



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

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

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

On-Site Review: February 20-24, 2023

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## I. Introduction

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **B. Monitoring Process**

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

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

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

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

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

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

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

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### III. Executive Summary

This is the second 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 second 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 February 20-24, 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.

An entrance meeting was conducted with representatives from the County of Orange (Jail Administration, HCA CHS staff, representatives from the OC Jails divisions/disciplines, and staff from the County Counsel's Office). DRC Representatives were also present during the entrance meeting and during portions of the monitoring tour. An exit meeting was conducted via Zoom on March 2, 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.



The Expert recognizes that the OC Jails continue to work under challenging conditions during the COVID-19 pandemic while striving to obtain compliance with the Settlement Agreement and RP and the applicable county policies and procedures. Additionally, as the population in the jails increases, the Expert notes this may also pose additional implementation challenges in some of the RP requirements.

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 second 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 be made in future monitoring tours once the remaining policies/procedures are developed and implemented, proof of practice documentation (in various areas) is provided, and relevant training material is developed and implemented. The Expert is confident that once related policies, procedures, and training is developed and implemented, staff will be better informed in an understanding of the Settlement Agreement and RP requirements and how that correlates to their respective job duties. As outlined in this report, there are requirements of the Settlement Agreement and RP that are addressed in OCSD and/or HCA CHS policies, but other areas are not addressed, or the policies are in the development stage.

As this was the second monitoring tour, all elements of the Settlement Agreement and RP were evaluated for compliance as the County strives to achieve (and maintain) "Adequately Implemented" status in the rated areas. For future monitoring, areas found as "Adequately Implemented" in the first and second round of monitoring will be moved to "Monitoring Suspended Based on Previous Findings of Compliance." 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.

The Expert notes that 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. The medical intake screening process is the most comprehensive the Expert has seen in the six (6) other County Jails the Expert monitors. This is inclusive of the incarcerated persons with physical disabilities as well as cognitive (Intellectual/Developmental) disabilities. However, as will be discussed in this report, there are some concerns with medical staff not asking the screening questions that have



been built into the comprehensive medical intake screening process. The Expert notes that 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 continues to have an effective process in place where medical Case Management (ADA) and the custody ADA Compliance Unit work collaboratively to interview and assess incarcerated persons with disabilities, provide accommodations, and inform incarcerated persons about the ADA program and how to request accommodations. The County also has processes in place to ensure incarcerated persons are provided their Health Care Appliance/Assistive Devices and Durable Medical Equipment and that the devices are maintained in good working order. The ADA Compliance Unit staff are engaged with staff and the disabled incarcerated persons in ensuring that the requirements of the RP and the ADA are provided to the incarcerated persons. All incarcerated persons interviewed during the tour were aware of the ADA staff and stated they would resolve issues brought to their attention. The Expert notes that both the Custody HSA/CHS Administration and staff are committed to ensuring the RP requirements are implemented as well as ensuring the disabled incarcerated persons are provided with their accommodations and are provided equal access to the OC Jails programs, services, and activities. With the completion and implementation of updated policies and forms, the County is in a better position to demonstrate compliance with some of the ADA RP requirements. The Expert notes that when training on the revised policies is developed and provided to all staff and the tracking system is implemented, the County will be well-positioned to achieve compliance with other areas of the ADA RP.

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

- Continue the process to implement a centralized, real-time networked electronic system to identify and track all incarcerated people with disabilities and their specific accommodations.
- Ensure the 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.
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- Ensure staff provides and documents the Effective Communication accommodations for due process and clinical encounters.
- Ensure that required training is provided to all required staff on the RP requirements related to incarcerated persons identified with Developmental disabilities, including the individualized plan and related accommodation and adaptive support needs and staff's responsibility to provide adaptive supports and to monitor and address any safety, vulnerability, or victimization concerns.
- Ensure that staff (housing unit, work supervisors, and program facilitators) who provide accommodations and adaptive supports for incarcerated persons with

Developmental disabilities document the provision of the accommodations, assistance, prompts, and supports.

- Ensure electronic tablets, when implemented, includes easy reading programs for incarcerated persons with Intellectual/Developmental Disabilities, as well as learning disabilities (literacy concerns).
- Ensure that all persons with disabilities, including those in ADA-accessible or other specialized housing, have equal access to programs, services, and activities available to similarly situated persons without disabilities, consistent with their health and security needs. These programs include:
  - Dayroom and out-of-cell time
  - Outdoor recreation and exercise equipment
  - Telephones
  - Access to in-person educational, vocational, reentry, and substance abuse programs
- Ensure the out-of-cell (dayroom and outdoor) tracking includes: whether the incarcerated person with a disability accepts or refuses the out-of-cell opportunity, and if an incarcerated person accepts the out-of-cell opportunity, the amount of time spent out-of-cell.
- Ensure there are 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.).
- 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 the grievance response includes the date the response was provided to the incarcerated person to allow the Expert to monitor whether responses are being provided within fourteen days, as required by the RP.
- 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 develops an ADA accountability plan to timely log and investigate allegations from any source that staff has violated the ADA or Jail ADA-related policies and procedures.

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

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

- Adequately Implemented – 51
- Partially Implemented – 56
- Not Implemented – 8
- Un-ratable – 0
- Not Assessed – 0
- Monitoring Suspended Based on Previous Findings of Compliance - 0

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

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

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## IV. Findings

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

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

The County reports the revisions to the Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities and the related forms have been finalized and implemented. The CCOM policy 8000 - Inmates with Disabilities includes the required policy language. Additionally, the Expert notes Health Care Agency Correctional Health Services Policy and Procedure 6407 Reasonable Accommodations for Patients with Disabilities, and the related forms were finalized and implemented on 11/30/22. The Expert has not had the opportunity to review the HCA CHS policies. The Expert will review the policies and provide comments and feedback prior to the next monitoring tour.

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

#### **Adequately Implemented (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.*

The County reports the revisions to the Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities and the related forms have been finalized and implemented. During the previous monitoring tour, the parties reported that CHS provided draft policies, forms, and related materials to DRC on August 25, 2022. DRC's counsel provided feedback on these draft materials on September 30, 2022. By agreement of the parties, this process would take place prior to the Expert's review. The parties reported positive progress on CHS's policies, forms, and related materials pertinent to this section. The previous report reflected that the Expert would review

these materials during the next monitoring round. During the on-site tour, the County further reported that the following Correctional Health Services (CHS) policies had been revised and implemented;

- Health Care Agency Correctional Health Services Policy and Procedure 1022 Inmate Workers, implemented on 1/12/23.
- Health Care Agency Correctional Health Services Policy and Procedure 6002 ADA Effective Communication, implemented on 11/30/22.
- Health Care Agency Correctional Health Services Policy and Procedure 6407 Reasonable Accommodations for Patients with Disabilities, implemented on 11/30/22.
- Health Care Agency Correctional Health Services Policy and Procedure 8651 Cognitive, Intellectual, and Developmentally Disabled Patients, implemented on 5/13/22.

The Expert has not had the opportunity to review these policies. The Expert will review the policies and provide comments and feedback 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 (Previous Rating Un-ratable)**

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

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

The Expert notes that the target date for the implementation of a centralized, real-time networked electronic system to identify and track all incarcerated people with disabilities and their specific accommodation needs (ADA Tracking System) was January 1, 2023. During the on-site monitoring tour, the County provided a demonstration of the SOMA Jail Management System (JMS). The Expert notes 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 Expert also notes that the County continues to use the existing system to track incarcerated person's disabilities and their specific accommodation needs with the OCSD's "Existing ADA Tracking System" pending the implementation of SOMA 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. Of note is one issue that was identified during the monitoring tour. The existing ADA tracking list has undefined acronyms (e.g., ADLs, HOH, ASL, VRI, VRS, EC, IDDM, etc.). Some custody staff responsible for reviewing and utilizing the list are not familiar with the meaning of some of these acronyms. 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");*

The Expert notes that the target date for the implementation of a centralized, real-time networked electronic system to identify and track all incarcerated people with disabilities and their specific accommodation needs (ADA Tracking System) was January 1, 2023. During the on-site monitoring tour, the County provided a demonstration of the SOMA Jail Management System (JMS). The Expert notes 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 Expert also notes that the County continues to use the existing system to track incarcerated person's disabilities and their specific accommodation needs with the OCSD's "Existing ADA Tracking System" pending the implementation of SOMA 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 Un-ratable)**

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

The Expert notes that the 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 on-site monitoring tour, the County provided a demonstration of the SOMA Jail Management System (JMS). The Expert notes 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. 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 persons detention will be available to other Orange County law enforcement groups (Enforcement/Patrol and Probation) within the County. The Expert also notes that the County continues to use the existing system to track incarcerated person's disabilities and their specific accommodation needs with the OCSD's "Existing ADA Tracking System" pending the implementation of SOMA 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. The Expert also notes and confirmed during the on-site monitoring tour that staff who previously were not provided information (ADA Inmate Tracking List) now receive and/or have access to the ADA Tracking information.

The Monitor will need 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 Expert also notes that the date for the County to implement the ADA Tracking System is



January 1, 2023; the County reports that system will likewise not be referred to as a “Special Needs” list or system. This requirement is currently adequately implemented.

Although this requirement is rated as adequately implemented, during the on-site tour, in the CMJ medical offices, references to “Special Needs” patients were posted. The Expert recommends that the County remove the term “Special Needs” across the system.

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

### **Adequately Implemented (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 previous monitoring tour, 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

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 identification of a disability and accommodation needs 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.

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 all six (6) cases the Expert observed. To address this issue, the County 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 for the Experts last visit in regards to the screening process to ensure the HCA/CHS team understands the importance and background. The training does not replace any of the other trainings HCA/CHS offers but rather supplements training specifically for the Triage team. The HCA/CHS reports the training will be provided regularly to all new clinical staff. The Expert recommends that this training also be provided to all current clinical staff with emphasis on the identified issues (e.g., Slide 12 – Receiving Screenings Do's and Don'ts's).

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 CMJ Mod R – Claims he has not been evaluated for hearing aids or referred to audiology.
  - County response - Patient was last seen by Audiologist 12/7/2021. Per chart note from 2/10/22, clarification received from audiologist, due to patient's "Poor word recognition, even a well fit hearing aid will not help the patient hear speech clearer." Patient was provided with Pocketalk text device for speech-to-text on 5/31/2022. Case was consulted with CM Supervisor, will be referred to CHS provider for audiologist evaluation. Routine hearing screening is not currently done.
- Incarcerated person housed in CMJ Mod O – During the interview he showed signs of cognitive impairment.
  - County response - Patient has history of TBI in 2015, is able to make his needs known. Patient has been followed up with both ADA team for mobility disability and Mental Health regularly. Effective communication needs are identified in TechCare and noted as being used during medical and mental health encounters.
- Incarcerated person housed in CMJ Mod O – During the interview he showed signs of cognitive impairment.

- Patient released from custody on 2/28/23. Effective communication needs were identified in TechCare after evaluation.
- Incarcerated person housed in CMJ Mod O – During the interview he had a difficult time hearing the Expert during the interview. He cupped his ears in attempt to hear better.
  - County response - Seen 2/23/23 by CHS provider. Pocket talker issued. ADA nurse evaluated and was able to communicate effectively. Has follow up MD evaluation 5/10/23 to assess effectiveness of communication needs. Patient seen regularly by ADA nurse. When asked why hearing issues weren't mentioned, patient stated he didn't have any issues communicating during medical encounters.
- Incarcerated person housed in CWJ Mod F - Stated she would like a pocket talker.
  - County response - Patient was seen by ENT 2/22/2023, hearing aids were recommended, will be referred to Audiologist per onsite provider. Pocket talker was ordered and provided 2/23/23.
- Incarcerated person housed in IRC Mod K - Claims he has a Learning Disability and ADHD.
  - Patient is currently being monitored and treated on mental health unit, awaiting transfer to Dept of State Hospital as PC1370. She was questioned about learning disability but could not state nature of the disability or why she reported history of having one. She remains internally preoccupied and responds to internal stimuli despite being compliant with psychotropic medications.
- Incarcerated person housed in TLF Mod O - Claims his wheelchair was removed by ADA nurse due to expired order. States he was issued a walker, and he was provided a wheelchair 1 week after it was removed. States once the wheelchair was prescribed, he received the wheelchair the next day. States he submitted a grievance, medical kite, or request form requesting the wheelchair after it was removed.
  - County response - Patient was hospital booking and returned to OCJ on 6/10/2022. Upon return, Front Wheel Walker, Prafo boot, Walking boot, Wheelchair for Long distance ordered. No issues with assistive device verbalized during monthly device check rounds during June, July, August. 9/19/2022, referral received from ADA deputies for wheelchair replacement, informed current order of front wheel walker and wheelchair for long distance. Case consulted with onsite provider, no changes in order. Requested patient to be moved closer to front of room in Ward D for better access to restroom and dayroom. 9/20/2022, seen by provider, order changed to wheelchair for all movement, wheelchair remained with patient. (OCSD Activity Log 9/26/2022 states he had wheelchair but requested for replacement due to broken right footrest) 9/27/2022, seen by ADA nurse, Front Wheel Walker retrieved from cell,

provided ADA wheelchair replacement. \*\*\*\*No RN Sick Call (pink slip) turned in regarding assistive device.

- Incarcerated person housed in TLF Mod O - States he has been requesting a silicone sleeve/sock for his prosthetic. He currently has a cotton sock which he claims causes irritation due to the sock rubbing against his skin. States the silicone sock will not cause irritation. States that medical staff has advised him that the silicone sleeve/sock are not available.
  - County response – Pt was provided with a silicone sleeve on 01/27/2022 . On 03/10/2022 requested for new one. On inspection Silicone sleeve was in good condition. Per Medicare guidelines replacement is from 6-12 months if needed or depending on usage. He has been seen every month and he has not made another request for Silicone since then. He normally comes out on his wheelchair. Pt request for a prosthetic sock size 2 on 02/17/2023, an order was placed with CMS supply. Pending for delivery.
- Incarcerated person housed in TLF Mod O – Claimed he has not been referred to audiology.
  - County response - He completed an audiology test on 11/10/2022 recommendation for pocket talker and lip reading. Has pocket talker.
- Incarcerated person housed in TLF Mod O - Claims his prosthetic needs to be repaired, and he put a medical message slip 3 days ago.
  - County response - Patient was booked into OCJ 7/20/2021 Booked with crutches only. On 9/9/2021 he requested to use own Prosthesis. 9/14/2021 Prosthesis provided to patient. Patient unable to use it due to measurement and missing parts. The prosthetic leg was placed back in property. He was provided with accommodations and alternative device (wheelchair and walker for equal and meaningful access), 12/21/2022 Requested family to pick up prosthetic leg from property for evaluation. 1/17/2023 Per family, provider will need to see patient in person for measurements and evaluation. Vendor contacted and stated they were not the vendor for this appliance. 01/17/2023 He requested to get his prosthetic leg back from property. 01/24/2023 Seen by medical director to evaluate the functionality of the prosthetic leg. Patient reported that he had not use the prosthetic leg for over 6 months prior to incarceration. Prosthetic inspected and it was functional at the time. Pt demonstrated walking with the prosthetic leg and was unsteady. Unable to walk with leg. He was referred to PT for evaluation and retraining on the use of his prosthetic leg. On 02/09/2023 went to see PT and did not take Prosthetic leg to appt. He told PT that his prosthetic strap was broken. He was provided training on the use of a walker. PT was R/S for PT, he was notified on the reason for PT visit and the importance of taking his Prosthesis to the appt. On 2/22/23, patient signed a refusal for PT appt on 2/23/23. Appt R/S for 3/2/23.

- Incarcerated person housed in TLF F Barracks - ADA Tracking List reflects "Able to fill out slips" he claims he cannot read and write and, during the interview, responded that he could not remember most of the questions asked.
  - County response – Patient currently has effective communication alert in TechCare. Patient will be followed up by Psychologist today 3/7/23 to determine if further adaptive needs are required.
- Incarcerated person housed in TLF G Barracks - Claims his prosthetic needs repair as the foot part of prosthetic is detaching from the leg. Claims he advised medical 2 months ago.
  - County response - Patient was seen by ADA on 11/23/2022. Reported that foot shell was loose for couple years, keeps it in place with shoes. Canvas shoes provided then. Seen again 12/07/2022 and stated the cover was still loose. Referred and seen by provider on 12/8/2022. Prosthetic inspected and was determined that it was working properly. The loose cover is cosmetic. Provider applied special glue to the cover as per pt.'s request. The cover was fixed again on 01/20/2023, provider offered to send him to a specialist, and he refused. Refusal form on file. Pt was seen again 02/14/2023 and reported that the cover was ok and that it was not moving anymore. Prosthesis still working properly.
- Incarcerated person housed in TLF Mod J - (Not on ADA Tracking List) – States he has a Learning Disability and Vision disability. He stated that he was in special education classes and had an IEP while attending public schools. States he cannot read or write, and his prescription glasses were removed during the intake process and placed in property.
  - County response - Patient seen by provider on 02/01/2023. Snellen test done 20/50 on both eyes. 2/24/2023 Requested for ADA deputy to check property for pt.'s glasses . Placed on psychologist sick call to evaluate needs. Patient released on 2/27/23.
- Incarcerated person housed in TLF Mod L - States that he uses a walker and cane on the streets. Claims he didn't have either on booking. States it took 10 days to get a walker. He has a difficult time showering as he has to step over the shower threshold. Also states he needs a shower chair. Also claims it is difficult for him to carry his tray and maneuver his walker at the same time. States that he was transported to court in a bus and (February 2 or 3) was difficult to ambulate the steps (this could be because he had not been identified as mobility disabled). (Staff had medical evaluate him as soon as they were advised of this issue.)
  - County response – He was rehoused to CMJ Sheltered Living for the ADA accessible shower. 1/31/2023, booked into OC Jail, not arrested with walker. Referred to onsite provider for ADA evaluation. Patient was seen by triage provider, was ordered low bunk/tier in jail. 2/6/2023, seen during RNSC, referred to MDSC for re-evaluation. 2/7/2023, seen by onsite provider, walker ordered. 2/17/2023, seen by ADA RN for requesting for shower chair. 2/28/23 seen by MD, shower chair ordered.

ADA accommodations for low bunk/low tier with access to ADA shower provided due to security concerns with chair.

- Incarcerated person housed in TLF Mod L - (Not on ADA Tracking List) – Cellmate advised the Expert that he was having a difficult time accessing the top bunk. When interviewed, he stated that he has a mobility disability due to a car accident, and he uses a cane on the streets. Also stated he has hearing and vision issues.
  - County response –2/22/2023, booked into OC Jail, not arrested with device. 2/24/2023, seen by RN per ADA referral. Temporary cane, low bunk/tier ordered. 3/1/23 – patient seen by NP. Cane status changed from temporary to permanent, x-rays ordered, pain medication ordered.
- Incarcerated person housed in TLF Mod O - States that he has informed medical that he needs his prosthetic eye polished as it has buildup, and this is starting to cause discharge in his eye socket, and he does not want his eye socket to become infected. He states he has the solution to clean his eye, however, the standard of care for his prosthetic is polishing every six months.
  - County response - 1/26/2023, seen during RNSC, treatment ordered to provide container with saline for prosthetic eye. 2/21/2023, seen by onsite provider and referred to Ophthalmology (preferred date 3/23/2023)

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. Additionally, during the monitoring tour incarcerated persons were identified who had accommodations denied or delayed, often due to delays in referring disability issues to the ADA Compliance Unit or a CHS provider. Examples include:

- A wheelchair was taken for one week after chrono expired and it took one (1) week to for the incarcerated person to be seen by a CHS provider to have the Chrono renewed and the wheelchair returned.
- There were also cases of incarcerated persons having glasses removed for several days at a time without the consideration of the provision of interim accommodations or timely referral to the ADA Compliance Unit.

The Expert notes that the removal of an assistive device or denial of an accommodation often gets addressed promptly once the incarcerated person is seen by the ADA Compliance Team and/or CHS provider, but several days can elapse before that occurs.

The Expert reviewed a sample (275) of the 426 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 all six (6) cases the Expert observed. Medical intake screening staff must ask all disability-related questions during the intake screening process.

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

**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 four (4) cases reviewed, CHS staff provided Effective Communication Accommodations, including the provision of a Sign Language Interpreter (SLI).

The County reports 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 has reviewed the policy and associated forms and has determined the revisions satisfy 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.

Given the deficiencies identified regarding the medical intake screening, including the failure to ask all the medical intake screening questions in their entirety and the need for the Expert to review proof of practice documentation, , the Expert finds that the County has partially implemented the RP requirements.

#### **Partially 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.*

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

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

#### **Adequately Implemented (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 CHS uses a 13-page Receiving Screening that includes asking the incarcerated person at the beginning of the screening if they have any medical conditions about which they would want to speak with someone in private. The screening also begins with asking the incarcerated person their primary language. The screening includes screening questions for past medical history, medications, sexual health, sexual orientation/identification, infectious diseases, cognitive and Developmental disabilities, physical disabilities, substance and alcohol abuse, and mental health. The medical intake screenings are conducted in a confidential setting allowing for privacy.

During the previous monitoring tour, the parties reported that CHS provided a draft Trauma Informed Care Training presentation to DRC for review on August 25, 2022. DRC's counsel informed CHS that they approved of the substance of the presentation. The Expert reviewed the HCA CHS ADA training and noted that there are ten (10) slides related to Trauma Informed Care. The County also produced training sign-in sheets that reflect a total of 291 CHS staff have attended ADA training and a total of 258 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 work to ensure that all relevant staff receive the training, including for all newly onboarded staff and with 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 Partially Implemented)**

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

The 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
    - No Bedding (Mattress Okay)
    - No Unsupervised use of Showers
    - No Off Compound Court
    - No Telephone (Ligature Risk)
    - No Visits
    - No Mattress
    - No Court
    - No Showers
  - Requirements
    - CCR 1217 Involuntary Medication
    - Safety Cell
    - Restraint Chair
    - Restraint Bed
- Accessibility
  - Mobility/Dexterity/SMI
    - Brace
    - Cane
    - Crutches
    - Inmate Worker-Pusher
    - Prosthesis
    - Walker
    - Wheelchair
  - Hearing/Speech
    - Sign Language Interpreter
    - Video Remote Interpreter (VRI)
    - Hearing Aid(s)
    - HOH Vest
    - Pocket Talker

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

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

During the incarcerated person interviews, all 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 provided promptly.

The Expert noted that a sufficient supply of Assistive Devices is available for issuance in the IRC and TLF medical intake screening areas for issuance to incarcerated persons. The County also has a process in place to advise classification staff of

housing accommodations needs to ensure the housing accommodations are provided. The County also has a process in place for the information to be entered into the Existing ADA Tracking System.

During the previous monitoring tour, the parties reported that CHS provided to DRC for review draft revised ADA policies as well as draft revisions to Forms J-105A and J-112, with content consistent with relevant RP provisions. The County reports that the revisions to Health Care Agency Correctional Health Services Policy and Procedure 6407 Reasonable Accommodations for Patients with Disabilities and associated forms were implemented on 11/30/22. The Expert has reviewed the revisions and finds they satisfy the RP requirements.

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 Partially Implemented)**

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

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

The Expert has reviewed the revised J-112 and J-105A forms and has determined that they satisfy the requirements of the RP. The ADA Unit and medical staff explained the process and practice of how medical staff notifies the ADA Compliance Unit of the disabled incarcerated person's disability and accommodations needs. The Expert found that the County is following 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.

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

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

The Expert notes that 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. 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.*

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 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.

During the previous monitoring tour, the Expert was informed that revisions to Health Care Agency Correctional Health Services Policy and Procedure 6407-Reasonable Accommodations for Patients with Disabilities had been drafted and reviewed by DRC's counsel, and the County was provided comments, including recommended language that will help to address RP requirements. The Expert has reviewed the revised policy and has determined that the implemented revisions satisfy the RP requirements.

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



The Expert will need to monitor the policy implementation of the provision of accommodations. The Expert notes that the policy development has been well executed and successful during the current monitoring round. However, further monitoring and individual case reviews are necessary in the next round to ensure full implementation of these new policies.

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

### **Partially 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.

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

- July 2022 – 38 Forms
- August 2022 – 60 Forms
- September 2022 – 57 Forms
- October 2022 – 37 Forms
- November 2022 – 47 Forms

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

- July 2022 – 35 Forms
- August 2022 – 62 Forms
- September 2022 – 57 Forms
- October 2022 – 38 Forms
- November 2022 – 48 Forms

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

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

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

#### **Adequately Implemented (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. During the previous monitoring tour, the Expert noted that of the 24 holding cells in the male booking loop, only seven (7) holding cells have a television. Of the seven (7) holding cells that have a television, one (1) of the televisions is inoperable. Of the two (2) holding cells that are used for incarcerated people with disabilities, only one (1) has a television. Of the eight (8) holding cells in the female booking loop, only three (3) holding cells have a television, and the one (1) holding cell that is used for incarcerated people with disabilities has a television. The Expert noted there has been no change to the available televisions in the holding cells or their locations. During the incarcerated person interviews, 34 of the 39 incarcerated persons interviewed stated they were not provided with an orientation video during the intake and booking process.

As reported in question D.A above, the ADA information brochure and the ADA inmate qualifications/acknowledgment of rights/programs form, which is part of the initial ADA interview process, are consistently completed by the ADA Compliance Unit staff. The 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 receive an orientation video regarding rules and expectations in an accessible format if needed. The County reports that the orientation video will be added to the tablets. The Expert will 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

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 Expert reviewed 29 ADA Interview Logs for incarcerated persons who require accommodations for effective communication. The logs do not reflect if effective communication was provided during the viewing of the orientation video, including PREA. 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. However, in two cases, CSA Smith signed (ASL) during the meetings.

The Orientation Video is available in closed captioning and Spanish. However, the video is not available with Spanish captioning. Additionally, there is no documentation to support that the incarcerated persons with effective communication accommodations were provided with the opportunity to view the videos. The County is providing effective communication accommodations during the ADA orientation; however, it is unknown if CSA Smith is a qualified sign language interpreter. Please provide the Expert information on CSA Smith's qualifications. Further, the documentation should contain more information regarding the provision of SLI – such as whether it was provided through Purple on an iPad, with an in-person qualified SLI, etc.

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.*

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

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

**Adequately Implemented (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.

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.

Although the County has developed and implemented policies and a process for staff to 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 placed in housing or transfer to a new housing unit, the Expert will closely monitor this provision during the next monitoring round including, how many incarcerated people with (1) IDD, (2) a vision disability, and/or (3) a hearing disability were provided the unit orientation process.

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

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

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

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

The Health Care Agency Correctional Health Services Policy and Procedure 6002 ADA Effective Communication includes a process for the CHS staff to assess an incarcerated person's Effective Communication needs during the medical intake screening process. Once identified, the CHS staff document the Effective Communication accommodations on the CHS Functional Performance Worksheet and the CHS Inmate Health and Mobility Notification Form J-105A. The J-105A is provided to classification staff and the ADA Compliance Unit and entered into the Existing ADA Tracking System. The CHS has a process in place for the medical providers to identify the Effective Communication needs and provide and document the Effective Communication accommodations provided during the clinical encounter. The CHS policy also requires medical staff to access the ADA Tracking System or patient's EHR, as applicable, to identify whether the patient requires reasonable accommodations for effective communication prior to routine health encounters. CHS staff are also required to document the provision of Effective Communication in the patient's health record using an ADA Effective Communication form 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 11 cases where the incarcerated person was identified as having a disability that includes barriers to 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. Listed below is a summary of the review:

- An incarcerated person with a hearing disability (preferred method of communication SLI) – Of 12 medical encounters, an SLI/VRI was not provided on three (3).



- An incarcerated person with a hearing disability (preferred method of communication SLI) – Of the five (5) medical encounters, an SLI/VRI was not provided on four (4).
- An incarcerated person with a hearing disability (has hearing aids and pocket talker) – Of the 35 medical encounters, the provision of effective communication was not documented in 11 cases.
- An incarcerated person with a hearing disability – Of the five (5) medical encounters, the provision of effective communication was documented in all five (5) cases.
- An incarcerated person with a hearing disability (has a talking device) – Of 22 medical encounters, the provision of effective communication was documented in all 22 cases.
- An incarcerated person with a hearing disability – Of the one medical encounter, provision of effective communication was documented in one (1) case.
- An incarcerated person with a hearing disability (speak loudly) – Of the six (6) medical encounters, the provision of effective communication was documented in all six (6) cases.
- An incarcerated person with a hearing and vision disability (has pocket talker) – Of the five (5) medical encounters, provision of effective communication was documented in all five (5) cases.
- An incarcerated person with a hearing disability (has a pocket talker) – Of the five (5) medical encounters, the provision of effective communication was documented in two (2) cases.
- An incarcerated person with a hearing disability (has a pocket talker) – Of the 12 medical encounters, the provision of effective communication was documented in two (2) cases.
- An incarcerated person with a hearing, vision, and developmental disability (speak loudly) – Of the seven (7) medical encounters, provision of effective communication was documented in six (6) cases.

The Expert notes 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 County reports that the form for staff to document Effective Communication has also been revised. The Expert and DRC representative have reviewed and approved the revisions.

CHS has also implemented Policy 6002 – ADA Effective Communication. Further training of staff on the policy may 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. Interviews with CHS staff,



including providers, suggests that certain procedures for ensuring effective communication are not being consistently followed.

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 were not identifying Effective Communication needs and documenting Effective Communication accommodations provided during due process events, as required by the RP during the rating period. The Expert notes that the ADA Compliance Unit staff consistently provide and document effective communication during the ADA interviews (initial and monthly).

The Expert recommends that training should be provided to all staff on the Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities requirements to provide and document effective communication and the implemented Effective Communication Form. The Expert will monitor this requirement in future monitoring.

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 include 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. However, as noted above, CHS staff do not consistently reference or provide for the effective communication needs documented in the ADA Tracking Systems.

The incarcerated persons interviewed during the tour also reported that CHS staff identified their Effective Communication accommodation needs. However, as stated above, provision of effective communication with proof of practice documentation remains inconsistent and will require further training and attention.

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

**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 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 has a process in place to identify the incarcerated person's Effective Communication accommodations, with policy revisions and form development in process to ensure compliance with the RP.

Based on the findings in Section V (E. Effective Communication A), further monitoring of implementation, including as to whether staff consistently give primary consideration to the preference of the incarcerated person with Effective Communication needs, will be necessary. Proof of practice through Effective Communication form completion and utilization of SOMA's ADA tracking system will drive implementation in this area.

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.*

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

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

- Use of a qualified sign language interpreter
- Use of Simple English
- Use of a bilingual aide
- Repeated statements
- Speaking slowly
- Rephrasing statements
- Using written communication
- Using lip reading (only if the inmate's preferred/primary method of communication is lip reading)
- Use of sound amplification device

- Captioned television/video text displays
- Speech-to-text and real-time captioning
- Videophones and other telecommunication devices for deaf inmates
- Braille materials
- Screen readers
- Reading documents to the inmate
- Providing magnifier
- Using large print
- Using scribe
- Any other tool that was used to facilitate Effective Communication

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

- Orange County Sheriff's Department CJX VRI IPAD Usage Log six (6) occasions
- Orange County Sheriff's Department CMJ VRI IPAD Usage Log six (6) occasions
- An email that reflects VRI usage for religious service
- VRI Bill (August 2022) on six (6) occasions
- VRI Bill (September 2022) on four (4) occasions
- VRI Bill (November 2022) on six (6) occasions
- Inmate Health and Mobility Notification (J-112) Interview

To measure the County's compliance with the requirement to provide effective communication, the Expert randomly selected 11 cases where the incarcerated person was identified as having a disability that includes barriers to 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 is necessary to ensure consistent implementation of this provision by CHS staff.

The 29 ADA Activity Logs produced and reviewed reflect that the ADA Compliance Unit consistently provides the necessary auxiliary aids and services to ensure effective communication and also document the effective communication provided. However, the County did not provide completed Effective Communication Forms for the Due Process encounters as the Effective Communication Form has recently been finalized and implemented.

The Expert reviewed a sample (275) of the 426 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.

Based on this, the Expert finds that the County has partially implemented the RP requirements. The Expert will also 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 onsite 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 Jails 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:

- An incarcerated person stated staff assist him in reading documents; however, at times only show him where to sign. He also stated he is not provided with a magnifier so he can read documents.
- Three (3) incarcerated persons stated that they could not understand medical staff during encounters.

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

The Expert notes there has been significant progress on this RP provision. However, there are several sub-components to this provision that are discussed in this section, that have been rated as Partially Implemented. There are some concerns with the provision of Effective Communications by CHS staff. Other staff interviewed reported they do not use the Effective Communication form or check Effective Communication needs, and also had limited knowledge of Effective Communication requirements. During the next monitoring tour, the Expert will review documents that measure the County's compliance with the RP requirements. This includes documents that reflect the provision of Effective Communication 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 adequately implemented the RP requirements.

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

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

*1. Due Process Events*

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

*2. Clinical Encounters*

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

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

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

The 29 ADA Activity Logs produced and reviewed reflect that the ADA Compliance Unit consistently provides the necessary auxiliary aids and services to ensure effective communication and also document the effective communication provided. However, the County did not provide completed Effective Communication Forms for the Due process encounters, as the Effective Communication Form has recently been finalized and implemented.

To measure the County's compliance with the requirement to provide effective communication, the Expert randomly selected 11 cases where the incarcerated person was identified as having a disability that includes barriers to 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).

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 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 11 cases where the incarcerated person was identified as having a disability that includes barriers to 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).

Interviews with CHS staff and review of documentation produced by the County reveal that some medical providers are not following requirements for Effective Communication, including use of the incarcerated persons preferred method of communication, checking the ADA tracking system for Effective Communication needs, and accessing VRI/SLI when warranted. The County must ensure staff identify, provide, and document the incarcerated persons preferred method of communication.

The Expert notes that the County recently revised and implemented 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. In future monitoring, the Expert will 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 request a sample of medical, mental health, and dental progress notes and accompanying ADA Effective Communication Forms (if completed), as well as relevant custody documents 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 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 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 (Previous Rating Partially Implemented)**

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

The 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 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."

To measure the County's compliance with the requirement to provide effective communication, the Expert randomly selected 11 cases where the incarcerated person was identified as having a disability that includes barriers to 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).

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 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 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, 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 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 a Functional Performance Worksheet (FPW), J-112, and J-105 within seven (7) business days.
- CHS ADA committee will refer the person to a licensed clinical psychologist for follow-up if assistance is identified and needed within a reasonable time period

of no more than 14 days. An appointment shall be scheduled in the Mental Health Clinical Staff Sick Call, and an email reminder shall be sent to CHS licensed clinical psychologist.

- CHS ADA committee will add the person known to have an Intellectual/Developmental Disability onto the ADA Functional List and put a “DD” flag in TechCare.
- A licensed psychologist will continue to provide behavioral health services, which include but are not limited to developing an individualized plan that addresses (1) safety, vulnerability, and victimization concerns, (2) adaptive support needs, and (3) programming, housing, and accommodation needs while the person is in custody.
- Follow-up behavioral health services by a licensed clinical psychologist will be provided every 30 days or as needed.
- The individualized plan will be documented as CIP/CARE PLAN in TechCare.
- If the licensed psychologist becomes aware that a person with an Intellectual/Developmental Disability has a change in (1), (2), and/or (3) above during a follow-up visit, the licensed psychologist will schedule a referral for Medical Case Management Sick Call with the subject line stating “ADA DD Update” to inform the multidisciplinary ADA team to review the plan to update appropriate intervention(s) implemented.

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

- If a person is suspected of having an Intellectual/Developmental Disability, a referral shall be made 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.

Additionally, the CHS Mental Health leadership indicated that the number of psychologist and other vacancies (i.e., 1 psychologist on staff, 3 vacancies at time of tour) is creating workload challenges in identification and screening for Intellectual/Developmental Disabilities. Mental Health leadership also noted that about

one-third of the Intellectual/Developmental Disability referrals from the medical intake screening were not appropriate referrals. This suggests that the screening tool and related procedures/training/CQI-QA may require additional attention, to ensure that appropriately trained staff are conducting the screening.

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 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 implemented a comprehensive and coordinated written policies and procedures on serving incarcerated people with Intellectual/Developmental Disabilities. However, as noted in other sections of this report, the medical intake nurses were not asking the screening questions to identify suspected intellectual/developmentally disabled persons that would require referral for secondary screening. 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 eight (8) incarcerated persons identified as Developmentally Disabled. However, the County did not produce the screening results or communication with the Regional Center requesting the IPP and the information related to consideration for housing, work assignments, disciplinary measures, and other relevant matters.

For future monitoring, the Expert will 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 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 Expert notes that the CJX and TLF ADA Tracking lists include eight (8) incarcerated persons identified with Developmental disabilities. However, the County did not produce the individualized plans.

The Expert notes that the County produced ADA MDT Meeting Minutes (July 14, 2022, and October 20, 2022). In a review of the minutes, the Expert notes the minutes reflect the following:

"A file was emailed to all listed above staff on 07-13-22 to fill out an interview worksheet for all DD inmates on the Functional Needs List. All DD inmates were discussed in alphabetical order.

All DD's discussed one by one in alphabetical order. Files will be posted in the minutes and emailed to all listed above."

The Expert notes that the ADA DD/ID Inmate Interview Worksheet addresses the following:

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

- Comments

The County produced 12 ADA DD/ID Inmate Interview Worksheets that were completed for the July 14, 2022, multidisciplinary meeting and 10 ADA DD/ID Inmate Interview Worksheets that were completed for the October 20, 2022, multidisciplinary meeting.

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.

Although the County has a process for the multidisciplinary team to conduct a quarterly review of the individualized treatment plan, the County did not produce the individualized treatment plans for the incarcerated persons designated as DD/ID. For future monitoring, the County will need to provide the Expert with all individualized treatment plans for all designated DD/ID incarcerated persons. The individualized plan is a core component of implementation of this section of the RP.

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

**Partially 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 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:

- Americans With Disabilities Act (2-Hour Lesson Plan)
- Americans With Disabilities Act STC PowerPoint Presentation (55 slides)

The Expert notes that the training material includes a segment on the adaptive support needs of incarcerated people with Intellectual/Developmental Disabilities. Training records (sign-in sheets) were only produced for “Cooks” and “Inmate Services” staff.

The training records reflect that of the 236 staff listed on the rosters, 143 have attended the training. Although housing unit deputies reported they had attended the 2-hour ADA training, Training records for all other staff reflect that of 832 staff listed on the sign-in sheets, 198 have not attended the training.

Note: It is difficult for the Expert to determine how many staff are assigned to the jails and the staff who have not attended the training. The Expert recommends that for future monitoring, the County produce a single alphabetized list of all staff assigned to the jails and their classification and notation if they have attended the required ADA training.

Based on the review of all training documents, the Expert notes the County provides ADA Training to jail staff. However, based on the documents produced, the Expert cannot determine if the County has provided the required training to housing deputies, the ADA Compliance Unit, and work supervisors/teachers on the RP requirements of the individualized plan and related accommodation and adaptive support needs; their responsibilities to provide adaptive supports as well as to monitor and address any safety, vulnerability, or victimization concerns.

The County must ensure that the required training is provided to all required staff. The County must also ensure that for future monitoring, verification of the training is provided to the Expert.

Housing unit staff reported that the only information they receive regarding DD/ID incarcerated persons is what is included on the ADA tracking list in the Existing ADA Tracking System. Such information is quite limited (e.g., “ADLs”). As the County works towards implementation of DD/ID individualized plans and the new ADA Tracking System, it should take steps to ensure that all relevant staff, including housing deputies, the ADA Compliance Unit, and work supervisors/teachers, have sufficient information about the person’s adaptive support and other individual needs (such as through inclusion of clear and usable guidance regarding the person’s individualized plans/adaptive supports in the SOMA ADA Tracking System).

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

#### **Partially 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 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 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 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.

However, 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. Rollout of the SOMA ADA Tracking System should facilitate improvements in this area.

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

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

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

During the onsite monitoring tour, the Expert confirmed that easy reading recreational materials (books) were available in all housing units where incarcerated persons with Intellectual/Developmentally are housed. However, some of the incarcerated persons with Intellectual/Developmental disabilities, as well as learning disabilities (literacy concerns) who were interviewed, stated they are not provided access to easy reading books and magazines.

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

The County must ensure that when implemented, the electronic tablets include easy-reading content.

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 implementation of this provision.

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

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



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

The 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.”

Although the Health Care Agency Correctional Health Services Policy and Procedure 8651 Cognitive or Developmentally Disabled Patients includes the RP requirements, the County will need to provide completed discharge plans for incarcerated persons with Intellectual/Developmental Disabilities for the Expert to measure the County’s compliance with the RP requirements.

OCSD and other County staff beyond CHS who participate in discharge planning processes will also play an important role in implementation of this provision.

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

**Partially Implemented (Previous Rating Un-ratable)**

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

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

The 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	Yes	Dexterity
	Leg	Yes	Mobility
Sling		Yes	Dexterity
Shoulder Immobilizer		Yes	Dexterity
Splint	Arm	Yes	Dexterity
	Leg	Yes	Mobility
Tapping cane		Yes	Vision
Walker		Yes	Mobility
Walking boot		Yes	Mobility
Wheelchair		Yes	Mobility

The issue of expiration and timely renewal of medical orders for assistive devices was identified during the monitoring tour in one case. An incarcerated person interviewed reported that in October 2022, his CHS order for wheelchair expired, which resulted in the wheelchair being taken from him for about one week. During this time, he was provided with a walker which he claims was not providing adequate assistance due to his individual condition. He further claims that It took one week for him to be seen by a provider, who reissued the wheelchair order the same day.

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

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

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

- B. The County shall track and document the inspection and maintenance of HCA/AD/DME. Such documentation shall include the following information for each device: whether the person has all assigned HCA/AD/DME; whether the person believes the assigned HCA/AD/DME is appropriate; whether the HCA/AD/DME is in good working order; and, if the HCA/AD/DME requires repair or replacement or is inappropriate for the person, a description of the actions taken (e.g., to repair/replace HCA/AD/DME, evaluation for different HCA/AD/DME, etc.).*

The 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 conduct and complete an Assistive Device Monthly Checklist that includes the RP requirements.

The Expert reviewed a sample of the 426 ADA Interview/Activity Logs the County produced and confirmed that the ADA Compliance Unit conducts a monthly inspection and maintenance check of the HCA/AD/DME issued to the incarcerated persons. The Expert noted that for every case where an incarcerated person is prescribed a HCA/DME/AD, the ADA Compliance Unit staff 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 a new walker due to it being wobbly and scraping the floor. Emailed ADA RN regarding inmate claiming his walker was too wobbly and scrapes the floor.
- Splint is missing a part. ADA RN notified by email on 06-29-22.
- Post-op shoe ripped and needs replacement. Emailed ADA RN. ADA RN emailed that the inmate would be seen and ordered a replacement.
- The inmate stated the walking boot works for her but was recently searched by housing staff, and the walking boot was taken apart, and the inmate does not know how to put it back together and would like medical staff to help her. ADA

compliance nurses were notified. Per ADA RN inmate will be seen tomorrow for a follow-up regarding her boot.

- Stated the rubber bottom stoppers of his walker are worn off and needs new ones. ADA RN notified.
- The post-op shoe is too small, and the Velcro straps do not work properly. ADA nurses were notified. Per ADA RN, the inmate will be seen by her to address medical device concerns.
- HCA/AD/DME is in good working order, but the footrests are not leveled and appear to be different. ADA RN notified. Per ADA RN, the inmate is to use a wheelchair for distances only, not for daily use. The wheelchair the inmate was using was sent out for repair, but he was also advised he is to only use it for long distances.
- The inmate was asking for another wheelchair. The arms of the wheelchair need replacing. ADA RN notified by email on 01/17/22.

Although the CHS Assistive Device Monthly Checklist form was finalized and implemented, the County did not produce the CHS Assistive Device Monthly Checklists conducted by CHS staff for the Expert to review. For future monitoring, the County must produce the CHS Assistive Device Monthly Checklist forms so the Expert can measure the County's compliance with this requirement. Still, progress on this provision has been significant and the County is well-positioned to establish Adequate Implementation in the near term. It will be important to ensure that this Checklist and process be considered within the SOMA ADA Tracking System rollout.

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 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.

Although the CHS Assistive Device Monthly Checklist form was finalized and implemented, the County did not produce the CHS Assistive Device Monthly Checklists conducted by CHS staff for the Expert to review. For future monitoring, the County must produce the CHS Assistive Device Monthly Checklist forms so the Expert

can measure the County's compliance with this requirement. Still, progress on this provision has been significant and the County is well-positioned to establish Adequate Implementation in the near term. It will be important to ensure that this Checklist and process be considered within the SOMA ADA Tracking System rollout.

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

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

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

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

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

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

#### **Adequately Implemented (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 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.

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

#### **Partially 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 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.

OCSD finalized, with DRC input, the Safety and Security Assessment Form to guide implementation of this provision. The form provides for an effective procedure on this topic and puts the County in good position to reach Adequate Implementation. Implementation will be monitored in the next morning round. It will be important to ensure that this form and process be considered within the SOMA ADA Tracking System rollout.



The County reports there were no cases where Jail staff determined it was necessary to remove an individual's personal HCA/AD/DME for safety and security reasons. However, in a review of a sample (275) of the 426 ADA Interview/Activity Logs the County produced, the Expert notes the following two (2) cases where the disabled incarcerated persons HCA/AD/DME was removed for safety and security reasons:

- Per ADA RN, the inmate's cane was discontinued as he was used it to destroy his cell glass. Inmate will use wheelchair until evaluated by provider.
- At approximately 1924 hours in Module O, sector 41, cell 3 inmate broke his cane inside his cell. To avoid injury to inmate and staff, cane was taken from inmate. Supervisor was notified. Per ADA RN and Doctor, inmate's assistive device was updated from cane to wheelchair until further notice.

The Expert notes that the County now has a formalized process in cases where Jail staff determine it is necessary to remove an individual's personal HCA/AD/DME for safety and security reasons, and the staff interviewed were aware of the policy and RP requirements. The Expert notes that these two (2) cases were prior to the implementation of the revised policy. During future monitoring, the Expert will review the County's proof of practice to measure the County's compliance with this requirement.

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

#### **Partially Implemented (Previous Rating Un-ratable)**

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

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 reports there were no cases where Jail staff determined it was necessary to remove an individual's personal HCA/AD/DME for safety and security reasons. Although there were no cases, the Expert notes that the County has a formalized process in cases where Jail staff determine it is necessary to remove an individual's personal HCA/AD/DME for safety and security reasons and staff interviewed were aware of the policy and RP requirements for the ADA Coordinator or supervisory level designee to document the decision and reasons

for it and consult with medical staff within 48 hours to determine an appropriate alternative device and/or accommodation. During future monitoring, the Expert will review the County's proof of practice to measure the County's compliance with this requirement.

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

### **Partially Implemented (Previous Rating Un-ratable)**

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

The 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. One (1) incarcerated person stated he was provided a replacement County issued wheelchair on three (3) occasions when he advised staff of the need for the wheelchair repair.

The Expert notes that the County has revised and implemented 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 the repair of an incarcerated personal HCA/AD/DME at the County's expense or the provision of a replacement HCA/AD/DME at the County's expense. In addition, the Expert notes that all staff is 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 Partially Implemented)**

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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 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 the County has revised and implemented 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 the HCA/AD/DME provided by the County to replace the incarcerated person's personal HCA/AD/DME is sufficient to provide the incarcerated person with safe access to the Jail's programs, services, and activities. In addition, the Expert notes that all staff is 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 Partially Implemented)**

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

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

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

The Expert notes that the County has revised policies and implemented 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 is 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 Partially Implemented)**

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

The 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 revised policies and implemented a Safety and Security Assessment Form and policies that facilitate the implementation of this and related requirements. 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 in cases where the County removes a prosthetic limb or similar device due to specifically identified security concerns. In addition, the Expert notes that all staff is aware of the policy and RP requirements.

The Expert notes that the County is on track to achieve an adequately implemented rating for the provision in the near future. However, this general provision and the F subdivisions, require implementation of several sub-components to achieve compliance. Additionally, interviews and information received from the County, reflect prosthetics were being denied as recently as 11/2022. The Expert will need to review proof of practice regarding implementation of the revised policy,

DRC counsel have expressed continued concerns regarding multiple individual cases involving an incarcerated person with prosthetic or prosthetic-related accommodation needs. As part of the Third monitoring round, the parties will - with the assistance of the Expert as needed - review all current cases of individuals who have requested or who have been identified as needing a prosthetic, a prosthetic repair/maintenance,

and/or prosthetic-related accommodations. This process which will be guided by CHS, will allow for identification and remediation of any necessary policy/procedure issues that remain in the context of implementation of the Prosthetics section of the RP.

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

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

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

The 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 revised policies and implemented 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 is 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 Partially Implemented)**

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

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."

During the incarcerated person interviews, the following incarcerated persons reported that their prosthetics needed repair. The County has also provided information for these specific cases.

- Incarcerated person housed in TLF Mod O - States he has been requesting a silicone sleeve/sock for his prosthetic. He currently has a cotton sock which he claims causes irritation due to the sock rubbing against his skin. States the silicone sock will not cause irritation. States that medical staff has advised him that the silicone sleeve/sock is not available.
  - County response – Pt was provided with a silicone sleeve on 01/27/2022 . On 03/10/2022 requested for new one. On inspection Silicone sleeve was in good condition. Per Medicare guidelines replacement is from 6-12 months if needed or depending on usage. He has been seen every month and he has not made another request for Silicone since then. He normally comes out on his wheelchair. Pt request for a prosthetic sock size 2 on 02/17/202, an order was place with CMS supply. Pending for delivery.
- Incarcerated person housed in TLF Mod O - Claims his prosthetic needs to be repaired and he put a medical message slip 3 days ago.
  - County response - Patient was booked into OCJ 7/20/2021 Booked with crutches only. On 9/9/2021 he requested to use own prosthesis. 9/14/2021 Prosthesis provided to patient. Patient unable to use it due to measurement and missing parts. The prosthetic leg was placed back in property. He was provided with accommodations and alternative device (wheelchair and walker for equal and meaningful access), 12/21/2022 Requested family to pick up prosthetic leg from property for evaluation. 1/17/2023 Per family, provider will need to see patient in person for measurements and evaluation. Vendor contacted and stated they were not the vendor for this appliance. 01/17/2023 He requested to get his prosthetic leg back from property. 01/24/2023 Seen by medical director to evaluate the functionality of the prosthetic leg. Patient reported that he had not use the prosthetic leg for over 6 months prior to incarceration. Prosthetic inspected and it was functional at the time. Pt demonstrated walking with the prosthetic leg and was unsteady. Unable to walk with leg. He was referred to PT for evaluation and retraining on the use of



his prosthetic leg. On 02/09/2023 went to see PT and did not take Prosthetic leg to appt. He told PT that his prosthetic strap was broken. He was provided training on the use of a walker. PT was R/S for PT, he was notified on the reason for PT visit and the importance of taking his Prosthesis to the appt. On 2/22/23, patient signed a refusal for PT appt on 2/23/23. Appt R/S for 3/2/23.

- Incarcerated person housed in TLF G Barracks - Claims his prosthetic needs repair as the foot part of the prosthetic is detaching from the leg. Claims he advised medical two months ago.
  - County response - Patient was seen by ADA on 11/23/2022. Reported that foot shell was loose for couple years, keeps it in place with shoes. Canvas shoes provided then. Seen again 12/07/2022 and stated the cover was still loose. Referred and seen by provider on 12/8/2022. Prosthetic inspected and was determined that it was working properly. The loose cover is cosmetic. Provider applied special glue to the cover as per pt.'s request. The cover was fixed again on 01/20/2023, provider offered to send him to a specialist, and he refused. Refusal form on file. Pt was seen again 02/14/2023 and reported that the cover was ok and that it was not moving anymore. Prosthesis still working properly.

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 Partially Implemented)**

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

The 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."

During the incarcerated person interviews, the Expert identified one (1) case during this tour where an incarcerated person may require a prosthetic limb or similar

device and did not have one. In this case, the incarcerated person advised the Expert that he did not want a prosthetic device ordered during his incarceration.

The Expert notes that the County has revised policies and 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 is aware of the policy and RP requirements.

The Expert notes that the County is on track to achieve an adequately implemented rating for the provision in the near future. However, this general provision and the F subdivisions, require implementation of several sub-components to achieve compliance. Additionally, interviews and information received from the County, reflect prosthetics were being denied as recently as 11/2022. The Expert will need to review proof of practice regarding implementation of the revised policy,

DRC counsel have expressed continued concerns regarding multiple individual cases involving an incarcerated person with prosthetic or prosthetic-related accommodation needs. As part of the Third monitoring round, the parties will - with the assistance of the Expert as needed - review all current cases of individuals who have requested or who have been identified as needing a prosthetic, a prosthetic repair/maintenance, and/or prosthetic-related accommodations. This process which will be guided by CHS, will allow for identification and remediation of any necessary policy/procedure issues that remain in the context of implementation of the Prosthetics section of the RP.

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

#### **Partially 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 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 revised policies and 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 is 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 Partially Implemented)**

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

The 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 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 Release Log," that reflects 369 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, 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 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 Partially Implemented)**

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

The custody and CHS staff interviewed stated that prior to the release of an incarcerated person, all personal property stored, including personal

HCA/AD/DME, that was removed from the incarcerated person is transferred to the incarcerated person's release area. The custody staff conducting the release issues the personal property, including personal HCA/AD/DME.

The County produced an excel spreadsheet, "ADA Release Log," that reflects 178 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:

- Personal cane missing
- Personal cane not returned

In both cases, the log reflects the incarcerated person was released with a CHS-provided device.

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

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

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

The 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 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 63 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 Partially Implemented)**

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

The County produced an excel spreadsheet, "ADA Release Log," that reflects 369 disabled incarcerated persons who were released with a personal, donated, or CHS-provided HCA/AD/DME. In some cases, it is noted that the incarcerated person declined the HCA/AD/DME. The log includes the following columns:

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

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

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

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



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## H. Housing Placements (Section VIII)

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

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

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

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

The 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."

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

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

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

The Expert notes that as 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.*

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 notes 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, the classification cases factors which prohibit the mixture of the incarcerated population, the disabled incarcerated persons who require accessible housing are not being provided with equivalent access to out-of-cell time, programs, services, and activities as non-disabled incarcerated persons including in-person programs (educational, self-help and computer programs) and work assignments. Once more accessible housing is brought online, the County will be in a better place to ensure incarcerated persons with disabilities who require accessible housing are provided equivalent access to out-of-cell time, programs, services, and activities as persons without disabilities with comparable security and classification profiles and incarcerated persons who do not require accessible housing. One area of particular concern with respect to programs is ensuring equal opportunities to access classes, including those that are conducted in person (as opposed to via correspondence packets).

Additionally, it should be noted that a particular achievement was for Theo Lacy's Mod O, Sector 37 (disability cluster unit) to get access to the Barracks' outdoor field recreation area, to address a longstanding inequity in recreation access for incarcerated people with disabilities. However, it was observed that individuals with disabilities housed in other Mod O sectors (including for reasons related to their disability and disability-related housing needs) are not provided access to the Barracks' outdoor field recreation area, instead being limited to the much smaller and concrete-filled interior recreation space adjacent to Mod O. OCSD should consider methods to ensure equitable access to the Barracks' recreation space for all individuals with disabilities who must be housed in the modules.

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 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."

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

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

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

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

**Adequately Implemented (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 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 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 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 generally 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 place some disabled incarcerated persons (those who do not have mental health needs or who do not qualify for Barracks housing) who require accessible housing in the TLF and CMJ Mod O. Based on this, the classification cases factors which prohibit the mixture of the incarcerated population, the disabled incarcerated persons who require accessible housing are not being provided with equivalent access to out-of-cell time, programs, services, and activities as non-disabled incarcerated persons. Once more accessible housing is brought online, the County will be in a better place to ensure incarcerated persons with disabilities who require accessible housing are provided equivalent access to out-of-cell time, programs, services, and activities as persons without disabilities with comparable security and classification profiles and incarcerated persons who do not require accessible housing.

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

### **Partially Implemented (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. OCSJ will deactivate and no longer use these SL cells for incarcerated persons with disabilities at the earliest date feasible,*



*given COVID-related housing demands (e.g., quarantine housing) and alternative accessible housing. OCSD will begin to re-house individuals with disabilities from SL as soon as other accessible housing units are available.*

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

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

#### **Not Implemented (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 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 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 nine (9) incarcerated persons housed in the SL cells. The Expert requested, and the County produced the following case factors for the nine (9) cases. The Expert notes that four (4) cases are not disabled incarcerated persons. The case factors for the disabled incarcerated persons are as follows:

- ADA Mobility, Wheelchair. Requires ADA-accessible housing (PC-AH) - Classified as Protective Custody due to criminal charges (PC288/290). Re-Classified and housed as total separation due to various incidents with other inmates and staff at OCJ and CDCR. No other ADA-accessible cell is available for him as of 2/23/2023.
- ADA Mobility, Wheelchair for long distances. Requires low bunk/low tier housing (GP-7) - Moved from Ward D into Sheltered Living for Covid Isolation. He is scheduled to be cleared by CHS within the next day or so. Once cleared, he can be re-housed out of Sheltered living.
- ADA Mobility, Wheelchair for long distances. Requires low bunk/low tier and CPAP accessible housing (PC3) - Cannot be moved to A/E dorms due to the need for CPAP access. CPAP-accessible cells at Theo Lacy are all occupied as of 2/23/2023.
- ADA Mobility, Wheelchair. Requires ADA-accessible housing (PC3) - We have attempted to rehouse him into larger cells and dorms multiple times in custody. However, he has been returned to being housed alone each time due to housing and management challenges (arguments with other inmates, being uncooperative with staff, etc.). There are no other ADA-accessible housing options available for him as of 2/23/2023.
- ADA Mobility, Wheelchair for long distances. Requires ADA-accessible housing (GP5) - Housing and management problems in ADA-accessible dorm housing. There are no other ADA-accessible housing options available for him as of 2/23/2023.

The Expert notes that some of the incarcerated persons housed in the SL had medical conditions requiring a CPAP machine, and that the County Jail system does not currently have sufficient non-restrictive housing bed capacity for incarcerated persons who need access to a CPAP machine. (As noted, there are insufficient CPAP-accessible cells.)

Individuals with sleep apnea or other conditions requiring CPAP use may have ADA-recognized disabilities (even if they do not have a mobility or other disability), and thus be entitled to disability discrimination law protections, including placement in the least restrictive setting appropriate as well as reasonable accommodations to ensure such placement. See 29 C.F.R. § 1630.2(i) (ADA "disability" definition applies where condition substantially limits major life activities that include "sleeping" and "breathing").

Some (and possibly all) CPAP users are individuals with legally recognized disabilities, and these incarcerated persons must also be accommodated to ensure placement in the least restrictive setting appropriate to their individual classification factors. Meeting the population's need for CPAP-accessibility cells across all classification groups will be necessary to facilitate the closing of the SL unit and this section of the RP.

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 need for COVID-19 isolation, and 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 second 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.

#### **Adequately Implemented (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 access in the yard (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.

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 completion of these renovations.

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

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

The County produced the following documents that reflect the County conducts periodic quality assurance audits to ensure that all people in custody who require accommodations in housing are placed in housing consistent with their needs:

- Thirty-four emails that reflect the ADA Compliance Unit identified 38 cases where incarcerated persons with housing accommodations required LB/LT or accessible housing based on a new J-112 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.

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

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

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

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

Classification and PMU staff interviewed stated that staff 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 Expert reviewed 34 emails that reflect the ADA Compliance Unit identified 38 cases where incarcerated persons with housing accommodations required LB/LT or accessible housing based on a new J-112 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, with the exception of four (4) cases, the documents 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 that the cases were expeditiously moved/rehoused in the next monitoring round to confirm adequate implementation.

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

#### **Partially Implemented (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 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.

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 reports that "Guardian RFID," when implemented, will have the ability to track and report on the out-of-cell time for incarcerated persons. The Expert also notes that the County has not installed accessible recreation equipment in the Jail's recreation yards. In a review of a sample (275) of the 426 ADA Interview/Activity Logs the County produced, the Expert notes the following two (2) cases where the disabled incarcerated persons were not being provided the required out-of-cell time:

- She states she is frustrated; dayrooms don't resume quickly after being locked down for movement, meds, chow, etc. States she is coming out for dayroom and will go to mod K ADA showers. States she is offered outdoor rec only once a week. October's log reflects that to be true. Talked to module deputies about having to offer all inmates outdoor rec at least twice a week.
- Stated he is not being offered outdoor rec. Housing staff notified and stated due to the large number of groups housed in this Mod; it is difficult to get all groups out to outdoor rec.

The Expert notes that although the County has alternate telecommunication technology (Video Phones, Video Relay Services, and TDD), the access to this technology is not equal as non-disabled incarcerated persons have direct access to the telecommunication devices in their housing units, and the disabled incarcerated persons must request access to the telecommunication devices from staff. In the event staff is not available, they must wait for access until the staff is available to procure



the technology or escort them to where the technology is located. The County 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.

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 person access to shower chairs. While accessible showers are available, the need to escort incarcerated persons to other locations for access to showers has created delays at times. DRC received one report that a person with a disability had to wait one week before a shower escort was available.

The Expert was not able to confirm or refute this claim.

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

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

The 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, six (6) incarcerated persons stated they do not need staff's

assistance, two (2) incarcerated persons stated staff provides assistance, and four (4) stated that they must rely on other incarcerated persons for reading and writing assistance. The Expert notes 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.

During the previous monitoring tour, the County reported that on August 22, 2022, the County implemented in-person program opportunities. These programs are facilitated by OCSD program staff as the COVID-19 restrictions currently do not allow for Rancho Santiago Community College District Education facilitators to provide in-person programs. The County reported that once the COVID-19 restrictions are lifted, the Rancho Santiago Community College District Education programs will be offered.

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
  - Substance Abuse
  - HiSet
  - ESL
  - Leadership
  - Academic Skills
  - Intro to Outlook
  - Intro to Word
  - Intro to PowerPoint
  - Intro to Excel
  - Money Matters
  - Parenting
  - Workforce Prep
  - Great Escape

- Men's Central Jail
  - Protestant Service
  - Christian Science Service
  - Catholic Service
  - Great Escape
  - Back on Track
  - ESL
  - Computers (MS Word)
  - Computers (Intro to MS Outlook)
  - Workforce Readiness
  - Leadership
  - Academic Skills
  - Substance Abuse
  - HiSet
  - Parenting
- Intake Release Center
  - Protestant Service
  - Christian Science Service
  - Catholic Service
  - Catholic Bible Study
  - Case Management
  - Great Escape
  - AA Panel
- Theo Lacy Facility
  - Protestant Service
  - Catholic Service
  - Seventh Day Adventist
  - HiSet
  - ESL
  - Money Matters
  - Microsoft Word
  - Microsoft Outlook
  - Microsoft Excel
  - Microsoft PowerPoint
  - Back on Track
  - Great Escape
  - Workforce Readiness
  - All in Program
  - Substance Abuse
  - Food Service
  - Basics of Leadership

- Intro to Computers
- RECLAIM/APAIT (LGBTQ)
- AA Panel
- AA Big Book Study
- NA Panel
- VR Headset Program
- Parenting
- Effective Parenting
- Cell Dogs

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

- Central Men's Jail
  - 2<sup>nd</sup> Floor Classroom #1(Protestant Bible Study, Great Escape, Back on Track, ESL, Workforce Readiness, ESL, Academic Skills, Substance Abuse, HiSet, and Parenting)
  - 2<sup>nd</sup> Floor Classroom #2 (Protestant, Christian Science, Catholic, and Great Escape)
  - 2<sup>nd</sup> Floor Computer Lab (Computers MS Word, Computers MS Outlook, and Leadership)
- Intake Release Center
  - 2<sup>nd</sup> Floor Multi-Purpose Room (Protestant Mod K Females)
  - MOD J Room A (Protestant)
  - Mod J Room Dayroom Sector 3 (Great Escape and AA Panel)
  - Mod K Room A (Protestant and Catholic)
  - Mod L Room A (No Programs)
  - Mod M Room A (Catholic,
  - Mod M Room B (No Programs)
  - Mod N Room A (No Programs)
  - Mod N Room B (Catholic and Protestant)
- Central Women's Jail
  - Classroom A (Substance Abuse, Academic Skills, HiSet, Great Escape Money Matters, Parenting, and Workforce Prep)
  - Classroom B (Protestant, Catholic, Christian Science, ESL, HiSet, Leadership, Intro to Outlook, Intro to PowerPoint, Intro to Word, Intro to Excel, and Academic Skills)
- Theo Lacy Facility
  - Classroom #2 (Protestant, HiSet, ESL, Money Matters, Food Services, Basics of Leadership, Workforce Readiness, and Effective Parenting)
  - Classroom #3 (Microsoft Outlook, Microsoft PowerPoint, Microsoft Word, Microsoft Excel, and Intro to Computers)

- Classroom #4 (Catholic, Back on Track, Great Escape, Workforce Readiness, Substance Abuse, Basics of Leadership, ESL, Parenting, and Effective Parenting)
- Classroom #5 (Protestant, Catholic, ESL, All in Program, Substance Abuse, VR Headset Program, Cell Dogs, and Money Matters)
- Chapel (No Programs)
- Mod I Multi-Purpose Room B (No Programs)
- Mod J Multi-Purpose Room (Catholic, Protestant, APAIT/RECLAIM, and AA Panel)
- Mod J Dayroom Sector 10 (NA Panel, AA Panel, AA Big Book Study,
- Mod K Multi-Purpose Room (Catholic, Protestant, Great Escape, and Seventh-Day Adventist)
- Mod L Multi-Purpose Room (Catholic, Protestant, and Great Escape)
- Mod M Multi-Purpose Room (No Programs)
- Mod N Multi-Purpose Room (Great Escape)
- Mod O Multi-Purpose Room (Catholic and Protestant)
- Mod P Multi-Purpose Room (No Programs)
- Mod Q Multi-Purpose Room (No Programs)
- Mod R Multi-Purpose Room (No Programs)

The Expert notes that based on the COVID-19 restrictions, the County currently provides limited in-person programs which are facilitated by OCSD Inmate Services facilitators. The Expert notes that with the exception of religious programs, there are no in-person educational programs currently offered in TLF Mod O, which currently houses most disabled incarcerated person who requires accessible housing. Staff reported that currently there are no disabled incarcerated person who are housed in TLF Mod O attending in-person programs in the TLF programs classrooms where most of the programs are offered. Although the County offers correspondence program opportunities throughout the jails, there is currently only one (1) disabled incarcerated person receiving correspondence packets in TLF Mod O.

The Expert strongly recommends that the County expand the program participation opportunities for disabled incarcerated persons who are housed in the TLF Mod O. The disabled incarcerated persons housed in this location stated during the incarcerated person interviews expressed interest in participating in Educational and Self-Help programs. 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. Pending the activation of the accessible housing, the Expert recommends that the County consider allowing incarcerated persons housed in the TLF Mod O access to the Programs provided in the TLF Programs Building. During staff interviews, program staff indicated an openness to providing people with disabilities in the module housing units access to programs and activities in the TLF Programs Building. Coordination with OCSD custody escort and classification staff will be essential to such an effort. As such efforts are undertaken,

incarcerated persons with disabilities in the modules will need to be informed of these new opportunities, through direct engagement with program staff and the ADA Compliance Unit (e.g., during the 30-day ADA Compliance Unit check-ins).

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

The Expert is informed by OCSD that the lower security Musick facility that is currently under construction will not have any disability- or mental health-related exclusions, including as to 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 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 that are assigned and participate in programs (educational, work, religious, visiting, etc.) reported that staff provide assistance and accommodations.

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, incarcerated persons with disabilities remain underrepresented in the jail’s programming, including classes and worker positions. 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 Partially Implemented)**

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

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 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, six (6) incarcerated persons stated they do not need staff’s assistance, two (2) incarcerated persons stated staff provide assistance, and four (4) stated that they must rely on other incarcerated persons for reading and writing assistance. The Expert notes 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.

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

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

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

Related to implementation of this provision, the Expert suggests 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 produced the following OCSD Recreation/Dayroom Logs for the following weeks:

- CMJ (Mods A, B, C, D, E, F, and O)
  - July 17-23
  - August 7-13
  - September 4-10
  - October 23-39
  - November 6-12
- CWJ (Second Floor)
  - July 17-23
  - August 7-13
  - September 4-10
  - October 23-39
  - November 6-12
- IRC (Mods J, K, L, M, and N)
  - July 17-23
  - August 7-13
  - September 4-10
  - October 23-39
  - November 6-12
- TLF (Mods AE Barracks, F Barracks, G Barracks, H Barracks, Mods I, K, L, M, N, O, P, Q, and R)
  - July 17-23
  - August 7-13
  - September 4-10
  - October 23-39
  - November 6-12

The Expert also reviewed a sampling of the logs. The review found that staff does not consistently log sufficient information for the Expert to determine if the incarcerated persons with disabilities accept or refuse the out-of-cell opportunity and the amount of time the incarcerated persons with disabilities spend out-of-cell. Some of the logs do not reflect the disabled incarcerated person identifiers (name and booking number) for cases where there are multiple disabled incarcerated persons in a dorm/tank.

The County reports that "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 a sample (275) of the 426 ADA Interview/Activity Logs the County produced, the Expert notes that the ADA Compliance Unit staff interviews the disabled incarcerated persons on a monthly basis as required by the RP. The Expert notes the following example of the ADA Compliance Unit staff documented in one of the 14 cases, "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 the disabled incarcerated persons with a message slip addressed to the ADA Compliance Unit and documents "given an inmate message slip addressed to the ADA Compliance Unit in case he has any disability needs" on the ADA Interview/Activity Log. The Expert also notes that the ADA Interview/Activity Logs reflect that the ADA Compliance Unit staff meets with the incarcerated persons with disabilities when they become aware that an incarcerated person with a disability may need a disability accommodation, mental health referral, or other action to afford meaningful access to out-of-cell opportunities.

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

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

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

The County produced an Annual Review and Corrective Action Plan. The County reports 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 began conducting these surveys in August 2022 and continue to conduct them on a monthly basis. The ADA clients with whom Programs staff engage to complete these surveys are randomly selected from the list that is received from ADA deputies.

The review does not include 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.

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

The Work Deputy at the TLF stated that only sentenced incarcerated persons are eligible for work. In addition, incarcerated persons with specific charges and in-custody misconduct are also ineligible for work. The Work Deputy 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 a "yes," "no," "checkback" (for cases who may be detoxing), "cleared for light duty only," and "not cleared for kitchen." Once the medical determination is received, he contacts the ADA Nurse for a list of the incarcerated person's physical limitations. The Work Deputy then places the incarcerated person into a work position based on the essential functions of the job and the incarcerated person's physical limitations.

The Work Deputy stated that incarcerated persons housed in MOD O (the unit where most disabled incarcerated are housed due to accessible housing) are only assigned to MOD worker positions, and they currently cannot be assigned to kitchen and laundry positions. He also stated that it would be feasible to assign disabled incarcerated person housed in MOD O who are GP level 5-7 to the laundry and kitchen positions.



The County should work to extend to incarcerated persons with disabilities opportunities to participate in these worker roles.

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 426 ADA Interview/Activity Logs the County produced, the Expert notes that the ADA Compliance Unit staff asks the incarcerated person during the interview about their willingness to accept a work assignment position. The ADA Compliance Unit staff notes if the incarcerated person is ineligible for assignment based on classification or security case factors. Additionally, the County produced documentation that 11 disabled incarcerated persons were assigned to work positions, including nine (9) from CJX and two (2) from TLF. At the time of the on-site review, there were four (4) disabled incarcerated persons assigned to work positions at TLF and one (1) at CJX.

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

- TLF
  - 384 inner compound workers
  - 60 mod workers
  - 5 PC workers (A-E barracks)
  - Total: 449
- IRC
  - 16 workers
- CMJ
  - 216 GP workers
  - 8 PC workers
  - Total: 224
- CWJ
  - 36 workers
- Grand Total: 725

In review of the Orange County Sheriff's Department (CJX/TLF) ADA Inmate Tracking Lists (2/24/23), the Expert notes five (5) disabled incarcerated persons are assigned to worker positions. The Expert notes that the average daily population of the OCJ is 4,852 and the disabled incarcerated person population is 118. Based on the population and worker positions available there are worker positions for approximately 15 percent of the incarcerated person population. However, the Expert notes that only 4.25 percent of the disabled incarcerated person population are assigned to worker positions.

To achieve equity in work opportunities for people with disabilities, the Expert recommends that the County strongly consider allowing 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. Concerted efforts to inform and engage Spanish-speaking incarcerated people with disabilities as to work opportunities may also be warranted. Other efforts to expand work opportunities for incarcerated persons with disabilities may also be considered.

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 function of each job.

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 Not Implemented)**

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

The 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."

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

The charge nurse who was interviewed stated that any nurse could review the potential worker list provided by the Work deputy. He further stated that there is no specific policy outlining the medical criteria for clearing an incarcerated person to work. In cases where there are detoxification concerns the medical reviewer determines a follow-up date for re-review. For cases where the candidate has medical conditions such as diabetes, congestive heart failure or epilepsy, the candidates are referred to a medical provider. Candidates that are in the mental health delivery system are referred to mental health for a case review. No information was provided as what guide 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 charge nurse also stated that the approval/denial of a work assignment clearance is not documented in the health record. Instead, there is only a handwritten notation on the potential worker list indicating whether or not an individual is cleared to work.

Although the charge nurse interviewed stated there is no specific policy outlining the medical criteria for placement in a work position, the Expert notes that the County produced HCA CHS Policy and Procedure 1022 Inmate Workers (1-12-23). The Expert and counsel have not had the opportunity to review and comment on the revised policy. 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 EHR. 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.

The County must ensure that individuals with medical conditions that are qualified disabilities are not excluded from the work assignment based on their medical condition and are allowed to participate in the work assignment program with the appropriate 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 will request and review proof of practice on this topic, including completed work assignment medical evaluations.

Based on staff not being aware of the revised policy and completed evaluations were not produced, 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 revised and implemented Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities states, 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 deputy 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 work assignment.

The five (5) incarcerated persons who were assigned to job positions stated that work supervisors provide accommodations for them to perform the work assignment, such as alternate duties and, in one case providing a chair for him to sit when 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.

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

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

The 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 Work deputy 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 work assignment.

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

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**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 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."

In a review of a sample of the 426 ADA Interview/Activity Logs the County produced, the Expert notes that the ADA Compliance Unit staff note if the incarcerated person is ineligible for CWP assignment based on classification or security case factors (type of charges and time to serve). The CWP deputy stated that there are currently 42 individuals assigned to the CWP. 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. The CWP deputy stated that 40 to 50 percent of the eligible candidates refuse to participate in the CWP. The CWP deputy stated that all candidates must have a permanent address and transportation to be considered for CWP. The CWP deputy stated that in the last six (6) months, four (4) disabled incarcerated persons had been assigned to the CWP, and currently one (1) intellectually disabled incarcerated person is assigned to the CWP. According to the CWP deputy, at the time of the tour, there were approximately 42 CWP participants, including just 1 person with an identified disability. (The deputy noted that CWP participation has decreased significantly in recent years. He estimated that there were approximately 300 people participating in CWP in 2014 at a given time, and approximately 170 in the period immediately before the COVID pandemic.)



The charge nurse who was interviewed stated that any nurse could review the potential CWP list provided by the CWP deputy. He further stated that there is no specific policy outlining the medical criteria for placement in the CWP. In cases where there are detoxification concerns, the medical reviewer determines a follow-up date for re-review. For cases where the candidate has medical conditions such as diabetes, congestive heart failure, or epilepsy, the candidates are referred to a medical provider. Candidates that are in the mental health delivery system are referred to mental health for a case review. The charge nurse also stated that the approval/denial of CWP clearance is not documented in the health record.

Although the charge nurse interviewed stated there is no specific policy outlining the medical criteria for placement in the CWP, the Expert notes that the County produced HCA CHS Policy and Procedure 1022 Inmate Workers (1-12-23). The Expert nor counsel have not had the opportunity to review and comment on the revised policy. 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 EHR. 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.

The County must ensure that individuals with medical conditions 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 will request and review proof of practice on this topic, including completed CWP medical evaluations.

Based on staff not being aware of the revised policy and completed evaluations were not produced, 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;*

The Expert reviewed the job descriptions and essential functions for CWP sites produced by the County. The Expert found that the County has clear job

descriptions that include the essential functions and clear hiring criteria that do not inappropriately screen out people with disabilities.

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

#### **Adequately Implemented (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 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.

In the next monitoring round, the Expert will request and review proof of practice on this topic, including completed CWP medical evaluations.

Based on staff not being aware of the revised policy and completed evaluations were not produced, 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 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 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 CWP deputy stated that in the event the individual could not perform the essential function of the CWP 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.

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, etc. – are obtaining CWP assignments with due consideration and provision of accommodation needs.

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

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

The 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 CWP deputy stated that in the event the individual could not perform the essential function of the CWP 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.

Although the policy states that work supervisors/teachers shall be informed as appropriate as to the incarcerated persons with Intellectual/Developmental Disabilities, their individualized plan, related accommodations, adaptive support

needs, and staff responsibilities to provide for such needs, the policy does not identify the accommodations and supports (e.g., additional supervision and training, modified production expectations, expanded timeframes for completion of projects, etc.) that CWP work supervisors must provide.

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

### **Partially Implemented (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 charge nurse who was interviewed stated that any nurse could review the potential CWP list provided by the CWP deputy. He further stated that there is no specific policy outlining the medical criteria for placement in the CWP. In cases where there are detoxification concerns, the medical reviewer determines a follow-up date for re-review. For cases where the candidate has medical conditions such as diabetes, congestive heart failure, or epilepsy, the candidates are referred to a medical provider. Candidates that are in the mental health delivery system are referred to mental health for a case review. The charge nurse also stated that the approval/denial of CWP clearance is not documented in the health record.

Although the charge nurse interviewed stated there is no specific policy outlining the medical criteria for placement in the CWP, the Expert notes that the County produced HCA CHS Policy and Procedure 1022 Inmate Workers (1-12-23). The Expert nor counsel have not had the opportunity to review and comment on the revised policy. 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, speech and 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 EHR. 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.

The County must ensure that individuals with medical conditions 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 will request and review proof of practice on this topic, including completed CWP medical evaluations.

Based on staff not being aware of the revised policy and completed evaluations were not produced, 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 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 CWP deputy stated that "in the event the individual could not perform the essential function of the CWP 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.

The Expert did not interview CWP work supervisors or disabled persons assigned to the CWP. The Expert notes that in the past six (6) months, four (4) disabled persons have been assigned to the CWP, and currently, one (1) disabled person is assigned.

The County is 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, 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)**

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## 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 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.”

During the on-site monitoring tour, the Expert confirmed that the County has posted in all housing units the Orange County Sheriff's Department Custody Operation Inmate Orientation which includes the Grievance Procedure. The Expert notes that during the disabled incarcerated person interview/meeting with the ADA Compliance Unit staff, the incarcerated person is informed if they believe they are the subject of disability discrimination, they may use the grievance procedure set forth in the Orange County Jail Rules. They should indicate in the box provided on the Inmate Grievance Form that the grievance is "disability-related" and the process of how and to whom to submit the grievances. The incarcerated persons with disabilities sign an "ADA Inmate Qualifications Acknowledgement of Rights/Programs" form acknowledging their understanding of the grievance process. The Expert also notes that the ADA Inmate Interview Work Sheet includes a section on grievances.

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

- July 2022 – 35 Forms
- August 2022 – 62 Forms
- September 2022 – 57 Forms
- October 2022 – 38 Forms
- November 2022 – 48 Forms



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

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

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

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

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."

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

- Deaf and/or Hard of Hearing – 9
- Developmentally Disabled – 10
- Speech – 1
- Vision – 10

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

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

This provision will continue to be monitored, including in the context of the SOMA rollout and as it relates to other ADA/disability identification, accommodation request, and provision of accommodation sections in the RP.

**Adequately Implemented (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 draft Custody & Court Operations Manual (CCOM) 8000 Inmates with Disabilities policy states, "All grievances that request disability accommodations and/or raise any

disability-based discrimination or violation of the ADA, this RP, or Jail ADA-related policy will be tracked in the Grievance System.”

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

- July – 2 Orange County Sheriff’s Department grievances for TLF
- August – 1 CDCR 2275-CJ Form-Request For Reasonable Modification Or Accommodation For Access To Housing and/or Program(s) In A County Jail, 1 Orange County Sheriff’s Department grievances for TLF, and 1 Orange County Sheriff’s Department grievance for CJX.
- September – 1 Orange County Sheriff’s Department grievance for CJX and 1 for TLF
- October 1 Orange County Sheriff’s Department grievances for TLF and 1 CDCR 2275-CJ Form-Request For Reasonable Modification Or Accommodation For Access To Housing and/or Program(s) In A County Jail

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

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

This provision will continue to be monitored, including in the context of the SOMA rollout and as it relates to other ADA/disability identification, accommodation request, and provision of accommodation sections in the RP.

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

*C. The County shall ensure that all persons, including people with disabilities, have meaningful access to the grievance process and to grievance forms.*

- 1. The County shall ensure that grievance forms are readily available to people in custody, either by placing grievance forms in the housing units in areas accessible to people in custody or ensuring that staff provides grievance forms promptly upon request, irrespective of the type of grievance raised.*

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 available to inmates, either in the housing units or provided by staff promptly upon request."

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

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

This provision will continue to be monitored, including in the context of the SOMA rollout and as it relates to other ADA/disability identification, accommodation request, and provision of accommodation sections in the RP.

**Adequately Implemented (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 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."

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

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

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

**Adequately Implemented (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 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 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 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 a section 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 staff has been trained on the RP requirements. Based on this, the Expert finds the County has adequately implemented the RP requirement.

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

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#### *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 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.

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 adequately implemented the RP requirement. The Expert will assess implementation and proof of practice of this provision in the next monitoring round.

#### **Adequately Implemented (Previous Rating Un-ratable)**

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

The 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.”

A review of the 11 disability-related grievances produced found that the County did not document the date the grievance response was provided to the incarcerated person in eight (8) of the cases and, in one (1) case, did not provide the response within the required 14 days.

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

### **Not Implemented (Previous Rating Un-ratable)**

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 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 staff interviewed were aware of the RP requirements. 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.

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

4. *If the grievance is a request for an accommodation, the response must articulate whether the County is granting the requested accommodation, providing an alternative accommodation, or is declining to provide any accommodation. If the County is not providing the requested accommodation, the response must explain*



*the reasoning for the decision. If the County is providing an accommodation (either the requested accommodation or an alternative), the County must document that it has provided the granted accommodation.*

The 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 some of the grievance responses:

- MJ080322/1240 – Requested glasses from property and knee brace. Response states Deputy Snow and ADA RN Chung spoke to I/M. I/M stated his glasses were in his property. Deputy Snow got glasses from property and delivered them to him. RN Chung issued him 2 knee braces.
- MJ080922/0404— Requested back brace. Response states "Sent to medical." The device is being delivered to you by healthcare personnel.
- TL071122/0145 – States her sling, which was given to her by Deputy Snow, was taken because she did not have a Chrono. The response states, You have a current chrono ordered by medical personnel for a sling that expires 7/23. The response does not articulate whether the County is granting the requested accommodation, providing an alternative accommodation, or is declining to provide any accommodation.
- TL072222/0506– The doctor refused to give a "soft shoe" due to surgery on foot in April. Response states, Your concern was addressed by the medical provider, and a Chrono was provided. The response does not articulate whether the County is granting the requested accommodation, providing an alternative accommodation, or is declining to provide any accommodation.
- MJ091322/1245 – Requesting hearing aids, glasses, and mental health medication. The response states I/M was released prior to the disposition of grievance. Response does not indicate the date he was released.
- TL082322/2353 – Requesting Medical provide larger shoes for his medical condition on his feet. He stated the shoes are too small and needs a larger size. Requests an appointment with doctor to re-size shoes; stated a lack of circulation. The response states, Health care personnel, attempted to see you on 8/24 regarding your IHMS request. You refused to be seen at that time. You were seen by healthcare personnel on 9/1 and your concern was addressed at that time. You are currently pending a follow-up

appointment with the specialist regarding your concern. The response does not articulate whether the County is granting the requested accommodation, providing an alternative accommodation, or is declining to provide any accommodation.

- TL082822/0236 – Requesting shoes and knee brace from property. The response states I/M was released prior to the disposition of the grievance. Response does not indicate the date he was released.
- TL091422/0755 – Requesting foot splint. Response states, You were seen by the specialist on 9/12 regarding your concern. You received the medical device ordered by the medical provider on 9/15. Please submit an inmate health message slip to communicate your health care concerns directly with health care personnel as needed.
- TL100422/1500 – States he can't bend his legs, sit down and or tie his shoes. The response states, You were most recently seen by the specialist on 9/27 and the medical provider on 10/5. You continue to be followed by healthcare personnel regarding your concerns and have follow-up appointments scheduled. Please submit an inmate health message slip to communicate directly with healthcare personnel regarding your health concerns.
- TL102022/0019 – Requesting knee brace that was ordered 25 days ago. Response states, You were seen by health care personnel on 10/21, and your concern was addressed.

Based on the Experts review of the grievance responses, the Expert 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) Include the results of the medical evaluation.

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 Not Implemented)**

5. *The County shall ensure that, in responding to an ADA-related grievance, the ADA Compliance Unit receives input from all sources, including OCSD and CHS staff, as necessary to respond to the grievance. Input from CHS staff may be required in circumstances where the grievance raises a question regarding whether the grievant has a disability or whether an accommodation requested by the grievant*

*is reasonable CHS staff may provide input based on a records review and/or in-person evaluation conducted for the purpose of responding to the grievance, as circumstances warrant.*

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 11 grievances produced, only grievance TL071122/0145 was 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 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.

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 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 ten (10) of the 11 cases, the ADA Compliance Unit staff did not interview the incarcerated persons regarding their requests for accommodations.

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)**

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

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 11 grievance responses, the Expert found that all 11 did not include an explanation of the process for appealing the grievance response.

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

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

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

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 (hearing). In this case, there is no documentation that the grievance response was effectively communicated.

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

**Not Implemented (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 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."

In a review of the 11 disability-related grievances, the Expert notes that all eleven reflect "Inmate Copy" on the grievance response.

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

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

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

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."

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

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

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

**Adequately Implemented (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 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.

The Expert notes the ADA STC PowerPoint includes a section on "Accommodating Sensory Impairments." However, the training does not include the requirement for staff to accommodate people with disabilities with respect to alarms and emergencies. The Expert will monitor this during the next monitoring tour and will request and review proof of practice, including with respect to the revision and implementation of OCSD's disability policy on this topic.

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

**Partially Implemented (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 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 Not Implemented)**

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



The 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. Staff reported they would conduct face-to-face notifications to deaf and hard-of-hearing disabled incarcerated persons during emergencies and alarms.

The Expert notes the ADA STC PowerPoint includes a section on "Accommodating Sensory Impairments." However, the training does not include the requirement for staff to communicate effectively and appropriately with incarcerated persons who have disabilities that may present barriers to communication during emergencies or alarms. Additionally, the County did not produce proof of practice documentation where staff communicated effectively and appropriately with incarcerated persons who have disabilities that presented barriers to communication during emergencies or alarms. The Expert will monitor this during the next monitoring tour and will request and review proof of practice, including with respect to the revision and implementation of OCSD's disability policy on this topic.

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

**Partially Implemented (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.*

Effective Communication auxiliary aids, materials, and services are provided free of cost to patients identified with disabilities whenever simple written and oral communication is not effective. Assistive devices, technology, assistance may include vests to alert staff if the patient is hard of hearing or visually impaired. Staff reported that the incarcerated persons are provided with the vests; however, they are not required to wear them. The incarcerated persons interviewed confirmed, that they are offered vests and not required to wear the vest. The Expert during the interviews noted that four (4) incarcerated persons were wearing the vests during the interview.

The Expert confirmed that the County maintains the "ADA Inmate Tracking List" with the incarcerated person disability designation that identifies the incarcerated persons with disabilities that may require accommodations during an alarm posted in the housing unit officer stations. The County must ensure that this information is also included in the SOMA ADA Tracking System, with housing unit staff consistently informed as to these accommodation needs.

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

**Adequately Implemented (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 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. Staff reported they would conduct face-to-face notifications to deaf and hard-of-hearing disabled incarcerated persons during emergencies and alarms.

The Expert notes the ADA STC PowerPoint includes a section on, "Accommodating Sensory Impairments." However, the training does not include the requirement for staff to ensure effective communication is provided for deaf and/or hard-of-hearing incarcerated persons during alarms and emergency announcements and for staff to prioritize these persons during alarms, emergency announcements, and any evacuation. Additionally, the County did not produce proof of practice documentation where staff effectively communicated with deaf and/or hard-of-hearing incarcerated persons during alarms and emergency announcements. The Expert will monitor this during the next monitoring tour and will request and review proof of practice, including with respect to the revision and implementation of OCSD's disability policy on this topic.

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

**Partially Implemented (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 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."

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, one (1) incarcerated person with a disability that affects communication stated that staff does not always provide the accommodations necessary for him 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 for chow, yard, dayroom, pill call, etc. The Expert notes the ADA STC PowerPoint includes a section on "Accommodating Sensory Impairments." However, the training does not include the requirement for staff to effectively communicate all verbal announcements to persons with disabilities that affect communication, including communicating verbal announcements in writing or electronic means (e.g., pager) to deaf incarcerated people. Additionally, the County did not produce proof of practice documentation where staff effectively communicated announcements to incarcerated persons with disabilities that affect communication. The Expert will monitor this during the next monitoring round.

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

**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 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. 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.

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

**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 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."

Custody staff interviewed stated that the incarcerated persons are provided the necessary accommodations during searches, including clothed and unclothed body searches. Custody staff interviewed stated that accommodations are provided to incarcerated persons during the application of restraints if necessary. Custody staff interviewed also stated that incarcerated persons are provided accommodations during count. The incarcerated persons interviewed stated that custody staff routinely provide them accommodations during the search, count, and restraint processes. These accommodations include alternate methods in the application of restraints that allow for the use of their A/HCA/DME and allowing them to remain seated during the clothed body search process.

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

**Adequately Implemented (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.*

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

- Transportation Requirements

- Bus
- SUV
- Wheelchair Van
- Other

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

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

OCSD uses the following methods for inmate transportation:

- Bus
- SUV
- Wheelchair van

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

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

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

OCSD Transportation	Who?	Examples but not limited to:
Bus	Majority of patients including	Arm splint, sling, cast



dexterity related issues

SUV

Mobility related impairments

\*How did they transport at home? Cane, crutches, walkers, walking boot, wheelchair for long distances

Wheelchair  
Van

Unable to transfer from wheelchair to SUV safely occurring \*How did they transport At home?

Wheelchair bound (i.e., paraplegic, co-mobility/dexterity Impairments, neuro-motor disorders, elderly)

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

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

- July 2022 – 165 transports
- August 2022- 207 transports
- September 2022 – 139 transports
- October 2022 – 251 transports
- November 2022 -196 transports

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

During the interviews, the incarcerated persons reported the following:

- Fifteen incarcerated persons with prescribed canes/walkers/prosthetics reported they were accommodated during the transport by being transported in a car, and staff provided them with assistance as needed.
- Five (5) incarcerated persons with a prescribed wheelchair reported they were accommodated by being transported in an accessible van.

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

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

**Adequately Implemented (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 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)."

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

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

**Adequately Implemented (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 revised and implemented Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities addresses the accommodations required for incarcerated persons who require accessible transportation.

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

- July 2022 – 165 transports

- August 2022- 207 transports
- September 2022 – 139 transports
- October 2022 – 251 transports
- November 2022 -196 transports

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

During the interviews, the incarcerated persons reported the following:

- Fifteen incarcerated persons with prescribed canes/walkers/prosthetics reported they were accommodated during the transport by being transported in a car, and staff provided them with assistance as needed.
- Five (5) incarcerated persons with a prescribed wheelchair reported they were accommodated by being transported in an accessible van.

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

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

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

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

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."

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

During the interviews, the incarcerated persons reported the following:

- Fifteen incarcerated persons with prescribed canes/walkers/prosthetics reported they were accommodated during the transport by being transported in a car, and staff provided them with assistance as needed.
- Five (5) incarcerated persons with a prescribed wheelchair reported they were accommodated by being transported in an accessible van.

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

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

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

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

The County produced the following training documents:

- Americans With Disabilities Act (2-Hour Lesson Plan)
- Americans With Disabilities Act STC PowerPoint Presentation (55 slides)
- ADA Training Orange County Health Care Agency Correctional Health Services (76 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.

The County and custody staff interviewed reported they have provided and received the annual 2-Hour Americans With Disabilities Act training.

Training records (sign-in sheets) were produced for "Cooks" and "Inmate Services" staff. The training records reflect that of the 236 staff listed on the rosters, 143 have attended the ADA training. Training records for all other staff reflect that of 832 staff listed on the sign-in sheets, 198 have not attended the training. The County also produced training sign-in sheets for HCA CHS staff that reflect a total of 291 CHS staff have attended ADA training.

Note: It is difficult for the Expert to determine how many staff are assigned to the jails and the staff who have not attended the training. The Expert recommends that for future monitoring the County produce a single alphabetized list of all staff assigned to the jails and their classification and notation if they have attended the required ADA training.

Based on the review of all training documents, the Expert notes the County provides ADA Training to jail staff. However, based on the documents produced, the Expert finds that the County has not provided annual ADA training to all CHS and non-custody staff.

The County must ensure that the required ADA training is provided to all jail staff. The County must also ensure that for future monitoring, verification of the ADA training is provided to the Expert.

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

**Partially 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.*

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

- Brian Snow- ADA Trainer, ADA Compliance Deputy
- Kyle Deaton- ADA Trainer, ADA Compliance Deputy
- Glenn Freeman- ADA Trainer, ADA Compliance Deputy

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

**Adequately Implemented (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 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 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.”

Although 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.*

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 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."

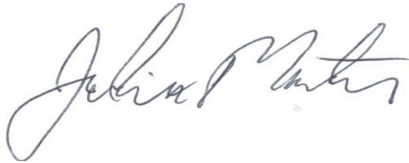
The Expert notes that the revised and implemented Custody & Court Operations Manual (CCOM) 8000 - Inmates with Disabilities includes language that OCSD staff who OCSD finds have violated the ADA or Jail ADA-related policies and procedures shall be subject to OCSD's progressive discipline policy and the 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, the policies and procedures do not include an ADA accountability plan to timely log and investigate allegations from any source that staff has violated the ADA or Jail ADA-related policies and procedures as required by the RP.

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

**Partially Implemented (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

June 1, 2023

\_\_\_\_\_  
Date