

August 14, 2020

**VIA ELECTRONIC MAIL [jkeys@disabilityrightsohio.org]**

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Julie:

Thank you for the opportunity to review and comment on the draft report prepared by Disability Rights Ohio (“DRO”) regarding the Cuyahoga County Corrections Center (“CCCC”). As we understand it, DRO’s goal is to protect and advocate for the rights of people with disabilities in Ohio. Both Cuyahoga County (the “County”), which operates the CCCC, and The MetroHealth System (“MetroHealth”), which provides contracted healthcare services to the County for CCCC inmates, share that goal.

The County and MetroHealth each carry out numerous programs designed to ensure equity, access, and support for individuals with disabilities. As you note, the County and MetroHealth have consistently engaged with you and others from DRO over the past two years. We have appreciated our engagement with you and other advocates and believe that there have been significant, positive impacts for inmates as a result. We were profoundly disappointed, however, to read DRO’s draft report regarding the CCCC.

In our meetings with you, we repeatedly emphasized and attempted to further describe the significant changes and improvements that the County has made over the last two years, including those brought about by the participation of MetroHealth in the CCCC’s operation. But the draft report is based on clearly outdated information, fails to provide any meaningful assessment of the healthcare provided in the CCCC, presupposes healthcare needs that are not supported by clinical judgment, and – most strikingly – ignores the significant changes and improvements made at the CCCC and to the healthcare provided to inmates since the transition of healthcare to MetroHealth in May 2019.

Both the County and MetroHealth have consistently engaged with DRO and provided information upon request. But, despite this access, DRO repeatedly cites, and relies upon, newspaper articles as a source of information. We are confused as to why DRO would conduct site visits, inspect the CCCC and interview staff, but then rely on press accounts, which in turn themselves rely on less-than-objective allegations made in lawsuits filed against the County.

Considering these material issues, we ask that DRO withdraw the draft report or, at a minimum, address the very significant concerns outlined herein before its release.

- **The draft report is outdated and raises issues that were identified and addressed starting over a year ago.**

We have significant concerns that the draft report is framed as identifying (in 2020) new issues that need to be addressed, when in fact all of the issues have already been identified by the County, MetroHealth, DRO, and others over a year ago (in 2018 and 2019). We do not understand the impetus for preparing or releasing the report at this time as it does nothing to add to the important discussions and changes that have been underway for some time now.

Notably, the Introduction summarizes the events in the summer of 2018 during which time eight CCCC inmates died, followed by a summary of the reports issued in 2018 by the U.S. Marshals Service and the Bureau of Adult Detention. But it stops there. The Introduction's summary and timeline do not acknowledge the Bureau of Adult Detention's subsequent reinspection report, issued in December 2019. At that time, the Bureau identified no healthcare deficiencies, passing the CCCC on all Jail Medical Standards, and pointed out that the CCCC and MetroHealth had, among other things:

- ✓ Expanded the pharmacy formulary;
- ✓ Ensured access to the pharmacy seven days a week;
- ✓ Added new medical treatment areas to improve the delivery of services;
- ✓ Created a new mental health step-down unit; and
- ✓ Assigned MetroHealth to provide clinical direction for special/medical diets.

Similarly, in November 2019, the National Commission on Correctional Health Care ("NCCHC"), which is recognized as the gold standard for healthcare in correctional facilities, identified that MetroHealth's program at the CCCC had enacted or initiated 90% of NCCHC's changes recommended after their initial visit (at MetroHealth's invitation) at the end of 2018. We are troubled by the fact that DRO would not see fit to mention these results, which were issued almost 9 months ago, and arose *after* the majority of the DRO interviews that form the basis for the report.

DRO's draft report's lack of any reference to Covid-19 also illustrates our concerns. The draft report does not reference the significant successes at the CCCC in mitigating the effects of the Covid-19 pandemic amongst the inmates (and staff). Even though DRO's draft report is focused on addressing healthcare services in the CCCC, the only reference to the response to the pandemic is in the context of a reduction of the detainee population. The reference also attributes this achievement to the judiciary, without recognizing the significant and instigating efforts of MetroHealth and the County in identifying this need and imploring the judiciary for this assistance. DRO's limited attribution is, at best, an unfortunate oversight. We believe MetroHealth's and CCCC's successes in managing the Covid-19 pandemic warrant due recognition as a reflection of the improved healthcare services in the CCCC and the more effective coordination between the corrections and healthcare teams.

- **The draft report fails to provide any meaningful assessment of healthcare in the CCCC.**

We are particularly troubled that the draft report relies solely on interviews with inmates (which, again, were held first over a year ago and then again 9 months ago). DRO recites statements from inmates for which there is no context and presents the statements as fact – without any effort by DRO to assess the accuracy of the statements. DRO seems to uncritically accept the interviewees’ versions of events, no matter how implausible, without performing any follow up inspection to corroborate them. We have engaged with DRO regarding individual issues for healthcare and acknowledge the positive impacts and changes that have occurred as a result. However, DRO did not appropriately engage with MetroHealth or CCCC to explore what evidence may be available to assess the conclusions DRO posits based only on inmate interviews. As a result, DRO’s broad proposed conclusions are simply inaccurate. Inmates’ access to healthcare in the CCCC has greatly improved and is certainly meaningful.

The most striking example of the unsupported conclusions contained in the draft report is the suggestion that “Medical Emergencies [are] Ignored.” DRO’s only “evidence” to support this inflammatory statement are, again, DRO’s interviews and one incident that occurred in April 2019 – before MetroHealth assumed control of healthcare in the CCCC. The idea that emergency medical attention is provided only when there is “blood” or when inmates are “actively dying” (or when DRO advocated on their behalf) is preposterous. These false statements could have easily been corrected by further inquiry by DRO. In fact, MetroHealth’s clinical staff respond to an average of 2-3 emergencies per day in the CCCC, for a wide range of emergent issues including chest pain, shortness of breath, and seizures.

We are hard-pressed to provide a direct response to the vast majority of conclusions reached by DRO regarding healthcare at the CCCC because DRO did not provide any reasonable amount of detail to support the conclusions. How many individuals were interviewed in November? How does this number compare to the overall detainee population? What are the “ongoing issues” identified with the medical request system? For which requests did inmates to wait a “significant period[] of time” before getting a response? How were the responses “insufficient”? Who are the individuals identified in the examples? We are disappointed that DRO declined to identify those inmates whose scenarios were used as examples. The draft report is utterly lacking in any specificity that would allow MetroHealth or CCCC to meaningfully identify any new areas of concern or correct the record.

The information we do know is that the processes for providing healthcare to CCCC inmates have greatly improved and have resulted in more accessible and effective healthcare. The facts are that:

- ✓ There has been an 82% increase in total clinical volume at the CCCC since May 2019.

- ✓ Thus far in 2020, MetroHealth’s clinical staff completed over 1000 sick call and primary care visits each month. And this number does not include nurse visits, lab appointments, and therapy consults.
- ✓ Thus far in 2020, MetroHealth’s clinical staff completed over 1100 behavioral health visits each month. And this number does not include telemedicine psychiatry visits or the mental health assessments now completed at intake.
- ✓ As of June 2019, inmates may submit medical requests (verbally or in writing) two times per day directly to clinical staff, who round through the housing pods to distribute medications and conduct health assessments – as opposed to going through corrections officers.
- ✓ Inmates are now screened for literacy challenges upon intake so that additional communications can be given as to how to access services that would otherwise be detailed in the Inmate Handbook or other writings.
- ✓ MetroHealth has always used and continues to use a live telephonic interpretation service to ensure communication in clinic visits with inmates who do not speak English.
- ✓ MetroHealth is in the process of developing a medical request form in Spanish.
- ✓ MetroHealth and the pharmacy manage medications for 1200-1300 inmates on a daily basis.
- ✓ The pharmacy is open 7 days a week. (How DRO would find it appropriate to suggest otherwise based on one inmate’s statement is unsettling.)
- ✓ As of July 2019, MetroHealth maintains a chronic disease registry to identify and direct resources to inmates with chronic diseases.

Further, while both the County and MetroHealth vehemently support larger discussions regarding criminal justice reform, the draft report’s focus on such issues in assessing the County’s and MetroHealth’s provision of healthcare to individuals with disabilities in the CCCC is misdirected and, frankly, unfair. These are important large discussions that necessarily involve numerous stakeholders and for which the County and MetroHealth have no direct control.

- **The draft report attempts to draw conclusions from complex cases that lack context and/or are not based on clinical judgment.**

DRO’s detailed recitation of the circumstances involving two individual inmates, identified with the aliases of Mr. Smith [REDACTED] warrant a specific response. (MetroHealth was able to identify those inmates based on the more detailed descriptions and MetroHealth’s extensive involvement in their care.) Both individuals have complex histories that cannot be – and should not be – laid out in the report. But those complex histories cannot be ignored and they provide much of the explanation for their circumstances and their healthcare services. For example, Mr. Smith has suffered from cancer for a period of time, which included a period of remission. [REDACTED]

[REDACTED]

[REDACTED] The criticism of Mr. Smith’s treatment is both inaccurate and unfair.

[REDACTED]

- **Similar issues are seen in the draft report’s references to CCCC operations generally and its physical structure.**

In addition to the significant achievements in the medical and mental health care provided to inmates, there have been considerable changes to the operations of the CCCC, as well as to its physical structure. DRO fails to reference these changes in its report. As demonstrated below, DRO’s conclusions concerning maintenance and sanitation, the use of red zoning and its impact on disabled inmates, and the purported staffing issues are based on either inaccurate or incomplete information. In fact, DRO was offered information on many of these issues during a conference call on October 18, 2019, but it did not seem interested in this information at the time.

- *Maintenance and Sanitation*

The DRO report cites to an ineffective maintenance system and “environmental concerns” within the CCCC but fails to define what these “environmental concerns” are or provide any factual basis for its assessment of CCCC’s current maintenance system.

Under current leadership, CCCC had dedicated cleaning staff 24/7 and has added personnel to assist in cleaning and sanitation throughout Jail 1 and 2. Additionally, Public Works employs 87 trades personnel and 102 custodial personnel that maintain the 4.2 million square feet of County-owned facilities. The County has a fully developed process to observe, report, schedule, and maintain the jail facilities using public works staff and resources. Indeed, since April 1, 2019 (when DRO’s initial interviews were conducted):

- ✓ 10,435 maintenance works orders were reported, scheduled, and completed during the period covering all building systems within Jail 1 and Jail 2.
- ✓ An average of 652 maintenance work orders per month were completed.
- ✓ The work completed at the CCCC accounts for 42% of the County-wide 24,806 work orders assigned during the same period, while the CCCC facilities represent less than 20% of the total SF of building maintenance responsibility in the County facilities inventory.

A more complete description of the process and the work orders completed at the CCCC is attached in Exhibit A.

Moreover, in 2019, the County implemented an extensive maintenance program not captured in the attached list of work orders. This effort resulted in an additional \$1.175 million maintenance investment into the CCCC infrastructure. This program included jail-wide painting and sanitation, equipment replacements, and housing unit renovations. Attached is a short presentation on some of the accomplishments of this program so far. (Exhibit A.)

The draft report, however, identifies alleged “environmental concerns” that were raised by 35% of the inmates DRO interviewed. Of course, there is no explanation as to what these “environmental concerns” might be, when they were observed, and who observed them. Moreover, 35% (or 49 inmates) is a relatively small sample when considering the overall inmate population. Nevertheless, as demonstrated above, Public Works is consistently fulfilling work orders and has adopted a program for addressing sanitation and maintenance issues at the CCCC.

DRO has failed to identify any actual concerns related to maintenance or sanitation that violate the ADA or any other legal requirement. Furthermore, it appears that DRO is relying on information that is either outdated or inaccurate. Prior to issuing its report, DRO is invited to inspect these improvements in person or virtually.

- *Red Zoning*

DRO’s concerns about red zoning<sup>1</sup> are based on incorrect or outdated information. Specifically, the actual practice of red zoning and the frequency that it occurs is grossly misstated in the report. And, again, DRO appears to be using information derived from media reports that restate disputed and hyperbolized allegations made in pending lawsuits against the County and MetroHealth.

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<sup>1</sup> For clarification, red zoning occurs when certain pods are locked down during times when inmates would normally be permitted access to the day room due to staffing shortages due primarily to call offs. Such periods are temporary, and usually consist of part of a day or part of an eight-hour shift.

The statistical data belie DRO's findings and provide a different reality when it comes to red zoning at CCCC:

- ✓ The frequency of red zoning has decreased considerably since the end of 2018. When red zoning is necessary, it is generally due to staff calling off on weekends.
- ✓ No CCCC inmates have been subjected to red zoning for periods exceeding 24 hours. And this certainly has not been the case since DRO first began its work with CCCC. (See Exhibit B.) These statistics undercut DRO's assertion that inmates were red zoned or locked in their cells for days at a time.
- ✓ Examining the 2020 data, red zoning occurred infrequently and when it occurred it was generally for about four hours.
- ✓ When implemented, red zoning generally does not occur in every pod. And the only time all pods were locked down for greater than eight hours was on May 31, 2020 – due to security concerns stemming from the protests/riots in Cleveland on that day.

DRO further claims that because of red zoning disabled inmates are denied frequent recreation. Again, there is no evidence to support this assertion. To the contrary, ODRC determined that throughout 2019, CCCC complied with the recreation requirements under OAC 5120:1-8-11(A) and (B), which state:

(A) (Important) Exercise and/or equipment for inmates shall be provided and the jail shall ensure that inmates are offered at least five hours per week.

(B) (Important) The jail shall provide for inmate television viewing and table games.

And there is no evidence that CCCC is currently out of compliance with this requirement in 2020. Therefore, DRO's allegation that disabled inmates are somehow denied recreation time because of red zoning is unfounded.

DRO further represents that it received "several reports" that red zoning disrupts medical and mental health services. Again, there is no evidence to support this finding. Inmates continue to receive medical service when jail pods are subject to red zoning. In fact, ODRC concluded in its 2019 annual inspection that the CCCC met all the medical/mental health standards set forth under O.A.C. 5120:1-08-09. (See Exhibit C). Given that ODRC provided weekly onsite technical assistance that involved inmate feedback in the delivery of medical and mental health services, ODRC's findings are significantly more reliable.

Based on the enclosed information, DRO's representations concerning the frequency and use of red zoning and its alleged impact on disabled inmates is unsupported. Unless DRO can provide empirical evidence to support its assertions that would refute the statistics compiled by CCCC, it should withdraw its concerns about red zoning.

○ *Staffing*

DRO assumes there are significant staff shortages and a lack of training for new hires. It is unclear how DRO reached its conclusions given that it did not review current staffing levels or training records of any kind.

Initially, staffing numbers have increased considerably since April 2019 with the number of corrections officers reaching 699 corrections officers. This is true despite the inmate population decreasing throughout 2019.<sup>2</sup> Based on human resources statistics, the number of corrections officers at the beginning of each month since April 2019 were as follows:

Month	# of Corrections Officers
4/1/19	617
5/1/19	619
6/1/19	608
7/1/19	603
8/1/19	606
9/1/19	627
10/1/19	668
11/1/19	669
12/1/19	691
1/1/20	684
2/1/20	687
3/1/20	699
4/1/20	685 <i>Note: hiring put on hold due to COVID-19 and decreased inmate population.</i>
5/1/20	675
6/1/20	658
7/1/20	653
8/1/20	652 <i>Note: approved for 10 to start on Aug. 17th.</i>

The number of corrections staff only recently decreased due to attrition, the Covid-19 pandemic, and a substantial decrease in the inmate population towards the end of March 2020.

<sup>2</sup> DRO reports that the County did nothing to decrease the inmate population until the Covid-19 pandemic. This is incorrect. In November 2019, CCCC's inmate population was reduced to 1,762. DRO seemed to ignore media reports mentioning this decrease in the inmate population in favor of more inflammatory articles. And although the inmate population increased slightly at the beginning of 2020, CCCC continued its efforts to reduce the inmate population and increase hiring of corrections staff.

Nevertheless, the County continues to hire corrections officers despite the inmate population decreasing to 1,200 inmates, which is far below the CCCC's rated capacity of 1,888 inmates.<sup>3</sup>

The County trains recent hires and ensures they receive the requisite OPOTA training within one year of being hired, as required under Ohio law. Attached is the initial onboard training provided in house. (See Exhibit D). A sample OPOTA training curriculum is also attached, but this training may change. (Id.) To the extent DRO takes exception with OPOTA's curriculum, it should direct those concerns to the appropriate regulators.

Furthermore, DRO suggest that because a few employees of the CCCC, including former jail administrators, were convicted of criminal acts that the current training is inadequate. But most of the criminal conduct for which charges have been filed occurred in 2018. There have been no charges for alleged criminal conduct by corrections officer for conduct in 2020. And there was only one charge for criminal conduct in 2019. To suggest there is currently rampant criminal conduct by corrections officers due to inadequate training cannot be reconciled with the facts. Additionally, DRO fails to identify how the few instances of criminal conduct resulted in any of its clients being neglected or deprived accommodations for their disabilities.

DRO has also failed to explain or identify what additional training corrections staff should receive to better accommodate inmates' disabilities. Most of the ADA accommodations for inmates are addressed by medical staff, including whether medical devices should be issued to inmates (e.g., wheelchairs, braces, canes, etc.).

We welcome input from DRO regarding what training corrections or medical staff could use to best accommodate disabled inmates. But to date, DRO has made no recommendations or adequately explained its concerns. DRO relies on causal fallacies and supposition to infer that lack of training and staffing has negatively impacted disabled inmates. Without additional information to support its position on what additional training would be helpful, it is difficult to squarely address any of DRO's staffing and training concerns.

- *Accessibility*

The draft report fails to acknowledge the myriad of improvements made to CCCC since 2019 to increase accessibility for disabled inmates. The County recently (in December 2019 – after DRO's two in-person interview sessions) completed and occupied a new \$3.1 million renovation that added two dormitories on the fourth floor of Jail 1. These dormitories meet or exceed all current accessibility requirements of the Ohio Building Code and the County's Universal Design Standards. This project was reviewed, approved, permitted, and inspected by both the City of Cleveland Building Official and the State of Ohio Bureau of Adult Detention (documentation attached).

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<sup>3</sup> DRO states the rated capacity of CCCC is 1,765. But ODRC increased the rated capacity to 1,888 in 2019, which is not reflected in the draft report.

CCCC intends to use these dormitories to house inmates (depending on their classification) with mobility and accessibility issues. This has not been practicable during the Covid-19 pandemic. The County, however, is updating its classification system and will work in conjunction with medical to provide more detailed information on inmates' classification slips to indicate accommodations they may need. This will better inform classification officers on where to place disabled inmates so that their mobility or accessibility issues are addressed.

DRO additionally raised concerns about "small showers without grab bars, stand-alone tub, Toilets without grab bars, cells are not wide enough to accommodate wheelchairs." Jail 1 and Jail 2 were constructed in 1974 and 1990, respectively, and do not present the accessibility features required by modern codes. In the medical unit, however, there is at least one shower that inmates can access by wheelchair or shower chair. We demonstrated this to DRO when it visited in April 2019. In addition, there are toilets and sinks, with grab bars, that are handicap accessible. (See Exhibit E). Furthermore, medical staff assists quadriplegic and paraplegic inmates with their bathing and showering needs.

Public Works has also started a maintenance work project for tubs in housing units 6G and 6B (medical unit) to increase accessibility and provide safety improvements. Non-slip mats have already been installed in the tub and shower areas. Public Works staff is further evaluating roll-in shower alternatives for Jail 2's larger shower configuration in housing units. These showers may present an opportunity to improve accessibility in the housing unit showers.

- *AA/HA/NA meetings*

DRO never requested information or engaged in any meaningful dialogue with the County concerning inmate access to AA/NA/HA meetings. Nor has DRO identified any provision of the ADA (or interpreting case law) suggesting that AA/NA/HA meetings are required.

Notwithstanding, the CCCC provides numerous programs for inmates. These meetings are generally staffed by volunteers from the community. Prior to Covid-19, inmates were able to attend group AA/NA/HA meetings; however, these meetings were sometimes cancelled due to volunteers cancelling at the last minute. On March 23, 2020, a men's AA meeting was scheduled. (See Exhibit F.) It appears to be the last group meeting held prior to the CCCC implementing stricter precautions to prevent the spread of Covid-19. These precautions included suspending all gatherings in the CCCC.

CCCC intends to resume group AA/NA/HA meetings when it becomes practicable and safe. Presently, CCCC is seeking additional volunteers to staff these meetings. Furthermore, inmates still have access to their AA/HA/NA sponsors telephonically or by video during the pandemic.

- *CCCC's General Kite System*

For general (non-healthcare) inmate requests, CCCC uses a combination of written and electronic kites. Recently, CCCC began using the Securus System, which permits inmates to submit kites and grievances in Spanish or English through a phone kiosk located in the pod. (See Exhibit G.) This system permits inmates to hold video visitation within the pod, make phone calls, and check the status of their kites or grievances. (*Id.*)

The Securus System further has an inmate handbook (also translated into Spanish) that advises inmates on healthcare and mental health services, inmate requests, and grievances. DRO never requested information concerning the current kite system nor communicated with representatives of CCCC about it.

DRO also mentions that due to mismanagement and corrections officers discarding kites, inmate requests were denied and/or inmates could not rely on the kite system. DRO does not explain this alleged mismanagement. Nor does it identify a reliable source for its conclusion that corrections officers discard inmate kites. If corrections officers are discarding kites and DRO has evidence of this occurring, it should report enough information to substantiate its allegations and allow CCCC to address the issue.

- *Abusive Language*

DRO asserts that corrections officers referred to inmates as “retards” and “animals.” If true, DRO should have instructed these inmates to submit grievances and report this conduct. Not knowing essential facts like when these statements were made, to whom they were made, who made them, and where they were made, the issue cannot be addressed or investigated. Therefore, DRO’s claim that corrections officers use abuse language cannot be substantiated at this time.

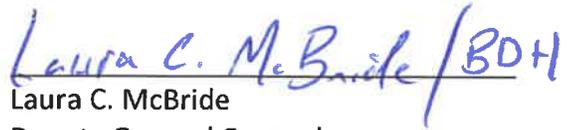
### **CONCLUSION**

Our work continues. There is indeed more work to be done to improve the operations of the CCCC and ensure appropriate access and healthcare services to inmates at the CCCC – some of which are significant, long-term infrastructure changes. We look forward to continuing to work with DRO, regulators, and other advocates to ensure such improvements. However, DRO’s draft report does not facilitate this process. By relying on outdated and unsupported information, the draft report instead muddies the waters and will only serve to confuse stakeholders as to the actual, current state of affairs in the CCCC. We urge DRO to reconsider the planned release of this report and, at a minimum, first address the concerns identified herein. We remain available to continue to work with DRO to address issues as they may arise.

Sincerely,

Handwritten signature of David G. Lambert in blue ink, written as "D. Lambert/sec".

David G. Lambert  
Chief of the Civil Division  
Cuyahoga County Prosecutor

Handwritten signature of Laura C. McBride in blue ink, written as "Laura C. McBride/BOH".

Laura C. McBride  
Deputy General Counsel  
The MetroHealth System

Brendan D. Healy  
Assistant Prosecuting Attorney

## Exhibit A

### CCCC Maintenance Procedures and Work Performed

CCCC corrections officers maintain a maintenance report log for each housing unit. These report logs are sent regularly to Master Control, which then coordinates with public works dispatchers to enter the work orders into the County Enterprise Asset Management System. Once work orders are entered into the system, work priorities are identified and they are assigned to a trades foreman who schedules and performs the work.

Exhibit B  
Red-zoning Statistics

Attached is the data from January 1, 2020 to the present showing the frequency of red zoning in the CCCC. (See 2020 Red Zoning Stats). As the attached data confirms, red zoning has not occurred in the jail (or any pod in the jail) for longer than twenty-four hours. (*Id.*) The same holds true for all of 2019. (See 2019 Red Zoning Stats).

Exhibit C  
ODRC Annual Report

**Exhibit D**  
**Training Information**

Exhibit E  
Photographs

Exhibit F  
AA/NA/HA Programming

Exhibit G  
Securus System - Kites