



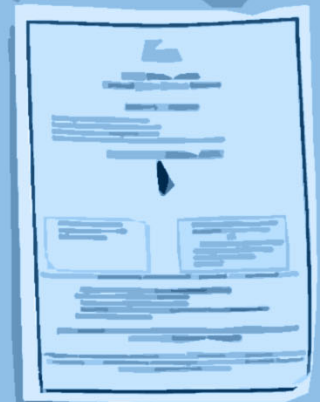
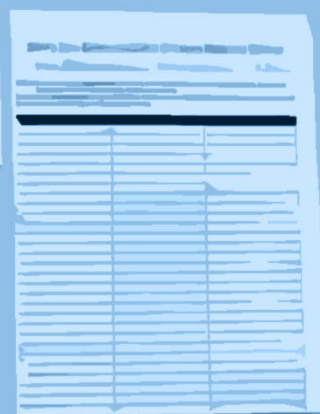
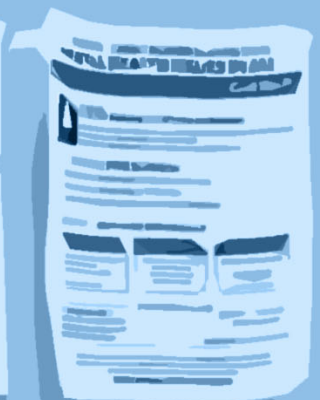
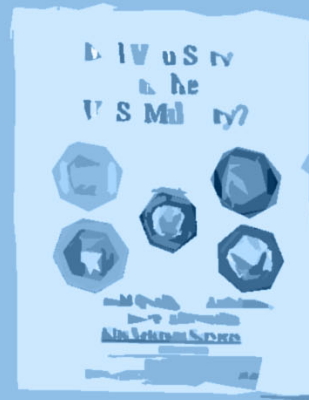
Disability Rights
WASHINGTON

Wasted Time

Lack of Access to Programming for Inmates with Disabilities in Washington's County Jails

February 2017

PROGRAMS



 **AVID Prison Project**

Amplifying Voices of Inmates with Disabilities

A project of Disability Rights Washington



Wasted Time:

Lack of Access to Programming for Inmates with Disabilities in Washington’s County Jails

Table of Contents

Introduction	3
Background	5
Disability Rights Washington.....	5
County Jails	6
Purpose and Scope.....	7
Methodology	7
Inmates with disabilities lack access to programming in Washington’s jails.....	8
Washington’s jails must ensure that all programs are accessible to inmates with disabilities	8
Washington’s jails must offer therapeutic programming to inmates with mental illness.....	13
Washington’s jails must improve accessibility and substance of reentry programming	16
Conclusions and Recommendations.....	19
About The Authors.....	21
End Notes.....	22

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Introduction

Every day in Washington, there are approximately 12,000 people incarcerated in our jails.¹ Far more cycle through the jails each year.² Nearly all of them will eventually be released back into our communities.³ Our jails can play an important role in preparing people for a safe and successful reentry into our communities by offering therapeutic programming, rehabilitative services, and planning for reentry. Unfortunately, for many inmates in our county jails—especially those with disabilities—incarceration is wasted time that does little to improve chances of stability after release.

In its 2016 survey of Washington’s county jails, the Amplifying Voices of Inmates with Disabilities (AVID) Project found very little programming in our county jails. At least one-fourth of Washington’s jails offer no programming at all to the people in their care. Although we incarcerate people with disabilities at disproportionately high rates,⁴ the vast majority of our jails do not offer programs targeted to these inmates. Roughly two-thirds of our jails do not offer therapeutic programming for inmates with mental illness. Most of Washington’s county jails do not even ensure that inmates with disabilities have equal access to regular jail programs and services. These failures violate federal law and help fuel disproportionately high rates of recidivism for people with disabilities.

At least one-fourth of Washington’s jails offer no programming at all to the people in their care.



This report describes how Washington's county jails (1) fail to make general programming and services accessible to inmates with disabilities; (2) fail to provide adequate therapeutic programming to inmates with mental illness; and (3) fail to provide reentry programming, especially for inmates with disabilities. It concludes with a series of recommendations related to these shortcomings.



Kimberly Mosolf, Disability Rights Washington attorney, speaks to an inmate through a closed door.



Background

Disability Rights Washington

Each state and territory has an independent advocacy organization with a federal mandate to monitor any setting serving people with disabilities to ensure their rights are protected and they are not abused or neglected. In Washington, that organization is Disability Rights Washington. As the private nonprofit agency designated as Washington's Protection and Advocacy System by the governor, Disability Rights Washington has the authority to access jails, prisons, homeless shelters, psychiatric hospitals, community hospitals and other healthcare facilities, and even individuals' own homes to monitor and record the conditions of care and treatment of people with disabilities.

Due to the vast number of people with disabilities incarcerated in the adult and juvenile justice systems, Disability Rights Washington created Amplifying Voices of Inmates with Disabilities (AVID), a project focusing specifically on the rights of inmates with disabilities in Washington's correctional systems. AVID is staffed by a team of attorneys, video advocates, and volunteer lawyers and law students. AVID has been recognized across the state and nationally, and has been asked to present at events for the White House, U.S. Senate, National Center on Disability, and at multiple conferences for corrections advocates and administrators across the country.



To address rights violations or abuse and neglect, Disability Rights Washington uses a multi-modal advocacy strategy that includes litigation, investigation, coalition building, video advocacy, and education of the public and



policymakers. Each year AVID serves thousands of inmates by helping them understand their rights and improve their self-advocacy skills. AVID also provides inmates with short-term legal assistance, investigates individual instances of abuse or neglect, monitors facility conditions, and engages in systemic advocacy with state officials and local facility administrators. For more information about Disability Rights Washington and AVID, please visit our website at <http://www.disabilityrightswa.org>.



Handwritten sign in a window of a solitary confinement unit that reads, "An Idle mind is the devil's playground"

County Jails

Jails are generally designed for short-term stays of adults who are awaiting trial or have been found guilty of a crime and sentenced to one year or less.⁵ In contrast, prisons are designed for long-term stays of adults convicted of felonies with sentences longer than a year.⁶ Nearly every county in Washington State operates a jail.⁷ Some cities also operate jails.⁸ Unlike the Washington State prison system, which the Department of Corrections oversees and operates, local administrators run the jails. These are usually the county sheriff's



department. There are currently no mandatory Washington State jail conditions standards aside from general constitutional requirements.⁹

Purpose and Scope

The purpose of this report is to shed light on the lack of access to programs and services for people with disabilities held in our county jails. This report is one in a series of reports intended to support an informed dialogue about how Washingtonians with disabilities are treated in county jails. It builds upon the findings presented in AVID's earlier reports on Washington's county jails:

- County Jails, Statewide Problems: A Look at How Our Friends, Family, and Neighbors with Disabilities are Treated in Washington's Jails
- The Need for Accessible Voting in Jail
- You Can't Just "Tell": Why Washington Jails Must Screen for Mental Illness and Cognitive Disabilities
- Prescription for Change: Access to Medication for People with Disabilities in Washington's Jails
- Cruel but Not Unusual: Solitary Confinement in Washington's County Jails
- Access Denied: Conditions for People with Physical and Sensory Disabilities in Washington's County Jails

Methodology

The information presented in this report was gathered through the AVID Project's review of jail policies and visits to each county jail in Washington State completed in March 2016. The process for this review is covered in depth in the *County Jails, Statewide Problems* report, referenced above. Policy review and in-person monitoring revealed that most county jails in Washington provide very little programming to inmates with disabilities.



Inmates with disabilities lack access to programming in Washington's jails

Jail inmates with disabilities should have access to programming, such as educational services, mental health therapy, and reentry services. This report describes the AVID Project's findings that Washington's county jails (1) fail to make general programming and services accessible to inmates with disabilities; (2) fail to provide adequate therapeutic programming to inmates with mental illness; and (3) fail to provide reentry programming, especially for inmates with disabilities. This report concludes with a series of recommendations related to these shortcomings.

Washington's jails must ensure that all programs are accessible to inmates with disabilities

AVID found that just over half of our county jails offer at least one or two basic programs to inmates. The most common by far are Alcoholics or Narcotics Anonymous (AA/NA), General Education Development (GED) study materials, and religious services. Most jails rely on volunteers from outside organizations to provide jail programming for free, often making the programming unpredictable and scarce, especially in rural or under-resourced areas.



A handful of Washington's jails provide more innovative or unique programming. At the time of AVID's visit, Island County Jail was offering inmates knitting classes and help with writing resumes. Several jails, like Jefferson County Jail and SCORE, were offering anger management classes. Pierce County Jail was hosting a pilot program in which Bates Technical College provided classes to some female inmates. King County Jail has a variety of programs, including yoga, meditation, literacy classes, and a group to support parents facing dependency proceedings.

Whatever the specific program, a jail must make certain that its programs are accessible to inmates with disabilities. Title II of the Americans with Disability Act (ADA) and Section 504 of the Rehabilitation Act of 1973 together protect inmates with disabilities from discrimination and serve to ensure that they receive equal access to jail programming and services.¹⁰ The ADA also places an affirmative obligation on a jail to provide reasonable accommodations and modifications to inmates with disabilities so that they may access such programs and services.¹¹



Space for outdoor recreation at Grant County Jail



The ADA's protections require that people with cognitive disabilities or mental illness can access jail programming.¹² For example, an inmate with traumatic brain injury who cannot participate in a jail's chemical dependency programming because he cannot process written information is protected by the ADA. The jail is responsible for providing that person with a reasonable accommodation—perhaps substituting verbal interaction for written materials—to ensure programmatic access. For inmates with serious mental illness, programs might be accessible if they are offered to smaller groups in quieter environments by staff with mental health expertise. In order to participate in a jail's GED programming, an inmate with a developmental disability might require shorter, more frequent sessions or the use of demonstration rather than verbal instruction.



A wall of pamphlets at King County Correctional Facility advertising community-based services

A jail must also be cognizant of how its housing policies and practices affect programmatic access. Inmates held in a jail solitary confinement housing unit¹³



routinely lack access to programming. AVID found that most of our county jails either explicitly prevent inmates in solitary confinement from accessing programming or make it effectively impossible due to staffing or scheduling constraints. If a jail places inmates with mental illness or cognitive disability into solitary confinement because of their disability, as many Washington county jails do,¹⁴ the jail effectively denies those inmates access to programming on the basis of their disability alone.



Multipurpose
room at Yakima
County Jail

After reviewing policies provided by Washington's county jails, AVID staff did not find any that have a policy that specifically addresses how to ensure that programming is accessible to inmates with all types of disabilities, including mental illness and cognitive disabilities. Only about one quarter of our county jails have a policy that generally prohibits the jail from discriminating on the basis of disability or requires compliance with the ADA. King County Jail, the largest of our county jails, has a more substantive policy that commits to



providing “reasonable accommodations to any inmate who is physically or mentally impaired” and even defines mental disability to include organic brain syndrome and learning disability, among other conditions.¹⁵ While the policy elaborates that “physical barriers to services” can be “removed or altered, so as to accommodate all inmates,” it gives no further guidance on what it means to provide programmatic accommodation to an inmate with “mental disability.”¹⁶

When AVID asked county jail staff across Washington State in March 2016 to recall times in which an inmate with a disability participated in jail programming, hardly any could provide clear answers. Some jails actually have an explicit policy or practice that an inmate is not allowed to participate in certain programming if they are not physically or mentally able to meet the requirements of the program. This entirely ignores the jail’s obligation to consider reasonable accommodations and modifications under the law.



Private counseling room at Pierce County Jail



Washington's jails must offer therapeutic programming to inmates with mental illness

It is well-established that people with mental illness are over-represented in the U.S. jail population.¹⁷ A recent study in Washington found that 55 percent of Medicaid enrollees entering jails had an identified mental health diagnosis, compared to 34 percent of all adults enrolled in Medicaid.¹⁸

The Eighth and Fourteenth Amendments to the United States Constitution require jails to provide adequate mental health care to inmates who need it.¹⁹

An essential component of mental health care is therapeutic programming, such as counseling or psychotherapy. It is a generally accepted standard of

health care that psychiatric medication alone, without therapeutic services, is not sufficient for treating inmates with mental illness.²⁰ Federal courts have also recognized that jails must provide therapeutic services, in addition to psychiatric medication.²¹ Without therapeutic services—including out-of-cell programming to address symptoms, reduce isolation, and promote compliance with treatment—people with serious mental health conditions are placed at significant risk of deterioration in jail.

The AVID Project found that less than one-third of Washington's county jails provide some form of therapeutic programming to inmates with mental illness. Fewer than half of our county jails even have a written policy requiring therapeutic mental health programming. Most jails that offer mental health programming offer only individual

Less than one-third of Washington's county jails provide some form of therapeutic programming to inmates with mental illness.



counseling, but it was not clear to AVID staff how consistent or available the counseling is. Many of these jails appear to provide therapeutic services only on an ad hoc or crisis management basis.



In an interview with AVID staff, Eric Sims discussed the limitations of reentry planning at King County Correctional Facility.

A few jails, however, offer more robust therapeutic programming. In King County, both King County Jail and South Correctional Entity (SCORE) provide formalized group and individual mental health therapy. At King County Jail, mental health professionals (MHPs) offer weekly group therapy to some inmates in the mental health housing units, addressing skill development, psychosocial rehabilitation, and medication education, among other topics. At SCORE, most inmates in the mental health units receive one hour of formal group therapeutic programming daily on weekdays led by MHPs. Both King



County Jail and SCORE provide individual counseling for inmates in the mental health units and some limited access to counseling for all other inmates.

Benton County Jail has also developed therapeutic programming for inmates with mental illness. The jail's contracted mental health provider, Lourdes Counseling Center, provides individual therapeutic services throughout the jail including psycho-education, skill development, Cognitive-Behavioral Therapy (CBT), and Dialectical-Behavior Therapy (DBT). There are also two weekly DBT groups offered on a women's unit.



A sign that reads "Inmate Programs" inside Snohomish County Jail

A jail must also provide therapeutic programming in a manner consistent with confidentiality requirements. When jails offer individual therapy and mental health wellness checks, these interactions should not take place at the inmate's cell door where other inmates and staff members can hear the conversation. Recent litigation has required jails to ensure that MHPs discuss patient



information and conduct clinical encounters in an “office-like setting” with adequate sound privacy.²² According to the U.S. Department of Justice, cell-front consultations in jail do not constitute adequate treatment and may not take the place of private and confidential mental health treatment.²³ The AVID Project found that many county jails in Washington do not regularly ensure confidentiality for therapeutic encounters.

Washington’s jails must improve accessibility and substance of reentry programming

Reentry programming, which can include connecting inmates to outpatient mental health care or training them in basic life skills and financial planning, promotes effective reintegration of incarcerated people from a jail or prison back into our communities. Effective reentry services can improve long-term outcomes for people leaving jail and help avoid the high cost of re-arrest and repeated incarceration.²⁴ Like all other jail programs and services, the ADA and Section 504 of the Rehabilitation Act require that a jail’s reentry programs be accessible to people with disabilities. For certain inmates with mental illness, targeted reentry programming may be legally required.²⁵

AVID found that none of Washington’s county jails have organized reentry programming generally available to all inmates. Many jails have a policy or practice that any inmate may request release resources, which is usually just a list of community services like shelters or healthcare providers. It is then up to the inmate to contact these service providers and arrange assistance, something very difficult to do from jail. AVID has found that most community service providers do not accept collect calls from the jail and do not routinely respond to jail inmate letters. In addition, providing a resource list alone may not make this service accessible to inmates with disabilities.



Reentry programs can also focus on a specific population at increased risk of re-arrest, like inmates with serious mental illness or cognitive disabilities. These inmates experience disproportionately high rates of jail recidivism—as high as 72 percent.²⁶ Targeting reentry programs to them can be very effective at disrupting this cycle.²⁷ Reentry services that use a continuity of care approach, including intensive case management and establishing connections to outside mental health service providers before release, are particularly good at reducing recidivism.²⁸



Sign that reads, “If you don’t like your stay, don’t come back” captured in Grays Harbor County Jail

AVID found that less than half of our county jails are providing at least some basic reentry services for inmates with mental illness. Some jails—like SCORE and Spokane County Jail—generally provide individualized reentry services for all inmates on the mental health caseload. For other county jails—Ferry, Kittitas, and Thurston, for example—these services are offered on an ad hoc basis if the individual requests help and there are resources available. AVID found several jails—including Okanogan—in which inmates with mental illness could only access reentry services if they were already an established client of a particular mental health organization that worked regularly with the jail.



Chelan County Jail opts to provide robust reentry programming to a targeted group of inmates. When AVID toured the jail, it found that a community mental health liaison works with a select group of inmates who must have an Axis-I mental health diagnosis, be Medicaid eligible, and within 45-days of release. The liaison connects these inmates with community mental health services, makes housing appointments for them, and assists with Medicaid enrollment, among other things. Notably, the liaison continues to work with the inmate for 45 days after release.

Even when jails offer more formalized and substantive reentry assistance to inmates with mental illness, they often struggle to meet the demand. Pierce County Jail has an average daily population of 1100 and recently estimated that it treats 85 inmates per day for mental illness.²⁹ Jail staff informed AVID that there is only one staff member dedicated to providing reentry programming to inmates with mental illness.

King County Jail, which has an average daily population of around 2000 inmates and dedicates an entire floor of its downtown Seattle jail to inmates receiving psychiatric treatment, provides a variety of reentry services to inmates with serious mental illness. Even with several full-time dedicated release planners on staff, the jail has created a complicated ranking system to prioritize certain inmates for these services. According to King County's Jail Health Services administration, this triage system attempts to score a patient's hierarchy of need because reentry programming is such a resource-limited program.

Meaningful reentry programming cannot start on the day of release. To be successful, planning for reentry should begin with adequate screening at

Chelan County Jail opts to provide robust reentry programming to a targeted group of inmates.



booking to determine a person's issues, supports, and unmet needs, and should continue throughout incarceration.³⁰ AVID found in our report *You Can't Just Tell: Why Washington Jails Must Screen for Mental Illness and Cognitive Disabilities* that many jails fail to adequately screen for people with mental illness and cognitive disability.³¹ A jail's failure to identify these inmates early on may prevent the jail from providing any meaningful reentry programming to the inmate.

Conclusions and Recommendations

People who have done time in a county jail will often tell you about the hours they spent staring at the wall with nothing to do, counting the days until their release. Many have described to AVID staff how these days, months, and even years felt like a waste of time that did little to improve their chances of stability after release. They do not usually report participating in programs or services in jail or getting assistance in planning for reentry.

For people with disabilities in our county jails, this is even worse. They will likely be unable to access what little programming and services the jail does offer, if any. It is rare that they will receive programming aimed at their particular needs. If they have mental illness, a lack of therapeutic programming may significantly harm them.



To address these issues, Washington’s county jails should consider the following recommendations:

1. **Review and improve jail policy and practice on programmatic accessibility.** Each jail should have a policy and practice in place outlining how it will promote accessibility to its programs and services and assess reasonable accommodations and modifications. Jails should consider all disabilities, including cognitive disabilities and mental illness, and should communicate to all inmates with disabilities that they have a right to access programs and services.
2. **Review segregation housing’s effect on programmatic accessibility.** Jails should ensure that inmates held in solitary confinement (or whatever term a jail uses for restrictive and isolated housing) generally have equal access to jail programs and services. Jails cannot deny all programming to all inmates in solitary confinement and cannot make access to programming effectively meaningless because of scheduling, staffing, or security issues.
3. **Ensure that there is therapeutic mental health programming available to inmates with mental illness.** Jails must make individual therapeutic services a regular and formal part of mental health treatment, and should provide group therapeutic programming whenever possible. Jails should consider partnering with community-based mental health providers to deliver mental health programming. Jails must follow laws surrounding the confidentiality of health information and refrain from performing cell-front therapeutic meetings.
4. **Ensure that there are reentry programming services, especially for inmates with disabilities.** Jails should have reentry resources and services available to all inmates and must ensure that these services are accessible to inmates with disabilities. Jails should target more intensive reentry programming to inmates with serious mental illness and other disabilities. Effective reentry programming begins with good screening at booking and should follow evidence-based practices throughout the rest of incarceration.



About The Authors



Kayley Bebbler is a staff attorney on Disability Rights Washington's Amplifying Voices of Inmates with Disabilities (AVID) Jail Project. Kayley engages in individual and systemic advocacy in order to achieve sustainable reform to conditions, treatment, and services for people with disabilities in jails around the state. She graduated with a Juris Doctor from Georgetown University Law Center in February 2013.



Kimberly Mosolf is an attorney with the AVID Jail Project of Disability Rights Washington, where she works on behalf of jail inmates with disabilities all over Washington State. Kim also works on issues related to policing and the parenting rights of people with disabilities. Kim came to Disability Rights Washington in January 2015 after practicing law in New York for the previous eight years. As a lawyer, she has worked to promote the rights of sex workers, people receiving government benefits, parents accused of abuse and neglect, those convicted of serious crimes, and people with mental illness. Kim graduated from Columbia Law School in 2006.



End Notes

¹ See Wash. Office of Fin. Mgmt., *Analysis of Statewide Adult Correctional Needs and Costs* 5 (2014),

http://www.ofm.wa.gov/reports/Correctional_Needs_and_Costs_Study2014.pdf [hereinafter OFM Analysis].

² *Id.* at 5. As a point of comparison, approximately 10.9 million individuals cycle through jails nationwide in 2015, while on a given day in 2015, there were 721,300 inmates incarcerated in jails. See Todd D. Minton & Zhen Zeng, U.S. Dep't of Justice, Bureau of Justice Statistics, *Jail Inmates in 2015* 1 (2016), <https://www.bjs.gov/content/pub/pdf/ji15.pdf>.

³ The Federal Interagency Reentry Council, *A Record of Progress and a Roadmap for the Future* 3 (Aug. 2016), <https://csgjusticecenter.org/wp-content/uploads/2016/08/FIRC-Reentry-Report.pdf>.

⁴ Jennifer Bronson, Ph.D., Laura M. Maruschak & Marcus Berzofsky, Dr.P.H., U.S. Dep't of Justice, Bureau of Justice Statistics, *Special Report: Disabilities Among Prison and Jail Inmates, 2011-12* 1 (2015),

<https://www.bjs.gov/content/pub/pdf/dpji1112.pdf> [hereinafter *BJS Special Report*]

(reporting that jail inmates were more than four times more likely than the general population to report having at least one disability and that 40 percent of all jail inmates and 50 percent of female jail inmates reported at least one disability); see also Lore Joplin, Wash. Office of Fin. Mgmt., *Jail Diversion for People with Mental Illness in Washington State* app. A (2016), <http://ofm.wa.gov/reports/Jail%20Diversion%20for%20People%20with%20Mental%20Illness%20in%20Washington%20State%20Study.pdf> (highlighting the disproportionality among the adult Medicaid population with identified mental health conditions in jail as compared to in the community and the frequent cycling in and out of jail of pretrial detainees waiting for court-ordered competency services).

⁵ See *OFM Analysis*, *supra* note 1, at 13.

⁶ See *id.*

⁷ Douglas and San Juan counties do not operate jails. Douglas County sends its inmates to Chelan County Jail and San Juan County operates a short-term holding facility with three cells that it does not consider a jail. This holding facility was monitored along with the other county jails.

⁸ See *OFM Analysis*, *supra* note 1, at 5.



⁹ See *id.* at 8.

¹⁰ Title II of the ADA states: “no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.” 42 U.S.C. § 12132. In order to be considered a “qualified individual” an inmate must be a person with a disability “who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.” 42 U.S.C. § 12131(2); see also 28 C.F.R. §§ 35.130, .152.

¹¹ See 28 C.F.R. § 35.130(b)(7).

¹² Some of the challenges faced by people with physical and sensory disabilities to access jail programming are covered in more detail in AVID’s earlier report, *Access Denied: Conditions for People with Physical and Sensory Disabilities in Washington’s County Jails*.

¹³ Solitary confinement is generally recognized as the isolated confinement of an inmate in a locked cell, where the inmate is removed from the general inmate population and deprived of meaningful contact with other people, for 22 to 24 hour per day. See U.S. Dep’t of Justice, *Report and Recommendations Concerning the Use of Restrictive Housing* 3 (2016), <https://www.justice.gov/dag/file/815551/download>. The different housing categories in which AVID generally finds the use of solitary confinement in our jails include administrative segregation, disciplinary detention, protective custody, and medical isolation.

¹⁴ Kayley Bebbler, *Amplifying Voice of Inmates with Disabilities, Cruel But Not Unusual: Solitary Confinement in Washington’s County Jails* (Nov. 2016) http://www.disabilityrightswa.org/sites/default/files/uploads/CruelbutNotUnusual_November2016.pdf.

¹⁵ King Cnty. Dep’t of Adult and Juvenile Det., Adult Div., *General Policy Manual 6.01.012: Accommodating Inmates with Disabilities* (Apr. 2014).

¹⁶ *Id.*

¹⁷ See Doris J. James & Lauren E. Glaze, U.S. Dep’t of Justice, Bureau of Justice Statistics, *Special Report: Mental Health Problems of Prison and Jail Inmates* 3 (Sept. 2006), <http://www.bjs.gov/content/pub/pdf/mhppji.pdf> (finding over 60 percent of jail inmates had symptoms of a mental health disorder such as depression, anxiety, or schizophrenia in the previous 12 months prior to interview).

¹⁸ Paula Ditton Henzel et al., DSHS Research and Data Analysis Div., *Behavioral Health Needs of Jail Inmates in Washington State* 5 (2016) (defining mental



health diagnosis for the purposes of the study as a psychotic, bipolar, depressive, anxiety, ADHD/conduct, or adjustment disorder).

¹⁹ See, e.g., *Farmer v Brennan*, 511 U.S. 825, 832 (1994); *Gates v. Cook*, 376 F.3d 323, 342-43 (5th Cir. 2004) (stating under Eighth Amendment, “mental health needs are no less serious than physical needs”); *Doty v. Cnty. of Lassen*, 37 F.3d 540, 546 (9th Cir. 1994) (holding “requirements for mental health care are the same as those for physical health care needs.”); *Coleman v. Wilson*, 912 F. Supp. 1282, 1297-98, 1308 (E.D. Cal. 1995) (holding that mental health care within the California Department of Corrections systemically violated the Eighth Amendment); *Arnold ex rel. H.B. v. Lewis*, 803 F. Supp. 246, 256 (D. Ariz. 1992) (stating “The defendants have violated plaintiff’s eighth amendment rights by failing to provide proper mental health treatment.”).

²⁰ See Am. Psychiatric Ass’n, Clinical Practice Guidelines, <https://www.psychiatry.org/psychiatrists/practice/clinical-practice-guidelines>. The APA has developed and published clinical practice guidelines addressing numerous psychiatric conditions, including Bipolar Disorder, Major Depressive Disorder, and Schizophrenia. These guidelines include recommendations and discussion of psychotherapy interventions.

²¹ See *King v. Frank*, 328 F. Supp. 2d 940, 947-48 (W.D. Wis. 2004) (regarding Plaintiffs claim that the prison failed to provide mental health programming, stating that “[a]lthough it appears . . . that he is receiving *some* treatment for his mental illness in the form of medication, I will assume at this stage of the proceedings that this is insufficient to alleviate a substantial risk of serious harm to plaintiff’s mental health.”); *Balla v. Idaho Dep’t of Corr.*, 595 F. Supp. 1558, 1577 (D. Idaho 1984) (requiring that the Idaho State Correctional Institution provide “psychiatric and psychological counseling for those inmates in need of counseling.”); *Jones v. Blanas*, 393 F.3d 918, 931 (9th Cir. 2004) (noting that the Due Process Clause of the Fourteenth Amendment, which applies to pre-trial detainees, is more protective than the Eighth Amendment’s bar against cruel and unusual punishment and requires the government to do more than provide minimal necessities).

²² *Graves v. Arpaio*, 48 F. Supp. 3d 1318, 1360 (D. Ariz. 2014), *amended by* 2014 WL 6983316 (D. Ariz. Dec. 10, 2014) (“Mental health providers will assess pretrial detainees in an area outside of their cells that affords sound privacy except when there are legitimate safety, security, and treatment reasons for not doing so.”); Memorandum of Agreement Regarding the Muscogee Cnty. Jail Between the U.S. Dep’t of Justice and the Gov’t of Columbus, Ga. 17 (Jan. 16, 2015), http://www.justice.gov/crt/about/spl/documents/muscogee_moa_1-16-15.pdf.

²³ Compliance Letter from the U.S. Dep’t of Justice to L.A. Cnty. Jail Sys. 25 (June 4, 2014), http://www.justice.gov/crt/about/spl/documents/lajails_compltr_6-4-14.pdf (stating “While frequent cell front contacts can assist in providing emotional support



and creating a therapeutic alliance, they are no substitute for private and confidential mental health treatment. This is not adequate treatment and indicates both a lack of adequate treatment space and, potentially, a reflection of custody staffing deficiencies that limit the ability to safely transport prisoners for clinical contacts. These staffing deficiencies obstruct the prisoners' opportunities for unstructured out of cell time and outdoor recreation, which can negatively impact their mental health status.”).

²⁴ See U.S. Dep’t of Justice, *Roadmap to Reentry: Reducing Recidivism Through Reentry Reforms at the Federal Bureau of Prisons* 2-3 (Apr. 2016), <https://www.justice.gov/reentry/file/844356/download> [hereinafter *DOJ Roadmap to Reentry*]; Urban Inst., *Evaluation of the Allegheny County Jail Collaborative Reentry Programs: Findings and Recommendations* 43-49 (Oct. 2014), http://www.urban.org/research/publication/evaluation-allegheny-county-jail-collaborative-reentry-programs/view/full_report; Am. Bar Ass’n Criminal Justice Section, State Policy Implementation Project, *Effective Reentry Programs* (2013), http://www.americanbar.org/content/dam/aba/administrative/criminal_justice/spip_reentry.authcheckdam.pdf.

²⁵ Failing to provide reentry programming for inmates with serious mental illness arguably violates the Eighth and Fourteenth Amendments to the U.S. Constitution, which require adequate inmate mental health care and prohibit jail actions that risk serious harm to inmates. See cases cited *supra* note 19. AVID has found that when inmates with serious mental illness do not receive adequate jail reentry services, they are often released to the streets with active, serious symptoms of mental illness. Jails often release them without important prescription medications, do not provide them transportation to a safe location, and have not connected them to outpatient health care providers.

²⁶ See Council of State Gov’ts, Criminal Justice/Mental Health Consensus Project, *Policy 13: Intake at County/Municipal Detention Facility* 110 n.33 (2002), <https://csgjusticecenter.org/mental-health-projects/report-of-the-consensus-project/>; Amy Blank Wilson et al., *Examining the impact of mental illness and substance use on recidivism in a county jail*, 34 *Int’l Journal of Law and Psychiatry* 264, 265 (2011). Compare this with recidivism rates for federal prison inmates of 45 percent after five years. U.S. Sentencing Comm’n, *Recidivism Among Federal Offenders: A Comprehensive Overview* (2016), http://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2016/recidivism_overview.pdf. While the rates of recidivism for people with physical, sensory, or cognitive disabilities have not been well studied, the data that does exist supports higher rates than for people without disability. See, e.g., Adam L. Piccolino & Kenneth B. Solberg, *The Impact of Traumatic Brain Injury on Prison Health Services and Offender Management*, 20 *Journal of Corr. Health Care* 203, 208-209 (2014) (finding that a history of traumatic brain injury has a statistically significant association with higher recidivism rates); The Pacer Center, *What Probation Officers Need to Know*



about Learning Disabilities 1 (2009), <http://www.pacer.org/parent/php/php-c169.pdf> ("Youth with a combination of disruptive behaviors and learning disabilities have the highest rates of offending and of recidivism."). Inmates with sensory disability are often denied assistive technology to allow them to have visits and contact with the outside world. Research has consistently shown that prisoners who do not receive more consistent visitation and outside contact, like those with sensory disabilities, have higher recidivism rates. See, e.g., W.D. Bales & D.P. Mears, *Inmate Social Ties and the Transition to Society: Does Visitation Reduce Recidivism?*, 45 *Journal of Research in Crime & Delinquency* 287, 304-312 (2008); Minnesota Dep't of Corr., *The Effects of Prison Visitation on Offender Recidivism* 18-29 (2011), <http://www.doc.state.mn.us/pages/files/large-files/Publications/11-11MNPrisonVisitationStudy.pdf>.

²⁷ See Cong. Research Serv., *Offender Reentry: Correctional Statistics, Reintegration into the Community, and Recidivism* 15 (Jan. 2015), <https://fas.org/sgp/crs/misc/RL34287.pdf>; Urban Inst. Justice Policy Ctr., *Life After Lockup: Improving Reentry from Jail to the Community* 34-37 (May 2008), <https://www.ncjrs.gov/pdffiles1/bja/220095.pdf>.

²⁸ See *id.*

²⁹ Jenna Hanchard, *More inmates with mental illness in Pierce County*, KING, June 13, 2016, <http://www.king5.com/news/local/tacoma/pierce-county-seeing-more-inmates-with-mental-illness/242830937>.

³⁰ See DOJ Roadmap to Reentry, *supra* note 24, at 3.

³¹ Meghan Apshaga, *Amplifying Voice of Inmates with Disabilities, You Can't Just "Tell": Why Washington Jails Must Screen for Mental Illness and Cognitive Disabilities* (Sept. 2016), http://www.disabilityrightswa.org/sites/default/files/uploads/YouCantJustTell_September2016.pdf.

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