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To: Board of Supervisors

Cc: James R. Williams, County Executive
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Captain Thomas Duran, Custody Bureau
Lieutenant Sughey Jaimez, Internal Affairs

From: Michael Gennaco, OCLEM Project Manager
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Date: December 4, 2023

Subject: OCLEM Status Report on Sheriff's Office Implementation of
Recommendations made in October 2022 Report on the Hogan
Incident (including Adherence to Protocols Regarding Closure of
Internal Affairs Cases)

In OCLEM's October 2022 Report on the Andrew Hogan Incident, OCLEM made five recommendations. Three pertained to the manner in which individuals in mental health crisis may be transported between facilities. A fourth related to the requirement to provide immediate first aid in emergency situations. The final recommendation addressed the premature termination of the Internal Affairs (IA) investigation and advised that the Sheriff's Office should develop a policy setting out the rare circumstances under which an IA case could be closed prior to its conclusion. We have previously reported that the Sheriff's Office implemented this recommendation, modifying its policies governing the Internal Affairs Unit to

require the primary investigator to complete a report with justification for an investigation closure and obtain written approval of the Sheriff or Undersheriff.

At the Board of Supervisor's Meeting on November 1, 2022, per a motion by Supervisor Simitian, this Board requested that OCLEM provide this Board 6-month and 12-month status reports on the Sheriff's Office's use of and continued adherence to the recommended protocols regarding IA case closure. On May 25, 2023, we submitted our 6-month report; this report is intended to be responsive to the request for the 12-month status report. In addition, we provide an update on the status of continued adherence to the other four recommendations from our Hogan report, and are pleased to report that the Sheriff's Office has implemented all five of these recommendations.

Status of Implementation

For ease of reference, the five recommendations from the OCLEM Hogan report are repeated here:

- 1:** The Sheriff's Office should convert its memoranda regarding transport of detainees from Elmwood to the acute psychiatric unit at Main Jail into policy.
- 2:** The Sheriff's Office should track transports to the acute psychiatric unit so that compliance with the transport policies can be verified.
- 3:** The Sheriff's Office should ensure that the transport policy include an express direction that if detainees are transported via sedan, that they should be seat-belted into the back seat of the vehicle.
- 4:** The Sheriff's Office should develop policy requiring all jail staff to *immediately* provide first aid to detainees whenever there are indicia of serious injury.
- 5:** The Sheriff's Office should write policy articulating the rare conditions under which an Internal Affairs investigation can be terminated prior to its conclusion, requiring a written memorandum setting out the reasons, and approval from the Sheriff.

As we reported in our January 24, 2023 Report on Recommendations and Progress of Policing, Use of Force, Emergency Response, and Related Policies, the

Sheriff's Office has updated its policies on Inmate Movement and Transport (Custody Bureau Policy Manual 9.31¹) and Medical Emergencies (Custody Bureau Policy Manual 12.21²) consistent with Recommendations 1, 3, and 4.

Recommendation 2 – to maintain a log or otherwise track transports to the acute psychiatric unit so that compliance with the transport policies can be verified – has likewise been implemented. Custody Bureau created an APU Transport Form that the transporting deputy is required to complete for each individual transported from Elmwood to the Acute Psychiatric Unit (APU). A copy of this blank form is attached as an Appendix to this Report. We requested records or log of transports over a six-month period and received 211 completed APU Transport Forms for the period of May through October 2023. The forms contain all pertinent information about the individual transported, assigned deputies, mode of transport and restraint, and whether there was any associated use of force incident. We examined a sampling of these forms and found them to be appropriately completed and signed off. The forms indicate that deputies are primarily transporting individuals to the APU via sedan, with individuals seatbelted into the backseat. While we share Custody Bureau's desire for these forms to eventually be included

¹ The policy requires that deputies “will transport an inmate in a state of self-harm from the Elmwood Complex to the Main Jail Acute Psychiatric Unit using one of the following methods of transportation:

- a. *Sedan: The sedan shall be the primary mode of transportation. The transporting deputies will be responsible for ensuring the inmate is properly secured in the sedan using the vehicle seatbelt.*
- b. *Ambulance: An ambulance is the secondary mode of transportation when recommended by a medical professional or a sergeant or above. When an inmate is scheduled for transport via ambulance, the transporting/escorting deputies will ensure the inmate remains secured to the gurney. . . .*
- c. *Wheelchair van: The wheelchair van shall be used when transporting an inmate in the restraint chair or an inmate using a wheelchair. The transporting deputies will be responsible for ensuring the inmate is properly secured in the restraint chair, if used, and the restraint chair or wheelchair is properly secured to fixed points inside the wheelchair van.”*

² The policy states: “Sworn staff are trained in administering CPR, First Aid, and the AED. Sworn staff must respond to medical emergencies involving inmates, staff or civilians and immediately administer applicable and necessary medical assistance (e.g., CPR, First Aid, AED) until relieved by a higher medical authority (e.g., Sheriff's Office contracted medical staff, paramedics).”

in an electronic record, we are persuaded that the Sheriff's Office is adhering to its commitment to track its transports to the APU.

The Sheriff's Office also has complied with Recommendation 5, modifying its policies governing the Internal Affairs Unit to require the primary investigator to complete a report with justification for an investigation closure and obtain written approval of the Sheriff or Undersheriff. Consistent with the Board's request for updates on the Sheriff's Office's use of and continued adherence to the recommended protocols for IA case closure, we have confirmed that no IA investigations has been terminated or closed prior to its conclusion in the past year.³

With the finalization of the expanded information-sharing agreement between OIR Group and the Sheriff's Office, OCLEM is now able to more regularly monitor the status of IA investigations. We receive lists of ongoing IA investigations, and regularly participate in IA Review meetings, during which Sheriff's Office personnel determine the findings of each case. We also have access to the Sheriff's Office database for tracking internal investigations and can independently verify the progress of a given case. Most importantly, our access has given us a window into IA operations and an opportunity to provide feedback, not just on individual investigations, but also broader operational issues that go beyond questions of whether or when to close investigations. We look forward to building on these opportunities as we move into a new year.

³ There have been a handful of cases returned from IA to the division level for investigation. This is not a case closure but rather a shift of investigative responsibility. The decision to return a case to the division is made in cases deemed to be less serious and not likely to result in significant disciplinary consequences, where the expectation is that the division-level investigator will be able to more expeditiously complete the case. The Undersheriff reviews and must approve any request by IA to send a case to the division for completion.

Appendix



APU TRANSPORT FORM

Transporting Deputy will complete this form for each inmate transported to the Acute Psychiatric Unit

Transport Details:

Associated IR#: _____

Main Jail Elmwood CCW Housing Unit: _____ Other: _____

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Inmate: Last Name First Name PFN# Booking#

Deputy/Officer:		Badge#		BWC Activated (Select One):	Yes	No
Deputy/Officer:		Badge#		BWC Activated (Select One):	Yes	No

Date of Transportation: _____ Starting Time: _____ Ending Time: _____

Mode of Transportation:

In accordance with Custody Bureau Policy 9.31 – Inmate Movement and Transport

<i>Vehicle</i>	<i>Requirements of Transport</i>
<input type="checkbox"/> Sedan	<input type="checkbox"/> Seatbelt Secured
<input type="checkbox"/> Ambulance	<input type="checkbox"/> Secured to Gurney
<input type="checkbox"/> Wheelchair Van	<input type="checkbox"/> Secured to Fixed Points

Safety Devices and Restraints:

In accordance with Custody Bureau Policy 9.47 – Use of Safety Cells and Safety Devices and Policy 512 – Use of Restraints

Safety Helmet Applied Restraint Chair Utilized

Use of Force:

In accordance with Custody Bureau Policy 511 – Use of Force

“If an inmate refuses to wear a safety helmet when staff determines that one is necessary, appropriate force shall be used to apply the helmet”

Use of Force used while applying safety device (Select One): Yes No

If force used while applying safety device:

Supervisor Notified: _____ Medically Assessed (Select One): Yes No

Deputy/Officer Signature:	Date/Time:
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