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Commentary on Elger's "Medical Ethics in Correctional Healthcare"

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I agree with Bernice Elger that the same standards should apply in U.S. jails and prisons as are currently in place in Europe.¹ Unfortunately, we have the little problem of 48 million uninsured people in the U.S.² The fact of the matter is that many people now get better healthcare in jails than in the community.

The U.S. Department of Justice now estimates that 64 percent of the inmates in jails are mentally ill.³ Many of these people are homeless. They are dying 20 years sooner than the general population. Studies report that the vast majority of inmates released from jails and prisons do not get care upon release.⁴

Some mentally ill persons have never received treatment outside of a jail. Jails and prisons have replaced the state mental hospitals of yesteryear.

So while Europeans wish for people to receive the same care in jails as they do in the community, it might be better for the reverse to be the case in the U.S. We have invested billions of dollars in providing health and mental healthcare in jails and prisons.⁵ Courts have found that inmates have a constitutional right to this care.⁶ No such rights exist in the community.

Therefore, many mentally ill persons are cycling in and out of jail and prisons due to the sad state of the health and mental health system in the U.S. Many people cannot afford their medications. Public mental health clinics have waiting lists. Many times, police officers will encourage family members to press charges against their relatives so they can get care. There is universal coverage on the inside, but not on the outside.

NOTES

1. B. Elger, "Medical Ethics in Correctional Healthcare: An International Comparison of Guidelines," in this issue of *JCE*.

2. J.A. Rhoades, *The Uninsured in America, 2004: Estimates for the U.S. Civilian Noninstitutionalized Population under Age 65*, Statistical Brief #83 (Rockville, Md.: Agency for Healthcare Research and Quality, June 2005), http://www.meps.ahrq.gov/mepsweb/data_files/publications/st83/stat83.pdf, accessed 4 August 2008: "In early 2004, 16.8 percent of the U.S. civilian noninstitutionalized population (48.3 million) were uninsured. . . ."

3. U.S. Department of Justice, Office of Justice Programs, "Study Finds More than Half of All Prison and Jail Inmates Have Mental Health Problems," <http://www.ojp.usdoj.gov/newsroom/pressreleases/2006/BJS06064.htm>, accessed 4 August 2008.

4. This is discussed in *Brad H. v. City of New York*, 2000, <http://www.bazelon.org/issues/criminalization/bradh.html>, accessed 4 August 2008.

5. State Prison Expenditures, 2001, <http://www.ojp.usdoj.gov/bjs/abstract/spe01.htm>, accessed 4 August 2008: "Inmate medical care totaled \$3.3 billion, or about 12% of operating expenditures [in state prisons in 2001]."

6. *Brad H. v. City of New York*, see note 4 above; *Gates v. Cook* 376 F.3d 323 (5th Cir. 2004), www.michbar.org/programs/EAI/pdfs/recentcases0905.pdf, accessed 4 August 2008; *Coleman v. Wilson*, 912 F.Supp. 1282 (E.D. Cal. 1995), clearinghouse.wustl.edu/detail.php?id=573-83k, accessed 4 August 2008.