

Santa Clara County  
**OFFICE OF CORRECTION AND LAW  
ENFORCEMENT MONITORING**

Report on Audit of Jail Reform  
Recommendations

Interim Report #1  
September 28, 2021

OIR GROUP

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# Introduction and Background

Beginning in 2016, 15 separate entities issued recommendations for reform of the County's jails. A total of 623 recommendations (referred to as "Master List Recommendations") were catalogued as part of these various review processes. Several years ago, the Finance and Government Operations Committee received numerous reports from the Office of the County Executive that grouped all of the recommendations by subject area, and by combining those that were duplicative or intricately related, created a list of 80 Summarized Recommendations that was approved by the Board of Supervisors. Verifying completion of these recommendations has proven to be a difficult task.

On December 15, 2020, this Board directed OCLEM to take on the role of auditor of these Jail Reforms Recommendations. In March 2021, the Jail Reforms Workgroup provided us with a list of 10 of the 80 Summarized Recommendations it deemed to be completed and ready to be audited. This report addresses these 10 Summarized Recommendations, as well as the 49 Master List Recommendations that provide the bases for the 10.

As set forth in detail below, we find that all but one of the audited Master List recommendations have either been implemented, or the intent of the recommendation has been met in some other way. We have not yet completed our audit of two of the Summarized Recommendations which include 15 Master List recommendations and which deal with dental care and use of restraints in a medical context because we are awaiting further information. The charts in the Appendix depict the status of all recommendations.

The Sheriff's Office and Custody Health Services has had the opportunity to review and provide feedback on this report and its findings. We appreciate the cooperation of both the Sheriff's Office and Custody Health Services in providing us the necessary documentation and access to personnel necessary to complete this review, and look forward to our ongoing work to complete our audit of the remaining Recommendations.

# Audit Findings

Each of the audited recommendations is listed below, by both Summarized Recommendation and its associated Master List Recommendations. OCLEM's findings regarding each recommendation follow.<sup>1</sup>

Recommendation	Description	OCLEM Finding
Summarized: ADA 2	Following the initial screening, Custody staff will determine the need for mental health housing, Housing Accommodation (ADA), Protective Custody, Administrative Segregation housing and/or possible program needs.	Implemented (with exception that Custody Health staff appropriately makes mental health/medical determinations)
Master List: 350	Once the initial custody designation has been completed, the inmate will be further interviewed/screened by the Classification Deputy to verify the accuracy of the objective classification data. The Classification Deputy will determine the need for mental health housing, Medical Housing (ADA), Protective Custody, Administrative Segregation housing and/or possible program needs.	Implemented (with exception that Custody Health staff appropriately makes mental health/medical determinations)

The recommendation calls for a Classification Deputy to determine the need for mental health housing, Medical (ADA) housing, Protective Custody, Administrative Segregation housing and/or possible program needs.

Custody Health is responsible for conducting an intake screening of every inmate and making housing recommendations related to mental health, ADA, and medical needs. Custody Health provided screenshots of its intake documents and online screening process. Custody Health also provided policies related to these screenings, including: ADA Plan (12.1); Informing Patients about Health Care

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<sup>1</sup>It is important to note that, to the degree that OCLEM has found the recommendations to be "implemented," that assessment is limited to whether the Departments have created policy and structures consistent with the various recommendations. The audit did not delve into the efficacy of the work being done in accord with those policies and structures.

Services (3.3); Clinic Appointments (4.6); Medical Authorizations for Accommodations (4.8); and Mobility Impairment Services (5.10).

The current Classification system requires the Classification Deputy to make housing determinations based on those recommendations; the Deputy does not have the authority to make an independent determination of the need for mental health or medical/ADA housing.

Classification staff does determine the need for protective custody or Administrative Management Housing (formerly Administrative Segregation), based on objective criteria gathered during intake, which includes a one-on-one interview by a Classification Deputy of each person in custody.

Except to the extent it suggests that a deputy should be making medical or mental health determinations – which is neither advisable nor consistent with current practice – this recommendation has been implemented.

Recommendation		Description	OCLEM Finding
Summarized: CLS 1		Replace current classification system with a statistically valid, reliable, evidenced based instrument. The County should conduct a structured reclassification assessment for all inmates every 60 days and the reclassification assessment should place greater emphasis on the inmate's conduct.	Implemented
Master List	130	Create a new Classification System that provides equal access to Mentally Ill offenders.	Implemented
	131	Development of an evidence-based, best practices approach for classification that eliminates subjectivity and the misuse of classification decisions as punishment or retaliation.	Implemented
	132	Replace current classification system with a statistically valid, reliable, evidence based instrument.	Implemented
	184	Continue revising the classification system and deploy it with adequate resources as soon as possible.	Implemented

<b>Recommendation</b>		<b>Description</b>	<b>OCLEM Finding</b>
	310	Implement a classification system that conforms to best practices for housing different categories of inmates, including male and female, juvenile and adult, pretrial and convicted, mentally ill, physically ill, disabled, etc.	Implemented
	311	Ensure that a new inmate classification system is based on best practices that clearly conform to inmates' charges, behavior, and mental and physical abilities.	Implemented
	347	Implement an improved objective Jail Classification System.	Implemented
	348	Classification will adopt a nationally recognized and validated assessment tool from the U. S. Department of Justice, National Institute of Corrections (NIC). This plan will be presented to the Board of Supervisors by May 2016.	Implemented
	637	The County should conduct a structured reclassification assessment for all inmates every 60 days. That re-classification assessment should place greater emphasis on the inmate's conduct as opposed to the inmate's criminal record and current charge(s).	Implemented
	638	The current security rating assessment methods should be replaced by the pilot tested initial and reclassification instruments which will increase the number of Minimum custody inmates and reduce the number of Medium custody inmates. These changes would take into account the over-rides recommended by the classification staff.	Implemented
	639	An essential part of the NIC system is the reclassification process which requires a formal re-assessment of all inmates every 60 days. Such a re-assessment also entails a formal confidential interview with the inmate and a full explanation of the basis for his or her classification rating.	Implemented
	641	It is also recommended that the process of reclassifying Level 3/4 inmates every 30 days be discontinued unless there are special circumstances warranting such an early review.	Implemented

Recommendation		Description	OCLEM Finding
	642	The new classification scoring system will need to be fully automated. The Custody Bureau has already begun the process of modifying the current data base to meet this need.	Not implemented; pending procurement of Jail Management System

In 2017, Custody Bureau adopted a new system for classifying inmates based on the objective classification tool recommended by James Austin, an expert the County engaged in 2016 to assess the jail's prior classification system. The new system satisfies the requirements for the bulk of the Master List Recommendations contained in Summarized Recommendation CLS 1. Specifically:

*130: Create a new Classification System that provides equal access to Mentally Ill offenders.*

*310: Implement a classification system that conforms to best practices for housing different categories of inmates, including male and female, juvenile and adult, pretrial and convicted, mentally ill, physically ill, disabled, etc.*

The classification system is applied to all persons in custody. There is additional intake screening, and housing considerations differ for those with mental health conditions, but the basic security/classification principles apply.

*131: Development of an evidence-based, best practices approach for classification that eliminates subjectivity and the misuse of classification decisions as punishment or retaliation.*

James Austin authored the U.S. Department of Justice, National Institute of Corrections “Objective Jail Classification Systems: A Guide for Jail Administrators.” The County engaged Mr. Austin of the JFA Institute to assess the jail’s classification system in 2016, and resulting changes to Custody Bureau’s policy and practices align with Mr. Austin’s recommendations. The classification instrument used is one endorsed by Mr. Austin and employs national best practices.

*132: Replace current classification system with a statistically valid, reliable, evidence based instrument.*

*311: Ensure that a new inmate classification system is based on best practices that clearly conform to inmates' charges, behavior, and mental and physical abilities.*

*347: Implement an improved objective Jail Classification System.*

*348: Classification will adopt a nationally recognized and validated assessment tool from the U. S. Department of Justice, National Institute of Corrections (NIC). This plan will be presented to the Board of Supervisors by May 2016.*

Custody now uses the Austin classification tool, which is nationally recognized to be a statistically valid, reliable, evidence based instrument.

*184: Continue revising the classification system and deploy it with adequate resources as soon as possible.*

The revised classification system was deployed across the entire jail population in March 2017. In order to implement the new system, the Sheriff's Office created new positions within a Classification unit by shifting resources from other positions. These Classification positions gained funding in later budget cycles. Currently, the Captain of Support Services oversees the Classification unit at the jail. He is assisted by a Lieutenant, who also has collateral responsibilities, as well as four Classification Sergeants, and as many as eight Classification Deputies on each shift.<sup>2</sup> The Captain indicated that he believes this is adequate staffing to complete all the processes currently being utilized.

*637: The County should conduct a structured reclassification assessment for all inmates every 60 days. That re-classification assessment should place greater*

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<sup>2</sup> There are generally four Classification deputies working most shifts at the Main Jail to handle initial classification interviews along with their other tasks; one at the Elmwood facility and one at the CCW facility. There is an additional Classification deputy assigned to the Jail Intelligence Unit, and another in an administrative position. These positions are filled on most shifts to complete reclassification assessments, answer request forms and grievances, respond to incidents in the facilities, and work with Mental Health and medical to find appropriate housing.

*emphasis on the inmate’s conduct as opposed to the inmate’s criminal record and current charge(s).*

The new classification system includes a reclassification assessment for each person in custody every 60 days. The reclassification instrument used is one endorsed by Mr. Austin. It places emphasis on the individual’s disciplinary infractions and program or work participation as mitigating factors that could lower an inmate’s security level and enable housing in a less restrictive environment.

We requested documentation to establish compliance with the 60-day reclassification requirement. The absence of a fully automated Jail Management System made fulfillment of this request difficult. What we did receive was a spreadsheet showing the total number of 60 day reviews completed by month, year, and security level. According to that spreadsheet, the Classification Unit completed more than 1,000 60-day reassessments per month through most of 2019. That number dropped beginning in April 2020, with the corresponding drop in the inmate population, to an average of 595 assessments per month for the remainder of the year. These numbers track with the inmate population sufficiently for us to conclude that the jail has implemented this recommendation. The Classification Unit has offered an additional tool for auditing these assessments, based on a review of daily lists of inmates whose 60-day reviews are soon to be due. We welcome that additional layer of review.

*638: The current security rating assessment methods should be replaced by the pilot tested initial and reclassification instruments which will increase the number of Minimum custody inmates and reduce the number of Medium custody inmates. These changes would take into account the over-rides recommended by the classification staff.*

These changes, recommended in the report of the JFA Institute, were included in Custody’s new Classification system. The “pilot” initial classification and reclassification instruments – which were tested and validated by the JFA Institute during their study – are those currently in use.

*639: An essential part of the NIC system is the reclassification process which requires a formal re-assessment of all inmates every 60 days. Such a re-*

*assessment also entails a formal confidential interview with the inmate and a full explanation of the basis for his or her classification rating.*

In discussions with jail Classification staff, we learned that the formal 60-day re-assessment involves a review of all relevant written documentation as well as a face-to-face interview with each inmate being re-assessed. We reviewed Custody's Classification Manual, which requires this interview and instructs that the purpose of the interview is, "*to verify the accuracy of objective classification data, determine the need for special housing, explain the classification process to the inmate, and indicate the recommended custody level.*"

*641: It is also recommended that the process of reclassifying Level 3/4 inmates every 30 days be discontinued unless there are special circumstances warranting such an early review.*

We learned in interviews with Classification personnel that the classification of some women is re-assessed every 30 days, but that is because the number of women is small enough to make this both feasible and desirable. Not all women are reclassified every 30 days, and few of those are high level security inmates (formerly classified as level 3/4); to that extent that this practice can be characterized as "special circumstances." As a general rule, the 30-day reclassification practice has been discontinued.

*642: The new classification scoring system will need to be fully automated. The Custody Bureau has already begun the process of modifying the current data base to meet this need.*

This recommendation has not yet been implemented. Custody has been working toward acquisition of a fully digital Jail Management System that would incorporate the classification and reclassification instruments. Until then, the system is managed completely via handwritten records and large paper files. We observed some of these files on our recent tour of the jail facilities, and noted both the inefficiency and increased likelihood of error this paper system creates. A Jail Management System is the subject of a Request for Proposals to be released shortly.

<b>Recommendation</b>		<b>Description</b>	<b>OCLEM Finding</b>
Summarized: CLS 2		Classify all inmates using the new initial classification form within six to eight hours of arrival at the facility and provide them with information on their housing level. Develop and maintain an appeal process. Allow inmates access to their files to determine accuracy of contents so that they can receive appropriate access to services and housing.	Implemented
Master List	134	Allow detainees access to their files to determine accuracy of contents and challenge any discrepancies.	Not implemented, but substitute measure in place.
	135	Completely and thoroughly examine the Classification System for inmates and make immediate improvements to ensure appropriate access to services and housing. Create a process for appealing housing classifications.	Implemented
	349	Prior to housing, all inmates will be classified using the initial classification form within six to eight hours of arrival at the facility and prior to housing. The initial form is intended to identify an inmate who presents a serious risk to the safety, security, and orderly operation of the facility.	Implemented
	352	Provide inmates with an acknowledgment form of their initial Classification custody level.	Implemented
	353	Classification will be implementing a new form for all inmates at their initial classification. This acknowledgement form will include the inmates first and last name, booking number, PFN (personal file number), security level and a narrative explaining how to appeal their classification level if they wish to do so. Classification will utilize this notification to provide the inmate a clear comprehension of his/her security level and provide an opportunity for questions/interpretations.	Implemented
	354	Institute an appeal process for inmates who are initially classified at a high security level.	Implemented

Recommendation		Description	OCLEM Finding
	355	Following placement into temporary Administrative Segregation, a supervisor (sergeant) from Classification will provide the inmate with a notification form of temporary segregation and an appeal of segregation form within 48 hours of placement. If the inmate wishes to appeal his/her placement they must complete the form and return it to classification within 7 days.	Implemented
	356	After receipt of the form a classification supervisor (sergeant) will hold a hearing within 72 hours with the inmate. The inmate will be made aware of the decision within 48 hours. Appropriate action (placement) will be taken immediately after the appeal has been heard/authorized by a Classification Lieutenant and/or Captain. If an inmate's appeal is denied, and Administrative Segregation placement has proceeded, Classification shall review the inmates file every 60 days thereafter.	Implemented

Custody Bureau has drafted a new Classification policy that reflects current practices. The policy is currently being reviewed by County Counsel, who will work with plaintiffs to ensure the policy complies with provisions of the remedial plan. We learned in interviews with Custody staff that the Classification Manual (fully implemented in 2017) will align with the new policy, and currently serves to govern the process for classifying persons in custody, providing them information on their security level, and the system for appealing classification and security level housing decisions. With noted exceptions, most of the Master List Recommendations are covered by the current systems. Specifically:

*134: Allow detainees access to their files to determine accuracy of contents and challenge any discrepancies.*

The Sheriff's Office has not implemented this recommendation, nor does it intend to. It responded to our request for information relating to this recommendation with the following written statement:

Classification does not provide documents to inmates or other entities. These documents are considered confidential once Classification

obtains copies from other divisions (e.g., facilities, JCU, MCU) and retains them in the inmate's file.

Inmates can continuously grieve their housing designation throughout their incarceration. Each grievance will be evaluated and responded to by the Classification Unit Sergeant and reviewed for closure or further investigation into the grievance by the ADC. The inmate has an opportunity to appeal a finding from the grievance, and the appeal will be determined by the ADC or Captain of Support Services.

In a follow-up interview with the Captain responsible for Classification, he stressed the overriding need to provide safety and security to inmates and staff, and emphasized that any written documentation that leads to a higher security level classification or adverse housing decision is available to inmates. For example, inmates get a copy of an infraction in their record and have the ability to challenge it. If an inmate is re-housed based on an assault, he or she can get a copy of the crime report. But, he stressed, classification files themselves are too sensitive. Sometimes, the file may contain information about co-defendants, or sensitive information about others the inmate is to be kept away from (including things like informant status or sexual orientation). Rather than risk inadvertent disclosure of one of these sensitive documents, Custody has adopted the bright-line rule that Classification files are not to be accessed by anyone other than Classification staff.

The recommendation to allow detainees access to their Classification files was intended to ensure that persons in custody would have adequate information to challenge their security classification and housing designation. Current systems and protocols for grievances (including access to information that drives adverse housing decisions) meet this intent to some degree. While the grievance system provides some relief for inmates who wish to challenge their classification determination, it is an inadequate substitute for inmates who wish to access their own files to learn the bases for classification determinations. We understand that the "paper file" system currently used by the Sheriff's Office is not geared to effectively screen out particularly sensitive information that inmates should not have access to; we

hope and expect that an automated Jail Management System will be able to effectively limit the ability to view such information so that inmates (and others who would have a need) will have more ready access to other information in their classification file. Accordingly, we urge that when the Jail Management System is built, it be designed with these objectives and goals in mind.

Accordingly, while the Sheriff's Office has not technically implemented this recommendation, we find that it has sufficiently complied with the spirit of the recommendation within its current capabilities, and deem it to have been satisfied for the time being.

*135: Completely and thoroughly examine the Classification System for inmates and make immediate improvements to ensure appropriate access to services and housing. Create a process for appealing housing classifications.*

The current system for classifying inmates contains an appeal process that is based on Custody's grievance system. While this has potential downsides, those are outweighed by the significant advantage the grievance system provides. Namely, the fact that it is fully automated provides the ability to record and track appeals that the otherwise paper-based Classification system does not.<sup>3</sup>

*349: Prior to housing, all inmates will be classified using the initial classification form within six to eight hours of arrival at the facility and prior to housing. The initial form is intended to identify an inmate who presents a serious risk to the safety, security, and orderly operation of the facility.*

All persons arriving at the jail are processed through Intake, where they are interviewed by Classification staff and classified using the initial classification form prior to receiving a housing designation. This classification process takes place within eight hours of an individual's arrival at the jail (and often sooner), according to Classification staff with whom we spoke. We asked to see data or some verification of compliance with this eight-hour mark, but because Classification remains a paper-based system, particular timing of inmate movement is difficult to track. A proper Jail Management System will contain an

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<sup>3</sup> But without yet the ability to review the efficacy of such inmate grievance appeals, we can only verify the existence of an appeal system for classification concerns.

audit tool allowing precise documentation of inmate movement, with verifiable information about how long each individual is in custody prior to classification and housing.

We recently had the opportunity to tour the County's jail facilities, and walked through Intake two or three times during the course of our day at Main Jail. Each time, we noted the relative absence of inmates in holding cells awaiting classification, transfer, or other movement. This was unlike other large jail systems with which we are familiar, in which the intake unit is regularly populated by inmates awaiting one or another sort of assessment (classification, medical, mental health) prior to getting housed. Surely some of the relatively sparse population in Intake is attributed to lower inmate population counts as a result of COVID restrictions and the Court's zero bail policy, but it also supports Classification staff's assertion that currently individuals coming into custody are housed in short order.

While we would prefer to have actual data from an automated Jail Management System to verify Custody's assertions that individuals are classified and housed within eight hours, we understand the limitations of the Classification's paper-based system, and find this recommendation to have been implemented.

*352: Provide inmates with an acknowledgment form of their initial Classification custody level.*

*353: Classification will be implementing a new form for all inmates at their initial classification. This acknowledgement form will include the inmates first and last name, booking number, PFN (personal file number), security level and a narrative explaining how to appeal their classification level if they wish to do so. Classification will utilize this notification to provide the inmate a clear comprehension of his/her security level and provide an opportunity for questions/interpretations.*

Classification has developed a form that every person in custody receives upon classification. It contains the inmate's name, PFN, security level assignment, and a statement that the security level will be re-assessed every 60 days. While the form itself does not explain the process for appealing the classification decision, there is a provision in the inmate rulebook relating to classification that includes all

pertinent information. Every person in custody receives a copy of the inmate rulebook, and must sign an acknowledgement at intake stating that they received the rulebook. All inmates also have access to the rulebook via the inmate tablets. The rulebook contains the following information:

Upon your arrival Classification will do a review of your records to make sure that you are placed in the right housing. Classification will decide your “Classification Level” and housing based on your behavior, risk factors, special needs and criminal history. Following the classification interview you will be notified of your “Classification level” and housing assignment. It is our policy to try and house all inmates in the least restrictive housing possible.

Classification then conducts 60-day reassessments of all inmates. Your file is reviewed for possible reclassification based on the same criteria listed above.

Inmates who have reached their lowest level of classification will receive a “Letter of achievement” and they will no longer require 60-day reassessments.

You will again be notified by the classification officer of your classification level and housing. During this time each inmate will be given the opportunity to ask questions regarding their assigned housing and security level.

Inmates with literacy concerns or those who have difficulty reading, writing, or understanding will receive help during the classification process to ensure they understand the process.

Your housing assignment will play a big part in what services, programs and activities are available to you.

You may be housed in the general population or an ADA unit/area unless you are getting medical or mental health treatment that requires special housing.

You will not be given less privileges, less access to program, services, or activities based solely on your disability, or because of your prescribed health care appliance/durable medical equipment, assistive device or other ADA accommodation needs.

If you feel that you have been improperly classified, you may request that the Classification Unit review your status by submitting an Inmate Request form, which can be obtained from your unit officer.

You may also submit a grievance at any time during your incarceration if you feel that your housing is not appropriate.

The form and the text of the inmate rulebook inform those in custody of all relevant information relating to inmate classification and appeal of classification decisions. This recommendation has been implemented.

*354: Institute an appeal process for inmates who are initially classified at a high security level.*

As noted above, the appeal process for inmates dissatisfied with their security classification or housing designation is the jail's grievance system.

*355: Following placement into temporary Administrative Segregation, a supervisor (sergeant) from Classification will provide the inmate with a notification form of temporary segregation and an appeal of segregation form within 48 hours of placement. If the inmate wishes to appeal his/her placement they must complete the form and return it to classification within 7 days.*

*356: After receipt of the form a classification supervisor (sergeant) will hold a hearing within 72 hours with the inmate. The inmate will be made aware of the decision within 48 hours. Appropriate action (placement) will be taken immediately after the appeal has been heard/authorized by a Classification Lieutenant and/or Captain. If an inmate's appeal is denied, and Administrative Segregation placement has proceeded, Classification shall review the inmates file every 60 days thereafter.*

These recommendations align with current policy and practice regarding what is now referred to as Administrative Management Housing (formerly Administrative

Segregation). We reviewed the forms related to this recommendation, and spoke with Classification staff about the processes associated with placement in Administrative Management Housing, and the policies and protocols governing inmates' appeals. We find the Sheriff's Office has implemented these two recommendations.

<b>Recommendation</b>	<b>Description</b>		<b>OCLEM Finding</b>
Summarized: CLS 3		Implement a classification system validated by gender and develop a policy to include gender-specific information in data collection in their classification system and include the Commission on the Status of Women in that decision-making process.	Implemented
Master List	181	Implement a classification system validated by gender.	Implemented
	544	The Office of the Sheriff should develop a policy to include gender-specific information in data collection in their classification system and include the Commission on the Status of Women in that decision-making process.	Not specifically implemented, but substitute measure in place.

The current Classification system, utilizing the Austin tool for establishing security level classification, uses objective factors that apply equally to male and female inmates. The report from JFA asserts there is no need to create a separate instrument for the female inmates, because of the objectivity of the system adopted.

Nonetheless, factors relevant to classifying and housing women differ from those for men in some regards. In recognition of this, Custody Bureau established dedicated positions at the Women's Facility for female Classification Sergeant and Deputy. Both positions continually reassess the needs of the women housed in the facility.

Prior to rolling out the new classification tool in 2017, members of the Classification Unit met with representatives from the Commission of the Status of Women to demonstrate the new instrument, walking them through how it worked

in comparison to the tool they had been using at the time using the classification files of several women housed at the CCW facility at the time. In response to this demonstration, members of the Commission expressed a better understanding of the complexities of a classification system, while also expressing continued support for the need for ongoing attention to gender responsiveness in classification.

These recommendations have been implemented.

Recommendation		Description	OCLEM Finding
Summarized: CLS 4		Continue to reduce the amount of restrictive housing and increase the amount of structured and unstructured time out of cells for all inmates within their security level. Ensure that inmates needing mobility accommodations will be assigned to housing areas based on their classification to ensure they have full access to programs, services, and activities.	Implemented
Master List	183	Continue to reduce the amount of restrictive housing and increase the amount of structured and unstructured time out of cells.	Implemented
	351	Inmates needing mobility accommodations, (i.e., walkers, canes, braces, prosthetics, wheel chairs, etc.) will be assigned to various housing areas based on their Classification, thus allowing full accesses to educational/re-entry programs, services and activities.	Implemented
	357	Expand structured and unstructured out time for all inmates within their security level.	Implemented

The Summarized Recommendation completely encompasses all three Master List Recommendations:

*351: Inmates needing mobility accommodations, (i.e., walkers, canes, braces, prosthetics, wheel chairs, etc.) will be assigned to various housing areas based on their Classification, thus allowing full accesses to educational/re-entry programs, services and activities.*

Custody Health advises the Custody Bureau if an inmate requires a housing accommodation due to a disability-related need. Classification staff receives this information and references their housing guide to determine which housing units have accessible features for the appropriate security level. These processes are detailed in both Sheriff's Office Classification Manual and Custody Health policies.

Custody Health ADA policies also establish protocols for identifying, tracking, and providing medical services to patients in custody with mobility impairments. This recommendation has been implemented.

*183: Continue to reduce the amount of restrictive housing and increase the amount of structured and unstructured time out of cells.*

*357: Expand structured and unstructured out time for all inmates within their security level.*

At the time these recommendations were drafted, inmates' out of cell time was based on Title 15- Minimum Standards for local detention facilities, which require a minimum of three hours of exercise distributed over a period of seven days.

Custody Bureau now follows the conditions of the consent decree in *Chavez v. Santa Clara County*, which requires jail staff to provide a minimum of 14 hours per week of out of cell time.

In addition, the current Classification system is designed expressly to minimize the numbers of people with the most restrictive security classifications. Completing reclassification assessments every 60 days – with a tool that emphasizes in-custody behavior and encourages downward movement of security levels – allows Classification staff to reduce the numbers of inmates who require the most restrictive housing.

During our recent jail tours and ensuing conversations with Custody staff, we learned about structured programming opportunities currently being offered in various settings. While the COVID-19 pandemic limited programming for much of 2020 and early 2021 because of restrictions on movement into and throughout the jail, online opportunities developed in response to the pandemic offer increased access to future learning. Issuing tablets to all persons in custody also represents

an enormous expansion of available programming. Custody Health also provided a spreadsheet listing the structured programming it currently was offering, which admittedly have been limited due to COVID-19.

Recommendation		Description	OCLEM Finding
Summarized: GRV 3		In order to meet the Prison Rape Elimination Act (PREA) standards, post information regarding PREA reporting and update the orientation video and inmate rule book. The PREA orientation video should be shown in a quiet viewing area and provide an opportunity for questions.	Implemented
Master List	493	Postings should be complete, accurate, organized, properly located, and difficult to tear or remove. PREA information should address both abuse and harassment and should be contained in easy-to-identify and attractively designed posters. The Jail should post information regarding IAU and JOP.	Implemented
	494	The Jail should screen the orientation and PREA videos free from distraction and should provide an opportunity for inmates to direct questions to staff.	Implemented

We requested and received copies of the PREA orientation video, as well as postings and other information provided to persons in custody. We also observed the PREA postings throughout both jail facilities during our recent tours. We questioned staff regarding the issues raised in Recommendation 494, and saw the area where inmates view the PREA video. We also learned that the PREA video is played repeatedly on televisions throughout the jails, as part of daily programming, where informational videos interrupt regular television broadcasts. The video is also available to view on inmates' tablets. Classification staff does one-on-one interviews/consultations with persons newly arriving at the jail on a range of issues, including those relating to PREA and specific vulnerabilities; this interview provides an opportunity for inmates to question staff on a range of relevant issues, including PREA.

These recommendations have been implemented.

Recommendation		Description	OCLEM Finding
Summarized: UOF 4		Implement an automated system to track UOF investigations that will aid in the timely review and evaluation of UOF incidents.	Implemented on its face
Master List	478	A compliance system will be implemented that tracks the status of all investigations, reviews and evaluates all use of force incidents and allegations of force to ensure that investigations and reviews are completed appropriately and timely.	Implemented on its face
	479	An electronic tracking system will be implemented to aid in timely completion of all stages of the process.	Implemented on its face

*478: A compliance system will be implemented that tracks the status of all investigations, reviews and evaluates all use of force incidents and allegations of force to ensure that investigations and reviews are completed appropriately and timely.*

*479: An electronic tracking system will be implemented to aid in timely completion of all stages of the process.*

The Sheriff's Office uses an off the shelf data base "IA Pro" to track use of force investigations for timely review and evaluation. All investigations and reportable uses of force are tracked through the IA Pro "Blue Team."<sup>4</sup> Screen shots of the IA Pro system were provided by the Sheriff's Office to verify use of the tracking system. On paper, the Sheriff's Office has implemented Recommendations 478 and 479.<sup>5</sup>

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<sup>4</sup>Blue Team, by CI technologies is also used to document, collect, review, and track uses of force to ensure appropriate policies and procedures were followed.

<sup>5</sup>However, as OCLEM has not been granted access to reports or information from the system, OCLEM cannot verify that the system is consistently being used to track all alleged uses of force and to ensure timely and appropriate completion of investigations and reviews.

Recommendation		Description	OCLEM Finding
Summarized: UOF 5		Increase investigations and create a specialized response team to ensure the timely investigation of significant UOF incidents. Significant UOF incidents would be referred to criminal investigation for review.	Implemented on its face
Master List	470	Increase investigation, specialized response, oversight, review and evaluation, compliance and analysis of use of force incidents.	Implemented on its face
	471	In addition to the standard use of force investigation, a specialized on-call team will be created to respond to categories of use of force incidents to ensure the immediate and specialized investigation of significant incidents. This team will have the authority to take control and assume full responsibility for the investigation.	Implemented in spirit; no specialized on call team created but other referral options exist to ensure the objective of the recommendation.
	480	All significant use of force incidents will be reviewed by the Jail Crimes Unit to determine if the force used was lawful.	This function is not a JCU responsibility but that of the Use of Force Review Committee which is an improved mechanism for force review over the original recommendation.

*470: Increase investigation, specialized response, oversight, review and evaluation, compliance and analysis of use of force incidents.*

The Use of Force Review Committee (“UFRC”) was established to review all Category III Use of Force incidents. Per policy, the UFRC is to collect all necessary documentation (e.g., reports, photos, surveillance video, BWC video, and handheld video) for review.

The UFRC determines if the use of force package was completed or documentation discrepancies which need further supplemental information rendering those specific concerns and/or issues. Upon completion of UFRC review,

recommendations are made regarding remedial training, corrective action, or formal investigation for possible criminal or administrative investigation (referral to IAU or the Sheriff's Office Investigations Division).<sup>6</sup>

The UFRC is an important addition to the jail force review process in that all significant force incidents are presented to the Committee for Review. On paper, the Sheriff's Office has implemented Jail Reform Recommendation 470.<sup>7</sup>

*471: In addition to the standard use of force investigation, a specialized on-call team will be created to respond to categories of use of force incidents to ensure the immediate and specialized investigation of significant incidents. This team will have the authority to take control and assume full responsibility for the investigation.*

As stated above, current Custody Policy provides for discussion and immediate referral to the Sheriff's Office Investigations Division or Internal Affairs should there be concern about the force incident. The UFRC serves as an important backstop at the back end of the review to determine whether a case should be referred for criminal or administrative investigation.

The determination of how a force incident is investigated is governed by **Custody Policy 9.02 - Use of Force Investigation, Reporting, and Review**.

That policy notes that in the event of an in-custody death related to a force event, the Sheriff's Office shall follow the countywide "Officer Involved Incident" protocol. This protocol is a multi-agency protocol coordinated by the District Attorney and involves his office in the investigative and review processes.

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<sup>6</sup> As a result of the consent decree, independent monitors also review jail force incidents to determine compliance with current policy.

<sup>7</sup>Of course, without access to a sample of force incidents, we are not able to opine on the efficacy of the UFRC's review process.

The policy further notes that a case may be referred for investigation by the Sheriff's Office Investigations Division or Internal Affairs Unit if the facility identifies potential concerns with regard to the force.<sup>8</sup>

The policy categorizes all force into three classifications depending on the significance of the force. The UFRC automatically reviews all Category 3 use of force incidents which include the most significant uses of force. For Category 2 incidents, the UFRC will review incidents where concerning factors have been identified which need to be addressed by the Sheriff's Office. For Category 1 cases, the UFRC is to randomly select five incidents to review every six months.

Per policy, the UFRC may refer force incidents to the Sheriff's Office Investigations Unit to investigate potential criminal conduct or the need for disciplinary action as it deems appropriate.

On paper, with the exception regarding the creation of a “specialized” investigative force unit, the objective of Recommendation 471 is satisfied.

*480: All significant use of force incidents will be reviewed by the Jail Crimes Unit to determine if the force used was lawful.*

Instead of the Jail Crimes Unit, the UFRC has assumed the role of reviewing significant force incidents to determine if the force was lawful. However, the

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<sup>8</sup> As detailed above, the Recommendation apparently envisioned the creation of a “specialized on-call team to respond to categories of use of force incidents to ensure the immediate and specialized investigation of significant incidents”. While the Sheriff’s Office Investigative Unit and Internal Affairs are not specialized force investigative teams “per se,” they have the capacity to respond to take over force investigations. Without the current ability or access to evaluate the strength of the Sheriff’s Office investigations, we cannot opine regarding the current advisability of the Recommendation to create a “specialized on-call team” apart from the investigative units currently available.

The policy expects custody supervision to call either unit should concerns be identified about the use of force. However, the effectiveness and timeliness of these referrals would not be ascertainable without an audit of cases that have gone through the process.

Moreover, as part of our audit request we asked for reports demonstrating the number and/or rate of investigations into significant UOF incidents initiated and completed. Because we did not receive records responsive to this request, we cannot comment on the effectiveness of the referral system currently in place.

makeup and composition of the UFRC has elevated the review process to command staff and is actually an improvement over the initial Jail Reform Recommendation.

On its face, the Sheriff's Office has implemented the objectives behind Jail Reform Recommendation 480.<sup>9</sup>

Recommendation	Description	OCLEM Finding
Summarized: HLC 2	<p>For dental care, broaden the scope of services for longer term inmates based on categorizing treatment as Urgent Care, Interceptive Care, Routine Rehabilitative Care, No Dental Care Needed, and Special Needs Care.</p> <p>Revise policy related to:</p> <ul style="list-style-type: none"><li>• Dentures for inmates who are in custody for a long time that addresses when soft diets are prescribed</li><li>• Dental prosthesis and fixed orthodontic appliances</li><li>• Developing wider scope of services (such as denture fabrication) and clinical administrative procedures (such as record keeping)</li><li>• Dental floss and when it will be denied for security reasons.</li></ul> <p>Change the principal evaluation metric for the dental program from number of patient encounters to number of procedures per day.</p>	

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<sup>9</sup> As part of our audit of the Jail Reform Recommendations we requested records, logs and/or database printouts representing all use of force incidents (including some descriptive information referencing the type of allegations) referred for criminal investigation into the conduct of Sheriff's Office. We also requested reports demonstrating the number and/or rate of investigations into significant use of force incidents initiated and completed between January 2020 and present. The purpose of the request was to learn how many use of force cases had been referred for criminal investigation and how many significant force incidents had been investigated. Because we received no records responsive to this part of our request, we cannot opine whether the revamped policy has resulted in criminal referrals.

<b>Recommendation</b>		<b>Description</b>	<b>OCLEM Finding</b>
Master List	55	Provide regular preventative care for detainees who are housed for a year or longer in the facilities, such as dental cleanings and x-rays, physicals, immunizations and other standard care that would be received outside. To reduce the loss of teeth and the cost of trips to the emergency room, institute more preventative care for detainees and improve response to requests for care. Consult medical professionals for typical standards of recommended care.	
	548	The scope of services should be broadened for longer-term inmates and be based on the dental priority codes used by CDCR which categorize treatment needs as Urgent Care, Interceptive Care, Routine Rehabilitative Care, No Dental Care Needed, and Special Needs Care.	
	549	Urgent Care should be sub-divided based on a condition's acuity. Conditions characterized with sudden onset and severe pain should be treated within 24 hours. Urgent Care should be made available to all inmates.	
	550	Inmates requiring Interceptive Care should be treated within 120 days. Interceptive Care should be available to inmates who have six months or longer left in their sentences or inmates who are no adjudicated but who are likely to be in custody for at least six months.	
	551	Routine Care should be provided to inmates within 12 months. It should be available to inmates who have 12 months or longer left in their sentences or those who are not adjudicated but likely to be in custody for at least 12 months.	
	553	Dental policies and procedures should be rewritten to address a wider scope of services (e.g., oral self-care, periodontal diagnosis and non-surgical treatment, denture fabrication and repair, restorations, and routine care), and clinical administrative procedures (e.g., record keeping and workload reporting). The Policies and Procedures should be modeled on those used by CDCR, especially with respect to the DPC system.	
	554	The policy regarding prescribing inmates dental prosthesis should be rewritten.	

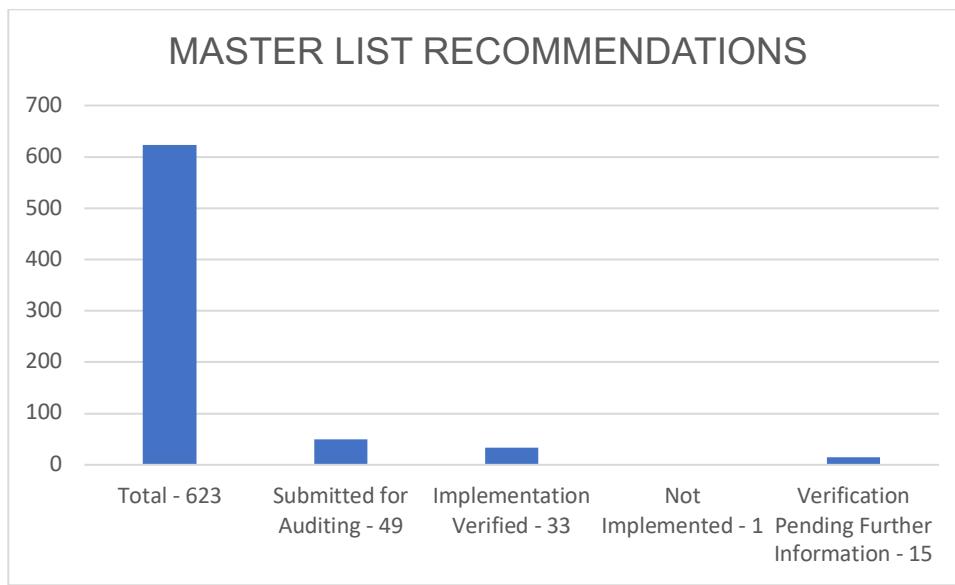
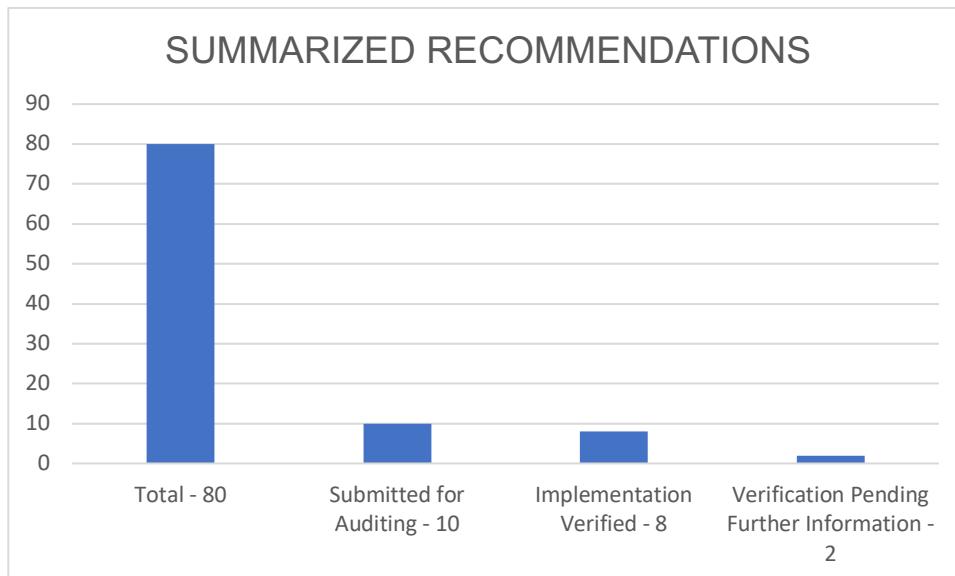
<b>Recommendation</b>		<b>Description</b>	<b>OCLEM Finding</b>
	556	A policy should be developed to address dental floss and other interdental cleaning devices. The policy should also address the circumstances when use of such devices will be denied for security reasons.	
	557	A policy should be developed to treat inmates who have fixed orthodontic appliances.	
	560	A policy should be developed to address when inmates who are expected to remain in custody for six months or more will be provided dentures. The policy should also address when soft diets will be prescribed to inmates who experience chewing difficulty due to substantial tooth loss.	
	568	Dr. Shulman recommends that the principal evaluation metric for the dental program be changed from the number of patient encounters to the number of procedures (using CDT codes) that dentists do on a daily basis. Consequently, it is critical that any EDR be designed with the capability to produce management and productivity reports using CDT codes. In addition, the EDR should be sufficiently flexible to track DPC codes. Dr. Shulman notes that this can be done initially using a manual (paper) system that is completed after each appointment and totaled at the end of the day. This system can be migrated to Microsoft Excel, and later be produced by the EDR.	

Custody Health provided its policies on dental services, including emergency, urgent, and routine care. We also reviewed its patient advisory on scope of dental services, but are awaiting further information before completing our audit of these recommendations.

Recommendation		Description	OCLEM Finding
Summarized: HLC 7		With regard to use of restraints, refine policies around supervision, timing, and appropriate medical checks while in restraints for behavior or clinical reasons. Any time that exceeds the expert's recommendations should include a mental health assessment and special oversight by clinician. Clothing and personal items afforded to inmates should be individualized and based on assessment of risk.	
Master List	627	Dr. Gage recommended that inmates in restraints, whether in the restraint chair for behavioral reasons or clinical restraints on 8A, should be on constant watch rather than periodic checks (or constant video monitoring with direct visualization every 15 minutes). Nurses must check inmates in restraints at least every two hours for vital signs (the current policy specifies hourly), neurovascular assessment (under current policy only vascular assessment is specified and the frequency is not specified), and limb range of motion and movement, including the legs (which custody can do).	
	628	Dr. Gage further recommended that the County modify its policy on prone restraint, which should be avoided absent clear evidence that prone restraint is indicated for certain medical conditions.	
	629	Dr. Gage also recommended that restraint chairs be utilized for no more than four hours. Additional restraint should involve mental health assessment and include consideration for placement in a mental health setting. Similarly, clinical restraint should be ordered every four hours for the first twelve hours. The current limitation of 24 hours is reasonable. Exceptions for longer restraint may be necessary in some cases but this should require special oversight and in-person evaluation by the ordering clinician and authorization by a supervisor.	
	630	Dr. Gage recommended that the type of clothing afforded inmates in restraint and seclusion be individualized and based on an assessment of risk. As those in restricted settings improve, it is important to restore items noted to be potentially risky to ascertain their readiness to manage themselves in less restrictive settings.	

We reviewed Custody Health policies on use of clinical restraints as well as the newly enacted Suicide Prevention Policy. We are awaiting further information before completing our audit of these recommendations.

# Appendix



NOTE: For both Charts, “Implementation Verified” means that the recommendation has either been implemented or there are substitute measures in place that satisfy the purpose of the recommendation.