

STATE OF OHIO



DEPARTMENT OF REHABILITATION
AND CORRECTION

SUBJECT: Inspections of Ohio Jails	PAGE <u> 1 </u> OF <u> 13 </u> NUMBER: 107-BAD-01
RULE/CODE REFERENCE: ORC 5120.10; AR5120.1-7-01; EO 92-03	SUPERSEDES: 107-BAD-01 dated 06/19/15
RELATED ACA STANDARDS:	EFFECTIVE DATE: September 26, 2016
	APPROVED: 

I. AUTHORITY

This policy is issued in compliance with Ohio Revised Code 5120.01 which delegates to the Director of the Department of Rehabilitation and Correction the authority to manage and direct the total operations of the Department and to establish such rules and regulations as the Director prescribes.

II. PURPOSE

The purpose of this policy is to outline the process by which jail inspections are conducted by the Bureau of Adult Detention within the Ohio Department of Rehabilitation and Correction (DRC), Office of the Chief Inspector; to define the types of jail inspections conducted by Bureau staff; and to outline the compliance monitoring and appeal process.

III. APPLICABILITY

This policy applies to DRC employees responsible for conducting jail inspections, monitoring compliance, and reviewing appeals.

IV. DEFINITIONS

Annual Jail Inspection - A yearly review of a jurisdiction's compliance with a select group of standards.

Appeal - The process by which a jail formally contests the official determination of non-certification during the certification process or the inspection findings during the annual inspection process.

Compliance - A term that indicates a jail meets the requirements of a particular standard.

Full Inspection - A comprehensive review of a jail's operation in order to confirm compliance with all applicable Ohio Minimum Jail Standards for Jails. These inspections are conducted as determined by need and available resources.

Jail - A local confinement facility and operation recognized by the Bureau of Adult Detention as either a Temporary Holding Facility (THF), 12-Hour Jail (12H), 12-Day Jail (12D), Minimum Security Jail

(MSJ), or Full-Service Jail (FSJ) classification. The classification of jails is established in OAC 5120:1-7-02 (A).

Jail Inspector - A Bureau of Adult Detention employee responsible for the day-to-day Bureau operations as they relate to the jails in the State of Ohio, including conducting jail inspections pursuant to ORC 5120.10.

Jail Regions - The Bureau of Adult Detention has divided the state up into three (3) regions, each region being the responsibility of a jail inspector. The regions are known as the northeastern, central, and western regions.

Life Threatening Condition - A fire safety, public health, electrical, structural, or other identifiable and volatile condition that presents a substantial and immediate likelihood of directly or indirectly causing the death of jail occupants. For purposes of this definition, any staffing pattern that is insufficient to accomplish the safe and orderly evacuation of the physical facility in the event of an emergency is a life threatening condition. Fire safety conditions alone shall be considered life threatening when so defined by a certified fire inspector.

Major Classifications of Prisoners - The major classification of prisoners for the purpose of enforcement are male and female, and adult and juvenile. Separation requirements are outlined in DRC policy 107-BAD-02, Enforcement Process for Life Safety Concerns in Ohio Jails.

Minimum Standards for Jails in Ohio - Enforceable standards established by the Director of the Ohio Department of Rehabilitation and Correction (DRC), in consultation with the Bureau of Adult Detention, under the authority of the Ohio Revised Code which applies to county jails, municipal jails, regional jails and workhouse facilities. The purpose of the standards is to facilitate the safe, secure, legal, and effective operation of Ohio's local adult jails in accordance with applicable state and federal laws. Also referred to as "Standards for Jails in Ohio".

Non-Applicable Standards - Standards that are not relevant to the jail. For example, if a standard applies to housing arrangements for female prisoners and the jail only houses male prisoners, the standard is not applicable. Written justification must be provided to support the finding of non-applicability and approved by the Bureau of Adult Detention staff.

Non-Compliance - The term indicating that a jail is not adhering to the requirement(s) of the standard or does not have the necessary documentation to support compliance.

Ohio Jail Advisory Board (OJAB) - A board whose membership is determined by the Director of the Ohio Department of Rehabilitation and Correction (DRC) under the authority of the Ohio Revised Code. Board members represent professional associations and the Ohio General Assembly; chiefs of police, city, village, or township governing officials; county commissioners; county sheriffs; Ohio judges; county prosecutors; and state legislators. The responsibilities of this board are outlined in Executive Order.

Variance - The process of receiving approval from the Bureau of Adult Detention for an alternative but acceptable method of complying with the intent of a standard when strict compliance would cause unusual, practical difficulties or financial hardship. The alternative practice must not seriously affect the security of the jail, the supervision of the prisoners, or the safe operation of the jail.

V. POLICY

It is the policy of the Ohio Department of Rehabilitation and Correction (DRC) to require the Bureau of Adult Detention to conduct an on-site inspection and/or facilitate and review the self-inspection of each local jail at least once each calendar year to determine the level of compliance with the Minimum Standards for Jails in Ohio. (Administrative Code 5120: 1-8-01 through 1-12-18) There shall be mechanisms in place for staff to monitor jail compliance with the Minimum Standards for Jails in Ohio and to provide an appeal process for inspection results.

VI. PROCEDURES

A. Annual Jail Inspections

The jail inspector shall schedule annual jail inspections, gather information, and prepare written inspection reports assessing the degree of compliance observed. On-site inspections are preferred and shall be conducted on full service, twelve (12) day and twelve (12) hour jails as agency resources permit. The jail inspector shall facilitate the annual self-inspections. The jail inspector shall make every effort toward facilitating a cooperative relationship with the officials responsible for the operation of the local jail.

1. Pre-Inspection Activities

Individual minimum standards are grouped by topic into workable inspection units.

- a. Annually, the Bureau of Adult Detention shall identify a group of minimum standards to be inspected for the upcoming year.
- b. The identified group of minimum standards shall be presented to the Ohio Jail Advisory Board for comment prior to starting the year's annual jail inspections.
- c. Pre-inspection, inspection, and reference materials for each annual inspection year shall be developed by the Bureau of Adult Detention to facilitate the inspection process and assist jail officials in preparing for the inspection.
- d. At least one (1) training seminar per year per region shall be conducted for local jail officials to explain the inspection process and discuss the minimum standards selected to be used for the upcoming year's inspections. The jail inspector shall ensure that all jails conducting self-inspections receive specialized training on the self-inspection process.
- e. Prior to the beginning of a new calendar year, each regional jail inspector shall prepare a twelve (12) month inspection schedule and distribute as appropriate. However, this schedule is subject to change. If changed, the affected jail(s) will be promptly notified.

2. Conducting Annual Inspections

a. Entrance Conference

The purpose of the entrance conference is to communicate the planned activities, the schedule for the inspection and the standards to be inspected. The jail administrator is

responsible for providing all applicable supporting documentation. The jail inspector may request additional documentation if the jail has not supplied sufficient materials.

b. Standards Compliance Review

- i. The jail inspector shall be responsible for reviewing appropriate documentation to determine compliance on assigned standards.
- ii. The jail inspector shall use interviews and visual observations to help determine standard compliance as deemed necessary.
- iii. The following items are to be in the possession of the jail inspector during the inspection:

- (a) Current inspection checklists;
- (b) Official photo identification;
- (c) Minimum Standards for Jails in Ohio, discussion sections, or other reference materials; and
- (d) A copy of the facility's previous year's annual data items sheet.

- iv. The following equipment should be readily accessible and in proper working condition during the inspection:

- (a) Digital camera and digital storage device:
 1. The faces of prisoners shall not be photographed.
 2. Photographs of non-relevant items shall not be taken indiscriminately;
- (b) Light meter
A light meter shall be used when it is necessary to determine the level of artificial light provided in housing and activity areas and shall be used in accordance with the manufacturers' recommendations and standard requirements;
- (c) Tape measure(s) and/or distance estimator;
- (d) Thermometer; and
- (e) Sound Level Meter.

B. Responsibilities of the Jail Inspector

1. Reviewing each audit standard and requesting clarification when necessary.
2. Examining all documentation provided by the jail to verify compliance with standards. The jail inspector shall review self-inspection reports for accuracy and completeness, submit a response to the jail acknowledging receipt and advising the jails of the action plan process to address any reported deficiencies.
3. Maintaining accurate notes to document findings of non-compliance and recommendations.
4. Interviewing jail staff and/or offenders to support compliance with standards.

5. Verbally present findings of compliance, non-compliance, and recommendations made at the exit conference.
6. Maintaining confidentiality regarding all program information on the audit.
7. Ensuring consistency in the application of the standards.
8. Interview: The jail inspector shall (in as private an area as possible) interview the jail administrator or a designated staff person in accordance with the corresponding section of the inspection checklist. Other staff (i.e., medical, food service, corrections officers) may be interviewed as the jail inspector feels appropriate.
 - a. Every effort is to be made to maintain the accuracy of the information obtained during this interview. If the jail inspector knows the facts to be different from those put forth, then the facts shall be represented on the checklist form, and significant differences shall be briefly noted in the "comment" section of the inspection form. Otherwise, the jail inspector shall accept all statements as factual.
 - b. The jail inspector shall inquire if any improvements have been made since the last inspection. Any improvements in the jail shall be clarified during the interview and recorded in the space provided on the checklist.
 - c. Refrain from conversing at length with inmates.
 - i. Specific questions may be asked of prisoners if the questions are in reference to the pending inspection (e.g., grievance mechanism awareness). Inmates shall be questioned in private and no comment shall be made to the jail staff about the inmate's response. The jail inspector may answer questions about standard requirements, but shall refrain from criticizing or judging the jail administration.
 - ii. Prisoners with complaints shall be referred to the jail's internal grievance procedure or instructed to address the complaint to the jail administrator in writing.
 - iii. Information obtained from prisoners regarding the conditions and/or operation of the jail may be considered during the inspection only if verified through one of the independent sources included in the inspection checklist.
9. Verify or determine the capacities of housing/holding areas within the jail.
 - a. If actual and recommended capacities are already known, then the jail inspector shall visually verify these numbers and record any discrepancies.
 - b. If actual and recommended capacities are unknown, then the jail inspector shall measure the square footage of holding cells, housing cells, dayrooms, and count the number of beds in each housing area, and record this information. Relevant construction criteria shall also be taken into account when determining Bureau recommended holding and housing capacities. Refer to the appropriate jail classification Construction-Renovation Criteria manual.

- c. Any changes to the recommended capacity must be referred in writing to and approved by the Bureau administrator or designee.
10. Make a diligent effort to record any improvements made to the physical jail or operations of the jail since the last annual inspection.

C. Other Areas of Non-Compliance

1. The lack of an annual fire and/or health inspection and/or the failure to resolve significant deficiencies in these reports shall be addressed in separate correspondence unless these reports are actually part of the minimum standards being officially inspected.
2. Other standard violations that are not enforceable as defined in DRC policy 107-BAD-02, Enforcement Process for Life Safety Concerns in Jails, shall be handled as follows:
 - a. Document violations and technical assistance on the appropriate inspection;
 - b. Informally discuss the deficiencies with the jail administrator encouraging their resolution;
 - c. Document the standard violations in separate written correspondence to the jail administrator; and/or
 - d. Violations considered a life safety issue, substantiated by the inspector, shall be communicated timely to the Bureau administrator.
3. Violations of standards that may be an immediate threat to life safety or is an inadequate major classification separation matter must be handled in accordance with DRC policy 107-BAD-02, Enforcement Process for Life Safety Concerns.

D. Exit Conference

The purpose of the exit conference is to share with the jail administrator all findings of the jail inspector.

E. Inspection Report

1. Record Verification

All written information accumulated which is relevant to the annual inspection shall be reviewed by the jail inspector prior to completing the inspection report in order to:

- a. Verify the information is complete and legible. Complete the record verification sections of the inspection checklist;
- b. Determine if there are any minor areas of non-compliance that the jurisdiction may correct prior to the writing of the inspection report. If so, the jail inspector will contact the jurisdiction, explain the concerns, and indicate when such changes must be submitted and received by the jail inspector for consideration prior to finalizing the jail inspection report; and

- c. All documents collected in the course of the annual inspection shall be maintained according to DRC record retention schedule.
 2. Compliance Tally
 - a. When the record verification sections of the inspection checklist have been completed, the jail inspector shall review the inspection checklist and the annual data sheet to ensure accuracy and completeness.
 - b. The compliance status section of the annual data sheet shall then be completed, indicating with which standards the jail is in compliance, and with which standards the jail is in non-compliance.
 3. The results of the inspection shall be summarized in written correspondence addressed to the officials responsible for the operation of the jail within thirty (30) calendar days of the inspection. This correspondence shall note:
 - a. The statutory authority for the inspection;
 - b. The minimum standards on which the inspection was based;
 - c. The identity of the jail being inspected;
 - d. The date of the inspection;
 - e. Focus and number of the standards inspected;
 - f. The components of the inspection (document review, tour, and interview);
 - g. The hosts for the inspection;
 - h. Statement of actual and recommended housing/holding capacities:
 - i. Reassessment of previously established recommended or actual housing/holding capacities must be discussed with the Bureau administrator/designee prior to alteration of that number(s).
 - ii. General housing capacity must also be broken down into number of beds for males, females, juveniles, and 'mixed' prisoner classifications.
 - iii. Include a statement encouraging local officials to maintain prisoner populations within the approved level, as appropriate.
 - i. Acknowledgment of improvements, if any, in the jail's operation or physical plant;
 - j. Listing of those standards (by rule number) with which the jail complies;
 - k. Recommendations for those standards with which the jail does not comply:
 - i. List the recommendations by specific standard number in alphanumeric order, noting the pertinent standard to the left of the recommendation.
 - ii. Recommendations are to be stated in a positive manner when possible, illustrating potential remedies for the areas of non-compliance rather than demeaning current conditions or operational practices.
 - iii. Recommendations should be brief and concise and provide an understanding of the noncompliance.
 - iv. Any unusual or questionable recommendations must be discussed with the Bureau administrator/designee, prior to their inclusion in the annual inspection report.

- I. Indication that a blank Plan of Action/THF form (DRC7008) is enclosed for each deficiency listed in the recommendations.

F. Post Inspection Activities

Following an annual jail inspection, the jail inspector or other appropriate Bureau staff shall periodically monitor the progress jail officials are making at correcting noted deficiencies.

1. Compliance Monitoring/Corrective Plan of Action Process
 - a. The corrective plan of action submitted by the jail to address non-compliant standards must be received within forty five days of receipt of the inspection report. The plan of action shall be forwarded to the jail inspector or assistant Bureau administrator to determine whether it is acceptable.
 - b. If the corrective plan(s) of action is acceptable, written notification of this will be sent to the jail. A follow-up on-site visit may be necessary to verify plan(s) of action have been implemented and deficiencies corrected.
 - c. If the corrective plan of action is rejected, written notification shall be sent to the jail with the reason for the rejection and the necessary modifications. Jails are expected to continue the corrective action process until accepted by the Bureau of Adult Detention. Failure to do so may result in enforcement action.
 - d. All written notification in response to the corrective plan of action shall be sent to the jail within fourteen (14) calendar days of receipt of all of the plans of action being submitted for the current year's inspection.
2. The jail inspector and/or the assistant Bureau administrator must maintain documentation of follow-up activities. During such follow-up, the inspector shall offer and provide available technical assistance and resource information that would benefit local officials in their efforts to achieve compliance.
3. During the next annual inspection, the jail inspector shall verify progress toward compliance and/or implementation of action plans related to non-compliance issues identified during the previous annual inspection.
4. Failure to return plan(s) of action forms or specify plans for corrective action within the prescribed time period for deficiencies that are not life threatening or related to prisoner separation shall be addressed as defined below:
 - a. When the plan of action forms are thirty (30) calendar days overdue, the jail inspector and/or assistant Bureau administrator shall forward a letter to the official responsible for the administration of the jail with a copy to the funding authority (e.g., commissioners, city council) indicating that:
 - i. The compliance forms or plan of action forms are thirty (30) days overdue;
 - ii. The completed plan should be forwarded without delay; and

- iii. Local officials may be risking liability by their failure to remedy jail problems.
- b. If the completed plan(s) of action become ninety (90) days overdue, the jail inspector and/or the assistant Bureau administrator shall take one of the following actions:
 - i. Contact the jail administrator or other county officials to discuss the delinquency of the forms, then document his/her efforts in a memo to file;
 - ii. Send a second letter reiterating the delinquency of the forms, the risk of liability created by their failure to remedy the problems, and the importance of forwarding the forms without delay; or
 - iii. Contact the official responsible for administration of the jail by telephone and schedule a meeting with him/her, the county commissioner or city council to discuss the reasons for the delay in submitting the completed action plan.
- c. If the completed plan(s) of action remain overdue for a period of 120 days, the jail inspector and/or the assistant Bureau administrator shall document his/her efforts to obtain the plan in a memo to the Bureau administrator who shall take action as deemed necessary.
- d. Jail inspectors shall document annual inspection dates and report dates on their monthly reports and in the appropriate data file on the server.

G. Full Inspections

1. Full inspections shall not be conducted routinely. Circumstances such as a request by a federal court judge or to further an enforcement initiative may be considered as reasons to conduct a full inspection. The Bureau administrator shall determine if a full inspection is necessary.
2. The Bureau administrator shall determine:
 - a. The timeframe for completion of the inspection;
 - b. The deadline for report completion;
 - c. The report format;
 - d. Further action following the full inspection.

H. Variances

All variances approved by the Bureau of Adult Detention in accordance with DRC policy 107-BAD-05, Variance Process for Minimum Standards for Jails in Ohio, must be considered if the variance was granted for a standard included in the annual inspection.

I. Jail Compliance Appeal Process

Appeals shall be handled in accordance with the guidelines set forth by Administrative Regulation 5120:

1. Primary Appeal

- a. If a jurisdiction is dissatisfied with the recommendations, decisions, or interpretations of jail inspector and/or the assistant Bureau administrator concerning standards issues and is unable to resolve the deficiency in question, and wishes to appeal, the jurisdiction may contact the Bureau administrator in writing.
- b. The appeal must be made to the Bureau administrator within ninety (90) calendar days of receipt of the written recommendations upon which the appeal is based.
- c. The appeal must be initiated or endorsed by sheriff, police chief, board of county commissioners, jail administrator, or city council.
- d. The written appeal must include at least the following:
 - i. The name of the jail and its classification;
 - ii. The standard(s) at issue;
 - iii. Explanation of the disputed issue; and
 - iv. Description of the jail's position and compliance efforts.
- e. The Bureau administrator, in consultation with the jail inspector and/or the assistant Bureau administrator shall determine the validity of the appeal and additional action required (i.e., on-site visit, meeting, etc.).
- f. Appeal decisions must be made by the Bureau administrator in consultation with adult detention staff with a written response to the jurisdiction within fifteen (15) business days of receipt of the appeal request.
 - i. The written response must inform the appellant of the next step in the appeal process.
 - ii. A copy of the written response must be provided to the inspector.
- g. If the jurisdiction is not satisfied with the decision of the Bureau administrator, a further appeal may be made to the Ohio Jail Advisory Board (OJAB) Executive Committee for their recommendation.

2. Secondary Appeal

- a. The jurisdiction may appeal the decision of the Bureau administrator as the second step of the appeal process.
- b. The appeal must be made in writing to the DRC Chief Inspector for referral to the Ohio Jail Advisory Board committee and outline the following:
 - i. A contact person and telephone number;
 - ii. The name of the jail and its classification;
 - iii. Indication of the specific standard(s) at issue;
 - iv. Explanation of the disputed issue;
 - v. Description of their position on the issue; and

- vi. Documents, photographs, drawings, etc. that support the jurisdiction's contentions.
 - c. The DRC Chief Inspector must complete a cursory review of the appeal to determine:
 - i. If there have been efforts to resolve the dispute with the inspector and Bureau administrator.
 - ii. Whether additional efforts would resolve the issue at this level.
 - iii. That complete information is provided.
 - iv. If an emergency Ohio Jail Advisory Board committee review is needed (this may include issues where the expenditure of a large sum of money is being delayed, there is a threat to safety or security, a critical incident may occur).
 - d. The DRC Chief Inspector must request a written memo from the jail inspector outlining their position.
 - e. The DRC Chief Inspector/designee shall coordinate the appeals process, develop correspondence as needed, and maintain pertinent records including:
 - i. Acknowledgement of receipt of the appeal and request for additional information, if appropriate;
 - ii. Scheduling of the Ohio Jail Advisory Board review at the next quarterly meeting after receipt of the written appeal;
 - iii. Notification to the jurisdiction and jail inspector;
 - iv. Provision of information and copies of materials to the Ohio Jail Advisory Board committee as appropriate;
 - v. Appeal recommendations of the Ohio Jail Advisory Board committee; and
 - vi. Appeal decisions correspondence.
3. Appeal Review Process
- a. At least three (3) members of the Ohio Jail Advisory Board Executive Committee must review appeals on a quarterly basis in conjunction with the regularly scheduled Board meeting unless an emergency review is needed.
 - i. If the DRC Chief Inspector is of the opinion that an emergency review is required, he/she shall coordinate with the Ohio Jail Advisory Board Executive Committee to ensure the review is completed in a timely matter.
 - ii. An emergency review must be completed within fifteen (15) working days of receipt of the request for appeal review.
 - b. Prior to the review meeting, the DRC Chief Inspector shall:
 - i. Verbally notify the Ohio Jail Advisory Board Executive Committee of the appeals to be reviewed, the name of the jail in question, and any issue(s) of concern.

- ii. Provide an information packet to each Board member who will be reviewing the appeal.
- c. If an OJAB member expresses a concern or there is an obvious conflict of interest, another OJAB member shall be selected by the DRC Chief Inspector to review the appeal. The following may be considered in determining conflicts of interest:
 - i. Member resides in an adjacent jurisdiction.
 - ii. Member's direct working relationship with the jail inspector involved is perceived as a conflict of interest.
 - iii. Member expresses a conflict of interest.
- d. The DRC Chief Inspector shall notify the jurisdiction and inspector of the date and time of the review, the names of the Ohio Jail Advisory Board Executive committee members who will participate in the appeal review, and request their presence at the appeal review meeting.
- e. The appeal review meeting shall be held at the site of the Ohio Jail Advisory Board quarterly meeting and will be presided over by the chairman of the Ohio Jail Advisory Board Executive Committee or designee.
 - i. The appeal review shall be informal in nature. Each review panelist should prepare questions beforehand and may take notes.
 - ii. The appeal review committee may caucus in private as deemed necessary.
 - iii. The jurisdiction shall be permitted to present their appeal and the inspector may respond.
 - iv. The chairman of the Ohio Jail Advisory Board Executive Committee or designee shall record the recommendations of the panel.
 - v. Following each appeal review case, the Ohio Jail Advisory Board Executive Committee shall make written recommendations to the DRC Chief Inspector of further action that may be taken to resolve the appeal issue.

4. Appeal Resolution

- a. The Ohio Jail Advisory Board Executive Committee panel shall make a recommendation to the DRC Chief Inspector after each appeal has been reviewed.
- b. The decision of the DRC Chief Inspector shall be the final decision of the administrative appeal process.
- c. A formal written response shall be prepared by the DRC Chief Inspector to the jurisdiction within one month of the Ohio Jail Advisory Board review. Copies of the written response shall be provided to the jail inspector and to each member of the Ohio Jail Advisory Board Executive Committee. The next Ohio Jail Advisory Board meeting shall include a review of the appeals reviewed during the previous quarter.
- d. Any Ohio Jail Advisory Board recommendations of corrective action to resolve the appeal shall be considered by Bureau staff.
- e. Bureau staff is prohibited from taking retaliatory action relative to an appealing jurisdiction.

Related Department Forms:

Plan of Action/THF

DRC7008

Annual Jail Inspection/12 Hour Jail

DRC7046