



August 28, 2021

Board of State and Community Corrections
2590 Venture Oaks Way
Sacramento, CA 95833

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Proposed Adult Title 15 Revisions Re: “Community Insights on California Jails” Survey

Dear Members of the Adult Titles 15 and 24 Regulations Revisions ESC and BSCC Board:

We respectfully request that you adopt our recommended revisions to the Adult Titles 15 and 24 Regulations. These will improve the health, safety, and dignity of all Californians incarcerated in county jails. Our community members cannot wait for county jails to meet their basic needs under the BSCC’s supervision.

Our recommendations are rooted in findings from the “Community Insights on California Jails” Survey for which we submitted a Summary of Findings¹ to the BSCC on August 11, 2021. Our organizations developed this survey, given that the BSCC did not facilitate an accessible method for input from justice-involved people. This has left many of the most critical voices out of a decision-making process that affects thousands. As a result, proposed revisions as of May 28, 2021 were extremely limited and would have resulted in little material change to the day-to-day lives of Californians in county jails.

We analyzed survey submissions from 99 impacted community members, all of whom were either formerly incarcerated in jail, have/had loved ones in jail, or worked as attorneys or service providers with these individuals. Please note, given the limited timeframe for public comment, the analysis does not include hard copies of the survey received by individuals currently in county jails. We will submit a summary of their responses separately.

In this letter, we recommend revisions in the following areas:

¹ Center on Juvenile and Criminal Justice (CJ CJ). (August 11, 2021). “Community Insights on California Jails” Survey: Summary of Findings. At: http://www.cjcj.org/uploads/cjcj/documents/Community_Insights_on_California_Jails_Survey_Findings_8.11.2021.pdf.

- Additional Definitions.
- § 1027.5 Safety Checks.
- § 1058. Use of Restraint Devices.
- § 1061. Inmate Education Plan.
- § 1062. Visiting.
- § 1064. Library Service.
- § 1065. Out of Cell Time.
- § 1066. Books, Newspapers, Periodicals, and Writings.
- § 1067. Access to Telephone.
- § 1069. Inmate Orientation.
- § 1070. Individual/Family Service Programs.
- § 1073. Inmate Grievance Procedure.
- § 1082. Forms of Discipline.
- § 1083. Limitations on Disciplinary Actions.
- § 1200. Responsibility for Health Care Services.
- § 1206. Health Care Procedures Manual.
- § 1208. Access to Treatment.
- § 1210. Individualized Treatment Plans.
- § 1211. Sick Call.
- § 1215. Dental Care.
- § 1240. Frequency of Serving.
- § 1241. Minimum Diet.
- § 1242. Menus.
- § 1246. Food Serving and Supervision.
- § 1248. Medical Diets.
- § 1260. Standard Institutional Clothing.
- § 1262. Clothing Exchange.
- § 1265. Issue of Personal Care Items.
- § 1266. Showering.
- § 1270. Standard Bedding and Linen Issue.
- § 1271. Bedding and Linen Exchange.

Additional Definitions:

- “Outdoor” means a space with open/fresh air, exposure to direct sunlight, and one that is not fully enclosed. If possible, outdoor space should be in view of vegetation.
- “Clean” means laundered immediately prior to issue unless new or, in the case of mattresses and items that cannot be laundered, disinfected immediately prior to issue.
- “Serviceable” mattresses lack holes or tears and have sufficient padding.

Reasoning: We agree with recommendations made by the ACLU to define “outdoor” for the reasons outlined in their July 30, 2021 letter.² In the survey, some respondents described prolonged periods where they did not have access to an outdoor environment, which can be detrimental to a person’s mental and physical health. Additionally, we recommend clear definitions for “clean” and “serviceable” given many survey respondents described unsanitary clothing and bedding issued by facilities. While these terms are currently used in the regulations, they lack any substance without definitions.

§ 1027.5 Safety Checks.

Safety checks shall be conducted at least hourly through direct visual observation of all inmates. **These checks will determine the safety and well-being of individuals.** There shall be no more than a 60-minute lapse between safety checks for dormitory-style housing units where staff have unobstructed direct supervision of individuals. There shall be no more than a 30-minute lapse between safety checks for housing units with cells or dormitory-style housing units that do not allow for unobstructed direct supervision of individuals. There shall be no more than a 30-minute lapse between safety checks for moderate observation mental health units and a 15-minute lapse for high observation mental health units. There shall be a written plan that includes the documentation of routine safety checks and a process to review completed safety checks. **Video surveillance shall not be used as a replacement for direct visual contact.**

² ACLU California Action (ACLU). (July 31, 2021). At: <https://www.bscc.ca.gov/wp-content/uploads/ACLU-Cal-Action-Foundations-Regulation-Revision-Comments-7.30.2021.pdf>.

Reasoning: In the survey, most respondents did not feel the frequency of safety checks were sufficient to protect individuals from abuse and violence. Many expressed concerns that these safety checks were perfunctory and ignored violent incidents. Our recommendations are informed by survey results and expectations put forth in a federal monitor's report,³ given conditions issues at Los Angeles County's jails.

§ 1058. Use of Restraint Devices.

Restraint devices shall only be used on inmates who display behavior which results in the destruction of property or reveal an intent to cause physical harm to self or others. Restraint devices include any devices which immobilize an inmate's extremities ~~and/or~~ prevent the inmate from being ambulatory. Physical restraints should be utilized only when ~~all it appears~~ less restrictive alternatives, including verbal de-escalation techniques, have been attempted and are deemed ineffective. ~~would be ineffective in controlling the disordered behavior.~~

Inmates shall be placed in restraints only with the approval of the facility manager, the facility watch commander, or responsible health care staff; continued retention shall be reviewed a minimum of every hour. Direct visual observation shall be maintained until a medical opinion can be obtained. A medical opinion on placement and retention shall be secured within one hour from the time of placement. A medical assessment shall be completed within four hours of placement. If the facility manager, or designee, in consultation with responsible health care staff determines that an inmate cannot be safely removed from restraints after eight hours, the inmate shall be taken to a medical facility for further evaluation.

Direct visual observation shall be conducted at least twice every thirty minutes to ensure that the restraints are properly employed, and to ensure the safety and well-being of the inmate. Such observation shall be documented. While in restraint devices all inmates shall be housed alone or in a specified housing area for restrained inmates which makes provisions to protect the inmate from abuse.

Staff shall conduct a medical and mental health assessment of an individual prior to the use of a restraint chair, or at the inception of its use. Restrained individuals shall be subject to direct, continuous observation. The restraint chair shall only be used for as long as needed to secure an incarcerated individual for transport for outside medical attention, but not to exceed two hours within a 24 hour time period. A video record shall be kept of restraint chair use. The facility shall report monthly use of the restraint chair to BSCC, including the number of times, the duration of each restraint episode, and all restraint related deaths.

Reasoning: In the survey, respondents discussed staff's overreliance on use of restraints that felt excessive or unwarranted (e.g., during transportation to court or medical emergencies). Additionally, given that restraint chairs are extremely dangerous and have led to injuries/death among incarcerated individuals,⁴ we recommend making this critical revision regarding the use of restraints per public comment by Disability Rights California.⁵

³ United States of America v. County of Los Angeles and Los Angeles County Sheriff Jim McDonnell Monitor's Fifth Report. (2018). At: <https://www.clearinghouse.net/chDocs/public/JC-CA-0005-0023.pdf>.

⁴ Disability Rights California. (June 2020). The Cruel and Unusual Use of Restraint Chairs in California Jails: A Call to Action. At:

<https://www.disabilityrightsca.org/post/the-cruel-and-unusual-use-of-restraint-chairs-in-california-jails-a-call-to-action>.

⁵ Disability Rights California. (2020). BSCC Adult Titles 15 and 24 Regulations Revision— Recommendations from Disability Rights California. At:

<https://www.bscc.ca.gov/wp-content/uploads/Disability-Rights-Californias-Recommended-Revisions-2.7.2020.pdf>.

§ 1061. Inmate Education Plan.

The facility administrator of any Type II or III facility shall plan and shall request of appropriate public officials an inmate education program. When such services are not made available by the appropriate public officials, then the facility administrator shall develop and implement an education program with available resources. Such a plan shall provide for the voluntary academic, ~~and/or~~ and vocational, ~~or both,~~ education of housed inmates. Reasonable criteria for program eligibility shall be established. An inmate may be provided modified academic or vocational opportunities and an inmate may be excluded or removed based on sound security practices if necessary to protect the safety of incarcerated persons and staff as directly relates to academic or vocational programs. ~~or failure to abide by facility rules and regulations.~~

Reasoning: In the survey, respondents described challenges with access to educational and vocational programming. Both are critical to the successful reentry outcomes⁶ for individuals upon release, and therefore must be offered at all facilities. We are also concerned by the broad, open-ended exception for an incarcerated person's modified programming and recommend the above language to ensure reasonable implementation.

§ 1062. Visiting.

The facility administrator shall develop written policies and procedures for inmate visiting which shall provide for as many in-person visits and visitors as facility schedules, space, and number of personnel will allow. For sentenced inmates in Type I facilities and all inmates in Type II facilities there shall be allowed no fewer than two visits totaling at least one hour per inmate each week. In Type III and Type IV facilities there shall be allowed ~~no fewer than two~~ one or more visits, totaling at least one hour, per week.

... If a local detention facility offered video visitation only as of January 1, 2017, the first two hours of remote video visitation per week shall be offered free of charge.

Facilities shall establish reasonable visiting hours that are convenient and suitable for visitors, including time on weekends, evenings, and holidays.

Facilities shall not cancel visitation except as necessary and only if narrowly tailored to further the legitimate security interests of the government.

Reasoning: These revisions are based on the survey results and recommendations from the American Bar Association (ABA)⁷. For example, "reasonable visiting hours that are convenient and suitable for visitors, including time on weekends, evenings, and holidays" is a direct ABA recommendation. Additionally, our recommendation to limit cancelled visitation is informed by survey respondents that reported being denied visits or phone calls for arbitrary reasons (e.g., "they took my visiting away for using the bathroom, or not go[i]ng in on time" and "I wasn't allowed to contact my family for over 2.5 weeks").⁸

⁶ For example, see Wilson, D. B., Gallagher, C. A., & MacKenzie, D. L. (2000). A Meta-Analysis of Corrections-Based Education, Vocation, and Work Programs for Adult Offenders. *Journal of Research in Crime and Delinquency*. 37(4), 347-368.

⁷ American Bar Association (ABA). (2010). *ABA Criminal Justice Standards on Treatment of Prisoners*. At: https://www.americanbar.org/groups/criminal_justice/publications/criminal_justice_section_archive/crimjust_standards_treatmentprisoners/.

⁸ CJC. (2021). Page 11.

§ 1064. Library Service.

The facility administrator shall develop written policies and procedures for library service in all Type II, III, and IV facilities. The scope of such service shall be determined by the facility administrator. The library service shall include access to ~~legal reference materials~~the following resources via any of the following methods: physical paper documents, or through electronic media, mail, vendor, kiosks, tablets; legal reference materials, and include current information on community services and resources, and religious, educational, current legal reference material and recreational reading material. In Type IV facilities such a program can be either in-house or provided through access to the community.

Reasoning: Survey respondents noted that they experienced challenges with accessing legal materials. In particular, we recognize that it is critical for facilities to be equipped with up-to-date resources pertinent to incarcerated individuals' legal proceedings.

§ 1065. ~~Exercise and Recreation~~Out of Cell Time

The facility administrator of a Type II or III facility shall develop written policies and procedures for: an exercise ~~and recreation~~ program, in an area designed for ~~recreation~~outdoor exercise, which will allow a minimum of ~~three~~ seven hours of exercise distributed over at least four days within a period of seven days. ~~Such regulations policies and procedures as are reasonable and necessary to protect the facility's security and the inmates' welfare shall be included in such a program. In Type IV facilities, such a program can be either in-house or provided through access to the community.~~

(1)(2) a recreation program, which will allow an opportunity for seven a minimum of three hours of recreational, or out of cell time, per day, at a reasonable time of day distributed over a period of seven days. ~~Such regulations policies and procedures as are reasonable and necessary to protect the facility's security and the inmates' welfare shall be included in such a program.~~

Policies should include reasonable and necessary procedures to ensure safety and security. Outdoor and recreation policies and procedures shall apply to all incarcerated individuals regardless of placement. Outdoor time may be cancelled when hazardous or other inclement weather conditions exist, such as severe heat/humidity indexes, thunderstorms, hazardous air quality, or conditions that cause hypothermia.

The facility administrator of a Type I facility shall make table games, radio/streaming, and/or and television; or both, available to inmates.

In Type IV facilities, such a program can be either in-house or provided through access to the community.

Reasoning: Approximately 89 percent of survey respondents expressed that they needed at least 3 hours per day to attend to their basic needs (e.g., shower, exercise, communication with loved ones). Additionally, the majority of survey respondents experienced less than 1 hour per day outdoors (70 percent) and 90 percent explained that this amount of time was insufficient. Isolation and a lack of access to nature can be detrimental to a person's mental and physical health, as described by survey respondents.

§ 1066. Books, Newspapers, Periodicals, and Writings.

The facility administrator of a Type II or III facility shall develop written policies and procedures which will permit inmates to purchase, receive and read any book, newspaper, periodical, documents printed from the internet, or writing accepted for distribution by the United States Postal Service. The facility administrator shall develop and implement a written plan to make available a current newspaper or other like source, including a non-English language alternative, to ensure reasonable access to interested inmates. Nothing

herein shall be construed as limiting the right of a facility administrator to:

Reasoning: Please include this addition to ensure minimum standards are updated to meet the modern needs of individuals in facilities. Per recommendations by the ABA,⁹ "Correctional authorities should allow prisoners to receive or access magazines, soft- or hard-cover books, newspapers, and other written materials, including documents printed from the Internet, subject to the restrictions in subdivisions (c) and (d) of this Standard."

§ 1067. Access to Telephone.

The facility administrator shall develop written policies and procedures which allow reasonable access to a telephone or communication device beyond those telephone calls which are required by Section 851.5 of the Penal Code. **Individuals with hearing or speech impairments shall have access to telephonic equipment to facilitate communication. Facilities shall not cancel access to telephonic communication without a serious safety threat.**

Reasoning: Per the ABA,¹⁰ correctional authorities should provide accessible equipment for people with hearing and speech impairments. Additionally, we recommend language to protect incarcerated individuals and their families from unnecessary and/or frequent communication cancellations.

§ 1069. Inmate Orientation.

In Type II, III, and IV facilities, the facility administrator shall develop written policies and procedures for the implementation of a program reasonably understandable to inmates designed to orient a newly received inmate at the time of placement in a living area. Access to an orientation program may be by video or written form. Additional measures ~~may be~~ necessary to ensure the orientation material is understood by all, such as translation for non-English speakers, shall be taken by the facility administrator.

Reasoning: We learned from survey respondents that non-English speakers had difficulty accessing certain materials relating to their rights (e.g., grievances). It is critical that orientation materials be developed with non-English speakers in mind for full comprehension by everyone in the facility.

§ 1070. Individual/Family Service Programs.

The facility administrator of a Type II, III, or IV facility shall develop written policies and procedures which facilitate cooperation with appropriate public or private agencies for individual ~~and/or~~ family social service programs for inmates. Such a program shall utilize the services and resources available in the community and may be in the form of a resource guide ~~and/or~~ actual service delivery. The range and source of such services shall be at the discretion of the facility administrator and may include:

- (a) risk and needs assessments;
- (b) best practices in:
 - (i) individual, group ~~and/or~~ family counseling;
 - (ii) drug and alcohol abuse counseling;
 - (iii) cognitive behavioral interventions;
 - (iv) vocational testing and counseling;
 - (v) employment counseling;

⁹ ABA. (2010).

¹⁰ Ibid.

- (vi) discharge planning;
- (c) referral to community resources and programs;
- (d) reentry planning and service development;
- (e) legal assistance;
- (f) **housing support**;
- (g) regional center services for the developmentally disabled; and,
- (h) community volunteers.

Reasoning: Survey respondents raised many concerns regarding reentry. 85 percent of respondents stated that no one at the jail helped prepare them for reentry. While this minor addition does not address the full shortcomings, housing support is a critical need for people returning to the community after a period of detention or incarceration. Per the ABA,¹¹ "Preparation for re-entry should include assistance in locating housing."

§ 1073. Inmate Grievance Procedure.

Each administrator of a Type II, III, or IV facility and Type I facilities which hold inmate workers shall develop written policies and procedures whereby any inmate may ~~file appeal and have resolved~~ grievances relating to any conditions of confinement, included but not limited to: medical care; classification actions; disciplinary actions; program participation; telephone, mail, and visiting procedures; staff conduct; and food, clothing, and bedding. Filed grievances shall be expressly considered by qualified administrative staff without conflicts of interest. Such policies and procedures shall include:

- a grievance form ~~or and~~ instructions for registering a grievance including all relevant deadlines;
- resolution of the grievance at the lowest appropriate staff level;
- appeal to the next level of review;
- written reasons for denial of grievance at each level of review which acts on the grievance with an explanation of appeal process and deadlines;
- provision for initial response within ~~a reasonable time limit~~ three (3) business days, grievances that relate to urgent health and safety issues must be addressed immediately; and,
- provision for resolving questions of jurisdiction within the facility;
- provision for giving a copy of the grievance, appeal, response, and related documents to the incarcerated person;
- the incarcerated person shall have the option to confidentially file the grievance or to deliver the form to any supervision staff working in the facility;
- resolution of the grievance must occur within ten (10) business days unless circumstances dictate a longer time frame. The incarcerated person shall be notified of any delay; and,
- the policy shall provide multiple internal and external methods to report sexual abuse and sexual harassment.

Reasoning: According to the survey, 80 percent of respondents did not feel there was someone at the jail they could tell if they had an issue. Of the respondents that had filed a grievance, over 77 percent (31 out of 40) reported the problem was not fixed. Reported grievances included: physical abuse by staff, bribery by staff, mail being withheld, poor food quality, lack of access to prescribed medication, and phone call withdrawals by correctional staff. Additionally, many people who responded to the survey did not have trust in the grievance process due to lack of information, withholding of materials, and frequent dismissals of their concerns. For example, one person

¹¹ ABA. (2010).

explained, “There isn’t any kind of tracking system nor were they obligated to respond.”¹² Another person noted, “I was afraid of retaliation and further prosecution.”¹³ We have serious concerns about correctional staff – in some cases, the individuals being highlighted in a grievance – playing a role in the grievance process. This contributes to distrust and potentially harmful repercussions.

Our recommended revisions are informed by insights from survey responses as well as the BSCC’s Juvenile Title 15 Regulations,¹⁴ updated as of 2019, which outline requirements for timely responses to grievances. We recommend that the ESC reject the workgroup recommendation to replace “appeal and have resolved” with “file” in § 1073. This softens a critical requirement for facilities to respond to concerns regarding the safety and well-being of incarcerated individuals in the county’s care. Alternatively, “appeal and have resolved” can be replaced with “file and have expressly considered” to reiterate the facility administrators’ required responsiveness.

§ 1082. Forms of Discipline.

The degree of ~~punitive~~ actions taken by the disciplinary officer shall be directly related to the severity of the rule infraction and promotion of desired behavior through a progressive disciplinary process.

Acceptable forms of discipline shall consist of, but not be limited to, the following:

Loss of privileges.

Extra work detail.

Short term lockdown for less than 24 hours.

Removal from work details.

Forfeiture of “good time” credits earned under Penal Code Section 4019.

Forfeiture of “work time” credits earned under Penal Code Section 4019.

Disciplinary separation.

~~Disciplinary separation diet.~~

Reasoning: We align with our partners at the ACLU to recommend the removal of a disciplinary separation diet. As noted in their public comment letter¹⁵, “there is strong evidence that it is not considered a best practice for the industry. The American Correctional Association discourages using food as a disciplinary measure.”¹⁶ Additionally, the practice of using a disciplinary diet may constitute unconstitutional¹⁷ treatment. This is an outdated, inhumane practice already barred by many states and systems, including California’s own state prisons.¹⁸

§ 1083. Limitations on Disciplinary Actions.

No inmate may be deprived of the implements necessary to maintain an acceptable level of personal hygiene as specified in Section 1265 of these regulations.

Food shall not be withheld as a disciplinary measure.

¹² CJC. (2021). Page 10.

¹³ Ibid.

¹⁴ Board of State and Community Corrections (BSCC). (2019). Title 15 Minimum Standards For Juvenile Facilities. At: <https://www.bscc.ca.gov/wp-content/uploads/Juvenile-Title-15-Effective-2019-1-1.pdf>.

¹⁵ ACLU. (2021).

¹⁶ Mora, Kalisa. (2014). “Would You Eat This: Why Should They?” *University of Cincinnati Law Review*. At: <https://uclawreview.org/2017/06/14/would-you-eat-this-why-should-they/>.

¹⁷ Spanos, Alexander J. (2014). “The Eighth Amendment and Nutraloaf: A Recipe for Disaster,” 30 *Journal of Contemporary Health Law & Policy* 222. At: <https://scholarship.law.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1011&context=jchlp>.

¹⁸ McKinley, Jesse. (2015). New York Prisons Take an Unsavory Punishment Off the Table, *The New York Times*. At: <https://www.nytimes.com/2015/12/18/nyregion/new-york-prisons-take-an-unsavory-punishment-off-the-table.html>.

~~The disciplinary separation diet described in section 1247 of these regulations shall only be utilized for major violations of institutional rules:~~

~~In addition to the provisions of Section 1247, the facility manager shall approve the initial placement on the disciplinary separation diet and ensure that medical staff is notified:~~

~~In consultation with medical care staff, the facility manager shall approve any continuation on that diet every 72 hours after the initial placement.~~

All diets must conform to the standards provided in Sections 1240-1246.

Correspondence privileges shall not be withheld except in cases where the inmate has violated correspondence regulations, in which case correspondence may be suspended for no longer than 72 hours, without the review and approval of the facility manager.

In no case shall access to courts and legal counsel be suspended as a disciplinary measure.

Reasoning: See note under § 1082. Forms of Discipline. We urge the BSCC to remedy this ongoing disciplinary issue, and remove the use of the disciplinary separation diets from these regulations.

§ 1200. Responsibility for Health Care Services.

In Type I, II, III and IV facilities, the facility administrator shall have the responsibility to ensure provision of emergency and basic health care services to all inmates. Medical, dental, and mental health matters involving clinical judgments are the sole province of the responsible ~~physician-qualified health care professionals~~, dentist, and psychiatrist or psychologist respectively; however, security regulations applicable to facility personnel also apply to health personnel.

Each facility shall have at least one physician ~~available to treat physical disorders per 500 inmates available to treat physical disorders and one psychiatrist per 500 inmates available to treat mental health matters~~. In Type IV facilities, compliance may be attained by providing access into the community; however, in such cases, there shall be a written plan for the treatment, transfer, or referral in the event of an emergency.

In court holding and temporary holding facilities, the facility administrator shall have the responsibility to develop written policies and procedures which ensure provision of emergency health care services to all inmates.

Reasoning: While guidelines are reticent to put numbers, we recommend that these regulations be solidified to ensure a greater minimum requirement for physicians. Given the large range of facility sizes across the state, one physician per facility appears unreasonably low. While not inclusive of nurses, medical assistants, and other health professionals, we present a recommendation of 1 physician per 500 for consideration.¹⁹

§ 1206. Health Care Procedures Manual.

...provisions for timely and appropriate medical and mental health screenings, access to medical and mental health services, and no-cost access to contraception and STD treatment, for inmates who have reported sexual abuse or sexual harassment, regardless of the location where the incident(s) occurred. ~~“Timely” screenings shall be defined and no longer than one week after requested. Access requires timely provision of medical and mental health services.~~

Reasoning: Our recommendations in this section and the following sections (§ 1208, § 1210, § 1211,

¹⁹ See U.S. Department of Justice National Institute of Corrections. (2001). Correctional Health Care: Guidelines for the Management of an Adequate Delivery System. At: <https://www.ncchc.org/filebin/Publications/CHC-Guidelines.pdf>.

§ 1215) relate to the need for improved regulations on timeliness of services. Among survey respondents, over 77 percent (68 out of 88) stated they were not able to see a doctor/nurse/physical therapist and nearly 85 percent responded that they were unable to see a psychologist/counselor/therapist when they needed support. Additionally, 88 percent of respondents did not receive the health treatment they needed in a timely manner. For example, medications, mobility aids, medical procedures, HIV therapy, hormone therapy, or other health accommodations.

§ 1208. Access to Treatment.

The health authority, in cooperation with the facility administrator, shall develop a written plan for identifying and/or referring any inmate who appears to be in need of medical, mental health, dental, or developmental disability treatment at any time during his/her incarceration subsequent to the receiving screening. The written plan shall also include the assessment and treatment of such inmates as described in Section 1207, Medical Receiving Screening. **The written plan shall include a maximum time for screening and treatment.** Assessment and treatment shall be performed by either licensed health personnel or by persons operating under the authority and/or direction of licensed health personnel.

Reasoning: See § 1206 Health Care Procedures Manual.

§ 1210. Individualized Treatment Plans.

For each inmate treated by a mental health service in a jail, the responsible mental health care provider shall develop a written treatment plan **with timetable for follow-up care.** The custody staff shall be informed of the treatment plan when necessary, to ensure coordination and cooperation in the ongoing care of the inmate. This treatment plan shall include referral to treatment after release from the facility when recommended by treatment staff.

For each inmate treated for health conditions for which additional treatment, special accommodations and/or a schedule of follow-up care is/are needed during the period of incarceration, responsible health care staff shall develop a written treatment plan **including a timetable for follow-up care.** The custody staff shall be informed of the treatment plan when necessary, to ensure coordination and cooperation in the ongoing care of the inmate. This treatment plan shall include referral to treatment after release from the facility when recommended by treatment staff.

Reasoning: See § 1206 Health Care Procedures Manual.

§ 1211. Sick Call.

~~There shall be written policies and procedures developed by the~~ The facility administrator, in cooperation with the health authority, shall develop written policies and procedures, which provides for a daily sick call ~~conducted~~ for all inmates ~~or~~ **and** provision made that any inmate requesting medical/mental health attention be given such attention. **Such attention must be given immediately for emergent requests (e.g., infection, pain, fever, self-harm, panic attacks, diarrhea, vomiting). All other requests for medical/mental health attention must result in an initial screening within one week.**

Reasoning: See § 1206 Health Care Procedures Manual.

§ 1215. Dental Care.

The facility administrator shall develop written policies and procedures to ensure emergency and medically

required dental care is provided to each inmate, upon request, under the direction and supervision of a dentist, licensed in the state. **Requests for emergency dental care shall result in the provision of treatment under this Section within 24 hours.**

Reasoning: See § 1206 Health Care Procedures Manual.

§ 1240. Frequency of Serving.

In Temporary Holding, Type I, II, and III facilities, and those Type IV facilities where food is served, food shall be served three times in any 24-hour period. At least one of these meals shall include hot food. **No more than 8 hours shall pass between meals.** Supplemental food must be served to inmates if more than ~~14~~ **6** hours pass between meals. Additionally, supplemental food must be served to inmates on medical diets in less than a ~~14~~ **6**-hour period if prescribed by the responsible physician.

A minimum of fifteen minutes shall be allowed for the actual consumption of each meal except for those inmates on medical diets where the responsible physician has prescribed additional time.

Provisions shall be made for inmates who may miss a regularly scheduled facility meal. They shall be provided with a substitute meal and beverage, and inmates on medical diets shall be provided with their prescribed meal.

Reasoning: Approximately 82 percent of survey respondents (77 out of 94) said they had gone to bed hungry because the jail did not provide enough food. One respondent expressed concerns with the timing of meals: "They feed you early as hell in the morning , afternoon and dinner time and later on if you ain't lucky to have commissary or money or family to put money on your books you starve during the rest of the evening."²⁰ Food served more frequently will help to address concerns regarding access to nutrition, particularly among individuals with health needs affected by diet (e.g., diabetes).

§ 1241. Minimum Diet.

The minimum diet provided shall be based upon the nutritional and caloric requirements found in the 2011 Dietary Reference Intakes (DRI) of the Food and Nutrition Board, Institute of Medicine of the National Academies, the 2008 California Food Guide, and the ~~2015-2020~~ **2020-2025** Dietary Guidelines for Americans. Facilities providing religious, vegetarian or medical diets, shall also conform to these nutrition standards. The nutritional requirements for the minimum diet are specified in the following subsections. A daily or weekly average of the food group's requirement is acceptable. A wide variety of food ~~should~~ **shall** be served.

(a) Protein Group. Includes beef, veal, lamb, pork, poultry, fish, eggs, cooked dry beans, peas, lentils, nuts, peanut butter and textured vegetable protein (TVP). One serving equals 14 grams or more of protein; the daily requirements shall be equal to three servings (a total of 42 grams per day or 294 grams per week). In addition, there shall be a requirement to serve a fourth serving from the legumes three days a week. **Limit serving processed meats to no more than one serving per week and peanut butter to no more than two servings per week.**

(b) Dairy Group. Includes milk (fluid, evaporated or dry; nonfat, 1% or 2% reduced fat, etc.); cheese (cottage, cheddar, etc.); yogurt; ice cream or ice milk; and pudding. A serving is equivalent to 8 oz. of fluid milk and provides at least 250 mg. of calcium. All milk shall be pasteurized and fortified with Vitamins A and D. The

²⁰ CJCJ. (2021). Page 5.

daily requirement is three servings. One serving can be from a fortified food containing at least 150 mg. of calcium. For persons 15-17 years of age, or pregnant and lactating women, the requirement is four servings of milk or milk products.

(c) Vegetable-Fruit Group. Includes fresh, frozen, dried and canned vegetables and fruits. One serving equals: 1/2 cup vegetable or fruit; 6 ounces of 100% juice; 1 medium apple, orange, banana, or potato; 1/2 grapefruit; or 1/4 cup dried fruit. The daily requirement of fruits and vegetables shall be five servings. At least one serving shall be from each of the following three categories:

- (1) One serving of a fresh fruit or vegetable per day, or seven (7) servings per week.
- (2) One serving of a Vitamin C source containing 30 mg. or more per day or seven (7) servings per week.
- (3) One serving of a Vitamin A source, fruit or vegetable, containing 200 micrograms Retinol Equivalents (RE) or more per day, or seven servings per week.

(d) Grain Group. Includes bread, rolls, pancakes, sweet rolls, ready-to-eat cereals, cooked cereals, corn bread, pasta, rice, tortillas, etc. and any food item containing whole or enriched grains. At least ~~three~~ **four** servings **per day** from this group must be made with whole grains. The daily requirements shall be a minimum of six servings.

Providing only the minimum servings outlined in this regulation is not sufficient to meet the inmates' caloric requirements. Additional servings from the dairy, vegetable-fruit, and bread-cereal groups must be provided in amounts to meet **daily** caloric requirements. Saturated dietary fat should not exceed 10 percent of total calories on a weekly basis. Fat shall be added only in minimum amounts necessary to make the diet palatable. Facility diets shall **consider follow** the recommendations and intentions of the ~~2015-2020~~ **2020-2025** Dietary Guidelines of Americans of reducing overall sugar and sodium levels.

Reasoning: According to survey responses, 89 percent of people noted the food they received was not a good source of nutrition (i.e. a healthy balance of fruits, vegetables, grains, and meat). In particular, they noted there is a problematic emphasis on refined carbohydrates and sodium-rich meals (e.g., processed meat, white bread, peanut butter). This overreliance on specific processed food items leads to negative health outcomes.

§ 1242. Menus.

Menus in Type II and III facilities, and those Type IV facilities where food is served, shall be planned at least one month in advance of their use. Menus shall be planned to provide a variety of foods, thus preventing repetitive meals. Menus shall be approved by a registered dietitian before being used. **The dietitian shall ensure that the menus meet the nutritional, caloric, and hot food requirements set forth in Sections 1240 and 1241.**

If any meal served varies from the planned menu, the change shall be noted in writing on the menu and/or production sheet. **Each meal served shall meet the nutritional and hot food requirements set forth in Sections 1240 and 1241, even if it varies from the planned menu. Variations in the menu shall meet the caloric requirements set forth in Section 1240.**

Menus, as planned, including changes, shall be evaluated by a registered dietitian at least ~~annually~~ **quarterly**. **The registered dietitian shall visually inspect a full day's meals in each facility per quarter.**

Reasoning: As noted above, the vast majority of survey respondents expressed that the food they received was not a good source of nutrition (i.e. a healthy balance of fruits, vegetables, grains, and

meat). We are very concerned by comments like this one: “Portions are child size portions. I remember eating toilet paper and drinking water to try to make my belly full. It’s so sad the food is just not enough.”²¹ We strongly recommend that regulations require a dietitian’s expertise in the development of facility menus and compliance with relevant regulations.

§ 1246. Food Serving and Supervision.

Policies and procedures shall be developed and implemented to ensure that appropriate work assignments are made and food handlers are adequately supervised. Food shall be prepared and served only under the immediate supervision of a staff member. **Policies must include a provision for immediate replacement food that is rotten, contains mold, contains a foreign substance (e.g., maggot), or a hot meal that is served cold.**

Reasoning: Of particular concern, survey respondents explained that a lack of basic food safety continues to pose a health risk for incarcerated individuals. One respondent noted, “Some of their food (bread) has mold on it,”²² and another person (responding on behalf of a loved one) said, “The food was often inedible. The eggs were green and there was mold on the fruit. They found bugs in their food as well and sometimes felt ill after eating it.”²³

§ 1248. Medical Diets.

The responsible physician, in consultation with the facility administrator, shall develop written policies and procedures that identify the individual(s) who are authorized to prescribe a medical diet. The medical diets utilized by a facility shall be planned, prepared and served with consultation from a registered dietitian. The facility manager shall comply with any medical diet prescribed for an inmate.

The facility manager and responsible physician shall ensure that the medical diet manual, which includes sample menus of medical diets, shall be available in both the medical unit and the food service office for reference and information. A registered dietitian shall review, and the responsible physician shall approve, the diet manual on an annual basis.

Pregnant or lactating women inmates shall be provided a balanced, nutritious diet approved by a doctor and in line with the 2020-2025 Dietary Guidelines for Americans. Older adults (ages 60 and older) shall be provided a balanced, nutritious diet approved by a doctor in line with the 2020-2025 Dietary Guidelines for Americans.

Reasoning: Survey respondents had serious concerns regarding nutrition among the general population, and particularly vulnerable populations (e.g., pregnant people, elderly people) are at an even greater risk with the current subpar regulations. One respondent personally attested, “High sodium level led to development of hypertension which had a negative effect on my pregnancy.”²⁴

§ 1260. Standard Institutional Clothing.

The standard issue of climatically suitable clothing to inmates held after arraignment in all but Court Holding, Temporary Holding and Type IV facilities shall include, but not be limited to:

- (a) clean socks and footwear;

²¹ CJCJ. (2021). Page 5.

²² Ibid.

²³ Ibid.

²⁴ Ibid.

- (b) clean outer garments; and,
- (c) ~~clean~~-new undergarments;
- (1) for males - shorts and undershirt, and
- (2) for females - bra and two pairs of panties.

The inmates' personal undergarments and footwear may be substituted for the institutional undergarments and footwear specified in this regulation. This option notwithstanding, the facility has the primary responsibility to provide the personal undergarments and footwear.

Clothing shall be reasonably fitted, **correctly sized**, durable, **and** easily laundered ~~and repaired~~. **Clothing shall be fully intact (no holes or tears) and unstained.**

Reasoning: Over half of survey respondents (56 percent) expressed that they did not receive a clean mattress/sleeping pad, bed sheets, blankets, and clothing in jail. One respondent noted, "Most things were stained with other people's blood, yellow from body odor, the mattresses were ripped open, stained and not cleaned, whoever was released would put their mattress on the railing and the new intakes would get those mattresses."²⁵ We recommend additions to these requirements to ensure issued items meet basic cleanliness.

§ 1262. Clothing Exchange.

There shall be written policies and procedures developed by the facility administrator for the scheduled exchange of clothing. Unless work, climatic conditions, illness, or California Retail Food Code necessitates more frequent exchange, outer garments, except footwear, shall be exchanged at least once each week **for clean outer garments that meet the requirements of section 1260**. Undergarments and socks shall be exchanged **for clean undergarments and socks** twice each week.

Reasoning: See § 1260. Standard Institutional Clothing.

§ 1265. Issue of Personal Care Items.

There shall be written policies and procedures developed by the facility administrator for the issue of personal hygiene items. Each ~~female-menstruating or pregnant~~ inmate shall be issued sanitary napkins and/or tampons as needed **and not subject to a maximum per day**. Each inmate to be held over 24 hours who is unable to supply himself/herself with the following personal care items, because of either indigency or the absence of an inmate canteen, shall be issued:

- (a) toothbrush,
- (b) dentifrice,
- (c) soap,
- (d) comb, and
- (e) shaving implements.

Personal care items shall be issued within the first 12 hours of entry. Inmates shall not be required to share any personal care items listed in items "a" through "d."

Inmates will not share disposable razors. Double edged safety razors, electric razors, and other shaving instruments capable of breaking the skin, when shared among inmates, must be disinfected between individual uses by the method prescribed by the State Board of Barbering and Cosmetology in Sections 979 and 980, Division 9, Title 16, California Code of Regulations.

Reasoning: Individuals who responded to the survey lacked menstrual products and access to

²⁵ CJCJ. (2021). Page 4.

showers. For example, one person stated, "You have to practically bleed on yourself then run out of the dorm to go to the counter to ask for feminine pads in front of all the dorms and then run back to your dorms/restroom."²⁶ Another noted, "If I needed more tampons or pads they would tell me I got my fair share even if I had a heavy menstrual."²⁷

§ 1266. Showering.

There shall be written policies and procedures developed by the facility administrator for inmate showering/bathing. Inmates shall be permitted to shower/bathe upon assignment to a housing unit and at least every other day or more often if possible. **At no point shall an inmate be prohibited from showering for more than 48 hours.**

Reasoning: 83 percent of survey respondents had basic resources withheld as a form of discipline. Examples included showers, with one person stating that a "lockdown lasted 16 days, no access to showers during that time."²⁸

§ 1270. Standard Bedding and Linen Issue.

The standard issue of clean suitable bedding and linens, for each inmate entering a living area who is expected to remain overnight, shall include, but not be limited to:

- (a) one serviceable mattress which meets the requirements of Section 1272 of these regulations;
- (b) one mattress cover or one sheet;
- (c) one towel; and,
- (d) one blanket or more depending upon climatic conditions.

⁶ Two blankets or sleep bag may be issued in place of one mattress cover or one sheet.

Temporary Holding facilities which hold persons longer than 12 hours shall **provide an inmate with bedding and linen** that meets the requirements of (a), (b) and (d) above **prior to their first night in the facility and every night thereafter.**

Type I, II, III, and IV facilities must provide an inmate with bedding and linen that meets the requirements of (a), (b), (c), and (d) above prior to their first night in the facility and every night thereafter.

Reasoning: See § 1260. Standard Institutional Clothing.

§ 1271. Bedding and Linen Exchange.

There shall be written policies and procedures developed by the facility administrator for the scheduled exchange of laundered and/or sanitized bedding and linen issued to each inmate housed. Washable items such as sheets, mattress covers, and towels shall be exchanged for clean replacement at least once each week. If a top sheet is not issued, blankets or sleep bags shall be laundered or dry cleaned at least once a month or more, often if necessary. If a top sheet is issued, blankets shall be laundered or dry cleaned at least every three months. **Mattresses with holes, tears, or that lack sufficient padding shall be replaced upon request with mattresses that meet the requirements of section 1270.**

Reasoning: See § 1260. Standard Institutional Clothing.

²⁶ Ibid.

²⁷ Ibid.

²⁸ Ibid.

We recognize that this Committee is inclusive of experts and professionals who wish to support justice-involved individuals. We therefore request that you incorporate these recommended revisions to improve standards in California's local correctional facilities. This will ensure the health and safety of people in county custody. Please do not hesitate to reach out to Renee Menart (renee@cjcj.org) with any questions or requests for additional information.

Sincerely,

"Community Insights on California Jails" Survey Leadership

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