Jails and Prisons: The New Asylums?

During the last 10 years, extraordinary changes have occurred in the health of jail and prison inmates. The combination of accelerated urban decay, widespread illicit drug use, and expanding poverty-associated epidemics, has had a devastating impact on the well-being of incarcerated Americans. Prisoners now arrive at lock-up sicker than at any time in the last 50 years. Not surprisingly, prison medical services have been transformed into beleaguered outposts struggling to cope with near impossible demands. Linda Teplin's study in this issue of the Journal[1] documents another disturbing aspect of the transformation: the significantly increased prevalence of mental illness among jail inmates over that which is found in the general population.

Accurate statistics on mental illness in correctional facilities are difficult to obtain—as Teplin herself has noted in this and other publications.[2,3] A recent national survey of departments of corrections documents extreme variations in reporting,[4] undoubtedly attributable to different state practices. But while attempts to measure this phenomenon have offered conflicting results, several recent studies support the findings reported here. The mentally ill are greatly overrepresented in the criminal justice system, and it appears that this sub-population may even be growing.[2,5,6]

Prisons are, in fact, a growth industry. At midyear 1988, there were approximately one million prisoners in the United States—with almost three million more under the supervision of the criminal justice system through parole or probation services. This population has expanded 38 percent since 1984, and approximately one in 27 American men now finds himself under some correctional supervision.[7] Many state and local correctional systems are filled far beyond capacity. The National Council on Crime and Delinquency projects that the prison population will rise by over 68 percent by 1994, resulting in an additional 460,000 inmates.[8] Prisons are currently operating at overcapacity, and experts believe that excessive crowding will increase over the next decade—even as prison construction continues apace.

The demographic characteristics of Americans who fill these jails and prisons are skewed in many ways. Most (over 90 percent) are men, many are Black. On any given day 6 percent of all White males in the United States and 23 percent of Black males are incarcerated or under the supervision of the corrections system.[9] Indeed, almost half of all prisoners (47 percent) are African-American; a large number are also young and poor.[10] Prisons have now become the new tenements, overcrowded compounds fertile and accommodating to disease. Dr. Teplin raises the issue of whether they are also becoming the new asylums.

Jails and prisons have historically been built to incarcerate and rehabilitate the poor. Their great expansion took place in England in the 19th Century in response to the development of reformist theories of punishment. Lofty goals, however, were quickly undermined by the realities of prison life. Decaying buildings, persistent clashes between inmates and jailers, and overwhelming public disregard for the quality of life behind the walls became the inevitable legacy of unrealistic expectations.

Throughout the late nineteenth and early twentieth centuries, the number of incarcerated individuals grew at a modest rate but the conditions of confinement dramatically worsened. By the 1970s, federal courts were struggling to fashion a legal standard for prison and jail health care which would provide for a civilized level of medical attention—without enmeshing the federal courts in malpractice actions (matters for state court jurisdiction) or health care administration.

In 1976, the US Supreme Court held that "deliberate indifference" to the serious medical needs of inmates *(Estelle v. Gamble)*[11] violates the Eighth Amendment to the Constitution which bars cruel and unusual punishment. The Court reasoned that to place persons in prison or jail (which precludes an independent search for assistance), and not to provide care, results in the "willful and wanton" infliction of pain prohibited by the Amendment.

The jurisprudence of this Amendment has come to require that correctional facilities measure their medical practices or procedures against existing contemporary standards of "decency and dignity." Jails which gather the retarded and mentally ill and sequester them without care are clearly beyond the bounds of this requirement. Unfortunately, despite federal court orders most states continue to provide care far short of the constitutional standard. Forty-one states (plus the District of Columbia, Puerto Rico, and the Virgin Islands) are under court orders or consent decrees to limit overcrowding and/or improve the conditions of confinement.[12]

Inmates in the United States therefore have a paradoxical and unique relationship to the medical system: their health services have historically been substandard, but they are the only group with the constitutional right to care. Society must provide this legally mandated level of medical service while at the same time strive to divert admissions to appropriate hospital or mental health institutions. Clearly, none of this can happen if the present rates of incarceration continue: a drowning system struggles only for air.

Dr. Teplin and other epidemiologists have shown that the need for mental health services by inmates is great, and probably growing. Several factors are intensifying the trend. The government's zealous criminalization of drug use has transformed a major psychosocial and public health problem into a predominately criminal matter. Large numbers of substance abusers—few of whom have had the opportunity to enroll in drug treatment programs—are being funneled into the nation's jails and prisons. And the widespread policy of determinate sentencing (a principal judicial weapon in the "War On Drugs") exacerbates the problem, both by expanding the number of inmates and by increasing their jail time without the possibility of parole.

Homelessness—especially in the winter—adds a second important current to the flood. The large scale deinstitutionalization of mentally ill patients during the 1970s and the simultaneous reduction in the supply of low-income housing have combined to produce a well-documented crisis: enormous numbers of disturbed persons roaming the streets without access to stable shelter or security. They are frequently swept up by the police for small infractions of the law such as trespassing, vagrancy, or disturbing the peace.

Moreover, the disappearance of community mental health services has accelerated the movement of individuals from the street to the penitentiary. Without sufficient funding for intermediate level mental health facilities, jails have become way-stations for the marginalized—places to confine individuals who cannot make bail or who are unable or unwilling to plea-bargain. Not surprisingly this group in-

cludes many who are mentally ill. A National Institute of Mental Health (NIMH) report concludes that:

> By default the criminal justice system has replaced the mental health system as a primary provider of care to many homeless mentally ill persons . . . homeless persons are not inherently more prone to criminal behavior. Rather, the homeless lifestyle itself leads to victimization and criminal involvement.[13]

The National Coalition for Jail Reform, a now dismantled organization with which the American Public Health Association has worked, concurred, calling jails "the new mental institutions." The Coalition stated in a brochure published in the mid-1980s:

> "The nation's 3,403 local jails are . . . becoming the dumping grounds for mentally ill and retarded people in our society. Of the 6.2 million people crowding our jails each year, 600,000 are suffering from mental illness. Most of them have committed only minor offenses, more the manifestation of their illnesses than the result of criminal intent . . . jail [has] become the place of last resort."

Such a response is not inevitable. The use of jails as a place to house the mentally ill reflects, ultimately, society's ambivalent and ambiguous distinction between the sick and the criminal. There has unfortunately been too easy a tendency to punish those who—through no fault of their own—find themselves without access to adequate health care. This disposition is perhaps part of a more general trend in which the nation's most vulnerable citizens are more likely to be disciplined than to be cared for. In fact, there has always been a functional interdependence between the corrections and mental health system.[3,14] In 1939, L. S. Penrose in a classic examination of mental illness and crime observed that in European countries "as a general rule, if the prison services [in a country] are extensive, the asylum population is relatively small, and the reversal also tends to be true."[15]

But a more acceptable public health solution would be to combine jail treatment facilities (as back-ups for community facilities) with functioning diversion programs. Correctional institutions and mental health services must not be traded one for the other. Rather they should work as complementary approaches to behaviors that are inherently complex. Programs in correctional facilities should assess the mental health needs of inmates and take prospective patients to appropriate mental health units. Additionally, they should station trained personnel at jail intake points to work with law enforcement officers in order to have charges modified or dropped when psychiatric illness is the crime.

Jails and prisons already represent a primary source of health care for poor and minority Americans, since a significant number of inner-city residents pass through the corrections system every year. This system is now being called upon to provide increased mental health services as well. The cost will be prohibitive and a change in prison philosophy supporting a more "caring" environment will be impossible to develop. Medical and mental health services stand only to be overwhelmed by the escalation in the number of prisoners.

There is therefore not merely a prison crisis in mental health, but a crisis in all the medical needs of prisoners. We are facing both a problem of inadequate corrections facilities and a challenge to public sector medical care as a whole. As ever larger numbers of inmates spend longer periods in prison, they must come to be regarded as an important segment of society deserving proper attention—as a group who increasingly require the benefits of a more informed public health policy.

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