

Medical Awareness

Identifying Injury or Illness in the Jail

Purpose

One of the most significant issues facing jails and jail staff is lawsuits resulting from allegations of lack of medical or mental health care. The purpose of this training is to provide jail staff with an enhanced ability to identify the needs of prisoners and to properly respond to those medical and mental health needs.

The Need for Policies and Procedures

Correction officials must have policy, training and follow-up procedures for recurring tasks undertaken by their employees. Policy and training should focus on those that are high risk tasks. When considering which tasks are high risk the agency should consider three things:

1. Is the task one which officers will regularly face?
 2. Is the task one which requires decision making and is the decision making process made easier by policy and training or is the task one in which officers have made mistakes in the pasts?
 3. Finally will the wrong decision lead to an injury either in a physical sense or a constitutional sense?
- It must be recognized that an agency that fails to train it's employees can be viewed as acting with deliberate indifference.
 - An agency's fine looking policy manual that is not trained to or disciplined to, acts only as a facade.

“Need to Know” vs “Need to Reference”

Policy

- Based on law and generally accepted practices
- Legal decisions from U.S. Supreme Court
- Legal Decisions from Lower Federal Courts
- State Court

Attribution Method

- Final policy maker makes the decision
- The “hands-on” Jailer
- No need to establish a pattern
- Single decision by final policy maker will be attributed to agency for purposes of liability.

Custom/Practice

- Think of an existing policy in your agency that no one follows. **Ex. Recording of Cell Checks at the time of the check.**
- Established by showing a pattern of conduct.
- Pattern is such that final policy maker is on notice and has acquiesced by failure to act.
- If you have a written policy but disregard it, you might as well throw it out the window.

Policy

- Lack of policy for a high risk critical task such as medical needs.
- Is the agency “Deliberately Indifferent”?
- Failure to train
- Failure to supervise
- Failure to discipline

Civil-Federal

42 U.S.C. § 1983

- Person
- Acting Under Color of Law
- Violates the Constitution or some other Federally Protected Right Causing Physical or Constitutional Harm
- Monetary Damage or Injunctive Relief
- 18 U.S.C. 242: federal avenue to criminal charges against law enforcement

Duty to Protect

- The only clear cut case of a duty to protect relates to prisoners who are in government custody. The reason for this duty is that the person who is involuntarily held cannot protect themselves.
- Under what circumstances does the state or municipal entities have a constitutional duty to protect citizens from violence at the hands of private actors? The general answer to this question is that there is no constitutional duty to protect free citizens. The only clear case of a duty to protect is when a citizen is in the custody of a state or municipality.
- Imagine what would happen if a free citizen went to the police station complaining of an infected tooth.
- Or a gang member sought protection from a rival gang member.
- The jailer does have a duty to protect with respect to these issues.

Medical Screening

- To provide for procedures and practices of the facility to perform medical, dental, and mental health screening commencing upon intake and continuing throughout incarceration. To detect prisoners who pose a health or safety threat to themselves or others and who require immediate health care. The policy is to provide for the serious medical needs and mental health of all persons committed to the facility.
- Serious Medical Need: One that has been diagnosed by a physician as mandating treatment or one that is so obvious that even a lay person would easily recognize the necessity for a doctor's attention.

Medical Screening Checklist

Every incoming inmate will be screened.

- Current illnesses and health problems;
- Medications taken and special health requirements;
- Behavioral observation, state of consciousness, and mental status
- Notation of body deformities, markings, bruises, lesions, jaundice, ease of movement, and other distinguishing characteristics
- Condition of skin and body orifices, including rashes and infestations;
- **Substance abuse withdrawal or potential for withdrawal**
- Communicable Diseases
- Acute and Chronic conditions requiring immediate attention
- Dental Problems which constitute a medical emergency
- Possibility of Pregnancy
- Referral to medical authority on an emergency basis.

Use of Force Reporting
&
The Serious Medical Conditions That Result
From Force

Arrest and Restraint of Eric Garner



The neck restraint was not reported in the initial written report

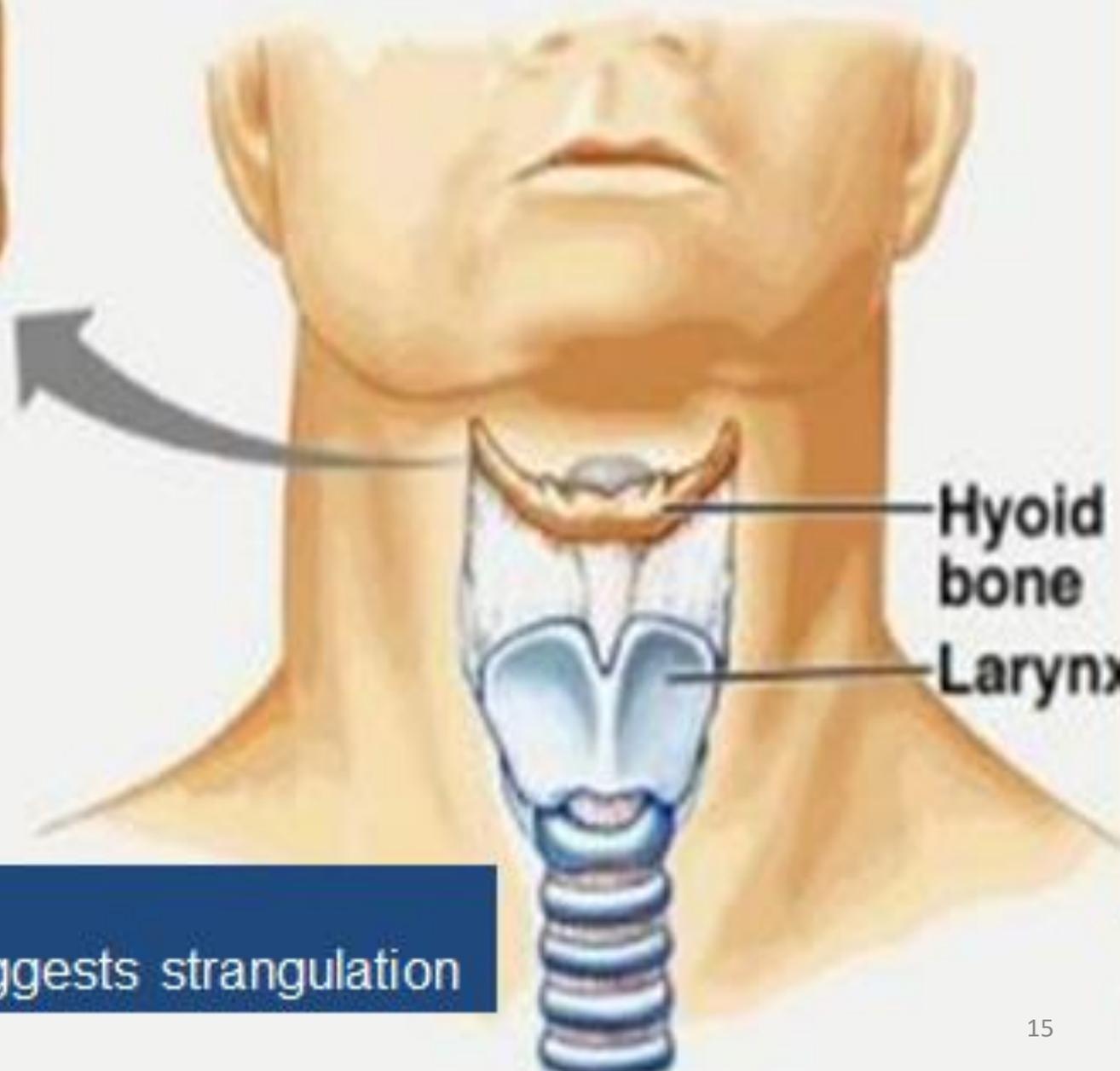
petechial hemorrhage

Caused by bleeding from
broken capillary blood
vessels





Hyoid bone



Hyoid bone
Larynx

A fractured Hyoid Bone strongly suggests strangulation

officers were not transporting Freddy Gray to a medical facility.
y were transporting him to the City Jail.

Arresting Officer Questionnaire

- The Booking/Screening officer will make every effort to ensure the **“Arresting Officer Assessment”** form has been completed by the arresting officer
- **Has the arrestee engaged in any assaultive or violent behavior? Yes No**
- **Are you aware of the arrestee’s consumption or use of potentially dangerous level levels of drugs or alcohol?**
- **Are you aware of any acute medical condition or injury recently sustained by this arrestee that may require immediate medical attention? Yes No**
- **Has the arrestee demonstrated behavior that would suggest acquired brain injury? Yes No**
- **If you don’t catch the injury on the way in it can be difficult to determine where the injury occurred. **“Finger pointing.”****

Checklist: Head Injuries

- **Head injuries**
- Detainees who have suffered a head injury should be immediately transported to hospital for medical assessment and monitoring.
- A blow to the head can result in bruising or bleeding inside the skull or inside the brain. Not all head injuries are visible and complications may occur at any time after the event. Staff must be aware of the risks associated with head injuries, particularly when dealing with detainees who may have been involved in a fight or a road traffic collision. A head injury may result in a rapid deterioration in the health of the detainee.

This is the brain of a 2 year old boy who showed no visible sign of injury. At autopsy the evidence is clear! Shaken Baby.



Taser Use Medical Clearance

- Persons struck in a sensitive area-eyes, head, genitals, female breasts.
- Where the probes have penetrated the skin and EMS cannot safely remove darts.
- Persons who do not appear to have fully recovered after a short period of time (Model Policies use a ten-minute time limit however officers who observe unusual physical distress should immediately call for medical assistance and should not wait the ten-minute recovery period recommended by some of the model policies)
- Persons who fall into one of the vulnerable classes such as juveniles, pregnant women, persons who are small in stature, persons who officers become aware have a pre-existing medical condition that increases danger and the elderly.
- Subject who request medical assistance.

Identifying Illness and Injury

- **Symptoms or behaviors**
- unconsciousness or lack of full consciousness (eg, problems keeping their eyes open)
- any confusion (not knowing where they are, getting things muddled up)
- any apparent drowsiness or sleepiness which goes on for more than one hour when the detainee would normally be wide awake
- difficulty waking
- any problems understanding or speaking
- any loss of balance or problems walking
- any weakness in one or more arms or legs
- any problems with vision
- very painful headache that will not go away
- any vomiting (unexplained)
- any fits (collapsing or passing out suddenly)
- clear fluid coming out of their ear or nose
- bleeding from one or both ears
- new deafness in one or both ears
- abnormal breathing.

Cell Checks

- Jerome Murdough
- Mentally ill homeless man
- Inmate died in over heated cell. Body temperature was 103 degrees.
- Algor Mortis- body temperature drops 1 ½ degrees per hour until it reaches the ambient temp of the room.
- Officer **pencil whipped the logs** after the death (Frequent Occurrence?)
- Supervisors failed to supervise. Custom and Practice.
- Charged criminally with filing false reports documents tampering.
- City settled for \$2.4 million.

Officer Criminally Charged with Violation of Civil Rights 18 U.S.C. 242: federal avenue to criminal charges against correctional officers.



Jason Echevarria died in his cell.
Mentally ill inmate injected a toxic
Soap ball



Captain Terrance Pendergrass Rikers Island
Shift Supervisor denied medical care.
Charged Federally with deprivation of rights
under color of law.

2 Components of Duty Owed

- “Sufficiently serious” medical need.
- A serious medical need is one that has been diagnosed by a physician as mandating treatment or
- one that is so obvious that even a lay person would easily **recognize** the necessity for a doctor's attention.

And...Deliberate Indifference-A Culpable State of Mind by Jail Staff

- Although deliberate indifference requires a mental state more culpable than mere negligence, the official need not have acted with the purpose of causing harm or knowing that harm will result.”
- Rather, the jail staff must both be aware of facts from which the inference could be drawn that a substantial risk of serious harm exists, and he must also draw the inference. And fail to take action

Death of Inmate

- Mr. Echevarria, who suffered from bipolar disorder, had been placed in a solitary confinement unit after several suicide attempts and an attempt to swallow a battery
- A soap ball was given to inmate to clean the cell. It should have been diluted into 4 gallons of water.
- Agency failed to train the officer passing out the product. This was a cleaning agent that contained, among other things, ammonium chloride, a chemical that can be life-threatening if ingested. **The inmate ingested the soap ball.**
- When a correction officer alerted Captain Pendergrass to Mr. Echevarria's condition, the captain told the officer not to bother him unless "there was a dead body,"
- A short time later, the correction officer returned to Captain Pendergrass after seeing vomit on the window and floor of Mr. Echevarria's cell. The captain told the officer that Mr. Echevarria should "hold it." that was at 11:00pm.
- The inmate was discovered dead in the cell at 8:30 am. (lack of effective cell checks.)
- The medical examiner ruled Mr. Echevarria's death a homicide, citing "neglect and denial of medical care." The chemicals in the soap had eaten away the linings of Mr. Echevarria's tongue and throat,
- The Captain has been indicted in Federal Court and the family has a filed a multi-million dollar law suit.

Checklist: Suicide

- **Risk of suicide and self-harm**
- The risk of self-harm and suicide is particularly high during the early hours of detention.
- Factors which may indicate an increased risk include:
 - mental illness including depression, personality disorder, anorexia and schizophrenia
 - it is the first time the person has been arrested and detained
 - drug, alcohol or substance abuse or withdrawal
 - breakdown of social support and isolation – military service veterans, students, prisoners, homeless people, immigrants, older people and refugees are at particular risk
 - being unemployed
 - **previous episodes of deliberate self-harm, especially if occurring within a custodial environment We know they are coming back. The Recidivism rate is high.**
 - chronic disabling pain or illness
 - family history of suicide and/or mental disorder
 - recent loss such as bereavement, divorce, separation, redundancy

Checklist: Suicide

- People may self-harm over many years or only at times of extreme stress. Some people only self-harm once, whereas others have repeated episodes throughout their lives.
- Increased vulnerability may arise:
 - after interview
 - on being charged with an offence
 - being convicted of offense-facing long incarceration
 - after arrest for further offences
 - following a visit by family, friends
 - after refusal of bail

Ng v. Central Falls Detention Facility

- Hiu Lui Ng was a former civil immigration detainee who received grossly inadequate medical care while in the custody of the United States Immigration and Customs Enforcement agency, the Franklin County Jail, and the Central Falls Detention Facility Corporation.
- 1992 Mr. Ng entered the U.S. legally on a B-2 Visa. He married a US citizen and had 2 children.
- Due to mailing errors he failed to respond to ICE meeting regarding his status. Detainer was ordered. He was not a criminal. Civil detainer.
- July 19, 2007, Ng was taken into custody and detained at CFDF.
- In April 2008, Mr. Ng began to experience medical problems skin irritation and chronic back pain. He began to complain about his health.
- He requested to see a doctor. Staff denied him a medical visit and **failed to respond to written grievances** complaining about his serious, but untreated, medical needs.
- Staff assigned Mr. Ng to the top bunk of a cell on the first floor. Because of his medical condition and failing health, it was hard for Mr. Ng to get up to and down from the top bunk. He had to climb up and down for bed checks, food, and medicine. Mr. Ng was forced to suffer unreasonable and unnecessary pain because of this arrangement.

- Wyatt Staff then assigned Mr. Ng to a bottom bunk in a cell on the second floor. Because of his disability, he could not walk down the stairs to get to sick call. He was moved to the first floor. Each move required him to carry his mattress.
- On July 5, 2008, Mr. Ng saw the Wyatt medical staff because of pain in his back and Wyatt Staff gave him Motrin. He received no diagnostic tests and Wyatt staff denied him access to basic medical services.
- Family pleads for help in written email to warden. **“I'm writing this email to seek your immediate attention and provide help for my brother-in-law, Hiu Lui Ng, before any permanent damage to his back. Your help and time are greatly appreciated. Thank you so much!!!”**
- On July 14, 2008, Mr. Ng’s attorney wrote ICE Boston Field Office demanding medical treatment. Ng is “suffering from chronic insomnia and mental instability, which also requires professional evaluation. Mr. Ng, however, has been denied the right to proper medical treatment.
- Staff ignored his requests for help and made no effort to determine the cause of his excruciating pain or to provide diagnosis and treatment. Wyatt Staff met Mr. Ng’s cries of pain with callous indifference and accusations that he was “faking” and “lying.”

- The complaint states: “The actions and inactions of CFDFC and Wyatt Staff demonstrated deliberate indifference to Mr. Ng’s serious medical condition and a depraved heart to his excruciating pain and suffering.”
- Mr. Ng was required to walk to a counter and wait in line to obtain his medication. Because Mr. Ng could not stand up straight or walk for an extended period, he was not able to obtain his medication. Mr. Ng requested that Wyatt Staff deliver his medication to his cell; Wyatt Staff denied these requests.
- Mr. Ng's condition had worsened to such a point where he was having problems using the bathroom, which was located within his cell, only feet away from his bed. He was forced to urinate in a soda bottle. He was unable to bathe himself.
- July 16, 2008, Mr. Ng’s brother-in-law Zhao again emailed Warden Salisbury, I was really heart broken when I first saw him last Sunday. “After almost 2 weeks of suffering with unbearable back pain and unable to get any sleep, he was so weak and looked horrible, I didn't even recognized him. I really hope the facility is able to conduct a thorough diagnose (like X-ray) of his back to determine what happened to his back and what caused his back pain.”
- On July 22, 2008, Zhao emailed Wyatt Director of Nursing Candelaria and Warden Salisbury begging for medical help for Mr. Ng. Once again, I’m seeking sympathy from the facility and I’m begging the medical department to expedite the medical diagnostic procedure to determine the root cause of his pain and injuries before it is too late. Please HELP!!

- Mr. Ng's attorney Andy Wong traveled to Wyatt with Mr. Ng's brother-in-law Brian Zhao to confer with Mr. Ng. Mr. Ng could not walk from his cell to the visitation area. He requested a wheelchair from Wyatt Staff, but they denied him a wheelchair or any other assistance. (Americans with Disabilities Act Violation)
- Wyatt Staff informed Mr. Ng that he was medically cleared to walk. CFDFC and Wyatt Staff insisted that Mr. Ng walk to the visitation area. Mr. Ng could not physically do so. The attorney requested that Wyatt Staff permit him to go to Mr. Ng's cell to talk to him; Wyatt Staff denied that request. The legal visit was canceled. (Legal Visitation Violation)
- July 26, 2008, doctor order transport to hospital for diagnostic test. He was taken but hospital had to reschedule for next day. Ng was not returned to the hospital.
- After Mr. Ng's return from the hospital, Wyatt Staff relocated him to an isolation cell within the Health Services Unit. Food was brought to the side of his bed, but medication was brought only to the outside of his cell. The Wyatt Staff nurse told Mr. Ng to come out to get his medication but he could not walk so he could not get his medication. Wyatt Staff denied him his medication in a timely manner because the nurse insisted that Mr. Ng get up and get it himself.
- July 30, 2008 ordered by ICE to Hartford Ct. Denied a wheelchair Staff then picked Mr. Ng up by the arms and forcibly dragged him out of his cell. Mr. Ng screamed loudly in excruciating pain. Staff stated "shut-up" and "stop lying about being hurt."

- Staff grabbed Mr. Ng, dragged him out of the van, and threw him to the ground while shackled. Mr. Ng screamed in agony. They carried Mr. Ng face down back into the jail. (this was captured on video)
- This caused bruising on both of his biceps, forearms, and multiple contusions on both legs. It also caused Mr. Ng's spine to fracture.
- July 31, 2008, Judge William E. Smith of the U.S. District Court ordered Ng get the immediate medical care he needed.
- On August 1, 2008, Staff transported Mr. Ng in shackles to Memorial Hospital where doctors quickly diagnosed him as having **terminal liver cancer that had spread throughout his entire body, a fractured spine,** and a small IVC clot.
- August 6, 2008 at 1:22 am, Mr. Ng died still being watched by correctional officers.

Violations and Consequences

- Failure to provide adequate medical care
- Violation of Americans with Disability Act
- Denial of Legal Visit
- Lack of Due Process regarding the Grievance Process
- Violation of policy regarding transportation and restraint of inmates
- CFDF is a 700 bed facility that depends on ICE detainees to pay the bills. ICE pulled all detainees and refused to house future detainees.
- Central Falls RI is the host community that receives substantial payments from the Detention Facility to pay the bills.
- Central Falls filed for bankruptcy. A receiver was appointed and all contracts with city employees canceled. Retirees pensions cut in half.

On-going medical care

- 14 day medical exam
- Dental needs
- 3 day supply of medications on release with prescription
- Pregnant inmates -
 - Prenatal care
 - Restraint – frontal cuffs, no leg shackles-secondary impact concerns
 - Restraint - during and after birth
 - Extra calories

Checklist: Diabetics

- **Checking a diabetic detainee**
- A diabetic detainee should be checked at the direction of the medical provider for the duration of their stay. Custody staff should be aware that any individual with diabetes mellitus or 'sugar diabetes can develop hypoglycemia (low blood sugar).
- **Assessing an individual with diabetes**
- It is a medical emergency if the detainee is displaying any symptoms that may indicate illness, eg, altered consciousness level, unusual thirst, visual disturbances, difficulty in speech and understanding, asking for something sweet or vomiting. If a healthcare professional is not immediately available the detainee should be transferred to hospital by ambulance.
- **Ongoing detention of an insulin dependent diabetic person**
- A healthcare professional should assess the individual and make the appropriate prescription as necessary if the detention of an insulin dependant diabetic person is likely to extend beyond the time in which they will need their next dose of medication.



Legal & Liability Risk Management Institute

700 N. Carr Road #595

Plainfield, Indiana 46168

Phone: 317-386-8325

Fax: 317-386-8228

www.llrmi.com