



We have the legal right of way.

ACCESS TO SERVICES IN JAIL:

Medical, Mental Health, and Disability-Related Services for People in Ohio's County and Regional Jails

Introduction

The information provided in this booklet is designed to help people in county and regional jails and their families, friends, and advocates obtain medical, mental health, and other disability-related services they need. This booklet focuses on Ohio county and regional jails – it does not address the rights of people in state or federal prisons. This booklet is not intended to provide legal advice. If you believe that your rights have been violated, you should seek legal counsel right away.

Each jail has a procedure for identifying people with medical, mental health, and disability-related needs. While each jail has its own set of rules, there are also some general laws and regulations which all jails must follow.

All people in jail showing signs of a serious medical condition or mental illness must be sent to the jail physician or other qualified health professional or agency for appropriate medical, psychiatric, or psychological services or other necessary treatment.

All medical and mental health treatment must be documented and communicated to appropriate staff. Jails also must have written policies and procedures to address suicide prevention, detection, intervention, response, and review of incidents. No one in jail can be denied medical attention for disciplinary reasons or on the basis of classification status.



SOURCES OF RIGHTS

The right to medical care in jail, which includes mental health services, is defined in several laws and standards:

1. The U.S. Constitution

The U.S. Constitution gives people in jail a right to medical care, safety, and basic necessities. The Eighth Amendment of the U.S. Constitution prohibits “cruel and unusual punishment” for people who have been convicted of a crime. This prohibits conduct by jail officials like torture and the use of excessive force. But the Eighth Amendment also means that people in jail must receive adequate medical care, plus life’s basic necessities such as adequate food and shelter. People in jail cannot be denied services if doing so will cause a serious risk of physical or mental harm. For people in jail who have not been convicted of a crime, the Fourth Amendment and Fourteenth Amendment of the U.S. Constitution provide at least as much protection as the Eighth Amendment.

Before jail officials are found to have violated constitutional rights, the jail must know about the problem. Therefore, it is important to make sure that jail officials know about a person’s medical or mental health needs and the risk of harm that will result if those needs are not met. See below for information about communicating a person’s medical or mental health needs to jail officials.

2. Ohio Statutes and Regulations

Ohio law also gives people in jail a right to medical and mental health care. Ohio Revised Code Chapter 341 and the rules in the Ohio Administrative Code Chapter 5120:1-8, 1-10, or 1-12 (depending on the type of jail) set the standards for treatment of people in jails.

Ohio law states that all county and municipal jails, workhouses, and lockups that house inmates must follow the health care rules. There are also some specific rules for mental health services in jails. In addition, jails must have policies that address health care services, including mental health services. The most stringent requirements apply to full service jails; less stringent requirements apply to 12 hour and 12 day lockups or minimum security jails.

More information and details on the Ohio laws that apply to jails can also be found in the Minimum Standards for Jails in Ohio. A current copy of the standards can be found by contacting the Department of Rehabilitation and Corrections or visiting their website (http://www.drc.ohio.gov/web/jail_oversight.htm).

3. The Americans with Disabilities Act (ADA)

The ADA was designed to prevent discrimination against people with disabilities. In general, if there are services, programs, or activities that are offered to people without disabilities, then they must also be accessible to people with disabilities. The ADA also includes rules that say the physical buildings of jails have to be accessible. For example, jails must have cells and doorways that are wide enough for wheelchairs.

PRELIMINARY HEALTH EVALUATION

When a person first enters the jail, and before being placed with the general inmate population, jail officials must complete a preliminary health evaluation. The purpose of this evaluation is to determine if the person has a disability, or if they are experiencing any physical or mental disorder. If such a condition is found, jail officials must provide treatment based on the medical and health care plan before the person is confined.

Based on how the evaluation questions are answered, jail officials will make a recommendation on housing. Sometimes, the jail's initial health screen may not correctly identify a person's medical, mental health, or disability needs. A case manager, family member, or the person in jail may need to tell jail officials about their needs, medical history, medications, etc.

Who completes the preliminary health evaluation?

The preliminary health evaluation may be completed by a medical staff member or the receiving officer. It will most often consist of a questionnaire filled out by the person in jail and a short interview/health screening.

What information must the health evaluation include?

The information required for the evaluation includes:

1. Current illnesses and health problems including those specific to women
2. Medications taken and special health requirements.
3. Behavioral observation, including state of consciousness and mental status.
4. Notation of personal physician and any medical needs.
5. Assessment of suicide risk.

When is a more complete evaluation required?

After a preliminary evaluation, the second step is a health appraisal. Within fourteen days after admission, a health appraisal must be completed for each person whose stay in jail exceeds ten days. This appraisal must include a review of the preliminary health evaluation and additional information to complete the medical, dental, psychiatric, and psychological history.

OTHER WAYS TO TELL THE JAIL ABOUT MEDICAL AND MENTAL HEALTH NEEDS

There are other ways to tell to jail officials about a person's medical, mental health, or disability needs.

Sick call

Full service jails must hold Sick Call. This is a time where a physician or other health care worker is available to assist people with medical needs. Sick Call must happen at least:

- Once per week for jails whose average daily inmate population is less than fifty.
- Three times per week for jails whose average daily inmate population is between fifty to one hundred ninety-nine.
- Five times per week for jails whose average population is two hundred or more.

Medical Requests or Complaints / Kites

Each full service jail must have a way for people to report medical complaints to the facility physician, either directly or through other health care providers. These complaints are often called "kiting." When you make a request for medical care, you should do it in writing so that there is a written record of when the jail became aware of your request.

All medical complaints must be reviewed daily by medical personnel with the facility physician, and appropriate treatment must be provided. Medical complaints from people in jail must be recorded and kept on file. The jail must also record how the complaint was addressed by jail officials.

Complaints to the Bureau of Adult Detention

Complaints may also be made to the Bureau of Adult Detention, a section of the Ohio Department of Rehabilitation and Corrections (DRC). The Bureau of Adult Detention can be reached at 770 West Broad Street, Columbus, Ohio 43222, or by calling 614-752-1834. Their website is: drc.ohio.gov/web/jail_oversight.htm.

Local Alcohol, Drug Addiction and Mental Health Services (ADAMH) Boards

The person in jail or family member can also contact the local Alcohol, Drug Addiction and Mental Health Services Board or the local Mental Health Board. Most county jails have contracts with these local mental health boards to provide mental health services to people in jail. If the person had a case manager prior to being jailed, he or she can contact his or her case manager for help. To speed the process of receiving mental health services, the person in jail or a family member can request a mental health evaluation upon entry to the jail.

YOUR RIGHTS TO DISABILITY-RELATED SERVICES AND ACCOMMODATIONS IN JAILS

The Americans with Disabilities Act (ADA) was designed to prevent discrimination against people with disabilities. Because jails are operated by the government, they must follow the ADA.

In general, the ADA says that if a service, program, or activity is offered to people without a disability, then it should be available to people with disabilities as well. “Services, programs, and activities” includes things like educational programs, inmate jobs, telephone calls and visitation, religious services, reading materials, televisions, etc. So, if a person in jail has a disability, they can make requests to the jail if they need accommodations to participate in these activities.

There are many kinds of disabilities and accommodations, but here are a few examples to illustrate:

Common Disabilities	Common ADA Requests
Wheelchair or other Mobility Disability	<ul style="list-style-type: none"> • Give access to a wheelchair, walker, cane or other equipment if a person needs one to get around. • More space in a jail cell so the person can use a wheelchair in their jail cell. • All areas of the jail should be accessible by wheelchair, including bathrooms, showers, recreation areas, infirmaries, etc.
Blind or Low-Vision	<ul style="list-style-type: none"> • Ability to use a blind cane. • Written communications in braille or large print, and access to a braille or accessible computer to write letters. • Assistance from staff or another inmate as a “blind aide.” • Access to audio books.
Deaf or Hearing-Impaired	<ul style="list-style-type: none"> • Sign-language interpreters for classes, medical appointments, disciplinary hearings, and other important communications. • Videophones, TTY or captioned telephones for phone calls. • Closed captioning on televisions. • Repairing hearing aids or replacing hearing aid batteries.
Mental Illness	<ul style="list-style-type: none"> • Access to mental health care or treatment. • Reduced or no time spent in solitary confinement for people with serious mental illnesses. • Reduced or no punishment/discipline for behaviors that are a symptom of their mental illness.

Requesting Disability Services and Accommodations

Keep in mind that the jail probably won't give disability accommodations unless the person in jail asks for them. Therefore, people should (1) make sure the jail knows that they have a disability and (2) request an accommodation in writing.

People in jail can make requests by sending a written request (sometimes called a "kite") to the jail's administration and medical department. Or, they can file a grievance or complaint asking for an accommodation.

There are some occasions where a jail may not be required to provide an accommodation—for example, if they can show that the accommodation would cause a "fundamental alteration" or "undue burden" (a change that is too expensive or too difficult). Jails may also try to deny accommodations because they could cause a security or safety concern. If a jail denies a request for a reasonable accommodation, contact Disability Rights Ohio if you think it was a mistake.

OTHER INFORMATION ABOUT MEDICAL, MENTAL HEALTH AND DISABILITY-RELATED SERVICES IN JAILS

Other Complaints and Requests in Jail

Every jail is required to have some way for people in jail to make written requests and file grievances or complaints. These written requests and complaints can be used to request medical, mental health, and disability-related services in jail. But, they can also be used for any other problems a person is experiencing while in jail. For example, if a person in jail is experiencing harassment from jail staff or other inmates; if something at the jail needs to be repaired; if there are problems with the living conditions or sanitation at the jail, etc. DRO recommends making requests and complaints in writing, and keeping a copy of the complaint for your own records so you can prove that the jail knows about the problem.

Emergency

Every jail must have emergency medical treatment available either through an in-house or outside medical service arrangement on a twenty-four hour basis for all inmates.

Physician in Charge

Full service jails must employ or contract with a licensed physician (doctor). The facility physician develops a written medical and mental health care plan that describes how medical care will be provided at the jail. Then, the physician must supervise and manage medical operations at the jail.

Can a person in jail use his or her own doctor?

People in jail may be treated by their personal doctors, but at their own expense. However, the jail's doctor decides if the treatment is necessary.

What medical records must the jails keep?

The jail must keep accurate records of all reports of medical problems, examinations, diagnosis, and treatment. Medical records maintained at the jail must include documentation of all treatment provided by a personal doctor or outside mental health professionals during the person's confinement. All medical records are confidential and should be read only by authorized persons. Jails have differing policies about whether a person in jail can see his/her own medical records. Sometimes if the jail won't let a person see their own records, the person could instead sign a medical release form that would allow their family or someone they trust outside to see their medical records.

Who inspects conditions in jails?

The Department of Rehabilitation and Correction, Division of Parole and Community Services, Bureau of Adult Detention investigates and supervises county and municipal jails, workhouses, minimum security jails, and other correctional institutions and agencies. The Bureau of Adult Detention can receive complaints from people in jail, their families or friends or other interested groups, by telephone or mail. If complaints are about an emergency or lack of medical care for a serious medical condition, the Bureau may try to resolve the issue by calling or visiting the jail. People who file complaints should receive a letter from the Bureau, confirming receipt of the complaint. If violations of jail standards are found, the Bureau has the authority to enforce those standards.

To file complaints with the Bureau of Adult Detention, call or write to:

Department of Rehabilitation and Correction
Division of Parole and Community Services

Bureau of Adult Detention
770 West Broad St.
Columbus, Ohio 43222
Telephone: 614-752-1834

Finding an Attorney

Some people in jail already have an attorney assisting them with their criminal case. People in jail can talk to their criminal attorneys for advice if they are experiencing problems while in jail. Another good place to try to find a private attorney is to contact the nearest bar association. Bar associations usually offer an attorney referral service: if you tell the bar association what legal problem you are having, they may be able to give you the name of an attorney that can help with that problem. To find the bar association closest to you, you can call the Ohio State Bar Association at 1-800-282-6556, or see a list of bar associations at supremecourt.ohio.gov/RelatedOrgs/bar/.

Contact Disability Rights Ohio

If you or someone you know needs assistance in obtaining appropriate medical, mental health, or disability-related services in county or regional jails, call or write to Disability Rights Ohio Intake:

Disability Rights Ohio

Attention: Intake

200 Civic Center Dr., Suite 300

Columbus, Ohio 43215-4234

Telephone: 1-800-282-9181

Collect Call Telephone: 614-644-6804

Disability Rights Ohio can inform people about their rights in jail and how to file requests or complaints related to their concerns. Sometimes Disability Rights Ohio will advocate for people in jail by contacting jail staff to resolve the concerns.