



# Agreement Between Orange County and Disability Rights California

## Expert Monitor's Report (Third Round)

### Rights of People With Disabilities

On-Site Review: August 28 – September 1, 2023

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## Table of Contents

<b>I. Introduction .....</b>	<b>1</b>
<b>II. Experts Monitoring Role and Monitoring Activities .....</b>	<b>3</b>
<b>III. Executive Summary .....</b>	<b>5</b>
<b>IV. Findings .....</b>	<b>10</b>
<b>A. Policies and Procedures .....</b>	<b>10</b>
<b>B. ADA Tracking Procedures .....</b>	<b>11</b>
<b>C. Identifying People With Disabilities .....</b>	<b>14</b>
<b>D. Orientation.....</b>	<b>26</b>
<b>E. Effective Communication .....</b>	<b>31</b>
<b>F. Intellectual and Developmental Disabilities.....</b>	<b>46</b>
<b>G. Healthcare Appliances, Assistive Devices, Durable Medical Equipment.....</b>	<b>55</b>
<b>H. Housing Placements.....</b>	<b>76</b>
<b>I. Access to Programs, Services, and Activities.....</b>	<b>86</b>
<b>J. Access to Worker Opportunities.....</b>	<b>102</b>
<b>K. Access to Community Work Programs .....</b>	<b>110</b>
<b>L. Disability-Related Grievance Process.....</b>	<b>116</b>
<b>M. Alarms/Emergencies/Announcements.....</b>	<b>128</b>
<b>N. Searches, Restraints, and Counts.....</b>	<b>133</b>
<b>O. Transportation .....</b>	<b>134</b>
<b>P. ADA Training, Accountability, and Quality Assurance .....</b>	<b>136</b>
<b>V. Signature.....</b>	<b>141</b>

## I. Introduction

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

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

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

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

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

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

Sabot Consulting's team of experts conducted site visits at the Jail during the months of March, May, and June 2020. The assessment included interviews with 37 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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **B. Monitoring Process**

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

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

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

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

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

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

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

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### III. Executive Summary

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

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

The third round of monitoring focused on the Theo Lacy Facility (TLF), Central Men's Jail (CMJ), Central Women's Jail Men's Annex (CWJ), and the Intake Release Center & Transportation (IRC). The onsite Monitoring Review was conducted from August 28 – September 1, 2023. The Monitoring Review included a review of pre-monitoring documents produced by the County of Orange (OC); onsite observations; interviews of sworn and non-sworn personnel (e.g., housing deputies, HCA CHS healthcare staff (medical and mental health) classification staff; and interviews of incarcerated persons housed at the OC Jails. The County also provided the Experts and DRC representatives a tour of the Musick facility, which was still partially under construction. The tour covered the intake area, screening space, housing units, and other relevant areas.

An entrance meeting was conducted with representatives from the County of Orange (Jail ADA Compliance Unit staff and staff from the County Counsel's Office). DRC Representatives were also present during the entrance meeting and during portions of the monitoring tour. An exit meeting was conducted via Zoom on September 7, 2023, with representatives from the County of Orange (Jail Administration and staff from the County Counsel's Office). DRC Representatives were also present during the exit conference.

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



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The Expert finds that some of the provisions as set forth in the Settlement Agreement and RP (and local policies/procedures) have been implemented and continue to be found as “Adequately Implemented.” In addition, some areas found as “Partially Implemented” have been found as “Adequately Implemented” during the third monitoring tour. 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 more 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 in an understanding of the Settlement Agreement and RP requirements and how that correlates to their respective job duties.

As this was the third monitoring tour, elements of the Settlement Agreement and RP that were found “Adequately Implemented” in the first and second round of monitoring have been moved to "Monitoring Suspended Based on Previous Findings of Compliance." However, the Expert will continue to review whether the County has adequately implemented a component for which monitoring has been suspended 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. Additionally, the Expert will follow the RP requirements if areas that have been found as "Adequately Implemented" are identified by DRC as no longer adequately implemented and the County agrees with DRC's position. In the event the County disagrees, the Expert will review the parties' position and provide a written decision regarding whether to resume monitoring of the RP component(s) at issue.

As noted in the second Expert report, with the exception of learning disabilities, the County continues to have a process in place to identify incarcerated persons with disabilities (and their accommodation needs) who are being processed into the OC Jails. However, there continues to be concerns with medical staff not asking the screening questions that have been built into the comprehensive medical intake screening process. The County continues to have an effective process in place for the disability-related designations as well as accommodation information to be shared with custody (Classification and ADA Compliance Unit) staff when the disabilities and associated accommodations are identified. The County has an effective process in place where medical Case Management (ADA) and the custody ADA Compliance Unit work collaboratively to interview and assess incarcerated persons with disabilities, provide accommodations, and inform incarcerated persons about the ADA program and how to request accommodations. The County also has processes in place to ensure incarcerated persons are provided their Health Care Appliance/Assistive Devices and Durable Medical Equipment and that the devices are maintained in good working order. The ADA Compliance Unit staff are engaged with staff and the disabled incarcerated persons in ensuring that the requirements of the RP and the ADA are provided to the incarcerated persons. All incarcerated persons interviewed during the tour were aware of the ADA staff and stated they would resolve issues brought to their attention. The Expert notes that both the Custody/CHS Administration and staff are committed to ensuring the RP requirements



are implemented as well as ensuring the disabled incarcerated persons are provided with their accommodations and are provided equal access to the OC Jails programs, services, and activities. The Expert notes that the process for custody staff to document Effective Communication has been implemented, and all staff interviewed were aware of the RP requirements.

However, the Expert notes that some CHS staff are not providing Effective Communication using the incarcerated person's preferred method of communication (ASL/VRI). With the completion and implementation of updated policies and forms, the County will be in a better position to demonstrate compliance with these important ADA RP requirements. It is the Expert's position that when the tracking system is implemented, the County will be well-positioned to achieve compliance with several other areas of the ADA RP as well.

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

- Continue the process of implementing a centralized, real-time networked electronic system (SOMA) to identify and track all incarcerated people with disabilities and their specific accommodations.
- Ensure the medical intake screening questions are asked, in their entirety, of all persons being processed into the OCJ.
- Ensure that incarcerated persons with disabilities receive an orientation video regarding rules and expectations in an accessible format.
- Document the provision of Effective Communication for viewing the orientation video.
- Ensure medical staff provides and documents the Effective Communication accommodations for clinical encounters.
- Develop a process for staff (housing unit, work supervisors, and program facilitators) who provide accommodations and adaptive supports for incarcerated persons with Intellectual/Developmental disabilities to document the provision of the accommodations, assistance, prompts, and supports.
- Ensure electronic tablets, when implemented, include easy reading programs for incarcerated persons with Intellectual/Developmental Disabilities, as well as learning disabilities (literacy concerns).
- Ensure that wheelchairs needing repair are repaired/replaced in a timely fashion.
- Ensure that all persons with disabilities, including those in ADA-accessible or other specialized housing, have equal access to programs, services, and activities available to similarly situated persons without disabilities, consistent with their health and security needs. These programs include:
  - Dayroom and out-of-cell time
  - Telephones
  - Access to in-person educational, vocational, reentry, and substance abuse programs
- Develop a mechanism for the County to ensure that Rancho Santiago Community College District educators are sufficiently engaged and supported with respect to

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provision of accommodations to program participants, including with respect to the provision and logging of reasonable accommodations.

- Ensure the out-of-cell (dayroom and outdoor) tracking includes whether the incarcerated person with a disability accepts or refuses the out-of-cell opportunity, and if an incarcerated person accepts the out-of-cell opportunity, the amount of time spent out-of-cell.
- Ensure the medical and mental health staff consider accommodations/modifications that can be provided to disabled incarcerated persons for them to participate in work opportunities and not deny approval based solely on their disability. Focused attention on this topic must be given to incarcerated persons with cognitive and mental health-related disabilities.
- Ensure the County conducts an annual review to determine whether the County offers structured programs and activities on an equitable basis to people with disabilities and whether there are access/accommodations barriers that need to be addressed, with corrective action as needed.
- Ensure that each grievance response includes the date the response was provided to the incarcerated person to allow the Expert to monitor (and the County to track internally) whether responses are being provided within fourteen days, as required by the RP.
- Ensure grievance responses include;
  - Whether the grievance is granted, in whole or part,
  - The date of the grievance response and the date the issue was resolved (if applicable),
  - Clear language as to what the resolution is (e.g., "the device was delivered on [DATE]") rather than "your concern was addressed").
  - The results of the medical evaluation (if applicable).
- Ensure all grievance responses include an explanation of the process for appealing the grievance response.
- Ensure staff effectively communicates all grievance and appeal responses to the grievant/appellant and documents the communication method(s) used and their effectiveness.
- Ensure the County finalizes and implements the ADA accountability plan to timely log and investigate allegations from any source that staff has violated the ADA or Jail ADA-related policies and procedures.

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

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

- Adequately Implemented – 38

- Partially Implemented – 45
- Not Implemented – 8
- Un-ratable – 0
- Not Assessed – 0
- Monitoring Suspended Based on Previous Findings of Compliance - 24

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

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

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## IV. Findings

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

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

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)**

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

During the previous monitoring period, the County reported the revisions to the Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities, and the related forms had been finalized and implemented.

During this monitoring period, the County reports the drafting and revision of policies are ongoing. The Expert notes Correctional Health Services (CHS) provided draft policies, forms, and related materials to DRC. By agreement of the parties, this process takes place prior to the Expert's review. During the onsite tour, the County reported that the following CHS policies have been revised and are pending DRC and the Expert's review;

- Health Care Agency Correctional Health Services Policy and Procedure 1007 Staff Accountability
- Inmate Workers Health Care Agency Correctional Health Services Policy and Procedure 1022 Inmate Workers.

- Health Care Agency Correctional Health Services Policy and Procedure 6101 Receiving Screening.
- Health Care Agency Correctional Health Services Policy and Procedure 6602 Health Evaluations for OCSD Inmates who Violate Jail Rules.
- Health Care Agency Correctional Health Services Policy and Procedure 1013 Grievance Process.

DRC provided feedback to these policies and related forms on September 13, 2023. CHS is reviewing DRC feedback. The Expert will then review revised draft policies and work with the parties to finalize them consistent with ADA RP requirements. The Expert expects the review will be completed prior to the next monitoring tour.

Implementation of these policies is ongoing for both OCSD and CHS, and additional policy revisions are being completed as compliance issues are identified.

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

#### **Partially Implemented (Partially Implemented)**

### **B. ADA Tracking Procedures (Section II)**

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

During the previous monitoring tour, the Expert noted that the target date for the implementation of a centralized, real-time networked electronic system to identify and track all incarcerated people with disabilities and their specific accommodation needs (ADA Tracking System) was January 1, 2023. During the previous onsite monitoring tour, the County provided a demonstration of the SOMA Jail Management System (JMS). The Expert noted that the demonstration revealed that SOMA appears to include the functionality for the County to effectively manage the disability tracking requirements of the incarcerated persons with disabilities, their accommodation, and the provision of the accommodations. The County reports that the SOMA build-out phase to replace the baseline jail system would be completed in September 2023. The County also reports that staff will be trained prior to implementation and that it is anticipated that SOMA will need additions and upgrades. The Expert notes that pending the implementation of SOMA, the County continues to use the existing system

to track incarcerated person's disabilities and their specific accommodation needs with the OCSD's "Existing ADA Tracking System" as required by the RP.

The Expert will monitor the functionality of SOMA once implemented to ensure the tracking requirements of the RP are included. The Expert notes that the issue of the existing ADA tracking list having undefined acronyms (e.g., ADLs, HOH, ASL, VRI, VRS, EC, IDDM, etc.) has partially been resolved as the "ADA Inmate Tracking List" now includes definitions of most of the acronyms being used. However, during the staff interviews, the Expert noted that most of the custody staff responsible for reviewing and utilizing the list are not familiar with the meaning of the acronym "ADLs." The Expert recommends that this issue be addressed both for the existing tracking system and as SOMA rolls out.

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

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

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

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

During the previous monitoring tour, the Expert noted that the target date for the implementation of a centralized, real-time networked electronic system to identify and track all incarcerated people with disabilities and their specific accommodation needs (ADA Tracking System) was January 1, 2023. During the previous onsite monitoring tour, the County provided a demonstration of the SOMA JMS. The Expert noted that the demonstration revealed that SOMA appears to include the functionality for the County to effectively manage the disability tracking requirements of the incarcerated persons with disabilities, their accommodation, and the provision of the accommodations. The County reports that the SOMA build-out phase to replace the baseline jail system would be completed in September 2023. The County also reports that staff will be trained prior to implementation and that it is anticipated that SOMA will need additions and upgrades.



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The Expert notes that pending the implementation of SOMA, the County continues to use the existing system to track incarcerated person's disabilities and their specific accommodation needs with the OCSD's "Existing ADA Tracking System" as required by the RP. The Expert will monitor the functionality of SOMA once implemented to ensure the tracking requirements of the RP are included.

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

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

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

During the previous monitoring tour, the Expert noted that the target date for the implementation of a centralized, real-time networked electronic system to identify and track all incarcerated people with disabilities and their specific accommodation needs (ADA Tracking System) was January 1, 2023. During the previous onsite monitoring tour, the County provided a demonstration of the SOMA JMS. The Expert noted that the demonstration revealed that SOMA appears to include the functionality for the County to effectively manage the disability tracking requirements of the incarcerated persons with disabilities, their accommodation, and the provision of the accommodations. The County reports that the SOMA build-out phase to replace the baseline jail system would be completed in September 2023. The County also reports that staff will be trained prior to implementation and that it is anticipated that SOMA will need additions and upgrades. All custody and program staff will have access to the SOMA system. Various user groups will have the ability to enter information in the SOMA system with ADA information being entered by the ADA Unit staff. Additionally, information that is entered during the incarcerated person's detention may be available to Orange County Sheriff's Department Enforcement./Patrol staff (the County will confirm this). Such ADA information-sharing is an excellent practice, to support ADA-compliance both at the Jail and in law enforcement activity outside of detention facilities.

The Expert notes that pending the implementation of SOMA, the County continues to use the existing system to track incarcerated person's disabilities and their specific accommodation needs with the OCSD's "Existing ADA Tracking System" as required by the RP. The Expert will monitor the functionality of SOMA once implemented to ensure the tracking requirements of the RP are included.

The Expert also notes that the Existing ADA Tracking System information continues to be available to custody and medical/dental and mental health staff, program staff, and work supervisors.

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The Expert will continue to monitor this provision with the rollout of SOMA's ADA Tracking System. Based on this, the Expert finds that the County has partially implemented the RP requirements.

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

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

The Expert notes the current system is not called the "Special Needs List." The County previously reported that the system would likewise not be referred to as a "Special Needs" list or system. This requirement is currently adequately implemented.

Although this requirement is rated as monitoring suspended based on previous findings of compliance, during the onsite tour, in the review of the "Electronic Medical Record," the Expert notes that within the "Electronic Medical Record," there is a reference to "Special Needs" in the "Flag" section. The Expert recommends that the County remove the term "Special Needs" across the system, including in CHS records, signage, and policies. For example, the electronic health record continues to utilize an orange "Special Needs" banner that is prominently displayed in a patient's record.

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

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

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

During the two (2) previous monitoring tours, the Expert noted that the Health Care Agency Correctional Health Services Policy and Procedure 6407 Reasonable Health Accommodations for Patients with Disabilities and Health Care Agency Correctional Health Services Policy and Procedure 8651 Cognitive or Developmentally Disabled Patients include the process for the identification of incarcerated persons with disabilities and their disability-related accommodation needs. The disabilities include:

- Physical disabilities
  - Mobility
  - Dexterity
  - Sensory
    - Vision
    - Hearing

- Speech
- Cognitive/Comprehension

One issue that was raised to DRC and the Expert during the CHS leadership team meeting is that Traumatic Brain Injury and Dementia are not showing up in the ADA tracking system, though there are individuals with such conditions who require accommodations/supports. These conditions should be captured as sub-category of a Cognitive Disability. The County reported that this issue will be addressed in the County's Action Plan.

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

The County reported, and the Expert confirmed that Health Care Agency Correctional Health Services Policy and Procedure 6407 Reasonable Accommodations for Patients with Disabilities was revised and now includes the process for the post-intake identification of a disability and accommodation needs. In addition, the County reported and the Expert confirmed that Health Care Agency Correctional Health Services Policy and Procedure 8651 Cognitive, Intellectual, and Developmentally Disabled Patients was revised and now includes the process for the post-intake identification of cognitive disabilities and associated adaptive deficits and supports.

As in the previous monitoring tour, during the observation of the medical intake screening process at the Intake Release Center the screening questions were not asked in one (1) of the three (3) cases the Expert observed. To address this issue, the County previously reported that HCA/CHS developed a PowerPoint training for the Triage team. The training addresses the "what/why/how" in screening new bookings for ADA needs. The County reported that the HCA/CHS incorporated the feedback the County received from the Expert's last visit in regard to the screening process to ensure the HCA/CHS team understands the importance and background. The Expert recommends that CHS continue to reinforce the RP and policy requirements to medical staff who conduct the medical intake screenings.

During the incarcerated person interviews, the following incarcerated persons reported that their disability had not been identified by staff and/or they had not been provided accommodations. The County has also provided information for these specific cases.

- Incarcerated person housed in TLF Mod O – Claims he was not provided a wheelchair until 10 days after arrival and a walker until 20 days after arrival. States the footrest on his wheelchair is broken.
  - County response – The incarcerated person had a walker and wheelchair in his cell when the ADA Deputy interviewed him on 8-16-

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- 23, 4 days after being booked in from the hospital. A TLF Mod O deputy advised the ADA Deputy that he was given a new wheelchair.
- County response- Patient in hospital from 8/10/2023-8/12/2023. While in the hospital - the patient was seen by OT and discharge recommendations were for a 4-wheeled walker. Per the hospital report - the patient ambulates short distances with FWW. The patient was seen in triage on 8/12/2023 and provided with a walker within 15 minutes. WC orders in place for translocation. On 8/17/2023, the patient was seen by the ADA nurse and requested a shower. Explained the process of requesting a shower to the patient and advised Mod deputies and nurses about the patient's request.
  - Incarcerated person housed in TLF Mod O – Claims he had a wheelchair (full-time) at CMJ, and one day, he was transported to court and elected to only use his crutches (he is an amputee with no prosthetic). States that when he returned from court his wheelchair was removed, and he is now only provided a wheelchair for long distances. States it is difficult to navigate with crutches in the dorm at all times and needs a wheelchair full-time for the times he needs a rest/break from using the crutches. States it is dangerous when he showers as using the crutches to ambulate to the shower bench with the wet floor may lead to a fall. Why was the full-time wheelchair chrono changed to long distance?
    - County response - OCSD has no documentation indicating a full-time wheelchair is required. The individual was arrested on 8-16-23 and housed at TLF on 8-17-23. He was initially interviewed at TLF on 8-22. At that time, he had crutches and a wheelchair for distance. On 8-23-23, he requested a Prosthetic leg, and the ADA RN was notified. He currently uses a Wheelchair for Distance. He is pending release on 9-14-23.
    - County response - The patient was seen in triage on 8/16/2023. Reported use of crutches in the community and able to ambulate far with crutches. Personal crutches were brought into custody. Crutches were inspected and returned to the patient to use while in custody. The patient was seen by an ADA nurse on 8/21/2023 and stated he preferred crutches over a wheelchair. Orders during intake were for crutches - with a wheelchair for long distances. His chrono for this has never been changed.
  - Incarcerated person housed in TLF Mod O – The ADA Tracking List reflects “Pocket Talker” as an accommodation. However, the Disability column does not reflect “H” for a hearing disability. He states he uses hearing aids in the streets, and he attempted to have his daughter bring his hearing aids, but she was not able to as she does not drive. Is he a candidate for the over-the-counter hearing aids? He would like to have hearing aids.
    - County response - ADA Tracking List now indicates “(H)” in the disability column and “hard of hearing” in the accommodation column.
    - County response - 6/13/2023 seen by Audiologist for eval. The recommendation from the Audiologist was a pocket talker. The patient
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has a pocket talker and has been able to effectively communicate with others. 9/5/2023 replaced pocket talker with hearing aid/amplifier device. CHS supply is currently researching alternative hearing aid/amplifier devices due to different patients complaining of devices not working. Pocket talkers are provided to those whose devices didn't work while Supply investigates alternatives.

- An incarcerated person housed in TLF Mod O – Claims the glasses he received on Saturday are not the correct prescription as the prescription is over 1 year old, and he believes his vision changed due to him not using glasses during the time he was waiting for the glasses. He is using another inmate's glasses that somewhat work. He states he needs another optometry appointment/test with a new prescription.
  - County response - Seen by Optometry 10/22/2022. Sent to Ophthalmology on 1/25/2023. The prescription did not change. Scheduled for 1-year follow-up with Optometry October 2023.
- Incarcerated person housed in TLF Mod P – He is not on the ADA Tracking List. He is missing his left eye. Wears a patch. He was on the ADA Tracking List during his previous incarceration. States he would like the monthly ADA interview so he can address concerns.
  - County response - He was added to the ADA Tracking List and interviewed on 9/5/23.
  - County response - The patient was identified as ADA upon booking due to vision disability. During his lengthy stay, he stated he no longer required any accommodations, so he was not tracked. 9/4/2023 added back to ADA list for vision per patient request. Has prosthetic eye specialty appointment at UCI on 10/3/2023.

The Expert notes that the County has a comprehensive identification process in place for the identification of incarcerated persons with physical and cognitive disabilities at intake. However, medical intake screening staff must ask all disability-related questions during the intake screening process.

The Expert reviewed 493 ADA Interview/Activity Logs the County produced and noted that when interviewed by the ADA Compliance Unit staff, the disabled incarcerated persons advised the ADA staff that they had in their possession the HCA/AD/DME and had been provided housing accommodations prescribed by the medical providers.

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

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

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

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

The Expert notes that Health Care Agency Correctional Health Services Policy and Procedure 6407 Reasonable Health Accommodations for Patients with Disabilities includes the RP requirements, and Health Care Agency Correctional Health Services Policy and Procedure 8651 Cognitive or Developmentally Disabled Patients has been revised to include the RP requirements.

Although the HCA/CHS policies include the process for the identification of an incarcerated person's disability and their disability-related accommodation needs after their initial intake, during the observation of the medical intake screening process at the Intake Release Center, the screening questions were not asked in one (1) of the three (3) cases the Expert observed. Medical intake screening staff must ask all disability-related questions during the intake screening process. To address this issue, the County previously reported that HCA/CHS developed a PowerPoint training for the Triage team. The training addresses the "what/why/how" in screening new bookings for ADA concerns. The County reported that the HCA/CHS incorporated the feedback the County received from the Expert's last visit in regard to the screening process to ensure the HCA/CHS team understands the importance and background. The Expert recommends that CHS continue to reinforce the RP and policy requirements to medical staff who conduct the medical intake screenings.

Based on this, the Expert finds that the County has partially implemented the RP requirements. The Expert will continue to monitor this provision during the next monitoring tour.

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

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

As noted in the previous monitoring report, the Health Care Agency Correctional Health Services Policy and Procedure 6002 ADA Effective Communication includes a process for CHS staff to screen and identify the Effective Communication (EC) accommodation needs during the medical intake screening process. CHS staff enter an Effective Communication flag in the incarcerated person's electronic health record and also complete an initial ADA Effective Communication form. CHS staff provide



Effective Communication and document the method used to achieve Effective Communication, how they determined that the incarcerated person understood the encounter, and how they determined the communication's effectiveness. During medical file reviews, the Expert confirmed the CHS ADA Effective Communication Forms for incarcerated persons with Effective Communication accommodation needs are being completed when incarcerated persons are processed through medical intake screening. In the five (5) cases reviewed, CHS staff provided Effective Communication Accommodations, including the provision of a Sign Language Interpreter (SLI) during the medical intake screening process.

During the previous monitoring tour, the County reported that CHS revised and implemented Health Care Agency Correctional Health Services Policy and Procedure 6002-ADA Effective Communication and associated forms on 11/30/22. The Expert reviewed the policy and associated forms and determined the revisions satisfied the RP requirements. Additionally, the County reports that staff training and internal auditing on the implementation of Health Care Agency Correctional Health Services Policy and Procedure 6002 ADA Effective Communication is ongoing.

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

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

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

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)**

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

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

mental health. The medical intake screenings are conducted in a confidential setting, allowing for privacy.

The Expert reviewed the Trauma Informed Care Training PowerPoint Presentation, which includes 28 slides. The County produced training sign-in sheets that reflect a total of 293 CHS staff have attended "Trauma Informed Care In a Correctional Setting" training. During the observation of the medical intake process, the Expert found that the medical staff engaged the individuals, allowing them to voice their concerns in a safe environment.

The County should continue to work to ensure that all relevant staff receive the training, including all newly onboarded staff, and updated/refresher training on a periodic basis.

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

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

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

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

- Alerts
  - Accessibility/Medical
    - Mobility
    - Dexterity
    - Hearing
    - Speech
    - Vision
    - Cognitive/Developmental
    - Learning
  - Mental Health
    - Danger to Self
    - Danger to Others
    - Gravely Disabled
- Housing Placement Request

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

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

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

- Medical
  - Restrictions
    - No Court
    - No Dayroom
    - No Outdoor Recreation
    - No Education Classes/Church
    - No Jail-Issued ID Card
    - No Visits
    - No Work
  - Requirements
    - Extra Mattress
    - Mattress on Floor
    - Bed Rest
    - Other
- Mental Health
  - Restrictions
    - No Dayroom
    - No Outdoor Recreation
    - No Education Classes/Church
    - No Work
    - No Jail-Issued ID Card
    - No Commissary

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- No Bedding (Mattress Okay)
      - No Unsupervised use of Showers
      - No Off Compound Court
      - No Telephone (Ligature Risk)
      - No Visits
      - No Mattress
      - No Court
      - No Showers
    - Requirements
      - CCR 1217 Involuntary Medication
      - Safety Cell
      - Restraint Chair
      - Restraint Bed
  - Accessibility
    - Mobility/Dexterity/SMI
      - Brace
      - Cane
      - Crutches
      - Inmate Worker-Pusher
      - Prosthesis
      - Walker
      - Wheelchair
    - Hearing/Speech
      - Sign Language Interpreter
      - Video Remote Interpreter (VRI)
      - Hearing Aid(s)
      - HOH Vest
      - Pocket Talker
      - TTY
      - Video Phone (VRS)
      - Speak Loudly
      - Use Written Notes
      - Able to Read Lips
    - Cognitive/Developmental (Requires Assistance With)
      - Clinical Appointments
      - OCSD disciplinary hearings
      - Prompts for self-care (ADLs)
      - Reading
      - Writing
      - Comprehension/Understanding (Speak Slowly/Use Simple Words)
    - Vision
      - Assigned Inmate Reader
      - Audio Player
      - Braille Materials

- Visually Impaired Vest
- Sunglasses
- Tapping Cane
- Medical Supplies
  - Ace Wrap
  - Adult Diapers
  - Canvas Shoes
  - Contacts/Supplies
  - CPAP/BIPAP
  - Sleeve
  - Sling
  - Splint
  - Other

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

During the incarcerated person interviews, the following incarcerated persons interviewed stated that during the medical intake screening process, in cases where medical staff identified that they required accommodations (e.g., housing, HCA/AD/DME), the housing accommodations and HCA/AD/DME were not provided promptly.

- Incarcerated person housed in TLF Mod O – Claims he was not provided a wheelchair until 10 days after arrival and a walker 20 days after arrival. States the footrest on his wheelchair is broken.
  - County response – The incarcerated person had a walker and wheelchair in his cell when the ADA Deputy interviewed him on 8-16-23, 4 days after being booked in from the hospital. A TLF Mod O deputy advised the ADA Deputy that he was given a new wheelchair.
  - County response- Patient in hospital from 8/10/2023-8/12/2023. While in the hospital - the patient was seen by OT, and discharge recommendations were for a 4-wheeled walker. Per the hospital report - the patient ambulates short distances with FWW. The patient was seen in triage on 8/12/2-23 and provided with a walker within 15 minutes. WC orders in place for translocation. On 8/17/2023, the patient was seen by the ADA nurse and requested a shower. Explained the process of requesting a shower to the patient and advised Mod deputies and nurses about the patient's request.
- Incarcerated person housed in TLF Mod P – He is not on the ADA Tracking List. He is missing his left eye. Wears a patch. He was on the ADA Tracking

List during his previous incarceration. States he would like the monthly ADA interview so he can address concerns.

- County response - He was added to the ADA Tracking List and interviewed on 9/5/23.
- County response - The patient was identified as ADA upon booking due to vision disability. During his lengthy stay, he stated he no longer required any accommodations, so he was not tracked. 9/4/2023 added back to ADA list for vision per patient request. Has prosthetic eye specialty appointment at UCI on 10/3/2023.

The Expert determined these missed identifications do not appear to constitute a systemic issue, but underscore they need for the County to have an adequate system of supervisory oversight, quality assurance, and staff accountability procedures to address and remediate ADA/Disability-related issues as they arise.

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

The Expert notes that the CHS ADA policies, as well as Forms J-105A and J-112, have been revised and implemented with content consistent with relevant RP provisions.

Based on this, the Expert finds that the County has adequately implemented the RP requirements. This provision will be fully assessed in the context of the SOMA ADA Tracking System rollout in future monitoring rounds.

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

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

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

The Expert previously reviewed the revised J-112 and J-105A forms and determined that they satisfy the requirements of the RP. The Expert finds that the County continues to follow the established process, and medical staff is providing the ADA Compliance Unit with timely notification of cases where an incarcerated person is identified as disabled, including the required accommodations. As noted elsewhere in this report, the Expert has identified concerns with the adequacy of the medical staff's



screening for disabilities and disability-related needs. Those concerns relate to this provision's requirement to communicate disability information to custody staff and the ADA Compliance Unit; however, this will be addressed in the assessment of provisions related to the identification/screening procedures.

Based on this, the Expert finds that the County has adequately implemented the RP requirements. This provision will continue to be subject to monitoring to ensure that it remains in compliance during and subsequent to the implementation of the SOMA tracking system.

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

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

The Expert notes that the J-112 and J-105A continue to be provided to the ADA Compliance Unit staff. When received, the ADA Compliance Unit staff enter the information into the “Existing ADA Tracking System” for tracking purposes.

The Expert has reviewed the revised J-112 and J-105A forms and has determined that they satisfy the RP requirements. The County reports that the SOMA build-out phase to replace the baseline jail system will be completed in September. The County also reports that staff will be trained prior to implementation and that it is anticipated that SOMA will need additions and upgrades. Once SOMA is implemented, the Expert will assess compliance with this provision.

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

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

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

In the previous monitoring period, the Expert confirmed that the Health Care Agency Correctional Health Services Policy and Procedure 6407 Reasonable Accommodations for Patients with Disabilities was revised and now includes the process for the identification of a disability and accommodations post-intake. In addition, the County reported and the Expert confirmed that Health Care Agency Correctional Health Services Policy and Procedure 8651 Cognitive, Intellectual, and

Developmentally Disabled Patients was revised and now includes the process for the identification of cognitive disabilities and associated adaptive deficits and supports post-intake.

Additionally, during the previous monitoring tour, the revisions to the Health Care Agency Correctional Health Services Policy and Procedure 6407-Reasonable Accommodations for Patients with Disabilities were drafted and reviewed by DRC's counsel. The Expert reviewed the policy and noted that the policy has been implemented and addresses the RP requirements.

The Expert also notes that during the incarcerated person interviews, two (2) incarcerated persons reported that, post-intake, when they advised medical staff of potential disabilities, CHS staff evaluated them and provided the necessary accommodations.

The Expert notes that the policy includes a process for the identification of a disability and accommodations post-intake. Based on this, the Expert finds that the County has adequately implemented the RP requirements. However, during the next monitoring round, the Expert requests that the County provide the Expert with individual cases where the County evaluated and identified incarcerated persons with qualified disabilities and their accommodation needs.

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

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

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

The Expert notes that the County continues to use the following documents to provide information on the services available to incarcerated persons with disabilities as well as the incarcerated person rules and regulations:

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

These documents include all of the RP requirements.

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)**

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

The County produced the Orange County Sheriff's Department Custody Orientation Video. The Expert notes the video is in English and Spanish and includes subtitle text. The County reported that the orientation video is played in the IRC Loop holding cells. The County reports the status of the television in the Booking Loop are as follows:

- Female: PF 4, PF 5 ADA, PF 6, PF 7 (all are working)
- Male: PM 5, PM 6 ADA, PM 9, PM 10 ADA, PM 16, PM 18, PM 19, PM 20, PM 21, PM 24, PM 25 (all are working)
- The Dock Area (where arrestees wait to be seen by Medical prior to entering the booking loop): 3 televisions, 1 is dedicated to the orientation video; all are working

The County also reported that four (4) additional televisions have been installed as of May 12, 2023. Additionally, the County produced Requisition – R&D Work Request - Project that states,

"As part of the settlement with Disability Rights California, the County of Orange is required to show an orientation video to every inmate who is booked into Jail. To conform with this, we need to add four televisions in the booking loop at the Intake Release Center. The following cells will need TVs installed: PM – 5, PM

– 6, PM – 9, PF – 4. Electrical power will need to be added to each cell (if it does not already have it). Coaxial cable will need to be ran from the Watch Commander's Office to each cell noted above (if it does not already have it). Some cells currently have electrical outlets and coaxial cable outlets, but it is unknown if they work or are usable."

During the incarcerated person interviews, 19 of the 37 incarcerated persons interviewed stated they were not provided with an orientation video during the intake and booking process.

The Expert notes that the ADA information brochure and the ADA inmate qualifications/acknowledgment of rights/programs form, which is part of the initial ADA interview process, are consistently completed by the ADA Compliance Unit staff. The Expert also notes that the Orientation and Jail Rules, New Inmate Orientation, is available in large print.

The County must ensure that incarcerated persons with disabilities are provided the opportunity to view the orientation video regarding rules and expectations in an accessible format if needed. The County reports that the orientation video will be added to the tablets. Additionally, the County reported that on June 27, 2023, the Board of Supervisors approved the contract amendment with ViaPath adding the tablets (presently, one tablet for every 2 incarcerated persons). The current plan is to roll out the tablets starting with the IRC at the end of July. The Expert will continue to monitor this during future monitoring.

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

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

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

The County produced the Orange County Sheriff's Department Custody Orientation Video. The Expert notes the video is in English and Spanish and includes subtitle text. Although the video does not include ASL format, the County reports accommodations for incarcerated persons whose preferred method of communication is ASL and the incarcerated person cannot read; they would be provided an ASL interpreter via VRI during the viewing of the orientation video. Additionally, in the review of the completed ADA Inmate Qualifications Acknowledgement of Rights/Programs, the Orange County Sheriff's Department Custody Operations ADA Information Brochures, and the ADA Interview/Activity Logs, the Expert notes that Effective Communication

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accommodations are being provided to the incarcerated persons during the interviews by the ADA Compliance Unit staff as reflected in the ADA Interview/Activity Logs.

The Expert notes that the Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, “Inmates identified by CHS staff will be interviewed by the facility ADA Deputy. Each inmate will be notified in writing regarding what level of programs and services they are eligible to receive based on classification level and medical needs. In addition, each inmate will receive a copy of the jail rules and correctional programs brochure. If an inmate requires assistance reading the orientation brochure, the ADA Deputy will take steps to ensure Effective Communication for the inmate.” The policy also states, “Each inmate will receive a written copy of the Orange County Jail Rules and Orientation brochure as well as the ADA information brochure. Each inmate will sign acknowledging receipt of those documents. If an inmate is unable to read or understand the written material, due to various types of disabilities, ADA Compliance staff will make the appropriate accommodations to ensure Effective Communication.” The policy further states, “ADA Compliance Unit shall document an inmate’s disability as well as reasonable accommodations, including any Effective Communication needs, in the JMS and on the ADA Tracking List.”

The County produced 11 OCSD Effective Communication Forms that were completed for the Initial ADA Interview. The Effective Communications Forms reflect that Effective Communication was provided during the interview, which includes information on the following:

- Recreation
- Education classes
- Religious services
- Visiting
- Grievance process
- Emergency/alarms
- Jail Rules
- Programs

There were no documents produced that reflect Effective Communication was provided during the viewing of the orientation video, including the PREA video. For the ADA orientation, which is conducted by the ADA Compliance Unit staff, the Effective Communication that is used is consistently being provided and documented.

The Expert notes that the Orientation Video is available in closed captioning and includes Spanish captioning. The County must provide documentation of Effective Communication during the viewing of the orientation and PREA videos. The Expert also notes that the County reported that when the provision of SLI is needed, OCSD will use VRI. Proof of practice documentation will be necessary to confirm this. The Expert will assess and report on the provision of effective communication of this

information for people with hearing, vision, and cognitive disabilities in the next monitoring round.

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

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

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

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)**

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

During the onsite monitoring tour, the Expert queried the housing unit deputies regarding this requirement. All deputies interviewed stated they provide unit orientation and individualized support for incarcerated persons who are blind, low vision, deaf, hard of hearing, or who have Developmental or Intellectual disabilities when they are initially placed and/or transferred into the unit. The Expert noted that all housing units have a script that staff uses when providing the unit orientation. Staff also reported that at the completion of the orientation, Effective Communication is documented on the Effective Communication Form. The Script includes the following information:

When an inmate who is blind, low vision, deaf, hard of hearing or who has a developmental or intellectual disability is initially housed or is transferred to a new housing unit, a housing unit deputy SHALL promptly provide the inmate with an orientation to include:

- Location of inmate's cell/bunk.
- Location of toilets and showers.



- Location of emergency buttons and any necessary guidance as to emergency/alarm procedures.
- Information as to how to request relevant accommodations (VRI/VRS, large print books, easy reading materials, etc.)
- How to request assistance from staff working in the housing unit, including assistance with inmate message slips, medical message slips, and grievance forms, as well as with activities of daily living.

See CCOM Policy 8000.6(g). The housing deputy shall use effective communication to ensure the inmate can safely navigate the housing unit and understands how to request assistance. The nature and extent of the orientation will depend on individual need. The housing deputy will complete the Effective Communication form per CCOM Policy 8000.11 and will document in the guard station Activity Log that this orientation was provided to the inmate and the Effective Communication form was completed.

During the incarcerated person interviews, all incarcerated persons who are blind, with low vision, deaf, hard of hearing, or who have Developmental or Intellectual disabilities stated that housing unit staff had provided unit orientation and individualized support when they were initially placed and/or transferred into the unit. The Expert also notes that the Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities includes the RP requirements.

The County produced 70 Orange County Sheriff's Department ADA Effective Communication forms that reflect Housing Unit Orientation was conducted for incarcerated persons who are blind, low vision, deaf, hard of hearing, or who have Developmental or Intellectual disabilities. The Effective Communication forms also reflect that Effective Communication was provided using the incarcerated person's preferred method of communication.

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

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

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

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

In the previous monitoring report, the Expert noted that the Health Care Agency Correctional Health Services Policy and Procedure 6002 ADA Effective Communication includes a process for the CHS staff to assess an incarcerated person's Effective Communication needs during the medical intake screening process.

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Once identified, the CHS staff document the Effective Communication accommodations on the CHS Functional Performance Worksheet and the CHS Inmate Health and Mobility Notification Form J-105A. The J-105A is provided to classification staff and the ADA Compliance Unit and entered into the Existing ADA Tracking System. The CHS has a process in place for the medical providers to identify the Effective Communication needs and provide and document the Effective Communication accommodations provided during the clinical encounter. The CHS policy also requires medical staff to access the ADA Tracking System or patient's EHR, as applicable, to identify whether the patient requires reasonable accommodations for Effective Communication prior to routine health encounters. CHS staff are also required to document the provision of Effective Communication in the patient's health record using an ADA Effective Communication form or directly enter the Effective Communication provided in the electronic medical record (electronic Effective Communication Form).

To measure the County's compliance with the requirement to provide Effective Communication, the Expert randomly selected 14 cases where the incarcerated person was identified as having a disability that affects communication. The Expert reviewed the medical progress notes in the EHR to determine if the medical staff provided and documented Effective Communication during the encounters. Listed below is a summary of the review:

- An incarcerated person with a hearing disability (preferred method of communication SLI) – Of three (3) medical encounters, an SLI/VRI was not provided in any of the (3).
- An incarcerated person with a hearing disability (preferred method of communication ASL) – Of the three (3) medical encounters, an SLI/VRI was not provided for one (1).
- An incarcerated person with a hearing disability (preferred method of communication is speaking loudly) – Of the one (1) medical encounter, the provision of Effective Communication was documented in the one (1) case.
- An incarcerated person with an intellectual disability – The provision of Effective Communication was only documented in one (1) MH encounter.
- An incarcerated person with a hearing disability (preferred method of communication ASL) – Of the four (4) medical encounters, an SLI/VRI was not provided for three (3).
- An incarcerated person with a hearing disability (preferred method of communication ASL) – Of the 14 medical encounters, an SLI/VRI was not provided for ten (10).
- An incarcerated person with a hearing disability (preferred method of communication ASL) – Of the three (3) medical encounters, an SLI/VRI was not provided for two (2).

- An incarcerated person with a hearing disability (preferred method of communication ASL) – Of the 14 medical encounters, an SLI/VRI was not provided for eight (8) .
- An incarcerated person with a hearing disability (has hearing aids) – Of the three (3) medical encounters, the provision of Effective Communication was documented in one (1) case.
- An incarcerated person with a hearing disability (reads lips and has hearing aids) – Of the two (2) medical encounters, the provision of Effective Communication was documented in two (2) cases.
- An incarcerated person with a hearing disability (speak loudly) – Of the three (3) medical encounters, the provision of Effective Communication was documented in all three (3) cases.
- An incarcerated person with an intellectual disability – The provision of Effective Communication was documented in two (2) cases. There are multiple encounters where Effective Communication is not documented.
- An incarcerated person with an intellectual disability – The provision of Effective Communication was documented in three (3) cases. There are multiple encounters where Effective Communication is not documented.
- An incarcerated person with a hearing disability (preferred method of communication speaking loudly and reading lips) – Of the 27 medical encounters, Effective Communication was documented in all 27 cases.

The Expert previously noted that the County has implemented revisions to the Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities, which includes an Effective Communication section that requires custody staff to identify incarcerated persons with Effective Communication needs, provide and document the Effective Communication as required by the RP. The Expert also notes that the form for staff to document Effective Communication has also been revised and implemented.

The Expert notes that CHS has also implemented Policy 6002 – ADA Effective Communication. Based on the Expert's findings, further training of staff on the policy may be necessary, including the requirements to check and utilize ADA Tracking system information regarding each patient's Effective Communication needs, provision of the patient's primary/preferred method of communication, and documentation on the EC form.

The Expert determined from interviews with classification staff, staff involved in the disciplinary process (issuance and hearings), and staff involved in the service of notices to appear and service of new charges that they are aware of the requirement to identify the Effective Communication needs and document the Effective Communication accommodations provided during due process events. The Expert notes that the County produced 140 completed Orange County Sheriff's Department Effective Communication forms. The completed forms include documentation of Effective Communication for the following types of encounters:

- Housing Unit Orientation (70)
- ADA Interview (55)
- Classification (6)
- New charges (1)
- Programs (1)
- Intake/ID (2)
- Type of encounter not noted (2)

The Expert notes that the ADA Compliance Unit staff and staff that conduct the housing unit orientation consistently provide and document Effective Communication during the ADA interviews (initial and monthly) and during the housing unit orientations. The Expert also notes that the OCSD implemented the Orange County Sheriff's Department Effective Communication form during the rating period. Based on this, the production of documents did not include encounters for disciplinary, classification, intake (notice of charges), and release. During the next rating period, the Expert will review these types of encounters to determine if OCSD is providing and documenting Effective Communication as required by the RP.

The County reported that OCSD continues to reinforce training on the requirements to provide and document Effective Communication and the implemented Effective Communication form. The County also reported that CHS is continuing to provide training on Effective Communication requirements and that CHS Staff Development is working with the electronic health record vendor to develop an easy method to ensure, as well as to capture, the need for and provision of Effective Communication. The Expert also notes that the ADA Compliance team created "Attachment A," which includes information for staff on the requirements to provide Effective Communication. The Expert noted that "Attachment A" was posted in work locations in all facilities.

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

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

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

As stated above, the Health Care Agency Correctional Health Services Policy and Procedure includes a process for the CHS staff to assess an incarcerated person's

Effective Communication needs during the medical intake screening process. The Expert interviewed CHS staff who were able to explain the process, including the process for CHS staff to alert custody staff of the Effective Communication accommodation needs of the incarcerated persons who are blind or have low vision, who are deaf or hard of hearing, who have a speech, learning, Intellectual/Developmental Disability, who have a traumatic brain injury, or who have a mental illness.

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

Based on this, the Expert finds that the County has adequately implemented the RP requirements but will continue to monitor compliance with this provision to ensure that implementation remains adequate, from intake through each incarcerated person's period of detention.

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

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

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

The County reported that OCSA continues to reinforce training on the requirements to provide and document Effective Communication and the implemented Effective Communication form. The County also reported that CHS is continuing to provide training on Effective Communication requirements and that CHS Staff Development is working with the electronic health record vendor to develop an easy method to ensure, as well as to capture, the need for and provision of Effective Communication. The Expert also notes that the ADA Compliance team created "Attachment A," which includes information for staff on the requirements to provide Effective Communication. The Expert noted that "Attachment A" was posted in work locations in all facilities.

The County has a process in place to identify the incarcerated person's Effective Communication accommodations, including the implementation of policy revisions and forms to ensure compliance with the RP.

However, based on the findings in Section V (E. Effective Communication A), further monitoring of implementation, including whether staff consistently give primary consideration to the preference of the incarcerated person with Effective Communication needs, will be necessary. Proof of practice through the review of completed Effective Communication forms and the implementation and utilization of SOMA's ADA tracking system will continue to be reviewed.

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

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

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

The Expert previously noted that the revised and implemented Health Care Agency Correctional Health Services Policy and Procedure 6002 ADA Effective Communication lists the following Assistive Devices and Methods of Technology that are Provided for Patients Needing ADA Effective Communication:

- Contracted qualified and certified translators and interpreters
- Qualified Sign Language interpreters, including American Sign Language (ASL) and Certified deaf interpreters
- Readers, speech-to-text, and real-time captioning
- Sound amplification devices
- Video Remote Interpreting (VRI)
- Video Relay Service (VRS)
- Closed captioning videos
- Speaking at an increased volume
- Speaking at a slower rate
- Providing replacement hearing aid batteries
- Large print educational handouts
- Issuing pocket talkers
- Repeating, rephrasing statements, and/or using basic language
- Allowing additional time for the patient to respond
- Vests to alert staff if the patient is hard of hearing or visually impaired
- Audiotaped texts, Braille materials, and screen readers



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- Writing materials, written notes, and signage
  - Providing a mental health clinical staff member to assist, when warranted, for patients with a cognitive or Developmental disability (refer to Health Care Agency Correctional Health Services Policy and Procedure Cognitive and Developmentally Disabled Patients)

The Expert previously noted that the revised and implemented Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities lists the following assistance or accommodations that may be provided to incarcerated persons with Effective Communication accommodation needs:

- Use of a qualified sign language interpreter
- Use of Simple English
- Use of a bilingual aide
- Repeated statements
- Speaking slowly
- Rephrasing statements
- Using written communication
- Using lip reading (only if the inmate's preferred/primary method of communication is lip reading)
- Use of sound amplification device
- Captioned television/video text displays
- Speech-to-text and real-time captioning
- Videophones and other telecommunication devices for deaf inmates
- Braille materials
- Screen readers
- Reading documents to the inmate
- Providing magnifier
- Using large print
- Using scribe
- Any other tool that was used to facilitate Effective Communication

The County produced the following documents which reflect the VRI was provided for communication during the rating period:

- December 2022 – Twenty (20) occasions
- January 2023 – Ten (10) occasions
- February 2023 – Nine (9) occasions
- March 2023 – Five (5) occasions
- April 2023 – Three (3) occasions
- May 2023 – Two (2) occasions

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The VRI Logs produced by OCSD reflect 11 occasions where the VRI/iPad was checked out by staff (2 IRC and 9 CMJ)

The County also produced OCSD Effective Communication Forms that reflect an SLI/VRI was provided during the following encounters:

- Classification interview – 1
- Housing Unit Orientation – 4
- ADA Initial/Monthly Interview – 4

To measure the County's compliance with the requirement to provide Effective Communication, the Expert randomly selected 14 cases where the incarcerated person was identified as having a disability that affects communication. The Expert reviewed the medical progress notes in the Electronic Health Record to determine if the medical staff provided and documented Effective Communication during the encounters. For the summary of the review, see Section V (E. Effective Communication A). Further training and quality assurance are necessary to ensure consistent implementation of this provision by CHS staff.

The County produced 140 completed Orange County Sheriff's Department Effective Communication forms. The completed forms include documentation of Effective Communication for the following types of encounters:

- Housing Unit Orientation (70)
- ADA Interview (55)
- Classification (6)
- New charges (1)
- Programs (1)
- Intake/ID (2)
- Not Noted (2)

The Expert notes that the ADA Compliance Unit staff and staff who conduct the housing unit orientation consistently provide and document Effective Communication during the ADA interviews (initial and monthly) and during the housing unit orientations. The Expert also notes that the OCSD implemented the Orange County Sheriff's Department Effective Communication form during the rating period. Based on this, the production of documents did not include encounters for disciplinary, classification, intake (notice of charges), and release. During the next rating period, the Expert will review these types of encounters to determine if OCSD is providing and documenting Effective Communication as required by the RP.

The Expert also reviewed 493 ADA Interview/Activity Logs the County produced and noted that the Activity Logs reflect that disabled incarcerated persons are provided with auxiliary aids and services (qualified sign language interpreters, readers, sound

amplification devices, captioned television/video text displays, speech-to-text, and real-time captioning, videophones, and other telecommunication devices for deaf persons (TDDs), video relay services, video remote interpreting services, audiotaped texts, large print materials, writing materials, written notes, etc.) as required by the RP.

The County reported that OCSD continues to reinforce training on the requirements to provide and document Effective Communication and the implemented Effective Communication form. The Expert also notes that the ADA Compliance team created "Attachment A," which includes information for staff on the requirements to provide Effective Communication. The Expert noted that "Attachment A" was posted in work locations in all facilities.

The Expert notes that with the implementation of the Effective Communication Form to document the provision of Effective Communication during the next monitoring tour, the Expert will be able to evaluate OCSD's compliance with the RP provision.

Based on this, the Expert finds that the County has partially implemented the RP requirements. The Expert will continue to monitor this provision closely with the rollout of the SOMA ADA Tracking System.

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

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

During the on-site monitoring tour program, staff interviewed stated they are provided the ADA Inmate Tracking List, and with this list, they are able to identify the Effective Communication accommodation needs of the incarcerated persons who are participating in the jail programs. The Expert notes that the specific Effective Communication accommodation needs are listed in the Current ADA Tracking List.

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

- Three (3) incarcerated persons stated that housing unit staff do not provide reading and writing assistance.
- Two (2) incarcerated persons stated that they could not understand medical staff during encounters.

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

The Programs staff reported that although OCSD Programs staff receive and have access to the "ADA Inmate Tracking List," which has the Effective Communication accommodations listed, there is currently no mechanism in place for the Effective

Communication accommodation needs to be provided to the Rancho Santiago Education staff. The Programs staff reported that a process would be developed to alert the Rancho Santiago Education staff of the Effective Communication accommodations and a process to document the provision of the Effective Communication.

The Expert notes there continues to be progress on this RP provision. However, there also continues to be several sub-components to this provision that are discussed in this section that have been rated as Partially Implemented. There are still some concerns with the provision of Effective Communications by CHS staff. Although custody staff interviewed reported they are aware of the Effective Communication form and check for Effective Communication needs and are also knowledgeable of the Effective Communication requirements, sufficient documents needed to support the County's compliance were not available for review. During the next monitoring tour, the Expert will review the documents to measure the County's compliance with the RP requirements. This includes documents that reflect the provision of Effective Communication during classification and disciplinary processes, and for incarcerated persons who participate in the Jail programs, services, and activities such as education, religious, work assignments, etc.

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

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

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

*1. Due Process Events*

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

*2. Clinical Encounters*

- a. Obtaining medical history or description of ailment or injury;*
- b. Communicating diagnosis or prognosis;*
- c. Providing medical care (note: medical care does not include medication distribution);*
- d. Performing medical evaluations;*
- e. Providing mental health care;*
- f. Performing mental health evaluation;*

- g. Providing group and individual therapy, counseling, and other therapeutic activities;*
- h. Providing patient's rights advocacy/assistance;*
- i. Obtaining informed consent or refusal for provision of treatment;*
- j. Explaining information about medications, medical or mental health procedures, treatment, or treatment options;*
- k. Explaining discharge instructions;*
- l. Providing clinical assistance during a medical/mental health round (note: this requirement does not apply to performing routine medical/mental health safety checks).*

The Expert previously noted that the revised and implemented Health Care Agency Correctional Health Services Policy and Procedure 6002 ADA Effective Communication lists the following clinical encounters that require the provision of Effective Communication accommodations and completion of an ADA Effective Communication:

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

The Expert previously noted that the revised and implemented Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities lists the following events and other processes that rise to the level of the higher standard for ensuring Effective Communication by OCSD staff:

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

The County reported that OCSD continues to reinforce training on the requirements to provide and document Effective Communication and the implemented Effective Communication form. The Expert also notes that the ADA Compliance team created "Attachment A," which includes information for staff on the requirements to provide

Effective Communication. The Expert noted that “Attachment A” was posted in work locations in all facilities.

To measure the County's compliance with the requirement to provide Effective Communication, the Expert randomly selected 14 cases where the incarcerated person was identified as having a disability that affects communication. The Expert reviewed the medical progress notes in the Electronic Health Record to determine if the medical staff provided and documented Effective Communication during the encounters. For the summary of the review, see Section V (E. Effective Communication A). Further training and quality assurance are necessary to ensure consistent implementation of this provision by CHS staff.

The County produced 140 completed Orange County Sheriff's Department Effective Communication forms. The completed forms include documentation of Effective Communication for the following types of encounters:

- Housing Unit Orientation (70)
- ADA Interview (55)
- Classification (6)
- New charges (1)
- Programs (1)
- Intake/ID (2)
- Not Noted (2)

The Expert notes that the ADA Compliance Unit staff and staff who conduct the housing unit orientation consistently provide and document Effective Communication during the ADA interviews (initial and monthly) and during the housing unit orientations. The Expert also notes that the OCSD implemented the Orange County Sheriff's Department Effective Communication form during the rating period. Based on this, the production of documents did not include encounters for disciplinary, classification, intake (service of notice (to appear and/or for new charges), and release. During the next rating period, the Expert will review these types of encounters to determine if OCSD is providing and documenting Effective Communication as required by the RP.

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

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

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

1. *Prior to the encounter, access the ADA Tracking System or Electronic Health Record system (as applicable) and identify if the person requires reasonable accommodation(s) for Effective Communication;*



2. *Provide reasonable accommodation(s) to achieve Effective Communication; and*
3. *Document the method used to achieve Effective Communication and how the staff person determined that the person understood the encounter, process, and/or proceeding.*

The Expert previously reported that the revised and implemented Health Care Agency Correctional Health Services Policy and Procedure 6002 ADA Effective Communication and the revised and implemented Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities include the RP requirements for the identification, provision, and documentation of the Effective Communication accommodations.

To measure the County's compliance with the requirement to provide Effective Communication, the Expert randomly selected 14 cases where the incarcerated person was identified as having a disability that affects communication. The Expert reviewed the medical progress notes in the Electronic Health Record to determine if the medical staff provided and documented Effective Communication during the encounters. For the summary of the review, see Section V (E. Effective Communication A). Further training and quality assurance are necessary to ensure consistent implementation of this provision by CHS staff.

A review of EHRs reveals that some medical providers are not following requirements for Effective Communication, including the use of the incarcerated person's preferred method of communication and accessing VRI/SLI when warranted. The County must ensure staff identify, provide, and document the incarcerated person's preferred method of communication.

The Expert previously noted that the County has revised and implemented the Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities and the associated Effective Communication Form and process for custody and classification staff to identify, provide, and document the Effective Communication accommodations.

The County reported that OCS&D continues to reinforce training on the requirements to provide and document Effective Communication and the implemented Effective Communication form. The County also reported that CHS is continuing to provide training on Effective Communication requirements and that CHS Staff Development is working with the electronic health record vendor to develop an easy method to ensure, as well as to capture, the need for and provision of Effective Communication. The Expert also notes that the ADA Compliance team created "Attachment A," which includes information for staff on the requirements to provide Effective Communication. The Expert noted that "Attachment A" was posted in work locations in all facilities.

In future monitoring, the Expert will continue to evaluate this RP requirement in more detail and requests that the County provide a list of incarcerated persons with Effective Communication accommodation needs, and from that list, the Expert will review a

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sample of medical, mental health, and dental progress notes and accompanying ADA Effective Communication Forms (if completed), as well as relevant custody documents related to due process events, to measure the County's compliance with the RP requirements. Accordingly, the Expert finds that the County has partially implemented the RP requirements.

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

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

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

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

Although there were no specific cases to review where an incarcerated person's preferred method of communication was lip reading, the County has policies in place, and staff is aware of the requirements of speaking slowly and loudly during the encounter.

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

**Adequately Implemented (Adequately Implemented)**

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

The Expert previously noted that the revised and implemented Health Care Agency Correctional Health Services Policy and Procedure 6002 ADA Effective Communication states, "In the event a SLI is not available, is waived, or refused by the patient, CHS clinical staff shall employ the most effective form of communication available (i.e., VRI) when communicating with a patient with a hearing disability. For

patients refusing SLI assistance, A Refusal to Accept Treatment and Release of Liability Form is completed with the reason.”

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

The County reported that when the provision of SLI is needed, OCSD will use VRI. Barring a significant emergency where VRI services are down, there should not be an instance where an interpreter is needed but not provided. The County also reported that CHS is continuing to provide training on Effective Communication requirements. CHS Staff Development is working with the electronic health record vendor to develop an easy method to ensure, as well as to capture, the need for and provision of Effective Communication.

To measure the County's compliance with the requirement to provide Effective Communication, the Expert randomly selected 14 cases where the incarcerated person was identified as having a disability that affects communication. The Expert reviewed the medical progress notes in the Electronic Health Record to determine if the medical staff provided and documented Effective Communication during the encounters. For the summary of the review, see Section V (E. Effective Communication A). Further training and quality assurance are necessary to ensure consistent implementation of this provision by CHS staff.

The County produced 140 completed Orange County Sheriff's Department Effective Communication forms. The completed forms include documentation of Effective Communication for the following types of encounters:

- Housing Unit Orientation (70)
- ADA Interview (55)
- Classification (6)
- New charges (1)
- Programs (1)
- Intake/ID (2)
- Not Noted (2)

The Expert notes that the ADA Compliance Unit staff and staff that conduct the housing unit orientation consistently provide and document Effective Communication during the ADA interviews (initial and monthly) and during the housing unit orientations.

The Expert also notes that the OCSD implemented the Orange County Sheriff's Department Effective Communication form during the rating period. Based on this, the production of documents did not include encounters for disciplinary, classification, intake (notice of charges), and release. During the next rating period, the Expert will review these types of encounters to determine if OCSD is providing and documenting Effective Communication as required by the RP.

Although the County has policies, procedures, and processes, including the associated forms for staff to document the provision of sign language interpreters, in the cases where staff did not document the instances where an interpreter was needed but was not provided, the Expert finds that the County has partially implemented the RP requirements. The Expert will monitor these processes in the context of the rollout of the SOMA ADA tracking system.

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

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

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

The Expert previously noted that the revised and implemented Health Care Agency Correctional Health Services Policy and Procedure 8651 Cognitive or Developmentally Disabled Patients includes comprehensive policies and procedures for the identification and verification of incarcerated persons with cognitive and Developmental disabilities and their adaptive support deficits and adaptive support needs. The County reports that the CHS is currently screening all incarcerated persons at booking for cognitive and Developmental disabilities. However, as noted in Section III C. A., the medical intake nurses were not asking the related intellectual disability screening questions during the intake screening process.

In addition, the Expert previously noted that CHS has developed and implemented the revised Functional Performance Worksheet that includes procedures for the assessment of needs related to Activities of Daily Living and cognitive processing.

The Expert previously noted that the revised and implemented Health Care Agency Correctional Health Services Policy and Procedure 8651 Cognitive or Developmentally Disabled Patients includes the following process for the screening/identification of incarcerated persons known to have an Intellectual/Developmental Disability:

- If a person is known to have an Intellectual/Developmental Disability identified by CDCR, Family, or Regional Center, the CHS ADA committee will complete

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

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

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

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The Expert previously noted that the revised and implemented Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities policy includes comprehensive policies and procedures and include specific processes for the following:

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

The County previously reported that HCA/CHS developed a PowerPoint training for the Triage team. The training addresses the "what/why/how" in screening new bookings for ADA concerns. The County reported that the HCA/CHS incorporated the feedback the County received from the Expert's last visit in regard to the screening process to ensure the HCA/CHS team understands the importance and background.

As in the previous monitoring report, the Expert notes that with the implementation of the revised Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities and implementation of the revised Health Care Agency Correctional Health Services Policy and Procedure 8651 Cognitive or Developmentally Disabled Patients the County has comprehensive and coordinated written policies and procedures on serving incarcerated people with Intellectual/Developmental Disabilities. However, as noted in other sections of this report, a medical intake nurse was not asking the screening questions to identify suspected intellectual/developmentally disabled persons who would require referral for secondary screening. The Expert recommends that CHS continue to reinforce the RP and policy requirements to medical staff who conduct the medical intake screenings.

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

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

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



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

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

The Current ADA Tracking Lists include 14 incarcerated persons identified as Developmentally Disabled. The County also produced 23 OCSD CHS J-112s that designated incarcerated persons as "Cognitive Disabled." The County also produced 25 "CHS Functional Needs Lists" that list the incarcerated persons designated as Intellectually Disabled and the cases that are pending screening. The lists reflect from 10 cases to 23 cases. The County produced a "Regional Center" spreadsheet that reflects six (6) cases that reflect the County contacted or attempted to get an "ATD" to contact the Regional Center. In two (2) cases, the incarcerated person was released before the County could obtain the "ATD"; in one (1) case, the Regional Center case is now closed, and in three (3) cases, the incarcerated person was not a Regional Center Consumer. The Expert notes that the County did not produce the screening results for the Expert to review information related to consideration for housing, work assignments, disciplinary measures, and other relevant matters.

For future monitoring, the Expert will need the information listed above to measure the County's compliance with the RP requirements.

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

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

- C. *A multidisciplinary team that includes appropriate healthcare staff shall monitor and ensure appropriate care and support for people with an Intellectual/Developmental Disability. For each patient, the multidisciplinary team will develop an individualized plan that addresses: (1) safety, vulnerability, and victimization concerns, (2) adaptive support needs, and (3) programming, housing, and accommodation needs. The*

*multidisciplinary team's plan will be reviewed quarterly. If a member of the team becomes aware that a person with an Intellectual/Developmental Disability has a change in (1), (2), or (3) above, the team will promptly review and, if necessary, update the person's plan.*

The Expert previously noted that the revised and implemented Health Care Agency Correctional Health Services Policy and Procedure 8651 Cognitive or Developmentally Disabled Patients includes the following requirements:

CHS licensed Clinical Psychologist II will, with a multidisciplinary team that includes medical, mental health, and custody staff, create an individualized treatment plan for each patient with a cognitive or developmental disability. The treatment plan will be documented within the Crisis Intervention Plan (CIP) Care Plan of the patient's health record and will address the following:

- safety, vulnerability, and victimization concerns
- adaptive support needs
- programming, housing, and any other accommodation needs

CHS licensed Clinical Psychologist II will notify the ADA Nurse Coordinator whenever there is a change to the CIP Care Plan by scheduling a "Medical Case Management Sick Call" appointment with reason as "ADA DD Update."

CHS licensed Clinical Psychologist II will schedule the next follow-up appointment with a CHS licensed Clinical Psychologist II within thirty (30) calendar days, unless otherwise clinically indicated.

CHS licensed Clinical Psychologist II will work with the multidisciplinary team to review the patient's individualized treatment at least quarterly. If a member of the team becomes aware of a change with respect to D.1(a), (b), and/or (c) above, they will inform the multidisciplinary team, and the Clinical Psychologist II will promptly convene a meeting to review the treatment plan and, if necessary, update the plan.

The County reported that the multidisciplinary team has implemented a more robust review process and development of the individualized treatment plans.

The Expert notes that the CJX and TLF ADA Tracking lists include 14 incarcerated persons identified with Developmental disabilities. The Expert notes that the County produced ADA MDT Meeting Minutes (February 2, 2023, and May 31, 2023). Based on a review of the minutes, the Expert notes the minutes reflect the following:

"A file was emailed to CHS M/H staff on 01-19-23 to fill out an interview worksheet for all DD inmates on the Functional Needs List. Today, all DD inmates were discussed in alphabetical order by the facility.

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All DD's discussed one by one in alphabetical order by facility. Files will be posted in the minutes and emailed to all listed above. See individualized assessments for each inmate discussed."

The Expert notes that the "Individualized Assessments" (ADA DD/ID Inmate Interview Worksheet) addresses the following:

- Adaptive support needs from FNL
- Safety Concerns
- Inmates' vulnerability
- Inmates' victim concerns
- Housed properly
- Action plan
- Comments

The County produced 20 ADA DD/ID Inmate Interview Worksheets that were reviewed during the February 2, 2023, MDT meeting and 15 ADA DD/ID Inmate Interview Worksheets that were reviewed during the May 31, 2023, MDT meeting.

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

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

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

- D. Relevant staff, including housing deputies, the ADA Compliance Unit, and work supervisors/teachers, shall be trained and informed, as appropriate, as to (a) incarcerated people with Intellectual/Developmental Disabilities, their individualized plan, and related accommodation and adaptive support needs; and (b) staff responsibilities to provide for such needs as well as to monitor for and address any safety, vulnerability, or victimization concerns.*

The County reported that OCSD's Training Division will be maintaining the attendance for ADA training, and we believe the records will be improved as a result. Sufficient information for adaptive supports and other individual needs will be added to the ADA tracking list and SOMA.

The Expert previously noted that the revised and implemented Custody & Court Operations Manual (CCOM) 8000 – Inmates with Disabilities includes the RP

requirements for staff to monitor and ensure appropriate care and support for incarcerated persons with Intellectual/Developmental disabilities.

The County produced the following training documents:

- ADA Class Handouts
  - ADA Definitions Quiz
  - ADA Inmate Tracking List
  - ADA Tracking Log
  - J-112
  - J-105A
  - ADA Effective Communication Form
  - Housing Unit Orientation
  - Safety and Security Assessment Form
- Americans With Disabilities Act (2-Hour Lesson Plan)
- Americans With Disabilities Act STC PowerPoint Presentation (77 slides)

The Expert notes that the training material includes a segment on the adaptive support needs of incarcerated people with Intellectual/Developmental Disabilities.

In the review of the Training Summary Report, "ADA Training" produced by the County reflects that 890 staff completed the training. The Training Summary Report reflects custody and program staff attended the training. The County also produced "Training Attendance Sheets" for ADA Training that was attended by OCSD cooks. The Attendance Sheets reflect that 34 staff attended the training.

Based on the review of all training documents, the Expert notes the County provides ADA Training to jail staff as required by the RP.

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

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

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

1. *Jail staff will be assigned, as appropriate, to assist with health appointments, classification or disciplinary proceedings, housing/facility transfers, and other events involving potentially complex communications.*

*2. The ADA Compliance Unit shall track provision of supports for people with Intellectual/Developmental Disabilities on the ADA Inmate Activity Log.*

The County reported that staff will be reminded to document when they have provided assistance to persons identified as I/DD. We agree that SOMA should facilitate improvements in this area.

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

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

The County produced 21 ADA Interview/Activity Logs for incarcerated persons identified as having an Intellectual/Developmental disability. The Expert notes the logs reflect ADA Compliance Unit staff meet monthly with the incarcerated person to address verbal and written communication, visits, commissary, and self-care. The Expert notes that the ADA Interview/Activity Logs do not reflect any entries by staff who provided accommodations and adaptive supports, including communications, more time to complete directions, and specific behavioral and ADL supports and assistance with health appointments, classification, or disciplinary proceedings, housing/facility transfers, and other events involving potentially complex communications.

Although staff interviewed reported that they provide adaptive supports (assistance, prompts, reminders, and monitoring), the Expert notes that other than the ADA Inmate

Activity Logs, which reflect that the ADA Compliance Unit provided accommodations and adaptive supports during the orientation and monthly ADA interviews, the County did not produce documentation of cases where staff provided assistance with health appointments, classification or disciplinary proceedings, housing/facility transfers, and other events involving potentially complex communications. The Expert notes that custody housing unit staff reported that they document the assistance and supports provided in the "Daily Activity Log." The Expert also notes that the rollout of the SOMA ADA Tracking System should facilitate documentation in this area. Additionally, the Expert provided the County with a sample log that can be used to document the supports in the interim.

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

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

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

The County reports that the vendor has reported that there will not be easy-reading books on the tablets; however, easy-reading books will continue to be made available to incarcerated persons. We are advised that the tablets do have the option to increase font size by up to 8x, which should allow for large print text on all of their applications.

During the on-site monitoring tour, the Expert confirmed that easy reading recreational materials (books) were available in all housing units where incarcerated persons with Intellectual/Developmentally are housed..

In addition, in a review of the ADA Interview/Activity Logs for incarcerated persons with Intellectual/Developmental Disabilities, the Expert notes that during the interview with ADA Compliance Unit staff, the ADA Deputy offers the incarcerated person easy reading books.

The County must work with the vendor to ensure the electronic tablets include programs consistent with the incarcerated persons with Intellectual/Developmental Disabilities, as well as learning disabilities, reading, and cognitive abilities.

Information on incarcerated persons with DD/ID or learning disabilities who need these easy reading materials should be incorporated into the SOMA ADA Tracking System to facilitate the implementation of this provision.

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



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

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

The Expert previously noted that the revised and implemented Health Care Agency Correctional Health Services Policy and Procedure 8651 Cognitive or Developmentally Disabled Patients states, “Discharge Planning - CHS JCRP Clinicians are responsible for coordinating discharge planning for patients with cognitive and or Developmental disabilities, making referrals, and linking them to appropriate community providers.”

The County provided completed JCRP Discharge Plans and HCA Discharge Planning -Behavioral Health Progress Notes for three (3) incarcerated persons. In the review of the discharge plans, the Expert notes that only one discharge plan accurately reflects that the incarcerated person is intellectually disabled. For future monitoring, the County will need to provide the discharge plans for all incarcerated persons with Intellectual/Developmental Disabilities released during the rating period for the Expert to measure the County's compliance with the RP requirements.

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

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

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

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

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

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

During the on-site monitoring tour, the Expert confirmed that an ample supply of canes, crutches, wheelchairs, braces, tapping canes, and walkers are available for issuance to the incarcerated persons in the IRC, MJ, and TLF.

The County provided the following list of common devices ordered:

Device	Flag ADA?	ADA Impairment
AFO Brace	Yes	Mobility
Ace Wrap only	No	None
Abdominal Binder	No	None
Cane	Yes	Mobility
Canvas Shoes	No	None
Crutches	Yes	Mobility
Hearing Aids	Yes	Hearing
Knee Immobilizer	Yes	Mobility
Knee Sleeve	No	None
Neoprene knee sleeve (Soft knee brace)	No	None
Post Op Shoe	Yes	Mobility
Prosthesis	Arm	Dexterity
	Leg	Mobility
Sling	Yes	Dexterity
Shoulder Immobilizer	Yes	Dexterity
Splint	Arm	Dexterity
	Leg	Mobility
Tapping cane	Yes	Vision
Walker	Yes	Mobility
Walking boot	Yes	Mobility
Wheelchair	Yes	Mobility

During the incarcerated person interviews, the following incarcerated persons interviewed stated that during the medical intake screening process, in cases where medical staff identified that they required accommodations (e.g., housing, HCA/AD/DME), the housing accommodations and HCA/AD/DME were not provided promptly.

- Incarcerated person housed in TLF Mod O – Claims he was not provided a wheelchair until 10 days after arrival and a walker until 20 days after arrival. States the footrest on his wheelchair is broken.
  - County response – The incarcerated person had a walker and wheelchair in his cell when the ADA Deputy interviewed him on 8-16-23, 4 days after being booked in from the hospital. A TLF Mod O deputy advised the ADA Deputy that he was given a new wheelchair.
  - County response- Patient in hospital from 8/10/2023-8/12/2023. While in the hospital - the patient was seen by OT, and discharge recommendations were for a 4-wheeled walker. Per the hospital report - the patient ambulates short distances with FWW. The patient was seen in triage on 8/12/2-23 and provided with a walker within 15 minutes. WC orders are in place for translocation. On 8/17/2023, the patient was seen by the ADA nurse and requested a shower. Explained the process of requesting a shower to the patient and advised Mod deputies and nurses about the patient's request.
- Incarcerated person housed in TLF Mod P– He is not on the ADA Tracking List. He is missing his left eye. Wears a patch. He was on the ADA Tracking List during his previous incarceration. States he would like the monthly ADA interview so he can address concerns.
  - County response - He was added to the ADA Tracking List and interviewed on 9/5/23.
  - County response - The patient was identified as ADA upon booking due to vision disability. During his lengthy stay, he stated he no longer required any accommodations, so he was not tracked. 9/4/2023 added back to ADA list for vision per patient request. Has prosthetic eye specialty appointment at UCI on 10/3/2023.

The Expert determined these missed identifications do not appear to constitute a systemic issue, but underscore they need for the County to have an adequate system of supervisory oversight, quality assurance, and staff accountability procedures to address and remediate ADA/Disability-related issues as they arise.

Additionally, given the findings during the site visit and subsequent the Expert recommends that prosthetic liners be referenced as part of the list of common devices ordered.

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

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

- B. The County shall track and document the inspection and maintenance of HCA/AD/DME. Such documentation shall include the following information for each device: whether the person has all assigned HCA/AD/DME; whether the person*

*believes the assigned HCA/AD/DME is appropriate; whether the HCA/AD/DME is in good working order; and, if the HCA/AD/DME requires repair or replacement or is inappropriate for the person, a description of the actions taken (e.g., to repair/replace HCA/AD/DME, evaluation for different HCA/AD/DME, etc.).*

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

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

The Expert reviewed 493 ADA Interview/Activity Logs the County produced and confirmed that the ADA Compliance Unit conducts a monthly inspection and maintenance check of the HCA/AD/DME issued to incarcerated persons. The Expert noted that for every case where an incarcerated person is prescribed a HCA/DME/AD, the ADA Compliance Unit staff addresses the condition of the HCA/DME/AD. Listed below are cases where the ADA Compliance Unit staff took action to address the HCA/AD/DME repair/replacement:

- Requested his hearing aids be cleaned.
- Requesting different or additional HCA/AD/DME. Asked for a shorter cane and also a walker and canvas shoes. ADA RN notified.
- Requested splint to be replaced b/c of digging into arm. ADA RN emailed.
- HCA/AD/DME is not in good working order and requires repair or replacement. Stated his current sling was ripped and stated he was told by medical staff he would be getting a "Figure 8" sling. ADA RN notified.
- HCA/AD/DME (Prosthetic Leg) is broken. Per RN on 3/15/23, inmate has a scheduled appointment to see a specialist to repair the prosthetic leg.
- HCA/AD/DME is in good working order but requests larger size belt (Velcro) for comfort. ADA RN notified by email on 07-28-22 requesting a wider size (Velcro) belt for his back brace.
- Claims the splint is not in good working order and needs a new Velcro strap. ADA RN was notified.

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- HCA/AD/DME is not in good working order and does require repair or replacement. ADA RN replaced the crutches. The arm pit area was loose on one of the crutches. ADA RN replaced the crutches on 05-24-23.
  - Cane itself is in good working order however the rubber bottom part of his cane needs to be replaced. ADA RN notified.
  - Sling is not in good working order and requires repair or replacement. ADA nurse notified.
  - Was asking for another wheelchair. The arms of wheelchair need replacing. ADA RN notified by email on 01/17/22.
  - HCA/AD/DME is in good working order and does NOT require repair or replacement. Stated a screw on the top left part of the walker is starting to become loose and needs tightening. Walker screw was tightened.
  - ADA RN notified via email regarding the crutches needing some repair. One crutch is missing padding in the armpit. ADA RN was going to replace crutches if she couldn't replace the armpit padding.

The County produced 272 HCA Assistive Device Monthly Checklists. The checklist includes the following information:

- Name and Booking Number
- Housing Location
- Device
  - Wheelchair
  - Walker
  - Crutches
  - Cane
  - Prosthetic
  - Splint
  - Sling
  - Hearing Aids
  - Pocket Talker
  - Other
- Personal
- CHS
- On Person
- Device Check
  - Appropriate (Yes/No)
  - Good Working Order (Yes/No)
  - Requires Repair Replacement (Yes/No)
- Wheelchair Only (R-Requires Repair S-Satisfactory G-Good Working Order
  - Serial Number
  - Brakes
  - Arm Rests
  - Footrest

- Tire Tread
  - Seat (no tears)
- Action Plan
  - Obtain Verbal Order for Accommodation
  - Refer to Medical Sick Call
  - Service request to CHS supply
  - Remove from use
  - Provide replacement device
  - Other
- Comments

Based on this, the Expert has determined that the County has adequately implemented the RP requirement. The Expert requests that the documentation include the date the HCA/DME/AD was repaired and/or replaced to ensure timely provision/repair.

This provision will continue to be subject to monitoring to ensure that it remains in compliance during and subsequent to the implementation of the SOMA tracking system.

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

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

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

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

The County produced the "ADA Appliance Tracking Log." The log includes information for wheelchairs only. This includes the following information:

- Serial Number
- Size
- Date Assigned to ADA Program
- Date Assigned to Inmate
- Date Collected from Inmate
- Status
- Location/Comments
- Problem Date



- Date Fixed
- Surplus date
- Comments

The Expert notes there are 56 entries on the log. Of the 56 entries, 13 reflect the following problems:

- Footplate, armrest (fixed) – 26 days to fix
- Broken leg rest – one (1) day to fix
- The armrest is broken off the frame and is not replaceable (disposed ) – one (1) day to replace
- Broken leg rest – 53 days to fix
- Broken footrest (fixed) – 56 days to fix
- Leg rest bent and loose, armrest, footrest, seat guides, bearings (fixed) – 25 days to fix
- Handle fabrics -three (3) months to fix
- Handle fabrics – three (3) months to fix
- Right armrest broken – date of repair not noted
- Broken parts (disposed wheelchair) – two (2) days to dispose
- Missing brake handles on both sides – 25 days to repair
- Armrest, bearings, tips – four (4) months to fix

Although the County has a process in place to inspect and identify wheelchairs that are in need of repair, the repairs are not being conducted in a timely fashion. Post tour, the County reported in the event a wheelchair is not in good working order and requires repair, the County provides a replacement wheelchair pending the repair. During the next monitoring tour, the Expert requests that the County provide documentation of the provision of the replacement wheelchairs when a County owned wheelchairs requires repair.

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

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

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

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

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

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

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

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

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

**CHS Triage RN**

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

**Uncuff Deputies**

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

**Property CST**

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

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

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

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

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

The Expert previously reported that the revised and implemented Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities includes a formalized process for custody staff to conduct and document the individualized assessment when personal HCA/AD/DME is removed from an incarcerated person.

The Expert also notes that the Safety and Security Assessment Form to guide implementation of this provision has been implemented. The form provides for an effective procedure on this RP requirement. The Expert notes that it will also be important to ensure that this form and process be considered within the SOMA ADA Tracking System rollout.

The County reported that OCSD continues to reinforce training on the requirements of the Remedial Plan as well as the Safety and Security Assessment form. The Expert also notes that the ADA Compliance team created "Attachment A," which includes information for staff on the requirements staff must follow when confiscating an incarcerated person's personal HCA/AD/DME. The Expert noted that "Attachment A" was posted in work locations in all facilities.

The County reports there were five (5) cases where Jail staff determined it was necessary to remove an individual's personal HCA/AD/DME for safety and security reasons. In the review of the completed Safety and Security Assessment forms, the Expert notes the following:

Case #1

- Upon booking, determined crutches could be taken apart; placed in property. Transferred to TLF, med staff at TLF will provide crutches.
- Personal assistive device was replaced with County issued device.

Case #2

- Hidden metal plates inside boot. Refused to allow staff to search boot initially. Second boot has a large metal strap. Incarcerated person came from hospital and threatened to fight deputies. Based on his statements, boots were taken, and medical staff provided incarcerated person with a wheelchair.

Case #3

- Incarcerated person has a history of taking apart wheelchairs. Incarcerated person was given a jail wheelchair which has been welded to deter incarcerated persons from taking it apart.

Case #4

- Incarcerated person was using tapping cane as a weapon.

Case #5

- Metal collapsible cane which breaks down into four (4) small pieces. Incarcerated person was given a jail-issued cane.

During the review of the ADA Activity Logs, the Expert identified two (2) cases where an incarcerated persons HCA/AD/DME was removed.

Case #1

- Walker removed per security. I/M threw foods at Deputies during med pass. I/M was laying on the top bunk with the walker. CHS requested I/M be placed in a safety gown. DR#23-000201, JI#IR0102232312.
  - Based on the walker being removed per “security”, a Safety and Security Assessment Form should have been completed.

Case #2

- ADA RN spoke to triage RN concerning removing devices. ADA Deputy and ADA RN went to the property room and checked the wrist brace. The brace has 3 removable metal rods. Brace was not cleared by ADA Deputy. ADA RN stated incarcerated person will be given an ace wrap. Safety and Security Assessment form not completed due to device being removed by CHS on 4-15-23.
  - Based on the medical staff removing the brace, a Safety and Security Form was not required to be completed; however, medical staff should have issued an alternate device.

Based on the County not documenting on the Safety and Security Assessment form whether an alternative device was provided or that no alternative was possible in one (1) case and not providing an alternate device in one (1) case, the Expert has determined the County has partially implemented the RP requirement.

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

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

The Expert previously noted that the revised and implemented Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities includes a formalized

process for custody staff to conduct and document the individualized assessment in cases where Jail staff determine it is necessary to remove an individual's personal HCA/AD/DME for safety and security reasons.

The County reported that OCSD continues to reinforce training on the requirements of the Remedial Plan as well as the Safety and Security Assessment form. The Expert also notes that the ADA Compliance team created "Attachment A," which includes information for staff on the requirements staff must follow when confiscating an incarcerated person's personal HCA/AD/DME. The Expert noted that "Attachment A" was posted in work locations in all facilities.

The County reports there were five (5) cases where Jail staff determined it was necessary to remove an individual's personal HCA/AD/DME for safety and security reasons. In the review of the completed Safety and Security Assessment forms, the Expert notes the following:

Case #1

- Approved by Watch Commander.
- Consult with medical staff within 48 hours.

Case #2

- Approved by Watch Commander.
- Consult with medical staff the same day.

Case #3

- Approved by Watch Commander.
- Consult with medical staff within 24 hours.

Case #4

- Approved by Watch Commander.
- Consult with medical staff the same day.

Case #5

- Approved by Watch Commander.
- Consult with medical staff the same day.

Based on the County not documenting on the Safety and Security Assessment form whether an alternative device was provided or that no alternative was possible in one (1) case and not providing an alternate device in one (1) case,, the Expert has determined the County has partially implemented the RP requirement.

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

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

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

Staff reported, and the incarcerated persons interviewed confirmed, that in cases where their personal HCA/AD/DME is in need of repair, the County repairs the device at the County’s expense or provides a replacement at the County’s expense.

The County produced the "ADA Appliance Tracking Log." The log includes information for wheelchairs only. This includes the following information:

- Serial Number
- Size
- Date Assigned to ADA Program
- Date Assigned to Inmate
- Date Collected from Inmate
- Status
- Location/Comments
- Problem Date
- Date Fixed
- Surplus date
- Comments

The Expert notes there are 56 entries on the log. Of the 56 entries, 13 reflect the following problems:

- Footplate, armrest (fixed) – 26 days to fix
- Broken leg rest – one (1) day to fix
- Armrest is broken off the frame and is not replaceable (disposed ) – one (1) day to replace
- Broken leg rest – 53 days to fix
- Broken footrest (fixed) – 56 days to fix
- Leg rest bent and loose, armrest, footrest, seat guides, bearings (fixed) – 25 days to fix
- Handle fabrics – three (3) months to fix
- Handle fabrics – three (3) months to fix
- Right armrest broken – date of repair not noted
- Broken parts (disposed wheelchair) – two (2) days to dispose



- Missing brake handles both sides – 25 days to repair
- Armrest, bearings, tips – four (4) months to fix

Although the County is repairing the HCA/AD/DME at the County's expense and/or providing the incarcerated person with a replacement HCA/AD/DME at the County's expense, in some cases, the replacement/repairs are not being conducted timely. Post tour, the County reported in the event a wheelchair is not in good working order and requires repair, the County provides a replacement wheelchair pending the repair. During the next monitoring tour, the Expert requests that the County provide documentation of the provision of the replacement wheelchairs when a County owned wheelchairs requires repair.

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

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

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

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

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

The Expert notes that in cases where an incarcerated person's personal HCA/AD/DME was replaced by a county-issued HCA/AD/DME, the replacement was sufficient to provide the incarcerated person with safe access to the Jail's programs, services, and activities.

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

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

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

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

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

The Expert notes that the County has policies and a formal process in cases where an incarcerated person's personal HCA/AD/DME is in need of repair. Although there were no cases available for review, the County has a formal process in place to ensure in cases where the County repairs a personal HCA/AD/DME, the County provides the incarcerated person with an interim HCA/AD/DME while the personal HCA/AD/DME is being repaired. In addition, the Expert notes that all staff are aware of the policy and RP requirements.

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

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

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

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

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

The Expert notes that the County has policies and has implemented a Safety and Security Assessment Form that facilitate the implementation of this and related requirements.

The County produced HCA Progress Notes for three (3) cases where incarcerated persons were allowed to retain prosthetics while in custody. Additionally, during the

incarcerated person interviews, three (3) incarcerated persons reported they were allowed to retain their prosthetic while in custody.

Additionally, in review of the ADA Activity Logs, the Expert noted the following case related to the provision of prosthetics.

- Has all assigned HCA/AD/DME. N/A No device assigned at this time. Was asked if he wanted his prosthetic arm, stated he did not but knows how to ask if he changed his mind.

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

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

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

The Expert previously noted that the revised and implemented Health Care Agency Correctional Health Services Policy and Procedure 6407 Reasonable Health Accommodations for Patients states, “Patients whose prosthetic limbs were removed due to security concerns are evaluated by a prescriber, as soon as possible, no later than the next available sick call after the removal of the prosthetic limb.”

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

The Expert notes that the County has policies that require a prescriber/medical provider to evaluate the incarcerated person as soon as possible, no later than the next available sick call, in cases where a prosthetic limb has been removed due to security concerns. Although there were no cases available for review where the County removed a prosthetic from an incarcerated person, the County has a formal process in place to ensure that cases where the County removes a prosthetic limb or similar device due to specifically identified security concerns are evaluated by a medical provider. In addition, the Expert notes that all staff are aware of the policy and RP requirements.

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

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

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

The Expert previously reported that the revised and implemented Health Care Agency Correctional Health Services Policy and Procedure 6407 Reasonable Health Accommodations for Patients does not specifically list prosthetics; the policy states, "Whenever a patient's personal DME or assistive device needs repair, CHS staff shall coordinate the repairs needed with the CHS Supply team. The patient will be provided a comparable device while their DME/assistive device is being repaired to accommodate their individual needs. All devices provided, their repair or replacement is free of charge to the patient." The policy also states, "Patients whose prosthetic limbs were removed will be evaluated by a prescriber, as soon as possible, no later than the next available sick call after the removal of the prosthetic limb, in order to address any negative impact on the health or safety of the person and to provide an alternative device and/or accommodation as warranted."

The County produced HCA Progress Notes for one (1) case where an incarcerated person requested repair of his prosthetic.

Case #1

- An incarcerated person requested that his prosthetic leg be aligned. He was using a wheelchair and walker as accommodations. Progress notes reflect he was issued a new prosthetic; however, the new prosthetic broke, and the prosthetic is out for repair.

In review of the ADA Activity Logs the Expert notes the following case.

Case #1

- States he went to his prosthetic appointment and was issued a prosthetic leg. The prosthetic leg broke due to his weight. Will be rescheduled for a re-evaluation for another prosthetic.

Additionally, during the document review, the Expert noted the following cases where an incarcerated person required their prosthetic repaired, and the County initiated the repair:

- HCA/AD/DME (Prosthetic Leg) is broken. Per RN on 3/15/23, inmate has a scheduled appointment to see a specialist to repair the prosthetic leg.

Another issue that warrants attention on this topic is the need for timely replacement of prosthetic liners. Two incarcerated persons reported during the tour that they did not have access to replacement prosthetic liners when their liners

became filthy, became degraded, or did not fit. The County responded that a supply of replacement prosthetic liners would be ordered. This is a necessary component of prosthetic device provision and will need to be incorporated into regular policy/practice moving forward; it will be monitored in future rounds.

Based on this, the Expert finds the County has taken appropriate steps to address/resolve the prosthesis repairs. The Expert finds that the County has adequately implemented the RP requirements.

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

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

The Expert previously reported that the revised and implemented Health Care Agency Correctional Health Services Policy and Procedure 6407 Reasonable Health Accommodations for Patients (currently being further revised) states, "When clinically indicated, an Off-Site Request is completed for contracted specialists and specialty items needed to accommodate patient's needs. The CHS Medical Case Management Team arranges for timely appointments for provision of needed DME or assistive device. Based on clinical assessment and meaningful consideration of the patient's stated preference, an alternative DME or assistive /device will be provided to facilitate equal access to services."

The Expert notes that the County has implemented policies that require the County to take prompt steps to provide appropriate assessment and timely provision of prostheses or similar device in cases where CHS determines a person requires a prosthetic limb or similar device but does not have one. The policy also requires the County to provide an alternative assistive device, based on clinical assessment and meaningful consideration of the individual's stated preference, as an interim accommodation to facilitate equal access to services. Although there were no cases available for review where CHS determined a person required a prosthetic limb or similar device but did not have one, the County has a formal process in place to ensure the County takes prompt steps to provide appropriate assessment and timely provision of prostheses or a similar device. In addition, the Expert notes that all staff are aware of the policy and RP requirements.

An incarcerated person who is an amputee who had arrived at the jail two weeks prior to the monitoring visit stated he was interested in obtaining a prosthetic and the County reported they would refer him to a specialist. The County provided him a wheelchair in the interim.

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

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

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

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

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

The Expert notes that the County has implemented policies that prohibit the County from automatically removing HCA/AD/DME when incarcerated persons are placed in temporary holding, sobering, or observation cells and require that the removal of the HCA/AD/DME be based only on individualized security factors and only for the minimum time necessary. Although there were no cases available for review where the County automatically removed a HCA/AD/DME when incarcerated persons were placed in a temporary holding, sobering, or observation cell, the County has a formal process in place to ensure the County only removes a HCA/AD/DME based on individualized security factors only and for the minimum time necessary. In addition, the Expert notes that all staff are aware of the policy and RP requirements.



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

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

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

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

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

The County produced an Excel spreadsheet, "ADA Device Release Log," that reflects 414 disabled incarcerated persons who were released with a personal, donated, or CHS-provided HCA/AD/DME. The log includes the following columns:

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

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

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

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

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

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

The County produced an Excel spreadsheet, "ADA Release Log," that reflects 174 disabled incarcerated persons who were released with their personal HCA/AD/DME. The log reflects two (2) entries where the personal HCA/AD/DME was not returned to the incarcerated person. The entries reflect:

- Missing personal wheelchair, declined CHS wheelchair
- Personal hearing aids lost

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

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

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

The Expert previously noted that the revised and implemented Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, Reasonable accommodations will be provided to inmates during the release process. Inmates requiring the use of accessible cells will either be held in cells that are accessible or prepared for release in their respective housing units and expedited through the release process. Staff shall ensure that any personal assistive device placed with

the inmate's property is returned to the inmate upon release. If the inmate does not have any personal assistive device and was provided a county-owned device, the inmate will be permitted to retain the county-owned device upon release. Unless the inmate has an equivalent assistive device stored in Inmate Property, the inmate is entitled to keep their county-issued assistive device or will be provided a comparable device at the time of release, consistent with their need for such device."

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

The County produced an Excel spreadsheet, "ADA Release Log," that reflects 15 disabled incarcerated persons who were released with a donated or CHS-provided HCA/AD/DME.

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

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

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

The County produced an Excel spreadsheet, "ADA Release Log," that reflects 273 disabled incarcerated persons who were released with a personal, donated, or CHS-provided HCA/AD/DME.

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)**

## H. Housing Placements (Section VIII)

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

The County reports that the Construction for ADA improvements is ongoing.

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

- TLF Mod O – Sector 37 and Sector 42
- TLF A/E Barracks
- IRC Mod K – Sectors 21-26
- IRC Mod L – Closed During Tour
- IRC Mod M – Sectors 21-26
- IRC Mod S – Sector 2
- CMJ Mod O – Ward C, Ward D, and Sheltered Living (SL) (12 cells)

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

The Expert previously noted that the revised and implemented Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, “Inmates with a disability shall be housed in the most integrated setting appropriate, consistent with their individual security classification, in facilities that accommodate their disabilities and in which they have equivalent access to programs, services, and activities. Qualified inmates with a disability will have access to the same services, programs, and activities offered to other inmates of the same classification level. Inmates with disabilities will be provided accessible showers, toilets, sinks, equipment, etc., consistent with their disability and accommodation needs.”

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

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

The Expert continues to note that due to the limited number of accessible housing locations coupled with classification case factors, the County must currently place some incarcerated persons who require accessible housing in the CMJ Mod O SL cells. The Expert also notes that the County has recognized that the SL cells create operational difficulties, including the provision of adequate out-of-cell time, program access, and socialization for incarcerated persons with disabilities. Incarcerated persons interviewed stated because they are housed in the SL cells, they are not

provided programs such as education and self-help as they would if they were housed in other housing locations.

The Expert notes that as accessible housing is brought online, the County will be in a better position to ensure that all disabled incarcerated persons are housed in the most integrated setting, consistent with their individual security classification, in facilities that accommodate their disabilities and in which they have equivalent access to programs, services, and activities.

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

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

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

The County reported that additional opportunities are continuing to be explored; however, the County notes the Remedial Plan provision states, "The County shall provide persons with disabilities at all classification levels with access to out-of-cell time, programs, services, and activities that are equivalent to the access provided to persons without disabilities with comparable security and classification profiles." The County reports that "Access to programs, activities, and Green Sector are contingent on classification profiles."

Although the revised and implemented Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, "Qualified inmates with a disability will have access to the same services, programs, and activities offered to other inmates of the same classification level," the Expert continues to note that due to the limited number of accessible cells/beds, the County must place some disabled incarcerated persons (those who do not have mental health needs or who do not qualify for Barracks housing) who require accessible housing in the TLF and CMJ Mod O. Based on this, and the classification case factors which prohibit the mixture of the incarcerated population, the disabled incarcerated persons who require accessible housing are not being provided with access to out-of-cell time, programs, services, and activities equivalent to non-disabled incarcerated persons, including in-person programs (educational, self-help and computer programs) and work assignments.

The Expert wants to highlight that the County monitors the cases of individuals housed in the SL cells, and when housing becomes available, the cases are transferred from the SL cells to accessible housing locations.



Once more accessible housing is brought online, the County will be in a better place to ensure incarcerated persons with disabilities who require accessible housing are provided equivalent access to out-of-cell time, programs, services, and activities as persons without disabilities with comparable security and classification profiles and incarcerated persons who do not require accessible housing. Although there is progress in the area of program opportunities, there is still some concern with respect to ensuring equal opportunities to access in-person classes (as opposed to via correspondence packets) for the disabled incarcerated person, particularly those housed in the CMJ Mod O and SL and those housed in TLF Mod O.

The County continues to make progress in providing access to the Barracks' outdoor field recreation area (Green Sector) instead of being limited to the much smaller and concrete-filled interior recreation space for disabled incarcerated persons housed in TLF Mod O, Sector 37 (disability cluster unit). During the monitoring tour, incarcerated persons interviewed stated that they are being provided access to the Green Sector yard; however, as reported in the Restrictive Housing Report, the Green Sector yard is at times not in use based on yard staff's redirection to other duties. The County should make a concerted effort to provide access to the disabled incarcerated persons (who meet the classification criteria) housed in other Mod O sectors (including for reasons related to their disability and disability-related housing needs).

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

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

C. *The County shall maintain a housing assignment system that utilizes information in the ADA Tracking System/Existing ADA Tracking System for each person's disability needs, including, but not limited to:*

1. *The need for ground floor housing;*
2. *The need for a lower bunk;*
3. *The need for grab bars in the cell;*
4. *The need for a cell with sufficient clearance for a wheelchair;*
5. *The need for accessible toilets;*
6. *The need for accessible showers;*
7. *The need for no stairs or other obstructions in the path of travel;*
8. *The need for level terrain; and*
9. *The need for mental-health-related accommodations.*

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

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

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

The County reported that construction for ADA improvements is ongoing. Additionally, the County also reported that class instruction, potentially all going online via the tablets instead of in-person, continues to be a point of discussion.

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

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

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

otherwise be warranted. The fact that an inmate has a disability and/or requires a reasonable accommodation shall not be a factor in determining an inmate's security classification. Not all inmates with a mobility disability or tapping cane require an ADA accessible cell or unit. However, the inmate may still require reasonable accommodations related to their housing such as a cell with certain ADA features (grab bars), lower bunk/lower tier, or access to an ADA accessible shower facility. Where CHS staff or ADA Compliance unit staff advise the Classification Unit that an inmate requires a housing accommodation (e.g., ADA Cell, ADA Housing, lower bunk/lower tier), the Classification Unit/PMU Unit shall determine the appropriate housing location consistent with the inmate's classification and disability-related needs."

As in the previous monitoring tour, Classification and PMU staff stated that incarcerated persons with a disability are not placed in inappropriate security classifications simply because no ADA-accessible cells or beds are available or designated medical areas unless the person is currently receiving medical care or treatment that necessitates placement in a medical setting; or any location that does not offer the same or equivalent programs, services, or activities as the facilities where they would be housed absent a disability. However, as noted in H.B above, due to the limited number of accessible cells/beds available, the County must continue to place some disabled incarcerated persons (those who do not have mental health needs or who do not qualify for Barracks housing) who require accessible housing in the TLF and CMJ Mod O. Based on and classification case factors and limited accessible housing options due to physical plant issues, many disabled incarcerated persons who require accessible housing are not being provided with access to out-of-cell time, programs, services, and activities equivalent to non-disabled incarcerated persons. Once more accessible housing is brought online, the County will be in a better place to ensure incarcerated persons with disabilities who require accessible housing are provided equivalent access to out-of-cell time, programs, services, and activities as persons without disabilities with comparable security and classification profiles and incarcerated persons who do not require accessible housing.

Another issue that came up during the interview with Programs staff is the Program Access needs for incarcerated persons with qualifying disability conditions that are housed in Mod O. As an example, an incarcerated person who needs a CPAP or who has Diabetes may be housed on Mod O based on these factors. If these incarcerated persons have classification case factors (GP-5, 6, 7, etc.) that would otherwise allow them to be housed in dorms or other settings with more access to jobs, programs, Green Sector yard, etc., then they too need to be provided access to these programs, similar to the Mod O incarcerated persons with ADA System-Tracked disabilities.

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

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

### *E. Sheltered Living cells*

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

The County reports that the ADA construction is ongoing with the goal of no longer housing incarcerated persons with a disability in the SL cells.

The Expert notes that the County is in the process of making physical plant modifications, adding accessible housing, accessible features, and accessible paths of travel for incarcerated persons to have equivalent access to the Jail's programs, services, and activities. The Expert notes that once accessible housing is brought online, the County will no longer house incarcerated persons who require accessible housing in the SL cells.

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

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

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

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

that an inmate deemed to require accessible accommodations is provided with such accessible accommodations as soon as possible.”

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

During the on-site review, the Expert noted there were eight (8) incarcerated persons housed in the SL cells. The Expert requested, and the County produced the following housing factors for the eight (8) cases.

- ADA Mobility, Wheelchair. Requires ADA-accessible housing (PC-2) – Placed in SL on 8/10/23. No other housing options available at this time for a PC-2 needing an ADA compliant cell.
- ADA Vision, Tapping Cane. Requires ADA-accessible housing (PC-1) – Placed in SL on 8/1/23. No other housing options available at this time for a PC-1 needing an ADA compliant cell.
- ADA Mobility, Wheelchair. Requires ADA-accessible housing (PC-1) – Placed in SL on 8/24/23. Was in medical housing at TLF Mod O prior to move. On 8/24/23, medical determined he needed an ADA compliant cell. TLF did not have any ADA compliant cells available for a PC-1.
- ADA Mobility, Wheelchair. Requires ADA-accessible housing (PC-1) – Placed in SL on 8/3/23. No other housing options available at this time for a PC-1 needing an ADA compliant cell.
- ADA Mobility, Wheelchair. Requires ADA-accessible housing (PC-3) – Placed in SL on 8/16/23 to make room for another incarcerated person housed at TLF. No other housing options available at this time for a PC-3 needing an ADA compliant cell.
- ADA Mobility, Wheelchair. Requires ADA-accessible housing (PC-2) – Placed in SL on 8/13/23 to make room for another ADA incarcerated person needing ADA housing. No other housing options available at this time for a PC-2 needing an ADA compliant cell.
- ADA Mobility, Wheelchair. Requires ADA-accessible housing (PC-2) – Placed in SL on 8/13/23. No other housing options available at this time for a PC-2 needing an ADA compliant cell.
- ADA Mobility, Wheelchair. Requires ADA-accessible housing (PC-2) – Placed in SL on 8/24/23. Was in medical housing at TLF Mod O prior to move. On 8/24/23, medical determined he needed an ADA compliant cell. TLF did not have any ADA compliant cells available for a PC-2.

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The Expert notes that during this monitoring tour, none of the incarcerated persons housed in the SL had medical conditions such as requiring a CPAP machine.

Classification and PMU staff stated that incarcerated persons with a disability are housed in the SL cells only if there are no other placement options due to the lack of alternative housing options that both meet specific disability needs (e.g., mobility, CPAP/electric outlet access, etc.) and are consistent with individual classification case factors and security concerns.

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

Although this is the third report in which this provision is found to be Adequately Implemented, the Expert will continue to monitor compliance with this requirement so long as the Sheltered Living housing unit remains in use and houses incarcerated persons with disabilities.

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)**

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

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

During the incarcerated person interviews, all incarcerated persons interviewed stated that staff assisted them in accessing the yard (e.g., pushing the wheelchair over the curb near the elevator). The incarcerated persons also report that staff assist them when navigating the ramp leading to the yard.

The Expert notes there is no policy or procedure (or other written directive) that addresses this requirement and recommends that one be issued.



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Based on this, the Expert has determined that the County has adequately implemented the RP requirement. The Expert is informed of renovation plans for the Central Men's Jail yard to remedy accessibility issues and will continue to monitor RP compliance regarding this space in the interim and following the completion of these renovations.

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

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

The County reported that the ADA Compliance team and the Population Management Unit communicate via email to ensure people who require accommodations are placed in housing consistent with their needs as soon as possible. For the next document production, OCSD will provide SDS records for housing history so the Expert can see when a person is rehoused.

Although the County reports that the ADA Compliance team and the Population Management Unit communicate via email to ensure people who require accommodations are placed in housing consistent with their needs as soon as possible, the Expert will need proof of practice that the periodic quality assurance audits are conducted.

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

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

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

The County reports that the ADA Tracking List is distributed to housing staff M-F and is checked daily (M-F) for housing accommodation needs. The ADA Tracking List includes disability, needed accommodation(s), and housing location. These are continually monitored by ADA Compliance to ensure appropriate housing is consistent with disability and accommodation needs. This is a quality assurance check. Any discrepancies are immediately addressed with the Population Management Unit via email to ensure people who require accommodations are placed in housing consistent with their needs as soon as possible. For the next document production, OCSD will provide SDS records for housing history so Sabot can see exactly when and where a person is housed.

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

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

The County produced 27 emails that reflect the ADA Compliance Unit identified 27 cases where incarcerated persons with housing accommodations required LB/LT or accessible housing based on a new J-112/J-105 or, in some cases, were housed inconsistent with their housing accommodation needs. The type of housing required included Low Bunk/Low Tier, ADA, and Medical housing.

The ADA emails reflect the ADA Compliance Unit notified PMU requesting the incarcerated person be moved/rehoused. However, the documents produced by the County (Housing Location Report) do not reflect the time the incarcerated person was moved/rehoused into appropriate housing.

The Expert will need to review individual records and proof-of-practice documentation in the next monitoring round to confirm adequate implementation, including that appropriate mechanisms are in place to identify and expeditiously move/rehouse people with disabilities who are not properly housed given their individual disability needs.

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

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

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

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

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

The County reported that Program staff continue to recruit in Mod O on a regular basis for face-to-face services in the TLF Programs Building. However, only classification levels GP 6/7 are eligible to attend. The only individual who was interested and enrolled decided to drop out of the class the day he was supposed to begin the class. There was a deputy escort arranged for this individual to be transported to and from the Programs Building. OCSD, including programs and custody staff, should continue in their efforts to inform people with disabilities about programming opportunities and ensure that they meaningful access to such opportunities.

The Expert previously noted that the revised and implemented Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, “Qualified inmates with a disability will have access to the same services, programs, and activities offered to other inmates of the same classification level. Inmates with disabilities will be provided the opportunity to work, both in the Jail and through the Community Work Program. Those who accept the opportunity will meet with the CHS ADA Compliance R.N. and ADA Compliance Unit. An individualized interactive process will take place to determine the type of assignment and provision of reasonable accommodations as needed to allow the inmate to participate. Staff supervising inmates must consider, with input from the inmate, reasonable accommodations that would make it possible for the inmate to perform the essential job functions and/or consider whether the inmate could, with or without reasonable accommodations, perform the essential job functions of another position. Staff shall notify the ADA Compliance Unit if they notice that an inmate with a disability is having trouble participating in programs and services, to discuss provision of reasonable accommodations as necessary to address the issue.”

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

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In other sections of this report, the Expert notes that based on the lack of detailed documentation of dayroom and outdoor recreation, the Expert cannot measure the County's compliance with the requirement for the County to provide equal access to dayroom and recreation. The County previously reported that "Guardian RFID," when implemented, will have the ability to track and report on the out-of-cell time for incarcerated persons.

In a review of the 493 ADA Interview/Activity Logs the County produced, the Expert notes the following five (5) cases where the disabled incarcerated persons claimed they were not being provided the required out-of-cell time:

- States he is not being offered outdoor rec as much and would like more. The housing staff was notified.
- Claims he is only receiving 1 hour of outdoor rec a week.
- Claims dayshift deputies are not being accommodating to her ADA needs regarding the dayroom, roof, and ADA showers.
- States he has not been getting his 3 hrs of outdoor rec for the week. The housing staff was notified.
- States outdoor rec is not being offered in a rotation. Mod deputies were notified of this concern.

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

As reported in section F.F., easy-reading books are available for disabled incarcerated persons. Additionally, the Expert notes that large print reading material is available for disabled incarcerated persons. The Expert does note that the County provides "Books on Tape" for incarcerated persons with vision disabilities.

As reported in sections J and K, the County provides incarcerated persons with disabilities some access to Work Assignments, including the Community Work Program.

The County provides incarcerated persons with disabilities access to accessible showers by housing the incarcerated persons in locations with accessible showers or escorting the incarcerated persons to the accessible shower locations. In addition, the County provides incarcerated persons access to shower chairs, although some individuals have complained about being denied access to a shower chair despite concerns about instability related to their mobility disability.

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

The Expert and DRC learned and saw photo documentation of a Deaf individual who was able to participate in a jail yoga/movement program with access to VRI provided through a tablet. This was an excellent example of ADA Compliance and programming team efforts to ensure meaningful program access to a person with a disability.

The Expert notes that the public and attorney visiting services are accessible, and incarcerated persons with disabilities have equal access to the visiting programs. Amplification devices are also provided to hard-of-hearing incarcerated persons.

The Expert previously noted that the revised and implemented Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, "Disabled inmates who cannot read and/or write might have difficulty gaining access to disability-related services if needed. Staff will provide these inmates with assistance with reading and writing to access services and programs. Examples include, but are not limited to, filling out inmate message slips, grievances, and commissary forms. If an inmate cannot read or write and the inmate has a disability, that information will be indicated on the inmate's J-105A form, ADA Tracking List or CHS Functional Needs List."

Staff interviewed stated they would provide assistance to disabled incarcerated persons who require assistance with reading and writing. During the incarcerated person interviews, five (5) incarcerated persons identified as having needs in this area stated they do not need staff's assistance and that they rely on other incarcerated persons for reading and writing assistance. The Expert was not able to confirm these claims.

The Expert previously noted that the revised and implemented Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, "Staff will provide reasonable modifications to jail rules, policies, and practices to enable inmates to participate in the services, programs, and activities offered to other inmates of the same classification level. Some examples of reasonable accommodations include: Assistance in reading or scribing documents (legal, medical, request forms,

grievances, due process etc.). Staff shall not provide assistance in reading legal mail, reference CCOM Policies 1900.3 and 1900.4.”

The Expert notes that all Incarcerated persons are informed of the process of how to request access to medical, mental health, and dental services and treatment. Additionally, during the ADA Compliance Unit interview, the disabled incarcerated persons are informed of the access to healthcare (pink slip) process. None of the disabled incarcerated persons reported they had difficulty accessing medical services. The County produced 21 ADA Interview/Activity Logs that reflect that disabled incarcerated persons are provided the following accommodations so they can access the programs, services, and activities:

- Reading glasses
- Magnifying sheets
- Pocket Talkers

The following in-person program opportunities are available at the OC jails. These programs are facilitated by OCSD program staff. There are additional in-person programs facilitated by Rancho Santiago Community College District Education facilitators. Programs staff reported the Rancho Santiago Community College District requires a minimum of 15 participants for the class/program, and due to the limit of incarcerated persons allowed out-of-cell, OCSD cannot meet this requirement, and classes are not able to be offered by Rancho Santiago Community College District educators.

The Inmate Services Correctional Programs Facility Schedules for the IRC, CMJ, CWJ, and TLF program opportunities reflect the following programs being offered:

- Women’s Central Jail
  - Protestant Service
  - Christian Science Service
  - Catholic Service
  - 7<sup>th</sup> Day Adventist
  - Malachi Women
  - Narcotics Anonymous
  - Substance Abuse
  - Creative Writing
  - GED
  - Back On Track
  - Money Matters
  - Food Services
  - Cell Dogs
  - Women of Purpose
  - Computers



- Accounting
- TAY
- Effective Parenting
- Workforce
- All In
- Great Escape
- PEP
- VR
  
- Men's Central Jail
  - Protestant Service
  - Christian Science Service
  - Catholic Service
  - Jewish Service
  - Protestant Bible Study
  - Malachi Men
  - Great Escape
  - Money Matters
  - Accounting
  - CASAS Testing
  - Effective Parenting
  - Social Service Workshop
  - Computers
  - Food Services
  - Workforce Readiness
  - GED
  - Back on Track
  - Substance Abuse
  - Narcotics Anonymous
  
- Intake Release Center
  - Protestant Service
  - Protestant Bible Study
  - Catholic Service
  - Catholic Bible Study
  - Malachi Women
  - Substance Abuse
  - Workforce Readiness
  - Parenting
  - Great Escape
  - Back on Track
  - AA Panel
  - NA Panel

- Theo Lacy Facility
  - Protestant Service
  - Catholic Service
  - 7<sup>th</sup> Day Adventist
  - Protestant Bible Study
  - Christian Science Service
  - Catholic Bible Study
  - Malachi Men
  - Bible Discipleship
  - Men of Purpose
  - All In Program
  - CASAS Testing
  - Great Escape
  - AA Panel
  - GED
  - Effective Parenting
  - Food Service
  - Money Matters
  - Computers
  - APAIT
  - Back on Track
  - Substance Abuse
  - Home-Based Business
  - Accounting
  - MAT Program
  - Workforce Readiness
  - HUMV Program (Various)
  - PRIDE Program (Various)
  - TAY Program (Various)

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

- Central Men's Jail
  - 2<sup>nd</sup> Floor Classroom #1 – Max 24 (Protestant Service, Malachi Men, Great Escape, Money Matters, Accounting, Effective Parenting, Workforce Readiness, GED, Substance Abuse and Narcotics Anonymous)
  - 2<sup>nd</sup> Floor Classroom #2 – Max 14 (Protestant Service, Christian Science Service, Catholic Service, Jewish Service, Protestant Bible Study, CASAS, Great Escape, Social Service Workshop, Back on Track, and Malachi Men)
  - 2<sup>nd</sup> Floor Computer Lab (GED, Computers, and Food Services)
- Intake Release Center

- 2<sup>nd</sup> Floor Multi-Purpose Room – Max 32 (Malachi Women, Substance Abuse, Workforce Readiness, Parenting, Great Escape, and Back on Track)
- MOD J Room A (Protestant Service)
- Mod J Room B (Catholic Service, AA Panel, Catholic Bible Study, and Catholic Service)
- Mod K Room A (Protestant Bible Study Protestant Service and Catholic Service)
- Mod L Room A (No Programs)
- Mod M Room A (No Programs)
- Mod M Room B (Catholic Service)
- Mod N Room A (AA Panel and NA Panel)
- Mod N Room B (Catholic Service, Protestant Service, Catholic Bible Study, Malachi Women and AA)
  
- Central Women’s Jail
  - Classroom A (NA, Protestant Service, Catholic Service, Malachi Women, TAY, Creative Writing, All In, Great Escape, VR, Cell Dogs, Christian Science Service, and Women of Praise)
  - Classroom B (PEP, Computers, Substance Abuse, GED, Back on Track, Accounting, TAY, Money Matters, Food Services, 7<sup>th</sup> Day Adventist Service and Catholic Service)
  
- Theo Lacy Facility
  - Classroom #2 (Protestant Service, Catholic Service, GED, Effective Parenting, Food Services, Money Matters, GED, Substance Abuse, Home Based Business, Accounting, and AA Panel)
  - Classroom #3 (Computers)
  - Classroom #4 (Catholic Service, Malachi Men, Catholic Bible Study, Bible Discipleship, MAT Group, Great Escape, Workforce Readiness and Men of Purpose)
  - Classroom #5 (All in Program, Protestant Bible Study, Catholic Service and Protestant Service)
  - Chapel (No Programs)
  - Mod I Multi-Purpose Room (Protestant Service, APAIT, AA Panel, Protestant Bible Study, and Catholic Service)
  - Mod J Multi-Purpose Room (Catholic Service, Protestant Service, Protestant Bible Study, APAIT and AA Panel)
  - Mod J Multi-Purpose (Catholic Service, AA Panel, and Protestant Bible Study)
  - Mod K Multi-Purpose Room (Catholic Service, Protestant Bible Study, CASA Testing, AA Panel, Great Escape, Catholic Bible Study, and Seventh-Day Adventist Service)

- Mod L Multi-Purpose Room (Catholic Service, Catholic Bible Study, Protestant Service, Protestant Bible Study, Great Escape, CASAS Testing, and AA Panel)
- Mod M Multi-Purpose Room (Catholic Service, Protestant Service, Back on Track, and AA Panel)
- Mod N Multi-Purpose Room (Catholic Service, Protestant Bible Study, Great Escape, and CASAS Testing)
- Mod O Multi-Purpose Room (Catholic Service, Protestant Bible Study, Protestant Service, CASAS Testing, and AA Panel)
- Mod P Multi-Purpose Room (Catholic Service, Catholic Bible Study, Christian Science Service, Great Escape, Protestant Service, Protestant Bible Study and CASAS Testing )
- Mod Q Multi-Purpose Room (Catholic Service, Protestant Service, Catholic Bible Study, Great Escape and Protestant Bible Study)
- Mod R Multi-Purpose Room (Catholic Service, Protestant Bible Study, and CASAS Testing )

The Expert notes that COVID-19 restrictions have been lifted, and the County is providing in-person programs, which are facilitated by OCS D Inmate Services facilitators, volunteers (religious), and Rancho Santiago Educators. Staff reported that currently, there are no disabled incarcerated persons who are housed in TLF Mod O attending in-person education programs in the TLF program classrooms where most of the programs are offered. The Expert notes that only incarcerated persons classified as GP 6-7 (GP 1-5 are eligible only for correspondence programs) are eligible to participate in the in-person programs provided in the TLF program classrooms. The County reported that there was one (1) incarcerated person with a disability who was enrolled in a computer program; however, on the first day of the program, while being escorted from Mod O to the TLF program classroom, he advised staff that he was not interested in attending the program.

The disabled incarcerated persons housed in TLF Mod O, during the incarcerated person interviews, expressed interest in participating in Educational and Self-Help programs. The County reported that the program's staff has conducted outreach and recruitment of all GP 6-7 disabled incarcerated persons housed in TLF Mod O, and during the outreach/recruitment, there has been no interest from the disabled incarcerated persons. Further efforts to inform and educate this population about programming opportunities is warranted.

The County produced Theo Lacy-Mod O Programs/Classes Recruitment Log that reflects that on June 13, 2023, July 11, 2023, August 9, 2023, and August 24, 2023, recruitment efforts were made for disabled incarcerated persons housed in Mod O Sectors 37 and 40. The log reflects that out of 16 incarcerated persons, only one (1) incarcerated person requested enrollment.

The Expert continues to note that once the physical modifications are made, and the County houses the disabled incarcerated persons in accessible housing throughout the Jails, the incarcerated persons will have more access to the Jails Education and Self-Help programs. The Expert recommends that the incarcerated persons with disabilities in the TLF MOD O will need to be informed of these opportunities through direct engagement with program staff and the ADA Compliance Unit (e.g., during the 30-day ADA Compliance Unit check-ins).

The Expert notes that when the lower security Musick facility (currently under construction) is opened, there will be no disability or mental health-related exclusions (other than those needing a higher level of mental health care). Based on this, the disabled incarcerated person housed in the Musick facility will have access to the facility's programs, services, and activities. The Expert will monitor this component once the Musick facility is activated and populated.

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

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

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

The Expert previously noted that the revised and implemented Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, "Each inmate covered under the ADA must be reasonably accommodated where necessary to ensure safe and meaningful access to the Jail's services, programs and activities, such as modified housing for wheelchair access, use of assistive devices, Effective Communication, or closed captioning on the television for someone with a hearing impairment. There is not a fixed list of appropriate accommodations or assistive devices. Provision of reasonable accommodations and assistive devices should be based on a case-by-case, individualized assessment of the needs of the person with a disability." The policy further states, "Qualified inmates with a disability will have access to the same services, programs, and activities offered to other inmates of the same classification level. Qualified inmates with disabilities will have access to visiting, church services, inmate programs, dayroom/recreation, etc. consistent with their classification level. Inmates with disabilities will be provided the opportunity to work, both in the Jail and through the Community Work Program. Those who accept the opportunity will meet with the CHS ADA Compliance R.N. and ADA Compliance Unit. An individualized interactive process will take place to determine the type of assignment and provision of reasonable accommodations as needed to allow the inmate to participate."

The Expert notes that work supervisors and program facilitators interviewed stated they would provide disabled incarcerated persons with assistance. The work supervisors and program facilitators receive a copy of the "ADA Tracking List" and are aware of the disabled incarcerated persons assigned to their area or their needed accommodations. All incarcerated persons with disabilities who are assigned and participate in programs (educational, work, religious, visiting, etc.) reported that staff provide assistance and accommodations.

The Programs staff reported that although OCSD Programs staff receive and have access to the "ADA Inmate Tracking List," which has the Effective Communication accommodations listed, there is currently no mechanism in place for the Effective Communication accommodation needs to be provided to the Rancho Santiago Education staff. The Programs staff reported that a process would be developed to alert the Rancho Santiago Education staff of the Effective Communication accommodations and a process to document the provision of the Effective Communication.

Additionally, custody staff stated they provide assistance to disabled incarcerated persons based on their accommodation needs listed on the "ADA Inmate Tracking List."

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

As noted elsewhere in this report, although the County has implemented some positive changes in ensuring incarcerated persons with disabilities are provided equal access to the OCSD programs and worker opportunities, there is still an underrepresentation of disabled incarcerated persons assigned to the jail's programming, including classes and worker positions. Based on this, this provision will continue to be monitored, particularly as the County continues its necessary work to expand program and work opportunities for people with disabilities.

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

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

The Expert previously noted that the revised and implemented Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, "Disabled inmates who cannot read and/or write might have difficulty gaining access to disability-related services if needed. Staff will provide these inmates with assistance with reading and writing to access services and programs. Examples include, but are not limited to, filling out inmate message slips, grievances, and commissary forms. If an inmate cannot read or write and the inmate has a disability, that information will be indicated on the inmate's J-105A form, ADA Tracking List or CHS Functional Needs List."



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

Staff interviewed stated they would provide assistance to disabled incarcerated persons who require assistance with reading and writing. During the incarcerated person interviews, five (5) incarcerated persons with reading/writing needs stated they do not need staff's assistance and that they rely on other incarcerated persons for reading and writing assistance. The Expert was not able to confirm these claims.

In the review of the 493 ADA Interview/Activity Logs, the Expert noted the following entries related to the RP requirement:

- ADA Deputy spoke to I/M regarding assistance with filling out the commissary sheet. Stated that a Deputy already assisted with filling out the commissary sheet.
- Helped fill out the top portion of the commissary sheet for the welfare pack.
- Requested assistance in writing a message to show his attorney on his court date, 4-3-23. ADA Deputy assisted in writing the message.
- He is right-handed but said he can write with his left hand. Was told to ask the Mod Deputies or reach out to ADA compliance if he needs assistance with filling out any forms.
- Offered to help fill out the commissary sheet. Refused.
- Helped fill out the top portion of the commissary sheet for the welfare pack.
- Offered to help fill out the commissary sheet. Refused and said he can see and read without assistance.

The Expert previously noted that the revised and implemented Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, "Staff will provide reasonable modifications to jail rules, policies, and practices to enable inmates to participate in the services, programs, and activities offered to other inmates of the same classification level. Some examples of reasonable accommodations include Assistance in reading or scribing documents (legal, medical, request forms, grievances, due process etc.). Staff shall not provide assistance in reading legal mail, reference CCOM Policies 1900.3 and 1900.4."

The Expert notes that the County's policies provide requirements for staff to provide disabled incarcerated persons who cannot read and/or write and who might have difficulty gaining access to disability-related services with reading and writing

assistance to access services and programs, and staff is aware of the RP requirements.

Based on this, the Expert has determined that the County has adequately implemented the RP requirement. The Expert notes that with the rollout of SOMA, the County must ensure the functionality for all staff to document assistance with reading or scribing documents (legal, medical, request forms, grievances, and due process).

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

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

The County reported that on June 27, 2023, the Board of Supervisors approved the contract amendment with ViaPath adding the electronic tablets. The plan was to roll out the tablets starting with the IRC at the end of July 2023.

As reported in section F.F., easy-reading books are available for disabled incarcerated persons. Additionally, the Expert notes that large print reading materials are also available for disabled incarcerated persons. The Expert also notes that the County provides "Books on Tape" for the incarcerated persons with vision disabilities. The Expert notes that the County has, as of the August site visit, not implemented the tablet program, which has the potential to facilitate the provision of equal access to such materials and will also need to be implemented with this equal access provision in mind.

Related to the implementation of this provision, the Expert continues to suggest that the County explore Braille and Audio Reading Materials (BARD) Access through the National Library Service for the Blind and Print Disabled to ensure sufficient and equitable provision of reading materials for individuals with vision disabilities.

<https://www.loc.gov/nls/braille-audio-reading-materials/bard-access/>

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

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

- E. The County shall log and track out-of-cell time and program participation to ensure that people with disabilities receive meaningful and equitable access to such programs and activities. At a minimum, the system shall collect information as to:*

- 1. When the County offers out-of-cell opportunities (dayroom and outdoor); whether the incarcerated person with a disability accepts or refuses the opportunity; and, if*

*an incarcerated person accepts the opportunity, the amount of time spent out of cell;*

The County reports that staff have been reminded to consistently log sufficient information on the OCSD Recreation/Dayroom Logs. Additionally, the current estimate for the implementation of Guardian RFID is January 2024.

The County produced the following OCSD Recreation/Dayroom Logs for the following weeks:

- CMJ (Mods A, B, C, D, E, F, and O)
  - December 12-18, 2022
  - January 16-22, 2023
  - February 13-19, 2023
  - March 13-19, 2023
  - April 10-16, 2023
  - May 15-21, 2023
- CWJ (Mod P and Second Floor)
  - December 12-18, 2022
  - January 16-22, 2023
  - February 13-19, 2023
  - March 13-19, 2023
  - April 10-16, 2023
  - May 15-21, 2023
- IRC (Mods J, K, L, and N)
  - December 12-18, 2022
  - January 16-22, 2023
  - February 13-19, 2023
  - March 13-19, 2023
  - April 10-16, 2023
  - May 15-21, 2023
  - TLF (Mods AE Barracks, F Barracks, G Barracks, H Barracks, Mods J, K, L, M, N, O, P, Q, R and TLF Recreation)
    - December 12-18, 2022 (No Mod I)
    - January 16-22, 2023 (No Mod I)
    - February 13-19, 2023 (No Mod I and TLF Recreation)
    - March 13-19, 2023 (No TLF Recreation)
    - April 10-16, 2023 (No G Barracks, H Barracks, Mod P and TLF Recreation)
    - May 15-21, 2023 (No G Barracks, H Barracks, and TLF Recreation)

The Expert also reviewed a sampling of the logs. The review found that staff does not consistently log sufficient information for the Expert to determine if the incarcerated persons with disabilities accept or refuse the out-of-cell opportunity and the amount of time the incarcerated persons with disabilities spend out-of-cell.

Some of the logs do not reflect the disabled incarcerated person identifiers (name and booking number) for cases where there are multiple disabled incarcerated persons in a housing unit.

The County previously reported that the "Guardian RFID," when implemented, will have the ability to track and report on the out-of-cell time for incarcerated persons.

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

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

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

In a review of the 493 ADA Interview/Activity Logs the County produced, the Expert notes that the ADA Compliance Unit staff interviews the disabled incarcerated persons on a monthly basis as required by the RP. (This monthly interview has proven to be a generally useful and constructive process for addressing disability accommodation and related issues.) The Expert notes the ADA Compliance Unit staff documented in 22 cases the incarcerated person's response to the staff's query about the reason for not going to the yard. A sample of the log entry states, "had 3 consecutive outdoor recreation refusals. I asked inmate why he/she was refusing to go to outdoor recreation, and he stated he doesn't go because he can't walk much. I asked inmate if he needed to speak to mental health and inmate stated he did not need to speak to mental health."

The Expert notes that the ADA Compliance Unit provides disabled incarcerated persons with a message slip addressed to the ADA Compliance Unit and documents "given an inmate message slip addressed to the ADA Compliance Unit in case he has any disability needs" on the ADA Interview/Activity Log. The Expert

also notes that the ADA Interview/Activity Logs reflect that the ADA Compliance Unit staff meets with the incarcerated persons with disabilities when they become aware that an incarcerated person with a disability may need a disability accommodation, mental health referral, or other action to afford meaningful access to out-of-cell opportunities. During the ADA initial and monthly interviews, the ADA staff addresses the following programs:

- Mode of transportation
- Visiting
- Dayroom and showers
- Outdoor recreation
- Programs
- Religious services
- Work opportunities
- CWP opportunity

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

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

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

During the previous monitoring tour, the County reported that the Correctional Programs created an ADA Survey in an effort to engage with ADA clients to discuss programming and services that are available, explain procedures for enrollment, and enroll clients upon request. All ADA clients that request programs/services are screened through classification, and if they qualify to attend in-person programs, transportation to the classroom where the services are facilitated is provided. Programs staff conduct the surveys on a monthly basis. The ADA clients with whom Program staff engage to complete these surveys are randomly selected from the list that is received from ADA deputies.

The County has not conducted a review that includes an assessment of whether the County is offering structured programs and activities, including, but not limited to, religious, educational, vocational, reentry, and substance abuse programs, on an equal basis to people with disabilities or whether there are access/accommodation barriers that need to be addressed. The ADA Survey only advises ADA clients to discuss programming and services that are available, explain procedures for enrollment, and enroll clients upon request.

During the on-site monitoring tour, the County asked DRC for input regarding this requirement. The Expert notes that DRC provided recommendations to the County related to the completion of the annual review.

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

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

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

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

The County reported that work opportunities are being explored for persons with disabilities, consistent with their classification.

The Expert previously reported that the revised and implemented Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, "Inmates with disabilities will be provided the opportunity to work, both in the Jail and through the Community Work Program. Those who accept the opportunity will meet with the CHS ADA Compliance R.N. and ADA Compliance Unit. An individualized interactive process will take place to determine the type of assignment and provision of reasonable accommodations as needed to allow the inmate to participate. Staff supervising inmates must consider, with input from the inmate, reasonable accommodations that would make it possible for the inmate to perform the essential job functions and/or consider whether the inmate could, with or without reasonable accommodations, perform the essential job functions of another position. Staff shall notify the ADA Compliance Unit if they notice that an inmate with a disability is having trouble participating in programs and services, to discuss provision of reasonable accommodations as necessary to address the issue."

In a previous document production, the County provided the following ADA Inmate Work Program – Workflow Process.

- ADA Deputy will provide a list of potential inmates with disability needs for the inmate work program to CHS ADA Nursing for clearance.
- CHS ADA Nurse will conduct a health screening by reviewing the inmate's electronic health record.



- CHS ADA Nurse will provide individualized assessment and complete the Functional Performance Worksheet if not done.
  - If the patient is on psychiatric medication, the patient will be referred to MHSC for clearance.
  - If the patient is on medications for a preexisting condition and/or for any questionable clearances, the patient will be placed on MDSC for clearance.
- CHS ADA Nurse will notify OCSD of the work clearance status with necessary accommodations and limitations to ADA Deputy.

The CHS ADA Nurse reported that she reviews work clearance for all permanent disabilities. Other CHS nurses may be assigned to assess disabilities considered “temporary.” She explained that individuals with mental health and/or Intellectual/Developmental disabilities are reviewed by mental health.

Health care clearance assessments are logged in the health record as a progress note. There has been no method of tracking these assessment for quality assurance; reference to individual progress notes would be required. As the Expert observed during the site visit, such information was difficult to find in individuals’ health records.

The Work Deputies interviewed stated that only sentenced incarcerated persons whose classification score is GP 4-7 are eligible for work assignments. In addition, incarcerated persons with specific charges and in-custody misconduct are ineligible for work. The Work Deputies stated that a list of eligible workers is provided to medical staff, who then provide the medical determination of the incarcerated person's clearance for work. The information provided to the Work Deputy includes responses that include a "yes," "no," "checkback" (for cases who may be detoxing), "cleared for light duty only," or "not cleared for kitchen." Once the medical determination is received, they contact the ADA Nurse for a list of the incarcerated person's physical limitations. The Work Deputies report that they then place the incarcerated person into a work position based on the essential functions of the job and the incarcerated person's physical limitations.

The CMJ Work Deputy stated that when a disabled incarcerated person is interested in being assigned to a work position, the ADA Deputies advise the incarcerated person to send him a message slip. In the review of the 493 ADA Interview/Activity Logs, the Expert notes that during the initial and monthly interviews, the ADA Deputies ask the incarcerated person if they are interested in being assigned to a work position. The CMJ Work Deputy stated that incarcerated persons housed in ADA-accessible housing, including Men’s Central Jail “Ward D,” can be assigned to work positions if they meet the eligibility criteria.

The County reports that currently, incarcerated persons in TLF Mod O can be assigned to kitchen and laundry positions. The TLF work deputy has recruited three times in Mod O for kitchen and laundry positions and had no takers. The TLF Work Deputy

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stated that on three (3) separate occasions, he recruited disabled incarcerated persons housed in TLF Mod O (GP 6-7) for kitchen and laundry positions, and during all recruiting efforts, there were no takers. It is encouraging to observe these efforts, but further outreach and education is necessary so that disabled persons understand and can meaningfully access the work opportunities available.

The TLF Work Deputy stated the work positions that he is responsible for hiring include:

- Kitchen
- Laundry
- Clothing exchange
- 'Mod P workers
- Orderlies
- Compound sweeper
- Landscaping
- Paint crew (currently not filled)

The TLF Work Deputy stated all Mod workers (except Mod P) are hired by the Housing Unit Deputies. The duties include:

- Feeding
- Cleaning
- Clothing exchange
- Laundry sorting

During the incarcerated person interviews, some incarcerated persons interviewed stated they were willing to work, and they were not offered an opportunity to work. However, in a review of a sample of the 493 ADA Interview/Activity Logs the County produced, the Expert notes that the ADA Compliance Unit staff asks the incarcerated person during the initial and monthly interview about their willingness to accept a work assignment position. The ADA Compliance Unit staff notes if the incarcerated person is ineligible for assignment based on classification or security case factors. They also stated when an incarcerated person reports they are interested in being assigned to a work position, they advise the incarcerated person to submit a message slip to the Work Deputy and/or they advise the Work Deputy that the incarcerated person is interested in being assigned to a work position.

Additionally, the County produced documentation that 14 disabled incarcerated persons were assigned to work positions, including five (5) from CJX and nine (9) from TLF. At the time of the on-site review, there were five (5) disabled incarcerated persons assigned to work positions at TLF and three (3) at CJX. Even so, there remains low participation rates in the disability cluster unit in Mod O at TLF, where incarcerated people with disabilities have over time been given the message that

worker opportunities are not available to them. Further outreach and education will be important to remedy this program access/participation disparity.

The County reports the following incarcerated person worker positions are available at the OC Jails:

- TLF
  - AM Kitchen Crew 60
  - PM Kitchen Crew 60-65
  - Mod Workers (Clothing Exchange, Orderlies, Compound Sweepers, Cleaning Crews, Laundry Sorters) 74
- IRC
  - Mod N Female Workers (Mod Worker, Clothing Exchange, Feeding, Cleaning) 8
  - Mod J Male Workers (Mod Worker, Clothing Exchange, Feeding, Cleaning) 16
- CMJ
  - 100 Inmate Workers
- CWJ
  - 25 workers
- Grand Total: 343-348

To achieve equity in work opportunities for people with disabilities, the Expert recommends that they continue to recruit disabled incarcerated persons who are housed in TLF MOD O and who meet eligibility criteria to be assigned to laundry and kitchen worker positions. This will allow for more work opportunities for the disabled incarcerated persons.

Given the observations and reports on this and the CWP issues during the Third Round of monitoring, DRC and the Expert strongly recommends that a Mental Health clinician at each facility (TLF and CJX/IRC) be assigned to the ADA Compliance Team and receive additional ADA training. This will help to ensure that people with IDD or MH-related disabilities are not improperly excluded from work opportunities, CWP, or other programs. The County reported they are exploring this recommendation.

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

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

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

The County Produced the following job descriptions:

- Main Jail Runners/ IRC Runners/Operations/Cleaning Crews
- Kitchen Workers
- IRC/Men's Paint Crew
- Laundry Crew

The job descriptions include the essential functions of each job.

The Expert previously noted that the revised and implemented Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, "Inmates with disabilities will be provided the opportunity to work, both in the Jail and through the Community Work Program Those who accept the opportunity will meet with the CHS ADA Compliance R.N. and ADA Compliance Unit An individualized interactive process will take place to determine the type of assignment and provision of reasonable accommodations as needed to allow the inmate to participate."

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

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

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

The Expert previously noted that the revised and implemented Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, "Inmates with disabilities will be provided the opportunity to work, both in the Jail and through the Community Work Program Those who accept the opportunity will meet with the CHS ADA Compliance R.N. and ADA Compliance Unit An individualized interactive process will take place to determine the type of assignment and provision of reasonable accommodations as needed to allow the inmate to participate."

The Expert notes that the County produced HCA CHS Policy and Procedure 1022 Inmate Workers (Draft). DRC provided feedback on the draft policy in September 2023, which is under review by CHS. The policy includes the medical criteria and also includes specific health conditions that require a sick call appointment for clearance. The Expert also notes that the policy requires that medical staff must confer with the ADA nurse coordinator, and after the evaluation is completed, for

temporary or permanent disability related to mobility, dexterity, vision, hearing, or speech, an ADA Nurse Coordinator will communicate the necessary reasonable health accommodations to OCSD ADA Compliance Unit and enter Work Program Clearance Status in the patient's her. For cognitive, intellectual, and developmental disabilities, medical staff must confer with a CHS psychologist. For mental health diagnosis, medical staff must confer with a mental health clinician. For unstable medical conditions, medical staff must confer with a CHS medical provider.

Medical and ADA Compliance Unit staff interviewed stated that once a disabled incarcerated person requests consideration for a work assignment, the CHS ADA Compliance R.N. evaluates/interviews the incarcerated person to determine the assignments the incarcerated person can be assigned to. In cases where the ADA R.N. cannot make the determination for work clearance, the ADA R.N. refers the case to a medical provider for review. A medical provider interviewed stated that in conducting her review she does not automatically exclude the disabled incarcerated person and identifies modified duty restrictions for the incarcerated person to be able to work. The ADA R.N. and the medical provider stated that CHS staff document the Work Status (Work With Restrictions/No Work) on an HCA Medical Message Slip, which is provided to custody staff and is also provided to the incarcerated person.

Cases that are in the mental health delivery system are referred to mental health for a case review. A CHS clinician interviewed stated that she conducts the review for in-custody and Community Work Program mental health clearance.

During the site visit, a mental health staff member who was interviewed stated that if an incarcerated person was prescribed psychotropic medication, this would be an exclusion from participating in the CWP. This statement was consistent with observed practice, and constitutes improper discrimination based on disability.

The Draft HCA CHS Policy and Procedure 1022 Inmate Workers states:

Senior Nurse/Supervising Nurses receive inmate (in-jail and CWP) worker eligibility screening lists from OCSD's Work Deputy for patients housed within Orange County Jail facilities prior to a patient receiving a work assignment.

- Senior/Supervising Nurse or assigned clinical staff designee will conduct a chart review to ensure the patient is:
  - Free from withdrawing from illicit drugs or alcohol
  - Physically and mentally capable of working, including with the provision of health-related or disability-related accommodations and/or adaptive supports.
    - Assigned clinical staff reviewer will confer with appropriate CHS clinical staff or schedule appropriate follow-up sick call appointment(s) whenever health status is unclear upon

reviewing patient's EHR (refer to table in Section B for scheduling appropriate appointments).

- Not currently placed in medical isolation/quarantine

No information was provided as to what guides the medical provider's or mental health clinician screening, including whether providers have been trained to consider and recommend reasonable accommodations that would allow individuals with medical conditions/disabilities to participate in work opportunities.

The County reported that CHS will continue to provide training to staff on policy 1022.

The County must ensure that individuals with medical and mental health conditions that are qualified disabilities are not excluded from work assignments based on their medical or mental health condition where they could effectively participate in the work assignment program, with or without reasonable accommodations. These evaluations should also be documented in the individual's health and/or custody record to show proof of practice, to ensure that appropriate reasonable accommodations are provided on a consistent basis moving forward, and to avoid duplication of efforts in the reviews.

In the next monitoring round, the Expert is requesting that the County produce medical documentation (medical and mental health progress notes) for completed work assignment medical evaluations that were denied by CHS staff (medical and mental health).

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

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

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

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



The policy also states, “Staff supervising inmates must consider, with input from the inmate, reasonable accommodations that would make it possible for the inmate to perform the essential job functions and/or consider whether the inmate could, with or without reasonable accommodations, perform the essential job functions of another position.”

The Work deputies interviewed stated that in the event the individual could not perform the essential function of the work assignment absent an accommodation, the supervisor would provide reasonable accommodations for the individual to perform the assignment, and in cases where they cannot perform the essential functions even with an accommodation, the individual would be placed in another work assignment where they could be accommodated.

The three (3) incarcerated persons with disabilities interviewed who were assigned to job positions stated that work supervisors provide accommodations for them to perform the work assignment, such as modified duties and, in one case, allowing him to sit and rest as needed.

Based on this, the Expert finds the County has adequately implemented the RP requirement. This provision will continue to be monitored closely, including as the County works to increase access and participation of people with disabilities in worker positions. To maintain this Adequately Implemented designation, particular attention must be given to ensuring that people with mental health or cognitive disabilities are not improperly excluded but instead reasonably accommodated as appropriate to provide for meaningful access to these work programs.

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

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

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

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The County reported that the ADA team is following up with I/DD persons as part of their interview process and will assist with exploring work opportunities for those persons.

The Work deputies interviewed stated that in the event the individual could not perform the essential function of the work assignment, the supervisor would provide reasonable accommodations for the individual to perform the assignment, and in cases where they cannot perform the essential functions of a particular job even with an accommodation, the individual would be placed in another work assignment where they could be accommodated.

The Expert notes that the revised and implemented Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states that work supervisors/teachers shall be informed as appropriate as to the incarcerated persons with Intellectual/Developmental Disabilities, their individualized plan, related accommodations, adaptive support needs, and staff responsibilities to provide for such needs. The Expert provided a sample "Adaptive Support Log" and the County reports that the log will be modified and include a process for staff to identify the accommodations and supports (e.g., additional supervision and training, modified production expectations, expanded timeframes for completion of projects, etc.) that work supervisors must provide and document. No individuals with Intellectual/Developmental Disabilities had an individualized plan, nor were any assigned worker positions during the monitoring period.

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

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

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

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

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

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The County reports that OCSD has developed a form (Attachment B) to notify work supervisors of any needed accommodations for the CWP participants. Additionally, the County reports that CHS will continue to provide training to staff on policy 1022 and provide completed work assignment medical evaluations for the August 2023 Sabot tour.

In a review of the 493 ADA Interview/Activity Logs the County produced, the Expert notes that the ADA Compliance Unit staff notes if the incarcerated person is ineligible for CWP assignment based on classification or security case factors (type of charges and time to serve). The CWP deputy stated that all incarcerated persons are screened for placement into the CWP. If the incarcerated person meets the custody/classification criteria (no violence, weapons, sex, or gang commitment offenses), the deputy initiates a full background. All incarcerated persons who meet this initial screening criterion move on in the process. However, all potential candidates must meet the time-to-serve criteria (i.e., between 5 and 240 days to serve). All candidates who meet the custody and time-to-serve criteria are referred to medical, mental health, and warrants check. If the candidate is cleared by medical and mental health and the warrants check, they are interviewed by the CWP deputy. During the previous monitoring tour, the CWP deputy stated that 40 to 50 percent of the eligible candidates refuse to participate in the CWP. The CWP deputy also stated that all candidates must have a permanent address and transportation to be considered for CWP. The County produced the CWP ADA Activity Tracker, which reflects that three (3) disabled incarcerated persons (of 102 CWP participants) have been assigned to the CWP (12/1/22 to 5/31/23).

The County must ensure that individuals with medical and mental health conditions that are qualified disabilities are not excluded from the CWP based on their medical and mental health condition and are allowed to participate in the CWP with the necessary accommodations.

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

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

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

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

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

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

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

The Expert addresses this requirement in detail in Section K. A. above.

During the on-site monitoring tour, the Expert became aware of a disabled incarcerated person who had been cleared by medical staff for participation in the CWP; however, he was not cleared for CWP by the mental health staff. The Expert followed up with mental health staff and requested the mental health progress note for the CWP exclusion; however, CHS staff could not locate the mental health progress note. The Expert requested that the County reconsider the CWP exclusion if it was based solely on the incarcerated person being prescribed psychotropic medication. The Expert also interviewed the incarcerated person, and he reported that he had been taking psychotropic medication for 13 years. Subsequent to the monitoring tour, the County informed the Expert that the individual had been cleared for CWP by mental health staff.

The County reports that CHS will continue to provide training to staff on policy 1022 and provide completed work assignment medical evaluations for the August 2023 Sabot tour.

In the next monitoring round, the Expert is requesting that the County produce medical documentation (medical and mental health progress notes) for completed CWP medical evaluations that were denied by CHS staff (medical and mental health).

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

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

- 3. To ensure equitable CWP opportunities for people with disabilities, the County shall: Ensure that staff supervising CWP workers consider, with input from the*

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*incarcerated person, reasonable accommodations that would make it possible for the person to perform the essential job functions and/or consider whether the person could, with or without reasonable accommodations, perform the essential job functions of another CWP position.*

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

The policy also states, "Staff supervising inmates must consider, with input from the inmate, reasonable accommodations that would make it possible for the inmate to perform the essential job functions and/or consider whether the inmate could, with or without reasonable accommodations, perform the essential job functions of another position."

The County reports that OCSD has developed a form (Attachment B) to notify work supervisors of any needed accommodations for the CWP participants.

The CWP deputy interviewed stated that in the event the individual could not perform the essential function of the work assignment, the supervisor would provide reasonable accommodations for the individual to perform the assignment, and in cases where they cannot perform the essential functions even with an accommodation, the individual would be placed in another CWP assignment based where they could be accommodated.

Although there were no specific cases to review, the County has policies in place, and staff is aware of the RP requirements. Based on this, the Expert finds the County has partially implemented the RP requirement. The County is in a good position to achieve an Adequate Implemented designation in the near term, specifically with proof of practice that people with a disability – whether ID/DD, learning, vision, hearing, mobility, medical condition-related, mental health, etc. – are obtaining CWP assignments with due consideration and provision of accommodation needs.

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

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

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

The County reports that OCSD has developed a form (Attachment B) to notify work supervisors of any needed accommodations for the CWP participants.

The CWP deputy interviewed stated that in the event the individual could not perform the essential function of the work assignment, the supervisor would provide reasonable accommodations for the individual to perform the assignment, and in cases where they cannot perform the essential functions even with an accommodation, the individual would be placed in another CWP assignment where they could be accommodated.

The Expert notes that the revised and implemented Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states that work supervisors/teachers shall be informed as appropriate as to the incarcerated persons with Intellectual/Developmental Disabilities, their individualized plan, related accommodations, adaptive support needs, and staff responsibilities to provide for such needs. The Expert provided a sample “Adaptive Support Log” and the County reports that the log will be modified and include a process for staff to identify the accommodations and supports (e.g., additional supervision and training, modified production expectations, expanded timeframes for completion of projects, etc.) that CWP work supervisors must provide and document.

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

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

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

The County reports that CHS will continue to provide training to staff on policy 1022 and provide completed work assignment medical evaluations for the August 2023 Sabot tour.

The Expert addresses this provision in detail in Sections K. A and K. A. 2. Above.



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The County must ensure that individuals with medical conditions (including mental health) that are qualified disabilities are not excluded from the CWP based on their medical condition and are allowed to participate in the CWP with the necessary accommodations.

In the next monitoring round, the Expert is requesting that the County produce medical documentation (medical and mental health progress notes) for completed CWP medical evaluations that were denied by CHS staff (medical and mental health).

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

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

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

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

The County reports that OCSD has developed a form (Attachment B) to notify work supervisors of any needed accommodations for the CWP participants.

The CWP deputy interviewed stated that in the event the individual could not perform the essential function of the work assignment, the supervisor would provide reasonable accommodations for the individual to perform the assignment, and in cases where they cannot perform the essential functions, the individual would be placed in another CWP assignment based on their physical limitations.

The Expert did not interview CWP work supervisors or disabled persons assigned to the CWP. The County produced the CWP ADA Activity Tracker, which reflects that three (3) disabled incarcerated persons (of 102 CWP participants) have been assigned to the CWP (12/1/22 to 5/31/23).

The County continues to be in a good position to achieve an Adequately Implemented designation in the near term, specifically with proof of practice that people with a disability, whether ID/DD, learning, vision, hearing, mobility, medical condition-related, mental health, etc., are obtaining CWP assignments with due consideration and provision of accommodation needs.

The Expert notes the County has policies in place, and the staff is aware of the RP requirements. Based on this, the Expert finds the County has partially implemented the RP requirement.

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

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

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

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

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)**

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

The Expert previously noted that the revised and implemented Custody & Court Operations Manual (CCOM) 8000 Inmates with Disabilities policy states, "The

disability grievance process shall be effectively communicated to inmates with disabilities affecting communication.”

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)**

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

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

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)**

Note: Although monitoring has been suspended, the Expert has some concerns that not all grievances that request disability accommodations and/or raise any disability-based discrimination or violation of the ADA, this RP, or Jail ADA-related policy are being tracked. Two responsive grievances were not produced and only one (1) ADA-related grievance was produced from CJX. The Expert will monitor this provision during the next monitoring round.

- C. The County shall ensure that all persons, including people with disabilities, have meaningful access to the grievance process and to grievance forms.*

- 1. The County shall ensure that grievance forms are readily available to people in custody, either by placing grievance forms in the housing units in areas accessible to people in custody or ensuring that staff provides grievance forms promptly upon request, irrespective of the type of grievance raised.*

The Expert previously noted that the revised and implemented Custody & Court Operations Manual (CCOM) 8000 Inmates with Disabilities policy states, “All inmates, including inmates with disabilities, will have meaningful access to the grievance process and to grievance forms. Grievance forms will be readily

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available to inmates, either in the housing units or provided by staff promptly upon request.”

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)**

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

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

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)**

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

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

The Expert previously noted that the revised and implemented Custody & Court Operations Manual (CCOM) 8000 Inmates with Disabilities policy states, “Disabled inmates who cannot read and/or write might have difficulty gaining access to disability-related services if needed. Staff will provide these inmates with assistance with reading and writing to access services and programs. Examples include, but are not limited to, filling out inmate message slips, grievances, and

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commissary forms. If an inmate cannot read or write and the inmate has a disability, that information will be indicated on the inmate's J-105A form, ADA Tracking List or CHS Functional Needs List."

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

Custody staff interviewed stated they would assist incarcerated persons with assistance in completing grievances. Some of the incarcerated persons interviewed stated that, at times, they rely on other incarcerated persons to assist them in accessing the grievance process.

The Expert notes the ADA STC PowerPoint includes information on staff requirements to provide assistance (filling out paperwork/forms) to intellectually/Developmentally Disabled and Visually Impaired incarcerated persons.

Although there were no specific cases to review, the County has policies in place, and staff are aware and have been trained on the RP requirements. Based on this, the Expert finds the County has adequately implemented the RP requirement.

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

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

- 1. The Housing Sergeant who receives the grievance or appeal shall screen all ADA-related grievances and appeals within one day of receipt to determine whether the grievance presents an urgent issue regarding a person's safety or well-being. For grievances and appeals that present an urgent issue, the County shall either (a) immediately provide an interim accommodation that addresses the urgent issue pending a final response to the grievance or (b) resolve the grievance promptly with the participation of health care staff, as appropriate. For grievances that raise significant and imminent health or safety risks, the County shall address the grievance immediately.*

The Expert previously noted that the revised and implemented Custody & Court Operations Manual (CCOM) 8000 Inmates with Disabilities policy states, "The Housing Sergeant who receives the grievance or appeal shall screen all ADA-related grievances and appeals within one day of receipt to determine whether the grievance presents an urgent issue regarding inmate's safety or well-being. For

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

Staff reported that the Housing Sergeants screen all grievances within one (1) day of receipt, and in cases where the grievances are identified as ADA-related grievances and the issue being grieved presents an urgent issue (safety or well-being), staff provide an interim accommodation pending a response and/or resolve the issue as soon as possible. The staff also reported that in these cases, they inform the ADA Compliance Unit staff.

In the following grievances, the incarcerated person raised safety concerns related to his housing and disability access needs:

- TLO13023/0715 – Requesting a wheelchair, cane, or to be placed in Mod O. Response states, "You were evaluated by the medical provider on 1/31, and your concern was addressed at that time. Please submit a pink inmate health message slip to communicate directly with health care personnel regarding this or any future concern."
- TLO13123/2025 – Claims housing location is not safe. Requesting accessible cell and shower. The response states, "Has been moved to ADA Compliant Housing."
- TLO20723/2126 – Claims housing location is not safe. Requesting transfer to Mod O. Response states, "Third grievance. Recently answered under JI # TL020123/1145."
  - Note JI # TL020123/1145 was not produced.

The initial grievance TLO13023/0715 was submitted on 1/28/23. The second grievance, TLO13123/2025, was submitted on 1/31/23. The third grievance, TLO20723/2126, was submitted on 2/6/23. The response (TLO13123/2025) states the incarcerated person was moved to ADA-Compliant Housing; however, there is no date reflected on the grievances of when the incarcerated person was rehoused for the Expert to determine if the County resolved the grievance promptly.

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

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

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



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

The County reports that the County will be revising policy and developing training to address these requirements of the Remedial Plan.

A review of the 21 disability-related grievances produced found that the County did not document the date the grievance response was provided to the incarcerated person in 16 of the cases.

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

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

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

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

The County reports that training will be developed on how to provide grievance responses that meet the requirements of the Remedial Plan.

The Expert notes there were three (3) grievances where the response states that “you are currently scheduled for follow-up.” The response does not communicate

why the County could not resolve the grievance within the fourteen-day deadline and, nor did the response provide relative information regarding any subsequent events scheduled to resolve the grievance (e.g., a specialist appointment) and address, as appropriate, the provision of interim accommodations pending resolution.

The Expert notes that the staff interviewed were aware of the RP requirements. Based on this, the Expert finds the County has partially implemented the RP requirement.

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

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

The Expert previously noted that the revised and implemented Custody & Court Operations Manual (CCOM) 8000 Inmates with Disabilities policy states, "If the grievance is a request for an accommodation, the response must articulate whether the inmate will be granted the requested accommodation, provided an alternative accommodation, or whether the requested accommodation is declined. If the requested accommodation is declined, the response must explain the reasoning for the decision. If an accommodation is provided (either the requested accommodation or an alternative), staff will document that the granted accommodation has been provided."

Listed below is a summary of the 21 grievance responses:

- TLO30623/1645 – Requested free phone calls based on SB 1008. The response states, "SB 1008 refers to free telephone calls for people held in juvenile hall and state prison. SB 1008 does not apply to local jails."
- TLO12023/0757— Requested medical care for swollen legs. The response states, "You were seen by the medical provider most recently on 1/23, and your concerns were addressed at that time. The provider discussed your pending specialist follow-up appointments and your refusal of your diagnostic testing appointment. This appointment is being rescheduled."
- TL121222/2338 – Requesting regular ortho shoes. The response states, "You were scheduled for an appointment regarding your medical device on 12/27 and refused to attend the appointment at that time. You have been advised by health care personnel that your appointment was rescheduled."

- TLO12723/2035– Requesting a back brace. Response states, “You were seen by the medical provider on 1/27 and your concerns were addressed at that time. Please submit a pink inmate health message slip to communicate future health care concerns directly with health care personnel.”
- TLO11823/2100 – States doctors continue to ignore and violate ADA. No specific issues are listed. The response states, "You are scheduled to be seen by the medical provider and ADA health care personnel regarding your concerns. Inmate health message slips are only managed by health care personnel and are not viewed outside of HIPAA-covered entities."
- TLO10723/1350 – CDCR 2275-CJ Requesting assistive device (DME and eyeglasses), mental health care, and medical care. The response states, "You were evaluated by the medical provider on 1/11, and your concerns were addressed at that time. Your request was submitted to the Optometrist, and glasses have been reordered from your prescription on file. You were most recently seen by mental health personnel on 1/1/23 and are currently scheduled for routine follow-up. Please submit a pink inmate health message slip to communicate directly with health care personnel regarding these or any future concerns."
- TLO40823/1150 –States he is in need of orthopedic/knee surgeries. Requesting renewal of shoe Chrono. The response states, "You were seen by healthcare personnel on 4/7, and your concern was addressed at that time. Please submit a pink inmate health message slip to return to care as needed."
- TLO51823/2313 – Requesting to be moved from Mod Q to Mod O-37 due to the need for an accessible shower. States he was housed in Mod O during previous incarceration. The response states, "You were notified by health care personnel on 5/26 that the medical provider determined there was no medical indication for your request at this time. Please submit a pink health message slip to return to care as needed."
- TLO32523/0116 – Requesting cane or crutches. States cane was taken away, and he still has an immobilizer brace. The response states, "You are currently scheduled for follow-up with the medical provider regarding your concern."
- TLO32523/0015 – Requesting an assistive device due to being unable to put weight on his foot, which is affecting his day-to-day life. Requesting to speak with ADA representative. The response states, "You were referred to the medical provider by the ADA nurse and seen on 3/30. Your concern was addressed by the provider at that time. Please submit a pink inmate health message slip to return to care as needed."
- TLO21323/0140 – Requesting an interview with ADA regarding move from medical housing to Barracks. The response states, "You were seen by the medical provider on 2/15 and were cleared for regular housing. Please direct housing concerns to OCSD for follow-up."

- TLO21323/2121 – Requesting an increase in suboxone. The response states, "You were seen by the medical provider on 2/1, and you received patient education regarding your concerns at that time. You were seen by the specialist on 1/18 and are currently scheduled for a procedure with the specialist. Medication is ordered per clinical decision of the medical provider. Your medication is currently being administered as ordered by the provider."
- TLO030723/0920 – Requesting a cane. The response states, "You were most recently evaluated by a different medical provider on 3/23 regarding your concern."
- TLO31423/0935 – States his cane was removed by medical based on his ability to mop. States he needs the cane. The response states, "Duplicate complaint. See response to TL030723/2049."
  - Note that TLO30723/2049 was not produced.
- TLO11323/0700 – CDCR 2275-CJ Requesting lower bunk, shoe Chrono, and medical care. The response states, "You were evaluated by the medical provider on 1/20/23, and your concerns were addressed at that time. Copies of chronos were provided by health care personnel on 1/19/23."
- TLO13023/0715 – Requesting a wheelchair, cane, or to be placed in Mod O. Response states, "You were evaluated by the medical provider on 1/31, and your concern was addressed at that time. Please submit a pink inmate health message slip to communicate directly with health care personnel regarding this or any future concern."
- TLO13123/2025 – Claims housing location is not safe. Requesting accessible cell and shower. The response states, "Has been moved to ADA Compliant Housing."
- TLO20723/2126 – Claims housing location is not safe. Requesting transfer to Mod O. Response states, "Third grievance. Recently answered under JI # TL020123/1145."
  - Note JI # TL020123/1145 was not produced.
- TLO22823/0530 – CDCR 2275-CJ Requesting double mattress and placement in the MAP program. The response states, "You have been seen by health care personnel on 3/6 and 3/9 and your concerns were addressed at that time."
- TLI21122/0313 – Requesting to speak to an ADA representative and a cane. The response states, "You were seen by healthcare personnel on 12/2 and 12/10 regarding your concerns. IM released prior to disposition of the grievance."
- TLO50223/1420 – CDCR 2275-CJ Requesting glasses. The response states, "You were seen by health care personnel regarding your concern on 4/13 and are currently scheduled for follow up. Please submit a pink inmate health message slip to communicate directly with health care personnel regarding any future concerns."

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Based on the Expert's review of the grievance responses, the Expert again makes the following recommendations. The County grievance responses should:

- 1) Document whether the grievance is granted, in whole or part,
- 2) Include the date of the grievance response and the date the issue was resolved (if applicable),
- 3) Include clear language as to what the resolution is (e.g., "the device was delivered on [DATE]") rather than "your concern was addressed").
- 4) Document whether the County is providing the requested accommodation, an alternate accommodation or declining to provide an accommodation.
- 5) If the County is not providing the requested accommodation, document the reasoning for the decision.

The County reports that training will be developed on how to provide grievance responses that meet the requirements of the Remedial Plan.

Based on the review of the grievances and grievance responses, the Expert finds the County has partially implemented the RP requirement.

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

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

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

In a review of the grievances, the Expert notes that of the 21 grievances produced, grievances TLO30623/1645 and TLO13123/2025 were assigned to the ADA Compliance Unit for review and response. The grievances submitted as a result of a CDCR 2275 - CJ Form - Request For Reasonable Modification Or

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Accommodation For Access To Housing and/or Program(s) In A County Jail were addressed to the ADA Coordinator; however, they were not assigned to the ADA Compliance Unit for response.

The County reports that the County will be revising policy to address these requirements.

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

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

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

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

A review of the grievances found that in 19 of the 21 cases, the ADA Compliance Unit staff did not interview the incarcerated persons regarding their requests for accommodations.

The County reports that the County will be revising policy to address these requirements.

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

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

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

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

In a review of the 212 grievance responses, the Expert found that all 21 did not include an explanation of the process for appealing the grievance response.



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The County reports that the County will be revising the grievance form to address this requirement.

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

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

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

The Expert previously noted that the revised and implemented Custody & Court Operations Manual (CCOM) 8000 Inmates with Disabilities policy states, "Staff shall ensure that they effectively communicate all grievance and appeal responses to the inmate For inmates with disabilities affecting communication, staff will also complete the Effective Communication form per Policy 8000.11 for responses to grievances and appeals."

A review of the grievances found that there was one (1) grievance submitted by incarcerated persons with disabilities that affected communication (Intellectually Disabled). In this case, there is no documentation that the grievance response was effectively communicated.

The County reports that the County will continue to reinforce training on the requirements of the Remedial Plan and the use of the Effective Communication form.

Based on this, the Expert finds the County has not implemented the RP requirement. The Expert notes that with the rollout of SOMA, the County must ensure the functionality for all staff to document the effective communication staff provided during the issuance of grievance and appeal responses to persons with disabilities that affect communication is included.

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

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

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

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)**

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

The Expert previously noted that the revised and implemented Custody & Court Operations Manual (CCOM) 8000 Inmates with Disabilities policy states, "Inmates will not be subject to any retaliation for requesting accommodations or submitting grievances."

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)**

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

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

The Expert previously noted that the revised and implemented Custody & Court Operations Manual (CCOM) 8000 Inmates with Disabilities policy states, "Staff will provide reasonable modifications to jail rules, policies, and practices to enable inmates to participate in the services, programs, and activities offered to other inmates of the same classification level. Some examples of reasonable accommodations include: Including the special needs of inmates in emergency evacuation plans and drills."

All staff interviewed stated they accommodate incarcerated persons with disabilities during alarms, emergency evacuation drills, and emergencies. The accommodations they stated they would provide include assisting mobility, deaf and hard of hearing, and visually disabled incarcerated persons during the evacuation process and modifying the requirement for the incarcerated person to "get down" during an alarm. In addition, staff stated they would conduct face-to-face notifications to deaf and hard-of-hearing disabled incarcerated persons during the evacuation process. During the incarcerated person interviews, there were no reports of staff not providing accommodations during emergencies and alarms.

The County reports that this item will be added to the training. The Expert notes the ADA STC PowerPoint now includes information on the requirement for staff to accommodate people with disabilities with respect to alarms and emergencies.

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

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

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

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

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

In a review of the documents, the Expert found the ADA Inmate Qualifications Acknowledgement of Rights/Programs, Orange County Sheriff's Department Custody Operations ADA Information Brochure includes a section on Emergencies and Alarms.

The Expert notes that all incarcerated persons are provided with this information, and a review of a random sample of 20 ADA Interview/Activity Logs reflects that the ADA staff address the emergency procedures by asking and documenting the following, "Emergency procedures: Went over emergency procedures. No questions or concerns." The Expert also notes that Effective Communication was provided during the ADA Orientation.

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

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

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

The Expert previously noted that the revised and implemented Custody & Court Operations Manual (CCOM) 8000 Inmates with Disabilities policy states, "Staff will

provide reasonable modifications to jail rules, policies, and practices to enable inmates to participate in the services, programs, and activities offered to other inmates of the same classification level. Some examples of reasonable accommodations include: Including the special needs of inmates in emergency evacuation plans and drills.”

All staff interviewed stated they accommodate incarcerated persons with disabilities during alarms, emergency evacuation drills, and emergencies. The accommodations they stated they would provide include assisting mobility, deaf and hard of hearing, and visually disabled incarcerated persons during the evacuation process and modifying the requirement for the incarcerated person to "get down" during an alarm. In addition, staff stated they would conduct face-to-face notifications to deaf and hard-of-hearing disabled incarcerated persons during the evacuation process. During the incarcerated person interviews, there were no reports of staff not providing accommodations during emergencies and alarms.

The County reports that this item will be added to the training. The Expert notes the ADA STC PowerPoint now includes information on the requirement for staff to accommodate people with disabilities with respect to alarms and emergencies.

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

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

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

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)**

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

The Expert previously noted that the revised and implemented Custody & Court Operations Manual (CCOM) 8000 Inmates with Disabilities policy states, “Staff will provide reasonable modifications to jail rules, policies, and practices to enable inmates to participate in the services, programs, and activities offered to other inmates of the

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same classification level. Some examples of reasonable accommodations include: Including the special needs of inmates in emergency evacuation plans and drills.”

All staff interviewed stated they accommodate incarcerated persons with disabilities during alarms, emergency evacuation drills, and emergencies. The accommodations they stated they would provide include assisting mobility, deaf and hard of hearing, and visually disabled incarcerated persons during the evacuation process and modifying the requirement for the incarcerated person to "get down" during an alarm. In addition, staff stated they would conduct face-to-face notifications to deaf and hard-of-hearing disabled incarcerated persons during the evacuation process. During the incarcerated person interviews, there were no reports of staff not providing accommodations during emergencies and alarms.

The County reports that this item will be added to the training. The Expert notes the ADA STC PowerPoint now includes information on the requirement for staff to accommodate people with disabilities with respect to alarms and emergencies.

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

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

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

The Expert previously noted that the revised and implemented Custody & Court Operations Manual (CCOM) 8000 Inmates with Disabilities policy states, “Some inmates who are deaf and/or hard of hearing, blind or with low vision may not be able to hear announcements, alarms, or read written notices in the unit. These impairments will be listed on the Functional Needs List and the ADA Tracking List. Depending on the inmate's level of impairment, staff assigned to housing units with inmates who are deaf and/or hard of hearing, blind, or with low vision should use the following techniques for instructions, announcements, alarms, and written notices.

- Prioritize the inmate’s evacuation
- Whiteboard/written notes
- Speak one-on-one in an elevated, clear voice.
- Speak closely enough to allow the inmate to lip-read.
- Read the written notice.
- Provide the notice in large print.”

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Staff interviewed stated they would effectively communicate verbal announcements to disabled incarcerated persons with disabilities that affect communication by conducting face-to-face communication, writing notes, speaking louder, etc. The Expert also noted that staff has "whiteboards" available in the housing units for staff to communicate announcements to the incarcerated persons. However, three (3) incarcerated persons with a disability that affects communication stated that staff does not always provide the accommodations necessary for them to hear the verbal announcements. The incarcerated person stated that they must rely on other incarcerated persons and or watch for the movement of other incarcerated persons when announcements are made. One (1) incarcerated person stated staff come to the door 20 percent of the time, and one (1) incarcerated person stated staff come to the door 30 percent of the time. The Expert was not able to confirm these claims.

The Expert also notes that proof-of-practice documentation was not available for review.

The Expert notes the ADA STC PowerPoint now includes information on the requirement for staff to accommodate people with disabilities with respect to alarms and emergencies.

The County reports Staff will be reminded to document where they effectively communicated announcements to persons with disabilities that affect communication.

Based on this, the Expert finds the County has partially implemented the RP requirement. The Expert notes that with the rollout of SOMA, the County must ensure the functionality for all staff to document the effective communication staff provided for all verbal announcements to persons with disabilities that affect communication is included.

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

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

The Expert previously noted that the revised and implemented Custody & Court Operations Manual (CCOM) 8000 Inmates with Disabilities policy states, Some inmates who are deaf and/or hard of hearing, blind or with low vision may not be able to hear announcements, alarms, or read written notices in the unit. These impairments will be listed on the Functional Needs List and the ADA Tracking List. Depending on the inmate's level of impairment, staff assigned to housing units with inmates who are deaf and/or hard of hearing, blind, or with low vision should use the following techniques for instructions, announcements, alarms, and written notices.



- Prioritize the inmate's evacuation.
- Whiteboard/written notes
- Speak one-on-one in an elevated, clear voice.
- Speak closely enough to allow the inmate to lip-read.
- Read the written notice.
- Provide the notice in large print.”

However, two (2) disabled incarcerated persons with disabilities that affect communication stated that staff does not always provide the accommodations of reading documents and providing large print notices/material. One (1) stated he must rely on other incarcerated persons to fill out pink slips and commissary forms and one (1) incarcerated person stated that staff tell him "it is not my job." The Expert could not confirm these claims.

The Expert notes the ADA STC PowerPoint includes the following language, “Accommodating Visual Impairments: Assist with filling out paperwork (message slips/commissary forms).” However, other than the ADA Unit staff effectively communicating with the incarcerated person during the ADA orientation process, the County did not produce proof of practice documentation where staff effectively communicated written notices to incarcerated persons with disabilities that affect communication. The Expert will monitor this during the next monitoring tour.

The County reports that Staff will be reminded to document where they effectively communicated written notices to persons with disabilities that affect communication.

Based on this, the Expert finds the County has partially implemented the RP requirement. The Expert notes that with the rollout of SOMA, the County must ensure the functionality for all staff to document the effective communication staff provided for all verbal announcements to persons with disabilities that affect communication is included.

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

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

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

*certain mobility or upper extremity disabilities, using HCA/AD/DME, using prosthetic limbs, and in need of Effective Communication accommodations, must be provided reasonable accommodations.*

The Expert previously noted that the revised and implemented Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, “Inmates with disabilities, including but not limited to those with certain mobility or upper extremity disabilities or prosthetic limbs, will receive reasonable accommodations with respect to the following:

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

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)**

## **O. Transportation (Section XV)**

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

The Expert notes there were no complaints from disabled incarcerated persons regarding accommodations during transport.

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)**

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

The Expert previously noted that the revised and implemented Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, “Staff shall ensure that an inmate’s assistive device or tapping cane is transported with the inmate whenever the inmate is transferred in between facilities, to court, or other outside appointment. The assistive device will be available to the inmate at all times (absent a specific security concern that is documented).”

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)**

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

The Expert previously noted that the revised and implemented Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities addresses the accommodations required for incarcerated persons who require accessible transportation.

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

The Expert previously noted that the revised and implemented Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, “Staff will assist inmates with disabilities getting on and off transport vehicles whenever necessary.”

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)**

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

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

The County produced the following OCSD training documents:

- ADA Class Handouts
  - ADA Definitions Quiz
  - ADA Inmate Tracking List
  - ADA Tracking Log
  - J-112
  - J-105A
  - ADA Effective Communication Form
  - Housing Unit Orientation
  - Safety and Security Assessment Form
- Americans With Disabilities Act (2-Hour Lesson Plan)
- Americans With Disabilities Act STC PowerPoint Presentation (77 slides)

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

In the review of the Training Summary Report, "ADA Training" produced by the County reflects that 890 staff completed the training. The Training Summary Report reflects custody and program staff attended the training. The County also produced

"Training Attendance Sheets" for ADA Training that was attended by OCSD cooks. The Attendance Sheets reflect that 34 staff attended the training.

The County produced the following CHS/HCA training documents:

- ADA Training Correctional Health Services (PowerPoint 75 slides)
- ADA Training Correctional Health Services (PowerPoint 76 slides)
- ADA Training Correctional Health Services (PowerPoint 80 slides)
- ADA Training Bulletin (PowerPoint 8 slides)
- CHS ADA Lesson Plan (2 hours)
- CHS Triage Screening for ADA Patients (PowerPoint 53 slide)
- CHS Triage Screening for ADA Patients (PowerPoint 52 slide)
- Effective Communication (EC) (Deaf/Hard of Hearing, Speech, and Cognitive/Developmental Disability) (PowerPoint 21 slides)
- Effective Communication for Hearing Impaired Patients Questions
- Effective Communication in Healthcare Settings (PowerPoint 57 slides)
- Effective Communication With Hearing Impaired (Deaf/Hard of Hearing Patients) (PowerPoint 7 slides)
- Effective Communication workflow
- UbiDuo 3: Deaf, Hard of Hearing, & Hearing Webinar - January 26, 2023
- LanguageLine Solutions Instructions
- Triage to Release Continuum workflow
- UbiDuo Training Session (46 slides)
- ADA Triage to Release workflow
- ADA Status Change workflow
- Guidelines for ADA Process
- CHS ADA Training Handouts
- ADA Status Change
- ADA Effective Communication Form workflow
- ADA Effective Communication Form (SBAR)
- ADA Steps Triage workflow

In the review of all training material listed above, the Expert notes that the training includes information on the following:

- Disability awareness, including the use and purpose of accommodations and modifications in accordance with the ADA and other federal and state disability law.
- Trauma-Informed Care.

The Expert also notes that the training includes formalized lesson plans and in-classroom or real-time virtual training for staff. Staff who have attended the training include managers, supervisors, and rank-and-file staff. The Expert notes that the

training is provided by certified ADA trainers. The Expert also notes that the Information on accommodations and adaptive support needs of people with Intellectual/Developmental Disabilities.

The Course Completion History 6/28/23 - ADA Effective Communication; ADA Effective Communication Form SBAR; Americans with Disabilities Act CHS; CHS Triage Screening for ADA Patients; Cognitive or Developmentally Disabled Patients reflects 569 CHS staff have attended the formal training and 365 CHS staff have attended informal ADA trainings.

The Expert notes that the following CHS staff have attended and completed the ADA Coordinator certification.

- Marco Batres, Supervisor RN Case Management
- Michelle Kelly, RN Staff Development/Education
- Adrianna Navarrete, RN ADA Case Manager
- Lena Chung, RN ADA Case Manager

All staff interviewed reported they had attended the annual 2-Hour Americans With Disabilities Act training.

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

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

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

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)**

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

The County reported that the County would be asking DRC to discuss this item. The County also reported that the County would welcome any examples of a policy that Sabot or DRC has found to be acceptable.

The Expert notes that the County previously produced the following documents:



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

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

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

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

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

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

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The County reported that the County would be asking DRC to discuss this item. The County also reported that the County would welcome any examples of a policy that Sabot or DRC has found to be acceptable. Additionally, the County reported that CHS would produce a tracking log and draft a policy on staff accountability.

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

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

The Expert notes that the revised and implemented Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities includes language that OCSD staff who OCSD finds have violated the ADA or Jail ADA-related policies and procedures shall be subject to OCSD's progressive discipline policy and the Health Care Agency (HCA) Correctional Health Services (CHS) Policy and Procedure 6407 Reasonable Health Accommodations for Patients with Disabilities includes language that CHS staff may be subject to HCA's disciplinary process if found in violation of ADA or Jail ADA-related policies and procedures. However, OCSD/HCA has not formalized a process and has not created a mechanism to log allegations where it is alleged that staff violated the ADA or Jail ADA-related policies and procedures as required by the RP.

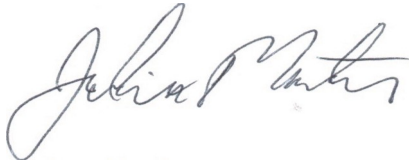
The Expert notes that DRC provided a sample log that can be modified to meet OCSD/HCA needs and comply with the RP requirements.

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

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

## V. Signature

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

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

Julian Martinez  
Director  
Sabot Consulting

November 27, 2023

Date