

REPORT: Pervasive Healthcare and ADA Compliance Issues at Cuyahoga County Corrections Center

INTRODUCTION

Located in downtown Cleveland, Cuyahoga County Corrections Center (“CCCC”) is the second largest full-service jail in the State, which according to its websites, strives to provide “superior care and management of over 26,000 inmates annually.”¹ Despite the facility’s stated commitment, CCCC has been the subject of a Disability Rights Ohio (“DRO”) investigation due to reports of inferior care and treatment of inmates.

Between June and December 2018, eight inmates died at CCCC—four died from suicide, three from drug overdoses, and one from health issues.² After the first seven deaths, in November 2018, the United States Marshals Service released a [52-page report](#) that detailed issues with the healthcare system, administration, management, safety, overcrowding, sanitation, and the inmate grievance system. The U.S. Marshal’s report described the conditions as “inhumane.”³

In February 2019, the Bureau of Adult Detention (“BAD”), an arm of the Ohio Department of Rehabilitation and Corrections, issued its 2018 Annual Inspection Report.⁴ The report cited the jail for lack of compliance with 84 separate standards. In May 2019, a ninth inmate died by suicide at CCCC.⁵ Since July 2020, three inmates have died while in custody; none of the deaths were due to COVID-19.

After the U.S. Marshals’ and BAD’s reports, CCCC took steps to improve conditions at the jail. They contracted with MetroHealth to provide healthcare to the inmate population, increased medical and mental health staff, expanded their medication formulary, and redesigned the inmate grievance (“kite”) system.

During the course of these events, DRO launched an investigation, and over the course of 20 months—through site visits, meetings with administrators, and over 160 inmate interviews—determined that, despite some improvements, the systemic issues identified in the U.S. Marshals’ and BAD’s reports persist at CCCC, particularly:

- Lack of access to meaningful medical care;
- Lack of access to meaningful mental health care;
- Staff shortages and a culture of misconduct and abuse; and
- An inaccessible facility.

DRO has also concluded that CCCC has not met several obligations under Title II of the Americans with Disabilities Act (“ADA”), one of several federal laws protecting the rights of individuals with disabilities.⁶ Many of the issues described in this report, including those related to medical and mental health care and the physical facility, may be the result of CCCC’s failure to meet Title II requirements.

Now, DRO is concerned that the recent and significant rise in the jail’s population during a period of record high COVID-19 numbers is creating further strain on its healthcare program and unreliable staffing, exacerbating already alarming conditions. In the past, CCCC consistently operated above its state-rated population of 1,880⁷ During the pandemic, the census reached a historical low of 950,⁸ but has now risen to nearly 1,500.⁹ In August alone, the population increased by 300 inmates.¹⁰ Inmates are beginning to share cells again, and entire pods have been subject to exposure isolation, indicating the jail’s inability to properly manage the spread of COVID-19 within the facility. Recent interviews conducted by DRO are consistent with interviews previously conducted. Though CCCC dismisses inmate concerns as unreliable, these repeated, independent accounts indicate that several systemic issues at the jail either persist or are worsening at this time. If meaningful steps are not taken immediately, CCCC may return to conditions as severe as identified in the U.S. Marshals’ and BAD’s reports.

LACK OF ACCESS TO MEANINGFUL MEDICAL & MENTAL HEALTH TREATMENT

Access to meaningful medical and mental health treatment is imperative for individuals who are incarcerated, especially given that people with disabilities are disproportionately represented in the jail setting. In fact, 40% of jail inmates report having at least one disability.¹¹ Further, more than half of the individuals detained in jails (53%) with a disability reported a co-occurring chronic condition.¹² Additionally, 60% of all jail inmates report having symptoms of psychiatric disabilities.¹³ At CCCC, MetroHealth is the primary healthcare provider for the inmate population—a population with heightened needs for chronic care and mental health treatment.

There are a multitude of weaknesses that plague the healthcare system at CCCC, primarily:

- Significant, ongoing issues with the facility’s kite system
- Inattention to or minimization of medical emergencies
- Inadequate ongoing treatment for chronic conditions
- Inadequate and non-private mental health treatment
- Continued staff shortages and inadequate staff training

Ineffective Kite System

Inmates cannot effectively communicate through CCCC's kite system, deterring effective self-advocacy and reducing opportunities to engage in the grievance procedure. A "kite" is an official written request for anything within CCCC. Kites are used to communicate with any other part of the jail system, including medical, mental health, administration, and other areas. An inmate obtains a kite slip or utilizes an electronic portal, writes out the request, and submits it to jail officials, usually corrections officers or nurses. Ideally, the request is fulfilled, or alternatively, the inmate receives a written denial of the request with an explanation. An effective kite system is necessary because not only are kites the primary means of communication and self-advocacy, but they are also often the first step in the complicated, time-sensitive formal grievance procedure.

Prior to June 2019, inmates could not rely on this communication system to relay their medical and mental health symptoms and obtain necessary and effective treatment. This was due to many reported factors, including unavailability of kites, backlogs of kites, mismanagement, and corrections officers discarding kites. In April 2019, DRO conducted over 80 interviews with inmates. In these interviews, 39 individuals independently raised issues with the kite system, and nearly every person who reported having filed a kite said they submitted several and never received a response.

In June 2019, MetroHealth implemented a medical kite system that operates outside the general kite system. The primary difference is that inmates submit paper medical kites to nurses during rounds rather than to corrections officers or through the electronic portal. During interviews in August and November 2019, some inmates reported that response times had improved for medical kites. Nonetheless, 55% of November's interviewees reported ongoing issues with the kite system. In October 2020, DRO conducted additional interviews and nearly 88% of interviewees reported issues with the current kite systems. Despite some changes, inmates still lack access to kites and are waiting significant periods of time for their requests to be addressed.

Inmates reported that kite slips were often unavailable. During October 2020 interviews, it was consistently reported that nurses frequently do not have medical kites on their carts—one inmate estimated they are only available 50% of the time. Another inmate who was experiencing a painful dental emergency had to wait an entire weekend to submit a kite because neither the medical carts nor corrections officers had kites available. It took another 10 days for this inmate to receive a response to their kite once submitted.

Moreover, until recently, kites were only available in English. Non-English speakers had to either rely on other bilingual inmates to help submit kites or simply not report issues. Similar concerns were reported by inmates who do not read or write. After DRO provided the facility with a copy of an earlier report during Summer 2020, MetroHealth quickly drafted and printed a Spanish medical kite in August 2020. Now

inmates report that Spanish kites are often the only kites available on the medical carts. In fact, one inmate reported that a nurse urged them to fill out a Spanish kite, despite the fact that neither the inmate nor the nurse spoke, read, or wrote Spanish.

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According to MetroHealth, inmates who cannot read or write should report their concerns directly to a corrections officer or nurse as a modification to submitting a written kite.¹⁴ In practice, this process is not an effective accommodation. First, none of the inmates DRO interviewed who needed this accommodation had been informed of the accommodation by the facility. Second, staff is also seemingly unaware of the accommodation. During a DRO

visit in August 2019, a DRO attorney met with an inmate who appeared to have a broken or severely injured hand. The individual explained that they could not read or write, so they did not fill out a kite, but twice informed corrections officers about the injury. They were not transported to medical. Instead, DRO intervened and insisted on medical care for this person. Despite reluctance from the corrections officer, the individual was ultimately transported to medical—nearly 24 hours after injuring their hand. MetroHealth confirmed that the inmate followed proper protocol for the kite accommodation for individuals who cannot read or write.

Recently, CCCC introduced an entirely electronic system for non-medical kites. During interviews, DRO received mixed feedback about the new system. Some said the system is simple to use, while others said they do not know how to use it and have never received instruction. Additionally, the new system has reduced the options for kites—for instance, in the past, inmates could kite the wardens, sergeants, and corporals, but now only a few service areas are available. Moreover, inmates report that they are frequently not receiving responses to their electronic kites and that they are deleted from the system after one month.

The dual systems for medical and non-medical kites seem to compound the ineffectiveness of the overall kite system and cause confusion amongst the inmates and staff. We received several reports of staff instructing inmates to use the electronic portal to submit medical kites.

Neglected Medical Emergencies

Over the course of DRO's interviews, inmates consistently told DRO staff that the threshold for emergency medical attention is extremely high. In their experiences, "there must be blood," and "they must be actively dying" in order for the jail to recognize a medical or mental health emergency. In fact, 48% of those interviewed between April and November 2019 stated that they generally lack access to medical personnel. Despite CCCC's position that access to healthcare has improved, during

October 2020 interviews, 68% of interviewees reported that they generally lack access to medical personnel.

In April 2019, during an interview with an elderly individual with a known history of lung disease, a DRO attorney called for emergency medical services when the individual was unable to complete the interview because they were coughing continuously and having difficulty breathing. A registered nurse responded and conducted a brief assessment in front of several DRO staff, inmates, and corrections officers. The RN did not ask the patient any questions, including whether they have any diagnoses, and did not use a stethoscope to listen to their lungs or heart. The RN concluded that the inmate had a cold, and they were put on a cold protocol, which is half a dose of cough syrup. DRO advocated for a follow up medical appointment. During that appointment, medical staff realized that the inmate was not being transported for necessary breathing treatments. According to CCCC officials, the RN was formally disciplined after DRO reported the incident.

During October 2020 interviews, many interviewees reported that medical personnel do not communicate with them about their healthcare, so they often do not understand why certain actions are taken. For example, one inmate asked a nurse why he was no longer receiving his medication. The nurse responded that he “didn’t need it” without further explanation. DRO heard repeatedly that medical staff “don’t care” and “do what they want.” Based on inmate reports, health care staff are not meeting MetroHealth’s own standards. For example, one inmate said of the medical staff: “If they represent Metro, they should move like Metro, but they don’t.”

Inadequate Medical Treatment for Chronic Conditions

Individuals report that chronic conditions requiring ongoing treatment are inconsistently treated at CCCC, if treated at all. The most common reports DRO received from inmates with chronic conditions were that the jail frequently disregards the following: physical therapy, breathing treatments, medical equipment, specialized medical treatment, and prenatal care.

DRO received several reports that when physical therapy is prescribed by a doctor for recovery from an injury, the therapy is often denied, prematurely discontinued, or simply never scheduled by CCCC staff. During interviews, DRO received 11 complaints about lack of access to inhalers and other breathing treatments, which often require transport to a different area of the jail and assistance from medical staff. Interviewees reported that when an inhaler or other breathing treatment is needed, the requests are either denied or it takes several hours to receive the treatment. CCCC officials previously restricted inmates from maintaining possession of their inhalers on their persons or in their cells because they were deemed a safety risk.¹⁵ In August 2019, CCCC officials agreed to release the restriction with exceptions. DRO was assured that inhalers would generally be permitted on unit going forward. However, based on follow up interviews and visits, the policy has seemingly not changed, and CCCC has failed to

provide an official response stating otherwise.

Inmates requiring the chronic use of catheters report that they receive insufficient supplies. One inmate who self-catheterizes six times per day, using a new bag each time, received only two catheter bags over a five day period (they should have received 30). Another inmate reported needing 12 catheters and 30 cc of saline per day, but went over one month with one catheter and no saline, leading to severe pain. Moreover, an individual who uses catheters reported that they were getting infections every time their bag was changed (one time per month). An infection ultimately landed them in the hospital, where they were prescribed an antibiotic. Upon returning to the facility, they were accidentally given an antibiotic they are allergic to, resulting in a serious allergic reaction. After DRO advocated for this individual, MetroHealth assured DRO that it would look into the source of their chronic infections, but DRO never received a follow up report.

In one case, DRO advocated for an individual's treatment, who was diagnosed with cancer. The individual's oncologist had recommended CT scans and follow up appointments with specialists. Nothing was scheduled until DRO intervened in December 2019. In February 2020, the individual confirmed he had received some of the tests ordered, but had yet to see a doctor for ongoing leg pain. In April 2020, DRO reported to CCCC that the individual was experiencing another painful medical issue and needed care as soon as possible, as his symptoms were worsening. It took six weeks of DRO's advocacy before he was treated for this condition.

Over the course of the investigation, DRO also spoke with several pregnant inmates. Inmates reported that they had not seen an OB/GYN in months, including in the weeks prior to giving birth. One pregnant inmate reported that she began experiencing severe abdominal pain. She asked a CO to call medical, which they did—a total of four times. Medical did not respond to the calls. At the time of DRO's interview, one week after she began experiencing the pain, she had still not been seen by medical staff.

Reports of Inadequate Mental Health Treatment

Consistent with CCCC's handling of chronic medical conditions, individuals report that mental health conditions are regularly ignored and medications are frequently not prescribed or are not prescribed appropriately. In fact, over 66% of interviewees reported a lack of access to either mental health or medical personnel, and nearly 57% reported issues with their medications (e.g. not receiving medication, ineffective substitution, etc.). Inmates also reported unexplained changes in mental health medication. Many reported that their mental health treatment was disrupted upon arrival at CCCC, which can have a detrimental impact on the wellbeing of the individuals. These reports are especially concerning considering the facility's high number of suicides in recent years.

Moreover, October 2020 interviews revealed that many of these issues continue and illuminated a new issue: nighttime sleep medications are distributed early in the day. Previously, sleep medications were distributed between 9-10 p.m.; now, inmates receive these medications between 3-4 p.m. This is forcing individuals to make a decision between taking necessary medication and sleeping through dinner, or refusing the medication and attempting to sleep unmedicated during night hours. Those who choose to take the medication report sleeping between 5-11 p.m. and remaining awake the rest of the night. Interviewees report that the new schedule is exacerbating their mental health symptoms, including auditory hallucinations.

Individuals also reported that appointments with providers are brief, superficial, and often not private. Frequently, the only opportunity to report health concerns is during the nurse's rounds on the unit or in passing in the hallway. As recently as July 2020, CCCC confirmed that some psychiatric appointments are being conducted in an "open area." After expressing concern about the informality and lack of confidentiality, DRO confirmed during October 2020 interviews that appointments with doctors and mental health providers are still taking place in hallways or the open dorms.

STAFF SHORTAGES AND CULTURE OF MISCONDUCT AND ABUSE

CCCC has been consistently understaffed throughout the course of DRO's investigation. There have also been many investigations, resignations, civil lawsuits, criminal arrests, indictments, and convictions involving various staff—from corrections officers to high-ranking officials—for misconduct including excessive use of force, drug trafficking, inappropriate relationships with inmates, and concealing safety issues at the facility.¹⁶ New and inexperienced staff members frequently cycle in and out of the

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facility, creating a culture of hasty training and minimal oversight and an environment that allows abuse and neglect to flourish.

When DRO first began its investigation, CCCC was frequently

implementing what they called "Red Zoning"—the practice of locking inmates in their cells for extended periods—due to staff shortages. During Red Zoning, inmates are confined for a period of time ranging from an eight-hour shift to several days. During this time, inmates reported that they do not receive out-of-cell time needed for basic activities such as showers and recreation. This practice can be detrimental to individuals with medical and mental health conditions that require them to be out-of-cell for some portion of the day. For individuals with physical disabilities who benefit from general and frequent recreation, Red Zoning can be an especially painful period of immobility.

Multiple reports indicate that water supplies are often cut off during Red Zoning,

which is very problematic for inmates with conditions that carry a higher risk of dehydration, such as diabetes. Individuals who require inhalers or other breathing treatments are also placed at unique risk during Red Zoning since they are unable to keep inhalers with them, and staff is unavailable for transport. October 2020 interviews and CCCC records indicate that the practice continues, especially in general population.

Further, staff misconduct can worsen during shortages. Recently, a member of the jail's Special Response Team—officers trained to wear and use paramilitary equipment in response to security concerns within the facility—was suspended and criminally charged for stomping repeatedly on an inmate's arm through a food shoot in a cell door causing injury. The officer was delivering meals due to a staff shortage.¹⁷

Despite CCCC's insistence that these issues are not systemic, DRO has not observed notable improvement in staffing. During DRO's first visit to the facility in April 2019, at the height of Red Zoning, administrators reported the following staff levels: 616 staff with 40 in training, including 41 Corporals and 20 Sergeants.¹⁸ Despite some variations in staffing levels over the last 20 months, in October 2020, as both the jail population and COVID-19 virus were reaching new heights, administrators reported just 663 staff.

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Lack of adequate training also leads to abusive behavior by corrections officers. DRO received 29 independent reports that corrections officers frequently use abusive language. Several interviewees reported that corrections officers refer to inmates with disabilities as "retards" and "animals." As one interviewee suggested, staff should undergo "humanity training." Despite reporting this issue verbally and in writing to CCCC, they do not appear to have taken any affirmative action to remedy this issue and instead stated that DRO should instruct inmates to use the ineffective kite system to address their concerns. Rather than placing the burden on inmates, CCCC must act proactively to ensure that inmates' rights are not being violated.

CCCC stated that the recent reductions are a result of "attrition, the COVID-19 pandemic, and a substantial decrease in the inmate population towards the end of March 2020." In a follow up (and arguably contradictory) statement, CCCC says it plans to "continue efforts to reduce the inmate population and increase hiring of corrections staff." Nevertheless, DRO is concerned that instances of inappropriate deployment of staff and the frequency of Red Zoning will inevitably increase with rising jail populations and COVID-19 outbreaks. Not only does minimal staffing clearly compromise the health and safety of inmates, but the lack of oversight and instances of corruption also compromises the integrity of the work force, disincentivizing the retention and recruitment of quality staff.

LACK OF ADA COMPLIANCE

The Americans with Disabilities Act (“ADA”) is a federal law that prohibits entities like jails from discriminating against individuals with disabilities. To that end, the law also requires jails to take affirmative steps to ensure compliance with the ADA so that discrimination does not occur and inmates have equal opportunity to access the jail’s services and programs. These steps include, but are not limited to, the following:

- Evaluating policies and procedures to determine whether they comply with the ADA and modify those that do not¹⁹
- Having an ADA Coordinator and grievance process²⁰
- Ensuring effective communication²¹
- Ensuring architectural accessibility^{22 23}

Based on the reports DRO received, DRO’s tours of the facility, and information provided by CCCC, they do not appear to meet these obligations.

No Access to ADA Coordinator or Grievance Process

A designated ADA Coordinator and grievance process are essential to ensuring compliance with the ADA. The Coordinator helps large facilities readily identify the person responsible for managing ADA issues and disseminating information to those in the facility who may be unaware of the obligation. Similarly, a grievance process is necessary to ensure that ADA-related issues are reviewed and resolved consistently.

When asked if inmates were aware of the ADA grievance process or who the jail’s ADA coordinator is, no inmate could identify the process or individual. A CCCC official stated that they were hiring an ADA Coordinator, but this position may be combined with other duties, such as employment obligations under Title I of the ADA and FLSA duties. The official also stated that he did not think there is an ADA grievance process to which inmates have direct access. The grievance policy is listed on the County’s website,²⁴ but inmates do not have internet access.

Lack of Self-Evaluation and Staff Training

DRO did not receive any information from CCCC verifying that they conduct periodic audits of their policies and practices to ensure compliance with the ADA. Based on CCCC’s response to DRO’s full analysis and report, we are skeptical that this process takes place at all. In August 2020, DRO requested from CCCC information on the steps CCCC has taken to modify policies and practices to comply with ADA requirements (e.g. periodic audit of ADA compliance, including architectural compliance; needs assessments for inmates with disabilities; accessibility features to ensure effective communication for inmates who are blind or deaf; etc.). CCCC did not provide any information to DRO in response to this question.

Additionally, staff training is an important component of ensuring that the jail is

taking affirmative steps to comply with the ADA, and this does not appear to be happening at CCCC. CCCC reports that “the County trains recent hires and ensures they receive the requisite Ohio Peace Officer Training Academy course within one year of being hired.” However, disability-related issues, including requirements under the ADA, are not specifically covered by the OPOTA curriculum. When DRO raised this issue, CCCC stated that DRO “failed to explain or identify what additional training corrections staff should receive to better accommodate inmates’ disabilities.” CCCC did not recognize that the burden is on the facility to discover this information. Still, DRO provided CCCC with a list of resources for this training.

Inaccessible Facility

Compounding the issues at CCCC are the inaccessible physical conditions of the facility that jeopardize the health and safety of inmates with disabilities. A staggering 32% percent—nearly 1 in 3—of interviewees expressed environmental concerns²⁵ with the facility.²⁶ Further, over 1 in 5 of those interviewed reported reasonable accommodations for their disability were not provided or were denied. A backlog of work orders has plagued the facility since the outset of the investigation.²⁷

In 2019, Jail I of CCCC underwent a \$3.1 million renovation to add two dormitories on the fourth floor. According to CCCC, the dorms “meet or exceed all current accessibility requirements of the Ohio Building Code and the County’s Universal Design Standards.” CCCC said that it “intends to use these dormitory to house inmates with mobility and accessibility issues,” but that because of the pandemic, it has “not been practicable.”²⁸ During an October 2020 virtual monitor of the facility, CCCC staff confirmed that the newly renovated, ADA-compliant dorms are currently being utilized, but only house one individual with a mobility disability.

All other inmates with mobility disabilities and individuals with chronic medical needs are housed in other pods that are not accessible. DRO observed several inaccessible features in one such pod, the sixth floor medical unit, including:

- **No roll-in showers.** Until recently, CCCC did not have any accessible showers for inmates with wheelchairs. The medical unit’s shower that is large enough to accommodate a shower chair has multiple lips that are several inches high, preventing autonomous wheelchair ingress and egress. The new accessible showers on the fourth floor are located in an area of the jail designated for its female populations; therefore, there is no opportunity for transport for male inmates. Moreover, another large shower with a shower chair is located in another area of the jail. The process to get to this shower is burdensome and often does not occur until days after the inmate requests the shower, if it occurs at all. One inmate reported that they had not had a proper shower in over four months due to the lack of accessibility.

During the October 2020 virtual site visit, DRO again pointed out that lips on showers prevent accessibility. After 18 months of advocating for simple solutions

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to remedy enormous access issues, CCCC had Public Works remove the lip within days of the visit, clearly demonstrating that the facility has the knowledge, time, and resources to make necessary changes quickly.

- **Small showers without grab bars.** Inmates with disabilities are left with little choice but to utilize the small showers in the sixth floor dorm. Not only do they not accommodate shower chairs, but they are also not equipped with grab bars or a bench. Simply put, the showers are not safe for use by some individuals with disabilities.
- **Stand-alone bathtub.** The medical unit, in addition to a small shower, has a stand-alone bathtub. The bathtub has high sides, there is no guardrail or wall to grip for assistance, and initially did not have a bath mat to prevent slippage. CCCC stated that this tub will receive maintenance to increase accessibility and provide safety improvements. During the October 2020 virtual monitor, DRO observed that a no-slip mat had been added, but no other improvements had been made.
- **Cells are not wide enough to accommodate wheelchairs.** Inmates who utilize wheelchairs have reported that wheelchairs do not fit through the door of some cells, or that the cells are too crowded for wheelchair use. These individuals must leave their wheelchairs at the door, and must access their cell without the assistance of their mobility device.
- **The electronic portal is not accessible to individuals with some disabilities such as visual impairments.** This raises concerns about whether the jail is meeting its requirement to effectively communicate with individuals with disabilities under the ADA, ensuring that these individuals have access to the same services and programs as available to individuals without disabilities.

DRO also recently received a report that the electronic kite portal was first placed on the wall at a height that was inaccessible to individuals using wheelchairs. This issue has since been fixed, but illustrates the ongoing lack of knowledge CCCC staff have about its obligations to individuals with disabilities.

CCCC'S RESPONSE TO REPORT

DRO provided CCCC officials with a draft copy of an earlier report during Summer 2020 and waited over four weeks for a response.²⁹ [CCCC's response](#) largely dismisses the concerns raised by numerous inmates and even those events witnessed by DRO as “preposterous” and “false.” Dismissing the concerns because they arose from inmates precisely illustrates why little meaningful evolution has occurred at the facility and why issues will likely continue in the future if they do not take more effective action.

CCCC relies on a 2019 Bureau of Adult Detention (“BAD”) report that says they are

in compliance with all medical/mental health standards. BAD is an arm of the Ohio Department of Rehabilitation and Correction tasked with monitoring compliance with the Minimum Standards for Jails in Ohio.”³⁰ CCCC specifically stated, “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 [than DRO’s].” During the October 2020 DRO site visit, a CCCC representative stated that BAD has had “boots on the ground” at the facility on a monthly basis, and has only identified seven areas out of compliance.

DRO requested the investigative record for the 2019 BAD report, as well as monthly reports from June 2019 through October 2020. Based on the file, it appears that in November 2019, the inspector spent a total of three hours at the facility, a facility that consists of “two high rise buildings (Jail I and Jail II) that provide over one million square feet of space.”³¹ Only six inspection notes were documented. The corresponding date on the notes is two-weeks after the on-site visit, suggesting that notes were not taken contemporaneously. According to the inspector’s report, the inspection consisted of “receiving and/or reviewing requested documentation and/or materials, touring selected areas of the jail, and having discussions with various jail staff.” The file included a brief, outdated letter from a former medical director and there is no indication of which areas of the jail were visited, which records were received or reviewed, which staff were interviewed, what they were interviewed about, or whether inmates were interviewed.

As for the “monthly inspections,” they did not appear to actually occur on a monthly basis. DRO requested monthly reports from June 2019 through October 2020; ODRC was only able to produce seven memos from those 17 months.³² In these reports, an

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inmate escape is glazed over, serious concerns about medical insufficiencies and liabilities are barely touched upon, and there is seemingly no follow up on issues raised. And while CCCC suggests that BAD has had “boots on the ground,” a spokesperson for ODRC confirmed that BAD did complete multiple visits to the jail, but not on a monthly basis and that in-person

inspections ceased “sometime in Spring 2020.” According to ODRC, ongoing technical assistance to CCCC has been mostly conducted via phone calls and e-mails.

Notably, BAD does not evaluate whether abuse or neglect are occurring or whether the facility is meeting its ADA obligations. For all these reasons, DRO is troubled by CCCC’s reliance on BAD’s reports as confirmation of a job well done.

CONCLUSION AND RECOMMENDATIONS:

CCCC must fully address the systemic failures within the facility. Ohio’s inmates have fundamental rights, including the right to be housed in a safe and healthy

environment, the right to be treated humanely, the right to adequate medical and mental health care, and the right to be free from abuse and neglect. Currently, at CCCC, these rights are routinely violated.

Despite their contradictory statements and denials, CCCC admits that there is more work to be done “to improve the operations of the CCCC and ensure appropriate access and healthcare services to inmates at CCCC—some of which are significant, long-term infrastructure changes.” DRO agrees and recommends the following:

- **Traceable kite system.** DRO urges CCCC to implement one streamlined system that tracks kites submitted to minimize lost or destroyed kites and is easily accessible to all inmates. It is also necessary for the facility to develop and implement standards for quick and meaningful responses, including training for both inmates and staff on the system’s use.
- **Accessible kite system.** Ensure that the electronic kite system is accessible to individuals with disabilities and individuals who cannot read or write.
- **Interviews and communication with inmates.** DRO encourages CCCC to conduct its own periodic interviews of a sample of inmates to identify concerns, trends, and patterns. Additionally, CCCC should provide meaningful communication to inmates about their healthcare. Many of the problems inmates report stemmed from a lack of response from medical staff. Taking these steps will help ensure that CCCC is affirmatively evaluating its policies and procedures and anticipating and preparing for the needs of individuals with disabilities.
- **Develop policies and practices to comply with the ADA.** At a minimum, CCCC must hire a dedicated Title II ADA Coordinator (not a person whose job duties are combined with other responsibilities); develop a written grievance process that is known by staff and inmates; evaluate current policies and procedures to ensure ADA compliance and modify those that do not; and train all jail staff in disability-related obligations.
- **Fix architectural accessibility issues.** Issues of inaccessibility have been raised with CCCC on numerous occasions, beginning in April 2019 with DRO providing photos and specific recommendations. Installing grab-bars and modifying shower lips are easy, high-impact changes that would improve an inmate’s ability to maintain their independence. CCCC has demonstrated how quickly and easily changes can be made by remedying the inaccessible shower in the sixth floor medical unit. It should do the same for the other inaccessible conditions.
- **Reduce the jail population.** The initial quick and effective reaction at CCCC to COVID-19 has illustrated that when collaborating with judicial and law enforcement systems, there are achievable methods to maintain a low jail population. A smaller jail population would undoubtedly provide the opportunity for CCCC to evaluate and improve conditions at the facility. As the pandemic surges and DRO continues to receive discouraging reports from inmates, this is the moment to assess permanent measures to return to and maintain a reduced population, to address

staffing shortages and the issues that arise from them, and to improve medical and mental health services for those who must remain incarcerated.

- **Take inmate accounts seriously.** DRO encourages CCCC to change its practice of being skeptical of a concern because it came from an inmate, particularly since, in many instances the concerns raised were later confirmed.
- **Develop diversion program.** DRO supports the development of a diversion center that would allow individuals with psychiatric disabilities and substance abuse disorder to divert from the criminal justice system.³³

The current global pandemic and movement for criminal justice reform have created a unique opportunity to rethink how CCCC operates. In the short-term, CCCC must prioritize maintaining a low jail population while simultaneously evaluating and improving conditions at the facility. CCCC has demonstrated that it has the knowledge and tools available to make these changes promptly.

In the long-term, there is growing public outcry for reimagining who belongs in correctional facilities. Cuyahoga County is already considering a diversion center that would allow individuals with psychiatric disabilities and substance abuse disorder to divert the criminal justice system.³⁴ The contemplation of alternative and effective methods of rehabilitation is a promising start.

DRO looks forward to working alongside CCCC to develop and implement meaningful, systemic changes that improve conditions for all inmates.

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- 2 Adam Ferrise, *As Cuyahoga County Jail inmates died in record numbers, county investigations into the deaths were minimal, records show*, Cleveland.com (Apr. 29, 2020), <https://www.cleveland.com/metro/2020/04/as-cuyahoga-county-jail-inmates-died-in-record-numbers-county-investigations-into-the-deaths-were-minimal-records-show.html>.
- 3 CUYAHOGA COUNTY CORRECTIONAL CENTER, QUALITY ASSURANCE REVIEW: CUYAHOGA COUNTY CORRECTIONAL CENTER FACILITY REVIEW (Oct. 30 - Nov. 1, 2018), https://www.clevescene.com/media/pdf/cuyahoga_county_jail_facility_review_report_redacted_2.pdf.
- 4 Letter from Jon Radebaugh, Assistant Administrator, Ohio Department of Rehabilitation & Correction to David G. Schilling, Jr., Sheriff, Cuyahoga County Corrections Center (Feb. 11, 2019) (on file with Ohio Department of Rehabilitation & Corrections).
- 5 Adam Ferrise, *Ohio National Guardsman who took his own life in Cuyahoga County Jail was not checked for more than two hours, records say*, Cleveland.com (Apr. 13, 2020), <https://www.cleveland.com/metro/2020/04/ohio-national-guardsman-who-took-his-own-life-in-cuyahoga-county-jail-was-not-checked-for-more-than-two-hours-records-say.html>.
- 6 Similar obligations also exist under Section 504 of the Rehabilitation Act of 1973
- 7 CUYAHOGA COUNTY CORRECTIONAL CENTER, QUALITY ASSURANCE REVIEW: CUYAHOGA COUNTY CORRECTIONAL CENTER FACILITY REVIEW (Oct. 30 - Nov. 1, 2018), page 46, https://www.clevescene.com/media/pdf/cuyahoga_county_jail_facility_review_report_redacted_2.pdf. According to CCCC, ODRC increased the rated capacity from 1,765 to 1,888 in 2019. DRO requested documentation of the increased capacity on numerous occasions, and CCCC confirmed that its Bureau Recommended Capacity is 1,880 as of November 2020.
- 8 Courtney Astolfi, *Number of corrections officers dips at Cuyahoga County jails, as does the number of inmates*, Cleveland.com (Jun. 11, 2020), <https://www.cleveland.com/news/2020/06/number-of-corrections-officers-dips-at-cuyahoga-county-jails-as-does-the-number-of-inmates.html>.
- 9 This number is subject to fluctuation on a daily basis.
- 10 Sam Allard, *Death at Cuyahoga County Jail, Second in Two Months, Was Trans Woman Lea Daye*, CleveScene.com (Sep. 3, 2020), <https://www.clevescene.com/scene-and-heard/archives/2020/09/03/death-at-cuyahoga-county-jail-second-in-two-months-was-trans-woman-lea-daye>.
- 11 BUREAU OF JUSTICE STATISTICS, DISABILITIES AMONG PRISON AND JAIL INMATES, 2011-2012 (2015), <http://www.bjs.gov/content/pub/pdf/dpji1112.pdf>.
- 12 *Id.*
- 13 *Id.*
- 14 CCCC also stated that the facility now conducts additional literacy screening and instruction upon intake. DRO requested a copy of the policy; in response, CCCC stated “During the intake screening process, inmates are asked a variety of questions designed to address whether additional supports are needed - including history of special education or educational supports; need for assistive devices; and presence of hearing or speech impairment. And all inmates are provided (unless refused) a verbal summary of how to access care while in the

jail." A copy of the questions and verbal summary were not provided.

15 Under Title II of the Americans with Disabilities Act, CCCC has an affirmative duty to provide proactive accommodations when a disability is known. *Clemons v. Dart*, 2016 WL 890697 (N.D. Ill. Mar. 9, 2016). The jail must engage in the individualized inquiry process, therefore, a blanket rule that inhalers on person pose a safety risk without inquiring whether it is a risk for the individual inmate does not align with Title II's requirements. See *Wright v. New York State Department of Corrections*, 831 F.3d 64 (2nd Cir. 2016).

16 Drew Scofield, *Former Cuyahoga County Jail warden indicted, accused of ordering officer to shut off body camera*, ABC NEWS 5 CLEVELAND (Apr. 18, 2019), <https://www.news5cleveland.com/news/local-news/investigations/county-jail/cuyahoga-county-associate-warden-indicted-accused-of-ordering-officer-to-shut-off-body-camera>; Associated Press, *New Cuyahoga County Jail hire arrested during jail tour for prison drug smuggling*, WKYC STUDIOS (Aug. 3, 2019), <https://www.wkyc.com/article/news/crime/new-cuyahoga-county-jail-hire-arrested-during-jail-tour-for-prison-drug-smuggling/95-bf394bb9-1a91-4260-adda-59dda0b59190> (explaining sheriff's resignation); WKYC Staff, *Indicted Cuyahoga County corrections officer facing further charges of extortion and intimidation*, WKYC STUDIOS (Aug. 22, 2019), <https://www.wkyc.com/article/news/local/cuyahoga-county/indicted-cuyahoga-county-corrections-officer-facing-further-charges-of-extortion-and-intimidation/95-7514d052-940a-476f-8b6c-914c46d4d75f>; WKYC Staff, *Two Cuyahoga County corrections officers indicted for illegal drug smuggling operation*, WKYC STUDIOS (Aug. 28, 2019), <https://www.wkyc.com/article/news/crime/two-cuyahoga-county-corrections-officers-indicted-for-illegal-drug-smuggling-operation/95-b73bc5fc-bf43-4e7d-8592-ab8946bd3df1>; Tyler Carey, *Former Cuyahoga County Jail Director Ken Mills indicted on new charges of making facility 'unsafe'*, WKYC STUDIOS (Oct. 23, 2019), <https://www.wkyc.com/article/news/crime/former-cuyahoga-county-jail-director-ken-mills-indicted-on-new-charges-of-making-facility-unsafe/95-47042841-d328-4f44-95e6-2d8e84aa5b50>; Alan Rodges, *Former Cuyahoga County Jail Director being arraigned on Wednesday*, 19NEWS (Nov. 6, 2019), <https://www.cleveland19.com/2019/11/06/former-cuyahoga-county-jail-director-being-arraigned/>; Alan Rodges, *Two Cuyahoga County corrections officers face sentencing for assaulting restraint inmate*, 19 NEWS (Dec. 12, 2019), <https://www.cleveland19.com/2019/12/12/two-cuyahoga-county-corrections-officers-face-sentencing-assaulting-restraint-inmate/> (describing sentencing of COs); Cory Shaffer, *Cuyahoga County Jail guard pleads guilty to felony charges in pepper-foam attack of restrained inmate, extortion of fellow guard*, Cleveland.com (Jan. 24, 2020), <https://www.cleveland.com/court-justice/2020/01/cuyahoga-county-jail-guard-pleads-guilty-to-felony-charges-in-pepper-foam-attack-of-restrained-inmate-extortion-of-fellow-guard.html>; Eric Heisig, *Lawsuit says Cuyahoga County corrections officers did not properly handle woman's mental health issues*, Cleveland.com (Feb. 10, 2020), <https://www.cleveland.com/court-justice/2020/02/lawsuit-says-cuyahoga-county-corrections-officers-did-not-properly-handle-womans-mental-health-issues.html>; Adam Ferrise, *Cuyahoga County Jail warden resigns amid investigations, while self-isolating from coronavirus concerns*, Cleveland.com (Apr. 2, 2020), <https://www.cleveland.com/metro/2020/04/cuyahoga-county-jail-warden-resigns-amid-investigations-while-self-isolating-from-coronavirus-concerns.html>; Cory Shaffer, *Woman suing Cuyahoga County jail guards over pepper-foam attack accuses Budish, jail leadership of running jail-for-profit scheme*, Cleveland.com (Apr. 7, 2020), <https://www.cleveland.com/court-justice/2020/04/woman-suing-cuyahoga-county-jail-guards-over-pepper-foam-attack-accuses-budish-jail-leadership-of-running-jail-for-profit-scheme.html>; Danielle Serino, *Former Cuyahoga County jail director accused of hiding safety problems*, WKYC STUDIOS (Jun. 15, 2020), <https://www.wkyc.com/article/news/local/cuyahoga-county/former-county-jail-director-accused-of-hiding-safety-problems/95-0118eaea-8710-46ba-9325->

[68eeac8043c8](#); Adam Ferrise, *Cuyahoga County Jail officer suspended for pepper-spraying inmate at close range, and separately allowing another inmate to nearly escape*, Cleveland.com (Jul. 25, 2020), <https://www.cleveland.com/metro/2020/07/cuyahoga-county-jail-officer-suspended-for-pepper-spraying-inmate-at-close-range-allowing-inmate-to-nearly-escape.html>; Adam Ferrise, *Cuyahoga County Jail supervisor under investigation on suspicion of smuggling 'contraband' into jail*, Cleveland.com (Jul. 23, 2020), <https://www.cleveland.com/metro/2020/07/cuyahoga-county-jail-supervisor-under-investigation-on-suspicion-of-smuggling-contraband-into-jail.html>; Cory Shaffer, *Former guard, Heartless Felons member plead guilty in drug smuggling ring inside Cuyahoga County Jail*, Cleveland.com (Jul. 23, 2020), <https://www.cleveland.com/court-justice/2020/07/former-guard-heartless-felons-member-plead-guilty-in-drug-smuggling-ring-inside-cuyahoga-county-jail.html>; Adam Ferrise, *Cuyahoga County Jail officer hit with more charges after kicking 'docile' inmate's arm*, Cleveland.com (Aug. 25, 2020), <https://www.cleveland.com/metro/2020/08/cuyahoga-county-jail-officer-hit-with-more-charges-after-kicking-docile-inmates-arm.html>; Adam Ferrise, *Ex-Cuyahoga County Jail officer charged in attack on mentally ill inmate, including 'unauthorized chokehold'*, Cleveland.com (Sep. 18, 2020), <https://www.cleveland.com/metro/2020/09/ex-cuyahoga-county-jail-officer-charged-in-attack-on-mentally-ill-inmate-including-unauthorized-chokehold.html>; *Inmate Wrongful Death Lawsuit Settled by Ohio County for \$950K*, Insurance Journal (Oct. 15, 2020), <https://www.insurancejournal.com/news/midwest/2020/10/15/586688.htm>; Adam Ferrise, *Two Cuyahoga County Jail inmates released by mistake, marking fifth time this year*, Cleveland.com (Oct. 19, 2020), <https://www.cleveland.com/metro/2020/10/two-cuyahoga-county-jail-inmates-released-by-mistake-marking-fifth-time-this-year.html>; Cory Shaffer, *Ex-Cuyahoga County Jail guard pleads guilty to smuggling drugs, other items into jail*, Cleveland.com (Nov. 4, 2020), <https://www.cleveland.com/court-justice/2020/11/ex-cuyahoga-county-jail-guard-pleads-guilty-to-smuggling-drugs-other-items-into-the-jail.html>; Adam Ferrise, *Cuyahoga County Jail officer under investigation 'inappropriate contact' with inmate*, Cleveland.com (Nov. 30, 2020), <https://www.cleveland.com/metro/2020/11/cuyahoga-county-jail-officer-under-investigation-inappropriate-contact-with-inmate.html>; Adam Ferrise, *Disgraced ex-Cuyahoga County Jail warden's tells FBI, Ohio AG, he was powerless to stop deaths, flow of drugs in troubled jail*, Cleveland.com (Nov. 29, 2020), <https://www.cleveland.com/metro/2020/11/disgraced-ex-cuyahoga-county-jail-wardens-tells-fbi-ohio-ag-he-was-powerless-to-stop-deaths-flow-of-drugs-in-troubled-jail.html>; Adam Ferrise, *Cuyahoga County Jail officer fired after admitting he smuggled drugs for inmates, records say*, Cleveland.com (Jan. 4, 2021), <https://www.cleveland.com/metro/2021/01/cuyahoga-county-jail-officer-fired-after-admitting-he-smuggled-drugs-for-inmates-records-say.html>

17 Adam Ferrise, *Cuyahoga County Jail officer suspended for stomping inmate's arm through food chute in cell door*, Cleveland.com (June 26, 2020), <https://www.cleveland.com/metro/2020/06/cuyahoga-county-jail-officer-suspended-for-stomping-inmates-arm-through-food-chute-in-cell-door.html>.

18 During a tour of the facility, DRO staff observed a ratio of one corrections officer to 100 inmates. DRO staff was told that the corrections officer is supported by Central Control, which is staffed around the clock; however, during the time of DRO's visit, nobody was in Central Control. When asked about staffing ratios, CCCC staff stated there are typically two corrections officers on duty, and that that staffing ratio, 1:50, is the "ideal" staffing scenario at CCCC.

19 28 C.F.R. § 35.105

20 28 C.F.R. §35.107

21 28 C.F.R. §35.160

22 https://www.adainfo.org/sites/default/files/5.2%20Law%20Enforcement_Gordon-1-slide-per-page-handout.pdf; *Pierce v. District of Columbia*, 128 F.Supp.3d 250 (D.D.C. 2015)

23 2010 ADA Standards for Accessible Design; https://www.ada.gov/2010ADASTandards_index.htm

24 CUYAHOGA COUNTY, ACCESSIBILITY / GRIEVANCE PROCEDURE, <https://cuyahogacounty.us/accessibility/grievance-procedure> (last visited December 2, 2020).

25 Expressed environmental concerns included, but were not limited to: general cleanliness of the facility, chipping paint, water quality, bugs and mold in showers, substantial cracks in floors and walls, etc.

26 In its official response to this report, CCCC gloated that this figure “is a relatively small sample when considering the overall inmate population.”

27 According to CCCC records, there are currently 824 work orders that have been “scheduled,” but not initiated. On average, CCCC states that Public Works is able to address 653 orders per month. They note, however, “there is always a backlog of work orders due to the age of the facility.”

28 After requesting additional information, it remains unclear why the COVID-19 pandemic is preventing inmates with mobility issues from utilizing the ADA-compliant dorm.

29 DRO conducted an additional virtual monitor with CCCC staff and conducted two days of additional interviews after the draft copy was provided to CCCC.

30 BUREAU OF ADULT DETENTION, <https://drc.ohio.gov/bad> (last visited November 13, 2020).

31 *CUYAHOGA COUNTY SHERIFF, supra note 1.*

32 DRO received BAD site-visit memos for June 2019, July 2019, August 2019, September 2019, November 2019, January 4, 2020, which was issued on September 30, 2020, and a combined memo for January 30, 2020 and February 6, 2020, which was also issued on September 30, 2020.

33 Cuyahoga County announced in February 2020 plans to consider the construction of a diversion center for arrestees with mental illness and/or addiction. Nichole English, Planning and Programming Administrator for Cuyahoga County Department of Public Works, invited collaborative input from organizations that service individuals with psychiatric disabilities. In March 2020, DRO sent a letter to Ms. English offering input, but have yet to receive a response.

34 *Id.*