Barriers to Access and Inadequate Levels of Care in North Carolina Jails

Susan Pollitt, Luke Woollard

When discussing health care in jails, it is important to consider the differences between jails and prisons. The state operates and funds prisons, while jails are operated by the county sheriff and funded by county commissions. Jails are required to have health care plans, however there is little statewide regulation of these plans [1, 2]. Often the sheriff drafts the health care plans, which become valid when approved by the county health director and county governing body.

A large portion of incarcerated people in jails have not been convicted of a crime. People enter jail directly after their arrest, and often have acute medical needs upon entry. When first incarcerated, persons with substance use disorders (SUDs) can experience dangerous withdrawal symptoms, making jails *de facto* detox facilities. Jails have become a primary provider of medical care for people with mental illness in North Carolina. To manage medical needs, jails sometimes resort to housing incarcerated people in solitary confinement, often while they are suffering through a mental health crisis or withdrawal [3-8].

Jails must provide adequate medical care to the incarcerated people they house [9, 10]. However, in recent years lack of resources and increasing health care demands and costs have led to inadequate levels of care in North Carolina jails. It is difficult for incarcerated people in jails to access proper levels of care for several reasons.

Individual counties, not the state, absorb the cost of health care for people in jails. Often, jails either employ too few health care professionals or do not have adequate medical supplies to provide care. Counties often must transfer their incarcerated people with medical needs to an outside facility for care, and must pay for services rendered [7, 10]. In this system, jail staff, not medical professionals, often act as gatekeepers because incarcerated people cannot access care unless jail staff determine that their health complaints require medical attention. The costs and logistical issues involved in a transfer to an outside medical facility can incentivize jail staff to delay responding to serious medical issues until they have reached a crisis point. These decisions or delays can put incarcerated people at risk of death or serious injury [3, 7, 10].

Some counties contract with vendors to provide health care in the jails. There have been reports from ex-employees that these companies severely understaff and underequip jail facilities in an effort to cut costs [4]. Several lawsuits initiated in North Carolina and other states accuse vendors of failing to provide adequate medical care to incarcerated people who later died [11]. The lawsuits cite evidence that companies have a financial stake in providing the lowest level of care possible to maximize profit. Using a third-party vendor system can also reportedly cause staff to ignore medical issues until the incarcerated person is at risk of death or significant injury [4, 7].

Providing incarcerated people with prescribed medications is a necessary part of providing adequate care. However, due to lack of medical supplies, adequate staff, and effective screening mechanisms, incarcerated people are sometimes denied their prescribed medications (including psychotropic medications). Disability Rights North Carolina (DRNC) has investigated jail suicides and other deaths that were likely caused by lack of access to prescribed medications. In some instances, jail staff were aware of the needed prescription but still failed to provide the incarcerated person with the proper medication [4, 5, 11]. The North Carolina legislature considered the problem so serious that in 2018 they ordered a report on prescription medication availability in jails [5, 12]. That report has since been delayed.

Soon after entering jail, most incarcerated people lose access to medical benefits, including Medicaid. This

occurs regardless of whether the person has been, or is ever, convicted. With their Medicaid benefits terminated, many incarcerated people with medical needs leave jails less able to access health care than when they were arrested. For many North Carolina residents, this can lead to clinical decompensation that causes them to enter a downward spiral of repeated incarcerations due to mental health or SUD-related behaviors.

A recent study from the National Academy of Sciences, Engineering, and Medicine concerning medication-based treatment for opioid use disorder (OUD) concluded that "given that these medications are known to save lives, it is arguable that withholding them from persons with [opioid use disorder] is unethical, as withholding insulin or blood pressure medications would be" [13]. Currently, people incarcerated in North Carolina jails only have access to these medications in a handful of counties through impermanent pilot programs. Many North Carolina jails do not offer any form of SUD treatment to incarcerated people. Lack of adequate SUD treatment and medication-based OUD treatments contributes to the rising number of overdose deaths in North Carolina. This lack of community treatment options is likely also affecting the jail population, as DRNC has tracked a marked increase in jail overdose deaths in recent years (DRNC, unpublished update to Suicide in North Carolina Jails, 2019).

Understaffed and underfunded, current North Carolina jail health care systems pit the monetary interests of counties and third-party vendors against providing adequate medical care. Incarcerated people have suffered and died from lack of adequate medical treatment in these systems [3, 4]. Providing adequate medical care will require both increased state funding and meaningful state regulation. NCMJ

Susan Pollitt, JD supervising attorney, Disability Rights North Carolina, Raleigh, North Carolina.
Luke Woollard, JD staff attorney, Disability Rights North Carolina, Raleigh, North Carolina.

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References

1. Health Care of Inmates and Exercise, 10A NCAC § 14J-.1001 (1991).
2. Medical Care of Prisoners, NCGS §153A-225.
3. Disability Rights North Carolina. Suicide in North Carolina Jails. Raleigh, NC: DRNC; 2017. https://disabilityrightsnc.org/wp-content/uploads/2017/08/Suicides_NCJails_August2017.pdf. Accessed August 14, 2019.
4. Ellis B, Hicken M. 'Please help me before it's too late.' CNN.com. https://www.cnn.com/interactive/2019/06/us/jail-health-care-ccs-invs/index.html. Published June 2019. Accessed August 12, 2019.
5. Kane D. Could her death have been prevented? NC jails on track for deadliest year. NewsObserver.com. https://www.newsobserver.com/news/local/article217614540.html Published October 4, 2018. Accessed September 13, 2019.
6. Kane D, Raynor D. 51 jail inmates have died in the past five years after poor supervision from jailers. NewsObserver.com. https://www.newsobserver.com/news/local/crime/article164829912.html. Published August 7, 2017. Accessed September 13, 2019.
7. Kane D. 'They ... just let him lay in there and die.' Families question jail health care. NewsObserver.com. https://www.newsobserver.com/news/politics-government/state-politics/article179679571.html. Published October 21, 2017. Accessed September 13, 2019.
8. Bradley R. Wrongful death suit filed for woman who died in Buncombejail. WLOS.com. https://wlos.com/news/local/wrongful-death-suit-filed-for-woman-who-died-in-buncombe-jail. Published October 3, 2018. Accessed September 13, 2019.
9. Estelle v. Gamble, 429 U.S. 97 (1976).
10. Moore J. Public health behind bars: health care for jail inmates. Popular Government. 2005;Fall 2005:16-23.
11. Kane D. Lawsuits blame lack of access to medicine in jail for inmate deaths. NewsObserver.com. https://www.newsobserver.com/article200511079.html. Published February 16, 2018. Accessed September 13, 2019.
12. 2018-76 NC Sess Laws, SB 750, §2 (2018).
13. National Academies of Sciences, Engineering, and Medicine. Medications for Opioid Use Disorder Save Lives. Washington, DC: The National Academies Press; 2019.

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Address correspondence to Susan Pollitt, Disability Rights North Carolina, 3724 National Dr., Ste 100, Raleigh, NC 27612 (susan.pollitt@disabilityrightsnc.org).

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