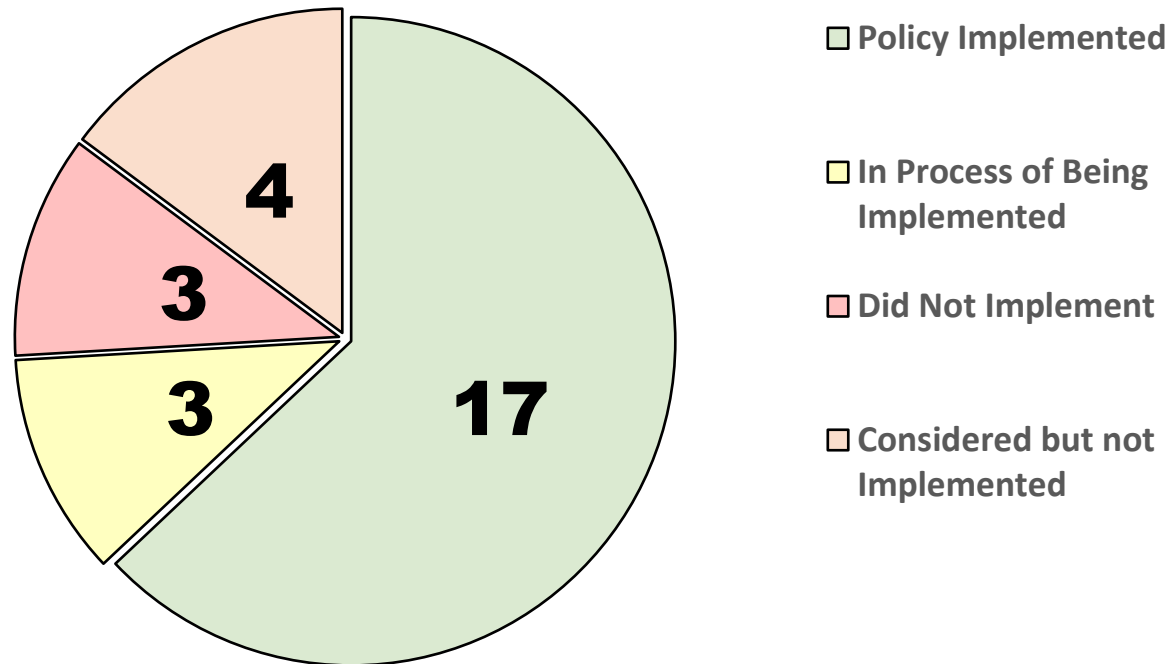


OCSD Recommendations and Implementation

Recommendations & Implementation



Recommendations: 27

OIR Recommendation 1: The OIR recommends that tampons be provided to female incarcerated persons who request them regardless of the facility where they are housed. According to Planned Parenthood, it is “common to use different things at different times during” a period. The choice of personal hygiene materials is a very personal issue and should, to the extent possible, be determined by each incarcerated person. Physiological differences may also necessitate the use of one or more types of personal hygiene materials.

OCSD Response On How Recommendation Implemented:

The OCSD provided receipts demonstrating the purchase of various feminine hygiene products, which included both tampons and feminine pads. Additionally, the OCSD provided a photograph, taken during a random inspection, showing tampons located in a female housing unit.

OIR Recommendation 2: Ensure that information and education regarding the availability of family planning services is provided to male incarcerated persons by providing the PHI form and community resources sheet to all incarcerated persons regardless of gender.

OCSD Response On How Recommendation Implemented:

CCOM 1604.1 - Inmate Rights (Policy Implemented 12/14/2022)

bb) All inmates shall be furnished by the county with information and education regarding the availability of family planning services.

cc) Family planning services shall be offered to each inmate at least 60 days prior to a scheduled release date. Upon request, any inmate shall be furnished by the county with the services of a licensed physician, or they shall be furnished by the county or by any other agency which contracts with the county with services necessary to meet their family planning needs at the time of their release.

CCOM 3000.2 - Receiving Corridor (Policy Implemented 9/18/2023)

d) Medical Screening Station

(3)(vii.) All inmates, regardless of gender, will be provided information and education regarding the availability of family planning services by medical staff. This information will be provided via the Patient Health Information (PHI) form and the Family Planning Community Resources Information Sheet upon receiving screening by medical staff.

CCOM 3002.17 - Inmate Release (Policy Implemented 9/18/2023)

j) All inmates, regardless of gender, will be provided information and education regarding the availability of family planning services by medical staff prior to release. Family Planning Community Resources Information Sheet will be provided upon release screening by medical staff.

OIR Recommendation 3: CHS Policy and Procedure §6101 entitled - Receiving Screening should be updated to include the following language to reflect that the PHI form should be given to all arrestees regardless of gender: "A Patient Health Information form will be signed by the patient. If the patient refuses to sign, "Patient Refused to Sign" will be indicated on the form and signed by the CHS clinical staff member who witnessed the refusal."

OCSD Response On How Recommendation Implemented:

According to the OCSD, all inmates, regardless of gender, are provided with a "Patient Health Information" form, which they must sign upon booking. The OCSD also provided an updated copy of CHS Policy and Procedure §6101 entitled Receiving Screening containing the requested language.

OIR Recommendation 4: To accomplish the goal of ensuring that each and every incarcerated person is aware of information and education regarding the availability of family planning services, the OCSD should consider pursuing other ways of furnishing this information to all persons confined within its facilities. These options might include posting the community resources sheet in areas where incarcerated persons congregate such as dayrooms and holding cells, or including the information in the orientation video that is played in the holding cells.

OCSD Response On How Recommendation Implemented:

Information and education related to the rights of pregnant incarcerated persons, as well as a list of contact information and numbers for community resources, is now available on tablets accessible to inmates.

OIR Recommendation 5: Amend OCSD policy to set forth the actual procedure to be followed when offering the required family planning services to incarcerated persons at least 60 days prior to a scheduled release date.

OCSD Response On How Recommendation Is In The Process Of Being Implemented:

Family planning services are offered to all incarcerated persons at intake. CHS is working with NaphCare (EHR vendor) to add a question to the inmate screening form “Would you like Family Planning services while you are incarcerated?” This will ensure that family planning services are offered to all incarcerated persons, and that the offer is documented. Additionally, incarcerated persons are provided a PHI form that notifies them that services are available to them free of charge during incarceration.

OIR Recommendation 6: Establish a mechanism to document when family planning services are offered to incarcerated persons.

OCSD Response On How Recommendation Implemented:

CHS Policy 6251(D)(7) Implemented 2/2/23 and (D)(7)(a) Implemented 7/28/23

Per CHS, this information is documented in the individual patient's health record.

OIR Recommendation 7: CHS should consider updating the Release Summary to add a field to specifically notate whether an incarcerated person has requested, or received, family planning services at the time of their release.

OCSD Response On How Recommendation Is In The Process Of Being Implemented:

CHS is working with NaphCare to include a Needs Assessment – for the purposes of CalAIM implementation. This assessment will include offering linkage to community physicians and family planning services. Until the implementation of the Needs Assessment in the CHS EHR, CHS will create scripted language to be documented by CHS nurses in the Progress Notes for individuals at the time of their release.

OIR Recommendation 8: In order to ensure that pregnant incarcerated persons receive a document that advises them of the full extent of their right to receive services from the provider of their choice, CHS should consider updating the language in the PHI form to include express verbiage that indicates that “[i]f the incarcerated person is found to be pregnant, they are entitled to a determination of the extent of the medical and surgical services needed and to the receipt of such services from the physician, nurse practitioner, certified nurse midwife, or physician assistant of their choice.”

OCSD Response:

This recommendation has been implemented.

OIR Recommendation 9: CHS should update policy number 6251(D)(7) to require staff to document, in the patient health record, when options counseling is offered and, if provided, who provided it, and when.

OCSD Response On How Recommendation Implemented:

CHS 6251(D)(7) Female patients found to be pregnant and desiring termination of pregnancy shall be permitted to determine their eligibility pursuant to law, and if eligible, shall be permitted to terminate the pregnancy.

a) Pregnant patients are offered comprehensive nondirective, unbiased, and noncoercive options by a CHS prescriber trained in reproductive health. Options counseling that is provided is documented in the patient's electronic health record (EHR).

OIR Recommendation 10: Update CHS policy section 6252(A)(8)(b)(1) to state “Appointments shall not exceed seven calendar days from confirmation of pregnancy.”

OCSD Response On How Recommendation Implemented:

CHS Policy 6252(B)(7)(b)(1) Implemented 7/28/23

b) “PRIORITY” appointment for the next available OB/GYN clinic.

(1) Appointments shall not exceed seven calendar days from confirmation of pregnancy.

OIR Recommendation 11: CHS should implement a random audit procedure to ensure that pregnant incarcerated persons are receiving pregnancy examinations within seven calendar days of confirmation of pregnancy.

OCSD Response On How Recommendation Implemented:

The audit process is in place. CHS is working to revise/update the audit tool.

OIR Recommendation 12: CHS should make sure that it is utilizing a random audit procedure that ensures that all prenatal care visits are conducted in accordance with American Academy of Pediatrics (AAP) and American College of Obstetricians and Gynecologists medical standards.

OCSD Response On How Recommendation Implemented:

The audit process is in place. CHS is working to revise/update the audit tool.

OIR Recommendation 13: CHS should ensure that all incarcerated pregnant persons are provided with written applications for community-based programs in addition to the information provided by the MOM and Public Health Nurses.

OCSD Response On How Recommendation Implemented:

This is being accomplished by OCSD, SSA, and Project Kinship. When Programs staff receives a referral, the name, DOB, etc. is sent over to SSA. If the client is eligible to receive benefits, SSA staff or Project Kindship staff will come in and meet with the client to complete an application for benefits.

OIR Recommendation 14: Absent an extraordinary circumstance, the OCSD should ensure that a social worker meets with all pregnant incarcerated persons prior to their being transported to a hospital for delivery in order to allow them a sufficient amount of time to discuss options and make arrangements for the feeding, care, and placement of their child after birth.

OCSD Response On How Recommendation Is In The Process Of Being Implemented:

CHS has the services of a Social Worker and Public Health Nurse, through the Health Care Agency's Public Health Department. We are developing a process, including a template documentation form, so that proof of practice will be in the patient's chart. This will include education on family planning services, linkage to community services, education on lactation, infant care, and post-partum, as well as a birth plan to coordinate infant placement if the individual delivers while in custody. Although most of these services are already happening, we will strengthen our documentation to be clear and concise as to the required services. We will begin implementation of such documentation within the next 2 weeks.

OIR Recommendation 15: OCSD should update CCOM sections 1604.6(h) and 1902.6(d) to identify those employees that are designated to assist with prenatal care, labor, childbirth, lactation, and postpartum care.

OCSD Response On How Recommendation Implemented:

CCOM 1604.6(h) – (Policy Implemented 1/7/2021)

A pregnant inmate may elect to have a support person present during labor, childbirth, and during postpartum recovery while hospitalized. The support person may be an approved visitor who is designated to assist with prenatal care, labor, childbirth, lactation, and postpartum care.

For more information about a support person, refer to CCOM Section 1902.6 - Special Visits for Inmates.

CCOM 1902.6(d) – (Policy Implemented 1/7/2021)

A pregnant inmate may elect to have a support person present during labor, childbirth, and during postpartum recovery while hospitalized. The support person may be an approved visitor to assist with prenatal care, labor, childbirth, lactation, and postpartum care.

OIR Response:

This recommendation has been implemented. However, the date of implementation was not until after the OIR review. A review of various public versions of the CCOM show that language referencing OCSD employees, as designated to assist with labor, etc., was present in the June 06, 2023 version of the policy and had been removed by the August 29, 2023 version.

OIR Recommendation 16: Implement a uniform policy that outlines for OCSD deputies when they are permitted to apply pressure or body weight, including the placement of a knee, on a restrained subject's back.

OCSD Response:

OCSD Policies already provide appropriate guidance. Department Policy 300.4.5 (Policy Implemented 1/6/22) provides: Members are not authorized to use any restraint, technique or transportation method that involves a substantial risk of positional asphyxia. "Positional asphyxia" means situating a person in a manner that reduces the ability to sustain adequate breathing. This includes, without limitation, the use of any physical restraint that causes a person's respiratory airway to be compressed or impairs the person's breathing or respiratory capacity, including any action in which pressure or body weight is unreasonably applied against a restrained person's neck, torso, or back, or positioning a restrained person without reasonable monitoring for signs of asphyxia (Government Code § 7286.5).

OIR Response:

The policy cited by the OCSD was in place during the OIR review. However, the OCSD response fails to address the fact that the above policy does not expressly say whether the use of pressure or body weight is authorized, and if so, identify the parameters for its use. During the review, the OIR requested "[a]ny OCSD policies ... related to the placing of a knee on a subject's back during arrest or restraint," and the OCSD was unable to provide a specific policy that gives detailed guidance for deputies regarding the circumstances where the use of a knee or body weight on a subject's back is permitted by the Department.

OIR Recommendation 17: Provide written training to OCSD deputies related to the use of pressure and body weight, including the placement of a knee, on a subject's back during restraint.

OCSD Response:

OCSD provides extensive training in the OCSD Academy and again in the two-week Jail Academy regarding the use of unreasonable pressure and body weight upon a subject's person's neck, torso, or back. This training is consistent with Penal Code §835a, Penal Code § 196, Government Code § 7286.5(b) and OCSD Policy 300.4.5, AB 392, and SB 230. OCSD Deputies are tested on this material both in written and practical application form prior to having contact with incarcerated persons.

OIR Response:

The OIR requested any "memoranda, and training materials related to the placing of a knee on a subject's back during arrest or restraint." The OCSD responded by providing training materials and indicated that the Department still teaches the technique of placing a knee on the back as an option. However, no training material was provided that advises deputies in writing as to when, where, and how pressure and body weight can be reasonably applied on the back.

OIR Recommendation 18: Consider allowing restrained uncooperative incarcerated persons in their cells to remain in restraints as a method of de-escalation until they are ready to allow the restraints to be safely removed.

OCSD Response:

OCSD Policies already provide appropriate guidance. Department Policy 300.2.2 covers de-escalation and is balanced by CCOM Section 1800.1(c)(2), which states, "No Inmate will be left in restraints longer than necessary." OCSD will not restrict the freedom of movement of inmates beyond that which is necessary for a legitimate penological purpose. Keeping incarcerated persons restrained while alone inside a jail cell could cause the department and county significant liability and be determined to violate the individual's constitutional rights under the 8th/14th Amendments.

OIR Response:

The OCSD considered the recommendation and chose not to implement it. The OIR is not recommending that incarcerated persons be left in restraints longer than necessary. On the contrary, the OIR's recommendation is to reduce the potential for injury and liability by avoiding situations where force is used to remove an incarcerated person's restraints. Allowing a restrained uncooperative incarcerated person to enter, or remain, in a cell until such time as they wish to have the restraints removed and are willing to cooperate with the process to do so may, in certain circumstances, prevent injuries to deputies and the incarcerated person.

OIR Recommendation 19: Consider issuing a training bulletin that reminds supervisors of the importance of thoroughly and properly investigating all complaints. A complete investigation addresses each allegation contained within a complaint. A proper investigation utilizes all available evidence and relies on factual evidence to either prove or disprove each allegation.

OCSD Response On How Recommendation Implemented:

See Bulletin dated October 2023. (Implemented 8/18/2016)

Applicable Policies CCOM 1600.5(e)(1-5)

OIR Recommendation 20: Consider establishing a procedure that ensures, absent an exigency, that prior to placing an incarcerated person into an empty cell, the cell has been cleaned out and checked to ensure proper functioning of the toilet and sink.

OCSD Response On How Recommendation Implemented:

See CCOM 2402.1(a) Implemented on 8/18/2016 and CCOM 2402.1(a)(1) (modified October 2023)

OIR Recommendation 21: Consider issuing a training bulletin that reminds deputies of their individual obligation to ensure that incarcerated persons are housed in conditions that are sanitary and do not violation the Constitution.

OCSD Response On How Recommendation Implemented:

See Bulletin dated April 2024

OIR Recommendation 22: Consider updating Department policy to clearly articulate that a deputy applying force in a use of force incident, that resulted in serious injuries or transportation to a hospital, shall not be assigned to conduct a criminal or administrative follow up interview with the subject of his or her use of force.

OCSD Response:

OCSD's Use of Force (UOF) documentation and review procedures are uniform throughout the department, and therefore is applied consistently in patrol and jail operations. OCSD Policy 300 currently requires a supervisor to conduct the administrative interview, and not the deputy who is involved in the use of force. The recommendation regarding the criminal interview is not feasible in Patrol Operations, and as a result, the policy will not be changed.

OIR Response:

The OCSD considered the recommendation and chose not to implement it. Policy 300 was in place during the OIR review. The OCSD response fails to address the basis for the recommendation which is that often deputies who apply force against an incarcerated person go to the incarcerated person's cell after the incident and attempt to take a Mirandized criminal statement from the incarcerated person and the incarcerated person refuses to speak to the involved Deputy. The OIR recommendation to update OCSD policy to clearly articulate that a deputy applying force should not conduct a follow up interview with the subject of the force does not conflict with Policy 300's directive that "upon notification of a use of force...the supervisor shall respond and conduct an investigation of the incident," and that the supervisor is responsible for separately interviewing "the subjects(s) upon whom force was applied." The interview of an incarcerated person who is the subject of a use of force should be conducted by a supervisor, or other another deputy, who was not directly involved in the use of force.

OIR Recommendation 23: Provide a training bulletin to jail deputies articulating that a deputy who is involved in a use of force incident should not be assigned to conduct a criminal or administrative interview with the subject of his or her use of force.

OCSD Response:

Because the underlying recommendation was not adopted, a training bulletin cannot be prepared as recommended. OCSD Policy 300 requires a supervisor to conduct the administrative interview interview, and not the deputy who is involved in the use of force.

OIR Response:

The OIR believes that absent exigent circumstances, the interview of an incarcerated person who is the subject of a use of force should be conducted by a supervisor, or other another deputy, who was not directly involved in the use of force.

OIR Recommendation 24: Consider issuing a training bulletin that reminds staff of the importance of reports that are factual, clear, accurate, and complete. A training bulletin should emphasize that there must be no inconsistencies or discrepancies between what took place during the incident and what is documented in a report. The training bulletin should also remind sworn staff that the report should be an objective accounting of the relevant facts related to the use of force, and that their report will be scrutinized by people both inside and outside of the Department, including prosecutors, defense attorneys, plaintiff's attorneys, and members of the public.

OCSD Response On How Recommendation Implemented:

See Bulletin dated April 2023

OIR Recommendation 25: Consider updating OCSD policy to require follow up photographs be taken of an inmate involved in a use of force incident after returning from a hospital, even if there are no visible injuries.

OCSD Response:

OCSD's policy currently requires photographs to be taken after the UOF incident. OCSD's Use of Force (UOF) documentation and review procedures are uniform throughout the department. It would not be operationally feasible to have two sets of photographs taken of every UOF after the person is released from the hospital. Moreover, the vast majority of persons who are involved in a UOF incident are not admitted to the hospital, and only remain there for a brief period of time before being cleared for housing at an OC Jail. The photographs taken after the UOF incident would not be significantly different than those taken after the person is cleared from the hospital. OCSD was unable to locate any literature on taking two sets of photographs when a subject is involved in a UOF as an established best practice.

OIR Response:

The OCSD considered the recommendation and chose not to implement it. The OIR believes the response fails to address the basis for the recommendation which is that while photographs were taken when the incarcerated person was at the hospital, on the day of the use of force incident, no video or photographs were taken to document the incarcerated person's injuries, or lack thereof, after he returned from the hospital. When interviewed by a Sergeant almost a month later, the incarcerated person alleged that he had significant visible injuries from the use of force that were no longer visible on video approximately four weeks later.

OIR Recommendation 26: Consider issuing a training bulletin that reminds supervisors of the importance of properly investigating all jail grievances. Inmate grievances help a jail learn of, and resolve, issues within the facility before those issues can grow larger. A proper jail grievance investigation relies on factual evidence to either prove or disprove the claims articulated in the grievance. An effective grievance process, which includes a thorough investigation, provides a jail the opportunity to investigate and cure issues often before litigation is even allowed to commence.

OCSD Response On How Recommendation Implemented:

Training bulletin previously distributed throughout custody command after the OIR Review in October 2023.

OIR Recommendation 27: Consider implementing a policy that provides guidelines for using strikes and kicks, including strikes to the head.

OCSD Response:

OCSD has an existing policy for use of force. OCSD believes its policy sufficiently provides guidelines to deputies when using personal body weapons against a suspect.

OIR Response:

The OCSD considered the recommendation and chose not to implement it. Policy 300, the OCSD use of force policy, was in place during the OIR review. The OIR requested “[a]ny OCSD policies ... related to strikes to a subject’s head,” and the OCSD was unable to provide a specific policy that indicates whether strikes to a subject’s head are permitted. Policy 300 does not contain the words “kick” or “head.”