PATIENT OR PRISONER:
Does it matter which Government Ministry is responsible for the health of prisoners?

A briefing paper for network meeting, Copenhagen October 2010

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Introduction

This briefing paper for Network Members provides a brief examination of rationale for, and experience of, integrating prison health services with public health services, and moving health care for prisoners out of the jurisdiction of the Ministry of Justice and into the Ministry of Health

The work of the WHO Health and Prisons Project over the last 15 years has demonstrated the importance of health as a key area in managing the prison setting effectively, to the benefit of both prisoners and society in general. National health strategies for dealing with, for example, HIV and TB require a prison strategy to be effective. Continuity of care is seen as essential in mental health and drugs addiction treatment and is stressed in the WHO recommendations for reducing post release mortality in prisoners.

Health is central to many aspects of prison life and prison management, particularly since many prisoners and detainees suffer from poor health as a result of personal circumstances, lifestyle or the environment from which they come. Within prison walls, health issues often influence or lead to offending behaviour: a good example here is the use of illegal drugs.

Accepting that health needs require close working between prison health services and other health services in the community, does it matter which Ministry is responsible for the health of prisoners?

A few countries have for some years shared an unusual characteristic regarding their health provision for prisoners: being under the jurisdiction of the Ministry of Health rather than whichever Ministry is responsible for prisons. They are, in order of the length of time since this change took place, Norway, France, New South Wales in Australia, England and Wales in the UK. The transfer has taken place at different times. For example in the case of Norway prison health has been the responsibility of the National Health Service since 1988. In England and Wales the process started in 2000, and finished in 2006. Now several others are considering or intending similar moves, including Georgia, Spain, Scotland, and possibly others.

The reasons for integrating prison health with the public health service or community health services are complex, but where reform has taken place they have included:

- **Human Rights**

  Human rights questions are fundamental to the case for this type of reform It may be argued that a separate 'prison health system' is more likely to be inherently unequal:for example it may be unequal in resources, or in healthcare standards, compared to facilities in the community / public health services arena. Prisoners are of course entitled, under international law, to "the highest attainable standard of physical and mental health" (International Covenant on Economic, Social and Cultural Rights, Article 12). Prison health care often fails to reach these standards, and in Europe the reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment on

visits to prisons in the 45 member states of the Council of Europe have highlighted serious deficiencies in some states. An important question then becomes: does it follow that a move to the Ministry of Health removes or lessens a potential source of inequity? Is there evidence?

- **General concerns about the lack of quality of health care for prisoners.**

Concerns specifically about the high number of mentally ill people in prison, and the defects in their care, are also an important factor across many health systems for prisoners.

- **Problems with health staff recruitment to the prison service.**

Included here is a fear that once recruited staff may become professionally isolated, and deskilling may take place over years.

- **Threats to the professional role of health staff**,

There has been a perception or a possibility of managerial pressures on health staff, who are exclusively employed by the prison authority / Ministry of Justice.

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International pressure towards reform

Prison services are a public service and should be seen as part of society within their country; so a separate health system for prisons implies that in one important aspect of the service they are NOT an integral part. The World Health Organizations and the Council of Europe have strongly recommended that closer links be made between prison and public healthcare.

- The Moscow Declaration on Prison Health as a part of Public Health (October 2003) noted,

Member governments are recommended to develop close working links between the Ministry of Health and the ministry responsible for the penitentiary system so as to ensure high standards of treatment for detainees, protection for personnel, joint training of professionals in modern standards of disease control, high levels of professionalism amongst penitentiary medical personnel, continuity of treatment between the penitentiary and outside society, and unification of statistics.

- The Council of Europe Recommendation No. R (98) 7 of the Committee of Ministers to member states concerning the ethical and Organizational aspects of health care in prison:

  The role of the ministry responsible for health should be strengthened in the domain of quality assessment of hygiene, health care and Organizations of health services in custody, in accordance with national legislation. A clear division of responsibilities and authority should be established between the ministry responsible for health or other competent ministries, which should co-operate in implementing an integrated health policy in prison.

- The UN Basic Principles for the Treatment of Prisoners indicate how the entitlement of prisoners to the highest attainable standard of health care should be delivered,
  Under Principle 9:

  “Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation.”

Potential benefits

The potential benefits of a move to Ministries of Health are great and include:

- standard of care provided to prisoners can be improved
- national health policy makers have a greater awareness of the specific health needs of prisoners
- recruitment and quality of staffing have improved;
- links with health services in the community are strengthened;
- and perhaps of real significance, resources for prison health improved in several countries which have made the move

Strengths in having Ministries of Justice responsible

Prison managers and staff have a general duty of care for their prisoners which includes their health and social care. The balance between health care and other services which are important to health (such as nutrition, exercise and emotional support) are run by prison management and it could be possible that health staff’s impact on these and on the general ethos of the prison would be lessened if they are separately employed. The main purpose of prisons should be to provide a secure environment with a rehabilitative ethos. ‘Outsider’ health staff could be seen as ‘visitors’ and outside the cohesive management of prisons. It is possible for a Ministry of Justice to take a special pride in their health services, to provide extra resources and to attempt to attract the best staff, who could be enabled and encouraged to maintain their professional links while developing their unique role. The model of industrial medicine could perhaps be used to show that directly provided health care can work. In the UK and perhaps in every country, prisoners are ‘back room lawyers’, not hesitant in raising question relating to their meals, exercise facilities and leisure opportunities.. Yet the lead for change in prison health services has not come as a result of overwhelming prisoner demands.

For discussion

There are strong arguments in favour of prison health being provided by the Ministry responsible for public health services, and maybe that is enough to keep the trend towards reform going.

However, the question to be answered remains whether this type of reform inevitably improves the health care for prisoners. Perhaps this debate leads us to consider in more depth "what an acceptable prison health service should be and how it can be assessed?" In the meantime, the opinions of relevant others (such as prison chief executives or governors) should be sought and an assessment of gains from the countries which have made or are going to make the change should be initiated.