Standing Senate Committee on Legal and Constitutional Affairs

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Delays in Criminal Trials

- Criminal laws including the Criminal Code
- Should the Criminal Code be reviewed?
- The effects of existing offences and sentencing provisions on the administration of criminal justice
- The Corrections and Conditional Release Act

- Current Parole and prisoner release system effect on proceedings such as plea-bargaining
- Appointment of Judges; and supernumerary judges
- Contributions to legal aid
- Mega trials
- Preliminary inquiries

- Other pre-trial procedures
- Training for judges
- Remand served prior to conviction
- Other topics that witnesses deem relevant to the study

Criminalization of the Mentally Ill- "Canada's forgotten people"

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Criminalization of the Mentally Ill

- The term has been in the social science literature since about 1972.
- The phenomenon has been blamed on the deinstitutionalization of psychiatric hospitals starting in the 1950s.
- The criminalization of the mentally ill was recognized long before this in 1939

Criminalization of the mentally ill

- Penrose (1939) outlined the "hydraulic model" of social control. Stated very simply Penrose found in a number of European countries the number of persons committed to psychiatric facilities was inversely related to the persons committed to the prison system and vice versa. When social conditions were such that there were fewer persons committed to psychiatric institutions the number of persons in prison increased

- The general thesis behind Penrose's theory was that criminalization of the mentally ill was due to an inadequate mental-health system. At this time the mental-health system was not well developed.
- Starting in 1950 and continuing even to the present time the deinstitutionalization (or dehospitilization) of the mentally ill is contributing to the criminalization of the mentally ill.

Does the Penrose phenomenon exist today?

- Some studies of pre-trial populations in the United States show a level of mental disorder of above 70%
- Most mental health programs and corrections of fourthe sentenced population
- Mental illness becomes a barrier to pre-trial release

Deinstitutionalization and the public-health model

- Thousands of psychiatric beds were closed. The peak level of the mentally ill institutionalized population was in the late 1950s.
- 40 years later the State of California had reduced its noncriminal mentally ill state hospitalization population to less than 5% of the peak levels.
- In the United States, nationwide, the psychiatric hospital population dropped from approximately 560,000 in 1955 to approximately 60,000 in 1992.
- The same trends have occurred worldwide. This has been described as an unprecedented public health success in some quarters.

Transinstitutionalization

- Many patients were shifted to other settings such as nursing homes and group homes
- General psychiatric hospital beds have increased approximately seven times
- some studies show that there are 250,000 or more psychiatric beds in the United States and 750,000 or more psychiatric patients in nursing homes and other facilities
- There has also been a dramatic increase in the mentally ill in correctional facilities

- We live at the time when arguably the largest mental health facility in the United States is the Los Angeles County Jail!!! Close behind this is the Cooke County Jail in Chicago!!!!
- The same trends exist in Canada

Pre-trial custody does not include any programs for mentally ill prisoners

The high level of mental illness in pre-trial custody leads to dangerous environments that impact on a number of areas that delays the trials and release of individuals on bail
Individuals that have a mental disorder or a substance use disorder are often denied bail as there is not a supervised setting where they could be housed pre-trial.
These become risk management issues that work against the release of individuals on conditional release prior to trial
There is also a need for resources such as “bail houses”

Programs for pre-trial inmates

- In general terms mental health services are weak
- In general terms they should be in-house substance-abuse treatment
- In general terms there should be more psychological counselling
- In general terms they should be social work available to to assist in pre-trial release plans

Possible solutions

- Specialty courts, drug courts and mental-health courts to divert the mentally away from the criminal justice system.
- Enhance these courts to work in pre-trial release

Specialty courts

- Immediate clinical intervention
- Nonadversarial
- Practical constructive dispositions
- “hands-on” judges with creative sentencing

Diversion

- Alternative dispositions for the seriously mentally ill before the courts
- Closely related to mental health courts
- Psychiatrists working and other mental-health professionals in the courts divert the mentally disordered accused back to the mental health system

Diversion

- Prearrest diversion
- Pretrial nonclinical diversion
- Pretrial clinical diversion
- Diversion at trial NCR dispositions, probation with conditions of treatment
- Diversion following sentence preventing the ongoing criminalization of the mentally ill

Pre-trial diversion

- Mental health courts could assist with pre-trial to version to bail houses

Bail houses

- Require some 24-hour supervision
- Require affiliation with a mental health service to provide consultation and treatment is required
- Would require work release programs for individuals appropriately screened pre-trial
- Random urine screening should be part of the routine

- There should be more use of technologies such as GPS tracking
- Community agencies such as the John Howard society previously provided these facilities and they could do this again
- There should be psychiatric services available including forensic psychiatric services

Diversion is resource sensitive

- All types of diversion programs are sensitive to resources. If institutional and community resources for the seriously mentally ill are deficient diversion will fail.

Diversion ? Does it work

- is there empirical evidence that recidivism is reduced?
- Is the empirical evidence that criminalization is reduced?

"Mental Health Courts and the lesson learned in Juvenile Court" Grudzinkas & Clayfield J AAPL 2004

- Civil rights movement contributed
- Complex legal reforms based on the civil rights movement
- Funding of the mental health system
- Advances in the pharmacological treatment of the seriously mentally ill

Diversion of the mentally ill after a custodial disposition

- Aim is to reduce recidivism
- Aim is to stop further criminalization of the seriously mentally ill offender
- Aim is to provide the same standard of psychiatric care to the seriously mentally ill while incarcerated as would be available to any other citizen of the province of Ontario

The St.Lawrence Valley Correctional and Treatment Unit

- The Secure Treatment Unit

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Serious mental disorder in 23,000 prisoners:a systematic review of 62 surveys, Fazel, Danesh, The Lancet, 359, 2002

- 62 surveys from 12 countries included 22,790 prisoners; mean age 29 years; 18,530 (81%) male; 2568 (26%) violent offenders;
- 3.7% of men psychotic illness; 10% major depression 65% personality disorder with 47% being antisocial personality disorder.
- 4 %of woman had a psychotic illness; 12% major depression and 42% personality disorder with 21% antisocial personality disorder
- prisoners were several times more likely to have psychosis and major depression and 10 times more likely to have antisocial personality disorder than the general population.

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Articles

Serious mental disorder in 23 000 prisoners: a systematic review of 62 surveys

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Summary
Introduction
Methods
Results
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Summary

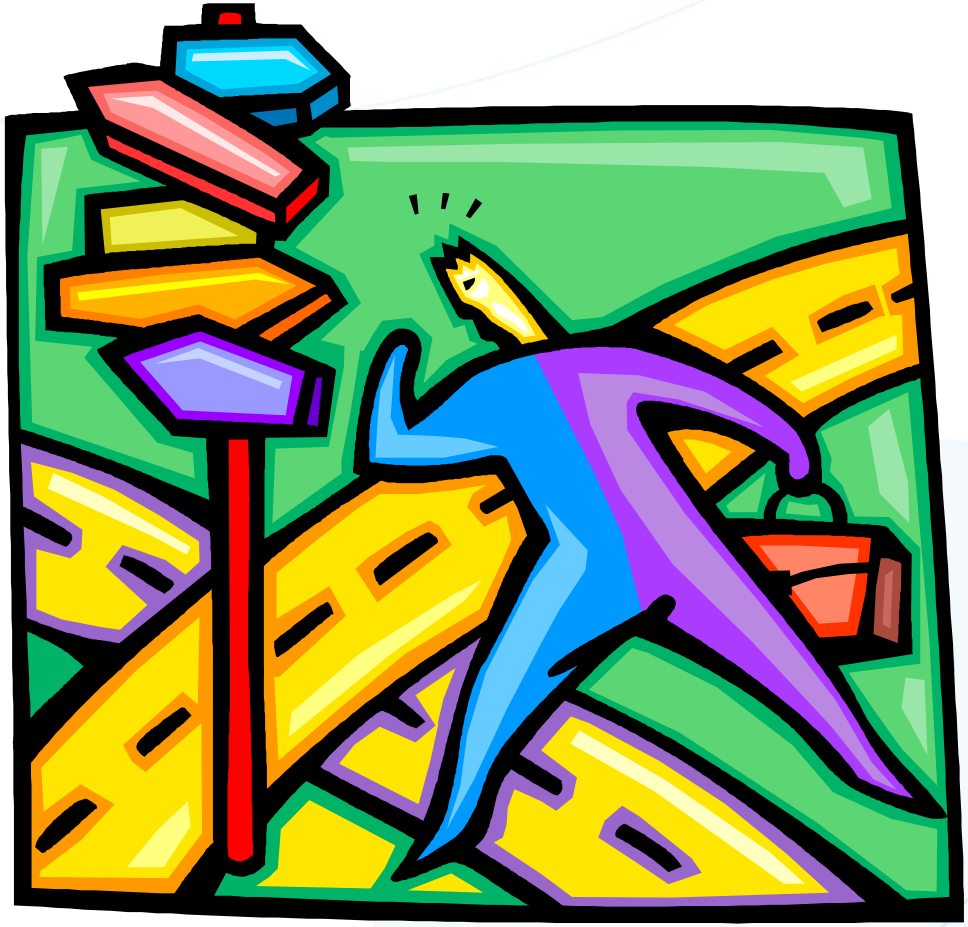
Background About 8 million people are imprisoned worldwide, but the number with serious mental disorders (psychosis, major depression, and antisocial personality disorder) is unknown. We did a systematic review of surveys on such disorders in general prison populations in western countries.

Methods We searched for psychiatric surveys that were based on interviews of unselected prison populations and included diagnoses of psychotic illnesses or major depression with onset in the previous 6 months, or a history of any personality disorder. We did computer-assisted searches, scanned reference lists, searched journals, and corresponded with authors. We determined prevalence rates of serious mental disorders, sex, type of prisoner (detainee or sentenced inmate), and other characteristics.

Findings 62 surveys from 12 countries included 22 790 prisoners (mean age 29 years, 18 530 [81%] men; 2568 [29%] of 9776 were violent offenders). 3·7% of men (95% CI 3·3–4·1) had psychotic illnesses, 10% (8–11) major depression, and 65% (61–69) a personality disorder, including 47% (46–48) with antisocial personality disorder. 4·0% of women (3·2–5·1) had psychotic illnesses, 12% (11–14) major depression, and 42% (38–45) a personality disorder, including 21% (19–23) with antisocial personality disorder. Although there was substantial heterogeneity among studies (especially for antisocial personality disorder), only a small proportion was explained by differences in prevalence rates between detainees and sentenced inmates. Prisoners were several times more likely to have psychosis and major depression, and about ten times more likely to have antisocial personality disorder than the general population.

Interpretation Worldwide, several million prisoners probably have serious mental disorders, but how well prison services are addressing these problems is not

FUTURE



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