

EXECUTIVE SUMMARY: ORANGE COUNTY JAILS

INTRODUCTION

Conditions in county jails that conform to the United States Constitution are a prerequisite for the legitimacy and integrity of the American justice system. Under the Eighth and 14th Amendments, jails have a duty to protect all people who are incarcerated, whether sentenced or pretrial.

Conditions that fail to meet not only constitutional but also state and department standards for physical security, medical care, mental health care and living environment are unlawful and should not be tolerated. Discriminatory policies and practices and noncompliance with legal standards may further violate the rights of individuals who are incarcerated and give rise to concerns of legal liability.

For more than 40 years, the American Civil Liberties Union Foundation of Southern California (ACLU SoCal) has worked to ensure that a basic standard of care is provided to people in jail. The ACLU SoCal is the court-ordered monitor of conditions of confinement within all Los Angeles County jail facilities. Through its Jails Project, the ACLU SoCal responds to complaints by individuals who are incarcerated and ensures that court-ordered reforms are implemented.¹ In August 2015, the ACLU SoCal began to examine the conditions inside the Orange County jail system to determine whether a basic standard of care is provided to all

individuals in custody. The inquiry was prompted by media and incarcerated individuals' accounts of abuse and misconduct. Before the study began, the ACLU SoCal routinely received complaints and requests for assistance at its Los Angeles and Orange County offices from people incarcerated in Orange County jails.

This report includes findings from interviews and surveys of current and formerly incarcerated individuals. Accounts on a range of issues are incorporated and analyzed against constitutional standards as well as policies and procedures of the OCSD and Title 15 Regulations of the Board of State and Community Corrections (BSCC). A discussion of major findings is followed by recommendations. The report also covers OCSD structure and operations, in-custody related deaths, a federal program to house undocumented immigrants, an informant scandal, a 2016 jail escape, lawsuits, and oversight. The report aims to raise awareness and increase transparency and accountability in an effort to halt violations.

METHODOLOGY

From August 2015 to April 2017, the ACLU SoCal received and collected complaints and reports from individuals incarcerated in the Orange County jail system through letters, surveys and interviews.

The ACLU SoCal's Jails Project administered post-release surveys to formerly incarcerated people upon their release from the Intake/Release Center,

mailed in-custody surveys to incarcerated individuals at the five county jails and conducted face-to-face interviews through general public visitation.

Jail visits were conducted at the IRC, the Central Men's and Women's Jails, and the Theo Lacy Facility. Family and friends of incarcerated individuals wrote letters and made phone calls to

the ACLU SoCal to relay complaints on behalf of their loved ones. Reports, policies and news media articles were also analyzed to substantiate and lend credence to survey and interview findings.

The Jails Project obtained information for this report through the following efforts:

- Reviewed seven grand jury reports (2007–2008, 2008–2009, 2010–2011, 2011–2012, 2012–2013, 2013–2014 and 2014–2015) on the conditions of Orange County jails.
- Reviewed relevant literature, including articles published by the *Orange County Register*, *OC Weekly*, *Voice of OC*, *Prison Legal News*, *Los Angeles Times*, *Washington Post* and .
- Surveyed more than 120 former incarcerated individuals immediately after their release.
- Conducted several jail visits, interviewed individuals while in custody and collected information via in-custody surveys.
- Reviewed relevant policies and procedures, including OCSD policies and BSCC Adult Title 15 Regulations.
- Reviewed information and data secured by the University of Michigan Law School Policy Clearinghouse project.
- Met with representatives from community organizations and attended countywide meetings.

Through such methodologies, the Jails Project was able to (a) explore the conditions inside the Orange County jails, (b) solicit experienced opinions about the issues in the jails, and (c) analyze the policies governing OCSD custody operations.

FINDINGS & RECOMMENDATIONS

Findings are based on more than 120 post-release surveys, as well as multiple jail visits with, and correspondence from, incarcerated individuals. The accounts detailed in this report are not exhaustive.

The frequency and normalcy of issues identified — ranging from excessive use of force and verbal abuse to inadequate medical treatment and deprivation of due process — strongly suggest subpar conditions and potential violations within the OC jail system.

Individual cases are summarized under issue categories to substantiate the severity of problems. Five categories were created to classify the range of issues. The categories facilitated the analysis of data and development of recommendations. The categories are (a) physical security, (b) medical treatment, (c) mental health treatment, (d) living and physical conditions, and (e) other. Each category consists of multiple subcategories focusing on specific problems. The categories represent areas of concern that require remediation to ensure reasonable safety and access to protected rights.

SAFETY

ENSURE THE LAWFUL, RESPECTFUL AND HUMANE TREATMENT OF INDIVIDUALS WHO ARE INCARCERATED.

Deputy-on-Inmate Violence

- Norma reported that Deputy E and Deputy C slammed her face into a wall and then took her to the recreation area on the roof of the jail and twisted her arms behind her back. While on the roof, the deputies ordered Norma to get undressed so that they could search her. A male deputy was present during the search. After the search, Norma was handcuffed to a wheelchair and “paraded” through the intake and processing area in front of male and female inmates and deputies while still partly undressed.
- OCSD deputies and command staff do not practice de-escalation tactics or intervene to prevent unreasonable uses of force by fellow custody staff.
- OCSD does not have records responsive to in-custody use-of-force case reviews and in-custody use-of-force case reviews that reveal that use of force violated agency policy or the law.



FINDINGS

- OCSD deputies use force that is not proportionate to the threat presented in cases where infractions do occur or at times when infractions are not present. Force tends to be either excessive or unnecessary.
- OCSD deputies have used force against individuals who are incarcerated with the intent to harm, punish and intimidate. In several cases, the infliction of pain did not serve to further a lawful objective.
- OCSD custody personnel routinely provoke, instigate and threaten incarcerated individuals into becoming confrontational.
- OCSD deputies use the practice of “pretzeling” and “chicken-winging” on individuals for arbitrary reasons that do not pose a danger or threat.
- OCSD deputies do not allow reasonable time for compliance even when it is practical. In situations wherein passive noncompliance is present, the proportion of force exerted goes beyond what is necessary to ensure compliance.
- OCSD deputies are not adequately supervised nor held accountable when use-of-force is mismanaged.
- Adopt adequate administrative safeguards on the use of force and implement clear standards as to when use of force is appropriate and necessary and under what circumstances. Standards should include clear limits on use of force on handcuffed or restrained individuals and eliminate choke or neck holds and head strikes.
- Provide prompt and thorough medical attention to individuals who are subjected to the use of force.
- Prohibit the use of retaliatory force, such as force used after a threat has diminished, or to punish individuals for fleeing, resisting arrest or disrespecting custody staff.
- Ensure that staff is adequately and competently trained on matters relating to the use of force on incarcerated individuals with mental illness. Implement specific policies handling encounters with people with disabilities or in mental health crisis.
- Prioritize voluntary compliance and allow reasonable time for compliance. Custody staff should use only force that is proportional to the threat faced, rely on de-escalation tactics, and emphasize deputies’ responsibility to de-escalate encounters or prevent unreasonable uses of force by other deputies and protect incarcerated individuals. Provide training and support to encourage staff to report abuse by other staff.



RECOMMENDATIONS

- Investigate allegations of abuse in a prompt and thorough manner. Ensure that custody personnel who fail to abide by department policy are held accountable and appropriately disciplined. OCSD personnel whose actions suggest poor moral character should not be entrusted to uphold and enforce the law. OCSD Internal Affairs files, containing complaints of employee misconduct and all materials relating to the investigation into such allegations, should be accessible to the public in a way that does not pose danger or abridge the privacy rights of individuals.
- Collect and report detailed and comprehensive data on in-custody use-of-force incidents, including the age, race, gender and sexual orientation of people involved; unique anonymized information on the deputies involved and their role, training, experience and prior involvement in use-of-force incidents; a summary of the incident; and whether the subject suffered from mental illness or other disability. Make data available and accessible to the public.
- Audio- and videotape the processing of everyone entering the OC jail system and install an adequate number of video cameras throughout all facilities to help settle allegations of abuse. The OCSD should prioritize (a) adding cameras to video- and audiotape known blind spots and (b) upgrading the current surveillance system to *supplement* supervision in the jails to improve the safety of individuals who are incarcerated, custody staff and visitors.²
- Create a civilian oversight commission with subpoena and investigatory powers to review use of force incidents. This can further the goal of transparency and accountability and begin to restore and increase public trust.

Deputy Instigated Inmate-on-Inmate Violence and Failure to Protect

- Shawn claims that deputies create situations to incite violence among inmates. He shared, “Time goes by so slow. The little things in here [jail] matter so much. They help you get by as best as you can.... Deputies fuck with those things. They’ll shut down the TV and blame it on you or someone else. Now everyone is pissed and then things happen.” Shawn claims that deputies blame specific inmates for the loss of certain privileges so that they become targets of violence.
- James witnessed an inmate push the emergency button to summon help because his cellmate was hitting him. According to James, the deputies did not respond to the inmate’s call for help; “they just ignored him.” James pushed the medical emergency button located by the sector door to try to get help for the other inmate, whose safety he believed was at risk, and still the deputies failed to do anything.



FINDINGS

- OCSD personnel routinely instigate fights among individuals and/or fail to intervene and protect individuals in a timely manner. Whether unintentional or deliberate, negligence contributes to an unsafe environment.
- Inmate-on-inmate assaults often go unchecked due to poor supervision and faulty surveillance, which creates a threat of risk to individuals and allows for poor accountability of staff.



RECOMMENDATIONS

- Work to change the culture inside the jails and incorporate safeguards to protect individuals who are incarcerated from violence instigated by custody staff and/or other incarcerated individuals.
- Conduct a review of complaints, including deputies willfully failing to protect individuals who are incarcerated and deputies instigating violence among incarcerated individuals, and develop a policy outlining protocol for responding to such situations.

- Review system for emergency requests to ensure reliability in the response process and to protect the well-being of individuals who are incarcerated. Deputies and custody staff should respond to emergency button requests and intervene in emergency situations and altercations in a timely manner.
- Implement previous recommendations issued by multiple grand juries and the Department of Justice (DOJ) regarding jail security rounds. Measures should require that jail staff conduct more frequent and consistent rounds. According to the DOJ, jail rounds should be performed (a) at least one time every hour for the general population, (b) at least once every half-hour for high-security individuals (e.g., segregation and suicide observation), and (c) even more frequent observation for the most actively suicidal individuals (specific number of checks would be determined by medical staff and supervisors).³
- Prioritize (a) adding cameras to known blind spots and (b) upgrading the current surveillance system to supplement supervision in the jails to improve the safety of incarcerated people, custody staff and visitors.

Verbal Abuse and Threats

- Lily reported that deputies curse and yell at inmates throughout the day for no apparent reason. She said, “They make us feel worthless all the time. It doesn’t end.” Lily recounted an incident when she heard a deputy tell inmates that she would punch them if they did not stand in line. On a separate occasion, a deputy threatened all the inmates in Lily’s housing module, shouting, “If you all make me yell today, I am going to go lights out and start punching you bitches!” Lily claims the deputy also told her and other inmates, “You druggies are all fucking brain dead!” Lily disclosed feeling “extremely unsafe in jail.” She shared that she has nightmares about it and said, “I wake up scared every morning.... I feel like I’m walking on eggshells. I’m always afraid of being yelled at or roughed up for no reason.”



FINDINGS

- OCSD deputies harass, taunt and threaten individuals who are incarcerated through derogatory language and constant disrespect.
- OCSD custody personnel condone verbal abuse on the basis of incarcerated individuals’ race, mental state and medical needs.



RECOMMENDATIONS

- Apply evidence-based practices on the psychology of abuse of power and law enforcement misconduct to further the mission of transforming the criminal justice system to a system of rehabilitation rather than punishment.
- Review the hiring and eligibility criteria for custody personnel to shed light on the role that maturity, experience and education play within jail operations. Enhance requirements to ensure that people entrusted to enforce the law are emotionally, psychologically and socially equipped and mature to do so. Upholding and adhering to the law is as important for law enforcement to do as enforcing and safeguarding it.

Searches

- Lily claims that she was body-searched twice within the span of 10 minutes although she was being supervised at all times. According to Lily, she saw medical staff after fainting due to excessive bleeding from her menstrual cycle. Lily claims that it would have been impossible for her to have acquired anything on her way to medical and back to her housing module, especially because she was escorted and supervised by a deputy the entire time. Lily claims that as she was being searched, blood streamed down her thighs. Lily maintains that the search was intended to humiliate her. She said, “There’s no reason why they had to do it twice.” Lily also shared that she does not participate in any programs or classes offered at the facility because inmates are searched in groups and often humiliated and harassed.

- Michelle claims deputies conduct “unnecessary” cell searches and destroy people’s commissary. She said, “One time they destroyed my commissary. I thought the point was to inspect, not destroy.”

FINDINGS

- OCSD fails to conduct safe and appropriate searches of all incarcerated people.
- OCSD deputies use searches to harass, intimidate and punish people who are incarcerated.

RECOMMENDATIONS

- Review protocol for conducting searches, including body, strip and cell, and ensure that safeguards are in place to protect the dignity of every person.
- Provide oversight of the process that determines the need for searches to ensure that they are related to legitimate penological interests. The department should prohibit searches that are excessive or used to harass, intimidate or punish individuals who are incarcerated. Custody staff should not arbitrarily destroy the personal property of incarcerated individuals.
- Prohibit cross gender body searches. Conduct searches of incarcerated individuals who identify as female by female custody staff and prohibit such searches in the presence of male staff. Staff conducting a body search should be of the same gender as the person being searched.
- Establish a threshold level of suspicion for each type of search. The varying levels of suspicion should determine the type of search warranted.
- Implement a system whereby transgender and intersex incarcerated individuals choose the gender of the staff person conducting their search, or only allow female staff to (respectfully) conduct searches of these populations.

Housing of Lesbian, Gay, Bisexual, Transgender, and Intersex Persons

- Maximiliano claims he is not afforded the same privileges as inmates in general population because he is gay. He said he and other gay inmates are not granted access to school, religious services or work credits and milestones programs. Maximiliano said he was placed in protective custody because of his sexual orientation and is forced to be on lockdown 23 hours a day.
- Trevor claims he was involuntary placed in protective custody because he is gay. He is currently housed in a maximum security module on 23 hour lockdown. Trevor complained that he is denied access to the same programming and jobs that general population inmates enjoy.

FINDINGS

- OCSD deputies house people based on sex assigned at birth regardless of an individual’s gender identity.
- OCSD deputies involuntarily place gay male and transgender incarcerated individuals in protective custody. This population has limited, if any, access to programming that general population people receive.

RECOMMENDATIONS

- House people based on their *gender identity*. Incorporate gender identity as a key factor in the department’s classification system.⁴ Presumptive placement based on *gender identity* should include an individualized assessment of where an individual would be safest, seriously taking into account the individual’s own stated preferences and views about where they would be safest.
- Allow for the option for transgender women to be placed into women’s facilities when that is where they would be safest and what they prefer.
- Do not automatically place LGBTI incarcerated individuals into protective and restrictive custody without an individualized assessment.
- Halt the inappropriate use of the term “sexual preference,” which is outdated and inaccurate.

Prison Rape Elimination Act (PREA) Data Collection

- Felix claims he was 'sexually violated' and then 'assaulted and abused' after he was booked into the IRC and taken to Module L. Felix said the incident was captured in video.



FINDINGS

- Reports of sexual victimization made by individuals who are incarcerated include inmate-on-inmate non-consensual sexual acts, inmate-on-inmate abusive sexual acts, inmate-on-inmate sexual harassment, staff sexual misconduct, and staff sexual harassment.



RECOMMENDATIONS

- Comply with all PREA standards to prevent, detect and respond to any forms of sexual abuse and sexual harassment.⁵
- Custody staff should be trained in accordance to PREA standards.
- Investigations into allegations of sexual abuse and sexual harassment should be timely, thorough and objective.
- Custody staff found to be in violation of PREA and department policies should be adequately disciplined.

MEDICAL CARE

ENSURE THAT ALL INDIVIDUALS WHO ARE INCARCERATED RECEIVE PROMPT AND ADEQUATE CARE AND MEDICAL SERVICES.

Overall Medical Care

- Henry suffers from low blood sugar. During his time in jail, he felt ill and was only allowed to take one day off a week from work as an inmate worker. He reported that nurses told him to drink water for his ailment, attributing his symptoms to dehydration. According to Henry, medical slips were sometimes denied or withheld from him. He complained that he and others were often told that slips were not available. When slips were obtained, they were to drop them into a red box. According to Henry, they had only a few seconds to drop off the slips on their way to the lunchroom. If they passed by the box by and did not drop off their slips, they were not allowed to get out of line to do so. Instead, they would be forced to wait until the next day.



FINDINGS

- Deputies deny medical attention to individuals who are incarcerated if their condition is deemed non-serious.
- Individuals who are incarcerated experience delays in accessing medical care.



RECOMMENDATIONS

- Make medical message slips more readily available and easier to submit.
- Ensure that emergency buttons are responded to promptly when activated to prevent further medical trauma.
- Provide drug withdrawal treatment and medical supervision- to individuals who report withdrawal symptoms in a timely manner to prevent complications.
- Ensure that all individuals who are incarcerated receive prompt and adequate care and medical services. Medical services should intervene early to treat conditions before they become more serious.
- Collect information about the type of grievances related to medical treatment to prioritize specific recommendations by severity and recurrence.
- Provide necessary medical attention and treatment to incarcerated individuals when subject to use of force by deputies.

Reproductive Health Needs

- Amy was pregnant at the time of arrest. She sought medical attention after irregular bleeding but did not receive it until the next day. A doctor notified her that she had a miscarriage and prescribed bed rest.
- Paula claims that she was required to take off her underwear during a search despite being on her menstrual cycle. A deputy ordered her to squeeze and twist her used pad in front of other inmates before going to court. She said, “It was really humiliating. I felt degraded.”



FINDINGS

- OCSD custody personnel intentionally withhold menstrual hygiene products, such as pads and tampons.
- Pregnant women, who are incarcerated, are subject to poor medical attention and a lack of accommodations for their housing and dietary needs.



RECOMMENDATIONS

- Evaluate reproductive health care policies using the ACLU’s toolkit⁶ and ensure compliance with the law and reproductive justice and medical best practices.⁷
- Ensure incarcerated individuals receive ample amounts of menstrual hygiene products, including pads and tampons, as requested and needed. Prohibit custody staff from denying access to such products.
- Mandate gender-responsive training for all custody staff and adopt policies with gender-neutral language.
- Ensure that people who are pregnant receive comprehensive, unbiased options counseling that includes information about prenatal health care, adoption, and abortion, and then the medical care that corresponds to their decision to terminate or carry to term.

- Ensure that people who are pregnant receive the health care they need and appropriate accommodations for their condition. Defend and widen existing protections for incarcerated individuals who are pregnant such as housing accommodations and obstetric care.
- Ensure that people who are pregnant receive a balanced, nutritious diet and necessary vitamins, as approved by a doctor.

Transgender-Specific Health Needs

- While transgender-specific questions were not asked in our survey, we are aware through intakes that transgender persons often receive inadequate medical care while in California county jails, and in Orange County jails specifically.



FINDINGS

- Incarcerated individuals who are transgender receive inadequate medical care.
- Transgender persons are often denied issuance of gender appropriate clothing and toiletries by jail staff, and are also not allowed to purchase gender appropriate products through jail commissary.



RECOMMENDATIONS

- Treat incarcerated people’s gender dysphoria. This treatment should include appropriate diagnosis by a medical professional with expertise or experience in the treatment of persons with gender dysphoria.
- Provide all medically necessary care that a professional with expertise believes that a person requires for treatment of their gender dysphoria, including *uninterrupted* hormone therapy, gender-affirming clothing, accessories or cosmetics, or surgical care.

MENTAL HEALTH CARE

ENSURE THAT INCARCERATED INDIVIDUALS WITH MENTAL HEALTH NEEDS RECEIVE TIMELY AND APPROPRIATE MENTAL HEALTH SERVICES.

Overall Mental Health Care

- James claims that he was denied mental health treatment in spring 2016. He described the policy of 23-hour lockdown as “cruel to the human psyche” and responsible for exacerbating the “mental breakdown of inmates.” According to James, several inmates with mental health issues are on 23-hour lockdown in the Q module at Theo Lacy. James witnessed an inmate with mental health issues push the emergency button to no avail. According to James, a correctional services assistant (CSA) on the night shift turned off all the televisions after the inmate pushed the button. The CSA told the other inmates to thank the particular inmate for causing a loss of access to the television for the remainder of the night. James claims that the inmate was not provided with mental health support but instead punished and blamed. James also reported that other inmates with mental health issues kick doors and scream throughout the night, which he believes adds stress to the module and makes it nearly impossible to sleep. According to James, because of the 23-hour lockdown, the television is an important distraction.

FINDINGS

- A significant percentage of incarcerated individuals who suffer from mental health illness are housed with the general jail population rather than being assigned to a mental health bed.
- Survey findings support existing reports that conclude that jails are not structurally appropriate or conducive to treatment or care for incarcerated individuals with mental health needs.
- OCSD offers 16 to 18 hours of Crisis Intervention Training for *patrol deputies*. Despite the high rate of contact between OCSD custody personnel and people with mental illness, the training is *optional*.



RECOMMENDATIONS

- Reduce the population of individuals who are incarcerated with mental illness by increasing the accessibility of community-based mental health resources and jail prevention and diversion programs.
- Evaluate jail housing and treatment services for individuals with mental illness and adopt a more integrated and systematic therapeutic model. Department policy should be revised to ensure protocols are in place for the timely provision of treatment.
- Require the least restrictive form of contact or force when dealing with individuals who have mental health needs. Prohibit the abuse of individuals with mental health needs, including the use of solitary confinement.⁸
- Create transitional levels of care and supervision for individuals with mental health needs who may be more stable, however are still not able to be housed safely in general population (as previously recommended).
- Monitor and track the medication of incarcerated individuals with mental health needs. Ensure individuals are receiving appropriate dosages in a timely manner.
- Mandate comprehensive training for all OCSD personnel in identifying mental illness and de-escalating incidents with individuals suffering from mental illness.

LIVING AND PHYSICAL CONDITIONS

MAINTAIN A SANITARY AND HUMANE ENVIRONMENT.

Processing/Screening

- Hazel claims that while she was at processing a female inmate placed an empty roll of toilet paper on the window sill after she and other inmates requested toilet paper for over four hours. Afterward, a deputy told the group of inmates, "Congratulations, you bitches get no toilet paper and no beds." Hazel said, "We didn't get any toilet paper, and some of us were in there for 16 to 20 hours."
- Yousef claims that he spent about 20 hours at processing. He said, "I feel like we're left there for so long on purpose.... [Deputies] try to make us as uncomfortable as possible."



FINDINGS

- Individuals experience lengthy delays with processing and screening, sometimes as a form of punishment.



RECOMMENDATIONS

- Monitor the intake process and revise the classification system. Implement best practices for classifying and housing individuals who are incarcerated. Integrate guidelines to improve the process and make it more efficient and effective.
- Prohibit intentional delays sanctioned by deputies at intake. Deputies who display such conduct should be held accountable.
- Do not hold people at intake for more than 12 hours and allow meals and supplies as required.

Uncleanliness & Pests/Rodents

- Monique was placed in solitary confinement at "the hole" for a day and a half. While there she saw feces on the door and was denied toilet paper or cleaning supplies to wipe the area. She was given her meals and expected to eat while confined there.
- Fernando described the housing modules and housing area as "dirty as hell." He claims that the Loop is the worst and described it as "nasty, wet, cold and damp." He compared it to a "concrete dungeon" and said he was uncomfortable while waiting to get a bed.



FINDINGS

- Unclean and unsanitary conditions pose potential risks to the health of individuals who are incarcerated.
- Individuals are tasked with cleaning common housing areas, including dayrooms and showers.



RECOMMENDATIONS

- Implement sanitary and precautionary measures against potential risks to the health of individuals who are incarcerated.
- Maintain sanitary conditions and implement preventative measures to avoid creating potential health hazards.
- Monitor facility sanitation and maintenance and ensure that inspections are thoroughly conducted. Special attention should be given to the processing area and common housing areas.
- Notify pest control of existing problems immediately.
- Perform routine pest inspections and control methods to ensure a more sanitary living and working environment.

Showers and Plumbing

- › Janet claims the showers are “dirty” and “moldy.” She claims that inmates are tasked with cleaning the showers with limited supplies. In early 2017, she submitted a request for a shower curtain because the existing curtain was half torn due to mildew. Janet’s request was not responded to. She claims that she asked custody staff to dump bleach in the showers to combat the mold and foul smell. She said they did not do it.
- › Stephanie claims the toilet and showers in her housing module have plumbing issues. She said, “Water seeps through the tile and there is a lot of mold.”

FINDINGS

- › Several individuals reported issues with clogged toilets and showers, as well as broken plumbing resulting in leakages.

RECOMMENDATIONS

- › Ensure malfunctioning plumbing is fixed within a reasonable time frame.
- › Maintain showers, toilets and sinks properly.
- › Allow individuals to shower at least every other day in accordance with Title 15 regulations.

Clothing

- › Sonia claims the clothing she received was thin and dirty. She rewashed her uniform and underwear. She said, “I wonder whether they actually wash the clothes. I wouldn’t be surprised if they didn’t.”
- › Michelle claims the jail clothing is “filthy” and “stinky.” She said, “The clothing is so dirty that the whites look like gray.”
- › Amanda claims that she and other inmates were not provided with extra clothing or blankets despite complaining of the temperature. She described the temperature in the jail as “freezing cold.”

FINDINGS

- › Jail issued clothing is poorly kept and inadequate for the temperatures in the facilities.

RECOMMENDATIONS

- › Monitor the temperature of the facilities and ensure individuals who are incarcerated are provided adequate clothing relative to the jail conditions.
- › Standardize ventilation and temperature standards. Temperature should be mechanically raised or lowered to acceptable comfort levels. According to OCSD policy, individuals who are incarcerated have a right to adequate lighting, heating and ventilation.⁹
- › Screen clothing before clothing exchange to ensure cleanliness and quality.
- › Supervise clothing exchange to ensure fairness and accuracy.
- › Ensure that transgender persons are issued gender-identity-appropriate clothing, including bras and panties for transgender women, and boxers for transgender men.

Privacy for Transgender and Intersex Persons

- › While questions about shower privacy were not asked in the survey, we have received intakes from transgender persons in Orange County jail facilities that indicate that they are not given privacy to shower and change clothing.

FINDINGS

- › Individuals who are transgender are not given privacy to shower and change clothing.

RECOMMENDATIONS

- › Comply with the Prison Rape Elimination Act.
- › Provide transgender and intersex individuals the opportunity to shower and change clothes in private, away from the view of other incarcerated individuals and cross-gender staff.

Overcrowding

- Aiden claims that there was overcrowding in the Loop. He said people in the holding tanks slept on the floor and cement benches while waiting for a bed. Once he was assigned a bed, he said, his tanks held too many bunks.
- Gabriel claims that the Loop was overcrowded. According to him, deputies do not care about maximum capacities. He said, "If a sign says 15 people, deputies let in 20."



FINDINGS

- From 2008 to 2016, the average daily population in the OC jail system was over the total rated capacity each year, respectively.



RECOMMENDATIONS

- Explore overcrowding as a source for the deprivation of incarcerated individuals' basic needs such as food, medical care and cleanliness.
- Utilize alternatives to incarceration and diversion programs or tools to relieve over-crowdedness and reduce recidivism.

Recreation/Out-of-Cell Time

- James reported he is on 23-hour lockdown at Theo Lacy and is allowed only one hour of dayroom. James claims that his dayroom time is cut short. He reported that when his cell is called for dayroom before the other cells, he and other inmates are to carry out cleaning duties that include sweeping and mopping two tiers, cleaning the upstairs and downstairs showers, spraying and wiping eight tables and 32 seats, and spraying and wiping four phones. According to James, the time spent cleaning is subtracted from his dayroom time. He said, "It leaves me with very little time to shower or call a loved one." James said, "Being on lockdown for 23 hours a day when I'm still fighting my case is cruel." According to James, who has been fighting his case for five years, the 23-hour lockdown policy

deters people from taking their cases to trial. He said, "It's especially true for people who are in jail for the first time." He went on to say, "That's why you have so many people pleading guilty." James disclosed that he worries about his mental stability and that of other inmates who are subject to 23-hour lockdown.



FINDINGS

- Outdoor recreation is limited and offered only in the early morning.
- Several individuals reported being on lockdown 22 to 23-hours a day. Out-of-cell time for such individuals was only allowed for showers and phone calls.



RECOMMENDATIONS

- Ensure that individuals are allotted a minimum of three hours of exercise over a period of seven days in accordance to the Board of State and Community Corrections Title 15 regulations.
- Reduce the amount of restrictive housing and consider widening opportunities for structured and unstructured recreation and out-of-cell time.
- Ensure that individuals have timely access to exercise yards.

Food Services

- Lily is an inmate worker in the jails kitchen. She claims that she and other workers serve food for 360 inmates within 15 minutes in a lunchroom that holds only 64 people at a time. She claims that inmates are given three to five minutes to eat. According to Lily, meal time is a total of 15 minutes, but the 15 minutes includes walking to and from the lunchroom. Lily claims that she was ordered to serve raw meat in the past. She said, "A lot of people started getting sick and having diarrhea." Lily also disclosed that the packaging for the bologna indicated "not for human consumption." On a separate occasion, she was ordered to serve expired cheese.

- Stephanie claims that she and other inmates received only two to three minutes to consume their food. She also disclosed that while working in the kitchen, she spotted a cockroach in the cream of wheat that she was stirring. A deputy ordered her to serve the food regardless. Stephanie submitted a grievance about the issue and spoke to Sergeant H, who informed her that he would look further into the complaint. According to Stephanie, Sergeant H never got back to her. On a separate occasion, she was served peaches with a cockroach in them. She did not eat her food.

FINDINGS

- Individuals who are incarcerated are not allotted sufficient time to consume their meals.
- Several individuals reported issues with jail meals, such as a lack of nutritious food, spoiled and foul-smelling food, small portions and not having enough time to eat.

RECOMMENDATIONS

- Guarantee individuals at least 15 minutes to consume a meal per the Board of State and Community Corrections Title 15 regulations. Decreasing the 15 minutes by the amount of time it takes to walk to and from the lunchroom should be prohibited. The OCSD should revise its policy to clearly include this stipulation.
- Adhere to food safety guidelines set forth in the California Health and Safety Code and the California Retail Food Code to prevent health risks to incarcerated individuals. The jail menu, food items and food handling procedures should comply with all California state standards. The OCSD should monitor compliance and be subject to inspections from external agencies.

Commissary and Indigent Packs/ Welfare Kits

- Michelle claims that the hot water dispenser in her housing module does not work. She disclosed that she and other inmates purchase commissary items such as coffee, oatmeal and soup that require hot water. In summer 2016, she submitted an inmate request slip for hot water signed by herself and everyone else in her housing module. According to Michelle, she received a response saying the issue would be fixed, but it was not. Michelle also reported that she purchased glasses from the commissary. When she received them, they were broken. She claims to have submitted multiple complaints but has not received a response.

FINDINGS

- Several individuals reported issues with commissary, including discrepancies with their accounts, incomplete orders, and incorrect orders.
- Indigent packs/welfare kits are seldom provided to incarcerated individuals who are unable to supply themselves with essential personal care items.

RECOMMENDATIONS

- Review and update policy and procedures guiding the administration of indigent packs.
- Improve the commissary process and ensure that problems are addressed and corrected in a timely manner.
- Conduct a management audit or thorough fiscal analysis of the Inmate Welfare Fund (IWF) to determine whether the OCSD is appropriately allocating money from its sizable balance toward its primary intended objective — the care and rehabilitation of individuals who are incarcerated.
- Allot a larger percentage of the IWF to general welfare, education, resources and reentry, rather than staff support.

Communications

- Dolores claims three out of four phones in her housing module were broken. She claims that the phone that was not broken functioned poorly. She said, “You can hardly hear whoever you’re talking to.”
- Mariana claims she is not receiving court ordered, non-collect phone calls after submitting message slips requesting the calls.
- Anthony’s legal mail was “lost” when he was transported to the IRC from Theo Lacy to undergo a psychiatric evaluation. According to Anthony, inmates typically carry their property on the bus with them. However, custody staff ordered him to put his property under the bus. After arriving at the IRC, Anthony asked for his legal mail while he was being processed through the Loop. A few hours later, jail staff told Anthony that his mail was missing. Anthony filed a claim against Orange County. The county wants to settle the claim for \$25.
- Freddy claims Deputy N inspected and read his legal mail. After reading it, Deputy N asked Freddy why the deputy’s name appeared on the paperwork. Freddy claims that he told Deputy N that he remained fearful since a pepper ball shooting incident and thus was documenting other incidents. Freddy said, “After I told him that, he made me take off my uniform and made me put on a dirtier one that was very worn out.” While Freddy switched uniforms, he claims, Deputy N told him: “Document that!” Freddy maintains that he was fired from his in-custody job a few days after the incident. He was not provided a reason and was transferred to Theo Lacy.
- Tracy claims that out of 15 visit attempts made by her family, she received only one. According to her, her family was told that she had refused the visits.



FINDINGS

- Several people reported malfunctioning phones, including dropped calls, and poor sound and being denied their non-collect phone calls.
- Many individuals reported that deputies read their legal mail and complained of delays with incoming and outgoing mail.



RECOMMENDATIONS

- Provide people who are incarcerated access to functioning phones and allot sufficient time to complete calls.
- Ensure that mail marked as “legal mail” is opened in front of the receiving individuals, where they can see custody staff inspecting the correspondence for contraband and ensure that the content is not read. Legal mail is considered confidential and privileged between the sender and receiver.
- Address delays in receipt and delivery of legal mail and communicate such to individuals who are incarcerated. Revise visitation schedule to allow for more visitation opportunities. Prohibit staff from enforcing arbitrary visitation rules.

SPECIAL CASES

ENSURE THAT CUSTODY STAFF IS TRAINED IN, UNDERSTAND, AND COMPLY WITH THE RIGHTS OF INCARCERATED INDIVIDUALS AND LEGAL CUSTODY PROCESSES.

Discipline

- Anthony claims, "I am written up for things like asking to see paperwork or even just asking questions." On one occasion, Anthony was not allowed to participate in his disciplinary hearing. On the same day he was violently thrown from a wheelchair onto his cell, a sergeant approached his cell to conduct a hearing regarding a complaint. Anthony was unable to stand up and asked for help. Anthony claims that the sergeant denied him assistance and lied by saying he had refused to participate in the hearing. Regarding a separate incident, Anthony claims that jail staff attempted to discipline him for the same thing three times. He noted that all disciplinary actions were logged under the same number and addressed the issue with a deputy. According to him, the deputy said it was an "honest mistake."
- Mark claims deputies wrote him up the same day he received the in-custody survey for an infraction that had occurred about three weeks before. Mark lost all privileges for 10 days and was placed in solitary confinement for 20 days. He said, "Who knows what would have happened if I would have filled it [the in-custody survey] and sent it back. Shit would have probably been real bad."



FINDINGS

- Deputies arbitrarily impose disciplinary sanctions on individuals who are incarcerated.



RECOMMENDATIONS

- Be transparent about the discipline system and prohibit the imposition of arbitrary punishment.
- Allow individuals who are incarcerated to access disciplinary hearings without the fear of retaliation. The disciplinary hearing process should be fair.
- Ensure jail rules are posted at each facility in common areas such as dayrooms and chow halls.

Grievance/Complaint Process

- Ashley was "re-Looped" and rehoused for submitting a grievance after her personal information, including phone numbers, addresses and photos of her son, was thrown away during a cell search. Ashley said, "It was retaliation. They sent me to the Loop for a day and rehoused me." According to Ashley, she was not given a copy of her grievance. She claims that a deputy accused her of lying and making false allegations. Ashley shared that she has not submitted a grievance since then because she fears further retaliation.
- Amy claims that a deputy would not give her a grievance slip. She said, "He just told me there weren't any and that was the end of it."



FINDINGS

- Many individuals are reluctant to raise complaints about conditions of confinement or custody misconduct for fear of retaliation from custody staff.
- Custody staff neglect to provide individuals with grievance forms in a timely and professional manner.



RECOMMENDATIONS

- Make the grievance system more accessible to incarcerated individuals and integrate safeguards to ensure people feel safe engaging in the process. Provide education to incarcerated individuals about their rights, access to resources and the grievance process.
- Guarantee accountability of custody personnel who engage in any type of misconduct and increase transparency on such matters. Conduct thorough and objective investigations with appropriate consequences for responsible staff.
- Ensure that complaints are received, processed, responded to, resolved and tracked in a fair and

timely manner. Ensure that incarcerated individuals are provided with a copy of their grievance, response and written reasons for any denials from each level of review. Implement and monitor an appeals process for grievances.

- Revise and update the Grievance Process Policy. Custody staff should be informed and trained of any changes before implementation.
- Outline what constitutes an invalid grievance and incorporate guidelines such as timelines to the policy and procedures governing the grievance system.
- Prohibit deputies or any other staff involved in complaints to manage review of the grievance process. Safeguarding its integrity requires that complaints are handled by unbiased and neutral parties. For this reason, the department should consider involving civilians and truly impartial entities in the grievance review process.
- Follow up with investigations of deputy misconduct and general conditions of confinement within a reasonably determined time frame. Custody personnel who fail to follow up should be held accountable and disciplined appropriately.

American with Disabilities Act (ADA) Accommodations

- Warren claims that he is disabled and requires a cane to walk with. While he was in custody, Warren's cane was taken away.
- Jonah states that he is ADA. He alleges that he made a request with medical staff for an extra mattress to help to ease his discomfort but was denied his request.

FINDINGS

- Deputies confiscate and deny necessary aids, including hearing aids and walking aids, to ADA incarcerated individuals.



RECOMMENDATIONS

- Ensure the department is in compliance with the American with Disabilities Act and make necessary aids (e.g., canes, hearing devices, and wheelchairs) available to incarcerated individuals who are mobility-impaired, in addition to ensuring that housing units are ADA-compliant.

Religious Services

- James claims he is "hardly ever offered religious services." He claims that he was not offered services for three months. He believes that he is being treated unfairly because of his housing classification.
- "Nathan has requested to see the chaplain and has not received any response."



FINDINGS

- Incarcerated individuals are not regularly called out for religious services and are denied religious diets without justification.



RECOMMENDATIONS

- Ensure all individuals who are incarcerated, regardless of classification and housing, have timely access to religious services of their own choosing.
- Provide religious meals, where reasonable accommodations can be made.
- Prohibit religious discrimination.
- Comply with the Religious Land Use and Institutionalized Persons Act (RLUIPA) and make accommodations for religious exercise consistent with regulations.

Propria Persona Status

- Angel claims the court system in Orange County is “not fair.” Despite being granted pro per status, Angel says, he has been denied access to necessary legal resources for his case. He said that to access legal information he must submit a written request. Angel claims that on average he has to wait one to three weeks to receive a response. He said, “It sucks. I don’t have what I need to fight my own case.” As a result of delayed responses from the law library, Angel postponed his case more than once because he was underprepared.
- Federico submitted a grievance reference his pro-per non-collect phone calls were being made in an area with little privacy where other inmates could hear his conversations.



FINDINGS

- Several incarcerated individuals who were granted propria persona status report that ensuing privileges are poorly instituted.



RECOMMENDATIONS

- Establish uniform procedures for the treatment of individuals granted propria persona status.
- Provide better access to legal resources for all individuals who are incarcerated, particularly individuals granted pro per status.

CONCLUSIONS

Failing to remedy poor conditions of confinement and hold deputies accountable for misconduct, the Orange County Sheriff’s Department has implicitly endangered the constitutional rights of incarcerated individuals. The department must adequately train and supervise custody staff, conduct thorough and just investigations of excessive use-of-force incidents, hold custody staff accountable for misconduct and wrongdoing, and confront the entrenched code of silence that hinders reform and true progress. Conditions of confinement should be monitored on an ongoing basis to ensure compliance with department policies, Title 15 regulations and individuals’ constitutional rights.

This report intends to encourage the Orange County Sheriff’s Department to act to ensure that potential violations and noncompliance issues are preemptively corrected. Continuing the investigation into the conditions of the Orange County jail system can help assess whether any more systemic violations exist. The stark similarities of narratives shared by incarcerated individuals as well as formerly incarcerated individuals suggest that several issues may be the result of systemic issues rather than isolated instances of wrongdoing.

Allegations of abuse and negligence, as well as a shortage of accountability and transparency, cannot and should not be ignored. Failing to correct deficiencies may demonstrate deliberate indifference by the department. Conversely, taking remedial action can protect incarcerated individuals from poor conditions of confinement, restore public confidence in county law enforcement and release the county from potential litigation. The department must work with the community to effectively and sustainably reform patterns and practices of excessive force, subpar medical and mental health treatment, and poor conditions of confinement.

ACLU SoCal has outlined several recommendations, which includes critical civil liberties that are of great significance to the integrity of the American justice system. We urge Sheriff Sandra Hutchens and her staff to implement these recommendations immediately — many of which have been recommended in the past — and create a department that is committed to constitutional custody and in accordance to state and federal regulations. Discriminatory policies and abusive actions violate the rights of individuals who are incarcerated and can result in liability concerns for the Department and County.

Justice in principle is not enough; the OCSD must do more to ensure justice in practice. We demand the OCSD to bridge the gap between custody policies and practice as well as support the creation of an impartial and independent oversight body to oversee all custody operations and report directly to the County Board of Supervisors. In order to restore public trust, the department will finally have to adhere and embrace transparency and accountability over unlawful practices and adverse codes of silence.

We look forward to working with the sheriff and her administration to act preemptively and help address these pressing issues.

ENDNOTES

- 1 "The Road to Reform: Accountability in the L.A. County Jails," ACLU SoCal [** CAN WE ADD DATE? **]
- 2 "Annual Report on Jails and Juvenile Detention Facilities 2013– 2014," Orange County grand jury, 2014, http://www.ocgrandjury.org/pdfs/2013_2014_GJreport/JailsReport.pdf
- 3 "Investigation of the Orange County Jail: Investigatory Results Letter," U.S. Department of Justice, Civil Rights Division, March 4, 2014, https://www.justice.gov/sites/default/files/crt/legacy/2014/03/26/ocj_investletter_3-4-14.pdf
- 4 "Does a policy that houses transgender or intersex inmates based exclusively on external genital anatomy violate Standard 115.42(c) & (e)?" National PREA Resource Center, accessed May 9, 2017, <https://www.prearesourcecenter.org/frequently-asked-questions>
- 5 "Prison and Jail Standards," National PREA Resource Center, accessed May 9, 2017, <https://www.prearesourcecenter.org/training-technical-assistance/prea-101/prisons-and-jail-standards>
- 6 Melissa Goodman, Ruth Dawson and Phyllida Burlingame, "Reproductive Health Care in California Jails: A Tool to Assess and Reform Policies and Practices," ACLU of California, January 2016, https://www.aclunc.org/docs/201601-reproductive_health_care_in_ca_jails_toolkit.pdf
- 7 Melissa Goodman, Ruth Dawson and Phyllida Burlingame, "Reproductive Health Behind Bars in California," ACLU of California, January 2016, www.aclunc.org/ReproductiveHealthBehindBars_Report
- 8 "The Mental Illness Revolving Door: A Problem for Police, Hospitals, and the Health Care Agency 2014–2015," Orange County grand jury, 2015, http://www.ocgrandjury.org/pdfs/2014_2015_GJreport/Mental_Illness_Website.pdf
- 9 "Policy Manual. Policy 1604.1. Inmate Rights," Orange County Sheriff-Coroner Department, 2015, retrieved from PRA request

