

# MANAGING SUBSTANCE

# WITHDRAWAL IN JAILS: A LEGAL BRIEF

A disproportionate number of people in jails have substance use disorders (SUDs).<sup>1</sup> Incarceration provides a valuable opportunity for identifying SUD and addressing withdrawal.\* Within the first few hours and days of detainment, individuals who have suddenly stopped using alcohol, opioids, or other drugs may experience withdrawal symptoms, particularly when they have used the substances heavily or long-term. Without its identification and timely subsequent medical attention, withdrawal can lead to serious injury or death.

Deaths from withdrawal are preventable, and jail administrators have a pressing responsibility to establish and implement withdrawal policy and protocols that will save lives and ensure legal compliance. This brief describes the scope of the challenge, provides an overview of constitutional rights and key legislation related to substance use withdrawal, and outlines steps for creating a comprehensive response to SUD.

## Scope of the Challenge

Among sentenced individuals in jail, 63 percent have an SUD, compared to 5 percent of adults who are not incarcerated.<sup>3</sup> From 2000 to 2019, the number of local jail inmates who died from all causes increased 33 percent; the number who died from drug/alcohol intoxication during the same period increased 397 percent.<sup>4</sup> Among women

\* As noted in the Substance Abuse and Mental Health Services Administration's [Use of Medication-Assisted Treatment for Opioid Use Disorder in Criminal Justice Settings](#) (2019), medically supported withdrawal (also referred to as medical detoxification) is "designed to alleviate acute physiological effects of opioids or other substances while minimizing withdrawal discomfort, cravings, and other symptoms."

When Kelly Coltrain was booked for unpaid traffic violations in 2017, she told jail staff that she was drug dependent and had a history of seizures. Her request to go to the hospital for help with withdrawal symptoms was denied. She was placed in a cell that required 30-minute checks, but these checks rarely occurred. For the next 3 days, she was observed (by video camera) vomiting, sleeping often, and eating little. On her third night in jail, she started convulsing; then, all movement ceased. For at least the next 4 hours, no deputies or medical staff came to the cell to determine why she was still. Kelly's family filed a wrongful death suit, which was settled in 2019 for \$2 million plus 4 years of federal district court monitoring of the jail during implementation of new policies and procedures to ensure proper care of inmates at risk of withdrawal.<sup>2</sup>

incarcerated in local jails, the average annual mortality rate due to drug/alcohol intoxication was nearly twice that of their male counterparts.<sup>5</sup> The median length of stay in jail before death from alcohol or drug intoxication was just 1 day,<sup>6</sup> indicating that individuals on short stays, including those who are detained in pretrial status, are equally at risk.

It is not uncommon for individuals to experience substance withdrawal at the time of entry into jail, when access to their drug of choice is abruptly stopped. Estimates within specific regions vary widely, from 17 percent of people entering New York City jails being in acute opioid withdrawal<sup>7</sup> to a record 81 percent of people entering a Pennsylvania county jail needing detoxification services—half of them for opioid use disorders.<sup>8</sup>

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Failing to manage withdrawal symptoms can lead to serious health complications, including anxiety, depression, seizures, vomiting, dehydration, hypernatremia (elevated blood sodium level), heart problems, hallucinations, tremors, and death.<sup>9,10,11</sup> Moreover, problematic substance use is a key factor contributing to suicide, and stimulant withdrawal is associated with suicidal ideas or attempts.<sup>12,13</sup> The U.S. Food and Drug Administration (FDA) issued a safety announcement in early 2019 advising on the risk of suicide among individuals addicted to opioid pain medications whose medication is abruptly discontinued.<sup>14</sup> From 2000 to 2019, suicide was the leading cause of death among jail inmates.<sup>15</sup>

Of note, deaths associated with alcohol or drug withdrawal are usually listed as “illness” or “other” in reporting to the Bureau of Justice Statistics’ Mortality in Correctional Institutions\* because no category specifies drug or alcohol withdrawal.<sup>16</sup> However, a study of deaths in U.S. jails revealed that alcohol was involved in 76 percent of withdrawal-related deaths, confirming longstanding research findings of the lethality of alcohol withdrawal.<sup>17</sup> Opioids were the drug most often involved in the other withdrawal deaths studied.<sup>18</sup>

The study also indicated that “physical and mental health comorbidity likely increases the risk of death from opioid withdrawal (e.g., acute cardiac stress or acute suicidal ideation).”<sup>19</sup> When compared to the general population, people who are incarcerated have higher rates of the following:

- Chronic health conditions (e.g., hypertension, diabetes, myocardial infarction, asthma, and arthritis).<sup>20</sup>
- Infectious diseases (e.g., COVID-19, human immunodeficiency virus [HIV], hepatitis, sexually transmitted infection, and tuberculosis).<sup>21,22</sup>
- Behavioral health conditions (e.g., three times as many people in jail have a serious mental illness as compared to those in the general community).<sup>23</sup>

In addition to the complexities generated by comorbidities,<sup>24</sup> recent trends in drug use and composition make effective withdrawal management even more difficult. More cases of overdose deaths involving co-occurring use of opioids with other depressants (benzodiazepines or alcohol) or with stimulants (methamphetamine or cocaine) are being reported.<sup>25,26</sup> There has also been a sharp rise in the use of fentanyl, which is an extremely potent synthetic opioid that is easily mixed with other drugs such as heroin and cocaine. Other synthetic drugs also are associated with

severe withdrawal symptoms. For example, withdrawal from the “club drug” gamma hydroxybutyrate (GHB) is associated with rapid heart rate, hallucinations, elevated blood pressure, and seizures.<sup>27</sup> With little information currently available on rapidly evolving synthetic substances, jail administrators and staff may not recognize the symptoms of withdrawal.<sup>28</sup>

## Importance of Withdrawal Management in Jails

Jail administrators, public health officials, and other stakeholders recognize that jails have become the default health care system for individuals with complex behavioral health and chronic medical conditions.<sup>29,30,31</sup> Yet, among sentenced jail inmates with SUD, less than 20 percent participated in any form of drug treatment, and only 1 percent received detoxification services.<sup>32</sup>

A special report on core competencies and jail leadership states, “Jails are guided by Constitutional mandates and case law, and thus, can be a focus for litigation for liability lawsuits and civil rights claims.”<sup>33</sup> Jails that do not offer withdrawal-related medical care face the risk of legal liability under both federal and state laws, as well as adverse health outcomes for those in custody.<sup>34,35</sup> In [Access to Medications for Opioid Use Disorder in U.S. Jails and Prisons](#), the O’Neill Institute for National and Global Health Law at Georgetown University Law Center notes lawsuits involving deaths due to improperly managed withdrawal.<sup>36</sup>

Litigation stemming from inadequate medical care increases costs to local governments and jails through large financial settlements or judgments, attorneys’ fees, court-enforced remediation, time, and resource use. In October 2018, a wrongful death lawsuit associated with drug withdrawal was settled for \$4.75 million against a Pennsylvania county for a death in its jail.<sup>37</sup> In December of that same year, a \$10 million judgment was ordered against a major for-profit medical provider for a death in an Oregon county jail.<sup>38</sup>

## Legal Claims and Liability Pertaining to Withdrawal Management

Counties, jail administrators, and jail staff have faced civil lawsuits seeking monetary awards and other relief for failure to provide withdrawal management services. Some civil lawsuits have claimed violations of civil rights granted under the U.S. Constitution and federal laws. Other lawsuits have been based on state tort law, which covers noncriminal harms. Individuals may also face criminal liability under state law for egregious violations.

\* Formerly known as Deaths in Custody Reporting Program.

## Federal Civil Rights Claims

Individuals who are incarcerated may file claims in federal court alleging violations of their rights under the U.S. Constitution. The 8th Amendment prohibits “cruel and unusual punishments”<sup>39</sup> and is applicable to states through the [Due Process Clause of the Fourteenth Amendment](#).<sup>40</sup> Equal or greater protections are afforded under the due process clauses of the 14th and 5th Amendments to individuals detained in pretrial status, who comprise large portions of the jail population.<sup>41</sup> Statutes provide for legal actions to enforce these constitutional rights, including the following:

- The **Civil Rights Act of 1871** enforces the 14th Amendment through the imposition of civil and criminal liability for violations of constitutionally protected rights. Under [42 U.S.C. § 1983](#), individuals have the right to sue state and local officials and governments acting under color of state law for civil rights violations.<sup>42</sup>
- The **Civil Rights of Institutionalized Persons Act (CRIPA) of 1980** also facilitates enforcement of the 14th Amendment. The [Department of Justice](#) may file a federal court action under CRIPA to address a pattern or practice of constitutional rights violations.<sup>43,44</sup>

Another law, the **Americans with Disabilities Act (ADA) of 1990**, protects people with disabilities from discrimination.\* This protection is specifically extended to individuals with disabilities in jails, detention and correctional facilities, and community correctional facilities.<sup>45</sup> Individuals are generally not protected by ADA against discrimination on the basis of illegal drug use, but the law does prohibit denying health and drug rehabilitation services on the basis of illegal drug use.<sup>46</sup>

The legal standard for whether failure to provide adequate medical treatment violates an individual’s rights depends on (a) whether the individual is detained in pretrial status or incarcerated after conviction and (b) which federal court of appeals has jurisdiction.

For individuals who have been convicted and are serving a sentence in jail or prison, the standard for constitutional violation was defined by the U.S. Supreme Court in [Estelle v. Gamble, 429 U.S. 97](#) (1976). The Court established “deliberate indifference to serious medical need,” which incorporates a subjective standard showing

the defendant’s state of mind.<sup>47</sup> A county, correctional facility, and staff can face liability under the standard established in *Estelle v. Gamble* if they knew of and consciously disregarded an excessive risk to an incarcerated person’s health and safety.<sup>48</sup> The plaintiff must show that the responsible party was readily able to recognize the risk, acknowledged the risk, and failed to take reasonable measures to abate the harm.<sup>49</sup> The governmental body retains liability even if it contracts for and relies on outside medical care services.<sup>50</sup>

For individuals detained in pretrial status, the U.S. Supreme Court has not ruled on whether the “deliberate indifference” standard applies to inadequate medical care claims. Therefore, the 12 U.S. Courts of Appeals (just below the U.S. Supreme Court) must make their own rulings.

Most of the 12 circuits have applied the “deliberate indifference” test to medical claims of individuals detained in pretrial status.<sup>51</sup> However, some courts have found that a 2015 U.S. Supreme Court decision requires a different standard that is easier for plaintiffs to meet. The United States Court of Appeals for the Ninth Circuit, for example, held in [Gordon v. County of Orange, 888 F.3d 1118](#) (9th Cir. 2018) that prior case law<sup>52</sup> requires an objective standard for determining whether failure to provide adequate medical treatment violates the due process rights of an individual detained in pretrial status. The *Gordon* case involved an individual who died in pretrial detention while withdrawing from heroin. The Ninth Circuit’s objective standard is whether the defendant took reasonable measures to address the risk of serious harm.<sup>53</sup>

In most cases, public officials, such as sheriffs, cannot be held personally liable for their conduct when performing their duties, because they are covered by the doctrine of [qualified immunity](#). In other words, their employer could be ordered to pay damages, but the public officials would not be ordered to pay those damages from their own funds. However, if they have violated a statutory or constitutional right that was clearly established at the time of the challenged conduct, they may be personally liable for a civil rights violation.<sup>54</sup> In such cases, the [Monell doctrine](#) may shield the county or jail from liability, because a local government entity can be liable only if the conduct in question was in keeping with official policy or a “persistent and widespread” practice.<sup>55</sup>

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\* [Section 504 of the Rehabilitation Act](#) provides similar protections as ADA.

## State Tort Liability

Medical providers, jail administrators, and staff may be liable for the death or injury of a person who is incarcerated based on state tort law claims, including wrongful death, medical malpractice, and/or intentional infliction of emotional distress.<sup>56</sup> A family member or dependent may also bring a cause of action for wrongful death against a jail or other relevant parties and seek damages for losses caused by the death of the individual while incarcerated.<sup>57</sup> Medical malpractice claims can be brought for injuries resulting from a deviation from the appropriate standard of care, which is the same standard of care that applies to people who are not incarcerated.<sup>58</sup>

## Preparing a Comprehensive and Proactive Response

Increasing and changing patterns of drug use demand that jails be prepared to provide immediate, lifesaving screening and requisite interventions to anticipate and prevent a medical crisis—a standard for all individuals entering custody. When a length of stay allows and circumstances dictate, withdrawal management should extend beyond addressing acute symptoms to include a continuum of interventions, such as medication-assisted treatment (MAT) with its inherent clinical/social supports and transition planning, to initiate and maintain long-term recovery upon reentry.

In the past 5 years, considerable litigation has been brought against jails and prisons (local, state, and federal) for failing to provide opioid use disorder treatment medications.<sup>59</sup> [Smith v. Aroostook County](#), [Pesce v. Coppinger](#), and other lawsuits have challenged the failure to initiate—and maintain—MAT, which is in violation of ADA and the Rehabilitation Act.<sup>60,61</sup> These decisions have had ripple effects. [New Hampshire](#) and [Maryland](#) have passed laws to implement treatment programs in correctional settings, and [Connecticut](#) has included funding in the state budget to expand jail-based MAT programs.<sup>62,63,64</sup> [Chapter 208, Section 78 of Massachusetts' General Laws](#) requires that all FDA-approved forms of MAT be provided to state detainees or prisoners at relevant state facilities.<sup>65</sup>

Failure to comply with legislation and precedent set by case law can leave jails, corrections staff, and medical staff open to public scrutiny and potential litigation. Minimally, jails should designate a compliance officer or other staff member to remain up to date on changes in laws and policy. Further, a more comprehensive and proactive approach involves facility-wide engagement in the following steps.<sup>66</sup>

### 1. Establish withdrawal management policy to comport with legal, regulatory, and clinical standards.

**Case in Point:** In 2014, Lindsay Kronberger died from severe electrolyte imbalance due to opiate withdrawal while in custody at Snohomish County Jail (Washington). Her family sued the county and several jail staff. The court denied the county's motion for summary judgment, holding that the existence of or adherence to a policy for treating incarcerated persons undergoing opioid withdrawal was a genuine issue of material fact.<sup>67</sup> Subsequently, the case was settled for \$1 million.

To be effective, policies must be available to and understood by all staff at the correctional facility and by third-party medical providers. In addition to being aligned with legal, regulatory, and clinical standards, site-specific policies will facilitate uniform application of protocols. Periodic (e.g., annual) review of the withdrawal management policy by both jail and medical directors will ensure that the policy is current. This review also helps eliminate conflicts between correctional policies and health policies.

In establishing both policy and protocols, a comprehensive approach for supporting SUD recovery is encouraged. For instance, it is important to consider how screening for withdrawal potential at intake and assessment of potential withdrawal severity will interface with the length of the jail stay, continuation or initiation of MAT, and continuity of care upon release.



## 2. Create withdrawal management protocols and maintain fidelity in implementing them.

**Case in Point:** In 2016, Lisa Ostler exhibited profound physical distress and pleaded for medical attention from the time of her intake into the Salt Lake County Jail (Utah) until 3.5 days later, when she was found unresponsive and not breathing in her cell. Shortly after, she was pronounced dead at the hospital.<sup>68</sup> Ostler's family filed a wrongful death suit against Salt Lake County administrators, jailers, and medical personnel. Among many other findings, *The Expert Opinion Report In The Matter of Lisa Ostler v. Salt Lake City County Jail Staff* noted a failure "to perform required withdrawal protocol assessments for many inmates," as well as a "widespread cultural, customary, and accepted practice. . . to ignore health complaints and symptoms exhibited by inmates undergoing drug withdrawal."<sup>69</sup> The county settled for nearly \$1 million.

Jails seeking to establish or update their protocols on withdrawal management can start the process by familiarizing themselves with general best practices such as those suggested in the American Society of Addiction Medicine's [Clinical Practice Guideline on Alcohol Withdrawal Management](#), the Federal Bureau of Prisons' [Medically Supervised Withdrawal for Inmates with Substance Use Disorders Clinical Guidance](#), or the Substance Abuse and Mental Health Services Administration's [TIP 63: Medications for Opioid Use Disorder for Healthcare and Addiction Professionals, Policymakers, Patients, and Families](#). Of note, no comprehensive clinical guidelines specific to jail settings have yet been published, but jails that lay the groundwork now will be better prepared to recognize and address withdrawal and align their practices with such guidelines when they become available.

The more detailed the protocol, the less room for interpretation or confusion. Minimally, the protocol defines who does what by when and how. For example, who (medical director, nurse, corrections officer) decides when an individual's presenting symptoms warrant a trip to the hospital for additional medical support and based on what criteria? Documented processes for informing and training staff when a policy or protocol is revised will help ensure compliance.

## 3. Ensure proper staffing and resources are in place to implement policies and protocols.

**Case in Point:** Cynthia Mixon died 2.5 days after entering the Wilkinson County Jail (Georgia), during which time she was denied prescribed medications, including oxycodone. The cause of death was ruled as hypertensive cardiovascular disease, but the plaintiff's medical expert indicated that her symptoms (nausea, diarrhea, and fever) were consistent with acute benzodiazepine withdrawal. A lawsuit filed by Mixon's family alleged that, per jail policy, the on-duty jailer was authorized to decide whether emergency medical attention was warranted, yet said jailer was not provided with adequate medication training to make this decision.<sup>70</sup> The county settled the suit for \$420,000.

Cases against correctional facilities related to improper staffing have involved failure to properly hire and train staff to tend to medical needs<sup>71</sup> and releasing individuals in withdrawal into the general jail population without appropriate monitoring.<sup>72</sup> The following actions can help facilities establish staffing and resources appropriate for safe and effective withdrawal management:

- **Designate a responsible health authority** to arrange and coordinate all aspects of health services and ensure the proper standard of care for all incarcerated individuals.
- **Ensure adequate medical staff coverage** to provide assessment and treatment planning services. Clinical support can be accomplished through any combination of on-site health staff, remote coverage, telemedicine services, and/or transfer to facilities that can provide a higher level of care.
- **Clarify roles and responsibilities** so staff understand the limits of their roles. Staff members who do not have adequate training, supplies, or equipment for the job must follow protocols for contacting staff members with the relevant role or expertise.
- **Proactively address staff vacancies** (temporary or permanent, short- or long-term) to avoid disruption or diminishment of health care services.
- **Review contracts with medical and behavioral health services** for withdrawal management practices. In cases where correctional health care is provided by a third party, counties and jail administrators are responsible for ensuring independent contractors meet the established standards of care delivery.<sup>73</sup>

#### 4. Train staff to ensure their understanding of and readiness to implement policy and protocol.

**Case in Point:** During his detention at the Jefferson County Jail (Oregon), James Wippel reported not feeling well, vomited, and defecated blood. He died 2 days later from a perforated ulcer. Three corrections deputies were charged with criminally negligent homicide for failing to secure medical treatment.<sup>74</sup> Explaining her belief that Wippel's symptoms were typical of withdrawal, one deputy told investigators, "I'm not familiar with heroin, or how people detox, other than what I'd seen in the movies."<sup>75</sup>

Staff training is essential to providing consistent, appropriate, and adequate health care to people who are incarcerated. Both correctional and health care staff should receive (and be issued certificates upon completion of) training on withdrawal management policy and protocol during onboarding and through regular (annual) training sessions. Announcements at roll calls, staff emails, and signage throughout the facility are informal ways to incorporate training into daily work life. Cross-training of medical and correctional staff can improve communication between groups.

In addition to site-specific policy and protocol, suggested training topics include:

- Signs and symptoms of withdrawal, which is particularly important when individuals provide inaccurate information about their recent substance use.
- The science of addiction as a disease, to clarify the impact substances have on the brain and what the recovery process entails.
- Stigma, which may help staff understand why people are reluctant to disclose recent substance use or a diagnosed SUD.
- Implicit bias, to raise awareness about unconscious thought patterns that affect attitudes and actions toward different groups.

#### 5. Engage in continuous quality improvement and implement corrective action in a timely manner.

**Case in Point:** After investigating a string of seven suicides by persons experiencing opioid withdrawal at the Cumberland County Jail (New Jersey), the U.S. Department of Justice warned the jail that its procedures for managing withdrawal were inadequate and violated the 8th and 14th Amendments. Among its findings were that the jail had a written continuous quality improvement (CQI) plan, but that it had not been followed to improve withdrawal management in response to inmate suicides.<sup>76</sup>

Specific to withdrawal management, CQI is a process for evaluating access to care, the intake process, adverse events, need for emergency care, deaths, and other internal and external factors affecting the medical care of confined persons with SUD.<sup>77</sup> CQI often involves regular review of data (e.g., number of individuals screened for SUD upon intake and in initial detention, with the percent who screen positive; number of individuals receiving withdrawal services, by type of substance), incidents, and quality improvement goals to identify where updates or additional training sessions are needed for medical and correctional staff. The following activities are inherent to a robust CQI process for achieving better outcomes:

- **Assign the responsibility of gathering and monitoring data** to a person who is appropriately trained on gathering and monitoring data for quality improvement purposes.
- **Regularly conduct and document meetings** of the correctional administrator, the responsible health authority, and other members of the medical, dental, behavioral health, and correctional staff, as appropriate.<sup>78</sup>
- **Gather statistical reports of health services** at least monthly to monitor and discuss trends in the delivery of health care.<sup>79</sup>
- **Maintain medical records** (using electronic health records when possible) separate from jail confinement records.
- In contracts with third-party providers, **specify software, data-gathering tools, and system management tools**, as well as any reporting or information needed for monitoring compliance and quality processes.

- **Draft a codebook** for the processes in which the health care provider identifies the data elements, categories, codes for each data element, and data location in the computer.<sup>80</sup>

An established corrective action plan enables timely responses to problems and corrections to errors resulting from noncompliance or underperformance.<sup>81</sup> For example, jails/counties that contract with a third-party health care provider should specify the corrective action that will occur when metrics and standards are not met in the request for proposal (RFP) and contract. The jail/county should also specify in the contract the conditions under which it may terminate the contract or negate any contract extension clauses if the provider fails to correct errors. A study of 81 RFPs for contracted jail health care services found that less than one-third specified performance requirements and penalties for failing to uphold the requirements specified in the RFP.<sup>82</sup>

## Conclusion

Perhaps at no other time has the need for withdrawal management policy and protocols in jails been more critical. The COVID-19 pandemic has prompted initiation or increased use of substances, particularly by racial/ethnic minorities—a population disproportionately represented in jails.<sup>83,84</sup> The percent of individuals in local jails who die from alcohol/drug intoxication continues to grow, and legislation, such as Massachusetts’ Chapter 208, Section 78 noted above, is demanding greater attention to the health of individuals with SUDs in jails. Jail administrators, medical and correctional staff, public health officials, and other stakeholders must be prepared to carry out the law.

### For More Information

- The *ASAM National Practice Guideline for the Treatment of Opioid Use Disorder - 2020 Focused Update* (2020), from the American Society of Addiction Medicine at <https://www.asam.org/Quality-Science/quality/2020-national-practice-guideline>.
- *Medically Supervised Withdrawal for Inmates with Substance Use Disorders: Federal Bureau of Prisons Clinical Guidance* (2020), from the Federal Bureau of Prisons at [https://www.bop.gov/resources/pdfs/medically\\_supervised\\_withdrawal\\_cg.pdf](https://www.bop.gov/resources/pdfs/medically_supervised_withdrawal_cg.pdf).
- *TIP 63: Medications for Opioid Use Disorder for Healthcare and Addiction Professionals, Policymakers, Patients, and Families* (2021), from the Substance Abuse and Mental Health Services Administration at <https://store.samhsa.gov/product/TIP-63-Medications-for-Opioid-Use-Disorder-Full-Document/PEP20-02-01-006>.
- *Fact Sheet: Drug Addiction and Federal Disability Rights Laws* (2018), from the U.S. Department of Health and Human Services, Office for Civil Rights at <https://www.hhs.gov/sites/default/files/drug-addiction-aand-federal-disability-rights-laws-fact-sheet.pdf>.
- *Medication-Assisted Treatment for Opioid Use Disorder in Jails and Prisons: A Planning & Implementation Toolkit* (2020), from the National Council for Behavioral Health and Vital Strategies at [https://www.thenationalcouncil.org/wp-content/uploads/2020/09/MAT\\_in\\_Jails\\_Prison\\_Toolkit\\_Final\\_12\\_Feb\\_20.pdf?daf=375ateTbd56](https://www.thenationalcouncil.org/wp-content/uploads/2020/09/MAT_in_Jails_Prison_Toolkit_Final_12_Feb_20.pdf?daf=375ateTbd56).
- *Use of Medication-Assisted Treatment for Opioid Use Disorder in Criminal Justice Settings* (2019), from the Substance Abuse and Mental Health Services Administration at <https://store.samhsa.gov/product/Use-of-Medication-Assisted-Treatment-for-Opioid-Use-Disorder-in-Criminal-Justice-Settings/PEP19-MATUSECJS>.
- *Jail-Based Medication-Assisted Treatment: Promising Practices, Guidelines, and Resources for the Field* (2018), from the National Sheriffs’ Association and the National Commission on Correctional Health Care at <https://www.sheriffs.org/publications/Jail-Based-MAT-PPG.pdf>.

## Endnotes

1. Bronson, Jennifer, Jessica Stroop, Stephanie Zimmer, and Marcus Berzofsky, Revised 2020, *Drug Use, Dependence, and Abuse Among State Prisoners and Jail Confined Persons, 2007–2009*, Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, retrieved March 26, 2021 from <https://bjs.ojp.gov/content/pub/pdf/dudaspi0709.pdf>.
2. *Coltrain et al. v. Mineral County et al.*, United States District Court District of Nevada 3:18-cv-00420-LRH-CLB.
3. See note 1, Bronson et al., *Drug Use, Dependence, and Abuse Among State Prisoners and Jail Confined Persons, 2007–2009*, p. 1.
4. E. Ann Carson, 2021, "Mortality in Local Jails, 2000-2019 - Statistical Tables," *Bureau of Justice Statistics Statistical Tables*, Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, retrieved December 17, 2021 from <https://bjs.ojp.gov/content/pub/pdf/mlj0019st.pdf>.
5. *Ibid*, p. 17.
6. *Ibid*, p. 18.
7. The City of New York Office of the Mayor, n.d., *Healing NYC: Preventing Overdoses, Saving Lives*, New York City: The City of New York Office of the Mayor, retrieved March 19, 2021 from <https://www1.nyc.gov/assets/home/downloads/pdf/reports/2017/HealingNYC-Report.pdf>.
8. Rich Cholodofsky, 2019, "Westmoreland Inmates Reach Record Detox Level in February," *Tribune-Review*, March 18, retrieved March 19, 2021 from <https://triblive.com/local/westmoreland/westmoreland-inmates-reach-record-detox-level-in-february/>.
9. American Psychiatric Association, 2013, *Diagnostic and Statistical Manual of Mental Disorders (DSM–5)*, Washington, DC: American Psychiatric Association.
10. Darke, Shane, Sarah Larney, and Michael Farrell, 2017, "Yes, People Can Die from Opiate Withdrawal," *Addiction* 112(2), 199–200, retrieved March 26, 2021 from <https://doi.org/10.1111/add.13512>.
11. American Society of Addiction Medicine, 2020, *The ASAM Clinical Practice Guideline on Alcohol Withdrawal Management*, Rockville, MD: American Society of Addiction Medicine, retrieved March 19, 2021 from <https://www.asam.org/Quality-Science/quality/guideline-on-alcohol-withdrawal-management>.
12. Centers for Disease Control and Prevention, 2015, *Suicide Rising Across the U.S.*, Atlanta, GA: Centers for Disease Control and Prevention, retrieved March 23, 2021 from <https://www.cdc.gov/vitalsigns/suicide/infographic.html#graphic3>.
13. Center for Substance Abuse Treatment, 2006, *Detoxification and Substance Abuse Treatment*, Treatment Improvement Protocol (TIP) Series, No. 45, HHS Publication No. (SMA) 15-4131, Rockville, MD: Substance Abuse and Mental Health Services Administration, retrieved March 19, 2021 from <https://store.samhsa.gov/sites/default/files/d7/priv/sma15-4131.pdf>.
14. U.S. Food and Drug Administration, 2019, *FDA identifies harm reported from sudden discontinuation of opioid pain medicines and requires label changes to guide prescribers on gradual, individualized tapering*, White Oak, MD: U.S. Food and Drug Administration, retrieved March 26, 2021 from <https://www.fda.gov/drugs/drug-safety-and-availability/fda-identifies-harm-reported-sudden-discontinuation-opioid-pain-medicines-and-requires-label-changes>.
15. See note 4 above, Carson, "Mortality in Local Jails, 2000-2019 - Statistical Tables," p. 8.
16. Fiscella, Kevin, Margaret Noonan, Susan H. Leonard, Subrina Farah, Mechelle Sanders, Sarah E. Wakeman, and Jukka Savolainen, April 2020, "Drug- and Alcohol-Associated Deaths in U.S. Jails," *Journal of Correctional Health Care* 26(2): 183–193, retrieved March 19, 2021 from <http://doi.org/10.1177/1078345820917356>.
17. *Ibid*, p. 188.
18. *Ibid*, p. 183.
19. *Ibid*, p. 190.
20. Binswanger, Ingrid A., Patrick M. Krueger, and J.F. Steiner, 2009, "Prevalence of Chronic Medical Conditions Among Jail and Prison Inmates in the USA Compared with the General Population," *Journal of Epidemiology and Community Health* 63, retrieved March 19, 2021 from <https://doi.org/10.1136/jech.2009.090662>.
21. Jiménez, Monik, Tori Cowger, Lisa Simon, Maya Behn, Nicole Cassarino, and Mary Bassett, 2020, "Epidemiology of COVID-19 Among Incarcerated Individuals and Staff in Massachusetts Jails and Prisons," *JAMA Network Open* 3(8), retrieved December 16, 2021 from <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2769617>.
22. Flanigan, Timothy, Nicklos Zaller, Lynn Taylor, Curt Beckwith, Landon Kuester, Josiah Rich, and Charles Carpenter, 2009, "HIV and Infectious Disease Care in Jails and Prisons: Breaking Down the Walls with the Help of Academic Medicine," *Transactions of the American Clinical and Climatological Association* 120, retrieved March 19, 2021 from <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2744543/>.
23. Substance Abuse and Mental Health Services Administration, 2017, *Guidelines for Successful Transition of People with Mental or Substance Use Disorders from Jail and Prison: Implementation Guide*, (SMA) 16-4998, Rockville, MD: Substance Abuse and Mental Health Services Administration, retrieved March 19, 2021 from <https://store.samhsa.gov/product/Guidelines-for-Successful-Transition-of-People-with-Mental-or-Substance-Use-Disorders-from-Jail-and-Prison-Implementation-Guide/SMA16-4998>.



24. See note 13, Center for Substance Abuse Treatment, *Detoxification and Substance Abuse Treatment*, Treatment Improvement Protocol (TIP) Series, No. 45.
25. The Pew Charitable Trusts, 2020, *Opioid Overdose Crisis Compounded by Polysubstance Use*, retrieved March 19, 2021 from <https://www.pewtrusts.org/en/research-and-analysis/fact-sheets/2020/10/opioid-overdose-crisis-compounded-by-polysubstance-use>.
26. Nora Volkow, 2020, *Rising Stimulant Deaths Show that We Face More than Just an Opioid Crisis*, North Bethesda: MD: National Institute on Drug Abuse, retrieved March 19, 2021 from <https://www.drugabuse.gov/about-nida/noras-blog/2020/11/rising-stimulant-deaths-show-we-face-more-than-just-opioid-crisis>.
27. Busardò, Francesco, and Alan Jones, 2015, "GHB Pharmacology and Toxicology: Acute Intoxication, Concentrations in Blood and Urine in Forensic Cases and Treatment of the Withdrawal Syndrome," *Current Neuropharmacology* 13(1), 47–70, retrieved March 23, 2021 from <https://doi.org/10.2174/1570159X13666141210215423>.
28. Jones, Christopher, Emily Einstein, and Wilson Compton, 2018, "Changes in Synthetic Opioid Involvement in Drug Overdose Deaths in the United States, 2010-2016," *JAMA* 319(17), 1819–1821, retrieved March 23, 2021 from <https://doi.org/10.1001/jama.2018.2844>.
29. Rachel Dissell, 2019, "Ohio jails accept role as state's busiest opioid detox centers," *The Plain Dealer*, January 11, retrieved March 15, 2021 from [https://www.cleveland.com/metro/2017/10/ohio\\_jails\\_accept\\_role\\_as\\_states\\_busiest\\_opioid\\_detox\\_centers.html](https://www.cleveland.com/metro/2017/10/ohio_jails_accept_role_as_states_busiest_opioid_detox_centers.html).
30. Huh, Kil, Alexander Boucher, Frances McGaffey, Matt McKillop, and Maria Schiff, 2018, *Jails: Inadvertent Health Care Providers*, The Pew Charitable Trusts, retrieved March 26, 2021 from [https://www.pewtrusts.org/-/media/assets/2018/01/sfh\\_jails\\_inadvertent\\_health\\_care\\_providers.pdf](https://www.pewtrusts.org/-/media/assets/2018/01/sfh_jails_inadvertent_health_care_providers.pdf).
31. Eric Westervelt, 2019, "County Jails Struggle With a New Role as America's Prime Centers for Opioid Detox," *NPR*, April 24, retrieved March 26, 2021 from <https://www.npr.org/2019/04/24/716398909/county-jails-struggle-with-a-new-role-as-americas-prime-centers-for-opioid-detox>.
32. See note 1, Bronson, et al., *Drug Use, Dependence, and Abuse Among State Prisoners and Jail Confined Persons, 2007–2009*, p. 13.
33. Susan W. McCampbell, 2019, "Core Competencies and Jail Leadership: Reduce Jail-related Liability Risks," *American Jails*, retrieved March 26, 2021 from [http://www.cipp.org/uploads/3/7/5/7/37578255/21\\_reduce\\_jail-rel...%5b3525%5d.pdf](http://www.cipp.org/uploads/3/7/5/7/37578255/21_reduce_jail-rel...%5b3525%5d.pdf).
34. See *Smith v. Aroostook Cnty.*, 376 F. Supp. 3d 146 (D. Me. 2019), *aff'd*, 922 F.3d 41 (1st Cir. 2019); *Kortlever et al. v. Whatcom Cnty.*, No. 2:18CV00823, Order (W.D. Wash. July 9, 2019); *Gohranson v. Snohomish Cnty.*, No. C16-1124RSL, U.S. Dist. LEXIS 193494 (W.D. Wash. Nov. 13, 2018); *Pesce v. Coppinger*, 355 F. Supp. 3d 35 (D. Mass. 2018); *Smith v. Fitzpatrick*, No. 1:2018cv00288, Order (D. Me. Oct. 1, 2018); *Moyer v. Lebanon Cnty.*, No. 3:16-CV-01424, 2017 U.S. Dist. LEXIS 213261, (M.D. Pa., Dec. 28, 2017), adopted by *Moyer v. Lebanon Cnty.*, No. 3:16-CV-01424, 2018 U.S. Dist. LEXIS 8126 (M.D. Pa., Jan. 18, 2018); *Estate of Moffitt v. Minor*, No. 15-CV-00071-WYD-MJW, U.S. Dist. LEXIS 222865 (D. Colo. Sept. 28, 2017); *Hernandez v. Cnty. of Monterey*, 110 F. Supp. 3d 929 (N.D. Ca. 2015); *Brummett v. Cnty. of San Diego*, No. 12-CV-1428-LAB (BGS), U.S. Dist. LEXIS 42991 (S.D. Cal. Mar. 25, 2013); *Estate of Johnson v. Miller*, No. 2:11-CV-00067, U.S. Dist. LEXIS 95322 (S.D. Ohio Aug. 25, 2011).
35. Legal Action Center, 2021, *Cases Involving Discrimination Based on Treatment with Medication for Opioid Use Disorder (MOUD)*, retrieved March 26, 2021 from <https://www.lac.org/assets/files/Cases-involving-denial-of-access-to-MOUD.pdf>.
36. Weizman, Shelly, Joanna Perez, Isaac Manoff, Melissa Baney, and Taleed El-Sabawi, 2021, *National Snapshot: Access to Medications for Opioid Use Disorder in U.S. Jails and Prisons*, O'Neill Institute for National and Global Health Law at Georgetown University Law Center, retrieved September 3, 2021 from <https://oneill.law.georgetown.edu/wp-content/uploads/2021/07/National-Snapshot-Access-to-Medications-for-Opioid-Use-Disorder-in-U.S.-Jails-and-Prisons.pdf>.
37. Center on Media, Crime and Justice at the John Jay College of Criminal Justice, 2018, "Pennsylvania County to Pay \$4.75M in Inmate Death," *Crime and Justice News*, October 25, retrieved September 9, 2021 from <https://thecrimereport.org/2018/10/25/pennsylvania-county-to-pay-4-75m-in-inmate-death/>.
38. *Pitkin and Pitkin v. Corizon Health, Inc. et al*, United States District Court for the District of Oregon, Civ. No. 3:16-cv-02235-AA.
39. U.S. Const. amend. VIII.
40. *Wilson v. Seiter*, 501 U.S. 294, 296-97.
41. *Kingsley v. Hendrickson*, 576 U.S. 389, 390 (2015) (holding that to make an excessive force claim, pretrial detainees must only prove excessive force under an objective analysis instead of under the objective and subjective analyses required for incarcerated individuals to make the same claim); *City of Revere v. Mass. Gen. Hosp.*, 463 U.S. 239, 244 (1983) (holding that a pretrial detainee's right to medical care under the 14th Amendment is "at least as great" as an incarcerated person's right to medical care under the 8th Amendment).

42. Edward C. Dawson, 2018, "Replacing Monell Liability with Qualified Immunity for Municipal Defendants in 42 U.S.C. § 1983 Litigation," *University of Cincinnati Law Review* 86(2), retrieved March 17, 2021 from <https://scholarship.law.uc.edu/uclr/vol86/iss2/2>.
43. *Wilson*, 501 U.S. at 296-97 (1991).
44. The United States Department of Justice, 2020, *Rights of Persons Confined to Jails and Prisons*, Washington, DC: The United States Department of Justice, retrieved March 26, 2021 from <https://www.justice.gov/crt/rights-persons-confined-jails-and-prisons>.
45. 28 C.F.R. § 35.152.
46. [42 U.S.C. § 12210\(c\)](#). This is an evolving area of law. See *Kortlever*, No. 2:18CV00823, Complaint, (W.D. Wash. June 6, 2018), ¶ 29.
47. *Estelle v. Gamble*, 429 U.S. 97, 103-04 (1976).
48. *Farmer v. Brennan*, 511 U.S. 825, 836-840 (1994).
49. *Ibid.* at 836-840, 848.
50. *King*, 680 F.3d 1013, 1020 (7th Cir. 2012).
51. Struve, C.T., March 2013, "The Conditions of Pretrial Detention," 161 *U. Pa. L. Rev.* 1009, 1027.
52. *Kingsley*, 576 U.S. 389.
53. *Gordon*, 888 F.3d 1118 (9th Cir. 2018).
54. *Davis v. Wessel*, 792 F.3d 793, 803 (7th Cir. 2015) (citing *City & Cnty. of San Francisco v. Sheehan*, 575 U.S. (2015)).
55. *Connick v. Thompson*, 563 U.S. 51 (2011) (citing *Monell v. Dep't. of Social Services of City of New York*, 436 U.S. 658, 694 (1978)).
56. See *Becker v. Newman*, 646 Fed. Appx. 788 (11th Cir. 2016); *Moyer*, 2017 U.S. Dist. LEXIS 213261; *Estate of Johnson*, U.S. Dist. LEXIS 95322.
57. Schap, David, Victor A. Matheson, and David I. Rosenbaum, 2016, "Wrongful Death: Who Recovers What, Where, and How," *Journal of Legal Economics* 22(2), retrieved April 14, 2021 from <https://jle.aafe.org/jle-volume22.html?dir=desc&order=name>.
58. *Estelle v. Gamble*, 429 U.S. 97, 103-04 (1976).
59. See note 35, Legal Action Center, *Cases Involving Discrimination Based on Treatment with Medication for Opioid Use Disorder (MOUD)*.
60. *Aroostook Cnty.*, 376 F. Supp. 3d at 149.
61. American Civil Liberties Union of Massachusetts, 2018, *Pesce v. Coppinger*, retrieved April 14, 2021 from <https://www.aclum.org/en/cases/pesce-v-coppinger>.
62. Staff Report, 2020, "New law mandates medication assisted treatment in jails," *New Hampshire Union Leader*, August 5, retrieved March 25, 2021 from [https://www.unionleader.com/news/health/new-law-mandates-medication-assisted-treatment-in-jails/article\\_bbb2728a-9a25-530e-bdf7-306de5f5b9b1.html](https://www.unionleader.com/news/health/new-law-mandates-medication-assisted-treatment-in-jails/article_bbb2728a-9a25-530e-bdf7-306de5f5b9b1.html).
63. Teddy Rosenbluth, 2020, "New law requires opioid treatment in county jails," *Concord Monitor*, August 6, retrieved March 25, 2021 from <https://www.concordmonitor.com/Opioid-Treatment-New-Hampshire-Prisons-35593754>.
64. Lisa Backus, 2019, "Funding to Help CT Prisons Improve Opioid Addiction Treatment Program," *The Middletown Press*, July 3, retrieved March 25, 2021 from <https://www.middletownpress.com/middletown/article/Funding-to-help-CT-prisons-improve-opioid-14069347.php>.
65. The 192nd General Court of the Commonwealth of Massachusetts, 2018, Chapter 208: An Act for Prevention and Access to Appropriate Care and Treatment of Addiction, at Section 78, retrieved April 9, 2021 from <https://malegislature.gov/Laws/SessionLaws/Acts/2018/Chapter208>.
66. Lauren McMenemy, 2019, "What Is Legal Compliance?," *Diligent Insights*, May 6, retrieved March 26, 2021 from <https://insights.diligent.com/legal-compliance/steps-evaluating-legal-compliance>.
67. *Gohranson*, U.S. Dist. LEXIS 193494 at 3.
68. Suzanne Ward, 2019, *Expert Opinion Report in The Matter of: Lisa Ostler v. Salt Lake City County Jail Staff*, retrieved March 26, 2021 from <https://rockyanderson.org/wp-content/uploads/2020/03/expert-report-of-suzanne-l-ward-rn-ms-lnc.pdf>.
69. *Ibid.*
70. *Brooks v. Wilkinson County, Georgia et al.*, United States District Court for the Middle District of Georgia, Macon Division Case 5:17-cv-00033-TES.
71. *Estate of Johnson*, U.S. Dist. LEXIS 95322, at 7, 11.
72. See *Brummett*, U.S. Dist. LEXIS 42991, at 12-13.
73. See *Aroostook*, 376 F. Supp. 3d 146; *King v. Kramer*, 680 F.3d 1013, 1020 (7th Cir. 2012); *Pesce*, 355 F. Supp. 3d 35; *Hernandez*, 110 F. Supp. 3d 929.
74. Clackamas County, 2018, *Jefferson County Corrections Deputies Acquitted of Criminally Negligent Homicide*, December 13, retrieved September 9, 2021 from <https://www.clackamas.us/news/2018-12-13/jefferson-county-corrections-deputies-acquitted-of-criminally-negligent-homicide>.
75. Conrad Wilson, 2018, "Jefferson County Death Raises Questions of Accountability," Oregon Public Broadcasting, December 30, retrieved March 26, 2021 from <https://www.opb.org/news/article/jefferson-county-jail-death-questions-accountability-james-whipple-case/>.

76. U.S. Department of Justice, Civil Rights Division, and U.S. Attorney's Office, District of New Jersey, 2021, *Investigation of the Cumberland County Jail (Bridgeton, New Jersey)*, retrieved April 1, 2021 from <https://www.justice.gov/opa/press-release/file/1354646/download>.
77. National Commission on Correctional Health Care, 2010, *Continuous Quality Improvement*, Chicago, IL: National Commission on Correctional Health Care, retrieved March 26, 2021 from <https://www.ncchc.org/spotlight-on-the-standards-24-1>.
78. National Commission on Correctional Health Care, 2018, *Standards for Health Services in Jails*, Chicago, IL: National Commission on Correctional Health Care, p. 8.
79. Ibid.
80. Gail Elias, 2007, *How to Collect and Analyze Data: A Manual for Sheriffs and Jail Administrators*, Washington, DC: U.S. Department of Justice, National Institute of Corrections, retrieved March 26, 2021 from <https://s3.amazonaws.com/static.nicic.gov/Library/021826.pdf>.
81. John Spacey, 2018, "3 Examples of a Corrective Action Plan," *Simplifiable*, January 4, retrieved March 26, 2021 from <https://simplifiable.com/new/corrective-action-plan>.
82. See note 30, Huh et al., *Jails: Inadvertent Health Care Providers*.
83. Czeisler, Mark É., Rashon I. Lane, Emiko Petrosky, Joshua F. Wiley, Aleta Christensen, Rashid Njai, Matthew D. Weaver, Rebecca Robbins, Elise R. Facer-Childs, Laura K. Barger, Charles A. Czeisler, Mark E. Howard, and Shantha M.W. Rajaratnam, 2020, "Mental Health, Substance Use, and Suicidal Ideation During the COVID-19 Pandemic - United States, June 24-30, 2020," *Morbidity and Mortality Weekly Report* 69(32), Atlanta, GA: Centers for Disease Control and Prevention, retrieved May 20, 2021 from <https://doi.org/10.15585/mmwr.mm6932a1>
84. Zhen Zeng, 2020, *Jail Inmates in 2018*, Bulletin, Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, NCJ 253044, retrieved May 20, 2021 from <https://www.bjs.gov/content/pub/pdf/ji18.pdf>.

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