming (e.g., movies, music) some cases where allegedly staff are holding tablets hostage to ensure positive programming specifically in the dorms (this was not confirmed), and the marketing/selling of tablet time. Incarcerated persons indicated inmates are passing out tablets at CMJ and TLF, not sworn staff. They reported there are not enough tablets to be shared, for example, 32 persons in a Sector, 16 on the top tier and 16 on the bottom tier, and eight (8) tablets to be shared. Inmates reported tension over the tablets, bullying over the tablets, and, in CWJ, sworn staff are weaponizing the tablet to correct an incarcerated person's behavior by refusing tablet access to all incarcerated persons.

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

The Expert recommends that the County consider providing each incarcerated person a tablet. The County cannot just pass out tablets and not manage their use, and it should not "weaponize" the tablets as described above. In addition, processes must be



in place to ensure that inoperable tablets are repaired or replaced. Additional programming materials and processes available to incarcerated persons, beyond just the tablets, will be assessed in the next round.

Regarding the reports of insufficient tablets, the County noted it experienced a widespread security issue with the tablets, which has since been resolved by the service provider. Pursuant to its contract with the service provider, there is a process in place whereby inoperable tablets are collected for repair or replacement and a substitute tablet is provided, and the service provider is required to have a technician on site at each facility. However, the remediation of the security issue may have resulted in some incarcerated persons reporting during their site visit interviews that there were not enough tablets to be shared. Additionally, the service provider had not been consistently fulfilling various contractual requirements, including providing tablet counts upon County request and maintaining a consistent 2:1 tablet ratio in each facility. The County reports that after sending a demand letter requiring a remedial plan to come into compliance with the contract, the service provider has been addressing the issues with the County, including obtaining additional tablets (although these will also require remediation of the security issue prior to use).

#### **Partially Implemented (Previous Rating Adequately Implemented)**

- C. *Consistent with safety and security needs, the County shall take steps to maximize opportunities for people in celled housing units to interact with others during the out-of-cell time.*

Two previous successive Compliance Reports have found that the provision has been adequately implemented. Therefore, monitoring of this provision is suspended.

#### **Monitoring Suspended Based on Previous Findings of Compliance (Previous Rating Adequately Implemented)**

- D. *The County will make best efforts to accommodate individual needs regarding the time of day for out-of-cell time (e.g., for people with disabilities impacting fatigue, on sleep medications, etc.).*

The County reported that CCOM Policy 2006 has been revised to address the RP requirements.

The revised OCSD Court & Custody Operations Manual (CCOM) 2006 – Recreation states, “Staff will make best efforts to accommodate individual needs regarding the time of day for outdoor recreation (e.g., for inmates with disabilities impacting fatigue, on sleep medications, etc.)”

There were no complaints from the incarcerated persons related to the lack of accommodations regarding the time of day for out-of-cell time for people with disabilities impacting fatigue on sleep medications.

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

**Adequately Implemented (Previous Rating Adequately Implemented)**

- E. *The County will make best efforts to ensure all people are offered opportunities for out-of-cell time during normal daylight hours each week.*

Two previous successive Compliance Reports have found that the provision has been adequately implemented. Therefore, monitoring of this provision is suspended.

**Monitoring Suspended Based on Previous Findings of Compliance (Previous Rating Monitoring Suspended Based on Previous Findings of Compliance)**

- F. *The County shall utilize an effective electronic system for documenting and tracking the amount of out-of-cell time that each person in custody is offered and receives with respect to each of the above categories.*

The County reported that the Guardian RFID has been rolled out for tracking safety and security checks. Once that process is fully implemented, tracking out-of-cell time will be next for implementation, estimated to be August 2025. This standardization will assist OCSD with compliance with the Remedial Plan.

The revised OCSD Court & Custody Operations Manual (CCOM) 2006 – Recreation requires the logging of Outdoor Recreation and Dayroom as follows:

“Open Housing Areas - In housing areas where all inmates in the housing area are allowed access to outdoor Recreation or Dayroom together, Staff shall make an entry in the guard station daily log whenever:

- The dayroom(s) are opened.
- The dayroom(s) are closed.
- Outdoor recreation is offered.
- Outdoor recreation is closed or when the inmates return from outdoor recreation, depending on the housing area's configuration.
- Groups

In module housing areas or any housing area where inmates are separated into groups for security purposes, staff shall document the following information on the guard station daily dayroom log and the guard station outdoor recreation log:

- Inmate's name
- Booking number
- Start time/end time
- Any refusal of the dayroom and reason for refusal
- Any inmate who requests to lock it down before their three-hour minimum expires.

Inmates with Individual Inmate Activity Logs

- Staff shall log the start and end times of all offered opportunities for outdoor recreation and dayroom, and whether the inmate accepted or declined, in the inmate's Individual Inmate Activity Log.

In cases where an inmate refuses dayroom or outdoor recreation for more than three (3) times in one week and the reason for such refusal may be related to their mental health, medical, or disability status, staff will make an urgent referral to CHS for assessment and appropriate clinical follow up. Staff will document the referral in the dayroom or outdoor recreation log. If an inmate has an Individual Inmate Activity Log, the referral will also be documented there.”

The County currently tracks the out-of-cell time for incarcerated persons using an electronic Dayroom Log and Recreation Log. The Dayroom Log includes the following data fields:

- Overall Start/End
- Break 1 Start/End
- Break 2 Start/End
- Break 3 Start/End
- Break 4 Start/End
- Groups/Cells
- Notes Entered By
- Total DR Time

The Recreation Log includes the following data fields:

- Start
- End
- Group Cells
- Notes
- Entered By
- Total

The Expert reviewed a sampling of out-of-cell logs (Dayroom and Recreation) produced for the rating period. Based on the review, the Expert continues to find logs that were very detailed and contained some of the information required to be documented. However, numerous logs were not completed with all the required information. Many of the out-of-cell logs (Dayroom and Recreation) only reflect the cell numbers with no incarcerated person identifier.

During the fifth Monitoring tour, the Expert was advised a standardized Dayroom and Recreation Log was being introduced to all housing areas; this standardized log, if used correctly, should provide all the information required by the RP. There will be a learning and a training curve for staff to use the new log.

During the sixth monitoring tour, the Expert noted there continues to be a struggle for standardized documentation of Dayroom and Recreation Logs; some logs are

completed accurately, but some logs lack the very basic information necessary for the Expert to monitor the County's compliance. There needs to be supervisory oversight of these logs.

The Expert will continue to monitor this in future monitoring tours.

The RP requires the County to utilize an effective electronic system for documenting and tracking the amount of out-of-cell time that each person in custody is offered and receives. The County is also required to conduct electronic audits at least weekly to ensure that OCSD is offering the required out-of-cell time consistent with the RP provisions. The current electronic system, as used, does not effectively document and track the amount of out-of-cell time that each person in custody is offered and receives. The Expert recommends that the County consider implementing a tracking system that tracks each incarcerated person's individual out-of-cell time offered and provided. The tracking system must have the capability/functionality to track the following:

- Dayroom offered for every incarcerated person (date and time including weekly totals)
- Dayroom provided for every incarcerated person (date and time including weekly totals)
- Dayroom refusals for every incarcerated person (date and time including weekly totals)
- Cases of emergency (count, searches, and lockdowns) where the Dayrooms were not open.
- Cases where the incarcerated person is at court or an off-site medical appointment.
- Scheduled program participation in the dayroom
- Recreation yard offered for every incarcerated person (date and time including weekly totals)
- Recreation yard provided for every incarcerated person (date and time including weekly totals)
- Recreation yard refusals for every incarcerated person (date and time including weekly totals)
- Cases related to exigent circumstances or inclement weather that precludes the provision of the minimum outdoor time in a given week.
- Restriction of dayroom and recreation yard access related to infectious disease control.

The implementation of the Guardian RFID will assist the County in providing the Expert with data to measure the County's compliance with the RP requirements. The Guardian RFID program was implemented in January 2025. During the on-site monitoring tour, the Expert confirmed the deployment of the Guardian RFID for security and safety checks.

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

### **Partially Implemented (Previous Rating Partially Implemented)**

- G. *The County shall conduct electronic audits at least weekly to ensure that OCSD is offering the required out-of-cell time consistent with the provisions set forth herein. Supervisory Staff will regularly review this data for quality assurance and take steps to address any deficiencies.*

The revised OCSD Court & Custody Operations Manual (CCOM) 2006 – Recreation states, "The Sergeant responsible for the housing area shall review dayroom usage as part of the required housing area checks and ensure the three-hour dayroom minimum has been met. If the three-hour dayroom minimum has not been met, the Sergeant will confirm the reason(s) are clearly documented in the Guard Station Daily Log."

The Expert finds the County is not conducting the required weekly electronic audits to ensure that OCSD is providing the required out-of-cell time consistent with the requirements of the RP. Specifically, the Expert finds in cases where mods do not meet all RP requirements, there is no documentation of supervisory staff taking corrective action to correct the deficiencies.

The implementation of the Guardian RFID will assist the County in providing the Expert with data to measure the County's compliance with the RP requirements. The Guardian RFID program was implemented in January 2025. During the on-site monitoring tour, the Expert confirmed the deployment of the Guardian RFID for security and safety checks. The County must ensure there is a process in place for the County to conduct electronic audits at least weekly to ensure that OCSD is offering the required out-of-cell time consistent with the provisions and supervisory Staff regularly review the data for quality assurance and take steps to address any deficiencies.

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

### **Not Implemented (Previous Rating Not Implemented)**

- H. *OCSD, in coordination with CHS, may place temporary restrictions on dayroom and outdoor Recreation access, such as for issues related to infectious disease control.*

The revised OCSD Court & Custody Operations Manual (CCOM) 2006 – Recreation states, "Correctional Health Services (CHS) may place temporary restrictions on dayroom access, such as for inmates with contagious diseases or inmates who pose a danger to themselves or others."

Note: This section offers clarifications as to the scope of other requirements in the SA and informs the analysis of the dayroom/outdoor recreation SA requirements. The narrative is provided only as contextual considerations in assessing the implementation of IV.A.1, IV.A.1.a (Dayroom), IV.A.2, and IV.A.2.a (Outdoor recreation). Based on this, a Compliance rating is not warranted.

- 1) *OCSD may place temporary restrictions on dayroom and outdoor Recreation access for the count, the escort of CHS or other non-custodial personnel, and for any lockdown of a facility/housing unit for security reasons.*

The revised OCSD Court & Custody Operations Manual (CCOM) 2006 – Recreation states, “Events related to the safety and security of the facility (e.g., counts, searches), emergencies, or inclement weather, may necessitate the cancellation or reduction of scheduled recreation time. In the event of a cancellation or failure to provide the minimum required opportunities for recreation, the assigned supervisor shall be notified and the reason for the cancellation or failure shall be documented in the appropriate log.” In addition, the OCSD Court & Custody Operations Manual (CCOM) 2006 – Recreation states, “Staff may temporarily close the dayroom only for as long as necessary to facilitate the daily operations of the housing area, such as counts, inmate safety checks, meals, searches, clothing exchange, commissary, med call, etc., and shall reopen the dayroom when the activity is complete. All activities shall be documented in the Guard Station Daily Log.”

Note: This section offers clarifications as to the scope of other requirements in the SA and informs the analysis of the dayroom /outdoor recreation SA requirements. The narrative is provided only as contextual considerations in assessing the implementation of IV.A.1, IV.A.1.a (Dayroom), IV.A.2, and IV.A.2.a (outdoor recreation). Based on this, a Compliance rating is not warranted.

*J. In cases where a person refuses out-of-cell time repeatedly (e.g., more than 3 times in one week) and the reason for such refusals may be related to their mental health, medical, or disability status, Jail staff will make a referral to CHS (urgent or higher) for assessment and appropriate clinical follow-up.*

The revised OCSD Court & Custody Operations Manual (CCOM) 2006 – Recreation states, “In cases where an inmate refuses dayroom or outdoor recreation for more than three (3) times in one week and the reason for such refusal may be related to their mental health, medical, or disability status, staff will make an urgent referral to CHS for assessment and appropriate clinical follow up. Staff will document the referral in the dayroom or outdoor recreation log. If an inmate has an Individual Inmate Activity Log, the referral will also be documented there.” The OCSD Court & Custody Operations Manual (CCOM) 8000 – Inmates with Disabilities states, “If during the interview, the ADA Compliance Unit discovers that an inmate with a disability has refused offers for outdoor recreation three times in a row or has refused offers for dayroom three times in row, the ADA Compliance Unit shall inquire and document the reason(s) for the refusal. The ADA Compliance Unit shall inquire whether a disability accommodation, medical or mental health referral or other action is needed to afford meaningful access and shall document the action in the inmate's ADA Inmate Activity Log. During the monthly meeting, the ADA Compliance Unit will also provide the inmate with a message slip to contact the ADA Compliance Unit regarding any disability issues. If at any time prior to the monthly interview, a member of the ADA Compliance Unit becomes aware that an inmate with a disability may need a disability accommodation, mental health referral or other action to afford meaningful access to out-of-cell opportunities, the ADA Compliance Unit will meet promptly with the inmate and document the action taken in the ADA Inmate Activity Log.”

During the previous monitoring tour, the Expert noted that this provision relates in part to ADA RP Section IX.E.2 (“The ADA Compliance Unit shall interview incarcerated persons with disabilities on a monthly basis. If during the interview, the ADA Compliance Unit discovers



that a person with a disability has refused offers for outdoor Recreation three times in a row or has refused offers for dayroom three times in a row, the ADA Compliance Unit shall inquire and document the reason(s) for the refusal...."). Section IX.E.2 is covered in OCSD Policy 8000 (at p. 19), while this provision (RH RP Section IJ) ("In cases where a person refuses out-of-cell time repeatedly (e.g., more than 3 times in one week) and the reason for such refusals may be related to their mental health, medical, or disability status, Jail staff will make a referral to CHS (urgent or higher) for assessment and appropriate clinical follow-up.") is only partially covered (at p. 7 – requiring documentation of referrals but providing no direction as to custody staff referral requirements). The Expert notes that referrals for disabled incarcerated persons are being made by the ADA Unit staff; however, it does not appear that referrals are being made and tracked for incarcerated persons who are not designated as disabled and who refuse out-of-cell time when the refusals may be related to their mental health status. Further policy/training development may be warranted regarding this provision.

The OCSD Court & Custody Operations Manual (CCOM) 2006 – Recreation states, "In cases where an inmate refuses dayroom or outdoor recreation for more than three (3) times in one week and the reason for such refusal may be related to their mental health, medical, or disability status, staff will make an urgent referral to CHS for assessment and appropriate clinical follow up. Staff will document the referral in the dayroom or outdoor recreation log. If an inmate has an Individual Inmate Activity Log, the referral will also be documented there."

During this sixth monitoring tour, with the exception of referrals that are made by the ADA Unit Staff for disabled incarcerated persons, the Expert found Staff are not tracking which incarcerated persons are refusing, how many times an incarcerated person refuses recreation, and whether incarcerated persons were referred to CHS when the refusals were related to their mental health, medical, or disability status. Based on this, the Expert finds that the County has partially implemented the RP requirements insofar that a policy has been established, but that policy has not been implemented at this time.

**Partially Implemented (Previous Rating Partially Implemented)**



## **B. Closure Of Disciplinary Isolation (DI) Cells And Central Men's Sheltered Living Cells To End Housing Of People In Areas Of Extreme Sensory Deprivation And Lack Of Program Space**

- A. It is the intent of OCSD to end the system of DI that has historically applied in Orange County jails. This commitment includes ending the use of the 72 DI cells, including 24 cells at the Intake and Release Center (IRC), 32 cells at Theo Lacy, 12 cells at Central Men's Jail, and four (4) cells at Central Women's Jail.*
- B. The DI cells at IRC were recently deactivated and will no longer be used for disciplinary or any other form of housing effective. The DI cells at IRC are designated to be repurposed for meeting space available for people in custody (legal counsel meetings, mental health contacts, etc.).*
- C. OCSD recently deactivated and will no longer use the DI cells at Theo Lacy, Central Men's Jail, and Central Women's Jail for disciplinary or any other form of housing.*
- D. Notwithstanding the above, OCSD may use the above-referenced cells on a temporary basis for infection control or exigent security reasons.*

Two previous successive Compliance Reports have found that the provision has been adequately implemented. Therefore, monitoring of this provision is suspended.

**Monitoring Suspended Based on Previous Findings of Compliance (Monitoring Suspended Based on Previous Findings of Compliance)**

## C. Creation Of Special Management Unit (SMU) Status

On July 5, 2023, OCSO advised the Expert that they had decided not to move forward with having a Special Management Unit. The Expert also notes that DRC proposed that "in the coming weeks, the parties work on an addendum to the DRC-Orange County SA that memorializes this path forward. We anticipate that several provisions in Section III will be made inapplicable and go away, while some discrete provisions will need to be revised to ensure the necessary protections as to the relevant disciplinary/classification procedures moving forward (e.g., disciplinary sanctions matrix; access to religious activities, showers, mail, telephone, legal counsel; etc.)." The parties are in discussions as to an addendum to the DRC-Orange County SA that memorializes this agreement, to include revision of this RP section with appropriate modifications as to relevant disciplinary/classification procedures, which the Expert will monitor once completed. Based on this, the Expert is not monitoring all of Section III (Creation of Special Management Unit (SMU) Status) of Topic 2 (Restrictive Housing) of RP during the sixth round of monitoring.

During a previous monitoring tour, the DRC requested that as the parties move forward with discussions regarding discipline and alternatives to SMU, it is important to address the need for proportional, consistent, and reasonable disciplinary practices. Reductions in out-of-cell time and other serious sanctions should remain limited to "only egregious and violent" rule violation. To ensure the disciplinary sanctions match the seriousness of the charges and to ensure fundamental fairness is afforded during the disciplinary process, the Expert recommended that the County create a disciplinary matrix that identifies egregious behavior or conduct versus minor rule infractions. This matrix should identify a series of sanctions that match the behavior and also allows the disciplinary Sergeant to have latitude to increase or reduce the sanctions based on aggravating or mitigating factors. The County produced a revised OCSO Jail Rule Violation Discipline (Bail Schedule). The Bail Schedule states, "This is a general guideline and can vary from incident to incident. Consider the totality of the circumstances and the inmate's write-up history prior to issuing punishment. (Progressive) Inmates may be issued Loss of Good Time as a punishment. For Habitual Violators (3rd violation or more) progressive discipline will be assigned no less than discipline recommended for a 2nd offense. The Expert notes that "Bail Schedule includes:

- Egregious Offenses
- Major Jail Rule Offenses
- Minor Jail Rule Offenses

The Expert also notes that the "Bail Schedule" includes sanctions for the 1<sup>st</sup> and 2<sup>nd</sup> offenses. The Sanctions for the Offenses are as follows:

### **Egregious Offense 1st Offense**

Assault on Staff (Code Alpha)	30 Days LOA
Creating a Disturbance	30 Days LOA
(Egregious &/or Results in large scale-multi-inmate disturbance)	
Possession of Drugs or Weapons	10-15 Days LOA
Assault – Multiple Suspects / One victim	15 Days LOA
Assault – Mutual Combat	10 Days LOA

### **Egregious Offense 2nd Offense**

Assault on Staff (Code Alpha)	30 Days LOA, Loss of Good Time
Creating a Disturbance	30 Days LOA, Loss of Good Time
(Egregious &/or Results in large scale-multi-inmate disturbance)	
Possession of Drugs or Weapons	10-15 Days LOA, Loss of Good Time
Assault – Multiple Suspects / One victim	15 Days LOA, Loss of Good Time
Assault – Mutual Combat	10 Days LOA, Loss of Good Time

### **Major Jail Rule Offense 1<sup>st</sup> Offense**

Disrespect to staff (egregious)	15-20 Days LOA
Failure to obey a directive (egregious)	10-15 Days LOA
Tampering with a security device (egregious)	10-15 Days LOA
Tampering With a Security Device (I.D. Card)	10-15 Days LOA
Unauthorized Movement (egregious)	7-10 Days LOA
Destruction of Jail Property (egregious)	7-10 Days LOA
Possession of contraband (egregious)	5-10 Days LOA
Court Refusal	5-10 Days LOA

### **Major Jail Rule Offense 2<sup>nd</sup> Offense**

Disrespect to staff (egregious)	30 Days LOA, Loss of Good Time
Failure to obey a directive (egregious)	15-20 Days LOA, Loss of Good Time
Tampering with a security device (egregious)	20-30 Days LOA, Loss of Good Time
Tampering With a Security Device (I.D. Card)	15-20 Days LOA
Unauthorized Movement (egregious)	10-15 Days LOA
Destruction of Jail Property (egregious)	10-15 Days LOA
Possession of contraband (egregious)	10-15 Days LOA
Court Refusal	10-15 Days LOA

### **Minor Jail Rule Offense 1<sup>st</sup> Offense**

Disrespect to staff (simple)	7-10 Days LOA
Creating a Disturbance (Simple)	5-10 Days LOA
Destruction of Jail Property (simple)	5-10 Days LOA
Lying to staff (egregious)	5-10 Days LOA
Hoarding medication	5-10 Days LOA
Tampering with a security device (simple)	5-10 Days LOA
Unauthorized Communication (Including Kites)	5-10 Days LOA
Lying to staff (simple)	3-5 Days LOA
Unauthorized Movement (simple)	3-5 Days LOA

Failure to obey a directive (simple)	3-5 Days LOA
Possession of contraband (simple)	3-5 Days LOA

#### **Minor Jail Rule Offense 2<sup>nd</sup> Offense**

Disrespect to staff (simple)	10-15 Days LOA
Creating a Disturbance (Simple)	10-15 Days LOA
Destruction of Jail Property (simple)	10-15 Days LOA
Lying to staff (egregious)	10-20 Days LOA
Hoarding medication	10-15 Days LOA
Tampering with a security device (simple)	10-15 Days LOA
Unauthorized Communication (Including Kites)	10-15 Days LOA
Lying to staff (simple)	5-10 Days LOA
Unauthorized Movement (simple)	5-10 Days LOA
Failure to obey a directive (simple)	5-10 Days LOA
Possession of contraband (simple)	5-10 Days LOA

Once an agreement is reached by the parties' the Expert will conduct monitoring of the agreement.

- A. *With the deactivation of the Disciplinary Isolation cells, OCSD shall revise its Disciplinary system to instead utilize an SMU. The SMU will be in designated general modular housing unit(s) and serve as housing for people on a temporary housing status for prescribed periods of time due to a disciplinary violation. SMU will be utilized for only egregious and violent rule violations.*
- B. *OCSD and CHS will implement new procedures to limit the number and length of placements in the SMU, including as set forth below.*
- C. *OCSD shall utilize a disciplinary matrix of penalties that will include alternatives to SMU disciplinary housing status. The matrix shall set forth maximum penalties for each disciplinary violation. SMU disciplinary housing status shall be reserved for offenses involving violence, escape, possession of drugs or weapons, or posing a serious threat to the facility's safety and security or by encouraging others to engage in such misconduct.*
- D. *No SMU disciplinary term for a rule violation will exceed 30 days. Disciplinary SMU placements for violations that arise out of the same episode shall be served concurrently.*
- E. *CHS will be notified prior to the placement of any person in the SMU. A medical evaluation will be conducted within 72 hours prior to a person's placement in the SMU. A mental health evaluation will be conducted within 24 hours prior to a person's placement in the SMU.*
- F. *No person will be placed in the SMU prior to a disciplinary hearing, except in rare cases in which there is a current threat to safety and security of the facility that requires immediate SMU placement.*
  1. *Such placement may occur only with approval of the Watch Commander. CHS will conduct a medical and mental health evaluation within eight hours of the placement.*
  2. *Placement in the SMU pending a disciplinary hearing will not include the loss of any regular privileges.*
- G. *Upon placement in the SMU, OCSD will provide each individual, in writing and with effective communication accommodations as needed, notice as to the conditions,*

*privileges, expectations, and incentive-based system that applies in the SMU. OCSD staff shall document that this information is communicated effectively to individuals with disabilities affecting communication.*

*H. Conditions and Incentive-Based System in the SMU*

- 1. A person placed in the SMU will be offered a minimum of two (2) hours per day of out-of-cell time, with opportunities for interaction with others (e.g., shared Dayroom time) consistent with safety and security needs.*
- 2. When a person is placed in the SMU, certain privileges may initially be suspended, as determined at the disciplinary hearing.*
- 3. OCSD will develop an incentive-based system to facilitate reinstatement of privileges based on compliance with Jail regulations. The incentive-based system will include consideration – at the Weekly Review (discussed below) – of early discharge from the SMU and/or reinstatement of privileges based on positive behavior, including:*
  - a. Outdoor recreation*
  - b. Dayroom time beyond the required two (2) hours per day*
  - c. Public visiting*
  - d. access to commissary items*
  - e. access to newspapers, magazines and more than one book (the one book will be in addition to any religious materials, with a process for book exchange promptly upon request)*
  - f. access to personal telephone calls*
  - g. Electronic tablets*
  - h. Cards or games*
  - i. Return of personal property items*
- 4. OCSD will develop clear rules that are effectively communicated to incarcerated persons held in the SMU that explain under what circumstances a person can achieve early release from the SMU and/or reinstatement of privileges.*
- 5. Any person placed in the SMU will not be denied exercise of religion. OCSD will ensure that people in the SMU may participate in religious programming, absent a specific security concern that is documented.*
- 6. Access to showers will not be restricted in the SMU. Additional showers will be provided upon reasonable request and in cases where personal hygiene and sanitation warrant, including where necessary to accommodate people with disabilities (e.g., extra showers for individuals with incontinence). OCSD will ensure adequate documentation as to the provision of showers to each person in the SMU.*
- 7. Any person placed in the SMU will have normal personal mail/correspondence privileges except in cases where the person has been found to have violated correspondence regulations, in which case correspondence may be suspended for no longer than seventy- two (72) hours without the review and approval of the Administrative Captain.*
- 8. Any person placed in the SMU will have access to the telephone on request to contact an attorney, the courts, or for personal emergencies.*
- 9. Access to legal counsel shall not be restricted as a disciplinary measure.*
- 10. Any person in the SMU will always be permitted one book from the Orange County Jail Library, which can be exchanged for another book promptly upon request.*
- I. Regular Classification Review Process in SMU*
  - 1. For each person held in the SMU, custody staff will conduct a review at least every seven (7) days (the “Weekly Review”), regardless of any assessed SMU term*



- imposed, to evaluate the person's current circumstances and determine whether the person should be removed from the SMU and/or have some or all privileges reinstated.*
- 2. The Weekly Review will include a face-to-face interview in a private, out-of-cell setting, consistent with individual security needs, to discuss progress and compliance with the SMU-detained person's individual case plan.*
  - 3. As part of the Weekly Review, custody staff shall confer with mental health and medical Staff about whether the SMU setting and/or denial of privileges/property is causing harm or risk of harm to the individual's well-being and if so, the appropriate steps to address the issue (including removal from SMU or reinstatement of privileges/property (in particular, phone contact/visits with family/loved ones or access to reading/writing/art materials) pursuant to the incentive-based system). Mental health and medical staff input should be documented.*
  - 4. Completion of the Weekly Review process will be overseen by the Watch Commander or other Commander-level-or-higher Staff.*
  - 5. Absent extraordinary circumstances that include a person's persistent failure to comply with facility regulations in a manner that poses a specific threat to safety and security, no SMU placement will exceed thirty (30) days.*
  - 6. If a person is held in the SMU for 28 days, the Administrative Captain will conduct a review (the "28-Day Review"), which shall include a face-to-face interview with the person in a private out-of-cell setting (consistent with individual security needs), consultation with mental health and medical Staff, and consultation with custody staff in the housing unit.*
  - 7. If a person is retained in the SMU following completion of a Weekly Review or 28-Day Review, OCSD will document and provide the person with written notice explaining (a) the reasons for retention in the SMU, and (b) clear expectations for how the person may earn reinstatement of privileges and progress to a less restrictive setting. This information will be effectively communicated to the individual consistent with any applicable communication- and/or disability accommodation-related needs.*
  - 8. Appropriate SMU Review form(s) will be implemented consistent with the provisions set forth herein.*
- J. Hygiene Items and Writing Supplies*
- 1. OCSD will ensure that persons placed in the SMU receive a welfare pack containing appropriate personal hygiene items and writing supplies.*
  - 2. Staff will provide replacement items for all allowable hygiene items and writing supplies promptly upon request, except in cases where the individual is using a particular item improperly.*
  - 3. OCSD will ensure complete and adequate documentation of initial and replacement provision of welfare pack items, including all requests and any refusals.*
  - 4. Any person placed on SMU restrictions will be provided reasonable access (including promptly upon request) to nail clippers, with appropriate restrictions and supervision based on individualized safety concerns.*
- K. OCSD shall not restrict access to Inmate Request forms or Grievance forms in the SMU.*
- L. CHS health care staff will conduct rounds in the SMU at least once per shift, and mental health staff will conduct rounds in the SMU at least once per week.*
- 1. These contacts will include, at a minimum: (a) conversation with each person housed in the SMU; b) visual observation of the person's cell, including the cleanliness of*



- clothing and bed linens; (c) inquiry into whether the person would like to request a confidential meeting with a mental health or medical provider.*
- 2. If a person requests a confidential medical or mental health care contact or Staff identify a mental health or medical need warranting follow-up, Staff shall arrange for timely evaluation and treatment in an appropriate confidential setting.*
- M. In recognition of the distinct risks of Restrictive Housing placement in detention, OCSD will not place people with the following risk factors in the SMU absent rare and extraordinary circumstances in which such placement is necessary to address current, specific safety concerns that are documented, with Watch Commander review and approval, and in such cases only for the minimum time necessary to identify an alternative appropriate placement:*
- 1. People diagnosed with Serious Mental Illness or who have an Intellectual or Developmental Disability;*
  - 2. People with significant medical or daily nursing care needs, consistent with CHS's clinical input;*
  - 3. People who are pregnant, post-partum, who recently had a miscarriage, or who recently had a terminated pregnancy, consistent with CHS's clinical input.*
- N. Safety checks to maintain the safety and health of the persons in SMU and the security of the facility shall be conducted for all individuals on SMU status at least every 30 minutes, at staggered intervals. Completion of safety checks will be timely documented.*
- O. Return of Personal Property Taken During SMU Status*
- 1. Any personal property that is taken from an individual who is subject to SMU disciplinary status will be clearly logged and documented, and the personal property will be held in a secure location until returned.*
  - 2. Return of personal property should be considered during the period of discipline as part of the incentive-based system.*
  - 3. OCSD will return all personal property that was taken during the SMU disciplinary period promptly following the end of the SMU disciplinary period (i.e., within 24 hours). OCSD will document the return of property.*

**Not Assessed (Previous Rating Not Assessed)**

## **D. Prohibition On Discipline for Behaviors That Are Related Mental Health Or Disability, Prohibition On Sanctions That Pose Risk Of Serious Harm**

*A. OCSD and CHS policies and procedures shall require meaningful consideration of the relationship of each person's behavior to any mental health disability or Intellectual/Developmental Disability, the efficacy of disciplinary measures versus alternative interventions, and the impact of disciplinary measures on the health and well-being of incarcerated people with disabilities.*

The County reported that OCSD and CHS have implemented a mental health review process to comply with the Remedial Plan's requirement of mental health assessments for discipline for people with mental health disabilities or who have an Intellectual/Developmental Disability. OCSD has modified the Sergeant's Disciplinary Hearing Report form to include the following checkboxes:

11. There is reason to believe the inmate's behavior was unusual, uncharacteristic, or a possible manifestation of mental illness. Classification to refer inmate to CHS M/H for evaluation.
12. Inmate is (ID) Intellectually Disabled or (DD) Developmentally Disabled. Refer to daily ADA Tracking List. Classification to refer inmate to CHS M/H for evaluation.
13. (EC) Form Required. Refer to the daily ADA Tracking List.

The Expert is informed that OCSD shared with DRC draft disciplinary policy revisions (CCOM 1602.5) in March 2025, and DRC provided its feedback the same month. have been reviewed by DRC. The policy and its implementation will be assessed once it is finalized.

CHS continues to follow its policies for mental health evaluations in relation to disciplinary hearings, including ensuring whenever possible that such evaluations occur in a private/confidential setting.

It is the County's practice that, if the Classification Sergeant or any other jail staff has reason to believe the incarcerated person's behavior was unusual, uncharacteristic, or a possible manifestation of mental illness, including where referral for CHS evaluation is warranted, the Classification Sergeant logs the write-up in the Inmate Discipline Mental Health Screening Log. The write-up documentation is uploaded into the digital folder with the corresponding key number. The Expert reviewed 20 cases and found the OCSD is following this practice and documenting this in the Disciplinary Hearing Report, section 11 in all 20 cases reviewed. When there is reason to believe the incarcerated person's behavior was unusual, uncharacteristic, or a manifestation of mental illness, the Classification Sergeant refers the case to mental health for an evaluation. The Expert notes that the OCSD policy is still pending revision.

Whether or not discipline is to be assigned, the Classification Sergeant updates the write-up in AJS by entering the discipline or lack thereof as appropriate, as well as the status to reflect the outcome. Once this is updated, they print a copy to be placed in the incarcerated person's file, with a copy returned to the housing location.

The Correctional Health Services (CHS), Policy 6602 Health Evaluations for OCSD Incarcerated persons who violate Jail Rules states, "Correctional Health Services (CHS) clinical Staff evaluate patients who are found guilty of a jail rule violation in Orange County Sheriff Department's (OCSD) disciplinary process will have regular access to Correctional Health Services (CHS) clinical Staff to ensure the patient's assigned discipline is not contraindicated based on the patient's general and mental health conditions. CHS clinical staff will conduct an initial, as well as ongoing, health evaluation during a patient's period of discipline. CHS will take steps to ensure meaningful consideration in the disciplinary process of whether a patient's behavior is related to their mental health or cognitive disability, the efficacy of disciplinary measures versus alternative interventions, and the impact of disciplinary measures on the health and well-being of the patient."

The policy further outlines the process staff must follow when notifications are received from OCSD that a patient is pending disciplinary action for violating a jail rule. The policy also includes requirements for clinical Staff (nursing and assigned Qualified Mental Health Professional) to conduct a chart review to determine if existing diagnosed health conditions contributed to the offense. The clinician will also assess whether any other disciplinary sanctions should be avoided by considering the patient's general or mental health disability or cognitive/intellectual/developmental disability, treatment plan, and/or adaptive support needs. The policy includes examples of penalties that should be avoided that may have an adverse impact on the patient's mental health condition or cognitive/intellectual/developmental disability and include, but are not limited to:

- loss of social visits
- loss of dayroom/outdoor recreation
- loss of telephone
- loss of tablet privileges
- loss of commissary privileges
- housing relocation
- loss of work/good time

The chart reviews, evaluations, and communication regarding which penalties shall be removed/avoided (with CHS clinical staff's documented reasoning/explanation) are required to be documented on the Jail Rules Violation Evaluation form within the patient's EHR.

The policy also requires that a copy of the Jail Rules Violation Evaluation form be provided to OCSD's assigned disciplinary hearing officer, which includes CHS's clinical Staff's determination (e.g., contraindications for placement and or alternative interventions/accommodations needed based upon the patient's health condition/disability).

During the previous monitoring tour, the Expert noted that the OCSD Court & Custody Operations Manual (CCOM) 1602.5 – Discipline Policy does not include the RP requirements. The Expert was informed that OCSD shared with DRC draft disciplinary policy revisions (CCOM 1602.5) in March 2025, and DRC provided its feedback the same month. The policy and its implementation will be assessed once it is finalized.

During the sixth monitoring tour, the Expert interviewed CHS Staff and the Classification Sergeant regarding the mental health/developmentally disabled/intellectually disabled disciplinary process. Numerous questions directed toward both CHS staff and the Classification Sergeant were found to align with the CHS policy and OCSD practice. Both were able to walk the Expert through the process of mental health staff being informed of a pending Disciplinary for review and the actions following the notification. This process is new and will continue to be monitored.

The Expert conducted a review of OCSD Rule Violations and CHS MH documentation of OCSD Jail rule Violations by incarcerated persons produced by the County. This review consisted of 28 completed Jail Rule Violations.

In fourteen (14) cases, CHS Mental Health staff found no Mental Health issues regarding the incarcerated person's alleged rule violation.

In six (6) cases, CHS Mental Health staff found Mental Health played a role in the behaviors regarding the incarcerated person's alleged rule violation.

Eight (8) cases were outside of the Expert August 2024 through December 2024 document review period.

The Expert reviewed six (6) OCSD Jail Rule Violation cases where CHS staff determined the misconduct may have occurred as a result of mental health concerns. Four (4) cases were found Guilty with no penalty and two (2) reflected no disposition. In each case OCSD Classification Sergeants reviewed the CHS QMHP Jail Rule Violation Chart Review and Assessment and followed the clinician's recommendation.

Based on the document review, the Expert finds that CHS QMHP staff are conducting a MH assessment according to CHS Policy 6602 Health Evaluations for OCSD Incarcerated persons who violate Jail Rules and the RP requirements. The Expert also finds although OCSD is working on necessary revisions to its disciplinary policy, the Disciplinary/Classification Hearing Officials are following the practice of reviewing and following the mental health clinician's advisement or recommendations and/or taking into consideration the incarcerated persons' cognitive/intellectual or adaptive functioning deficits. The Expert notes that OCSD is currently revising OCSD Court & Custody Operations Manual (CCOM) 1602.5 – Discipline Policy.

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

**Partially Implemented (Previous Rating Partially Implemented)**

*B. People alleged to have committed a rules violation shall be reviewed by a qualified mental health professional if any of the following apply:*

- 1. The person is housed in, or is currently referred for placement in, any designated Mental Health Unit.*
- 2. The Disciplinary Hearing Officer or other jail staff have reason to believe the person's behavior was unusual, uncharacteristic, or a possible manifestation of mental illness, including where referral for CHS evaluation is warranted.*
- 3. The person is on the mental health caseload and may be subject to (a) Special Management Unit (SMU) placement, or (b) loss of good time/work time credit as a consequence of the disciplinary violation as charged.*
- 4. If any of the above criteria is met, a mental health clinical staff member who is not the treatment provider for the patient shall complete a Rules Violation Mental Health Review form, indicating:*
  - a. Whether or not the reported behavior was related to mental illness, adaptive functioning deficits, or other disability.*
  - b. Whether the person's behavior is, or may be, connected to any of the following circumstances:*
    - i. An acute or otherwise significant psychiatric episode*
    - ii. An act of self-harm or attempted suicide*
    - iii. A cell extraction related to provision of medical/mental health treatment*
    - iv. Placement in clinical restraints or seclusion.*
  - c. Any other mitigating factors regarding the person's behavior, disability, and/or circumstances that should be considered.*
  - d. Whether particular disciplinary sanctions should be avoided in light of the person's mental health disability or intellectual disability, treatment plan, or adaptive support needs (e.g., the potential adverse mental health impact of denial of phone contact/visits with family members).*
  - e. CHS staff will consider issues of brain development and psychosocial development for young adults (generally, anyone 24 years old or younger) as part of this evaluation, including as they relate to the appropriateness of discipline for the behavior and the potential adverse impacts of particular disciplinary sanctions.*

As detailed in Section D. A. above, the Expert notes that the County has implemented Correctional Health Services (CHS) Policy 6602 Health Evaluations for OCSD Inmates who violate Jail Rules. The policy includes some of the RP requirements; however, the Expert notes that the revisions to OCSD Court & Custody Operations Manual (CCOM) 1602.5 – Discipline Policy are still in the process of being developed.

The County reported that OCSD and CHS have implemented a mental health review process to comply with the Remedial Plan's requirement of mental health assessments for discipline for people with mental health disabilities or who have an Intellectual/Developmental Disability. OCSD's policy revisions have been reviewed by DRC and will be shared soon with the Expert.

As previously reported, staff typically do not write jail rule violations in cases where incarcerated persons are housed in mental health units and for incarcerated persons who

have been identified as having an intellectual/developmental disability. However, the County needs to ensure the policies and procedures include the RP requirements and show proof of practice.

Based on the document review, the Expert finds that CHS QMHP staff are conducting a MH assessment as required by CHS Policy 6602 Health Evaluations for OCSD Incarcerated persons who violate Jail Rules and the RP. The Expert also finds although OCSD has not implemented the policy, the Disciplinary/Classification Hearing Officials are following the practice of reviewing and following the mental health clinician's advisement or recommendations and/or taking into consideration the incarcerated person's cognitive/intellectual or adaptive functioning deficits when determining the penalty phase of a disciplinary hearing. .

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

#### **Partially Implemented (Previous Rating Partially Implemented)**

##### *C. Consideration of Mental Health Input and Other Disability Information in Disciplinary Process.*

- 1. The Disciplinary Hearing Officer shall ensure that incarcerated people are not disciplined for conduct that is related to their mental health disability or Intellectual/Developmental Disability.*
- 2. The Disciplinary Hearing Officer shall consider the mental health clinician's findings and any other available disability information when deciding what, if any, disciplinary action should be imposed.*
- 3. The Disciplinary Hearing Officer shall consider the qualified mental health professional's input on minimizing the deleterious effect of disciplinary measures on the person in view of their Serious Mental Illness, any other relevant disability, or adaptive support needs.*
- 4. OCSD shall not subject any person to discipline for refusing treatment or medications, or for engaging in self-injurious behavior or threats of self-injurious behavior.*

The County reported that OCSD and CHS have implemented a mental health review process to comply with the Remedial Plan's requirement of mental health assessments for discipline for people with mental health disabilities or who have an Intellectual/Developmental Disability. OCSD's policy revisions have been reviewed by DRC and will be shared soon with the Expert

As detailed in Section D. A. above, the Expert notes that the County has implemented CHS Policy 6602 Health Evaluations for OCSD Inmates who violate Jail Rules. The policy includes the RP requirements; however, the Expert notes that the revisions to OCSD Court & Custody Operations Manual (CCOM) 1602.5 – Discipline Policy are still in the process of being finalized.

Based on the document review, the Expert finds that CHS QMHP staff are conducting a MH assessment as required by CHS Policy 6602 Health Evaluations for OCSD Incarcerated



persons who violate Jail Rules and the RP. The Expert also finds although OCSD has not implemented the policy, the Disciplinary/Classification Hearing Officials are following the practice of reviewing and following the mental health clinician's advisement or recommendations and/or taking into consideration the incarcerated person's cognitive/intellectual or adaptive functioning deficits when determining the penalty phase of a disciplinary hearing.

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

### **Partially Implemented (Previous Rating Not Implemented)**

#### *D. Disability-Related Accommodations During the Disciplinary Process*

- 1. OCSD and CHS shall provide reasonable accommodations (e.g., staff assistant) during the hearing process for people with mental health or intellectual disabilities.*
- 2. OCSD and CHS shall take reasonable steps to ensure the provision of effective communication and necessary assistance to people with disabilities at all stages of the disciplinary process.*
- 3. The Disciplinary Hearing Officer will check the ADA Tracking System and ensure provision of reasonable accommodations and effective communication during the disciplinary process.*

The County reported that OCSD's policy revisions have been reviewed by DRC and will be shared soon with the Expert.

During previous monitoring tours, the Expert noted that the OCSD Court & Custody Operations Manual (CCOM) 1602.5 – Discipline Policy states, "The inmate shall have access to staff or inmate assistance when the inmate is illiterate, or the issues are complex." The policy did not include the following RP requirements:

- That OCSD and CHS must provide staff assistants during the hearing process for people with mental health or intellectual disabilities.
- Ensure the provision of effective communication and necessary assistance to people with disabilities at all stages of the disciplinary process; and,
- The requirement for the Disciplinary Hearing Officer to check the ADA Tracking System and ensure provision of reasonable accommodations and effective communication during the disciplinary process.

The Expert notes that the County has implemented CHS Policy 6602 Health Evaluations for OCSD Inmates who violate Jail Rules. The policy states, "When clinically indicated, CHS mental health clinical staff will provide assistance to patients suspected or diagnosed with an intellectual/cognitive or developmental disability or mental health disability throughout the disciplinary hearing process. CHS staff will check the ADA Tracking System and, as necessary, work with the ADA Compliance Unit to ensure that reasonable accommodations and effective communication are provided to the patient at all stages of the disciplinary process."

The Expert also notes that OCSD has modified the Sergeant's Disciplinary Hearing Report form to include a check box for Effective Communication:

13. (EC) Form Required. Refer to the daily ADA Tracking List.

The County must revise the OCSD policies and procedures to ensure the RP requirements are met. The County must also provide completed Sergeant's Disciplinary Hearing Report forms for the Expert to review in future monitoring tours.

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

**Partially Implemented (Previous Rating Not Implemented)**

*E. Supervision and Oversight of Disciplinary Processes*

1. *OCSD shall designate a supervisory-level Disciplinary Hearing Officer for each facility, to be responsible for ensuring consistency in disciplinary practices and procedures as set forth herein.*

Two previous successive Compliance Reports have found that the provision has been adequately implemented. Therefore, monitoring of this provision is suspended.

**Monitoring Suspended Based on Previous Findings of Compliance (Previous Rating Monitoring Suspended Based on Previous Findings of Compliance)**

2. *CHS shall designate a supervisory-level clinician for each jail facility, who shall be responsible for ensuring consistency in disciplinary practices and procedures as set forth herein.*

The Expert notes that the County has implemented CHS Policy 6602 Health Evaluations for OCSD Inmates who violate Jail Rules. The policy states, "CHS Mental Health Service Chiefs and the CHS Mental Health Manager shall be responsible for ensuring consistency in overseeing disciplinary sanctions."

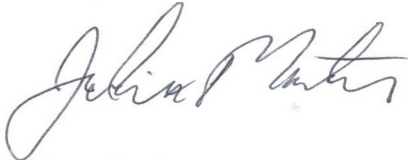
During the monitoring tour, the Expert interviewed the CHS Service Chief at IRC and a Clinician from CWJ. Both staff clearly articulated the Health Evaluation process in its entirety.

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

**Adequately Implemented (Previous Rating Adequately Implemented)**

## V. Signature

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

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

Julian Martinez  
Director  
Sabot Consulting

August 5, 2025

\_\_\_\_\_  
Date