



# Final Report to the General Assembly

*Legislative Oversight Committee Concerning Colorado Jail Standards*

*December 2023 | Research Publication 801*





## Legislative Oversight Committee Concerning Colorado Jail Standards

### Members of the Committee

Representative Judy Amabile, Chair

Senator James Coleman, Vice Chair

Senator Rhonda Fields

Representative Ryan Armagost

Senator Kevin Van Winkle

Representative Lorena Garcia

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The text of the approved bill is included as Attachments A after the list of meetings and topics discussed.

The final report for the Colorado Jail Standards Commission is included as Appendix A

**This report is also available online at:**

**<https://leg.colorado.gov/committees/committeename/2023-regular-session>**



## Committee Charge

Pursuant to House Bill 22-1063, the Legislative Oversight Committee Concerning Colorado Jail Standards (oversight committee) is responsible for overseeing the 22-member Colorado Jail Standards Commission (commission), which was required to recommend standards for the operation of jails in the following areas:

- reception and release;
- classification of inmates;
- security;
- housing;
- sanitation and environmental conditions;
- communication;
- visitation;
- health care, mental and behavioral health care, and dental care;
- restrictive housing;
- inmate grievances;
- jail staffing; and
- inmate prerogatives.

The oversight committee was required to receive and approve the report of the commission by November 15, 2023.

## Committee Activities

The oversight committee held six meetings between July 2022 and November 2023. The initial oversight committee meeting in July 2022 focused on approving operating procedures for the commission. Subsequent meetings were held in December 2022, May 2023, and September 2023 to receive updates on the commission's progress toward creating recommended jail standards and to provide feedback on the draft standards.

The commission unanimously approved the final jail standards and its report to the oversight committee on November 9, 2023, and the report of the commission was forwarded to the oversight committee on November 15, 2023.

At the oversight committee's meeting on November 28, 2023, the oversight committee approved the commission's report and the commission's recommended jail standards (Appendix A). The oversight committee also requested Bill A to implement the standards for Colorado jails (Attachment A).

**Committee recommendations.** As a result of its discussions, the oversight committee recommends Bill A, concerning the implementation of jail standards in Colorado. The bill requires Colorado jails to comply with the standards adopted by the oversight committee by July 1, 2026, and creates a Jail Standards Advisory Committee to utilize peer assessors to conduct evaluations of Colorado jails. The bill also allows the attorney general to conduct assessments of jails in partnership with the advisory committee, and to conduct special assessments of jails in certain cases. The bill extends the oversight committee until September 1, 2033.





## Summary of Recommendations

As a result of the committee's activities, the committee recommended one bill for consideration in the 2024 session.

### ***Bill A — Concerning Implementation of Jail Standards in Colorado***

Bill A requires Colorado county jails to comply with the jail standards adopted by the Legislative Oversight Committee Concerning Colorado Jail Standards (oversight committee), beginning July 1, 2026. The bill extends the oversight committee until September 1, 2033.

The bill requires the Department of Public Safety to contract with the County Sheriffs of Colorado to create a seven-member Jail Standards Advisory Committee (advisory committee). Beginning in July 2024, the advisory committee must select peer advisors to perform jail assessments to determine compliance with Colorado jail standards, in cooperation with the Colorado Attorney General's Office. The advisory committee must ensure that each jail is inspected at least every five years, and must develop a process through which jails can request variances of the jail standards. The advisory committee must make an annual report to the oversight committee providing the results of the inspections, a report on the variances granted, recommendations regarding jail standards, and suggestions for funding or other supports to allow jails to comply with the standards. The Department of Public Safety must maintain a dashboard providing the basic findings of jail assessments, and a list of resources to assist jails in complying with the standards.

The Attorney General, in conjunction with the advisory committee, may conduct assessments of each county jail. The Attorney General may also conduct a special assessment of a jail when requested by the Governor, the oversight committee, or the sheriff overseeing the jail. After conducting a special assessment, the Attorney General must provide a report of the findings to the sheriff, the oversight committee, the board of county commissioners in the county where the jail is located, the County Sheriffs of Colorado, and the Governor. These reports are not subject to the Colorado Open Records Act. The Attorney General must provide a summary of the jail assessments completed in the previous year and report on jail-related complaints during its annual SMART Government Act hearing.



## Resource Materials

Meeting summaries are prepared for each meeting of the committee and contain all handouts provided to the committee. The summaries of meetings and attachments are available at the Division of Archives, 1313 Sherman Street, Denver (303-866-2055). The listing below contains the dates of committee meetings and the topics discussed at those meetings. Meeting summaries are also available on our website at:

<https://leg.colorado.gov/content/committees>

## Meetings and Topics Discussed

July 19, 2022

- Discussion and Approval of the Jail Standards Commission's Work Plan and Rules of Procedure

December 9, 2022

- Update on the Activities of the Jail Standards Commission

May 19, 2023

- Update on the Activities of the Jail Standards Commission
- Discussion on Enforcement and Oversight

September 8, 2023

- Update on the Activities of the Jail Standards Commission
- Discussion on Potential Draft Legislation

October 13, 2023

- Update on the Activities of the Jail Standards Commission
- Requests for Draft Legislation

November 28, 2023

- Approval of Jail Standards Commission Final Report and Recommended Standards for Colorado Jails
- Final Approval of Draft Legislation

Second Regular Session  
Seventy-fourth General Assembly  
STATE OF COLORADO

Attachment A

**BILL A**

LLS NO. 24-0525.01 Michael Dohr x4347

**HOUSE BILL**

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**HOUSE SPONSORSHIP**

**Amabile and Garcia,**

**SENATE SPONSORSHIP**

**Fields and Coleman,**

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**House Committees**

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING IMPLEMENTATION OF JAIL STANDARDS IN COLORADO.**

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)*

**Legislative Oversight Committee Concerning Colorado Jail Standards.** There is currently a jail standards oversight committee and commission (oversight committee and commission) tasked with developing jail standards in Colorado. The oversight committee and commission are set to repeal on July 1, 2024. The bill repeals the commission and extends the oversight committee until September 1, 2033. Each county jail shall comply with the standards adopted by the oversight committee beginning July 1, 2026. The oversight committee

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing law.  
Dashes through the words or numbers indicate deletions from existing law.

shall post the standards on its website. If the oversight committee revises a jail standard, each county jail shall comply with the revised standard no later than one year after the revision is adopted, or earlier if specified by the oversight committee when adopting the revision.

The bill creates a jail standards advisory committee (advisory committee). The advisory committee consists of:

- 2 sheriffs appointed by a statewide organization representing the county sheriffs of Colorado;
- 2 county commissioners appointed by Colorado counties, incorporated;
- The state public defender or the state public defender's designee;
- One physical or behavioral health professional with experience working in a jail appointed by the oversight committee; and
- One person representing a statewide organization that advocates on behalf of people experiencing incarceration appointed by the oversight committee.

The duties of the advisory committee include, but are not limited to:

- Utilize peer assessors selected by the advisory committee to perform assessments of a jail's physical facilities and its written policies and procedures to assess compliance with jail standards;
- Provide the oversight committee with recommendations for revising jail standards and ways to address jail needs necessary to comply with jail standards; and
- Provide the oversight committee with recommendations to address jail needs necessary to comply with jail standards.

The advisory committee may also establish a process to grant variances from the jail standards to local jails.

The bill creates the jail standards advisory committee cash fund to fund the activities of the advisory committee.

The bill requires the attorney general to conduct assessments of jails, in conjunction with the advisory committee, for compliance with jail standards. The attorney general may also conduct an independent special assessment of a jail when requested by the governor, the oversight committee, or a sheriff. The attorney general shall prepare a report of each special assessment.

The advisory committee shall annually submit a report to the oversight committee.

The bill requires the division of criminal justice in the department of public safety to create a list of funding assistance available to jails to offset the costs of compliance with the jail standards.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2           **SECTION 1.** In Colorado Revised Statutes, 2-3-1901, **amend**  
3 (1)(b)(I) and (1)(b)(II); and **add** (2)(e), (2)(f), and (3) as follows:

4           **2-3-1901. Legislative oversight committee for Colorado jail**  
5 **standards - creation - duties - repeal.** (1) **Creation** (b) The committee  
6 consists of six members. The president of the senate, the minority leader  
7 of the senate, the speaker of the house of representatives, and the minority  
8 leader of the house of representatives shall appoint the members of the  
9 committee as follows:

10           (I) The president of the senate shall appoint two senators to serve  
11 on the committee and designate one of the senators AS THE CHAIR OF THE  
12 COMMITTEE IN ODD-NUMBERED YEARS AND AS the vice-chair of the  
13 committee IN EVEN-NUMBERED YEARS, and the minority leader of the  
14 senate shall appoint one senator to serve on the committee;

15           (II) The speaker of the house of representatives shall appoint two  
16 representatives to serve on the committee and designate one of the  
17 representatives as the chair of the committee IN EVEN-NUMBERED YEARS  
18 AND AS THE VICE-CHAIR OF THE COMMITTEE IN ODD-NUMBERED YEARS,  
19 and the minority leader of the house of representatives shall appoint one  
20 representative to serve on the committee;

21           (2) **Duties.** (e) (I) THE COMMITTEE MAY INTRODUCE UP TO A  
22 TOTAL OF THREE BILLS, JOINT RESOLUTIONS, OR CONCURRENT  
23 RESOLUTIONS DURING A REGULAR LEGISLATIVE SESSION. BILLS  
24 INTRODUCED BY THE COMMITTEE ARE EXEMPT FROM THE FIVE-BILL  
25 LIMITATION SPECIFIED IN RULE 24 (b)(1)(A) OF THE JOINT RULES OF THE  
26 SENATE AND THE HOUSE OF REPRESENTATIVES. JOINT RESOLUTIONS AND

1 CONCURRENT RESOLUTIONS INTRODUCED BY THE COMMITTEE ARE EXEMPT  
2 FROM THE LIMITATIONS SET OUT IN RULE 26 (g) OF THE RULES OF THE  
3 HOUSE OF REPRESENTATIVES AND RULE 30 (f) OF THE RULES OF THE  
4 SENATE.

5 (II) THE COMMITTEE IS EXEMPT FROM THE REQUIREMENT TO  
6 REPORT BILLS OR OTHER MEASURES TO THE LEGISLATIVE COUNCIL AS  
7 SPECIFIED IN RULE 24 (b)(1)(D) AND RULE 24A (d)(8) OF THE JOINT RULES  
8 OF THE SENATE AND THE HOUSE OF REPRESENTATIVES AND IN SECTION  
9 2-3-303 (1)(f). THE COMMITTEE IS SUBJECT TO RULE 24A OF THE JOINT  
10 RULES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES, EXCEPT TO  
11 THE EXTENT THAT THE RULE MAY CONFLICT WITH THIS PART 19.

12 (III) BILLS RECOMMENDED BY THE COMMITTEE MUST BE  
13 INTRODUCED BY THE INTRODUCTION DEADLINE FOR HOUSE BILLS  
14 SPECIFIED IN RULE 23 (a)(1) OF THE JOINT RULES OF THE SENATE AND THE  
15 HOUSE OF REPRESENTATIVES.

16 (IV) THE CHAIR AND VICE-CHAIR SHALL JOINTLY ESTABLISH THE  
17 LAST DATE FOR THE MEETING AT WHICH THE COMMITTEE MAY APPROVE  
18 BILL REQUESTS, THE LAST DATE BY WHICH COMMITTEE MEMBERS MUST  
19 FINALIZE BILL DRAFTS OR BY WHICH BILL DRAFTS WILL BE DEEMED  
20 FINALIZED FOR FISCAL NOTE PURPOSES, AND THE LAST DATE BY WHICH THE  
21 COMMITTEE WILL CONSIDER AND TAKE FINAL ACTION ON BILL DRAFTS.

22 (f) THE COMMITTEE SHALL CONSIDER THE REPORTS FROM THE JAIL  
23 STANDARDS ADVISORY COMMITTEE CREATED IN SECTION 30-10-529 AND  
24 MAY REVISE THE JAIL STANDARDS BASED ON INFORMATION IN THE  
25 REPORTS.

26 (3) (a) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2033.

27 (b) PRIOR TO THIS SECTION'S REPEAL, THE LEGISLATIVE OVERSIGHT

1 COMMITTEE IS SUBJECT TO REVIEW PURSUANT TO SECTION 2-3-1203.

2 **SECTION 2.** In Colorado Revised Statutes, **add** 2-3-1901.5 as  
3 follows:

4 **2-3-1901.5. Jail standards compliance.** EACH COUNTY JAIL  
5 SHALL COMPLY WITH THE STANDARDS ADOPTED BY THE LEGISLATIVE  
6 OVERSIGHT COMMITTEE PURSUANT TO SECTION 2-3-1901 (2), BEGINNING  
7 JULY 1, 2026. THE COMMITTEE SHALL POST THE STANDARDS ON ITS  
8 WEBSITE. IF THE COMMITTEE REVISES A JAIL STANDARD, EACH COUNTY  
9 JAIL SHALL COMPLY WITH THE REVISED STANDARD NO LATER THAN ONE  
10 YEAR AFTER THE REVISION IS ADOPTED, OR EARLIER IF SPECIFIED BY THE  
11 COMMITTEE WHEN ADOPTING THE REVISION. A COUNTY JAIL DOES NOT  
12 HAVE TO COMPLY WITH A STANDARD OR REVISED STANDARD IF IT  
13 RECEIVES A VARIANCE FROM THE STANDARD PURSUANT TO SECTION  
14 30-10-529 (5)(g).

15 **SECTION 3.** In Colorado Revised Statutes, **repeal** 2-3-1902,  
16 2-3-1903, and 2-3-1904.

17 **SECTION 4.** In Colorado Revised Statutes, 2-3-1203, **add** (24)  
18 as follows:

19 **2-3-1203. Sunset review of advisory committees - legislative**  
20 **declaration - definition - repeal.** (24) (a) THE FOLLOWING STATUTORY  
21 AUTHORIZATIONS FOR THE DESIGNATED ADVISORY COMMITTEES WILL  
22 REPEAL ON SEPTEMBER 1, 2033:

23 (I) THE LEGISLATIVE OVERSIGHT COMMITTEE FOR COLORADO JAIL  
24 STANDARDS CREATED IN SECTION 2-3-1901.

25 (b) THIS SUBSECTION (24) IS REPEALED, EFFECTIVE SEPTEMBER 1,  
26 2035.

27 **SECTION 5.** In Colorado Revised Statutes, 24-31-101, **amend**



1 (1)(t) and (1)(u); and **add** (1)(v) as follows:

2 **24-31-101. Powers and duties of attorney general.** (1) The  
3 attorney general:

4 (t) May bring a civil action to enforce section 25-7-144; ~~and~~

5 (u) May, if the attorney general has reason to believe that a  
6 violation of a statute or rule is causing an imminent and substantive  
7 endangerment to the public health, water quality, or environment within  
8 a mobile home park, request a temporary restraining order, preliminary  
9 injunction, permanent injunction, or any other relief necessary to protect  
10 the public health, water quality, or environment; AND

11 (v) MAY CONDUCT JAIL ASSESSMENTS IN PARTNERSHIP WITH THE  
12 JAIL STANDARDS ADVISORY COMMITTEE, CREATED PURSUANT TO SECTION  
13 30-10-529, PURSUANT TO SECTION 24-31-117.

14 **SECTION 6.** In Colorado Revised Statutes, **add** 24-31-117 as  
15 follows:

16 **24-31-117. Jail standard assessments.** (1) (a) THE ATTORNEY  
17 GENERAL, IN CONJUNCTION WITH THE ADVISORY COMMITTEE, PURSUANT  
18 TO SECTION 30-10-529 (5)(d), MAY CONDUCT ASSESSMENTS OF EACH  
19 COUNTY JAIL TO IDENTIFY GAPS AND DEFICIENCIES BASED ON THE JAIL  
20 STANDARDS.

21 (b) THE GOVERNOR OR THE OVERSIGHT COMMITTEE MAY MAKE A  
22 WRITTEN REQUEST TO THE ATTORNEY GENERAL TO CONDUCT A SPECIAL  
23 ASSESSMENT OF A JAIL, AND THE ATTORNEY GENERAL MAY CONDUCT THE  
24 SPECIAL ASSESSMENT OF THE JAIL.

25 (c) AN ELECTED SHERIFF MAY REQUEST THAT THE ATTORNEY  
26 GENERAL CONDUCT A SPECIAL ASSESSMENT OF A JAIL THAT THE SHERIFF  
27 OVERSEES TO DETERMINE WHETHER THE JAIL MEETS THE JAIL STANDARDS.

1 THE ATTORNEY GENERAL MAY CONDUCT THE SPECIAL ASSESSMENT IF THE  
2 ATTORNEY GENERAL HAS SUFFICIENT APPROPRIATIONS TO COVER THE  
3 COSTS. THE ATTORNEY GENERAL MAY REQUEST AN APPROPRIATION  
4 DURING THE FIGURE SETTING PROCESS TO CONDUCT SPECIAL  
5 ASSESSMENTS.

6 (2) THE ATTORNEY GENERAL'S OFFICE SHALL CREATE A REPORT  
7 FOR EACH OF THE JAILS ASSESSED PURSUANT TO SUBSECTIONS (1)(b) AND  
8 (1)(c) OF THIS SECTION AND PROVIDE THE REPORT TO THE SHERIFF WHOSE  
9 JAIL WAS ASSESSED, THE OVERSIGHT COMMITTEE, THE BOARD OF COUNTY  
10 COMMISSIONERS IN THE COUNTY WHERE THE JAIL IS LOCATED, THE  
11 COUNTY SHERIFFS OF COLORADO, AND THE GOVERNOR. THE REPORT MUST  
12 INCLUDE METHODOLOGY, RELEVANT DATA, RECOMMENDATIONS, AND  
13 TECHNICAL ASSISTANCE TO MEET THE JAIL STANDARDS. A REPORT  
14 PRODUCED PURSUANT TO THIS SECTION IS NOT SUBJECT TO THE COLORADO  
15 OPEN RECORDS ACT. THE ATTORNEY GENERAL MAY RELEASE A REPORT AT  
16 THE ATTORNEY GENERAL'S DISCRETION, AND A COUNTY SHERIFF MAY  
17 RELEASE A REPORT RELATING TO THE COUNTY SHERIFF'S JAIL AFTER  
18 CONSULTATION WITH THE ATTORNEY GENERAL'S OFFICE.

19 (3) FOLLOWING A JAIL ASSESSMENT OR SPECIAL ASSESSMENT, THE  
20 ATTORNEY GENERAL MAY PROVIDE TECHNICAL ASSISTANCE AND  
21 RECOMMENDATIONS TO MEET THE JAIL STANDARDS AND ADDRESS ANY  
22 DEFICIENCIES.

23 (4) THE ATTORNEY GENERAL'S OFFICE, DURING ITS "SMART ACT"  
24 HEARING, AS REQUIRED BY SECTION 2-7-203, SHALL INCLUDE IN ITS  
25 REPORT THE TOTAL NUMBER OF COMPLAINTS RECEIVED THROUGH THE  
26 COMPLAINT PROCESS AS DESIGNATED BY THE ATTORNEY GENERAL'S  
27 OFFICE REGARDING JAIL STANDARDS VIOLATIONS AND THE NUMBER OF

1 COMPLAINTS RECEIVED PER TOPIC AND PROVIDE A SUMMARY OF THE  
2 ASSESSMENTS AND SPECIAL ASSESSMENTS COMPLETED IN THE PREVIOUS  
3 YEAR.

4 (5) SECTIONS 2-3-1901, 2-3-1901.5, 24-31-117, AND 30-10-529 DO  
5 NOT IN ANY WAY LIMIT OR RESTRICT THE ATTORNEY GENERAL'S  
6 AUTHORITY TO INVESTIGATE PATTERNS OR PRACTICES PURSUANT TO  
7 SECTION 24-31-113, INCLUDING BUT NOT LIMITED TO ANY  
8 NONCOMPLIANCE WITH JAIL STANDARDS THAT CONSTITUTE A PATTERN OR  
9 PRACTICE OF CONDUCT THAT DEPRIVES PERSONS OF RIGHTS, PRIVILEGES,  
10 OR IMMUNITIES SECURED OR PROTECTED BY THE CONSTITUTION OR LAWS  
11 OF THE UNITED STATES OR THE STATE OF COLORADO.

12 (6) AS USED IN THIS SECTION:

13 (a) "ADVISORY COMMITTEE" MEANS THE JAIL STANDARDS  
14 ADVISORY COMMITTEE CREATED PURSUANT TO SECTION 30-10-529.

15 (b) "JAIL STANDARDS" MEANS THE JAIL STANDARDS ADOPTED BY  
16 THE LEGISLATIVE OVERSIGHT COMMITTEE CONCERNING COLORADO JAIL  
17 STANDARDS PURSUANT TO SECTION 2-3-1901 (2) AND ANY SUBSEQUENT  
18 REVISIONS TO THE STANDARDS.

19 (c) "OVERSIGHT COMMITTEE" MEANS THE LEGISLATIVE OVERSIGHT  
20 COMMITTEE FOR COLORADO JAIL STANDARDS CREATED IN SECTION  
21 2-3-1901.

22 **SECTION 7.** In Colorado Revised Statutes, **add** 30-10-529 as  
23 follows:

24 **30-10-529. Jail standards advisory committee - creation -**  
25 **duties - cash fund - definition.** (1) THE DEPARTMENT OF PUBLIC SAFETY  
26 SHALL CONTRACT WITH THE COUNTY SHERIFFS OF COLORADO TO CREATE  
27 A JAIL STANDARDS ADVISORY COMMITTEE.

1           (2) (a) THE JAIL STANDARDS ADVISORY COMMITTEE CONSISTS OF:

2           (I) TWO SHERIFFS, OR THEIR DESIGNEES, APPOINTED BY A  
3 STATEWIDE ORGANIZATION REPRESENTING THE COUNTY SHERIFFS OF  
4 COLORADO, OR ITS SUCCESSOR ORGANIZATION;

5           (II) TWO COUNTY COMMISSIONERS APPOINTED BY COLORADO  
6 COUNTIES, INCORPORATED, OR ITS SUCCESSOR ORGANIZATION;

7           (III) THE STATE PUBLIC DEFENDER OR THE STATE PUBLIC  
8 DEFENDER'S DESIGNEE;

9           (IV) ONE PHYSICAL OR BEHAVIORAL HEALTH PROFESSIONAL WITH  
10 EXPERIENCE WORKING IN A JAIL APPOINTED BY THE LEGISLATIVE  
11 OVERSIGHT COMMITTEE FOR COLORADO JAIL STANDARDS CREATED IN  
12 SECTION 2-3-1901; AND

13           (V) ONE PERSON REPRESENTING A STATEWIDE ORGANIZATION  
14 THAT ADVOCATES ON BEHALF OF PEOPLE EXPERIENCING INCARCERATION  
15 APPOINTED BY THE LEGISLATIVE OVERSIGHT COMMITTEE FOR COLORADO  
16 JAIL STANDARDS CREATED IN SECTION 2-3-1901.

17           (b) TO THE EXTENT POSSIBLE, THE MEMBERS MUST REFLECT THE  
18 GEOGRAPHIC, RACIAL, AND ETHNIC DIVERSITY OF THE STATE, AND, WHEN  
19 POSSIBLE, INCLUDE ONE OR MORE MEMBERS WHO IS A PERSON WITH A  
20 DISABILITY.

21           (c) THE MEMBERS' TERMS ARE FOR TWO YEARS; EXCEPT THAT THE  
22 INITIAL TERMS FOR THE MEMBERS APPOINTED PURSUANT TO SUBSECTIONS  
23 (2)(a)(I) AND (2)(a)(IV) OF THIS SECTION ARE FOR THREE YEARS. A  
24 MEMBER MAY BE REAPPOINTED FOR MORE THAN ONE TERM. THE  
25 APPOINTMENTS MUST BE MADE BY JULY 1, 2024.

26           (3) THE JAIL STANDARDS ADVISORY COMMITTEE SHALL BEGIN  
27 MEETING IN JULY OF 2024 AND SHALL PLAN INFORMAL ASSESSMENTS OF

1 JAILS TO BEGIN IN JANUARY OF 2025.

2 (4) THE JAIL STANDARDS ADVISORY COMMITTEE SHALL SELECT A  
3 CHAIR FROM AMONG ITS MEMBERS AND MAY ADOPT BYLAWS AS  
4 NECESSARY TO FULFILL ITS DUTIES.

5 (5) THE JAIL STANDARDS ADVISORY COMMITTEE HAS THE  
6 FOLLOWING DUTIES:

7 (a) TO SET RULES AND ESTABLISH GUIDELINES AND PROCEDURES  
8 FOR THE ADVISORY COMMITTEE;

9 (b) TO SELECT PEER ASSESSORS TO PERFORM JAIL ASSESSMENTS  
10 FOR COMPLIANCE WITH THE JAIL STANDARDS IN COOPERATION WITH THE  
11 ATTORNEY GENERAL'S OFFICE PURSUANT TO SECTION 24-31-117. JAIL  
12 ASSESSORS SHALL HAVE EXPERTISE IN THE RELEVANT SUBJECT AREAS OF  
13 THE JAIL STANDARDS AND, WHEN APPROPRIATE, HAVE WORKED IN JAILS.

14 (c) TO SET A SCHEDULE FOR JAIL ASSESSMENTS WITH THE  
15 EXPECTATION THAT EACH JAIL IS INSPECTED AT LEAST EVERY FIVE YEARS;

16 (d) IN CONSULTATION WITH PEER ASSESSORS, TO SET RULES AND  
17 ESTABLISH GUIDELINES AND MINIMUM PROCEDURES FOR JAIL  
18 ASSESSMENTS, WHICH AT A MINIMUM REQUIRE:

19 (I) REVIEWING THE WRITTEN POLICIES AND PROCEDURES AT THE  
20 JAIL;

21 (II) PHYSICALLY INSPECTING THE JAIL'S FACILITIES;

22 (III) INTERVIEWING RELEVANT STAFF OF THE JAIL; AND

23 (IV) WHEN APPROPRIATE, INTERVIEWING INDIVIDUALS WHO ARE  
24 INCARCERATED IN THE JAIL;

25 (e) IN COOPERATION WITH THE PEER ASSESSORS, TO COMPLETE A  
26 REPORT FOR EACH JAIL ASSESSMENT, WHICH INCLUDES REPORTS OF  
27 STANDARDS WHICH THE JAIL IS OUT OF COMPLIANCE WITH, AND INCLUDES

1 ANY RECOMMENDATIONS FOR IMPROVEMENT;

2 (f) TO ESTABLISH RULES AND A PROCESS FOR JAILS TO SEEK A  
3 VARIANCE FROM JAIL STANDARDS;

4 (g) TO REVIEW VARIANCE REQUESTS AND APPROVE OR DENY  
5 VARIANCE REQUESTS;

6 (h) TO DETERMINE GUIDELINES FOR WHAT IS PROVIDED ON THE  
7 DASHBOARD PURSUANT TO SECTION 24-33.5-503 (1)(ee);

8 (i) TO SUBMIT AN ANNUAL REPORT TO THE LEGISLATIVE  
9 OVERSIGHT COMMITTEE;

10 (j) TO MAKE RECOMMENDATIONS TO THE LEGISLATIVE OVERSIGHT  
11 COMMITTEE ABOUT ANY LEGISLATIVE ACTIONS WHICH WOULD SUPPORT  
12 COMPLIANCE WITH THE JAIL STANDARDS, IMPROVE THE IMPLEMENTATION  
13 OF JAIL STANDARDS, OR IMPROVE OPERATIONS OF JAILS CONSISTENT WITH  
14 THE JAIL STANDARDS;

15 (k) TO RECOMMEND CHANGES TO THE JAIL STANDARDS TO THE  
16 LEGISLATIVE OVERSIGHT COMMITTEE; AND

17 (l) TO ENGAGE COOPERATIVELY WITH COUNTY COMMISSIONERS,  
18 SHERIFFS, AND THOSE WORKING IN JAILS. THIS INCLUDES PROVIDING  
19 INFORMATION ABOUT THE JAIL STANDARDS, JAIL ASSESSMENTS, AND  
20 MAKING RECOMMENDATIONS TO IMPROVE THE OPERATION OF JAILS  
21 CONSISTENT WITH THE JAIL STANDARDS.

22 (6) THE JAIL STANDARDS ADVISORY COMMITTEE MAY MAKE  
23 RECOMMENDATIONS TO THE GENERAL ASSEMBLY REGARDING METHODS TO  
24 SEEK IMPROVEMENTS TO COMPLY WITH JAIL STANDARDS.

25 (7) (a) THE JAIL STANDARDS ADVISORY COMMITTEE CASH FUND IS  
26 CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF MONEY  
27 APPROPRIATED BY THE GENERAL ASSEMBLY.

1 (b) THE STATE TREASURER SHALL CREDIT ALL INTEREST AND  
2 INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE  
3 JAIL STANDARDS ADVISORY COMMITTEE CASH FUND TO THE FUND.

4 (c) THE DEPARTMENT OF PUBLIC SAFETY SHALL EXPEND MONEY  
5 FROM THE FUND TO REIMBURSE COSTS RELATED TO THE JAIL STANDARDS  
6 ADVISORY COMMITTEE.

7 (8) THE JAIL STANDARDS ADVISORY COMMITTEE SHALL ANNUALLY  
8 SUBMIT A REPORT TO THE LEGISLATIVE OVERSIGHT COMMITTEE FOR  
9 COLORADO JAIL STANDARDS CREATED IN SECTION 2-3-1901 TO INCLUDE:

10 (a) THE RESULTS AND STATUS OF ANNUAL ASSESSMENTS BY  
11 COUNTY;

12 (b) THE NUMBER AND NATURE OF VARIANCES GRANTED;

13 (c) RECOMMENDATIONS REGARDING JAIL STANDARDS; AND

14 (d) RECOMMENDATIONS REGARDING FUNDING OR OTHER  
15 NECESSARY SUPPORTS FOR LOCAL JAILS TO COMPLY WITH JAIL STANDARDS.

16 (9) FOR PURPOSES OF THIS SECTION, "JAIL STANDARDS" MEANS THE  
17 JAIL STANDARDS ADOPTED BY THE LEGISLATIVE OVERSIGHT COMMITTEE  
18 CONCERNING COLORADO JAIL STANDARDS PURSUANT TO SECTION  
19 2-3-1901 (2) AND ANY SUBSEQUENT REVISIONS TO THE STANDARDS.

20 **SECTION 8.** In Colorado Revised Statutes, 24-33.5-503, **add**  
21 (1)(ee) and (1)(ff) as follows:

22 **24-33.5-503. Duties of division.** (1) The division has the  
23 following duties:

24 (ee) TO MAINTAIN A DASHBOARD OF THE BASIC FINDINGS OF JAIL  
25 ASSESSMENTS CONDUCTED PURSUANT TO SECTION 30-10-529 (5); AND

26 (ff) TO CREATE, MAINTAIN, AND UPDATE A LIST OF FUNDING  
27 ASSISTANCE AND RELATED RESOURCES THAT IS AVAILABLE TO JAILS TO

1       OFFSET THE COSTS ASSOCIATED WITH COMPLYING WITH JAIL STANDARDS.

2               **SECTION 9.** In Colorado Revised Statutes, 24-72-202, **amend**  
3 (6)(b)(XVI) and (6)(b)(XVII); and **add** (6)(b)(XVIII) as follows:

4               **24-72-202. Definitions.** As used in this part 2, unless the context  
5 otherwise requires:

6               (6) (b) "Public records" does not include:

7               (XVI) Records related to complaints received by the office of the  
8 judicial discipline ombudsman pursuant to section 13-3-120, including  
9 any record that names or otherwise identifies a specific complainant or  
10 other person involved in the complaint; ~~or~~

11               (XVII) A complaint of harassment or discrimination, as described  
12 in section 22-1-143, that is unsubstantiated and all records related to the  
13 unsubstantiated complaint, including records of an investigation into the  
14 complaint; OR

15               (XVIII) JAIL ASSESSMENTS CONDUCTED PURSUANT TO SECTION  
16 30-10-529 (5)(d) OR 24-31-117.

17               **SECTION 10.** In Colorado Revised Statutes, 24-75-402, **amend**  
18 (5)(ccc) and (5)(ddd); and **add** (5)(eee) as follows:

19               **24-75-402. Cash funds - limit on uncommitted reserves -**  
20 **reduction in the amount of fees - exclusions - definitions.**

21 (5) Notwithstanding any provision of this section to the contrary, the  
22 following cash funds are excluded from the limitations specified in this  
23 section:

24               (ccc) The wildfire resiliency code board cash fund created in  
25 section 24-33.5-1236 (8); ~~and~~

26               (ddd) The closed landfill remediation grant program fund created  
27 in section 30-20-124 (8); AND



1           (eee) THE JAIL STANDARDS ADVISORY COMMITTEE CASH FUND  
2           CREATED IN SECTION 30-10-529 (7).

3           **SECTION 11. Safety clause.** The general assembly finds,  
4           determines, and declares that this act is necessary for the immediate  
5           preservation of the public peace, health, or safety or for appropriations for  
6           the support and maintenance of the departments of the state and state  
7           institutions.



# Colorado Jail Standards Commission

November 15, 2023

*Report to the Legislative Oversight Committee  
Concerning Colorado Jail Standards*

**Recommended Standards for Colorado Jails**

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## Colorado Jail Standards Commission Membership

Name	Representing/Appointment Category	Name	Representing/Appointment Category
<b>Meghan Baker</b> , Chair Facilities Team Leader, Disability Law Colorado	An organization advocating for the rights of persons with developmental disabilities	<b>Sheriff Allen Cooper</b> , Vice-chair, Sheriff, Fremont County	A county category II sheriff's office
<b>Carl Anderson</b> , Deputy Director of Medical Care, Arapahoe County Sheriff's Office	Non-law-enforcement person with experience working in a jail	<b>Taj Ashaheed</b>	A person with lived experience of being incarcerated or having a family member who is or was incarcerated in a jail
<b>Vincent Atchity</b> , President & CEO, Mental Health Colorado	An organization advocating for the rights of persons with mental or physical disabilities	<b>Candice Bailey</b>	A person with lived experience of being incarcerated or having a family member who is or was incarcerated in a jail
<b>Warren Brown</b> , County Commissioner, Archuleta County	A county commissioner from a category III county	<b>Myra Buys</b> , Captain, Detentions Division, Douglas County Sheriff's Office	A county category I sheriff's office
<b>Garth Crowther</b> , Sheriff, Conejos County	A county category V sheriff's office	<b>Greg Demo</b> , Division Chief, Gilpin County Sheriff's Office	A county category III sheriff's office
<b>Alex Floyd</b> , Health Equity Director, One Colorado	A lesbian, gay, bisexual, transgender, or queer advocacy organization	<b>Joy Hart</b> , Division Director of Statewide Programs, Technical Assistance and Innovation, Colorado Behavioral Health Administration	The Behavioral Health Administration
<b>James Karbach</b> , Director of Legislative Policy and External Communications, Office of the Colorado State Public Defender	The State Public Defender, or the State Public Defender's designee	<b>Denise Maes</b> , previously representing Servicios de la Raza	An organization advocating for the rights of people of color
<b>Christina O'Neill</b> , Forensic Support Team Director, Office of Civil and Forensic Mental Health	A person representing competency services	<b>Janelle Orozco</b> , Denver Sheriff's Department	A person representing police officers
<b>Tamara Pogue</b> , County Commissioner, Summit County	A county commissioner from a category II county	<b>Jack Reed</b> , Research Director, Colorado Department of Public Safety	A person representing the Department of Public Safety with expertise in jail operations
<b>Lindsay Saunders-Velez</b>	A person with lived experience of being incarcerated or having a family member who is or was incarcerated in a jail	<b>Henry Solano</b> , District Attorney, Third Judicial District	District Attorneys
<b>Joel Watts</b> , Integrated Insight Therapy	A mental health professional with experience working in a jail	Vacant	A county category IV sheriff's office

**Colorado Jail Standards Commission Staff:** Elizabeth Burger, Deputy Director; Jessika Shipley, Special Projects Manager and Principal Research Analyst; Samantha Falco, Research Analyst; Aaron Carpenter, Senior Fiscal Analyst; and Debbie Grunlien, Staff Assistant, Legislative Council Staff and Michael Dohr, Office of Legislative Legal Services

See the Colorado Jail Standards Commission website for additional information about the commission:  
<https://leg.colorado.gov/committees/colorado-jail-standards-commission/2023-regular-session>

## Acknowledgements

The creation and approval of these Colorado Jail Standards would not have been possible without the work of many dedicated people. First, the commission commends the work of the sponsors of HB22-1063, Representative Judy Amabile, former Representative Adrienne Benavidez, Senator James Coleman, and former Senator John Cooke. We owe a special thanks to Representative Amabile for always being a champion for our most marginalized and for shining a light on the needs of those with mental illness in our criminal legal system. Likewise, the commission gives thanks to the many stakeholders who were instrumental in securing the passage of HB22-1063, and to the Colorado General Assembly for voting to pass this important legislation. Additionally, the commission gives thanks to the appointing authorities charged with selecting commissioners to fill the various roles on the commission. Thank you to the members of the Legislative Oversight Committee Concerning Colorado Jail Standards (Chair Representative Judy Amabile, Vice Chair Senator James Coleman, Representative Ryan Armagost, Senator Rhonda Fields, Representative Lorena García, and Senator Kevin Van Winkle) for overseeing the work of the commission and translating it into groundbreaking legislation. The commission also gives thanks to members of the law enforcement community, including County Sheriffs of Colorado (CSOC) and the Colorado Jail Association (CJA) for their extensive engagement in the standards process and to Katie First and Colorado Counties Inc. (CCI) for helping to gather data and assist the commission in understanding the counties' perspectives. We thank all of those who served as commissioners, including those who left the commission, and to all of the agencies represented on the commission for giving so generously of your staff's time to this project. This work absolutely would not have been possible without the invaluable aid of Legislative Council Staff (LCS) and the Office of Legislative Legal Services (OLLS), including but not limited to: Jessika Shipley, Samantha Falco, Aaron Carpenter, Michael Dohr, and the incomparable Elizabeth Burger. The commission is forever grateful to you all for guiding and supporting us through this process. Finally, the commission acknowledges the knowledge and experiences of the thousands of people across Colorado who have experienced or currently experience incarceration. We have seen you, and we have heard your stories. We have witnessed your struggles and celebrated your successes. We hope we have furthered our humbling goal of elevating your voices. In the words of Bryan Stephenson, "We have a choice. We can embrace our humanness, which means embracing our broken natures and the compassion that remains our best hope for healing. Or we can deny our brokenness, forswear compassion, and, as a result, deny our own humanity."

## **Report of the Colorado Jail Standards Commission**

### **Executive Summary**

As outlined in HB22-1063, the Colorado Jail Standards Commission (commission) must recommend standards for jails and report these recommendations to the Legislative Oversight Committee Concerning Colorado Jail Standards (legislative oversight committee). The commission consists of 22 people representing various perspectives, backgrounds, parties, and interests. Commissioners include county commissioners, elected county sheriffs and their staff, medical and mental health professionals, employees of state agencies, people with lived experience of incarceration, and advocates and attorneys who represent and advocate on behalf of people experiencing incarceration.

The following principles guided the commission's work: the majority of people in jail are being held pre-trial and enjoy a presumption of innocence; incarceration is involuntary and the government owes a duty to care for individuals in its custody; certain populations are overrepresented in jails largely as a result of inequities and gaps in resources in communities; all people have certain fundamental rights that they do not lose while in jail; people experiencing acute health needs belong in appropriate health care settings and jails are not intended to serve as specialized treatment centers; and jail populations are heavily influenced by failures in systems outside of the jail's control, and larger system change is necessary.

The commission met monthly from July 2022 through November 2023 to discuss and vote on draft standards. Aided by Legislative Council Staff (LCS), the commission decided on a plan to divide the commission into four subgroups, each of which was assigned four out of the sixteen topics outlined in HB22-1063. Subgroups met outside of full commission meetings to draft standards for each assigned topic, and subgroups presented on each topic to the full commission at least twice—once for discussion and again for discussion and vote to amend or approve the standards within that topic. All of the commission meetings were public, and all documents discussed by the commission were publically available. Subgroups of the commission also held public meetings to discuss issues related to enforcement, funding, and standards revision. In producing the final set of recommended standards, a subgroup of the commission including members of each subgroup as well as additional representatives of sheriffs' offices utilized a collaborative, in-person process to suggest revisions to streamline the standards and improve consistency.

Throughout the process, the commission reached consensus on the majority of topics. Topics that garnered most discussion included: discipline, use of force, restrictive housing, and health and mental health care. The final standards included here reflect broad support from the commission and the various viewpoints represented on the commission.

The commission's shared goal was to craft enforceable standards; however, the topics of funding and resources were continually raised. The commission supports continuing to explore funding solutions to allow full implementation of the standards for all jails, regardless of size.

This report and the recommended jail standards were approved by the Jail Standards Commission on November 9, 2023.



The legislative oversight committee voted to request legislation codifying the processes for implementing, maintaining, overseeing, and modifying jail standards. The commission anticipates that this legislation, as a result of direct input from the commission, will seek to:

- Codify the existence of jail standards. The standards themselves will not be in statute, but rather will operate and exist within the County Sheriffs of Colorado (CSOC), a permanently created Legislative Oversight Committee, and the Colorado Attorney General.
- Create within the CSOC a jail standards advisory committee tasked with overseeing implementation of the standards, monitoring all jails on a regular basis to assess compliance with the standards, and providing technical support to jails with corrective plans as necessary.
- Formalize the process by which Office of the Attorney General can investigate and prosecute pattern and practice violations and to conduct independent “special assessments” when requested by the governor, the oversight committee, or a sheriff.

The commission hopes the standards will improve the health and safety of Colorado’s communities by improving the quality of Colorado’s jails, both for persons experiencing incarceration, and the staff employed in the jails.

## **Background**

Historically, county jails in Colorado have been built and funded by each county and operated by local elected sheriffs- a framework consistent with the structure in many other states. County jails (sometimes referred to as “local detention facilities” or similar) typically hold people who have been arrested and are awaiting resolution of their charges (also known as “pretrial detainees”). In addition, those who have been convicted and sentenced to serve a term of up to two years of incarceration are also housed in county jails. Jails may contract to hold individuals for other counties, for the U.S. Marshals and Federal Bureau of Prisons, U.S. Immigration and Customs Enforcement (“ICE”), or for other agencies and purposes. In the past, jails have also been used as a last resort to hold people experiencing behavioral health crises when they need to detox from substances or are awaiting a civil certification. In recent years, however, the state has ended the practice of holding people with mental health disabilities in jails pending civil certification, unless they are also in custody on criminal charges. County jails can be distinguished from state prisons (Colorado Department of Corrections or CDOC) which serve the sole purpose of holding individuals that have been convicted in state court of felony offenses and have been sentenced to serve a term of incarceration ranging from six months to a life term.<sup>1</sup>

Unlike state prisons, which comprise a single system of state facilities, utilize a single set of policies, administrative regulations (ARs), and are organized under a central administration, county jails vary by size, services offered, locally available medical care, etc. While there are some state and federal laws that speak to jail operations in a piecemeal approach<sup>2</sup>, little to no

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<sup>1</sup> In the past, the maximum penalty for capital offenses in Colorado was death, but the death penalty was repealed in 2020 by SB20-100, Repeal the Death Penalty.

<sup>2</sup> See Colorado Revised Statutes, Title 17 (Corrections), Article 26 (Jails)

formal guidance or minimum standards for operations of jails exists in Colorado. National accreditation standards for jails have also been created by private agencies.<sup>3</sup> However, accreditation by these organizations is optional, and implementation is costly and requires extensive human resources. These standards are not easily enforceable outside of semi-regular audits.<sup>4</sup> Accordingly, the Colorado General Assembly passed HB22-1063 in 2022, thus creating the Colorado jail standards commission (“the commission”) as well as the Legislative oversight committee (hereafter “the committee”), and the legislature tasked the commission with making recommendations for standards for all aspects of jail operations.

The commission consists of 22 appointed members representing a variety of perspectives, backgrounds and geographic areas of the state. These include but are not limited to: county sheriffs, county commissioners, advocates for people experiencing incarceration, people with lived experience of incarceration, a district attorney, a representative of the state Office of the Public Defender, a member of the LGBTQ community, medical and mental health professionals, employees of state agencies, and more. The chair of the oversight committee, Representative Judy Amabile, selected Meghan Baker, staff attorney at Disability Law Colorado, the state’s protection and advocacy agency to serve as chair of the commission and Fremont County Sheriff Allen Cooper as vice chair to lead the commission. The commission’s authorizing legislation requires the commission to complete a report “that includes its recommendations regarding the feasibility of jails of various sizes and their ability to implement the recommendations and present it to the committee for approval by November 15, 2023.” The oversight committee then has the ability to put forth up to three bills resulting from the work of the commission in the 2024 legislative session.

## **Process**

The commission met monthly starting in July 2022. Due to the pandemic and geographic diversity, meetings have been held in a hybrid format with in person and on-line options for attendance. Notice was given to the public for all commission and subgroup meetings, and the legislative oversight committee meetings have included opportunity for public comment. The chair of the commission, with input from the oversight committee and Legislative Council Staff, divided the commission into four subgroups. Each subgroup was assigned four topics as outlined in the legislation to draft, for a total of sixteen topics. Each subgroup assigned a chair, and each subgroup set its own schedule regarding subgroup meetings, which were typically open to the full commission to discuss the topic at hand in greater detail. Some subgroups met weekly, and others met less frequently as needed. Subgroup membership was assigned by the chair of the commission, with a goal of matching subject-matter expertise with the assigned topics and of

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<sup>3</sup> Examples include the American Correctional Association (ACA) Performance-Based Standards for Adult Local Detention Facilities, Fourth Edition and the National Center for Correctional Healthcare (NCCHC) Standards for Health Services in Jails and Standards for Mental Health Services in Correctional Facilities.

<sup>4</sup> These agencies do not accept complaints for third parties, and while accreditation could in theory be revoked, it doesn’t appear to be common. Also, these agencies are not always transparent about their standards or their processes. ACA publishes a list of participating facilities on its website, while NCCHC does not disclose who they accredit. As of September 26, 2023, seven county jails in six counties (Arapahoe, Denver County Jail, Denver Van Cise Simonet Detention Facility, Pueblo, Jefferson, Douglas and El Paso) are listed as being accredited by the ACA. Several county jails in Colorado are accredited by NCCHC, which governs only medical and behavioral healthcare in jails, but the vast majority are not accredited by either entity.

maintaining a diversity of perspectives and viewpoints within each subgroup. Each of the four subgroups included at least one law enforcement officer or other professionals with experience working in a jail setting, and three groups included individuals with lived experience with incarceration and the criminal legal system.

A schedule was devised outlining a plan for each topic to be presented twice to the larger commission. The initial presentation provided opportunity for discussion, and the second a vote on approval of the draft standards. Accommodations were made for requests for additional time, to coordinate similar topics between subgroups, etc., but the commission generally adhered to the schedule as outlined and approved by the body at the outset. Similarly, the commission took some liberties when deciding on final topic titles and organization/grouping of the standards, adhering as much as possible to the legislature's directives while also presenting information in the most appropriate and accurate manner and making the standards as accessible as possible to those who will be utilizing them by grouping topics together that may be used in concert.

Working drafts have been saved to a Box (cloud-based drive) and accessible to all members and to the public throughout the process. Each draft standard was presented, discussed, amended if applicable, and then approved by a 2/3 vote of the commission.

In deciding on a format for the standards, the commission looked at several other existing sets of jail standards, including the American Correctional Association (ACA) and the National Commission on Correctional Healthcare (NCCHC). The commission discussed including both mandatory and discretionary or encouraged practices that may go above and beyond the minimum acceptable standard. The commission settled on a model containing the following sections: standard, recommendations/best practices, compliance indicators, comments, and relevant authority. The goal of including "compliance indicators" was in part to capture the perspective of the person experiencing incarceration as being central to the mission of these standards. The compliance indicators are also intended to serve as objective, measurable indicators of compliance. These may include actions such as: verifying the presence of a policy, observing required notices posted in housing units, or locating completed releases of information in individuals' medical records sets. The comments section is intended to allow for further explanation and context and to make note of standards that may require significant financial investments for compliance.

As standards were approved, copies of the drafts were consolidated in a specific folder and eventually combined into a single document. Minor revisions were made for purposes of consistency, formatting, etc. The full commission voted to approve this revised draft. Next, an additional round of more substantive revisions was completed by a smaller subgroup of the commission, working through each draft standard and proposing changes and clarifications, with the goal of streamlining and creating consistency throughout the document. All commissioners were invited to join in this process, however, not all chose to participate.<sup>5</sup> Once completed, the

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<sup>5</sup> The commission's aim was to have each subgroup, as well as a variety of perspectives, represented in this subgroup. This group primarily consisted of: Chair Meghan Baker, Carl Anderson (Deputy Director of Medical Care at the Arapahoe County Sheriff's Office), Greg Demo (Division Chief, Gilpin County Sheriff's Office), James Karbach (Director of Legislative Policy and External Communications, Office of the State Public Defender),

full commission voted to approve subsequent revisions, resulting in a final document to be included in the report to the oversight committee.

HB22-1063 did not specifically call on the commission to weigh in on issues of enforcement or compliance, or the topic of funding. However, there was a strong consensus among commissioners that discussing these issues was essential to making recommendations about implementation, informing how the standards were written, and addressing the counties' well-founded and legitimate concerns about unfunded mandates. Accordingly, the commission created what was referred to as an "Enforcement Subgroup"<sup>6</sup> and held open discussions about funding and implementation during full commission meetings and in subgroup meetings. All such discussions were open to all commissioners who chose to participate.

Finally, the commission was charged with discussing "feasibility" of the standards for different sized jails. In state statute and in HB22-1063, jails are classified into tiers<sup>7</sup> based on class of county designation. The commission weighed various options and decided against drafting separate sets of standards for each tier, in part due to the sheer time and information required to do so, but also because many felt that an individualized variance procedure, described below, allowed for greater flexibility and acknowledgment of county budgets, population needs, demographics, or resources.

## Values

As a group, it was essential that the commission's work be grounded in some core values. Many value statements were woven through the original version of the draft standards. For the purposes of consistency and organization, these statements have been pulled from the standards themselves so that they contain primarily directives and avoid commentary. However, the values and principles that guided the commission's work are outlined in this report as well as in the introductory section that is to be published as part of the standards, much like a legislative declaration.

First, it is worth noting that the authorizing legislation for the commission itself incorporated some significant values, including the inclusion of multiple people with lived experience on the commission. The legislation called out which topics and subtopics the commission should address in developing the standards. These include common correctional concepts like security, jail staffing, sanitation, etc. It also included such topics as:

- Defining de-escalation strategies and the limits of the amount of force necessary to control a given situation, and specifying that in no circumstance is physical force to be used as punishment

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Christina O'Neill (Forensic Support Director with OCFMH), Jack Reed (Research Director, Colorado Division of Criminal Justice), and Vincent Atchity (CEO of Mental Health Colorado). Also present for much of the discussion were staff from County Sheriffs of Colorado, the Colorado Jail Association, and Colorado Counties Incorporated, staff from various counties and jails (Denver, Fremont, Summit, Broomfield, La Plata, Pitkin, and more), and legislative staff.

<sup>6</sup> The commission discussed concepts of enforcement and compliance and used these terms somewhat interchangeably. Some members preferred one over the other, and some expressed discomfort with both terms. Moving forward, exploration of this terminology with stakeholders is recommended to arrive at a consensus.

<sup>7</sup> See C.R.S. §13-6-201.

- Prohibiting retaliation by jail staff based on inmate grievance
- Banning the use of restrictive housing as a penalty

The topics included reflect a balanced approach to achieving safety and security as well as valuing and respecting the dignity, worth and challenges facing those who are housed in our state's jails.

Early on in the process, the Chair asked the commission to discuss and consider thoughtfully the manner in which to refer to the population served in our jails, those commonly referred to as "inmates" (or "detainees," or "offenders"). After some lengthy discussion and presentation of several viewpoints, the group settled on the term "persons experiencing incarceration." That term appears consistently throughout the standards, and it was also used almost exclusively by all commissioners during meetings. There was also much discussion early on about the importance and centrality of the experiences of these community members when discussing topics that can easily focus instead on systems, efficiencies, and other ways of measuring success and devising procedures. As language and theories continue to evolve, the commission would encourage language usage in these standards to embrace terminology that acknowledges and respects the humanity of individuals living and working in jail settings and avoid terms that are judgmental, stigmatizing, or imply bias based on race, class, disability, immigration status, or any other characteristic of this diverse population.

The following are some of the values that the commission recognized and discussed throughout the process of drafting, discussing and revising the jail standards.

- The majority of people experiencing incarceration are being held pre-trial, and they are presumed innocent unless and until proven guilty. The law makes some distinctions on this basis as well, in contrast to how the law treats people who have been convicted of a crime and are therefore subject to "punishment" under the law. Pretrial detention is not intended to be punishment.
- Most people experiencing incarceration have not chosen to be there. They are being held, against their will, sometimes for relatively minor crimes. The state owes a higher duty to the people in its custody because they cannot simply choose to seek help elsewhere. In assuming custody of a person, the government, including counties and local government, also assumes significant responsibility for the well-being of that individual.
- People with disabilities, people of color, people who are unhoused, and those currently living in poverty are overrepresented in our jails. This is in part due to structural inequities upon which our criminal justice system was built. Many people remain in jail simply because they cannot afford to post a cash bond, or because they lack stable housing, behavioral health treatment, etc.
- Jails are not intended to serve as specialized treatment centers, nor should the criminal legal system be the primary path to treatment and resources. We as a society must make meaningful investment in resources outside of the criminal legal system in order to intervene earlier or "upstream" to prevent people with behavioral health needs from becoming entangled in the criminal legal system, provide alternatives to jail for those

needing immediate assistance, and to maintain people in the least restrictive settings appropriate to meet their individual needs.

- People who are acutely ill, who have physical or behavioral health needs, belong in a medical setting that can provide an appropriate level of care. However, hospitals and providers often turn away and refuse to serve people experiencing incarceration, which leaves vulnerable individuals in the care of jails. This often results in higher rates of isolation for the person experiencing incarceration because jails are not equipped, staffed or funded to provide this level of specialized care and must ultimately defer to safety and security considerations.
- Jails and the counties that fund and operate them cannot solely remedy the ills of our broken service delivery system, nor should they. In order to make improvements within the jails and to raise the standards of practice, jails must receive or access sustained direct funding. The state is well-suited to provide support, financial or otherwise, and the state shares an interest in the well-being of people experiencing incarceration, many of whom are in jail and experiencing acute symptoms of mental health needs while they wait months and even a year or more for a bed at the state psychiatric hospital. Jails are the responsibility of the elected county sheriff and funded at the county level, but other systems that have a close nexus with the criminal legal system are funded and administered at the state level. This misalignment presents challenges to shifting resources from one system to the other or maximizing the impact of existing resources.

The commission conducted its work in furtherance of the following goals:

- Strike an appropriate balance between the rights, humanity and dignity of persons experiencing incarceration with safety and security
- Create consistency across counties while still allowing for individuation
- Incorporate incentives and positive behavior supports wherever possible, with a goal of decreasing reliance on punitive measures
- Write standards that are mandatory and enforceable, but implemented in a manner that allows jails time to address barriers to change, identify and secure additional funding and resources
- Create a variance process by which the standards can be modified to fit the needs and limitations of each county while keeping to the goals of the standards as much as possible and allow for progress toward full compliance over time

### **Construction/Key Concepts**

The commission decided on the use of the noun “jails” throughout the standards as a general term referring to jails, jail staff, contractors working in jails. This term has also been used intentionally instead of “detention facility,” “local detention facility” and other phrases that may appear elsewhere in state law.

Similarly, the term “restrictive housing” is used throughout the standards, and this term is already defined in state law.<sup>8</sup>

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<sup>8</sup> C.R.S. §17-26-202(6)

Many terms can be used to refer to highly-restrictive placements that involve lengthy periods of time alone in a cell, including “administrative segregation” (“ad seg”), “solitary,” “the hole,” and more. Under Colorado state law, “restrictive housing” has a specific definition. While the standards do distinguish between “restrictive housing” and other forms of isolation, the commission urges caution and thoughtful consideration of all circumstances that result in prolonged periods of isolation.

### **Enforcement, Compliance, and Oversight**

While the authorizing legislation did not explicitly task the commission with making recommendations on enforcement, the commission felt that funding, implementation, and enforcement were essential topics to include in its discussion because without them, the standards themselves have little meaning. For this reason, the commission held subgroup meetings to discuss these topics, and a subgroup referred to as the “Enforcement subgroup” was created to specifically discuss issues related to implementation and enforcement or compliance aspects of implementing jail standards. The full commission also discussed these topics more generally at various points throughout the process. The Enforcement subgroup met several times during 2023 to propose and discuss various options or models for enforcement and oversight (note: at times, the group has referred to this as enforcement, oversight, compliance and more). A diverse group of individuals comprised this informal group, to include at least one county commissioner, a representative of the Colorado State Office of the Public Defender, members of more than one sheriff’s office, including one elected sheriff, at least one member of an agency that advocates on behalf of people experiencing incarceration, and a medical professional working in a jail. Warren Brown, County Commissioner in Archuleta County, chaired this subgroup.

It is worth noting that this subgroup did not benefit from ongoing involvement of someone with lived experience with incarceration. In addition, other stakeholders who are not members of the commission also joined for purposes of discussion, and these primarily included representatives of County Sheriffs of Colorado (CSOC) and Colorado Counties Incorporated. The reasoning for including these individuals in the discussion is that the counties and county sheriffs are primarily charged with funding and operating county jails. Therefore, these entities will be held accountable for compliance with the standards and for making necessary changes to comply with the standards.

#### *Oversight by State Agency*

Notably, questions of enforcement and compliance and the possible creation of an oversight body are somewhat political in nature, and the commission encountered barriers to potential oversight, as no state agency or entity thus far has been willing to assume responsibility over this area. At various points in the process, there was discussion of locating jail oversight within the state departments of Public Safety, Law, Human Services, and Corrections. Significantly, following the publication of a recent article in the Denver Post<sup>9</sup>, discussions with the Office of the Attorney General Department of Law (AG) resumed, and their office has agreed to assume some oversight responsibilities, specifically the ability to investigate and bring civil

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<sup>9</sup> <https://www.denverpost.com/2023/09/23/colorado-legislature-jail-standards-oversight-sheriffs/>

action to remedy violations of the jail standards that fall under the Attorney General’s existing authority regarding “pattern and practice” allegations. Details of these mechanisms are being developed in the legislation flowing out of the commission and the oversight committee. Generally, the group has discussed elevating some complaints that are received by jails and/or CSOC to the AG’s office, the AG’s office receiving all assessment reports generated by CSOC’s assessment teams and the ability to file a “departmental difference” if the AGs office disagrees with the conclusions of the assessment team, and more. Additionally, the Governor or the Legislative Oversight Committee have the ability to request special assessments if more pressing concerns arise outside of the regular assessment rotation.

### *Implementation and Assessment through CSOC*

In the absence of a state agency to be charged with this task, the Enforcement subgroup explored a model of implementation and assessment housed within CSOC. This concept grew out of an idea brought up by Sheriff Cooper in Fremont County and his past experiences with the Colorado Association of Chiefs of Police (CACCP). Within that group, members are designated as experts in certain topics and subtopics of jail operations. Teams are comprised of these subject matter experts to complete audits of agencies. Key benefits include lower costs and enhanced results through peer professionals’ review. The commission envisions that these assessment teams would also include such professionals as an advocate on behalf of people experiencing incarceration and a medical/behavioral health professional with experience working in correctional settings. The commission recommends that each jail be assessed or audited a minimum of every five years and more frequently if possible or prudent.

In general, the commission and the Enforcement subgroup discussed philosophical approaches and consensus emerged on the following:

- Sheriffs favor supportive intervention and incentive-based compliance as opposed to punitive measures such as fines. (Advocates favor the same approach inside of jails and believe this to be a more effective strategy for creating change in general).
- Jail standards should be mandatory as opposed to aspirational. However, phased or tiered implementation and a need for sustained direct funding will require an initial period of voluntary or optional or partial compliance.

### **Funding**

Implementation of these standards depends upon appropriate and sufficient funding and other resources. These costs will be to counties in order to come into compliance and also by any entity charged with enforcement, compliance, and implementation efforts. These costs may vary greatly depending on the scope and depth of assessment activities and by individual county jails’ resources and condition. The commission intentionally worked to make use of existing resources to the extent possible, but some funding will still be required.

Counties have existing duties to provide constitutionally adequate conditions for those in their care, and it is reasonable for counties to continue to fund their jails in large part. However, the constitutional minimum standards for conditions of confinement are lower than proposed standards which aim to create practices that exceed constitutional requirements and resemble



best practices. Another goal of the standards is to create consistency and equity across the state, while understanding that each county has a unique population, funding stream, and budget. In the past, voters have often declined to approve funding for jails and their operations. In order to achieve consistently high standards across the state, funding or allocation of resources is necessary. Given the state has an equal interest in the well-being of its citizens, and many people are in jail due largely to failures in our state-run health care systems, including a fractured behavioral health treatment delivery system that fails to guarantee care to this population, state funding is appropriate. In short, the state has invested a disproportionate pool of resources to the criminal legal system. In doing so, it has failed to adequately build and fund a continuum of community-based supports and services, and as a result, countless people with behavioral health needs have been funneled into our county jails, which often feed into state prisons, etc. This is evidenced by the current list of over 400 individuals in our jails awaiting beds at a state psychiatric hospital. The primary use of our state's psychiatric hospitals is competency restoration, rather than acute stabilization or early intervention.

Among commission members, few expressed interest in discussing funding in detail. Accordingly, a smaller one-time meeting was held to discuss the state of funding of county jails and ideas for how this funding can be expanded and sustained. Below are some possible strategies and resources identified by the group to create funding, maximize use of existing funding, and to lower costs:

- **Expand/Restructure the use of Jail-Based Behavioral Health Services (JBBS):** Currently, JBBS funds some treatment for mental health and substance use disorder. Recently, they have expanded to include “Competency Enhancement Services” intended to prepare individuals for formal competency restoration and lower lengths of stay in treatment. However, these services are often inconsistent, the state has little control over what services are provided, and while this is the main or only resource in county jails, it is insufficient to meet the intensive needs of the population. Even in large jails, current funding may only provide for two to four mental health workers, and their work is often limited to triage, crisis intervention, and basic group education.
- **Possible adoption of Medicaid waiver allowing for people in jails to be eligible for some services further ahead of release:** The state, through the Department of Health Care Policy and Finance (HCPF), is exploring seeking a waiver that would allow people to begin receiving some Medicaid-covered services 30, 60, or 90 days out from release. The main intended purpose would be to encourage/facilitate in-reach from community-based providers for purposes of release planning and continuity of care, as well as identifying and securing housing and other types of residential placements more quickly.
- **Creation of regional “hubs” for providing “enhanced” or “specialized” services:** Some counties have expressed a desire to combine resources to operate regional facilities to serve higher-needs individuals, such as a regional jail mental health center. Others have expressed concern that sheriffs would prefer not to be responsible for other counties’ population and other related concerns. This model should at least be considered as one option for addressing gaps in care and funding, with the caveat that these services are best provided in appropriate non-jail settings, and the goal is not to further incentivize

incarceration by providing a higher level of care than someone would access in the community.

- **Mobile crisis/response units:** The state, through the Department of Human Services, Behavioral Health Administration, HCPF, etc., could create regional or centralized teams to respond to various jails for such purposes as: providing additional one-on-one support to people in crisis, transition/release planning, transportation, use of more time-intensive non-escalation and de-escalation techniques to achieve better and safer outcomes, psychiatric services, assessment of people on mental health watches in order to have them returned to a less restrictive setting as soon as it is safe to do so, and services from a Board Certified Behavior Analyst (BCBA) to consult on complicated cases.
- **Fully develop safety net services:** With the advent of the BHA, the landscape of service delivery in the community has changed. Historically, community mental health centers (CMHCs) have served as the primary providers for behavioral health services. However, consumers and advocates alike have identified serious concerns about denials of access to care, including providers turning people away due to justice involvement, behaviors that are indicative of unmet mental health needs, co-occurring diagnoses like intellectual or developmental disabilities (IDD) or traumatic brain injury (TBI), etc. The very population that needs these services the most is often the least likely to obtain them. Recent legislation strengthened agencies' obligations to serve "priority populations," but the implementation of this new framework continues to be delayed. Unless and until people are able to receive the care they need, voluntarily and upon request, in the least restrictive setting, our existing system will continue to fail countless people. These people often eventually end up in jail because unmet needs manifest as "criminal" behavior, and individuals and families call the police because people know that the criminal legal system has become a default path to care.
- **Strengthen connections to existing systems:** In addition to the community mental health system, jails should work closely with the IDD (Intellectual and developmental disability) system, which includes Community Centered Boards (CCBs), Program Approved Service Programs (PASAs), state-run Regional Centers, host homes, day treatment programs and Arc advocates. The same is true for systems that serve people with other disabilities, substance use disorder treatment, housing programs, public benefits, etc. It recently came to light that many jails have not formed "pre-release agreements" with the Social Security Administration which would allow for more seamless application and receipt of social security benefits. All jails should be educated about outside systems and provided with resources for training and education. Jails can also accomplish this by working closely with forensic navigators and Bridges Liaisons who may be knowledgeable about these topics.
- **Sharing of responsibility for people awaiting competency treatment, acute mental illness:** Some argue that because many of the most acutely ill people in our jails have already been ordered to the custody of the Department of Human Services (DHS) for treatment, the DHS (and within it, the Office of Civil and Forensic Mental Health or OCFMH) should be responsible for providing and/or funding necessary care while people wait in jails for a bed at a hospital. Current state law does not explicitly state what it means to be "in custody" of the department, who pays for "interim mental healthcare,"

etc. The legislature could explore clarifying the law in this area or otherwise shifting some of the burden onto state agencies. DHS is not currently adequately funded to provide the scope of these services, and the department would need a significant new funding allocation to assume the responsibility for this care.

- **Require hospitals to treat individuals regardless of incarceration status:** A common complaint from jail staff and persons experiencing incarceration is that it is difficult to obtain higher levels of care for people experiencing incarceration when the jails cannot meet their needs. Notably, while this is sometimes true for physical health issues, it is quite prevalent when behavioral health needs arise, thus making it an issue of parity. When jails transport people to the emergency room (ER) for psychosis, self-harming behavior or other concerns, hospitals often turn the patients away. Hospitals should be held accountable for providing appropriate care to all in need, regardless of incarceration status. ERs do not turn away people from jails who are having heart attacks, so why do they turn away people who are trying to gouge out their own eyeballs, lying in feces, or isolated to the point of having almost no human interaction? When hospitals turn patients away, not only does the patient not get access to the care they need to be safe and healthy, but the jails become responsible for all costs related to the care of that individual who must be treated in a non-medical setting.
- **End practice of county jails holding people in custody on behalf of other agencies (such as Immigration and Customs Enforcement, U.S. Marshals, etc.):** Currently, jails are permitted but not required to contract with outside agencies to house individuals in custody of the other agencies. Jails negotiate rates independently, and while some may cover costs of housing, many may lose money by doing so. This practice should be studied to determine both the financial and experiential impacts on the jail and its ability to meet the needs of its own population before assuming care for others.
- **Reduce jail populations by focusing on deflection, diversion, affordable and supportive housing and alternatives to incarceration:** During the pandemic, most jails in Colorado intentionally lowered their “bed caps” or their operating capacity, in large part to minimize spread of the disease in congregate care, but also to make up for staffing shortages resulting from infected staff and effects of recruitment and retention difficulties. For example, some sheriffs declared that they would no longer accept people with lower-level charges and other agencies stopped arresting on technical violations of probation and parole. While there were mixed views on this practice and on whether it increased or decreased rates at which crimes were committed, it did show that it is possible to reduce the number of people in our jails. Given that most people in jail would be released if they could simply post a bond, it is difficult to believe that community safety requires that they be held in jail. By expanding the availability of services and housing placements in the community on a full continuum and creating alternatives to incarceration that instead focus on care, counties may be able to reduce the demand for jail beds. Generally, fewer people in jail results in lower the operating costs. This is especially true for the highest-needs populations (“high utilizers”) because medical and behavioral healthcare are among the costliest areas for jails. Where appropriate, treatment in the community, usually paid for by Medicaid and Medicare, is more appropriate, effective and cost-effective than trying to provide this treatment in a secure jail setting.

Housing is also essential to maintaining people in the community. Recent OCFMH data showed that roughly 54% of the people on the competency waitlist had been unhoused. Many, including some on the commission, believe that lack of affordable and supportive housing is the primary barrier to people exiting the criminal legal system for a prolonged period of time.

### **Implementation Process and Timeline**

The commission recognizes that some portions of the jail standards will be more complicated and costly to implement than others, and that the barriers to implementation will vary from jail to jail. Similarly, some aspects would require new construction or renovation of physical spaces. The commission made a conscious decision to specify that no changes to the physical jail plants be required until a period of time after the standards are formally implemented so that jails have notice of what needs to be done. The commission recommends that implementation of the jail standards be done in phases, taking into account the resources available to specific jails. This could include:

- Initially implementing all standards that do not require significant funding increases or modifications to physical plants
- Initially allowing jails to demonstrate voluntary compliance
- Starting by making standards mandatory on larger jails with greater resources
- Initially implementing the standards that relate most directly to the safety and well-being of people experiencing incarceration and of staff

### **Variance Procedure**

The commission recommends the creation and implementation of a variance procedure, rather than creating multiple sets of standards or grouping “like” jails into categories for purposes of deciding which standards apply to each jail. A variance procedure would:

- Use approved jail standards as a default for all jails
- Allow for each jail to request individualized variances as dictated by the facility’s needs, the county’s budget, and other relevant factors
- Create transparency while allowing for individualization through progressive modification of variances (for example, aiming to have medical staff on-site 8 hours per day, then 8 hours per day Monday through Friday and 4 hours on Saturday, then 4 hours on both Saturday and Sunday, etc.
- Create a feedback loop wherein the jail standards advisory committee and the legislative oversight committee regularly receives input and requests regarding barriers to full implementation, gaps in funding and other resources, etc. This will position these bodies to stay abreast of what solutions are being sought, find opportunities to address these challenges legislatively, etc.
- Allow for creative solutions for individual facilities rather than “one-size” modifications
- Create timelines that can be extended
- Encourage dialogue and collaborative problem solving

- Customize implementation plans unique to each facility that advance progress at the fastest rate possible for each facility
- While the commission is not recommending that the scope or availability of variances be limited, below are *some* examples of how this process may be utilized
  - Jail A may utilize 12 cells of 55 square feet instead of 60 square feet for 6 months, beginning on January 1, 2024.
  - Jail B may complete initial mental health screens within 36 hours instead of 24 hours for one year, beginning March 1, 2024.

## Introduction to Jail Standards

Pursuant to HB22-1063, the Colorado Jail Standards Commission (commission) was created and began meeting in July 2022 with the goal of writing standards for jails to be recommended to the Legislative Oversight Committee Concerning Colorado Jail Standards (oversight committee) for implementation. The commission was made up of 22 members representing various perspectives, backgrounds, parties, and interests, including but not limited to: county commissioners; elected county sheriffs and their staff; medical and mental health professionals; employees of state agencies; people with lived experience of incarceration; and advocates and attorneys who represent and advocate on behalf of people experiencing incarceration.

In drafting these standards, the commission drew upon the extensive knowledge of its diverse members, as well as standards from other states and existing standards such as the American Correctional Association (ACA) and the National Commission on Correctional Healthcare. The commission conducted its work in furtherance of the following goals:

- Strike an appropriate balance between the rights, humanity, and dignity of persons experiencing incarceration, and with safety and security
- Create consistency across counties while still allowing for individuation
- Write standards that are mandatory and enforceable, but implemented in a manner that allows jails time to address barriers to change, identify and secure additional funding and resources
- Create a variance process by which the standards can be modified to fit the needs and limitations of each county while keeping to the goals of the standards as much as possible and allow for progress toward full compliance over time

The following are some of the values that the commission recognized and discussed throughout the process of drafting, discussing and revising the jail standards.

- The majority of people experiencing incarceration are being held pre-trial, and they are presumed innocent unless and until proven guilty. The law makes some distinctions on this basis as well, in contrast to how the law treats people who have been convicted of a crime and are therefore subject to “punishment.” Pretrial detention is not intended to be punishment.
- Most people experiencing incarceration have not chosen to be there. They are being held, against their will, sometimes for relatively minor crimes. The state owes a higher duty to the people in its custody because they cannot simply choose to seek help elsewhere. In assuming custody of a person, the government, including counties and local government, also assumes significant responsibility for the well-being of that individual.
- People with disabilities, people of color, people who are unhoused, and those currently living in poverty are overrepresented in our jails. This is in part due to structural inequities upon which our criminal justice system was built. Many people remain in jail simply because they cannot afford to post a cash bond, or because they lack stable housing, behavioral health treatment, etc.

- Jails are not intended to serve as specialized treatment centers, nor should the criminal legal system be the primary path to treatment and resources. We as a society must make meaningful investment in resources outside of the criminal legal system in order to intervene earlier or “upstream” to prevent people with behavioral health needs from becoming entangled in the criminal legal system, provide alternatives to jail for those needing immediate assistance, and to maintain people in the least restrictive settings appropriate to meet their individual needs.
- People who are acutely ill, who have physical or behavioral health needs, belong in a medical setting that can provide an appropriate level of care. However, hospitals and providers often turn away and refuse to serve people experiencing incarceration, which leaves vulnerable individuals in the care of jails. This often results in higher rates of isolation for the person experiencing incarceration because jails are not equipped, staffed or funded to provide this level of specialized care and must ultimately defer to safety and security considerations.
- Jails and the counties that fund and operate them cannot entirely remedy the ills of our broken service delivery system, nor should they. In order to make improvements within the jails and to raise the standards of practice, jails must receive or access sustained direct funding. The state is well-suited to provide support, financial or otherwise, and the state shares an interest in the well-being of people experiencing incarceration, many of whom are in jail and experiencing acute symptoms of mental health needs while they wait months and even a year or more for a bed at the state psychiatric hospital. Jails are the responsibility of the elected county sheriff and funded at the county level, but other systems that have a close nexus with the criminal legal system are funded and administered at the state level. This misalignment presents challenges to shifting resources from one system to the other or maximizing the impact of existing resources.

The commission intends for these standards to be fluid and has written them in a manner that allows for future changes as research, evolving practices and resources warrant. Revisions should be thoughtful and should involve input from all appropriate stakeholders, including people with lived experience of incarceration. Any proposed or approved revisions should be documented in a manner that clearly illustrates what revisions were made and when.

Similarly, the commission anticipates and recommends a “staged” or “tiered” implementation of the standards. This will allow jails to come into the greatest degree of compliance possible in the shortest timeframe possible, while maintaining transparency and dialogue about the limitations of existing systems and strategies to overcome these barriers.

Finally, the commission recommends the creation and adoption of a variance procedure that allows jails to request specific and reasonable variances to specific standards, for specified durations. The commission further recommends that variances be proposed to the Jail Standards Advisory Committee and that further discussion take place to refine and modify variances as appropriate. The Advisory Committee would ultimately approve or deny variances for a designated period of time, to be revisited as it nears expiration. This process gives jails flexibility based on individual circumstances of all kinds while also creating a transparent structure for progressive improvement and compliance over time and as resources become available.

## Definitions and Acronyms

“ACA” - American Correctional Association.

“ADA” - the Americans with Disability Act. *See* 42 USC § 12101.

“Basic Hygiene Items” - the list of items articulated in Topic P, Standard 1: Hygiene Items and Haircuts.

“CCIC” - Colorado Crime Information Center or records provided by them,

“CDPHE” - Colorado Department of Public Health and Environment.

“Continuity of Care” is the shared effort from the medical team and/or behavioral team that includes the patient regarding an effective, high-quality, and cost-effective treatment plan for individuals experiencing incarceration to include times of incarceration and post-release planning.

“Disciplinary Housing” means increased time confined alone to one’s cell which is punitive in nature (i.e. given as a “sanction” for a disciplinary violation) but does not exceed 22 hours of confinement per day and therefore does not meet the definition of “restrictive housing.”

“DORA” - Department of Regulatory Agencies.

“FDA” - Food and Drug Administration.

“GED” - General Educational Development Test.

“HIPAA” - The Health Insurance Portability and Accountability Act of 1996. *See* 42 U.S.C. § 1320d to 1320-d9; 45 C.F.R. § 164.102, et. seq.

“IDEA” - The Individuals with Disabilities Education Act. *See* 20 U.S.C. § 1400

“Jail” - any building, structure, enclosure, institution, or place, whether permanent or temporary, fixed or mobile, where persons are or may be lawfully held in custody or confined, that is operated by a county or city and county. This term includes jail facilities, the sheriff, and any staff working in the facility.

“JBBS” - Jail Based Behavioral Health Services which are part of the jail-based behavioral health services program created pursuant to Section 27-60-106, C.R.S.

“MAT” - Medication-Assisted Treatment which is a combination of behavioral therapy and medications, such as buprenorphine and all other medications and therapies, approved by the federal food and drug administration to treat opioid use disorder. *See* Section 23-21-803, C.R.S.

“Medical unit” is an area or group of cells in which persons experiencing incarceration are housed together to receive enhanced medical or mental health care.

“MAR” - medication administration record.



“Meaningful Human Interaction” is when an individual experiencing incarceration has interactions which allow the individual the opportunity, either in person or with the assistance of technology, to communicate or take part in an activity or program, in real-time, with at least one other person, which may include, but is not limited to, other individuals experiencing incarceration, jail staff, family members, friends, mental health or other medical professionals, religious leaders, and which are for the purpose of social interaction or emotional, mental or physical health, or well-being. Meaningful human interaction requires effective communication, and accommodations must be made or assistive technology utilized to ensure effective communication based on an individual's disability and needs.

“Medically Necessary” are services and supplies provided in order to meet the needs of individuals that are experiencing incarceration in order to diagnose or treat an illness, disease, or injury in a manner that is acceptable within the standards of medicine and/or behavioral health. See also the Standard (Access to Care) for additional guidance on the intended meaning of medically necessary care.

“NCCHC” - National Commission on Correctional Health Care.

“NCIC” - National Crime Information Center or records provided by them.

“Nonroutine use of restraints” is the use of restraint devices to respond to health or safety emergencies that may include the use of a restraint device such as but not limited to a restraint chair, the WRAP, RIP restraint, spit mask, or other device intended to limit a person’s mobility.

“OUD” - Opioid Use Disorder.

“P.O.S.T.” - Peace Officer Standards and Training. *See* Section 24-31-301, C.R.S.

“PHI” is protected health information, the disclosure of which is limited by governing laws and regulations. *See* 42 U.S.C. 1320d (defining “health information” and “individually identifiable health information”); Sections 10-16-1003, 12-1-1201, C.R.S., et. seq.

“PPE” - Personal Protective Equipment which may be clothing and/or equipment worn or used in order to provide protection against hazardous substances or environments.

“PREA” The Prison Rape Elimination Act. *See* 34 U.S.C. § 30301.

“Pre-Detention-Hearing Housing” means increased time confined alone to one’s cell following an allegation of a disciplinary rule violation but pending the outcome of a hearing or a final adjudication of the disciplinary proceeding; does not exceed 22 hours of confinement per day and therefore does not meet the definition of “restrictive housing.”

“Protective Housing or Protective Custody” means the state of being voluntarily or involuntarily confined to one’s cell to protect the physical safety or health of people experiencing incarceration. Typically, a person is placed in protective custody for his or her own safety, i.e., protective housing is used when the individual is at risk of being harmed. Restrictive housing is more often used when the person at issue poses a risk to others or to themselves. Circumstances resulting in placement in protective custody may include: health needs, mental health needs, threats or particularized risk of violence from other individuals experiencing incarceration, etc.

“QMAP” is Qualified Medication Administration Personnel. The Colorado Qualified Medication Administration Personnel program operates pursuant to Section 25-1.5-301, C.R.S.

“Qualified Medical and Mental Health Professional” is a person that possess the education, credentials, experience and is allowed by law to evaluate and care for patients. For instance, physicians, physician assistants, nurse practitioners, nurses, mental health professionals, dentists, amongst others, meet the criteria of a qualified medical or mental health professional.

“Restrictive Housing” is the state of being involuntarily confined in one’s cell for approximately twenty-two hours per day or more with very limited out-of-cell time, movement, or meaningful human interaction whether pursuant disciplinary, administrative, or classification. (Comes from Section 17-26-301(6), C.R.S., as enacted by H.B. 21-1211).

“ROI” - release of information.

“Routine use of restraints” is the use of handcuffs, belly chains, or leg irons in daily operations including the arrest of a person or the transportation or movement of persons experiencing incarceration. It may also include devices used as intended and used to allow a person experiencing incarceration to participate in court without visible restraint.

“SNAP” - Supplemental Nutrition Assistance Program.

“Special visit” is a visit authorized by the sheriff or designee that is not schedule or accomplished through the routine scheduling practices or at a time outside of normal visitation schedule based on the circumstances.

“SUD” - Substance Use Disorder.

“Trauma Responsive” refers to an approach, environment, or practice that recognizes and takes in account the impact of trauma on individuals and responds in a sensitive, supportive, and informed manner.

## **Topic A: Rights of Persons Experiencing Incarceration**

### **1. Humane Treatment**

**Standard.** (1) Persons experiencing incarceration shall be treated humanely with dignity and respect. Persons shall be treated fairly and with impartiality because incarceration is punishment in and of itself. Staff supervising persons experiencing incarceration shall be provided policies and procedures which specify the humane treatment of all persons. Each person needs to be treated with fairness and equality.

**Recommendations/Best Practices.**

**Compliance Indicators.**

**Comments.**

**Relevant Authority.**

## Topic A: Rights of Persons Experiencing Incarceration

### 2. Rights

**Standard.** (1) All persons experiencing incarceration have the following rights. This list is not meant to be exhaustive. A person experiencing incarceration may still have rights not specifically listed here as guaranteed by law.

- (a) Freedom from discrimination based on gender identity, sexual orientation, religion, disability, race, ethnicity, cultural beliefs, and age.
- (b) Freedom of speech, subject to lawful restrictions. Any restrictions shall be explained in the handbook provided to persons experiencing incarceration.
- (c) Humane treatment with courtesy, dignity, respect, impartiality, and fairness.
- (d) Persons experiencing incarceration have a fundamental constitutional right to practice religion. Jails shall comply with the First Amendment of the Constitution and shall not prohibit the free exercise of religion. Jail policies and procedures may restrict persons' religious practices and activities only if the practices pose a threat to legitimate penological interests, which is to be documented.
- (e) Access to medical care that fits the medical necessity.
- (f) Nutritious meals.
- (g) Clean living conditions, which include clean bedding and clothing.
- (h) Opportunities for regular access to bathing, and use of personal toiletries.
- (i) Regular exercise.
- (j) Communication with members of the news media in accordance with jail rules and schedules.
- (k) Access to legal representation and the courts.

**Recommendations/Best Practices.** Each jail shall make known and available the rights of persons experiencing incarceration. The list of rights should be made available at reception and release areas, general housing, and common areas. When feasible, jails with kiosks, tablets, and rule books should have the published list posted. Policies and procedures need to be written to provide staff clear instructions on the treatment of persons experiencing incarceration to ensure guaranteed rights are being provided.

#### **Compliance Indicators.**

**Comments.** (1) Religious accommodations may include worship, including access to clergy and religious services, attire, dress, possession of religious items, meeting rooms, religious holidays and events, reading material, and diets. Regarding religion, see Topic J, Standard 3:

Programming

- (2) Jails should keep in mind a person experiencing incarceration's access to a religious accommodation should be considered for compliance with the Religion Land Use and Institutionalized Persons Act (RLUIPA).
- (3) Regarding clean living conditions, see Topic O, Standard 1: Facility Space and Conditions.

- (4) Regarding hygiene, see Topic P, Standard 1: Hygiene Items and Haircuts, Topic O, Standard 1: Facility Space and Conditions, and Topic B, Standard 1: Reception and Release.
- (5) Regarding exercise, see Topic J, Standard 1: Opportunity to Exercise.
- (6) When media organizations request contact with persons experiencing incarceration, the jail should have policies and procedures which include:
  - (a) first contact the person experiencing incarceration about their preferences or need for counsel and obtain written consent agreeing to participate with a media request;
  - (b) media access to the jail or annexes will only be upon authorization of the sheriff or designee;
  - (c) no persons experiencing incarceration will be photographed inside the jail without consent;
  - (d) photographing, filming, or videotaping of control consoles, locks, or other devices is strictly prohibited without prior authorization of the sheriff or designee;
  - (e) media requests for interviews with persons in custody will be coordinated by the sheriff, or designee; and
  - (f) in considering a request to interview a person experiencing incarceration, primary consideration will be to the safety and security of that person. See also Topic G, Standard 2: Identification and Registry of Visitors and Visitor Log and Topic G, Standard 7: Restrictions.
- (7) Regarding access to counsel and the courts, see Topic K, Standard 1: Discipline; Topic J, Standard 2: Media Access; Topic F, Standard 1: Mail and Written Correspondence Standard; Topic F, Standard 4: Privileged Communications; and Topic G, Standard 5: Attorney Client Visitation.
- (8) See also: Topic F: Communication; Topic H, Standard 1: Access to Care; Topic P, Standard 2: Safety.

**Relevant Authority.** Turner v. Safley, 482 U.S. 78 1987; 42 U.S.C. § 2000cc(b)(3)(B)

## Topic A: Rights of Persons Experiencing Incarceration

### 3. Disability Rights

**Standard.** (1) All persons with disabilities experiencing incarceration shall have the right to:

- (a) be housed in the most integrated setting that is appropriate to meet their needs. People with disabilities shall not be housed in a manner that isolates them from people without disabilities; housing units cannot be designated by a disability (ex., “ADA unit,” “Mental Health Unit”);
  - (b) reasonable accommodations and modifications to ensure that they have equal access to all programming, services, activities and benefits offered;
  - (c) physical spaces that are accessible as required by law;
  - (d) be free from inappropriate security classifications because no accessible cells or beds are available;
  - (e) appropriate medical, nutrition, clothing, equipment, and services commensurate with the established disability;
  - (f) effective communication of all information and communications necessary to navigate life in the jail; and
  - (g) have access to the same benefits or programming as others experiencing incarceration without regard to disability. This includes providing reasonable accommodations and modification as appropriate and required by law.
- (2) State and local government entities (including jails) must take affirmative steps to ensure they are compliant with the ADA.
- (3) If a public entity employs more than 50 people, it is required to designate at least one employee to coordinate efforts and carry out responsibilities pursuant to the ADA (“ADA Coordinator”), with that person’s contact information published. Such entities shall also publish ADA grievance procedures providing for the prompt and equitable resolution of ADA complaints.
- (4) Contractors operating in a jail must abide by the same ADA requirements.
- (5) Jails shall appropriately document requests for accommodations and decisions made about such requests.

**Recommendations/Best Practices.** (1) In order to best meet the needs of people with disabilities, jails should:

- (a) appropriately screen for individuals with disabilities during reception;
- (b) obtain the assistance of health and mental health professionals;
- (c) respond to an individual with a disability on a case-by-case basis;
- (d) maintain communication with the individual with the disability during the assessment;
- (e) recognize that individualized assessment is key; and
- (f) recognize that one size solutions do not fit all situations.

- (2) Jails shall work to proactively provide reasonable accommodations and modifications for people with disabilities, within the safety and security limitations of the jail.
- (3) People with disabilities should not be made to use formal and burdensome processes to get their needs met.
- (4) Jails are encouraged to appoint an onsite ADA coordinator from existing staff. Whether or not a jail is required to have an onsite ADA coordinator depends on various factors, including the number of people employed by a public entity such as the sheriff's office. In the absence of an onsite ADA coordinator, jails are encouraged to communicate and collaborate with counties, county attorneys, and sheriffs' offices to make use of disability-related resources such as the ADA coordinator for the county.

**Compliance Indicators.** (1) Persons experiencing incarceration are not housed together in a segregated unit solely on the basis of having a disability.

- (2) Jails provide equal access to all programs for which a person experiencing incarceration would otherwise be entitled.

**Comments.** (1) Consistent with federal law, specifically the ADA and relevant guidance, construction after 2010 must comply with additional requirements as outlined in law.

- (2) See: Topic B, Standard 1: Reception and Release; Topic C, Standard 1: Classification; and Topic H, Standard 11: Medical Unit Utilization.

**Relevant Authority.** The Americans with Disabilities Act of 1990 ("ADA"); Section 504 of the Rehabilitation Act of 1973 ("Rehab Act"); 28 C.F.R. §§ 35.107, 35.152, and 35.163; Section-by-Section Guidance and Analysis of the ADA; *Pierce v. District of Columbia*, 128 F.supp 3d 250, 272 (DDC 2015).

## Topic B: Reception and Release

### 1. Reception and Release

**Standard.** (1) Jails shall have a policy regarding reception and intake. Jails shall be professional and compassionate to people taken into custody. The purposes of reception are to timely and accurately document information related to the individual's arrest, search the person for any items that pose a danger, secure that person's personal property for safekeeping, and complete the booking process, including a medical and mental health screening to identify any urgent medical or mental health need.

(2) **Reception.** Jail reception staff shall:

- (a) identify by documentation the arresting officer or transporting officer that brings the arrested individual into the jail;
- (b) record the arrested individual's information in a booking and identification record for every commitment;
- (c) identify arrested individuals during reception by photograph, identification bracelet, or other means;
- (d) prioritize privacy (and meeting or exceeding Health Insurance Portability and Accountability Act (HIPAA) guidelines), collect health information, and assess and take measures to protect against risks of harm specific to the individual being admitted into the jail, including all information required by Prison Rape Elimination Act (PREA) to maintain safety for all individuals in the jail;
- (e) screen for and identify all disabilities; provide every possible accommodation and comfort for all physical, mental, or behavioral health needs, meeting or exceeding Americans with Disabilities Act (ADA) standards; notify ADA coordinator of the individual's needs; and establish immediate next steps in continuity of care;
- (f) for persons under the age of 21, ask if the person has graduated with a regular high school diploma, and, if the answer is no, ask whether they have ever received special education services and the school district they last attended;
- (g) provide access to suitable and accessible means of communication after the reception process. Communications accessibility must meet or exceed ADA accessibility standards, and interpretation (such as language line services) must be available throughout reception and incarceration at all times for all non-English speaking individuals in custody. During reception, individuals in custody must be allowed an opportunity to write down contact information from their mobile phones or other devices before surrendering them;
- (h) incentivize or otherwise facilitate voluntary surrender of contraband items (e.g. by providing an "amnesty" or no-penalty drop box) before searching, confiscating, inventorying, and securing unauthorized items;
- (i) count and secure money or any form of currency, other than evidentiary collection, and ensure that this is documented via receipt;
- (j) secure the signature of the individual in custody and require witness signatures on a completed inventory of items and money confiscated;



- (k) be mindful and respectful of presumed innocence and vulnerability to exacerbated trauma. Strip searches and body cavity searches are to be performed as rarely as possible, and only as consistent with Section 16-3-405, C.R.S.;
  - (l) minimize the amount of time individuals in custody are confined in the reception area, especially in restrictive environments or for detoxification purposes, to the greatest extent possible. Time in the reception area must not exceed 24 hours without documented justification. During a prolonged reception period, jail staff shall be courteous and hospitable, mindful of biological necessities, and provide water, food and access to a shower (if suitable), etc.;
  - (m) in a way that is protective of individual privacy and preference, provide every person experiencing incarceration with clean clothing. If color-coded uniforms are utilized, they shall be used in a manner that protects privacy of persons experiencing incarceration and for programming or safety and security purposes only (for example, do not assign clothing based on a person's diagnosis or disability, offense specific charges, etc.);
  - (n) provide individuals experiencing incarceration with a list of generally applicable jail rules in a format that is accessible to each person while also considering ADA accommodations and needs;
  - (o) assist individuals experiencing incarceration in understanding these rules if there are literacy or language obstacles by providing adequate translating needs;
  - (p) obtain signed acknowledgment from individuals experiencing incarceration of receipt and understanding of rules, how to access medical and mental health care, and the grievance process;
  - (q) obtain signatures on releases of information if the person would like to share medical and mental health information with family, professionals, etc., during incarceration;
  - (r) maintain the safety of male, female, and nonbinary individuals during reception; and
  - (s) confine juveniles when permitted by court order pursuant to Section 19-2.5-305, C.R.S.
- (3) **Release.** Jail release staff shall:
- (a) document an individual's release to another agency and provide all pertinent medical and behavioral health information to the receiving agency (e.g., current medication list, allergies, recent hospitalizations, etc.);
  - (b) obtain a receipt from the person experiencing incarceration or the receiving officer, as appropriate, for all property returned at the time of release or transfer;
  - (c) give the person medication when released or access to prescriptions that allow for quality continuity of care as the individual reenters the community;
  - (d) verify individuals' identification and release documentation; and
  - (e) to best of the jail's ability, work closely with the human services department in a manner that will aid the person experiencing incarceration in having support upon release.

**Recommendations/Best Practices.**

**Compliance Indicators.**

**Comments.**

**Relevant Authority.** Title II of the Americans with Disabilities Act of 1990 (ADA), 28 C.F.R. §35.152. National Commission on Correctional Health Care (NCCHC) Standards, J-E-02, J-E-03, J-E-10

## Topic C: Classification of Persons Experiencing Incarceration

### 1. Classification

**Standard. (1) Written Classification System.** Jails shall have a written policy that specifies the criteria and procedures for determining and changing the classification of a person experiencing incarceration to determine the person's level of custody, needs, housing assignment, and eligibility for programming.

- (a) The classification process shall employ a tool to inform placement at an appropriate security level and setting.
- (b) The classification process shall consider at a minimum: medical needs; gender; processes for appropriately classifying LGBTQ+ individuals; protective custody; placement of juveniles; PREA guidelines; and any disciplinary placement utilized by the jail. The classification system should consider individual needs on a case-by-case basis.
- (c) Classification decisions shall be reviewed at appropriate intervals with reviews generally being more frequent for more restrictive or higher security levels. All changes to classification shall be documented, including overrides.
- (d) Classification decisions should favor placements that allow maximum participation in any and all available programming, rehabilitation, treatment, education, etc. as safety allows.
- (e) The written classification policy shall contain a method by which individuals can challenge or appeal classification decisions.

**(2) Housing Male, Female, and Nonbinary Individuals.** Jails shall house persons experiencing incarceration appropriately by gender, separating people of different genders.

- (a) Males and females shall be housed separately, separated by sight and touch and out of range of normal conversation with each other.
- (b) Nonbinary and transgender individuals shall be housed in accordance with all applicable laws and regulations, including PREA. This includes giving serious consideration to the individual's preference and views of their own safety in addition to health, safety, and security concerns, making case-by-case decisions, and not placing such individuals on a unit designated by the person's transgender or nonbinary identity.
- (c) Decisions about where to house an individual shall never be based solely on the person's biological sex or genitalia.
- (d) All housing, regardless of the gender of the persons housed therein, shall offer comparable structure, amenities, policies, and programming. Any exceptions should be thoroughly documented, including the reasoning for the differential conditions.

**(3) Supervising Male, Female, and Nonbinary Persons Experiencing Incarceration When Placed Together for Programming.** Each jail shall have a written policy that protects and provides proper supervision of male, female, and nonbinary persons experiencing incarceration when placed together or in the same areas.

- (a) Males and females shall generally attend programming separately.
- (b) Nonbinary and transgender individuals shall have access to programming and be transported in accordance with all applicable laws and regulations, including PREA. This

includes giving serious consideration to the individual's preferences and views of their own safety in addition to health, safety, and security concerns, and making case-by-case decisions.

(c) The policy shall establish a method to provide information about sexual abuse or sex assault to include prevention, intervention, reporting, and counseling services available to all persons experiencing incarceration.

(d) Jails shall monitor areas where male, female, and nonbinary persons experiencing incarceration are in the same area.

(4) **Housing Juveniles.** The housing of juveniles within adult facilities shall comply with the law.

**Recommendations/Best Practices.** (1) The classification tool shall not be intentionally or inadvertently biased against any population such as by race, disability, sexual orientation, or gender identity, etc.

(2) Jail staff should conduct frequent, regular reviews of all placements in disciplinary or "high security" or highly restrictive settings.

(3) Classification decisions should be made based upon clear criteria, tailored to each individual as appropriate, and describe what is required for the person to move to a lower security level or less restrictive setting.

(4) The classification policy should take into account each individual's needs and preferences as possible (for example, some people get anxious with open bars, some prefer open bays, some prefer to be housed alone if possible, etc.).

(5) The written classification policy shall allow for flexibility and individualization based on each individual's needs and risks.

(6) Housing practices should be trauma-responsive.

#### **Compliance Indicators.**

**Comments.** Please see standards for Topic H, Standard 11: Medical Unit Utilization, and other related classification standards.

**Relevant Authority.** Americans with Disabilities Act of 1990 (ADA), 28 C.F.R. §35.152, "Jails, detention and correctional facilities, and community corrections facilities," Prison Rape Elimination Act of 2003 (P.L. 108-79). American Correctional Association (ACA) Performance Standard 5B (Classification), standards 5-5B-4295 through 5-5B-4312-1. Sections 17-26-121 and 19-2-508, C.R.S.

Juvenile Justice and Delinquency Prevention Act Pub. L. No 93-415, as amended by the Juvenile Justice Reform Act of 2018 Pub. L. No 107-273. Found at 42 U.S.C. § 5601 et seq.

Section 19-2-508, C.R.S.

## **Topic D: Persons Experiencing Incarceration Grievances**

### **1. Grievance Policy and Procedures**

**Standard.** (1) Jails shall have written policy outlining a grievance process for resolving complaints arising from jail matters with a minimum of one level of appeal.

- (2) Jails shall provide the policy to the all persons experiencing incarceration and anyone who requests a copy. Information shall be in the handbook and available through any kiosk or comparable system. The grievance procedure should be available to the public on the agency or county website. Information regarding the grievance process must be accessible and effectively communicated to persons experiencing incarceration in the language they understand.
- (3) The grievance process shall include:
  - (a) a grievance form or instructions for filing a grievance;
  - (b) instructions for the resolution of the grievance at the lowest appropriate staff level;
  - (c) the appeal process;
  - (d) written reasons for denial of a grievance or appeal;
  - (e) explanation of timeframes for responses;
  - (f) explanation of resolving questions of jurisdiction within the jail; and
  - (g) consequences for abusing the grievance system.
- (4) Jails shall document grievances and the outcome of grievances.
- (5) Jails shall resolve grievances at the lowest appropriate staff level.
- (6) Except as required by PREA, persons experiencing incarceration cannot file a grievance on behalf of another person experiencing incarceration. However, a person experiencing incarceration may assist another person experiencing incarceration in the preparation of a grievance. Jails may take reasonable steps to assist the person experiencing incarceration in the preparation of a grievance if requested.
- (7) Jails shall not reject grievances for technical reasons, as long as the grievance is in writing and can be understood.
- (8) Grievances shall be investigated and responded to by the appropriate staff. Medical grievances shall be investigated and responded to by medical personnel.
- (9) Any grievance which reports an imminent safety concern shall be reviewed in an expedited fashion. Any imminent safety concern shall be reported to command staff to immediately address.
- (10) Jails shall not retaliate against a person experiencing incarceration for filing a grievance. If there is concern that a person experiencing incarceration is abusing the grievance process, the person shall be informed that continued behavior may result in disciplinary action, if done to intentionally abuse the process.
- (11) Grievances related to sexual abuse are of heightened concern and governed by PREA.

### **Recommendations/Best Practices.**

**Compliance Indicators.**

**Comments.**

**Relevant Authority.** *Wolff v. McDonnell*, 418 U.S. 539 (1974).

## Topic E: Restrictive Housing

### 1. Restrictive Housing

**Standard.** (1) Jails shall have a policy regarding restrictive housing. Jails shall limit the use of restrictive housing for persons experiencing incarceration and maximize out-of-cell time for all individuals in their care.

- (2) People experiencing incarceration may have opportunity to interact with a variety of individuals, including various jail staff, visitors from the community, and other people experiencing incarceration. Jails shall encourage all opportunities for human interaction that are safe and appropriate.
- (3) Housing of persons experiencing incarceration in restrictive housing shall be based on objective, individualized circumstances, risk, etc. Restrictive housing shall not be used as a punishment. The goal of restrictive housing is creating safety, and it should only be utilized in the shortest duration necessary to accomplish the safety-related goal. Jail staff should only use restrictive housing when the person experiencing incarceration is not responding to ongoing de-escalation techniques and all less restrictive interventions have been exhausted or would be ineffective. All episodes of restrictive housing shall be terminated once safety concerns have been mitigated or alleviated.
- (4) Jails shall accurately and thoroughly document actions or decisions related to restrictive housing, including reasons for placement, screenings, less restrictive alternatives that have been exhausted, observations, and criteria to transition out of restrictive housing.
- (5) When a person experiencing incarceration is housed in restrictive housing, jails shall provide access to care, visitation, and exercise as required by these standards. Jails shall provide as much access as possible to programming. Any restrictions placed on an individual's property shall be made on an individual basis and be of the shortest duration possible as necessary for medical reasons or to accomplish the goal of creating safety. All persons placed in restrictive housing should have access to appropriate coping tools and activities as safety allows.
- (6) All persons placed into restrictive housing shall be assessed by a medical professional as soon as practicable, but no more than 24 hours after placement in restrictive housing to determine whether there is a medical cause for behaviors or circumstances leading to placement (i.e., seizure disorder, diabetic shock, substance withdrawal, etc.). If the medical professional suspects that behavioral health issues are a factor, the medical professional shall refer the person experiencing incarceration to mental health staff for a consultation. When possible, mental health staff should also screen for behavioral health needs and risk of suicide and self-harming behavior (includes current mental state; presence or history of suicidal ideations; past suicidality; history of self-harming behaviors, in and out of custody; substance use; psychosocial factors; level of charges; etc.).
- (7) When an individual is placed in restrictive housing, jail staff, in consultation with medical and mental health staff when possible, should develop a plan for returning the person to less restrictive conditions as promptly as possible. This plan should be shared with the individual, unless doing so would jeopardize the safety of the person, staff, other individuals experiencing incarceration, or the public.
- (8) If a period of placement in restrictive housing exceeds 24 hours, the justification for ongoing placement in restrictive housing and presence of any new or exacerbated mental health needs

must also be documented every 24 hours in the individual's medical and behavioral health records.

- (9) At least every 48 hours and more frequently, if possible, a mental health professional shall assess the individual for the need for ongoing placement in restrictive housing and document the need for ongoing placement or shall document and communicate to jail staff an opinion that restrictive housing is no longer required for mental health reasons.
- (10) No one shall be placed in restrictive housing for more than 15 days in a 30-day period, unless extraordinary circumstances exist and the following things happen:
  - (a) documented approval by a physician or nurse practitioner;
  - (b) documented approval by a psychiatrist, psychologist, or a licensed mental health professional;
  - (c) reassessment for progression out of restrictive housing at least every 12 hours by medical or mental health staff;
  - (d) report to the Division of Criminal Justice in the Department of Public Safety;
  - (e) check in with ADA coordinator if the person has disabilities; and
  - (f) attempt to coordinate admission to medical or mental health care facility that can provide a higher level of care, if appropriate and the person experiencing incarceration consents. Jails shall document barriers to receiving medical or mental health care, including refusal of the facility to treat the person.

**Recommendations/Best Practices.** (1) Jails should provide to a person experiencing incarceration a written explanation of the basis for placement in restrictive housing and the criteria for progressing out of restrictive housing.

- (2) Jails should be creative in how they ensure safety for all, including finding ways to provide additional safety (i.e. "protective housing") without resorting to practices that fall under the definition of "restrictive housing."

### **Compliance Indicators.**

**Comments.** (1) Research has shown that placement in restrictive housing isolation generally is detrimental to the well-being of individuals experiencing incarceration. Isolation can exacerbate existing mental health conditions, and people can develop new mental health symptoms or needs. For these reasons, Colorado has recognized the harms of isolation and taken steps to reduce or eliminate its use in a variety of settings, including jails.

- (2) The goal of the commission is to make restrictive housing consistent across jails regardless of size and location. However, factors of funding, staffing, and the availability of medical and mental health professionals may provide difficulty in realizing that goal. Therefore, variances will likely need to be granted and funding and resources need to be addressed by the state. The commission hopes, in reviewing requests for variances, care is given to trying to accomplish the larger goals of minimizing restrictive housing.
- (3) Jails have a duty to protect the mental and physical health of the individuals in their care. Individuals placed in restrictive housing are at a heightened risk of harm. Therefore, the jail must work to mitigate situations and conditions that lead to decompensation or harm.



- (4) The commission recognizes that face-to-face contact with medical and mental health professionals is preferable, when possible, and at times legally required for larger jails. The commission also recognizes when it is not possible, the use of technology that allows for contact with medical and mental health professionals is preferred over no contact.
- (5) Examples of coping tools and activities that made be available to person experiencing incarceration may include stress balls, fidgets, journals, books, coloring books, music, reading, etc.
- (6) In order to facilitate removal from restrictive housing, jails shall utilize incentives for positive behavior which are individualized as much as possible.

**Relevant Authority.** Part 3 of Article 26 of Title 17, C.R.S., Restrictive Housing in Jails, 5th, 8th and 14th Amendments to the United States Constitution

National Commission on Correctional Health Care (NCCHC) Standards, J-G-02

## Topic F: Communication

### 1. Mail and Written Correspondence Standard

**Standard.** (1) The jail shall have written policy and procedures addressing mail and written correspondence (including electronic correspondence or email if allowed) and packages to and from a person experiencing incarceration. The jail shall provide the policy to all persons experiencing incarceration and make the policy available to anyone who wishes to correspond with a person experiencing incarceration.

- (2) Persons experiencing incarceration are granted the right to communicate and correspond with persons and organizations subject only to limitations necessary to protect public safety, institutional order, security, or to comply with law.
- (3) When a person experiencing incarceration pays the mailing cost, there is no limit on the volume of letters the person can send or receive or on the length, language, content, or source of mail except when there is a good-faith reasonable belief that the limitation is necessary to protect public safety, institutional order, security, or comply with law.
- (4) An indigent person experiencing incarceration shall be allowed a reasonable ability to correspond in writing and through the mail by being provided a reasonable amount of writing supplies and paper, ability to make copies for the purpose of correspondence, and postage.
- (5) A person experiencing incarceration who is in restrictive housing or who is subject to disciplinary action shall be able to write and receive letters on the same basis as all others experiencing incarceration who are not subject to discipline.
- (6) Outgoing mail shall be collected from the person experiencing incarceration at least once a day, except Sundays and postal holidays, and timely delivered to the U.S. Postal Service.
- (7) Incoming mail shall be distributed to the person experiencing incarceration within 48 hours or receipt unless it properly rejected or held as allowed by other standards or law.
- (8) Written policy, procedure, and practice provide for forwarding first-class letters and packages after a person experiencing incarceration's release.

**Recommendations/Best Practices.** Jails that utilize a website should post mailing information and policies on their website.

#### Compliance Indicators.

**Comments.** (1) Requirements of written policies are common in jail standards and regulations through the nation. Not limiting the amount of mail that a person can send and receive when they can pay for the cost is also common. Some states provide minimum amounts of stamps or postage that must be provided to a person experiencing incarceration who cannot pay; however, ACA guidance is more general to ensure the person can correspond.

- (2) Encouraging and supporting correspondence is beneficial to the person experiencing incarceration. Isolation and inability to correspond is not.
- (3) Restrictions of content based upon considerations of institutional order do allow for legally allowable restrictions on material, like explicit material, consistent with the law. When there are restrictions on content, they should be clearly explained in policies provided to a person experiencing incarceration and consistently applied.

(4) While jail should have policies and procedures about specific screening procedures, policies and procedures which govern screening may be confidential except as disclosure is required by law. They need not be provided to people experiencing incarceration or any member of the public when providing notice of procedures would undermine the safety or security of the jail or would enable or assist in defeating screening procedures so that improper material is sent or received.

**Relevant Authority.** 5-7D-4487, 5-7D-4488, 5-7D-4489,5-7D-4496 5-4B-0021 Performance-Based Expected Practices for Adult Corrections Institutions, 5th ed. American Correctional Association (August 2018); Florida Model Jail Standard 9.3a (which encourages correspondence); Code of Massachusetts Regulations 948.03 (reading the timing of mail); North Dakota Jail Standard 83 (mentioning email)

## Topic F: Communication

### 2. Inspection and Rejection of Mail and Written Correspondence

**Standard.** (1) Jails shall have written policies and procedures that non-privileged mail and written correspondence may be opened and inspected for contraband and the limited conditions under which it may be read. Non-privileged mail or written correspondence is read, censored, or rejected based on legitimate institutional interests of order and security.

- (2) Jails shall document inspection, rejection, and seizure of mail or written correspondence.
- (3) A person experiencing incarceration shall be notified when incoming and outgoing letters are withheld in part or in full including the policy, procedure, or law which allows for withholding.
- (4) The policies and procedures should specify what should be done with censored or rejected mail. Except in the case of criminal activity or potential prosecution, when mail or written correspondence is rejected or censored, the sender and receiver shall be timely notified of a description of the mail, written correspondence, or package, the action taken, the reason for the action, and the disposition of the item involved. The policy and procedures should provide a process to appeal the rejection or censorship of mail or written correspondence. The item may not be destroyed or sent out until the process is completed.
- (5) The policies and procedures should specify what should be done with contraband and under what conditions matters should be referred for criminal investigation or prosecution and notice to the sender and receiver can be properly withheld.

**Recommendations/Best Practices.** (1) Jails should strive to process and inspect mail as efficiently as possible.

- (2) Jails shall adequately train staff responsible for screening about the jail's policies and procedures to inspect mail, prevent the introduction of contraband, and keep the jail safe, while not unduly restricting the timely flow of correspondence.

#### **Compliance Indicators.**

**Comments.** (1) Most states and the ACA require clear screening policies for mail.

- (2) Inconsistent rejection or censorship of mail, written correspondence, or packages is burdensome and can be costly to the person experiencing incarceration. Absent criminal conduct or notice causing a legitimate threat to safety, senders and receivers should know if mail is censored and rejected. They should have clear notice of policies and procedures.
- (3) Providing an equivalent photocopy or electronic image of written correspondence to prevent the introduction of narcotics is not a rejection or censorship. Removing metal fasteners, staples, or other incidental metal from mail or written correspondence is not rejection or censorship. Having screening procedures that do not unduly delay correspondence and packages or alter communications, but ensure safety are routine and proper.

**Relevant Authority.** Related standards and materials: 5-7D-4491, 5-7D-4494 Performance-Based Expected Practices for Adult Corrections Institutions, 5th ed. American Correctional Association (August 2018); Florida Model Jail Standard 9.3a (which encourages correspondence); Code of Massachusetts Regulations 948.07 (documenting inspection of mail); Missouri Jail Standards 5.3 Mail (regarding censorship); North Dakota Jail Standard 83 (regarding notice of rejected or censored mail).

## Topic F: Communication

### 3. Non-Privileged Phone Calls

**Standard.** (1) Jails shall have written policy and procedures addressing a person experiencing incarceration's non-privileged phone calls. The policy and procedures shall explain access to telephones and the circumstances, frequency, schedule, length of calls, costs, and rules about calls. If calls are subject to monitoring and recording, the policy and procedures should provide notice to the person experiencing incarceration.

- (2) Jails shall provide the policy to persons experiencing incarceration and make it available to the public.
- (3) The jail shall notify recipients of calls that they are coming from a person experiencing incarceration and if they are subject to recording and monitoring.
- (4) When a person experiencing incarceration is booked into the jail, the jail shall provide a person experiencing incarceration access to make any telephone calls when required by law to do so.
- (5) When the person experiencing incarceration or another person pays the cost, the person experiencing incarceration is granted the ability to make a reasonable number of phone calls of a reasonable length consistent with this standard. Calls are only limited by the institutional schedule of activities, number of telephones available, personnel constraints, security considerations, compliance with court orders, equity of access for other people experiencing incarceration, or emergencies.
- (6) Subject to any available funds and practical considerations of costs and contracts, jails shall support and provide the ability for an indigent person to make non-privileged telephone without cost if possible.
- (7) A person experiencing incarceration who is in restrictive housing or who is subject to disciplinary action or restrictive housing shall be allowed at least limited non-privileged telephone access.
- (8) The jail shall use their best effort to ensure telephones are maintained and of sufficient quality for callers and recipients to be heard. The jail shall also use best effort to make calls private from other people experiencing incarceration, whenever possible. In the case of extenuating circumstances or family emergencies, the jail shall have a policy which allows discretion for a person experiencing incarceration to make or receive a telephone call even if the call is outside the normal times or procedures applicable to non-privileged telephone calls.

**Recommendations/Best Practices.** (1) Jail staff should be knowledgeable and able to provide information regarding use of telephones and policies.

- (2) Jails which utilize a website should post information and policies on their website regarding phone calls.

#### **Compliance Indicators.**

**Comments.** Requirements of written policies are common in jail standards and regulations through the nation regarding telephone use. The jail is not responsible to maintain or service any equipment of infrastructure for which it does not have control or which is outside a jail under its control.

**Relevant Authority.** Section 16-3-402, C.R.S., Right to communicate with attorney and family. This gives people who are arrested the right to communicate with a member of their family through a reasonable number of telephone calls or any other reasonable manner. This right renews when a person experiencing incarceration is transferred to a new place of custody. Section 17-42-103, C.R.S., regulates the cost of telephone calls using rates set by the Federal Communications Commission.

5-7D-4497 5-4B-0026 Performance-Based Expected Practices for Adult Corrections Institutions, 5th ed. American Correctional Association (August 2018); Maryland General Telephone Use Standard; Code of Massachusetts Regulation 948.10; Minnesota Jail Standard 2911.3400 Telephone Access; South Carolina Jail Standards 2003 Telephone.

## Topic F: Communication

### 4. Privileged Communications

**Standard.** (1) The jail shall have written policy and procedures addressing a person experiencing incarceration's privileged communications, written and legal correspondence, mail, and telephone calls.

- (2) Persons who are authorized to send privilege communications shall have notice of the applicable policies and procedures and be given a copy upon request.
- (3) The policy shall protect as privileged communications with attorneys and their authorized representatives and any communication protected as privileged by law. The jail may designate additional communications as privileged.
- (4) Privileged mail and written correspondence includes mail to or from attorneys, courts, public officials, administrators, clergy, or grievance systems.
- (5) Outgoing privileged mail or written correspondence may be inspected by staff for contraband in the presence of the person experiencing incarceration prior to being sealed, but it may not be read.
- (6) Incoming privileged mail or written correspondence shall be opened in the presence of the person experiencing incarceration and may be inspected for contraband, but may not be read.
- (7) Without opening the privileged mail or written correspondence, it may be screened. In the case of an articulable, good faith belief the mail or written correspondence fraudulently misrepresents it is privileged or presents an immediate danger, the jail may pursue lawful investigatory actions or action to prevent harm. Mail or written correspondence may be rejected pursuant to policy and procedures provided any required notice in these standards is provided to the sender and recipient.
- (8) Privileged telephone calls may not be audio monitored or recorded. The person experiencing incarceration shall have privacy for privileged telephone calls to the extent that conversations in ordinary tones cannot be overheard.

### Recommendations/Best Practices.

#### Compliance Indicators.

**Comments.** (1) Jails must facilitate and honor confidential communications. If a person not part of a privileged call learns a call was accidentally recorded, the caller and recipient shall be notified. The call shall not be listened to.

(2) If any person who monitors or reviews telephone calls, in the course of listening to or monitoring a call, learns it may be privileged, they must immediately stop listening and shall notify the caller and recipient.

(3) Screening of privileged mail may include checking that it is correctly addressed, that the return address and postmark are consistent, that it does not appear to be leaking, stained, or emitting a strange or unusual odor, or appear to contain contraband.

**Relevant Authority.** Section 16-3-402, C.R.S. Right to communicate with attorney and family. This gives people who are arrested to the right to communicate with a member of their family through a reasonable number of telephone calls or any other reasonable manner. This rights

renews when a person experiencing incarceration is transferred to a new place of custody.  
Section 13-90-107, C.R.S., which contains privileged communication under Colorado law.

5-3D-4275 5-7D-4492 Performance-Based Expected Practices for Adult Corrections Institutions,  
5th ed. American Correctional Association (August 2018)



## Topic G: Visitation

### 1. Scope of Visitation Policies

**Standard.** (1) The jail shall have written policies and procedures addressing visitation. The jail shall provide persons experiencing incarceration and visitors with relevant instructions and information about visiting, including visitation rules and rules regarding personal effects and the search of visitors. The policy shall be made available to all visitors in a convenient and accessible manner.

(2) The policy, at a minimum, addresses:

- (a) the jail address, phone number, and directions to the jail;
- (b) days and hours of visitation;
- (c) requirements and rules applicable to visitors;
- (d) any rules regarding visits involving minors;
- (e) special visits; and
- (f) compliance with state and federal laws and regulations related to the rights of persons with disabilities.

**Recommendations/Best Practices.** (1) Jail staff who interact with callers and visitors to the jail should be knowledgeable and able to direct members of the public to information about visitation.

(2) Jails that utilize a website should post visitation information on their website.

### Compliance Indicators.

### Comments.

**Relevant Authority.** 5-7D-4499 Performance-Based Expected Practices for Adult Corrections Institutions, 5th ed. American Correctional Association (August 2018).

## Topic G: Visitation

### 2. Identification and Registry of Visitors and Visitor Log

**Standard.** (1) Visitors shall identify themselves and register when entering a jail to visit a person experiencing incarceration. The jail staff shall maintain a record of visitors and who they visited.

- (a) Jail staff shall require visitors to present government-issued photo identification, except the staff shall not require identification for minors who do not have identification.
- (b) In case of extenuating circumstances, jail staff may admit a visitor without identification or credentials only upon an exception granted by an authorized administrative authority.
- (c) Jail staff may require professional visitors to present credentials or documentation to allow a professional visit. The record of confidential professional visitors shall not be provided to others unless requested by the person experiencing incarceration or to comply with a law or court order.
- (d) Jail staff may deny a visit if a visitor refuses to register or attempts to provide false information while registering.
- (e) Jail staff shall maintain the records in a format that allows them to search information by visitor or by the person visited.
- (f) Jail staff shall record the date, time, length, and location of the visit.

#### **Recommendations/Best Practices.**

**Compliance Indicators.** Jail staff maintains up-to-date record of visits.

**Comments.** Jail staff may require additional information from visitors for safety and efficient operation of the jail, but should not collect information not necessary for the safe and efficient operation of the jail.

**Relevant Authority.** Related standards and materials: 4-ALDF-5B-04 Performance Based Standards for Adult Local Detention Facilities, 4th ed. American Correctional Association (June 2004).

## Topic G: Visitation

### 3. Visitation Space

**Standard.** (1) Sufficient space is provided for visitation.

- (a) In-person visitors and persons experiencing incarceration shall have seating. The space shall allow seating for more than one person.
- (b) Except for confidential professional visitation, visitation space shall allow for monitoring by jail staff to maintain the order and security of the jail. In the case of in-contact visitation by non-professional visitors, staff shall monitor the visit to prevent contraband from being introduced into the jail.
- (c) The space shall allow visitors and the person experiencing incarceration to hear each other and communicate freely.
- (d) Space should be provided for visitors to securely store items not allowed in the visiting area.

**Recommendations/Best Practices.** (1) It is recommended that persons experiencing incarceration have privacy from other people experiencing incarceration to the extent space and security concerns allow it during visits.

- (2) The jail staff should consider making visitation space reasonably comfortable for visitors.
- (3) The jail staff should provide the person experiencing incarceration and any in-person visitors a table or surface upon which they can write.

**Compliance Indicators.** (1) The jail can accommodate scheduled visits by friends and families and can accommodate visits from professional visitors without routine or frequent delay.

- (2) Visits are not conducted standing or seated on the floor because of inadequate seating.
- (3) Contraband is not being introduced into the jail through in-person visits.
- (4) Visits are conducted without raised voices.

**Comments.** Jails should provide adequate space for visits given the size of the jail and number of people experiencing incarceration within the jail. When new jails are built, visitation space should be considered and factored into the design of the jail.

**Relevant Authority.**

## Topic G: Visitation

### 4. Visitation Schedule and Frequency

**Standard.** (1) The number of visitors a person experiencing incarceration may receive and the length of the visits are limited only by the jail's schedule, space, and personnel constraints or when there are substantial reasons to justify such limitations.

**Recommendations/Best Practices.** (1) At least some available visitation time should be available on the evening or weekend for each person experiencing incarceration.

(2) Jails should allow a minimum of 30 minutes for each visit, unless the person experiencing incarceration requests a shorter visit.

(3) Each person experiencing incarceration should be allowed to have at least two visits per week from family or friends. Professional visits shall not count toward this total.

#### **Compliance Indicators.**

**Comments.** Some people experiencing incarceration do not have people seeking to visit them. If there are not people seeking to visit a person experiencing incarceration, the jail is not responsible to find them visitors.

**Relevant Authority.** Related standards and materials: 4-ALDF-5B-02 Performance Based Standards for Adult Local Detention Facilities, 4th ed. American Correctional Association (June 2004). 5-7D-4498 Performance-Based Expected Practices for Adult Corrections Institutions, 5th ed. American Correctional Association (August 2018).

## Topic G: Visitation

### 5. Attorney-Client Visitation

**Standard.** (1) A person experiencing incarceration has the right to visit with their attorney or an attorney's authorized representative at the jail or any other place of custody, subject only to the limitations necessary to maintain a safe and secure jail. The visits shall be treated as confidential and occur alone and in private, subject to the provisions of this standard. The space and materials allowed shall be adequate for attorney-client visits.

- (a) Persons experiencing incarceration shall be allowed to meet with attorneys during regular business hours, evenings, and weekends. These visits shall be allowed at all reasonable times.
- (b) The attorney-client visitation space should be located so that conversations in ordinary tones cannot be overheard by others.
- (c) Conversations between persons experiencing incarceration, their attorneys, or their attorney's authorized representative shall not be monitored or recorded, except staff may observe visits through surveillance without audio or through a solid, transparent barrier so long as the conversation cannot be heard or captured. If a person experiencing incarceration poses a specifically articulable real and present risk of violence or escape during the attorney-client visit, the visit may be conducted with in-person staff standing in the immediate area of the visit to maintain safety and security, but the conversation must not be able to be heard, monitored, or captured. If jail staff or the visiting attorney have concerns about maintaining safety during a visit, staff and the attorney shall collaborate to determine an acceptable arrangement that adequately protects the safety of all parties.
- (d) The space shall contain seating for at least four people and a table or desk that provides adequate writing space. However, visitation space that exists prior to the adoption of this standard which cannot be modified to comply because of physical constraints or a lack of funding shall not violate this standard.
- (e) The jail shall allow means for an attorney or their representatives to bring in a laptop, legal materials, necessary equipment, and materials to take notes. The jail shall be allowed to inspect electronics or equipment to ensure safety, but shall not read or review legal materials. The room shall have means to charge a laptop.
- (f) There shall be a means for visits with an attorney or authorized representative to have a contact visit so that no physical barriers are placed between a person experiencing incarceration and the attorney or authorized representative visiting them.

**Recommendations/Best Practices.** Given the prevalence of electronic, internet-based discovery and legal documents, a jail shall allow an internet connection for professional visitors if possible.

#### **Compliance Indicators.**

**Comments.** Often attorney-client visits require the presence of other authorized representatives including paralegals, investigators, legal assistants, and interpreters. The requirement of space for four people to be seated in the area is to recognize the need for space for these visits to occur. It is not intended to reduce visitation space in jails which cannot accommodate this at the time of

the adoption of this standard. New jails should be constructed with mindfulness to the standards and the legal requirements and realities of attorney-client visits.

**Relevant Authority.** Section 16-3-403, C.R.S. (Right to consult with an attorney); Section 16-3-403, C.R.S., (duty of officers to admit attorney); Section 13-90-107(1)(b), C.R.S. (attorney-client privilege)

## Topic G: Visitation

### 6. Professional Visitation

**Standard.** (1) Persons experiencing incarceration shall be able to visit with professional visitors subject only to the limitations necessary to maintain a safe and secure jail. The visits shall be treated as confidential. The space and materials allowed shall be adequate to accomplish the visit.

- (a) The jail shall have a written policy that identifies and governs professional visits. Professional visitors shall at a minimum include spiritual advisors, pretrial officers, probation officers, parole officers, human service workers, experts conducting evaluations, and medical or mental health professionals acting in their professional capacity who are providing services to the person experiencing incarceration.
- (b) A person experiencing incarceration shall be allowed to meet with professional visitors during normal business hours and during evenings and weekends. These visits shall be allowed at all reasonable times.
- (c) These visits shall be treated as confidential from staff and other persons experiencing incarceration and occur in a private space.
- (d) There shall be adequate space, seating, places to write, and an electrical outlet for any necessary equipment to accomplish the purpose of the visit.
- (e) If protected by legal privilege, these visits should be protected to the same degree as attorney-client visits.

#### **Recommendations/Best Practices.**

#### **Compliance Indicators.**

**Comments.** Often professional visitors must interview or evaluate people experiencing incarceration for court purposes including bond reports, pretrial investigations, competency evaluations, sanity evaluations, presentence reports, psychosexual evaluations, domestic violence evaluations, drug and alcohol evaluations, and other medical or mental health tests or evaluations. These evaluations are often constitutionally or statutorily required. These often involve private and sensitive topics.

#### **Relevant Authority.**

## Topic G: Visitation

### 7. Restrictions

**Standard.** (1) A person experiencing incarceration shall not be denied a visit or have a proper visit denied, revoked, or terminated early unless:

- (a) the visitor or person experiencing incarceration violated a policy or rule while preparing for a denied visit or during a terminated visit;
  - (b) there is a reasonable belief that the visit or any person involved in the visit poses an imminent threat to the safety or security of the jail or any person;
  - (c) the visitor is under the age of 18 and is visiting without permission of their parent or legal guardian or is not appropriately accompanied;
  - (d) there is a bona fide emergency or extenuating circumstance that prevents the visit;
  - (e) there is a no-contact order, law, or court order that prohibits the visit; or
  - (f) the person experiencing incarceration refuses the visit.
- (2) The jail staff shall document the reason for denying or restricting the visit.
- (3) Visitation shall not be suspended or withheld as a punishment or consequence for rule infractions, except as provided in the above standard.

#### **Recommendations/Best Practices.**

**Compliance Indicators.** Any audit of visitation shows documentation about the reason for any denied or interrupted visit which meets the criteria in this standard.

**Comments.** (1) Visitation is valuable and important to the health and welfare of people experiencing incarceration. While visitation is not an absolute right, outcomes are better and behavior is better when people experiencing incarceration are able to visit with family, friends, and community contacts. The suspension or loss of visitation should only occur when it is necessary based on a reason articulated in the standard and should not be used as an incentive.

- (2) Repetitive violations of visitation policies can and should be addressed by jails. Visitors who engage in repetitive violations of the visitation policy can have the ability to visit suspended or, in extreme cases, banned. Persons experiencing incarceration can have their access to visits suspended for repetitive violations for progressively longer periods of time not to exceed 14 days.

#### **Relevant Authority.**



## Topic G: Visitation

### 8. Special Visitation

**Standard.** (1) Jails shall have a written policy governing special visits.

(2) Special visits are visits that the jail allows outside of the normal visitation schedule.

(3) A jail should consider the circumstances in allowing special visits. Some examples of when a special visit should be considered include, but are not limited to:

- (a) a serious illness or death of a family member of the person experiencing incarceration occurs;
- (b) the person experiencing incarceration is diagnosed with a serious or terminal illness or is experiencing a risk of death and such visit can be accomplished safely; or
- (c) a relative who cannot be available during any normal visitation hours or who has traveled a great distance is present and cannot otherwise visit.

**Compliance Indicators.** (1) There is a written policy which is available to the person experiencing incarceration and visitors.

(2) Special visits have occurred.

#### **Comments.**

**Relevant Authority.** 4-ALDF-5B-03, Performance Based Standards for Adult Local Detention Facilities, 4th ed. American Correctional Association (June 2004). 5-7D-4500 Performance-Based Expected Practices for Adult Corrections Institutions, 5th ed. American Correctional Association (August 2018).

## Topic G: Visitation

### 9. In-Person and Video Visitation

**Standard.** (1) **In-person visitation.** In-person visits shall be free. This includes visits which use a video visitation system when the visitor appears at the jail. The jail shall use all reasonable methods to minimize costs to people experiencing incarceration or their visitors and shall not profit from visitation.

(2) (a) **Video visitation.** When negotiating or entering into contracts with third-party vendors for video visitation, jails shall consider more than the cost to the county or sheriff's offices. Relevant officials shall consider the actual cost to persons experiencing incarceration and visitors, how the vendor's charges to end users compare to alternate vendors, the quality of the video visitation calls including call quality and reliability provided and guaranteed (i.e. bandwidth, video resolution, refresh rate, lag, audio sync, etc.), whether in-person visits and flexibility in visitation is still allowed, and whether the contract invades the jail's ability to control correctional decisions and the safety and security of the jail.

(b) A jail which utilizes video visitation shall maintain the equipment, hardware, software, and networks necessary to provide reliable video visitation. The jail shall ensure persons experiencing incarceration and visitors receive relevant instructions and information about video visitation.

**Recommendations/Best Practices.** It is recommended that when contracting for video visitation equipment and visitation services that there is a competitive bidding process.

**Compliance Indicators.** (1) Visitors visiting a person experiencing incarceration by coming in person to the jail do not have to pay costs to visit.

(2) Video visitation is rarely cancelled or limited by technical problems related to the jail's or vendor's equipment, network, or IT infrastructure.

(3) Jail staff can answer reasonable inquiries about video visitation and can provide information about cost, schedule, and rules like they could for any others forms of visitation.

**Comments.** (1) Costs for telephone calls in correctional settings are controlled and regulated by state law and federal law and Federal Communication Commission regulations. Video visitation is not controlled or regulated in the same manner.

(2) Sheriffs and their designees often contract with vendors and outside providers for video visitation. While sheriffs can often negotiate with vendors, they individually do not have leverage that policy makers have in setting broad universal standards.

(3) It would be advisable for policy makers to monitor and consider regulating rates charged for video visitation in the same manner as phone calls.

(4) Unless regulations are adopted, sheriffs and their designees shall consider the needs of people who are experiencing incarceration and their visitors by providing free in-person visitation at the jail and make reasonable efforts to provide remote video visitation to indigent persons experiencing incarceration and visitors however possible with the understanding the costs are often set by outside companies and visitors.

(5) There are multiple considerations in negotiating contracts. There are often applicable laws which must be followed and nothing in this standard is meant to alter legal requirements for negotiating and entering contracts. However, whenever possible, relevant officials should

ensure that any video visitation contracts address not only the needs of the officials and the jail, but also how such contracts affect persons experiencing incarceration and visitors who cannot negotiate for these services.

- (6) Section 17-42-103, C.R.S., regulates the cost of telephone calls using rates set by the Federal Communications Commission. Presently there is no regulation that controls the cost of the video visitation. Unless video visitation systems become regulated like telephone calls, it is important that cost and video visitation quality for end users be considered in the contracts with vendors.
- (7) Most video visitation systems will use third-party vendors. Persons experiencing incarceration and their visitors will often contact jail staff about visitation. It is important that jail staff can provide relevant information including the schedules, cost, and rules regarding video visitation. It is important that the jail staff be trained adequately to provide relevant information and direct people to support for the video visitation system.
- (8) Jails are not expected to provide off-site video visitors with technical assistance with the visitors' equipment or networks. However, jail staff should be able to direct people to any available assistance provided by the vendor.
- (9) The jail must ensure the equipment and network are adequately maintained to support video visitation services. Jails can use their own staff, county staff, or third-party vendors and contractual terms to accomplish this, but have responsibility to ensure the system operates and that problems are addressed in a timely manner.
- (10) The jail is not responsible to maintain or service any equipment for infrastructure for which they do not have control or which is outside a jail under their control.

**Relevant Authority.**

## Topic H: Medical, Behavioral Health, and Dental Care

### 1. Access to Care

**Standard.** (1) Jail staff shall perform an initial evaluation to determine whether or not the individual is medically or mentally stable enough to be accepted into the jail or should be referred to treatment in the community.

(2) Once accepted into the jail, persons experiencing incarceration shall have access to medically necessary medical, behavioral health, and dental care through all stages of incarceration. Medically necessary care includes care that:

- (a) allows persons experiencing incarceration access to a qualified medical professional and/or qualified mental health professional as early into their incarceration as possible. Medical and behavioral health screening shall occur during the booking/intake process with appropriate follow-up care. If a more urgent need is identified (e.g., voiced suicidal ideations, visible trauma, etc.), arrangements shall be made to seek medical care and/or mental health care immediately;
- (b) will, or is reasonably expected to prevent, diagnose, cure, correct, reduce, or ameliorate the pain and suffering, or the physical, mental, cognitive, or developmental effects of an illness, condition, injury, or disability;
- (c) is provided in accordance with generally accepted professional standards for health care in the United States;
- (d) is clinically appropriate in terms of type, frequency, extent, site, and duration;
- (e) is not provided solely for the economic benefit of the provider;
- (f) is not determined by the cost of the care to be provided or by the ability of the person experiencing incarceration to pay for the care and is not costlier than other equally effective treatment options;
- (g) is delivered in the most appropriate setting(s) taking into consideration confidentiality, sanitation, the physical structure of the jail, safety, security, and specific medical circumstances; and
- (h) is not provided for research or investigational purposes; except that experimental treatment or drugs may be provided in certain circumstances with the consent of the person experiencing incarceration and as authorized by a medical professional.

(3) Jails shall have policies and procedures governing medical, behavioral, and dental care that, at a minimum, comply with the following requirements.

- (a) All persons experiencing incarceration, including transgender individuals, shall receive comprehensive health care that is medically necessary, culturally sensitive, and offered through a nonjudgmental, gender-affirming approach. Jails shall arrange for all levels of health care, mental health care, and dental care, including preventative care and medications, and shall have specific procedures outlining access to care options when medically necessary care cannot be provided inside the jail. Jails shall strive to secure quality, accessible, and timely services for persons experiencing incarceration, at the direction of qualified medical or mental health professionals.

- (b) Health assessments for persons experiencing incarceration shall begin at intake and continue on an ongoing basis. Jails shall develop a plan to provide continuity of care for persons experiencing incarceration who were being treated for a health condition prior to being accepted to the jail or who return to the jail after treatment in the community.
- (c) Persons experiencing incarceration shall have regular and ongoing opportunity to report any health concerns to qualified medical or mental health professionals. Jails shall facilitate direct and confidential communication between the person experiencing incarceration and qualified medical or mental health professionals.
- (d) All medical, dental, mental, and behavioral health decisions and actions shall be made by qualified medical or mental health professionals; except that nothing precludes jail staff from seeking care for a person experiencing incarceration that is, in their view, medically necessary.
- (e) All health care personnel who provide services to persons experiencing incarceration shall be appropriately credentialed according to the licensure, certification, and registration requirements pursuant to Colorado law.
- (f) The health care team in the jail shall be staffed in a manner that meets the needs of the jail population, taking into account acuity level, average daily population, and other relevant factors. In situations where a jail does not have access to on-site qualified medical or mental health professionals, the jail shall consider the implementation of tele-health/tele-psychiatric services to allow persons experiencing incarceration to receive medically necessary care.
- (g) Jails shall provide an opportunity for health care encounters, including medical and mental health interviews, examinations, and procedures, to be conducted in a setting that offers privacy and in a manner that also allows the jail to maintain a safe and secure environment for staff and persons experiencing incarceration.
- (h) Emergency mental health, dental, and medical care shall be made available to persons experiencing incarceration in a timely manner. In situations where a qualified medical or mental health professional is not available, jail staff shall provide emergency services until qualified health care professionals arrive and assume care. The jail staff shall contact the appropriate medical or mental health department immediately. Jails shall have an emergency first aid and crisis intervention plan and/ or access to emergency on-call or 24-hour professional availability.
- (i) Individuals experiencing incarceration shall receive medically necessary care, including medications, regardless of their ability to pay. Jails are encouraged to waive co-payments for chronic care needs, (e.g., diabetes, high blood pressure, serious mental illness, etc.). Jails shall document the reasons why patients refuse or decline care, and pay particular attention to situations in which the cost of care is a main reason cited for refusing or declining care.
- (j) Persons experiencing incarceration shall have the right to make informed decisions about all medical, behavioral health, and dental treatment, including the right to refuse treatment, except where not required by law. Written documentation of informed consent is required for all medical procedures and medications that would require informed consent in the community. Jails shall convey all information necessary for a person experiencing incarceration to give informed consent in a manner consistent with the

individual's needs related to language and effective communication. This may include the use of interpreters, assistive technology, or other accommodations. Jails shall document all informed consent decisions.

- (k) Disclosure of protected health information shall be made only as permitted under HIPAA. Jails shall share information appropriately under HIPAA and other relevant laws, including providing requested information in a timely manner to persons experiencing incarceration and to others, with the person's consent, when requested.
- (l) Jails shall provide safe and respectful women's health care that addresses routine health concerns and pre and postpartum care for pregnant persons experiencing incarceration.
- (m) Jails shall provide appropriate care to allow persons experiencing incarceration access to effective management of chronic pain and treatment for chronic illness.

### **Recommendations/Best Practices.**

**Compliance Indicators.** (1) The jail is able to display that there is staffing plan to provide qualified medical professionals as needed to ensure that appropriate medical screening takes place as part of the intake process.

(2) The jail has created an intake evaluation that meets the needs of the person experiencing incarceration in a manner that identifies the general physical health and mental health of the individual. Additionally, this evaluation should also identify areas requiring immediate attention from a medical or mental health professional.

(3) The jail has a procedure in place that allows for direct communication from the person experiencing incarceration to jail health staff.

**Comments.** (1) The state is encouraged to make rules that prevent charging people experiencing incarceration for medical, dental, and behavioral health services provided in the jail or limiting any amount that can be charged as a copayment or other form of payment for medical or other services, as well as a list of medications and procedures that must be provided free of charge to all. The legislature should consider amending Section 17-26-104.5, C.R.S., to further limit the costs that can be imposed on an indigent person experiencing incarceration. The legislature should also amend Section 17-26-104.5 (3), C.R.S., to remove the language holding the person experiencing incarceration "primarily responsible for the payment of the cost" of care related to self-injury and pre-existing conditions. In order to assist counties with the costs associated with medical, dental, and behavioral health care, the state should consider creating an insurance pool or other program to provide financial assistance to jails in covering these costs. The state should also consider other forms of financial assistance to assist counties in improving infrastructure to decrease costs of providing medical, dental, and behavioral health care, such as improving internet access to allow for utilization of telehealth.

(2) There should be regular communication with internal and external multidisciplinary partners regarding the delivery of medical and mental health care within the jail. This communication is best accomplished through regular meetings in order to create an environment that delivers quality health care, but also provides a safe and secure environment for the staff and persons experiencing incarceration.

**Relevant Authority.** (e.g., Estelle v. Gamble, 1976). National Commission on Correctional Health Care (NCCHC) Standards, J-A-01

**Relevant Authority.** Section 17-26-104.5 (1), C.R.S., Medical visits—charges to person in custody—provider charges—state hospital in Pueblo, which states in part that “In no case shall a person’s inability to pay be the basis for not providing medical care equivalent to the community standard of care.” The law also states in subsection (1.3) that, “A provider of medical care that receives any state money, including but not limited to providers that receive money from the medical assistance program or the Colorado indigent care program shall charge a county for medical care provided to a person in custody in a county jail.”

ACA Standards 5-6A-4344 (“Access to Care”), 5-6A-4345; NCCHC Position Statement on “Charging Inmates a Fee for Health Care Services (2017)”

## Topic H: Medical, Behavioral Health, and Dental Care

### 2. Informed Consent

**Standard.** (1) Persons experiencing incarceration shall have the right to make informed decisions about all medical, behavioral health, and dental treatment, including the right to refuse treatment, except where consent is not required by law.<sup>1</sup> Each jail shall have policies and procedures that describe all aspects of informed consent.

- (a) Health care/medical staff shall convey all information necessary for a patient to give informed consent in a manner consistent with the individual's needs related to language and effective communication. This may include the use of interpreters, assistive technology, or other accommodations.
- (b) Written documentation of informed consent is required for all medical and behavioral health treatment that would require informed consent in the community.
- (c) Refusal of treatment will be documented, to include: a description of the service offered and refused, evidence that the person was advised of any adverse effects that may result from refusal of the specific treatment, and signatures of the patient and of the qualified medical and mental health professional. If the patient refuses to sign, the refusal shall be noted and documented by a qualified medical and mental health professional who witnessed the refusal to sign and an additional witness.
- (d) Staff shall take the time to ensure that every patient has the opportunity to ask questions and seek clarification in order to make a fully informed decision about care.

**Recommendations/Best Practices.** (1) If a patient refuses care, and the refusal is likely to result in adverse consequences to the patient's health, medical staff should attempt to re-approach the patient when possible to offer the treatment at a future time.

(2) Patients should be given the opportunity to involve family members, outside providers, and other supports in their care and to consult with these people about medical decisions when requested.

### Compliance Indicators.

### Comments.

**Relevant Authority.** C.R.S. §27-65-111, "Hearing Procedures—Jurisdiction;" C.R.S. §§ 26-20-101 through 104, 105-109 ("Protection of Persons from Restraint"); *People v. Medina*, 705 P.2d 961 (Colo. 1985), *Sell v. U.S.*, 539 U.S. 166 (2003)

ACA Standards 5-6A-4368, 5-6C-4397; NCCCHC standards J-G-05 ("Informed Consent and Right to Refuse"), MH-I-04 ("Informed Consent and Right to Refuse"), J-G-06 ("Medical and Other Research")

<sup>[1]</sup> Including the use of involuntary medications (where allowed), situations where the patient lacks capacity to give consent. Any treatment or medication given over the patient's refusal on with the consent of a third party shall comply with all applicable laws and regulations, including any and all protections for the patient, due process requirements, and exhaustion of options for voluntary treatment.



## Topic H: Medical, Behavioral Health, and Dental Care

### 3. Intake Process

**Standard.** (1) The jail shall assess the health of each person experiencing incarceration at intake and on an ongoing basis and create a plan to provide continuity of care for persons experiencing incarceration who are being treated for a health condition.

(2) Prior to acceptance to the jail, jail staff shall screen individuals in need of urgent medical or mental health attention and refer them immediately to a medical facility for care. A receiving intake screening shall take place as soon as possible upon acceptance into the jail and be completed by a qualified medical professional or jail staff which then will be reviewed by the medical staff as soon as possible. The intake screening shall include, but may not be limited to:

- (a) current and past illness, current treatment plans, and any special health requirements;
- (b) history of infectious/communicable disease;
- (c) current communicable illness symptoms;
- (d) past and current mental health conditions, including hospitalizations;
- (e) suicidal risk assessment/history of suicidal ideation or attempts (and date of most recent attempt if applicable);
- (f) dental problems to include history and current treatment plans (e.g., need for dental partials/dentures);
- (g) allergies to medications and/or food;
- (h) dietary needs (e.g., special diet ordered by medical provider);
- (i) prescription medications;
- (j) legal and illicit drug use;
- (k) history of substance use disorder;
- (l) current or prior withdrawal symptoms;
- (m) current participation in a medication assisted treatment (MAT) program;
- (n) current or recent pregnancy (to include postpartum concerns such as breast pumping, date of delivery, mode of delivery);
- (o) observations such as: general appearance, behavior, level of consciousness, ease of movement, breathing, skin condition; and
- (p) other health problems not mentioned.

(3) At intake, all persons experiencing incarceration will be informed of their rights with respect to their own protected health information and information on how to file a HIPAA complaint, taking into account each individual's needs for effective communication.

(4) For continuity of care purposes, the jail shall have a process in place within the intake process that allows for timely verification of the person experiencing incarceration's:

- (a) current medication regimen; and

(b) current treatment plans from community entities and/or other jails in situations where the individual is transferred from one jail to the accepting jail.

(5) (a) Individuals displaying signs of mental illness shall be referred to qualified mental health personnel who should be trained in stabilization, prevention of deterioration, crisis intervention, and management of acute psychiatric episodes.

(b) If the individual has a chronic history of mental illness, but is stable at time of the intake process, a referral shall be made to the mental health team within 14 days of incarceration.

(6) Information on available services and costs shall be provided during the intake process.

(7) The jail shall refer the person experiencing incarceration to receive treatment based on the information received in the intake process.

**Recommendations/Best Practices.** (1) When possible, within 14 days of incarceration a qualified health professional should review the intake screening and complete a health assessment in order to determine the medical needs and mental health conditions for each person experiencing incarceration in custody.

(2) Try to avoid placing anyone with mental illness in restrictive housing. If restrictive housing is required, the jail shall display adherence to Section 17-26-304, C.R.S.

(3) Understanding that not all jails have access to medical personnel at all times, if jail staff are asking medical-related questions, jail staff shall be proficient in collecting medical information and on how to take a medical history and make proper notification to medical staff. In urgent situations, it may be necessary for the jail staff to arrange urgent transport to a hospital via ambulance.

#### **Compliance Indicators.**

**Comments.** The purpose of this policy is to provide quality continuity of care upon entry into the jail, prevent negative outcomes, and identify urgent and chronic care medical and/or mental health needs of the person experiencing incarceration-patient population.

**Relevant Authority.** National Commission on Correctional Health Care (NCCHC) Standards, J-E-02 17-26-304, C.R.S.

## Topic H: Medical, Behavioral Health, and Dental Care

### 4. Health Care Records

**Standard.** (1) Jails shall maintain an accurate health/mental health record in written or electronic format. There should be a process for retention and reactivation of the records if a person experiencing incarceration returns to the jail. These records shall be comprehensive and include, but not be limited to:

- (a) patient identifying information, (e.g., patient name, identification number, date of birth);
- (b) a medical/mental health problem list that consists of:
  - (I) known allergies;
  - (II) identified problems/diagnosis;
  - (III) list of active and inactive problems;
  - (IV) list of dates each problem was first identified; and
  - (V) list of significant surgical and/or trauma history;
- (c) screening and health assessments forms;
- (d) outside medical and mental health records received when appropriate;
- (e) transfer form from outside the jail, (e.g., another detention facility);
- (f) progress notes that also include:
  - (I) findings;
  - (II) diagnosis;
  - (III) treatment plans; and
  - (IV) outcomes;
- (g) order forms for:
  - (I) medications;
  - (II) treatments;
  - (III) labs; and
  - (IV) other diagnostics (e.g., radiology);
- (h) flow sheets;
- (i) consent forms;
- (j) refusal forms;
- (k) release of information forms;
  - (I) dental care and interventions;
  - (II) medication administration record (MAR);
  - (III) results of outside consultations, (e.g., dental, mental health, other);

- (IV) off-site referrals;
- (V) discharge orders and/or summary from hospitalizations and/or other in-patient admissions;
- (VI) specialty needs, (e.g., lower tier, lower bunk, special diet, ADA accommodations, etc.);
- (VII) medical and mental health correspondence;
- (VIII) behavioral health reports;
- (IX) immunization records; and
- (X) previous records from previous incarcerations at the applicable jail.

(2) Jails shall provide an opportunity for health care encounters, including medical and mental health interviews, examinations, and procedures, to be conducted in a setting that offers privacy and in a manner that also allows the jail to maintain a safe and secure environment for staff and persons experiencing incarceration. Health records remain confidential and are only accessible to assigned qualified personnel. Jail staff may be advised of individuals' health/mental health status only in accordance with state and federal laws and to preserve the health and safety of the individual, other individuals around them, and jail staff.

**Recommendations/Best Practices.**

**Compliance Indicators.**

**Comments.**

**Relevant Authority.** ACA Standards, NCCHC Standards

## Topic H: Medical, Behavioral Health, and Dental Care

### 5. Dispensing and Administering Prescribed Medications

**Standard.** (1) Medications shall be dispensed and administered in compliance with all state and federal law and in a safe and timely manner. Jails shall take all reasonable steps to provide continuity of medication and access to a wide range of medications to fit the needs of each person experiencing incarceration.

- (a) The jails shall take reasonable steps to verify any existing prescription. The jail shall honor valid, verified prescriptions upon admission and administer medications according to existing prescriptions, unless a qualified medical provider determines after review that the medication is not medically indicated. All efforts should be made to continue the same medication in the jail that the person was taking prior to admission or return to the jail.
- (b) Medication shall not be denied or substituted on the basis of cost alone. However, the jail may substitute a medication with very similar or identical active ingredients that is a medically-recognized generic medication for the more expensive trade name medication.
- (c) If the jail cannot provide identical a medication, an appropriate substitution shall be ordered as soon as possible and no later than a qualified medical provider's next working shift after the person is booked into the jail.
- (c) If a jail utilizes a medication formulary, policy shall allow for exceptions on an individual basis.
- (d) If a jail denies or substitutes a prescribed medication, jail medical staff shall document the specific and individualized documentation into the person's medical chart explaining the basis for the denial or substitution.
- (e) A jail shall have a policy and procedure that allows a person experiencing incarceration to appeal a denial of a specific medication.
- (f) All jails shall provide medication-assisted treatment.
- (g) All medications shall be administered by qualified professionals who have obtained QMAP certification.
- (h) Medications must be stored in a safe and appropriate manner, including disposing of medications once they are expired.
- (i) Administration of any emergency or involuntary medications shall be done in compliance with any state or federal laws and applicable regulations.
- (j) The clinical decision to initiate or advance hormone medication treatment or candidacy for surgical interventions while incarcerated or upon release shall be based on individual medical need, risks, and benefits; analysis of alternatives; ruling out contraindications; accepted standards of care; and a thorough informed-consent process. Jail medical staff shall maintain knowledge of current best practices in this area of health care.
  - (I) Patients with gender dysphoria who have not received hormone therapy before incarceration shall be evaluated by a health care provider qualified in the area of gender-related health care to determine their evaluation and treatment needs.

- (II) When determined to be medically necessary for a patient, after baseline laboratory studies are collected, hormone therapy or pubertal suppression shall be initiated, and regular laboratory monitoring conducted according to accepted medical standards.
- (k) For transgender patients who received hormone therapy or pubertal suppression agents, with or without a prescription, before incarceration:
  - (I) if the prescription hormone therapy is verified, it shall be continued without interruption without waiting for a medical evaluation; and
  - (II) if the patient took unprescribed hormones, decisions shall be made on a case-by-case basis by the qualified medical provider, with continuation of hormones when safe and appropriate.
- (l) If previous hormone use cannot be verified, the patient shall receive a medical evaluation for hormone therapy as soon as possible to minimize disruptions or to determine if consultation with or referral to a transgender specialist is medically necessary.

**Recommendations/Best Practices.** The jails should take all reasonable steps to provide a person experiencing incarceration released from the jail into the community a supply of all prescribed medications as deemed appropriate by a qualified medical provider. Jails should take all reasonable steps to arrange follow-up appointments with appropriate providers in the community regarding continuity of medications prior to, but without delaying the person's release.

**Compliance Indicators.**

**Comments.** (1) If a jail must use a formulary, counties are encouraged to collaborate on creating common formularies and explore options for bulk purchasing of commonly prescribed medications in order to lower the cost and ensure continuity of medications across jails. However, individualized decisions about treatment should be made in every case, and medication decisions should not be limited by availability of bulk purchase medications.

- (2) Continuity of medication for a person who is experiencing incarceration who is incompetent to proceed or who has been restored to competency is of critical importance. In the case of a person experiencing incarceration who was restored to competency through taking prescribed medications, the jail should make every reasonable effort to provide continuity of medication and dose. In the event the jail cannot provide continuity of medication, the jail should notify and coordinate with the physician treating the person experiencing incarceration prior to their return to jail to formulate the most medically appropriate medication plan. Further, the jail should provide notice to the person experiencing incarceration's attorney or the applicable court when such notice is allowed by law.
- (3) Pain medication or medication with highly addictive properties or which is subject to abuse because it alters mental state or is frequently recreationally abused is of heightened concern in a jail setting. Medical providers should consider the person experiencing incarceration's prior abuse or potential to abuse or become addicted to medication. However, the jail should not deny or substitute pain medication through overriding a medical professional or medical indicated medical order. The jail should take steps to carefully monitor and control the administration of these medications.

(4) State law requires medication assisted treatment, but does not currently provide funding. In order for jails to comply with the requirement, ongoing funding should be provided.

**Relevant Authority.** Section 25-1.5-302, C.R.S., Administration of medications--powers and duties of department--record checks—rules

NCCHC Standards J-D-01, J-D-02 (Medication Services), J-G-03 and MH-I-02(Emergency Psychotropic Medication), J-F-04 (Medically Supervised Withdrawal and Treatment), J-E-09 (Continuity, Coordination and Quality of Care During Incarceration), J-C-05 (Medication Administration Training), MH-D-01 (Mental Health Pharmaceutical Operations)

## Topic H: Medical, Behavioral Health, and Dental Care

### 6. Reducing Suicide

**Standard.** (1) The jail shall have a policy on suicide prevention. The policy shall be reviewed at least annually by a qualified medical or mental health professional and appropriate jail staff.

- (2) Jails shall take measures to mitigate risk of self-harm and attempted and completed suicides.
- (3) All staff members who work with individuals experiencing incarceration are trained upon hiring and annually to recognize verbal and behavioral cues that indicate potential suicide and how to respond appropriately. In addition to recognizing verbal and behavioral cues, initial and recurring training must include, but not be limited to: avoiding negative attitudes to suicide prevention; understanding why jails are conducive to suicidal behavior; risk factors for suicide; and identifying suicidal individuals despite their denial of risk. Staff must be trained to understand high-risk times and situations and that persons experiencing incarceration are at heightened risk for suicide within 2 to 14 days of confinement. Jails shall keep apprised of current and emerging best practices for suicide prevention.
- (4) Risk assessment interviews shall be conducted, and treatment for at-risk individuals shall be provided, in confidential therapeutic settings.
- (5) Jails shall receive, document, and respond to information from any source indicating that a person experiencing incarceration is at an increased risk of suicide. Jails shall take any reasonable actions to reduce suicide risk.
- (6) The restrictions of “suicide watch” may exacerbate mental health conditions and heighten risk of suicide or self-harm. Property, privileges, and programming shall only be withheld based on an individual’s mental health in the context of a short-term crisis intervention, unless such restriction has been ordered by a qualified medical or mental health professional for that individual based on contemporaneous and individual circumstances which shall be documented in the patient’s records and reassessed and terminated or renewed at least every 24 hours, taking into consideration changes in the person’s condition.
- (7) Jail staff shall conduct meaningful observations of suicidal individuals at unpredictable intervals with no more than 15 minutes between checks and document that the rounds were completed. Meaningful observations means that the staff member stops and looks in each cell and confirms signs of life and any out of the ordinary activities or body positions.
- (8) Jails shall not have policies preventing staff from entering a cell immediately in case of emergency and when the person appears unresponsive and to render aid without first placing the person in restraints.
- (9) Jails must collect and share data on attempted and completed suicides with the appropriate state entity in order to accelerate understanding of this behavior and augment implementation of protective measures.
- (10) Each attempted and completed suicide shall be reported immediately to the responsible medical authority or a health or mental health authority. In the event of any attempted or completed suicide, an administrative review shall be conducted as soon as practicable to identify any unmitigated risks, assess staff response and suggestions for how the response could have been improved upon, and to allow staff to debrief.



**Recommendations/Best Practices.** Jails should provide information to all persons experiencing incarceration about coping with stress; asking for help; and providing support to their peers. Jails should promote peer-to-peer support.

**Compliance Indicators.** Suicide watch monitoring logs are reviewed to ensure monitoring times are staggered and unpredictable and that the monitoring does not go beyond 15 minutes.

**Comments.** (1) Incarceration heightens risk of suicide. Given that the majority of deaths by suicide occur in persons with no known mental health condition, the need for primary prevention cannot be over-emphasized. All jails should strive to reduce suicide by creating a healthy correctional environment that should promote protective factors across the entire population experiencing incarceration and by identifying at-risk persons experiencing incarceration.

(2) If a person experiencing incarceration voices or displays substance use disorder, the jail should provide appropriate mental health and/or medical support. People experiencing withdrawal may be at a heightened risk for suicide.

(3) Jails should make every effort to mitigate risk of suicide in the physical environment, for example by eliminating ligature points, utilizing furniture and equipment designed to mitigate this risk, and regularly inspecting cells for damage or modifications that create a heightened risk in the physical environment. Wherever possible, each jail should provide “suicide mitigated” cells of housing units within each security level (i.e., someone doesn’t have to be isolated and placed in restrictive housing in order to access a mitigated cell).

**Relevant Authority.** Ohio: Minimum Standards for Jails. NCCHC Suicide Prevention Resource Guide., NCCHC Standards J-B-05 (Suicide Prevention and Intervention), MH-C-04 (Mental Health Training for Correctional Officers), MH- G-04 (Suicide Prevention Program)

## Topic H: Medical, Behavioral Health, and Dental Care

### 7. Infectious Disease Program

**Standard.** (1) Jails shall have an infection control policy. The policy shall address the monitoring and prevention of the spread of communicable disease and/or infections. The goal of this program is to maintain a safe and healthy environment for staff and the persons experiencing incarceration. The policy shall include following standard precautions for current medical practice and recommendations from the local public health agency. The jail shall provide proper and adequate personal protective equipment (PPE) and basic hygiene items at no financial charge to the staff and persons experiencing incarceration. Persons experiencing incarceration shall be assessed, screened, and observed for communicable disease.

(2) The jail shall compile and maintain information to include the treatment of communicable infectious diseases. The infectious disease policy may include, but not be limited to:

- (a) prevention;
- (b) education;
- (c) identification;
- (d) surveillance;
- (e) immunization records, when applicable;
- (f) treatment plan, to include follow-up care;
- (g) isolation, when indicated; and
- (h) reporting to appropriate local health agency.

**Recommendation/Best Practices.** (1) Jails shall provide educational materials and training for persons experiencing incarceration and staff that includes, but may not be limited to:

- (a) personal hygiene;
- (b) dental hygiene;
- (c) Sexually Transmitted Infection (STI);
- (d) HIV/AIDS; and
- (e) proper use of PPE.

(2) Upon release from custody, if applicable the jail shall provide the individual with resources specific to continued care post-release for the communicable disease treatment plan.

#### **Compliance Indicators.**

#### **Comments.**

**Relevant Authority.** NCCHC J-B-02, Infectious disease prevention and control, Tri-County Health Department, Colorado Department of Public Health and Environment (CDPHE)

## Topic H: Medical, Behavioral Health, and Dental Care

### 8. Prenatal and Post-Partum Care

**Standard.** (1) Jails shall have written policies and procedures on prenatal and postpartum care, and this information should be available to individuals within the jail.

#### (2) Pregnancy/Prenatal

- (a) Upon admission to a jail, women shall be screened and assessed for pregnancy.
- (b) Jails shall provide health monitoring and evaluation during pregnancy in accordance with current Colorado and national standards.
- (c) Jails shall arrange for obstetric treatment plans for the person experiencing incarceration, and consult with outside providers if necessary.
- (d) Jail shall provide treatment planning to include counseling on nutrition, vitamins or supplements, medications advisement, housing needs, special accommodations warranted, safety precautions, and appropriate level of activity and provide appropriate nutrition, prenatal vitamins, and supplements.
- (e) Pregnant and post-partum persons experiencing incarceration shall be provided appropriate clothing, undergarments, and sanitary materials.
- (f) All pregnant persons experiencing incarceration shall have access to substance use screening, education, and appropriate withdrawal management support should it be available within the jail.
- (g) Jails shall follow Section 17-26-104.7, C.R.S., regarding restraint protocol for pregnant persons experiencing incarceration.
- (h) Persons experiencing incarceration shall have access to examinations by a qualified provider, as well as access to prenatal laboratory work and diagnostic testing.

#### (3) Postpartum

- (a) Qualified medically trained professionals shall provide treatment planning and counseling to support lactating individuals.
- (b) Postpartum care shall include access to proper equipment for lactating individuals as well as creating a treatment plan for pumping and storing breast milk.
- (c) Individuals shall have access to postpartum medical follow-up care.
- (d) Jails shall screen for postpartum depression and, if a licensed healthcare professional determines that person experiencing incarceration is suffering from postpartum depression, the person shall have regular access to a mental health clinician. During post-delivery recuperation, persons experiencing incarceration shall remain in the hospital until the attending physician certifies that they may be safely be discharged and transferred back to the jail.
- (e) For data reporting purposes, jails shall have a documented system to track pregnancies and births of persons experiencing incarceration.
- (f) In cases of imminent pending or current births, jails shall inform individuals that they may consent to have the jail contact their attorneys and or courts to notify them of current

medical circumstances in order for the court to consider a medical furlough or change in bond as appropriate.

- (g) Individuals shall be given an option to engage with postpartum bonding while in the birth facility when appropriate.

**Recommendations/Best Practices.** (1) Qualified medical professionals should provide services for an individual who is pregnant or an individual in the postpartum period in a manner that is culturally congruent; maintains the person's dignity, privacy, and confidentiality; ensures freedom from harm and mistreatment; and enables informed choices and continuous support.

- (2) Jails should work to develop policies that support trauma-informed standards of care to promote health and safety of pregnant individuals.
- (3) Jails should work with medical providers to provide pregnant individuals with education, parenting support, counseling, and other relevant health literacy, and attempt to connect individuals to community-based resources with discharge planning where possible.
- (4) Jails should attempt to accommodate visitation periods with the new child if circumstances are appropriate and can be accommodated safely.
- (5) Jails should prioritize a healthy physiological postpartum process by allowing for bonding time while individuals are in medical facilities directly after birth, when appropriate, as well as gaining consent of pregnant individuals to notify courts of changes in circumstances surrounding a pregnancy in order to allow for consideration of alternative bonding circumstances, when appropriate.

**Compliance Indicators.**

**Comments.**

**Relevant Authority.** Section 17-26-104.4, C.R.S., Incarceration of a person with the capacity for pregnancy; Section, 17-26-104.7, C.R.S., Prohibition against the use of restraints on pregnant individuals in custody; Section 17-1-113.6, C.R.S., Menstrual hygiene products for a person in custody; Section 31-15-406, C.R.S., Incarceration of a person with the capacity for pregnancy  
NCCHC Standards J-F-05, ACA Standards 6A, Massachusetts General Law Part I, Tittle XVIII, Chapter 127, Section 118 Pregnant and postpartum inmate standards of care

## Topic H: Medical, Behavioral Health, and Dental Care

### 9. Accessing and Reporting Deaths of Persons Experiencing Incarceration

**Standard.** (1) Jails shall have a policy governing actions to be taken following the death of a person experiencing incarceration. All deaths occurring in a jail shall be reviewed and reported appropriately with a goal of preventing future injuries and deaths.

- (a) When a death occurs in the jail, jails shall:
  - (I) preserve and document all evidence and information documented as thoroughly and accurately as possible, including videos and photographs;
  - (II) photograph the scene before and after medical or other intervention;
  - (III) keep detailed notes about any steps taken by staff after discovering the death and any medical care rendered; and
  - (IV) interview witnesses.
- (b) If a death occurs in a jail, an initial determination should be made as to whether the death was natural or unnatural (homicide, suicide, accident) in collaboration with the coroner's office for the purposes of safety planning to protect the safety of others in the jail and to inform next steps in any investigation.
- (c) If it is determined that a death occurred naturally, medical staff shall review medical records to determine whether an appropriate diagnosis was made, appropriate treatment offered, and whether any changes in policy or procedure could prevent similar deaths in the future.
- (d) If the death is determined to be unnatural, an administrative review will be done to determine whether any omissions or violations of policy or procedure contributed to the death and whether any changes in policy or procedure could prevent similar deaths in the future.
- (e) In the case of deaths by suicide, a psychological autopsy or other type of suicide review or clinical mortality review shall be conducted and the findings thoroughly documented.
- (f) Data related to all deaths in the jail shall be tracked and reported to the Department of Public Safety - Division of Criminal Justice and to any other agencies as required.
- (g) When a death occurs, timely notifications shall be made to the medical examiner, next of kin, and others as required by law.
- (h) In addition to conducting its own internal administrative review, the jail shall request that the death be investigated by an outside law enforcement agency. No investigation is required in cases of terminal illness or expected deaths.
- (i) Primary investigations include detailed examinations of factors contributing to the death, including any omissions or violations of existing policies and procedures, the need to revise or create policies and procedures, any corrective actions recommended, personnel decisions made, or administrative leave given following a death.

**Recommendations/Best Practices.** (1) Ensure that policies and procedures require a debriefing following a death, both to collect relevant information and to provide support for staff involved in or responding to the incident.

- (2) Provide trauma-informed supports to both staff and persons experiencing incarceration who may have witnessed the event, knew the person who died, etc.
- (3) Take advantage of every opportunity to learn from incidents to prevent future harms; encourage honesty and transparency when conducting administrative or other reviews involving deaths in the jail.
- (4) Ensure that findings of internal reviews are shared with appropriate staff in order to educate them with the goal of preventing future harms.

### **Compliance Indicators.**

### **Comments.**

**Relevant Authority.** Deaths in Custody Reporting Act (DCRA), Pub. L. No. 113-242 Related standards and materials: ACA Standards 5-6D-4410, 5-2A-4425, 5-6C-4395; NCCHC standards MH-A-10, J-A-09

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## Topic H: Medical, Behavioral Health, and Dental Care

### 10. Information Sharing

**Standard.** (1) Jails shall be familiar with and follow all relevant laws regarding protected health information. Jails shall provide protected health information to a person entitled to receive it in a timely manner.

- (a) Disclosure for purposes of continuity of care shall be permitted without written authorization as allowed by law.
- (b) If a third-party requests protected health information about a person experiencing incarceration, the jail shall have a policy about informing the person experiencing incarceration about the request in a timely manner and obtaining a written release from the person experiencing incarceration if the person experiencing incarceration wants the information shared.
- (c) Jails shall facilitate timely sharing of relevant information and honor release forms that comply with law.

**Recommendations/Best Practices.** (1) When possible, jails should allow individuals the ability to review their paper or electronic records free of charge.

- (2) Staff should attempt to obtain consent to share protected health information with at least one family member or other support person and shall ask the person experiencing incarceration if there is someone they would like to designate as a decision maker in the event that they become incapacitated or are otherwise unable to give consent to treatment.

### Compliance Indicators.

### Comments.

**Relevant Authority.** Health Insurance Portability and Accountability Act of 1996 (HIPAA); 45 CFR 164.512 (k); 45 CFR 164.501 correctional institution includes a jail or detention facility, Section 13-90-107, C.R.S.

NCCHC Standards J-A-07 (“Privacy of Care”), J-A-08 (“Health Records”), and J-E-09 (“Continuity, Coordination, and Quality of Care During Incarceration”); ACA Standards 5-1E-4098 (“Inmate Access to Records”) and 5-1E-4099 (“Release of Information”)

## Topic H: Medical, Behavioral Health, and Dental Care

### 11. Medical Unit Utilization

**Standard.** (1) Jails shall have a policy about the use of cells in medical units.

- (a) Housing in a medical unit shall be prioritized for individuals experiencing incarceration who have medical needs that cannot be accommodated in regular housing.
- (b) A person experiencing incarceration who is housed in a medical unit shall have equal access to all programming, services, activities, and benefits offered, including being housed in an integrated setting.
- (c) No one shall be housed in a medical unit on the basis of their disability, sexual orientation, or gender identity.
- (d) A person experiencing incarceration housed in a medical unit shall not be subjected to more restrictive conditions than those in general population unless ordered by a medical professional and related to their medical condition, for example, they have a communicable disease, they must be on bed rest, etc.

#### **Recommendations/Best Practices.**

#### **Compliance Indicators.**

#### **Comments.**

**Relevant Authority.** 28 C.F.R. 35.152, Americans with Disabilities Act of 1990 (ADA)  
NCCHC standard J-F-02 (“Infirmary-level Care”)



## **Topic I: Food Service**

### **1. Nutritional Standards**

**Standard.** (1) All jails shall provide a nutritionally adequate food service program to persons experiencing incarceration that complies with applicable nutritional standards.

- (a) The food service program in each jail shall provide persons experiencing incarceration an appropriate level of nutrients and calories, based upon current recommended dietary guidelines.
- (b) Records of food items served at meals shall be maintained pursuant to the jail's record retention schedule.
- (c) All menus should be planned in advance, dated, and substantially followed. Any changes to an approved menu or substitutions in meals actually served should be documented.
- (d) Jails shall make menus available to persons experiencing incarceration and staff.

**Recommendations/Best Practices.** (1) Food should be prepared in such a manner as to provide adequate palatability in addition to nutritional value.

- (2) The person responsible for the supervision of the jail food service program shall plan and prepare written and dated menus. Such menus and menu cycles shall ideally be reviewed at least annually by a nutritionist or dietician to ensure that they provide an appropriate level of nutrients and calories. Where resources do not allow for review by a nutrition professional, alternate resources may be used.
- (3) If changes or substitutions to an approved menu must be made, jails should attempt to provide food of equal nutritional value.

**Compliance Indicators.**

**Comments.**

**Relevant Authority.**

## Topic I: Food Service

### 2. Timing and Frequency of Meals

**Standard.** (1) Except in emergencies, jails shall serve three meals in a 24-hour period, and two meals shall be hot. No more than 14 hours shall pass without supplemental food being served.

(2) Variations in meal time, menu, and the number of hot meals may be allowed during emergencies, for persons experiencing incarceration on work release, for weekends and holidays, and as necessary for limited and unforeseen scheduling issues, provided nutritional requirements and medical needs are met.

(3) In the event that a disciplinary issue is created related to the service or consumption of a meal (spitting, throwing, etc.), jail staff has the authority to remove or alter the meal in question temporarily only until the disciplinary issue is resolved.

(4) Food may not be withheld, nor the standard menu varied, as a disciplinary sanction for an individual person experiencing incarceration.

(5) Persons experiencing incarceration shall not be required to purchase food in order to meet basic nutritional standards.

#### **Recommendations/Best Practices.**

**Compliance Indicators.** Posting that includes meal schedule and prohibition on punishment readily available to persons experiencing incarceration in handbook and food service area.

**Comments.** (1) It is in the best interest of the institution to maintain regular mealtimes. This allows for consistent scheduling of staff and workers who are persons experiencing incarceration. It also better ensures consistent energy and blood sugar levels throughout the day.

(2) Mealtime consistency, including regular hot meals, creates an expectation that nutritional needs will be met during incarceration.

#### **Relevant Authority.**

## Topic I: Food Service

### 3. Special Diets

**Standard.** (1) Jails shall provide special diets that are culturally, religiously, and medically appropriate for persons experiencing incarceration.

- (2) Special diet requests shall be kept as simple as possible and shall conform closely to the food served to the other persons experiencing incarceration by utilizing items from the regular menus when possible.
- (3) All orders for special diets shall be furnished to food service staff in writing. Lists of individuals experiencing incarceration requiring special diets shall be regularly reviewed for updates and cancellations.
- (4) Appropriate accommodations to food service may be made for safety reasons. The accommodations should not result in a decrease in nutritional intake. Meals should be modified only as necessary to protect the dignity and wellbeing of the person experiencing incarceration.
- (5) Minimum standards for at least five types of special meals should be offered and meet the following criteria.
  - (a) **Medical diets.** Medical diets are dietitian-approved and/or ordered by a medical provider.
  - (b) **Food-allergy diets.** A dietitian-approved allergy diet shall be provided as necessary.
  - (c) **Vegetarian or Vegan diets.** A jail shall provide reasonable protein substitutions at meals for persons experiencing incarceration requesting vegetarian or vegan diets. A vegetarian or vegan diet shall be dietitian-approved as necessary.
  - (d) **Pregnancy/post-partum diets.** A jail shall develop a diet that meets the requirements of pregnant/post-partum persons experiencing incarceration. Pregnant and post-partum persons experiencing incarceration shall be provided a substitution or supplements as ordered by the medical professional or health services.
  - (e) **Religious diets.** A jail shall have a written policy and procedure that provides for special diets or meal accommodations for persons experiencing incarceration whose religious beliefs require adherence to religious dietary laws.

**Recommendations/Best Practices.** (1) Jails shall have a written policy and procedure that includes:

- (a) special diets approved by the appropriate medical or dental personnel;
- (b) special diets for persons experiencing incarceration whose religious beliefs require adherence to religious dietary laws; and
- (c) prohibitions of the use of food as a disciplinary measure.

**Compliance Indicators.** Written policy and procedure. Documentation regarding requests and medical recommendations, allergies, or religious requests for individuals.

**Comments.** (1) A healthier general menu contributing to the management of chronic diseases may minimize the need for medical diets.

(2) The seven most common food allergies causing anaphylactic reactions are foods such as fish, shellfish, tree nuts, peanuts, soy, wheat, and milk.

**Relevant Authority.**

## **Topic I: Food Service**

### **4. Safe Storage and Preparation of Food**

**Standard.** (1) In order to prevent the spread of communicable disease and maintain a safe and healthy environment, jails shall have written policies and procedures to comply with all local and state public health requirements for food storage, preparation, and service. If meals are prepared in the jail, jails shall designate a person or entity to conduct weekly health, safety, and sanitation inspections. Records of the inspections and any corrective actions must be maintained in the jail.

- (2) There shall be an annual inspection of food service and food storage areas, along with equipment, from a local public health agency to ensure compliance with governmental health and safety codes and the compliance certificate shall be available upon request.
- (3) The food services manager or designee is responsible for a healthy and sanitary kitchen environment and shall immediately address any health or cleanliness issues with kitchen staff or workers who are persons experiencing incarceration.
- (4) Jails shall prevent persons having a medical reason or displaying symptoms of infectious illness from preparing food.
- (5) Jails shall provide adequate training that pertains to cleanliness, sanitation, safety, and safe food handling for all staff and persons experiencing incarceration working in food service.

#### **Recommendations/Best Practices.**

**Compliance Indicators.** Reports and certifications from state and local health departments.

#### **Comments.**

#### **Relevant Authority.**

## **Topic J: Recreation and Programming**

### **1. Opportunity to Exercise**

**Standard.** (1) The jail shall provide persons experiencing incarceration an opportunity to exercise at least one hour a day. If possible, jails shall provide some opportunity for outdoor exercise, weather permitting.

(2) **Exercise Space Standards for Future Construction.** Jails are encouraged to upgrade or retrofit existing facilities to comply with the standards. The standards do not require jails to retrofit or upgrade facilities planned or constructed prior to one year after these standards become enforceable. For all new jail facility construction planned one year or later after these jail standards become enforceable:

- (a) outdoor exercise area: 15 square feet per person experiencing incarceration for the maximum number of persons experiencing incarceration expected to use the space at one time, but not less than 1,500 square feet of unencumbered space;
- (b) covered/enclosed exercise areas in correctional facilities of 100 or more inmates: 15 square feet per person experiencing incarceration for the maximum number of persons experiencing incarceration expected to use the space at one time, with a minimum ceiling height of 18 feet, but not less than 1,000 square feet of unencumbered space; and
- (c) covered/enclosed exercise areas in correctional facilities of less than 100 persons experiencing incarceration: 15 square feet per person experiencing incarceration for the maximum number of persons experiencing incarceration expected to use the space at one time, with a minimum ceiling height of 18 feet, but not less than 500 square feet of unencumbered space.

### **Recommendations/Best Practices.**

### **Compliance Indicators.**

### **Comments.**

**Relevant Authority.** ACA Performance Based Standards For Adult Local Detention Facilities, 4<sup>th</sup> ed., Standard 4-ALDF-5C-01 through 04

## **Topic J: Recreation and Programming**

### **2. Media Access**

**Standard.** (1) (a) **Television Viewing.** Jails shall provide access to television or other forms of electronic media in a common area.

(b) Television or media shall be accessible to a person experiencing incarceration with a disability in a manner that meets ADA and legal requirements.

(2) (a) **Reading Materials.** Persons experiencing incarceration are entitled to receive any printed material or publication that is generally available to the public directly from the publisher.

(b) Jails shall provide access to a library or library materials including materials that are accessible and are also offered in commonly spoken languages.

(c) Jails may adopt rules and regulations which limit the amount of printed material and other paper materials retained within a person experiencing incarceration's living area, in furtherance of the safety, security, and good order of the jail, especially safety from the risk of fire.

#### **Recommendations/Best Practices.**

#### **Compliance Indicators.**

**Comments.** (1) Restrictions of content based upon considerations of institutional order do allow for legally allowable restrictions on material, like explicit material, consistent with the law. When there are restrictions on content, they should be clearly explained in policies provided to a person experiencing incarceration and consistently applied. Jails may not deny access to television and other forms of electronic media solely because they:

(a) criticize a correctional facility, its staff, or the correctional system;

(b) espouse unpopular ideas, including ideas that jail staff deem not conducive to rehabilitation or correctional treatment.

#### **Relevant Authority.**

## Topic J: Recreation and Programming

### 3. Programming

**Standard.** (1) Jails shall have a written policy, procedure, and practice about programming for persons experiencing incarceration.

- (a) The jail shall provide sufficient space for programming that allows attendance by a people experiencing incarceration.
  - (b) Programming may be accomplished through the use of video conferencing or electronic means.
- (2) The jail shall provide educational programming, which, at a minimum helps prepare the person experiencing incarceration to pursue a GED.
- (3) The jail shall make all reasonable efforts to make use of local community resources to provide programming.
- (4) **Pre-release.** Jails shall coordinate with local human service agencies to facilitate the application process for persons experiencing incarceration for enrollment in all programs for which they may be eligible prior to release. Jails shall make all efforts to begin these applications in advance of potential release dates. Jails shall track how often they are providing applications for enrollment.
- (5) **Scope of Programming.** Jails shall make all efforts to provide access to services generally available in the community, such as services regarding employment, life skills, parenting, behavioral health, social services, and others.
- (6) (a) **Religious Practice.** Persons experiencing incarceration have the opportunity to participate in religious faith practices that are deemed essential by the faith's judicatory, limited only by documentation showing a threat to the safety of persons involved in such activity itself or disruption of order in the jail.
- (b) No person experiencing incarceration shall be required to attend religious services.
  - (c) Each jail shall provide all persons experiencing incarceration access to an appropriate area for congregate religious worship and other religious activities.
  - (d) Religious advisors shall be permitted to conduct congregate religious activities at least once per week at a time approved by the jail. The term "religious advisor" shall mean a person, other than a person experiencing incarceration, whose credentials have been approved by the jail. When no religious advisor is available, the jail may permit a person experiencing incarceration to conduct legitimate religious activities.
  - (e) Persons experiencing incarceration shall have a method to make requests for a religious accommodation.
  - (f) Persons experiencing incarceration shall be entitled to wear and possess religious medals, other religious articles, or other physical manifestations of the religion, so long as the item does not pose a security or safety risk.
  - (g) Persons experiencing incarceration shall be permitted to observe religious holidays or festivals on an individual or congregate basis, after assessing any safety or security risks.



**Recommendations/Best Practices.** (1) Jails should strive to provide rehabilitative programming that may address domestic violence prevention, anger management, substance use, parenting, life skills, and vocational skills. Jails should strive to facilitate the availability of domestic violence and DUI treatment in jail.

(2) Wherever possible, jails should facilitate in-reach from community organizations to facilitate programming and enrollment.

(3) Jails should, when possible, provide the ability to complete GED testing.

(4) Jails should strive to provide educational opportunities to persons experiencing incarceration including those who speak languages other than English, who have limited reading skills, or who otherwise may have difficulty accessing educational programming. This may include the use of audio resources.

**Compliance Indicators.**

**Comments.** (1) Funding for programming in jails is limited. Mandated minimum programming is not currently available in many jails due to lack of funding or space. A requirement to provide programming would be an unfunded mandate. Accordingly, it is the hope of the commission that the state will find a way to help support funding minimum programming. In the absence of that funding, variances to this requirement will have to be considered, especially for small and rural communities that lack resources.

(2) Jails should facilitate people experiencing incarceration who are eligible being enrolled, at a minimum, in Medicaid, SNAP, and Social Security. Jails should also work to facilitate people experiencing incarceration receiving any available services upon release. Jails should work with outside agencies, including the Department of Human Services and other community resources, to accomplish this.

**Relevant Authority.** ACA Standard 4-ALDF-5C-17, Section 22-32-141, C.R.S.

## **Topic J: Recreation and Programming**

### **4. Special Education Services**

**Standard.** (1) The jail shall have policies and procedures about compliance with special education requirements for people experiencing incarceration. The jail shall provide information to the local school district to allow the district to identify, locate, and refer individuals who may qualify for special education services. The information shall include a list of the jail population under the age of 21 and information obtained during the reception process about whether the persons graduated with a regular high school diploma, and, if not, whether they have ever received special education services and the school district they last attended.

(2) The jail shall communicate and cooperate with the local school district where the jail is located to ensure that special education services are being provided to eligible individuals in the jail and to problem solve issues that arise in the provision of special education services.

(3) Jails shall make reasonable accommodations and modifications to allow a person experiencing incarceration with a disability equal access to special education services.

#### **Recommendations/Best Practices.**

#### **Compliance Indicators.**

**Comments.** (1) Students with disabilities who are eligible under the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act (Section 504) are legally required to receive appropriate education services, accommodations, and modifications. Under the IDEA, a free and appropriate education must be available to all individuals between the ages of 3 and 21. Section 504 has a similar provision for individuals participating in elementary or secondary educational programs. Section 504 also requires accommodations and modifications in post-secondary educational programs that receive federal funding.

(2) There are specific legal requirements about special education. Special education services under the IDEA and Section 504 are separate or in addition to any educational programs offered at the jail.

**Relevant Authority.** The Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act, Title II of the Americans with Disabilities Act, the Exceptional Children's Educational Act (ECEA)

## Topic J: Recreation and Programming

### 5. Work Opportunities within the Jail for Persons Experiencing Incarceration

**Standard.** (1) If a jail offers work opportunities inside the jail, the jail shall have a policy on equitable participation in work opportunities for persons experiencing incarceration. Jails shall have written criteria for participation in work opportunities.

- (a) Participants of the program are medically screened in a manner to ensure that risk of communicable disease is mitigated.
  - (b) Jails shall appropriately train persons experiencing incarceration prior to allowing them to participate.
  - (c) Jails shall appropriately respond to and document safety incidents and take appropriate actions to rectify and prevent future incidents.
- (2) People with disabilities shall be given equal access to work opportunities within the jail, and no one shall be denied opportunity to work on the basis of disability. Reasonable accommodations and modifications shall be made in order to allow people with disabilities to access employment and vocational opportunities in the jail.
- (3) Jails shall comply with all notification requirements of the Victims Rights Act.

**Recommendation/Best Practices.** (1) Jails are encouraged to provide work opportunities. These opportunities may be provided both to individuals experiencing incarceration prior to sentencing and post-conviction.

- (2) When making assignments for work opportunities, including decisions about whether a given person is assigned to work inside or outside of the jail, jails should consider the following factors:
- (a) outstanding criminal cases, criminal court trials, and open warrants;
  - (b) level and type of any pending charges;
  - (c) level and type of past or current convictions;
  - (d) amount of bond;
  - (e) custody level; and
  - (f) conduct and behavior while in the jail.
- (3) Jails should have a committee to monitor the health and safety of program participants.

#### **Compliance Indicators.**

**Comments.** Opportunities for work for persons experiencing incarceration intersect with statutory provisions regarding good time. Jails should be cognizant of the existing law on good time as it relates to work programs.

**Relevant Authority.** Section 24-4.1-303, C.R.S.

## Topic J: Recreation and Programming

### 6. Alternative Sentencing

**Standard.** (1) If jails participate in alternative sentencing, jails shall have a policy on equitable participation. Jails shall have written criteria for participation. Alternative sentencing could include, but is not limited to: work, educational, or medical release; in-home detention; day reporting; and weekend sentencing.

**Recommendation/Best Practices.** (1) Jails are encouraged to participate in alternative sentencing.

(2) Subject to court approval, when considering approval by the jail for participation in alternative sentencing, jails should consider the following factors:

- (a) outstanding criminal cases, criminal court trials, and open warrants;
- (b) level and type of any pending charges;
- (c) level and type of past or current convictions;
- (d) amount of bond;
- (e) custody level;
- (f) conduct and behavior while in the jail; and
- (g) active protection orders, with a protected party in the vicinity.

**Compliance Indicators.**

**Comments.**

**Relevant Authority.** Title II of the Americans with Disabilities Act of 1990 (ADA), 28 C.F.R. §35.152, Section 18-1.3-106, C.R.S.

National Commission on Correctional Health Care (NCCHC) Standards, J-C-06, J-B-04, American Correctional Association (ACA) 4-ALDF-5C-07, 4-ALDF-5C-06, 4-ALDF-5C-09, 4-ALDF-5C-10

## Topic K: Disciplinary Processes for Person Experiencing Incarceration

### 1. Discipline

**Standard.** (1) Jails shall have a written policy that addresses jail rules, the disciplinary process, and disciplinary sanctions.

- (2) Jails shall fairly and equitably apply jail discipline. Jails shall provide due process in the jail discipline process.
- (3) Jails shall provide the rules applicable to person experiencing incarceration and only enforce rules for which a person experiencing incarceration has notice.
- (4) Jails shall provide the rules which, if violated, can lead to discipline to the person experiencing incarceration. Jails shall provide the rules that govern the disciplinary process the person experiencing incarceration. All of this information must be accessible and effectively communicated to persons experiencing incarceration in the language they understand.
- (5) In no case shall any person experiencing incarceration be delegated authority to punish any other person experiencing incarceration.
- (6) Disciplinary sanctions shall not impose cruel or unusual punishment. Disciplinary sanctions are limited as follows.
  - (a) Disciplinary sanctions shall not limit access to food or water below the minimum nutrition and diet requirements specified in these standards. The privilege of purchasing additional items through the commissary may be temporarily restricted as a sanction.
  - (b) Disciplinary sanctions may not deny clothing, bedding, or hygiene projects and a person experiencing incarceration must be provided access to these items as required by these standards.
  - (c) Disciplinary sanctions may not restrict lighting or ventilation or temperature below the requirements of these standards.
  - (d) Jails shall not make a person unsafe as a disciplinary sanction.
  - (e) Jails shall not restrict access to medical or mental health care as a disciplinary sanction.
  - (f) Jails shall not restrict visitation as disciplinary sanction, except as allowed by these standards.
  - (g) Jails may use disciplinary housing as sanction. Jails may not use restrictive housing as sanction.
  - (h) Jails shall not restrict correspondence as a sanction except for temporarily suspending correspondence in response to a violation of rules related to correspondence.
  - (i) Jails shall not restrict access to exercise below the minimum requirements of these standards.
  - (j) Jail shall not restrict the ability to file grievances as disciplinary sanction, except as outlined in these standards.

- (7) Jails shall classify the severity of rule violations and the possible range of sanctions available for a violation which may vary based on severity. At a minimum, jails shall classify rules violations as minor or major rule violations.
- (8) Jails shall document all alleged jail disciplinary violations, sanctions, records, and outcomes of hearings in writing.
- (9) (a) **Minor rule violations.** Jails shall use informal interventions and minor sanctions for minor violations. Informal interventions may include counseling the person experiencing incarceration, extra work assignments, and other temporary remedies. Minor sanctions shall have limits. Lockdown as a minor sanction shall not exceed 4 hours. Loss of privileges as a sanction shall not exceed 72 hours.
- (b) The appeal process for minor sanctions may also be informal but should at least allow for timely review by a supervisor when requested by the person experiencing incarceration.
- (10) (a) **Major rule violations.** Major rule violations are considered a threat to the safety, security, or good order of the jail, its staff members, persons experiencing incarceration, or visitors.
- (b) A person experiencing incarceration charged with a major rule violation shall be given notice of the alleged violation and written documentation at least 24 hours before any disciplinary hearing.
- (c) The jail shall have a disciplinary hearing process and appeal process that affords due process. Hearing officers shall be fair and impartial and maintain professional decorum. Hearing officers shall not be witnesses in the proceeding. A person experiencing incarceration shall have the right to attend the hearing, present evidence, and have access to the evidence to be presented against them.
- (d) The jail shall have a policy allowing a person experiencing incarceration who is incapable of participating or presenting a defense to have assistance in the process, but need not include the right to an attorney.
- (e) The jail shall consider whether any behavioral health issues caused or contributed to a violation. If it did, the jail shall consider reducing or not imposing sanctions.
- (11) (a) **Predisciplinary-hearing housing.** A jail may place a person experiencing incarceration in predisciplinary-hearing housing if there is a good faith concern about health or safety.
- (b) The jail shall have a process to review whether a person experiencing incarceration placed in predisciplinary-hearing housing continues to pose a risk to health or safety and needs to remain in predisciplinary-hearing housing at least every 72 hours. The jail shall prioritize conducting disciplinary hearings when a person is experiencing incarceration is in predisciplinary-hearing housing, but can allow the person experiencing incarceration additional time to prepare for a hearing when requested.

**Recommendations/Best Practices.** Jails should use incentives to gain compliance and incentivize appropriate behavior. Reliance solely on punitive actions for rule violations is less effective than using incentives for positive behaviors.

**Compliance Indicators.**

**Comments.** (1) PREA has specific legal requirements and limitation regarding discipline for sexual abuse and sexual contact that must be followed. See 28 C.F.R. § 115.78. This policy does not restate these legal requirements, but they must be followed.

(2) If a person experiencing incarceration has a disability that impacts the ability of the person to participate in the disciplinary process, the jail must provide reasonable accommodations and modifications.

**Relevant Authority.**

## Topic L: Jail Staffing

### 1. Jail Staffing

**Standard.** (1) Jails shall have written policy, procedure, and practices guiding all personnel that are selected, retained, or promoted on the basis of merit and specified qualifications. Anyone with the required education, experience, and background should be eligible for consideration for a position at the level at which he or she is qualified. The policy shall require standards for staff performance reviews.

- (2) A complete background investigation and criminal record check shall be required on all new employees and volunteers prior to assuming their duties. This is to identify whether there are criminal convictions or character flaws that present a conflict with that person performing jail operations.
- (3) Jails shall have adequate staff at any given time to maintain a safe and secure jail and provide persons experiencing incarceration access to staff, programs, services, and emergent mental and health care. A jail shall be staffed with 24-hour coverage any time the jail is occupied by at least one person experiencing incarceration.
- (4) The jail shall identify positions or posts and their specific job functions within the jail. Post orders and procedures shall be written for each identified post and reviewed at least annually.
- (5) Jails shall have written policy, procedure, and practices for developing and reviewing staffing plans, and the staffing plans shall be reviewed by jail administration at least annually.

**Recommendations/Best Practices.** (1) All persons should be required to participate in an appropriate psychological exam or evaluation based on their job classification level. The jail should have a written policy governing the psychological exam or evaluation.

- (2) The jail should have written policy governing pre-employment drug testing for all persons assigned to supervise and control persons experiencing incarceration.
- (3) Persons should be required to successfully complete specialized training according to specific job descriptions in accordance to organizational policies, standards, and successful training requirements. Successful completion should be documented before anyone is assigned to supervise and control persons experiencing incarceration.
- (4) When jails do not have the ability to operate at adequate staffing levels over an extended period of time, they should conduct a staffing analysis in a manner that will allow the jail to meet the needs of their facility, the individuals experiencing incarceration, and the staff. Jails must also take all appropriate and available steps to remedy any staffing issues.

### Compliance Indicators.

**Comments.** (1) Jails that are experiencing ongoing staffing shortages may want to consider collaborating with all relevant parties on measures that may alleviate staffing issues. Jails may also examine measures to reduce daily population levels.

- (2) A staffing plan is a strategic planning process by which the jail administration assesses and identifies the personnel needs of the jail to ensure a safe and orderly operation. The staffing plan helps the jail administration to understand the number and types of employees needed to accomplish this goal. Adequate staffing is based on variables such as facility size and configuration, location, services provided, and type or classification of persons experiencing incarceration.



**Relevant Authority.** Colorado Revised Statutes, Colorado Peace Officer Standards and Training; ACA

## Topic L: Jail Staffing

### 2. Cross-Gender Supervision and Bodily Autonomy

**Standard.** (1) Jails shall establish written policies and procedures governing cross-gender supervision, and searches of persons experiencing incarceration. Policies shall be written to limit bodily contact of persons experiencing incarceration by staff and enable bodily privacy for all persons in order to prohibit abuse and reduce trauma that might arise from that contact or observation.

(2) Strip search policies and procedures shall be written in accordance to Colorado state law and PREA. The jail shall not conduct cross-gender strip searches or cross-gender visual body cavity searches except in exigent circumstances or when performed by qualified medical practitioners. These instances shall be documented.

(3) Jail staff shall not perform searches or physical exams of a transgender or intersex persons experiencing incarcerations for the sole purpose of determining the person's genital status. If necessary for housing assignments, only qualified medical practitioners shall perform the searches or exams in private.

(4) The jail shall provide training to jail staff in how to conduct cross-gender pat-down searches and searches of transgender and intersex persons in a professional, respectful manner, and in the least intrusive manner possible, consistent with security needs.

(5) Jail staff shall not be assigned to posts or assignments which will result in routine or close observation of persons experiencing incarceration of the opposite gender while using the toilet, taking a shower, or otherwise undressed.

**Recommendations/Best Practices.** (1) Written policies and procedures governing searching female persons experiencing incarceration should, when possible, allow for a female staff member to complete the search.

(2) Policies concerning surveillance of persons experiencing incarceration shall be created in a manner which preserves the dignity of persons experiencing incarceration and the safety and security of the jail.

(3) When possible, it is recommended that when both males and females are housed in the jail, at least one male and one female staff member are on duty at all times

#### **Compliance Indicators.**

**Relevant Authority.** Colorado Revised Statute, ACA, PREA standards; Section 16-3-405, C.R.S.

## Topic L: Jail Staffing

### 3. Volunteer Policies

**Standard.** (1) The jail shall have a policy regarding volunteers in the jail. The policy shall outline how volunteers are screened and approved. Volunteers shall receive appropriate training before interacting with persons experiencing incarceration.

**Recommendations/Best Practices.** (1) Jails should conduct a criminal record check and/or a background check on all new volunteers prior to assuming duties to identify whether there are criminal convictions that have a specific relationship to job performance.

(2) The policy should specify the lines of authority, responsibility, and accountability for volunteers. There should be an official registration and identification system for volunteers. Volunteers should be provided a contract which is a binding agreement between the volunteer and the jail administration acknowledging acceptable and non-acceptable behaviors and practices. Volunteers should be provided guidance on how and who to contact to report complaints or emergency situations.

(3) When approving volunteers, jails should encourage participation from a diverse population.

#### **Compliance Indicators.**

**Comments.** Volunteers can make an important contribution to an agency by providing several direct services to persons experiencing incarceration, as well as by serving as a link between the jail and the community. The written policies and procedures should explain the major functions and method of operation of volunteer services. Staff responsibility for maintaining citizen involvement in the agency should be clearly designated. Efforts should be made to recruit volunteers from all segments of society. Volunteers should be selected based on a uniform screening process that is consistent with security concerns.

**Relevant Authority.** Written policy and procedure. ACA

## Topic L: Jail Staffing

### 4. Code of Ethics

**Standard.** (1) The jail shall have a written code of ethics that is provided to all staff, contractors, and volunteers. At a minimum, the code shall:

- (a) prohibit staff, contractors, and volunteers from using their official positions to secure privileges for themselves or others;
- (b) prohibit staff, contractors, and volunteers from engaging in activities that constitute a conflict of interest;
- (c) prohibit staff, contractors, and volunteers from accepting any gift or gratuity from, or engaging in personal business transactions with, a person experiencing incarceration or the immediate family of a person experiencing incarceration; and
- (d) define acceptable behavior in the areas of campaigning, lobbying, or political activities.

**Recommendations/Best Practices.**

**Compliance Indicators.**

**Comments.**

**Relevant Authority.** Colorado Revised Statutes, P.O.S.T., written policy and procedure, Department's Code of Ethics, ACA

## Topic L: Jail Staffing

### 5. Staff Development and Training

**Standard.** (1) Jails shall have a policy regarding staff development and training. A qualified individual or individuals coordinate the staff development and training program and have specialized training for those functions.

- (2) Each new employee is provided with an orientation prior to assuming duties. At a minimum, the orientation includes:
- (a) work environment;
  - (b) code of ethics;
  - (c) personnel policy manual;
  - (d) employees' rights and responsibilities;
  - (e) overview of the criminal justice system;
  - (f) tour of the jail;
  - (g) jail goals and objectives;
  - (h) jail organization;
  - (i) staff rules and regulations;
  - (j) personnel policies;
  - (k) program overview;
  - (l) emergency plans; and
  - (m) confidential information and protected health information
- (3) New clerical/support employees who have minimal contact with persons experiencing incarceration should receive training specific to their duties during their first year of employment and thereafter, refresher training.
- (4) All new professional and support employees, including contractors, who have regular or daily contact with persons experiencing incarceration should receive training during their first year of employment and thereafter, refresher training. At a minimum, this training covers the following areas:
- (a) security procedures and regulations;
  - (b) supervision of persons experiencing incarceration;
  - (c) signs of suicide risk and suicide precautions;
  - (d) use of force regulations and tactics;
  - (e) report writing;
  - (f) rules and regulations for persons experiencing incarceration;
  - (g) key control;
  - (h) rights and responsibilities of persons experiencing incarceration;
  - (i) safety procedures;

- (j) all emergency plan and procedures;
  - (k) interpersonal relations;
  - (l) cultural diversity;
  - (m) communication skills;
  - (n) CPR/first aid;
  - (o) de-escalation techniques;
  - (p) sexual harassment and sexual misconduct awareness; and
  - (q) code of ethics.
- (5) All new full-time healthcare employees complete a formalized orientation program before undertaking their assignments. At a minimum, the orientation program includes instruction in the following:
- (a) the purpose, goals, policies, and procedures for the jail and parent agency;
  - (b) safety, security, and contraband regulations;
  - (c) key control;
  - (d) appropriate conduct with persons experiencing incarceration;
  - (e) responsibilities and rights of employees;
  - (f) emergency plans;
  - (g) pregnant women's rights and requirements for prenatal and post-partum care.;
  - (h) medical grievance process; and
  - (i) medical and mental care responses according to established Colorado jail standards.
- (6) All new law enforcement officers working in jails shall receive 120 hours of training during their first year of employment period. At a minimum, this training covers the following areas:
- (a) security and safety procedures;
  - (b) emergency and fire procedures;
  - (c) supervision of persons experiencing incarceration;
  - (d) suicide intervention/prevention;
  - (e) use of force;
  - (f) rights of persons experiencing incarceration;
  - (g) key control;
  - (h) interpersonal relations;
  - (i) standards of conduct;
  - (j) cultural awareness;
  - (k) PREA;
  - (l) code of ethics; and

(m) communication skills.

(7) All law enforcement officers working in jails shall receive 24 hours of annual training. This training shall include at a minimum the following areas:

- (a) standards of conduct/ethics;
- (b) security/safety/fire/medical/emergency procedures;
- (c) supervision of persons experiencing incarceration; and
- (d) use of force.

(8) Jail staff who use protected health information (“PHI”) shall be trained on an individual’s rights to access their own health information under HIPAA.

(9) All staff, contractors, and specific volunteers shall attend mandatory annual training on PREA and other required topics.

**Recommendations/Best Practices.** (1) The training plan is reviewed annually.

(2) For full-time training personnel, a 40-hour training-for-trainers course is recommended.

**Compliance Indicators.**

**Comments.** Since the duties of law enforcement officers frequently involve most institutional operations, their training should be comprehensive.

**Relevant Authority.** Colorado Revised Statutes, Colorado Peace Officer Standards and Training, Training Curriculum and Training Records, ACA

## **Topic L: Jail Staffing**

### **6. Policies Governing Staff Discipline**

**Standard.** (1) Jails shall maintain a standard code of conduct consistent with their policies, procedures, and state law.

(2) All complaints against jail staff are reviewed and investigated, as appropriate. Complaints against jail staff can be initiated from persons experiencing incarceration, the public, and other jail staff. Each jail shall establish procedures for reporting or lodging complaints against jail staff.

(3) Each jail's policies and procedures for processing complaints shall be available for public viewing upon request.

**Recommendations/Best Practices.**

**Compliance Indicators.**

**Comments.**

**Relevant Authority.** ACA



## Topic M: Use of Force

### 1. Use of Force Authorized

**Standard.** (1) Every jail shall have written policies and procedures directing staff when the application of force upon persons experiencing incarceration is authorized. Every jail shall state in policy that in no event shall use of force and/or restraint devices be used as a form of punishment. The use of physical force applied by peace officers with persons experiencing incarceration must be lawful and should be limited to situations of:

- (a) self-defense;
  - (b) protection of staff, persons experiencing incarceration, and others;
  - (c) preventing escapes;
  - (d) restoring and maintaining order and discipline;
  - (e) protection of property; and
  - (f) execution of a public duty authorized by law or court order.
- (2) All staff may use force in self-defense or defense of others. All staff may also use force when directed by a peace officer in an emergency.
- (3) The use of deadly force is limited by any policies of the law enforcement agency employing jail staff. Further it is limited to situations when a peace officer or person acting under the direction of peace officer reasonably believes it is necessary to prevent the escape of a person charged with a felony, convicted of a felony, confined under the maximum security rules of the jail, or when the officer reasonably believes the person experiencing incarceration poses an immediate threat to the officer or another person.
- (4) All forms of restraint (including physical, mechanical, etc.) shall be utilized only when necessary, in the least restrictive manner and for the shortest duration necessary to accomplish the given goal. The more restrictive or intense the restraint, the more closely the individual being restrained should be monitored. Jail staff, including medical staff, should closely monitor people that are in restraints for a prolonged period of time, including people placed in a restraint chair or transport chair or other device such as the WRAP device. The jail shall utilize prevailing best practices with respect to what restraints are used, when, how, and for how long. All jail staff utilizing restraints shall receive appropriate training on how to safely use the available equipment, including positional asphyxia and how to observe signs of distress or medical emergency. If an individual's actions indicate a need for prolonged or ongoing restraint of any form, the jail should consult with a medical professional to determine if a higher level of care is medically necessary.
- (5) When staff applies nonroutine restraint devices, it should be with the intent as a short-term solution to protect persons experiencing incarceration from inflicting self-harm and to prevent violent, combative persons from harming others or destroying property. Restraint devices are used only in extreme instances and only when other methods have proven ineffective or the safety of the person experiencing incarceration is in jeopardy. Advance approval is obtained from the jail administrator/designee before any restraint device is used unless exigent circumstances exist, in which case approval should be obtained as soon as practicable. When restraint devices are used, policy should require frequent monitoring and written documentation of completed checks of persons while placed in restraints. Once the

objectives of the implementation of a restraint device has been accomplished, the person should be removed from the restraints.

- (6) Jail staff must be trained no less than annually on the legal requirements and policies regarding use of force including when it is permitted, how it is documented and reported, what is excessive force, and the duty to intervene and report excessive force.
- (7) (a) Preliminary written reports are submitted to the jail administrator or designee no later than the conclusion of the shift when any of the following occur:
  - (I) discharge of a firearm or other weapon;
  - (II) use of less lethal devices; and
  - (III) any use of force.(b) Each participant and witness should complete a supplemental report.
- (8) (a) All use of force incidents and nonroutine restraint applications to persons within a jail will be documented and reported by staff in accordance to jail policy and legal requirements. The jail administrator or designee will review all use of force reports to ensure the use of force on persons experiencing incarceration are within policies and procedures of the jail and in accordance with the Colorado Revised Statutes, and take appropriate corrective action, if necessary.  
(b) All use of force applications within a jail will be documented and reported to the Colorado Bureau of Investigation Uniform Crime Reporting program and the Division of Criminal Justice, as required by law.
- (9) Any injury to staff or persons experiencing incarceration shall be evaluated by medical personnel.
- (10) (a) Jails shall ensure that assistance and medical aid are rendered to any injured or affected person as soon as practicable as required by Section 18-1-707 (2)(c), C.R.S.  
(b) At a minimum documentation by photography shall be completed.

**Recommendations/Best Practices.** (1) Training and policy should emphasize de-escalation and encourage the avoidance of use of force except when necessary because there is not a reasonable alternative available. Facilities emphasize the legal requirement that peace officers apply non-violent means whenever possible, before resorting to use of force. Jail staff should also be encouraged to experience being placed in the restraints as part of the restraint training.

- (2) Jail policy and procedures should include a review by an outside agency of the use of deadly force within a jail for an investigation relating to the use of deadly force.

### **Compliance Indicators.**

**Comments.** (1) There exists a different element within jails for the lawful use of force as opposed to law enforcement outside the confines of a jail. The use of force and utilization of restraints may lawfully be used in a jail to restore or maintain order, to further other jail interests where safety, security, and control are threatened.

- (2) While maintaining order and preventing escape allows for different use of force in a correctional setting, the use of force by peace officers or those acting under their direction

during an incident is different than the use of force by non-peace officers, who may only use force as a private citizen could. The use of deadly force is much more limited than physical force generally. Colorado law recognizes that certified peace officers, non-certified officers, and jail officers are all peace officers who have the same legal requirements and authority in their use of force.

**Relevant Authority.** Colorado Revised Statutes C.R.S. §§ 16-2.5-101, 16-25-103; 18-1703(1)(b); 18-1-706, 18-1-707, 18-8-802, 18-8-803, *Kingsley v. Hendrickson*, 576 U.S., *Graham v. Connor* 490 U.S. 386, HB 21-1250.

Written Policy and Procedure; ACA. See Topic C: Security, Standard 7: Use of Firearms, Less-than-Lethal Devices, and Restraint Mechanisms

NCCHC Standard P-G-01, Jeffrey L. Metzner et al., *Resource Document on the Use of Restraint and Seclusion in Correctional Mental Health Care*, 35 J. Am. Acad. Psychiatry & Law 417 (2007), American Correctional Association Standard 5-6C-4405

## Topic M: Use of Force

### 2. Use of Firearms and Less-than-Lethal Devices

**Standard.** (1) Every jail shall have written policy, procedure, and practice governing the use of firearms and less than lethal devices located within the jail, in accordance with the Colorado Revised Statutes and established industry best practices. Policy and procedures are required to authorize individual access to and staff authority for use and deployment of firearms and less-than-lethal devices. All authorized staff shall receive annual training in the use of all firearms, less-than-lethal devices, and restraint equipment held within the jail.

**Recommendations/Best Practices.** (1) The use of non-lethal chemical and electronic control devices should be authorized by the jail administrator or designee only when lesser means of force to maintain the jail order and discipline have been met with negative results or the situation at face value presents exigent circumstances justifying the immediate use of a non-lethal weapon. When possible before deployment of any chemical non-lethal and electronic control device, staff should try to minimize the unintended exposure to non-involved persons experiencing incarceration relative to the incident.

- (2) The use of a firearm loaded with less-than-lethal ammunition should be authorized only when lesser means of force to resolve a situation and restore jail order and discipline have been met with negative results or the situation at face value presents exigent circumstances justifying the immediate use. Authorization for use should be received from the jail administrator or designee and only trained staff in the use of firearms loaded with less-than-lethal ammunition should be authorized.
- (3) Firearms loaded with lethal ammunition within the jail shall be a last resort only when faced with a potential deadly force encounter to help mitigate the loss of life.
- (4) Following the use of a firearm or less-than-lethal device, jail policies should include medical treatments and assessments in a timely manner for any person whom physical force was applied or is complaining of injury.

#### **Compliance Indicators.**

#### **Comments.**

**Relevant Authority.** Colorado Revised Statutes, CRS 18-1-707, Kingsley v. Hendrickson, 576 U.S., Graham v. Connor 490 U.S. 386, ACA; NCCHC

## Topic N: Security

### 1. Security Procedures

**Standard.** (1) (a) **Establishing a Security Perimeter.** Every jail shall establish, identify, and clearly define what areas are designated as the security perimeter, internally and externally. A jail's perimeter is controlled to prevent escape and to prevent access by the general public without proper authorization.

(b) Security policies may include the following:

- (I) any external barriers to control, prevent, or reduce access to restricted areas;
- (II) clearly visible signs for jail designation of the established perimeter;
- (III) video/audio surveillance;
- (IV) direct external communications from perimeter to jail control areas;
- (V) authorized vehicle access within the established perimeter;
- (VI) established routes for vehicle and pedestrian traffic away from restricted areas;
- (VII) safety measures and requirements for vehicles left parked and unattended within the perimeter;
- (VIII) perimeter lighting;
- (IX) contraband control;
- (X) searches of persons within the established perimeter before entering the jail;
- (XI) perimeter security checks and visual inspections of exterior;
- (XII) storage of weapons;
- (XIII) maintenance tool and material storage and control plans;
- (XIV) facilitating the jail requests for services provided to persons;
- (XV) systems for persons to communicate emergencies to staff;
- (XVI) correspondence restrictions for safety and security concerns; and
- (XVII) door entry and exit safety precautions.

(2) **Use of Closed Circuit Televisions.** Video monitoring policies and procedures shall include the treatment of persons experiencing incarceration with dignity and respect, which would preclude monitoring of shower, toilet, and clothing exchange areas unless circumstances are present which jeopardize the safety and security of the jail.

(3) (a) **Two-way Communication.** Every jail shall have written policies and procedures describing measures and technologies installed or practiced for two-way communications between central control, all staffed posts, and areas occupied by persons experiencing incarceration. Persons experiencing incarceration shall have a way to communicate with staff for emergent and non-emergent requests.

(b) In area where intercoms are not available for persons experiencing incarceration:

(I) required checks by staff in person should be ordered by policy to be conducted at scheduled times to provide persons the ability to report emergent and non-emergent activities and requests; and

(II) a staff member needs to be in audible range to hear emergency situations.

(4) (a) **Equipment and Jail Infrastructure.** Jails shall have effective and operable working equipment and jail infrastructure to operate safe, secure, and effective buildings. Each jail is responsible for the expense of operational costs.

(b) Every jail shall have written policies and procedures for the operation of equipment and maintenance of jail infrastructure. Policies may include the following:

(I) yearly financial and budgetary procurement of funding for jail equipment repair or replacement costs;

(II) jail upgrades and annual maintenance plans;

(III) methods of how to communicate the need for jail maintenance requests and repairs;

(IV) annual inspections of jails by county commissioners; and

(V) replacement cycles and schedules for required equipment necessary for the successful operation of the jail.

(5) **Availability, Control, and Storage of Firearms and Less-than-Lethal Devices.** Every jail shall have written policy, procedure, and practice governing the presence of firearms and less-than-lethal devices located within the jail for staff use. The policy shall establish appropriate procedures and timelines for inspection of firearms, less than lethal devices, and security devices. The policy should include a process for inventory and all items shall be accounted for. Space shall be provided for the secure storage of firearms, less-than-lethal devices, and related security equipment in an area separate and apart from persons experiencing incarceration. Documented reports of inspections shall be submitted to the sheriff or assigned designee.

(6) (a) **Controlling and Inventorying Keys, Tools, Medical Equipment, Culinary Equipment and Hazardous Materials.** The jail shall have a policy outlining the secure storage and accounting of all tools, food service equipment, medical equipment, and hazardous materials that are stored and used within the jail. This plan shall provide for necessary supervision of tools, and establishes accountability and responsibility for issuance, storage, receipt and disposal of tools, equipment, and hazardous materials.

(b) There shall be a key control and accountability system in place.

(7) (a) **Jail Searching Standards and Control of Contraband.** Every jail shall establish policies to prevent the introduction, creation, and distribution of contraband within the jail, including heightened security procedures for individuals leaving and returning to the jail.

(b) Policies shall, at a minimum, include the following:

(I) articles prohibited by law or articles or things that pose or may pose a threat to security of the jail as determined by the administrative head of the jail;

(II) information and means of notification to persons experiencing incarceration, staff, and visitors of restricted items and materials which are considered as contraband within the jail or on jail grounds;

- (III) clearly visible signs in designated areas prohibiting the use, possession, or introduction of contraband to the jail or jail grounds;
- (IV) notification to persons experiencing incarceration that their living areas or areas to which access is provided within the jail grounds are not protected by privacy rights;
- (V) practices and procedures for governing the detection, control, and removal of contraband from the jail;
- (VI) types of searches and searching techniques as generally described and defined;
- (VII) compliance with Section 16-3-405, C.R.S., searching of incoming persons experiencing incarceration;
- (VIII) procedures and practices directing the use of strip searches which comply with state and federal law and take into account the dignity and privacy of the individual being searched;
- (IX) procedures and practices directing the use of body cavity searches;
- (X) general practices and procedures for routine and random searches of the jail living areas, common areas to which persons have access, deliveries, and other items entering the jail;
- (XI) general practices and procedures for routine and random searches of persons who are experiencing incarceration;
- (XII) identify specific searches and when completed for persons performing work within the jail or on jail grounds when movement from one area to another area is permitted to prevent and control contraband exposures;
- (XIII) consequences of rule violations and or criminal charges for persons experiencing incarceration, staff, and visitors resulting from introduction or possession of contraband within the jail; and
- (XIV) notification process to the jail administrator or designee of any discovered contraband or physical security discrepancies.

(8) **Emergency Plans.** Each jail shall have a plan that guides the jail's response to emergencies, including situations that threaten jail security. All jail personnel are trained annually in the implementation of the emergency plan. The plan must include means for the immediate evacuation of people experiencing incarceration from affected areas, in case of an emergency. Emergency plans shall be approved by appropriate personnel and/or entities.

(9) **Logging Routine Information, Emergency Situations, and Unusual Incidents.** Each jail shall have a policy and procedure that provides for proper notification and documentation about emergency situations and unusual incidents. The policy shall direct jail staff to maintain permanent logs and reports of information to provide for safe operations, such as routine information, emergency situations, and unusual incidents. The information shall be shared among staff, such as upon a shift change.

(10) **Counts and Observation Rounds.** Each jail shall have a policy requiring documented monitoring of persons experiencing incarceration by agency staff to include:

- (a) a face-to-face count of the population at least twice in a 24-hour period;
- (b) a visual check by audio/video by agency personnel, at least hourly when persons experiencing incarceration are not locked down in their cells; and
- (c) a visual check at least every 30 minutes during lockdown status.

(11) **Timing for a Security Inspection of the Jail.** A jail shall have written policy, procedure, and practices governing continuous scheduled security inspections of the jail. The written policy and procedures shall:

- (a) identify how often jail inspections need to be conducted;
- (b) identify specific areas that need to be inspected;
- (c) identify potential security problems related to design, construction, or maintenance;
- (d) identify and discover potential risks created by the behaviors of persons experiencing incarceration;
- (e) establish staff responsibilities during inspections;
- (f) identify how to report discrepancies found during inspections;
- (g) identify how to take corrective actions when discrepancies are reported and responsibilities for staff; and
- (h) identify how to document and record jail inspections and corrective actions.

(12) **Controlling the Movement of Persons Experiencing Incarceration.** Each jail shall have a policy regulating the continuous control of movement of persons experiencing incarceration. The policy shall:

- (a) identify the maximum number of persons allowed movement for safe operations from one secured area to another at any given time;
- (b) identify gender specific separation for persons' movement from one secured area to another when necessary;
- (c) identify the need to separate persons' movement from one secured area to another at any given time for those who pose a threat to one another should incidental contact occur;
- (d) include procedures for high-risk movement of persons who pose a threat to themselves or others from one secured area to another at any given time;
- (e) establish staff responsibilities and responses to incidents while persons are moving from one secured area to another at any given time;
- (f) include continuous camera/video and in-person surveillance monitoring, when available, for persons while movement from one secured area to another is occurring;
- (g) allow for proper security measures while performing a high-risk movement of people who pose a threat to themselves or others from one secured area to another at any given time; and
- (h) include documentation and recording of jail movement for persons experiencing incarceration when applicable.



(13) **Ensuring Persons Experiencing Incarceration Are Not Given Control of the Jail.** Staff shall maintain control over the jail at all times and authority shall not be delegated to persons experiencing incarceration.

(14) (a) **Ensuring Persons Experiencing Incarceration Are Not Given Authority Over Another Person Experiencing Incarceration.** No person experiencing incarceration shall be given authority over another person experiencing incarceration.

(b) A jail shall have a policy that define the expectations and responsibilities of persons experiencing incarceration. These policies are intended to create an environment free from fear of being intimidated, harassed, bullied, or terrorized by other persons experiencing incarceration.

(c) The policies may include:

(I) the expected treatment of persons experiencing incarceration towards one another;

(II) a person's daily responsibilities and duties while incarcerated;

(III) preventing and prohibiting behaviors which promote or create a hostile environment for persons experiencing incarceration;

(III) directing staff response to incidents of intimidation, harassment, or manipulation of a person's behavior by force from another person experiencing incarceration;

(IV) requiring and identifying the need to separate persons who report abuse or mistreatment from other persons;

(V) documenting risk assessment and classification of offenders to prevent placing persons identified to be at risk in housing locations subjecting them to increased probability of intimidation, harassment, or manipulation of their behavior by force from another person; and

(VI) establishing staff responsibilities for preventing and monitoring persons experiencing incarceration to prevent them, as much as possible, from control of or authority over any other person, security function, or service activity responses to incidents while persons are moving from one secured area to another at any given time.

**Recommendations and Best Practices.** (1) For jail staff conducting observation rounds, in-person observation of persons experiencing incarceration, including regular and variable timing of such checks and documentation of such checks, is recommended.

(2) At the end of each shift, staff will account for utensils, keys, and other items.

#### **Compliance Indicators.**

**Comments.** (1) Body cavity searches shall only be performed by medical personnel at a medical facility.

(2) Permanent logs may be recorded electronically.

(3) Regular monitoring of people experiencing incarceration is essential for maintaining security and ensuring their safety and welfare.

**Relevant Authority.** ACA, See also Appendix A-15: Prerogatives Topic I: Rights for persons experiencing incarceration

ACA, see also Appendix A-15: Prerogatives Topic II: Expression and communication

C.R.S. § § 16-3-405, 18-8-202, et. seq. US Supreme Court Case Law

ACA, PREA, Appendix A-14: Jail Staffing Topic VI: Gender of Staff

Colorado Revised Statutes. Written policy and procedure. ACA; Topic E: Sanitation and Environmental Standards, Standard 3: Safety

Colorado Revised Statute 17-26-101, CRS 17-26-126 ACA, see also Appendix A-5: Sanitation and environmental conditions Topic III: Safety Standards

## Topic O: Facility

### 1. Facility Space and Conditions

**Standard. (1) (a) Space and Seating Standards for All Jails.** Jails shall have sufficient square footage and maximum occupancy figures for all housing and holding areas, including holding cells, housing cells, dormitories, day rooms, and eating areas

(b) Each person experiencing incarceration confined in a cell/room is provided with the following:

(I) a sleeping surface and mattress that elevates the person experiencing incarceration off of the floor, unless there is an identified medical or behavioral health issue;

(II) access to a writing surface and proximate area to sit; and

(III) a place to store personal clothes and belongings.

(2) **Space and Seating Standards for Future Construction.** Jails are encouraged to upgrade or retrofit existing facilities to comply with the standards. The standards do not require jails to retrofit or upgrade facilities planned or constructed prior to one year after these standards become enforceable. For all new jail facility construction planned one year or later after these jail standards become enforceable:

(a) the jail must conform to applicable federal, state, and local building codes;

(b) the jail must have a rated capacity established in accordance with these standards. Except in emergencies, the total number of persons experiencing incarceration in each cell or housing unit shall not exceed its rated capacity;

(c) cells shall provide a minimum of 70 square feet of floor space;

(d) dormitories are permitted so long as they provide at least 50 square feet of floor space per person experiencing incarceration;

(e) sleeping partitions are required if more than four people are sleeping in one area;

(f) each jail shall have at least one special-purpose cell or room that is designed to prevent injury to a person experiencing incarceration who is under the influence of drugs or alcohol, or for persons experiencing incarceration who are uncontrollably violent or self-destructive. This room shall be subject to staff observation or be continuously monitored by camera from a 24-hour staff position;

(g) each jail shall have private space for the treatment of medical and behavioral health conditions;

(h) the jail is designed and constructed so that persons experiencing incarceration can be separated according to existing laws, regulations, standards, and the jail's classification plan;

(i) all parts of the jail are in compliance with the Americans with Disabilities Act;

(j) adequate space is provided for administrative, security, professional, and clerical staff. This space includes conference rooms, storage room for records, public lobby, and restroom facilities;

- (k) staff needs are met through providing adequate spaces in locations that are convenient for use. Staff are provided with the following:
  - (I) an area to change clothes and to shower;
  - (II) an area, room, and/or employee lounge that offers privacy from persons experiencing incarceration;
  - (III) space for meals;
  - (IV) space for training;
  - (V) space for shift change briefings; and
  - (VI) toilets and wash basins that are not used by persons experiencing incarceration;
- (l) each dayroom provides a minimum of 12 square feet of transparent glazing with a view to the outside, plus two additional square feet of glazing per person experiencing incarceration whose room/cell does not contain an opening or window with a view to the outside;
- (m) dayrooms with space for varied activities of persons experiencing incarceration are situated immediately adjacent to sleeping areas. Dayrooms provide a minimum of 35 square feet of space per person experiencing incarceration (exclusive of lavatories, showers, and toilets) for the maximum number of persons experiencing incarceration who use the dayroom at one time. No dayroom encompasses less than 100 square feet of space, exclusive of lavatories, showers, and toilets; and
- (n) dayrooms provide sufficient seating and writing surfaces. Dayroom furnishings are consistent with the custody level of the persons experiencing incarceration who are assigned.

(3) **Air and Temperature.** Jails shall provide air circulation for housing cells; temperature standards and mechanical controls for acceptable comfort levels; and water temperature standards and controls.

- (a) The jail shall have fresh air circulating within living and activity areas for persons experiencing incarceration.
- (b) The heating system must not constitute a fire or safety hazard.
- (c) Cells, dormitories, dayrooms, and other areas of local correctional institutions used to house persons experiencing incarceration must be heated so that the temperature of the air inside the institution does not fall below 65 degrees Fahrenheit. These areas must be provided with a ventilating system which is maintained to prevent the inside air temperature from rising above 85 degrees Fahrenheit.
- (d) Cells, dormitories, and dayrooms must be provided with natural or mechanical ventilation which admits fresh air and is sufficient to prevent the accumulation of odors, smoke, dust, harmful gases, and other contaminants.

(4) (a) **Sanitation.** All jails shall provide safe and sanitary conditions.

- (b) A designated jail staff member shall conduct comprehensive and thorough inspections at appropriate intervals to identify any potential health or safety issues.
  - (c) Sanitation facilities shall include access to an operable flush toilet and lavatory with potable water on a 24-hour-a-day basis without staff assistance. Jails should provide water in temperatures appropriate for the task at hand.
  - (d) Jails shall provide toilet facilities at a minimum of one operable toilet for every 12 occupants. If a toilet is provided in a cell that has access to a dayroom, the toilet may be counted in determining the number of toilets required for the dayroom.
  - (e) Urinals may be substituted for one-half of the toilets in facilities used to house persons experiencing incarceration who are male.
  - (f) All lavatories must be kept clean and in good repair.
  - (g) Persons experiencing incarceration must be provided access to a toilet 24 hours per day.
  - (h) Jails shall provide shower facilities at a minimum of one operable shower for every 12 occupants. Water temperatures shall be controlled thermostatically in a range from 105 to 120 degrees Fahrenheit.
  - (i) Jails shall provide one operable wash basin with hot and cold potable water for every 12 occupants.
  - (j) All sewage and liquid waste matter must be disposed of into a public system of sewerage, if available. If public sewerage is not available, disposal must be made into a private system of sewage disposal which is designed, constructed, and operated in accordance with the requirements of the health authority or, if the system is an on-site sewage disposal system, the Department of Public Health and Environment or other administrative authority.
- (5) (a) **Disposal of Garbage and Refuse.** All garbage and refuse, including refuse to be recycled or returned, must be removed daily from confinement areas and disposed of in durable containers which are easily cleaned, which do not leak or absorb liquid and which do not attract or allow the breeding of rodents or other vermin.
- (b) The area for handling solid waste must be so designed that it may be washed and drained into sanitary sewers.
  - (c) Biohazard material must be appropriately disposed of in accordance with state and federal regulations.
  - (d) The disposal of solid waste must not:
    - (I) lead to air or water pollution;
    - (II) attract or allow the breeding of vermin;
    - (III) create a fire hazard;
    - (IV) produce objectionable odors; or
    - (V) cause a nuisance.
  - (e) Containers for garbage or refuse that are located outside the institution must:
    - (I) be kept closed or covered when storing garbage or refuse;

(II) have lids, doors, or covers that fit tightly; and

(III) be emptied at least weekly unless the health authority approves emptying at a different interval.

(6) (a) **Sanitation and Environmental Conditions.** Jails shall have a policy to mitigate and respond to pest and vermin control issues.

(b) The jail shall comply with all inspections required by local or state health authorities.

(c) A clean uniform shall be provided at least twice a week.

(d) Bedding and towels shall be cleaned at least once a week.

(e) Mattresses shall be cleaned in a manner appropriate to the materials of which they are composed, at intervals not to exceed 30 days and for each new person experiencing incarceration.

(f) Mattresses shall be fire retardant.

(g) Jails shall ensure that, when soiled, bedding, mattresses, towels, and clothing will be exchanged or cleaned as soon as possible after contamination.

(h) Laundry facilities shall be cleaned regularly and at least once per month.

(i) Jails shall define staff and housekeeping responsibilities of persons experiencing incarceration, including disposal of garbage and daily cleaning of toilets, urinals, sinks, drinking facilities, and showers in areas occupied by persons experiencing incarceration.

(j) Correctional facilities shall have a written policy, procedure, and practice for the proper handling and disposal of biohazard materials.

(k) See other standards as identified in Topic I: Food Service.

(7) (a) **Noise and Light.** Jails shall provide adequate light and noise regulation based on the size of the jail, preferably utilizing natural lighting when available.

(b) Lighting must be made available to all areas of the jail used for confinement and must be equal to 20-foot candles to permit observation, proper cleaning, and maintenance.

(c) All light fixtures must be kept clean and in good repair.

(d) As much as possible light and noise should be eliminated during typical evening hours unless there is a safety need or concern.

(e) Light fixtures must be protected against the possibility of intentional breakage.

(f) Each cell, dayroom, and dormitory room must be provided with natural or artificial light of at least 20-foot candles.

(g) The recommended maximum noise level is 70 decibels during daytime hours and 45 decibels during lockdown times.

**Recommendations/Best Practices.** (1) In instances where average daily temperature of the jail regularly exceeds 75 degrees, attempts will be made to improve HVAC systems as is financially feasible.

(2) Jails may remove clothing or bedding from the cell of a person experiencing incarceration when staff determine it is necessary for safety, security, sanitation, or orderly operation of the

jail. Jails shall have written procedures in place for the removal and return of the clothing and bedding of persons experiencing incarceration from their cell. Jail staff should document the date, time, items, and reason for removal and the date, time, and items returned to the person experiencing incarceration as soon as it is safe to do so.

- (3) The jail should establish processes for sanitation and vermin inspections, and may ensure that inspections are conducted at least quarterly by a local pest control business or a certified pest controller.
- (4) When planning for new construction, jails should consider utilizing negative air flow as appropriate to prevent the spread of infectious disease.

**Compliance Indicators.** (1) Lighting throughout the jail is sufficient.

- (2) Lighting sufficient to permit continuous observation shall be provided. Control areas and means of egress shall be continuously illuminated.
- (3) Exterior of building and all entrances shall be lighted sufficiently to observe approaching persons.

**Comments.** (1) Exposure to high heat alone can lead to increases in aggression, suicide, poor cognitive functioning, and overall poor mental health.

- (2) Psychotropic drugs and high blood pressure medications can both disrupt the body's ability to regulate heat and cool itself down—meaning that many people in prison face higher risk of overheating.
- (3) The purpose of this standard is to provide the appropriate amount of exposure to light and recommended noise levels conducive with health standards for persons experiencing incarceration and staff.
- (4) Prolonged exposure to noise can cause many health problems and lead to behavioral issues, ranging from single-episode or minimal occurrence to serious health risks.
- (5) The body's hormonal reaction to wavelengths of light is what regulates our circadian rhythm, or biological clock, which affects our cognition, blood pressure, immune system, metabolism, and controls our sleep/wake cycle.

**Relevant Authority.** Nevada standards, Ohio standards, Missouri

## **Topic P: Sanitation and Environmental Conditions**

### **1. Hygiene Items and Haircuts**

**Standard.** (1) The jail shall have a written policy addressing hygiene which ensures the right of a person experiencing incarceration to exercise freedom in personal grooming and appearance, subject only to jail requirements essential to safety, security, identification, and hygiene.

- (a) Jails shall provide persons experiencing incarceration with basic hygiene items at intake and replacement items to indigent persons experiencing incarceration. Basic hygiene items should include but are not limited to:
  - (I) soap (suitable for the entire body and hair);
  - (II) toothbrush, toothpaste, or toothpowder;
  - (III) toilet paper;
  - (IV) appropriate menstrual hygiene products; and
  - (V) culturally inclusive items related to hair care, i.e. combs.
- (b) Basic hygiene items shall be provided free of charge.
- (c) Persons experiencing incarceration shall have access to a shower not less than three times per week and shower facilities shall be provided within 24 hours of admission. All showers shall have hot and cold running water.
- (d) Jails shall make provisions for haircuts and haircare for persons experiencing incarceration.
- (e) Persons experiencing incarceration shall be permitted to shave a minimum of two times per week or prior to a court appearance. Communal razors shall not be used. A sanitized electric razor may be substituted with appropriate authority for approval.
- (f) Miscellaneous items such as nail clippers shall also be made available as appropriate.

**Recommendations/Best Practices.**

**Compliance Indicators.**

**Comments.**

**Relevant Authority.**



## Topic P: Sanitation and Environmental Conditions

### 2. Safety

**Standard.** (1) Jails shall ensure that required inspections by a certified local or state fire safety inspector regarding the applicable jurisdictional and state fire code are completed no less frequently than once per year.

(2) Jails shall maintain a written fire safety plan approved by local fire officials that is reviewed annually and updated as needed.

(3) Jails shall conduct regular training in jail fire safety equipment.

(4) Each jail shall have a written policy and procedure specific to the jail for fire prevention and carbon monoxide detection to support the safety of persons experiencing incarceration, staff, and visitors, including:

(a) provision for an adequate fire protection service throughout the jail and provision for carbon monoxide detection in the jail or sally port;

(b) a system of fire inspection and testing of equipment, including locks, keys, and doors completed at least annually by the appropriate authority having jurisdiction;

(c) availability of fire hoses or extinguishers at appropriate locations throughout the jail; and

(d) documentation of the drills and findings.

(5) Jails shall ensure requirements for jail furnishings meet fire safety performance standards.

(6) Jails shall ensure requirements for jail exits are clear and that evacuation routes are posted or clearly marked throughout the jail.

(7) Flammable, toxic, and caustic materials shall be controlled, used safely, and properly stored.

(8) Jails shall maintain nighttime lighting of grounds, walkways, driveways, and parking areas.

(9) Jails shall have written policies and procedures that address the maintenance, operation, and testing of emergency equipment, including documentation.

(10) Jails must have access to equipment necessary to maintain essential lights, power, and communications in an emergency. This equipment shall be inspected or tested at least monthly or as recommended by the manufacturer.

(11) Jails shall have a written evacuation plan prepared in case of fire or major emergency. The plan must include procedures to account for all persons experiencing incarceration, staff, and visitors; evacuation routes and plans for the immediate release of persons experiencing incarceration from locked areas; and a backup system if power-operated locks fail.

(12) Jails must have written plans for a response to:

(a) an escape or attempted escape;

(b) riots, hunger strikes, hostages, and disturbances;

(c) disruption of essential services;

(d) outbreak of a communicable disease;

(e) storms or other acts of nature that may affect operations, safety, and security; and

(f) accommodations for those with hearing or visual impairments.

(13) Jail personnel must be trained in the implementation of written emergency plans. Jails shall review these plans annually and update when necessary.

(14) Emergency plans may require lockdowns of jails or entire sections of jails. Lockdowns shall be limited in duration to the time necessary to address the emergency. If possible, persons experiencing incarceration should continue to have time outside of their cells.

**Recommendations/Best Practices.** Maintain the most accurate and up to date administrative documentation to ensure all protocol, policy, and procedure are followed. Wherever possible standards should include visual alarms.

**Compliance Indicators.**

**Comments.** See also Topic K, Standard 1: Discipline; Topic J, Standard 2: Media Access; Topic F, Standard 1: Mail and Written Correspondence Standard; Topic F, Standard 4: Privileged Communications; and Topic G, Standard 5: Attorney-Client Visitation

**Related Authority.** ACA, U.S. Constitution and Bill of Rights, Sections 17-26-104, 16- 3-403 (Right to consult with an attorney), 16-3-403, and 13-90-107(1)(b), C.R.S.