Charge Committee Report

Baltimore City Grand Jury

May Term 2005
May 9, 2005 through September 9, 2005

OFFENDER HEALTH CARE

AT THE

BALTIMORE CITY DETENTION CENTER:

PROBLEMS AND SOLUTIONS
I. INTRODUCTION

On 9 May 2005, Judge Stuart R. Berger of the Circuit Court for Baltimore City issued the charge to the Baltimore City Grand Jury May term. The Grand Jury Charge may be found in the appendix to this document.

The charge asks the grand jury to "...investigate the status of the health care system for offenders in the Baltimore City Detention Center..." The Supreme Court of the United States had determined that offenders in the U.S. are entitled to reasonable health care, under the Eighth Amendment of the United States Constitution which states: "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted. ..." In the Supreme Court decision, known as Estelle v Gamble\(^1\) (1976), the Supreme Court held that "...Deliberate indifference by prison personnel to a offender's serious illness or injury constitutes cruel and unusual punishment contravening the Eighth Amendment. ..."

Two factors have combined to make health care for incarcerated persons in the U.S. a major issue. First, in the wake of Estelle v Gamble\(^1\) (1976), lawsuits were brought in all the 50 states on behalf of offenders regarding the poor quality of health care being provided. In all these cases the lawsuits were successful, bringing this issue to the fore. Secondly, since the mid 1970's the prison population in the U.S. has skyrocketed, making the U.S. the first in the world in terms of prison population. The Bureau of Justice Statistics\(^2\) states that 2,131,180 offenders were held in Federal or State prisons or in local jails as of 30 June 2004, roughly 1 out of every 206 Americans according to their numbers.

It is important to note that the increase in prison population in the U.S. has in large part been driven by two factors. One is a shift in drug enforcement policy towards more jail time for drug users and distributors. Second, is the trend to move mentally ill people out of institutions into a community. Such mentally ill people end up in the jails with greater frequency than the non-mentally ill. This change in prison population has been accompanied by a shift in the types of medical conditions prevalent in this population. HIV/AIDS, tuberculosis, and the various forms of hepatitis have become much more prevalent in prison populations.
The result of this is that the medical treatment of prison populations has become a major public health issue. Indeed, the placement of public health department clinics within jails is a major recommendation of the charge committee. Mental health care for offenders was cited in the charge as of particular interest due to the fact that mentally ill offenders have a higher rate of recidivism and a higher propensity for being involved in violent offenses.

In regards to the Baltimore City Detention Center (BCDC), several factors combine to make this issue particularly urgent. First, is a 2002 Department of Justice investigation into offender health care at BCDC, which found many violations of offenders’ right to health care. The second is a long running lawsuit being brought against the State of Maryland known currently as Duvall v. Ehrlich, and currently being litigated by the ACLU and the Public Justice Center, on the same issue. It is pertinent to note that BCDC is run by the State of Maryland, not the City of Baltimore. Accordingly, the health care is provided by state contracts. We have studied the State’s approach to contracting health care, and are encouraged by improvements that have been made under the Ehrlich administration. We will detail them within this report.

In 2002, the organization of state offices responsible for offender health care was revised. The new Secretary for the Department of Public Safety and Correctional Services (DPSCS), Mary Ann Saar, created the position of Assistant Secretary for Treatment Services, which elevated inmate health care to the level of the Secretary's office. An employee with substantial contracting experience and contracting education was appointed to be the head of the Office of Inmate Health Services. The result has been what we perceive as a significant improvement in the offender health care contracts for 2005.

II. REVIEW OF THE GRAND JURY CHARGE

The Grand Jury Charge mentions five specific areas for the Grand Jury Charge Committee to investigate. We of the Charge Committee are not limited to these suggestions, but we have given them due consideration. Here is a brief review of the five areas of investigation suggested by Judge Berger.
1. Review information on the current health care provider, and on costs for the current contract.

During the course of this grand jury term, the previous health care contract expired and a new contract was awarded to a different set of contractors. In this report we analyze the previous health care contractor, Prison Health Services, and the problems that arose from the contract.

2. Review offender health care in other states.

We unfortunately did not have the time or resources to be able to report on this topic. Indeed, this would have been a complete project in and of itself. However, in our discussions with individuals in various parts of the country it appears that offender health care is not being done well in most states.

A case in point is California, where its offender health care program was recently ordered into federal receivership. There are numerous complaints about offender health care across the country. The main exceptions seem to be Albequerque, New Mexico⁵ and Rhode Island⁶. However, we caution that both these jurisdictions are quite different from Baltimore and their experience may not be useful here. We will comment on both of these jurisdictions in the report.

3. Alternatives to for-profit contracts for providing offender health care in BCDC.

The first thing to keep in mind is that all the correctional institutions in Baltimore are run by the State of Maryland. So, we are really talking about state-wide contracting. We did look at some alternatives. However, one must keep in mind that health care for the free population is done primarily through for-profit contractors. Although it might not be a good model per se, it is the one in use in the United States.

The Rhode Island arrangement, where the Brown University Medical School provides offender health care, will not work in Baltimore for a variety of reasons, not the least of which is the fact that the local medical schools are not currently interested in such an arrangement. The new head of the Maryland Office of Offender Health Services did contact both Johns Hopkins Medical School and University of Maryland Medical School to see if they would be interested in working out an arrangement, and they both declined.
The fact is that the new contracts are well written, and include many important innovations. We will cover these areas later on in the report. We believe that the new contracting model for offender health care in Maryland provides the best formula going forward at this time.

4. Recommendations for further research

There is more work to be done. Some of this will appear in our recommendations, but here is a brief summary.

1. Research needs to be done to develop an independent external oversight committee to monitor offender health care and field complaints from offenders.

2. Continued work is needed to improve the various public health initiatives that take place in the BCDC and Central Booking, and to find ways to improve them.

3. Research needs to be done to find a way to build a public health office either on the grounds of the BCDC or immediately adjacent.

4. This charge should be revisited by a future Grand Jury.

5. Research the establishment of an Opiate Replacement Therapy program for offenders in the jail, which is followed up on the outside, as is currently being piloted at Metropolitan Transition Center (MTC). This is related to the public health initiative.

6. An infirmary is critically needed at BCDC. Currently BCDC offenders needing infirmary beds are transported to MTC, with the result that MTC is over 50% occupied by BCDC offenders. The transportation costs are significant. This arrangement presents a huge challenge, since MTC is a facility for sentenced offenders, and BCDC is for pre-trial and pre-sentence offenders. The result is a shortage of beds for the sentenced side. Research needs to be done on the best way to provide this facility.
7. Research on expanding the role of telemedicine consults in the jail as a way to minimize transportation of offenders, and of using telemedicine for a variety of specialist consults, not just HIV/AIDS.

5. How are offenders screened for mental illness and treated?

In the past, a correctional officer would ask mental health questions of the detainee during the booking screen, in a non-private setting. The new setup, not yet implemented, would have medical booking questions asked in a private/semi-private area by a nurse trained in recognizing mental illness. Also, the mental health contractor, MHM Services, has assigned a psychiatrist full time to the Baltimore region of their contract.

III. OFFENDER HEALTH CARE IN BALTIMORE CITY

Background

The corrections institutions in Baltimore City are run by the State of Maryland. As noted above, it has been legally established that offenders in the U.S. are entitled to reasonable health care, and that one may not ignore serious health issues of offenders. To put this in perspective however, it is useful to review healthcare in the U.S. for the free population.

The U.S. healthcare system is broken. The U.S. spends more per capita on health care than any other country, yet 40 million people remain uninsured, and the U.S. ranks behind 30 other countries when it comes to infant mortality, life expectancy, and other indicators. Whatever the reason for this poor showing, we can expect healthcare in the prisons to at best be on par with the healthcare for free citizens. The standard we agree with is that health care for offenders be on par with what would be considered reasonable for free citizens.

That said, we think it would be useful to examine offender healthcare in Maryland for the past few years to gain a historical perspective on the current situation.

History

Offender health care in the US is still being worked out. The quality is generally not high anywhere, with possibly one or two exceptions. This issue is highlighted by the recent federal takeover of offender health care in California. Currently, there is no best practices model for
provisioning offender health care. In the U.S., there have been attempts to provide offender health care through in-house staff, through for-profit contractors, and non-profit entities. There is no consensus yet on what is the best model.

In 1995, the State of Maryland contracted with Correctional Medical Services (CMS) to provide all offender health care in the state. During the course of this contract, the state audited records of CMS and assessed 7 million dollars of damages against the company. From discussions with state officials, it appears that the State auditors were concerned about things such as whether time sheets were signed with a spelled out first name versus a first initial, ink versus pencil, etc. CMS counter-sued and won.

As the contract was set to expire in 2000, it was determined that a new approach was needed. It was determined that a closer and more convivial relationship was wanted between the State and the health services contractor. As a result, the 2000-2005 contract was not closely audited intentionally in an attempt to foster better working relations with the contractor. But that was not the end of the problems with the contract.

The 2000-2005 contract, which was eventually awarded to Prison Health Services (PHS), was written as a fixed price contract. This coupled with putting one organization in charge of all aspects of offender health care was a serious mistake at the outset, and represented a lack of contracting expertise at the Office of Offender Health Services. This is because prison populations are known to be growing, and their variable nature makes them unsuitable for a fixed price contract model. One of the problems at this time was the lack of a direct report from Offender Health Services to the Governor’s office. This left the Director of Offender Health Services without direction from upper levels. The result was a poorly written Request For Proposal (RFP) that led to a fixed price contract with one contractor in charge of all phases of offender health care.

Even with the poorly written RFP and resultant contract, proper monitoring of the contract would at least have allowed for the State to terminate for cause or terminate for convenience on the basis of the resultant problems. But the only person in the Office of Offender Health Care with contracting experience left in the 2001 timeframe. Meanwhile, things were rapidly unraveling with the PHS state of Maryland offender health care contract.
Because of the fixed price contract, PHS quickly started to burn through its yearly budget before the end of the year. Since in a fixed price contract the contractor eats any costs over the amount of the contract, PHS now found itself losing money for each day of operation. This resulted in enormous pressure from PHS management to economize on operations. Instead of looking for efficiencies, PHS made it more and more difficult for offenders to receive prescription medications, hospital procedures, or laboratory tests. Several incidents involving problems with inmate healthcare date to this period. Often, offenders who entered detention with validly prescribed medication never received the medication even weeks after booking. Often, offenders who entered detention with validly prescribed medication never received the medication even weeks after booking.

For example, the Baltimore Sun reports\(^8\) that in March 2002, Marcella Leski was jailed at BCDC and subsequently developed a bacterial infection in her legs, that was easily preventable with antibiotics. Both her legs had to be amputated below the knee. In another case, detailed in the 2002 Department of Justice report\(^3\), an offender died of hypertension and cardiovascular disease on 18 July 2000, after officer screening indicated a need for high blood pressure medication. And the Public Justice Center DVD *Infected* details the case of Deborah Epifano, who allegedly died of meningitis after delays in obtaining medical care while detained at the Women’s Detention Center.

In May 2003, the new Secretary of the Department of Public Safety and Correctional Services (DPSCS), Mary Ann Saar, re-structured the organization. She created an Office of Treatment Services in Corrections, and appointed a new person under that office to be in charge of offender health services. This was done to facilitate communication about correctional health services between the Governor’s Office and the people actually in charge of the work.

The new head of Offender Health Services followed two tracks in dealing with PHS. The first was preparing a new RFP for the next round of contracts to follow the expiration of PHS’ contract in 2005. The second was performing damage control with the current PHS contract, to try to bring their performance more in line with their contract as written. To that end he started monitoring their performance vigorously and pursuing liquidated damages whenever staffing levels or health services were not maintained.
The New Contracting Model

The new RFP takes a unique approach to offender health care contracting. In the previous PHS contract, all aspects of offender health care were provided by one vendor. In the new contracting model for 2005 forward, offender health care is divided into six different areas: medical, electronic patient medical records, pharmacy, dental, mental health, and utilization management. The RFP was structured to get as close to six different vendors as possible. Any bidder for medical services was required to bid on all six, so as to have enough bidders to select from. The result of the process was five contractors for the six contracts.

Additionally, the contracts were written to better reflect contracting best practices for medical, dental, and mental health care: “Time and Materials”, or cost reimbursement type contracts. There is no incentive on the part of the vendors to not provide services. In fact, there is positive monetary incentive to provide as much services as possible. Wexford on the other hand has a fixed price contract to provide what are known as “utilization management services”. They are tasked with examining expenditures for reasonableness. Yet each vendor will be monitoring the others, and any issues a vendor may have with other vendors can be brought up at quality control meetings. So excessive charges from the medical contractor, or excessive control by Wexford, may be corrected during these meetings with the State. This is a level of checks and balances that did not previously exist.

The pharmacy vendor, CorrectRx, is a local pharmacy contractor. They have a “unit price” contract, meaning they are compensated on a per unit dosage basis. They have two deliveries per day, and 24-hour emergency on call. Their prices are limited to the maximum prices paid by Medicare, or 12% below the average wholesale price, whichever is less.

Electronic patient medical records are contracted on a fixed price basis, and will reflect CMS’s proprietary SERAPES electronic patient health care package. The following is a chart showing the current contract setup for the state.

<table>
<thead>
<tr>
<th>Medical Services</th>
<th>Electronic patient health records</th>
<th>Pharmacy</th>
<th>Dental</th>
<th>Mental Health</th>
<th>Utilization Management</th>
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The Current Vendors

Correctional Medical Services

One of the major offender healthcare contractors in the U.S. CMS has a history of troubled performance in other states, as well as in Maryland. CMS seems to be the only one with an electronic patient medical records package.

CorrectRx

Locally based pharmacy contractor who has been working for Maryland corrections in Hagerstown for some time. This contractor has its own couriers delivering medicines twice a day. Nurses we spoke to at BCDC have reported significant improvement in the way medicines are supplied.

Mumby and Simmons

Also a locally based contractor has been supplying dental services in and around Baltimore. Subcontracted to FMC-MTC joint venture.

MHM Health Services

This company has dedicated a psychiatrist to the Baltimore region. It recently has had numerous complaints leveled against it in the last five years for both the Tennessee and Utah contracts.

Wexford

This is a correctional healthcare supplier that will provide utilization management services. Wexford has also had numerous complaints leveled against it during previous contracts. We have not had the opportunity to meet with Wexford officials, so cannot comment on their efforts regarding the current contract.
IV. SOURCES AND TOURS

In the course of our research we were aided by numerous individuals, many of whom are either players in offender healthcare in Maryland or nationally, and are experts in various fields. We are listing them here to provide a background for how we came to our conclusions, and as contacts for the reader to pursue further information. All persons listed here gave their consent to be contacted.

Robert Cohen MD
212-620-0144
bobbycohen@aol.com

Manhattan physician who is considered to be one of the nations top experts in offender healthcare. Came to Baltimore to give a presentation to the grand jury, and the grand jury committee. Provided a wealth of information on health care, offender health care, and perspectives on the current contract.

Wendy Hess and Sally Dworak-Fisher, Public Justice Center
410-625-9409
hessw@publicjustice.org
dworak-fishers@publicjustice.org

Ms. Hess and Ms. Dworak-Fisher have been looking at medical care in the BCDC, and in 2002 they joined with Elizabeth Alexander at the ACLU prison project to revive the 1972 consent agreement with Maryland, regarding Duvall v. Maryland. They were quite helpful to providing a critical assessment of offender healthcare at BCDC.
Medical Tour and Meeting at BCDC

In July 2005, we went to BCDC for a tour of the medical facilities at BCIF and BCDC. Sharon Baucom, MD, the State Director of Offender Medical Services, assembled a number of the key players for our meeting. They were: Luka Getnet, MD, Medical Director for CMS, Dr. Gail Atchinson, CMS State Project Manager, and Ann Hanson, MD, Psychiatrist for MHM assigned to Baltimore.

Meeting with Susan Sherman, PhD
410-614-3518
ssherman@jhsph.edu

Dr. Susan Sherman is a professor at the Johns Hopkins School of Public Health. She specializes in public health aspects of drug addiction and incarceration in Baltimore City. She is an advocate of public health services being provided within the jail.

Meeting with Dr. Susan Sherman, Dr. Sharon Baucom, Dr. Ellen Yankellow, and MHM representatives at Dr. Baucom’s office in Reisterstown Plaza.

A useful meeting that established communications between Dr. Sherman and Dr. Baucom. The meeting was primarily about public health issues. Also present was MHM and Dr. Yankellow.

Walt Wirsching, Director Office of Offender Health Services
410-585-6800
wwirsching@dpcs.state.md.us

Mr. Wirsching is in charge of offender health care in Maryland as of the date of this report, and is the architect of the new contracting regime for offender health care. He has a wealth of information concerning most issues regarding offender health care. The various state offender health care medical officials and contractors can be reached through him.
V. PUBLIC HEALTH AND THE JAILS

The public health arena in Baltimore City is complex, with no one agency fully in charge. In contrast with a city such as Albuquerque NM, where all public health functions are run by a central department of public health, the public health office in Baltimore is relatively underfunded, and many of the functions that a public health office would normally be responsible for are performed elsewhere. Other major players in Baltimore City public health are the BCDC, Central Booking, Man Alive, Total Health Care, and other non-profit entities.

The Central Booking and the BCDC have significant impact upon public health in Baltimore City. Over 100,000 offenders pass through Central Booking each year, and 40,000 through BCDC, according to numbers provided by Judge Berger in the Grand Jury Charge. Many of these offenders come in with communicable diseases such as tuberculosis and hepatitis. These individuals then may infect others in the facility, who, go back out into the community. There is also the issue of narcotic addicts coming into the facility. It is in the public interest to provide rehabilitation services to such individuals upon their release. Finally, there is the issue of the jails providing Opiate Replacement Therapy, such as methadone and bupinorphine, to those who enter the jail and are either candidates for such treatment, or are already in a treatment program.

The BCDC has a vigorous tuberculosis-screening program that is done in conjunction with the Department of Public Health. Every offender coming in to CBIF who ends up being detained is screened for tuberculosis, and may not leave the facility until the test is readable.

The conclusion from all of this is that the Central Booking and the BCDC play an important role in public health in Baltimore City, and in the State as a whole. Whereas public health is not specifically charged to these institutions as one of their missions, by default it becomes so. The personnel at the State Office of Offender Health Care, as well as officials from CMS we have spoken about, recognize this and are taking steps to address the issue of public health.
VI. RECOMMENDATIONS

The recommendations below represent the most urgent and pressing needs we have found regarding offender health care at BCDC and Central Booking. Every one of thee need to be addressed vigorously and soon to prevent ever more serious problems from developing in the offender health care system.

Public Health Office on BCDC grounds

In light of the vital role that BCDC plays in public health in Baltimore City, we think it is important to pursue the establishment of a public health office on or near the grounds of BCDC. Although space is at premium inside the building, there is open space on the BCDC campus where trailers can be set up. Either that or rented space immediately adjacent to the campus. This idea is strongly advised by Susan Sherman. A similar arrangement is currently being implemented by Bruce Trigg in Albuquerque, NM where the public health service has opened an office in the Albuquerque Jail. This allows for continuity of service for offenders from the public health service.

Adequate funding for the Office of Offender Health Services

This office is in charge of offender health care, and has done a good job writing the new contracts, yet does not have adequate staff to administer the contracts. We urge the State government to increase staffing levels in this office.

Specifically needed are a psychiatrist and a PharmD consultant for the office to help monitor contract performance in these areas. Also needed are four or five Agency Contract Operations Managers (ACOM’s) to help with contract administration. We feel that investments in these vitally needed positions by the state will prevent much larger losses in the future, due to either contract non performance or lawsuits resulting from inadequate care.

Private Medical Booking Screen

Currently, incoming detainees are first screened by an EMT for major medical issues to see if they “can withstand the booking process”. If they can, they are shackled to a stanchion in front of a booking window where they are asked a series of questions known as the booking
screen. Part of this screen is a medical questionnaire. The plan is to take this medical questionnaire and have it conducted in a private or semi private setting by a nurse. CMS is trying to implement this but BCDC management doesn’t want this to impede the flow of detainees. We recommend strongly that BCDC staff cooperate with the contractors to provide for the private medical screen.

The reason this is important is to be able to gather accurate health information from each offender. This information is important for public health issues as well. Many offenders will not want to disclose certain conditions in a public setting, such as HIV status or tuberculosis infection. But it is vitally important to spot and treat these conditions. Having the semi private/private screen will help increase the accuracy of the booking medical screen and is highly encouraged.

**BCDC Infirmary**

BCDC does not have an infirmary. Pretrial offenders needing supervised nursing care must be transferred to the Metropolitan Transition Center infirmary (MTC). This has resulted in a shortage of beds for the sentenced population. That in turned has resulted in a number of problems within the system. The problems can be enumerated as follows:

1. It is bad policy to mix pretrial and sentenced offenders. It is a security risk and is dangerous to the pretrial detainees. There is no way to separate pretrial from sentenced offenders at the MTC infirmary.

2. Three to four sentenced offenders have to be transferred every week to outlying clinics in Jessup, Hagerstown, or ECI on the Eastern Shore. This is expensive and ties down correctional officers who are needed elsewhere.

3. Five to six offenders are transferred every day between MTC and BCDC. This ties up correctional officers and transportation resources, is expensive, and a security risk.

4. BCDC does not have ADA compliant cells or shower facilities, so wheelchair bound offenders have to be housed at MTC, further putting a strain on the facility.
5. MTC currently has 48 beds, and operates at 100% capacity. No clinic is designed to operate at 100% capacity. It makes it very hard to keep the facility in good shape, and is a strain on the nursing staff.

Because of the above, it is vitally important and a top priority that an infirmary be built at the BCDC. This facility could be built with prefabricated structures on some of the open space on the grounds, or in nearby real estate. It should have a capacity of at least 30 beds, a tuberculosis isolation ward, and be ADA compatible, in addition to security measures.

**External Oversight Committee**

There needs to be an external oversight committee to independently monitor the performance of offender health care at BCDC and Central Booking. This committee would be composed of former detainees, representatives from the Public Health Office and the medical community, the City Council, the Office of Offender Health Services, and others as appropriate.

This committee would have the following functions:

1. **Pursue, advocate for, and promote the recommendations in this grand jury charge report.**

2. **Ensure that health related recommendations from the August 2002 Department of Justice report on BCDC are implemented.**

3. **Serve as an ombudsman for offender complaints.**

4. **Serve as a liaison to the State General Assembly and the Baltimore City Council.**

5. **Work in a cooperative fashion with the BCDC and the state Office of Offender Health Care to bring problems to their attention that may otherwise go unnoticed, and to give early notice of contractor non-performance.**
Review of the Sick Call Procedure

In the past there have been problems with the sick call procedure. The current procedure is that the offender fills out a Sick Call Slip and drops it in the Sick Call Box. The nurse collects the slips daily, which are then processed. Some offenders have complained that sick call requests have not been answered.

CMS assures us that the current procedure is tightly monitored. We recommend that an experienced auditor review the process for consistency and accountability. We are also concerned about conflicts between sick call dates and court dates, which cause offenders to miss sick call. There needs to be cross-referencing between the two to prevent this from happening.

Bar Code Harmonization

Currently offenders receive a bar code when they are processed in at BCDC. The current contract calls for an electronic patient health record system to be put into place. This will be a customized version of the CMS SERAPES electronic patient health care system. We strongly urge that SERAPES be configured to automatically use the same bar code that the offender is assigned on intake. That will link offender administrative records and medical records, make medication mistakes less likely, and make it less likely that offenders miss sick call due to court appearances.

Office Space for Medical Personnel at Central Booking

There is currently and urgent need for several offices to house medical, pharmacy and mental health workers at the Central Booking. The Warden currently states that there is no room either in the main complex or in the towers. We recommend putting in trailers of the sort used on construction sites. These are vitally needed, as this lack of space is impeding the delivery of needed healthcare to the detainees at Central Booking. We do not question the lack of space, however, trailer type facilities will have to be brought in to house these personnel. This is one of the most urgent needs found by this committee.
Closing

As Chairman of the Charge Committee, for the Baltimore City Grand Jury, May 2005 Term, I would like to thank the Jury Commissioner, Nancy M. Dennis, and all the staff of the Jury Commissioner’s Office for their helping us to complete our investigation. I believe that it is an honor to serve as a Grand Juror. I would like to thank the various correctional facilities and contractors for their time and courtesy during our tours.

I would also like to thank the members of my committee: Adrienne Carroll, Judy Finnell, Antoinette Kennedy, and Vita Edwards for the time they spent working on our most important charge report. I would like to thank the Penal Committee Chairperson, Jacqueline Anderson and Penal Committee Member Edward Alston for their constant encouragement and kind words.

Special thanks is given to several parties who went to great lengths to see to it that the Charge Committee had the information they needed to report on this important topic. This would include Robert Cohen, MD, the nationally recognized expert on offender health care, who traveled to Baltimore to address the Grand Jury; and Susan Sherman, Ph.D., of the Johns Hopkins Bloomberg School of Public Health, who met with us on several occasions to share her insights into the relation between the prison system and public health. I especially want to thank the State of Maryland Office of Offender Health Care, who shared with us their knowledge of offender health care in Maryland, especially of the new contracts. Walt Wirsching and Sharon Baucom especially, thank you.

I also want to thank Wendy Hess and Sally Dworak-Fisher of the Public Justice Center, and Elizabeth Alexander of the ACLU Prison Project.
The topic of offender health care is a major concern in the United States today. It is our hope that this report will be able to have some impact on the discussion.

Respectfully submitted,

Avraham Sonenthal
Chairperson, Charge Committee

**CHARGE COMMITTEE MEMBERS:**

Adrienne Carroll
Vita Edwards
Judy Finnell
Antoinette Kennedy
GRAND JURY CHARGE

May 9, 2005

Stuart R. Berger, Judge
Circuit Court for Baltimore City

Introduction

Good morning, Chief Judge Kaplan, Administrative Judge Holland, Judge Handy, Madame State’s Attorney Mrs. Jessamy, Deputy State’s Attorney Haven Kodeck, Mr. Conaway, Officers of the Grand Jury, and most importantly, ladies and gentlemen of the Grand Jury. My name is Stuart Berger, and it is my privilege and honor to welcome you to your service as members of the May Term, 2005, Grand Jury. As one of the 30 judges on the Circuit Court for Baltimore City, we take tremendous pride in the service and accomplishments of our grand jurors and our petit jurors.

Over the next few months, it will be your privilege to perform one of the most important constitutional duties in the criminal justice system. Indeed, it is a double duty which you will perform as Grand Jurors, namely a duty to society to see that those against whom there is just ground to charge the commission of a crime shall be held to answer that charge; and a duty to each individual citizen to ensure that he or she is not subjected to prosecution upon accusation having no proper foundation. In so doing, you will protect not only the community at large but as well the rights of individuals who are targets of law enforcement agencies.

You are in a long line of individuals who have comprised membership on the Grand Jury and served it in a careful and conscientious manner. As such, the Grand Jury has merited and won the confidence of the public, and today your service on the Grand Jury is regarded as an honor.

In addition to your role in determining who should be charged with serious criminal offenses, which you share with grand juries throughout the state and, in fact, all
over the country, it is a tradition of this court that our grand juries study and make recommendations, based upon the “charge” given to them at the beginning of their term, about some particular issue. Accordingly, it has become the responsibility of the Grand Jury to research a particular issue of public policy, to report any problems, and to provide recommendations for improvement. Prior grand juries have explored a variety of issues and developed recommendations related to drug addiction and child support enforcement options. The grand juries’ work is essential to resolving some of the many problems faced by our communities.

Specific Charge

The issue to which I am requesting that you direct your attention is to investigate the status of the health care system for offenders in the Baltimore City Detention Center. By way of background, in 2002, the Department of Justice issued a report criticizing many aspects of the health care system at the Baltimore City Detention Center. The Supreme Court of the United States has held that offenders are constitutionally entitled to reasonable medical care. Our courts have interpreted that constitutional right to require that our jails must provide reasonable medical assistance to offenders and treatment for special medical problems. One of the major reasons to explore the status of healthcare in the Baltimore City Detention Center is because of the greater number of offenders in our prisons, and the extent of the health issues associated with the ever increasing population in our prisons.

Indeed, the record growth of offenders in Maryland and throughout the United States is astounding. As of June 30, 1999, the Department of Justice announced that our nation’s prisons and jails incarcerated 1,860,520 persons, making the United States the first in the world when it comes to locking up its citizens. From year end 1990 to mid year 1999, the rate of incarceration increased from 1 in every 218 U.S. residents to 1 in every 147. Since midyear 2000, the total incarcerated population has increased significantly.
Our statistics in Baltimore City demonstrate the significant number of cases filed criminally over the past several years. In 1997, there were 7,638 criminal felony incidents filed as well as 4,951 misdemeanor filings. An incident consists of one charge or multiple charges attributed to a defendant. In 2004, there were 10,700 felony incidents filed and over 9,000 misdemeanor incidents filed. These statistics demonstrate an increase of over 40% for felony filings over 7 years and an increase of over 82% for misdemeanor filings over the same seven years.

In Baltimore City, the Baltimore City Detention Center houses more than 40,000 individuals a year. Indeed, over 100,000 people pass through the initial booking at the Central Booking Intake Facility on a yearly basis. Our statistics reflect that a significant percentage of those persons housed at the Baltimore City Detention Center are awaiting trial. Indeed, if defendants are unable or do not qualify for bail, they are housed in our correctional facilities.

Moreover, the nature of the illnesses of offenders has changed over time. For example, since 1990, most of the deaths at Maryland’s state prisons have been AIDS-related. Indeed, some of the persons detained have contagious diseases and infections that can be readily transmitted to the community upon release or through jail staff if they are not treated properly. For example, the prevalence of tuberculosis among offenders is between four and seventeen times greater than the general population. Critically, the prevalence of AIDS is five times that of the population. Moreover, incidence of mental illness is also significantly higher among the offender population, and failure to properly treat mental illness increases the likelihood of crime and/or recidivism.

Accordingly, another component of your investigation is the status of the mental health and treatment of offenders and probationers. This is a subject that is now being discussed across the country by those of us involved in the criminal justice system. This is because of the significant prison population growth and the well documented statistics that the mentally ill are more likely than other offenders to be violent recidivists. Among
repeat offenders, 53% of mentally ill State offenders had a current or past sentence for a violent offense, compared to 45% of other offenders. Among Federal offenders with a prior sentence, the mentally ill (44%) were twice as likely as other offenders (22%) to have a current or prior sentence for a violent offense.

Past estimates of the rate of mental illness among incarcerated populations are higher than those of the U.S. general population. Further, the prevalence of mental illness also varies by gender with females reporting a higher rate of mental illness than males. Nearly 24% of female State prison and local jail offenders were identified as possessing a mental illness, compared to 16% of male State prison and jail offenders. An estimated 60% of the mentally ill in State and Federal prisons received some form of mental health treatment during their current period of incarceration.

The statistics I have provided to you are for your background in assessing the importance of the treatment--both medical and mental--of the offenders in the Baltimore City Detention Center. With this as background, your charge involves an investigation of ways to improve medical and mental healthcare at the Baltimore City Detention Center. Specifically, I charge you with investigating whether Maryland should consider alternatives to the healthcare provided at the Baltimore City Detention Center. As part of your charge, you are asked to:

1. Review information on the current health care provider, and information on the costs of the current contracts for offender medical care in Maryland, including any information regarding the new medical contracts that are scheduled to begin on July 1, 2005;

2. Research the provisions of care in other states or communities that do not utilize large private health care contractors to determine whether those states or communities have less problems, taking into consideration the costs of such care;
(3) Research whether and how any potential alternatives might make sense for the Baltimore City Detention Center, including whether there exists a cost-effective potential for partnering with a local medical school, such as what has occurred in Rhode Island where the local medical school works directly with the jail; and

(4) Develop recommendations for further research and/or conclusions regarding whether Maryland should consider other methods for providing medical care to offenders at the Baltimore City Detention Center.

With regard to mental health, you are asked to ascertain whether there is any type of evaluation in place to determine if an offender is suffering from any mental illness. Further, please inquire whether there is any training provided to booking officers that screen and otherwise deal with detainees who may possess a mental illness. In addition, please examine how often are offenders referred for mental health screenings and other related mental health services. Moreover, are those services provided on the premises or are the offenders transferred to an appropriate mental health hospital or facility? Finally, what is the extent of any follow-up services, if any, when the offender is either transferred to the Department of Corrections or released from confinement?

This Court looks forward to your evaluation of the status of healthcare in the penal and correctional facilities in the City of Baltimore. Investigate this issue and give us your recommendations. In doing so, I would suggest that you speak with the following people:

- Eric Amoh, Contract Administrator for Medical Services at the Baltimore City Detention Center

- James Drewery, Assistant Warden for Medical Services at the Baltimore City Detention Center

- Dr. Robert L. Cohen, a medical expert in New York on the medical care of offenders
Anthony Swetz, Jr., Director of Medical Services at the Office of Offender Health Services

Dr. John D. Stafford, Medical Director of the Office of Offender Health Services

James K. Holwager, Chief of Mental Health Services

For your use, I have compiled a five-page document entitled “Grand Jury Contacts” which lists the names and telephone numbers of the persons I have mentioned as well as other persons who you may wish to contact in pursuit of your investigation. The list of contacts will be appended to these remarks and will be provided to you for your ease and convenience.

In addition, there are several articles that you may wish to review, including a three-piece series of articles that appeared in the New York Times in late February 2005.

Ladies and gentlemen, we know that this is a challenging task that you will undertake with diligence and vigor. We hope and trust that your experience in serving on this Grand Jury will be as valuable for you as it is necessary and enlightening for this Court. Thank you.
GRAND JURY CONTACTS

Baltimore City Detention Center

Warden
William Filbert.................................................................(410) 209-4016

Assistant Warden for Programs & Services
Danny D. McCoy ...............................................................(410) 209-4019

Assistant Warden for Medical Services
James Drewery.................................................................(410) 209-4384

Contract Administrator for Medical Services
Eric Amoh.................................................................(410) 385-2928

Director of Social Work
Harry Conyers.................................................................(410) 209-4053

Director of Substance Abuse Treatment
Mary Stewart.................................................................(410) 209-4129

MEDICAL EXPERT - PRISON HEALTH

Robert L. Cohen, M.D. ...........................................................(212) 620-0144

(Court appointed monitor for oversight of medical care of 4 prisons in Michigan)

MISCELLANEOUS CONTACTS WITH INFORMATION OF INTEREST

National Prison Project of the ACLU
(Lead counsel in federal suit involving conditions at the Baltimore City Detention Center)
Elizabeth Alexander...............................................................(202) 393-4930

Office of the Public Defender
(Chief Attorney for Public Defenders at the Central Booking Intake Facility)
Natalie Finegar.................................................................(410) 209-4465
Center for Behavioral Health, Justice, and Public Policy

Associate Professor and Director

(Can discuss what he sees in other detention centers around the country and what an appropriate standard of care for Mental Health/Substance Abuse issues)

Fred C. Osher, M.D. ............................................................... (410) 646-3511

University of North Carolina at Chapel Hill

Clinical Associate Professor of Medicine

AIDS Clinical Research and Treatment Unit

(Experience in North Carolina where the state university and the NC Department of Corrections have collaborated to develop and test innovative strategies to improve the well being of individuals with HIV infection who are incarcerated)

David Alain Wohl, M.D. ............................................................... (919) 843-2723

Montgomery County Department of Correction and Rehabilitation Pre-Release Center

Health Care Administrator, Pre-Release and Reentry Services

(Runs jail health care in Montgomery County)

Anthony Sturgess ............................................................... (301) 468-4200

Johns Hopkins Bloomberg School of Public Health

Assistant Professor

Susan G. Sherman, Ph.D., M.P.H. ............................................................... (410) 614-3518

DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES, 300
EAST JOPPA ROAD, SUITE 1000, BALTIMORE, MD 21286-3020

Secretary

Mary Ann Saar ............................................................... (410) 339-5004

Deputy Secretary for Operations

Mary Livers, Ph.D. ............................................................... (410) 339-5093

Deputy Secretary for Administration
G. Lawrence Franklin .................................................................(410) 339-5050

Division of Research and Statistics, 300 East Joppa Road, Baltimore, MD 21286-3020
Director
Richard Tamberrino .................................................................(410) 339-5021

Office of Offender Health Services, 300 East Joppa Road, Baltimore, MD 21286-3020
Director of Medical Services
Anthony Swetz, Jr., Ph.D., .........................................................(410) 585-3368
Chief of Mental Health Services
James K. Holwager, Ed.D., .........................................................(410) 799-3400 x. 4200
Continuous Quality Improvement
Glenda Anderson, Administrator ...............................................(410) 585-3377
Health Care Administration
David Gardei, Administrator .....................................................(410) 585-3384
Infection Control
Joan Armstrong, Administrator ..................................................(410) 585-3377
Offender Mortality & Utilization Management
Judy J. Schuur ...........................................................................(410) 585-3386
Medical Contract Audits
Joseph A. Ezeh, Fiscal Administrator .........................................(410) 585-3385
Medical Services
John D. Stafford, M.D., Medical Director ...................................(410) 585-3377
Social Work & Addiction Services
Barbara Boyle, Social Worker ...................................................(410) 585-3372

Offender Grievance Commission, 6776 Reisterstown Rd, Ste. 302, Baltimore, MD 21215-2346
Executive Director
Marvin Robbins .........................................................................(410) 764-4257
Maryland Commission on Correctional Standards, 6776 Reisterstown Rd, Ste. 303, Baltimore, MD 21215-2345

Executive Director
Donald Jones.................................................................(410) 764-4265

Office of the Attorney General (Division of Correction)

Counsel
Alan E. Eason, Esq., Assistant Attorney General...............................(410) 585-3073

Assistant Attorneys General
Michael Doyle, Esq.
   Scott Oakley, Esq.
   Karl Pothier, Esq.

Maryland Correctional Adjustment Center, 401 East Madison Street, Baltimore, MD 21202

Warden
Lehrman Dotson .............................................................(410) 539-5445

Supervisor of Commitment & Classification
Patricia Briggs...............................................................(410) 539-5445 x. 216

Maryland Reception, Diagnostic and Classification Center, 550 East Madison Street, Baltimore, MD 21202

Warden
Sewall B. Smith...........................................................(410) 332-0970

Assistant Warden
William A. Hayes
   Chief Psychologist
   Wayne P. Hunt, Ph.D.

Supervisor of Social Work
Jennifer Sears
Metropolitan Transition Center, 954 Forrest Street, Baltimore, MD 21202

Warden
Gary Hornbaker ..............................................(410) 837-2135

Assistant Warden
Patricia Allen ..................................................(410) 230-1405

Director of Health Services
David N. Thompson ........................................(410) 837-2135 x. 2827

Chief Psychologist
Murugi Mungai, Ph.D. ........................................(410) 837-2315 x. 1445

Baltimore Pre-Release Unit for Women

Administrator
Deborah J. Richardson ....................................(410) 566-5747
Bibliography


4. Duvall, et. al., v. Ehrlich et. al., Civil No. 94-2541 (United States District Court of Maryland)
   See also: http://www.aclu.org/Files/OpenFile.cfm?id=16299


