YOUR CLIENT WILL NOT GET MENTAL HEALTH TREATMENT IN PRISON

A primer on how to back up that claim

In September of 2006 the United States Department of Justice, Bureau of Justice Statistics, published the report "Mental Health Problems of Prison and Jail Inmates." This is the only report on this topic which includes information about mental health treatment in the US Bureau of Prisons. The report is available at

www.ojp.usdoj.gov/bjs/pub/pdf/mhppji.pdf

In this report are two tables which form the foundation of the argument that a prisoner will not get mental health counseling unless he or she is extremely disturbed. They are Tables 3 and 14.

Table 3 shows that 43.6% of male inmates in Federal prison have a mental health problem and 61.2% of the women in Federal prison have a mental health problem.

> Mental health problems were defined by two measures: a recent history or symptoms of a mental health problem. They must have occurred in the 12 months prior to the interview. A recent history of mental health problems included a clinical diagnosis or treatment by a mental health professional. Symptoms of a mental disorder were based on criteria specified in the Diagnostic and Statistical Manual of Mental Disorders, fourth edition (DSM-IV).[1]

Table 14 shows that 24.0% of prisoners in the Federal system "received treatment after admission" but only 15.1% had "professional mental health therapy." The "treatment other than therapy" includes medication and an overnight hospital stay.[2] The report says, on page 9, that "Taking a prescribed medication for a mental health problem was the most common type of treatment inmates who had a mental health problem had received since admission to prison or jail."

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[1] "Mental Health Problems of Prison and Jail Inmates." Bureau of Justice Statistics Report, September, 2006. p.1.

[2] *ibid* p. 9.

Now we can calculate the odds that our client might get "professional mental health therapy." We can take those numbers in Tables 3 and 14 and plug them into an analysis using the Bureau of Prisons Weekly Population Report, available at

www.bop.gov/locations/weekly_report.jsp.

Here is an example of how it works, taken from a mitigation report. I decided which institutions to contact based on the assumption that the client would get a Guideline sentence and be designated close to home (Chicago) to serve the sentence.

> A report from the Bureau of Justice Statistics, United States Justice Department Office of Justice Programs, which is attached, says that only 15.1% of inmates who had a mental health problem received professional mental health therapy after admission to the Bureau of Prisons.[3] I contacted a number of Bureau of Prisons facilities to learn the number of psychologists at each prison. The following table of selected Midwest institutions assumes that the percentage of inmates needing psychotherapy is as related in the Bureau of Justice Statistics report (Appendix C). That is, 44% of the males and 61% of the females in Federal prison will have a diagnosable mental health condition.

Projected Psychologist Caseloads at BOP Facilities as of February 28, 2008

Institution	Pop. 2/28/08	# Needing Tx.	#of Psych.	Caseload per Psych.
Pekin FCI	1483	706	2	353
Duluth Camp	807	355	1	355
Milan FCI	1494	657	2	328
Greenville FCI	1497	712	2	356

[3]Doris James and Lauren Glaze "Mental Health Problems of Prison and Jail Inmates". Office of Justice Programs, Bureau of Justice Statistics, September 2006, Table 14, p. 9.

Sandstone FCI	1274	560	6	93

Except for Sandstone, every institution listed has a projected caseload of more than three hundred patients per psychologist. Even at Sandstone the ratio is 93 patients for each psychologist. It is impossible to imagine that a functioning person such as our client would get the specific, individualized therapy he needs. With these numbers, therapy is provided only to those inmates who are so disturbed as to need intervention merely to remain in the general population.

To bolster this argument, we can add information about success in therapy being dependent on the relationship between the therapist and the patient. If our client is already doing well in counseling, this argues for keeping them in that relationship.

A number of studies have been done to measure what it is about counseling that helps people to get better. The relationship between the therapist and the client, the "therapeutic alliance," has been shown to be one of the most important factors in treatment success. The type of therapy is not as important as the relationship between the therapist and the patient. Krupnick et al say "Therapeutic alliance was found to have a significant effect on clinical outcome for both psychotherapies and for active and placebo pharmacotherapy."[4] Martin et al say "[T]he overall relation of therapeutic alliance with outcome is moderate, but consistent, regardless of many of the variables that have been posited to influence this relationship."[5] Niolon says "[T]here are four conclusions from all this - 1) behavioral therapists are perceived as having good therapeutic relationships 2) the relationship is not sufficient for

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[4]Krupnick et al "The Role of the Therapeutic Alliance in Psychotherapy and Pharmacotherapy Outcome: Findings in the National Institute of Mental Health Treatment of Depression Collaborative Research Program." The Journal of Clinical Psychology, June 1996 at www.ncbi.nlm.nih.gov/sites/entrez?cmd=retrieve&db=pubmed&list_uids=8698947&adopt=AbstractPlus

[5]Martin et al "Relation of the Therapeutic Alliance With Outcome and Other Variables: A Meta-Analytic Review in The Journal of Consulting and Clinical Psychology, June 2000 at http://www.psych.ku.edu/dennisk/ClRx946/Martin%202000%20Alliance%20&%20Outcome.pdf

change, but is important 3) the therapeutic relationship is an elusive construct that doesn't depend solely on the therapist's behavior 4) some therapists are better than others."[6]

Finally: "Clients who had a single counselor throughout the entire course of treatment did significantly better than their peers who were transferred from one counselor to another, suggesting that a stable client - therapist relationship greatly enhances the chances of the patient reaching drug abstinence and being rehabilitated."[7]

Therapy, therefore, is not fungible. Getting therapy from one counselor is not the same as getting therapy from any counselor.

Even if our client were to get counseling while serving a custody sentence, which is unlikely, there is nothing to assure that she or he would be able to form a bond with a therapist in prison as they have with the people at their current treatment program. Nor is there any reason to expect that they would be kept in any one facility long enough for the counseling to be consistent or for a therapeutic relationship to develop.

Lastly, we can suggest that prison is not an appropriate place for treatment. 18 USC 3582 (emphasis added) says that prison should not be used for therapeutic purposes:

> Imposition of a sentence of imprisonment
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> (a) Factors To Be Considered in Imposing a Term of Imprisonment.— The court, in determining whether to impose a term of imprisonment, and, if a term of imprisonment is to be imposed, in determining the length of the term, shall consider the factors set forth in section 3553 (a) to the extent that they are applicable, *recognizing that imprisonment is not an appropriate means of promoting correction and rehabilitation.*

And 28 USC 994K says:

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[6]Richard Niolon "The Therapeutic Relationship" in Resources for Student and Professionals on Psychpage.com at www.psychpage.com/learning/library/counseling/thxrel.html

[7]www.ncbi.nlm.nih.gov/entrez/query.fcgi?cmd=Retrieve&db=PubMed&list_uids=7399753&dopt=Abstract

> (k) The Commission shall insure that the guidelines reflect the inappropriateness of imposing a sentence to a term of imprisonment for the purpose of rehabilitating the defendant or providing the defendant with needed educational or vocational training, medical care, or other correctional treatment.

Punishment, by definition, involves the deliberate infliction of suffering on a person. We should not be inflicting more suffering on those who already suffer from mental illness. Especially in the name of treatment - treatment which may not be available in ways the judge believes it is.

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