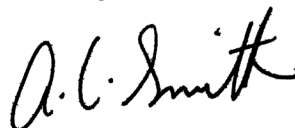




Department of  
Rehabilitation & Correction

SUBJECT: <b>Legal Issues in Correctional Health Care</b>	PAGE <u> 1 </u> OF <u> 4 </u>
	NUMBER: <b>69-OCH-05</b>
RULE/CODE REFERENCE: ORC 5120.01	SUPERSEDES: 69-OCH-05 dated 06/19/2017
RELATED ACA STANDARDS: 2-CO-4E-01	EFFECTIVE DATE: <b>August 15, 2021</b>
	APPROVED: 

## I. AUTHORITY

Ohio Revised Code 5120.01 authorizes the Director of the Department of Rehabilitation and Correction, as the executive head of the department, to direct the total operations and management of the department by establishing procedures as set forth in this policy.

## II. PURPOSE

The purpose of this policy is to establish standard procedural guidelines for the delivery of health care services under the jurisdiction of the Ohio Department of Rehabilitation and Correction (ODRC) when a legal issue is involved.

## III. APPLICABILITY

This policy applies to all persons employed by or under contract with the ODRC and all incarcerated adults in institutions operated by the ODRC. This policy is not applicable to the Division of Parole and Community Services (DPCS).

## IV. DEFINITIONS

The definitions for the below listed terms can be found at the top of the policies page on the ODRC Intranet at the following:

### [Definitions Link](#)

- **Advanced Level Provider (ALP)**

## V. POLICY

It shall be the policy of the ODRC to provide procedural guidelines which clarify staff responsibilities when legal issues intersect with the health care of incarcerated adults.

**VI. PROCEDURES****A. Sterilization of Incarcerated Adults**

1. Sterilization procedures for the primary purpose of preventing conception shall not be performed on any ODRC incarcerated adult.
2. This policy does not prohibit treatment of a medical condition that may result in sterilization if such treatment has been recommended by the consulting surgeon and approved by the parent institution's chief medical officer (CMO) and by the State Medical Director.

**B. Collection of Forensic Information**

1. The institution ALP shall not order drug screening or any body x-ray solely at the request of custody personnel. The institution ALP may request urine and/or blood screening for suspected drug use or an x-ray pursuant to suspected ingestion or insertion of a foreign object if:
  - a. Such information is needed to complete a medical diagnosis; and
  - b. The information will affect the type and extent of medical care to be given.
2. Health care personnel shall not participate in random drug testing of incarcerated adults.
  - a. Random drug screening is solely the responsibility of the security staff, which shall ensure proper collection and processing of such specimens.
  - b. Results from such testing shall be transmitted confidentially to the managing officer/designee.
  - c. The drug testing coordinator shall also forward a copy of all positive drug test detail results to the institution Medical Operations to be processed in accordance with OCHC Protocol B-3, Processing of Laboratory and Diagnostic Tests.
3. Institution Medical Services staff shall provide standard medical judgment and medical care in cases of alleged physical or sexual abuse (see OCHC Protocol B-11, Guidelines for Alleged Sexual Assault), or ingestion of foreign material that represents a medical risk to the incarcerated adult.
4. Health care personnel shall not participate in collection of forensic information or forensic searches. Forensic searches may include, but are not limited to, body cavity searches and feces searches for contraband.
  - a. If there is suspicion an incarcerated adult has ingested a foreign body or inserted a foreign body into a body cavity, the institution Medical Operations staff shall evaluate the patient and provide appropriate medical care if indicated by their clinical assessment or ordered by an ALP.

- b. Institution health care staff shall not perform body cavity searches at the request of custody staff where no health risk is determined to exist for the incarcerated adult. Health risk shall be determined by the registered nurse conducting the assessment with feedback from an ALP if indicated.
- c. Health care personnel shall not participate in forensic searches or collection of body fluids for diagnostic testing ordered for forensic purposes, such as court-ordered DNA testing.

### **C. Request for Blood Tests from Outside Agencies**

1. All requests from governmental agencies or the private sector for laboratory testing (i.e., HIV or other STD testing, paternity testing) on ODRC incarcerated adults must be submitted in writing and be accompanied by a court or administrative order unless the inmate consents to the testing and signs a medical release.
2. Requests for blood tests from an Ohio Common Pleas Court shall be forwarded to the Office of Correctional Health Care (OCHC) and evaluated by ODRC Legal Services on a case-by-case basis. Further instructions will be given to the institution regarding appropriate action.
3. The requesting agency shall coordinate with the managing officer/designee to schedule a date and time for an independent laboratory to obtain the specimen.
  - a. The procurement, labeling, and identification of the specimen shall be the sole responsibility of the independent laboratory.
  - b. Any expenses associated with the testing are the sole responsibility of the agency requesting the test.
4. If an incarcerated adult refuses to cooperate with the court/agency ordered tests, they shall be allowed forty-eight (48) hours to reconsider the decision and/or contact their attorney. If the order for the test has not been repealed and the incarcerated adult still refuses to cooperate with the testing procedure, then the matter shall be referred to the court or agency that issued the order to determine what action to take in support of its order.

### **D. Competency Restoration Services**

1. In the event an institution or division of the agency receives a court order directing that an incarcerated adult in the custody of the ODRC be restored to competency for purposes of conducting a criminal trial, that court order shall be sent to the Behavioral Health Operations director/designee.
2. The Behavioral Health Operations director/designee shall take the following steps to coordinate a competency restoration process:
  - a. Consult with the ODRC Division of Legal Services to establish the maximum timeframe in which competency restoration services can be performed by statute for the crime charged to the incarcerated adult who is the subject of the order.

- b. Once the timeframe has been established, coordinate with the Bureau of Classification and Reception (BOCR) to have the incarcerated adult immediately transferred to an institution where mental health clinical staff has completed competency restoration training approved by the Behavioral Health Operations director, which shall be, at a minimum, one male and one female institution.
  - c. Coordinate with the Ohio Department of Mental Health and Addiction Services to establish the intervals at which the forensic expert who will be conducting the final review desires to have status reports on the competency restoration services being performed.
  - d. Communicate the expectations of interval reporting to clinical staff at the institution.
  - e. Thirty (30) calendar days prior to any mid- term or final report required to the court by the forensic expert, coordinate access for the forensic expert to review the mental health record, meet with clinical staff, and interview the incarcerated adult.
3. For purposes of record keeping, competency restoration services shall be considered mental health treatment.
    - a. A copy of the competency restoration order shall be placed in the incarcerated adult's mental health file.
    - b. Additionally, detailed mental health treatment notes shall be kept on the competency restoration services provided in order to allow a review by the forensic expert.

**Referenced OCHC Protocols:**

- B-3 Processing of Laboratory and Diagnostic Tests
- B-11 Guidelines for Alleged Sexual Assault