Proper Inmate Medical Care a Key Factor in Managing Jail Risk

by Cindy C. King, Director of Membership Services and Human Resources and Tom Cremonte, Senior Risk Control Consultant

IN A LANDMARK 1976 decision, Estelle v Gamble, the Supreme Court ruled that deliberate indifference to the medical needs of inmates violated the Eighth Amendment prohibiting cruel and unusual punishment, thus affirming that prisoners have a constitutional right to medical care.

Standard of Care
In theory, inmate medical care would resemble that available to the public, including obstetric care; treatment for chronic illnesses such as diabetes or asthma; treatment for infectious diseases such as HIV and hepatitis C; and mental health and addiction care.

In practice, inmate medical care is often inadequate or lacking, which is especially troubling because “the services provided in the jail are the first care [prisoners] have received in quite some time.”

[Jails: Inadvertent Health Care Providers, PEW Charitable Trusts, January 2018]. The PEW report adds: “Although the central purpose of jails is to detain people who engage in criminal behavior…the poor health status and lack of regular care…make [jails] important sites for health care interventions.”

State and National Guidance
State of Michigan administrative rules on prisoner safety include food service, water supply, pest control, and health care. The state mandates that jails conduct health screenings by trained staff to identify dental problems, mental health issues, drug or alcohol use, and possible pregnancy.

Medical treatment provided in jail is often the first care prisoners have received in a long time.

The National Commission on Correctional Health Care (NCCHC) recommends that jail staff ask about an inmate’s sexual activity, sexual orientation, and gender identity, noting that most states do not test for sexually transmitted diseases, either at intake or during incarceration.

Hire or Contract?
Jail officials must decide whether to employ staff or contract with one vendor—or multiple vendors with different areas of expertise—to provide required medical services to prisoners.

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Last year, an MMRMA survey revealed that most member jails contract for inmate medical care, as do most of their counterparts nationwide.

A December 30, 2019 article in Corrections.com, Continuous Quality Improvement in Correctional Health Care, states: “When ‘inmates’ cross the thresholds of our prison medical departments, they become ‘patients’…legally entitled to the best health care we can provide…A robust continuous quality improvement (CQI) program provides an opportunity…to monitor and improve services.”

Medical provider contracts should stipulate minimum professional credentials for medical treatment provided in jail is often the first care prisoners have received in a long time.

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THE FIRST MONTH OF 2020 is already behind us, and that means MMRMA’s annual Risk Management Workshop is fast approaching. The event will take place February 27–28 at the Crowne Plaza in Lansing. At the time of publication, there are still plenty of spots left in the Thursday training sessions.

As the MMRMA team puts the final touches on the event, we wanted to share a closer look at what attendees can look forward to this year.

**Election Year 2020**
Workshop favorite Tim Skubick, correspondent for WKAR public radio, kicks things off Thursday morning with a look at the upcoming election. Skubick is sure to provide laughs and thought-provoking insights as he engages the crowd, microphone in hand, with his signature style.

**Civility and Ethics**
No matter what happens on the national stage, MMRMA knows leadership starts at the local level. Our member officials and employees embody the best of public service. In this spirit of excellence, the workshop offers a track on leadership in each breakout session.

In the morning session, Jennifer Grieco of Altior Law will shine a light on civility; returning speaker Ercell Charles of Mentor Performance Systems brings his expertise on ethics to the table for the benefit of his afternoon audience.

**Addressing Risks**
Other breakout sessions will explore potential exposures for public entities—and ways to mitigate those risks. Attorney David MacMain will discuss how to avoid litigation in the law enforcement sector, while Suzanne Bartos of Cummings, McClorey, Davis & Acho will provide guidance on how to protect against disability lawsuits by developing websites that comply with Americans with Disabilities Act (ADA) requirements.

In an afternoon general session, crisis and violence prevention consultant Marilyn Knight of Incident Management Team, Inc., will discuss active shooter response guidelines. Her presentation will include building security and other measures to help protect the lives of public employees and citizens from potential armed assailants.

**Legal Landscape**
By popular demand, Starr Kincaid, Esq., MMRMA Director of Claims and Legal Services, will lead a legal panel to discuss current issues. In light of last year’s changes to Michigan no-fault auto insurance laws, the panel will include attorneys and no-fault experts James T. Mellon, Ron Sangster, and Wayne Miller. The discussion will focus on this subject and the possible implications to MMRMA, the membership, and citizens across Michigan.

When the unfortunate occurs and members are faced with litigation, it can help to know what to expect. Carlito Young of Rosati, Schultz, Joppich, and Amtsbuechler will offer a two-part training on the Anatomy of a Lawsuit. Learn what to do and how to help MMRMA’s claims and legal team and defense counsel so the process goes as smoothly as possible.

**Happiness Matters**
Today’s world seems more complex and stressful than ever as we juggle competing demands, experience technological anxieties, and encounter the occasional difficult person. Add to this the challenges that arise when managing the activities and risks of public entities and things can sometimes feel overwhelming.

Keynote speaker and professor of positive psychology Dr. Stephen Birchak has studied a variety of disciplines to develop his “Happiness Code” for navigating change and stressful situations. He will share practical skills to help us all live a little more happily.

Information about the 2020 Risk Management Workshop is available on our website, mmrma.org. We look forward to seeing our member attendees and sharing this valuable program with you!
Member Representatives Play Key Role in MMRMA Partnership

by Cindy C. King, Director of Membership Services and Human Resources

As part of membership in MMRMA, each public entity designates a Member Representative to perform certain activities and processes. The member’s governing body must designate a Member Representative as a requirement for participation with MMRMA as set forth in the Joint Powers Agreement, the governing covenant between MMRMA and its members.

But exactly what does a Member Representative do? Here are a few of their primary functions and activities.

Coverage, Claims, and More

Member Representatives sign all official MMRMA documents executed on behalf of their member entity.

The Member Rep signs the annual agreement enabling MMRMA to provide coverage to their public entity. As part of this process, they complete and submit the online Renewal Questionnaire and work with their entity’s Regional Risk Manager to ensure its accuracy.

While Member Reps have the option to designate one other employee to have secondary access to the Renewal Questionnaire, they must ultimately review and submit the Questionnaire using their own login credentials.

Member Reps review and submit claim forms to MMRMA from time to time, as claims arise. Member departments must send their completed claims to their entity’s Member Rep, who, in turn, submits the completed forms to MMRMA’s claims adjusters.

The Member Rep must also sign all Risk Avoidance Program and Certification and Accreditation Program (RAP/CAP) grant applications.

Beyond the Basics

While these actions are essential responsibilities of MMRMA membership, they aren’t the only reasons Member Reps are Very Important People. It is our hope that each Member Rep views their role as that of ambassador between MMRMA and their organization, departments, and personnel.

MMRMA is developing an orientation for new member entities and new Member Reps to help those taking on this invaluable role. In recent years, well over 100 individuals have become Member Reps; many were relatively new to their organizations and to MMRMA.

Help Spread the Word

To our Member Reps, seasoned and new alike, we issue this invitation: Please help spread the word within your entity that MMRMA is here to serve. Our organization is “member-driven,” and this is more than just a slogan. It’s a guiding principle for everyone at MMRMA, and we want to make this message reach the entire membership.

Membership Benefits

Here are some of the many benefits of MMRMA membership to share with your colleagues:

Website. Encourage all department managers and personnel to request a login at mmrma.org to gain access to Members Only resources that can help manage risks.

Training. Forward MMRMA training notices to departments that could benefit. Together we can get member personnel the training they need to be more effective and, in turn, improve services to constituents.

Grants. The MMRMA Board of Directors has approved an annual RAP/CAP grant budget of $1.75 million, and encourages every member to apply. The project or training must meet MMRMA grant guidelines and help reduce risk. Members must have “skin in the game,” so grants offset a portion of the total cost of each project. Many members have found RAP/CAP grants to be of enormous benefit. Model guidelines and bulletins. Our website has updated resources for member parks directors developing beach safety policies, IT teams tackling cyber security, fire chiefs seeking guidance on Do Not Resuscitate orders, and much more. Current offerings are too abundant to list, and more tools are in the works for future publication.

Risk control visits. Our Risk Control Consultants provide subject matter expertise and guidance for an array of public service areas, advising members on safe and effective practices, building and equipment maintenance, jail renovations, and much more. They welcome a chance to meet with members, tour facilities, and help identify unforeseen risks that could lead to claims or litigation.
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staff conducting health assessments (such as a registered nurse license, or DEA licensing to operate an onsite pharmacy).

Addiction Treatment

The NCCHC recommends psychological counseling and in-detention recovery group meetings similar to those of Alcoholics or Narcotics Anonymous. It also advises adopting “a comprehensive treatment plan that includes medications to ease withdrawal, and others, such as buprenorphine, that safely satisfy cravings for drugs” [“The Jail Health-Care Crisis,” The New Yorker, February 25, 2019].

Legal Challenges

Nationally, several lawsuits have claimed it is discriminatory to deny medication to prisoners with addiction. In one case, Geoffrey Pesce was in treatment for opioid addiction. While driving to a methadone clinic for his dose, he was stopped for speeding, charged with driving on a suspended license, and sentenced to jail. Because most jails forbid methadone use due to safety concerns, Pesce sued, fearing a relapse during his jail stay. A federal judge sided with him.

Care for Older and Seriously Ill Inmates

In Virginia, the House Appropriations Committee released an Update on Inmate Health Care [November 20, 2019] recommending that jails expand their assisted living capacity, negotiate with providers to tie prices to Medicaid rates, and adopt “compassionate release policies” for older inmates who meet certain criteria. The report also recommended

Conditional release could be considered for older inmates and those with serious or terminal illnesses.

Mental Health Issues

Behavioral health diversion programs may be beneficial. The Michigan Joint Task Force on Jail and Pretrial Incarceration: Report and Recommendations [January 10, 2020], suggests that officials provide crisis response training for law enforcement and “incentivize programs and partnerships between law enforcement and treatment providers to divert prisoners with behavioral health needs from the justice system pre- and post-arrest.”

The task force report also suggests limiting use of jails for minor traffic infractions and developing standardized mental health screening procedures at intake.

Here to Help

MMRMA offers training opportunities for jail administrators, sheriffs and staff, including Managing a Mental Health Crisis, Advanced Supervision for Jail Administrators, and Inmate Classification.

MMRMA’s Risk Avoidance Program (RAP) also offers grant funds to help pay for equipment and training to help members avoid risk.

Prisoner health is community health, since over 95% of all inmates return to the community.

that jails consider conditional releases for inmates with terminal or serious long-term illnesses, improve electronic health records, and better collaborate with other state health care agencies.

From a public policy perspective, proper medical care in jails can have widespread effects. According to the Center for Prisoner Health & Human Rights, “Prisoner health is community health... [since] over 95% of those incarcerated ultimately return to the community.”

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Houghton’s Winter Carnival began in 1922 and is now among the nation’s largest. Dozens of intricate snow sculptures appear around town and on the campus of Michigan Tech. The event also features broomball, similar to hockey. Players use a stick with a broom-shaped head and wear soft-soled shoes to keep their footing on the ice.

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