CAPPS urges community oversight for very ill, elderly

Recent press reports about the prison medical care system not only highlight the poor treatment seriously ill people receive, they raise questions about why we even continue to incarcerate some people.

CAPPS executive director Barbara Levine says: "Michigan must examine the costs and benefits of keeping critically ill and incapacitated people in prison when they are no longer risks to the public. Changes in policy and law could save the state many millions of dollars in medical care and custody costs."

Corrections medical care costs, already at $190 million, will continue to rise because Michigan's prisoner population is aging rapidly. The National Center on Institutions and Alternatives estimated in 1997 that the annual cost of caring for an elderly prisoner is $69,000.

Because some paroled prisoners would become eligible for health care benefits from Medicaid, Medicare, the Veteran's Administration or private insurance coverage, CAPPS believes that appropriate alternatives can be developed in the community to protect the public, provide better health care to the seriously ill and save millions of dollars in the MDOC budget.

Parolees also might be eligible for general living expenses under Social Security, SSI, or veterans' or employer pension plans. Thus, the cost of both medical care and custody would be transferred to federally funded budgets or eliminated.

CAPPS estimates that releasing people too sick or elderly to be a risk to the public could save the state as much as $20 million annually. This is based on a conservative figure of $50,000 annually per person for the care of about 400 people.

Such people include those who are bedridden, who require skilled nursing home care or who must have continuing health care services throughout their entire incarceration because of serious physical illness, such as those on renal dialysis. They also include the elderly. Some prisoners in the geriatric wing at Lakeland Correctional Facility require assistance just to get out of bed and get dressed.

The establishment of assisted living, chronic care and hospice facilities specifically for parolees is an option that should be considered, Levine said.

"These facilities could be staffed by MDOC personnel and could even be a source of employment for selected ex-offenders who would otherwise be barred from nursing home jobs. Such facilities would permit the release of parole-eligible people who have nowhere else to go. People not yet eligible for a routine parole could be placed there as a condition of receiving a medical parole," she said.

The savings from not incarcerating the ill and elderly would have to be set off against the costs of any community-based alternatives. Individual case-by-case assessments of people who fall into these categories would help determine the extent to which operating and medical costs in community settings would be recaptured from public and private sources outside the MDOC budget.

Consideration of release would have to balance the nature of the offense, the length of time served, the extent of incapacitation and the person's current eligibility for release.

CAPPS determined that of 359 people housed, in May 2006, at a prison medical facility, prison geriatric unit or in an off-site hospital, nearly 37 percent had passed their first release dates. They were eligible for parole but had been passed over by the parole board. Other people, who have not yet finished serving their minimum sentences or are serving non-parolable life terms, would require special medical paroles or commutations.

A state statute [MCL 791.235 (10)] gives the parole board authority to "grant a medical parole for a prisoner determined to be physically or mentally incapacitated." However, the law predates "truth-in-sentencing" legislation requiring everyone to serve their entire minimum sentence in a secure facility, and the attorney general has advised the board not to use it, according to Parole Board Chairperson John Rubitschun. CAPPS urges that the law be re-enacted to ensure that the board has the flexibility to act in appropriate cases.

A small handful of commutations are granted to people who are terminally ill. However, the current procedure, which is not formalized, requires a physician's prediction that the person will die

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within six to twelve months. By the time doctors are willing to make such predictions, the patient is often too ill to survive the time-consuming, multi-step commutation process.

"The media and some legislators are beginning to question the wisdom of continuing to incarcerate the seriously ill and elderly, and other states are also starting to explore solutions to the spiraling costs of geriatric and chronic care in corrections," Levine says. Given the complexity of both the corrections and health care systems and the many public policy issues involved, these solutions will not come easily. But they will come sooner if Michigan officials begin to examine the options now," she said.

News articles recount prisoner health care neglect

A recent series of articles by *Detroit Free Press* editorial writer Jeff Gerritt tells of prisoners whose health care needs were ignored, misdiagnosed or mistreated until they became seriously or terminally ill and, in some cases, died.

Much of the information came from advocates who have grappled with the corrections medical system for many years. Some appears in the records of *Hadix v Caruso*, federal litigation concerning several Jackson area facilities that began in the 1980s. Information about medical care at other facilities is being compiled by Prison Legal Services of Michigan (PLSM) and the American Friends Service Committee (AFSC).

The *Free Press Series* spurred Gov. Jennifer Granholm to order an independent investigation of the state's entire medical and mental health care system for prisoners.

Another recent pair of articles by *Grand Rapids Press* reporter Pat Shellenbarger further explores the quality of prison health care and the cost of incarcerating elderly people who have served decades. A 2005 Detroit News story by Francis X. Donnelly focused on whether aging inmates should be freed. All these articles can be found on the CAPPS website at www.capps-mi.org/pressroom.

Those who brought attention to what has been called system-wide medical neglect include Ann Arbor attorney Patricia Streeter, counsel for the plaintiffs in *Hadix ;* Sandra Girard, executive director of PLSM; Charlene Lowrie, former chief investigator for the office of the Legislative Corrections Ombudsman, which was defunded in the fall of 2003; and Penny Ryder and Natalie Holbrook of the AFSC.

Gonzales

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He has a serious demeanor and a great desire to learn and to help others.

By 2004, his conduct had improved markedly, he scored favorably on the parole guidelines, and the board granted his release.

After being returned to prison, Gonzales wrote:

I know if I had been paroled to Ohio to my family…I would not be here today, or if I would have had a little help from someone here in Michigan with transportation and a real place to stay, I could have made it until I could have been transferred to Ohio. I was so scared out there I really did not know what to do. I had no one to turn to but my family, so I went home to them.

Gonzales' reconsideration date is in September 2007.