Inmates with Physical Disabilities: Establishing a Knowledge Base

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Abstract

This project comprises an initial assessment of the current state of disability information available in state prisons. Data is presented from a pilot study of 38 responding departments of corrections. Information was collected concerning data collection practices, numbers of physically disabled offenders, and services available to those with physical disabilities residing in state correctional facilities. Half of the responding states did not maintain information about the numbers or services relating to physically disabled offenders. This examination highlights the need for additional research in this area. Without accurate baseline data, programs and services for this population cannot be properly evaluated.

Introduction

Prisons in the United States are disproportionately filled with minority and low-income inmates. There were 1,187,322 inmates incarcerated in state prison facilities as of midyear 2001 (Beck, Karberg, and Harrison, 2002). African Americans and Hispanics made up 62 percent of this population. African Americans are incarcerated at a rate six times higher than whites and Hispanics are confined at twice the rate (Beck et al., 2002). Those living below the poverty level are also disproportionately represented in state prison populations. In 1991, 53 percent of state prison inmates made less than $9,999 in the year prior to incarceration, which compares to less than 25 percent of the general population (Beck et al., 1993). In general, prisons contain the most vulnerable members of outside society in relation to race, ethnicity and social class. Add a physical disability to that snapshot and a truly vulnerable population emerges. In 1997, approximately 26 percent of state inmates reported a hearing, vision or physical disability (Marushack and Beck, 2001).
Most prisoners will return to communities outside prison walls where the stigma of being an “ex-con” creates difficulties in maintaining jobs, community ties, and relationships on the outside. The only prisoners who do not return to society are those who receive the death penalty and those who die while incarcerated, accounting for a very small proportion of offenders. Those with disabilities who have not had access to programs inside prison face even greater challenges upon release. Nearly 600,000 inmates are released from prison each year (Petersilia, 2000), which makes providing services to these inmates imperative.

As an already vulnerable population, inmates face additional problems living in an incarcerative setting with a physical disability. Limited access to programs and services hamper the ability for inmates with physical disabilities to function in a correctional setting. In 1990, the Americans with Disabilities Act (ADA) extended comprehensive civil rights protection to all individuals with disabilities, including prisoners. Since access to every major life function of a prisoner is dependent upon the prison administration, inmates with disabilities become a vulnerable group even within the prison walls. If a program or service is not available at one institution, the inmate cannot simply go somewhere else to receive that service.

Inmate Rights and the Americans With Disabilities Act (ADA)

Historically inmates have had few rights. For instance, in 1871 (Ruffin v. Commonwealth) a Supreme Court Justice made the following statement when addressing the rights of the inmates, “He the convicted felon as a consequence of his crime not only forfeited his liberty, but his personal rights, except those which the law in its humanity accords to him. He is for the time being the slave of the state” [italics added for emphasis]. This stance towards inmates, however, began to change in 1944. A federal appellate judge stated that prisoners had “all the rights of an ordinary citizen except those expressly, or by necessary implication, taken from him by law” (Coffin v. Reichard, 1944). It wasn’t until 1964 (Cooper v. Pate), however, that inmates were given the right to file lawsuits under Section 1983, which imposes civil liability for government officials who deprive another person of their constitutional rights. This case opened the court doors to inmates; many lawsuits were filed by inmates claiming a variety of constitutional deprivations. Inmates were given limited First, Fourth, Eighth, and Fourteenth Amendment rights through various court cases. While inmates do not enjoy the same liberties of those in the free world, they have had many rights afforded to them. It appears that opening the courts to inmates did not, however, result in immediate relief for inmates with disabilities. The Americans with Disabilities Act (ADA) in conjunction with the Supreme Court led to the extension of rights to disabled inmates.

The ADA was developed to ensure that people with disabilities have an equal opportunity to participate in or benefit from public programs, services, and activities. Title II of the Americans with Disabilities Act is conceptualized as a policy that prohibits discrimination based upon disability within all state and local governments and their agencies. It requires government entities, including state and local correctional institutions, to make their facilities, programs, services, and activities accessible to both inmates and their visitors (Van Sickle, 1995). The Act compels state and local agencies to 1) modify their programs if there are policies or procedures on the record that discriminate on the basis of disabilities; 2) modify the architectural design of buildings to accommodate disabilities; and 3) make sure that inmates with visual, speech or
hearing disabilities have appropriate mechanisms for communication (Rubin, 1995). This includes housing, indoor and outdoor recreation, shower and toilet facilities, access to courts, medical services, disciplinary hearings, telephone and commissary privileges, visitation programs, education, vocation and counseling programs, as well as therapy, substance abuse treatment, and work release (Appel, 1995; Atlas and Witke, 2000; Morton and Anderson, 1996).

Prior to 1998, a legal battle ensued in the lower courts over whether or not ADA applied to correctional inmates. In 1998, the Supreme Court unanimously found that the ADA does in fact apply to prisoners. In Yeskey v. Pennsylvania, the Supreme Court directly addressed the issue of whether the ADA applies to prisons. In Yeskey, an inmate who had a history of hypertension was denied access to a motivational boot-camp program due to his physical disability. Completion of this six-month program allows inmates to be released on parole much earlier than prisoners who do not complete this program. The Supreme Court found that the ADA did apply to prisons and that the Pennsylvania Department of Corrections could not discriminate against inmates on the basis of a disability.

Since Yeskey, many states have lost ADA battles relating to the size of facility, programs, or services provided (Carnahan, 1999). Departments of corrections (DOC’s) seem willing to comply with ADA on a case-by-case basis, many times settling out of court only after the problem has been officially addressed. For example, the New Jersey Department of Corrections recently settled out of court with an agreement to post sign-language interpreter notices in prisons and establish improved protocols (Goldstein, 2001). In a similar ADA suit in December of 2001, a Massachusetts district court ruled an inmate could sue on Eighth Amendment grounds for being denied use of his wheelchair (Navedo v. Maloney, 2001). Both cases include examples where DOC’s are forced to enact new policy long after ADA set forth the requirements.

Past Research

An overall lack of inquiry exists into the extent of inmates with physical disabilities in state prisons. Those with a physical disability require a great deal of resources, including special equipment (i.e., hearing aids, wheel-chairs, etc.), and services (handicapped accessible living areas and interpreters). The extent of existing information on available services to inmates with physical disabilities, however, is limited.

It is estimated that between 35 and 40 percent of all inmates suffer from some degree of hearing loss, including 13 to 20 percent with significant hearing loss (Russell and Stewart, 2001; Vernon, 1995). In 1983, Belenchia and Crowe found that hearing impairment in state prisons was five to six times higher than the general population. The ADA requires that public entities take necessary steps to ensure that communications with people who have disabilities are as effective as their communications with others (Van Sickle, 1995). Correctional administrators must ensure that inmates with hearing, vision, or speech impairments have effective communications-auxiliary aids and services; telecommunication devices, qualified readers or audiotaped texts (Rubin, 1995).

Deaf inmates are entitled to sign language interpreters for religious activities, educational programs, medical consultations, parole hearings, counseling and other services through the
American with Disabilities Act (Pines, 1995). Similarly, inmates who are blind or have vision impairments are entitled to access a facilities library, which means books on tape, qualified readers, or books in Braille must be provided (Perlin, 2000). Unfortunately, the extent of provided services in state correctional institutions is not known. The information that is available indicates the services provided to inmates are not adequate. For example, Miller (2001) surveyed 46 interpreters who provided sign language interpretation to inmates. Even though the largest percentage (37 percent) were not aware of the scheduling practices of the facilities, only 6.5 percent reported the correctional facilities provided interpreters on a 24-hour basis.

To date, little information is available on the number of institutions that maintain information on inmates with physical disabilities or the types of physical disabilities that exist among this population. In 1987, Veneziano et al. conducted a survey of state and federal correctional systems to identify the number of inmates who have physical disabilities. They concluded that exact numbers are not known due to differences in definitions and screening tools used by the different departments of corrections. A subsequent survey by the Illinois Department of Corrections found that very few states were systematically identifying, evaluating, and tracking patients with special needs (Hornung, Greifinger, and Gadre, 2000). In 1997, a preliminary inventory was collected to assess the reporting capabilities for state departments of corrections (Beck and Maruschak, 1998). Only 26 of the states surveyed maintained data about inmates with disabilities. Based on the preliminary data, little is known about the extent of disability programs offered in state prisons. Although individual states may collect or maintain information on disabled inmates, there is no widespread collection or national reporting program. Without documented information on inmates with disabilities, appropriate programming cannot exist.

Few studies have focused specifically on the needs of inmates with physical disabilities. Much of what exists has limited application. One of the most extensive reports on inmates with physical disabilities comes from the Bureau of Justice Statistics in 1997. A random selection of inmates was taken from a sample of state prison facilities. They were asked general background questions in addition to a variety of questions regarding their medical background during a one-hour interview. The survey concluded that 5.7 percent of state inmates had a hearing impairment, 8.3 percent reported vision impairment and 11.9 percent reported a physical impairment (Marushack and Beck, 2001). The key questions inquiring whether inmates had such disabilities are noted in Table 1.
<table>
<thead>
<tr>
<th>Questions:</th>
<th>Response:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Do you have a physical, mental, or other health condition which limits the kind or amount of work you can do?</td>
<td>Yes / No</td>
</tr>
<tr>
<td>Do you have difficulty seeing ordinary newsprint, even when wearing glasses?</td>
<td>Yes / No</td>
</tr>
<tr>
<td>Do you have difficulty hearing a normal conversation, even when wearing a hearing aid?</td>
<td>Yes / No</td>
</tr>
<tr>
<td>Do you have a physical disability?</td>
<td>Yes / No</td>
</tr>
</tbody>
</table>


Maruschack and Beck (2001) also noted that many states do not maintain adequate information on inmates. “Most State prison systems lack comprehensive and accessible data on the health status of their inmates” (Maruschack and Beck, 2001). Most of the medical records are contained in a paper format, rather than an electronic format. This makes compilation of data for analysis much more difficult. Additionally, almost one-third of inmates self-reported a physical or mental disability. This is profound in that it shows a large proportion of inmates are affected by ADA standards.

While this survey provides a great deal of information, it only probed slightly into the problem of assessing a vulnerable and socially isolated population. These questions most likely under represent the number of inmates who fall into each category of physical disability. The questions that inquire specifically about visual and hearing impairments ask only if their current prescriptions of glasses and hearing devices do not meet their needs, rather than assessing if they do have a hearing/visual impairment. While one of the questions asks whether they have a physical disability, some inmates may not associate their visual, hearing, or physical immobility as a “physical disability.” This study may reveal only a small proportion of inmates who have physical disabilities.

This study was also completed in 1997, which may present outdated information. In 1997, 1,059,588 individuals were incarcerated in state prisons (Gilliard and Beck, 1998), and by the year 2000 that number grew to 1,178,433 (Beck et al., 2002). Information beyond simple estimations of inmates who fall into broad categories of physical disabilities is simply not available. A need for the most up to date information on inmates with physical disabilities is required to provide appropriate services to inmates.

A review of the literature on inmates with disabilities in prisons reveals that there are acknowledged gaps in the information regarding the number of inmates with disabilities and the types of services provided to those who are recognized within institutional populations as having disabilities. The lack of information is surprising given the proportion of inmates that prior research indicates are affected. It also raises questions as to whether states are providing services to meet the needs of this special offender population.

As correctional populations have soared, Title II of the American with Disabilities Act is likely to have had a greater impact on correctional systems. As the courts have incarcerated
greater numbers of offenders for longer periods of time, such findings may undercount the true
number of offenders with disabilities.

The Current Study

In May of 2001, a pilot project was conducted for the purpose of exploring the adequacy of information maintained on inmates incarcerated in state prisons. There were three main goals of the project. First, the researchers were interested in finding out whether state departments of corrections maintain information on the number of inmates with physical disabilities. Second, if the departments of corrections did maintain records, how many inmates had disabilities and what were the most common types of physical limitations found within the inmate population. Finally, the researchers wanted to determine what types of services were available in the United States to address the needs of inmates with disabilities.

Methodology

The data used to explore the number of inmates with disabilities known to departments of corrections were collected by the use of a survey questionnaire distributed to each state in the U.S. via email or the U.S. Postal Service starting in May of 2001 and ending in August of 2001. An initial email was sent to the public information officer for each of the 50 state departments of corrections requesting voluntary participation in a survey regarding inmates with physical disabilities. Thus, the survey was administered to one person in each state. Eleven states did not have email addresses listed. For those states without email addresses listed on the web, a paper survey was mailed to the state director requesting survey participation. A second wave of email and paper copies of the survey was sent in June of 2001 to all non-responding states. Thirty-eight of the fifty states (76 percent) responded to the survey.

To assess the policies and procedures regarding the number of inmates with physical disabilities and the programs available to such inmates across the United States a series of questions were developed. Each administrator was asked to list the total number of inmates within the state who were diagnosed as blind or visually impaired, deaf or hearing impaired, wheelchair bound, and other physical impairments. We, then, asked who was responsible for collecting and maintaining the information for the DOC. The administrators were then asked to list the specific services available within the state for each category of physical disability.

Findings

The results substantiate the belief that a knowledge gap exists regarding inmates with physical disabilities. Fifty percent (19 states) of the state departments of corrections responding to the survey reported that they collected information on the number of inmates who had physical disabilities. The responsibility for tracking the number of inmates with disabilities varied. Six states reported that medical services units maintained the number of inmates with disabilities. Additional offices listed as responsible for collecting information included the Bureau of Planning and Research, the Division of Programs and Staff Development, and the Institution Standards and Operations Section. The method used for documenting information regarding the number of inmates with physical disabilities differed by state. Some states
indicated that information was simply recorded in each inmate’s medical chart. In contrast, other state departments of corrections reported that information was maintained in electronic format in medical services databases.

States also varied widely in the reported numbers of inmates with disabilities. When asked how many blind or visually impaired inmates existed within the state correctional system, the average number of inmates with this disability reported across the states was 181. There was a great deal of variation in the total number of inmates with disabilities. Values ranged from zero in two states to a high of 1,948 blind or visually impaired inmates in another state. The average number of inmates reported as deaf or hearing impaired was 120. The actual number of deaf or hearing impaired ranged from a low of two hearing impaired reported to a high in one state of 974 inmates with hearing impairments. Similarly, the number of wheelchair bound inmates ranged between 2 and 974 inmates. The number of inmates with other impaired physical mobility was significant in some states (1,949) and nonexistent in others.

The results also indicated inconsistencies in the types of services available to inmates with physical disabilities. Table 2 reveals the types of services provided to blind inmates or inmates with visual impairments. There appears to be little consistency in services provided across DOCs. The service provided most often was access to Braille and books on tape. Few of the responding states, however, indicated that they provided any other specialized services for visually impaired inmates, which would be required for full compliance with ADA standards.

A greater number of states provide basic services for inmates with deaf/hearing impairments (see Table 3). Fifteen departments of corrections report providing inmates with access to Telecommunications Devices for Deaf Persons/Text Telephone (TDD/TTY) phones and 14 made available hearing aids and sign language interpreters. Only a few states granted access to more specific programs such as shake awake alarms, inmate helpers, and special housing units for the deaf and hearing impaired.
Table 3
Specific Services Available for the Deaf or Hearing Impaired Inmate *

<table>
<thead>
<tr>
<th>Services Provided</th>
<th># States Providing</th>
<th>Services Provided</th>
<th># States Providing</th>
</tr>
</thead>
<tbody>
<tr>
<td>TDD / TTY Phones</td>
<td>15</td>
<td>Flashing Alarms</td>
<td>4</td>
</tr>
<tr>
<td>Hearing Aids</td>
<td>14</td>
<td>Inmate Buddies</td>
<td>3</td>
</tr>
<tr>
<td>Sign Language Interpreters</td>
<td>14</td>
<td>Shake Awake Alarms</td>
<td>2</td>
</tr>
<tr>
<td>Closed Caption</td>
<td>7</td>
<td>Pocket Talkers</td>
<td>2</td>
</tr>
<tr>
<td>Hearing Examinations</td>
<td>4</td>
<td>Work Restriction</td>
<td>1</td>
</tr>
<tr>
<td>Strobe Lights</td>
<td>4</td>
<td>Special Housing</td>
<td>1</td>
</tr>
</tbody>
</table>

* This information is based on the 38 states that responded to the survey.

As shown in Tables 4 and 5, the results indicate that for wheelchair bound inmates and other physical impairments the services available for use are even more limited. Ten states reported providing accessible cells and five states list direct access to wheelchairs as a service option. Surprisingly, of this group, only three states listed the existence of wheelchair maintenance programs. The data also indicate that very few states listed providing basic access to shower chairs, ramps, and specialized bedding.

Table 4
Specific Services Available to Inmates Who are Wheel Chair Bound *

<table>
<thead>
<tr>
<th>Services Provided</th>
<th># States Providing</th>
<th>Services Provided</th>
<th># States Providing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accessible Cells</td>
<td>10</td>
<td>Ramps</td>
<td>2</td>
</tr>
<tr>
<td>Buddy System</td>
<td>6</td>
<td>Shower Chairs</td>
<td>1</td>
</tr>
<tr>
<td>Wheel Chairs</td>
<td>5</td>
<td>Lower Bunk</td>
<td>1</td>
</tr>
<tr>
<td>Physical Therapy</td>
<td>3</td>
<td>Meals in Housing Unit</td>
<td>1</td>
</tr>
<tr>
<td>Wheelchair Maintenance</td>
<td>3</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* This information is based on the 38 states that responded to the survey.

Table 5
Specific Services Provided to Inmates with Other Physical Impairments *

<table>
<thead>
<tr>
<th>Services Provided</th>
<th># States Providing</th>
<th>Services Provided</th>
<th># States Providing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Crutches</td>
<td>5</td>
<td>Bottom Bunk</td>
<td>2</td>
</tr>
<tr>
<td>Walkers</td>
<td>4</td>
<td>Shower Chair</td>
<td>2</td>
</tr>
<tr>
<td>Artificial Limbs</td>
<td>4</td>
<td>Physical Therapy</td>
<td>2</td>
</tr>
<tr>
<td>Special Housing</td>
<td>4</td>
<td>Grab Bars in Shower</td>
<td>1</td>
</tr>
<tr>
<td>Canes</td>
<td>3</td>
<td>Additional Clothing</td>
<td>1</td>
</tr>
<tr>
<td>Inmate Buddies</td>
<td>3</td>
<td>Special Bedding</td>
<td>1</td>
</tr>
<tr>
<td>Orthotics</td>
<td>3</td>
<td>Work Restriction</td>
<td>1</td>
</tr>
<tr>
<td>Special Footwear</td>
<td>2</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* This information is based on the 38 states that responded to the survey.
Conclusion

The results of the pilot study indicate the need for additional analysis on the topic of inmates with disabilities in corrections. There appears to be little consistency across states in the collection and maintenance of information detailing the number and types of disabilities found within institutional populations. At least half of the state departments of corrections that responded to this survey revealed that they did not keep figures with respect to how many inmates had disabilities.

Moreover, as the researchers attempted to increase the number of responses to the survey several problems were revealed. First, some states simply refused to participate in the survey yet, stated that they made accommodations for inmates with disabilities and were in compliance with ADA standards. Second, it also became clear that several states did not know who would have the information needed to complete the survey. Finally, several states did reveal that currently no data is available to determine how many inmates suffer from physical disabilities or what services are provided.

Consequently, the information revealed by the pilot study was quite limited and additional studies are necessary to obtain a clear picture of the number and types of services provided to inmates with disabilities. As some states indicated they were unable to determine how many inmates suffer from disabilities due to a lack of data at the state level, future research should focus on available information at the institutional level.

In sum, the fact that several state departments of corrections did not have the data on the number of inmates with disabilities and in fact, did not know where the data could be found or what programs were offered by institutions within their jurisdiction has tremendous implications for correctional policy. The results imply that many state departments of corrections might not be in full compliance with the mandates issued within the confines of the Americans With Disabilities Act. Therefore, some departments of corrections are likely to find themselves at a disadvantage when confronted by inmate lawsuits claiming violations of the Americans With Disabilities Act. Unfortunately, current data do not allow an assessment of this implication.

References


Cases

Coffin v. Reichard. 143 F.2d 443, 445 (1944).