Health-Related Prison Conditions in the Progressive and Civil Rights Eras: Lessons from the Rockefeller Archive Center

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Abstract

During my 2019 visit to the Rockefeller Archive Center (RAC), I viewed papers from more than a dozen collections, which provided perspective on how health, incarceration, politics, and policy intermingled in the twentieth century. In this report, I offer an overview of my book project, *Minimal Standards of Adequacy: A History of Health Care in Modern U.S. Prisons*, and analyze how portions of it will be informed by two sets of documents from the RAC. I focus first on records contained in the Bureau of Social Hygiene records, which shed light on the perspectives of Progressive Era penologists who helped to shape ideals and practices related to prison health in specific institutions, as well as in state and federal correctional systems. Next, I discuss findings from the papers of Winthrop Rockefeller, who served as governor of Arkansas from 1966 to 1970, when federal courts deemed conditions within the state's prison system unconstitutional. While I continue to undertake research for the book, this report serves as a snapshot of my current reading of select sources from two different moments in the history of US prisons. It suggests the extent to which, throughout the twentieth century, carceral institutions posed tremendous health threats to the increasing numbers of people inside them, even as radical advocates urged drastic change, and as reformers, corrections professionals, and political representatives called for more rules, regulations, and bureaucracy.

The Book: *Minimal Standards of Adequacy: Health Care in Modern U.S. Prisons*

Project Overview

Minimal Standards of Adequacy: A History of Health Care in Modern U.S. Prisons offers perspective on the roots of a contemporary public health crisis. The book analyzes how multiple parties – incarcerated people, medical and corrections professionals, reformers, policy makers, and the courts – defined and perceived prison health care during the last century. *Minimal Standards* begins in the 1920s and 1930s, when state-level court cases and the passage of federal legislation establishing a medical center for the treatment of federal prisoners, highlighted confounding questions about health-related rights and governmental obligations in carceral institutions. It explores the amorphous standards that influenced prison-based care in the post-World War II years, and how incarcerated men and women experienced medical services. *Minimal Standards* also assesses prison health activism, paying special attention to its connection with the civil rights movement and the 1976 US Supreme Court case, *Estelle v. Gamble*. Building on state-level lawsuits, that decision helped establish that people in prisons have a right to health care based on the Eighth Amendment guarantee against cruel and unusual punishment. In the wake of *Estelle,* professional organizations, like the American Medical Association, articulated standards for service provision even as prisons became more prevalent, more bureaucratized, more privatized, and more openly punitive. The book ends with the recognition that more than forty years after Supreme Court Justice John Paul Stevens maintained that the government has an "obligation to provide the persons in its custody with a health care system which meets minimal standards of adequacy,"[1] major legal and ethical questions regarding the medical rights of incarcerated men and women – and reports of abuses of those rights – abound.

Contemporary Public Health Context and Overview of Relevant Literature

Evidence suggests that prison health services are failing to meet the relatively low "minimal standards" threshold proposed in the 1976 *Estelle* Supreme Court decision. Public health-oriented prison research on care utilization and access within prisons is somewhat limited, in part because many national data sets exclude people who are incarcerated.[2] However, recent studies show that health services are "inconsistent" and uncoordinated [3] and that incarcerated people treated in community hospitals lack access to timely care.[4] Countless news reports and legal claims document egregious shortfalls in prison medical services and inhumane practices.[5] Beyond prison walls, the mass incarceration epidemic has rippling health-related effects on formerly incarcerated people, their families, and their communities.[6]

When considering the current state of US carceral health care, it is important to recognize that the nature of the management of prison medical services varies tremendously across the country. In federal prisons, health care is overseen by the Bureau of Prisons. But individual state governments dictate how health services in state prisons are managed. Some opt to provide care directly via their own departments of correction; some turn to the state university system; others contract care out to private companies; and still others use a "hybrid" model, including both public and private entities.[7] Health care in jails – often overseen locally by cities or counties that have increasingly opted to hire private companies to manage services – constitutes yet another layer of complex bureaucracy.[8] Crucially, even though management structures vary widely throughout the United States, all health services in prisons are ostensibly governed by established legal principles, such as the constitutional mandate to avoid cruel and unusual punishment.

The highly complicated organization of prison health services, and the widespread failure to ensure the health and well-being of incarcerated people, suggest that historically-oriented research is warranted to answer key questions: What factors

and historical circumstances shaped the current state of prison health care? How could the dire situation be improved?

Literature on the history of mass incarceration is vast and increasing, but *Minimal Standards* is the first book to trace the complex and multi-dimensional history of health care in US prisons. Historian Susan Reverby's recent article about developments in US prison health care since the 1970s offers a sense of the provocative questions that could be raised and answered in a book-length study of a longer trajectory – and the rich terrain that remains to be explored.[9] General accounts of the rise of US prisons indicate that medical services have long been provided in the institutions, but do not explore in detail how ideals and standards governing their accessibility or quality changed throughout the twentieth century.[10] A limited number of sources regarding care at particular prisons show that medical professionals could generally use their own discretion when it came to determining which treatments should be offered, and had much freedom to abuse imprisoned people, and use them as research subjects.[11] That work relates to important studies on the ethics of prison health care, and involving vulnerable populations – including incarcerated men and women – in scientific studies.[12] It also connects with research by legal scholars, who have offered rich analyses of how and when people in prisons won crucial rights, including access to medical care.[13] Recent scholarship on prison activism underscores that incarcerated individuals have hardly been silent bystanders; they have long struggled for rights. Some activists viewed skeptically efforts to improve prison conditions, arguing that the institutions should instead be abolished wholesale, and that resources should be devoted to overturning various social forces – systemic racism, police brutality, economic inequality – that undergirded mass imprisonment.[14] Indeed, public statements and personal correspondence show that medical care was a primary area of concern for prisoner activists in the 1960s and 1970s. "The Folsom Prisoners' Manifesto of Demands," for example, maintained that the administration of medical care at Folsom equated to "virtually a death sentence" for many inmates.[15]

The Archive: Lessons Learned

Progressive Penologists and the Institutionalization of Medical Care in Prisons

Correspondence in RAC's Bureau of Social Hygiene collection highlights the extent to which a Progressive Era faith in medicine – especially professionally administered mental health care – shaped ideas about prisons and people convicted of crimes. It shows that, prior to a mid-century "deinstitutionalization movement," which helped accelerate a tremendous growth in the prison population,[16] issues related to mental health shaped plans for, and experiences within, prisons. The Bureau of Social Hygiene records suggest that prison health services were institutionalized, at least in part, based on the notion that they could protect society from criminal behavior.

As medical care for the masses became more professionalized in the interwar years, policy makers and others increasingly reckoned with the idea that the government had an obligation to provide health services for the people it incarcerated. The 1926 North Carolina Supreme Court decision, *Spicer v. Williamson*, for example, is instructive. In that case, a physician sued a local sheriff's department for failing to pay for the care he provided to a man who was shot by a deputy while being arrested. The doctor's case – somewhat inadvertently – helped solidify the precedent that prisoners were entitled to "necessary medical attention," as the 1926 *Spicer* decision put it, and that the government was liable to pay for it.[17]

Around the time of *Spicer*, "progressive penologists" lamented inhumane conditions prevailing in prisons and argued for reform. The most effective system of "penal treatment" featured "punishment [as] the outstanding reliance," Sanford Bates told Lawrence B. Dunham, the director of the Bureau of Social Hygiene, in 1928.[18] At the time, Bates was the commissioner of the Massachusetts

Department of Correction, but within two years, he would be appointed the first director of the newly established federal Bureau of Prisons.[19] Bates argued that ideal prisons focused on "social betterment, preventive measures, scientific diagnosis, and reformatory treatment" as well as on a general "program of penal and medical treatment."[20] Prisons of the future, he told the conference of mental hygiene in 1930, would "give prominent place to the hospital, the laboratory, the school, the mental hygiene clinic, and the workshop."[21] The American Prison Association echoed Bates' ideals. Health and medical care, according to the guiding principles of the organization, had become major issues to be considered in prison conceptualization and design.[22]

Bates and others who studied the problem of prisons had unquestioning faith that professionally-administered medical care – especially when focused on mental health – could foster humane practices. In 1930, Bates wrote to the Bureau of Social Hygiene to report his findings from a recent tour of prisons in Europe. Belgium, he said, had the most advanced of the penal systems he studied, mainly because "no administrative action with reference to the prisoner is taken without the advice of the psychiatrist… punishment may not be inflicted upon an individual… until the psychiatrist has passed upon his case."[23]

A 1929 report documenting conditions in prisons throughout the United States, funded by the Laura Spelman Rockefeller Memorial, indicated that Bates' ideals were far from realized at home.[24] "The care of insane inmates in the prison introduces a number of complications which have a bad effect on both the institution and the patient," noted the report's author, Frank Rector. In most state prisons, provisions for the care of "insane prisoners" were "crude and unsatisfactory," and there was an overall "aversion on the part of many state hospitals for the mentally diseased to the taking of insane prisoners for treatment." These realities highlighted a much broader problem, according to Rector: "Although the state may rightfully deprive a citizen of his usual freedom and social contacts, it is morally and traditionally obligated to care for him when, in case of illness or other forms of disability, he is unable to care for himself."[25]

Bates and Rector's hopefulness about the untapped potential of paying heed to, and treating, prisoners' health needs was reminiscent of attitudes of earlier

reformers,[26] including those who were funded by non-state organizations at the turn of the twentieth century to undertake psychologically oriented studies of people in prisons. Bureau of Social Hygiene General Secretary Katharine Bement Davis, for example, reported in the 1910s about her "study [of the] the character and problems of individual inmates" at Bedford Hills Reformatory for Women in New York.[27] Her correspondence offers insights into the conclusions she drew based on the research, and the motivations of penal reformers who focused on mental health. Davis believed that "a considerable proportion of those committed to the institution are, to a greater or lesser extent, below a normal condition of mentality."[28] Many, she said, demonstrated an "instability or lack of powers of inhibitions which results in their inability to adapt themselves to their surroundings, to take reproof or discipline without going to pieces…"[29] Beyond underscoring that elites imagined prisons as places where men and women could be modified according to a rigid set of arbitrary standards, Davis' statement highlights a reality that shaped violent and racialized carceral institutions throughout the twentieth century: resistance – or, "inability to adapt" – could be construed and classified as an illness, a mental defect.[30]

In the early 1930s, Davis, Bates, and Rector's ideal – that mental health, health care, and incarceration were intricately connected – helped to shape demands for more health-related efforts in prison systems. "I thought you might like to know that a Public Health Service man here told me they were swamped with Wasserman [syphilis] tests from the federal prisons, and good-naturedly chafed me for putting this additional work on their laboratories," Frank Rector reported to the Bureau of Social Hygiene in 1931.[31] Rector was light-heartedly suggesting that the report he authored, which revealed so many egregious shortfalls in prison conditions, led the Bureau of Prisons to prioritize the health of inmates.

The 1933 opening of the Medical Center for Defective Delinquents in Springfield, Missouri provided further evidence of a turning point. Part of a massive expansion and bureaucratization of the federal prison system, the facility offered care for federal prisoners:

> who at the time of their conviction or during the time of their detention and/or confinement are or shall become insane,

> afflicted with an incurable or chronic degenerative disease, or so defective mentally or physically to require special medical care and treatment not available in an existing Federal institution.[32]

Sanford Bates, as director of the Bureau of Prisons, presented the new medical center as a beacon and an important advance in penology. "Whatever may be our viewpoint as to the proper treatment for the healthy criminal," he said of the opening of the hospital at Springfield, "those who are demonstrably sick in body or mind demand our sympathetic consideration."[33] A modern society, Bates suggested, offered prisoners access to medical care.

Bates' rationale was grounded, first and foremost, in strengthening protections from, not for, incarcerated people. "If the prison is to direct its efforts toward the permanent protection of society," he said in 1930, "it must do more than make men temporarily miserable, more antisocial, and eventually, more dangerous."[34] The mission of the Medical Center, Bates maintained, was three-fold. Offering treatment to prisoners would help "protect the community from the anti-social individual" and "cure their delinquency through a scientific approach." An added benefit, Bates said, was that the new hospital could provide "a splendid opportunity for a relentless inquiry" into questions about "why men commit crime."[35] The latter idea, which had shaped the efforts of Katharine Bement Davis at her Bedford Hills clinic, continued to influence mental health professionals who were employed with increasing regularity at prisons nationwide in the post-World War I years. Prison medical care was intended primarily to benefit science and society, according to Bates and his fellow penologists; how it may impact convicted individuals was a secondary concern. The notion that it could have anything but positive impacts was seemingly unimaginable.

In the years following its establishment, the Springfield hospital transitioned into a massive institution, where medical and custodial staff wielded tremendous power over thousands of people who sometimes questioned their diagnoses and treatment. Government records reveal that, despite Bates and Rector's hopes that providing medical care for prisoners could be highly beneficial, those held captive at Springfield consistently and forcefully protested conditions and provided evidence that they were subjected to inhumane treatment.

Mid-Century, State-Based Prison Rights and Reform

Findings from the papers of Winthrop Rockefeller provide important perspective on prisons, protests, and reform decades later, in the 1960s. Documents in the collection have at least three implications connected with health-related prison conditions. First, even as penologists and social scientists theorized prisons as places of rehabilitation and reform, conditions within them were generally dangerous, and some facilities were extraordinarily horrifying. In southern states like Arkansas, where prison camps, in some ways, resembled slave plantations, the challenge of modernizing health services was secondary to ensuring even a modicum of safety for incarcerated men and women.[36] Second, records from Winthrop Rockefeller's years as governor of Arkansas spotlight a moment when politicians recognized that prison conditions were inhumane, but resolved to spearhead reforms that ultimately left incarcerated people highly vulnerable.[37] Third, the collection offers a firsthand view of carceral reform debates during years when federal courts were increasingly willing to intervene in debates about the administration of state carceral systems. Lawsuits, such as *Robinson v. California, Hughes v. Turner*, and *Snow v. Gladden,* contained a variety of allegations, including inadequate sanitary conditions and a lack of access to routine medical care. In 1969, when Winthrop Rockefeller was governor of Arkansas, one of the most famous "conditions of confinement" decisions – *Holt v. Sarver* – declared the entire state prison system unconstitutional.[38]

The *Holt* decision came about, in part, because of Winthrop Rockefeller's early commitment to prison reform. When he was elected governor in 1966, Rockefeller authorized the release of a damning report about conditions at the state's Cummins and Tucker Prison Farms and hired penologist Tom Murton to modernize the institutions. Murton, much to the chagrin of his Department of Correction colleagues, was determined to investigate and bring to light the wider system's violence and corruption. He led a highly publicized investigation of

conditions at Cummins, uncovering allegations that numerous prisoners had been abused and murdered, their bodies left in a makeshift burial ground on the premises. The case earned the shorthand title "Bodiesburg" in government files and the popular press.

Correspondence from the Winthrop Rockefeller papers highlights three perspectives that shaped prison reform efforts in the 1960s: those of corrections officials, activists, and politicians. From the viewpoint of the Department of Correction, records show the extent to which prison camps – especially in the Deep South – were run as economies, and the tremendous expense of medical care within those economies. For example, the 1968-1969 "Anticipated Crop Planted and Yield" for Arkansas prison camps showed an expected $1.8 million of income from the tilling of crops like cotton, okra, soybeans, cucumbers, and strawberries. "Operating Expenses" for the same fiscal year were calculated at approximately $2.6 million.[39]

In the antiquated and abusive Arkansas prison system, medical costs constituted a significant budget line item. "Hospital Expenses" accounted for approximately $167,000 total; with the exception of salaries, livestock feed, and food, health-related costs were the most significant among a total of forty budget items. According to the Department's "personnel authorization" form for 1967-1969, the prison physician earned $20,000 – $5,000 more than the commissioner of correction; the physician was the highest paid department employee.[40] The Arkansas budget documents indicate that almost 75% of "hospital expenses" ($125,000) were devoted to "medicine and drugs."[41] While conducting further research into the types of medical services that were being offered in a prison system widely understood to be among the worst in the nation, I have found clues in documents from other archives, as well as in contemporary accounts. According to a book by Tom Murton, the Arkansas Department of Correction physician Gwyn Atnip was removed from his post in 1967 amidst allegations that he failed to provide medical attention to inmates. The doctor had, as Murton put it, "established his own empire" at Cummins. He "pushed pills, and he sold medical passes so inmates with money could goof off in the hospital."[42]

Dozens of letters and interview transcripts from formerly imprisoned people and their advocates, gathered during the so-called Bodiesburg investigation, underscore the diverse dangers incarcerated people regularly encountered. At Arkansas prison farms, inmates had long been oppressed by a "trusty system" in which violence could be perpetrated, not just by corrections officials, but also by prisoners who secured their own safety by perpetrating violence on behalf of those officials. Amidst accounts of systematic brutal treatment are clues about perceptions of health and medical care. "Medical facilities were inadequate," former prisoner Otto Rollins told FBI investigators in 1968, and "at least two men died in the hospital because of poor attention."[43]

Rollins and others who spoke up about conditions in Arkansas prisons might not have fancied themselves activists, but they were part of a larger movement. Influenced by – and helping to shape – the ideals of the intertwined civil rights and prisoners' rights movements, incarcerated men and women reached out to legal experts and politicians like Winthrop Rockefeller throughout the twentieth century. They did so, often at great personal risk, to draw attention to egregious prison-based abuse. Their complaints advanced the prisoners' rights cause and brought about precedent-setting legal victories like *Holt*.

While many documents in this portion of Winthrop Rockefeller's papers focus on the question of whether people were indiscriminately killed and buried at prison farms, some focus on health-related services, as well as the dangers prisoners faced by alleging abuse. In April 1969, Art Givens, a lawyer for Carter Doze, a man imprisoned at Cummins Farm, wrote to the state attorney general requesting documents related to the removal of his client's eye. Givens requested to talk with Gwyn Atnip, the prison physician who recommended the surgery in 1965 – two years before being fired for negligence. Givens also requested that the attorney general supply him with letters of immunity or amnesty for any "prisoner who testifies to facts surrounding this incident." He explained: "I have unconfirmed information from the parents of an inmate who is still at Cummins Prison to the effect that the wardens and officials… have warned the inmates that if they say anything derogatory about the penal system, they 'will be dealt with later.'"[44] Although addressed to the Arkansas attorney general, the letter was eventually

handled by Bob Scott, legal aide to Rockefeller, who posed the immunity question to Robert Sarver, Commissioner of the Department of Correction. "I have had considerable difficulty in determining what, if any, action Governor Rockefeller could take to insure that no retributive action would be taken against inmates who might testify in this manner by the wardens and officials at the Cummins unit."[45]

A Department of Justice memo highlighted that intimidation tactics helped quell at least some vocal protest.[46] One former inmate, Clarence Shepard, told federal agents that he was not willing to testify about conditions in Arkansas prisons because he had done so in the past, and his family had faced "publicity and embarrassment" thereafter. Furthermore, he was concerned that he may be arrested and accused of some crime, even though he has not committed any crime."[47] Here, and in other archives, letters from incarcerated people and their loved ones desperately and cogently reporting physical abuse and negligence, and expressing fear of retribution for speaking out, highlight the sealed nature of total institutions.[48] They help us understand how abuse and negligence could go on for so long. For prisoners to have their voices heard, they had to find the right outlets. Once they did, they had to persist and survive.

In addition to shedding light on the perspectives of incarcerated people and one state's department of correction in the mid-twentieth century, documents from the Winthrop Rockefeller papers illuminate the viewpoint of an elected official. Rockefeller, like his brother Nelson and other fellow governors who faced similar problems, had detailed knowledge of the violence of his state's prison system.[49] Indeed, Winthrop Rockefeller went further than many of his counterparts by playing a role in exposing the inhumane conditions. But all the while, he faced pressure from constituents who adhered to a powerful law and order ideology. "Instead of protecting the thugs, etc., I think the decent public should be protected," a Jonesboro, Arkansas resident wrote to Rockefeller in May 1970. Frustrated by Rockefeller's recent pardoning of two people accused of drug possession, the anonymous letter writer reported that he had campaigned for Rockefeller during his 1966 run for governor, but noted that he would hesitate to do so again. "When lawless people who pay no taxes get more consideration than the ones who do, it goes against the grain."[50] Like others who attempted to pay heed to the unfairness of the criminal justice system through acts like pardons,

but who failed to undertake systemic overhauls, Winthrop Rockefeller risked being viewed by both committed conservatives and committed prisoners' rights advocates as a failure. Letters like the one from Jonesboro suggest that implementing costly reforms in prisons in the 1960s and 1970s, such as enhancing health services, would be a hard sell anywhere, let alone in a state where the basic humanity of incarcerated people was generally overlooked.

Winthrop Rockefeller, who opposed the death penalty so vehemently that he commuted the sentences of all fifteen of Arkansas's death row inmates shortly before leaving office in 1970,[51] did not imagine himself as part of the problem when it came to prison reform. After all, he had authorized the public release of a report about scandalous conditions in the Arkansas prison system, then hired progressive penologist Tom Murton to help alleviate them. But within about a year, Rockefeller relieved Murton of his duty. "Nobody wanted Tom Murton to succeed any more than I did," Rockefeller wrote in an undated letter. "I brought him here, and I fought for his freedom to operate as a professional penologist. But so intense was this man's zeal, he simply plowed through the operations of our other state agencies as though they didn't exist."[52] From the perspective of Rockefeller and many others, the drive to alleviate admittedly shameful conditions in prisons – and the suffering of people who had, after all, been convicted of crimes – should not threaten smooth governance.

By 1970, Rockefeller was decidedly subdued. "True correctional reform," he said, "consists of a professional and systematically derived course of action that can be put into operation to solve a problem." The major and unanswered question was, which "problem" "correctional reform" was intended to solve. To a politician like Winthrop Rockefeller, "a plan for penal reform" should be one "that the public can understand and support."[53] By 1970, Rockefeller's reform efforts had morphed in to calls for legislation that centered on enhancing medicalization, bureaucracy, rules, and regulations: passing a "dangerous offenders" act, and establishing a women's reformatory, a diagnostic center, and a community treatment center.[54]

Concluding Observations

Throughout the twentieth century, social scientists and elected officials trumpeted the idea of humane prisons, but their efforts were shaped by ideals about institutional efficiency and law and order, rather than the humanity of incarcerated people. In the early twentieth century, health-oriented prison reform efforts were aimed, in part, at protecting society from criminal behavior. By the 1970s, the goal had expanded to the protection of statewide social, political, and economic carceral systems. Radical reformers like Tom Murton and individual prisoners like Otto Rollins, who vocally protested prison conditions, forced change, but could also be silenced within a vast bureaucracy. Scarce in the archival record is evidence that prison reforms were undertaken as a means of securing the well-being of incarcerated people.

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NOTES

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[44] "Letter from Attorney Art Givens to Arkansas Attorney General, Don Langston" (April 30, 1969), Papers of Winthrop Rockefeller, 1911-1973, Reel 259, RAC.
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[47] "United States Department of Justice/FBI Re. Arkansas Prison System, Civil Rights, Police Cooperation" (Los Angeles, CA, February 16, 1968), Papers of Winthrop Rockefeller, 1911-1973, Reel 209, RAC.

[48] Michel Foucault, *Discipline and Punish: The Birth of the Prison*, 2nd Vintage books ed. (New York: Vintage Books, 1995).

[49] Limited correspondence regarding prisons in New York and Arkansas took place between the offices of Winthrop and Nelson Rockefeller (governor of New York from 1959-1973) and there are a variety of relevant documents in the gubernatorial records of Nelson Rockefeller, which I continue to analyze. On Nelson Rockefeller's experiences in New York, see e.g.: Thompson, *Blood in the Water: The Attica Prison Uprising of 1971 and Its Legacy*.

[50] "Anonymous Letter to Governor Winthrop Rockefeller" (Jonesboro, AR, May 13, 1970), Papers of Winthrop Rockefeller, 1911-1973, Reel 284, RAC.

[51] Andrea Ringer, "'Purely Personal and Philosophical': Gov. Winthrop Rockefeller's Death Sentence Commutations," *The Arkansas Historical Quarterly* 74, no. 2 (Summer 2015): 130–46.

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