

Correctional Health Professionals' Response to Abuse of Incarcerated People

Position Statement

Correctional health professionals' duty is to the clinical care, physical safety, and psychological wellness of their patients. The following recommendations are to guide correctional health professionals should they witness or become aware of an incarcerated individual being subjected to neglect or abuse in any of the forms described in the Discussion section below.

1. Identify and report incidents of mistreatment to the appropriate authority.¹
2. Do not participate in or condone any form of mistreatment of incarcerated people.
3. Do not participate in, directly or indirectly, efforts to certify individuals as medically or psychologically fit to be subjected to abusive treatment.
4. Do not participate in interrogations, assist in preparing for interrogations, or advise on the use of techniques of interrogation.
5. Do not gather health information for forensic purposes or share confidential health information or its interpretation to authorities for use in cruel, inhumane, or degrading treatment.
6. Do not authorize or approve any physical punishment of incarcerated people or allow oneself or one's role to be used as an instrument to weaken their physical or mental resistance.

Correctional authorities have a crucial role to play in protecting incarcerated individuals from mistreatment and should implement the following recommendations:

7. Ensure that organizational policies and procedures appropriately address expectations of staff members' response to suspected or witnessed mistreatment.
8. Ensure that policies and procedures address protections for employees who report the abusive actions of others.
9. Ensure that all staff receive regular training on appropriate and professional behavior in working with incarcerated people with regard to refraining from participating in abuse, mistreatment, and neglect and reporting of abuse, mistreatment, and neglect.

Discussion

This position statement addresses the dilemma of a health professional who (a) is asked to participate, even indirectly, in mistreatment of an incarcerated person or (b) witnesses mistreatment of an incarcerated person or its medical or mental health consequences.

Mistreatment is the preferred general clinical term used to identify actual or potential harm to an individual from another person. It may include physical or mental abuse², sexual abuse³, torture⁴, neglect, disrespect,

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financial exploitation, and other harmful actions. Whether intentional or not, mistreatment can be very serious and may lead to civil and even criminal sanctions.

Despite the increasing professionalism and improved safety in our nation's prisons, jails, and youth confinement facilities, NCCHC recognizes that mistreatment of incarcerated people does occur. Acknowledging the challenges experienced by health professionals who may encounter, observe, or become aware of such mistreatment, NCCHC has developed this position statement to assist health professionals in responding to those situations in a manner consistent with well-established principles of medical ethics, applicable laws, and NCCHC standards.

NCCHC has consistently affirmed the components of a policy against mistreatment of incarcerated individuals. For example, the 2018 *Standards for Health Services* for jails and prisons preclude health staff participation in custody-ordered restraint and seclusion except in specific instances⁵. They also preclude the collection of forensic information as well as clinically implemented segregation and restraints as disciplinary action⁶. The standards require informed consent from the patient for "all examinations, treatments, and procedures" and recognize the patient's right to refuse treatment⁷ (except in limited and legally authorized circumstances), and they protect incarcerated individuals as subjects in human research⁸.

The discussion of the health professional's role in correctional settings is framed by a number of ethical principles, including those of autonomy, nonmaleficence, medical neutrality, and concern for the well-being of others. These principles are well established in the medical profession. However, health professionals may find these principles challenged by conflicting objectives within and outside of the correctional institution in which they work.

October 2007 – adopted by the National Commission on Correctional Health Care Board of Directors

October 2012 – reaffirmed with revision

April 2017 – reaffirmed with revision

April 2022 – reaffirmed with revision by the National Commission on Correctional Health Care Governance Board

Notes

1. In juvenile detention and confinement facilities, policies must mandate reporting child abuse to authorities.
2. Abuse has been defined as "the willful infliction of physical pain, injury or mental anguish; unreasonable confinement; or the willful deprivation of services which are necessary to maintain a person's physical or mental health" (State of New Jersey, N.J.S.A. 52:27G-2(a)). Regardless of setting, staff who observe patient abuse are usually required to report the incident to the proper authorities.
3. The United Nations defined torture in 1984 as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of

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having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.” The International Committee of the Red Cross notes that “the legal difference between torture and other forms of ill treatment lies in the level of severity of pain or suffering imposed. In addition, torture requires the existence of a specific purpose behind the act—to obtain information, for example.”

4. The Prison Rape Elimination Act (PREA) of 2003 advocates a “zero-tolerance” policy toward incidents of sexual violence in correctional facilities. PREA targets correctional administrators and custody staff to be more accountable for incidents pertaining to sexual violence. Through standards development, verification, training, monitoring, research, and information gathering, PREA seeks to effectively reduce the incidence of sexual misconduct and violence on incarcerated people.
5. G-01 Restraint and Seclusion; exceptions include reviewing the health record for contraindications or needed accommodations and monitoring health status
6. G-04 Therapeutic Relationship, Forensic Information, and Disciplinary Action
7. G-05 Informed Consent and Right to Refuse
8. G-06 Medical and Other Research