Ch.5 Rights and Responsibilities of Youth, Families, and Staff

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Youth in juvenile detention and correctional facilities and adult jails and prisons have a multitude of legal rights that staff must take great care to respect. The rights of youth residents—such as the right to education; medical and mental healthcare; due process; access to families, counsel, and the courts; and safe and humane treatment—stem from various sources including the U.S. Constitution, federal laws, state constitutions and laws, and case law determined by the courts. Facility personnel must protect these rights or otherwise be subject to costly litigation, judicial oversight, and financial and administrative sanctions imposed by entities such as the U.S. Department of Justice (DOJ).

Facility staff can best safeguard the rights of youth residents by 1) understanding and abiding by constitutional, federal, and state legal requirements and 2) acting with professional judgment and in accordance with accepted professional standards and best practices. Though not exhaustive, this chapter presents an overview of the key laws, regulations, and standards that establish the rights and responsibilities of youth, families, and staff.

Constitutional Rights

The U.S. Constitution affords youth in custody with a wide range of rights. It is incumbent on facility staff to protect these rights, not only to meet best practice standards, but also to limit legal liability. The constitutional rights of youth include:

- Due process
- Freedom from cruel and unusual punishment
- Equal protection
- Free speech
- Free exercise of religion
- Counsel

Right to Due Process

The due process clause of the 14th Amendment to the Constitution provides that no state shall “deprive any person of life, liberty, or property, without due process of law.” Courts have held that the due process clause affords youth in detention and correctional facilities with a number of rights, including the right to safe conditions,[1] education,[2] and adequate medical and mental healthcare.[3] Additionally, the Supreme Court has ruled that the due process clause prohibits the punishment of all detainees prior to an adjudication of guilt.[4] This means that individuals held in pre-trial detention, including youth prosecuted as adults, cannot be subjected to conditions amounting to punishment, such as excessive use of force, deprivation of basic necessities, or other measures not reasonably related to legitimate governmental interests. Most courts also apply this analysis more broadly to cases involving youth held in juvenile detention and correctional facilities, as juvenile justice proceedings are civil in nature and do not result in criminal convictions.

Right to Be Free from Cruel and Unusual Punishment

The 8th Amendment to the Constitution prohibits “cruel and unusual punishments.” Typically applied in conditions of confinement cases in adult prisons, the 8th Amendment protects a resident's right to basic care, such as adequate food, clothing, shelter, and medical care. In evaluating whether a condition is cruel and unusual, courts generally assess whether the condition imposes a substantial risk of serious harm and whether officials acted with “deliberate indifference” (a conscious or reckless disregard of the consequences of one's acts or omissions) to the resident's rights.[5]

Right to Equal Protection

The equal protection clause of the 14th Amendment prohibits states from denying “any person within its jurisdiction the equal protection of the laws.” Accordingly, government-operated or contracted institutions, including detention and correctional facilities, cannot discriminate on the basis of race or gender without a sufficiently legitimate government interest. Facilities should ensure that programs, services, and privileges are provided equally regardless of residents' race, ethnicity, national origin, religion, disability, sex, gender identity, or sexual orientation.

Right to Free Speech

https://info.nicic.gov/dtg/print/11
The 1st Amendment to the Constitution also prohibits the making of any law “abridging the freedom of speech.” The Supreme Court has held that the 1st Amendment applies to the states, and specifically that residents in juvenile and adult detention and correctional facilities maintain the freedom of speech.[6] Facilities may limit residents’ speech, but only to the extent necessary to achieve a substantial governmental interest, such as maintaining security.

Right to Free Exercise of Religion

According to the free exercise clause of the 1st Amendment, “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.” Courts have ruled that pursuant to the 1st Amendment, residents of juvenile and adult detention and correctional facilities have the right to exercise their sincerely held religious beliefs.[7] Under certain circumstances, facilities may limit this right, and the Supreme Court has listed the following factors to be considered when determining the validity of such a regulation: 1) whether the regulation is “reasonably related to legitimate penological interests;” 2) whether the resident has alternative ways to exercise his beliefs, 3) whether accommodating the resident's religious exercise would have a significant “ripple effect” on other residents or staff, and 4) whether there is an alternative to the regulation that would accommodate the resident's rights at “de minimis cost to valid penological interests.”[8] Courts have held that maintaining safety and security may constitute a legitimate or valid penological interest in this context.[9]

Right to Counsel

Pursuant to the 6th Amendment to the Constitution, criminal defendants, including youth prosecuted as adults, have the right to an attorney.[10] Youth involved in juvenile delinquency matters also maintain the right to counsel, given 14th Amendment due process protections.[11] Accordingly, detention and correctional facility staff are responsible for protecting residents’ access to counsel, including by allowing them to meet and speak by phone with their attorneys.

Federal Laws and Regulations

In addition to the rights established by the Constitution, several federal statutes and regulations impact the work of facilities that house youth. Some of the most important federal laws with which facility staff should be familiar include:

- Section 1983 of Title 42 of the U.S. Code.
- Juvenile Justice and Delinquency Prevention Act (JJDPA).
- Civil Rights of Institutionalized Persons Act of 1980 (CRIPA).
- Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA).
- Civil Rights Act of 1964.
- Individuals with Disabilities Education Act (IDEA).
- Americans with Disabilities Act of 1990 (ADA).
- Prison Rape Elimination Act of 2003 (PREA).

Section 1983 of Title 42 of the U.S. Code

Enacted as part of the Civil Rights Act of 1871, Section 1983 of Title 42 of the U.S. Code is a federal statute that allows citizens to sue government officials for violations of their constitutional and federal rights. It provides in part the following:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law; suit in equity, or other proper proceeding for redress.[12]

Under Section 1983, youth in juvenile and adult detention and correctional facilities may bring litigation against facility staff for violations of their civil rights. The statute provides a wide basis for lawsuits, and, historically, claims raised against facilities have focused on issues such as unsafe conditions, cruel and unusual punishment, excessive use of force, and inadequate medical and mental healthcare. If staff members are found liable for violating youth’s rights, courts may award money damages or order other types of remedies, such as changes in facility policies or procedures.

Juvenile Justice and Delinquency Prevention Act (JJDPA)

Enacted in 1974 and amended several times subsequently, the JJDPA is the landmark law through which the federal government sets juvenile justice standards and provides state funding for research, training and technical assistance, and evaluation. To receive funding under the JJDPA, state agencies that operate detention and correctional facilities must comply with the following four core requirements:

1. Deinstitutionalization of Status Offenders. This requirement mandates that youth who are charged with or have committed status offenses—that is, offenses that would not be criminal if committed by adults, such as truancy or curfew violations—cannot be held in secure detention and correctional facilities. Additionally the requirement specifies that non-offenders, defined as juveniles who
are under the jurisdiction of the juvenile court for matters other than delinquency, such as dependent or neglected children, may not be detained in these facilities.[13]

2. Removal of Juveniles from Adult Jails and Lockups. Under this requirement, states may not detain youth under the jurisdiction of the juvenile court in any adult jail or lockup. Limited exceptions apply such as holding youth for not more than six hours for processing, release, or transfer to a juvenile facility or while they make a court appearance, or holding youth awaiting an initial court appearance in a “rural” area for not more than 48 hours, but only if no acceptable alternative placement exists.[14]

3. Sight and Sound Separation of Juveniles from Adults in Institutions. In the limited circumstances that youth under the jurisdiction of the juvenile court can be held in adult jails or lockups, this requirement prohibits them from having any contact with adult detainees. At all times these youth must be separated from adult detainees by “sight and sound”—in a manner that prevents youth from hearing or seeing adults. Additionally, the law requires that “there is in effect in the state a policy that requires individuals who work with both such juveniles and such adult inmates, including in collocated facilities, to have been trained and certified to work with juveniles.”[15]

4. Reduction of Disproportionate Minority Contact (DMC). Under this requirement, states must address any disproportionate representation of youth of color in their juvenile justice systems. Specifically, states must “address juvenile delinquency prevention efforts and system improvement efforts designed to reduce, without establishing or requiring numerical standards or quotas, the disproportionate number of juvenile members of the minority groups, who come into contact with the juvenile justice system.”[16]

Failure to comply with the JJDPA may result in significant reductions, possibly even termination, of federal funding. Accordingly, facility administrators and staff should develop policies, practices, and procedures to meet the Act’s requirements. Additional information on the JJDPA can be obtained from the Office of Juvenile Justice and Delinquency Prevention (OJJDP) website.[17]

Civil Rights of Institutionalized Persons Act (CRIPA) of 1980

CRIPA gives the U.S. DOJ the power to investigate and bring civil actions against state or local governments for violating the civil rights of those held in publicly-operated facilities, including juvenile detention and correctional facilities and adult jails and prisons. In pursuing these actions, the Special Litigation Section of the Civil Rights Division of the DOJ focuses on systemic violations of civil rights rather than individual claims. Since CRIPA’s inception, the Special Litigation Section has investigated hundreds of juvenile and adult facilities on a wide variety of issues, including but not limited to the inadequate provision of medical and mental healthcare, failure to protect youth from physical and sexual abuse, and discriminatory practices and procedures.[18] Given that cases often result in costly and time-intensive consent decrees, settlement agreements, and court orders, facility staff are well advised to ensure the protection of residents’ civil rights.

Violent Crime Control and Law Enforcement Act of 1994

The Violent Crime Control and Law Enforcement Act of 1994 prohibits government officials and agents responsible for the “administration of juvenile justice or the incarceration of juveniles” from engaging in patterns or practices that deprive persons of their constitutional rights. The law gives the Attorney General the discretion to initiate civil actions against such officials to obtain court-ordered remedies to eliminate the unconstitutional conduct.[19] The Special Litigation Section of the Civil Rights Division of the DOJ is primarily responsible for enforcing the law.

Religious Land Use and Institutionalized Persons Act (RLUIPA) of 2000

RLUIPA prohibits state and local governments from substantially burdening the religious exercise of institutionalized persons, unless it can be demonstrated that the burden furthers a compelling government interest and is the least restrictive means to further that interest. RLUIPA, which applies to juvenile detention and correctional facilities and adult jails and prisons, authorizes the U.S. DOJ to investigate and file civil actions, and enables private individuals to seek judicial remedies as well. To comply with RLUIPA, facility staff should take measures to protect residents’ rights to “any exercise of religion, whether or not compelled by, or central to, a system of religious belief.”[20] Courts have found that a wide range of practices constitute religious exercise under RLUIPA including “attending religious services, joining prayer groups, leaving hair uncut, wearing head coverings, adhering to certain dietary restrictions, and receiving certain religious reading materials.”[21] Another law, the Religious Freedom Restoration Act of 1993, provides similar protections for residents held in federal and District of Columbia facilities.[22]

Civil Rights Act of 1964

Title VI of the Civil Rights Act of 1964 prohibits discrimination based on race, color, or national origin in programs and activities that receive federal financial assistance.[23] Agencies that violate Title VI may see federal funding suspended or terminated. Accordingly, juvenile justice and adult corrections facility staff should ensure that all practices and procedures are non-discriminatory.

Facilities that house youth with limited English proficiency (LEP) must take special care to comply with Title VI. In 2000, President Clinton signed Executive Order 13166, entitled “Improving Access to Services for Persons with Limited English Proficiency,” a measure designed to enforce Title VI that requires federal agencies to “examine the services they provide, identify any need for services to those with limited English proficiency (LEP), and develop and implement a system to provide those services so LEP persons can have meaningful access to them.”[24] The Executive Order also requires recipients of federal financial assistance to “take reasonable steps to ensure meaningful access to their programs and activities by LEP persons.” In 2011, Attorney General Eric Holder issued a memorandum recommitting to the implementation of the Executive Order. Guidance on complying with the Executive Order is available on the federal government’s “Limited English Proficiency” website.[25]
IDEA is the principal federal law that governs how states and public agencies provide early intervention, special education, and related services to children with disabilities. IDEA originated with the Education for Handicapped Children Act of 1975, which, among other things, mandated that youth with disabilities have access to a free, appropriate public education. Over the years, amendments to IDEA have greatly expanded its scope, and its provisions apply to all youth placed in juvenile and adult detention and correctional facilities (the only exception being a youth aged 18 to 21 who, in his or her last educational placement prior to detention in an adult facility, was not identified as a child with a disability and did not have an Individualized Education Program (IEP), unless otherwise mandated by state law).

To receive federal education funding under IDEA, states and local education agencies (LEAs) must demonstrate compliance with the law or risk reduction or termination of such funding, as well as potential administrative challenges and civil litigation. Accordingly, staff of juvenile detention and correctional facilities and adult facilities that serve youth should work with their educational partners to meet the requirements of IDEA, some of which include:

1. **Child Find Obligation.** States and local education agencies must identify, locate, and evaluate all youth with disabilities. Juvenile and adult detention and correctional facilities can play a key role in identifying youth residents with disabilities through appropriate screening and evaluation measures, as well as staff training.[27]

2. **Individualized Education Program.** Within 30 days of the determination that a child needs special education and related services, a meeting to develop an IEP must be held.[28] The team responsible for creating the IEP includes the youth, the youth’s parents, a regular education teacher, a special education teacher, an LEA representative, an individual who can interpret institutional implications of evaluations, and others with special knowledge of the youth. The IEP must detail a wide range of information, including statements regarding the youth’s present educational performance level, educational goals for the youth, and the special education and related services to be provided to the youth, including transition services. Once developed, the state or LEA must then provide the services in accordance with the IEP.

3. **Least Restrictive Environment.** IDEA requires that, “to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled” and that “special classes, separate schooling or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.”[29]

4. **Due Process Protections.** IDEA provides parents of youth with disabilities with various rights, including the right to view records, receive written notice of proposed actions, participate in IEP meetings, and be involved in educational placement decisions. Parents may also initiate due process proceedings regarding their child’s educational services.[30]

This list represents only a select portion of the requirements outlined in the law and the accompanying federal regulations. More information on IDEA is available at the U.S. Department of Education’s website.[31] Additionally, all states have laws and regulations incorporating IDEA provisions and concepts, most often found in education codes and regulations. Facility staff should consult with their agency’s general counsel’s office for guidance on state and local legal requirements.

**Americans with Disabilities Act (ADA) of 1990**

ADA is a federal law that prohibits discrimination based on disability, defined as “a physical or mental impairment that substantially limits a major life activity.”[32] The law covers a wide range of areas, including employment, public services, transportation, public accommodations, and telecommunications. The Supreme Court has ruled that Title II of the act, which prohibits disability discrimination by all public entities at the state and local level, applies to prisons and jails.[33] ADA regulations also specifically require adult and juvenile detention and correctional facilities to ensure that disabled residents are not “excluded from participation in, or be denied the benefits of, the [facility’s] services, programs or activities… or be subjected to discrimination.” The regulations provide that facility staff should avoid placing disabled residents in “inappropriate security classifications because no accessible cells or beds are available,” in “designated medical areas unless they are actually receiving medical care or treatment,” or in “facilities that do not offer the same programs as the facilities where they would otherwise be housed.” Facility staff should also not “deprive inmates or detainees with disabilities of visitation with family members by placing them in distant facilities where they would not otherwise be housed.”[34]

Since the ADA’s inception, the Civil Rights Division of the U.S. DOJ has investigated and enforced many cases involving the provision of accommodations at juvenile and adult detention and correctional facilities. More information about the ADA’s requirements can be found on the website dedicated to the law and hosted by the federal government.[35]

**Rehabilitation Act of 1973**

Similar to ADA, Section 504 of the Rehabilitation Act of 1973 prohibits disability discrimination.[36] Whereas the ADA applies to facilities operated by state and local agencies, regardless of whether they receive federal funding, the Rehabilitation Act applies to facilities run by federal agencies, such as the U.S. Bureau of Prisons, and to any state or local agency that receives federal funding. Facilities that run afof the Rehabilitation Act risk the suspension or termination of federal funding, as well as court-ordered remedies and monetary damages.

**Prison Rape Elimination Act (PREA) of 2003**
Enacted in 2003, the Prison Rape Elimination Act is the principal federal law that addresses sexual violence in juvenile and adult confinement facilities. The law created the National Prison Rape Elimination Commission and charged it with developing standards for the elimination of prison rape and sexual misconduct. After review by the DOJ, the PREA Standards were published on the Federal Register on June 20, 2012, and became effective on August 20, 2012.[37]

The PREA Standards apply to four types of facilities: juvenile facilities, and adult prisons and jails, lockups, and community confinement facilities. The Standards cover a wide range of areas, including prevention and responsive planning; training and education; screening for risk of sexual victimization and abusiveness; responses to sexual misconduct (e.g., reporting, investigations, medical and mental healthcare, and discipline); data collection and review; and audits. The Standards are available on the National PREA Resource Center website.[38]

It is in the interest of juvenile and adult facilities to comply with the PREA Standards. PREA provides that a state whose governor does not certify full compliance with the standards is subject to the loss of 5% of any U.S. Department of Justice grant funds that it would otherwise receive for prison purposes. The exception to this is if the governor submits an assurance that such 5% will be used only for the purpose of enabling the state to achieve and certify full compliance with the standards in future years.[39] Even facilities not subject to the loss of federal funds should comply with the PREA Standards, as they set forth thoughtful, comprehensive measures to ensure the safety of all youth residents. (See Ch. 6: Adolescent Development: Identifying Trauma)

State Laws and Regulations

State laws and regulations also offer additional protection to youth placed in facilities. Many state laws, for example, give children a right to treatment and rehabilitation, limit the amount of time they can be held in detention, require the use of risk assessments and suicide and mental health screening, and mandate that juvenile records remain confidential. Similarly, many state regulations set forth standards for building conditions, safety measures, staff training and youth programming. It is incumbent on facility staff to understand state-specific legal requirements regarding the care of youth residents. Staff should consult with general counsel's office of their agency for guidance.

Professional Standards and Best Practices

In recent decades, the development of professional standards has greatly impacted the work of facilities that house youth. Facility standards issued by national programs and organizations such as the Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative (JDAI),[40] the American Correctional Association (ACA),[41] the National Commission on Correctional Health Care (NCCHC),[42] and Performance-based Standards (PBS)[43] have been successfully implemented by juvenile detention and correctional facilities around the country. Standards such as these are important because they set forth programmatic, treatment, and environmental guidelines for facilities.

Advancements in juvenile justice research have also informed the field. Researchers have studied the effectiveness of juvenile justice efforts and identified key programmatic and operational factors linked with success.[44] OJJDP also emphasizes the importance of evidence-based practices and programming and publishes the “Model Programs Guide,” a searchable database of effective and promising programs, including those based in detention and correctional facilities.[45]

To enhance services for youth residents and their families, facility staff should understand and comply with professional standards and best practices. Such compliance can also be a strategy to limit legal liability, as when courts evaluate facility conditions, they often consider whether the condition or practice in question departs substantially from “accepted professional judgment, practice or standards.”[46]

Responsibilities of Facility Staff

The most basic responsibilities of detention and correctional facility staff with respect to youth residents and their families are defined by legal requirements, professional standards, best practices research, and the opinions of field experts.[47] As this summary represents general (and in many cases minimum) guidelines for the care of youth residents, facility staff should consult with their agency's leadership for further direction.

Programming

Detention and correctional facilities should provide youth with ample opportunities for programming, including education, exercise, and recreation. Although the Supreme Court has never expressly ruled on the issue, many lower courts have found that youth in custody have a right to treatment.[48] Professional standards and best practice research make it clear that facility staff have responsibilities to engage youth to promote their development, help them acquire skills, and establish connections with positive, caring adults.[49]

Education is an essential element of any facility's programming approach. As a starting point, facilities must comply with state law requirements regarding compulsory education and the provision of a minimum number of minutes of school per day. Equally important, however, facilities must deliver an educational program that addresses residents' significant needs. According to the OJJDP Survey of Youth in Residential Placement, in 2003, nearly one-half of youth in facilities functioned below the school grade level appropriate for their age, over 60% reported being suspended or expelled during the year before they arrived at the facility, and, as a whole, were much
A comprehensive, facility-based education program designed to meet youth needs contains various components, including the following:

- **Screening and Assessment.** Upon entry into the facility, staff should gauge a youth's educational status with screening and assessment tools. Professional standards mandate timely reviews of data such as grade levels, schools attended, and special education and LEP status, to inform the educational placement and approach. JDAl's Detention Facility Assessment Standards, for example, require staff to conduct a brief educational history screening at the time of admission and a more comprehensive assessment of a youth's general educational functioning within five days of admission.[51]

- **Rigorous Educational Programming.** Facilities should offer residents an educational program that operates year round, and provides live, high-quality, individualized instruction. In jurisdictions where the local school district provides the education, facility staff should work together with school personnel to ensure that all residents receive educational services. To the extent that residents cannot attend the regular facility school, due to safety or medical reasons, staff should nevertheless make sure that they receive a comparable education. Facilities should also offer alternative educational programs for residents who may not benefit from regular education (those who already have diplomas or GEDs, or are beyond the age of compulsory education), such as vocational training or college preparation courses.

- **Effective Learning Environment.** Facilities should offer education in classrooms that are conducive to teaching and learning. Teaching areas should be sufficiently quiet to allow residents to focus on instruction, and residents should have access to educational resources and materials, such as textbooks, writing materials, and computers, unless those are prevented by legitimate security concerns. The educational environment should also accommodate the needs of youth with disabilities and LEP youth to comply with ADA, Section 504 of the Rehabilitation Act of 1973, and Title VI of the Civil Rights Act of 1964.

- **Adequate Staffing.** The facility's educational program should be adequately staffed by teachers, including substitutes, to provide residents with engaging instruction and to comply with state-imposed teacher-student ratios. Teachers—including those who provide special education services—should have appropriate credentials.

- **Specialized Services.** To comply with the federal legislation described earlier in this chapter, facilities must provide appropriate services for residents with special education needs, disabilities, and LEP.

- **Transition Services.** Facility staff should help youth transition to the educational placement that will follow their release, including prompt transfer of school records, credits, and grades. Staff should assist youth with school enrollment, if appropriate. (See Ch. 13: Education).

Recreation is another critical component of facility programming. Facility residents have constitutional rights to regular exercise and fresh air.[52] These activities are particularly important to promote healthy growth and development. For this reason, professional standards require that facilities provide youth with at least one hour of large muscle exercise every day. Additionally, PREA Standards require staff to provide opportunities for large muscle exercise; this applies also to youth under the age of 18 that are housed in adult prisons and jails. Staff should not deprive residents the opportunity for recreation for disciplinary purposes, and should make reasonable efforts to provide such activities outdoors if weather permits. Facilities should also offer youth recreational resources such as athletic equipment, games, and reading materials. (See Ch. 10: Effective Programs and Services).

**Medical and Mental Healthcare**

Detention and correctional facilities are responsible for providing healthcare to youth. Statistics show that youth typically arrive at facilities with medical and mental health conditions that require prompt attention and ongoing care. Some reports estimate that about 70% of youth in custody have some type of healthcare need, nearly 70% have experienced past trauma[54] (which may include physical and sexual abuse), and between 65% and 70% suffer from mental health disorders.[55]

Courts have recognized that facility residents have constitutional rights to adequate medical and mental healthcare, and state laws and regulations impose additional obligations to provide such services.[56] Critical elements of facility-based healthcare services include:

- **Screening and Assessment.** Upon a youth’s facility admission, qualified medical professionals or health-trained staff should conduct brief medical and mental health screenings to identify any urgent health needs. Screenings should utilize a validated, standardized instrument, such as the Massachusetts Youth Screening Instrument-2 (MAYSI-2), and should be conducted confidentially. PbS require the completion of health and mental health screenings within one hour of the youth’s presentation for admission at the facility.[57] Youth that require immediate care (suicidal, intoxicated, or withdrawing from substance abuse) should be referred as soon as possible. Following the initial screening, qualified medical staff should conduct a full health and mental health assessment, which includes a review of the youth’s health history and a complete medical examination. PbS and JDAl Detention Facility Assessment Standards call for this assessment to be completed no later than one week after admission.[58]

- **Medical Services.** Facilities must provide youth with regular and prompt access to medical services. Care should be delivered by qualified medical professionals and should include regular physical examinations, dental and eye care, prescription medicines, health and hygiene education, treatment for chronic conditions, and access to emergency medical services, if necessary. Staff should provide medical services in a timely fashion, as courts may construe significantly delayed treatment as “deliberate indifference” to medical needs, in violation of the Constitution. [59] (See Ch. 9: Admission and Intake, and Ch. 12: Healthcare).

- **Mental Health Services.** Facilities should offer youth residents with a wide array of mental health services, including appropriate service planning and access to necessary treatment, medications, and services. Care should be provided by qualified mental health professionals who are properly trained in areas such as assessment of mental and behavioral health disorders, trauma, and suicide prevention. To the extent permitted by provider-patient confidentiality, mental health professionals should work together with other
facility staff regarding strategies to manage youth behavior and adequately address their needs. (See Ch. 15: Service and Treatment Plans, [70] and Ch. 11: Mental Health) [71]

- **Suicide Prevention.** Facilities should develop and implement policies, procedures, and practices to prevent youth suicide. Suicide prevention strategies, as informed by national standards and set forth in the seminal report by Lindsay Hayes entitled, *Juvenile Suicide in Confinement: A National Study*, include regular staff training (initially upon employment and annually thereafter); prompt screening and assessment for suicide risk; procedures enhancing communication among facility staff, arresting or transporting officers, family members, and youth; housing youth in suicide-resistant, protrusion-free rooms and avoiding isolation of youth at risk of suicide; appropriate supervision and monitoring (such as close observation for potentially suicidal youth based on recent self-destructive behaviors or expressed suicidal ideation, and constant observation for residents that demonstrate actively suicidal behavior); intervention policies that require staff training in CPR, immediate responses to emergencies, and continuation of life-saving measures until the arrival of medical personnel; and reporting of and follow-up to any suicide attempts or suicides. It is worth noting that industry standards such as those set forth by PhS require that facilities conduct suicide screenings for youth within one hour of admission.[60]

- **Confidentiality.** Facility staff should ensure that youth health records are kept confidential and that disclosure practices comply with state and federal laws, such as the Health Insurance Portability and Accountability Act of 1996 (HIPAA). More information about HIPAA can be found on the U.S. Department of Health and Human Services website.[61]

- **Continuity of Care.** Staff should work to ensure continuity of medical care for each youth resident, both upon admission to and discharge from the facility. Qualified medical professionals should develop individualized plans to guide youth treatment while in the facility, including the continuation of any necessary medication regimen, as well plans to govern smooth transitions to the youth’s next placement, including any necessary record transfer and healthcare enrollments.

**Family and Community Engagement**

A growing body of research indicates that family and community engagement is a critical component of positive youth development and that it leads to improved outcomes for court-involved youth and their families.[62] For youth placed in facilities, maintaining family and community connections is especially important. Studies have found that youth residents who keep positive relationships with loved ones are more likely to address treatment needs while in the facility and less likely to recidivate upon return to the community.[63] Additionally, it appears that regular family visitation can positively impact youth behavior and school performance.[64] Practices that facilities should implement to support family and community engagement include:

- **Visitation.** Youth in facilities have rights to family visitation.[65] Facilities should permit visits during the weekdays and weekends, and during business and non-business hours, to accommodate family members that would otherwise be unable to attend. With approval from the youth’s probation officer or counselor, staff should allow residents to receive visits from parents and guardians, adult relatives, family friends, mentors, residents’ own children, and siblings.

- **Access to Telephone and Mail.** Youth have rights to reasonable access to telephones to communicate with their loved ones.[66] Standards issued by ACA and JDAI require that youth can place two phone calls during admission and twice weekly during the length of stay. Staff should not deprive youth of phone calls as a disciplinary measure, and should not listen to or record conversations without specific and reasonable suspicion of criminal activity or threat to facility security.[67] Youth also have legal rights to send and receive mail.[68] Although staff may inspect mail for contraband, they should only read non-privileged mail (mail from individuals other than attorneys, court or public officials) if there are grounds to reasonably believe it contains information related to unlawful activity.

- **Staff–Family Communication.** Facility staff should maintain regular contact with the families and loved ones of youth residents. Shortly after admission, staff should provide youth and families with a comprehensive orientation to the facility using materials that are clear, easy to understand, and appropriate for language needs. Facilities should offer families meaningful opportunities to provide input on the treatment plans and care for their children. Families should know how to contact staff with questions and concerns. Staff should explain to family members how to file grievances on behalf of their children, and should respond promptly and thoroughly to such complaints.

- **Programming.** To the extent possible, facilities should include families and other positive role models, such as mentors, in the programming provided to youth. Some of the most successful juvenile justice interventions, such as Multi-Systemic Therapy (MST) and Functional Family Therapy (FFT), incorporate strong family involvement.[69] While MST and FFT have primarily been employed in the community, many facilities have effectively incorporated the program principles in their approaches.

**Access to Counsel and the Courts**

Youth in facilities have constitutional rights to access their attorneys and the courts. Facility staff should support such access not only to limit legal liability, but as a strategy to manage behavior. Attorneys can play a critical role in helping youth residents understand the legal process, prepare them for potential outcomes, and provide them with case information. Increasing youth knowledge about their legal cases and the law can reduce anxiety and frustration that might otherwise lead to undesirable behaviors. Facility staff can protect youth rights to access counsel and the courts by developing and implementing policies and practices in the following areas:[70]

- **Visitation.** Youth residents have a right to communicate with their attorneys. Facilities should permit attorney visits to occur at all reasonable times and not limit them to family visiting hours. Attorneys should not be prohibited from bringing in materials they must review with youth in connection with the legal case, including hard files, exhibits, and electronic video and audio files. Additionally, youth must be able to speak with their counsel in private areas. Ideally, attorney–client visits should take place in rooms
outside the presence of others. To the extent that visits must occur in public areas, facility staff should ensure that others cannot listen to the conversations.

- **Access to Mail and Telephone.** Mail to and from attorneys (as well as court and public officials) is privileged and should not be reviewed by facility staff.[71] Privileged mail may be opened only to inspect it for contraband, but must not be read. In addition to providing access to legal mail, facilities should ensure that residents are able to make free telephone calls to their lawyers.

- **Access to Legal Materials and Information.** Facilities should provide residents with access to legal materials necessary to challenge their adjudication, sentence, or conditions of confinement.[72] Many facilities offer extensive law libraries and access to computers to conduct legal research. Additionally, contact information for residents’ attorneys and local courts should be readily accessible to youth. Facilities should consider working with local public defender and attorneys’ offices or courts to collect such contact information.

**Protection from Harm**

While housed in detention and correctional facilities, youth have rights to personal safety. Staff are legally responsible for protecting residents from harm, including threats of violence, and may be found liable if they act with deliberate indifference to youth safety needs and concerns.[73] Facility practices that impact safety include:

- **Classification.** A comprehensive classification system to guide facility housing and programming decisions is a critically important tool to secure and maintain youth safety. Collecting and appropriately using information about youth background and needs helps facility staff properly identify and address safety concerns, including any necessary separation of more aggressive or violent residents from others. PREA Standards require that, within 72 hours of a resident’s arrival at a juvenile facility and periodically throughout the resident’s stay, staff must attempt to ascertain the following information about residents to make housing, bed, program, education, and work assignments: prior sexual victimization or abusiveness; any gender nonconforming appearance or manner or identification as lesbian, gay, bisexual, transgender, questioning, or intersex (LGBTQI) and whether the resident may therefore be vulnerable to sexual abuse; current charges and offense history; age; level of emotional and cognitive development; physical size and stature; mental illness or disabilities; intellectual or developmental disabilities; physical disabilities; the resident’s own perception of vulnerability; and any other information that may indicate heightened needs for supervision, additional safety precautions, or separation from certain other residents.[74] Classification decisions must never be made solely on the basis of race or ethnicity,[75] or on residents’ actual or perceived sexual orientation or gender identity,[76] and must afford equal opportunities for female and male residents alike.[77] Additionally, to comply with the JJDPA, adult prisons and jails must ensure that youth residents under juvenile court jurisdiction are separated by sight and sound from adult inmates at all times.[78] (See Ch. 8: Admission and Intake).

- **Use of Force and Restraints.** Staff have a legal duty to keep youth safe using behavior management techniques that do not unnecessarily subject residents to harm or injury.[79] Professional standards permit staff to use physical force on youth only as a last resort to ensure safety, and only for the amount of time necessary to bring a situation under control. JDAI Detention Facility Assessment Standards, for example, allow staff to use approved physical force techniques only when a “youth’s behavior threatens imminent harm to the youth or others or serious property destruction.” These standards also require that staff receive regular training in “conflict management, de-escalation of confrontations, crisis intervention, management of assaultive behavior, minimizing trauma involved in the use of force, and the facility’s continuum of methods of control.”[80] Staff should never use pressure-point control tactics—which involve pain compliance and joint manipulation—and should never employ physical force to punish youth, as doing so violates their constitutional rights.[81] Forms of restraint that raise liability issues include:
  - **Mechanical Restraints.** Staff must ensure that the use of mechanical restraints protects youth’s safety at all times. Handcuffs should be used only to the extent necessary to prevent injury and escape, and staff should never restrain youth to fixed, stationary objects, including beds, doors, and walls.[82] With respect to restraint chairs, the U.S. DOJ Civil Rights Division has declared that accepted professional standards require juvenile detention facilities to eliminate the practice entirely, or in the “rare cases where a restraint chair is used, that it only be used under the direct supervision of a medical or mental health care provider.”[83] Best practices also prohibit the use of four- or five-point restraints and straightjackets, given the increased risk of harm.
  - **Chemical Restraints.** The use of chemical agents, including pepper spray, tear gas, and mace, within facilities that house youth is a controversial practice that industry standards such as the JDAI Detention Facility Assessment Standards clearly prohibit.[84] Some courts have found that the use of chemical restraints in facilities violates residents’ constitutional rights,[85] and the U.S. DOJ Civil Rights Division has investigated several facilities for improper and excessive use of the practice. Many facilities have eliminated the use of chemical agents by emphasizing alternative behavior management strategies, such as de-escalation, conflict management, and trauma-informed care.

- **Isolation.** Research indicates that the use of isolation, administrative segregation, and solitary confinement practices within facilities harms youth. Such practices may cause or exacerbate mental health problems and limit youth’s access to services necessary to meet their physical, psychological, social, and developmental needs.[86] Although the Supreme Court has not squarely addressed the constitutionality of isolating youth residents in detention and correctional facilities, several federal courts have found that placing vulnerable individuals—such as those with severe mental health disorders—in solitary confinement violates constitutional rights and have required that residents held in isolation at a minimum be afforded due process, humane physical conditions, and access to basic necessities.[87] Given the harm imposed and increased potential for legal liability, facilities should strictly limit or eliminate altogether the use of isolation practices. PREA Standards disfavor the use of isolation and permit it in juvenile facilities only as a “last resort when less restrictive measures are inadequate to keep them and other residents safe, and then only until an alternative means of keeping all residents safe can be arranged.” PREA Standards also require juvenile facilities to provide residents held in isolation with daily large-muscle exercise, education services, daily visits from medical or mental health clinicians, and access to programming and

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work opportunities. For each resident in isolation, PREA requires that facility staff document the “basis for the facility’s concern for the resident’s safety” and the “reason why no alternative means of separation can be arranged” Every 30 days, staff must review whether there is a continuing need to separate the youth from the general population.[88] In adult prisons and jails, PREA Standards require staff to make best efforts to avoid placing youth under 18 years old in isolation, and ensure—absent exigent circumstances—that isolated youth have daily large-muscle exercise, education services, and access to programming and work opportunities.[89] (See Ch. 9: Admission and Intake, Ch. 11: Mental Health, and Ch. 14: Behavior Management).  

- Searches. Searching for contraband within facilities is an important element of maintaining safety for residents and staff. However, staff must comply with legal requirements and residents’ rights to privacy when conducting personal and facility searches.[90] At a minimum, searches should always be conducted for legitimate safety reasons and never to harass, punish, or discipline youth residents. Forms of searches include:
  - Strip Searches. A strip search is an inspection that requires a youth to remove or arrange clothing to examine the youth’s breasts, buttocks, or genitalia. Several courts have found that facility staff may not conduct strip searches of youth without reasonable suspicion that doing so would produce contraband or weapons.[91] In this context, reasonable suspicion generally refers to a particularized and objective basis, supported by specific and articulable facts, for believing a person is concealing a weapon or contraband and a strip search will result in the discovery of the weapon or contraband. Industry standards, including the JDAI Detention Facility Assessment Standards, require that staff conduct strip searches only with prior supervisory approval and upon reasonable suspicion that a youth possesses a weapon or contraband.[92] Staff should also document all searches and conduct them with youth individually and in private areas so that others not involved in the searches cannot observe them.
  - Physical Body-Cavity Searches. A physical body-cavity search involves the manual inspection of residents’ anal or vaginal cavities. Given the high level of physical intrusion, many jurisdictions require a search warrant issued by a judge prior to conducting a physical body-cavity search.[93] Additionally, several standards, including the Juvenile Federal Performance-Based Detention Standards and the JDAI Detention Facility Assessment Standards, require that only medical personnel conduct physical body-cavity searches.[94]
  - Cross-Gender Searches and Searches of Transgender or Intersex Residents. PREA Standards limit the use of cross-gender searches in facilities that house youth. Cross-gender strip searches and visual body-cavity searches (“searches of the anal or genital opening”) are permitted only in exigent circumstances (“any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility”) or only by medical practitioners.[95] The Juvenile PREA Standards also prohibit cross-gender pat-down searches of both female and male residents except in exigent circumstances.[97] Any cross-gender pat-down, strip, or body search must be documented. Additionally, the PREA Standards prohibit staff from searching or physically examining a transgender or intersex inmate for the sole purpose of determining the inmate’s genital status. Staff must also be trained on “how to conduct cross-gender pat-down searches, and searches of transgender and intersex residents, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.”[98] (See Ch. 9: Admission and Intake)
  - Facility and Room Searches. Professional standards require staff to conduct facility and individual room searches with the “least amount of disruption and with respect for youth’s personal property.”[99]

- Discipline. Facility staff must ensure that disciplinary and behavior management approaches protect the safety of youth and respect their rights. Corporal punishment, such as the warrant infliction of pain, plainly violates residents’ constitutional rights,[100] and industry standards such as the JDAI Detention Facility Assessment Standards, strictly prohibit the deprivation of basic rights as a form of discipline, including the right to meals and drinking water, a place to sleep, clean and sanitary living conditions, clean clothes, personal hygiene items, opportunity for daily showers and access to toilets, daily opportunity for exercise, daily education, family visits, telephone and in-person contacts with attorneys, receiving and sending mail, and access to reading materials.[101] Staff must also protect the due process rights of youth when responding to negative behaviors and imposing discipline. A fair disciplinary or behavior management system ensures that youth clearly understand the facility rules, allows them the opportunity to be heard, and explains the reasons for any sanctions imposed. To the extent that facilities impose major discipline such as administrative segregation or isolation (see above for discussion regarding such practices), staff are legally required to afford youth several due process protections, including notice of the alleged charges against them, an opportunity to challenge and present evidence, and the ability to appeal the final decision.[102] (See Ch. 14: Behavior Management)

- Grievances. A grievance procedure is an important element of safeguarding youth safety as it provides them a means of addressing conditions issues and perceived injustices, enhances communication between staff and youth, and provides administrators information regarding policy violations and other issues that require attention. The basic elements of adequate grievance procedures include: 1) notice to youth regarding availability of grievances, 2) a clear and simple process for presenting grievances, 3) prompt investigation of grievances, 4) opportunity for youth to present grievances to impartial parties, 5) notice to residents regarding decisions, 6) a process to appeal decisions, 7) written records and final actions, and 8) appropriate staff discipline for substantiated grievances. Youth have the right to file grievances without staff retaliation.[103] Additionally, PREA Standards address grievance procedures, requiring that facilities “provide multiple internal ways for residents to privately report sexual abuse and sexual harassment, retaliation by other residents or staff for reporting, and staff neglect or violation of responsibilities that may have contributed to such incidents.” Standards also require that there be “at least one way for such reporting to a public or private entity not part of the agency.” Staff must accept reports made verbally, in writing, anonymously and from third parties; provide residents with access to tools to make written reports; and provide staff a method to privately report sexual abuse and harassment of residents. [104] PREA Standards also prohibit time limits to file grievances regarding allegations of sexual abuse.[105]
All youth in custody have constitutional and federal rights to be treated equally and without discrimination. Accordingly, facility staff should implement policies, procedures, and practices designed to ensure fair and appropriate treatment of youth, regardless of race, ethnicity, national origin, religion, disability, sex, gender identity, or sexual orientation. Areas on which facilities should focus include:

- **Non-Discrimination Policies and Practices.** Facilities should have written policies that prohibit all forms of discrimination and allow residents to report harassment or discrimination. Facility management should investigate and respond promptly to any such complaints and hold staff accountable for violating these policies. Retaliation against complainants of harassment or discrimination should be strictly forbidden. Staff should also be trained on the different types and consequences of harassment and discrimination and how to best prevent them.

- **Language Services and Cultural Competency.** To comply with Title VI of the Civil Rights Act of 1964 and Executive Order 13166, staff must take reasonable steps to ensure that LEP youth have meaningful access to facility programs and activities. Facilities should maintain adequate staffing to address the language needs of residents, including any necessary interpretation or translation services. PREA Standards specifically require facilities to “take reasonable steps to ensure meaningful access to all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment to residents who are limited English proficient, including steps to provide interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.” Orientation and other facility written materials should also be made available in the native languages spoken by residents and their families. Additionally, to the extent that facilities house youth with different ethnic and cultural backgrounds, staff should be trained in cultural competency, which OJJDP defines as the ability to “understand the world view of clients of different cultures and adapt practices to ensure their effectiveness.” Such training can help staff increase knowledge about cultures, address biases and stereotypes, and learn strategies for treating youth in culturally sensitive manners.

- **Religion.** Facilities must accommodate youth rights to religious exercise. Although the Supreme Court has held that facilities may restrict these rights on the basis of “valid penological interests,” both the Religious Land Use and Institutionalized Persons Act of 2000 (applicable to state and local institutions that receive federal funds) and the Religious Freedom Restoration Act of 1993 (applicable to federal and District of Columbia institutions) prohibit facilities from imposing a substantial burden on exercise of religious beliefs unless the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. Accordingly, facility staff should take care when fashioning policies and practices that may impact religious observances, including religious or prayer services, dietary practices, and access to religious materials.

- **Treatment of LGBTQI Youth.** Facility staff must treat LGBTQI residents equally with other youth, ensuring full access to programs and services and providing for their safety, as failure to do so may result in legal liability. Several PREA Standards govern the care of LGBTQI youth, including requirements that facilities do not automatically house LGBTQI youth solely on the basis of their actual or perceived sexual orientation or gender identity, or consider such identification or status as an indicator of being sexually abusive. Do not search or physically examine a transgender or intersex resident solely to determine genital status, afford transgender and intersex residents the opportunity to shower separately from other residents, reassign bi-annually the placement and programming assignment for each transgender or intersex resident for safety, and provide staff training on how to communicate effectively and professionally with LGBTQI youth. Additionally, facilities should not use practices that harm LGBTQI residents, such as the labeling of or treatment as sexual offenders merely on the basis of gender identity or sexual orientation. Reparative or conversion therapies designed to involuntarily change youth’s gender identity or sexual orientation should also not be used, as they have been condemned by major health organizations such as the American Medical Association, American Academy of Child and Adolescent Psychiatry, and the American Psychological Association. (See Ch. 19: Complex Issues and Vulnerable Populations.)

Privacy and Confidentiality

Facility staff must protect the privacy rights of youth residents. Most jurisdictions have laws that prohibit the disclosure of information contained in juvenile records (with specific exceptions), including records generated or used at detention and correctional facilities. These laws are generally designed with the intent of supporting youth treatment and rehabilitation by avoiding the creation or perpetuation of negative stigmas associated with being publicly identified as court-involved. In addition to complying with state and local statutes and regulations, facility staff must take special care to protect the confidentiality of health and education records; HIPAA and the Family Educational Rights and Privacy Act (FERPA) (respectively) govern their disclosure.

One evolving issue in the privacy arena is staff use of social media to communicate with youth or monitor their present or past activities. Social media programs and applications such as Facebook, Twitter, and Instagram enable users to post writing, photos, videos, and other content in publicly accessible online forums. Although there appears to be no current case law directly governing the use of such media by staff, facilities would be well advised to carefully craft written policies and procedures that consider youth privacy rights. At a minimum, permitting staff to communicate with or monitor youth online could open the door for actions that cross professional or ethical boundaries.

Safe, Clean, and Humane Environment

Youth residents have rights to safe, sanitary and humane living environments. Elements of an appropriate facility environment include:

- **Food, Clothing, and Shelter.** Residents have the right to adequate food, clothing, and living environments. In addition to complying with requirements imposed by sanitation and health codes, facilities should meet industry standards that mandate a
wholesome, nutritious diet for youth residents. JDAI Detention Facility Assessment Standards, for example, require the provision of at least three meals daily, of which two are hot meals, with no more than 12 hours between the evening meal and breakfast, as well as healthy snacks in the evening.[125] Facilities should also provide youth with clean clothing and access to adequate personal hygiene and toiletry supplies. Living quarters should be kept clean and should have adequate ventilation, heating, cooling, and lighting.

- **Fire Safety.** Staff have legal responsibilities to take the steps necessary to prevent and respond to fires within the facility.[126] At a minimum, facilities should have functioning smoke detectors or similar monitoring devices, posted evacuation plans, at least two means of egress within occupied areas, identification and lighting of all exits, working and fully charged fire extinguishers, and first-aid kits and automated external defibrillators (AEDs). Additionally, facility staff should conduct regular fire drills and ensure that all hazardous and flammable items are properly secured at all times.

- **Emergency Preparedness.** Facility staff must be fully prepared for emergency situations that may affect their geographical location, including fires, natural disasters (hurricanes, earthquakes, tornadoes, floods), national security issues (terrorist threats or actions) and public health and medical emergencies. Accordingly, facilities should develop plans to prepare for, respond to, and recover from such emergencies. Staff should review the OJJDP 2011 report entitled, *Emergency Planning for Juvenile Justice Residential Facilities.* This publication provides guidance on developing an emergency plan, budgeting for emergency planning and response, allocating staff responsibilities, establishing communications procedures, planning to protect critical infrastructure, preparing to shelter in place and to evacuate, providing mental health and medical care, training staff in basic emergency care, evaluating staffing needs, offering support to youth residents and their families, meeting the needs of staff and their families, and managing volunteers. [127] (See Ch. 19: Complex Issues and Vulnerable Populations: Facility Emergency Preparedness).[14]

- **Overcrowding.** Facility overcrowding is a serious issue that threatens the safety and quality of life of residents and staff alike. Operating facilities at over the standard bed capacity can place heavy burdens on staff and can lead to inadequate programming and services for residents, as well as increased rates of incidents. To prevent these issues, staff should work with system partners to ensure that the total population of the facility does not exceed capacity. Strategies include developing alternatives to detention, utilizing validated risk assessment instruments to guide placement decisions, and systematically reviewing cases to achieve appropriate lengths of stay. Nevertheless, if overcrowding occurs, staff remain responsible for providing the full gamut of legally required services—including education; recreation; mental and medical healthcare; and access to families, counsel, and the courts.

**Conclusion**

Staff in juvenile and adult detention and correctional facilities play a critical role in keeping youth residents safe, ensuring they receive services, and protecting their rights. As this chapter demonstrates, staff responsibilities are broad—ranging from providing youth with programming to maintaining a safe, clean, and humane facility environment. Although this chapter is designed to assist staff in understanding the legal and professional obligations governing their work, staff are nevertheless strongly encouraged to consult with legal counsel for further guidance, as requirements and duties vary by jurisdiction.

**References**


20 U.S.C. § 1400 *et seq. *


28 C.F.R. § 35.130(d).

28 C.F.R. § 35.152.

28 C.F.R. 115 *et seq.*


28 C.F.R. 115.15.

28 C.F.R. 115.16.

28 C.F.R. 115.31.

28 C.F.R. 115.315

28 C.F.R. 115.316.
28 C.F.R. 115.331.
28 C.F.R. 115.341.
28 C.F.R. 115.342.
28 C.F.R. 115.351.
28 C.F.R. 115.352.
28 C.F.R. 115.42.
28 C.F.R. 115.5.
28 C.F.R. 115.51.
34 C.F.R. § 300.340 et seq.
34 C.F.R. § 300.550.
34 C.F.R. §§ 300.501 et seq.
34 C.F.R. § 300.125.
42 U.S.C. § 12132 et seq.
42 U.S.C. § 14141.
42 U.S.C. § 15601 et seq.
42 U.S.C. § 15607(c).


American Correctional Association. “Standards and Accreditation.” http://www.aca.org/ACA_Prod_IMIS/ACA_Member/Standards_Accreditation/AC...


*Bell v. Wolfish*, 441 U.S. 520, 599 (1979)


California Penal Code § 4030 (h).


*Dixon v. Brown, Co.*, 38 F.3d 1024 (8th Cir. 1994).


*Ford v. Mcginnis*, 352 F.3d 582 (2d Cir. 2003).

*French v. Owen*, 777 F.2d 1250 (7th Cir. 1986).


*Hare v. City of Corinth*, 74 F.3d 633 (5th Cir. 1996).


*Hopewell v. Spellman*, 753 F.2d 779 (9th Cir. 1985).


https://info.nicic.gov/dtg/print/11
McFad n. Valenzuela, 684 F.3d 564 (5th Cir. 2012).


Ned v. Shimoda, 131 F.3d 818 (9th Cir. 1997).

O’Sullivan v. Wainwright, 349 F.3d 399 (7th Cir. 2003).


Spain v. Procior, 600 F.2d 189 (9th Cir. 1979).


Taylor v. Armantour, 888 F.2d 555 (8th Cir. 1989).


Title VI of the Civil Rights Act of 1964.


Endnotes


[18] U.S. Department of Justice, Civil Rights Division, “Special Litigation.”
[28] 34 C.F.R. § 300.340 et seq.
[34] 28 C.F.R. § 35.152.
[38] PREA Resource Center, Federal Register, 77, no. 119 (2012).
https://www.ncchc.org/standards-for-correctional-health-services.

43] "Performance-based Standards."


47] For an excellent overview of the legal responsibilities of staff in adult facilities housing youth, see James Austin, Kelly Dedel Johnson, and Maria Gregoriou, Juveniles in Adult Prisons and Jails: A National Assessment (Washington, DC: U.S. Department of Justice, Bureau of Justice Assistance), adapted from “Legal Rights of the Child,” in Representing the Child Client, edited by Mark Soler.


52] French v. Owen, 777 F.2d 1250 (7th Cir. 1986); Spain v. Evers, 600 F.2d 189 (9th Cir. 1979).


54] Sedlak and McPherson, Youth Needs and Services.


57] "Performance-based Standards."


[89] 28 C.F.R. 115.14


[95] 28 C.F.R. 115.5.


[99] Annie E. Casey Foundation, *Detention Facility Self-Assessment*. 

https://info.nicic.gov/dtg/print/11


[120] Neal v. Shinnocks, 131 F.3d 818 (9th Cir. 1997).


[125] Annie E. Casey Foundation, Detention Facility Self-Assessment.

