Treatment Considerations in Correctional Settings

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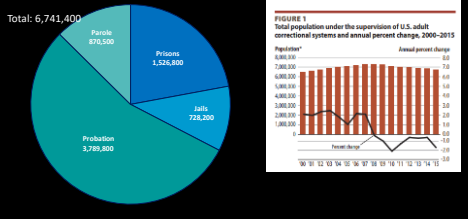
Correctional Population as of 2015



Kaeble D, Glaze LE. (2016). *Correctional Populations In The United States, 2015. Bureau of Justice Statistics, December 29, 2016, NCJ 250374*

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Brief History

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Historical Overview

- By 1694: Massachusetts Bay Colony legislation authorizes incarceration for
  - any person "lunatic and so furiously mad as to render it dangerous to the peace or the safety of the good people for such lunatic person to go at large."
- 1752, the first dedicated hospital psychiatric ward was opened
  - about 20 years later- first psychiatric hospital
- "Pennsylvania System"
  - 1790s first correctional institution in U.S.
- Reformatory Model
  - Established between 1870-1900

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Historical Overview

Progressive Era in Corrections

- 1900-1920 through 1970s
- Utilized medical model in understanding deviant behavior

1952- Chlorpromazine first used

1950's-1970's- "Deinstitutionalization"

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Historical Overview

Judicial and social activism in mid 1970's led to examination of need for standards of care within corrections

Looking to move beyond past where care was directed by correctional officials

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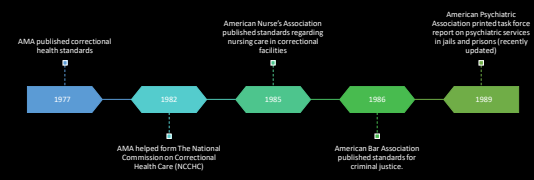
Historical Overview: Healthcare in Corrections



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Inmate Rights

- 1st Amendment
  - Religious expression and communication
- 4th Amendment
  - Search and Seizure
- 8th Amendment
  - Cruel and unusual punishment (conditions of confinement)
- 14th Amendment
  - Due process…disciplinary hearings and segregation

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Community Policies and Practices

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Case Vignette: Mr. A

- 28 year old male with history of schizophrenia:
  - Alcohol since age 12, methamphetamine use starting age 19
  - History of treatment for psychosis
- Medical History: Hepatitis C
- Criminal History: Recently arrested on a charge related to robbery and assault
  - Broke into a neighbor's home to take jewelry to sell to support opioid use
- Social History:
  - 11th Grade education, no GED
  - Periods of homelessness, in and out of jail and prison for 7 years
  - Foster care placement as a child and different schools due to behavior

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Case Vignette: Mr. A

- Held in jail awaiting trial for his arrest
- Screening indicated history of mental health treatment
- No information regarding community medications
- Individual has not yet had access to a psychiatrist

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Questions

Mr. A is now in jail. What happens in a jail for Mr. A?

What are some differences between jail and prison?

What treatment would be available?

What would be the connections for this individual upon release?

Who knows that he is in jail?

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CORRECTIONAL SETTINGS: A REVIEW

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Definitions of Facility Types

- Lock up
- Jail
- Prison
- Detention
- U.S. Military prisons, jails, and detention centers

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Lock ups

- Locally operated
- High volume
- Very short stay
- Arrest to arraignment
- May be connected to local jail

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Jails

- Traditionally house pre-trial populations awaiting court dates and adjudication
- Length of stay variable with turnover of populations
- Sentenced populations
  - Typically one year or less of a sentence
  - Can be consecutive sentences so time can add up

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Lock ups and Jails – Other Functions

- Civil charges
- Public health reasons
- Detention for ICE
- Temporary housing for state/federal inmates
- Temporary housing for juveniles pending transfer
- Bailbond violators
- Hold individuals for the military, protective custody, contempt of court

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Prisons

- Usually confined >1 year
- Operated by state and federal government
- Usually houses higher population than jail, >500 beds
- Often come to prison after extended period in custody
  - Exception: parole violators

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Prison Units

- General Population
- Special Housing
  - RTU/RTP
  - Inpatient
  - Administrative Segregation
  - Disciplinary Segregation

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Juvenile Facilities

- Age Definitions
- Detention
- Commitment Facilities

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Community Supervision

Probation

- Can be pre-trial or post-trial
- Ordered at time of trial/sentencing by a judge
- Probation officers monitor adherence to terms such as:
  - Comply with treatment
  - Refrain from contact with certain person
  - Sign releases of information for probation and treatment provider to speak

Parole

- Release with conditions after serving a sentence
- Determined by a Board
- Community based parole officers monitor adherence to terms

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Demographics

- Males are imprisoned at rate 14 times that of females
- Females are the fastest growing prison population
- Female inmates have higher rates of mental health problems than males
  - Also true for chronic medical disorders and drug dependence
- 80% of females have one or more lifetime psychiatric disorder

(Binswanger et al 2010)

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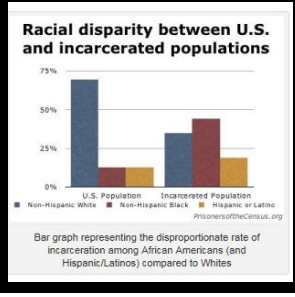

Bar graph representing the disproportionate rate of incarceration among African Americans (and Hispanic/Latinos) compared to Whites

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Mental Illness

Prevalence of mental disorders:

15% to 24% of U.S. inmates have a severe mental illness (Baillargeon et al. 2009)

Psychosis – estimated to be 1-7% in jails

Substance abuse

Antisocial personality disorder

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Increased Prevalence of Substance Use Disorders in the Criminal Justice Population

June 2017 Report: Bureau of Justice Statistics Data 2007-2009

	General Population	State Prisoners	Sentenced Jail Inmates
% meeting DSM-IV Criteria for Drug Dependence or Abuse	5%	58%	63%
Regularly Used Heroin/Opiates		16.6%	18.9%
Used Any Drugs at the Time of the Offense (Used Opiates)		42% (6.8)	37.2% (7.9)

Bronson J, Stroop J, et al. (2017). Drug Use, Dependence, and Abuse Among State Prisoners and Jail Inmates, 2007-2009. Special Report NCJ 250546, BJS, DOJ, June 2017

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HIGHLIGHTS: Features of Criminal-Legal Involved Adults

- High rates of mental health disorders
- High rates of co-occurring substance use and mental health disorders
- High rates of co-occurring medical conditions
  - Infectious disease (Hepatitis A, B, C)
  - HIV
  - Chronic medical conditions
- High rates of trauma of all kinds

- Binswanger IA, Krueger PM, Steiner JF. (2009). *Journal of Epidemiology and Community Health, 63(11):912–919.*

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Adverse Childhood Experiences

- Increased justice involvement
- Increased non-medical opioid prescription use
- Increased illicit drug use

Dube, Felitti, Dong, et al 2003, Forster, Gower, Borowsky et al, 2017; Reavis, Looman, Franco, Rojas 2013

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Classification Standards

- Housing Determinations
  - Criminal history
  - Institutional Adjustment
  - RNR modeling
  - Treatment needs

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Accreditation and Correctional Systems

- Four organizations currently govern health services in corrections:

- ACA – Cover all aspects of managing an institution
  - Safety, security, housing, personnel, administration
  - Standards come from a correctional standard
  - Have minimal health guidelines and even less for mental health
  - Most common

- APHA – Comprehensive and specific to health issues in correctional settings
  - Difficult to apply to small jails and large prisons
  - No associated accreditation

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Standards for Mental Health Services

- NCCHC – Developed by mental health professionals
  - Separate manuals for jails, prisons, and juvenile facilities
  - Take into account institutional size
  - Corresponding medical and opioid use disorder accreditation standards

OTHER Non-Correctional Specific Entities:

- Joint Commission – Reviews health facilities in the community.
  - No specific correctional healthcare standards
  - Has a consolidated standards manual for forensic settings
  - Advantage: reflects the "community standard of care." The only organization to mention intellectual and developmental disabilities
  - Disadvantage: not designed for corrections.
- CARF- Commission on Accreditation of Rehabilitation Facilities
  - Some facilities utilize these standards in aspects of correctional programs

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Landmark Cases in Correctional Practice of Relevance to Mental Health

Estelle v. Gamble (1976)- deliberate indifference and 8th amendment

Bowring v. Godwin (1977)- extension to mental health care and 8th amendment

Bell v. Wolfish (1979)- application of 14th amendment to pretrial detainees having right to mental health and sud treatment

Brown v. Plata (2011)- prison overcrowding in CA violated 8th Amendment by depriving inmates of needed medical and mental heath care.

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Landmark Cases Related to care of persons with mental illness

Washington v. Harper (1990)- USSC ruling on non-emergency involuntary administration of medications for prisoners

Vitek v. Jones (1980)- USSC rules on appropriate process for transfer of inmates to psychiatric hospitals

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Mental Health Services- Adequate Care

- Federal decisions - *Ruiz v. Estelle, 1980*
  - Conditions of confinement
  - Six essential elements of **minimally adequate** mental health services
    - Systematic screening and evaluation
    - Treatment
    - Participation by trained mental health professionals
    - An accurate, complete, and confidential record
    - Safeguards against psychotropic medications
    - A suicide prevention program

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Mental Health Services- Adequate Care

Basic services to be provided per APA Task Force (2016)

- Screening, referral and evaluation
- Treatment
- Community Re-entry

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Mental Health Services in Correctional Setting

- Screening, assessment, referral, and evaluation
  - Goal is timely access to services
  - Screening on admission/reception
    - Systematic screening at reception by a qualified mental health professional (QMHP) – has to be done within 14 days
  - Comprehensive mental health evaluation (if screened positive) with diagnosis
  - Referrals can take place at any point in the incarceration
  - Inmates must have a means of making their needs known to the medical staff
  - 24 hour crisis services available
  - Record keeping done – accurate, complete, and confidential record

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Federal Legislation: Civil Rights of Institutionalized Persons Act (CRIPA-1980)

- Protects rights of people in
  - Correctional facilities
  - Nursing homes
  - Mental health facilities
  - Institutions for individuals with DD/ID

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Federal Legislation – CRIPA 1980

- Authorizes the US Attorney General to bring suit on behalf of the United States to enjoin the maintaining of "**egregious or flagrant**" unconstitutional conditions in a state or local correctional facility that are causing inmates "**grevious harm**" and are being maintained in accordance with a "**pattern of prejudice**" of violating the Constitution
- Attorney General also has the authority to intervene in civil rights suits brought by inmates which involve such unconstitutional conditions
- Has initiated investigations of >100 jails and prisons and has examined physical safety of inmates, adequacy of medical care and provision of mental health services

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Prison Litigation Reform Act (1996)

Aimed in part to reduce frivolous filings

Inmates grieve through the correctional system first, and then if those are exhausted federal complaints become available

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Prison Rape Elimination Act (PREA) (2003)

- "To provide for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions and to provide information, resources, recommendations and funding to protect individuals from prison rape." (PREA 2003)

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Mental Health Services in Correctional Setting

- Treatment
  - 12% receiving mental health therapy and 15% receiving psychotropic medications in state prisons (James and Glaze 2006)
  - Standards for record keeping and standards regarding medications
  - Management of psychotropics has to be by psychiatrists and in an appropriate manner
  - Psychotropics relevant to inmate's need – not for the convenience of the institution. At appropriate amounts

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Correctional Suicides

- Most common method in all settings: Hanging
- Most common correctional setting: Lockup
- Rates in prison are estimated at 2x general population rates
- Suicide rate in jails- leading cause of death in jail – (Hayes 2012)

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Correctional Suicides - Prison

- Second leading cause of death in prison
- Most suicides occur after first year of confinement – 65%
- Major risk factor – presence of mental illness

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Correctional Suicides - Prison

- Common stressors before suicide:
  - Inmate conflict
  - Recent disciplinary action
  - Fear
  - Physical illness
  - Learning bad news
  - 41% had received mental health services within 3 days of suicide

(Way et al. 2005)

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Correctional Suicides - Litigation

- Common causes of litigation related to suicide (Daniel 2009)
  - Response Capacity
  - Staff and Training
  - Facility Structure
  - Staff Response
  - Monitoring

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Post Release Outcomes

- Risk of death of released prison inmates is 12.7 times higher within 2 weeks of release than for state population residents
  - Leading causes included drug overdose, cardiovascular, homicide, suicide

(Binswanger IA, Stern MF, Deyo RA, et al. (2007). *New England Journal of Medicine, 356(17):157-165.*)

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Assess, Plan, Identify, Coordinate (APIC) Framework for Re-Entry 10 Guidelines

Assess
- Screening for behavioral health needs and risk
- Assessments after positive screenings

Plan
- Individualized treatment planning with appropriate treatment levels and dosing to match risk in collaborative programs
- Collaborative responses between behavioral health and justice systems

Identify
- Anticipate critical periods especially time surrounding release
- Policies and practices that enhance continuity of care

Coordinate
- Support "firm but fair" adherence to treatment and supervision conditio
- Develop Information sharing mechanisms
- Support cross training
- Support data analysis

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Increasing MAT Access: Efforts Across the Continuum

- Most penal facilities do not permit MAT except…
  - Pregnant women
- More jails and prisons are starting programs to allow injectable naltrexone upon release
  - Concerns about diversion in facilities has limited use of other types of MAT in jails and prisons
  - Some jails are starting to identify means of maintaining MAT in the jail- very new

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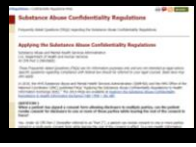
Information Sharing

- 42 CFR Part 2 limits communication with others regarding patients in substance use treatment
- HIPAA limits communication related to mental health and health care
- State laws also govern information sharing
- A valid release allows communication
- For individuals under court or community supervision, communication can be complicated
- Best practice programs involve mutual work with community supervision to develop protocols related to what information is shared or not shared



Guiding FAQs: https://www.samhsa.gov/about-us/who-we-are/laws-regulations/confidentiality-regulations-faqs

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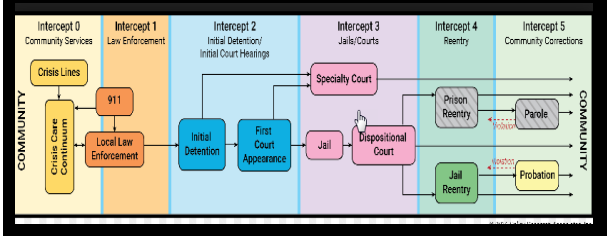
Diversion



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Conclusions

- Important to understand the myth of correctional settings as not a "therapeutic harbor" though standards for correctional care are evolving
- Revolving door of the CJ system can be traumatizing
- High risk for gaps in care due to various systems involved
  - High morbidity and mortality associated with disruptions in care
- Maximizing personal understanding of CJ system, laws and best means of coordinating care between treatment and corrections and courts can be helpful
- Substance use and mental health treatment in correctional settings receives important attention increasingly locally and nationally

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Judicial Considerations

- *Are alternatives to incarceration available that would address public safety needs and at the same time support therapeutic goals? Alternatives might include transfer to a medical or psychiatric crisis facility, release to home with support from community services while awaiting trial, competency assessment and/or restoration in the community and others.*
- *Are there local or state standards that set minimum criteria for access to treatment during the incarceration of this defendant?*
- *Is the jail staffed and equipped to meet these standards and inmate treatment needs? If not, what alternatives exist to improve conditions for inmates with serious mental illness?*
- *Is the community resourced to support re-entry after incarceration and reduce the risk of re-arrest?*
- *• Is the individual currently in treatment, including medication treatment? What can be done to maintain that treatment during incarceration and upon release?*
- *If the individual is not in treatment or medicated, what are the protocols for assuring they receive medication in jail, address medication refusals and alert the jail staff to signs of suicide risk?*

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