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ORANGE COUNTY JAILS

A REPORT BY THE AMERICAN CIVIL LIBERTIES
UNION OF SOUTHERN CALIFORNIA JAILS PROJECT





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The Orange County Jails Report is available online at www.actusocal.org/ocjails

An accompanying executive summary is available online at www.aclusocal.org/ocjails

The ACLU of Southern California works to defend the Bill of Rights and apply them equally to all who live in our society. Our Jails Project works to ensure that a basic standard of care is provided to individuals who are incarcerated through advocacy, public education and litigation.

I.	Introduction	3
II.	Orange County Sheriff’s Department	4
III.	Methodology	11
IV.	Findings	13
	A. In-Custody-Related Deaths	13
	B. Safety	15
	1. Deputy-on-Inmate Violence	15
	2. Deputy-Instigated Inmate-on-Inmate Violence and Failure to Protect	22
	3. Verbal Abuse and Threats	27
	4. Searches	31
	5. Housing of Lesbian, Gay, Bisexual, Transgender and Intersex Persons.....	35
	6. Prison Rape Elimination Act (PREA) Data Collection	37
	C. Medical Care	39
	1. Overall Medical Care	39
	2. Reproductive Health Needs.....	45
	3. Transgender-Specific Health Needs.....	47
	D. Mental Health Care.....	49
	1. Overall Mental Health Care	49
	E. Living and Physical Conditions.....	53
	1. Processing/Screening	53
	2. Uncleanliness	55
	3. Showers and Plumbing	57
	4. Clothing	58
	5. Privacy for Transgender and Intersex Persons	60
	6. Overcrowding.....	61
	7. Recreation/Dayroom/Out-of-Cell Time	63
	8. Food Services	65
	9. Commissary and Indigent Packs/Welfare Kits	68
	10. Communications (Phones, Mail and Visitation)	70
	F. Special Cases/Other	73
	1. Discipline	73
	2. Grievance/Complaint Process.....	75
	3. American with Disabilities Act (ADA) Accommodations	79
	4. Religious Services	80
	5. Propria Persona Status	81
V.	Lawsuits	83
VI.	Key Players and Oversight.....	87
VII.	Conclusion	92
VIII.	Appendices	93



I. 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.

According to the Prison Policy Initiative, roughly 242,000 people in California are in custody.¹ More than 34% are incarcerated at local jails, accounting for roughly 13% of the nation's local jail population.² 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.³ The organization also entered into a partnership with the Santa Barbara County Sheriff's Office to help monitor its jails in 2016.

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. Orange County

has the second-largest jail system in California, with an average daily population of approximately 6,000 incarcerated individuals and roughly 64,000 annual bookings.⁴ In 2009, the Orange County Sheriff's Department (OCSD) operated the ninth-largest jail system in the United States.⁵

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 analysis also includes information from existing reports and news articles as well as policy recommendations issued by Orange County grand juries.

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. The report aims to raise awareness and increase transparency and accountability in an effort to halt violations. Specific goals include strengthening department policies and procedures and ensuring appropriate implementation.

II. ORANGE COUNTY SHERIFF'S DEPARTMENT

The OCSD operates five county jails: the Intake/Release Center (IRC), Central Men's Jail (CMJ⁶), Central Women's Jail (CWJ), Theo Lacy Facility (Theo Lacy) and James A. Musick Facility (Musick). The five facilities are used for the detention of persons pending arraignment, during trial and upon a sentence of commitment, which qualifies them as Type II jails.⁷

According to Orange County's annual budget for 2016-2017, the sheriff-coroner budget accounts for more than 19% of the county's general fund.⁸ Incarcerating an individual in the county jail system costs roughly \$140 per day.⁹

LEADERSHIP

Currently, Sheriff-Coroner Sandra Hutchens leads the OCSD. Her predecessor, Mike Carona, was indicted in October 2007 by a federal grand jury on seven counts of public corruption; he resigned in January 2008. In 2009, a jury acquitted Carona of five charges related to the misuse of power. He was convicted of witness tampering for attempting to sway an ex-aide to lie for him in a federal investigation of fraud.¹⁰ Hutchens was appointed as sheriff-coroner by the Orange County Board of Supervisors in June 2008.

Hutchens began her career with the Los Angeles County Sheriff's Department (LASD) as a secretary in 1976 and graduated from the academy in 1978.¹¹ She advanced in the department and retired in 2007 as the division chief for the county's Office of Homeland Security under former LASD Sheriff Lee Baca, who was recently sentenced to three years in federal prison for obstruction of justice.¹² Hutchens was able to rise through the ranks despite a controversial deadly shooting in 1980, when she fatally shot a 33-year old man. The death resulted in a \$1.3 million wrongful death suit,¹³ which at the time was the largest police misconduct verdict in California.¹⁴

Hutchens was elected to serve a full term as sheriff-coroner for the OCSD in June 2010 with roughly 52% of the vote and was re-elected in June 2014, running unopposed.¹⁵ She also serves as president of the Major Counties Sheriffs of America since 2016 and is expected to seek re-election in June 2018.¹⁶

STRUCTURE

The chain of command within the OCSD is as follows: sheriff-coroner; undersheriff; assistant sheriff/executive director; commander/senior director; captain/director/chief deputy coroner; lieutenant/police services chief/manager/assistant chief deputy coroner; and sergeant/supervisor/supervising deputy coroner.¹⁷ There are five commands and 21 divisions in the Sheriff's Department (see Appendix A). The Custody and Courts Operations Command consists of the following five divisions: Central Men's and Central Women's Jails; Intake/Release Center and Transportation; Musick Facility; Theo Lacy Facility; and Inmate Services.¹⁸

Sheriff Hutchens and her Executive Command are responsible for ensuring the safety and security of all incarcerated individuals and staff in the county jails.¹⁹ As sheriff, Hutchens is responsible for the management and control of all OCSD facilities. She is also responsible for all matters concerning the selection, supervision, promotion, training and discipline of staff. Undersheriff Don Barnes serves as second in command of the OCSD and oversees its day-to-day operations. Assistant Sheriff Bob Peterson leads the Custody Operations Command along with Commander Jon Briggs. Together they



oversee the OCSD’s custody division and are responsible for the operations of the five county jails. New to the department’s Executive Command is the position of constitutional policing advisor, which was approved by the Orange County Board of Supervisors in March 2016. Mary Izadi, a former deputy district attorney for San Bernardino County, was selected to fill the position in August 2016.

FIELD OPERATIONS

The OCSD provides patrol services to all unincorporated areas of the county and to 17 independent entities, including 13 municipalities that contract with the department for law enforcement services.²⁰ The 13 municipalities are Aliso Viejo, Dana Point, Laguna Hills, Laguna Niguel, Laguna Woods, Lake Forest, Mission Viejo, Rancho Santa Margarita, San Clemente, San Juan Capistrano, Stanton, Villa Park and Yorba Linda.

CUSTODY OPERATIONS COMMAND

The OCSD provides jail functions to hold about 65,000 arrestees annually and custodial services to individuals sentenced to serve time and/or awaiting trial in Orange County. The OCSD is responsible for housing, record keeping, recreational activity, food services, commissary and services associated with the secure custody of individuals.²¹ The jail population also includes Immigration and Customs Enforcement (ICE) detainees and Assembly Bill 109 realignment individuals.

COUNTY JAIL FACILITIES

On average, 61,117 people were booked annually into the Orange County jail system from 2010 to 2015 (see Figure 1). The security classification of individuals who are incarcerated ranges from minimum security to maximum security. Table 1 illustrates the security classification of people who may be housed in each of the five OCSD-operated jail facilities.

FIGURE 1. Annual Bookings, 2010 to 2015 (BSCC)

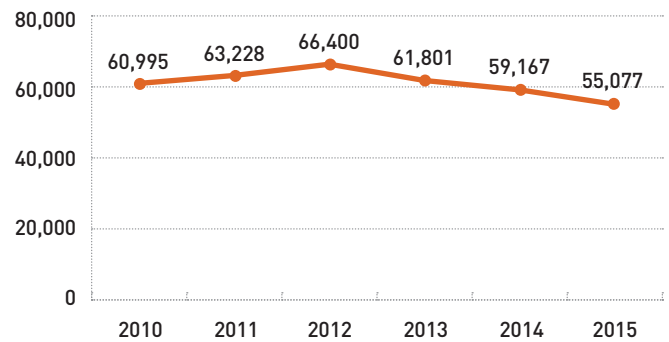


TABLE 1. Security Classification by Facility (OCSD)²²

FACILITY	INMATE TYPE
Intake/Release Center	Medium- and maximum-security, pretrial and sentenced male and female inmates
Central Men’s Jail	Pretrial and maximum-security sentenced male and transgender female inmates
Central Women’s Jail	Pretrial and maximum-security sentenced female and transgender male inmates
Theo Lacy Jail Facility	Pretrial and sentenced minimum-, medium- and maximum-security male and transgender female inmates, including weekender inmates
James A. Musick Jail Facility	Pretrial and sentenced minimum-security male and female inmates



INTAKE/RELEASE CENTER

The IRC is located in the Central Jail Complex (CJX) in Santa Ana. It has a five-unit structure with multiple stories. Arrestees are booked, processed, classified, housed, transferred and released from the IRC. While there, arrestees are classified to determine a housing location assignment.²³ The IRC is responsible for booking and release, inmate records and Module L (medical/mental health housing unit). The Transportation Division is also under the administration of the IRC command and is responsible for transporting incarcerated individuals to and from courts, work sites, hospitals, state prisons and out-of-county mutual aid.²⁴

CENTRAL MEN'S JAIL

The CMJ is also part of the CJX. The facility consists of one-, four-, six- and eight-person cells as well as corrective isolation cells and dormitory-style housing. A court on the first floor conducts arraignments for individuals housed within one of the three jails within the CJX. The second floor houses programs, religious services, general education and pre-release rehabilitation. It also includes regular housing, and dental, medical and mental health clinics.²⁵

CENTRAL WOMEN'S JAIL

The CWJ is the third facility located in the CJX. After being closed in 2009, the facility reopened in April 2012 in response to the increase in county jail population prompted by the public safety realignment legislation, Assembly Bill 109.²⁶ The facility consists of one-person cells, 16-single-cell housing, and 13-, 16- and 36-person dorms. The facility also includes medical/mental health housing, corrective isolation cells, single infirmary cells and safety cells for mental health housing. Dental, medical, mental health, and obstetrics and gynecology services are available at the facility, as well as programs, religious services, general education and pre-release rehabilitation.

THEO LACY FACILITY

The Theo Lacy Facility, named in honor of a former sheriff of Orange County, is located in the city of Orange. The facility includes units ranging from multi-bunk dorms to one- or two-person cells. It offers medical, dental and mental health services as well as religious services, vocational programs and educational classes.²⁷ Theo Lacy consists of its own booking and intake/release area in addition to classification, inmate records and law library. The facility receives and books all male and transgender female stays of execution and administers the Community Work Program.²⁸ Under a contract between OCSD and Immigration and Customs Enforcement (ICE), immigration detainees may also be housed at Theo Lacy.²⁹

JAMES MUSICK FACILITY

The James A. Musick Facility, also named after a former OCSD sheriff, is located in Irvine. The facility, referred to as "the Farm," provides incarcerated individuals access to educational programs such as GED, ESL, substance abuse and positive parenting, as well as religious services. ICE detainees awaiting immigration hearings are also housed at the Farm. Despite opposition from some local cities, the Orange County Board of Supervisors approved an application to build additional beds for minimum- and medium-security individuals at Musick.³⁰ According to the county's annual budget, the OCSD secured \$100 million from the state of California for county jail funding.³¹

The first-phase project at Musick received State Public Works Board (SPWB) approval in March 2013. The first phase includes 512 new rated beds for the County Adult Detention System. The design of the first-phase project is nearing completion. The OCSD also secured a second conditional award for \$80 million from the state of California for county jail funding in January 2014. The second-phase project received SPWB approval in January 2015. The second phase includes 384 rated beds intended for rehabilitation, treatment and housing.³² After 10 years, the state would need county approval to lease the beds for alternative purposes.³³ The design for the second-phase project began in February 2015 and is underway. The two phases have been combined for construction and will be built almost at the same time. Construction is anticipated to begin in the spring of 2017, and the beds are expected to be available and used beginning in late 2019.³⁴

INMATE CLASSIFICATION

The OCSD custody process begins at the IRC. Persons who have been arrested are transported to the IRC from the local jails or directly after contact with law enforcement. After booking at the facility, they are temporarily housed. OCSD custody staff and health care practitioners assess each person admitted, provide medical care if indicated, and interview and classify individuals as to the risk they pose to themselves or others for the most appropriate housing in the OCSD jail system.³⁵

Incarcerated individuals are classified by their past confinement history, current charges, criminal “sophistication,” gang affiliation, sexual orientation, and physical or mental health issues.

Incarcerated individuals are classified by their past confinement history, current charges, criminal “sophistication,” gang affiliation, sexual orientation, and physical or mental health issues.³⁶ Individuals are assigned colored wristbands that show their classification along with other information (see Table 2).³⁷ Once transported to a specific facility, they are further classified to determine suitable housing. Factors considered in determining what compound and barrack an individual can be safely placed into include gang affiliation, sexual orientation, criminal offense, and physical or mental health issues.³⁸

TABLE 2. Wristband Classification (OCSD)

WRISTBAND COLORS	LEVEL	CLASSIFICATION	
White	1	Minimum Security	Low risk
Yellow	2	Medium Security	Exhibiting irregular behavior or a history of mental illness
Orange	3	Maximum Security	Similar to yellow but higher risk
Red	4	Administrative Segregation	Maximum risk, present a danger to themselves or others and are prohibited from association with others
Blue	5	Protective Custody	Segregated from jail population for their own safety
Green	6	Pre-Arrestment	

FACILITY LOCATION AND RATED CAPACITY

Currently the total rated capacity of the OCSD county jails is 5,093; the total maximum capacity is 7,488. The Board of State and Community Corrections uses the term “rated capacity” for recommended occupancy using state standards.³⁹

TABLE 3: Capacity by Facility (BSCC)⁴⁰

FACILITY	LOCATION	RATED CAPACITY (2017)	MAXIMUM CAPACITY (2017)
Intake/Release Center	Santa Ana	407	903
Orange County Men’s Jail	Santa Ana	1,219	1,433
Orange County Women’s Jail	Santa Ana	274	388
James A. Musick Facility	Irvine	713	1,322
Theo Lacy Facility	Orange	2,480	3,442

Rated capacity is the highest number of incarcerated individuals that a jail can house while providing a *minimum* level of safety and services.⁴¹ The rated capacity of a facility is calculated using factors like cell square footage, number of showers, number of toilets and several other Title 24 construction standards.⁴²

Maximum capacity is the highest occupancy level before the department would be required to release incarcerated individuals.⁴³ The OCSD describes maximum capacity as the highest number of occupants that a facility can house and remain in compliance with the standards and requirements contained in Title 15, Title 24 and/or any contractual agreement, regulatory standard or code. Table 3 shows the current rated capacity and maximum capacity for each OCSD jail facility.

JAIL POPULATION

The current population in OC is roughly 3.2 million.⁴⁴ On March 24, 2017, a total of 6,545 people were incarcerated in the county’s jail system, exceeding its rated capacity. Roughly 87% were classified as male and 13% as female.⁴⁵ About 70% of incarcerated individuals were OC residents, while the remaining 30% were non-OC residents. Approximately 51% were sentenced and 49% were pretrial. A majority of people behind bars in Orange County are between 31 and 40 years old. Latinos make up the largest racial or ethnic group in custody, accounting for 54% of the incarcerated population.⁴⁶ Figures 2 and 3 illustrate a breakdown of the jail population by age and race and ethnicity.

FIGURE 2: Incarcerated Population by Age, 2017 (OCSD)

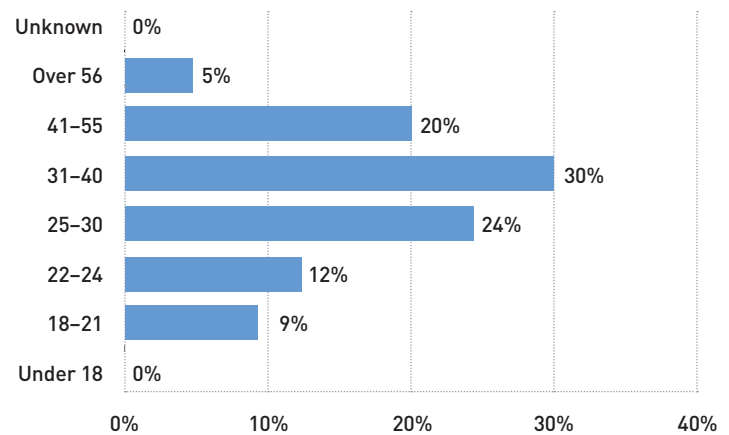
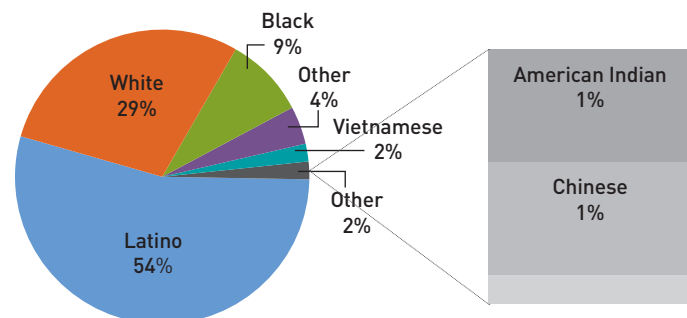
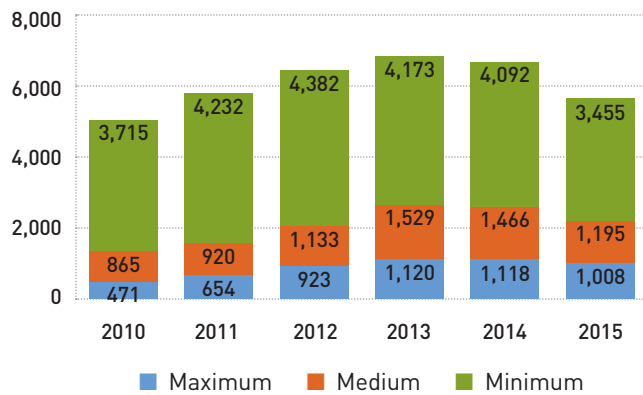


FIGURE 3: Incarcerated Population by Race and Ethnicity, 2017 (OCSD)



In 2015, more than half (61%) of the incarcerated population was classified as minimum security. From 2010 to 2015, the average daily population (ADP) of minimum-security individuals remained the largest despite the significant increase of maximum-security individuals after prison realignment (see Figure 4).

FIGURE 4: ADP by Security Classification, 2010 to 2015 (BSCC)



ASSEMBLY BILL 109: PRISON REALIGNMENT

Before implementation of the prison realignment legislation, Assembly Bill 109 (AB 109), in October 2011, county jails generally housed people with misdemeanor sentences of one year or less, but no individuals sentenced for felonies. As of October 1, 2011, however, the courts were required to sentence certain categories of felony prisoners to county jails, rather than state prisons, for terms of up to three years.⁴⁷ The shift of responsibilities for incarcerating less serious felons from the state to the counties was based on the premise that counties are better situated to integrate public health and social services that the state cannot. In 2014, there were 863 AB 109 individuals in the Orange County jail system. Of them, 511 were housed in Theo Lacy, 107 in James Musick and 245 in the Central Jail.⁴⁸

PROPOSITION 47

California Proposition 47 (Reduced Penalties for Some Crimes Initiative) was approved by voters in November 2014. The initiative reduced the classification of most non-serious, non-sexual and non-violent property and drug crimes from a felony to a misdemeanor.⁴⁹ In the year after the

proposition's passage, the jail population experienced a decline of 9%.⁵⁰ Counties with overcrowded facilities have used some of the newly available jail space to house people they would have otherwise had to release early because of capacity constraints.

Proposition 47 identified the California Department of Education (CDE), the California Victim Compensation and Government Claims Board (CalVCB) and the Board of State and Community Corrections (BSCC) to administer grant programs using the state savings. The BSCC anticipates awarding more than \$103 million in June 2017.⁵¹ Projects selected for funding will enter into a contract with the BSCC.

PRETRIAL AND SENTENCED POPULATION

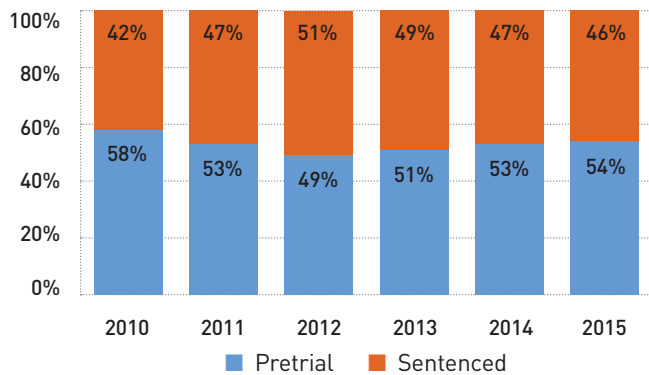
A majority of people incarcerated in the Orange County jail system are pretrial detainees who have not been found guilty of any charges. In 2015, about 54% of individuals incarcerated were pretrial detainees, while 46% were sentenced individuals. In 2015, the ADP of 5,658 consisted of 3,071 pretrial individuals and 2,587 sentenced individuals (see Table 4).

TABLE 4: Pretrial vs. Sentenced Population, 2010 to 2015 (BSCC)

	2010	2011	2012	2013	2014	2015
ADP	5,051	5,806	6,437	6,822	6,676	5,658
Pretrial	2,953	3,077	3,151	3,497	3,514	3,071
Sentenced	2,098	2,729	3,286	3,325	3,162	2,587

As Figure 5 indicates, the total pretrial population was larger than the sentenced population in OCSJ facilities from 2010 to 2015. The rationale for pretrial detention is to ensure court appearances and preserve public safety. However, California's high rates of pretrial detention, like those in Orange County, have not been linked with lower rates of failure to appear or lower levels of felony rearrests.⁵² California's overreliance on pretrial detention may be attributed to the state's high bail amounts. The median bail amount in California is \$50,000, more than five times the median amount in the rest of the country, \$10,000.⁵³

FIGURE 5: Pretrial vs. Sentenced Population, 2010 to 2015 (BSCC)



FEDERAL PROGRAM TO HOUSE UNDOCUMENTED IMMIGRANTS

Orange County is home to roughly 313,000 undocumented immigrants.⁵⁴ The county has two immigration detention facilities, both operated by the Orange County Sheriff's Department: the Musick Facility and Theo Lacy Facility. The OCSD is the only California law enforcement agency that still partners with Immigration and Customs Enforcement (ICE), a federal agency that is part of the Department of Homeland Security (DHS), through its Section 287(g) agreement.⁵⁵ Section 287(g) of the U.S. Immigration and Nationality Act authorizes DHS to deputize selected state and local law enforcement officers to enforce federal immigration law.⁵⁶ The interagency partnership with ICE authorizes OCSD deputies to interview and process immigrant detainees in county jails for removal.⁵⁷ The agreement also requires deputies to share arrest data, documents and supporting evidence if ICE asks for it, essentially creating a pipeline into the federal immigration system.⁵⁸

Since 2010, both the Musick Facility and the Theo Lacy Facility have participated in the federal program, commonly known as "Beds for Feds," to house undocumented immigrants who are awaiting deportation hearings or deportation.⁵⁹ While ICE handles all aspects of the detainees' immigration proceedings, the OCSD is responsible for providing housing and services to detainees on a contract basis. Both Musick and Theo Lacy separate pretrial and sentenced individuals from immigration detainees. The contract allows up to 838 detainees to be housed in the county jail system. As a result, the county

receives funding from the federal government. Of \$118 per day for each detainee, \$94.15 is allocated to the Sheriff's Department for security and housing services and \$23.85 is allocated to the Orange County Health Care Agency for medical and mental health services.⁶⁰ In 2016, OCSD deputies also began serving warrants and detainer requests on behalf of ICE. That year, a total of 391 detainees were reported to ICE.⁶¹

In February 2017, Orange County Sheriff Hutchens asked the Trump administration to provide a legal directive for her to detain some immigrants past their scheduled release dates to honor ICE detainers. The California Trust Act, a state law, prohibits sheriff's departments from holding most incarcerated people in county jails past their release time based on an ICE detainer. Some federal courts have held that honoring ICE detainers violates the Fourth Amendment of the U.S. Constitution.⁶² At the beginning of March 2017, the OCSD housed 528 ICE detainees.

A March 2017 report by the Department of Homeland Security's Office of Inspector General revealed that immigrant detainees housed at the Theo Lacy Facility are subject to serious health and safety risks. Concerns include unsanitary food and handling; 24-hour disciplinary segregation known as solitary confinement; poor sanitation, including mildewed shower stalls and refuse in cells; broken phones; faulty grievance procedures; and an inadequate classification system.⁶³ According to the report, two additional inspections are scheduled for 2017.

In May 2017, despite opposition from community organizations and several reports citing inhumane conditions and abuse at the Theo Lacy Facility, the OC Board of Supervisors unanimously approved Sheriff Hutchens' request to modify the existing five-year inter-governmental service agreement (IGSA) with ICE to increase bed space for detainees. The change includes an additional 120 beds for a total of 958 beds. If 100% of the bed capacity is utilized, the ICE annual revenues for the Sheriff's Department are expected to increase by more than \$5 million annually through July 2020.

The ACLU SoCal urges the OCSD to end its Section 287(g) agreement with ICE and consider creating a justice fund for universal representation to ensure fair proceedings of individuals facing deportation.

III. METHODOLOGY

This inquiry into the Orange County jail system was prompted by incarcerated individuals' and media 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.

From August 2015 to April 2017, the ACLU SoCal received and collected complaints and reports from incarcerated individuals 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 *Huffington Post*.
 - 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.

DATA COLLECTION METHODS

The Jails Project used both quantitative and qualitative data collection methods. We obtained quantitative data through demographic survey questions as well as directly from the OCSD and the BSCC. Qualitative data was obtained through open-ended survey questions, department policies and procedures, existing reports, news articles and internet searches. Post-release surveys were administered to individuals immediately after their release from jail. In-custody surveys were mailed to incarcerated individuals who (a) reached out to the ACLU SoCal, (b) were referred by other incarcerated individuals, (c) were referred by friends or family, or (d) were selected randomly via the OCSD's online inmate locator. Based on the information collected, we arranged follow-up in-custody visits with several people to gather additional information on problems.

SURVEY

The post-release and in-custody survey served as the primary means for collecting information about the conditions inside the county jail system. The surveys were available in English and Spanish. Both surveys consisted of a series of open-ended questions that focused on deputy misconduct, special cases, medical issues, mental health issues and general conditions of confinement. Areas of concern that surfaced through survey responses and/or research were incorporated in a revised survey. Such areas include inmate monitoring, inmate privileges, cell and body searches, and training of jail staff. We provided all participating individuals with an explanation sheet detailing the purpose of the survey, the risks and benefits of participation, confidentiality and the voluntary nature of the survey. The Jails Project and trained volunteers administered the post-release survey on Mondays, Tuesdays and Wednesdays from 10 p.m. to 3 a.m. The post-release survey typically required 15 to 35 minutes to administer. Incarcerated individuals self-administered the in-custody surveys. The average time required to complete the in-custody survey is unknown.

UNIT OF ANALYSIS

Issue type is the unit of analysis in this report. 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 (see Table 5).

The categories represent areas of concern that require remediation to ensure reasonable safety and access to protected rights. In-custody and post-release survey participants were assigned pseudonyms to maintain their confidentiality. Pseudonyms were selected through an online search of popular names. Given that some participants reported multiple issues, pseudonyms may appear multiple times throughout the report. Custody staff are identified by rank followed by an initial.

TABLE 5: Issue Areas

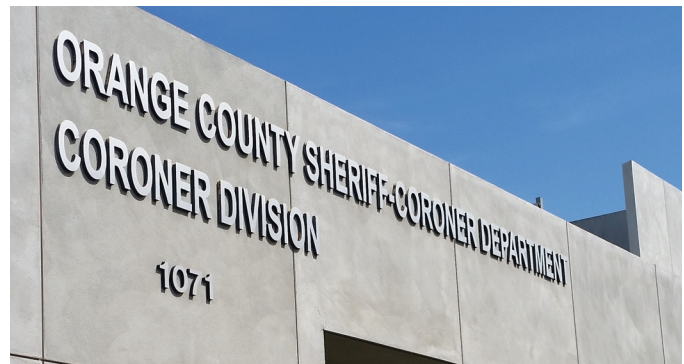
<p>A. PHYSICAL SECURITY</p> <ul style="list-style-type: none"> •Deputy-on-Inmate Violence •Inmate-on-Inmate Violence •Verbal Abuse and Threats •Searches •Housing of Transgender and Intersex Persons •PREA Data Collection 	<p>B. MEDICAL CARE</p> <ul style="list-style-type: none"> •Medication •Treatment •Classification/Housing •Medical Slips •Special Needs •Women-Specific Needs •Transgender-Specific Needs 	<p>C. MENTAL HEALTH CARE</p> <ul style="list-style-type: none"> •Medication •Treatment •Classification/Housing •Mental Health Slips •Special Needs
<p>D. PHYSICAL AND LIVING CONDITIONS</p> <ul style="list-style-type: none"> •Processing/Screening •Uncleanliness •Showers and Plumbing •Clothing and Temperature •Privacy for Transgender and Intersex Persons •Overcrowding •Recreation/Out-of-Cell Time •Food Services •Commissary and Indigent Packs •Communications (Phones, Mail and Visitation) 		<p>E. OTHER</p> <ul style="list-style-type: none"> •Discipline •Grievance/ Complaint Process •American with Disabilities Act (ADA) Classification •Religious Services •Propria Persona Status

IV. FINDINGS

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.

A varied number of the most severe post-release accounts are briefly described under each subcategory, as are a varied number of in-custody accounts. Several subcategories have fewer than 10 post-release accounts because of limited information on the issue. The number of in-custody accounts varies because of visitation restrictions and barriers to accessing the in-custody population. The ACLU SoCal was granted access to conduct official attorney room visits in April 2017.

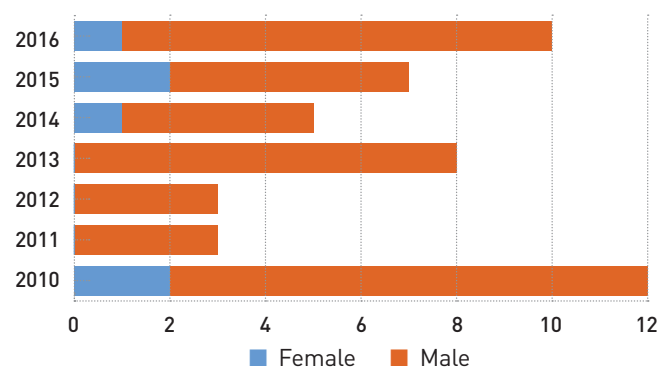
A varied number of synopses of grievances submitted between 2011 and 2013 are also incorporated to provide additional information. The University of Michigan Law School secured a grievance report from the OCSD through a Freedom of Information Act request. The department redacted synopses of grievances from its previous data system for the university's Policy Clearinghouse project. The university made the document available on the project's website. All narratives are written in the third person. Grievances incorporated in this report are taken verbatim from the document with the exception of pseudonyms assigned to each account. Preliminary findings substantiate concerns raised by several reports. Lasting issues reveal that the OCSD has failed to implement several recommendations issued in the past. Findings also suggest that in some cases the department fails to meet the standards described in its own policies and procedures.



A. IN-CUSTODY-RELATED DEATHS

A total of 48 deaths occurred under the jurisdiction and responsibility of the Orange County Sheriff's Department from 2010 to 2016.⁶⁴ In-custody deaths are extremely troubling and immediate steps should be taken to prevent at all costs. The OCSD Coroner Division is responsible for conducting medico-legal death investigations countywide on all homicides, suicides, accidents, and suspicious and unexplained deaths to determine the identity of the deceased, the medical cause of death, the manner of death, and the date and time of death.⁶⁵

FIGURE 6: In Custody Deaths, 2010–2016 (DOJ)



Of the people who died in custody from 2010 to 2016, six (12.5%) were identified as female and 42 (87.5%) as male. The average age of individuals who died in custody was 47. Approximately 67% of people who died in custody were awaiting trial; 54% died in an OC jail facility. Of the 48 individuals, 29 were White, 13 were Latino,⁶⁶ four were Black, one was Vietnamese and one was identified as other (see Table 6).

Table 6: Demographics (DOJ)

RACIAL COMPOSITION		AGE COMPOSITION	
Black	4	18 to 24	1
Latino	13	25 to 34	10
Vietnamese	1	35 to 44	10
White	29	45 to 54	12
Other	1	55 to 64	9
		65+	6

Table 7: Manner and Means of Death (DOJ)

MANNER OF DEATH	QTY	MEANS OF DEATH
Natural	22	Not Applicable (22)
Suicide	5	Hanging, Strangulation (3) Handgun (1) Other (1)
Accidental	1	Drug Overdose (1)
Homicide Justified (Law Enforcement Staff)	2	Handgun (2)
Homicide Willful (Other Inmate)	1	Hands, Feet, Fists (1)
Pending Investigation	17	Pending Investigation (17)

Of the 48 deaths, 46% were declared due to natural causes, 11% due to suicide, 6% due to homicide (4% were reported as justified by law enforcement staff, 2% as willfully by another inmate), 2% were accidental, and 35% are pending investigation (see Figure 7).⁶⁷ Twenty-two deaths were ruled “natural,”

constituting the largest category of manner of death. According to U.S. Department of Justice data, the death ruled “accidental” was due to a drug overdose.

FIGURE 7: Manner of Death, 2010 to 2016 (DOJ)

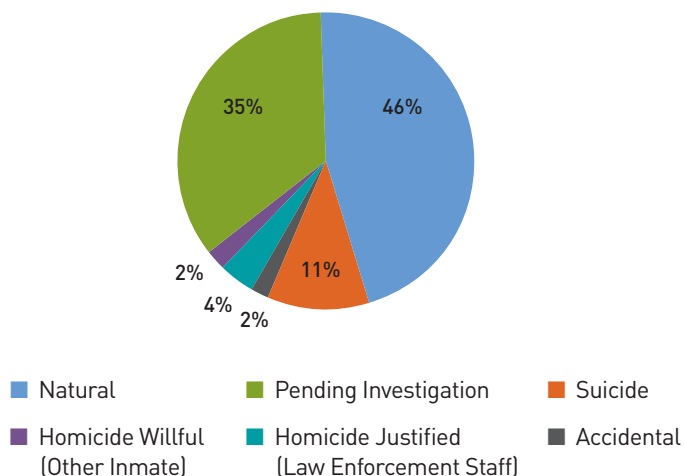


FIGURE 8: Custody Status of In Custody Deaths, 2010–2016 (DOJ)

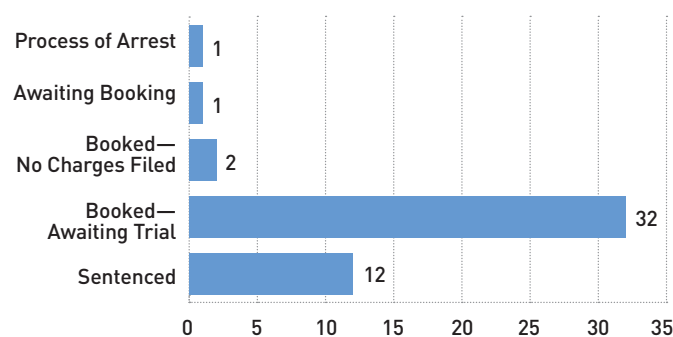
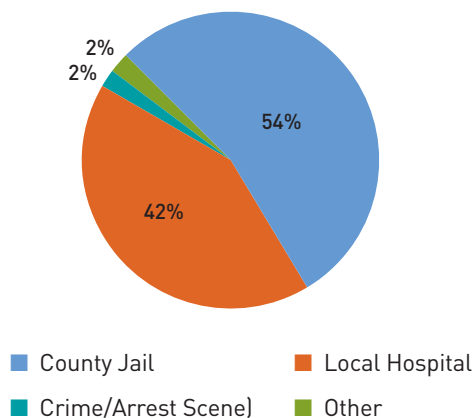


FIGURE 9: Facility Death Occurred, 2010 - 2016 (DOJ)



B. SAFETY

1. Deputy-on-Inmate Violence

OCSD deputies have a long history of assaulting individuals behind bars. In the late 1980s, deputies inside the Central Men’s Jail, known as “the Psycho Crew,” beat mostly African American incarcerated individuals.⁷² In the early 2000s, under then-Sheriff Carona, deputies engaged in misconduct with little or no fear of punishment. Among several practices, staff used to regularly discharge electronic control weapons (ECWs) such as Tasers on individuals who were handcuffed or otherwise restrained, fired pepper guns in confined spaces, and used force on people with mental illness when less restrictive and less dangerous alternatives existed.⁷³ Advisers to Carona recognized that he would not end such jail abuse for fear of alienating the deputies’ politically powerful union.

Table 8: Location where death occurred (DOJ)

FACILITY DEATH OCCURRED	QTY	LOCATION WHERE CAUSE OF DEATH CAUSED
County Jail	26	Medical Treatment (3) Living (19) Booking (1) Not Applicable (3)
Local Hospital	20	Medical Treatment (10) Living (5) Crime/ Arrest Scene (1) Not Applicable (2) Other (2)
Crime/ Arrest Scene	1	Crime/Arrest Scene (1)
Other	1	Medical Treatment (1)

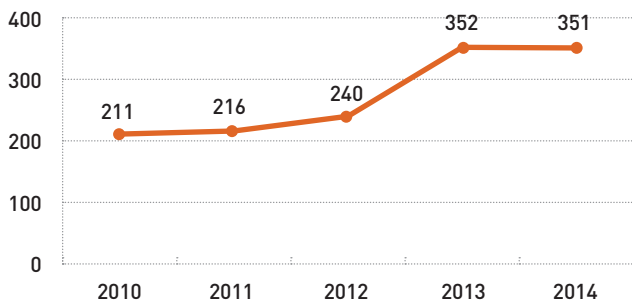
In California, local law enforcement agencies are required to report to the Office of the Attorney General any case in which a person dies while in the custody of any law enforcement agency or while in custody in a local or state correctional facility.⁶⁸ The agencies are required to write reports of deaths to the attorney general within 10 days of the death.⁶⁹ The reports are public records and are open to public inspection. All Orange County District Attorney’s Office reports of in-custody-related deaths available online have determined no culpability of OCSD staff.⁷⁰ It is important to systematically capture accurate figures and information to ensure transparency and accountability. Although collecting information is a needed first step, agencies must ensure that investigations of in-custody-related deaths are comprehensive, objective and fair. Data can be used to improve tactics and strategies, particularly when dealing with people who suffer from mental illnesses.⁷¹

TABLE 9: Use-of-Force in Custody Operations Facilities (OC Annual Budget)

FY	USE-OF-FORCE	ADP	TOTAL BOOKINGS	% RELATIVE TO ADP	% RELATIVE TO TOTAL BOOKINGS
2010	211	5,051	60,995	4.18%	0.35%
2011	216	5,806	63,228	3.72%	0.34%
2012	240	6,437	66,400	3.73%	0.36%
2013	352	6,822	61,801	5.16%	0.57%
2014	351	6,676	59,167	5.26%	0.59%

In 2014, the U.S. Department of Justice’s Civil Rights Division concluded in an investigation of the Orange County Sheriff’s Department that systemic deficiencies persisted with regard to the use of force in the county jails.⁷⁴ Although the deficiencies were identified as limited in scope, they revealed enduring systemic issues that pose a serious risk of harm to incarcerated individuals. Table 9 and Figure 10 illustrate the annual total

FIGURE 10: Use of Force in Custody Operations (OC Annual Budget)



use-of-force incidents from 2010 to 2014 relative to average daily population and total bookings. According to a California Public Records Act (CPRA) response from the OCSD, the department does not have records responsive to the number of in-custody use-of-force case reviews in the years 2010 to 2016, nor to the number of in-custody use-of-force case reviews that reveal that use of force violated agency policy or the law in the years 2010 to 2016.⁷⁵

According to the OCSD, “The application of force is counting the number of subjects that the force was used against.” An example would be a deputy having to break up a fight involving six people using pepper spray; that would count as six in Figure 11. Table 10 indicates the total number of uses of force by incidents. In 2014, there were 351 total incidents involving use of force (see Table 9 and Figure 10). Figure 11 shows the total number of individuals who were subjected to any use of force broken down by the type of force. Figure 12 illustrates the type of force most used in the first quarter of 2016. According to department data, custody staff used “hands-on” force on over 350 individuals in the first three months of 2016.

FIGURE 11: Use of Force, 2015 (OCSD)

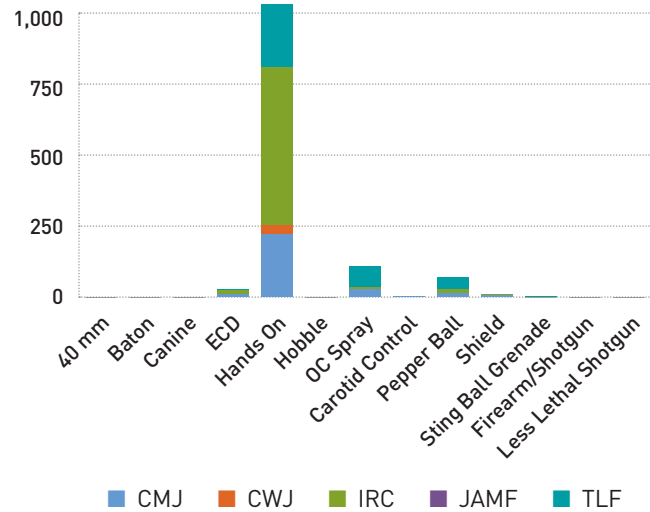


FIGURE 12: Use of Force, First Quarter 2016

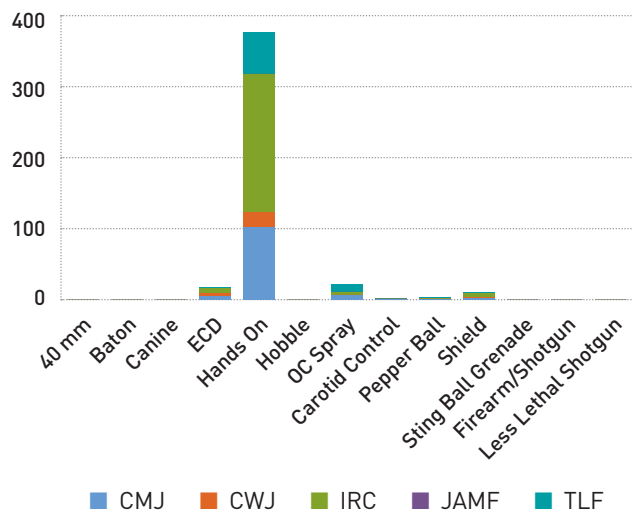


TABLE 10: 2015 Use-of-Force Incident Details (OCSD)

	TOTAL CASES REVIEWED	WITHIN POLICY; NO FURTHER ACTION	WITHIN POLICY; TRAINING/CORRECTIVE ACTION	REFERRED TO I.A.	INJURED INCARCERATED INDIVIDUALS	INJURED STAFF
CMJ	51	37	12	2	40	8
CWJ	14	10	4	0	4	2
IRC	172	151	18	3	58	13
Musick	0	0	0	0	0	0
Theo Lacy	102	85	12	5	48	16



PERSONAL ACCOUNTS

IN-CUSTODY

- Anthony was transported to his cell in a wheelchair after he saw a nurse at medical. Anthony was unable to stand on his own. He had fainted earlier that day, which exacerbated his chronic back pain. Upon arriving to his cell, Anthony asked the deputy if he could help him stand. The deputy refused to help Anthony and “violently” threw him from the wheelchair onto the floor of the cell. Before the incident, Anthony had requested medical attention repeatedly due to feeling “weak and dizzy.” His requests were denied and he ultimately fainted. In December 2015, a deputy told Anthony that he was going to be placed in solitary confinement. Anthony believed the move was unwarranted and wanted to know why. After he asked to see paperwork, Anthony maintains, “three to five deputies slammed me against the wall and twisted my arms up my back.”
- Freddy claims that after an incident involving two inmates, several deputies zip-tied his wrists as he was ordered to lie face down on the floor. Deputy N, who walked up and down the aisles, stepped on Freddy’s feet while he was handcuffed and shot him and other inmates in the back with pepper balls. Freddy maintains that he and others were shot multiple times within close range. According to Freddy, the deputies then proceeded to upend the bunks and tossed inmates’ belongings to make it look as if a riot had taken place. While Freddy and others were still suffering from the pepper ball wounds (and before being treated for the wounds), they were interviewed on audio/video tape. Custody staff denied complaint forms to Freddy and the other inmates and told them that audio/video interviews were enough documentation of the incident.
- Gladys shared that deputies routinely provoke and threaten inmates. Once she witnessed a deputy tase an inmate after the deputy had provoked the person into becoming confrontational.
- Jeffrey disclosed that he was assaulted by deputies. When deputies ordered him to lie down on the floor, he struggled to do so because of knee problems (i.e., left knee has no ACL ligament). Six deputies then took him into a cell. As Jeffrey knelt, four deputies climbed on his back and slammed him to the ground. Jeffrey claims that deputies broke his lower left rib. He complained that he was denied thorough medical examination, medication and X-rays for several days after the assault.
- Janet witnessed four deputies slam an inmate against the wall for no apparent reason. She disclosed that the inmate did not appear to be resisting. She described the inmate as “slouching over the stair railing.” She went on to say, “It looked like she [the inmate] was really weak or under the influence of something.” Janet maintains that deputies held the inmate’s head upward by pulling her by the hair.
- Leslie witnessed a deputy being “unnecessarily aggressive and forceful” with an inmate in spring 2016. A few days after the incident, she spoke to a sergeant, who told her the matter was being investigated. She had not received a response several weeks after the fact.
- Lily witnessed deputies drag an inmate who appeared to have mental health issues down the stairs. According to Lily, the deputies became upset because the woman was on the second tier of the housing module while deputies looked for her on the first tier. Lily reported that the inmate did not know that the deputies were looking for her and was not combative when they told her to go downstairs with them. On a separate occasion, Lily saw deputies shove an inmate’s head against the wall and twist her arms behind her back “as high as they could go.” According to Lily, the deputies routinely treated the woman poorly because they disapproved of her charges. She did not disclose the charges of the inmate.
- Michelle witnessed when Deputy G beat an inmate the in spring 2016. Michelle claimed that Deputy G put the inmate’s head in a bucket of dirty mop water that week. According to Michelle, Deputy G then “banged [the inmate’s] face two to three times against the bucket.” Michelle disclosed that the inmate suffered a bruised face and what appeared to be a broken nose.
- 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.

- Robert claims several deputies slammed him to the ground, chest first. A deputy pulled back Robert’s hair while he was slammed onto the ground so that his face would not hit the ground. After being slammed to the ground, Robert passed out. When he regained consciousness, he was handcuffed to a wooden bench.
- Stephanie witnessed deputies “toss up” and beat up incoming female inmates. She maintains that many of the “new girls” have never been in jail before so they were unfamiliar with “in-house rules.” Stephanie witnessed several of them being “chicken-winged” and “pushed around” for no apparent reason. Stephanie reported that deputies once pushed and kicked her legs as they walked past her.
- Theresa claims several deputies injured her arms and shoulders when frisking her. She claims that deputies pulled her arms out of their socket. Theresa also reported that she witnessed deputies punch an inmate in the face.

POST-RELEASE

- Albert claims deputies elbowed his back multiple times while he was handcuffed. Deputies also pulled and twisted his arms for no apparent reason.
- Carol was pinned to the floor by three deputies in August of 2015. Deputies proceeded to elbow and kick her while she was on the floor. Carol claims to have suffered bruising on her knees, back, arms and elbows. She was placed in solitary confinement for one day following the attack.
- David claims deputies slammed him against the wall and forced his arms “all the way up” behind his back. He was handcuffed and claims that deputies intentionally placed the handcuffs too tight.
- Ernest claims three deputies forced his arms behind his back after he asked for lunch. He was hurt without provocation or just cause. One of the deputies then slammed the door on his fingers. Ernest was not given any food for 24 hours following the incident.
- Hazel witnessed three female deputies “forcefully storm a woman.” Hazel maintains that the deputies “pretzeled” (twisted) the woman’s arms behind her back and raised them up. The deputies then shoved the female inmate against the cell. Hazel described the woman as “not resisting” and “crying.”
- Isaiah witnessed deputies pull a female inmate from a holding tank at processing while he was in the hallway. He described the woman as “having a mental outburst.” He claims that the deputies shoved the woman’s head “hard against the wall.”
- Isaac witnessed a deputy shove an inmate against the wall. He claimed that the inmate had “accidentally turned the wrong way when walking to chow.” Isaac believes that the inmate made an “honest mistake” and was treated “very poorly” for it.
- Michael told custody staff he did not want radiation over his genitalia while he was going through the medical screening at intake. Deputies then “pretzeled” (twisted) his arms and wrists. Michael shouted, “You’re going to break my wrists,” to which the deputies responded by twisting his arms and wrists harder. According to Michael, the deputies continued to twist his arms until he apologized for speaking up. He claims deputies with the mentality of “lock you up and throw away the key” are quick to put their hands on inmates.
- Ulysses says a deputy closed a door on his toe. Ulysses maintains that the act was intentional. His toe was injured and bled. After a higher-ranking staff member was contacted, Ulysses was questioned in front of the deputy who closed the door on his toe. During the interview, the deputy involved in the incident stared at Ulysses, an act Ulysses believes was meant to intimidate him from saying the truth. Custody staff recorded the interview and took pictures of Ulysses’ injured toe. He was given an inmate health message slip.
- Yousef claims that he witnessed deputies pick out an inmate from a holding tank and beat him in front of everyone as an “intimidation tactic.” Yousef reported that the inmate was hit multiple times. He recalled hearing the inmate yell, “I’m not resisting!”
- Yahir witnessed a deputy pin an inmate down to the floor. Another deputy engaged and put his foot on top of the inmate’s back while he was already restrained on the floor.

GRIEVANCES

- “Emma claims she had her arms twisted up, was verbally abused and had a Taser pressed to the side of her throat during the female booking process.” (IRC, 6/6/2012)
- “Noah alleged that around 0700 hours on 5-10-13 by Deputies A & A1 slammed him against the wall. This caused a contusion on his right eye.” (IRC, 5/16/2013)
- “Irving said on 12-21-12 at 0505 hours that Deputy B struck him in the head with an elbow strike while he was, ‘Attempting to understand and comply with his orders.’” (Theo Lacy, 12/29/12)
- “Benjamin alleges prior to being transferred out of Mod O to CMS that Deputy C twisted his hand towards his upper back, causing pain while being counseled for a security issue he inadvertently caused.” (Theo Lacy, 3/14/2012)
- “Mason alleged he was assaulted by staff following his handcuffing in A/E by Sgt. D.” (Theo Lacy, 2/9/2012).
- “Jacob claims that Deputy E grabbed him by the neck and ‘squished’ him against the wall.” (James A. Musick, 1/3/2013)
- “Alex claims to have been assaulted by Deputy F and Deputy G came up to his cell and threatened him.” (IRC, 8/27/2011)
- “Carter complained Deputy H assaulted him in the booking area for refusing to sign a document.” (IRC, 1/30/2012)
- “Julian stated Deputy I from the CJC ‘smashed’ his head into the elevator walls at least twice before he lost consciousness. He now suffers from frequent seizures, paralysis on the right side of his body, and constant memory loss.” (CMJ, 5/5/2013)
- “Jonathan claims he was subjected to cruel and unusual punishment when he was approached by a deputy in the MJ 3rd floor chowhall. Jonathan claims the deputy pushed his head into the wall and bent his arms behind his back up towards his head.” (Theo Lacy, 8/11/2011)



FINDINGS AND ANALYSIS

- **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.**

Survey participants reported accounts of excessive and unnecessary force by deputies. Witness and personal accounts range from handcuffs being placed on too tight to deputies slamming incarcerated individuals against the wall and twisting their arms behind their backs. In cases where minor infractions did, in fact, result in the use of force, survey participants reported that the force utilized was not proportionate to the threat presented by, or the need to lawfully control, the individual in the particular situations.⁷⁶ This violates the department’s policy on “Objectively Reasonable Force.” According to OCSD policy, “deputies shall use only that amount of force that appears objectively reasonable, given the facts and circumstances perceived by the deputy at the time of the event, to effectively bring an incident under control.”⁷⁷ Several individuals reported incidents that were never out of control, yet excessive physical force was used. In situations where compliance and cooperation are present, exerting physical force is both unnecessary and illegitimate.

- **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.**

The practice of subjecting an incarcerated individual to force without a legitimate ground is problematic given that the infliction of pain does not serve to further a lawful objective. In such situations, force tends to be either excessive or unnecessary. Department policy and BSCC regulations prohibit the use of force for the sole purpose of causing harm and/or as a form of punishment. According to department policy, the use of force “does not include the use of a firm grip control while performing routine functions

OCSD deputies use the practice of “pretzeling” and “chicken-winging” on individuals for arbitrary reasons that do not pose a danger or threat.

such as searching, handcuffing or escorting.”⁷⁸ Reports of willful and deliberate use of excessive and unnecessary firm grip control in controlled situations wherein individuals were following directions and cooperating should be investigated. It appears that deputies employ force as a means of intimidating and punishing incarcerated individuals for subjective motives. In any case, no lasting physical injury is necessary to establish that a violation has occurred when force is excessive.⁷⁹ Several cases reported by survey participants highlight the absence of a lawful objective when force is employed. In such cases, many individuals reported not resisting and following directives.

➤ OCSD custody personnel routinely provoke, instigate and threaten incarcerated individuals into becoming confrontational.

Survey participants also allege OCSD deputies provoke violence on a regular basis. Such claims have been made and reported in the past.⁸⁰ Examples include deputies taunting incarcerated individuals at random and deputies issuing inadequate clothing to people to get them to complain. Deputies then use complaints as pretexts to exert physical force. Several individuals also recounted witnessing incidents in which deputies shoved and pushed people despite being unprovoked. According to survey participants, deputies exert excessive force and claim it was necessary to end a disruption that they themselves incited. According to OCSD policy, staff is prohibited from encouraging, provoking and/or instigating misbehavior that would result in the use of force. This is known as “baiting.” Custody staff is also prohibited from encouraging or allowing incarcerated persons to exercise force against staff, visitors or other incarcerated individuals.

➤ OCSD deputies use the practice of “pretzeling” and “chicken-winging” on individuals for arbitrary reasons that do not pose a danger or threat.

The twisting of individuals’ arms behind their backs was reported as a common practice known as “pretzeling” and/or “chicken winging.” In some circumstances, twisting arms behind a person’s back might be a reasonable means to gain control of an individual who is fighting. But incarcerated individuals reported that the technique is used when no force is needed and in circumstances where far less severe force was appropriate and sufficient. The multiple reports of deputies “pretzeling” and “chicken-winging” individuals for arbitrary reasons that did not pose a danger or threat to the deputy or facility need to be addressed.

➤ 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.

Several people disclosed that some deputies exert unnecessary force in response to verbal taunts and “passive noncompliance” or ignoring directives in an unhostile way. A few people witnessed or experienced deputies using excessive force on incarcerated individuals who did not immediately respond at count, stepped out of the chow line, talked in the chow hall, or walked the “wrong way” or looked at deputies the “wrong way.” Other times, deputies exerted force for no reason at all.

Pain-compliance techniques, according to OCSD policy, may be effective in controlling a passive or actively resisting individual.⁸¹ Deputies may only

apply such techniques when they reasonably consider them necessary to further a legitimate law enforcement purpose.⁸² Reports by survey participants suggest that even in situations wherein passivity is present, the proportion of force exerted goes beyond what is necessary to ensure compliance. It is problematic to require that an injury be perceived as serious in order to invalidate the use of pain-compliance techniques in situations that are controlled or can be controlled through alternative means.

Voluntary compliance, the preferred means of achieving a resolution to potential use-of-force encounters according to OSCD policy, is often disregarded. In other situations, deputies did not allow reasonable time for compliance even when it was practical.⁸³

- **OCSD deputies are not adequately supervised nor held accountable when use-of-force is mismanaged.**

According to accounts of survey participants and various other sources, OCSD deputies employ excessive force and violence to control and intimidate incarcerated individuals. The sheriff and the county have infringed the rights of incarcerated people by permitting the use of unnecessary physical force and failing to adequately supervise jail deputies. Deputies are entrusted with well-reasoned discretion in determining the appropriate use of force in each incident. Not monitoring such discretion raises concerns, and not holding deputies accountable when the discretion is mismanaged or abused heightens the concerns. All of this, coupled with a lack of transparency, is very problematic.

- **OCSD deputies and command staff do not practice de-escalation tactics or intervene to prevent unreasonable uses of force by fellow custody staff.**

The ongoing failure to halt abuse raises several issues. Some survey participants disclosed that “not all deputies are the same.” Others shared that “some people are really just trying to do their job.” Nonetheless, “turning a blind eye” to

instances of misconduct in itself points to a systemic issue within the department. Deputies and command staff permissiveness allows the use-of-force to go unchecked. Whether implicit or explicit, a code of silence within the department overrides accountability and justice.

- **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.**

Department policy defines physical force as “striking, holding, pulling, pushing, throwing, or exerting strength against another person.”⁸⁴ Given the absence of factors requiring the use of physical force, deputies’ conduct in the several aforementioned accounts was unreasonable. Illegitimate seriousness of offenses and the lack of legitimate law enforcement purpose need to be investigated, reported and tracked.

RECOMMENDATIONS

- 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.

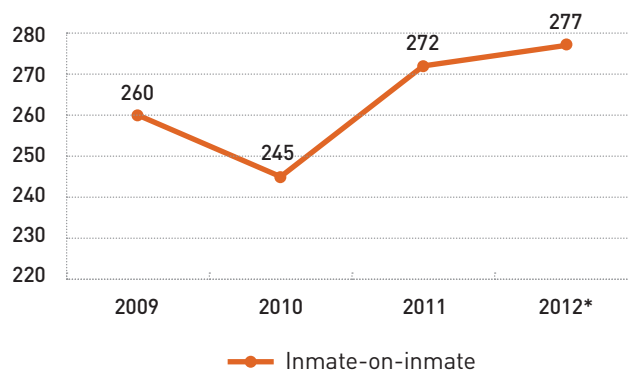
- Investigate allegations of abuse in a prompt and thorough manner. Ensure that custody personnel who fail to abide by department policy are held accountable and appropriately disciplined. OCSD personnel whose actions suggest poor moral character should not be entrusted to uphold and enforce the law. 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. As previously recommended by several grand juries, 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.⁸⁵
- 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.

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

According to a 2005 news article, in 2000, a journalist found evidence that jail deputies amused themselves by instigating fights among incarcerated people.⁸⁶ A 2007 special criminal grand jury investigation prompted by the death of an incarcerated individual in 2006, found that deputies routinely used incarcerated individuals to enforce discipline at the jail by inflicting violence (“taxing”) on other individuals.⁸⁷ The investigation revealed that deputies rewarded shot-callers with benefits like new uniforms, extra meals, additional hygiene products and unrestricted movement in the facilities, among other things.⁸⁸ When shot-callers failed to get other individuals “back in line,” deputies intimidated the informal enforcers by destroying their property.

According to several other news articles, custody staff and incarcerated individuals inside the Orange County jail system operate in a hierarchical power structure.⁸⁹ To enforce order among the in custody population, deputies rely on leaders, known as “shot-callers,” of three main jail groups: “the Woods,” or Whites; “the Southsiders” or “the Homies,” mostly Latino gang members; and “the Paisanos” or “Paisas,” mostly undocumented immigrants from

FIGURE 13: Inmate-on-Inmate Assaults (OCSD)

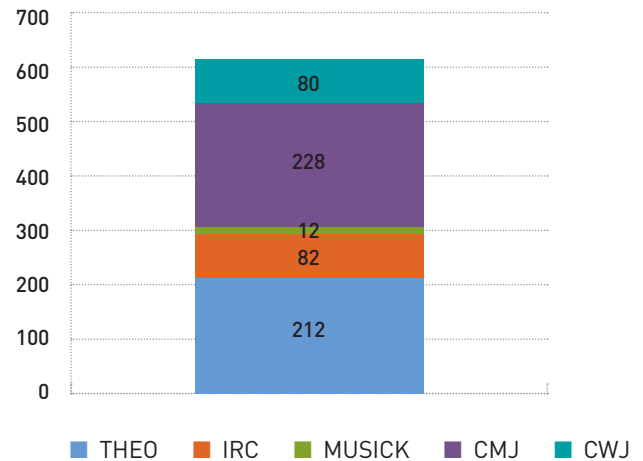


*2012 numbers Jan. 1–July 26

Mexico.⁹⁰ Shot-callers, typically the individuals with the most time behind bars, serve the role of enforcer for their racial group. Each shot-caller has a “mouse,” or assistant, who is responsible for passing along commands from shot-callers to the rest of the incarcerated population.⁹¹ Helping the shot-callers enforce those orders are “torpedoes,” considered the most violent members of each group.⁹² As each person arrives in jail, a representative of their racial group, known as a “house mouse,” meets with them to find out who they are, to learn why they are behind bars, and to explain the rules and regulations of the jail.⁹³

While some deputies support and perpetuate the power structure and others oppose it, nearly all deputies allow it to govern the facilities. Individuals are routinely beaten for refusing to carry out orders from shot-callers. Not acting on orders from deputies and shot-callers can lead to anything from serious injury to death. In 2009, the Department of Justice’s Civil Rights Division investigated operations of the OC jail system. The investigation followed a series of incidents, including the deadly stomping of John Chamberlain by other incarcerated individuals in October 2006 and the fatal tasing of two individuals in 2007 and 2008.⁹⁴ The investigation, which remains open, involves all five jail facilities operated by the OCSD.⁹⁵ Since the investigation was opened, department data reveals that inmate-on-inmate assaults slightly increased from 2009 to 2012 (see Figure 13).⁹⁶ Such figures

FIGURE 14: Cameras per facility, 2016 (OCSD)



tend to underreport the severity of the issue, given undetected and overlooked assaults.

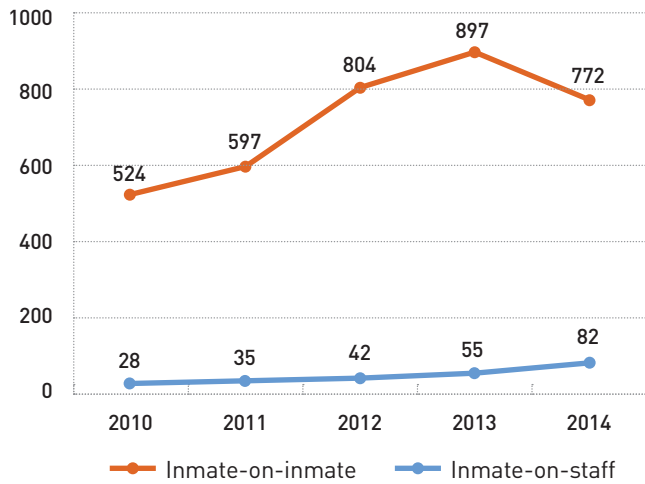
The OCSD has failed to implement recommendations by the last six grand jury reports, which uncovered the need to upgrade antiquated and ineffective jail surveillance. Previous grand juries found that all Orange County adult jail facilities have inadequate video surveillance equipment.⁹⁷ Although a viable upgrade plan with committed funding and approval for implementation was established, sufficient progress has not been made. This is evidenced by the three escapees from the Central Men’s Jail in January 2016. The 2011-2012 grand jury noted that the Intake/Release Center as well as the other facilities in the Central Jail Complex had aging cameras and video surveillance

Table 11: Number of Assaults Reported (OC Annual Budget)

FY	INMATE-ON-INMATE	INMATE-ON-STAFF	ADP	TOTAL BOOKINGS	% RELATIVE TO ADP	% RELATIVE TO TOTAL BOOKINGS	% RELATIVE TO ADP	% RELATIVE TO TOTAL BOOKINGS
2010	524	28	5,051	60,995	10.37%	0.86%	0.55%	0.05%
2011	597	35	5,806	63,228	10.28%	0.94%	0.60%	0.06%
2012	804	42	6,437	66,400	12.49%	1.21%	0.65%	0.06%
2013	897	55	6,822	61,801	13.15%	1.45%	0.81%	0.09%
2014	772	82	6,676	59,167	11.56%	1.30%	1.23%	0.14%

PERSONAL ACCOUNTS

FIGURE 15: Number of Assaults Reported (OCSD)



systems with poor quality and limited access for review.⁹⁸ In 2014, the U.S. Department of Justice’s Civil Rights Division concluded that some improvements that were previously recommended were not yet fully institutionalized.⁹⁹ It was particularly true in regard to the need for cameras. Figure 14 indicates the number of cameras in each facility as of June 2016. Blind spots continue to pose a threat of risk to incarcerated people and allow for poor accountability of staff.

Table 11 and Figure 15 reveal an increase in the overall number of assaults reported, including inmate-on-inmate assaults and inmate-on-staff assaults, from 2010 to 2014. Table 11 compares the percentage of inmate-on-inmate assaults relative to ADP and total bookings to that of inmate-on-staff relative to ADP and total bookings. The data suggests that inmate-on-inmate assaults are far more prevalent than inmate-on-staff assaults. Inmate-on-inmate assaults may be instigated by staff, as reported by several survey respondents, and often go unchecked because of poor supervision and faulty surveillance.

Deputy-Instigated Inmate-on-Inmate Violence

IN-CUSTODY

- 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 reported feeling unsafe in custody. He disclosed that holding cells numbers 15 and 16 in the processing area at Theo Lacy are marked “PCS” for sex offenders and “PCM” for protective custody. According to James, deputies marked the cells so that inmates who pass by on their way to court can identify sex offenders and then target them.

POST-RELEASE

- Pedro witnessed an inmate being “taxed” (attacked) by other inmates after deputies searched and destroyed their housing module. According to Pedro, it is common for deputies to “toss” (trash) tanks or housing modules and blame the move on a particular person so they can get “checked” (punished) by others. He said it is how deputies pit people against one another and described it as “divide and conquer.”
- Victor claims deputies instigate violence “almost every day.” He said the most common way of doing so involves attributing cell searches — wherein deputies scatter and throw inmates’ belongings around — to a particular inmate.

Custody Staff’s Failure to Protect

IN-CUSTODY

- 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.

- Kyle reported that two inmates got into a physical altercation after they were let out of their cell. He claims that deputies intervened only after the altercation was over.
- Norma pushed the emergency button “about nine times” when her cellmate became upset and wanted to fight her in their two-person cell. According to Norma, Deputy R and her partner did not intervene or attempt to stop the altercation.
- Hazel claims that inmates regularly tell each other to quiet down. She maintains, “If the deputies think we’re too loud we can end up losing our mail for the week or have the TV shut off.” Hazel recounted that when an inmate told another to “Quiet the fuck down!” the demand led to an verbal argument followed by a fistfight. According to Hazel, deputies and custody staff failed to intervene.

POST-RELEASE

- Daniel claims fights regularly broke out between inmates who “bumped heads” with each other. He said custody staff tends to “intervene” after incidents have already broken up on their own. Daniel disclosed that lots of blind spots in the facility allow for fights to go unnoticed. He suggested the need for more security checks and rounds.
- Kevin witnessed inmates get sent to the “wall” and get “taxed” by other inmates for not following commands of inmate representatives. According to Kevin, deputies allow the practice of “taxing” to exist and oftentimes allow or encourage inmates to fight each other.
- Yadiel witnessed an inmate being attacked (“taken to the wall”) by a group of inmates. According to Yadiel, “a group of inmates shut down the showers for a few minutes and beat up [the inmate].” Yadiel did not know the motive behind the attack. However, he disclosed that such “beatings” are inflicted when inmates break program rules. Yadiel said custody staff did not intervene.

- Nick claims the behavior of custody staff showed a lack of concern for the safety and well-being of inmates. He said, “I was scared. I honestly think they would let us kill each other in there.”
- Sonia witnessed four incidents of inmate-on-inmate violence during her time in jail. She did not recount any of the fights specifically but maintained they all started as “little arguments.” She said that arguments in jail can “escalate to pushing and shoving and full-on fights fast.” According to Sonia, most fights take place in the restrooms, away from cameras. She said deputies, who are aware of the blind spots, “look away.”
- Zachary witnessed a group of inmates attack another inmate who was “greenlighted” for his charges. According to Zachary, deputies “walked really slow to the scene as if nothing was happening — they didn’t even pretend to rush.” He thinks deputies’ response to such incidents allows jail politics to govern through in-house rules and violence.
- Charlie disclosed that he personally beat up another inmate who was labeled a sex offender by other inmates. Charlie did not disclose how other inmates learned of the charges. He claimed that custody staff did not intervene during the attack.
- Darrell was beaten up by two Paisano inmates who were ordered to assault him by the representative of the group. While Darrell rested on his bunk, the representative of the Paisanos yelled at him and asked him for his name. Darrell responded to the representative in a similar tone of voice, confirmed his name and asked “Why!?” The representative then ordered two inmates to attack Darrell for the way he responded. Darrell maintains he was hit for about 16 seconds. Custody staff did not intervene. He described the pain as sharp and severe.

GRIEVANCES

- “Aaron [said] that while at the IRC on 3-28-12 he was intentionally placed in a holding cell with a Red band [maximum security] inmate. He is an R-3 inmate. He was assaulted, but was afraid and told the deputy and nursing staff he fell.” (Theo Lacy, 4/12/2012)

OCSD personnel routinely instigate fights among individuals and/or fail to intervene and protect individuals in a timely manner.

FINDINGS AND ANALYSIS

- **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.**

Several accounts suggest that custody staff allow individuals who are incarcerated to run their programs despite knowledge of violence. Other respondents reported that deputies routinely instigate violence among individuals and allow violent acts as a means to exert order and control. This is a likely way for deputies to inflict violence on people without directly engaging in the act. A survey participant referred to it as a way for deputies to “not get their own hands dirty.” Another individual revealed the perception of “hurt someone else or be hurt.” Such practices violate Title 15 regulations, which prohibit the delegation of authority to any incarcerated person or group of people to exercise the right of punishment over any other individual or group of people.¹⁰⁰ Handing control over to individuals who are incarcerated and willfully opting to “not see” violence is in deliberate violation of Penal Code Section §4019.5 and OCSD policy, which maintain that incarcerated individuals shall never be permitted to exercise control over other individuals and that an individual shall not be allowed to inflict punishment on another incarcerated individual. Several means such as unsupported cell searches continue to be used to incite violence among individuals. It is important to point out that searches performed only to harass people or for other reasons not justified by a lawful objective may be a violation of the Fourth

Amendment.¹⁰¹ Other participants reported that deputies allow incarcerated individuals to fight each other on a regular basis. Such accounts suggest that deputies continue to neglect their responsibility to safeguard the security of the jail and the safety of individuals who are incarcerated.

- **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.**

OCSD data reveals there was an increase in the overall number of assaults reported, including inmate-on-inmate assaults, from 2010 to 2014. Such data tends to underreport the severity of deputy-instigated inmate-on-inmate violence and failure to protect given undetected and overlooked assaults. According to survey accounts and several reports, camera blind spots result in poor supervision of certain jail populations and allow jail violence to go unnoticed and unchecked. Formerly incarcerated individuals disclosed that deputies seldom conduct floor checks, which exacerbates already poor supervision of certain units due to housing configuration and inadequate cameras. The department has failed to fully implement the recommendations by the last six grand jury reports, which uncovered the need to upgrade antiquated and ineffective jail surveillance. The lack of consistent floor checks identified by several survey respondents is also reminiscent of findings from the 2007-2008 grand jury report,¹⁰² which revealed that deputies seldom conducted 30-minute floor checks at Theo Lacy.¹⁰³



RECOMMENDATIONS

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

- 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. 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).¹⁰⁴
- 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.

3. Verbal Abuse and Threats

According to former and current incarcerated people, deputies demean, ridicule and belittle the incarcerated population through derogatory language and constant disrespect. Some individuals disclosed being verbally abused on the basis of their identity and needs. Such behavior is unacceptable and should not be tolerated. Verbal abuse, threats and harassment have no relation to jail needs.



PERSONAL ACCOUNTS

IN-CUSTODY

- Ashley states she has been verbally abused by a Deputy CO. Ashley further disclosed that deputies mock, tease and laugh at inmates.
- Dolores maintains that seasoned deputies trained new deputies to treat inmates poorly when she observed them in training. She said that “the rookies were going the extra mile to look tough.”
- Freddy was summoned to medical a few days after he mailed the in-custody inmate survey to the ACLU SoCal. He had not submitted a medical slip. According to Freddy, he was not taken to medical. He said that “[deputies] escorted me to Internal Affairs.” He was questioned about grievances he submitted against Deputy N. Freddy informed Internal Affairs that he did not feel comfortable answering questions on camera without having a lawyer present. He believes deputies might have read the contents of the survey he mailed and thus subjected him to questioning. He said, “I felt like they were trying to intimidate me.” Freddy also reported that deputies make it a point to verbally harass inmates. He disclosed that Deputy N would tell him and other inmate workers: “Hurry the fuck up, you worthless pieces of shit! You motherfuckers belong in here. I swear if you don’t hurry, you will be fired!”
- James reported that Deputy Z, who worked the night shift at Theo Lacy, routinely called inmates “bitches,” “weak” and “cowards.”
- Louise disclosed that in late 2015 a deputy declared her charges out loud so others could

hear. According to Louise, since losing her trial in early 2017, deputies constantly disrespect her and verbally harass her. She shared, “They talk to me like I’m a piece of crap — they say I am a menace to society.”

- › 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.”
- › Michelle disclosed that deputies are “always in a bad mood.” She said that “verbal abuse is an everyday thing.” Deputies have told Michelle, “Shut the fuck up” and “You aren’t worth shit.”
- › Norma reported that Deputy H curses at female inmates and harasses them, particularly elderly women.
- › Stephanie heard Deputy G threaten to “fuck up” inmates if they disrespected her. She also reported that deputies call female inmates “hoes” and “bitches.” According to Stephanie, “we’re harassed from the time we wake up to the time we go to bed.”

POST-RELEASE

- › Brenda disclosed verbal abuse as a constant occurrence. According to Brenda, most verbal abuse is experienced in the booking area during processing. She maintains that the abuse includes a lot of cursing and degradation. Brenda said, “There’s a difference between being strict and being rude.” She went on to say that “deputies are rude because they want to be and can be,” “no one is going to stop them” and “they don’t care.”
- › Carol claims that while at the lunchroom a deputy asked her, “What? Are you dumb? Are you retarded?” She described the demeanor of deputies as “disgusting” and said, “They don’t treat us like humans.”
- › Donna witnessed a White female deputy yelling at a Latina inmate and asking her, “Motherfucker, you don’t speak English?! For how long have you been here?!” Donna also witnessed three female deputies undressing a handicapped woman (who appeared to have suffered a leg injury) and laughing at her.
- › Eric recounted verbal abuse by deputies at all points of contact throughout the day. He claims that deputies attempt to provoke inmates through “constant verbal harassment.” He said, “When we react, deputies use violence and disguise it as discipline.”
- › Henry claims deputies belittle, ridicule, curse and taunt inmates. He maintains that verbal abuse is the most common abuse that goes unaddressed in the jails. He said, “Unlike getting punched in the face, being put down doesn’t leave visible scars.”
- › Isaac witnessed a deputy threaten an inmate who shook his head after seeing the deputy shove another inmate for walking the wrong way. Isaac heard the deputy tell the inmate who shook his head, “Do you want people to get to fucking know you?”
- › Kevin claims a deputy at James A. Musick threatened him when he did not respond at count immediately, and told him, “I can shut down program and make you famous.” Kevin took the statement to mean that the deputy would create conflict between him and others as a way to get him beaten up.
- › Lawrence recounted that while he was detoxing from drugs and experiencing withdrawals, a deputy asked him, “Are you a druggie, you druggie?” Lawrence responded by asking the deputy, “Are you a pig?” According to Lawrence, the deputy then taunted him in an attempt to get him to exit his cell to start a fight. On another occasion, Lawrence had a seizure and was foaming at the mouth. Throughout the incident deputies called him a “druggie.” Lawrence said, “We’re always talked shit to and treated like scumbags.”

- Nick witnessed a male inmate who carried a bag onto the elevator as he was on his way to be processed out of the jail. After the inmate's Bible fell on the floor, two deputies kicked it. One of the deputies told the male inmate, "Be a man and do something!" The other deputy called the inmate a "Fucking cunt rat!" According to Nick, "Deputies treat us like we are less than animals."
- Oscar claims four deputies surrounded him and called him a "crack baby." The deputies proceeded to harass him and tried to get a reaction from him so they would have a reason to use physical force. Oscar said, "I thought I was going to get my ass kicked."
- Pedro claims a deputy threatened to beat "the shit out" of him. As Pedro was walked back to his cell from a Narcotics Anonymous class, a deputy asked him, "What the fuck are you smiling about?!" Pedro disclosed he was happy and smiling about how the class went. The same deputy ordered Pedro to "Stop fucking smiling!" Pedro did not stop smiling. According to Pedro, the deputy then claimed that he smelled like alcohol and demanded that he strip down to his boxers. The deputy proceeded to taunt Pedro and tried to provoke him by pretending he was going to punch him. Pedro was later transferred to the CMJ. While at CMJ, Pedro witnessed deputies mistreat Paisanos. Pedro heard a deputy tell an inmate who did not understand or speak English, "What the fuck, are you stupid?!" Pedro said that "they want us to feel like we're pieces of shit."
- Samuel heard deputies tell an inmate, "You're lucky I didn't beat the shit out of you!" According to Samuel, deputies scream at inmates for no apparent reason and promote a "you're a piece of crap" attitude. He said, "I wouldn't treat a guy I hated as bad as they treated us."
- Tiffany claims she experienced a lot of racism by deputies. Deputies tried to force her and other non-English speakers to speak English. Deputies told her, "You're in the U.S. You should be speaking English, you good-for-nothing idiot."
- Vernon claims being told "Get the fuck in line, you fucking piece of shit!" is a regular thing. He said non-English-speaking inmates are discriminated against.
- Oscar disclosed that he felt unsafe around deputies. He said, "Basically if I would not be their [deputies'] bitch, I would endanger my life."

GRIEVANCES

- "Jeremiah complained that Deputy Y threatened to allow another inmate out to do him harm." (IRC, 5/14/2012)
- "Carlos alleges that Deputy J threatened him physically, and verbally insulted him with vulgar and degrading remarks. Furthermore, he claimed Deputy J made derogatory remarks about his deformed feet." (Theo Lacy, 11/29/2012)
- "Ralph claims on 6-29-11, after his court shower, a staff member threatened to physically harm him." (Theo Lacy, 7/3/2011)
- "Juan alleges that CST R told him to, 'Get in the fucking line,' Juan stated Deputy V heard the conversation between himself and CST R and later denied it, warning him there could be consequences for his actions." (Theo Lacy, 5/27/2012)
- "Josiah complained about 'racist and derogatory comments' towards him by CST X." (Theo Lacy, 2/13/2013)
- "Adrian is unhappy about his cell being searched by deputies and stated the deputies threatened to physically assault him." (Theo Lacy, 2/5/2013)
- "Andrew claims deputies routinely use profanity and insults toward inmates." (James A. Musick, 11/12/2012)
- "Dominic states that Deputy I spit ice water on her as she returned from an official visit." (James A. Musick, 8/15/2012)
- "Evan is alleging Deputy Y has verbally threatened him and believes the threat to be physical in nature because of a comment Deputy Y made to him in regard to 'wait and see what I do to you, there are no cameras here.'" (IRC, 12/5/2012)
- "Chase is very upset with the way Deputy Z verbally degrades the inmate workers. Chase said he uses racial slurs and profanity and spits at glass towards them when yelling at them." (IRC, 11/18/2012)

FINDINGS AND ANALYSIS

- **OCSD deputies harass, taunt and threaten individuals who are incarcerated through derogatory language and constant disrespect.**

Several survey participants reported constant verbal abuse by deputies. An individual who is incarcerated said, “They [deputies] ridicule and belittle us all the time.” Such accounts suggest that verbal abuse reigns in an atmosphere of intimidation, threats and fear condoned by the OCSD. Such behavior goes against department policy requiring personnel to act with the highest degree of integrity and good moral character.

- **OCSD custody personnel condone verbal abuse on the basis of incarcerated individuals’ race, mental state and medical needs.**

With regard to non-English-speaking individuals, OCSD policy requires the department to take all reasonable steps to ensure timely and equal access to all individuals, regardless of national origin or primary language.¹⁰⁵ According to OCSD data, 21% of incarcerated individuals in the OC jail system on March 25, 2016, were non-U.S. citizens, while 79% were U.S. citizens.¹⁰⁶ Survey

findings suggest that rather than taking reasonable steps to ensure timely and equal access to incarcerated people regardless of primary language, OCSD personnel discriminate against individuals whose primary language is not English. The practice of verbal abuse and in some cases physical force on such individuals should not be tolerated.



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.

Several survey participants reported constant verbal abuse by deputies. An individual who is incarcerated said, “They [deputies] ridicule and belittle us all the time.” Such accounts suggest that verbal abuse reigns in an atmosphere of intimidation, threats and fear condoned by the OCSD.

4. Searches

OCSD deputies conduct an array of in custody searches. Table 12 lists the types of searches conducted by OCSD deputies as well as what warrants them. According to a California PRA response, the OCSD does not keep statistics responsive to the number of searches conducted annually from 2010 to 2016. The department reported that it is possible to extract some of the information from its databases with the appropriate computer programming. Citing

California Government Code Section 6253.9(b), which is a part of the California Public Records Act: “[T]he requester shall bear the cost of producing a copy of the record, including the cost to construct a record, and the cost of programming and computer services necessary to produce a copy of the record when ... (2) the request would require data compilation, extraction or programming to produce the record.” The total cost for the computer programming to extract the data was cited at a rate of \$111.98 per hour for a minimum of four hours.

Table 12: Searches (OCSD)

TYPE	DESCRIPTION	THRESHOLD
Planned Search	Calculated search which involves specific steps, timing and resources to locate drugs, weapons or contraband which may be concealed.	Coordinated between the watch commander and the appropriate sergeant. Deputies are the primary searchers.
Spontaneous Search	Unscheduled search, sudden and done without planning.	Deputy discretion. Shall notify immediate supervisor when practical.
Facility Assigned Search Team (FAST) Search	Picking a random area (tank, series of cells, etc.) to search once per shift.	Sergeant shall notify staff members. Sergeant will be present during the entire search.
Plumbing Tunnel Check	Locate signs of escape, unsafe facility conditions and inmate observation.	Will be documented on the applicable workstation log.
Pat Down/Grasping Hand Search	Search of an inmate’s clothing and body.	None required. Routine/random.
Extended Correctional Search	Requires inmates to remove all garments down to, but not including, their undergarments.	None required. Routine/random.
Strip Search	Requires an inmate to remove or arrange some or all of his or her clothing so as to permit a visual inspection of his/her/their breast, buttocks or genitalia.	Reasonable suspicion.
Visual Body Cavity Search	Visual inspection of the rectal cavity of a male, or the rectal or vaginal cavity of a female.	Reasonable suspicion.
Physical Body Cavity Search	Involves the physical intrusion into a body cavity for the purpose of discovering any object concealed in a body cavity.	Search warrant.
Hospital Monitoring Search	Close monitoring at the hospital of an inmate who is suspected of ingesting or concealing contraband in a body cavity.	Watch commander approval.

PERSONAL ACCOUNTS

Searches of Transgender and Intersex Persons

One area California jail systems struggle with, including the OC jail system, is safe and appropriate searches of transgender and intersex persons.

As California law makes clear, a person's gender is their gender identity, regardless of external genitalia or sex assigned at birth.¹⁰⁷ Troublingly, many transgender female and intersex individuals are involuntarily strip-searched by male custody staff, despite requests that a female staff person perform the search. This practice violates the Prison Rape Elimination Act (PREA),¹⁰⁸ the U.S. Constitution¹⁰⁹ and California state law.¹¹⁰ This practice also causes unnecessary trauma and fear among transgender and intersex persons, and can lead to sexual assault of these vulnerable groups.¹¹¹

PREA permits only three options for the searches of transgender persons:

- 1) searches conducted only by medical staff;
- 2) searches conducted by female staff only, especially given that there is no prohibition on the pat-searches female staff can perform; and
- 3) asking incarcerated individuals/residents/detainees to identify the gender of staff with whom they would feel most comfortable conducting the search.¹¹²

Body Searches

IN-CUSTODY

- Louise claims that she was searched in the presence of male deputies and has witnessed the same thing happen to other female inmates.
- 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.
- Norma claims that she witnessed a female deputy conduct a body search on four female inmates in a vestibule. According to Norma, a male deputy was present and could see the female inmates who were instructed to take off their pants and underwear.

POST-RELEASE

None available at this time.

GRIEVANCES

- "Pablo states deputies searched him when he was brought in to mod k. During the search, Pablo alleges unidentified white male deputy, "did rub, touch, and grab" his penis during a clothed body searched." (Theo Lacy, 9/19/2012)
- "Abel claims the Deputy pulled his underwear up too high during a search and caused injury to his shoulder and groin area and was denied medical attention." (Theo Lacy, 4/15/2012)
- "Milo is grieving possible staff misconduct. States unknown deputies touched his private parts while being searched outside of the chowhall." (Theo Lacy, 1/18/2013)

- › “Orlando alleges inappropriate touching of his person during a search.” (IRC, 9/18/2012)

Strip Searches

IN-CUSTODY

None available at this time.

POST-RELEASE

- › Carol claims that she and other female inmates were subject to a strip search. According to Carol, a female deputy ordered them to strip down to their bra and underwear. During the search, a male deputy walked by and said, “Oh, I’m sorry. I’m blind.” Carol claims that the female deputy conducting the search responded to the male deputy, “Sorry, I don’t have eye candy for you today.”
- › Karina claims that female body searches are sometimes conducted in the presence of male deputies.

GRIEVANCES

- › “Stephen complained he was physically violated and traumatized after a grasping hand search in which a deputy digitally penetrated his rectum.” (Theo Lacy, 6/18/2012)
- › “Otto alleges a deputy squeezed his genitals and put his finger into his anus while conducting a search.” (Theo Lacy, 2/15/2012)

Cell Searches

IN-CUSTODY

- › Louise claims that “rookie” deputies were ordered to trash her cell as part of their training. According to Louise, there was no reason for the deputies to conduct a cell search, yet they threw her commissary and destroyed some of her belongings.
- › Lily claims that a deputy destroyed a picture of her mother, who had recently passed during a search.
- › 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.”

- › Theresa claims that some of her property, including a book, diary, artwork, toiletries and inhaler, were missing after a cell search.

POST-RELEASE

None available at this time.

GRIEVANCES

- › “Noah claims deputies assaulted, threatened, and molested him during a search of his cell.” (Theo Lacy, 11/7/2011)
- › “Lee cell was searched. Lee claims numerous items were missing following the search. Items missing: 3 personal photos, shower shoes, pillow, receipt for items.” (CMJ, 9/28/2011)
- › “Mason claims authorized items of commissary were taken by deputies during a search of D cube. He listed a pillow, toothbrush, bar of soap, medical shampoo, and antibiotic ointment as items taken.” (Theo Lacy, 8/17/2011)
- › “Leon alleges that during a search of his bunk coffee grounds were ‘deliberately poured all over’ his pictures and letters.” (Theo Lacy, 4/10/2012)
- › “Elijah opinion that Deputy Y behavior while searching his cell was ‘abusive’ ‘verbally assaultive’ and ‘overly upset.’” (Theo Lacy, 5/11/2012)
- › “Umberto personal property was purposely damaged during a search of his cell.” (Theo Lacy, 1/1/2013)
- › “Shay claims his book of stamps and phone card were thrown out during a barrack search on Friday 1-14-2013 at 1930.” (James A. Musick, 1/16/2013)
- › “Lucius alleges that Deputy Y destroyed his court file folder while searching his personal property and disposed of it.” (IRC, 9/28/2011)
- › “Alexa states that her photographs were disposed of during a sector search.” (IRC, 12/16/2012)
- › “Jasper complained he was missing a box of soap, toothpaste, and a deodorant stick after his cell was searched.” (IRC, 1/12/2012)



FINDINGS AND ANALYSIS

➤ **OCSD fails to conduct safe and appropriate searches of all incarcerated people.**

Several incarcerated females reported being subjected to unreasonable searches, as well as being searched in front of male deputies and custody staff. Many transgender female and intersex incarcerated individuals are involuntarily strip-searched by male custody staff, despite requests that a female staff person perform the search.

➤ **OCSD deputies use searches to harass, intimidate and punish people who are incarcerated.**

Although strip searches are generally allowed, they must be related to legitimate penological interests and cannot be excessive.¹¹³ To determine whether a search is reasonable the OCSD must balance the need for the search against the invasion of personal rights that the search involves. A second strip search might be unconstitutional if excessive, especially considering that individuals are under the constant supervision of deputies.¹¹⁴



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.

Several incarcerated females reported being subjected to unreasonable searches, as well as being searched in front of male deputies and custody staff.

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

Under the Eighth and 14th Amendments, jails have a duty to protect all incarcerated individuals, including LGBTI people, from a serious risk of harm.¹¹⁵ Transgender women are particularly vulnerable to sexual abuse while imprisoned in male facilities.¹¹⁶

Under the Prison Rape Elimination Act, housing placement decisions must separate “those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive.”¹¹⁷ PREA requires that, at a minimum, facilities consider “[w]hether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex [LGBTI], or gender nonconforming.”¹¹⁸

Jails must conduct an individualized risk assessment for each person to determine the safest housing for that individual.¹¹⁹ For example, this means that jails may not place a transgender or intersex individual in a particular facility based solely on their external genital anatomy, and jails must allow for housing by gender identity.¹²⁰ Further, “serious consideration”¹²¹ must be given to a transgender or intersex person’s “views with respect to his or her safety.”¹²²

Automatic placement of transgender women or intersex persons into a men’s unit, without considering safer options, including placement in a women’s unit, violates the law. On the contrary, placement of a transgender woman or intersex person in a women’s facility, where that is what would make her/them safest, is consistent with PREA, the Eighth and 14th Amendments, and California law. Please note that many transgender women and intersex persons feel, and are in fact, safer in *women’s* facilities.¹²³

PERSONAL ACCOUNTS

IN-CUSTODY

- 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.
- Roger claims he and all other LGBT inmates are automatically placed in protective custody. He described the classification system as “inadequate.” According to Roger, custody staff asked him if he was gay during the classification screening. When he responded yes “it was pretty much the end of it [the screening].” Roger complained that he does not have access to the same programming that is available to general population inmates solely because he is gay. He believes the department is discriminating against him.
- Trevor claims he was involuntary placed in protective custody because he is gay. He is currently housed in 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.

POST-RELEASE

None available at this time.

GRIEVANCES

None available at this time.



FINDINGS AND ANALYSIS

- **OCSD deputies house people based on sex assigned at birth regardless of an individual's gender identity.**

While the question of housing transgender and intersex persons was not included in our survey, we have received numerous intakes from transgender persons incarcerated in Orange County jails. It is our understanding from these intakes that Orange County houses persons based on sex assigned at birth, rather than an individualized assessment of what placement would be safest for a person based on their gender identity and other factors.

- **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.**

Under PREA, an LGBTI incarcerated individual cannot be placed in involuntary segregated housing unless: (1) an assessment of all available alternatives is made; *and* (2) a determination has been made that no alternative means of separation is available.¹²⁴ Given that LGBTI persons housed in protective custody are generally not able to access the full programming that general population individuals enjoy, such as parenting classes, NA/AA classes, drug rehab groups, work programs, educational programs, etc., some jails are noncompliant with PREA regulations that specify that people segregated for their protection must be given access to the same programs, privileges and opportunities available in the general population, to the extent possible.¹²⁵ Further, this lack of equal access may also violate both the Equal Protection clause of the 14th Amendment and California law, Section 11135. The ACLU of Southern California is currently litigating this precise issue against the San Bernardino County Sheriff's Department.¹²⁶ The case is in the discovery phase.

House people based on their gender identity. Incorporate gender identity as a key factor in the department's classification system.



RECOMMENDATIONS

- House people based on their *gender identity*. Incorporate gender identity as a key factor in the department's classification system.¹²⁷ 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.

6. Prison Rape Elimination Act (PREA) Data Collection

According to the Department of Justice’s Bureau of Justice Statistics, 3.2% of people incarcerated in jails nationwide reported experiencing one or more incidents of sexual victimization by another incarcerated person or facility staff in 2013.¹²⁸ The Prison Rape Elimination Act requires jails to prevent sexual assault, sexual abuse and sexual harassment. PREA covers general areas of concern to jails, like sexual assault prevention,

FIGURE 16: PREA Statistics, 2013 to 2015 (OCSD)

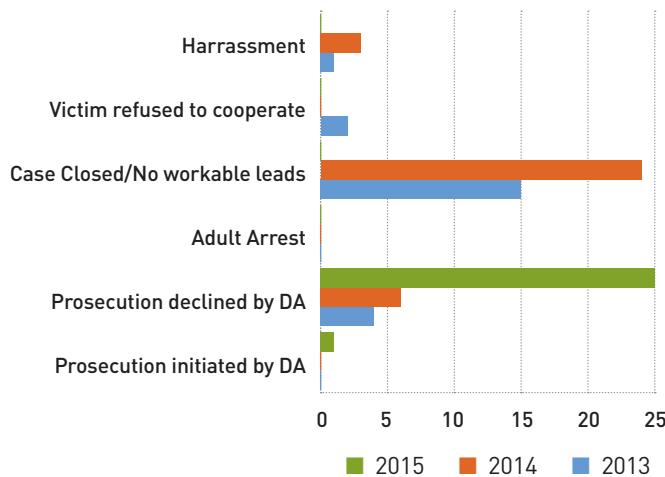
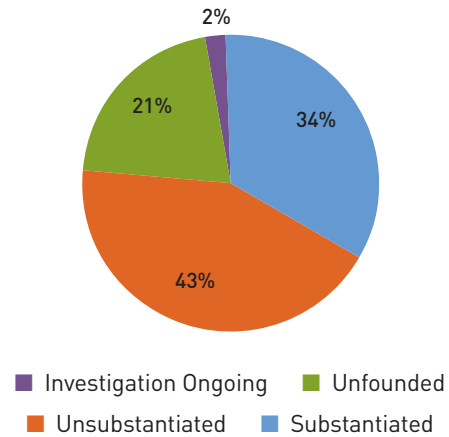


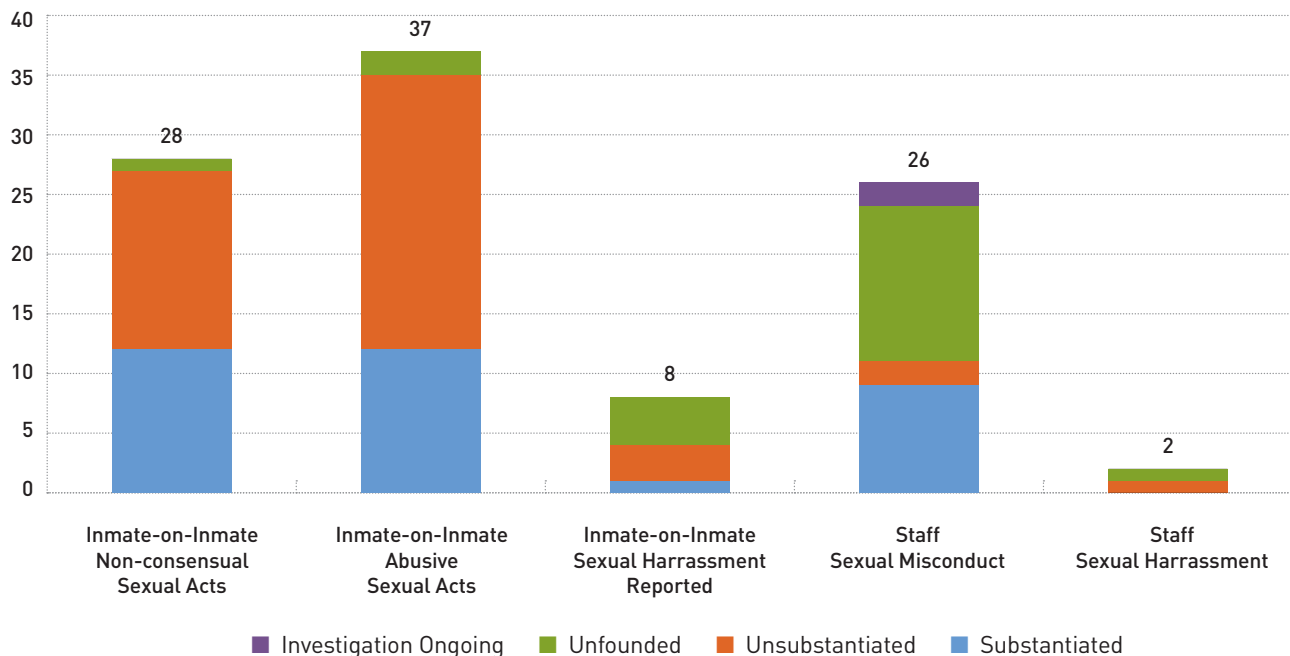
FIGURE 18: Disposition of Total Reports, 2011 to 2015 (OCSD)



medical and mental health care subsequent to sexual assault, investigation of sexual assault allegations and facility accountability mechanisms. Figures and tables include annual data for all OCSD jail facilities combined.

In March 2017, the OCSD responded to a request for California PREA records, contending, “The Sheriff’s Department has no ‘synopsis’ of each reported crime responsive to your request, and declines to create a record to your request.” The department did provide statistics that are included in Figures 16 and 17 that illustrate the total

FIGURE 17: PREA Statistics, 2013 to 2015 (OCSD)



number of reports by sexual victimization category and include a breakdown of dispositions per category.

Of all 101 sexual victimization reports made from 2011 to 2015, 34% were substantiated (see Figure 18). A plurality, 43%, were unsubstantiated as reported by the OCSD. Table 13 illustrates a breakdown of all substantiated reports by type. Information on the unsubstantiated reports was not provided. This raises concerns about the investigation of sexual victimization, particularly with respect to incidents in which staff members are identified as the offenders.

**TABLE 13: PREA Statistics, 2011–2015 (OCSD)
(only includes substantiated reports)**

	2011	2012	2013	2014	2015
Inmate-on-Inmate					
Non-Consensual Sexual Acts	0	1	6	5	0
Abusive Sexual Acts	0	0	0	11	1
Sexual Harassment	N/A	N/A	1	0	0
Staff					
Sexual Misconduct	2	1	2	3	1
Sexual Harassment	0	0	0	0	0

GRIEVANCES

- “Eva claims she was berated, discriminated against and sexually harassed by staff members.” (CWJ, 1/14/2013)
- “Josh alleges Deputy ‘grabbed his dick’ and asked him to ‘suck his dick’ while he was at Western Medical Center in Anaheim.” (IRC, 6/4/2013)
- “Felix claims he was ‘sexually violated’ and then ‘assaulted and abused’ after he was booked into the IRC and taken to Module L on January 18/19, 2012. Felix said the incident was captured in video.” (Theo Lacy, 2/10/2012)

- “Vlad claims that Deputy K grabbed his crotch and made humping motions towards him.” (CMJ, 4/13/2013)
- “Kareem says he has a possible sexually transmitted disease (STD) after being raped in February of 2012 by another incarcerated person. Kareem has been examined by HCA and was told he did not have a STD. He would like a second opinion.” (CMJ, 9/27/2012)

FINDINGS AND ANALYSIS

- 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.

According to OCSD policy, all individuals who are incarcerated are interviewed and classified by classification deputies.¹²⁹ A factor considered in the process is the likelihood of becoming a victim of sexual assault. Classification and housing decisions are made with the intent to avoid and prevent sexual assaults. However, aforementioned reports of sexual victimization suggest the department needs to better protect the safety and well-being of people who are incarcerated.

RECOMMENDATIONS

- Comply with all PREA standards to prevent, detect and respond to any forms of sexual abuse and sexual harassment.¹³⁰
- 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.

C. MEDICAL CARE

1. Overall Medical Care

Through a contract between the OCSD and the OC Health Care Agency (HCA),¹³¹ the Adult Correctional Health Services (ACHS) provides medical, dental, nursing, infection control, health education and pharmaceutical services at a community standard of care to all people who are incarcerated in the county's five jail facilities. The HCA contracts with hospitals for inpatient and specialty care of individuals who are in custody. The HCA is responsible for the 24-hour health screening of arrestees before booking at the IRC and Theo Lacy jails.¹³²

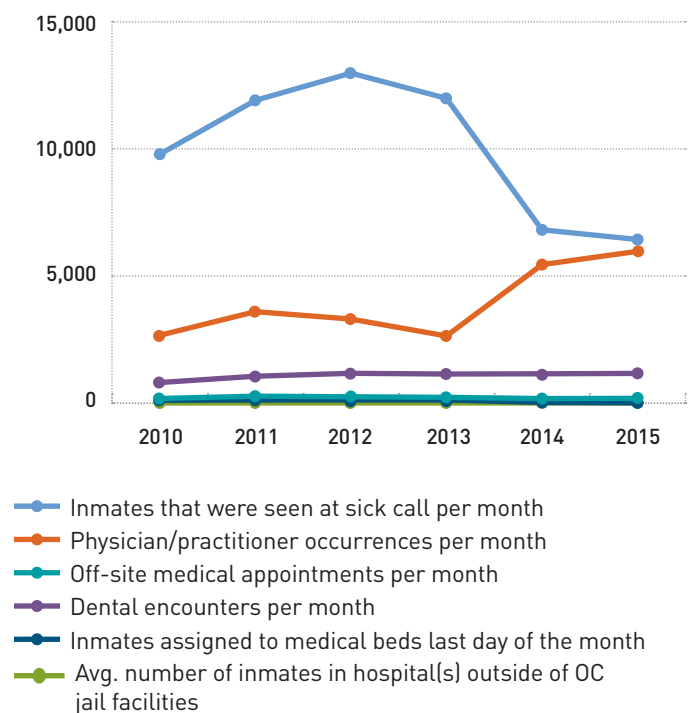
Medical centers in the county jails are staffed by physicians, nurse practitioners, registered nurses and licensed vocational nurses, psychiatrists, as well as dentists and opticians.¹³³ If necessary, people are transferred to a local hospital for examination, and treatment is given as needed.¹³⁴ All people who are incarcerated are entitled to medical, dental, optical and mental health care at no cost.³³ Despite this, as of February 15, 2013, a \$3 charge for each appointment or treatment is deducted from individuals' commissary accounts.¹³⁵

Triage nurses, who are part of the medical team, take medical histories and examine incoming persons before deciding whether they should be admitted to the county jail system.¹³⁶ After the screening, individuals continue through fingerprinting and identification, called "the Loop," before being assigned to one of the county jails. Individuals with disabilities must go to ADA-compliant housing units. Special arrangements also have to be made for individuals on dialysis or pregnant women on methadone.¹³⁷ In addition, individuals who are gay or transgender or have certain mental health disabilities may be separated from the general population.

Existing reports reveal complaints of inaccurate and cursory screenings, as well as poor and inadequate medical attention. The special criminal grand jury investigation in 2007 found

that deputies routinely denied incarcerated individuals medical treatment¹³⁸ because they did not want to fill out the required paperwork.¹³⁹ Hence, it is not surprising that medical services are the number one grievance in the Orange County jails. In 2014, the U.S. Department of Justice's Civil Rights Division concluded in an investigation that systemic deficiencies related to medical care endure in the county jail system.¹⁴⁰ Although the deficiencies were identified as limited in scope, lack of remediation poses a continuing and serious risk of harm to people who are incarcerated. The DOJ also determined that medical policies lacked clinical guidelines required to meet the needs of incarcerated people with serious chronic diseases. The jails did not maintain a chronic care roster or have a system for the routine monitoring of chronically ill people.¹⁴¹ A limited chronic care management system may result in individuals with chronic illnesses being overlooked and exposed to an undue risk of harm. For example, during the DOJ investigation only 230 incarcerated individuals out of 550 who possibly needed rescue inhalers actually had them.¹⁴²

FIGURE 19: Medical and Dental Care Monthly Averages, 2010 to 2015 (BSCC)



In-custody-related deaths associated with medical negligence and inadequate treatment further highlight the serious consequences of inaction and medical delays. In September 2013, Matthew Shawn Gordon, an individual incarcerated at the Central Men’s Jail, died after experiencing untreated heroin withdrawals.¹⁴³ His mother filed a \$15 million lawsuit against the OCSD, alleging that jail staff failed to address and monitor Gordon’s severe heroin withdrawal symptoms. Despite a clear need for prompt medical attention, in addition to Gordon and his cellmates telling jail staff of his condition,¹⁴⁴ he was never under observation or seen by a doctor. Three hours after posting bail, Gordon was found unresponsive in his cell.¹⁴⁵

Data collected by the BSCC shows that between January and December 2015, there were, on average, over 5,800 individuals at sick call each month and over 5,800 physician/practitioner occurrences.¹⁴⁶ On average, about 10 individuals were assigned to medical beds. During the same time frame, there were, on average, over 160 off-site medical appointments each month and over 1,050 dental encounters (see Table 14 and Figure 19).¹⁴⁷

PERSONAL ACCOUNTS

IN-CUSTODY

- Ashley experienced drug withdrawals when she first arrived at the jail. She complained that custody staff did not monitor or provide medical attention to her when she suffered from withdrawals.
- Angel had a hernia removed from his abdomen in 2000 before his incarceration. In January 2017, he began to experience pain and discomfort around the same area. He believes it is due to a hernia. Angel said, “I can feel a bump when I rub and push down on it.” He compared it to the feeling he felt in the year 2000 when he underwent surgery. Angel pointed to the lump and said, “You can see it right away.” He has submitted two medical slips relating to his pain and discomfort. Both times he was advised that nothing could be done. According to Angel, a nurse acknowledged that he did in fact have a hernia; however, she told him surgery was not an option.
- Jeffrey maintains that he has anemia and is supposed to receive extra food. He recounted using the emergency button twice to request his food, which had not been provided to him. Deputy

TABLE 14: Medical Treatment, 2015 (BSCC)

Month	(ADP totals) Jurisdiction	Inmates that were seen at inmate sick call this month	Physician / practitioner occurrences during this month	Off-site medical appointments during this month	Dental encounters during this month	Inmates assigned to medical beds last day of the month	Avg. number of inmates in hospital(s) outside OC jail facilities
January	5,255	5,348	4,906	139	905	11	7
February	5,346	5,278	5,008	112	878	7	6
March	5,407	5,922	6,245	206	1,114	11	9
April	5,516	5,913	6,476	159	1,040	12	9
May	5,564	6,065	6,120	161	1,265	11	9
June	5,649	6,313	6,078	221	1,171	13	11
July	5,782	6,899	6,309	249	1,457	8	11
August	5,800	6,570	5,503	234	1,171	13	8
September	5,917	7,064	6,410	227	1,334	14	9
October	5,968	7,433	6,523	242	1,383	13	8
November	5,916	7,207	5,868	186	1,041	10	5
December	5,776	7,246	6,224	136	1,280	13	7

S then denied Jeffrey food and told him he would be written up if he used the button again. Jeffrey became hungry and pushed the button again. He was placed in solitary confinement for 20 days.

- Janet grinds her teeth involuntarily while sleeping. One morning in 2016, she woke up with a swollen jaw and submitted a request for medical attention. She was transported off site to see an orthodontist in Anaheim who recommended jaw therapy or a brace. She claims that custody staff told her that both recommendations were too costly and said that “you’re out of luck.”
- Louise was in a car accident the day of her arrest. She maintains that she has suffered from chronic pain since then. She disclosed that her medical requests have been denied with no justification. According to Janet, if a medical need is not visible to the attending nurse, one is “brushed off” and sent back to housing. Janet also reported that a nurse denied her request to see an optometrist in December 2016 because her prescription was not “strong enough.” She said, “I have really bad headaches because I need my glasses.”
- Lily claims a few inmates in her module have open sores that she suspects are related to “drug addiction.” Lily said, “I’m concerned for those girls and the rest of us.... They should be treated ... but apart from general [population].”
- Michelle has witnessed several inmates experience withdrawal symptoms. She said most symptoms go unattended by medical staff. She reported that inmates withdrawing from drugs throw up bile and defecate on themselves. She went on to report that at least four girls in her module had staph infections. She said most girls had “sores and abscesses that ooze with pus.” Michelle expressed concern that the girls with infections use the same showers as everyone else in the module. She complained that she and other inmates have been denied medical slips and cleaning supplies. Michelle also disclosed that she and others were exposed to a lice breakout. She said, “The lice spread quickly because no one was quarantined.”
- Norma suffers from seizures resulting from her having a tumor removed in 2008. According to Norma, a doctor recommended that she be housed with a cellmate and assigned to a bottom bunk. Contrary to the recommendation, Norma was housed alone on 22-hour lockdown. Norma also reported that an inmate with a leg injury was denied medical attention. She witnessed deputies ordering the inmate to squat even though the inmate informed them that she was unable to because of the injury. Norma recounted a separate incident in October 2015, when a female inmate who was sick requested emergency medical care but was denied it. A deputy ordered the inmate to submit a request slip despite it being an emergency. According to Norma, the inmate was found dead by her cellmate the following morning.
- Pauline heard a woman who was in solitary confinement “begging and pleading for help” in July 2015. According to Pauline, two deputies ordered the inmate to stop screaming. Pauline specifically recalls the deputies telling the inmate, “Shut your mouth. You’re not getting the paramedics; you’re not going to the hospital!” The two deputies threatened to write up the inmate if she did not stop screaming. Once the inmate became silent, someone checked on her. Pauline recalls the person saying, “There’s a lot of blood.” Pauline claims that the paramedics arrived shortly after and “wheeled someone out from the same room covered in a dark tarp.” Internal Affairs questioned Pauline about the incident the following day.
- Stephanie underwent skin graft surgery to replace damaged skin between her right thigh and buttock caused by excessive heroin use before being incarcerated. She says a nurse would go to her home to change her bandage every day. After Stephanie was arrested, her surgeon medically cleared her to be taken into custody so long as she kept up with her medical appointments, the first of which was scheduled two days after her arrest. Stephanie was not taken to her medical appointment. According to her, for about the first month and a half of her incarceration, the only medical care she received was the re-bandaging of her wound despite multiple requests to see a surgeon. Stephanie was concerned that the wound would be infected, given the unsanitary conditions of the jail. After a month and a half in custody, Stephanie was finally seen by a surgeon at the jail.

POST-RELEASE

- David informed a nurse during screening of his scoliosis, leukemia, angina and neuropathy. He claims that he was not provided with his medication and was assigned a top bunk. He submitted a request for a bottom bunk. David was informed by a sergeant that the request was being looked into, but he never received a response.
- 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.
- Karina was taken to Hoag Hospital before being processed at the IRC. She informed custody staff and a nurse that she suffers from seizures and that she had a stab wound on her shoulder. She received medication for seizures but was not provided with antibiotics for her wound. Karina was assigned a top bunk despite her injury.
- Lawrence claims custody staff locked him out of his module for about 30 minutes because he refused to take medication that was not prescribed to him. According to Lawrence, he had never before taken the medication. He claims that a few deputies threatened him and told him they would shut down the module, blame it on him and make him their "bitch."
- Monique experienced delays in the administration of her medication. Despite complaining to custody staff about symptoms, she had to wait an additional day to get medication.
- Pedro broke his hand during a fight while in custody. He was sent to the nurse in the Loop barefoot and was not allowed to get ibuprofen or an ice pack per the order of a deputy. He submitted five or six request slips for an X-ray but never received a response. A nurse later informed him that he had, in fact, been scheduled to get the X-ray. However, the notice never reached him. Pedro believes that he was never notified of the appointment. He said, "I was never told. It was probably their way of punishing me." Pedro was in custody with a broken hand for one week and only received ibuprofen the day of his release.
- Ulysses disclosed that his arm was broken a few days before his arrest. He claims that deputies tackled him when he was arrested. Both his arms were twisted back, even though he informed deputies that one of his arms was broken. While he was being processed, Henry also informed a deputy and a nurse of his broken arm. He asked about getting an X-ray and was told to wait until after he was processed. Henry never got an X-ray and was denied medication until he suffered a separate injury while in custody (i.e., a toe injury inflicted by deputies).
- Victor notified a nurse at processing that he had a leg and hip injury. His request for a bottom bunk was denied and he was assigned a top bunk despite his injuries. He was not provided medication and was unable to see a doctor. Victor said a deputy advised him to drink water and fill out another slip to seek care. The deputies made Victor walk to request a slip despite his claims of pain. He never received a response to the request.
- Yahir reported having problems with insomnia and his gallbladder. He notified the nurse during screening and was told that medical staff could not do anything about it. After being assigned a bed, Yahir submitted a request for medicine, but it was denied. He then verbally requested to see a nurse, but that was also denied. While being processed, Yahir witnessed an inmate undergo an asthma attack in the hallway of the Loop. According to him, a group of deputies around the incident did not do anything for the person. Yahir recounted that the deputies looked at the inmate and said, "You're going to be OK." Yahir believed that the tone of voice of the deputies was sarcastic. He said, "You could tell they didn't mean it. They were basically making fun of her."

GRIEVANCES

- “Christopher claims a deputy did not allow him to take his medication and told him he is going to die.” (Theo Lacy, 2/5/2012)
- “Trinity was injured when she fell down the stairs in the module. She was examined by triage and given Ibuprofen for pain. She has put in several requests for a follow up but claims she is being denied. She feels her medical needs are not being met.” (IRC, 3/30/2013)
- “Kaylee is grieving that medical is denying her seizure medication.” (IRC, 12/19/2011)
- “Raul said he was put in a cell alone for three hours where he had a seizure and chipped a tooth. He said he was unable to contact a deputy for medical attentions and was mocked when he finally found one.” (IRC, 6/26/2012)
- “Gerardo is grieving two times he has been sent to booking Loop for transportation to medical procedure. Both times he has been sent back to housing location without going to appointed medical visit.” (Theo Lacy, 9/18/2011)
- “Marcos claims Dr. Y was mocking and teasing him about his disability. Marcos also claims Dr. Y mimicked his slow walk and then laughed as he limped away from him.” (Theo Lacy, 9/18/2012)
- “Kayden claims to have an emergency medical situation. She filed one grievance and 2 inmate message slips today. She claims to have made 25 previous grievances.” (Theo Lacy, 8/1/2011)
- “Derrick states he was supposed to be getting an MRI done and it has been three weeks and still has not been done. Derrick states his condition is getting worse and has submitted three grievances prior to this.” (Theo Lacy, 7/4/2013)
- “Jermaine complaining of pain from a hernia. He saw a nurse who told him he would be referred for further treatment, but he has not been seen.” (Theo Lacy, 6/27/2013)
- “Mitchell claims he is receiving inadequate medical care. He also states he filed a grievance against them about his care and they are retaliating against him by making false diagnosis and taking away his wheel chair.” (Theo Lacy, 5/1/2012)
- “Ruben claims he has repeatedly asked to see a Doctor about changing his pain medication. Ruben claims he has tried to address the medical staff (nurses) in person while at ‘sick call.’ Ruben states nurses continue to ignore him ...” (Theo Lacy, 4/22/2012).
- “Saul has submitted several request to be seen by medical staff and has not been scheduled.” (Theo Lacy, 4/10/2012)
- “Calvin has liver problems and states he has not received his daily shot of Interferon.” (Theo Lacy, 4/1/2012)
- “Bernice states she is not receiving the appropriate medication for her spinal osteoporosis.” (IRC, 9/17/2012)
- “Miles states he has not received his rechargeable batteries for his hearing aid. When he asked for them, a nurse told him they had already been given to him, but he claims he never received the batteries.” (Theo Lacy, 3/7/2012)
- “Josue states he was placed on a high protein diet for anemia and has not received it yet.” (Theo Lacy, 3/7/2013)
- “Donovan is grieving his medical/dental care in jail. He allegedly submitted medical message slips on/about Feb. 20, 22 & 27 of 2012 requesting dental care for an abscessed tooth. He requests emergency treatment for ‘excruciating’ pain and discomfort.” (Theo Lacy, 3/3/2012)
- “Mario believes his left shoulder/left arm are broken. He states he is in severe pain 24/7. He states that he saw a nurse who only gave him Ibuprofen and Ben-Gay; although he’s been told he will see a doctor and get x-rays taken, this hasn’t happened yet.” (Theo Lacy, 2/25/2012)
- “Marcelo states he broke his foot on 10-16-2011 and feels he is not getting proper medical treatment for his foot. He claims it was never put in a cast, properly set, and never received proper pain medication. He also claims his foot is still broken.” (Theo Lacy, 1/7/2012)
- “Maxwell is grieving medical attention regarding a hip displacement, pain meds, and being denied a soft-shoe ‘chrono.’” (Theo Lacy, 1/9/2013)

- “Jorge stated he has pain in his back and leg. Inmate wrote he has turned in several medical slips and has not seen a nurse.” (Theo Lacy, 1/17/2013)
- “Marcus is complaining that he is not getting medical help for a contagious skin condition.” (Theo Lacy, 1/3/2013)
- “Conner has Hepatitis C and states he has not received treatment and has not seen a DR.” (Theo Lacy, 5/9/2012)
- “Kaleb claims he is receiving improper medical care regarding a double knee replacement. He also claims he is not receiving pain medication and medical refused to provide a work chrono to place him off work.” (James A. Musick, 12/14/2012)
- “Jasmine believes she is in need of prescription glasses and was told by a nurse her vision is not bad enough. She claims she wears glasses while not in custody.” (IRC, 8/3/2012)
- “Ashton is alleging that on an unspecified day he was seriously ill due to gut pain from gallstones. He says he pushed the emergency call button and when he did that, Deputy G told him to stop and said if he continued to push the emergency button ...” (IRC, 2/19/2013)
- “Sergio is grieving being given the wrong medication to treat his psoriasis. He has submitted several medical slips with negative results.” (CMJ, 12/13/2012)
- “Jesus claims he has a medication problem causing severe pain and wants to see a doctor. He claims he has already submitted several medical slips that have not been addressed by medical staff. He says, ‘I am in so much pain. I can barely stand up.’” (CMJ, 1/12/2013)
- “Cole states he has HIV and has requested medication via a Medical Slip but has received no response.” (CMJ, 1/10/2013)
- “Diego states he has Hep C and if he does not get Interferon he will die.” (CMJ, 7/9/2013)

- “Adam states he suffers from neuropathy and is being refused proper medical care, a cane and personal shoes. He further states the medical staff refuses to provide their names when told a grievance will be filed.” (CMJ, 2/10/2012)
- “Devin states he fell and re-injured his back in the 2nd floor dispensary due to the medical staff taking his wheelchair away. He states he cannot use the walker that was issued due to a pre-existing medical condition which causes spasms with no warning.” (CMJ, 2/10/2012)



FINDINGS AND ANALYSIS

- **Deputies deny medical attention to individuals who are incarcerated if their condition is deemed non-serious.**

One individual complained that one has to be on the brink of death to get care. Another described the emergency medical button as futile, recounting a situation during which the button was pushed to no avail. Several individuals reported that medical requests are often denied if deemed non-serious by custody staff.

- **Individuals who are incarcerated experience delays in accessing medical care.**

According to OCSD policy, if a person wants to request routine, non-emergency medical attention after booking, they must submit a medical message slip to the medical staff. Slips can be obtained from medical staff or a deputy. According to department policy, completed requests are to be deposited in the designated collection box in each module. Many people disclosed difficulty in accessing medical care while others reported issues with the type and quality of care they received. Limited access to medical care and limited time with medical staff raise concerns as to the well-being of incarcerated individuals.



RECOMMENDATIONS

Overall Medical Care

- 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.

2. Reproductive Health Needs

According to an ACLU of California report, incarcerated women are denied prenatal care, abortion services and menstrual hygiene products at some county jails.¹⁴⁸ In March 2015, women constituted 13% of the total jail population in California. This figure includes many transgender men, who are most often held in women’s facilities and classified as women. But it omits most transgender women, who are mostly incarcerated in men’s facilities and classified as male.



PERSONAL ACCOUNTS

IN-CUSTODY

- Lily reported that after not having her menstrual cycle for two months, she experienced a heavy flow in early 2016. She complained that deputies denied her an additional pad and laughed at her when she stained her uniform with blood.
- Michelle claims there are eight pregnant women in her housing module. She reported that they are not given double mattresses until they reach 28 weeks and receive small rations of food. She recounted an incident in which jail staff forced two pregnant women to sweep at night because of minor violations.

POST-RELEASE

- 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.
- Amanda reported that she received only three pads a day while on her menstrual cycle. She hid them from jail staff, who she claimed often confiscate pads for no apparent reason and claim hoarding as an excuse. Amanda said, “Three pads a day is not enough — that’s why you have girls using toilet paper all the time.” She shared that it is common for women to use toilet paper to avoid bleeding onto their underwear when menstrual pads are withheld.

- Betty reported that medical and custody staff neglect pregnant inmates. She claims that pregnant women do not receive enough food and are often hungry.
- Gina claims women do not receive menstrual hygiene products like pads and tampons. After being processed she received only basic hygiene products, including a bar of soap. Gina had to ask other inmates for pads when she needed them.
- Karina claims that deputies provide “about two pads for every three to four girls” on their menstrual cycle. She said, “It’s like they want us to fight over them — I’m not about that.”
- 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.”
- Julie claims that she received three pads a day while on her menstrual cycle despite requesting and needing more.
- Joyce claims she did not receive enough pads when she was on her menstrual cycle. She asked a deputy twice for more pads but never received any.
- Tracy was four months pregnant at the time of arrest. She claims that being pregnant in jail does not change anything. She was not afforded special or additional attention. She mentioned being housed next to the psychiatric ward and reported a lot of yelling and screaming from inmates with mental illnesses.
- Xiomara witnessed female inmates requesting pads and not receiving them. She claims that deputies disregard women’s issues and said, “They don’t care.” Xiomara recounted the case of a young girl who accidentally stained her uniform with blood and was afraid she would be disciplined.
- “Sarah states she has submitted 3 pink slips a week ago regarding dry eyes, scabbing nose, coughing up blood and yellow vaginal discharge.” (IRC, 11/1/2011)
- “Grace was told she would have a mammogram completed in April of this year. She still has not been seen by medical staff for her mammogram. Medical responded on 8/7/2012 and indicated Grace is on a waiting list to be seen and will be soon.” (IRC, 7/30/2012)
- “Maria is complaining of 30 days bleeding due to an abortion.” (IRC, 6/21/2012)
- “Christina claims she might have a bacterial infection. She said she has been asking for a Pap smear since November 16th. She requests a Pap smear.” (IRC, 2/2/2013)
- “Brooke states her female medical needs are not being met and needs to see an Obgyn.” (IRC, 1/25/2013)



FINDINGS AND ANALYSIS

- **OCSD custody personnel intentionally withhold menstrual hygiene products, such as pads and tampons.**

Several individuals disclosed that menstrual hygiene products, such as pads and tampons, are intentionally withheld by jail staff. Jails must provide women with the personal hygiene supplies they need to manage their menstrual cycles. According to several personal accounts, the OCSD fails to meet this obligation. Reports from women point to delays in access and insufficient supplies.

- **Pregnant women, who are incarcerated, are subject to poor medical attention and a lack of accommodations for their housing and dietary needs.**

Jails in California are mandated by law to provide needed reproductive health care, information and education on certain reproductive health topics, and specific pregnancy-related accommodations.¹⁴⁹ Personal accounts of

GRIEVANCES

- “Jessica claims she is not getting proper medical care in regards to her pregnancy.” (IRC, 12/19/2012)

incarcerated individuals and former incarcerated individuals suggest that the OCSD is not providing the care that women need and that is required by law. Necessary accommodations should be met when they are needed rather than in line with an arbitrary department schedule. Adequate and timely prenatal care is medically necessary care that jails have a constitutional obligation to provide.¹⁵⁰



RECOMMENDATIONS

- Evaluate reproductive health care policies using the ACLU's toolkit¹⁵¹ and ensure compliance with the law and reproductive justice and medical best practices.¹⁵²
- 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.

3. 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.

Gender dysphoria¹⁵³ is a serious health condition, experienced by some transgender persons, that involves a strong and consistent cross-gender identification and a persistent discomfort with one's sex assigned at birth that can cause a person extreme psychological distress. Gender dysphoria has long been recognized as a serious medical condition by the leading medical and mental health associations, and there are well-settled, uncontroversial, internationally adopted standards for how to treat gender dysphoria.¹⁵⁴ Hormone therapy and access to gender-appropriate clothing and grooming products are core components of that therapy.

Courts have routinely held that gender dysphoria is a serious medical need.¹⁵⁵ Jails must provide both pretrial and sentenced individuals with individualized and appropriate medical care for gender dysphoria. Failing to do so violates the U.S. Constitution's prohibition on cruel and unusual punishment.¹⁵⁶ A jail's failure to appropriately evaluate, diagnose or provide treatment for transgender individuals' gender dysphoria shows the jail staff's reckless disregard of the excessive risk to their health and gives rise to a clear claim for violation of people's constitutional rights.¹⁵⁷

Many transgender persons require hormone treatment to treat their gender dysphoria.¹⁵⁸ Accordingly, courts across the country have held that refusing to provide a transgender individual with hormone treatments is a violation of the U.S. Constitution.¹⁵⁹ Where jail officials have *delayed* or *withheld* hormone therapy for transgender individuals, they were violating the U.S. Constitution as well as widely accepted correctional and health care standards.¹⁶⁰

PERSONAL ACCOUNTS

None available at this time.

FINDINGS AND ANALYSIS

- **Incarcerated individuals who are transgender receive inadequate medical care.**

Appropriate medical care for LGBTI individuals is required under the Eighth Amendment prohibition on cruel and unusual punishment¹⁶¹ and the 14th Amendment's due process clause.¹⁶²

- **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.**

Federal judges in California and other districts have ruled that transgender women should have access to female commissary items, as this access is essential to the treatment of their gender dysphoria.¹⁶³ Denying transgender persons issuance of gender-appropriate clothing and toiletries and gender-appropriate products through jail commissaries is a violation of the U.S. Constitution and a failure to provide necessary medical care for individuals' gender dysphoria.¹⁶⁴ It is also a violation of the Equal Protection clause of the 14th Amendment, since in California, transgender women are legally women and transgender men are legally men, and jails are therefore prohibited from treating them adversely compared to cisgender women and men.¹⁶⁵

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.



D. MENTAL HEALTH CARE

1. Overall Mental Health Care

The Orange County Health Care Agency is responsible for providing mental health services to individuals who are incarcerated with mental illness.¹⁶⁶ While the Adult Correctional Health Services prioritizes suicide prevention, stabilization of severe mental disorders and crisis intervention, it purports to provide a wide range of psychiatric services to people who are incarcerated.¹⁶⁷ Yet identifying and providing care to people with mental illness is a challenge for the OC Sheriff's Department.

In 2012, the Department of Justice's Civil Rights Division issued a report detailing the most problematic issues within the jails — inadequate mental health care was one of them. The investigation determined that a limited array of mental health treatment and housing options results in an overreliance on unsafe segregation cells and more restrictive interventions in jail.¹⁶⁸

The 2015 grand jury tasked with examining crisis intervention programs in the county found that a

FIGURE 20: Mental Health Care Monthly Averages, 2010 to 2015 (BSCC)

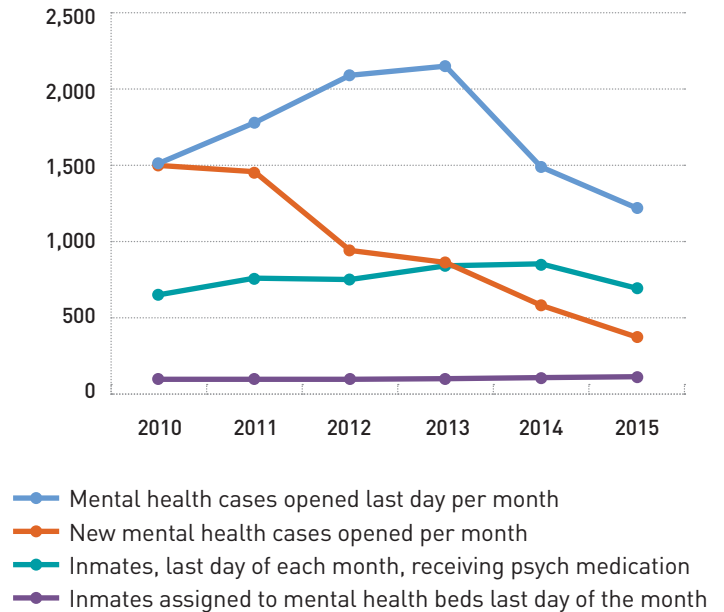


Table 15: Mental Health Treatment, 2015 (BSCC)

MONTH	(ADP TOTALS) JURISDICTION	MENTAL HEALTH CASES OPENED LAST DAY OF THE MONTH	NEW MENTAL HEALTH CASES OPENED DURING THIS MONTH	INMATES, LAST DAY OF THE MONTH, RECEIVING PSYCHOTROPIC MEDICATION	INMATES ASSIGNED TO MENTAL HEALTH BEDS LAST DAY OF MONTH
January	5,255	1,083	339	677	109
February	5,346	1,134	361	722	110
March	5,407	1,139	334	698	111
April	5,516	1,203	403	723	110
May	5,564	1,216	383	710	120
June	5,649	1,253	415	660	116
July	5,782	1,304	425	675	120
August	5,800	1,281	345	661	120
September	5,917	1,274	396	686	118
October	5,968	1,297	398	703	115
November	5,916	1,232	334	679	108
December	5,776	1,221	357	729	112

high number of psychiatric clients commit crimes and are placed in county jail.¹⁶⁹ Despite being inappropriate treatment environments for individuals in crisis,¹⁷⁰ research suggests that the prevalence rates of serious mental illnesses in jails are three to six times higher than for the general population.¹⁷¹ In Orange County, the severely mentally ill cycle in and out of the county jails.

When arrestees are taken to the IRC for booking, they are first seen by a health care staff member. Nurses conduct a medical and mental health screening that includes questions about current and past medical and mental health issues, past hospitalizations, current treatments and medications. If mental health issues are identified in the initial screening, individuals must undergo a more comprehensive mental health evaluation to better determine housing and treatment needs.¹⁷²

According to data from the Board of State and Community Corrections, the average number of mental health cases reported each month in the OC jail system from January 2015 through December 2015 was over 1,170. Given that the average daily jail population over the same period was approximately 5,456, mental health cases in the jail system represented over 21% of the overall adult jail population.¹⁷³ On average almost 700 incarcerated individuals received psychotropic medication during the same period and over 100 were assigned to mental health beds (see Table 15 and Figure 20).

According to a 2016 grand jury report, jail is the “primary treatment facility” for individuals dealing with mental illness. At any given time 1 in 5 people who are incarcerated in the Orange County jail system suffers from a documented mental health issue — that is about 1,200 people.¹⁷⁴ The report revealed that between January and October 2015, 10,586 individuals entered the OC jail system with a mental health diagnosis and 2,962 other individuals were diagnosed with acute mental illness.¹⁷⁵ Of the 13,548 individuals with mental illness housed in Orange County jails over the 10-month period,

the grand jury found that about 89% were housed with the general jail population rather than being assigned to mental health beds.¹⁷⁶ Said individuals are more likely to be sexually assaulted; attempt suicide; and break jail rules, which oftentimes results in severe disciplinary action.¹⁷⁷ The grand jury report also identified an overreliance on isolation techniques and medication, which suggests that the needs of most people with mental illness are going unmet.¹⁷⁸

The 2015 grand jury report also determined that deputies both in custody and patrol receive insufficient training on how to evaluate and handle people with mental illness.¹⁷⁹ The grand jury recommended that all law enforcement officers should receive at least 40 hours of comprehensive crisis intervention training (CIT) on how to handle and evaluate the mentally ill in the field with periodic revision trainings. The Sherriff’s Department disagreed and opted to not implement the recommendation. Currently, the OCSD offers 16 to 18 hours of CIT training for patrol deputies.

PERSONAL ACCOUNTS

IN-CUSTODY

- ▶ Floyd claims that when he was housed in the medical ward (L module) for suicide watch, he was not seen by a doctor right away. It took three days for medical staff to finally see him.
- ▶ Jeffrey is diagnosed with schizoaffective disorder. He claims that he was denied his medication while in custody and suffered harassment from deputies.
- ▶ 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.

- Robert is diagnosed with bipolar disorder, ADHD, manic depression and schizophrenia. He disclosed his mental health issues to a nurse during the intake process. After spending seven days in general population, Robert was moved to the medical module (J module), where he spent only five days, at the Central Men's Jail. He was rehoused in general population. Robert claims that he submitted a request to be moved back to the medical module but that it was denied. According to him, a deputy told him that he was placed back in the general population because he "appeared calm" and because medical beds were needed for other people. After being in custody for a month, Robert was transferred to Theo Lacy; he was not provided a reason as to the transfer. At Theo Lacy, Robert was housed in the general population. While there, he was beaten up twice. He claims that deputies failed to intervene on both occasions. The first time, Robert was beaten by the Homies¹⁸⁰ for refusing to take a shower when he was ordered to. On the second occasion, the Homies," with whom Robert was associated through jail politics, prohibited him from taking his mental health medication. According to Robert, the Homies ordered him to throw away his pills and told him to submit a request denying his medication (i.e., Depakote and Ambien). After having a mental outburst, Robert was beaten up by the Homies and the Paisanos. He later associated himself with the Paisanos, who despite beating him previously allowed him to take his medication. Robert suffered bruising on his right eye. He described it as "lumpy" and "purple-bluish." After the second assault, Robert was taken to Anaheim Medical Center. He disclosed that he lied to medical staff out of fear and said he fell in the shower while in custody.

- Theresa claims that she was misdiagnosed with mood disorder. She complained that her evaluations did not last more than five minutes and that mental health professionals did not listen to what she had to say. She said the clinician talking to her walked away while she was in the middle of a thought.

POST-RELEASE

- Brenda was housed in the medical module next to the mental health module. While in jail, she witnessed and heard inmates in the mental health module being verbally abused by staff and other inmates. She claims that custody staff ignored the needs of inmates who appeared to have serious mental health conditions.
- Jacob was diagnosed with anxiety about three years ago. He notified custody staff at screening. According to Jacob, staff did not provide him with his medication. He claims that he submitted a request and was denied without an explanation.
- Karina is diagnosed with manic depression and bipolar disorder. She notified a nurse at processing. Although she received her medication (i.e., Keppra and Effexor), she disclosed that it took about one week to access care. Karina said she was told that she was on a wait list during the time she was denied access.
- Yousef claims that about two-thirds of the people he encountered in jail needed mental health treatment. According to him, a lot of people in jail suffer from schizophrenia possibly brought on by heavy drug use. He claims that he spoke to many inmates who also suffer from depression. Yousef witnessed people's needs being disregarded and neglected. As a community mental health worker, Yousef believes that many inmates he encountered behind bars should be in mental health facilities and not jail.
- Yahir suffers from depression and anger management issues. He notified the arresting officer and custody staff. After being booked, Yahir was denied Norco and Promethazine. He requested mental health care but was told that no one was on site to see him.

Accounts further suggest systemic issues with the overall treatment of individuals with mental health needs within the OC jail system.

GRIEVANCES

- “Alejandro alleges that he requested access to mental health services and he requested to speak to a sergeant and he was denied by Deputy X.” (Theo Lacy, 3/21/2012)
- “Cody is complaining he has not seen a Psychological doctor yet and his psychological medications are wrong.” (Theo Lacy, 4/13/2013)
- “Colin claims that he has been without his mental health medication for one month. Colin would like to see a mental health doctor so he can be prescribed his medication.” (Theo Lacy, 5/9/2012)
- “Miguel stated he has not received his bi-polar medication for three weeks and has put in several medical slips.” (Theo Lacy, 2/2/2013)
- “Felipe requests HCA for evaluation and treatment for bipolar and anxiety disorder.” (Theo Lacy, 1/22/2013)
- “Carter is grieving Mental Health staff in Mod L not treating him adequately.” (IRC, 9/17/2012)
- “Zoey claims she is not receiving medical care for her bi-polar disorder.” (IRC, 9/10/2011)
- “Sean states he has been taken off needed psych meds.” (CMJ, 10/10/2011)

unsafe physical settings that are neither therapeutic nor readily supervised. A series of incidents in 2010 involved the use of electronic control weapons and other devices on incarcerated individuals with mental illness.¹⁸¹ Several people suffering from mental illness may not be able to effectively utilize the sick call process, while others have conditions they cannot monitor on their own.

- **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.**

Accounts further suggest systemic issues with the overall treatment of individuals with mental health needs within the OC jail system. Among the mental disorders reported by survey participants were schizophrenia, bipolar disorder, manic depression, severe anxiety and post-traumatic stress. Many reported issues with the lack of treatment while in custody. Individuals with mental health needs are more susceptible to abuse by other incarcerated individuals and deputies, experience significantly higher rates of jail discipline, and are two times more likely to be injured and in a jail fight than incarcerated individuals with no mental health needs.¹⁸²



FINDINGS AND ANALYSIS

- **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.**

The current system and structure of OC jails leads to high-risk individuals being housed in

- **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*.**

According to the OCSD Support Services Division, the training that all deputies receive is in accordance with the BSCC.¹⁸³ The Sheriff’s Department maintains that although it is not the

role of the deputy to make a clinical diagnosis, making informed behavioral evaluations and employing the appropriate tactics are crucial steps when dealing with the mentally ill.¹⁸⁴ Sheriff Hutchens claims that informed decisions are being accomplished through basic training, work experience and continued professional training offered through the OCSD's Training Division and its regional training partners.¹⁸⁵



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.
- 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).¹⁸⁶
- 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.¹⁸⁷

E. LIVING AND PHYSICAL CONDITIONS

1. Processing/Screening

A majority of survey participants reported lengthy delays with processing and screening. Several of them believe that the delays are intentional rather than as a result of understaffing or security measures.



PERSONAL ACCOUNTS

IN-CUSTODY

- James had to wait over five hours in the holding cells at Theo Lacy after returning from court more than three times. He claims that the cells smelled like feces and urine.
- Michelle had to wait 18 to 20 hours in the Loop anytime she returned to the jail from court.
- Norma spent 22 to 24 hours in the Loop when she was being processed. She complained that inmates are not provided with blankets and shared that deputies deny them toilet paper and pads.
- Stephanie claims that she spent over 17 hours in the Loop before she was assigned a bed. She said, "The deputies pretend to be busy, but we catch them watching television, eating ... basically bullshitting."
- Steve made a verbal remark after he was shoved by a deputy. The deputy then threatened Steve and said, "I am going to make a project out of you." After the incident, Steve was held in the Loop for over 24 hours, an act he believes was a form of retaliation. He described the Loop as foul-smelling and filthy.
- Travis was held in the Loop for about 26½ hours before being assigned a bed. He had to sleep in the holding cell as he waited and claims that he was provided with a sack lunch only once.

POST-RELEASE

- Daniel claims that he spent two days in the Loop.
- 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.”

- › Ian claims that he spent about 16 hours in the Loop. He said, “People had to sleep on the dirty floor.” He also said, “They expect us to eat our lunch inside the filthy tanks. Most of us do it because we’re in there for so long and get hungry.”
- › Sonia claims that she spent a day and a half in the Loop. She complained that because of limited space, some inmates had to stand. She said, “If you wanted to sleep you had to do it on a bench or the floor.”
- › Samuel claims that he was at processing for over 24 hours. He claims that he was provided only one sack lunch while he waited to get housed.
- › Tracy was in the Loop for “almost two days.” She claims that she was moved back and forth from different holding cells.

- › Uriel claims that he spent about 20 hours in the Loop.
- › Victor claims that he spent about 24 hours in the Loop before he was assigned a bed. He complained that some deputies just stand around.
- › Xavier claims that he spent 16 hours in the Loop. According to him, people had to sleep on the floor because the holding tanks were overcrowded.
- › 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 AND ANALYSIS

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

Following a court order, the department was mandated to assign a bed to individuals within 24 hours of arrival at the IRC. The mandate, now department policy, requires that deputies ensure that individuals are properly processed and assigned a bed within 24 hours after arrival on the first floor. According to various accounts, the department is not abiding by their own policy. In any situation wherein a person is not properly housed within 24 hours, the watch commander or the operations sergeant is responsible for resolving the matter.¹⁸⁸

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.

2. Uncleanliness

Survey participants reported uncleanliness within the facilities, particularly in the booking and processing area. Several complained about the unsanitary conditions in the holding tanks, citing the smell and sight of feces and urine on the floor and walls. Other individuals reported unsanitary conditions of showers, including mold and poor odors coming from the drains. Nearly all survey participants described the Loop as “disgusting,” “filthy” and “very dirty.”

PERSONAL ACCOUNTS

IN-CUSTODY

- Ashley described the Central Women’s Jail as “extremely unsanitary.” She reported that the living conditions in the jail are horrible and that cleaning supplies are not provided to inmates. She claims that there are “thousands of gnats” and “larva in the drains.”
- Michelle described the jail as “grimy, dirty and filthy.” She reported that she has submitted three or four requests for a new broom and cleaning supplies. She has yet to receive a response.
- Lily maintains that there are gnats in the housing module. She also disclosed that there was a lice breakout in H-8 and reported seeing cockroaches in the carts that are used to move the jail food.
- Stephanie complained of “gnats everywhere” and disclosed spotting cockroaches in the food.

POST-RELEASE

- Brenda described the jail as “gross.” She said that being in jail was “awful” and that she was treated like “a caged animal.”
- Derek described the jail as “disgusting.” He complained that soap, cleaning supplies and toilet paper are not readily provided to inmates. He stated, “What’s a dirty mop going to do except spread dirty shit everywhere?”

- 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.
- Hazel described the jail as “extremely dirty.” She claims that most of the uncleanliness is in the processing area and holding tanks, “not so much in the dorms.” Hazel said, “I saw dirty pads and used toilet paper scattered in the Loop.” She described sinks, walls and toilets as “disgusting.” Hazel complained that deputies held her in the Loop for several hours despite the “smell and dirty conditions.” She claims that she saw “a huge cockroach” on the wall in the processing area.
- Luis said, “The Loop is the dirtiest and most unsanitary place I have ever seen in my life.” He claims that he saw words written with feces on the floor and walls.
- 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.
- Paula described the holding cells as dirty. She claims that there is a lot of urine around toilets, as well as dirt under beds and gross residue on shower curtains. According to Paula, inmates need to wear sandals at all times because of the unsanitary conditions.
- Sonia claims that the showers and toilets are rusty and dirty. She also said her mattress was dirty and smelled “awful.” While in the Loop, she saw two used pads on floor. She claims that she saw cockroaches “here and there.”
- Yousef described the jail as “completely disgusting.” According to him, once inmates get through the Loop, it is mandatory under program rules for them to shower. He believes that it is because of the long exposure to odor and filth.
- Darrell claims that the Loop is “dirty” and said, “There’s trash and food on the floor and benches.” According to Darrell, sinks and toilets smelled bad and looked as if they had not been cleaned for several weeks. He also described a “trail of pee” within one of the holding tanks.

- Amanda claims that her mattress had bedbugs.
- Karina reported seeing a mouse in the middle of the night and claimed that pest control was not contacted for several days.
- Victor said, “There’s a bunch of cockroaches in ‘the hole.’ It’s gross.”
- Vernon claims that he saw “baby cockroaches in the chow hall.”

GRIEVANCES

- “Seth complains of being denied cleaning products.” (CMJ, 12/26/2011)
- “Jesse complained the whole tank is not getting adequate cleaning supplies and the inmates cannot clean their cells, the dayroom or the shower properly. Grievance signed by 8 other inmates.” (CMJ, 8/13/2011)
- “Hunter states they are not getting access to the cleaning supplies on their tier.” (CMJ, 2/10/2012)

FINDINGS AND ANALYSIS

- **Unclean and unsanitary conditions pose potential risks to the health of individuals who are incarcerated.**

Several individuals reported uncleanliness within the facilities, particularly in the booking and processing area and showers. Unsanitary conditions in the holding tanks include the smell and sight of feces and urine on the floor and walls. Having to eat and sleep in close confines with human waste is degrading and unsanitary regardless of the time one is subjected to such conditions — it should not be allowed. Other individuals reported gnats, cockroaches, lice and bedbugs, which are also sign of uncleanliness. According to the BSCC, responsible physicians shall develop a written plan for the control and treatment of individuals who are infested with vermin. According to the BSCC, there shall be written policies and procedures developed by the facility administrator to control the contamination and/or spread of vermin.

- **Individuals are tasked with cleaning common housing areas, including dayrooms and showers.**

Individuals maintain that despite being assigned to clean common housing areas, they are not provided with adequate cleaning supplies. According to the OCSD, each jail facility has employees specifically trained and designated to supervise work crews that are assigned to clean specific areas of the jail during daily cleaning duties.¹⁸⁹ In addition to daily work crews, each custody staff member is responsible for inspecting his or her work area for cleanliness or maintenance problems. The cleaning crew supervisor conducts inspections on a weekly basis and submits a report to the division commander. Given the procedures described by the OCSD, the conditions as reported by survey participants are unacceptable.¹⁹⁰



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.

3. Showers and Plumbing

Several survey participants reported issues with toilets, showers, and plumbing. Individuals stressed the need for maintenance and repair.

PERSONAL ACCOUNTS

IN-CUSTODY

- Dolores claims two out of four toilets in her housing module were broken.
- James described the showers as filthy. He claims that the tiles in the showers have to be replaced.
- 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.
- Lily claims the showers are disgusting and at times do not work.
- Michelle claims that half the toilets in her housing module are broken and that the sinks are clogged and do not work. She described the showers as “filthy.”
- Norma claims that she submitted three requests for her sink to get fixed because it was leaking. She also complained that the toilets and showers were clogged.
- 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.”
- Theresa claims that the sinks in her module were clogged, which caused “a bad odor.” She also complained that the showers were not cleaned for weeks and described them as “filthy” and “unhealthy.”

POST-RELEASE

- Amy claims the shower in her housing module had only hot water, which made it difficult to take a shower.
- Frank claims that the showers are “full of bad bacteria.” He described them as “unsanitary.”
- Luis claims the toilets in the Loop overflowed with urine and feces.
- Julie claims that the toilets in the Loop were clogged with toilet paper.
- Joyce claims that a shower in her tank was not working.
- Victor claims that toilets are unusable because of clogs that go unattended to and end up overflowing.
- Walter claims that the water for showers was either freezing or burning hot.
- Will claims the sinks and toilets in the Loop do not work. He said, “One sink just kept running. I guess the water couldn’t get shut off.”
- Curtis claims that a toilet in his tank started to leak. He verbally notified deputies, but nothing was done.
- Yousef claims water from the upstairs tier was leaking down to his housing.
- Xavier claims that the showers “sucked” and complained that most of the nozzles were broken.
- Brendan claims that the shower heads in his dorm did not work well. He said, “The water ran slow so it was difficult to shower.” According to him, there was mold in the showers.

GRIEVANCES

- “Oliver claims he did not receive his shower per Title 15.” (Theo Lacy, 2/10/2013)
- “Karen requesting latex gloves for sanitary purposes.” (IRC, 7/25/2011)
- “Rafael complaining regarding the lack of shower mats/curtains to avoid water pooling on floor. He has fallen in the past from slipping in the water.” (IRC, 3/14/2012)

- › “Colby says the showers in B-9 and B-10 are not working correctly despite previous attempts to repair the issue by maintenance. He says it is creating an unsanitary condition.” (CMJ, 8/27/2012)
- › “Brett states he does not have hot water in his Dis-Iso cell.” (IRC, 11/13/2011)
- › “Anwar grieved that he was forced to take showers in full view of jail staff including female staff.” (CMJ, 4/2/2012)
- › “Trey stated he has not had hot or cold water in his cell since 03-01-2013.” (Theo Lacy, 3/4/2013)

FINDINGS AND ANALYSIS

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

Reports of subpar conditions in the showers raise several concerns, including possible adverse health and safety risks. According to Title 24 regulations, shower areas must be “designed and constructed of materials which are impervious to water and soap so they may be easily cleaned.”

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.

4. Clothing

Many survey participants described the jail-issued clothing as dirty and poorly kept. Nonetheless, individuals who are incarcerated are to remain in full jail-issued clothing between wake-up call and lights out while in the dayrooms, in common areas or outside their cells.¹⁹¹ Several individuals reported rewashing their uniforms immediately after clothing exchange. Others reported issues with the low temperatures in the facilities, as well as issues with ventilation. Exposure to extreme cold for different lengths of time was highlighted.

Table 16 lists the type of jail clothing issued to incarcerated individuals. According to OCSD policy, alterations to jail-issued clothing may be considered damage to jail property and the individual may be subject to disciplinary action. This is problematic, given that several individuals cited poor-fitting clothing (either too big or too small) as an issue and they needed to adjust accordingly. Regulations also mandate that clothing be reasonably “fitted, durable, easily laundered and repaired.”¹⁹² According to the BSCC and department policy, outer garments, except footwear, are to be exchanged at least once each week.¹⁹³ Undergarments and socks are to be exchanged twice each week. Additionally, transgender persons are to be given clothing that comports with their gender identity, rather than their sex assigned at birth. (See Medical Care.)

Table 16: In Custody Clothing (BSCC and OCSD)

	FEMALE	MALE
OCSD	Underwear Bra Jumpsuit or pants and shirt T-shirt Sweatshirt (optional) Socks and shoes	Underwear T-shirt Jumpsuit or pants and shirt Socks and shoes
BSCC	Clean socks and footwear Clean outer garments Clean undergarments Bra Two pairs of panties	Clean socks and footwear Clean outer garments Clean undergarments Shorts Undershirt



PERSONAL ACCOUNTS

IN-CUSTODY

- Ashley claims that inmates are supposed to receive clean clothing twice a week. However, she complained that the underwear and socks are “never really clean.”
- Kyle described the jail uniform as “nasty” and said they were “smelly.” He complained that clothing is altered and falling apart.
- Michelle claims the jail clothing is “filthy” and “stinky.” She said, “The clothing is so dirty that the whites look like gray.”
- Norma claims that the undergarments she received were dirty and that they had stains. She described the T-shirts as “brown because they are so filthy” and said, “The socks have skin in them.”

POST-RELEASE

- Amy claims that the clothing she received was filthy and had holes.
- Brenda claims clothing exchange happens once a week. She described the clothing she received as filthy. Brenda said she had to wear the same underwear for two to three days and had to wash all of her undergarments in the sink.
- Paula claims the uniform shirt she received was “completely torn.” She also claims that the underwear she received smelled and looked dirty.
- Julie claims that her uniform was not washed well and was given to her with stains. She rewashed the uniform in the shower.
- Reggie described the clothing he was issued as dirty. He had to rewash it in the sink.
- 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.”
- Tiffany claims that she received ripped socks and had to wash her underwear in her dorm.
- Tracy claims inmates who knew inmate workers were the only ones who got decent clothing.

- Victor claims he and other inmates washed their own uniforms in the sink because they did not trust that they had actually been washed. He said he and others had to wait in “freezing temperatures” until their uniforms dried.
- 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.”
- Yousef claims that the clothing that was provided to him was inadequate for the temperature in the jail.

GRIEVANCES

- “Nathaniel reported clothing exchange issues. Not enough correct sizes, forced to wear his used, dirty clothing.” (Theo Lacy, 5/24/2012)
- “Francisco states he is only receiving underwear and socks clothing exchange once per week.” (Theo Lacy, 5/13/2013)
- “Jared grieved that he did not get clean t-shirts and boxers during clothing exchange.” (CMJ, 7/5/2012)
- “Alan claims that the clothing and bedding items issued during clothing exchange are dirty, torn, and ‘not even worthy of exchanging.’” (CMJ, 5/28/2012)
- “Kenneth states he was given socks with holes in them. Kenneth also states that 2nd floor housing received ripped clothes and sheets. The clothing and bedding are not repaired.” (CMJ, 4/7/2013)



FINDINGS AND ANALYSIS

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

Several individuals reported that they rewash jail uniforms due to foul odor and stains. According to Title 15 regulations, individuals held after arraignment shall receive climatically appropriate clothing, including (a) clean socks and footwear, (b) clean outer garments, and (c)

clean undergarments — for males, shorts and undershirt; for females, bra and two pairs of panties.¹⁹⁴ Furthermore, the BSCC mandates that departments maintain a living environment in accordance with the heating, ventilating and air conditioning requirements of Parts 2 and 4, and the energy conservation requirements of Part 6, Title 24, California Code of Regulations.¹⁹⁵ According to the OCSD, the temperature of the jails is kept between 68 to 75 degrees.



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.¹⁹⁶
- 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.

5. 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.

Section 115.42(f) of the Prison Rape Elimination Act requires that transgender and intersex individuals, regardless of housing area, be provided showers separate from other individuals.¹⁹⁷ This standard was adopted to provide additional protections for these individuals, given the unique risks these populations face while incarcerated. Facilities must adopt procedures that will afford transgender and intersex people the opportunity to disrobe, shower and dress apart from other people.¹⁹⁸



PERSONAL ACCOUNTS

None available at this time.



FINDINGS AND ANALYSIS

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

All transgender and intersex individuals regardless of housing area must be allowed to “shower, perform bodily functions, and change clothing without nonmedical staff of [a different] gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks.”¹⁹⁹ For purposes of this policy, “staff of a different gender” means staff with a gender different from the person’s gender identity, regardless of where the individual is housed. Male staff should not observe a transgender female, and female staff should not observe a transgender male, while that person is disrobed.



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.

6. Overcrowding

After the *Stewart v. Gates* case, the OCSD was subject to a population cap. The court order was issued in 1978 and included several other areas for rectification. The order was lifted in 2005. Crowding within Orange County jails remained a persistent concern of the Department of Justice’s Civil Rights Division.²⁰⁰ Through an investigation, the DOJ determined that several of the general population units cannot be easily supervised because of the housing configuration and because deputies are not able to easily conduct rounds. A report issued by the California

BSCC noted that on the dates of the June 2014 inspection, the overall combined rated capacity of the OC adult jail facilities was 5,108, yet noted that the population was 6,708. The noncompliance was mainly attributed to the use of extra beds over rated capacities in the dorm areas, in addition to the use of single- and double-occupancy cells.²⁰¹

Average daily population statistics kept by the Sheriff’s Department’s Inmate Records date back to 2001 (see Figures 21 and 22). According to the department, there are no statistics related to population totals before 2001.

FIGURE 21: Annual Bookings, 2001 to 2016 (OCSD)

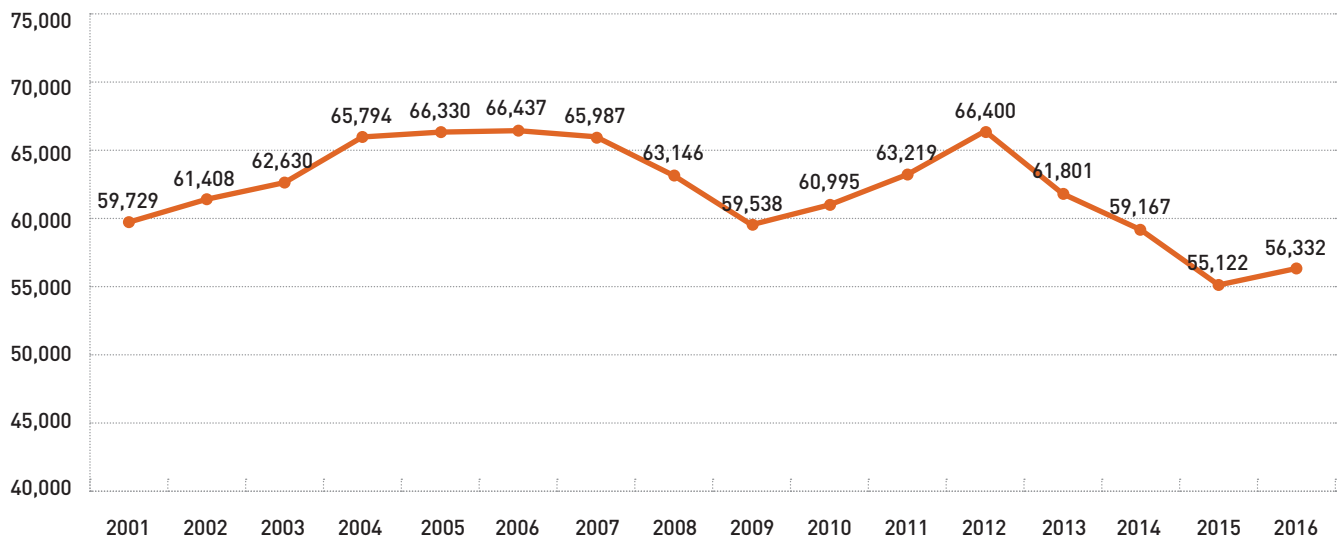


FIGURE 22: Average Daily Inmate Population, 2001 to 2016 (OCSD)

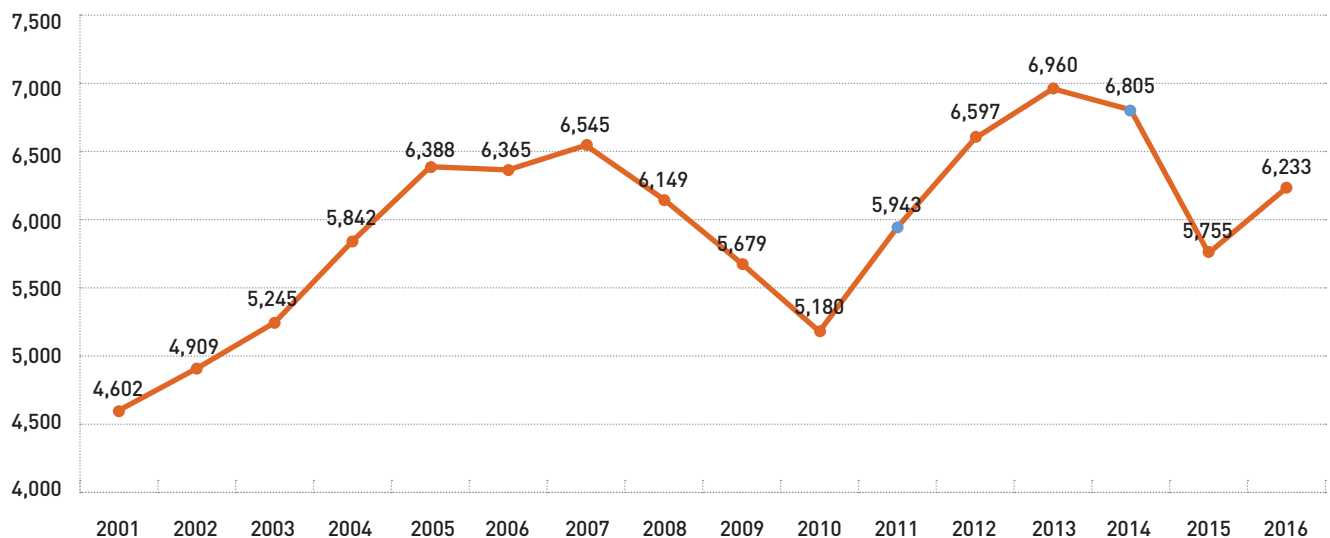


Table 17: Rated Capacity by Inspection Cycle (BSCC)

FACILITY	2008/ 2010	2010/ 2012	2012/ 2014	2014/ 2016
IRC	408	408	408	407
Musick	713	713	713	713
CMJ	1,219	1,219	1,219	1,219
CWJ	275	275	274	274
Theo Lacy	2,448	2,494	2,494	2,480
Totals	5,063	5,109	5,108	5,093

From 2008 to 2016, the average daily population (ADP) was over the total rated capacity each year, respectively (see Table 17). In March 2017, the ADP (6,545) exceeded the rated capacity (5,093) by more than 1,450 people. Survey participants reported that overcrowding is an issue, particularly during intake and screening at the Loop. Other individuals reported that crowding was also an issue in the housing modules.

PERSONAL ACCOUNTS

IN-CUSTODY

- James reported that holding cells at Theo Lacy are over capacity. He believes that holding cells are usually three times their capacity because of the long wait when returning from court.

POST-RELEASE

- 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.
- Fernando claims the Loop was overcrowded. He claims that the holding cell was over capacity. He said the sign in the cell read “23” as the maximum occupancy, yet 30 individuals were being held inside.

- 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.”
- Hazel claims that the holding tank where she was held during processing was overcrowded. According to Hazel, people slept on the floor because all the benches were occupied.
- Lawrence claims the Loop was overcrowded. He claims that a sign rated maximum capacity at “12,” yet about 20 people waited inside.
- Luis claims that he experienced overcrowding in the holding cells. He complained that deputies fit too many people in one cell. According to Luis, a containment sign read “18,” but the cell held about 25 people inside.
- Sonia claims the entire jail is overcrowded. She claims that the issue is most severe in the Loop and said that she was held with over 20 inmates in a small space for several hours.
- Samuel claims that his housing module was overcrowded. According to him, there were about 100 people per module and insufficient space between bed bunks.
- Tracy claims that the Loop was overcrowded. She described the holding tank as “packed” and said sleeping on the floor was her only option.
- Zanet claims the Loop was overcrowded. She claims that the holding cell was over capacity for several hours.

Tracy claims that the Loop was overcrowded. She described the holding tank as “packed” and said sleeping on the floor was her only option.

Utilize alternatives to incarceration and diversion programs or tools to relieve over-crowdedness and reduce recidivism.

FINDINGS AND ANALYSIS

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

Several individuals reported that overcrowding is an issue, particularly during intake and screening. The OCSD must explore alternatives to incarceration rather than building more facilities and/or expanding existing facilities. Expansion is not the solution, and it will not prevent the violations that people who are incarcerated experience.

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.

7. Recreation/Dayroom/Out-of-Cell Time

Individuals who are incarcerated reported that recreation time is spent within the confines of their cells. Others complained that when recreation time on the roof was allowed, it was mostly before 6 a.m. They considered the practice an intentional act by deputies to discourage people from taking advantage of it.

PERSONAL ACCOUNTS

IN-CUSTODY

- Anthony claims he has been on 23-hour lockdown for about a year and a half.
- 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.
- Louise reported she is on 22-hour lockdown. She claims that every four days she is on 36-hour lockdown because of staff shift changes.
- Steve claims he has been on 23-hour lockdown for over two months. He disclosed that custody personnel have not offered him recreation time

Tracy was on lockdown for 22 hours a day for seven days. She was allowed recreation time only twice during the entire time she was in jail.

for the past three to four weeks. According to Steve, deputies allege that recreation had not been granted because of inclement weather.

POST-RELEASE

- Derek claims that deputies call out for out-of-cell time at 5 a.m. once or twice a week when most inmates are asleep and cannot hear it.
 - Eric claims deputies never called out for recreation time. During his time in jail, he left his dorm only for meals.
 - Gina claims that she was allowed to leave her dorm only for breakfast and dinner or if she had a medical pass. She complained that actual recreation is not available or allowed.
 - Hazel claims recreation time is spent within the dorm. She shared that the dayroom is in the area where inmates sleep. She said, "All we had in the dayroom was a picnic table, TV that didn't work, some newspapers, two phones and a paper chessboard."
 - Paula claims that she did not know there was a recreation area. She was in a cell with 30 to 40 female inmates.
 - Joyce claims out-of-cell time is allowed once a week on the roof at 6 a.m. She claims that most inmates do not go because it is too early.
 - Tracy was on lockdown for 22 hours a day for seven days. She was allowed recreation time only twice during the entire time she was in jail.
- Yousef claims that he was not allowed to leave his housing unit for recreational purposes. He and other inmates had to create their own recreation space within the housing unit.

GRIEVANCES

- "Alexis claims he did not receive his minimum 3 hours of roof rec for the week of 11-11-12 to 11-17-2012." (Theo Lacy, 11/20/2012)
- "Edward alleges that he is receiving less than two hours of dayroom time and the law mandates he receive a full two hours." (Theo Lacy, 10/7/2012)
- "Cesar is a Total Sep inmate and he is receiving (1) one hour of dayroom per day. Cesar is demanding that he receive (2) two hours of dayroom each day or be removed from Total Sep status." (Theo Lacy, 8/7/2012).
- "Emmanuel claimed he did not receive two hours of dayroom and he felt it was done arbitrarily." (IRC, 10/29/2011)
- "Vincent states he is not receiving his outdoor recreation." (CMJ, 8/27/2011)
- "Andres claims he was offered outdoor recreation on 06/26/2012 but was never escorted from his cell to participate." (CMJ, 6/27/2012)

Yousef claims that he was not allowed to leave his housing unit for recreational purposes. He and other inmates had to create their own recreation space within the housing unit.



FINDINGS AND ANALYSIS

- **Outdoor recreation is limited and offered only in the early morning.**

According to BSCC Title 15 Regulations, jail administrators shall develop written policies and procedures for an exercise and recreation program, in an area designed for recreation. Several individuals reported that the area designated for recreation at the Central Jail Complex is on a fenced-in roof. In accordance with Title 15 regulations, the OCSD policy requires that a minimum of three hours of exercise be distributed over a period of seven days (at least two separate days).²⁰² Dayroom access should be available to incarcerated individuals for a minimum of one hour per day. According to department policy, it is expected that dayrooms will generally be available for use from 6 a.m. to 11 p.m. at all facilities with the exception of Musick (to 9 p.m.).

- **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.**

Denial of out-of-cell and outdoor exercise for people in isolation or segregation was common. Such individuals are confined to their cells all day unless they need medical care.



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.

8. Food Services

Title 15 Regulations require that food be served three times in any 24-hour period and that at least one of the meals include hot food.²⁰³ It is prohibited for entire meals to be withheld from incarcerated individuals as a form of discipline.²⁰⁴ According to OCSD policy, meal times are at approximately 4 a.m. (breakfast), 11 a.m. (lunch) and 4 p.m. (dinner).

A report issued by the Department of Homeland Security’s Office of Inspector General (OIG) identified several food safety problems. Although the report focuses on immigrant detainees, it is important to underscore that despite incarcerated individuals being separated from immigration detainees, according to an OCSD spokesperson, both groups of people are served the same food.²⁰⁵ The report highlights observations made during an unannounced OIG inspection. Among them were “slimy, foul-smelling lunch meat that appeared to be spoiled” and meat and ground beef stored uncovered in walk-in refrigerators.

Despite several complaints of inadequate quantities of food (small portions, staying hungry) and poor quality meals, the most frequent issue was the amount of time allotted for meal consumption.



PERSONAL ACCOUNTS

IN-CUSTODY

- Gladys claims that she reported feeling sick after eating lunch at the chow hall in the Central Women’s Jail in early 2016. She said she and other inmates were allotted only about five to seven minutes to consume their meals. Gladys threw up on her uniform shortly after returning to her cell. She claims that deputies denied her request for a clean uniform. Gladys said she complained for over an hour, and was ultimately provided with a different uniform.
- Janet claims that she once found a cockroach in her food. According to Janet, she complained to custody staff, who simply laughed at the situation.
- Anthony is on 23-hour lockdown and receives his meals inside his cell. He complained that he has to

eat his meals no more than five feet away from the toilet.

- › Dolores claims she receives only three minutes to consume her meals. She reported that she and other inmates are ordered to throw away any food that is not eaten within the three minutes.
- › Jeffrey claims he received sack lunches without meat, and was given only carrots and bread. He complained to the deputies and was told he had already received a lunch.
- › 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. She also complained that kitchen staffers act inappropriately and recounted when a White cook told her, “If I ever see you here [jail] again, I am going to have to spank you and stick my 10-inch boot in your ass.”
- › Leonard claims that a deputy tossed his apple to the trash before handing him his meal inside his cell. Leonard told the deputy, “That’s not cool, man,” and the deputy responded, “You can’t win” and tossed his entire lunch into the trash.
- › Michelle claims inmates receive no more than five minutes to eat. She reported that she, like everyone else, is forced by custody staff to throw away any food that is not eaten within the five minutes.
- › 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.

- › Theresa claims that while she was in the Loop being reclassified, a deputy ordered another inmate to take away and trash her milk and lunch for no apparent reason.
- › Travis claims that the food served is not good but said, “You have to eat something.” He complained about the limited time that inmates are allowed to consume their food. In early 2017, he witnessed a deputy snatch a pancake from an inmate’s mouth and yell at him, “Get the fuck out of here!”

POST-RELEASE

- › Betty claims that she was not served a sufficient quantity of food. She mentioned that pregnant women receive the same portion size as non-pregnant inmates.
- › Derek claims he and other inmates were given less than five minutes to eat their meals. He also disclosed that the previous time he was incarcerated at an OC jail he lost 12 pounds because of the small portions of food that are served.
- › Eric claims that inmates do not receive enough food and are allotted too little time to eat. He said he remained hungry after most meals.
- › Isaac claims deputies cheated him out of a hot dinner and gave him a cold sack lunch. He claims that he had only about five minutes to eat his food, which he described as “nasty” and “almost inedible.”
- › Karina said, “all meals are cold by the time they reach me in my cell.”
- › Samuel claims that the food is “horrible and greasy.” He complained that it made him constipated. Despite the small portions, Samuel reported that he was unable to consume his entire meals because he was allowed only four to five minutes to eat. According to Samuel, “Unless you have money on your books, you’re sure to be hungry a lot of the time.”
- › Tiffany claims deputies rushed her to eat her food within two to three minutes. She claims that any food that was not eaten had to be thrown in the trash. Tiffany said she witnessed two girls throw up from eating too fast.

- Ulysses claims that he was allowed only two to three minutes to eat. He said that on a few occasions he was forced to toss his leftovers into the trash.
- Walter claims the food he was served should not be for human consumption. He compared the food to dog food and said he and other inmates were forced to eat it within two minutes.

GRIEVANCES

- “Ricardo claims CST was yelling at him to hurry up and eat his meal. Ricardo claims when he failed to move fast enough, CST tried to grab the sandwich he was holding out of his hands.” (Theo Lacy, 4/11/2013)
- “Max states that they are only afforded 5 minutes to eat their meals in the chowhall.” (James A. Musick, 11/12/2012)
- “Ty claims he is not given enough time to eat his food in the chowhall and the deputies are rude and ‘racist’ because they let the ‘Americans eat first.’” (Theo Lacy, 2/21/2013)
- “Steven complained that his food was cold on 12-26-2011 and that the portions are consistently small.” (Theo Lacy, 12/27/2011)
- “Damian states he is receiving meat products in his ‘Vegan’ meal. Also, he states the food is often times ‘smelly’ and does not taste good. Finally, he requests a ‘Vegan’ menu and a list of the calorie and nutritional (protein) break down of his meals.” (Theo Lacy, 9/10/2011)
- “Grant is on a special diet and claims his portions have been getting smaller and do not meet the diet standards.” (Theo Lacy, 7/6/2012)
- “Preston feels his food is being tampered with and food is missing from his tray.” (Theo Lacy, 6/4/2013)
- “George is currently housed in D-20-9 and although he has been prescribed a special ‘Renal Diet,’ he continues to be served a regular sack lunch. George has submitted a request via an inmate message slip to the Head Cook but has not received a response.” (CMJ, 5/23/2013)



FINDINGS AND ANALYSIS

- **Individuals who are incarcerated are not allotted sufficient time to consume their meals.**

In line with state regulations, OCSD policy mandates that a minimum of 15 minutes should be allotted for the actual consumption of each meal.²⁰⁶ Survey findings suggest that the OCSD is in violation of its own policy with regard to time allowed for the consumption of meals. Denying individuals enough time to eat creates a restrictive environment wherein people are unable to fulfill even the minimum consumption requirements. Rather, they are forced to throw out uneaten food and regularly remain hungry. The denial of such basic sustenance can pose a potential risk to their health.

- **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.**

The BSCC requires that kitchen facilities, sanitation, and food preparation, service and storage comply with standards set forth in the California Health and Safety Code and the California Retail Food Code.²⁰⁷



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.

9. Commissary and Indigent Packs/ Welfare Kits

According to OCSD policy, incarcerated individuals may purchase commissary items three times per week by completing an order form, which is distributed also three times a week. Title 15 establishes the requirement that services be available to all eligible individuals who are incarcerated and prohibits the deprivation of “implements necessary to maintain an acceptable level of personal hygiene.”²⁰⁸ Thus, individuals without enough funds can request a welfare pack of hygiene and stationery items twice per week.²⁰⁹

In Orange County, the Inmate Welfare Fund (IWF), financed primarily through revenue from commissary purchases, telephone commissions and education contracts, funds most inmate programs without costs to taxpayers, including welfare/indigent packs. According to the 2013 grand jury report, the IWF budget for fiscal year 2011-2012 was \$7.5 million, and the actual expenditures were \$7 million.²¹⁰ Salaries and benefits accounted for \$3.1 million, while \$500,000 was used to fund in custody services programs.²¹¹

California Penal Code 4025 requires the money and property deposited in the inmate welfare fund to be expended by the sheriff *primarily* for the benefit, education and welfare of the individuals confined

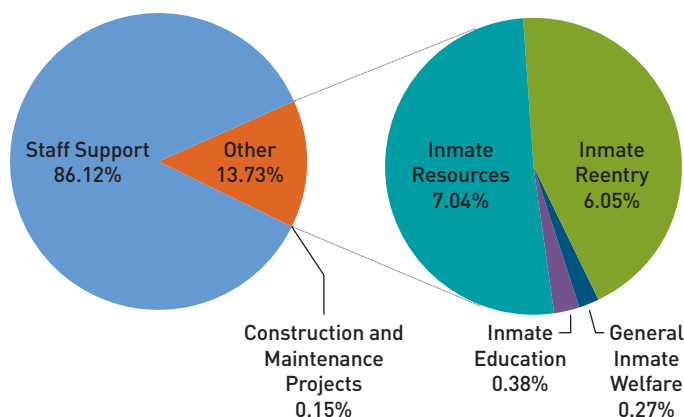
within the jail. Any funds that are *not needed* for the welfare of the incarcerated population may be expended for the maintenance of county jail facilities.

Through a preliminary fiscal analysis of total expenditures for the fiscal year ending June 30, 2015, it appears that services for incarcerated individuals may be underfunded (see Figure 23). In March 2017, the OC Board of Supervisors ended a contract with a jail kiosk operator amid concerns of overcharging. The company’s services included posting bail money and depositing funds electronically to individuals’ commissary accounts.²¹²

An expenditure report obtained from the OCSD Support Services Division revealed the following:

- Staff support, which constituted over 85%, included (a) personnel, salaries, and benefits and services, and (b) supplies, training and equipment.
- General inmate welfare, at 0.27%, included a hot water system.
- Inmate education, 0.38%, included services, supplies and equipment.
- Inmate resources, 7.04%, included (a) audiovisual (i.e., equipment purchase and maintenance); (b) recreation (i.e., athletic supplies and equipment and indoor games); and (c) library services (i.e., newspapers, books and magazines, and law library)
- Inmate reentry, 6.05%, included (a) services, supplies, training and equipment, and (b) Second Chance Act Adult Reentry Program Grant.
- Construction and maintenance projects, 0.15%, included commissary warehouse maintenance and improvements

FIGURE 23: Inmate Welfare Fund Expenditure Report (BSCC)



*Fiscal Year ending June 30, 2015; Total expenditures: \$4,049,667



PERSONAL ACCOUNTS

IN-CUSTODY

- › 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.

POST-RELEASE

- › Eric claims that he requested an indigent pack but never received it. He resorted to asking other inmates for general hygiene products like soap and deodorant.
- › Gina claims she was provided only with a bar of soap despite requesting a “fish kit” (indigent pack). She complained that other jails provide inmates with deodorant and shampoo.
- › Hector did not receive an indigent pack even though he needed one.
- › Michael claims that he did not receive an indigent pack.
- › Otis claims a deputy told him to put in a request for an indigent pack. Otis claims that he did but never received the pack.
- › Vernon claims that he had to ask other inmates for toothpaste and soap because he did not have money on his books and was denied an indigent pack.
- › Xavier claims “fish kits” are not provided in the OC jails. He claims that he has never received one.
- › Darrell claims that he did not receive an indigent pack. He said another inmate gave him a piece of bar soap to shower.

GRIEVANCES

- › “Khalil had money withdrawn from his account by commissary but did not make an order or receive the items. Confirmed by cashiers.” (Theo Lacy, 7/17/2012)
- › “Corey is grieving account balance discrepancy from commissary.” (Theo Lacy, 5/31/2012)
- › “Malcolm complained that Commissary Personnel withdrew eighty dollars from his account. Malcolm did not receive his commissary or his money placed back on his account.” (Theo Lacy, 2/9/2012)
- › “Israel stated he was missing eight (8) items from the commissary order he received on 8-3-11.” (James A. Musick, 8/5/2011)
- › “Austin claims he was charged for items he did not receive from Commissary.” (CMJ, 12/28/2011)
- › “Fidencio is unhappy with the commissary being late or not delivered at all.” (CMJ, 12/4/2011)
- › “Nestor says he ordered commissary and was charged for the order but he has not received the order.” (CMJ, 9/9/2012)
- › “Howard is grieving that his inmate account is being charged for welfare packs.” (CMJ, 9/8/2011)
- › “Sam claims his commissary account balance is incorrect.” (CMJ, 6/5/2012)
- › “Joe states he ordered commissary for 5/4/2013 and did not receive the order. He states his account was deducted for the 5/4/2013 order.” (CMJ, 5/21/2013)
- › “Ali claimed he submitted several message slips to Commissary about money being deducted from his commissary account that he did not authorize. On 4-3-2013, he was wrongly charged \$49.55 that he wants reimbursed.” (CMJ, 5/7/2013)
- › “Ivan is claiming that Commissary’s new pricing on commissary is price gouging, unethical, and monopolizing.” (CMJ, 3/6/2013)

FINDINGS AND ANALYSIS

- Several individuals reported issues with commissary, including discrepancies with their accounts, incomplete orders, and incorrect orders.

The main goal of Commissary Operations is to provide quality services and products to people who are incarcerated in the OC jail system. Personal accounts and grievances suggest this is not the case.

- Indigent packs/welfare kits are seldom provided to incarcerated individuals who are unable to supply themselves with essential personal care items.

OCSD policy in accordance with Title 15 regulations require that individuals who are held for over 24 hours who do not have money in their accounts are allowed to request a welfare kit (consisting of one toothbrush, one tube of toothpaste, one razor, one comb, two stamped envelopes, five pieces of writing paper and one pencil) once a week.²¹³ Several survey participants complained that they never received an indigent pack despite submitting requests.

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.

10. Communications (Phones, Mail and Visitation)

According to the Federal Communications Commission (FCC), contact between people who are incarcerated and their loved ones is associated with lower rates of recidivism.²¹⁴ High calling rates, however, have made contact between incarcerated individuals who are low-income and their family and friends unaffordable.

In the past, two Orange County supervisors raised serious concerns about the jail phone prices but ultimately shelved their opposition. The change of opinion came after they received maxed-out contributions from the prison and jail phone contractor, Global Tel-Link.²¹⁵ In 2012, Global Tel Link contributed \$2.49 million to the Orange County Inmate Welfare Fund, which was used primarily to pay salaries and benefits of employees.²¹⁶ In 2014, the county's jail phones generated about \$5.5 million in revenue. The money was divided between the Sheriff's Department and Global Tel-Link.²¹⁷ The OCSD received over \$3.4 million from the jail phone revenue, which again was used primarily to pay staff salaries, training and benefits.²¹⁸ In November of the same year, incarcerated individuals and their family members filed a class-action lawsuit against Orange County and three neighboring counties, declaring the prices for calls as "unfair and excessive."

Several survey participants complained of dropped calls and nonfunctioning telephones. Others reported issues with the way custody staff handle mail. Such complaints focused on delays with incoming and outgoing correspondence and the reading of confidential legal mail.



PERSONAL ACCOUNTS

IN-CUSTODY

- 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."
- 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.
- Linda claims that her outgoing mail is not reaching its destination and that incoming mail is being withheld by custody staff. She is concerned that her mail is being used for investigation purposes. She has submitted several complaints and received a response from Sergeant G, who stated, "The only way an inmate is entitled to their mail is if you can provide proof it arrived here." According to Linda, after pushing the issue she learned that OCS D Investigator HH of the Economic Crime Detail is "illegally seizing evidence by withholding her mail."
- Michelle claims that mail addressed to her was returned to the sender for an unknown reason.

According to Michelle, the sender resent the mail, but she has not received it. She reported that deputies give mail to random inmates and ask them to distribute it among the housing module. She also said, "Deputies threaten to not give us our mail if they decide we've messed up."

- 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.

POST-RELEASE

- Emilio claims that making calls was difficult. He said that instructions to get a PIN in order to make calls were not available.
- Karina claims the phone system is confusing. She claims that the county number available to her did not work.
- Patrick claims that phones are available only to inmates who have calling cards. He complained that even with a calling card he was ordered to hang up a call.
- Amanda claims that her mail was not delivered to its intended destination.
- Derek, claims he received his mail with delays of about four days. He was only able to track the delay of incoming mail.
- Yahir claims that deputies did not allow him to send or receive mail. He was not offered a reason why.

GRIEVANCES

- "Logan claims he is only getting five minute phone calls." (Theo Lacy, 6/25/2011)
- "Marshall alleges that the collect telephone service is malfunctioning. Calls are disconnected prior to being connected and the calls are billed as completed and the service disconnects users after approximately 15 minutes." (Theo Lacy, 7/10/2012)
- "Gregorio states he was not allowed to make legal calls to his attorney between 08-26-11 thru 08-31-11." (IRC, 9/2/2011)

- “Brody said he has not been receiving his two hour court ordered collect call since his arrival at the I.R.C.” (IRC, 5/21/2012)
- “Andy submitted grievance reference not receiving his court ordered non-collect phone calls because the phone was not working.” (IRC, 4/1/2012)
- “Mariana claims she is not receiving court ordered, non-collect phones calls after submitting message slips requesting the calls.” (IRC, 2/10/2012)
- “Jackson alleges that his mail is being held for a week prior to delivery and his mail is also being incorrectly delivered on a regular basis.” (Theo Lacy, 5/21/2012)
- “Genesis is complaining the inmate workers are tampering with her mail and her food. Genesis told the deputies about the problem but states they did nothing about it.” (IRC, 7/20/2012)
- “Esteban says there should be log kept for outgoing legal mail. He also says that Deputy Y is ‘molesting’ (sic) the jail procedures to obtain confidential legal mail.” (CMJ, 4/17/2012)
- “Jeremy is in part complaining he has not been receiving his mail.” (CMJ, 10/26/2011)
- “Micah complained about his mail being ‘arbitrarily held-up’ and not being sent out in a timely manner.” (CMJ, 9/21/2011)
- “Osmond claims staff denied his public visits the following dates: 5-31-13, 6-1-13, 6-2-13, 6-7-13 and 6-8-2013. During my interview with Osmond he claimed his mother came to the facility to visit him on 6-7-2013 and 6-8-2013 and was turned away...” (Theo Lacy, 6/15/2013)
- “Joaquin is complaining about not being allowed his visiting privileges.” (IRC, 9/13/2011)



FINDINGS AND ANALYSIS

- **Several people reported malfunctioning phones, including dropped calls, and poor sound and being denied their non-collect phone calls.**

According to the Board of State and Community Corrections, the facility administrator shall develop written policies and procedures that allow reasonable access to a phone beyond phone calls that are required by Section 851.5 of the Penal Code.²¹⁹ According to OCS policy, phones are available for individual use during dayroom hours at the IRC, CMJ, CWJ and Theo Lacy. At Musick, phones are available for use during outdoor recreation hours. According to department policy, in emergency or court-ordered situations, people who are incarcerated should be allowed to use the phones in their assigned housing locations.²²⁰

- **Many individuals reported that deputies read their legal mail and complained of delays with incoming and outgoing mail.**

According to Title 15 Regulations, deputies may only open legal mail in the presence of incarcerated individuals and can only be checked for contraband. A few individuals reported not receiving their mail at all.



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.

F. SPECIAL CASES/OTHER

1. Discipline

OCSD policy maintains that violation of department rules can result in the loss of privileges such as dayroom, recreation, phones and visits, and in some cases may warrant placement into isolation. Incarcerated individuals complained that conditions calling for disciplinary actions are imposed arbitrarily by deputies. Survey responses suggest that deputies do not adhere to OCSD policies and procedures but rather subjectively determine what actions ought to result in a loss of privileges.

PERSONAL ACCOUNTS

IN-CUSTODY

- 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.”
- Dolores claims that during a cell search, deputies found an apple on her bunk. She was ordered to work from 12 a.m. to 2 a.m. in spring 2016. Dolores informed custody staff that she is disabled and cannot use her right wrist. She claims that custody staff disregarded her disability and forced her to work. Dolores maintains that she injured her wrist and believes that she will need surgery after she is released.

- Joseph claims that he was written up for using the medical emergency button in January 2016.
- Kyle claims a deputy “tore up” his cell and thrashed his commissary after he asked a question that the deputy did not appear to like. Kyle submitted a complaint but says it was ignored.
- Lily claims everyone in her housing module was denied their mail for three days because a girl flushed the toilet past the time deputies allow inmates to do so. Lily claims that deputies do not like any noise.
- Michelle was written up for having excess soap and an orange. She claims that an inmate with medical problems was forced to work two hours at night folding underwear for a minor violation.
- 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.”
- Stephanie claims she was fired from her in-custody job for washing her hands while the deputies conducted a count. She claims that she was moved to a different tank with 20 bunks and 40 women afterward. There, Stephanie was assigned the bunk closest to the restroom. She maintains that custody staff was advised by a written notice to not move her from that bunk.

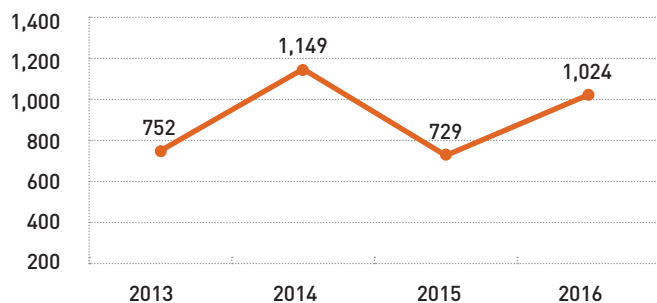
POST-RELEASE

- Aliyah claims deputies sometimes punish everyone for the behavior of individual people. She claims that this results in fights.
- Darrell claims that he lost his food during meal time after saying “bless you” to the person handing out the food. According to Darrell, the deputy on duty ordered him to put his tray to the side. He was not provided with a sack lunch.
- Pedro said he began to feel unsafe when he witnessed deputies attempting to get inmates into trouble. He said, “It’s as if they found it entertaining.”

GRIEVANCES

- “Roman claims the punishment he received for his violation was excessive and is based on discrimination toward him due to his race. Roman was given 7 days in disciplinary isolation for his violation and his cellmate did not receive isolation time.” (Theo Lacy, 10/14/2012)
- “Martin is grieving the number of days given to him in Disciplinary Isolation.” (Theo Lacy, 9/15/2011)
- “Efren claims there is no inmate orientation to let them know what is against the rules.” (Theo Lacy, 11/12/2012)
- “Jacey is claiming one of the CSA’s is treating him disrespectfully and making up violations so he will be wrongfully punished.” (IRC, 5/24/2013)
- “Andre is alleging that Sgt. R and a Lt. have instructed Deputy Y to focus on he and Drew and that he is to write them up every day until they ‘break.’” (CMJ, 2/18/2013)
- “Byron wants to grieve that the deputy falsified a report. Major write up.” (CMJ, 5/22/2012)
- “Dillon grieved the fact he did not receive a copy of the report narrative related to a major rule violation.” (CMJ, 3/29/2012)

FIGURE 24: Total Grievances by Year (OCSD)



Incarcerated individuals accused of breaking jail rules are placed in solitary confinement without access to visits, recreation, telephones, etc.

FINDINGS AND ANALYSIS

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

According to the 2012-2013 grand jury, common punishments for minor offenses involve revoking commissary privileges, loss of good time and denying visitation.²²¹ Incarcerated individuals accused of breaking jail rules are placed in solitary confinement without access to visits, recreation, telephones, etc. Most people reported feeling unsafe and threatened inside the OC jail system due to arbitrary rules and discipline enforced by deputies even in the absence of infractions or violations.

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.

2. Grievance/Complaint Process

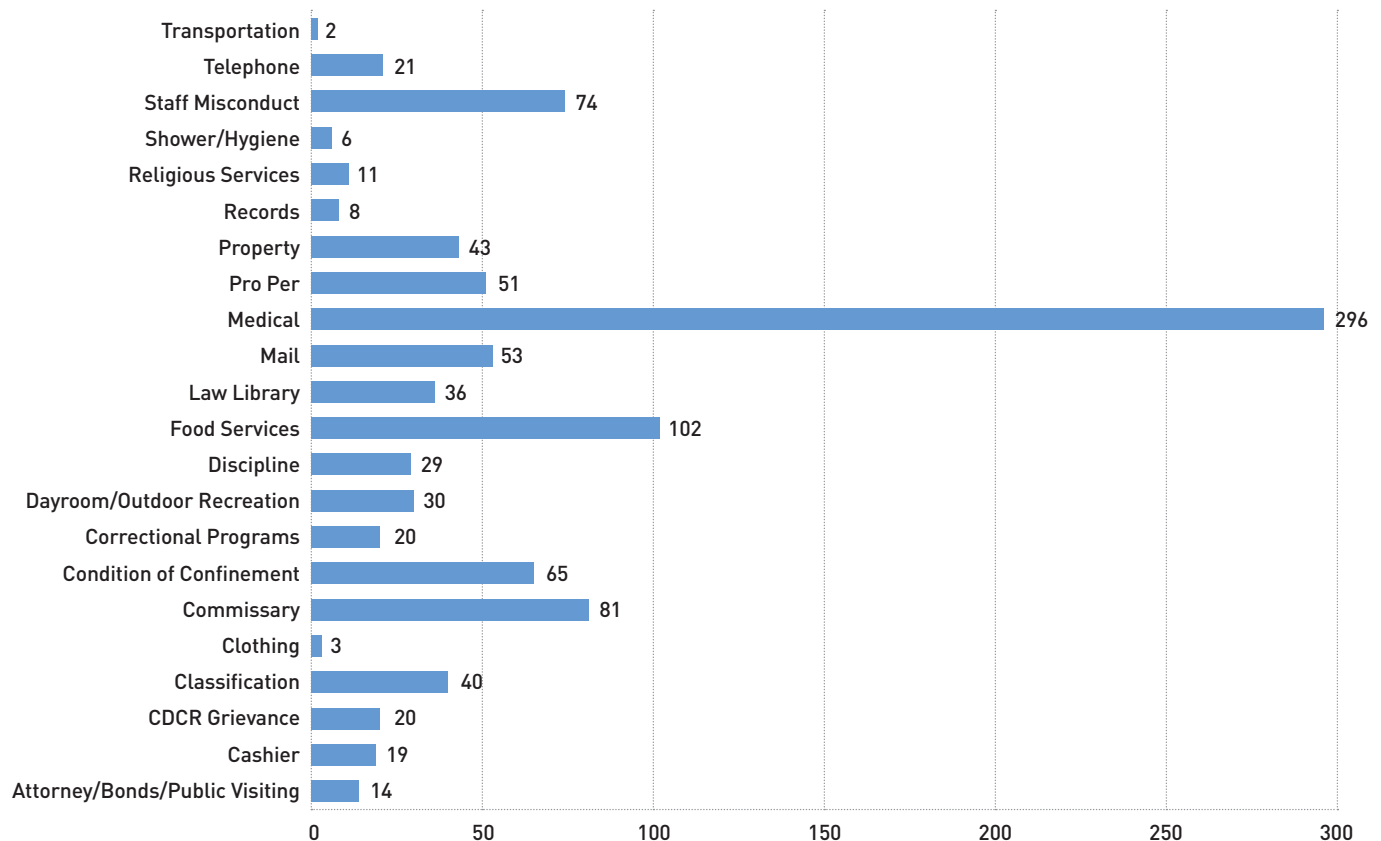
The grievance process is one of the most significant tools for individuals who are incarcerated. It is intended to provide people with an avenue to file complaints regarding jail conditions as well as potential violations of their rights. People who are incarcerated may file grievances related to any condition of confinement, including but not limited to medical care; classification actions; program participation; telephone, mail and visiting procedures; food, clothing and bedding issues; disability discrimination; and staff misconduct.

According to the Office of Independent Review, established by the Orange County Board of Supervisors in 2008, grievance forms are placed in central locations throughout the jail facilities and are protected from interference by locked boxes.²²² According to department policy, sergeants are responsible for reviewing all submitted grievances and determining the appropriate level at which to handle them. This may include delegation to a

deputy, assignment to another sergeant, forwarding to the facility administrative lieutenant or handling the grievance personally.²²³ Currently, the chain of command for the grievance process is as follows: deputy, sergeant, facility administrative lieutenant and division commander.²²⁴

Unfortunately, most people are reluctant to raise complaints for fear of retaliation from custody staff. Others simply do not trust the process and regard it as more of a formality. Such individuals point to a lack of response to issues raised, while others disclose intimidation tactics employed by staff. According to information obtained via a Public Record Acts request, the total number of grievances filed between 2013 and 2016 was 3,654.²²⁵ Figure 24 illustrates the total number of grievances reported by the department annually from 2013 to 2016. In 2016, the top three types of grievances filed concerned medical (296), food services (102) and commissary (81) (see Figure 25).

FIGURE 25: Grievance Type, 2016 (OCSD)



Despite reported changes in 2014, including recording grievances to identify patterns that needed to be addressed and submitting grievance slips in locked boxes available only to supervisors,²²⁶ additional changes are required. Several survey participants reported grave issues with the grievance process.



PERSONAL ACCOUNTS

IN-CUSTODY

- Anthony claims that he has submitted several grievances. He maintains that deputies do not always provide him with copies and that responses to grievances often do not have a log number.
- 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.
- James claims complaint forms are inadequate and have little space to detail problems. He was directed by a sergeant to cite only one issue per complaint form. After he requested additional forms, the sergeant warned him that additional complaints may be considered an abuse of the grievance system and could result in a disciplinary violation. He also complained that appeals are rejected when additional pages are attached.
- Janet claims that she submitted a grievance at the end of 2016. Janet disclosed that she wore hair ties on her pants because they fit her loose. A deputy directed her to remove the hair ties, to which Janet complied. Even though she followed the deputy’s directive, Janet claims, the deputy continued to press the issue, exclaiming, “Don’t you know how to follow the damn rules?” Janet responded, “I got it.” According to Janet, the deputy then claimed that she was giving her attitude and began to search her cell. Janet shared that her personal belongings were tossed and scattered on the floor. She requested a grievance slip, and when she attempted to submit it, a male deputy asked her to hand the slip to him. The deputy told Janet that he would place the slip into the locked box for her. She followed the deputy’s directive and handed the grievance over. She claims that she stood in place waiting for the deputy to place it in the box. The deputy told her to “go to your cell and lock it down.” She expressed that she wanted to make sure the slip was submitted. At this point, Janet could see other deputies walking toward them. Fearing trouble, she followed his orders. As she walked back to her cell, she claims, she turned and saw the deputy reading the grievance. Janet never received a response to the grievance and believes that the deputy discarded it.
- Lily claims that grievance forms are “too hard and dangerous to get.” According to Lily, inmates must verbally request slips from deputies. She claims that she once witnessed a deputy yell at an inmate for requesting a grievance. She described the experience as intimidating and threatening and complained that the process “protects deputies.”
- Michelle claims an inmate in her housing module was moved to a two-person cell the night she submitted a grievance about lost property. Michelle disclosed that she is afraid to submit grievances because of such retaliation.
- Norma claims that she submitted a grievance when a deputy slammed her face against the wall. She received a response indicating that the incident was being investigated. She complained that obtaining the grievance form was difficult because she had to ask a deputy for it and was asked what she wanted it for. She said, “It’s intimidating because you never know how the deputy will react.”
- Stephanie claims she had to ask a deputy for a grievance slip to complain about the conditions in the kitchen. She claims that although the complaint was not about a specific deputy, the experience of having to ask the staff for a slip was “uncomfortable and unsafe.” She says that this is the reason most people do not submit complaints. She said, “People are discouraged by the process; they’re afraid. Wouldn’t you be?”

- Theresa claims that she submitted several grievances about deputies and inmates “roughing up people.” She maintains she has not received a response.
- Norma reported feeling unsafe in jail. She disclosed that she is treated unfairly and stated, “If I speak up I will have to worry about retaliation and physical abuse ... my cell getting tossed, pictures getting ripped and legal paper thrown.”

POST-RELEASE

- 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.”
- Amanda submitted two grievances while in custody. She was not provided with a copy of either complaint and never received a response.
- Carol claims that she did not feel safe submitting a grievance although she wanted to. She said, “They make it so hard that I think the signs are only posted for show.”
- Karina claims that she did not submit any complaints because she knew she would be in custody for only a few days. She said, “I knew I was going to be released soon, so I didn’t want to draw attention to myself.” According to Karina, a lot of people are afraid to engage in the grievance process. She said, “It can make you a target overnight.”
- Omar said he did not submit a complaint though he wanted to because, as he said, “There’s a clear understanding that if you complain, you will be retaliated against.”
- Samuel claims that he did not submit a grievance because he was “too scared to make a move.”
- Oscar claims he did not submit a grievance because of fear. He claims that he has witnessed deputies harass inmates for doing so.
- Victor claims that he witnessed a deputy mess with another inmate’s belongings after the inmate submitted a complaint. According to Victor, the inmate’s letters and commissary were thrown around by the deputy.
- Wesley claims that he did not submit any grievances about problems he encountered while in custody because he does not believe it would change anything. He said, “I don’t think it leads to any change. If anything, it brings more problems.”
- Walter claims that he does not have faith in the grievance system. He said, “I don’t think they take any of this seriously ... best-case scenario I won’t be retaliated against.”
- Yousef claims that he did not submit a grievance because he believes that the process is a “joke.” He said, “Even though we have a right to complain, I rather keep my mouth shut and not get roughed up.”

GRIEVANCES

- “Owen claims he was unfairly moved to a single-man cell by a deputy as reprisal for submitting several grievances in the past.” (Theo Lacy, 10/26/2011)
- “Scott alleges he was transferred to TLF in retaliation for a grievance filed at CJX.” (Theo Lacy, 7/23/2011)
- “Salvador filed a grievance reference not receiving additional copies of a grievance from 12-6-2011. Salvador needs the copies to file a lawsuit to change his housing location.” (Theo Lacy, 12/25/2011)
- “Carson claims he was given a jail write up in retaliation for submitting a grievance.” (IRC, 4/12/2012)
- “Tristan wishes to grieve the Grievance Procedure and posting of jail rules in the dayrooms.” (IRC, 6/15/2011)
- “Moses states he was not given a copy of two of his grievances given to Sgt. Y earlier in the day.” (IRC, 8/13/2011)
- “Donald is grieving jail staff refusal to respond to grievances within a reasonable time.” (CMJ, 3/22/2012)
- “Shane claims his housing was moved in retaliation for filing a grievance.” (CMJ, 3/15/2012)



FINDINGS AND ANALYSIS

- **Many individuals are reluctant to raise complaints about conditions of confinement or custody misconduct for fear of retaliation from custody staff.**

Other incarcerated individuals reported that jail staff regularly discourage people from submitting grievances, and in some cases threaten them to not do so. There appears to be an understanding among individuals who are incarcerated that submitting a grievance will result in retaliation and trouble. Some people who engaged in the process despite legitimate fear disclosed that they, in fact, did face retaliation. Examples of such retaliation included being fired from their trustee positions; constant verbal harassment; unnecessary and excessive use of force; confiscation of personal belongings, including commissary, mail and pictures of loved ones; and loss of privileges. Such retaliation violates department policy.²²⁷ Department policy prohibits staff from harassing, disciplining, punishing or retaliating against an individual who uses or participates in the grievance process.²²⁸ It is unconscionable that deputies intimidate, harass and harm incarcerated individuals who attempt to engage in the only avenue available to them to raise concerns. Intimidation by deputies deters and discourages individuals from seeking redress. Hence, department figures fail to include all possible complaints.

- **Custody staff neglect to provide individuals with grievance forms in a timely and professional manner.**

According to department policy, grievance forms should be available in all housing locations.²²⁹ While some individuals claimed that forms are not readily available, others complained that deputies blatantly denied them access to forms. Such complaints suggest that the OCSD is in violation of its own policy. A few individuals shared that they believe that completed forms are sometimes intercepted by deputies and disposed of. Others who were able to submit

grievances reported that they never received responses and that the issues at hand were never attended to. Several survey respondents said, “Nothing ever gets done.”



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.

3. American with Disabilities Act (ADA) Accommodations

In 2009, a court held that continuing ADA violations and inadequate access to exercise and religious services for people who are incarcerated required ongoing court oversight of the Orange County jails.²³⁰ ADA violations concerned structural barriers for disabled individuals. Inspection of the areas used for housing such disabled individuals also revealed inadequate toilets, sinks, showers, hot water dispensers, telephones and water fountains.²³¹

PERSONAL ACCOUNTS

IN-CUSTODY

None available at this time.

POST-RELEASE

- David claims that he was denied his cane despite difficulty walking.
- Henry witnessed an incarcerated person with a physical disability be denied accommodations. Henry described the person as an elderly man who limped when walking. Henry claims that the man was denied his cane and a wheelchair.
- Salvador claims that his cane, which he uses as an aid when walking, was confiscated.
- Warren claims that he is disabled and requires a cane to walk with. While he was in custody, Warren's cane was taken away.

GRIEVANCES

- "Giovanni wrote a letter to Court Appointed ADA monitor alleging ADA violations, citing rude "unprofessional behavior" "harassment" by medical and non-sworn staff and an inability to clean and refusal by CST to clean shower." (Theo Lacy, 5/26/2012)
- "Levi states he is an ADA patient and is not receiving the proper care. He states he has extreme pain in his feet and legs and needs proper pain management." (Theo Lacy, 7/4/2013)
- "Armando claims he is classified as a 'state ADA inmate' and as such should not be in regular housing. He claims he has not been seen by a doctor to review his ADA status." (Theo Lacy, 7/3/2013)

- "Julio claims he is an ADA inmate who is not getting the proper medical care he is entitled to. He is claiming he has back pain. He is also claiming the medical staff is rude and show blatant disregard for his medical condition." (Theo Lacy, 1/28/2013)
- "Leonardo states he's ADA and requires a cane for mobility. States he had one and was taken away from him." (IRC, 7/19/2012)
- "Enrique claims to be ADA and that his hearing aid was confiscated from him and not returned." (IRC, 4/15/2013)
- "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." (CMJ, 2/6/2013)
- "Landen grieved his current housing location is not appropriate for his status as an ADA inmate." (CMJ, 7/6/2012)



FINDINGS AND ANALYSIS

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

The Americans with Disabilities Act provides in general that no disabled individual shall be excluded from participation in or denied benefits of services, programs or activities of a public entity based upon the disability.²³² Previously an appellate court held that inadequate physical facilities of the Orange County jail system and reduced programs for disabled pretrial detainees violated the ADA.²³³ Other reports highlight examples of barriers that illegally hinder incarcerated individuals who are mobility-impaired and dexterity-impaired.²³⁴ Such barriers impeded and continue to impede people who are disabled from programs and services available to others at the jails who are abled.



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.

4. Religious Services

The Religious Land Use and Institutionalized Persons Act (RLUIPA) is a civil rights law that protects the religious freedom of people confined to jails, prisons, and other institutions.²³⁵ Courts have found that a wide range of practices constitute religious exercise under RLUIPA, including attending religious services, wearing head coverings, adhering to certain dietary restrictions, and receiving certain religious materials. Previous accounts of inadequate access to religious services in the OC jail system resulted in court oversight of the jails.²³⁶ Inadequate access involved deputies denying people in administrative segregation access to religious activities available to people in the general population, such as group services and individual visits to the chapel.²³⁷ In 2009, the 9th U.S. Circuit Court of Appeals established that Orange County's claim of "security concerns" was not sufficient to block all access to group religious programs for individuals in administrative segregation.²³⁸

The Religious Land Use and Institutionalized Persons Act (RLUIPA) is a civil rights law that protects the religious freedom of people confined to jails, prisons, and other institutions.

PERSONAL ACCOUNTS

IN-CUSTODY

- 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.

POST-RELEASE

None available at this time.

GRIEVANCES

- "Darwin claims he has requested a Kosher Religious Diet for the last 45 days and has not received a reply from Food Services." (Theo Lacy, 11/9/2012)
- "Nathan has requested to see the chaplain and has not received any response." (Theo Lacy, 9/29/2011)
- "Ethan is grieving not being able to wear Torah specified garments during his prayers." (IRC, 9/12/2012)
- "Dylan has not been able to attend religious services." (IRC, 7/20/2011)
- "Caleb wants to maintain a religious diet after Ramadan. Claims to have submitted prior requests with no reply." (Theo Lacy, 9/8/2011)
- "Javier is complaining about the quantity of food in his religious Special Diet." (Theo Lacy, 9/4/2012)
- "Thomas is requesting a Halal diet, and wishes to observe Ramadan with special diet." (Theo Lacy, 7/8/2013)
- "Mateo is grieving Food Services inability to provide a proper Kosher meal and wants to be transferred back to the CJX." (Theo Lacy, 7/27/2011)
- "Sebastian wants a religious Halal diet because he is a practicing Muslim." (Theo Lacy, 6/2/2013)
- "Abdiel stated he has submitted 6 message slips requesting a kosher meal due to him being Jewish. He has not received a response back." (Theo Lacy, 3/20/2012)



FINDINGS AND ANALYSIS

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

According to the department, its Correctional Programs Unit offers religious services in several denominations. Individual pastoral counseling is also supposed to be available upon request. However, incarcerated individuals' accounts of the denial of religious diets and lack of access to services suggest the department may be in violation of its own policies and RLUIPA. The department should not impose substantial burdens on the religious exercise of individuals who are incarcerated.



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.

5. Propria Persona Status

The Sixth Amendment guarantees that a defendant in a criminal trial has a right of self-representation and that they may proceed to defend themselves without counsel when they “voluntarily and intelligently” opt to do so.²³⁹ A pro per individual is “one who represents him/herself in a legal proceeding.” Propria persona status is granted to individuals who opt to advocate on their own behalf before a court instead of being represented by an attorney.

A grave concern in relation to pro per status is the lack of physical access to a legal search area. Rather, individuals are required to submit written requests. Pro per individuals in the OC jail system do not have physical access to a law library as is customary in neighboring counties. Law library access is crucial for individuals who are representing themselves in legal proceedings.

According to a Public Records Act request submitted to the OCSD, the department does not have records responsive to the number of individuals who have requested pro per status in the years 2010 to 2016, nor to the number of individuals who have been granted pro per status in those years.



PERSONAL ACCOUNTS

IN-CUSTODY

- 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.
- Leonard is a pro per inmate. He claims that his cell has been “tossed” several times and said that deputies have thrown his legal documents

“all over the floor.” He also shared that on two occasions certain documents “went missing.”

- Steve claims that he submitted a request for information to prepare for his upcoming court hearing. According to Steve, a month has gone by and he has not received a response. Steve said he plans to request a public defender at his next court date. He said, “I can’t do anything if I don’t have what I need.”

POST-RELEASE

None available at this time.

GRIEVANCES

- “Lorenzo was granted Pro-Per status on Sept. 10. He has requested legal assistance but has not received a reply. He is concerned his Pro-Per will be compromised if he does not receive the assistance that he has requested.” (CMJ, 9/25/2012)
- “Amir writes that he had tried to use the law library all day but was refused access.” (Theo Lacy, 8/25/2011)
- “Cassidy did not receive his pro per phone call even though he submitted an inmate message slip in the morning.” (IRC, 11/2/2011)
- “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.” (IRC, 5/19/2012)
- “Ezekiel was a pro per at Theo Lacy and was having trouble getting information he requested from law library. Now he is housed at the IRC (pro per) and he is still having trouble getting all information requested from the law library.” (IRC, 4/22/2013)
- “Forest stated he is a pro per inmate and his property was improperly searched. According to him, he is missing some legal documents and commissary items.” (IRC, 4/10/2012)
- “Gus stated he did not receive his 2 hours access to collected phones per his court order between the hours of 0600 hours and 2300 hours.” (IRC, 3/27/2012)

- “Tyson states Deputy Y would not give him an inmate message slip for the law library.” (CMJ, 4/16/2012)
- “Octavio claims his pro per mail is being tampered with by the mail room, saying his mail is important in fighting his case.” (CMJ, 12/3/2011)
- “Karl is a Pro Per. He is complaining that the Law Library process is ‘inadequate and does not provide meaningful access to the courts.’ Karl believes his limitations of accessing materials from the Law Library has had a direct negative impact on...” (CMJ, 2/29/2012)



FINDINGS AND ANALYSIS

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

Pro per individuals reported lengthy delays in accessing privileges that are supposed to be afforded to them, including access to legal information and daily visits with their court-appointed investigator or other court-appointed legal assistant. Many individuals reported instances wherein requests for legal documents were not responded to or were responded to several weeks to months later. Feeling underprepared, one person has had to postpone his case on numerous occasions, while another disclosed that he would opt to be assigned a public defender despite having little faith and trust in them.



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.

V. LAWSUITS

The OCSD has failed to reform itself despite past litigation and several recommendations issued by the U.S. Department of Justice. Department officials have a history of refusing to make changes despite several claims and scrutiny. Rather than taking remedial measures to improve the OC jail system, the OCSD has decided time and time again to settle cases or argue them before a jury.

In 1975, pretrial detainees in the Orange County jail system filed a lawsuit (*Stewart v. Gates*) in the U.S. District Court for the Central District of California, challenging the conditions of their confinement. In 1978, the District Court found unconstitutional conditions of confinement at the jail and issued injunctive relief, ordering that reforms be implemented in several areas, including telephone access, visitation, law library access, mail, religious exercise, administrative segregation, meals and sleeping accommodations. Despite issues regarding the OCSD's compliance with the judgment,²⁴⁰ in 2014 the court terminated the ongoing order and injunctive relief, finding that the injunction was no longer necessary.²⁴¹ There continues to be disagreement about the termination of some of the reform orders.

FIGURE 26: Litigated Files, 2010 to 2016 (OC)

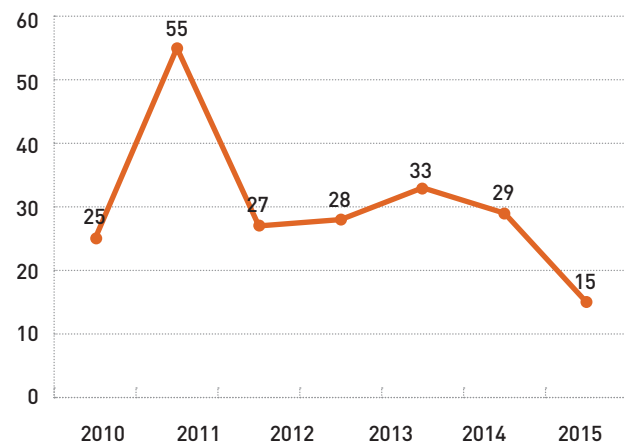


FIGURE 27: Damages Amount, 2010 to 2016 (OC)

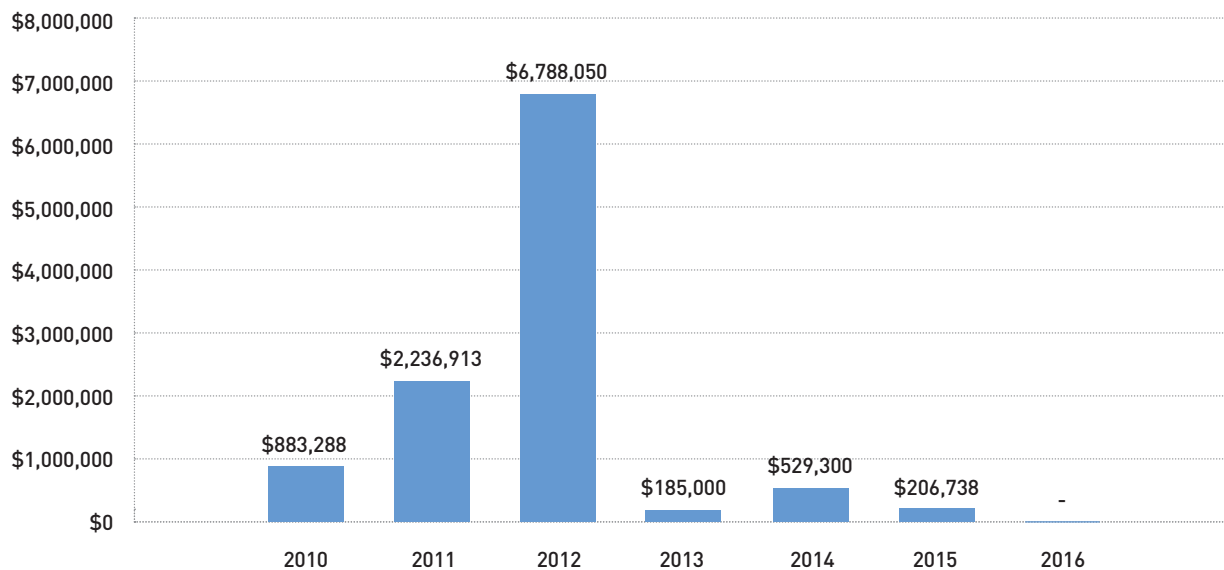
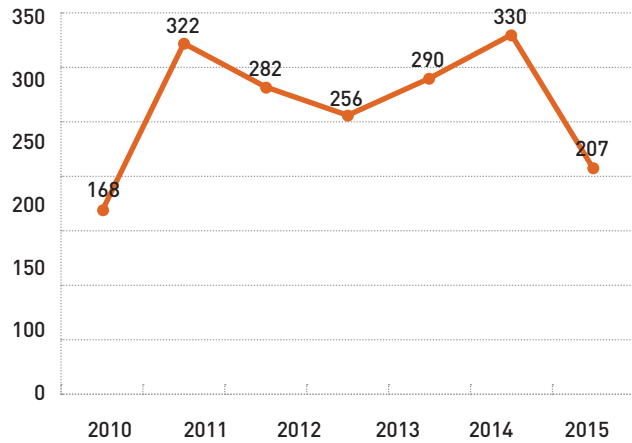


FIGURE 28: Settled Claims, 2010 to 2016 (OC)



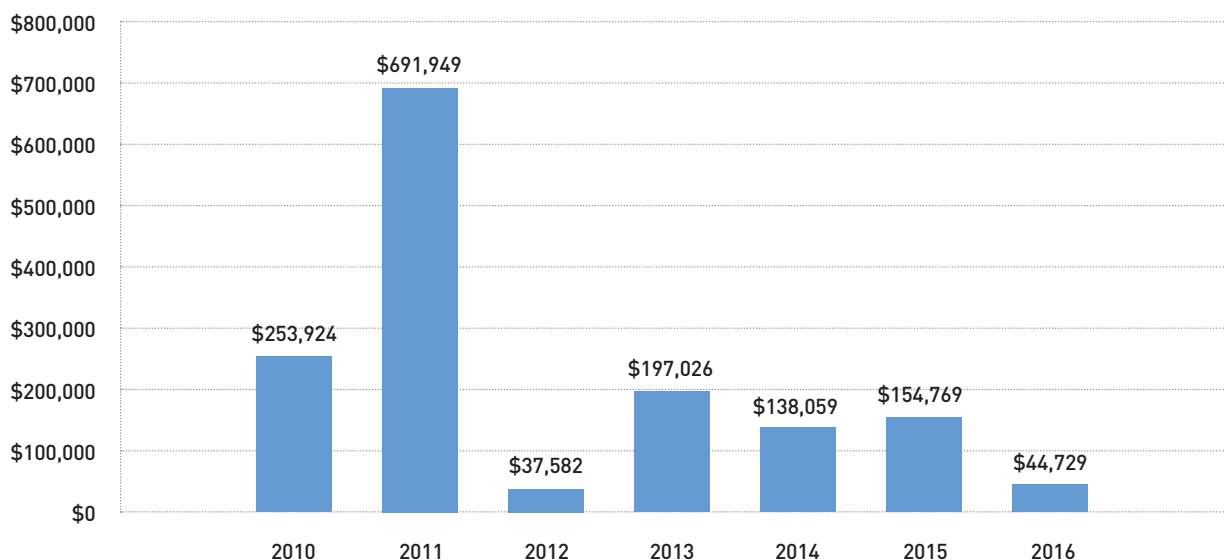
Between 1997 and March 2008, the County of Orange paid a total of \$2.5 million to settle 47 claims of injuries or abuse stemming from Orange County Sheriff’s Department jails.²⁴² From January 2010 to May 2016, 212 claims filed involving the OCSD were litigated (see Figure 26). This is not to suggest that there were 212 lawsuits; rather, records showed 212 files dealing with lawsuits during that time. For example, if 20 people sued the OCSD, that would represent one lawsuit but 20 records in the system. The total damages paid from lawsuits within the time frame was almost \$11 million (see Figure 27). From January 2010 to August 2016, the county settled

1,855 claims for the OCSD in the amount of more than \$1.5 million (see Figure 28 and 29).²⁴³

Several cases suggest a pattern of misconduct by jail deputies and inadequate conditions of confinement. Settlements and lawsuits reveal that county taxpayers pay the price for the department’s inaction.

- **Jason Gomez:** Gomez died following a weeklong coma after being shocked with a Taser by deputies at the IRC in 2008. Having gone five days without his medication for a psychiatric condition, Gomez was placed in the jail’s psychiatric ward. While there, he fractured a nurse’s arm.²⁴⁴ After engaging in a scuffle with deputies, Gomez was restrained and handcuffed on the floor outside his cell. He was placed in leg irons, put in a wheelchair and fitted with a spit mask.²⁴⁵ Deputies placed Gomez in a physical position that prohibited him from breathing. According to an independent autopsy paid for by Gomez’s family, he died as a result of direct injury to the head. The county will pay Gomez’s father \$2.1 million to settle the lawsuit.²⁴⁶
- **Gilbert Garcia:** Garcia died of head injuries inflicted by deputies in May 1998, after a scuffle on a jail cell floor in the IRC. According to coroner officials, Garcia died of internal bleeding caused by a fractured skull.²⁴⁷ An autopsy found that along with his fractured skull, three of Garcia’s ribs were broken. The county paid Garcia’s family \$650,000 to settle the lawsuit.

FIGURE 29: Settlement Amounts, 2010 to 2016 (OC)



- **John Chamberlain:** At Chamberlain’s request, his public defender contacted the OCSD and asked that he be placed in protective custody given that he feared for his life.²⁴⁸ Soon after, Chamberlain was beaten to death by inmates at Theo Lacy after a deputy misidentified him as a child molester to the shot-caller in the Woods jail group and sanctioned that he be “taxed.” The shot-caller falsely labeled Chamberlain a child molester to the inmates in the jail’s F West Barracks.²⁴⁹ About 20 inmates tortured, sodomized and beat Chamberlain while deputies in the nearby deputies’ station watched TV, sent text messages and failed to perform required jail walk-throughs.²⁵⁰ Chamberlain was dragged to a blind spot in the unit where he was severely assaulted.²⁵¹ According to the coroner, Chamberlain suffered 43 displaced rib fractures. The county paid Chamberlain’s father \$600,000 to settle his lawsuit.
- **Ryan Gene Epperson:** Epperson was beaten by deputies on March 14, 2002, after asking for toilet paper. According to the lawsuit, deputies kicked and punched Epperson. He was left with cuts, bruises and broken bones.²⁵² The county paid Epperson \$45,000 to settle his lawsuit.
- **German Torres:** Torres was beaten in March 2002 after trying to stop deputies from beating inmate Ryan Epperson. Torres yelled at deputies to stop hitting Epperson. Subsequently, Torres was taken out of his cell and beaten as well.²⁵³ The county paid Torres \$75,000 to settle his lawsuit.
- **Joshua Wilson:** Deputies sprayed Wilson with pepper spray while he was handcuffed and stunned him with a Taser gun in September 2005. While still handcuffed, Wilson was punched and kicked by deputies. He suffered a fractured nose, ripped lip, busted eye socket and ribs, and bruised leg and shoulder.²⁵⁴ The county paid Wilson \$49,999 to settle his lawsuit.
- **Jorge Soto:** Soto was beaten by deputies after being booked into the jail. He suffered permanent injuries. The county paid Soto \$49,999 to settle his lawsuit.²⁵⁵
- **John Doe:** A transgender inmate, who declined to reveal his identity in court records and will be referred to as John Doe, suffered severe bleeding and lost more than 25 pounds after deputies refused to administer prescribed testosterone shots in October 2004. Deputies refused to give Doe court-ordered medical treatment despite being informed by Doe’s primary care physician that failure to administer regular injections would result in negative health consequences.²⁵⁶ Instead, jailers harassed Doe. The county paid Doe \$49,000 to settle his lawsuit.
- **Robert Carter:** Carter’s case went to trial. A jury awarded him \$177,000 for inadequate medical care in 2003.²⁵⁷
- **Greg Hall:** After Hall complained about the tightness of his handcuffs, five deputies dragged him down a corridor, shoved his face into a cell door frame, threw him to the floor, punched him, kicked his ribs, stomped on his back and legs, bent and twisted his arms and wrists, and repeatedly slammed his face into the concrete. During the beating, Hall defecated in his pants. He was handcuffed, hooded and left to sit in his own feces for 12 hours. Hall left the jail with a concussion, broken ribs, a cut in his leg, a bruised eye, broken veins in his feet, a shattered front tooth, lacerations and bruises over his body, contusions to his knee, neck pain, a fractured right wrist and nerve damage to his left hand.²⁵⁸ His civil case went to court in October 2007. The outcome of the case is unknown.
- **Leonard Mendez:** Mendez was assaulted by jail staff while being booked into the county’s IRC in 1997. His attorney, Jonathan Slipp, said that Mendez was beaten up by deputies after he told jailers he was worried that they would lose his jacket. Mendez was punched and kicked repeatedly and suffered bruises. The county paid Mendez \$95,000 to settle his lawsuit.²⁵⁹
- **Edward Hadley:** Hadley was attacked by other inmates at the behest of deputies. Hadley alleges that deputies took him out of his jail cell on April 19, 2005, and ordered other inmates to beat him up for making “smart” remarks. Inmates beat Hadley, who suffered broken ribs. The county paid Hadley \$17,500 to settle his lawsuit.²⁶⁰
- **Roman Washington:** Washington was beaten and tasered by deputies at the CMJ after he refused to answer their questions and asked to speak with his lawyer. A deputy then ordered him to

A code of silence and cover-ups embedded in jail practices has obstructed transparency and accountability.



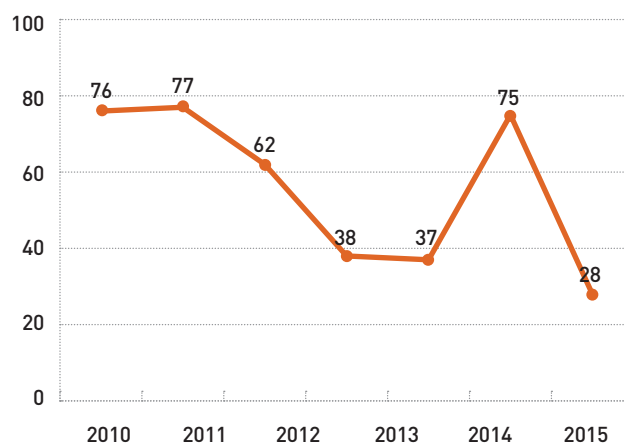
stand up and turn around. Washington said he complied, but then deputies pounded him and shocked him. He received seven stitches. The county paid Washington \$15,000 to settle his lawsuit.²⁶¹

- **Matthew Ryan Fleuret:** Fleuret sued the OCSD after alleging that deputies shocked him twice with a Taser while he was strapped to a restraining chair in March 2006. The incident was caught on videotape.²⁶² A jail video showed Fleuret being placed in a holding cell, then being held down by at least five deputies.²⁶³ Over a period of about 13 minutes, Fleuret's arms were pulled back while he was shocked with a Taser 11 times. The county paid Fleuret \$750,000 to settle the suit in March 2010.²⁶⁴
- **Liza Munoz:** Munoz sued the OCSD after deputies stunned her with a Taser while she was being held down on the floor in September 2004. A jail videotape shows a deputy threatening Munoz with a Taser.²⁶⁵ The video shows her being restrained by deputies and screaming. Munoz's arms were pulled high above her back, and she was subdued before the Taser was applied. Munoz was awarded \$25,000 by a federal jury.²⁶⁶

- **Michael Lass:** Lass died in October 2007 after deputies stunned him with a Taser while he was being restrained inside the jail.²⁶⁷ His father filed a wrongful-death claim against the county.
- **Blaine Bowker:** Bowker filed a lawsuit alleging that a deputy kicked and punched him.²⁶⁸
- **David A. Elias:** Jail staff negligently failed to properly diagnose and treat Elias' anemia.²⁶⁹ He was paid \$65,000 in 1995 to settle a suit.

Despite evidence of abuse and misconduct for several decades, no OCSD sheriff's deputy has been charged in connection with an attack or death inside the OC jail system.²⁷⁰ Figure 30 illustrates the number of custody staff disciplined for misconduct from 2010 to 2016. In 2000, two reporters revealed that four deputies had taken a 20-year-old individual to an isolated area of the jail in December 1999 and crushed his testicles.²⁷¹ Although prosecutors agreed that the person had been tortured and his rights violated, silence among jail staff thwarted the filing of charges. A code of silence and cover-ups embedded in jail practices has obstructed transparency and accountability.

FIGURE 30: Custody Staff Disciplined for Misconduct (OCSD)



VI. KEY PLAYERS AND OVERSIGHT

It is the responsibility of the Orange County Sheriff’s Department to mitigate and fix systemic or institutional failures that lead to any and all misconduct. In an effort to protect individual careers and appease the special interests of individuals with political power, various entities in Orange County have turned a blind eye to deputy abuse and misconduct.

In the midst of the informant scandal, several concerns about potential conflict of interests relative to OCSD oversight prevail. Orange County is one of the few non-rural counties that combine the sheriff’s and coroner’s offices. While the Office of the District Attorney and the Orange County grand jury look into allegations of abuse, currently the Sheriff’s Department is tasked with investigating itself. Not surprising, most cases of deputy misconduct or abuse never get to the district attorney or grand jury. The need for oversight that is neutral and objective is profound. Establishing an impartial oversight body can restore the public’s trust in the Sheriff’s Department, and such a body could thoroughly investigate and report allegations of transgressions or abuses of power among OCSD deputies and decrease the number of lawsuits.

After news of the jailhouse informant scandal, Sheriff Hutchens requested the addition of a constitutional policing advisor. The position was approved by the OC Board of Supervisors in March 2016.²⁷² Mary Izadi, a former deputy district attorney for San Bernardino County, was selected to fill the position in August 2016 by an outside panel of constitutional policing experts.²⁷³ Izadi is responsible for advising Hutchens on best practices, policies and procedures; monitoring internal personnel investigations and disciplinary matters; reviewing in-custody deaths and deputy-involved shootings; and performing legal research and analysis concerning law enforcement and custody operations.²⁷⁴

ORANGE COUNTY BOARD OF SUPERVISORS

Despite not being able to fill the position of executive director for the Office of Independent Review, and thus operating without any oversight of the OCSD for roughly a year, the Orange County Board of Supervisors unanimously increased spending on deputy salaries and benefits in September 2016.²⁷⁵ The board approved a salary and benefits contract with the Association of Orange County Deputy Sheriffs (AOCDS), granting deputies an 8.8% raise over three years, costing taxpayers an additional \$62.2 million.²⁷⁶ The AOCDS represents over 1,900 deputies and 100 district attorney investigators.²⁷⁷ The AOCDS spent almost \$86,000 in October 2016 to support an incumbent supervisor’s re-election bid.²⁷⁸

TABLE 18: COUNTY ANNUAL BUDGET (OC)

Sheriff-Coroner Budget	
Total Final FY 2016-2017	\$640,049,249
Percent of County General Fund	19.69%
Total Employees	3,402

The three-year agreement between the county and the AOCDS distributes the raise in five steps, nearly every six months, between September 2016 and January 2019, and gives deputies a one-time, lump-sum payment equal to 0.5% of their base salary.²⁷⁹ The county will pay \$37.1 million of the salary increase, while the remaining \$25 million is expected to be covered by contract cities, state funds

and federal grants. According to the Orange County annual budget, the sheriff-coroner budget accounts for more than 19% of the county's general fund (see Table 18).²⁸⁰ As such a substantial cost driver of the county budget, the OCSD should be subject to more accountability and transparency. In the absence of oversight, the Board of Supervisors has counted on the judgment of Sheriff Hutchens.²⁸¹ The AOCDS sued her and the Sheriff's Department in February 2016, a month after three individuals escaped from the Central Men's Jail in Santa Ana. The suit referenced staff reductions, unsafe jail conditions and operational missteps.²⁸² In June 2016, a sheriff's commander and an OCSD spokesman revealed that deputies violated department policy by failing to search contractors who worked in the jail or conduct an inventory of the facility.²⁸³ Despite initial coverage, the Board of Supervisors failed to publicly re-examine or resolve likely institutional problems concerning the escape. Aside from a jail commander retiring, little is known.²⁸⁴

In early May 2017, Orange County released its \$6.2 billion proposed budget for the 2017-18 fiscal year. The county estimates it will have \$797 million in general purpose funding, nearly \$53 million more than last year. More than half the \$53 million is proposed to go to the Orange County Sheriff's Department.²⁸⁵ General purpose funding, also known as discretionary funding, is unrestricted which means the OC Board of Supervisors may allocate the funds to any county departments and programs under their control.

If the budget is approved, the department would receive \$29 million in addition to the one-percent increase, just under \$8 million, to be allocated to each county department.²⁸⁶ The sheriff's department would receive a total of \$153 million in general purpose funding, accounting for roughly 19% of the county's discretionary funding. Other county departments, including the Health Care Agency and Social Services Agency will receive less than a million dollar increase in discretionary funds on top of the one-percent increase (see Table 19).²⁸⁷

The increase in the county's general purpose revenue was the result of a 4.2% increase in property tax funds.²⁸⁸ The increase in the department's

discretionary funding was driven mainly by the \$62-million, three year salary and benefits increase for deputies and OCSD employees that was unanimously approved by the Board of Supervisors in September 2016.²⁸⁹ Of the \$62 million, \$37 million was projected to come from county discretionary funding, \$11 million of which was expected this fiscal year.²⁹⁰ If approved, the budget takes effect July 1.

TABLE 19: DISCRETIONARY BUDGET (OC)

FY 2017-18	Sheriff's Department	Social Services Agency	Health Care Agency
Standard 1% increase	\$8 million	\$8 million	\$8 million
(all county departments)			
Additional increase	\$29 million	\$680,000	\$500,000
Total allocation	\$153 million	\$50 million	\$69 million
% of county's total discretionary budget	19%	6%	9%

OFFICE OF DISTRICT ATTORNEY AND INFORMANT SCANDAL

The Office of the District Attorney of Orange County is supposed to enhance public safety and welfare through the prosecution of criminal and civil laws.²⁹¹ Although the responsibilities of the district attorney and the sheriff require a close working relationship between the DA's office and OCSD deputies, that relationship can sometimes undermine the pursuit of justice and improperly influence how allegations of abuse and misconduct are investigated. For example, all DA investigation reports of in-custody-related deaths available online have determined that the OCSD is not at fault.²⁹²

In March 2015, Orange County Superior Court Judge Thomas Goethals recused the DA's office from continuing to prosecute Scott Dekraai, who pleaded guilty in 2016 to killing eight people at a Seal Beach hair salon in 2011. Judge Goethals found that the DA's office was unlawfully utilizing jailhouse informants and unconstitutionally concealing the

District Attorney Tony Rackauckas himself issued a report declaring the DA office a “rudderless” ship and called for a complete investigation into the use of jailhouse informants.

information from defense lawyers.²⁹³ The state Attorney General’s Office has taken over the case.

In January 2016, amid the informant scandal, a committee of legal experts selected by District Attorney Tony Rackauckas himself issued a report²⁹⁴ declaring the DA office a “rudderless” ship and called for a complete investigation into the use of jailhouse informants.²⁹⁵ The report revealed grave failings in supervision and training in the DA’s office and cited a “win-at-all-costs” mentality among some prosecutors.²⁹⁶ The panel specifically called for the grand jury, the state attorney general or the U.S. Department of Justice to investigate allegations that prosecutors and police exploited a classified network of jail informants and deliberately withheld evidence from defense attorneys. The network routinely violated the constitutional rights of criminal defendants to secure convictions or enhanced sentences.²⁹⁷ Several cases in addition to the high-profile example of Dekraai highlight systemic attempts by the Sheriff’s Department and the District Attorney’s Office to circumvent the constitutional protections allowed to criminal defendants.²⁹⁸ The decision to conceal logs and a computerized records system known as the TRED, which details the handling and movements of informants, along with Brady material²⁹⁹ contained within them, suggests a willful disregard by the OCSD and the DA for due process and the protection of rights.³⁰⁰

In December 2016, the U.S. Department of Justice opened a civil rights investigation into the Sheriff’s Department and the District Attorney’s Office.³⁰¹ The investigation follows the county’s “jailhouse snitch scandal,”³⁰² including allegations that prosecutors and law enforcement routinely withhold evidence and use jailhouse informants to illegally obtain confessions.³⁰³ Vanita Gupta, former principal deputy assistant attorney general and former acting head of

the Civil Rights Division at the Department of Justice, said, “A systemic failure to protect the right to counsel and to a fair trial makes criminal proceedings fundamentally unfair and diminishes the public’s faith in the integrity of the justice system.”³⁰⁴

The DOJ, the attorney general and the Orange County grand jury (independent of one another) are investigating the cover-up. The investigations point to signs of systemic wrongdoing. The minimum threshold to launch an investigation is that wrongdoing is routine and ongoing.³⁰⁵ According to a report from the DOJ, the Civil Rights Division has opened 69 investigations since 1994 (when a federal law was passed granting such probes); 40 of the investigations resulted in reform agreements. If a pattern and practice of misconduct is confirmed, the Civil Rights Division will write a “findings report” and present it at a public forum before prosecutors, law enforcement, community stakeholders and others. Before negotiating any court-enforceable reform agreement with the agencies involved, the division will seek community input. If no systemic wrongdoing is identified, investigators will close the file. Usually, investigations take more than a year.³⁰⁶ Incorporating a monitor to provide oversight and enforcement would be paramount.

OFFICE OF INDEPENDENT REVIEW

The Orange County Office of Independent Review was established by the Board of Supervisors in 2008 through a contract with the Office of Independent Review (OIR) Group.³⁰⁷ The office’s purpose is to oversee, assist and advise the Orange County Sheriff’s Department in investigations of alleged officer misconduct and reviews of critical incidents, including officer-involved shootings and in-custody deaths.³⁰⁸ Although recommended and strongly supported by OCSD Sheriff Hutchens, the director of

the office, Stephen Connolly, had trouble satisfying the Orange County Board of Supervisors.³⁰⁹

From 2001 to June 2014, the Office of Independent Review Group was employed by the Los Angeles County Board of Supervisors.³¹⁰ The task of the OIR was to monitor the Los Angeles County Sheriff's Department (LASD) and provide legal advice to ensure that investigations of allegations of use-of-force incidents, officer-involved shootings, and internal affairs and internal criminal matters were thorough, effective and just.³¹¹ Under the leadership of Michael Gennaco, the OIR in Los Angeles was criticized for being overly embedded with the LASD and then-Sheriff Lee Baca. Peter Eliasberg, then legal director of the American Civil Liberties Union of Southern California, said, "When the sheriff was being criticized by the ACLU, Gennaco used to show up at the sheriff's press conferences and stood by him, which added to the perception that the OIR was not independent, and more interested in defending the sheriff."³¹² Eliasberg also pointed out that the Commission on Jail Violence in Los Angeles County said there was an enduring pattern of force while the OIR existed. He questioned, "How did that pattern happen if the OIR was providing effective oversight?"³¹³ The Office of Independent Review Group became a private business after they were disbanded at the request of Inspector General Max Huntsman in Los Angeles.³¹⁴

Similarly, the 2011-2012 Orange County grand jury questioned Connolly's placement in the county organization. Although the OIR's executive director and professional staff were independent contractors,³¹⁵ concerns surfaced given the OIR's attorney-client relationship with the OCSD.³¹⁶ The relationship between the office and the department

was considered to be overly enmeshed and raised concerns as to the objectivity of the director's findings³¹⁷ and recommendations.³¹⁸ Rather than conducting its own investigations, the OIR monitored and contributed to the OCSD's protocols.

In July 2015, the OC Board of Supervisors unanimously determined that the Office of Independent Review oversight model was not as effective as it could be. Yet in December 2015, the board voted to extend the office's purview to include oversight of the public defender, the district attorney, the Social Services Agency and the Probation Department.³¹⁹ In March 2016, Connolly submitted his resignation with the OIR amid several high-profile controversies including the informant scandal,³²⁰ the 2016 jail escape³²¹ and the subsequent AOCDS deputies' lawsuit regarding unsafe jail conditions.³²² Gennaco, who had worked with Connolly at the OIR Group, has been working with the Orange County Board of Supervisors to assist in the transition of the OIR office.

In January 2017, the Board of Supervisors directed staff to hire a new executive director for its Office of Independent Review.³²³ County supervisors voted unanimously to negotiate a contract with Gary Schons. Schons, a seasoned prosecutor, led the criminal division of the state Attorney General's Office in San Diego for 20 years and is currently employed at Best Best & Krieger law firm.³²⁴ Two weeks after being offered the job, Schons withdrew his application, citing potential conflict of interests with his law firm.³²⁵ The position will remain unfilled indefinitely. The Board of Supervisors, which has operated without any external law enforcement oversight for nearly a year, will launch another search to fill the position.³²⁶

Under the leadership of Michael Gennaco, the OIR in Los Angeles was criticized for being overly embedded with the LASD and then-Sheriff Lee Baca.

The OCSD should take remedial measures and make internal changes to avoid future settlements. Enduring issues suggest that the SAFE Division is falling short of its intended mission.

GRAND JURY

Each California county is required by law to impanel a body of 19 to 23 members, depending on county population, to serve as a grand jury for a term of one year.³²⁷ The grand jury is mandated to investigate and report on criminal and civil matters within the county. On the last day of the yearlong term, the grand jury is required to submit all final reports to the presiding judge of the Superior Court.³²⁸ The reports include all studies and investigations conducted by the jury during its term. The OCSD receives a copy of its individual report with a requirement that response to findings and recommendations be made within 90 days.³²⁹ Limitations of this oversight model include that the grand jury is impaneled only for a year. Hence, it has limited expertise and no institutional continuity on oversight issues. Furthermore, the current system of oversight for jail facilities looks only at whether deputies follow existing laws and policies but does not address questions surrounding policies themselves. Previous investigations resulted in reports detailing recommendations and changes the department needed to make, however they were largely ignored as we are seeing the same problems arise year after year.

STRATEGY, ACCOUNTABILITY, FOCUS AND EVALUATION (SAFE) DIVISION

The Strategy, Accountability, Focus and Evaluation (SAFE) Division was initiated by the Orange County Sheriff's Department in October 2008. The division is composed of two bureaus: the Risk Management Bureau and the SAFE Bureau.³³⁰

The Risk Management Bureau works with county counsel and the county's Management Office on legal issues and serves as the OCSD's liaison to the grand jury.³³¹ The bureau further evaluates legislative mandates and policy and procedures, provides training to mitigate risk to the department and its employees, and facilitates civil litigation that arises.³³²

The SAFE Bureau revises and creates policies and procedures to bring the department up to standards through best practices.³³³ The SAFE Bureau aims to reduce the department's exposure to liability and create a database to oversee the strengths and weaknesses within units and divisions.³³⁴ Although the SAFE Division purports to take a proactive approach to minimizing the department's liabilities and maintaining required training up to standard, the county has a history of settling claims and asserting no guilt or responsibility of allegations. The division is also tasked with tracking incidents and carrying out administrative investigations against department staff who engage in misconduct. The division either poorly tracks data or fails to provide public access to such information. The OCSD should take remedial measures and make internal changes to avoid future settlements. Enduring issues suggest that the SAFE Division is falling short of its intended mission.

VII. CONCLUSION

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.

There needs to be real accountability for an entity that accounts for nearly 20% of the county's general fund. While taxpayers bear the financial costs, the community at large must deal with the psycho-socio-emotional impacts of a counterproductive criminal

justice system on children, youth and families. As the need for a truly independent investigation by an impartial body remains, the Orange County Sheriff's Department should look to an external entity to remedy developing issues early on and monitor the implementation of reforms to ensure sustainable change. The department needs to start a comprehensive review and inspection of all five OCSD jail facilities. An objective oversight monitor with substantive power can help release the Sheriff's Department and the county from legal liability and ensure that good governance trumps political expediency in Orange County.

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.

APPENDICES

APPENDIX A

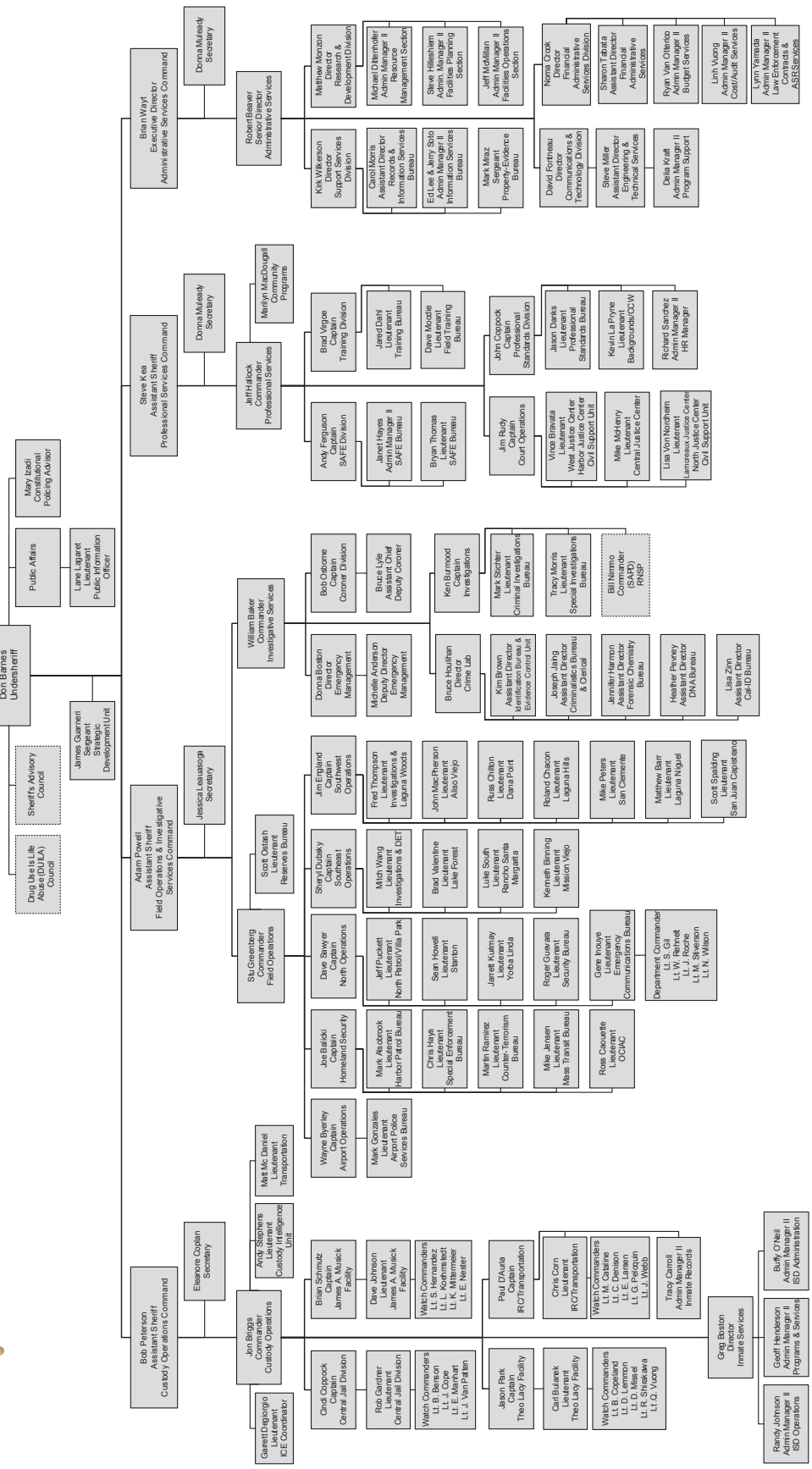
COMMANDS, DIVISIONS AND COMMAND RESPONSIBILITY	
Executive Command “The Executive Command is commanded by the Undersheriff whose responsibility is to provide general management, direction and control for administration related services.”	Executive Command
	Community Programs and Services
Administrative Services Command “The Administrative Services Command is commanded by an Executive Director whose primary responsibility is to provide general management, direction and control for administrative related services.”	Communications and Technology
	Financial/Administrative Services
	Research and Development
	Support Services
Custody Operations Command “The Custody Operations Command is commanded by an Assistant Sheriff whose primary responsibility is to provide general management, direction and control for custody related operations and court related services.”	Court Operations
	Central Men’s and Women’s Jails
	Intake/Release Center and Transportation
	Musick Facility
	Theo Lacy Facility
	Inmate Services
Field Operations and Investigative Services Command “The Field Operations and Investigative Services Command is commanded by an Assistant Sheriff whose primary responsibility is to provide general management direction and control for field related operations and investigative related services.”	Airport Operations
	Emergency Management
	Homeland Security
	Investigations
	North Operations
	South Operations
	Patrol Areas
Professional Services Command “The Professional Services Command is commanded by an Assistant Sheriff whose primary responsibility is to provide general management direction and control for administrative related services in the Department.”	Coroner
	OC Crime Lab
	Professional Standards
	S.A.F.E.
	Training

Source: Orange County Sheriff’s Department (January 2017). Commands and Divisions. Retrieved from <http://www.ocsd.org/divisions/>

APPENDIX B

Effective: June 9, 2017

Orange County Sheriff-Coroner Department
2017



APPENDIX C

In-Custody Deaths, 2010 to 2016

T.A.C. 04/22/1967 – 01/01/2010	B.R.B. 01/30/1963 – 09/01/2012	A.J.M. 02/21/1964 – 07/12/2015	S.J.C. 07/20/1981 – 08/29/2010	J.J.J. 01/17/1964 – 12/04/2013	J.E.A. 05/09/1969 – 03/25/2016
P.M.O. 11/17/1919 – 01/19/2010	M.L.L. 02/22/1980 – 02/07/2012	W.L.J.B. 08/25/1947 – 08/10/2015	K.E.F. 10/26/1982 – 11/30/2010	M.S.G. 10/08/1981 – 09/09/2013	M.R.C. 02/23/1960 – 04/15/2016
R.L.L. 07/07/1965 – 02/07/2010	J.E.H. 09/09/1971 – 03/23/2013	Y.F. 09/03/1977 – 09/24/2015	M.D.B. 08/05/1962 – 12/13/2010	P.M.M. 09/18/1988 – 03/05/2014	J.A.A. 05/21/1973 – 05/30/2016
R.M.G. 08/19/1973 – 03/06/2010	J.J.H. 05/16/1967 – 05/21/2013	S.O. 09/26/1972 – 10/30/2015	C.K.D. 08/24/1964 – 12/31/2010	D.R.S. 01/08/1941 – 10/05/2014	D.E.A. 05/08/1948 – 05/31/2016
M.M.G. 10/31/1969 – 03/17/2010	D.A.M. 02/19/1957 – 06/02/2013	M.C. 10/26/1960 – 11/18/2015	J.A.E. 11/01/1955 – 01/31/2011	B.N.N. 08/31/1988 – 10/07/2014	B.J.C. 08/07/1962 – 06/05/2016
R.J.W. 05/05/1955 – 06/28/2010	J.T.S. 09/17/1965 – 08/17/2013	P.J.R. 12/19/1985 – 01/24/2015	S.D.M. 06/08/1956 – 10/12/2011	T.T.N. 02/01/1965 – 12/17/2014	J.L.E. 10/03/1947 – 07/05/2016
G.A.T. 03/12/1967 – 07/22/2010	T.E.G. 09/27/1961 – 10/07/2013	T.W.R. 07/20/1966 – 01/23/2016	G.T.L. 09/29/1947 – 11/26/2011	S.D.A. 09/27/1952 – 12/29/2014	H.R.S. 01/08/1982 – 07/23/2016
T.L.H. 05/02/1991 – 08/13/2010	I.O. 03/20/1988 – 11/28/2013	A.S. 01/12/1960 – 01/29/2016	C.E.S. 09/05/1973 – 04/05/2012	R.H. 02/28/1990 – 04/11/2015	D.G.G. 08/10/1951 – 09/16/2016

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