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On the Issues

Out of the Asylum, into the Cell

By Sally Satel

Prisons have become default mental-health treatment centers to the severe detriment of those experiencing genuine mental illness. Properly treating—rather than criminalizing—mental illness requires reforming our fragmented mental healthcare system and relaxing regulations to encourage patients to seek treatment.

A new report by Human Rights Watch has found that American prisons and jails contain three times more mentally ill people than do our psychiatric hospitals. The study confirmed what mental health and corrections experts have long known: incarceration has become the nation's default mental-health treatment. And while the report offers good suggestions on how to help those who are incarcerated, a bigger question is what we can do to keep them from ending up behind bars at all.

The Los Angeles County jail, with 3,400 mentally ill prisoners, functions as the largest psychiatric inpatient institution in the United States. New York's Rikers Island, with 3,000 mentally ill inmates, is second. According to the Justice Department, roughly 16 percent of American inmates have serious psychiatric illnesses like schizophrenia, manic-depressive illness, and disabling depression.

Life on the inside is a special nightmare for these inmates. They are targets of cruel manipulation and of physical and sexual abuse. Bizarre behavior, like responding to imaginary voices or self-mutilation, can get them punished—and the usual penalty, solitary confinement, only worsens hallucinations and delusions.

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How did we get here? Actually, with the best of intentions.

Unfulfilled Promises

Forty years ago, President John F. Kennedy signed the Community Mental Health Centers Act, under which large state hospitals for the mentally ill would give way to small community clinics. He said of the law that the "reliance on the cold mercy of custodial isolation will be supplanted by the open warmth of community concern and capability."

Kennedy was acting in response to a genuine shift in attitudes toward the mentally ill during the postwar years. The public and lawmakers had become aware of the dreadful conditions in the state hospitals, largely through exposés like Albert Deutsch's book *The Shame of the States* and popular entertainment like the movie *The Snake Pit*, both of which appeared in 1948. In addition, Thorazine, an anti-psychotic medication, became available in the mid-1950s and rendered many patients calm enough for discharge.

Between Kennedy's signing of the mental health law in 1963 and its expiration in 1980, the number of patients in state mental hospitals dropped by about 70 percent. But asylum reform had a series of unintended consequences. The nation's 700 or so community mental-health centers could not handle the huge numbers of fragile

patients who had been released after spending months or years in the large institutions.

There were not enough psychiatrists and healthcare workers willing to roll up their sleeves and take on these tough cases. Closely supervised treatment, community-supported housing, and rehabilitation were given short shrift. In addition, civil liberties law gained momentum in the 1970s and made it unreasonably hard for judges to commit patients who relapsed but refused care. Those discharged from state hospitals were often caught in a revolving door, quickly failing in the community and going back to the institution. And they were the lucky ones—many others ended up living in flop-houses, on the streets or, as Human Rights Watch has reminded us, in prison.

Real Reforms

Reforms like segregating mentally ill prisoners in treatment units would help. Of course, the ultimate solution is keeping psychotic people whose criminal infractions are a product of their sickness out of jails in the first place. This requires a two-part approach. The first entails repairing a terribly fragmented mental-health care system. The most important change would be liberating states from the straitjacket of federal regulations surrounding the use of money from Medicaid and Medicare—programs that account for two-thirds of every public dollar spent on the mentally ill.

These regulations force many states to make rigid rules dictating what services will and will not be reimbursed, which forces practitioners and administrators to perform bureaucratic gymnastics to circumvent them. For example, Medicaid will not pay for clinicians who provide "assertive community treatment"—a system in which professionals work as a team, making home visits, checking on medication, and helping patients with practical day-to-day demands. Yet such teams have been proved to reduce re-hospitalization rates by up to 80 percent.

Relaxing regulations would be great progress in helping those mentally ill people who seek treatment. Unfortunately, about half of all untreated people with psychotic illness do not recognize that there is anything wrong with them. Thus the second part of any sensible reform would be finding ways to help patients who have a consistent pattern of rejecting voluntary care, going off medication, spiraling into self-destruction or becoming a danger to others.

One approach is encouraging their cooperation with "treatment through leverage." This process, not new but underused, involves making social welfare benefits, like subsidized housing and Social Security disability benefits, conditional to participation in treatment.

A more formal approach is to have civil courts order people to enter community treatment. New York State's Kendra's Law, named in memory of a woman killed in 1999 after being pushed into the path of a subway train by a man with schizophrenia, is a good model. From 1999 to 2002, about 2,400 people spent at least six months in mandatory community treatment under the law.

And for those who end up committing crimes, some states have developed special mental-health courts that can use the threat of jail to keep minor offenders with psychosis in treatment and on medication at least long enough for the offenders to make informed decisions about treatment. Such efforts may get help from Washington: last month the Senate approved a bill authorizing $200 million for states to develop more mental-health courts and other services for nonviolent, mentally ill offenders; it awaits action in the House.

For many thousands of mentally ill people, America has failed to make good on John F. Kennedy's promise of forty years ago. Releasing them from the large state institutions was only a first step. Now we must do what we can to free them from the "cold mercy" that comes with criminalizing mental illness.