

Treatment for Prisoners: A U.S. Perspective

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In this issue Exworthy and colleagues (1) propose an approach to problems associated with inadequate mental health care services for many prisoners in the United Kingdom that could be applied to international settings. In this commentary I summarize a U.S. perspective.

The right to treatment for prisoners in the United States is based on the Supreme Court's interpretation of the Eighth Amendment (protection against cruel and unusual punishment) and the Fourteenth Amendment (equal protection and due process clauses) of the U.S. Constitution (2,3), whereas such rights are defined in the United Kingdom by international declarations and commissions.

The notion of "equivalence" has been a driving force to improve mental health care in U.K. prisons. Due to limitations of the equivalence concept when applied to a prison setting, the authors urge improving prisoners' access to adequate health care by application of the well-defined AAAQ framework—available, accessible, acceptable, and of good quality—for health care. In the United States a significant driving force to improve mental health care services in correctional settings has been class-action litigation (4) related to lack of needed resources. Such litigation has been conceptualized as having three phases: the liability phase, remedial phase, and implementation phase (4).

Issues relevant to the standard of care become central in determining the minimally required remedial plan so that deficiencies in care will be adequately addressed.

Decades ago, the equivalence model may have served as a framework for the standard of care to be implemented in

U.S. prisons. However, as in the United Kingdom, the equivalence concept would now frequently fail to result in the provision of adequate mental health care services to inmates in U.S. prisons—but for different reasons than those described by Exworthy and colleagues (1). A task force of the American Psychiatric Association developed guidelines (5) recommending that "the fundamental policy goal for correctional mental healthcare is to provide the same level of mental health services to each patient in the criminal justice system that *should* [emphasis added] be available in the community." This statement acknowledges that the mental health care available in the community is often inadequate, which highlights the limitation of applying the equivalence concept to U.S. prisons.

National standards and guidelines developed by various health care organizations, especially those of the National Commission on Correctional Health Care and the APA, have provided a useful framework that is pertinent to standards of correctional mental health care (5,6). Cohen (7) has described three essential elements required to establish a mental health system that meets constitutional requirements: adequate physical resources regarding treatment program space and supplies, adequate human resources concerning numbers of properly trained or experienced mental health staff who will identify or provide treatment to inmates with serious mental illness, and adequate access for inmates to the physical and human resources within a reasonable period of time. This "access" concept is similar to the AAAQ framework, especially because a robust quality improvement system is needed. Such quality im-

provement systems assess metrics that facilitate improved and more efficient access to care and improved quality of care in a manner similar to that described by Exworthy and colleagues (1) in their proposal in the context of the AAAQ model.

The quality improvement process, which has in recent years become an essential element of most remedial plans or settlement agreements, will in large part be based on the policies and procedures that provide the detailed framework of the correctional mental health care system, with many of the indicators and metrics defined by these policies and procedures. Quality improvement is a crucial management tool that helps assess and improve correctional mental health system issues.

Regardless of the origins of a prisoner's right to adequate health care, clinicians and health care administrators on both sides of the Atlantic have recognized the importance of a quality improvement process that involves both health care and custody staff in the development and maintenance of an adequate correctional health care system.

References

1. Exworthy T, Samele C, Urquía N, et al: Asserting prisoners' right to health: progressing beyond equivalence. *Psychiatric Services* 63:270–275, 2012
2. *Estelle v Gamble*, 429 US 97 (1976)
3. *Bell v Wolfish*, 441 US 520 (1979)
4. Metzner JL: Class action litigation in correctional psychiatry. *Journal of the American Academy of Psychiatry and the Law* 30:19–29, 2002
5. *Psychiatric Services in Jails and Prisons: A Task Force Report of the American Psychiatric Association*, 2nd ed. Washington, DC, American Psychiatric Association, 2000
6. *Standards for Mental Health Services in Correctional Facilities*. Chicago, National Commission on Correctional Health Care, 2008
7. Cohen F: Captives' legal right to mental health care. *Law and Psychology Review* 17:1–39, 1993

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