



Locked Out of Health: Incarcerated Standards of Care

A Comparative Analysis of Kansas State Regulations and The United Nations Nelson Mandela Rules

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INTRODUCTION

- The U.S. is the global leader in both healthcare spending (about \$13,000 per capita) and incarceration rates (at about 700 per 100,000 persons).
- Members of marginalized groups—such as those in ethnic/racial minorities, lower socioeconomic status, and the incarcerated (imprisoned) or detained (jailed)—have challenges with access & quality of care resulting in worse health outcomes.
- There is no universal standards of care for all prisons in the U.S., each jurisdiction drafts its own standards from applicable legislation & jurisprudence. The Kansas Department of Corrections is the authority responsible for the administration of state prisons in Kansas. Kansas has a state prison population of about 9,000.
- Since 1955, the United Nations issues its guidance globally through the *Standard of Minimum Rules for the Treatment of Prisoners*, renamed the Nelson Mandela Rules in 2015. (https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-book.pdf)

KANSAS REGULATIONS

- The Kansas Department of Corrections operating procedures are housed in the Kansas Administrative Regulations (KAR) for Agency 44, Department of Corrections and the Internal Management Policies and Procedures (IMPP) of the Kansas Department of Corrections. (<https://www.doc.ks.gov/kdoc-policies>)
- IMPP Chapter 16 specifically addresses the medical and health care services available to prisoners.
- Other IMPP mention the health related services of inmates only where it relates to the function of that Chapter:
- Chapter 3 Training for Health Officers
- Chapter 9 Safety, Sanitation, & Inspection 102D Health and Safety Inspections
- Chapter 10 Program and Services related to Meals, Health Screenings, Victimization, Advance Directives, Medication Assisted Treatment
- Chapter 12 Security & Control related to Hygiene Items, Clothing, Drug Treatment, etc.
- Chapter 19 Medical Emergencies in Field Services Office
- Chapter 20-110J Segregated Housing of Behavioral Health Offenders.

UN MANDELA RULES

- The Mandela Rules have made prisoners' health a priority.
- The framework delineates specific rules to address medical and health services for prisoners: Rules 22-35.
- Several other rules that are categorized to address needs in other areas, mention that the prisoners health should be taken into account:
- Rule 4 Programming & Services
- Rule 13 Accommodations
- Rule 19 Clothing
- Rule 18 Hygiene
- Rule 42 Living Conditions
- Rule 43 Torture
- Rule 46 Healthcare Personnel in Disciplinary Action
- Rule 96 & 101 Work
- Rule 105 Recreation
- Rule 109 Mental Disorders

DISCUSSION

The Kansas Department of Corrections Regulations takes an inclusive approach considerate of all stakeholders (prisoners, staff, and community). KDOC regulations address many areas of operations that are well beyond the prisoner's experience, such as staff development and human resources. KDOC has to consider the experience of employees when creating policies and procedures. Quality healthcare cannot be provided to prisoners, if quality medical staff cannot be recruited and maintained. Further, the Kansas regs must be both proactive and reactive, providing stability for the present and flexibility to meet changing needs.

The Mandela Rules are prisoner centric and take a holistic approach integrating the implications of prisoners' health into all aspects of its rules. The Mandela Rules provide high level guidance for the administration of correctional services. It is an idealized framework that does not have to consider systemic limitations, such as legal, political, or bureaucracy; or practical limitations, such as personnel & staffing, security, finances, facilities, etc. The Mandela Rules focuses solely on the prisoner's experience without regard to tangential matters.

The Kansas Regulations and the UN Mandela Rules illustrate the contrast between the theoretical and the practical of policy creation.